

**Evaluation of the Report on the Implementation of the Action Plan of the
2014 National Strategy of Georgia on Human Rights Protection**

GYLA

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Content and Goals of the Report

Protection of human rights and supporting their unimpeded realization is the duty of any democratic state. Despite the existence of various state strategies and action plans¹ in different spheres of human rights, there was no uniform, long-term and systematic state vision prior to 2014. Inexistence of such vision has hampered the possibility of implementing the reforms in a comprehensive and consistent manner. The existing situation has changed, following the adoption of the “National Strategy of Georgia on the Human Rights Protection” by the parliament of Georgia (the “Strategy” hereinafter).² Following the adoption of the Strategy by the parliament, the government of Georgia has approved the relevant Action Plan of the Strategy.³ Through this decision, Georgia has joined the group of countries, which have decided to ensure progress in the human rights field based on such special action plans.⁴

Based on the existing practical experience, existence of only legal regulations, in the majority of cases, was not enough for the practical realization of the rights. Adoption of the uniform Strategy and the Action Plan has created the hope of creation of the effective mechanism, for ensuring the practical realization of the human rights in the daily lives, step by step.

Considering that the existence of such Action Plans is a novelty for Georgia, one cannot exclude the possibility of the perfect implementation process. At the same time, absolutely objectively, the proper implementation of the actions, as well as creation of the effective monitoring, included in the Action Plan requires a certain period.

After a year following the adoption of the Action Plan, elaboration of the annual report and presenting it to the government and parliament of Georgia is on the agenda. In this process, it is extremely important to evaluate whether the report satisfied the goals, as defined under the governmental decree. It is important for the annual report to describe in detail both all of the activities implemented by the responsible institutions, as well as the problematic issues that might impede achievement of the final goal.

Georgian Young Lawyers Association (GYLA, hereinafter) that has been working on the human rights protection for over 20 years, considers it important to make its own contribution for properly carrying out this extremely important process. Therefore, the primary goal of the prepared report is to evaluate whether the report prepared by the government, at this stage, corresponds to the objectives and goals, determined for such report. At the same time, the goal is to evaluate the work of the secretariat, responsible for the implementation of the Action Plan, as well as the quality of engagement of the civil society in the work of the Council.

Structure and Methodology

The following methodology was applied during the preparation of the report:

- Detailed analysis of the National Strategy on the Protection of Human Rights and the subsequent Action Plan was conducted;

¹ Available in Georgian: <https://matsne.gov.ge/ka/document/view/2726014>; <https://matsne.gov.ge/ka/document/view/2235622>; <https://matsne.gov.ge/ka/document/view/1981264>; <https://matsne.gov.ge/ka/document/view/1325240>; <https://matsne.gov.ge/ka/document/view/36850>; <https://matsne.gov.ge/ka/document/view/116842>;

² Resolution #2315-II of the Parliament of Georgia, April 30, 2014;

³ Resolution #445 of the Government of Georgia, July 9, 2014;

⁴ <http://www.ohchr.org/Documents/Publications/training10en.pdf>, page 8;

- The annual report, prepared by the secretariat of the inter-agency coordination council, responsible for the National Action Plan of Georgia on the Human Rights Protection was examined;
- Various types of public information was obtained through FOIA and examined (information was obtained from the institutions, responsible for the implementation of the various parts of the Action Plan);

As for the structure of the report, at first, the general problems, revealed through the examination of the implementation report of the Action Plan were analyzed. Also, the problems, revealed through examining the work of the council and the work groups were analyzed; after this, the shortcomings relating to concrete strategic directions were identified.

Key Findings

The following important findings were revealed in the process of preparing the report:

