

Corruption in Illegal Construction in Urban Territories (Tbilisi case study)

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Introduction

After corruption in the weapons and drugs trade, corruption in Georgia is most widespread in the construction sector. Corruption in construction sector is not only slowing economic development but also shaping it. Corruption in urban areas, particularly in Tbilisi, touches all areas of the construction sector: privatization of lands, planning, construction, monitoring.

Corruption in the construction sector in Georgia – the significance of the problem

Corruption in Georgia is systemic and is still widespread because of the current weak anticorruption policy. Particular to the construction sector, nontransparent state and municipal activities in the construction sector as well as little attention from civil society effectively have allowed various corrupt mechanisms to develop. Corruption in constructional activities in Georgia can be divided into four main areas:

1. Privatization of state-owned land and property. This is the first stage of privatization, and depending on how it is carried out, privatization can promote or prevent the proper development of urban areas. The transition period has been marked by radical changes in state and society, including civil wars, poor economic and social conditions, and near total unemployment, which took attention of society away from the very important reform processes, particularly privatization of state property, especially those in urban areas.

Corruption in privatization existed on every level of the state. In the time of near state collapse and onset of pervasive corruption, the political and business elite began to recognize the real value of land, the most important wealth of country. Privatization was carried out in ignorance of existed law, and several laws were even adopted to make privatization easier for interested parties. Even public areas were privatized, such as river banks, streets, recreational parks. Faced with this knowledge, Zurab Chiaberashvili, the mayor of Tbilisi until the summer of 2005, demanded that state properties illegally privatized be returned to the state. This decision, however, was not carried out as Mr. Chiaberashvili was reassigned.

2. Licenses and permits. Licenses and permits for construction became the most favorable area for corruption. To begin construction, private-sector groups first need to obtain a license for construction as well as permits from various government agencies. But because of the months-long wait, private groups sought to speed up the process with bribes, which bureaucrats unequivocally accepted. At the same time there were several instances when civil servants wrongly granted permits out of ignorance of the law (e.g., allowing construction in recreational

zones where construction is prohibited). In order to hide corruption in permit granting, the Tbilisi city government changed the city architect seven times.

3. Construction. Corruption during the construction process itself happens less often than in privatization and license/permit granting, but it is still widespread. Companies may seek to change the architectural aspects of a project (volume, height, etc.) after construction has begun. In order to bypass regulations, companies pay off civil servants and monitoring agency representatives.

4. Monitoring process. The State Architectural-Construction Inspectorate was created within the Ministry of Urbanization and Construction to oversee and monitor construction. Because of widespread corruption in all levels of society and government following independence, the Inspectorate became toothless. Moreover, people sought jobs specifically in inspection structures, as these jobs were viewed as the most lucrative (from the point of view of corruption). Willful ignorance of the law in the construction sector was the background for bribery, and each party participating in it had an interest in keeping silent. The ignorance of different laws, norms, and rules created not only an ugly urban environment but also made this environment unsafe. Monitoring/controlling processes were followed by large corrupt agreements. For example, if a law defining how new constructions should be inspected in order to be ready for use, corrupt agreements could be made to ignore the regulation and mark the building as “ready for exploitation,” despite not having finished the infrastructure or facades. As a result many Georgian cities received very “new” and unusual buildings: Building carcasses with no architecture, no facades, and no proper internal water or heating systems. Civil society could not participate in the monitoring process, and even well-known experts critical of the shoddy buildings had no influence on the state and municipal government because every government body responsible for overseeing construction activities was engaged in corruption, whether directly or indirectly.

All the aforementioned areas can be described as organized corruption between government structures and private bodies. There are many corruption schemes in different planning-construction activities, but several of them are much more widespread:

- Construction for the state carried by the private sector, including tenders. All the construction activities by state order are based on the law “On State Purchase,” where it is defined that all the state purchases of different activities must be done according to tenders, except in some cases. These cases are: urgent situations and very low-cost activities when state can make arrangements with one organization. Corruption in state purchases can be carried out by several ways: 1) by announcing a tender and give the winning position to a certain company; 2) when the winner company raises the price after winning a tender; 3) by labeling a new building construction “urgent” giving the task to a certain company. In all cases the private construction companies and public
- Tax schemes. Tax policy allowed many businesses to create different mechanisms to hide taxes. The private sector, while partnering with the private sector, is less corrupted because they can not steal their money; they only hide state money.

- Construction paid for by the grants and/or loans from international/donor organizations. Here, corruption usually appears when state bodies are involved in the loan/grant process. First, an international/donor organization announces grant/credit for a construction, in which the executive or another type of governmental body is the main partner for this activity. Then a tender is announced by the governmental body, and the corrupt scheme then follows the first scheme described above. Mostly these grants and credits are not used effectively because of large bribes and interests in them.

