



ReformMeter

Insolvency Reform Assessment Report

ISET Policy Institute

2022

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About the Insolvency Reform

Prior to the current insolvency reform, Georgia's legislative framework regulating insolvency proceedings fell short of meeting international standards – it did not meet neither creditors' nor debtors' needs and failed to offer incentives to the insolvent companies to choose rehabilitation as their optimal strategy for resolving financial difficulties. To address such barriers, after multisectoral and thorough deliberations, the new law on “Rehabilitation and Collective Satisfaction of Creditors' Claims” was enacted in Georgia and has been in force since April 2021. As its name suggests, main goal of the new law is collective satisfaction of creditors through achieving company's rehabilitation, “and where the rehabilitation cannot be achieved, through the distribution of proceeds from the sale of an insolvency estate”¹². The law introduces several innovative mechanisms, modifies institutional setup regulating insolvency proceedings and ensures that insolvency process is smooth and efficient.

ReforMeter Methodology

Under the ReforMeter project, reform assessment is conducted through three distinct tools:

1. **Government survey** evaluates government progress in reform implementation across four domains: legal framework; infrastructure and budget; institutional setup; and capacity development. The survey measures government's distance from the stated reform objectives on a scale from 0% (no action has taken place) to 100% (all desired systems are fully implemented, monitored and evaluated).
2. **Stakeholder survey** is used to assess the reform progress across four dimensions: reform content and adequacy; current performance; reform progress; and expected outcomes. Members of the stakeholders' group (other than implementing GoG stakeholders) set scores on a scale from 1 (poor performance) to 10 (strong performance) for each dimension (for more details regarding the questionnaire please see Annex I).
3. **Reform-specific objective indicators**, used as a proxy for reform effectiveness, are designed to track reform progress.

Insolvency reform assessment integrates all the above-mentioned evaluation tools with slight modifications in the government survey component. Considering that the reform is in its completion stage from the government's side, instead of setting scores, the qualitative assessment of the government progress was conducted. The responsible government institutions' progress in the reform implementation was evaluated against critical milestones that was initially planned to be achieved as identified based on desk research and consultations with key stakeholders of the reform (including government of Georgia, USAID Economic Governance Program and Business Rehabilitation and Insolvency Practitioners Association (BRIPA)).

The first assessment of the insolvency reform was conducted on December 23, 2021. In total, it is planned to conduct three PPD events devoted to the insolvency reform evaluation in one-year intervals under the project.

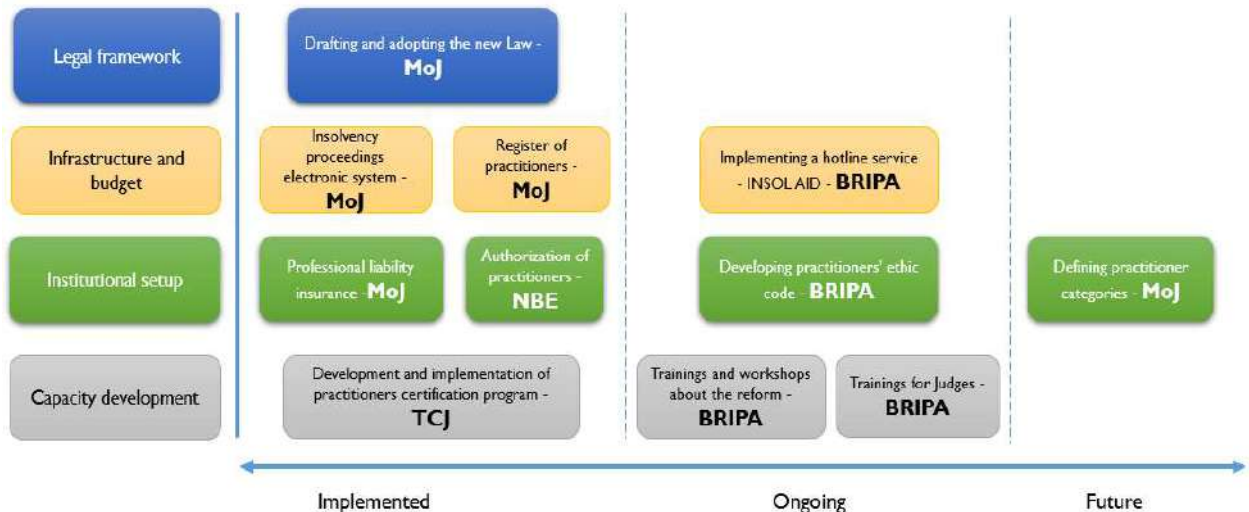
¹ Article 1 of “Law on Georgia on Rehabilitation and Collective Satisfaction of Creditors' Claims”. Available at: <https://matsne.gov.ge/en/document/download/4993950/0/en/pdf#:~:text=The%20purpose%20of%20this%20Law,sale%20of%20an%20insolvency%20estate.>

² Stated aim of the previous law was equal protection of creditors' and debtors' rights. Such formulation of an aim did not meet international standards as it put excessive emphasis on protecting debtors' interests.

Assessment of the Reform Implementing Institutions' Progress

Insolvency reform is implemented by the Ministry of Justice (MoJ). Other government institutions involved in the reform implementation are the Training Center of Justice (TCJ) of Georgia, the National Bureau of Enforcement (NBE)³. The Business Rehabilitation and Insolvency Practitioners Association (BRIPA) is one of the major private sector stakeholders involved in the reform implementation. Figure I presents core activities of the reform, their implementation status and responsible institutions.

Figure I: Reform Activities, their Status of Completion and Implementing Bodies (in **bold**)



Overall, the qualitative assessment conducted with the representatives of the reform implementing institutions has revealed that the reform has been implemented successfully. According to these institutions, the core activities anticipated under the reform have been already fulfilled: the new law on “Rehabilitation and Collective Satisfaction of the Creditors” has been enacted; electronic infrastructure for effective technical management of the insolvency proceedings has been developed; the first round of the insolvency practitioners’ certification and authorization process has been completed; professional liability insurance for insolvency practitioners has been introduced. However, some challenges remain that are mostly related to the low awareness of businesses (especially SMEs) on the new insolvency framework and the opportunities it offers.

Stakeholder Survey

The Stakeholder Group assessed the reform with a score of 7.75 out of 10, showing strong overall performance of the reform. As illustrated below, three assessment dimensions of the reform (i. Content and Adequacy; ii. Progress; and iii. Expected Outcome) were evaluated with strong performance, while the Current Performance was assessed as moderate.

³ According to previous insolvency framework, LEPL National Bureau of Enforcement had crucial role in insolvency proceedings – it acted as a mandatory trustee during insolvency process; it managed the company bankruptcy in certain occasions defined by the law and offered auction services to the insolvents. Annex 2 reports the statistics of insolvency-related services provided by the NBE during 2012-2021 period.

