

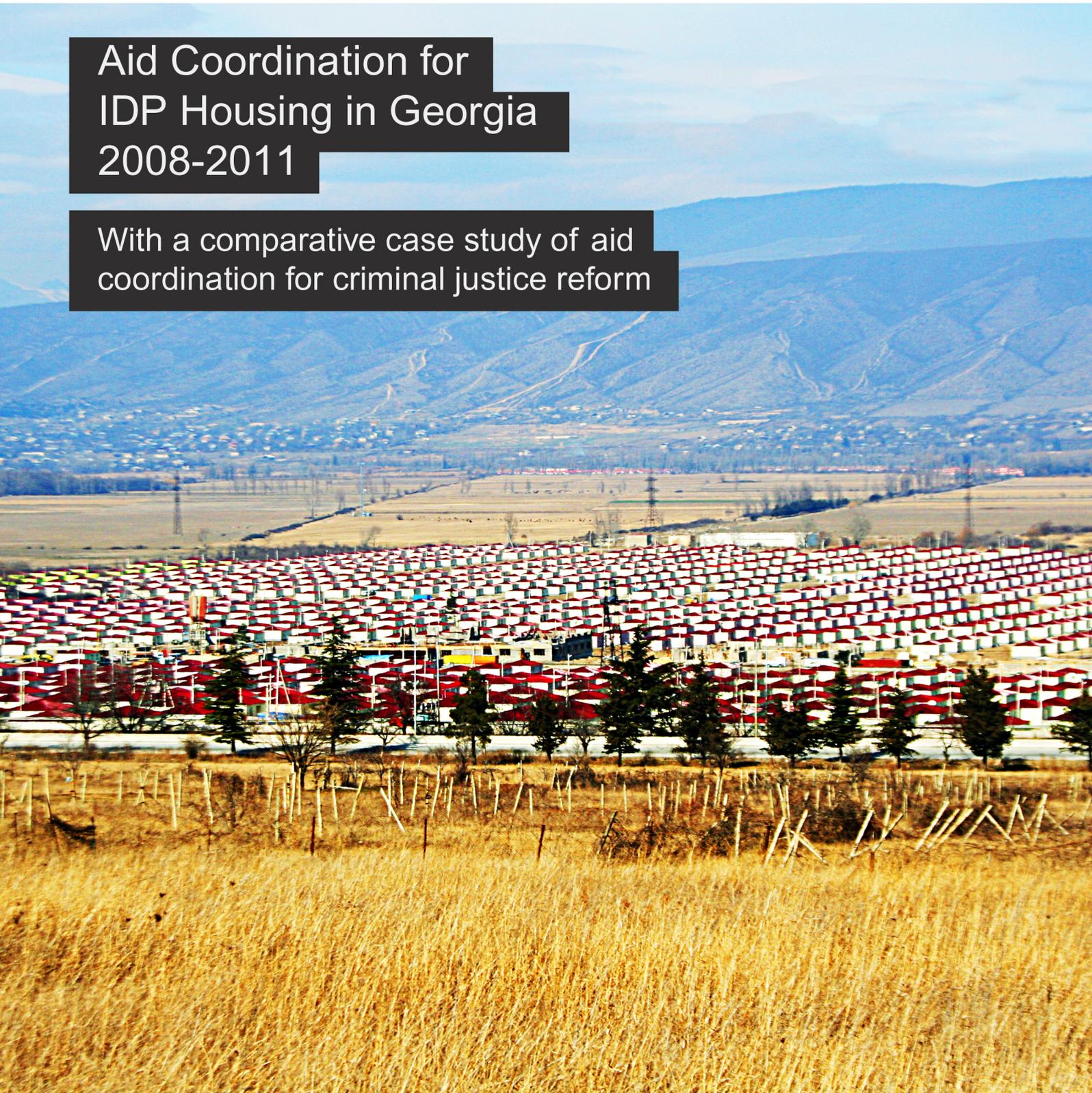


Transparency International Georgia

საერთაშორისო გამჭვირვალობა - საქართველო

Aid Coordination for IDP Housing in Georgia 2008-2011

With a comparative case study of aid
coordination for criminal justice reform



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I Background, Purpose and Approach

Much of the global discussion about increasing aid effectiveness has focused on improving aid *coordination* – coordination among donors, among government agencies, and between donors and the government. The debate is particularly relevant to Georgia, which receives more official development assistance than any other country in Eastern Europe and Central Asia, with the exception of Kosovo.¹ The relevance is especially strong after the \$4.5 billion pledged by international donors following the August 2008 war.

The 2005 Paris Declaration on Aid Effectiveness and the 2008 Accra Agenda for Action are the cornerstones of the global effort to improve the effectiveness of aid. They apply to both donor organizations and recipient countries, and two of the Paris Declaration’s five core principles are directly related to coordination — alignment of aid with national policies and harmonization across donors’ activities.²

Coordination of aid is seen as a key ingredient to aid effectiveness for a number of reasons. First, aid projects have proliferated: since the early 1970s the average value of aid projects has steadily decreased worldwide, while the total number of projects has increased. The trend is due in part to an increasing number of new donors, including new bilateral donors and foundations.³ The result of less money delivered by

more donors via a greater number of projects is an increase in coordination problems.

When aid is poorly coordinated, it is theorized that transaction costs including financial management and planning are higher, while the total positive impact of aid spending is lower because efforts tend to duplicate one another and mistakes are repeated. In the worst cases, aid projects work at odds against one another or worsen development conditions. Poor coordination is also seen to unnecessarily burden the small cadre of qualified staff in many developing country governments and deprive aid recipient countries of a degree of sovereignty.

A third Paris Declaration principle — ownership of development policies by the recipient country government — has strong implications for aid coordination efforts as well, since donors must ensure that their financing is in line with national priorities.

The European Union is the primary driver of many formal coordination efforts in Georgia. While all major donors in Georgia are signatories to the Paris Declaration, the EU regularly promotes implementation of the Paris Declaration principles via its financing agreements with the Georgian government. In December 2010 the EU jointly hosted a conference on donor coordination with the Ministry of Finance. Four months later Georgia became the 135th country to adhere to the Paris Declaration.

Yet a number of studies call into question the relevance and desirability of the PD principles, pointing to significant challenges of putting them into practice. In particular, these studies highlight the tradeoffs between the principle of “ownership” of aid projects by the recipient country, coordination and effectiveness.⁴

¹The post-war pledges made in 2008 more than doubled Georgia’s Official Development Assistance. In 2009 Georgia’s ODA as a share of its Gross National Income was 8.6 percent; Kosovo — 14.1 percent; Tajikistan — 8.3 percent; Kyrgyz Republic, 7.1 percent. Source: Organisation for Economic Cooperation and Development, Development Assistance Committee, *Statistics on Resource Flows to Developing Countries*, Table 25 — ODA Receipts and Selected Indicators for Developing Countries and Territories, accessed 18 August 2011.

²The five Paris Declaration Principles are: ownership, alignment, harmonization, results and mutual accountability.

³Barder, Owen, *Beyond Planning: Markets and Net-*

works for Better Aid, Center for Global Development Working Paper 185, October 2009.

⁴See, for example: Meyer, Stephen and Nils-Sjard Schulz, *Ownership with adjectives: Donor Harmonisation: Between Effectiveness and Democratisation. Synthesis Report* FRIDE Working Paper 50, March 2008; Nadoll, Jorg, *Review of Sierra Leone’s Aid Coordination Architecture*, funded by UNDP, DFID and the EC in Sierra Leone, July 2009; and, Hyman, Gerald and Mathias

Following the brief hostilities between Russia and Georgia in August 2008, donors pledged \$4.5 billion in assistance for the following three-year period. The Ministry of Finance reports that approximately USD 220 million went to support IDPs between 2008-2011 as part of the post-war pledges,⁵ although it is likely that this figure underestimates the total amount of funding.

Since the fall of 2008, TI Georgia has monitored the decisions of donors, the government, international agencies and national civil society organizations, focusing in particular on the provision of durable housing to IDPs. As part of this work, TI Georgia is a member of the Steering Committee on IDP Issues, chaired by the Ministry of Internally Displaced Persons from the Occupied Territories, Refugees and Accommodation (MRA). Our work has sought to make practical contributions to the field of IDP assistance by highlighting the transparency and accountability of aid to IDPs, focusing on the vast program to provide durable housing solutions. At times we praised the government, especially in terms of its initial commitment to address the housing needs of the 2008 IDPs. At other times we were critical of both the process and the outcomes for IDPs. Our work highlighted failures of communication to IDPs on key policy changes, especially with regard to energy subsidies and the right to choose accommodation;⁶ unnecessarily hasty planning (by both government and donors) that led to sub-standard quality of construction work;⁷ the unnecessary eviction of IDPs from temporary

Kjaer, *Evaluation of the Implementation of the Paris Declaration: United States Agency for International Development (USAID) Case Study*, USAID, January 2011.

⁵Ministry of Finance, *Master Document: Implementation of the Brussels Donor Pledge, Phase I, II and III*, 16 June 2011.

⁶See, for example: Ryan, Caitlin, *The controversy over energy payments in IDP cottage settlements*, Transparency International Georgia Blog, 23 February 2010.

⁷Transparency International Georgia, *Cottage Settlements for Georgia's New IDPs: Accountability in Aid and Construction*, April 2010. See also a forthcoming TI Georgia report (fall 2011) that assesses the quality of renovation of collective centers in Western Georgia.

shelters;⁸ and a lack of transparency in the allocation of housing benefits.

We believe that solutions to these problems lie, in part, among the interactions between donors and government. That is, they lie in the coordination of aid.

This study aims to document and consolidate TI Georgia's observations over two and a half years monitoring the provision of durable housing to IDPs.⁹ In particular, we look at the interactions between four sectors — government, donors, aid agencies and civil society — to understand how the outcomes of assistance are affected. IDPs have received far more than housing since 2008. Aid programs for both the first and second wave of IDPs addressed livelihoods, job training, psychosocial support, etc. TI Georgia's monitoring work has focused on durable housing because this represents the bulk of aid spending for IDPs, it poses significant logistical and coordination challenges and, in our opinion, housing decisions have some of the most significant long-term impacts on the ability of IDPs to integrate into local communities and to maintain/develop sustainable livelihoods. Good, stable housing is a foundation for the success of many other aid objectives. In addition, the sheer scale of the durable housing assistance is an entirely new type of endeavor in Georgia and poses unique coordination challenges.

To put the coordination of aid for IDPs into perspective, we include a brief case study of aid coordination in the criminal justice sector. While reform of the criminal justice sector has not been entirely free of problems, the case study provides a useful comparative context.¹⁰ We do not

⁸Ryan, Caitlin and Lasha Gogidze, *IDP Evictions — Explaining the Real Issues*, Transparency International Georgia Blog, 24 January 2010.

⁹International assistance for IDPs in Georgia has not been spent solely on durable housing; it has also provided food aid, psycho-social support and promoted the development of livelihoods, among other initiatives. Many programs also simultaneously address the needs of local, non-IDP communities, since many of the problems that IDPs face are shared with their neighbors.

