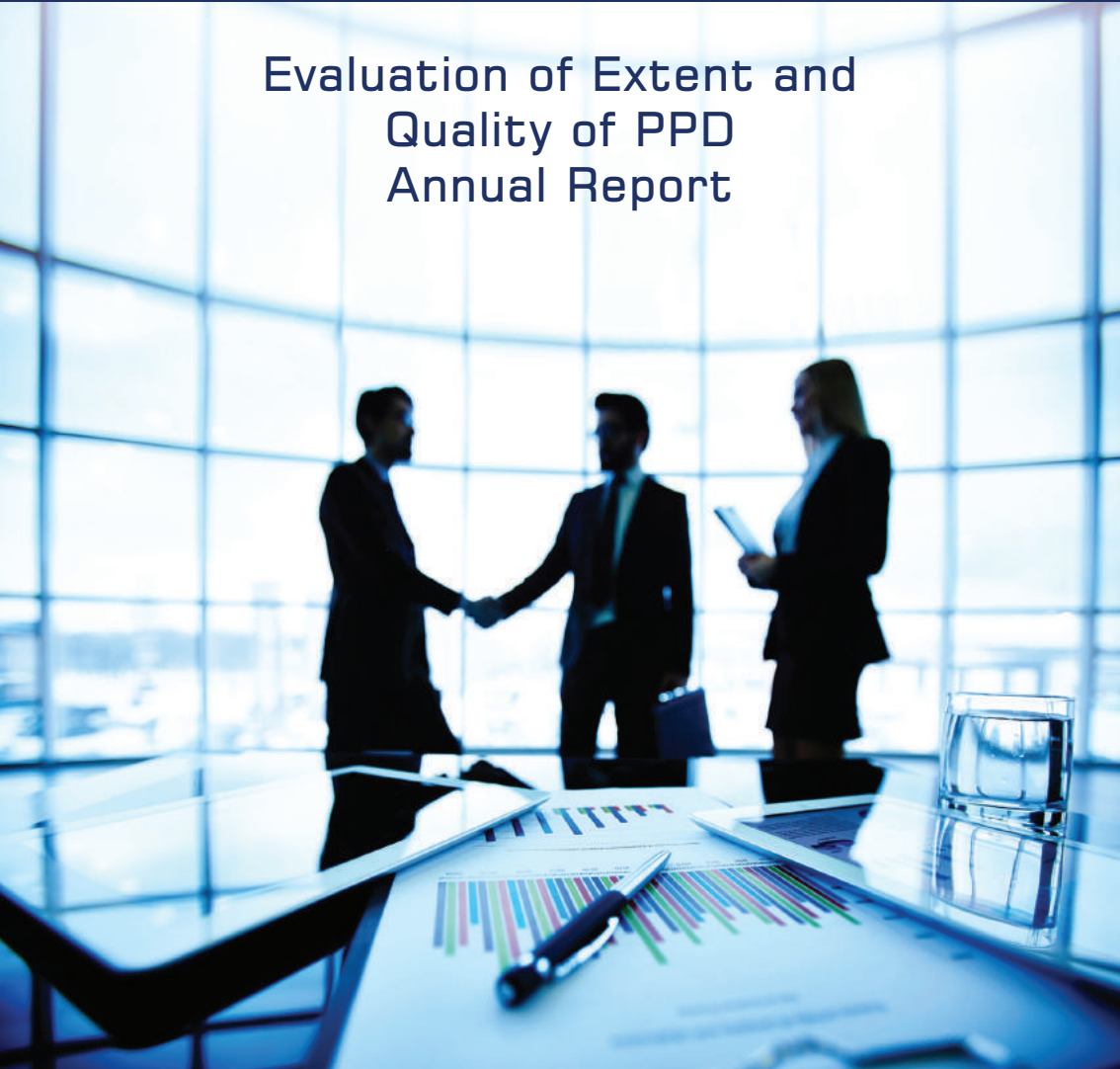


INSTITUTE FOR DEVELOPMENT OF  
FREEDOM OF INFORMATION



ინფორმაციის თავისუფლების  
განვითარების ინსტიტუტი

# Evaluation of Extent and Quality of PPD Annual Report



SEPTEMBER 2016

# Institute for Development of Freedom of Information



## Evaluation Report №1

### On the Assessment of Extent and Quality of Public Private Dialogue

Oct 2014–Sep 2016

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# INTRODUCTION – WHAT IS PPD QUALITY TRACKING ABOUT?

Collaboration between public and private actors is vital for economic development. An inclusive, participative, and collaborative development 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 Institute for Development of Freedom of Information (IDFI), with financial support from USAID Governing for Growth (G4G) in Georgia, aims at addressing the abovementioned challenge. Namely, the main objective of the grant project is to assess extent and quality of inclusive consultation in the preparation process of selected draft laws with considerable economic impact.

**The results of the first annual study show that, as expected, effective PPDs are more of an exception, than a rule in Georgia.**

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

- In the absence of direct legal obligations for inclusive consultation during initial stages of policy formulation, most representatives of the public sector do not see the need for ensuring dialogue with the private sector. This problem is especially significant in draft law cases initiated by Members of Parliament (MPs), who showed insufficient examples of PPD quality.
- There is a 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 comprehensive RIA, many authors of draft laws with economic impact limit themselves with the explanatory notes. However, the information given in explanatory notes is often too scarce and superficial, not supported with publicly available research and not part of wider public discussion before the draft law is officially initiated.

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

# 1. METHODOLOGY

The first version of the *Evaluation of Extent and Quality of PPD* report 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 the policy-making process (before submitting the draft to the Parliament) primarily for economic policy of the country. The given project aims at assessing the actual involvement of various stakeholders in the policy-making process.

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

- **Policy Design and Development:** Criteria to evaluate the extent and quality of relevant non-government stakeholder (private sector, business, civil society, affected party) or expert (professors/academia, lawyers, economists, think-tank, non-governmental organizations (NGOs), international donor organizations) input that the government policy-makers received during initial formulation of underlying policy behind proposed legislation (initial formative stage), in 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 stakeholder (private sector, business, civil society, affected party) or expert (professors/academia, lawyers, economists, think tank, NGO's, international donor organizations) input in the actual creation of draft legislation;
- **RIA:** Criteria to evaluate the extent and quality of the RIA performed related to the legislation.<sup>1</sup>
- **Circulation and Public Comments:** Criteria to evaluate the extent and quality of (i) efforts to publicize, circulate and distribute the proposed draft legislation to the public and stakeholders (private sector, business, civil society, affected parties and the public at large), and; (ii) the adequacy and extent of efforts to solicit and consider the public.

While working on the methodology, the project team has used such sources 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) and *EU Guidelines for Impact Analysis*. The methodology includes freedom of information (FOI) 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, firstly, IDFI requested registry of all draft laws submitted to the Parliament of Georgia in the period between October 2014 and September 2016. After receiving the registry from the Parliament of Georgia, the project team selected the draft laws to be evaluated. The selection criteria included the extent of economic impact, scale of the law or regulation, long-term vs. short-term impact and affected parties. In order to get acquainted with the content of the amendments, IDFI analyzed explanatory notes and draft laws published on the web-page of the Parliament of Georgia. Based on this analysis, each draft law was given a score from 0 to 3 (0 – no economic impact, 3 – considerable economic impact). Those draft laws which were assessed to have the most economic impact (3 scores) were evaluated by the project team in terms of extent and quality of PPD. Fourteen draft laws were evaluated for the baseline study (October 2014 – September 2015) and 10 draft laws for the first reporting period (October 2015 – September 2016), 24 draft laws in all.

In order to assess the extent and quality of the PPD process, firstly, the project team conducted interviews with author(s) of the draft laws. When conducting interviews, a unique and guided questionnaire was used. The questionnaire includes such criteria as access to information about the

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<sup>1</sup> 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 the amendment included several sentences/words only. 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. Hence, it was agreed within the project team and G4G that such draft laws would be assessed with 0 score in terms of RIA.

ongoing reform, extent and quality of inclusive consultation of all relevant stakeholders, involvement in the decision-making process, extent and effect of the feedback received, etc. Based on the information received from the author(s) of the draft law, secondary interviews were conducted if necessary.

The chain of events leading to this publication included:

- Submitted FOI letter to the Parliament of Georgia requesting registry of draft laws in the period between October 2014 and September 2016;
- Assessment of the received list of draft laws in terms of economic impact (scoring from 0 to 3);
- Conducting interviews on the selected amendments with the authors of the draft laws;
- Conducting secondary interviews on the selected amendments;
- Analyzing the information received via interviews;
- Scoring the draft laws in terms of extent and quality of PPD.

