

ACADEMIC PAPER

REGULATORY IMPACT ASSESSMENT OF ILO C183 – MATERNITY PROTECTION CONVENTION



MAY 2021
UN WOMEN

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REGULATORY IMPACT ASSESSMENT
OF ILO C183 – MATERNITY
PROTECTION CONVENTION



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ACRONYMS AND ABBREVIATIONS

AA	Association Agreement
C183	ILO Maternity Protection Convention, 2000 (No. 183)
CEDAW	United Nations Committee on the Elimination of Discrimination against Women
Committee	
DCFTA	Deep and Comprehensive Free Trade Area
EECA	Eastern Europe and Central Asia
EMC	Human Rights and Monitoring Center
EU	European Union
GDP	Gross Domestic Product
GEL	Georgian lari
Geostat	National Statistics Office of Georgia
GYLA	Georgian Young Lawyers' Association
ILO	International Labour Organization
ISSET-PI	International School of Economics at Tbilisi State University – Policy Institute
LLCG	Organic Law of Georgia – Labour Code of Georgia
LPS	Law of Georgia on Public Service
MoESD	Ministry of Economy and Sustainable Development of Georgia
MoF	Ministry of Finance of Georgia
MoLHSA	Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia
NGO	non-governmental organization
NPV	Net Present Value
NSFE	non-standard forms of employment
OECD	Organisation for Economic Co-operation and Development
pp	percentage points
PV	Present Value
RIA	Regulatory Impact Assessment
SDC	Swiss Agency for Development and Cooperation
SMEs	small and medium-size enterprises
SSA	Social Service Agency
UN Women	United Nations Entity for Gender Equality and the Empowerment of Women
UNDP	United Nations Development Programme
UNFPA	United Nations Population Fund
UNICEF	United Nations Children's Fund
WHO	World Health Organization

EXECUTIVE SUMMARY

The Maternity Protection Convention, 2000 (No. 183), was established by the ILO to promote “equality of all women in the workforce and the health and safety of the mother and child”. The Convention sets minimum standards that need to be implemented in order for pregnant women and working mothers to be adequately protected in the labour market. The Convention has so far been ratified by 38 ILO member countries. Georgia, a member of the ILO since 1993, has not yet ratified the Convention. Even as the Labour Code of Georgia made significant progress over the past decade (e.g. increasing the ceiling on paid maternity leave benefits in 2013 and introducing the paid parental leave concept in 2020), important maternity protection aspects of the law have not yet received proper attention. As a result, even the most recent Georgian labour legislation (adopted in September 2020) still comes short of the standards set by the ILO Maternity Protection Convention. In addition to the Convention’s standards, Georgia has committed to harmonizing and updating its legislation in line with that of the EU within the framework of the 2014 Association Agreement (AA). Among the relevant legislative themes are labour law, anti-discrimination and gender equality, as well as health and safety at work. While this current commitment does not mean that Georgia would be responsible for directly transposing EU legislation into its own legal framework, nor does it set the timeline for updating some of the newer standards, the general principles of the EU labour and social protection law would have to be at least considered by the Georgian legislators.

In this policy context, the ratification of Convention No. 183 would be an important step towards bringing Georgian legislation in line with international practices in a fiscally sustainable way, promoting the rights of working mothers, ensuring the safety and well-being of mothers and children, and helping level the playing field for both genders in the labour market.

The ISET Policy Institute (ISET-PI) – in collaboration with UN Women in the scope of the project “Women’s Economic Empowerment in the South Caucasus” (WEESC), funded by the Swiss Agency for Development and Cooperation (SDC) and the

Austrian Development Cooperation (ADC) – has implemented a Regulatory Impact Assessment (RIA) to study the prospects and organize a policy dialogue towards the possible ratification of the Maternity Protection Convention, 2000 (No. 183).

In the process, the RIA team identified a large number of stakeholders, including various governmental bodies, international organizations, human rights NGOs, labour unions, business associations and the Ombudsman’s Office, as well as gender, labour-market and legal experts. The views and opinions of all of the stakeholders were carefully documented and taken into account. The summary of consultations is provided in Annex 2 of the RIA document.

During the consultation process, two main problems were identified and then analysed in depth during the RIA process. First, the Georgian labour legislation, including the most current version of the Labour Code of Georgia (LLCG), does not guarantee and **does not provide sufficient compensation to support the mother and her child** for the duration of the paid maternity leave period (183 days according to the LLCG). The maternity leave compensation under the LLCG covers only 65 per cent of the subsistence minimum for the equivalent of 1.5 adults for six months. The second problem is the **unequal take-up of maternity leave among different groups of workers**, particularly the difference between women who are civil servants versus workers in other sectors. An extension of this is the unequal take-up of leave among women versus men. The Georgian labour legislation, while nominally not tying maternity leave to women only, makes it procedurally very difficult (for civil servants) or (until recently) impossible (in all other sectors) for men to take the paid childcare leave benefit. Thus, maternity leave is overwhelmingly taken by mothers.

The factors contributing to both problems can be grouped as follows:

- Gaps in financing maternity benefits, both public (from government budget sources) and private (based on the insufficient willingness and ability of the private sector to supplement maternity benefits for female workers)

- Unequal access of different groups of workers to legislative benefits, stemming from legislative gaps and difficulties in enforcing the legislation
- Gender wage gap stemming from the gender-based labour-market segregation of jobs and potential discrimination against female workers of childbearing age, who are seen by employers as less productive in the workplace
- Gender norms and stereotypes that assign to women the main responsibility for the care of newborns and young children

Based on the RIA findings and analysis, the general objectives of the Government's intervention were twofold: (a) facilitating equal access to maternity/parental leave benefits, as well as equal treatment of civil servants and non-civil servants, for both men and women; and (b) ensuring that the maternity leave compensation is sufficient to support the mother (parent) and the child at least for the duration of the paid maternity/parental leave period. The specific objectives of the intervention were as follows:

- Closing legislative gaps to ensure equal access to parental leave for both men and women, in the civil service sector and all other sectors
- Improving enforcement of the legislation
- Addressing the problem of inadequate leave compensation for employees
- Promoting the reduction of gender gaps in the labour markets and inside the household

The following policy options were considered in detail and their respective impacts compared during the RIA process:

- Policy Options 0 and 0.1: The status quo scenario and the updated status quo scenario – the Labour Code, the Law on Public Service and other relevant legal documents are not updated from their respective versions (for Policy Option 0: the legislation in effect immediately prior to 29 September 2020; and for Policy Option 0.1: the current, updated version of the legislation, adopted on 29 September 2020)
- Policy Option 1: The ILO Convention option – adopting the changes to the labour legislation that would just meet the minimum requirements of the ILO Maternity Protection Convention
- Policy Option 2: The option compatible with EU Directive 2019/1158 on work-life balance for parents and carers – introducing changes to the legislation that would make all categories of workers in Georgia equal under the labour law and bring the benefit schemes for both women and men in line with the most recent EU labour legislation

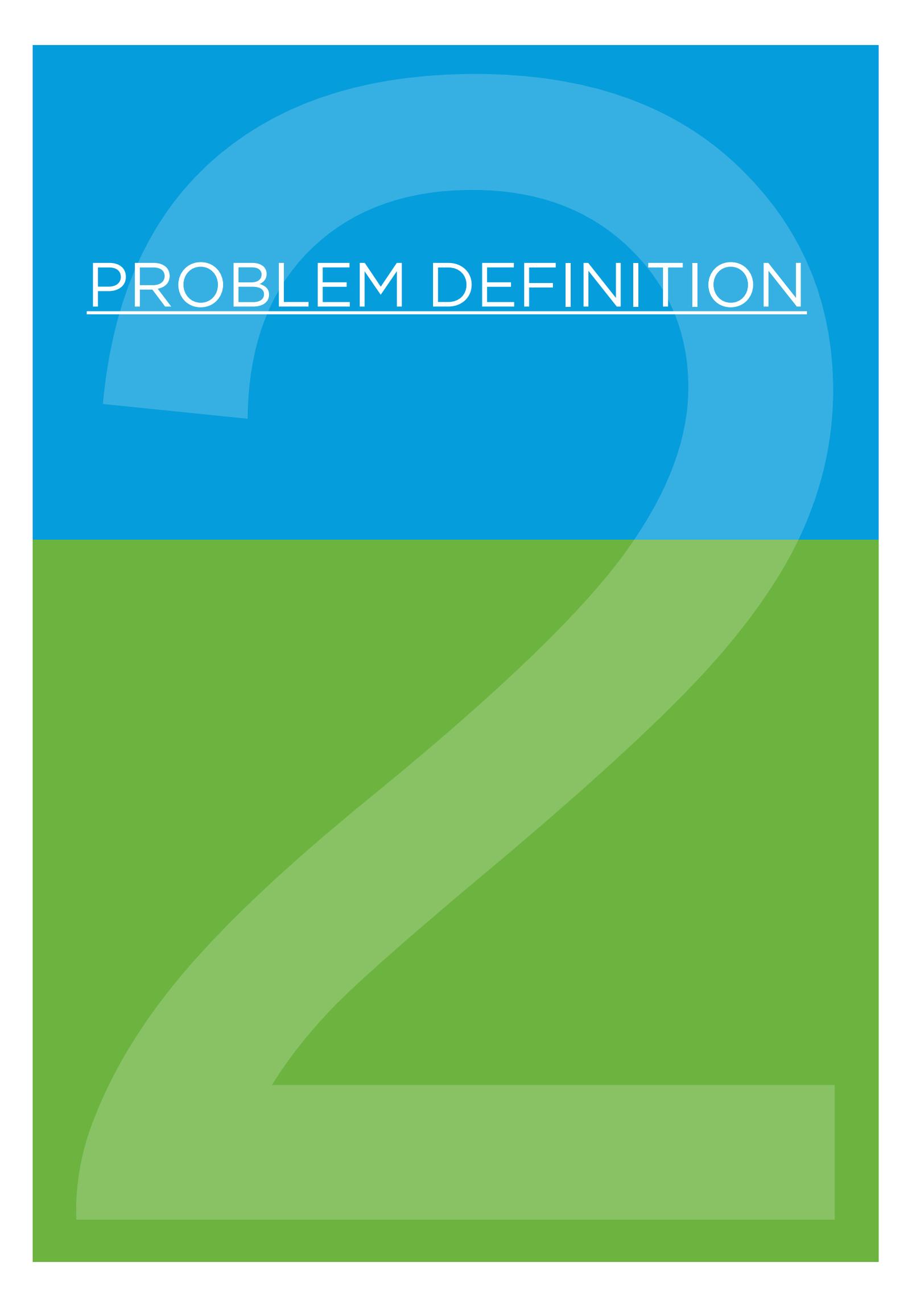
The RIA team has identified various impacts of the proposed policy options, including the quantitative impact on public finances as well as qualitative impacts along social, economic and gender dimensions. The results of the multi-criteria analysis that has been performed are summarized below in Table 1.

Table 1:
Comparison of options using multi-criteria analysis

EVALUATION CRITERIA	OPTION 1	OPTION 2
Net change in the state budget's direct costs (NPV) for three years (2021-2023)	GEL 68.6 million	GEL 159 million
Objective 1 – Closing legislative gaps to ensure equal access to parental leave for both men and women, in the civil service sector and all other sectors	0	5
Objective 2 – Improving enforcement of the legislation	2	2
Objective 3 – Addressing the problem of inadequate leave compensation for employees	3	3
Objective 4 – Promoting the reduction of gender gaps in the labour markets and inside the household	0	3
Feasibility/ease of complying	-2	-3
Risk (related to fiscal room for financing)	-2	-4
SUMMARY	1	3

As evident from the summary above, both options are associated with significant costs to the budget. Option 2 is more than twice as expensive as Option 1, and the feasibility of introducing Option 2 will depend on whether the Government can find fiscal room to introduce this option. If no fiscal room can be found (via additional revenues or reductions in costs), either option would be associated with an increase in the budget deficit-to-GDP ratio above 3 per cent by 2023. Option 1 raises the budget deficit-to-GDP ratio relative to the status quo by 0.05 pp and Option 2 by 0.12 pp (see Table 2).

However, with respect to Objectives 1 and 4, Option 2 exceeds Option 1 by 5 and 3 points respectively. On balance, therefore, it could be argued that Option 2 promises better performance for the long-term social and economic situation in the country in terms of promoting economic and social equality between the genders and between different groups of workers (closing the wage gap and changing discriminatory gender norms, as well as closing the gap between civil servants and all other workers).

The background is split horizontally into a blue top half and a green bottom half. Two overlapping semi-circles are centered horizontally. The top semi-circle is light blue and overlaps the blue background. The bottom semi-circle is light green and overlaps the green background. The text 'PROBLEM DEFINITION' is centered horizontally and underlined in white.

PROBLEM DEFINITION

A. POLICY CONTEXT

Introduction

The Maternity Protection Convention, 2000 (No. 183), was established by the ILO to promote “equality of all women in the workforce and the health and safety of the mother and child”, at the same time as recognizing the diverse social and economic development of ILO member countries, the diversity of enterprises and the development of national law and practice in regard to maternity protection. As of March 2020, the Convention covers the following key subject areas:

- Health protection
- Maternity leave
- Leave in case of illness or complications
- Benefits
- Employment protection and non-discrimination
- Breastfeeding mothers

The Convention sets minimum standards that need to be implemented in order for pregnant women and working mothers to be adequately protected in the labour market. The Convention has so far been ratified by 38 ILO member countries.¹ Georgia has not yet ratified the Convention.

Maternity leave legislation in Georgia is drafted at the national level, without any role devoted to local self-government.² The legislative framework consists of several laws and decrees of the Minister of Labour, Health and Social Affairs:

- Organic Law of Georgia – Labour Code of Georgia (LLCG)³
- Law of Georgia on Public Service (LPS)⁴
- Order of the Minister of Georgia “On the Approval of the Rules on the Benefits for Maternity, Childcare and Newborn Adoption Leaves of Absence”⁵
- Order of the Minister of Georgia “On the Rules for Conducting a Temporary Disability Examination and Issuing a Hospital Certificate”⁶
- Order of the Minister of Georgia “On the Approval of Works Harmful to and/or Posing a Special Risk to the Health of Pregnant and Breastfeeding Women”⁷
- Law of Georgia on Remuneration in Public Institutions⁸
- Organic Law of Georgia on Occupational Safety⁹
- Law of Georgia on Labour Inspection¹⁰

The **most recent Georgian legislation** (in force before 29 September 2020), while providing some of the protections envisioned by Convention No. 183, fell short of the minimum standards set by the Convention in several key areas. On 29 September 2020, Georgia adopted laws that establish better labour rights guarantees. The process was conducted with the support of the ILO, and the result was assessed positively.¹¹ However, like the previous version of the law, the **recently revised LLCG**¹² still falls short of certain key ILO standards.

1 See https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:0::NO::P11300_INSTRUMENT_ID:312328 (accessed on 30 July 2020).

2 However, municipalities provide financial support for local residents. In many cases, the target group for those financial benefits is families with several children.

3 See <https://matsne.gov.ge/en/document/view/1155567?publication=12>.

4 See <https://matsne.gov.ge/en/document/view/3031098?publication=26>.

5 See <https://matsne.gov.ge/ka/document/view/3725416?publication=0>.

6 See <https://matsne.gov.ge/ka/document/view/73012?publication=0>.

7 See <https://matsne.gov.ge/ka/document/view/4787924?publication=0>.

8 See <https://matsne.gov.ge/en/document/view/3971683?publication=12>.

9 See <https://matsne.gov.ge/ka/document/view/4486188?publication=0>.

10 See <https://matsne.gov.ge/ka/document/view/5003057?publication=0>.

11 ILO, “Georgia’s Parliament adopts historic labour law reform package”, 29 September 2020. Available at https://www.ilo.org/moscow/news/WCMS_758336/lang--en/index.htm.

12 Here and further in the text, the phrasing “most recent Georgian legislation”, “most recent status quo” or “previous LLCG”, if not further specified, will refer to the version of the LLCG that was in force prior to 29 September 2020. The phrasing “revised LLCG”, “recently revised LLCG”, “updated LLCG/status quo” and “current legislation” will refer to the version of the LLCG in force after the amendments on 29 September 2020.

Provided below is a brief legal review of the current state of maternity/childcare leave in Georgia. The review covers both the most recent status quo (prior to the 29 September revision of the LLCG) and the recent legal revision process leading up to the adoption of the amendments to the LLCG.¹³ The review will outline legislative changes that need to be made to harmonize Georgian legislation with Convention No. 183. The issues are grouped based on the sections of the Convention and also link those key areas with relevant EU directives.

Georgia has two different legal standards concerning labour relations. Firstly, the LPS mostly covers the conditions of employment for civil servants.¹⁴ In Georgia, according to the Civil Service Bureau's most recent statistics from 2019, the number of civil servants is 40,000 persons. Secondly, the LLCG addresses relations for all other employees – non-civil servants. This group of employees also includes public sector workers who are not covered by the LPS. Most statistics put the number of non-civil servants at 809,000 persons (including atypical workers).¹⁵ This RIA report applies to both legal standards.

Legal review

Health protection

Issue 1: Work characteristics that are prejudicial to the health of the mother or the child

The Convention requires national legislation to allow pregnant or breastfeeding women to avoid the work that is determined (by a competent authority) to be prejudicial to the health of the mother or the child. Furthermore, an assessment can also be performed to establish a significant risk to the mother's health

or that of her child. The ILO standard is that such provisions of the law should be the subject of consensus between the State and the representative organizations of employers and workers. However, the final decision on the outcome after the relevant negotiations have been concluded still rests with the government.¹⁶

According to the current Georgian legislation, employers are not allowed to employ pregnant or breastfeeding women in positions that are harmful to the health of the mother or child and/or pose a special risk.¹⁷ This standard applies to all workers. The regulation is detailed, as of the adoption of the order "On the Approval of Works Harmful to and/or Posing a Special Risk to the Health of Pregnant and Breastfeeding Women" on 14 February 2020. This order identifies activities that are harmful and/or particularly hazardous to the health of pregnant and nursing women, as well as identifies factors, agents and work processes that may adversely affect the health and development of pregnant and nursing women, in addition to fetuses and children. It also indicates the obligation of the employer to change the employee's working conditions or hours or offer her an alternative job. If this is not possible, the employer should temporarily relieve the employee of her duties as necessary for the protection of her and/or the fetus/child.¹⁸ The recently revised LLCG also states the following: "If according to the medical report, the health condition of an employee who is pregnant or breastfeeding a child, does not allow her to perform the work, she has the right to reasonable accommodation. This means requesting work adequate to her health condition".¹⁹ When the employer cannot transfer an employee who is

13 It is important to note that since the amendments to the LLCG were adopted only recently, the legislative changes have not yet been fully implemented and thus were not able to affect the actual situation on the ground. Therefore, the problem definition discussed in this RIA will reflect the most recent status quo, prior to the LLCG amendments. Wherever appropriate, we will emphasize whether and how the revised LLCG addressed the existing problems at hand. The recently revised LLCG will be reflected fully in the RIA as a separate policy option and will be compared with other identified options, as well as the most recent status quo.

14 Georgia, *Law of Georgia on Public Service*, Art. 2.

15 Geostat, *Labour Force Survey*. For further clarification of the term "atypical worker", please look under the heading "Miscellaneous" in the "Legal review" subsection below.

16 ILO, C183 - *Maternity Protection Convention, 2000 (No. 183)*, Art. 3.

17 Georgia, *Organic Law of Georgia on Occupational Safety*, Art. 5, para. 7.

18 Georgia, *Order of the Minister of Labour, Health and Social Affairs of Georgia "On the Approval of Works Harmful to and/or Posing a Special Risk to the Health of Pregnant and Breastfeeding Women"* (№01-20/6).

19 Georgia, *Organic Law of Georgia – Labour Code of Georgia*, Art. 20, para. 6.

a pregnant or breastfeeding woman, taking into account this fact and the period specified in the medical report, the employee is released from the workload. This period shall not be considered as a period of temporary incapacity for work.

However, according to the revised LLCG, the issue of remuneration of the employee during the temporary release from the duties specified in the employment contract shall be determined by the agreement between the employee and the employer.²⁰ As this provision is not obligatory in nature, it **might depend only on the goodwill of the employer** in creating the opportunity for women to enjoy the right to decent work. As stated in the ILO Maternity Protection Recommendation, 2000 (No. 191), in order to ensure the health protection of a pregnant or nursing woman and her child, measures should be taken to provide – on the basis of a medical certificate as appropriate – an alternative to such work in the form of “(a) elimination of risk; (b) an adaptation of her conditions of work; (c) a transfer to another post, without loss of pay, when such an adaptation is not feasible; or (d) **paid leave, in accordance with national laws, regulations or practice, when such a transfer is not feasible**”²¹ (emphasis added). In addition, according to EU Directive 92/85/EEC, which should be implemented by Georgia as stated in the EU AA,²² “measures for the organization of work concerning the protection of the health of pregnant workers, workers who have recently given birth or workers who are breastfeeding would serve no purpose unless accompanied by the maintenance of rights linked to the employment contract, including maintenance of payment and/or entitlement to an adequate allowance”.²³ Since the LLCG provision in question does not set clear obligations to the employer to ensure that an employee is not left

without income due to her pregnancy, childbirth or breastfeeding, it is **not in line with the standards set by the ILO and the EU Directive**. Accordingly, this provision needs to be revised to ensure that women’s rights are protected in the workplace.

Similarly, the LPS does not explicitly regulate how a pregnant and/or breastfeeding woman can be transferred to another position or another job if the working conditions create risks for her or her child. However, according to general regulations, it can be interpreted that if there is no possibility of transferring the worker to another position or job, the worker might be temporarily released from the duties;²⁴ during the period of temporary release from the working duties, the civil servant maintains the right to the [same] remuneration.²⁵ However, **clearer provisions in the LPS are needed** to avoid any violation of a pregnant or breastfeeding woman’s rights in the civil service sector.

At least the following legal acts need to be revised/ amended: the LLCG and the LPS.

Issue 2: The working hours not worked due to medical examinations

The revised LLCG ensures that the working hours not worked due to medical examinations are considered excusable and that an employee can retain her salary.²⁶ An identical standard already existed in the LPS.²⁷

Issue 3: Working overtime

According to the newly revised LPS, it is prohibited to require overtime of a person who is pregnant, a nursing mother or a person who has a child under 3 years of age without his/her written consent.²⁸ The current LLCG states some circumstances when the

20 Ibid., para. 7.

21 ILO, R191 - *Maternity Protection Recommendation, 2000 (No. 191)*, Art.6, para. 2.

22 *Association Agreement between the European Union and the European Atomic Energy Community and their Member States and Georgia* (2014), Annex XXX. Available at [https://eur-lex.europa.eu/legal-content/en/TXT/PDF/?uri=CELEX:22014A0830\(02\)](https://eur-lex.europa.eu/legal-content/en/TXT/PDF/?uri=CELEX:22014A0830(02)).

23 Council of the European Union, *Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding*.

24 Georgia, *Law on Public Service*, Art. 65.

25 Ibid., Art. 55, para. 3.

26 Georgia, *Labour Code of Georgia*, Art. 29.

27 Georgia, *Law on Public Service*, Art. 64, para. 5.

28 Ibid., Art. 61, para. 1¹.

employee is obliged to perform overtime work.²⁹ However, without employee consent, this regulation does not apply to an employee who is a pregnant or breastfeeding woman or who has a child under 3 years of age.³⁰

Maternity leave

Issue 1: The notion of maternity leave

It should be noted that the notions of maternity leave and parental leave were introduced in the revised LLCG. The term “pregnancy and childbirth leave” is used for maternity leave, and “childcare leave” refers to parental leave. Before the recent revisions, the LLCG, as the LPS, did not make any distinction between maternity and parental leave (instead offering vague formulations). It must be noted that even after the revision, both laws still maintain vague formulations on parental leave and do not explicitly and clearly indicate how fathers, for example, can use the parental leave in practice.

Issue 2: Duration of maternity leave

The current legislation provides the officially equal duration of maternity leave and childcare leave for civil servants and for all other workers (non-civil servants): for civil servants, a maximum of 730 days, of which 183 days are paid (200 in case of multiple births or complications); and for non-civil servants the 183 paid days include 126 days of maternity leave and 57 days of parental leave.³¹ In addition, employees may distribute the leave’s duration at their discretion between the prenatal and postnatal periods.³²

Furthermore, employees who adopted an infant under 12 months old are granted a newborn adoption leave of absence of a maximum of 550 calendar days from the day of the child’s birth, of which 90 days are paid. This regulation applies to both parents.

29 Georgia, *Labour Code of Georgia*, Art. 27, para. 5.

30 *Ibid.*, Art. 27, para. 6.

31 *Ibid.*, Art. 37.

32 It must be noted that the distribution of paid leave days between maternity and parental leave is a feature of the newly revised LLCG and did not exist in the prior LLCG.

Issue 3: Compulsory period for maternity leave

The Convention states that in order to protect the health of the mother and that of the child, maternity leave shall include a period of six weeks of compulsory leave after childbirth.³³ The ILO also says that other solutions to the compulsory period could be reached with the consultation of the representative organizations of employers and workers.

Georgian legislation does not have any indication on the compulsory period of maternity leave. Thus, it is recommended to **redraft the law and include a minimum of six weeks of compulsory leave** after childbirth.

At least the following legal acts need to be revised/amended: the LLCG and the LPS.

Issue 4: Revision of childcare leave regulations

The ILO Convention sets the minimum standards on childcare leave regulations. However, in order to achieve the most general aim of the Convention – the protection and strengthening of women – the law should not limit itself to the concrete standards of the Convention. The aim should be to **ensure an equitable work-life balance between women and men** in order to ensure less discrimination, greater diversity in the workplace and better economies. Therefore, we recommend that maternity leave regulations be revised based on WHO and UNICEF standards³⁴ and that lawmakers consider discussing introducing paternity leave.

At least the following legal acts need to be revised/amended: the LLCG, the LPS, the Law of Georgia on the Status of a Service Member, the decree of the Minister of Labour, Health and Social Affairs of Georgia “On the Approval of the Rules on the Benefits for Maternity, Childcare and Newborn

33 ILO, C183, Art. 4, para. 4.

34 WHO and UNICEF, *Global Strategy for Infant and Young Child Feeding* (WHO, 2004). Available at <https://apps.who.int/iris/bitstream/handle/10665/42590/9241562218.pdf>.

Adoption Leaves of Absence” (№231/6), the decree of the Minister of Labour, Health and Social Affairs of Georgia “On the Rules for Conducting a Temporary Disability Examination and Issuing a Hospital Certificate” (№281/6).

Leave in case of illness or complications

The Convention states that in case of illness, complications or the risk of complications arising out of pregnancy or childbirth, additional leave should be provided.³⁵ The current LLCG states that in case of complications, pregnant women can get an additional 17 calendar days (maximum).³⁶ However, the Georgian legislation should **consider the relevance and reasonableness of this duration.**

At least the following legal acts may need to be revised/amended: the LLCG and the LPS.

Benefits

The Convention has several standards on maternity leave benefits:

1. General standard: A woman can maintain herself and her child in proper conditions of health and with a suitable standard of living.³⁷
2. Core standard: The amount of such benefit shall not be less than two thirds of the woman’s previous earnings.³⁸
3. Progressive realization standard: If a country’s economy and social security system are insufficiently developed, benefits are provided at a rate no lower than a rate payable for sickness³⁹ or temporary disability.⁴⁰

According to Georgian legislation, maternity leave benefits in the LLCG and LPS are defined differently – “cash allowance” and “maternity leave compensation” respectively. Cash benefits for maternity leave do not meet the standard, in particular for workers who are not civil servants.⁴¹

In both the previous and the recently revised versions of the LLCG, the cash allowance ceiling for non-civil servants is GEL 1,000 for the duration of the paid leave (maximum 183 days (200 in case of complications): 126 days of maternity leave (143 in case of complications) and 57 days of childcare leave (family entitlement)). In particular, the newly issued “Rules for reimbursement of leave for pregnancy, childbirth and childcare as well as adoption of a newborn child” state that assistance shall be provided by the Social Service Agency “in case of using leave by both employed parents, in proportion to the days used, but not more than GEL 1,000 in total”. **The amount could not be deemed adequate even when taking into account the subsistence minimum for only one person.** In addition, the scale of benefits remains constant and has not progressed for the past six years.⁴² At the same time, according to the LLCG, an employer is not obliged to pay any benefits for maternity leave. Therefore, most employed women who are non-civil servants (i.e. private sector employees and the majority of public sector employees, e.g. preschool and secondary school employees) receive only the state cash allowance, unless their employer provides additional benefits on a voluntary basis.

33 ILO, C183, Art. 4, para. 4.

34 WHO and UNICEF, Global Strategy for Infant and Young Child Feeding (WHO, 2004). Available at <https://apps.who.int/iris/bitstream/handle/10665/42590/9241562218.pdf>.

35 ILO, C183, Art. 5.

36 Georgia, *Labour Code of Georgia*, Art. 37, para. 1; Georgia, Law on Public Service, Art. 64, para. 2.

37 ILO, C183, Art. 6, para. 2.

38 Ibid., para. 3.

39 The rate for temporary disability is 100 per cent of the previous salary, according to the decree of the Minister of Labour, Health and Social Affairs of Georgia “On Approval

of the Rules for Appointment and Issuance of Assistance due to Temporary Incapacity for Work” (№87/6).

40 ILO, C183, Art. 7.

41 As for the civil service, the employer can get the full amount of previous earnings (Art. 64, para. 4 of the LPS). However, even civil servants may not meet the adequacy criterion as salaries in local municipalities are quite low.

42 There is no legal standard on how to measure if the right is being realized “progressively”. The assessment made here is based on expert opinions. A more detailed analysis of the issue is provided in the economic assessment in Section V of this report.

As for the maternity leave compensation, women who are civil servants are covered by the LPS and are entitled to a full wage replacement rate for the period of 183 days.

To avoid the discrimination of workers who are non-civil servants, the methods for equalizing their rights with the civil service workers have to be considered. Taking into account best practices worldwide, and in particular EU practice, a minimum threshold (floor) tied to a subsistence minimum for the mother and child (and possibly maximum thresholds if not overly restrictive) could be introduced for all workers (including civil servants).⁴³

At least the following legal acts need to be revised/amended: the LLCG, the LPS, the decree of the Minister of Labour, Health and Social Affairs of Georgia “On the Approval of the Rules on the Benefits for Maternity, Childcare and Newborn Adoption Leaves of Absence” (№231/6), the decree of the Minister of Labour, Health and Social Affairs of Georgia “On the Rules for Conducting a Temporary Disability Examination and Issuing a Hospital Certificate” (№281/6).

