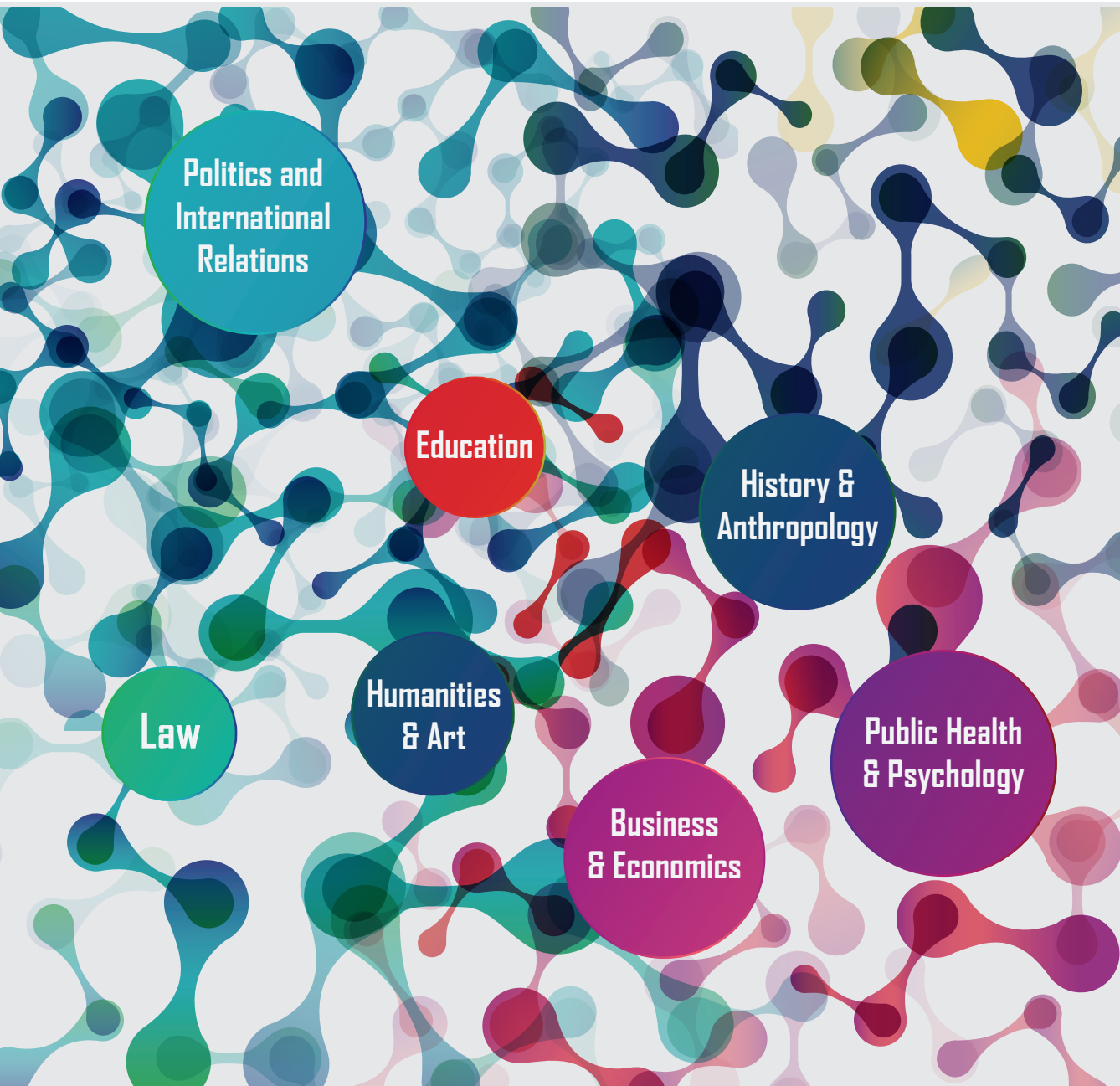


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Julieta Andguladze

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FORECASTING GEORGIA ECONOMIC GROWTH 2020-2030

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GORI STATE TEACHING UNIVERSITY

ABSTRACT

Firms, households, government agencies, and non-government organizations rely on forecasts when making decisions regarding the allocation of scarce resources. This paper develops evidence-based forecasts for key macroeconomic variables for the Republic of Georgia. Sources of data include the International Monetary Fund's World Economic Outlook, The World Bank, and others. We use, primarily, exponential smoothing models generated by the statistical application Forecast Pro 100 to generate forecasts with 95 percent confidence limits. Finally, recognizing the high degree of uncertainty associated with long-term forecasting, we include scenarios to generate high, middle, and low values for the key variables. Our analysis shows population, a key economic resource, to be declining, along with the labor force participation rate, after a considerable rise. Gross fixed capital formation appears to be rising, while total reserves (including gold) is holding steady. With real GDP rising at an average rate of about five percent over the past decade, our forecast shows GDP continuing to increase over the next decade, along with GDP per capita, indicating a rising level of general wellbeing. Georgia's inflation rate is low, and there is no credible evidence that the rate of inflation will accelerate in the coming years. We develop three scenarios for economic growth for Georgia for the period 2020-2030. All three scenarios – low, medium, and high–show continued healthy growth.

Keywords: economic growth, forecasting, GDP, inflation, macroeconomic, Republic of Georgia

Economic Resources

Land. Georgia has manganese, silver-lead and zinc ores, barite, coal, and marble. Oil and peat deposits have been discovered. Much of the country is mountainous and not suitable for large scale agriculture. Much of the infrastructure of Georgia was built during the Soviet period. This includes roads, bridges, electrical power generation and transmission systems, gas pipelines, and water and sewage systems. Maintenance and further development of these systems require large capital investments. With the Rose Revolution of November 2003 under President Mikheil Saakashvili, the government made significant investments in infrastructure, including border-to-border superhighways. Georgia maintains some 1,045 miles in common carrier rail service, not including industrial lines (Transportation in Georgia). A world-class motorway crosses the country east to west. Tbilisi has a metro system. Much of the internal transportation uses bus and minibus networks. There are 14 airports with paved runways. The largest, Shota Rustaveli International Airport 11 miles southeast of Tbilisi, accommodates a number of airlines. Ports on the Black Sea include Batumi, Poti, Sokhumi, and the Kulevi Oil Terminal. We would not expect to see much change over the coming decade.

Labor. The graph below shows a substantial increase in the labor force participation rate, from 62.7 percent in 2009 to a peak of 66.8 percent in 2015, and a decline to 65.8 percent in 2017. The rate may continue to decline over the next decade.

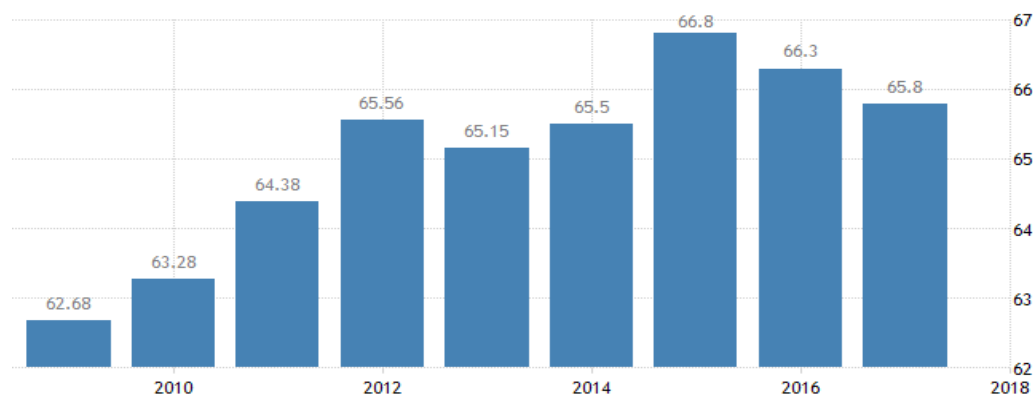


Figure 1. Georgia Labor Force Participation Rate, 2009-2017. (Trading Economics, 2018, from National Statistics Office, Georgia)

The population density in Georgia is 56 per Km² (146 people per mi²). 58.9 percent of the population is urban (2,302,656 people in 2018). The median age in Georgia is 38.1 years. The population of Georgia was 3,904,339 as of June 14, 2019, based

on the United Nations estimates (Worldometers, 2019). This is down 28 percent from a 1990 peak of 5,410,372, just prior to the breakup of the Soviet Union. We forecast Georgia’s population will fall to about 3.7 million by 2030.

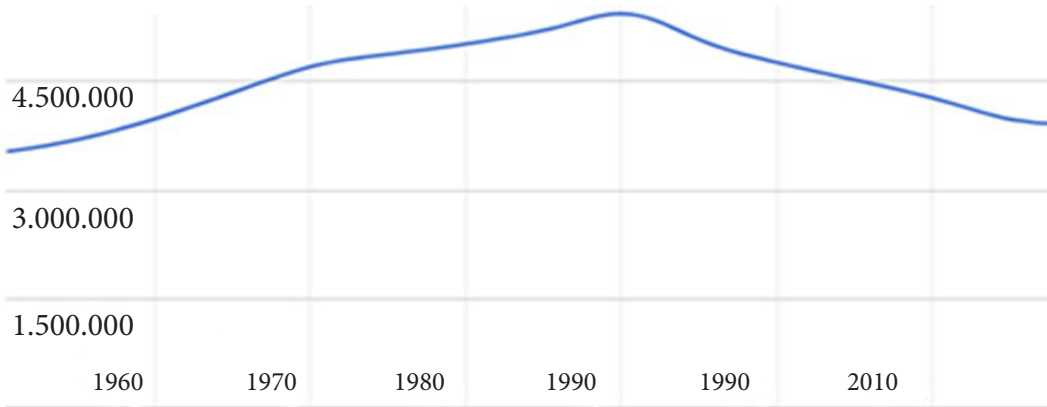


Figure 2. Georgia Population, 1950-2018. Worldometers, 2019.

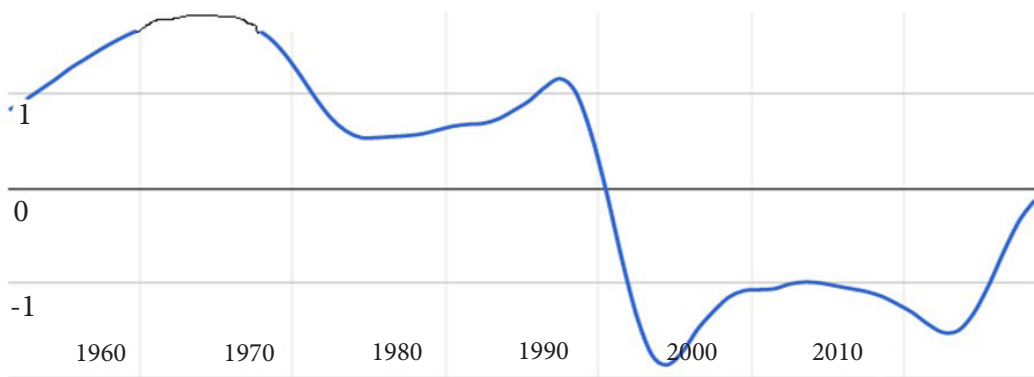
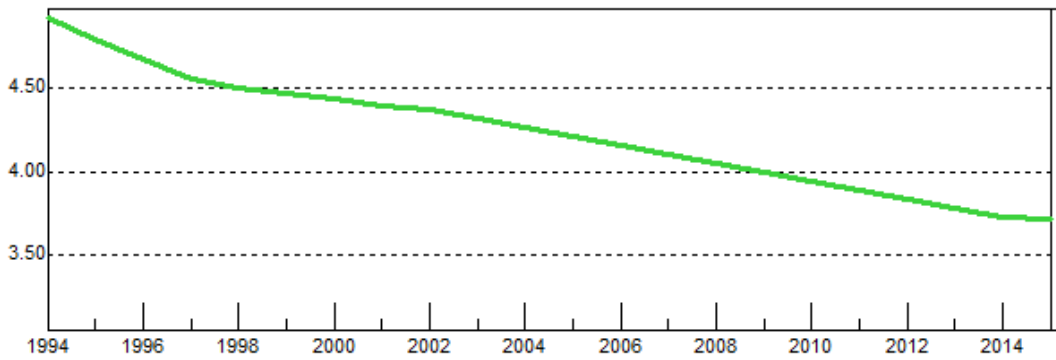


Figure 3. Georgia Population Growth Rate (percent). Worldometers, 2019.

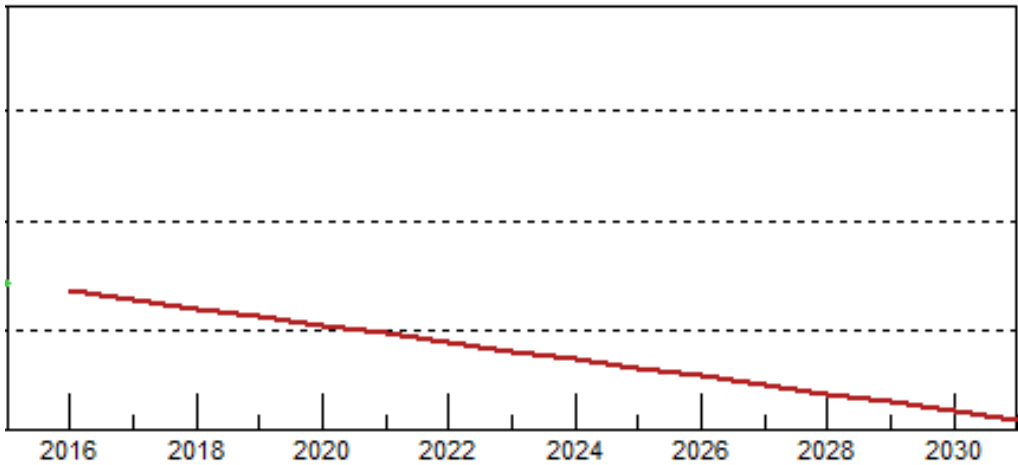
We find historical population data for Georgia from 1980 to 2017 in the International Monetary Fund’s April 2019 World Economic Outlook (WEO). We use Forecast Pro 100 to forecast population to 2030. Our model is Holt exponential smoothing with a linear trend and no seasonality. Shmueli and Lichtendahl (2018) describe smoothing as “based on averaging values of multiple periods in order to reduce the noise,” (p. 79). The sample size is 22. The adjusted R² is 0.99. The mean absolute percent error (MAPE) is 0.48 percent, and the mean absolute deviation (MAD) is 0.02.

Our forecast shows a steady decline in Georgia’s population over the next decade.



Actual 1994-2015

Figure 4a. Georgia Population, 1994-2015 actual with forecast to 2030 (million persons).



Forecast 2016-2030

Figure 4b. Georgia Population, 1994-2015 actual with forecast to 2030 (million persons).

Caucasus Business Week (2018) reports, “According to national statistics service of Georgia, the year of 2009 recorded highest unemployment indicator (16.9 percent) and the lowest figure was recorded in 2015 (12 percent).”

During the period 2009-2017, the unemployment rate in Georgia fell from 18.3 percent to 13.9 percent.

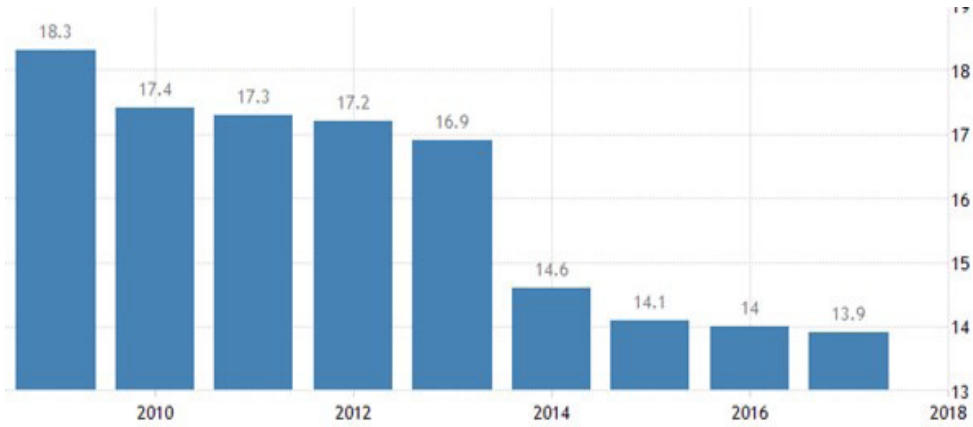


Figure.5 . Georgia Labor unemployment rate, 2009-2017.
 (Trading Economics, 2018, from National Statistics Office, Georgia)

Capital. The World Bank (2019) includes in capital “land improvements (fences, ditches, drains, and so on); plant, machinery, and equipment purchases; and the construction of roads, railways, and the like, including schools, offices, hospitals, private residential dwellings, and commercial and industrial buildings.”

Georgia’s gross fixed capital formation (percent of GDP) is shown below for the years 1990 to 2017. Investment collapsed after the dissolution of the Soviet Union.

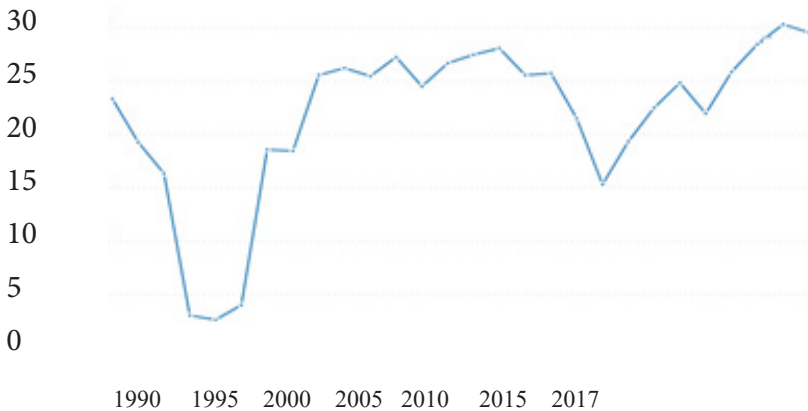


Figure 6. Georgia’s investment in fixed capital, 1990-2017, percent of GDP
 (World Bank and OECD, 2019)

Foreign Direct Investment in Georgia increased by \$197 million in the fourth quarter of 2018. Foreign Direct Investment in Georgia averaged \$317 million from 2005 until 2018, reaching an all-time high of \$740.50 million in the third quarter

of 2014 and a record low of \$79.60 million in the third quarter of 2005. (Trading Economics). We see no significant change in FDI over the next decade.

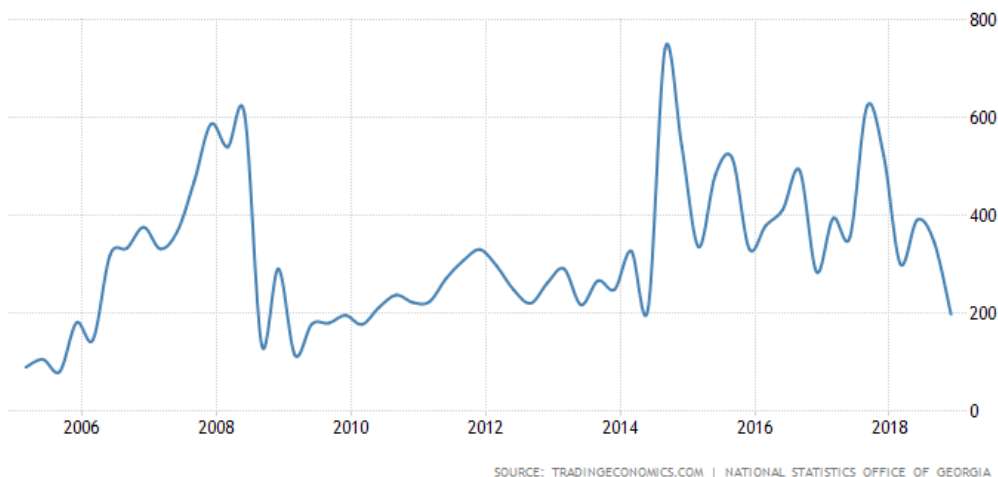


Figure 7. Georgia FDI 2006-2018, million US dollars (Trading Economics).

Driving Forces

Those forces that drive any economy include education, technology, healthcare, globalization, energy, trade, and institutions.

Education. Georgia spends 3.8 percent of its GDP on education, compared to a world average of 4.8 percent (World Bank Group, 2019). Georgia has a total of 613,000 pupils enrolled in primary and secondary education. Of these pupils, about 287,000 (47%) are enrolled in primary education. Paresashvili & Oqruashvili (2017), commenting on the challenges of the building of human capital in Georgia, conclude, “Innovative development can be achieved first of all, by means of innovative changes in the education system” (p.7). Increases in education for 21st century jobs will enhance Georgia’s economic development in the coming decade.

Healthcare. The World Health Organization (2018) reports that life expectancy for Georgians at birth is 68 for males and 77 for females. The probability of dying between 15 and 60 years per 1,000 population is 238 for males and 83 for females. Georgia’s total expenditure on health per capita was \$628 in 2016, or 7.4 percent of GDP. Improvements in the healthcare system will contribute to Georgia’s economic development in the next decade.

Technology. Georgia has been positioning itself as a hub for information and communication technology. The State Program on Broadband Infrastructure Develop-

ment in Georgia is expected to create a fiber-optic internet network in more than 2,000 cities and villages in Georgia. (Agenda.ge, 2016). Incentives to innovate will contribute to economic growth.

Energy. Georgia is a net energy importer (WEO April 2019, p. 49). Georgia had a total primary energy supply (TPES) of 4.793 Mtoe (million tons of oil equivalent) in 2016. Electricity production was 11.6 TWh, of which 81 percent is from hydroelectricity and 19 percent from natural gas. Georgia has no nuclear energy (International Energy Agency, 2019).

Trade. Georgia is a member of the GUAM Organization for Democracy and Economic Development (Georgia, Ukraine, Azerbaijan, and Moldova) and a member of the World Trade Organization (WTO) and the Organization of the Black Sea Economic Cooperation (BSEC). Georgia is an Observer state of the Southeast European Cooperative Initiative (SECI, 2019).

The IMF reports, “Since 2014, Georgia has been forced to deal with large and persistent external challenges to its economic stability, including pressure on its currency as well as lower global oil and commodity prices, which have undercut how much revenue it can obtain from exports” (International Monetary Fund, 2019a).

Georgia’s trade deficit widened to \$454.7 million in November of 2018 from \$429 million in November 2017. Exports surged 29.4 percent from a year earlier to \$283.3 million and imports went up at a softer 13.9 percent to \$738 million. Considering the first eleven months of 2018, the deficit was recorded at \$5.3 billion, compared to a \$4.6 billion gap in the same period of 2017. Balance of trade in Georgia averaged a deficit of \$237 million from 1995 until 2018, reaching an all-time low of \$6.3 million in April of 1995 and a record high of \$629 million in December of 2014. IMF (WEO April 2019) projects Georgia current account balance for 2019 to be negative 8.0 percent of GDP, 7.8 in 2020, and 7.0 percent in 2024 (See Fig. 8).

In millions of US dollars, the top export destinations of Georgia are Russia (\$403), Bulgaria (\$326), Azerbaijan (\$261), Turkey (\$229) and China (\$209). The top import origins are Turkey (\$1,400), Russia (\$787), China (\$757), Azerbaijan (\$547) and Ukraine (\$451). (OEC, 2019). Economic ties with China are increasing. First deputy prime minister, Dimitry Kumsishvili, said Georgia will see more Chinese investment in its power, financial services, railways and port construction sectors. “The opportunities come from growing demand for infrastructure projects, trade and investment channels, tourism activities and financial cooperation brought by the development of the Belt and Road Initiative” (China Daily, 2017).

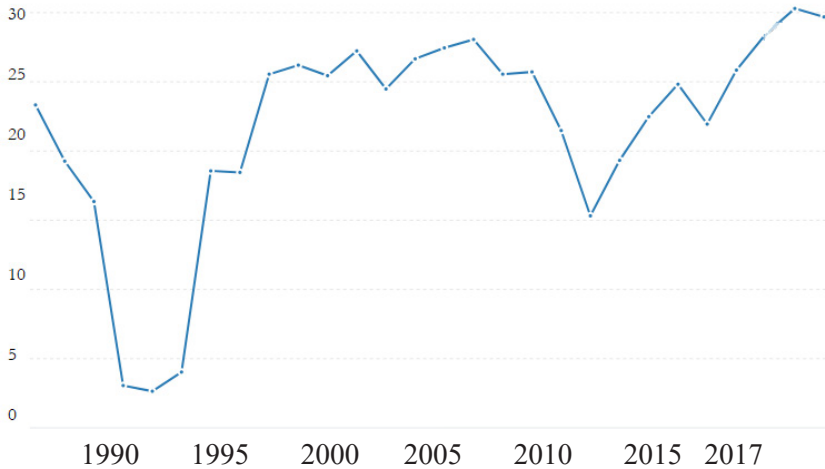


Figure 8. Georgia’s gross fixed capital formation, 1990-2017, percent of GDP. (World Bank)

In millions of US dollars, the top export destinations of Georgia are Russia (\$403), Bulgaria (\$326), Azerbaijan (\$261), Turkey (\$229) and China (\$209). The top import origins are Turkey (\$1,400), Russia (\$787), China (\$757), Azerbaijan (\$547) and Ukraine (\$451). (OEC, 2019). Economic ties with China are increasing. First deputy prime minister, Dimitry Kumsishvili, said Georgia will see more Chinese investment in its power, financial services, railways and port construction sectors. “The opportunities come from growing demand for infrastructure projects, trade and investment channels, tourism activities and financial cooperation brought by the development of the Belt and Road Initiative” (China Daily, 2017).

