



**IMPLEMENTATION
OF EU-GEORGIA ASSOCIATION
AGENDA 2017-2020
ASSESSMENT BY CIVIL SOCIETY**



DECEMBER 2018

The Open Society Georgia Foundation (OSGF) is a member of the Open Society Foundation's Network, which was set up in 1994. In more than twenty years of independence, Georgia has made progress in building a democratic society that strives to take its place as part of the European family of nations. Having undergone territorial conflicts, economic collapse and war with Russia, Georgia has nonetheless managed to turn itself from a near-failed state to a developing country with western aspirations. Through donor funding, partnership, training and helping to unlock the potential of talented Georgian young people, the OSGF has played a significant role in this process that continues to this day. The Foundation has a strong record of achievements in developing civil institutions and the media, promoting civil values, contributing to improvement of election environment, and increasing access to education and healthcare; it has also provided major support to European and national integration programs and the development of social equality.

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SUMMARY

This report brings together monitoring by leading Georgian civil society organisations working together with the support of the Open Society Georgia Foundation to analyse Georgia's progress in implementing the short-term priorities indicated in the 2017-2020 Association Agenda.

The report comprises six sections covering 1) *Rule of Law* (including *Justice Sector* and *Law Enforcement*); 2) *Anti-corruption, public administrative reform and public service*; 3) *Equal Treatment*, 4) *Children's rights* (all under 2.2, AA); 5) *Trade Union Rights and Core Labour Standards and Employment, Social Policy and Equal Opportunities* (under 2.2. and 2.6, AA); 6) *Environment and Climate Change* (under 2.7, AA).

The findings of this monitoring exercise indicate that while the government has made efforts under priorities in all thematic areas monitored, overall progress is uneven. Reforms are often limited to formalistic changes, which have not resulted in changes in practice. For example, laws and action plans have been adopted (justice, environment, anti-corruption) yet implementation has fallen behind in reforming key institutions (justice). Legislative reforms have been delayed across different sectors. Reforms that have been implemented have not been done with appropriate consultation/due diligence (environment) or have lacked adequate scope to be meaningful (labour rights, law enforcement). Uneven progress is also evident within sectors, with substantial efforts made under specific priorities against a backdrop of institutional and cultural resistance (anti-corruption, equal treatment). State institutions are hampered by poor capacity and lack of investment and whole areas of work remain neglected (children's rights).

Implementing the Association Agenda (AA) is of critical importance to Georgia's progress in transforming its society and coming closer to the EU. The involvement of civil society experts in providing independent assessment of progress is also key and the views of civil society should be taken into account by the EU and the government of Georgia.

METHODOLOGY

Short-term priorities are those in the AA which should be achieved or on which significant progress should be made by end 2018. Where appropriate, the monitoring assesses the specific actions outlined in the 2018 National Action Plan for the Implementation of the EU-Georgia Association Agreement and Association Agenda according to the indicators established by the Georgian Government's Action Plan. These short-term priorities are quoted directly as they appear in the Association Agenda, in bold type. For each priority, an Overall Assessment is given as to whether it has been *Implemented*, *Partially Implemented*, or *Not Implemented*. Further detail is then provided as to which specific actions have been *Done*, and which actions are *Not Done*.

JUSTICE

JUSTICE SECTOR

1. Develop and gradually implement the Judicial Strategy and its action plan, which among other issues will cover improvement of the policy and practice of the appointment, promotion and training of the judges, a particular focus on human rights and provide adequate resources to ensure proper judicial competencies; further promote independence of the High School of Justice, notably through enhanced capacities

Overall Assessment: partially implemented

Done: On 29 May 2017, the Strategy of the Judicial System for 2017-2021 and the Action Plan for 2017-2018 were approved. The Strategy of the Judicial System reflects five major strategic directions:

- Independence and impartiality;
- Ensuring accountable administration of justice;
- Ensuring high-quality administration of justice and professionalism;
- Ensuring the effectiveness of the judicial system;
- Ensuring access to justice.

The High Council of Justice has adopted a renewed procedure for the qualification exam and its preparatory processes. Certain activities have been carried out with the aim of improving the learning and development system for existing judges.

Not Done: Despite legislative amendments to the selection and appointment procedure for judges, the system still fails in practice to meet the standard of selection/appointment on the basis of merit and objective criteria. Notably, the process of selection/appointment is not substantiated and transparent. The work of task forces created with the aim of implementing the Action Plan lacks transparency and ineffectiveness.

Twelve out of the 14 activities provided for by the National Action Plan for 2018 have not been implemented or have been implemented only partially.

2. Improve effectiveness of the High Council of Justice inter alia by ensuring its independence as well as its accountability

Overall Assessment: not implemented

Done: In July 2018, the High Council of Justice specified the terms for publishing the decisions of the council. According to the amendments, the decision of the council shall be published on the official webpage of the High Council of Justice no later than 5 days following its adoption. Moreover, the council undertook the obligation to ensure the publication of consolidated versions of the decisions as well.

Not Done: The package of legislative amendments to the rules of procedure of the High Council of Justice has not yet been prepared. Important issues related to the activity of the High Council of Justice are yet to be regulated by law, which decreases the accountability of the Council's activity. The High Council's working procedures, including to relating to making, substantiating and publishing the decisions of the Council, as well as preparatory procedures and the rule of conduct of the Council's meetings, have not been changed, and deficiencies remain.

3. Improve the system of judicial accountability by implementation of clear and exhaustive disciplinary rules which are effectively enforced as well as by guaranteeing professionalism and integrity of judges

Overall Assessment: partially implemented

Done: The institution of an Independent Inspector has been created, and the procedural rules of the Inspector have been established.

Not Done: The adjudication of disciplinary complaints is lengthy and protracted, which poses a threat to the independence of judges. The rate of discontinuation of disciplinary proceedings is high, which, due to insufficient transparency, raises doubts about the objectivity of decisions regarding the discontinuation of cases. A new list of grounds for disciplinary liability of judges, which meets the requirement of foreseeability of laws, is yet to be adopted.

4. Streamline institutional structure of general courts, including where necessary, by introducing specialized panels and chambers and reduce case backlogs in civil divisions of general courts

Overall Assessment: partially implemented

Done: Legislative amendments have been drafted to resolve the problems of cases overrunning in courts, excessive flow of cases, and overloading of courts. As coping mechanisms Courts have established narrow specialisations and increased the number of their employees.

