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# Public Administration in EU Eastern Partner Countries: Comparative Report 2011

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## List of Acronyms

CPI	Corruption perception index
DCFTA	Deep and Comprehensive Free Trade Agreement(s)
EaP	Eastern Partnership
ECEAP	Estonian Center of Eastern Partnership
EEAS	European External Action Service
ENP	European Neighbourhood Policy
GCI	Global Competitiveness Index
ICT	Information and communications technology
IFC	International Finance Corporation
IFI	International Financial Institution(s)
PAR	Public Administration Reform
PCA	Partnership and Cooperation Agreement
PPP	Public-private partnership(s)
TI	Transparency International
UNeGovDD	UN e-Government Development Database
WEF	World Economic Forum
WGI	Worldwide Governance Indicators

## Introduction

This report attempts a systematic presentation of the public administration reforms (PAR) in the EU Eastern Partnership countries – Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine. Its objective is to create a meaningful measurement tool for PAR in the ENP/EaP policy framework, specifically the Public Administration Reform Panel under the EaP thematic Platform 1 “Democracy, Good Governance and Stability”.

The European integration process has direct implications for public administration reform process. While there is no common body of the EU legislation to regulate the functioning of public governance, the historical experience of the most recent EU enlargements has crystallised the so called European principles of public administration, which countries need to follow in order to approximate EU standards. The European principles of public administration can be applied to individual countries, or economies, regardless of whether or not they seek EU membership.

The report monitors the progress made by countries in establishing the European principles of public administration in their national administrative law systems, as well as the way these principles are adhered to in practice. This is shown in the report on the basis of indicators available in renowned international databases (such as Worldwide Governance Indicators, e-Government Index and others), which are arranged in the special way to highlight each of the European principles. Besides, the report offers six country-by-country assessments for each EU Eastern Partner.

The Comparative Report is conceived as an annual publication, whereas its first issue of 2011 is in many ways experimental and of pilot character. The focus of this report is the emerging methodology development, where improvements are expected with each new annual issue. For example, because each of the data sources used in the report applies an own scaling system, data need to be standardised, so that a coherent index can be built. Even if data standardisation leads to some loss of accuracy, a presentation of the results without applying such methodology can only remain descriptive. Methodological issues still open are discussed in detail in the respective chapter of the report.

ECEAP believes that the comparative report will offer a coherent assessment of public administration reforms in relation to EU standards in the Eastern Partnership countries.



## Executive summary

This report compares progress of the public administration reform in the six countries of the EU Eastern Partnership, Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine, in the context of upgrading their contractual relations (except for the moment Belarus) to a political association with the EU. Its purpose is to see if and how the European principles of public administration – legal certainty, openness and transparency, accountability, efficiency and effectiveness – are observed in legislation and practice of the EU Eastern Partners. By using a specially designed set of indicators from internationally renowned databases, the report offers comparable conclusions on both how each European principle is being followed in the EaP region and what trends in public administration reform can be observed in individual countries from the perspective of their European integration.

The Estonian Centre for Eastern Partnership has developed the report to prop up policy discussions and cooperation within the framework Public Administration Reform Panel of the Eastern Partnership multilateral Platform 1 “Democracy, Good Governance, Stability” by the delivery of meaningful analytical findings about the developments in the field. Conclusions of the report are, besides, meant for wide dissemination among the decision makers and civil society in the EU and its Eastern Partners.

## Methodology

From among plentiful worldwide comparisons of quality of governance, the ECEAP Public Administration Comparative Report is distinct by limiting its focus geographically, by choosing the six EU Eastern Partners as target countries, and substance-wise, by measuring public administration reforms in these countries in the European integration context.

The question of what implications a European integration brings for public administration reform creates methodological challenges. In the framework of the EU enlargement 2004, public administrations of candidate countries had to be reformed to align with the quality of governance that exists in the Union and thus comply with the Madrid accession criterion. Because the *acquis* does not govern a public administration reform (PAR), OECD / SIGMA shaped the key components of EU-conform good governance into the European principles of public administration<sup>1</sup> to guide the acceding countries to a *reliable, transparent, accountable and efficient* public administration resting on administrative law and pursued in practice. An examination of underlying documents of the Eastern Partnership gives all reasons to conclude that – despite the different political context – *the same* principles are set as the objective of the future political association with the EU.

European principles	Indicators	Source
Reliability and predictability (legal certainty)	A1. Rule of law A2. Favouritism in government decisions A3. Irregular payments and bribes	WGI GCI GCI
Openness and transparency	B1. Transparency in policy making B2. Corruption perception B3. e-government	GCI TI UNeGovDD
Accountability	C1. Accountability and freedom of speech C2. Judicial independence C3. Diversion of public funds C4. The ease of doing business	WGI GCI GCI IFC / WB
Efficiency and effectiveness	D1. Regulatory quality D2. Government effectiveness D3. Wastefulness of government spending	WGI WGI GCI
	Consolidating indicator E1. Public institutions	GCI

1 cf. European Principles for Public Administration, SIGMA Papers, No. 27, OECD Publishing, 1999.

To compare EaP countries' progress along the European principles of PAR, authors of the report allocate selected indicators from international databases to each European principle, as summarised in the table below. The Worldwide Governance Indicators (WGI) by the World Bank, Global Competitiveness Indicators (GCI) of the World Economic Forum, Corruption perception Index of the Transparency International (TI), the UN e-government development database and the Doing Business rankings by the ICF/World Bank are used as sources for comparisons. Each database takes a closer look at public governance as part of national economies and societies and, from its specific angle of observation, sheds light on where the EU Eastern partner countries stand in reforming their public administrations toward the European principles. All databases exercise a global approach and cover, with the exception of GCI, all 6 EaP countries. At the same time, they apply different methodologies and scaling systems, which correspond to the specific focus of analysis and measurement. Moreover, databases often use the results of each other as components of their specific indices. This leads to a stronger interdependence of conclusions about public governance in countries and regions.

Owing to the difference in methodologies used by each source, the 2011 report arrives at descriptive, narrative conclusions by each European principle and each country summarized below. It leaves room open to a possible future amalgamation into a uniform ECEAP Public Administration Reform Index. An attempt on such index is planned in subsequent annual updates of the report.

## Findings for the EaP region and comparisons with the EU

Values of indices along the four European PAR principles allow three types of conclusions: about overall trends in the EaP region in the recent years, normally 2008-2011; disparities across the region, i.e. between individual EaP economies; and finally about the gap vis-à-vis the EU, where Estonia and Germany are chosen as reference countries.

### ***Reliability and predictability (legal certainty)***

No distinct improvement trend has been registered in the EaP region with regard to the legal certainty. Countries have shown mixed performance, with pronounced cases of deterioration in Ukraine, Azerbaijan and Moldova in 2009 with regard to the rule of law, Azerbaijan and Ukraine with regard to banning irregular payments and bribes. On these two indicators, Georgia has positioned itself as a clear regional leader. The country gradually catches up with Estonia in doing away with irregular payments and is already distinctly ahead of such EU economies as Bulgaria, Latvia, Lithuania, and Romania.

### ***Openness and transparency***

Armenia was the only EaP economy to steadily improve to information on government policies, notably by streamlining electronic communication channels, while the lack of clear progress in other countries signifies the overall weakness of governments' commitment to combat corruption and facilitate information exchange with the rest of the society. The prevailing trend on e-government in the region has been a downward one, with only Moldova posting improvements. Owing to the robust improvements in 2008-11, Armenia outscored Georgia in the transparency of policy making, while the latter remained an obvious regional leader on corruption perception, far ahead of 2nd-placed Moldova. Generally, EaP countries need a stronger effort on e-inclusion in the medium run, so as to enhance IT infrastructure development, widen access to and improve quality of e-government services. EaP governments should also be aware that vested interests of public officials demanding bribes for their services are incompatible with streamlining e-government.

## **Accountability**

Armenia and Georgia have managed to strengthen judicial independence and targeted public spending in 2008-11. All EaP countries except Ukraine improved their positions in 2011 in the global doing business ranking, while Georgia has been ahead of many developed economies on that indicator since 2007. In contrast, the situation with accountability and freedom of speech remained a cause of concern across the region, as the EU Eastern partners lag drastically behind Estonia and Germany. Overall, the region broadly displays a below-the-average performance on the accountability of public administration.

## **Efficiency and effectiveness**

Between 2006 and 2008 many countries experienced some worsening of governance, owing most likely to internal instabilities and the global financial crisis; a moderate positive trend was restored later on but will require consolidation in the longer run. Georgia displayed the most advanced levels in the region on regulatory quality and government effectiveness, which is obviously attributable to deregulation measures taken in 2007-09. On government effectiveness, only Georgia, and in 2009 Armenia, have performed slightly above the world average. Other countries were lagging behind, with Ukraine showing worse results in 2009 against 2008. Ukraine can be generally considered a problem case in the region: the country has reversed from approximating EU standards in building an efficient and effective public administration. The gap vis-à-vis the EU remains substantial with regard to all components of an efficient and effective governance.

## **Findings by countries**

Country-by-country conclusions are underpinned in the report by specific evidence from domestic developments and government reform efforts. As a rule, this evidence supports the trends shown by the sources.

### **Armenia**

Armenia posted top scores in the region on transparent policy making and overcoming wastefulness of government spending. In general, it has been doing well in improving business-related regulations and e-governance, even though accessibility to electronic services is hampered, like in most

other EaP countries, by still underdeveloped IT-network. The country stayed however on a downward path in what concerns the rule of law, as well as accountability and freedom of speech.

### **Azerbaijan**

Azerbaijan was statistically the region's top performer of judicial independence, however, evidence from the economy suggests that judiciary stays under a heavy influence from the government. In general, the country showed no clear progress on any of the four European principles of public administration. Regional scores far below the average and mixed trends on the rule of law, corruption perception, accountability and freedom of speech diversion of public funds due to corruption have been characteristic to Azerbaijani public administration throughout the period of observation.

### **Belarus**

For Belarus, international indicators prove the known deficiencies in the country's democratic institutions, notably the rule of law and accountability and freedom of speech. Some recent measures on investment protection have signified possible improvements in business climate; however, low quality of policy formulation erodes the ability of administration to implement adopted decisions. Belarus displays low scores on government effectiveness and regulatory quality and stays far behind all other EU Eastern Partners, especially on the latter.

### **Georgia**

Georgia holds 9 top positions out of altogether 14 indicators of the European principles of public administration analysed in this report. Logically, the country is the regional leader on the consolidating indicator "Public institutions"; on which it stood slightly above EU member states Lithuania and Latvia, leaving Romania and Bulgaria more visibly behind. No less vivid is however Georgia's standing at the rear of more advanced EU MS, in which sense freedom of expression, curbing political corruption by reinforcing accountability of high-level politicians, and further strengthening the independence of judiciary are the main areas calling for more reform effort.

## ***Moldova***

Moldova has not posted any real progress with regard to the rule of law, corruption perception and accountability and freedom of speech, which reflects the recent domestic political crisis. The trend on most other indicators with regard to reliability, accountability and efficiency of the public administration has been negative to stagnant. The country nevertheless improved its doing business score and posted dynamic developments in the very recent period, so that overall improvements can be expected with the upcoming updates of indicators.

## ***Ukraine***

Ukraine has been losing many of its positions on the observed indicators. On regulatory quality and government effectiveness, a distinct downward trend was registered, while the performance on all others has been mixed. Controversial and non-transparent policy making as well as lack of accountability for the taken decisions have been typical for the Ukrainian public institutions since 2009. In many cases, the country has been doing worse in the regional comparison, thus diverting in general from the four European principles of public administration.

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Measuring Public  
Administration in  
EU Eastern Partners:  
an Introduction to  
Methodology

# 1. Subject and Definitions

## 1.1. Subject of the report

Worldwide comparisons of quality of governance and public administrations are plenty. With its Public Administration Comparative Report, the ECEAP believes to offer a new perspective to the variety of available sources and cross-country assessments, by centring its attention on two distinct items. The report:

- focuses on the six countries of the EU Eastern Partnership – Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine, and
- tries to measure public administration reforms in these countries in the European integration context.

The proposed analytical approach is thus limited in two ways: geographically and substance-wise. Both limitations stem from the EU Eastern Partnership (EaP) policy initiative, launched in 2009 in the framework of the European Neighbourhood Policy (ENP). The objective of the report is to develop a reliable tool to measure quality of governance and public administration reforms (PAR) in the ENP/EaP policy framework.

## 1.2. Background

The report takes the political background of ENP/EaP, against which the PAR process is being analysed, in its dynamics both on the EU part and on the side of partner governments. It pays due attention to the policy and organisational developments ongoing on both sides. For instance, Council Conclusions on the European Neighbourhood Policy of 20 June 2011<sup>2</sup> contain new approaches and principles if compared with what was initially designed at the stage of launching the ENP in 2002-04 and initialising the EaP in 2008-09. Among the novelties are the call for *joint* accountability, tailoring support to partners' needs and their records of accomplishments, re-prioritisation of the cooperation objectives and focus on a limited number of short- and medium-term priorities with more precise benchmarks and sequencing.

Obviously, the EU attempt to tighten up the ENP has direct implications for public governance in partner countries. For them, integrating reform actions agreed with the EU into the national policy

agenda has always been a challenge, because the national policy formulation typically has broader objectives and cultural determinants, which do not necessarily match those practised in the EU. For example, vigorous market liberalisation and deregulation in Georgia would defy social protection standards common in Europe (such as those fixed in the European Social Charter). Similarly, legislative changes in Ukraine to widen room for arbitrary decisions of government agencies in public procurements might cause concerns regarding future deep and comprehensive free trade agreement with the EU.

Policy divergences will however remain in the background of this report. Instead, it will lay focus on the quality of governance in the six EaP countries and attempt to demonstrate how effective the national administrations are in fostering European integration. This approach will, among other points of reference, determine the choice of indicators for monitoring.

Taken in the European integration context, public administrations in the six EaP countries cannot boast efficient reforms and good quality of governance. Governments typically resist changes – for example introducing internationally common codes of conduct – that would deprive them from privileges gained on account of controlling economy and judiciary. In this regard, the Joint Staff Working Paper by the European Commission and High Representative of May 2011 gives the following overall assessment:

*With regard to civil service and public administration reform, further advances in planning for a professional and accountable civil service were noticed in ... Ukraine, while the pace slackened further in Armenia, Azerbaijan and ... Georgia. The absence of comprehensive reform strategies incorporating schedules for implementing ethics codes and strengthening the quality of public services through training poses a serious obstacle for further advances in the case of each ENP partner.*<sup>3</sup>

The Eastern Partnership offers a framework to jointly address these complex issues. Within its multilateral Platform 1 “Democracy, Good Governance and Stability”, a **Panel on Administrative Reform** was established in 2011. The goal of the Panel is

*cooperation with the partner countries in order to improve effectiveness of public administra-*

<sup>2</sup> [http://www.consilium.europa.eu/uedocs/cms\\_Data/docs/pressdata/EN/foraff/122917.pdf](http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/122917.pdf), accessed 27.06.2011

<sup>3</sup> Joint Staff Working Paper “Implementation of the European Neighbourhood Policy in 2010” SEC (2011) 645, 25.05.2011, p. 12.

tion, improve integrity of the civil service and promote local democracy. The particular attention will be paid to building up overall support for reforms and receiving capacity for foreign assistance projects, exchanging reform practices and analysing main common bottlenecks hindering or slowing sectoral reforms.<sup>4</sup>

### 1.3. Definitions

For the purpose of the report, we refer to **governance** as formal and informal arrangements, which determine the way public decisions are taken and respective public actions carried out from the perspective on maintaining the country's constitutional values.<sup>5</sup> The mentioned arrangements include the aggregate machinery of the functioning of public bodies: adopted (written) legal acts of various levels, from Constitution to ministerial orders; established rules of procedure; policies and practices; personnel management; public finance organisation and management; ways of interaction with the various stakeholders. The arrangements also comprise management and coordination of the whole set of government activities related to implementation of laws and delivery of public services to the society.<sup>6</sup>

Public administrations are a constituent pillar of governance and hence reflect institutional quality of countries and economies. A **public administration reform** (PAR) is understood as deliberate changes to the structure and processes of public sector organisations with the objective of getting them (in some sense) to run better.<sup>7</sup> In conformity with understanding public governance as both machinery and management, a PAR encompasses structural changes (such as creation of new organisations), alteration of established procedures, and human resource development.

## 1.4. Public administration reform and European integration

The question of what **implications** a **European integration** brings for public administration reform in an integrating country is methodologically manifold. This obviously depends, for one, on the level of that integration.

### 1.4.1. EU accession

In an EU accession process the rationale for PAR has been to reach capacity of the national administration to (a) prepare for membership and (b) effectively implement the *acquis communautaire* once it becomes legally binding. These two targets are mandatory to fulfil conditions for accession set by the European Council in Copenhagen (1993) and, specifically, in Madrid (1995). But even with this uniform goal setting there is no *acquis* that would govern a public administration reform. Acceding and member countries are “free to organise their administration as they see fit. This is an issue that comes under the subsidiarity principle”.<sup>8</sup> Nevertheless, public administrations of candidate countries had to be reformed to align with the quality of governance that exists in the Union and thus comply with the Madrid criterion.

In preparation for the Eastern EU enlargements of 2004 and 2007, a common understanding of the key components of EU-conform good governance has emerged. These components were later shaped into commonly shared European principles for public administration<sup>9</sup> and served as a guide for PAR for accession countries and – at least as clear points of reference – for the European Commission:

- the principles of reliability, transparency, accountability and efficiency governed by administrative law
- technical and managerial competence
- organisational capacity
- citizens' participation

To credibly introduce and practice these European principles, countries need to respectively adapt the body of administrative legislation, in particular national legal acts and implementing provisions pertaining to administrative procedures, freedom of information, civil service, public procurement etc. No less important is the manner, in

4 EEAS. The Eastern Partnership Panels. [http://eeas.europa.eu/eastern/panels/index\\_en.htm](http://eeas.europa.eu/eastern/panels/index_en.htm) (accessed on 17 June 2011).

5 Public Governance Indicators: a Literature Overview. UN Department for Economic and Social Affairs. UN Publication ST/ESA/PAD/SER.E/100, 2007.

6 Kevin Brown and Sarah Repucci. A User's Guide to Measuring Public Administration Performance. UNDP, 2009.

7 Christopher Pollitt and Geert Bouckaert. Public Management Reform: A Comparative Analysis. Oxford University Press, 2000, p.8.

8 Preparing Public Administrations for the European Administrative Space, SIGMA Papers, No. 23, OECD Publishing, 1998, p.13.

9 cf. European Principles for Public Administration, SIGMA Papers, No. 27, OECD Publishing, 1999.

which this body of legislation is enforced: workable procedures and accountability mechanisms need to be put in place.

In the enlargement process, the European Commission has treated public administration reform as one of the political criteria for membership. Broadly, its regular monitoring of progress made by candidate countries has been focused on the above principles. Back in 2005, the Progress Report on Croatia called for continuous effort to build up a “professional, efficient, accountable, transparent and independent public administration...” which the country needs “to provide an important basis for the successful implementation of the *acquis*”.<sup>10</sup> The need to adhere to the mentioned European principles has been, albeit indirectly, made visible in the underlying policy documents, notably regular enlargement strategy papers, as well as annual country progress reports.

#### 1.4.2. ENP and Eastern Partnership

The Eastern Partnership, equally as the Union for Mediterranean, presents a different level of European integration in the broad European Neighbourhood Policy framework. Partner countries do not hold a membership perspective. Hence, the accession criteria of Copenhagen and Madrid formally do not apply, and joint commitments for cooperation are formulated, as a rule, in a soft manner. An excerpt from the EU-Ukraine Association Agenda might be exemplary in this sense:

*The Parties agree to ... work closely together in reforming and enhancing capacity of the public administration system in Ukraine..., including an effective fight against corruption.*<sup>11</sup>

Notwithstanding the formal distinction from an enlargement exercise, the Eastern Partnership displays surprisingly – or perhaps the opposite – many similarities. This is true about the content of cooperation as it is being shaped in the pending Association Agreements, since the starting point lies in a “shared commitment to universal values of human rights, democracy and the rule of law”.<sup>12</sup> The overarching commitment is consequently structured to encompass political reforms (including PAR), economic integration, and the various social issues. The thematic scope of cooperation with the

EU under the Eastern Partnership becomes thus as comprehensive as in the case of an enlargement. It presupposes a high level of political commitment and skills needed to introduce effective governance in traditionally authoritarian societies from Belarus to Azerbaijan.<sup>13</sup>

Respectively, similarities can be found in the EU *approach* to individual Eastern Partnership countries. In the various fields of cooperation, countries’ reform record is being monitored along analogous criteria (e.g. effectiveness of anti-corruption policies) and benchmarks (e.g. measurable approximation with the EU regulative framework for electronic communication). Where DCFTA is on cooperation agenda, a legally binding transposition of trade-related sectors of the *acquis* into national legislation can be required, with respective EU monitoring of legislative changes and, notably, the ability of the governments to effectively implement that legislation. A political result (signature of an Association Agreement) is achieved, when the partner country has shown *sufficient* progress in the key areas. However, reforms in these key areas would continue thereupon, typically within the agreed transition period, so that maximum possible compliance is reached.

An important distinction in the Eastern Partnership, like in the ENP area as a whole, is the differentiation between partner countries by the extent, to which they are able and willing to pursue European integration. In Belarus, willingness is obviously not in place as long as the current political line of disregarding human rights is followed. Other countries are offered closer economic integration and stronger political cooperation, including on governance reforms.

Hence, whichever the level of the European integration – preparing for future membership or negotiating political association, – governance and public administration reforms are equally on the agenda. In the absence of the body of EU legislation regulating this area, the mentioned European principles of public administration are applicable to meaningfully assess and compare PAR in EaP countries.

In this regard, the report will embrace the following PAR *components*:

- reliability and predictability (legal certainty)
- openness and transparency
- accountability
- efficiency and effectiveness

10 Croatia 2005 Progress Report, SEC(2005) 1424, p.13.

11 EU-Ukraine Association Agenda to prepare and facilitate the implementation of the Association Agreement, p.6. [http://eeas.europa.eu/ukraine/docs/2010\\_eu\\_ukraine\\_association\\_agenda\\_en.pdf](http://eeas.europa.eu/ukraine/docs/2010_eu_ukraine_association_agenda_en.pdf)

12 Joint Communication... “A new response to changing neighbourhood”, COM(2011) 303, p.2.

13 cf. Vahur Made and Alexei Sekarev (eds.): The European Neighbourhood after August 2008. Republic of Letters Publishers, 2011, p.3.



The approach outlined above, including the selected components, determines the selection of indicators from the international databases. The way specific indicators pertain to each component is explained in section 2. This section thus focuses on those European principles for public administration, which fall into the scope of administrative law.

With regard to the remaining European principles for public administration – technical and managerial competence, organisational capacity and citizens' participation – the report will narrow the analysis down to (technical and) operational issues related solely to European integration practice in Eastern Partnership countries. Because no indicators exist so far to capture these activities in a uniform manner – in a situation where these practices are common on substance and, broadly, on the expected results – **an attempt will be made to develop a homogeneous dataset and collect respective information country by country** in the form of a survey. This approach is explained in more detail in sections 3 and 4.

One further limitation: this report does not look at institutional and managerial arrangements, which are required for adoption and implementation of specific sectors of the *acquis*. For example, government work to introduce EU-conform sanitary and phyto-sanitary standards or protect intellectual property rights will remain beyond the scope of analysis. Rather, the report will focus on the mentioned European principles for public administration, which are more horizontal by nature and pertain equally to all government agencies in charge of the reform measures to push forward the European integration of the country.

## 2. European principles of public administration and measurement indicators

This section explains the way how the indicators available from internationally recognised databases<sup>14</sup> are used to present the European principles for public administration, which fall into the scope of the administrative law. In understanding these principles, shown in the subsections below, the report uses the approach developed by OECD/SIGMA and applied toward the countries of the 2004 and 2007 EU enlargements.<sup>15</sup> As explicated in section 1, this approach can be applied to the EaP countries without reservations related to the circumstance that they, for the time being, are not running for EU accession.

### 2.1. (A) Reliability and predictability (legal certainty)

A reliable and predictable public administration discharges its responsibilities in accordance with the law. Administration through law makes any actions or decisions of public authorities legally certain. General rules laid down in the law and interpretative criteria produced by courts are applied impartially and in non-discriminatory manner. The rule of law thus opposes arbitrary power, favouritism and other deviations. All in all, legal certainty (juridical security) attempts to eradicate arbitrariness in the conduct of public affairs.

A number of rule-of-law principles buttress and facilitate reliability and predictability of public administration:

- *legal competence* – a public authority can only decide on a given matter or issue of public interest; moreover, competence obligates the authority to take responsibility for that decision
- *discretionary power* – the decision-maker retains some degree of choice within the given legal framework, as the latter cannot foresee every circumstance that may arise; administrative discretion should not be mixed with arbitrariness; public authorities should follow the doctrine of administrative discretion elaborated by the courts to govern and constrain the exercise of discretion, which includes acting in good faith, pursuit

<sup>14</sup> A detailed description of databases follows in section 3 of this chapter.

<sup>15</sup> European Principles for Public Administration, SIGMA Papers, No. 27, OECD Publishing, 1999, p.8-14.

- of public interest in a reasonable way, application of fairness and equal treatment
- *proportionality* – administrative action should be proportionate to the end pursued by the law; proportionality is of particular importance in prevention of abuse of administrative powers
  - *procedural fairness* to safeguard accurate and impartial application of the law, with due attention to social values such as respect for persons and protection of their dignity
  - *timeliness* – as delay in acting may lead to injustice and severe harm to both public and private interest; such delay is often associated with inefficiency and incompetence of public administration
  - *professional integrity* – implying impartiality and professional independence; impartiality (absence of bias) is granted when the law prohibits involvement of officials in matters where they may have personal or vested interests and thus prevents prejudice or judgement for the wrong reason; professional independence means independence of thought and judgement, i.e. proper consideration of a case on its merits; frequent causes of *loss of professional independence* are bribery, duress, uncontrolled political ambition (often linked to undue restraint of own judgement in advance in favour of superiors), intemperate desire of promotion; professional integrity presupposes reliance of recruitment and promotion systems of civil service on merit rather than political patronage and cronyism

Building up a fully predictable and reliable public administration is an ideal, which can hardly be achieved in practice, even in the most advanced western democracies. A process *toward* such ideal can, with varying levels of success, be recorded in the countries of the EU Eastern enlargements of 2004 and 2007 as well as in the countries of the Eastern Partnership. To capture the main elements of this process and judge, where the countries stand with regard to reliability and predictability of public administration, the following indicators are selected:

- **A1. Rule of law** (Worldwide Governance Indicators Database, WGI): The rule of law indicator relates to the respect of citizens and the state for the institutions that govern economic and other interactions between them. Specifically, it captures perceptions of the extent, to which agents have confidence

in and abide by the rules of society, in particular the quality of contract enforcement, property rights, the police and the courts, as well as the likelihood of crime and violence<sup>16</sup>

- **A2. Favouritism in government decisions** (Global Competitiveness Index, GCI): this indicator captures the extent, to which government officials in the country show favouritism to well-connected companies and/or individuals when deciding upon policies and contracts<sup>17</sup>
- **A3. Irregular payments and bribes** (GCI): this indicator shows the commonality, with which companies make and government officials accept undocumented additional payments or bribes connected with (a) imports and exports, (b) public utilities, (c) annual tax payments, (d) awarding of public contracts and licences, and (e) obtaining favourable juridical decisions

The latter two indicators cover address those components of legal certainty, which appear most problematic in the course of PAR in Eastern Partnership countries: proportionality, procedural fairness and particularly the integrity of government administration

## 2.2. (B) Openness and transparency

As a general rule, the conduct of public administration is expected to be transparent and open, i.e. allow for outside scrutiny as well as for inquiries about the decisions by the affected legal and natural persons. Openness and transparency thus underpin the rule of law and make public authorities accountable for their actions.

There are two specific purposes served by openness and transparency in a public administration:

- to protect public interest by reducing maladministration and corruption
- to protect individual rights by provision of the reasons for administrative decisions, and hence help the interested party to exercise the right to redress through appeal

Administrative law operates a number of practical tools to keep public administrations open and

16 The definitions of all used WGIs are taken from: Daniel Kaufmann, Aart Kraay, and Massimo Mastruzzi. The Worldwide Governance Indicators: Methodology and Analytical Issues. The World Bank Policy Research Working Paper No. 5430, September 2010.

17 All GCI components are defined as per The World Economic Forum Global Competitiveness Report 2010-2011, Geneva 2010.

transparent. Among others, administrative actions must be motivated and subscribed to by the appropriate competent authority; public registers should be made accessible to general public; civil servants must accept restriction for earnings from private activities; public authorities should be obliged to provide reasons for their decisions.