- **The legitimacy of the work groups, created under the governmental decree for ensuring the inclusiveness of the process, may be doubted;**
- **The work of the work groups does not address the determined goal, at the same time, in the majority of cases, the engagement of the groups in the process is only artificial and non-substantial;**
- **There are certain gaps both in terms of activities, prescribed under the Action Plan, as well as in terms of the relevance of the indicators;**
 - **In a number of cases, it is not possible to establish the connection between the defined activity and the selected indicator, while the progress-oriented indicators that should aim at measuring the achievement, are almost not included in the Action Plan, which further impedes the possibility of evaluating the report.**
 - **There is no rule of receiving and reflecting the qualitative criteria (the general/thematic reports and recommendations of the Public Defender of Georgia, international organizations and NGOs), which results in their neglect from the side of the Council and the secretariat, so that they are not reflected in the report either.**
- **The Annual Report of the human rights Action Plan does not represent an analytical document, as it is being defined, according to the governmental decree.**
 - **The report does not comprehensively reflect the activities, implemented by the responsible institutions in the reporting period. In a number of cases, it is difficult to establish, what is the condition of implementation of the objective at a given stage;**
 - **In separate cases, contradicting information is provided in the report and the correspondence, provided by the responsible institutions, which demonstrates lack of proper coordination;**
 - **The report includes nothing about the shortcomings, challenges or impeding circumstances, revealed in the reporting period, eradication of which might require additional efforts in the future.**

Activity of the Council and the Shortcomings Revealed in the report on the Implementation of the Action Plan on the Human Rights

On July 9, 2014 the Government of Georgia has approved the first Action Plan (2014-2015). The Action Plan aimed at implementation of the Human Rights Strategy. Considering that the human rights protection is the permanent process, which includes legislative, institutional and practical changes, the Action Plan needs to be permanently renewed and improved for ensuring that. Therefore, it is important to carry out the implementation and monitoring of the first Action Plan properly, to identify the problematic aspects that need to be addressed for the improvement of the future Action Plans and subsequent processes.

The Council and the Work Groups

Before examining the Action Plan and its annual Implementation Report, it is necessary to evaluate the work of the Human Rights Governmental Inter-Agency Coordination Council. The duty of the mentioned collegial body includes the following: coordinating the implementation of the Human Rights Protection Governmental Action Plan, elaboration of the recommendations and proposals relating to the Action Plan, monitoring its implementation and reporting before the prime minister and the government of Georgia, while also ensuring inclusion of the civil society in the above processes.⁵

For the purpose of achieving the above goals and objectives, the Council:⁶

- Has the authority to request the information, necessary for its work (from the state institutions and bodies), in accordance with the rules prescribed under the legislation;
- Has the authority to create work groups and invite independent experts for examining and providing proper recommendations on the issues under its competence, as well as preparing the reports;
- Has the authority to prepare proposals and recommendations on the Action Plan, which will be presented to the Government of Georgia and the Prime Minister;
- Is obliged to prepare annual reports on the implementation of the Action Plan, no later than March 15 of each year; the report will be presented to the Government of Georgia and no later than March 31 – to the parliament of Georgia;
- Cooperates with the state institutions, NGOs and international organizations;
- Has the authority to carry out other work that is necessary for implementing the duties that the Council is tasked with;

Considering the above, it is clear that the Council has all of the legal preconditions for properly carrying out the monitoring of the Action Plan, as well as for preparing the report of proper quality and ensuring the inclusiveness of the process.

At the first stage of the Action Plan monitoring, for ensuring the effective work of the Council and engagement of the stakeholders, the governmental decree prescribes the possibility of the creation of the special work groups.⁷ The work groups are being created with the majority of votes of the Council. The group is composed of the Council members, which select the speaker of the group, with the majority of votes. The selected speaker presents the recommendations, proposals and the reports, prepared by the group. The decision on engaging other organizations in the work of the group is also made by the majority of votes of the work group members.

⁵ Resolution #445 of the Government of Georgia, July 9, 2014; Appendix #2, Article 3;

⁶ Resolution #445 of the Government of Georgia, July 9, 2014; Appendix #2, Article 4;

⁷ Resolution #445 of the Government of Georgia, July 9, 2014; Appendix #2, Article 5;

It is notable and must be negatively evaluated that the decision on the creation of the work groups by the Council was not made in accordance with the legislation and the governmental decree. This is confirmed by the information, provided by the government administration on March 30, 2015,⁸ according to which, the creation of the work groups was only negotiated with the Council members; however, this was not reflected in the Council's decision. **Despite the fact that the letter, sent to GYLA said that this issue would have been discussed at the nearest session of the Council, this issue has not been discussed on the April 1/2015 session that has followed. It must be underlined that the Council represents an administrative collegial body, which must make decisions in full compliance with the legislation, during the sessions; the Council is not a commercial entity, where, unlike the administrative body, it is possible to make decisions based on the verbal agreement between the partners. Moreover, the Council protocols do not reflect even the discussion on whether this issue should be raised. Such an approach from the side of the Council and the Secretariat raises doubts on the legitimacy of this work group and at the same time, the objectives that the work group has been tasked with are not being achieved.**

