



# ENP Implementation Report

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## Final Report: GEORGIA



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This report is one of a series that resulted from an initiative entitled *Towards a Peoples Partnership in the ENP* which aimed to increase the awareness and capacity of civil society within the European Union and countries covered by the European Neighbourhood Policy (ENP) to engage effectively in the cooperation between the EU and its neighbouring countries. The countries involved in this project were Egypt, Georgia, Moldova, Morocco, the Occupied Palestinian Territories, and Ukraine. A report has been produced for each of the six countries on the results of the civil society workshop held in that country. In addition a synthesis report has also been produced. This initiative was developed and implemented through the collaboration of a number of organisations:

**Eurostep - European Solidarity Towards Equal Participation of People**, a network of autonomous European non-governmental development organisations which provided overall coordination of the joint activities.

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**Women's Perspectives**, a Ukrainian non-governmental organisation that supports women's initiatives, coordinated the activities in Ukraine.

**AGROInform**, the national network of non-governmental organisations in Moldova that supports private agricultural producers, coordinated activities in Moldova.

**Green Alternative**, a Georgian non-governmental organisation focusing on environmental and sustainable development, coordinated activities in Georgia.

**Palestinian Non-governmental Organisations' Network**, which seeks to develop and strengthen Palestinian civil society coordinated activities in the Occupied Palestinian Territories.

**Development Support Centre for Consultancy and Training** which provides support and assistance to Egyptian NGOs coordinated the activities in Egypt.

**Forum des Alternatives Maroc**, a Moroccan association that promotes economic, civil, political, social and cultural rights of groups and individuals coordinated the activities in Morocco.

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The views expressed in this report are the outcome of discussions held in the national workshop.

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## EXECUTIVE SUMMARY

The implementation of EU-Georgia Action Plan (AP) under the ENP officially started after the AP was signed on 14 November 2006. Subsequently the EC published the Country Strategy Paper (CSP) for Georgia for the period 2007-2013 and the National Indicative Programme (NIP) for implementing the strategy for until 2010. The CSP defines the priority areas for EC development assistance for Georgia. In order to assess the evolving relations with neighborhood countries since the adoption of the European Neighbourhood Partnership Instrument (ENPI), the EC will have a mid-term review of CSPs in 2009, from which adjustments in cooperation priorities for neighborhood countries may result for 2010-2013.

This document represents the first step for Georgia's civil society groups to contribute towards the midterm review process for Georgia. This report outlines the issues and problems discussed by the participants during a workshop held on 14-15 July 2008 in Tbilisi and includes a list of recommendations on how to respond to the new challenges that Georgia is facing in implementing reforms in the spheres of rule of law, human rights, democracy and good governance, social development, gender equality and sustainable development.

The CSP and NIP that cover EC financial assistance to Georgia for the period 2007-2013, aims to promote a transition process in Georgia that is mutually beneficial to Georgia and the EU based on the implementation of the ENP and EU-Georgia ENP Action Plan. These seek to address security challenges for the enlarged EU and to play a role in finding a resolution to the conflicts in Georgia's two breakaway regions of Abkhazia and South Ossetia. They also focus on the diversification of energy supply and implement EU development policy in order to reduce poverty in country .

While in overall terms the CSP correctly identifies problems in Georgia related to the political and human rights situation in the country since the Rose Revolution<sup>1</sup> to the end of 2006. It also underlines problems of economic development and the negative trade balance, as well as highlighting an accurate picture of the poverty in the country. However, the CSP clearly omits any risk assessment of forthcoming challenges and consequently prevents it from formulating an adequate response strategy. While in general some trends are assessed properly (like poverty and etc), other trends such as the problem of property rights are not emphasized. This is likely to be the result of the analysis being too heavily dependent on governmental and intergovernmental reports, without taking into account broader civil society inputs.

This is despite very successful cooperation between Georgian CSOs and the local EC delegation, which in part is the result of the principle of openness taken on the delegation's part. The effect of such cooperation/consultations would increase if there were clear guidelines and structure for consideration of inputs from civil society during the planning (programming) cycle, including for the CSP & NIP review and preparation processes.

Furthermore, while the NIPs generally follow the CSP, the goals, indicators and results are defined very general and broadly. This makes it difficult to measure the real success of implemented activities and to assess the effectiveness of the response strategy. The clear indicators requiring compliance with EU law and/or International law and best practices should be established.

The present report emphasizes that Georgia's progress on the implementation of the Action Plan is not sufficient. While there are some steps forward in some areas like on government revenues and the fight against corruption, improvement in the business climate, reform of customs and tax systems, there remain many deficiencies in areas related to food security issues, labour law compliance with ILO standards, issue of private property protection, judicial reform and the protection of Human rights. There are also continuing, problems related to the freedom of media and freedom of expression, and no progress has been made on establishing a social dialogue or

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<sup>1</sup> Rose Revolution was a bloodless revolution in the country of [Georgia](#) in 2003 that displaced President [Eduard Shevardnadze](#).

with regard to reducing poverty, increasing social welfare, addressing weak environmental governance and the absence of any motivation to develop a sustainable development strategy.

This report makes a number of key recommendations for each sectors that civil society organizations believe need to be addressed in the 2009 mid-review process so as to support the successful implementation of the EU-Georgia Action Plan.

The major challenges relate to the field of human rights protection, democratic governance, Rule of law, Environment and Sustainable development, Gender, Transport, Energy, and to Trade and economic development.