Employment protection and non-discrimination

Issue 1: The right to return to the same position or an equivalent position paid at the same rate

The Convention itself states that at the end of her maternity leave, a woman should be guaranteed the right to return to the same position or an equivalent position paid at the same rate.⁴⁴

The recent LLCG revisions addressed this issue: the employee has the right to return to the same job under the same working conditions after the end of maternity leave, childcare leave or leave when adopting a newborn, as well as the right to enjoy any improved working conditions within the scope of which he/she would have been entitled not to

take the relevant leave.⁴⁵ Meanwhile, according to the LPS, a female civil servant may not be dismissed during pregnancy or during the upbringing of a child under the age of 3 due to the consequences of the reorganization of a public institution and/or its merger with another public institution or due to the evaluation of an official.⁴⁶ There are varied opinions on whether the right to return to the same position or an equivalent position paid at the same rate exists in the civil service legislation, making it subject to interpretation. However, according to most legal experts, the existing standards could be seen as sufficient.

Issue 2: Professional development and ensuring proper qualifications

After the end of maternity leave, childcare leave or leave when adopting a newborn, at the request of the employee, the employer is obliged to provide training for the employee, if it is necessary to perform the work provided by the employment contract. However, it should not be a disproportionate burden for the employer.⁴⁷ While this provision is part of the recently revised LLCG, it must be noted that such a legal guarantee is not explicitly ensured for civil servants.

Breastfeeding mothers

Convention No. 183 states that a woman shall have the right to one or more daily breaks or a daily reduction in working hours to breastfeed her child. These breaks or the reduction of daily hours of work shall be remunerated accordingly.⁴⁸

In terms of guaranteeing a break for breastfeeding, the LLCG stipulates the guarantee of an extra, paid break for a breastfeeding woman. More precisely, an employee who is a breastfeeding woman and is feeding a child under the age of 1 shall be granted an additional break of not less than one hour per day.⁴⁹

43 International Network on Leave Policies and Research, 15th International Review of Leave Policies and Related Research (2019). Available at https://www.leavenetwork.org/fileadmin/user_upload/k_leavenetwork/annual_reviews/2019/2_2019_Compiled_Report_2019_0824-.pdf.

44 ILO, C183, Art. 8, para. 2.

45 Georgia, *Labour Code of Georgia*, Art. 20, para. 8.

46 Georgia, *Law on Public Service*, Art. 116.

47 Georgia, *Labour Code of Georgia*, Art. 22, para. 2.

48 ILO, C183, Art. 10.

49 Georgia, *Labour Code of Georgia*, Art. 24, para. 6.

The LPS, on the other hand, does not have such a guarantee. However, it states that a civil servant has the right to work part-time during pregnancy or while raising a child under the age of 1.⁵⁰ As for the payment, it is proportional to the hours worked, taking into consideration the remuneration for the relevant position.⁵¹

In order to explicitly guarantee that the breaks are properly reimbursed, at least the following legal acts need to be revised/amended: the LPS.

Implementation at the national level

Issue 1: Ensuring the powers of the Labour Inspectorate to inspect and sanction violations

ILO Convention No. 183 underlines that the standards enshrined by the Convention should be implemented by laws or by other means that are consistent with national practice. Although the Convention does not give details on the institutional mechanisms that should ensure its implementation, labour inspection is seen as an effective instrument committed to ensuring that workers' rights are protected. The ILO Labour Inspection Convention, 1947 (No. 81), indicated that the functions of the system of labour inspection shall be "to secure the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in their work, such as provisions relating to hours, wages, safety, health and welfare, the employment of children and young persons, and other connected matters, in so far as such provisions are enforceable by labour inspectors". According to the Convention, "adequate penalties for violations of the legal provisions enforceable by labour inspectors and for obstructing labour inspectors in the performance of their duties shall be provided for by national laws or regulations and effectively enforced". The Labour Inspection Convention has not been ratified by Georgia; however, the ILO Committee of Experts on the Application of Conventions and Recommendations, in its 2018 observation on the application by Georgia of the Equal Remuneration Convention, 1951 (No.

100), once again stressed the need to put in place adequate and effective enforcement mechanisms to ensure that the rights of workers are protected in practice by the Labour Inspection Service equipped by an adequate mandate and instruments.

Currently, the Labour Inspectorate is empowered to ensure that the labour regulations are implemented. In particular, Chapter XVIII of the LLCG implements the sanctions system. For most cases that are connected to the violations of maternity regulations, fines and warnings could be issued. The fines could be deemed as adequate and proportional, as the amount depends on the financial turnover of the employer, whether the violation is repeated, and the nature of the violation. In addition, pregnancy is deemed to be an aggravating circumstance for the purposes of sanctions.⁵²

Before the recent LLCG revision, there was no effective enforcement mechanism of the provisions regulating maternity protection. After the amendments, the Labour Inspectorate, as the supervising body, has been equipped with the mandate to use a warning or a fine when labour rights are violated, including equality provisions. In order to ensure the effective implementation of this mandate to strengthen the practice of creating decent working conditions, it is important to provide relevant resources and regular trainings.

Miscellaneous

Issue 1: Atypical workers

The Convention stipulates that its standards apply to all employed women, including those in atypical forms of dependent work.⁵³ A 2015 ILO report indicates that currently there is no standard definition of NSFE (non-standard forms of employment, often used interchangeably with the term "atypical" employment). However, the report goes on to state that "typically, NSFE covers work that falls outside the scope of a standard employment relationship, which itself is understood as being work that is full-time,

50 Georgia, *Law on Public Service*, Art. 61, para. 4.

51 Georgia, *Law of Georgia on Remuneration in Public Institutions*, Art. 30, para. 3.

52 Ibid., Art. 77, para. 2; Art. 79, para. 2.

53 ILO, C183, Art. 2, para. 1.

indefinite employment in a subordinate employment relationship".⁵⁴ In particular, this may cover: (1) temporary employment; (2) temporary agency work and other contractual arrangements involving multiple parties; (3) ambiguous employment relationships; and (4) part-time employment. Furthermore, "workers in NSFE may be working under formal or informal employment arrangements".

The revised LLCG introduced the notion of part-time employment. In more detail, a person is employed on a part-time basis if his/her working time is less than the standardized working time of a full-time employee or is less than the normal working time of a full-time employee under similar conditions who is employed for up to one year.⁵⁵ The Labour Code ensures provisions that exclude any discrimination towards such workers on the basis of their status. Specifically, (1) it is prohibited to treat differently a person employed part-time in relation to working conditions only because that person is employed part-time, unless the difference in treatment is justified on objective grounds;⁵⁶ and (2) it is inadmissible to terminate an employment contract with an employee due to his/her refusal to switch from full-time to part-time or part-time to full-time work (unless it is justified by other legal provisions).⁵⁷ Insofar as maternity protection is concerned, the LLCG revision should, in theory, ensure that the conditions (e.g. duration, payment, etc.) of maternity/parental leave are the same for both part-time and

full-time workers. However, in practice, differences in treatment may emerge if they are "justified on objective grounds".

Civil servants have several legal guarantees in the respective legislation. The most detailed is a governmental order⁵⁸ that is not as explicit as the LLCG; however, the systemic interpretation of the Georgian legislation could lead to an adequate defence mechanism for part-time workers in civil service.

Currently, the labour legislation does not provide clear coverage for all groups of workers who may potentially fall into these categories. The law should be explicit that maternity leave benefits and all other protections associated with Convention No. 183 should include women employed in atypical forms of dependent work (including, for example, domestic workers) even if their contracts are verbal/informal.

In order to fully conform with the Convention, at least the following legal acts need to be revised/amended: the LLCG.

Issue 2: Ensuring work-life balance

Additionally, while the issue of paternity leave is not explicitly within the scope of the Convention, the ILO position on the issue has been made clear in more recent publications.⁵⁹ In particular, in order to ensure equality in the workplace, the policies

54 ILO, *Non-standard forms of employment: Report for discussion at the Meeting of Experts on Non-Standard Forms of Employment* (Geneva, 2015).

55 Georgia, *Labour Code of Georgia*, Art. 16, para. 1.

56 *Ibid.*, Art. 16, para. 2.

57 *Ibid.*, para. 3.

58 Government of Georgia Resolution №201 "On the approval of the rules for working part-time in the civil service, at night, on weekends, working in hazardous working conditions, as well as exercising the powers of the civil service on a 24-hour continuous basis" (21 April 2017).

59 The recent 2014 ILO report "Maternity and Paternity at Work" states the following: "No ILO standard exists dealing specifically with paternity leave, however the 2009 ILC Resolution concerning gender equality at the heart of decent work recognizes that work-family reconciliation measures concern not only women but also men and a variety of new measures (such as provision of paternity

leave and/or parental leave) have succeeded in permitting working fathers to be more involved in the sharing of family responsibilities. Thus, the Resolution calls for governments to develop, together with the social partners, adequate policies allowing for a better balance of work and family responsibilities for both women and men in order to allow a more equal sharing of these responsibilities. Such policies should include, among other things, paternity and/or parental leave with incentives to encourage men to take up such leave". In addition, some of the key conclusions of that report state that "fathers' leave, take-up of family responsibilities and early interaction with their children are directly related to successful child development" and that the "recognition of men's right to parenthood, as well as their responsibility to share unpaid care and household work, will help to break down traditional social attitudes, resulting in greater equality for both men and women at work and at home".

affecting work-life balance between women and men should be adopted. Currently, Georgian regulations on maternity/paternity leave policy do not ensure equality between male and female workers. Only in cases of adopting a newborn are the duration and benefits of leave equalized between male and female workers, again with greater benefits in the civil service sector.

The current legislation is discriminatory against male workers in civil service, when compared to those who are not in civil service, in addition to still putting a greater burden of domestic work on women. Fathers who are not civil servants have the right to take paid childcare leave (57 days) and “childcare additional” leave of 12 weeks without any monetary benefits. At the same time, fathers in the civil service sector are granted the right to take 90 days paid leave but only if the mother did not use the leave beforehand. Thus, the latest LLCG revisions and the newly issued rules (as stated in the “Rules for reimbursement of leave for pregnancy, childbirth and childcare as well as adoption of a newborn child”) did not change the situation for civil servant fathers relevant to the status quo. In particular, Article 8, paragraph 5 of the “Rules for reimbursement” states that the civil servant employee (father of the child) “will be granted paid leave for childcare in the amount of 90 calendar days only if the mother of the newborn has not benefited from the paid leave”.

The current legislation still puts a greater burden of domestic work on women, in particular by not equalizing the period of paid parental leave for men and women. In this regard, one should note the best practices from EU law. According to the 2019 EU Directive on parental leave, States shall ensure that each worker has an individual right to parental leave of four months that is to be taken before the child reaches a specified age, up to the age of 8, to be specified by each Member State or by collective agreement. It shall be ensured that two months of parental leave cannot be transferred.⁶⁰ The directive

also introduces paternity leave: States shall ensure that fathers (i.e. equivalent second parents) have the right to paternity leave of 10 working days that is to be taken on the occasion of the birth of the worker’s child. The right to paternity leave shall not be made subject to a period of work qualification or to a length of service qualification. The right to paternity leave shall be granted irrespective of the worker’s marital or family status.⁶¹

Issue 3: Transitional period and others costs

Active awareness-raising campaigns on the laws should be conducted in order to ensure that workers are aware of their rights. In addition, enactment of new regulations and changes in some aspects may lead to additional administrative costs mostly for the State (for example, adopting the new administrative software, hiring additional staff, providing trainings, formulating new rules of procedure, etc.).

Government plans

In the framework of the AA adopted in 2014, Georgia has committed to harmonizing its legislative framework with that of the EU. However, many of the legislative acts that were annexed to the original AA have since been amended, supplemented or replaced by the EU. The relevant EU directive that was introduced since 2013 was Directive (EU) 2019/1158, repealing Council Directive 2010/18/EU. The principles of Directive 2019/1158 on work-life balance for parents and carers, if adopted into law by Georgia, would give each parent a minimum of four months of paid leave, with fathers gaining at least two months of non-transferable paid paternal leave. This legislation, if adopted, would significantly shift the gender balance of typical maternity leave takers in Georgia. The AA have procedures in place to update these legislative annexes, including the aforementioned Directive 2019/1158. However, according to a recent publication by the CEPS think tank,⁶² this exercise is progressing slowly, and the timeline for adoption of the new legislation is not clear.

60 European Parliament, Council of the European Union, *Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU*, Art. 5, paras. 1, 2.

61 Ibid., Art. 4.

62 G. Van der Loo and T. Akhvlediani, *Catch me if you can: Updating the Eastern Partnership Association agreements and DCFTAs* (CEPS, EU, 2020). Available at <https://www.ceps.eu/wp-content/uploads/2020/05/GVDL-and-TA-Updating-AA-DCFTAs.pdf>.

The aim of the current ex-ante Regulatory Impact Assessment (RIA) is to analyse the state of maternity and parental leave legislation in Georgia (analysing both the recent status quo and the changes brought about by the revised LLCG), addressing the following key issues and potential problems:⁶³

- Whether the cash compensation for the duration of paid maternity leave is adequate and sufficient to support the mother and the newborn
- Whether there exist problems with unequal take-up of maternity leave by women working in different sectors (e.g. civil servants versus other workers) and, if so, whether there are gaps in legislation that directly or indirectly contribute to the problem of unequal take-up of maternity leave
- Whether the current legislation facilitates the

fathers' participation in paid maternity/parental leave schemes

The analysis will also consider a range of identified and potential causes and consequences of these problems.

Note: The current analysis will not explicitly address the issue related to the income of non-working women during pregnancy and the early maternity period, even though this problem is important in the Georgian context (given that a high share of women are self-employed (see Figure 4), which does not provide them with the same rights and protections under the LLCG). This type of analysis is beyond the scope of Convention No. 183, although UN Women and the ILO encourage governments to aspire to introducing universal maternity allowance that is not tied to labour-market status.⁶⁴

B. PROBLEM DEFINITION

Maternity leave, also known as parental or family leave in some countries, is one of the most widespread employee benefits and is an integral part of the concept of maternity protection, which is recognized as a fundamental labour right by key international human rights treaties.⁶⁵ There are many reasons why maternity leave benefits are so widespread. The main ones are associated with the expected benefits for parents, who are better able to balance their work and family lives (with potentially positive effects on general and mental health), maintain their labour-force attachment and bond with their children, and for the children themselves, whose development is expected to benefit from increased parental investment. For these benefits to materialize, however, it is crucial both that the length of the period of paid maternity leave is adequate to

the needs of mother and child and that the income received by the working mother during maternity leave is sufficient to support the mother and her child for the entire duration of the paid maternity leave.

Some form of paid maternity leave is provided by law in almost every country around the world.⁶⁶ There are, however, many questions surrounding individual countries' legislation on maternity leave and maternity protection policies – in particular, whether the duration of maternity leave provided by the legislation is adequate; whether the cash benefits are sufficient to sustain a woman and her child economically during the leave period; whether the woman's job is protected during the leave period; and whether adequate working conditions for pregnant and breastfeeding women are guaranteed in the

63 For more detailed information, see the problem tree diagram on maternity leave legislation provided in Annex 3.

64 See https://www.ilo.org/wcmsp5/groups/public/---dgreports/---gender/documents/meeting_document/wcms_715817.pdf.

65 ILO, *Maternity and Paternity at Work: Law and Practice Across the World* (Geneva, 2014). Available at https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_242615.pdf (accessed on 22 June 2020).

66 Ibid.

workplace, among other questions. Other important questions concern fathers' access to parental leave benefits. This access is seen as an important step towards improving gender equality and better sharing of work-family responsibilities between men and women.⁶⁷

Based on stakeholder consultations, we have identified and will consider the following key potential problems with the current state of the maternity leave legislation in Georgia:⁶⁸

1. Georgian legislation (including the recently revised LLCG) neither guarantees nor provides sufficient income to support the mother and her child for the duration of the paid maternity leave as specified in the Labour Code (183 days). This problem particularly affects certain categories of working women in Georgia, specifically those women who work in the private sector and some of the public sector workers not covered by the LPS.⁶⁹ The exclusions effectively cover the entire public education sector, which overwhelmingly employs women⁷⁰ and which, incidentally, is one of the lowest paid sectors in Georgia (e.g. education employees in the public sector earned just 57 per cent of the average public sector salary in 2018).⁷¹ That said, working women who are classified as civil service employees but whose monthly earnings are below the subsistence threshold for a mother and child are also potentially affected by this problem.⁷²
2. Unequal take-up of maternity leave among different groups of workers is another concern,

particularly for women who are civil servants versus workers in other sectors. This stems directly from the unequal provision of cash benefits for the duration of the paid maternity leave period. An extension of this is the unequal take-up of leave among women versus men. Although the current legislation does not formally preclude fathers from taking parental leave following the birth or adoption of a child, procedural issues make it difficult or impossible for men to take this leave. This, together with other factors such as social norms and stereotypes about gender roles, leads to the low or virtually non-existent parental leave take-up among men. This situation further exacerbates gender inequality and indirectly contributes to labour-market discrimination against women in the labour market.

Problem 1: Non-sufficient income during the period of paid maternity leave

The first issue to consider is whether there is evidence to support the argument that working mothers (especially those who are not civil servants) are neither guaranteed nor provided with sufficient income to support themselves and their child for the duration of maternity leave as legislated by the LLCG. Under the current legislation, women who work in the private sector and those in the public sector who are not categorized as civil servants are entitled to the amount of up to GEL 1,000 (the total amount of cash benefit is equal to 100 per cent of their salary for six months (183 days) of maternity leave), which is paid from the state budget. This means that if a

67 Ibid., p. 52.

68 The key stakeholder consulted during the problem definition process was the tripartite working group (employers' association, trade unions and government). Other stakeholders were also engaged in the process. For a detailed summary, see Annex 2.

69 The LPS states that civil service excludes the following categories of public sector employees: service in cultural, educational, scientific, research, sports, religious and membership-based legal entities under public law; and other legal entities under public law as defined by the LPS and the Law of Georgia on Legal Entities Under Public Law.

70 According to a UN report (CEDAW Committee, *Alternative Report Concerning Women's Rights and Gender Issues in Georgia* (Tbilisi, 2014)), in 2013, 57,370 out of 67,152 teachers were women (or 85.4 per cent). The education sector employees are also some of the lowest paid workers in the country.

71 Geostat, "Average Monthly Earnings of Non-Business Sector, GEL". Available at <https://www.geostat.ge/en/modules/categories/39/wages> (accessed on 3 July 2020).

72 Due to the lack of information about wage distribution in the civil service sector, it was impossible to quantitatively assess the number of female civil servants affected by this problem.

woman has a lower salary, e.g. GEL 150 per month, the maximum amount of leave compensation she would be entitled to is GEL 900.⁷³

The preliminary estimations provided below show that even the maximum amount paid out of the state budget is not enough to support a woman and her child for a period of six months of paid leave.

Consider that the subsistence minimum (monthly for an average consumer) was **GEL 169.60** on average in 2020.⁷⁴ Monthly compensation for six months of paid leave (for the private sector and those not categorized as civil servants) was **GEL 166 per month**. Is this amount sufficient to meet the subsistence minimum for a mother and a child (equivalent to 1.5 adults based on the OECD equivalence scale or, currently, GEL 254.40 per month) for six months (183 days)? The answer is clearly no. The maternity leave compensation covers only **65 per cent of the subsistence minimum for the equivalent of 1.5 adults for six months**.

For comparison, according to the above-mentioned 2014 ILO publication,⁷⁵ some form of paid maternity leave is offered in all European countries as well as those of the Eastern Europe and Central Asia (EECA) (EECA) region.⁷⁶ In the EECA region, 88 per cent of the countries pay for at least 14 weeks of leave at 100 per cent of earnings. Georgia is included in this group of countries. The publication, however, does

not mention the fact that in Georgia the coverage has been capped, effectively reducing the earnings during the paid leave.

Wage replacement rates, payments ceilings and funding sources in the EU-28 countries

In the EU-28 countries, the compensation schemes vary between the different Member States, but according to a recent European Parliament publication, 15 of the 28 EU Member States offer payments at 100 per cent of the wage compensation rate, while in the remainder of countries, the payments are either variable or no less than 70 per cent of the wage. According to the literature, while the maternity or parental leave replacement rate in most Member States is at 100 per cent of previous earnings, payment caps are common.⁷⁷ For example, in more than half of the Member States (15 out of 28), some ceilings and/or floors on payments apply. The maximum amount that can be paid to a woman per month varies from country to country. Ceilings are more common than floors and are typically linked with social security contribution thresholds. In Hungary, for example, the maximum allowance is 70 per cent of twice the minimum daily wage for the first 168 days. In Slovenia, while the allowance is set at 100 per cent of the previous wage for 132 days, it cannot be lower than 55 per cent of the minimum wage and may not be higher than twice the average wage.

73 According to the current legislation, the mother does not have to officially take the full six months of leave to claim the GEL 1,000. For example, a high-salary worker earning GEL 1,000 per month can officially take one month of leave and receive the full amount of the cash benefit. However, if the mother's salary is less than GEL 167 per month, she would have to officially claim the full six months of leave to get the maximum amount of cash benefit from the State. In practice, however, such a person is likely to take an actual leave that is shorter than six months in order to achieve a higher monthly salary replacement rate. This loophole (stemming from the lack of enforcement mechanism) is currently benefiting low-wage earners among women.

74 Geostat, "Subsistence Minimum". Available at <https://www.geostat.ge/en/modules/categories/49/subsistence->

[minimum](#). The average was taken for the period January-October 2020 based on the subsistence minimum for the average consumer.

75 ILO, *Maternity and Paternity at Work*.

76 The EECA region comprises the following countries: Albania, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Croatia, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Montenegro, North Macedonia, the Russian Federation, Serbia, Tajikistan, Turkey, Turkmenistan, Ukraine and Uzbekistan.

77 Christine Aumayr-Pintar and others, *Maternity leave provisions in the EU Member States: Duration and allowances* (Publications Office of the European Union, 2015). Available at https://www.researchgate.net/publication/301231434_Maternity_leave_provisions_in_the_EU_Member_States_Duration_and_allowances.

In some countries, there is a specified daily or monthly rate. For example, in the Czech Republic, the maximum allowance is currently EUR 40 daily (for 20 weeks) while the subsistence minimum for an adult and a child under 6 years old is around EUR 6 daily.⁷⁸ In Slovakia, the maternity leave allowance is no less than EUR 270 and no more than EUR 819 per month for 34 weeks (note that the subsistence minimum for an adult person and a dependent child is currently between EUR 229 and EUR 289 per month⁷⁹).

In all EU Member States, maternity leave is partially or fully funded by a social security fund linked to the public health insurance fund. In 13 of the 28 EU countries, employers may be involved in the maternity leave scheme through voluntary top-ups (or through collective bargaining agreements). Only in Greece and Malta are employers fully responsible for payments, for at least a certain period of time.

While the maternity leave legislations in many EU-28 Member States broadly share some features with Georgian legislation (such as state-financed maternity leave payments; a defined payment ceiling/cap on payments; and employers' non-obligatory participation in the maternity compensation scheme), the **particularly low payment ceiling**, which affects the majority of working women and amounts to around 63 per cent of the monthly subsistence minimum for the duration of the paid leave, sets Georgia apart from the EU-28 countries.

Maternity leave duration in Georgia and the global context

As mentioned above, the revised LLCG provides for a maternity leave duration of 730 days, with 183 days of paid leave, of which 126 days are maternity

leave (specific to mothers) and 57 days are family entitlement, which can be shared between parents. This amounts to **24 months of leave, with six months of paid leave (four months of maternity leave and two months of family entitlement transferable between parents)**. The legislated duration currently exceeds the ILO Convention No. 183 minimum standard of 14 weeks of paid leave (although, as mentioned above, the Convention also stipulates mandatory days for maternity leave, which the Georgian legislation does not provide for). The duration of paid leave in Georgia also exceeds most of the EECA countries – only five countries have longer paid leave (Albania, Bosnia and Herzegovina, Croatia, Montenegro, North Macedonia), ranging from nine months to a year. In the context of developed countries, 6 out of 42 countries (namely, Bulgaria, Ireland, the Isle of Man, Norway, Slovakia and the UK) have the same or a longer duration of paid leave than Georgia.⁸⁰

In 2018, the reported OECD countries' average⁸¹ for paid maternity leave was 18.1 weeks (four months) while the EU average was 22.1 weeks (five months).

There is currently no consensus in the literature on the optimal maternity leave duration. The duration of the leave has an inverted U-shaped association with labour-market participation for women. When the leave period is too short, the working mothers may drop out of the labour force because they do not feel ready to return to work in the specified time period.⁸² However, if the leave is too long, this may also have a negative effect in terms of a career break, skills depreciation and “wage penalties” for women.⁸³ As the OECD indicates, a prolonged duration of leave limits the chances of returning to work to the same

78 See <https://ec.europa.eu/social/main.jsp?catId=1106&langId=en&intPageId=4481>.

79 Ministry of Labor, Social Affairs and Family of the Slovak Republic, “Subsistence minimum”. Available at <https://www.employment.gov.sk/en/family-social-assistance/material-need-assistance/subsistence-minimum.html> (accessed on 24 June 2020).

80 ILO, *Maternity and Paternity at Work*, pp. 137–8.

81 OECD, “PF2.1 Parental leave systems”, OECD Family Database. Available at <https://www.oecd.org/els/soc/>

[PF2.1 Parental leave systems.pdf \(accessed on 26 June 2020\)](#).

82 OECD, *Doing Better for Families* (Paris, 2011), p. 138.

83 O. Thévenon and A. Solaz, “Labour Market Effects of Parental Leave Policies in OECD Countries”, OECD Social, Employment and Migration Working Papers, No. 141 (Paris, OECD Publishing, 2013). Available at <https://doi.org/10.1787/5k8xb6hw1wjf-en>.

employer or even generally to the labour force.⁸⁴ Thévenon and Solaz confirmed in 2013 that longer leave durations (but not exceeding 24 months) contribute to higher female employment but argue that women pay the price for longer paid leave, as it contributes to increasing the earnings gender gap for full-time workers.⁸⁵ A 2014 ILO study cites 12 months of paid leave as the threshold after which wage penalties increase sharply.⁸⁶

Children's health and development also appear to be affected by the **length of paid maternity leave. One study suggested that longer paid leave periods reduced the incidence of death among infants and children** in nine European countries between 1969 and 1994.⁸⁷ Moreover, the study showed that a 40-week (nine-month) paid leave period had the largest effect on reducing infant mortality. Another paper in 2011 showed that a shift in policy from just 12 weeks of unpaid leave to four months of paid leave and 12 months of unpaid leave among Norwegian mothers (in July 1977) resulted in a 2.7 per cent decline in the school dropout rate and a 5 per cent increase in the wages of the affected children by the time they reached the age of 30.⁸⁸

Problem 2: Unequal take-up of maternity leave among different groups of workers

The second potential problem associated with maternity leave legislation in Georgia is the unequal take-up of maternity leave among different groups of workers.

First and foremost, this problem affects certain groups of female workers differently. In particular, as the legal analysis shows, working women who are covered by the LPS are entitled to a full wage replacement rate for the period of 183 days. However, all other working women (those not in civil service) may receive at most GEL 1,000 for six months, unless

their employer tops up the payments voluntarily or on the basis of collective bargaining. Given that the average monthly wage of an employed woman (both in the public and private sectors) in Georgia is GEL 822.60 per month, the current state of legislation leads to vastly different wage replacement rates (100 per cent for public servants and 20 per cent on average for others, unless there is a top-up from the employer) between different groups of working women. With the current ceiling in place, a woman who is not a civil servant and is earning an average wage would only be fully compensated for 1.2 months of work. A woman working in the civil service sector, however, would be fully compensated for the full six months of work.

This disparity potentially contributes to the difference in the maternity leave take-up rate and can affect the labour-force participation of women. The evidence to this effect is surprisingly difficult to find, as the data on civil service sector take-up rates is not available, and for all other sectors, we only have the number of applications for maternity leave benefits and the amounts paid to each woman. On the basis of this information, it would still be impossible to tell whether a woman has taken the full six months of paid maternity leave or returned to work earlier than usual. In the case of civil servants, while data on the take-up rate of maternity leave are not available, we can at least be more sure that women who take the leave usually use at least the full duration of paid leave, as the internal policies and procedures serve to regulate their status and leave much less room for pressure on the part of the employer.

Secondly, as mentioned in the overview of the legal framework, the Georgian labour legislation, while nominally not tying maternity leave to women only, makes it procedurally very difficult (for civil servants) or (until recently) impossible (for all other sectors) for

84 OECD, *Doing Better for Families*.

85 Thévenon and Solaz, "Labour Market Effects of Parental Leave Policies in OECD Countries".

86 ILO, *Maternity and Paternity at Work*.

87 Christopher J. Ruhm, "Parental Leave and Child Health", NBER Working Paper No. w6554 (1998). Available at

<https://ssrn.com/abstract=226287>.

88 Pedro Carneiro, Katrine V. Løken and Kjell G. Salvanes, "A Flying Start? Maternity Leave Benefits and Long-Run Outcomes of Children", *Journal of Political Economy*, vol. 123, No. 2 (April 2015), pp. 365–412.

men to take the paid childcare leave benefit.⁸⁹ Thus, maternity leave is overwhelmingly taken by mothers, while the participation rate of fathers in parental leave schemes is almost non-existent. According to the interviews with business sector representatives, men would sometimes use other forms of leave, including their regular paid vacation time, following the birth of their child. Social attitudes, prejudices and norms also contribute to the fact that men do not take parental leave. These issues will be examined in more detail in the sections below.

It must be noted that the revised LLCG partially rectified the situation for men by explicitly identifying a portion of paid leave that can be claimed by either father or mother (i.e. 57 days of paid parental (family) leave). This change, however, does not go far enough to fully rectify the situation on two counts. First, it affects only men who are not civil servants (the legislation for civil servants has not been changed), and second, since the cash payment cap on paid leave remains at GEL 1,000 for the entire family, the current revised law provides no additional incentives for fathers to take up parental leave. Thus, it is not likely to result in a higher take-up rate of childcare leave among men.

Causes and drivers of the problems

Legislative gaps

As mentioned in the legal review, there exists a legislative gap in the approach between the maternity/parental leave benefits for civil servants and for all other workers. In addition, there is a large gap in the treatment of men versus women in relation to childcare/maternity leave.

Until the recent revisions to the law, the LLCG did not distinguish between the concepts of maternity leave and parental leave. As a result, the leave was interpreted as “maternity leave”, to be taken by women rather than men. Male employees in all sectors were affected by this, especially non-civil

sector employees. These legislative gaps directly caused the unequal take-up of maternity leave among women in the civil service sector compared to all other female workers (see the preceding subsection on Problem 2), as well as directly contributed to the unequal compensation of women during maternity leave (civil servants versus all other employees). The gaps also directly caused a virtually zero take-up rate of childcare/parental leave among men in Georgia.

Unfortunately, the revised LLCG has not closed the gap in the treatment of women – both civil sector employees and all other female employees.

At the same time, the revised LLCG does help minimize the legal gap in the treatment of men and women in relation to childcare leave but only partially. Under the new law, men as well as women (excluding civil service workers) will be eligible for part of the paid parental leave (57 days of paid leave can be distributed among both parents). However, since the parental leave days are fully transferable between parents, alongside the fact that the GEL 1,000 cash payment cap remains in place (i.e. the law does not provide any additional financial incentives for fathers to take up the leave), it is expected that the status quo will be maintained and that the male take-up rate of childcare leave will remain close to zero.