Tourism. Georgia joined the World Tourism Organization in 1993 (UNWTO, 2019). In *Lifting the Veil* (Raupp & Apkhazava, 2009), we noted the change in policies regarding tourism in Georgia, from being an essentially closed part of the Soviet Union to one of invitation and open hospitality. In our later paper (Raupp, 2013), we noted the importance of tourism in bringing hard currency reserves into the Caucasus Region. Tourism in Georgia had been increasing up to the invasion by Russia in August 2008. Efforts are being made to resume the favorable trend in attracting tourists to Georgia. Tourism in Georgia (2019) is an increasingly important component of the country’s economy. In 2015, the tourism sector employed around 158,500 people, producing 6.7% of Georgia’s GDP and providing US\$1.94 billion of revenue. In 2018, the number of international arrivals reached a record high of 8.7 million people with foreign exchange income in the year’s first three quarters amounting to US\$2.6 billion. The country plans to host 11 million tourists

by 2025 with annual revenues reaching US\$6.6 billion.” Government investment in tourism, both in infrastructure and in marketing, would have a positive effect on Georgia’s GDP and total reserves (Raupp, 2013).

Reserves. Georgia has seen a steady increase in reserves over the past two decades, with a dip from 2012 to 2015, as shown in the graph below. Estimated total reserves in 2017 were about \$3.039 billion. Persistent trade deficits threaten to cut into total reserves over the coming decade.

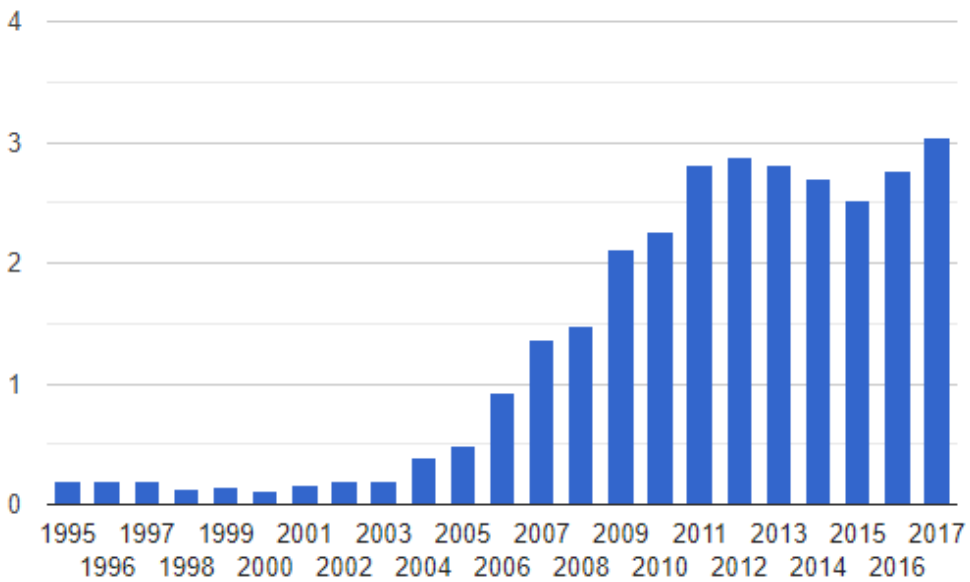


Figure 9. Georgia total reserves (includes gold, current billion US\$), 1995-2017. (International Monetary Fund, International Financial Statistics and data files. 4.0)

Institutions. The Georgian Orthodox Church is a major institution, and its Patriarch Ilia II is perhaps the most highly respected figure in Georgian public life. The Patriarch is exceptionally well informed and he is concerned about corruption in government and about the inequality of income and wealth.

Another strong institution in Georgia is its central and local government. Since the Rose Revolution of 2003, led by Mikheil Saakashvili, Georgia is the least corrupt of the fifteen former Soviet states (Transparency International, 2018). Elected as an independent in November 2018, Salome Zurbishvili, the French-born former foreign minister of Georgia, is its first female President. Following her term, the President will be elected by the Parliament as part of the transition to a stronger parliamentary democracy.

The 2019 Corruption Perceptions Index (CPI) paints a bleak picture of anti-corruption efforts in Eastern Europe and Central Asia. In a region where only one country scores over 50 out of 100 and all other countries score 45 or less out of 100 on the index, there has been very little progress in combatting corruption over several years. Georgia is that one country, scoring 58 points out of 100. (Transparency International, 2018). Continued measures to reduce corruption at all levels would contribute to healthy growth in the coming decade.

Total Factor Productivity (TFP). TFP, also called multi-factor productivity (MFP), is calculated by dividing output by the weighted average of labor and capital input, with labor weighted at 0.7 and capital at 0.3. TFP is a measure of economic efficiency.

Most of Georgia’s economic growth during the period 2004-2012 may be attributed to total factor productivity gains from economic restructuring. But it has fallen since, leaving capital accumulation to play an increasingly important role.

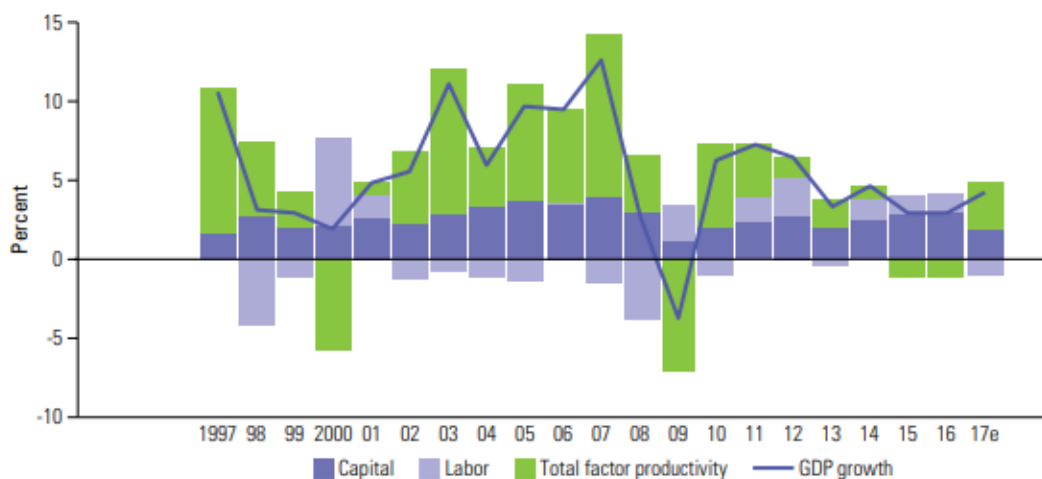


Figure 10. Contributions of capital, labor, and total factor productivity, Georgia, 1997-2017. (World Bank, 2019)

Gross Domestic Product (GDP)

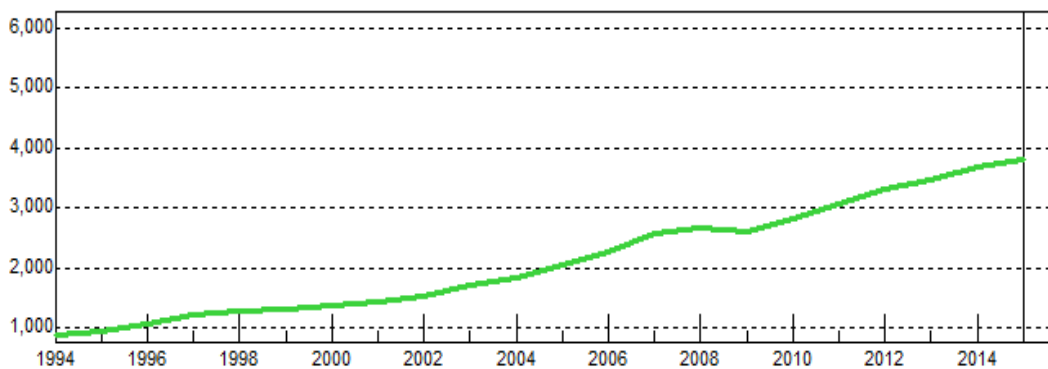
Georgia’s economy relies heavily on domestic demand. Services account for nearly two-thirds of GDP, but—with the exception of tourism—they are mostly made up of non-tradable activities, with the highest growth rates in domestic trade, hotels and restaurants, transportation, communications, and financial services. Personal consumption is supported by higher disposable incomes and credit growth. (World Bank Group, 2019.)

It is evident that the Georgian economy might enjoy a more robust economic growth through a greater degree of diversification. Investments by the government in marketing to external trading partners, especially those countries in the Black Sea Region, might work toward that diversification. Agricultural products can be traded to a greater degree, but more scalable sectors could be developed in the financial and technology sectors. This would indicate a need for greater investments in education at all levels and in entrepreneurial ventures. The latter could be aided by investments in business incubators in cities and towns across the country.

Forecasting the GDP of any nation is uncertain. Studies show the most accurate forecasts tend to use multiple systems. In this paper, we report the results of several macroeconomic models, as well as the forecasting software, Forecast Pro 100 by Business Forecasting Systems (Stellwagen & Goodrich, 2017, 2018). Below, we show results using historical data from 1994 to 2016 from the October 2018 World Economic Outlook Database of the International Monetary Fund. We then forecast GDP to 2023 using Forecast Pro 100.

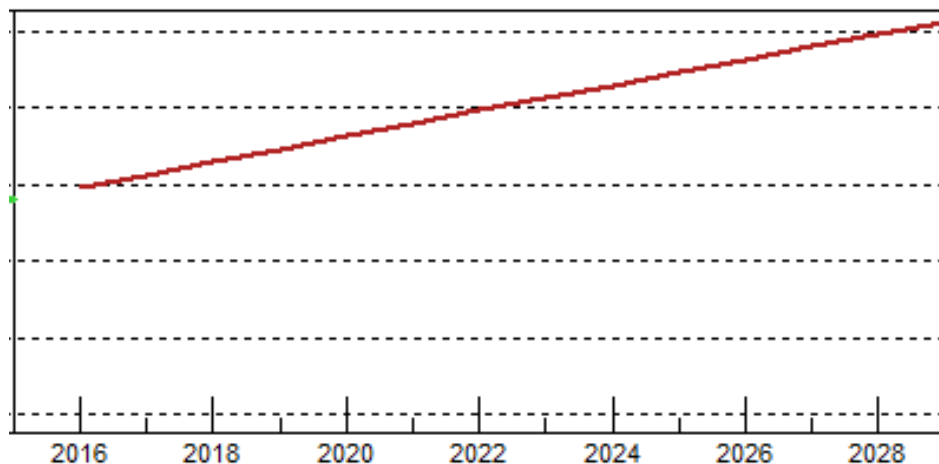
The model we use to forecast Georgia GDP is a Holt exponential smoothing model with linear trend and no seasonality. The sample size is 23, and the adjusted R^2 is 0.99, indicating a good fit to the data. The mean absolute percent error (MAPE) is 3.25 percent, and the mean absolute deviation (MAD) is 0.27.

The IMF WEO Database forecast for 2023 is 20.606 billion Georgia lari (WEO, 2019). Using Forecast Pro 100, we show a forecast of 18 billion for 2023 and 20 billion by 2028. The graph below shows the results of the Forecast Pro model.



Actual 1994-2016

Figure 11a. Georgia Historical GDP 1994-2016 and Forecast Pro 100 forecast 2017-2030



Forecast 2017-2030

Figure 11b. Georgia Historical GDP 1994-2016 and Forecast Pro 100 forecast 2017-2030

The World Bank provides data for Georgia from 1965 to 2017. The average value for Georgia during that period was 12.1 billion U.S. dollars with a minimum of 4.7 billion U.S. dollars in 1994 and a maximum of 21.8 billion U.S. dollars in 1985.

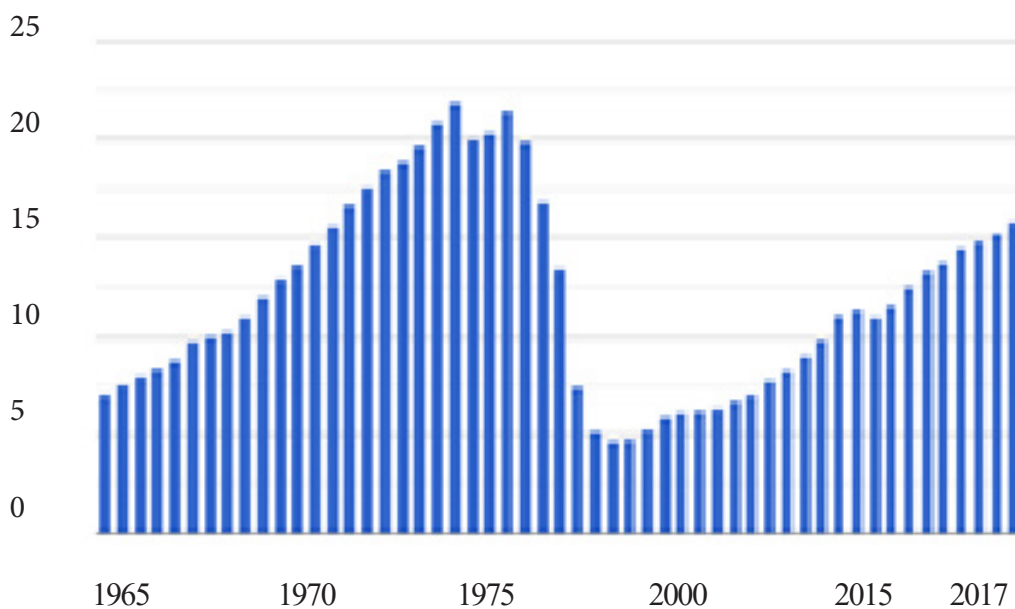


Figure 12. Georgia Real GDP (billion 2010 U.S. dollars), 1965-2017.
(World Bank Group, 2018)

The National Statistics Office of Georgia provides GDP growth rate data for Georgia from Q1 2004 to Q3 2018. The average value for Georgia during that period was 5.36 percent with a minimum of -8.7 percent in Q2 2009 and a maximum of 13.9 percent in Q3 2007.

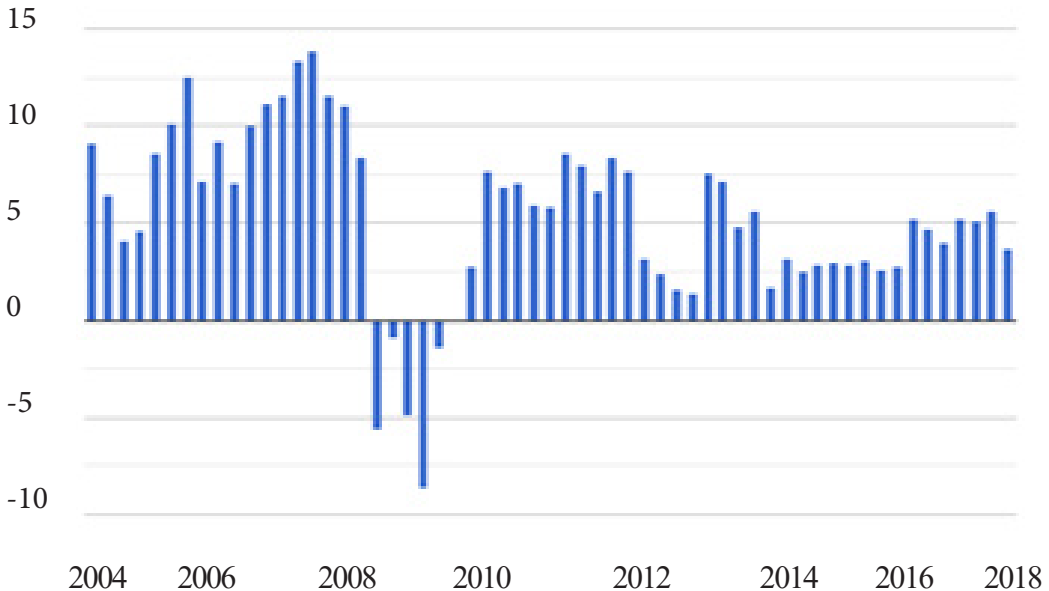


Figure 13. Georgia GDP Growth Rate, 2004-2018. (World Bank Group, 2018)

The GDP in Georgia was worth \$15.16 billion in 2017. GDP averaged \$7.62 billion from 1990 until 2017, reaching an all-time high of \$16.51 billion in 2014 and a record low of 0 in 1991. Georgia's GDP is projected to trend around \$21 billion in 2020, according to Trading Economics (2018). IMF (WEO, April 2019) projects Georgia real GDP annual percent change for 2019 to be 4.8 percent, 5.0 percent for 2020, and 5.2 percent in 2024.

GDP per capita. Georgia's GDP per capita in 2017 was \$4,078 (U.S. dollars), at purchasing power parity (PPP). This was number 8 of the 10 countries in the Black Sea Region, the average of which was \$6,293. Georgia's GDP per capita is expected to trend to around \$4,678 by 2020 (Trading Economics).

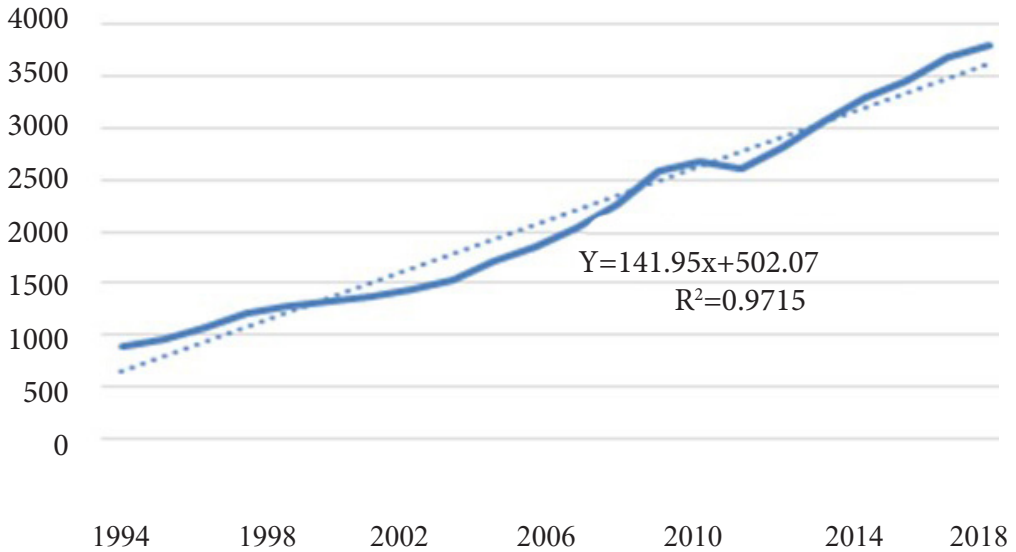


Figure 14. Georgia real GDP per capita, 1994-2015.
 (Data from IMF WEO April 2019. Chart created in Excel.)

Drawing on data from the April 2019 IMF World Economic Outlook, Forecast Pro projects an increase in Georgia GDP per capita from 3,793 lari to about 6,300 in 2030. The mean absolute percent error for the forecast is 3.74 percent, and the mean absolute deviation is 73 lari. The adjusted R² is 0.99 for the series.

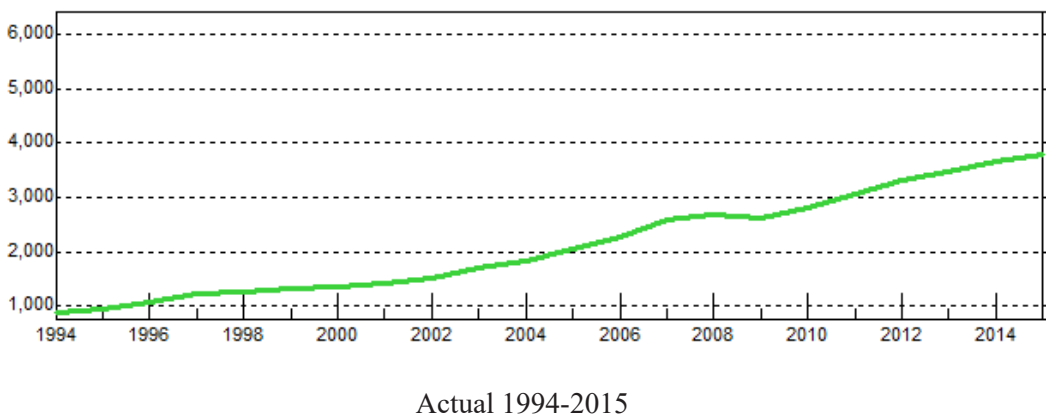
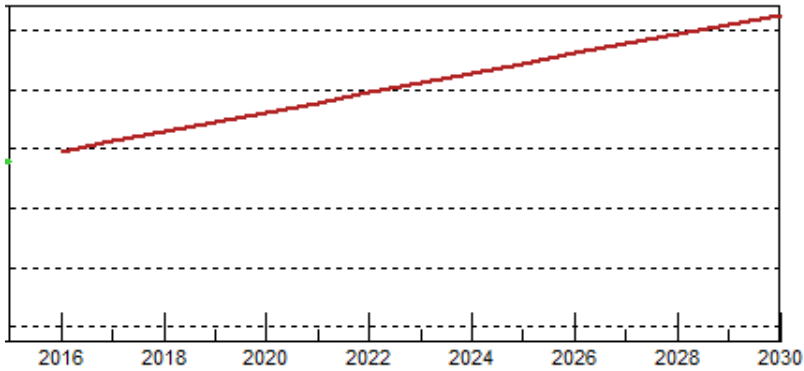


Figure 15a. Georgia real GDP per capita, 1994-2015 actual, 2016-2030 projected.
 (Data from IMF WEO 2019. Forecast and chart created in Forecast Pro.)



Forecast 2016-2030

Figure 15a. Georgia real GDP per capita, 1994-2015 actual, 2016-2030 projected.
 (Data from IMF WEO 2019. Forecast and chart created in Forecast Pro.)

Currency

The Georgian lari (GEL) is worth about \$0.37, down from about \$0.60 some 10 years ago. A weaker lari makes Georgian exports more attractive to international buyers and imports from international sellers less attractive; each has the effect of increasing GDP. The IMF reports, “The banking sector remains well capitalized, liquid, and profitable, but dollarization remains high” (International Monetary Fund, 2018).

The chart below shows the value of one Georgian lari in terms of the United States dollar over the 10-year period 2009 to 2019. The high for the period was about 0.62 lari to the dollar. The low was about 0.36.



Figure 16. The value of one Georgian lari in terms of U.S. dollars, 2009-2019. (XE.com)

Inflation

The IMF (WEO, April 2019) projects Georgia inflation for 2019 to be 2.5 percent and 3.0 percent in 2020 and 2024. Using consumer price index (CPI) data, Focus Economics (2018) shows a higher inflation rate at 6.0 percent and presents historical data from 2000 to 2016 in the following chart:

Georgia Inflation Chart

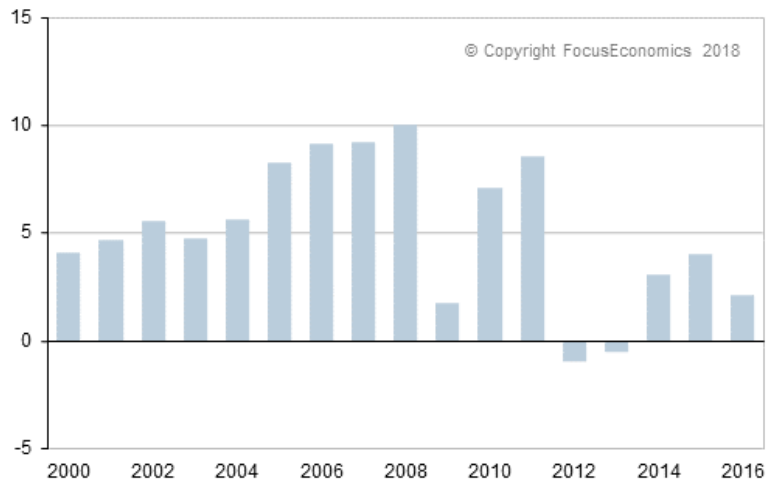


Figure 17. Georgia's inflation rate, 2000-2016. (Focus Economics, 2019)

Distribution of Income and Wealth

Georgia's GINI index was 40.1 in 1999 and 36.5 in 2014 (World Bank Group, 2018). The implication is that the distribution of income—and, therefore, wealth, as well—has become less disparate.

Issues

Vladimir Putin remains an existential threat to the nation of Georgia. Putin's military forces occupy the northeastern province of Abkhazia, the north central region of South Ossetia, and the village of Akhalkgori bordering on and east of South Ossetia. Putin's invasion of Georgia in August 2008, along with the disdain of the current United States administration for NATO and the European region generally, offer no comfort to a nation seeking long-term peace and prosperity. (See Tumin, 2018.)

Scenarios

Georgia has been making progress economically and politically since the Rose Revolution

of 2003. A strong parliamentary democracy promises even greater stability in the coming years.

An IMF report in May 2019 (International Monetary Fund, 2019b) reported that Georgia's economic growth is projected to remain stable in 2019. Over the medium term, IMF said that structural reforms and infrastructure investment will be critical to support higher and more inclusive growth, and Georgia remains vulnerable to external developments. This requires continued exchange rate flexibility and reserves buildup, prudent monetary and fiscal policies, and sound financial sector policies. The IMF believes that diversification would offer greater macroeconomic stability.

The following scenarios are intended to provide a range of values depending on those external developments" and the response of the Georgian authorities to both internal and external challenges.