Despite the inexistence of the Council decision, the Council secretariat has still created nine (9) various work groups and invited the stakeholder international and local NGOs. At the same time, the representatives of various state institutions, who are responsible for the specific thematic directions, have participated in those work groups. During the meetings, the attendants were listening to the information, provided by the institutions, about the mentioned activities. Despite the fact that this process deserves positive evaluation, due to having the stakeholders periodically informed, it must be once again underlined that the goal, envisioned by the government under the decree has not been achieved. Specifically, work in the offered format did not ensure making any essential decision by the work group, the speakers of the work groups were not selected (that should have presented the recommendations, proposals and reports to the Council).⁹ Moreover, according to the received public information, the first two (2) of the three (3) work groups conducted meetings prior to April 1, 2015, have not been recorded in the protocols at all. As for the protocol of the third session, provided by the government administration, its analysis once again confirms that the work groups are used for the sole purpose of exchanging information, instead of serving the function prescribed to them.

The process of those work group meetings deserves attention. The important issues were raised a number of times during the work group meetings; however, because of the fact that in the majority of cases, the speakers (representatives of the state institutions) were mainly from the middle level of management, unfortunately, they did not have enough authority or information about the critical opinions or adequate answers for the questions asked. At the same time, it is also interesting to consider that the representatives of the civil society did not have the possibility to participate in discussions, share critical opinions or sharing the positions- not even at the Council sessions, where only the council chair and the ministers had the possibility to speak and present various types of information.

Such an approach frequently makes the civil society participation in such councils or work groups artificial and non-substantial. By now, the Council has not analyzed the correlation of the Action Plan goals, activities and relevant indicators and has not presented the necessary proposals for the periodic adjustment/renewal of the 2015 Action Plan. Considering the critical evaluations, constantly expressed by

⁸ Correspondence #24745 of the Government Administration, March 30, 2015; the requested information and the relevant response are provided in the Appendix.

⁹ The resolution #445 of the Government of Georgia, July 9, 2014; Appendix 2, first clause of the Article 5.

the participants of the work groups in this regard, is impossible to positively evaluate the work of the Council in this direction.

Action Plan and Indicators

Despite the fact that the evaluation of the Action Plan was not the goal of the current research, an existence of the proper Action Plan partially represents the precondition for the comprehensiveness of the implementation report and thus, has become the center of our attention. The Action Plan must be easy to comprehend, logical and systematized, which will ensure its acceptance from the side of the civil society, as well as clearly defining the obligations of the state institutions. Moreover, it is necessary for the obligations, undertaken by the Action Plan to have the relevant indicators that will make it possible to evaluate the effectiveness of the implemented activities. Such an approach significantly facilitates both implementation and monitoring stages.¹⁰

For the clear formulation of the Action Plan it is of particular importance for the goals and objectives to be realistic, to have foreseeable activities, as well as clear and achievable implementation timelines.¹¹ As for the indicators, they must be clear and easy to comprehend. It is also necessary for the implementing coordinating bodies and responsible state institutions to have the consensus that an indicator is the standard, through which it is possible to establish the implementation phase and implementation quality of the objective.¹² In order to properly select the indicator, it is necessary to determine what needs to be measured. In case of the Human Rights Action Plan it is clear, that the indicators must be addressed towards measuring the progress that must be achieved as a result of the planned activities. Therefore, it is clear that the following two types of indicators are most relevant in this case: one, that directly defines the phase of the implementation of the activity and another one, which evaluates the progress, achieved as a result of implementation of the activities.