While the problem of a low take-up of parental leave by men is not unique to Georgia, it is currently being addressed by EU legislation (the aforementioned Directive 2019/1158). According to the new EU Directive, both parents should be entitled to a minimum of four months of paid parental leave, of which only two months are transferable to the other parent.

The rationale behind the new EU Directive is that the new policy will facilitate more equal sharing of care and related housework between women and men, supporting the return of mothers to the labour

89 According to the Social Service Agency's website at http://ssa.gov.ge/index.php?lang_id=GEO&sec_id=92&info_id=567 (accessed on 2 July 2020).

market and equalizing the conditions in which women and men enter the labour market.⁹⁰ Fathers' uptake of leave reduces the so-called "motherhood penalty" – the phenomena when women leave employment more than men after the birth of a child.⁹¹ On the other side, when women manage to return to the labour market right after giving birth, they often accept low-quality, part-time jobs with lower salaries and limited opportunities for career development.⁹² This fact is known as the "child penalty", which increases the gender pay gap (GPG). An increase in take-up rates of paternity leave and parental leave by fathers reduces the "child penalty" for women and, consequently, shrinks the GPG by allowing mothers to return to full-time work. In addition, low take-up rates of leave by fathers causes a gender pension gap – the difference in accumulated pensions between male and female workers, estimated to be 40 per cent in the EU.⁹³ Furthermore, increased leave uptake by fathers can reduce the length of career interruptions for women, reduce part-time work by women and potentially reduce the GPG (all of which are leading causes of the gender pension gap) by reducing leave uptake by mothers.⁹⁴

In addition, an increase in fathers' take-up of leave could potentially alleviate the wage gap between men and women in the workplace. Currently, an average woman's monthly wage in Georgia is around 63 per cent of an average man's wage. In part, this

gap is driven by the part-time nature of work done by women. The hourly wage gap is not as high. According to the recent UN Women publication "Analysis of the Gender Pay Gap and Gender Inequality in the Labour Market in Georgia", the raw hourly wage gap constitutes 17.7 per cent, which is less than the 37.2 per cent gap observed in monthly wages.⁹⁵ According to the report, the raw wage gap adjusted for personal and labour-market characteristics (e.g. educational attainment, etc.) is actually higher, at 25.7 per cent. The sizeable gap reported in the study indicates that there exists some form of gender discrimination in the workplace. These findings are corroborated with evidence from other research papers devoted to the subject. For example, Asali and Gurashvili find a large, unexplained wage gap between males and females (64 per cent among Georgians and 32 per cent among non-Georgians).⁹⁶ They also find that both gender and ethnic wage discrimination Granger-cause economic growth (i.e. can help predict a reduction in economic growth).⁹⁷ Likewise, the reverse causality link is also present: higher economic growth is associated with less gender and ethnic discrimination. The analysis indicates that the discriminatory gender wage gap is potentially causing significant harm to the Georgian economy.

The stakeholder interviews conducted for this analysis indicate that at least in part, the reason behind the gender wage gap is that women, especially those of

90 European Parliament, Directorate-General for Internal Policies, *A new strategy for gender equality post 2015* (Brussels, European Parliament, 2014). Available at [https://www.europarl.europa.eu/RegData/etudes/STUD/2014/509984/IPOL_STU\(2014\)509984_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2014/509984/IPOL_STU(2014)509984_EN.pdf).

91 Celine Miani and Stijn Hoorens, *Parents at work: Men and women participating in the labour force – Short Statistical Report No. 2* (European Union, 2014). Available at https://www.rand.org/pubs/research_reports/RR348.html.

92 Rosemary Crompton, "Class and Family", *The Sociological Review*, vol. 54, No. 4 (November 2006), pp. 658–77. Available at <https://doi.org/10.1111/j.1467-954X.2006.00665.x>.

93 P. Tinios, F. Bettio and G. Betti, *Men, Women and Pensions* (European Commission, 2015).

94 European Commission, Directorate-General for Justice and Consumers, *Report on equality between women and men 2014* (Luxembourg, European Commission, 2015). Available at https://ec.europa.eu/anti-trafficking/eu-policy/report-equality-between-women-and-men-%E2%80%93-2014_en.

95 UN Women, *Analysis of the Gender Pay Gap and Gender Inequality in the Labour Market in Georgia* (Tbilisi, 2020), p. 28. Available at <https://georgia.unwomen.org/en/digital-library/publications/2020/03/analysis-of-the-gender-pay-gap-and-gender-inequality-in-the-labor-market-in-georgia>.

96 Muhammad Asali and Rusudan Gurashvili, "Labour Market Discrimination and the Macroeconomy", IZA Institute of Labour Economics Discussion Papers (January 2019).

97 Granger causality is a statistical concept of causality that describes the temporal relationship between the two variables, rather than claiming "true causality". In this case, it implies that higher past values of gender and ethnic wage discrimination contain information that can help predict a reduction in economic growth above and beyond the information that is contained in the past values of growth. C. W. J. Granger, "Investigating Causal Relations by Econometric Models and Cross-spectral Methods", *Econometrica*, vol. 37, No. 3 (1969), pp. 424–38.

childbearing age, are perceived as potentially less productive due to their domestic care obligations (a form of statistical discrimination). If the domestic childcare workload were more equally shared between men and women, wage discrimination against women would likely diminish.

It is also notable that an increase in fathers' leave take-up rates also positively affects social outcomes. First, it equalizes the division of paid employment and unpaid care and housework, leading to an improved work-life balance.⁹⁸ Second, fathers' increased involvement in parental activities positively affects the cognitive outcomes in children and father-child bonding.⁹⁹

Furthermore, fathers' involvement in childcare is also linked to the decision of women to have children, affecting demographic outcomes. The greater involvement of fathers in childcare has a positive impact on fertility.¹⁰⁰

Other difficulties in the enforcement of legislation

The previous version of the LCG did not make a distinction between men and women de jure with regard to paid maternity/parental leave. However, there existed significant, de facto barriers to access for men. For example, the regulations stated that men who are not civil servants were not eligible to take paid leave. Men who are civil servants can still only take the paid leave if the mother is also a civil servant and she has not taken even a day of maternity leave. The recent revision to the LCG changed the

situation for non-civil servants in the way described in the previous section.

Gender norms and stereotypes may also cause the extremely low take-up rate of paid parental leave among men (even among civil servants, there was only a handful of cases). Men are typically not expected to care for children, as mothers are seen as the primary natural carers. Therefore, when a family has to make a choice as to who should take paid leave to care for the newborn child (the mother or the father), it is typically the woman who would be expected to take this leave. In the private sector, as some interviewees pointed out, men typically take other forms of leave (e.g. paid vacation time) following the birth of a child, but this leave duration is usually short and is used to celebrate rather than help with infant care.

The lack of awareness about their rights in the workplace can also be a cause of the less-than-perfect enforcement of the existing legislation. As stated during the interviews, working mothers – especially those in the private sector – may not be aware of their rights in regard to workplace protection¹⁰¹ (e.g. an employer cannot fire a woman for being pregnant; one has to provide adequate conditions for pregnant/breastfeeding women; one has to provide paid breaks for taking necessary antenatal tests during pregnancy). This would contribute to the practice of women either leaving the labour force following pregnancy or shortening their maternity leave and/or forgoing breastfeeding in order to keep their job.

98 Maria C. Huerta and others, "Fathers' Leave and Fathers' Involvement: Evidence from Four OECD Countries", *European Journal of Social Security*, vol. 16, No. 4 (December 2014), pp. 308–46; Sara Cools, Jon H. Fiva and Lars J. Kirkeboen, "Causal Effects of Paternity Leave on Children and Parents", *The Scandinavian Journal of Economics*, vol. 117, No. 3 (2015), pp. 801–28.

99 Ibid.

100 Ann-Zofie Duvander and Gunnar Andersson, "Gender Equality and Fertility in Sweden", *Marriage & Family Review*, vol. 39, No. 1-2 (2006), pp. 121–42; L. S. Oláh, "Gendering fertility: Second births in Sweden and Hungary", *Population Research and Policy Review*, vol. 22 (2003), pp. 171–200.

101 According to the free Legal Aid Service, 47 of the total 491 consultancies in 2019 and 22 of the total 206 consultancies between 1 January and 18 June 2020 were related to the particular issues of maternity leave. For example, individuals often ask about their right to get maternity leave benefits in particular cases (for mothers who work in the private sector, have a service contract, are the owner of a legal entity, etc.). They also ask about the duration of leave and the amount of compensation, the possibilities of going back to work (e.g. whether or not employers have the right to terminate their contract or not extend an expired contract), having the right to be one hour late for work due to breastfeeding, the documents that a mother needs in order to apply for the maternity leave benefits, etc.

One of the most problematic issues related to parents' awareness of their rights is related to the policies of paternity leave. According to a 2020 UNFPA survey, slightly less than 50 per cent of Georgian men and women were aware of a law regulating childcare leave. Moreover, 54 per cent of respondents did not know that there exists a law that entitles new fathers to childcare leave, and about 20 per cent of respondents incorrectly believed that this kind of law does not exist at all. However, these numbers were substantially higher in 2013 – about 91 per cent of respondents either did not know if such a law existed or incorrectly believed that it did not exist.¹⁰²

Financing gaps

Financing leave benefits from the state budget

One of the challenges is to ensure that the state budget can support **adequate coverage for workers in all sectors during the paid leave period**. How much additional funding would that require, and would it create a burden on the state budget?

According to the Social Service Agency of Georgia, overall 13,609 private sector employees received a maternity cash allowance (up to GEL 1,000) in 2019. **The total payments of cash allowance to private sector employees amounted to GEL 13.6 million in 2019, averaging GEL 993 per leave per person.**

The maternity leave compensation to civil servants is not administrated centrally by one agency. Thus, official data on total spending on maternity benefits paid to civil servants are not available. The number of civil servants who gave birth, the actual duration of their maternity leave and their wages are unknown as well.

The RIA team overcame these limitations and estimated the potential development of total budget costs regarding leave for the baseline scenario¹⁰³ and proposed policy options (Table 2).¹⁰⁴

Table 2:
Budget costs on leave compensation and its effect on the budget deficit (millions of GEL)

		2019	2020	2021	2022	2023
Nominal GDP		50,002	50,303	54,507	59,511	64,821
Status quo and updated status quo (including revised LLCG)	Budget cost of leave	18	18	17	17	17
	Budget deficit	1,353	4,164	2,593	2,397	1,947
	Budget deficit/GDP	2.70%	8.28%	4.76%	4.03%	3.00%
Policy Option 1	Budget cost of leave	18	18	42	44	46
	Budget deficit	1,353	4,164	2,618	2,424	1,977
	Budget deficit/GDP	2.70%	8.28%	4.80%	4.07%	3.05%
Policy Option 2	Budget cost of leave	18	18	72	81	92
	Budget deficit	1,353	4,164	2,648	2,461	2,022
	Budget deficit/GDP	2.70%	8.28%	4.86%	4.14%	3.12%

Sources: Ministry of Finance; Geostat; Civil Service Bureau; authors' calculations.

102 UNFPA Georgia, *Men, Women, and Gender Relations in Georgia: Public Perceptions and Attitudes* (Tbilisi, 2020).

103 There are no budgetary cost differences between the most recent status quo and the updated status quo, based on the revised LLCG.

104 The detailed methodological approach and results of cost estimations are presented in Section V (under "Quantitative assessment of policy options").

Financing leave benefits: International practice and the situation in Georgia

There are typically four mechanisms for financing maternity leave benefits:¹⁰⁵

1. Employment-based social insurance or social security (where the funding comes from a contributory scheme in which typically both the employer and the employee contribute to the social insurance fund, sometimes with a subsidy from the government)
2. Employer liability (the employer pays all maternity leave obligations)
3. A mixed system (combination of the two methods)
4. A non-contributory social assistance programme, which is paid directly from government funds. This mechanism is rather rare, and Georgia is only one of four countries (along with Australia, New Zealand and the UK) who practice this kind of scheme.

According to the literature,¹⁰⁶ currently in all EU-28 countries, maternity leave obligations are covered at least in part by a social security fund, which may include a public health insurance fund. As previously mentioned, these statutory amounts are subject to some type of payment ceiling (maximum amount) or floor (minimum amount). In 7 of the 28 countries, employers pay on top of the statutory pay, or they pay in full but then are partially reimbursed up to a ceiling from a public fund. Only in two countries in the EU (Germany and Poland) are employers fully reimbursed from a public fund. And only in Greece and Malta are employers fully responsible for payments (i.e. employer liability). In countries where trade unions are strong (Denmark, Finland, France, Italy, Sweden), collective bargaining agreements provide for some sort of mechanism to supplement the statutory payments up to a full salary. In countries

where trade unions do not play such a big role, most companies still choose to pay female employees on top of the statutory allowance (e.g. 59 per cent of firms surveyed in Ireland and 28 per cent in the UK). Georgia's maternity leave payment mechanism is closer to that of the UK – namely, maternity leave is financed directly from government funds (a non-contributory social assistance programme) and can be topped up by the employer on a voluntary or collective bargaining basis. In the UK, the leave compensation rate is at 90 per cent of the salary (without a ceiling) for the first six weeks and at a flat rate – GBP 151.20 weekly – for the next 33 weeks thereafter. To compare, the 2018 poverty line for a single parent with an infant is GBP 211, which makes the flat rate benefit equal to about 72 per cent of the poverty line measure. Of course, in the UK, there are other social programmes available for single-parent households in need. Moreover, non-working mothers are eligible for maternity allowance, which is equal to the GBP 151.20 flat rate weekly benefit, for a period of 26 weeks.

In Georgia, even this level of maternity benefits (far from generous by EU standards) is not achieved by all working women. This is due to several factors. One of them is that a large percentage of Georgian women tend to work in informal employment (about 45 per cent of employed women work under informal employment arrangements¹⁰⁷). This means that they do not have a regular working contract and are therefore not entitled to maternity leave benefits. Another reason is associated with employers' willingness and ability to pay maternity leave benefits on top of the statutory amount. Because trade unions have relatively little power and coverage (only about 10 per cent of the workforce was unionized in Georgia, according to the 2011 data¹⁰⁸), the top-up of maternity leave pay is essentially left to the employer's discretion. According to the interviews

105 ILO, *Maternity and Paternity at Work*, pp. 20–25.

106 Aumayr-Pintar and others, *Maternity leave provisions in the EU Member States*.

107 UN Women and SDC, *Women's Economic Inactivity and Engagement in the Informal Sector in Georgia: Causes and Consequences* (Tbilisi, 2018). Available at <https://georgia.unwomen.org/en/digital-library/publications/2018/12/>

[womens-economic-inactivity-and-engagement-in-the-informal-sector-in-georgia](#).

108 U.S. Department of State, *Country Reports on Human Rights Practices for 2011: Volume II – Europe and Eurasia, Near East and North Africa* (Washington, D.C., U.S. Government Printing Office, 2014), p. 1344. Available at <https://books.google.ge/books?id=z5lf0sT92y4C&pg=PA1081>.

conducted with business representatives in Georgia, only large companies can afford to pay women on top of the statutory maternity leave. For small and medium-size enterprises (SMEs, which accounted for about 34.6 per cent of total female employment in 2018), these benefits would not be affordable. Employment in large companies accounts for about 18.1 per cent of total female employment, but even for these workers, the benefits would depend on the type of job and the type of contract a woman has. According to interviews, companies are willing to pay maternity leave coverage mainly to those female employees who are high-skilled, difficult to train or difficult to replace. The greater willingness to support highly productive/skilled women might be associated with the wish to retain these individuals for whom fewer substitutes exist and/or on whom the companies have invested more and/or simply due to the fact that the margin earned by these women (the difference between marginal productivity and salary) is more than sufficient to allow such payment and is preferable to losing them.

Consequently, women who work in low-skilled and low-paid jobs even in large companies may not be receiving the benefits because it would not be financially feasible for the companies to keep paying these workers.

Gender discrimination and intrahousehold decisions

As already mentioned above, the quite sizeable gender wage gap in Georgia may be contributing to lower economic growth. The monthly wage gap of 37.2 per cent is larger than the hourly wage gap.¹⁰⁹ However, this gap remains sizeable and even increases after adjusting for education and personal characteristics. The unexplained wage gap indicates a form of discrimination between men and women in the

labour market. In particular, studies have suggested and interviews have corroborated the hypothesis that working women on average receive less than working men because they are perceived as less productive and more likely to take time off work for childcare. Gender norms and stereotypes, described in the following section, may be contributing to this perception. According to the literature, women in Georgia do not necessarily experience discrimination in hiring, but this non-discrimination is hiding a large, unexplained (discriminatory) wage gap.¹¹⁰ In other words, employers are as happy to hire women as men but at lower wages.

The discriminatory wage gap is both the cause and the consequence of the fact that women are taking on the lion's share of domestic work and childcare responsibilities.¹¹¹ On the one hand, employers may be perceiving women as more likely to require lengthy maternity leave, extra time off for domestic duties and childcare. Therefore, they pay them less. On the other hand, the fact that women are paid less reinforces the incentives for women, rather than men, to take childcare-related leave because the opportunity cost of employment is lower for them than for men. Thus, if men and women are given incentives to share domestic and childcare responsibilities more equally (in particular, if men are as likely to ask for parental leave following the birth of a child), we could potentially see a reduction in the gender wage gap in Georgia.

Gender norms and stereotypes

In this section, we explore the evidence available to support the hypothesis that gender norms and stereotypes lead to the expectation that women should be the sole responsible caretakers for their children, perpetuating the vicious cycle of unequal

109 UN Women, *Analysis of the Gender Pay Gap and Gender Inequality in the Labour Market in Georgia*.

110 Muhammad Asali, Norberto Pignatti and Sophiko Skhirtladze, "Employment Discrimination in a Former Soviet Union Republic: Evidence from a Field Experiment", *Journal of Comparative Economics*, vol. 46, No. 4 (2018), pp. 1294–309.

111 In Georgia, women who are employed spend 42 hours a week on average doing household chores and care work (versus 16 hours for employed men). Women who are not employed devote 47 hours a week (versus 14 hours for non-employed men) towards unpaid household chores and care work. Thus, employed women are clearly doing a "double shift" at home following their regular job. UN Women and SDC, *Women's Economic Inactivity and Engagement in the Informal Sector in Georgia*.

pay and unequal treatment in the workplace. More specifically, the fact that women are expected to take care of children leads to the perception of women as less productive in the workplace, perpetuating the cycle of unequal pay and unequal take-up of maternity leave among women compared to men.

Social norms, gender stereotypes and attitudes towards gender roles potentially have a strong influence on the economic outcomes of men and women, including the unequal take-up of parental leave.¹¹² In some communities, family members have well-established gender roles: males are usually considered the breadwinners, while females are more engaged in unpaid family work. The male breadwinner norm prevents women from being more involved in labour-market activities (instead focusing on family responsibilities) and creates a barrier to men's access to paid leave.¹¹³ Furthermore, women's family responsibilities and gap in earnings notably increases when couples have their first child.¹¹⁴ On the one hand, under the well-established gender roles, men tend to increase their workload to satisfy the financial needs of their families. On the

other hand, the time women devote to family work leads to less involvement in paid work.¹¹⁵

A 2020 UNFPA study found that in Georgia, the role of breadwinner no longer seems to be held exclusively by men, as economic difficulties have pushed women to work and support their families financially.¹¹⁶ The traditional attitudes have been undergoing significant transformation. For example, in a UNDP survey from 2013, 88 per cent of respondents indicated that a man should be the breadwinner in the family. In the same survey, 34 per cent of respondents believed that women were the actual breadwinners in Georgian families.¹¹⁷ However, according to the Caucasus Barometer even in 2019, 65 per cent of respondents thought that normally the breadwinner should be a man.¹¹⁸ This again indicates that Georgia is still characterized by the male breadwinner norm, but economic hardship pushes women to be more involved in the labour market in parallel to undertaking most of the family work.¹¹⁹

In addition, parents tend to maintain traditional parenting roles; childcare responsibilities are

112 G. A. Akerlof and R. E. Kranton, "Economics and identity", *The Quarterly Journal of Economics*, vol. 115, No. 3 (2000), pp. 715–53; B. S. Trask, "Work-Family Intersections in a Globalizing Context", in *Globalization and Families*, pp. 83–104 (New York, Springer, 2010); L. Farré and F. Vella, "The intergenerational transmission of gender role attitudes and its implications for female labour force participation", *Economica*, vol. 80, No. 318 (2013), pp. 219–47; S. Connolly and others, "Britain's slow movement to a gender egalitarian equilibrium: parents and employment in the UK 2001–13", *Work, Employment and Society*, vol. 30, No. 5 (2016), pp. 838–57.

113 C. Berghammer, "The return of the male breadwinner model? Educational effects on parents' work arrangements in Austria, 1980–2009", *Work, Employment and Society*, vol. 28, No. 4 (2014), pp. 611–32; U.S. Department of Labor, "Paternity leave: Why parental leave for fathers is so important for working families", DOL Policy Brief (Washington, D.C., 2016); E. M. Schmidt, "Breadwinning as care? The meaning of paid work in mothers' and fathers' constructions of parenting", *Community, Work & Family*, vol. 21, No. 4 (2018), pp. 445–62.

114 T. Van Der Lippe and J. J. Siegers, "Division of household and paid labour between partners: effects of relative wage rates and social norms", *Kyklos*, vol. 47, No. 1

(1994), pp. 109–36; A. H. Gauthier and F. F. Furstenberg, Jr., "The transition to adulthood: A time use perspective", *The Annals of the American Academy of Political and Social Science*, vol. 580, No. 1 (2002), pp. 153–71.

115 A. Cutillo and M. Centra, "Gender-based occupational choices and family responsibilities: The gender wage gap in Italy", *Feminist Economics*, vol. 23, No. 4 (2017), pp. 1–31.

116 This finding was confirmed by the 2019 Caucasus Barometer.

117 UNDP Georgia, *Public Perceptions on Gender Equality in Politics and Business* (Tbilisi, 2013). Available at https://www.ge.undp.org/content/georgia/en/home/library/democratic_governance/public-perceptions-on-gender-equality-in-politics-and-business.html (accessed on 22 July 2015).

118 Similar patterns were observed in Armenia (60 per cent of respondents prefer men to be the breadwinners), and the attitude was even more extreme in Azerbaijan (with 84 per cent of respondents preferring male breadwinners).

119 A 2020 UNFPA Georgia study ("Men, Women, and Gender Relations in Georgia") found that 86 per cent of the washing and tidying up of the house, 74 per cent of the cooking and 49 per cent of the childcare are performed by women.

mostly undertaken by mothers, which usually leads to inequalities in the labour market.¹²⁰ In Georgia, childcare responsibilities remain the primary domain of women – two thirds of women reported being always or usually responsible for childcare. Moreover, 43.6 per cent of women reported that they always undertake the responsibility of childcare, while only about 28 per cent of women and 43 per cent of men stated that they do this task together. Men’s attitude about caregiving mirrors real patterns – more than two out of three men agree that everyday childcare activities (e.g. changing diapers, giving baths and feeding kids) are the mother’s responsibility. The currently established gender roles are rationalized by both women and men. Despite the fact that female family members were doing most of the household tasks, 67 per cent of women and 63 per cent of men were satisfied with the existing allocations of duties in 2019, and these numbers were even higher seven years ago.¹²¹ Moreover, 65 per cent of male respondents and 77 per cent of female respondents believe that taking care of the home and family makes women as satisfied as having a paid job.¹²²

Mothers’ labour-force participation and decisions about taking up maternity leave might be related to people’s perception about the influence of a mother’s outside work on child development. In general, mothers spending more time in the labour force might be associated with (1) less time remaining to support child development,¹²³ (2) more

stress generated from paid employment that can influence a mother’s interaction with her children,¹²⁴ and (3) greater income to provide more goods and services for the children.¹²⁵ The first two factors either disincentivize mothers from working full-time or incentivize them to make the choice in favour of part-time or informal employment.

According to a survey on women’s economic inactivity and informal employment, 70 per cent of both male and female respondents believed that it is better for a preschool-age child if the mother does not work. Furthermore, 45 per cent of men and 64 per cent of women agreed with the statement that employed mothers can be as good of caregivers to their children as mothers who do not work.¹²⁶

In addition, Georgian men and women tend to support the idea of shared parental leave and specific paternity leave. About two out of three respondents agreed that it is necessary to have a law guaranteeing leave for fathers (rates of agreement were equal for both men and women). Furthermore, 67 per cent of women and 65 per cent of men agreed that both men and women should be entitled to parental leave. However, in 2013, 50 per cent of respondents believed that the leave for fathers was not necessary, and almost the same proportion of men and women did not support the idea of mandatory parental leave.¹²⁷

120 BMFJ, *Statistics fathers’ involvement – evaluation*. Federal Ministry for Families and Youth, 2016.

121 UNFPA Georgia, *Men, Women, and Gender Relations in Georgia*.

122 UN Women and SDC, *Women’s Economic Inactivity and Engagement in the Informal Sector in Georgia*.

123 S. M. Grantham-McGregor and others, “Nutritional supplementation, psychosocial stimulation, and mental development of stunted children: the Jamaican Study”, *The Lancet*, vol. 338, No. 8758 (1991), pp. 1–5; S. P. Walker and others, “Early childhood stimulation benefits adult competence and reduces violent behaviour”, *Pediatrics*, vol. 127, No. 5 (2011), pp. 849–57; P. Gertler and others, “Labor market returns to an early childhood stimulation intervention in Jamaica”, *Science*, vol. 344, No. 6187 (2014), pp. 998–1001.

124 P. Gyamfi, J. Brooks-Gunn and A. P. Jackson, “Associations between employment and financial and parental stress in low-income single black mothers”, *Women & Health*, vol. 32, No. 1-2 (2001), pp. 119–35; Y. Miyake and others, “Employment, income, and education and risk of

postpartum depression: the Osaka Maternal and Child Health Study”, *Journal of Affective Disorders*, vol. 130, No. 1-2 (2011), pp. 133–7; P. Chatterji, S. Markowitz and J. Brooks-Gunn, “Effects of early maternal employment on maternal health and well-being”, *Journal of Population Economics*, vol. 26, No. 1 (2013), pp. 285–301.

125 W. J. Yeung, M. R. Linver and J. Brooks-Gunn, “How money matters for young children’s development: Parental investment and family processes”, *Child Development*, vol. 73, No. 6 (2002), pp. 1861–79; S. Berlinski, S. Galiani and M. Manacorda, “Giving children a better start: Preschool attendance and school-age profiles”, *Journal of public Economics*, vol. 92, No. 5-6 (2008), pp. 1416–40; S. Berlinski, S. Galiani and P. Gertler, “The effect of pre-primary education on primary school performance”, *Journal of public Economics*, vol. 93, No. 1-2 (2009), pp. 219–34.

126 UN Women and SDC, *Women’s Economic Inactivity and Engagement in the Informal Sector in Georgia*.

127 UNFPA Georgia, *Men, Women, and Gender Relations in Georgia*.

Groups of society that are being affected and the size of each group

Table 3a:

Distribution of different categories of hired employees and their leave compensation, 2019

	Women			Men		
	Number (thousands)	Share	Compensation rate	Number (thousands)	Share	Compensation rate
Civil servants	12	3%	A	28	7%	C
Hired employees who are non-civil servants	403	94%	B	345	82%	E
Atypical forms of dependent work	12	3%	D	49	12%	E
Total hired	427	100%	-	422	100%	-

Sources: Geostat's Labour Force Survey; Civil Service Bureau; authors' calculations.

A: 100 per cent of salary for 183 days, without ceiling

B: 100 per cent of salary for 183 days, with a ceiling of GEL 1,000, unless otherwise specified in the labour contract (employer tops up the statutory payment)

C: 100 per cent of salary for 90 days, without ceiling only if the wife is also a civil servant and has not taken even a day of paid maternity leave

D: De facto not eligible

E: De jure not eligible

Table 3b:

Distribution of persons employed in the business sector by size of enterprise and their leave compensation, 2018

		Women			Men		
		Number (thousands)	Share	Compensation rate	Number (thousands)	Share	Compensation rate
Business sector	Large companies	102	13%	B ¹²⁸	142	16%	E
	SMEs	194	24%	B ¹²⁹	297	33%	E
	Total	296	37%	B	439	49%	E
Total hired		796	100%	-	894	100%	-

Source: Geostat's Statistical Survey of Enterprises.

B: 100 per cent of salary for 183 days, with a ceiling of GEL 1,000, unless otherwise specified in the labour contract (employer tops up the statutory payment)

E: De jure not eligible

128 Labour contracts sometimes supplement maternity leave, especially for highly skilled and hard-to-replace workers.

129 Typically, no extra provisions are made in the labour contract.

Assessment of the nature and extent of the impact of each group

The group that is suffering the most in the status quo is that of **working women employed in atypical forms of dependent work** (e.g. working without a contract; working informally; working with a short-term service contract; performing part-time or seasonal work) as they are currently not eligible for any statutory benefits connected with pregnancy, childbirth or childcare.¹³⁰ Their status is similar to that of women outside the labour force. It should be mentioned, however, that having children increases the chances of women entering informal or part-time employment,¹³¹ as these jobs can provide more flexibility in terms of childcare and domestic work responsibilities. Thus, a woman is less likely to be in formal employment and be eligible for maternity benefits if she has more than one child. It should be mentioned that the most disadvantaged categories of women by the current legislation on maternity leave benefits are also the ones who are more likely to have below-average salaries, and their employment status is typically most vulnerable.

In addition, **men engaged in informal employment** are negatively affected by the absence of coverage, especially under the revised LLCG. However, one may argue that – due to the existing social norms and expectations, according to which men are not expected to engage in childcare – the negative impact of informality on men is substantially lower. This conclusion is strongly supported by the observation that, even among men who are formally employed, the take-up rate of paid parental leave is close to zero.

The second group that is most negatively affected

by the current regulation of paid maternity leave is **women who work for small and medium-size enterprises in Georgia**. According to the evidence from interviews, SMEs typically do not provide any extra maternity leave benefits on top of the statutory payment of GEL 1,000. The situation in large companies is a bit different, but the leave policies are not uniform. Even women working for large companies may not be receiving the extra maternity leave benefits, especially if they have term contracts or service contracts. The supporting evidence comes from the latest special report from the Ombudsman in 2019.¹³² The Ombudsman's Office requested information about the actual duration and remuneration of maternity leave from 13 large companies.¹³³ The provided information showed that the duration of leave for pregnancy, childbirth and childcare depends on the internal policy of the company (e.g. compensation on top of the GEL 1,000 remuneration provided by the Government), and granted paid leave usually varies from three, four or six months (companies also tend to provide unpaid leave for childcare). In addition, when companies decide to give six months of paid leave, they compensate the difference between an employee's salary and the GEL 1,000 in remuneration provided by the Government. In rare cases, companies remunerate only 50 per cent (three months) or 25 per cent (three months) of the employee's salary. It is notable that companies do not compensate workers with term and service contracts. Moreover, two of the three pharmaceutical companies did not provide any leave compensation. In summary, companies have quite diverse policies of granting leave for pregnancy, childbirth and childcare, and the size of the remuneration depends on the companies' goodwill.¹³⁴

130 In the revised LLCG, the status of part-time workers is more clearly defined, but it is not clear whether they will be eligible for the same kind of maternity leave benefits as full-time workers.

