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Baseline Measurement Report:

The Principles of Public Administration

Policy Development and Co-ordination

GEORGIA

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LIST OF ABBREVIATIONS AND ACRONYMS

AoG	Administration of Government
BDD	Basic Data and Directions
CoG	centre of government
EEAI	European and Euro-Atlantic Integration
EI	European integration
ENP	European Neighbourhood Policy
EU	European Union
DCFTA	Deep and Comprehensive Free Trade Agreement
GAWP	Government Annual Work Plan (GAWP)
GCEI	Government Commission on European Integration
LEPL	Legal Entity under Public Law
MoESD	Ministry of Economy and Sustainable Development
MoF	Ministry of Finance
MoFA	Ministry of Foreign Affairs
MoJ	Ministry of Justice
NAPIAA	National Action Plan for Implementation of the Association Agreement
PAR	public administration reform
RIA	Regulatory Impact Assessment
RoP	rules of procedure

INTRODUCTION

SIGMA developed the Principles of Public Administration in 2014 to support the European Commission's reinforced approach to public administration reform (PAR) in the European Union (EU) Enlargement process and, in 2015, further developed them to advance PAR within the context of the European Neighbourhood Policy (ENP). Covering six key areas – the strategic framework of public administration reform; policy development and co-ordination; public service and human resource management; accountability; service delivery; and public financial management, including public procurement and external audit - the Principles define what good public governance entails in practice and outline the main requirements to be followed by countries during EU integration. The monitoring framework makes it possible to set country benchmarks and regularly analyse progress in applying the Principles.

In 2017, the Principles[1] were updated and a new Methodological Framework was developed to improve clarity, without changing the substance of the conceptual framework.

In 2015, SIGMA undertook comprehensive Baseline Measurement assessments against these Principles for the seven EU Enlargement candidate countries and potential candidates and, since then, has continued to monitor progress. In 2017, SIGMA published Monitoring Reports for the EU Enlargement candidate countries and potential candidates covering the period from May 2015 to June 2017. SIGMA also carried out a similar Baseline Measurement assessment in Moldova in 2016.

This first Baseline Measurement assessment in Georgia covers only the policy development and co-ordination area. As agreed with the administration in Georgia and the European Commission, this assessment is based on the methodology and indicators developed for the EU Enlargement candidate countries and potential candidates (described in the *Methodological Framework for the Principles of Public Administration*[2]) and, as such, the methodological requirements and standards applied are more rigorous than those designed for ENP countries. The assessment covers the period up to the end of December 2017, while samples of legislation, data and reports used in the analysis are taken from 2016 and 2015, the last two full calendar years before the assessment year.

It should be noted that the indicator values (based on the points allocated to each sub-indicator) are indicative and should not be used or interpreted without the context of the full qualitative analysis provided under each Principle. Also, as the more challenging and rigorous European integration-related methodology has been applied, certain indicators are not as relevant in the Georgian context. In such cases, lower values are reported.

This report also contains short-term and medium-term recommendations to help the administration take concrete actions to tackle some of the most important challenges in the policy development and co-ordination area.

The analytical findings and recommendations in this report are also designed to inform the policy dialogue and discussions between the EU and the Georgian administration about priority areas for reform and potential support.

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1 OECD (2017), SIGMA, *The Principles of Public Administration*, OECD, Paris, http://www.sigmaweb.org/publications/Principles-of-Public-Administration_Edition-2017_ENG.pdf.

2 OECD (2017), SIGMA, *Methodological Framework for the Principles of Public Administration*, OECD, Paris, http://sigmaweb.org/publications/Methodological-Framework-for-the-Principles-of-Public-Administration-November-2017.pdf. This methodology is a further developed detailed specification of indicators used to measure the state of play against the Principles of Public Administration.

OVERVIEW

Over the past decade, Georgia has made progress in establishing key institutions for democratic and good governance. In 2014, Georgia and the EU signed the Association Agreement, including the Deep and Comprehensive Free Trade Agreement, which came into force on 1 July 2016. Within this framework, PAR is a priority area for the Government of Georgia, including improving the quality of policy making, professionalising the civil service, increasing accessibility of public services and promoting greater accountability and transparency of public institutions.

In 2015, the Government of Georgia approved the Public Administration Reform Roadmap, which is aligned to the Principles of Public Administration and elaborates on the major reform priorities up to 2020. It also approved the Policy Planning System Strategy 2015-2017, which builds on the findings and recommendations of SIGMA's 2014 review of the Administration of Government. These documents provide a strategic framework for designing and starting to implement major reforms in public administration.

While the Georgian Government acknowledges PAR as a priority, implementation of reforms in the policy development and co-ordination area has been slow. Not all planned reforms have been implemented purposefully over the past years. This has left challenges and gaps in the public administration, particularly in terms of the establishment and functioning of an effective policy development and co-ordination system.

The findings of this assessment are intended to help the Government to plan and implement further reforms in key areas of policy development and co-ordination. Strong political support and co-ordination and additional efforts and resources will be needed to generate and sustain the desired results.

POLICY DEVELOPMENT AND CO-ORDINATION

1. STATE OF PLAY AND MAIN DEVELOPMENTS: 2016-2017

1.1. State of play

Georgia started implementing major reforms in the policy development and co-ordination area in 2014, following a comprehensive review of the Administration of Government (AoG) of Georgia, prepared with the support of SIGMA. Several strategic and policy documents have been developed and introduced since then to address major shortcomings in the system and build a unified framework for policy planning and development. While improvements have been recorded in certain areas, there are still gaps and weaknesses in both the regulatory framework and the practices of policy planning and policy making.

Overall, the legal and regulatory framework necessary for fulfilling most of the critical centre-of-government (CoG) functions[3], including those required for co-ordination of the European integration (EI) process, are mainly established and implemented. The AoG has a clear mandate to perform several critical CoG functions. However, guidance and support available for ministries is limited. As a result, consistent and uniform implementation of various standards and requirements for policy making is not always ensured.

The Rules of Procedure (RoP) of the Government[4] establish clear rules and procedures for preparation and approval of different draft legal acts. The overall decision-making process is organised and managed well, using an electronic system. However, the detailed views, substantive comments and formal opinions of ministries on policy proposals are not fully recorded and available through the electronic system.

The medium-term policy-planning system in Georgia is still in the initial stage of establishment, and there are shortcomings in implementation of related rules and procedures. The quality of government central-planning documents and sector strategies requires improvement, as key elements (such as outcome-level performance indicators and cost estimates) are missing, and these documents are not fully aligned with one another.

EI co-ordination mechanisms have been established and are functioning at the political level, but the relevant co-ordination body does not meet regularly. A decision has been made to also establish a new body for EI co-ordination involving deputy ministers, but it is not yet functioning fully[5]. There is an annual national plan for EI, which is regularly updated and published by the Government[6], along with monitoring reports. However, there is no medium-term plan for EI, and the existing plan does not provide clear information about the specific legislative measures planned for transposition by the Government. The alignment of the annual EI plans with other central planning documents is weak. Use of tables of concordance during the transposition process is not obligatory.

The relationship between the Government and the Parliament is clearly defined in legislation, and there is good co-operation during the law-making process. The Government prepares legislative plans, but it does not fully adhere to those plans during implementation. Overall, the Parliament ensures

[3] The critical functions of CoG, as defined in OECD (2017), SIGMA, *The Principles of Public Administration*, OECD, Paris, http://www.sigmaweb.org/publications/Principles-of-Public-Administration_Edition-2017_ENG.pdf.

[4] Government Decree No. 54 on Approval of the RoP of the Government of Georgia of 7 March 2013.

[5] A decision to establish a new EU working group was made by the Government Commission on EI during its meeting in September 2017. The first and only meeting of the EU working group took place on 27 October 2017.

[6] The National Action Plan for Implementation of the Association Agreement (NAPIAA) 2017 has not been formally adopted by the Government, although it is publicly available on the website of the Office of the State Minister for European and Euro-Atlantic Integration (EEAI).

scrutiny over the work of the Government through regular review of the implementation of adopted legislation and policies.

Public scrutiny of government work and participation in policy making are limited. Information about new policy proposals and draft laws is not accessible to the public through a central online database. There is no formal requirement to consult publicly on new policy proposals and draft laws, and the process of public consultation on policies is not established. Although targeted stakeholder consultations have been conducted on selected policy proposals, using various working groups and inter-agency consultation mechanisms, there is no systematic practice of public consultation for new legal proposals.

Despite various efforts and ongoing pilot programmes to introduce Regulatory Impact Assessment (RIA) in the administration and the Parliament, evidence-based policy making is not established, and the quality of analysis supporting new policies and laws is weak. Interministerial consultation is regulated through the RoP of the Government, and its implementation is managed based on an electronic government system.

A significant portion of new laws initiated by the Government are amended within a year of enactment. This indicates that there are weaknesses in preparation, planning and analysis of laws, as well as in actual legal drafting practices. The Law on Normative Acts regulates the requirements for drafting legislation in general terms and provides guidance for legal drafting. All primary and secondary legislation is available in a central electronic database. Consolidated primary laws are freely accessible to the public.

1.2. Main developments in 2016-2017

The Association Agreement between Georgia and the EU, including the Deep and Comprehensive Free Trade Agreement (DCFTA), was signed in 2014 and fully came into force in 2016. Co-ordination and monitoring mechanisms for implementation of the Association Agreement and the DCFTA were established by the Government in 2014. The Government has developed a publicly accessible website, which is used for planning and monitoring the implementation of the EU-Georgia Association Agreement[7].

The Public Administration Reform Roadmap 2020 and the Policy Planning System Strategy 2015-2017 (Policy Planning Strategy)[8] were approved in 2015. A year later, the Policy Planning Manual[9] and the Common Policy Monitoring, Reporting and Evaluation System[10] were approved.

A new Government was formed in November 2016, following parliamentary elections in October 2016. The Government's Programme, Freedom, Rapid Development, Prosperity: Government Platform 2016-2020, was adopted in November 2016 and updated in December 2017[11].

As part of the assistance provided under the EU Sector Budget Support project, five ministries have strengthened the regulatory basis and mandate of departments dedicated to policy planning and

7 https://aa-monitoring.ge.

8 Ordinance of the Government of Georgia No. 427 on Approval of Strategic Planning Documents: Public Administration Reform Roadmap 2020 and Policy Planning System Reform Strategy 2015-2017 of 19 August, 2015.

9 Ordinance of the Government of Georgia No. 629 on Approval of the Policy Planning Document: Policy Planning Manual of 30 December 2016.

10 Ordinance of the Government of Georgia No. 628 on Approval of the System for Monitoring, Reporting and Evaluation of Activities of the Government of 30 December 2016.

11 After changes in the structure of Government in December 2017, the Government's Programme was revised and republished. The latest version is available at http://gov.ge/files/68_63143_156281_სამთავრობოპროგრამა2018-2020.pdf (in Georgian) and at http://gov.ge/files/41_61087_816118_GoG_Platform_LKF_19_05_2017.pdf (2016 version, in English).

co-ordination. These departments are primarily linked with the implementation of sector strategies[12]. The structure and composition of the Government were changed in December 2017, after the necessary legislative amendments were approved by the Parliament[13]. As a result of these changes, the number of ministries was reduced from 16 to 13, while the number of State Ministers (ministers without portfolio) was reduced to 1. As part of this reorganisation, the Office of the State Minister for European and Euro-Atlantic Integration (EEAI) was merged with the Ministry of Foreign Affairs (MoFA)[14].

[12] The five ministries are: the Ministry of Agriculture; the Ministry of Education and Science; the Ministry of Economy and Sustainable Development (MoESD); the Ministry of Labour, Health and Social Affairs; and the Ministry of Justice (MoJ). Under the framework of EU Sector Budget Support, these departments do not focus on the policy development process as such, but rather on five specific strategies that cover agriculture development, small and medium-sized enterprises, general education and science, hepatitis C and anti-corruption.

[13] Law No. 1620-RS on the Amendment to the Law of Georgia on Structure, Authority and Activity Rule of the Government of Georgia of December 2017. Ordinance of the Government of Georgia No. 548 on Amendments to Decree No. 310 of the Government of Georgia on the Introduction of the Position of State Minister in the Government of Georgia of November 29, 2013 and Implementation of Accompanying Measures of 15 December 2017.

[14] The functions of the State Minister for EEAI were transferred to the MoFA as a result of the structural changes in Government introduced by Ordinance of the Government of Georgia No. 548 on Amendments to Ordinance No. 310 of 29 November 2013 of the Government of Georgia on the introduction of the position of State Minister in the Government of Georgia and the implementation of accompanying measures, adopted on 15 December 2017. According to the Government Decree, the reorganisation and merger of the structures and functions of the State Minister for EEAI within the MoFA had to be finalised within three months of enactment of the Government Resolution. For this report, the practice of implementation of procedures and rules in policy planning and policy development by CoG bodies and ministries was assessed based on the information available prior to the December 2017 reorganisation.

2. ANALYSIS

This analysis covers 12 Principles for the policy development and co-ordination area grouped under 4 key requirements. It includes a summary analysis of the indicator(s) used to assess against each Principle, including sub-indicators[15], and an assessment of the state of play for each Principle. For each key requirement, short-term and medium-term recommendations are presented.

Policy planning and co-ordination

Key requirement: Centre-of-government institutions fulfil all functions critical to a well-organised, consistent and competent policy-making system.

Analysis of Principles

Principle 1: Centre-of-government institutions fulfil all functions critical to a well-organised, consistent and competent policy-making system.

The main legal acts forming the current regulatory framework for CoG functions are the Law on the Structure, Powers and Rule of Activity of the Government of Georgia (Law on Government)[16] and the RoP of the Government[17], as well as the statutes of CoG institutions, namely the statutes of the AoG[18], the Ministry of Finance (MoF)[19], the Ministry of Justice (MoJ)[20] and the Office of the State Minister for EEAI[21].

All critical CoG functions required for a well-organised, consistent and competent policy-making system are established and assigned to the relevant CoG institutions in the existing regulatory framework, primarily in the RoP of the Government and the statute of the AoG. The function for co-ordination of the policy content of proposals submitted for government approval, including the responsibility for defining the policy preparation process and ensuring coherence with government priorities is established through the statute of the Department for Policy Analysis, Strategic Planning and Co-ordination of the AoG[22]. The relevant CoG function assigned to the Office of the State Minister for EEAI was transferred to the MoFA as a result of the structural changes introduced in the Government of Georgia in December 2017[23]. It has not been possible to assess the strength and effectiveness of implementation of the EI co-ordination function under the new institutional set-up within the MoFA.

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15 OECD (2017), SIGMA, *Methodological Framework for the Principles of Public Administration*, OECD, Paris, http://sigmaweb.org/publications/Methodological-Framework-for-the-Principles-of-Public-Administration-November-2017.pdf. This methodology is a further developed detailed specification of indicators used to measure the state of play against the Principles of Public Administration.