Issues that need to be treated as priorities include freedom of the media and fundamental rights, the independence of the judiciary, deficiency of a Criminal law policy, absence of national mechanism for the prevention of torture, and the limited power of the public defender office. Other challenges in the economic sphere relate to the fast pace of liberalization, which is taking place simultaneously in almost all sectors in Georgia and in a number of cases has a negative impact on Georgia's economy and even preventing Georgia from enjoying its Most Favoured Nation<sup>2</sup> status, including preferential system in the EU and GSP +<sup>3</sup>. To address these issues specific activities that would bring Georgia towards sustainable economic growth and development needs to be undertaken, including support for small and medium size business, as well as an assessment of the Georgia's use of GPS +. Actions to address the environment and sustainable development should be added as sub-priorities in the National Indicative Programme covering the period 2010-2013 with support to develop a sustainable development strategy. The application of horizontal measures in planned regional programmes and support in the formulation and implementation of economically, socially and environmental sustainable transport and energy policy would facilitate further economic growth within the country.

In order to ensure proper implementation of the EU-Georgia Action plan it is important that the Georgian government strengthens its implementation of the commitments made in the AP. It should demonstrate a genuine commitment to the protection of human rights, freedom of expression and of the media, property rights, an independent judiciary, and the development of democratic institutions.

The role of the EU is particularly important to ensure the proper democratic and economic development of Georgia. In this context the European Commission should continue to press the Georgian government to respect the commitments undertaken by Georgia, including harmonization of Georgian legislation with EU's legislation, based on National Program on Harmonization, which was approved in September 2003<sup>4</sup>.

Taking into account recent events in Georgia, in autumn of 2007<sup>5</sup> and subsequent events, as well as the conflict between Georgia and Russia in August 2008, it is important that Georgia improve its Human Rights record, to ensure social and economic justice and equal opportunities for its own citizens.

It is essential that the EC and Georgian Government fully involve CSOs to strengthen public ownership over Georgia's implementation AP under the ENP framework and to ensure public participation in the programming, monitoring and evaluation processes.

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<sup>2</sup> The most favoured Nation status is a status awarded by one [nation](#) to another in [international trade](#). It means that the receiving nation will be granted all trade advantages that any other nation also receives. The EU Georgia Partnership agreement grants Georgia Most favoured Nation status

<sup>3</sup> The EU's GSP grants products imported from GSP beneficiary countries either duty-free access or a tariff reduction, depending on which of the GSP arrangements a country enjoys. In addition, country can receive the special incentive arrangement for sustainable development and good governance (the "GSP+") which provides additional benefits for countries implementing certain international standards in human and labour rights, environmental protection, and good governance. Georgia enjoys that status of GSP+ since January 2006 till the end of 2008. The duty free access covers around 7200 products, including products mostly in the agriculture and fishery sectors.

<sup>4</sup> <http://www.eu-integration.gov.ge/pdfs/Actionplanenglish-6.pdf>

<sup>5</sup> On November 7, the government dispersed the rallies, closed down two major opposition-oriented TV stations, and introduced a state of emergency that lasted nine days. These actions were justified by the imminent danger of a coup.. Imedi TV, the main opposition channel, was accused of conspiring to overthrow the government, and its broadcasting was temporarily suspended.

## INTRODUCTION

The European Neighbourhood Policy (ENP), which was adopted and published in May 2004 neighbourhood policy strategy, defines the new foreign policy of the European Union after its recent enlargement and proposes a new concept for a wider Europe. The EU invites its neighbours, on the basis of a mutual commitment to common values, to move beyond existing cooperation to deeper economic and political, cultural and security cooperation - strengthening stability, security and well-being for all concerned. Georgia, along with 15 other countries (Algeria, Egypt, Israel, Jordan, Libya, Lebanon, Morocco, Palestine, Azerbaijan, Belarus, Moldova, Armenia, and Ukraine), joined the neighbourhood policy in 2004. One of the basic principles of the policy is to help neighbouring countries with internal reforms based on equal partnership, which means sharing responsibilities regarding common values in the fields of rule of law, good governance, human rights, good neighbourhood relations, principles of market economy and sustainable development.

The ENP also formulates the necessary financial means for implementation of the policy, specifically, how the EU should act in order to share the benefit received through expansion with its neighbours. Based on the ENP strategy, the EU negotiates Action Plans (APs) and timelines for the implementation of these plans with the neighbouring country government. .

The European Neighbourhood and Partnership Instrument (ENPI) aimed at promoting development for **in neighbouring countries** entered into force in 2007. It is the EU's financial aid instrument for neighbouring countries. The programmes are divided into geographic, horizontal thematic and EU unity programmes. For example, the geographic instrument budget for 2007-2013 is 11.8 billion EUR and covers only 16 neighbouring countries. Other instruments cover not only neighbouring countries but other developing countries as well. Thematic programmes envisage investment in the following areas a) people – human and social development, reproductive health, AIDS, education, gender, child rights; b) CSOs sector and local government development; c) environment and sustainable management of natural resources; d) food security; e) cooperation with third countries in issues such as migration and refugees; f) democracy and human right.

The European Parliament also approve the external mandate of the European Investment Bank (EIB), for 2007-2013. This provides for the investment of about 3.2 billion Euros in Russia and South Caucasus for the development of the sectors that are most interesting to EU, such as transport (enlargement of trans-European highways), energy (strategic energy-projects), telecommunication and development of environmental infrastructure.

For the period of 2007-2013 the EU has drawn up Country and Regional Strategies that establish the strategic framework for the EU's cooperation with each partner country and region covered by the ENPI. The National and Regional Indicative Programs (NIP & RIP) describe the Commission's operational activities covering the period 2007-2010. In order to assess the evolution of the EU's cooperation with neighbourhood countries since the adoption of the ENPI, a mid-term review process will start in 2009, in accordance with art 7.1 of the ENPI regulation.. This can result in changes in the cooperation priorities for the period 2010 to 2013, and the definition of the Commission operational response, The existing Strategy Papers will be reviewed and updated where necessary, and new Indicative Programmes will be developed and adopted for the period 2011-13.

The EC recognize that CSOs participation in the ENP processes is crucial as a means to increase national ownership and further accountability, good governance and decentralization. This report that is based on discussions and outputs of The Georgian CSOs National Workshop «European neighbourhood policy and partnership instrument» and represents the first steps to bring Georgian Civil society views on implementation of the ENP AP, and provides initial inputs for planned review.