In August 2018, the research has been conducted to identifying the optimal number of judges. In November 2018, the preliminary assessment has been prepared of the causes of reported increases in case delays and backlogs in Georgian courts.

Not Done: No mechanism for decreasing the number of outstanding cases and for introducing a policy of time management aimed at preventing and decreasing delays has yet been developed or introduced.

5. Develop an electronic case allocation system and improve electronic case management program in order to raise trust towards the judiciary

Overall Assessment: partially implemented

Done: On 1 May 2017, the High Council of Justice adopted an electronic, automated procedure to distribute cases in common courts, which ensures that, save for exceptions provided for by the procedure, cases in common courts should be distributed among judges of the relevant panel/with narrow specialization. The distribution of cases on the basis of an electronic procedure became effective as of 1 July 2017 in the Rustavi City Court (as a pilot project) and as of 31 December in the entire system of common courts.

Not Done: In order to prevent interruptions to the administration of justice, the electronic case distribution procedure continues to give chairpersons of courts a broad discretion: a) to task a judge with taking part in the examination of a case in another chamber or investigation board of the same court; b) to task a judge with taking part in the examination of a case as part of another specialised group of judges within the same court; c) to task a judge with exercising the powers of a magistrate, and to task a magistrate with examining a case outside his/her area of jurisdiction – in a district (city) court. Chairpersons of courts retain the right to determine the composition of judges of narrow specializations, which leaves the case distribution system vulnerable to risks of interference by chairpersons of courts. In addition, the Council has unlimited powers to determine the narrow specialization of judges, which grants the Council indefinite discretion to determine the specialisation of judges thereby undermining the principle that cases should be distributed randomly.

6. Continue the reform of the Prosecutor's office aiming at further ensuring independence of prosecutorial work from any undue influence and greater transparency and accountability

Overall Assessment: partially implemented

Done: In 2017, the Parliament developed new wording in the Constitution of Georgia that defined the status, powers, and rules of procedure of the Prosecutor's Office in a new manner, which should be followed up by further harmonisation of legislation. The Parliament adopted the Organic Law of Georgia on the Prosecutor's Office.

On May 25, 2017, the new Code of Conduct for Employees of the Prosecutor's Office was approved. In 2017-2018, 26 training sessions were conducted on professional ethics and conflict of interests, which were attended by 552 participants (Prosecutors, Investigators of Prosecutor's Office, Advisors, Specialists).

Not Done: The Organic Law of Georgia on the Prosecutor's Office only ensures formal conformity with the new wording of the Constitution of Georgia, which in itself is not sufficient for a meaningful reform of the Prosecutor's Office. The Council of Prosecutors does not have enough safeguards to achieve functional and institutional independence.

7. Continue reforming the Criminal Code with the objective of liberalisation of sentences and modernisation of the law and ensuring its full compliance with relevant EU and international standards

Overall Assessment: partially implemented

Done: The draft Criminal Code has been prepared.

Not Done: The draft Criminal Code is yet to be submitted to the Parliament.

8. Further improve legislative and institutional frameworks for providing high quality free legal aid as well as payable legal services

Overall Assessment: implemented

Done: The mandate of the Legal Aid Service has been broadened to protect victims of domestic violence in civil and administrative cases.

The legislation has been amended with the aim of reforming the Council of Legal Aid and ensuring its institutional independence.

9. Continue ensuring fair trial, access to justice and procedural rights in criminal proceedings in accordance with Georgia's obligations under the European Convention of Human Rights, the case-law of the Court and other relevant Conventions of the Council of Europe by fully:

- guaranteeing the procedural rights of accused persons in criminal proceedings;
 - guaranteeing the rights for victims of crime, including hate crime, for access to justice, protection, support and compensation
- Introduce fair and efficient, and more widely used, alternative means of dispute settlement

Overall Assessment: partially implemented

Done: The work on draft amendments to the Criminal Procedure Code has started.

The National Action Plan for 2018 provided for only one activity – conducting a training course for judges. Training sessions were conducted and judges were trained.

Not Done: Draft amendments to the Criminal Procedure Code have not been submitted in the Parliament of Georgia.

10. Introduce fair and efficient, and more widely used, alternative means of dispute settlement

Overall Assessment: partially implemented

Done: A package of legislative amendments has been prepared with the aim of contributing to the development of the mechanism of mediation. Trainings were conducted.

Not Done: Other activities were not implemented or have been implemented only partially.

11. Implement rehabilitation and re-socialization approaches in the Penitentiary and Probation Systems and beyond in order to prevent re-offending and maintain a proper balance between ensuring public order and security and guaranteeing human rights protection

Overall Assessment: partially implemented

Done: By Order No. 321/S of the Director of N(N)LE Center for Crime Prevention of 24 October 2017, a programme of rehabilitation and resocialisation of former prisoners was developed. Certain activities have been carried out in connection with prisoners' employment, education, and involvement in rehabilitation programs.

Not Done: Problems remain with respect to providing probationers with adequate rehabilitation and resocialisation services, and with development of a long-term strategy in this area. A unified and standard package of psycho-social support, information and rehabilitation programmes are yet to be approved.

LAW ENFORCEMENT SECTOR

12. Increase the accountability and democratic oversight of law enforcement agencies. Complaints against the police will require a professional, effective mechanism for credible response. Consider taking further measures to promote independent and effective investigation of complaints against law enforcement officials. Provide a comprehensive professional training of law enforcement officers on ethical standards and the human rights as guaranteed by the European Convention of Human Rights

Overall Assessment: partially implemented

Done: On 20 July 2018, the Parliament of Georgia adopted the Law on State Inspector's Service (SIS).¹ The law aims to create an independent and impartial institution for the investigation of certain crimes committed by representatives or employees of law enforcement bodies.

In 2017-2018 (as of 1 October 2018), the Academy of the Ministry of Internal Affairs conducted 14 training sessions with the aim of teaching standards of professional ethics, which were attended by 805 participants. During the same period, 26 training sessions were conducted on human rights issues, which were attended by 1,800 participants.