16 Law on the Structure, Powers and Rule of Activity of the Government of Georgia (Law on Government) No. 3277 of 11 February 2004.

17 Ordinance of the Government of Georgia No. 54 on Approval of the RoP of the Government of Georgia of 7 March 2013.

18 Ordinance of the Government of Georgia No. 626 on Confirmation of the Statute of the Administration of the Government of Georgia of 19 November 2014. Also relevant to the operations of the Administration of the Government is the Law on the Parliamentary Secretary No. 246 of 25 June 2004, as it further details functions of the Parliamentary Secretary of the Government, whose office is part of the AoG.

19 Ordinance of the Government of Georgia No. 168 on Approval of the Statute of the MoF of 31 March 2017.

20 Ordinance of the Government of Georgia No. 389 on Approval of the Statute of the MoJ of 30 December 2013.

21 Ordinance of the Government of Georgia No. 133 on Approval of the Statute of the Office of the State Minister for EEAI of 31 December 2004.

22 The Statute of the Department of Policy Analysis, Strategic Planning and Co-ordination of the AoG, approved by the Prime Minister, 11 December 2014, Article 2, paragraphs a, b, c, f, k, xx, yy.

23 Ordinance of the Government of Georgia No. 548 on Amendments to Decree No. 310 of 29 November, 2013 of the Government of Georgia on the Introduction of the position of State Minister in the Government of Georgia and the implementation of accompanying measures of 15 December 2017.

The AoG is the main CoG institution in Georgia. It is tasked to perform most of the critical CoG functions, including those essential for preparation of the government sessions. These include ensuring legal conformity of draft proposals, preparing government priorities, monitoring their implementation and co-ordinating government communication activities, as well as managing relations between the Government and other institutions of the State[24]. The MoJ is assigned to perform the function of ensuring legal conformity of draft proposals[25] and also has the specific task of checking alignment of new domestic legislation with the EU *acquis*. Legal compliance checks are also carried out by the AoG, which complements a similar function performed by the MoJ during interministerial consultations. The MoF is responsible for ensuring the affordability of policies and co-ordinating public-sector resource planning. The Office of the State Minister for EEAI and the MoFA (from December 2017) have been assigned responsibility for EI co-ordination.

While there is a practice of co-ordination and co-operation between the various CoG institutions, there are no mechanisms in place to ensure those are carried out regularly and consistently across all aspects of policy planning and development. For example, the AoG, which is in charge of preparing the Government Annual Work Plan (GAWP), does not review and check the individual proposals of line ministries with other CoG institutions (such as the MoF) before finalising the annual planning document. Also, the AoG does not discuss and consolidate the various CoG opinions on draft policy proposals submitted by ministries to better inform final decision making. In fact, each structural unit within the AoG provides its own opinion on proposals, using the Electronic Government software system[26]. This does not allow effective co-ordination and more aligned and evidence-based decision making in the government, because the content and actual substantive comments on policy proposals are not fully available through the system.

Guidance is available for line ministries on development of the GAWP[27] and on monitoring government performance and preparing reports[28], and support is available for ministries if/when it is required. In addition, the Government has approved the Policy Planning Strategy 2015-2017[29] and the Policy Planning Manual, both of which contain guidance on policy development and planning, including some generic information about citizen participation in policy making. However, the guidance available in the Manual is limited, and it does not clearly prescribe how ministries should prepare and conduct public consultation when developing a new law or regulation. Moreover, the necessary requirements and elements of the public-consultation process (such as procedures and rules on when and how public consultation on different types of policies and draft laws should be initiated) have not been established. There are no specific guidelines on how to draft legal acts and ensure legal conformity, except for regulation described in the Law on Normative Acts[30] and the RoP[31].

Overall, the value for the indicator “Fulfilment of critical functions by centre-of-government institutions” is 3.

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24 Article 2 of the Statutes of the AoG.

25 Ordinance of the Government of Georgia No. 389 on Approval of the Statute of the MoJ of 30 December 2013, Articles 3 and 4.

26 The role and functioning of the Electronic Government software system are formally established in the RoP as the main system for organising and preparing Government decisions.

27 Guidelines on preparation of the Government Annual Action Plan, AoG, 2014.

28 Government Resolution No. 628 on Approval of the System for Monitoring, Reporting and Evaluation of Activities of the Government of 30 December 2016.

29 Ordinance of the Government of Georgia No. 427 on Approval of strategic planning documents: Public Administration Reform Roadmap 2020 and Policy Planning System Reform Strategy 2015-2017 of 19 August 2015.

30 Ordinance of the Government of Georgia No. 629 on Approval of the Policy Planning Document: Policy Planning Manual of 30 December 2016.

31 This finding was confirmed during the assessment interviews with officials from the AoG and ministries.

Fulfilment of critical functions by the centre-of-government institutions						
This indicator measures to what extent the minimum requirements for functions critical to a well-organised, consistent and competent policy-making system are fulfilled by the centre-of-government institutions. As this indicator is used to assess the fulfilment of the minimum requirements, it does not measure outcomes or include quantitative sub-indicators. The outcomes of some of these critical functions are captured by other indicators on policy development and co-ordination.						
Overall indicator value	0	1	2	**3**	4	5

Sub-indicators	Points
1. Critical functions are assigned to CoG institutions by legislation	8/8
2. Availability of guidelines to line ministries and other government bodies	2/4
3. Institutionalisation of co-ordination arrangements between the CoG institutions	0/4
Total[32]	**10/16**

All critical CoG functions are clearly established and assigned to government institutions in the existing regulatory framework. The AoG is the main CoG institution tasked to perform most of those functions. There is no detailed guidance available to line ministries on how to draft legal acts and ensure legal conformity of proposals, and no guidance is available on how to develop strategies. The available guidance on public consultation is not supported by a regulatory requirement to conduct public consultation for all policy proposals, and procedures prescribing the actual process are not established. Co-ordination and consultation arrangements between various CoG institutions and their internal units during preparation of the Government's annual work plan and on the policy proposals of line ministries are not institutionalised nor carried out consistently and regularly.

Principle 2: Clear horizontal procedures for governing the national European integration process are established and enforced under the co-ordination of the responsible body.

The existing regulatory framework clearly defines the main roles and responsibilities of key government institutions in the EI process, and it establishes most of the critical functions[33] required for effective co-ordination and management of the EI process. The function for co-ordinating accession negotiations is not yet relevant for Georgia, in view of the current stage of EI processes[34]. The regulations also establish the various roles and tasks of the MoJ, the AoG and the Office of the State Minister for EEAI for the alignment of national legislation with the EU *acquis*[35]. There is a constant political dialogue between the EU and Georgia that is co-ordinated by the MoFA. It was given a

32 Point conversion ranges: 0-2=0, 3-5=1, 6-9=2, 10-12=3, 13-14=4, 15-16=5.

33 The critical functions required for effective co-ordination and management of the EI process, as defined in OECD (2017), SIGMA, *The Principles of Public Administration*, OECD, Paris, http://www.sigmaweb.org/publications/Principles-of-Public-Administration_Edition-2017_ENG.pdf.

34 This element is assessed and discussed because it is part of the methodology adopted, which was designed for and has primarily been applied in the EU accession countries. The reduced value of the relevant sub-indicator should not be viewed as a result of poor performance of Georgia.

35 It should be noted that the Statutes of the MoJ attribute to it a role for "implementation of necessary measures for legal approximation and/or harmonisation of issues contained in the EU-Georgia Association Agreement and falling within the powers of the Ministry". Also, the Statutes of the AoG mention as one of its functions: "co-ordination and monitoring of the approximation of the rules governing activities of the executive branch of the government with the standards of international and European law and implementation of the state policy on harmonisation". However, there is no mention or attribution of this function in Government Decree No. 186 on the Measures for Effective Implementation of the Association Agreement, including the DCFTA, between Georgia and the EU.

stronger mandate and a more active role in co-ordination and management of the EI process following transfer of the mandate and functions of the office of State Minister for EEAI to the MoFA[36]

Government Decree No. 186[37] provides the main regulatory framework for co-ordinating and managing the implementation of the Association Agreement, including the DCFTA, signed between Georgia and the EU in 2014.

Limited guidelines are available for line ministries to support implementation of the key EI functions. Specific guidelines exist for translation of the structure of EU acts and for providing inputs to development of the National Action Plan for Implementation of the Association Agreement (NAPIAA). Draft guidelines exist on the approximation of Georgian legislation with EU law, but they have not yet been finalised, approved and disseminated. Also, despite the existence of the unified e-Aid Information Management System[38], there are no guidelines available on how to plan and monitor EU assistance.

The main political-level co-ordination mechanism for managing the EI process is the Government Commission on European Integration (GCEI)[39]. It met only twice in both 2016 and 2017. During its most recent meeting, in September 2017, the GCEI decided to establish a new co-ordination mechanism involving deputy ministers[40]. However, this new body is not fully functioning and has met only once. Furthermore, as it involves only deputy ministers, who are political appointees, it cannot be considered as an administrative-level body for co-ordination of EI[41].

The Office of the State Minister for EEAI has been providing secretariat functions to the GCEI and is the main co-ordination body for EI. It was tasked with co-ordination the EI processes across various government institutions. In addition, the Office of the State Minister for EEAI has been leading the preparation and annual update of the NAPIAA and its monitoring reports. However, it did not, as the main EI co-ordination body, provide opinions on draft legal acts transposing the *acquis*. This function is assigned to the relevant unit of the MoJ[42].

Owing to the lack of proper guidance provided to the ministries on EI, as well as the shortcomings in the functioning of the existing co-ordination mechanisms, the overall value for the indicator "Fulfilment of European integration functions by the centre-of-government institutions" is 3.

36 Ordinance of the Government of Georgia No. 548 on Amendments to Decree No. 310 of 29 November 2013 of the Government of Georgia on the introduction of the position of State Minister in the Government of Georgia and the implementation of accompanying measures of 15 December 2017.

37 Decree of the Government of Georgia No. 186 on the Measures for Effective Implementation of the Association Agreement including the DCFTA between Georgia and the European Union, adopted 7 February 2014.

38 The e-Aid Information Management System (eAIMS) is a tool for information collection, analysis and reporting aimed at improving transparency, accountability and effectiveness of international aid flows (development assistance) to Georgia. More information is available at: https://eaims.ge/#MzI7fDMy (in Georgian) and https://eaims.ge/#MzA7fDMw (in English).

39 Decree of the Government of Georgia No. 336 on Approval of the statutes of the Committee on European integration of 18 July 2016.

40 The minutes of the meeting of the GCEI of 1 September 2017, point V.

41 The new EI working group met on 27 October 2017. The individual membership and the terms of reference of the working group, however, have not been formally confirmed.

42 Review of a sample of documentation supporting legislative measures transposing the EU *acquis* shows that MoJ opinions are not issued consistently either.

Fulfilment of European integration functions by the centre-of-government institutions						
This indicator measures to what extent the minimum criteria for European integration functions are fulfilled by the CoG institutions. As this indicator is used to assess the fulfilment of the minimum criteria, it does not measure outcomes or include quantitative indicators. The outcomes of some of these critical functions are captured by other indicators on policy development and co-ordination.						
Overall indicator value	0	1	2	**3**	4	5

Sub-indicators	Points
1. Proportion of the EI functions that are assigned to the CoG institutions by law	5/6
2. Availability of guidelines to line ministries and other government bodies	1/4
3. Government's capacity for co-ordination of EI	4/8
Total[43]	**10/18**

Existing regulations establish and assign almost all of the relevant EI functions to the responsible institutions. Comprehensive EI co-ordination mechanisms are still under development, including at the administrative level. The main political-level body for EI integration does not meet frequently. A new EI co-ordination mechanism for the implementation of the Association Agreement and EU assistance involving deputy ministers has been established under the GCEI, but it is not yet fully functioning. The Office of the State Minister for EEAI has a clear mandate and capacity to co-ordinate and manage the key components of the EI process, and it provides guidance on preparation of the NAPIAA to line ministries and institutions involved in the process. There is no guidance on how to provide inputs to the planning and monitoring of EU assistance, and the existing guidance on legal approximation is in draft form.

Key recommendations

Short-term (1-2 years)

1) The Government should formalise and strengthen internal co-ordination arrangements between the different CoG institutions, in order to ensure that all opinions on the draft proposals submitted by ministries are duly considered and informed decisions are made at the final phase of policy development and the preparation processes of government central planning documents.
2) The Government should strengthen and improve the existing regulatory framework and guidelines to ensure that clear and comprehensive guidance is available to line ministries, including on legal drafting and legal compliance checks, sector strategy development and public consultation. To ensure that the rules and requirements set by legislation are consistently and fully implemented, CoG institutions should provide formal and informal guidance to line ministries to supplement the written guidelines.
3) The Government should strengthen the EI co-ordination structures and consider establishing new mechanisms at the administrative level to ensure effective and regular monitoring and co-ordination of EI.

[43] Point conversion ranges: 0-2=0, 3-5=1, 6-9=2, 10-13=3, 14-16=4, 17-18=5.

4) The Government should develop and introduce sufficient guidance on key EI-related issues, including alignment of national legislation with the *acquis*, planning and monitoring EU assistance and providing inputs for monitoring the country's integration process. The capacities of relevant bodies should be assessed, and relevant training should be provided regularly to the core staff of ministries directly dealing with EI matters.

Medium-term (3-5 years)

5) The Government should review existing mechanisms and procedures for EI co-ordination and develop a plan for gradually strengthening the framework, to be ready for the next phase of the EI integration processes.

6) The AoG should initiate and carry out a comprehensive evaluation of the policy-planning and development system to identify key shortcomings that need to be overcome to ensure better-quality decision making at the level of the Government and close linkages with the medium-term and annual budget processes.

Key requirement: Policy planning is harmonised, aligned with the government's financial circumstances and ensures that the government is able to achieve its objectives.

Analysis of Principles

Principle 3: Harmonised medium-term policy planning is in place, with clear whole-of-government objectives, and is aligned with the financial circumstances of the government; sector policies meet the government objectives and are consistent with the medium-term budgetary framework.

The policy planning system in Georgia includes several mid-term and annual planning documents. The main mid-term planning documents are the Government Programme[44], the Basic Data and Directions (BDD)[45] (which serves as the medium-term expenditure framework) and the Social-Economic Development Strategy, Georgia 2020 (which is often referred to as the National Development Strategy)[46]. The main annual planning documents are the GAWP[47], the legislative plan[48], the NAPIAA[49] and the State Budget[50]. There are also sector strategies that cover planning in specific sectors, as well as ministerial action and communication plans that serve as operational planning documents for the work of ministries.