## RATING BY DRAFT LAW

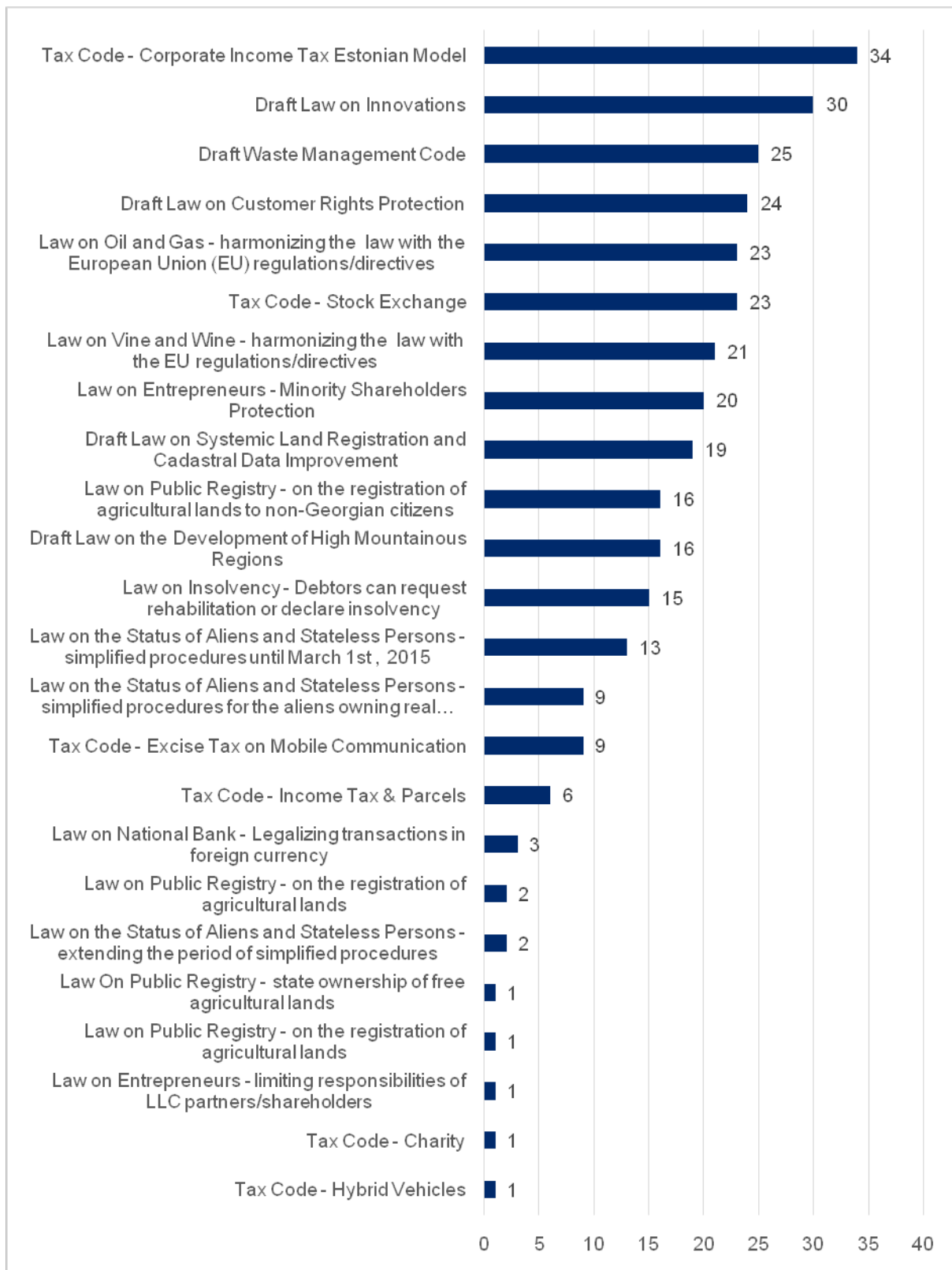
#	Initiator, Author	Title	Status	Submission Period	Evaluation				
					Sum	Policy Design	Legislation Drafting	RIA	Circulation & Comments
1.	Ministry of Finance (MoF)	Amendments to the Tax Code of Georgia (Corporate Income Tax Estonian Model, 07-2/470)	Adopted	Annual 24.03.2016	34	9	8	8	9
2.	Georgian Innovation and Technology Agency (GITA)	Draft Law of Georgia on Innovations (07-2/474)	Adopted	Annual 01.04.2016	30	9	9	3	9
3.	Ministry of Environment and Natural Resources Protection of Georgia (MENRP)	Draft Waste Management Code (07-2/262)	Adopted	Baseline 23.10.2014	25	5	9	2	9
4.	Euro Integration Committee of the Parliament of Georgia	Draft Law on Consumer Rights Protection (07-3/468)	Pending	Baseline 22.07.2015	24	7	8	3	6
5.	MoF	Amendments to the Tax Code of Georgia (Stock Exchange, 07-2/429)	Adopted	Annual 17.12.2015	23	7	7	3	6
6.	Ministry of Energy (MoE)	Amendments to the Law on Oil and Gas (harmonizing the law with the European Union (EU) regulations/directives, 07-2/346)	Adopted	Baseline 04.06.2015	23	8	5	3	7
7.	Ministry of Agriculture (MoA)	Amendments to the Law of Georgia on Vine and Wine (harmonizing the law with the EU regulations/directives, 07-2/344)	Pending	Baseline 04.06.2015	21	9	2	1	9
8.	Ministry of Economy and Sustainable Development (MoESD)	Amendments to the Law on Entrepreneurs (Minority Shareholders Protection, 07-2/447)	Adopted	Annual 29.01.2016	20	8	7	1	4
9.	Ministry of Justice (MoJ)	Draft Law on Systemic Land Registration and Cadastral Data Improvement (07-2/469/8)	Adopted	Annual 24.03.2016	19	5	5	4	5
10.	Ministry of Regional Development and Infrastructure (MRDI)	Draft Law of Georgia on the Development of High Mountainous Regions (Clarifying the term, introducing incentives for developing business, 07-2/345)	Adopted	Baseline 04.06.2015	16	9	4	2	1

11.	MoESD	Amendments to the Law on Public Registry (on the registration of agricultural lands to non-Georgian citizens, 07-2/290)	Pending	Baseline 29.12.2014	16	6	5	1	4
12.	MoESD	Amendments to the Law on Insolvency (Debtors can request rehabilitation or declare insolvency, 07-2/432)	Pending	Annual 18.12.2015	15	2	6	1	6
13.	MoJ	Amendment to the Law on the Status of Aliens and Stateless Persons (simplified procedures until March 1 <sup>st</sup> , 2015, 07-2/263)	Adopted	Baseline 24.10.2014	13	5	5	1	2
14.	Member of Parliament (MP) Zurab Tkemaladze	Draft Law on Amendments to Tax Code of Georgia (Excise Tax on Mobile Communication, 07-3/586)	Adopted	Annual 02.06.2016	9	6	1	2	0
15.	MoESD	Amendments to the Law on the Status of Aliens and Stateless Persons (simplified procedures for the aliens owning real estate in Georgia, 07-2/314)	Adopted	Baseline 13.03.2015	9	5	2	1	1
16.	MP M. Machavariani and G. Tsereteli	Amendments to the Tax Code (Income Tax & Parcels, 07-3/431)	Pending	Baseline 08.04.2015	6	1	1	1	3
17.	MP Z. Japaridze	Amendments to the Law on National Bank (Legalizing transactions in foreign currency in Georgia, 07-3/473)	Pending	Baseline 27.08.2015	3	1	0	0	2
18.	MP G. Popkhadze	Amendment to the Law on the Status of Aliens and Stateless Persons (extending the period of simplified procedures until July 1, 2015, 07-3/410)	Adopted	Baseline 12.02.2015	2	1	0	1	0
19.	MP G. Tsereteli	Amendments to the Law on Public Registry (on the registration of agricultural lands, 07-3/542)	Declined	Annual 25.02.2016	2	1	0	1	0
20.	Faction Free Democrats	Amendments to the Tax Code (Hybrid Vehicles, 07-3/470)	Adopted	Baseline 23.07.2015	1	1	0	0	0
21.	MoF	Amendments to the Tax Code of Georgia (Charity, 07-2/259)	Adopted	Baseline 23.10.2014	1	0	0	1	0
22.	MP Z. Japaridze and G. Meladze	Amendments to the Law on Entrepreneurs (limiting responsibilities of LLC partners/share- holders, 07-3/472)	Pending	Baseline 03.08.2015	1	0	0	1	0

<b>23.</b>	MP Z. Japaridze and I. Khvichia	Amendments to the Law on Public Registry (on the registration of agricultural lands, 07-3/535)	Pending	Annual 28.01.2016	<b>1</b>	0	0	1	0
<b>24.</b>	MoJ	Amendments to the Law On Public Registry (state ownership of free agricultural lands, 07-2/428)	Pending	Annual 16.12.2015	<b>1</b>	0	0	1	0



