

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

Short-Term Priorities (January 2017 – December 2018)
Medium-Term Priorities (January 2019 – October 2019)

The Open Society Georgia Foundation (OSGF) is a member of the Open Society Foundation's Network, which was set up in 1994. In more than twenty years of independence, Georgia has made progress in building a democratic society that strives to take its place as part of the European family of nations. Having undergone territorial conflicts, economic collapse and war with Russia, Georgia has nonetheless managed to turn itself from a near-failed state to a developing country with western aspirations. Through donor funding, partnership, training and helping to unlock the potential of talented Georgian young people, the OSGF has played a significant role in this process that continues to this day.

The Foundation has a strong record of achievements in developing civil institutions and the media, promoting civil values, contributing to improvement of election environment, and increasing access to education and healthcare; it has also provided major support to European and national integration programs and the development of social equality.



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INTRODUCTION AND SUMMARY

This report brings together monitoring by Transparency International Georgia, Union “Sapari”, Human Rights Education and Monitoring Centre (EMC), Partnership for Human Rights (PHR), Green Alternative working together with the support of the Open Society Georgia Foundation to analyse Georgia’s progress in implementing the priorities indicated in the 2017-2020 Association Agenda, with a specific focus on progress made in 2019.

Experts have assessed the Georgian government’s efforts across six thematic areas 1) Rule of Law (including *Justice Sector* and *Law Enforcement*); 2) *Anti-corruption, public administrative reform and public service*; 3) *Equal Treatment*, 4) *Children’s rights* (all under 2.2, AA); 5) *Trade Union Rights and Core Labour Standards and Employment, Social Policy and Equal Opportunities* (under 2.2. and 2.6, AA); 6) *Environment and Climate Change* (under 2.7, AA).

The findings of this monitoring exercise reveal a mixed picture. While the government has made efforts under priorities in all thematic areas monitored, overall progress is uneven. In some areas the authorities can be credited for some real steps forward. The doubling of criminal charges being brought in domestic violence cases this year, shows how a legal framework, strong monitoring bodies can lead to changing practices (Chapter 3, Equal Treatment).

Meaningful action is also lacking on some fundamental areas for reform which would have wide-reaching impacts. Despite various actions in the field of combatting corruption (Chapter 2), a much-needed Freedom of Information law is still lacking. In the Justice Sector (Chapter 1), 7 out of 9 activities envisaged by the National Action Plan for 2019 have not been implemented or have been implemented only partially. In the environmental sector a number of actions have been taken, but large gaps in law and practice remain, and the government is actively delaying some processes (Chapter 6).

Some promising reform processes have also been stalled by events at the end of the year (e.g. amendments prepared to the Labour Code (Chapter 5). Meanwhile scandals have highlighted inaction in bringing about much needed reforms, which have been highlighted by our experts in previous monitoring – notably failings in the child protection system (Chapter 4).

Across sectors monitored ranging from anti-discrimination policy to justice to tackling corruption, there has been a good take-up of trainings by officials which are being reported to our experts by the authorities. At the same time, in some areas there is concern as to whether all activities being reported are meaningful (Chapter 5, Labour Rights), effective (measures to encourage representation of women – Chapter 3, Equal Treatment) or relevant to the goals in the Association Agenda (Corruption, Chapter 2).

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

METHODOLOGY AND KEY TO PRESENTATION

The experts assess both medium-term and **short-term** priorities. Short-term priorities are those in the AA which should be achieved *by end 2018*. Hence the scale of *fulfilled, partially fulfilled, not fulfilled* were applied. Whereas the **medium term** priorities are those in the AA which should be achieved *by the end of 2020*. Considering that Georgian authorities still have time till the end of this year these cases the scale of *progress, limited progress, no progress* were used. Where appropriate, the monitoring assesses the specific actions outlined in the 2019 National Action Plan for the Implementation of the EU-Georgia Association Agreement and Association Agenda according to the indicators established by the Georgian Government's Action Plan. Further detail is then provided as to which specific actions have been *Done*, and which actions are *Not Done*.

JUSTICE

Justice Sector

Short-term Priorities

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

Overall Assessment

Fulfilled	Partially Fulfilled	Not Fulfilled

Done: On 13 December 2019 the parliament of Georgia adopted legislative amendments to the Organic Law of Georgia on Common Courts and thus finalized the Fourth Wave of Judicial Reforms. The amendments provide important specifications regarding: grounds for the disciplinary responsibility of judges; functions of the High Council of Justice (HCoJ) and High School of Justice (HSOJ).

Not Done: Despite these legislative amendments the system of judicial appointments fails to meet the requirements of impartiality, justification, transparency or the principle of merit based assessment. The fact that the final decision can be made through a secret ballot which can outweigh the preceding evaluation of the candidate according to criteria established by the law points to the political nature of the process.¹ The latter failure was evidenced by the latest selection procedures for the Supreme Court Justices: the 20 candidates selected by secret ballot did not coincide with the top 20 based on the scores received, as 5 of the top-scoring candidates were not among the final 20 selected.² In addition, the fact that the scores received by each candidate with respect to integrity and competence is not substantiated naturally, increases the risk of manipulation, including through scores.³

The rules for promotion of judges are determined in the Council regulations, however the absence of a consistent system for evaluating judges fails to meet impartiality criteria.

¹ *Implementation of Judicial Strategy and Action Plan, Shadow Report*, f Human Rights Education and Monitoring Center (EMC) and Institute for Development of Freedom of Information (IDFI), 2018, pp. 39 available at: https://idfi.ge/public/upload/IDFI_Photos_2018/general/ENG_WEB.pdf

² *Second Report on the Nomination and Appointment of Supreme Court Judges in Georgia*, OSCE, ODIHR, June-December 2019, pp,7-8, available at: <https://www.osce.org/odihr/443494?download=true>

³ Statement of the Public Defender of Georgia 11 November, 2019, available: <http://ombudsman.ge/eng/akhali-ambebi/sakhalkho-damtsveli-uzenaesi-sasamartlos-mosamartleobis-kandidatebis-sherchevis-tsisis-arakonstitutsiurad-tsnobas-itkhovs>

Additionally, the rules for appointing and promoting judges (without a competition) constitute another important mechanism in the career advancement of judges which still lacks clarity, transparency and objective criteria.⁴ Moreover, according to the “fourth wave” of reform the HCoJ still retains powers to appoint chairs and deputy chairs of the Appeals Courts and chairs of District(city) Courts, The new amendments only provide for an obligatory consultation with the judges of the court where a chair is to be appointed, with no obligation to heed their opinions.⁵ The legislative ambiguity with respect to criteria and procedure for admitting listeners to the HSoJ still remains.⁶

Overall, 7 out of 9 activities envisaged by the National Action Plan for 2019 have not been implemented or have been implemented only partially. It should be stressed that despite adopting a strategy for the Judicial System for 2017-2021, the HCoJ still has not approved and Action Plan for 2019-2020. In their second progress report on Action plan for 2017-2018, the Council frequently referred to the “fourth wave of reforms” as an indicator that Action Plan activities were being implemented, however we consider that the process initiated by the Parliament of Georgia does not replace the need to have a specific detailed Action Plan as envisaged under the relevant provisions of AA. Therefore, it is necessary that the HCoJ adopt a comprehensive Action Plan without further ado.

2. In particular, improve Effectiveness of the High Council of Justice *inter alia* by ensuring its independence as well as its accountability;

Overall Assessment

Fulfilled	Partially Fulfilled	Not Fulfilled

Done: The amendments developed under the “fourth wave” significantly improve rules relating to the work of the High Council of Justice. In particular, the amendments specify rules for the composition of the Council, procedures for nomination and selection of the chairperson of the Council, and provide a broadened definition of ‘conflict of interest’. The law obliges the Council to substantiate and publish decisions concerning the appointment of the chairperson of the District (City) Court, chairman of the Court of Appeal and his/her deputy, as well as lifetime appointments to the District (City) Court and the Court of Appeal. The organic law establishes

⁴Monitoring report of the High Council of Justice #7, Georgian Young Lawyers’ Association and Transparency International Georgia, 2019, P.27, available at: <https://transparency.ge/en/post/monitoring-report-high-council-justice-n7>

⁵ The Coalition’s Opinion on the Proposed Amendments to the Organic Law on Common Courts, November 11, 2019, available: http://coalition.ge/index.php?article_id=226&clang=1

⁶Ibid; Monitoring report of the High Council of Justice #7, Georgian Young Lawyers’ Association and Transparency International Georgia, 2019, p.33, available at: <https://transparency.ge/en/post/monitoring-report-high-council-justice-n7>

two categories of acts adopted by the HCoJ: an individual legal act of the Council that is ordinance and a statutory act-resolution.⁷

Not Done: The new legislation fails to provide clear provisions to promote openness and transparency of HCOJ sessions, and only refers to publishing information on the web page and availability of audio recordings. The HCoJ sessions should be open, including during the interviews with first and second instance court judges. It is also important that the HCoJ sessions are transmitted via live-stream, allowing any interested party to observe the process.⁸ Additionally, even though the number of judges holding administrative position is limited to no more than half of the members of HCoJ judge members, the existing legislation still contains provisions based on which persons holding administrative positions are granted opportunity to be appointed as a judge members to the Council while retaining administrative positions.⁹

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

Overall assessment

Fulfilled	Partially Fulfilled	Not Fulfilled

Done: The amendments to the Organic Law developed under the “fourth wave” establishes the specific and exhaustive list of types of disciplinary misconduct, it does not include failure to perform or improper performance by a judge as one of the forms of disciplinary misconduct, nor does it address the ethical norms of the court, which is a step forward towards independence of the court system. The law sets the standard of proof at the early stages of the disciplinary proceedings, which should be assessed positively. Additionally, legislative amendments improved the safeguards for the Institution of the Independent Inspector. In particular, the decision to dismiss an independent inspector is made by at least 2/3 of the Council’s full composition. The law also allows the appeal of the Council’s decision in the courts.

Not Done: The “fourth wave” framework fails to regulate the decision-making rule of the Disciplinary Board, whereby the current legislation enables two out of five members (a

⁷ Amendments to the Organic Law of Georgia on Common Courts, 13 December, 2019, available at: <https://matsne.gov.ge/ka/document/view/4733708?publication=0#DOCUMENT:1;>

⁸ The Coalition’s Opinion on the Proposed Amendments to the Organic Law on Common Courts, November 11, 2019, available: http://coalition.ge/index.php?article_id=226&clang=1; Similar Recommendation was issued by the Second Report of the OSCE/ODIHR on the Nomination and Appointment of Supreme Court Judges in Georgia. June-December 2019, p.22, available at: https://www.osce.org/odihr/443494?download=true

⁹ *Implementation of Judicial Strategy and Action Plan, Shadow Report*, f Human Rights Education and Monitoring Center (EMC) and Institute for Development of Freedom of Information (IDFI), 2018, p. 80 available at: https://idfi.ge/public/upload/IDFI_Photos_2018/general/ENG_WEB.pdf

minority) of the Board to find a judge guilty and impose disciplinary liability, which poses a threat to the fairness of the disciplinary proceedings.¹⁰

While certain improvements are to be seen with respect to the independence of the Independent Inspector, the procedure for the appointment of the inspector remains vague: the selection procedure/criteria is not set out in law and the decision to appoint an inspector is made by the majority of the full composition of the HCoJ. The opinions of the inspector (even redacted and anonymised) are not available, even if requested as public information. This is an important challenge in terms of transparency.¹¹

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

Overall Assessment

Fulfilled	Partially Fulfilled	Not Fulfilled

Done: In order to decrease the excessive flow of cases, Courts have established narrow specializations. Moreover, the margin of cases to be heard by the commercial dispute narrow specialization judges was extended to any civil dispute (except for cases of family law, delinquency damages and non-pecuniary damage claims) if the claim exceeds 500,000 GEL (app. 160,000 EUR).¹²

The first phase of research to identify the optimal number of judges has been finalized and the second phase, which aims to develop a reasonable system for assessing the distribution of cases and determining the weight of cases in the courts is being worked out.¹³

Not Done: No concept or legislative proposal relating to establishment of Commercial/Tax chambers has been worked out thus far. HCoJ has not approved methodology for determining the optimal number of judges and court employees.