ACCORDING TO THE STAKEHOLDERS



Public-Private Dialogue: Number of stakeholders participated in the public-private dialogue around the insolvency reform, including: representatives from the Ministry of Justice, Training Center of Justice of Georgia, National Bureau of Enforcement, judiciary, Business Rehabilitation and Insolvency Practitioners Association (BRIPA), Investors Council, business associations and other interested parties⁴. Several significant topics and opinions were risen and examined during the PPD event. More precisely:

- Main objectives and current stance of the Insolvency reform was discussed by the representatives of the government implementing institutions. According to them, the new law intends to ensure collective satisfaction of creditors' claims, preferably through achieving company's rehabilitation. To achieve these goals, the law introduces several innovative mechanisms: first, firms have a possibility to convert a bankruptcy regime into a rehabilitation; secondly, the firm owner is allowed to stay in the enterprise management during insolvency proceedings; what else, the rehabilitation regime ensures that creditors are guaranteed to acquire at least as much funds as they would have received during the bankruptcy process. Additionally, the law introduces the electronic case management system for insolvency proceedings. The system collects all the necessary information, applications, publications provided by the law and ensures that the insolvency case management is smooth, conducted through electronic means.
- Company Voluntary Arrangement (CVA) is another innovation initiated under the Insolvency reform. CVA is an out-of-court mechanism permitting the interested parties to come to an agreement regarding financial difficulties instantly, as soon as they arise.
- In order to make insolvency proceeding less effortful, a well-qualified bankruptcy manager - Insolvency Practitioner - is assigned to each insolvency case. Insolvency practitioners can get authorized from the NBE once they are certified after successfully completing the respective training courses. Trainings are held at the Training Center of Justice (TCJ). The first wave of certification and authorization process ended in October 2021, when 18 certified insolvency practitioners were granted an authorization. Training course consisted of 7 different modules. Due to time shortage, trainings were held in a tight schedule, posing a challenge to participants. The representative of TCJ suggested that 2 months could be an optimal duration of these trainings in the future.
- Low awareness of the private sector on the new insolvency framework is stated as one of the major impeding factors of reform implementation. Both, a low number of insolvency applications filed to the court and the type of cases that were filed indicate that businesses are not aware of benefits of the new insolvency framework. In some cases, firms start insolvency proceedings while the CVA mechanism can

⁴ Attached to this document, Annex 4. Introduces insolvency reform PPD event presentations by the ReforMeter team and Training Center of Justice (TCJ)

be a feasible alternative to address their difficulties. In addition, insolvency proceedings also are often highly stigmatized. The ongoing agenda of BRIPA focuses on improving perceptions regarding the insolvency process, positioning the new insolvency framework as a “rehabilitation service”.

- No legal framework exists currently that regulates insolvency of natural persons. According to the representative of the Ministry of Justice, there have been steps planned in this direction, however, the topic is extremely challenging and requires considerable capacity to be credibly addressed.

Reform Tracking Indicators

In order to assess the success of the Insolvency reform, ReforMeter research team selected objective indicators for tracking. These indicators evaluate effectiveness of the insolvency framework in Georgia and observe progress in achieving goals that the insolvency reform sets. Below we describe the core selected indicators:

I. Duration of Insolvency Proceedings

Duration of insolvency proceedings is a critical indicator for insolvency reform success. One of the bottlenecks of the previous legal framework regulating insolvency process in Georgia was its failure to encourage quick and efficient resolution of the insolvency proceedings. Enactment of the new law is expected to decrease the average duration of insolvency proceedings⁵.

To observe the duration of insolvency proceedings, we use two indicators: **duration of completed insolvency cases and duration of ongoing insolvency cases**. The data source for this indicator is Ecourt.ge portal⁶. The portal provides the information only for those insolvency cases for which any court rulings were issued after 2019. The data on insolvency cases that were either completed before 2019 or are not publicly available cases, does not show up on the Ecourt system.

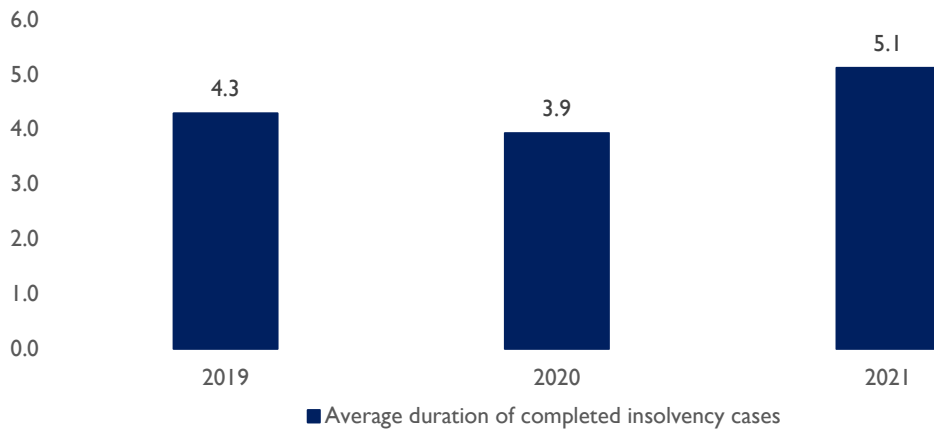
I.1 Duration of Completed Insolvency Case Proceedings

Figure 2 presents the duration (in years) of the completed insolvency cases for 2019-2021 years. Average duration of completed cases for this period is 4.5 years (this includes the time period from the insolvency case initiation up until its completion). The longest duration is observed in 2021 and it equals 5.1 years. Such upsurge is due to completion of few cases with relatively large durations. More specifically, there are three completed proceedings, duration of which varied from 6.4 to 18.8 years.

⁵ According to the new law, maximum of 4 and 9 months are assigned for CVA and rehabilitation regime completion, respectively. No maximum duration is assigned to the bankruptcy regime under the new law.

⁶ <https://www.ecourt.ge/>

Figure 2. Average Duration of Completed Insolvency Case Proceedings (2019-2021).

