



# COMMENTS OF THE GOVERNMENT OF GEORGIA ON THE REPORT OF COALITION OF NGOS

**EVALUATION OF TWO-YEAR  
ADMINISTRATION OF THE GOVERNMENT**  
OCTOBER 2012 - DECEMBER 2014



May 2015

In the development process of the report on “Evaluation of Two-year Administration of the Government - October 2012 - December 2014” prepared by the Coalition of NGOs, relevant agencies of the Government of Georgia were given an opportunity to provide their written evaluations to non-governmental organizations regarding critical considerations outlined in the report.

Thematic meetings between the representatives of non-governmental organizations as well as the state institutions were organized by the Administration of the Government of Georgia. At the meeting the parties exchanged their views regarding the issues outlined in the report. The Government of Georgia gives positive assessment to such form of communication between state institutions and non-governmental organizations as well as expresses hope that cooperation will further continue.

The Government of Georgia does not agree with the number of views expressed in the report, which in many cases degrade or incompletely reflect positive steps taken by the new government since 2012 as well as the active reform process ongoing in various directions. We believe that views expressed in some cases are not properly grounded and do not leave possibility of perception of objective reality.

Given document presents comments of the state agencies prepared in response of critical opinions expressed, reflects positive changes of the last two years and creates objective picture of the new government’s performance evaluation.

## *Table of Contents*

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1. Public administration system.....	1
2. Evaluation of law enforcement system.....	11
3. Judicial system.....	19
4. Evaluation of penitentiary system.....	24
5. Election reform.....	25
6. Local government reform.....	26
7. Freedom of religion.....	27
8. LGBT group.....	36
9. Legal status of persons with disabilities.....	37
10. Environment protection, natural resources and energy.....	50
▪ Environment protection and natural resources	
▪ Energy	
11. Foreign policy.....	69
12. Investment environment.....	81
13. Economy.....	87
▪ Agriculture	
14. Open government.....	99
15. Media environment.....	101
16. Violence against women in Georgia.....	103
17. Labor rights.....	109
18. Right to Housing - legal status of socially vulnerable homeless people.....	112
19. Status and Condition of the rights of IDPs.....	113
20. Migration.....	115
21. Cultural heritage.....	119

## 1. Public administration system

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### 1.2. The Parliament of Georgia

#### 1.2.2 Problems / Challenges

“Setting aside various progressive Bills can be identified as one of the negative trends of the recent period. In this regard, the delay of witness interrogation procedure, full implementation of the jury system, introduction of cash machines and other initiatives should be noted. In most cases the delay process was ongoing without proper justification.”

**Comment:** There are many gaps regarding the jury system and full operation of the system without elimination of these gaps would not be expedient. In particular, it is necessary to clarify those parts of the Criminal Procedure Code, which concerns to random selection of the jurors, justification of their verdict and most importantly, jurisdiction of jury trials. Work is underway in this direction. The Ministry of Justice has its own research results as well as the research prepared by the experts of Council of Europe and based on this analysis amendments to the Criminal Procedure Code shall be drafted in the current year.

### 1.3. Executive authority

#### 1.3.1. Positive Changes

“The Resolution on proactive publication of information adopted by the Government of Georgia in 2013 should be noted, which was significant step towards transparent activities of executive authorities.”

**Comment:** Nothing is said about the work that has been conducted by the Ministry of Justice in cooperation with the civil sector concerning the development of draft law on freedom of information:

The Ministry of Justice, with active cooperation of the civil society, in particular with “Open Society Georgia Foundation” and “Institute for Development of Freedom of Information” has been working on a draft law on freedom of information more than one year, which shall collect existing principles and rules regarding freedom of information from various normative acts, including the General Administrative Code and bring them in line with modern requirements. The main advantage of the new legislation will be the establishment of monitoring and supervisory body in the field of freedom of information, which will oversee performance of obligations by the public institutions regarding the access to public information. To this end, surveys, conferences and roundtables were undertaken, including through participation of recognized Scottish expert in this field, Kevin Dunion. In addition, a study visit was organized in August 2014 in Mexico. Work on the bill will be completed within the current year, and then it will be submitted to the Government and the Parliament of Georgia.

#### 1.3.2. Ministry of Justice

"Although the government has expressed its readiness to reform the prosecutor's office, it is not known how the process will be directed. It is regrettable that within two years the in-depth reform of the prosecutor's office has not been planned and carried out. Question marks still remain regarding the independence of prosecutor's office."

"The government must carry out as fast as possible a large-scale reform of the Ministry of Internal Affairs and the Prosecutor's Office, which, first of all, will ensure independence and political neutrality of these two institutions, as well as the accountability and transparency of the activities."

"After elections the relations between the prosecutor's office and the judiciary were significantly changed, which raised expectations that the existing loyalty would transform into the law-based relations and judiciary would fulfill the role of controlling body. But such transformation was not caused by significant institutional changes in the prosecution system."

"At the end of 2014, after the statement of the Prime Minister the session for drafting the concept reform for the prosecutor's office as well as for planning of preparatory works for the relevant legislative acts was held within the frames of the Interagency Criminal Council."

"Within the reform initiated by the prosecutor's office, the government shall ensure institutional guarantees for independence of prosecution system from political influence. To do this, there is a necessity of: - profound changes in the rules for appointment of the Chief Prosecutor. In the reformed model the right of selection and nomination of the Chief Prosecutor shall be given to the President and the election process shall be carried out by the Parliament."

**Comment:** In the evaluation nothing is said about the recent important steps that have been taken towards the reform the prosecutor's office. The evaluation would not be complete without these issues:

On April 8, 2015 the session of the Interagency Council on Criminal Justice Reform was held, where the Council Secretariat – the Analytic Department of the Ministry of Justice, presented a comprehensive research on institutional models of prosecutor's office in European countries and the United States. Based on this research a new model of institutional structure of the prosecutor's office was developed and submitted to the session of the Council. The main principles of this model are the following:

1. The Prosecutorial Council shall be established in the Ministry of Justice of Georgia.
2. Prosecutorial Council is composed of the Minister of Justice, Deputy Chief Prosecutor, three prosecutors elected by the Prosecutors Conference, Chairmen of the two Committees of the Parliament and two members of the civil society elected by the Parliament.
3. In addition to the Minister of Justice and other ex officio members, who are considered to be the members of the board before the expiration of their terms, the term of office for Prosecutorial Council Members is 4 years.
4. The authority of Prosecutorial Council is the following:
  - Within its competence, appoint the candidate of the Chief Prosecutor, which will be voted by the Parliament in the end;
  - Within its competence, when there are signs of crime in the activities of the Chief Prosecutor, submit the proposal regarding the dismissal of Chief Prosecutor of Georgia which is prepared on the basis of the report developed by the ad hoc Prosecutor;

- Implement disciplinary proceedings against Chief Prosecutor of Georgia and Deputy Chief Prosecutors;
  - Hear the report of the Chief Prosecutor of Georgia in every six months;
  - Carry out other important functions.
5. Prosecutorial Council does not interfere in the process of implementation of prosecutorial powers.

This model which is likely to undergo some changes and in accordance with the comments and recommendations of the civil society will be a basis for the bill. Thus, after the studying by the experts of the Venice Commission and/or the OSCE will be adopted by the Parliament by the end of the year.

Changes prepared in accordance with these principles will have a result the authors of the assessment talk about – that “within the reform initiated by the prosecutor’s office, the government shall ensure institutional guarantees for independence of prosecution system from political influence”.

But as for the requirement, that this goal should be achieved through selection of the candidate of the Chief Prosecutor and delivery of rights of nomination to the President, we note that such a measure is impossible without adoption of proper constitutional amendments. Furthermore, the view of the authors of the evaluation regarding the method of appointment of the Chief Prosecutor is their private opinion, which is missing justification and cannot be considered as the sole proper option.

**“Informal administration was outlined, when unauthorized individuals are involved in the specific national affairs, which has negative impact on the functioning of democratic institutions in the country and particular institutions were ignored by the representatives of the government.”**

**Comment:** One of the significant achievements of the Government of Georgia is the establishment of sound governance model, which is in line with the Constitution. All powers of the government exercise its authority and there is no functional confusion between the various branches. Government cannot accept, without any reasoning, informal reference to governance. Georgia is governed by the institutions and not individuals, what took place in our country for a long time.

Argument of informal administration is justified with the opinion of respondents of one of the public opinion surveys, which cannot be used to prove the existence of informal administration as well as other opinions of the author of evaluation.

**“Over time it became clear that the government focuses on strengthening of law enforcement agencies and equates the power of the state with the power of the law enforcement agencies.”**

**Comment:** Neither actions of the government nor views expressed by the Prime Minister can be considered as the grounds for proving the abovementioned.

#### **Executive authority**

**"The government has failed to ensure significant progress regarding the public administration reform."**

**Comment:** Public Administration Reform is one of the key priorities of the Government of Georgia. In order to implement the reform, the government has undertaken several steps over the years 2013-2014. In particular, the Public Administration Reform Coordinating Council was established, which was composed by 15 representatives of the Ministries and the Parliament and which is led by the Head of Government Administration. As a result of the initiative the concept of the Public Administration Reform was developed and approved with the Resolution #627 of the Government of Georgia dated 19 November, 2014. Public Administration Reform aims to:

- Establish free from politics, open and effective public service;
- Ensure public service, which will be based upon a consistent and clear legal framework;
- Ensure institution of a public officials which will be based on career advancement system;
- Give possibility to public servants of constant development and capacity building;
- Introduce fair remuneration and classification system;
- Make further steps towards European and Euro-Atlantic integration.

At the same time, the Action Plan adopted by the Resolution #198 of the Government of Georgia dated 12 February, 2015 “on the approval of the Action Plan for measures to be implemented in 2015 for promotion of implementation of the concept of the Public Administration Reform by the LEPL Civil Service Bureau” represents the guiding document, where the goals, objectives, time-related activities and performance indicators of the Bureau are prescribed for the implementation of the Public Administration Reform (Annex 1). For the implementation of the PAR, number of initiatives were planned and already implemented within 2014, in particular:

- Working group for drafting a new law was set up; new law structure and several chapters of the bill were developed through participation of local and EU experts. By the end of May, full wording of the new draft law will be ready, since the new law structure as well as the five chapters has been drafted through participation of local and the EU – SIGMA (Technical Assistance Service of the Organization for Economic Cooperation and Development (OECD)) experts. Five working meetings and two public hearings were held with the employees of the Legal and Human Resources departments of the central public authorities. Upon completion of the project, 6 public hearings are going to be organized with various focus groups, which imply participation of the representatives from judiciary, legislative and local authorities. In the drafting process of the new law important issues are discussed, such as professional civil servants and establishment of civil service free from political influence, introduction of unified classification, remuneration system and others.
- For the establishment of a transparent remuneration system in the public service, in May 2014, with the initiative of the Prime Minister procedure for determining the amount of bonus at the public institutions was developed, which was approved by the Resolution #449 of the Government of Georgia dated 15 July, 2015 and amount of the bonuses to be given to the employees of public agencies was identified as well as the terms and conditions for its issuance. Furthermore, according to the Article 3 of the Resolution, the LEPL Civil Service Bureau was entrusted to analyze / generalize information submitted by the public institutions

regarding remuneration and performance appraisal systems in state authorities until 1 January, 2015 and thus, submission of the proposals to the Government of Georgia concerning remuneration and performance appraisal systems. Obligation identified with the Resolution was fulfilled and the Bureau, with financial support of the USAID, has conducted relevant survey, based on which suitable performance management model was developed. This vision was submitted to the Government Administration (Annex 2).

- New competition rules envisaged by the Law of Georgia on Public Services was developed and adopted by the Resolution #412 of the Government of Georgia dated 18 July, 2014. New Resolution has determined more flexible and transparent system of conducting competitions, during the competition the presence of independent experts as well as testing phase for local government agencies has become compulsory. This will contribute to increasing the quality of the objectivity and impartiality of decision-making process. According to the concept of the Public Administration Reform, Civil Service Bureau is obliged to coordinate the development of code of ethics in state agencies as well as the process of its implementation in practice. In this regard the guide has already been set up, the training curriculum has been prepared and pilot trainings were conducted through participation of the representatives of human resources and internal monitoring of central public agencies. In order to develop a code of ethics formation of a Working Group with engagement of local as well as foreign experts is planned in the nearest future.
- For the existence of unified human resources management system as well as to collect exact data about the public sector employees, Civil Service Bureau together with the LEPL Data Exchange Agency is working on electronic system for human resources management and the issues of its implementation. At this point the system has been introduced in 44 state institutions and work on development of the data exchange electronic program for implementation of unified electronic system of HR management is ongoing.

Furthermore, for the improvement of public administration, according to the obligations under the Association Agreement and the Government Program, Georgian Government Administration processes Public Administration Reform Strategy with the support of the OECD/SIGMA. The strategy includes the following components: policy planning and coordination, openness and accountability, human resources, public services, public finance management, local self-government. Public Administration Strategy developed by the Government of Georgia is sent to the European Commission for final evaluation and then the strategy will be finally approved and implemented.

**“Although the Government after more than two years in power, expressed readiness to start the reform of the Ministry of Internal Affairs, at this stage it is still not known what exactly the government is going to change in the MIA.”**

**Comment:** The main objective of the new leadership of the Ministry of Internal Affairs is de-politicization of the Ministry, what is the basis of democratic system and instead of politicized law enforcement agencies, it envisages the establishment of an independent and impartial law enforcement bodies;



Since November 2012, the Ministry has been formed as a community-based organization and its primary goal is protection of citizens' rights and security. Police no longer carries influence on political processes. It conducts its activities in accordance with the law, democratic standards and ethical norms;

The guarantee of police neutrality and impartiality first of all is given in the legislation of Georgia, which prohibits police officers to be the members of political party, political activity, agitation, propaganda or other support towards any political subject. These legal requirements have not been fulfilled by the Ministry of Internal Affairs under the previous government; In order to spread these restrictions and prohibitions to each employee of the institution, the Order #713 dated 12 September, 2013 of the Minister of Internal Affairs “on the approval of guiding instructions of the employees of MIA during the elections” was issued.

For de-politicization and enhanced functionality of the Ministry of Internal Affairs, since November 2012, significant restructuration has been implemented at the agency. Constitutional Security Department (CSD) and the Special Operations Department (SOD) were abolished;

The CSD was the ruling party's main mean of deliberate harassment and persecution of political opponents. Police and security functions were confused; there were no mechanisms of legal regulation (appropriate regulations), and the structure was completely uncontrollable.

Corruption and State Security Agencies were created;

Anti-Corruption Agency identifies conflicts of interest in public service, fight against malfeasance and corruption;

State Security Agency predicts the threats to the country, detects and prevents crimes against the state, protects constitutional system as well as unconstitutional, violent change of the government;

Special Operations Department was duplicating the functions of the criminal police. After the abolition of the Special Operations Department, these functions were carried out by the newly created Central Criminal Police Department. The latter, for its part, carries out criminal intelligence and investigative activities envisaged by the legislation of Georgia;

As a result of restructuration police and security functions were separated in the competence of the structural units.

Number of reforms, especially in terms of legislative activity, carried out by the Ministry of Internal Affairs shall be noted.

- By the end of 2012 development strategy was elaborated at the Ministry of Internal Affairs for the first time. The document highlights the challenges faced by the Ministry as well as

priorities and actions to be taken. In February 2014, the Ministry of Internal Affairs has introduced the development strategy 2014 to the society;

- MIA has developed the new draft law on Police, which was passed by the Parliament in 04.10.2013. The innovations of the new law are the following: 1) separation of crime prevention and response functions of Police; 2) clear and unequivocal definition of terms; 3) identification of basic principles for police activity; 4) exhaustive listing of police measures. The new law took into account the advanced experience of European police law and introduced the concept of preventive measures. Preventive police measures in terms of proper management provide avoidance of offenses and the effective protection of public order.

As a result of a new law in case of existence of circumstances defined by law, in order to prevent violations police is entitled to carry out inquiry; identification of a person; surface examination and inspection; special police control; requirement to leave a place and a ban on entry into the specific area; limitation of person or vehicle movement or actual ownership, etc.

Enactment of a new law to ensure the protection of public order was significant in many ways. In particular, as a result of a special police control the facts of carriage of cold weapons, pneumatic weapons, firearms, drugs offenses, property damage cases and numerous cases of hooliganism has been revealed. Overall 1829 cases of administrative violations have been identified throughout the country, 45 cases on criminal offenses. Control of the abovementioned issues is especially important in order to prevent more serious crimes.

- Draft law “on international cooperation in the law enforcement field” was developed (adopted on 04.10.2013)), that has regulated at local level the rules and procedures of international cooperation in the law enforcement field; as a result, provisions of the conventions which are recognized as binding by Georgia was fully reflected in the legislation of Georgia. After adoption of the law 5 police attachés and 1 attaché of the following countries were appointed: Austria, Belarus, Turkey, France, and Greece.
- Draft law of Georgia on the Amendments to the Law on Higher Education after adoption (20.11.2013) of which the Police Academy – was formed as the police higher educational institution; Master’s Program of police regulation law was formed at MIA Police Academy, which has passed authorization and accreditation in September 2014. In the fall semester of 2014 first group of students were enrolled at the master’s program.
- Draft law on the Amendments to the Criminal Code of Georgia (Parliament has adopted on 27.11.2013) which was developed by the Ministry of Internal Affairs and as a result the sanctions against sexual offenses has increased; until the amendments Criminal Code provided overly liberal sanctions against sexual offenses.

- Draft law of Georgia on the Road Traffic developed by the Ministry of Internal Affairs (Parliament has adopted on 24.12.2013) and as a result the Vienna Conventions on Road Traffic as well as on Road Signs and Signals have been reflected at the legislation of Georgia; in addition, experiences of number of countries were shared. Norms were thematically grouped and special attention was paid to the regulation of following matters: 1) new regulations relating to the environment protection have been defined; 2) for the road traffic safety reasons and taking into consideration the requirements of the European directives driver's license expiration dates have been introduced; 3) safe transportation standards for children as well as the rights and obligations of participants in road traffic, traffic rules and road signs have been established; 4) proper attention was paid to the rights of persons with disabilities and their participation in road traffic regulations.

For violation of these norms liabilities were imposed by the Code of Administrative Offences. Statistics below stress particular positive result of these amendments. On the one hand, as a result of strict administration, number of violations associated with road traffic has increased, but traffic offenses under the Criminal Code have been reduced and number of deaths resulting from road accidents has been halved.

The Ministry of Internal Affairs has developed number of changes to the Code of Administrative Offences which was adopted by the Parliament at different times (27.11.2013; 11.12.2013; 02.05.2014);

The ministry had a new vision regarding the regulation of violations of traffic rules and other administrative offenses. For effective regulation and prevention of road traffic offenses it was necessary to alleviate the administrative responsibility of a number of standards in individual cases, and in some cases – tightening, on the contrary.

**Following administrative offenses have been tightened:**

- Drunk driving - 200 GEL instead of suspension of driving rights for the 6-months period;
- Transfer of vehicle to a drunk person - 1000 GEL instead of 500 GEL;
- Transfer of vehicle to juvenile who does not have or has suspended driving license – 700 GEL instead of 200 GEL;
- Use of alcoholic beverages in stadiums, squares, parks, all kinds of public transport and other public areas – 150 GEL instead of two minimum amount of remuneration;
- Failure to fulfill obligations of education and training of juvenile by parents or the trustees from 100 to 300 GEL instead of warning or a penalty up to 200 GEL;
- Ensure juveniles to be drunk – 300 GEL instead of two minimum amount of remuneration;

**New offenses were defined:**

- Transfer of vehicle which is under influence of narcotic or psychotropic substances – sanction: penalty - 1000 GEL;
- Selling of alcoholic beverages to minors – sanction: penalty 500 GEL;
- Noncompliance of demands of the regulator on the roads – sanction: penalty 50 GEL;
- Violation of children transportation safety rules – sanction: penalty 40 GEL;

- Carriage of firearms – sanction: penalty 200 GEL

Regulation of each of the abovementioned offenses is important for protection of other greater legal benefits. Alcohol and drug consumption, possession of knives is one of the provocative circumstances of the street violence and fail to control this issue, in many cases, ends with the fatal results. Strict administration of these offenses contributes to the maintenance of public order (drunk driving or avoidance of examination envisaged by the legislation of Georgia to determine alcohol influence – 14957 cases, driving of a vehicle by a person without driving rights or transfer of vehicle to such person – 12907 cases; movement with vehicles with darkened windows – 6603 cases).

**Liabilities were alleviated for the following offenses:**

- Crossing of the solid line – 50 GEL instead of 100 GEL;
- Driving without proper registration rules – 250 GEL instead of 300;
- Leaving the scene by the driver of a vehicle involved in the accident - 250 GEL instead of 300;
- Speeding 15 km/h - 50 GEL instead of 100 GEL;
- Disobedience to a lawful order or request of police officer by law enforcement officers, military personnel, employees of the state security service, or other illegal actions against this person – instead of 2000 GEL, penalty from 250 GEL to 2000 GEL or administrative detention for 15 days was determined.

New mechanism for imposition of fines was introduced. In case of nonpayment of penalty Code of Administrative Offences was providing strict and disproportionately high amount of fines. The amendments have foreseen adequate amount of fine in case of nonpayment the penalty, in particular, if a person fails to pay the penalty within 30 days stipulated by the law, fine will be imposed on him with the double amount, but not more than 500 GEL.

The previous system of fines is the following:

Penalty	Fine
10	150
20	150
40	150
50	150
100	500
150	500
200	500
250	500
300	500
500	500
700	500
1000	500
1500	500

System activated after the amendments:

Penalty	Fine
10	20
20	40
40	80
50	100
100	200
150	300
200	400
250	500
300	500
500	500
700	500
1000	500
1500	500

Together with the other interested agencies the Ministry of Internal Affairs has developed the draft law “on the Legal Status of Foreigners and Stateless Persons” and subsequent legislative amendments, which was adopted by the Parliament (05.03.2014). This law is especially noteworthy for improvement of unregulated immigration processes; types of permits for aliens of entry, exit, visa or residence were newly redefined as well as the issues regarding expulsion and voluntary return of foreigners being in the country without any legal grounds.

The Parliament of Georgia has adopted (05.03.2014) legislative amendments developed by the Ministry of Internal Affairs of Georgia, which foresees amendments to the Law of Georgia on “Fight against Drug Crimes” as well as the Law of Georgia on "Narcotic drugs, Psychotropic Substances, Precursors and Narcological Assistance". This intends prevention of the outflow of misused substances from legal circulation, tightening of liability for realization without a prescription of combined preparations which contain codeine; as a result of the amendments abolition of dose gradation was determined with respect to combination medicines containing codeine. In case of realization of these medicines without a prescription criminal liability is imposed on pharmacy and the pharmacy staff as well; restriction of pharmacy and pharmaceutical activity is enacted; in case of necessity, with the joint decision of the Minister of Interior and Minister of Health determination of import quotas of misused substances is ensured.

Parliament has adopted (04.04.2014) the draft Law of Georgia on "Changes and Amendments to the Criminal Code" which fully criminalizes terrorism-related criminal acts; as a result of legislative amendments concepts and regulations given in the Criminal Code fully reflects the latest trends in the fight against terrorism and international standards to combat the terrorism.

Draft law on "New Psychoactive Substances” prepared by the Ministry of Internal Affairs shall be mentioned after adoption (16.04.2014) of which new psychoactive substances and their chemical classes were identified and criminalized;

The Ministry of Internal Affairs has developed a draft law on the amendments to the Criminal Code and after its adoption (02.05.2014) sanctions in the Criminal Code regarding the intrusion into privacy have been tightened; as a result of these amendments 5 cases of illegal interference in private life was revealed.

Parliament has adopted (29.05.2014) the draft law “on Public Safety” developed by the MIA, which aims effective and unified management of the emergency situations within the Ministry of Internal Affairs; According to the law, for the effective and unified management of the emergency situations, emergency management and/or fire-rescue units will be liquidated and they will be replaced by the LEPL Emergency Management Agency of the Ministry of Internal Affairs of Georgia.

MIA has developed amendments to the Criminal Code and as a result imprisonment was added to the offence defined by the first and second paragraph of the Article 126<sup>1</sup>. Introduction of imprisonment allows the authorized person, if any of the action, to use detention against the accused under the criminal law.

MIA has developed a new bill which provides amendments to the section of terrorism in the Criminal Code as well as in other sections. The bill is based on the approach which combines combating violent extremism and counter-terrorism policies. Accordingly, as a result of the project, which is currently being discussed at the highest legislative body, following changes will be made to the Criminal Code: calls for the violent acts, actions related to the activities of illegal formations as well as departures and the attempts for departure for Jihad reason will be criminalized. Furthermore, recruit for terrorist activities and liability for terrorism support should be mentioned.

Legislative amendments which were jointly prepared by the Ministry of Internal Affairs and the Ministry of Justice are initiated at the Parliament. Amendments refer to the Law of Georgia on Weapons and relevant restrictions to the other laws with respect to registration of weapons.

The Ministry of Internal Affairs has developed draft law of Georgia on the amendments to the Criminal Procedure Code of Georgia, which will be submitted to the parliament. The bill aims Criminal Procedure Code to be in line with the European Convention on "Fight against Cybercrime" as well as the other International standards; as a result of this bill law enforcement agencies will be entitled to gain digital evidences from computer systems without physical removal of the system.

MIA reform is continuing. According to the Government Resolution #60 dated 17 February 2015, MIA Interagency Reform Commission was established and its main functions include the following: development of relevant proposals and recommendations with respect to reform of the Ministry of Internal Affairs and their submission to the Government of Georgia as well as to the Parliament; in order to ensure proper functioning of national security system elaboration of draft legislative and normative acts and their submission to the Government of Georgia; within its competence, for facilitation of implementation of relevant measures in the MIA reforming process, coordination of the activities of executive agencies.

Organizational, technical and informational support of the Commission is implemented by the State Security and Crisis Management Council. Committee includes representatives of governmental bodies and the various committees of the Parliament.

Reform does not imply the mechanical division of police and security sector. Institutional framework of security and public order protection sector of number of countries has been studied. Reform is going to be conducted in accordance with the successful foreign practices.

**“Most of the Ministries do not have a long-term vision concerning the development of a specific direction. This applies particularly in the economic field.”**

**Comment:** Georgian government has developed first long-term socio-economic development strategy of the country: “Georgia 2020”. Also, the strategy on human rights was developed for the first time and was adopted by the Parliament. In 2013 the Government of Georgia has approved development strategies of seven regions for 2013-2020 as well as the 3-year action plans; regional development program 2014-2017; rural development strategy 2015-2020; the concept of health system development – 2014 – 2017, main directions of development of education and science system 2012-2015, vocational education development strategy 2014-2019, youth and sports policy strategies 2015-2020, etc.

MIA has published the development strategy 2013 of the Ministry of Internal Affairs of Georgia, which is the first strategic document developed by the Ministry. Until 2013, activities in the system were carried out without single strategy and 2013 strategy was the first step in this direction. Each department of the Ministry has the individual action plan derived from the strategy, which is elaborated in compliance with the relevant criteria. The Ministry of Internal Affairs has also introduced to the society the development strategy 2014. Currently the work is ongoing on the MIA long-term development strategy and the Ministry has started the process to develop this document.

## ***2. Evaluation of law enforcement system***

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### 1.2.2. Ministry of Internal Affairs

**“The new law on Police is better than its predecessor; however with some positive records it provides certain general and vague provisions regulating the use of special means and firearms by police officers as well as police measures.”**

**Comment:** Law on Police of 1993, which was holdover of the Soviet law on Militia, did not correspond to the legal and democratic state requirements and standards. The old law generally ignored the preventive functions of the police. The rules, conditions and basic principles for the implementation of preventive measures were not given. Accordingly, the police was implementing preventive functions in the process of protection of public order without legislative basis. In accordance with the principles of legal reservation as well as the rule of law enshrined by the Constitution human rights may be limited only on the basis of the law. Therefore, since the adoption of a new law the functions of the police did not increase but police preventive measures fell under the legal framework and Constitutional principles were taken into

consideration. In addition, the law explicitly and comprehensively covered the police preventive measures. Exhaustive listing of preventive measures also emphasizes the principle of legal certainty.

In addition to regulation of preventive functions one of the main advantages of the new law is the definition of the vague terms, which was giving various interpretations. Definition of terms served to two key purposes: on one hand, protection of citizens from police arbitrariness or subjective opinions, and on the other hand, care for police protection, that the police officer also need to know what legal consequences might be resulted from his action; Therefore the problems in terms of uncertainty indicated in the report it is not clear, especially, in the context of the use of firearms and special means.

The new law has significantly improved the regulations regarding the use of coercive measures and brought this issue into compliance with international standards and recommendations. The section dealing with the coercive measures was fully prepared in line with the requirements of the UN General Assembly Resolution 1990 on the "Basic Principles on the Use of Force and Firearms by Law Enforcement Officials". Therefore, the law establishes a series of requirements, relating to the use of coercive measures by the police. Also, the law further stated that a police officer is authorized to use firearms and special equipment only after a special training, which makes more guarantees to citizens' life, health and property. The latter sets a higher standard, than this resolution, that imposes the obligation of special training only on the use of firearms. Training on special application was not envisaged by the old law.

The new law also provides certain components of principle of proportionality which is regulated by the abovementioned resolution which obliges police officer, while using of coercive measure, to treat each case individually and to take into consideration its features. In addition, it also provides the international standard with respect to minimum damage while using coercive measures. According to the resolution, the law envisages obligation of immediate medical assistance for the injured person affected by the coercive measure used by the police officer.

Basic updates regarding the use of coercive measures defined by the new law on police: **a)** "Capturing net" is added to the special types of facilities, which is used by police services of developed countries. The UN resolution contains a requirement that the States to ensure the disposal of the police special diversity in order the principle of proportionality to be protected maximally and in every specific case while the use of force the necessity of the use of firearms not to be created artificially. **b)** There appear the two types of the use of arms: passive and active. New approaches were established with respect to these issues. According to the old law deliberate shot would be considered as the use of firearm and cases, when the policeman was actually using the weapon remained outside the regulation. For example: taking or aiming a gun; demanded the give up by force of arms, but it was not accompanied by shot. In the new law on the use of firearms such use was called as "**passive**", and the deliberate shot – "**active**"; **c)** In the old law one of the reasons of use of firearms with warning is the escape of the detainee. The new law has narrowed the grounds and the use of weapon is allowed against a detainee of particularly grave crimes, and just in case, when the police are aware in advance regarding this fact. **D)** Prevention of loss of firearm was removed to the basis for use of the firearms without warning which is determined by the gravity of the threat of this action; **E)** The law defined precisely firearms warning text, which is fully consistent with the experience of European countries; **F)** Police officer has been forbidden to use firearms from moving vehicle in the direction of another moving vehicle. **G)** One case was added to the basis for the use of firearms; in particular, firearms may be used to fatally damaged or diseased animal.



As we can see, the new law has not increased, on the contrary, has oppressed the cases to use the firearms.

“During the raids certain human rights violations were reported. Also some of the detentions were carried out by the police on the basis of administrative offense; but none of these cases the police arguments were taken into consideration by the court and in none of the cases the court approved the police arguments.”

**Comment:** As a result of the special police control cases regarding the carriage of cold weapons, pneumatic weapons, firearms, drugs offenses, property damage cases as well as numerous cases of hooliganism have been revealed. Within 2014, throughout the country 1829 cases of administrative violations as well as 45 criminal cases have been revealed. Regulation of each of the abovementioned offenses is important for protection of other greater legal benefits. Alcohol and drug consumption, possession of knives is one of the provocative circumstances of the street violence and fail to control this issue, in many cases, ends with the fatal results. Strict administration of these offenses contributes to the maintenance of public order. It should be noted that in terms of court control small part of violations were appealed to the court, therefore it is difficult to share the position, that as a result of the special police control measures judicial authorities did not confirm the violation of law.

In addition, it should be noted that as a result of the strict traffic administration the number of administrative violations related to traffic has been increased. However, as a consequence traffic offenses under the Criminal Code have been declined and the number of deaths resulting from road accidents has been halved.

Violation of traffic rules under the Code of Administrative Offences	
2012	588 664
2013	1 233 752
2014	970 587

Crime envisaged by the Article 276 of the Criminal Code (violation of traffic safety rules or operation)	
2012	5359
2013	5510
2014	4282

The number of deaths in road accidents	
2012	605
2013	514
2014	356

[“An important challenge for the Ministry of Internal Affairs was the security of participants of peaceful assembly”](#)

**Comment:** the indicators of de-politicization and impartiality of law enforcement agencies is the fact that the police protect meetings and manifestations held by any group, including, political opposition. In a number of cases thanks to the active measures of the police lethal outcome was avoided, when other meeting participants were the victims of the attack in opponent action/demonstration.

#### 1.2.1. Prosecutor’s office

**Comment:** Significant steps have been taken towards liberalization of criminal law policy with respect to minors. In 2013 and 2014 compared to previous years the number of juvenile diversion program has been increased and juvenile detention rates have been decreased.

In 2014, specialized prosecutor in juvenile justice has been determined in all the structural units of the prosecutor's office. This was the demand of number of international organizations during the years.

Significant changes were made in the Order #216 of the Minister of Justice dated 12 November, 2010 “on the Approval of General Conditions for Diversion and Mediation Guidelines for Prosecutors as well as for the Agreements to be signed between the Parties.” In particular, the order came in full compliance with the Criminal Procedure Code. Diversion and Mediation programs are available for those juveniles, who have committed the grave crimes. In addition, for the parties involved in the process (prosecutor, mediator, social workers) specific terms of the diversion have been determined which exclude the juvenile justice process delays.

Criminal proceedings were initiated and judgment of conviction was imposed on number of persons, public officials and equivalent people who have committed torture, inhuman and degrading treatment.

In 2013-2014 indicators satisfying the request on public information received in prosecutor’s office was increased. As a result of intensive cooperation with the Public Defender's Office timely responses were received from a number of recommendations of the Public Defender; the rates which show that investigations have been initiated on the letters received from Public Defender's Office have been raised.

In 2014, for the selection of new qualified staff an internship contest was carried out. 3-stage selection process was conducted and the best 57 contestants were selected from 1702 applications submitted. The candidates have passed the one-month intensive training course which together with the priority fields included teaching of the issues related to human rights and fundamental freedoms. Currently, their major part of these persons is distributed to the different territorial authorities of the prosecutor's office and they are on probation.

In February 2015 Department to Investigate Offenses Committed in the Course of Legal Proceedings was established which was preceded by the detailed, volumetric analysis of thousands of complaints submitted to the prosecution system since October 2012.

Department will investigate the facts of beating and torture, cases of illegal confiscation and other crimes committed by the officials.

## **II. Legislative process related to the criminal justice**

### **2.2. Post-election situation and the reforms carried out**

**Comment:** as a result of the amendments, in order to introduce effective system of supervision of the investigative activities of covert phone conversations and recordings as well as the activities implemented by the competent authorities in the duplicated data banks, Personal Data Protection Inspector was determined as the outer controlling body of the investigation agencies. Control is carried out through two-stage electronic system of the implementation of covert investigative actions. This system excludes the ability to independently initiate the command on activation of the object by a competent authority without electronic consent of Personal Data Protection Inspector. Consequently, the legislation fully agrees with the "two-key system" recommended by the experts of the Council of Europe.

Verification of lawfulness of the actions of investigative authorities is provided by the provision of the law, according to which one copy of the court decision regarding the permission to conduct the covert investigation activities requested by the law enforcement agency or the refusal on such permission, also, one copy of the court decision regarding recognition of the covert investigation activities conducted by the law enforcement agency as legal or illegal which was conducted without court authorization, is delivered to the Personal Data Protection Inspector within 24 hours from ruling.

In addition, under the Article 35 of the Law on "Personal Data Protection" the Personal Data Protection Inspector has a general competence to check the personal data protection standards both in public and private institutions. While examining of the investigative bodies, he is entitled to request any kind of material with respect to the crime investigation and operational-search activities in the process of implementation of the inspection which is of State secrecy and is necessary to carry out the inspection; the inspector is authorized to get acquainted with any material illustrating crime investigation and operational-search activities, which is of State secrecy regardless of their content and form of storage. All the foregoing, allows the Personal Data Protection Inspector to carry out an effective and efficient control.

In the drafting process of the amendments and then as well, the decision was expressed that it is recommended for the so-called "key" system to go out of the MIA system and its handover to the provider

companies. It should be noted that with the transfer of the so-called “key” to provider companies the activities of the provider companies will become more difficult. In case of possession of the “key”, mobile operators can easily understand the content of the communication. There is abundant proof for these issues in those countries, where the telephone surveillance is carried out by the subjects of communication. For example, in Greece one of the mobile companies was fined with 76 million. Euros due to the tapping of the Prime Minister, prominent politicians, military personnel, journalists, businessmen and other persons. Georgia is the occupied country and mobile operators are the residents of foreign countries. Such situation will directly affect the capacity building of foreign intelligence organizations and in proportion, will weaken the counter-intelligence capabilities of Georgia. The situation is complicated by the fact that operators do not take responsibility regarding potential leak of information. With the handover of Key to the mobile operators, State law enforcement agencies will not be able to protect the vital classified information.