5. Develop Electronic Case allocation system and improve case management program in order to raise trust towards the judiciary;

Overall Assessment

¹⁰ *Assessment of the Judicial Reform System of Disciplinary Liability of Judges*, Human Rights Education and Monitoring Center (EMC) and Institute for Development of Freedom of Information (IDFI), 2019, p. 15, available at: https://emc.org.ge/uploads/products/pdf/Assessment_of_the_Judicial_Reform_1573219739.pdf

¹¹ *Assessment of the Judicial Reform System of Disciplinary Liability of Judges*, Human Rights Education and Monitoring Center (EMC) and Institute for Development of Freedom of Information (IDFI), 2019, p. 13, available at: https://emc.org.ge/uploads/products/pdf/Assessment_of_the_Judicial_Reform_1573219739.pdf

¹² High Council of Georgia Decision N1/297

¹³ Letter of the High Council of Justice of Georgia N12/7/7028-03, 05 December, 2019

Fulfilled	Partially Fulfilled	Not Fulfilled

Done: The development of a new system of distribution of cases in common courts is one of the most important reforms in recent years, which became operational in the entire system of common courts from 31 December 2017. During the reporting period the capacities of the Management Department of the High Council of Justice, responsible for administering electronic system, were improved, staff of the department were increased from two to four members, and on 21 January 2019 a head of the department was appointed by the HCoJ.¹⁴ At the same time amendments were made by the Council regarding limiting the distribution of cases to the judges in the two months prior to the expiration of their term of office. Amendments were also made to the distribution of cases to the appellate and cassation courts.

Not Done: The electronic System fails to ensure equal caseload of judges;¹⁵ Due to the fragmented and intermittent changes adopted by the High Council of Justice the list of exemptions from random distribution has been dramatically increased.¹⁶ Even though the High Council of Justice establishes the necessity to form narrow specialty/thematic compositions, the court Chairperson is authorized to unilaterally select the judges in accordance with the narrow specialties, which produces real risks of influencing the case distribution process.¹⁷ As for technical specifications, the main challenge relates to the lack of protection for its main module, which leaves a space allowing the technical assistance group to make changes to the program any time, thus allowing control over the case distribution system and assignment of a case to a preferred judge.¹⁸

6. Continue Reform of the Prosecutor’s Office aiming at further ensuring independence of prosecutorial work from any undue influence and greater transparency and accountability;

Overall Assessment

Fulfilled	Partially Fulfilled	Not Fulfilled

¹⁴ Letter of the High Council of Justice of Georgia N12/7/7028-03, 05 December, 2019

¹⁵ *Monitoring Report on the New System of Case Distribution in General Courts*, Georgian Democracy Initiative (GDI), 2019, p. 7, available at: <https://www.gdi.ge/uploads/other/0/993.pdf>

¹⁶ Assessment of the Judicial Reform: Electronic System of Case Distribution System for Disciplinary Liability of Judges, Human Rights Education and Monitoring Center (EMC) and Institute for Development of Freedom of Information (IDFI), 2019, p. 9, available at: <https://emc.org.ge/en/products/sasamartlo-reformis-shedegebis-shefaseba>

¹⁷ *Ibid* p.29

¹⁸ *Ibid*, pp.18-20

Done: According to the new Constitution of Georgia the Prosecutor’s Office of Georgia was separated from the Ministry of Justice and became a fully independent agency. The Organic Law of the Prosecutor’s Office was subsequently amended which further specified the functions of the Prosecutor General and the collegial body: the Prosecutorial Council. The disciplinary measures were further specified and a new Code of Ethics together with comments has been presented to the employees. On 28 February 2019 the Chief Prosecutor issued an Order laying out the fundamental principles guiding decisions on distributing cases to prosecutors, which provides criteria for the assignment and withdrawal of cases to/from prosecutors.

Not Done: The amendments to the Organic Law of Georgia on the Prosecutor’s Office was merely technical and not sufficient for a meaningful reform of the Prosecutor’s Office. The limited role and composition of the Prosecutorial Council does not correspond with its constitutional function of securing the independence and transparency of the Prosecutor’s office.¹⁹ The Minister of Justice is no longer involved in the process of selecting the candidates for the position of General Prosecutor. However, the fact he/she is now elected by the majority of the full composition of the Parliament of Georgia fails to guarantee depolarization of a candidate selection process.²⁰ Moreover, rules on the recruitment and promotion of prosecutors remain vague and a Prosecutor General has a great discretionary authority.²¹

7. Continue Reforming the Criminal Code with the objective of liberalization of sentences and modernization of the law and ensuring its full compliance with relevant EU and international standards;

Overall Assessment

Fulfilled	Partially Fulfilled	Not Fulfilled

Done: The National Criminal Justice Reform Council has approved a draft legislative amendment to the Criminal Code of Georgia, which alters regulations regarding principles of sentencing, probations, fines, crime compositions, aggravating circumstances, sanctions, etc.²²

Not Done: The draft amendment is yet to be submitted/approved by the Parliament of Georgia.

¹⁹ Opinion No. 937 / 2018 of the European Commission for Democracy Through Law of 17 December, 2018, para 55, available at: [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2018\)029-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2018)029-e)

²⁰ Joint Opinion of the European Commission for Democracy Through Law, Consultative Council of European Prosecutors and OSCE Office for Democratic Institutions and Human Rights On The Draft Amendments To The Law On

The Prosecutor’s Office Of Georgia, pp.5-9, available at:

[https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2015\)039-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2015)039-e)

²¹ Corruption prevention in respect of members of parliament, judges and prosecutors, 4th Evaluation Round, GrecoRC4(2019), 2 July 2019, para.62, available at: <https://rm.coe.int/fourth-evaluation-round-corruption-prevention-in-respect-of-members-of/168095529a>

²² National Criminal Justice Reform Council Progress Report, Ministry of Justice, available at: <http://www.justice.gov.ge/Ministry/Index/237>

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

Overall Assessment

Fulfilled	Partially Fulfilled	Not Fulfilled

Done: The mandate of Legal Aid Service has been broadened with respect to juvenile justice. In particular, free legal aid is provided to witnesses in case of insolvency or if the juvenile is questioned with respect to specific crimes envisaged by law. During the reporting period free legal aid was provided to 394 accused/convicted minor, 937 minor victims and 94 minor witness.

It should be hereby noted that the Legal Aid still does not cover all juvenile witnesses or all cases where juvenile might be interrogated/questioned.

In order to improve quality of legal aid 167 Legal Aid Service employees and 21 invited lawyer underwent vocational training.

The Legal Aid Service has developed a project specifying criteria and rules for assessment of legal consultation and legal aid provided, although the document is yet to be adopted by the Legal Aid Service Council. ²³

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

- **Guaranteeing the procedural rights of accused persons in criminal proceedings;**
- **Guaranteeing the rights of victims of crime, including hate crime, for access to justice, protection, support and compensation;**

Overall Assessment

Fulfilled	Partially Fulfilled	Not Fulfilled

Done: The National Criminal Justice Reform Council is working on draft amendments to the Criminal Procedure Code of Georgia, which aim to establish amended rules on admissibility of evidence, including the criteria for admissibility of indirect evidence.

Not Done: Amendments to the Criminal Procedure Code of Georgia have been piecemeal and at times contradictory over the years. 2019 marks the tenth year Georgia since altered its primarily inquisitorial criminal procedure to an adversary procedural model, however critical

²³ Letter of Legal Aid Service LA 01900033580, 13 December 2019

elements of the adversarial model are still present, either fragmented (e.g., jury trial), or already substantially altered and contradictory to the general logic of the model (e.g., the rule of questioning a witness). Moreover, guaranteeing equality of arms remains challenging, with rules relating to obtaining of evidence remaining flawed, there is no clear division of investigatory and prosecutorial powers and the defense still faces a number of barriers.

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

Overall Assessment

Fulfilled	Partially Fulfilled	Not Fulfilled

Done: During the reporting period 18 accredited mediators underwent training on peer mentoring, mechanisms for Alternative Dispute Resolution and a workshop on workplace communication. In order to encourage alternative dispute resolution pilot mediation projects have been implemented in Tbilisi and Rustavi City Courts, as well as in Gori District Court. In total 21 cases were heard in Tbilisi City Court, 10 cases in Rustavi City Court and one case in Gori District Court.²⁴ The High Council of Justice has recently approved a Strategy and Action Plan for introducing and developing the mediation mechanism in courts.²⁵

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

Overall Assessment

Fulfilled	Partially Fulfilled	Not Fulfilled

Done: The Department on Re-socialization and Rehabilitation of Inmates was created under the Special Penitentiary Service. In line with the establishment of the Department the following number of employees were defined for the year of 2019: Psychologist – 40; Social worker – 90.²⁶

Employees of the Special Penitentiary Service and the National Agency of Crime Prevention, Execution of Non-Custodial Sentences and Probation (social workers, psychologists, probation officers) attended the training on new risk and needs assessment tool (RNA). Trainings on

²⁴ Letter of the High Council of Justice of Georgia N12/7/7028-03, 05 December, 2019

²⁵ High Council Of Georgia Decision N1/366, 27 December 2019, available: <http://hcoj.gov.ge/files/pdf%20gadacyvetilebebi/2019%20-%20gadawyvetilebebi/366.pdf>

²⁶ Letter of National Agency of Crime Prevention, execution of Non-Custodial Sentences and Probation N 2/3182, 15 January 2020

motivational interview and engagement was conducted for 100% of social workers and psychologists of penitentiary and crime prevention systems.

New Risks and Needs Assessment Instrument was piloted in 4 (N5, N11, N16 and N17) penitentiary establishments.