The formal hierarchy of the key government planning documents is described in the Policy Planning Manual and the Policy Planning System Reform Strategy 2015-2017[51]. The Policy Planning Manual is

44 Article 80 (3) of the Constitution foresees that "a Government Program shall be proposed together with a composition of the Government", and Article 2 (2) of the Law on Government clearly defines that "in exercising its powers, the Government should be guided by the Government Program".

45 Regulated by Article 34 of the Budget Code of Georgia N2440-IIS of 18 December 2009.

46 The Social Economic Development Strategy, Georgia 2020, is mentioned in the Policy Planning System Reform Strategy 2015-2017 (p. 9) and is often referred to as the National Development Strategy.

47 The Government Annual Action Plan is described in the Policy Planning System Reform Strategy 2015-2017 and in the Statutes of the AoG. However, it is not regulated or mentioned in any other legal act. In addition, despite their use, the annual plans of the Government have not been formally reviewed and adopted by the Government.

48 Legislative plans of the Government are regulated by Article 3 of the RoP adopted by the Ordinance of the Government of Georgia No. 54 on Approval of the RoP of the Government of Georgia of 7 March 2013.

49 Government Decree No. 186 on the Measures for Effective Implementation of the Association Agreement, including the DCFTA, between Georgia and the European Union, adopted 7 February 2014.

50 Budget Code of Georgia No. 2440-IIS of 18 December 2009.

51 Policy Planning System Reform Strategy 2015-2017, adopted by Government Resolution No. 427 on Approval of strategic planning documents: Public Administration Reform Roadmap 2020 and Policy Planning System Reform Strategy 2015-2017 of 19 August 2015, Scheme No 1, p.17.

approved by the Government and is legally binding for all affected government institutions[52]. The status, role and format of the different types of planning documents are also discussed in the Policy Planning Manual. However, those rules and standards are not consistently applied in practice. The weaknesses and issues in the current planning system are discussed, and measures aimed at improving the current system are included in the Policy Planning Strategy 2015-2017.

While the priorities set out in the GAWP are consistent and aligned with those established in the BDD and the Government Programme, it is not possible to assess whether the individual measures and activities planned in sector strategies are considered and included in central planning documents. In particular, it has not been possible to assess alignment between legislative plans and sector strategies, as the sector strategies do not clearly specify the legislative measures they intend to introduce as part of strategy implementation[53].

The overall government-level policy-planning function is delegated to the AoG[54]. There are no formal requirements for carrying out quality control for development of sector strategies, and the AoG is not systematically providing guidance to ministries on these matters[55]. Although certain units of the AoG and other CoG institutions may provide opinions on draft sector strategies, this is not carried out regularly and consistently across all strategies. There are similar issues for preparation of the GAWP and the BDD[56].

The lack of formal clear requirements and procedures is affecting the quality of planning documents, monitoring practices and implementation. There are no outcome-level performance indicators that would serve to properly monitor and evaluate central planning documents and help to measure achievement of the Government's overall objectives and priorities.

There are weaknesses and shortcomings in the implementation of measures included in central planning documents. In particular, the backlog of planned commitments of legislative plans is estimated to be 50%[57], while 60%[58] of planned sector strategies were carried forward from one year to the next. Also, only two of the analysed sample of sector strategies included detailed information on the expenditure required to implement them[59]. It has not been possible to assess alignment between planned costs in sector strategies and the BDD document, as the relevant information about costs for priorities identified in strategies could not be identified in the BDD.

Overall, in view of the weaknesses and shortcomings in the regulatory framework and the quality and implementation of policy planning, the value for the indicator "Quality of policy planning" is 1.

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52 This has been confirmed by AoG officials.

53 As part of the assessment process, the following sample of sector strategies approved in 2016 was analysed: Hepatitis C Elimination Strategy for Georgia 2016-2020; the Georgian National HIV/AIDS Strategic Plan for 2016-2018; the National Strategic Plan for Tuberculosis Control in Georgia 2016-2020; the Open Government Partnership Action Plan for Georgia 2016-2017; and the SME Development Strategy for 2016-2020.

54 Statutes of the AoG adopted by the Ordinance of the Government of Georgia No. 626 on Confirmation of the Statute of the Administration of the Government of Georgia of 19 November 2014, point j.

55 The assessment is based on the review of the documentation and evidence of guidance provided during the preparation of the sample of sector strategies approved in 2016.

56 No evidence has been provided to confirm that guidance and support has been provided by the relevant CoG bodies during preparation of the government planning documents.

57 Of the 292 legislative measures set out in legislative plans in 2016, 146 were carried forward to the 2017 legislative plan.

58 Three of the five sector strategies planned for approval in the 2016 GAWP were carried forward to the next year's plan.

59 The Georgian National HIV/AIDS Strategic Plan for 2016-2018 (pp.23-26 and Annex 4) and the National Strategic Plan for Tuberculosis Control in Georgia 2016-2017 (pp. 53-58).

Quality of policy planning
This indicator measures the legislative, procedural and organisational set-up established for harmonised policy planning and the quality and alignment of planning documents. It also assesses the outcomes of the planning process (specifically the number of planned legislative commitments and sector strategies carried forward from one year to the next) and the extent to which the financial implications of sectoral strategies are adequately estimated.
Overall indicator value 0 **1** 2 3 4 5

Sub-indicators	Points
1. Adequacy of the legal framework for policy planning	4/7
2. Availability of guidance to line ministries during the policy-planning process	0/4
3. Alignment between central policy-planning documents	2/6
4. Planned commitments carried forward in the legislative plan of the government (%)	1/4
5. Planned sectoral strategies carried forward (%)	0/4
6. Completeness of financial estimates in sector strategies	1/5
7. Alignment between planned costs in sector policy plans and medium-term budget (%)	0/3
Total[60]	**8/33**

Despite the efforts of the Government to reform and improve its medium-term policy-planning system and the development and adoption of the Policy Planning System Reform Strategy 2015-2017, no major changes have been introduced in recent years and the system remains fragmented and underdeveloped. Various central planning documents are not fully aligned with one another, and co-ordination and quality control over the development process is effectively lacking. There is no alignment between expenditures planned in sector strategies and the medium-term expenditure framework. Guidance to ministries on the development of key planning documents, such as sector strategies, is limited.

Principle 4: A harmonised medium-term planning system is in place for all processes relevant to European integration and is integrated into domestic policy planning.

The Association Agreement between Georgia and the EU was concluded on 27 June 2014, and it came fully into force in 2016. The main legal act establishing key components of the EI planning and co-ordination system is Government Decree No. 186[61], in which the Government proclaims that: "… effective implementation of the Association Agreement is one of the most important priorities of the Government of Georgia." This decree also identifies the main institutions and establishes their roles and key planning documents to help deliver EI-related objectives and priorities of the Government.

The Office of the State Minister for EEAI has been the main body responsible for overall development, co-ordination and monitoring of a unified policy for implementation of the Georgia-EU Association Agreement[62]. The MoFA has been responsible for conducing political dialogue with the EU and drafting

60 Point conversion ranges: 0-5=0, 6-11=1, 12-17=2, 18-23=3, 24-29=4, 30-33=5.

61 Government Decree No. 186 on the Measures for Effective Implementation of the Association Agreement, including the DCFTA, between Georgia and the European Union, adopted on 7 February 2014.

62 Part 1 of Government Decree No. 186 on the Measures for Effective Implementation of the Association Agreement, including the DCFTA, between Georgia and the European Union, adopted 7 February 2014.

and updating the Association Agenda[63]. The Ministry of Economy and Sustainable Development (MoESD) has been responsible for co-ordinating and monitoring implementation of the DCFTA[64]. All other ministries and institutions are expected to improve their capacities for EI process and to participate in planning, monitoring and reporting of implementation of the Association Agreement, in line with the established rules and procedures.

The NAPIAA is the main EI planning document for implementation of the Association Agreement and the Association Agenda, which also includes an Annual Action Plan for implementation of the DCFTA[65]. The Office of the State Minister for EEAI has developed some guidelines on how to prepare and provide input to the NAPIAA.

There is no comprehensive medium-term plan for EI covering a 3-5 year period. The NAPIAA is prepared and approved annually. The 2017 Plan was approved by the GCEI in September 2017, but it has not yet been formally adopted by the Government [66]. This is largely due to delays in agreement on the Association Agenda between the EU and Georgia, a document that sets the guiding priorities for co-operation.

The structure and format of the NAPIAA have remained mostly unchanged since it was first introduced in 2014. Some improvements to the Plan were made in 2016, and information about anticipated results and indicators for some measures have been added. It is an operational planning document that sets out actions along the main pillars of the Association Agreement, identifies responsible institutions and establishes the time frame for implementation. It also identifies sources of funding and lists some basic, process-oriented indicators.

As a central planning document, the NAPIAA has several shortcomings. First, there is no alignment between the NAPIAA and other central planning documents, such as the GAWP or the legislative plan[67]. Second, it is an annual plan which lists EI-related measures for a particular year; as such, it does not allow time-based prioritisation and planning of implementation within the year. Third, the NAPIAA only provides information about the source of funding for measures. There is no indication of either indicative costs of individual actions or, at least, the overall financial envelope allocated for those activities from individual funding sources.

It is calculated that 26% of measures included in the 2016 NAPIAA were carried forward to the 2017 plan[68]. The monitoring reports on the implementation of the NAPIAA do not provide clear information about implementation of specific EI-related legislative commitments. Instead, the reports indicate the total number of legal acts adopted as part of the alignment process. As a result, it is not clear which laws were adopted during a reporting year and whether those were in fact the ones originally planned[69]. The same applies to the alignment of this EI planning document with the GAWP and the legislative plans of the Government. The NAPIAA does not establish clearly all legislative measures the Government plans to approve during a year. Instead, in most instances it states only the broad areas or

63 *Idem*, Part 3, Points 1 and 2.

64 *Idem*, Part 2, Point 1.

65 *Idem*, Part 2, Points 2 and 3.

66 Although the 2017 NAPIAA has not been formally approved by the Government, it has been published on the website of the Office of the State Minister for EEAI. Implementation is being monitored, and reports are being prepared.

67 It has not been possible to establish the full list of legislative commitments coming out of the NAPIAA to compare it with the annual legislative plan of the Government, which is the main legislative work plan of the Government.

68 It is estimated that of the 621 measures included in the 2015 Plan, 159 were carried forward to the next year.

69 Due to the shortcomings in its structure and format, the NAPIAA and the report on its implementation do not provide clear information on all planned and approved legislative measures. In line with SIGMA methodology, this information is required to calculate the implementation rate. As a result, the value of the relevant sub-indicator measuring the implementation of NAPIAA is 0.

sectors where changes in legislation are going to be introduced. It is, therefore, impossible to accurately assess the alignment of the EI plan with the annual legislative plan of the Government[70].

In view of the weaknesses and shortcomings in quality and implementation of the EI plan, the value for the indicator "Quality of policy planning for European integration" is 1.

Quality of policy planning for European integration						
This indicator analyses the legislative set-up established for policy planning of the European integration (EI) process and the quality and alignment of planning documents for EI. It also assesses the outcomes of the planning process (specifically the number of planned legislative EI-related commitments carried forward from one year to the next) and the implementation rate of planned EI-related commitments.						
Overall indicator value	0	**1**	2	3	4	5

Sub-indicators	Points
1. Adequacy of the legislative framework for harmonised planning of EI	1/2
2. Quality of planning documents for EI	1/6
3. EI-related commitments carried forward	3/4
4. Implementation rate of the government's plans for EI-related legislative commitments (%)	0/4
Total[71]	**5/16**

An overall framework for EI planning has been led and managed by the Office of the State Minister for EEAI and, since December 2017, by the MoFA. But there is no medium-term plan for EI. As the Government's central planning document for EU integration, the NAPIAA is an annual plan covering measures for implementation during one year only. The NAPIAA provides information on actions planned annually, including the institutions responsible for their implementation. Because it is an annual plan, the NAPIAA does not effectively set priorities for implementation over time. It provides information about the sources of funding for the planned activities, but not about potential costs of measures included in the Plan. Although the 2017 Plan has not been formally approved by the Government, it has been published, and its implementation is being monitored.

Principle 5: Regular monitoring of the government's performance enables public scrutiny and supports the government in achieving its objectives.

In 2016, the Government adopted the Common Policy Monitoring, Reporting and Evaluation System[72], which provides the main framework for monitoring and reporting on government performance. The framework is based on the underlying principles and approaches established in the Policy Planning Strategy 2015-2017. The policy document aims to establish a unified approach towards monitoring, reporting and evaluation of several key government planning documents, such as the National

[70] It was only possible to identify 22 specific legislative measures from the 2016 NAPIAA, and only 2 of those laws were actually approved. In addition to the specific legislative measures listed, the NAPIAA included measures indicating the need to introduce legislative changes in broad areas. It has not been possible to verify whether these types of measures were approved or not.

[71] Point conversion ranges: 0-2=0, 3-5=1, 6-8=2, 9-11=3, 12-14=4, 15-16=5.

[72] Ordinance of the Government of Georgia No. 628 on Approval of Common Policy Monitoring, Reporting and Evaluation System of 30 December 2016.

Development Strategy[73], cross-sectoral/sectoral strategies and action plans, the Government Programme, the GAWP, and the action and communications plans of ministries. However, the underlying standards and principles for monitoring and reporting on government performance vary significantly, as do the formats and approaches used for the actual reports.

Reporting requirements on some of the central planning documents are stipulated in a number of normative acts. Article 8 of the Law on Government foresees elaboration of the performance report on implementation of the Government Programme, while Article 2 of the Statutes of the AoG assigns preparation of this report, as well as monitoring and reporting on Government policies, to the AoG. Chapter VIII of the Budget Code[74] establishes the rules and procedures for reporting on the annual State Budget. There is no requirement in regulation to monitor and report on the GAWP. In addition, while Ordinance of the Government of Georgia No. 135[75] foresees a role and function for the Parliamentary Secretary in controlling implementation of activities related to law making, there is no clear requirement to monitor and report on the implementation of the legislative plan of the Government. Government Decree No. 186[76] foresees monitoring and reporting on implementation of the NAPIAA.

It should also be noted that although Article 28 of the General Administrative Code of Georgia[77] stipulates that public institutions are obliged to ensure proactive publication of public information, as foreseen by subordinate normative acts, there are no specific requirements for publishing government reports on implementation of central planning documents, with the exception of the report on the Annual Budget. Also, only the Annual Report on the Implementation of the State Budget[78] and reports on implementation of the NAPIAA[79] are actually published and available online.

In addition, although the Common Policy Monitoring, Reporting and Evaluation System document foresees that reports on implementation of the GAWP should be submitted to the Government for consideration, this has never happened in practice. The reports are shared with the Prime Minister and ministers without any formal review or consideration at Government meetings. Although officials interviewed during this assessment claimed that implementation reports on legislative plans are being prepared[80], no such reports were provided during this assessment to confirm this practice.