131 UN Women and SDC, *Women's Economic Inactivity and Engagement in the Informal Sector in Georgia*.

132 Public Defender of Georgia, *Special report of the Ombudsman on the fight against discrimination, its prevention and the state of equality (2019)*. Available at <http://www.ombudsman.ge/res/docs/2020030416283364211.pdf>.

133 These companies included the following: JSC "Georgian Railway", "Georgian Post" LTD., "Tbilisi Energy" LTD., JSC "Telasi", JSC "TBC Bank", JSC "DNB Georgia" ("Wendy's" and "Dunkin' Donuts"), JSC "Wissol Petroleum Georgia", "Aversi Pharma" LTD., "PSP Pharma" LTD., JSC "Silknet", JSC "Magticom", "TAV Georgia" LTD. and "Caucasus University" LTD.

134 Public Defender of Georgia, *Special report of the Ombudsman*.

Women who are working in the public sector but are not considered civil servants are also not eligible for benefits above the statutory GEL 1,000. Their position, however, may be somewhat more advantageous, since the entities of public law are typically governed by a set of rules and regulations that are clear and transparent. These women are also more likely to be aware of their rights in the workplace than other working women.

Until the recent revisions to the LLCG, **male employees who are non-civil servants** and who wished to take childcare leave were also among the disadvantaged groups, as they did not have the option to take paid parental leave (potentially they could still take unpaid parental leave, but their job security was not guaranteed). **Men working in civil service** also did not have the option to take paid leave after the birth of a child, unless their wife was also a civil servant and had not taken maternity leave. The revised LLCG has provided an opportunity for men not in the civil service sector to take paid parental leave days. Unfortunately, as mentioned

above, the cap of GEL 1,000 effectively means that there is no additional incentive for a man to take the paid parental leave, and the take-up rate among men is expected to be close to the current status quo.

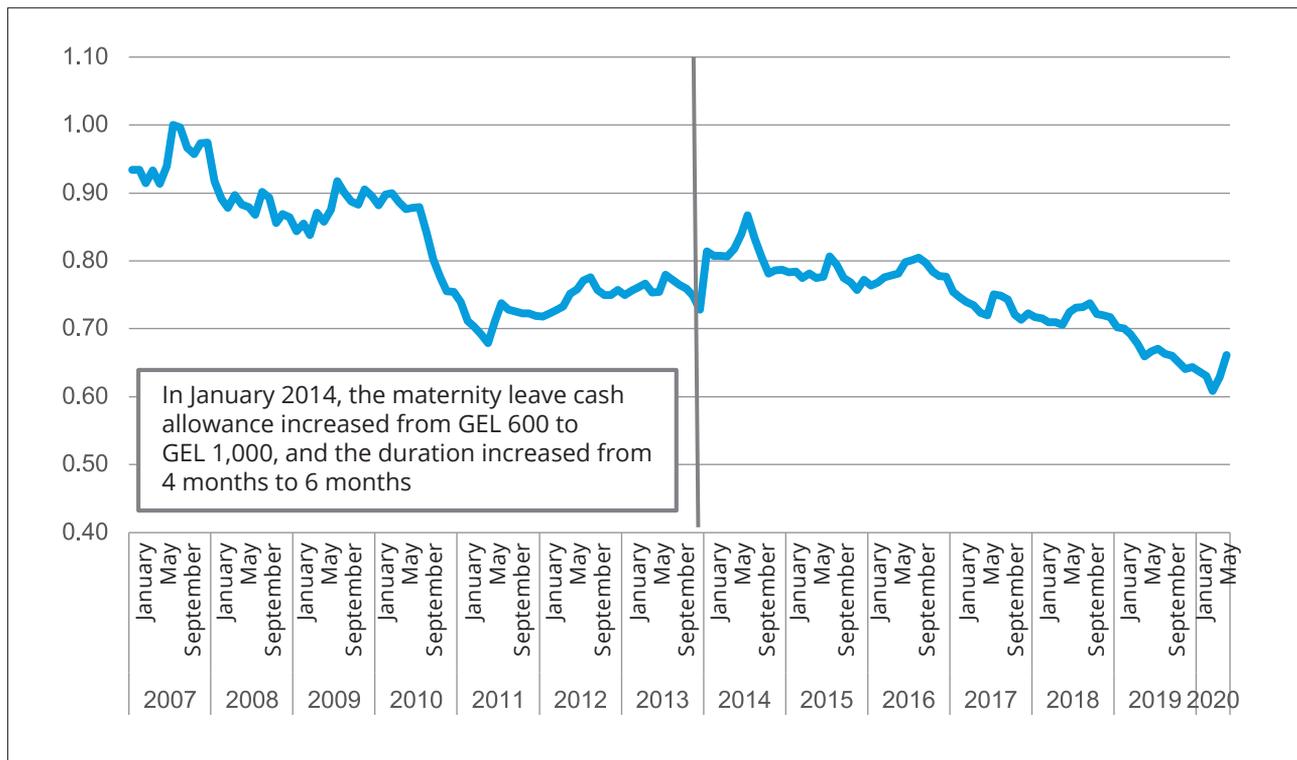
Grounds for government intervention

Since labour legislation in Georgia is already quite liberal and labour markets face minimal regulation and not very stringent oversight, it is highly unlikely that the problems outlined above will be solved without government intervention. Therefore, there is scope for the Government to improve upon some aspects of maternity leave legislation. Among the most straightforward changes we can list is equalizing the status of civil servants with all other employees in relation to maternity leave benefits, as well as providing additional incentives to facilitate parental leave take-up by men in order to increase their engagement in childcare and domestic work responsibilities. More challenging reforms would attempt to extend the parental leave benefits to informal workers.

C. DATA ANALYSIS OF THE PROBLEM: EXISTING TRENDS

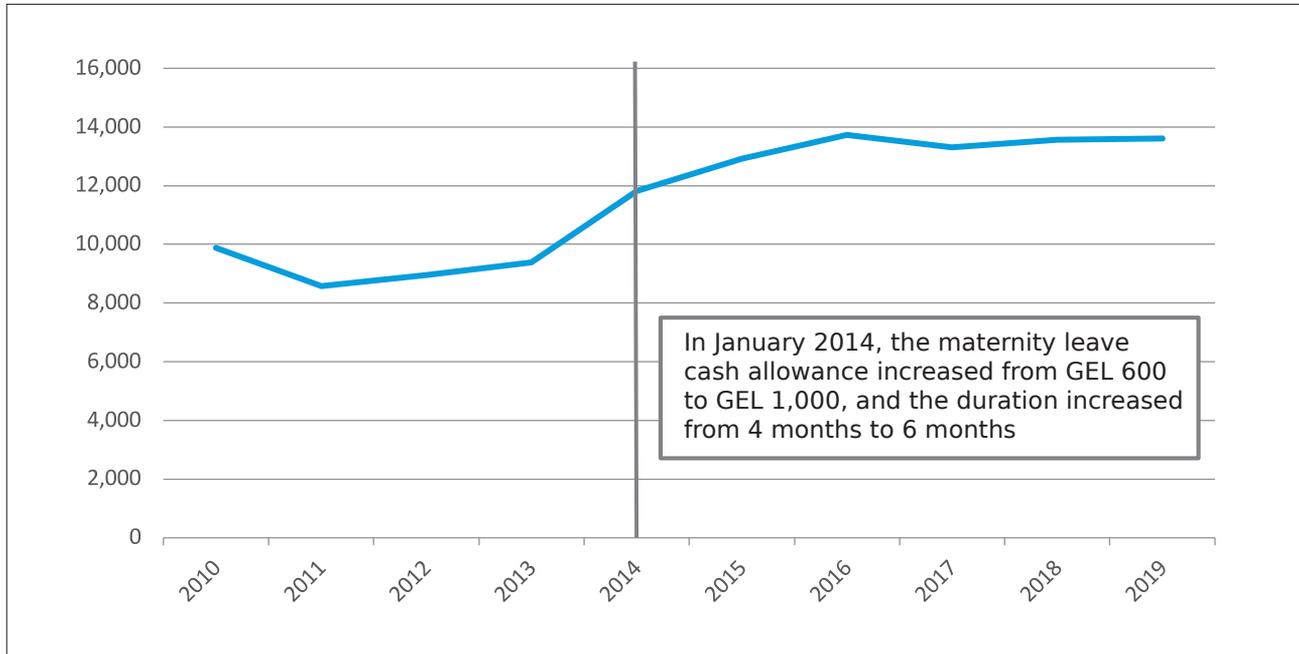
Trends in the problem

Figure 1:
Maternity leave cash allowance relative to 1.5 times the subsistence minimum for an average consumer



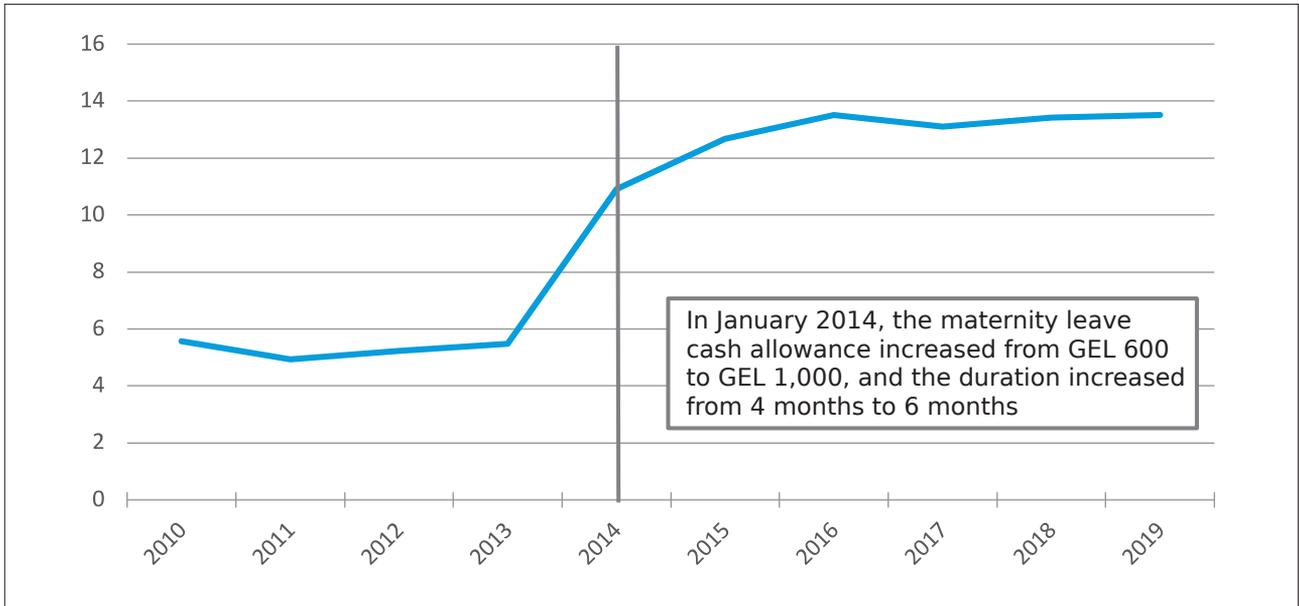
Source: Geostat; SSA; authors' calculations.

Figure 2a:
Number of beneficiaries of the maternity leave cash allowance



Source: SSA.

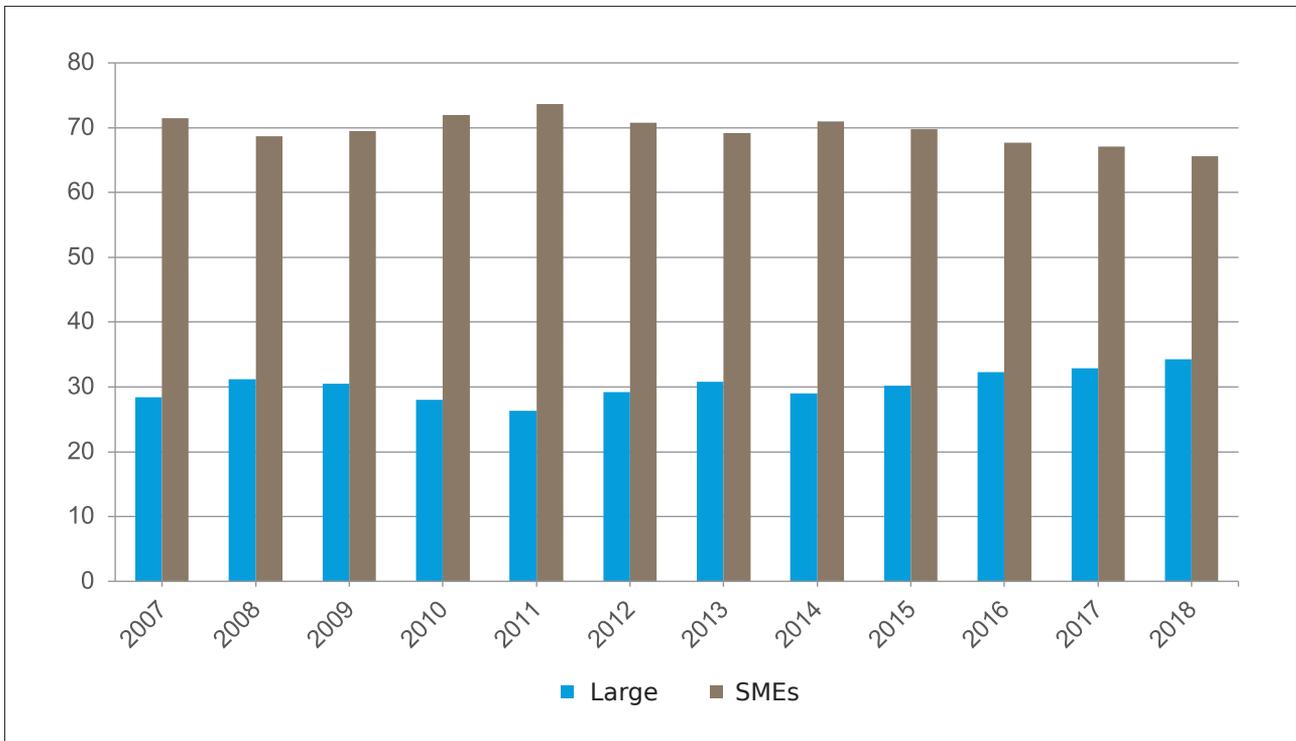
Figure 2b:
Maternity leave total cash allowance (millions of GEL)



Source: SSA.

Figure 3:

Share of women employed in large enterprises versus SMEs in the business sector, (percentage)

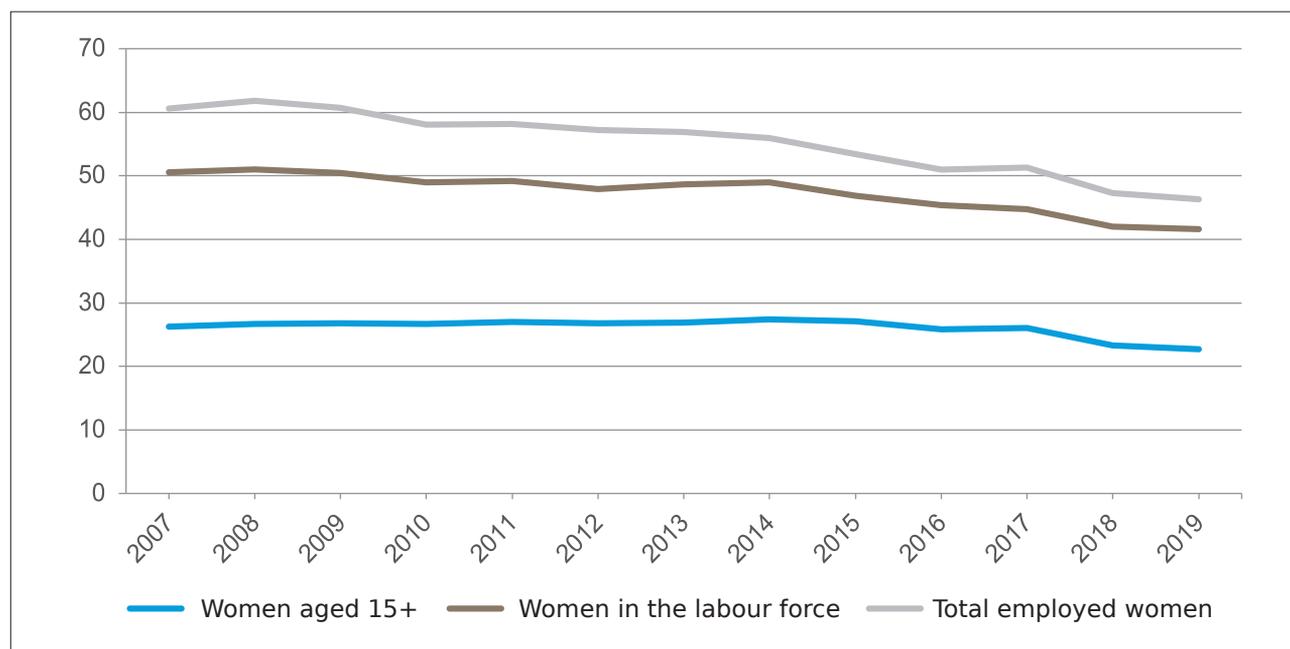


Source: Geostat's Statistical Survey of Enterprises.

The share of women employed in large enterprises has been going up, rather slowly but steadily since 2010 and 2011. This could be an encouraging sign for the future of maternity protection in Georgia, as

large enterprises are may be easier to monitor and may have more organizational resources in place to ensure maternity protection.

Figure 4:
Share of women who are self-employed (percentage)

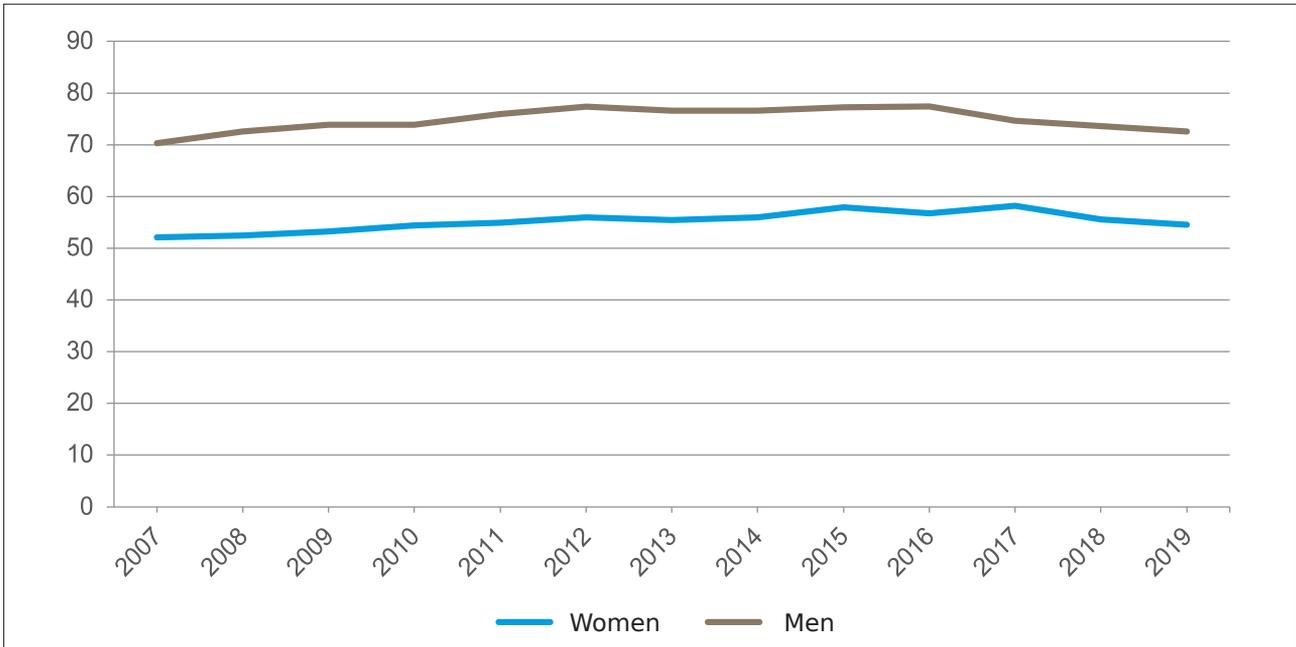


Source: Geostat's Labour Force Survey.

The share of self-employed women in total female employment has been decreasing notably since 2007, from around 60 per cent of all employed women to 46.3 per cent. However, since economic inactivity still remains high among women, the self-employed share of the total female population aged 15+ was

quite steady until 2016, when it started to decrease slowly. Self-employment is typically associated with low-productivity jobs, particularly in subsistence agriculture. The self-employed remain one of the most vulnerable groups of employed workers.

Figure 5a:
Economic activity rates, by gender (percentage)

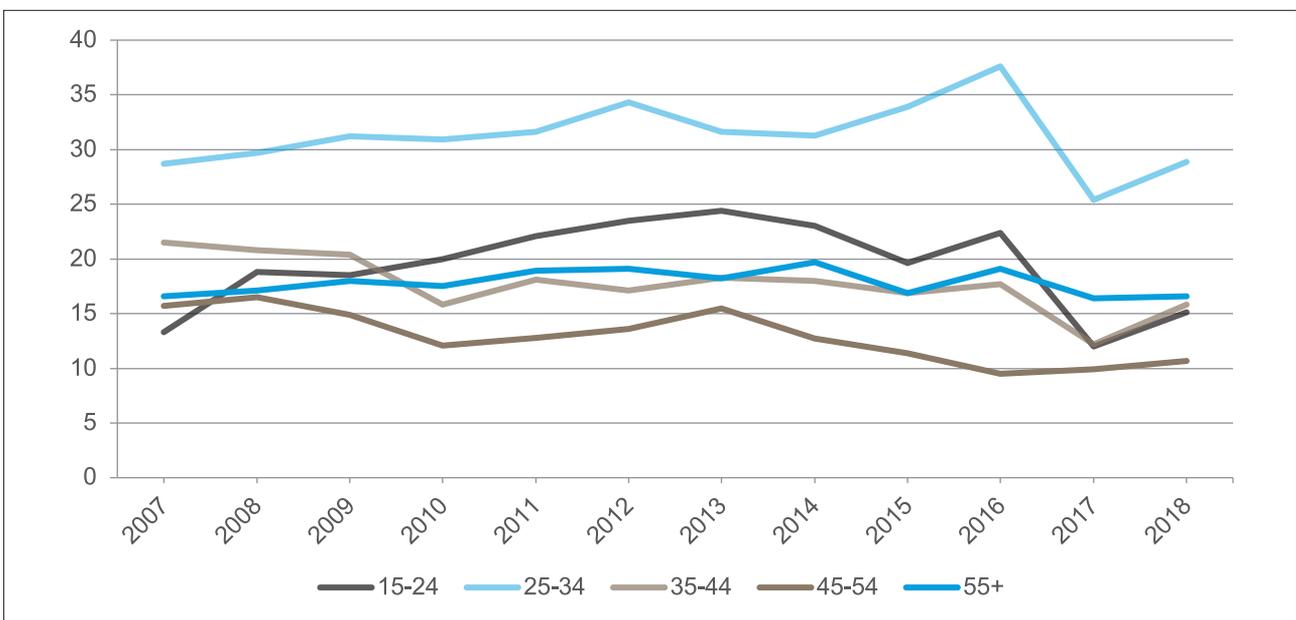


Source: Geostat's Labour Force Survey.

The overall economic activity rate had been rising slowly for both men and women until 2016. Afterwards, however, the activity rate started falling. As one can see from Figure 5b, women are typically

economically inactive during their childbearing years, which is mostly related to the responsibilities of caring for young children.

Figure 5b:
Economic activity gap between men and women, by age group (percentage points)

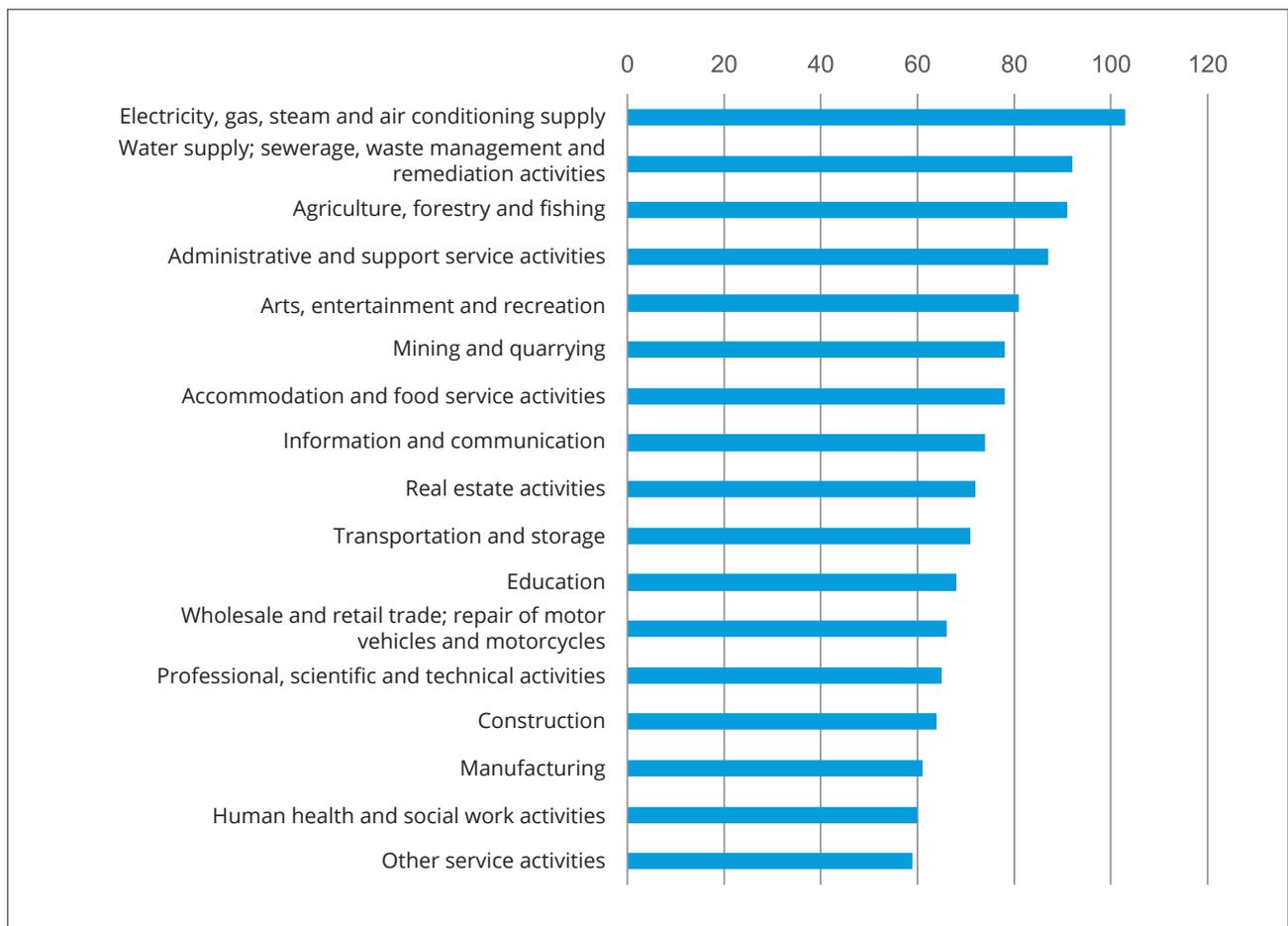


Source: Geostat's Labour Force Survey.

The largest economic activity gap between the genders is observed in the 25-34 age group, which is the age when people are more likely to have young children. The economic activity gap becomes the smallest by the time women enter the 45-54 age group. In the 25-34 age group, the economic activity gap had been

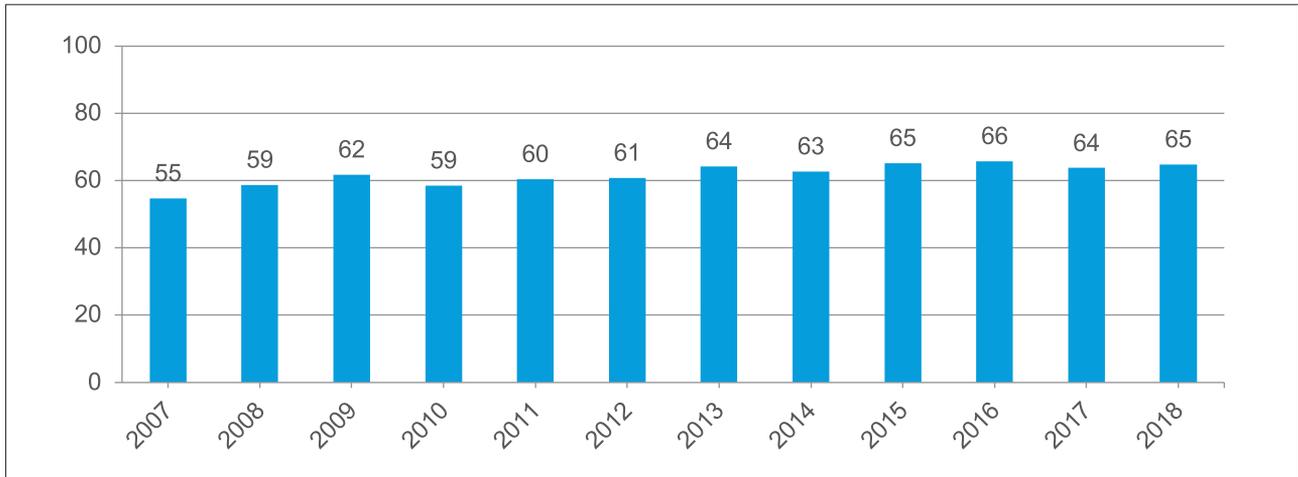
increasing until 2016. This was driven primarily by the somewhat increasing economic activity rate among men in this group and a remarkably stable activity rate for women. The fluctuations in 2016 and 2017 can be considered outliers.

Figure 6a:
Gender wage gap, by sector, 2018 (percentage)



Source: Geostat's Statistical Survey of Enterprises.