Scenario 1: Base Scenario. Our most likely forecast for Georgia's real GDP (RGDP) in 2030 is 21 billion lari, up about 40 percent from 2017.

Scenario 2: High Scenario. At a confidence level of 95 percent, our forecast shows Georgia's RGDP could be as high as 24 billion lari, up 60 percent from 2017.

Scenario 3: Low Scenario. At a confidence level of 95 percent, our forecast shows Georgia's RGDP could be as low as 18 billion lari, up 20 percent from 2017.

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ASSET BUBBLES, FINANCIAL CRISIS AND COUNTERCYCLICAL POLICIES

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ABSTRACT

In this manuscript, we examine the causes of asset price bubbles and financial crises as well as the current challenges facing the regulatory framework of the financial system. We argue that the current model of regulations cannot stop the inevitability of either asset bubbles or financial crises in the future. In a causal relationship, the current system of regulations tends to deal with the effects of liquidity shortage during recessions rather than with the causes, which can be referred to as distorted financial intermediation. In fact, regulations seek to cure symptoms rather than disease. The rules function like antibiotics, against which infection may develop immunity. We propose a modification of the current regulatory system and believe that this model should be taken into account when developing an effective regulatory framework for the financial system.

Keywords: Asset Bubbles; Asset Pricing; Money Supply, Credit, Money; Monetary Policy; Central Banks and Their Policies; Government Policy and Regulation; Financial Institutions and Services; Economic History of Financial Crisis.

JEL Classification: E51; E52; E58; G12; G18; G2; N2

Introduction

For the last three centuries, the world has been moving around the same circle of financial crises. Asset price bubbles periodically form, sometimes leading to the collapse of the financial system and inducing an acute financial crisis. Much of the blame for these repetitive crises rests with undulations of business cycles that are poorly tempered by financial institutions. Through a drive to maximize periods of opportunity, the boom phase of the business cycle paves the way for asset price bubbles. Financial organizations often play an important role in this process, among which depository institutions are key players. Boom phases are accompanied by increased demand for credit, subsequently incentivizing financial institutions to lend irresponsibly and excessively, leading to unbacked and increasingly inflated asset value. As high-risk loans begin falling into default, these asset bubbles burst and economies go into recession. During the downturn of the business cycle, financial institutions radically change their behavior. By drastically reducing lending, they further exacerbate the recession, and this is why financial institutions, especially banks, are heavily regulated. From crisis to crisis, policymakers and academics have been considering potential change in the regulatory model. The goal is to prevent future asset price bubbles and liquidity shortages in the economy through periodic tightening or relaxing of regulation. Moreover, every new financial disaster is an inspiration for reforms. For example, after the 2007-2009 recession, macro-prudential regulation is being actively pursued, the purpose of which is to identify and minimize systemic and structural risks.

We argue that the current model of regulations cannot stop the inevitability of either asset bubbles or financial crises in the future. In a causal relationship, the current system of regulations tends to deal with effects of liquidity shortage during recessions rather than with the causes, which can be referred to as distorted financial intermediation. In fact, regulations seek to cure symptoms rather than disease. The rules function like antibiotics, against which an infection may develop immunity. That is why, until the distorted financial intermediation is corrected, these economic infirmities will periodically appear in creative and innovative ways with the same consequences, fating the world to perpetual cycles of boom to asset bubbles to bubble explosions to recession.

Microeconomic and Macroeconomic Models of Asset Price Bubbles

Asset values rise dramatically before bursting (Kindleberger, 2000). It is thought that asset bubbles form when the price of an asset prologedly deviates from its fundamental value, which is the present value of future cash flows from the asset

(McGrattan, Prescott, 2003). For example, the fundamental value of a bond is the present value of the cash flow of the interest payments, and in the case of stocks it is the present value of the dividend streams (Froot, Obstfeld, 1991). Accordingly, asset owners, believing that an increase in fundamental value will follow a spike in asset price, will look to sell the asset at a higher price in the future.

The microeconomic views of bubbles are based on rational and behavioral finance models. A rational approach claims that in a state of perfect information, asset bubbles will not appear. However, if they exist, prices are constantly rising to infinity. If investors have complete and reliable information, overall prices will slightly fluctuate in the equilibrium of demand and supply, and no rational buyer will pay more than the market price. (Tirole, 1981). The intuition behind it is that if the market price exceeds the fundamental value, the difference will be smoothed out through arbitrage. If it's believed that a share price is overvalued and will likely decline, rational agents will borrow company shares from a broker to then sell those assets into the market with the anticipation of later buying those shares back when the prices drop, returning the shares to the broker while pocketing the financial gain from selling high and buying low. While, on one hand, the market price can not deviate from its fundamental value (Fama, 1970), if an asset bubble forms and investors anticipate a further increase in price, this will force other rational investors to join the process, which will drive prices up exponentially (Long, Shleifer, et al., 1990). From the rational theory perspective, such "herd behavior" results in more costly outcomes, such as when fear of a bank's solvency leads to a run on the bank, depleting it of all its cash reserves. (Allen, Douglas, 1998). The effective market hypothesis is not violated by the fact that a bubble can be created. Due to frictions, imperfect markets, and asymmetric information, investors make their choice on the basis of currently available information, which leads to a random walk (Fama, 1965). Abiding to the rational approach, credit and monetary policy facilitate the creation of asset bubbles.

The behavioral approach deviates from neoclassical economic models, according to which investors are rational actors. Instead, inexperienced investors trade-in "noise" that is not related to assessing the fundamental value of assets (Shiller, 2001). Behavioral finance models argue that investors are "bounded" and are unable to 1) have complete information about fundamental values; 2) accurately calculate probabilities and risks, or 3) maximize utility through heuristic methods (Tversky, Kahneman, 1974). Such cognitive biases, which are systematic errors in the interpretation and processing of information then applied to judgements and decision making, entice investors to follow established trends as prescribed

in neoclassical economic model. Examples include ... such as overconfidence which means that investors tend to overestimate their own abilities (Bradford De Long, Shleifer, 1991), availability bias, which means excessive influence on an individual's estimate of probabilities (Herring, R. J., Wachter S, 1999), framing (Kahneman, Tversky, 2000) etc. These mental biases push investors to follow the established trend that is a herd behavior from the behavioral finance theory. The trend makes arbitrage impossible (Powers, Schizer, et al., 2004). Rational speculators fear that trend followers will push prices up. They start to move toward a trend and further contribute the prices to rise (Shleifer, Vishny, 1997).

Experimental evidence for the appearance of bubbles makes it possible to draw interesting conclusions. Experimental economists have conducted experiments in which players trade fixed-income security with each other. After several experiments, it became quite clear that despite investors' understanding the fundamental value of the asset (the exact probability of future cash flow) asset bubbles were created at each game and each new game ended with a burst of the asset bubble (Porter, Smith, 1995).

The macroeconomic picture of asset bubbles focuses on the effects of monetary policy, arguing that expansionary monetary policy is favored while tightened monetary policy impedes their development. Empirical studies show that, „*There is evidence of a significant multidirectional link between house prices, monetary variables and the macroeconomy*“ (Goodhart, Hofmann, 2008). Although higher interest rates contribute to the deflation of asset bubbles, monetary policy is an undesirable and blunt tool (Bernanke, Gertler, 2001). In contrast, Woodford argues that monetary policy, rather than macroprudential regulation, should be used to deal with financial instability (Woodford, 2012). Some economists argue that, „*asset price bubbles might be spurred by investor anticipation of fluctuations in interest rates due to inconsistent and changing monetary policy*“ (Flood, Hodrick, 1986). However, in most macroeconomic models that investigate the impact of interest rates on asset price bubbles the latter is an exogenous variable and needs no explanation. See for example (Bernanke, Gertler, 2000). Other economists accuse the government for providing various types of guarantees, such as deposit insurance or the motive of “too big to fail” to save large financial institutions. Any government support or guarantees pose a moral hazard problem and push borrowers to excessive risk-taking. As a result, demand for assets grows excessively, leading to an asset price bubble (Collins, Senhadji, 2002). The influx of large amounts of foreign capital can also cause asset price bubbles (Reinhart, Rogoff, 2009), which in turn, can be a consequence of a, „*global wave of savings that notably appeared*

in developing countries during the 1980s, and most forcefully in the U.S., inducing substantial changes in credit markets” (Bernanke, 2009). Monetarists argue that, in some cases, inconsistent monetary policy may contribute to the formation of asset price bubbles which can subsequently transform into a financial crisis. For example, one of the most influential economists of our time, Taylor, asserts that the recession and slow recovery of 2007-2009 were due to the fact that monetary, fiscal, and regulatory policies became more discretionary and interventionist and less predictable. In particular, the main focus is on the impact of low-interest rates (that deviated from the Taylor rule) on real estate prices (Taylor, 2014). Other monetarists share a similar opinion. For example, see (Schwartz, 2009) and (Meltzer, 2009). Perhaps, the most influential monetarist, Milton Friedman, believed that the great depression was a purely monetary phenomenon, in particular, the consequence of contractionary and inconsistent monetary policy (Friedman, M., Schwartz, 1963).

Recently, researchers from different economic schools agree that the formation of asset price bubbles is regularity, and this cannot be avoided. From this perspective, the rational theory of asset price bubbles with credit constraint gains greater popularity. According to this theory, the following dynamics are observed in the financial cycle: Optimistic beliefs over the value of firms contribute to reduction in the credit constraint (asset as collateral) which, in turn, increases the credit limit and attracts more investment, which further boosts optimistic beliefs over the value of the firm. As a result, asset price bubbles are formed, the burst of which brings the economy into recession (Miao, Wang, 2018). A regulatory Instability Hypothesis provides an interesting but “none economical” explanation of the dynamics of the financial cycles (Gerding, 2014).

Causes of Asset Price Bubbles

Bubbles arise due to excessive and false expectations of investors, which can be called irrational exuberance, leading to the ineffective allocation of investment resources in securities and real estate. Irrational exuberance may spike the following factors: Break-through innovations and positive supply shocks; Government interventions in specific industries; and Securitization or other types of complex actions, as a result of which investors lose the ability to measure risks properly. Asset bubbles are regularities.

The asset price bubble may be a consequence of innovations and/or technological progress in any sector of the real economy (eg. dotcom, the energy sector before the Great Depression, the railroad industry in the 19th century, etc.). Innovations

increase investors' appetite and willingness to take excessive risks. The large flows of investment are channeled into unpredictable sectors, which further boosts the demand for long-term debt instruments that attract investments. This explains the herd behavior, "noise", or trend in the unpredictable sector both from a rational and behavioral perspective. Investors receive updated economic indicators for industry performance later. If the forecasts regarding the sector performance are confirmed, then investors' reward rate will exceed the average growth of the economy. If investment expectations are not met, asset prices deviate from their fundamental value, which is a sign of a bubble. Investors start to sell their securities, and this "herd behavior" leads to a bubble breakdown. Could this bubble explosion cause an economic downturn? We assume that the real economy must not shrink because of the loss of some investments. Put differently, a failed attempt to increase wealth will dampen future economic growth but it should not affect the current economy. The intuition behind it is that liquidity must suffice to maintain real GDP. However, if the banking sector heavily invests in securities (or real estate), the bubble explosion can evaporate not only the savings but also the liquidity needed for daily transactions. The loans are transformed into toxic assets that banks must sell at a "fire price", leading to a credit crunch. The liquidity shortage will deepen the recession which may give rise to bank-runs and bring the economy to the financial crisis that would do incredible damage to the real economy. Why was the dotcom crisis so mild? The answer is simple. The banking sector rarely finances start-ups. That is probably why fewer bank loans have been channeled to a bubble (Goldfarb, 1996). However, when the bubble burst, many companies went bankrupt in 2001.

State incentives, investments, and guarantees may also trigger the asset price bubbles. State-sponsored companies, Freddie Mack and Fannie Mae played a key negative role in the 2007-2009 real estate crisis. In 2007, their total debt on MBSs exceeded \$5 trillion, more than half of the total market (Office of Federal House Enterprise Oversight. "Relative Size of Enterprise Obligations (March, 2007).

There is no tool that can detect an asset price bubble at a particular moment. Moreover, it is impossible to determine the size of the bubble or the impact of its explosion on the economy. Bubbles are detected after they burst, no matter what is the cause of the bubble. Uncertainty is a source of irrational exuberance. Investors obtain incomplete, inaccurate, or false information about the probabilities of future cash flows. Investors make decisions based on the information available to them. The information is constantly updated. Uncertainty gives birth to asymmetric information, which in turn creates a moral hazard and adverse selection problems, whereby the financial system fails (Mishkin, Eakins S. G., 2012). In essence, there

is nothing negative when the bubbles burst. It reveals the fact of inefficient allocation of investments and resources. This information is vital to bringing the economy back on track. However, the bubbles inflated by banking loans are not so harmless. The higher a banks' the participation ratio, the more severe is the liquidity shortages when the bubble collapses, leading to a wider recession or financial crisis. Macroeconomic studies point to the pro-cyclical nature of a credit. Credit growth in booms and credit crunch in downward periods amplify the fluctuations in the business cycle (Kiyotaki, Moore, 1997). Other empirical studies also confirm the cyclical nature of leverage of households, financial institutions, and the state (Adrian, Shin, 2009).

Current Challenges to Regulatory Framework of the Financial System

There are two regulatory policy instruments: “Lean against the wind strategy” through monetary policy or macroprudential regulations. Assuming asset bubbles are a monetary phenomenon (as monetarists claim), an inconsistent monetary policy can trigger financial crises. The monetarists have made an invaluable contribution to the development of macroeconomic theory; however, we believe that neither the Great Depression nor the 2007-2009 recession were a monetary phenomenon. Convincing counterarguments of other influential scholars strengthens this opinion.)see Mishkin, 2010 ; Bernanke, B, 2009b; Stiglitz, J., 2010; Romer, C. D., Romer, D. H., 2012. For example, Taylor argues that the “great deviation from the Taylor’s rule” (Fed’s interest rate cuts) have boosted demand for mortgage loans. In turn, the rest of the world responded by cutting taxes. As a result of global interaction among central banks of many countries, the world’s interest rates have decreased. This factor triggered the housing frenzy in all of these countries (Taylor, 2009). Let’s assume that the interest rate indeed has deviated from the Taylor rule which means expansionary monetary policy. Then it is obvious that the low-interest rate would trigger the increase in loans for all industries and the housing market is among them. Therefore, it is not entirely clear, why housing prices skyrocketed relative to other commodities. As Taylor points out, rising housing prices have attracted a larger number of investors. Furthermore, state-owned companies, such as Freddie Mack and Fannie Mae, pursued reckless policies. It turns out, that the bubble was formed due to the concentration of investment in one sector and state intervention which was provoked by expansionary monetary policy. Now it is quite obvious why it happened. However, economic agents were buying property basically through mortgage loans and depository institutions together with the shadow banking sector was attracting money from real “savers” in exchange

for asset-backed securities (and securities backed on these securities), which was perceived to be a safe investment. It turns out that without securitization and with reckless performance of the state-owned companies, expansionary monetary policy was unable to drag so much investment into one sector, which means that if in 2002-2004 the interest rate indeed deviated from the Taylor rule, expansionary monetary policy could not stir up the bubble which turned into the financial crisis. Conclusion is simple. During expansionary monetary policy, prices rise on securities, but, as interest rates fall, demand for securities should also decrease (as prices go up), which may have a negative impact on savings, leading to reduced investments in securities. Some empirical studies show that, „*expansionary balance-sheet measures tend to lessen the bubble component of stock prices*“ (Blot, Hubert, Labondance, 2017), and, „*evidence points to protracted episodes in which stock prices end up increasing persistently in response to an exogenous tightening of monetary policy*“ (Jordi, Gambetti, 2015). In the real sector, on the other hand, cheap credit boosts investments. Aggregate demand moves right, which pushes prices upward. However, it is not clear why prices should skyrocket for just one asset, such as real estate? Inflation is a result of expansionary monetary policy, which means a relatively proportional increase in CPI components.

Even if it is believed that asset bubbles are a monetary phenomenon, the “Lean against the wind strategy” is an inflexible and blunt tool. On the one hand, the so-called financial-cycle output-gap model (FCMOD) is used to fill the gap between actual and potential GDP through correct interest rate, but on the other hand, a different approach is needed to measure bubbles. These are two different concepts that significantly increase the risks of conducting inconsistent monetary policy, paying no heed to failed attempts of economists to reach consensus over methodology on how to investigate bubbles. For example, how to represent the formation and dynamics of the bubble in a model? Here are the following options: first, in a rational bubble model the asset price consists of a fundamental value, equal to the sum of expected cash-flows, and a bubble component, which is a rational stochastic deviation from the fundamental value which grows with the discount factor (Blanchard, Watson, 1982). In this context, bubbles are linked to monetary policy, because the discount factor is related to the real interest rate. Given the nominal rigidity, the central bank affects the real interest rate. Consequently, tightened monetary policy will adversely affect the fundamental value of the asset (Gali, 2014). Second, in imperfect financial market models, expansionary monetary policy would feed the bubbles through the credit dynamics (Allen, Gale, 2000). Accordingly, real credit growth should be linked to real estate prices. Third, the behavior

of private agents is a key factor for bubbles with a focus on information frictions or heterogeneous beliefs (Abreu, Brunnermeier, 2003). Taking into consideration the models discussed above, the role of the monetary policy is not clearly defined. The purpose of the monetary policy should be inflation targeting. Extending the policy mandate will increase the risks of false calculations and inappropriate decisions. *“The benefits of a leaning against the wind” strategy are negative, as it creates high unemployment risks in both crisis and non-crisis periods*” (Svensson, 2016).

According to Jackson Hole consensus, macroprudential tools are suggested as an alternative instrument for “hunting the bubbles”. Perhaps it may conduct through the independent macroprudential authority that will take responsibility for implications of the policy, which means that this special agency will identify and measure bubbles, as well as define excessive risk-taking by banks or excessive debt-taking by households and corporations, etc. To avoid possible risks, the agency is authorized to increase capital requirements for banks, impose limits on the number of mortgage loans, determine debt-to-income (DTI) or value-to-loan (VTL) ratio, change standards of leverage margin, require banks to increase capital buffers in the boom times, etc. In spite of the fact that financial institutions may meet with microprudential requirements separately, negative externalities may create systemic risks that must be taken into account. Macro-prudential regulation sounds better than “lean against the wind strategy”. Perhaps it uses a powerful counter-cyclical engine to smooth the financial volatilities. Nevertheless, our concern is that *(i)* this can’t prevent a financial crisis in the future and *(ii)* this will maintain unemployment risks during both crisis and non-crisis periods for the following reasons:

1. It cannot respond to Lucas’ critiques. Rational agents can predict the consequences of new policies and develop strategies that will influence policy outcomes. The new regulations derive from past experience and are therefore backward-looking. One may face unexpected consequences when financial intermediaries change their behavior in response to a modified financial system. It is evident from history that in all crises, financial institutions outperformed regulators because they were able to evade regulations through various methods, including regulatory arbitrage..

2. Always, but especially in the midst of breakthrough innovation, when there is a positive supply shock rational agents lobby for deregulations. It is conventional wisdom that regulations hinder economic growth. Imagine, the counter-cyclical device of macro-prudential regulation is being turned on in anticipation of an economic boom (For example, stricter requirements on capital buffers or LTV and DTI ratio, etc.). It is unlikely for politicians to maintain the coun-

tercyclical regulations for the following reasons: (a) Expecting higher profits, it would not be difficult for rational agents to bribe influential decision-makers and politicians. b) Political parties are rational agents as well. They strive to maximize their benefits. This happens through winning an election and gaining public trust. They know that in boom times, the deregulation of the financial system will have the “turning on an extra engine” effect. The boom may last longer than the political cycle. Consequently, one can predict that the ruling party would not be in power when the downturn cycle starts. The rational political party will use this opportunity regardless of its ideological beliefs. From the history reviewed one may judge that all financial crises were preceded by the deregulation of the financial system in booming times, which was followed by a tightening of regulations in the post-crisis period. A regulatory Instability Hypothesis proves the same.

3. The purpose of macroprudential regulation is to identify and manage systemic or structural risks to prevent financial crises. However, it can not be achieved without costs. Excessive regulations such as tightening capital requirements, DTIs and other ratios reduce the availability to liquidity, which is a burden for individual economic agents and adversely impacts the economy.

4. The first three opinions are based on the assumption that the macroprudential agency correctly identifies risks based on information available at the moment. However, the data provides information about past activities. Is it even possible to predict the future? The sudden increase in economic activity are not necessarily translated into an economic boom. It is conditioned by many factors. How much should capital requirements increase? How much credit should be allowed? Will LTV or DTI ratios have an effect on loans? Would be it possible to look at the big picture and figure out short, medium, and long-term consequences based on the calibration results? At what stage of price increase will the agency reveal a bubble? Would financial organizations have enough saved liquidity when the bubble bursts? These are questions challenging the macroprudential regulations.

Conclusions

Despite contrast arguments, researchers agree that (i) boom phases create favorable grounds for creating a bubble while the downturn phase contributes to its destruction, and (ii) during the boom, there has been excessive credit growth, leading to a credit crunch in downturn periods. Bubbles arise due to excessive and false

expectations of investors, which can be called irrational exuberance, leading to the ineffective allocation of investment resources in securities and real estate.

- The capital market is well regulated today and no major changes are needed. These are depository institutions along with the shadow banking sector, which plays a key role in triggering financial crises. These are financial intermediaries in the money market, providing the real economy with liquidity. However, at the same time, they can buy corporate securities, issue long-term loans, finance start-ups, etc. Although banks are tightly regulated, neither bubbles nor financial crises prevent the occurrence.

- Today, researchers propose two instruments for dealing with bubbles: this is countercyclical monetary policy and macroprudential regulation. According to consensus, Jackson Hole, researchers agree that the “lean against the wind” strategy is quite ineffective and blunt tool.

Besides the judgments based on research and history, we seek to add some value to the problem. In particular,

- We assume that asset bubbles are not a monetary phenomenon. Moreover, bubbles are regularities. Consequently, monetary policy is an indirect and inflexible tool to deal with bubbles. We consider that macroprudential regulation may be a more effective instrument;

- Nevertheless, we argue that even with macroprudential regulation there is no guarantee that financial crises will not occur in the future, and that the countercyclical nature of macroprudential regulation creates the same favorable basis for recessions as the “lean against the wind” strategy does.

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CAREER DEVELOPMENT AND LEADERSHIP OPPORTUNITIES IN PUBLIC RELATIONS FROM GEORGIAN PERSPECTIVE

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ABSTRACT

The purpose of the research was to determine the attitudes of women employed in the field of public relations (PR) toward career development and success opportunities in regard to their gender. The study explores views on the career advancement opportunities of women in the PR industry compared to men. Do women consider a balance between professional success and family life, and do gender or stereotypes about women's abilities hinder success? The research discusses what women employed in the PR field consider essential skills for a manager and whether they perceive themselves to have such skills. The research data revealed that the process of socialization stigmatizes gender differences and determines the attitude of each gender towards the stereotype; the figuration of men among the agents of primary socialization, already in adulthood, uniquely changes the degree of communication of PR leaders and subordinates with the masculine environment.

While none of the interviewees mentioned an advantage of working with male employees, based on the conversation with several, there is still a hidden/subconscious desire to work with the opposite gender. This, naturally, is influenced by gender stereotypes; however, ultimately, this still determines their attitude toward the opposite gender. The data also revealed that there is a striking trend where all of our interviewees believe that career advancement and prosperous family life are possible at the same time, although they do not acknowledge the real difficulties that come with building a career in parallel with effective family

management. Obstacles to career advancement are not related to their gender; however, we can't fail to mention here the opinion of some of them, according to whom, with family cohabitation, career advancement is possible, but, unlike men, it is considered very difficult. This attitude is similar to the position of women in employee positions and is characteristic of the patriarchal society, where it is still believed that the main burden of family caregivers falls on women.

Despite the stereotypical views observed during the research process - regarding the factors hindering the success of women and the role of the female and male professions, etc., which still exist in the consciousness of the public (including women employed in the PR sector) and naturally consciously or unconsciously influences their views - the positive findings of the research are the tendency according to which, in the first place, women do not see PR as a male profession and don't feel uncompetitive when competing with men, especially for gender reasons.

Under the influence of stereotypes, it is believed that career advancement is easier for a man, but they believe that career advancement, in general, is associated with many difficulties. Based on these positive findings, we can assume that women in the PR sector are more likely to develop and achieve career success, although, for the next phase of the study, it would be interesting to see the dynamics of changing gender stereotypes and areas of influence. This will allow us to talk about the problems caused by gender stereotyping in the PR sector, as well as in Georgian society in general, and possible ways to eliminate these problems.

Keywords: PR industry, Georgia, gender equality, discrimination, stereotypes, bloke-ification

The Rationale for the Study and Methodology

This research aims to identify gender issues in the career development (opportunities/challenges) of women employed in the PR industry, and the research objectives are to address the following: a balance between professional success and family life, the influence of gender stereotypes on woman's success, and the managerial skills needed in the PR industry.

A qualitative research method, with in-depth interviews, was conducted, and the target group was women employed in the PR industry in managerial and staff positions. A total of 19 in-depth interviews were conducted, including ten women in leadership positions and nine women in staff positions. The interviews lasted 30-40 minutes and, due to pandemic restrictions, were conducted in online chat mode. Transcripts of recorded files were prepared.

Interviewees in managerial positions (Table 1) have worked in the industry for 3 to 24 years and those in staff positions (Table 2) for 3 to 11 years.