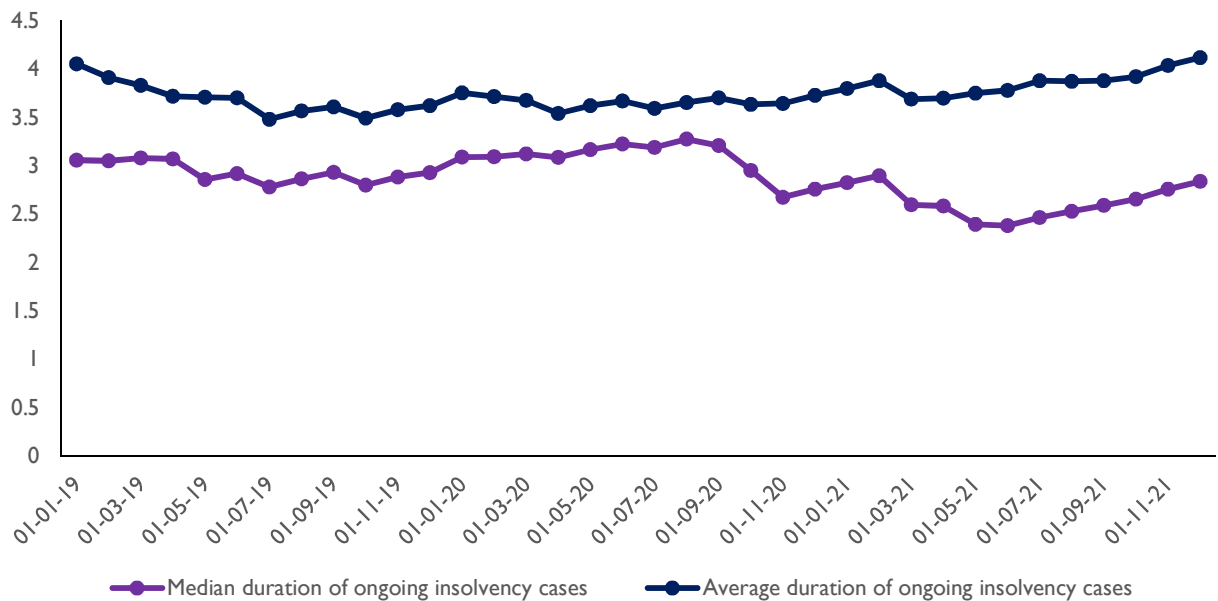


Source: *Ecourt.ge*

I.2 Duration of Ongoing Insolvency Case Proceedings

This sub-indicator tracks the duration of ongoing insolvency proceedings. Here we observe average and median duration for those insolvency cases that were ongoing at the beginning of each month in 2019-2021 (Figure 3). Median helps us to neglect the effect of outliers that might affect the average duration measure.

Figure 3. Average and Median durations of Ongoing Insolvency Case Proceedings (2019-2021).



Source: *Ecourt.ge*

Figure 3 suggests that duration of ongoing insolvency cases has been declining in the first half of 2019, while for the second half of 2019 and the entire 2020 it has been experiencing slight oscillation with an upward trend. For the average duration, the upward surge has continued in 2021, while the median had a slightly declining pattern in the first months of 2021 before reverting back to an upward trend in the second half of the year.

2. Number of Insolvency Cases⁷

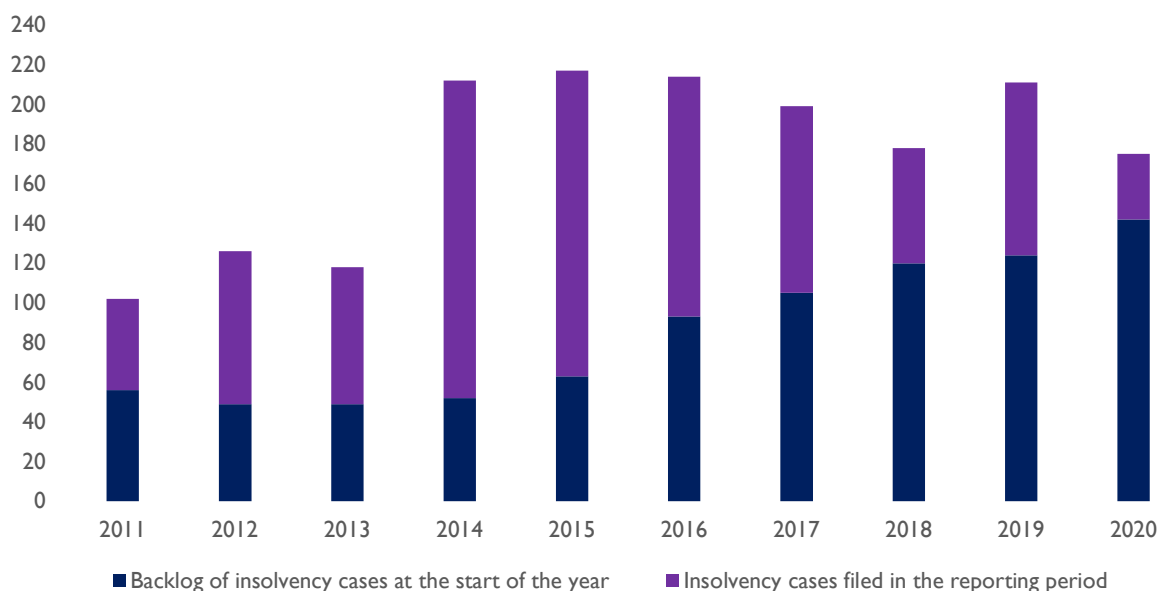
Number of insolvency cases is another important measurement of the success of the legal framework regulating insolvency proceedings. Under this indicator we track: i. number of insolvency cases filed for trial, and ii. number of completed insolvency cases.

2.1 Insolvency Cases Filed for Trial

This sub-indicator looks at the **number of insolvency cases that were filed for trial** (Figure 4). For a given year, insolvency cases filed for trial is a sum of a. the backlog of insolvency cases at the start of each year; and b. the number of insolvency cases filed in the reporting period, the latter measuring applicability of the law by creditors and debtors.

Evidently, the backlog of insolvency cases has been increasing, while in general the number of new cases filed for trial have been declining since 2014. The given pattern hints that the work load for judiciary has been heavy and the process of insolvency proceedings might have lacked effectiveness.

Figure 4. Number of Insolvency Cases Filed for Trial 2011-2020



Source: Supreme Court

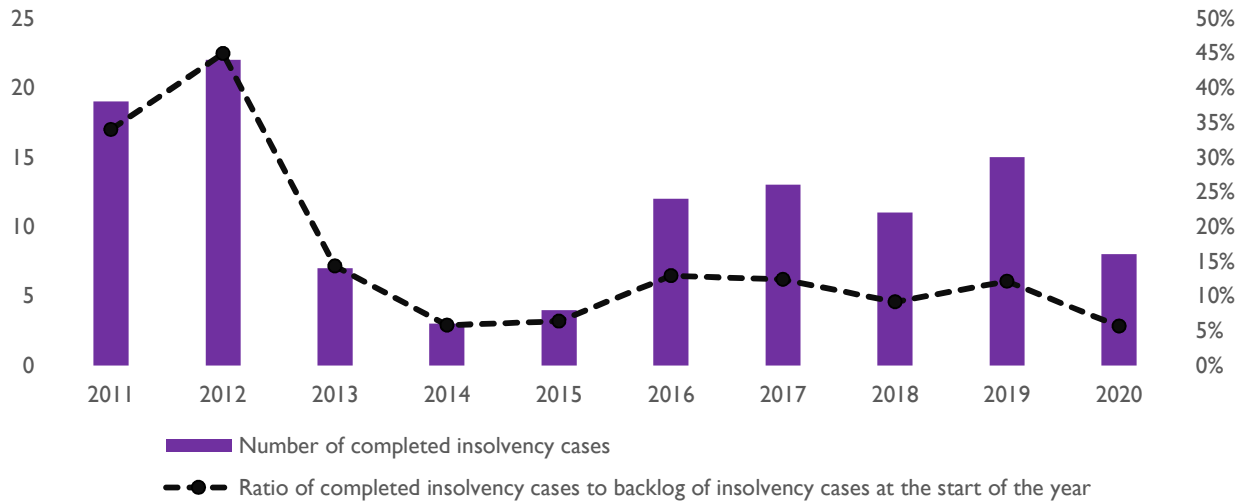
2.2 Completed Insolvency Cases

This sub-indicator looks at dynamics of completed insolvency cases⁸. We track both, the absolute number of such cases and their relative size compared to the backlog of insolvency cases at the start of the given year. According to Figure 5, both absolute and relative measures of completed insolvency cases have been volatile over the last decade. After initial drop during 2011-2015 period, the indicator values somewhat increased until 2020, when they diminished again, probably due to the pandemic. This measurement suggests that the pace and effectiveness of decision-making process for insolvency proceedings have been quite low.