Corruption in all the above areas has a common basis: weak legislation and normative acts, badly developed institutional arrangement (including sanctioning and monitoring structures), poor financing for state structures (particularly low salaries for civil servants),¹ weak informational supply, and low public awareness of the construction sector. The problem of corruption in construction is deepened by a lack of transparency to and engagement of society in decision-making and monitoring processes of urban development. For example, statistical information about illegal construction is too scarce to draw conclusions. The Main Architectural-Construction Inspection (MACI), which gathers its own statistics, needs to perfect its methodology for collecting data. There is also very weak control on the collected information and even no follow-up procedures for problem areas. For example, according to the summarized data of MACI, in the year 2004 in Tbilisi there were 484 ongoing constructions, of which only 207 had received permits. Only those 207 without permits were inspected, and so it is impossible to judge whether the remaining construction sites stayed within the confines of their permits. Also, MACI did not receive financing for several months in 2005, which leads one to conclude that there is a possibility that the inspectors' ineffective work could be because of bribery.

Illegal construction according to the definition is the construction that does not fall within the laws, rules and norms. The most frequent problem in construction in Tbilisi is the absence of project/planning documentation and permits. This shows that the construction sector still continues to be in a very primitive stage. In addition, following changes in the law on "Licenses and Permits" 24.06.05 the license on planning-construction activities was abolished. Consequently, anybody who wishes to build can do it, even he has no human, financial or educational recourses for this.

Methodology

To analyze the problem of corruption in the construction sector, a systematic approach was used. In combination with an analysis of all the documents, normative acts, and statistics, a sociological investigation was carried out (questionnaire).

Research was divided into several parts. Some information is common to the whole country; some of them cover the country and its capital Tbilisi:

1. Study of existing situation (covers the whole country):

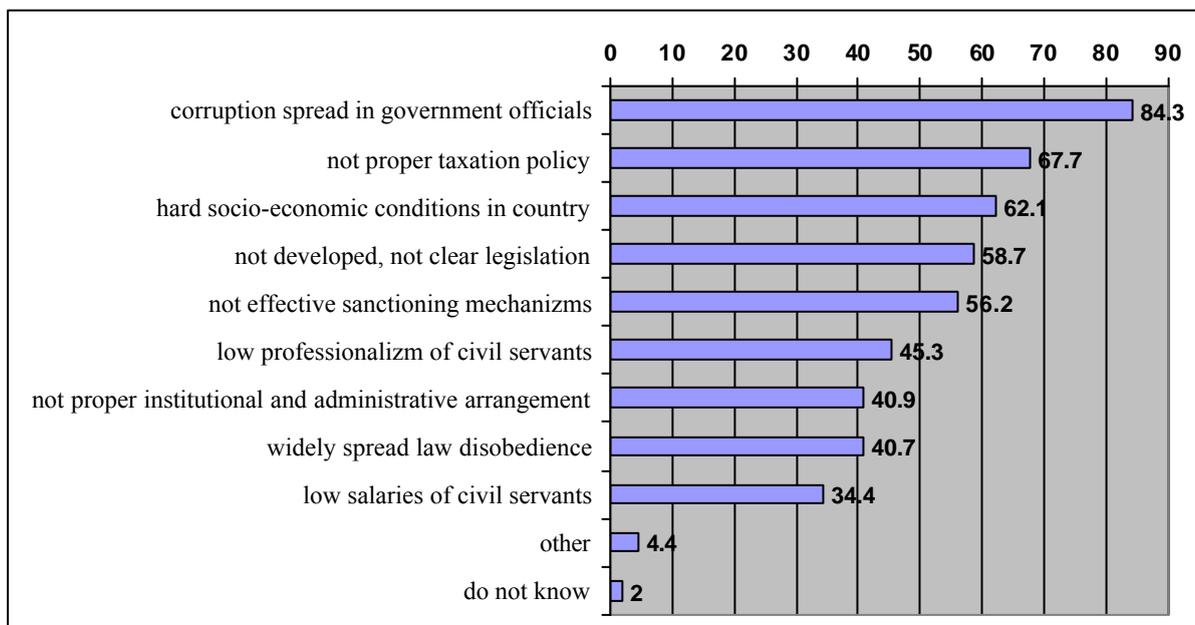
¹ for example, according to the state department of statistics the living minimum (line of poverty) per person was 115 GEL per month in 2003 while the average salary of civil servant was 50 GEL

- Legislation;
- Institutional background;
- Informational supply: transparency and accessibility;
- Procedures and stages of architectural-constructional activities;
- Statistical Information;
- Economic, financial and social aspects of architectural-constructional activities;
- Corruption schemes in different constructional activities (state orders, private orders, grants and credits from donor organizations);
- International Experience (Transparency International Report 2005, New-York Zoning system)

2. Tbilisi case study: statistical information, including from State Department of Statistics, Main Architectural-Construction Inspection, list of inspected sides, facts and types of illegal activities, types of buildings.

3. Sociological investigation: 150 respondents were investigated with a sociological questionnaire, among them 120 included those who were not active participants in the construction sector (to create a picture of corruption in construction within the society), 30 included in a focus-group, i.e. participants of the architectural-constructional sector (experts, architects, constructors, representatives of constructional companies) and 10 interviews were conducted with the representatives of state/municipal structures, civil servants, who are responsible for the sector.