On 1 November 2019, amendments to the Imprisonment Code made higher (magistrate level) education accessible for convicted persons.²⁷

Not Done: The new procedure for risk assessment fails to provide legal safeguards for a convicted person: there is no obligation of the penitentiary authorities to inform convicted persons about the risk assessment criteria; the procedure does not safeguard a convicted person’s right to present his position.²⁸

The activities carried out in penitentiary establishments in terms of rehabilitation and resocialization are sporadic and are not tailored to the individual needs of convicted persons. Individual sentence planning is formalistic.²⁹ No new programs or interventions were developed based on risk assessment results in 2019.³⁰

Medium-term Priorities

- 1. Modernize legislation in the commercial, civil, and administrative areas in line with national strategies and EU acquis;**

Overall Assessment

Progress	Limited Progress	No Progress

Done: According to the 2019 National Action Plan the drafting and adoption of the Law of Georgia on Mediation was envisaged as the only activity under the medium-term priorities. On 18 September 2019 the parliament of Georgia adopted the Law which became fully operational from 1 January of 2020.³¹

- 2. Ensure inclusive access to justice by an adequately funded Legal Aid Service;**

Overall Assessment

Progress	Limited Progress	No Progress

²⁷ Article 115¹ Imprisonment code of Georgia;

²⁸ The Report of the National Prevention Mechanism, Public Defender of Georgia, 2019, p. 19 available at: <http://ombudsman.ge/res/docs/2019121617001233141.pdf>

²⁹ *Ibid* p. 35

³⁰ Letter of National Agency of Crime Prevention, execution of Non-Custodial Sentences and Probation N 2/3182, 15 January 2020

³¹ Law of Georgia on Mediation, available at: <https://matsne.gov.ge/en/document/download/4646868/0/en/pdf>

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Done: The budget approved for the Legal Aid Service corresponds to the request submitted by the office and adequately covers needs in order to provide for inclusive access to justice.³²

Law Enforcement

Short-term priorities

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

Overall Assessment

Fulfilled	Partially Fulfilled	Not Fulfilled

Done: On 1 November 2019, the investigative powers of State Inspector’s Service entered into force. The investigative jurisdiction of the State Inspector Service applies to crimes of alleged torture, threat of torture, degrading or inhumane treatment committed by law enforcement officers as well as cases of abuse of official powers or exceeding official powers committed using violence or a weapon, or by offending the personal dignity of the victim.³³ To improve the investigation activities of the State Inspector Service, amendments were made better regulate the investigation organ’s communication with the supervising prosecutor. The State Inspector’s Investigation Service was equipped with the power to carry out operative investigation activities.³⁴ Moreover, the refusal to recognise the victim status, in crimes under the investigative jurisdiction of the State Inspector, can be subject to filing a one-time appeal to the court.³⁵

The creation and work of a Human Rights and Investigation Quality Monitoring Department should be welcomed. In addition, the reform of the General Inspection Unit has significantly improved internal control mechanisms over Law Enforcement Officials.

During the Reporting period 84 MIA employees underwent trainings on issues related to human rights protection. Moreover, in total 308 employees participated in

³² Letter of Legal Aid Service LA 01900033580, 13 December 2019

³³ Law of Georgian on the State Inspector Service, article 19

³⁴ See Explanatory note on the Draft Law of Georgia on Amendments to the Law on State Inspector’s Service, available at: <https://bit.ly/2OvJ97y>

³⁵ Article 56 para. 5 of the Criminal Procedure Code of Georgia

trainings/workshops related to domestic violence.³⁶ Five guidelines/recommendations were issued to the investigators on issues related to investigation of crimes against women and domestic violence. During the reporting period Human Rights and Investigation Quality Monitoring Department implemented several activities to prevent early marriages, including social media campaigns, trainings and meetings with local population.

Not Done: The mandate of the Office of the State Inspector to investigate crimes committed by law enforcement officials is still limited: it is problematic that it is not in the competence of the Office of the State Inspector to investigate a crime allegedly committed by high-level officials or those holding public office, namely the Minister of Internal Affairs, the Prosecutor General and the Head of the State Security Service. The launch of a criminal prosecution remains within the authority of the Prosecutor’s Office. This significantly weakens the operational independence of the State Inspector. At a minimum, it is vital for the Office to carry out its investigations independently without prosecutorial supervision.³⁷

The Ministry of Internal Affairs does not yet have a single guideline on detention procedures and the provision of minimum legal guarantees, covering all important legal and practical issues concerning the rights and needs of a person under police custody, which is an essential document for prevention of ill-treatment.³⁸

Despite the reform of the General Inspection Unit within MIA, which is a positive step, the existing system of disciplinary responsibilities still remains vague and defective.³⁹

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

Overall Assessment

Fulfilled	Partially Fulfilled	Not Fulfilled

Done: According to the legislative amendments introduced by the end of 2019 the National Agency of Execution of Non-Custodial Sentencing and Probation and National Crime Prevention Centre were united under the new LEPL- National Agency for Crime Prevention, Non-Custodial Sentencing and Probation.

Not Done: During the reporting period no substantial amendments were introduced to the Imprisonment Code to expand alternatives to imprisonment. The proportion of custodial penalties handed down in judgements remains high.

³⁶ Letter of Ministry of Internal Affairs 4 20 00113633, 16 January 2020

³⁷ Coalition for an Independent and Transparent Judiciary Statement, 3 July 2019, available at: http://coalition.ge/index.php?article_id=212&clang=1

³⁸ *Ill-treatment Prevention in Police Work*, Human Rights Education and Monitoring Center (EMC), 20 December 2019, p. 8 available at: <https://emc.org.ge/en/products/arasatanado-mopqobis-preventsia-politsiis-sakmianobashi>

³⁹ *Political Neutrality in the Police System*, Human Rights Education and Monitoring Centre (EMC), 2016, p.39 available at: <https://emc.org.ge/en/products/kvleva-politikuri-neitraliteti-politsiis-sistemashi>

ANTI-CORRUPTION, PUBLIC ADMINISTRATIVE REFORM AND PUBLIC SERVICE

Short-term priorities

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

Overall assessment

Fulfilled	Partially Fulfilled	Not Fulfilled

Done: The 2019 Action Plan did not include any activities specifically under this priority (although there is some overlapping with the 1st medium-term priority discussed in the section above). Georgia has, nevertheless, made some progress toward implementing the recommendations of GRECO and the OECD Anti-Corruption Network. According to GRECO's Fourth Evaluation Round Compliance Report, Georgia has implemented satisfactorily five of the 16 recommendations, while eight have been partly implemented and three have not been implemented.⁴⁰ According to the OECD ACN's most recent progress update, Georgia has made progress in implementing 16 of the organization's 22 recommendations.⁴¹

Not Done: It should be noted that, under the OECD ACN's methodology, a country is deemed to have made progress on a recommendation if it takes steps toward implementing at least one of its components (each recommendation usually includes several such components). A review of the implementation of these sub-recommendations (81 in total) reveals a less positive picture as Georgia has failed to make progress in most cases.

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

Overall assessment

⁴⁰ GRECO, Fourth Evaluation Round, Compliance Report, Georgia, March 2019, <https://rm.coe.int/fourth-evaluation-round-corruption-prevention-in-respect-of-members-of/168095529a>

⁴¹ Istanbul Anti-Corruption Action Plan, Fourth Round of Monitoring, Georgia, Progress Update Report, March 2019, <https://www.oecd.org/corruption/acn/OECD-ACN-Georgia-Progress-Update-2019-ENG.pdf>

Fulfilled	Partially Fulfilled	Not Fulfilled

Not Done: The Freedom of Information Law was to be submitted to the Parliament under the previous (2018) Action Plan. This was not done in 2018 and still has not been done as of January 2020.

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

Overall assessment: fulfilled

Fulfilled	Partially Fulfilled	Not Fulfilled

Done: According to the Finance Ministry, the Ministry's Harmonisation Centre trained some 50 internal auditors in 2019 on issues including identifying and eliminating corruption.⁴²

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

Overall assessment

Fulfilled	Partially Fulfilled	Not Fulfilled

Done: The Government has adopted the decree "On Rules of Procedure for Development, Monitoring and Evaluation of Policy Documents" public agencies are now required to conduct public consultations on any policy document prior to submission to the government and to enclose a report on the outcomes of the public consultations to the package of a policy document submitted for adoption.⁴³

Not Done: The 2019 Action Plan did not include any activities under this priority. The previous (2018) Action Plan included one activity (prepare the 2018-2021 regional development

⁴² Transparency International Georgia's correspondence with the Finance Ministry, November-December 2019.

⁴³ Transparency International Georgia's correspondence with the Government Administration, January 2020.

programme that will include information about potential investment in areas like innovation and assistance to small and medium enterprises) which was implemented (the programme has been adopted and is available online),⁴⁴ although its relevance to the Association Agenda goal is questionable.

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

Overall assessment

Fulfilled	Partially Fulfilled	Not Fulfilled

Partially Fulfilled: The 2019 National Action Plan does not include any activities under this priority. However, the Parliament adopted its own Action Plan for the Implementation of the Association Agreement in March 2019.⁴⁵ No assessment/report on the implementation of the parliamentary Action Plan is available as of January 2020.

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

Overall assessment

Fulfilled	Partially Fulfilled	Not Fulfilled

Done: Outside the 2019 National Action Plan, Government adopted the Third Action Plan of the Public Administration Reform in 2019 which includes quantitative/qualitative baseline and target values to measure progress.⁴⁶

Not Done: The 2019 Action Plan included the following activity under this priority: Ensure accessibility of the public sector’s electronic services through the unified portal of electronic services (my.gov.ge). Progress has been made in this area since a total of 455 services are

⁴⁴ Implementation of the EU-Georgia Association Agenda 2017-2020, Assessment by Civil Society, December 2018, p 20.

⁴⁵ The Parliament Bureau Decision No 240/7, 19 March 2019.

⁴⁶ Transparency International Georgia's correspondence with the Government Administration, January 2020.

currently accessible through the portal.⁴⁷ However, the relevance of this activity to the Association Agenda’s corresponding priority is questionable.

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

Overall assessment

Fulfilled	Partially Fulfilled	Not Fulfilled

Done: The Civil Service Bureau implemented a number of activities under the 2019 Action Plan:

- A survey was designed to measure the civil servants’ awareness on the civil service reform, the questionnaire was distributed among 10601 professional civil servants from central and local self-government institutions, and 816 civil servants eventually took part in the survey.
- Six Videos on the appraisal system were prepared and were published on the website of the Civil Service Bureau.
- A draft version of the manual on the leadership and management in civil service was developed.
- The first e-learning course in ethics was created, textual materials, informational videos and comics have been prepared for the content of the course.
- Basic programmes for professional development were planned for over 1,530 professional civil servants (based on the professional development plans presented by the ministries) and 296 professional civil servants have already completed the basic programmes.
- Moreover, additional programmes for professional development were planned for over 5,190 professional civil servants and 1,589 civil servants have already completed the additional programme.
- Trainings on the novelties of the Civil Service Law and ethics in civil service were conducted for 77 central and 76 local self-government employees.
- Four trainings on management and leadership in civil service were conducted for 68 professional civil servants.⁴⁸

⁴⁷ Transparency International Georgia’s correspondence with the Justice Ministry, November-December 2019.

⁴⁸ Transparency International Georgia’s correspondence with the Civil Service Bureau, January 2020.

Medium-term priorities

- 1. Continue ensuring effective implementation of the Anti-corruption National Strategy and the relevant Action plan to prevent, detect and address corruption, especially complex corruption;**

Overall assessment

Progress	Limited Progress	No Progress

Done: The updated National Anti-Corruption Strategy and the 2019-2020 Action Plan were approved by the Anti-Corruption Council in July 2019 and were officially adopted through a government decree in October. The Anti-Corruption Council’s Secretariat also drafted the Action Plan’s monitoring and evaluation report for the first two quarters of 2019 and presented it to the Council’s working group in November 2019. Additionally, the Secretariat prepared in 2019 a corruption risk assessment methodology for Georgia’s public institutions.⁴⁹

The Civil Service Bureau continued the process of verifying asset declarations submitted by public officials. A total of 607 declarations were selected for verification in 2019: the electronic system of declaration monitoring randomly selected 310 declarations, while 297 declarations were selected by a special commission comprising civil society representatives. In total 596 declarations were reviewed, of which 237 were assessed positively, 254 resulted in fines, and 75 resulted in warnings. The proceedings were discontinued for 27 declarations, one declaration was sent to the prosecutor's office for further investigation, while the verification of two declarations was suspended by court.⁵⁰

- 2. Continue ensuring an effective investigation of alleged cases of corruption and create an effective system for the prevention of the conflict of interest;**

Overall assessment

Progress	Limited Progress	No Progress

⁴⁹ Transparency International Georgia’s correspondence with the Justice Ministry, November-December 2019.