## RATING BY LAW (GRAPH)



## ANNEX 1 - INTERVIEWS CONDUCTED

Baseline Report - Interviews				
No	Date and Registration Number	Initiator, Author	Title	Interview
1	07-3/410 12.02.2015	MP G.Popkhadze	Amendment to the Law on the Status of Aliens and Stateless Persons	1. 01.06.2016 Gedevan Popkhadze, MP.
2	07-2/263 24.10.2014	GoG, MoJ	Amendment to the Law on the Status of Aliens and Stateless Persons	2. 25.05.2016 Public Service Development Agency. 3. 22.08.2016 Transparency International Georgia (TIG).
3	07-2/262 23.10.2014	GoG, MENRP	The Draft Waste Management Code	4. 11.05.2016 Waste and Chemicals Management Service of the MENRP. 5. 16.08.2016 LTD Solid Waste Management Company of Georgia.
4	07-2/344 04.06.2015	GoG, MoA	The Law of Georgia on Vine and Wine	6. 02.06.2016 National Wine Agency.
5	07-2/346 04.06.2015	GoG, MoE	Amendments to the Law on Oil and Gas	7. 17.05.2016 State Agency of Oil and Gas, MoE. 8. 17.08.2016 Union of Oil Products Importers. 9. 26.08.2016 Ministry of Energy
6	07-3/431 08.04.2015	MPs M.Machavariani and G.Tsereteli	Amendments to the Tax Code (Income Tax &Parcels)	10. 04.05.2016 Gigi Tsereteli, MP.
7	07-3/470 23.07.2015	Faction Free Democrats	Amendments to the Tax Code (Hybrid Vehicles)	11. 17.05.2016 David Onoprishvili, MP.

<b>8</b>	07-3/468 22.07.2015	Euro Integration Committee of the Parliament of Georgia	The Draft Law on Consumer Rights Protection	12. 11.05.2016 Euro Integration Committee of the Parliament of Georgia. 13. 03.06.2016 Europe Foundation. 14. 15.06.2016 CSRDG. 15. 17.06.2016 BAG. 16. 20.06.2016 Georgian Employers' Association 17. 17.08.2016 Consumers' Federation
<b>9</b>	07-3/473 27.08.2015	MP Z.Japaridze	Amendments to the Law on National Bank	18. 17.05.2016 Zurab Japaridze, MP.
<b>10</b>	07-2/345 04.06.2015	GoG, MRDI	The Draft Law of Georgia on the Development of High Mountainous Regions	19. 17.06.2016 MRDI
<b>11</b>	07-3/472 03.08.2015	MPs Z.Japaridze and G.Meladze	Amendments to the Law on Entrepreneurs	20. 17.05.2016 Zurab Japaridze, MP.
<b>12</b>	07-2/259 23.10.2014	GoG, MoF	Amendments to the Tax Code of Georgia	21. 09.06.2016, MoF
<b>13</b>	07-2/314 13.03.2015	GoG, MoESD	Amendments to the Law on the Status of Aliens and Stateless Persons	22. 19.07.2016 MoESD 23. 22.08.2016 TIG
<b>14</b>	07-2/290 29.12.2014	GoG, MoESD	Amendments to the Law on Public Registry (on the registration of agricultural lands)	24. 19.07.2016 MoESD 25. 18.08.2016 TIG

### One Year Period - Interviews

No	Date and Registration Number	Initiator, Author	Title	Interview
<b>1</b>	07-3/535 28.01.2016	MP Z.Japaridze and I.Khvichia	Amendments to the Law on Public Registry (on the registration of agricultural lands)	1. 17.05.2016 Zurab Japaridze, MP.

<b>2</b>	07-3/542 25.02.2016	MP G.Tsereteli	Amendments to the Law on Public Registry (on the registration of agricultural lands)	2. 04.05.2016 Gigi Tsereteli, MP.
<b>3</b>	07-2/469/8 24.03.2016	GoG, MoJ	Draft law on Systemic Land Registration and Cadastral Data Improvement	3. 13.05.2016 USAID/G4G. 4. 16.06.2016 BEC 5. 18.08.2016 TIG
<b>4</b>	07-2/428 16.12.2015	GoG, MoJ	Amendments to the Law on Public Registry (on the registration of agricultural lands)	6. 18.08.2016 TIG
<b>5</b>	07-2/429 17.12.2015	GoG, MoF	Amendments to the Tax Code of Georgia	7. 09.06.2016 MoF. 8. 30.08.2016 BAG.
<b>6</b>	07-2/470 24.03.2016	GoG, MoF	Amendments to the Tax Code of Georgia (Estonian Model)	9. 13.05.2016 USAID/G4G . 10. 06.06.2016 MoF. 11. 17.06.2016 BAG. 12. 20.06.2016 PMCG. 13. 25.08.2016 Association of Banks of Georgia (ABG).
<b>7</b>	07-2/432 18.12.2015	GoG, MoESD	Amendments to the Law on Insolvency	14. 24.05.2016 Law Firms Association. 15. 13.05.2016 USAID/G4G 16. 10.06.2016 Lawyer. 17. 19.07.2016 MoESD 18. 16.08.2016 AmCham.
<b>8</b>	07-2/447 29.01.2016	GoG, MoESD	Amendments to the Law on Entrepreneurs (Minority Shareholders Protection)	19. 19.07.2016 MoESD .
<b>9</b>	07-2/474 01.04.2016	GoG, GITA	Draft Law of Georgia on Innovations	20. 22.08.2016 GITA
<b>10</b>	07-3/586 02.06.2016	MP Z.Tkemaladze	Draft Law on Amendments to Tax Code of Georgia (Excise Tax on Mobile Communication)	21. 16.08.2016 MP Zurab Tkemaladze.

# ANNEX 2 - BASELINE PERIOD EVALUATION (OCT.2014-SEP.2015)

## Amendments to the Law on the Legal Status of Aliens

In March 2014, the Parliament of Georgia adopted a new version of the Law on the Legal Status of Aliens and Stateless Persons. The Law introduced number of new regulations which were negatively assessed by many experts and were seen as introducing a highly restrictive visa regime. The new regulations created problems for foreigners seeking to enter Georgia as well as for those already residing in the country. The mistakes made in the course of adopting the Law were acknowledged on the highest political level.<sup>2</sup> In order to meet the criticism, a number of amendments were introduced. The amendments aimed at introducing a “transitional period” for those foreigners who failed to meet the Law’s requirements. Below, we present the assessment of PPD in terms of extent and quality on two amendments introduced to the Law on the Legal Status of Aliens and Stateless Persons. The author of the first amendment, as indicated on the web-page of the Parliament of Georgia, was the MoJ. However, in the process of planning the interview, the analysts of the project were informed that the Public Service Development Agency (SDA) was the entity managing the process of working on the amendments, *inter-alia* ensuring that PPD was held. The author of the second amendment is MP Gedevan Popkhadze.

### A1. 07-2/263 Amendment to the Law on the Status of Aliens and Stateless Persons (simplified procedures until March 1st, 2015)

#### Background

The amendments aimed at introducing a “transitional period” for those foreigners who failed to meet the requirements of the Law. The said *inter-alia* indicated that the foreigners whose visa was expiring would not be obliged to leave Georgia and instead would have the right to apply for transit visas. In order to evaluate extent and quality of PPD in the process of preparing the draft, IDFI conducted an interview with representatives of the SDA.

#### 1. Policy Design and Development - 5

Access to information of relevant stakeholders at the policy design stage was ensured through the State Commission on Migration Issues. The Commission was composed of 13 government entities as well as NGOs and international organizations, although the latter two only had consultative status. A special mobile group was established to meet representatives of different countries. Decision makers were directly involved in the process. Comments were submitted orally by the foreigners and NGOs. The decision on considering the comments was made by the Commission.

In contrast with the information received from SDA, a representative of one of the member NGOs of the Commission highlighted that the organization was not invited or involved at the stage of policy design and development. This raises questions, as the NGO is among the few organizations in Georgia working extensively on migration issues.

#### 2. Legislation Drafting - 5

Legislation was drafted within the Commission. NGOs only had a consultative status in the commission and they did not take part in the process of rejecting or considering comments. High level public officials were directly involved in the process. According to the SDA, the majority of the received comments were taken into consideration.

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<sup>2</sup><http://rustavi2.com/ka/video/262?v=1>

In contrast with the information received from SDA, a representative of one of the member NGOs of the Commission highlighted that the organization was not invited or involved at this stage.

### **3. Regulatory Impact Assessment -1**

A RIA was not prepared. Nevertheless, a brief analysis of the probable impact of the draft Law on the State budget is included in the explanatory note.

