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## EU-Georgia Association Agenda 2021-2027: The Reform Progress and Challenges in Georgia's Civil Service

### AUTHOR:

**Khatia Nikolaishvili\***

On behalf of the  
Governance Monitoring Center

### Policy Brief

The priorities of the EU-Georgia Association Agenda 2021-2027 have not significantly changed as compared to the previous agenda. Public Administration Reform (PAR) remains one of the top priorities. For the years 2021-2027 Georgia has undertaken the responsibility to strengthen the public administration, specifically “to foster an accountable, efficient, effective, open and transparent governance, build a merit-based and professional civil service, ensure quality public services and strong local self-government.”<sup>1</sup> The new agenda sets specific obligations to be undertaken by Georgia in the coming seven years. Among others, Georgia undertakes to adhere to the following priorities:

- Promote citizen’s rights and possibilities to access information and participate in governance at national and subnational level.
- Develop and ensure effective implementation of the new PAR Strategy and the relevant Action Plan beyond 2020.
- Enhance the openness, transparency, and accountability of public administration through implementation of open government reforms.

The right to access public information was a part of the 2017-2020 Agenda and remains a top priority of the new agenda.<sup>2</sup> This indicates that access to public information and establishing the open governance system in Georgia is still a significant challenge.<sup>3</sup>



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\***Khatia Nikolaishvili** works at the Governance Monitoring Center as a Senior Researcher. She is involved in various corruption and public administration projects carried out by the organization. A graduate of Georgian and European universities, she holds a Master's Degree in Public Administration.

Even though we are nearing the end of 2022, the Government has not yet published the public administration reform action plan for 2021-2022 and also has not stated the reasons for the delay. This plan shall include the detailed steps to be taken by the authorities in the frameworks of PAR. The government should adopt such an action plan every two years.<sup>4</sup>

One of the priorities of the new Agenda is to improve the legal framework of the PAR, specifically to foster an accountable, efficient, effective, transparent public administration and build a merit-based and professional civil service, including regarding the system for selection, promotion and dismissal and specialised needs-based training.

The insufficient progress in performing the obligations by Georgia is clearly demonstrated by the fact that a significant part of the obligations set out by the 2021-2027 Agenda is transposed from the 2017-2020 Agenda. Even though the government declared PAR to be one of its priorities,<sup>5</sup> the progress achieved is not sufficient. The following issues are still critically important:

- Political influence on the civil service.
- The access of the citizens to public information.
- Implementation of a career model in the civil service.

## Political influence-free civil service

The creation of a civil service free from political influence is one of the most important challenges. The government has acknowledged the significance of this challenge in its 2015 PAR guidebook, highlighting that political influence on the civil service is a significant problem and the government shall expend greater effort to tackle this challenge.<sup>6</sup> Nevertheless, the government has still not succeeded in fully eradicating political influence in the civil service.

In 2017, the parliament adopted the new Law on the Civil Service,<sup>7</sup> which introduced new mechanisms to prevent political influence. As a result, the number of dismissals from the civil service on political grounds decreased.<sup>8</sup>

Before the adoption of the new law, the cases of dismissal of civil servants based on political reasons were more frequent. Pursuant to the report published by Transparency International Georgia in 2015, following the parliamentary elections of 2012, a total of 5 149 servants were dismissed from the civil service, potentially based on the political grounds.<sup>9</sup>

The fact that the new law has improved the protection mechanisms to prevent civil servants from being dismissed on political grounds is largely supported by the results of the survey of the civil servants.<sup>10</sup>

<sup>1</sup> EU-Georgia Association Agenda 2021-2027

<sup>2</sup> EU-Georgia Association Agenda 2017-2020

<sup>3</sup> EU-Georgia Association Agenda 2021-2027

<sup>4</sup> Georgia's PAR action plan; <https://bit.ly/3AMWJg6>

<sup>5</sup> Government programme 2021-2024 "Building the European Country"; <https://bit.ly/3Cwu3ZW>