⁵⁰ Transparency International Georgia’s correspondence with the Civil Service Bureau, January 2020.

Done: The State Security Service’s representatives participated in 15 international events in 2019 devoted to cooperation for combatting corruption, while five agreements with foreign governments on information exchange were also concluded. The State Security Services staffers also took part in eight training programmes on combatting corruption and organized crime.

According to the General Prosecutor’s Office, by November 2019, two groups of interns (38 people in total) had received training on professional ethics and conflict of interest, and another training was scheduled to take place before the end of the year. Meanwhile, 120 prosecutors and investigators, along with 38 interns, attended a total of 15 training activities on effective investigation of corruption.⁵¹

3. Update the Public Administration Reform Roadmap and underlying strategies in line with the Principles of Public Administration;

Overall assessment

Progress	Limited Progress	No Progress

Done: The 2019 National Action Plan does not contain any references to this medium-term priority. However, the Government already approved the 2019-2020 Public Administration Reform Action Plan in 2019 which can be considered progress towards implementing this reform.⁵²

4. Foster an accountable, efficient, effective, transparent public administration and build merit-based and professional civil service;

Overall assessment: N/A

The 2019 Action Plan did not include any activities specifically under this priority. However, it partially overlaps with the 7th short-term priority and the corresponding activities are discussed in the relevant section below.

5. Strengthen governance and public administration reform at local level in line with European standards.

⁵¹ Transparency International Georgia’s correspondence with the General Prosecutor’s Office, November-December 2019.

⁵² The Georgian Government Decree No 274, 10 June 2019, <https://matsne.gov.ge/ka/document/view/4586360?publication=0>

Overall assessment: No reported progress*

The 2019 Action Plan included two activities under this priority:

- Moving the services of public and private structures to the Public Service Hall, improving the qualifications of the employees, revising the procedures for the existing services, identifying and eliminating shortcomings.
- Improving the awareness of the Public Service Hall's projects by updating/publishing informational and promotional materials in printed and social media and on television.

*The Public Service Hall did not provide the information on the implementation of these activities by 13 January 2020.

EQUAL TREATMENT

Short-term priorities

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

Overall assessment

Fulfilled	Partially Fulfilled	Not Fulfilled

Not Done: During 2017-2018 no steps were undertaken to improve **women's political and economic empowerment**. In March 2018 Georgian parliament voted on mandatory gender quotas and once again rejected the bill. On 15% of parliamentarians in the Georgian Parliament are currently women.⁵³ No active steps were taken to strengthen **economic empowerment of women**. The disproportionately high unemployment rate and economic inactivity (42%) of women, the 36% gender wage gap⁵⁴ and the continued horizontal and vertical segregation in the labour market, where women are concentrated in low-paid jobs, reflects the acute problems facing women in Georgia.⁵⁵ Despite the stark economic inequality between men and women in Georgia, government action plans and policies hardly mention women.⁵⁶ During 2017-2018 the state failed to develop a vision on women's economic empowerment and did not amend relevant strategic documents and action plans to incorporate effective policies and practices.

LGBTQI persons suffer from various systemic violations of their rights and freedoms in Georgia. Stigma and discriminatory attitudes towards community members is very high, including among politicians, police, medical personnel.⁵⁷ Barriers remain to exercising freedom of expression and assembly. In 2017 LGBTQI persons were able to have an IDAHO event in a very limited time and

⁵³ See at: <http://www.parliament.ge/en/parlamentarebi/women/qalebi-parlamentshi-23>

⁵⁴ National Statistics Office of Georgia. Monthly Salary of Employees based on Sex. 2017.

⁵⁵ Women's Economic Empowerment in Georgia: Analysis of Existing Policies and Initiatives, Sapari, 2017, p. 21, available at: <http://sapari.ge/wp-content/uploads/2017/12/woman-economic-eng-www.pdf>

⁵⁶ Pataria, The Need for State Strategy on Women's Economic Empowerment, OSGF, Sapari, 2018, See at: http://www.osgf.ge/files/2018/Publications/Angarishi_A4_Women_ENG.pdf

⁵⁷ Submission to the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, WISG, 2018, see at: https://women.ge/data/docs/publications/WISG_Submission_INDEPENDENT-EXPERT_2018.pdf

space, yet in 2018 they were obliged to refuse to conduct a demonstration as the state failed to guarantee a risk-free environment for the exercise of rights of free expression and assembly.⁵⁸

One of the most problematic issues for trans persons is that they are deprived of legal recognition. They are forced to undergo sex-reassignment surgery to change their sex marker in ID and birth certificate, which amounts to irreversible sterilization, mandatory hormonal treatment and various surgeries.⁵⁹ Despite the deep systemic problems LGBTQI face in Georgia, the state still omits SOGIESC (Sexual orientation, gender identity, gender expression and sex characteristics) issues from the national Human Rights Action Plans.⁶⁰

One of the major problem **religious minorities** face in Georgia is the denial of construction permits to the religious minority organizations by local self-government bodies. This discriminatory practice is assessed by civil society to be part of a wider discriminatory and arbitrary state policy towards religious minorities.⁶¹

For many years already, the biggest challenge for **ethnic minorities** in Georgia is lack of knowledge of the state language. The existing programs and textbooks are not adequate. The language barrier hinders the social integration of Azerbaijani and Armenian community members in Georgia.⁶² No new programs or policies enhancing inclusive access to education for these communities have been developed by Government of Georgia during last two years.

No significant improvement has been achieved for the persons with **disabilities** during 2017-2018. Georgia has not yet ratified the Optional Protocol to the UN Convention on the Rights of Persons with Disabilities. A fundamental challenge is the low level of participation of people with disabilities in the labour market, educational system and social and political life in general.⁶³

2. Take further measures to strengthen the implementation of legislation against gender-based violence, including awareness-raising of both the general population and of specific

⁵⁸ See at: <https://dfwatch.net/gay-rights-rally-canceled-tbilisi-following-pressure-far-right-groups-50384>

⁵⁹ Statement of Minister of Justice of Georgia Mrs. Tea Tsulukiani, 11.06.2018 see at: <http://liberali.ge/news/view/37592/tsulukiani-reforma-romelits-ar-gavatare-aris-transgenderi-adamianevistvis-sqesis-aghiareba>

⁶⁰ Equality Movement, Women's Initiative Support Group and ILGA-Europe, Submission to the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, 2018, see at: <http://www.equality.ge/en/submission-un-independent-expert-protection-violence-discrimination-based-sogy-victor-madrigal-ahead-visit-georgia/>

⁶¹ Overview of Cases on Restriction of Religious Freedoms and Discrimination, EMC, 2017, see at: <https://emc.org.ge/uploads/products/pdf/Overview-of-Cases-on-Cestriction-of-Religious-Freedoms-and-Discrimination-in-Georgia.pdf>

⁶² Annual Report of Public Defender of Georgia, The Situation of Human Rights and Freedoms, 2017. pp.171-178. See at: <https://sites.google.com/view/geombudsman2/reports/parliamentary-reports>

⁶³ The Rights of Persons with Disabilities The Rights of Children Gender Equality and the Rights of Women, EMC, PHR, Sapari, 2018. See at: https://emc.org.ge/uploads/products/pdf/Raport_1537452439.pdf

professional groups, such as the police, and in particular in rural and minority areas. Increase the access of victims to counselling services and shelters.

Overall assessment

Fulfilled	Partially Fulfilled	Not Fulfilled

Done: In May 2017 Georgia ratified the Istanbul Convention on preventing and combatting violence against women and domestic violence and amended relevant national legislation, which highly improved the protection of women in the country. In 2018 the Ministry of Internal Affairs of Georgia established a Human Rights Protection Department. The Department monitors the investigation of gender-based, domestic and hate crimes. As a result, the number of investigations has significantly increased. In 2018 criminal charges were brought for domestic crimes in 3,005 cases, which is twice as many compared to the number of charges brought in 2017 – 1,554 cases.⁶⁴ A risk assessment tool and a monitoring mechanism on implementation of restrictive orders were developed and piloted in July 2018.⁶⁵

Moreover, in 2017-2018 with the assistance of UN WOMEN four new crisis centers were opened in Gori, Kutaisi, Marneuli and Ozurgeti for the victims of gender-based violence and trafficking. In 2017 with the help of UNFPA new guidelines for identifying physical, psychological and sexual violence against women, as well as principles for treatment and referral were developed.⁶⁶

Medium-term priorities

- 1. Approximate to European standards as regards health and safety rules, rules on the protection of maternity, rules on the reconciliation of parental and professional responsibilities as envisaged by the Association Agreement;**

Overall assessment

Progress	Limited Progress	No Progress

⁶⁴ Official website of Ministry of Internal Affairs, see at: https://info.police.ge/page?id=115&fbclid=IwAR39sf-w_Xtmcgwyv417Jn6njuP-w49Mggjx7TUTNIVszjirEdoktyPrY

⁶⁵ Official Letter #MIA 9 18 02486753 from Ministry of Internal Affairs, dated 11.10.2018

⁶⁶ Official Letter #01/7079-s from Ministry of Internally Displaced Persons from Occupied Territories, Labour, Health and Social Affairs of Georgia, dated 08.10.2018.

Done: On February 19, 2019 Georgia adopted the law on “labour safety”.⁶⁷ The newly adopted law is in line with EU Directive 89/391/EEC and lays out general principles regarding work safety, assessment and prevention of occupational risks, protection of health and provision of trainings and information sharing to achieve balanced participation of workers in the protection of health and safety rules.

Not Done: In 2019 no legal amendments have been made to approximate Georgian legislation with EU directives on rules on the protection of maternity, rules on the reconciliation of parental and professional responsibilities. The Georgian Labour Code contains some general guarantees but needs further improvement to come in line with Council Directive 92/85/EEC on safety rules and protection of maternity.⁶⁸ Georgian legislation still needs to be brought into line with EU standards in relation to compulsory maternity leave and adjustments of working conditions with adequate allowance and rules on the reconciliation of parental and professional responsibilities.

2. Take active steps to promote increased women representation in political decision making fora;

Overall assessment

Progress	Limited Progress	No Progress

Done: The representation of women in the executive branch has increased during last year. In 2019 there were 5 women ministers out of 11, bringing the proportion of women representatives in the Georgian government to 45%.⁶⁹ Since 2018 Georgia has had a woman President.

Not Done: Currently only 16% of the members of Parliament are women. At local municipal level only 8% of those elected by majoritarian system are women and only 20% are elected by proportional system into local self-government bodies. None out of five self-governing cities have a woman mayor. Only 1.85%, namely one woman, has been elected as mayor of a local self-government municipality.⁷⁰

In 2018 the Speaker of the Parliament Irakli Kobakhidze from ruling party “Georgian Dream” announced that a new bill would be introduced on mandatory gender quotas,⁷¹ after a previous bill was rejected by parliament. However, no new bill has been initiated by GD in 2018 or 2019.