According to the sociological investigation of population the high level of corruption in country is reason of:

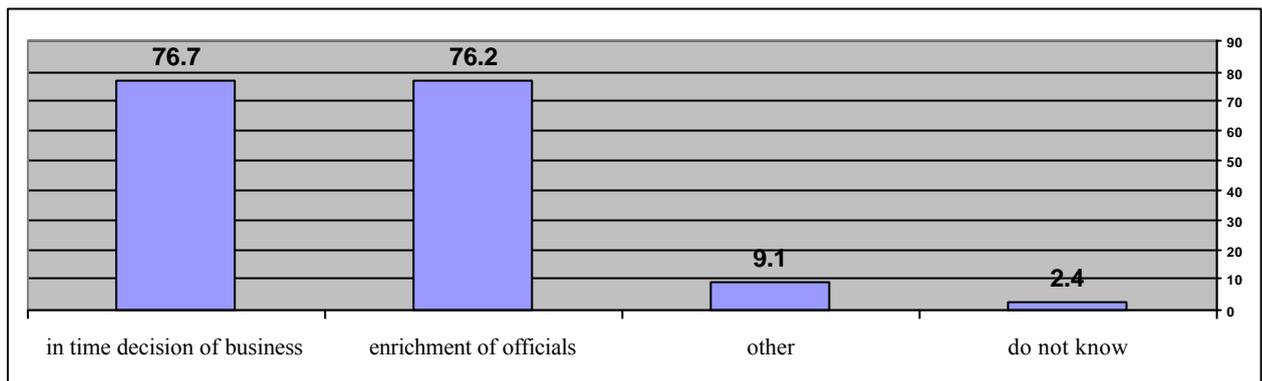


Although the salaries of civil servants have been raised significantly and the sanctioning mechanisms for corruption have been strengthened, the population still assumes that there is high level of corruption in the country. The most corrupt sectors according to the investigation are:

1. State/civil institutions – 78.2 percent
2. Large private sector/business – 76.3 percent

Only 0.2 percent respondents stated that no one is corrupt.

To the question for why corruption exists, answers were distributed as follows:



It is obvious that 100 percent of respondents know what illegal construction is. Most the respondents are sure that there are no other means except corruption to gain. The investigation showed that even though several attempts the state has implemented several anticorruption measures, there is no public trust for the government or private business. Contrary to the population, experts are very involved in the architectural-construction sector and even some of them said that they gave bribes for all or certain projects (12.4 to 56.7 percent). Most of them see problems in the granting of construction permits (47.5 percent), in contracts (32.4 percent), and in relation with government oversight bodies (25.1 percent).

The highest percent of experts consider that raising the salaries of civil servants and employing qualified employees will partly solve the problem. Other activities that may minimize corruption and raise the quality of construction are: proper distribution of functions, public control in all construction activities taking place in city, simplified administrative procedures, good legislation and the perfection of court and executive systems.

4. Conclusions and recommendations

4.1. Identification of problems: based on the research several problems were identified that promote the development of corruption in construction sector:

- Weak legislation, including ineffective control and sanction mechanisms,
- weak institutional background, division of competitions, insufficient financing of controlling structures, lack of qualified human resources, lack of technical means, low level of responsibility, accountability, transparency,
- Low qualifications of civil servants, fear to make decisions,
- Absence of city-planning indicators,

- Absence of city-planning documentation in most cities of the country,
- Low level of awareness in the architectural-constructional sector, insufficient informational support, poor informational, scientific/popular or other printed materials in the Georgian language,
- Syndrome of ignorance of the law, low level of responsibilities of stakeholders,
- Weak control from civil society, unstructured public participation in urban development,
- Low qualification of laborers, builders in the labor market because of low compensation and accordingly causes a poor quality of construction.

All the listed problems create a very good atmosphere for organized crime in the construction sector, where all the activities are carried out with a minimal degree of transparency, leaving space for large corrupt agreements.

4.2. Anticorruption Policy: anticorruption policy in architectural-constructional sector first of all means core reforms in the system:

- Arrangement of normative packages, with laws, norms, indicators (including changes in current legislation);
- Institutional rehabilitation of the urban development sector (establishment of an independent state structure (ministry, state department) where the urban development sector (including construction, architecture, housing, urban infrastructure) will be strong and representative to actively participate in the development of state territories;
- Reforms to control the sector, raise finances, and designate competencies;
- Strengthen the court system, executive system;
- Carry out information policies in the architectural-constructional sector;
- Development of methodologies of statistics, classifications, indicators;
- Organize a TV program on public Television for discussion and actualization of the problems;
- Strengthen the control of construction materials, imports, industry, certification and standardization systems;
- Develop a modern approach to terms, means, definitions;
- Monitoring and analyses of all state contracts in the sector, strengthening public participation, development of public discussions and a monitoring system.

Core reforms in the architectural-construction sector will give the country the possibility to avoid all the negative results caused by ignorance in this sector. According to the reforms, the state will have the responsibility of improving policy for a better functioning private sector, economic development and a safe and comfortable environment.

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