



Monitoring of the implementation of the Government's Human Rights Action Plan

Goal 2.1

Goal 2.1. Develop a strategy and an action plan for court reform with clearly outlined goals and priorities

The progress of the implementation of the Goal: 91%

The goal envisages the development and approval of a uniform long-term strategy and an action plan of the court system that would fully cover the challenges existing in the judiciary and determine the priorities correctly.

The goal has only one objective, namely, the development and approval of a long-term justice strategy, an action plan for its implementation, and ensuring the participation of judges and other stakeholders in the process. Since the goal implies only the elaboration of a specific strategy and an action plan, one objective is sufficient for its achievement.

Objective 2.1.1. Develop and approve the strategy for judicial reform and a respective action plan; ensure the participation of judges and other stakeholders in the development of the strategy and action plan

The progress of the implementation of the Objective: 91%

The objective has only one activity (action), which envisages the development and approval of the uniform long-term strategy and action plan of the judiciary with the active participation of judges and other stakeholders.

On 29 May 2017, the HCoJ approved the Uniform Long-Term Strategy of the Judiciary and the Action Plan of its Implementation (for 2017-2018). However, we believe that the insufficient number of the judges from Tbilisi City Court, Tbilisi Appeal Court and the Supreme Court that participated in the development of the document would not ensure adequate involvement of the judiciary in the process. We believe that the fact that only those judges who work in Tbilisi are involved in decision-making processes related to important issues of the judiciary results in the rest of the judges being distanced from the process and somewhat isolating them. Therefore, this factor influences the quality of the implementation of the activities under the objective at stake and the quality of the implementation of the very objective too.

Activity 2.1.1.1. A long-term and holistic strategy and action plan for the reform of judicial system

Responsible agency:

- The High Council of Justice of Georgia
- Supreme Court of Georgia

Indicator:

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a) Development Process:

1. The portion of involvement of judges in the work of the strategic committee (1/3);
2. The portion of involvement of regional judges in the work of the strategic committee (1/3 of the involved judges);
3. The portion of involvement of stakeholders (state agencies, local and international organisations) in the work of the strategic committee (1/2 of the entire composition ensuring equal participation of state agencies, and local and international organisations);
4. Preparatory work/activities (questionnaires, documents and communication) being carried out for developing the Justice Strategy and Action Plan; and
5. The decision-making procedure is determined by the statute of the strategic committee.

b) Developed Document

1. The document is adopted/approved; and
2. Recommendations of both the Justice Coalition and the Public Defender are taken into consideration in the developed strategy and action plan.

Status: Fully completed

The progress of the implementation of the Activity:
91%

Start date: 2016-01-01

Deadline: 2017-12-31

Assessment

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The Process of Developing the Uniform Long-Term Strategy of the Judiciary and the Action Plan

Under the Association Agenda between the European Union and Georgia (EU-Georgia Association Agenda), for the first time in independent Georgia's history, the judiciary developed a 5-year strategy and a 2-year action plan for the court system, which was preceded by preparatory activities and workshops carried out by responsible agencies. The development of the long-term strategy is important to see the full picture as to what is considered by responsible agencies to be the main challenges in the judiciary and what are the issues they plan to work upon in future.

Under the decision of the HCoJ of 23 May 2016,^[1] a committee was set up to elaborate the Justice Strategy and Action Plan. The decision determined the committee's composition, its powers and arrangements for carrying out its activities. The document also determined the number of votes necessary for adopting a decision by the committee/working group (consent of 2/3 of those members who are present). Under the said decision, from the NGO sector, there was only one representative from the presiding organisation of the Coalition for an Independent and Transparent Judiciary in the committee.

On 14 July 2016, the HCoJ adopted a new decision,^[2] which declared the decision of 23 May 2016 null and void; increased the number of persons representing NGOs; invited international expert observers to the committee and changed the number of votes required for adopting a decision (consent of all the members present).

The decision of 14 July 2016 set the composition of the committee at 52 members and 8 international expert observers invited to participate in the committee's work. There were **11 judges** (21%) out of which 9 are judicial members of the HCoJ and none represented a district court; representatives of 12 state agencies (23%); and 12 NGO representatives (23%). However, apart from the committee members,

other stakeholders from NGOs and international organisations were also involved in the elaboration of the strategy.