The historical evidence of EU enlargements, as well as public administration reforms induced by the EU in the candidates for accession, potential candidates for accession and ENP countries, reveals a particular difficulty in introducing the principles of openness and transparency. Vested interests of public officials, specifically for maximisation of earnings from private activities exactly *by means of* holding public positions, sensitivity to any attempts to curb corruption, the habit to classify areas of activities that normally belong to open domains are the most frequent causes to resist the introduction of open and transparent administrative law rules for public administration.

The following indicators are used to capture openness and transparency in EaP countries:

- **B1. Transparency in government policymaking** (GCI): the indicator captures easiness, with which companies can obtain information about changes in government policies and regulations affecting their businesses
- **B2. Corruption perception index** (Transparency International, TI): this indicator ranks countries according to perception of corruption in public sector. The CPI is an aggregate indicator capturing administrative and political aspects of corruption. It rests on different assessments and business opinion surveys, which address, in particular, the bribery of public officials, kickbacks in government procurement, embezzlement of public funds, as well as strength and effectiveness of public sector anti-corruption efforts<sup>18</sup>
- **B3. E-government** (UN E-Government Development Database):<sup>19</sup> The e-Government Development Index encompasses the availability of e-services, e-readiness based on website assessment, human resource endowment, index of the telecommunication and index of e-participation.

### 2.3. (C) Accountability

Accountability means that administrative law makes a public administration body answerable for its actions to other administrative, legislative and judicial authorities. It also requires that no authority should be exempt from scrutiny or review by the others. To this end, a variety of mechanisms is applied, from a review by court to investigation by parliamentary committee. Accountability is helpful in showing whether public administration respects the rule of law as well as the principles of openness and transparency, impartiality and equality before the law. Accountability is strongly interwoven with European principles, as it builds a prerequisite for an efficient, effective, reliable and predictable public administration.

Administrative law should clearly define matters public authorities have to account for. As a rule, these matters relate to the way civil servants follow the mentioned legal principles and legal procedures of decision making operate in a public body. To this end, institutions and mechanisms are put into action to monitor and scrutinise the actions of public officials and administrative bodies. Supervision is thus an important element to ensure the legislative principle “administration through law” with the aim to both protect public interest and the rights of individual. The supervisory institutions and mechanisms take various forms, such as external and internal audits, courts, inspectorates, standard-setting commissions, the media etc.

Because public administrations typically enjoy broad room for action and a large variety of supervisory mechanisms, strict adherence to the set legal norms and formal procedures acquires much importance to avert misuse and/or arbitrary interpretation in favour of vested interests. Historically, this has been perhaps the weakest point in what concerns accountability of public administrations in accession and EaP countries. Legal inconsistencies and ill-established institutions, in the sense that political personalities matter stronger than the body of law and communal memory, would destroy attempts to make public authorities accountable for their actions in a systemic way. Nevertheless, the European integration process offers an anchor to streamline respective reforms, as does the historical experience of successful EU member states.

- **C1. Accountability and freedom of speech (voice and accountability)** (WGI): this indicator refers to the process of selection, monitoring and replacement of gov-

18 Transparency international. [http://www.transparency.org/policy\\_research/surveys\\_indices/cpi/2010/results](http://www.transparency.org/policy_research/surveys_indices/cpi/2010/results)

19 <http://www2.unpan.org/egovkb>

ernments. It embraces perceptions of the extent, to which citizens are able to participate in the selection of their government, as well as freedom of expression, freedom of association, and freedom of media

- **C2. Judicial independence** (GCI): the indicator catches the extent, to which judiciary in the country is independent from influences of members of government, citizens or firms; it therefore characterises the way public authorities respect the principle “administration through law” as well as trustworthiness of a supervision of government agencies by courts
- **C3. Diversion of public funds** (GCI): sheds light on how commonly public funds are diverted to companies, individuals or groups due to corruption; the more common is the practice of funds diversion due to corruption, the more often is the principle of impartiality and equality before law is violated, while ineffective (legal and institutional) constraints to systematic funds diversion make unaccountability a systemic phenomenon, with respective adverse influence on motivation of society members and national culture
- **C4. The ease of doing business** (IFC/The World Bank): this is a comprehensive indicator measuring business regulations as formulated by law and practiced in an economy. It captures relations between businesses and government in a variety of areas, notably market entry and exit, property registration, taxation, contract enforcement, protection of investments.<sup>20</sup> The easiness of doing business is directly linked to the accountability of public institutions: normally, business costs are low in economies, where governments can answer for their decisions and actions with no trouble. On the contrary, if public institutions prefer not to disclose the rationale of their decisions and evade direct inquiries by entrepreneurs, business costs become unreasonably high

## 2.4. (D) Efficiency and effectiveness

Efficiency of public administration shall be understood as maintaining appropriate ratio between recourses allocated and results attained. Effectiveness, in turn, means that administrative bodies perform successfully in achieving goals set for them by law and/or agreed policies. Both principles acquire specific importance with regard to production and delivery of public services to the society in an environment of fiscal constraints. A public administration cannot be efficient if it is oversized, creating additional unnecessary burden on public finance. Efficiency of public administration is thus clearly linked to its accountability. On the other hand, an effective public administration would be able to deliver high-quality public services to the society, such as workable social protection, public infrastructure, information services etc. This is an important reference point to evaluate public services and assess the way they are being implemented by public authorities of respective levels and their civil servants.

Related to the efficiency and effectiveness are the areas of public procurement and, more recently, public-private partnerships (PPP). These instruments are frequently used by public authorities to contract-out (parts of) production activities to private sector, while keeping up the policy making and monitoring role. The aim is to raise both efficiency and effectiveness of governance. Public procurement and PPP regulations and procedures (including EU directive on public procurement) thus belong into the legal and institutional system affecting the performance of public administration.

In the context of public administration reforms in the EU Eastern partners, achieving efficient and effective governance has been associated with a number of difficulties. These countries have inherited a whopping bureaucracy from the centrally planned economy, while attempts to achieve an optimum-size public administration have either failed (Ukraine, Armenia) or led to drastic decrease in effectiveness (Georgia). Another typical development has been that public authorities remained highly prone to corruption originating from ill-designed legislative systems of public procurement. Biased judiciary, in particular in the area of dispute settlement, has posed an additional barrier to building up an effective public administration.

- **D1. Regulatory quality** (WGI): displays perceptions of the ability of the government to formulate and implement sound poli-

20 For definitions, see Doing Business 2011: Making a Difference for Entrepreneurs, an annual report published by IFC and the World Bank. <http://www.doingbusiness.org/reports/global-reports/doing-business-2011>

cies that permit and promote private sector development

- **D2. Government effectiveness (WGI):** captures perceptions of the quality of public services, the quality of civil services, and the degree of independence from political pressures: the quality of policy formulation and implementation, and the credibility of government commitments to such policies
- **D3. Wastefulness of government spending (GCI):** this indicator reflects perceptions as to the efficiency of government spending in providing necessary public goods and services

## 2.5. (E) Consolidating indicator Public Institutions

- A consolidating indicator **E1 Public institutions (GCI)** measures in a generic way the trend in public administration reform

## 2.6. Summary table of indicators

European principles	Indicators	Source
A. Reliability and predictability (legal certainty)	A1. Rule of law A2. Favouritism in government decisions A3. Irregular payments and bribes	WGI GCI GCI
B. Openness and transparency	B1. Transparency in policy making B2. Corruption perception B3. e-government	GCI TI UNeGovDD
C. Accountability	C1. Accountability and freedom of speech C2. Judicial independence C3. Diversion of public funds C4. The ease of doing business	WGI GCI GCI IFC / WB
D. Efficiency and effectiveness	D1. Regulatory quality D2. Government effectiveness D3. Wastefulness of government spending	WGI WGI GCI
E. Consolidating indicator	E1. Public institutions	GCI

## 3. What do we learn from the international databases?

The presentation of the European principles of public administration in the EaP countries rests in this report on the five internationally renowned databases, which take a closer look at public governance as part of national economies and societies. Each database can, from its specific angle of observation, shed light on where the EU Eastern partner countries stand in reforming their public administrations toward the European principles. All databases used in this report have one in common: they exercise a global approach and cover, with one exception, all 6 EaP countries. At the same

time, they apply different methodologies and scaling systems, which correspond to the specific focus of analysis and measurement. Moreover, databases often use the results of each other as components of their specific indices. This leads to a stronger interdependence of conclusions about public governance in countries and regions.

This section briefly describes the differences in the approaches and methodologies of the databases used in this report. It then discusses the possibility of standardisation of data, so that they can be entered into one single index at a later stage.

### 3.1. Specific subject matters and different timelines

#### 3.1.1. The Worldwide Governance Indicators (WGI)<sup>21</sup>

The WGI project defines governance as traditions and institutions, by which authority in a country is exercised. This includes the process by which governments are selected, monitored and replaced; the capacity of the government to effectively formulate and implement sound policies; and the respect of citizens and the state for the institutions that govern economic and social interactions among them.

The WGI reports aggregate and individual governance indicators for 213 economies over the period 1996–2009, for six dimensions of governance:

- Voice and Accountability
- Political Stability and Absence of Violence
- Government Effectiveness
- Regulatory Quality
- Rule of Law
- Control of Corruption

The aggregate indicators for each of the above dimensions combine the views of a large number of enterprise, citizen and expert survey respondents. Individual data sources underlying the aggregate indicators are drawn from a diverse variety of survey institutes, think tanks, non-governmental organizations, and international organizations. For each of the composite indicator, a statistical methodology known as Unobserved Components Model is applied, in particular to (i) standardise the various data, (ii) construct an aggregate indicator as weighted average, and (iii) construct the margins of error to reflect an unavoidable imprecision in measuring the six dimensions of governance. The WGI overall dataset includes, in addition to the composite indicators, individual underlying data by source as well as disaggregated by countries.

WGI assumes that unit values per each aggregate indicator are of a standard normal random variable, with zero mean, and unit standard deviation ranging from approximately -2.5 (worst) to 2.5 (best value or performance against the composite indicator). Respective country's scores are comple-

mented by percentile ranks on the scale of 1 to 100, allowing country-by-country comparisons.

As explained in section 2, this report draws on WGI aggregate indicators of four out of six dimensions of governance, except the indicators "Control of Corruption" (largely covered by the respective Transparency International database, see item 3.1.3 below) and "Political Stability and Absence of Violence". The selected results are shown in the corresponding sections of chapters II and III. Due reference is paid to statistical issues of the WGI methodology: the nature of primary data reflecting perceptions of governance, standard errors, number of observations per country, the use of confidence intervals for interpretation etc. For the selected countries, standard error value and number of observations (as they appear in the full dataset) broadly coincide, allowing meaningful country-by-country comparisons across the region.

<b>WGI timeline</b>	Biannual in 1996-2002, annual since 2003
<b>WGI geographical scope</b>	213 economies world-wide

#### 3.1.2. The Global Competitiveness Index (GCI)<sup>22</sup>

The Global Competitiveness Report produced under the auspices of the World Economic Forum looks at public institutions as one of the determinants of competitiveness. Together with private institutions, they constitute one single pillar of competitiveness of the total 12. Primary data about public institutions are collected through executive surveys and undergo successive aggregation up to the score along the respective pillar and further up to the Global Competitive Index of an economy. The values of underlying indicators are scaled from 1 to 7, with higher scores standing for better performance against respective pillars and their components and the overall national competitiveness index. Economies are also ranked according to their scores on a simple scale.

The GCI methodology has a number of specific features, which need to be taken into account in interpretation of results. It groups countries accord-

21 <http://info.worldbank.org/governance/wgi/index.asp>; Daniel Kaufmann, Aart Kraay, and Massimo Mastruzzi, The Worldwide Governance Indicators: Methodology and Analytical Issues. The World Bank Policy Research Working Paper No 5430, [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1682130](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1682130) September 2010, p.4.

22 <http://www.weforum.org/issues/global-competitiveness/index.html>; The World Economic Forum Global Competitiveness Report 2011-2012, Geneva 2011; The Global Competitiveness Report 2010-2011: Highlights, Geneva 2010

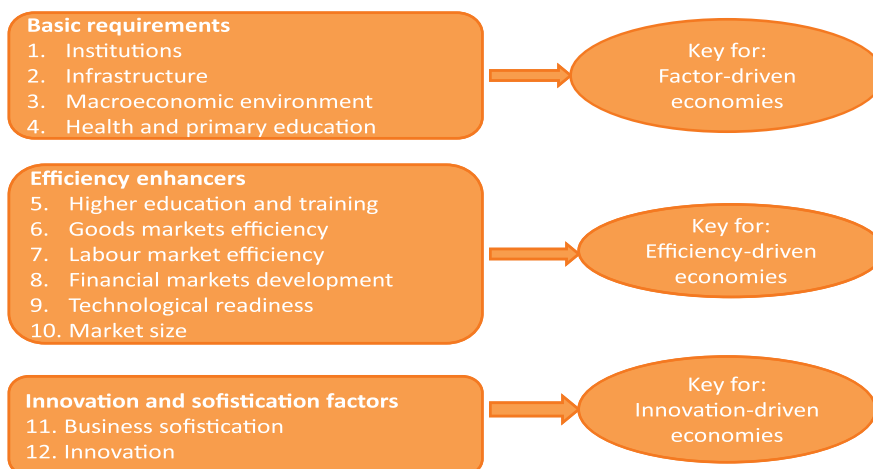
ing to stages of development into 3 main categories, namely factor-, efficiency- and innovation-driven economies as well as two intermediate sub-categories in-between. The allocation of countries to categories rests on income levels (GDP per capita at market exchange rates) coupled with the recourse intensity (share of exports of mineral products in total exports). An overview below shows development stages, which countries of Eastern Partnership and reference economies used in this report belong to in 2011-12 (Belarus is not ranked by GCI):

Stage I: Factor-driven	Moldova
Transition from stage I to stage II	Armenia, Azerbaijan, Georgia, Ukraine
Stage II: Efficiency-driven	–
Transition from stage II to stage III	Estonia
Stage III: Innovation-driven	Germany

Competitiveness pillar 1 “Institutions” is hence critical for EaP economies, as they are either factor-driven or in transition to efficiency-driven development stage. Basically, the similarity in income levels and recourse intensity underpins coherence of comparisons between EaP economies on the GCI basis. It should be noted that Pillar 1 is subdivided into two sub-categories, “public institutions” and “private institutions”, whereas the former is weighted 75 percent within the pillar. Indicators used in this report to measure European principles of public administration constitute components of that sub-pillar, and the overall score under “public institutions” is taken as a consolidating indicator.

<b>GCI timeline</b>	Available since 2008
<b>GCI geographical scope</b>	142 economies in 2011-12 report, Belarus not covered

The 12 pillars of competitiveness have different significance to economies of different development stages. Correspondingly, CSI attributes higher relative weights to those pillars, which are more relevant for the economy in its given stage of development. The Global Competitiveness Report presents the interrelation between development stages and relative weights in the following way:



### 3.1.3. Corruption Perception Index

Transparency International defines corruption as the abuse of entrusted power for private gain.<sup>23</sup> As explained in section 2.2, the CPI captures administrative and political aspects of corruption. It rests on different assessments and business opinion surveys, in particular of the bribery of public officials, kickbacks in government procurement, embezzlement of public funds, as well as strength and effectiveness of public sector anti-corruption efforts.

This report makes use of the overall CPI scores, which range from 1 (highly corrupt) to 10 (very clean), and ranks of the observed economies according to the degree, to which corruption is believed to exist among public officials and politicians. The CPI makes thus an important contribution to understanding whether or not, and to what extent, public administrations in EaP countries develop and adhere to the European principles.

<b>CPI timeline</b>	Annual since 1995
<b>CPI geographical scope</b>	178 economies in 2010

### 3.1.4. E-governance<sup>24</sup>

The United Nations E-Government Development Database (UNeGovDD) is a benchmarking tool that provides a comparative assessment for monitoring progress of a country's e-government development. The primary source of data for the e-Government Development Database comes from the United Nations Global E-Readiness Reports and Survey.

The Global E-Government Development Reports and Survey present a systemic assessment of how governments use information and communications technology (ICT) to provide access and inclusion for all. Each Survey offers insights into the different strategies and common themes in e-government development among regions and across them. By studying broad patterns of e-government use, it identifies countries, which have taken a leadership role in promoting e-government development and those where the potential of ICT for development has not yet been exploited.

23 Transparency International. Corruption Perceptions Index Report 2010, p.4.

24 United Nations E-government development database, <http://www2.unpan.org/egovkb/about/index.htm>; UN E-Government Survey 2010, p. 109.

The UN e-government development index rests on a comprehensive survey of the online presence of all 192 UN Member States. Mathematically, the index is a weighted average of three normalised scores on the most important dimensions of e-government, namely scope and quality of online services, telecommunication connectivity, and human capacity. The index values range between zero (worst) and 1 (best score).

Because the UN e-government development index denotes the willingness and capacity of national administrations to use ICT in execution of their functions, it allows for meaningful conclusions about adherence to the European principle "openness and transparency".

<b>E-government timeline</b>	Since 2001, six reports and survey results were made public
<b>E-government geographical scope</b>	All 192 UN member states (2010)

### 3.1.5. The ease of doing business<sup>25</sup>

The *Doing Business* annual reports by the International Finance Corporation (IFC) focus on relations between governments and business community. The elaborate, specifically, on regulations produced by governments in such areas as market entry and exit, trading across borders, taxation, investments protection, contract enforcement, credits accessibility and affordability, construction permits, property registration.

Public administrations should be accountable for their regulatory decisions in order to make doing business easy in the given national environment. At the same time, the listed regulatory areas are quite sensitive with regard to possible abuses by governments and individual officials communicating with businesses. Bribery, provision of incomplete and/or conflicting business information, deliberate delays in decisions, fiscal harassment of companies are only the few typical examples of unaccountable behaviour of state institutions, characteristic of developing economies and economies in transition, including the EaP countries.

The IFC doing business database rests on comprehensive surveys carried out by a network of international and national experts. The collected data reflect both written regulations (for example

25 <http://www.doingbusiness.org/reports/global-reports/doing-business-2012>



the number of documents needed to register a business) and estimates by experts and businessmen (such as time to complete and submit tax returns documentation). Country-by-country and indicator-by-indicator results allow conclusions about the pace of reforms in the key business-related regulatory areas. The index ranks economies on a simple scale from 1 to 183.

<b>Doing business timeline</b>	Annual since 2004
<b>Doing business geographical scope</b>	183 economies (2012)

### 3.2. How meaningful are the indicators?

Indicators of quality of public governance rest overwhelmingly on its perceptions by the various stakeholders – economic agents (domestic companies / households and foreign investors), international partners (governments and IFIs), academic community, NGO and media. Because perceptions by their nature reflect individual or corporate experiences, indicators are prone to disputes, albeit to a varying extent from one indicator to another. Internationally renowned sources used in this report apply methodologies (described above), which cap-

ture possible risks of misinterpretation and ensure acceptable level of confidence of overall results.

Nevertheless, international indicators of quality of governance and respective ranking of an economy convey only indications rather than final judgements. The interpretation of those indications should be therefore careful and imply comparisons against a broader background as well as understanding of different country- and region-specific contexts. For example, non-transparent government decision-making would outweigh an advantage of high PC density in judging the overall quality of governance in an economy, as would fragile regional security constrain the efficiency of government spending on sustainable economic growth.

With these observations in mind, we believe that the report offers a meaningful comparison of the public administration reform process in the EU Eastern neighbourhood.

### Summary of methodologies

The table below presents a summary of methodologies used in this report. This overview elucidates similarities and differences in the main features, which is helpful for the future consolidation (standardisation) effort. In each case data refer to the most recent available publication.

	<b>WGI</b>	<b>GCI</b>	<b>Corruption perception</b>	<b>E-government</b>	<b>Doing business</b>
Absolute values by indicator (worst ... best)	-2.5...+2.5	1...7	1...10	0...1	n.a.
Ranking	Percentile, 1 to 100	Simple, 1 to 142	Simple, 1 to 183	Simple, 1 to 192	Simple, 1 to 183
Regularity	annual	annual	annual	bi-annual	annual
Number of observed economies (latest report available)	213	142	183	192	183

## EaP countries: comparable development levels and proximity to EU

The 6 EaP countries observed in this report build a homogeneous group in terms of development levels. Their gross national income per capita ranges from 1,590 current US-\$ in Moldova to 5,540 in Belarus. According to the World Bank income group classification, in 2009 Armenia, Georgia, Moldova and Ukraine were categorised as lower-middle-income economies, while Azerbaijan and Belarus belonged to the upper-middle-income group. An income gap is obvious between all EaP economies and EU member state Estonia, as well as between the latter and Germany.

## EU Eastern Partnership: GNI per capita in 2009\*

Armenia	3,100
Azerbaijan	4,840
Belarus	5,540
Georgia	2,530
Moldova	1,590
Ukraine	2,800

### *Memorandum items:*

Estonia	14,060
Germany	42,560

\*current US-\$ at market exchange rates

Source: World Development Indicators 2010,  
The World Bank Atlas method

Geographically, the countries build two compact groups – Belarus, Moldova and Ukraine immediately to the east of the EU and Armenia, Azerbaijan and Georgia in South Caucasus. All countries can use proximity to the EU as an important development and competitiveness determinant.

## Reference countries: EU member states Estonia and Germany

The report uses EU member states Estonia and Germany as reference countries to compare adherence to European principles of public administration. The choice rests basically on the following considerations:

- *Estonia*: a successful economy, which accomplished establishment of public administration in accordance with the European principles in the course of the EU Eastern enlargement 2004;
- *Germany*: EU grounding member state with a public administration, which can be considered a model for the EU Eastern partners striving a highest possible level of European integration

The two reference economies have different development levels; they can be used as such by individual EaP countries for direct comparisons. Estonian experience and ranking might be particularly useful for small economies EaP such as Armenia, Georgia, Moldova to verify their accomplishments and design further programs in public administration reform.

In specific cases the report may draw comparisons with other EU member states and accession countries, to highlight complexities, difficulties and risks in the reform of public administration.

## II

# Public Administration of the EU Eastern Partners: Compliance with the European Principles

This chapter of the report gives a regional overview of public administrations in EU Eastern neighbours from the perspective of their adherence to the four European principles. The analysis under each principle allows the three following types of conclusions:

- trends in the region over the period of three years
- disparities across the region, i.e. between the 6 partner countries
- the “distance” between the EU Eastern partners and the EU itself represented by the reference countries Estonia and Germany

On a general note, the public administration reform process toward the European principles has been associated in the EU Eastern partners with a number of difficulties. These countries have inherited a whopping bureaucracy from the centrally planned economy, while attempts to achieve an

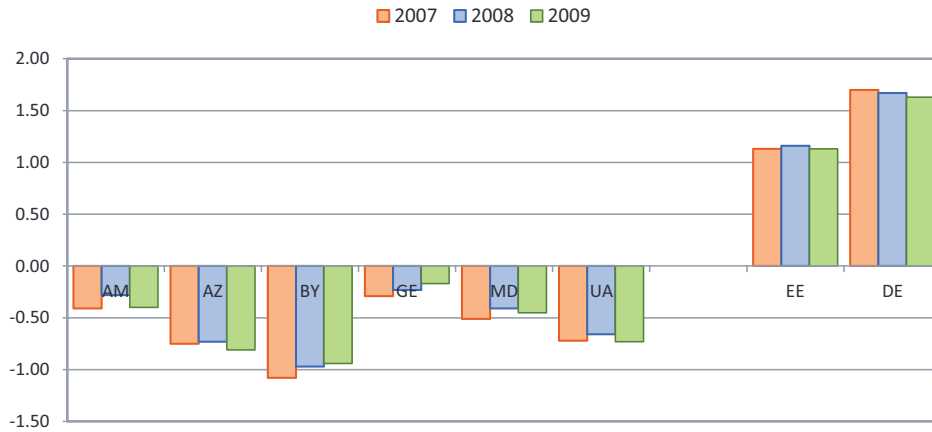
optimum-size public administration have either failed so far (Ukraine, Armenia) or led to drastic decrease in effectiveness (Georgia). Another typical development has been that public authorities remained highly prone to corruption originating from ill-designed legislative systems, notably in the area of public procurement. Biased judiciary, in particular in the area of dispute settlement, has posed an additional barrier to building up an effective public administration. However, on selected indicators (such as transparency of policy making, eliminating wasteful government spending), some of the EU Eastern Partners have shown a good performance close to or even outscoring that of individual EU member states.

The following sources were used for the analysis of European principles:

A1, C1, D1, D2:	World Governance Indicators Database, The World Bank
A2, A3, B1, C2, C3, D3, E1:	The World Economic Forum Global Competitiveness Reports 2009-10, 2010-11, 2011-12
B2:	Transparency international. <a href="http://cpi.transparency.org/cpi2011/results/">http://cpi.transparency.org/cpi2011/results/</a>
B3:	UN E-Government Development Database, <a href="http://www2.unpan.org/egovkb">http://www2.unpan.org/egovkb</a>
C4:	Doing Business 2012. An annual report published by IFC and the World Bank. <a href="http://www.doingbusiness.org">http://www.doingbusiness.org</a>

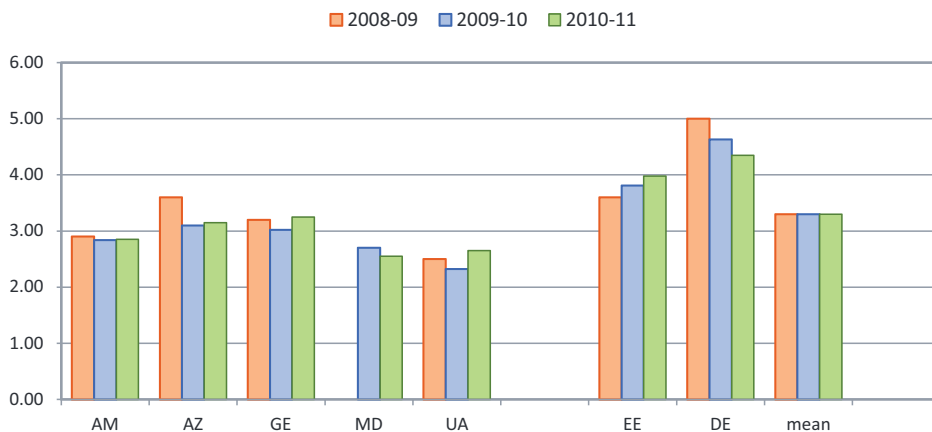
## A: Reliability and Predictability (Legal Certainty)

### A1: Rule of law



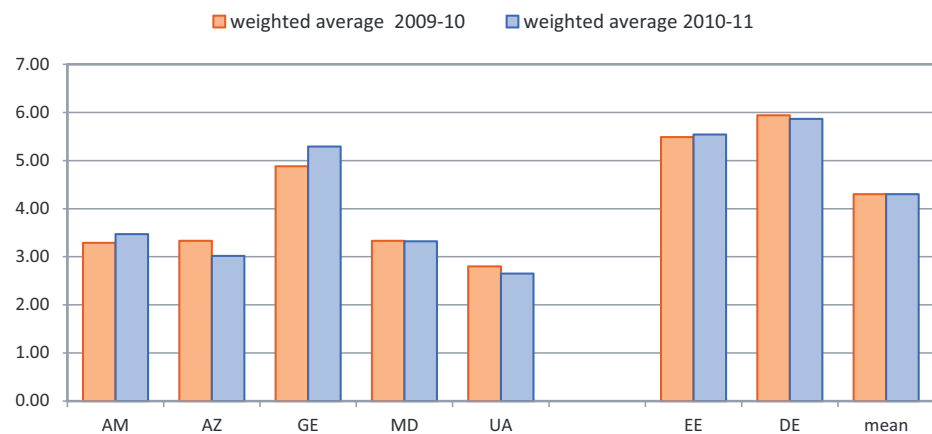
Measures extent, to which government and citizens have confidence in and abide by the rules of society. Scale from -2.5 (worst) to 2.5 (best)

### A2: Favouritism in government decisions



1 – government officials always show favouritism; 7 – government officials never show favouritism

### A3: Irregular payments and bribes



1 – irregular payments are very common; 7 – irregular payments never occur

### Trends in the region over the past 3 years:

- On all three indicators, countries have shown mixed performance, with many cases of a downward trend, such as in Ukraine, Azerbaijan and Moldova in 2009 with regard to the legal certainty, Azerbaijan and Ukraine with regard to irregular payments and bribes
- Steady improvements were shown by Georgia on RoL and irregular payments, and by Belarus on legal certainty – albeit from a very starting level
- Some of the most recent developments in the countries are still not covered, such as brutal dissemination of public protests in 2010 in Belarus, partial interpretation of legislation in 2011 in Ukraine (Tymoshenko case) etc. (see country pages for more detail)

