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The Permanent Mission of Georgia to the United Nations Office and other international organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights and in response to the Note Verbale dated on 23 March, 2017 concerning the guidelines to be elaborated under the HRC resolution 33/22 entitled "Equal participation in political and public affairs" has the honour to convey the response of the Government of Georgia on best practices of implementation of the mentioned resolution.

The Permanent Mission of Georgia to the United Nations Office and other international organizations in Geneva avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 4 June 2017

**Office of the United Nations
High Commissioner for Human Rights
Geneva**



Encl. 2 pages.

Information on best practices of implementation of the UN HRC Resolution 33/22 “Equal participation in political and public affairs”

Prepared by the Ministry of Justice of Georgia

On 2 May 2014 the Law of Georgia on Elimination of all Forms of Discrimination was adopted by the Parliament. The adoption of the Law was accompanied with a set of amendments to other legislative acts, including Law on Gender Equality, Criminal Code of Georgia, etc. to harmonize provisions of all relevant statutory acts that serve to elimination of discrimination and ensuring equality.

Purpose of the law shall be elimination of all forms of discrimination and ensure for every person equal enjoyment of rights prescribed by law irrespective of race, skin colour, language, sex, age, citizenship, origin, place of birth or residence, property or social status, religion or belief, national, ethnic or social origin, profession, marital status, health, disability, sexual orientation, gender identity and expression, political or other opinions, or other characteristics (Article 1 of the Law).

The Law also distinguishes between direct and indirect discrimination. The former is defined as “the kind of treatment or creating the conditions when one person is treated less favourably than another person in a comparable situation on any grounds specified in Article 1 of this Law or when persons in inherently unequal conditions are treated equally in the enjoyment of the rights provided for by the legislation of Georgia, unless such treatment or creating such conditions serves the statutory purpose of maintaining public order and morals, has an objective and reasonable justification, and is necessary in a democratic society, and the means of achieving that purpose are appropriate” whereas the latter is defined as “a situation where a provision, criterion or practice, neutral in form but discriminatory in substance, puts persons having any of the characteristics specified in Article 1 of this Law at a disadvantage compared with another person in a comparable situation, or equally treats persons who are in inherently unequal conditions, unless such situation serves the statutory purpose of maintaining public order and morals, has an objective and reasonable justification, and is necessary in a democratic society, and the means of achieving that purpose are appropriate.”

The novelty of the Law is the introduction of the concept of multiple discrimination previously unknown to the Georgian legal system. The law defines the multiple discrimination as discrimination based on combination of two or more characteristics and provides that any form of discrimination, being it direct, indirect or multiple, shall be prohibited in Georgia. Simultaneously, it stipulates that special and provisional measures aimed at encouraging equality, particularly in gender issues, shall not be considered as discrimination.

Discrimination according to the Law shall be prohibited in all spheres, both public and private. The Law obliges all institutions that function within the jurisdiction of Georgia to conduct concrete measures for eliminating discrimination, in particular any institution shall be obliged to: a) bring its activity, legal acts and internal regulations, if any, into conformity with the requirement of the Law and other anti-discrimination legislation; b) respond promptly and efficiently to any alleged act of

discrimination and; c) if an act of discrimination is confirmed, impose liability on offenders under its control according to the legislation of Georgia and internal regulations, and ensure that the consequences of discrimination are eliminated without prejudice to the rights and legitimate interests of third persons. (Article 4 of the Law)

However, if an alleged discrimination victim finds that measures undertaken fall short of remedy the violation of his/her right to equality and non-discrimination may submit an application/complaint to an independent body – the Public Defender of Georgia, who is authorized to monitor and control elimination of discrimination and ensuring of equality in Georgia. A person shall submit the facts and relevant evidence to the Public Defender of Georgia that give reason to suspect discrimination, whilst the alleged discriminating person shall bear burden of prove and demonstrate that discrimination in fact did not occur. If the Public Defender of Georgia considers it to be necessary, it may schedule an oral hearing and invite both parties to settle the case by mutual agreement. If the case is settled by mutual agreement, the Public Defender of Georgia shall monitor the fulfilment of the obligations determined by the settlement agreement.

Discrimination as a criminal offence is included as a separate Article 142¹ in Criminal Code of Georgia. This provision prohibits racial discrimination, i.e. any action committed for the purpose of instigating animosity or conflict on ethnic or racial grounds, as well as direct or indirect limitation of human rights based on race, skin, colour, social origin, national or ethnic identity, or favouritism of any individual on the above mentioned grounds. Such crimes are punishable by up to three years of imprisonment. Similar actions committed with the use of force, by threatening to use force, by threatening the life or health of individuals, or by use of official capacity, shall be punishable by up to five years imprisonment.

Amendments to Article 53 of the Criminal Code of Georgia adopted on 27 March 2012, strengthened the principle of non-discrimination by introducing a new paragraph stipulating that the motive indicating discrimination on the base of race, skin colour, language, sex, sexual orientation, gender identity, age, religion, political or other opinion, disability, nationality, national, ethnic or social origin, financial standing, place of residence or any other bases for intolerance shall be considered as an aggravating circumstance for respective crimes as prescribed by the Criminal Code of Georgia.

Furthermore, Article 162 of the Criminal Code of Georgia criminalizes the interference with citizens' right to participate into elections, referendum and plebiscite and sets the punishment up to three years of imprisonment.

In addition, in order to increase the number of women in the Parliament, on 7 March 2014 Government of Georgia amended the Law on Political Unions of Citizens to give financial incentives to political parties, which include women candidates on their party lists. According to the amendment a political party, who receives the funding under Georgian legislation, will receive the supplementary funding with the amount of 30% if in the submitted party list (in all party list – for the local government elections) among every 10 candidates gender differences is represented by at least 30%.