In terms of international practice, there are number of countries (Croatia, Hungary, Poland, Israel and others.) when such function is under the responsibility of the State law enforcement agencies. Moreover, France has developed a new approach to the sector which launches a new and substantially different model from 2015. This implies implementation of covert investigation activities by the law enforcement agencies directly, without participation of mobile operators. In such case, the countries are considering the specifics of their countries and their challenges. While discussion of these issues Georgia needs come out of the state specificity and the existing threats.

In addition, there was also an alternative view to handover the “key” to the court:

It is notable that transfer of surveillance function to the court is not institutionally justified. Taking into consideration the principle of separation of powers, the court does not represent the executive authority.

According to the Article 143<sup>1</sup> of the Criminal Procedure Code, surveillance is the covert investigative measure. In any state the investigative actions are carried out by the executive branch.

According to the Constitution of Georgia, the court is a body which issues the permit for the implementation of a secret investigation. Consequently, the role of the judiciary is the evaluation of secret investigation activities and the control. Court of Human Rights considers that it has the control function.

Therefore, the most optimal model was the engagement of Personal Data Protection Inspector in the two-phase electronic system.

## 1.2. Post-election situation and the reforms carried out

"Following the elections the process of the reforms with respect to criminal law and criminal justice-related regulations was especially noteworthy. It can be said that under the new government a number of important reforms were implemented in various directions, including:

- Rule of consecutive sentencing was canceled;
- Legislation in regard to the plea bargaining has been improved;

- Party for the defense was given the right of search / seizure, but was deprived of the right to present exceptional evidence;
- Initiative of the government regarding the initiation of fundamental reform with respect to administrative violations should be noted; it implies basic reform in order the basic human rights standards to be protected in the process. This reform is in the process of implementation. However, the vision of a special government commission, including transmission of abuses of criminal abuses to the criminal law is welcomed;
- Positive assessment shall be given to increase of separate rights of the affected person (victim, successor) in criminal proceedings, including in case of non-recognition as the victim, the affected person has the right to get acquainted with the criminal case.

Comment: nothing is said on a long and fruitful process, which is ongoing almost within the two years in terms of revision of criminal code. In particular, the draft law was developed, which offers the new edition of the Articles of general and special parts of the Code (totally, more than 200 Articles shall be amended).

The representatives of the Ministry of Justice, General Prosecutor's Office and the Ministry of Internal Affairs, including EU Technical Assistance Group with the guidance of judge Renate Winter, judge Agnieszka Milart, England's Sussex University professor Richard Vogler, Krakow University professor Vlodimirzh Vrubel, Georgian experts in the field of criminal law Mindia Ugrekhelidze, Otar Gamkrelidze, Merab Turava, Nino Gvenetadze, Mzia Lekveishvili and others were actively working on the project. Several conferences and roundtables as well as the study tour to Poland were organized. The project has been discussed several times within the meetings with the civil society.

The project was approved by the Criminal Justice Reform Coordination Council on March 11, 2014 and it was sent to international expertise. Expert conclusion of the Council of Europe was recently sent to the Ministry of Justice and it offers some of very positive evaluations with respect to basic principles of the bill. Aspiration of the bill is especially highlighted and assessed positively for the establishment of a more humane and liberal criminal law. Work on the project will be completed in the near future and it will be submitted to Parliament at the autumn session.

Furthermore, nothing is said regarding the Juvenile Justice Code:

An important part of the implemented and ongoing liberalization of the criminal law is the development of Code of Juvenile Justice, which was elaborated by the Ministry of Justice, approved by the Government and currently is discussed by the Parliament.

Drafting was conditioned with the need for norms regulating juvenile participation in judicial process to be in compliance with international standards, non-existence of sufficient legal guarantees for protection of best practices of minors, irrelevant legal system with the physical and mental health of juveniles, which is not effective and result-oriented.

Together with the Ministry of Justice, EU technical assistance team actively worked on Juvenile Justice Code under the guidance judge Renate Winter, as well as the United Nations Children's Fund, as well as local experts, including Nino Gvenetadze.

The need of special attitude was recognized in 1924, with Geneva Declaration on the Rights of the Child. Special attitude towards the issue of juveniles is covered with numerous important international documents, and this Code was based on their provisions, including: UN General Assembly Declaration on the Rights of the Child (1959), Convention on the Rights of the Child (1989) and its Additional Protocol (2000), United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules") (1985), Guidelines on Justice for Juvenile Witnesses and Victims of Crime (2005), UN Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules) (1990), United Nations Guidelines for the Prevention of Juvenile Delinquency ("the Riyadh Guidelines") (1990), Convention on Protection of Children against Sexual Exploitation and Sexual Abuse ("the Lanzarote Convention") (2007), Guidelines of the Committee of Ministers of the Council of Europe on Child-friendly Justice (2010), European Rules for Juvenile Offenders Subject to Sanctions or Measures (European Rules) (2008), Regulations of various international organizations and other important documents. In addition, the United Nations has developed two model laws – "on the issues of juveniles in conflict with the law" (model law on juvenile justice) and "criminal justice for juvenile witnesses and victims of crime" (model law on juvenile witnesses and victims) – in order to assist Member States to adopt the Code on Juvenile Justice which will be in line with the International requirements.

Juvenile Justice Code provides all the principles, on which the abovementioned documents are based on. In particular, the main principles of Juvenile Justice Code are the following:

- Priority of the minor's best interests;
- Obligation of consideration of the lightest and alternative measures first of all;
- Detention and imprisonment is used as an exceptional measure;
- Non-discrimination;
- Right of harmonious development of minors;
- Criminal record is nullified upon the minor has finished to serve the sentence and in case of conditional sentence – upon expiration of probation period;
- Request for the judge, prosecutor, lawyer, investigator, police, social workers, psychologists and other professionals;
- Making of the most important decision on the basis of an individual assessment report;
- In case of grave and less grave offenses, at first the issue of diversion is considered; with respect to diversion until pre-trial process the decision is made by the prosecutor. Diversion can be use after the trial as well and in case of mediation, the court returns the case to the prosecutor for final decision;
- Juvenile witness interrogation can be conducted at the court only;
- Number of benefits compared to adults (accusation – 6 month; imprisonment – 40 days).
- House arrest is provided within the non-custodial penalties; life imprisonment is not used against minors;
- The judge has the right to sentence lower period or other lighter sentences prescribed by law if the juvenile has not ever been convicted in the past and there exists combination of mitigating circumstances;
- Accused and convicted juveniles as well as male and female minors shall be placed separately from each other in detention and rehabilitation facilities;

- Placement of juvenile to the rehabilitation facility shall be conducted by the age groups, the severity of the crime, their physical and mental development, as well as according to other characteristics of minor's best interests.

### ***2.3. Recommendations***

“In the process of liberalization of the criminal law legislator needs to take into consideration the issue of drug policy humanization and give up a disproportionate sanctions, which exist today. In addition, it is desirable, drug consumption not to be subjected to custodial sentence and so that it was not related to the criminal records.”

**Comment:** The Government of Georgia has already approved and submitted to the Parliament the amendment to the Article 260 of the Criminal Code, which will separate from each other, on the one hand, the production of drugs, production, purchase, storage, transportation, shipping and on the other hand, its realization. Accordingly, sanctions will be different.

“Preventive measures shall be imposed by the court only in case of necessity and bail and alternative preventive measures of detention shall be used.”

**Comment:** The Government of Georgia has already approved and submitted to the Parliament the amendment to the Criminal Procedure Code, according to which the regime of use of imprisonment is going to be changed. The judge will have to justify, with particular reference to the evidence, the decision of use, change or cancellation of preventive measure; the burden of proof in all cases is imposed on the prosecutor's office; but the court shall periodically, once every two months, at his own motion, review the necessity of detention used as a preventive measure.

## ***3. Judicial system***

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### ***3.2 Post-election situation and the reforms carried out***

“Together with the positive changes, despite the negative assessment of the Venice Commission and local experts, the amendment to the Constitution adopted in 2010 regarding the assignment of judges for a probation period, was strengthened by the additional changes to the Organic Law and therefore - since 2014 this institute launched in practice.”

“For creation of institutional guarantees for the independence of the judiciary it is essential:

- The 3 - year probation period for judges to be cancelled;
- The issue related to initial selection and appointment of judges to be improved;

- Clearly formulated criteria, professionalism and good faith instruments of candidates to be defined at legislative level; furthermore, obligation to adopt the decision justified by the Council to be prescribed at legislative level;
- Judicial responsibility system to be carried out. Disciplinary proceedings should be based on predictable grounds and the procedure shall maintain the possibility of a fair trial. In addition, judicial criminal liability need to be comprehensively revised both material as well procedural points of view;
- Case distribution procedure to be changed and the powers of the Chairman shall be restricted in this process;
- Principle of electing Chairpersons of the Court to be stipulated and legislation regarding the authority of the Chairman to be recovered;
- The functions of the Supreme Court and the High Council of Justice, to be clearly delineated as well as procedural norms for the appointment of the members of the Supreme Court and the Chairman to be revised, in order to increase the transparency of the process and the quality of reasoning;
- Justification of decisions to become binding for the High Council of Justice;
- Legislation regulating the activity of the Council to be improved, i.e. norms regulating the issues on the conflict of interest, session organization and the development of the Agenda to be defined.
- For judgments justification quality growth at High School of Justice as well as the establishment of a human rights-based system of justice, judicial continuous professional training system to be strengthened.”

**Comment:** The Ministry of Justice continues to work actively to ensure the independence of the judiciary system and to raise public confidence with respect to the justice system.

As it is exactly assessed by the authors of evaluation the reform is carried out in several stages. We will not describe institutional and procedural changes implemented at the first stage of the reform, since they are well known to the authors of the evaluation.

**Second stage of the reform** was dedicated to the constitutional amendment enacted after taking the oath by the President elected in 2014. This imposed the principle of **permanent appointment of judges to the position**. At the same time, the organic law, in accordance with the possibility envisaged by the Constitution, has prescribed the 3-year appointment period of judges (so-called “probation period”). Here it should be mentioned the High Council of Justice which will implement the assessment of the activity of the judges within their 3-year term of service and will discuss and take a decision based on the analysis and evaluation of results whether the judges to be appointed for the permanent period of service or not, until the legal retirement age. Therefore, it became necessary to set the criteria and procedures for the evaluation of the activity of judges which are appointed for the three-year term, which would stipulate obligation for objective, conscientious and impartial assessment process and at the same time, would take into consideration the legal guarantees for the judges in the evaluation process. In addition, this process should be harmonized with the practice of developed countries. Finally, objective and transparent judicial evaluation mechanism should be established, which after the expiration of the three-year period provides



professional recruitment for the position of judge, which has proved to be a qualified, fair and impartial as well as deserves the judge gown for the long-term period.

For discussion of the issues related to the lifetime appointment of judges, probation and evaluation, by the end of February 2014, with the hospitality of Ministry of Justice, International Conference was organized with participation of the representatives of legislative, executive and judicial authorities, non-governmental and international organizations, accredited missions in the country. Conference participants shared their experiences with the German, British, Austrian, American and Polish judges. Among the guests were members of the Croatian Constitutional Court, who was presented at the conference at the request of the Ministry of Justice and with the support of the Venice Commission. The aim of the conference was the development of effective judicial assessment system on the basis of experience and advices of European and American judges which, on the one hand, would be fully in line with international standards, and on the other hand, would be better accustomed to Georgian reality and the demands of our society.

In the drafting process the experiences of the US, Germany, Austria, Poland and the UK have been studied. On the basis of the analysis of the materials it was revealed that the judge assessment system should be based on clearly defined, fair, comprehensive and well-known criteria and procedures. Also it should be ensured that the judge had a possibility to express his opinion regarding the assessment results and had an opportunity to appeal negative decision regarding his appointment to the position.

**Judicial evaluation system will be based on two main criteria - honesty and competence**, which, in turn, include certain features. Evaluation of honesty and competence criteria, with its content, is based on different principles. Evaluation is made each year, in parallel regime, by one of the judges of the Supreme Council of Justice as well as another person which is not a judge. In the assessment process they can take the necessary measures in order to evaluate judicial activity in line with the criteria provided by law - to attend the court hearings, personally meet with a judge or other persons and ask questions on specific issues in order to gain information. People responsible for evaluation will examine the cases discussed by the judge as well as decisions with respect to these cases.

Competency criteria are evaluated through a point system. As for honesty criteria, as a result of its assessment one of the following conclusions are made: the judge does not meet the honesty criteria, the judge meets honesty criteria or the judge does not fully meet the honesty criteria.

On the basis of analysis and evaluation of results, as well as the interviews with the judge, High Council of Justice discusses and makes reasonable decision with not less than 2/3, whether or not to appoint the judge on a lifetime position, until the legal retirement age.

A person may appeal the decision of the High Council of Justice regarding the refusal on the appointment of the judge. For these reasons authorized unit on complaint resolution - Qualifications Chamber is established. Violation revealed by this Chamber can be the basis for annulment of the decision of High Council of Justice only if such violation affected the final outcome and led to essentially wrong decision of the High Council of Justice.

In case of annulment of the decision of High Council of Justice as well as in case of remanding the case, the Council, taking into consideration the decision of Qualification Chamber, discusses once again the issue of appointment of a judge for a lifetime and makes the decision regarding his appointment or refusal on the appointment.

The Parliament has adopted a legislative package on 1 August, 2014, thus the second phase of the justice system reform was completed.

**At the third stage of the justice system reform** more focus is made on judicial independence guarantees and his involvement in the judicial activity. In addition:

- **Criteria for selection of judicial candidates and their characteristics** are determined on legislative level. High Council of Justice of Georgia will be based on two main criteria - honesty and competence. Procedure for obtaining reliable information on judicial candidates is set, cases of conflict of interest are identified and there exists the **possibility of appeal** the decision on the refusal of the appointment.
- All the candidates **are appointed at the position of judges by the competition**. For participation in the competition equal conditions are set for justice listeners and the people, who are exempted from learning in High School of Justice;
- Procedures for admission to the High School of Justice will be regulated and **competences of the High Council of Justice and the High School of Justice shall be separated**, for conducting objective and equal competition obligation regarding justification of the decision shall be imposed; transparency of the activities of the High School of Justice will be ensured and possibility to appeal decisions taken by the independent Council will be created;
- **Guarantees of non-interference** in judicial activities will be more clearly established. The law will specify that no one will be having the right to indicate judge, which decision he needs to make on a particular case;
- The **Chairpersons and Deputy Chairpersons** of the court will be elected by the relevant district (city) and appellate court judges;
- Chairmen of district (city) and appellate courts **will be having limited administrative functions**. They will only supervise the work of the court staff. Organizational management of judicial apparatus will be carried out by the court manager;
- Principle of the **automatic distribution of the cases** will be introduced. Cases will be distributed within district (city) and appellate court judges automatically, via electronic system. Under the new order, distribution of cases without electronic system will be available only in case of temporal delay of electronic system and with the terms and conditions prescribed by law;

- **Business trip procedures for the judges will be regulated.** Business trip will be available only with the consent of the judge and according to the justified decision of the High Council of Justice. Business trip without approval of the judge will be permitted only in case of necessity, from the court at the nearby territory, if the interests of justice so require and if according to the law (reserve judges, judges of their own accord), the judge selection could not take place, in this case the existence of a reasoned decision of the High Council of Justice is also obligatory;
- **Procedures for disciplinary proceedings will be improved.** The Chairman will no longer be authorized to initiate disciplinary proceedings against the judge. This function will be under responsibility of the High Council of Justice;
- **Degree of transparency of the activities of the High Council of Justice** will be increased. The Council will be responsible to deploy its decisions on the website as well as the information regarding the changes in the composition of the Council and concerning its activity, also the information on vacant judge position, announced competition and its results. In addition, the Council shall be given at least 2 days prior to the meeting of the Council in order to ensure provision of information at the web-site regarding the date and Agenda of the session;
- **Application eligibility criteria to the Court of Cassation** will be expanded, so that the Supreme Court of Georgia would recognize the complaint as admissible on the decision of Court of Appeal, if it contradicts the case law of the European Court of Human Rights. In addition, an appeal against the criminal case will be admissible in any case, if it refers to juvenile delinquency.

Within the third wave of the judicial reform, the legislative amendments developed by the Ministry of Justice of Georgia, was sent to the Venice Commission of the Council of Europe, which praised the basic principles of the current reform. Large part of the recommendations which were reflected in the report prepared by the Venice Commission was shared in the package elaborated by the Ministry of Justice.

Revised legislative package was approved by the Government of Georgia on 31 March, 2015.

### **Internally displaced persons – IDPs**

1. “Draft law on transfer of residential areas to the ownership to internally displaced persons – IDPs” was approved with the Resolution #1944 of the Government of Georgia dated 30 October, 2014. At the first stage of this project<sup>1</sup> settlement (collective centers) identification (during these works following facilities were defined and grouped: 1. objects that are registered with the state ownership; 2. objects that are not registered at all; 3. and finally, facilities, which have been registered in private ownership) for the refugees registered at the IDP database was implemented. The **second stage** is immediate introduction / implementation of privatization process.

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<sup>1</sup> Project is implemented in 2 (two) stages

2. Special privatization project division was added to the hotline of the Ministry. The hotline ensures detailed answers to the questions raised by beneficiaries.

In addition, in case of complaint, refugees have the opportunity to contact the Ministry as well as the call-takers of the complaint hotline in the frames of UNHCR joint project, and deliver information regarding the problematic issues. Call-takers register the complaints in the shortest time, receive information from the relevant structural units of the Ministry and inform the refugee, at each stage, regarding the decision taken. In the final stage, based on the analysis of the identified difficulties analytical report is elaborated and relevant recommendations regarding the amendments carried out in legislation as well as in practice are submitted to the management of the Ministry.

3. Furthermore, in 2014 according to the Order #500 of the Minister of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia, Interagency Working Group was established, which aims to correct deficiencies in the process of privatization made in the years 2009-2012.

LEPL - National Agency of Public Registry of the Ministry of Justice of Georgia, the Ministry of Economy and Sustainable Development of Georgia and the Ministry of Internally Displace Persons from the Occupied Territories, Accommodation and Refugees of Georgia are united in this group.

4. In the direction of accommodation cooperation of the Ministry with local and foreign construction companies should be noted. Within this cooperation internally displaced persons will be provided with the long-term housing, basically in 8 cities.
5. Amendments were made to the long-term housing guidelines, criteria and procedures, in particular – 1. Dates for submitting applications have been specified; 2. Refugees have an opportunity to submit additional documentation within 15 days after submission of the application, and on such basis scores can be modified; 3. Special mechanisms have been identified on the basis of needs of people with disabilities and vulnerable categories of internally displaced persons; 4. Finally, to the refugees, who live in a relative's apartments (1) who live in in rented apartments (2) as well as the families of killed soldiers and (3) individuals with military awards, additional points are given.
6. Rural property acquisition program should be noted. Within this program the Ministry procured house in a rural area with household plots for 115 applicants.
7. In addition, it is worth noting, that in order to increase accessibility on livelihoods of refugees, the Ministry has created the Legal Entity of Public Law (hereinafter - LEPL) "IDP livelihoods agency".

The LEPL was created on 13 February, 2014 on the basis of the Resolution #144 of the Government of Georgia. The LEPL is guided by the Order #317 of the Minister dated 7 August, 2013. The latter aims the social and economic integration of IDPs, improvement of employment, services, infrastructure and their living conditions.

“The Ministry, usually, was not sending notification to the IDP families regarding the non-satisfaction of their request on accommodation.”

**Comment:** In this regard it should be noted that the existence of this practice is caused with the frequency of the meetings of the commission as well as the number of applications received. Accordingly, it is very hard to send thousands of written notifications. To compensate this, the Ministry, upon signing of the protocol of the meeting, publishes results (both positive and negative) of applications discussed on its own website. It should be noted that in case of request from refugees, grounded refusal is sent to him.

The Ministry is interested in the passage of the report of “International Transparency – Georgia” as well as in concrete examples – “specific steps made with respect to housing of IDPs should be evaluated positively, but gaps in various directions hinders this process and has the negative impact on the human rights of IDPs.”

### Recommendations

“Based on the analysis of experience, criteria for housing allocation and scoring system shall be revised” - criteria for housing allocation and scoring system was revised for three times in 2014.”

**Comment:** This process is continuous and renewable. It is constantly in progress. Representatives of local non-governmental and international organizations are actively involved in this process.

“The Ministry needs to perform necessary procedures envisaged by the legislation with respect to sending written decisions to the recipient refugees as well as concerning the definition of complaint mechanisms.”

**Comment:** The Ministry will implement existing recommendations through the software. In particular, the refugee has an opportunity to check the decision taken to the web-site of the Ministry by indicating his personal number. Besides, the addressee will be having a possibility to send a text message. Software will be ensured by the EU technical assistance project.

## 4. Evaluation of penitentiary system

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“Since 2013 significant reforms have been implemented to the penitentiary system. As a result of undertaken reforms, torture of prisoners is no longer a system problem<sup>2</sup>. But separate cases of ill-treatment of prisoners have been revealed in 2013-2014<sup>3</sup>.”

**Comment:** Appropriate response was given to these facts. In particular, in the Investigation Department of the Ministry of Corrections with respect to ill-treatment of prisoners since 2012 to date, investigation of 33

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<sup>2</sup> Public Defender's report regarding the Human rights and freedoms, Tbilisi 2013, 5

<sup>3</sup> Report of the Human Rights Center - Prisoners' rights and their protection mechanisms, Tbilisi, 2014, 26-28

criminal cases has begun. Aforementioned cases, were sent to the Main Prosecutor`s Office for further investigation.

In January 2013, the active use of a large-scale amnesty, pardon and mechanisms for early release of convicts has largely removed the problem of overcrowding in the penitentiary institutions. Sub-department institution – integration of Penitentiary Department with the Ministry of Corrections and complete subordination, significant reforms in terms of availability of healthcare for prisoners, but the problems in this direction have not been completely eliminated.

**Comment:** Amendments were made to the Code on Imprisonment which has improved the living conditions for the accused persons / convicts. In particular, living space for accused people has increased up to 3<sup>2</sup> meters and for convicts up to 4<sup>2</sup> meters. Short-term and long-term visits as well as the amount of phone conversations were increased as well. According to the amendments, possibility of division of convicts according to the risk groups as well as opportunity for their placement in relevant facilities was ensured. Terms and conditions for the audio-video and other technical measures of supervision and control were drafted in details.

“Despite reforms, ineffectiveness of the investigation concerning thousands of complaints on ill-treatment of prisoners is still the problem. There is no effective mechanism for reviewing complaints of prisoners to date and as for violence and incidents within the system, investigation of the General Inspectorate is not objective and effective for the most part.”

**Comment:** Reform of the General Inspectorate is planned. It shall be shaped as the unified and effective internal monitoring mechanism and the main function will be prevention of possible official misconduct. This will significantly contribute to the problem solving in the penitentiary facilities. It should also be explained in details, that if within the first of October 2012 only 27 disciplinary punishments were used (only 2 persons released), in 2013-2014 disciplinary sanctions were used against 384 people (115 persons were released). In 2013 the precedent was created when acting employees of the system were convicted in circumstances where such facts had not been before.

## **5. Election reform**

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“Elimination of duplications in existing lists through the way of comparison of photographs, which was not a large scale problem<sup>4</sup>, failed to solve the lists-related problems.”

**Comment:** amendments made to the Election Code for the self-government elections 2014, has resulted two important outcomes. Firstly, in order to detect duplicated data, photographs of the individuals of the

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<sup>4</sup> <http://sda.gov.ge/ka-GE/news-view/newsid=3122&callerModID=18166>

electoral list have been checked and generally, photographs were added to the requisites of the voters, which was the step forward for conducting transparent election process.

The aim of the first activity was to avoid voting by one and the same person twice and as for the second activity – to ensure possibility to report the fact of forged documentation at the polling station.

**“We believe that the development of the list, based on the voters' biometric data is the only way to achieve the perfection of the electoral lists;**

**Taking into consideration the interests of voters' abroad, the alternative means of voting shall be considered;”**

**Comment:** while development of the list based on biometric data, the list will include only those voters who have been given a biometric document and who will pass biometric registration before the elections. By the period of elections only 1 100 000 people had biometric document and registration of up to 2 000 000 voters was necessary. In this situation there was a real chance that not all the voters would be given a time frame for registration which would cause the limitation of the election rights. For the current moment, 1 750 000 people hold a biometric document and with the efforts of the Ministry of Justice this rates are dynamically increasing.

## ***6. Local government reform***

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### 6.1.2. Planned and implemented changes

**“In the capital city, representative and executive bodies should be formed at the district levels, which would have their own authority and budget. Adopted organic law no longer provides for creation of such an institution.”**

**Comment:** draft amendments to the organic law of Georgia on the “Local Government Code" (in part of citizen participation) does not envisage creation of representative and executive bodies at district levels.

Article 152 of the Local Government Code provides continuation of the process of territorial optimization of municipalities.

**“Economic grounds. According to the Government Strategy, the revenues of the local governments should have been raised through the introduction of shared taxes – via leaving the income tax on the ground.”**

**Comment:** in 2014 the Parliament has adopted the amendment to the Budget Code, which provides direction of several types of income tax to the budgets of self-government, instead of the state budget, from 1 January, 2016.

It is recommended further fiscal decentralization to be carried out in parallel with increasing competences to local authorities, and further delegation of powers in itself, should be implemented in parallel with strengthening of the capacity of municipalities (taking into consideration economic parameters and fiscal resources).

“The process of handling of large part of state property to the municipalities should have been started. Taking into consideration the fact, that without fiscal decentralization the independence and self-effectiveness of the local governments is impossible, transitional provisions of Self-Governance Code, was obliging the Government with the relevant timeframe, to start preparatory process for handling of property to the municipalities, but signs are not yet visible. In addition, despite a number of proposals and recommendations submitted by the non-governmental organizations, ruling political power, refrains even from commencement of the discussions regarding the share income taxes.”

**Comment:** According to the amendments to the Budget Code of Georgia, part of the income tax, from the first of January 2016 will be transferred to the municipal budget. This includes the following:

- a) Income tax on income received from the activities of individual entrepreneurs;
- b) Income tax on non-residents (revenues from the sale of property);
- c) Income tax on surplus gained as a result of sale of financial assets;
- d) Income tax on gifting of property to an individual;
- e) Income tax on inheritance of the property by an individual;
- f) Income tax on revenues from leasing of property by an individual.

Article 107 of the Local Government Code envisages the list of property belonging to the municipality.

## ***7. Freedom of religion***

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Indoctrination, proselytism and discrimination at public schools remain as the serious challenge of the education system over the years. Ministry of Education and Science does not respond effectively to the problem and neither has the strategy and policy documents.

**Comment:** In the strategic directions of the development of the education system the Ministry of Education and Science of Georgia outlines the importance of equal access to high quality general education for every child regardless of their age, religion, place of residence, ethnic background or social status. This certainly implies educational area free from indoctrination, proselytism and religious discrimination.



The Law of Georgia on General Education has created significant legal guarantees of secular and tolerant environment in public schools. It covers number of principles which are used in everyday life of schools and are introduced into the learning process and other activities. In addition, the Ministry is acting in the frames of Government Action Plan on Human Rights. The learning process is based on the national education goals, which promote upbringing of students as a tolerant and law-abiding citizen.

The Ministry of Education and Science carries out complex works concerning the violence in following directions: **a) raise of the awareness of students and teachers b) identification of religious and other types of violence c) detection of the acts of violence and further response.**

#### **a) Awareness raising**

It is important that in the National Curriculum, which is the compulsory document for the public schools, teaching of social sciences is envisaged. This promotes the adults to bring up as free and responsible citizens. It is true that studying social sciences helps the student to respect human rights and personality and ensures maintenance of the identity of the others and his own. This subject area is aimed at raising the awareness of students concerning their rights and responsibilities before democratic society and the rule of law, introduction of international human rights framework as well as the mechanisms and tools for human rights protection.

The goal of teaching social sciences is to bring up students as informed, active citizens and their development as a human person.

Social sciences group includes the following items: history, geography, civic education, civil defense and security. At all three levels, taking into consideration individual peculiarity, properly cover the following topics: respect for life, dignity and human rights; compassion and care; peaceful coexistence; principality and civic courage; resolution of conflicts through non-violent means; equality; tolerance; fairness, respect for the law and other.

From the subjects of public groups there shall be mentioned civic education, which is a separate subject and is taught in the IX-X classes (in the XI-XII classes there are optional courses). Its elements are also integrated into our Georgia (V-VI classes) and history (VII-VIII classes) subjects. Civic education is designed to help students in: understanding of Georgia as a country of diverse; rethinking of themselves as the citizens of Georgia; protection of rights, duties and responsibilities conditioned from the citizenship, while performance specific actions; understanding the importance of protection of their own and as well as human rights and their implementation, etc.

Culture and religion is the separate direction of the subject of history. The main objective is teaching of the history of religion, development and its cultural aspects.

In addition to the abovementioned, one of the through and priority directions is social and civic competence. This means working with the students on the skills and values and their development which is important for integration to the civil society: constructive cooperation, peaceful resolution of the problems, tolerance, respect of human rights, recognition of democratic principles and the others.

In addition to compulsory education, the Ministry of Education and Science implements additional programs within the frames of non-formal education, which is directed on formation of tolerant relations:

General Education Management and Development Department of the Ministry of Education and Science is implementing multicultural summer school program for the representatives of ethnic minorities and different religions. Students and teachers involved in the summer school project are undergoing trainings in Georgian language, interactive training courses and other programs.

In the frames of "Social Inclusion" program educational activities for rising of Tolerance and the awareness are ongoing for gipsy and repatriate Meskhetians living in Georgia.

National Curriculum Department carries out monitoring of the implementation of the National Curriculum since 2013.

In 2013-2014 monitoring was carried out in 37 public schools of Tbilisi and the regions in all subjects of the VI class, which implied lesson observation, interviews with teachers and the analyses of a summary task.

From the four criteria selected for lesson observation, one was the "positive environment", which aims to estimate the following:

- Exactly how the teacher cares for creation of a constructive environment, where each student will feel safe;
- In which extent does the teacher allow students to freely express their opinions;
- How the necessary condition for student-centered learning process is protected, such as protection of equality in teaching and learning process, which implies diversity of individual nature, consideration of psycho-emotional characteristics and creation of equal conditions for the development;
- In which extent does the teacher respect the issue of cultural diversity and protects the rights of different ethnicities as well as the rights of children with religious beliefs.

Monitoring of teaching-learning process has shown that principle of equality in 15.8% is not protected, in case of 39.4% it is partially protected, while 39.6% of observations show that this principle is fully protected.

Monitoring is continuing in 2014-2015 for the basic levels (in all subjects of IX class).

## **b) Violence identification**

For the purpose of identification of religious and other forms of violence responsible persons are identified, who undergo appropriate training in order to generate skills necessary for identification of violence.

## **c) Detection of the facts of violence and further response**

For identification of religious and other abuse cases, the Ministry of Education and Science implements systemic monitoring of general educational institutions. In case of any misconduct from school, the

monitoring group issues recommendation on the site and/or addresses the Internal Audit Department of the Ministry for further response on the violation.

**“The Ministry does not provide proactive monitoring mechanisms for identification of problems and their response”**

**Comment:** for identification of cases of violation in general education institutions as well as for timely and effective response the Ministry of Education and Science conducts regular monitoring of schools. Monitoring is conducted on three levels: at the end of 2012 Monitoring and Coordination Division was created in General Education Management and Development Department and its one of the main functions is the monitoring of schools. Since 2013, schools and educational resource monitoring function were imposed on educational resource centers. In addition school administration is obliged to ensure public school environment that is free from religious discrimination and to monitor systematically the situation at school. Resource officers keep daily records on violations and deliver this information to the Ministry of Education and Science as well as the school administration. In case of any misconduct from school, the monitoring group issues recommendations on the site and / or addresses the relevant department of the Ministry for further response on the violation. According to the monitoring from 2085 schools of Georgia, totally 6 cases were revealed which refer to religious indoctrination, proselytism, religious intolerance and the violation of religious neutrality. In particular, 4 cases were revealed in 2013 (with regard to 3 cases Internal Audit Department has issued written warning and schools were instructed to present the report on the results of elimination mechanisms. In 1 case - the school was given a written instruction regarding the measures and reporting for the elimination of violations). In 2014, 2 cases were revealed (schools were given written warnings and were instructed to present the report on the results of elimination mechanisms). Such unlawful facts were eradicated from these schools and have not been displayed subsequently.

**“Organized participation of school administration as well as the students in hate motivated meetings against Jehovah's Witnesses in Terjola”**

**Comment:** within the competence stipulated by the legislation the Internal Audit Department of the Ministry has studied this issue. Within the competence stipulated by the legislation the Internal Audit Department has introduced relevant measures. In particular, for the purpose of study and research of the issue, explanatory statements were requested from the persons related to this fact (the principal of Terjola #2 public school, resource officers, employees, teachers and students). According to their explanation as well as through recordings of the surveillance camera, violations of the law have not been revealed in the school activity. As for participation in the meeting outside the school during non-school period, this issue goes beyond the competence of the Internal Audit Department.

**The issue of oppression in educational institutions is especially problematic. Educational system is blind with regard to LGBT pupils and students, as well as the need of existence of inclusive approach and anti-discrimination policies.**

**Comment:** one of the most important priorities of the Ministry of Education and Science of Georgia is creation of violence-free environment at general educational institutions, which means irreconcilable and systemic struggle against any kind of violence.

The most important role in the fight against violence is imposed on resource officers who care for children and are entirely focused on prevention of violence. This implies the study of the cases of violence, their prevention and response to the problems rapidly and adequately. Since 2014 the resource officers together with the security issues are dealing with the obligation of initial identification of acts of violence.

In 2014 all the Resource Officers (1069 persons) have passed special training on the topic of identification of violence against children. In order to increase the efficiency of early and rapid detection of violence by the resource officers as well as its follow-up processes, capacity building pilot program was implemented. From September to December 2014 the number of pilot schools has increased. On the issues of child abuse and neglect the specialists of Psychological Service (Division) of the Office of Resource Officers have been trained. From 2015 it is scheduled to conduct trainings to professionals working with children - teachers, resource officers and persons working in the children's educational and pedagogical system. Professional development trainings with the resource officers regarding the identification of violence and the further response issues are permanent in its nature. All psychologists of Psychological Service (Division) of the Office of Resource Officers and a social worker as well as psychologist of Regional Psychological Center have undergone training of trainers in 2014 on the following topic: recognition of child abuse and responding skills. Various social events are held as well.

Currently there exists 6 Psychological Centers of the Office of Resource Officers (Tbilisi, Batumi, Kutaisi, Poti, Telavi, Gori). From 2015 opening of similar centers in Rustavi and Zugdidi is scheduled. Since 2015, 384 beneficiaries have been reported. Including, the minors (children) who are the victims of violence and in particular the victims of domestic violence. Psychological Service Center is involved in the project since March 2015 ("Child abuse, routing procedures in case of need of child protection. According to the project, service psychologists and social workers will carry out trainings for target group regarding the child abuse detection, prevention and response issues.

In 2014, National Center for Teacher Professional Development together with the organization "People in Need" have conducted the 2-day training cycle - citizenship through documentary films. 3 films from 16 were with respect to bullying, gender-based violence and forced labor of children. Training course was passed by 480 teachers. Issues related to the violence in general, as well as the domestic violence and gender education, risks and management with respect to identification of victims of conflict were integrated in school management training module organized by the National Center for Teacher Professional Development which was passed in the large majority of schools of Georgia.

**Rising of parent awareness** – this direction includes regular delivery of information to the legal representatives of students (parent / guardian / custodian) within the class hours as well as communications regarding the student performance and needs, age-appropriate educational and pedagogical features and activities. Class hours include conversations with parents to emphasize the importance of their role in the issues such as: child abuse, healthy lifestyle and fight against bad habits. For rising parental awareness new educational program - "Parent Involvement"- is commencing, which is oriented on rising of parent awareness and is directed against the violence amongst children.

Within its action plan the Ministry of Education and Science has developed referral mechanism which did not exist until now. Currently the referral mechanism is ready for the approval. For identification of student/teacher victims of violence and the further response, the responsible person was defined. In case the resource officers do not serve the school, principal/deputy director is responsible for referring, who will be trained in the frames of psychological training course in order to obtain skills needed for identification of violence.