### **4. Circulation and Public Comments -2**

After the stage of draft proposal, access to information of relevant stakeholders was ensured by means of publishing general information on the web-page of SDA. No public discussions and/or meetings were held. According to the representatives of the member NGOs of the Commission the organization was not involved in the process.

## **A.2 07-3/410 Amendment to the Law on the Status of Aliens and Stateless Persons (extending the period of simplified procedures until July 1st, 2015)**

### **Background**

According to the amendment, the “transition period” would be extended and the foreigners residing in Georgia would have the right to benefit from the simplified procedures until July 1, 2015.

### **1. Policy Design and Development – 1**

No meetings were held with any stakeholders. The policy concept arose from existing information on problems with foreigners in Georgia. In addition, the decision on extending the transitional period until June (instead of March) was made at the political level. No NGOs or private sector organizations working on issues of immigration were involved in the process.

### **2. Legislation Drafting - 0**

There was no special committee established to discuss the legislative amendments. No NGOs or private sector representatives working on immigration were involved in the process.

### **3. Regulatory Impact Assessment -1**

A RIA was not prepared. Nevertheless, a brief analysis of the probable impact of the draft Law on the State budget is included in the explanatory note.

### **4. Circulation and Public Comments - 0**

The draft Law was published on the web-page of the Parliament of Georgia after it was initiated. Even though it was accessible to anyone who was interested, this has not been taken into consideration when assessing PPD at the level of circulation and public comments. Ideally, the draft Law should have been circulated for comments before submitting it to the Parliament of Georgia.

## A.3 07-2/314 Amendments to the Law on the Status of Aliens and Stateless Persons (simplified procedures for the aliens owning real estate in Georgia)

### **Background**

In March 2014, the Parliament of Georgia adopted a new Law on the Legal Status of Aliens and Stateless Persons. The Law introduced a number of new regulations which were negatively assessed by many experts and were seen as introducing a highly restrictive visa regime. The new regulations created problems for those foreigners willing to enter Georgia as well as for those already residing in the country, among them being owners of real estate. The effects of the highly restrictive regulations were negatively reflected on the real estate market in Batumi. Thus, the State decided to intervene in the process and introduce incentives in the legislation to stimulate investments. MoESD and the Consular Department of the Ministry of Foreign Affairs (MoFA) were leading the reform process.

### **1. Policy Design and Development – 5**

According to the authors of the draft Law, up to 10 high level meetings were held on the topic. No wider scale public discussions were organized. Comments and ideas were received from investors from different countries. According to MoESD, most of the comments were taken into consideration. The decision on considering or turning down the comments was taken internally by the Ministry. Authors of the comments were explained the rationale of the decision.

According to one of the NGOs working on the issues of migration, the organization was involved in the process after the stage of initiating the Law to the Parliament of Georgia and they were not informed during the early stages of the reform.

### **2. Legislation Drafting - 2**

The comments and ideas of the investors were reflected in the draft Law, although they were not involved in the process of legislation drafting itself. Senior public officials were actively involved at each stage.

According to one of the NGOs working on the issues of migration, the organization was involved in the process after the stage of initiating the Law to the Parliament of Georgia and they were not informed during the early stages of the reform.

### **3. Regulatory Impact Assessment –1**

A comprehensive RIA was not prepared and it did not have a character of a wide scale research paper. Nevertheless, analysis of the probable impact of the draft Law on the State budget is included in the explanatory note.

### **4. Circulation and Public Comments - 1**

The final draft was not circulated among the relevant stakeholders. Representatives of MoESD noted that there was no need of circulating the final draft as it would only have formal character. They argued that as the text of the Law was simple. Nevertheless, the amendment had considerable impact on foreigners living in Georgia.

According to one of the NGOs working on the issues of migration, the organization was involved in the process after the stage of initiating the Law to the Parliament of Georgia and they were not informed during the early stages of the reform.

## A.4 07-2/262 Waste Management Code

### Background

For years, no legal act regulating waste management was adopted in Georgia. Yet, with the pace of economic development, the necessity of adopting a legal act became necessary. In addition, Georgia has undertaken the obligation to regulate the topic under number of binding international agreements and conventions. The Association Agreement (AA) with the EU stressed the issue as well. Due to necessity, MENRP initiated waste management reform. Several projects funded by the EU were undertaken by MENRP with the aim of drafting the Code *inter-alia* the Waste Management Twinning Project.

#### 1. Policy Design and Development – 4

A number of public discussions and meetings were held, although they did not precisely aim at discussing the waste management policy. Relevant stakeholders were submitting their comments and views on the topic. Representatives of MENRP decided to consider the comments. No access to prior analysis of the problem was granted to those participating in the meetings and public discussions. Decision makers were not directly involved at this stage.

#### 2. Legislation Drafting – 9

Drafting was conducted within the working group created at MENRP. The working group was composed of representatives of NGOs (Regional Environmental Centre for the Caucasus (REC), Caucasus Environmental NGO Network (CENN), Friends of the Earth) as well as private experts, six members in total. Access to information of the members of the group was ensured by means of a mailing list. Decision-makers were not directly involved in the process. A number of recommendation documents were produced by international organizations. The working group decided on considering the comments. Each member of the working group had a considerable impact on development of the draft.

#### 3. Regulatory Impact Assessment - 1

A RIA was not prepared. Nevertheless, analysis of the probable impact of the draft Law on the State budget is included in the explanatory note.

#### 4. Circulation and public comments - 9

After the first draft of the Waste Management Code was produced, 14 public discussions and several smaller meetings were held with various stakeholders. Access to information was ensured by means of publishing news about the upcoming meetings/discussions on the web-page of MENRP as well as in government buildings and direct invitations. The public and private sector were actively involved in the process. Discussions were held in rural areas. Approximately 250 comments were submitted by local business sector representatives, NGOs and private entrepreneurs. The working group kept track of all the comments and made decisions with their consideration.

## A.5 07-2/344 Amendments to the Law of Georgia on Vine and Wine (harmonizing the law with the EU regulations/directives)

### Background

The Law of Georgia on Vine and Wine was adopted in 1998. Since then, Georgia has signed a number of international regulatory documents. The signature of the AA also raised the need of amending the legal act and harmonizing it with international standards. The main purpose of the draft amendments was addressing ambiguous or dubious regulations and harmonizing specific terminology to international standards. Below, we present the assessment of PPD in the process of policy development, draft preparation, sharing and commentary linked with the amendments submitted to the Parliament of



Georgia in June 2015. The draft was initiated by the GoG, and as indicated on the web-page of the Parliament authored by MoA. However, in the process of planning interviews, the project team was informed that the draft Law was prepared by the National Wine Agency and agreed upon with MoA.

### **1. Policy Design and Development – 9**

Several large associations were actively involved in the process of drafting the amendments. Approximately a couple dozen higher level public discussions were held over a year and a half. All relevant stakeholders, i.e. local NGOs as well as business associations and private entrepreneurs, attended the discussions. The decision on considering or turning down the comments was made by the representatives of the MoA as well as the National Wine Agency. A brief assessment of Georgian legislation in terms of meeting international standards was prepared as an internal working document. The Deputy Minister was involved in the process of policy design and development.

### **2. Legislation Drafting – 2**

The draft Law was drafted within the National Wine Agency. The private sector and civil society were not members of the drafting working group. The Agency collected the problems highlighted by the private sector at the stage of policy development and the working group reflected them in the draft legal act.

### **3. Regulatory Impact Assessment – 1**

A comprehensive RIA was not prepared. Nevertheless, analysis of the probable impact of the draft Law on the State budget is included in the explanatory note.

### **4. Circulation and public comments – 9**

The draft was circulated for comments through all stakeholders. Comments were highly relevant and numerous amendments were made to the draft. Each stakeholder was informed at every stage including even minor amendments to the draft. State institutions decided on considering comments.

## **A.6 07-2/346 Amendments to the Law on Oil and Gas (harmonizing The Law with the EU regulations/directives)**

### **Background**

There were three amendments to the Law: (1) The first amendment was a change to the definition of oil product and oil production; (2) the second change was abolishment of the requirement for 5 years of experience for licensing, and; (3) the third change was about regulating tax deductions in case of natural losses.

### **1. Policy Design and Development - 8**

Relevant stakeholders had access to information about problems at the policy design stage, as the amendments were initiated by representatives of the private sector. Relevant stakeholders were involved in discussions as well as the decision-making process at the policy design stage. No public discussions or meetings were organized for a wider audience. However, both government and private sector representatives claimed that the involved stakeholders were representing the whole sector as this is a specific and narrow field with very few experts. Prior analysis and additional discussion with stakeholders was partially conducted by private sector representatives, although the results were not publicly available. Relevant decision-makers from the government were involved at the policy design stage. There was no clear process for consideration of comments, or justification of refused comments, but the private sector was actively engaged in discussion at this stage.