¹⁰Initially, the authors sought to include a case study

attempt to evaluate the achievements of criminal justice reform. Numerous reports by national and international organizations, including by TI Georgia, address the extent to which aspects of rule of law (criminal justice reform, writ large) have been successful or not. We leave these considerations aside and focus instead on the process of coordinating and implementing criminal justice reform, which spans a staggeringly large number of government ministries and agencies, donors and NGOs. While the history of this reform deserves attention in its own right, the aim here is to use the comparative context as a launching pad for understanding and improving assistance to IDP housing. Through interviews with the main actors involved in the formal coordination of criminal justice reform (donors, government agencies, international NGOs and national civil society representatives), we sought to understand the main challenges and policy successes, and therefore to contextualize the issues that we identified with regard to IDP assistance.

Our research team was fortunate to have many open, frank and off-the-record conversations over the last two-and-a-half years with those involved in IDP assistance, in addition to formal interviews conducted for this study in

of coordination in the juvenile justice sector because both donors and the government highlighted it as the most successful example of coordination during the joint EU-Ministry of Finance Aid Coordination conference in December 2010. Upon initial inquiries, it became clear that juvenile justice reform was successful for a few simple reasons that do not apply to the IDP sector. When reform started, the Georgian legal system contained only sparse provisions regarding juvenile justice. The architects of juvenile justice in Georgia had the rare opportunity to work within an uncluttered framework. Other sub-sectors of the criminal justice field, such as penitentiary reform, were introduced on top of a pre-existing structure and are inherently politicized, complicating reform and coordination efforts. In addition, the topic of juvenile justice has broad support across the political and civic spectrum. But for the purposes of comparison with aid to IDPs, juvenile justice reform did not seem to offer many relevant or applicable lessons. Instead, we shifted our focus to look at the overall coordination structure of criminal justice.

May–July 2011. The views expressed here reflect those of TI Georgia only.

II Coordination of Aid to IDPs

The first State Strategy and Action Plan (2007–08)

The development of the 2007 State Strategy represented a sharp departure from the government's prior IDP policies in a number of ways. It officially acknowledged that local integration and the right to return were not mutually exclusive. This in turn enabled a push to improve the living conditions of IDPs, in particular with respect to durable housing.¹¹

The 2007 strategy enjoyed strong support and buy-in from a wide group of stakeholders, including government bodies, international organizations, national civil society organizations and, notably, IDPs themselves. It took nearly a year to develop the strategy, in part because of an extensive consultative process involving thematic working groups among government and international organizations, and parallel working groups established among national civil society organizations. The latter were responsible for holding consultations with IDPs and bringing their perspectives into the planning process. The Strategy was seen to “represent a consensus between the State and society” and the process “set a precedent for Georgia in terms of involvement of all the relevant actors and for its transparency.”¹²

A February 2006 government decree¹³ established a State Commission tasked to elaborate the Strategy. Informally, it appears that the process was heavily influenced by international organizations, especially with regard to the extensive involvement of civil society and public consultations. A short-term consultant from the United Nations, funded by the Swiss Agency

for Development and Cooperation, devised a “roadmap” for the elaboration of the strategy. The roadmap “considerably simplified and systematized the working process and facilitated the public participation”.¹⁴ Funding from the Danish Refugee Council enabled parallel network of national NGOs. Four thematic working groups covered housing, legal, social and economic issues. The NGO network members ensured that the interests of IDPs were represented in their work through a system of focus groups and roundtable meetings.¹⁵ Representatives of each parallel civil society working group participated in the state-led group. The alternative civil society groups made a number of recommendations to the Strategy that found their way into the final draft, which was seen as “a successful joint document”.¹⁶

The NGO network also had roots in the initiatives of international organizations. CRINGO, the Caucasian NGO Network on Refugees and IDPs, was established through a conference organized by the Danish Refugee Council in 2002, bringing together civil society organizations from Armenia, Azerbaijan, Georgia and Russia.¹⁷ The network does not appear to actively function today, although many of the organizations involved in the CRINGO Network still work together, including via networking initiatives funded by other donors.¹⁸

Emergency and post-conflict assistance: August 2008 – April 2009

Much changed after the second wave of IDPs were displaced in 2008. First, the government initiated a wide-sweeping initiative to provide

¹⁴Bokuchava

¹⁵Caucasian Refugee and IDP NGO Network - CRINGO, 2006, *Suggested CRINGO Input towards IDP strategy process*.

¹⁶Cite Bokuchava, p. 7

¹⁷Caucasian Refugee and IDP NGO Network — CRINGO, 2006, *Programme Document 2006-2010*.

¹⁸See, for example, the Synergy IDP Network, funded by Conciliation Resources: c-r.org/our-work/caucasus/idp-network.php

¹¹Also, for the first time the state committed itself to supporting conflict-affected persons who had returned to the conflict territories on their own.

¹²Bokuchava

¹³26 February 2006

durable housing for those who were newly displaced (approximately 22,000 people). They received new houses and land, or renovated apartments, within months of the war. At the same time, the war, coupled with the global financial crisis, shattered Georgia's positive trends in economic growth. The surge of external political support to Georgia by way of the \$4.5 billion in aid pledges helped to stave off economic collapse and to support liquidity in the banking sector. The pledges also made financing available for "equal treatment" of the first caseload IDPs (approximately 230,000 people, of whom 40 percent were living in collective centers). The available funding made possible an ambitious housing policy to address the dire conditions of many collective centers, and to formally transfer ownership of living space to the old caseload of IDPs.

The Action Plan approved just before the war was abandoned and the government's IDP policy in the following months was driven by a series of presidential and governmental decrees during a period of enormous stress on the state and its resources.¹⁹ The government's response efforts were led by its strongest institutions — the Prime Minister's office, the Ministry of Interior, etc. The MRA — the agency with the primary responsibility for IDPs — was not a lead decision maker in the post-war IDP assistance efforts.²⁰ The MRA was institutionally weak at the time, with rumors of its imminent closure circulating prior to the war. Minister Koba Subeliani had left the MRA and been elected to Parliament in April 2008, but six months later he was asked to return to the MRA to steward the Ministry in the post-war period (October 2008).²¹

The post-conflict emergency decisions sought

¹⁹For a full list of relevant legislation since August 2008, see TI Georgia's *Annotated Bibliography on IDPs in Georgia*, last updated April 28, 2011.

²⁰Bruckner, Till, *Decision Making and Georgia's Perpetual Revolution: The Case of IDP Housing*, Caucasus Review of International Affairs, Spring 2009: Vol. 3 (2), pp. 172–180.

²¹Civil Georgia, *Four Ministers Lose Posts in New Cabinet*, 29 October 2008.

to provide quick housing solutions for the newly displaced wave of IDPs. With the financial support of the World Bank and the European Union, the government built nearly 4,000 individual homes and renovated more than 1,500 apartments in 25 empty buildings for the new IDPs. All this was accomplished in just three months. The German and Turkish governments also separately financed and built cottage settlements for 400 and 100 families, respectively, taking much more time for construction.²²

Compared with the old caseload of IDPs, who lived in the obscurity of collapsing collective centers or in rented private apartments, often of equally bad condition,²³ the new caseload were settled in neat, unbroken rows of little houses. It was a bold initiative and represented real action behind the State Strategy's recognition that integration and dignified living conditions were not mutually exclusive of the right to return to the conflict territories. On the other hand, the sheer speed of the process compromised the quality.

TI Georgia's investigation into the cottage settlements for new IDPs concluded that the hasty planning during the post-conflict emergency period were the cause of a number of construction-related problems. The capacities of the government agencies managing the construction were also not high enough to enforce contractual obligations with construction companies.²⁴ In addition to the cottages and

²²Figures are taken from TI Georgia's previous report, *Cottage Settlements for Georgia's New IDPs: Accountability in Aid and Construction*, April 2010, Transparency International Georgia, p. 5. Sources included: Ministry of Refugees and Accommodation, *IDP Housing Work Plan*, distributed on February 8, 2010 to the Steering Committee on IDP Issues; and Ministry of Refugees and Accommodation of Georgia, *PowerPoint presentation to the Steering Committee on IDP Issues*, December 4, 2009.

²³*Survey Report on Privately Accommodated IDPs in the Samegrelo Region*, Danish Refugee Council, June 2010.

²⁴Between 2009–2011 donors have invested additional funding to address many of these problems (this will also raise the per-unit cost estimates of the construction), although TI Georgia has not kept pace with these developments. See also, Transparency International Georgia,

renovated apartment blocks for new IDPs, the government offered one-time cash assistance of \$10,000 to some families. Despite numerous inquiries with the MRA, TI Georgia has been unable to understand the specific criteria used to determine eligibility for cash assistance or how this alternative option was offered.

In addition to precedent setting, a number of the “emergency period” governmental and presidential decrees set in motion new housing initiatives for *first-wave* IDPs, even though the housing conditions of this group had been largely the same for the prior 17 years. That is, the emergency nature of policy making extended beyond the emergency and post-conflict reconstruction periods. (In fact, contrary to popular belief, much of the \$4.5 billion in post-war aid pledges was spent on non-emergency development initiatives.)

The spillover of emergency policies into longer-term development issues was most notable in a February 2009 presidential decree²⁵ introducing a new initiative to provide the old caseload of IDPs in Tbilisi with private ownership of their flats in collective centers. The effort took many international agencies and NGOs by surprise, and two and a half years later the process is still incomplete.²⁶ There were initial problems with the privatization contracts, which, for example, did not allow the possibility of joint property ownership by husband and wife. A group of national and international organizations formed a working group on privatizations and called for a temporary halt to the process

Cottage Settlements for Georgia’s New IDPs: Accountability in Aid and Construction, April 2010.

²⁵Presidential Decree #62 (2 February 2009) on “Privatization through direct sale of State Owned Property of the Tbilisi Self Governing Entity”

²⁶*Annual Privatization Report, January-December 2010. Transfer of ownership of IDP living units in Collective Centers*. Draft report presented to the MRA Steering Committee on IDP Issues on 19 July 2011. Prepared by the Ministry of Internally Displaced Persons from the Occupied Territories, Refugees and Accommodation and Ministry of Justice, with support from UNHCR, Norwegian Refugee Council, Danish Refugee Council and Georgian Young Lawyers Association.

while they formulated a more equitable contract document. Another reason for the unsuccessful privatization policy was an initial reluctance among IDPs to accept ownership. IDPs were unsure what alternatives might be offered and they hoped for bigger living spaces — while collective centers in Tbilisi are generally in better physical condition than those in the regions, overcrowding is a major issue. These expectations were not unrealistic given the effort that went into housing and land acquisition for the new wave of IDPs. A third likely reason for the failure of the initial privation efforts was a failure to effectively communicate the new policy. Without engaging in an endless debate about what would have been “fair”, it is clear that the lack of information about policy decisions, the rationale behind them and the alternatives to those who rejected the offers also contributed to the failure of this policy.