⁷ Given analysis is based on the data reported by the Supreme Court of Georgia. For more details please see Annex 3

⁸ Insolvency cases filed for trial, that were examined in the court through delivering a decision.

Figure 5. Number of Completed Insolvency Cases (2011-2020)



Source: Supreme Court

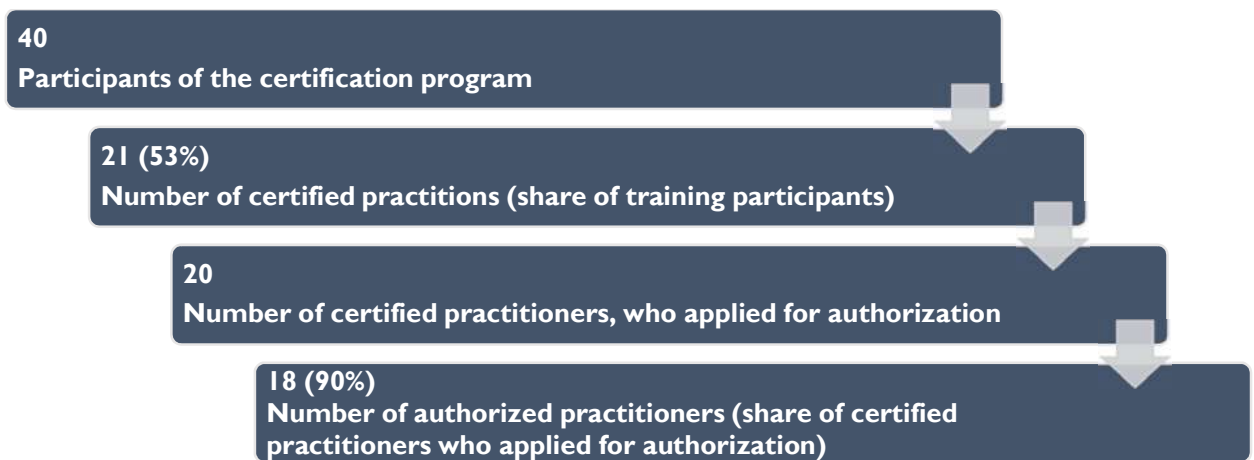
3. Trained and Authorized IPs

One of the major objectives of the new law is to ensure flexibility and ease of insolvency proceedings. To achieve this goal, the new law establishes a novel institute of Insolvency Practitioners (IPs) in Georgia. IP, a well-qualified professional managing the insolvency cases, will be assigned to each insolvent enterprise. Therefore, in order to assess the success of the reform in this regard, two main indicators are studied:

1. Number of certified practitioners and its share in total participants of the certification program.
2. Number of authorized practitioners and its share in total number of practitioners that applied for authorization.

Data for constructing these indicators are provided by the Training Center of Justice of Georgia, BRIPA and the National Bureau of Enforcement. According to the data, in 2021, 21 (53%) participants of the certification program were certified out of 40 total participants. Of 21 certified participants, 20 applied for authorization and 18 (90%) were approved as practitioners from the NBE (Figure 6).

Figure 6. Certified and Authorized Practitioners



Source: TCJ, NBE

Annex I. Stakeholder Survey Questionnaire

Please assess reform for each dimension listed below on a scale from 1 (poor performance) to 10 (strong performance) :

Content and Adequacy

1. Is the reform-related policy objectives set by the Georgian Government adequate to Georgian reality?

1	2	3	4	5	6	7	8	9	10
---	---	---	---	---	---	---	---	---	----

2. Is the policy-making and legal-drafting process conducted in an inclusive manner that enables the active participation of stakeholders?

1	2	3	4	5	6	7	8	9	10
---	---	---	---	---	---	---	---	---	----

Progress

1. Is the economic reform agenda currently implemented by the Government in this area progressing as planned?

1	2	3	4	5	6	7	8	9	10
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2. Do the reform measures address binding constraints to growth?

1	2	3	4	5	6	7	8	9	10
---	---	---	---	---	---	---	---	---	----

Current Performance

1. What is your assessment of the performance of the Georgian economy in the reform area

1	2	3	4	5	6	7	8	9	10
---	---	---	---	---	---	---	---	---	----

Expected Outcomes

1. Will the reform reach its targets?

1	2	3	4	5	6	7	8	9	10
---	---	---	---	---	---	---	---	---	----

2. Does the reform propose efficient measures to reach its targets?

1	2	3	4	5	6	7	8	9	10
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Annex 2. Insolvency Case-related Services Provided by LEPL NBE, 2012-2021 Years

Completed tasks	2012				2013				2014				2015				2016				2017				2018				2019				2020				2021			
	Accepted	Completed	Terminated	Finished	Accepted	Completed	Terminated	Finished	Accepted	Completed	Terminated	Finished	Accepted	Completed	Terminated	Finished	Accepted	Completed	Terminated	Finished	Accepted	Completed	Terminated	Finished	Accepted	Completed	Terminated	Finished	Accepted	Completed	Terminated	Finished	Accepted	Completed	Terminated	Finished				
Trusteeship	27	15	4	19	11	8	7	15	17	13	3	16	42	30	0	30	41	25	6	31	25	23	5	28	27	11	3	14	38	1	11	12	28	3	13	16	4	1	2	3
Bankruptcy	45	27	0	27	6	7	0	7	9	2	0	2	24	4	0	4	14	13	0	13	20	10	0	10	7	4	1	5	0	15	0	15	0	11	0	11	0	2	0	2
Auction Service	0	0	0	0	2	1	1	2	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	1	0	0	0	0	1	0	1	0	0	0	0	0	0	0	0
Sum	72	42	4	46	19	16	8	24	26	15	3	18	66	34	0	34	56	38	6	44	45	33	5	38	35	15	4	19	38	17	11	28	28	14	13	27	4	3	2	5

Source: NBE

Annex 3. Insolvency Case Statistics, 2011-2020 Years

	Cases filed for trial	Filed in the reporting period	Completed Cases	Among them					
				Rejected	Examined through delivering of a decision	Among them by granting the claim	Terminated	Claim remained unexamined	Transferred to other court
2011	102	46	52	22	19	18	9	2	
2012	126	77	77	46	22	22	3	5	1
2013	118	69	66	52	7	5	7		
2014	212	160	150	142	3	3	3	2	
2015	217	154	125	111	4	4	8	2	
2016	214	121	109	76	12	12	16	4	1
2017	199	94	81	61	13	12	3	4	10
2018	178	58	60	40	11	9	8	1	
2019	211	87	68	39	15	13	8	5	1
2020	175	33	41	19	8	8	11	3	

Source: Supreme Court

**Annex 4. Insolvency Reform PPD Event Presentations –
ReforMeter; Training Center of Justice (TCJ)**



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რეფორმები

შენი გზამკვლევი რეფორმებში

Agenda



- Event launch and introduction of the ReforMeter PPD platform
- Introduction of the Insolvency Reform
- Evaluating the reform progress and presenting the reform indicators
- Public-private dialogue and stakeholder assessment of the reform