<sup>6</sup> Georgia's PAR guidebook, 2020; p. 15; <https://bit.ly/3pKjvyN>

<sup>7</sup> Law on the Civil Service (2015); <https://bit.ly/3Kix2av>

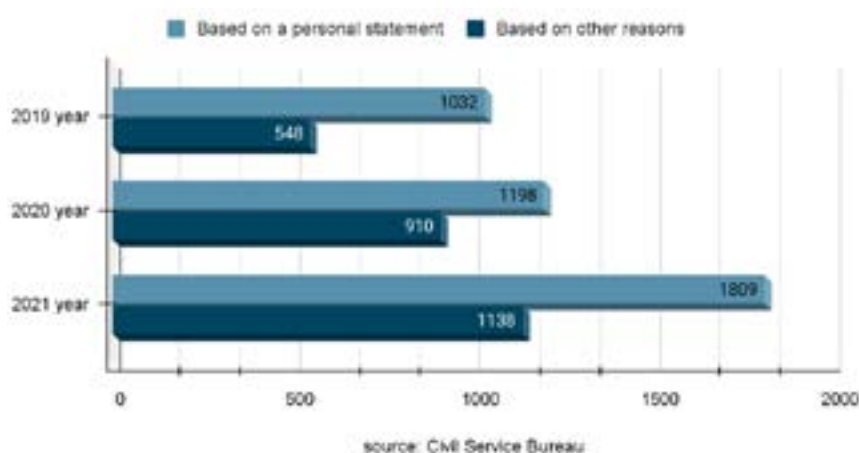
<sup>8</sup> Political influence free civil service, the assessment of the effectiveness of the reform, p. 13; (2021); <https://bit.ly/3chv7qb>

<sup>9</sup> Illegal dismissals in the civil service: Rights restored through court, TIG (2015) <https://bit.ly/3R6eLyO>

However, the number of terminations within the civil service based on the civil servant's decision remains high. According to the Civil Service Bureau,<sup>11</sup> 1 032 servants have quit the civil service based on their personal decision in 2019,<sup>12</sup> 1 198 civil servants in 2020,<sup>13</sup> and 1 809 civil servants in 2021. The personal decision of the civil servant is the most frequent reason for the termination of the service.

The number of servants who quit the civil service drastically increases in the years of election. In 2020 parliamentary elections were held in Georgia and in 2021 municipality elections. It is hard to say whether the elections in Georgia had an impact on raising numbers of civil servants who left the civil service, but it leaves big question mark why the numbers are increasing especially in the time of major elections<sup>14</sup>.

### Numbers of dismissed professional civil servants



These data present reasonable doubt that the civil servants may be subject to informal and undue political pressure to quit the service. Hence, instead of issuing an order by the head of the relevant public organ by which the civil servant will be dismissed, they may impose informal pressure on a civil servant and request him/her to quit the job on their own.

As mentioned, the law offers effective legal instruments for the protection of civil servants in dismissal cases, including through court intervention. As a result, dismissing the civil servant by the decision of the public organ has become extremely difficult, including based on political motivations. On the other hand, in cases when a civil servant quits the job by his/her own decision, the political motivations are not formally present, but the civil servant's decision may be the result of political pressure from the management, especially considering that Georgia's civil service has a solid history of employing such practices. According to the opinions of the civil servants, political influence remains a significant problem in Georgia's civil service, especially in the process of hiring and dismissal of civil servants.<sup>15</sup>

<sup>10</sup> Political influence free civil service, GGI (2020);

<sup>11</sup> Civil Service Bureau (CSB) annual report 2021; <https://bit.ly/3R2jemM>

<sup>12</sup> CSB annual report 2019; <https://bit.ly/3KmPwq4>

<sup>13</sup> CSB annual report 2020; <https://bit.ly/3QTna9l>

<sup>14</sup> Election administration of Georgia; <https://bit.ly/3SUjN2f>

<sup>15</sup> Political influence free civil service, GGI (2020);