The workshop was held on 14-15 July 2008 in Tbilisi. It was aimed at raising civic awareness in Georgia and promoting increased participation in the monitoring of the European neighbourhood policy and partnership instrument. The report outlines the issues and problems discussed by the participants during the workshop. It also includes a list of recommendations on how to respond to the new challenges that Georgia has been and is facing on the path to implementing reforms in the

spheres of rule of law, human rights, democracy and good governance, social development, gender equality and sustainable development.

The national workshop was held as a part of the Project: Towards a People's Partnership, implemented by Eurostep, and financed by Oxfam Novib, Womnet & Acsur. The project aims to influence the EU's cooperation based on the measures undertaken in Egypt, Morocco, Palestine, Ukraine, Moldova and Georgia so that the EU actions in neighbouring countries fully reflects the interests of the region's population. Specific objectives of the workshop were to increase public awareness around EC planning/programming cycle and to promote dialogue between the CSOs, the EU and local government, and to reinforce CSO advocacy skills.

## THE SITUATION OF GEORGIA IN THE ENP PROCESS

The EU relations with Georgia are developing based on two framework documents which define the boundaries of the EU's neighbourhood policy activities: The Partnership and Cooperation Agreement (PCA - ratified by Georgia on 1 July 1999) and EU-Georgia Action Plan (signed on 14 November 2006).

By signing the partnership agreement, the EU and Georgia made obligations, based on investing in mutually beneficial relations as well as cooperation in economic, social, financial, scientific, technology and cultural spheres. In particular, the partnership aimed at supporting Georgia's transition to full democracy and market economy.

The drawing up of the EU-Georgia Action Plan (AP) was the first step in the EU's relations with Georgia taken under Neighborhood Policy. It is a political document that forms the basis for pursuing the strategic goals of EU-Georgia cooperation for the next five years. It encourages fulfillment of PCA and Georgia's future integration into Europe's economic and social structures. The implementation of the AP should significantly facilitate the process of harmonization of Georgian legislation, norms and standards with those of the EU which in itself, creates the foundation for economic integration, and a growth in trade, investments and the economy.

The implementation of AP under the ENP officially started after it was signed on 14 November 2006. Both parties started intensive dialogue on the preparation of annual plans and implementation instruments for the neighborhood policy. This set dates for implementation and details of specific measures to be taken.

After the inauguration of the AP, the European Commission published the Country Strategy Paper (CSP) for Georgia covering the period 2007-2013 and the National Indicative Programme (NIP) for the implementation of the strategy for 2007-2010. This defines the priority areas for the development assistance of EC for a country over the three years it covers. The Georgian government prepared the government strategy for implementation of the 2007 AP and subsequently for 2008. In each case the AP defines the measures to be taken within year in question. Monitoring and respectively evaluation of the implementation of the AP is done by jointly by the Georgia-EU Cooperation Committee as well as by sub-committees on trade, the economy, law and security.

In April 2008 the European Commission published an annual report evaluating the AP's implementation in 2007. The report was prepared in consultation with key stakeholders such as local government, civil society, and EC delegation. The government's annual action plan was also considered in the process. According to the document, Georgia made some progress in several areas of the AP. Specifically on increasing government revenues, on the fight against corruption, on improving the business climate, and on reform of the customs and tax systems. However there remain spheres where the European Commission still expects the government to promote reforms. These need to be pursued quickly to ensure implementation of the AP in Georgia.

The 2008 report identifies problems in a number of the areas, including Food security issues, the compliance of Georgia's labour law with ILO standards, issues of private property protection and the need for the creation of national-level preventive mechanisms on torture. It also identified failures in formulating an adequate migration policy, the restriction of public participation in environmental decision-making and development of a sustainable development strategy. Additionally no progress was made on establishing a social dialogue, or with regard to reducing poverty and increasing social welfare.

## ANALYSIS OF THE CSP

The CSP covers EC financial assistance to Georgia for the period 2007-2013. During this period, Georgia will be primarily eligible for the support under the ENPI which was established with two main objectives:

- (i) to consolidate and rationalize several existing different EC assistance budget lines and
- (ii) to enlarge the scope of EC financial assistance to neighbouring countries from the technical assistance (TA) approach of the previous TACIS instrument to a fully fledged cooperation instrument providing for a wider spectrum of modes of intervention.

The overarching objective of the ENP and of the ENPI is to promote the development of an area of prosperity and good relations between the European Union and the partner countries covered by the ENP.

The CSP for Georgia defines the following main objectives:

1. *A mutually beneficial partnership promoting Georgia's transition* – based on the 1999 PCA. In that Agreement, the EU and Georgia committed themselves to establishing a partnership which provides for close political and mutually beneficial trade and investment relations together with economic, social, financial, civil scientific, technological and cultural cooperation. The partnership is intended, in particular, to promote Georgia's transition to a fully fledged democracy and market economy.
2. *Implementing the ENP and the EU-Georgia ENP Action Plan*- The objective of the ENP, launched in the context of the 2004 enlargement round, is to share the EU's stability, security and prosperity with neighbouring countries, including Georgia, in a way that is distinct from EU membership.
3. *Security challenges* – After the 2004 enlargement of the EU it seeks to put in place a wider Europe Strategy to “*promote a ring of well governed countries to the East of the European Union and on the borders of the Mediterranean with whom we can enjoy close and cooperative relations*”. In this context, the EU attaches great importance to the resolution of conflicts in Georgia's two breakaway regions of Abkhazia and South Ossetia and is actively involved in ongoing efforts to achieve a peaceful settlement.
4. *Security and diversification of energy supply* – The EC Green Paper on the EU's energy security challenges refers to Georgia, having increased importance as a transit country for oil and gas from the Caspian basins, which also benefits the EU. The Baku-Tbilisi-Ceyhan (BTC) oil pipeline and the Baku-Tbilisi-Erzurum (BTE) gas pipeline, connecting the Caspian basin with Turkey through Georgia, will progressively become a strategic alternative energy corridor.
5. *Development policy objectives* - the European Consensus for Development is driven by the primary objective of poverty reduction, with the complementary aims of promoting good governance and greater respect for human rights in a bid to ensure the stability and security of the countries in the regional context. These objectives also apply to Georgia, in order to promote the achievement of the MDGs. With an estimated GDP per capita of USD 13 502, Georgia is classified as a lower middle income country in the OECD's Development Assistance Committee (DAC) list of aid recipients. Despite solid economic growth in the past three years, overall poverty has remained high, with an estimated one third of the population still living under the poverty line.