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About Reformer



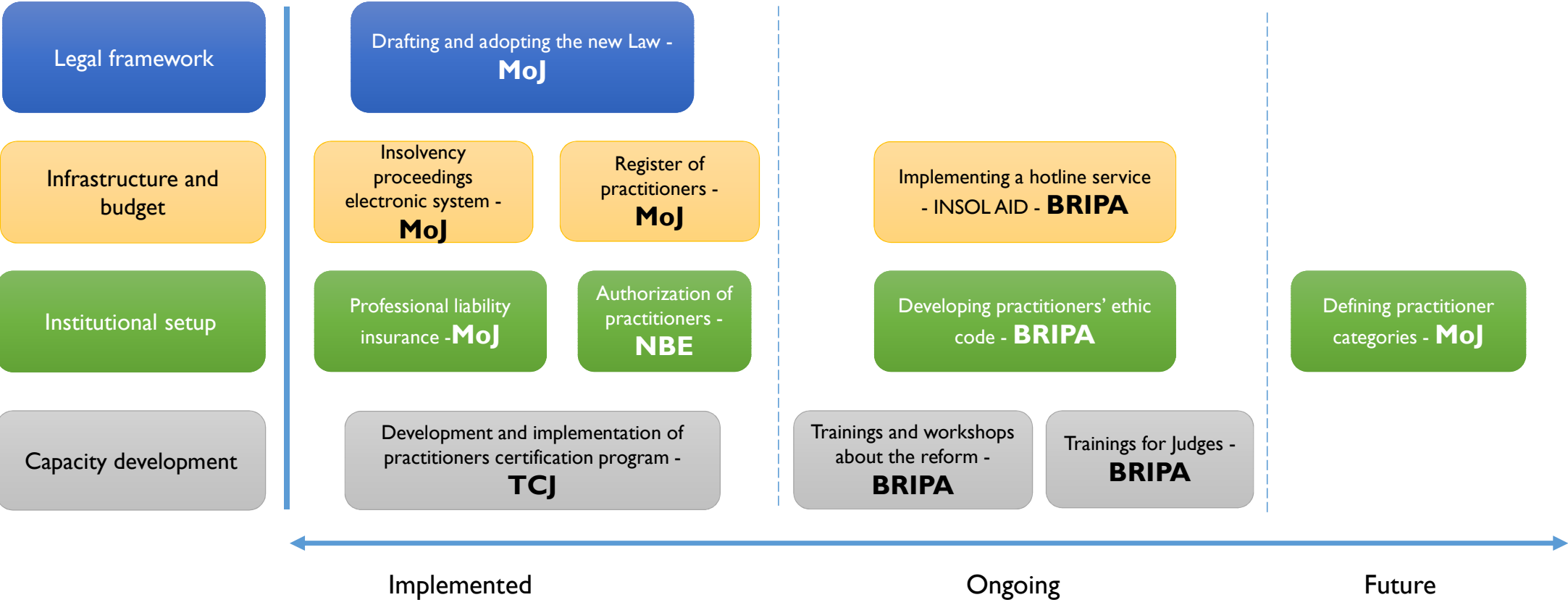
- Reformer aims to track progress of the selected economic reforms, facilitate dialogue between the reform stakeholders and support the reform implementing agencies to increase awareness on and efficiency of the selected reforms.
- I phase of the project: 2017-2019
- New phase of the project: 2021-2024
- Selected reforms:
 - Insolvency reform
 - Capital market development reform
 - Tax dispute resolution reform



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Insolvency Reform Activities



Outcomes and Goals



Legal framework

Infrastructure and budget

Institutional setup

Capacity building

Efficiency of insolvency proceedings is enhanced

Efficiency in the distribution of insolvency cases and technical management is increased

IP institute is strengthened

Qualification of IPs is enhanced

Awareness regarding the novel insolvency framework is increased

Asset value of the insolvent enterprise and recovery rate of creditors is increased

Average duration of insolvency proceedings is decreased

Number of rehabilitated businesses is increased

Business environment is improved

Governance quality is enhanced



Medium term outcomes

Reform Goals

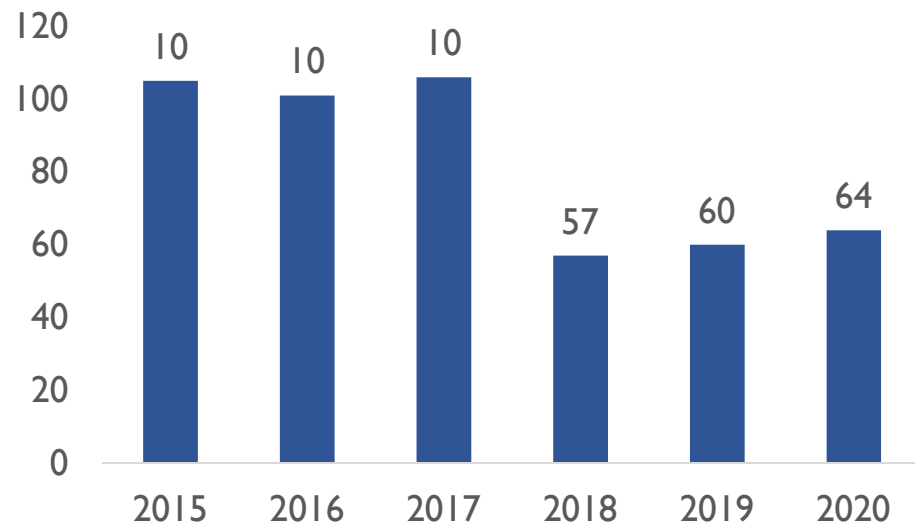


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Indicators for the reform assessment

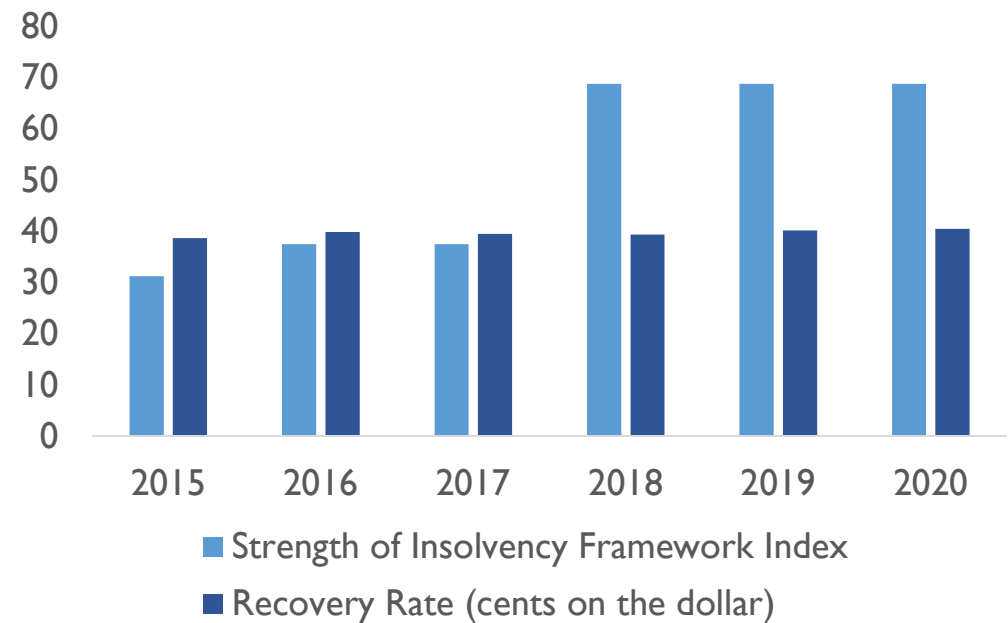
Position of Georgia in accordance with Resolving Insolvency indicator, 2015-2020