Table 1. Interviewee demographic (Leaders)

#	Pseudonym	Type of work	Position	Years of experience
1	Anna	Agency	Head of Marketing/PR	7
2	Gvantsa	Agency	Head of Marketing/PR	5
3	Tamta	NGO	Head of PR	3
4	Magda	Agency	Head of Marketing/PR	24
5	Nia	Agency	Head of International Marketing/PR	8
6	Nina	Agency	Co-Founder	23
7	Niniko	Agency	Head of Marketing/PR	24
8	Salome	Agency	Head of Marketing	5
9	Salome	Agency	Head of Marketing	5
10	Tata	Agency	Head of Marketing	6

Table 2. Interviewee demographic (employees)

#	Pseudonym	Type of work	Position	Years of experience
1	Helen	NGO	CSR expert in NGO	3
2	Gvantsa	Freelancer	Communication Specialist	9
3	Kate	Agency	Communication Specialist	3
4	Nana	Freelancer	PR and Social media	7
5	Sofia	Agency	PR Specialist	7
6	Nino	Agency	PR Manager	11
7	Nonika	Agency	PR Manager	8
8	Qeta	Agency	PR Manager	2
9	Tamara	Agency	PR Officer	4

Note: Informed consent was obtained from all to participate in the study.

The data were assessed using thematic analysis, a sense-making approach that helps in reducing large data sets to identifiable themes (Lapadat, 2010; Rohwer & Topić, 2018). We used the approach of Braun and Clarke (2006) in presenting the data, where we created graphs to visualize main themes and then analyzed data and illustrated it with direct quotes from interviewees. The thematic analysis is a particularly useful method for conducting new research, such as this one, where trends in the data need to be identified to inform conclusions and identify the need for further research.

It's significant to mention that the findings in EUPRERA Report Vol.1, No. 1, with an extensive literature review (Topić et al., 2019), address key gender issues identified in the career development process between women and men. Particularly noteworthy is the fact that this report, similar to our research report, addresses stereotypical issues concerning women's career development regarding the fundamental role of a woman and the expected behaviors defined by that role rather than her career advancement, as seen in other European countries. The EUPRERA re-

port identified that women continually face discrimination and that in four decades of research, this discrimination has been continual. In other words, women started to face the same issues in the last decade (2010-2019) as they did during the 1980s when they faced stereotypes and bias within PR organizations (Topić et al., 2019; Topić et al., 2020). The report identified the need for future research, in particular, cultural masculinities and the so-called “bloke-ification,” or a situation where women who embrace masculine characteristics of communication and behavior succeed in organizations, whereas women who show the so-called feminine characteristics are pushed behind (Alvesson, 1998; 2013; North, 2016; 2016a; 2014; 2009; 2009b, Mills, 2014; 2017; Topić, 2018; Topić, 2020).

Despite Georgia’s Soviet past, gender equality, and women’s development, there has never been an inadmissibility of women’s career advancement. The idea of equality between women and men - gender equality - is not hindered by political will, which is evidenced by the process of emancipation of women in the country, which is deepening and developing in the right way. However, the legal framework necessary to promote women’s development is still being refined, which naturally hinders the systematization and perfection of this process.

Gender stereotypes, such as “feminine and masculine professions,” “politics is not a woman’s business,” “a woman’s brain doesn’t understand this,” and “a woman should be raised by a woman,” are among the factors hindering gender equality and women’s development. This naturally affects the definition of a woman’s role, as well as the ability to develop in society and combat gender stereotypes, and public relations has a role in the formation of public opinion as to the basis of stereotypes (Bibilashvili & Bandzeladze, 2017).

The persistence of these stereotypes is facilitated by the conscious and/or subconscious repetitive behaviors of society, including women, which are consistent with the echoes of established opinions in society and thus reinforce existing stereotypes and challenge the idea of equal opportunities for women and men. Among the reasons for stereotypical approaches is religion, Orthodox Christianity in this case, which plays an important role in the determination of a woman’s role in society.

These preconditions pose a problem for a woman on her career path and challenge the views of family and the community around gender opportunities on some occasions. However, the situation in Georgia is improving, and the line between female and male professions and positions has been almost eliminated as society’s approaches have been modernized. However, there is a research gap on masculinities in organizations in Georgia, and this study contributes to that gap. Studying mas-

culinities is relevant as women in Georgia are seeking progress; however, it doesn't mean that progress isn't hindered by social expectations that might be founded in cultural masculinities. Our findings address two fields: the socialization and the career experiences of women and leadership in PR.

Female Staff Members

The socialization process and career experiences in the Georgian PR industry follow a different path than in other countries. For example, in England (Topić, 2020) and Croatia (Polić & Holy, 2020), women who, in their childhood, socialized with boys reported more masculine characteristics in their adulthood as opposed to women who, in their youth, were socialized with girls. In Georgia, in contrast, socialization is mostly mixed, and girls play with both boys and girls during their childhood (Figure 1). However, a difference arises in adulthood where gendered communication occurs, and women avoid embarrassment when communicating with men, thus meeting social expectations of appropriate behavior. The influence, therefore, seems to be in the role of upbringing, which in the Georgian case is with mothers who have the most control over the upbringing process (Figure 1).

In the comparison between male and female managers, interviewed women expressed opinions more favorable to women as opposed to men (Figure 2). While the women reported that male managers are receptive, loyal, and willing to listen to an opinion and are thus comfortable to work with, it was also thought that some male managers look down on women. Women managers, on the other hand, are seen as empathetic, easy to communicate with, focused on details, and attentive (Figure 2).

It should be noted that most interviewees, who work as staff in the PR industry, say that they have a female manager. The tendency showed that the PR field is more dominated by female managers and specialists than men.

Male managers are described as more loyal and receptive to female employees' opinions. However, concerning male managers, they mentioned that men often "look down" on a female employee and very rarely, if ever, assess females as "smart." Regarding *female managers*, the interviewees believe that women are more focused on details, empathetic, attentive, and focused on the overall work. For example, Tamar reported, "*Men and women managers, of course, are different. However, due to my profession, I would give preference to women managers, because they are detail-oriented, interested in each activity and the quality of performance.*"

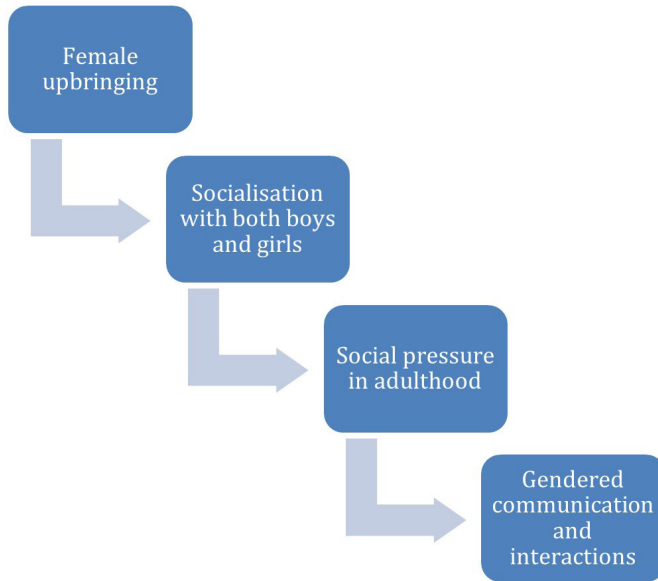


Figure 1. Thematic Graph

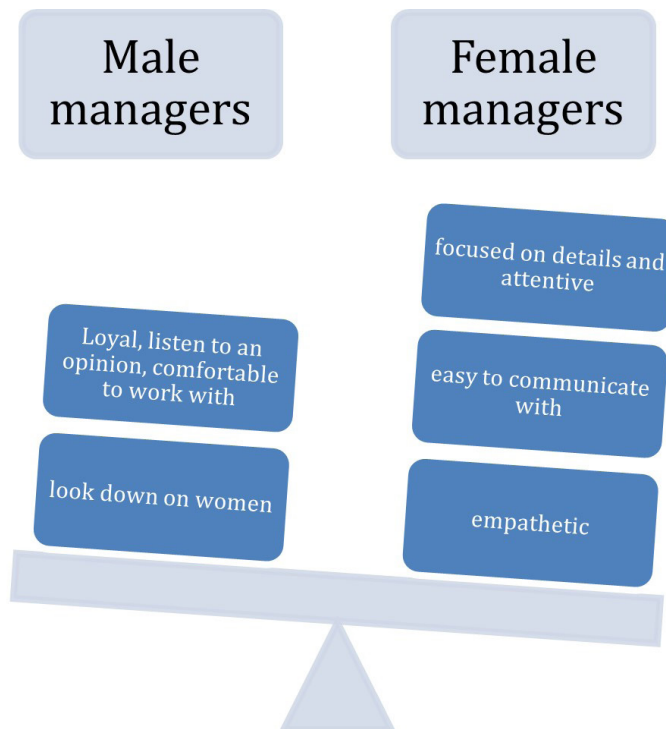


Figure 2. Male vs. Female Managers

However, on the question of which of them you would like to work with the most, answers were mostly not oriented towards the gender of the manager but were determined by personal and professional skills.

When the interviewees compared supervisors with themselves, they described their management style as non-desirable, and they would use different managerial approaches being in a leadership position. But, overall, they didn't describe their managers negatively. For example, Nino stated, *“My manager and I are equal and have a lot in common. I know my plans, but it has nothing to do with my current manager.”*

The majority of interviewees described their managers as self-confident, self-expressed, emotional, and sensitive toward employees. But as negative factors, they mentioned deficiencies in managerial and analytical skills, motivation, and management of business operations. Added to the above-mentioned traits are aggression and politically motivated decisions among managers. When in the interviewee descriptions of managers to themselves, the following trends were identified (Table, p. 49):

The staff members have the right view of managerial skills, which is a positive trend in terms of field and self-development.

<i>Traits</i>	<i>Described Manager</i>	<i>Interviewee as Manager</i>
Self-Confident	x	x
Managerially Motivated		x
Analytical Skills		x
Business Operation Management		x
Self-Promotion	x	x
Emotional	x	
Sensitivity	x	
Aggressive and Politically Motivated	x	

This assumption is based on analysis according to which the interviewees attribute better managerial skills to themselves, thus subconsciously emphasizing their superiority as potential supervisors. The interviewees are openly naming the skills that they think they have as potential managers. For example, Elene describes her managerial skills as *“Demanding, but understanding and helping with path for-*

warding,” while Sophie states that “[She] would be a democratic, open-minded, avoiding controversy, accepting criticism and sharing tasks and responsibilities.”

There is no link between gender and the qualities of an effective manager. Moreover, an effective manager is one who embodies the best characteristics of a good manager. This indicates that women in subordinate positions think about career advancement and see themselves in a managerial position, but they don’t equate a good manager with a man and so-called “masculine” qualities. The tendency in the PR industry of Georgia is to get rid of gender stereotypes, allowing a woman to be as successful a manager/leader as a man.

Our next finding identifies the difficulties female staff members face in the PR industry, including gender stereotypes.

A positive trend is that although the interviewees are well aware of the difficulties of career advancement and successful family life, they still considered it as achievable, that it is well within their abilities to find a balance between a managerial career and life goals and values. It might be concluded that their plans, in parallel with family life, are related to success in the PR industry.

For example, Tamar writes, *“I think you can develop in the profession and have a successful family at the same time, and profession matters. I know a lot of married people who are successful in their careers because they devote time to self-development.”*

To the question, “Do you think a woman can develop in her profession” the response was largely positive, although it was recognized because juggling family and professional life that it is more difficult than it is for men. This attitude is common in a patriarchal society like Georgia, where the main burden of family caregiving still falls on women, and more effort is needed to balance career and family effectively.

Some women spoke of the lack of balance between career and family life and of the criticism they receive from their families: *“I do not have a balance, my family often criticizes me, but I try very hard. Still, there is more career growth at the expense of a family”* - Nonika; *“It is difficult, but still possible”* - Gvantsa.

These responses indicate the existence of mental challenges in society, according to which it is still believed that in the distribution of roles between women and men in the process of family cohabitation, the woman has the role of “housewife,” and the man as the “breadwinner.” Thus, in the socialization process, the new generation

of women should be more involved. It “must” be the subconscious obligation that prevents a woman/mother from devoting time to work with a *clear conscience*. If the husband participates equally in the household and the upbringing of the children, it is seen as “assistance” and not as a necessary obligation.

The interviewees didn’t confirm gender discrimination facts in the working process caused by gender stereotypes and attitudes from the managers and society. However, what is positive about this fact is that their ignorance and controversy aren’t related to gender.

Most employed women in Georgia did not identify gender issues as an obstacle. It might have two reasons: they don’t need to act differently regarding gender behavior patterns to be taken seriously, and/or they latently and unconsciously act by different gender behavior. The interviewees indicated several gender-related behaviors, such as being deferential to others, but that these behaviors are considered to be respectful.

One of the interviewees expressed a stereotypical approach: “You are a girl, and you can’t understand it,” - which shows that despite the aspirations of civil society to break down gender stereotypes, there is still a grip of heavy, Entrenched, and chaotic ideas, derived subconsciously from the actions and language of ourselves and those around us. This is confirmed by the continuance of sexist comments experienced by almost all interviewees. And although these comments are mostly humorous, they still come from the collective subconscious, shaping the future behavior and attitude of society.

Finally, we asked the interviewees to evaluate themselves as either a standard, stereotypical woman or a non-standard, i.e., masculine, woman different from the stereotype, and the following comments represent their views: *“I am not a radical feminist in this sense, but I am more there. I’m a masculine woman, I think more - I’m in favor of equality”*- Gvantsa

“Men perceive me as a “Blokish” woman. I do not know why - I think stereotypes aggravate me and because I am too smart - this is how men perceive me”-- Nana

“I am not a stereotypical woman; my goal is not to reinforce stereotypes about women. On the contrary - I wrestle with projects and ideas that are not expected from a woman “- Sophie

As we can see, none of the interviewees consider themselves standard, feminine women, and they perceive themselves to be on the masculine side and less as might be expected of her as a woman.

These statements indicate that consciously or subconsciously, the interviewees

recognize different expectations toward “feminine” and “masculine” roles, Most important is the trend that these women are proud of their “masculine” traits and behaviors, concluding that employed women see their career success in their masculinity.

Key Findings

Highlighted below are important findings from our analysis:

- The key role and burden in the family falls on women. This tendency might be because the interviewees belong to a transitional generation moving away from traditional, stereotypical gender roles of women only as caregivers and men only as breadwinners.
- The PR industry is dominated by women, which answers one of the main objectives of research - whether women find it difficult to find a place in the PR industry.
- The interviewees described male managers as loyal, receptive, and considerate of the opinion of female employees. However, they also emphasize that men often “look down” on female employees.
- The interviewees described female managers as detail-oriented, attentive, and easy to communicate with but lacking managerial and analytical skills.
- Gender isn’t crucial for the working environment but is determined by personal and professional skills.
- The interviewees don’t equate themselves with their manager’s management style, rather emphasizing the need for good managerial skills for effective business operations, indicating that they have the health of effective leadership and think about their managerial abilities.
- There is no evident connection between gender and the qualities of an effective manager. They don’t equate an effective manager with a man and don’t consider that an effective leader should be characterized by the so-called “masculine” qualities. This trend indicates the desire in the PR industry in Georgia to eliminate gender stereotypes, allowing a woman to be as successful a manager/leader as a man.
- The majority of interviewees believe that career advancement and successful family life are possible simultaneously if capabilities, goals, life values, and, most importantly, time are properly managed.
- Career advancement and/or success aren’t related to gender, but issues are still intertwined with the gender stereotypes that pose a problem for career advancement in a woman’s consciousness, real life, and behavior. The be-

lief that women have the role of housewife and men as breadwinners is becoming antiquated, and, in the process of socialization of the new generation, women “should” unshackle themselves from the subconscious obligation that doesn’t allow a woman to devote time to work with a “clean conscience” and the outdated notion that a man’s equal participation in household tasks “assistance” rather than obligatory.

- The interviewees don’t relate cases of ignorance and job conflicts with gender aspects, so it isn’t an obstacle to career development and self-expression.
- The interviewees evaluated themselves as so-called “masculine” women, which brings to the conclusion that employed women see their career success in their masculinity.

Female Managers

This section discusses the attitudes of women leaders in the PR industry towards gender differences and difficulties in their career advancement process. The similarities and differences were observed when comparing challenges and opportunities from various managerial positions.

There is a correlation between style of upbringing, gender environment in childhood, and current views on career development and leadership style for women and men. Based on the data, the dominant role of female family members and the existence of equally balanced relationships with mother and father stimulated and fostered career achievements and managerial positions.

The style of rearing of the interviewees unequivocally was described as fair, moderate and strict, and democratic on the part of the parents. The majority evaluated themselves as attentive, understanding, democratic, and fair leaders. However, if necessary, they could be direct and rigid and not shy away from showing rigor to achieve a common goal, which is explained by the fact that when managing a work team it is necessary to harmoniously combine interpersonal and bureaucratic governance styles.

For example, as Tanta states, *“I am both direct, rigid, and attentive and you can’t do your job without that. For example, there might be employees who are not performing their duties effectively or need a reminder only with a friendly attitude, things are not done effectively. If we want to benefit from the work, then sometimes we need toughness.”*

The style of rearing they experienced had an indirect influence on the leadership style of managers, which is democratic but fairly rigorous.

An interesting finding was observed regarding differences experienced in the interpersonal and informal relationship between women and men. Namely, the conversations between women are more diverse and unrestricted in terms of topics compared to the conversations with a male. Even when working in a team, conversations between only women are more topically diverse and unrestricted than they are when between the sexes. Consequently, when only women are participants in informal conversation, both the content and the topic of the conversations are unhindered and indefinite. But when men are also involved in this communication, each party tries to avoid embarrassment in front of the other either party. The same position is true with humor. However, for the sake of fairness, it should be noted that there is little difference between women and men in terms of the content of the topics of conversation.

For example, as stated by Salome, *“Personal topics, family topics- everything, we are close to each other. During working hours, I try not to talk about other topics. However, we often take breaks, and then we talk very freely. We do not have sexism at that time.”*

There are fewer gender barriers for women in managerial positions than in the case of female staff members in PR. A possible reason for the difference could be the childhood environment of women managers, in which men have been more prominent. Consequently, it might be assumed that in the case of greater involvement of men among the agents of primary socialization, already in adulthood - there is less difference between the secondary agents of socialization in the communication between men and women. The reason might be the self-confidence formed in the leadership process, which also manifests itself in communication with the opposite gender and creates fewer barriers in terms of separating gender-different conversational topics. This assumption doesn't apply to the discussion of intimate topics, which of course, are different in feminine and masculine conversations. Restraint in discussing such topics in mixed collectives is, of course, a completely natural process and shouldn't be considered as an artificial gender barrier.

Another objective was to assess how PR leaders' managerial skills and management style are related to their personal and general characteristics and how much they think their management style is exemplary for their subordinate women.

It should be noted that all of the female leader interviewees described themselves as attentive, team-oriented, employee-oriented leader who is tough when necessary

but fair. Such leadership styles are directly related to their general communication style, and they find it easier to lead if the qualities of a leader are organic and they don't have to assimilate artificial behaviors into the management process. In particular, all of the interviewees stated that they are self-confident; are managerially motivated; have analytical, managerial, and operational skills; and can positively promote themselves. Few of them thought of themselves as emotional and sensitive towards people, presumably because these two qualities are considered not-so-favorable characteristics for a manager, and they emphasized that they try to manage emotions in professional activities. There is a different perception between PR managers and female staff members regarding managerial skills. The last consider their managers less skillful but themselves as potentially better leaders. However, it is positive that neither of the segments attributes to the gender factor.

According to the interviewees, the characteristics of an effective PR manager include having managerial experience, being able to motivate and manage employees, being an effective personal communicator, being willing to listen and, if necessary, accept others' opinions, being a broad thinker, being fair and democratic, able to communicate expectations, being purposeful and organized, and being able to remain calm during stressful situations. Additionally, a manager should be self-confident, result-oriented, adequately ambitious, energetic, and able to properly distribute/delegate responsibilities. For example, as Salome states, *"Must be able to present herself in the employee's place, must be direct and not make you feel that she has more influence over you and stands above."*

There is no connection between gender and the qualities of an effective manager. As was described above, an effective manager has the same qualities that the interviewees see themselves as possessing. This indicates that they don't equate an effective manager as having to be a man or that an effective manager must possess so-called "masculine" qualities. There is no evidence of gender stereotypes, and a woman may be as successful of a manager as any man. This is confirmed by the fact that a PR manager has no gender preferences or requirements in regard to being an effective leader.

Similar to female staff members, female PR managers believe that career advancement and successful family life is possible at the same time. This assertion comes from life experience and cognizance of the real difficulties of caring for a career in parallel with effective family management. Obstacles to career advancement are not related to their gender; however, unlike for men, it is considered more difficult. This attitude is similar to those of women in subordinate positions and is character-

istic of a patriarchal society where it is still believed that the main burden of family caregivers falls on women and is a prerequisite for success.

Such a conclusion is evidenced by the belief that success usually requires sacrifice and always comes at the expense of giving up something, including free time and family, and requires prioritizing and good time management.

For example, as Nia writes, *“I think all success requires sacrifice. I should develop my career in the first place. I have been imagining starting a family since I was 35 and I think that I am not ready yet, I want to achieve more success”*.

The fact that at least some of the interviewees assume that career development opportunities might be more difficult than that of men already indicates the existence of gender-determined problems for career advancement in a woman’s consciousness. The interviewees describing their career advancement challenges didn’t mention any gender or time management-related problems on the way to their career development.

Evaluating hidden or overt gender discrimination in the organization, PR leaders answered that there was no link between ignorance of the important issues at work and gender differences. However, job confrontations over differences and incompatibility of opinions are a completely natural phenomenon, and it doesn’t imply the existence of gender controversies.

Gender behavioral patterns, and positive discrimination, like – giving up space, moving forward, and doing hard work -are perceived as respectful.

In addition to the cases of positive discrimination, which this segment of the interviewees also assesses as neutral/positive, some observed different attitudes towards them to the performance of the case.

For example,

“Yes, there was - for example, because I am a woman, I could not solve some problems and could not solve them, etc. “-Niniko

The reason for the differences between female staff members and female managers might be because there is generally more criticism directed toward the person in the leadership position, which may be more compounded for women in a leadership role than for women in a subordinate role.

As for behavioral patterns, the interviewees acted differently in a work setting than they would in an informal one. For example, Magda reported, “*I think everyone behaves like that, we are leaving our “casual” role and are official. You can’t be natural at work.*”.

Most employed and successful Georgian women don’t single out the gender factor in behavioral change. The reason might be that a successful and employed woman (such as the interviewees) doesn’t need gender-different behaviors to be taken seriously.

The results show that modern reality gives women and men equal opportunities for development and success. Regardless of sex, anyone willing to work hard may achieve success in their career. This perspective differs slightly for women in more work-subordinate positions where it is considered gender matters more and that they must work harder to succeed. However, the overall picture there is also positive and mostly focused on their capabilities.

Finally, on the research question of whether they are a role model for their female employees, the answer was that they would not be the managers they have. But in response to the same question asked to the managers – they stated that they have precedents - of dressing like them, imitating their writing style, project management, relationship, etc. The differences in responses might be caused by misperception, misunderstanding, and misinterpretation of one another motives. Thus, it might mean that subordinates don’t realize they are imitating managers to some extent, and superiors misinterpret the motive of subordinates’ behavior.

Therefore, both women managers and employees don’t see male or female managers as role models and don’t equate good managerial skills with masculinity. They tend to see themselves as better skilled in leadership.

The female managers stated that they are open in their communication with women and described their managerial style as feminine, meaning attentive and team-oriented, while also at the same time showing some masculine traits, such as being tough but fair.

Findings and Conclusion

Highlighted below are essential findings for women working in the PR industry in managerial positions.

- The dominant role of female family members and an equal, balanced relationship with parents among primary socialization agents is evident and stimulates career achievements in terms of managerial positions.
- Democratic upbringing style approach influences PR leaders' managerial style.
- Communication styles between females and males are diverse and unrestricted when working as a team.
- Female PR leaders describe themselves as attentive and team-oriented while being tough if necessary. There is a different perception between PR women managers and female staff members, but neither group hold that good managerial skills are based on gender.
- Effective manager isn't equated with masculine qualities, indicating the trend of the Georgian community to eliminate gender stereotypes and provide equal opportunities in leadership regardless of sex.
- PR managers, based on their life experiences, believe that career advancement and successful family life are possible simultaneously. No challenges or difficulties were present regarding gender on the path of career advancement.
- So-called positive discrimination is perceived as respectful and neutral.
- Women in leadership positions don't need to practice different gender behaviors to be taken seriously. A successful career is dependent on hard work and not on gender.
- Women managers perceive themselves as feminine, but they may also show some masculine traits, such as being strict or demanding.

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PERCEPTIONS OF DEATH

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ABSTRACT

Death has been perceived differently in different eras. Philosophers who have studied this subject point out that the origins of different cultures were greatly shaped by their different approaches to the problem of death. Cultures and eras differed in how people perceived death, and whether they found the strength to oppose physical destruction. In some eras and cultures, the fear of death did not dominate as it did in ancient cultures.

Keywords: death, philosophy, culture, life

Introduction

Human mortality plays a major role in raising the problem of the meaning of life. The finiteness of life is a stimulus that compels a person to observe life, to analyze it, and to seek arguments for its justification. Unlike every living thing, only man realizes his mortality. Death, to some extent, appears as a constructive moment in the human worldview because it is through it that man thinks of life as its opposite and tries to determine its meaning.