There were two more problems caused by the hasty privatization effort. Signed contracts were not registered with the public property registry immediately, so while IDPs relinquished their rights to the benefits of a collective center, such as subsidized gas and electricity, they did not receive ownership in return. A year later, the government had not been able to secure agreement on self-ownership from more than 50 percent of residents in any building in Tbilisi. Two years later, contracts were still not officially registered with the property registration agency.

In April 2009 the MRA distributed a revised Action Plan to a group of organizations, providing just a few days for comment and feedback. TI Georgia called on the government to extend the consultation period,²⁷ and the MRA responded with an extra week. UNHCR coordinated a half-day process to solicit input from national and international NGOs on the Action Plan, which was consolidated and provided jointly to the MRA. Only a few national NGOs took part in this process, and the feedback session was not

²⁷Transparency International Georgia, Press Release: *TI Georgia welcomes government’s decision to consult on IDP housing, calls for deadline extension*, 15 April 2009.

widely advertised. Most of the recommendations were incorporated into the final Action Plan, including a number of strengthened commitments to transparency and accountability. The new action plan aimed primarily to address the housing needs of the first wave of IDPs. The government adopted the 2009 IDP Action Plan in May.

Also following the release of the draft 2009 IDP Action Plan, the MRA invited TI Georgia to join a newly established aid coordination structure called the MRA Steering Committee for IDP Issues.

Coordination structure for aid to IDPs

The government established a formal coordination structure for aid to IDPs in February 2009. It consists of a high-level decision making body called the **MRA Steering Committee for IDP Issues** and a set of temporary working groups called **Technical Expert Groups**. In addition, a communication mechanism was introduced in June 2010, known as **NGO Coordination Meetings**.

According to its Terms of Reference, “the Steering Committee is an MRA-led decision making body to coordinate joint efforts by the Government of Georgia and international organizations in operationalizing and implementing the State Strategy for IDPs and its Action Plan.” The MRA Steering Committee for IDP Issues convened for the first time in March 2009 and TI Georgia was invited to become a member from the second meeting in late April. There are three levels of coordination: the Steering Committee, Technical Expert Groups and NGO Coordination Meetings.

The Steering Committee consists of a high-level decision-making body that meets approximately once every two months consisting of the donors and relevant government agencies involved in implementing the Action Plan. The Minister of Refugees chairs committee meetings

and the Ministry’s staff serves as the committee’s Secretariat. The Secretariat coordinates meeting dates, records minutes, shares documentation and agendas with members, and coordinated feedback from the committee members.

Members of the SC are listed in the Terms of Reference and some amendments have been made. As of July 2011, the MRA Steering Committee members included representatives of the following organizations:

Donor agencies:

- European Commission
- UNHCR
- US Embassy
- USAID
- UNDP
- World Bank
- Swiss Development Corporation
- KfW Development Bank*
- Swedish International Development Agency*

**Joined the Steering Committee on 14 April 2011.*

Government Agencies:

- Municipal Development Fund
- Ministry of Labour, Health and Social Affairs
- Ministry of Justice
- Ministry of Agriculture
- Ministry of Regional Development and Infrastructure
- Ministry of Finance

Two non-governmental organizations (one international and one local):

- National NGO: Transparency International Georgia
- *VACANT SEAT for an international NGO*

Typically the head of the agency or a senior representative with decision-making authority represents these organizations. The agenda is

determined by the MRA, although in practice UNHCR and donors play a significant role in suggesting topics. The agenda and any documents that need to be reviewed and considered by the committee are circulated several days before the meetings by the MRA secretariat. Funding for new projects are typically not discussed in the framework of the Steering Committee, and members are not updated on the financial picture or progress vis--vis the Action Plan. For example, both the EU and USAID funded new, large-scale IDP housing programs in the last year without announcing them at the Steering Committee.

The Steering Committee's Terms of Reference establish two levels of structure — a decision-making level (the Committee itself) and a “technical advisory level”. This working-level advisory function is seen out through “**Temporary Expert Groups**” (TEGs), smaller WGs jointly chaired by the MRA and another agency or organization (usually UNHCR is the co-chair). The TEGs consist of representatives from relevant government agencies, NGOs, international organizations, civil society organizations and other experts. The TEGs are established as needed by the Steering Committee in order to fulfill specific and time-bound tasks, after which they may be dissolved. A separate Terms of Reference document guides the work of the TEGs. As of July 2011, five TEGs were in operation according to the MRA:

1. Privatization
2. Redress mechanisms
3. Livelihoods
4. Durable housing
5. MRA capacity building

In reality, it is not clear to TI Georgia how active these groups really were, as they did not report regularly to the Steering Committee. Over the last several years, the work of the TEGs has included the elaboration of rehabilitation standards, selection criteria for new housing, development of an outreach strategy and an information brochure on IDP benefits, a set of Standard Operating Procedures for evic-

tion, establishment of a complaints and redress mechanism, guidelines for housing allocation, etc. Their work is presented to the Steering Committee for approval.

Most members of the Steering Committee do not participate in the TEGs, although their staffs occasionally attend. This is especially true of UNHCR and the MRA, co-chairs of most TEGs. Donors rarely participate in the TEGs, usually channeling their feedback through the participation of representatives of international organizations such as UNHCR, DRC and NRC.

A number of international NGOs, including the Danish Refugee Council and Norwegian Refugee Council, also actively participate in the TEGs. The only national NGO involved in the TEGs is the Georgian Young Lawyers Association. TI Georgia has participated to a limited extent in one of the less active TEGs, on Information and Communication (at the time of writing, this TEG was dormant; it was most active in winter 2009-10).

A third layer of coordination — **NGO Coordination Meetings** — was introduced in June 2010 in order to share the committee's decisions, main activities of the TEGs and future plans with a wider audience of stakeholders. The meetings are supposed to take place one week after the Steering Committee meeting (although in practice they usually take place 2-3 weeks later), and they serve to communicate the Committee's decisions to the national and international NGOs working on IDP issues in country. While this layer of coordination is not formally defined by the terms of reference governing the Steering Committee or TEGs,²⁸ the coordination meetings have come to be a fairly regular establishment. The meetings were introduced in part because the MRA wanted to limit growing NGO attendance at TEG meetings (largely by international NGOs), which was slow-

²⁸The Committee's terms state only that, “Recommendations and decisions of the Steering Committee will be disseminated to IDPs and the broader public via the MRA media liaison office as well as via NGOs and other information outlets”.

ing the work of the TEGs as new participants unfamiliar with past work joined the groups. The Coordination Meetings are an important opportunity for NGOs to raise questions and concerns directly with the government. However, they were conducted in English and only international NGOs were invited. At TI Georgia's encouragement, in June 2011 the MRA held an NGO Coordination Meeting in Georgian and invited a suggested list of relevant organizations, however it remains to be seen whether this practice will continue.

Consultants financed by USAID and the EC contributed substantially, if behind the scenes, to the organization and management of the Steering Committee meetings and the TEGs, including working with MRA staff to define the structural concept of the system, set the agendas, draft minutes of the meetings and contribute to internal capacity building efforts. Some of these efforts have been more successful than others. In particular, a communications assessment conducted in 2009 for the MRA and funded by USAID has not resulted in substantial improvements in the Ministry's communications policies. UNHCR also covers the salaries of a number of MRA staff including those in the secretariat responsible for organizing the Steering Committee meetings.

In practice, the most important function that the coordination structure (Steering Committee and TEGs) plays is as an information sharing mechanism. Yet this is far from achieving the Committee's ambitious objectives as set out in its Terms of Reference and, as noted below, there are still significant information gaps.

Specifically, of the six objectives set out for the Steering Committee in its original Terms of Reference, two critical points remain under met:²⁹

²⁹The other four objectives are: "Serve as a partnership forum for the MRA, other government Ministries and key stakeholders to oversee timely and coordinated implementation of the IDP State Strategy and the Action Plan; Provide a mechanism through which to elaborate plans and specific projects to implement the State Strategy and mobilize required resources; Identify priorities for further development; Elaborate recommendations for the

- Ensure transparency of national and international efforts to implement the State Strategy
- Evaluate progress towards achievement of the Strategy's aims and implementation of the Action Plan

In order to do meet these objectives, the committee will need to operate with greater transparency (e.g. by sharing more detailed minutes of meetings, draft documents, and showing a sustained commitment to discourse with civil society). These are further explained in the section on main issues, below.

Donor funding modalities

There are a wide number of donors financing IDP-related assistance in Georgia. Many of the programs are focused on developing economic opportunities and livelihoods. Here, we present the main donors funding durable housing solutions for the old caseload of IDPs. This includes the European Union Delegation to Georgia (EU), the US Government, the German KfW Development Bank, and the UN High Commission for Refugees (UNHCR).

Donors use a wide variety of funding mechanisms to support the housing component of the IDP Action Plan. All international funding for IDP housing takes the form of grants rather than loans. The **European Union** directly reimburses the state budget for incurred expenses after costs have been verified via an external audit. The EU's main government partner in this work is the Municipal Development Fund (MDF), a Legal Entity of Public Law. The MDF conducts all the contracting of construction companies and oversees their work.

The EU tried to set up a separate coordination structure with the Ministry of Regional Development and Infrastructure (MoRDI) and the MRA, outside of the Steering Committee. The aim was to jointly manage EU financing agreements. However, these meetings are irregular.

Government of Georgia regarding IDP issues."

lar and infrequent, and EU representatives have questioned the usefulness of this mechanism. USAID does not have a separate, formal coordination structure, while KfW's headquarters staff hold quarterly meetings with the MRA and MDF. All donors stressed their reliance on ad hoc meetings with government agencies as the most important method of communication and decision-making on their programs. These are generally held separately from other donors.

The burden of coordination and planning meetings that the MRA must take part in is certainly very high, especially given the MRA's significant capacity/human resources constraints and the high degree of variation in donor funding mechanisms and approaches. On the other hand, the government likely sees some benefit to a disjointed donor landscape, as it weakens a common donor voice and policy.

Since the 2008 war, the EU has signed three Financing Agreements with the Georgian government for IDP housing. In 2008–09, 2009–10 and 2010–11, the EU financed IDP housing projects in the amount of EUR 10 million, 51.5 million and 43.5 million, respectively. These projects funded, among other activities, the construction of housing for new IDPs (2008–09), the renovation of collective centers in western Georgia for first-wave IDPs (2009–10), and the construction of new apartment blocks in Batumi, Poti and Tskhaltubo for first-wave IDPs (2011).

The EU's third financing agreement (for the construction of new apartment blocks) stands out from its prior agreements because of a Memorandum of Understanding (MOU) that outlines conditions for the use of funds. Concluded with the MRA six months after the third financing agreement was signed, the MOU outlines specific conditions the government must meet in its implementation of housing projects for the first wave of IDPs. These include requirements that the government:

1. Provide a full list of collective centers that will be closed by March 2011;
2. Ensure that each family living in a col-

lective center that will be closed "be offered formally and in writing a least three concrete different solutions, which will be available simultaneously at the time the offer is made," including the option to move to a newly-built apartment block, an individual house or a renovated apartment block;³⁰

3. Give IDP families property title within six months of moving to a new place; and
4. Establish a redress and complaints mechanism.