The CSP analyses the country situation and reviews the policy agenda, including overall aspects as well as internal policy and external policy. It also, reviews past EC financial assistance and identifies lessons learned. The CSP identifies an EC Response strategy and the priorities for the EC's assistance, and defines the instruments and means to achieve the objectives of the strategy. The document reviews developments including the rapid reforms in economic sector, and the status of efforts to address the conflict territories. It also reviews progress in implementing reforms to the rule of law and protection of Human Rights, the strengthening of the judiciary system, macroeconomic policy, the fight against corruption, the reform of the public sector, efforts to reduce poverty, and measures taken to improving the investment climate. In general, the CSP's analysis

correctly describes some problems related to the political and human rights situation from the period from the Rose Revolution to the end of 2006. It underlines problems in the development of the economy and the negative trade balance. The situation of poverty is also assessed correctly.

However, the CSP misses a risk assessment of forthcoming challenges, and this prevents it from formulating an adequate response strategy. While in general some trends are seen properly (like poverty and etc), other trends such as those related to property rights are not emphasized. It is likely that this results from an overemphasis on governmental and intergovernmental reports in the preparation of the CSP, and the absence of any inputs from civil society.

**The CSP defines the following priority areas in accordance with the ENP Action Plan:**

- Political dialogue and reform (ENP AP Chapter 4.1)
- Cooperation for the settlement of Georgia's internal conflicts (ENP AP Chapter 4.2)
- Cooperation on justice, freedom and security (ENP AP Chapter 4.3)
- Economic and social reform, poverty reduction and sustainable development (ENP AP Chapter 4.4)
- Trade-related issues, market and regulatory reforms (ENP AP Chapter 4.5)
- Cooperation in specific sectors: transport, energy, environment, Information Society and Media, R&D (ENP AP Chapter 4.6)

The National Indicative Program for 2007-2010 (NIP) was based on the CSP. This identifies the priority areas for support from the EC, the amount of funds available from the EC and the timeframe. In total, some 120 million Euros is allocated for this period. (figure,1) The NIP identifies the rationale for each priority sectors, as well as giving short explanations for the expected long term impacts of the implementation for each of the priority, its goals, expected results and indicators. It should be noted that the priorities are divided in sub priorities, and for each of the sub priorities the NIP defines goal, indicators and expected results. However, these goals, indicators and expected results are very general and vague, which is likely to create problems for measuring the level of success of the implemented activities. For instance, the provision of a grant to the Ministry of Justice for Judicial reform does not mean that the reform will result in the reforms anticipated. It would be better to have more clear indicators that require defined compliance with EU law in this particular case. The same is true for other cases where clear indicators are needed.

Figure 1.

<b>Priority Area 1: Support for democratic development, rule of law and governance</b>	<b>MLN Euro</b>	<b>%</b>
Sub-priority 1.1: Democracy, human rights, civil society development Sub-priority 1.2: Rule of law and judicial reform Sub-priority 1.3: Good governance, public finance reform and administrative capacity building	<b>31,5</b>	<b>26%</b>
<b>Priority Area 2: Support for economic development and ENP AP implementation</b> Sub-priority 2.1: Promoting external trade and improving the investment climate Sub-priority 2.2: Supporting PCA/ENP AP implementation and regulatory reforms Sub-Priority 2.3: Education, including vocational education, science and people-to-people contacts/exchanges	<b>31,5</b>	<b>26%</b>
<b>Priority Area 3: Support for poverty reduction and social reforms</b> Sub-priority 3.1: Strengthening social reforms in health and social protection Sub-priority 3.2: Rural and regional development	<b>38,4</b>	<b>32%</b>
<b>Priority Area 4: Support for peaceful settlement of Georgia's internal conflicts Instruments</b>	<b>19</b>	<b>16%</b>

<b>Total</b>	<b>120,4</b>	<b>100%</b>
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## DESCRIPTION OF THE MAIN CHALLENGES

The EC progress report of April 2008 states that Georgia made certain progress in several areas of the action plan, specifically for increasing government revenues, the fight against corruption, improvement in the business climate, reform of customs and tax systems. However, it also underlines spheres where the European Commission still expects the government to promote further reforms, which should speed up implementation of the action plan in Georgia. The 2008 report identifies a number of the areas in which significant problems persist, including those related to Food security issues, compliance of Georgia's labour law with ILO standards, issues related to the protection of private property, the need for create national-level preventive mechanisms for preventing torture, failures in the formulation of an adequate migration policy, restrictions on public participation in environmental decision-making and in the development of sustainable development strategy. It also noted that there was no progress on establishing a social dialogue and no progress in reducing poverty reduction and in promoting social welfare.

According to the contributors of this report, the major challenges lie in the field of protecting human rights, in democratic governance, in ensuring adherence to the rule of law, in ensuring freedom of the media and in the honoring of fundamental rights. With regard to the independence of Judiciary, one of the least trusted institutions, there is a strong belief that judges are under permanent pressure from executives, and especially the office of the prosecutor. The overcrowding of the prison facilities is the main problem of the Penitentiary system in Georgia. This is rooted in a wrong criminal justice policy and leads to a gross violation of the inmates. Another concern relates to the fact that despite the OPCAT<sup>6</sup> having been ratified by the Georgian Parliament, no national mechanism for the prevention of torture have been established.