It is notable that specific shortcomings were identified in the process of elaboration of the Action Plan, as well as in the process of selecting the Action Plan activities and proper indicators. In a number of cases, the correlation between a given activity and a relevant indicator cannot be established, while the progress-oriented indicators, the goal of which is to measure the achieved progress, are almost not included in the Action Plan. A number of problematic indicators are identifiable in the Action Plan, however, a few will be demonstrated as the examples:

For example, the sub-clause 23.3.3. of the Action Plan prescribed the following activity: analysis and monitoring of the timeframes established for the presentation of the documentation to the Ministry for approval, for the purpose of performing the preconditions, established under the environment impact license/ecologic expertise, while the prescribed indicators are the following: 1. The preconditions, established under the environment impact licenses/ecologic expertise conclusion are implemented; 2. The co-financer has been selected and the project has been implemented. While the activity is oriented at the monitoring and analysis of the timeframes, the selected indicator underlines the definition of the preconditions, therefore, it is unclear – how the given indicator will ensure measuring whether the activity

¹⁰ Handbook on National Human Rights Plans of Action, Professional Training Series No 10, Office of the United Nations High Commissioner for Human Rights, 2002, page 72;

¹¹ Handbook on National Human Rights Plans of Action, Professional Training Series No 10, Office of the United Nations High Commissioner for Human Rights, 2002, page 74;

¹² Handbook on National Human Rights Plans of Action, Professional Training Series No 10, Office of the United Nations High Commissioner for Human Rights, 2002, page 76;

was conducted and what is the quality of its implementation. It would have been much more appropriate to have the following types of indicators – the percentage of cases when the timeframes were followed through, which will allow to establish whether the monitoring and analysis was conducted in relation to the documentation submission to the ministry, for the purpose of implementing the requirements established under the environment impact/ecologic expertise.

As for the lack of the progress-oriented indicators, the example of this can be the sub-chapter 5.1.6.2. of the Action Plan, according to which the following activity must be implemented – access to the complaint procedures, established under the Prison Code, while the indicator is the following – number of special complaint envelopes provided for the prisoners. Undoubtedly, only the number of available envelopes cannot define the quality of access to the litigation procedure. It is necessary to have additional indicators in this case – such as the existence of the law-prescribed guarantees, which would ensure protection of the prisoners from the revenge in case if they decide to use the complaint/litigation procedure.

Both in this and in other cases, it is possible to use quantitative criteria that will facilitate brief evaluation of the situation. For example, in this specific case, it is also possible to include the following type of the indicator – the number of submitted complaints by the prisoners, number of satisfied and rejected complaints, number of complaints addressed to the ombudsman, etc.

The Strategy also underlines the qualitative criteria, based on the general/thematic reports and recommendations by the public defender of Georgia, international and local NGOs – that must be considered during the evaluation of the Action Plan. Considering the fact that except for the general provisions there is no concrete rule on how the secretariat should adopt those proposals and recommendations, in a majority of cases they are not being taken into consideration or included in the report in any form. The above argumentation once again confirms the problematic nature of the indicators and those gaps were once again reflected in the presented implementation report, which has also been discussed in the previous report.

A number of shortcomings were identified in relation to the annual monitoring report of the Action Plan. According to the governmental decree, the Council elaborates an annual report, which must include thematic statistical parameters, for identification of the progressive aspects and the problematic parts of the Action Plan Implementation.¹³ Thus, without any doubt, the annual report represents an analytical document for the purposes of the decree. Based on this document, the work conducted throughout the year must be evaluated, the existing shortcomings must be identified for the purpose of planning the ways to address them. Unfortunately, the first report prepared by the Council does not fulfil those objectives due to the following reasons:

- Firstly, the lack of informativeness of the report, which, on various occasions makes it difficult to define the condition of the implementation of various activities indicated in the Action Plan; a number of positive changes and activities are not reflected in the report at all;
- The report mostly emphasizes the general types of activities by various responsible institutions and almost nothing is mentioned of various identified shortcomings, challenges, obstacles or impediments, the overcoming of which requires additional efforts;
- The monitoring report mentions nothing of the conclusions part of the Action Plan,¹⁴ which relates to the issues, such as the preparation of the following chapters of the Action Plan: Right to Education, Right to Accessible Healthcare of Proper Standards and confirmation of the domestic

¹³ Resolution #445 of the Government of Georgia, July 9, 2014. Appendix #2, Article 4, clause “e”

¹⁴ Resolution #445 of the Government of Georgia, July 9, 2014. Appendix #1, sub-chapter 25.

legal guarantees of the Ecologic Rights. This is particularly important, considering that the 2014 represents the implementation period of those obligations.¹⁵

- Apart from the mentioned shortcomings, it is also problematic that the information, received from the responsible institutions and the implementation report do not coincide.