Death, at first glance, seems to be a straightforward, obvious phenomenon from the very beginning. It does not seem to need complicated analysis, deep reflection. Indeed, what else is death but the natural end of all life, including man? The perception of death as the end of life, the reasoning and thinking on this topic, can mean only a being who has consciousness and judgment, that is, man. Death can be viewed in two ways: on the one hand, as the natural end of every living being, as one of the facts of the natural events, and, on the other hand, as a phenomenon having some relation to a specific rule of human existence as an essential component of his life.

Understanding the problem of death has a centuries-old philosophical and religious tradition. The attitude towards death had the most significant influence and conditioned the forms of various religious cults.

Philosophers who have studied this subject point out that the origins of different cultures were shaped by their different approaches to the problem of death. Cultures and eras differed in how people perceived death, whether they found the strength to oppose physical destruction. In some eras and cultures, the fear of death did not dominate at all, as it did in ancient culture, where they tried to overcome the horrors of absence by concentrating on the soul, stirring up hatred for death. On the contrary, in the Middle Ages, the thought of imminent death drove people mad. In the words of Johan Huizinga, "No other epoch has laid so much stress as the expiring Middle Ages on the thought of death" (Huizinga, 1924, p. 124).

It turns out that there was not the same approach to death in every era. Death was perceived differently in different eras. Man has not always been equally afraid of death. It is also possible that the hatred expressed towards death indicates the fear of him.

Many thinkers believe that man has an innate fear of death. This feeling is in the human essence, in the mystery of life. It is one of the initial feelings, and its roots are in the depths of the psyche. However, in different eras, in the prism of values with different minds, this fear takes different forms. This is reflected in various religious-philosophical provisions and concepts.

This feeling turns into a discussion of such critical philosophical problems as the meaning of life, duty, purpose, love, tragedy, heroism, etc.

In each era, different content filled these values. Each culture, therefore, develops a particular system of values by which the problem of death is understood.

People, of course, knew of the inevitability of death in every age and every culture. However, they tried to formulate views on the meaning of life as a means of refuting death based on symbols appropriate to their own cultures. One way to insuring oneself against death is to justify one's life. Filling a human life with meaning has become a means of his survival, of communion with eternity.

In most ancient cultures, the attitude towards death is epic, i.e., it is not perceived as a personal tragedy. Death is believed to be only the end of the life cycle.

The diverse and numerous notions of death formed in world cultures can be classified according to particular signs. Among them, first of all, are pre-Christian and Christian views. Eastern cultures, unlike Western ones, retained a belief in the power of cosmological, religious, and philosophical systems. Here death is not seen as the complete end of physical existence. Significant to them are conceptions of worldly existence in which death is not equated with the complete disappearance of the individual. As for Western thinking, such notions were not universal here. Christianity recognized the finiteness of individual existence. The massive resurrection from the dead was seen as an end to earthly history.

The feeling of death in cultures where the individual was not yet isolated from the community is different from the perception of this phenomenon where the personal idea (the idea of personality) prevailed. In societies in which the process of individualization was not brought to the fore, the end of individual existence was not considered a problem because a sense of individual existence was still poorly developed here. Death had not yet been experienced as a phenomenon radically different from life.

Death was perceived completely differently in cultures where the value, sovereignty, and uniqueness of the individual were realized. The finality of earthly existence was tragically experienced here. It permeated the whole subjectivity of man, the world of feelings, the inner being.

In Eastern cultures, the person was not perceived as a certain generality, and the personalist idea was not yet matured. Nevertheless, deep meditation is observed here, with the maximum concentration of attention on the problems of death. Some Eastern religions did not draw the line between earthly and worldly existence. For example, in ancient Chinese consciousness, death was not given much importance

because it was believed that it is true that a person has died, but he still remains among the living, but in the form of the dead. The dead do not leave the living. They move to another form of existence only and do not go to another place. That is why in this culture, death was not experienced as a great tragedy. The dead join the people who have died before, but they go nowhere. From here arose the ancestral cult, which is characteristic not only of this but also of many other cultures of the world.

Thus, in some cultures, there was no division: life is good, death is evil. Both were perceived as equally valuable, although there was a difference between them.

Similar to the Chinese view, the Japanese also believed that after death a person continues to exist in his living offspring and only perishes when there are no more offspring. Gradually death is experienced not so much as the death of ancestors, but - already as one's own death. Ancestor cult is no longer based on a living feeling. It becomes a part of tradition.

One of the best attempts to explain the phenomenon of death and to overcome the fear of it was the teaching of Socrates and his personal example. According to Plato, Socrates believed that "the one aim of those who practice philosophy in the proper manner is to practice for dying and death" (Plato, 1997, 64a).

Plato developed Socrates' basic thesis that death is the separation of the soul from the body, the liberation of the soul from the "dilemma" in which it lived. This doctrine reflects the notion of death as the liberation of the soul – which is very much like the divine, immortal, monotonous, miraculous in mind, unobstructed, eternally immutable, and self-existent – from the body, which is "human, mortal, multiform, unintelligible, soluble and never consistently the same" (Plato, 1997, p. 80b).

The soul and the body originally belonged to two different worlds. The soul originates from the world of eternal and unchanging ideas, to which it returns after death, and the body becomes ashes and remnants of what it was from the beginning. Therefore, the dialogue of Socrates in "Phaedo" formulates his opinion on the meaning and purpose of life. He argues that many are excellent, but few are chosen. In his opinion, only a group of true philosophers make up this small group of chosen ones. He says that he did his best not to lag behind them in anything. That was the purpose of his life:

"Those concerned with the mysteries say, many who carry the thyrsus but the Bacchantes are few. These latter are, in my opinion, no other than those who have practiced philosophy in the right way. I have in my life left nothing undone in order to be counted among these as far as possible,

as I have been eager to be in every way. Whether my eagerness was right and we accomplished anything we shall, I think, know for certain in a short time, god willing, on arriving yonder” (Plato, 1997, p. 69c).

The teachings of Aristotle, Plato, and Socrates on the immortality of the soul alleviate the tragedy of death. Later this doctrine, though transformed, was assimilated by Christianity and for a long time (to the present day) became the defining tradition of the European spiritual life.

A different understanding of death is formed with Epicurus. The subject of his discussion is the same as with Socrates: the liberation of people from the fear of death. In one of his letters, Epicurus writes:

“Become accustomed to the belief that death is nothing to us. For all, good and evil consists in sensation, but death is deprivation of sensation. And therefore, a right understanding that death is nothing to us makes the mortality of life enjoyable, not because it adds to it an infinite period, but because it takes away the craving for immortality. There is nothing terrible in life for the man who has truly comprehended that there is nothing terrible in not living. So that the man speaks but idly who says that he fears death not because it will be painful when it comes, but because it is painful in anticipation. That which gives no trouble when it comes is but an empty pain in anticipation. So death, the most terrifying of ills, is nothing to us since so long as we exist, death is not with us; but when death comes, then we do not exist. It does not then concern either the living or the dead, since for the former it is not, and the latter are no more” (Epicurus, 2016, p. 3 (46)).

Thus, Epicurus points to the universality and naturalness of death as a country. All things have an end, and it is just as natural that there is nothing dangerous here anymore.

Although the Socratic-Platonic and Epicurean doctrines are contradictory in their content, they combine the specific Greek rationalism in the approach to death, which is related to the understanding of the cosmos as an eternally identical phenomenon. The latter is either unchanged, as it is the doctrine of Plato, or changes cyclically with a certain eternal rhythm (Heraclitus, the Stoics). That is why Greek philosophy seeks the basis of man at death, either in eternity, including the eternity of the rotation of existence itself (this is the theory of the immortality of the soul and its transference) or in the realization of the necessity of death.

For a Christian philosopher, Blessed Augustine, confession is an intimate conver-

sation with God. We can not attribute this work only to the autobiographical genre. It would be fitting to call it the principled position through which a person gains true spirituality. The self-obsessed gaze reveals the mystery of human existence and with particular intensity, the mystery of death.

In the fourth part of the “Confession,” Augustine conveys in a very impressive way his spiritual state, which was aroused in him by the death of his childhood friend:

“My heart was utterly darkened by this sorrow and everywhere I looked I saw death. My native place was a torture room to me and my father’s house a strange unhappiness. And all the things I had done with him--now that he was gone--became a frightful torment. My eyes sought him everywhere, but they did not see him” (Augustine, Confessions, 2010, p. 94).

Faced with death, Augustine recognized in him the “fiercest enemy” who was ready to defeat every human being, and the death of a friend painfully left him with the possibility of his own end. He felt the breath of death as not only horrible but also as a pointless, unjustified phenomenon at the highest level.

Later, the already Christianized Augustine looked at the death of a friend from the standpoint of God and eternity. Death has already lost in his eyes the meaning of a kind of demarcation line that separated worldly life from the underworld. The infinity and infinity of eternal existence filled the Holy Father of the Church with sorrow compared to the rapidly passing earthly life of man. He understood the origins of worldly life, the short life that sank in the river of time, and turned:

“And you, O Lord, art my comfort, my eternal Father. But I have been torn between the times, the order of which I do not know, and my thoughts, even the inmost and deepest places of my soul, are mangled by various commotions until I shall flow together into you, purged and molten in the fire of your love” Augustine, Confessions, 2010, p. 452.

Augustine sees the tragedy of existence in the fact that man realizes his mortality, but can not accept it or get used to it. He seeks the highest meaning and cannot find it in his earthly existence. He, therefore, appeals to God’s saving faith as a guarantee of immortality, as a solid foundation for an unsustainable earthly existence. The analysis of death as a mystery, an inaccessible phenomenon, becomes an integral part of post-Augustine Christianity.

If in Augustine’s concept the emphasis on the salvation of the believer was shifted to the grace of God, then in later Christianity, the salvation of the soul could not be guaranteed by any faith or prayer-blessing.

According to the French philosopher and Catholic theologian Blaise Pascal:

“Man is only a reed, the weakest in nature, but he is a thinking reed. There is no need for the whole universe to take up arms to crush him: a vapour, a drop of water is enough to kill him. but even if the universe were to crush him, man would still be nobler than his slayer, because he knows that he is dying and the advantage the universe has over him. The universe knows none of this” (The Collected Works of Blaise Pascal, 2020, p. 347).

Man is great in his opinion, but this opinion, if it corresponds to the true state of things, testifies to the emptiness and non-existence of his earthly condition.

“Let us imagine a number of men in chains and all condemned to death, where some are killed each day in the sight of the others, and those who remain see their own fate in that of their fellows and wait their turn, looking at each other sorrowfully and without hope. It is an image of the condition of man” (The Collected Works of Blaise Pascal, 2020, p. 417).

If such a picture of human destiny is a guide to moral endurance and spiritual strength for the stoic consciousness, it is a guide to anxiety, suffering, and alarm for Blaise Pascal's religious consciousness. According to this author, a person should not only remember death, but also cause it in his thoughts, should experience death in every action and intention.

Of course, not every person can endure the constant moral torture of his mortality. Even Pascal, who for many years endured moral and physical trials, did not complain once about his inability to bear spiritual struggles, a tormented soul demanding peace with a tired body. Nevertheless, the French thinker rejected the “quiet bay of faith.” He believed that faith alleviates moral suffering and that it is not able to dispel the existential drama of human existence. However, Pascal did not even acknowledge the disbelief that fears death that makes such a thing seem non-existent. Pascal is undoubtedly right here: such an approach to the meaning of human life, to vital orientation, is reprehensible.

Many people, faced with imminent death, are looking for a variety of escapes to at least temporarily forget, to postpone what awaits everyone: “Death is easier to bear without the thought of it, than is the thought of death without danger” (Blaise Pascal, 1995, p. 170).

To this end, they invent a variety of entertainments: games and entertainment, parties and gatherings, hunting and wars. All this is called the pleasure of life. According to Pascal, they are the means of dispelling the boredom of existence. Various entertainments fill a person's existence with a thousand trifles, not allowing him

to think deeply about the meaning of his own life. If not for fun, Pascal writes, we would have such unbearable melancholy that we would inevitably start looking for a solution, only with a better solution. Fun makes us forget and we approach death insensitively.

“The only good thing for men therefore is to be diverted from thinking of what they are, either by some occupation which takes their mind off it, or by some novel and agreeable passion which keeps them busy, like gambling, hunting, some absorbing show, in short by what is called diversion... Without [diversion] we would be in a state of weariness, and this weariness would spur us on to seek a more solid means of escaping from it. But diversion amuses us, and leads us unconsciously to death” (Blaise Pascal, 1995, p. 105).

An indifferent attitude towards death, which is inadequate in its meaning, leads a person to everyday coincidences. This greed for death pushes from consciousness all kinds of worries and sufferings, thereby substantially reducing the moral tone of life. The selfish pursuit of entertainment prevents a person from correctly understanding the meaning of his own life, distorts its depth and true scale.

“All that I know is, that I am soon to die; but what I am most ignorant of is, that very death which I am unable to avoid... In the same way that I do not know where I came from, neither do I know where I am going, and I know only that on leaving this world I either fall into nothingness for ever, or into the hands of an angry God, without knowing which of these two states will be my condition in eternity. Such is my state, full of weakness and uncertainty. And I conclude from all this that I must spend every day of my life without thinking of enquiring into what will happen to me. I could perhaps find some enlightenment among my doubts, but I do not want to take the trouble to do so, nor take one step to look for it. And afterwards, sneering at those who are struggling with the task, I will go without forethought or fear to face the great venture, and allow myself to be carried tamely to my death, uncertain as to the eternity of my future state” (The Collected Works of Blaise Pascal, 2020, p. 1130).

The realization of the severity of existential problems pushes the French philosopher towards the religious path of their solution. He believes that man's sincere acknowledgment of his miserable condition, his acknowledgment that man is doomed to misery and imminent death, is the beginning of the search for a way out of this impasse, which Pascal calls “the search for sorrow.” Only a law-abiding view of the inevitability of earthly things can awaken faith in God and the hope of immortality.

Pascal, of course, realized that Christian truth and the dogmas of common sense were difficult to compare. In his view, it is the fear of death that is primary. It is presupposed in any discussion of immortality, while the belief in the death of the body is aggravated in the soul's life by jealousy, and eternal skepticism. Hence it is secondary, derived from the thought of death.

Such a search for personal salvation is accompanied by moral suffering in God's bosom, and God shows man the way to the belief in immortality through fear of death. Pascal acknowledges that the paradoxes of the Christian religion are difficult to resolve. Moral relativism itself is unacceptable to him, but his conception of the immortality of God and the soul leans in this direction. Man believes in God with all his being, but he is never fully convinced of the divine choice at the end that is good for him: God will show him grace if he sends him to hell. Human destiny is shrouded in darkness. The only thing he has is hope. However, even that is not obvious and unquestionable, but rather doubtful.

Finally, Pascal forms the vital credo of man: Man must live according to one of two permissible, two probable beginnings:

1. that its existence is eternal;
2. that its existence is rapid.

In terms of human life, Pascal considered himself, his Creator, and his end:

“There are but three classes of persons: those who having found God, serve him; those who not having found him, diligently seek him; those who not having found him, live without seeking him. The first are happy and wise, the last are unhappy and fools, those between are unhappy, but they are wise” (Blaise Pascal, 1995, p. 417).

Nevertheless, Pascal makes optimistic conclusions:

“The goodness of this worldly existence is conditioned only by the hope of a future existence, that people are happy only insofar as they are inspired by that hope, and that if calamity is alien to those who do not doubt eternal existence, happiness is also inaccessible to them. The light of faith does not shine on the soul either.”

Famous German philosopher, Arthur Schopenhauer values life as a phenomenon that would not have been better at all. Earthly existence, in his view, is purely coincidental.

“As far as you are an individual, death will be the end of you. But your individuality is not your true and inmost being: it is only the outward

manifestation of it. It is not the thing-in-itself, but only the phenomenon presented in the form of time; and therefore with a beginning and an end. But your real being knows neither time, nor beginning, nor end, nor yet the limits of any given individual. It is everywhere present in every individual; and no individual can exist apart from it. So when death comes, on the one hand you are annihilated as an individual; on the other, you are and remain everything. That is what I meant when I said that after your death you would be all and nothing” (The Collected Works of Blaise Pascal, 2020, p. 417).

According to Schopenhauer, the development of the cosmic cycle caused many troubles. Man is committed to understanding the catastrophe of this process in order to assess the humility of earthly existence properly. The German philosopher argues that underdeveloped creatures are in a better condition than humans, because of their lack of consciousness. They do not know that the universe is filthy and destructive. Where did Dante get the material to describe hell? - Schopenhauer asks, - Of course, our surroundings are from reality. Even when this writer was faced with the need to describe heavenly bliss, he found himself in the most difficult situation precisely because the universe did not provide any material for it.

An animal is afraid of death only instinctively, unconsciously. He can not imagine a clear picture of physical destruction. Man not only realizes and thinks about his future end, but the pre-existing feeling intensifies his suffering. Schopenhauer, therefore, believes that it is impossible for happiness to be for the goal of human existence.

The author calls the assumption that a person can achieve happiness a “disastrous mistake.” Therefore, in his view, it is impossible to draw a logical picture of the universe. It will be full of contradictions. However, it is enough to take a stand against this view to see the meaning of our lives, suffering, which solves any paradox. Man’s existence shows that his true destiny is suffering. Life is inseparable from suffering and sorrow. We are born crying in this world. Human existence is tragic in its essence, but the most tragic is still its end: death.

In search of a solution, Schopenhauer concludes that we should look at death as the ultimate goal. His ghost lingers all his life. At the moment of death, every problem that has accumulated throughout life is solved. Thus, the expectation of death and its predestination is the essential distinguishing mark of the human animal. Only the human will can deny life, show its back to it.

In terms of life, Schopenhauer considers the denial of the will to life, which is manifests in his doctrine of asceticism.

Asceticism is the highest human condition. It is an abomination to the will of life. The ascetic must suppress in his head everything that connects him with the needs of life: it is sexual desire, the need for wealth, the satisfaction of one's desires.

Before asceticism, a person goes through suffering. He gradually realizes that the suffering of life is in vain. Everything vital is not valuable. When a person clearly realizes the futility of life, he falls into despair and also perceives the suffering of the world on the ground of his own suffering. The only way a person can choose to be a real being is to give up the will to live. In this way a person rises above himself, reaches his destination, is freed from suffering and gains spiritual peace. According to Schopenhauer, this is true bliss.

The philosopher believes that denial of life does not mean suicide. In his view, suicide is precisely the acceptance of life and not the denial. The ascetic does not commit suicide. He only denies the will of life, thus achieving salvation, his destiny.

Unlike the preachers of Christianity, Schopenhauer resolutely rejects the idea of personal immortality. In his view, the idea of immortality, belief, is false. Instead, each individual is just a "private error," a "wrong step," a "random concentration," or a phenomenon that, in his words, would have been better had it not been at all.

Thus Schopenhauer's pessimism is evident:

"Still, I cannot hold back from declaring here that optimism, where it is not just the thoughtless talk of someone with only words in his flat head, strikes me as not only an absurd but even a truly wicked way of thinking, a bitter mockery of the unspeakable sufferings of humanity" (The Essays of Arthur Schopenhauer, 2005, p. 28).

In the end, Schopenhauer characterizes the task of human life as follows: the peace which enables him to enjoy life not only in the present but in life in general, and which is the basis of human happiness.

Conclusion

Death is a force that reveals what we love and like and what is a priority for us. It is about getting to know ourselves better and understanding what we do not want to lose or what we would take with us (if we could) in the world where immortality lives.

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CROSS-BORDER TRANSFER OF A COMPANY'S REGISTERED OFFICE IN GEORGIAN CORPORATE LAW

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ABSTRACT

The main purpose of the research is to investigate the fundamental, founding legal issues of a new institute in Georgian Corporate Law – cross-border transfer of company's registered office or redomiciliation. Namely, the aim of this research is to explore issues such as the essence of redomiciliation, significance, preconditions for its implementation, the process of redomiciliation, legal consequences. This article only examines the legal side of redomiciliation and not other issues related to the cross-border transfer of a company's registered office, such as, for example, issues of preferential tax regime. The study developed the concept of redomiciliation, namely, redomiciliation. This is the cross-border conversion of an enterprise, which means the transformation of an enterprise registered in Georgia into an enterprise of another country by transferring registration in that country, or the transformation of a foreign enterprise into a Georgian enterprise by registering in Georgia, as a result of which an enterprise is considered to be the legal successor of the original, pre-redomic enterprise.

The study revealed that redomiciliation have not been implemented in practice to date, one of the obstacles to which is the lack of a clear procedure for its implementation and the existing practice of the National Agency of Public Registry. In addition, the less interest of foreign companies in redomiciliation should probably be explained by the fact that starting a new company or opening a branch in Georgia is more attractive due to the simplicity of establishment than redomiciliation, which is a much more complicated and unclear procedure. The future task is to strengthen the legal framework of redomiciliation, in particular, to adopt a by-law regulating the concrete rules and conditions for the implementation of redomiciliation. It is also desirable to consider the concept of redomiciliation at the legislative level.

Keywords: Corporate Law, tax regime, redomiciliation, cross-border transfer

Introduction

Article 5⁷ of the Law of Georgia on Entrepreneurs of October 28, 1994, with the amendments made by the Law of March 14, 2008, instituted the cross-border transfer of a company's registered office – redomiciliation – which was not previously known in Georgian Corporate Law. This institution is maintained with the same content in the new draft Law on Entrepreneurs (*Centros Ltd v Erhervs-og Selskabsstyrelsen*, 1999). Although not so little time has passed since the introduction of this legislative innovation, the institute of redomiciliation is still under development in Georgian Corporate Law. The purpose of this article is to investigate the founding legal issues of redomiciliation in Georgian Corporate Law and to lay the groundwork for further research. In addition, this article defines the concept of redomiciliation and explores the essence and significance of redomiciliation, the preconditions for its implementation, the process of redomiciliation, legal consequences, and related issues. This article only examines the legal side of redomiciliation and not other issues related to cross-border transfer of company's registered office, such as, issues of taxation. However, it should be noted that in general, the preferential tax regime is one of the most important interests of the enterprise in the implementation of redomiciliation in the country.

1. The essence and meaning of redomiciliation

1.1. The meaning of redomiciliation

Corporate law offers corporations a variety of options. One of them is to choose the jurisdiction where the corporation will be established (Kraakman Reiner et al., 2019, p. 32). The corporation is not bound by either the founding jurisdiction and may transfer to another jurisdiction. Consequently, in the conditions of competition of jurisdictions and regulatory competition (Kraakman Reiner et al., 2019, p. 33), many countries offer favorable corporate-legal regimes to companies and thus attract them, as the activities of enterprises are to increase state revenues, attract investment and create state investment, contributes to the formation of a well-functioning, flexible and attractive market, and in general - to increase the country's competitiveness. Thus, redomiciliation is important in terms of enhancing the economic well-being of the state.

Redomiciliation is also important for the company itself: It helps to expand the company's entrepreneurial activities, to explore new markets without losing business contacts, especially it is attractive for small and medium-sized businesses, which are the backbone of the state economy. (Commission Staff Working Document Impact Assessment Accompanying the document Proposal for a Directive of the European Parliament and of the Council

amending Directive (EU) 2017/1132 as regards the use of digital tools and processes in company law and Proposal for a Directive of the European Parliament and of the Council amending Directive (EU) 2017/1132 as regards cross-border conversions, mergers, and divisions, SWD/2018/141 final-2018/0113 (COD)).

Redomiciliation is familiar to the legislation of many countries. It is quite relevant in the countries of the European Union (see Lazarashvili, 2020, pp. 29-61 on the movement of enterprises in European Corporate Law) and not only. Offshore countries, for example, offer companies particularly attractive terms for redomiciliation under the preferential tax regime (Tax Havens and Development, pp. 15-16, 35-36).

1.2 *Redomiciliation as a manifestation of freedom of movement guaranteed by the Constitution of Georgia*

The first paragraph of Article 14 of the Constitution of Georgia strengthens the freedom of movement, according to which everyone lawfully staying in Georgia has the right to move freely throughout the country, to choose a place of residence freely and to leave Georgia freely. At the same time, according to the first paragraph of Article 34 of the Constitution of Georgia, the fundamental human rights specified in the Constitution, taking into account their content, also apply to legal persons. The redemption provided by the Law on Entrepreneurs, which implies the free movement of the enterprise from Georgia to another country and *vice versa*, is an expression of the freedom of movement for legal persons.

1.3 *The essence of redomiciliation*

The term “redomiciliation” is etymologically derived from the Latin word *domicilium*, which means a place of residence, (<https://www.wordsense.eu/domicilium/>) and *re-* from the heading, which is a sign of renewal or repetition of action (Dictionary of Foreign Words, 1973, p. 347). Consequently, redomiciliation can literally be interpreted as relocation, renewal, replacement of the place of residence. The main norm regulating redomiciliation is Article 5⁷ of the Law of Georgia on Entrepreneurs. According to the first and third paragraphs of this article, redomiciliation means the *transfer of the registration of a foreign enterprise to Georgia, or the transfer of the registration of an enterprise registered in Georgia to a foreign country*. Thus, redomiciliation allows, on the one hand, an enterprise registered in Georgia to “move” to another country, to become a “citizen” of that country, and on the other hand, an enterprise registered in another country to “leave” this country to Georgia and become a “citizen” company of Georgia. It is noteworthy that in this case it means *moving the registered office* of the enterprise from another country to Georgia or from Georgia to another country and not opening an enterprise branch, establishing a subsidiary company or moving the real seat. Moving a registered office to another country,

in turn, means deleting the enterprise from the Entrepreneurial Register (State Register, where an entrepreneurial entity is registered) of the country of registration without liquidation and registering the same enterprise in the relevant register of another country.