Freedom of expression and freedom of media are continue to be major challenges for Georgia. Despite good legislation the media is being restricted in practice. The closure of Imedi and Caucasias, the major opposition oriented TV after the 7 November<sup>7</sup>, and the continuous pressure to restrict political debates on Public Broadcasting TV and other media outlets question the government's commitment to media freedom and expose the fragility of media pluralism.

Georgia has a Public Defender office<sup>8</sup> that is one of the most trusted public institutions in country. This is because the ombudsman has outspoken positions on violations of human rights, on the crackdown on property rights, on abuse of power by the police, and on the inadequacy of the judiciary, as well as in other areas. However, both the government and majority in Parliament ignores findings and recommendations of the Public defender on policy as well as on the case by case issues. The latest Ombudsman report's hearing was delayed for months, with the parliament failing to find time, first due to the presidential and then due to the parliamentary elections. Once again he came under fire from the ruling party, accusing him of incompetence and political bias.

Another challenge relates to fast liberalization of economy, which is taking place simultaneously in almost all sectors in Georgia, In a number of cases this is having a negative impact on Georgia's economy. This holds particularly true in cases for some services and institutions, as anti-monopoly and phyto-sanitary services have been abolished as part of the fight against corruption. These reforms even undermines European Union supports Georgia's economic development, based on which, Georgia benefits from the Privileged Nation status, including preferential system in the EU

<sup>6</sup> Optional Protocol to the UN Convention Against Torture; Preparation of the National Anti Torture Action Plan

<sup>7</sup> On November 7, the government dispersed the rallies, closed down two major opposition-oriented TV stations, and introduced a state of emergency that lasted nine days. These actions were justified by the imminent danger of a coup.. Imedi TV, the main opposition channel, was accused of conspiring to overthrow the government, and its broadcasting was temporarily suspended.

<sup>8</sup> In November 1997 the Government of Georgia established the Public Defender's Office as an independent institution for supervising the protection of Human Rights, thereby setting the framework for enforcing the law on the Public Defender adopted in 1996. Currently, Today Public Defender is Sozar Subari, He was elected by the Parliament of Georgia for five years term in 2004. <http://www.ombudsman.ge>

and has Generalised System of Preferences - GSP+.<sup>9</sup> It gives possibility the duty and quota-free access of 7000 products from Georgia in EU market. However, this system is not fully utilized yet and trade between Georgia and EU is minimal. The very weak on not existed legislation on food safety, phyto-sanitary and consumer's rights protection creates barrier for Georgian enterprisers to export their products to EU market. The existing problems can be solved only through detailed study of the issues in the economic sector rather than hastening ratification of free trade agreement.

Georgia's slow progress in social security and welfare is also alarming. In order to calculate levels of poverty in Georgia, a so called minimum consumer basket is used, which is based on the norms defined by the Ministry of Health and Social Security for a healthy adult. Due to the changes in calculation of the consumer basket norm, per recommendations of the World Bank in 2005, the minimum amount consumed by the Georgian population has been decreased, which caused a decrease of the amount of people below poverty line from 50% to 35%. Some of the most important indicators, which are used in the EU, such as fuel poverty, is not used in Georgia, which creates difficulties in defining the depth of poverty, since the latter is only based on the consumer basket.

The country's environmental policy and its impact on Georgia's socio-economic situations is also alarming. The legislative changes made in Georgia in 2004-2006 and the Georgian government's efforts in the environmental field do not comply with AP priorities, or with EU directives in the Environmental field. Today, when state policies are directed at minimization of state intervention through complete liberalization and deregulation, about 85% of licensing legislation has been abolished, including in the food, industry and vehicle safety spheres. Correspondingly, a number of controlling bodies have been abolished or their functions have been transferred to other organizations. As a result, quite a lot of areas were left without regulation.

It should be underlined that cooperation in transport and energy are priorities of the AP. The goals of the AP in these two sectors are quite progressive. However, this cooperation that still has to be transformed into concrete projects and programmes, may have an irreversible impact on the Georgian environment. The AP clearly underlines the transit potential of Georgia in transport and energy, which implies the enlargement of trans-European networks, the construction of strategic power industry sites and high-voltage power lines. While horizontal instruments of environmental and social security are not working in the country, when there is no sustainable development strategy and the protection of environment is the least priority, the development of transit potential of the country may cause farther degradation of the environment, increase violation of human rights and increase poverty.

The issue of the conflicts were touched upon briefly during the workshop. one of the main problems highlighted was that Georgia's further development are hindered by the continued conflict in South Ossethia and Abkazia and by the direct involvement of Russia in this region. The government often use topic of existing conflicts as an excuse for improper democratic development. Experts a few major problems including:

- 1) The absence of the general vision of the process of conflict settlement and lack of an efficient and consistent policy;
- 2) The existence of the "party of war" and individual social groups which periodically sympathize with it;
- 3) A Lack of political discussion, public debate, and systematic appraisal of alternative methods of resolving the problem.

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<sup>9</sup> The EU's GSP grants products imported from GSP beneficiary countries either duty-free access or a tariff reduction, depending on which of the GSP arrangements a country enjoys. In addition, country can receive the special incentive arrangement for sustainable development and good governance (the "GSP+") which provides additional benefits for countries implementing certain international standards in human and labour rights, environmental protection, and good governance. Georgia enjoys that status of GSP+ since January 2006 till the end of 2008. The duty free access covers around 7200 products, including products mostly in the agriculture and fishery sectors.

Given the increased responsibility of the EU under the AP and CSP it is important that these documents not only represent the Georgian Government view on conflict resolution but include overall society perspectives in order to achieve real results in peaceful resolution of the conflicts<sup>10</sup>.