Draft amendments and changes are made to the Joint Order # 152/6 – N 496 – N 45/6 (31. 05.2010) of the Minister of Labour, Health and Social Affairs, the Minister of Internal Affairs and the Minister of Education and Science on the approval of the child protection referral procedures in order to improve the mechanisms for the elimination of violence against children as well as for effective tailoring of the activities envisaged by the Order to the needs and responding mechanisms thereof.

In addition, it is important that the safe school concept was revised. Violence-Free School Policy Framework document is prepared for the approval.

The Ministry of Education and Science of Georgia implements number of projects supporting the violence prevention.

In the academic year of 2014-2015, there was implemented the program encouraging especially talented youth and within the frames of school competition subprogram; competitions were held for students in the educational institutions, which included the following:

- Video contest "the move to support"
- Essay Contest "steps for support"
- Blog contest "we protect the rights of peers"

At the end of the year the conference on violence was conducted, where the students and teachers of general educational institutions took part. The conference aimed to raise awareness among the students on the issues such as violence, discrimination and their prevention.

Under the Memorandum of Understanding which was signed between the Ministry of Education and Science of Georgia and Prosecutor's Office of Georgia, which aims prevention of juvenile crime, formation of legal culture in public school students and awareness raising in this regard, the project - "mock investigation" was implemented in public school;

In the frames of the social campaign against domestic violence - "No to violence!" implemented under the joint project of the Ministry of Internal Affairs of Georgia and the Ministry of Education and Science of Georgia, meetings with various public and private schools as well as with the higher educational institutions were held throughout the territory of Georgia. The project included awareness raising meetings with students and schoolchildren.

With the financial support of the Bureau of International Narcotics and Law Enforcement Affairs of the US State Department, since 2008 the PH International implements the "Legal Education Program in Georgia". This is one of the most effective prevention programs. Cooperation of the Ministry of Education and

Science of Georgia, the Ministry of Internal Affairs of Georgia and the PH International under the program, aims to promote the legal awareness in the adolescents.

“After transition of the government the situation in terms of freedom of religion was deteriorated and has become as one of the most urgent problems.”

**Comment:** in the report on religious issues 2014 the “Human Rights Watch” did not express any remarks with respect to the freedom of the religion towards Georgia. We believe that situation with respect to freedom of religion has been actually improved. For prevention of such type of incidents as well as for their elimination the State Agency for Religious Affairs was created in February 2014, which actively participates in elimination of the incidents against religious freedom.

“Over the past two years, numerous cases of religious violence were revealed (Nigvziani, Tsintskaro, Samtatskaro, Hanukkah celebration at Chela, Terdjola, Kobuleti, Mokhe) where the government did not respond properly and with its inaction and discriminatory approach fostered intolerance.”

After transition of the government, only against Georgian Muslim community, 6 serious cases of religious violence were revealed. However, state policy was not effective with respect to none of the cases of religious violence. The Ministry of Internal Affairs did not make any specific cases of religious violence in a timely and effective manner and mostly was confined to the role of passive observer. Law enforcement authorities also did not ensure effective investigation on the facts.

Along with inefficient policies, religious intolerance and the fight against violence, the policy of the Ministry of Internal Affairs is demonstratively repressive against religious minorities.”

**Comment:** as for specific incidents: although the major part of these incidents had taken place until creation of the Religion Agency, they have already been exhausted. We have studied all of them and will take into consideration for the preventive purposes. As for the specific facts:

**Terjola** - the incident was not motivated by religious intolerance in Terjola. Jehovah's Witnesses note while meeting with the Agency, that they do not have problem with the freedom of religious expression. Chapel operates and the building which is in the construction process, is a residential place as they say and has nothing to do with the freedom of religion. Basis for the suspension of the construction permit were the cracks that appeared on the neighboring house, what became the basis for the complaint of the neighbor (Kakhaber Makaridze).

**Kobuleti** – the employees of the Agency were in Kobuleti; they have got acquainted with the issue on the site and were involved in the incident resolution process. As far as it is known, the initiators of the incident are not the members of any organized religious group, which means that it was the action of some representatives of the local population and the proper response was given by the government, in particular, the court imposed appropriate sentence.

This incident cannot be considered in the context of wrong religious policy, to the extent that the state has procured the building in Batumi and passed it to madrasa.

**Mokhe** - ongoing processes in the state require operational response, including religion, which is very sensitive topic in any social body and especially, in Multi-religion state. There were several incidents in the

reporting period (**despite the fact that the “Human Rights Watch” did not express any remarks with respect to the freedom of the religion towards Georgia**). Such was the clash between Muslim and Orthodox Christian communities in village Mokhe of Adigeni municipality regarding confessional ownership of the building listed with the club status. In this regard, with the initiative of the State Agency for Religious Affairs, Commission for evaluating the situation regarding the case of village Mokhe, Adigeni Municipality was established. The aim of the Commission is to defuse the situation and solve the causing problems. The cornerstone of the situation is the building listed as the club at the balance of Adigeni municipality, in the form of inalienable property with its historical and confessional origins.

Different approach and format was established for solution of problematic issues. There was a precedent, when formal selection procedures were refused on the basis of the dispute settlement. Although the issue of the ownership of the building is not in dispute from the legal framework point of view, from the spirit of the law, in order to ensure tolerant coexistence of diverse environment, dialogue is ongoing concerning the essence of the problem and its causes. Actual approach is clearly reflected in the Commission Regulation, which is adjusted and adapted to the existing conditions.

In the dispute resolution process, the representatives of the opposing parties (commission members) were chosen by the mutual agreement, which, in the end, has driven the process in constructive relations regime. The Commission presents all the participants (totally 5) of the relations and consists of 12 members:

1. Muslim community as one of the interested parties for historical and confessional possession of the building – 4 members;
2. The Autocephalous Orthodox Church (Patriarchate of Georgia), one of the interested parties for historical and confessional possession of the building – 3 members;
3. Samtskhe-Javakheti regional administration and Adigeny Municipality, as the real owner of the building and the authorized party for the decision of its subsequent status and function – 2 members;
4. LEPL - National Agency for Cultural Heritage Preservation, as the competent authority on finding the authenticity and origin of the historical and cultural sites – 2 members;
5. LEPL - State Agency of Religious Affairs, initiator on creation of the commission, which has the role of mediator in dispute settlement process between the religious organizations – 1 member.

The Commission takes the decisions by the way of consensus. The decision-making procedure is kind of continuation of the spirit so that decision made by voting not to be neglected for the other parties and the result shall be made on the background of joint search and mutual agreement. Finally, the dispute resolution process may be assessed as the advisory group created by the parties, where selection / invitation of appropriate experts is made by the way of consensus as well. Mokhe Commission serves not only resolution of only one problem, but significantly contributes to the inter-religious dialogue, mutual cooperation and convergence.

On 2 December, 2014, meeting of the working group was conducted, which was dedicated to the determination of composition and powers of the Commission. On 27 December, 2014, the first session of the Commission was held, where the Commission Regulation was approved and composition of the Commission was identified.

Analysis of the violation practice which is motivated on the basis of religious hate against Jehovah's Witnesses shows the increase of religious intolerance and the ineffective policy of the government. According to the information of the Christian Organization of Jehovah's Witnesses, in 2013, 53 cases of violence against the members of their community have been revealed. As for 2014, this rate has reached - 64. The results of the comparative analysis shows that the scale of violence against Jehovah's Witnesses has been increased drastically and it became more collective and public in its nature. Obviously, this practice is associated with the problem of impunity.

**Comment:** as for the information provided by Jehovah's Witnesses, similar statistics has been registered neither in media, nor in the complaints.

Challenges with respect to freedom of the religion were addressed by the Government through the establishment of the State Agency for Religious Affairs under subordination of the Prime Minister. This Agency was given exclusive competence with respect to resolution of religion-related issues. As usual, existence of such governmental agency is typical for the post-Soviet political system and contains risks for religious organizations to be controlled by the state.

**Comment:** this information does not correspond to reality. State institutions with exclusive competence of dealing with the issues related to religion are in following countries: France, Italy, Great Britain, Germany and others.

“So far, activities of the Agency are mainly directed towards the allocation of state funds for 4 religious denominations as well as the development of control forms and towards the transfer of financial and material gains to various religious organizations through the specially designed way, which obviously creates risks of state control over the religious organizations.

The agency did not respond effectively to none of the actual cases (Terjola, Kobuleti, Mokhe)of religious violence. The mandate of the Agency is vague and it contains risks for duplication of competencies of other state bodies. It is worth mentioning that the Agency does not have any democratic and public forums for communication with the religious organizations and therefore the legitimacy of this institution with respect to development of the policy on the issues of religions is low.”

**Comment:** financial support for 4 confessions was ensured on the basis of the Agreement, in accordance with the Resolution. The Agreement is public; the purpose of the amount prescribed in the Agreement is absolutely obvious and does not contain any vague records, which exclude the risk of control.

As for financial and economic support of other religious organizations: the Agency issues recommendations only based on the application of the religious organization which also excludes the risks of control.

Activities of the Agency, of course, are not directed towards the control of the funds: the Agency is engaged in the alleged religious conflict prevention, if necessary, creates specific commissions, and conducts specific projects to foster religious tolerance in society.

Through cooperation with the religious organizations, unique inter-religious calendar was created in the whole region, the tolerance square was opened, where the joint statement of all religious organizations on the violence against women was signed. Public Advisory Council was set up and the reference groups of people, who work on religious issues, are considered to be the members of this Council.



As for the publicity: the State Agency for Religious Affairs is absolutely open to any religious organization. None of the decisions were made without active cooperation with the confessions as well as without relevant discussions. In addition intensive relations are ongoing with international organizations and the embassies, who share with us their international experience. Apparent confirmation of this was the Annual Report of the Agency and presentation of the State Policy Strategy on Religion, where the US, Israel, Turkey, Iran and other Ambassadors as well as Diplomats have praised the activities of the Agency in this regard.

**“Obligations envisaged by the Human Rights Action Plan (2014-2015), in particular commitments towards the protection of freedom of religion does not respond to pressing social needs in this regard.”**

**Comment:** Human Rights Action Plan towards the protection of freedom of religion – in all of those issues, where the Agency is indicated as the responsible body, it has legitimate and clearly defined competence.

**“Funding policy for religious organizations is based on the approach of the preference and absolute priority of the Orthodox Church.”**

**Comment:** despite the fact, that Georgia is neither legally nor morally the legal successor of the Soviet Union, an independent State of Georgia has felt moral responsibility before the confessions that perform their activities in Georgia.

**“On 27 January, 2014, the Government of Georgia has adopted the Resolution on the rules of implementation of some measures with respect to partial compensation of the damage to the religious associations existing in Georgia and affected by the soviet totalitarian regime. The Resolution envisages material and moral compensation rules for the Islamic, Jewish, Roman Catholic and Armenian Apostolic religious associations. This decision is discriminatory, since it does not include the religious organizations that have also suffered the damage during the soviet totalitarian regime.”**

**Comment:** According to the Resolution #117 of the Government of Georgia dated 27 January, 2014 on the rules of implementation of some measures with respect to partial compensation of the damage to the religious associations existing in Georgia and affected by the soviet totalitarian regime, the Government has expressed its good will to give partial or symbolic compensation to the religious associations with regard to the damage as a result of soviet totalitarian regime. The Government has expressed its political will to issue partial or symbolic compensation to Islamic, Judaic, Roman Catholic and Armenian Apostolic religious associations, registered as the legal entities of public law, for material and moral damage which was affected under the Soviet regime. After the consultations with the Religious organizations and studying the factual circumstances (number of parishioners, number of clergy as well as religious buildings), working meeting was held at the State Agency for Religious Affairs, where the decision on the allocations of funds from the Reserve Fund of the Government of Georgia was taken. For this purposes funding has been increased in the state budget.

**“The analysis of the Agreement signed between the Government and 4 denominations show that the state directly defines the purposefulness of expenditures of the organizations, requests detailed cost estimates as well as interim and final reports and carries out its audit inspection, which is the rough intervention of State to the religious associations”.**

**Comment:** according to the Resolution funding of 4 confessions was based on the Agreement. The Agreement is open for public. The purpose of the amount indicated in the Agreement is obvious and does not contain vague provisions, which exclude the risks of control.

As for financial and economic support of the religious organizations: the Agency issues recommendations only based on the application of the religious organization which also excludes the risks of control.

## 8. LGBT Group

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### Religious violence – Homophobia

**Comment:** In this case, the discussions mainly refer to the violence committed on religious grounds in the years 2012-2013 (Nigvziani, Tsintskaro, Samtatskaro, Hanukkah celebration at Chela, Terdjola, Kobuleti, Mokhe). Relevant information concerning these issues was submitted to the Parliamentary Committee on Human Rights and Civil Integration in the format of implementation of Public Defender's Report of 2013. Therefore, within the authority granted by the procedural legislation, a detailed report has been prepared in connection with ongoing investigation of crimes committed on religious grounds. Measures taken by the Ministry of Internal Affairs with regard to each case is indicated in this document as well. This fact confirms once again that the Ministry did not leave without reaction none of the crimes committed on the religious grounds.

**“Police was totally unprepared for the demonstration and in fact paved the way the demonstration to be dispersed.”**

**Comment:** on 17 May, 2013, at the demonstration against homophobia and transphobia, based on the principle of proportionality, Police conducted all the necessary measures in order the demonstration not to end with fatal results. As a result of the Police activities, criminal liability (Article 161) was imposed on 5 people and 4 people became responsible for administrative offences (Article 166).

**“Police is inactive regarding the violation of rights against the most vulnerable sub-groups, including transgender and commercial sex workers and often uses homophobic language.”**

**Comment:** according to the legislation of Georgia, prostitution is the administrative offense and involvement in prostitution as well as transfer of place or residence for prostitution reasons constitute to the criminal offense. Accordingly, the Police have an obligation to prevent illegal actions, which include the offenses listed above. If the abusive treatment was identified towards the citizen by the Police while on duty, there is an effective response system in the Ministry of Internal Affairs. There exists the hotline of the General Inspection of the Ministry of Internal Affairs and furthermore, each citizen can submit the application concerning the improper response of the Police. It is worth mentioning that all the incoming applications will be responded appropriately.

## 9. Legal status of persons with disabilities

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### 1. Current Situation

#### **Amendments (additional information)**

On December 26, 2013 the Parliament of Georgia ratified United Nations Convention on the Rights of Persons with Disabilities. In accordance with the decision of October 27, 2014 of the State Coordination Council working on the issues of persons with disabilities, the Council was designated as a primary body to supervise implementation of the Convention and the Secretariat of the Council has been defined as a coordination mechanism.

For facilitation of implementation of the Convention 2014-2016, Action Plan on Ensuring Equal Opportunities for Persons with Disabilities was approved by the Decree N76 of the Government of Georgia, dated January 20, 2014. Action Plan covers issues concerning transition of persons with disabilities evaluation on social model, raising awareness, elimination of discrimination, protection of physical environment, education and health, access to employment, habilitation/rehabilitation, etc. Action Plan envisages a set of activities to be carried out by different agencies. Below, see the information on activities to be carried out by the Ministries of Labour, Health and Social Affairs of Georgia:

**1. Reforming the system of disability evaluation and granting of status and continuation of the process of gradual transition into social model (Chapter I. paragraphs 2.1; 2.2; 2.3; Paragraph 20.1.2 of chapter 20 of the Government Action Plan on the Protection of Human Rights).**

For the purpose of transition of persons with disabilities evaluation on social model, experience of a number of European countries have been studied, comparative analysis based on systems of several countries, as well as the recommendations on the most suitable model for Georgia has been elaborated. At present, work is being carried out along with donor organizations to finalize and form a pilot model that best fits Georgia. Working Group is also planned to be set up in the nearest future with the participation of all stakeholders. The Working Group shall elaborate specific proposals regarding the change of evaluation system.

## **2. Ensuring participation of persons with disabilities and/or their representative organizations in the process of elaboration of the strategy, plan, programs and activities for securing equal opportunities for persons with disabilities (3.1.20.1.3)**

In the course of preparation of action plans and programs with respect to persons with disabilities, participation of all interested organizations and persons with disabilities is ensured. The best way to illustrate this is that the main decision-making body defining state policy on issues of persons with disabilities - State Coordination Council on issues of persons with disabilities integrates both the Prime-Minister of Georgia, respective Ministers, Chairman and Deputy Chairmen of the Committee on Health Protection and Social Affairs of the Parliament of Georgia, and the representatives of human rights NGOs of 10 different direction. In particular, meetings are regularly (almost every day) held at the Ministry of Labor, Health and Social Affairs with participation of all interested organizations, service supplier physical persons, working or concerned with issues of persons with disabilities. Working Groups are frequently set up with their participation. Currently there are 4 such thematic groups operating.

## **3. Bringing national legislation into compliance with the UN Convention on the rights of persons with disabilities (4.1.20.1.4.)**

Draft law of Georgian on Ensuring Equal Opportunities for Persons with Disabilities has been elaborated with the participation of NGOs within the framework of working groups, in accordance with the UN Convention on the rights of persons with disabilities. The draft law encompasses a number of important innovations, being in compliance with the UN Convention on the rights of persons with disabilities; hereby, certain provisions happen to be of general nature and needs specifications. Draft law also covers responsibilities of various agencies and we deem it is needed to have joint discussion between state agencies to come up with agreed position on the above issues and the Ministry stands ready to start this kind of discussions.

Furthermore, based on the Decision of October 8, 2014 of the Constitutional Court of Georgia, legislative regulations on limiting capacity of persons with disabilities due to mental diseases has been declared unconstitutional; therefore, package of legislative amendments has been prepared by the working group set up under the decision of the Committee on Legal Affairs of the Parliament of Georgia, which has brought existing norms on capacity into full compliance with both the Decision of Constitutional Court, as well as UN Convention on the rights of persons with disabilities.

At present, the Ministry is actively working on ensuring the implementation of additional responsibilities deriving from those legislative amendments.

## **4. Ensuring persons with disabilities with auxiliary facilities and providing access to training, as necessity requires (1.1) Facilitation of independent movement and communication to persons with disabilities (20.4.1.)**

The Ministry carries out annual state programs aiming at ensuring persons with disabilities in Georgia with auxiliary facilities, which itself covers the following components:

- a) provision of persons with disabilities with wheel-chairs and support in employment;

- b) provision of Prosthetic and orthopedic facilities;
- c) provision of hearing aids;
- d) provision of cochlear implant;
- e) provision of crutches, canes, blind canes, walking aids.

In addition, the program provides for sign language interpreter for deaf and those having hearing impairments.

Respective programs are being planned considering the number of persons requiring auxiliary facilities, as well as existing requirements. The latter well illustrates the increasing trend of financing auxiliary facilities for persons with disabilities, which, accordingly, results into the growth of auxiliary facilities, as well as improvement of their quality and technical characteristics and consideration of individual needs, as well as the quantitative increase of target groups and users of these components.

Here are the statistics of beneficiaries, who have utilized auxiliary facilities in 2014 and 2015, in the course of 3 months:

	Auxiliary facility	2014	I quarter of 2105
1	Mechanical wheel-chair	409	58
2	Electronic wheel-chair	110	3
3	Prosthetic and orthopedic facilities	998	89
3	Hearing aids	1341	264
4	cochlear implant	26	16
5	crutches, canes, blind canes, walking aids	162	41

## 5. Habilitation and Rehabilitation (Chapter VIII) (20.8)

**1.1. Expanding geographic accessibility of habilitation and rehabilitation services** - geographic scope of accessibility of existing habilitation and rehabilitation services and programs has been expanded within the framework of state programs. In the last years, these services have been offered in Tbilisi, Kutaisi and Batumi. In 2014, services have been implemented in 5 Tbilisi offices, as well as in Kutaisi, Batumi, Telavi and Gori.

**1.2. Ensuring financial access to benefit from habilitation and rehabilitation state programs for children with disabilities.** Co-financing share by beneficiary families has been reduced from 25% to 10% from April 2014 and has been totally abolished from November. Maximum amount of funded courses for each beneficiary has been determined to be 7 instead of 5. Hereby, within the framework of 2015 state program the budget shall be increased by 300 000 GEL.

## 6. Early Development

Within the framework of state program, sub-program of early development of children is carried out, which is aimed at early detection of children's development impediments and disability, as well as appropriate preventive intervention. 495 children (430 children in 2014) of 0-7 years per month with

mental disabilities (including, down syndrome, cerebral palsy, autism, etc.) are deemed to be a target group for the sub-program.

With participation of all stakeholders, a concept and strategy for early intervention service development has been elaborated. Works on implementation of this concept and the strategy is being carried out within the working group.

## 7. Other activities of social protection

Services to be provided to persons with disabilities are being planned and implemented considering the requirements and existing priorities approved and detected by the Social Service Agency.

In 2014, a Monitoring Division has been set up within the Department of Social Protection of the Ministry, which determines the compliance with existing service standards and elaborates recommendations for suppliers.

In accordance with 2014 State Program on Social Rehabilitation and Child Care, a number of beneficiaries of community organizations have increased to 180 person compared to 160.

Since September 2013, social package for persons having clearly demonstrated disabilities has boosted to 150 GEL from 100 GEL, and for persons with clearly demonstrated disabilities and children with disabilities - from 70 GEL to 100 GEL.

Funding and volume of social services has been increased (day centers, community organizations, early development services). More persons with disabilities has been provided with clearly demonstrated disabilities better quality services throughout Georgia.

Sub-Program	Budget 2013		
Children Rehabilitation	1 241 000	1 424 530	1 651 600
Early Development	232 500	438 000	832 800
Community Organizations	686 600	836 000	1 044 300
Day Centers	2 838 200	3 084 000	3 235 900
Small Family Houses	2 263 300	2 283 000	2 178 700
Foster Care	5 681 400	5 682 000	6 201 200
Homeless "Street Children" Program	304 000	530 000	730 100

In order to implement services for persons with disabilities, state has transferred real estate by usufruct to several organizations.

At the meeting of the State Coordination Council working on the issues of persons of disabilities, held on October 27, 2014, Prime-Minister of Georgia and the Council member ministers made a decision to cancel co-funding for the day center, early development and children rehabilitation services.

Consequently, receiving these services without co-funding will be possible already in 2014 for which the Ministry of Labor, Health and Social Affairs has allocated 312 000 GEL from its budget.

## **(20.7.) Health Protection**

### **(20.7.1.) Ensuring equal access to health protection services without discrimination deriving from disability**

Equal access to existing health protection services is ensured for persons with disabilities throughout the country. For ensuring the latter, special approaches are elaborated for persons with disabilities, which is reflected in respective regulatory documents. As inpatient facility licensing terms covers requirements in terms of safe movement of persons with disabilities, conditions for safe movement of persons with disabilities is taken into consideration while providing outpatient services. (Decrees of the Government of Georgia on "Approval of Regulations concerning the Rules and Terms for Licensing of Medical Activities and Issuance of Inpatient Facility Permit and on Approval of Technical Regulation for High Risk Medical Activities; Order of Minister of Labor, Health and Social Affairs on Approval of Determination of Classification of Medical Interventions and Minimum Requirements for First Aid Facilities").

### **(20.7.2.) Improving the management of health condition determined by disability**

Persons with disabilities, like other citizens of Georgia, are involved in any state program on health protection. In particular:

Management of infection disease;

Management of tuberculosis;

HIV/AIDS;

Mothers' and Children health;

Drug addiction;

Mental health;

Management of diabetes;

Oncohematologic services for children;

Dialyses and kidney transplantation;

Palliative care for incurable patients;

Treatment of patients suffering from rare disease and subject to constant substitution care;

Emergency aid and medical transportation;

Village doctor;

Immunization;

Program for Epidemic Supervision;

Safe blood;

Prevention of professional diseases;

As regards the reimbursement of costs for services not covered by the state program, the latter shall be examined by the Committee set up to decide on the provision of relevant medical assistance. In addition to this, early diagnosis, screening and treatment of the number of diseases and conditions are defined within the state program of health protection approved by the Decree N650 of the Government of Georgia, dated December 2, 2014. Absence of adequate treatment of such diseases and conditions increases the risk of disability.

State programs covering these concerns are the following:

- Early detection and screening of diseases, which is composed of the following components: cancer screening component; children age development interruptions, early detection and screening of diseases, including the screening of development interruptions of children aged 0-6 - assessment of global development of high risk and premature babies by applying special questionnaires and screening tests, early identification and assessment of readiness for school of patients having development and behavior problems; assessment of the development of children aged 0-6 sent from the first group of health care, comprehensive research and parent consultation on fostering of child development, care and feeding issues, as well as the assessment of readiness for school of children of school age and double screening on development interruption for preterm babies;  
Prevention of mild mental development disorder for children aged 1-6, their early diagnostic and prevention of intellectual disability covers the assessment of large motor skills, expressive and receptive language, cognitive and self-service skills, determination of compliance with child mental development norms, elaboration of preventive and individual development plans for children.
- Epilepsy Diagnosis and supervision, which covers registry of epilepsy, epilepsy first diagnosis and in-depth studies to confirm the diagnosis of the patient;
- Mental health;
- Mother's and Child care;  
The following shall be underscores from the above program component: early detection of genetic pathology, Infant and child screening on hypothyroidism, phenylketonuria, mucoviscidosis and hyperphenylalanemia and the newborn hearing screening.
- Management of diabetes
- Dialysis and kidney transplantation;
- Treatment of patients with rare diseases and those being subject to permanent substitution treatment.

**(20.7.3) Improving the effectiveness of the purpose, structure and management of state programs related to the health protection of persons with disabilities**

Annually, state health care programs approved by the respective decrees of the Government of Georgia, apart from the number of diseases and early diagnosis, screening and treatment, also covers improvement of the health of patients with rare diseases and those being subject to permanent



substitution treatment. These diseases in most occasions results into the increase of disability. The above program implies inpatient and outpatient treatment of children and adults with hemophilia and provision with medication; inpatient and outpatient treatment of children under 18 with mucoviscidosis, provision of patients (of all ages) with special medication; inpatient and outpatient treatment of patients of all ages with phenylketonuria and provision with treatment food additives; inpatient and outpatient treatment of children under 18 with inherited Bruton Agammaglobulinemia and their provision with special medication; provision of children and adults having growth hormone deficiency, turner syndrome with growth hormone; provision of children under 18 with Juvenile rheumatoid arthritis with biological medication; provision of patients with thalassemia with iron-binding medication.

As noted above (paragraph 20.7.1.), we will inform additionally on the "improvement of health insurance system for persons with disabilities (20.7.4); since September 2014, children with disabilities and children with clearly demonstrated disabilities are fully integrated in the "Universal Health Protection State Program" approved by the Decree N36 of February 21, 2013.

#### **(20.7.4) Improving health protection system for persons with disabilities**

As for inclusion of needs of persons with disabilities within the state health care program, children under 18 with disabilities and persons with clearly demonstrated disabilities until September 1, 2014 will be applying to the state health program as approved by the Decree N65 of the Government of Georgia, dated May 7, 2012 and since September 1 they have been fully integrated (with the same terms) within the "Universal Health Protection State Program" approved by the Decree N36 of February 21, 2013.

For above beneficiaries, said state program provides for reimbursement of medical service charges as listed above:

a) Outpatient services (planned outpatient service shall be available only by initially applying to family physician or the village or district physicians):

a.a.) outpatient service provided by the family or village or district physician, including the provision of vaccination according to national calendar of preventive vaccination (visit only for vaccination), assessment of health condition and risk-factors, preventive measures, diagnostic and management of diseases, palliative care, as well as service rendered at home (within the competence), in case of necessity.

a.b) outpatient service rendered by physician-specialists under the family or village or district physician's order;

a.c) Any instrumental outpatient examination under the doctor's order: electrocardiographic, Ultrasound and X-ray examinations (rentgenoscopy, X-ray, mammography and CT scan);

a.c) CT scan implies 20% co-pay by the ensured, except for persons in retirement age, for whom the co-pay amounts to 10%;

a.d) clinical-laboratory tests by the doctor's order: Blood work, urinalysis, glucose in peripheral blood, creatinine, hemoglobin, cholesterol in blood, serum lipid determination, fecal occult blood tests (blood in stool tests);

a.e) examinations necessary for social expertize of persons with disabilities, in particular, for conferring a status to the, except for nuclear magnetic resonance studies;

a.f) issuance of all kinds of medical reports, conclusions and prescriptions on an outpatient level (including, issuance of pain relief medication prescription for incurable patients) (except for the Employment Form NIV-100/a and certificates to be submitted for obtaining driver's license and the right to keep and bear arms to the Legal Entity of Public Law – Service Agency of the Ministry of Internal Affairs of Georgia)

a.g) Emergency outpatient service (including, provision of special serums and vaccines purchased within the state health care programs).

b) Inpatient Services:

b.a) Emergency inpatient service, including infection diseases and hospitalization of incurable patients related to palliative care, hospitalization related to complicated pregnancy, childbirth and the puerperium, which implies 20% co-pay by the ensured, except for persons in retirement age, for whom the co-pay amounts to 10%. Co-pay does not apply to critical conditions and hospitalization related to incurable palliative care for children with disabilities;

b.b) Planned surgical operations (including, day care), as well as all kinds of lab, instrumental examinations carried out before, during and after the operations - with annual limit of 15 000 GEL. This procedure implies 20% co-pay by the ensured, except for persons in retirement age, for whom the co-pay amounts to 10%. Co-pay does not apply to cardio surgical and oncologic operations and studies related to them for children with disabilities;

b.c) Treatment and diagnostics of oncologic patients, in particular, chemotherapy, hormone and radiation therapy, as well as tests and medication related to those procedures - with annual limit of 15 000 GEL. This procedure implies 20% co-pay by the ensured, except for persons in retirement age, for whom the co-pay amounts to 10%. Services costs shall be fully covered for children with disabilities;

b.d) Delivery (including caesarean section) - with the limit of 500 GEL. This procedure implies 20% co-pay by the ensured;

b.e) Outpatient treatment for persons with clearly demonstrated disabilities and children with disabilities shall be reimbursed according to the approved list of medication (Order N53/N of the Minister of Labor, Health and Social Affairs of Georgia, dated February 26, 2010). Costs are reimbursed within the limit of 100 GEL, with 50% co-pay by the ensured.

#### **(20.7.2.) Improving the management of health condition determined by disability**

Persons with disabilities, like other citizens of Georgia, are involved in any state program on health protection. In particular:

- Management of infection disease;
- Management of tuberculosis;
- HIV/AIDS;
- Mothers' and Children health;
- Drug addiction;
- Mental health;
- Management of diabetes;
- Oncohematologic services for children;
- Dialyses and kidney transplantation;
- Palliative care for incurable patients;
- Treatment of patients suffering from rare disease and subject to constant substitution care;
- Emergency aid and medical transportation;
- Village doctor;
- Immunization;
- Program for Epidemic Supervision;
- Safe blood;
- Prevention of professional diseases;

As regards the reimbursement of costs for services not covered by the state program, the latter shall be examined by the Committee set up to decide on the provision of relevant medical assistance within the “Referral System”.

In addition to this, early diagnosis, screening and treatment of the number of diseases and conditions are defined within the state program of health protection approved by the Decree N650 of the Government of Georgia, dated December 2, 2014. Absence of adequate treatment of such diseases and conditions increases the risk of disability.

State programs covering these concerns are the following:

- Early detection and screening of diseases, which is composed of the following components: cancer screening component; children age development interruptions, early detection and screening of diseases, including the screening of development interruptions of children aged 0-6 - assessment of global development of high risk and premature babies by applying special questionnaires and screening tests, early identification and assessment of readiness for school of patients having development and behavior problems; assessment of the development of children aged 0-6 sent from the first group of health care, comprehensive research and parent consultation on fostering of child development, care and feeding issues, as well as the assessment of readiness for school of children of school age and double screening on development interruption for preterm babies; Prevention of mild mental development disorder for children aged 1-6, their early diagnostic and prevention of intellectual disability covers the assessment of large motor

skills, expressive and receptive language, cognitive and self-service skills, determination of compliance with child mental development norms, elaboration of preventive and individual development plans for children.

- Epilepsy Diagnosis and supervision, which covers registry of epilepsy, epilepsy first diagnosis and in-depth studies to confirm the diagnosis of the patient;
- Mental Health;
- Mother's and Child care;

The following shall be underscores from the above program component: early detection of genetic pathology, Infant and child screening on hypothyroidism, phenylketonuria, mucoviscidosis and hyperphenylalanemia and the newborn hearing screening.

- Management of diabetes
- Dialysis and kidney transplantation;
- Treatment of patients with rare diseases and those being subject to permanent substitution treatment.

### **(20.7.3) Improving the effectiveness of the purpose, structure and management of state programs related to the health protection of persons with disabilities**

Annually, state health care programs approved by the respective decrees of the Government of Georgia, apart from the number of diseases and early diagnosis, screening and treatment, also covers improvement of the health of patients with rare diseases and those being subject to permanent substitution treatment. These diseases in most occasions results into the increase of disability. The above program implies inpatient and outpatient treatment of children and adults with hemophilia and provision with medication; inpatient and outpatient treatment of children under 18 with mucoviscidosis, provision of patients (of all ages) with special medication; inpatient and outpatient treatment of patients of all ages with phenylketonuria and provision with treatment food additives; inpatient and outpatient treatment of children under 18 with inherited Bruton Agammaglobulinemia and their provision with special medication; provision of children and adults having growth hormone deficiency, turner syndrome with growth hormone; provision of children under 18 with Juvenile rheumatoid arthritis with biological medication; provision of patients with thalassemia with iron-binding medication.

As noted above (paragraph 20.7.1.), we will inform additionally on the "improvement of health insurance system for persons with disabilities (20.7.4); since September 2014, children with disabilities and children with clearly demonstrated disabilities are fully integrated in the "Universal Health Protection State Program" approved by the Decree N36 of February 21, 2013.

#### **Comments:**

**"State programs on health and social protection are not based on unified statistical data"**

**Comment:** planning of health protection state programs are based on both routine epidemiologic and statistical data, as well as needs-oriented studies and state program implementation reports. LEPL - "Sakvarelidze National Center for Disease Control and Public Health" annually prepares statistical booklet "Health Protection". Booklet talks about public health situation and statistical data reflecting

health resources. Ministry of Health prepares quarterly report of state health programs. Programs are planned annually for the next four years. Unified information system "Electronic Health Protection" has been launched along with the introduction of universal health programs. The latter allows health institutions to electronically manage both information sharing on any event implemented within the frames of the program, as well as reporting and sending statistical information.

Within the framework of universal healthcare program, persons with disabilities are provided with planned and emergency outpatient services, emergency inpatient services, planned surgical operations, chemo, radiation and hormone therapy and delivery services. They are also able to receive services defined by vertical programs.

**"Inpatient psychiatric institutions still represent the means of support for persons with psycho-social needs, that go against the convention requirements."**

**Comment:** Country runs mental health program, which provides for the following:

- Mental inpatient service (covers services to patients referred by the mental inpatient institution, being on a registry and self-visiting family/district physician);
- Mental-social rehabilitation, which implies restoration/studies of basic skills necessary for improving the health, social adaptation and fostering of integration into the society of persons having mental disorder;
- improving mental health of children (includes the study/diagnostics of health condition of those patients under 18 in day cares, who suffer from the change of behavior and mental condition, worsening of social functioning and disadaptation);
- mental crisis intervention for adults (18 or more) (intensive outpatient treatment in case of crisis situations (crisis day beds)); emergency outpatient consultations in crisis intervention centers; intervention at residence homes of patients by crisis mobile team and, in case of necessity, his/her transfer to crisis intervention center);
- Mental inpatient service for children and adults.

Action Plan for 2015-2020 and Strategic Document on the Development of Mental Health, was approved by the Decree N762 of the Government of Georgia in December 31, 2-14. The plan envisages moving from mental hospital model with long delays to community service, which covers the following: short-term inpatient care, outpatient treatment in general hospitals, first aid and other non-specialized healthcare, comprehensive mental health centers, day centers, protection of those persons having mental disorder and live with their families, as well as "protected" residences.

Children with disabilities are engaged in receiving various alternative services: 36 reintegration cases, 161 children with disabilities have been subjected to foster care, 12 has been transferred to small family-type houses, currently consultations are underway regarding organization of specialized small family-type houses for children with disabilities.

From 2015 a program shall be launched for children with disabilities, which provides for funding of ABA therapy for autism spectrum disorder, as well as home care program for children for deep mental disability.

**"Legislation regulating higher and vocational education does not refer to inclusive education, general education system, in parallel with mainstream schools, still keeps specialized schools operating;"**

**Comment:** In December of 2013, the parliament of Georgia ratified the Convention on the Rights of Persons with Disabilities, preceded by elaboration of Governmental Action Plan 2014-2016 on Ensuring Equal Opportunities for Persons with Disabilities. In the course of elaboration of the above document, the following four directions have been highlighted:

1. Determination of educational legal framework persons in need of special education;
2. Introduction of adequate funding system for school and university students in need of special education;
3. Ensuring continuous and quality education on the levels of general, vocational and higher education for those in need of special education;
4. Elaboration of educational monitoring mechanism for persons in need of special education.