Not Done: The mandate and competence of the newly created position of the State Inspector are limited, which brings into question the effectiveness and independence of the newly created mechanism. Certain types of crime, which, as noted by the public, are often committed by law enforcement officers, remain outside the scope of the newly created mechanism. The Prosecutor's Office retains exclusive powers to conduct criminal prosecution. The powers of the State Inspector's Service are limited to investigation, whereas, according to the applicable legislation, procuratorial supervision over the investigation is almost entirely carried out by the Prosecutor's Office.

Despite the limited mandate and powers of the State Inspector, it was vitally important to put this institution into operation within the determined time frame – from January 1, 2019. For this reason, the Georgian Parliament's making the amendments to the Law of Georgia on the State Inspector's Service in an accelerated manner – several days before the State Inspector's Service was to become operational – should be given a particularly negative assessment. As a result of the amendments made to the law, instead of January 1, 2019, the law will enter into force six months later.

¹ The law entered into force on 21 July 2018.

12. Further expand application of alternatives to imprisonment, by introducing new non-custodial sentences and increasing the capacities of the probation service

Overall Assessment: partially implemented

Done: Amendments to the legislation have introduced house arrest as a form of non-custodial punishment. Issues related to the enforcement of house arrest came under regulation by Order No. 146 of the Minister of Corrections and Probation of 28 December 2017. Individual plans were introduced for serving sentences based on the assessment of risks and needs.

Not Done: The share of application of custodial penalties remains high.

ANTI-CORRUPTION, PUBLIC
ADMINISTRATIVE REFORM
AND PUBLIC SERVICE

The EU-Georgia Association Agenda for 2017-2020 includes (in the area of anti-corruption policy, public administrative reform, and public service) seven short-term priorities which, according to the document, “should be achieved or on which significant progress should be made by end 2018.”¹ The 2018 National Action Plan for the Implementation of the EU-Georgia Association Agreement and Association Agenda (hereinafter referred to as the Action Plan) establishes a list of specific actions that must be implemented in order to achieve these priorities. The implementation of these actions is assessed in subsequent sections of this document according to the indicators established by the Georgian Government’s Action Plan.

1. Continue combating corruption, and ensure effective implementation of relevant international legal instruments, such as the UN Convention Against Corruption, and the Criminal Law Convention on Corruption and its Additional Protocol, as well as of recommendations of the Council of Europe’s Group of States against Corruption (GRECO) and the recommendations of the OECD-Anti-Corruption Network for Eastern Europe and Central Asia

Overall Assessment: implemented

Done:

- Prepare corruption risk assessment methodology - employees of the Anti-Corruption Council’s Secretariat attended two training sessions on risk assessment and a draft of the methodology is scheduled to be completed by the end of 2018.²
- Continue bilateral and multilateral cooperation with the relevant agencies of partner countries and international organizations on the prevention of corruption and the fight against it - the State Security Agency’s employees participated in 12 international events in 2018, while seven documents on international cooperation were also concluded.³
- Professional development of the State Security Service’s Anti-Corruption Agency (Department). Implement a special educational program of re-training - the State Security Service’s employees participated in 14 international and local training events and courses in 2018.⁴
- Monitor 2017-2018 Anti-Corruption Action Plan - the 2017-2018 Monitoring Report was presented to the Anti-Corruption Council on 27 December 2018.

2 TI Georgia’s correspondence with the Ministry of Justice, November-December 2018.

3 TI Georgia’s correspondence with the State Security Service, November-December 2018.

4 TI Georgia’s correspondence with the State Security Service, November-December 2018.

2.Improve citizens' right to information as one of key measure to effectively prevent corruption

Overall Assessment: not implemented

Not Done: Prepare the law on freedom of information - according to the Action Plan, the draft of the law should have been submitted to the Parliament by July 2018 but it has not been done even as of December 2018.

3. Continue strengthening capacity of existing oversight, audit and financial investigation bodies

Overall Assessment: The relevant agency did not provide information on implementation

According to the Action Plan, the following activities were to be implemented by the Ministry of Finance under this priority:

- Conduct trainings according to the annual plan for the improvement of qualification of the employees of internal audit bodies, including the training on identifying and eliminating signs of corruption.
- Re-train local trainers in detecting and preventing corruption for sustainability and continuous development.

Transparency International Georgia sent a letter to the Ministry of Finance, asking them to provide information about the implementation of these activities, but the ministry has not responded to the letter as of December 2018.

4. Continue inclusive policy making with participation of citizens and dialogue between civil society and national and local authorities

Overall Assessment: implemented

Done: Prepare the 2018-2021 regional development program that will include information about potential investment in areas like innovation and assistance to small and medium enterprises - the program has been adopted and is available online.⁵

5. Reinforce oversight capacities of the parliament by improving capacity of sectoral committees

Overall Assessment: not implemented

Not Done: The 2018 Action Plan does not include any activities under this topic despite the fact that it is listed as a short-term priority in the Association Agenda.

⁵ http://www.mrdi.gov.ge/sites/default/files/2018-2021_clebis_sakartvelos_regionuli_ganvitarebis_programa_0.pdf

6. Continue implementation of the Public Administration Reform Roadmap and strengthen coordination, monitoring and reporting on the Roadmap and underlying strategies both at political and administrative level

Overall Assessment: implemented

Done:

- Prepare the 2018-2019 Open Government Georgia Action Plan - the 2018-2019 OGP Georgia Action Plan has been adopted and is publicly available.⁶
- Prepare the final assessment report for the 2016-2017 Open Government Georgia Action Plan - the final assessment report has been prepared and is publicly available.⁷
- Hold the Fifth Global Summit of the Open Government Partnership - the Summit took place in July 2018.
- Ensure accessibility of the public sector's electronic services through the single portal of electronic services (my.gov.ge) - the portal currently provides some 400 services for physical persons and over 50 services for legal entities.⁸
- Prepare policy document on the creation and provision of public services - a draft of the document has been prepared but no final version has been approved by the government yet.⁹
- Provide the services of digital signature and stamp verification - the State Services Development Agency has purchased the relevant software and is planning to launch the service before the end of 2018.¹⁰

6 http://www.justice.gov.ge/Multimedia%2FFiles%2FOGP%20%E1%83%93%E1%83%9D%E1%83%99%E1%83%A3%E1%83%9B%E1%83%94%E1%83%9C%E1%83%A2%E1%83%94%E1%83%91%E1%83%98%2FOGP%20Georgia%20Action%20Plan%202018_2019.pdf