The Common Policy Monitoring, Reporting and Evaluation System document also defines the role of performance indicators and targets. However, these are not used in practice. Review of the 2015 monitoring report on the GAWP shows that the reporting provides only basic output-level information. Furthermore, the report on implementation of the GAWP is not prepared regularly, as evidenced by the fact that the 2016 report was not available for this assessment. It has not been possible to fully assess the quality of sector strategy implementation reports, as the minimum number of sample reports (five), as required by the assessment methodology, was not available for review[81]. But review

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73 In the AoG, Georgia 2020: the Social Economic Development Strategy is considered to be the National Development Strategy, according to information obtained during interviews.

74 Budget Code of Georgia No. 2440-IIS of 18 December 2009.

75 Ordinance of the Government of Georgia No. 135 on Implementation of the specific duties of the Parliamentary Secretary of the Government of Georgia of 7 February 2014. Article 5 states that: "The Parliamentary Secretary of the Government shall control the activities related to law making, activities defined by the legislative act and/or implementation of the tasks of the Government." It does not clearly specify the role regarding monitoring and reporting on implementation of the legislative plan of the Government.

76 Government Decree No. 186 on the Measures for Effective Implementation of the Association Agreement including the DCFTA between Georgia and the European Union of 7 February 2014.

77 General Administrative Code of Georgia, No. 2181-IIS of 25 June 1999.

78 http://mof.ge/shesrulebis_angarishi_2016_12tve.

79 http://www.eu-nato.gov.ge/en/eu/association-agreement.

80 This is based on interviews with officials from the Office of the Parliamentary Secretary.

81 SIGMA requested five sector strategy implementation reports prepared and approved in 2016 (or earlier), but only three were provided.

of the samples available shows that the sector strategy implementation reports focus mostly on implementation of activities and processes and do not attempt to evaluate progress on achievement of policy objectives and goals.

There is no regular training on planning, monitoring and reporting available for line ministries to ensure that they understand and apply various standards and procedures consistently and fully across all policy areas.

Overall, due to the fragmentation of the existing monitoring and reporting framework and the weaknesses and shortcomings identified in the reports analysed, the value for the indicator "Quality of government monitoring and reporting" is 2.

Quality of government monitoring and reporting						
This indicator measures the strength of the legal framework regulating reporting requirements, the quality of government reporting documents and the level of public availability of government reports.						
Overall indicator value	0	1	**2**	3	4	5

Sub-indicators	Points
1. Adequacy of the legislative framework for monitoring and reporting	2/8
2. Quality of reporting documents	4/12
3. Public availability of government reports	2/5
Total[82]	**8/25**

The legal framework for monitoring and reporting on central government planning documents is fragmented and does not clearly establish the requirement to publish reports on several central planning documents. There is a common framework for monitoring, reporting and evaluation of government performance, but it is not sufficiently comprehensive. The existing monitoring reports include basic information about the activities completed and certain outputs achieved, but they do not provide information on progress on achievement of policy outcomes. There is no legal requirement to publish government reports, and only selected reports are publicly available. This limits the possibility for the public to scrutinise government work. Monitoring reports on the NAPIAA are prepared and published regularly.

Key recommendations

Short-term (1-2 years)

1) The Government should streamline the regulatory framework and procedures governing policy planning, in order to clarify and strengthen linkages and alignment between various government planning documents. It should define minimal standards and quality requirements (including for monitoring) and ensure that they are integrated into general government decision-making processes and procedures.

2) The Government should ensure that all central planning documents, including sector strategies, are fully aligned with one another and that all plans are costed within the financial circumstances of the country and in line with the standards and requirements of the medium-term expenditure framework.

[82] Point conversion ranges: 0-3=0, 4-7=1, 8-12=2, 13-17=3, 18-21=4, 22-25=5.

3) The Government should ensure that formal requirements and necessary procedures are in place for preparation and proactive publication of monitoring reports on all central planning documents, such as the GAWP, the legislative plan and sector strategies. It should improve the quality of the planning documents and ensure that strong monitoring and reporting frameworks, using both output and outcome indicators, are consistently used to assess the ultimate results and impacts of government intervention. All implementation reports should be proactively published, to meet the Government's obligation to be accountable to its citizens.

4) As a CoG institution, the AoG should provide more regular and formal written guidance and support to line ministries, including through formal opinions and comments on draft proposals and inputs from ministries on various planning and strategic documents, in order to ensure coherent, comprehensive and consistent policy planning and development. In addition, it should ensure that regular training on policy development and planning is provided for responsible staff of line ministries, to ensure that they understand and apply standards and procedures consistently and accurately during planning, monitoring and reporting.

5) The Government should ensure that the GAWP is formally adopted, as envisaged in regulations, and ensure that monitoring and reporting on its implementation is carried out systematically and is publicly available.

6) The Government should strengthen EI planning by developing a comprehensive medium-term plan for EI covering a 3-5 year period. The medium-term plan should provide clear and full information on all planned legislative and non-legislative measures and should serve as the basis for preparing the annual NAPIAA. The EI plan should be fully aligned with other central planning documents, such as the GAWP and legislative plan. The Government should also improve the quality of the NAPIAA, in particular through better prioritisation, and should ensure that all activities are costed.

Medium-term (3-5 years)

7) The Government should review and strengthen the existing regulatory framework to ensure that the overall system for planning, including its various steps and approval processes, are clearly established and consistently implemented. The AoG should develop and implement a central unified regulatory framework for planning, monitoring and reporting, including for sectoral planning.

8) The Government should ensure that a detailed costing methodology for the EI planning document is developed and consistently applied.

Key requirement: Government decisions and legislation are transparent, legally compliant and accessible to the public; the work of the government is scrutinised by the parliament.

Analysis of Principles

Principle 6: Government decisions are prepared in a transparent manner and based on the administration's professional judgement; the legal conformity of the decisions is ensured.

The Law on Government and the RoP of the Government establish the regulatory framework and rules and procedures for the Government's decision making. Article 12 of the Law on Government and Chapter IV of the RoP (Rules for holding government sittings and adopting projects) describe the main rules and process for organising government meetings.

According to Article 13 of the Law on Government, the AoG is the key body responsible for providing organisational support to the Government. Specific functions of the AoG are described in Article 2 of its

Statutes[83]. The Statutes provide further details about the decision-making process in the AoG, which clarify the rules and procedures introduced by the Law on Government and the RoP.

In addition to the organisational aspect of Government meetings, such as preparation, follow-up and communication on the decisions taken, the AoG is also responsible for legal scrutiny of the draft proposals submitted for Government approval during its meetings[84]. According to the information obtained during interviews, the Department of Legal Affairs of the AoG performs legal compliance checks of the drafts, starting from the moment they appear on the Electronic Government software.

The AoG has the authority to return items to the submitting institutions[85], and this is done at the point when drafts are submitted through the Electronic Government system. There is no explicit authority provided in the RoP of the Government or the Statutes of the AoG for checking and ensuring the coherence of policy proposals with government priorities and previously announced policies or for overseeing policy development and consultation processes[86], but the relevant function is assigned to the Department for Policy Analysis, Strategic Planning and Co-ordination of the AoG, through its internal statutes, which are approved by the Prime Minister[87].

Review of packages of documentation submitted for approval of the Government, as well as any prior discussion between government institutions and interministerial consultation on draft proposals submitted for Government approval, is mainly done using the Electronic Government system. This process is described in detail in the RoP, which also provide authority to the Parliamentary Secretary of the Government to consider certain types of draft laws as approved based on the opinions collected online, without further discussion in a Government meeting[88]. Any disagreements and issues arising during this process are resolved through e-mails, discussions by telephone or in meetings. But details of this kind of subsequent discussion are not always captured in the electronic system. This, in turn, results in gaps in information on the whole process and views of various ministries and CoG institutions. Formal opinions are usually prepared only when ministries disagree with the proposal[89]. This is confirmed by the review of a sample of draft proposals submitted to the Government for approval in 2016, as mandatory opinions from relevant ministries were issued on only selected draft laws[90].

Information about the final position of various ministries on policy proposals (whether they concur/agree with the proposal or not) is available through the Electronic Government system. This is the main information used by the Department of Legal Affairs of the AoG, which carries out the final check of the package before it goes to the Government meeting. All of the packages of five sample draft laws analysed had the basic information about the policy proposals captured in explanatory notes, as required by the RoP.

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83 Ordinance of the Government of Georgia No. 626 on Confirmation of Statute of the Administration of the Government of Georgia of 19 November 2014.

84 RoP, Article 12 point 4. It should be noted that, according to Article 11 point 4 of the RoP, the draft is required to have a compulsory positive opinion from the MoJ, the MoF and the MoESD during the interministerial consultation process.

85 RoP, Article 12, point 2.

86 Some parts of the Statutes of the AoG (Article 2, points g, h, i, j, k, l and m) provide for a function of elaboration of Government priorities, as well as planning and monitoring of Government policies. However, there is no explicit attribution of the policy co-ordination function. In addition, the RoP focus exclusively on preparation, harmonisation and adoption of legal acts, without mentioning anything in regard to policy and/or planning documents, the only exception being the Basic Data and Directions document and the annual budget.

87 Statutes of the Department for Policy Analysis, Strategic Planning and Co-ordination of the AoG, Article 2.

88 RoP, Article 28, 4.

89 The regulatory requirement and practice have been clarified and confirmed by the officials of the AoG and MoJ during assessment interviews.

90 Draft Amendments to the Law on Advertising (printout from e-system); Draft Amendments to the Law on Amendments to the Administrative Penalty Code of Georgia (no supplementary information provided); Draft Amendments to the Law on Notaries (no supplementary information provided); Draft Amendments to the Law on Amendments to the Tax Code of Georgia (printout from e-system); Amendments to the Law on Public (or Civil) Service (two government letters to Parliament, but no supplementary information).

Information about the positions of CoG bodies and ministries on individual items presented to the Government for approval is fully captured on the Electronic Government system and automatically enforced, as per the RoP requirements. However, full evidence was not available to confirm that the checks on financial viability and policy coherence had actually been carried out by the relevant CoG bodies before agreement was entered into the electronic system. As a result, it is not possible to confirm that these key checks in the decision-making process (based on detailed review and analysis) are consistently and fully carried out in practice.

Information on the timeliness of agenda items submitted by ministries for inclusion in the Government sessions is not systematically collected and analysed to improve the process. Items are checked and prepared for inclusion in the agenda based on the Electronic Government system. Also, there are no statistics on typical errors and omissions made by ministries during the elaboration of various draft normative acts.

The agendas of Government sittings are publicly available, but they are not always published before the actual Government meetings. After a Government meeting, the Communications Department of the AoG provides information on the key decisions taken by the Government through various channels, including the government website[91], press releases and press conferences.

The minutes of the Government meetings are kept and distributed only to the participants. This is explained by the fact that Article 12 of the Law on Government foresees that Government meetings are generally closed, except when the Government specifically decides to make them public.

Government decisions are not available online through a unified, easy-to-access government website. However, all decisions of the Government can be obtained from the website of the Parliament[92], which contains all legislative proposals of the Government, or through the website of the Legislative Herald of Georgia (*Matsne*), a Legal Entity under Public Law (LEPL)[93]. In addition to primary legislation, the Legislative Herald includes by-laws and all other types of government decisions, as well as all normative acts adopted by the state agencies, international agreements, decisions of the Constitutional Court, local self-government acts, and public statements.

According to a survey commissioned by SIGMA, Georgian businesses rate the perceived clarity and stability of government policy making at 60%[94].

Overall, the value for the indicator “Transparency and legal compliance of the government decision making” is 3.

91 See http://www.gov.ge/index.php?lang_id=ENG&sec_id=471 for information on Government meetings held in 2017 and key decisions taken at each of them.

92 http://www.parliament.ge/en/kanonmdebloba/modzebne-kanonmdebloba.

93 https://matsne.gov.ge/en.

94 Market Intelligence Caucasus (2018), “Georgia Business Survey”, a survey commissioned by SIGMA, Market Intelligence Caucasus, Tbilisi. The survey asked Georgian businesses whether they agreed with the statement: “Laws and regulations affecting my company are clearly written, not contradictory and do not change too frequently.” The value of the sub-indicator is based on the percentage of responses indicating “strongly agree” and “tend to agree”.

Transparency and legal compliance of government decision making						
This indicator measures the legal framework established for ensuring legally compliant decision making, the consistency of the government in implementation of the established legal framework, the transparency of government decision making, and businesses' perception of the transparency of government policy making.						
Overall indicator value	0	1	2	**3**	4	5

Sub-indicators	Points
1. Adequacy of the legislative framework for government session procedures	4/5
2. Consistency of the CoG in setting and enforcing the procedures	2/4
3. Timeliness of ministries' submission of regular agenda items to the government session (%)	0/3
4. Openness of government decision-making process	3/4
5. Perceived clarity and stability of government policy making by businesses (%)	3/4
Total[95]	**12/20**

Clear rules and procedures are in place for preparing and organising Government sessions. An online electronic system is used to prepare and process items for Government discussion and approval. The system is sophisticated and includes functionality to ensure the necessary mandatory checks, and the final position of all ministries regarding policy proposals is captured. However, the system does not keep records of any substantive discussions and comments that take place during the preparation of the draft items for Government decision making. Formal opinions on policy proposals presented for the Government's final approval are not consistently issued by the CoG institutions and ministries, mainly because it is not mandatory to do so under existing regulations. It is impossible to confirm whether important reviews and checks are carried out by the relevant CoG bodies consistently and comprehensively on all proposals presented for Government approval. Information on Government decisions is available to the public through several government websites.

Principle 7: The parliament scrutinises government policy making.

The regulatory framework enabling parliamentary scrutiny and oversight of government policy making is based on a number of articles of the Constitution[96], the Law on Government[97], the RoP of the Parliament[98] and the RoP of the Government[99], as well as the Law on the Parliamentary Secretary[100].

Overall, under the existing regulatory framework, the Parliament has the necessary authority to scrutinise and oversee the performance of the Government, as foreseen in Article 48 of the Constitution. The Parliament successfully carries out this function in practice, using various instruments made available to Members of Parliament through the Constitution and the RoP of the Parliament,

95 Point conversion ranges: 0-1=0, 2-5=1, 6-9=2, 10-13=3, 14-17=4, 18-20=5.

96 Constitution of Georgia, http://constitution.parliament.ge/en/constitution. The relationship between the Parliament and the Government is mainly regulated in Articles 48, 56, 59, 60 and 78.

97 Law on Government No. 3277-IIS of 11 February 2004,

98 RoP of the Parliament of 17 February 2004.

99 RoP of the Government, Ordinance of the Government of Georgia No. 54 of 7 March 2013.

100 Law on the Parliamentary Secretary No. 246 of 25 June 2004.

including oral and written questioning of the executive branch[101] and discussions on the draft legislation and implementation of the laws in parliamentary committees[102].