In 2014, the Law on Early Learning and Preschool Education has been prepared, which reflected all responsibilities related to inclusive educational support.

For the purpose of perfection of legal framework for the implementation of inclusive education, amendments have been made to the Law on General Education.

Works have been completed on the document Regulating Inclusive Process in Public Schools, which deals with the introduction of inclusive education in public schools and its implementation process. The Document also envisaged responsibilities for public school administration, teachers, special teachers and parents.

In the course of 2013-2015, intensive works have been carried out on the draft law on Vocational Education. Along with specialists in the field, respective provisions has been elaborated, based on which the Law on Vocational Education and vocational education system will become inclusive and will provide for access, application of person-oriented approaches and legal regulation of vocational education to those in need of special education and persons with disabilities.

Amendments to Chapter 5 (Inclusive Education) of National Education Plan has been prepared, which shall be reflected in the above document.

Since September 2015, amendments have been made to the Decree N9 of the Government of Georgia of January, 2013 on Defining the Amount of Financial Normative and Standard Vouchers for a Single Student for Funding of General Education" and those schools, which have students with special educational needs, shall be given additional funding based on the number of students:

- for 1-6 students in need of special education the school has 1 specialist;

- for 7-13 students in need of special education the school has 2 specialist;
- for 14-23 students in need of special education the school has 3 specialist;
- for 23 and more students in need of special education the school has 4 specialist;

Currently, within the frames of social program, the state provides funding for Bachelor and Master's degrees for persons with disabilities, in accordance with the Decree N501 and N504 of the Government of Georgia, dated August 18, 2014.

Multidisciplinary Team has been set up within the Ministry of Education and Science of Georgia, which determines the special educational needs of persons and selects the best form of education for those in need of special education. Team includes psychologists, occupational therapist, special teachers. Multidisciplinary Team function is to offer qualified assistance to all schools, school-boarding schools and vocational educational institutions in the process of inclusive education.

For the development of inclusive education, since 2013 academic year integrated classes have been introduced to develop additional services for primary school kids with autism spectrum disorder and sensory impairments. In Tbilisi there are 3 and in Telavi 1 integrated school for students with autism spectrum disorder and for kids with sensory impairments.

In addition, since 2013 to date, educational services are provided for children diagnosed with leukemia and undergoing extensive treatment at M. Iashvili Children's Central Clinic.

In 2013-2014 academic year, handbooks for kids with sensory impairments (children with vision impairments and blinds) at LEPL - Tbilisi N202 Public School has been printed with Braille code. In 2014-2015 academic years, handbooks of Georgian literature, mathematics and English language has been printed in Braille code for VI-XII grade students. In parallel, Ministry of Education is working on educational strategy of blind students.

For obtaining of the right to apply and interpret an instrument of identification and assessment for those in need of special education, training for raising qualification for Multidisciplinary Team members have been conducted in 2014 and 2015.

Guidebook has been published for school teachers based on national educational plan - "Education of Vision Impaired Students" (for blind students with Braille and regular fonts).

Guidebook has been published for school teachers - "Individual Educational Plan", which will help teachers in elaborating individual educational plan for students in need of special education.

In 2014, web-page on inclusive education has been created - [inclusion.ge](http://inclusion.ge).

Within the frames of the Project supported by Norwegian Education and Research Ministry - "Introduction of Inclusive Education in Georgian Vocational Education and Training System" roght to Norwegian standards of universal design (Universal Design of Building Construction. Part N1 Working Buildings and Buildings Open to the Public) has been obtained. Thereafter, the above documents has been translated in Georgian and LEPL - Educational and Scientific Infrastructure

Development Agency (ESIDA), based on the document, provides for designing of five educational premises selected within the project, in accordance with universal design principles.

In 2014, Teachers' Masters Program was opened in Ilia University.

At the moment, consultations are underway with higher education institutions with the aim of introducing special bachelor's degree programs.

Provided that special bachelor's degree program does not exist on a university level, special training of teachers is being carried out for two month in the National Center for Vocational Development of Teachers. Consultation Group also operated within the Center, which gives recommendations to public school, in case of necessity, in the process of introducing inclusive education.

With the support of the European Union, elaboration of the monitoring model of inclusive education has been in progress in close cooperation with Non-governmental Organizations, which will allow us to conduct the quality assessment of inclusive education.

There are 9 school-boarding schools functioning within the education system, out of which 4 operates for students with deep intellectual disorder, three for kids with sensory disorder, one for students with behavioral and emotional disorder and one for talented kids.

In 2013, Ministry of Education and Science of Georgia, in parallel with vocational education system reform, defined the rule and terms for funding of vocational education and elaborated respective regulatory document - "Rules and Terms for Funding of Vocational Education", which significantly affected the rules and terms for vocational education funding of persons in need of special education. In particular, vouchers have been allocated for them.

Vocational education institutions have included the positions of inclusive vocational education specialists and assistants for persons with special educational needs in their staff list. Based on recommendations of these specialists education environment is organized and learning process planed and arranged. For persons with special educational needs, who desire to continue studies at vocational educational institutions, Ministry of Education and Science of Georgia has introduced alternative mechanism for professional tests. Persons with special educational needs are included in vocational education programs based on practical professional activities, which determines the compliance of a person with the requirements of education program.

Within Georgian contexts, sign language development methodology has been discussed in details with the representatives of Norwegian Ministry of Education and Research having long-standing experience in this field.

During December 2014 and 2015, Organization responsible of developing Georgian sign language – Union of the Deaf of Georgian (Long-standing service of the organization has been purchased via tender) provided for the implementation of responsibilities undertaken by the agreement, in particular:

- Georgian SignWiki promotion and dissemination within the deaf society;



- collection of Georgian signs and uploading them on the web-page

As of 2014, 203 students with special educational needs are included in vocational educational institutions.

During January through March, Union of the Deaf of Georgia managed to collect signs and upload them on the web-page within ten professional directions defined with Project Administration (stylist, computer graphics, chef, carpenter, IT, textiles specialist, tile lining, Internet technologists, wood art specialist, and technician). During the first quarter of this year, Union of Deaf of Georgia provided for collection of more than 1200 signs with the participation of deaf persons and uploaded them on the web-page.

To support the employment of persons with special education needs, Ministry of Education and Science of Georgia has activated interagency cooperation with the Ministry of Labor, Health and Social Affairs and Social Protection Agency for the purpose of elaboration and piloting of the vision for employment of persons with special education needs.

In April 2015, Second International Conference was conducted on Inclusive Education - “Create your Opportunities”, where the issues of provision of equal opportunities for quality vocational education and employment based on local and international analysis has been considered.

In 2015, revision of the Law on Higher Education and preparation of package of amendments to bring it into compliance with the Convention on the Rights of Persons with Disabilities is planned.

### **“Parliament of Georgia is working on the package of amendments to change the concept of current model of incapacity”**

**Comment:** In accordance with the Decision of October 8, 2014 of the Constitutional Court of Georgia, legislative regulations on limiting capacity of persons with disabilities due to mental diseases has been declared unconstitutional; therefore, package of legislative amendments has been prepared by the working group set up under the decision of the Committee on Legal Affairs of the Parliament of Georgia, which has brought existing norms on capacity into full compliance with both the Decision of Constitutional Court, as well as UN Convention on the rights of persons with disabilities.

At present, the Ministry is actively working on ensuring the implementation of additional responsibilities deriving from those legislative amendments.

## ***10. Environment protection, Natural resources and energy***

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**“It was said that in case of coming to power the measures to be taken in the first place would include development of the environment protection standards and normative base in compliance with the requirements of the European Union.”**

**Comment:** The process of legislative harmonization had started before signing the agreement: from 2015 the Waste Management Code and the Law of Georgia on Living Generically Modified Organisms, developed in accordance with the obligations determined by the Association Agreement, has entered into force that fully comply with the obligations undertaken under the EU Association Agreement.

In order to create legal grounds for the introduction of integrated system of water resources management, the preparation of the draft law on Water Resources Management was started based on the European principles of water resources basin management and modern requirements internationally recognized and approved by the developed countries. The works are going on to draw up the following legislative acts:

According to the Association Agreement the Draft Law on Species and Habitats is under preparation;

In order to better regulate the ozone depleting substances and to fulfil the international obligations undertaken by the country under the Montreal Protocol, the system of import/export and quoting licensing of the ozone depleting substances was implemented. The initial draft version of the Draft Law on Environmental Impact Assessment System is developed taking into consideration appropriate EU directives (2015).

The legislation analysis is in progress according to the requirements of Seveso III Directive (2015-2016);

The draft version of the Draft Law on Waste Import, Export and Transit has been developed which will be submitted to the Parliament of Georgia on the spring session of 2015.

The Draft Law on the Amendments and Additions to the Law of Georgia on Ambient Air Protection has been prepared, on the basis of which a mandatory certification system for cooler and air-conditioner technicians will be implemented from 1 July 2015; the Forestry Code is being developed. It should also be noted that the EU Legislation Harmonization Department has been established at the Legal Department within the Ministry of Environment and Natural Resources Protection of Georgia, the direct function of which is to bring the environmental legislation of Georgia into compliance with the EU legislation. The Department has already started active work in this course and prepared a road map in cooperation with foreign experts, which includes the list of draft laws to be developed and the timeframes for their adoption. In addition to the above stated normative acts, the work has also started to draw up other draft laws.

**“Creation of the system based on the modern principles of strategic environmental assessment, licensing environmental impact and monitoring the condition of the environment.”**

**Comment:** In order to improve the system of licensing environmental impact in Georgia and to harmonize it with the European standards, the appropriate legislation was analysed and the existing faults were identified with the EU funding. The development of new draft legislation has been started

in the autumn 2014 in cooperation with international (UNECE) and local experts. The draft law aims to harmonize the existing rules of environmental impact assessment with the requirements set forth by the Association Agreement, the Association Agenda and the ESPOO Convention (Convention on the Environmental Impact Assessment in a Transboundary Context), also to initiate and implement completely new mechanism, a strategic environmental assessment. The draft version of the environmental impact assessment and a strategic environmental assessment draft law has been developed and the public review is going to be held in May 2015.

**“Protected areas (especially newly-established ones) are not completely financed from the budget.”**

**Comment:** In the process of establishing protected areas the financing is gradually allocated for minimum and critical operational purposes, such as for instance assignment of additional human resources, determining the fuel consumption limits for rangers to patrol the protected areas, etc. In drawing up the budget project for each following financial year, the Agency of Protected Areas takes into consideration the expenses that are required for minimum functioning of the newly established administrations.

**“Despite the above stated achievements, at this stage, a significant part of the election programme of the party “Georgian Dream” is not fulfilled yet. Besides, unfortunately the new government has not evaluated the mistakes made by the previous government in political and legal terms. As a result, initially “Georgian Dream” started to make similar mistakes as the “Unified National Movement” did. New government has not made efforts to establish the procedures ensuring government transparency, public participation and accountability (while it previously criticised its predecessor for the absence of democratic procedures).**

**Comment:** It should be noted that since 2012 the situation has significantly changed in terms of public participation, namely the Ministry of Environment and Natural Resources Protection of Georgia has not made any important decision regarding the environmental issues without public discussion and in this case it applies the AARHUS convention as a direct source of law. For the public discussion purposes the drafts of legislative acts regulating this field are instantly and actively published at their initial stage, in order to ensure their perfect preparation as much as possible. The Ministry periodically publishes the information on projects, programmes and events in the field of environment protection, and encourages the public to take active part in their discussion (to submit proposals / opinions, remarks).

In order to ensure public participation in the decision-making process with regard to certain activities determined by the legislation, for the public discussion purposes the Ministry promptly publishes the report on environmental impact assessment, accepts and reviews the remarks and proposals submitted by the public. Also, according to the application, an interested person may, by submitting his/her options, participate in the decision-making process regarding the activities subject

to licensing / permission in the field of environment protection and the use of natural resources. The recently taken actions by the Ministry ensure realisation of the mechanisms of public participation in the decision-making process regarding the environment protection determined by the AARHUS convention, and the active work is going on in this regard.

It is notable, that with the financial support of the United Nations Economic Commission for Europe (UNECE) the development of a new Draft Law on Environmental Impact Assessment started in 2013 and is currently in progress. Under the draft law the list of activities subject to environmental impact assessment will be completed that will improve public participation mechanisms at each stage of environmental impact assessment resulting in proper communication between investors and people; maximum transparency of the environmental impact assessment procedures will be ensured; as noted above (in the previous comment) public discussion of the initial version of the draft law will be held in May 2015, and the draft law will be ready for the submission to the Parliament of Georgia approximately by the end of 2015.

In addition, it should be noted that in 2014, the Ministry of Environment and Natural Resources protection of Georgia was granted a special award by the Institute for Development of Freedom of Information (IDFI) for ensuring access to public information. The IDFI award was granted to the institutions that ensure 100% access to public information. On the basis of the statistical data generated during the project, the institution that most of all improved access to the public information in 2014 was identified. The hot line, which was put into operation in 2014, will also facilitate provision of information to public. Besides, as stated above, the Ministry organises public discussions of the normative acts to be adopted and certain plans in the field of environment protection; for example in 2013-2015 public discussion of the management plan of four protected areas (Lagodekhi Protected Area, Ajameti Natural Reserve, Mtirala National Park, Imereti caves Protected Area) was held, and about ten public discussions were held with respect to various draft laws, including the Draft Law of Georgia on the Amendments to the Law of Georgia on Environmental Impact Permits and the Draft Law of Georgia on Nuclear and Radiation Safety.

Raising public awareness and ensuring maximum access to the information on environment protection is one of the priorities for the Ministry of Environment and Natural Resources Protection of Georgia. In this regard, the Ministry plans and implements the events focused on target groups. Meetings, conferences, briefings and campaigns for raising awareness are regularly held, educational lectures and seminars are held, green and cleaning campaigns, eco-tours, eco-banks and media-tours are organised and documentaries and informative promotion videos are made for broader segments of the society, including pupils, students and local population. Informative and educational leaflets are issued and spread and documentaries are filmed in order to ensure access to information.

Also, it is important to ensure access to the information related to environment protection and public participation in the important decision-making processes regarding the environmental issues. Under the Law of Georgia on Environment Protection a person shall have the right to be provided with complete, impartial and timely information on the condition of his/her working and living environment, and to participate in the important decision-making process related to the environment protection.

It should also be noted that LEPL Environmental Information and Education Centre actively works to raise public awareness regarding the environmental issues, that will increase public interest in the environmental issues and respectively their participation in the decision-making process in this regard.

In order to increase environmental education and awareness, to ensure access to the information on environment protection and the active public participation in the decision-making process regarding environmental issues, a Legal Entity under Public Law (LEPL) Environmental Information and Education Centre was established in the Ministry of Environment and Natural Resources Protection of Georgia in May 2013. The goal of the Centre is to facilitate: access to the information on environment protection, public participation in the decision-making process, access to the justice-related issues in this field, formal and informal environmental education, raising public awareness on the environment protection issues, training / retraining of qualified personnel and their capacity building through the implementation of appropriate trainings and certified programmes. In 2014, for facilitating environmental education, training and capacity building of professional personnel the Centre organised trainings and seminars, as necessary, in the following areas: a) Basics in inspection procedures and practical aspects; b) Basics in capacity building of rangers; c) Retraining of young specialists in the forest taxation; d) Educational tours for the representatives of various institutions and universities in the field of forestry, and etc.

The Ministry of Environment and Natural Resources Protection of Georgia in coordination with the Ministry of Education and Science of Georgia prepared the 'Environmental Education for Sustainable Development: Georgian National Strategy and Action Plan for 2012-2014' that is in compliance with the 'Education for Sustainable Development' strategy and action plan of the UN Economic Commission for Europe, and the vision and mission of the 'Decade of Education for Sustainable Development'. The environmental education provisions determined by this document create the basis for sustainable development to introduce broader approaches of the concept of education.

Currently, the Ministry of Environment and Natural Resources Protection of Georgia has started the process of updating of the Environmental Education for Sustainable Development: Georgian National Strategy and Action Plan. Besides, in 2016, taking into consideration the best practice the environmental component is planned to be improved in the process of development of national educational plans and curricula.

As for the LEPL National Environmental Agency, its activities include monitoring of natural hydro-meteorological and geological processes and events to ensure national security, also preparing and disseminating special warnings regarding the environment pollution that is a precondition for the protection of the human rights in ecology. The following activities should be noted in this regard:

5 meteorological stations, 20 meteorological watchtowers and 10 hydrological watchtowers are currently installed in the target basin; the inclinometer tools (for monitoring landslide dynamics) and a hydraulic model (which is under development) will improve monitoring and forecasting capabilities. As a result human casualties and loss will be reduced at the expense of preventive works, and the quality of informing people will be also improved.

- **Implementation of early warning system in the Amali-Devdoraki valley and on the rivers Duruji and Kabala and in three extremely tensed areas**, that includes installation of an anti-flooding early warning system, reduction of loss and immediate response by appropriate agencies. The project includes installation of an early warning system in the valley of the river Devdoraki; also the early warning system is planned to be installed on three locations of the territory of Georgia (installation of the geo-monitoring devices); at the same time the early warning system will be installed on the river Duruji and Kabala (for forecasting flash floods). As a result of this project the population will be informed on the expecting natural disasters (rock and stone falls, avalanches, mudslides, landslides, flash floods, floods); human casualties and economic loss will be reduced.
- **Introduction of agro-meteorological services at three municipalities:** Zudgigi (corn, citrus, fruits, nuts, tea); Dedoplistskaro (winter wheat, sunflower, vine); Bolnisi (winter wheat, vine, vegetables, corn). These services include: providing state and private sectors engaged in agriculture with specialised agro-meteorological information, and the recommendations regarding appropriate agro-technical works; also giving warnings with regard to possible unfavourable hydro-meteorological conditions for the agriculture activities. Providing agro-meteorological services to three municipalities will lead to the reduction of the loss incurred by the agriculture sector due to draughts, hail and strong winds.

Currently the project is being finally approved in coordination with the Ministry of Agriculture of Georgia

- **Introduction of snow avalanche services at Gudauri-Kobi section** includes monitoring snow avalanches on Gudauri-kobi section (purchase / installation of an automatic snow avalanche station). Installation of this station will enable prevention of negative consequences by regulating opening / closing of various sections of the road (The automatically received information will be processed by the Agency specialists and the forecasts will be prepared. The prediction period depends on the meteorological forecasts (of snow, rain, hail, etc.). As a result the negative consequences of natural disasters (human casualties, economic loss) will be prevented / mitigated. This station includes prevention of avalanches / landslides on Gudauri-Kobi road section during the winter period.

The network of monitoring of hydro-meteorological parameters has been extended. 5 automated meteorological stations and 7 automated meteorological watchtowers were installed and put in order in the river Rioni basin.

The water and ground monitoring locations has been also increased: with 21 locations on the surface waters and with 85 locations on the ground. Besides, control on the groundwater quality at two wells has been started.

In 2014 the sea biodiversity monitoring station has been put into operation for ichthyologic monitoring purposes.

In 2014 hydrological and ichthyologic monitoring of sea contacting water reservoirs (Enguri, Chorokhi, Rioni, Maltakva / Paliastomi, Supsa, Khobi) was launched.

The morphodynamic processes are being monitored on the Black Sea Coast.

In coordination with the Japanese socialists a place was chosen on the Black Sea Coast, in the City of Batumi, where an automated specialised sea hydro-meteorological station will be installed that will enable timely forecasting of possible storm processes on the Black Sea Coast.

A modern device (plasma-emission spectrophotometer ICP-OES) was purchased and installed, that enables highly precise determination of heavy metal content in water, air and ground.

Modern international standards have been introduced in order to determine hazardous ingredient content in water.

An automated meteorological station was installed in the Dariali Valley in order to create an effective early warning system for forecasting worsening of meteorological conditions. Besides, for early warning purpose, 24 hour visual monitoring has been established on hydro-meteorological and geologic processes in Amala Valley.

The air quality computerized model (ADMS-Urban) was created for the City of Tbilisi that is a useful (cheap) mechanism for general assessment of the air quality, and is extremely important for proper planning of the future extension of air quality monitoring network.

Equipping three air monitoring non-automated stations of Tbilisi with modern automated measuring devices (NO<sub>x</sub>, SO<sub>2</sub>, O<sub>3</sub>, PM<sub>10</sub> and PM<sub>2,5</sub>) has been started, which means that at the end of 2015 Tbilisi air quality monitoring network will be completely automatized (4 stations) and complete and accurate information on the air quality in Tbilisi will be available.

For proper planning of the development of air quality monitoring system single indicator measurements were taken at 63 locations in 7 cities of Georgia (Tbilisi, Batumi, Poti, Kutaisi, Rustavi, Zestaponi, Chiatura) to evaluate the air quality, and based on the results the information map was drawn up and placed on the web-site of the Ministry.

**“The Prime Minister and the Ministries in the field of economics pressure on the environmental agencies in the process of making decisions on various projects, by which they violate the incomplete legislation and exceed their powers.”**

**Comment:** This is not true, on the contrary, the government bodies are very well aware of one of the main obligations undertaken under the Association Agreement: active cooperation with the Ministry in the area of environmental protection. The obvious example of this is that although there is no legal obligation to assess any strategic area in the country, under a joint initiative of the Ministry of Energy and the Ministry of Environment and Natural Resources Protection of Georgia the work has already started on the following projects:

Project – ‘Strategic environmental and social assessment of development scenarios of the electric energy sector’ aims to obtain government’s assistance in making decisions regarding strategic development scenarios of the energy sector of the country. Besides, it is important that under the project interested parties and public will participate at the early stage of decision-making. This project will be implemented with the financial support of the World Bank (WB) and the International Bank of Reconstruction and Development (IBRD).

Besides, the Ministry of Economy and Sustainable Development of Georgia actively cooperates with the Ministry of Environment and Natural Resources Protection of Georgia in different areas, including development and review of environmental regulations. In the development of environmental regulations it must be possible to give a sector transition to the private period to comply with new regulations. This is also included in the part of the Association Agreement. Under the Association Agreement between Georgia and the EU, Georgia is given certain period of time for approximation to the regulations.

**The legislation and practice related to the Environmental Impact Assessment, fossils and water clearly contradicts the obligations undertaken under the EU Association Agreement and multilateral international agreements; it puts human health and welfare, natural environment and cultural heritage in danger.”**

**Comment:** The Association Agreement between Georgia and the EU includes taking certain measures in the field of environment protection, which is a complex and responsible work. For this reason, under the project implemented with the support of the Ministry of Environment and Natural Resources Protection of Georgia and the EU, a Roadmap focused on the actions was drawn up that clearly specifies the actions and reforms to be taken in the coming years for fulfilling the environmental obligations determined by the Association Agreement, including the plan of harmonization of national environmental legislation with the European rules. As stated above, the Roadmap is already drawn up and consists of 9 areas; it includes the Association Agenda and all obligations determined by the chapters on environment protection of the Association Agreement and the Agreement on Deep and Comprehensive Free Trade Area (DCFTA).

**“Incomplete Environmental Impact Assessment system increases the cost of infrastructural projects and complicates attraction of investments, including the funding opportunities from international financial institutions. Absence of spatial planning and strategic environmental assessment legislation hinders harmonized development of some sectors (tourism, agriculture, energy, environment protection), increases the cumulative impact of the project on natural and social environment.”**

**Comment:** Currently, the process of harmonization of the Environmental Impact Assessment legislation with the EU directive is actively going on and new rules will be in complete compliance with the best attitudes of the international legislation in force. In particular, Environmental Impact Assessment will apply to all the activities (according to the scale and category of their activity) that significantly affect environment and human health. Besides, public participation mechanism in the environmental impact assessment process will become more clear and efficient, ensuring that the interests of all interested persons will be taken into consideration as much as possible in the decision-making process. Also, at the same time completely new legislation will be introduced based on the strategic directive of Environmental Impact Assessment. In addition, it should be noted that funding of the infrastructural projects, which are subject to Environmental Impact Assessment, by international financial institutions is actively going on under the current legislation as well, and actually there are no cases when a project is not implemented due to the flaws in Georgian legislation.



“Selective enforcement (including omission of state bodies when facts of obvious violation are present that are publishable under the Criminal Code), conflicts of interests and abuse of power by officials that is especially evident in the fossil industry and energy projects. Monitoring / control of the fulfilment of permit or licence requirements is not carried out at all, or is carried out with lots of faults.”

**Comment:** Since the establishment of the Environmental Monitoring Department (May 2013) up to now, one of the priorities of the Department is to study the fulfilment of the permit /licence requirements.

As systematic and regular inspection of permit / licence requirements was not carried out for years, in 2013-2014 as a result of scheduled and non-scheduled inspections the number of identified cases of environmental damage has dramatically increased.

Besides, when scheduling the inspection the Department selects the enterprises according to the criteria such as its capacity, the level of its positive impact on environment and also on the basis of the reported data determined by law. The inspection criteria and priorities will be improved in the near future.

In addition it should be noted that as a rule, the purpose of the inspection of a regulated entity is to prevent violations. Based on the inspection results, in most cases, the case of criminal liability arises which is caused by the severity of the violations due to the absence of inspections of the regulated entities for the past years, and mostly the environmental damage is caused by systematic violations for years.

The Department carries out its activities on the basis of the principles of lawfulness, impartiality, equality, protection of human rights and fundamental freedoms, publicity and fairness. It is also notable that the rule of inspection of the nuclear activities was initially approved in 2013, and an active work is in progress to identify unauthorised activities and to prevent violation of licensing requirements.

Besides it should be noted that indication of the ‘elite corruption’, even of its signs, is a serious accusation for any Ministry, accordingly solid and justified evidence is required. As such suspicions against the Ministry damage its reputation and are reflected in the public attitude towards the Ministry, any non-governmental organisation must be more careful with such accusations, and must thoroughly investigate the facts of actual existence of such signs before making public announcements in this regard. In case of existence of such facts the non-governmental organisations are obliged to apply to the law enforcement bodies, because under the current Criminal Code the failure to report and/or cover the crime shall be the ground for imposing criminal liability. Also, an impartial investigation will determine the validity of the accusation presented in the report.

“Recently the ‘Georgian Dream’ government implements the personnel policy that is similar to that of the ‘Unified National Movement’. The persons with no appropriate education and experience are appointed at the managing positions of the Ministry of Environment and Natural Resources

**Protection of Georgia and the legal entities under public law within the Ministry, who are usually moved from various law enforcement bodies and previous working place of the current minister.”**

**Comment:** The Ministry of Environment and Natural Resources Protection of Georgia understands well that environment protection is not limited only to caring for the environment and it must be related to the economic development of the country. Environment protection and economic development serves for the welfare of people and must not be considered separately from each other. In order to facilitate the ‘green economy’ the Ministry works in the following areas: eco-tourism (sustainable tourism), waste management, management of ambient air and water resources, measures for adaptation to climate changes, renewable energy, biodiversity management and eco-systems.

As the ‘green economy’ is the only alternative to sustainable development, the Ministry of Environment and Natural Resources Protection of Georgia (whose top management consists of the economists of sustainable development) will continue to work on these issues in coordination with other key authorities.

**From the recommendations:**

**“Processing/improving the legislative framework regulating the environmental Impact Assessment system: this must at least include harmonization of Georgian legislation with the requirements of multilateral international agreements and with the EU directive 85/337/EEC;**

**Adoption of strategic Environmental Assessment and Spatial Planning legislation and introduction of the implementation mechanisms.”**

**Comment:** Local and international experts have developed an initial draft version of the draft laws on Environmental Impact Assessment and Strategic Environmental Assessment in compliance with the requirements determined by the EU standards, the public discussion of which is going to take place in May 2015.

The draft Law of Georgia on National Spatial Data Infrastructure is also in progress, which has been developed by the Ministry of Environment and Natural Resources Protection of Georgia in coordination with other agencies since 9 October 2013, within the scope of the governmental commission established under Ordinance N262 of the Government of Georgia. The final version of the document will be developed in June 2015. Besides, the structural units in new fields, namely in the forest policy, the ground resources protection and fossils and the natural and anthropogenic hazard management has been established in the central office.

**“Processing the water resources management legislation according to the requirements of multilateral international agreements and appropriate EU directives, and introduction of the implementation mechanisms, including basin management of the water resources”<sup>5</sup>.**

**Comment:** According to the above stated Roadmap the draft law on the water resources management will have been developed by the end of 2015. In September 2015 the draft subordinate act will be developed regarding the procedures of discussion and approval of the development of river basin management plan. A water framework directive, which was one of the directives negotiated with regard to the Association Agreement, includes introduction of the basin management principles. A new draft law on water resources, which is being developed, will be based on the basin management principles of water resources. Basin management of water resources includes not only monitoring of the quantitative and qualitative condition, but also prevention of pollution of water resources, maintenance of ecosystems, water intake regulation, etc. According to the international norms, complete transition to the basin management of the water resources and implementation of not only quantitative and qualitative condition monitoring is recommended.

In order to prevent pollution of the Black Sea, Batumi municipal wastewater cleansing station was built; in 2015-2018 construction of the municipal wastewater cleansing stations is planned in Anaklia, Mestia, Ureki and Kobuleti.

**“Introduction of sustainable principles of forestry in order to ensure availability of the resources to local people and protection of the ecosystem. First of all this includes: ... expansion of the network of protected areas.”**

**Comment:** The draft subordinate act on National Criteria and Indicators of Sustainable Forest Management will be submitted to the Government of Georgia at the beginning of 2016. The information on the forest monitoring, carried out with modern technologies, will be available on the electronic portal of the agency from 2016. By March 2016, the draft Forest Code will have been developed and also by the end of 2015 the draft law on zoning and categorization of Georgian forest territories will have been developed.

As for the expansion of protected areas and establishment of a new network:

- 16 new natural monuments were established;
- Pshav-Khevsureti protected areas were established (Pshav-Khevsureti Natinal Park, Roshka Natural Monument and Asi Natural Reserve) on 79904,4 hectare area;
- special protected areas for bird species will be identified and established according to the Roadmap in 2017-2018.

Besides, it should be noted that the demarcation process of the protected areas (which includes determining, adjusting and extending the borders) started in 2014 and will be finished in May 2015.

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<sup>5</sup> Adoption of the draft law was postponed, presumably due to the objections of the Ministries in the field of economics. Postponement of the adoption of the draft law is caused by the fact that the work is going on in terms of total improvement of this draft law and other relevant legislation and of their harmonisation with the EU directives.

The following projects are already completed: Borjomi-Kharagauli, Tbilisi National Park, Gardabani Natural Reserve, Kolkheti National Park, Kobuleti National Park, Katsobura Natural Reserve. In 2014 17 new natural monuments, 1 natural reserve and 1 national park were established. As a result of demarcation of the protected areas, in 2014-2015, the property of population of the following territories were exempted from the status: Tbilisi, Gardabani, Mtskheta, Tianeti, Borjomi, Adigeni, Kharagauli, Baghdati, Akhaltsikhe, Khashuri, Sagarejo, Sighnaghi, Dedoplistskaro, Kobuleti, Poti, Lanchkhuti, Senaki, Khobi, Zudgigi, Abasha, Martvili, Akhmeta. This process allows adjustment of the borders of protected areas in order to eliminate the problem of overlapping with natural and legal persons.

**“Assessment of the efficiency of changes introduced in the field of using subsoil in the past years, and establishment of the fossil management framework. Before that strict requirements of environment and social protection of the use of fossils (exploration, extraction, enrichment, processing) must be urgently established and monitored.”**

**Comment:** As for the evaluation of legislation and efficiency of the introduced changes, this is a continuous process and at this stage the issue of making amendments to the Law of Georgia on Subsoil and the Law of Georgia on Licences and Permits is being discussed by the Ministry. At this stage the following processes are in progress: discussing the issue of optimal division of the types of licences, inclusion of the obligations of rational use of the deposits in the legislation (determining the minimum mined amount), discussion of previously issued and suspended deposit exploitation mechanisms, determining the rule of agreement on the plan of rational use of the resources, discussion of the legislative initiatives required for starting the land registration for the subsoil. All the licence owners, who have the right to use the fossils, shall be obliged under an appropriate order to observe the environmental law and shall be provided with the legislative acts that the owners must follow during the use of the fossils. The lawfulness of the use of fossils by licence owners will be monitored by the Supervision Department on the basis of scheduled and non-scheduled inspections.

**“Investigation of the facts of conflicts of interests and elite corruption related to natural resources management, activating the supervisory function of the Parliament in this field.”**

**Comment:** The indication of the ‘elite corruption’, even of its signs, is a serious accusation for any Ministry, accordingly solid and justified evidence is required. As such suspicions against the Ministry damage its reputation and are reflected in the public attitude towards the Ministry, any non-governmental organisation must be more careful with such accusations, and must thoroughly investigate the facts of actual existence of such signs before making public announcements in this regard. In case of existence of such facts the non-governmental organisations are obliged to apply to the law enforcement bodies, because under the current Criminal Code failure to report and/or cover the crime shall be the basis for imposing criminal liability. Also, an impartial investigation will determine the validity of the accusation presented in the report.

## Energy

“An important part of the energy system of the country is owned by Russian state companies that raises even more questions regarding the actions performed by former and current governments of Georgia”.<sup>6</sup>

**Comment:** In all, 527.2 MW installed capacity is owned by Russian companies, while total installed capacity in Georgia is more than 3 500 MW. Only 20-22% of the generated electricity is distributed by the distribution company, which is partially owned by the Russian company. Most of the electricity generating plants existing in the country is privatized, and some of them are owned by Russian as well as Georgian and other foreign companies, however all generating entities are operating in full compliance with Georgian legislation and in accordance with the Law of Georgia on Electricity and Natural Gas and the rules that apply to the electricity (power) market, and their activities are also regulated by Georgian National Energy and Water Supply Regulatory Commission. Electricity distribution activities are also regulated. Therefore, it does not matter in which country is incorporated the company that owns an electricity generating entity.

“Basic decisions on the construction of new stations (capacity, design, location of the station, dates of commencing and finishing the construction works) are not made transparently, without the participation of the interested community. Therefore, under inefficient legislation, the Environmental Impact Assessment process loses its significance.”

**Comment:** It should be noted that the procedure of the expression of interests is approved by Ordinance N214 (on technical and economic study, construction, ownership and operation of the power plants) of the Government of Georgia. The procedure of expression of interests determines the rules and conditions for the expression of interests by the Ministry, submission of applications by interested parties, identification of winners and conducting memoranda. Accordingly, the provisions of the Ordinance, due to their content and the specifics of the matters to be regulated, will have no effect on the significance of the Environmental Impact Assessment Report and respectively, on the environment. Inclusion of a power plant in the list of potential power plants does not mean construction of this power plant on a specified location and with stated specifications. It should be taken into consideration that the Environmental Impact Assessment Report cannot be drawn up before determining possible location, technical specifications and other minimum information on a potential power plant.

Despite the fact that this rule, irrespective of its objectives, does not regulate the issues of drawing up the Environmental Impact Assessment Report and its submission to the Government of Georgia, investors shall have this obligation in each specific case according to the legislation of Georgia in order to meet the environmental requirements. Considering that one of the necessary grounds for issuing a permit by the Ministry of Economy and Sustainable Development of Georgia for the

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<sup>6</sup> Some basic hydro and thermal power plants, Telasi, “Saqrusenergo”. Source: esco.ge; energy.gov.ge

construction of a power plant is an appropriate opinion on the Environmental Impact Assessment issued by the Ministry of Environment and Natural Resources Protection of Georgia, we can easily ensure that the legislation of Georgia not only implies public participation in the discussion of the environmental issues, but also relates violation of appropriate procedures with the legal consequences.

**“Energy projects are implemented on the settlement areas, while Georgian legislation does not adequately define the issues of relocation and compensation caused by the infrastructure projects.”**

**Comment:** As for the relocation procedures, we agree that the legal base is very narrow in this regard, although in case of implementation of the projects that require relocation of people, the Government observes the rules determined by international legislation. The agreement in this regard is made between a company and the Government with a memorandum of understanding which is binding for the government and the investing company. For example the company that is implementing Khudoni Project is obliged to follow 4.12 Policy of the World Bank in the relocation process.