## ANALYSIS OF THE SITUATION IN RELATION TO THE CSP

The CSP 2007-2013 is clear about the instruments it would use, the links between them and its strategic goals, and how these initiatives interact with government and other donors activities. The fact that private sector development focus has been reduced in comparison with the 2004-2007 CSP is to be welcomed. However there is still a need to give an increased focus to Poverty reduction and social costs of transition.

According to the European consensus on development the eradication of poverty is one of the main goals of the EU's development policy. Additional objectives are support of good governance and respect of human rights, which should secure stability of the country and security in the regional context. The OECD development assistance committee classifies Georgia, where GDP per capita is approximately 1 350 USD (World Bank, 2005) as a recipient country with less than average income. Despite significant growth in the last three years, about one-third of the population is living below the poverty line. Therefore, while defining objectives for cooperation between Georgia and the EU, political goals were fully considered – especially support for Georgia in achieving its millennium development goals.

Another important step forward is the clear goal on conflict resolution stressed in the paper. At a political level the EU Special representative is now present in almost all negotiations with conflicting parties and engagement is translated into concrete activities for rehabilitation of infrastructure and peacekeeping negotiations<sup>11</sup>.

The part on the Rule of Law, Good Governance and respect for human rights should be strengthened, especially in light of recent events end of 2007/2008, that includes the excessive use of force by Georgian law enforcements on 7 November 2007<sup>12</sup>, prison overcrowding, the lowering of the minimum age of criminal responsibility, anti-torture measures, and restrictions on property rights. Another major part of the concerns relate to the issue of the Freedom of the media and freedom of expression. One of the main reasons that lead Georgia towards the 7 November 2007 crisis, was the fact that the government ignored any different opinion and criticism, avoided direct dialogue with people, and practiced so called “selective” judiciary that harmed human security in the country<sup>13</sup>. The role of democratic institutions, including the Public defender office should be strengthened.

<sup>10</sup> The workshop held in 14-15<sup>th</sup> July, 2008, three weeks before the Russia-Georgia August conflict in south Ossethia. As a result of the war, Russia recognize the independence of South Ossethia and Abkhazia.

<sup>11</sup> While the major part of the report were prepare before the August conflict between Georgia and Russia, we would like to acknowledge the enormous role of the EU structures and EC in conflict resolution, as well as its role in post conflict activities.

<sup>12</sup> November 7<sup>th</sup>, 2007 Georgian police unleashed tear gas and water cannon on protestors, including hunger strikers, calling for the resignation of President Mikhail Saakashvili, accusing him in economic mismanagment, corruption and authoritarianism. Later Private TV Imedi was forcibly closed by riot police on November 7 prior to the government's introduction of a state of emergency. After Imedi was taken off the air, the government also closed Kavkazia, another pro-opposition television station. All television and radio media outlets – with the exception of government channels – were prohibited from broadcasting news and information content as part of the official state of emergency. European Parliament “Expresses its deep concern at recent developments that have taken place in Georgia, with the violent police crackdown on peaceful demonstrations, the closing down of independent media outlets and the declaration of a state of emergency for 15 days as the latest escalations”; P6\_TA(2007)0572, European Parliament Resolution Of 29 November 2007 On The Situation In Georgia

<sup>13</sup> The Human Rights Protection as well as protection of other fundamental rights, including restrictions of property rights, stays one of the major issues in Georgia, since events of August 2008.

The overall assessments of Georgia's Economic performance in the CSP is positive with, for instance, the reference to the International Financial Corporation "Doing Business in 2007" that gives Georgia first place in terms of intensity of the reforms and the move of the country from 112th to 37th place in global ranking of the investment climate. However, Georgia's current rating was determined mainly by reforms in labour law, which removed restrictions on working hours and termination procedures, which, on one hand significantly decreased the costs related to job termination. At the same time, the new labour code was strongly criticized by the International Confederation of Free Trade Unions (ICFTU)<sup>14</sup>, as well as the International Labour Organization (ILO). The current labour code of Georgia is quite problematic in light of EU-Georgia relations, since it cannot be discussed as a good example of an approximation of Georgian legislation to European law and in terms of gender issues. It even contains some discriminatory stipulations.

The aid received by Georgia from the EU in 1996-2006, without regional projects, amounts to 500 million EUR. From the range of instruments used by the EU in the past, the TACIS produced the lion's share. The replacement of Technical Assistance projects with budgetary support and the sector wide approach should be welcomed. However, it needs to make the process more transparent and participatory. There is no policy and/or procedure that would give the possibility for the of participation of all stakeholders in the planning and decision-making process. This would also play an important role in improving the institutional capacity, transparency and public accountability of state and administrative structures, and provide a model of good governance for the Georgian authorities.

The Environmental Profile, attached to the CSP is a clear example of where there is a need for more public inputs in programming, implementation and evaluation phases. For instance, according to the document "A law on environmental permits was adopted in 1996, covering the issue of environmental impact assessments". However, has no reference to a new Law on Licensing and Permits introduced in 2005 that fully changed the law on Environmental Impact Permits. Since the introduction of the 2005 law the environmental permitting process and/or content changed fully such that. the Government is no longer responsible for a public participation process, and an Environmental Impact Assessment is no longer required for oil, gas or gold extraction processes. Despite the fact that the ENP Action Plan requires from Georgia's government to "take steps to ensure that conditions for good environmental governance are set and start implementing them" through " Strengthen administrative structures and procedures to ensure strategic planning of environment issues and co-ordination between relevant actors; and Adopt legislation and establish procedures regarding access to environmental information and public participation, including implementation of the Aarhus Convention" <sup>15</sup>; the EIA system currently existing in Georgia is neither effective in terms of providing the public with information and ensuring public participation, nor in terms of helping decision-makers to take informed decisions on the activities that have adverse environmental effects, to say nothing of post decision-making monitoring and control. The Georgian EIA legislation does not comply with the requirements of the Aarhus convention, or with the relevant EU directives.