Figure 6b:
Gender wage gap in the business sector (percentage)

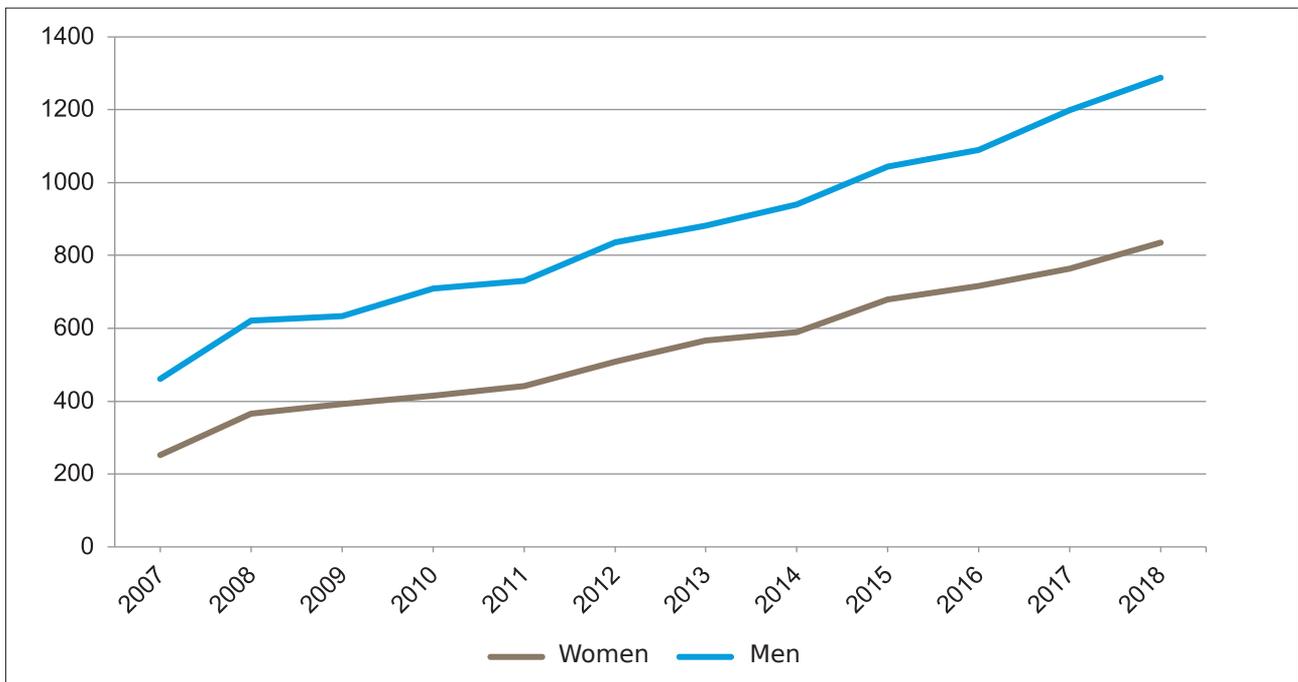


Source: Geostat's Statistical Survey of Enterprises.

The overall gender wage gap between men and women has been closing very slowly and has stabilized since 2015. Women still earn on average only 65 per cent of what men earn. This is driven in part by the part-time employment arrangements

for women (the hourly wage gap is smaller). Yet, for women, part-time employment is often necessitated by domestic responsibilities of caring for young children.¹³⁵

Figure 7:
Average wages in the business sector, by gender (GEL)



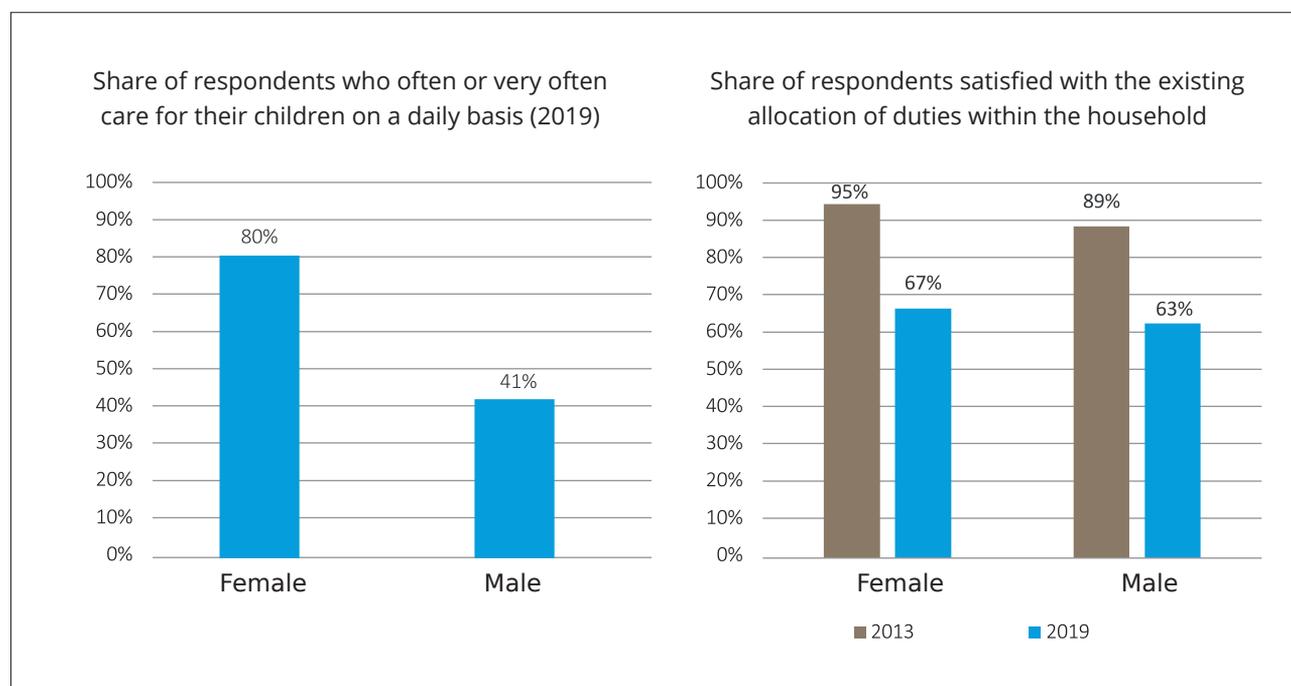
Source: Geostat's Statistical Survey of Enterprises.

135 UN Women and SDC, Women's Economic Inactivity and Engagement in the Informal Sector in Georgia.

Average wages have been increasing for both men and women, but the gap is persistent and does not

show a trend towards closing, especially since 2015.

Figure 8:
Perceptions of women's parenting roles and childcare responsibilities



Source: UNFPA, *Men, Women, and Gender Relations in Georgia*.

In Georgia, household tasks (e.g. laundering, cooking and cleaning) and childcare responsibilities are mostly undertaken by mothers. Moreover, nearly 20 per cent to 40 per cent of fathers report that they never performed one or more tasks related to childcare. About half of the father respondents had never changed their child's diapers or clothes, and almost as many said they never bathed the child.¹³⁶ According to the literature, 57 per cent of the male respondents had spent less than four hours a week on childcare.¹³⁷

Possible changes in other policies or regulations

In June 2016, the Georgian Government adopted the Law on Early and Preschool Education,¹³⁸ which laid the legal grounds for adopting state standards on early and preschool education and care in Georgia. Based on this law, ordinances and decrees specifying national standards on nutrition, education, infrastructure, water supply, sanitation and hygiene were drafted and/or adopted. One of the aims

136 UNFPA Georgia, *Men, Women, and Gender Relations in Georgia*.

137 UN Women and SDC, *Women's Economic Inactivity and Engagement in the Informal Sector in Georgia*.

138 See <https://matsne.gov.ge/en/document/download/3310237/0/en/pdf>.

of this law is to increase the quality of preschool education and make it more inclusive. If this aim is achieved, one would expect that preschool and early education institutions in Georgia will become more popular (currently some regions suffer from very low enrolment rates in preschools and kindergartens¹³⁹), which can potentially free the time of stay-at-home mothers to take up paid work or can facilitate the

transition from part-time to full-time work for working mothers with young children. Based on a study conducted in Armenia,¹⁴⁰ the second option is more likely, as the study showed that women's labour-force participation increased on the intensive rather than extensive margins following a reduction in the fees for state kindergartens.

D. PROJECTION OF THE BASELINE SCENARIO

Given that Georgian labour markets face minimal regulation and not very stringent oversight, it is highly unlikely that the problems outlined above will be solved without additional government intervention. Moreover, Georgia wants to continue to capitalize on its image as a country with a liberal business environment, conducive for foreign direct investment. Thus, it is unlikely that businesses will be required to share in the burden of maternity leave. **Most women working in the private sector will then see their maternity leave compensation diminish over time** – unless the statutory payment amount is adjusted upward once again.

In the best-case scenario, the current trend of the declining purchasing power of maternity leave compensation will continue, but the share of employed women who are eligible for these benefits will not decrease. In the worst-case scenario, if the current trends continue, more and more women will be pushed out of the labour force because the opportunity cost of leaving the labour force (measured by the compensation provided by maternity leave in the critical months after the birth of a child) will decline over time. The ratio of men who take up childcare leave will continue to be close to zero, despite the recent legislative changes. The wage gap between men and women will stagnate at the current level (in the best-case scenario) or

deteriorate in the worst-case scenario. There is a slightly higher probability that the “best-case” scenario (stagnation in trends) will prevail, due to the growth in productivity and wages of the labour force overall. In this case, however, fertility rates are more likely to decline over time.

Impact on poor and vulnerable households:

The households where a female member works in a low-paid, low-skilled job are likely to be most affected by the continuation of the status quo. As the maternity leave benefits continue to deteriorate, the opportunity cost of leaving employment becomes lower. Hence, a woman is more likely to leave her job and less likely to re-enter the labour market at a later time. This will directly contribute to rising poverty levels among households. In addition, a woman with young children is more likely to seek informal or flexible work arrangements later, which will directly impact her job security, compensation and old-age pension.

Impact on the well-being of women and children:

One of the consequences of the current system is that women who do plan to return to the labour force may be encouraged to do so too early (e.g. less than a month after giving birth) because they cannot afford to lose their wage income and because the cash payment does not sufficiently compensate

139 UNICEF, *Study on Quality of Early Childhood Education and Care in Georgia: Summary* (Tbilisi, 2018).

140 Vardan Baghdasaryan and Gayane Barseghyan, “Child-care policy, maternal labor supply and household welfare: Evidence from a natural experiment”, paper presented at the first international gender economics

conference in Tbilisi, November 2019. For more details, see <https://www.iset-pi.ge/index.php/en/iset-economist-blog-2/entry/making-a-break-through-in-gender-equality-will-not-be-easy-that-s-why-evidence-based-approaches-to-policy-should-be-taken-seriously>.

them for the loss. As we discussed in the previous sections, returning to work too early could have negative consequences on the long-term well-being of children. The mother's health may also be compromised if not allowed to sufficiently recover after giving birth.

Impact on gender-biased sex selection trends:

Since the 1990s, Georgia has seen a resurgence in gender-biased sex selection,¹⁴¹ which manifested in an elevated sex ratio at birth that reached its peak of 114 boys per 100 girls in 2004. Recently, the trends have been declining due to several factors, including increasing fertility rates. Women's labour-force participation is also indicated as a factor that has contributed to reversing gender-biased sex selection trends in Georgia.¹⁴² Thus, if fertility rates decline again (e.g. because it becomes more difficult for mothers to stay in the labour force following the birth of a child), and if women drop out of the labour force at higher rates than before, the practice of gender-biased sex selection may return.

Risks associated with non-intervention: There is significant potential for losses to the Georgian

economy (associated with a large, highly educated segment of society being economically inactive), significant skills shortages and labour resource misallocation developing at a time when the country's economy is recovering from a major global shock (COVID-19), is facing more intense global competition and is seeking to develop skills and knowledge-based sectors.

The irreversible consequences would be a reduction in growth trends, a slowdown in productivity and lower overall standards of living, from which it would be difficult or impossible to recover.

Historically, the Georgian Government has been dealing with the problem of low maternity leave benefits in an ad hoc fashion, by increasing the ceiling on paid maternity leave. However, without explicitly tying maternity leave benefits to the subsistence minimum and/or indexing the benefits to inflation, the problem is bound to get progressively worse over time. In addition, more needs to be done to ensure equality between men and women as well as women in different sectors insofar as the maternity/parental leave benefits are concerned.

141 UNFPA Georgia, Gender-biased sex selection in Georgia: Context, evidence and implications (Tbilisi, 2015). Available at <https://eeca.unfpa.org/en/publications/gender-biased-sex-selection-georgia>.

142 Maka Chitanava, Davit Keshelava and Tamta Mari-dashvili, "Georgian experience of gender-biased sex selection", FREE Network Policy Brief Series (2018). Available at https://freepolicybriefs.org/wp-content/uploads/2018/09/freepolicybriefs_oct8.pdf.

The background is split horizontally into a blue top half and a green bottom half. Overlapping the boundary are several semi-transparent circles of varying shades of blue and green. The word 'OBJECTIVES' is written in white, underlined, sans-serif font in the upper left quadrant.

OBJECTIVES

The general and specific objectives outlined below stem from the discussions with key stakeholders, in particular the tripartite working group (employers' association, trade unions and government) and other stakeholders consulted in the process, including

legal experts, gender experts, labour experts, human rights NGOs, the Office of the Public Defender (Ombudsman's Office), business associations and others.

A. GENERAL OBJECTIVES

- Facilitating equal access to maternity/parental leave benefits, as well as equal treatment of civil servants and non-civil servants, for both men and women
- Ensuring that the maternity leave compensation is sufficient to support the mother (parent) and the child at least for the duration of the paid maternity/parental leave period

B. SPECIFIC AND OPERATIONAL OBJECTIVES (BASED ON UPDATED STATUS QUO, AFTER LLCG REVISION)

1. Closing legislative gaps to ensure equal access to parental leave for both men and women, in the civil service sector and all other sectors
 - a. Updating the legislation to introduce the terms equivalent to "maternity leave", "paternity leave" and "parental leave" in the LPS and introduce the term "paternity leave" in the LLCG
 - b. Clarifying the duration of paid leave for parents of both sexes, ensuring that men as well as women are eligible for paid parental leave, specifically in the LPS¹⁴³
 - c. Updating the legislation¹⁴⁴ to ensure that women and men who are not civil servants are eligible for paid parental leave of the same duration and under the same conditions as civil servants
2. Improving enforcement of the legislation¹⁴⁵
 - a. Ensuring that workers are aware of their rights under the law and existing regulations (in relation to parental leave, breastfeeding, pregnancy protection in the workplace, etc.)
 - b. Making sure that the procedures for applying for benefits are transparent and accessible
 - c. Making sure that pregnant and nursing women exercise their rights in the workplace
3. Addressing the problem of inadequate leave compensation for employees
 - a. Making sure that leave compensation available from the State is adequate for all workers in all sectors
 - b. Encouraging contributions (top-ups) from employers to the parental leave benefits
4. Promoting the reduction of gender gaps in the labour markets and inside the household
 - a. Facilitating equal take-up of childcare leave by men and women
 - b. Fighting labour-market discrimination practices
 - c. Promoting the evolution of gender roles and fighting gender stereotyping

143 This, to some extent, has already been achieved in the revised LLCG but not for workers covered by the LPS.

144 As per the legal review (see Section II.A), at least the following legal acts need to be revised/amended: the LLCG, the LPS, the decree of the Minister of Labour, Health and Social Affairs of Georgia "On the Approval of the Rules on the Benefits for Maternity, Childcare and Newborn

Adoption Leaves of Absence" (№231/6), the decree of the Minister of Labour, Health and Social Affairs of Georgia "On the Rules for Conducting a Temporary Disability Examination and Issuing a Hospital Certificate" (№281/6).

145 At least the following legal acts need to be revised/amended: the LLCG, the LPS, the Law of Georgia on Remuneration in Public Institutions.

Table 4:
Summary of objectives

OBJECTIVE	INDICATOR	RESPONSIBILITY	TIMING OF IMPLEMENTATION
Specific Objective 1 – Closing legislative gaps to ensure equal access to parental leave for both men and women, in the civil service sector and all other sectors			
Operational Objective 1.1. Providing a clear legal definition of parental versus maternity leave in the LPS and introducing the term “paternity leave” in the LPS and LLCG	<ul style="list-style-type: none"> a. Legislation updated with the introduction of the terms “maternity leave” and “parental leave” in the LPS and the term “paternity leave” in the LPS and LLCG b. Legislation (LPS, LLCG) clearly defines the duration of paid leave for parents of both sexes, ensuring that men as well as women are eligible for paid leave, including paternity leave for fathers 	Healthcare and Social Issues Committee of the Parliament	6 months
Operational Objective 1.2. Closing the legislative gap between civil servants and all other workers insofar as maternity leave benefits are concerned	<ul style="list-style-type: none"> a. Legislation updated to ensure that workers who are not civil servants are also eligible for paid leave of the same duration and under the same conditions as civil servants 	Healthcare and Social Issues Committee of the Parliament	6 months
Specific Objective 2 – Improving enforcement of the legislation			
Operational Objective 2.1. Making sure that pregnant and nursing women exercise their rights in the workplace	<ul style="list-style-type: none"> a. In relation to OO2.3: Number of complaints on workplace rights violations (may be high initially but should decrease over time) (quarterly) b. Number of infractions identified by the Labour Inspectorate (both in response to complaints and as a result of independent inspections) (quarterly) 	Labour Inspectorate; Ombudsman’s Office	3 months after adoption of the legislation
Operational Objective 2.2. Making sure that the procedures for applying for benefits are transparent and accessible	<ul style="list-style-type: none"> a. Creation and popularization of a dedicated website where information on procedural issues can be found and where it is possible to apply for benefits (the site must be easy to navigate and must display information regarding the rules and procedures for both men and women clearly and transparently) b. Share of respondents declaring that the procedures for applying for benefits are transparent and accessible (annually) 	Social Service Agency; Ministry of Labour, Health and Social Affairs	3 months after adoption of the legislation

<p>Operational Objective 2.3. Ensuring that workers are aware of their rights under the law and existing regulations (in relation to parental leave, breastfeeding, pregnancy protection in the workplace, etc.)</p>	<ul style="list-style-type: none"> a. Percentage of workers who can correctly answer survey questions about their rights in the workplace (should be part of a regularly conducted survey) (annually) b. Percentage of women in the private sector who report requesting and taking breaks for breastfeeding in the workplace, report taking paid time off for pregnancy-related check-ups, etc. (annually) c. Percentage of women in the private sector who report requesting and being denied breaks for breastfeeding in the workplace, report taking unpaid time off for pregnancy-related check-ups, etc. (annually) d. Percentage of workers not in civil service employment who report having flexible arrangements with their employers to facilitate childcare (annually) 	<p>Ministry of Labour, Health and Social Affairs; Geostat; Labour Inspectorate</p>	<p>6 months after adoption of the legislation</p>
<p>Specific Objective 3 – Addressing the problem of inadequate leave compensation for employees</p>			
<p>Operational Objective 3.1. Making sure that leave compensation available from the State is adequate (as implied by ILO Convention No. 183) for all workers in all sectors</p>	<ul style="list-style-type: none"> a. Amount of compensation per month of leave benefits in relation to the subsistence minimum (monthly) b. Number of women taking the maximum leave duration (annually) c. Number of women returning to the labour force after leave (annually) 	<p>Ministry of Finance; Budget and Finance Committee of the Parliament</p>	<p>In accordance with the MoF's timetable for submission of the draft version of the budget</p>
<p>Operational Objective 3.2. Encouraging contributions (top-ups) from employers to the parental leave benefits</p>	<ul style="list-style-type: none"> a. Number of government meetings/ consultations with employers' associations and labour unions (annually) b. Percentage of firms granting top-ups of parental leave benefits on top of statutory payments (annually) c. Share of private sector employees (disaggregated by gender) receiving top-ups of parental leave benefits on top of statutory payments (annually) 	<p>Ministry of Labour, Health and Social Affairs</p>	<p>12 months after adoption of the legislation</p>
<p>Specific Objective 4 – Promoting the reduction of gender gaps in the labour markets and inside the household</p>			
<p>Operational Objective 4.1. Facilitating equal take-up of childcare leave by men and women</p>	<ul style="list-style-type: none"> a. Percentage of mothers and fathers taking parental leave in a given month/quarter (of those who are eligible) (quarterly) b. Duration of leave taken by both genders (quarterly) c. Percentage of men requesting childcare-related leave (among all employees) (quarterly) 	<p>Social Service Agency; Civil Service Bureau; Geostat</p>	<p>18 months after adoption of the legislation (adhering to Geostat's data collection schedule)</p>

<p>Operational Objective 4.2. Fighting labour-market discrimination practices</p>	<ul style="list-style-type: none"> a. Number of discrimination cases filed in courts (quarterly) b. Number of infractions regarding discrimination (complaints) identified by the Ombudsman's Office (annually) c. Calculation of the gender wage gap within specific occupations (quarterly) d. Percentage of employers who perceive women of childbearing age as less productive in the workplace (annually) e. Number of women returning to the same position after maternity leave, retaining this position (or receiving a promotion) for at least one year (annually) 	<p>Ministry of Justice; Labour Inspectorate; Ombudsman's Office (a, b); Geostat</p>	<p>Immediately</p>
<p>Operational Objective 4.3. Promoting the evolution of gender roles and fighting gender stereotyping</p>	<ul style="list-style-type: none"> a. Number of individuals involved in initiatives to educate the public about the economic and social harms of gender stereotyping and labour-market discrimination b. Percentage of the population who are aware of how gender discrimination and stereotypes harm the economy and personal well-being, as well as the well-being of the country (part of a survey of public opinion on gender equality) c. Percentage of the public who thinks that fathers should be more involved in childcare d. Percentage of men reporting spending time on childcare and household chores e. Share of time men spend on childcare and household chores f. Share of time women spend on childcare and household chores (annually) 	<p>Geostat; Gender Equality Council of the Parliament; Women's Clubs (local municipal units)</p>	<p>18 months after adoption of the legislation</p>

DEVELOPMENT OF
OPTIONS ALTERNATIVE
TO THE BASELINE
SCENARIO

A. POLICY OPTION 0: THE MOST RECENT STATUS QUO, PRIOR TO THE REVISION OF LLCG

1. Under the status quo scenario, the terms “pregnancy, childbirth and childcare” (PCC) leave, “adoption of newborn” leave and “childcare additional” leave are used in the legislation. The language of the legislation appears to be gender-neutral, but in practice, it is overwhelmingly women who can and do take leave to care for a child.
2. The leave period is 730 days, of which 183 (200 in case of multiple births or complications) days are paid. The salary replacement rate is theoretically 100 per cent. However, while there is no cap (ceiling) on payments in the case of civil service employees, the ceiling is fixed for all other workers at the amount of GEL 1,000 for the duration of the paid leave (not indexed).
3. Paid leave for fathers is only possible if a father is a civil servant and the mother did not use any leave days.
4. There is no mandatory maternity leave.
5. Employers that operate in spheres identified as being particularly hazardous, hard, harmful or dangerous¹⁴⁶ are not allowed to employ pregnant or breastfeeding women.
6. Women working in civil service can retain their salary if they skip hours of work due to pregnancy-related medical examinations. All other workers are not entitled to full compensation for those hours.
7. The Georgian labour legislation does not guarantee the right of a worker to return to the same or equivalent position and be paid at the same rate following a period of PCC leave.
8. There is no guaranteed, proportionate or reasonable system of sanctions when the provisions on maternity protection are violated. The court continues to be the only means of enforcing the right to maternity leave. The Public Defender’s Office could also issue a not legally binding decision on a concrete case.

Opportunities associated with the most recent status quo:

- Officially, public kindergartens in Georgia do not accept children under 2 years old. This means that a mother would have to either be home with the child until that age or find other childcare arrangements. The maximum leave period of 730 days theoretically allows a woman to be with her child until the “official” kindergarten age.
- The cash benefit of GEL 1,000 is a ceiling on the lump sum payment for the total duration of the childcare leave a woman chooses to take. There is no ceiling on monthly payments. This, in practice, allows women with relatively low salaries to effectively increase their monthly wage replacement rate beyond 100 per cent by officially claiming six months of leave while returning to work earlier.
- For women who are civil servants, the childcare benefits system is quite favourable, giving a full six months of wage compensation without a payment ceiling. The LPS also allows men to take paid childcare leave on the same conditions as women (at least in theory), although the take-up rate among men is extremely low.

Risks associated with the most recent status quo:

- Women who are not civil servants will still not be able to adequately support themselves and their child for the duration of the paid leave. Moreover, these women will see their paid leave compensation diminish over time – unless the statutory payment amount is adjusted upward again (on an ad hoc basis).
- Women may be pushed out of the labour force because the opportunity cost of leaving the labour force (measured by the compensation provided by maternity leave in the critical

146 The Government of Georgia approved the complete list of such activities. Government Decree №381 “On Adopt-

ing the List of Hazardous, Hard, Harmful and Dangerous Works” (27 July 2018).

months after the birth of a child) will decline over time.

- The ratio of men who take up childcare leave will continue to be close to zero, perpetuating the gender stereotype of women as the sole caretakers of young children and contributing to labour-market discrimination against women of childbearing age.
- The wage gap between men and women will stagnate at the current level (in the best-case scenario) or increase in the worst-case due to the continued wage discrimination against women in the labour market (for more details, see Section II).
- For women who are working in low-paid, low-skilled jobs, as maternity leave benefits continue to deteriorate, the opportunity cost of remaining out of employment will become progressively lower. Hence, these women will be even more likely to leave their jobs and less likely to re-enter the labour market at a later time. This will directly contribute to rising poverty levels among

households. In addition, a woman with young children will be more likely to seek informal or flexible work arrangements later on, which will directly impact her job security, compensation and old-age pension.

- Gender-biased sex selection practices, which have declined markedly in Georgia, may return if women's labour-force participation and/or fertility rates deteriorate.
- There is significant potential for losses to the Georgian economy (associated with a large, highly educated segment of society being economically inactive), significant skills shortages and labour resource misallocation developing at a time when the country's economy is recovering from a major global shock (COVID-19), is facing more intense global competition and is seeking to develop skills and knowledge-based sectors.
- There would be a reduction in growth trends, a slowdown in productivity and lower overall standards of living, from which it would be difficult or impossible to recover.

B. POLICY OPTION 0.1: UPDATED STATUS QUO, BASED ON LLCG AMENDMENTS AS OF SEPT. 2020

Description of key differences between Option 0.1 (updated status quo) and Option 0

Health protection:

- The revised LLCG specifies that if a pregnant woman was previously employed in a position that is potentially harmful to her or the fetus, the employer will be obliged to change her working conditions or hours, offer her an alternative job or, if neither is possible, temporarily relieve the employee of her duties as necessary for the protection of her and/or the fetus/child. This provision is in line with ILO Convention No. 183.
- The new law ensures that pregnant women, nursing mothers and women with children under the age of 3 who are working in civil service cannot be required to work overtime without their consent. Previously this was not explicitly guaranteed in the LPS.

- The Labour Inspectorate has broad power to inspect workspaces and to enforce the legislation on behalf of workers.

Employment protection:

- The revised LLCG guarantees an employee's right to return to the same job under the same working conditions after the end of maternity leave, childcare leave or leave when adopting a newborn, as well as the right to enjoy any improved working conditions within the scope of which he/she would have been entitled not to take the relevant leave.

Leave duration and benefits:

- Paid maternity leave and childcare leave are separated under the revised LLCG. Of the 183 days, 126 days are for maternity leave (exclusive to mothers), and 57 days are for childcare leave,

which is a family entitlement that can be shared between the mother and the father. Employees are paid a cash allowance of 100 per cent of their previous salary, up to a ceiling of GEL 1,000 in total. There are no changes associated with the LPS in this regard.

Opportunities associated with the updated status quo:

The opportunities associated with the revised legislation are the same as those described above for the most recent status quo, with some additional opportunities emerging:

- The revised LLCG explicitly defines the paid maternity leave period (exclusive to mothers) and the childcare (parental) leave period, which can be shared between the two parents. This gives fathers a legal right that they did not enjoy before and makes it possible for fathers and mothers to share childcare responsibilities.
- The revised LLCG has better and more defined health protection guarantees for pregnant and nursing women, especially insofar as hazardous working conditions are concerned.
- Overtime work provisions are more clearly defined for civil servants.
- There is now an explicit employment protection guarantee for employees returning to work after taking maternity or childcare leave.
- The broad powers of the Labour Inspectorate to inspect workspaces and to enforce the legislation on behalf of workers ensure that an effective system of legal protection for workers will emerge.

Risks associated with the updated status quo:

- The LPS was not updated to clearly define the terms of maternity and parental leave. The status of civil servants remains the same – i.e. men who are civil servants can take paid leave but only if their wife (also a civil servant) did not take any

part of the leave. Thus, the law remains de facto discriminatory to men and does not encourage the take-up of parental leave by fathers.

- In the revised LLCG, the cap on cash benefits associated with paid leave remains the same (GEL 1,000). This effectively means that men have no additional incentive to take up any portion of parental leave. This provision effectively perpetuates the status quo of the extremely low leave take-up rate among men and perpetuates the perception of women as the primary caretakers.
- The remaining cap on cash benefits still does not guarantee a woman and her child a suitable standard of living for the duration of paid leave. The situation will worsen with time, as the purchasing power of the GEL 1,000 cap deteriorates.
- There are still no explicit provisions for (compensated) breaks for breastfeeding women in the LPS.

Overall, the risks associated with the most recent status quo largely remain in place, although they will be mitigated in part by stronger employment protection guarantees and a more effective system to ensure safe and proper working conditions for pregnant and breastfeeding women.

Description of key differences between Options 1 and 2 and the updated status quo (Option 0.1)

Policy Option 1 is designed with the view of aligning the current legislation as close as possible to ILO Convention No. 183 (and subsequent ILO recommendations) without worsening the current conditions of different groups of workers.

The key departures of Policy Option 1 from the updated status quo (Option 0.1) include the following:

- Extends maternity leave benefits to the majority of women in “atypical forms of dependent work”¹⁴⁷

into the category of “hired employed persons” as defined by Geostat.

147 For the purpose of our analysis, we consider as “atypical” those workers whose employment relations are, for various reasons, not covered by the LLCG but who still fall

- Introduces a mandatory part of the paid maternity leave period
- Introduces a monthly payment floor on maternity leave benefits tied to the subsistence minimum. The amount of leave payment should be equal to two thirds of their previous salary per month of paid leave and shall not be less than 1.5 times the subsistence minimum for an average consumer during the previous year (per month of paid leave).

Policy Option 2 is designed with the view of aligning the current legislation more closely with EU Directive 2019/1158 on work-life balance for parents and carers. This option can be considered as a maximum option, but given Georgia’s commitments in the framework of the AA, this option will have to be at least considered in the future.

Like Policy Option 1, Policy Option 2 extends maternity leave benefits to the majority of women in “atypical forms of dependent work” and introduces a mandatory part of the paid maternity leave period.

However, Policy Option 2 differs in the following key ways from both Policy Option 0.1 and Policy Option 1:

- Explicitly introduces the term “paternity leave” into the legislation for all workers and the terms “maternity leave” and “parental leave” for civil servants, making it clear which types of leave apply to women/men only and which types of leave can be shared by both parents and on what terms (in both the LLCG and the LPS)
- Introduces a paid paternity leave period exclusive to fathers
- Introduces partially paid parental leave for both parents, with a non-transferable paid leave portion
- Introduces a sliding scale for paid leave benefits¹⁴⁸
- Equalizes the status of civil servants with non-civil servants, including those working in atypical forms of employment
- Does not provide for a floor (minimum payment) on leave benefits envisioned under Option 1

C. POLICY OPTION 1: THE ILO CONVENTION OPTION

The current legislation is changed only insofar as to conform to the specifications in ILO Convention No. 183.