## **2. Legislation Drafting - 5**

According to the State Agency of Oil and Gas, they drafted the changes themselves and then organized discussions to see if there were any remaining gaps. There was no official drafting commission or working group created for drafting the Law. Prior analysis of the problem was conducted at the policy design stage, and relevant stakeholders had access to the results. According to one of the initiators of the changes from the private sector, they were actively involved in the drafting process on a single article of the amendment. However, they were not involved in the final decision-making process, when important changes were made without sufficient justification from the side of the MoE.

## **3. Regulatory Impact Assessment – 3**

A comprehensive RIA was not prepared. Nevertheless, analysis of the probable impact of the draft Law on the State budget is included in the explanatory note. The analysis of the impact of the draft Law on the market was prepared. The analysis was not publicly available.

## **4. Circulation and public comments - 7**

NGOs as well as relevant license holders had access to the final version of the draft. Discussions and meetings were organized among the NGOs and state institutions only. No broader event or discussion was organized with the aim of involving the wider public in the process. Relevant stakeholders had the opportunity to leave additional comments before initiating the draft at Parliament, and relevant comments were made by the private sector. There was no clear process for consideration of comments, as well as justification when comments were not considered.

# **A.7 07-3/431 Amendments to Tax Code of Georgia (Income Tax & Parcels)**

## **Background**

The goal of the draft Law was to decrease income tax from 20% to 5%, and to increase the limit of untaxed parcels from 300 GEL to 500 GEL.

## **1. Policy Design and Development – 1**

There were no meetings with any stakeholders, only UNM party members worked on the policy. Information on the existing problem came from various meetings and studies, but not specifically for this draft Law. No prior analysis has been prepared. No public discussions or meetings were held.

## **2. Legislation Drafting – 1**

During the drafting stage, only experts from the party and the Parliament were involved. There was no drafting committee. The draft amendment was prepared within the UNM. Based on the comments, important changes were made to the draft. However, the comments were submitted by UNM party members and discussed within the party.

## **3. Regulatory Impact Assessment – 1**

A comprehensive RIA was not prepared. Nevertheless, a brief analysis of the probable impact of the draft Law on the state budget is included in the explanatory note. There was no separate study prepared for assessing economic impact of the draft Law.

## **4. Circulation and Public Comments – 3**

There was no public discussion or presentation held. The MP received several comments from business sector representatives. The MP could not specify the authors of the comments. Decisions on considering or turning down the comments were made within the party.

## A.8 07-3/470 Amendments to the Tax Code (Hybrid Vehicles)

### Background

According to the draft Law, technical inspection would be mandatory for vehicles exceeding the weight of 3 tons. Also, the import of hybrid vehicles would be exempt from customs duty.

#### 1. Policy Design and Development - 1

No relevant stakeholders had access to information about problems at the policy design stage. There were no public discussions or meetings. No stakeholders were involved in discussions or the decision-making process. Analysis of existing practice was conducted, and external pieces of analyses prepared by the private sector were also taken into consideration but the authors were not consulted.

#### 2. Legislation Drafting - 0

The draft Law was prepared considering the abovementioned studies. No relevant stakeholders were involved in drafting.

#### 3. Regulatory Impact Assessment – 0

A comprehensive RIA was not conducted. No separate financial analysis was mentioned (e.g. internal analysis). According to the explanatory note, the draft Law has no impact on the State budget.

#### 4. Circulation and public comments – 0

No special meetings or discussions were organized. The MP claimed that generally there is no need of involving relevant stakeholders in the process before initiating the draft to the Parliament and that after the draft is prepared, comments contradicting the draft would not be accepted.

## A.9 07-3/468 Draft Law on Consumer Rights Protection

### Background

After the Code of Product Safety and Code of Food Safety were adopted, the previous Law on Consumer Rights' Protection was abolished in 2012. Later, in 2013, work on the new Law of Consumer Rights Protection began within the framework of the EU-AA. The first committee hearing was held, they supported the draft, and there were many different opinions including negative comments from the government.

#### 1. Policy Design and Development - 8

Relevant stakeholders had access to information about problems at the policy design stage from the beginning. There were active discussions, followed by the creation of a representative working group, and a public presentation before the drafting process started, which was well covered by the media. Members of the working group were actively involved in discussion as well as the decision-making process. There was clear consideration and justification of received arguments. Before the drafting process, analysis of problem was prepared. Members of the working group participated in the study visit to research international practices. The biggest shortfall was the lack of involvement of the business sector, which was invited from the very beginning but opposed to participate as they strongly disagreed

with the initiated amendments in principle. One of the representatives of a NGO noted that the involvement of the business sector in the process could have been ensured to a higher degree.

## **2. Legislation Drafting - 8**

The working group created at the policy design stage actively worked on the drafting process. The members of working group were actively involved in discussion as well as the decision-making process. There was clear process in place of the consideration of received comments. Analysis of the problem was conducted at the stage of policy development. At this stage as well the biggest shortcoming was the lack of involvement of the business sector.

## **3. Regulatory Impact Assessment - 3**

A comprehensive RIA was not prepared. A brief internal analysis was conducted but not publicly available. According to the explanatory note, the draft Law has some impact on the State budget. Scarce explanation of the impact is included in the explanatory note.

## **4. Circulation and Public Comments - 6**

Relevant stakeholders defined at earlier stages had access to the final version of the draft before initiation at the Parliament. A public presentation and discussion were held. There was no clear consideration of received comments at this stage. Business sector representatives were actively involved at this stage, some of them provided additional written comments, but they were not considered by the working group.

# **A.10 07-3/473 Amendments to the Law on National Bank (Legalizing transactions in foreign currency in Georgia)**

## **Background**

The idea of the draft Law is to create a currency free regime in Georgia, so that the GEL is not the only currency. The idea derives from the libertarian principles and the political movement "Girchi."

## **1. Policy Design and Development – 1**

The author highlighted that external experts were consulted. Nevertheless, four of them did not confirm participation. There were no formal consultations with the private sector. No prior analysis or policy paper was prepared.

## **2. Legislation Drafting – 0**

There were no stakeholders involved. The MP noted that there was no need of involvement as the text of the amendment was simple. Nevertheless, the impact of the amendment would have had considerable impact.

## **3. Regulatory Impact Assessment – 0**

A RIA was not conducted. No separate financial analysis was mentioned (e.g. internal analysis). The explanatory note says that the draft Law has some impact on the State budget but does not explain to what extent.

## **4. Circulation and Public Comments – 2**

No meetings or discussions were organized specifically for the draft Law, but there was discussion with various groups as part of the pre-election program. There was no clear process of consideration and justification for received comments, if any.

## A.11 07-2/345 Draft Law on Developing Mountainous Regions of Georgia (Clarifying the term, introducing incentives for developing business)

### **Background**

According to article 31 of the Constitution of Georgia, the State shall guarantee equal socio-economic development for all regions of the country. Special privileges to ensure the socio-economic progress of high mountain regions shall be established by law. The list of high mountainous regions established by law before the given draft Law was narrow and did not succeed in covering all the regions which geographically meet the criteria of a high mountainous region. Privileges set by the Law were not adequate. Hence, the draft Law aimed at enacting a new law which would introduce effective socio-economic privileges and mechanisms of financial support for the residents of the high-mountainous regions of Georgia.

### **1. Policy Design and Development – 9**

A special working group on developing high mountainous regions was created. The working group was staffed by experts. CSOs and business associations were not represented in the working group. The mandate of the working group was to develop a general concept of the policy. A few dozen discussions and meetings were held in every mountainous region of Georgia. Relevant stakeholders were involved in the meetings and discussions. Dozens of comments were received from local populations including small entrepreneurs. The decision on considering the comments was taken internally within the working group. The working group developed a concept for developing the mountainous regions in Georgia.

### **2. Legislation Drafting – 4**

Legislation drafting was conducted within the inter-agency working group, composed of civil servants and experts. High public officials discussed the main directions to be decided at the higher level. Meetings were held with different ministries as well as with business representatives. No CSOs were involved. No wider public discussion was held. The draft went through several stages of approval within the government. No mechanism of receiving comments during the process of legislation drafting was ensured.

### **3. Regulatory Impact Assessment – 2**

A comprehensive RIA was not prepared. The interviewee highlighted that there was no need to research probable socio-economic impacts of the Law, as to date there is basically no business in the mountainous regions of Georgia. However, the draft Law was agreed with the MoESD and MoF, which broadcasted the probable impact of the Law on the State budget. The document was not publicly available. The probable impact of the draft Law and relevant calculations are included in the explanatory note.