### Disparities in the region:

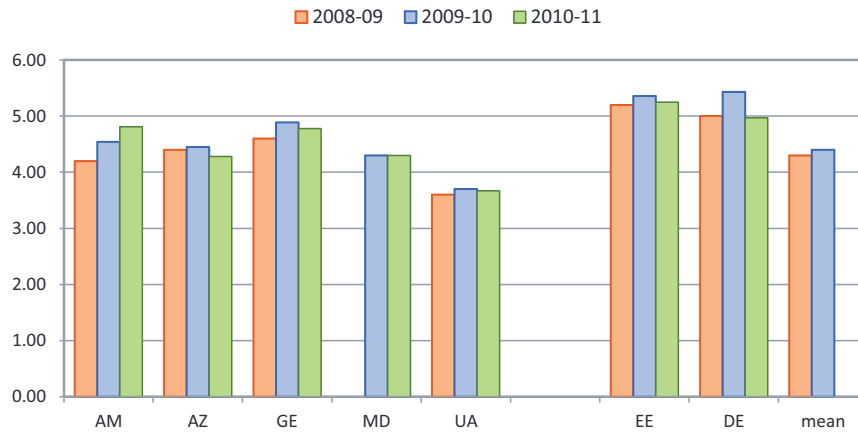
- Georgia has positioned itself as a clear regional leader on the rule of law (legal certainty) and elimination of irregular payments and bribes
- Notwithstanding consecutive improvements registered in the period 2007-09, Belarus retains its pronounced bottom position in the region with regard to the legal certainty, preceded by Azerbaijan and Ukraine
- Regarding favoritism in government decisions, the respective scores are more even, with Moldova and Ukraine lagging behind the three South Caucasus countries

### Comparison with Estonia and Germany:

- The gap vis-à-vis EU reference countries is pronounced with regard to the rule of law, where the EaP countries still have a long way to go to reach EU levels
- Otherwise the distinction is less vivid – notwithstanding the different categories, which the EaP economies and the reference countries respectively belong to (*factor-driven* for Moldova, *transition from factor-to efficiency-driven* for Armenia, Azerbaijan, Georgia and Ukraine, *transition from efficiency- to innovation-driven* for Estonia, *innovation-driven* for Germany)
- Georgia gradually catches up with Estonia in barring irregular payments; on this indicator, Georgia is already distinctly ahead of such EU economies as Bulgaria, Latvia, Lithuania, and Romania

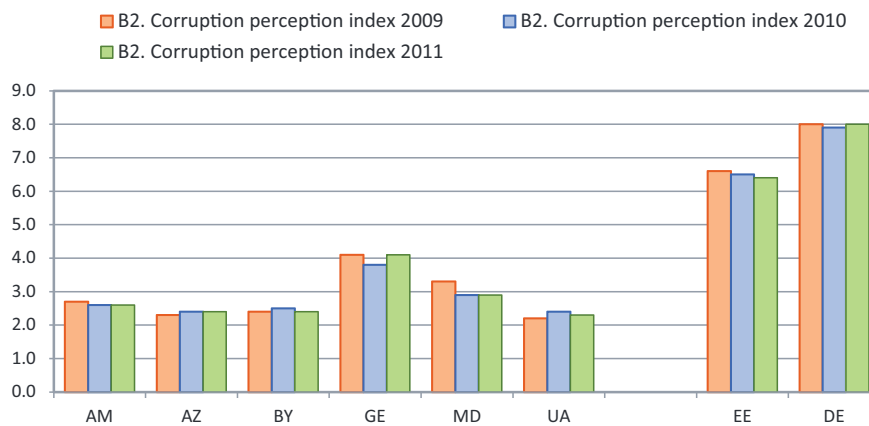
## B: Openness and Transparency

### B1: Transparency in policy making



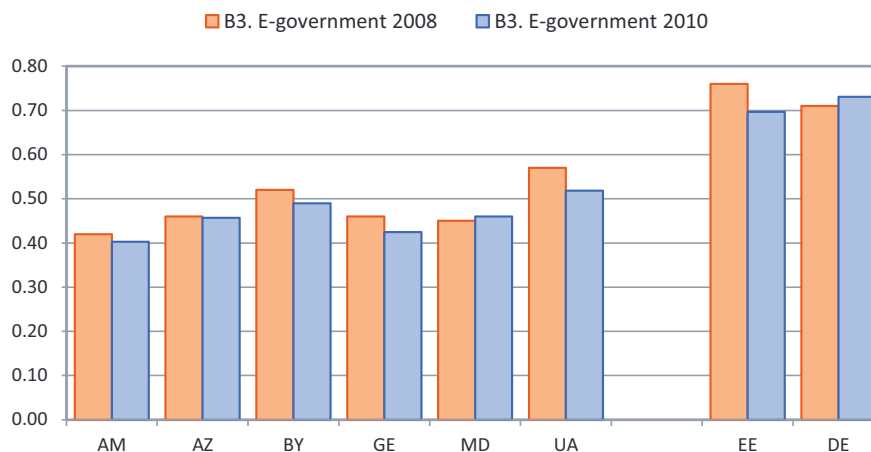
Easiness to obtain information about changes in government policies and regulations affecting businesses: 1 - impossible; 7 - extremely easy

### B2: Corruption perception



1 - the economy is highly corrupt; 10 - the economy is very clean

### B3: E-government



Availability of e-services, e-readiness based on website assessment, human resource endowment, index of the telecommunication and index of e-participation. Scale from 0 (worst) to 1 (best)

### Trends in the region over the past 3 years:

- Save one exception (see next bullet), no clear positive trend has been visible both on transparency of the government policy making and corruption perception, which is attributable to overall lack of governments' commitment to combat corruption and facilitate information exchange with the rest of the society
- Armenia has been steadily improving access to information on government policies affecting business, notably by streamlining electronic communication channels
- The prevailing trend on e-government in the region has been a downward one, with only Moldova posting improvements. Because e-government indicator captures infrastructure development by encompassing e-readiness and e-participation, a longer observation period would be needed to arrive at more meaningful conclusions: these will be possible with the release of UNPAN 2012 report

### Disparities in the region:

- Owing to the robust improvements in 2008-11, Armenia outscored Georgia, albeit slightly, in the transparency of policy making
- Georgia is a pronounced regional leader on corruption perception, far ahead of 2nd-placed Moldova
- Ukraine and Belarus have the leading positions with regard to the e-government development, which reflects better IT-infrastructure compared to the rest of the EaP region

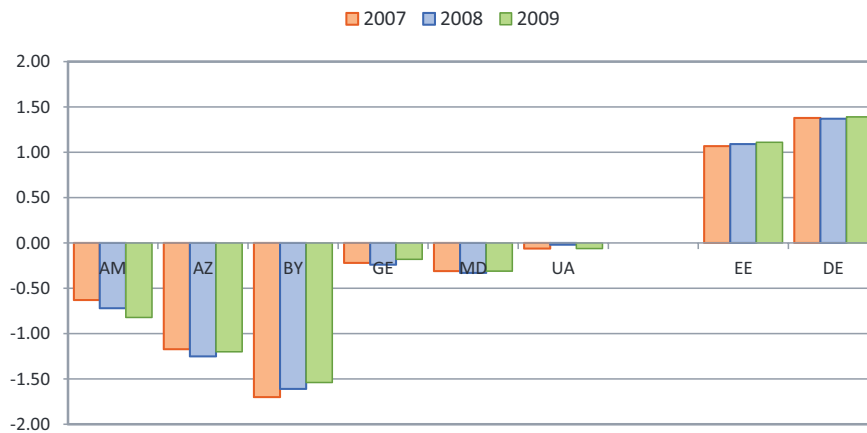
### Comparison with Estonia and Germany:

- Transparency of policy making, understood chiefly as easiness of obtaining information about government decisions affecting business, is one of the indicators, where the distance between EaP economies and the EU is less distinct: on the absolute value, the regional leaders Armenia (4.81) and Georgia (4.79) outscore Latvia (4.03) and Lithuania (4.59), while all five observed EU Eastern Partners are ahead of Romania (2.87) and Bulgaria (3.36)
- In contrast, the gap vis-à-vis the EU is pronounced in what concerns corruption perception; owing to the complexity of combating corruption, and in view of mixed trend in the EaP region in the recent years, the gap will hardly become narrower in the near future
- Generally, EaP countries need a stronger effort on e-inclusion in the medium-term perspective, to enhance IT infrastructure development, widen access to e-government services by households and businesses, and improve quality of those services; EaP public administrations should also be aware that vested interests of public officials demanding bribes for their services are incompatible with streamlining e-government



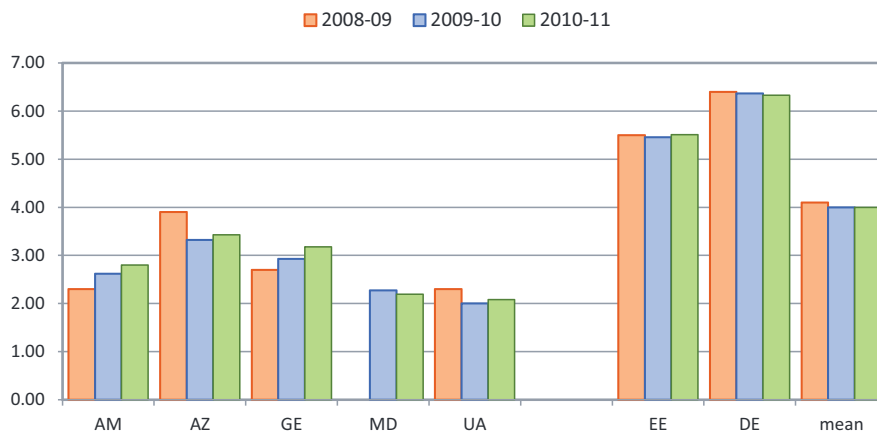
## C: Accountability

### C1: Accountability and freedom of speech



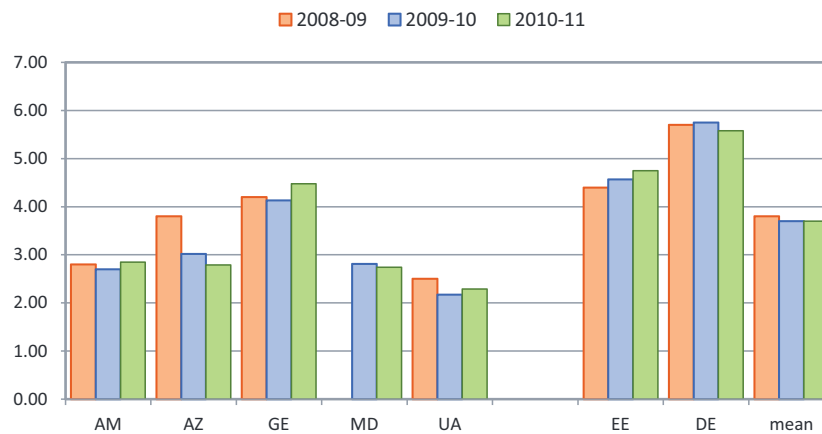
Shows extent, to which citizens are able to participate in the selection of their government, as well as freedom of expression, freedom of association, and freedom of media. Scale from -2.5 (worst) to 2.5 (best)

### C2: Judicial independence



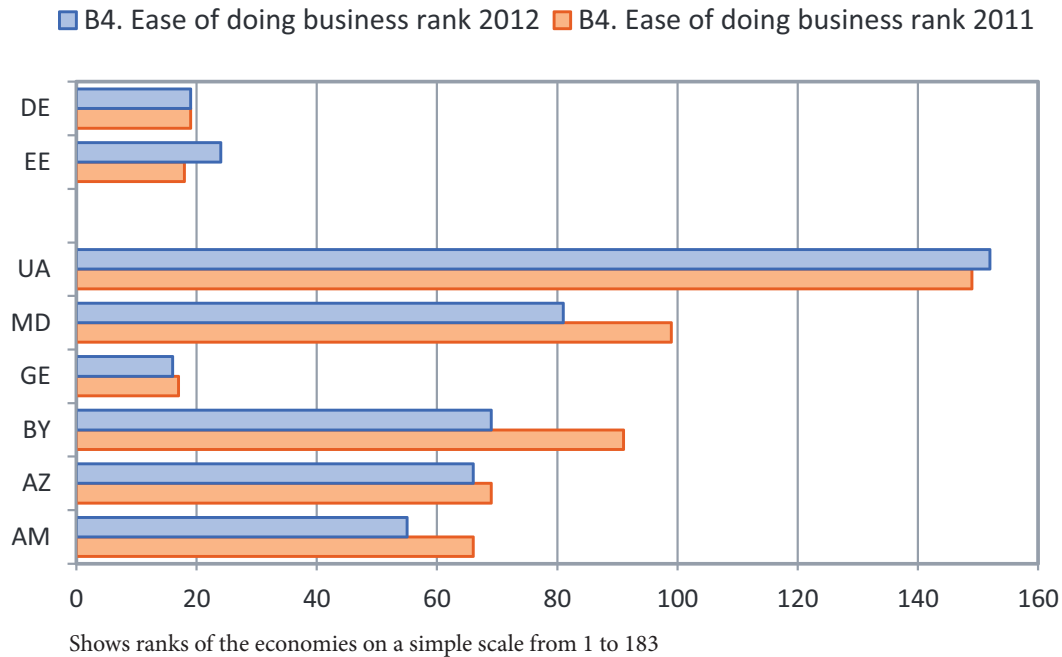
1 – judiciary is heavily influenced by government, citizens or firms; 7 – judiciary is entirely independent

### C3: Diversion of public funds



1 – diversion of public funds due to corruption is very common; 7 – such diversion never occurs

## C4: Ease of doing business



### Trends in the region over the past 3 years:

- Improvements on judicial independence and diversion of public funds were registered in Armenia and Georgia, as well as by all EaP countries except Ukraine with regard to doing business
- The situation with accountability and freedom of speech remained problematic across the region (see Chapter III for country-by-country analysis)

### Disparities in the region:

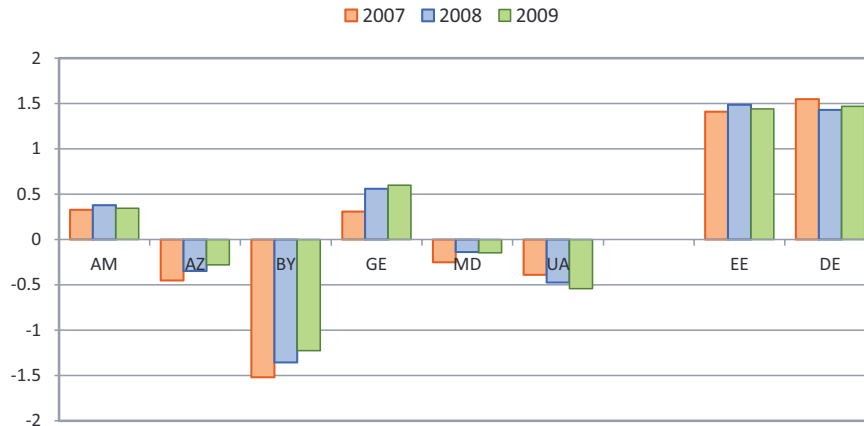
- Georgia is the pronounced regional leader in combating diversion of public funds and improving business conditions
- Although the same can be said about Ukraine with regard to the accountability and freedom of speech, the country's performance on this indicator must have severely worsened in 2010-11, as it has in the overall doing business framework

### Comparison with Estonia and Germany:

- Ever since 2007, Georgia has been ahead of many developed economies including Germany and Estonia in the doing business ranking; the country shows also comparative results with Estonia concerning diversion of public funds
- In contrast, EaP countries remain distinctly behind Estonia and Germany on accountability and freedom of speech; otherwise, the region broadly displays a below-the-average performance on the accountability of public administration

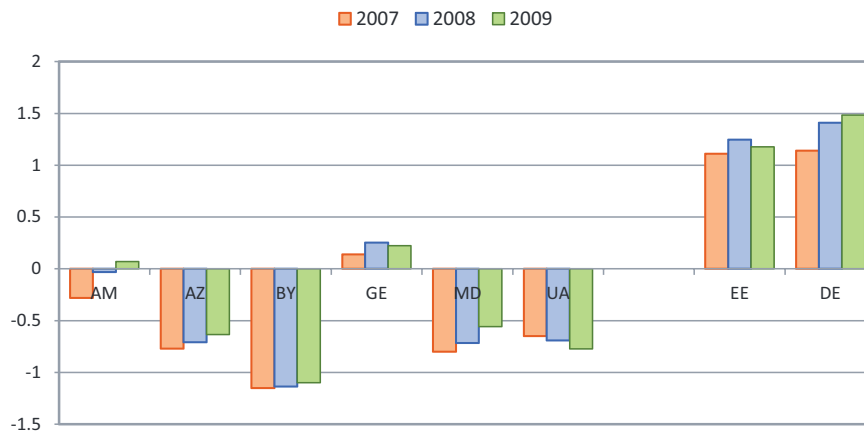
## D: Efficiency and Effectiveness

### D1: Regulatory quality



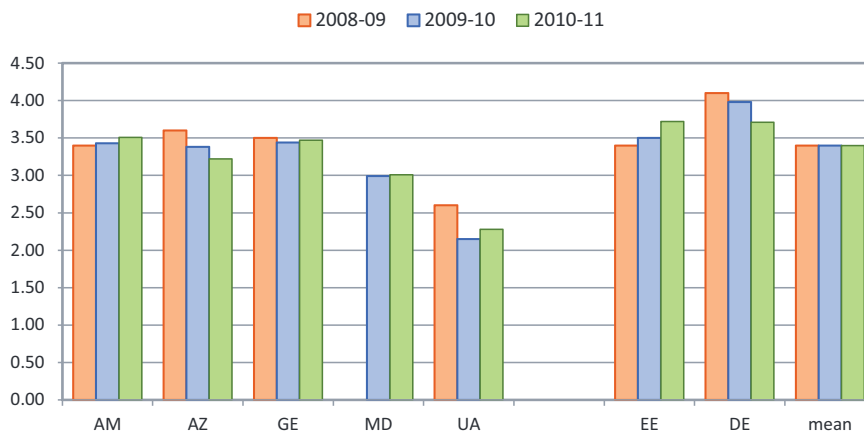
Shows perceptions of the government ability to formulate and implement sound policies that permit and promote private sector development; scale from -2.5 (worst) to 2.5 (best)

### D2: Government effectiveness



Captures the quality of policy formulation and implementation, and the credibility of government commitments to such policies; scale from -2.5 (worst) to 2.5 (best)

### D3. Wastefulness of government spending



1 – government spending in providing necessary public goods and services is extremely wasteful; 7 – government spending is very efficient

### Trends in the region over the past 3 years:

- Armenia, Moldova and Ukraine showed worse regulatory quality in 2009 compared to year before, owing to domestic developments (see Chapter III); disappointingly, all other EaP countries, except perhaps gradual but slow improvements of regulatory quality in Azerbaijan, have been sluggish, if not stagnant, on this indicator over the 15 years of observation by the World Bank
- As a general rule, EU Eastern partners have been improving government effectiveness over the two decades of independence, albeit at a very different pace; between 2006 and 2008 many countries experienced some worsening of governance, owing most likely to internal instabilities and the global financial crisis; a moderate positive trend was restored later on but will require consolidation in the longer run

### Disparities in the region:

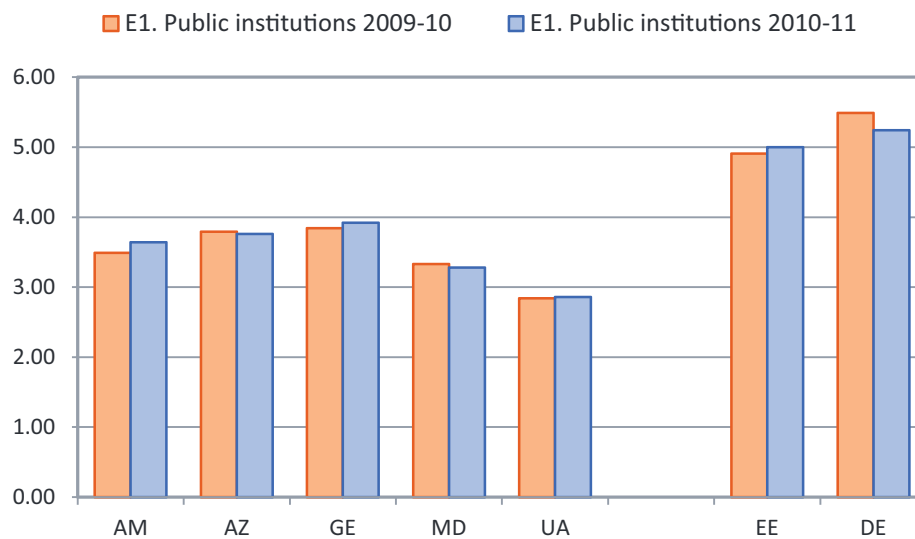
- Disparities in the EaP region have been most vivid in the regulatory quality and government effectiveness, while Georgia has shown the most advanced levels in the region; Georgia has ensured the best regulatory quality among the EaP economies, which is obviously attributable to deregulation measures in favour of private entrepreneurs taken in 2007-09. Armenia has been the second best performer, followed by Moldova, Azerbaijan, Ukraine and Belarus
- Individual scores prove that, compared with regulatory quality, government effectiveness is a more complex and demanding reform objective: even the advanced economies can experience lower-than-anticipated returns to various policy endeavours, conditioned by changing environment, imprecise recourse planning etc. In the EaP region only Georgia, and in 2009 Armenia, have performed slightly above the world average. Other countries were lagging clearly behind, with Ukraine showing worse results in 2009 against 2008.
- Ukraine can be generally considered a problem case in the region: the country has reversed from approximating EU standards in building an efficient and effective public administration

### Comparison with Estonia and Germany:

- The gap vis-à-vis the EU reference countries remains substantial with regard to all components of an efficient and effective governance. On regulatory quality, all EaP economies remain at incomparable levels vis-à-vis the EU, both in quantitative units and worldwide ranking; however, EU itself displays a very different reform record from one member state to another: Estonia and Germany belong to best performing economies, while Romania was even outscored by Georgia and Armenia on this indicator in 2009
- Perhaps surprisingly, the 3 South Caucasus countries display results along or even above the overall average; efficiency of government spending in Estonia has been broadly on that level, too. However, Estonia improved its record in 2010, which none of the EaP states managed to achieve, with the exception of a marginal step-up by Armenia. Ukraine has been on a backward trend, while a drop by 45 points within one year can be seen as an alarmingly negative development

## E: Consolidating indicator

### E1: Public institutions



#### Trends in the region over the past 3 years:

- The “Public institutions” indicator has only a two-year observation period among the global competitiveness indicators, so that more meaningful conclusions about the trends in EaP region will be possible starting from 2012 onwards
- Slight overall improvements were registered in Armenia, Georgia and Ukraine, while the progress stalled in Azerbaijan and Moldova

#### Comparison with Estonia and Germany:

- The gap between the regional leaders, the South Caucasus countries, and the EU is not that evident, if one considers that all three outscore Bulgaria and Romania, staying broadly at the level of Latvia and Lithuania in 2010-11
- For Ukraine, the need for catching up will obviously remain strong in the medium- to long-term perspective.

#### Disparities in the region:

- The South Caucasus countries, led by Georgia, displayed better position compared with Moldova and Ukraine
- In concurrence with disappointing trends under the most European principles of public administration, Ukraine has the bottom position among the observed EaP economies

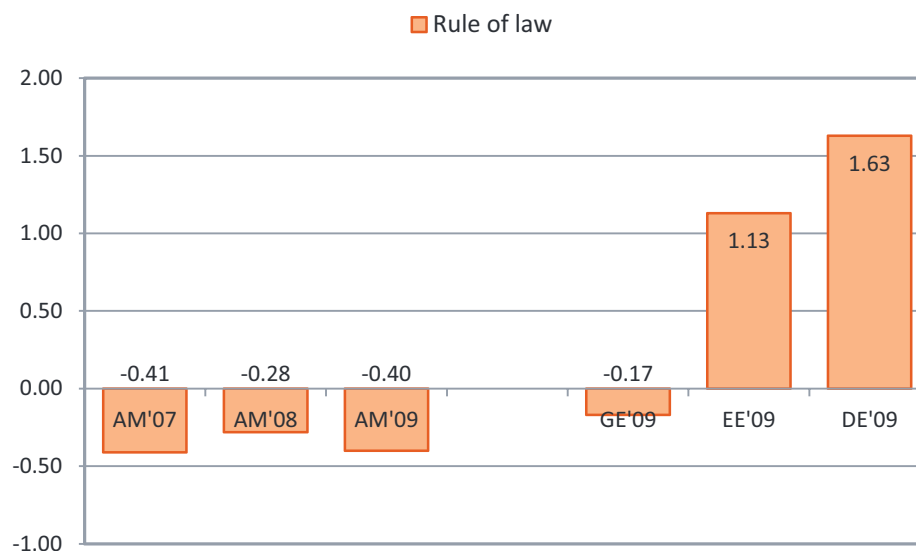
III

European  
Principles of Public  
Administration  
of the EU Eastern  
Partners:  
Country  
assessments

## European principles of public administration in Armenia<sup>26</sup>

### A: Public administration in Armenia: Reliability and predictability

#### A1: Rule of law



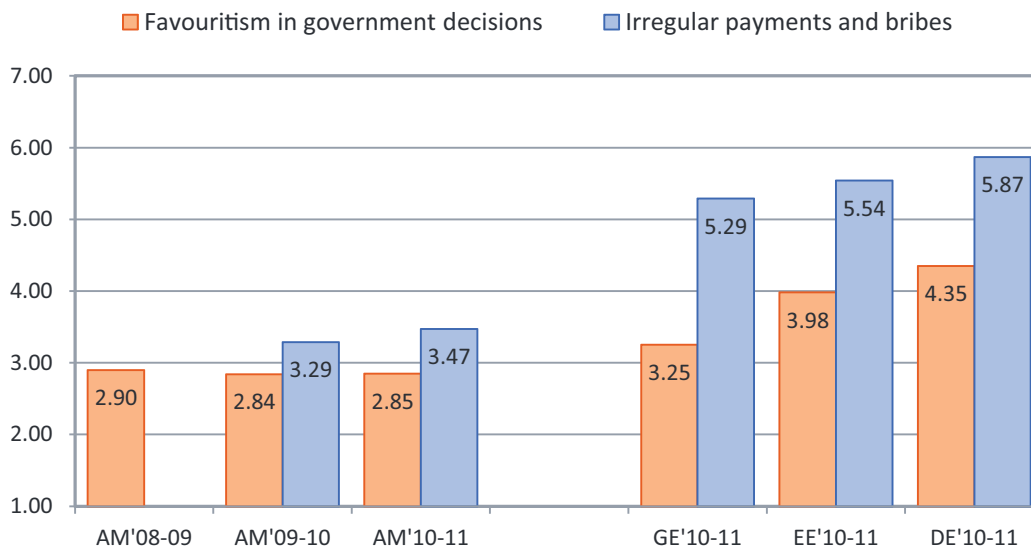
Measures extent, to which government and citizens have confidence in and abide by the rules of society. Scale from -2.5 (worst) to 2.5 (best)

Negative values indicate lack of respect to the rule of law in Armenia. The country is governed by a largely oligarchic system, with the unwritten “laws” often going against public interest. This is particularly true in the relations between the government and opposition. A number of prominent opposition members, who did not accept the results of the 2008 presidential elections, were arrested and

purged, which, according to local and international human rights organizations, was done for political purposes. A number of amendments to the Electoral Code enacted in 2011 were welcomed by the Venice Commission and other international organizations, but are still to be “tested” during the Parliamentary elections upcoming in 2012.