As provided by the new law,<sup>16</sup> if the applicant fully complies with requested qualifications of the public organ, the hiring organ must appoint an interview. This rule eradicates the risks at the application review stage. The law also introduced several protective mechanisms at the interview stage, namely: the political officer of the hiring organ is prohibited from being a member of the selection committee, and neutral third parties can be involved in the interview (including CSOs). As per the legislation, the interviews are not automatically recorded. Each public organ individually takes decision on the recording of the interview, provided that the applicant issues the consent on the recording. The timeline of the whole procedure is strictly determined, enabling the candidate to appeal to court in case of any violations.

Although the law has improved the protection mechanisms against political influence in the civil service, there are still significant risks which need to be addressed. One of the problems in the hiring process is that the decision of the selection committee is not binding.<sup>17</sup> The selection committee selects the best candidate, but the final decision on hiring must be made by the political management of the hiring body. This increases the risk of political influence on the hiring process in public organs.<sup>18</sup>

According to the research conducted by Good Governance Initiative Georgia (GGI), the majority of surveyed civil servants have noted that the political influence on the civil service has more or less decreased on the central government level since 2017, which is largely due to the high awareness of civil servants about their rights and protection instruments.<sup>19</sup> The situation has not significantly changed on the local self-governance level, where political influence is still high and the awareness of their rights among the civil servants is lower.

One of the most frequently used methods of political influence on civil servants is their inclusion in the pre-election campaigns against their will and the use of administrative resources for that purpose. At the local self-governance level, a significant number of civil servants use annual leave days during the pre-election campaign to be included full-time in the pre-election process in favour of the ruling party.<sup>20</sup>

The risks of political interference in Georgia's civil service are noted in the progress update report of the anti-corruption action plan issued by the OECD in 2019.<sup>21</sup> According to this plan, the ministers in the ministries are on the one hand the political officials, and on the other hand, they are the highest administrative officers and wield the administrative powers as well. This may cause undue political influence on the administration of public organs.

<sup>16</sup> Government decree #204 (2017); <https://bit.ly/3wwP0jU>

<sup>17</sup> Law of Georgia on Civil Service, art. 43, 1<sup>st</sup> paragraph (2015); <https://bit.ly/3Kix2av>

<sup>18</sup> Political influence free civil service GGI (2020), p. 38

<sup>19</sup> Ibid, pp. 16-17

<sup>20</sup> Political influence free civil service, the assessment of the effectiveness of the reform, p. 14 (2021); <https://bit.ly/3chv7qb>

<sup>21</sup> Progress update report of Anti-corruption action plan 2019; OECD; <https://bit.ly/3R0Kmt4>

## Access to public information

The creation of an open and transparent civil service remains a significant challenge. In the 2017 Action Plan, Georgia undertook the obligation to initiate and adopt the new law on freedom of information. Nevertheless, according to the EU-Georgia's Association Agenda of 2017-2020, the country has still not passed the law.<sup>22</sup> The ministry of justice of Georgia oversees this process. The ministry has several times changed the submission date of the draft to the parliament. Even though the ministry already created the initial draft of the law in 2017, it still has not been initiated.<sup>23</sup>

The adoption of the law was also a part of the government's PAR action plan for 2019-2020. However, as per the annual monitoring report of the action plan, the adoption of the law was deferred due to the Covid-19 pandemic.<sup>24</sup> In addition, the government also had to retrain the civil servants who are in charge of the accessibility of public information in various public organs. This obligation has also not been fulfilled for the same reason.<sup>25</sup> The government also failed to update the public data on the designated web-portal ([www.data.gov.ge](http://www.data.gov.ge)) where the public data and relevant metadata of public bodies is uploaded. It was also determined by the mentioned action plan.