⁶⁷ Georgian Law on Labor Safety, 2019, see at: <https://matsne.gov.ge/ka/document/view/4486188?publication=0>

⁶⁸ B. Pataraiia, Maternity and Parenting – Georgia’s Forgotten Obligations, OSGF, 2016, see at: <https://osgf.ge/en/publication/maternity-and-parenting-georgias-forgotten-obligations/>

⁶⁹ Official website of Government of Georgia, see at: http://gov.ge/index.php?lang_id=GEO&sec_id=27

⁷⁰ Official website of Central Election Commission of Georgia, see at: <http://cesko.ge/statistic/>

⁷¹ See at: <http://oc-media.org/georgian-parliament-rejects-gender-quota-bill/>

Currently a political party will receive a 30% supplement from the state budget, if in the nominated party list (local self-government elections – all party list) it includes “at least 30% women among each 10 candidates”.⁷² In September 2019 GD announced that it plans to amend party finance regulations to require a political party to ensure every third candidate on its party list to be of a different gender in order to receive the for 30% supplement. Local electoral and women’s organizations find these financial regulations ineffective.⁷³

3. Continue to promote and raise awareness on human rights and anti-discrimination in the judiciary, law enforcement, administration including by conducting respective trainings;

Overall assessment

Progress	Limited Progress	No Progress

Done: In 2019 32 prosecutors underwent a specialized course on hate crime, which had been devised in 2018. On February 6 2019, a conference for prosecutors on best practices for investigating hate crimes was held in cooperation with Council of Europe, led by foreign experts. In 2019 197 employees of General Prosecutor’s office participated in 18 different capacity building activities, including four study visits on the topic of hate crimes and human rights.⁷⁴

In 2019 126 policemen underwent trainings regarding hate crimes, hate speech and discriminatory crimes. In cooperation with ODHIR a training module on hate crimes was developed. With support of CoE a training module on hate crimes directed against LGBT persons was elaborated and a training of trainers took place. The abovementioned training modules were integrated into the Police Academy study modules. A further training module on crimes committed based on religious affiliation is under development. Topics related to discrimination are covered under a course entitled “Human Rights and Police” taught by the Police Academy. In 2019 the course was attended by 738 employees of various agencies of the Ministry of Internal Affairs.⁷⁵

In 2019 the High School of Justice conducted the following trainings for judges: on hate crimes – attended by 7 judges and 5 other court staff; on labour standards – attended by 17 judges

⁷² Organic Law of Georgia on Political Union of Citizens, Article 30 (7¹), available at:

<https://matsne.gov.ge/ka/document/view/28324>

⁷³ Announcement of Task Force on Women Political Representation, 2019, see at:

<https://gyla.ge/ge/post/finansuri-tsamakhalisebeli-zoma-ver-uzrunvelyofs-qalta-politikashi-monatsileobis-gazrdas#sthash.7sW6mfrS.dpbs>

⁷⁴ Official letter number: 13/79265 from Office of the Prosecutor General of Georgia, November 8, 2019.

⁷⁵ Official letter number: MIA 51902972008 from Ministry of Internal Affairs of Georgia, November 6, 2019.

and 20 other court staff; on anti-discrimination law – attended by 14 judges and 45 other court staff; on gender – attended by 8 judges. In addition, one conference and two working meetings were conducted labour rights and ILO standards.

CHILDREN'S RIGHTS

Short-term priorities

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

Overall assessment

Fulfilled	Partially Fulfilled	Not Fulfilled

Done: According to information provided to the monitoring team by the Office of the Public Defender of Georgia,⁷⁶ the Public Defender's office undertook the following monitoring activities in line with the EU-Georgia Association Agreement and Agenda in 2019 to assure protection of the child rights:

a) Monitoring of the Child Penitentiary Institutions. b) Monitoring of small-group homes, child foster care and reintegration programs. c) Oversight of child institutions run by religious confessions and denominations. d) Monitoring of pre-school facilities and kindergartens. e) Monitoring of the child rights situation in IDP communities. f) Oversight of daycare centers for children with disabilities. g) Monitoring of the deinstitutionalization process for children with disabilities.

Some of these monitoring reports are currently being processed and are expected to be released in the format of the Annual Parliamentary report of the Public Defender of Georgia in March 2020. As the monitoring team observes, the Public Defender of Georgia has significantly widened the scope of monitoring child rights in Georgia, which is definite progress and deserves positive evaluation. The issues raised in previous monitoring reports of EU-Georgia Association Agreement, related to the hazardous working conditions of the Public Defender office staff, are currently being solved and can be evaluated as another positive development in terms of strengthening the role and resources of the National Human Rights Institution in protecting child rights in line with the EU-Georgia Association Agenda.

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

Overall assessment

Fulfilled	Partially Fulfilled	Not Fulfilled

⁷⁶ Correspondence of the Public Defender of Georgia, #23/13271, dated December 10, 2019

Not Done: 2019 was a year which saw the gravest consequences of the failure of Georgia's child protection system. While in the previous EU-Georgia Association Agreement monitoring reports the monitoring team has consistently raised the severe vulnerability of the existing child protection system, the Ministry Internally Displaced Persons of the Occupied Territories, Health, Labour and Social Affairs ("Ministry of Health") has been denying the problems. As a result of inaction, 2019 witnessed the tragic death of several children due to failures of child protection officers to identify and take action in cases of violence against children. Two of these tragedies caused mass protest rallies in the capital amid calls for the resignation of the Government.

On January 6, 2019, four-year-old Nino Zalinashvili was hospitalized due to injuries inflicted by her mother. A restraining order was issued by the court, banning the mother from approaching the child, nevertheless, on 22 January, Zalinashvili was found dead in her bed⁷⁷. Tbilisi City Court found the mother guilty of a murdering the child, who was the victim of prolonged physical and emotional abuse, that was left without due response by the social services and law enforcement agencies.

This tragedy revealed a number of shortcomings in the child protection and welfare system that actually may endanger the lives of children. Almost all employed Social Workers in the child protection system went on strike for more than a week, joined and supported by different social groups, including some opposition leaders. It was revealed that the child protection system was on the verge of a collapse. The social workers exposed the following systematic problems in the child protection system:

- Only seven social workers were assigned to serve a population of 100,000. Each social worker was handling new 200 cases a month, which is an unrealistic and unfeasible endeavour.
- Social workers have been provided with no transportation, and communication means even during the night shifts. While intervening in urgent cases of child abuse, they had to commute with public transport together with an abused child. In the regions with no public transportation, they could not travel to aid children endangered by violence.
- The government has been providing almost no child support services, and any services provided are delayed or scarce. e.g., child nutrition products for children in a difficult economic situation were delayed for nearly a year.
- Inadequate remuneration for social workers which approximately amounted to 600 GEL (app. 191 EUR) a month.

The nation-wide strike continued for about a week and was brought to an end when the government made promises to improve conditions in the child protection system. However, on May 3, 2019, the Social Workers Union publicly declared that the government had failed to

⁷⁷OC Media, Child services blamed after 4-year-old beat to death by mother in Tbilisi, 31 January 2019. Available at (last seen 13.01.2020): <https://oc-media.org/child-services-blamed-after-4-year-old-beat-to-death-by-mother-in-tbilisi/>

uphold its earlier promise⁷⁸. Consequently, children in Georgia currently face the risk of being left without protection from multiple forms of violence and abuse.

Another case that revealed a current crisis in relation to violence against children involved the Ministry of Internal Affairs. On December 11, 2019, a 15 year-old Luka Siradze jumped from a nine-story building after being interrogated by police officers, who allegedly applied severe psychological pressure during interrogation. The child was forced to confess a “crime” of painting the walls of a school with an F word. The tragic suicide of a teenager caused mass protests in the streets, denouncing the police and requesting the resignation of high officials. The investigation against the charged police officer is still ongoing⁷⁹. This tragic death of a teenager severely damaged the public trust in police, an institution previously perceived to be a first responder in cases of violence against children and other crimes.

The Georgian Government has not developed an Action Plan for Combatting Violence Against Children; the child protection services remain under-resourced and disorganised; law enforcement agencies have undermined the confidence in, and reliance on their assistance. The monitoring team cannot evaluate the current situation of child protection from violence as progressive in any manner.

Medium-term priorities

- 1. Enhance measures to address most vulnerable children’s needs (including children with disabilities and children in street situation), through improving and expanding social protection mechanisms, as well as supporting territorial access to habilitation/rehabilitation programs for children with disabilities, and take steps towards elimination of child labor;**

Overall assessment

Progress	Limited Progress	No Progress

Not Done: According to the data⁸⁰ provided by the Ministry of Internally Displaced Persons from Occupied Territories, Labor, Health and Social Affairs (“Health Ministry”) there has been specific quantitative progress made in addressing the issues affecting the most vulnerable children:

- Government funding for the Program for Social Rehabilitation and Child Care, which is the primary source of the welfare programs at the central level, has increased by 27% in

⁷⁸ Netgazeti, Ministry of Health fails to keep up the promises, May 92,2019. Available at (last seen 13.01.2020): https://netgazeti.ge/news/360928/?fbclid=IwAR13wPDODG2StjoKOGXAv4dzFmZbVkkeHt1vJEDNhVLRIT_8-5NRuBznXRY

⁷⁹ Democracy & Freedom Watch, Georgian policy under attack for brutality as 15 y/o commits suicide, after interrogation. December 18, 2019. Available at (last seen 13.01.2020): <https://dfwatch.net/georgian-police-under-attack-for-brutality-as-15-y-o-commits-suicide-after-interrogation-53991>

⁸⁰ Correspondence of the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia #01/277, 13.01.2020

comparison to 2018. In 2019 the funding level reached 35,890,000 GEL (app. 11,500,000 EUR) while it was only 28,200,000 (app. 9,005,000 EUR) GEL in 2018.

- The state support stipend for kinship foster care has increased by 35% and constitutes 375 GEL (app. 120 EUR) as a monthly benefit. The foster care benefit for a child with a disability has increased by 50% - 900 GEL (app. 287 EUR) as a monthly benefit.
- The daily allowance for children with disabilities living in small group homes has been increased by 50%, it was 20 GEL (app. 6 EUR) in 2018 and became 30 GEL (app. 10 EUR) in 2019.
- The individual monthly allowance for children with disabilities attending daycare has increased by 26%, it was 230 GEL (app. 73 EUR) in 2018 and increased up to 290 GEL (app. 92 EUR) in 2019.
- The early rehabilitation program has also increased by 700,000 GEL (app. 223,000 EUR), as well as the funding of the home care program for children with severe and multiple disabilities by 62,000 GEL (app. 20,000 EUR).

These numbers, at one glance, are impressive. However, the quality of the service for vulnerable and children with disabilities remain the subject of enormous concern.

Following the special report⁸¹ of the Public Defender of Georgia, issued in 2019:

- The Government unlawfully removes children from biological families because of poverty, which has been recognised as a violation of a child's right to enjoy family life. This represents a discriminatory approach towards children born and reared in poverty. Punishing families by removing their child is an unacceptable practice and a violation of UN CRC principles.
- A significant number of children (24.2%) participating in the Ombudsman study report claimed that they had been physically and psychologically abused and experienced violence from foster families (e.g. ear pulling, slapping, locking in the room). 32.5% of children didn't even know the hotline telephone numbers to call for help. Furthermore, 45.1% of children declared that they were prevented by the foster parents from communicating with social workers without their permission.
- Children living in small group homes having experienced either violence or trauma, suffering from mental health problems, cannot get mental health services.