<sup>26</sup> All graphs show country’s performance over the recent 2-3 years on the left-hand side; on the right-hand side, the Eastern Partnership region’s top score as well as reference numbers for Estonia and Germany are given

## A2: Favouritism in government decisions, A3: Irregular payments and bribes



A2: 1 - government officials always show favouritism; 7 - government officials never show favouritism

A3: 1 - irregular payments are very common; 7 - irregular payments never occur

A survey conducted by AEPLAC in 2009 revealed very little public trust towards national institutions (17%). This can be partially attributed to a widespread opinion that the government shows favoritism to large companies and “well-connected” individuals. A large number of individuals having de-facto monopolistic share in different businesses, are serving in public institutions including the

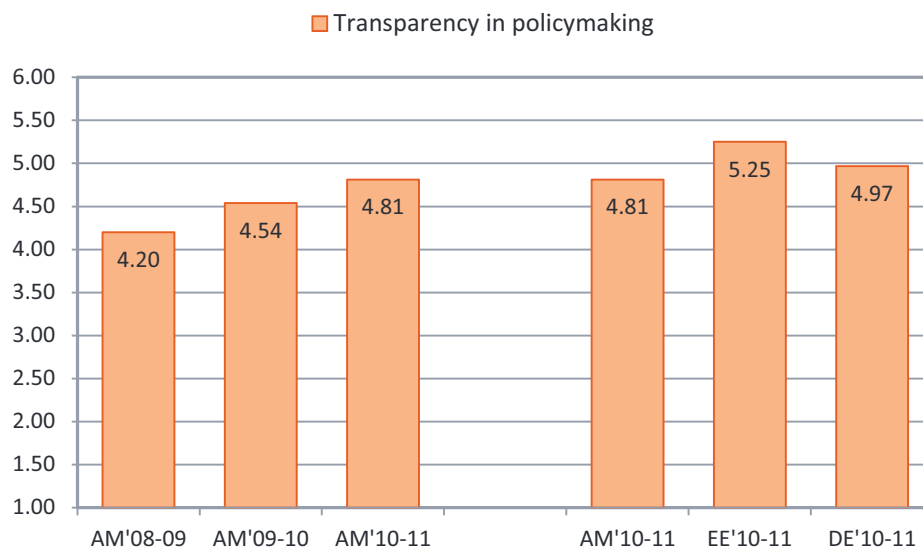
government and the Parliament. Key positions are often offered to people, who have close kinship with high-level officials. There are some recent improvements related to the reforms in exports and imports procedures, but in other areas, and most notably in the prosecutor’s office, according a 2010 study by USAID-funded activity “Mobilizing Action against Corruption”, the level of bribery is still high.<sup>27</sup>

27 MAAC 2010 Armenia Corruption Survey of Households (available at: [http://maac.am/documents/2010\\_Corruption\\_Survey\\_Of\\_Households\\_Report\\_English\\_000.pdf](http://maac.am/documents/2010_Corruption_Survey_Of_Households_Report_English_000.pdf))



## B: Public administration in Armenia: Openness and transparency

### B1: Transparency in policymaking

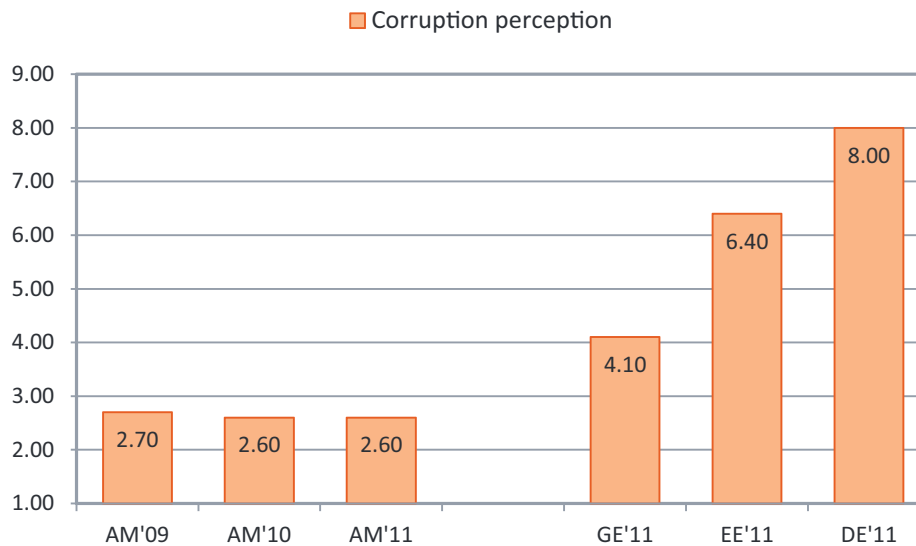


Easiness to obtain information about changes in government policies and regulations affecting businesses: 1 - impossible; 7 - extremely easy

While there is still a lot to be done, Government of Armenia has shown good progress on providing access to the information on its policies and regulations to the businesses and public at large. In the Global Competitiveness Report 2011-2012, Armenia ranked 35th on this indicator, ahead of all other EaP countries. [www.e-gov.am](http://www.e-gov.am) website allows for a vast array of possibilities to follow Govern-

ment activities online, and includes features such as interactive budget, system for e-register, as well as full account on legislation, including a search system for the laws and cases. Business representatives, however, often accuse the Government for not taking their interests into consideration, when adopting reform agenda.

## B2: Corruption perception

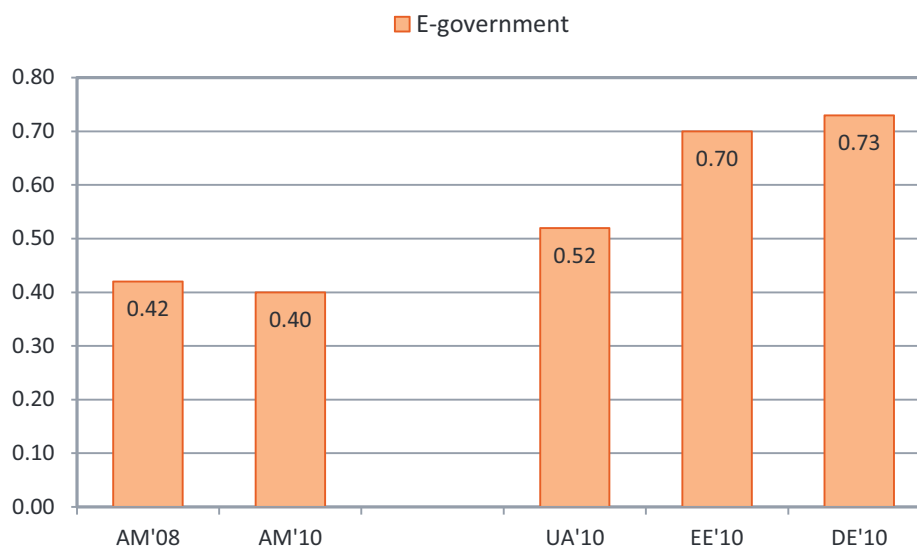


1 - the economy is highly corrupt; 10 - the economy is very clean

According to a 2010 survey by the Caucasus Research Resource Center (CRRC), 82 percent of people consider corruption a serious problem in Armenia. It can be said that a “corruption culture” exists in the society, since more than a half of the survey respondents (58%) were willing/ready to pay a bribe. The most high-ranked officials are perceived to be the most corrupt, hence the com-

mitment to crack down on corruption declared by the Prime Minister, which led to dismissals of a number of middle to high-rank officials in the Ministries of Agriculture, Education and Health, is largely considered to be more of a show. Judiciary, and especially the Office of the Prosecutor, as well as the Central Election Committee are perceived as the most corrupt.

### B3: E-government



Availability of e-services, e-readiness based on website assessment, human resource endowment, index of the telecommunication and index of e-participation. Scale from 0 (worst) to 1 (best)

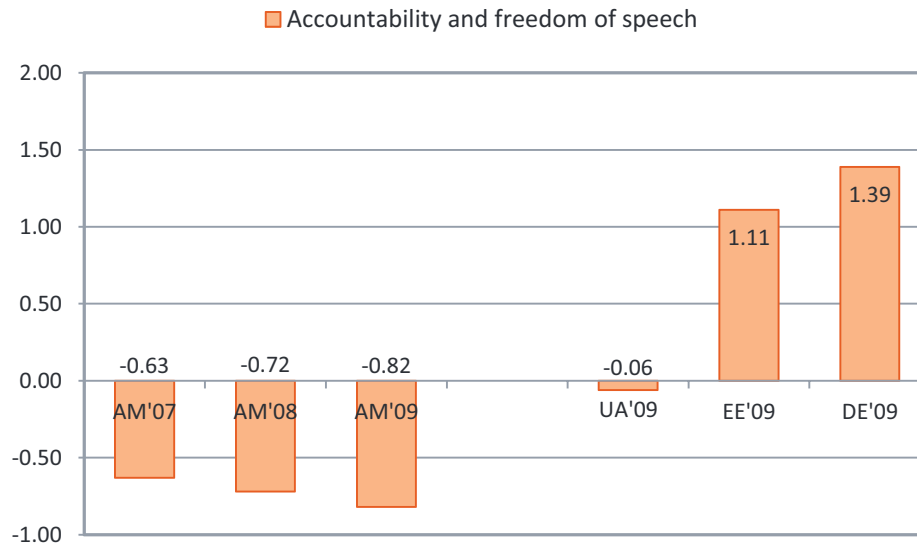
Armenia has traditionally been a regional fore-runner in the IT sphere, and the index of individual e-readiness in the country is rather high (52nd out of 139 countries in 2011<sup>28</sup>). However, due to the country's geographical location, and the 15-year long monopoly in the telecommunications, the fast growth in internet penetration has been registered only in recent years. Government was the last to follow the suit, with a big share of e-governance projects (including online business registration and

e-procurement) implemented only in 2010. More e-services, including e-ID cards and e-passports, are to follow. One of the key issues remaining unsolved is that of data privacy and protection, while a new law regulating the use of data by the Government is in dire need.

28 The Global Information Technology Report 2010–2011, [www3.weforum.org/docs/WEF\\_GITR\\_Report\\_2011.pdf](http://www3.weforum.org/docs/WEF_GITR_Report_2011.pdf)

## C: Public administration in Armenia: Accountability

### C1: Accountability and freedom of speech

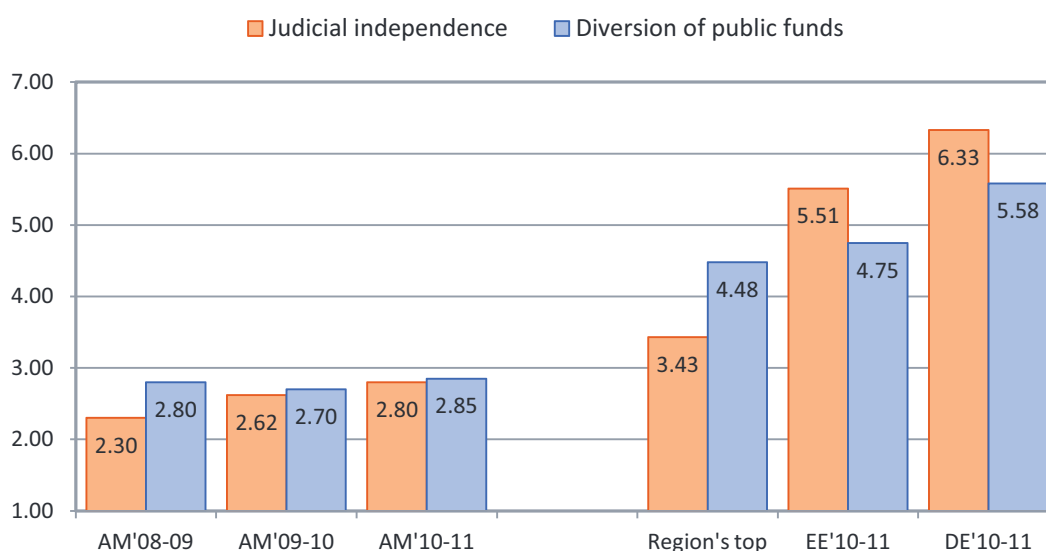


Shows extent, to which citizens are able to participate in the selection of their government, as well as freedom of expression, freedom of association, and freedom of media. Scale from -2.5 (worst) to 2.5 (best)

Legally, the minimum requirements for free and fair elections are met in Armenia, but in practice the election process is significantly flawed, giving grounds to doubt the ability of the citizens to select their Government. Opposition protests against alleged electoral fraud in 2008 presidential elections were violently dispersed, and the excessive use of force by the police led to at least 10 deaths. In December 2010, A1+ TV station was again denied a broadcast license, despite an ECHR judgment

that previous denials violated freedom of expression. Printed and internet mass-media are relatively free in Armenia, however, all the country-wide TV channels are strictly pro-government. In May 2010, defamation was decriminalised, which, while being a positive step, led to a flood of libel cases against journalists, and, coupled with the vague definition of defamation, has made more harm than good.

## C2: Judicial independence, C3: Diversion of public funds



C2: 1 – judiciary is heavily influenced by government, citizens or firms; 7 – judiciary is entirely independent

C3: 1 – diversion of public funds due to corruption is very common; 7 – such diversion never occurs

The courts often fail to show impartial judgment towards citizens, regardless of their status. About a half of the European Court of Human Rights decisions are those on violation of citizens' rights on fair treatment by courts. While a number of reforms have been implemented in the sector, justice system remains prosecution driven, and is openly biased in favour of authorities. Reforms here are needed also to prevent ill-treatment and police brutality. Armenian Minister of Justice, newly appointed in 2011, made the strengthening of judicial independence a policy cornerstone,<sup>29</sup> but as of yet, the laws remain on paper. Diversion of public funds remains one of the major obstacles to economic and political development: Control Chamber reported officially 21 cases of embezzlement during the year 2009,<sup>30</sup> and a number of officials were dismissed for the misuse of funds in 2010-11.

29 See Council of Europe Parliamentary Assembly report (Doc. 12710 of 15.09.2011) "The functioning of democratic institutions in Armenia", item 62 (available at: <http://assembly.coe.int/Documents/WorkingDocs/Doc11/EDOC12710.pdf>).

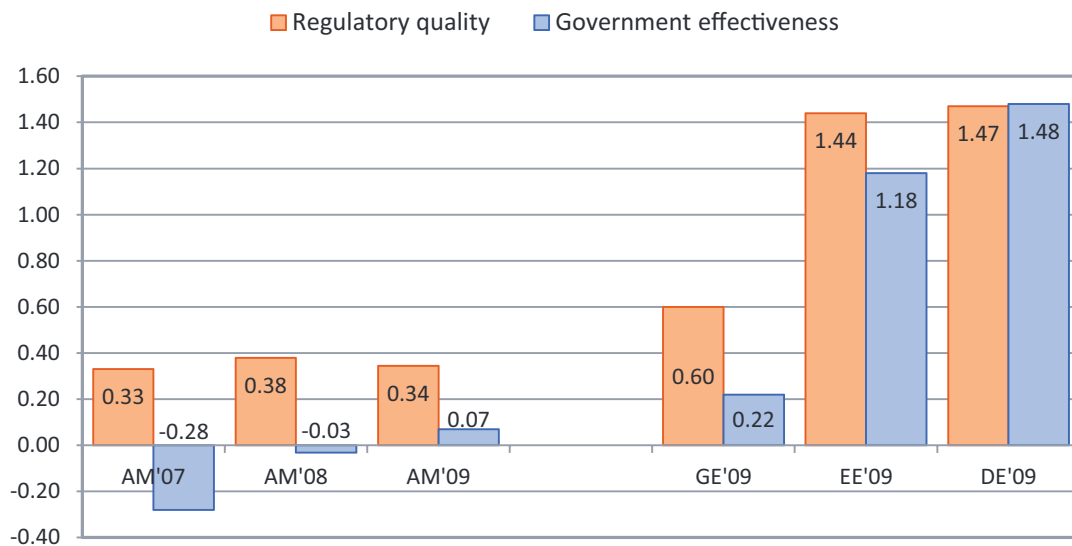
30 Bureau of Democracy, Human Rights, and Labour. 2010 Human Rights Report: Armenia (available at: <http://www.state.gov/documents/organization/160447.pdf>)

## C4: Ease of doing business global rank 2012: Armenia - 55, Germany - 19, Estonia – 24

Despite a number of declarations, including the statement made by the RA President in his pre-election program 2008 that Armenia would reach the top 10% of countries by 2012, not many reforms are seen in reality. The IFC 2012 Doing Business report registered one single improvement in Armenia under "trading across borders", where the introduction of customs' risk management system on the border crossing has made exporting easier, faster and cheaper. In all other areas, however, the country showed no progress or performed worse, as in the case of obtaining construction permits. The most disappointing is the situation with paying taxes, where both the number of annual payments and the compliance time remains one of the highest in the world.

## D: Public administration in Armenia: Efficiency and effectiveness

### D1: Regulatory quality D2: Government effectiveness



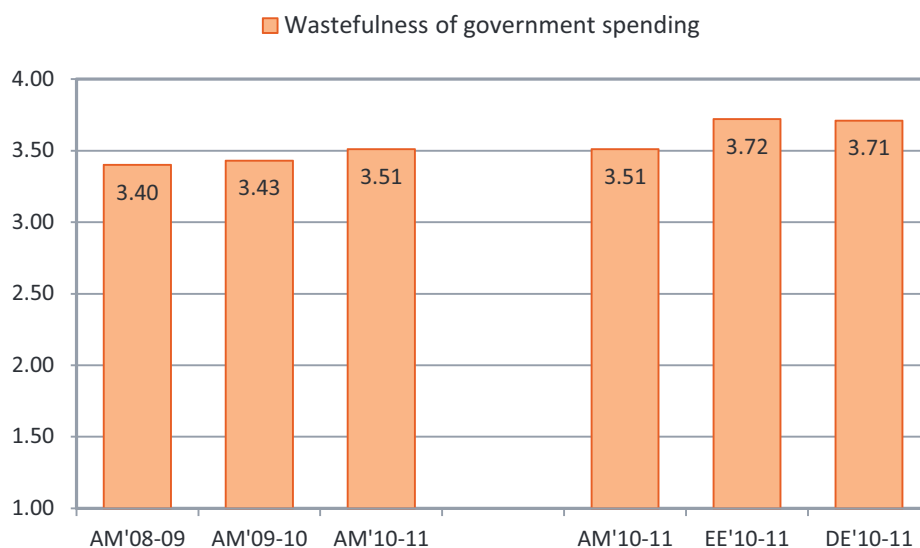
D1 shows perceptions of the government ability to formulate and implement sound policies that permit and promote private sector development;  
 D2 captures the quality of policy formulation and implementation, and the credibility of government commitments to such policies. Scale from -2.5 (worst) to 2.5 (best)

Despite the reform rhetoric, the success of Armenian Government in private sector regulation is rather limited. This is mostly attributable to the inherent conflict of interests, arising from the fact that many influential political figures pursue their private business interests. The level of influence the Presidential Office has on that of the Prime Minister, is also worrisome from the perspective of

concentration of power in the country. There are, however, quite big expectations related to the government proposal of “regulatory guillotine”<sup>31</sup> with the aim to revoke by the end of 2012 no less than 25,000 regulations slowing down economic growth. Somewhat surprisingly to the business community, this proposal has received support by the RA President.

31 See: <http://www.gov.am/en/news/item/5948>

### D3: Wastefulness of government spending



1 – government spending in providing necessary public goods and services is extremely wasteful; 7 – government spending is very efficient

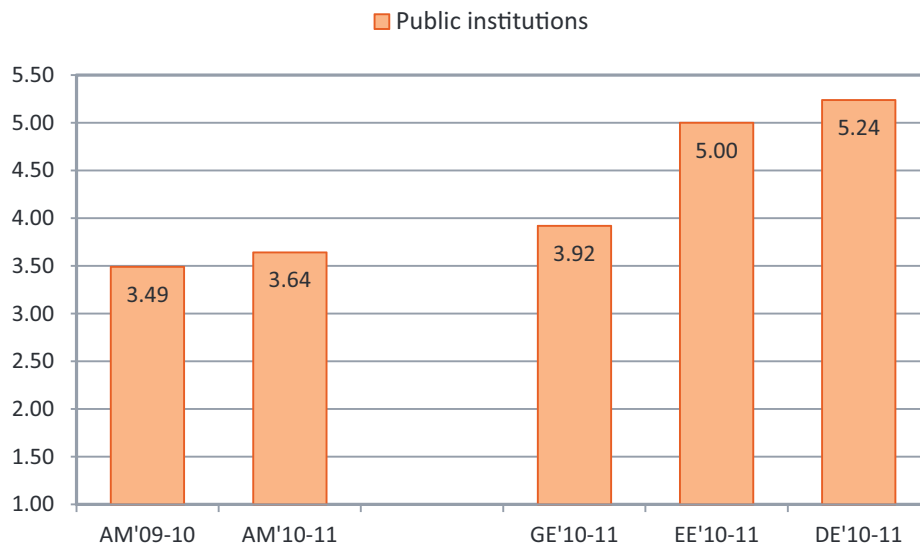
Armenia performed relatively well to curb wastefulness of government spending, having here the best performance among the Eastern Partnership countries in 2010. One should mention, however, that revenue weakness owing mainly to disappointing tax reform progress,<sup>32</sup> forces general spending cuts for the sake of fiscal consolidation and prevents the authorities from maintaining targeted social expenditure on a decent level.

Positive developments were registered in the area of public procurement, where a new Law on Procurement effective January 1, 2011 marks a transfer to a decentralized procurement system. In 2011, Armenia was the first among CIS countries to accede to the WTO Agreement on Government Procurement, and the e-procurement system is to be fully introduced from the beginning of 2012 ensuring improved transparency of the process.

<sup>32</sup> IMF country report Armenia cr 11/178 of July 2011, p. 8, 12.

## E: Public administration in Armenia: consolidating indicator

### E1: Public institutions



Scale from 1 (worst) to 7 (best)

A large and growing number of Armenians are unhappy with the way public institutions work in the country. Almost the whole power is in the hands President's administration, and the "centralization" tendencies continue. In a new coalition agreement signed on 17.2.2011, the three governing parties pledged to avoid challenging the current balance of powers, and to campaign for the current President's reelection in 2013. This agreement is viewed by many experts as non-competitive, and

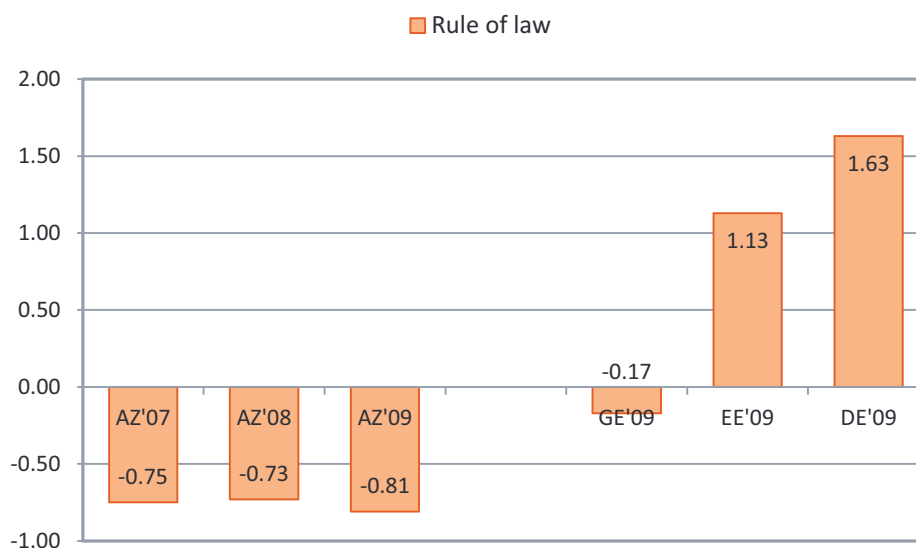
even anti-constitutional. The fact that the Yerevan Mayor's Office, which was reluctant to give permission for opposition rallies for a very long time, suddenly changed its mind right after the President's statement on the "start of constructive dialogue" with the opposition, also shows the level of concentration of power in the country.



## European principles of public administration in Azerbaijan

### A: Public administration in Azerbaijan: Reliability and predictability

#### A1: Rule of law

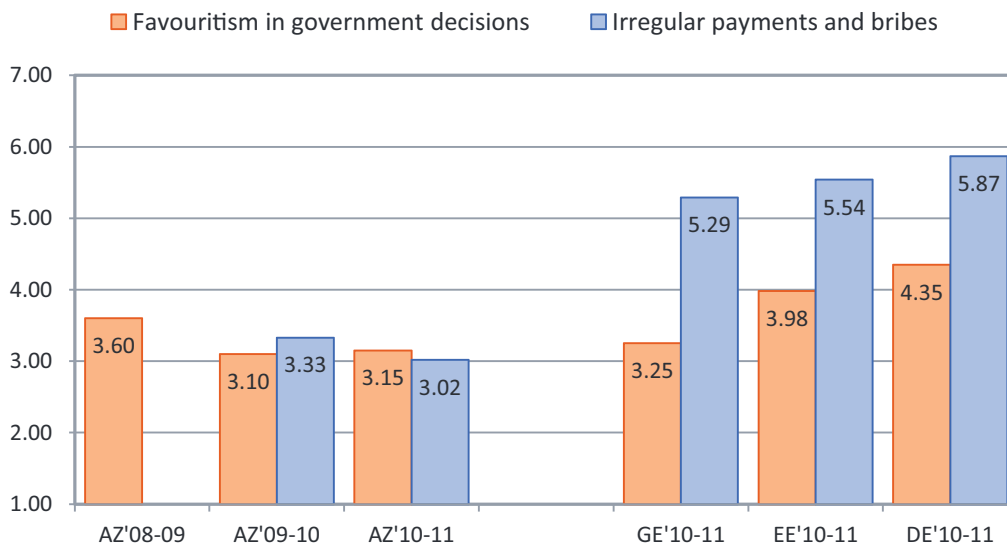


Measures extent, to which government and citizens have confidence in and abide by the rules of society. Scale from -2.5 (worst) to 2.5 (best)

Citizens' confidence in the state is widely considered weak in Azerbaijan. Foreign observers – for example President of the US Court of Appeals Mr. Brooks Smith, who visited the country in July 2010 – point to the problem of the supremacy of the status law, which should restrict the arbitrary exercise of power by firm observance of well-defined and established laws. The usual way in the country has long been the opposite: legal practice is heavily influenced by politics. Global Integrity

Report (USA) concludes that laws in similar situations can be interpreted and applied differently, depending on personal views and interests. Judiciary can be seldom made accountable for conflicting interpretation of laws. Moreover, judges are being appointed by the executive authority, a practice paving the way to impunity for violating law in future and hence to erosion of the supremacy of law.

## A2: Favouritism in government decisions, A3: Irregular payments and bribes



A2: 1 - government officials always show favouritism; 7 - government officials never show favouritism

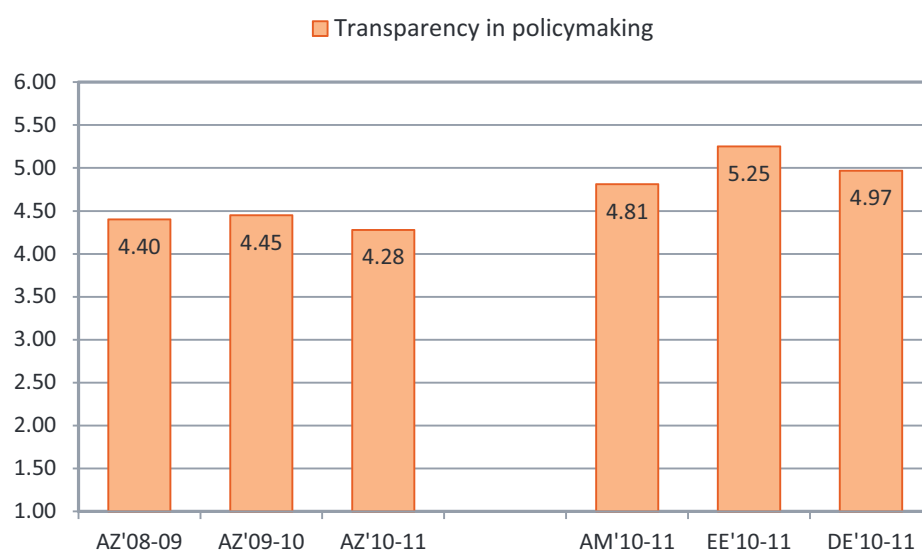
A3: 1 - irregular payments are very common; 7 - irregular payments never occur

Favouritism and nepotism in the decision-making process is widely spread in Azerbaijan. Typical is the award of contracts on implementing infrastructure projects funded by the state to businessmen and companies, which are close to the state authorities. This practice discriminates fair competition in the economy. Favouritism and nepotism dominate also personnel decisions, i.e. distribution of posts and assignments inside the government. Characteristic for Azerbaijani favouritism is the importance of regional clans and groupings: officials working in the central authorities have strong interest in recruiting persons from “their” region to prop up their own authority. Such cases have been plenty in 2006-2011 years, notably at the level of chairmen of parliamentary committees and minis-

ters. In turn, high-rank officials try to appoint the “right” persons to the official posts at respective regional authorities. Irregular payments and bribes are quite common in public institutions, mainly at schools, hospitals and police. Teachers do not shy away from demanding bribes and/or various additional payments, as do physicians and road traffic police. This practice is nourished by low wages in respective institutions (for example, monthly wage of physicians is just a half of the average in the economy), ignorance of citizens about their rights and general public acceptance of bribes as part of the usual “transaction costs”.