These requirements are significant because they address a number of critical deficiencies in the government's efforts to provide durable housing for IDPs, and they provide some insight into the negotiations between donors and the government. The first requirement indicates that donors did not have essential information about collective centers when renovations began in 2009. The fourth demonstrate that key tasks assigned to the TEGs were donor-driven, e.g. the establishment of a redress and complaint mechanism, which a number of different actors called for without success for some time before the EU included it in its third financing agreement. It is also instructive to note that the MOU was concluded six months after the original financing agreement was signed, indicating that the EU may have seen a particular need to come to additional terms in its third IDP financing tranche. Finally, it is worth highlighting the second condition, which gives a precise definition of vague language in the IDP Action Plan regarding IDP's "right to choose" their accommodation. This right of free choice has been variously interpreted to mean the right of a family to decline a housing offer if it is unsuitable to them (but without other offers pending), versus the

³⁰ "Memorandum of Understanding between the Government of Georgia and the European Union with regards to the modalities of the Financing Agreement signed 13 July 2010", signed by Philip Dmitrov, EU Delegation to Georgia, and Koba Subeliani, Ministry of Refugees from the Occupied Territories, Accommodation and Refugees of Georgia, 7 February 2011.

right to have multiple choices at a single time and to choose among them. The fourth condition therefore upholds the donor's interpretation of the Action Plan's language, which is broader and confers greater rights to IDPs.

While the literature on the effectiveness of conditionalities in international aid is mixed and global movements for aid effectiveness, including the Paris Declaration, call for less "tying" of aid (including, in the case of housing assistance to IDPs in Georgia, conditionalities are a very positive step towards more accountable, effective aid delivery. Unfortunately, to TI Georgia's knowledge these conditions have not been communicated to IDPs themselves and most national and international NGOs working with IDPs were unaware of them at the time of interviews in July 2011.

It also remains to be seen how the EU will uphold these conditions. As the new apartment blocks financed by the EU in Poti become available, will IDPs really be given two other housing options from which to choose? If the past is any measure, the EU has not been particularly effective in upholding government compliance with its financing agreements for IDP housing. In early 2009, the EU declined to provide TI Georgia with a copy of the independent audit report on the basis of which the EU reimbursed the government for the construction of cottage settlements for the new wave of IDPs in 2008. If the conditions of the MOU are to be evaluated under the same degree of secrecy, then we will never know if they were met. However TI Georgia is hopeful: in the last year the EU has been more open with TI Georgia with regard to the details of their financing agreements.³¹

The **US government** provides funding for IDP housing through two mechanisms. The US

³¹According to the EU, two different types of external verification are conducted before disbursements related to EU financing agreements. One is a basic financial audit (the audit TI Georgia requested in 2009, referred to above), and a second verification seeks to ensure that the terms and conditions of the financing agreements are met. TI Georgia phone interview with the EU, 31 August 2011.

Agency for International Development (USAID) incorporates IDPs into many of their projects that are aimed at broader groups of beneficiaries. According to USAID, it is therefore quite difficult to estimate the total amount of US government funding provided to IDPs separately from their overall projects.³² In mid-2009 USAID also funded the energy bills accrued by IDPs living in the newly built cottage settlements via a direct payment to the private electricity and gas companies. In 2011 USAID entered the field of financing durable housing for the first wave of IDPs through a commitment to renovate collective centers in western Georgia. Previously, the funding of collective center renovations was conducted under EU funds (second IDP financing agreement). The USAID commitment to fund these kinds of housing activities represents an informal division of responsibility between the EU and the US government. The EU appears to have more flexibility to fund new housing developments compared with the US government. (As described above, the EU's third financing agreement is largely to finance the construction of new apartment blocks for IDPs in Poti, Batumi and Tskhaltubo.)

The US Department of State's Bureau of Population, Refugees and Migration (PRM) also provides assistance to IDPs. Located in the US Embassy rather than USAID, PRM channels its funds through UNHCR. PRM was also the primary US agency responsible for coordinating US assistance to IDPs in the emergency period after the 2008 war, as USAID's focus is on longer-term development projects rather than short-term recovery assistance.

Like the EU, the **German KfW Development Bank** works through the Georgian government's Municipal Development Fund (MDF).³³ A tender procedure is implemented by MDF and

³²TI Georgia interview with Greg Booth (USAID) and Greg Gardner and Eka Todria (US Department of State, Bureau for Population, Refugees and Migration. 13 May 2011.

³³The MDF is a Legal Entity of Public Law under the Ministry of Regional Development and Infrastructure.

monitored by KfW, and upon completion of the works, construction companies are paid directly by the MDF. On the basis of verified documentation, the amounts are subsequently reimbursed by KfW. In order not to impose different financing regulations, which would require unique reporting, international procurement guidelines are adopted. As with the EU financing system, KfW's monitoring and verification reports are not public.

UNHCR plays a dual role as donor and implementer of IDP-related funds, and it maintains an almost daily working relationship with the MRA.³⁴ Immediately after the war, several major donors including the EC and the US government directed their funding for emergency relief through UNHCR, and the family of UN agencies led the coordinated response to the post-war emergency. Such arrangements not only save on overhead costs, but they are quickly arranged because the UN agencies have the trust of donor's home offices and legislatures. By late 2009, most donors were moving away from this truly joint mechanism towards a coordinated but separate approach, as described above.

Analysis: The main issues in coordinating aid for IDP housing

1 Information and evidence base for housing policies

In early 2009, the haste and emergency tone that characterized new housing solutions for the old caseload of IDPs led to a long-term policy that lacked a strong evidence base. In particular, gaps in available information about

³⁴UNHCR's close relationship with the government drew sharp criticism from a group of advocacy-based civil society organizations working on human rights issues, who believed that UNHCR too strongly defended the MRA during a period in which IDPs were forcibly evicted from their homes. For more information, including links to UNHCR's statement and the response from a group of national NGOs, see: Cecire, Michael, "Who's right about IDP evictions?", Evolutsia.net, 5 February 2011.

housing conditions and housing allocation priorities masked the complexities of the problems facing the old caseload of IDPs, which were compounded and multiplied by the passage of 18 years since displacement. Information and evidence was not only unavailable to the public; many donors and aid agencies lacked critical pieces of information as well. While the number of information gaps is decreasing, it has taken too long to fill them. It would be unfair to conclude that these gaps resulted in policy failures, but it is likely that addressing these issues would have led to smarter, more effective aid policies. Many of them would have been relatively simple to fill, and donors should have done more to insist on them. Gaps in the information about IDPs included:

- Multiple donors noted that the government provided **inaccurate information** or **insufficient information** about the number and state of collective centers. This is likely due to the fact that information relevant to IDP housing is managed by a number of different government agencies, including the MRA, the Civil Registry (under the Ministry of Justice), Municipal Development Fund, Ministry of Infrastructure and Regional Development, etc. In addition, information about property ownership in the country is incomplete and the ownership status of many buildings was not known by the MRA.

A **list of all collective centers** and their status as objects for durable housing or other future use was not made available until mid-2010, 18 months after donors and the government began privatizing, renovating and rebuilding collective centers across the country. (A number of collective centers are not owned by the state, while the legal status of others is under dispute. Some state-owned collective centers are planned to be privatized to outside investors or returned to their original use as laboratories or schools, while others are

in such a decrepit state that they are in danger of collapsing and need to be closed.) Partial lists of collective centers categorized by their ownership status and potential as a durable housing solution were only shared in mid-2010 when the MRA published the “IDP Housing Strategy and Working Plan,” containing useful lists of collective centers under different conditions. Based on the conditions of the EU-MRA Memorandum of Understanding, it seems that full information was still not available as of February 2011.

Some donors reported that they received lists of collective centers to be renovated with so many errors and information gaps that, upon physical inspection, it turned out that most buildings were unsuitable for renovation. With 1,600 collective centers across the country, it is unsurprising that the MRA lacked detailed information about every one. But donors financing the large-scale renovation works could have paid for a preliminary assessment that would have filled this information gap and enabled an easier planning process for construction works.

- **The rationale for large scale housing programs lacks an evidence base.** For example, the government, with EU financing, is building new apartment blocks for IDPs in the seaside ports of Poti and Batumi, and in the mountain resort Tskhaltubo. These new buildings are intended for hundreds of IDP families living in collective centers that will be closed. But what is the basis for these plans to move IDPs living in collective centers in small villages in western Georgia to new apartment blocks in Poti or Batumi? In Poti the new apartment blocks will be built several kilometers outside of the city center, essentially establishing a neighborhood of IDPs without jobs and livelihoods. What are the projections for job creation in Poti and

on what industries are they based? How will the new apartment blocks affect the local municipalities’ ability to deliver basic services, and what will be the impact on other vulnerable groups in those municipalities? What do the IDPs themselves prefer and is there a demand for this type of housing compared with alternative housing options? How will these buildings be filled in light of the February 2011 MOU between the EU and MRA requiring that all families receive three concrete housing options from which to choose?

Not only are answers to these questions unclear from an external perspective, they were unclear to some donors, who declined to finance these plans without further evidence.

- **Lack of rigorous monitoring and evaluation.** To TI Georgia’s knowledge, there is no large-scale effort to collect and track data on the effects of the government’s IDP housing policies, especially with regard to first-wave IDPs. No evaluations of the successes and failures of housing have been presented to the Steering Committee for consideration. In addition, there has not been any reporting of progress achieved against the Action Plan that goes beyond superficial quantitative reports on number of apartments renovated, privatized, etc. It is unclear why donors have not jointly insisted on a more rigorous evaluation that aims to collect qualitative impact data, after funding three years of IDP housing assistance programs. In this respect, both the government and donors have failed to meet the fifth Paris Declaration principle.
- **Insufficient consideration of alternative housing options.** Some alternative housing options have not received enough serious consideration. In 2006–07 USAID funded a pilot housing voucher program for IDPs in Kutaisi, which saw mixed results.

One of the main reasons the program was seen as unsuccessful was the rising cost of property, which translated into higher program costs and fewer beneficiaries. Yet there has been no study that sought to separate the effects of general macro-economic trends in 2008, a period of inflation in the Georgian property market, with the effects of vouchers on local markets. In the post-war period, as Foreign Direct Investment fled the country and property prices plummeted, a housing voucher program may have been a viable alternative again. This kind of program allows IDPs to choose their accommodation, allows real market prices to drive decisions, and, whenever possible, allows IDPs to leverage their own funds in the purchase. Unfortunately housing vouchers seem to have never been seriously considered in the post-war housing assistance efforts. To be fair, property markets in Georgia do not seem to have ever functioned properly, but the question should be whether, in an unstable property market, housing purchases on a mass scale would compete with the price of new construction (or other alternative housing programs).