Source: WB Doing Business Report

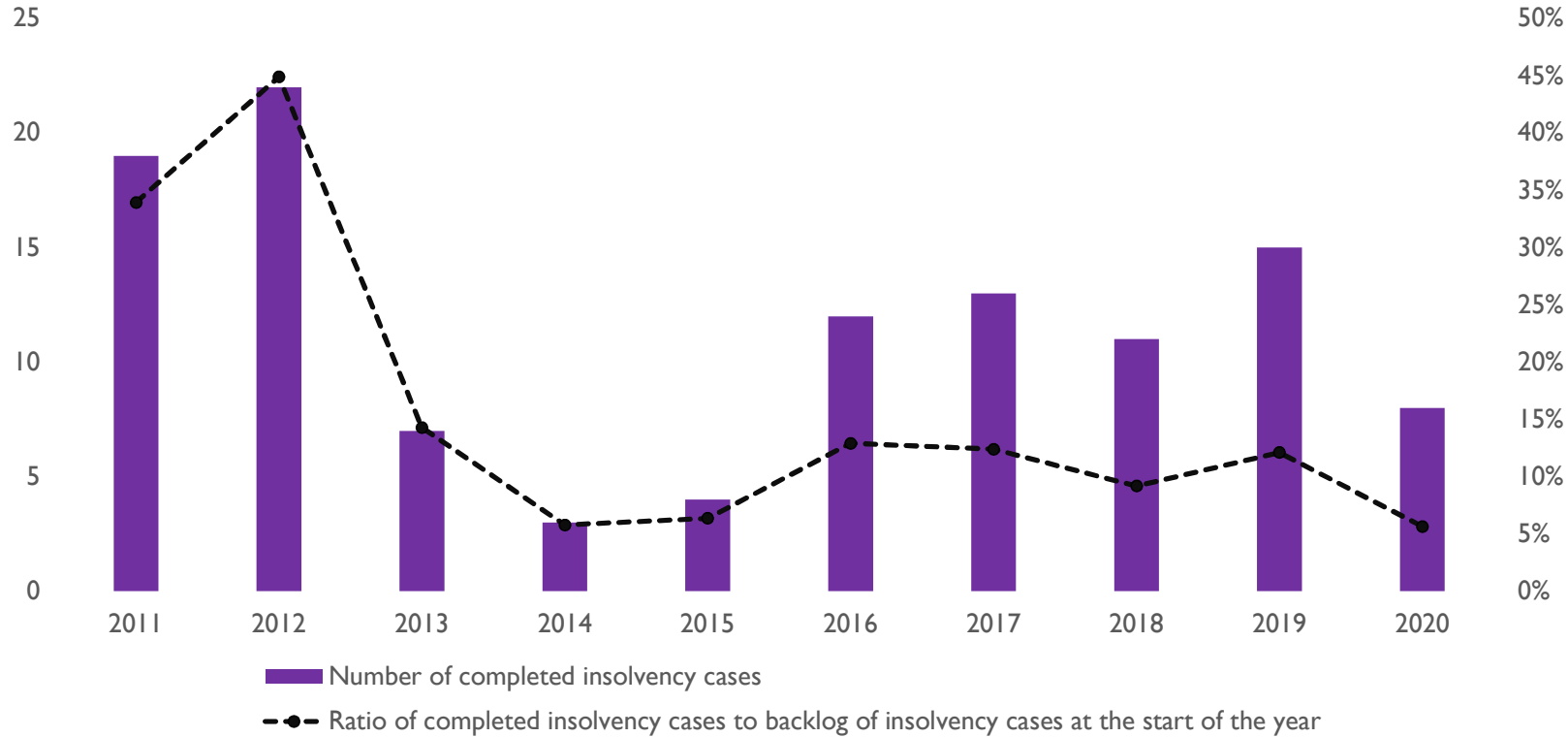


Sub-Indicators



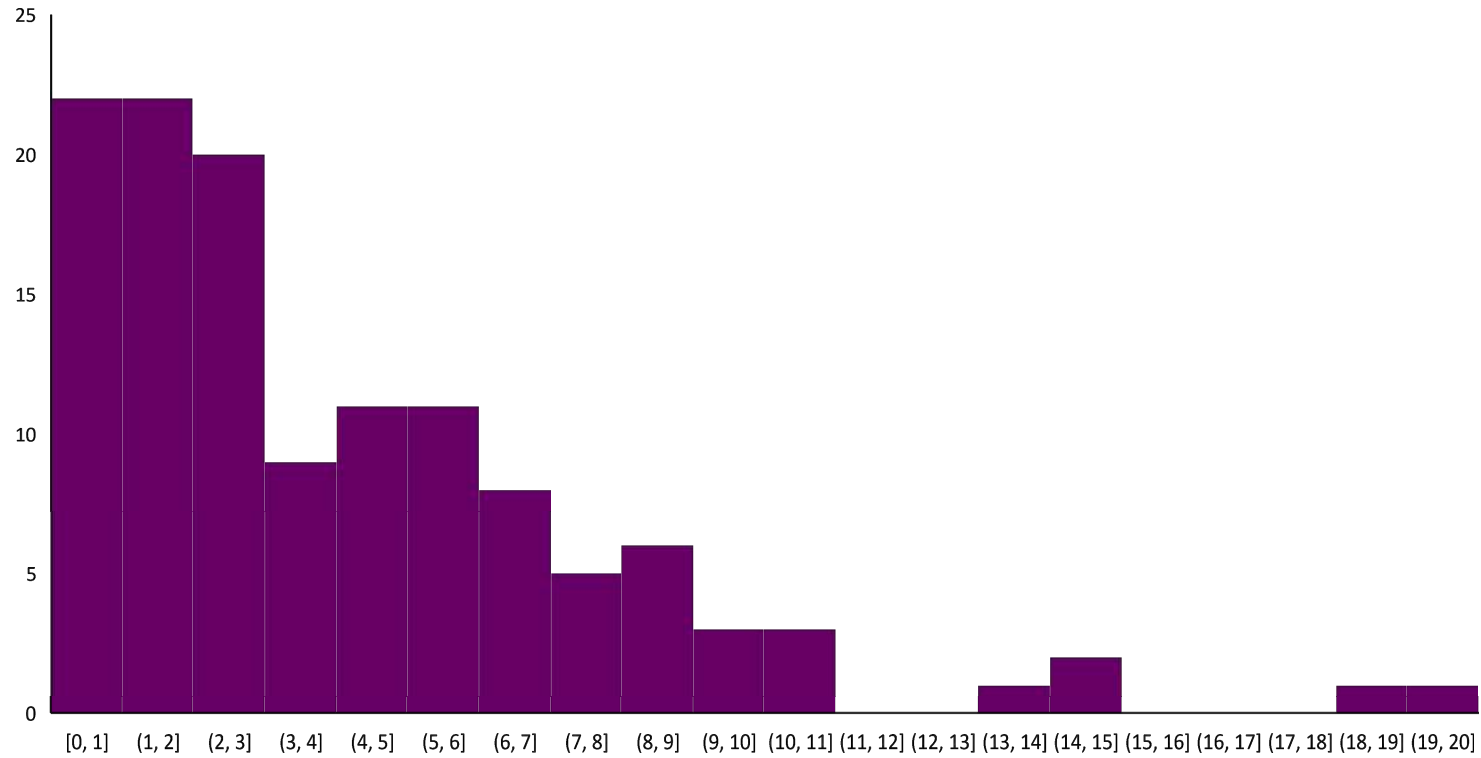
Source: WB Doing Business Report

Number of Completed Insolvency Cases in Georgia



Source: Supreme Court

Duration of Ongoing and Completed Insolvency Cases, years



Source: www.e-court.ge

Statistics of Insolvency Cases (E-Court)



- 244 filed cases
 - 162 cases filed for trial
 - 89 cases with the bankruptcy regime
 - 20 cases with the rehabilitation Regime
 - 30 completed cases
 - 28 cases with the bankruptcy regime