According to Article 4 of the Law on the Parliamentary Secretary, the Parliamentary Secretary of the Government is the main co-ordinator for managing the relationship with the Parliament, ensuring control over the preparation and proceedings of draft legislation by the ministries and the implementation of the legislative plans of the Government.

Elaboration of the legislative plans of the Government is regulated by Article 3 of the RoP of the Government, foreseeing that a short-term legislative plan of the Government is prepared twice a year, for each session of the Parliament (i.e. spring and autumn). The legislative plans are shared with the Parliament at the beginning of each session. However, there are no formal meetings between the senior administrative level of the Government and the Parliament to discuss the legislative agenda and upcoming proposals in advance. It should also be noted that Article 3 of the RoP of the Government foresees elaboration of a long-term legislative plan of the Government, covering a three-year period. However, this planning document has not been elaborated in the past.

Although legislative planning is carried out, it is not fully followed by the Government. Only 64% of the draft laws submitted to the Parliament by the Government in 2016 had been included in the approved legislative plan[103], which suggests poor-quality legislative planning. Also, in 2016, 16% of Government-sponsored laws were processed using extraordinary proceedings. The Parliament has been efficient in reviewing and making decisions on almost all legislative proposals submitted by the Government within a reasonable time: 99% of Government-sponsored laws were processed (either approved or rejected) within one year of their submission[104].

The RoP of the Parliament[105] set out clear criteria and a list of documents that must accompany draft laws submitted to the Parliament. These should include an explanatory letter/note with justification for proposing a legislative measure, estimates of its potential fiscal implications, and compliance with international obligations (including those stemming from the EU Directives), as well as an overview of recommendations and suggestions received from different stakeholders during public consultations. Similar provisions are foreseen in Article 30 of the RoP of the Government. All of the five samples[106] provided during this assessment complied with these requirements and contained the required supporting documentation.

Article 136 of the RoP of the Parliament foresees that members of the Government can attend plenary sessions of the Parliament, if they wish to. However, there is no obligation to do so. Those Deputy Ministers who act as Parliamentary Secretaries of ministries attend the relevant Committee meetings and plenary sessions in the Parliament on a regular basis[107], if necessary accompanied by expert-level staff of ministries to explain and defend draft laws falling within the realm of their competence.

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101 See Part VIII of the RoP of the Parliament, Controlling functions of the Parliament.

102 See Chapter XXII of the RoP of the Parliament, Discussion of the Bill (Draft Law) in the Parliamentary Committees. The practice of parliamentary scrutiny of the implementation of policies was confirmed during interviews with representatives of the administration of Parliament. Examples of reports discussed in Parliament were provided (e.g. 2014-2015 implementation report of the Human Rights Strategy).

103 In 2016, the Government submitted 377 draft laws to the Parliament, of which only 241 had been included in the relevant legislative plan. In 2016, only a legislative plan for the spring session of the Parliament was prepared, due to the general elections that took place in October 2016.

104 It is calculated that, of the 291 legislative measures submitted by the Government in 2015, only 2 laws were not processed (either approved or rejected) within a year.

105 For details, see Article 147 of the RoP of the Parliament.

106 The Draft Law on Amendments to the Law on Advertising; the Draft Law on Amendments to the Law on Amendments to the Administrative Penalty Code of Georgia; the Draft Law on Amendments to the Law on Notaries; the Draft Law on Amendments to the Law on Amendments to the Tax Code of Georgia; and the draft Law on Amendments to the Law on Public (or Civil) Service.

107 The finding is based on interviews with relevant officials from ministries and the AoG.

In addition to their core role of discussing and debating draft laws, the Parliamentary Committees regularly review the implementation of adopted normative acts[108], as prescribed by regulation[109]. Following a review of the implementation, the Parliamentary Committee can adopt a decree with an assessment of the current state of implementation of laws and make recommendations for any legislative changes required. The Parliament also closely monitors the EI process and discusses the monitoring reports of the NAPIAA[110].

According to Article 196 of the RoP of the Parliament, the Prime Minister is obliged to provide a report to the Parliament on implementation of the Government Programme. In addition, the Parliament has the right to demand an extra report, and the Prime Minister must comply within 15 days. This further strengthens parliamentary scrutiny of the implementation of policies by the executive branch.

The Government also actively follows the legislative activities initiated in the Parliament and reviews and provides opinions on draft laws initiated by the Members of Parliament. The Parliamentary Secretary of the Government is the key official in the Government tasked with managing this process and preparing and issuing formal opinions on bills initiated in the Parliament, in co-operation with relevant line ministries and institutions. The actual process of formulating the Government's opinion on draft laws initiated by the Parliament is defined in the RoP of the Government[111]. The executive's opinion had been provided for all of the three of the sample laws initiated by the Parliament[112].

Overall, the value for the indicator "Parliamentary scrutiny of government policy making" is 4.

108 Implementation of different laws in the criminal justice system was discussed by the Parliament, based on the Medium-Term Report for 2014-2015 on implementation of the Human Rights Strategy. This was confirmed during interviews with the administration of the Parliament.

109 RoP of the Parliament, Articles 220 and 221. This function is stipulated also in the Article 56 of the Constitution.

110 The assessment is based on the interviews with the administration of the Parliament.

111 RoP of the Government, Article 32.

112 Draft Law on Amendments to the Law on the state pension; draft Law on Amendments to the Law on social assistance; and draft Law on Amendments to the Law on state compensations and academic scholarships.

Parliamentary scrutiny of government policy making						
This indicator measures the extent to which the parliament is able to scrutinise government policy making. The legal framework is assessed first, followed by an analysis of the functioning of important parliamentary practices and outcomes.						
Overall indicator value	0	1	2	3	**4**	5

Sub-indicators	Points
1. Strength of regulatory and procedural framework for parliamentary scrutiny of government policy making	5/5
2. Completeness of supporting documentation for draft laws submitted to the parliament	3/3
3. Co-ordination of governmental and parliamentary decision-making processes	1/2
4. Systematic review of parliamentary bills by the government	1/1
5. Alignment between draft laws planned and submitted by the government (%)	1/2
6. Timeliness of parliamentary processing of draft laws from the government (%)	2/2
7. Use of extraordinary proceedings for the adoption of government-sponsored draft laws (%)	1/5
8. Government participation in parliamentary discussions of draft laws	2/2
9. Basic parliamentary scrutiny of the implementation of policies	2/2
Total[113]	**18/24**

The existing regulatory framework enables adequate parliamentary scrutiny of government policies and activities. Almost all Government-sponsored laws are processed by the Parliament within a reasonable time frame, although only 64% of the approved laws initiated by the Government had been included in the approved annual legislative plan. Sixteen percent of legislation is processed through urgent procedures. The long-term legislative plan of the Government foreseen by the RoP of the Government has never been prepared. The Government systematically reviews draft laws initiated by the Parliament, while the Parliamentary Committees monitor and regularly assess the implementation of laws.

Key recommendations

Short-term (1-2 years)

1) The Government should make changes in the existing regulations, procedures and systems (particularly in the Electronic Government software) to ensure that all opinions and substantive comments on draft policy proposals issued by line ministries and the CoG institutions (i.e. the AoG, the MoJ and the MoF) are accessible through the system and checked before the proposals are processed further for final Government approval. Evidence of substantive reviews of legal compliance, financial viability and policy coherence of proposals carried out within the relevant CoG bodies should be recorded and available through the electronic system. It should also provide statistics on the timeline and items submitted and processed by the AoG.
2) The Government should ensure more openness and transparency of its activities and work by publishing in advance the agenda and all individual policy measures to be reviewed at Government

[113] Point conversion ranges: 0-3=0, 4-7=1, 8-11=2, 12-16=3, 17-20=4, 21-24=5.

meetings and ensuring that all decisions made by the Government are published and available on an easily-accessible central government website.

3) The Government should improve alignment between the legislative plan and other central planning documents. The number of items submitted through extraordinary procedures should be kept to a minimum, to ensure proper preparation, deliberation and approval of laws.

Medium-term (3-5 years)

4) The Government should aim to minimise the number of draft laws submitted to the Parliament outside the agreed legislative plans, by improving the planning capacity of involved institutions and ensuring more effective management of the legislative activities of the Government (including better utilisation of the provisions of the legislation that allow for two legislative plans per year).

5) The Government should review the effectiveness of having a separate GAWP and legislative plan and consider streamlining the existing annual government planning system to improve clarity and help improve monitoring and reporting. The Government should also review and evaluate the need for a long-term legislative plan, as envisaged in existing legislation.

Policy development

Key requirement: Inclusive, evidence-based policy and legislative development enables the achievement of intended policy objectives.

Analysis of Principles

Principle 8: The organisational structure, procedures and staff allocation of the ministries ensure that developed policies and legislation are implementable and meet government objectives.

The general provisions on the functioning of ministries are set in the Constitution of Georgia[114]. It also provides the constitutional basis for the structure, powers, and rules of operation of the Government to be regulated by law[115].

The Law on Government defines the overall tasks of ministries and establishes their names and total number[116]. The Law stipulates that the scope of activities of ministries[117] must be defined in regulations and that these regulations must be adopted by the Government[118]. While these regulations define the roles and policy responsibilities of individual ministries (including their respective departments) and set out the policy areas for which ministries are responsible, they do not define the process or requirements for policy development and law making within ministries. Therefore, it cannot be ensured that all relevant departments within ministries are consulted and involved during the policy development process. The Law on Government stipulates that one or more State Ministers (without portfolio) can be included in the Government. State Ministers are appointed by the Prime Minister, and their number is not regulated by law[119].

In 2017, there were 16 ministries and two State Ministers. After the reorganisation of December 2017, the Government consists of the Prime Minister and 14 Ministers (including one State Minister without portfolio).

The members of the Government are supported by the AoG and the staff of ministries[120]. The main reasons the Government cited for the reorganisation in December 2017 are avoiding overlapping responsibilities of several ministries, reducing bureaucracy, and increasing the effectiveness of the administration by merging responsibilities and competences of ministries[121].

Ministers are responsible for the activities of their ministry, and they can delegate this responsibility only to a deputy minister[122]. This provision sets the delegation of political responsibilities for policy development and legislative drafting in ministries at adequate levels.

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114 Constitution of Georgia, Article 812.

115 *Idem*, Article 78.7.

116 Law on Government, Article 14.2.

117 *Idem*, Article 15.2.

118 *Idem*, Article 17.1.

119 Law on Government, Article 11, states that one or more State Ministers may be represented in the Government.

120 Law No. 1620-RS on the Amendment to the Law of Georgia on Structure, Authority and Activity Rule of the Government of Georgia of December 2017 establishes the following ministries: 1) Education and Science; 2) Environmental Protection and Agriculture; 3) Economic and Sustainable Development; 4) Defence; 5) Justice; 6) Culture and Sports; 7) Internally Displaced Persons from the Occupied Territories, Resettlement and Refugees; 8) Regional development and infrastructure; 9) Foreign Affairs; 10) Penitentiary and Probation; 11) Finance; 12) Internal Affairs; and 13) Labour, Health and Social protection. There is also one State Minister for Reconciliation and Civic Equality Issues included in the Government.

121 The explanatory note supporting the amendment to the Law on the Structure, Powers and Rule of Activity of the Government of Georgia of 7 December 2017, Section A .

122 Law on Government, Articles 20 and 23.

However, ministries lack clear, hierarchical and uniform structures and mechanisms that would allow effective day-to-day organisation, management of work and conflict resolution with maximum utilisation of administrative-level resources. The highest administrative-level official within the organisational structures of ministries is the head of department. However, he/she does not have the necessary formal authority and power to make important decisions, for example, to address any disagreements between staff holding positions at the same level. Ministries do not have senior administrative management positions, such as secretaries-general or the like.

In addition, organisational structures and reporting arrangements vary across ministries. For example, heads of departments do not always report to the same political-level officials, they can report directly to the minister or a deputy minister. Within the MoESD, the Legal Department reports to the Minister, while within the Ministry of Agriculture, the Law and Parliamentary Affairs Department reports to the First Deputy Minister[123].

Besides ministries, various LEPLs can play a leading role in policy development and law drafting. LEPLs can report to a head of department, but they can also directly report to a minister or deputy minister[124]. When an LEPL falls under the responsibility of a ministry, a policy proposal developed by the LEPL is expected to be processed for adoption by the ministry.

Line ministries are the main government institutions responsible for developing policies and drafting legislation. However, they are not the sole bodies that can initiate a new law or regulation. As a result, there is a risk that important policies and laws can be developed without sufficient analysis, preparation and interministerial consultation.

For example, Tbilisi City has the right to propose decisions for Government sessions. In addition, several public authorities may submit their proposals for Government decision making directly through the AoG. When their mandate allows this, these authorities may develop proposals for initiating or amending laws and sub-legal acts that can go to the Government for approval without prior discussions with or involvement of relevant ministries[125].

The analysis of staffing levels of four ministries suggests that ministries are oriented towards policy development, as a sufficient level of resources is dedicated to policy making[126]. However, the internal organisation of ministries shows that not all roles and responsibilities for policy development are always fully established. As part of assistance provided under the EU Sector Budget Support, five ministries have strengthened the regulatory basis and functions of the departments dedicated to policy planning and policy co-ordination, although those departments are primarily linked with implementation of the sector strategies[127]. All other ministries are expected to establish policy-planning departments, but clear plans and official deadlines have not been set for completing this

123 This finding is based on interviews with ministry officials and the analysis of organisational charts of the Ministry of Agriculture, the MoESD, the Ministry of Environment and the Ministry of Labour, Health and Social Affairs. Note that the names of ministries were changed following the reorganisation of the Government in December 2017. As the assessment interviews were conducted in November, the former names of ministries are used here.

124 Analysis of the organisational charts of the Ministry of Agriculture, the MoESD, the Ministry of Environment and the Ministry of Labour, Health and Social Affairs shows that LEPLs report both to ministers and deputy ministers. The finding that LEPLs report to Heads of Departments is based on interviews with the AoG.

125 This practice was confirmed by representatives of the AoG.

126 The percentage of staff dedicated to policy development for four line ministries was calculated to be as follows: 61% for the Ministry of Agriculture; 62% for the MoESD; 63% for the Ministry of Environment; and 38% for the Ministry of Labour, Health and Social Affairs.

127 The five ministries are: the Ministry of Agriculture; the Ministry of Education and Science; the MoESD; the Ministry of Labour, Health and Social Affairs; and the MoJ. Under the framework of EU Sector Budget Support, these departments do not focus on the policy development process as such, but rather on five specific strategies that cover agriculture development, small and medium enterprises, general education and science, hepatitis C and anti-corruption.

process[128]. In addition, some ministries do not have units fully dedicated to co-ordinating EI-related activities[129] .