7 http://www.justice.gov.ge/Multimedia%2FFiles%2FOGP%20%E1%83%93%E1%83%9D%E1%83%99%E1%83%A3%E1%83%9B%E1%83%94%E1%83%9C%E1%83%A2%E1%83%94%E1%83%91%E1%83%98%2FOGP%20AP_2016-2017%20Self-Assessment.pdf

8 TI Georgia's correspondence with the Data Exchange Agency, November 2018. n

9 TI Georgia's correspondence with the Public Services Development Agency, November 2018

10 TI Georgia's correspondence with the Public Services Development Agency, November 2018

7. Implement the new civil service legal framework to ensure a more professional and merit based civil service

Overall Assessment: implemented

Done: Prepare recommendations on human resources management through the generalization of the civil service's practices -- the Civil Service Bureau has prepared recommendations regarding the introduction of evaluation systems in public institutions. The Bureau is planning to publish a number of further documents before the end of 2018 (concerning, in particular, guidelines on institutional arrangements, gifts in the civil service, disciplinary proceedings in the civil service, reorganisation of public institutions).¹¹

¹¹ TI Georgia's correspondence with the Civil Service Bureau, November 2018.

TRADE UNION RIGHTS
AND CORE LABOUR
STANDARDS

EMPLOYMENT, SOCIAL POLICY AND EQUAL OPPORTUNITIES

1. Prepare for the approximation and implementation of the EU acquis in the areas of health and safety at work, labour law and working conditions, and gender equality and antidiscrimination as mentioned in the relevant annexes to the Agreement, and in particular to establish an appropriate law enforcement and supervision system in line with EU approaches (starting with the Occupational Health and Safety area) and to build capacity of social partners (e.g. training on EU health and safety legislation and standards and EU legislation and standards regarding labour law)¹²

TRADE UNION RIGHTS AND CORE LABOUR STANDARDS

2. Adopt the legal framework defining the supervision functions of the Labour Inspection system in the Occupational Health and Safety area, and remove restrictions to the powers of inspectors in existing legislation in accordance with International Labour Organisation (ILO) standards¹³

Overall Assessment: partially implemented

Done: Georgia adopted the Law of Georgia “On Occupational Safety”¹⁴ in 2018, which fully entered into force in January 2019. The law covers only those employers that operate in spheres identified as being particularly hazardous, hard, harmful and dangerous. In accordance with the law, the government of Georgia approved the complete list of such activities.¹⁵ Generally, the law guarantees essential aspects of labour safety; yet, there is a need to ensure further progress in this regard, and the Parliament of Georgia is currently discussing further amendments to the Law of Georgia “On Occupational Safety”¹⁶ which partially address existing gaps in the law.¹⁷

12 Association Agenda between the European Union and Georgia 2017-2020, Employment, Social Policy and Equal Opportunities, 46 <https://eeas.europa.eu/delegations/georgia/35853/annex-ii-eu-georgia-association-agenda_en>

13 Ibid, 22

14 Law of Georgia “On Occupational Safety” (Law N2048-IIb; adopted 07/03/2018; published: legislative herald of Georgia 21/03/2018) <<https://matsne.gov.ge/ka/document/view/4103880?publication=2>>

15 Government Decree “On Adopting the List of Hazardous, Hard, Harmful and Dangerous Works” (Document N381; adopted 27/07/2018; published legislative herald of Georgia 01/08/2018) <<https://matsne.gov.ge/ka/document/view/4277583?publication=0>>

16 Draft Organic Law of Georgia “On Occupational Safety” (Document N07-3/224/9) <<https://info.parliament.ge/#law-drafting/16349>>

17 EMC’s Assessment on Draft Organic Law of Georgia “On Occupational Safety” <<https://emc.org.ge/ka/products/emc-is-mosazrebebi-shromis-usaftrkheobis-shesakheb-sakartvelos-organuli-kanonis-proektze>>

The fourth and special meeting of the Tripartite Social Partnership Commission¹⁸ was conducted on 19 April 2018 and adopted the 2018-2019 Tripartite Social Partnership Commission Action Plan.¹⁹ In addition, the working group of the Commission met five times in 2017 and twice in 2018.²⁰

Numerous trainings and seminars were conducted in order to build the capacity of labour inspectors.²¹ In parallel relevant technical assistance were provided to the inspectorate. Another positive development is the financial aspect– as compared to the budget of 2018, the Labour Inspectorate budget is increased by more than 50% in 2019.²²

The Government exercised its supervision function based on the Government normative document, entitled “On State Supervision Rules for Prevention and Response of Forced Labour and Labour Exploitation”²³

Not Done: The scope of application of the law “On Occupational Safety” is limited. As both the existing law and the draft law demonstrate, labour safety is deemed to include only the physical safety of workers and almost entirely overlooks the potential for the labour inspection system to be empowered to deal with psycho-social hazards and risks in the workplace.

Labour inspection authorities do not have unconditional access to all workplaces. According to the law, the state supervisory mechanism requires prior approval through a corresponding court order for it to be able to conduct random controls.²⁴ The draft law “On Occupational Safety” foresees the removal of this drawback meaning that, as of September 2019, labour inspectors will enjoy unconditional and quick access to workplaces. However, taking into account the magnitude of problems in this regard and previous resistance towards enacting labour safety regulations, it is of vital importance to ensure that the regulations enter into force soon.

18 The fifth meeting of the Commission was held on 7 September 2018.

19 Brief Report (Six Months) on Implementation of the 2018 National Action Plan of the EU-Georgia Association Agreement and Association Agenda, 27.

20 Brief Report on Implementation of the 2017 National Action Plan of the EU-Georgia Association Agreement and Association Agenda, 38; Brief Report (Six Months) on Implementation of the 2018 National Action Plan of the EU-Georgia Association Agreement and Association Agenda, 27.

21 Brief Report on Implementation of the 2017 National Action Plan of the EU-Georgia Association Agreement and Association Agenda, 38; 2015-2017 Summary Report of the Labour Conditions Inspection Department, 9-10 <<https://www.moh.gov.ge/uploads/files/2018/Failebi/28.02.2018.pdf>>

22 In accordance with the information received from the Ministry of IDPs from the Occupied Territories, Labour, Health and Social Affairs of Georgia in 2018 Labour Inspectorate budget was 910,000 GEL, as for the 2019, the budget is approximately 1,500,000 GEL.