Pursuant to the first paragraph of Article 5⁷ of the Law on Entrepreneurs, a necessary sign of redomiciliation is the *non-violation of the continuity of the enterprise*. This means that rights and obligations of the enterprise are retained as a result of redomiciliation. Otherwise, an enterprise relocated to another country based on redomiciliation is the legal successor of the original, pre-redomic enterprise, i.e. the successor of its rights and duties.

Thus, redomiciliation of an enterprise takes place when an enterprise registered in Georgia is removed from the Entrepreneurial Registry and registered in the equivalent register in another country, or an enterprise registered in a foreign country is removed from the relevant register of that country and registered in Georgia in the Entrepreneurial Registry. At this time, the enterprise relocated to another country is the legal successor of the original, pre-redomic enterprise.

It is a matter of concern, on the one hand, in which a foreign country, in particular, a Georgian enterprise can be redomiciliated and, on the other hand, from which foreign country it is possible to redomicilate an enterprise in Georgia. The first question is answered by Article 5⁷, Paragraph 3, Subparagraph “a” of the Law on Entrepreneurs, according to which Georgian enterprise can be redomiciliated in any country with which international agreement is not prohibited. As for the question from which foreign country it is possible to redomicilate an enterprise in Georgia, the law does not contain any restrictions in this regard. Based on the principle of reciprocity (Aleksidze, 2010, pp. 207-208), in this case, the country that prohibits Georgian companies from redomiciliation should be excluded.

Redomiciliation is also envisaged in the new draft law on Entrepreneurs, in particular, its Article 79. It is a norm with similar content to Article 5⁷ of the current Law on Entrepreneurs. However, the article’s title is “Transfer of registration of an entrepreneur registered in a foreign country to Georgia” and not “Redomiciliation” as it is in the current law. It is conceivable that the title of Article 79 of the draft is incomplete, as the mentioned norm regulates the transfer of the registration of an entrepreneur registered in Georgia to a foreign country, which is not reflected in the title of the norm. Preferably, the new bill should use the same term - “Redomiciliation,” which is used in the current law and is an accurate, flexible, and concise term to describe the relationship regulated by this norm.

1.4. Subject of redomiciliation

Article 5⁷ of the Law on Entrepreneurs defines an enterprise registered in Georgia or in a foreign country as a subject of redomiciliation. In this case, on the one hand, it is noteworthy what is meant by the concept of enterprise registered in Georgia - all organizational-legal forms of entrepreneurial entities, including individual entrepreneurs, or only entrepreneurial legal persons. On the other hand, it is also noteworthy what is meant by the concept of an enterprise registered in a foreign country.

The Law on Entrepreneurs sometimes considers the concept of an enterprise in a broad sense and includes an individual entrepreneur in addition to entrepreneurial companies (for example, subparagraph “b” of paragraph 1 of Article 5⁴). Nevertheless, according to the content of Article 5⁷ of the Law, redomiciliation applies only to entrepreneurial legal persons, i.e. companies. This conclusion can be drawn, at least, from paragraph 4 of this article, according to which the norms regulating the reorganization of an enterprise apply to redomiciliation, since Article 14⁴ of the same law, which regulates reorganization, applies, in turn, only to entrepreneurial legal persons. This issue is regulated in the same way by the new draft law on Entrepreneurs, in particular, Article 79, Paragraph 4. Other legal entities, for example, non-commercial (non-profit) legal persons do not have the possibility of redomiciliation. Thus, only entrepreneurial (commercial) legal persons have the possibility of redomiciliation from Georgia.

If we compare the regulation of European Corporate Law on this issue, we will see that the term enterprise with freedom of movement of enterprises, pursuant to Article 49, paragraph 2 and Article 54 of the Treaty on the Functioning of the European Union, refers to companies or firms constituted under civil or commercial law, including other legal persons governed by public or private law, save for those which are non-profit-making (Edwards, 2003, p. 337). It is noteworthy that in European practice, freedom of movement is mainly applied by entrepreneurs, among which LLCs predominate (Commission Staff Working Document Impact Assessment Accompanying the document Proposal for a Directive of the European Parliament and of the Council amending Directive (EU) 2017/1132 as regards the use of digital tools and processes in company law and Proposal for a Directive of the European Parliament and of the Council amending Directive (EU) 2017/1132 as regards cross-border conversions, mergers, and divisions, SWD/2018/141 final-2018/0113 (COD), <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52018SC0141&from=EN> [20.10.2020].

As for the question of which entity is meant in the concept of an enterprise registered in a foreign country according to Article 5⁷ of the Law on Entrepreneurs, in this regard, it is also conceivable that it includes only entrepreneurial legal persons of other countries and

not, for example, non-commercial (non-entrepreneurial) legal entities, as the scope of regulation of the Law on Entrepreneurs includes only entrepreneurial entities.

Regarding the redomiciliation of the enterprise in Georgia, the following question is also noteworthy: in what legal form should a foreign company be registered in Georgia? This issue is easily resolved when a redomicilized company in Georgia has the same legal form as provided by Georgian Corporate Law: general partnership, limited partnership, limited liability company, joint stock company, cooperative. However, it is possible for a foreign company to have a legal form that is not known to Georgian Law. It is noteworthy that in Georgian Corporate Law, there is a principle of exhaustive listing of organizational-legal forms of entrepreneurial entities - *numerus clausus* (Chanturia, Ninidze, 2002, p. 13). That is why, according to Article 5⁷, Paragraph 2 of the Law on Entrepreneurs, redomicilized enterprise in Georgia must be registered only in the legal form provided by the legislation of Georgia. Thus, a foreign enterprise must adapt to the forms of entrepreneurial companies proposed by Georgian Corporate Law, and, in such a case, there is a conversion of a foreign company into a Georgian legal form. It is noteworthy that the conversion takes place even when the organizational-legal form is identical. For example, a foreign LLC redomicilates in Georgia, because in this case the foreign company is transformed into a Georgian enterprise. This is why redomiciliation is also called cross-border conversion of the enterprise (Lazarashvili, 2020, p. 37).

1.5. Other forms of enterprise movement

Redomiciliation is a form of enterprise movement, though not the only one. Freedom of movement of enterprises can also be exercised through the actual movement of an enterprise, which means the establishment of a real seat by an enterprise registered in one country in another country (Lazarashvili, 2020, p. 32). In this case, the enterprise maintains a legal address in the country of registration, when in fact, it operates in the address of another country (Lazarashvili, 2020, pp.32-33). In the case of redomiciliation, it is the transfer of *the registered legal office and not the real seat*. This means that in the case of the redomiciliation of a Georgian enterprise, the enterprise will be removed from the Entrepreneurial Registry of the National Agency of Public Registry (Georgia) and will be registered in the equivalent register of another country, or, conversely, in case of redomiciliation of a foreign enterprise, this enterprise is removed from the relevant register of another country and registered in the Entrepreneurial Registry in Georgia.

European Corporate Law attributes the transfer of both the real seat of the enterprise and the registered office to the so-called Primary Establishment (Andenas & Wooldridge, 2009, p. 11). Also, according to it, the freedom of movement of enterprises can be exercised us-

ing the so-called through Secondary Establishment (Edwards, 2003, p. 342), it includes the establishment of a branch, representative office or subsidiary by an enterprise registered in one Member State (Edwards, 2003, p. 342), which are also forms of relocation of the enterprise. Unlike the Primary Establishment, in this case the enterprise does not emigrate and remains a “citizen” of the country of establishment, only expands its area of activity by opening a representative structural unit (branch, representative office) in another country, or establishes a subsidiary in another country.

1. Obstructive circumstances of redomiciliation

Paragraph 3 of Article 5⁷ of the Law on Entrepreneurs (Paragraph 3 of Article 79 of the Draft Law on Entrepreneurs) refers to the obstructive circumstances of redomiciliation in the presence of which the enterprise is not allowed to move. Distinguishing, on the one hand, the obstructive circumstances of an enterprise registered in Georgia and the obstructing circumstances of an enterprise registered in a foreign country in Georgia.

2.1. Obstructive circumstances of an enterprise registered in Georgia

Pursuant to sub-paragraphs “a”, “b” and “c” of paragraph 3 of Article 57 of the Law on Entrepreneurs redomiciliation of an enterprise registered in Georgia is not allowed in a foreign country, if one of the following circumstances occurs:

- According to the international agreement concluded by Georgia with the country where the Georgian company transfers the registration, the redomiciliation of the enterprise is prohibited;
- There is a court dispute against the enterprise in Georgia;
- A criminal case is being conducted against the enterprise in Georgia;
- Insolvency proceedings are underway against the enterprise in Georgia;
- At the time of redomicilization, the enterprise has a tax debt to the Georgian tax authorities.

It is clear that the legislature, on the one hand, respects the international agreement concluded with another country, which prohibits the redomiciliation of a Georgian enterprise in that country. On the other hand, the legislature protects the interests of creditors and third parties so that redomiciliation is not used as an “escape” from the company’s liability. It is true that the enterprise retains its rights and obligations after the redomiciliation, and even in this case, appropriate proceedings can be instituted against it, but the emigration of the enterprise to another country makes it somewhat difficult and costly to have a legal relationship with it. That is why, according to the law, the company is prohibited from redomicilization if there is a lawsuit against it in Georgia. In this case, the ongoing dispute

in both civil and administrative proceedings is taken into account. However, it should be noted that the company mentioned in the civil and administrative dispute should participate in the procedural status of the defendant because the above norm requires a lawsuit against the enterprise, and the party against whom the lawsuit is filed is the defendant. Thus, disputes where the company is a plaintiff, according to the rule of law, should not be a hindrance to redomiciliation. Here the company itself decides whether to redomicilate before the dispute is resolved. The possibility of continuing the dispute is not lost for the redomicilated company. It will continue the dispute as the procedural successor of the redomicilated company, i.e. the plaintiff, because as mentioned, redomiciliation has legal consequences of reorganization, i.e. succession of companies is allowed based on the first part of Article 92 of the Code of Civil Procedure of Georgia. There are separate criminal proceedings against the enterprise, which is also a hindering circumstance for redomiciliation. The fiscal interests of the state as a creditor are also separated. In this case, pursuant to Article 5⁷ paragraph 4, paragraph 3 of Article 14 of the Law on Entrepreneurs should be applied, which provides for the registration authority to provide information to the Tax Authority about the reorganization of a particular company and the possibility of tax audit of the enterprise. The new draft law on Entrepreneurs also envisages the mentioned regulation.

1.2. Obstructive circumstances for redomiciliation of an enterprise registered in another country to Georgia

Article 57, Paragraph 3, Subparagraph “a” of the Law on Entrepreneurs, singles out the only impeding circumstance of redomiciliation in Georgia of an enterprise registered in another country - when an international agreement with this country prohibits the redomiciliation of an enterprise. However, it is also clear that the enterprise that decides on redomiciliation in Georgia must meet the requirements of redomiciliation established by the relevant foreign law, from which it emigrates to Georgia.

2. The process of redomiciliation

The Law on Entrepreneurs does not contain specific regulations on the procedural issues of redomiciliation. Paragraph 5 of article 5⁷ of the Law provides for the definition of these issues by a government ordinance which has not yet been adopted. However, the law guidelines on the basis of which the main stages of the redomiciliation process can be identified. In particular, the starting point for shedding light on the process of redomiciliation is that redomiciliation is a manifestation of one form of reorganization - conversion. With this in mind, to shed more or less light on the procedure of redomiciliation of Georgian companies, the reorganization procedure is to be taken into account.

Article 14⁴ of the Law on Entrepreneurs outlines the following main stages in the process of reorganization of a company:

- Making a decision of the General Meeting of Partners on the start of the reorganization process of the company (Article 14⁴.1).
- Registration of the mentioned decision in the Entrepreneurial Register (Article 14⁴.6, Article 14.3).
- Informing the creditors about the start of the reorganization and offering the fulfillment of the obligations ahead of time (Art. 14⁴.6, Art. 14.4, Art. 14⁴.8).
- Registration of the completion of the reorganization in the Entrepreneurial Register.

It is necessary to observe these stages in the case of enterprise redomiciliation, of course, taking into account the specifics of redomiciliation. In the case of redomiciliation, paragraph 6 of Article 14⁴ should not apply, according to which, in several exceptional cases, it is not necessary to observe all stages of the reorganization process. (E.g., conversion of a JSC to a LLC, conversion of a LLC to a JSC, a change in a legal form where the enterprise's ability to satisfy creditors is not diminished).

Paragraph 5 of Article 5⁷ of the Law on Entrepreneurs provides for the definition of specific rules and conditions of redomiciliation by a government ordinance, which has not been adopted yet. Is it possible, despite the absence of a government ordinance, to implement redomiciliation in practice? This question must be answered in the affirmative. According to Article 22, Paragraph 10 of the Organic Law of Georgia on Normative Acts, a legislative act has the force of direct action, regardless of whether a by-law has been adopted (issued) for its implementation, unless otherwise provided by the legislative act itself. Also, according to Article 22, Paragraph 11 of the same Organic Law, it is inadmissible to refuse to comply with the norm established by a legislative act because the relevant by-law is not adopted (issued) for its implementation, unless otherwise provided by the legislative act itself. The Law on Entrepreneurs does not stipulate that enterprises will not be redomiciliated before a government decision is made. Nevertheless, according to the position of the National Agency of Public Registry, because the norms regulating the rules and procedures of redomiciliation are not established by law, at this stage the registration of enterprises is not registered in the Entrepreneurial Registry (letter of the National Agency of Public Registry 30.10.2018 # 452522). This position does not comply with the requirements of the above norms of the Organic Law on Normative Acts. In the absence of a clear procedure for redomiciliation, the practice of the National Agency of Public Registry is one of the obstacles to the implementation of redomiciliation in practice to date. In addition, the less interest of foreign companies in redomiciliation should probably be explained by the fact that the establishment of a new company or branch in Georgia is more attractive due to the

simplicity of establishment than redomiciliation, which is a more complicated procedure. However, it is not excluded that a foreign company, in some cases, when establishing a branch in Georgia, in fact moves to Georgia by relocation of the actual location (a similar case in the case of the European Court of Justice in the Centros case, see Case C-212/97, Centros Ltd v Erhervs-og Selskabsstyrelsen [1999] ECR I-1459).

Particular attention should be paid in the redomiciliation process, and future government ordinances should also address the interests of creditors, partners and employees of the enterprise. Creditors should be notified of the redomiciliation and offered the opportunity to fulfill or secure their obligations ahead of time. For partners who did not support redomiciliation, redemption of shares must be ensured by the company paying appropriate compensation. Employees should also be given appropriate safeguards to protect their rights.

These issues are similar to procedural issues of freedom of movement of companies in European Corporate Law and in this case, the experience of European Corporate Law can be used as an example, the draft of the 14th Directive, a new proposal of the European Commission (Lazarashvili, 2020, pp. 40-41).

1. Legal consequence of redomiciliation

The legal consequences of redomiciliation derive from the first and fourth paragraphs of Article 5⁷ of the Law on Entrepreneurs. According to paragraph 4, redomiciliation of an enterprise registered in Georgia is equivalent to *reorganization of the enterprise*. This underscores the basic legal effect of redomiciliation; it leads to the reorganization of the enterprise and not to liquidation. Consequently, redomiciliation also produces the legal consequences of reorganization, in particular, the legal succession of enterprises. A redomicilized enterprise is considered to be the legal successor of a pre-existing pre-redomiciliation company and its rights and responsibilities are transferred. The inheritance of rights and responsibilities is also indicated by the first paragraph of Article 5⁷ of the Law, which stipulates the uninterrupted implementation of the continuity of the redomicilized enterprise.

From an investigation of the above issues, it is possible to form the concept of redomiciliation. *Redomiciliation* - this is cross-border conversion of an enterprise, which means the transformation of an enterprise registered in Georgia into an enterprise of another country by transferring registration in that country, or the transformation of a foreign enterprise into a Georgian enterprise by registering in Georgia, as a result of which an enterprise is considered to be the legal successor of the original, pre-redomic enterprise.

Conclusion

The study revealed that redomiciliation is a new, evolving institution in Georgian Corporate Law, which is a manifestation of the extension of freedom of movement guaranteed by the Constitution of Georgia to legal entities. It is regulated by Article 5⁷ of the Law on Entrepreneurs. The study developed the concept of redomiciliation, namely, redomiciliation - this is the cross-border conversion of an enterprise, which means the transformation of an enterprise registered in Georgia into an enterprise of another country by transferring registration in that country, or the transformation of a foreign enterprise into a Georgian enterprise by registering in Georgia, as a result of which an enterprise is considered to be the legal successor of the original, pre-redomic enterprise.

It is noteworthy that redomiciliation has not been implemented in practice to date. One of the obstacles to which is the lack of a clear procedure for its implementation and the existing practice of the National Agency of Public Registry. In addition, the less interest of foreign companies in redomiciliation should probably be explained by the fact that starting a new company or opening a branch in Georgia is more attractive due to the simplicity of establishment than redomiciliation, which is a much more complicated and unclear procedure.

It should be noted that in order to better understand the nature of redomiciliation, the experience of European Corporate Law on the issue of movement of companies is important for Georgian Corporate Law. The future task is to strengthen the legal framework of redomiciliation, in particular, to adopt a by-law regulating the clear rules and conditions for the implementation of redomiciliation.

Redomiciliation is also envisaged in the new draft law on Entrepreneurs, in particular, its Article 79. It is a norm with a similar content to Article 5⁷ of the current Law on Entrepreneurs. However, the title of the article is “Transfer of registration of an entrepreneur registered in a foreign country to Georgia” and not “Redomiciliation” as it is in the current law. It is conceivable that the title of Article 79 of the draft is incomplete, as the mentioned norm regulates the transfer of the registration of an entrepreneur registered in Georgia to a foreign country, which is not reflected in the title of the norm. Preferably, the new bill should use the same term - “Redomiciliation,” which is used in the current law and is an accurate, flexible, and concise term to describe the cross-border transfer of a company’s registered office. It is also desirable to consider the concept of redomiciliation at the legislative level.

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SOME ASPECTS OF ACCESSIBILITY OF THE CHILD TO EDUCATION DURING THE COVID-19 PANDEMIC IN GEORGIA

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ABSTRACT

The article discusses the main restrictions imposed on Georgia due to the Covid-19 pandemic, especially with regard to the rights of the child. Restrictions imposed due to the pandemic have put the education system at odds, leading to significant restrictions on children's access to primary education. The article discusses the reasons for the restriction of this right, such as the restriction of access to the Internet, lack of computers and mobile phones, and lack of proper skills of teachers, students, and parents, which affected the access to education for children. The focus is also on the steps taken by the state to ensure access to education, such as the creation of teleschool and distance learning programs, and some conclusions are presented to improve children's participation in the educational process.

Keywords: child rights, covid-19 pandemic, accessibility to education, government

Introduction

The Covid-19 pandemic has changed the lifestyle of every human being around the world, many of them have been left completely vulnerable, and people have a sense of fear of what their next day will be like. The whole world was united to combat this complex challenge, and many restrictions were imposed. Children deprived of their freedom and access to education found themselves in a complicated situation.

The created crisis required finding a solution and developing new systems to help people deal with this crisis. Almost every field needed to switch to remote mode, which was challenging and responsible. It took a lot of work to manage the education system remotely. Despite their financial and technological development, it has been difficult for many countries to conduct the learning process entirely remotely.

At that time, Georgia faced particular challenges. First, it was not easy for the country to deal with this process because the experience of conducting the learning process remotely was almost non-existent. First, the families needed to have the proper equipment, Internet, and school materials were not equally available to everyone so that students and teachers could be involved in the distance learning process.

It became especially difficult for the people living in the highland villages to get an education because of the lack of Internet and equipment. Students and teachers could not afford to study/learn remotely. The state has gradually started solving these problems, which we will discuss below.

1. Restrictions Introduced by the Government due to the Covid-19 Pandemic

On March 11, 2020, the World Health Organization declared the Covid-19 epidemic a global pandemic (WHO Director-General's remarks, March 11, 2020). Since the virus started to spread very quickly, crossing the borders of many countries, rapid management became almost impossible. The borders between the countries were closed, various kinds of emergency were declared in many countries, and strict restrictions were imposed. Such sudden changes have entirely changed the lives of people around the world. As in various countries worldwide, the Georgian government has imposed numerous restrictions and regulations to prevent the mass spread of the coronavirus.

The risks posed by the new Covid-19 virus have put many lives at stake. The first case of covid-19 was recorded in Georgia. On February 26, 2020, the virus was

detected in a Georgian citizen who returned to Georgia from Iran via Azerbaijan (The first case of a new coronavirus, February 26, 2020). On March 21, 2020, the President of Georgia declared a state of emergency to prevent the mass spread of COVID-19. The purpose of the state of emergency was to reduce the imminent threat to the life and health of the population of the country and to manage the situation, to prevent the mass spread of the virus.

In addition, based on the Decree N1 of the President of Georgia of March 21, 2020, following paragraphs 3 and 4 of Article 71 of the Constitution of Georgia and paragraphs 3 and 4 of Article 2 of the Law of Georgia on State of Emergency, the rights specified in Articles 13, 14, 15, 18, 19, 21 and 26 of the Constitution of Georgia have been restricted for the duration of the state of emergency throughout the territory (Order of the President of Georgia №1, March 21, 2020). All these rights were restricted due to the protection of public health and safety, although they directly impacted children's access to education.

However, even before the declaration of a state of emergency, the Government of Georgia established an Interagency Coordination Council on January 28, 2020, in order to effectively coordinate the fight against the new coronavirus. The Council was established as the leading platform for decision-making on coronavirus issues, consisting of members of the government, members of parliament, the administration of the President of Georgia, and representatives of the medical field (Report, 2020, p. 6). The Government of Georgia has taken various measures to prevent the spread of the virus: a) Enforced mandatory isolation rules for persons entering from risky countries; b) Airports and all border checkpoints are equipped with thermal screening equipment; c) It became possible to conduct a laboratory test on COVID-19 at the LCD Lugar Laboratory; d) The return of Georgian citizens to Georgia by special flights have started (Report, 2020, pp. 7-8).

Various types of recommendations were provided to the population in stages. This included following the rules of distance, refraining from mass gatherings, and moving to self-isolation in the event of mild symptoms. However, the rapid spread of the virus and the restrictions imposed to combat it have further aggravated the country's situation. Problems in the economy as well as in the health and education systems, proved to be complicated. In particular, due to the restrictions imposed:

1. Some part of the population hindered business development, which depended on the income attracted by foreign nationals and tourists.
2. Lonely elderly, retirees, and people with disabilities find themselves in a difficult situation.

3. Violence against women and children in the family has become more frequent.
4. Beyond education, many children did not have the appropriate conditions and technical equipment to attend online lessons.

This is a minimal list of the problems faced by different population groups during the pandemic, especially children outside the learning process.

2. Measures Adopted by the Government During the Covid-19 Pandemic

As for the measures taken by the government, it should be noted that the Georgian government was guided by human rights principles and guidelines during the COVID-19 pandemic developed by international organizations. Among them were the guidelines adopted by the Council of Europe (COE) and the United Nations for member states. On April 8, 2020, the Council of Europe (CoE) published a guide for member states entitled “Democracy, Rule of Law and Human Rights in the COVID-19 Crisis” (Council of Europe (COE), April 7, 2020). The United Nations also published a report in April 2020 entitled “Human Rights and COVID-19: Fighting Together (COVID-19 and Human Rights, April 2020).

The measures taken by the Georgian government in the face of the pandemic to overcome the crisis were separate from a well-calculated and well-planned strategy. In many cases, decisions were made hastily and then changed frequently, which affected the effectiveness of the measures taken. If we look at the measures taken, on January 28, 2020, the Government of Georgia issued Decree №164 “On Measures to Prevent the Possible Spread of New Coronavirus in Georgia and to Approve an Operational Response Plan for Cases of New Coronavirus Disease” (Order №2 of the President of Georgia, April 21, 2020). On March 23, 2020, the Government adopted Resolution №181, “On Approval of Measures to Prevent the Spread of the New Coronavirus in Georgia” (Resolution №181 of the Government of Georgia, March 23, 2020). On March 25, 2020, the Minister of Refugees, Labor, Health and Social Affairs issued an order “Defining the rules of isolation and quarantine” (Order of the Minister, №01-31/N, March 25, 2020). On March 30, 2020, the Government amended Resolution №181. On May 23, 2020, it adopted Resolution № 322, “On the approval of the rules of isolation and quarantine” (Resolution of the Government of Georgia, May 23, 2020, № 322).

The right to education, including the right to education of a child, was related to the Resolution of the Government of Georgia №181 “On Approval of Measures to Prevent the Spread of the New Coronavirus in Georgia.” Articles 3 and 4 of the

Decree stipulate that educational process in educational institutions be suspended until April 21, 2020, and that general education and higher education institutions implement this through various forms of distance learning/communication (if possible). Furthermore, all types of training, conferences, seminars, all types of cultural events, and mass sports events, including competitions and training/training process/gatherings, both indoors and outdoors, except for remote form, were also prohibited (Resolution of the Government of Georgia, №181, March 23, 2020).

The second important activity that affects the child's right to education is the Resolution № 322 of May 23, 2020, on the Approval of the Rules of Isolation and Quarantine, which stipulates that the activities of an educational institution should be carried out electronically in remote mode. Furthermore, training, conference, and seminar are allowed only "following the recommendations to prevent the spread of new coronavirus (COVID-19) in the workplace (Resolution of the Government of Georgia, № 322, May 23, 2020).