The need for the adoption of the new law is further stipulated by the drawbacks and existing loopholes in the current legislation regulating the accessibility of public information. Currently, access to public information is regulated by General Administrative Code of Georgia,<sup>26</sup> which has significant setbacks and is unable to ensure the full access of citizens to such information. As per the new law, the number of the public bodies which shall become obligated to issue public information will increase, i.e., the new law will ensure public access to information about various legal entities of public law, private legal entities and other organisations which are funded from the state budget, and which are not covered by existing legislation.<sup>27</sup>

The existing legislation does not impose effective sanctions against public bodies and their officials who refuse to issue public information or violate the deadlines. As a result, in some cases, the public organs do not include delays but refuse to provide public information at all. In such cases, court intervention is the only mechanism to coerce the public bodies to issue information. However, according to the report issued by the Institute for the Development of Freedom of Information, court intervention is also less effective since proceedings are extremely time-consuming, and it might take years until the court hearings are over.<sup>28</sup> Therefore, the new legislative framework that will establish more efficient mechanisms is critically important.

The European Commission also noted the need to increase the transparency and accountability of public organs in Georgia. In its 2022 report,<sup>29</sup> the commission notes that despite having public information legisla-

<sup>22</sup> EU-Georgia Association Agenda performance report, OSGF (2020); <https://bit.ly/3KGPutH>

<sup>23</sup> The law on the freedom of information still not adopted, Transparency International Georgia (2021); <https://bit.ly/3KvtCBo>

<sup>24</sup> Annual monitoring report of the 2019-2020 public administration reform (2021); <https://bit.ly/3CBOnJy>

<sup>25</sup> E-platform for Public Administration reform monitoring, PAR tracker; <https://bit.ly/3AsoXeD>

<sup>26</sup> General Administrative Code of Georgia; <https://bit.ly/3pPfetV>

<sup>27</sup> What will be changed by new law of the freedom of information; <https://bit.ly/3AwEzOI>

<sup>28</sup> Accessibility to public information and the right to fair trial, IDFI; (2022); <https://bit.ly/3wCfmAY>

<sup>29</sup> Opinion on Georgia's application for membership of the European Union, 17 June 2022; <https://bit.ly/3cuZCsH>

tion, the administrative capacity for its effective implementation needs to be further enhanced.

The challenges related to the transparent civil service and access to public information are also addressed in the progress update report of the anti-corruption action plan issued by the OECD in 2019.<sup>30</sup> The report not only stresses the need for improving the regulatory framework of public information, but also underscores the importance of creating an independent public body which shall oversee and supervise the implementation of public information laws. Such a public organ can either be a separate institution or an office merged with the data protection authority and shall have sufficient powers to adopt binding decisions.

The recommendation for more openness in the civil service was also issued by the OECD's governance and management support programme – SIGMA in 2018. In its baseline measurement report, SIGMA has called upon the government to 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 meetings and ensuring that all decisions made by the government are published and available on an easily accessible central government website.<sup>31</sup>

Despite the past progress and improving the access to public information, there are still significant challenges that need to be addressed by the government in order to ensure a higher level of civil service transparency.

## Career model at civil service

In 2017, the Parliament adopted the new Law on the Civil Service, which established the basic principles of career advancement and professional development in the civil service. The Government of Georgia has adopted several other decrees based on the new law, which have further regulated the issues related to the establishment of a career model in the civil service. The decree adopted by the Government in 2018<sup>32</sup> determined the basic terms of professional development of civil servants. Specifically, the decree has listed the mandatory training modules for 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> tier civil servants and minimum number of academic hours. The training modules are very informative and ensure that servants are equipped with the necessary knowledge.