Instead, the MRA gave some families (mostly new IDP families) cash compensation of \$10,000 under opaque terms and allocation guidelines that exist only in oral form. TI Georgia submitted a Freedom of Information request to the MRA for the documents and a description of the process and standards used to approve and decline applications for the \$10,000. There was no response. Informally, MRA representatives vaguely explained that the cash was only available to families able to demonstrate that they had additional savings, under the assumption that they would use these funds along with the \$10,000 to purchase housing. In fact, some families took the cash but used the funds for other needs such as urgent healthcare costs and are

again in need of housing.

In 2011 the MRA began to purchase empty houses in Georgia's rural areas and villages as an alternative housing option — essentially duplicating a housing voucher program but under a less transparent and market-oriented approach.

2 Coordination structure, roles and responsibilities

The role of the MRA Steering Committee, Technical Expert Groups and NGO Coordination Meetings are fairly well defined by the relevant Terms of Reference documents, but there are a number of improvements that could be made to promote more effective coordination:

- **Greater transparency of Steering Committee and MRA operations.**

The MRA has a tendency to keep information unnecessarily secret. (It is not the first bureaucracy to adopt this attitude — until quite recently, the World Bank was heavily criticized for its reluctance to share information, but last year it introduced a new policy whereby all its information and documents are public *unless* specifically marked otherwise, turning the common approach of “secret unless marked for public” on its head.) The MRA recently took the positive step of publishing minutes of the June 2011 Steering Committee meeting. However, the public version was a significantly condensed version of the full minutes, even though TI Georgia saw no obvious reason to withhold any information contained in the full minutes. This is likely a reflection of the institutional inertia for secrecy and the withholding of information.

The agendas, participant lists, minutes, reports and other relevant documents of all three levels of the coordination structure should be placed online at the MRA's new website.

This recommendation should not be con-

fused with a general call for fully open meetings or word-for-word transcripts. TI Georgia recognizes the importance of off-the-record conversations in policy making. *Basic* information essential to decision-making and to understanding government activities related to IDP housing is not publicly available, or it becomes available too late and in confusing and un-useful formats.³⁵ In private conversations, a number of donors have confirmed that they also lack full access to information that is important for taking funding decisions.

- **Government communications and information sharing with civil society** — The NGO Coordination Meetings are an excellent initiative to share information about developments in IDP assistance with a broader community, but a number of issues should be sorted. First, the purpose of the meetings should be articulated on paper and shared with participants in order to set expectations about the purpose and content of the meetings. In TI Georgia’s view, some of the NGO Coordination meetings have been unproductive because of different understandings of the meeting’s purpose. By sharing an agenda ahead of time and holding the meetings regularly, the MRA can turn these meetings into a useful tool for sharing information and hearing back from the organizations working on the ground with IDPs. In addition, the meetings should not exclude national NGOs. Previously they were conducted in English and only international NGOs were invited. At TI Georgia’s encouragement the MRA held two NGO coordination meetings in Georgian language for relevant national NGOs (20 May and 12 August 2011). The MRA will need to sort out how it will distribute information to the English-speaking and Georgian-speaking NGO audiences (whether as sep-

arate groups or together); however it is important that both groups are treated equally and receive the same information. Finally, the NGO Coordination Meetings should be a regular event (sometimes they are not held).

- **Clarify role of national NGO representatives on the Steering Committee.** In June 2010 TI Georgia learned that the Steering Committee would be reduced in size, and that NGOs would no longer be invited to participate. There was no clear or official communication about this change from the MRA to TI Georgia, and TI Georgia missed two critical meetings of the Steering Committee during the period of IDP evictions. (Information about the evictions was shared with the committee during meetings when TI Georgia was not invited.) The MRA later clarified that the Steering Committee would allow the regular participation of TI Georgia, “or any other elected NGO”. On that basis, TI Georgia sought the nomination of national civil society organizations working with IDPs to be the formal NGO representative to the Steering Committee and was able to secure a re-invitation to the Committee from the September 2010 meeting. While the nomination process was important, and should likely be repeated after some period of time, the Steering Committee should ensure that the arbitrary exclusion of an independent monitoring organization from its ranks does not happen again. Clarifying the role and purpose of the national NGO member will help in this regard, and it will reaffirm the Committee’s commitments to engagement with civil society and transparency.
- **Role and membership of the Technical Expert Groups:** While there are a number of different TEGs operating at any one time, the participants are largely the same small group of people. While the

³⁵See TI Georgia’s Ten Open Data Guidelines.

emphasis on having “experts” in the TEGs is important in order to keep the work focused and to avoid repetition of work, it also creates a perception that “non-experts” are unwelcome or unnecessary. In TI Georgia’s experience with the information and communications TEG, an external perspective contributed significantly to the development of a non-technical information brochure outlining state benefit packages to different categories of IDPs. TI Georgia worked to maintain clear and simple language in the brochure, and to eliminate legalese. Expertise in Georgian legislation and protection issues is essential to most of the TEG’s work. However, it is not necessary that every member of the WG have this background. TEGs would benefit from a diversity of professional experiences and the consistent participation of generalists who maintain a broader, common sense perspective. However care should be taken that these “generalists” attend all meetings and actively contribute to the meetings.

Confusion over the purpose and membership of the TEGs is likely driven in part by the lack of information that is publicly available on the government’s activities and future plans. While the MRA may see the TEGs as groups that “do the work”, participants often see them as “information points”. If more public information was available to more stakeholders, then the a number of the problems in TEG membership cited above would likely be eliminated.

The method by which TEGs are established is sometimes opaque. While presumably the MRA has the ultimate authority to invite individuals to join the TEGs, the decision to establish and/or invite members of these WGs is not usually jointly decided by the Steering Committee; rather, these decisions are taken outside of committee meetings and it is likely that UNHCR, as co-chair of most TEGs, plays an influential

role in proposing members.

Details of TEG’s work, including progress towards finishing specific assignments and the main issues and decisions involved, are not communicated formally to the Committee, either during Committee meetings or between them. Until the late spring of 2011, TEGs rarely provided regular updates to the Steering Committee on their work unless something was ready to be presented for the committee’s approval.

Only two or three national NGOs are actively involved in the TEGs. In interviews with TI Georgia, most national NGOs working on IDP issues explained that they are either unable to participate because their offices are not in Tbilisi, or because they make a conscious choice not to be involved in the policy level. Instead, they choose to focus on service provision to IDPs. More significantly, most admitted that they are unaware of the opportunities for participation or of the format and role of the coordination structure itself. It is a major shortcoming of Georgia’s civil society organizations that few have found ways to engage in this important aspect of policy-making.

3 Inter-governmental and donor-government coordination

The interactions between different government agencies, and between donors and these various parts of government, are one of the most complicated aspects of aid coordination. Nearly every aspect of the MRA’s sphere of activity overlaps with the work of other government agencies: the Ministry of Labor, Health and Social Affairs (IDP benefits packages), the Public and Civil Registries (property, collective center privatization and IDP status registration), the Ministry of Economic Development (livelihoods,

privatization process³⁶), the Ministry of Regional Development and Infrastructure and local municipalities (housing and public services), etc. The cross-cutting nature of IDP issues requires a strong lead government agency empowered by the executive to bring other agencies to the table. Donors and aid agencies need to attain support for their programs not only from the MRA, but from higher levels of government and across different agencies. These issues are drawn out below through two brief examples:

- **Other government agencies outside of the MRA have limited involvement in the work of the Steering Committee and TEGs**, despite the fact that IDP housing issues encompass the competencies of numerous agencies. This makes the work significantly less efficient and effective. The experience of TI Georgia’s participation in the communications and information TEG in early 2010 is illustrative here. Tasked by the Steering Committee to develop a brochure on IDP benefits, the government agency responsible for distributing IDP allowances, the Social Services Agency, did not take the lead in writing the document or meeting to discuss drafts, thereby substantially prolonging the work. Other government agencies have been notably missing from the TEGs as well. During one of the most controversial periods of IDP assistance in 2010 and 2011, when IDPs were evicted from temporary shelters in Tbilisi, a TEG tasked to elaborate eviction procedures did not involve the key government ministry responsible for evictions — the Ministry of Interior (police). Greater involvement of other government representatives in the work of the Steering Committee is essential. The MRA guides the work of the Steering Committee and

³⁶The Ministry of Economic Development is the custodian of all state property, and therefore is the state agency that signs purchase agreements with IDPs when their living spaces are “self-privatized”.

TEGs with the international donor and NGO community in mind, rather than as an all-encompassing policy coordination structure.

- We gained the most clarity on the relationships between government, donors and civil society during the **eviction crisis** that started in late July 2010, when thousands of IDPs were forcibly evicted from temporary shelters in Tbilisi. In June 2010 the MRA presented a list of temporary shelters identified for closure, including a rough profile of the tenants, at a regular meeting of the Steering Committee.³⁷ The MRA did not invite TI Georgia to this meeting, although the documentation was later shared with us by other committee members. Evictions began in late August and took the international community by surprise. Presumably those present at the Steering Committee meeting did not imagine that “closing” the temporary shelters meant evictions. The first evictions occurred without prior notification to residents and without offers of alternative housing to those who qualified for it. Following pressure from donors at high levels of government, the evictions were temporarily halted (although thousands had already been affected). It was agreed that a set of Standard Operating Procedures (SOPs) would be developed to ensure that closure of the remaining temporary shelters would take place in compliance with legislation and uphold the

³⁷Hundreds of buildings in Tbilisi were set up as temporary shelters in August 2008 to accommodate people fleeing the conflict in South Ossetia. Most buildings were returned to their original use as people were able to return to the Gori area adjacent to the conflict zone, or were provided permanent shelter options. Two years after the conflict, 32 buildings were still occupied by a combination of the new caseload of IDPs and the first wave of IDPs. For further information on the evictions, see: Ryan, Caitlin and Lasha Gogidze, “IDP evictions — explaining the real issues”, Transparency International Georgia Blog, 24 January 2011.

basic rights of tenants.³⁸ (Although in Georgian legislation, tenants have very few rights).

The SOPs outlined a combination of rights based on existing Georgian legislation and expectations about the process of eviction that was not contained in national legal framework. The most important component of the SOPs included the requirement for advance notice of eviction and open access for independent monitors to the eviction sites. The SOPs were drafted by a special Technical Expert Group co-chaired by the MRA and UNHCR and a “pilot” eviction was carried out. However, when the evictions resumed in January 2011, a number of the main principles in the SOPs appeared to have gone unheeded. There were questions about the extent to which advance notice was given to tenants (the date of eviction was not listed on the notice and the government postponed the evictions several times during the winter and holiday season), and independent monitors were not allowed to enter the eviction sites. The evictions drew heavy criticism from national NGOs and the media.

The crisis of the evictions shed light on the dynamics of decision-making in IDP policy and, by logical extension, on how decisions about aid are coordinated at the political level. While the MRA’s approval to evict IDPs was required by national law, it was clear that the evictions were not the MRA’s initiative: the decision to close the temporary shelters was driven by levels of government higher and/or politically more powerful than the MRA. The failure to include the police in the development and implementation of the eviction procedures essentially guaranteed that they would not be fully met.