It should be mentioned that the CSP fails to support the implementation and integration of EU gender equality policy as a cross cutting issue and the part of the harmonization process with EU legislation. The gender perspective is simply mentioned in the CSP text, not requiring any special activity from government or from EC to ensure gender mainstreaming/equality standards implementation under the ENPI funded projects and programmes.

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<sup>14</sup> Now part of the ITUC....

<sup>15</sup> Georgia-EU Action Plan signed in 14<sup>th</sup> November, 2006

## CONCRETE RECOMMENDATIONS ON THE ENP PROCESS

Georgian CSOs and the local delegation have very successful cooperation, which in part is the result of the adherence to the principle of openness on the delegation's part. Accordingly, the effect of such cooperation/consultations would increase if there were clear guidelines and a structure for considering inputs from civil society during planning (programming) cycle, including CSP & NIP review and preparation processes.

In order to strength ownership over the Georgia's implementation of the Action Plan under the ENP framework, it is important to encourage wider participation of CSP in programming, monitoring and evaluation actives. In particular:

- To ensure public participation in the programming, monitoring and evaluation processes with unlimited numbers of participating CSOs, which would not be limited to five selected organizations, as it has been up to present;
- To introduce and apply procedures, which would confirm the EC and government's will to include civil society in discussion with regard to the different reforms undertaken under the ENP framework;
- For the EC delegation to hold thematic discussions on the implementation of national strategic action plans (with participation of respective governmental structures and civil society representatives)
- To ensure the co-funding of public organizations by the government and EU, which would allow CSOs to monitor and evaluate the projects (e.g. include about 2% in each project budget for independent monitoring);
- To allocate funding for governmental organizations to organize public consultation processes and discussions regarding the legal initiatives and projects prepared by them.

## CONCRETE POLICY RECOMMENDATIONS: PRIORITY AREAS AND IMPLEMENTATION

### Rule of Law and Human rights

The Judiciary remains one of the least trusted public institutions despite the ongoing reforms. The independence of the courts and public trust in the rule of law represents the cornerstone for the Rule of Law and protection of human rights. In order to ensure the Rule of Law and to protect Human Rights the EU should:

- Promote and support the independence of judiciary – through a change of government approach and a strengthening of civil society to use effective lobbying mechanisms;
- Support the creation of a national mechanism for the prevention of torture – in accordance with recommendations of OPCAT (Optional Protocol of Convention for the Prevention of Torture and Other Inhuman or Degrading Treatment or Punishment)
- Support reforms in criminal law and existing practices;
- Increase the competence of the ombudsman's office through increasing his responsibility and financial support;
- Ensure prioritization of citizen's civil and political rights (freedom of expression and its practical application); to support human rights to live in a safe and healthy environment, among them, to support creation of mechanisms to ensure safe movement of citizens living in the conflict zones;
- Create appropriate conditions for the eradication of various forms of discrimination – by signing international conventions (UN convention on the rights of people with disabilities) and to support their implementation; to implement programmes for various social groups;
- Ensure capacity and participation of media organizations in raising public awareness in civil-political and social rights.

### Support for democracy development

- Acknowledge in the CSP the lack of balance between the branches of government at the level of the Constitutional in Georgia and reflect it as a priority for development assistance;
- Support public consensus on the democratic model of Constitution.

### Poverty eradication and support of social reforms

Poverty in Georgia remains a critical issue. The reduction and eradication of poverty is the principal objective of the EU's development policy. To address poverty in Georgia it is necessary to:

- Increase EU financial support for the implementation of economic and social projects
- Identify the sectors of Georgia's economy for which there is a comparative advantage;
- Implement projects which will support the creation of a knowledge-based economy;
- Research opportunities for joining the Copenhagen process and to undertake and analysis of the cost-benefit of this process;
- Hasten the reform of the country's statistics agency in order to increase reliability of the data used by the EU. This requires establishing the Department of Statistics as a separate independent institution thus increasing the reliability of data and minimizing the opportunities to manipulate with numbers of population living below poverty level.
- Support the preparation and/or implementation of adequate policy documents and action plans in healthcare together with the implementation of actions specified in that National

Indicative Program 2007-2010 as a part of sub-priority 6.2.1 Strengthening reforms in health and social protection sectors.

- Ensure access to primary schools, through the creation of specific governmental projects, especially for rural population.

## Environment and Sustainable Development

The EC should play an important role in highlighting the need for sustainable development and environment protection, as stated in the Georgia-EU Action Plan. This requires adding the environment as a sub-priority in the National Indicative Program for 2010-2013 with a focus on following priorities:

- To give appropriate visibility to initiatives such as FLEG<sup>16</sup>, the water initiative and plan/implement specific measures;
- To give support to ensure that the mechanisms for implementation of signed and ratified international agreements (UN ECE respective conventions) are reflected in national legislation at the earliest opportunity;
- To ensure public access to information and public participation in accordance with the Aarhus Convention.
- The formulation of stricter legislation on the violation of environmental norms with regard of protection and sustainable use of virgin and near native ecosystems, including forests and the Black Sea.
- To provide support to create a system of air, water and soil pollution control and to equip them with appropriate technology; To prepare legislative norms related to pollution and ensure a strict enforcement of the law;
- To ensure a strategic assessment is made of the environmental impact of any regional infrastructure project before its adoption and implementation, as well as to ensure that there is an integrated social and environmental assessment at the level of the project. so as to avoid negative impacts of infrastructural projects on both existing and planned protected territories;
- To consider environmental cooperation in terms of conflict mitigation;
- To improve the procedure for obtaining environmental permits and there is compliance with the Aarhus Convention;
- To establish a Strategic Environmental Assessment (SEA) process and to strengthen local capacities to manage and implement the process;
- In light of Climate Change, together with various different global environmental challenges specified in ENP AP, to pay attention to sustaining forest and wetlands eco-systems, as well as issues of reforestation and afforestation.
- To support the development of the network of protected territories (Emerald network) and support development of local capacities to manage and sustain such a network;
- To strengthen local capacities for waste management, water management, air quality management and start preparation of disaster preparedness plans;
- To support the preparation of a sustainable development strategy of the country;

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<sup>16</sup> FLEG – Forest Law Enforcement and Governance (FLEG), process aims to combat the threats posed to forests by illegal logging, trade, poaching and corruption. In 2003, the European Commission adopted a European Union (EU) Action Plan for Forest Law Enforcement Governance and Trade (FLEGT). The FLEGT Action Plan was endorsed by the Council through Conclusions published in November 2003.