 - 2 cases with the rehabilitation regime
 - 52 cases not filed for trial

Average Duration of Completed Cases



4.5

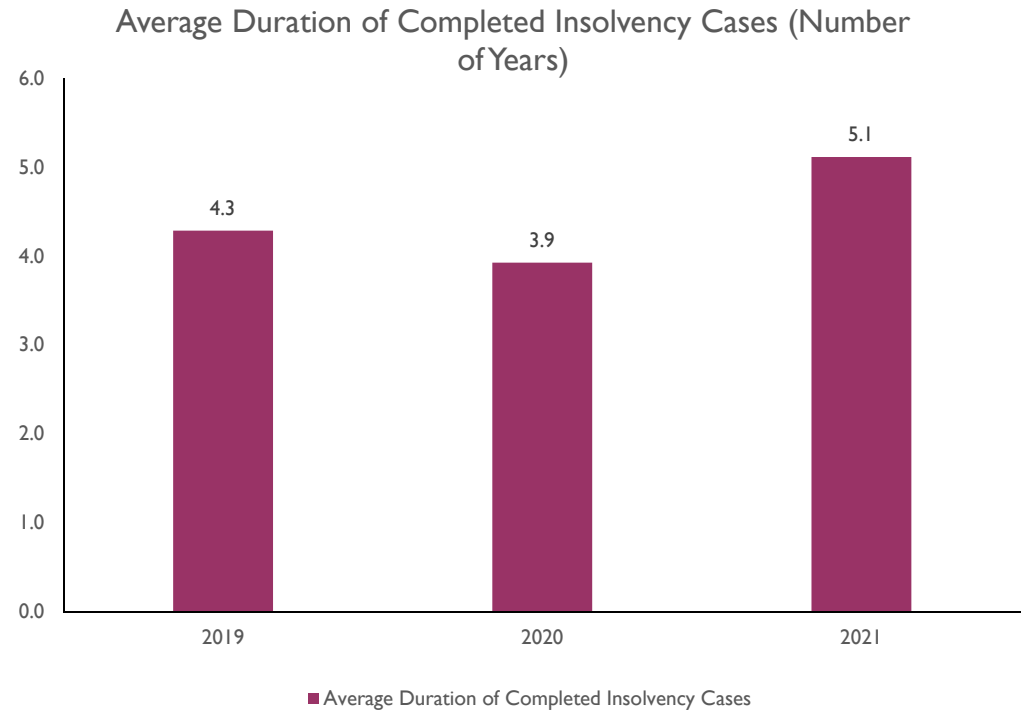
Average duration of completed cases (number of years)

3.1

Average duration of completed cases from the assignment of the bankruptcy regime (number of years)

4.8

Average duration of completed cases from the assignment of the rehabilitation regime (number of years)



Source: www.e-court.ge

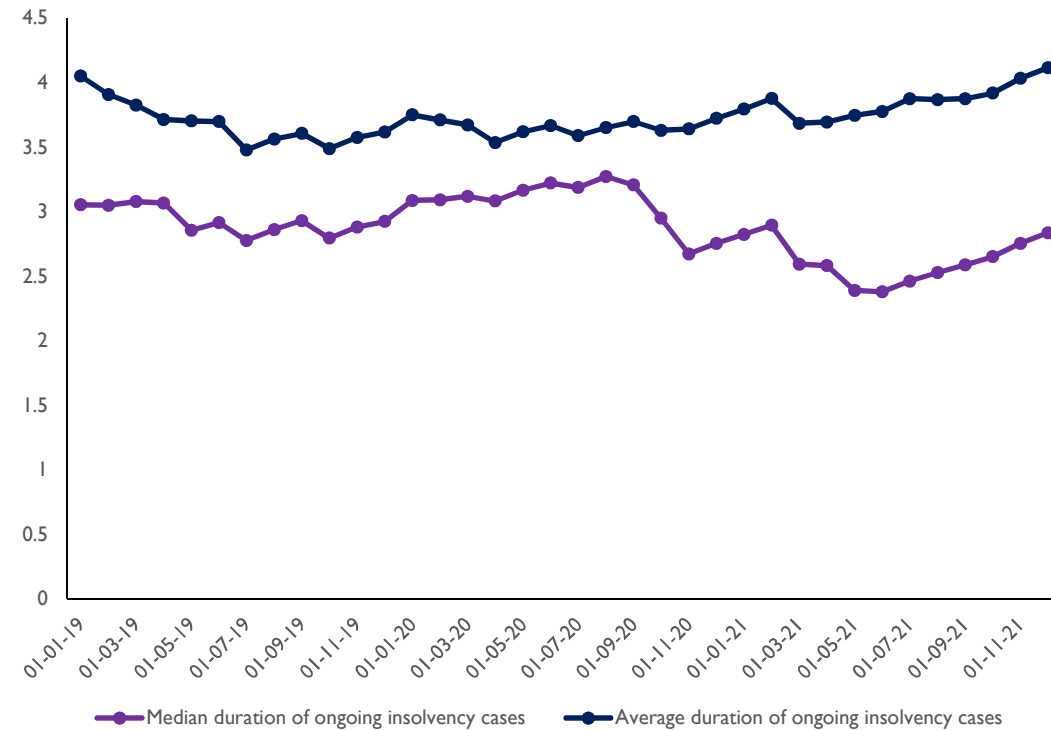
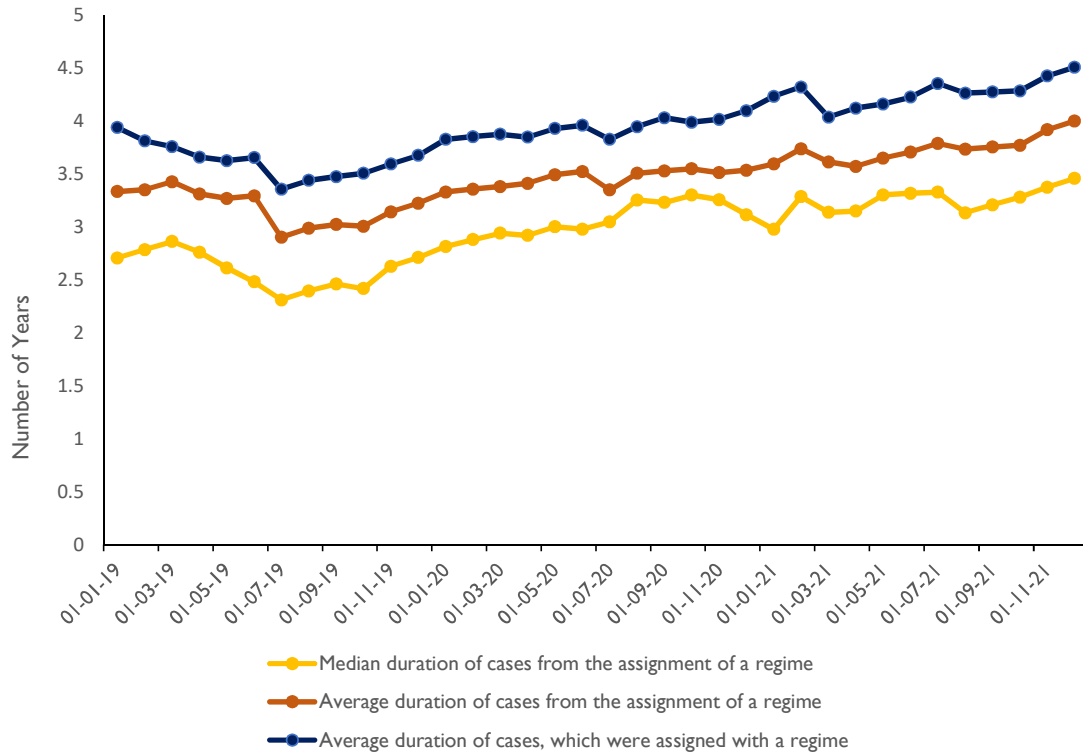


