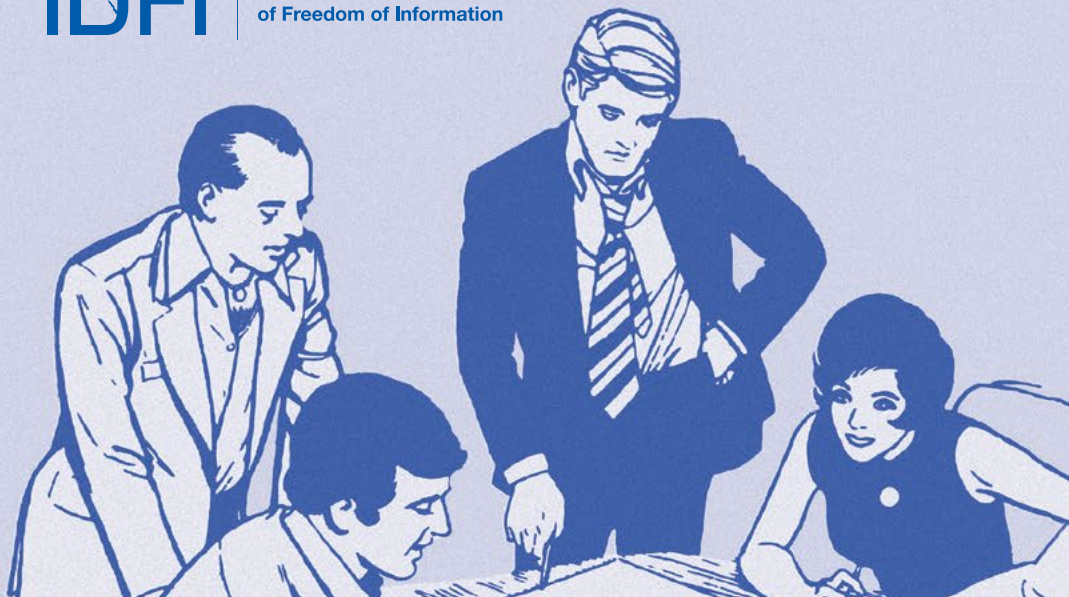




Institute for Development
of Freedom of Information



Evaluation of the Extent and Quality of PPD Second Annual Report



SEPTEMBER 2016 – SEPTEMBER 2017



USAID
FROM THE AMERICAN PEOPLE

GEORGIA



Governing for
Growth
in Georgia



Institute for Development
of Freedom of Information

Evaluation of the Extent and Quality of PPD *Annual Report №2*

SEP 2016 – SEP 2017



USAID
FROM THE AMERICAN PEOPLE

GEORGIA



Governing for
Growth
in Georgia

This publication was made possible through support provided by the United States Agency for International Development (USAID), under the terms of Governing for Growth in Georgia (G4G) activity. The opinions expressed herein are those of the author(s) and do not necessarily reflect the views of the United States Agency for International Development (USAID).

Reprinting, reproduction or distribution of the Report materials with commercial purposes shall be prohibited without the prior consent of Institute for Development of Freedom of Information (IDFI).

For detailed report with description of each evaluation, or for any additional questions, please contact IDFI.

Prepared by:

Giorgi Kldiashvili

Tamar Iakobidze

Nino Merebashvili

Contact Information:

A. Griboedov st.# 3, Georgia, Tbilisi, 0108

Tel: + 995 32 2 92 15 14

E-mail: info@idfi.ge | Web-site www.idfi.ge

Introduction – what is PPD quality tracking about?

Collaboration between public and private actors is vital for economic development because an inclusive, participative, collaborative process leads to more effective policies and laws. Nevertheless, effective dialogue between private and public sectors is still a challenge in Georgia. While engagement remains challenging on many levels, it is especially problematic on the initial stages of policy formulation, before formal initiation in the Parliament takes place.

The grant project “Public-Private Dialogue (PPD) Quality Tracking in Georgia” implemented by IDFI with the financial support from USAID Governing for Growth in Georgia (G4G) aims at addressing this challenge. Namely, the main objective of the grant project is to assess the extent and quality of inclusive consultation in the process of preparation of selected draft laws with considerable economic impact.

