

EVALUATION OF THE EXTENT AND QUALITY OF PUBLIC PRIVATE DIALOGUE IN GEORGIA

2014-2019



INSTITUTE FOR DEVELOPMENT OF FREEDOM OF INFORMATION



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Society for Democratic
Governance

EVALUATION OF THE EXTENT AND QUALITY OF PUBLIC PRIVATE DIALOGUE IN GEORGIA 2014 – 2019



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GEORGIA



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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. With the financial support from USAID G4G, the Institute for Development of Freedom of Information (IDFI) implemented Public-Private Dialogue (PPD) Quality Tracking, a grant project in Georgia that aims at evaluating the extent and quality of inclusive consultation in the process of developing draft laws with considerable social-economic impact.

The report contains an assessment of the extent and quality of PPD during the preparation of 37 draft laws initiated to the Parliament of Georgia between October 2014 and May 2019.

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

METHODOLOGY

The report evaluates the extent and quality of inclusive consultations during the early stages of policy-making in the process of developing draft laws with considerable social-economic impact (before the draft laws are submitted to the Parliament).

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, circulation and public comments, and ex-ante regulatory impact assessment (RIA).**

- **Policy design and development:** Criteria to evaluate the extent and quality of relevant nongovernment stakeholder (private sector, business, civil society, affected party) or expert (professors/academia, lawyers, economists, think tank, NGOs, international donor organizations) input that government policymakers 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 stakeholder (private sector, business, civil society, affected party) or expert (professors/academia, lawyers, economists, think tank, NGOs, international donor organizations) input in the actual creation of draft legislation.
- **Circulation and public comments:** Criteria to evaluate the (i) extent and quality of 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 public feedback.
- **Ex-ante RIA:** Criteria to evaluate the extent and quality of the RIA performed related to the legislation.

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. The methodology includes freedom of information requests and interviews with relevant government and nongovernment stakeholders using a guided questionnaire.

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

MAIN FINDINGS

The main findings revealed by the study during the period from 2014 to 2019 are as follows:

- Public entities actively involved different associations in the process of PPD, therefore ensuring wide representation of the private sector.
- Public entities often used various platforms of dialogue in the process of PPD-for example, the Private Sector Development Advisory Council (the Ministry of Jus-

tice), Land Council (the Ministry of Justice), State Commission on Migration Issues (the Ministry of Justice), Consultation Council on Georgian Trade (the Ministry of Economy and Sustainable Development), Tripartite Social Partnership Commission (the Ministry of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs), National Vocational Education, and Training Council (the Ministry of Education, Science, Culture and Sport).

- Although these platforms are crucial for institutionalizing PPD, in a number of cases those private sector representatives that were not included in the platforms were denied opportunity to be involved in the process.
- Important changes were made to the vast majority of the draft laws included in the report as a result of receiving and discussing comments of private sector representatives.
- However, state entities found it problematic to establish a well-organized process for discussing submitted comments and providing relevant feedback on each comment.
- RIAs were prepared for six draft laws. Relevant stakeholders had access to the results of the RIAs before the legislation drafting stage was completed in three instances.
- State entities were reluctant to conduct PPDs around the country and were mostly concentrated on Tbilisi.
- In the vast majority of cases, public entities prepared the initial versions of draft laws without private sector involvement.
- In some cases, when draft laws were published online, public entities were reluctant to take proactive measures to reach out to the wider public.
- In other instances, when large-scale public discussions were organized with the aim of introducing the draft law to the public, the full texts of the draft laws were not published for public scrutiny.
- In the vast majority of cases, when state entities prepared research and study documents for draft laws under discussion, they did not directly share those research documents with private sector representatives involved in the process. Instead, they referred to these findings during discussions.

RECOMMENDATIONS

- **Since Georgian legislation does not oblige state entities to ensure inclusive consultations during the initial stages of policy formulation, it is crucial to develop common standards of PPD regarding Georgian reality. A government decree should approve these guidelines and should provide directions on the stages and process of PPD.**
- **When facilitating dialogue through various PPD platforms, state entities should ensure that major business associations and civil society organizations that are not included in the platform are informed, invited, and involved in the process.**
- **It is important that interested parties are informed at the early stages of policy development and have access to information about the planned changes.**
- **State entities should involve private sector representatives in the preparation of initial versions of draft laws and should include them in drafting working groups.**
- **During the process of dialogue, state entities should establish a well-organized process of discussing received comments and give relevant feedback on each comment received.**
- **It is important to conduct comprehensive RIAs for the draft laws with high potential for social-economic impact.**
- **In the best-case scenario, a complete RIA should be prepared and shared with relevant stakeholders at the early stages of policy development, before a draft law is prepared, and it should be used to decide the main directions of the reform.**
- **Holding discussions throughout the entire country-outside of Tbilisi-is of utmost importance.**
- **State entities should grant the wider public access to final versions of draft laws (by publishing them on relevant websites) and should take proactive measures to reach out to the wider public.**
- **Representatives of state entities should directly share research and study documents prepared for draft laws with all relevant stakeholders involved in the process.**

DETAILED PPD RATING

OCTOBER 2014 – MAY 2019

Policy design and development

Legislation drafting

Circulation and public comments

Ex-ante Regulatory Impact Assessment (RIA)

Draft Code on Spatial Planning and Construction



Amendments to the Tax Code of Georgia (corporate income tax, Estonian Model)



Draft Law on Vocational Education



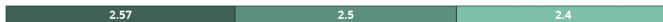
Draft Code of Environmental Impact Assessment



Draft Law of Georgia on Innovations



Amendments to the Tax Code of Georgia (capital market reform)



Draft Law of Georgia on Pension Savings



Amendments to the Tax Code of Georgia (stock exchange)



Draft Law on Accounting, Reporting and Auditing



Draft Waste Management Code



Amendments to the Law on Oil and Gas



Amendments to the Law of Georgia on Vines and Wine



Amendments to Product Safety and Free Movement Code of Georgia



Draft Law on Mediation



Amendments to the Tax Code of Georgia (decreased small business taxation)



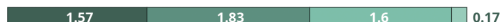
Amendments to the Tax Code of Georgia (Special Trade Zones)



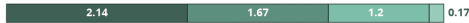
Amendments to the Civil Code of Georgia (consumer protection, loans)



Draft Law on Deposit Insurance System



Amendments to the Law on Entrepreneurs (minority shareholders protection)



Amendments to the Law on Traffic



Amendments to the Law on Entrepreneurs



Amendments to the Law on Insolvency



Amendments to the Organic Law of Georgia on Normative Acts (regulations on RIA)



Draft Law on Labor Safety



Draft Law on Systemic Land Registration and Cadastral Data Improvement



Amendments to the Law on the Status of Aliens and Stateless Persons (simplified procedures until March 1, 2015)



Amendments to the Law on Public Registry (on the registration of agricultural lands to non-Georgian citizens)



Draft Law of Georgia on the Development of High Mountainous Regions



Draft Customs Code of Georgia



Amendments to the Organic Law on the National Bank of Georgia (larization, loans, attracting funds)



Amendments to the Law on the Status of Aliens and Stateless Persons (simplified procedures for aliens owning real estate in Georgia)



Draft 2017 State Budget of Georgia (tax increases)



Draft Law on Public-Private Partnership (PPP)



Draft Law on the Rules of Property Expropriation for Pressing Social Needs



Amendments to the Law on Public Registry (state ownership of free agricultural lands)



Amendments to the Tax Code of Georgia (charity)



Amendments to Product Safety and Free Movement Code (regulations against buildings defacing city appearance)



PPD RATING

OCTOBER 2014 – MAY 2019