**“For gaining maximum profit the energy potential of the rivers is overrated at the expense of ignoring environmental and social hazards. The methodology used for the evaluation contradicts the EU directives and accordingly, the Association Agreement between the EU and Georgia; it also ignores national environmental legislation.<sup>7</sup> The offers of the Ministry of Energy of Georgia to the investors are based on these evaluations.”<sup>8</sup>**

**Comment:** The hydro energy, and respectively the hydro energy potential of Georgia has a long history and tradition of evaluation and the hydro energy potential is evaluated according to the rules determined by the legislation and it does not contradict the EU requirements and directives. Besides, the evaluation methodology is being periodically improved and the example of this is the project of Implementation of an Electronic System of Energy Potential Evaluation of Water Resources and Rivers that is implemented by the Ministry of Energy of Georgia in coordination with the Ministry of Environment and Natural Resources Protection of Georgia and the Norwegian Government. According to the project the GIS system will be implemented for evaluating the hydro energy potential of Georgia that will enable to count and register the energy potential of water resources and rivers, to determine the energy potential to be utilized, to carry out preliminary technical and economic researches and develop new investment packages. The information will be published on special web-site in a form of data written on the electronic map. In 2014 all hydrological data of the LEPL National Environmental Agency were digitalised. The preparation of an appropriate software required for the web-site and also training of the personnel has been started. The project will be finished by the end of 2016 and the web-site will be available for all interested parties. As a result of the project the potential of rivers and water resources of Georgia will be specified.

**“Various donors or international organisations apply double standards with regard to Georgia. For instance, an Icelandic company ‘Landsvirkjun Power’ that tries to have the image of a company with high environmental and social responsibilities, is engaged in the project of construction of HPPs on the territories of Kazbegi and Machakhela National Parks.<sup>9</sup> The EBRD has made the decisions on**

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<sup>7</sup> NBSAP 2014-2020; TEEB Scoping Study for Georgia, 2013

<sup>8</sup> Potential projects and already signed memoranda with the investors: [www.energy.gov.ge](http://www.energy.gov.ge)

<sup>9</sup> <http://www.lvpower.com/>

financing the projects in Georgia by gross violation of its own policies.<sup>10</sup> The fact that incomplete evaluation of the potential of the above state drivers was carried out by international donor organisations also indicates to the double standards.”<sup>11</sup>

**Comment:** Relations among the project implementing companies and the funding parties (including agreements or any other conditions) are not and cannot be discussed by the Government of Georgia, the Ministry or any state authority. This is the process of legal relationship between two independent entities, the interference with which is impossible and, of course, unreasonable. The funding party must be entitled to select the project for financing upon its own discretion, and also the companies must be fully entitled to select the financial institutions upon their decision.

“The features of elite corruption ,such as conflict of interests, presentation of the interests of certain groups as ‘state emergencies’, making exceptions from legislation for certain companies and the practice of turning a blind eye on the violations of law are still characteristic to the energy sector”.<sup>12</sup>

**Comment:** In this regard we would like to inform you that these are certain opinions of certain organisations and if they have appropriate evidence, they can apply to the law enforcement bodies. At present we lack possibility to analyse the reports of “green alternative”.

“The Government of Georgia is not taking effective steps to support such vital areas of sustainable energy system as integration of environmental issues (without which the negative externalities of existing and future power plants is increasing and at the same time their productivity and viability is decreasing), sources of renewable energy and energy-effective schemes, diversification of the energy system, development of competitive systems for the purpose of supplying energy to customers at an acceptable price.”

**Comment:** The Government of Georgia is working on the integration of environmental issues. In this regard, in order to support clean energy (green energy) and energy-efficiency in Georgia the following projects are in progress:

#### 1. Energy-efficiency action plan for Georgia

From spring 2015, with technical support of the EBRD, the Ministry of Energy of Georgia will start developing the energy-efficiency action plan of Georgia. Development of this plan is mandatory for

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<sup>10</sup> A hydro power plant on the river Paravani, the study of impact of the projects funded by the EBRD, 2013 [www.greenalt.org](http://www.greenalt.org)

<sup>11</sup> The Ministry of Energy, prospective projects: [http://energy.gov.ge/investor.php?id\\_pages=19&lang=geo](http://energy.gov.ge/investor.php?id_pages=19&lang=geo)

<sup>12</sup> Energy projects and corruption in Georgia, 2013 [www.greenalt.org](http://www.greenalt.org)

the member states of EU and European Energy Association in accordance with the Directive 2006/32/EC of the European Parliament and the Council (on energy End-use Efficiency and Energy Services). This plan will include evaluation of the energy conservation potential in the country for the energy, buildings and constructions, transport and service sectors, its analysis and accordingly preparation of recommendations. Local and international experts will participate in the development of the plan.

## **2. The Covenant of Mayors**

From 2014 the Ministry of Energy of Georgia is the national coordinator of the EU initiative the Covenant of Mayors in Georgia.

The Covenant of Mayors is the initiative of the European Commission that obliges the signatory cities to develop local policies for sustainable energy and against climate changes, and to establish an appropriate administrative unit for the implementation of these policies.

In addition, they are obliged to develop a Sustainable Energy Action Plan (SEAP) and the investment projects, to ensure participation of society and other interested parties in the development of this plan and in the implementation of the measures determined by this plan. Besides, the signatory cities and municipalities shall be obliged to prepare a report on the progress of implementation of the Sustainable Energy Action Plan and on the achieved results, and to encourage other cities to join the Covenant of Mayors. The Ministry of Energy of Georgia as a coordinator will assist all interested cities and municipalities who are willing to become members of the Covenant of Mayors. By now, four cities of Georgia: Tbilisi, Rustavi, Batumi and Gori have prepared their Sustainable Energy Action Plans and the piloting projects are being implemented. Other cities: Kutaisi, Zugdidi and Telavi are working on the development of the Sustainable Energy Action Plan. The City of Akhaltsikhe that recently joined the Covenant of Mayors shall within one year form signing the agreement develop and prepare a Sustainable Energy Action Plan of Akhaltsikhe and submit it to the European Council.

## **3. Low emission development strategies**

The clean energy programme: 'Enhancing Capacity for Low Emission Development strategies' is being implemented by 'Winrock International Georgia' with the support of the Ministry of Energy and the Ministry of Environment and Natural Resources Protection of Georgia and the USAID. The project aims to:

- support the municipalities of Georgia in institutionalization and the implementation of the measures for mitigating the impact of climate changes;
- encourage investments in private sector and facilitate popularization of energy-efficient events and 'green buildings'; and
- enhance the capacities of the Government of Georgia in drawing up and implementing the low emission development strategies, in order to support the initiative of the Government of United States of America on Low Emission Development Strategies.

The project consists of three components:

- 1) Energy-efficient measures for the municipalities of Georgia that will help ten municipalities to measure and reduce greenhouse gas emissions and to institutionalize mitigation of climate changes;



2) 'Green building' evaluation and certification system that aims to develop a voluntary system of evaluation and certification of 'Green buildings' in Georgia, and to create the demand of certified buildings on the local market.

3) Providing consultation assistance to the state working groups, which draw up the Low Emission Development Strategies, that will help the Government of Georgia to develop specific measures, policies and programmes and to determine their implementation plans within the scope of mutual initiative of Low Emission Development Strategies.

4. Promotion of renewable energy:

#### 4.1 The implementation of a clean energy project through a solar energy generating system

A grant agreement has been concluded between the Government of Georgia (the Ministry of Economy and Sustainable Development of Georgia) and the Japanese International Cooperation Agency (JICA). The goal of the project is the popularization of clean energy, and its implementation will result in energy conservation and annual reduction of CO<sub>2</sub> emissions. Two areas have been chosen for the project. An average capacity of the system, which will be installed on the territory of the international airport, is 310 KW and annually it will generate 329000 KW/h; the area of installation will be approximately 4.100 m<sup>2</sup>. An average capacity of the system, which will be installed on the territory of Ilia State University, is 37 KW and annually it will generate 32 000 KW/h; the area of installation will be approximately 420 m<sup>2</sup>.

#### 4.2. Gori wind power station project

At present a wind power station with the capacity of 20 MW is under construction in Gori, Georgia, the capacity of which may be increased up to 100 MW. The project is being implemented by Georgian Energy Development Fund that is owned by the state.

In addition, the agreement concluded between Denmark and Georgia considers cooperation in the field of energy. After concluding the agreement the meetings were held in Georgia, in the Ministry of Energy, between Georgian and Danish parties. During the meetings it was determined that the cooperation will be carried out in the area of energy efficiency. An active work is going on for formation of the project idea. The final meeting is planned on 16-19 March.

**“The process of joining the European Energy Community is delayed despite the fact that the Ministry of Energy cannot justify the threats it sees in joining the Community. Restraining from joining the Energy Community may mean changing the pro-western course. It also means rejection of transparent, stable legislative and regulatory environment that would ensure attraction of qualified strategic investors, increase of the volume of investments, increase of the transit function, elimination of the corruption opportunities.”<sup>13</sup>**

**Comment:** The Ministry of Energy does not agree with the opinion presented in the report regarding the delay in joining the European Economic Community, because under the Association Agreement

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<sup>13</sup> M. Margvelashvili, 2014, Joining the Energy Community by Georgia, Eastern Partnership, Civil Society Forum, the third working group of Georgian national platform – Energy Security and Environment Protection.

Georgia was entitled to carry out negotiations with the Commission regarding the issue of joining, within two years from the entry into force of the Association Agreement; the timeframe started in September 2014 and will expire in September 2016.

As energy is a strategically important sector, the Government thinks that by expediting the process and without analysing and approving appropriate stipulations not only the sector, but also the economy of the country and, first of all, the end-users may be damaged. Therefore, the Ministry makes its best efforts to take reasonable and consistent steps within the timeframes officially set in the Association Agreement. Furthermore, at this stage two rounds are completed and the preparation for the third round is going on that will be held in Brussels at the end of April; while the consultation meeting in this regard will be held in the middle of March in Vienna, at the secretariat of the Energy Community. Therefore, the Ministry is actively working for the completion of the protocol of joining the Energy Community Treaty by Georgia.

**“Existence of the vertically integrated companies in the electricity and gas sectors, which operate on the basis of the memorandum concluded with the Government, violates competition rules and also contradicts the EU principles.”<sup>14</sup>**

**Comment:** As for the vertically integrated companies operating in the fields of electricity and gas and the accusation of distortion of competition, it should be noted that first of all it would be better to specify the companies because each case is individual and may have its objective reasons. As for the violation of the EU principles, we would like to note that due to the fact that Georgia has recently signed the Association Agreement and important directives and regulations on the structuring of market in the field of energy are still being negotiated in the context of joining the Energy Community, we think that approximation to the EU principles and a specific plan for reforming the sector for this purpose will be determined after the completion of the negotiation process. Besides, the energy sector is a regulated field and Georgian National Energy Regulatory Commission regulates it and issues licences for the following activities of electricity and gas sectors: determining and regulating the fees and tariffs for generation, transmission, dispatch, distribution, transportation, import and consumption of electricity, for the service of a commercial operator of the system, for transportation, transmission, distribution, transportation, supply and consumption of natural gas, also the fee for guaranteed capacity and the tariff of electricity generation by a guaranteed capacity source, except for the tariffs of natural gas sold at the gas filling stations according to the Law of Georgia on Electricity and Natural Gas, basic areas of state policy in the field of energy and the normative legal acts approved on its basis, and the established methodology). Access to the network is also regulated (access of third parties to the network). Besides, the Law of Georgia on Electricity and Natural Gas determines the issues of regulation and partial regulation of this field. Namely, regulation means granting a generation licensee the right to operate without setting tariffs, or granting a small power plant the right to operate without a license and without setting tariffs, also, granting the right to operate without setting tariffs for the supply of natural gas, as well as in the case of construction of new transportation or distribution networks granting the right to operate without setting tariffs for transportation or distribution of natural gas respectively. Partial regulation means granting a generation licensee the right to operate based on a marginal tariff or granting a small power plant the right to operate based on a marginal tariff and without a license; also, granting the right to operate

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<sup>14</sup> M. Margvelashvili, 2014, Joining the Energy Community by Georgia, Eastern Partnership, Civil Society Forum, the third working group of Georgian national platform – Energy Security and Environment Protection.

based on a marginal tariff for the supply of natural gas, as well as in the case of construction of new transportation or distribution networks granting the right to operate based on a marginal tariff for transportation or distribution of natural gas respectively. Besides, there is a Competition Agency that aims to facilitate liberalization of market, free trade and competition in Georgia, and that ensures observance of the equality principle in the activities of the economic agents on the market.

“Like the former government, the projects implemented by various private companies (such as gasification, installation of the counters, construction of power plants, etc.) are represented by the Ministry of Energy as its own activities. Attracting the investors’ interests for the purpose of construction of power plants is included in the interests of the Ministry of Energy and the Government of Georgia.”

**Comment:** One of the main functions of the Ministry of Energy of Georgia in the field of energy is to attract investments, and it is interested in attracting the investors’ interests in the construction of electricity generating facilities. As a result of the work of the Ministry of Energy of Georgia various local or international companies are interested in the construction of hydro power plants. In addition, the Ministry of Energy of Georgia monitors fulfilment of the memoranda concluded with the companies. As for the projects of gasification and installation of counters, the Ministry of Energy is interested in ensuring availability of energy sources to the population of Georgia, and the companies are developing plans of gasification and installation of the counters in coordination with the Ministry and the monitoring over the performed works is also carried out by the Ministry.

## ***11. Foreign Policy***

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"With regard to opening of the Russian market for Georgian products, it should be underlined that over the last 2 years Georgian export has been increasing only to Russia, which in a long-term perspective may result in increased dependence on Russia;"

**Comment** - It is inaccurate to argue that over the last 2 years Georgian export has been increasing only toward Russia. Currently the main trade partner of Georgia is the European Union ( according to 2015 estimates, share of export to EU constitutes 39% of the overall export of Georgia). Based on the latest data issued by the National Statistics Office of Georgia, from 2012 to 2014 Georgian export to EU member countries has almost doubled. For example, as opposed to 2012, in 2014 (preliminary estimates) External Trade with EU has increased by 75% and amounted to 620,804 mln USD (as compared to 353 mln USD in 2012). Preliminary studies show that the enforcement of the Deep and Comprehensive Free Trade Agreement will further increase Georgia's export to the EU by average of 12% (for further details visit

[http://www.case-research.eu/sites/default/files/publications/CNSA\\_2012\\_445.pdf](http://www.case-research.eu/sites/default/files/publications/CNSA_2012_445.pdf)).

Exports has increased with other trade partners as well (for further details visit [http://geostat.ge/?action=page&p\\_id=136&lang=geo](http://geostat.ge/?action=page&p_id=136&lang=geo)).

It is also true that export has increased with Russia to reaching 274,963 million USD), but according to 2014 data, it constitutes only 9% of the overall export. To illustrate the difference, it is almost twice less than export with Azerbaijan (544.418 million USD) and almost equals to Georgian export volume to Armenia (288.244 million USD).

**"Over the recent two years, contradictory statements on foreign policy issues by the government officials can be considered as the most negative development. There have been numerous occasions when statements of the Minister of Foreign Affairs, Prime Minister, Chairman of the Parliament, Chairman of the Foreign Relations Committee at the Parliament and other senior officials were inconsistent with one another on important issues, such as the Georgia-Russia relations, relations with Ukraine, the need for anti-aircraft defense systems, etc."**

**Comment:** In many cases representatives of different government branches may express their position on certain issues in a different manner, however, their statements never go beyond the declared foreign policy vector, its main directions and general fundamental policy principles (see: <http://www.parliament.ge/ge/saparlamento-saqmianoba/komitetebi/sagareo-urtiertobata-komiteti-147/komitetis-gancxadebebi1130/saqartvelos-parlamentis-rezolucia-saqartvelos-sagareo-politikis-dziritadi-mimartulebis-shesaxeb.page>).

It would have been more helpful if the author provided specific examples of the contradictory remarks referred above.

**"In late 2014, the resignation of the government foreign policy team ( including ministers of Foreign Affairs, Defense, Euro-Atlantic Integration) should be specifically underlined, as these developments encouraged questions among our partners and the society regarding the Georgia's European vector."**

**Comment:** resignation of the government foreign policy team was an internal political development and it did not have implications on the national foreign policy direction. However, due to the initial statements made by the resigned ministers, referring to the above developments as "an attack against Georgia's Euro-Atlantic choice", some concerns have been expressed by Georgia's western partners.

The government successfully handled this minor crisis. Prime Minister of Georgia held a meeting with the diplomatic corps accredited in Georgia on the next day of the resignations and personally took them through the existing situation and assured foreign diplomats in the irreversibility of Georgia's western foreign policy course. ([http://www.government.gov.ge/index.php?lang\\_id=GEO&sec\\_id=380&info\\_id=45502](http://www.government.gov.ge/index.php?lang_id=GEO&sec_id=380&info_id=45502)

<http://www.netgazeti.ge/GE/105/News/37982/> )

Some government agencies and lobbying groups conducted successful work to change these perceptions within western political circles.

**"Continuation of the so called "creeping occupation" on the part of the Russian Federation, moving of the occupation line deeper into Georgia controlled territories and installation of the barbwire fences**

along the occupation lines with Abkhazia and Tskhinvali regions are considered to be negative developments".

**Comment:** Russian Federation started the so called "creeping occupation" back in 2008 after the War between Russia and Georgia. First barbwire fences were installed along the occupation line in April/May 2011. Please find the detailed information regarding this dynamic in the official presentation (attached) prepared by the Analytical Department of the Ministry of Internal Affairs. Updated versions of this presentation are regularly being sent to Embassies accredited in Georgia and international organizations seized with this matter.

"Russia signed illegal treaties with the occupation regimes in Tskhinvali and Abkhazia, Georgia, which shall be viewed in the context of Russia's efforts to hinder Georgia's Integration in Euro-Atlantic organizations and against the background of Annexation of Crimea by Russia. Despite all the above, Georgian representatives sometimes refrained from linking Russia's actions with obstruction of Georgia's progress towards Euro-Atlantic Integration".

**Comment:** It is inaccurate to argue that Georgian government avoided linkage between Russia's actions in Ukraine and Kremlin's politics towards Georgia. This position has been actively put forward by the government representatives at every important international forum, as well as during individual meetings and talks with our western colleagues and partners.

(For illustration visit

[http://www.government.gov.ge/index.php?lang\\_id=GEO&sec\\_id=406&info\\_id=47233](http://www.government.gov.ge/index.php?lang_id=GEO&sec_id=406&info_id=47233) -)

Prime Minister's remarks at the Munich Security Conference stating that "I believe the world has not paid proper attention to the conflict between Georgia and Russia in 2008. By imposing sanctions against Russia as a result of August War, Crisis in Ukraine could have been averted".

"Despite its pressing nature, we cannot look at the developments in Ukraine as to an isolated case. What happened in Ukraine is a part of Russia's scenario of widening its domination in the region and creating new so-called spheres of influence. We all are getting punished for our choice, for our sovereign European and Euro-Atlantic choice," said Foreign Minister of Georgia Tamar Beruchashvili during the Conference organized by the Atlantic Council of the United States."

<http://www.mfa.gov.ge/News/%E1%83%97%E1%83%90%E1%83%9B%E1%83%90%E1%83%A0-%E1%83%91%E1%83%94%E1%83%A0%E1%83%A3%E1%83%A9%E1%83%90%E1%83%A8%E1%83%95%E1%83%98%E1%83%9A%E1%83%9B%E1%83%90-%E1%83%90%E1%83%A2%E1%83%9A%E1%83%90%E1%83%9C%E1%83%A2%E1%83%98%E1%83%99%E1%83%A3%E1%83%A0%E1%83%98-%E1%83%A1%E1%83%90%E1%83%91%E1%83%AD%E1%83%9D%E1%83%A1-%E1%83%9B%E1%83%98%E1%83%94%E1%83%A0-%E1%83%9D%E1%83%A0%E1%83%92%E1%83%90%E1%83%9C%E1%83%98%E1%83%96.aspx>

“It is a negative development that, despite the signing of the bilateral agreement "on the Basic Principles of the Mechanism of Custom Administration and Monitoring of Trade in Goods", the agreement still has not entered into force. Apart from the delay of the enforcement process on the part of Russia, the holdup was also largely due to the delayed decision-making by the Georgian government, lack of coordination in many instances and a negative/neutral approach in general towards the enforcement of a new instrument with Russia”.

**Comment:** There is a significant progress in this direction. Important activities have taken place recently, including through the joint coordination efforts of various government agencies, which resulted in reaching the final phase of the enforcement of the agreement “on the Basic Principles of the Mechanism of Custom Administration and Monitoring of Trade in Goods” signed between Georgia and the Russian Federation.

“It can be considered to be a diplomatic failure that Georgia did not continue to request from Russia discussion of the issue of return of IDPs and refugees within a bilateral format, the latter envisaged in the case of violation of the Convention on Racial Discrimination. In the case of exhausting all resources in this regard, Georgia will be able to appeal to the International Court of Justice, which declined to consider Georgia’s application 2011 based on a claim that possibilities for a dialogue within the Convention have not been exhausted”.

**Comment:** on 1 April, 2011 ICJ did not accept the application of Georgia against the Russian Federation regarding the violation of provisions of the “Convention on discrimination of All Forms of Racial Discrimination”, as preconditions of application to the Court, as prescribed in Article 22 of the Convention, were not met. In accordance with the same decision of the Court, number of communications has taken place with the Russian Federation, confirming once again Georgia’s irreversible position on the willingness to continue negotiations, but also issues related to the exhaustion of judicial mechanisms as stipulated in the Convention have been discussed.

“Against the backdrop of developments in Ukraine, it should be noted that Georgia diplomacy has been passive in relation to Ukraine and its inactive role with regards to this issue, illustrated in the delay of statements passive role within International organizations, particularly in the OSCE, lack of high level visits recently, open demarches towards Kiev due to the appointment of Georgia’s former high level officials in different high level positions in the Ukrainian Government”.

**Comment:** Through 2013-2014 Georgia actively expressed its support towards Ukraine within the International Organizations, including the UN, OSCE and European Council. For instance, in the OSCE, from March 2014 through February 2015 Permanent Mission of Georgia delivered 5 statements and aligned itself to 70 Statements delivered by the European Union.

On March 27, 2014, Georgia supported and cosponsored the resolution on the Territorial Integrity of Ukraine at the Special Meeting of the UN General Assembly, and made a supporting statement in support of the Resolution. Georgia also aligned itself to the Statement Delivered by the European Union Delegation to the United Nations.

Georgia’s contribution with regards to International Mission to Ukraine should be particularly underlined. In 2014, Georgia made a contribution in the amount of 50. 000 USD for the OSCE

monitoring mission in Ukraine. Furthermore, Georgia donated 25.000 USD to the relief efforts of Ukrainian IDPs through the Office of the UN High Commissioner for Refugees. Georgian observers have been actively involved in the operations of the OSCE Observation Mission in Ukraine. Moreover, Georgia submitted 6 candidates to the EU Advisory Mission for Civilian Security Reform in Ukraine to assist Ukraine in implementing reforms. Permanent Representative of Georgia to the OSCE visited Ukraine within the framework of the visit of OSCE Ambassadors to Ukraine. It should be noted, that Georgian and Ukrainian Permanent Missions to the OSCE enjoy a very engaged cooperation, while the Permanent representative of Ukraine expressed its gratitude on number of occasions to the Permanent Representative of Georgia for Georgia's support for Ukraine, include in public statements. Statements in support of Ukraine are also being made at the OSCE parliamentary Assembly.

**“The U.S. State Department, the Human Rights Council of the United Nations, the European Parliament and the European Council express concerns regarding the politically motivated investigation processes, insufficient level of independence of the judicial system and politically motivated detentions and arrests. Critical views have been expressed by certain European leaders towards the Government of Georgia with regard to selective justice, while the Prime Minister associated these individuals to the “United National Movement”. Especially negative implications have followed the critical views made by the Government representatives addressed to respected periodic publications, which published articles about ongoing political processes in Georgia”.**

**Comment:** First of all, we welcome the fact the United States is constantly seized and interested in the processes towards consolidating democracy in the country and remains ready to support Georgia in its endeavors. Protection of justice and the rule of law is one of the cornerstones of consolidation of democracy. In more general terms, democracy dimension has been one of the main pillars of the Strategic Partnership between our two nations and a separate Working Group on Democracy and Governance within the Charter on Strategic Partnership between the United States and Georgia is designed to work on these issues, which constitutes an effective format for the discussion of issues related to democracy and good governance.

State Department and other US stakeholders (both in executive and legislative field) are constantly informed during the meetings about the ongoing processes, assuring them the legal proceedings against the former government high officials is being conducted in a transparent manner and in full compliance with the principles of the rule of law. In order to ensure due process on the part of the Office of the Prosecutor General, the Office of the Prosecutor General of Georgia established an International Prosecution Advisory Panel composed of high rank former prosecutors from the U.S., UK and Israel. Panel members provide recommendations on high profile cases.

It is noteworthy that recent human rights recommendations call on continuation of efforts to investigate misdemeanors and offences with the purpose to eradicate the syndrome of impunity. (The prosecution of former high government officials is transparent and in full compliance with the rule of law. With the purpose of ensuring a fair and impartial manner of prosecution, the Office of the Chief Prosecutor created an comprised of top former prosecutors from the U.S, UK, and Israel to provide advice in high profile cases. It is noteworthy that the latest conclusions of

the UN Human Rights Committee urge continued efforts to end impunity and pursue the investigation into past abuses).

"Negative implications have followed by the failure to use lobbyists in raising the country's reputation in the international arena. Experience in this direction over the last 2 years show that lobbyists are mostly engaged in promoting the reputation of certain individuals instead of raising awareness on Georgia's important problems (occupation, relations with Russia, etc)".

**Comment:** author of the report makes a wrong assumption by arguing that the government failed to improve Georgia's image abroad through lobbying groups and companies. 90% of the lobbying efforts are directed towards promoting positive image of the country and focusing on pressing Foreign policy issues. To illustrate results of their efforts, here are some examples: all media campaigns before and in the course of all large international forums, as well as during various important developments such as the signing of the Association Agreement, or the Wales Summit, have been carried out with an active involvement of the lobbying companies.

"We are concerned by the diminishing of the institutional role of the Security Council and by the lack of coordination among various government branches. The lack of coordination has been most vividly illustrated by the relations between the office of the President and the Ministry of Foreign Affairs of Georgia".

**Comment:** In discussing the issue of institutional strengthening of the Security Sector and improvement of coordination, we should be reminded of the Law recently adopted by the Parliament of Georgia "On Planning and Coordination of National Security Policy", defining general principles, levels, directions and competences for the elaboration of the National Security policies, which shall be used as a foundation for drafting national concept documents and intra-institutional documents. Under the law, it is important that competences of the State Security and Crisis Management Council - a coordinating body of national security policies - are regulated by the Law and separated from the functions of the National Security Council.

As for strengthening coordination among various branches of the government, an Interagency Council for Foreign Policy Coordination was established in 2015, which will serve as an important mechanism in elaborating recommendations for the implementation of Georgia's foreign policy priorities and improved coordination of all actors engaged in foreign policy. Functions of the Council also include identification of issues that are important in terms of positioning the country at the foreign policy arena. The Council is comprised of relevant cabinet ministers, Secretary of the State Security and Crisis Management Council, representatives of the Government administration. Representatives of the legislative branch also participate in the work of the Council.

"Stricter immigration policies had extremely negative consequences and caused problems to both foreign citizens as well as residents of the region with national minorities;"

**Comment:** amendments to the immigration policy resulted from the efforts to achieve compliance of our legislations with existing international standards and requirements, to regulate the national immigration policies and was affected by the visa liberalization process with the European Union, within which accurate and rational handling of migration processes to be implemented through



relevant visa procedures, is considered to be an important part of the process. To this end, the Georgian Government is successfully implementing Visa Liberalization Action Plan, which includes specific conditions for harmonization of legislation and implementation of reforms in areas such as document security, illegal migration, including readmission, public order and safety, external relations and fundamental rights. At this point, Georgia has reached the final stage of implementation of the Action Plan, and in case of positive evaluation of the European Commission and respective political decision of the EU, a visa-free regime applicable to Schengen Zone nations will apply to citizens of Georgia.

It is important to note, that at certain stage new regulations created certain difficulties for both foreign nationals as well as residents of the region with national minorities. However, these gaps have been considered to the extent possible and relevant changes were reflected in the legislation.

**"It should be noted separately, that justification by different branches of the government of various unpopular reforms or legislative initiatives by the fact that this is required by the European Union, does not facilitate formation of positive attitude of population towards EU."**

**Comment:** Conclusion of Association Agreement, including Deep and Comprehensive Free Trade Area (DCFTA) marks as a historical step for Georgia. This Agreement has moved Georgia-EU relations into a qualitatively new phase. Association Agreement represents an Action Plan to bring Georgia closer to EU, covering almost all the spheres of life being political, social or economic. Accordingly, European integration is not solely foreign, but also domestic priority of Georgia. The objective of the Government of Georgia is to successfully implement Association Agreement to enjoy opportunities envisaged by the agreement at maximum extent and each citizen of Georgia receive relevant benefit out of it.

Political association and economic integration of Georgia with the EU implies large-scale reforms. Under the Association agreement Georgia undertakes responsibility to introduce European standards in every field of sectoral policy and gradually approximate Georgian legislation with that of EU, according to reasonable terms reached as a result of negotiations. This process is quite time and energy consuming entailing big amount of responsibility, which requires unification of political forces of the government, engagement each and every citizen in the process and mutual support. Moreover, progressive approximation of Georgian legislation with that of the EU, advancement of administrative and institutional infrastructure requires mobilization of significant technical, financial and human resources and its efficient functioning. EU, its member states, international partners and financial institutions are providing huge support to Georgia in this process to successfully implement necessary reforms.

It should also be underlined that the Government of Georgia carries out information and communication strategy of Euro integration aiming at disseminating proper and detailed information among Georgian population on ongoing priorities of EU-Georgia cooperation, reforms implemented in this process and expected benefits. These efforts are essentially important in the light of increased negative propaganda ongoing in the country aiming at hindering reform process in Georgia and discrediting pro-European course of the country. In this respect, joint efforts of the government of Georgia and civil society play vital role to ensure successful Euro integration goals of the country.

"One of the negative elements of US-Georgia relations is that until today it was not possible to actually start High Level Dialogue on initiation of negotiation with regards to Free Trade Agreement, as pronounced by the President Barack Obama in January of 2012. Number of high level meetings have been reduces since 2012 and works in this regard became passive, which, *inter alia*, is determined by the lack of interest from the US side with respect to this issue."

**Comment:** New government inherited problems related to US-Georgia Free Trade Agreement. in September 10 of 2010, AFL-CIO, International operations organization filed a suit against the Government of Georgia before the Office of US Trade Representative according to which the Labor Code of Georgia adopted by the previous Government did not meet the international standards. Law suit stated that Labor Inspection institution does not exist in Georgia. The above represents the main obstacles for the conclusion of Free Trade Agreement with Georgia.

Following works have been carried out to eliminate the above obstacles:

As a result of amendments made to the Labor Code of Georgia, on June 26-27, 2014 USTR mission noted that US side did not have any more complaints with respect to the provisions of Labor Code of Georgia.

1 million GEL has been allocated from 2015 Georgian budget and 2 million USD by the US Labor Department to establish Labor inspection institute. Works are being carried out to create labor inspection considering international labor inspection standards. Elaboration of Action plan and Strategy for execution of labor legislation is in progress.

For protecting labor safety of employees and their health, State Program for Monitoring of Labor Conditions has been elaborated by the Ministry of Labor, Health and Social Affairs of Georgia in cooperation with social partners and other agencies. The above program has been approved by the Decree N38 of the Government of Georgia of February 5, 2015. Labor Inspection Department was set up within the Ministry of Labor, Health and Social Affairs of Georgia (Decree N81 of the Government of Georgia of March 2, 2015), which will prepare grounds for introducing comprehensive mechanism of inspection introduction.

Georgia achieved significant progress in labor field and USTR has positively assessed our actions. Consequently, any hindrances left with regards to US-Georgia FTA will, presumable, be fully resolved in the nearest future.

In parallel, we are actively working on deepening trade-economic relations with two countries, including further conclusion of Free Trade Agreement and this issues is discussed under one out of 4 working groups - Economic, Trade and Energy Working Group, within the framework of US - Georgia Strategic Partnership Charter.

Last meeting of Economic, Trade and Energy Working Group was held in October 30, 2014. Among other achievement, joint statement made after the meeting demonstrates that both parties are willing to strengthen trade-economic ties, including the conclusion of FTA.

Conclusion of FTA will become an issues of constant discussions within this working groups meetings, which is proved by the joint statements.

On October 29 of 2014, video-conference was held at the Ministry of Foreign Affairs of Georgia between the Ministry of Economy and Sustainable Development of Georgia and USTR, aiming at deepening economic ties between two countries. Parties discussed future steps to be taken in order to strengthen trade-economic relations between US and Georgia, as well as elaboration of agenda for organizing regular meetings on expert level in several main directions, including attaching the priority activating High Level Dialogue on Trade and Investment.

In the course of this year, Ministry of Economy and Sustainable Development of Georgia held two more video-conferences with USTR office on January 15 and 22 on Technical Barriers to Trade (TBT) and Information Technology (ITC). In addition, Ministry of Economy and Sustainable Development and Ministry of Foreign Affairs of Georgia, along with the Embassy of Georgia to the United States of America, have constant communication via phone and email with relevant US agencies and with the Embassy of the United States of America in Tbilisi.

On May 4, Economic, Trade and Energy Working Group meeting under the US-Georgia Charter on Strategic Partnership shall be held in Washington D.C. Simultaneously, we are working on holding High Level Trade and Investment Dialogue (HLTD) with the USTR office.

The issue of conclusion of US-Georgia Free Trade Agreement is one of the primary talking points on every meeting with US counterparts. US side constantly expresses its readiness to continue and further activate this process.

It should be particularly underscored that FTA negotiations are quite a lengthy process involving several US state agencies and depending on a number of factors, including ongoing US negotiations with the EU on Trans-Pacific Partnership (TPP) Agreement and negotiations on Trans-Atlantic Trade and Investment Partnership (TTIP) Agreement with 11 Asian-Pacific countries: Australia, Canada, Chile, Mexico, New Zealand, Peru, Brunei, Japan, Singapore, Vietnam, Malaysia.

**"Geneva International Talks Format remains a tradition problematic area. Russia still refuses to sign a non-use of force agreement, while on its own part, official Moscow urges the Georgian side to conclude the same type of agreements with Sokhumi and Tskhinvali, which cannot be done by Georgia under International Law. Over the last 2 years during the Geneva Talks, there was a pressure exerted on Georgia due to two factors - 1) Co-chaired realized that Georgian authorities do not have direct access, neither an interest to discuss the topic of Geneva International Negotiations with high Commissioners of the European Union; 2) Against the backdrop of extremely tough position of the Russian federation. In this light, there was a tension between the Special representative of EU and the head of the Georgian Delegation. The main challenge of Geneva Talks is the fact that the parties are not even able to get close to the resolution of the International Security mechanisms on specific issues, and the topic of return of the Georgian IDPs and refugees in safety and dignity. As a result, negotiation rounds are under constant threat of failure, especially during the Summer rounds, as the UN General Assembly in New York adopts the Draft Resolution on Georgian IDPs. Full implementation of the Incident Prevention and Response Mechanisms (IPRMs) still remains to be a challenge, especially in Gali region. Despite these challenges, it is very important for Georgia to maintain this format".**

**Comment:** In Geneva Talks there has always been a pressure exerted on Georgian delegation due to two factors, before 2012 and after. Russia and occupation regimes under the Russian guidance have constantly been creating unfavorable conditions for Georgia. The extent of pressure over the recent years has not changed. Meanwhile, Georgia, at all government levels, including with the EU leadership, keeps stressing that negotiations a priority for Georgia and continues discussions on various topics under the negotiations agenda, including the necessity of Russia's commitment to non-use of force and establishment of Security and International mechanisms. Safe and dignified return of IDPs is another important item in the agenda of Geneva International Negotiations. Georgian delegation keeps underlining the need for the return and their right to property despite efforts on the part of the Russian Federation and the occupation regimes to avoid discussion of these topics. But Georgia is no stranger to such an approach on the part of its opponents as the same attitude prevailed even prior to 2012. Therefore, lack of progress in neither International Security Mechanisms, nor the return of IDPs, is the result of the opposition of the other party and not the passive approach or lack of interest on the part of Georgian participants.

In addition, There has been no tension identified in the course of cooperation between the Head of the Georgian Delegation David Dondua and the EU Special Representative Herbert Salber. Moreover, Georgian delegation tries to be as constructive as possible during the negotiations, which has been positively assessed by the EU Special Representatives in bilateral formats.

"New Threats and challenges have emerged since the so called "Cooperation and Strategic Partnership" treaties that Russia concluded with Tskhinvali and Sokhumi occupation regimes. These so called "treaties clearly illustrates Russia's objectives to fully annex these regions and use existing processes as leverages against the government of Georgia, in particular against the western oriented policies chosen by Georgia. The Government of georgia will have to come up with serious, long-term anti-annexation strategy to contradict and if required react to the acts of annexation. So far, there are no efforts made toelaborate such a strategy, in spite of periodic attempts of the President's Administration and the head of the Government to coordinate their efforts in this direction."