## Gender

The EC should support the implementation of specific activities in order to achieve gender equality and its mainstreaming by:

- Institutionalizing mechanisms which will ensure gender equality (gender equality insurance services) on all levels (central and local) and ensure their constant operation;
- Increasing donor coordination and transparency while planning high impact projects, to conduct preliminary gender assessment and implement respective measures, as well as to use the expertise of CSOs;
- Integrating gender equality requirements in all aspects of Georgia's indicator programmes prepared by the EU.
- Supporting the implementation of a so-called "quota system" in order to achieve gender equality. Quota mechanisms should be reflected in the state budget in order to create a gender sensitive budget.
- Supporting recognition of all types of marriage (including civil and church) and the implementation of marriage contracts;
- Supporting preventative project and programmes among minorities and socially unprotected groups, such as people with disabilities, in order to avoid double discrimination;
- Creating mechanisms for ensuring a gender-disaggregated medical insurance package;
- Elaborating a national policy on violence in the family and to introduce amendments to the existing legislation so as to strengthen women's property rights, open state shelters for victims of violence in the family, and open psychosocial rehabilitation centers for both the victims and the perpetrators;
- Conducting gender analysis of the curriculums and study programmes with a view to promoting the inclusion of gender equality issues in the curriculum;

## Transport and energy

The EU should support Georgia in its implementation of specific activities that would lead towards economically, socially and environmental sustainable transport and energy policy formulation and implementation, in order to facilitate further economic growth it is necessary to:

- Implement an open skies agreement – to ensure maximum transparency in the air transport field, which should support the development of the tourism industry;
- Harmonize national legislation with respective to EU directives for the successful implementation of transit infrastructure projects in Georgia. This would give opportunities for the implementation and use of respective horizontal instruments based on international best practices;
- Equally and proportionately develop road infrastructure in the country, which would support equal development of the country;
- Ensure the transparency of decision-making on transport infrastructure and hold public hearings regarding strategic decisions as well as decision-making on specific controversial projects.
- Bring national energy legislation closer to EU legislation including the building code, and to promote building with energy-efficient technologies;
- Provide institutional and functional strengthening of Georgian National Energy Regulating Commission
- Improve energy infrastructure through implementing energy efficiency measures;
- Promote building of small Hydro Power Plants and renewables instead of large dams (Khudoni) as a means to optimize power generation;
- Support Georgia's accession to the European Energy Charter Treaty

## Trade, market and regulation reforms

The EU should support the implementation of specific activities that would bring Georgia towards sustainable economic growth and development. It should include support to:

- Prepare regional development plans and ensure their implementation through the preparation and spending of local government budgets according to these plans;
- Prepare municipal development plans by municipalities and allocate funding to municipalities for public discussion of the implementation of these plans;
- Create and activate a phyto-sanitary agency for promotion and development of the agricultural sector and for the export of agricultural products;
- Prepare a government strategy and financial plan for small and medium businesses until 2012. This would bring Georgian production quality closer to EU product qualities (to announce a tender for preparation of the plan);
- Discuss the issue of visa facilitation based on readmission agreement. It would be necessary to research the issue in order to fully consider Georgian public interest;
- Study the consequences of Georgia's entrance into the free trade agreement with the EU and assess the applicability of Georgia's use of GPS +. (The decision has to be made based on analysis and evaluation and government should not blindly repeat the mistakes of neighbouring countries such as Ukraine. The effectiveness of the free trade agreement with Turkey should also be evaluated).

## CONCLUSIONS

The Georgian government needs to strengthen the implementation of the commitments undertaken under EU-Georgia Action plan within the framework of the European Neighbourhood Policy. In particular it needs to demonstrate a genuine commitment to the adherence to human rights, freedom of expression and freedom of media, respect for property rights, the independence of the judiciary, and support for the development of democratic institutions.

Taking into account recent events in Georgia, particularly in the autumn of 2007 and its follow up, as well as the conflict between Georgia and Russia in August 2008, it is important that Georgia improve its Human Rights record, ensure social and economic justice and provide equal opportunities for its own citizens.

Priority needs to be given to problem areas identified in this report, including those related to food security, the compliance of Georgia's labour law with ILO standards, respect and protection of private property, the need for the creation of national-level preventive mechanisms for the prevention of torture, ensuring the independence of the judiciary, addressing the weakening of democratic institutions, addressing failures in environmental governance, the establishment of a social dialogue and the implementation of effective poverty reduction strategies, along side the provision of social welfare.

In this context the European Commission should continue to press the Georgian government to respect the commitments undertaken by Georgia, including the harmonization of Georgian legislation with the EU's legislation, based on the provisions of the National Programme on Harmonization, which was approved in September 2003.

It is essential that the EC and Georgian Government fully involved CSOs so as to strength public ownership over Georgia's implementation of the Georgia-EU Action Plan under the ENP framework and ensure public participation in the programming, monitoring and evaluation processes.

## ACRONYMS

European Neighbourhood Policy - ENP

European neighbourhood and partnership instrument - ENPI

Civil Society Organisation – CSO

EU-Georgia Action Plan - AP

European Commission – EC

European Union – EU

European Investment Bank – EIB

Country Strategy Paper – CSP

Regional Strategy Paper - PSP

Indicative Program – IP

National Indicative Program – NIP

The Partnership and Cooperation Agreement – PCA

International Labour Organisation - ILO

Technical Assistance TA

EC Generalised System of Preference Plus CSP +