Considering all of the above, it is clear that there is a number of various remarks towards the Action Plan, as well as the subsequent processes. Considering those remarks will be of particular importance for the future improvement of the processes. As for the thematic directions and the shortcomings described above on the thematic directions of the annual monitoring report, the following chapters of this report illustrate a few of such issues. At the same time, the report does not include the evaluation of all of the activities of the Action Plan.

The shortcomings, identified in relation to the thematic directions included in the annual Action Plan on the Human Rights Protection

Criminal Justice

1.1.1. Strengthening the principle of the equality of arms and the rights of the defense and 1.1.2. reform of the plea bargain system

The indicator for the mentioned chapter of the Action Plan is initiating/preparing legislative bill in 2014. The annual monitoring report of the Human Rights Protection Action Plan mentions that the amendments are initiated/prepared on both issues. Indicating the implementation of the above activity once again reaffirms the problem mentioned above – measurement indicators. The Strategy indicates that the qualitative criteria of the implementation of the Action Plan must be based on the thematic reports and recommendations of the Ombudsman, international and local NGOs. Considering this, the existence of the relevant mechanism of receiving and reflecting those recommendations in the Action Plan is particularly important. Without such a mechanism, it will be practically impossible to evaluate the report – either negatively or positively. The example of this can be the following: the amendments, introduced in the Criminal Code of Georgia in 2013, which are mentioned in the report as the implementation of a concrete activity from the Action Plan. A number of NGOs has expressed their positions regarding those amendments. Granting a defense side a right of search/seizure was positively evaluated,¹⁶ just as the improvement of the legislation, regulating plea bargains. However, invalidating the right to present the evidences in the special circumstances,¹⁷ as well as once again postponing the enforcement of the new rule of witness interrogation and granting unjustified advantage to the prosecution side were criticized.¹⁸ Despite this and a number of other issues, positive and negative evaluations of the international and local NGOs, because of the inexistence of the proper mechanism, those positions were omitted in the annual

¹⁵ It is notable, that according to the public information, received by GYLA on this issue, the elaboration of the mentioned parts of the Action Plan are planned to start in May 2015, instead of 2014; however, the reasons for non-performance are unclear by now.

¹⁶ <https://gyla.ge/eng/news?info=1540>

¹⁷ <https://gyla.ge/eng/news?info=1540>

¹⁸ <https://gyla.ge/eng/news?info=1918> ; <https://gyla.ge/eng/news?info=1909> ;

report of the Action Plan and this has become an obstacle towards considering the Action Plan to be implemented.

1.1.3. Reform of the jury trial

The indicator of the activity under this chapter of the Action Plan is “initiating legislative amendments”. However, in response to this, the annual monitoring report indicates the information about the trainings, conducted for the prosecutors. Firstly, it is unclear what is the correlation between the indicator included in the Action Plan and between the activity indicated in the report. Secondly, it is absolutely unclear why the report did not indicate the amendments enacted in September 2014, according to which the full enforcement of the jury trial was postponed until October 1, 2016. Although the mentioned amendments have resulted in negative evaluations¹⁹ from the side of the NGOs, it is unclear, why was not this amendment included in the report, despite the fact that other legislative amendments were included.

1.1.5. Preparing legislative initiatives to establish necessary European standards for the protection of the private life in the criminal justice sphere

The topic, covered under the mentioned chapter of the Action Plan represents one of the most critical issues in terms of secret surveillance and eavesdropping. Despite the fact that reflecting the norms relating to the secret investigative actions in the Criminal Procedure Code was the positive and important step, the parliament did not manage to properly resolve the issue of the direct access of the Ministry of Internal Affairs (MIA) to the data transmitted by the communication operators. Despite the lengthy advocacy and the expert recommendations, the parliament maintained the authority of the MIA to conduct secret eavesdropping and surveillance without proper control, which in practice, significantly decreases the parliament-established standard on the secret actions in the process of investigation. At the same time, according to the enacted amendments, the Personal Data Protection Inspector, on the one hand, became the eavesdropping body itself, while on another hand, was tasked with the monitoring of the entire process and eliminating any violations.²⁰ Considering the fact that the annual monitoring report of the Action Plan mentions nothing of the critical opinions, expressed towards the enacted amendments and only the amendments themselves are underlined, the report leaves the impression as if the activity under the Action Plan was implemented comprehensively, without any problem or shortcoming.