**Comment:** immediately after the issuance of the first draft treaty on "Alliance and integration" with Abkhazia, which was soon "upgraded" to a treaty on "Alliance and Strategic Partnership", Government of Georgia put together an anti-annexation action Plan. In accordance with the Plan, Georgia calls on the international community to condemn these so called 'treaties" including within all International Organizations and put pressure on Russia in response to and with the purpose of averting attempts to annex Georgia's occupied territories.

"New Threats deriving from Russia generates further questions regarding Abashidze-Karasin negotiations format. It is clear that this format has already exhausted itself or it is close the end. During the latest several meetings within this format. discussions have been held on issues that are beyond the declared mandate of this format (e.g. implementation of 2011 Russia-Georgia Agreement). Therefore, with time, the issue of relevance of this format comes forward. It is important that the format does not continue functioning "for the sake of the format", as without tangible results the format creates an illusion that Russia and Georgia are in the process of "resolving" their problems and there is no need for the mediation between them on the part of the international community."

**Comment:** In the absence of diplomatic relations, availability of direct dialogue with Russia creates additional opportunities to resolve number of practical issues. We should also keep in mind the possibility of a full-scale or partial embargo from Russia on Georgian products. In such conditions, Abashidze-Karasin negotiations format may serve as the only platform to discuss similar issues.

"One of the significant challenges for the Georgian Government is the elaboration of new leverages and instruments vis a vis Russia. Two leverages that could have been enforced in 2012-2014 (WTO agreement of 2011 and a bilateral dialogue on return of IDPs based on Russia's violation of the International Convention on Elimination of All forms of Racial Discrimination), and were not activated, limited the possible leverage against Russia."

**Comment:** The 2011 agreement "on the Basic Principles of the Mechanism of Customs Administration and Monitoring of Trade in Goods" between Georgia and Russia may create certain leverages in relations with Russia.

"Approach towards the topic of developments in Ukraine should be particularly discussed. Previously, there was a passive approach towards these issues which was pre-conditioned by a) lack of coordination between the Ministry of Foreign Affairs and other agencies on statements and messages; b) Contradicting opinions of official authorities and the informal leader of the Coalition about issues related to Russia and developments in Ukraine, and c) Appeasement Politics towards Russia. It is in Georgia's interests to discuss Donbas and Crimea developments in the same context as the issues related to occupied regions of Tskhinvali and Abkhazia, but this requires active diplomacy and being at the forefront of the state of affairs."

**Comment:** Right after the start of the Crisis in Ukraine, Georgia took an unequivocal and active position expressed in clearly supporting statements in support of the democratic and pro-European transformation of Ukraine. President, Prime-Minister and Minister of Foreign Affairs of Georgia made number of statements, which adequately assessed Russia's aggressive actions in Ukraine and conveyed clear support for Ukraine's sovereignty and territorial integrity within its internationally recognized borders. In addition, the Georgian parliament passed Resolutions condemning Russia's actions and supporting Ukraine.

Along with political support, the Government of Georgia provided significant humanitarian assistance to Ukraine. tasked by the Prime Minister, in August 2014 Minister of Labour, Health and Social Affairs Mr. David Sergeenko visited Ukraine. He held a meeting with his Ukrainian counterpart and he was provided information about the needs of Ukraine. As a result, in September 2014, the Government of Georgia sent humanitarian aid in the form of medications worth of 1 million. GEL. In addition, Anaklia Youth Camp hosted 110 young Ukrainians and 15 persons accompanying them for recreation and rehabilitation for two weeks. The group was composed of families affected by the developments in Ukraine.

Sharing of experience in the area of successful reform, as well as progress achieved towards European Integration, are very important aspects of the bilateral cooperation with Ukraine. We have exchanged several high-level bilateral visits. In June 2014 and February, 2015, the President of Georgia visited Ukraine twice (Within the frames of Ukraine's presidential inauguration and for the "Dignity march").

In July 2014, Ukrainian Justice Minister Pavlo Petrenko and Infrastructure Minister Maxim Burbak held their visits to Georgia during which they learned about Georgia's reforms. In this light, visit of the Minister of the Cabinet Ministers of Ukraine Anna Onishchenko on March 4-8, 2015 was an important occasion. She held meetings with the State Minister of Georgia for European Euro-Atlantic Integration David Bakradze, Deputy Minister of Justice Mikheil Sarjveladze, Head of the Government Administration Maia Tskitishvili and Chairman of the Constitutional Court of Georgia Giorgi Papuashvili. Anna Onishchenko also visited the Public Service Hall of Tbilisi and got introduced to its operations and the concept. During the visit, emphasis was made the possibility of sharing of experience in reforming the public system.

There is an active cooperation and exchange of visits between the line ministries of both countries. Particularly, in 2014 Minister of Agricultural policies and Food of Ukraine Igor Shvaika visited Georgia during which he discussed prospects for cooperation in agricultural sector. In discussing agricultural issues, the parties also recalled the visit of the Georgian delegation to Kiev headed by Deputy Minister of Agriculture of Georgia Nodar Kereselidze during which the delegation participated in the Agri Invest Forum.

In January 2015 Vice Prime Minister and Minister of Economy and Sustainable Development of Georgia Giorgi Kvirikashvili, and Vice Prime Minister and the Minister of Energy Kakha Kaladze paid a joint visit to Kiev (January 30-31). During the visit, Georgian delegation together with the Ukrainian Ministers of Economy and Energy discussed prospects for cooperation in the field of trade, economy and energy between the two countries, including holding of the next round of the Intergovernmental Economic Commission meeting in 2015, as well as prospects for sharing experience on reforms. During his visit to Kiev on February 4 of 2015 the State Minister of Georgia for European and Euro-Atlantic Integration of Georgia David Bakradze discussed areas of cooperation within European integration between Ukraine and Georgia. During the visit he held a meeting with the Minister of Foreign Affairs of Ukraine Pavlo Klimkin.

Mechanisms of bilateral meetings and consultations with Ukraine have been very vigorous, in particular within the frames of international Fora. Bilateral meetings between Ministries of Foreign Affairs of Georgia and Ukraine are being conducted on a regular basis.

Political consultations at the deputy ministerial level were held in Kiev In November 2014 within the frames of the visit of the deputy Minister of Foreign Affairs Davit Jalagania. Davit Jalagania also held a bilateral meeting with his counterpart, Deputy Foreign Minister of Ukraine Olena Zerkal on the sidelines of the GUAM National Coordinators' Meeting held in January. On March 10-11, Ministry of Foreign Affairs of Georgia hosted the Deputy Foreign Minister of Ukraine Olena Zerkal during which the Ukrainian delegation held a meeting with the Minister of Foreign Affairs of Georgia Tamar Beruchashvili, State Minister David Bakradze and also meeting at the Ministry of Internal Affairs.

During the visit, Ukrainian delegation visited Tbilisi Public Service Hall and got briefed about the reforms carried out in Georgia.

Georgia maintains a close cooperation with Ukraine at the Parliament level as well. Specifically, in January 2015 the Parliamentary delegation of Georgia visited Kiev. The delegation was comprised of the Chairman of the Foreign Relations Committee Tedo Japaridze, Chairman of the Committee on European Integration Victor Dolidze, Deputy Chairman of the Committee on Foreign Relation Zviad Kvachantiradze and Deputy Chairman of the Committee on Defense and Security David Darchiashvili.

Georgia is committed to continue the above pattern of close cooperation with the Ukrainian side, including through further active dynamic of exchanging of high level visits.

**"Reduction of institutional role of the Security Council in Foreign policy issues triggered decrease of coordination between governmental branches. Despite establishment of Security Council under the Prime-Minister's Office, the above problem remains unresolved and which is well demonstrated by setting up Foreign Policy Interagency Council. Diplomatic corps in Georgia always note that they have problems with delivering messages to the Prime-Minister and an informal leader of the coalition on issues of concern for the country, since current decision-making system is not working well and messages are often lost or hidden."**

**Comment:** According to the new version of the Constitution of Georgia, role of the president has diminished and so did the Security Council. New structural unit - Security and Crisis Management Council was established under the Prime-Minister of Georgia within the frames of a new constitution and for implementation of increased authority and responsibility vested upon the Government of Georgia. Their functions are divided by the relevant legislation (see, previous comment on this issue).

Despite that up till now, coordination of foreign policy issues, among other matters, was carried out by the Council, coordination of foreign policy activities required more flexible mechanism. As a result, in 2015, under the Decree of the Government of Georgia, Foreign Policy Interagency Council was established. The latter is an advisory group, which is more informal and flexible. The above Council is still in the process of shaping and it might change due to some problems and needs raised in the future.

It is simply not relevant to assert that Diplomatic Corps in Georgia cannot manage to deliver important messages to the Prime-Minister. The latter holds regular meetings with diplomats of various countries accredited in Georgia. Under the initiative of the Prime-Minister, a number of lunches and official receptions have been held for this purpose and he also actively participates in the events held by Diplomatic Corps.

Embassy staff also have constant contacts with the staff of foreign relation offices of the Administration of the Government. Detailed information on meetings are regularly posted on the official government web-page ([www.government.geo.gov.ge](http://www.government.geo.gov.ge); [www.facebook.com/GaribashviliOfficial](https://www.facebook.com/GaribashviliOfficial)). Any additional information may be provided upon request of public information.

"As regards the European Union, it is essential that the EU recognizes Georgia's EU membership perspective. At the moment, we do not see any progress in this regard, however, in the nearest future, in case of coordinated works by Georgia, Ukraine and Moldova, EU might take such a decision."

**Comment:** Government of Georgia constantly underscores the readiness of Georgia to become the member of the European Union at the meetings of any level with European Institutions and its member state representatives. Association Agreement is regarded as the most successful step in achieving this goal. Accordingly, implementation of this Agreement is on the top of government's agenda, which rings Georgia closer to the set goal. Hereby, we need to take into consideration EU trends on enlargement. Despite that, EU institutions and its member states recognize Georgia's European aspirations, which according to Article 49 of the Treaty of European Union, gives Georgia the right to claim EU membership. Recognition of European perspective of associated partners (Georgia, Moldova and Ukraine) is quite a sensitive issue for EU and success in this direction can only be made if Georgia effectively implements Association Agreement and observes European values.

## ***12. Investment Environment***

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### **2. New immigration policy**

Introduction of new immigration rules was another unjustified decision by the Government. The new Law on the Legal Status of Aliens and Stateless Persons, drafted by the Ministry of Justice (MoJ), entered into effect on 1 September 2014. The amendments have considerably tightened migration regulations. The Government of Georgia has mainly linked the need for these amendments to the obligations undertaken as part of the visa dialogue with the European Union. Transparency International - Georgia has examined these regulations and the views of individuals directly affected by these amendments.

The organization concluded that several amendments stipulated in the new Law unreasonably complicate procedures for foreign citizens to enter Georgia and obtain the right to residence. They create needless problems to students arriving in Georgia for their studies, to investors, and to those wishing to live in Georgia for family reunification. The following issues are especially problematic:



- Unjustified reduction in the number of countries, whose citizens enjoy visa-free entry to Georgia;
- Denying the right to visa-on-arrival *access* to Georgia as well as to extension of visas while in Georgia;
- Insufficient number of Georgian diplomatic missions abroad;
- Impossibility to fill in visa applications online;
- Unreasonable waiting periods for residence permits and visas;
- Reasons for residence permit rejection;
- Frequent and undue use of subparagraph "a" of Article 18.1 (threat to national security) as a reason for rejection;
- Inefficient mechanisms for challenging rejection of residence permits.

Once the Law was adopted, an increasing number of organizations and private persons have protested against the new regulations, followed by Prime Minister Garibashvili's comments. He apologized to the foreigners who have been affected by the amended immigration rules and promised to solve the problem. In December the Parliament did indeed pass a series of amendments but they only partially address the problem.

**Comment:** Processing times for residence permit applications vary from 10 to 20 and to 30-days. Residence permits may be *issued either on a temporary or a permanent basis granting foreign nationals the right to stay and live in Georgia. The processing of residence permits, therefore, envisages verifying compliance of applications and enclosed documents with requirements of the law, obtaining information from various agencies and interviewing foreign nationals concerned in order to get additional information. In some cases the agencies concerned may delay the provision of information thus making it impossible to complete the process ahead of the time-limits prescribed by the law. It should also be noted that the practice of processing residence permits in less than 30 days does not exist in any European country.*

*From 1 September to date, only 2,4% of foreign nationals' applications to residence permits (i.e. only 547 applications out of 21926) have been rejected. As for the rejection of applications without citing reasons, the law specifies a number of grounds for rejection, among which national and public security is deemed to be the one justifying such rejection.*

#### **4. Prohibition on the sale of land to foreigners**

“Notwithstanding this decision of the Constitutional Court, foreigners still encounter problems when registering land. Transparency International – Georgia is still approached by foreign investors, who have purchased agrarian lands at auction, but the Public Registry delays granting registration for several months citing flaws in their applications. As similar problems are reported rather often, it raises considerable doubt over whether the Public Registry deliberately hinders the land registration process for foreigners.”

**Comment:** Since the Constitutional Court declared unconstitutional a provision restricting foreigners the right to acquire property title on the agrarian land, the registration process of agrarian land ownership by foreign nationals has been proceeding without hindrance. Moratorium on the acquisition of farmland is now lifted both for physical and legal persons and there are currently no procedures in place restricting foreign ownership of land.

During the period from 22 July 2014 to 27 February 2015, 2603 applications for registration of foreign ownership of agrarian lands were filed, of which registration proceedings have been finalized over 1057 applications.

“2012 has been a politically tense and eventful year due to 1 October parliamentary elections, which made its impact on investments and economic activities as well: the volume of foreign direct investments (FDI) in the second half of 2012 amounted to 432.7 million USD, 46.2 million USD less than in the first half of the same year. One of the main achievements of the Government that came to power through the parliamentary elections in 2012 is to relieve pressure on the business. A new competition law is also a considerable step forward. The adoption of this law can be attributed to the political will of the government, as well as to the strong support of non-governmental organizations, Transparency International – Georgia, in particular.”

“In 2013, FDI increased slightly reaching 941.9 million USD and exceeding by bare 30.3 million USD the comparable figure for 2012. Preliminary data for the first three quarters of 2014 put the amount of FDI in Georgia at 923.3 million USD, a 29% increase from the same period in 2013.”

“A constant pre-election campaign mode in which Georgia found itself recently (3 elections during the past 2 years) presumably made its impact on the investments and economic activities in the country. It is also possible that the companies enjoying privileges under the previous rule came face-to-face with a new reality and had to change their investment plans under the new government. “

“Along with the objective factors cited above, the investment environment could have also been affected negatively by a series of the new government’s new regulations carrying a comparatively negative message to investors”.

**Comment:** In 2014, foreign direct investment flow to Georgia was worth \$1.272.5 million USD exceeding by 35.1% the comparable figure for 2013, and by 39.6% - the comparable figure for 2012. It is also interesting to note that FDI accounted for 7.7% of Gross Domestic Product (GDP) in 2014 compared to 5.8% recorded for 2013 and 2012.

Of paramount importance are the measures that the new government has carried out for the improvement of business environment, development of the private sector, including small and medium-sized businesses, enhancement of competitiveness, promotion of export, as well as introduction of innovations and modern technologies. For this end, Enterprise Development Agency and Georgia's Innovation and Technology Agency were set up within the system of the Ministry of Economy and Sustainable Development.

The aim of the Enterprise Development Agency is to enhance private sector competitiveness level whereas the main function of Georgia's Innovation and Technology Agency is to promote the commercialization of innovations and knowledge; the use of innovations and knowledge; the development of export-oriented innovations and technologies; the commercialization of scientific research and innovative enterprising, including start-ups, etc.

**Produce in Georgia Programme**, which was launched in 2014 is focused on the development of business in Georgia; support for business communities; creation of new enterprises and expansion/refurbishment of the existing ones; enhancement of private sector competitiveness and export potential through increasing access to necessary funds, real assets and technical assistance. The Produce in Georgia Programme envisages promotion of two sectors: industrial production and

agricultural production. The Programme has so far supported 70 projects with total investment value reaching 120 340 354 GEL.

Also of paramount importance are the new government's efforts to encourage economic activities and micro and small businesses in the regions, especially in the economically vulnerable ones. With this goal in mind, a new component of micro and small businesses was added to the Produce in Georgia Programme envisaging financial and technical assistance for the promotion micro and small business activities in the regions. The budget of this project is estimated at 20 million GEL.

Additional Information on Investment Environment: Ministry of Economy: Over the past two years Georgia has considerably improved its positions in international rankings:

- **Frazer Institute's Economic Freedom of the World Index:** In 2014 Georgia's score advanced by 22 points to 7.47, placing it 16<sup>th</sup> on the Fraser Institute ranking among 152 countries. (Georgia's score improved by 0.12 point).
- **Heritage Foundation's Economic Freedom Index:** Georgia's economic freedom score in the 2015 Index is estimated at 73.0 making it the 22<sup>nd</sup> mostly free economy out of 178 countries worldwide, with a 0.4 score increase. Georgia is ranked 11<sup>th</sup> out of 43 countries in Europe.
- **World Bank's Doing Business** – according to Doing Business 2015 Survey, Georgia is ranked 15<sup>th</sup> on its ease of doing business out of 189 economies and holds the leading position among European and Central Asian countries.
- **World Economic Forum's Global Competitiveness Index** - Georgia with an overall score of 4.2 (middle indicator) has improved its position by 3 points reaching the 69<sup>th</sup> position, according to the World Economic Forum's 2014-2015 Global Competitiveness Report.
- **Transparency International' Corruption Perceptions Index** - Georgia ranks 50<sup>th</sup> out of the 175 countries with the score of 52 (5-point improvement compared to the previous year) in the 2014 Corruption Perceptions Index and ranks 1<sup>st</sup> out of the 19 countries of Eastern Europe and Central Asia.
- **Moody's Investors Service** - changed the outlook on Georgia's Ba3 sovereign rating to positive from stable in 2014.
- Fitch reaffirmed Georgia's BB rating and revised Georgia's outlook from positive to stable in 2015. *The revision was due to the impact of external shocks on Georgian economy, reduction of exports and depreciation of Georgian lari.*

“The investment environment could have been affected negatively by a series of the new government's new regulations carrying a negative message to investors. Prime Minister Irakli Garibashvili commented on it apologizing to the foreigners who have been affected by the amended immigration rules and promised to solve the problem. In December the Parliament did indeed pass a series of amendments but they only partially address the problem”.

**Comment:** It is noteworthy that the new Law envisages the possibility of issuing electronic visas, which considerably simplifies procedures for obtaining visas. Electronic visa system is currently

operational in Georgia allowing the applicant to fill out a visa application form and pay a visa fee online, and then download and print out a visa, if granted. Only tourists and business visitors are eligible to apply for visas online.

It is also interesting to note that the new Law introduces the possibility of obtaining investor residence permits on a permanent, rather than on a temporary basis. Foreign nationals are not required to hold investor visas in order to apply for investor residence permits. The latter can be obtained by applying to the competent authorities on the basis on any document certifying the applicant's legal stay in Georgia.

It should also be taken into consideration that after the entry into force of the new Law (on 1 September 2014), a group was set up at the State *Commission on Migration* Issues to monitor the implementation of the Law. Problems arising out of the enactment of new regulations were explored and respective amendments were drafted and made to the Law.

At the given stage, additional amendments need to be drafted in order to further simplify the visa regulations and ensure that, on the one hand, they are beneficial for the promotion of tourism and investments, and on the other, the Law is in compliance with EU approaches.

*Additional Information: The new government is actively engaged in the following reforms:*

**Pension Reform:** envisages introduction of voluntary accumulation system, the first working version of which is already drafted. The new pension system will serve as an additional option to the existing one and will contribute to improving the social protection levels of the population in a long-term perspective.

**Development of Capital Market:** is important as an alternate funding option. Hence comes the importance of works that have been launched to reform the capital market.

**Deposit Insurance System:** works are in progress to develop a system to insure deposits, on the one hand, and to contribute to the accumulation of additional resources by financial institutes, on the other.

**Export Crediting:** it is important to develop additional financial support capabilities in order to encourage the development of export. There are plans to establish an export credit institute that will issue financing to export companies in the form of credit insurance and guarantees. This institute will function under the umbrella of the Partnership Fund. The Entrepreneurship Development Agency and the Partnership Fund have already selected one of the world's leading export credit agencies, which will assist Georgia in developing respective model, products and services.

**RIA:** efforts are underway to develop and introduce an effective model of Regulatory Impact Assessment (RIA) that will be designed to suit the needs of Georgia. RIA is important in terms of further improvement of business environment, prevention of ineffective regulation and improvement of the existing one.

### ***5. New Postal Service Regulations***

New state regulations have negatively affected the postal market as well, which, before the introduction of restrictions, used to grow significantly. Legal barriers on this market were first introduced by Order №30 of the Minister of Finances of Georgia dated 25 January 2013. Based on this Order, procedures of import, export and declaration of goods in the customs territory of Georgia were substantially amended, creating serious problems to carriers engaged in the traffic of goods.

Many carriers suspected that those regulations aimed to oust them from the market, and to grant monopoly to only one carrier, to the Georgian Post, in particular, which is 100-percent state-owned.

Local carriers instituted court proceedings to uphold their rights and have the Finance Minister's Order invalidated. Transparency International - Georgia represented the interests of those carriers during the proceedings. The carriers won the case in all three instances. courts.

The aforesaid Order of the Minister was followed by other state regulations, some provisions of which also curb competition at the postal market (p.71).

**Comment:** No postal regulation or normative act has been adopted by now.

With a view to achieving harmonization with the UPU and EU acts as part of the ongoing postal reform process in Georgia, the Ministry of Economy and Sustainable Development of Georgia and the KPMG international consulting firm signed an agreement on postal market research for the assessment of costs involved in providing universal postal services. The research is due to be completed in June 2015.

The results of this research will be reflected in the drafts of the postal acts due to be submitted for consideration to the Parliament of Georgia.

### 13. Economy

**“In 2015, the Government of Georgia expects 4% economic growth, instead of 5%. If this estimate stands true, this will be the third year, since economic growth in Georgia does not go as planned. In 2013, throughout the region, in Georgia, instead of 6% increase in economy, economic growth rate was the lowest as being 3,3%. In 2014, instead of predicted 5% economic growth, we witnessed 4,7% increase rate.”**

In October-November of 2014, while annual budget was being planned, 5% of economic growth estimate was deemed to be quite realistic and was also shared by International Monetary Fund (IMF). During that period, IMF predictions with respect to other countries was as high as with respect to Georgia and in most cases exceeded 2014 economic growth estimates with regards to these countries. In 2014, Georgia’s economic growth rate, according to preliminary data, amounts to 4.8% being the highest index in the region (Turkmenistan, Uzbekistan da Tajikistan hold higher rates). At the end of 2014 and beginning of 2015, situation in the region was reflected at prediction of macroeconomic and fiscal parameters of Georgia and other countries of the Regions, including, with respect to Georgia from 5% to 2%. Government of Georgia also underscored that reaching 5% rate would not be easy and it was also predicted that GDP would be within up to 2%. Nevertheless, we shall continue analyzing current situation and monitoring of existing indexes in parallel of the performance in the first quarter, including receiving excessive amounts of taxes. Based on IMF mission and analyses of the second quarter we will get a broader picture to revise main indicators for the second half of the year.

#### IMF Outlook GDP Growth

	2015 (April 2015)	2015 (October 2014)	2014 Projection	2014 Actual
<b>CIS</b>	<b>-2.6</b>	<b>1.6</b>	<b>0.8</b>	<b>1</b>
Russia	-3.8	0.5	0.2	0.6
<b>Without Russia</b>	<b>0.4</b>	<b>4</b>	<b>2</b>	<b>1.9</b>

Armenia	-1	3.5	3.2	3.4
Azerbaijan	0.6	4.3	4.5	2.8
Belarus	-2.3	1.5	0.9	1.6
Georgia*	2	5	5.0	4.7
Kazakhstan	2	4.7	4.6	4.3
Kyrgyz Republic	1.7	4.9	4.1	3.6
Moldova	-1	3.5	1.8	4.6
Tajikistan	3	6	6	6.7
Turkmenistan	9	11.5	10.1	10.3
Ukraine	-5.5	1	-6.5	-6.8
Uzbekistan	6.2	6.5	7	8.1

<http://www.imf.org/external/ns/cs.aspx?id=29>

**Comment:** In 2014, according to preliminary assessments, we had 4.8% of GDP growth (instead of predicted 5%). Deceleration of economic growth was triggered by the situation development in main trade and investment partners of Georgia, resulted into the increase of export in the country, as well as decrease of flow of remittances (remittances from the Russian Federation being the biggest donor fell to 11.5%). Furthermore, considering the situation development in trade partners of Georgia, even with 4,8% growth, as predicted by IMF (April, 2015), Georgia is still ahead of CIS countries, except for Turkmenistan (10,3%), Uzbekistan (8,1%) and Tajikistan (6,7%). GDP rate of Georgia in 2014 is also the highest among the group of 12 European developing countries (e.g. Hungary – 3.6%; Poland – 3,3,%l Romania – 2.9%; Bulgaria – 1,7%).

**“As of February 2015, compared to previous year, national currency (GEL) depreciated by 16% in value again USD. To avoid inflation, National Bank of Georgia decided to introduce strict rules to monetary policy and increased refinancing from 4% to 4.5%. In order to slow down currency exchange rate fluctuation, since November 2014 to February 2015, National Bank of Georgia reduced foreign currency reserves by 120 million USD.”**

**Comment:** Based on the updated data, as of April 1, 2015, compared to the same period of previous year, national currency depreciated by 28% in value against USD, whereas normal effective exchange rate strengthened by 2.2%. To avoid inflation, National Bank of Georgia decided to introduce strict rules to monetary policy and increased refinancing from 4% to 4.5%. In order to slow down currency exchange rate fluctuation, since November 2014 to March 2015, National Bank of Georgia reduced foreign currency reserves by 155 million USD.

Moreover, it should be underscored, that reserves shall be discussed not within the context of absolute indication, but reserves import multiples. Currently, international reserves are higher than internationally recognizes indexes (3 moth import volume).

**“According to preliminary data, in 2014, foreign trade turnover amounted to 11,457 billion USD, which is 5% higher than previous year’s rates. We witness 2% decline in export rate, as compared to 2013 (2,861 billion USD) and 7% boost in imports rate (8,596 billion USD). As a result, negative trade balance is the highest in the history and amount 5.7 billion USD.”**

**Comment:** According to preliminary data, in 2014, foreign trade turnover amounted to 11,457 billion USD, which is 5% higher than previous year’s rates. We witness 1.6% decline in export rate, as compared to 2013 (2,861 billion USD) and 7% boost in imports rate (8,596 billion USD). As a result, negative trade balance is the highest in the history and amount 5.7 billion USD.”

Furthermore, in terms of foreign trade, service balance data of current count shall also be highlighted. Important to note that service balance tends to be positive and amounts to 1,341,041.4 for 2014. Service export has grown up to 1.85% as compared to 2013 rates.

**“In 2014, fiscal deficit with respect to GDP exceeded to IMF recommended 3% rate and amounted to 3.7%.”**

**Comment:** In 2014, fiscal deficit with respect to GDP exceeded to IMF recommended 3% rate and amounted to 3.7%.

IMF has never recommended keeping 3% deficit with respect to 2014 budget and deficit predicted index was agreed with the Fund. All parameters for planning 2014 budget have been agreed upon with IMF, including 3.7% deficit index. Based on actual performance, deficit amounted to 2.9%; moreover, the Government intends to maintain the lowers deficit rate within sustainable fiscal policy and accordingly actual index of 2014 and 2015 budget plan falls between 3%. In case of drop of economic growth predictions, the latter shall affect fiscal parameters; however, updated deficit index shall be determined upon agreement with IMF.

**“In January–November of 2014, there was 10% decline in flow of remittances from the Russian Federation: less than 56,522 USD has been transferred. Remittances from Ukraine have dropped by 30%, compared to 2013. Major problems with regards to remittances arose in the last three month, mostly in December: total of remittances amounted to 116.1 million USD being less than 38.5 million USD (24.9%) compared to the same rates of December 2013. By countries, remittances from Russia have decreased by 43%, Greece – 11%, Ukraine 67%.”**

**Comment:** Based on the updated data, in 2014, compared to 2013, there has been a decrease of flow of remittances from the Russian Federation by 11.5%, amounting to 92 million USD. In of 2014, 709.2 USD has been transferred from Russia. Decline in remittances have been significant from August 2014 and will continue until the end of this year. Volume of remittances compared to the same period of 2013, has been significantly dropped in November (16.2% - 20.1 million USD) and December (24.9% - 38.5 million USD).

**“According to six month data of 2014, we have witnessed the lowest rate in terms of the flow of Foreign Direct Investments (FDI) since 2005 being 415.8 USD; situation has changed in the third quarter and investments increased exceeding 507 million USD.”**



**Comment:** Base on updated information there has been a flow of Foreign Direct Investments (FDI) in the amount of 1,272.5 million USD in Georgia, which exceeds by 35.1% 2013 index and by 39.6% 2012 data. It also should be noted that in 2014, FDI share amounted to 7.7% in GDP, whereas in 2013 and 2012 these index amounted to 5.8%. FDI flow in Georgia in 2014 is the highest index we have ever witnessed since 2008 global economic crisis.

**“Despite reforms carried out in Georgia, there are no Medium Term Expenditure Framework (MTEF). Instead, Basic Directions and Data document is considered as an MTEF document.” (p.66)**

**Comment:** budget of the Government of Georgia envisages medium term planning of expenditures, as a result a paper is prepared annually, which covers future 4 year period, the Document includes data relevant for MTEF type of documents (confirmed by Public Expenditure and Financial Accountability (PEFA), Open Broadcast Software assessment (OBS)) and specific name of this document (Country's Basic Data and Directions Document) does not contradict to its content. The document not only can be perceived, but represents MTEF for Georgia's budgetary process. Further perfection of the document is necessary and important; however, the context of the paragraph that we do not possess MTEF does not reflect the truth.

**“Currently, there are two Governmental Documents in Georgia BDD (Budget Code clearly states about compliance of this document with budget) and Government Strategy (Georgia 2020) - the first authored by the Administration of the Government and second - Ministry of Finance. BDD does not provide for actions year-by-year and represent a document with general directions of the country. Program budgeting format carries formal nature.” (p.66)**

**Comment:** BDD is elaborated by the Ministry of Finance, as it also prepares annually a draft law on budget; however this represents the document of the Government of Georgia prepared in coordination with all agencies having expenditures. Document also provides for prediction of macro-economic and fiscal parameters and estimated amount of funding for medium term period, according to specific years and specific programs.

**“Moreover, budgets of 2014-2015 are socially oriented, approximately 30% is spent on healthcare and social spheres, total of 8% is allocated for non-financial assets (capital expenditures).<sup>15</sup> (p. 67)**

**Comment:** it is indeed 8% allocated for non-financial assets, however, for projects of capital character, funds are also appropriated for other classifications (other expenditures, increase of financial assets) and capital expenditures from the state budget actually exceeds 11% of total charges allocated by the state budget.

**“Infrastructural projects funded by the state budget are not implemented, stemming from wrecked tenders. In particular, as of 10 month of 2014, only 65% of annual plan has been spent on infrastructure<sup>16</sup>. Extension of obtaining foreign long-term loans demonstrates problems with administration and management.” (p. 67)**

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<sup>15</sup> Ministry of Finance of Georgia ([www.mof.ge](http://www.mof.ge)) on 2015 Budget of Georgia; indications of Georgian budget

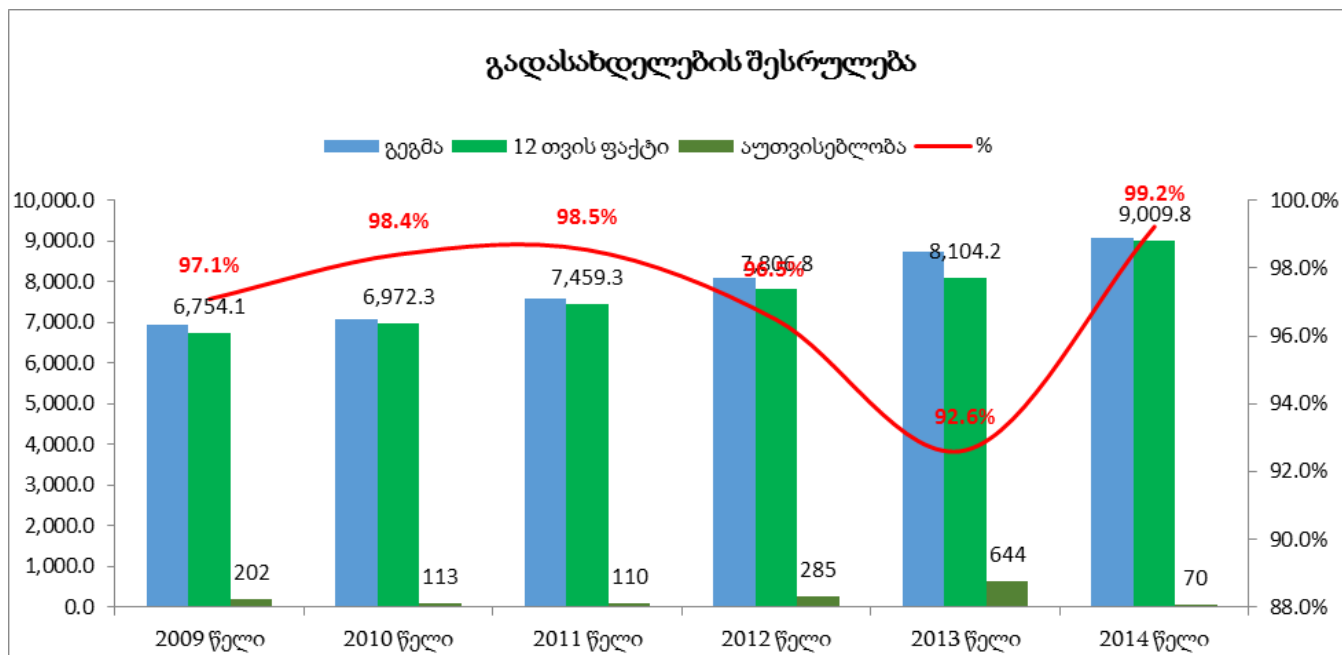
<sup>16</sup> State treasury. Operative data. [ww.treasury.gov.ge](http://ww.treasury.gov.ge)

**Comment:** Funding of infrastructural projects from foreign sources in 2014 amounted to 91.39% (cash flow), while disbursements equaled to 94.8%.

“In 2013, as known, we had a budget deficit of 632 million GEL,<sup>17</sup> in 2014, according to information provided by the Ministry of Finance, budget expenditure part amounted to 8,977 billion USD constituting 98.9% of the plan of 9.080 million USD.<sup>18</sup>” (p.67)

**Comment:** cash execution of payments was 644.3 million GEL less with respect of approved plans.

In 2014, budget expenditure part amounted to 9.009.8 million GEL, which constitutes 99.2% of 9.080.0 million GEL; in 2014, 70.2 million USD has not been spent, which is an unprecedented index.



**Execution of Payments (plan; 12 moth fact, outstanding amount)**

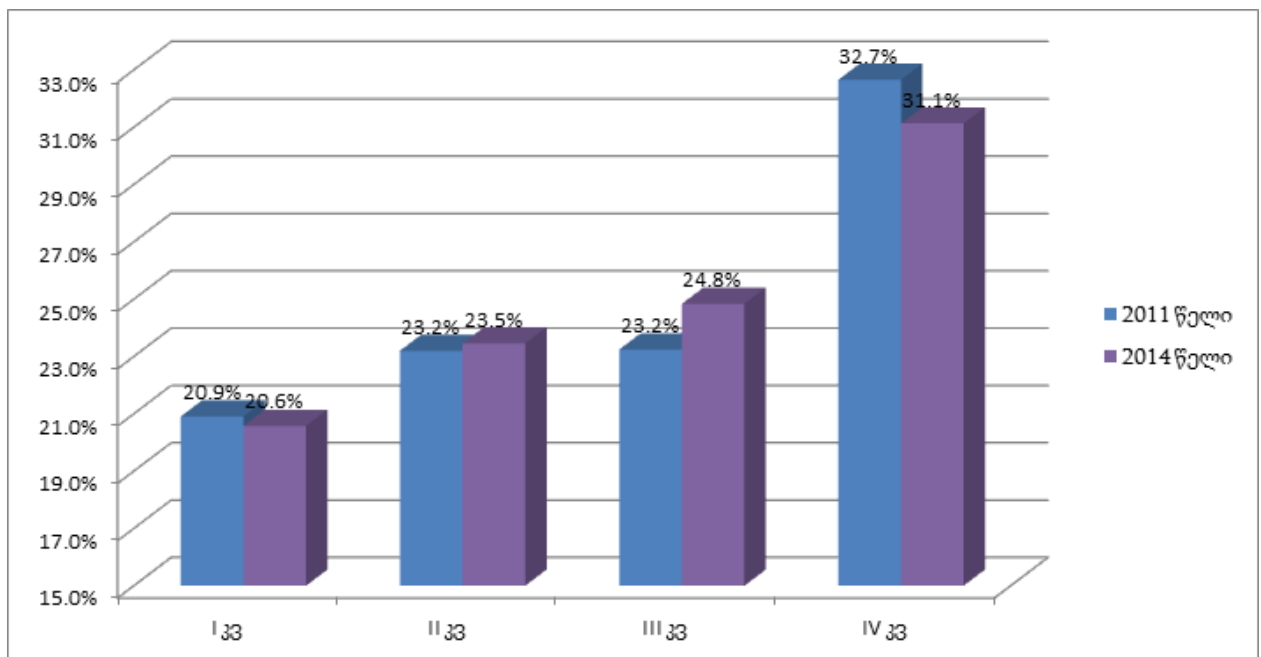
“It has become a trend to spend the large amount of budget part in the last quarter of the year and months. In parallel with the reduction of flow o grants, this negatively effects national currency in terms of its depreciation. Apart from the fall of national currency exchange rate, the latter is also reflected on the decline of currency reserves of the National Bank of Georgia; only in one day of 2014, National Bank of Georgia has spent 45 million USD to maintain currency exchange rate.”