For developing the Justice Strategy and the Action Plan, the following activities have been carried out:

- 2 field meetings were held;
- Up to 50 interviews have been taken from representatives of the judiciary and other stakeholders;
- A survey was conducted among judges, court clerks and HCoJ staff members, based on which a brief analysis was made;
- International and regional documents and best practices, as well as domestic strategies, action plans, reports and NGO recommendations were analysed; and
- Meetings of the strategic committee's working groups were held (6-8 meetings within each working group).
- Developed draft documents of the Strategy and Action Plan was shared with judges through judicial internal network "Intranet", which enabled them to express and discuss their opinion on the content of the documents.

Assessment of the Uniform Long-Term Strategy and Action Plan for the Judiciary

On 29 May 2017, the HCoJ approved the Uniform Long-Term Strategy of the Judiciary for 2017-2021 and its Implementation Action Plan for 2017-2018. The judiciary strategy consists of 5 major strategic directions: (1) independence and impartiality; (2) ensuring accountable justice; (3) ensuring quality justice and professionalism; (4) ensuring effectiveness of the judiciary; and (5) ensuring accessibility of justice.

The judiciary strategy covers the issues envisaged by the HRAP, although it is far broader. Furthermore, it covers almost every issue that is considered to be problematic by the Coalition for an Independent and Transparent Judiciary^[3] and a number of issues reflected in the report of the Public Defender of Georgia.^[4]

Conclusion: At this stage, the activity is implemented by **91%**, as:

- Judges were involved in the work of the strategic committee. However, the percentage of their involvement was not adequate, and there were no judges at all from district (city) courts participating in the process of developing the documents;
- Stakeholders, such as state agencies, local and international organisations were adequately involved in the work of the strategic committee;
- Appropriate preparatory work/activities were carried out for developing the Justice Strategy and the Action Plan;
- The rules of the strategic committee determined the decision-making procedure;
- The documents of the Justice Strategy and Action Plan have been adopted/approved; and
- The developed strategy and action plan take into account the Judiciary Coalition's and the Public Defender's recommendations.

Goal - 2.2. Take Measures to Further Reform the Justice Sector.

The goal covers further reform of the justice sector and consists of one objective and 7 activities (actions). The set objective implies, within the implementation of the third wave justice reform, adopting amendments to the Organic Law on Common Courts, the Law on Disciplinary Responsibility and Disciplinary Proceedings against Judges, as well as changes to the acts of the HCoJ. Even though the objective is a means to achieve the goal, the goal is worded in such broad terms – further reform of the justice sector – that it is impossible to be achieved only through this one objective and it might necessitate legislative amendments and changes to regulations as well as other efforts (e.g. institutional reform).

Reflection of the legislative changes as an activity in the HRAP is a significant fact indicating that the judiciary itself acknowledges the shortcomings existing in the legislation, which causes the important problems in practice, such as problems related to existing rules of selection of judges, existing system of judges' periodical evaluation, the absence of judges' promotion system, disciplinary proceedings against judges, etc. These problems have been criticised by the civil society and international organisations. However, despite the fact that the authorities are aware of the problems, unfortunately, no effective steps were made to redeem them within the time frames set by the action plan.

^[1] See decision no. 1/136 of the HCoJ of 2016,

available at: <http://hcoj.gov.ge/files/pdf%20gadacyvetilebebi/gadawyvetilebebi%202016/136-2016.pdf>, (accessed 21 January 2018).

^[2] Decision no. 1/192 of the HCoJ of 2016,

available at: [/http://hcoj.gov.ge/files/pdf%20gadacyvetilebebi/gadawyvetilebebi%202016/192-2016.pdf](http://hcoj.gov.ge/files/pdf%20gadacyvetilebebi/gadawyvetilebebi%202016/192-2016.pdf), (accessed 21 January 2018).

^[3] Research of the Coalition for an Independent and Transparent Judiciary, the Judiciary: Reforms and Perspectives, Tbilisi, 2017, available at: <http://www.coalition.ge/files/pdf>, (accessed 21 January 2018).

^[4] Report of the Public Defender of Georgia on the Situation on Human Rights and Freedoms in Georgia - 2016, pp. 389 – 403, available at: <http://www.ombudsman.ge/uploads/other/4/4494.pdf>, (accessed 21 January 2018).