In addition to the restrictions mentioned above, the measures taken by the government regarding the population's vaccination are essential, affecting the educational process in schools and the children's access to education. For example, completion of the distance learning process is highly dependent on vaccination. In this regard, Resolution #67 of the Government of Georgia of January 21, 2021, "On the Approval of the National Plan for the Introduction of the COVID-19 Vaccine in Georgia," is noteworthy, which defined the vaccination plan, but also states that pregnant women and children under 16 due to lack of solid safety evidence Not considered in COVID-19 vaccination groups (Resolution of the Government of Georgia, #67, January 21, 2021).

In addition, the Minister of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs of Georgia issued an order of February 3, 2021 №01-11/n "On the Approval of the Rule for the Introduction and Immunization Management of the COVID-19 Vaccine". The order established a list of priority groups subject to vaccination against COVID-19 and risk factors, including the contingent to be vaccinated at stage 3 of essential services and other high-risk groups. (Order of the Minister, February 3, 2021). Furthermore, according to government representatives, the so-called issue of establishing safe schools is being considered, which involves the double vaccination of teachers and students. COVID-19 vaccines currently approved by the World Health Organization are not recommended for people aged 16-18 years, even if they are at high risk (What we need to know about COVID-19 vaccines, May 4, 2021). However, the Georgian government has also said that vaccination of adolescents with concomitant diseases

es may be initiated before the WHO recommendation (On.ge, September 9, 2021). In general, the vaccination rate is relatively low, and according to the National Center for Disease Control, 25.2% of the population in Georgia is fully vaccinated, and 33.3% are vaccinated with a single dose (briefing, September 21, 2021).

3. Challenges to the Right of the Child to Education During the Covid 19 Pandemic

Due to the situation created by the Covid-19 pandemic, it became necessary to conduct the learning process remotely. Such a change has become a real test for Georgia. However, there were many problems in the education system in this regard. First of all, it should be noted that a specific part of the population did not have the necessary technical equipment, not everyone had access to quality internet and school materials, and there was no proper online system that would make it possible to receive a quality education.

It is also essential to pay attention to the psychological state of the children. Because of the pandemic, they restricted not only the right to access education but also the right to freedom, free movement, and social contact with society. The children lacked communication with peers, had to lock themselves in their houses, and were constantly with computers. All this has a harmful effect on the health and well-being of every child.

In the current situation, the Georgian government has taken various measures to create distance learning conditions for students. Among them, it should be noted that due to the state of emergency in Georgia, the educational process in educational institutions was suspended from March 4, 2020, and preparations for online learning began. User profiles for the Microsoft Office 365 platform (528,327 students and 52,124 teachers) were set up for public schools, and distance learning began on March 14, and from March 30, the learning process was entirely switched to distance learning. 56,327 teachers were involved in the distance learning process (Report, 2020, p. 41).

In addition, it should be noted that the Resolution №205 of the Government of Georgia “On the implementation of the educational process in educational institutions during the state of emergency” stipulates that educational institutions should conduct the educational process using tele-school, remote/electronic form or other means of communication. General education institutions were also instructed to transfer employees to remote work mode (except in exceptional cases). Higher education institutions were also instructed to transfer employees to remote work mode, as well as to conduct the learning process remotely, using an electronic form

or other means of communication, and to select and use an e-learning application/platform for this purpose (Resolution of the Government of Georgia, №205, March 31, 2020).

According to the same rules, the administration of the public education institution, the tutor, or the subject teacher is obliged to provide the student or his/her legal representative with information about the telescope or online tuition. Suppose the student cannot participate in the online learning process due to technical reasons. In that case, the subject teacher must provide the student with assignments according to the national curriculum. An exceptional teacher, a psychologist, should have regular contact with students with special needs and their legal representatives, if any, at school and make recommendations with regard to homework (Resolution of the Government of Georgia, №205, March 31, 2020). The issue of juveniles is especially important, which are housed in penitentiary institutions. Alternative forms of the educational process using electronic resources and telescopes were developed for them in agreement with the penitentiary institution (Report, 2020, p. 42).

The measures mentioned above by the government were necessary, but they still did not fully ensure children's education access. Restrictions caused by the Covid Pandemic have made it necessary to use the Internet, especially to make it accessible to schools and families as the entire education system has shifted to remote mode. The main challenge here, however, was how accessible the Internet was for children. Let's look at the data of the National Statistics Office. Access to education was somewhat limited precisely because of the restriction of access to the Internet. For example, according to the National Statistics Office, by July 2020, 83.3% of the Georgian population had access to the Internet, 90.7% of the urban population had access, and 74.5% of the rural population (National Statistical Report, 2021).

Restricting Internet access, however, was one of many problems for children. It is vital to provide computers to the public to assess access to education in public schools, especially for families with public school-age students. According to the National Statistics Office, the number of households provided with computers is above average. The majority of urban households are provided with computers, which is 76% of the population, while 42.4% of rural households are provided with computers, which is quite a low figure (National Statistical Report, 2021) and negatively affects the realization of children's right to education.

This was confirmed by the fact that in the conditions of the pandemic, due to the limited access to the Internet, computers, telephone, and other resources, many students dropped out of school. They were forced to do so due to limited access

to the Internet and equipment. Analysis of the available data shows that during the pandemic, the distance learning process in 2019-2020 was terminated by 8247 students, of whom 4865 were boys and 3382 were girls (National Statistical Report, 2021). It is also noteworthy that in the conditions of the pandemic, despite the opening of public schools, a certain number of students did not return to the educational process. Therefore, it is crucial to determine what was the most common reason for this. It was found that children aged 2-17 years did not continue their education in school, and for some reason, 28.1% of them were afraid of Covid-19, and 67.3% could not continue their education in the classroom because of distance learning (National Statistical Report, 2021).

These data confirm the following: For a student to have access to quality education, he or she should be supported by the state, and the appropriate conditions shall be created. Inadequate access to the Internet, computers, and learning equipment significantly hindered access to distance learning during the Covid-19 pandemic. In this case, the situation of rural children is particularly noteworthy, as most of the students were in deplorable conditions.

International organizations also point to this commitment. The European Network of Ombudsmen for Children (ENOC) points out that education is a fundamental right. The education sector and the government need to assess the extent to which affected families have the opportunity to provide a home-based learning environment and support the children in this family in the learning process (lack of equipment, lack of Internet, working parents from home, illiteracy, inconsistency with the level of learning, etc.) (ENOC, April 2020, 2).

At this time, we must remember that creating proper conditions for the education of children is a legislative obligation of the state. Article 35 of the Code of the Rights of the Child refers to the right of a child to receive an education, where the first paragraph states that all children have the right to quality education. The state provides the child with access to free, quality early, preschool, and general education according to his or her individual abilities and needs, as well as the introduction and access to an inclusive education system. The state also supports out-of-school children returning to school and taking measures to prevent children from dropping out of school (Code of the Rights of the Child, September 20, 2019, Article 35). According to Article 36 of the Code, the goals of the child's education, both in the formal education system and in the non-formal education system, should serve such goals as the full development of the child's personality, talent, critical thinking, and ability (Code of the Rights of the Child, September 20, 2019, Article 36).

The current situation and the analysis of the legislation confirm that the covid-19 pandemic restricted the rights of the children referred to in Articles 35 to 36, as there were no adequate conditions equally available to all children, and distance learning could not reveal a particular child's talent, personality or critical thinking. In order to make distance learning available to students or teachers during the pandemic, only in January 2021 the Ministry of Education and Science managed to sign a memorandum of understanding with three mobile operators operating in Georgia - Silknet JSC, MagtiCom LLC, and Vi Georgia LLC (Beeline brand).

Based on this memorandum, students and teachers of public and private schools, after passing the relevant procedures, will enjoy a preferential mobile internet package until the end of the 2020-2021 school year. The Georgian Communications Commission also supported the preferential tariff for mobile internet packages. To meet the challenges and technical needs of distance learning, ISPs will offer students and teachers a 20 GB mobile internet package for 10 GEL, which is 2.5 times less than the standard cost. According to industry experts, 20GB is enough to attend online lessons and search online resources for a month. Up to 2,500 public and private school students and teachers in Georgia will be able to use the service after registration (Ministry of Education and Science, January 15, 2021).

More than a year has passed since the pandemic began, and children are still learning remotely. One of the main challenges for children today is transitioning from distance learning to on-site classroom learning. It even directly depends on the vaccination process. The available data confirms that the vaccination rate in public and private schools is not high. In some schools, the rate of vaccination of teachers is higher than that of students. We must also acknowledge that the government has failed to launch a proper vaccination campaign and that teachers, students, and parents' trust in vaccination is relatively low. Even without the vaccination of the vast majority of students and teachers, the learning process will not be able to move remotely from the classroom.

It should also be noted that vaccination in Georgia is not mandatory, and most students and parents do not consider it mandatory to get vaccinated. According to Amiran Gamkrelidze, head of the National Center for Disease Control, Center for Disease Control, until the positive rate falls below 4% (today we have 9.4%), 80% of administrative staff and teachers will not be vaccinated at school, we can not consider the school safe, so vaccination is vital for the improvement of the general epidemiological situation (Nino Tarkhnishvili, August 27, 2021). The Ministry of Education and Science announced that the educational process in schools would be remotely renewed and stressed the need for vaccination to return the educational

process to the school space (akhali ganatleba, September 15, 2021). According to a survey by the WHO and UNICEF in Georgia, 56% of the population agrees with vaccination if the vaccine is available and recommended (WHO/UNICEF, December 7, 2020). According to a recent statement from the Ministry of Education, 65% of teachers and school administrations are vaccinated (Briefing, September 25, 2021).

Protecting children's rights is not a national challenge, and it has become the focus of global attention. The European Network of Ombudsmen for Children, for example, calls on governments, the European Union, and the Council of Europe to take all appropriate measures to ensure that children's rights are guaranteed by the UN Convention on the Rights of the Child and the UN Committee on the Rights of the Child (ENOC, April 4, 2020).

Conclusions

Risks caused by the Covid-19 pandemic have affected people in many ways. A whole new work system and plan was put in place all over the world, which of course, was especially difficult for countries like Georgia.

The Government of Georgia has imposed strict regulations and restrictions to prevent the spread of the virus, both during the state of emergency and after its extinction. These restrictions, in particular, have affected the education system and have led to a reduction in access to education.

Various statistics show that access to education was restricted due to inadequate conditions and a lack of Internet and technical equipment.

Only in January 2021, the Ministry of Education and Science offered a preferential mobile internet package for students and teachers, which was quite late. It was possible to offer such a privilege to them earlier, which would have less restricted the right of access to education.

In this regard, the state is responsible for providing public schools with access to the Internet, computers, and other necessary educational resources.

Due to the low vaccination rates, students remain in distance learning and cannot return to schools, which significantly affects their rights and needs.

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UNBUNDLING OF TRANSMISSION SYSTEM OPERATORS – THE GENERAL EUROPEAN UNION POLICY AND THE CASE IN GEORGIA

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ABSTRACT

Georgian Transmission System Operator has been certified and nominated as the sole transmission licensee in Georgia upon the specific conditions. Therefore, with the fulfillment of all criteria, the main objective of ownership unbundling (prevention of discrimination, optimization of the use of infrastructure, incentivizing economic investment) can be reached. However, in case of non-compliance with the unbundling ownership requirements and, thus, re-certification of Georgian TSO, the Government of Georgia shall consider the costs of such procedure for the country and, precisely, the state-owned company.

Therefore, the responsible public entities shall work with the Regulatory Commission and the Transmission System Operator to ensure timely and proper planning and implementation of necessary activities to meet unbundling ownership requirements.

Keyword: European Union, Transmission System, unbundling, Government of Georgia, Regulatory Commission, ownership

International commitments to approximate Energy Legislation to EU standards

Energy Community

Association Agreement between the European Union and the European Atomic Energy Community and their Member States and Georgia was signed in June 2014 and entered into force in July 2016. The Association Agreement strives for political association and economic integration between the EU and Georgia. With its ratification, the Association Agreement has officially become a primary legal framework for Georgia's new and higher level of cooperation with the European Union. Among others, the document sets the obligations for implementing EU legislation in the field of energy and environment, including the terms for harmonizing Georgian Energy legislation with the European "Third Energy Package" (Third energy package).

After three years after the ratification of the Association Agreement, Georgia has taken a significant step forward in EU integration by signing the Protocol Concerning the Accession of Georgia to the Treaty Establishing the Energy Community (Protocol Concerning the Accession of Georgia to the Treaty Establishing the Energy Community) on the 14th Energy Community Ministerial Council on 14th of October 2016. The Parliament of Georgia ratified the Protocol in April 2017.

The Energy Community is an international organization that brings together the European Union and its neighbors to create an integrated pan-European energy market. The Energy Community is based on the liberalized market paradigm, which aims to extend the EU internal energy market rules and principles to countries in South East Europe, the Black Sea region, and beyond (Energy Community).

Accessing Georgia to the Energy Community Treaty as a full-fledged member was an important milestone in bringing Georgia closer to the EU. To achieve the goals and mission of the Energy Community, its activities include the implementation by the Contracting Parties of the *acquis communautaire* on energy, environment, competition, and renewables and the setting up of a specific regulatory framework permitting the efficient operation of Network Energy markets across the territories of the Contracting Parties and part of the territory of the European Community (Energy Community, Article 3).

Membership of the Energy Community means the process of implementation of significant reforms in the energy sector, including the open and competitive energy market, the separation of production/supply activities from transmission/distribu-

tion activities, the legal regulation of public service obligations, protection of vulnerable customers, development of renewable energy sources and facilitation of energy efficiency.

The terms and conditions under the Protocol of Accession

According to the Protocol on the Accession of Georgia to the Energy Community Treaty, Georgia has committed to implement several EU directives and regulations related to electricity, natural gas, energy efficiency, renewable energy, and energy statistics. The deadlines for implementation of the Energy Community acquis on electricity were defined by Accession Protocol (Compliance with the Energy Community Acquis, Energy Community Secretariat, July 2017, p. 11).

Georgia is the first Contracting Party not to border the EU internal market or any other Energy Community Party. Therefore, the Protocol takes into account that Georgia is not directly interconnected to the energy network of any Contracting Party or Member State of the European Union and defines that the provisions included in the *acquis communautaire* concerning cross-border energy exchanges with a Contracting Party or a Member State of the European Union, shall apply whenever it is physically interconnected to the energy network of any Contracting Party or Member State of the European Union (Accession Protocol, Annex, point 1).

Energy transition: Alignment with the EU acquis

Introducing and implementing the basic standards of European energy policy at the national level is an important step forward for our country. However, the ongoing energy-legal reform in the country poses a significant practical challenge, as Georgia's energy sector is not aligned with the principles of modern European energy regulation (Samkharadze, July 2019, p.16).

In parallel with the steps taken in recent years, the reforms carried out, and the legislative changes, the complete transformation of the energy sector requires the effective and practical implementation of the legislative framework, which is an essential part of the ongoing reforms in the industry.

2.1. New Law of Georgia on Energy and Water Supply

Adopting the Energy and Water Supply Law compliant with the Third Energy Package at the end of 2019 paved the way for the liberalization of the electricity and gas markets in the country (Report on Compliance with the Energy Commu-

nity Acquis, November 1, 2020. p. 63). Adopting the new Law was a landmark development in Georgia's electricity market reform. The Law transposes obligations on unbundling, third-party access, wholesale trade, retail trade, public service obligation, and regional cooperation and defines concrete timelines for their implementation.

The new Law aims to ensure the creation, opening, and development of a fair, transparent, and competitive electricity market in Georgia. It defines a new legal framework for electricity generation, transmission, distribution, dispatch, supply, and trade and provides guidelines for the transition period. One of the main principles introduced by the new Law is the unbundling of supply and distribution activities from production and trading activities (Galt & Taggart, 2019a; TBC Capital, 2019).

Unbundling requirements for Transmission System Operators

One of the European Union's main strategic goals is to create a competitive single electricity market. In the regulation of network industries, like electricity or gas, unbundling requirements refer to the separation of the activities potentially subject to competition (such as production and supply of energy) from those where the match is impossible or allowed (such as transmission and distribution).

The potential for discrimination will always exist where a vertically integrated company undertakes both competitive and monopolistic businesses. Therefore, the preferred market structure is ownership unbundling, where the network assets are owned by a regulated company performing all of the network activities and with no interest in the competitive markets of production, generation, or supply (3rd Legislative Package Input, June 2007, p. 9).

It has been mentioned in the academic literature that the main objective of the unbundling ownership model is to prevent discrimination, optimize the use of infrastructure, incentive economic investment, and enable effective regulatory oversight of monopolistic activities (3rd Legislative Package Input, June 2007, p. 7).

Separation within the State

In some Member States, vertically integrated companies are still wholly or partially state-owned. Electricity Directive opens up the possibility, within the unbundling ownership model, of the State controlling transmission activities, as well as generation, production, and supply activities, provided, however, that the individual actions are exercised by separate public entities (Article 9(6) of Electricity Direc-

tive). Such separation can be considered effective if supply or production activities are in public ownership, but the independence of a publicly owned transmission system operator is still guaranteed. For the rules on ownership unbundling, two separate public bodies should be seen as two distinct persons and should be able to control generation and supply activities on the one hand and transmission activities on the other (Commission Opinion of 9.1.2012, No 714/2009; Article 10(6) of Directive 2009/72/EC, p. 4). In such cases, demonstrating that these public bodies are not under the joint influence of another public entity is of utmost importance to avoid violating the rules on ownership unbundling.

As the effectiveness of unbundling in publicly owned companies depend on the degree of management independence, it shall be assessed on a case-by-case basis. Therefore, analysis of several decisions and opinions of the European Commission and Energy Community Secretariat as regards the practical issues related to separation within the State and interpretation and an explanation of EU requirements of ownership unbundling is of utmost importance.

- a) Danish Transmission System Operator is wholly owned by the Danish State, which also owns the majority of the company, which is active in generating, producing, and supplying electricity and gas. However, the ownership of these two companies is administered by the different ministries.

In its opinion, the Commission considered that two separate Ministries controlling, on the one hand, the transmission of electricity and gas and, on the other hand, activities of production, generation, and supply of electricity and gas could, under certain circumstances, constitute bodies with a sufficient degree of separation as required by Electricity Directive (Commission Opinion of 9.1.2012, No 714/2009; Article 10(6) of Directive 2009/72/).

In the case of certification of the Danish transmission system operator, the Regulatory Commission of Denmark and the European Commission undertook an in-depth evaluation of the degree of separation between the two Ministries concerned, focused on legal traditions and constitutional theory, and assessed independent powers of the Ministries in the decision-making process in the areas for which they are responsible. In addition, the Commission identified several other elements in the Danish case which strengthen the separation between the handling of the transmission activities and the production, generation, and supply interests, including whether the independence of the individual Ministers in the areas of competence also precludes the Prime Minister from giving orders or instructions as regards the Minister's responsibilities in the transmission of electricity and gas.

- b) The Commission took the same approach when assessing the preliminary decision of the Swedish Regulatory Commission on the certification of the Swedish Transmission System Operator. The transmission company and the company providing generation and supply activities fall within the competence of two Ministries. Unlike the Danish case, the Commission confirmed that a sufficient degree of separation exists between the two Ministries regarding transmission activities and generation and supply interests, as required by Electricity Directive, particularly regarding day-to-day decisions. However, regarding the non-day-to-day choices, the Commission noted that the ability to make decisions independently, without being influenced or controlled by other Ministries or any overarching public authority, needed to be sufficiently demonstrated. This assumption was based on the fact that the Swedish Government establishes every year the Regulation Letter, where the Government describes the goals and assignments the authority has and how much money it plans to use from the state budget (Detailed information on Regulation Letter). The Commission noted that it does not become clear how the fact that the Swedish government establishes every year several detailed conditions regarding investments by transmission companies can be considered compatible with the requirement of independence of the relevant Ministry and how it is ensured that such a decision is not influenced by the interests of the Swedish State in supply and generation company (Commission Opinion pursuant to Article 3(1) of Regulation (EC) No 714/2009; Article 10(6) of Directive 2009/72/EC).
- c) In the case of certification of the Transmission System Operator of Albania, the Commission, in addition to its views and approaches expressed in previous decisions, noted that the entire achievement of the unbundling ownership requirements set by the Electricity Directive to prevent potential and actual conflicts of interest and to ensure unbundling of undertakings controlled by public bodies on equal footing with private projects, Electricity Directive cannot be interpreted in a formalistic manner. The separation of control between the two public bodies in question must be effective because it ensures the complete independence of the public body controlling the transmission system operator of any other entity controlling generation and supply activities (Opinion 1/17, No 714/2009; Article 10(6) of Directive 2009/72/EC, p. 6).

The Secretariat outlined one of the main approaches that are of utmost importance for the assessment of practical independence, namely *de jure* and *de facto*

independence between the two public bodies tasked to exercise control over the state-owned undertakings in question, including the prevention of any common influence of a third public or private entity (Section 2.2, p. 10 Commission Staff Working Paper – Interpretative Note on Directive 2009/72/EC; Directive 2009/73/EC, January 22, 2010).

In its decision, the Energy Community made a detailed and in-depth evaluation of the requirements of the Constitution of Albania and legislation to determine the individual and exclusive powers of the Ministries and the quality of their independence in the decision-making process, as well as the possibility of exercising control. The Energy Community also established the necessity of amendments to primary and secondary legislation. Furthermore, the assessment included an evaluation of the influence of third parties, such as the prime minister or the President, on the independence of the relevant Ministries.

Certification of electricity Transmission System Operator in Georgia

a) Legal basis for certification of TSO

The Law of Georgia on Energy and Water Supply sets out, *among other things*, the obligation of certification of a transmission system operator, the rules, procedures, and deadlines for accreditation, as well as the authority of the Regulatory Commission in the process of certification of a transmission system operator. One of the core aims of the Law is to ensure the proper implementation of the independence and unbundling of transmission system operators.

The Law establishes the general rule for unbundling the transmission system operator and defines the authority of the Regulatory Commission to approve the relevant legislative act (The Law of Georgia on Energy and Water Supply, Article 50). Based on this, the Regulatory Commission approved the Transmission System Operator Certification Rules by Resolution N9 of 27 March 2020 (Georgian National Energy and Water Supply Regulatory Commission Resolution N9 On Approving Transmission System Operator Certification Rules, March 27, 2020), which sets out the procedure for unbundling of transmission system operators, including the list of documents and information to be submitted by the Applicant and the process and deadlines for reviewing the application by the Regulatory Commission.

After adopting all relevant regulatory acts, JSC Georgian State Electric System (GSE) applied for certification as Georgian Transmission System Operator. The

shareholder of GSE is the National Agency of State Property¹. In 2020, the National Agency of State Property transferred the rights and obligations associated with shareholding to the Ministry of Economy and Sustainable Development. Under the transfer agreement, the shareholder's consent is needed only for decisions concerning the alienation of shares, the liquidation of the company, the disposal, pledging, or transfer of assets, and withdrawal and contributions to the share capital.

By the time of submission of the application, GSE, together with the JSC United Energy System Sakrusenergo,² provided transmission services on the territory of Georgia based on the transmission licenses issued by the Regulatory Commission. Therefore, following the requirements for unbundling and independence, GSE concluded a lease agreement with Sakrusenergo³.

Following the requirements of the Law on Energy and Water Supply (The Law of Georgia on Energy and Water Supply, Article 44, paragraph 1), the Government of Georgia adopted the Unbundling Plan (The Resolution of Georgian Government N682, November 13, 2020). The Resolution provides a detailed list of the measures and the deadlines for their implementation that constitute the responsibility of the relevant public and private entities to implement the presented unbundling model effectively.

Pursuant to Energy Community requirements and the Law of Georgia on Energy and Water Supply, the preliminary decision made by the Regulatory Commission was notified to Energy Community Secretariat to examine the informed initial decision and deliver its opinion on the compatibility of the decision with the EU requirements.

a) Ownership of the electricity transmission system

Directive 2009/72/EC requires that “*each undertaking which owns a transmission system acts as a transmission system operator*” (Article 9(1)(a), Electricity Directive). This means, in principle, that the undertaking applying for certification is the transmission assets (system) owner. However, only in exceptional cases the

¹ Under the Law on State Property, the shares are considered state-owned assets and are administered by the National Agency of State Property, unless transferred to another body;

² The shares of Sakrusenergo are owned 50% by the State of Georgia, represented by the Ministry of Economy and Sustainable Development of Georgia;

³ Agreement “On Transfer of the Electricity Transmission Lines and their Components Owned by JSC UES Sakrusenergo to JSC Georgian State Electrosystem (Transmission System Operator) with the right of use with for the unspecified term (by Lease) and for the Provision of Accompanying Repair and Maintenance Services”;

European Commission and the Secretariat have accepted that a TSO's right to use, manage and dispose of the transmission system through arrangements such as a lease or concession agreements may be considered equivalent to ownership (Commission's Opinion on URE's, 9 April 2014 (C(2014) 2471; Commission's Opinion on certification of *REN Rede Electrica Nacional S.A.* and *REN Gasodutos S.A.*, C(2014) 3255; Commission's Opinion on the certificate of *Transelectrica D.A.*, C(2015) 7053; Secretariat's Opinion 1/20 of 5 February 2020). Moreover, in each case, they thoroughly examined whether the applicant's rights were equivalent to ownership rights.

a) Separation of control over a transmission from generation/supply

Control over *GSE* and the several undertakings active in generating and supplying electricity and natural gas is exercised by the public body exercising the respective shareholding rights, the Ministry of Economy and Sustainable Development of Georgia. By the Order of the Ministry of Economy and Sustainable Development of Georgia Order dated 2 December 2020, different departments within the Ministry have been entrusted with the exercise of rights and obligations associated with shareholding in the TSO, on the one hand, and the other undertakings active in generation and supply of electricity and natural gas, on the other hand.