The Public Defender evaluates the issue of violence against children in state-run alternative services as extremely dangerous: "The monitoring results make it clear that even in especially grave instances of violence, there were no efforts undertaken to ensure the multidisciplinary management of the case, timely engagement of professional support services and the prevention of repeated violence." It appears that elder children, having endured violent experiences, in turn apply violence against younger children too. Sexual abuse among children

⁸¹ The Public Defender of Georgia, Monitoring of Child Care System – Effectiveness of Alternative Care, Special Report, 2019. Available at (last seen: 13.01.2020): <http://ombudsman.ge/eng/spetsialuri-angarishebi/bavshvze-zrunvis-sistemis-monitoringi-alternatiuli-zrunvis-efektianoba-spetsialuri-angarishi>

in small group homes is another alarming issue, particularly in the instances when the alleged underage offenders and victims remain in the same small group home. As the Ombudsman states: “Virtually nothing was done to prevent a repeat of the violence.” Violence among children in alternative child care services also includes a critically alarming level of homophobic violence.

Children in religious institutions face huge problems. As the Ombudsman notes in the monitoring report⁸²: Out of seven religious child institutions participating in the monitoring, the majority have no license and operate lawfully. State authorities neither participate in the placement of these children in religious orphanages nor are aware of the exact number of children enrolled. As the Ombudsman alarmingly states: “The Social Service Agency is virtually not involved in the children's enrollment at and discharge from these institutions doesn't control educational conditions and the environment... This leaves the underage beneficiaries of these institutions absolutely unprotected.” As the international organizations report⁸³: “The government's lack of information concerning the number or location of children in church-run institutions creates a danger that children could be abused or trafficked without the government's knowledge.” Children in religious institutions are not allowed to express themselves freely and are treated with the following forms of violence: ear pulling, hair pulling, forced bowing. Children are isolated from the broader community and cannot ask for help from anyone.

Taking into account all the grave forms of violence against children in alternative care programs against vulnerable children, including sexual abuse, we can not discuss any progress in this area. The government is funding services that do not protect children, which is an unacceptable state of affairs. Furthermore, the government overlooks the active risk of children being placed illegally in unregulated religious orphanages under the threat of trafficking, which is below levels of acceptability in terms of international legal or human rights standards.

2. Continue juvenile justice reform;

Overall assessment

Progress	Limited Progress	No Progress

Done: Following the data retrieved by the monitoring team from the Office of the Prosecutor's General of Georgia⁸⁴, the General Prosecutor's office has elaborated on the monitoring system

⁸² *Id* at 37.

⁸³ Disability Rights International, *Left Behind, The exclusion of Children and Adults with Disabilities from reform and rights protection in Republic of Georgia*, 2013. Available at (last seen: 13.01.2020): <https://www.driadvocacy.org/wp-content/uploads/Left-Behind-final-report.pdf>

⁸⁴ Correspondence 13/87970, December 17, 2019.

of juvenile justice cases. The improvements have been made based on UNICEF recommendations.

Not Done: Since the Prosecutor's office did not disclose any further information, citing confidentiality, the monitoring team uncovered the following significant shortcomings in the juvenile justice reforms based on open source and the research reports of the Non-Governmental Organizations:

- In criminal proceedings, children with the status of a witness are not entitled to a free legal assistance by the state, which creates a massive risk of ill-treatment during interrogation and investigation process. In December 2019, following the tragic death of a teenager, UNICEF made an explicit request⁸⁵ to the government stating "It's essential to provide all children witnesses of crime with legal assistance at any stage of contact with the justice system."
- Procedural representatives of the children, who bear huge responsibilities to protect children's rights during interrogation and legal proceedings, are mostly not aware neither of the law nor their own obligations towards children in their charge⁸⁶.
- Legal aid services providing free legal aid for minor defendants are usually overloaded. As a result, individual attorneys cannot devote sufficient time to becoming acquainted with the case and exploring the child's unique needs, which puts the child under the risk of misrepresentation.
- A child-friendly approach needs to be enhanced concerning child victims of crime. Currently, the justice system does not offer a child-friendly environment to child victims of crime (except model location in Rustavi) and professionals do not have sufficient skills to take into account children's specific needs (age, disability, gender etc.). The forensic bureau and methods that they apply are not child-friendly. It is desirable to create an integrated service for child victims of crime which will combine investigation and rehabilitation components and ensure that children get proper support and are not re-victimized during justice proceedings.
- The technical capacity of the justice system needs to be further strengthened, for example special juvenile units need to be created in law enforcement agencies and specialized professionals have to be appointed to work only on children's cases. A unified crime prevention mechanism has to be created to ensure the prevention of crime at an early stage. Beyond the criminal justice system, the role of the social, child protection and education systems have to be strengthened to identify risk factors and provide relevant follow-up and support to vulnerable children in need.

With these significant shortcomings, we can evaluate the Juvenile Justice reform as having limited progress.

⁸⁵ UNICEF, UNICEF calls to protect children's rights in juvenile justice system, December 16, 2019. Available at (last seen: 13.01.2020): <https://www.unicef.org/georgia/press-releases/unicef-calls-protect-childrens-rights-juvenile-justice-system?fbclid=IwAR3K1jG2RNzyaiwUSZ0EChcRFo9Snxj3ewk-fkx4i6fj24NyVofOXJEzOIQ>

⁸⁶ Rehabilitation Center for Vulnerable groups, Rights of Juvenile Defendants in Criminal Proceedings, Available at (last seen: 13.01.2020): <https://www.rivg.ge/media/1001537/2018/01/28/1a0838e1018ccb2ac2f27d917b0dce37.pdf>

3. Continue working towards the deinstitutionalization of children.

Overall assessment

Progress	Limited Progress	No Progress

Not Done: Even though the Government of Georgia has taken certain measures to achieve deinstitutionalization (described above), there remains a second trend that compromises the results achieved within deinstitutionalization reform. As the Public Defender states, existing religious institutions are large institutions that, according to the Ombudsman, “run counter to the aims of deinstitutionalization and conditions.” Insofar as the government of Georgia not only ignores the existence of unlawful child institutions run by religious confessions in the country, but also overlooks the risk of trafficking and violence against children unlawfully isolated in these institutions, we cannot assess any steady and consistent progress in terms of child deinstitutionalization.

TRADE UNIONS RIGHTS AND CORE LABOUR STANDARDS

Short-term priorities

- 1. Adopt the legal framework defining the supervision functions of the Labour Inspection system in the Occupational Health and Safety area, and remove restrictions to the powers of inspectors in existing legislation in accordance with International Labour Organization (ILO) standards.⁸⁷**

Overall assessment

Fulfilled	Partially Fulfilled	Not Fulfilled

Done: On 19 February 2019 the Parliament of Georgia repealed the Law of Georgia on Occupational Safety and passed the new Organic Law on Occupational Safety.⁸⁸ In general, the Organic Law guarantees essential aspects of occupational safety.⁸⁹ In 2018, the Government of Georgia approved the complete list of Hazardous, Hard, Harmful and Dangerous Occupations.⁹⁰ From September 1, 2019 important parts of the Organic Law entered into force. Previously, the Law had been applicable only to hazardous, hard, harmful and dangerous occupations. Since September 1, it covers the supervision of the safety of workers in all sectors of economic activity. Until September 1, 2019 the Labour Inspectorate could only perform a non-selective/unplanned control of an enterprise/facility with prior court approval. From now on, the Labour Inspectorate is authorized to place any workspace subject to inspection without prior notice and carry out its activities at workspace at any time of the day.

Not Done: The scope of application of the Organic Law on Occupational Safety is limited. Occupational safety is deemed to include only the physical safety of workers and psycho-social hazards and risks at the workplace are neglected. Institutional strengthening of the labour inspectorate is still needed. To this end, the process of transforming the Labour Inspection Department into an independent body should begin in due course. Furthermore, the number of inspectors, which is less than half the international standard is challenging and the lack of regional inspection representation significantly impedes the work of the Department of Labour Inspection outside Tbilisi. It is notable that currently the mandate of the labour inspectorate

⁸⁷ Association Agenda Between the European Union and Georgia, 2017-2020, page 23.

⁸⁸ Organic Law of Georgia on Occupational Safety, Georgian version accessible at <https://matsne.gov.ge/ka/document/view/4486188?publication=0>

⁸⁹ EMC's Assessment on Draft Organic Law of Georgia On Occupational Safety <https://emc.org.ge/ka/products/emc-is-mosazrebebi-shromis-usaftrkheobis-shesakheb-sakartvelos-organuli-kanonis-proektze>

⁹⁰ Government Decree "On Adopting the List of Hazardous, Hard, Harmful and Dangerous Works" (Document N381; adopted 27/07/2018; published: legislative herald of Georgia 01/08/2018) <https://matsne.gov.ge/ka/document/view/4277583?publication=0>

does not cover the enforcement of labour law legislation/employment conditions in general. September 1, 2019 was also the deadline for the Government of Georgia to initiate or adopt relevant normative acts to enforce the Organic Law on Occupational Safety, such as: Risk Assessment of Economic Activities, Minimum Health and Safety Requirements for Working with Monitoring Equipment; the Regulatory Act on the Rules and Conditions of Entry into the Workplace by the Labour Inspectorate, regulating the work of the Labour Inspectorate as a legal entity of public law. However, the relevant acts have not yet been approved or passed.⁹¹

Medium-Term Priorities

- 1. Implement the Labour Code (adopted in June 2013) and bring it as well as other relevant legislation further in line with the ILO standards. Underpin the Labour Code with procedures for resolving labour disputes and developing a negotiation culture by approving a roster of mediators;⁹²**

Overall assessment

Progress	Limited Progress	No Progress

Done: The national framework for mediation complies with international standards. Under the Labour Code, in cases of collective labour disputes parties are allowed to apply to the Ministry of Labour Health and Social Security (hereinafter referred to as the Ministry) with a request to appoint a mediator at any stage of the conciliation procedure.⁹³ There is also an important novelty in the law in terms of the power given to the Minister, in cases of high public interest, to appoint a mediator for a collective labour dispute on his own initiative and without the written request of the party, The tripartite Social Partnership Commission (the Government of Georgia, the country's employers' associations and workers' unions) recommends specific candidates in the selection process of mediators. The final list of mediators, kept in the form of a registry, is approved by the Ministry.⁹⁴

Not Done: Little to no progress has been made with respect to ratifying important ILO instruments, in particular the Labour Inspection Convention 1947 (No. 81), Protocol of 1995 to the Labour Inspection Convention 1947 (No. 81), Labour Inspection (Agriculture) Convention 1969 (No. 129), Occupational Safety and Health Convention 1981 (No. 155), Occupational

⁹¹ EMC's assessment regarding the entry into force of the specific provision of the Organic Law on Occupational Safety, is accessible at <https://emc.org.ge/ka/products/ra-sheitsvala-1-sektembridan-shromis-usaftrkheobis-datsvis-tvalsazrisit>

⁹² Association Agenda Between the European Union and Georgia, 2017-2020, page 22.

⁹³ Article 48¹ of the Labour Code of Georgia, English version is accessible here <https://matsne.gov.ge/en/document/view/1155567?publication=12>

⁹⁴ Ordinance of the Government of Georgia N301 on Approval of the Rules for Reviewing and Resolving Collective Disputes through Conciliation Procedures, 25 November 2013, Georgian version is accessible at <https://matsne.gov.ge/ka/document/view/2091854?publication=2>

Health Services Convention 1985 (No. 161), Safety and Health in Mines Convention 1995 (No. 176), Minimum Wage Fixing Convention 1970 (No. 131) etc.