## B: Public administration in Azerbaijan: Openness and transparency

### B1: Transparency in policymaking

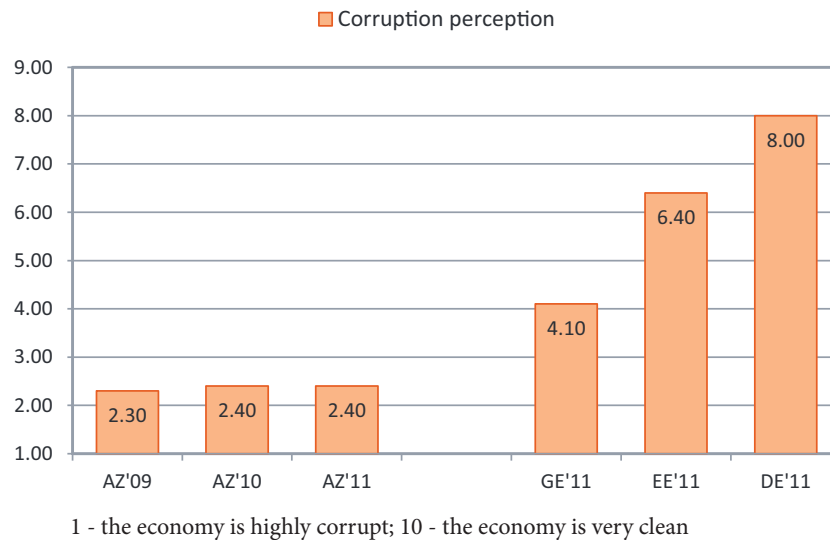


Easiness to obtain information about changes in government policies and regulations affecting businesses: 1 - impossible; 7 - extremely easy

In government decisionmaking affecting business, the interests of businessmen are hardly taken into account, for any preliminary consultations and hearings with business community are – as a general rule – not practiced. For the latter, it is difficult to receive information related to relevant government policy changes. Sporadically, NGOs are formally invited to public policy discussions, but their proposals are usually ignored. Transparency of business-related decisionmaking in Azerbaijan suffers under the complicated split-up of the different functions across the government. Ministry of Taxes acts as the sole registration body, Ministry of Economic Development provides loans for

small and medium entrepreneurship, and technical support, Ministry of Agriculture renders subsidy assistance to small agricultural enterprises. In an environment of such scattered services, business community badly needs a contact body or organization to facilitate relations with the government. However, the nation-wide Confederation of Entrepreneurs is effectively under control of the Ministry of Economic Development (e.g. with regard to the appointment of key personnel) and hence unable to represent business interests – unless the company is under patronage of the government.

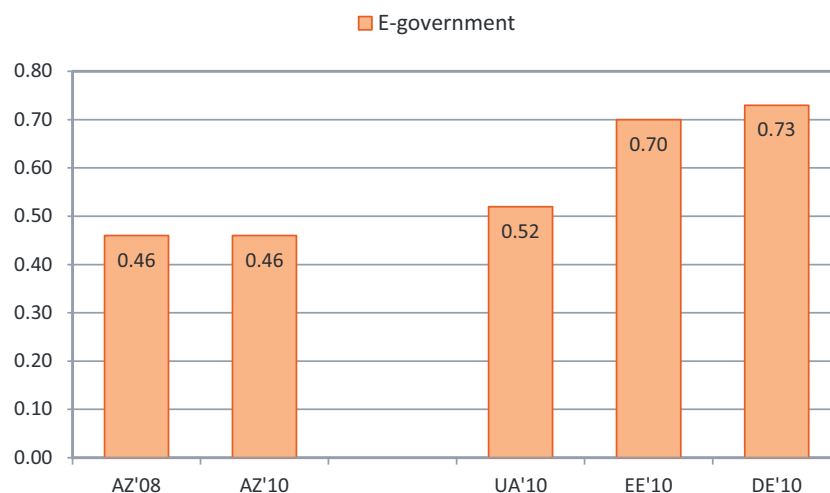
## B2: Corruption perception



Despite the adoption of numerous anti-corruption laws and action plans since 2004, the perception of corruption in the society has not improved. The application of anti-corruption legislation has been inadequate, and implementation of action plans lax. The country's main organisation to fight corruption is the Anti-Corruption Administration under the Prosecutor General established by the decree of the President of Azerbaijan Republic No 114 of March 3, 2004. The decree specifies a comprehensive set of functions to prevent and combat corruption, however, the Administration is effec-

tively unable to investigate cases related to corrupt practices of high-ranking officials. Areas, where such practices are most intensive, typically encompass construction and publicly financed infrastructure projects: the overall costs of building up water pipeline Oguz-Gabala-Baku and the Baku-Tbilisi-Kars railway appeared 10 times more expensive than envisioned at planning stage. Another failure of anti-corruption efforts is the regular abuse of the 2005 law, which obliges officials to disclose annual income statements: such statements have never been made public.

## B3: E-government



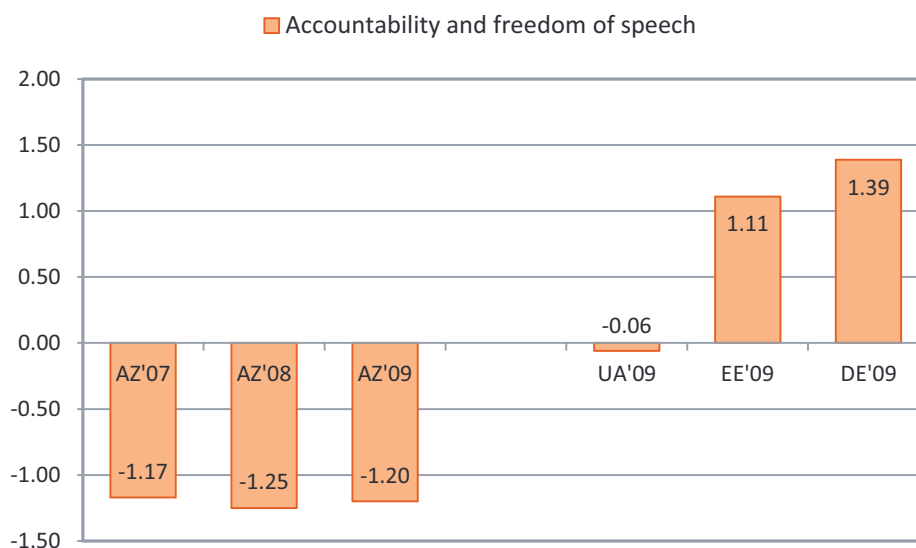
Availability of e-services, e-readiness based on website assessment, human resource endowment, index of the telecommunication and index of e-participation. Scale from 0 (worst) to 1 (best)

E-government development in Azerbaijan has been guided by a state program adopted in October 2005. Central state authorities (albeit not all) maintain internet presence and can be addressed electronically, while the broad-band internet has been made available in 51 districts (rayons) cover-

ing around 72 percent of the country. Nevertheless, internet access is quite limited outside the capital: 92 percent of rural and 25 percent of urban settlements in the country still have no access to the internet, according to the Public Association in Support of Economic Initiatives.

## C: Public administration in Azerbaijan: Accountability

### C1: Accountability and freedom of speech

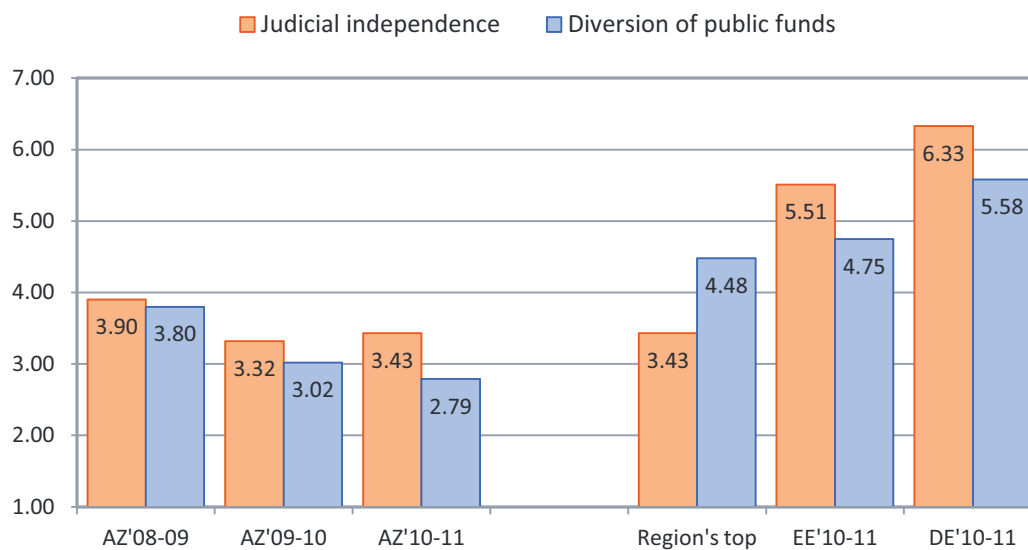


Shows extent, to which citizens are able to participate in the selection of their government, as well as freedom of expression, freedom of association, and freedom of media. Scale from -2.5 (worst) to 2.5 (best)

Although citizens have all conditions to participate in elections, falsification of results through various infringements of law effectively erodes the right to vote. The freedom of assembly and freedom of expression are likewise limited. Critical ideas can be voiced only through internet and few opponent newspapers, and the access to the private and official TV channels is restricted. “Amnesty International” reports that “as the journalists exercise their freedom of expression, they are exposed to regular

attacks, pursuits, threats and arrests”. Authorities invest efforts to legalise the common practice of tracking political opponents in social networks by prohibiting dissemination of vaguely defined “misinformation” in public media. These efforts received harsh criticism from Amnesty International, which, in its 2010 report, witnessed an overall deterioration of the situation with human rights in Azerbaijan compared to 2009.

## C2: Judicial independence C3: Diversion of public funds



C2: 1 – judiciary is heavily influenced by government, citizens or firms; 7 – judiciary is entirely independent

C3: 1 – diversion of public funds due to corruption is very common; 7 – such diversion never occurs

Although Azerbaijan holds in 2011 the Eastern Partnership region's top position on judicial independence according to the WEF Global Competitiveness Report, evidence from the country suggests that judiciary remains under a heavy external influence, especially from the government. A monitoring of Azerbaijani courts by the OSCE Baku Office in 2011 revealed cases of exposure of the accused person and witnesses to torture and conducts humiliating the human dignity, also connected with unfair investigation, as well as cases of adopting inadmissible evidences without considering the petitions lodged by the accused persons and human rights defenders.

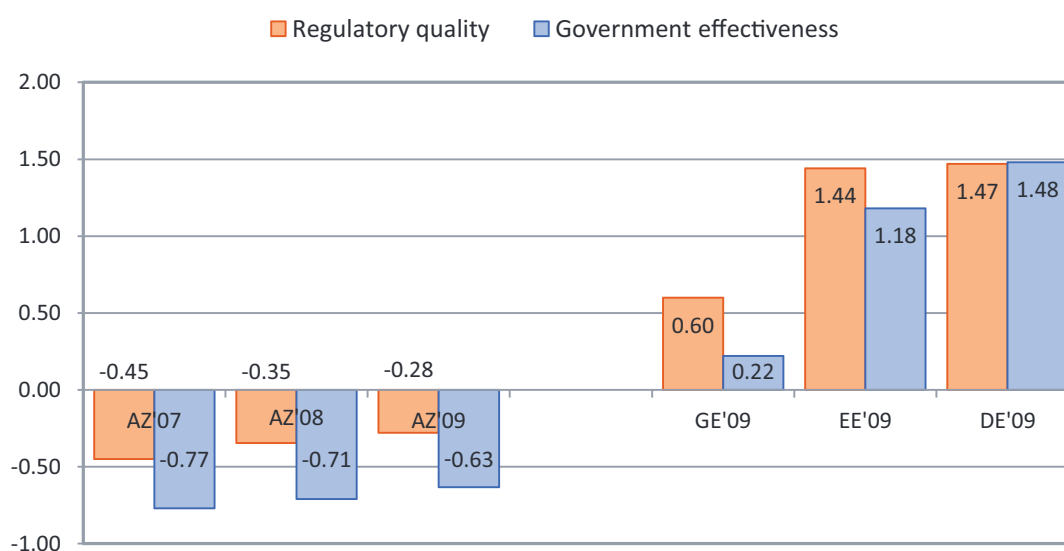
With the public finance sector relying on regular inflow of oil revenues, fiscal authorities are challenged to avert macroeconomic and social imbalances through well-targeted expenditure management. Regrettably, several flaws in the budget system – such as improper feasibility assessment, loopholes in expenditure monitoring, inconsistencies in budget classifications – nourish diversion and embezzlement of funds. While the authorities are well aware of the need to address these issues, vested interests prevail and, in the absence of any meaningful public monitoring of expenditures, allow massive misuse of funds through overstatement of expenses in a wide-spread improper accounting.

## C4: Ease of doing business global rank 2012: Azerbaijan – 66, Georgia – 16, Germany – 19, Estonia – 24

Azerbaijan's Doing Business rank reflects correctly the situation in this field. High costs of business are attributable to restricted access to credits, especially by SMEs, fiscal harassment by the authorities and, overall, the abundance of red-tape and corruption practices. Typical barriers to doing business comprise obtaining construction licenses and permits to engage in special activities, operations with land property and putting up collateral for bank loans. All these operations require excessive allocation of time and money. In the regions, authorities regularly demand "additional funding" from local companies, when it comes to purely public services such as construction of schools or simple road works. Embarrassing is the activity of a National Fund for Assistance to Entrepreneurs established under the Ministry of Economic Development in 1992 with the aim to facilitate access to credits: while most of the loans granted by the Fund are registered in the names of entrepreneurs, it is widely known that these assets are used by public officers.

## D: Public administration in Azerbaijan: Efficiency and effectiveness

### D1: Regulatory quality D2: Government effectiveness

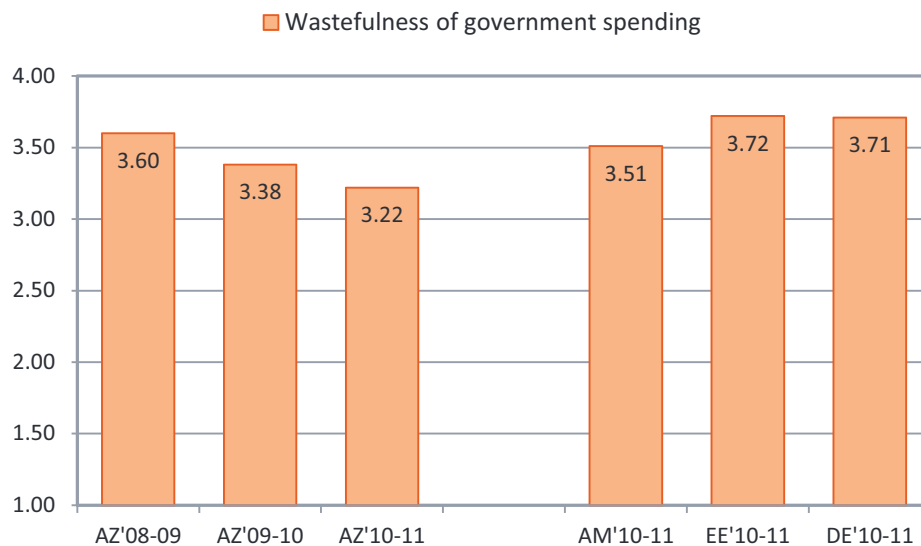


D1 shows perceptions of the government ability to formulate and implement sound policies that permit and promote private sector development;  
D2 captures the quality of policy formulation and implementation, and the credibility of government commitments to such policies. Scale from -2.5 (worst) to 2.5 (best)

The economic policy conducted by the government of Azerbaijan fails to create favourable conditions for development of non-petroleum sector, especially export-oriented production. Export competitiveness suffers under the over-appreciation of the domestic currency and tight monetary policy pursued by the Central Bank to curb inflation. At the same time, price growth on the domestic market is attributable to the high monopolisation rate

in the economy, in an environment of inefficient competition protection. Amendments to Competition Code have been pending parliamentary proceedings for 4 years, so that the process has been effectively stalled. Apparently, reliance on oil revenue deprives the government of the incentive to develop and introduce an effective industrial policy, which would lead to diversification of produce and exports.

### D3: Wastefulness of government spending



D3: 1 – government spending in providing necessary public goods and services is extremely wasteful; 7 – government spending is very efficient

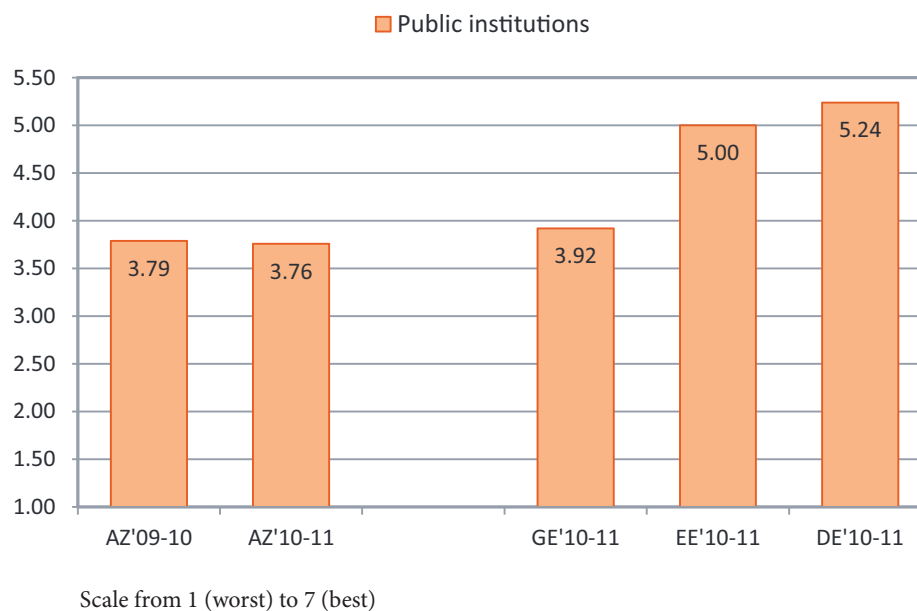
Azerbaijan has recorded deterioration on wastefulness of government spending in 2008-11. Poor accounting of public expenses facilitates wastes of resources and reveals lack of due accountability of government agencies. In August 2011, the Center for Economic and Social Development (CESD) in Baku made public the discrepancies between the Ministry of Transportation and State Oil Fund as to the amount of state expenditure on construction of the Baku-Tbilisi-Kars railway. The Ministry reported \$58.5 million, while the State Oil Fund \$48.1 million, with no trace as to the missing

\$10.4 million. Such cases appear regularly, which, according to an assessment by Peter Instute for International Economics, is empirically typical for resource-rich countries. Institutional dysfunctions happen regularly, where there is competition for control over resource rents, like in Azerbaijan. Similarly negative were the conclusions by the Revenue Watch Institute, which found the efficiency of public spending on healthcare, education and social protection in Azerbaijan extremely low.



## E: Public administration in Azerbaijan: consolidating indicator

### E1: Public institutions



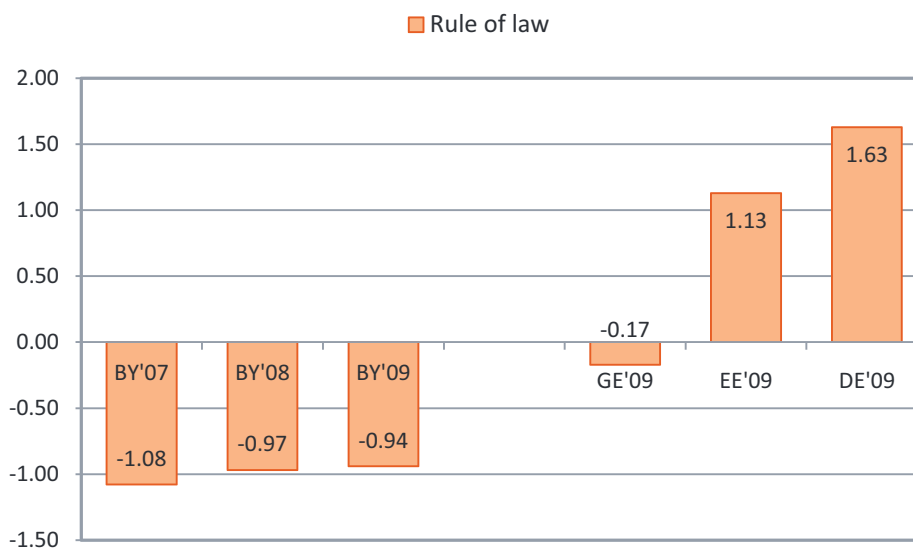
Azerbaijani public institutions are excessively centralized, built up on kinship ties and conducive to rent-seeking. Pursuing own interests by high-rank public officials in an environment of widespread corruption hinders serious reforms of public administration and deprives it of the ability to flexibly react to development needs nationwide. According to a report by International Global Server, the government has undertaken regulatory

reforms in some areas, including substantial opening of trade policy, but inefficient public administration, in which commercial and regulatory interests are co-mingled, limits the impact of these reforms. In the Eastern Partnership regional comparison, nevertheless, Azerbaijan keeps the second-best position after Georgia.

## European principles of public administration in Belarus<sup>33</sup>

### A: Public administration in Belarus: Reliability and predictability

#### A1: Rule of law



Measures the extent, to which government and citizens have confidence in and abide by the rules of society. Scale from -2.5 (worst) to 2.5 (best)

Belarus has been deadlocked in a mix of a full-fledged consolidated autocratic regime and unreformed economy since the controversial referendum in November 1996, which established a system of unlimited presidential authority over the executive branch, local administrations and security forces. Presidential decrees overrule laws adopted by the Parliament and regulate the activities of the Constitutional Court. The president appoints and removes regional and local governors, all judges (except for the chairman of the Supreme Court), half of the Constitutional Court, half of the Central Election Commission (CEC), and 8 out of 64 members of the Council of the Republic (the upper

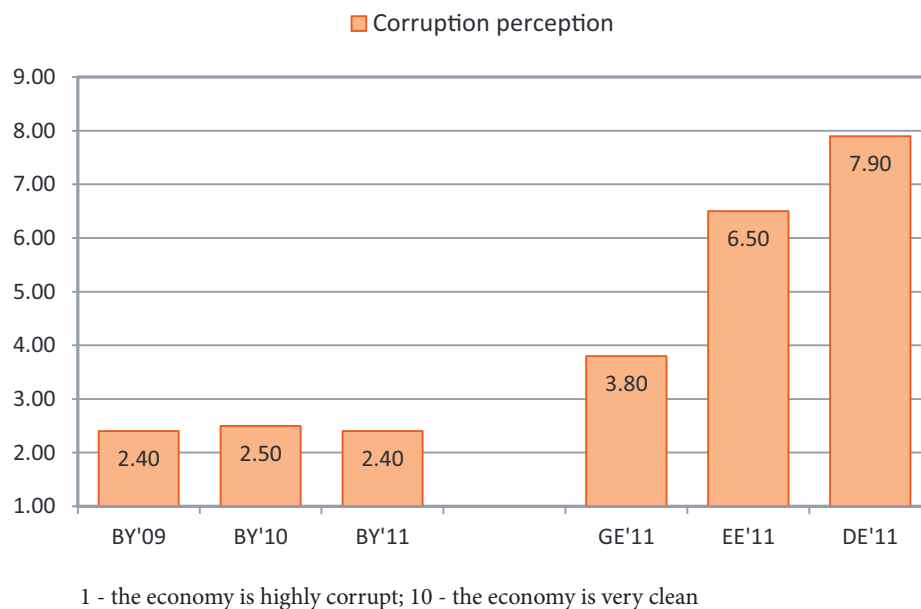
house of the country's Parliament). A constitutional referendum in 2004 removed the last constraint on presidential powers by waiving presidential term limits.

Overall, with no system of checks and balances existing in Belarus, the country would deserve the bottom score on this indicator. However, the strategy of political survival of the authorities presupposes implementation of social protection programs to the benefit of Belarusians, which regularly feed paternalistic expectations in the country. Observance of these programs and accountability of implementing authorities can often be mistaken for the presence of the rule of law.

<sup>33</sup> Since WEF Global competitiveness Indicators do not cover Belarus, this country section omits indicators A2, A3, B1, C2, C3, D3 and E1

## B: Public administration in Belarus: Openness and transparency

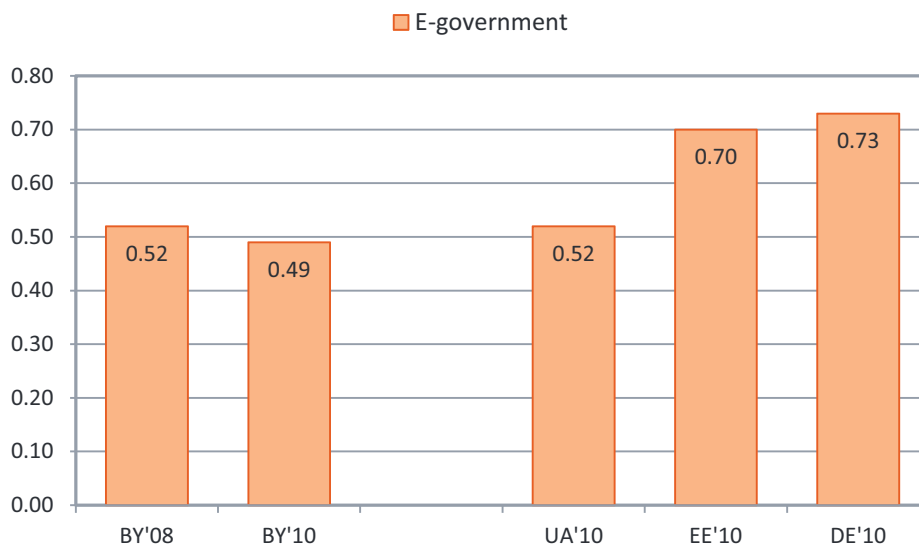
### B2: Corruption perception



In 2011, Transparency International ranked Belarus 143 out of 183 countries according to the Corruption Perception Index (this equals 2.4 for Belarus on the scale between 0 “highly corrupt” and 10 “very clean”). The perceived level of corruption in Belarus is the same as in Russia, slightly less than in Ukraine (2.3), but significantly higher than in neighbouring Poland (5.5), Lithuania (4.8) and Latvia (4.2). Some improvement, albeit uneven, may be noticed compared to 2008, when the CPI indicated only 2.0. Corruption is addressed in Belarusian leg-

islation, which regulates possible conflicts of interest, for example by provision that all draft laws to be considered by Parliament first have to pass the so-called criminology test in the office of Prosecutor General to examine whether it could encourage bribery. Economic liberalization and de-bureaucratization initiatives pursued on a limited scale by the government in the past two years have led to some improvements in the overall transparency of the government.

### B3: E-government



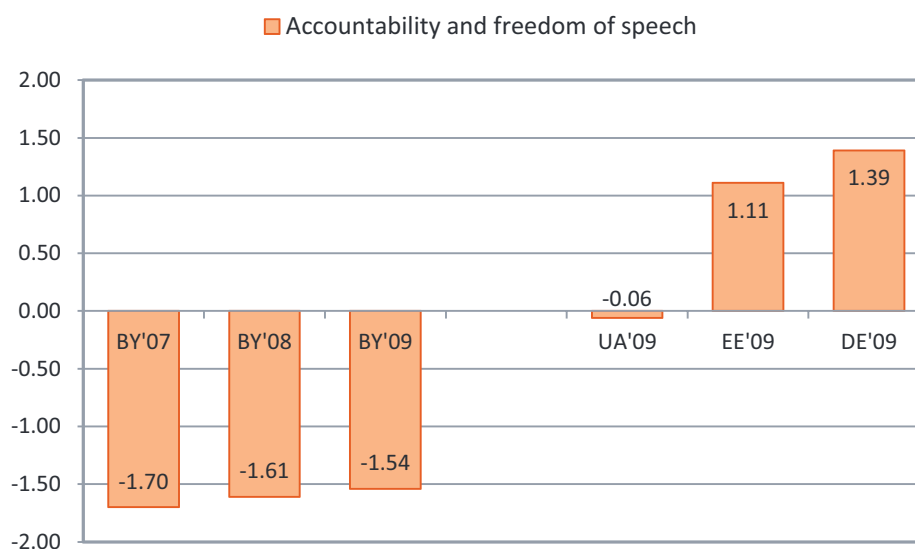
Availability of e-services, e-readiness based on website assessment, human resource endowment, index of the telecommunication and index of e-participation. Scale from 0 (worst) to 1 (best)

Completion of the State program of IT development (“Electronic Belarus 2003-2010”) was an important step in establishing the components of e-government in the country: telecommunications infrastructure has been improved, major public information systems and resources developed, and a series of regulatory documents (on electronic signature, on the structure of government websites etc.) adopted. Electronic development projects implemented by government agencies focus primarily on their own administrative needs, which makes Belorussian e-government system centred on administration itself rather than citizens.