The results of the second annual study show that, as in the previous year, organizing effective PPD does not have regular character in Georgia and the process is still far from being institutionalized.

Some of the main findings revealed by the second year of the study are the following:

- In the absence of direct legal obligations for inclusive consultation on initial stages of policy formulation many representatives of public sector do not see the need for ensuring dialogue with the private sector.
- In case of 34 draft laws assessed within the framework of first and second annual reports, the extent and quality of PPD was higher in cases where there was involvement of international organizations such as WB, USAID, EU, GIZ, etc.
- Differences in the extent and quality of PPD are found not only across various initiating entities, but also within the same institution; therefore, high extent and quality of PPD in one draft law of any given public institution does not guarantee a similar process in other draft laws prepared by the same institution.
- There is general lack of understanding for the need as well as practical application of Regulatory Impact Assessment (RIA) in Georgian reality, even in the case of draft laws with substantial economic impact. In the absence of direct requirements to conduct RIA many authors of draft laws with economic impact limit themselves with explanatory notes. However, information given in these explanatory notes is often too scarce and superficial, not supported with publicly available research and not part of a wider public discussion before the draft law is officially initiated.

By revealing the most successful cases of PPD in Georgia our project team hopes to emphasize the positive impact of effective consultation on early stages of policy process, and thus promote more inclusive decision-making at all stages of governance.

Methodology

The Second Report on the Evaluation of Extent and Quality of PPD was prepared by IDFI within the auspices of the project Public-Private Dialogue (PPD) Quality Tracking in Georgia. The report evaluates the extent and quality of inclusive consultation during policy-making process (before submitting the draft to the Parliament) mainly affecting economic development of the country. This project aims to assess the actual involvement of various stakeholders in the policy-making process.

The evaluation of the extent and quality of PPD is based on four pre-identified phases of policy development: **policy design and development, legislation drafting, regulatory impact assessment (RIA), and circulation and public comments.**

- **Policy Design and Development:** Criteria to evaluate the extent and quality of relevant non-government stakeholders (private sector, civil society, affected party) or experts (academia, lawyers, economists, think-tank, NGO's, international donor organizations) input that the government policy-makers received in the initial formulation of underlying policy behind proposed legislation (initial formative stage), at the very first stages of consideration before the commencement of drafting any legislation.
- **Legislation Drafting:** Criteria to evaluate the extent and quality of relevant non-government stakeholders (private sector, civil society, affected party) or experts (academia, lawyers, economists, think tank, NGO's, international donor organizations) input in the actual creation of draft legislation.
- **Regulatory Impact Assessment (RIA):** Criteria to evaluate the extent and quality of the Regulatory Impact Assessment performed related to the legislation.¹

¹ RIA was evaluated with the score of 0 in cases when the author of the draft law indicated that there was no necessity of conducting RIA, based on the argument that only several sentences/words were being amended. All draft laws selected for assessment by IDFI in close cooperation with G4G have or will potentially have a considerable economic impact, thus we believe that conducting RIA was important in each case. Therefore, it was agreed within the project team and G4G that such draft laws would be assessed with 0 score in terms of RIA.

- **Circulation and Public Comments:** Criteria to evaluate the extent and quality of (i) efforts to publicize, circulate, distribute the proposed draft legislation to the public and stakeholders (private sector, civil society, affected parties and the public at large); (ii) the adequacy and extent of efforts to solicit and consider public feedback.

While working on the methodology the project team used sources such as: The PPD Handbook (Benjamin Herzberg and Andrew Wright), Introductory Handbook for Undertaking Regulatory Impact Analysis (OECD), Regulatory Impact Assessment (Association of Young Economists of Georgia), EU Guidelines for Impact Analysis, etc. The methodology includes FOI (freedom of information) requests and interviews with relevant government and non-government stakeholders using a guided questionnaire.