The current mediation mechanism for collective labour disputes is not sufficiently effective. One of the factors hampering the effective functioning of the labour mediation mechanism is the insufficient number of mediators. This is due, on the one hand, to the absence of a mandatory contractual scheme with mediators, and on the other hand, the inadequate pay rates for the mediators. This problem has a significant impact on the process of appointing a mediator in a timely manner. It is difficult to assign a mediator to a specific dispute with broad stakeholder participation and individual criteria, as well as to operate a permanent system for retraining mediators and continuing education, which ensures systematic upgrading of mediators' qualifications and trainings on dispute specifics. A major problem is also the absence of the legal framework that would allow employees to access commercial information, and enable employees who have a labour dispute with the company to have substantiated claims in the collective bargaining process.⁹⁵

In the absence of an effective labour inspection mechanism in line with international standards, the court remains the main way of protecting workers' labour rights. According to the Code of Civil Procedure of Georgia, labour disputes should be resolved by the court within one month.⁹⁶ However, according to the data provided by the Tbilisi City Court the average length of proceedings in labour disputes exceeds 10 months. In almost a quarter of the cases (23%) the dispute lasts more than a year.⁹⁷

- 2. Continue to work on establishing an effective Labour Inspection system with adequate competences and capacities for the inspections of all working conditions and labour relations according to ILO standards;⁹⁸**

Overall assessment

Progress	Limited Progress	No Progress

Done: As already noted, the Parliament of Georgia has adopted new Organic Law on Occupational Safety, parts of which entered into force since 1 September 2019. In particular, since September 1, it covers supervision of the safety of workers in all sectors of economic activity. The Labour Inspectorate is authorized to inspect any workspace without prior notice

⁹⁵ See EMC's publication on Legal and Sociological Study of Labour Mediation, January 2019, Georgian version is accessible [here](#)

⁹⁶ Article 59 of the Civil Procedure Code of Georgia.

⁹⁷ Information is given in the 2017 report prepared by the State Audit Service of Georgia, Georgian version is accessible at <https://sao.ge/files/auditi/auditis-angarishebi/2017/dasaqmebulta-shromiti-uflebebis-dacvis-meganizmebi.pdf>

⁹⁸ Association Agenda Between the European Union and Georgia, 2017-2020, page 22.

and to inspect workspaces at any time of the day. The Organic Law defines the rules on penalties and sanctions in relation to potential infringements of the law. The system of sanctions can be assessed as adequate and appropriate if the law is applied effectively.

In 2019 the MP Dimitri Tskitishvili, with the help of the ILO and local experts, prepared draft amendments of the Labour Code of Georgia and the adoption of the Law on Labour Inspection. The drafts incorporated standards set by relevant EU directives and ILO Conventions which Georgia has obligation to harmonize under Association Agreement. Furthermore, the draft Law on Labour Inspection was aimed at creating a structurally independent Labour Inspection in Georgia and strengthening its powers.. For the period of September 2019-November 2019 several working meetings were held involving local NGOs, media, international organisations, trade unions and employers' representatives where the proposed amendments were discussed. Each stakeholder provided their comments regarding the proposed amendments. However, due to political events that took place in Georgia at the end of 2019 the drafts are stalled and it is unknown when the process will move forward.

Some important steps have been taken by the Ministry to strengthen its structural division – the Labour Conditions Inspection Department. Namely, since September 2019 the EU delegation in Georgia has been implementing the EU TWINNING Project, the main beneficiary of which is the Labour Conditions Inspection Department. The project aims at transposing those EU directives envisaged in the Association Agreement.⁹⁹ With support from the IOM the Department aims at amending the existing methodology for enforcing legislation on human trafficking and forced labour.¹⁰⁰ Through the support of the ILO the Ministry is: providing qualification trainings for the labour inspectors; developing guidelines for planning and monitoring labour inspection activities and standard operating procedures; developing an electronic system for managing labour inspections (LIMS); developing workplace accident insurance standards and standard operating procedures, etc.¹⁰¹

Not Done: Strengthening the institution of the labour inspectorate is essential and for this to happen, the process of transforming the Labour Inspection Department into an independent body should begin in due course. It will also be necessary to address the number of inspectors, which is two times smaller than the international standard, significantly impeding the work of the Department of Labour Inspection outside Tbilisi. It is also necessary to extend the mandate of the labour inspectorate to enable it to supervise the enforcement of labour law legislation in general. Furthermore, an important shortcoming of the Organic Law is that the concept of occupational safety is discussed only in the context of the employee's physical well-being and the issue of psychosocial well-being of workers in the field of labor safety is almost entirely neglected. It is also problematic that the law and its related obligations do not apply to persons employed through service contracts, which is a particularly common practice in the

⁹⁹ Information accessible in Georgian language at <https://www.moh.gov.ge/ka/725/>

¹⁰⁰ Information provided by the Labour Conditions Inspection Department to EMC, 27 December 2019.

¹⁰¹ *Ibid.*

construction sector. Therefore, persons working under such contracts do not have a right to compulsory accident insurance as provided under the law to other workers.

3. Ensure the effective functioning of the Tripartite Social Partnership Commission and continue to improve social dialogue through cooperation with the ILO.¹⁰²

Overall assessment

Progress	Limited Progress	No Progress

Done: The Tripartite Social Partnership Commission was set up in Georgia to encourage social dialogue. It was created as a result of amendments to the Georgian Labour Code in 2013. There were a number of activities undertaken by the Tripartite Commission in 2018-2019. Namely, social partners were involved in establishing a list of hard, harmful and dangerous conditions of work and discussing the issue of accident insurance. Meetings were held in Tbilisi and in the regions, organised by the Department of Labour Inspection to raise awareness in this regard.¹⁰³

In addition, the Tripartite Commission held two meetings where issues related to Tkibuli mining shaft¹⁰⁴ were discussed. With the support of the International Labour Organization, a German company (DMT) was selected, which, together with local labour safety experts, was tasked with examining and reporting on labour conditions to the Georgian side. The report has been prepared.¹⁰⁵ However, despite the high public interest, the report has never been published.

Not Done: Despite its important mandate, the Commission, has so far failed to provide effective social dialogue. The work done during the past years by the Tripartite Commission suggests that it is limited to working with social partners, which involves excluding other community groups and civil society organisations from discussions, and hampering an effective social dialogue.

Anti-Corruption, Public Administrative Reform and Public Service

Medium-term priorities

¹⁰² Association Agenda Between the European Union and Georgia, 2017-2020, page 22.

¹⁰³ Labour Conditions Inspection Department Report of Activities 2018, page 17; Georgian version accessible at <https://www.moh.gov.ge/uploads/files/2019/Failebi/27.06.2019-12.pdf>

¹⁰⁴ The operation of the mentioned mining shaft was stalled in 2019 due to high death rate of workers during past years.

¹⁰⁵ Labour Conditions Inspection Department Report of Activities 2018, page 17.

1. Cooperate with Civil Society Organisations (CSO) and the representative social partners (trade-unions and employers' organisations) as stakeholders and watchdogs in areas prioritised by the EU-Georgia Association Agreement (AA), including labour rights [...].¹⁰⁶

Overall assessment

Progress	Limited Progress	No Progress

Done: Working meetings to discuss the initiated amendments to the Labour Code of Georgia and the new draft Law on Labour Inspection were an important trend in 2019 in terms of engaging and partnering with Civil Society organisations and other stakeholders on labour law issues. Unfortunately, due to political events at the end of 2019 the proposed draft laws were never initiated.

Not Done: According to EU directives, countries are obliged to take appropriate measures to encourage dialogue with social partners, as well as to engage in dialogue with relevant NGOs. The creation of working groups within the Tripartite Commission and working with the Gender Equality Council of the Parliament of Georgia is a positive trend that has the potential to enhance the scope of social dialogue with social organisations. However, the recent work of the Social Partnership Tripartite Commission suggests that it is limited to working with social partners (trade unions and employers' associations), which excludes them from other community groups and civil society organisations.¹⁰⁷

¹⁰⁶ Association Agenda between the European Union and Georgia, 2017-2020, page 19.

¹⁰⁷ See EMC's publication on Equality in Labour Relations, page 48, Georgian version accessible [here](#)

ENVIRONMENT

Medium-term priorities

1. Implement the 3rd National Environmental Action Programme of Georgia (2017-2021) according to the NEAP 3 timeframe;

Overall assessment

Progress	Limited Progress	No Progress

Done: The Environmental Assessment Code of Georgia was adopted in 2017 by the Parliament of Georgia, which came into force on January 1, 2018. The Strategic Environmental Assessment (SEA) entered into force on July 1, 2018. However, from relevant national strategies, policy documents, and action plans, only few documents had been submitted to the Ministry of Environmental Protection under the SEA procedure. In 2019, the government of Georgia approved two major documents as a mining strategy and high mountainous regions development strategy for 2019–2023 without SEA.

Numerous actions had been implemented in accordance with the National Education Action Plan (NEAP) time frame, including the following:

- Georgia has prepared the National Environment and Health Action Plan (NEHAP 2) which was adopted on December 29, 2018.
- The State of Environment 2014–2017 report had been finalized and adopted on December 30, 2019.
- Monitoring of air quality is now conducted by eight automatic air stations and one mobile device. The ambient air quality portal air.gov.ge provides air pollution data in real time.
- An environmental monitoring system for numerous areas such as forestry and fishery in the Black Sea was developed.
- Georgia continues to participate in the ENI SEIS II program, to collect data on water and create monitoring mechanisms and works to broaden the ground water (including the Black Sea) and underground water quality monitoring system.;
- There is ongoing work on environmental assessment electronic data system creation for the automatization of environmental assessment processes.
- With significant delay, the Forestry Code was adopted at first reading by the end of 2019, with numerous conditions that need to be incorporated before the second reading. The final reading expected by the end of 2020.
- There is ongoing preparation of the three river basin management plans for Chorokhi-Adjaristskali, Alazani-Iori, and Krami-Debeda under the EU Water Initiative Plus for Eastern Partnership (EaP) countries.

Not done: The review of the NEAP 3 shows that its implementation both in terms of legislation work, as well as in terms of practical activities, lags behind schedule. Numerous activities that were supposed to have been fully implemented already by 2018, including the implementation of relevant EU directives, have now been postponed to 2020. At least one third of the activities that were supposed to be begun or fully implemented by 2019 have not started and only around one third of the activities have been implemented on time

The Ministry of Environmental Protection and Agriculture does not ensure meaningful public participation processes under the Environmental Assessment Code (adopted in 2017) and systemically violates its requirements, particularly in terms of time frames for consultation, the distribution and accessibility of documentation, the organization of public hearings, and other requirements. Public participation in policy and law-making processes is also very limited, and the Ministry of Environmental Protection and Agriculture does not undertake enough effort to engage the external stakeholders in any meaningful consultations.

The activities not to be implemented include the following:

- Adoption of the Environmental Education for Sustainable Development 2018–2022 strategy and action plan;
- Submission of the elaborated draft law on soil protection, including the legislation on soil protection measures as well as soil conservation and productivity rehabilitation to Parliament in 2019 ;
- The diesel quality standards approximation to Euro 5 have been delayed from January 1, 2020, to January 1, 2021;
- Governmental adoption of the procedure “on the approval of the procedure of the development, consideration and endorsement of river basin management plans”.

2. Implement the National waste management strategy and measures foreseen in the 2016-2020 action plan;

Overall assessment

Progress	Limited Progress	No Progress

Done: In accordance with the national waste management strategy and action plan, the municipal waste management plans are developed and adopted for all municipalities, including Tbilisi. The electronic waste management system has been developed and has been operational since January 1, 2018. The steps for the creation of the hazardous waste management national system have started.