Description of the scenario and underlying assumptions

Proposed legislative changes:

1. The proposed legislative changes (points 2-4 below) only affect the LLCG and the categories of workers that are covered by the LLCG as well as **workers employed in atypical forms of dependent work who are currently outside LLCG coverage**.¹⁴⁹ The LPS is not changed.
2. Changes in leave duration/distribution:¹⁵⁰

148 The sliding scale is defined below in Section IV.D.

149 The ILO Convention specifies that “the Convention applies to all employed women, including those in atypical forms of dependent work”. A 2015 ILO report (“Non-standard forms of employment”) indicates that currently there is no standard definition of NSFE (non-standard forms of employment, often used interchangeably with the term “atypical” employment). However, the report goes on to state that “typically, NSFE covers work that falls outside the scope of a standard employment relationship, which itself is understood as being work that is full-time, indefinite employment in a subordinate employment relationship”. In particular, this may cover: (1) temporary employment; (2) temporary agency work

and other contractual arrangements involving multiple parties; (3) ambiguous employment relationships; and (4) part-time employment. Furthermore, “workers in NSFE may be working under formal or informal employment arrangements”. Although independent employment and self-employment is sometimes (e.g. as defined by the European Union Agency Eurofound, at <https://www.eurofound.europa.eu/observatories/eurwork/industrial-relations-dictionary/atypical-work>) considered as a form of atypical work arrangement, those workers who are independent and self-employed are not considered in the aforementioned ILO report.

150 The duration of “adoption of newborn” leave and “child-care additional” leave stays the same.

- a. Out of the total maternity leave period as specified in the LLCG, **six weeks (42 days) should be mandatory (as per ILO Convention No. 183)**. These changes do not affect the LPS.
- b. Childcare leave (non-paid) can be taken as per the current legislation and will amount to 604 days (the total maximum duration of both maternity and childcare leave is 730 days).
3. Changes in leave benefits:
 - a. The maternity leave benefits (specific to mothers) for workers covered by the LLCG and for workers employed in atypical forms of dependent work shall be equal to two thirds of their previous salary per month of paid leave and shall not be less than 1.5 times the subsistence minimum for an average consumer during the previous year (per month of paid leave). The parental leave period of 57 days is unpaid.
4. Changes in financing source: No change (all leave benefits are paid from the state budget).

Additional changes in the legislation as required by the Convention:

5. Awareness-raising campaigns should be conducted in order to ensure that workers are aware of their rights, in addition to what constitutes discrimination and the legal options available to those who experienced it.
6. Access to information should be made easy and transparent by creating a dedicated information portal detailing workers' rights and the procedures for applying for paid/unpaid leave.
7. The law should explicitly stipulate that workers employed in atypical forms of dependent work are eligible for the maternity leave benefits paid for by the State. (The law should further clarify which type of formal and informal employment arrangements shall be covered here. This change, however, is contingent upon the existence of legal and administrative mechanisms for identifying such workers and enforcing their rights).
8. The Government should promote corporate social responsibility among employers, encouraging contributions (top-ups) from employers to the statutory benefits.

Opportunities associated with Policy Option 1:

- Extending maternity leave benefits to “atypical dependent workers” would ensure that maternity protection coverage and benefits are extended to more women workers and would encourage them to stay in the labour force (provided, however, that these workers can be identified and reached).
- The mandatory paid maternity leave portion ensures that women are not pressured to return to work too early following the birth of a child.
- A payment floor tied to the subsistence minimum ensures that the purchasing power of the maternity cash allowance does not deteriorate over time and allows adequate support for the mother and child during the maternity leave period.
- Removing the overly restrictive payment ceiling on maternity leave benefits would allow women to take the optimal amount of time for maternity leave. It would also ensure adequate support to the mother and child in the critical months after birth.

Risks associated with Policy Option 1:

- Introducing a floor on maternity leave payments and removing the restrictive ceiling on payments would raise the budgetary costs of the maternity leave benefits.
- Having a monthly payment equal to two thirds of previous monthly earnings could potentially disadvantage women with lower earnings (relative to the status quo).
- Option 1 does not improve upon the updated status quo with regard to encouraging men's participation in childcare and thus does not remove one of the identified reasons behind the gender wage gap.
- Option 1 does not promote a change in social norms (i.e. the perception of women as the primary carers for children).
- The option improves upon, but does not fully remove, the differences in the treatment of civil servants and other workers under the law.

D. POLICY OPTION 2: COMPATIBLE WITH EU DIRECTIVE 2019/1158 ON WORK-LIFE BALANCE FOR PARENTS AND CARERS

Proposed legislative changes:

1. Introduction of the terms “maternity leave”, “paternity leave”¹⁵¹ and “parental leave”:¹⁵²
 - a. Policy Option 2 explicitly introduces the term “paternity leave” into the legislation (for all workers) and the terms “maternity leave” and “parental leave” for civil servants.
2. Changes in leave duration/distribution:¹⁵³
 - a. Maternity leave period: 126 days, of which 42 days (six weeks) should be mandatory (as per ILO Convention No. 183).
 - b. Paternity leave: 14 days, of which all 14 days are paid at 100 per cent of the salary replacement rate, out of the state budget. It is non-mandatory but is specific to fathers.¹⁵⁴
 - c. Parental leave: Each parent is entitled to 122 days (four months) of non-mandatory parental leave. Of these, 60 days (two months) shall be paid, and the remaining 62 days are unpaid. Of the 122 days, only the 62 unpaid days can be transferred to another parent.¹⁵⁵
 - d. Additional childcare leave: Unpaid leave for the duration of 360 days (one year). The leave can be shared between parents in any way they deem optimal.
3. Changes in leave benefits:
 - a. The leave benefits, paid from the state budget, for workers in civil service and all other employees are based on the previous salary (without a ceiling) on the following sliding scale: 100 per cent for the first two months; 80 per cent for the second two months; and 60 per cent for the third two months.¹⁵⁶
 - b. Paternity leave and the part of parental leave for fathers are paid in the same way as maternity leave or parental leave for mothers.
4. Changes in financial source: No change (all leave benefits are paid from the state budget).
5. Additional changes in the legislation as required by the Convention: See points 5-8 under Policy Option 1.

Opportunities associated with Policy Option 2:

- As in Policy Option 1, extending maternity leave benefits to “atypical dependent workers” would ensure that maternity protection coverage and benefits are extended to more women workers and would encourage them to stay in the labour force (provided, however, that these workers can be identified and reached).

151 “Paternity leave” means leave from work for fathers or, where and insofar as recognized by national law, for equivalent second parents on the occasion of the birth of a child for the purposes of providing care (EU Directive 2019/1158).

152 “Parental leave” means leave from work for parents on the grounds of the birth or adoption of a child to take care of that child (EU Directive 2019/1158).

153 The duration of “adoption of newborn” leave and “childcare additional” leave stays the same. The distribution of the days for “adoption of newborn” leave between parents is the same, as in the case of parental leave. The “childcare additional” should be taken by only one of the parents.

154 As per the EU Directive, the new right to take leave will not be subject to a prior service requirement, but

payment for the leave may be subject to a minimum six-month service requirement.

155 According to EU Directive 2019/1158, “the Directive also mandates that the two non-transferrable months must be paid leave, while the other two months may be unpaid. The level of compensation will be determined by the national laws of each member state” (see <https://globalnews.lockton.com/eu-directive-for-work-life-balance/>).

156 The sliding scale is attached to an individual parent and not to a family. So, for example, if a mother has taken two months of leave at 100 per cent of her salary as well as two months at 80 per cent, the father can take their non-transferable two months of parental leave at 100 per cent of his salary. This will incentivize fathers to take the parental leave. The sliding scale principle will also encourage the return to employment.

- As in Policy Option 1, the mandatory paid maternity leave portion ensures that women are not pressured to return to work too early following the birth of a child.
- As in Policy Option 1, removing the overly restrictive payment ceiling on maternity leave benefits would allow women to take the optimal amount of time for maternity leave. It would also ensure adequate support to the mother and child in the critical months after birth.
- Policy Option 2 specifically encourages men to participate in the care of the newly born child through a two-week paid paternity leave (specific to the father).
- Policy Option 2 has the potential to encourage the take-up of parental leave among men. This is because the sliding scale for parental leave is attached to the individual parent rather than to the family. Both the father and the mother are ensured paid leave at 100 per cent of their salary for at least two months. In addition, the father's paid portion of parental leave is non-transferable, which would further encourage participation. By encouraging the parental

leave take-up rate among men, this policy has the potential to affect social attitudes towards women and alleviate the discriminatory gender wage gap in the labour market.

- The status of civil servants and all other workers will be equalized, contributing to more equal treatment of workers under the law.

Risks associated with Policy Option 2:

- Budgetary costs would increase as a result of including atypical workers in the benefits, removing the restrictive ceiling on payments, introducing an additional paternity leave and effectively extending the maximum duration of the paid benefit period for a single family to eight months.
- Policy Option 2 does not provide for a floor on payment benefits. Thus, even a 100 per cent monthly wage replacement rate for the first two months of leave may not ensure adequate financial support for a mother and child (above the subsistence minimum), especially among low-wage earners.

ANALYSIS OF IMPACTS

The image features a solid blue background in the upper half and a solid green background in the lower half. A large, semi-transparent, light blue 'C' shape is positioned in the upper half, overlapping the blue background. A large, semi-transparent, light green 'C' shape is positioned in the lower half, overlapping the green background. The two 'C' shapes are vertically aligned and appear to be part of a larger, stylized graphic element.

A. IDENTIFICATION OF POSSIBLE IMPACTS

The implementation of the policy options described below will have a number of economic, environmental and social implications. In this section, we provide the qualitative assessment of possible impacts, differentiating between costs and benefits along each dimension, starting from possible administrative costs associated with adopting the policy options. We will compare Policy Option 0.1 (updated status quo) to Policy Option 0 (most recent status quo). For Policy Options 1 and 2, the impacts will be described as marginal changes in relation to Policy Option 0.1 (updated status quo).

Policy Option 0.1

Administrative

Administrative costs include hiring and training additional staff in order to extend the supervisory powers of the Labour Inspectorate. This was already being done in anticipation of the changes to the LLCG. Therefore, the additional costs associated with training Labour Inspectorate staff are likely to be negligible.

Economic

Labour-force participation among women of childbearing age

Option 0.1 will incentivize women to return to the labour force after the maternity leave period; thus, labour-force participation is expected to increase. This may come as a direct consequence of introducing job-protected maternity leave.¹⁵⁷

Gender wage gap and discrimination

As far as Option 0.1 is concerned, it is likely that **current trends in the gender wage gap and discriminatory behaviours will persist (i.e. remain the same as under the most recent status quo) or improve in a negligible way.** The reason for this conclusion is that simply introducing the possibility of shared parental leave without giving additional financial incentives for men to participate, as well as making parental leave fully transferable between fathers and mothers, is unlikely to increase the take-up rate among men in a substantial way.¹⁵⁸ Therefore, women will still be regarded as the primary carers of young children.¹⁵⁹

Private sector firms

- a) **Benefits:** Private sector firms may benefit from greater participation of women in the labour force associated with increased employment protection and better provisions for health and working conditions.
- b) **Costs:** There will be some costs associated with complying with health and working condition provisions for pregnant and nursing women, but these costs are likely to be negligible. In addition, these costs are likely to be offset by the fact that women will be more likely to return to their job after the leave period, leading to greater job satisfaction and resulting in productivity gains in the long run.

157 Economic studies, both theoretical and empirical, have long argued that introducing job-protected maternity leave would result in an increase in the labour-force participation of women. Jane Waldfogel, "The family gap for young women in the United States and Britain: Can maternity leave make a difference?", *Journal of Labor Economics*, vol. 16, No. 3 (1998), pp. 505–45; Hamish Low and Virginia Sánchez-Marcos, "Female labour market outcomes and the impact of maternity leave policies", *IZA Journal of Labor Economics*, vol. 4, No. 14 (2015); Jane Waldfogel, "The Impact of the Family and Medical Leave Act", *Journal of Policy Analysis and Management*, vol. 18, No. 2 (1999), pp. 281–302.

158 Studies conducted in Germany, for example, show that introducing a simple policy change, such as making some part of paid parental leave exclusive to fathers and non-transferable, increased the take-up rate from stagnant low single digits to 18 per cent. Nora Reich, "Who Cares? Determinants of the Fathers' Use of Parental Leave in Germany", HWWI Research Paper (2010). Available at https://www.hwwi.org/fileadmin/hwwi/Publikationen/Research/Paper/Wirtschaftliche_Trends_und_HH/HWWI_Research_Paper_1-31.pdf.

159 The rationale behind this link is described in the "Gender wage gap and discrimination" paragraph for Policy Option 1.

Environmental

There are no significant environmental impacts of the updated status quo vis-à-vis the most recent status quo.

Social

Health protection in the workplace

The health of pregnant and breastfeeding women and their children can be expected to benefit from the greater health protection of women in the workplace.

- a) Hazardous working conditions: Specifying the hazardous conditions (e.g. heavy lifting, exposure to certain chemicals, etc.) under which pregnant women should be reassigned or transferred to a different type of work would minimize the health risks to the woman and fetus within the workplace.
- b) Excused paid absences from work: Additional provisions (e.g. excused paid absences from work for pregnancy-related check-ups, breaks for breastfeeding women, etc.) are likely to significantly impact mothers' psychosocial well-being in the workplace. While research on the direct association between work-related stress and pregnancy outcomes has produced inconsistent and mixed results (possibly because the effects may be different for different types of jobs and roles in the workplace), there has been evidence that work-related stress may result in the risk of premature birth.

Equality between workers

The de jure gap between men and women insofar as leave benefits are concerned will now be somewhat smaller due to the introduction of the parental leave concept in the LCCG.

The gap between male civil servants and non-civil servants may become somewhat smaller. This is due to the fact that male non-civil sector workers were not eligible at all for paid parental leave, while those working in the civil sector were eligible, albeit under very restrictive conditions.

Under the updated status quo the gap between women who work full time and part time closed slightly due to the fact that the LCCG now explicitly protects part time workers from being discriminated in working conditions based on their status. However, nothing changed for people who are employed in other atypical forms of dependent work.

Poverty reduction

The expected increase in female labour-force participation will potentially increase household incomes and, therefore, help at least some of the most vulnerable households avoid and/or exit poverty.

Gender norms

Option 0.1 is unlikely to significantly impact the status quo in gender norms and is unlikely to lead to change in the social perception of women as the primary carers of children, despite the fact that a significant share of men receive a de facto right to take parental leave. Given that men received no additional incentives to take up parental leave and share childcare responsibilities with women, the current practices are likely to remain intact.

Public finances

State costs: Option 0.1 will not have a perceptible impact on budgetary costs relative to the most recent status quo.

State revenues: In the long run, the revenues may be impacted positively through economic and social changes (including greater participation of women in the labour force and the long-term productivity gains and tax revenue gains) due to better public health outcomes.

Policy Option 1

Administrative

Administrative costs:

- Identifying and including in the leave benefits system "atypical workers" carries some uncertainty with respect to the rest of the costs

(e.g. a potentially high administrative burden to ensure that the system works well), resulting in an increased burden on existing personnel, including the need to train said personnel. However, if even after reform the “atypical workers” stay in the informal sector and do not file benefits claims, the marginal administrative costs could be low.

- Digitizing the leave benefits system (i.e. moving away from the current paper-based system) would be a negligible, one-time cost.
- Conducting awareness campaigns to increase workers’ awareness of their rights and promote social responsibility among private companies is also a one-time cost that is likely to be negligible.

Administrative benefits (saving):

- Digitizing the leave benefits system may result in cost-savings from increased administrative efficiency. The amount of cost-savings is likely to be low initially but may increase over time.

Overall, the net administrative costs are expected to be negligible relative to the overall cost of the reform. The biggest challenge and uncertainty would be associated with identifying and including the “atypical workers” in the leave benefits system. This would definitely include workers who are currently considered to be in hired employment for statistical purposes (by Geostat) but whose labour status is not clearly covered by the LLCG due to informality or for other reasons. Among such workers are groups where mostly women are employed (e.g. domestic workers). Hence, including these workers in the leave benefits system and monitoring their labour-force status will be important.

Digitizing the leave benefits system (i.e. moving away from the current paper-based system) as well as conducting awareness campaigns to increase workers’ awareness of their rights and promote social responsibility among private companies are both one-time costs that are likely to be low. Digitization may even save costs in the long run, as well as have a positive environmental impact.

Economic

Labour-force participation among women of childbearing age

Option 1 will provide additional incentives for women to return to the labour force after the maternity leave period; thus, labour-force participation will increase further relative to Policy Option 0.1. This will come as a direct result of adequate maternity leave compensation. Specifically, Option 1 improves upon the updated status quo insofar as the amount of leave benefits for the majority of women is increased by removing an overly restrictive ceiling on payments and by introducing a payment floor. The opportunity of having adequately compensated time off to care for a newborn child is documented as increasing the likelihood of women’s labour-force participation.

Gender wage gap and discrimination

As far as Policy Option 1 is concerned, it is likely that **current trends in the gender wage gap and discriminatory behaviours will persist** (i.e. remain the same as under the updated status quo), primarily because this option does not impact the social norms – women will still be regarded as the primary carers of young children.

The rationale behind this claim is as follows: the gender wage gap is a complex phenomenon that stems from different root causes. On the one hand, the “wage penalty” for mothers with young children and those who are returning to the labour force following a prolonged maternity leave period is well documented in the literature. Among the causes is the depreciation of critical skills following prolonged leave. The wage gap is also **very likely to arise from statistical discrimination on the part of employers**. Because women are seen as the primary carers of young children, employers are likely to consider them as less productive in the workplace (or more likely to take childcare-related leave) and thus offer female employees lower wages.

Private sector firms

- a) Benefits: Private sector firms may benefit additionally from greater participation of women in the labour force and their increased ability to attract and retain qualified female workers (especially if a firm offers top-ups to statutory benefits).
- b) Costs: An increase in costs to private sector firms could stem from the fact that women might be more likely to take longer maternity leave than they do under the status quo. On the other hand, these costs will be offset by greater labour-force participation of women; greater likelihood that a woman will return to her job after the leave period; and greater job satisfaction for women, resulting in productivity gains in the long run.

Environmental

Some environmental benefits will stem from digitizing the applications for leave benefits (moving away from paper-based administration).

Social

Paid leave

One of the major social benefits to society will accrue from providing an adequate level of financial support to the mother and child during the first critical months after birth. The social benefit of providing this level of support is not easy to quantify (unlike the budgetary costs). However, empirical evidence suggests that a longer duration of paid leave results in significant long-term benefits for the affected children, associated with lower high school dropout rates and an increase in wages by the age of 30.

We can also expect an improvement in health outcomes for mothers and children resulting from

compulsory paid maternity leave. Studies have shown that longer maternity leave is typically associated with better health outcomes, especially for children (e.g. decrease in infant mortality,¹⁶⁰ longer duration of breastfeeding¹⁶¹).

However, for some categories of low-paid workers, the floor on benefits may provide a wage replacement rate that is higher than 100 per cent per month, creating the wrong incentives and leading to undesirable social consequences.

Number of workers eligible for leave benefits

The number of workers covered by maternity or maternity/paternity/parental leave benefits will increase.

Equality between workers

The gap between maternity leave benefits enjoyed by civil servants and the rest of the workers will be smaller under Policy Option 1. This will stem from the introduction of a payment floor on the leave benefits for those workers who are not in the civil sector.

Poverty reduction

The further expected increase in female labour-force participation can be expected to increase household income and, therefore, help at least some of the most vulnerable households avoid and/or exit poverty.

Gender norms

Option 1 will not impact the status quo in gender norms and is unlikely to lead to change in the social perception of women as the primary carers of children. The focus on maternity leave alone will not improve upon the current work-life balance gap between the genders.

160 A prolongation of maternity leave by 10 per cent was associated with a decrease in infant mortality by between 3 per cent and 5 per cent. C. R. Winegarden and P. M. Bracy, "Demographic Consequences of Maternal-Leave Programs in Industrial Countries: Evidence from Fixed-Effects Models", *Southern Economic Journal*, vol. 61, No. 4 (1995), pp. 1020–35.

161 Brian Roe and others, "Is there Competition between Breast-Feeding and Maternal Employment?", *Demography*, vol. 36, No. 2 (1999), pp. 157–71; C. R. Arthur, R. B. Saenz and W. H. Replogle, "The Employment-Related Breastfeeding Decisions of Physician Mothers", *Journal of the Mississippi State Medical Association*, vol. 44, No. 12 (2003), pp. 383–7.

Public finances

State expenditures: Under Option 1, state expenditures will increase by a greater amount. This is to a large extent due to the extended coverage of workers for maternity benefits, the removal of the restrictive payments ceiling and the introduction of a payment floor.

State revenues: In the long run, the costs are likely to be either mitigated or outweighed by positive economic and social changes (including greater participation of women in the labour force and the long-term productivity gains and tax revenue gains) associated with these changes.

Policy Option 2

Administrative

Administrative costs will be affected similarly to Option 1.

Economic

Labour-force participation among women of childbearing age

- As in Policy Option 1, removing an overly restrictive payment ceiling on maternity leave benefits and introducing compulsory paid leave would allow women to take the optimal amount of time for maternity leave and will facilitate their return to the labour force.
- Policy Option 2 introduces a sliding scale in benefit payments, at a higher salary replacement rate than Option 1 for the first four months of leave (100 per cent and 80 per cent of salary instead of two thirds of salary as in Option 1). This may result in an overall more positive effect on labour-force participation as compared to Option 1.

To summarize, the differential effect of Policy Option 2 (as compared to Option 1) on female labour-force participation can be more positive, but the difference is likely to be negligible. Overall, both options are expected to increase women's labour-force participation.

Gender wage gap and discrimination

Overall, the gender wage gap and discrimination against women in the workplace are likely to be reduced to a greater extent under Policy Option 2 (in the long run). Unlike Option 1, Policy Option 2 would likely contribute to reducing the gender wage gap by influencing fathers' take-up of parental leave and impacting social gender norms in the long run.

Private sector firms

- a) Labour-force participation rate of women: Similar to Option 1, in Policy Option 2, private sector firms will benefit from greater labour-force participation of women and a higher ability to recruit and retain qualified female staff.
- b) Potentially longer leave periods: Under Policy Option 2, women, especially in the higher salary ranges, may take somewhat longer periods of leave than under Option 1 (e.g. six months rather than four months). This could increase the costs to private firms (due to short-term productivity losses and/or a need to replace a trained worker) under this option. However, the positive health effects (for women and children) of a slightly longer paid leave period may offset these costs via increased productivity in the long run.

Environmental

There will be effects similar to Option 1.

Social

Paid leave

- a) Effect on low-paid workers: In some cases, low-paid women are likely to be disadvantaged by the removal of the floor on benefits linked to the subsistence minimum. This is because for some categories of low-paid workers, even a 100 per cent wage replacement rate may not provide an adequate level of income for a mother and child.
- b) Compulsory leave: The introduction of a mandatory part of paid leave will have a similar effect as in Option 1.

Health protection in the workplace

There will be effects similar to Option 1.

Number of workers eligible for leave benefits

The number of workers covered by maternity or maternity/paternity/parental leave benefits will increase more dramatically under Policy Option 2 due to the introduction of paternity leave and the inclusion of men in the parental benefits scheme.

Equality between workers

Policy Option 2 removes the unequal treatment of civil servants and all other workers under the law, thus promoting more equality. This option achieves equality by reducing the benefits of civil servants while at the same time increasing benefits to all other workers. Moreover, Option 2 provides for greater equality between men and women under the LLCG and LPS.

Poverty reduction

The effect on poverty is likely to be positive (lower poverty rate). However, not all groups may be affected in the same way. On the one hand, poverty is likely to be reduced because women in the low-middle salary ranges are encouraged to remain in the labour force by being better compensated in the initial months of maternity leave (as compared to Option 1). However, for some low earners, the monthly compensation may even deteriorate compared to Option 1 because of the removal of a payment floor on benefits.

Gender norms

- a) Work-life balance: Option 2 in particular, by encouraging male participation in childcare duties, may lead to a long-term change in gender norms, whereby men and women will be perceived as equally responsible for the care of the child. It is recognized that greater involvement of fathers in the care of children has a positive effect on social outcomes. It equalizes the division of paid employment and unpaid care work and housework, leading to an improved work-life balance.¹⁶²
- b) Greater involvement of fathers in childcare: Option 2 is associated with a greater increase in fathers' involvement in parental activities. In the long run, this change positively affects the cognitive outcomes in children and increases father-child bonding.¹⁶³

Public finance

State expenditures: Under Option 2, state expenditures will increase by a greater amount. This is to a large extent due to the inclusion of men in the parental benefits and the introduction of paternity leave.

State revenues: The positive long-term effect will be stronger than under Option 1. In the long run, the costs are likely to be either mitigated or outweighed by the positive economic and social changes (including greater participation of women in the labour force and the long-term productivity gains and tax revenue gains) stemming from greater gender equality and work-life balance. Changes in social attitudes are likely to affect the discriminatory wage gap and result in greater economic gains in the long run as well.

162 European Commission, Directorate-General for Justice and Consumers, Report on equality between women and men 2014.

163 Huerta and others, "Fathers' Leave and Fathers' Involvement"; Cools, Fiva and Kirkeboen, "Causal Effects of Paternity Leave on Children and Parents".

Table 5:
Summary of the impact of selected options

Impacts	Type	Group(s) affected and/or other relevant indicators affected	Expected direction (positive/negative)	Expected alternatives influenced
Administrative				
Labour rights awareness campaign; corporate responsibility awareness campaign	Direct	MoLHSA	One-time negative (one-time increase in costs)	Options 1 and 2
Digitizing applications for leave benefits and ensuring information accessibility by creating a dedicated web portal	Direct	Social Service Agency	One-time negative (one-time increase in costs); long-term positive (reduction in costs)	Options 1 and 2
Creating legal and administrative mechanisms for identifying and including in the benefits system the workers employed in atypical forms of dependent work (additional administrative burden)	Direct	Ministry of Finance (Revenue Service); MoLHSA; Social Service Agency	Negative (increase in administrative costs)	Options 1 and 2
Economic				
Labour-market participation of women	Indirect	Women of working age and childbearing age	Positive (increase in labour-market participation)	Options 1 and 2
Reduction in the gender wage gap	Indirect	Women of working age and childbearing age	Positive in the long run (reduction of the gender wage gap) Unchanged or negative in the long run (increase in the gender wage gap) due to continuation of the status quo trends	Option 2 Option 1
Less discrimination against women in the labour market	Indirect	Women of working age and childbearing age	Positive direction in the long run (reduction of discrimination) Unchanged or negative direction (increase in discrimination) in the long run due to continuation of current trends	Option 2 Option 1
Contribution of the private sector to leave benefits	Direct	Private sector firms	Positive (increase in contribution)	Option 2

Maternity leave compensation adequate for supporting the mother and child during the leave period	Direct	Women of working age and childbearing age	Positive Potentially negative for low-wage workers currently eligible for benefits	Option 1 Option 2
Economic position of private sector firms	Indirect	Private sector firms	Possibly negative (as a result of women possibly taking longer paid maternity leave than currently) Positive: reduction in costs (increase in the culture of corporate social responsibility; ability to attract and retain qualified women workers; long-term benefits from greater participation of women in the labour force)	Options 2 and 1 Options 2 and 1
Environmental				
Moving from paper-based to digital system of applying for leave benefits and record-keeping	Direct	Society at large	Positive	Options 1 and 2
Social				
Health of mothers and children resulting from mandatory paid maternity leave	Direct	Women of working age and childbearing age	Positive	Options 1 and 2
Labour rights awareness	Direct	General public	Positive	Options 1 and 2
Gender norms: perception of men and women as equally responsible for childcare and equally likely to take childcare-related leave	Indirect	Private sector firms	Positive	Option 2
Greater involvement of fathers in childcare duties	Indirect	Men of childbearing age, children, mothers	Positive	Option 2
Equality between workers in different sectors of the labour market	Direct	Civil service sector workers	Negative	Option 2
		All other workers	Positive	Option 2
Number of workers covered by leave benefits	Direct	Labour force	Positive	Options 1 and 2
Public Finance				
Public expenditures	Direct	Ministry of Finance	Negative (increase in public expenditures)	Options 1 and 2

B. QUANTITATIVE ASSESSMENT OF POLICY OPTIONS

A quantitative analysis of the impacts of the proposed policy options was conducted using a costing study. The described policy options are likely to influence all stakeholders in the policymaking process, in addition to employers and employees. However, this quantitative assessment aims to estimate the net changes in the state budget's direct costs caused by implementing new childcare leave policies as described in the policy options. Therefore, we analysed only the Government as the main stakeholder. Within the Government, we considered the SSA as an institution responsible for paying state cash allowances to all employees regulated by the LLCG and to civil service institutions who are responsible for paying leave compensation to their employees regulated by the LPS.

For the quantitative assessment of policy options, we used data from:

- Geostat
- Public Service Bureau
- Social Service Agency
- National Bank of Georgia

We investigated the potential direct costs for the Government associated with the changes in childcare leave policies. The costs mainly consist of childcare leave compensation. At the same time, as described in the policy options, the proposed changes potentially affect administrative costs and imply additional costs for awareness campaigns. However, we do not quantify these costs, as they are too negligible to affect the final outcomes in a significant way.¹⁶⁴

The quantitative assessment was conducted for a three-year period after implementation of the policy options, including the baseline (status quo) scenario. The base year is 2019. Table 6a represents the values of major variables used in the quantitative assessments in the base year.

Table 6a:
Major variables used for quantitative analysis in the base year (2019)

		Number of employees (thousands)	Average monthly nominal earnings (GEL)	Number of children born per 1,000 employees
Civil servants	Women	12.2	1,167.40	46.0
	Men	27.9	1,277.00	49.4
Employees regulated by the LLCG	Women	402.6	927.70	33.8
	Men	345.3	1,499.60	39.4
Employees in atypical forms of dependent work	Women	12.5	927.70	33.8
	Men	48.9	1,499.60	39.4
Total hired employees	Women	427.3	934.50	34.2
	Men	422.1	1,484.80	40.1

Sources: Geostat; Civil Service Bureau; authors' calculations.

During the quantitative modelling, we made several assumptions about the expected development of major variables, as well as about the ranges of the sensitivity analysis (Table 6b). Due to the specificities

of the quantitative model, applied assumptions differ by gender, type of leave, type of employee and policy option.

¹⁶⁴ Based on the stakeholder consultation with the MoLHSA and the Georgian market review conducted by the RIA team, we assumed that the one-time costs of producing a PSA (public service announcement) and designing fly-

ers are GEL 2,000 and GEL 200 respectively. At the same time, broadcasting the PSA is free of charge, while the annual costs of printing the flyers are about GEL 5,000.