E-government development in Belarus staggers not so much at technology issues, but rather needs an adequate policy and legal framework to organise the process of electronic interaction between citizens and government. This framework should comprise an integrated e-government concept with emphasis on providing services to citizens, adequate regulatory framework and participatory elements (public expertise and monitoring) based on international practices and with due attention to qualitative characteristics of e-government.

## C: Public administration in Belarus: Accountability

### C1: Accountability and freedom of speech



Shows the extent, to which citizens are able to participate in the selection of their government, as well as freedom of expression, freedom of association, and freedom of media. Scale from -2.5 (worst) to 2.5 (best)

Belarus lacks meaningful electoral competition. Opposition candidates have no equal opportunities for registration and campaigning. Members of the Central electoral commission (CEC) are appointed by the president to five-year terms, which effectively ensures interpretation of electoral legislation to the advantage of pro-government candidates. The results of the 2010 presidential elections and the subsequent brutal crackdown on public protests sent a clear signal to the society (and to those observing from abroad) that reforms in the electoral campaign process had been superficial and temporary.

Authorities continue to restrict media freedom. State-controlled media outlets engage in propaganda and receive subsidies from the government. Nearly a dozen of periodicals have been banished from the government-controlled subscription and retail distribution networks. The government prohibits civil servants from accessing blacklisted websites from their office computers. Restrictions are

maintained on advertising in independent newspapers, higher rates are charged for distribution services and newsprint. Independent journalists face persecution and are often denied access to information.

According to the Belarusian Ministry of Information, 1362 printed mass media (666 newspapers, 650 magazines, 38 newsletters, 7 catalogues, and 1 almanac), including 401 state-owned media outlets, were registered in Belarus as of April 1, 2011. Despite the quantitative prevalence of non-state media, media controlled by the state dominate in the Belarusian information landscape, since the majority of non-state media only deal with advertising, entertainment, etc. No more than 30 periodicals cover socio-political issues. Eleven of them are not distributed by the “Belposhta” and “Sayuzdruk” state monopolist press distributors by subscription and through news-stalls, and were ousted from subscription catalogues and kiosks on the eve of the previous Presidential election in 2006.

#### **C4: Ease of doing business global rank 2012: Belarus – 69, Georgia – 16, Germany – 19, Estonia – 24**

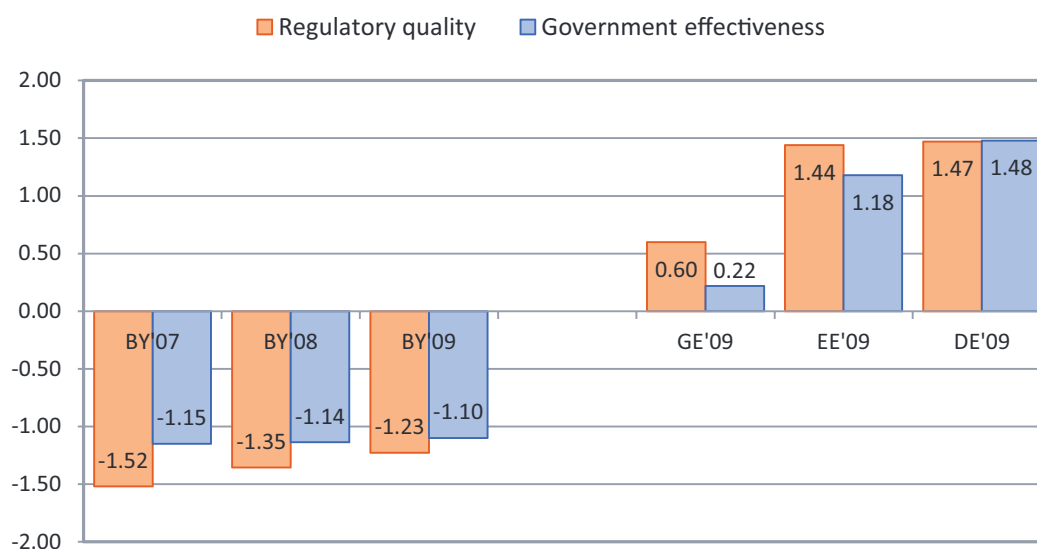
2012 Doing Business report placed Belarus 69th of 183 economies in the overall ranking, which is a significant improvement from rank 91 in 2011. In the underlying thematic rankings significant improvements were registered in protecting investors, paying taxes and resolving insolvency, however, the absolute ranks remain quite low (79th, 156th and 82nd respectively). Practical experience basically supports report conclusions. For example, simplified taxation to the benefit of small companies does not radically improve the situation on the whole.

A serious obstacle for doing business in Belarus is the strong administrative influence on businesses. All state authorities, from ministries to local executive bodies, have broad powers to control and influence private companies. For instance, certain procedures that private companies apply for require approval of local administration (e.g. to get a permit from National bank for prolongation of payment for exported goods). It is common practice that directors of medium and large private companies are invited and expected to attend meetings of local administration and are required to participate in events organized by municipality even if this is unprofitable. There are no legal norms which may force private companies to such cooperation, but in practice refusal to cooperate with local administration may lead to difficulties in running business.

Investment activities are currently regulated by the Investment code and Decree of the President Nr. 10 of 06.08.2009 (“Decree Nr. 10”). Decree Nr. 10 determines that investment projects may be carried out on the basis of an investment agreement between the investor and Republic of Belarus. Conclusion of such agreement grants various privileges for investors, which encompass special rights to facilitate construction process, deduction of VAT paid with purchase of goods (rights, services) for the investment project, waiver on import custom duties, land tax for the construction site, some fees and compensations (e.g. connected with usage of agricultural lands for construction). Currently, starting investment project is easy and takes much less efforts than it used to. On addition, there is an opportunity to negotiate with the Council of ministers and acquire additional benefits (like exemption from the tax on profit, etc.) if the President approves the project of the investment agreement. The existence of such business practices in Belarus should explain the country’s advanced position in the ranking compared to Moldova and Ukraine.

## D: Public administration in Belarus: Efficiency and effectiveness

### D1: Regulatory quality D2: Government effectiveness



D1 shows perceptions of the government ability to formulate and implement sound policies that permit and promote private sector development; D2 captures the quality of policy formulation and implementation, and the credibility of government commitments to such policies. Scale from -2.5 (worst) to 2.5 (best)

In the World Bank's Worldwide Governance Report, Belarus has consistently very low rankings on government effectiveness and regulatory quality. The country is also far behind all other EU Eastern Partners, especially on regulatory quality. A statistical upward trend registered in the years 2007-09 may be attributable to the mentioned improvement of investment protection by enforcing a set of privileges. The National Investment Agency of Belarus operates an internet portal <http://www.invest.belarus.by/en/business/> with relevant practical information for investors. However, harassment of business by state authorities continues to hold the country back in improving the regulatory quality.

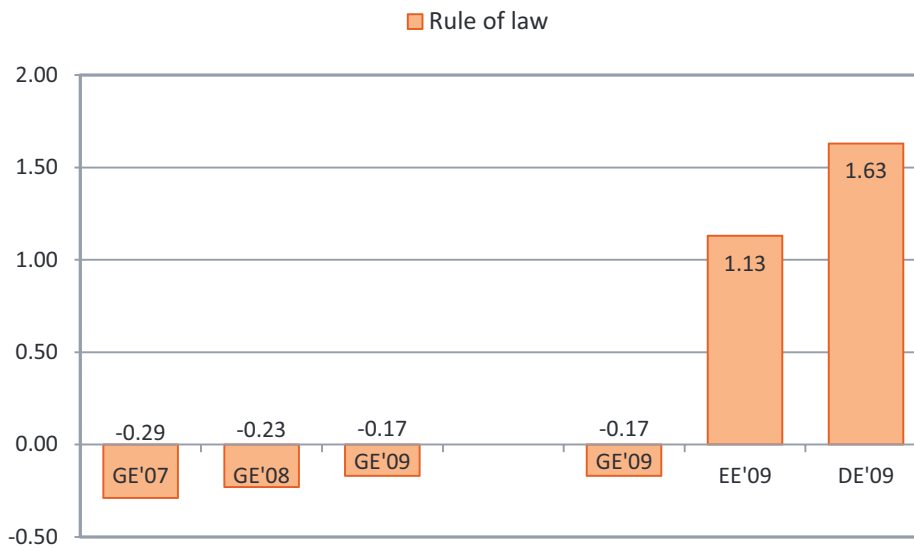
Low quality of policy formulation erodes the ability of Belarusian public administration to imple-

ment adopted decisions. With a "Directive No. 4" of 31 December 2010, the President announced 2011 the Year of Entrepreneurship in the country and issued a set of measures facilitating competition with the objective to "further liberalize the Belarusian economy, raise competitiveness and create favourable conditions for dynamic and sustainable development". Severe macroeconomic imbalances including drastic devaluation of the domestic currency, which Belarus went through in 2011, radically changed the environment for any measures protecting competition and strongly compromised the effectiveness of the Directive No. 4. Signs of the upcoming crisis were certainly visible at the end of 2010, as the Directive was made ready for adoption.

## European principles of public administration in Georgia

### A: Public administration in Georgia: Reliability and predictability

#### A1: Rule of law



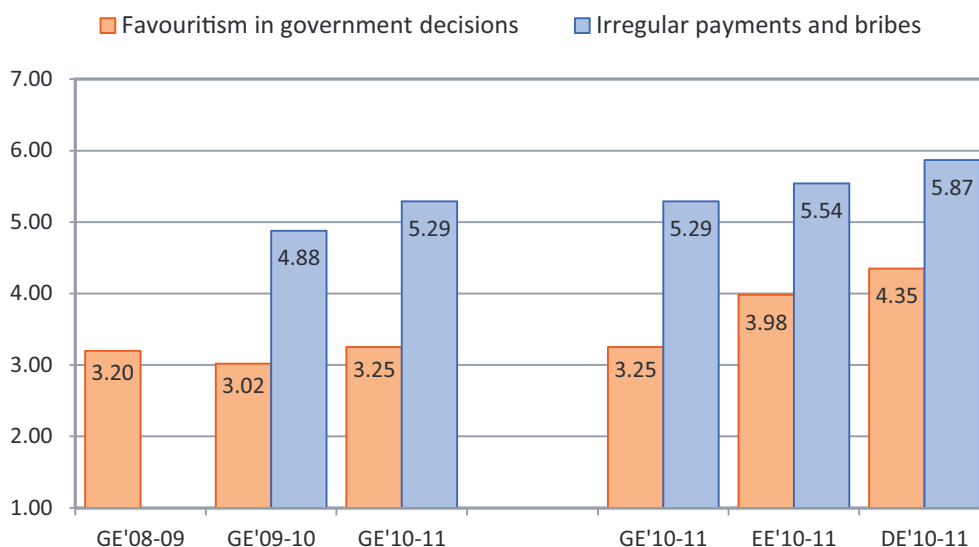
Measures extent, to which government and citizens have confidence in and abide by the rules of society. Scale from -2.5 (worst) to 2.5 (best)

The point of departure for Georgia to build up the rule of law was the “classical failed state” (as formulated by President Saakashvili in March 2011 in Brookings Institution), which gave rise to the Rose revolution in 2003. Application of the rule of law in Georgia has improved drastically since then, and positive changes continued in the recent years. Reform results should be treated however with some caution, owing to the very low “base

level”, from which they started. Lack of institutional depth of the government, where decisions depend much stronger on the person in power rather than on policy plans endorsed collectively, insufficient professional integrity and competence, inclination to resort to discretionally powers are still characteristic of the Georgian administration. These issues require a sustainable, long-term reform effort, which the country has all conditions to pursue.



**A2: Favouritism in government decisions A3: Irregular payments and bribes**



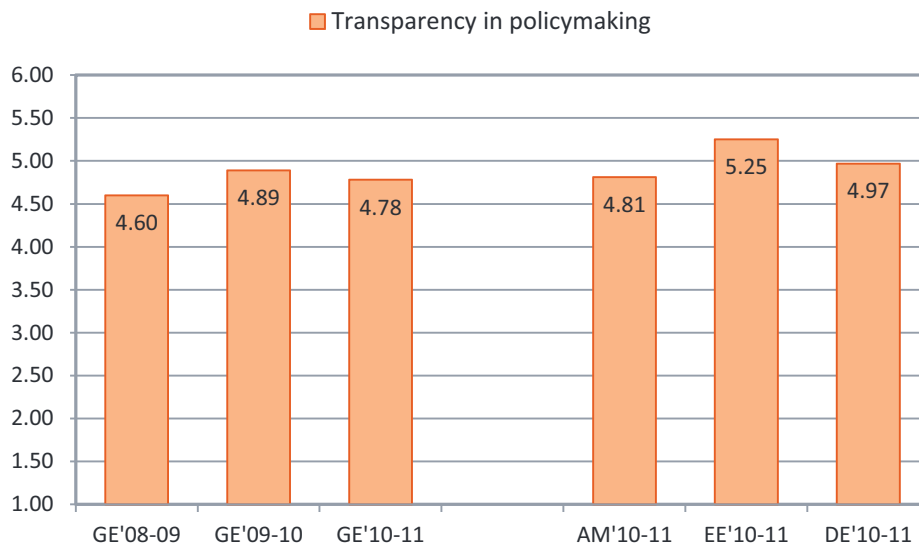
A2: 1 - government officials always show favouritism; 7 - government officials never show favouritism  
 A3: 1 - irregular payments are very common; 7 - irregular payments never occur

On both indicators, Georgia’s performance is at comparable levels with the reference EU member states Estonia and Germany, even if the country is still lagging behind. Favouritism has been a problem in the economy in 2007-09, as the economic reforms have failed to translate in welfare gains of households, provoking public unrest. It is still broadly felt in the country that favouritism is practiced at distribution of funds, particularly those coming from abroad, to important development projects, thus nourishing political corruption

at high public administration levels. In contrast, irregular payments and bribes have been effectively eliminated, with surveys quoting over 95 percent of respondents not paying bribes for services, which were notoriously associated with bribes – such as getting driving licence, receiving passports, buying apartments. Education sphere is nevertheless still felt highly bribe-intensive in Georgia.

## B: Public administration in Georgia: Openness and transparency

### B1: Transparency in policymaking

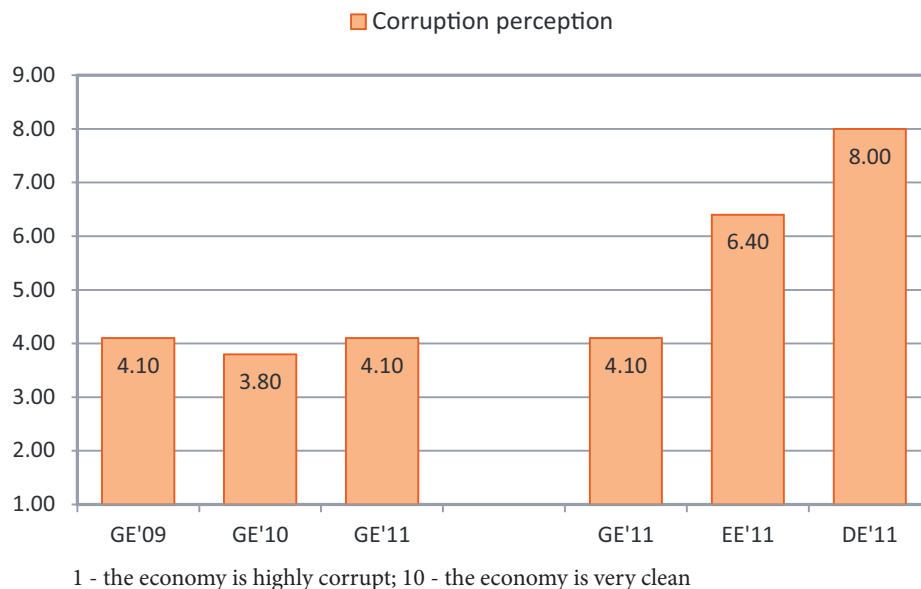


Easiness to obtain information about changes in government policies and regulations affecting businesses: 1 - impossible; 7 - extremely easy

Georgia has recorded remarkable progress in enhancing transparency of government decisions for businesses. It is mostly associated with dismantling administrative barriers to market entry and respective diminishing of communication between authorities and business. The internet presence of the government has improved recently (see B3).

However, business-related information is often made available with delays, which is attributable mostly to insufficient skills of ministerial staff and prevailing underestimation of advantages brought by information sharing from government to business. In absolute terms, Georgia stayed slightly behind Armenia and Germany in 2010-11.

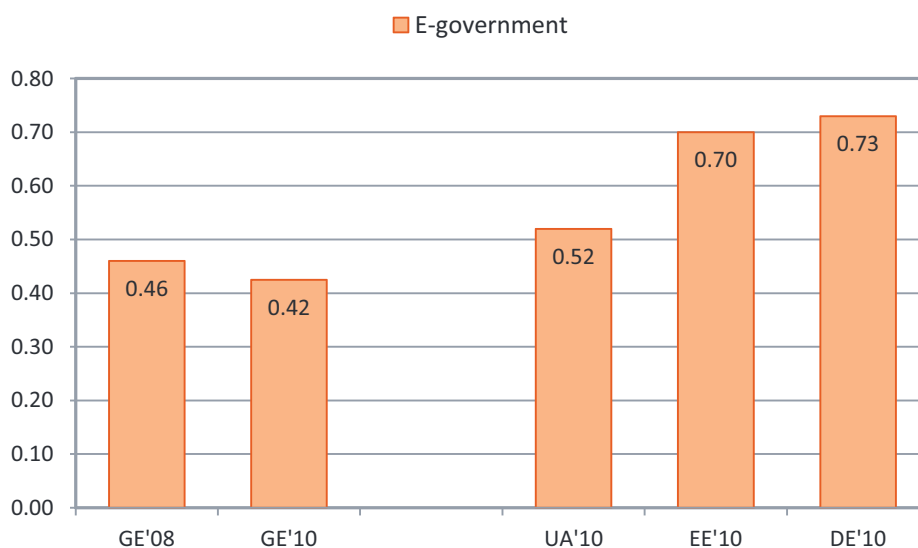
## B2: Corruption perception



Success in eliminating petty administrative corruption in the years after the Rose revolution has made Georgia an international success story. Authorities have been consistent in pursuing ultra-liberal regulatory policy to remove any invitation to corruption, which would inevitably happen once the state retains regulatory functions. In the Geor-

gian context, where corruption had been notoriously endemic until 2003, unequivocal deregulation proved to be the right policy choice. It has failed however to credibly address higher-level political corruption, which is why the country lags clearly behind the levels of Estonia and Germany.

## B3: E-government



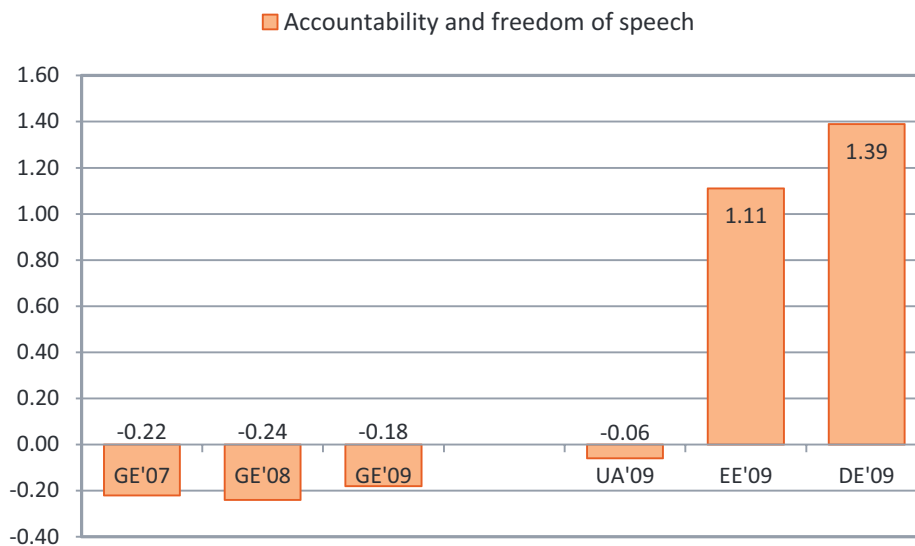
Availability of e-services, e-readiness based on website assessment, human resource endowment, index of the telecommunication and index of e-participation. Scale from 0 (worst) to 1 (best)

Georgian Ministry of Justice maintains an internet portal, where a number of government services and types of information for citizens, businessmen, state authorities and foreigners are placed online. Some of those are available only in Georgian, such as data on state property registry, others – as statistical data state budget – appear obsolete. In contrast

to Azerbaijan and Ukraine, the country is beyond the 70 economies ranked by the EIU e-readiness index. Like in other EaP countries, internet access is extremely scarce in rural areas, while the intention of authorities to raise e-inclusion has not materialised in a policy programme.

## C: Public administration in Georgia: Accountability

### C1: Accountability and freedom of speech

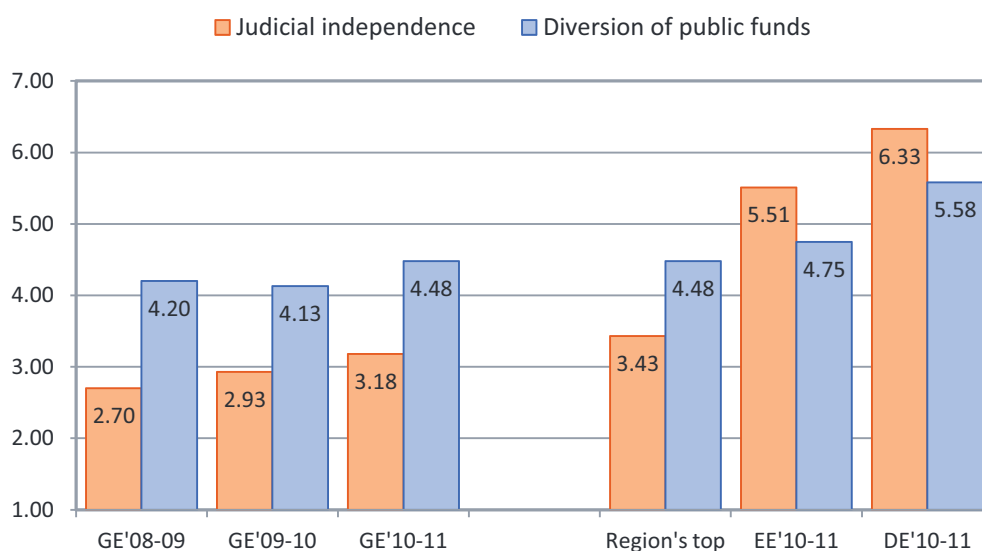


Shows extent, to which citizens are able to participate in the selection of their government, as well as freedom of expression, freedom of association, and freedom of media. Scale from -2.5 (worst) to 2.5 (best)

Georgian emerging democracy slipped back a number of times in handling public protests against the government policies, most notably in November 2007, as the demonstrations were violently dispersed by the police in the centre of Tbilisi. A recourse to the same practice happened in May 2011, as the police used excessive force and brutally disseminated peaceful anti-government protesters. Media freedom has been a point of concern in

the recent years, as the authorities intruded into information policies to wipe out critical reporting. Continued practice of threatening and judicial harassment of civil activists erodes enforcement of the right for assembly. Against this background, the International Federation for Human Rights witnessed no progress in the situation of human rights in the country in its 2011 annual report.

## C2: Judicial independence, C3: Diversion of public funds



C2: 1 – judiciary is heavily influenced by government, citizens or firms; 7 – judiciary is entirely independent  
 C3: 1 – diversion of public funds due to corruption is very common; 7 – such diversion never occurs

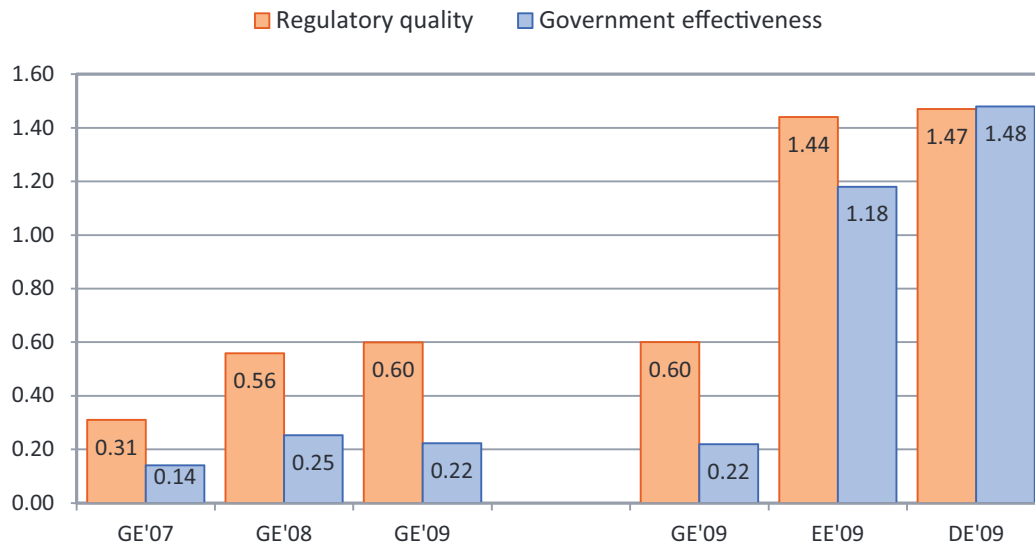
Georgia has been steadily enhancing independence of judiciary in the years 2008-10, but the overall progress on judiciary reform has been slow and controversial. For example, the constitutional requirement to appoint judges for life is accompanied with long probation periods, during which judges remain exposed to political pressure. There is still much evidence of partial courts' judgements reflecting the resistance against the change of well-established system of vested interests. The situation with public spending for the declared development objectives has been also improving in the recent years, and Georgia stood close to Estonia on the absolute value of the indicator. Georgia's civil society has raised serious concerns about transparency and accountability of the funding pledged by the international donor community (approximately \$4.5 billion) in aid for reconstruction, resettlement, and economic recovery after the war with Russia in 2008.

## C4: Ease of doing business global rank 2012: Georgia – 16 (best score in the EaP region), Germany – 19, Estonia – 24

Since Georgia had been praised “the top reformer” in 2007, it kept its high ranking in the Doing Business survey, ahead of some developed EU economies. The country's reform record encompasses radical liberalisation of labour market, simplified rules for market entry, upgrading of the banking system to international standards, fiscal consolidation coupled with streamlining of tax and customs administrations. Some business operations – most notably trade across the border and market exit (closure of business) – are however associated with unreasonably high costs and lengthy bureaucratic procedures, respectively.

## D: Public administration in Georgia: Efficiency and effectiveness

### D1: Regulatory quality, D2: Government effectiveness

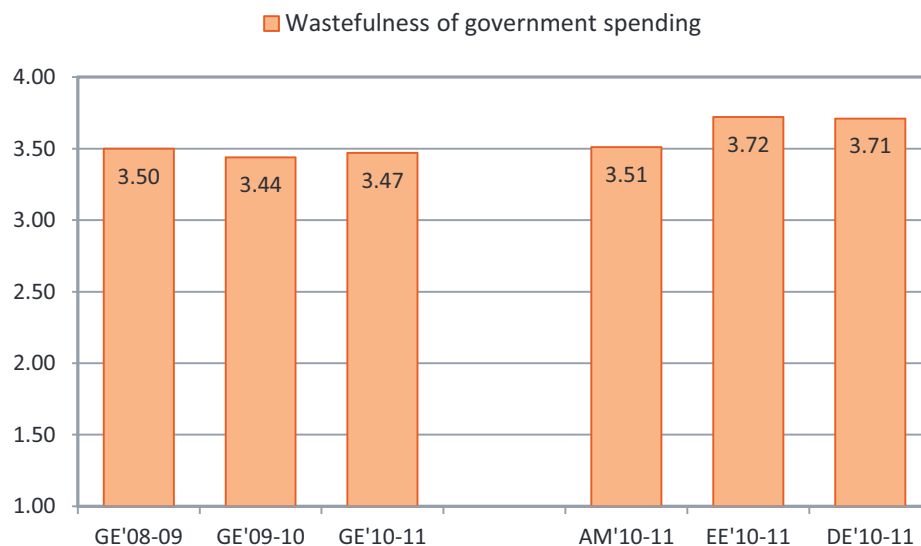


D1 shows perceptions of the government ability to formulate and implement sound policies that permit and promote private sector development;  
 D2 captures the quality of policy formulation and implementation, and the credibility of government commitments to such policies. Scale from -2.5 (worst) to 2.5 (best)

Liberal regulatory policies to the favour of private sector development have been one of the most successful undertakings of Georgian authorities. The country is far ahead of other EU Eastern Partners on this indicator, with only Armenia trying to catch up, albeit with an uneven progress. The gap to the advanced EU economies can be explained by the remaining dependence of business, especially solid investments, on patronage by government officials of high rank. This keeps the investment climate quite risky. Authorities prefer to confine

policy programs to concise statements: the government Program of Activities 2008-12 “Georgia without Poverty” allows much room for improvisation and corrections. Sector-specific policy programs, much needed to modernize the structure of the economy, pave their way with difficulty and normally have languid monitoring mechanisms. For example, the agriculture development strategy was drafted in 2006, experienced several revisions and finally approved for the period 2009-12.