³⁸Georgian legislation contains very few provisions to protect tenancy rights, although IDPs have more protections than the rest of the population.

The immediate lesson of the eviction experience is that the success of international aid to IDPs depends on more than one government agency. It should not be taken for granted that government agencies will automatically coordinate among themselves. A small round of IDP evictions in July 2011 seemed to go more smoothly.³⁹

4 Donor-donor coordination and transparency

Donors need to take more steps to **share information about the successes and failures of their programs** with one another. While all donors interviewed for this report mentioned that they speak regularly with one another about their upcoming plans, it appears that there is greater room for sharing information about lessons learned on past projects.

The German KfW Development Bank took an approach not used by other donors in the renovation of three collective centers in western Georgia, requiring that 75 percent of residents in each building give a “no objection” to the renovation plans before construction work could begin. KfW also conducted a “social survey” in which residents took part in planning the renovation, although KfW declined to share the results of this plan with TI Georgia. The approach was new for MDF and KfW in Georgia. The construction work included rearranging living space within the buildings in order to install individual kitchens and bathrooms, and to meet minimum space requirements. In two buildings, KfW financed the construction of additional floors to accommodate these requirements. KfW’s approach differed from other donors because they saw IDPs in one collective center as a community that they didn’t want to split apart. This principle derived from the opinions expressed by IDPs during the social survey. It was the primary responsibility of the local MRA representatives, with assistance of the MDF, to conduct the social

³⁹Gogidze, Lasha, “IDP evictions, continued”, Transparency International Georgia Blog, 21 July 2011.

survey and to reach a “no objection” with IDP families.

It took the MRA and MDF more than a year to reach the required number of no objections. Some families did not want to move to another floor, and in Poti some did not want to agree to an apartment unless it was bigger in size or had a view of the seaside.

While the final results of this approach are still undocumented, the process likely has important lessons to offer other donors and the government. But as of interviews conducted in June 2011, the major donors TI Georgia spoke with were unaware of KfW’s experience or the important lessons learned. It was only in May 2011 that KfW became a member of the MRA Steering Committee, although they had been working on IDP housing projects since the days just after the August 2008 war. Perhaps KfW’s experience did inform the choices of the government and other donors with regard to housing construction, but in the 2.5 years that TI Georgia participated in the Steering Committee and other planning activities, lessons learned were never raised. Some donors TI Georgia interviewed were not aware of KfW’s experience at all.

Donors, like the government, have an institutional inertia that tends to withhold information when it should be open. In interviews for this report, KfW declined to share the social surveys of collective centers mentioned above with TI Georgia (according to KfW, detailed project information is not publicly available due to contractual obligations). In June the World Bank commissioned an independent Scoping Study of IDP housing assistance, but it is unclear whether the final report will be publicly released, or even shared within the Steering Committee; in 2009 the EU refused to share the results of its audit of government expenses related to the construction of IDP cottages. Together, these actions prevent an honest appraisal of aid programs, inhibit learning and increase the likelihood that the donors will not find the most optimal, effective

path in their work.⁴⁰

5 NGO participation

Civil society can and should play a role in the coordination of aid efforts. The section above on the development of the 2007 State Strategy, seen as successful by a wide group of stakeholders, is a good example of what these groups can achieve. Civil society organizations can serve as conduits for communicating new policies to IDPs, and they can also be a first line of warning about unforeseen pitfalls in new policies. In both these roles, civil society organizations can increase the likelihood that IDPs will understand and benefit from government policies. In order to achieve this, the government must strengthen communication with civil society organizations, including the media, and find meaningful ways to engage national NGOs in policy processes.

Most civil society organizations (CSOs) remain outside the aid coordination structure and have very little influence in it. While the MRA excludes some organizations seen as too critical and unproductive, in most cases the absence of national NGOs is related to general weaknesses of civil society in the country, including a failure to find ways to contribute to and engage in policy, and a plague of “short term-ism”.⁴¹ Some organizations are highly critical and outspoken during “crisis situations” such as evictions, but fall out of the picture when these high-profile crisis situations pass. A number of service-providing CSOs do not participate in opportu-

⁴⁰Some donors interviewed for this study were unwilling to share details of their financial and contractual arrangements, while others were astonishingly open and forthcoming with details. The instinct to keep information out of the public view is a very human trait and, in TI Georgia’s experience, the relative openness of institutions involved in the aid business often comes down to the choices made by individual staff, rather than institution-wide policies. However these individual choices do reflect a certain internal culture.

⁴¹For more information on the weaknesses of Georgia’s civil society sector, see, for example, the Georgian National Integrity System Assessment, TI Georgia, forthcoming fall 2011.

nities for policy formation because they see their work as apolitical and do not want to damage existing relationships with the government.

This is also closely linked with the lack of available public information, which makes it nearly impossible for CSOs to sufficiently prepare themselves for active and useful involvement in policy discussions. For example, the Standard Operating Procedures that were developed to guide evictions are still difficult to find.

Finally, government and international aid agencies should be wary of “rubber stamping” coordination practices and the effect they have on the buy-in from civil society organizations. For example, efforts in mid-2011 to update the IDP Action Plan by involving numerous stakeholders achieved little since the subsequent updates to the Action Plan did not break any boundaries for innovative approaches or new perspectives. The initiative was donor-led (even though individual sessions were chaired by MRA staff), and there was no structured build-up or follow-on with participants.

III Coordination of Criminal Justice Reform

Criminal justice shares three important characteristics with IDP assistance: it requires a high degree of inter-agency coordination, it has been heavily financed by the European Union, and its formal coordination structure closely resembles that for IDP assistance. A State Strategy and Action Plan guide aid in both sectors. There are also a number of key differences. While IDP assistance has largely been a question of logistical coordination and implementation, a significant part of the efforts to reform the criminal justice sector have been related to legislative amendments. Also, criminal justice reform is simply larger in scope. It involves at least 14 separate government agencies, departments and committees, plus approximately a dozen non-government entities.⁴² In comparison, IDP assistance involves only six government agencies in addition to the MRA. Another key difference is that criminal justice reform is led by the Ministry of Justice (MoJ) one of the strongest, most well-funded and professional ministries in the country, whereas the very existence of the MRA as an independent entity was under question in 2008, with speculation that it might be dissolved and its responsibilities incorporated into other ministries.

Rule of law and reform of the justice system were high priorities for Georgia's post-revolution government, but prior to 2004 there was no over-arching strategy and most aid projects to the justice sector were carried out in an ad hoc manner. The EU delegation funded several

⁴²The large scope of the criminal justice sector prevented the authors from a more in-depth analysis. While we sought interviews with the leading state institutions, donors and national civil society organizations, there were a number of key actors in criminal justice with whom we did not have a chance to speak. Most importantly, these included the Ministry of Corrections and Legal Assistance, which is the co-chair of the Criminal Justice Council, and the Public Defender's office.

projects related to justice but they were one-off and the logic between them and the Georgian government's future priorities was unclear. The MoJ hosted donor conferences seeking to cover specific funding gaps, but there was no single mechanism to ensure efficiency and complementarity of funding. In short, the government did not promote a clear vision of its needs and aid to justice issues was a patchwork of good, but often unrelated, projects.⁴³

An effort to bring these efforts together began in 2004 when the Ministry of Justice initiated a process to develop a national strategy for criminal justice. The government invited the European Union (EU) to provide expertise on rule of law issues, including advising on the elaboration of a national criminal justice strategy. The President approved the Strategy and Action Plan in 2005. Yet, despite continuing ad-hoc efforts by donors to coordinate among themselves, aid coordination was still in an embryonic stage. Significant changes in the system did not occur until 2008, when the EU made improved and structured aid coordination a prerequisite of its direct budgetary support.⁴⁴ In response, the Council and the WGs were established by presidential decree.⁴⁵

Coordination structure of criminal justice reform

As outlined in its Statute, the Criminal Justice Reform Inter-Agency Coordination Council ("the Council") is a group of 14 high-level government agency representatives from eight different ministries and 12 representatives of donor, international and national civil society organizations:

Government agencies:

1. Ministry of Justice:

⁴³Khulordava, Tamar. Project manager, Rule of Law and Good Governance, Delegation of the European Union to Georgia.

⁴⁴Ibid.

⁴⁵Presidential Decree no. 591

- Minister of Justice
 - First Deputy Minister of Justice
 - First Deputy Minister of Labor Health and Social Affairs
 - First Deputy Minister of Internal Affairs
 - Head of Public International Law
 - Head of the Analytical Department
2. Ministry of Education and Science
 - Deputy Minister
 3. Legal Issues Committee of Parliament
 - Deputy Head of Committee
 - First Deputy Head of Committee
 4. Supreme Court
 - Deputy Head
 5. Ministry of Corrections and Legal Assistance
 - Minister
 - Head of the National Agency of Probation
 - Head of Social Service, Department of Prisons
 6. Public Defender

Donors:

1. European Commission, Head of Commission

International organizations:

1. UNICEF
2. Council of Europe, Special Representative of the Secretary General

International NGOs:

1. NORLAG (Norwegian mission of rule of law advisors to Georgia), Head
2. American Bar Association, Director

National NGOs:

1. Penal Reform International, Regional Director

2. Georgian Young Lawyers' Association, Chairperson
3. Liberty Institute
4. Global Initiative on Psychiatry
5. NGO "21st Century"
6. Article 42 of the Constitution
7. Center for Human Rights Protection

The Council is chaired by the Minister of Justice and co-chaired by the Minister of Corrections and Legal Assistance. Members are nominated by the Ministry of Justice and approved by Presidential decree, a formal step that is not required for membership to the MRA Steering Committee on IDP Issues. The Council's main purpose is to guide strategic policy decisions and its main tasks include periodic review and revision of the State Strategy and coordination of intergovernmental activities related to the Strategy's implementation.⁴⁶ The Council has taken decisions on issues such as the creation of new WGs, adoption of amendments to the Council's Statute and the approval/disapproval of reports prepared by the WGs. The Council takes decisions through simple majority.

In contrast with the IDP Steering Committee meetings, which take place every two months, Criminal Justice Council meetings take place a minimum of twice a year, although Council meetings can be called more frequently when strategic decisions are required.⁴⁷

Whereas the Council makes decisions on the policy level and meets only twice a year, the Working Groups (WGs) focus on technical issues and meet on a more frequent basis. The structure is similar to the Steering Committee and TEG structure of IDP aid coordination, except that the Criminal Justice WGs are not temporary.

⁴⁶Statute of the Council, approved by Presidential Decree #591, 13 December 2008. The Statute of the Council should be available on the MoJ website but as of June 2011 could only be accessed through direct request from the MoJ. See also: Ministry of Justice of Georgia. The Criminal Justice Reform Inter-Agency Coordination Council. Derived 13-06-2011.

⁴⁷There have been seven Council meetings since December 2008. The most recent meeting was held December 2010.