### **4. Circulation and Public Comments – 1**

The draft Law was not shared for comments with relevant stakeholders. According to the authors of the draft, there was no need of public circulation as the conceptual directions of the reform were agreed with the private sector from the beginning of the process.

## A.12 07-2/259 Amendments to the Tax Code of Georgia (Charity)

### Background

There were two changes in this package. The idea of the first was not to tax charity organizations or people receiving funds as charity for health related activities. Another change affected taxation of Legal Entities of Public Law (LEPL). The State LEPLs have an obligation to offer some services to the State free of charge, e.g. Samkharauli Expertise. This service has some market value, but by the Tax Code, such activity was not considered as economic activity which meant that the LEPL could not deduct losses. Thus, an exception was made in that case.

### 5. Policy Design and Development – 0

The idea of the amendment was initiated by State owned LEPL Solidarity Fund. There was no involvement of other representatives from private sector, as it was considered unnecessary.

### 2. Legislation Drafting - 0

The MoF was working on the drafting process. The draft was only discussed with State owned LEPL Solidarity Fund.

### 3. Regulatory Impact Assessment – 1

A comprehensive RIA was not conducted. No separate financial analysis was mentioned (e.g. internal analysis). According to the explanatory note, the draft Law has some impact on the State budget.

### 4. Circulation and public comments – 0

There were no public discussions on the draft Law. No relevant stakeholders were invited or involved in the process.

## A.13 07-3/472 Amendments to the Law on Entrepreneurs (limiting responsibilities of LLC partners/share- holders)

### Background

The idea of the amendment to the Law on Entrepreneurs came from the decision of the Supreme Court of Georgia, according to which shareholders of a limited liability company could not be held solely responsible for the debt of the company. Thus, the authors of the amendments registered a draft law at the Parliament which would abolish the article referred to in the decision of the court. Political party – Girchi, is the author of the amendment, although the idea itself came from entrepreneurs.

During the course of the interview, it became evident that PPD was not held either at the stage of policy development, legal-drafting or sharing and receiving comments on the first draft. When discussing the topic of RIA, the author clearly stated that no RIA has been prepared and there was no necessity of such a document.

### 1. Policy Design and Development – 0

No public discussion or meetings were held either with entrepreneurs, business associations or NGOs.

### 2. Legislation Drafting - 0

No steps were taken by the initiators of the draft Law with the aim of ensuring that PPD was held during the process of legislative drafting. The interviewee highlighted that the lawyers of the political party who have experience in drafting the texts of laws were working on the amendment.

### **3. Regulatory Impact Assessment – 1**

A comprehensive RIA was not prepared. It is indicated in the explanatory note that the draft Law will have no negative effect on the State budget.

### **4. Circulation and Public Comments – 0**

After the draft Law was prepared by the lawyers of the political party “Girchi,” no steps were taken to share it with a wider public audience for comments and feedback. However, the draft Law was accessible on the web-page of the Parliament of Georgia for anyone interested and was debated at open sessions only after it was initiated to the Parliament.

# ANNEX 3 – ANNUAL EVALUATION (OCT.2015-SEP.2016)

## Amendments to the Law on the Registration of Agricultural Lands

The issue of land registration has been highly problematic in Georgia for years. Numerous local residents have been claiming their ownership right on lands under the factual ownership of their families for years. However, in many cases, they were unable to prove legal ownership due to the lack of relevant documentation. The reason for the latter *inter-alia* is the fact that local archives keeping the registry of all the documents were burnt down during and after the period of the civil war. Hence, it was obvious that amendments to the legislation were needed in order to meet the existing situation. In addition, lately, the issue of granting foreigners the rights to privatize agricultural lands came under public scrutiny as well. With this aim, dozens of amendments were initiated to the Parliament of Georgia during recent years. As it is obvious, the issue of land registration is highly crucial for the residents of rural areas as well as investors in the country. Hence, it is particularly important to involve all relevant stakeholders in the process of developing new policy as well as during the process of working on the draft amendments and receive feedback on the latter. Below, we present the assessment of PPD on a few of amendments to the legislation regulating land ownership and registration: (1) Amendment authored by MoESD and MoJ, on the topic of land ownership rights for foreigners; (2) Amendment authored by MoESD and MoJ introducing the right of the State to register free lands on its own balance; (3) "Draft Law on Systemic Land Registration and Cadastral Data Improvement," the part of which regulating the topic of systemic land registration was elaborated in close cooperation with CSOs; (4) Amendment authored by a MP introducing simplified procedures for the registration of lands already in factual ownership; (5) Amendment authored by another MP introducing simplified and less costly procedures for the registration of agricultural lands already in factual ownership.

### A.1 07-2/290 Amendments to the Law on Public Registry (on the registration of agricultural lands to non-Georgian citizens)

#### Background

The main objective of the draft Law is to regulate the cases when foreigners will have the right to own agricultural lands in Georgia. According to the text of the draft amendment, aliens will have the right to own agricultural lands if they have received it in inheritance, if they are in marriage with a Georgian citizen or if they hold a residence permit in Georgia. In order to gain insight on the process of PPD, IDFI conducted an interview with the author of the amendment as well as with a representative of an NGO working extensively on the topic of land legislation and has broad expertise in the sphere.

#### 1. Policy Design and Development - 6

A special Land Council was created under the MoJ, headed by the Minister of Justice. The Council worked on the amendments from the very beginning of the process. The State as well as the private sector and CSO representatives were members of the Council. Specialists and experts from different higher educational institutions were also invited. The agreements within the Council were made via the process of consensus. The Minister of Justice was directly involved in the process. A study of best international practices on land ownership rights for foreigners was prepared. However, quite the opposite was mentioned by private sector representatives. They claimed that the amendments were prepared in a short period of time and they were not informed about the process of working on the amendments, thus they were not involved at the stage of either policy development or legislative drafting.

#### 2. Legislation Drafting - 5

The first version of the draft was prepared within the MOJ, considering the comments received at the previous stage. The draft was then shared within the members of the Council during the meetings. The draft was not available to the members for several days before the meetings. The draft underwent



important changes during the discussions. As in the case of policy design and development, the opposite was mentioned by private sector representatives claiming that the amendments were prepared in a short period of time and they were not informed about the process of working on the amendments. Thus, they were not involved at the stage of legislative drafting.

### **3. Regulatory Impact Assessment – 1**

A comprehensive RIA was not prepared. Nevertheless, analysis of the probable impact of the draft Law on the State budget is included in the explanatory note.

### **4. Circulation and Public Comments – 4**

The draft amendment was circulated between all stakeholders but it was not available to them several days before the meetings. The authors of the draft amendment made the decision on considering or turning down the comment. A contrasting opinion was received from NGO representatives who highlighted that they were not involved in the process at the stage of policy design and development, legislation drafting or circulation and public comments.

## **A. 2 07-2/428 Amendments to the Law On Public Registry (State Ownership on Free Agricultural Lands)**

### **Background**

During the year of 2015, CSOs and the GoG cooperated in the process of developing different draft amendments on the subject of land registration. As a result of the cooperation, the *Land Registration Strategy* and draft Law on Systemic Land Registration was prepared by the NGOs and MoJ, according to which systemic land registration would take place in selected areas of Georgia. In the course of the above-mentioned events, when it was expected that the draft Law on Systemic Land Registration would be initiated to the Parliament, GoG initiated a draft amendment according to which the State would be entitled to register “free” (unregistered) agricultural lands on its own balance. The draft Law conflicted with the fundamental principles already agreed upon between the government and CSOs. A number of critical articles were published by NGOs on the subject. Thus, it is obvious that PPD was not conducted at either stage of the reform and the Public Registry (author of the draft amendment) failed to involve relevant stakeholders in the process.

IDFI attempted to conduct an interview with a representative of the Public Registry but the relevant person refrained from being interviewed.

### **1. Policy Design and Development – 0**

No public discussion was held. Relevant stakeholders were not invited or involved in the process.

### **2. Legislation Drafting – 0**

The draft Law was prepared within the Agency. Relevant stakeholders were not invited or involved in the process.

### **3. RIA - 1**

A brief analysis of the probable impact of the draft Law on the State budget is included in the explanatory note.

### **4. Circulation and Public Comments – 0**

Relevant stakeholders were not invited or involved in the process. The draft Law was not shared with the wider public for receiving comments.

## A.3 07-2/469/8 Draft Law on Systemic Land Registration and Cadastral Data Improvement

### **Background**

From the initial stage, G4G assisted the government in the process of conducting PPD on the topic of systemic land registration. Accordingly, the draft Law registered to the Parliament of Georgia was initially titled as the “Draft law on Systemic Land Registration and Cadastral Data Improvement.” However, the initiator of the draft Law, MoJ, later added a certain provision to the draft Law which regulated sporadic land registration. No public discussion was held on the part of the draft Law which included provisions on sporadic land registration. Discussion on the topic was held only after its initiation at the Parliament of Georgia.