The government has approved numerous bylaws under the waste management code, including rules on waste transportation and municipal waste collection and treatment, as well as rules on the use of plastic bags and biodegradable plastic bags and the wastes allowed for import, export,

and transit on the territory of Georgia and others. With some major delays, the construction of the Kutaisi and Adjara regional landfills is now ongoing, and they will be ready in summer 2020. There is also ongoing work for the development of regional landfill projects for the Kakheti and Samegrelo-Zemo Svaneti regions and feasibility studies for the Mtskheta-Mtianeti, Shida Kartli, and Samtskhe-Javakheti regional landfills.

Not done:

- Georgia has delayed the introduction of the extended producer responsibility (EPR) scheme until December 2019. Six bylaws on EPR (one for each waste stream: packaging, WEEE, ELV, used oils, tires, and accumulators and batteries) have been prepared.
- Companies that produce less than 2 tons of nonhazardous waste and 120 kg hazardous waste (not including municipal waste) are exempted from the obligation of developing waste management plans, appointing an environmental manager, and providing waste inventory till January 1, 2025, under the Georgian government ordinance 661, 30/12/2019.
- None of the illegal landfills has been closed.

3. Continue approximation of legislation of Georgia with EU acquis and implement the provisions of EU Directives and Regulations as envisaged in the relevant Annexes of the Association Agreement;

Overall assessment

Progress	Limited Progress	No Progress

Done: During 2017-2019 only few directives been approximate in line with Association Agreement timeframe, including

- Work undertaken in line with **Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on Ambient Air Quality and Cleaner Air for Europe** and **Directive 2004/107/EC of the European Parliament and of the Council of 15 December 2004 relating to arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air**. The technical regulation on Ambient Air Quality standards, in force from 1 August 2018, sets threshold values regarding the concentration of pollutants in the ambient air, their types and lists, compliance with which will ensure human health and the prevention and/or mitigation of negative effects on the natural environment. The legislation changes adopted at the second reading in December 2019 by the Parliament of Georgia, will regulate issues related to ambient air quality monitoring and management, preparations of short term action

- plans, air quality management plan, and public access to information regarding ambient air quality;
- Through amendments into the law of Georgia On the Maritime Space in June 2018 Georgia brought its legislation in line with Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for Community action in the field of marine environmental policy.
 - The Environmental Assessment Code had been prepared in line with Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment and Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programs on the environment.
 - To approximate Georgian legislation with the Directive 1999/32/EC of 26 April 1999 relating to a reduction of sulfur content of certain liquid fuels as amended by Regulation (EC) No. 1882/2003 and Directive 2005/33/EC, the Government of Georgia adopted technical regulations on setting limit values for the sulfur content of certain liquid fuels on 25th of May 25, 2017.

Not done: The initial schedule under Association Agreement has not been met for numerous directives, including

- With significant delay to the initial schedule under Association Agreement, Georgian authorities planned to adopt the law on biodiversity protection in 2019 in line with **Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds and Council Directive 92/43/EC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora as amended by Directive 97/62/EC, 2006/105/EC and Regulation (EC) No 1882/2003**. The law, presented by the Ministry by the end of 2019, needs to be fully reworked in order to make it compliant with the relevant directives, introducing provisions which will allow for effective implementation by the responsible agencies.
- Despite 32 special protection areas for bird species having been identified with the support of Birdlife International, they still have no protection under Georgian legislation as required by **Directive on the conservation of wild birds**;
- The inventory and designation of Emerald Network sites in accordance with article 4 of the **Directive on the conservation of natural habitats and of wild fauna and flora** lays behind the schedule. In December 2019 Georgia opposed the inclusion by the Bern Convention Standing Committee of 12 sites – which had already been proposed - into the official list of Emerald Sites. According to the Committee decision, the country needs to re-evaluate the adequacy of the Georgian Emerald Network in light of eventual changes to the proposed sites. Meanwhile, proposals to construct a glass bridge and casinos in Dashbash Canion and a wind farm on Kvernaki crest are under preparation.

- The short term priority in the Association Agenda to develop and adopt a law on Environmental Liability has still not been implemented, despite the fact that the draft law was first presented in summer 2018. The law will reintroduce the polluter pays' principle to prevent and remedy environmental damage in line with **Directive 2004/35/EC of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage;**
- Legislation in line with the **Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions** should be adopted before September 2018. The draft law was first published in Spring 2019 and still has not been finalised for submission to the Parliament;
- The water resources management law that according to the Association Agreement framework should be adopted by 2018 in order to approximate Georgian Legislation with **Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy as amended by Decision No 2455/2001/EC**, is still in the process of agreement within the government institutions. Additionally, numerous bylaws (as standards for drinking water, urban waste water treatment and etc) elaborated to align the legislation with **Directive 91/271/EEC of 21 May 1991 concerning urban waste water treatment as amended by Directive 98/15/EC and Regulation (EC) No 1882/2003** and **Directive 98/83/EC of 3 November 1998 on quality of water intended for human consumption as amended by Regulation (EC) No 1882/2003**, are also postponed and have not adopted.
- The government has failed to adopt a law and bylaws establishing an integrated inspection system for dangerous industrial facilities, despite the fact that draft legislation was already developed in line with the **EU SEVESO-III directive (The European Parliament and the Council Directive 2012/18/EU on the control of major-accident hazards involving dangerous substances, amending and subsequently repealing Council Directive 96/82/EC)** and published for public review.
 - The government has failed to adopt a law and bylaws establishing an integrated inspection system for dangerous industrial facilities, despite the fact that draft legislation was already developed in line with the EU SEVESO III directive (Council Directive 96/82/EC on 9 December 1996 on the control of major-accident hazards involving dangerous substances) and published for public review.
- The draft law regulating the management of waste from extractive industries in line with **Directive 2006/21/EC of the European Parliament and of the Council of 15 March 2006 on the management of waste from extractive industries**, has not been prepared nor presented to the public.
- Amendments to the governmental resolutions 60 and 65 (15.01.2014) are being prepared to ensure the alignment with **Directive on the control of volatile organic compound (VOC) emissions resulting from the storage of petrol and its distribution from terminals to service stations**. However, amendments not adopted yet.

- The regulation in line with **Directive 2004/42/EC of the European Parliament and of the Council of 21 April 2004 on the limitation of emissions of volatile organic compounds due to the use of organic solvents in certain paints and varnishes and vehicle refinishing products**, needs to be finalized and adopted.
- **Draw up a roadmap for the ratification and implementation of multilateral environmental agreements, including, among others UNECE Convention on the Protection and Use of Transboundary Watercourses and International Lakes, and the UNECE Convention on the Transboundary Effects of Industrial Accidents. Advance preparations to become a party to Espoo Convention and its protocol on Strategic Environmental Assessment.**

Overall assessment

Progress	Limited Progress	No Progress

Not done:

- According to the Ministry of Environment Protection and Agriculture plans to begin the process of adopting the UNECE Convention on the Protection and Use of Transboundary Watercourses and International Lakes, only after the draft law on water resources management has been adopted by Parliament of Georgia in 2020 (see above).

- Regarding the Espoo Convention and its protocol on Strategic Environment Assessment, according to the Ministry of Environment Protection and Agriculture, the articles of Georgia's Environmental Assessment Code related to the environmental impact assessment in a transboundary context will be enforced after Georgia ratifies the Convention. However, there is no specification as to when the government plans to happen.

4. **Draw up a roadmap for the ratification and implementation of multilateral environmental agreements, including, among others UNECE Convention on the Protection and Use of Transboundary Watercourses and International Lakes, and the UNECE Convention on the Transboundary Effects of Industrial Accidents. Advance preparations to become a party to Espoo Convention and its protocol on Strategic Environmental Assessment.**

Overall assessment

Progress	Limited Progress	No Progress

Not done:

- According to the Ministry of Environment Protection and Agriculture plans to begin the process of adopting the UNECE Convention on the Protection and Use of Transboundary Watercourses and International Lakes, only after the draft law on water resources management has been adopted by Parliament of Georgia in 2020 (see above).

- Regarding the Espoo Convention and its protocol on Strategic Environment Assessment, according to the Ministry of Environment Protection and Agriculture, the articles of Georgia's Environmental Assessment Code related to the environmental impact assessment in a transboundary context will be enforced after Georgia ratifies the Convention. However, there is no specification as to when the government plans to happen.

Climate Change

Medium-term priorities

- 1. Approximate legislation of Georgia to EU acts and international instruments as envisaged by the Association Agreement in accordance with the relevant Annexes thereof;**

Overall assessment

Progress	Limited Progress	No Progress

Done: Georgia had been successful in decreasing the consumption of HCFCs by 25% by 2018 in comparison with baseline levels (2013) in compliance with Regulation (EC) No. 1005/2009 on substances that deplete the ozone layer. It can achieve a 35% decrease by 2020 as the number of EU regulation requirements has already been integrated within the legislation. The Ministry of Environmental Protection and Agriculture of Georgia also initiated stakeholder dialogue for the ratification of the Kigali Amendment to the Montreal Protocol and to get organized for the HFC phasedown.

Not done: However, Georgia still needs to adopt legislative acts on certain fluorinated greenhouse gases to fully conform with Regulation (EC) No. 842/2006. Also, Georgia elaborated, but not yet adopted amendments to the Law on Ambient Air Protection to approximate with the certain requirements of Regulation (EC) No. 1005/2009 related to the recovery, recycling, reclaim, destruction, and monitoring of the leakage of ODSs.

- 2. Elaborate the updated Nationally Determined Contribution (NDC) document;**

Overall assessment

Progress	Limited Progress	No Progress

Done: The updated NDC document, including the development of numerous chapters and frameworks, as well as targets is under finalisation. The document is expected to be submitted to UNFCCC in March 2020.

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3. Mainstream climate action in sectoral policies and measures and strengthen the capacity of different authorities to implement climate action across sectors;

Overall assessment

Progress	Limited Progress	No Progress

Partially Done:

- The elaboration of the National Climate Change Action Plan “Climate 2021–2030” has been significantly delayed with only a few chapters so far developed.

4. Enhance Georgia's transparency framework for climate action, in particular through a robust national system for the monitoring and reporting of climate policies, measures and greenhouse gas emissions based upon the EU model;

Overall assessment

Progress	Limited Progress	No Progress

Done:

- In 2019, Georgia submitted its second Biennial Update Report to the UNFCCC. It reviews the climate change process, including the quantitative and qualitative analysis of GHG emissions and removals in 2014–2015 by sources and industries. It also analyses key economic sectors contributing to greenhouse gas emissions at a national level, and establishes the National Measurement, Reporting and Verification (MRV) system.
- The Greenhouse Gas 1990–2015 Inventory Report, which lays out the evaluation of domestic emissions during the given period was also submitted to the UNFCCC.
- Work to prepare - Fourth National Communication report is ongoing and on schedule.
- Under the Global Environmental Facility, UNDP and REC started Georgia’s Integrated Transparency Framework for Implementation of the Paris Agreement (ITF) that will support climate-related data management system and enhanced transparency framework requirements. The document is complemented with the National GHGs Inventory Report, which presents the trends in domestic emissions for 25 year period

and the mitigation measures taken to limit the GHG emissions, support received and needs to close gaps in the implementation of the Paris Agreement.

5. Develop Georgia's mid-century, long-term low greenhouse gas emission development strategy.

Overall assessment

Progress	Limited Progress	No Progress

Not done:

- Work on elaborating the 2050 low emissions development strategy has not started. According to the Ministry of Environmental Protection and Agriculture, the strategy will be prepared under the EU4Climate project in 2020.
- The low emissions development strategy, a short term priority for Association Agenda, was prepared and finalised in 2017 but has still not been adopted by government.