23 Brief Report on Implementation of the 2017 National Action Plan of the EU-Georgia Association Agreement and Association Agenda, 38.

24 Courts order is not the precondition for conducting inspection in the following cases: a) Through selective checks once in a calendar year; b) For the aims of the secondary check, within the reasonable timeframe; c) For the purpose of investigation of the accident at workplace. The list of companies for selective control is adopted by the decree and is not public. Law of Georgia “On Occupational Safety”, Art. 16 (5) (Law N2048-II ; adopted 07/03/2018; published: legislative herald of Georgia 21/03/2018) <<https://matsne.gov.ge/ka/document/view/4103880?publication=2>>

The government did not provide any plans as to the mobilisation of additional administrative, financial and human resources for implementing the new law. This challenge was revealed when the government was forced to postpone the registration of employers in the spheres of especially hazardous, hard, harmful and dangerous work, after it failed to manage the registration process for all interested employers in time.

3. Complement the legal framework necessary to establish an effective labour inspection system²⁵

Overall Assessment: partially implemented

Done: The Law “On Occupational Safety” defines the rules on penalties and sanctions in relation to potential infringements of the law. The proposed sanctions system could be assessed as adequate and appropriate if the law is applied effectively.

Not Done: The existing labour inspection system needs to be reformed in order to achieve full compliance with international legal standards. Therefore, additional amendments are necessary to enforce and apply core labour standards in the workplace. In particular, the legislator should ensure that the competences of this inspectorate exclude the currently existing major drawbacks:

- The Labour Conditions Inspection Department (which was set up in 2015) is the national labour inspection body, i.e. a structural subdivision of the Ministry of IDPs from the Occupied Territories, Labour, Health and Social Affairs of Georgia. Taking into account Georgia’s context, such structural practice limits the powers of the inspectorate.
- The mandate of the labour inspection department applies only to labour safety, trafficking and labour exploitation and does not provide it with powers to ensure that other labour rights are observed.²⁶
- The labour inspection system does not fulfil its mandate to inspect cases where there are violations of existing anti-discrimination rules in labour relations. In addition, when exercising its powers of inspection, the Department neither has permission to freely access the workplace nor the powers to take mandatory decisions. Moreover, there is no guaranteed, proportionate and reasonable sanction system in place. Therefore, the artificial splitting and limitation of labour inspection service powers runs counter to relevant EU directives and international standards.

²⁵ Association Agenda between the European Union and Georgia 2017-2020, Employment, Social Policy and Equal Opportunities, 46 <https://eeas.europa.eu/delegations/georgia/35853/annex-ii-eu-georgia-association-agenda_en>

²⁶ In accordance with the information received from the Ministry of IDPs from the Occupied Territories, Labour, Health and Social Affairs of Georgia, amendment to the Organic Law of Georgia “Georgian Labour Code” will be made in 2019, providing that the competent authority i.e. labour inspectorate will supervise enforcement of labour legislation. The Law will include a reservation determining that the article will apply to especially hazardous, hard, harmful and dangerous works from 2020 and to the other economic sectors by 2022.

- In parallel with strengthening the legal framework, it is essential to ensure financial and other types of support for the institutional growth of the inspectorate, including establishing local offices across Georgia.

In order to promote and realise internationally recognised core labour standards in both the law and practice, ratification of the fundamental ILO Conventions is essential. Notwithstanding, no progress has been made with respect to the ratification of selected ILO instruments, in particular as regards Labour Inspection Convention 1947 (No. 81), Protocol of 1995 to the Labour Inspection Convention 1947 (No. 81), Labour Inspection (Agriculture) Convention 1969 (No. 129), Occupational Safety and Health Convention 1981 (No. 155), Occupational Health Services Convention 1985 (No. 161), Safety and Health in Mines Convention 1995 (No. 176), Minimum Wage Fixing Convention 1970 (No. 131) etc.

TRADE UNION RIGHTS AND CORE LABOUR STANDARDS

4. Enhance gender equality and ensure equal treatment between women and men, as well as persons belonging to minorities, regardless of religion or belief, ethnic or national origins, race, sex, language, sexual orientation, gender identity, ability or other in social, political and economic life²⁷

Overall Assessment: partially implemented

Done: On 15 December 2017 the Government of Georgia submitted to the Parliament a package of draft laws aiming to implement the core EU Equality Directives. The draft package offers some material guarantees, the absence of which were regarded as a serious drawback of the existing anti-discrimination legislation. It revises or establishes definitions for several forms of discrimination, such as harassment and sexual harassment. The draft package amends the rules concerning occupational requirements and dissemination of information. Therefore, the draft laws cover the issues required to ensure that the principle of equal treatment may eventually be applied at the workplace.

In 2017 the Government of Georgia also enacted the Decree “On Defining General Rules of Conduct and Ethics at Public Institutions” which stipulates general provisions on equality, religious neutrality, sexual harassment and hate speech.²⁸

Not Done: The draft law was submitted to the Parliament at the end of 2017 and discussions are still under way.²⁹ However, according to the EU-Georgia Association Agreement, the deadline for implementing the core EU Equality Directives expired in 2017.

The draft law is faced with some major challenges in terms of categories of discrimination:

- It does not include failure to provide reasonable accommodation as a form of discrimination, which is essential for achieving substantive equality for particular groups, inter alia, people with disabilities. In addition, lengthy discussions in Parliament render unpredictable the time it will take to re-

27 Association Agenda between the European Union and Georgia 2017-2020, Trade Union rights and core labour standards, 22 <https://eeas.europa.eu/delegations/georgia/35853/annex-ii-eu-georgia-association-agenda_en>

28 Government Decree “On Defining General Rules of Conduct and Ethics at Public Institutions” (Law N200; adopted 20/04/2017; published: legislative herald of Georgia 21/04/2017) <<https://matsne.gov.ge/en/document/view/3645402?publication=1>>

29 The Parliament has approved the second reading of the draft law.

wise the anti-discrimination laws and thus be able to guarantee reasonable accommodation for disabled persons, in line with the EU Labour Equality Directive 2000/78.

- Contrary to civil service rules, there is no clear regulation in the draft law that establishes the obligation of the employer, and their consequent responsibility to prevent and combat sexual harassment at the workplace where it pertains to private sector employment.