**Comment:** Expenditure scale in the 4th quarter is always bigger than that of previous quarter; in the 4th quarter of 2014 31% of total payment was spent (in 2011, payment s of 4th quarter amounted to 33%). It is desirable to achieve more equitable spending of budgetary funds, however, this seasonality is not strange for Georgian budgetary process, hereby, this did not have any effect on money supply. The latter confirms that commercial banks obtained additional 100 million GEL loan from National Bank of Georgia on December 31, 2014, which demonstrates that there has not been excessive GEL in circulation, on the contrary, commercial banks had a demand on the currency. In January-February o

<sup>17</sup> <http://www.parliament.ge/uploads/other/22/22270.pdf>, Annual Report for Implementation of the State Budget of Georgia of 2013

<sup>18</sup> [http://www.mof.ge/news/print\\_news.aspx?news\\_id=6427](http://www.mof.ge/news/print_news.aspx?news_id=6427), Annual Report for Implementation of the State Budget of Georgia of 2014

2015, no spending of state budget was witnessed and money supply has been reduced by 190 million GEL through operations carried out in a treasure account.



“It is planned to obtain high amount of foreign loan next week, in total loan responsibility will increase by 1.330 million GEL, which constitutes 13% of total budget. Nevertheless, it is planned to reduce fiscal deficit compared to planned index of the budget law of the current year, in order the fiscal deficit not to exceed 3% as set by IMF.”

**Comment:** Increase of budget law responsibilities of 2015 is defined by 1,610 million GEL, out of which foreign liabilities amount to 1,010 million GEL.

“In the course of planning of a budget, it is significant to pay particular attention to the long-term, growth-oriented budgetary investments. For instance, instead of tax privileges and increasing social responsibilities, it is desirable that such directions are funded as additional infrastructural expenditures, vocational education. Education is one of the most important, long-term investment for country's development.”

**Comment:** In 2013-2014, budget envisaged important social programs, including, universal healthcare program, which Increased indicator of application resources by social indicator, however, contribution of investment projects still remain high. In 2015 and after, special attention was paid to distribution of resources of long-term investment projects.

“Budget expenditure results show that spending structure is changing year-by-year and the budget is more and more packed with responsibilities, which is covered rather by increased responsibilities, than through growing tax incomes.”

**Comment:** It is worth noting that budget operating balance both in the last and this year, is positive and accordingly, deficit funding resources are directed to funding of investment and capital projects and is not considered for funding of current expenditures.

**“Mastering of budget expenditures has been a slow process. It is recommended that spending of budget resources are equally distributed over the quarters and months so that national currency is not damaged.”**

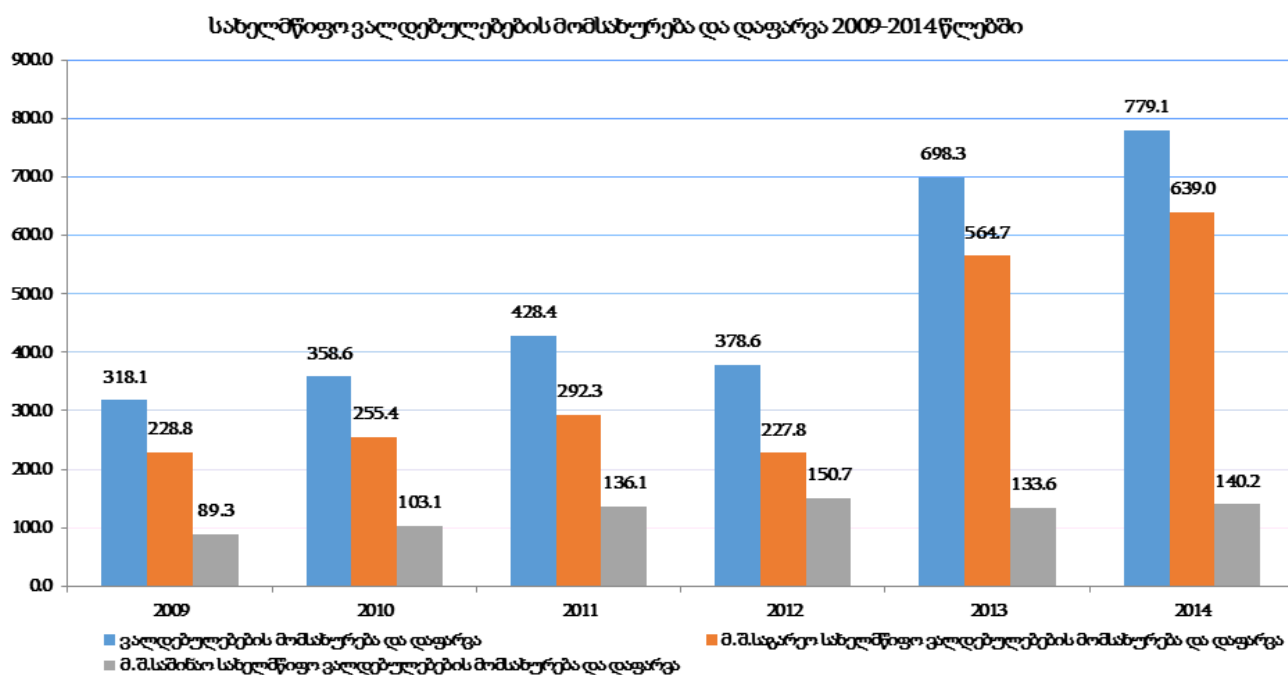
**Comment:** High volume of payments in the 4th quarter has been a regular process for the Georgian budget in recent years, it is important that we achieve more equality, however, it also should be taken into account that stemming from the content of various projects, their implementation depends on a number of factors. Climate conditions are significantly important for infrastructural projects, which results into receiving-delivering a big part of the works in third-fourth quarter and spending during the second half of the year, especially in the last quarter. It should be underscored that in December, 2014 budget incomes exceeded payments and budget operations did not have any effect on money supply and GEL exchange rate. The latter is further supported by the fact that in December 31, 2014, commercial banks received additional 100.0 million GEL meaning that redundant money was not in circulation.

**“As of September 2012, foreign debt of Georgia amounted to 13.11 million USD”.**

**Comment:** In 2013, foreign debt growth amounted to 588 million GEL, in 2014 - 997 million US, and in 2015 1.010 million USD.

As of 2014, state volume with respect to GDP constitutes 35.5%, including foreign debt of 26.8%. In 2013-2014 a large amount of debt services has been covered, accordingly, as of March 31 of 2015, volume of foreign debt in USD has been reduced as compared to the indicator in December 31, 2012 ( 3.988.5 million USD - (31.03.2015), 4357.1 million USD (31.12.2012)).

## Covering State responsibility services in 2009-2014



(Covering services of responsibilities; internal state responsibility services and covering, foreign state responsibilities services and covering).

“94% of foreign debt in foreign currency is denominated and increases currency risk and the threat that pressure of responsibilities might boost in the light of exchange rate”.

**Comment:** For objective picture, it is better that we refer to the total state debt, within which debt in national currency gradually raises. As regard state foreign debt (including private sector debt), it will be denominated mostly in foreign currency considering its character.

“As of September of 2014, foreign trade turnover of Georgia amounted to 10,425 billion USD, out of which export constituted 2,375 billion USD, import - approximately 8 billion USD.”

**Comment:** In 2012 (and not as of September), foreign trade turnover of Georgia amounted to 10,425 billion USD, out of which export constituted 2,375 billion USD, import - approximately 8,48 billion USD.”

“Georgian businessmen are not quite well taking advantage of DCFT. It is essential that the society and business circles are well informed on responsibilities undertaken by EU Association Agreement and future opportunities it brings along.”

**Comment:** For the purpose of informing civil society and business, Ministry of Economy and Sustainable Development of Georgia has conducted active **information campaign**, both in Tbilisi, as

well as in the regions. Meetings are held with the representatives of civil and private sector, as well as academic circles and local government. Special information booklet is prepared on DCFT, which is distributed on the above meetings.

Furthermore, special web-portal is integrated on the web-paged of the Ministry of Economy and Sustainable Development (<http://economy.ge/ge/dcfta>), which covers all information about the Agreement. Interested persons have an opportunity to read the Text of EU-Georgia Association Agreement in Georgian and English Languages. Portal also includes short overview of each DCFTA chapter, carried out, current and planned reforms. 2014-2017 DCFTA Action Plan is also available on the portal. Action Plan envisages activities to be carried out for the future three years.

**“State shall create programs, which aims at helping local producers to meet relevant EU regulations and standard procedures, be it access to information, conduct of consultations, increase of farmers houses and role of training centers, etc.”**

**Comment:** Within the framework of cooperation with the EU, EU Assistance Program has been signed, primary aim of which is to assist the Government of Georgia in implementing Deep and Comprehensive Free Trade Area (DCFTA) and integration with EU market. According to the program, attention shall be paid to the development of private sector and strengthening of small and medium business opportunities in the course of adapting with new regulatory environment.

In the process of provision of EU assistance, along with other organizations (EBRD, CIS), Entrepreneurship Development Agency will be engaged in the process. The Agency will give consultations to entrepreneurs in the process of adapting to DCFT requirements. Moreover, Entrepreneurship Development Agency, within the framework of EU program, elaborates certain products to be offered to entrepreneurs in the future.

**“In order to improve coordination, a single body shall be designated from governmental structures, which will be responsible for communication of responsibilities undertaken before EU.”**

**Comment:** Such body already exists - Ministry of Economy and Sustainable Development is responsible for DCFT implementation coordination and relevant communication. Apart from this, within the frames of the Commission on Integration of Georgia into the EU, Interagency Subcommittee is set up on the level of Deputy Ministers and Heads of the Agencies, which are responsible for DCFT implementation monitoring.

**“It is necessary to care for further diversification of market, provided that increased dependence on the Russian market being one of the most politically sensitive issue, might, on the one hand, be utilized as a political tool with respect to the country and, on the other hand, in case of excessive dependence, even in absence of political problem, those risks are directly reflected on Georgia's economy, which today triggers the fall of Russian Ruble for the Russian economy; Therefore, it is vital that the Government strengthens its actions to look for other markets, including China and nearest Asian countries.**

**Comment:** Government is actively working on diversification of export markets. After putting DCFTA into operation, one of the significant achievements in this regards is launching of

negotiations on the conclusion of Free Trade Agreements (FTA) with the countries of European Free Trade Association. First round of negotiations will be held in September of 2015. Moreover, we launched the process of research on the expediency of conclusion of Free Trade Agreement with China.

**"The State shall create programs, which aims at helping local producers to meet relevant EU regulations and standard procedures, be it access to information, conduct of consultations, increase of farmers houses and role of training centers, etc."**

**Comment:** Works has already been started in this direction. One of the main priorities of the Entrepreneurship Development Agency is to help entrepreneurs in the process of adapting to DCFT requirements, which shall be implemented through various financial and non-financial tools.

## **Agriculture**

**"Inventory of all existing documents (both paper and electronic versions) shall take place in order to determine where we stand in terms of land reform today, what are the dynamics in this direction and approximately what can be the scale of actions to be implemented? Discrepancies, if any, between the information kept in central administration of public registry and local divisions shall be eliminated."**

**Comment:** We have already started regulating the above issue and National Agency of Public Registry already carried out significant amount of work in this regards.

National Agency of Public Registry performs processing of registered data and their transformation into electronic format. Transformation process includes several phases: description of registration data kept in the registration office; transportation of these documents to the main office; consideration of each registration record and documentation related to them and, based on respective analysis, reflection/archiving of rights on immovable things in an unified electronic program; scanning of registration materials; obtaining cadastre plans kept in the documentation in the process of scanning and electronic archiving.

In order to start unification of registration practice and centralization of an agency, Draft Rules of Procedures of LEPL - National Agency of Public Registry has already been drawn up. Instead of entering into force of the new Rules of Procedures and 65 registration offices, 8 regional has been set up with the right of registration. The latter provided better uniformity of registration practice.

Everyday work of the Agency is to give similar directions to the registration offices regarding uploading these directions on an electronic book named "EUNOMIA".

**Problem of non-uniformity is already resolved. Please, below see the information on the work done in this direction:**

### **Description of archives and existing documents:**

2013 - transportation of archive paper documents for technical registration from territorial office to the head office has been **completed**;

2013 - description, including data in an electronic registry of documents have been **completed**;

2014 - digitalization of hard copy documents is **underway** (44.2% of work is already completed. Totally, there are 21 157 of non-standard binders and 9.359 binders digitalized).

**Project will be completed in 2017.**

2014 - transportation of paper documents from territorial office to the head and Kutaisi office is **in progress**.

2014 - description, including data in an electronic registry of documents is **underway**;

Totally, there are 175 747 binders, 100 375 binders are transported and included in an electronic registry.

**Project will be completed in 2017.**

**Paper documentation and data in the regions below are fully processed and transferred to the electronic data basis.**

Kobuleti, Kutaisi, Gardabani, Tetrtskaro, Gori, Rustavi, Mtskheta, Tianeti, Tsalenjikha, Mestia, Qeda, Khulo, Shuakhei, Kazbegi

**Partly archived regions**

Bolnisi, Dusheti, Vani, Sachkhere, Ambrolauri, Lentekhi, Chiatura, Tkibuli, Tsageri, Tskaltubo, Khoni, Kharagauli, Bagdati, Chkhorotsku, Oni, Senaki, Khobi.

**“From 2012 until 2014, agriculture share in GDP of Georgia increased from 8.6% to 9.4%, totally by 0.8%. Such growth demonstrates less cost-effectiveness of expenditures. Accordingly, current policy need revision.”**

**Comment:** Agriculture share in GDP is 9.4%, however, this is only an initial indicator. Any added value is distributed in Agricultural business, in different sectors, for instance, food production share in GDP for 2013, based on the preliminary data of 3rd quarter, amounts to 7.3%, the same indicator in 2012 was 6%. Consideration of this issue as stated above is misleading, provided that in parallel with the development of agricultural business, initial production share in GDP might be reduced, since they will be distributed among various sectors of agricultural business. It is essential that agricultural production is increased. In addition, effectiveness of expenditures is planned for the long-run, considering the characteristics of this sector.

It also should be noted, that according to the data of 2014 of Georgian Statistics, value of **produced products in agricultural business** amounts to 7.9 billion GEL. Compared to 2013, this indicator has increased by 10%, and 2012 indicator - by 20.9%. Out of total production of agricultural business, **initial agricultural production value** amounts to 3.4 billion GEL and increased by 5.2% in comparison with the last year, and with 2012 - by 20.3%. **Total value of agricultural food products** amount to 4.5



billion GEL and increased by 13.8% compared to the last year, and by 21.4% compared to 2012. As regards an added value in agricultural business, based on data of 2014 of Georgian Statistics, it amounts to 4.1. billion GEL. In comparison with 2013, this indicator has been raised nu 9.7% and by 26.4% as compared to 2012.

In 2012, the Government made radical changes to its approach towards development of agriculture. Agricultural sector became one of the top priorities of the country, budget of the Ministry of Agriculture has increased for several times, particular importance has been paid to melioration works, purchase of agricultural facilities and their utilization, implementation of assistance programs for farmers owning small lands, conduct of preventive actions to fight against cattle diseases, allocation of funds for purchasing such labs, technical equipment of which will allow us to pass international accreditation. Essential attention is paid to market diversification.

During 2013-2014, as a result of governmental efforts and active cooperation between private sector and donor organizations, positive trends are seen in terms of production growth, broadening export markets and attracting investments in agricultural sector. Moreover, government is working on a number of institutional reforms, which in a long run will bring along positive consequences in this field. Several large-scale projects have been implemented, which resulted into financial and technical assistance extended to our entrepreneurs, farmers, peasants, as well as for educational purposes. State policy will help our entrepreneurs, farmers and peasants to response to new economic challenges facing Georgia after the signature of EU-Georgia Association Agreement. They will also be able to produce European standard, ecologically safe, competitive products and establish themselves as a reliable partners on an international market.

The aim of the government is to create such an environment, based on principles of sustainable development, which will foster stable growth of high quality agricultural product, raise of compatibility, ensure food safety and fight poverty in the countryside.

**“We clearly see the trend of increased transparency of programs in the light of raising program funding. Programs do not have sporadic nature, however, we can argue on the relevance of some of the programs, like the program on supporting farmers with small lands. The latter is particularly demonstrated if we make parallel not only in the context of previous programs.”**

**Comment:** Program on supporting farmers with small lands ends in 2015. Program brought along several positive consequences, which was reflected in the swelling of treated lands. According to the data of Georgian Statistics, in 2014 farmland areas have boosted by 24%, compared to 2012. Program also entailed certain positive results.

It should be also noted that, competition on the market cannot be deteriorated through the amount of assistance that the state provides for farmers.

**“Preferential loans program, despite the fact that it triggered considerable boost of funds in this sector, might face serious consequences in terms of sustainability, especially when there will be no relevant funding resources.”**

**Comment:** provision of cheap and accessible funding is one of the factors to support opening of new factories and enlarging the old. This program, which runs quite successfully serves exactly this aim. In addition, one of the aims of this program is to broaden cooperation between banking sector and agricultural representatives and build confidence. This will be gradually substituted by private sector and the state will not conduct such interventions.

The purpose of the Program on the support of spring works to farmers with small lands is to stimulate their activities, with the support of implementation of initial production agricultural technology activities to establish sustainable and developed farm economy.

Program brought along positive results, which was reflected on the growth of land areas. According to the data of Georgian Statistics, in 2014 farmland areas have boosted by 24%, compared to 2012. Program also entailed certain positive results. As a result of the program, such areas of land have been ploughed, which have been abandoned not treated for years.

Possibility of getting profit through agricultural products stimulated agricultural retail network development both in terms of geographic, as well as quantitative means. In particular, land users had an opportunity to purchase agricultural products in villages and not in regional centers, which has reduced their costs.

There has been an increased interest in agricultural technologies, in particular, utilization of technologies, high-propagating seed material, quality pesticides and agrochemicals.

Furthermore, it should be also noted that, competition on the market cannot be deteriorated through the amount of assistance that the state provides for farmers, provided that the assistance is designated for small farmers most in need of assistance. As a result of the project, farmers felt the benefit of utilization of modern technologies and it should be underscored that the main aim - their stimulation and engagement in agricultural activities is achieved.

Despite all the above-mentioned, other projects are implemented for stimulation of the development of agricultural sector, among them are: "Preferential Agro-loan", "Co-funding of Processing Enterprises", "Produce in Georgia", Agro Insurance", etc.

Farmers and entrepreneurs involved in agriculture have an opportunity to improve initial agricultural production, processing and preservation-realization enterprise processes through provision with cheap, long-term and accessible funds.

New enterprises have been built and old ones reequipped in various regions of Georgia, new jobs have been created and processing of local products has been launched.

Entrepreneurs engaged in the projects are already realizing their own products. Except for internal markets, products are exported both to neighboring countries, as well as to Europe.

Program "Create Future" was added to the list of long-term projects initiated by the Ministry of Agriculture in 2015. The program aims at effective utilization of agricultural lands in Georgia through cultivation of perennial crops.

## 14. Open Government

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"Since October of 2013 percentage of provision of full answers have been decreased and amounted to 71%. For instance, in 2014 Ministry of Internal Affairs and the Ministry of Finance did not share with us the information, which was publicized in details by them at the start of political changes, at the beginning of 2013."

**Comment:** Ministry web-page has been updated - [www.police.ge](http://www.police.ge). Citizens are able to get information through the web-site regarding offices and departments, become aware of ongoing and planned projects and activities.

Application submitted to the Ministry is not left unanswered. It should be noted that 93.2% of applications submitted in 2014 has been fully satisfied, 0.6% partially, only 5.6% has not been satisfied. Rejection to issuance of information was based on the exceptions provided by the legislation of Georgia in the sphere of public information, including, protection of personal data of third persons.

in 2014, new web-page on public information has been elaborated, created on a separate domain. Web-page meets the requirements of set forth by the Decree N219 of the Government and accordingly, navigation panels are spelled out by the menus. Public information is proactively published on respective electronic resource. System of electronic request and supply of information has been introduced and is working perfectly.

Based on the Order of June 16, 2014 of the Ministry of Internal Affairs, point of contacts for the accessibility of public information has been determined in every structural unit, territorial bodies of the Ministry, legal entities of public law and sub-agencies established within the Ministry.

Ministry of Internal Affairs systematically holds media briefings for mass media and carries out practical communication. According to the Decree of August 15, 2013, Temporary Committee on Illegal Surveillance and Wiretapping Matters has been set up, which was also composed of civil society representatives.

Under the initiative of the Ministry of Internal Affairs, Non-governmental Organizations, International experts were also engaged in the process of elaboration of number of bills;

In 2014, Memorandum of Understanding was signed between the Central Criminal Police Department and "Open Society Foundation - Georgia". Within the framework of this Memorandum the project "Rights of a Suspect in the Course of His/He detention in Georgia, Moldova and Ukraine: Fostering Empiric Research and Best Practice" has been implemented and as a result of this project, everyday activities of criminal law practitioners have been directly observed. In addition, for the purpose of obtaining detailed information on practical matters, targeted interviews of policemen, lawyers and detainees have been carried out.

Temporary Detention Isolators (TDI) activities became transparent. According to 2014 data, for monitoring purposes, more than 120 visits have been paid to TDIs by the representatives of public defender and foreign human rights defenders (from November 2012 until October 2013 more than 90 visits and from November 2013 to present - more than 30 visits).

In 2015, accountability and transparency of the Ministry of Internal Affairs is underscored by publicity of Rules of Procedures of such Departments, as General Inspection, Central Criminal Police, Anti-Corruption Agency.

**"It is also important that the Government of Georgia actively continues works within the frameworks of Open Government Partnership (OGP) initiative. This September, the Government of Georgia has approved Second Action Plan 2014-2015 of Open Government Georgia, which also reflects proposals of the civil society: elaboration of electronic platform of petitions, introduction of monitoring mechanism for asset declarations, operation of open data portal."**

**Comment:** authors of the above assessment do not any mention of those international recognitions that has been recently achieved by Georgia and which has been demonstrated by selection of Georgia by Open Government Partnership Members as a member of OGP Governing Committee in August 2014.

Furthermore, the fact that in June 3-4 Regional Conference of Open Government Partnership will be held in Georgia, speaks about international authority of Georgia.

### **Information on the progress of Pilot Project on Initial Registration of land**

**Chapter 3: "Agriculture"** "Improvement of Investment Environment" displaying information on the Pilot Project on Initial Registration of land is important.

One of the priority issues in terms of agricultural development is to complete initial registration of agricultural lands. For this purpose, in 1999-2000 in Georgia, through USAID funding, and in 2012 by the funding provided by the Government of Georgia, projects of initial registration of lands have been carried out the result of which was quite not satisfactory and brought along some vagueness. Today, Georgia tries to eliminate these problems.

Only 20% of Georgian lands are registered. Each and every registered land is a potential object of civil turnout and accordingly, their registration is one of the challenges of Georgia.

As a result of completion of land registration, state, local government and private owned lands shall be defined and their boundaries delimited. Completion of registration will be a prerequisite of right management of the land and its administration.

For the purpose of completion of initial land registration, correction of errors in registration and perfection of their cadastre data, pilot project of land registration is to be launched with the funding provided by the World Bank and which shall be implemented in 12 villages of 11 city councils (the so-called "Sakrebulo").

The pilot project is aimed at fully reveal problems of land registration to define the legislative ways of resolving problems I the course of implementation of the project throughout the whole territory of Georgia.

For supporting the pilot project, with USAID funding and close cooperation with Transparency International, the bill was elaborated after adoption of which land measurement works will start.

As a result of the project, legal and cadastral data on real estate will be created in pilot regions, which will foster development of immovable property market. The project will provide for completion of initial land registration right and compliance of controversial data with errors, registered in public registry with the requirements of the legislation, which provides for civil turnover capacity of all registered land, and authentic registration of land raises reliability of Georgian and foreign investors with respect to them.

## **15. Media Environment**

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**"Ministry of Internal Affairs shall withdraw the so-called "Active Reserve Officers" from national communication commission and public broadcast. Representatives of the Ministry of Internal Affairs infringe the independence of these institutions, as guaranteed by the legislation of Georgia."**

**Comment:** Issue of this institute is discussed within the framework of the reform of the Ministry of Internal Affairs of Georgia. It is possible, that it is transformed considering international experience and national security interests.

At the outset, it should be underlined that the report underestimates those achievements that have been carried out since 2012 in the field of media, and the situation existing in Georgia before 2012 in terms of media freedom, is considerably eased. For instance, document does not speak on total control executed by the previous government with respect to media, and in particular with televisions having general broadcast, which is endorsed by several facts. Instead, we read in the document that "we faced" obstruction of journalist activities and there has been cases of "putting pressure on the means of media". Moreover, the report says that main means of media have been in the past owned by persons close to the government and this was reflected on their editorial independence. Is it possible that political interests of their owners are still reflected on their editorial independence, or these owners have not changed and they still represent "National Movement". Hereby, the report does not mention that representatives of previous government still own the means of media, while after 2012, for the purpose of avoiding political implications, shut down the television channel owned by his family, even though this was not request by the legislation in force.

Furthermore, when we refer to the achievements of the new government, there is no mention that Georgia considerably improved its positions in international ratings.

"Reporters without Borders", "EAP East Media Freedom Watch", "Freedom House" and Media Freedom Index published in 2014 researches endorse the above statement. In addition, Georgia takes first place in terms of media freedom both in Eurasia region, as well as among Eastern Partnership countries. According to the conclusion of the international organization "Reporters without Borders" Georgia index has been improved by 31 steps in 2 years.

As for the members of the Government, including the critics expressed by the former Prime-Minister with respect to media means represents the freedom of expression of any person; accordingly, representatives of the government and previous government enjoy the right to agree or not agree to the position of any media means or journalist. While assessing their expressions, first and foremost is that whether their words have had any pressure or interference in any of the media means editorial policy. Such fact never happened. Unlike previous years, none of the means of media will blame the Prime-Minister or the previous Prime-Minister put any pressure on them. Furthermore, Administration of the Government is in one of the leading positions in terms of publicity and timely issuance of information.

As a last point, claims regarding the TV "MAESTRO" are not quite clear. "MAESTRO" is an independent TV station and the government cannot be responsible for the decisions of their owners. Document does not refer to any specific fact in this regard. Private journalist talks, which cannot serve as an argument or the fact, cannot be considered seriously.

## 16. Violence against women in Georgia

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### Positive Changes

**General Comment:** According to the Law of Georgia on “Protection and Assistance to Victims of Violence” LEPL Social Service Agency will increase number of social servants and provide for their retraining; 67 social servants will be retrained before July. Preparation of by-laws is underway; so that the victim can enjoy social assistance upon his/her return to the family.

### 3.5. National Strategy for Prevention of Violence

- „ Strategy is not based on earlier research;
- Strategy encompasses only long-term goals;
- Project is mainly of general character, it gives more attention to theories about causes of violence and theories about fight against violence and is not based on practical experience and concrete steps which can be taken to prevent violence.
- Strategy is based on incorrect views about causes of family violence;
- Strategy is not based on evidence;
- According to the Strategy, school life encompasses participation of religious organisations, which creates threat to human rights based approach as well as threat of indoctrinization of pupils at schools.
- The role of the court in fighting violence against women is not vivid in the Strategy document, e.g. through delivering gender sensitive justice.

**Comment:** 1) Strategy represents state vision of preventing the problem of violence by means of implementing both short and long-term mechanisms; this is in line with the best international practice. Strategy is not limited to very specific problem of family violence, but it also provides for implementation of internationally recognized effective prevention mechanisms in relation to other situations of violence. In general, the essence of the Strategy and its indispensable element is concentrated in its long-term approach (implementing long-term mechanisms for achieving concrete goals) as well as definition of concrete principles. Best practices of leading European states (e.g. German Federal Republic, Switzerland, Austria) clearly indicate that provision of a lifestyle free from violence is only possible if concrete interventions are grounded on long-term mechanisms. Text of the Strategy clearly outlines that effective result is only possible if reaction measures are closely linked to preventive mechanisms. Given the difficulty and the scope of the problem to be addressed, one-time interventions (which are of course, also necessary) do not give long-term results in problem prevention. Due to its preventive essence and objective, the Document is based on the general concept of prevention, according to which threat needs to be counteracted as of emergence, and possibility of the threat being realized needs to be minimized to the maximum extent. Consequently, Strategy document presents traditional prevention mechanisms as first (educational and awareness raising activities), second (targeting concrete risk-groups), and third-stage interventions (rehabilitation- resocialization). Without the aforementioned, title of the Document and prevention idea which constitutes its essence would have simply lost its meaning.

1) It is not correct to argue, that the Strategy involves only long-term measures, is of general character and does not include concrete interventions. On the contrary, Strategy clearly identifies concrete measures to be implemented by the law-enforcement bodies directed at improving effectiveness of reaction to violence; Document also identifies necessity of raising law-enforcement personnel's sensitivity towards family violence issues. Moreover, excess/more concretization would contradict the aim and the object of the Strategy itself, as identification of particular, concrete interventions and responsible bodies falls in the realm of an action-plan, rather than a strategy. Action-plan indeed, must entail concrete measurable milestones and quality indicators. Consequently, the job of the present Strategy is to systematize major directions identified to reach the final goal, which are then subject to concretization in the action-plan. It is advisable to dwell on several parts of the Strategy:

**Activities Directed at Preventing Violence and Raising Work Effectiveness of the Law-enforcement and Other Bodies:**

- It is important to perfect the coordination mechanism of fighting against the problem and to institute monitoring mechanism over implementation. For this reason:
- In order to build trust towards law-enforcement bodies, it is necessary to continue qualification raising courses for police officers. Course module, along with legal issues, should be oriented on changing law-enforcement officers' attitude towards gender-based violence and crimes, as well as violence and crimes directed against the child;
- Since the Ministry of Interior is the state body which first reacts to incidents of violence in the family, it is crucial that the police officer is equipped with necessary skills and instruments for risk-assessment. It is recommended to study best international practices in this regard and institute mechanism entailing assessment methods. In order to raise efficiency, cultural, ethnic, religious, and social diversity of different communities needs to be taken into account when devising assessment instruments. This will facilitate communication with parties involved in violence and assist revealing reality;
- In order to adequately react on incidents of family violence, it is advisable that law-enforcement bodies use Standard Operating Procedures (SOP), which shall be mandatory not only for police officers, but also for relevant staff of the Prosecutor's Office. Existence of such document will prevent from two different state bodies having inconsistent approaches towards crimes of family violence.
- Guiding document on reacting to family violence facts needs to be devised for police officers. The document should entail not only police technique for conducting procedures provided by the legislation in cases of violence, but also methodology for acquiring consistent evidence required for identification of the victim and perpetrator participating in the incident, identification of the forms of violence, and making relevant decisions. The said Instruction should also reflect recommendations related to supervision/monitoring of activities to be taken for fulfilling requirements of protective/preventive orders.

In order to raise effectiveness of existing legal mechanisms for preventing domestic violence, it is recommended to simplify court procedure for approving the preventive order. Existing bureaucratic procedures hinder cooperation of victims of violence with law-enforcement bodies. Should the procedure be simplified in accordance with international practice, the court will



only check legality of the use of applicable actions by the police officer as envisaged by the preventive order, thereby significantly reinforcing internal control over issuance of such orders. Moreover, this kind of simplification will unload the court and discharge its significant resources;

Monitoring of domestic violence prevention and reaction mechanisms must be oriented on assessment of concrete actions by law-enforcement officials and filling in the gaps. In addition, it is important to raise the issue of relevant responsibility of particular law-enforcement officials in cases of non-adequately conducted intervention, non-due performance of responsibilities, as well as other infringements.

### **Also, Activities for Protection and Rehabilitation of Victims**

It is important to reinforce control of responsible bodies in order to ensure further effective implementation of the interim measures for victims protection. Issuance of preventive/protective orders in all relevant cases is crucial, as it ensures effectiveness of the monitoring system of protection measures which are envisaged by preventive/protective orders and aim at protecting the victim, and his/her dependent from the perpetrator;

State and civil society organizations have to cooperate in jointly reinforcing targeted policy for victim support. This can be achieved through raising awareness of the victims about violence, providing educational course, as well as organizing their study for professions satisfying market requirements and currently on demand. In this way, both sectors will contribute to independence of victims and their life in violence-free environment.

It is important to prepare concept paper on rehabilitation of the victims of violence, providing for psychological and socio-economic rehabilitation of the victims through relevant rehabilitation programs;

- It is important to increase effectiveness of the referral mechanism for victims of domestic violence. For this purpose, staff of participating stakeholders, (law-enforcement, Child Protection Officer of the Educational Institution, teachers, administration staff, doctors (village doctors), social workers, and employees of the system of justice), need to be retrained jointly.
- Draft legal amendments have to be prepared addressing witness examination over facts related to domestic violence and particularities of protection of the data related to witnesses (to avoid their identification by perpetrators);
- Local self-government participation and forms of such participation in the fight against domestic violence need to be determined (based on introduction of relevant legislative amendments) It is important to develop and support prevention-oriented municipal incentives in cooperation with the non-state sector and central authorities;
- Analysis of legislation targeted to fight violence against children (adolescents) in families is to be carried out, relevant legislative amendments have to be prepared, and practical measures contributing to early revealing of facts of violence against child in the family need to be determined.

**Also,**

- In order to address domestic violence challenges, State must effectively react to incidents of family violence. Law enforcement officials cannot consider domestic violence facts as less important, thereby failing to afford equal protection. State officials should be held responsible whenever they fail to fulfill their responsibilities envisaged by law.
- In parallel with breaking isolation and raising awareness, one of the important components of prevention is building societal trust towards law-enforcement structures and partnership with citizens. Therefore, gender –equality sensitiveness in the approach of the law-enforcement officers is required when reacting on or preventing family violence.

Strategy is based and takes into account studies conducted by international organizations in Georgia (studies supported by UN Population Fund and UN Women) and recommendations delivered, as well as analytical studies conducted by state bodies and statistical data. Any part of the Strategy is in compliance with standards which are used to develop European documents on relevant issues. For example, National Strategy part on preventive mechanism of civic education fully corresponds to “Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education”. In addition, in relation to the “problem of attitude”, Strategy document takes into account both concrete experience of individual states (Austria, Germany, Switzerland, WHO studies), as well as other research indicating the fact that alcohol, gambling<sup>19</sup>, drug and different psychotropic substance abuse,<sup>20</sup> etc contributes to expression of violence in concrete facts. For instance, according to one foreign study<sup>21</sup> 50-55% of violence incidents have occurred under the effect of alcohol; also, according to US State Department information,<sup>22</sup> in 61% of domestic violence incidents, problem of substance abuse could be traced as circumstance provoking violence. Similarly, reflection of abuse is present in strategy documents of leading European States, as well as in World Health Organization studies and international diagnostic system. Ideas presented in the Strategy related to mediation institute are also based on best practices of leading states (e.g. Norway, Germany, Belgium, EU standards, US, and Canada).