### D3: Wastefulness of government spending



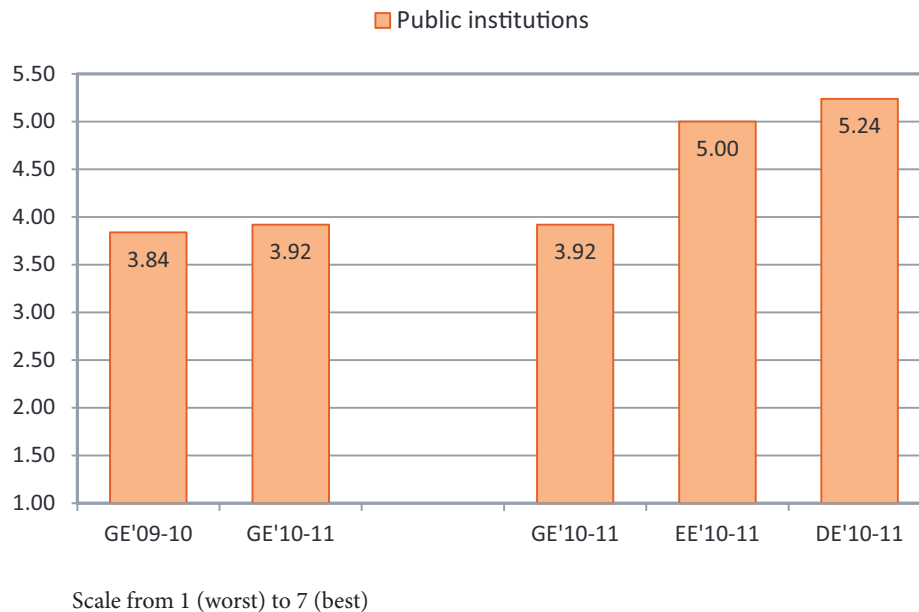
D3: 1 – government spending in providing necessary public goods and services is extremely wasteful; 7 – government spending is very efficient

Georgia's position on this indicator has been remarkably close to that of Estonia and Germany, even though the country lagged slightly behind the region's leader, Armenia. While service provision has been improving, big deficits with regard to education and healthcare exist in rural areas. Public spending on the modernisation of the obso-

lete network of healthcare institutions often do not even reach remote regions, and the access to school education is hampered by underdeveloped infrastructure. Such deficits need to be attended with a credible social development programme, so that government efforts to alleviate poverty show sustainable results.

## E: Public administration in Georgia: consolidating indicator

### E1: Public institutions



Judging by Georgia's scores throughout this report, the country has 9 top positions out of altogether 14 indicators of the European principles of public administration. Logically, Georgia is the regional leader on the consolidating indicator "Public institutions". With its score 3.92 in 200-11, the country stood slightly above EU member states Lithuania (3.87) and Latvia (3.81), leaving Roma-

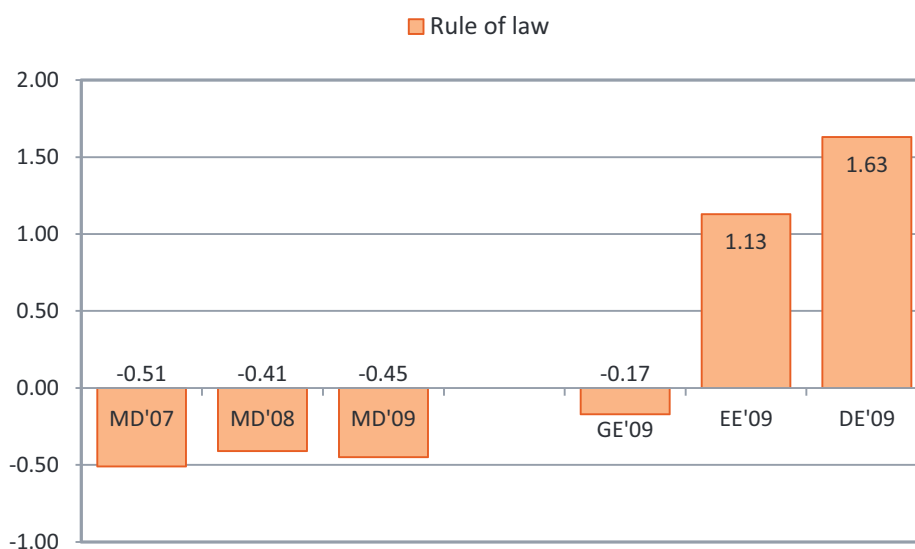
nia (3.38) and Bulgaria (3.17) more visibly behind. No less vivid is however Georgia's standing at the rear of more advanced EU MS, in which sense freedom of expression, curbing political corruption by reinforcing accountability of high-level politicians, and further strengthening the independence of judiciary are the main areas calling for more reform effort.



## European principles of public administration in Moldova

### A: Public administration in Moldova: Reliability and predictability

#### A1: Rule of law

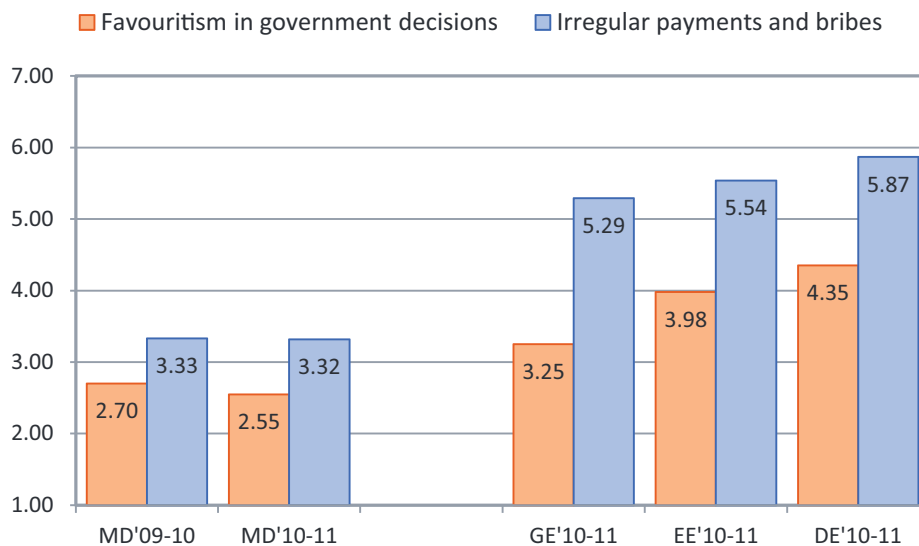


Measures extent, to which government and citizens have confidence in and abide by the rules of society. Scale from -2.5 (worst) to 2.5 (best)

Owing to the generally weak enforcement of laws and regulations, Moldova lags behind the region's best performer Georgia on the rule of law indicator. One of the major problems Moldova faces is the incapacity of the government to enforce its policies and legislation throughout the country, attributable to a number of reasons: the structural weakness of public institutions, everlasting restructuring of government agencies, frequent overlapping of responsibilities between different agencies,

an unclear delimitation of duties between different levels of government. The usual – albeit ineffective – measure to address these problems has been the continuous organizational reshuffling of government ministries, bodies and agencies, which each new Moldovan government would resort to once it got in power.

## A2: Favouritism in government decisions A3: Irregular payments and bribes



A2: 1 - government officials always show favouritism; 7 - government officials never show favouritism

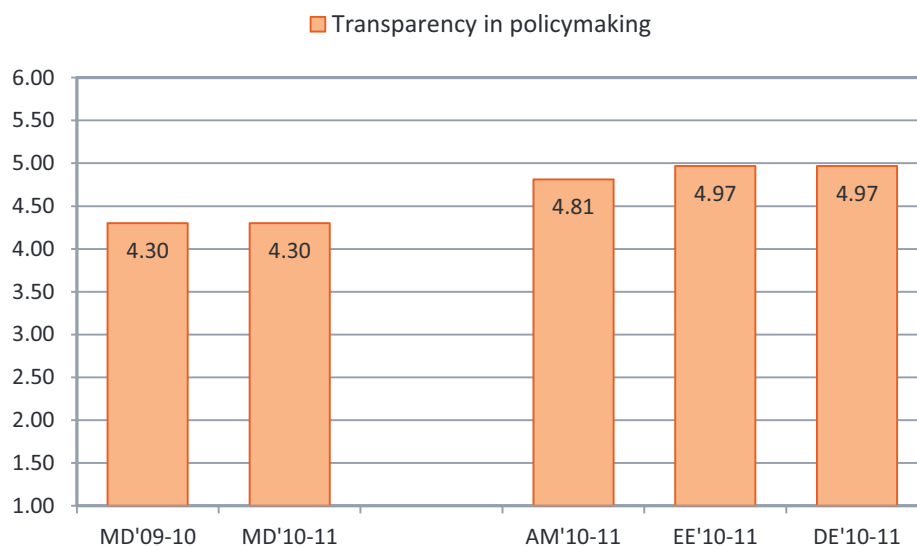
A3: 1 - irregular payments are very common; 7 - irregular payments never occur

Business executives report that government officials often favour well-connected companies and individuals when awarding contracts. In accordance with Transparency International Moldova (2009), companies witness that informal payments are often necessary in order to “solve problems” during public procurement processes. Bureau of economic, energy and business affairs of the US Department of State reported in February 2009 that political corruption frequently occurs in public procurement processes in Moldova, and there is no transparency in how the government evaluates bids. And the Global Integrity Report 2010 decries that companies guilty of major violations of procurement regulations are not blacklisted and can continue their participation in procurement bids.

Consequently, Moldova’s efforts to curb irregular payments and limit favouritism in government decisions have been broadly unsuccessful since the renewal of the monitoring by the WEF Global Competitiveness Index in 2009. The Global Competitiveness Report 2011-12 ranks Moldova 107th of total 142 economies under „Favouritism in decisions of government officials” (down from rank 94 of 139 in preceding year) and 102nd (unchanged) on „Irregular payments and bribes”. Absolute values have deteriorated on both indicators. No improvements have been registered in the regional comparison, where Moldova’s performance has been below average.

## B: Public administration in Moldova: Openness and transparency

### B1: Transparency in policymaking

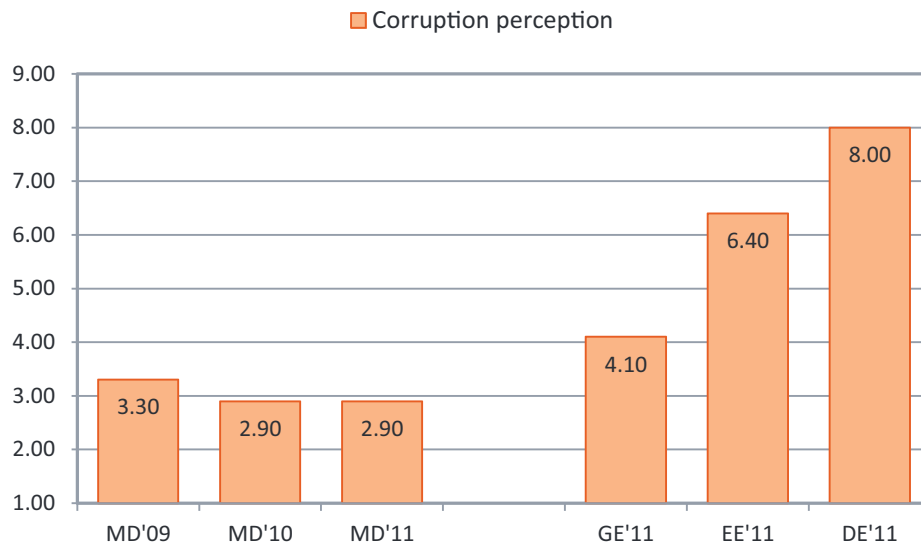


Easiness to obtain information about changes in government policies and regulations affecting businesses: 1 - impossible; 7 - extremely easy

Moldovan Law on Transparency in Decision Making (2008) uniformly stipulates public disclosure of different types of information on official web sites of central public administration authorities, among others about the rules of information disclosure, consulting and participation in decision-making process, annual programs of elaboration of normative acts, notifications about the start of decision preparations and organization of public debate etc. Although the government information land-

scape is quite developed, not all public authorities fully observe their obligation to share information. The process is slowed down by the lack of institutional capacities and shortage of available financial, as well as the imperfections of the legal framework. Consequently, in 2010-11 Moldova lagged behind the South Caucasus countries but ahead of Ukraine, exactly at the statistical mean level of the 142 economies of the GCI database.

## B2: Corruption perception

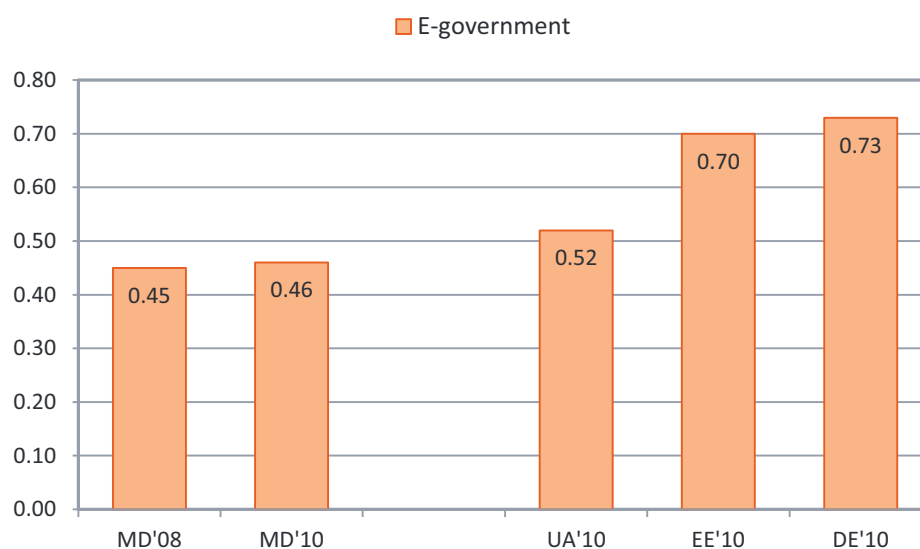


1 - the economy is highly corrupt; 10 - the economy is very clean

Moldova shows second-best performance – albeit uneven in time – on corruption perception among the 6 EAP countries, lags however, far behind Germany and Estonia and the region's leader Georgia. Corruption has become systemic in numerous areas of economic activity. Typical difficulties in the statehood building, as the necessary regulations and instruments to ward off corruption risks were at first neglected, unstable social safety nets, widespread state capture by various interest

groups, and a large shadow economy has created an environment for corrupt practices. The Global Competitiveness Report 2010-11 identifies corruption as one of the most problematic issues for doing business in Moldova: out of the total number of respondents, 13% consider that corruption is the strongest negative determinant for the economic activity in Moldova.

### B3: E-government



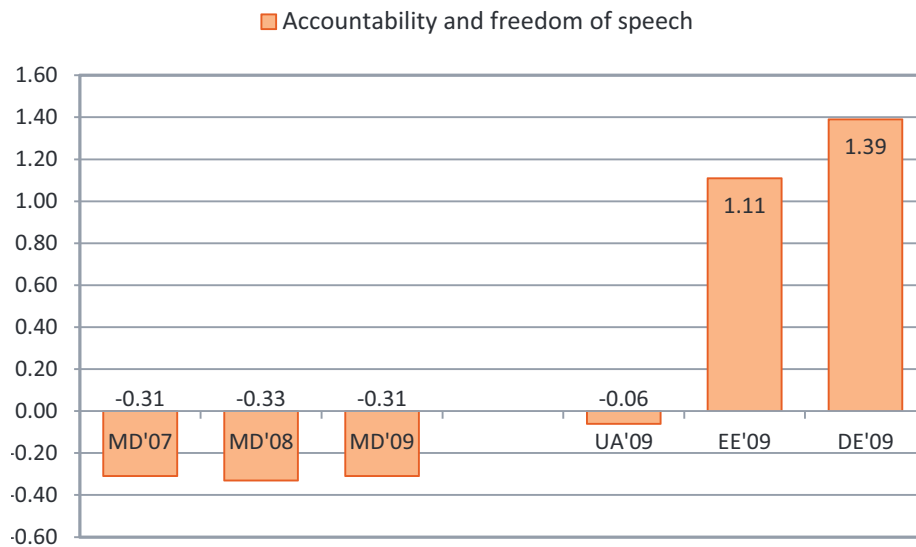
Availability of e-services, e-readiness based on website assessment, human resource endowment, index of the telecommunication and index of e-participation. Scale from 0 (worst) to 1 (best)

In August 2010, the Government created the Electronic Management Centre responsible for the elaboration and introduction of e-government services. The process takes place in an environment of underdeveloped information systems and weak institutional capacities of IT units in the central public administration authorities. Most of them still process data and store documents in paper form thus hampering the monitoring of operations and observance of normative acts. In the ICT Devel-

opment Index (IDI) 2010, Moldova ranked 57th, seven positions up compared to 2008. In this period the country doubled its international bandwidth per internet user, and internet coverage of household grew from 16 to 34 per cent. Correspondingly, broadband internet usage on both fixed and mobile lines increased substantially during this period.

## C: Public administration in Moldova: Accountability

### C1: Accountability and freedom of speech

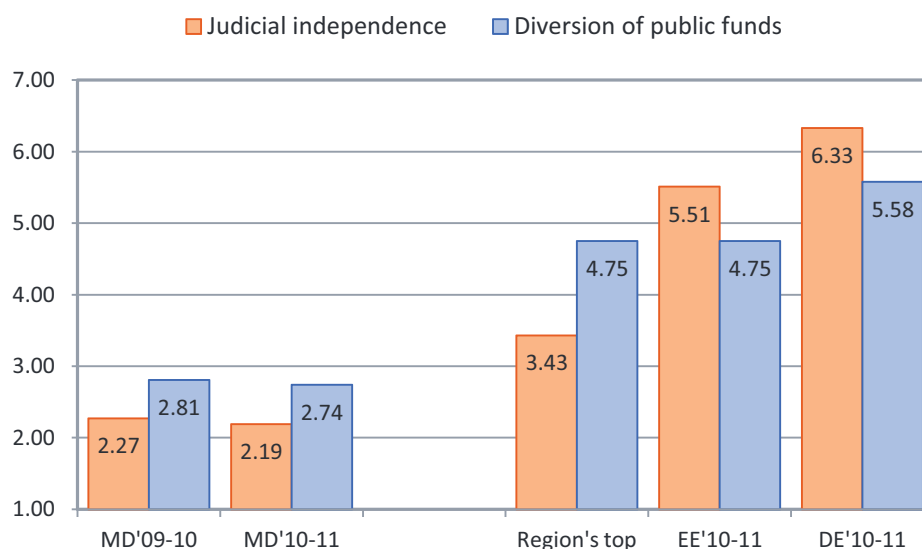


Shows extent, to which citizens are able to participate in the selection of their government, as well as freedom of expression, freedom of association, and freedom of media. Scale from -2.5 (worst) to 2.5 (best)

Freedom of expression, freedom of association, and freedom of media as basic values of a democratic society were repressed in 2007-09 much stronger than in other EaP countries. Since then Moldova progressed considerably in developing its own legal basis necessary to respect human rights. Typically however, less progress was seen in the implementation of legal provisions: weak sanctions for non-observance coupled with loose monitoring allowed responsible bodies to ignore or misapply the newly introduced norms. This was true in relation to many fundamental rights and freedoms,

such as freedom of expression, access to information of public interest, freedom and personal security of detained or arrested persons, non-application of torture and inhuman treatment, freedom of meeting, the right to an equitable process. Non-observance of these rights has strongly affected citizens' behaviour in general and local elections at that period, as voters were manipulated and misinformed through partial mass-media.

## C2: Judicial independence C3: Diversion of public funds



C2: 1 – judiciary is heavily influenced by government, citizens or firms; 7 – judiciary is entirely independent  
 C3: 1 – diversion of public funds due to corruption is very common; 7 – such diversion never occurs

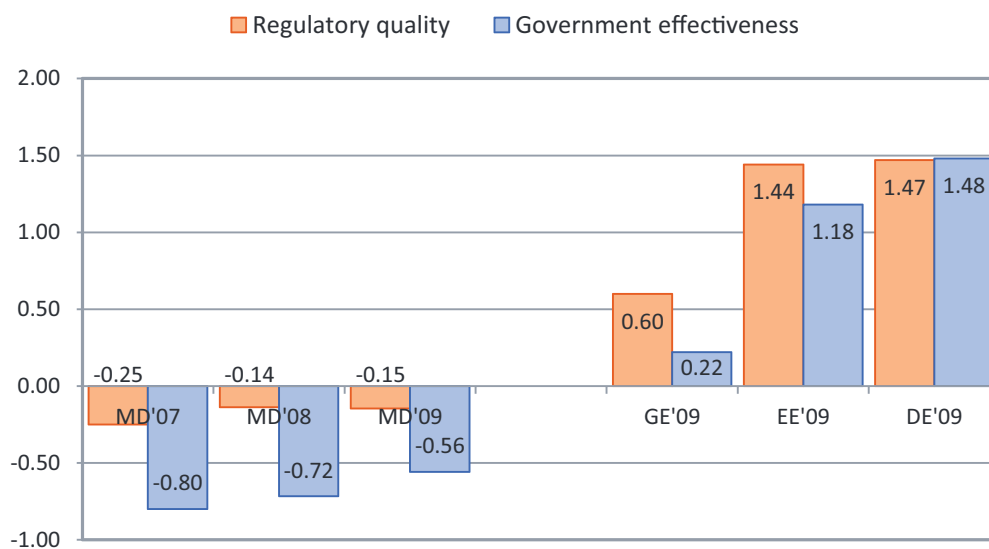
Moldova's performance along the two indices has been disappointing in the 2 recent years of observation in the Global Competitiveness Report. On independence of judiciary, the country ranked 130th of overall 139 economies in 2010 report and 132nd of 142 in 2011, on diversion of public funds due to corruption the corresponding ranks were 96th and 101st, suggesting no progress on either of the two. The pressure on judges and prosecutors by the officials as well as misallocation of public funds owing to pursuance of vested interests remain serious problems faced by Moldova. National NGOs have reported numerous cases, in which judges showed readiness to decide either way depending on inducement. Political dependence of the judicial system imposes significant economic costs to businesses and slows down the process of economic development in Moldova. The gap to the reference countries Estonia and Germany remains significant.

## C4: Ease of doing business global rank 2012: Moldova – 81, Georgia – 16, Germany – 19, Estonia – 24

Moldova's investment climate has gradually improved over recent years, although significant challenges remain, such as the effective implementation of laws and regulations. According to the 2012 Doing Business survey, Moldova's specific problems were: dealing with construction permits (rank 164 of 183), getting electricity (160), trading across borders (134), and protecting investors (111). Meanwhile, Moldova made starting a business easier by implementing a one-stop shop, improved its credit information system by establishing its first private credit bureau, and amended its insolvency law to grant priority to secured creditors. In doing business ranking, Moldova is still quite behind Georgia, Germany and Estonia.

## D: Public administration in Moldova: Efficiency and effectiveness

### D1: Regulatory quality D2: Government effectiveness



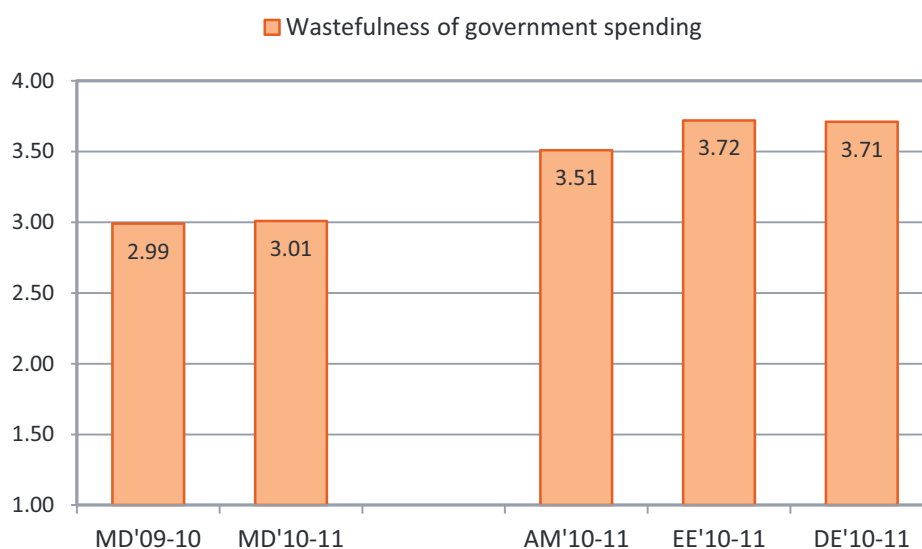
D1 shows perceptions of the government ability to formulate and implement sound policies that permit and promote private sector development; D2 captures the quality of policy formulation and implementation, and the credibility of government commitments to such policies. Scale from -2.5 (worst) to 2.5 (best)

On government effectiveness, the country has been improving its performance steadily over 2007-09, while the progress on regulatory quality reversed in 2009. Enterprises surveys still reveal much dissatisfaction with the unnecessary heavy burden of government regulation, ineffective anti-monopoly policy and competition protection, and weak protection of minority shareholders' rights.

At the same time the government has been improving its ability to formulate and credibly implement business-supporting policies, even though deficiencies in business infrastructure and only slowly advancing educational system, including vocational education and training, continue to hamper positive changes.



### D3: Wastefulness of government spending



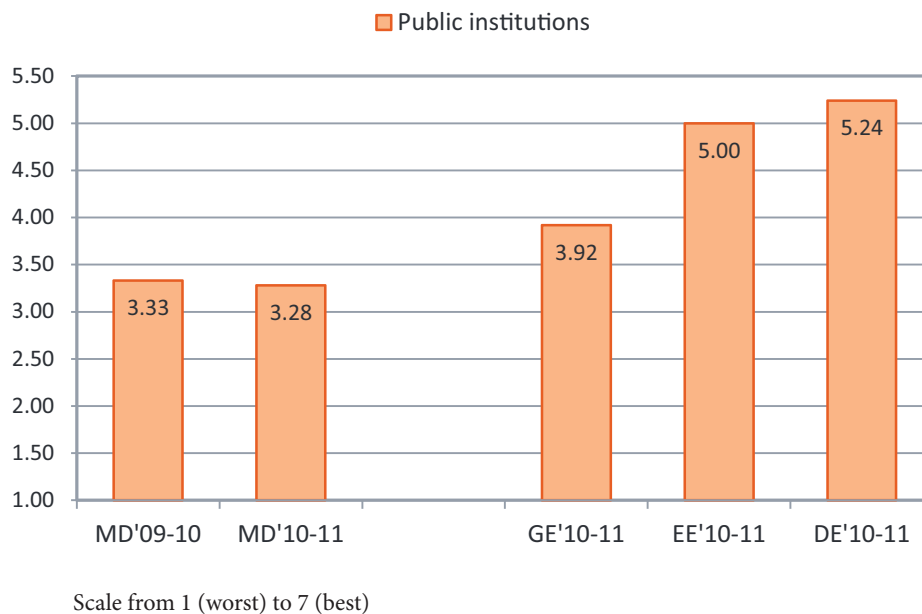
D3: 1 – government spending in providing necessary public goods and services is extremely wasteful; 7 – government spending is very efficient

Despite the relatively low public administration spending ratio in Moldova (5.4 percent of GDP in 2009 compared to an average close to 9 percent in neighbouring countries, according to the IMF country report 10/232 of July 2010), there is a perception that the provision of public services is not efficient. This also extends to other general service areas such as education, social protection, transportation and agriculture. The weak public service provision is corroborated by a relatively high level

of wastefulness of government spending and corruption concerns in some areas of public offices. On wastefulness of government spending, the country ranked 89th of overall 139 economies in The Global Competitiveness Report 2010. Respectively, Moldova's numbers are below the level recorded by Germany, Estonia and Armenia, although the gap is less vivid here than under indicators D1 and D2.