The efficiency of the protection mechanisms against discrimination is of core importance in order not to weaken the government's anti-discrimination policy. Establishing effective institutional mechanisms, outside the Judiciary, remains one of the key challenges in ensuring equality. The Labour Conditions Inspection Department does not have a mechanism to monitor and eliminate discrimination practices in the workplace. This gap is not addressed in the draft law either, as it does not include any provisions establishing the mandate of the department over discrimination cases, inter alia, the competence to review discrimination cases and impose sanctions.

Similar institutional challenges prevent the Public Defender of Georgia, the national equality body, from exercising its role to fully combat discrimination. To address these challenges, the Public Defender of Georgia itself submitted a legislative proposal to the Parliament in 2015, which has, to date, nevertheless not discussed it. That proposal stipulates that private parties have an obligation to transfer information related to the case to the Public Defender and that the period to file a lawsuit before the court shall be extended.

Last but not least, there is no substantial progress regarding maternity protection.³⁰ Though there is an obvious need to conduct reform in the sphere of maternity, paternity and parental leave, to date, not even minimal improvements can be identified.

30 Maternity, Paternity and Parental Leave in the Light of Equality: National and International Standards and Experience, 33-42 (2017) <https://emc.org.ge/uploads/products/pdf/დეკრეტული_შეგებულება.pdf>

EQUAL TREATMENT

1. Enhance gender equality and ensure equal treatment between women and men, as well as persons belonging to minorities, regardless of religion or belief, ethnic or national origins, race, sex, language, sexual orientation, gender identity, ability or other in social, political and economic life

Overall Assessment: not implemented

Not Done: During 2017-2018 no steps were undertaken to improve **women's political and economic empowerment.**

In March 2018, the Georgian parliament took a vote on mandatory gender quotas once again and rejected the bill. The Speaker of the Parliament, Irakli Kobakhidze, member of the ruling party “Georgian Dream”, announced that a new bill would be initiated within just one week, but, to date, no new bill has been introduced.³¹

The continued horizontal and vertical segregation of the labour market with the result that women remain mainly concentrated in low-paid jobs is an acute problem in Georgia, which has not been addressed by the government.³² To date, no actions have been taken to increase economic activity of women and address the problem of the 35% wage gap between men and women.³³ Despite the considerable economic inequality between men and women in Georgia, government action plans and policies hardly mention women.³⁴ In 2018 Georgia adopted Human Rights Action Plan 2018-2020 covering some aspects regarding women's economic activities,³⁵ though major state action plans on economy still do not focus on women's economic empowerment.

LGBTQI³⁶ people suffer from numerous systemic violations of their rights and freedoms in Georgia. Stigma and discriminatory attitudes towards members of this community are very high, including among politicians, police, medical personnel, etc.³⁷ Freedom of expression and assembly remain a challenge. Whereas in 2017, Members of the LGBTQI community were able to have an event to mark the International Day Against Homophobia (IDAHO) in a re-

31 See at: <http://oc-media.org/georgian-parliament-rejects-gender-quota-bill/>

32 Women's Economic Empowerment in Georgia: Analysis of Existing Policies and Initiatives, Sapari, 2017, p. 21, available at: <http://sapari.ge/wp-content/uploads/2017/12/woman-economic-eng-www.pdf>

33 National Statistics Office of Georgia. Monthly Salary of Employees based on Sex. 2017.

34 Patarala, The Need for State Strategy on Women's Economic Empowerment, OSGE, Sapari, 2018, See at: http://www.osgf.ge/files/2018/Publications/Angarishi_A4__Women_ENG.pdf

35 Human Rights Action Plan 2018-2020, 2018, See at: http://myrights.gov.ge/en/plan/Human%20Rights%20Action%20Plan%20for%202018-2020?fbclid=IwAR0zfuRq8X7HgS_kKviAwhG7BXLFnTRayfL6J4LoHwFAsafmHIhhmeO8jo

36 Lesbian Gay Bisexual Transgender Queer and Intersex.

37 Submission to the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, WISG, 2018, see at: https://women.ge/data/docs/publications/WISG_Submission_INDEPENDENT-EXPERT_2018.pdf

stricted area and subject to time limitations, in 2018 all the LGBTIQ community organizations in Georgia unanimously refused to stage a demonstration, as the state failed to guarantee a risk-free environment for the exercise of rights of free expression and assembly.³⁸

One of the most problematic issues for **transgender people** is that they are deprived of legal recognition. They are forced to undergo sex reassignment surgery to change their sex marker in identification documents and birth certificates, as well as irreversible sterilization, mandatory hormonal treatment and various surgeries.³⁹ Despite the deep systemic problems LGBTIQ face in Georgia, the state still omits issues relating to Sexual Orientation, Gender Identify and Expression, and Sex Characteristics (SOGIESC) issues in the national Human Rights Action Plans.⁴⁰

Religious minorities in Georgia face the denial of construction permits, which local self-government bodies can give to religious minority organisations. This discriminatory practice is assessed by civil society as part of a wider discriminatory and arbitrary state policy towards religious minorities.⁴¹ State Agency for Religious Issues was created in 2014 and is heavily criticised by civil society for its attempts to gain control over religious organisations. In fact, the funding of four religious organisations is deemed discriminatory: the payment is non-secular, and it contains a high risk of interference. According to civil society actors in Georgia, the government has to review and change its strategy and approaches towards non-dominant religious organisations substantially.⁴²

For many years already, the biggest challenge for **ethnic minorities** in Georgia is the lack of knowledge of the state language. Existing programs and textbooks are not sufficient to remedy this problem, and it is obvious that language barriers hinder, for example, the social integration of Azerbaijani and Armenian communities in Georgia.⁴³ During the past two years no new programs or policies enhancing access to education have been developed by the government. The state has not developed neither a unified strategy nor an action plan to support greater integration of ethnic minorities in all levels of education.