The law determines two main instruments of career development – the grade and position. A civil servant's career development may happen either by advancing from a lower grade to a higher grade while maintaining the same position, or by advancing from a lower position to a higher position within the same grade. The servants also enjoy the privilege of applying first for existing vacancies in the civil service. This is achieved through the mechanism of closed/internal competition, meaning that

<sup>30</sup> progress update report of Anti-corruption action plan 2019; OECD; p. 86; <https://bit.ly/3R0KMt4>

<sup>31</sup> The baseline measurement report: The principles of public administration Georgia; OECD/SIGMA; 2018; pp. 26-27; <https://bit.ly/3PWOG4w>

<sup>32</sup> Government decree 242; <https://bit.ly/3PXC6SS>

when a public organ has an open position, at the first stage only the existing servants of the same organ or other public body are entitled to participate in the selection process. This mechanism is surely a step forward, but according to the opinion of the civil servants themselves, even this mechanism is not enough to fully eliminate political intervention or nepotism in the process of hiring.<sup>33</sup>

The law also established the assessment system of civil servant's work. As per the civil servant's opinion, the system of civil servant's work assessment is not adequately linked to the civil servant's career development. Even though the written rules and terms of the law are good, in practice nothing has changed significantly and political intervention in the process is still high. Therefore, effective implementation of the rules in real life is critically important.<sup>34</sup>

There are significant concerns in relation to the assessment system concerning mid-level managers, who assess the work of other servants. The managers often take the assessment system as a mere bureaucratic formality. This issue is especially relevant on the local self-governance level, where managers are not fully aware of the assessment system and do not effectively cooperate with servants to ensure their professional development.<sup>35</sup> Therefore, the lack of human resources capacity in the public administration sector is also a significant challenge. In this regard, within the frameworks of the PAR, additional training and learning modules were implemented among the civil servants. In total, 224 civil servants who occupy managerial positions were re-trained only in 2020.<sup>36</sup> The capacity-building and professional development programmes are extremely important for the purposes of faster integration into the EU and such programmes shall be further supported by the Government of Georgia in cooperation with international partners.

## Summary and recommendations

The political influence on the civil service, access to public information and the career model civil service, remain major challenges within Georgia's public administration. Even though Georgia has achieved significant progress on the way to EU integration, the country has more to achieve in that regard, specifically:

- With the purpose of achieving a politically neutral civil service, relevant legislative changes shall be adopted to introduce the Highest Civil Servant position in public organs. Such officers shall oversee the administrative management of the relevant institution, be equipped with necessary powers to protect the neutrality of servants, but, on the other hand, shall not be involved in political decision-making.
- The government should initiate a new draft law on freedom of information to the parliament. The new law shall increase the

<sup>33</sup> Political influence free civil service GGI (2020)

<sup>34</sup> Ibid.

<sup>35</sup> Analysis of civil servant's professional development system on local level (2021); <https://bit.ly/3PUC3Hu>

<sup>36</sup> Annual monitoring report of the 2019-2020 public administration reform (2021); <https://bit.ly/3CBOjY>

list of public organs to be obliged to issue public information. The new law shall also determine effective sanctions that shall ensure that public organs issue the information within the set deadlines.

- The relevant mechanisms shall be established in the civil service to ensure that servants are effectively incentivised, political intervention and nepotism are eradicated, and career advancement and professional development systems are working. The legislation shall be improved to ensure that the assessment system of the civil servant's work is adequately linked to the civil servant's career development.

The existence of strong political will from the ruling party has a decisive role in the solution of the above-mentioned problems. However, apart from the political will, the lack of the sufficient capacity of the public servants, is also a significant challenge on the way to achieving more progress towards EU integration. According to the progress report for the 2019-2020 PAR action plan published by the Government of Georgia, the lack of sufficient human resources is cited as one of the essential challenges for the achievement of the goals of the action plan.<sup>37</sup> In this regard, the close cooperation and collaborative projects with international organisations and donors, such as USAID/GGI, EU, OECD/SIGMA, UK Embassy, UNDP, GIZ, and SIDA, are extremely useful. The projects supported by international partners have a significant positive impact on the capacity building of the public sector of Georgia, and this is ultimately necessary for the EU integration process.

<sup>37</sup> The progress report for the 2019-2020 PAR action plan: <https://bit.ly/3VFHKwR>