2) Experience of European states shows that idea of prevention is linked with the vision of problem solution in the future, namely - how should violence prevention be exercised with the participation of state and civil society institutions. Strategy nowhere indicates inclusion of religious organizations in school life. Possible inclusion of religious organizations is mentioned only once, in the area of mediation, when discussing possible inclusion of religious organizations in a public meeting dedicated to popularization of mediation, in order to support the idea of peaceful, nonviolent solution of conflicts (since peace and love constitute major ideas for practice of traditional religious organizations). In addition, Strategy naturally does not imply support to proselytism by religious personnel in contrast with the principle of secularism, which is already prohibited. The issue concerns only the possibility to positively affect public opinion in support of nonviolent behavior and campaign of peaceful solution of conflicts. In particular, the text of the Strategy only indicates: “Public support is important for the success of this

<sup>19</sup>Tilman Becker *Soziale Kosten des Gluecksspiels in Deutschland, Forschungsstelle Gluecksspiel Universitaet Hohenheim* (2011), S.48.

<sup>20</sup>Collins, James J. and Donna L. Spencer *Linkage of Domestic Violence and Substance Abuse Services, Research in Brief, Executive Summary* (2002) U.S. Department of Justice.

<sup>21</sup>Bundesministerium fuer Familie, Senioren, Frauen und Jugend *Gewalt gegen Frauen in Paarbeziehungen* (2009), S. 39.

<sup>22</sup>Collins, James J. and Donna L. Spencer *Linkage of Domestic Violence and Substance Abuse Services, Research in Brief, Executive Summary* (2002) U.S. Department of Justice.

program [mediation program]. Public unity will further be ensured if the school manages to include exemplary persons (CSO representatives, successful graduates, different religious personnel, famous persons) in the process of school mediation". Total exclusion of religious organizations from the said campaign would have been too artificial, since social study sciences (e.g. sociology) regard religious organizations as one of the mechanisms of self-control by the society. Examples from leading European countries are also grounded on this idea (in particular, participation of so called traditional religious organizations in public life with due regard to strictly upholding the principle of secularism). In addition, the same Strategy envisages necessity to maintain neutrality, when clearly indicating: "Civic education in general and as prescribed subject under National Study Plan should be **free from individual doctrines** in compliance with the principles of democracy. Civic education should neutrally present diversity of values and ideas in the society and must not reflect ideological, philosophical, religious, political views of any particular group, as well as serve aims and interests of a particular state body".

3) Comment regarding causes of domestic violence is incorrect and subjective. Strategy clearly differentiates major causes of violence in the family from factors contributing to domestic violence. In particular, according to widely recognized approach, major cause of violence in the family is the aim of one of the family members (perpetrator) **to establish authority and control** over another family member (victim), while factors contributing to domestic violence mainly have effect over the intensiveness/level of violence and constitute circumstances provoking violence. Factors contributing to/ provoking family violence can be cultural, economic, legal, or political in character. Nowhere Strategy indicates which of these factors, taken alone, can constitute cause of violence, as only where these factors combine with each other or other factors can they amount to circumstances causing/contributing to violence (the aim of one of the family members (perpetrator) **to establish authority and control** over another family member (victim) remains to be the main cause of violence).

Strategy outlines the following as factors contributing to or provoking violence:

- Gender inequality between women and men, benefitting the latter;
- Predefined gender roles (man and woman);
- Traditional understanding of man's dominant role in the family;
- Understanding of man, as the owner, proprietor;
- Understanding that family is a private sphere out of the external control;
- Early/forced marriage;
- Non-sensitive approach by law-enforcement officers towards gender-based facts of violence;
- Understanding violence as the accepted method of problem solution. E.g. parents can consider such measures as best fit for upbringing children.
- Violence experienced earlier/in the past (during childhood) in the family or upbringing institution, after which victims can become perpetrators themselves.
- Alcohol and drug/substance abuse;
- economic dependency of woman on man, which could result in woman staying with the perpetrator;

- Inadequate opportunities for realizing work and intellectual potential on the employment market.
- Lack of access to education;
- Man's understanding of increased economic activity and independency of woman as a threat;
- Low level of legal awareness;
- Lack of women's representation in political system, business sector, law-enforcement agencies, and other spheres, especially on leading positions, which results in women being identified solely as part of the family rather than an independent individual active in public sphere.

4) Strategy represents views of the Government on the prevention fight against violence. Consequently, based on the principle of separation of powers, with regard to the Judiciary, the Strategy only touches on issues of retraining and legal amendments (since, according to the Constitution, the judge is only bound by justice and the law). In particular, for ensuring sensitive approach:

- it is important to raise effectiveness of the referral mechanism for victims of domestic violence. For this purpose, it is necessary to jointly retrain staff of participating stakeholders (law-enforcement officials, Child Protection Officer of the Educational Institution, teachers, administration staff, doctors (village doctors), social workers and **employees of the system of justice**);
- With regard to conducting mediation on family conflict cases in the court, "legislation needs further approximation to international instruments on domestic violence. In particular, Council of Europe Convention "on preventing and combating violence against women and domestic violence" needs to be taken into account. According to this instrument, parties are prohibited to employ mandatory alternative dispute resolution (including mediation and reconciliation), if the issue concerns violence against women. Consequently, if relations existing between parties create threat to either of them, mediation procedure should not be mandatory".
- In order to raise effectiveness of existing legal mechanisms for preventing domestic violence, it is recommended to simplify court procedure for approving the preventive order.
- Draft legal amendments have to be prepared addressing witness examination over facts related to domestic violence and particularities of protection of the data related to witnesses (to avoid their identification by perpetrators);

### 3.6. Services/Rehabilitation

National Strategy for Prevention of Violence defines numerous measures for protection of victims and their rehabilitation, which aim at establishing services and improving access to these services as well as economic reinforcement of the victims. In this regard, increasing control by responsible bodies is foreseen for ensuring further effective implementation of temporary

measures for protection of victims. Strategy foresees development of a concept paper on rehabilitation of the victims of violence, providing for psychological and socio-economic rehabilitation of the victims through relevant rehabilitation programs;

As a future step, Strategy identifies raising awareness of the victims about violence, providing educational course, as well as organizing their study for professions satisfying market requirements and currently on demand, thereby contributing to independence of victims and their life in violence-free environment.

with regard to psycho-social rehabilitation of victims, increase of work effectiveness of the Ministry of Health, Labor, and Social Affairs and Ministry of Education and Science and in general, improvement of coordination between responsible agencies is foreseen.

## 17. Labor Rights

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"Nevertheless, analysis of amendments made reveals legislative errors and the lack of new material standards introduced by the amendments in terms of protection of rights.<sup>23</sup> Besides, Current practice of realization of rights illustrate that amendments could not ensure considerable reduction of the scale of labor rights violation and its severity, as well as improvement of the condition of employed,<sup>24</sup> provided that the amendments did not covers issues of introducing mechanisms for effective execution of norms."

**Comment:** The following major amendments were made to the Organic Law of Georgia - Labor Code of Georgia in 2013:

1. Grounds for termination of the contract has been determined, in case of a dispute, burden of proof for factual circumstances has been vested on the employer;
2. Grounds for the conclusion of labor contract for definite time, as well as the obligation to conclude the contract in writing, in case the labor relations last for more than 3 month, has been defined;
3. A brand new chapter appeared at the Code, named "Freedom of Association", which is brought into compliance with the 87<sup>th</sup> Convention on the Freedom of Association and Protection of the Right to Organize and 98<sup>th</sup> Convention on the Right to Organize and Collective Bargaining of the International Labor Organization;
4. Term - collective bargaining has been defined in accordance with international standards;
5. Labor mediation mechanisms has been introduced;
6. New chapter "Tripartite Commission for Social Partnership" has been added to the Code, which envisaged the principles, functions and duties of the Commission;
7. Maternity leave duration has been extended from 477 to 730 calendar days, out of which 183 calendar days are paid, instead of 126 calendar days. As regards the number of days of a leave for adopting an infant, 365 calendar days has been substituted by 550 calendar days and out of these day 90 calendar days are paid, instead of 70 calendar days;
8. Provisions on prohibition of discrimination have been added to the Code, both in pre-contract relations, as well as on the grounds of association.

**The following legal acts have been elaborated and adopted:**

1. Action Plan of 2013-2014 on the State Strategy for the Formation of Georgian Labor Market and Realization of State Strategy for the Formation of Georgian Labor Market;

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<sup>23</sup> Legal Conclusion of Georgian Young Lawyers' Association (GYLA) on amending the Labor Code of Georgia, 19.04.2013;

<sup>24</sup> Georgian Trade Union Confederation (GTUC), "Study of Workers' Rights in Georgia, Statistical Research, Report"; 2014; available at: [https://drive.google.com/file/d/0B29JO5L\\_QB0MM1oxOHc1NFhCaGM/view](https://drive.google.com/file/d/0B29JO5L_QB0MM1oxOHc1NFhCaGM/view); last seen on January 15, 2015; p. 6-15.

2. Decree N258 of the Government of Georgia of October 7, 2013, on the Approval of Rules of Procedures of Social Partnership Tripartite Commission;
3. Decree N301 of the Government of Georgia of November 25, 2013 on the Approval of the Rules of Consideration and Decision of Collective Dispute Conciliation Procedures;
4. Decree N329 of the Government of Georgia of December 11, 2013 on the Approval of the List of Fields of Specific Work Regimes;
5. Order of the Minister of Labor, Health and Social Affairs of Georgia, dated December 6, 2013 on the Approval of the List of Activates related to the Life and Health Safety of a Person;
6. Order №01-44/5 of the Minister of Labor, Health and Social Affairs of Georgia, dated December 11, 2013 on amending the Order №231/5 of the Minister of Labor, Health and Social Affairs of Georgia, dated August 25, 2006 on the Approval of Leave Pay Rules for Pregnancy, childbirth and child care, as well as adoption of an infant; According to this Order, pay leave has increased from 600 to 1000 GEL;

Bills have been prepared on “Employment”, “Labor Safety and Health Protection”, as well as “Labor Migration”.

Organized by the Ministry of Labor, Health and Social Affairs of Georgia and with the participation of International Labor Organization (ILO) 8 candidates (4 primary and 4 reserves) has been selected and trained for mediation of collective labor disputes.

In 2013, Labor Department allocated grant for the project “Improvement of Observance of Labor Legislation in Georgia”, which is implemented by ILO in close cooperation with the Ministry of Labor, Health and Social Affairs of Georgia.

For protecting labor safety of employees and their health, State Program for Monitoring of Labor Conditions has been elaborated by the Ministry of Labor, Health and Social Affairs of Georgia in cooperation with social partners and other agencies.

The above program has been approved by the Decree N38 of the Government of Georgia of February 5, 2015. The program envisages inspection of enterprises to provide for the assistance to the employer in creating safe and healthy working environment. Implementation of the program will result into the analysis and assessment of current situation in terms of labor conditions at the labor market. These analysis and assessments will serve as guidelines to take appropriate actions in this direction.

Special persons with appropriate training will monitor labor conditions. Trainings will be held supervised by the experts of European Agency for Safety and Health at Work and International Labor Organization.

Program budget of 2015 amounts to 1 million GEL and it will be implemented within the funds appropriated by the Law of Georgia for the Program of Labor and Employment System Reform (program code 35 05).

Furthermore, in order to introduce mechanisms of labor safety protection for employees in Georgia, as well as to prevent discrimination at work and forced labor, a new structural unit – Labor Inspection Department was set up within the Ministry of Labor, Health and Social Affairs of Georgia (Decree N81 of the Government of Georgia of March 2, 2015), which will prepare grounds for introducing comprehensive mechanism of inspection introduction.

Here are the competences of the Department: elaboration/perfection of relevant legal framework for the purpose of improving current condition for the protection of labor in organization-institutions, fostering introduction of the protection of labor safety mechanism, elaboration of respective recommendations for the prevention of discrimination at work and forced labor.

Action Plan of 2015-2018 on the Realization of State Strategy for the Formation of the Policy on Labor and Employment of Georgia (Decree N199 of the Government of Georgia of August 2, 2013) provides for assessment of Labor Code of Georgia, elaboration of recommendations, discussions with social partners and in case of necessity elaborates the package of amendments.

## 1.2. Absence and Consequences of Labor Safety and Control Mechanism

**“As of today, the country lacks an institution, which will be responsible for monitoring of protection of labor conditions and safety rules and in case of their violation, will take appropriate effective measures.”**

**Comment:** For the protection of labor safety and health in Georgia, State Program on Monitoring of Labor Conditions has been elaborated by the Ministry of Labor, Health and Social Affairs of Georgia, in close cooperation with social partners and other agencies.

The above program has been approved by the Decree N38 of the Government of Georgia of February 5, 2015.

The program envisages inspection of enterprises to provide for the assistance to the employer in creating safe and healthy working environment. Implementation of the program will result into the analysis and assessment of current situation in terms of labor conditions at the labor market. These analysis and assessments will serve as guidelines to take appropriate actions in this direction.

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## 2. Amendments

**“With International support, the state launched advancement of mediation institute and adopted the State Program on Monitoring of Labor Conditions. Nevertheless, the problem does not quite response to actual needs and does not provide for the creation of effective control mechanism.”**

**Comment:** (State Program on Monitoring of Labor Conditions) for the purpose of introducing labor mediation mechanism, the Government of Georgia approved the Decree N301 in November 25, 2013 on the Approval of the Rules of Consideration and Decision of Collective Dispute Conciliation Procedures. Organized by the Ministry of Labor, Health and Social Affairs of Georgia and with the participation of International Labor Organization (ILO) 8 candidates (4 primary and 4 reserves) has been selected and trained for mediation of collective labor disputes. In 2014, 3 cases of labor mediation has been implemented (RMG Gold/“RMG Copper“, JSC “Georgian Railway” and Ltd “Georgian Post”). All these three cases ended by conciliation procedures.

## ***18. Right to Housing - legal status of socially vulnerable homeless people***

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### 1.2. Legal Framework

**“State does not register homeless persons living in the streets and represent the most vulnerable category among the group of homeless persons, in a unified system of socially vulnerable persons. Consequently, these persons are not able to receive benefits designated for socially vulnerable persons.”**

**Comment:** Current social protection system is based on the assessment of social-economic condition of specific household. Accordingly, homeless persons do not fit in this category; however, kids living

and working the streets enjoy various services provided by the state (day care, transitional center, etc.). These services are provided to 380 beneficiaries.

## 2. Amendments

“Georgia set up Temporary Commission Working on the Problems of Homeless in 2013-2014; however, the Commission was working solely on temporary involvement of urgent needs of homeless<sup>25</sup>. There is no long-term strategy and vision on settling the problem of homeless. As a result, despite the fact that this Commission does not function any more, a tent is still there for already two years and continued application of these temporary measures cannot meet the requirements of proper minimal living standards. According to the statement of the representatives of Tbilisi Mayor’s Office, some plan exists, which provides for building shelters for homeless.”

**Comment:** This Ordinance was cancelled, nevertheless, in accordance with the Ordinance N1918 of October 24, 2014, Tbilisi Mayor’s Office will provide homeless with relevant services; moreover representatives of other state agencies are also participating in the commission work.

## 3. Amendments (general information)

Funded by the Swiss Development and Cooperation Agency (SDC), the Study “Urban Planning and Architectural Standards for Social Housing Architectural Design“ has been elaborated. Information on the study is available at the official web-site of the Ministry of Economy and Sustainable Development of Georgia. The document well describes world practice on designing social housing, construction, funding and management.

## *19. Status and Condition of the rights of IDPs*

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### *Situation after the elections and measures taken*

1. According to the Ordinance N1944 of the Government of Georgia of October 30, 2014, Project on the Transfer to Legal Ownership of Property of Internally Displaced Persons". At the first phase of the Project, identification of collective centers of Internally Displaced Persons (IDPs) registered in IPD data base has been carried out (the following premises have been identified and grouped in the course of the above works: 1. premises that are registered as a state property; 2. premises not registered; 3. and premises, registered as a private property), and on the second phase of the project process of privatization has been carried out.

2. Special Division related to the project has been added to the hot line operating within the Ministry. This Division provides for answers to all the questions posed by the beneficiary.

In case of a claim, the IPD can contact the hot line operators designated for claims operating within Ministry and UN High Commissioner for Refugees and give information on the issues of their concern. Operator shall register the claim immediately, obtain relevant information from various state agency structural units and inform the concerned IPD on the decision made. At the last stage, base on the analysis of identified complications, analytical report is drawn up and the

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<sup>25</sup> *ibid.* p.68.

recommendations regarding amendments to be made to the legislation or practice shall be submitted to the Ministry management.

3. Besides, according to the Order N500 of the Minister of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia of 2014, Interagency Working Group has been set up aimed at improving errors made in privatization process in 2009-2012.

The Group is composed of LEPL - National Agency of Public Registry of the Ministry of Justice of Georgia, Ministry of Economy and Sustainable Development of Georgia, Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees.

4. Moreover, cooperation between the Ministry and local and foreign construction companies is key in the course of accommodation activities. Within the frames of this cooperation IPDs will have secured accommodation and they will be given housing in 8 cities of Georgia.

5. Amendments were made to the Guidelines of Long-Term Accommodation Decision, criteria and procedures: 1. terms for submission of the application has been defined; 2. within 15 days after the submission of the application, IPD is able to submit additional documentation, based on which modification can be made to the scored conferred; 3. stemming from the needs of persons with disabilities and vulnerable IPDs, special mechanism as been identified; 4. And last, IPDs living with relatives, (1) renting apartments, (2) families of killed soldiers, (3) persons possessing military awards, (4) are given extra scores.

6. Hereby, program of purchasing house should be mentioned. Within this program, the Ministry purchased houses in villages with household plots to 115 applicants.

7. Furthermore, Agency for Providing Livelihood to IDPs has been established within the Ministry.

The Agency was established by the Decree N34 of the Government of Georgia of August 7, 2014.

The aim of the Agency is to ensure social-economic integration of IDPs, their employment, services, infrastructure and improvement of living conditions.

**"As demonstrated by the recent practice, Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees does not provide IDPs with timely written decision on the refusal to housing request. Moreover, written decisions does not imply reference to its appeal, which is a serious obstacle realization of procedural rights of IDPs (to protect and restore their rights through appellation).**

**Comment:** this practice is triggered by the frequency of relevant commission meetings and the number of submitted applications. Accordingly, sending thousands of letter to all applicants entails some complications. Instead, Ministry publishes answers to these applications on its web-side (both positive and negative), rights after drawing up of the minutes of the relevant commission meeting.

9. The Ministry is interested in the exact content and specific example of the paragraph provided by Transparency International in its Report: "concrete steps taken with the aim of providing housing to

IDPs shall be positively assessed, nevertheless, errors in several areas hinders the process and negatively reflected on IDP rights".

### **Recommendations**

"By analyzing current experience, criteria and score system of distributing housing to IDPs shall be revised."

**Comment:** criteria and score system of distributing housing to IDPs has been revised three times in 2014. This process if continues and renewable. It is constantly ongoing.

"Ministry shall carry out procedures as set forth by the legislation regarding sending of written decision to the IDP concerned and explaining appeal mechanism."

**Comment:** Ministry will implement these recommendations through software program, in particular, IDP is able to check the decision received on the web-site of the Ministry through indicating its personal number in a special box. Moreover, may receive text messages. Technical insurance of the process shall be provided by the European technical assistance project.

## **20. Migration**

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### **Current Situation**

"The fact that Georgia already had an institutional mechanism and a vision for the management of migration facilitated the process and as a result Georgia officially received Visa Liberalization Action Plan already on February 25, 2013. For the purposes for the legal regulation of the migration, Law of Georgia on the Legal Status of Foreigners was elaborated, which turned out to be problematic as for legal provisions, as for their implementation".

**Comment:** For the detection of the shortcomings and appropriate response in the process of the implementation of the Visa Liberalization Action Plan, the working group is created in the framework of the Governmental Commission on Migration. Few amendments were made to the Law, preferential provisions have been added, according to which a foreigner who intends to receive a residence permit, is relieved from the duty to present the document of legal stay in Georgia.

"For the purposes for the legal regulation of migration, a new Law on Legal Status of Foreigners and Stateless Persons was elaborated, which turned out to be problematic as for legal provisions, as for their implementation".

**Comment:** For the detection of the shortcomings and appropriate response in the process of the implementation, the working group is created in the framework of the Governmental Commission on Migration. Few amendments were made to the Law.

### **Main problems in the Migration field**

“Incognizant migration of the Georgian citizens, amplifies the risks of the trafficking. It is also problematic that the awareness on the issue of the Georgian emigrants who live abroad is low. They don’t know to whom they may address for the help;

Main problems caused by the Law of Georgia on Legal Status of Foreigners and Stateless Persons, dated September 1, 2014:

- Nonconsecutive and in some cases discriminatory use of the Law;
- The foreigners found themselves in the legal vacuum, which was caused by the lack of information concerning the amendments.
- During the presentation of the documents by the foreigners, representatives of the different State Institutions were giving them information, which differed from one another and this was caused by the lack of information and coordination.”

It is problematic to obtain information concerning the country of origin. So many negative responses on the requests for visas and residence permits is a sign that the reason behind the negative answer is not because of any negative information, but because of the lack of the information.”

**Comment:** 6 months prior to the entry into force of the Law, an explanatory note with 100 questions and answers concerning the Law was uploaded on the web sites of the Ministries of Foreign and Internal Affairs and the Ministry of Justice. In one month the same document was distributed to the Diplomatic corps accredited to Georgia. After first and second months of the adoption of the Law, representatives of the three Ministries met with the foreigners living in Georgia to explain the essence of the Law. Before the entry into force of the Law, the Ministry of Foreign Affairs arranged three press briefings.

When the negative decision is made, there is a direct reference to the relevant paragraph of the Law, which is the foundation for the negative answer. There is no such conclusion made which cites the lack of information. The foreigner presents to the Agency the documents defined by the Legislation and after that the information in the presented documents is verified for the compatibility with the requests of the legislation. As for the incorrect consultations, the special space was created by the LEPL House of Justice, where the foreigners are rendered and the service operators who work there were trained regards to the Law on Foreigners. To deliver the information to the foreigners, the Ministry of Foreign Affairs organized meetings with the Diplomatic corps accredited to Georgia. Furthermore, the Agency organized the presentation of the new Law in several Embassies, upon their request. The meeting was also held with the students from foreign countries where the representatives of the Agency and the Foreign Ministry explained new regulations in detail.

“Incognizant migration of the Georgian citizens, amplifies the risks of the trafficking”.

**Comment:** There is an ongoing trial project together with the German side (see above) to settle the issue of the labour migration and the Law on Labour Migration is being elaborated.

After the receipt of the results from the trial project, the treaty on circular migration could be used more effectively, as the country's priority areas will be revealed and a trilateral (migrant, the country of origin, the recipient country) benefit will be guaranteed.

The evaluation concerning the implementation of the action plan of the Migration Strategy of Georgia is provided every 3 months and based on this evaluation, an earlier than planned work is ongoing on the new strategy for the years 2016-2020.

Informational campaign for 2013-2016 years in the field of migration was developed together with the Non Governmental Organizations, which have the consultative status within the Commission. The campaign for the years after 2016 will be also developed together with them. Meantime, the Secretariat of the Commission developed a guideline for the universal migration, which includes information as for the potential emigrants as well as for the immigrants. This general document will be provided to the each body which is responsible for the field of migration. That way, the person who seeks the information won't be confused with the different documents on the same subject matter.

The State Minister for Diaspora Issues is the member of the Commission. The Ombudsman with the invitation of the Commission constantly participates in the ongoing activities in the migration field. Trade Unions were at most involved during the drafting of the Law on Labour Migration.

For the integration of the refugees and persons having a humanitarian status in Georgia, the Ministry took the effective measures:

1. To increase a capacity for the reception and accommodation of the asylum seekers, on the basis of the collaboration between the Embassy of the United States of America in Georgia, United Nations High Commissioner for Refugees (UNHCR) and the Ministry, on February 20, 2014 under the guidance of the United States European Command (*EUCOM*), The *United States European Command Office of Defense Cooperation (ODC) received funds for the construction of the additional building for the asylum seekers (in Martkophi). The new center is intended approximately for the 72 persons. The Memorandum: Project on the Humanitarian Aid of the Defense Department of the United States for the Center for Asylum Seekers in Martkophi was signed on August 7, 2014. Prior project works were finished in 2014 and the construction process started in the winter;*
2. With the support of the UNHCR, the new center for the matters on the asylum seeking opened in the Ministry, where the beneficiaries could submit an application for the refugee status. The asylum seekers are receiving from the representatives of the Ministry the complete and comprehensive information concerning the procedural matters and their rights. The new reception center, which serves to as for the asylum seekers, as well as persons with the asylum, is fully equipped according to the international standards and is provided with the service of the interpretation.

3. After 2014, the persons with the refugee and humanitarian status benefit from the Universal Healthcare Program and so called “vertical” health program, according to the Decree N36 of the Government of Georgia on the Universal Healthcare State Program dated February 21, 2013 and the Decree N650 on the adoption of the Healthcare State Programs for 2014, dated December 2, 2014. (After the 1 of January, asylum seekers were also defined as the beneficiaries of the programs).
4. From March 1, 2014 the same monthly aid, in the amount of 45 Lari was defined for the persons with the refugee and humanitarian status, as for the displaced persons (Sub-paragraphs D and B of the Paragraph 5 of the Article 31 of the Law of Georgia on the State Budget of Georgia for 2014).
5. In January, 2015 a draft Decree of the Government of Georgia was elaborated on the activities necessary for the promotion of the education for the asylum seekers and persons with the refugee or humanitarian status in Georgia. The project for the asylum seekers and persons with the refugee or humanitarian status provides with - the implementation of the educational program for the training in georgian language to obtain the level which is necessary for the continuation of the education through the General Educational Program; In case of overcoming the challenge of the above mentioned training, the program provides with the opportunity to continue to study in the relevant grade; providing with the approved text books necessary for the general education. According to the decree of the City Council preschool facilities are available for the asylum seekers.

Besides that, for the purposes of the exploration of the opportunities for the integration of the persons with the refugee and humanitarian status, with the coordination of the Ministry, the UNHCR and the United Nations Association analyzed the situation concerning the employment, housing, education and healthcare and detected the needs for the persons with the asylum. The Ministry also prepared a draft of the guideline for the integration of the persons with the asylum and transmitted to the UNHCR and NGOs for the recommendations and proposals.

**General comment:** In January 2014, a new structural unit was created in the Ministry – Division on acquiring of the information on the countries of origin of the asylum seekers. Information on the countries of origin is obtained, processed, analyzed and updated in the above mentioned division.

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mentioned training, the program provides with the opportunity to continue to study in the relevant grade; providing with the approved text books necessary for the general education.

In the budget for 2015, an amount of 400,000 L was allocated for the support of the reintegration of the migrants returned to their homeland. In the framework of the program of support for the reintegration of the migrants returned to Georgia, the Ministry announced a competition for the grant for NGOs, to support the dignified reintegration of the returned citizens of Georgia to their homeland, on the one hand and for the development and reinforcement of the NGOs in the field of Migration, particularly in the field of reintegration, on the other hand. The Ministry aims to provide the transparency for the reintegration process in collaboration with the NGOs and to support the long term cooperation between the Government and NGOs.

### **Remarks**

**Main problems in the field of migration:** Integration of the legally stayed foreigners is not realized (for example – holders of the refugee status) – the word reintegration should be changed with the word - integration. It should be mentioned that based on the above mentioned, effective measures have been taken by the Ministry to provide the support for the integration of the persons with the refugee and humanitarian status.

## **21. Cultural Heritage**

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“In March, 2014 Georgian Government has presented “Social-economic development strategy of Georgia” (2014-2020) to the public, though this broad document, doesn’t mention at all the social value of culture and economic potential of culture, nature and cultural heritage.”

Comment: the aim of “Social-economic development strategy of Georgia 2014-2020” was to find the factors of interruption of economic development and planning the relevant activities for their elimination. Despite the fact that in this strategy there is no separate directions about the development of culture, these issues are defined to higher extent in the strategy documents, more concretely “Government Program” and “state’s basic data and trends” documents. In addition, the Ministry of Culture and Monument Protection of Georgia is in the process of elaboration of long term culture policy (see below).

“The monuments and sites in the list of the monument status have not been registered again in the state registry until now. Unfortunately, the date has been moved to 1<sup>st</sup> January, 2018 according to the amendments of the “law on culture heritage” of 2013.

Comment: LEPL “National Agency for Cultural Heritage Preservation of Georgian” is systematically updating the state registry with the list of registered monuments and the sites with monument status. This process requires the mobilization of certain material and human resources. The part of this job is already done, and the commencement is planned for 1<sup>st</sup> January, 2018 according to the requirements of the “law on Cultural Heritage”.



“Practically there is no such type of agreement, which can be signed between the Ministry of Culture and Monument Protection of Georgia and the owner of privately-owned property (legal owner)”.

Comment: the agreement between the Ministry and the owner of monument (legal owner) and the information form, which has to be presented by the owner (legal owner) to the Ministry is approved by the order N05/79, made on 5<sup>th</sup> March, 2014, by the Minister of Culture and Monument Protection of Georgia, published in the official herald. The number of similar agreements have been signed with the owner of the monument (legal owner).

“On 12<sup>th</sup> November, 2013 the Georgian Government has presented the amendments to be made to Georgian law on “Cultural heritage” to the parliament for the discussion, the aim of this amendments is, in special cases, when there is the necessity of national importance, to grant the authority to Georgian Government to remove the status of the monument (except the monuments of National importance and the monuments of the World Heritage list), by presenting the agency, which has the right to initiate a legal act, with relevant justification and agreement with the Ministry of Culture and Monument Protection of Georgia. It should be noted that "the necessity of national importance" is not defined in Georgian legislation, which gives a chance to decision-makers for interpretation. Despite the protests from the public expressed in various forms, which stopped the process of adopting the bill for a while, the bill still remains in the Parliament and can become a law at any time.”

Comment: The amendments to the Law on "cultural heritage", which entailed in special cases the removal of the status of the monument (except for national and world significance monuments), has not been considered, since the Ministry of Economic Development has applied to the Administration of Georgian Government with the purpose of requesting this project back.

“Since 2007, after the entry into force of the law on "Cultural Heritage", the creation of new state policy document in the field of the protection and development of cultural heritage has not taken place. In this regard, no effective steps have been taken by the new government either. Meanwhile, in April 2014 it was reported that the Ministry of Culture and Monument Protection of Georgia has delegated the authority to the National Agency for Cultural Heritage Preservation of Georgia on a number of important issues connected with cultural heritage. In result, the delegated authority, on 12<sup>th</sup> December, 2014, has made the decisions through the commission of its system and initially by the Director General, based on which the status of monument has been removed suspiciously from Sakdrissi\_Kachagiani gold mine. In conditions when the state still does not have the policy document in the field of the protection and development of cultural heritage, the delegation of the authority indicates to the chaotic development of the events rather than to the existing schematic vision in the field.”

Comment: the Ministry of Culture and the Ministry is in the process of elaboration of cultural policy strategy, and the important part of this strategy is dedicated to cultural heritage issues. All governmental and non-governmental organizations, interested parties and society are involved in the process.

In particular:

- ✓ For the purpose of coordination of the Strategy development process, the Division of Culture Policy was established at the Ministry;
- ✓ On 30<sup>th</sup> January, the conference "Designing Georgian Cultural Strategy: People. Processes. Priorities." was held in Tbilisi, the Ministry introduced the Roadmap for the Culture 2025 Strategy, which is the countrywide working document defining the strategy development process; The Roadmap has been developed for the Ministry of Culture and Monument Protection of Georgia, in the framework of technical assistance from the European Commission's Eastern Partnership Culture Programme;
- ✓ In order to involve the Georgian regions in cultural strategy development process the calendar for regional meetings has been created, which was presented on 28<sup>th</sup> February, on the conference held in Batumi and was agreed with all the regional governors, as well as with the Government of Abkhazia and the Administration of South Ossetia. The regional meetings in connection with the process of cultural strategy have started in March. Meetings have been held in 9 regions and 2 more are on the way; the workshops are open for public attendance and the participants are the representatives of different cultural sectors and the general public; To ensure maximum transparency of the process, the full information on these meetings with its minutes, are available on the following website: <http://culturepolicy.ge/>
- ✓ By open selection procedure, the external coordination group has been set up, the function of this group is to consult the Division of Culture Policy in the strategy development process;
- ✓ On the basis of the Minister's order the Internal Coordination Group has been set up;
- ✓ A request was sent to the government agencies in connection with the creation of the Interagency Group on the strategy document, in order to name their representatives;
- ✓ In order to ensure broad public participation in the process of strategy development, the petition was sent to: the President's Office, Ministry of Diaspora, the Public Defender's Office, the Agency for Religious Affairs, the Parliamentary Committees, the authorized higher education institutions, the political parties.

At the end of 2015, the Cultural Policy Strategy document shall be submitted to the Government of Georgia. The European Union is assisting the Ministry of Culture and Monument Protection of Georgia in the process of elaboration of the document.

Action Plan for 2015-2016 has been developed and approved by the Ministry of Culture and Monument Protection of Georgia in the field of Cultural Heritage (Order N03/73 by the Minister of Culture and Monument Protection of Georgia, on 18<sup>th</sup> March, 2015).

"On 24<sup>th</sup> June, 2014, the Council for the protection of cultural heritage has been composed on the basis of the order by the Minister of Culture and Monument Protection of Georgia, which carries the interagency character. The Council consists of the representatives from the Ministry of Culture and Monument Protection of Georgia, the Administration of Georgian Government, the Ministry of Regional Development and Infrastructure, the Ministry of Finance and the representatives of the Ministry of Economy and Sustainable development. However, the mentioned Council, according to its specific composition, the bodies represented in the Council and the mandate granted to the Board of Trustees, is carrying a serious threat for the cultural heritage."

Comment: The members of the Council are appointed for the period of 6 months, after which their term is expired. The authority to discuss the issues that have to be presented to the Council is delegated to the National Agency for the Cultural Heritage Preservation of Georgia, which has the relevant Council composed of the experts and the specialists operating in the field.

At the Ministry of Culture and Monument Protection of Georgia the Inter-Agency Standing Committee is going to be set up in the field of cultural heritage, which in addition to the Governmental Agencies, will also be presented by: the Public Defender's Office of Georgia; LEPL "National Agency for the Cultural Heritage Preservation of Georgia"; the sitting of the Education, Science and Culture Committee of Georgian Parliament; The Patriarchate of Georgia; State Security and Crisis Management Council; State Agency for Religious Affairs; Tbilisi Municipality; Government of the Autonomous Republic of Abkhazia and Administration of South Ossetia. The main functions and tasks of the Commission will be:

1. On the territory of Georgia and beyond, in order to develop the field of cultural heritage, to improve the management and institutional mechanisms, to work out the relevant proposals and recommendations on the strategic and high public interest issues, as well as to coordinate their interagency cooperation for the purpose of finding common solutions;
2. To elaborate the related proposals and recommendations in connection with the issues of high public interest on cultural heritage monuments located on the territory of the Autonomous Republic of Abkhazia and Administration of South Ossetia;
3. To elaborate the state policy on the protection and development of Georgian monuments being in the list of World Heritage and the state strategy on the World Heritage;
4. To coordinate the implementation of the decisions and recommendations adopted for Georgia by UNESCO and other international organizations;
5. To discuss the issues and elaborate the recommendations on the changes made to the World Heritage buffer (protective) zones and important interventions within the boundaries and regulating property rights;
6. To promote the implementation of international treaties and conventions in the field of cultural heritage to which Georgia is the member;
7. To submit the projects, proposals, reports and the annual reports implemented in result of the functions and tasks elaborated by the Council to the Government of Georgia for the approval.

“The processes and the chain of decisions developed around Sakdrissi\_Kachagiani ancient prehistoric gold mine is beyond criticism, which took place by different organs in the years 2013-2014 and continues to this day. While taking these decisions, there was a clear conflict of interests, as well as the abuse of authority and oppression from senior officials. Despite the protests of civil society at the end of 2014, the government in suspicious circumstances gave Ltd. "RMG Gold" the right to dismantle Sakdrissi-Kachagiani archeological site (take down), in the name of which the company has reopened large scale works in Sakdrissi. Even though the reopening of large scale works from "RMG Gold" side is against the Tbilisi City Court's final ruling, the government did not consider the situation and the company continues to work. "

Comment: the existence of conflicts of interest and abuse of authority and pressure, has not been confirmed by any competent body and by any evidence. The notion that the company "RMG Gold "- has illegally resumed work at Sakdrissi\_Kachagiani gold object as if it was still allowed according to the Tbilisi City Court's final ruling, is not true. Since the Court's decision was to suspend the approval of the Ministry of Culture (March 13, 2014, N01 / 01-1227 individual administrative legal act) on the mining operations, accordingly "RMG Gold"- was not authorized to take any action based on this act, which does not exclude other acts (the National Agency for Cultural Heritage Preservation of Georgia," Act of December 12, 2014) being undertaken under different agreement. To say in a simple way, the act and the action to be implemented on its basis has been suspended and not generally any action that has been carried out in other acts.