### **1. Policy Design and Development – 5**

Public discussion and meetings were held with all relevant stakeholders. A special working group discussing the options of preferred policy options was established. Private sector, non-governmental and international organizations were represented in the working group. EPAC (Economic Policy Advocacy Coalition) member organizations were actively involved in the process. Inclusion of the public in the process was guaranteed. As a rule, all relevant stakeholders, i.e. local NGOs as well as business associations and private entrepreneurs attended the discussions. A comprehensive document on the analysis of the problem (systemic registration) was prepared and shared with all relevant stakeholders. A legal strategy was developed after the stage of policy development. However, all of the above mentioned concerns only the part of the draft Law which regulated systemic registration, whereas the draft Law submitted to the Parliament by the Government concerned systemic as well as sporadic registration. The part of the draft Law related to sporadic registration was prepared within the MoJ.

### **2. Legislation Drafting – 5**

As a result of PPD at the stage of policy development, a special legal strategy suggesting the directions to be taken was prepared. Legislative drafting was conducted based on the strategy. A special working group worked on legislation drafting. Access to information as well as the involvement of stakeholders in the process of drafting legislation was ensured. However, PPD was ensured only on the part of the draft Law which regulated systemic registration, whereas the draft Law submitted to the Parliament by the Government concerned systemic as well as sporadic registration. No PPD was held on the part of the draft Law concerning sporadic registration. This part of the draft Law was prepared within the MoJ.

### **3. Regulatory Impact Assessment – 4**

A comprehensive RIA was not prepared before enactment of the Law. Nevertheless, a general analysis of the economic impact of systemic registration was prepared at the stage of policy development. Moreover, the probable impact of the draft Law on the State budget is included in the explanatory note.

### **4. Circulation and Public Comments – 5**

After the draft Law was prepared, the main objectives of the reform were presented to relevant stakeholders. However, PPD was ensured only on the part of the draft Law which regulated systemic registration, whereas the draft Law submitted to the Parliament by the Government concerned systemic as well as sporadic registration. No PPD was held on the part of the draft Law concerning sporadic registration. This part of the draft Law was prepared within the MoJ.

## A.4 07-3/535 Amendments to the Law on Public Registry (on the registration of agricultural lands – MP Zurab Japaridze)

### Background

The draft amendment to the Law of Georgia on Land Registration was initiated to the Parliament in January 2016 by MP Zurab Japaridze. The amendment introduced simplified procedures for the registration of lands already in factual ownership. The draft was authored by a MP. In order to get the full picture on the process of PPD, IDFI conducted an interview with the author of the draft amendment.

#### 1. Policy Design and Development – 0

At the stage of policy design and development, no discussions or meetings were held. According to the MP, the idea of amending the legislation came from the factual circumstances, when, in the period of draft initiation, the Government began to register lands on its own balance. Hence, swift action was needed. The MPs did not conduct any public discussions or meetings on the issue.

#### 2. Legislation Drafting - 0

Experts from the party were involved and no external experts or any other stakeholders were involved. A drafting committee was not created. The draft Law was prepared within the political party. The MPs did not reach out for comments either to the NGOs working on land registration issues or to relevant business associations.

#### 3. Regulatory Impact Assessment – 1

A comprehensive RIA was not prepared. Nevertheless, brief analysis of the probable impact of the draft Law on the State budget is included in the explanatory note.

#### 4. Circulation and Public Comments – 0

After the draft Law was prepared by the MPs, it was debated in the Parliament of Georgia. The draft was not circulated for comments with the wider public.

## A.5 07-3/542 Amendments to the Law on Public Registry (on the registration of agricultural lands – MP Gigi Tsereteli)

### Background

The draft amendment to the Law of Georgia on Land Registration was initiated to the Parliament in February 2016. The draft was authored by MP Gigi Tsereteli. In order to get the full picture on the process of PPD, IDFI conducted an interview with the MP.

#### 1. Policy Design and Development – 1

The MP held meetings with the electorate, mostly natural persons in different regions of Georgia. Comments made verbally only came from the electorate. The MP made the decision to consider the comments.

#### 2. Legislation Drafting - 0

No special working group was created. The draft Law was prepared by the staff of UNM.

### **3. Regulatory Impact Assessment – 1**

A comprehensive RIA was not prepared. Nevertheless, a brief analysis of the probable impact of the draft Law on State budget is included in the explanatory note.

### **4. Circulation and Public Comments – 0**

The draft Law was not circulated for comments with relevant stakeholders or the wider public.

## **A.6 07-2/429 Amendments to the Tax Code of Georgia (Stock Exchange)**

### **Background**

The goal of the changes was to promote participation of Georgian enterprises in the stock exchange. There was a discussion; one of the leading banks addressed the MoF/RS with a question of whether expenses related to participation in the stock exchange would be taxed. As a result of analysis, it turned out that existing legislation does not clearly rule such a case and it might become a matter of dispute. Thus, the decision was made to amend the Law.

### **1. Policy Design and Development - 7**

Relevant stakeholders had access to information about problem and policy design stage, as the change was initiated by one of the companies. Relevant stakeholders were involved in discussion as well as the decision-making process at the policy design stage. However, no public discussions or meetings were organized. Relevant decision-makers from the government were involved at the policy design stage. Comments were made by the private sector. As explained both by the private sector and the GoG, the change was too narrow and affected only three companies, but would be favorable to other companies participating in the stock exchange in the future. Prior analysis of the problem was conducted by a private sector representative. Relevant stakeholders had access to the document.

### **2. Legislation Drafting - 8**

Relevant stakeholders actively participated in the drafting process and were involved in the decision-making process. The first vision of the draft was prepared by the private sector. Prior analysis of the problem was conducted, partly by the private sector. Relevant stakeholders had access to prior analysis conducted at the legislation drafting stage. Relevant decision-makers from the government were involved at the legislation drafting stage. There was no formal drafting commission or working group created for drafting the Law, but informally active involvement of the private sector was ensured. The decision on considering or turning down the comments was made in consensus.

### **3. Regulatory Impact Assessment - 3**

A comprehensive RIA was not conducted. A financial analysis was prepared although it was not publicly available. According to the explanatory note, the draft Law has some impact on the State budget but the extent of the impact is not further specified. According to the representatives of the private sector as well as the government, this information is commercial secret.

### **4. Circulation and Public Comments - 6**

Relevant stakeholders defined at earlier stages had access to the final version of the draft and had the opportunity to leave additional comments before initiation at the Parliament. Public discussions and meetings were not organized but as explained both by the private sector and the government, the change was too narrow and affected only three companies. One of the reasons for no more discussions was mentioned to be the lack of time. The wider public (not only those stakeholders defined at earlier stages) did not have access to the final version of the draft before initiation to the Parliament.

## A.6 07-2/470 Amendments to the Tax Code of Georgia (Corporate Income Tax Estonian Model)

### **Background**

According to the draft Law, initially the reform will cover value added tax (VAT), which will no longer be levied from the import of fixed assets. On the next stages, corporate income tax (CIT) will be applied to distributed earnings as well as the financial intermediation sector. CIT reform in general implies the simplification of tax administration.

#### **1. Policy Design and Development - 9**

Relevant stakeholders had access to information about problems at the policy design stage. Decision-makers from the government were involved at the policy design stage. Public discussions on the concept were held. Business associations, audit companies, and other companies participated in the process. The decision-making process on policy alternatives was made within the MoF. Prior analysis of the problem was conducted by the MoF. Furthermore, there were study visits to Estonia, including representatives of government as well as private sector. Banks were not initially included in the scope of the reform and thus were not involved at this stage.

#### **2. Legislation Drafting - 8**

There was a working group created for drafting the Law which included representatives of the private sector. After formal announcement of the proposed legislative reform, the banks also joined the process and were actively involved. The first version of draft Law was prepared by the MoF, however it was used as a basis for further discussions, which was assessed as an open process by representatives of the private sector. Relevant decision-makers from the GoG were involved at the legislation drafting stage. One of the representatives of the private sector noted that there was a lack of time for more in-depth discussions, and highlighted the reluctance of the MoF to give well-grounded arguments. The drafting process began after the results of a comprehensive RIA were available; however, according to private sector representatives, the results of RIA were discussed internally by the GoG and were not available to all relevant stakeholders during the process of drafting.

#### **3. Regulatory Impact Assessment - 8**

Comprehensive RIA was prepared by relevant experts, including experts from Estonia. The results of the RIA are publicly available. Relevant policy options are discussed and assessed in RIA. The results of RIA were taken into consideration by decision-makers, but some risks were not adequately addressed. RIA was prepared before drafting and was the basis for drafting process. However, results of the RIA were presented by authors to MoF, and then discussed internally. There was some public discussion involving relevant stakeholders, however, a number of stakeholders (e.g. banks) did not have information about the results of the RIA.