The RoP of the Government regulate the main requirements and process for development and approval of policy proposals. However, these general processes and procedures for developing new policies and laws are not supported by ministry-specific rules that regulate matters such as procedures to start and carry out interministerial consultation based on the RoP[130].

Although actual work processes for policy development and law making within ministries are not regulated, they were presented uniformly by various ministries[131]. Policy and legislative proposals are shared between departments on an ad-hoc basis only when this is considered to be necessary. Therefore, the existing procedures and rules cannot ensure that all relevant departments within ministries are consistently consulted and involved in the development of new policy proposals.

Due to the existing weaknesses and gaps in the internal organisation of line ministries and the fragmented responsibilities for policy development, the value for the indicator "Adequacy of the organisation and procedures for supporting the development of implementable policies" is 2.

Adequacy of organisation and procedures for supporting the development of implementable policies						
This indicator measures the adequacy of the regulatory framework to promote effective policy making, and whether staffing levels and the basic policy-making process work adequately at the level of ministries.						
Overall indicator value	0	1	**2**	3	4	5

Sub-indicators	**Points**
1. Adequacy of the regulatory framework for effective policy making	1/4
2. Staffing of policy-development departments (%)	2/2
3. Adequacy of policy-making processes at ministry level in practice	0/6
Total[132]	**3/12**

Ministries have clear organisational structures and most core responsibilities are assigned to specific departments. Staffing levels show that ministries are generally oriented towards policy development, but departments for policy planning/co-ordination and EI have not been established in all ministries. No internal rules and procedures exist on how to organise and manage actual policy development work within ministries. In addition to ministries, LEPLs, Tbilisi City and other public authorities are effectively entitled to initiate new policy and legislative proposals, which poses risks for the effectiveness, coherence and quality of policies.

128 This finding is based on interviews with the AoG.

129 These ministries are the Ministry of Labour, Health and Social Affairs and the Ministry of Internally Displaced Persons from the Occupied Territories. This finding was confirmed through interviews, and the Charter of the Ministry of Labour, Health and Social Affairs regulates that the EI-related activities are integrated into the department for international affairs. With the absence of internal rulebooks, however, it is not possible to confirm that EI functions within ministries are fully assigned and performed.

130 No internal rules were submitted for the assessment. In addition, interviews with the AoG and line ministries confirmed that no such rules exist.

131 This finding is based on discussions with four line ministries.

132 Point conversion ranges: 0=0, 1-2=1, 3-5=2, 6-8=3, 9-10=4, 11-12=5.

Principle 9: The European integration procedures and institutional set-up form an integral part of the policy-development process and ensure systematic and timely transposition of the European Union acquis.

The overall EI framework and the roles and responsibilities of the various actors in the EI process are defined in regulation. Until December 2017, the planning, co-ordinating and monitoring role for EI was being fulfilled by the Office of the State Minister for EEAI[133]. In December 2017, these EI co-ordination and management functions were assigned to the MoFA[134]. The MoFA was given three months to prepare and integrate the functions of the State Minister's Office into its own structures[135]. The implementation of EI-related functions under the new institutional set up within the MoFA could not be assessed.

Co-ordination of EI at the political level is performed by the GCEI, with the Office of the State Minister for EEAI providing the secretariat function for the Commission until 2017. In September 2017, the GCEI decided to establish a new subordinated co-ordination mechanism, an EU working group involving deputy ministers[136]. However, no official body for co-ordination of EI exists at the administrative level that would involve non-political officials. Conflict resolution during the EU *acquis* alignment process is ensured through interministerial co-ordination mechanisms.

The Government has developed a publicly accessible website which is used to monitor the implementation of the EU-Georgia Association Agreement[137]. The website is meant to serve as the main electronic platform for planning and monitoring EI-related work, which involves 30 state institutions.

Around 200 officials have been trained in using the monitoring platform[138]. The Government plans to further develop the website to create a working platform for the administration to closely monitor the progress made on different actions and commitments arising from the Association Agreement[139]. In addition, the website is expected to enable citizens to review the implementation of EI commitments and track Georgia's progress online from 2018 onwards.

The EU Law Department within the MoJ is responsible for ensuring conformity of national legislation with the EU *acquis*[140]. The RoP stipulate that the opinion of the MoJ is obligatory for draft legal acts and draft laws[141].

The actual planning for EI and transposition of the *acquis* into national legislation has shortcomings. NAPIAAs were developed and approved for 2015 and 2016. However, the 2017 Plan has not been formally adopted by the Government, although it has been reviewed and approved by the GCEI during its meeting in September 2017. The NAPIAA does not provide a clear and full list of all legislative measures for transposition. Also, because it is an annual plan, it is not possible to establish the transposition-related commitments of the Government for a medium-term period.

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133 The tasks are regulated in Government Decree No. 186 on Measures for Effective Implementation of the Association Agreement between Georgia and the European Union, which includes the DCFTA, and Ordinance No. 100 of the Government of Georgia on approval of the Regulation and the staff list of the Office of the State Minister for EEAI.

134 Government of Georgia Resolution No. 548 of 15 December 2017 on Amendments to Decree No. 310 of 29 November 2013 of the Government of Georgia on the Introduction of the position of State Minister in the Government of Georgia and the implementation of the accompanying measures, Article 2.

135 *Idem*, Article 6.

136 Minutes of the meeting of the GCEI of 1 September 2017, point V.

137 Georgia-EU Association Agreement Implementation Planning and Monitoring E-System, https://aa-monitoring.ge (in Georgian) and https://aa-monitoring.ge/site/#/en/home (in English).

138 Information provided by representatives of the Office of the State Minister for EEAI during assessment interviews.

139 No specific deadline for the implementation of this function was provided.

140 Ordinance No. 518 of the Government of Georgia of 27 August; 2014 on Amendments to Decree No. 389 of 30 December 2013 of the Government of Georgia on Approval of the Regulation of the MoJ of Georgia, Article 16g.

141 RoP, Article 11.4 on the adoption of draft legal acts and Article 26.4 on the adoption of draft laws.

The Association Agreement lists the specific EU Directives which the Government has committed to transpose into national legislation. It also provides a timeline for transposition and the Office of the State Minister for EEAI monitors its planning and implementation using the Association Agreement and its Annexes. However, this information with a more specific timeline of transposition is not reflected in the NAPIAA, the main EI planning document.

The requirements and process for developing policy and legislative proposals, including interministerial consultations, do not differentiate between domestic law and EU law. All proposals must be submitted for interministerial consultation and must be supported by an explanatory note[142]. These notes refer to alignment of the proposal with the *acquis*, in particular whether the proposal contradicts the EU legislation or not[143].

In 2017, the use of Tables of Concordance was not obligatory for line ministries when transposing the *acquis* into national legislation. Extensive guidelines on transposition are available and used by ministries, but they are in draft form and have not been officially approved[144]. The MoJ has initiated training for line ministries on the application of these unofficial guidelines[145]. Unofficial Tables of Concordance have been developed and are used by ministries during the transposition process[146]. Three unofficial Tables of Concordances were analysed during this assessment[147].

The translation centre of the Legislative Herald of Georgia (*Matsne*), an LEPL under the MoJ, is responsible for translating the *acquis* into the national language and translating national legislation into English[148]. The centre carries out this important function with limited capacity. The Legislative Herald and the Office of the Minister for EEAI communicate regularly to plan and prioritise translation of Georgian and EU legislation. However, no formal criteria and rules exist for planning and organising translation work in a systematic manner. This is partly due to the fact that the NAPIAA and EI plans do not clearly indicate the actual legislative measures for transposition, which would help the Legislative Herald to make its own plans for translation. Under these circumstances, line ministries often have to organise the translation of EU legislation themselves, since the official translation of the relevant EU legislation is not available at the time of initiation of the law. These translations are then shared with the Legislative Herald for finalisation and proofreading. But ministries work mainly with non-verified translations during the early stages of the law-making process[149].

It has not been possible to calculate the proportion of EI measures carried forward from one year to another because, under the current structure and format of the NAPIAA, the main annual plan for transposition of EU *acquis* into national legislation, does not provide clear and complete information about the planned legislative measures related to transposition (draft laws and by-laws)[150].

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142 Public consultation and the use of RIA are not yet integrated as obligatory elements in the policy-development and law-making processes.

143 The requirement to refer to and confirm the alignment of a proposal with the EU legislation is embedded within the structure of the explanatory notes, as defined in the Law on Normative Acts, Articles 17.1 and 17.1c.a.

144 Guidelines for Approximation of Georgian Legislation with European Union Law, unofficial version.

145 This finding is based on information provided during interviews with MoJ officials.

146 This finding is based on interviews with representatives of the MoJ.

147 Tables of Concordance on Draft Law on Innovations, Draft Law on Red Cross and Draft Law on Amnesty.

148 This is defined in the Charter on the Legislative Herald, Article 8 b) on Translation of the EU legislative acts and other necessary documents into Georgian and also confirmed in Government Decree No. 186 on Measures for Effective Implementation of the Association Agreement between Georgia and the EU, which includes the DCFTA, p. 2.

149 This practice was confirmed during interviews with representatives of the Legislative Herald, the MoJ and four line ministries.

150 It was possible to identify only 22 specific legislative measures linked with transposition in the 2016 NAPIAA. Only 2 of those measures were approved, which indicates a low level of implementation.

Due to the weaknesses in actual planning and implementation of the transposition activities, the value for the indicator "Government capacity for the aligning national legislation with the European Union *acquis*" is 1.

Government capability for aligning national legislation with the European Union *acquis*.						
This indicator measures the adequacy of the legal framework for the *acquis* alignment process, the government's consistency in using the tables of concordance in the *acquis* alignment process and the availability of the *acquis* in the national language. It also assesses the results of the *acquis* alignment process, focusing on the planned *acquis* alignment commitments carried forward from one year to the next and how the government is able to achieve its *acquis* alignment objectives.						
Overall indicator value	0	**1**	2	3	4	5

Sub-indicators	Points
1. Adequacy of the regulatory framework for the *acquis* alignment process	4/5
2. Use of tables of concordance (%)	0/2
3. Translation of the *acquis* into the national language	0/2
4. *Acquis* alignment commitments carried forward (%)	0/4
5. Implementation rate of legislative commitments for *acquis* alignment (%)	0/4
Total[151]	**4/17**

The main elements of EI-related processes and requirements have been established in regulation, but there are issues with the actual implementation and use of the existing procedures and tools during transposition. The EI-related functions fulfilled by the Office of the State Minister for EEAI were transferred to the MoFA in December 2017, and the effectiveness of the EI process under the new institutional set-up has yet to be assessed. The use of Tables of Concordance is not obligatory when transposing the EU *acquis*. The quality of planning and monitoring of implementation of transposition activities is low, and full information about planned and approved legislative commitments is not available through the NAPIAA and its monitoring reports. The transposition processes, including preparation and organisation of translation of the EU *acquis* into the national language to facilitate transposition, are not aligned, and official translations are not always available to guide and support the EI-related law-making process.

Principle 10: The policy-making and legal-drafting process is evidence-based, and impact assessment is consistently used across ministries.

The RoP of the Government set out the main legal requirements and procedures that must be followed when developing new policy proposals. Based on the Law on Normative Acts[152] and the RoP[153], policy development is governed by obligations for carrying out interministerial consultation and preparing explanatory notes for draft legislative proposals, which provide the opportunity to apply basic analytical tools to inform policy making.

151 Point conversion ranges: 0-2=0, 3-5=1, 6-8=2, 9-11=3, 12-14=4, 15-17=5.

152 Law on Normative Acts, Article 17.

153 Ordinance No. 54 of the Government of Georgia on Approval of the RoP of the Government of Georgia, Article 10.2 (draft legal acts) and Article 25.2 (draft laws).

The format and practice of using explanatory notes in policy development, as established in the RoP and the Law on Normative Acts, are followed consistently by ministries[154]. These notes require a basic level of policy analysis. Proposing bodies must provide general information about the policy proposal, explain the rationale and objective of the new law, clarify the expected outcomes and assess the effects on the budget. Of the five samples analysed for this assessment, all proposed laws were accompanied by an explanatory note. However, evidence of some basic form of interministerial consultations was available only for two of the five laws examined[155].

Review of the five explanatory notes shows that the quality of policy analysis is low[156]. Three[157] of the five explanatory notes analysed for this assessment provided some information on the justification for the proposed law and contained a basic description of the problem[158]. Policy options were not considered or explained in any of the draft laws reviewed, although realistic alternatives to the proposed policy proposals appeared to exist. The explanatory notes state that no budgetary impacts are expected, although at least four draft laws are likely to create additional financial burden on the state budget[159]. Implementation and enforcement issues were not discussed at all in the notes. Nor was there any information on how the implementation of the proposed laws would be monitored and evaluated.

Legislation requires that explanatory notes contain an assessment of the financial feasibility of proposals[160]. Moreover, the Annex to the RoP, which provides a template for explanatory notes, specifically requires that the results of the financial-economic calculation be presented in the notes, including information about financial resources needed, sources of funding, the impact on budget revenues and expenditures, and any new financial obligations for the state[161]. These requirements indicate that the current regulations require full assessment of the budgetary impact of policy proposals.

The RoP of the Government require that a positive position (opinion) from the MoF is mandatory during interministerial consultation[162]. The interministerial consultation process is governed by the principle that when a ministry does not actively approve a proposal, it is assumed that the ministry disagrees.

While the sample of all explanatory notes reviewed for this assessment contained references to the budget impact, including indications that no budget impact was expected, only one formal opinion

154 This finding is based on the analysis of the following five draft laws and the accompanying explanatory notes that were submitted for the assessment: the Draft Law on the Red Cross Society of Georgia; the Draft Law on International Protection; the Draft Law on Innovation; the Draft Law on Amnesty; and the Draft Law on the Code of Spatial Planning and Construction.

155 Information about the interministerial consultation was available only for the Draft Law on the Red Cross Society of Georgia and the Draft Law on Innovation.

156 Explanatory notes have been considered, since there is no fully functioning RIA system in place and they are the only documents that provide basic analysis of a policy proposal and its possible impacts.

157 These three explanatory notes were those on the Draft Law on International Protection, the Draft Law on Innovation and the Draft Law on Amnesty.

158 This can be considered as minimal but sufficient analysis of the problem under consideration, comparable to the analysis that would be expected in an RIA. Therefore, the relevant criteria for sub-indicator 6 are assessed as being met.

159 From the description of the policy proposals, the following laws are likely to have additional impact on state budget: the Draft Law on International Protection; the Draft Law on Innovation; the Draft Law on Amnesty; and the Draft Law on the Code of Spatial Planning and Construction.