In order to select draft laws and amendments to be evaluated by the project team, IDFI started by monitoring the web-page of the Parliament of Georgia. IDFI team received information on draft laws initiated to the Parliament in the period between September 2016 to September 2017, after which the project team selected specific draft laws for evaluation in terms of extent and quality of PPD. The selection criteria included the extent of economic impact, scale of the law or regulation, long-term vs. short-term impact and affected parties. This was followed by studying the content of amendments, which was done through analysis of explanatory notes and draft laws published on the Parliament website. Based on this analysis, each draft law was then given a score from 0 to 3 (0 – no economic impact, 3 – considerable economic impact). Finally, draft laws that were assessed to have the most economic impact (3 scores) were evaluated by the project team in terms of extent and quality of PPD.

In total, 10 draft laws were evaluated for the second annual report (September 2016 – September 2017).

In order to assess the extent and quality of the PPD process, the project team conducted interviews with draft law author(s) using a guided questionnaire created specifically for this purpose. The questionnaire covers criteria such as: access to information about ongoing reform, extent and quality of inclusive consultation of all relevant stakeholders, involvement in the decision-making process, the extent and effect of received feedback, etc. Secondary interviews were conducted with draft law author(s), when necessary.

The chain of events leading to this publication included:

- Monitoring of the website of the Parliament of Georgia for draft laws submitted during the period of September 1, 2016 – September 1, 2017.
- Pre-selection of draft laws for further evaluation in terms of economic impact (scoring from 0 to 3).
- Selection of 10 draft laws to be evaluated.
- Conducting interviews (63 in total) with authors and relevant stakeholders of selected draft laws.
- Analysis of information gathered through interviews.
- Scoring of draft laws in terms of the extent and quality of PPD.

Rating by Law (Graph)

Policy Design

Legislation Drafting

RIA

Circulation & Comments

Draft Code of Spatial Planning and Construction	9987	33
Draft Code of Environmental Impact Assessment	8849	29
Amendments to the Law on Entrepreneurs	9936	27
Draft Law on Accounting, Reporting and Audit	8819	26
Amendments to the Law on Traffic	8744	23
Draft Law on Deposit Insurance System	8833	22
Draft Law on Labor Safety	4513	13
Amendments to Organic Law on the National Bank of Georgia (Larization, Loans, Attracting Funds)	4420	10
Draft 2017 State Budget of Georgia (Tax Increases)	3330	9
Draft Law on the Rules of Property Expropriation for Pressing Social Needs	3030	6

Rating by Law (Table)

№	Initiator / Author	Title	Status	Evaluation				
				Sum	Policy Design	Legislation Drafting	RIA	Circulation & Comments
1.	Ministry of Economy and Sustainable Development of Georgia	Draft Code of Spatial Planning and Construction (07-2/2/9)	Pending	33	9	9	8	7
2.	Ministry of Environment and Natural Resources Protection of Georgia	Draft Code of Environmental Impact Assessment (07-2/47/9)	Adopted	29	8	8	4	9
3.	Ministry of Economy and Sustainable Development of Georgia	Amendments to the Law on Entrepreneurs (07-2/62/9)	Adopted	27	9	9	3	6
4.	Government of Georgia, Ministry of Finance of Georgia	Draft Law on Accounting, Reporting and Audit (07-2/481)	Adopted	26	8	8	1	9
5.	Ministry of Internal Affairs of Georgia	Amendments to the Law on Traffic (07-2/420/8)	Adopted	23	8	7	4	4

Rating by Law (Table)

№	Initiator / Author	Title	Status	Evaluation				
				Sum	Policy Design	Legislation Drafting	RIA	Circulation & Comments
6.	Ministry of Finance of Georgia	Draft Law on Deposit Insurance System (07-2/52/9)	Adopted	22	8	8	3	3
7.	Ministry of Labor, Health and Social Affairs of Georgia	Draft Law on Labor Safety (07-2/84/9)	Pending	13	4	5	1	3
8.	National Bank of Georgia, Ministry of Finance of Georgia	Amendments to Organic Law on the National Bank of Georgia (Larization, Loans, Attracting Funds) (07-2/26/9)	Adopted	10	4	4	2	0
9.	Ministry of Finance of Georgia	Draft 2017 State Budget of Georgia (Tax Increases) (07-2/3/9)	Adopted	9	3	3	3	0
10.	Government of Georgia	Draft Law on the Rules of Property Expropriation for Pressing Social Needs (07-2/57/9)	Pending	6	3	0	3	0