Table 6b:

Major assumptions used for quantitative and sensitivity analysis (annual change, 2021-2023)

Variable name	Difference	Women			Men		
		Lower bound	Central value	Upper bound	Lower bound	Central value	Upper bound
Per cent annual change in the number of employees (LPS) ¹⁶⁵	1%	-7.6%	-6.6%	-5.6%	-8.4%	-7.4%	-6.4%
Per cent annual change in the number of employees (LLCG) and those in atypical forms of dependent work ¹⁶⁶	1%	1.7%	2.7%	3.7%	1.0%	2.0%	3.0%
Per cent annual change in the nominal average monthly wage	1%	6.8%	7.8%	8.8%	5.6%	6.6%	7.6%
Per cent annual change in the fertility rate	1%	-4.5%	-3.5%	-2.5%	-4.5%	-3.5%	-2.5%
Policy Option 1							
No change in leave duration or take-up rates ¹⁶⁷							
Policy Option 2							
Maternity/paternity leave take-up rate	0 pp / 10 pp	0 pp	0 pp	0 pp	10 pp	20 pp	30 pp
Parental leave take-up rate (women/men)	3 pp / 5 pp	-6 pp	-3 pp	0 pp	5 pp	10 pp	15 pp
Maternity/paternity leave duration	3 pp / 30 pp	-6 pp	-3 pp	0 pp	20 pp	50 pp	80 pp
Parental leave duration (women/men)	3 pp / 10 pp	-6 pp	-3 pp	0 pp	10 pp	20 pp	30 pp

The annual growth rates of the variables indicated in the first four rows of Table 6b are assumed to equal the average annual changes of the respective variables between 2017 and 2019. These assumptions are applied to a cost estimation of each of the policy options, including the baseline. For a calculation of the present value of the potential budget costs

on leave, we used the interest rate on a 10-year government bond issued in April 2020 as the social discount rate.¹⁶⁸

As discussed in the qualitative assessment, the implementation of Policy Option 2 is likely to affect the behaviour of both women and men with regard

165 Estimates of annual change in the number of civil servants are based on data provided in the annual reports of the Civil Service Bureau.

166 To estimate the number of employees regulated by the LLCG and employees in atypical forms of dependent work, we deducted the number of civil servants from the number of hired employees provided by Geostat. Based on the resulted figures, we estimated the annual change in the number of employees regulated by the LLCG and

employees in atypical forms of dependent work.

167 We are assuming that in the base year, leave take-up rates and durations are equal to 100 per cent for women and 0 per cent for men. Therefore, as Policy Option 1 does not include better compensation or leave conditions for men, there is no change in the leave duration or take-up rates.

168 According to the National Bank of Georgia.

to taking leave. The introduction of leave specific to fathers, together with increased awareness, is likely to increase the leave take-up rates and duration of leave among fathers. Greater participation of fathers in childcare could potentially affect the mothers' decisions about the duration and take-up of leave.¹⁶⁹ To incorporate these behavioural changes in the cost estimation of Policy Option 2, we applied an additional set of assumptions about the changes to the take-up rates and durations of leave, as well as the ranges of the sensitivity analysis (Table 6b).

Due to data limitations, additional assumptions were used in the quantitative model. Specifically:

- All variables that affect budget costs on leave are constant in 2020.¹⁷⁰ The three-year period after implementation of the policy options corresponds to the years 2021-2023.
- The growth rate of average monthly wages is the same for all types of employees (civil servants, employees regulated by the LLCG and employees in atypical forms of dependent work) and equals the annual change in average monthly wages for hired employees.¹⁷¹
- Age-specific fertility rates are the same for all women in Georgia, independently from their employment status or type.¹⁷²
- Leave take-up rates and durations are equal to 100 per cent for women and 0 per cent for men in the base year.

The quantitative assessment of the potential budget's direct costs is based on the following formula:

$$BCL_{ij} = NEEL_{ij} * LTR_{ij} * NPD_{ij} * LD_{ij} * WEEL_{ij} * LCR_{ij}, \text{ where}$$

BCL = budget direct costs on leave

NEEL = number of employees eligible for the leave

LTR = leave take-up rate

NPD = number of paid days

LD = leave duration

WEEL = wage of employee eligible for the leave

LCR = leave compensation rate¹⁷³

i = index for type of employee (employee regulated by the LPS, employee regulated by the LLCG and employee in atypical form of dependent work)

j = index for type of leave (maternity, paternity, parental (women), parental (men))

The number of paid days and the leave compensation rate are determined by the policy options, while the leave take-up rate and leave duration in the base year are assumed to be 100 per cent for women and 0 per cent for men. However, as the official statistics provided by Geostat on employment and wages do not distinguish by type of employee as defined in the current RIA, we used our own estimates.

First, we obtained the number of civil servants from the annual reports of the Civil Service Bureau. Second, we excluded civil servants from the number of hired employees published by Geostat.¹⁷⁴ Third, using the resulting number of employees and data on fertility rates,¹⁷⁵ we calculated the potential number of children born and compared it to the number of beneficiaries of the state cash allowance for maternity leave as reported by the SSA. Assuming a 100 per cent take-up rate of the state cash allowance, the difference indicates the number of employees in atypical forms of dependent work who did not receive the state cash allowance. Finally, using the same fertility rates and number of employees in atypical forms of dependent work who did not receive the

169 The introduction of a mandatory leave period under Policy Option 2 induces no changes in the maternity leave take-up rate.

170 This means that budget costs on leave in 2020 are assumed to equal 2019's values.

171 According to Geostat, a hired employee is "a person at the age of 15 or above who performed certain type of work during the accounting period in order to generate income or other compensation in cash or in kind." Consultations with Geostat representatives revealed that any worker whose working terms (workplace, tasks and responsibilities, working hours and remuneration) are determined by his/her employer based on either a written or oral agreement is considered by Geostat as a

hired employee. Therefore, employees in atypical forms of dependent work are accounted for in the official statistics of hired employees.

172 Furthermore, in order to estimate paternity and paternal leave benefits (taken by men), we assumed that men have partners from the same age category.

173 This is the same as the wage compensation rate, i.e. the monthly benefits paid to the employee as a percentage of the employee's previous salary.

174 Geostat, "Employment and Unemployment". Available at <https://www.geostat.ge/en/modules/categories/683/Employment-Unemployment>.

175 Geostat, "Births". Available at <https://www.geostat.ge/en/modules/categories/319/births>.

state cash allowance, we calculated the total number of employees in atypical forms of dependent work. All steps were performed on gender- and age-

disaggregated data. The results are presented in Table 7.

Table 7:
Number of employees, by type and gender, 2019 (thousands)

		Aged 18-25	Aged 26-40	Aged 41-55		Aged 56+	Total
Civil servants	Women	0.5	6.0	4.4		1.4	12.2
	Men	1.3	14.3	9.8		2.4	27.9
		Aged 15-24	Aged 25-34	Aged 35-44	Aged 45-54	Aged 55+	Total
Employees regulated by the LLCG	Women	26.8	89.1	89.5	88.7	108.5	402.6
	Men	32.7	87.7	80.4	63.5	80.9	345.3
Employees in atypical forms of dependent work	Women	0.8	2.8	2.8	2.7	3.4	12.5
	Men	4.6	12.4	11.4	9.0	11.5	48.9
Total (hired employees)	Women	28.1	95.3	95.7	94.9	113.3	427.3
	Men	38.7	109.3	100.2	79.1	94.8	422.1

Sources: Geostat; SSA; authors' calculations.

Based on the described model and assumptions, the RIA team performed a quantitative cost estimation of each of the policy options, including the baseline (status quo). The costs are estimated separately by gender, type of leave (maternity/paternity and

parental) and type of employee (employees regulated by the LPS, employees regulated by the LLCG and employees in atypical forms of dependent work). The final net costs of each options are incremental net costs compared to the baseline scenario.

C. SUMMARY OF QUANTITATIVE RESULTS AND SENSITIVITY ANALYSIS

Table 8a represents the results of the cost estimation of Policy Option 1 disaggregated by type of employee. As shown in Table 8a, incremental net budget costs under Option 1 compared to the baseline scenario increased mainly due to the higher compensation of employees (women) regulated by the LLCG and currently receiving cash allowances from the SSA. Elimination of the GEL 1,000 ceiling on leave benefits plays a crucial role in this increase. At the

same time, inclusion of the employees in atypical forms of dependent work in the coverage of leave benefits makes a marginal impact on the incremental net budget costs. As Option 1 does not change the number of paid days and leave compensation for civil servants, there is no change in the costs compared to the baseline for this type of employee. The sensitivity analysis shows that our results are robust for Policy Option 1.

Table 8a:

Budget costs and sensitivity analysis - Policy Option 1 (millions of GEL)

LPS		Status quo				Policy Option 1				Net change			
		LPS	LLCG	Atypical	Total	LPS	LLCG	Atypical	Total	LPS	LLCG	Atypical	Total
Central value	2019	4.0	13.6	0.0	17.6	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	2021	3.8	13.5	0.0	17.3	3.8	37.4	1.2	42.4	0.0	23.9	1.2	25.1
	2022	3.7	13.4	0.0	17.1	3.7	39.9	1.2	44.9	0.0	26.6	1.2	27.8
	2023	3.6	13.2	0.0	16.8	3.6	42.6	1.3	47.6	0.0	29.4	1.3	30.7
	Total	11.2	40.1	0.0	51.2	11.2	120.0	3.7	134.9	0.0	79.9	3.7	83.6
	PV	9.2	33.1	0.0	42.3	9.2	98.6	3.1	110.9	0.0	65.5	3.1	68.6
Lower bound	2019	4.0	13.6	0.0	17.6	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	2021	3.7	13.2	0.0	16.9	3.7	36.3	1.1	41.2	0.0	23.1	1.1	24.2
	2022	3.5	12.8	0.0	16.3	3.5	37.6	1.2	42.3	0.0	24.8	1.2	26.0
	2023	3.3	12.4	0.0	15.7	3.3	39.0	1.2	43.5	0.0	26.6	1.2	27.8
	Total	10.5	38.5	0.0	49.0	10.5	113.0	3.5	127.0	0.0	74.5	3.5	78.0
	PV	9.2	33.6	0.0	42.8	9.2	98.2	3.0	110.5	0.0	64.7	3.0	67.7
Upper bound	2019	4.0	13.6	0.0	17.6	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	2021	4.0	13.8	0.0	17.7	4.0	38.5	1.2	43.7	0.0	24.8	1.2	26.0
	2022	4.0	13.9	0.0	17.9	4.0	42.3	1.3	47.6	0.0	28.4	1.3	29.7
	2023	4.0	14.0	0.0	18.0	4.0	46.5	1.4	51.9	0.0	32.5	1.4	33.9
	Total	11.9	41.7	0.0	53.6	11.9	127.4	3.9	143.2	0.0	85.7	3.9	89.6
	PV	9.3	32.7	0.0	42.0	9.3	99.1	3.1	111.5	0.0	66.4	3.1	69.5

Source: Authors' calculations.

Table 8b shows the results of a similar cost estimation for Policy Option 2. According to this scenario, incremental net budget costs are negative for employees regulated by the LPS due to the introduction of a sliding scale for leave compensation. At the same time, the estimated incremental net budget costs for other employees are substantially higher than those calculated for Policy Option 1. This higher magnitude is explained by (a) the more generous compensation rate for non-civil service employees and (b) the increased uptake and duration of paternity and parental leave (taken by men).

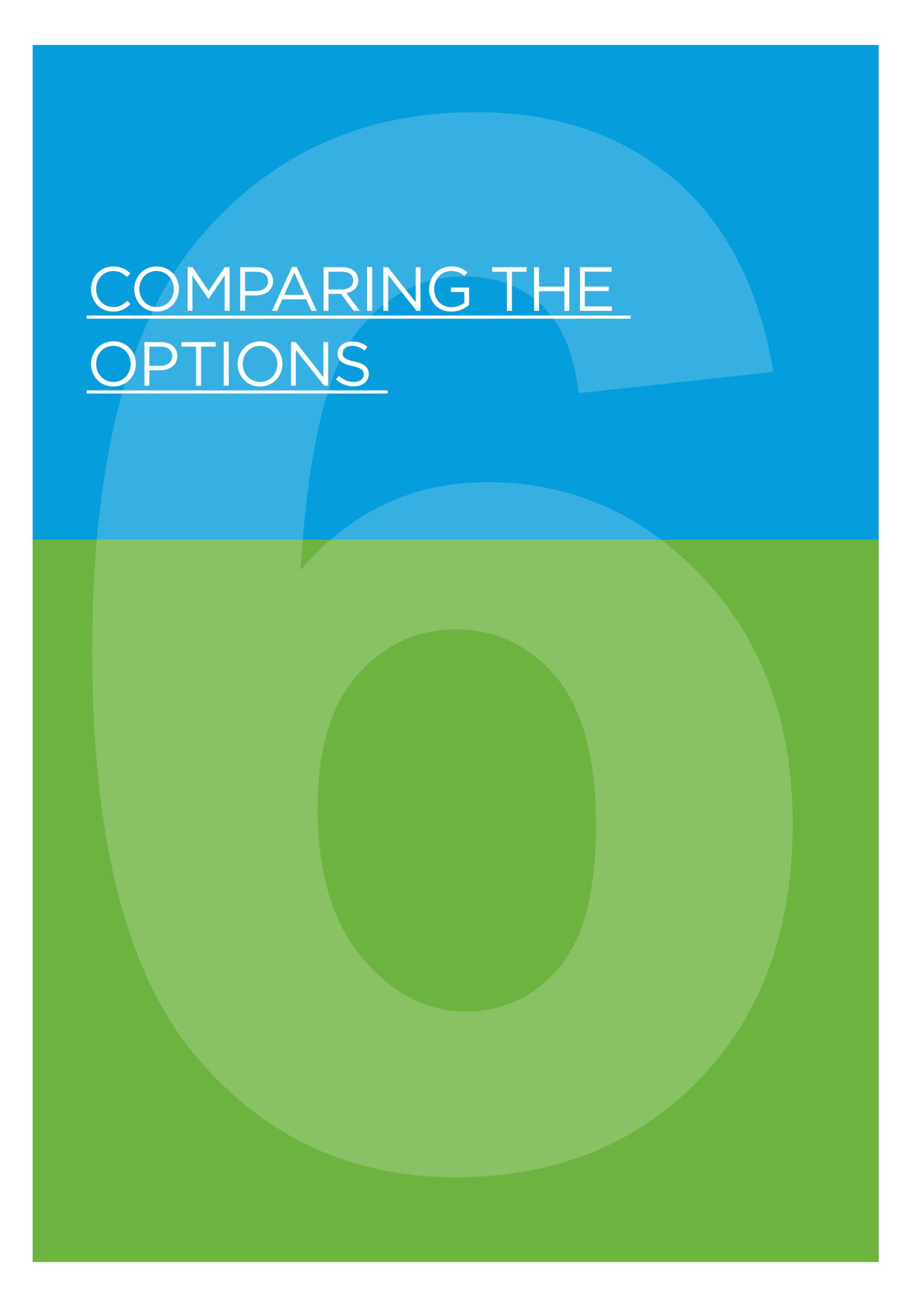
The sensitivity analysis of Policy Option 2 shows that the lower- and upper-bound estimates significantly differ from each other and from the central values. The main driver of these differences is the set of assumptions and ranges of the sensitivity analysis regarding the changes in the take-up rate and duration of leave, which we applied specifically to the cost estimation of Option 2.

Table 8b:

Budget costs and sensitivity analysis - Policy Option 2 (millions of GEL)

		Budget costs for status quo				Budget costs for Policy Option 2				Incremental net budget costs			
		LPS	LLCG	Atypical	Total	LPS	LLCG	Atypical	Total	LPS	LLCG	Atypical	Total
Central value	2019	4.0	13.6	0.0	17.6	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	2021	3.8	13.5	0.0	17.4	3.2	66.6	2.3	72.1	-0.6	53.1	2.3	54.7
	2022	3.7	13.4	0.0	17.1	3.5	74.8	3.2	81.5	-0.2	61.5	3.2	64.4
	2023	3.6	13.3	0.0	16.9	3.7	84.3	4.2	92.3	0.1	71.0	4.2	75.4
	Total	11.2	40.2	0.0	51.3	10.4	225.7	9.7	245.8	-0.7	185.6	9.7	194.5
	PV	9.2	33.2	0.0	42.4	8.6	184.9	7.8	201.3	-0.6	151.7	7.8	159.0
Lower bound	2019	4.0	13.6	0.0	17.6	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	2021	3.7	13.2	0.0	17.0	2.9	60.9	1.9	65.7	-0.8	47.6	1.9	48.8
	2022	3.5	12.9	0.0	16.4	2.7	60.1	2.0	64.9	-0.8	47.3	2.0	48.5
	2023	3.3	12.5	0.0	15.8	2.5	60.3	2.3	65.2	-0.8	47.9	2.3	49.4
	Total	10.5	38.6	0.0	49.1	8.1	181.4	6.3	195.7	-2.4	142.8	6.3	146.6
	PV	8.7	33.7	0.0	42.4	7.1	158.0	5.4	170.5	-1.6	124.4	5.4	128.1
Upper bound	2019	4.0	13.6	0.0	17.6	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	2021	4.0	13.8	0.0	17.7	3.6	73.2	2.8	79.5	-0.3	59.4	2.8	61.8
	2022	4.0	13.9	0.0	17.9	4.4	91.3	4.5	100.2	0.4	77.4	4.5	82.3
	2023	4.0	14.1	0.0	18.0	5.4	115.4	7.0	127.7	1.4	101.3	7.0	109.6
	Total	11.9	41.8	0.0	53.7	13.4	279.8	14.2	307.4	1.5	238.0	14.2	253.7
	PV	9.3	32.7	0.0	42.0	10.3	215.3	10.7	236.3	1.0	182.5	10.7	194.3

Source: Authors' calculations.



COMPARING THE
OPTIONS

Apart from the net changes in the state budget's direct costs associated with each option,¹⁷⁶ the analysis considers how well each option performs against the following four specific objectives of the reform:

1. Objective 1 – Closing legislative gaps to ensure equal access to parental leave for both men and women, in the civil service sector and all other sectors. The following criteria were considered (and given equal weights):

- Whether the option provides a clear definition of the terms (“maternity leave”, “paternity leave” and/or “parental leave”) in both the LLCG and the LPS
- Whether the option clearly defines the duration of paid leave for parents of both sexes, ensuring that men as well as women are eligible for paid leave, including paternity leave
- Whether the option promotes the closing of the legislative gap between civil servants and all other workers (in the way that both civil servants and all other workers receive leave under the same conditions in terms of pay and duration)

2. Objective 2 – Improving enforcement of the legislation. The following criteria were considered (equal weights):

- Making sure that pregnant and nursing women do in fact exercise their rights in the workplace
- Making sure that the procedures for applying for benefits are transparent and accessible

- Making sure that workers are aware of their rights under the law and existing regulations (in relation to parental leave, breastfeeding, pregnancy protection in the workplace, etc.)

3. Objective 3 – Addressing the problem of inadequate leave compensation for employees. The following criteria were considered (equal weights):

- Ensuring that leave compensation available from the State is adequate for all workers in all sectors
- Encouraging contributions (top-ups) from employers to the leave benefits

4. Objective 4 – Promoting the reduction of gender gaps in the labour markets and inside the household. The following criteria were considered (equal weights):

- Facilitating equal take-up of childcare leave by men and women
- Fighting labour-market discrimination
- Promoting the evolution of gender roles and fighting gender stereotyping

The analysis also considers the feasibility (ease of implementing) of each option as well as the risks associated with finding fiscal room in the budget for financing each option.

To summarize the results, in the multi-criteria analysis below, we are assigning points to different policy options. The points range on a scale from -5 to 5. A negative score represents deterioration of the situation as compared to the status quo, while a positive score represents an improvement in the situation.

176 As mentioned earlier in this report, the quantitative analysis of the impacts of the proposed policy options was conducted using a costing study. The quantitative

assessment estimates the net changes in the state budget's direct costs caused by implementing new childcare leave policies as described in the policy options.

A. SUMMARY OF OPTIONS

Table 9:
Comparison of options using multi-criteria analysis (compared to the updated status quo)

EVALUATION CRITERIA	OPTION 1	OPTION 2
Net change in the state budget's direct costs (NPV) for three years (2021-2023)	GEL 68.6 million	GEL 159 million
Objective 1 – Closing legislative gaps to ensure equal access to parental leave for both men and women, in the civil service sector and all other sectors	0	5
Objective 2 – Improving enforcement of the legislation	2	2
Objective 3 – Addressing the problem of inadequate leave compensation for employees	3	3
Objective 4 – Promoting the reduction of gender gaps in the labour markets and inside the household	0	3
Feasibility/ease of complying	-2	-3
Risk (related to fiscal room for financing)	-2	-4
SUMMARY	1	3

B. PREFERRED OPTION

As evident from the multi-criteria summary above, both options are associated with significant costs to the budget. Option 2 is more than twice as expensive as Option 1, and the feasibility of introducing Option 2 will depend on whether the Government can find fiscal room to introduce this option. As presented in Table 2, if no fiscal room can be found (via additional revenues or reductions in costs), either option would be associated with an increase in the budget deficit-to-GDP ratio above 3 per cent by 2023. Option 1 raises the budget deficit-to-GDP ratio relative to the status quo by 0.05 pp and Option 2 by 0.12 pp.

However, with respect to Objectives 1 and 4, Option 2 exceeds Option 1 by 5 and 3 points respectively.

On balance, therefore, it could be argued that **Option 2** promises better performance for the long-term social and economic situation in the country in terms of promoting economic and social equality between the genders and between different groups of workers (closing the wage gap and changing discriminatory gender norms, as well as closing the gap between civil servants and all other workers).

MONITORING AND
EVALUATION PLAN
(FOR THE PREFERRED
OPTION)

In order to keep track of the reform’s performance compared to the baseline scenario, as well as to modify the reform in case any irregularities or problems emerge, relevant government agencies should be in charge of collecting and organizing performance indicators relative to the objectives described in Section III of this report (“Objectives”). In the table below, we present the list of indicators that would be necessary to collect and track in order

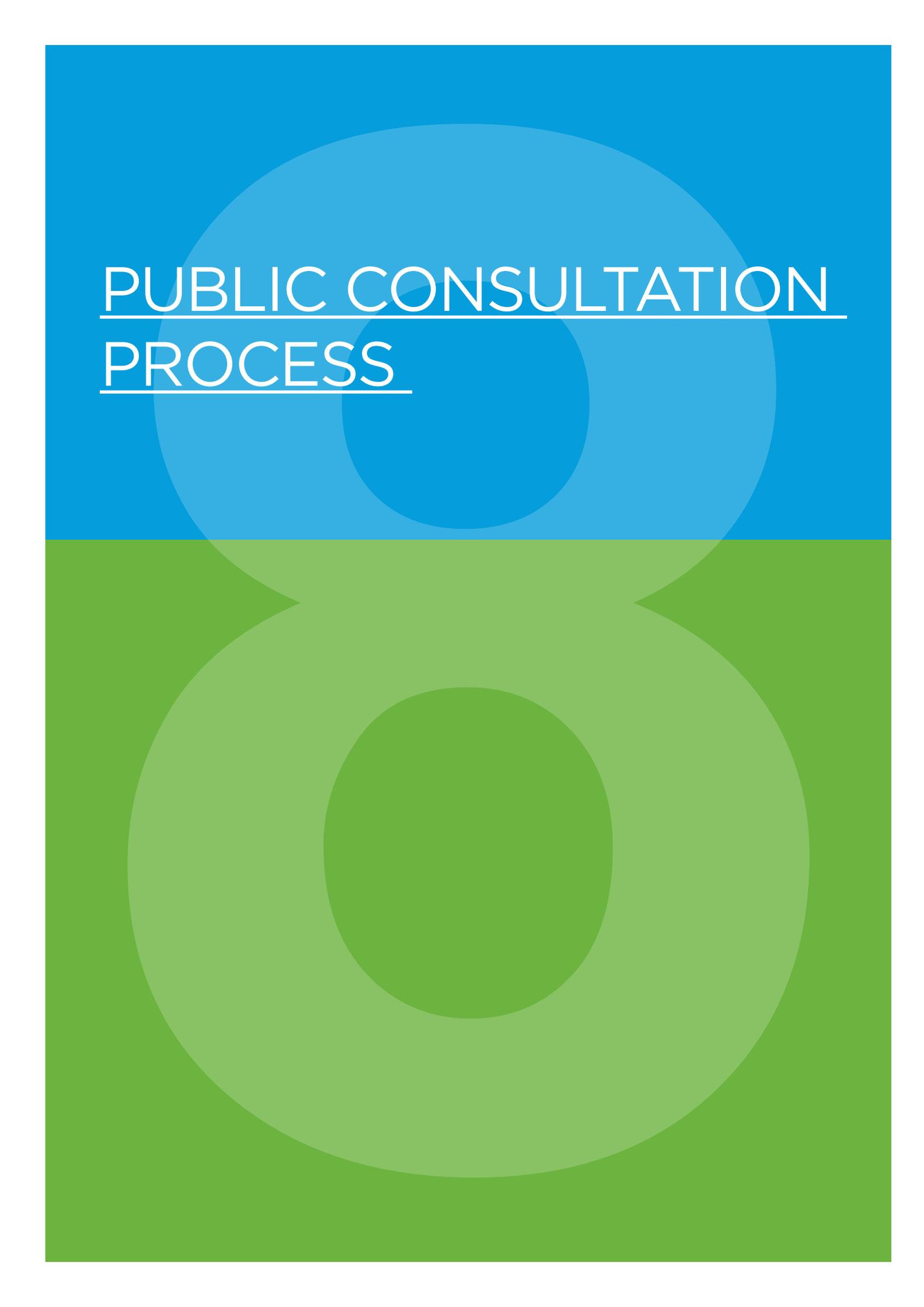
to monitor and evaluate the reform’s performance relative to the four key objectives: (1) closing legislative gaps to ensure equal access to parental leave for both men and women, in the civil service sector and all other sectors; (2) improving enforcement of the legislation; (3) addressing the problem of inadequate leave compensation for employees; (4) promoting the reduction of gender gaps in the labour markets and inside the household.

Table 10:
Indicators of progress towards meeting the objectives

INDICATOR	FREQUENCY OF EVALUATION	RESPONSIBILITY FOR MONITORING
Closing legislative gaps to ensure equal access to parental leave for both men and women, in the civil service sector and all other sectors		
Legislation updated with the introduction of the terms “maternity leave”, “paternity leave” and “parental leave” in the LPS and the term “paternity leave” in the LLCG	One time	Healthcare and Social Issues Committee of the Parliament
Legislation clearly defines the duration of paid leave for parents of both sexes, ensuring that men as well as women are eligible for paid leave, including paternity leave for fathers	One time	Healthcare and Social Issues Committee of the Parliament
Legislation updated to ensure that workers who are not civil servants are also eligible for paid leave of the same duration and under the same conditions as civil servants	One time	Healthcare and Social Issues Committee of the Parliament
Improving enforcement of the legislation		
Number of complaints on workplace rights violations (may be high initially but should decrease over time)	Quarterly	Labour Inspectorate; Ombudsman’s Office
Number of infractions identified by the Labour Inspectorate (both in response to complaints and as a result of independent inspections)	Quarterly	Labour Inspectorate; Ombudsman’s Office
Creation and popularization of a dedicated website where information on procedural issues can be found and where it is possible to apply for benefits (the site must be easy to navigate and must display information regarding the rules and procedures for both men and women clearly and transparently)	One time	SSA; MoLHSA
Share of respondents declaring that the procedures for applying for benefits are transparent and accessible	Annually	SSA; MoLHSA
Percentage of workers who can correctly answer survey questions about their rights in the workplace (should be part of a regularly conducted survey)	Annually	MoLHSA; Geostat; Labour Inspectorate
Percentage of women in the private sector who report requesting and taking breaks for breastfeeding in the workplace, report taking paid time off for pregnancy-related check-ups, etc.	Annually	MoLHSA; Geostat; Labour Inspectorate
Percentage of women in the private sector who report requesting and being denied breaks for breastfeeding in the workplace, report taking unpaid time off for pregnancy-related check-ups, etc.	Annually	MoLHSA; Geostat; Labour Inspectorate

Percentage of workers not in civil service employment who report having flexible arrangements with their employers to facilitate childcare	Annually	MoLHSA; Geostat; Labour Inspectorate
Addressing the problem of inadequate leave compensation for employees		
Amount of compensation per month of leave benefits in relation to the subsistence minimum	Monthly	SSA; MoF; Budget and Finance Committee of the Parliament
Number of women taking the maximum leave duration	Annually	SSA; MoF; Budget and Finance Committee of the Parliament
Number of women returning to the labour force after leave	Annually	MoF; Budget and Finance Committee of the Parliament
Number of government meetings/consultations with employers' associations and labour unions	Annually	MoLHSA
Percentage of firms granting top-ups of parental leave benefits on top of statutory payments	Annually	MoLHSA
Share of private sector employees (disaggregated by gender) receiving top-ups of parental leave benefits on top of statutory payments	Annually	MoLHSA
Promoting the reduction of gender gaps in the labour markets and inside the household		
Percentage of mothers and fathers taking parental leave in a given month/quarter (of those who are eligible)	Quarterly	SSA; Civil Service Bureau; Geostat
Duration of leave taken by both genders	Quarterly	SSA; Civil Service Bureau; Geostat
Percentage of men requesting childcare-related leave (among all employees)	Quarterly	SSA; Civil Service Bureau; Geostat
Number of discrimination cases filed in courts	Quarterly	Ministry of Justice; Labour Inspectorate; Ombudsman's Office; Geostat
Number of infractions regarding discrimination (complaints) identified by the Ombudsman's Office	Annually	Ministry of Justice; Labour Inspectorate; Ombudsman's Office; Geostat
Calculation of the gender wage gap within specific occupations	Quarterly	Ministry of Justice; Labour Inspectorate; Geostat
Percentage of employers who perceive women of childbearing age as less productive in the workplace	Annually	Ministry of Justice; Labour Inspectorate; Geostat
Number of women returning to the same position after maternity leave, retaining this position (or receiving a promotion) for at least one year	Annually	Ministry of Justice; Labour Inspectorate; Geostat
Number of individuals involved in initiatives to educate the public about the economic and social harms of gender stereotyping and labour-market discrimination	Annually	Geostat; Gender Equality Council of the Parliament; Municipal Women's Clubs

Percentage of the population who are aware of how gender discrimination and stereotypes harm the economy and personal well-being, as well as the well-being of the country (part of a survey of public opinion on gender equality)	Annually	Geostat; Gender Equality Council of the Parliament; Municipal Women's Clubs
Percentage of the public who thinks that fathers should be more involved in childcare	Annually	Geostat; Gender Equality Council of the Parliament; Municipal Women's Clubs
Percentage of men reporting spending time on childcare and household chores	Annually	Geostat; Gender Equality Council of the Parliament; Municipal Women's Clubs
Share of time men spend on childcare and household chores	Annually	Geostat; Gender Equality Council of the Parliament; Municipal Women's Clubs
Share of time women spend on childcare and household chores	Annually	Geostat; Gender Equality Council of the Parliament; Municipal Women's Clubs

The graphic features a solid blue top half and a solid green bottom half. In the center, there are two overlapping circles: a light blue circle on top and a light green circle on the bottom. The text 'PUBLIC CONSULTATION' is written in white, uppercase letters across the top half, underlined. The text 'PROCESS' is written in white, uppercase letters across the bottom half, also underlined.