The separation of control within the State in line with Article 9(6)⁴ of the Electricity Directive read in conjunction with Article 9(1)(b) and (c)⁵ in the Georgian case has not taken place even in its most basic requirement, the designation of two public bodies. The formal separation of competencies between public bodies constitutes a *sine qua non* for unbundling of a state-owned TSO (Opinion 1/21

according to Article 3(1) of Regulation (EC) No 714/2009; Article 10(6) of Directive 2009/72/EC – Georgia – Certification of GSE). The separate departments

⁴ "...two separate public bodies exercising control over a transmission system operator or over a transmission system on the one hand, and over an undertaking performing any of the functions of generation or supply on the other, shall be deemed not to be the same person or persons";

⁵“(b) the same person or persons are entitled neither: (i) directly or indirectly to exercise control over an undertaking performing any of the functions of generation or supply, and directly or indirectly to exercise control or exercise any right over a transmission system operator or over a transmission system; nor (ii) directly or indirectly to exercise control over a transmission system operator or over a transmission system, and directly or indirectly to exercise control or exercise any right over an undertaking performing any of the functions of generation or supply; (c) the same person or persons are not entitled to appoint members of the supervisory board, the administrative board or bodies legally representing the undertaking, of a transmission system operator or a transmission system, and directly or indirectly to exercise control or exercise any right over an undertaking performing any of the functions of generation or supply”;

within the Ministry are not entitled to make decisions, as they are not two different and independent public bodies with legal personalities. Therefore, the separation between two departments of the same Ministry does not comply with the independence requirements.

In its Opinion, the Secretariat outlined that the owner of the shares in the Transmission company, on the one hand, and in supply and generation companies, on the other hand, are owned by the same public entity, the National Agency of State Property. Although the Agency has retained certain rights as an owner related to the alienation of shares, the liquidation of the company, the disposal, pledging, or transfer of assets, and withdrawal and contributions to the share capital, it still has the authority to influence the decision regarding strategic transactions of the energy enterprise, such as withdrawal of shares/capital, encumbrance or selling the assets and shares. In its final decision on the certification of Georgian TSO, the Regulatory Commission concluded that, as the shareholder has the power to exercise control over the assets of the transmission system, this amounts to control within the meaning of the EC Merger Regulation and the Electricity Directive, it is contrary to the requirements of the independence and unbundling of the transmission system operator (Opinion 1/21 according to Article 3(1) of Regulation (EC) No 714/2009; Article 10(6) of Directive 2009/72/EC – Georgia – Certification of GSE, p. 10).

The Regulatory Commission assumes that the separation of control within one public body, the Ministry, through internal divisions of the Ministry is a temporary measure (The Regulatory Commission Decision №9/10 dated March 4, 2020, On Preliminary Certification of JSC Georgian State Electrosystem as the Electricity Transmission System Operator; p. 10). The Unbundling Plan approved by the Government of Georgia⁶ foresees the obligation of the Ministry to ensure the reallocation of the management rights of energy enterprises within the state institutions in a manner achieving the goals of independence and unbundling requirements provided by the Law by 31 December 2021.

Conclusion

Based on the information displayed in the Preliminary Decision made by the Regulatory Commission, the Energy Community Secretariat concluded that GSE is currently not unbundled in line with the unbundling ownership model as required by the Electricity Directive (Opinion 1/21 according to Article 3(1) of Regulation

⁶ The Government of Georgia adopted the Unbundling Plan through the Resolution N682 on 13.11.202, and it entered into force on 17.11.2020.

(EC) No 714/2009; Article 10(6) of Directive 2009/72/EC – Georgia – Certification of GSE, p. 8). Furthermore, the Secretariat noted that GSE is still directly and indirectly controlled by the same public body, also holding the public companies active in the generation and/or supply of natural gas or electricity.

Under the conclusions made by the Secretariat, a decision on the certification of GSE as an electricity transmission system operator adopted by the Regulatory Commission is subject to the conditions established by the said decision.

The European Union's strategic documents stress that the effective ownership unbundling of electricity supply and generation from monopolistic electricity transmission and distribution activities is critical to competitive electricity market development. Therefore, under the final decision delivered by the Regulatory Commission, all the measures necessary to comply with the requirements of the Transmission System Operator Unbundling Plan (The Resolution N682 of the Government of Georgia made on 13.11.2020, Article 4, paragraph 1) shall be completed by the end of the year 2021, in particular, managing rights for the enterprises active in transmission activities on one hand and generation and supply activities, on the other hand, shall be reallocated to be controlled by truly separate public bodies, independent not only from each other but also from third bodies such as the Government, the Prime Minister or the President.

Based on the analysis of Unbundling Plan on the one hand and the decisions made by the Regulatory Commission on the other hand, the requirement set under the Unbundling Plan is too broad, unclear, and vague as to what transmission system operator is concretely and precisely obliged to do. As a result, the transmission system operator is not obliged to act under the Unbundling Plan. It needs to be responsible for reaching the specific outcome, which is necessary to ensure an effective unbundling regime consistent with the requirements of the Electricity Directive.

Under Unbundling Plan, the Ministry of Economy and Sustainable Development of Georgia shall ensure the separation of management of the relevant companies through negotiations with state bodies and initiating the appropriate amendments to ensure effective unbundling and solve the fundamental inconsistency with the general unbundling requirements. However, GSE as a transmission system operator, is not entitled to make decisions regarding the reallocation of the companies, nor can it influence the relevant amendments to legislation, if needed.

In Secretariats' opinion, GSE was certified without meeting the requirements necessary for compliance with the provisions of the unbundling ownership model and,

thus, in breach of Energy Community law. In addition, it was noted in its Opinion that, in similar situations, the Secretariat has already considered that maintaining a transmission license under the conditions mentioned above would *de facto* perpetuate a breach of one of the most fundamental requirements for TSO under European law, unbundling (Secretariat Opinion 3/17 of 15 June 2017 *EMS*, Secretariat Opinion 2/17 of 22 April 2017 *Yugorosgaz-Transport*). In particular, the Secretariat noted that such requirements are not suitable or appropriate to remedy the lack of compliance with the unbundling ownership model, as imposing conditions on transmission system operators that are not in the company's sphere of competence fails to demonstrate suitability criteria (Opinion 3/17 according to Article 3(1) of Regulation (EC) No 714/2009 and Article 10(6) of Directive 2009/72/EC – Serbia – Certification of EMS, p. 10).

In a perfect scenario, after the deadline determined by the Unbundling Plan, energy enterprises involved in transmission/distribution energy activities, on the one hand, and the energy enterprises involved in generation/supply/trade, on the other hand, shall be managed by separate state bodies/institutions, and at the same time control by the same third party over these enterprises shall be excluded. Therefore, control by the National Agency of State Property as the shareholder of these companies shall be excluded.

Ownership unbundling is only sufficient if it results in the independence of the control of the network operator. The “control” constitutes “*rights, contracts or any other means which, either separately or in combination and having regard to the considerations of fact or law involved, confer the possibility of exercising decisive influence on an undertaking*” (EC Merger Regulation, Article 3(2)). The critical consideration in this regard is the concept of “decisive influence.” The EC Merger Regulation clarifies that decisive influence can arise in particular from:

- a) Ownership or the right to use all or part of the assets of an undertaking; or
- b) Rights or contracts which confer decisive influence on the composition, voting, or decisions of the organs of an undertaking.

The National Agency of State Property as the owner of shares in Transmission Company, on the one hand, and generation and Supply Company, on the other hand, is entitled to make decisions regarding the disposal, pledging, or transfer of assets. In its final decision on the certification of Georgian TSO, the Regulatory Commission concluded that this amounts to control within the meaning of the EC Merger Regulation and the Electricity Directive. It is contrary to the requirements

of the independence and unbundling of the transmission system operator.

The Regulatory Commission is entitled to monitor the continued compliance of the transmission system operator with the requirements of independence and unbundling, regardless of the required level of independence and/or unbundling model (Law of Georgia on Energy and Water Supply, Paragraph 1 of Article 49). Furthermore, the Regulatory Commission is entitled to re-open the certification procedure in case of reasonable doubt of noncompliance with the independence and unbundling requirements of the transmission system operator (Law of Georgia on Energy and Water Supply, Article 49, paragraph 2 (b)).

Considering the above-listed non-compliances with the requirements of the Law, the Regulatory Commission concluded that Georgian State Electrosystem could be certified as a transmission system operator upon conditions to meet relevant needs by the end of the year 2021. However, after the expiry of this period, it is necessary to reevaluate the compliance of the transmission system operator with the requirements of independence and unbundling, which is the ground for the re-certification procedure based on Law and the Transmission System Operator Certification Rules.

The Regulatory Commission must ensure the independence of the transmission system operator for re-certification purposes according to the following criteria:

- a) The executive bodies of the transmission system operator shall be appointed by the authorized person/body who, at the same time, does not exercise similar authority over the energy enterprises that are not involved in generation/supply/trade activities;
- b) The transmission system owner must not assert any influence over the operational and commercial decisions of the transmission system operator;
- c) The Energy enterprises involved in transmission and distribution, on the one hand, and the energy enterprises engaged in the generation/supply or trading activities, on the other hand, should be managed by state bodies/institutions that, at least in the process of exercising these powers, do not have a standard controlling body.

It can be concluded that the Georgian Transmission System Operator has been certified and nominated as the sole transmission licensee in Georgia upon the specific conditions. Therefore, with the fulfillment of all criteria, the main objective of ownership unbundling (prevention of discrimination, optimization of the use of

infrastructure, incentivizing economic investment) can be reached. However, in case of non-compliance with the unbundling ownership requirements and, thus, re-certification of Georgian TSO, the Government of Georgia shall consider the costs of such procedure for the country and, precisely, the state-owned company.

Therefore, the responsible public entities shall work with the Regulatory Commission and the Transmission System Operator to ensure timely and proper planning and implementation of necessary activities to meet unbundling ownership requirements.

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ONLINE DISPUTE RESOLUTION IN GEORGIA: THE BENEFITS AND CHALLENGES

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ABSTRACT

Disputes are an inevitable part of our lives. Considering the time and expense, the courts are not the best solution for either party, and many acknowledge the effectiveness of Alternative Dispute Resolution (ADR), which eliminates the common obstacles of litigation. However, if the parties are located in different countries, they still need to travel lengthy distances to resolve the dispute. Developments in communication technology has created more convenient and creative possibilities for ADR, specifically, transforming ADR into Online Dispute Resolution (ODR), which allows parties to reach a solution through the internet and without any limitations. While developed countries are already well aware of the numerous possibilities ODR provides, it remains a novelty in developing countries and its growth there necessitates that several factors to be implemented.

Keywords: Online Dispute Resolution (ODR); Alternative Dispute Resolution (ADR); Information Communication Technology (ICT); COVID-19; electronic commerce (e-commerce); Developing Countries; Georgia

Introduction

Online Dispute Resolution is also known as “Electronic-ADR” (e-ADR), “Internet Dispute Resolution” (IDR), “Technology Mediated Dispute Resolution” (TMDR), or “Online Alternative Dispute Resolution” (ODR) (Zissis, 2015, p. 151). There is no common agreement to the definition of ODR, but in simple terms it applies to a dispute resolution process organized online and a process where online software conducts the main part of a dispute resolution process (Blake, Browne, Sime, 2014, p. 69).

This article demonstrates ODR as a feasible way of resolving disputes for Georgia and, therefore, intends to find out what challenges could appear in case of its implementation. ODR suggests numerous advantages. First, it is considered to be less costly and time consuming compared to the traditional practice of in-person dispute settlements (Kaufmann-Kohler, & Schultz, 2004, p. 55). Particularly for small disputes, it is too expensive to travel in each country for resolving disagreements. Characteristics of online dispute resolution, such as e-mail, chat conference rooms, instant messaging, or videoconferencing, significantly mitigates the costs related to travel (Zissis, 2015, p. 223). Additionally, it is not required to rent a neutral facility to administer the process, and appropriate documents or materials are also readily accessible and do not have to be transported lengthy distances (Gibbons, Kennedy, Gibbs, 2002, p. 27). Therefore, conducting dispute resolution online reduces travel costs for all parties and mitigates the importance of and expenses related to physical premises (Ebner, & Getz, 2012). Traditional Dispute resolution mechanisms, such as courts, in many cases are expensive and time consuming, which leads to unsatisfied disputants. ODR reduces these tensions.

ODR is flexible and user-friendly, allowing for numerous communication methods (Cortés, 2011, p. 150). ODR is accessible irrespective of the time and location of the parties, allowing participation in the process even if disputants are living in absolutely different countries or different time zones (Freitas, & Palermo, 2016, p. 85). ODR also increases accessibility of dispute resolution through reducing barriers of financial background, disability, geographical distance, shyness in physical context, and other potential obstacles to accessing justice. In addition, some believe that a traditional dispute resolution gives priority to those individuals who are “articulating, well-educated, or members of a dominant ethnic, racial or gender group.” (Tyler, & McPherson, 2006, p. 11) Disputes are an inevitable part of our lives, and individuals should have an opportunity to find an amicable, fast, and effective solution through the use of technology and dispute resolution proceedings

have to adapt and be innovative. Since disputants wish to avoid complicated procedures, ODR appears to be the relevant method of dispute settlement.

Georgia has adopted a new law on mediation (Law of Georgia on Mediation) on January 1st, 2020 which is obviously a successful step forward. As in other countries, courts in Georgia are overloaded and are not always able to handle disputes in a timely manner. According to the statistical data for the year of 2018, the number of civil cases heard at the Common Courts of Georgia is estimated at 125,791 and, in total, only 74,562 of them were completed (Supreme Court of Georgia, The Judiciary in Georgia – Statistical Data for the Year 2018). Therefore, the need for an effective and fast dispute resolution mechanism is obvious.

The global COVID-19 pandemic has changed most of our lives, and many communal activities, from education to occupations, went online. COVID-19 draws a picture of virtual reality. “The spread of COVID-19 has changed our daily lives dramatically. The world has not encountered a pandemic of this nature since 1918, where people were forced to stay in isolation.” (Ali, 2020) Because of social isolation caused by Coronavirus, the demand for ODR has risen sharply. Living through the COVID-19 era has obviously provided adequate opportunity to Go to The Balcony, a “metaphor for a mental and emotional place of perspective, calm and self-control”, and truly understand and manage the emotions that grip at this time (Ollapally, 2020).

To mitigate the spread of COVID-19, the government of Georgia issued ordinance №181 on March 23, which includes several restrictive measures, such as transportation services, educational process, demonstrations, and cultural and economic activities (Government of Georgia Ordinance No 181 23 March 2020). The ordinance does not itself restrict remote forms of communication. As the situation shows the need for online services and alternative dispute resolution, Mediation and Arbitration becomes available remotely (Annex 2). The government uses remote Mediation and Arbitration as it is not specified in any legislative acts of Georgia. “Similarly, the Ministry of Justice of China issued a guideline on March 3. The guideline emphasizes the importance of online dispute resolution, or ODR, for achieving its goal of getting the economy back on track while still maintaining control over the spread of COVID-19” (Chow, 2020). *China Pushes for Increase in Online Dispute Resolution as it Reboots Economy*, Accessed on 24 March 2020). The unforeseeable situation revealed the potential of online dispute resolution in several countries.

Georgia can benefit from the use of ODR in numerous ways. First, the area of com-

mercial activities will increase. More and more businesses or organizations would engage in the process of ODR. As well, consumers would gain trust for the effective redress mechanism that ODR provides. Developing ODR in Georgia would also increase the chances of attracting more neutral, third-party mediators. ODR obviously would also encourage the economic development because of the lower expenses compared to the traditional dispute resolution methods. ODR would also motivate developing countries to engage in cross-border international transactions and implement best practices of online dispute resolution. However, in order to fully develop the potential of ODR in Georgia, the de facto use is not enough. We need to be sure that as the pandemic fades virtual ADR continues to expand rather than to disappear. There are several challenges that should be taken into consideration while implementing ODR.

Challenges

Infrastructure and Accessibility

Developing countries generally cannot necessarily provide the broadband infrastructure needed for widespread internet access, and this obviously limits the level of e-commerce and, therefore, the need for ODR in online transactions (Parlade, 2003). Therefore, one apparent challenge for the implementation of ODR could be the problem of access to technology. Technical issues may establish barriers such as the degree of sophistication of the general mass of information technology (IT) equipment available in business and in the community (Ross, 2003). “To improve the population’s level of computer and cyber literacy, a proactive and effective education policy in the field is needed. Governments have a crucial role to play in the design and implementation of programs to provide nationwide access to computers and corresponding trainings” (Albornoz & Martín, 2012, p. 54).

Moreover, to run the ODR process in a fair manner, both parties – as well as the third-party neutrals should have an adequate level of digital literacy – or at least qualified assistance.

For developing countries, the first step to a robust Internet ecosystem should be quality infrastructure. Simple infrastructure, such as reliable electricity supply and roads to enable postal delivery, is necessary, as is quality fixed or mobile Internet infrastructure (Albornoz & Martín, 2012, p. 54). It follows that, within rich nations, the use of an Internet environment in conflict-resolution is becoming completely extensive. Individuals who believed in the necessity for a new field of dispute resolution also acknowledged the possible challenges related to Internet and its

disputes could be addressed with online resources (Raines, Tyler, 2006). “Disputants in developing countries do not have access to the land-lines and the steady electricity necessary for ODR which depends primarily on personal computers (PCs). Instead, innovations in OADR are occurring with non-PC technologies, such as cell phones, radios, Blackberries, and other wireless technologies” (Raines, Tyler, 2006).

In Georgia it is considered that the access to Internet content is largely unrestricted. “The legal constitutional framework, developed after the 2003 Rose Revolution, established a series of provisions that should, in theory, curtail any attempts by the state to censor the Internet” (Delbert, Palfrey, Rohozinski, et. al. 2010, p. 173) In addition, legal instruments are considered not to be sufficient enough to prevent limited filtering. The fixed-line telecommunications network in Georgia remains outdated, and there is a need for a profitable investment. The network has a significantly limited coverage outside Tbilisi, Georgia’s capital, but even inside the capital the quality of telecommunications varies considerably. In urban areas there are around 20 lines per 100 inhabitants while in rural areas there are only around four lines per 1,000 inhabitants (Delbert, Palfrey, Rohozinski, et. al. 2010, p. 173). The Ministry of Economic Development encourages communications service sector by simplifying the procedures when consumers bring disputes against operators and forbidding suspensions of service in the event of a dispute. Furthermore, consumer’s rights to confidentiality are protected. The regulation introduces a simple system of general authorization instead of an individual license regime, which prevents abuse of powers and recognizes principles of technological neutrality with the specific sanctions regime in case of violations (The Law of Georgia on Electronic Communications).

According to the recent statistics in Georgia, E-commerce use in the population is estimated to have been 20.8 percent for 2019. The lowest indicator refers to people of 60 years or older (as in the previous years of 2016-2018). For January 1, 2019 access and use of the internet in enterprises is estimated to have been 93 percent, a decrease compared to the previous years of 2016-2018. Also, there is a high indicator of non-existence of the enterprise’s websites or webpage by January 1, 2019 (81.6 percentages) while the previous years showed a better image. Regarding the share of households with computer access, there was 62.0 percent for July, 2019 in Georgia (National Statistics Office of Georgia, 2020). As the statistics show, internet infrastructure in Georgia varies significantly by years. Overall, it creates a challenging image for the development of a digital environment. There is still much to be done to eradicate connection problems, especially in the regions where many people do not have a personal computer and access to the internet.

Creating Awareness and Trust

Lack of awareness can be one of the main obstacles for ODR in Georgia. Compared to Georgia, other countries began to move towards alternative dispute resolution decades ago. The effectiveness of ODR, in addition to other factors, should be based on public acceptability. It is important to establish public awareness within developing nations. “There is a need to set up programs to inform the judiciary in all countries of the available systems for ODR and the benefits to gain court encouragement” (Ross, 2003) “In order to enhance public awareness of ODR, there should be more channels to provide the public with information on ODR services and access to more diversified ODR services” (Zheng, 2016, pp. 41-68).

Governments, businesses, e-consumers, and ODR providers should be responsible for establishing confidence, because building trust for e-commerce is considered to be a major undertaking (Albornoz & Martín, 2012, 53). “The online procedure must fulfill security requirements concerning privacy, integrity and authenticity” (Suquet-Capdevila, 2012, pp. 124-146) Parties need to be sure that the confidentiality issues are protected accordingly. The best way to guarantee confidentiality is through encryption. “Encryption technology is likely to protect the confidentiality of the process itself as well as the authenticity of any electronic communications, in order to prevent unauthorized access to information” (Lavi, 2016, pp. 871-940). Therefore, the lack of trust will be avoided if end users are aware of the security and protection devices. Also, a possible way to increase the parties’ trust during the process can be achieved by using anti-virus and anti-malware programs (Lavi, 2016, p. 935).

Parties would then feel comfortable in electronic environments and express their willingness to subject e-disputes to ODR proceedings. Therefore, ODR system should provide security of exchanges, such as digital signatures, encryptions, and firewalls for a secure environment (Fangfei, 2009). People do not usually share private information through the internet, such as using credit cards for online purchases, because of possible misuse and lack of availability in resolving potential disputes (Fangfei, 2009).

Awareness and trust are considered to be essential elements for the “widespread acceptance of online dispute resolution as a fully- fledged alternative to ADR and litigation” (Katsh, Rifkin, 2001). Communication based on trust is essential to the success of any ODR. If individuals trust each another, cooperation is also promoted, which then transfers into a problem-solving and effective bargaining. As a result, conflicts can be resolved effectively (Nauss, 2011). Establishing trust in

online environment can be achieved by trustmarks, which are created by independent organizations and displayed on the website of online businesses (Zwass, 1996; Nenstiel, 2006, p. 316). “The creation of a trustmark system specifically for ODR providers may increase the willingness of businesses and consumers to engage in online dispute resolution” (Zwass, 1996; Nenstiel, 2006, p. 316). Transparency and trust can also successfully be achieved by publications of the decision. However, this should not be in opposition to confidentiality. “Keeping the names of the parties as confidential or using impersonal statistical data, sample cases, selective publication of decisions” indicates the balance between publication and confidentiality (Zissis, 2015, p. 422).

Availability of Neutrals

ODR is the process of online dispute resolution, where a neutral third-party’s involvement is essential. “For that aspect of ODR that involves neutrals, there is clearly a challenge to ensure a ready supply of neutrals sufficient to meet the need generated by the system” (Ross, 2003, p. 5). ODR training is essential to ensure that best use is made of the facilities. Experience in due course will generate needed tactics, skills, and approaches specific to the online process (Ross, 2003, p. 5). Neutrals should be trained in different techniques “to be employed when not involved in ‘whites of the eye’ techniques inherent in face to face mediation” (Ross, 2003, p. 5). The standard training of neutrals would not be sufficient as online dispute resolution differs from traditional dispute resolution. Rather a specialized training focused on those new, ODR techniques would be required (Ross, 2003, p. 5). Currently, the Mediators Association of Georgia implemented mediator’s certification program which aims to increase the awareness of ADR and attract future mediators. The certification program does not itself cover the ODR training facilities; however, it may be successfully implemented in the future.

Expenses

In order to conduct ODR, there is a need for an ODR platform. It may be necessary to bring specialized know-how and professionals from developed countries to create new ODR platforms and software (Ross, 2003, p. 5). In addition, ODR platform will also require setting specific policies by the government. Generally, in order to be effective, ODR providers need to cover “the costs of hardware and software infrastructure, the secretariat, costs related to case administration and the fees and expenses of mediators and arbitrators. In order to cover these costs the ODR provider can search for funding from either both the parties by charging bilateral fees, or from one party by charging unilateral fees or by external sources” (Zissis, 2015, p. 398).

The technological structure of ODR providers depends on the method of the dispute resolution and on its nature. However, there are basic requirements common to all ODR providers. Specifically, it should be easy to use and accessible without any obstacles, taking advantage all possible ICT tools and providing specific communication capabilities when required. Specific communication capabilities include basic tools of asynchronous communication, such as e-mail for low-tech users and more advanced tools for those with greater technical experience, such as videoconferencing, teleconferencing, and discussion environments (Zissis, 2015, p. 398).

Whether as services for profit or not, ODR may be established at little or no cost to the government, based how the service may be integrated into the judicial dispute resolution process. Compared to the creation of new courts, for example, establishment of an ODR network does not necessitate huge financial expenses, such as obtaining large physical offices. Practical considerations, therefore, obviously weigh in favor of ODR implementation even in a developing country context (Parlade, 2003, p. 9).

COVID-19 Approach

“I find it immensely ironic that the Coronavirus crisis will do more for virtual courts than decades of work by the National Center for State Courts (NCSC). I am glad to see it come, even if this is not the way I would wish it to happen.”

Dr. Tom Clarke, National Center for State Courts

COVID-19 studies have shown that online negotiations are more likely to end in impasse than are face-to-face negotiations (Winkler, 2020). There are three key challenges to making virtual negotiations more difficult: trust, communication conundrum, and cross-cultural gap. “Reliant on small talk, body language and shared meals and laughs, trust thrives in physical presence” (Winkler, 2020). In order to eliminate unfavorable consequences, mediators have to maximize trust in the online process by choosing the right medium (whether phone, videoconferencing, or e-mail). Mediators should match a pitch, speed, and tone to create rapport in an online environment. Cross-cultural interactions make online relationships even difficult because of the social norms or lack of contextual cues, and mediators should acquire and bring with them into their activities a high level of cross-cultural competency as “there is no typical European, Asian or American” (Winkler, 2020).

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