At the same time, the annual monitoring report of the Action Plan mentions nothing of the European Standards that were considered to be the measurements for evaluation. Compliance of the enacted amendments with the European Standards is the easily measurable criteria. Therefore, we consider it important for the Council to recognize the activity to be implemented, only after the correlation between the implemented activities and those standards is established.

1.3. The systemic changes to the Code of Administrative Violations

¹⁹ <http://transparency.ge/en/post/general-announcement/non-governmental-organizations-response-plans-postpone-introduction-jury-trials>

²⁰ [http://gyla.ge/eng/news?info=2356;](http://gyla.ge/eng/news?info=2356)

The annual monitoring report of the Action Plan in this regard, mentions the separate amendments, introduced to the Code in 2014, which, considering their content, cannot be considered as the systemic changes to the Code of the Administrative Violations.

At the same time, the report fully ignores the decision, made by the state, regarding the launch of the systemic reform of the Code of the Administrative Violations in 2014. This reform entailed comprehensive revision of the system and included not only the norms of the Code, but was also closely related to the amendments in the material and procedural legislation of the criminal justice. The governmental commission is also created for implementing the reform, which is actively working in this regard. The fact that the report mentions nothing of this rather important fact, once again underlines the lack of the systemic and uniform vision, as well as the lack of coordination between the institutions.

Independent, accountable and transparent judiciary system

The second chapter of the Action Plan of the Human Rights Protection, relating to the judiciary and court system is the direction of particular importance in the National Strategy of the Human Rights Protection. Despite a number of implemented reforms since 2012 parliamentary elections, only the small part of them was covered under the Action Plan annual monitoring report. Although the report discusses the bills, elaborated in different directions, the content of the amendments is not specified; at the same time, nothing is mentioned about the initiatives, prepared for ensuring fair reimbursement of the judges and the social protection system. Nothing is mentioned of the work, conducted in the direction of improvement of the legislative base, regulating the publicity of the court acts, neither anything is mentioned of the work of the Supreme Council of Justice, activities aimed at raising qualification of the judges, etc.

The report also omits the information and analysis relating to the cooperation between the government and the judiciary, which has become difficult in 2014 (due to which the representatives of the judiciary did not even attend the work group formats). In this regard, the report lacks the evaluation and information.

Activities of the prosecution and the law-enforcements

3.3. Raising qualification of the prosecution and implementing the activity forms, compliant with the international standards

The indicators of implementing those activities under the Action Plan are the following – establishing the standards of employment at the prosecution; elaboration of the criteria for passing the competition and appointment to the position; creation of the evaluation system; creation of the testing system; defining the training needs. However, the report only describes the number of the conducted trainings, which does not correspond either of the indicators and is completely irrelevant.

In relation to the chapter on the prosecution and the law-enforcements, it is notable that the monitoring report does not describe the information about a number of key activities. Such are the modification of the organizational structure of the prosecution in consideration of the strategic interests, broadening the criminal prosecution in the unconventional form on the matters of restorative justice, introducing and applying other preventive measures apart from the bail imposed upon the prisoners. Moreover, nothing is mentioned about the reform of the existing mechanism of the internal control of employees of the Ministry of Internal Affairs. Nothing is mentioned about the reform of the existing supervision mechanism of the prosecutors' work. Considering the particular importance of the above issues, it is necessary for the report to cover at least minimal information about the causes, challenges, problems or impediments causing non-performance of the obligations under the Action Plan.

Penitentiary system, probation and rehabilitation of former prisoners

5.1.6.2. Access to the complaint procedures, prescribed under the Prison Code

The indicator of the part 5.1.6.2. of the Action Plan is the following – the number of the special envelopes for the complaints, available to the prisoners (the accused). The report mentions that all prisoners, if they wish so, are provided with the special complaint envelopes. In itself, only the number of the available envelopes cannot define the quality of access to the complaint procedures. This once again reaffirms the problematic nature of this indicator. We consider that the law-prescribed guarantees must be incorporated as the additional indicators, which should protect the prisoners from possible revenge in case if they apply the complaint procedure.

Combating torture and degrading treatment

6.7.1. Improvement of the provision of the effective legal support for the victims through providing financial and technical support to the free legal aid service (among others, considering coverage of the necessary costs of effective protection).