PUBLIC CONSULTATION PROCESS

A. ORGANIZATION AND TIMING

The RIA of the ILO Maternity Protection Convention, 2000 (No. 183), was implemented between November 2019 and July 2020.

In November 2019, the ISET Policy Institute (ISET-PI) project team started initial preparatory work to conduct the RIA process. Specifically, ISET-PI reviewed ILO Convention No. 183 in detail, and the team identified potential policy topics on which to conduct the RIA.

From November to January, the RIA team started checking the available data and performing a review of the relevant literature.

ISET-PI presented possible RIA topics to a tripartite working group (employers' association, trade unions and government) in February.

The RIA process was suspended in March and April because of the COVID-19 crisis. In May, the RIA team resumed working on the topic.

The RIA team included ISET-PI researchers and was supported by ISET Associate Professor Norberto Pignatti and external legal consultant Nino Kashakashvili. The team included researchers with experience in labour economics, public policy, regulation, gender economics, cost-benefit analysis and RIA. Tasks were divided in accordance with the competencies of the researchers. The external consultant assisted the team with her expertise on the Georgian labour legislation, ILO conventions and related standards.

The decision-making approach adopted by the team was collegial and was coordinated by the team leader.

B. CONSULTATION AND EXPERTISE

Data collection took place throughout the project implementation period. The consultations with various stakeholders mainly took place from May to July 2020.

The first step was identifying the main stakeholders and categorizing them in an influence-interest matrix format. Table 11 presents this matrix.

Table 11:
Influence-interest matrix

	LOW INFLUENCE	HIGH INFLUENCE
LOW INTEREST	Labour-market experts Human rights NGOs/foundations (Human Rights and Monitoring Center (EMC) and Georgian Young Lawyers' Association (GYLA))	Legal Aid Service
HIGH INTEREST	UN Women UNFPA Gender experts Business Association of Georgia Private employment agencies Georgian Chamber of Commerce and Industry Legal experts	MoLHSA – Labour and Employment Policy Department Labour Conditions Inspection Department Ministry of Finance of Georgia ILO representatives Trade unions Public Defender's Office (Ombudsman)

Several meetings were held with these stakeholders in order to get a comprehensive overview of the current issues and problems related to maternity protection in Georgia and to identify possible solutions.

Multiple methods were used to reach this goal: desk research, requests for official data, face-to-face and online consultations, and in-depth interviews. Table 12 summarizes the information collected and the methods used.

Table 12:
Description of data and research methods

DATA AND INFORMATION	METHODS USED/SOURCE
International experience on maternity leave conditions (defining terms, duration of leave, compensation method, fathers' childcare leave options, etc.)	Desk research
Legal review (Including atypical workers, health protection, compulsory period for maternity leave, revising childcare leave regulations, leave in case of illness, employment protection and non-discrimination, effective and proportional sanctions, etc.)	Desk research of the Convention and national legislation; in-depth interviews; consultations with the legal experts
Budget costs on leave compensation and its effect on the budget deficit The distribution of different categories of hired employees and their leave compensation The distribution of persons employed in the business sector by size of enterprise and their leave compensation Data analysis of the problems: existing trends	Quantitative analysis based on the information provided by the Ministry of Finance, Geostat and the Civil Service Bureau (authors' calculations)
Description of the norms, stereotypes and attitudes	Surveys: UNFPA (2020), UN Women and SDC (2018), Caucasus Barometer
Describing two policy options and qualitatively assessing their costs and benefits Quantitative assessment of the policy options (budget costs and sensitivity analysis) Major variables used for quantitative analysis: number of employees, average monthly nominal earnings, number of children born per 1,000 employees for civil servants, employees regulated by the LLCG, employees in atypical forms of dependent work	Desk research Sources for the quantitative analysis: Geostat, Civil Service Bureau, Social Service Agency, National Bank of Georgia (authors' calculations)

Consultations with the different stakeholders served different purposes. The meetings with UN Women representatives at the beginning of the RIA were aimed at defining the general purpose of the analysis. Later meetings with UN Women representatives were devoted to project updates, discussion of the collected information, and the opinions of the different parties.

Consultations with the various government representatives provided insight into the position of the Government of Georgia regarding the conditions of maternity and parental leave, mothers' protection and the level of the Government's readiness to ratify Convention No. 183.

Consultations with the Labour Conditions Inspection Department aimed to identify its functions, mandate and readiness to monitor mothers' working conditions, possibilities of using paid and unpaid maternity leave days and possible cases of discrimination in the workplace.

The meeting with the human rights NGOs foundations, unions and Ombudsman provided clarifications about the existing legislative gaps, the current problems related to mothers' protection and suggestions regarding the changes in law/policy to improve the working conditions of mothers. The key findings of the consultations with the main stakeholders are summarized in Annex 2.

ANNEXES

ANNEX 1.

THE PROCESS OF ARTICULATING THE RIA PROBLEM DEFINITION

In November 2019, the ISET-PI project team started initial preparatory work to conduct the RIA process. ISET-PI reviewed ILO Convention No. 183 in detail. The project team, supported by a legal expert, conducted a legal gap analysis of Georgian legislation against the Convention, in addition to conducting a review of the relevant international and national literature.

Through this process, the gaps between the current legislation and Convention No. 183 were identified (the legal team revisited these issues in October 2020 and updated the legal review based on the amendments and changes to the LLCG approved by the Parliament). Two key gaps were identified. First, the legislation did not provide sufficient income to support the mother and child for the duration of paid leave (this affected most of the workers, especially those who were not civil sector workers, although some civil sector employees were affected as well). Second, the legislation treated different categories of women employees differently (there is marked inequality between the maternity leave benefits for civil servants and non-civil servants). This led to the problem of unequal leave take-up between women in different sectors. In addition, while the legislation did not formally preclude fathers from taking parental leave following the birth or adoption of a child, procedural issues made it difficult or impossible for men to take this leave. This, together with other factors, such as social norms and stereotypes about gender roles, led to the low or virtually non-existent parental leave take-up among men. This situation

further exacerbates gender inequality and indirectly contributes to labour-market discrimination against women.¹⁷⁷ Other concurrent problems were identified in the process and are summarized in the problem tree diagram (see Annex 3).

Based on this analysis, the RIA team identified specific policy objectives and actions that would be needed to prepare the country for the ratification of the Convention. Four specific objectives were identified:

1. Closing legislative gaps to ensure equal access to parental leave for both men and women, in the civil service sector and all other sectors
2. Improving enforcement of the legislation
3. Addressing the problem of inadequate leave compensation for employees
4. Promoting the reduction of gender gaps in the labour markets and inside the household

The ISET-PI team together with the UN Women representative presented a short summary of the preparatory work and the results of the problem tree analysis to the tripartite working group in February 2020. The problem definition was agreed upon and refined during the discussion. During the process of conducting the stakeholder consultations (see Annex 2), the ISET-PI team discussed and further refined the problem definition based on the feedback of various stakeholders, including gender experts, labour experts, human rights NGOs, private sector representatives and the Public Defender's Office.

177 The situation was partially, although not sufficiently, rectified by the amendments to the LLCG in September 2020.

ANNEX 2. SUMMARY OF STAKEHOLDER CONSULTATIONS

STAKEHOLDER/ STAKEHOLDER GROUP	METHOD OF CONSU- LTATION	SUMMARY OF RESPONSES	COMMENT
Human rights NGOs/ foundations/ gender experts	Online interviews: 19 June, EMC 23 June, EMC (gender expert) 9 July, GYLA	<p>Current situation:</p> <ul style="list-style-type: none"> ● Civil servants and other employees have different needs. ● In general, all women are aware of their right to take maternity leave. It comes from their “genetic memory/heritage” and is perceived as a social norm. However, their knowledge about benefits and potential risks connected with taking maternity leave is limited. ● Men are not aware of their right to take childcare leave following the birth of a child due to the following reasons: (a) vague definitions in the Labour Code; (b) cultural norms; and (c) the inability to receive GEL 1,000 in government support as it is given based on receipt of a certificate proving pregnancy/childbirth. ● Mothers prefer to take care of their children, while fathers are much less involved in the process (i.e. the norms of a patriarchal society). The current legislation on maternity leave even contributes towards maintaining the status quo. ● Seventy per cent of women said that taking care of children is a mother’s responsibility, and very few people are dissatisfied with the current distribution of household tasks. ● As for the right to take a break for at least one additional hour a day for nursing mothers and mothers with infants under 12 months old, women are not aware of it. ● Wage and gender discrimination are typical characteristics of the Georgian labour market. Some examples of discrimination include the following: <ul style="list-style-type: none"> ○ Demoting an employee during her pregnancy or due to nursing ○ Sending the employee to another department with fewer responsibilities and less salary ○ Forcing the employee to take maternity leave ○ Changing the employee’s contract to a short-term contract ○ Not extending an existing contract ○ Firing the employee for a minor violation of her responsibilities ● The main reason women are less represented in the labour market and work fewer hours is that they have family responsibilities. This problem is even more severe in rural areas. ● There is a higher probability of female-headed households being below the poverty line than male-headed households (child poverty is also considerable). ● Employees usually appeal to the courts only in cases of serious violations to their rights, such as being fired or experiencing salary delays. Most of the court cases are resolved in favour of the employee (e.g. the vast majority of cases undertaken by the GYLA are either resolved in favour of the employee or are concluded by conciliation between the parties). However, court procedures are typically prolonged by employers (up to three years) causing significant financial and time costs for plaintiffs. This situation disincentivizes employees from applying to court. <p>Solution:</p> <ul style="list-style-type: none"> ● Introduce the proper definition of “maternity leave” and “parental leave” (to be introduced in the new Labour Code). ● Provide mandatory leave for women for the sake of the mothers’ and children’s health (to prevent cases of pregnant women still working even until the day before giving birth). ● Increase the compensation for maternity leave to at least double the amount of the subsistence minimum in order to satisfy mothers’ basic needs (which are not currently being met). ● Make it mandatory for the private sector to compensate the employee’s full salary during maternity leave, even though this might increase discrimination (women are already discriminated against even without the introduction of mandatory compensation). ● Adopt relevant protocols for the Labour Inspectorate to inspect private spaces. ● Increase the awareness of workers by obliging employers to inform their employees about their rights (fines might be imposed). ● Establish informal associations for raising the employees’ awareness and possibly providing lawyers who can give parents general information, at least at the consultation level. 	Response taken into consideration

<p>A lawyer who has worked on the amendments of the Labour Code</p>	<p>Online interview: 31 July, Zakaria Shvelidze</p>	<p>Current situation:</p> <ul style="list-style-type: none"> ● The current Labour Code covers employees in atypical forms of dependent work. ● Employers should provide nannies with a proper certificate so they can obtain their GEL 1,000 in compensation. In addition, nannies still have the option to go to court and prove that they are employed. There are two problems related to getting the necessary documents for compensation: (1) mothers are informally employed and are not paying taxes; and (2) mothers are not aware of their rights. ● It is hard to cover self-employed mothers due to the lack of information about their employment. ● Delivery service providers (e.g. Glovo and Wolt) and taxi services (e.g. Bolt), which are registered on a common platform (working for a formally registered company), can get maternity leave benefits, but at this stage, they have no interest in doing so. There is a more difficult situation in the case of most cleaners, as long as they are not registered on a common platform. ● Domestic workers are less likely to get maternity leave/benefits, and this is even more complicated when it comes to employment with service contracts. ● In general, an increase in maternity protection measures is associated with an increase in discrimination in the labour market. ● Maternity leave compensation provided to non-civil servants and private employees is not adequate. Mothers who have a relatively higher monthly salary (e.g. GEL 500) have an incentive to take shorter leave (two or three months); thus, the introduction of the monthly compensation could be beneficial for them. ● According to the current legislation, employers cannot terminate an employee's contract unilaterally (the employee should return to the same job position, and the employer cannot lower her/his salary). <p>Solution:</p> <ul style="list-style-type: none"> ● Employers and the Government should share the responsibility of compensating employees during maternity/parental leave (otherwise, it will be a big burden for employers). The Government should introduce an appropriate social security system. ● Awareness-raising will work if it is supported by the legislative framework. ● Establishment of unions is challenging and associated with difficulties. ● Raising awareness should somehow be a state policy, under the MoLHSA. Civil society NGOs and trade unions might also contribute to awareness-raising. <p>Opportunities:</p> <ul style="list-style-type: none"> ● When it comes to labour rights, as long as the Labour Inspectorate's mandate is extended, it will cover any work area/space. ● If they are not recognized by the Labour Code, the Labour Inspectorate can inspect without prior notice, and the court order can allow for the inspection of any area, including a private area, where there is sufficient doubt about child labour and forced labour. 	<p>Response taken into consideration</p>
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Business Association of Georgia	Online interview: 21 June	<p>Current situation:</p> <ul style="list-style-type: none"> • In terms of the legal perspective, there is no significant difference between maternity leave for private sector employees, civil servants and non-civil servants; maternity leave should be paid at least to some extent. However, under current circumstances, only large companies (around 200 such companies in Georgia) could afford paying maternity leave, while SMEs do not have enough financial resources for that. • The current duration of maternity leave puts additional pressure on businesses, as it is hard to replace the employees on leave. It would be beneficial for both employers and employees to shorten the leave, as employees will return to the labour market quicker, thereby maintaining their qualifications (human capital) and earnings. • However, the situation differs by sector, type of job and size of the firm. (1) Banks have reserve positions to immediately substitute their employees on leave, and they could easily afford six months (or more) of maternity leave. (2) Employees in accounting, consulting and research or any other job that could be done remotely does not even need to be replaced. They could take a short period of leave and then continue working remotely from home and return to the workplace after maternity leave. (3) For businesses that have jobs requiring a physical presence, it is difficult to deal with employees' maternity leave. In such cases (for example, cashiers at supermarkets), businesses (SMEs) simply hire new staff and do not pay for their employees' maternity leave. Usually such replacement staff have short-term contracts that are not renewed. In addition, in such sectors/positions, SMEs try to hire men or women with children (discriminating against young women in childbearing age). • There is no wage discrimination in Georgia. Women and men in most sectors and firms are paid equally for equal jobs. Maybe in some sectors and firms whose management team has an "old-fashioned mentality", we could observe wage discrimination. Official wage statistics show the average wages for all sectors. However, the lowest working hours are observed in the education sector. Wages also are the lowest in this sector. Considering that the majority of employees in the education sector is women, the fact that women typically work less than men and have a lower average salary is the result of simple mathematics. • Large and financially strong companies have very good maternity leave options (paid for a duration of three to six months) – in this way, they invest in the loyalty of their employees. • Women may be paid less during the childbearing period than men because they are perceived as less productive. • By introducing paternity leave, the following problems could arise in the labour market: (a) financing paternity leave will put more financial pressure on firms than financing maternity leave; and (b) it may further entrench existing cultural stereotypes. In most cases, colleagues and relatives will make fun of men who officially take paternity leave. • Generally, it is not and should not be prohibited by law for an employer to fire a pregnant employee. In the case of short-term contracts, employers have the right to not extend the existing contract of pregnant or childbearing employees. (Regarding short-term contracts, the interviewee indicated being personally against one-to-three-month contracts.) <p>Solutions:</p> <ul style="list-style-type: none"> • It is important to improve the financing mechanism and general maternity leave policy gradually in order to (1) facilitate women's participation in the labour force; (2) stimulate fertility and the future labour supply; and (3) maintain human capital resources by decreasing the number of pregnancy complications for women. However, under the current circumstances, businesses are not ready for that. The first steps forward should be made in the near future (in one to two years, after COVID-19). 	Response taken into consideration
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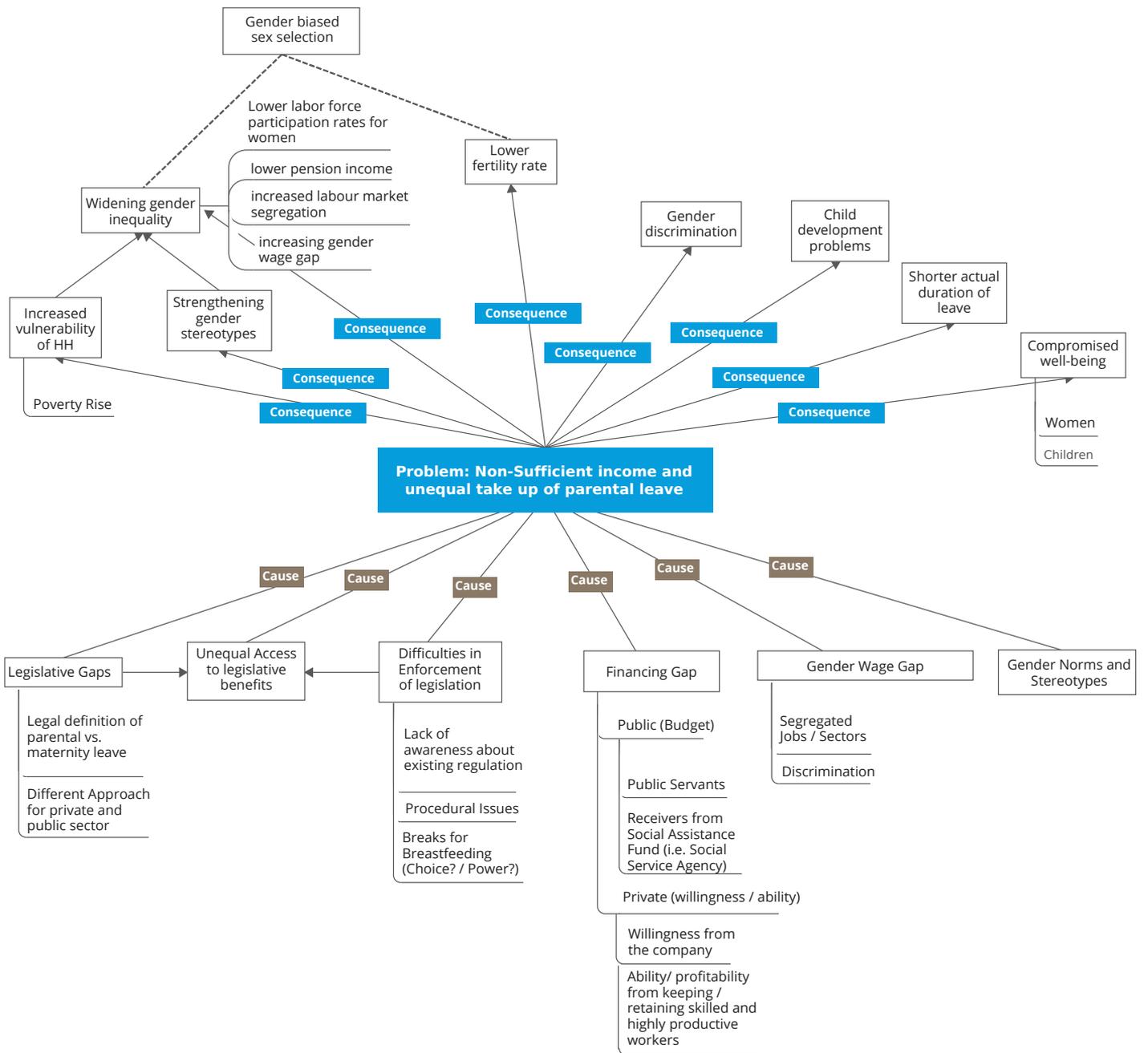
Public Defender (Ombudsman's Office)	Online interview: 23 June	<p>Current situation:</p> <ul style="list-style-type: none"> • The Ombudsman's Office has identified some cases of discrimination against mothers in the workplace: (1) not granting paid maternity leave; (2) not paying adequate maternity leave compensation to mothers; (3) replacing pregnant employees (employers are trying to find formal reasons to fire pregnant employees); (4) hiring only single women (this criterion is included in the formal job application; employers sometimes believe that married women might have family responsibilities and will not be able to work overtime or go on business trips); and (5) not letting fathers accompany and take care of their child in the hospital due to gender stereotypes (hospital representatives have requested that mothers take care of their child). • Some companies provide service contracts to their employees to avoid granting maternity leave benefits. • In the case of civil servants, there are fewer problems with compensating employees during maternity leave (as the Government provides full funding), while non-civil servants and private sector employees get only a one-time benefit of at most GEL 1,000 from the Government (which is lower than the subsistence minimum of the average citizen). The provision of additional compensation depends on companies' goodwill (private companies are not always fully providing additional compensation, and mothers sometimes receive compensation for only two or three months). • The Ombudsman's Office requested information about the actual duration and remuneration of maternity leave from 13 large companies. The provided information showed that the duration of the pregnancy, childbirth and childcare leave depends on the internal policy of the company (e.g. compensation on top of the GEL 1,000 remuneration provided by the Government), and granted paid leave usually varies from three, four or six months. When companies decide to give six months of paid leave, they compensate the difference between an employee's salary and the GEL 1,000 in remuneration provided by the Government. In rare cases, companies remunerate only 50 per cent (three months) or 25 per cent (three months) of the employee's salary. Some companies (two pharmaceutical companies) with a high concentration of female employees did not provide any additional maternity leave compensation, claiming that it is a large burden for companies to make these payments. • There are notable legislative gaps in granting maternity leave to surrogate mothers (for both the mothers who give birth and the mothers who raise the children): (1) there is no clear distinction in the law; and (2) the ministries are looking for individual solutions for each case (e.g. issuing bulletins because there is no systemic solution yet). There are also legislative problems related to leave for mothers when a child is adopted. • Problems with maternity leave and the protection of mothers (e.g. problems with enforcing the law) are related to the fact that employers in Georgia have notable power (employees are afraid of losing their job). Thus, even in a perfect legislative system, there might be some individual problems still arising. • There are legislative gaps related to the granting of paternity leave. Fathers' take-up depends on the employment status of the mother. When the mother is not formally employed (i.e. eligible for maternity leave), the father is not eligible to take leave for childcare. • There is an awareness problem of employees' rights in the workplace, although the vast majority of the court cases are still resolved in favour of employees. • The fact that cases of wage discrimination are mostly unpursued could be explained by the following arguments: (1) it is not worth it for women to go to court (they are afraid of losing their existing salary); (2) in some companies, workers do not have the right to disclose their salary (thus, women do not have information about the salary of men working in the same position); and (3) women might believe that they cannot provide documentation about the salaries of men (who are working in the same positions and have similar qualifications but are receiving higher salaries) to the court (or the Ombudsman's Office). It is perceived in society that men should have higher salaries than women (due to having fewer family responsibilities). In addition, in job postings online, employers frequently request only women or men depending on the type of job (women are mostly requested for those jobs with fewer responsibilities, e.g. promotional model, office manager, etc.). • In cases of their rights being violated, women can take action. If there is discrimination, employees have the opportunity to apply to the Ombudsman's Office. If there is a violation of the working conditions, the Labour Inspectorate could protect women's rights. 	Response taken into consideration
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		<p>Solution:</p> <ul style="list-style-type: none"> ● Advocate and lobby at the state level. ● Introduce appropriate regulations and formalize such work. ● Strengthen and extend the Labour Inspectorate's mandate to all areas of economic activity. ● Increase awareness through informational campaigns. When employees are not informed about their rights, notable changes happen only when violations become so severe that employees usually strike and/or start demonstrations. <p>Opportunities:</p> <ul style="list-style-type: none"> ● Increased protection in case of violence or any type of harassment. ● Better working conditions. ● The opportunity to appeal to the courts or the Public Defender. 	
Legal Aid Service	Online interview: 23 June	<p>General information about the organization:</p> <ul style="list-style-type: none"> ● Legal consultations (e.g. answering online questions, helping in preparing documents) and legal services (e.g. a being representative in court) are provided free of charge. ● Legal consultations are free of charge for everyone. ● Legal services are provided to socially vulnerable people or to members of socially vulnerable families (based on the scoring system of the Social Service Agency – families with a score less than 70,000). ● The organization offers external consultations as well in different municipalities, villages and cities. It also provides online and telephone consultation services. ● The number of beneficiaries has been increasing over the years. ● The organization has been expanding not only its territorial coverage of service but also the variety of its services. <p>Current situation:</p> <ul style="list-style-type: none"> ● The Legal Aid Service had 491 consultation cases in 2019, of which 47 were related to maternity leave. In the first six months of 2020, consultancy cases amounted to 206, of which 22 were about issues regarding maternity leave. ● Individuals often ask about their right to get maternity leave benefits in particular cases (for mothers who work in the private sector, have a service contract, are the owner of a legal entity, etc.). They also ask about the duration of leave and the amount of compensation, the possibilities of going back to work (e.g. whether or not employers have the right to terminate their contract or not extend an expired contract), having the right to be one hour late for work due to breastfeeding, the documents that a mother needs in order to apply for the maternity leave benefits, etc. <p>Solution:</p> <ul style="list-style-type: none"> ● Awareness-raising campaigns through social media advertising on both the regional and the national level. ● Further analyses of this topic should be made (e.g. comparison of national and international laws). ● All inefficiencies in the local laws should be corrected. ● The right to appeal should be explicitly written in the law. ● The competence of the Legal Aid Service should also be defined. 	Response taken into consideration

Trade union	Online interview: 7 July	<p>Current situation:</p> <ul style="list-style-type: none"> • The trade union has asked for the ratification of Convention No. 183 for a long time. • There is a big difference between the compensation of maternity leave for civil servants and for other employees. The Government often sets a bad example to private companies by not providing proper compensation to non-civil servant mothers. • In many cases, mothers have such low salaries that they are not able to get the full amount of GEL 1,000 in compensation for six months. Mothers often have no other option but to go back to work soon after taking maternity leave. • Employers often violate mothers' rights in the workplace (e.g. not giving the additional one-hour break). • The trade union had more than 12 cases where mothers were fired due to pregnancy or childcare. The vast majority of court cases are resolved in favour of the employee. • Women often prefer not to go to court due to the fear of losing their job (competition in the labour market makes it difficult to find another job) and/or not getting enough evidence for court. • The legislation does not create any barriers to becoming a member of the union, nor does the union's internal rules. • Workers who are a member of the union have to pay the membership fee. • The trade union sometimes manages to clarify maternity leave conditions (e.g. remuneration provided by a private company) in the employment contract. <p>Solution:</p> <ul style="list-style-type: none"> • Employees should be guaranteed the right to return to their job after pregnancy (in a reasonable time frame). Mothers should be protected for one year from firing due to reorganization. • If we make it mandatory for the private sector to provide maternity/parental leave compensation to their workers, there will be no significant increase in gender discrimination if and only if we encourage fathers to take paternity/parental leave (employers in this case will be obliged to provide compensation to fathers as well). • The following steps would improve mothers' working conditions: (1) introducing a minimum wage; (2) tightening the enforcement of laws; (3) resolving legislative gaps; (4) increasing employees' awareness; and (5) making some changes related to the pension system. 	Response taken into consideration
ILO	Online interviews: 8 July 21 July	<p>There are two types of ratification. Some countries that believe that they need to make improvements in law or in practice ratify a convention to be able to benefit from the assistance, guidance and supervision from the ILO. However, the majority of countries makes sure their law in practice is in line with the ILO conventions before ratification, in order to avoid criticism for not fulfilling the rules of the convention.</p> <p>Ratification of these conventions does not really mean that they are interpreted in the national context very well. The ILO is definitely keen on ratification but, at the same time, is very much interested in seeing a legal framework and government enforcement mechanisms to enforce such commitments.</p> <p>Current situation:</p> <ul style="list-style-type: none"> • Problems related to the pregnancy, childbearing and childcare leave conditions are related not only to the legislative gaps but also to social norms that make enforcing the law difficult. • The duration of the maternity/parental leave should be chosen carefully not to make it extremely difficult for women to re-enter the labour market (one of the ILO representatives was claiming that the length of the leave as defined in the new legislation creates conditions the above-mentioned risks). • The current maternity leave compensation (in the non-civil and private sectors) is not adequate, instead lagging behind the subsistence level (and is not linked to the employee's income). • There are very limited opportunities for fathers to take childcare leave. <p>Solution:</p> <ul style="list-style-type: none"> • Awareness-raising among both employees and employers. • Disaggregation of the type of work and tasks that the employees do based on the ILO occupational classification system. 	Response taken into consideration

Labour Conditions Inspection Department	Online interview: 10 July	<p>General information about the Labour Inspectorate:</p> <ul style="list-style-type: none"> • The Labour Inspectorate has a mandate to inspect occupational safety issues any time and impose sanctions, without notifying employers, based on the organic law. • The Labour Inspectorate has a recommendatory character and cannot impose sanctions when inspecting labour rights; employers should be notified in advance, as employers' permission is required to conduct an inspection. • Employees usually appeal to the Labour Inspectorate via mail. • During an inspection, labour inspectors inform employees about their rights and provide them with written information. • The Labour Inspectorate conducts informational campaigns and distributes flyers to trade unions and business associations. • After an inspection, the Labour Inspectorate writes a report that can be used by the employee in court. • In 2019, the Labour Inspectorate inspected 150 sites for labour rights violations; 107 of the sites were located in Tbilisi. • The most common violations of labour rights were the lack of awareness about a contract (18 per cent) and unpaid overtime work (14 per cent). <p>Current situation:</p> <ul style="list-style-type: none"> • In 2019, 8 per cent of violations were related to maternity leave and mothers' rights in the workplace. Most of the violations were in the private sector (in particular the service sector). • The Labour Inspectorate had a single case of discrimination in the previous year (a woman was fired after getting pregnant). • Employees have low awareness of their rights. 	Response taken into consideration
MoLHSA	Face-to-face interview: 21 July	<p>Current situation:</p> <ul style="list-style-type: none"> • Workers of legal entities under public law, as well as non-entrepreneurial (non-commercial) legal entities (e.g. teachers, caregivers, etc.), are not able to get maternity leave compensation equal to their salaries (unlike civil servants) unless they are the directors of these entities. • Workers who have a service contract are not able to get any compensation. • The Revenue Service of the MoF is responsible for monitoring the duration of leave in order to give appropriate compensation. Parents should provide a completed form from the hospital. • In addition to the leave benefit, the Government provides GEL 500 for pregnant women to get appropriate services (including visits to the doctor) and GEL 800 for mothers who had a caesarean birth. • Introducing the terms "maternity leave" and "parental leave" in the legislation increases administrative costs (e.g. producing new bulletins that are separate for maternity leave and parental leave of mothers and fathers, modifying the electronic system, etc.). • Until COVID-19, beneficiaries were responsible for submitting documents physically (MoLHSA was responsible for providing necessary consultations to its employees). During the COVID-19 pandemic, employees could submit documents via an electronic system. • The Labour Inspectorate provides information booklets to employees (when they visit companies) to increase their awareness. <p>Solution:</p> <ul style="list-style-type: none"> • Changes are needed in the Labour Code. • The monitoring of the tax collection process should be improved, and enforcement problems should be eliminated. • The Government should recognize and track self-employed and informally employed workers (including domestic workers) to provide them with maternity/parental leave benefits (MoESD and MoF should be involved in this process). 	Response taken into consideration

ANNEX 3. PROBLEM TREE DIAGRAM ON MATERNITY PROTECTION



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