They were created by the Council to correspond with the most important components of the national strategy.⁴⁸ Their main function is to draft and update relevant sections of the national strategy and action plan, revise legal documents, draft new laws and provide a discussion forum for implementation of the criminal justice reform strategy.⁴⁹ Twice a year the WGs report to the Secretariat on the progress in the relevant section of the action plan. These are brief reports that serve as the basis for the Secretariat to put together progress reports. The criminal justice WGs appear to have more independence in determining their tasks than do the TEGs of IDP assistance.

Membership in the WGs is open to representatives of relevant governmental agencies, donors, international organizations, NGOs and individual experts. When the Council was created, the MoJ identified NGOs working in the criminal justice sector and invited them to become members of the WGs. Since then, other NGOs and implementing agencies have also been included. Just as for the Council, membership is not allocated to an individual; it is tied to the institution/organization. To become a member, organizations may apply to the Council and their application is evaluated based on the extent to which their expertise and services can contribute to achieving the goals set out in the Action Plan. Each WG has an appointed rapporteur and/or co-rapporteur who are the focal point for communication with the Council, and who draft the agenda for the WG meetings. The rapporteurs are generally representatives of the government agency directly involved in the activities of the respective WG.⁵⁰ For example, a representative

⁴⁸Tomashvili, op. cit.

⁴⁹Ministry of Justice of Georgia. Working Groups of the Criminal Justice Reform Council. Derived 17-06-2011.

⁵⁰According to the Ministry of Justice, "This was done to increase ownership and responsibility among relevant institutions in relation to reforms. At the beginning the CJR Council had to agree about the nominated Rapporteur, while now if the Rapporteur changes the WG has to agree about the new candidature, proposed by the CJR Secretariat." TI Georgia e-mail communication with

of the Ministry of Internal Affairs chairs the police WG. The WG rapporteurs are nominated by the WGs themselves and in most cases it is a representative of the leading institution. For example, the rapporteur for the juvenile justice WG is the representative of the Analytical Department of the MoJ and the co-rapporteur is UNICEF.⁵¹

During the Council meetings, rapporteurs of each WG report on recent developments in their respective sectors, and on completed and ongoing activities as outlined in the Action Plan. The WGs may also propose changes to the action plan for the Council's consideration. This is significant in comparison to the MRA Steering Committee, because the TEGs do not report regularly to the Committee and there is no regular mechanism for reporting against the IDP Action Plan.

There were initially four WGs (juvenile justice, penitentiary, probation and legal aid). In 2010 the Council decided to create four more additional WGs to achieve better coordination (criminal procedure legislation, police, judiciary and prosecution). The WG's mandate, list of members, meeting minutes, and the monitoring tools (relevant chapters of the Action Plan) are available on the MoJ website. The online minutes and documentation of some WGs are quite thorough, but other WGs are far behind. For example, the minutes of the police WG are not available.⁵² The meeting minutes that are available for other WGs are rather general, and they are not kept up-to-date. As of June 2011 the MoJ had not published the minutes of *any* WG meetings that took place in 2011, although these were updated by September.

In most cases the rapporteur initiates the WG meetings, but any of the WG members have the

Tamar Tomashvili, Ministry of Justice, 2 September 2011.

⁵¹Tomashvili, op. cit.

⁵²This is consistent with a general lack of transparency within the Ministry of Interior's operations. See, for example, the results of TI Georgia's 2010 Freedom of Information field tests, in which the Ministry of Interior was among the least transparent public institutions.

right to do so. The MoJ Secretariat sends out the meeting agenda to the members in advance and they are given the possibility to comment and suggest changes. The meetings are, however, of a rather informal character so it is generally not a problem to raise additional issues outside of the agenda.⁵³

According to the Statute of the Council, the WGs meetings should be held based on necessity but at least once a month. In practice, however, none of the WGs meet on a monthly basis. A number of individuals participate in several WGs (also similar to the participation in the IDP TEGs, and likely indicative of the small group of qualified individuals). Of the WG members interviewed, those who are members of one or two WGs told TI Georgia that the groups do not meet often enough, while those who are members of several WGs thought the meetings take place too often.

The Council and WGs are assisted by a Secretariat consisting of two staff members (the Secretary of the Council and a National Coordinator) in the MoJ who, among their normal duties, are tasked to provide administrative and technical support to the Council and the WGs and to coordinate the activities of other state agencies.⁵⁴ The Secretariat informs Council members of issues such as new donor initiatives and proposed amendments to the Strategy and Action Plan. The Secretariat sets the agendas for the WG meetings, sending them in advance to members for comments and suggestions. The agendas are not made available on the MoJ website but the minutes of each Council meeting (prepared by the Secretariat) are publicly available and provide a decent overview of presentations, discussion, decisions taken and questions were raised.

The Secretariat is also entrusted with the task of monitoring the implementation of the action plan and preparing activity reports for

⁵³Mikhelidze, Rusudan. Analytical Department of the Ministry of Justice.

⁵⁴Ministry of Justice of Georgia. The Secretariat of the Criminal Justice Reform Council. Derived 16-06-2011.

the Council.⁵⁵ This requires that the Secretariat have both a strong mandate recognized by the numerous institutions in the WGs, and the capacity to coordinate across such a large number of agencies — each with their own interests, strategies and personalities. This is an important point of departure from the way the coordination structure for IDP assistance works. While the MRA Steering Committee also has a dedicated number of staff to coordinate the Committee meetings, these staff do not act independently, instead serving more as go-betweens between committee members and key MRA staff.

While the Criminal Justice coordination mechanism was a requirement of the EU's financing agreement with the Georgian government, this condition could have been met with far less effort. In fact, the Secretariat is a powerful driving force behind the reform efforts. It sets strict timelines for the completion of Action Plans and introduced a requirement that all agencies involved in the reforms report on their activities every two months.⁵⁶ Some of those interviewed suggested that, at times, the Secretariat was too strict and demanding on other institutions and actors, imposing unrealistic deadlines and not exhibiting enough flexibility; however there was also nearly universal consensus that the Secretariat's strength was one of the most important factors in driving forward a highly complex reform effort. As those interviewed noted, this was due to the twin strengths of a politically strong institution able to coordinate work across other ministries, and a highly professional, well-resourced staff.

The Secretariat also maintains the Council's online presence and does much to ensure transparency in the activities and decisions of the council. Minutes of each WG meeting are posted to the MoJ's website, along with key documents and reports. While there are gaps in the documentation (for example, the Council's Statute is not online, meeting minutes do not include

⁵⁵Khulordava, op. cit.

⁵⁶Document available online

lists of attendees, meeting agendas are not posted and 2011 WG minutes were not posted until September), there is still a substantial amount of information available online to understand the key activities of the reform effort, and to understand what actors played which roles.

National Strategy and Action Plan

Both a State Strategy and Action Plan guide IDP assistance and criminal justice reform, but the goals and targets of the criminal justice Action Plan are built into the Action Plans of all the different government agencies responsible for implementing them. The degree of inter-agency coordination is high, probably because the Ministry of Justice is itself such a strong institution.

The criminal justice reform strategy and action plan were adopted in 2005. They were then updated in 2009 and again in 2010. In the latest update the action plan was revised to include a monitoring tool. This was initiated by the EU, which wished to see clear and measurable indicators for the activities that should be achieved each year.⁵⁷

The strategy and its action plan are comprised of 11 chapters; criminal procedure code, legislation on administrative offence, juvenile justice, penal system reform, probation, legal aid service, prosecution, police, judiciary, legal education, and office of the public defender.

The MoJ has taken the lead in developing the strategy and action plan but parts have been drafted by the WGs as well. For example, the development of the juvenile justice chapter started with a draft put together by the Analytical Department of the MoJ and UNICEF (the rapporteurs for the juvenile justice WG). The draft was then discussed several times in the juvenile justice WG. According to UNICEF, process was quite smooth as all involved actors came to an agreement on what had to be done

⁵⁷ibid.

on the policy level.⁵⁸

The Secretariat is responsible for monitoring the implementation of the action plan. Each responsible government agency should update the monitoring tool every six months. Based on this information the Secretariat produces annual progress reports.⁵⁹

So far the implementation of the action plan is following the timeline. In some cases, such as in juvenile justice, the work is going even faster than initially planned for. Whilst on the other hand this might be a sign that the involved parties are committed and make a real effort to achieve the goals set out, some WG members think the work is going too fast. They believe that these processes need to take time and the MoJ should not rush the work. Though the people interviewed in this study did not provide TI Georgia with concrete examples, it was highlighted that it is important to let processes take time, not to let fast implementation take over-hand of quality decisions and implementation.

Donor and funding modalities

The majority of the donors we interviewed for this study highlighted the MoJ's efficiency and effectiveness in making sure that projects are not duplicated. Though donors are not always communicating clearly with each other, the MoJ through the Council assures that donors are not going forward unknowingly with the same projects.

The EU is the main donor in criminal justice reform. The Dutch Embassy and the US government also provide funding for the sector. Even though aid coordination in criminal justice reform was presumed to be one of the best developed aid coordination systems in Georgia, it does not mean that donor coordination always goes smoothly. The US has been accused of initiating programs outside the context of the action plan and for not informing key stakeholders in

⁵⁸ibid.

⁵⁹Tomashvili, op. cit.

advance of upcoming projects. The EU, on the other hand, is sometimes accused of an over-emphasis on process rather than results.

One of the requests from the Secretariat is that the EU and US should become better at coordinating aid between them. There is, however, coordination between the EU and the US on a macro level. The US has traditionally focused on the judiciary and consequently the EU has left this area outside the scope of their attention in criminal justice. The EU occasionally also invites the other donors to sit in on their planning meetings as an additional way of informing them about upcoming projects and avoiding duplications. These meetings are not specifically on criminal justice but cover the entire rule of law sector.⁶⁰

The Dutch Embassy is a smaller but active donor in the field of juvenile justice reform. The Dutch channel their funding through UNICEF. UNICEF works on the juvenile justice WG. The embassy and UNICEF do, however, coordinate closely and the Dutch embassy is a member of the Council and a signatory of the MOU (see below).⁶¹

In late 2009, the EU conducted a mapping assessment of donors and international organizations supporting criminal justice reform. The report showed that while donors were aligning behind the strategy and action plan, they were generally not utilizing government systems to manage their aid. Several examples of overlapping activities were cited, and the report highlighted a lack of division of labor among donors, which could make the external aid substantially more effective.⁶² One of the study's recommendations was to create a **Memorandum of Understanding** that would clearly spell out the roles and responsibilities of every party.⁶³

The MOU establishes operational rules for

the public institutions, donors and NGOs working in the field and defines the key roles and duties of each actor. The Secretariat is designated as the focal point for donors seeking to communicate with the criminal justice reform institutions. Similarly, each of the institutions and aid agencies that provide support to the rule of law sector agreed to identify their own focal point for communication with the Secretariat and government agencies.