38 See at: <https://dfwatch.net/gay-rights-rally-canceled-tbilisi-following-pressure-far-right-groups-50384>

39 Statement of Minister of Justice of Georgia Mrs. Tea Tsulukiani, 11.06.2018 see at: <http://liberali.ge/news/view/37592/tsulukiani-reforma-romelits-ar-gavatare-aris-transgenderi-adamianebistvis-sqesis-aghiareba>

40 Equality Movement, Women's Initiative Support Group and ILGA-Europe, Submission to the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, 2018, see at: <http://www.equality.ge/en/submission-un-independent-expert-protection-violence-discrimination-based-sogy-victor-madrigal-ahead-visit-georgia/>

41 Overview of Cases on Restriction of Religious Freedoms and Discrimination, EMC, 2017, see at: <https://emc.org.ge/uploads/products/pdf/Overview-of-Cases-on-Crestriction-of-Religious-Freedoms-and-Discrimination-in-Georgia.pdf>

42 The Human Rights Organisations Respond to the Government's decision on the abolition of the State Agency for Religious Issues, 04.07.2018, see at: <https://www.tdi.ge/en/statement/human-rights-organizations-respond-governments-decision-abolition-state-agency-religious>

43 Annual Report of Public Defender of Georgia, The Situation of Human Rights and Freedoms, 2017. pp.171-178. See at: <https://sites.google.com/view/geoombudsman2/reports/parliamentary-reports>

No significant improvement has been made regarding persons with **disabilities** during the period 2017-2018, and Georgia has not yet ratified the Optional Protocol of the UN Convention on the Rights of Persons with Disabilities. A fundamental challenge continues to be the low level of participation of people with disabilities in the Georgian labour market, the educational system and in social and political life in general.⁴⁵ The realisation of their right to such access is highly problematic, especially outside urban centres – a situation that has arisen due to legislative gaps and the blatant absence of a mechanism that could monitor discrimination and then also impose penalties.⁴⁵

44 The Rights of Persons with Disabilities, The Rights of Children Gender Equality and the Rights of Women, EMC, PHR, Sapari, 2018. See at: https://emc.org.ge/uploads/products/pdf/Raport_1537452439.pdf

45 Annual Report of Public Defender of Georgia, The Situation of Human Rights and Freedoms, 2017. pp.182-194. See at: <https://sites.google.com/view/geoombudsman2/reports/parliamentary-reports>

2. Take further measures to strengthen the implementation of legislation against gender-based violence, including awareness-raising of both the general population and of specific professional groups, such as the police, and in particular in rural and minority areas. Increase the access of victims to counselling services and shelters

Overall Assessment: implemented

Done:

- In May 2017, Georgia ratified the Istanbul Convention on preventing and combating violence against women and domestic violence, and it amended the relevant national legislation.
- At the beginning of 2018, the Ministry of Internal Affairs of Georgia established a Human Rights Protection Department, which monitors the investigation of crimes that are based on discrimination, gender-based violence, domestic violence, and crimes against underaged citizens.
- The number of investigations increased significantly. In the first six months of 2018 criminal charges were issued for domestic crimes in 1,933 cases; this equals the total number of charges issued in 2017.⁴⁶
- A risk assessment tool and a monitoring mechanism on the implementation of restrictive orders were developed and piloted in July 2018⁴⁷.
- In 2017, a new hotline (116 006) was established with the Ministries of Internally Displaced Persons from Occupied Territories, Labour, Health and Social Affairs of Georgia. In order to make the Hotline better known, adverts were posted on public transportation systems, street events were held in seven cities, and information flyers were distributed; in addition, social adverts were aired on major and regional television channels.⁴⁸

46 Official website of Ministry of Internal Affairs, see at: <https://police.ge/ge/shinagan-saqmeta-saministroshi-odjakhuri-danashaulis-shesakheb-momartvianoba-bolo-6-tveshi-sagrdznoblad-gaizarda/11806?fbclid=IwAR0Sb4XJyxQ2mfGsA4TlyOPqZqi-gahh7e7si-f3GE2P4FA9OhQoPi8rCXc>

47 Official Letter #MIA 9 18 02486753 from Ministry of Internal Affairs, dated 11.10.2018

48 Official Letter #07/1387 from AtipFund Georgia, State Fund for Protection and Assistance of (Statutory) Victims of Human Trafficking, dated 05.10.2018.

- With the assistance of UNWOMEN two new crisis centres were opened in Gori and Kutaisi, and by the end of 2018 new crisis centers in Marneuli and Ozurgeti will be opened for victims of gender-based violence and trafficking.⁴⁹
- In 2017, with the help of UNFPA, new guidelines on the identification of physical, psychological and sexual violence against women, as well as principles for treatment and referral, were adopted.⁵⁰

49 Official Letter #01/7079-s from the Ministries of Internally Displaced Persons from Occupied Territories, Labour, Health and Social Affairs of Georgia, dated 08.10.2018.

50 Ibid.

CHILDREN'S RIGHTS

1. Provide adequate resources and strengthen the role of the Public Defender's Office to undertake further ombudsman work for children, inter alia to carry out annual monitoring of the situation in relevant institutions, including in day centers

Overall Assessment: partially implemented

Done:

In 2017, Ombudsman has conducted regular work to protect children, inter alia:

- Raising the issue of safe and harmless toy regulations: Georgia has not yet approximated internal regulations with the Toy Safety Directive of the EU (2009/48/EC)
- Raising the issue of suicide in children: 2017 saw the increase in suicides, or attempted suicides among minors. An action plan on the prevention of suicide has not been developed.
- Monitoring the availability of safe and harmless drinking water and adequate standards of sanitation and hygiene in public schools.
- Monitoring preschool education and the shortage of kindergarten facilities: the public defender observed overcrowded classes, with 60-65 children each.
- Monitoring the problem of out-of-school children (due to dropout rates) and access to education for children belonging to different minority groups.
- Monitoring child poverty and the effectiveness of social programs to prevent child segregation and fulfill the basic needs of the child.

Not Done: Despite efforts by the Ombudsman of Georgia to conduct monitoring activities on children's rights in 2017, incorporating these findings in a corresponding parliamentary report, there are several barriers obstructing the work of the Public Defender. It is important to mention that the Public Defender's Office was working in such risky conditions during 2017 that they negatively affected the proper functioning of the entire office, including the child's rights center. In particular, due to the failing infrastructure of the office of Ombudsman, (the building is not safe to work in) and problematic working conditions, the Ombudsman staff had to cancel the hotline and other services,

including child rights activities, for about two weeks in June 2018. According to the Public Defender, the primary reason for these problems was an inadequate and hazardous infrastructure, which created serious risks for the employees. The current situation is not adequate either, as the public defender is still renting office space, which is not a cost-effective solution. The budget that has been allocated for the purpose of strengthening monitoring and human rights activities is thus mainly spent on rent. This demonstrates that one of the most important human rights institutions in Georgia is not sufficiently supported by the state. Put differently: the state does not comply with its obligation vis-à-vis the Office.