#### **4. Circulation and Public Comments - 9**

Relevant stakeholders defined at earlier stages, as well as additional stakeholders had access to final version of the draft before initiating to the Parliament. Number of meetings and discussions on the draft law were organized. The received comments were discussed and there was justification given for considering or turning down the results. However, as in the case of drafting, some representatives of private sector highlighted that there was lack of time for more in-depth discussion.

## A.7 07-2/432 Amendments to the Law on Insolvency (Debtors can request rehabilitation or declare insolvency)\*

### Background

One of the main goals behind the legal changes was to improve Georgia's rating in the "Doing Business" ranking by World Bank (WB). The evaluation is based on an assessment by representatives of the MoESD, two independent experts representing law firms and a representative of the business association American Chamber of Commerce (AmCham). It should be noted the author of the draft Law from the MoESD was highly reluctant to agree on an interview.<sup>3</sup>

#### 1. Policy Design and Development - 2

The initiator of the draft Law, MoESD, claimed that there was sufficient involvement of the private sector at the policy design stage; however private sector representatives did not confirm the information. Of the three independent representatives of the private sector, none of them confirmed that they were informed or invited at the policy design stage. Also, private sector representatives could not give information about any prior analysis, or policy document prepared at this stage.

#### 2. Legislation Drafting - 6

Relevant stakeholders were involved in the drafting process once the initial version of draft was prepared by MoESD. However, some stakeholders expressed dissatisfaction about not being invited to the drafting process and learning about the proposed changes from third parties once the draft was prepared. Among those representatives of the private sector which were invited to be involved at the drafting process, there was mixed feedback about their extent of engagement. One of them claimed that their involvement was formal, there was no justification of refused comments, and they were not involved in the decision-making process. However, another representative of the private sector believes that consideration of their comments as well as extent of communication was sufficient. Although, in this given case, meetings were only held with representatives of that specific organization. Relevant decision-makers from the government were involved at the legislation drafting stage. The representatives of business associations, which had a positive impression of engagement stated that they did not know about any prior analysis before the draft Law.

#### 3. Regulatory Impact Assessment - 1

A comprehensive RIA was not conducted. No separate financial analysis was mentioned (e.g. internal analysis). According to the explanatory note, the draft Law has some impact on the State budget.

#### 4. Circulation and Public Comments - 6

Relevant stakeholders defined at earlier stages had access to the draft before initiating at Parliament. The wider public (not only those stakeholders defined at earlier stages) had access to the document before initiating it to the Parliament, some of them with the help of third parties, some of the directly from the Ministry. Relevant stakeholders had the opportunity to leave comments before initiating the draft at the Parliament. No public discussions or meetings were organized at the stage. Due to a lack of involvement at the policy design and drafting stages, and also not having received direct information from the Ministry, one of the legal associations working on this topic stated they had no more motivation to participate in the process. There was no clear process of consideration of comments received at this stage.

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<sup>3</sup> See Chapter 12. Problems Revealed in The Process of Planning the Interviews, pg.24.

## A.8 07-2/447 Amendments to the Law on Entrepreneurs (Minority Shareholders Protection)

### Background

The draft Law was submitted to the Parliament of Georgia on January 26, 2016. The amendments to the Law on Entrepreneurs aim at improved protection of rights of minority shareholders (less than 5%) and to introduce a number of legal guarantees to meet this end. In addition, the draft Law aims at improving the management and transparency of ventures. The author of the amendments is MoESD.

### 1. Policy Design and Development – 8

Two-dozen business associations, including a stock exchange representative, were actively involved in the process. Their views were reflected in the first draft of the amendments. Relevant stakeholders submitted their views on the topic. Representatives of the MoESD considered the comments and ideas received. No special procedure was established. Brief assessment of Georgian legislation in terms of meeting international standards was prepared as an internal working document. The Deputy Minister was involved in the process of policy design and development.

### 2. Legislation Drafting – 7

The working process on the draft Law was conducted within the MoESD. Decision-makers were directly involved in the process. The involvement of relevant private sector representatives at the stage of legislative drafting was ensured by sharing the first version of the draft through emails and receiving their comments. Decisions on considering or turning down the comments were made within the Ministry.

### 3. Regulatory Impact Assessment – 1

A comprehensive RIA was not prepared. Nevertheless, analysis of the probable impact of the draft Law on the State budget is included in the explanatory note.

### 4. Circulation and public comments – 4

The working draft of the amendment was circulated among the stakeholders involved at the stages of policy design and development via mailing lists. No wider scale public discussions were held. The decision on considering the received comments or rejecting them was taken within the MoESD.

## A.9 07-2/474 Draft Law of Georgia on Innovations

### Background

The draft Law of Georgia on Innovations was prepared by GITA and initiated to the Parliament by the Government of Georgia in April 2016. The Law on Innovations was enacted by the Parliament in June 2016. According to the explanatory note, the level of innovation and technology in Georgia is considerably low as compared to existing international standards (GGI). According to the Socio-Economic Development Strategy of Georgia - 'Georgia 2020' the GoG has undertaken the obligation to reinforce development of technology and innovation by supporting the private sector, raising the level of free competition, assisting the process of research and development and developing infrastructure. Enactment of the Law on Innovations was one of the steps taken towards the end of meeting the goals of the Strategy. In order to research the process of PPD in the course of preparing the draft Law, representatives of IDFI conducted an interview with the Deputy Chairman of GITA.

In March 2015, The WB Board of Executive Directors approved an International Bank for Reconstruction and Development (IBRD) loan of US \$40 million to Georgia for the Georgia National Innovation Ecosystem (GENIE) Project. This project aimed at supporting implementation of the Government's strategy to build a competitive and innovative economy that is ready for the future. The

process of working on the draft Law of Georgia on Innovations was supported by WB at every stage beginning from policy development to initiation of the draft to Parliament.

### **1. Policy Design and Development – 9**

National as well as international experts were involved in the process. The WB prepared draft recommendations on innovations. A number of public discussions were organized. Representatives of academia and relevant experts were also actively involved in the process.

### **2. Legislation Drafting – 9**

The process of working on the draft Law on Innovations was conducted within a working group. The members of the working group were representatives of different public agencies as well as the private sector. A number of meetings were held with different research academies and universities. The authors of the comments and recommendations were given an explanation on the rationale of taking or turning down their proposals.

### **3. Regulatory Impact Assessment – 3**

A comprehensive RIA on the Law was not conducted, one of the main reasons being a shortage of time. Preparing a full scale RIA is highly time-consuming, whereas the GoG was running short in time to enact the Law. Nevertheless, a brief assessment of the probable impact of the Law on the budget of Georgia is included in the explanatory note. In order to evaluate the probable impact, GITA closely cooperated with the MoF as a result of which an internal paper on the analysis of the impact of the draft Law on the State budget was prepared.

### **4. Circulation and public comments – 9**

A number of public discussions were held on the draft Law before it was initiated to the Parliament of Georgia. The public discussions were organized by USAID. All relevant stakeholders were invited at this stage. A number of comments were received from the private sector as well as academia representatives. The authors of the comments and recommendations were given explanations on the rationale of taking or turning down their proposals.

## **A.10 07-3/586 Draft Law on Amendments to Tax Code of Georgia (Excise Tax on Mobile Communication)**

### **Background**

The goal of the draft Law is to decrease excise tax on mobile communication and thus support development of the communication sphere.

### **1. Policy Design and Development – 6**

The amendment was initiated by private sector representatives, and according to the author of the draft Law, MP Zurab Tkemaladze, there was a lot of discussion with the private sector before the drafting process. There were no public discussions, but there were meetings with private sector representatives at the policy design stage. Relevant decision-makers from the government were involved at the policy design stage. There was some prior analysis of the problem but the results were not publicly available. Also, some data was sent by representatives of the private sector. There was no wider discussion of the initiated changes with broader stakeholders or experts. There was no clear process of consideration of the received comments. There was no policy document prepared at this stage.



## **2. Legislation drafting - 1**

Only the Business Ombudsman was involved in the drafting process. The author of the draft Law claimed that no representatives of the private sector were involved in order to not connect anyone to the amendments during the pre-election campaign. There was no drafting commission or working group created for drafting the Law. No experts or representatives of the broader private sector were involved.

## **3. Regulatory Impact Assessment – 2**

There was no separate comprehensive analysis done for this draft law. Some but very scarce financial calculations are included in the explanatory note.

## **4. Circulation and public comments – 0**

No public discussion or any additional attempts for involvement were made at this stage. According to the author, this was to prevent connecting anyone to the amendments during the pre-election campaign.