## E: Public administration in Moldova: consolidating indicator

### E1: Public institutions



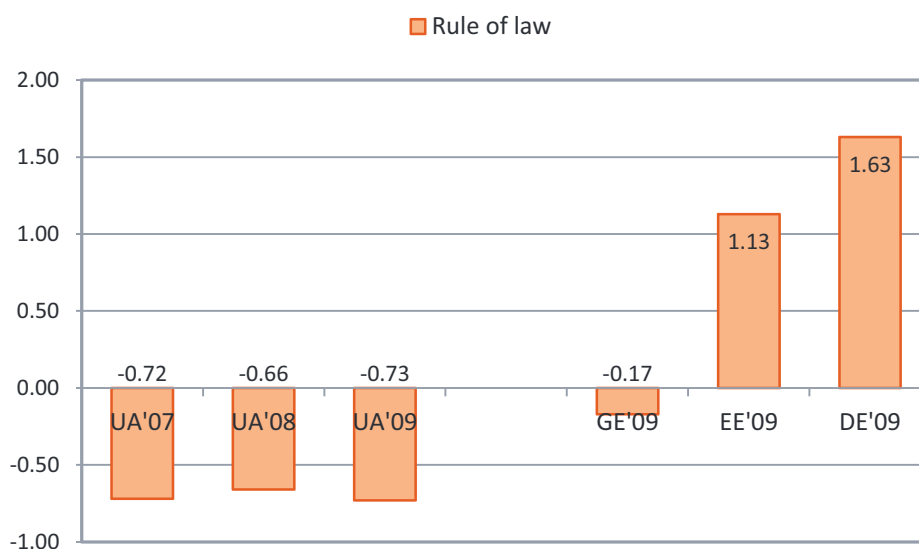
Among the analyzed countries, the highest values of the consolidated index which measures the quality of public administration have been recorded by Germany (5.24), followed by Estonia (5) and Georgia (3.92). Moldova is situated under the level of these countries (3.28 in 2010). Moreover, in 2010 the country has worsened its record in

comparison with the preceding year. This is mostly attributable to a downward trend under the indicators favouritism in government decisions (A2), corruption perception (B2), judicial independence (C2), while other indicators showed a more promising development.

## European principles of public administration in Ukraine

### A: Public administration in Ukraine: Reliability and predictability

#### A1: Rule of law

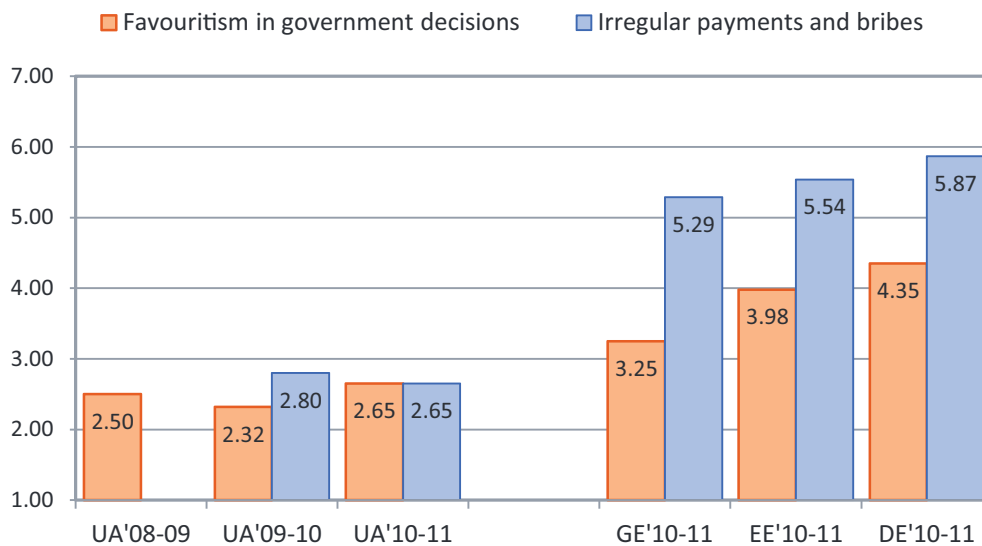


Measures extent, to which government and citizens have confidence in and abide by the rules of society. Scale from -2.5 (worst) to 2.5 (best)

The rule of law cannot be effectively followed in an environment of endemic corruption (see B2). From all actors in the society, state authorities practice arbitrariness most often, with adverse influence on the overall legal discipline. Non-implementation of laws is a common practice: Ministry of Justice has been ignoring its obligations from the Law on State Registry of property (2004) until an amended act was adopted in 2010. The rate of endorsement

of the decisions of courts is quite low: in 2009 only 32% of all decisions were implemented, as witnessed in the annual Ombudsman report 2010. Judiciary is very often selective in decisions, and citizens are deprived of the possibility to defend their rights in domestic courts. In 2001-2010, the European Court of Human Rights took 715 decisions related to Ukraine, of which 604 were about violation of citizens' rights on fair treatment by courts.

## A2: Favouritism in government decisions A3: Irregular payments and bribes



A2: 1 - government officials always show favouritism; 7 - government officials never show favouritism

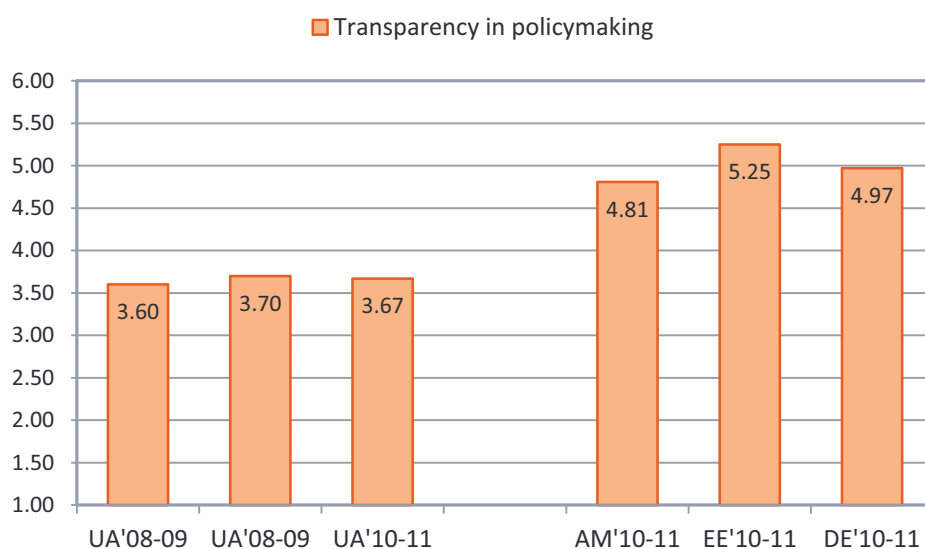
A3: 1 - irregular payments are very common; 7 - irregular payments never occur

Favouritism in Ukraine received a lucid manifestation after the recent presidential elections, as in 2010 many government officials were replaced with those loyal to the President and his Party of Regions. A nationwide survey of Razumkov Centre (2011) revealed that 57% of citizens believe state authorities protect the interests of big business and shadow sector, while only 10% think they protect interests of the whole Ukraine and only 2% – the interests of citizens.

Irregular payments are a common practice in the economy. High-ranking officials, notably MPs, tax officers, officials in law enforcement and controlling agencies reap benefits from their command over the economy, which is evidently demonstrated by the ill-hidden gap between their living standards and declared income.

## B: Public administration in Ukraine: Openness and transparency

### B1: Transparency in policymaking

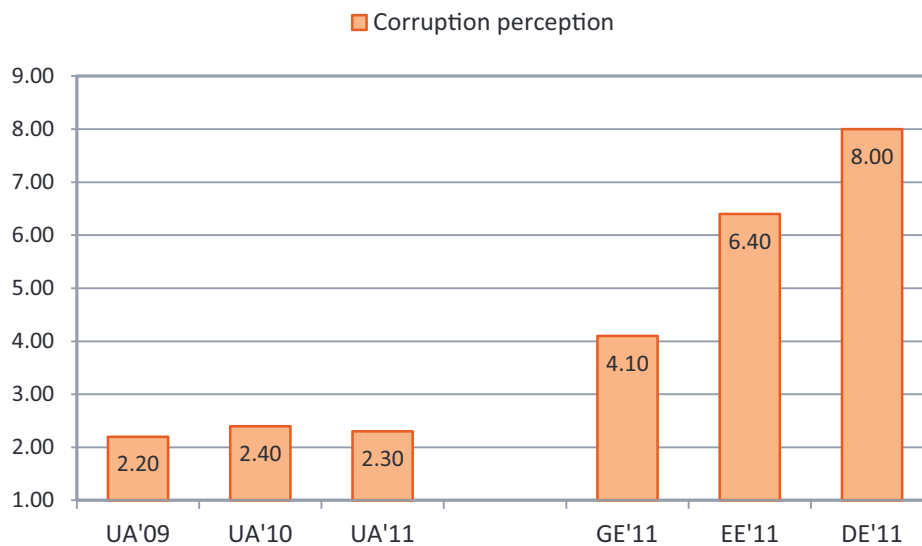


Easiness to obtain information about changes in government policies and regulations affecting businesses: 1 - impossible; 7 - extremely easy

A typical example of non-transparent policy making is the adoption of the Kharkiv agreements with Russia (2010) on Black Sea fleet and related import gas price “concessions”: even many government members and MPs have received no information about preparatory work. Consultations with business community typically precede adoption of laws; however, their opinion can be easily ignored, notably those expressed by SMEs. Exemplary in this sense was the adoption of the Tax Code in

December 2010, which led to massive protests of small and medium-size entrepreneurs. This has led to introducing numerous amendments to the code (through 10 legal acts) within less than one year. Typical is also taking up spontaneous, ill-prepared decisions, at times retroactively, which erodes transparency and predictability of policymaking.

## B2: Corruption perception

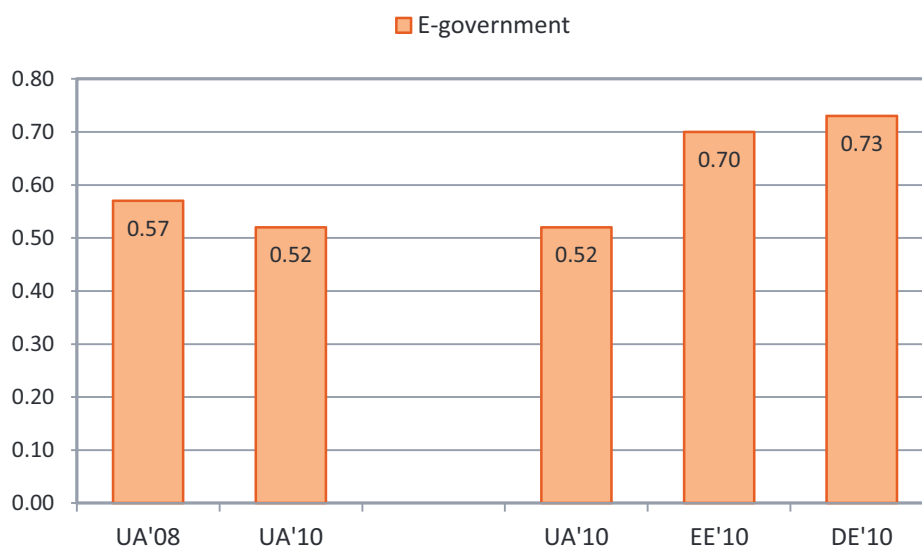


1 - the economy is highly corrupt; 10 - the economy is very clean

Evidence from the economy hardly underpins an improvement of the index in 2010 year on year. In May 2011, OECD made public its conclusions that Ukraine has effectively failed in implementing the anti-corruption action plan adopted in Istanbul in 2003. The new package of anti-corruption legislation signed by the President in April 2011 is expected to be inefficient as it contains – apparently in line with the dominant political interest – many opportunities for non-performance. For example,

the new Law on Principles of Prevention and Combating Corruptions omits the obligation of close relatives of MPs and high-ranking government officials to publicly declare income. Ukrainian expert community is unanimous in considering political corruption a systemic element of public administration and the most efficient lever of public governance. Overall, on corruption perception and especially transparency, Ukraine lags far behind other EaP countries.

### B3: E-government



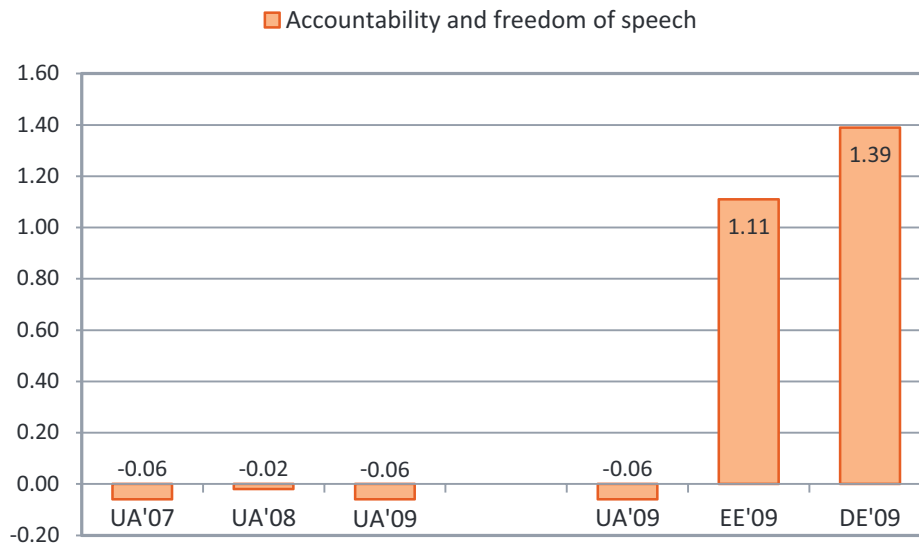
Availability of e-services, e-readiness based on website assessment, human resource endowment, index of the telecommunication and index of e-participation. Scale from 0 (worst) to 1 (best)

Ukraine was the best performer among the EaP countries on E-Government in 2010, however, regular internet access have only 36% of citizens, with big regional disparities (nation-wide survey by Razumkov Centre, October 2010). The WEF Networked Readiness Index ranks Ukraine 90th of the total 138 economies in 2010-11, a deterioration from the previous-year score of 82nd. Since

e-government reduces communication between a government body and citizen (entrepreneur) to a minimum, thus supporting transparency and restraining administrative rent-seeking, the political will to enhance this type of services in Ukraine is not clearly articulated.

## C: Public administration in Ukraine: Accountability

### C1: Accountability and freedom of speech



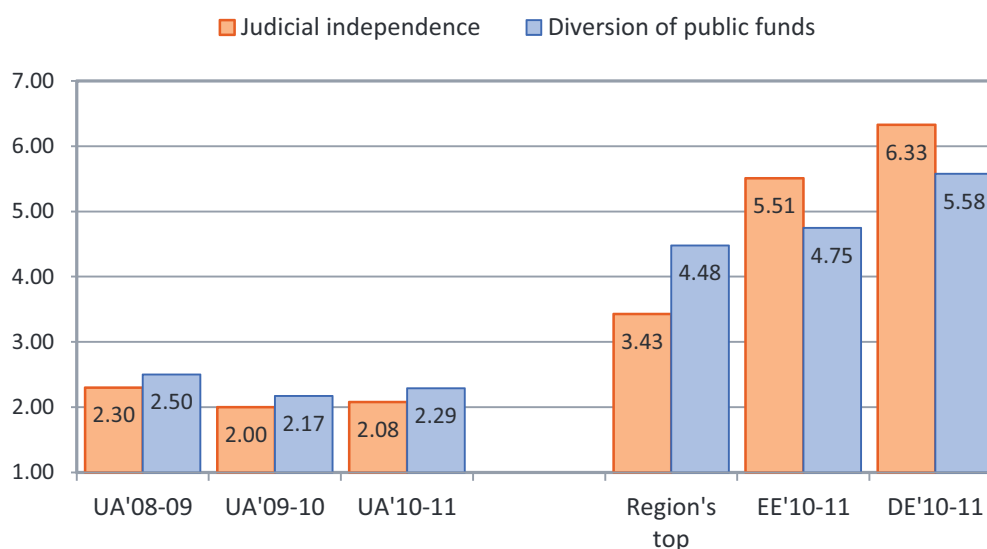
Shows extent, to which citizens are able to participate in the selection of their government, as well as freedom of expression, freedom of association, and freedom of media. Scale from -2.5 (worst) to 2.5 (best)

Despite a downward trend, election attendance remains traditionally quite high: in presidential elections of 2010, 70 percent of registered voters took part compared with 78 percent in 2004. In parliamentary elections, the number was 62 percent in 2007 vs. 67 percent in 2006. Diminishing election participation is attributable to the lack of an effective public control over the elected officials. In July 2011, Higher Administrative Court of Ukraine dismissed an appeal by a Ukrainian citizen, who

claimed unlawful non-adherence of the elected president to his pre-election program, categorizing such program as just the means to win voters rather than any legal commitment. There is no practice in Ukraine that an outgoing government would hold account for the implementation of the declared policies. The freedom of speech was quite pronounced in 2007-09, with severe restrictions introduced in subsequent years.



## C2: Judicial independence C3: Diversion of public funds



C2: 1 – judiciary is heavily influenced by government, citizens or firms; 7 – judiciary is entirely independent

C3: 1 – diversion of public funds due to corruption is very common; 7 – such diversion never occurs

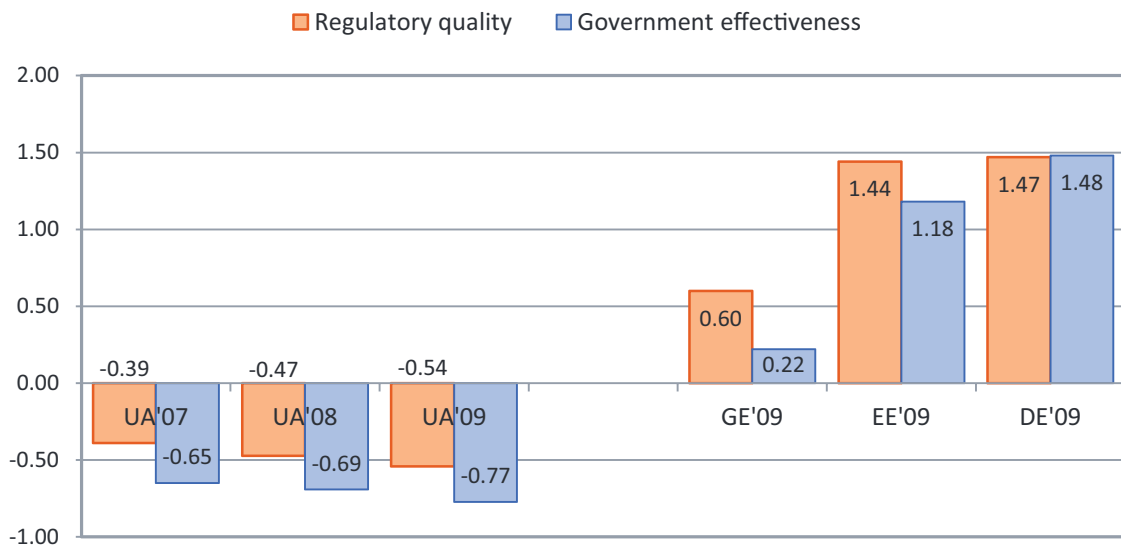
Ukrainian judiciary experiences a heavy influence by the government and politics, best exemplified by the politically motivated prosecution of former Prime Minister Yulia Tymoshenko. The Constitutional Court is not free from the political influence either, as demonstrated by its rulings on the formation of parliamentary factions (6.04.2010) and Constitution amendments (30.9.2010). Public administration uses different methods to strengthen this influence. A “judiciary reform” of 2010 strengthened the competence of Supreme Council of Judiciary in nomination of judges as chairmen of courts and their deputies, to the detriment of Supreme Court. Likewise, the reform has complicated the enforcement of citizens’ right for appeal by creating a higher specialized court on civil and criminal cases. In joint conclusions of 12-13.3.2010 and 7.10.2010, the Venice Commission and Council of Europe criticised these novelties as inconsistent with international best practice. A report by the Accounting Chamber of Ukraine, released on 11.3.2011, signalled that misuse of public funds remains incessant. In 2010, Ministry of Emergency diverted 97% of spending on population protection (roughly US-\$47m) to its own personnel costs.

## C4: Ease of doing business global rank 2012: Ukraine – 152, Georgia – 16, Germany – 19, Estonia – 24

In an environment of unification of public governance and big business, doing business by “third” parties is always deliberately complicated. This has a two-fold objective: (i) to restrain competition to the benefit of favoured businesses, and (ii) to facilitate rent-seeking by public administration. As a result, the economy has a distorted structure, where the most lucrative business activities are monopolised by the favoured companies, which enjoy the various regulatory privileges, while the SME sector has to bear full costs and compensate the mentioned privileges. This is why Ukraine records 10 administrative procedures to register property (Georgia: 1), which takes on average 117 days (Georgia: 2) and costs around 4 percent of the property concerned (Georgia: 0.1 percent).

## D: Public administration in Ukraine: Efficiency and effectiveness

### D1: Regulatory quality D2: Government effectiveness

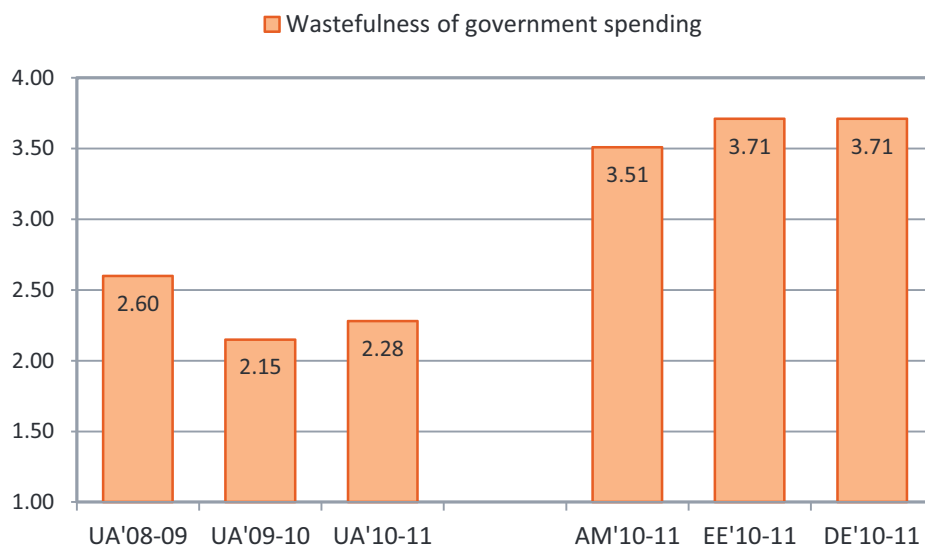


D1 shows perceptions of the government ability to formulate and implement sound policies that permit and promote private sector development;  
D2 captures the quality of policy formulation and implementation, and the credibility of government commitments to such policies. Scale from -2.5 (worst) to 2.5 (best)

Ukraine has shown a negative trend on both regulatory quality and government effectiveness in the period 2007-09. This is attributable to a disappointing policy response to the global economic crisis, which hit Ukraine's export revenue and hence worsened public finance balance. In addition, the government failed to offer any meaning-

ful strategic policy vision with regard to economic and trade development. Ukraine thus remains a resource-based, energy-intensive economy, heavily dependent on cheap labour force and export revenue. Enterprises receive little or no incentive for modernisation and innovation.

### D3: Wastefulness of government spending



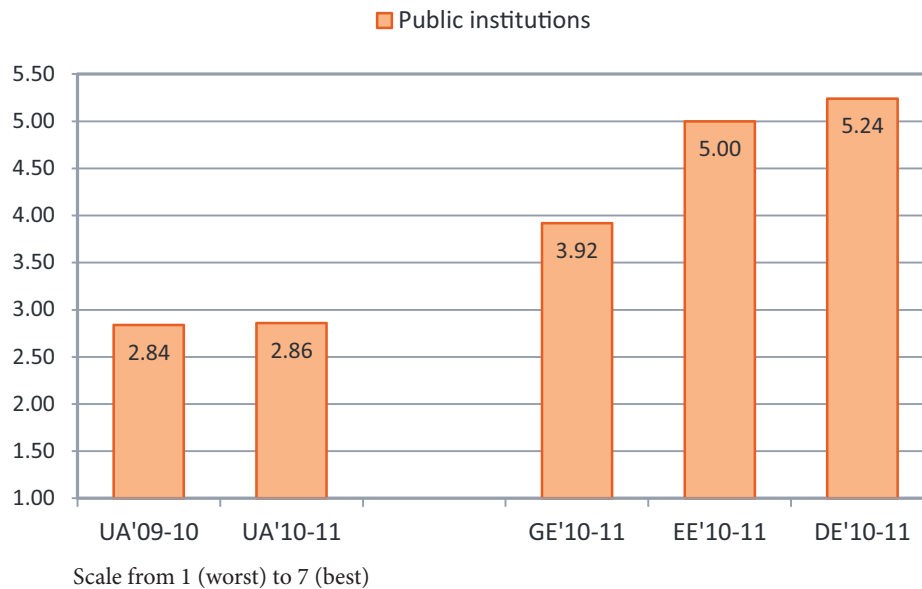
D3: 1 – government spending in providing necessary public goods and services is extremely wasteful; 7 – government spending is very efficient

According to a statement by Ukrainian President (8.6.2011), a minimum of UAH20bn (US\$2,5bn) annually is embezzled or wasted as revenue shortfall, owing to corruption. Government procurement is one of the main channels of wasteful spending: in the same statement, the president noted that 10 to 15 percent of payment on procured goods and services “remain in the pockets of the officials”, adding up to US\$4 to 7bn. Recent amendments to the Government Procurement Act (in force since 2.10.2011) offer even more opportunities to waste public finance, by (i) withdrawing a big number of state and municipal enterprises, which do not receive “budget support”, from the scope of the application of the public procurement legisla-

tion, and (ii) extending the rights of companies to resort to price quotations rather than competitive tendering. It is estimated that these novelties would expand non-competitive and non-transparent public procurement practice in Ukraine. Another channel of wasteful spending is the renewed practice of debt relief for selected companies: two laws signed by the president in June 2011 wrote off the debts of fuel and energy companies, including privately owned, adding up to around US\$3bn. This happened contrary to an earlier government statement (April 2011) banning debt write-offs for private companies for energy consumption.

## E: Public administration in Ukraine: consolidating indicator

### E1: Public institutions



An improvement of Ukraine's score in 2010 against 2009 was only marginal. The actual developments in 2009-11 rather suggest the contrary: a clear division of legislative and executive power is neglected, giving way to practically unlimited authority of the president and his surroundings, in an environment of suppressed political opposition and limited freedom of information and other civic rights. Freedom House attested in April 2011 a reverse in a democracy development in Ukraine and warned about the possibility of a return to authoritarianism and kleptocracy. A national survey by Razumkov Centre of September 2011 revealed shrinkage of public support to the President: in August 2011 only 10 percent of respondents were in favour of president's policies, down from 28 percent in February 2010. The survey revealed the same negative trend with regard to the Parliament and Government.

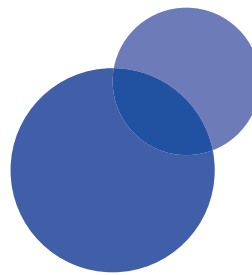
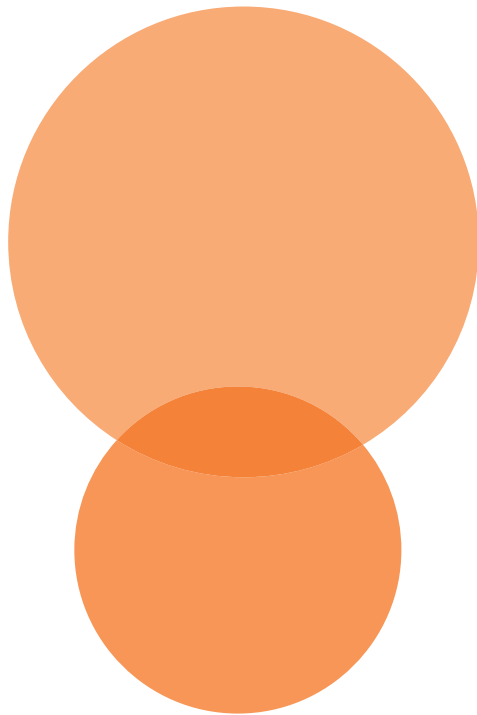
On 09.12.10, Ukraine's President issued a decree attempting to streamline government administration: the number of ministries was shortened from 20 to 16, personnel in the central government office ("Cabinet of Ministers") halved and the overall number of civil servants reduced by  $\frac{1}{3}$ . The cut-back was however not accompanied by meaningful measures to raise effectiveness and transparency of government services. With amendments to the Law on Cabinet of Ministers and a new Law on Central Executive Bodies (17.3.2011), the President has widened his authority vis-à-vis the government to the detriment of Prime Minister. These novelties are ambiguous as to their consistency with the Constitution.



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