160 Law on Normative Acts, Article 17b.

161 Attachment to the RoP which provides a template for explanatory notes.

162 RoP of the Government, Article 11.4 on the Adoption of draft legal acts and Article 26.4 on the Adoption of draft laws.

from the MoF was available among the sample of the five draft laws analysed[163]. This is because the existing regulations do not require formal letters to be issued during interministerial consultation, and concurrences on individual policy proposals from the CoG institutions and ministries are obtained and recorded using the Electronic Software system. Opinions, however, can be prepared and issued by ministries, but it is not clear when and how ministries issue formal opinions[164]. The process for quality scrutiny of proposals with regard to the expected budget impact cannot be considered as fully established.

While there is some guidance available[165] that explains the overall policy development process, no guidelines or methodology are available specifically on the costing of policies and laws. The need to improve the costing and budgeting process is reflected as one of the priority activities in the Policy Planning System Reform Strategy 2015-2017. This Strategy envisaged that a methodological handbook on financial estimations for policy implementation would be finalised by 2016[166], but it has not yet been developed.

According to the Policy Planning System Reform Strategy 2015-2017[167], the Government plans to introduce a full RIA system. The relevance of RIA is further stressed in general terms in several strategic documents[168]. RIA was planned to be introduced in 2017, but there is no formal decision on this yet. The required legal changes for the introduction of RIA are in preparation. According to the action plan for implementation of RIA, the methodology and the legal amendments are planned to be approved by the end of 2018[169].

Several line ministries have already developed RIA reports as pilots[170], and training sessions on RIA were organised in 2016 and 2017[171]. However, this training for staff of line ministries was not followed up with implementation of actual RIA pilots. Despite several ongoing projects supporting RIA pilots, the scope and number of the draft laws analysed during these pilots is too low to consider these activities as having a positive impact on the overall quality of analysis and decision making. The Analytical

163 The MoF opinion was available only for the Draft Law on the Red Cross Society of Georgia. The office of the Parliamentary Secretary of the Government confirmed that the MoF did not issue opinions on the other four laws that were analysed for this assessment.

164 The preparation and interministerial consultation are managed online, based on an electronic platform that records the formal agreement of all key ministries before the package is processed further. It is, therefore, possible that the MoF agrees to proposals without issuing a formal opinion but, as no evidence of analysis of potential budgetary impact has been provided for most of the sample laws, the practice of carrying out this important function thoroughly and consistently cannot be confirmed.

165 Policy Planning Manual and Policy Planning System Reform Strategy 2015-2017.

166 Policy Planning System Reform Strategy 2015-2017: Objective 4) Ensure link between policy planning and the budgeting process; Activity 4.1) Develop methodological handbook about financial estimations for policy implementation. The expected year of completion of this handbook was 2016.

167 Policy Planning System Reform Strategy 2015-2017: Objective 3) Ensure the connection between policy planning and drafting legislation; Activities 3.1) Design a handbook on law-making activities (RIA) (deadline 2016); 3.2) Introduce legislative RIA (deadline 2017); and 3.3) Plan and deliver training for employees engaged in law-making activities (deadline 2017). The Strategy states that a handbook on conducting RIA should be developed by the end of 2016 and that training of staff on performing RIA should be conducted.

168 RIA is referred to in the SME Development Strategy of Georgia 2016-020 under Priority Action 1.6) Establishment of RIA system for priority economic legislation and also in the Social-economic Development Strategy of Georgia, GEORGIA 2020, p. 23.

169 The RIA implementation action plan was submitted by the Ministry of Justice officials in April 2018. The formal legal status of the action plan, however, is not clear.

170 The following RIAs were submitted for the assessment: RIA for the Law on Consumer Protection; RIA on Environmental Impact Assessment; and RIA on Beer.

171 For this assessment, the agendas and attendance lists for these training sessions were provided.

Department of the MoJ is actively involved in several RIA pilots, while the MoESD has a department dedicated to impact assessment[172].

Although selected line ministries have been piloting RIA for several years, no official central guidelines or methodology on RIA exist. The Office of the Parliamentary Secretary is responsible for the co-ordination of RIA reforms. In general, the pilot RIA reports are not officially adopted by the Government, and they are not officially presented to the public or the Parliament. Relevant findings and information obtained during the RIA pilot process might, however, be used and integrated into explanatory notes that accompany draft laws. Generally, the information obtained through the policy analysis and RIA pilots remains within the administration.

The Parliament has been implementing its own RIA pilots in parallel to those led by the Government[173]. Implementation of the RIA requirement is being debated in the Parliament, including practical arrangements that will be needed for effective implementation of RIA in the legislative branch, such as the time needed for the legislative decision-making processes and the integration of RIA into the work of organisations and staff that support the Parliament's work[174]. This shows that the introduction and merits of RIA as a tool to promote evidence-based policy making are taken seriously by the Parliament. However, as for the Government, no concrete timeline or plan exists for the full introduction of RIA. It is also not clear how the methodologies and guidelines developed and pilots conducted in the Parliament differ from those used in the executive branch.

Owing to the limited level of analysis in policy making, the value for the indicator "Evidence-based policy making" is 1.

[172] MoESD has relevant experience with RIA. According to ministry officials, RIA reports have been developed on four complex and ten relatively simple policy proposals. The ministry has also used its analytical capabilities on RIA for decision making on a large number of Government decisions. A summary of the RIA on the Law on Consumer Protection is available online: http://www.economy.ge/?page=reforms&s=21&lang=en.

[173] Representatives from the Parliament confirmed that RIAs are developed by the Committees responsible for Economy and Health.

[174] This finding is based on interviews with representatives from the administration of the Parliament.

Evidence-based policy making						
This indicator measures the functioning of evidence-based policy making. It assesses the legal requirements and practice regarding the use of basic consultative processes, budgetary impact assessment and broad impact assessment. Moreover, it assesses the availability of training and guidance documents for impact assessment, the establishment of the quality control function, and the quality of analysis supporting the approval of draft laws.						
Overall indicator value	0	**1**	2	3	4	5

Sub-indicators	Points
1. Regulation and use of basic analytical tools and techniques to assess the potential impact of draft new laws	1/2
2. Regulation and use of budgetary impact assessment prior to approval of policies	1/3
3. Regulation and use of Regulatory Impact Assessments	0/3
4. Availability of guidance documents on impact assessment	0/2
5. Quality control of impact assessment	0/3
6. Quality of analysis in impact assessments	1/15
Total[175]	**3/28**

Despite ongoing efforts and pilots to introduce RIA, evidence-based policy making is not yet established. Explanatory notes are the main documents used for analysing and assessing the impacts of policies, but they provide only limited information about the rationale for introduction of new laws and their expected impacts. The Government and the Parliament have been piloting RIA for several years, but no concrete plan exists for full implementation. Moreover, there are no centrally-approved guidelines or methodology for RIA. This might hamper the effectiveness of the ongoing pilots. The RoP require assessment of the effects of policy proposals on the budget, but the MoF does not always issue formal opinions.

Principle 11: Policies and legislation are designed in an inclusive manner that enables the active participation of society and allows for co-ordination of different perspectives within the government.

Regulations do not require public consultation on new policy proposals, and the Government considers the current practice of consultation to be quite weak[176]. Although some form of consultation with stakeholders and the public does take place for some policies and strategies, practices and standards vary across ministries and are not embedded in the law-making process. There are no clear rules, procedures and tools in place to facilitate public consultation and ensure that the outcomes of consultation are considered in final decision making (such as processes and standards for consultation, or detailed guidelines for ministries on how to conduct public consultation). Also, there is no dedicated unit within the administration to ensure the quality of the public consultation.

Line ministries can upload draft legal proposals on the website of the Legislative Herald for stakeholders and the public to review and comment on. However, the actual process and conditions under which such consultations can take place, including collection and review of feedback received on draft laws, are not defined in detail. Furthermore, the actual regulatory requirement to publish draft legislative proposals on the website of the Legislative Herald is limited to future amendments of 20

[175] Point conversion ranges: 0-2=0, 3-7=1, 8-12=2, 13-18=3, 19-23=4, 24-28=5.

[176] Policy Planning System Reform Strategy 2015-2017, p 16.

specific laws[177]. In addition, the website of the Legislative Herald is rarely used to organise and run public consultations.

Review of the practice of public consultation of four ministries indicates that only the Ministry of Agriculture used the website of the Legislative Herald to publish some of the draft legislative proposals (two of the five draft laws initiated in 2016 were published for consultation). The other three ministries did not publish any of their draft proposals using the Legislative Herald or any other government website[178]. In fact, there was no evidence that public consultation had taken place in any form on the legislative proposals initiated by these ministries[179].

The Policy Planning System Reform Strategy 2015-2017 refers to the need to introduce a methodological and institutional framework for public consultation when developing policies[180]. So far, no concrete progress has been made in this regard, and no plans exist to improve the current situation and establish the necessary legal framework for public consultation.

While the consultation practice is not established for laws and sub-legal acts[181], targeted stakeholder consultations and public debates are often organised when policies are developed, using various working groups and committee mechanisms[182]. However, these consultations are organised based on the structures and membership of various inter-agency working groups and councils[183], so it is not possible to ensure the participation of a broader public and all external stakeholders without formal invitation by the administration. This limits the quality of public consultation and does not ensure full openness and inclusiveness of policy making.

The limited practice of carrying out public consultation in ministries during policy development is also confirmed through the analysis of information provided in the analysed explanatory notes[184]. These notes indicate that, if there is any involvement of stakeholders, it takes place through participation of selected stakeholders in various working groups and committees that prepare legislative proposals[185]. These notes did not contain any information related to public consultation activities. Because line ministries are obliged by regulation to report on such activities, it can be concluded that no consultation has been done with regard to those draft laws[186].

177 The list of laws are established by the Ordinance of the Government of Georgia No. 37 of 18 January 2016 introducing Amendments to the Ordinance of 135 on Implementation of the specific duties of the Parliamentary Secretary of the Government of Georgia of 7 February 2014.

178 The proposals of the following four ministries were analysed: the Ministry of Agriculture; the Ministry of Environment; the Ministry of Labour, Health and Social Affairs; and the MoESD.

179 The four ministries did not provide evidence showing that consultation was organised for the proposals they developed. Stakeholders and representatives from the administration confirmed during interviews that consultation on draft legal proposals rarely takes place.

180 Policy Planning System Reform Strategy 2015-2017, Section 3.6.4 on Public engagement, p. 30.

181 This finding is based on interviews and the analysis of information provided in the explanatory notes assessed under Principle 10.

182 Annual Progress Report (2016) on SME Development Strategy Action Plan 2016-2017, Priority Action 3.6, Ensuring Technical Assistance for SMEs, refers to consultation with 220 companies on the EU market opportunities and DCFTA requirements.

183 The Policy Planning System Reform Strategy 2015-2017 refers to “inter-agency commissions and councils”, pp. 13-14.

184 These are the explanatory notes analysed under Principle 10.

185 For the Law on International Protection, the explanatory note states that the proposal was developed in co-operation with the UNHCR (the UN Refugee Agency). The note on the Law on Innovations states that working groups were organised and that the World Bank was also involved. The supporting documentation of the Law on Amnesty indicates that it was developed with the support of an LEPL (State Services Development Agency and Georgia Occupied Internally Displaced Persons) and ministry staff. The explanatory note on the Law on the Red Cross Society states that it was developed by the National Inter-Agency Commission on the Implementation of International Humanitarian Law and that the Red Cross was involved.

186 Law on Normative Acts, Article 17d.

Interministerial consultation is required for draft legal acts and draft laws, and the process is regulated in the RoP[187]. The process is managed using the online Electronic Government software. Line ministries must comply with a five-day deadline for providing their opinions on draft legal acts and a ten-day deadline for opinions on draft laws, by indicating their agreement/disagreement in the relevant sections of the online Electronic Government system[188]. For both of these types of proposals, positive opinions/agreement of the MoJ, the MoF and MoESD must be secured before the proposal can be taken forward[189]. When a ministry does not provide its opinion within the prescribed time frame, this is interpreted as disagreement with the proposal[190]. According to the RoP, this means that when any one of the MoJ, the MoF or the MoESD do not provide their official response, the proposal may not be processed further for adoption by the Government and must be returned to the proposing body[191].

The Legal Department within the AoG[192] and the Parliamentary Secretary of the Government[193] receive the draft acts and laws after the interministerial consultation process. The Legal Department within the AoG ensures the legal expertise[194]. The Parliamentary Secretary of the Government has to check compliance with the Constitution and can provide a legal conclusion[195]. A similar check on legal compliance is carried out also by the MoJ.

The Parliamentary Secretary of the Government and the Legal Department within the AoG have full access to the Electronic Government system through which interministerial consultation takes place. They can thus begin scrutiny of proposals before they officially receive the submissions[196]. Under the current procedures and regulations, all CoG bodies are expected to be consulted before a proposal is submitted for decision making by the Government.

The RoP require that all relevant line ministries be involved in the consultation process[197]. Thresholds for the minimum number of ministries that actively support a proposal need to be respected[198]. Based on the results of interministerial consultation using the Electronic Government system, the Parliamentary Secretary of the Government is authorised[199] to decide whether the proposed draft law should be included in the agenda of the Government (for important proposals), or it can also consider approving the decision if agreement from a sufficient number of ministries is secured on the electronic system. If a ministry fails to secure approval from a sufficient number of ministries, a draft sub-legal act or draft law cannot be processed further. Line ministries must summarise the results of the interministerial consultation process when they present a proposal for adoption by the Government[200].

187 RoP, Articles 11 and 26.

188 *Idem*, Articles 11.1 and 26.1.

189 *Idem*, Articles 11.4 and 26.4.

190 *Idem*, Articles 11.3 and 26.3.

191 *Idem*, Articles 12.2 and 27.5.

192 *Idem*, Articles 11.4 and 12.

193 *Idem*, Articles 26.4 and 28.

194 *Idem*, Article 12.4.

195 *Idem*, Articles 28.1 and 28.6.

196 This finding is based on interviews with AoG officials.

197 RoP, Article 11.1 for draft legal acts and Article 26.1 for draft laws.

198 For draft sub-legal acts, 12 ministries must approve; for draft laws, 13 ministries must approve. The AoG indicated that these thresholds would be adjusted in line with the reduction in the number of ministries planned for the end of 2017.

199 RoP, Article 28.4

200 RoP, Article 11.5 states that the proposing body (the Initiator) has to update the draft legal act before it is submitted to the Chancellery if comments are received from other organisations. Article 27.4 indicates that there should be a draft concurrence paper that needs to reflect the positions of ministers and state ministers on the draft law. If there are remarks from other ministries, the proposing body needs to provide a justification on why these were (or were not) taken into account (Article 27.4 d).