According to the annual report of the Action Plan, the mandate of the legal entity of public law – Legal Aid Service does not cover free legal services for the victims of torture. However, in 2014, the mandate of the Legal Aid Service has broadened to cover protection of the domestic violence victims and the Legal Aid Service was tasked with the legal protection of the domestic violence victims under the amendments to the Article 17 of the law on the “Combating Domestic Violence, Protection of Victims of Domestic Violence and Provision of Support”. Due to the above, the report only describes the provision of free legal aid to the domestic violence victims, which is not enough for implementation of the obligations under the part 6.7.1. of the Action Plan and the objective cannot be considered to be achieved.

6.7.2. Creation of the state program for victim rehabilitation and ensuring its effectiveness

Under the part 6.7.2. of the Action Plan, the government undertakes the responsibility to implement state programs for the victims of torture and other inhuman treatment in general, and not only for a specific category. However, the Action Plan implementation report only describes the existing programs for the victims of trafficking and domestic violence in relation to the clause 6.7.2. and nothing is mentioned of the existence of the rehabilitation programs for the victims of torture and inhuman treatment.

In relation to the part, relating to torture and inhuman treatment, it is also notable that the annual report omits a number of chapters; thus, it is unclear whether the activities were implemented by the responsible institutions for achievement of various objectives under those chapters. Such omitted objectives include the following:

- **6.6.2. Elaboration of the methodic and tactical instructions for the effective investigation of the torture and other forms of degrading treatment, as well as their implementation in consideration of the international experience;**
- **6.6.3. Prioritizing the criminal prosecution of torture and other forms of degrading treatment and comprehensively reflecting the relevant policy in the guiding principles of the criminal prosecution;**
- **6.8. Informing public in a timely and effective manner, of the prohibition of torture and other forms of degrading treatment, its prevention and investigation**

- **6.8.1. Supporting information campaigns on the prohibition of torture and other forms of degrading treatment;**
- **6.8.2. Periodically, actively informing the public of the process of the investigating the torture and other forms of degrading treatment and investigation results, in general terms;**

Protection of the National/Ethnic Minorities

11.4.2. Supporting employment and professional re-training of the ethnic/national minorities

According to the Action Plan, the Ministries of Infrastructure and Regional Development, Economic and Sustainable Development, Education and Sciences, Sports and Youth are tasked with professional re-training of the ethnic minorities. The implementation report of the Action Plan does not include the information about the above components at all. GYLA has addressed all four Ministries. The information, received from them confirms that a large part of information about the activities, implemented by the state institutions has been left out from the annual report of the Action Plan implementation. This must be negatively evaluated and further, this most probably indicates lack of coordination between the secretariat and the state institutions.

Rights of the Internally Displaced Persons – IDPs

15.1.1.1. Rehabilitation of the empty buildings for the purpose of providing the IDPs with the long-term housing, construction of new housing apartments, as well as resettlement of the IDPs in the procured individual houses.

According to the Action Plan, one of the indicators of the objective is creation of the commission, for examination of the shortcomings of the legalization process under the Minister's decree. The report does not indicate whether this objective was achieved. At the same time, nothing is mentioned of the activities that have been conducted or are planned to be conducted in the future.

15.1.1.4. Protecting the Internally Displaced Persons (IDPs) from the illegal evictions from the spaces, in rightful possession of the IDPs.

The annual report mentions that: “the law on the “Internally Displaced Persons from the occupied territories of Georgia – IDPs” represents the major guarantee from the illegal eviction of the IDPs from their spaces that are in rightful possession of the IDPs; the Articles 6 and 14 of the law protect the rights of the IDPs related to the residential spaces.” Therefore, the Ministry considers that the existence of these norms is enough and does not plan their improvement. The court practice²¹ demonstrates that the mechanism, provided in the mentioned articles is not effective and does not ensure proper protection of the IDPs from the unjustified eviction.

²¹ See GYLA's research “IDP Right to the Adequate Housing (legal analysis, major tendencies of the court practice)”, 2013; https://gyla.ge/uploads/publications/2013/IDP's_right_to_adequate_housing_2013.pdf ;

Rights of Eco-Migrants

17.1.2. Regulate the rights and conditions of the internally displaced, as a result of the natural or technical catastrophes (eco-migrants) at the legislative level

According to the Action Plan, one of the indicators of the 17.1.2. sub-chapter is elaboration of the relevant legislative act. According to the annual report, the Commission, created on June 6, 2013 under the decree #123 of the Minister of the Internally Displaced Persons, Accommodation and Refugees, which consists of the representatives of various state institutions, ombudsman, international and local NGO representatives, has elaborated the draft bill on the “Eco-Migrants”. However, it must be unfortunately mentioned, that the work on the bill has not been renewed at it is unclear whether it is planned to regulate the issue at the legislative level. Thus, it is impossible in this case to consider the objective to be achieved. However, the report mentions so.