The MOU also emphasizes the five main principles of the Paris Declaration for Aid Effectiveness as the basis for cooperation between government and non-government partners. Parties commit to align projects and programs with the Criminal Justice Strategy and Action Plan, while donors commit to providing financial information about their activities so that the criminal justice institutions are aware of how much money will be spent in each field annually, align procedures with government agencies' procedures, gradually reduce project management and hand over responsibility to government institutions, avoid duplication of programs, and promote joint or delegated implementation. The state institutions should develop and update the strategy with budgets and action plans, provide financial reports covering all donor contributions, continue to develop a monitoring system linked to the Ministry of Finance's performance budgeting system, and maintain broad civil society participation in the criminal justice sector.⁶⁴

All signatories of the MOU jointly agree to participate actively in cooperation arrangements, have transparent, open and simplified exchange of information concerning policies, plans, budgets and implementation, develop monitoring tools, create a joint program database and give input on new project ideas that are being developed by other signatories of the MOU.⁶⁵

The MOU was signed in September 2010 by the Ministries of Justice, Corrections and

⁶⁰Khulordava, op. cit.

⁶¹Van Houwelingen, Heino. Deputy Head of Mission and Counselor, Embassy of the Kingdom of the Netherlands in Tbilisi.

⁶²Criminal Justice Reform Strategy, op. cit.

⁶³Khulordava, op. cit.

⁶⁴Ministry of Justice of Georgia. Memorandum of understanding — criminal justice reform. Derived 13-06-2011.

⁶⁵ibid.

Legal Assistance, Internal Affairs, Education and Science, plus the Judiciary, Public Defender, the European Union Delegation, United Nations Development Programme (UNDP), Norwegian Mission of Rule of Law Advisers to Georgia (NORLAG) and the Dutch Embassy — essentially, the main members of the Council.⁶⁶ Conspicuously missing from the list is the United States. The US Department of Justice explained that it chose not to sign the MOU because it contains commitments that the US has already made via other bilateral assistance agreements.⁶⁷ USAID explained its absence from the MOU in slightly different terms: they play a minor role in the criminal justice reform sector and the MOU entailed numerous additional responsibilities, including a significant burden of reporting. In addition, when the MOU was presented to USAID for signature it had already undergone several rounds of drafts and been agreed between the EU and the Georgian government, so there was little space at that point for further amendments based on USAID’s input.⁶⁸

Whatever the rationale for the lack of US participation in the MOU, TI Georgia found that other stakeholders did not have a clear understanding of the American decision not to join the agreement, creating an impression, perhaps undeserved, that the US was not really a “team player” in the criminal justice reform sector. In interviews for this study, several key stakeholders also mentioned that they were not aware of USAID’s new Judicial Administration and Management Reform Project until after it was announced publicly; however USAID assured TI Georgia that all relevant stakeholders were privately briefed in advance.

⁶⁶ibid.

⁶⁷TI Georgia interview with Jared Kimball, Resident Legal Advisor, and Nata Tsnoriashvili, Legal Specialist, United States Department of Justice, US Embassy, Tbilisi. 23 May 2011.

⁶⁸Parker, Joakim. Deputy Mission Director, USAID.

Civil society participation

In comparison to the IDP sector, where a fairly wide number of civil society organizations ranging from human rights advocacy to service provision to research work on IDP issues, there is only a small number of national NGOs that work specifically on criminal justice reform and that are members of the WGs.

Most of these NGO WG members send representatives to the meetings and actively participate in the discussions. Some NGOs, however, do not attend the meetings frequently and are not active in providing their input and comments. There were some complaints that NGOs did not come to WG meetings prepared and having read the documents for discussion in advance.⁶⁹ Additionally, NGO WG members are generally not keen on providing written comments on various drafts. In the case of the Prevention Strategy, the Analytical Department developed the draft strategy and asked the juvenile justice working group members to provide their comments. The Analytical Department did not receive any comments when they first sent out the draft.⁷⁰

At the same time, some NGOs told TI Georgia that they would like to have more say over the tasks of the WGs, suggesting that the presence of NGOs is just a formality. Others are not as harsh in their critique but would like to be part of the decision-making process to a larger extent. Furthermore, regarding NGO feedback on policy documents, some NGOs wanted to be part of the process at an earlier stage, rather than being asked to comment on already-drafted documents. It is important to remember that it is the Council that makes decisions at the policy level, while the WGs are the technical bodies. It is thus not the WGs’ mandate to develop policy, although this criticism highlights the importance of having clearly defined roles for all involved parties, and to make sure that this is clearly communicated with WG and Council members.

⁶⁹Tomashvili, op. cit.

⁷⁰Neal, op. cit.

According to the MoJ as well as international and local organizations, NGOs also tend to be somewhat politicized, failing to provide constructive criticism. As within other sectors, there are NGOs that are outspokenly pro-oppositional. The result is that the discussion in the WGs can be misdirected on broader political disagreements, rather than how to advance the goals set out in the action plan. Nevertheless, the most active NGOs also tend to be the ones that make a real contribution to the WG, and they are generally content with their involvement and the work of the WGs. It is important to recognize that it takes significant staff time to prepare for WG meetings and to read up and comment on documents that are sent out in advance of the WG meetings. In some cases the NGOs do not have the human resources to do so, especially when the number of NGOs with expertise in criminal justice is small and they participate not only in several WGs under the criminal justice structure, but in other areas of government reform as well.

In addition to the WG meetings, Penal Reform International organizes meetings with NGOs where a large number of organizations are invited to discuss various topics related to criminal justice reform. These meetings include not only the WG members but also a larger group of NGOs that are implementing projects related to criminal justice.⁷¹

What works well?

Criminal justice reform has been suggested as one of the sectors where aid coordination is working well. Based on interviews conducted for this study, we have identified five factors that have contributed to making this a well-coordinated system (still recognizing there is a need for further efforts to achieve successful aid coordination).

1. A success factors in coordination of criminal justice, identified by numerous interviewees,

was the **MoJ's strong leadership and high degree of professionalism**, especially at the level of the Secretariat. The MoJ is an institutionally strong ministry that possesses the political support, resources and competence required to have an effective aid coordination system.

Other government agencies can be quite savvy about the aid they receive as well. For example, the Ministry of Interior conducts its own evaluations of trainings provided by donors to its staff, because in the past some trainings were seen as a waste of time. In this instance, **the Ministry of Interior holds donors accountable for delivering relevant, high quality aid**, rather than vice versa. This also allows them to effectively engage with donors on program planning.

2. Equally important is that there is a **series strategy and action plan** clearly outlining what the government wants to achieve and where donors can fill in the gaps for specific activities. The degree to which the coordination structure in criminal justice centers on reporting against the action plan, revising the action plan, and using it as a key guiding document is remarkable.
3. It is also important to recognize the **EU's role in promoting a system for aid coordination** in the first place. However, the EU's efforts to promote coordination structures have not worked in all sectors. The EU offered direct budgetary support to the social services sector on the condition that the Ministry of Labor, Health and Social Affairs should create a system for aid coordination. The ministry declined because they felt the preconditions were set too high. There is still no coherent strategy for social reform, only bits and pieces of strategies.

⁷¹Chanturia, op. cit.

IV Conclusions

Perhaps one of the key differences between aid for IDPs and aid for Criminal Justice is that, while the Ministry of Justice is institutionally strong vis-à-vis other government agencies and has an impressive human resource capacity, the MRA has less financial and political support from the executive leadership. The MRA's weaknesses, especially with regard to communications and information, have plagued assistance efforts during one of the busiest, and most budget-intensive, periods of work the ministry has ever faced. Poor communication of policy and policy-relevant information belie underlying problems in capacity and government will.

What could donors and aid agencies have done in advance? One option is to introduce stricter control over the way funding is spent, especially over the details of projects, and to require stronger evidence-based decision-making. Underpinning much of the global movement for aid effectiveness is a commitment to less tying of aid, but in practice this means relinquishing important accountability measures. In the post-war context, there was a new momentum within the government to address housing needs of all IDPs, old and new, but most of the issues facing the first caseload of IDPs were chronic and entrenched. Unfortunately the approach to durable housing solutions treated the problems as acute emergencies. The second IDP Action Plan, which was developed in April 2009 and updated each year afterwards, is a roadmap of sorts, but it lacks the dynamism and adherence that characterizes the Criminal Justice Action Plan.

The government could have done more. In particular, the MRA needs to be empowered with greater human and technical resources and the authority to bring relevant agencies into step with its own vision. We have seen an impressive degree of professionalization in a number of different ministries in Georgia in recent years, and we have seen the neglect and disenfranchisement

of others. The capacity of the MRA to plan large-scale housing projects is directly related to the political commitment at the highest level of government to the MRA's work.

When the government is willing, donors can provide technical support, as they do now for the MRA. But they must simultaneously maintain a critical eye for deficiencies in the way that programs are implemented, and be able to respond quickly if needed to adjust terms and program activities. Transparency of donor's work can also bring about greater compliance with the general, hard-to-measure principles agreed upon for social assistance programs. Donors always have the option to withdraw funding, but the political signals that such an action would send are so strong that de-committing funding is usually not a viable option. Instead, donors need to actively manage their programs, especially when they cut across the competencies of a wide number of government entities and political interests. In this vein, we think that the EU-Georgia Memorandum of Understanding is a particularly important document that should be easily available to the public.

Without an external, independent evaluation, it is hard to say what has been achieved as a result of IDP housing assistance in ways that go beyond superficial numbers of resettled, or numbers of families in renovated apartments. Luckily the option to evaluate is always open.

Final observations:

- IDP housing assistance needs slower planning, coupled with the assurance of long-term commitments of funding from donors.
- Not enough mid-level staff in the MRA are empowered. This is particularly obvious in comparison with criminal justice reform.
- Donors should have pushed for more, and more accurate, information early on.
- The MRA needs to operate under greater degrees of transparency. This should not take the form of responding individually

to hundreds of requests for information; rather, information sharing should be further institutionalized into the structure of the Steering Committee.

- In early 2009, government and donors should have made a quicker shift from short-term crisis to long-term development funding mechanisms. Instead, the \$4.5 billion pledge required donors to spend long-term development funding under terms that resembled the knee-jerk response necessary in acute crises. This would have forced a more thoughtful and comprehensive approach to the housing for old caseload IDPs.
- The MRA needs to take a more meaningful approach to engaging with media and parties that are critical of it. Media and communications are seen as a tool for self-promotion, rather than as a neutral information sharing mechanism. This contributes to the entrenched politicization of IDP issues in Georgia.

The durable housing programs for IDPs implemented since 2008 are a massive experiment in socio-economic development, affecting a large subsection of Georgia's poor and socially vulnerable populations. An opportunity was missed to set up controlled experiments to see what works in IDP housing in Georgia and to replicate documented successes.⁷² This could have only happened had donors come together immediately to recognize the opportunity and to plan jointly. The government of Georgia could also take a lead by promoting experimentation in development and investment projects.

⁷²Efforts to understand what works in international development through randomized control trials are seeing greater traction in the aid industry. For more information, see the *Poverty Action Lab* at the Massachusetts Institute of Technology, or: Banerjee, Abhijit and Esther Duflo, *Poor Economics: A Radical Rethinking of the Way to Fight Poverty*, Public Affairs: New York, NY, 2011.