2. Focus on measures to protect children against all forms of violence

Overall Assessment: not implemented

Not Done: In order to comply with the second short-term priority, according to the National Action Plan, state authorities were obliged to introduce a “Referral Mechanism for defending children against all kinds of violence”. However, this Referral mechanism was already introduced in 2010 in Georgia. So it is unclear how the measurement of the 2nd short-term priority could be undertaken either by the Government or by the NGOs.

In addition to the above, a number of challenges remain in the field of protecting children from violence, none of which are handled properly by the state:

- Corporal Punishment is still not criminalized and remains unpunished in Georgia;
- The Parliament of Georgia has not made any effort to harmonize domestic legislation with the “Lanzarote Convention” (The Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse) in relation to preventing sexual violence against children;
- The government of Georgia has not taken any proper steps to guarantee access to justice for children who are victims of violence; moreover, state authorities have not put in place a child-friendly justice system that would lead to the establishment of effective rehabilitation services for children who are victims of violence and/or abuse;
- Georgia lacks a critical mass of trained professionals working on children’s rights.

- The state's hotline for children does not operate 24/7. It works until 6 pm. This means that children and their parents or legal representatives have no access to the hotline to report child rights violations and violence against children after 6 pm and during the weekends.
- The state has been reluctant to organize relevant awareness-raising campaigns about children's rights and combatting violence against children.

ENVIRONMENT AND CLIMATE CHANGE

ENVIRONMENT

1. Enhance environmental governance by adopting and implementing new legislation in Georgia on environmental impact assessment, strategic environmental assessment, new legislation on environmental liability, by ensuring public access to environmental information and public participation in decision-making, by involving all interested stakeholders, as well as by integrating environment into other policy areas and by improving environmental information sharing in line with the principles of the Shared Environmental Information System (SEIS):

Overall Assessment: partially implemented

Done:

- The Environmental Assessment Code **entered into force** on 1 January 2018, in line with relevant EU directives, and as was required by the EU–Georgia Association Agreement. The Code established procedures for Environmental Impact Assessment (EIA) processes for certain public and private projects that entail significant environmental and human health risks, and it re-introduced public participation in the decision-making process.
- The Strategic Environmental Assessment (SIA) part of the Code came into force on 1 July 2018. It marks the first time the strategy ‘on tourism, agriculture, road infrastructure, business development and sustainable development of mountainous areas’ was submitted to a screening procedure under the Ministry of Environment Protection and Agriculture.
- The rules on public access to environmental information were adopted by the Ministry of Environment and Natural Resources (2017).
- The government re-introduced public participation in the Environmental Impact Assessment process along with the development and adoption of bylaws that are supposed to govern the organisation of relevant public hearings.
- Work towards the creation of environmental information and knowledge management under Shared Environmental Information System (SEIS) is still ongoing. Three modules – biodiversity, desertification, and climate change – were already elaborated and are available on the following website: <https://eims.eiec.gov.ge/>. Also, a mobile application has been developed.

Not Done:

- The government failed to consult with the public on restructuring the environment governance system in Georgia – a process that led to the merging of the Ministry of Environment and Natural Resources Protection with the Ministry of Agriculture Development in spring 2018.
- The Ministry of Environment and Agriculture Development systematically violated the requirements of the Environmental Assessment Code on public participation, particularly in terms of timeframes for consultation, the distribution and accessibility of documentation, the organisation of public hearings, and other requirements. Consequently, public access to environment-related information and public participation in decision-making during the EIA processes was severely obstructed.
- The law on Environmental Liability is still under elaboration. The first draft text was disclosed for public comments and for public hearing in June 2018. The law will re-introduce the ‘polluter pays’ principle to prevent and remedy environmental damage in line with directive 2004/35/EC.

2. Adopt the Third National Environmental Action Programme of Georgia' (2017–2021):

Overall Assessment: implemented

Done: The government of Georgia adopted the Third National Environmental Program (NEAP-3) 2017–2021 on 22 May 2018.

3. Start implementation of the National Radioactive Waste Management Strategy:

Overall Assessment: partially implemented

Done:

- The main goal of the national strategy for radioactive waste for the next 15 years is to collect all radioactive waste. In accordance with the 2017–2018 action plan, relevant technical regulations were adopted.
- Measures to increase the safety of radioactive waste treatment facilities were undertaken. This includes the Mskheta Central Storage Facility (CSF), which benefited from the installation of a radiation monitoring system, a cementation facility for handling radioactive waste, measuring equipment and a foot-and-hand radiological monitor device. At the Saakadze disposal facility, with the support of the IAEA, general safety and security has increased.
- At the Mskheta Central Storage Facility (CSF), equipment for handling radioactive liquid waste was procured, and Georgia now has the capacity to both process and safely store this kind of waste.
- A special project proposal was elaborated and agreed with the EU to investigate the Saakadze site to allocate all radioactive waste management facilities on this site and design new storage and waste processing facilities.

Not Done: According to the strategy, an on-ground radiological monitoring of the Anaseuli site was conducted in cooperation with the Swedish government. However, the work for preparation of a decontamination plan for the Anaseuli site lags behind the schedule.

CLIMATE CHANGE

4. Finalise and adopt the Low Emission Development Strategy of Georgia:

Overall Assessment: not implemented

Not Done: The low emissions development strategy of Georgia has been prepared and finalised, but it has not yet been adopted by the government. Some actions defined by the strategy have been transferred in National Environmental Action Plan 2017-2020.

5. Start of the Paris Climate Agreement implementation:

Overall Assessment: implemented

Done:

- Georgia submitted its Intended Nationally Determined Contributions (INDC) document in May 2015. There is ongoing work to update the NDC document. Therefore, the existing greenhouse gas emissions from economic sectors were recalculated and a forecast for 2030 was modelled. In December 2018 the Ministry of Environmental Protection and Agriculture presented the content and structure of the NDC and suggested the stakeholders to share their opinions on each component of the document.
- A list of potential activities for greenhouse gas reduction/mitigation scenarios for transport sector has been prepared.

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