Labor Rights

21.2. Implementation of the basic convention of the International Labor Organization

According to the Human Rights Protection Action Plan, the indicator of this sub-chapter is the following – *the positive dynamic reflected in the annual conclusions of the ILO expert committee on the application of the conventions and recommendations*. On the same issue, the Action Plan report mentions that Georgia has sent the relevant reports to the ILO in 2013-2014, while the activities implemented by Georgia were positively evaluated in the conclusions elaborated by the ILO expert committees. It is notable that the implementation report mentions nothing of the special recommendations issued towards Georgia by the expert committees, which cannot be, in their essence, considered as positive evaluations. For example, in the 2013 conclusion, the ILO expert committee expresses concern regarding the inexistence of the mechanism for enforcing the law (after the labor inspection was invalidated in 2006). According to the opinion of the expert committee, the questions arise due to the fact that the government of Georgia only expresses its will to create the labor safety supervising body, while the form of the enforcement of other fundamental issues remain unclear (for example, such as the existence of the equal pay for representatives of the different sexes).²² Based on the mentioned it is clear that just as in cases of other chapters, the chapter of the labor rights is also problematic in terms of provision of the comprehensive information; again, there are attempts of avoiding to mention different problematic issues, which cannot be justified in the context of the result-oriented approach.

21.4.4. Improvement of the labor safety and creation of the mechanisms for inspection of the labor conditions

The indicators prescribed for this sub-chapter of the Action Plan are the following: 1. The necessary recommendations, for enforcing the safety monitoring mechanisms are processed; 2. *The relevant mechanism is enforced*. According to the implementation report, just as the public information, provided from the Ministry of Labor, Healthcare and Social Protection,²³ the state program of monitoring labor

²² http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3145924:NO ;

²³ Correspondence #01/13615 of the Ministry of Labor, Healthcare and Social Welfare of Georgia, dated February 26, 2015.

conditions has been elaborated by the Ministry, together with social partners and other institutions.²⁴ However, it is clear, that the existing inspection model of the Ministry has a number of shortcomings and deficiencies. This has been reaffirmed once again through the international experience and conclusions/remarks of the ILO. This factor also makes it impossible to consider this objective to be implemented.

Conclusion

According to the current report prepared by the Georgian Young Lawyers' Association (GYLA), a number of shortcomings are characterizing the National Action Plan of the Human Rights Protection and the subsequent processes. Firstly, it is notable that the work of the groups, created on the basis of the Government Decree, did not ensure proper engagement of the stakeholders in the process. The indicators, prescribed under the Action Plan were problematic as well. In a number of cases, there was a discrepancy between the prescribed activities and the relevant indicators. The Action Plan lacked the progress-oriented indicators, which were supposed to measure the progress. It was also revealed that there are no procedures under the Governmental decree for submitting and applying the qualitative criteria (general/thematic reports and recommendations submitted by the Public Defender, International and Local organizations), which caused neglect towards those criteria by the controlling body.

As for the Annual Monitoring Report of the Action Plan, it is notable that the activities, implemented by the responsible bodies, were mostly not reflected in a proper manner. Moreover, in some cases there was a discrepancy between the information, provided by the state bodies and the information, reflected in the reports. This clearly indicates the lack of coordination. Also, the report omitted the shortcomings, revealed in the reporting period, obstacles and any impeding circumstances, which might have been extremely important to emphasize and discuss for future planning and resolving the existing problems. Some of the objectives were not covered in the report at all.

Due to all of the above, considering that such unified Action Plans represent a novelty for Georgia, it is important to demonstrate particular efforts in its implementation and monitoring phases. The monitoring report itself must thoroughly reflect the existing reality. At the same time, only through the open dialogue between the Government and the public, it is possible to identify all of the problems and obstacles, resolving of which will result in the elaboration of a much more comprehensive Action Plan.

²⁴ Approved with the resolution #38 of the Government of Georgia, February 5, 2015;