Ministries do not have senior administrative-level officials above the position of heads of department (who report directly to ministers or deputy ministers). There is no formal mechanism for regular meetings of senior administrative-level officials of ministries to discuss and resolve issues during interministerial consultation. This means that inter-institutional conflict resolution is always likely to involve at least deputy ministries, who are political-level officials.

While the legal framework is clear regarding the requirements for interministerial consultation, these consultations are not performed fully and consistently in practice, at least in terms of formal opinions being prepared and issued. Of the five draft laws analysed as part of this assessment, only two were accompanied by some opinions from relevant CoG bodies and one also with opinions from a few line ministries[201]. Based on the current regulations, the relevant CoG bodies and ministries are not required to issue formal opinions. This limits the effectiveness of interministerial consultations and final decision making on policy proposals.

Since no regulatory framework for public consultation exists and the actual practice of consultation on new proposals is limited, the baseline value for the indicator "Public consultation on public policy" is 0.

Owing to the weaknesses in the practice of interministerial consultation, the value for the indicator "Interministerial consultation on public policy" is 1.

Public consultation on public policy						
This indicator measures the implementation of public consultation processes in developing policies and legislation. It assesses the regulatory framework, the establishment of the quality control function on public consultation, the consistency in publishing draft laws for written public consultation online, and tests whether minimum standards for public consultations were upheld for approved drafts laws.						
Overall indicator value	**0**	1	2	3	4	5

Sub-indicators	Points
1. Adequacy of the regulatory framework for an effective public consultation process	0/10
2. Quality assurance of the public consultation process	0/3
3. Regularity in publishing draft laws for written public consultation	0/4
4. Test of public consultation practices	0/24
Total[202]	**0/41**

201 The draft Law on the Red Cross Society of Georgia: Opinions were provided by the AOG and the MoF. The draft Law on Innovation: Opinions were provided by the AOG, the MoJ, the Ministry of Health, the Ministry of Education and the Ministry of Infrastructure.

202 Point conversion ranges: 0-6=0, 7-13=1, 14-20=2, 21-27=3, 28-34=4, 35-41=5.

Interministerial consultation on public policy						
This indicator measures the adequacy of the regulatory framework for the interministerial consultation process and tests the system in practice for five draft laws.						
Overall indicator value	0	**1**	2	3	4	5

Sub-indicators	Points
1. Adequacy of the regulatory framework for an effective interministerial consultation process	5/9
2. Test of interministerial consultation practices	0/12
Total[203]	**5/21**

No legal framework exists for public consultation on new policy proposals. Although targeted stakeholder consultation has been conducted on selected policy proposals, using various working groups and inter-agency consultation mechanisms, there is no systematic practice of public consultation for legal proposals.

Interministerial consultation is regulated through the RoP and the process is functioning and managed based on the Electronic Government software. There is no regulatory requirement to issue formal opinions on draft proposals during interministerial consultations. Conflict resolution at the administrative level is not established through official mechanisms, and the practice is hampered because of the absence of top administrative-level positions within ministries.

Principle 12: Legislation is consistent in structure, style and language; legal drafting requirements are applied consistently across ministries; legislation is made publicly available.

The Law on Normative Acts and two sub-legal acts[204] serve as the official guidance for drafting legislation in Georgia. The Law is the main document that establishes and regulates legal drafting requirements and defines the structure of legislation and the official format in which legislation needs to be presented[205]. The Law is available online free of charge[206]. While the legal framework regulates the structure of normative acts and the process through which laws need to be adopted and published, there is no guidance on more technical aspects, such as drafting techniques and standard legal terminology that should be used for identical issues.

Three organisations carry responsibility for scrutiny of legal quality in the decision-making process. The MoJ is the lead organisation in this respect, and its role for scrutiny of legal quality is defined by law[207]. The RoP stipulate that the MoJ must approve proposals for draft legal acts and draft laws. Without such approval, a proposal cannot be adopted by the Government[208].

203 Point conversion ranges: 0-2=0, 3-6=1, 7-10=2, 11-14=3, 15-18=4, 19-21=5.

204 These sub-legal acts are: the RoP of the Government, and Order No. 158 of the Minister of Justice on Approval, of the Procedures for Drafting, Adopting (Issuing), Sending, Registering, Systematising, and Publishing Normative Acts (Draft Normative Acts) by Means of Automated Management Tools.

205 Law on Normative Acts, Articles 16 and 18.

206 https://matsne.gov.ge/ka/document/view/90052.

207 Law on Normative Acts, Article 19.

208 RoP, Article 11.4 on the adoption of draft legal acts and Article 26.4 on the adoption of draft laws.

The Legal Department of the AoG complements the quality scrutiny function of the MoJ for draft legal acts[209] , while the Parliamentary Secretary of the Government does the same for draft laws[210]. Their role is to provide an additional level of quality scrutiny. In practice, the opinion of the MoJ is followed, and disagreements with MoJ opinions are rare[211]. Legal scrutiny is carried out by MoJ in practice, and this is recorded and confirmed on the Electronic Government system, but opinions and comments are not issued on all draft laws[212].

There is no training programme for civil servants on legal drafting apart from the training organised in the context of EI on transposing the EU *acquis* and the use of Tables of Concordance.

The percentage of laws amended one year after adoption is calculated to be 44%[213]. This suggests that preparation and analysis of new laws, including justification as well as the actual drafting of laws, have major shortcomings which necessitate amendments within a very short period after enactment[214]. This also means that the legal framework is not fully stable, which might hinder its implementation.

According to a survey commissioned by SIGMA, 60% of Georgian businesses think that government policy making is clear and stable[215], while 75% believe that information on the laws and regulations affecting their business is easy to obtain from the authorities[216].

209 *Idem*, Articles 11.4 and 12.

210 *Idem*, Articles 26.4 and 28.

211 This finding is based on interviews with AoG and MoJ officials.

212 The official position of the MoJ is mandatory and is being captured in the Electronic Government software. However, an actual MoJ opinion was issued only on the Draft Law on Innovation. The Office of the Parliamentary Secretary of the Government confirmed that the MoJ did not issue opinions on the other four laws that were analysed for this assessment. Evidence of the MoJ's confirmation of the remaining three laws included in the sample was recorded in the electronic system.

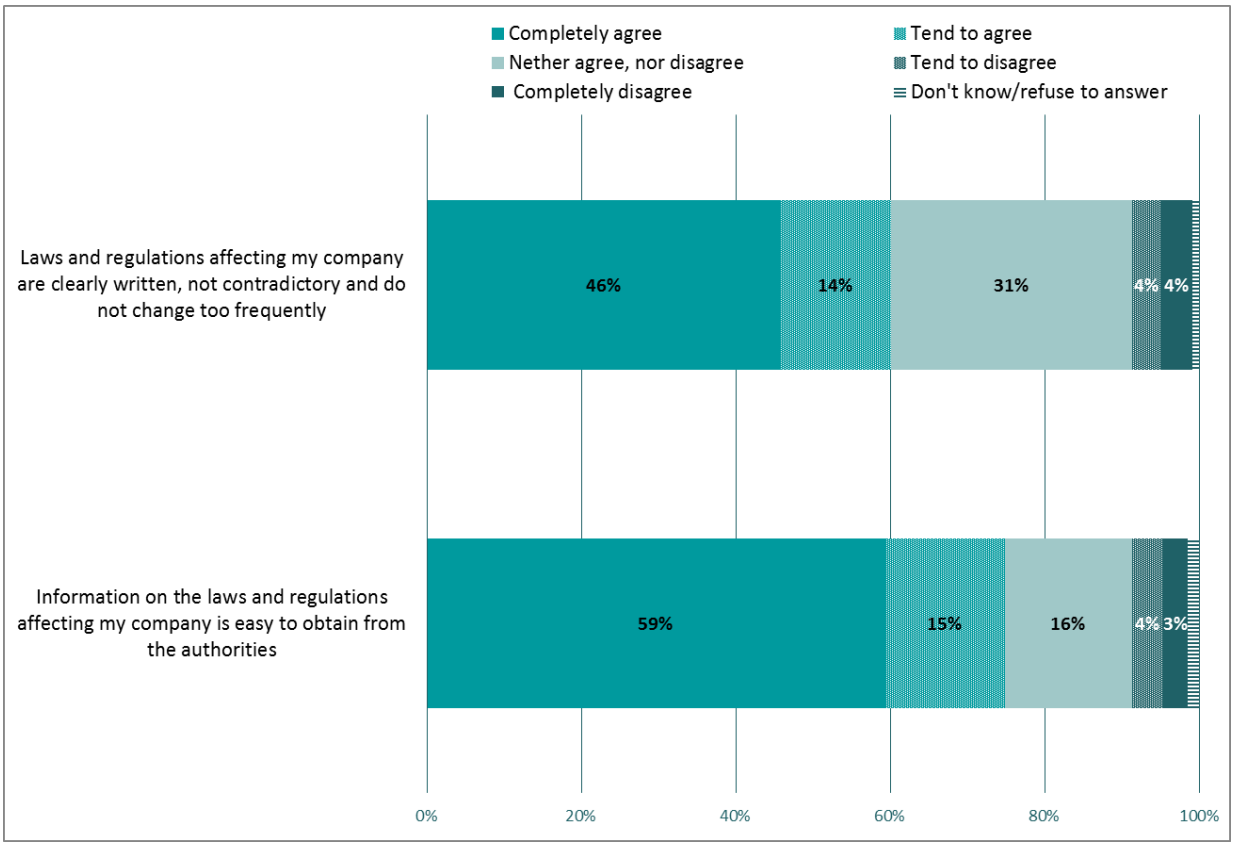
213 According to information obtained from the Parliament's website, 7 out of 16 new laws were amended one year after they had been adopted.

214 The high amendment rate was confirmed through interviews. Interviewees indicated that small changes to laws often follow one after another, resulting in a high rate of amendment of laws in general.

215 Market Intelligence Caucasus (2018), "Georgia Business Survey", a survey commissioned by SIGMA, Market Intelligence Caucasus, Tbilisi. The value of the sub-indicator is based on the percentage of responses indicating "Strongly agree" or "Tend to agree".

216 *Ditto*.

Figure 1: Results of a survey of businesses on the clarity and accessibility of laws and regulations. Businesses were asked if they agreed with the following statements:



Source: Market Intelligence Caucasus (2018), "Georgia Business Survey", a survey commissioned by SIGMA, Market Intelligence Caucasus, Tbilisi.

The procedures for publishing legislation are defined by regulation[217] and supported by an electronic process for publication[218]. The Legislative Herald of Georgia is responsible for maintaining the State Register of Normative Acts[219]. This register has to be maintained in electronic form, and normative acts must be made available electronically[220]. The types of normative acts that have to be published are prescribed in legislation[221]. The deadlines within which the Legislative Herald must publish the laws are defined by law[222], as are the requirements that bodies submitting laws have to adhere to[223]. The Legislative Herald is responsible for developing consolidated versions of normative acts[224]. These

217 Law on Normative Acts and Order No. 158 of the Minister of Justice on Approval, of the Procedures for Drafting, Adopting (Issuing), Sending, Registering, Systematising, and Publishing Normative Acts (Draft Normative Acts) by Means of Automated Management Tools.

218 This system and how it can be used is explained in the Manual for the programme of the LEPL, the Legislative Herald of Georgia, for creation and examination of normative acts and for their publication on the Legislative Herald's website.

219 Law on Normative Acts, Article 29.1.

220 *Idem*, Articles 29.4 and 26.2.

221 Law on Normative Acts and Order No. 158 of the Minister of Justice on Approval, of the Procedures for Drafting, Adopting (Issuing), Sending, Registering, Systematising, and Publishing Normative Acts (Draft Normative Acts) by Means of Automated Management Tools, Article 7.

222 Law on Normative Acts, Article 27.

223 *Ibid*.

224 Law on Normative Acts, Articles 26.1 and 29.1. The legal framework of Georgia refers to consolidated acts under the concept of systemised normative acts.

consolidated versions have official legal force[225], and they must be available in the database within three days[226].

The database of the Legislative Herald is comprehensive and contains all primary and secondary legislation. All legislation is published online electronically, as defined in the Law on Normative Acts[227]. While all primary legislation is also provided in consolidated form to the public for free, consolidated versions of secondary legislation can only be obtained by paying a fee[228].

Due to a lack of legal quality scrutiny and the high rate of amendments to laws shortly after their adoption, the value for the indicator "Predictability and consistency of legislation" is 3.

Since all laws and sub-legal acts are available online and consolidated laws are available for free, the value for the indicator "Accessibility of legislation" is 4.

Predictability and consistency of legislation						
This indicator measures the predictability and consistency of legislation. It assesses the availability of training and guidance along with the establishment of the quality control function. The consistency of laws is assessed based on the ratio of laws amended one year after adoption, and predictability is assessed through perceived consistency of interpretation of business regulations.						
Overall indicator value	0	1	2	**3**	4	5

Sub-indicators	Points
1. Availability of guidance documents on legal drafting	1/2
2. Quality assurance on legal drafting	3/3
3. Laws amended one year after adoption (%)	0/3
4. Perceived clarity and stability of government policy making by businesses (%)	1/2
Total[229]	**5/10**

225 *Idem*, Article 26.1.

226 Order No. 158 of the Minister of Justice on Approval, of the Procedures for Drafting, Adopting (Issuing), Sending, Registering, Systematising, and Publishing Normative Acts (Draft Normative Acts) by Means of Automated Management Tools, Article 8.3.

227 The Law on Normative Acts, Articles 26.2 and 29.4, stipulates that all normative acts must be published online, with secret parts of normative acts exempted from this obligation for national security reasons.

228 See also the website of the Legislative Herald and its subscription fees: https://matsne.gov.ge/en/node/207.

229 Point conversion ranges: 0=0, 1-2=1, 3-4=2, 5-6=3, 7-8=4, 9-10=5.

Accessibility of legislation						
This indicator measures both the regulatory framework for making legislation publicly available and the accessibility of legislation in practice, based on the review of the availability of legislation through the central registry and as perceived by businesses.						
Overall indicator value	0	1	2	3	**4**	5

Sub-indicators	Points
1. Adequacy of the regulatory framework for public accessibility of legislation	6/6
2. Accessibility of primary and secondary legislation in practice	6/8
3. Perceived availability of laws and regulations affecting businesses (%)	2/2
Total[230]	**14/16**

The Law on Normative Acts regulates the requirements for drafting legislation in general terms and provides guidance for legal drafting. The MoJ is the main institution responsible for scrutiny of legal quality, and it carries out this function in practice. But it does not issue formal opinions and comments on all draft laws. The share of laws amended within a year of adoption is very high.

All primary and secondary legislation is available in a central electronic database. Legislation is always consolidated, and consolidated primary laws are accessible to the public for free. Consolidated versions of secondary laws are only available for a fee.

[230] Point conversion ranges: 0-2=0, 3-5=1, 6-8=2, 9-11=3, 12-14=4, 15-16=5.

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