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Average Duration of Ongoing Cases (2019-2021)



Source: www.e-court.ge

Source: www.e-court.ge



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Certified and Authorized Insolvency Practitioners



Participants of the Certification Program

40

Certified Practitioners

21

Authorized Practitioners

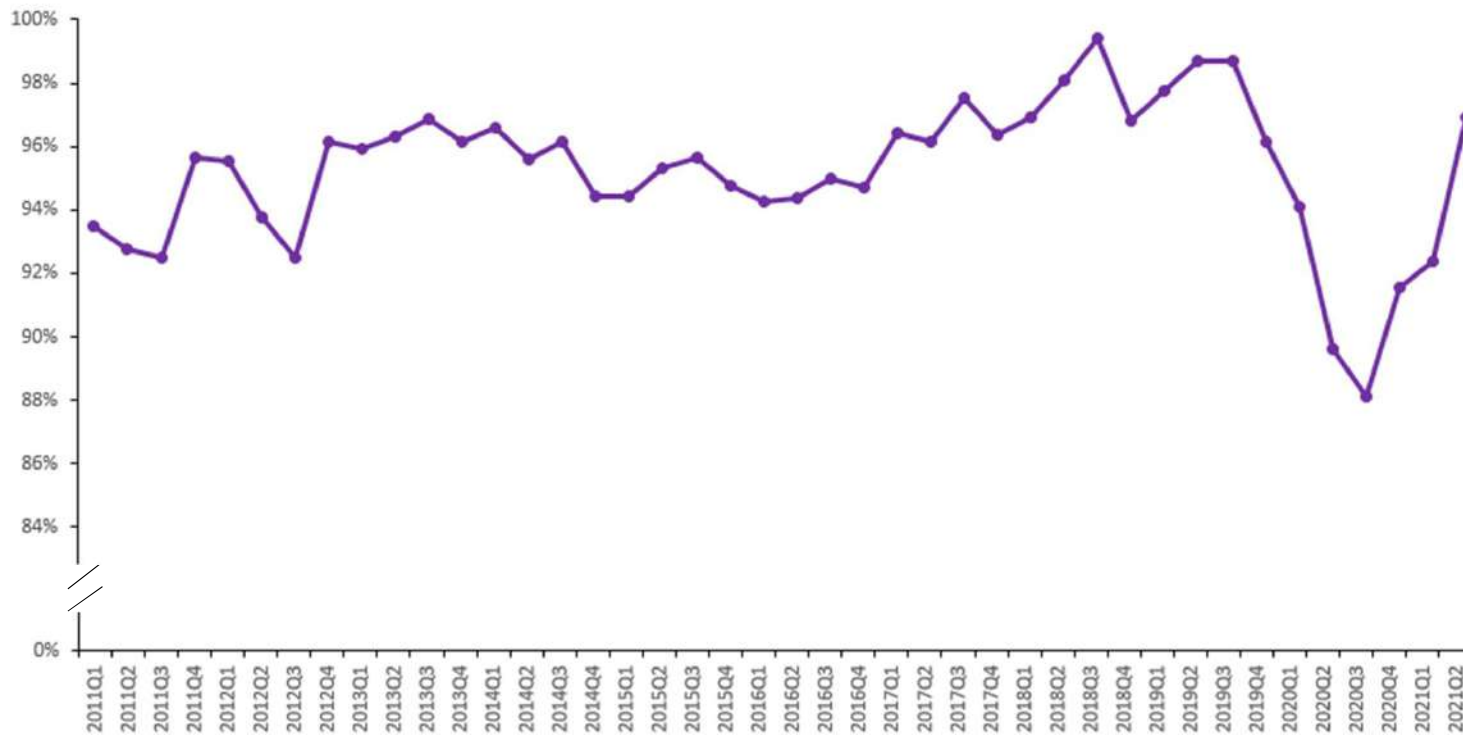
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Insolvency Reform – Objective Indicators for Outcomes and Impact



	Indicator	Source
1	Number of Insolvency Cases, Filed for Trial	Courts, e-court
2	Number of Ongoing Insolvency Cases	Courts, e-court
3	Number of Completed Insolvency Cases	Courts, e-court
4	Share of each regime in Completed Insolvency Cases	e-court
5	Average Duration of Insolvency Proceedings	e-court
6	Average Duration of Ongoing Insolvency Cases	e-court
7	Average Duration of Completed Insolvency Cases	e-court
8	Rank and Score of Insolvency Component of World Bank's Doing Business for Georgia	World Bank, Doing Business
9	Number of Insolvency Practitioners (Certified and Authorized Practitioners)	Training Center of Justice, National Bureau of Enforcement , BRIPA
10	Number of CVA (Company Voluntary Agreements)	e-court, BRIPA
11	CVAs transitioned into Bankruptcy and Rehabilitation Regimes	e-court, BRIPA
12	Cost of Insolvency Proceedings (% of Estate)	N/A
13	Recovery Rate (%)	N/A

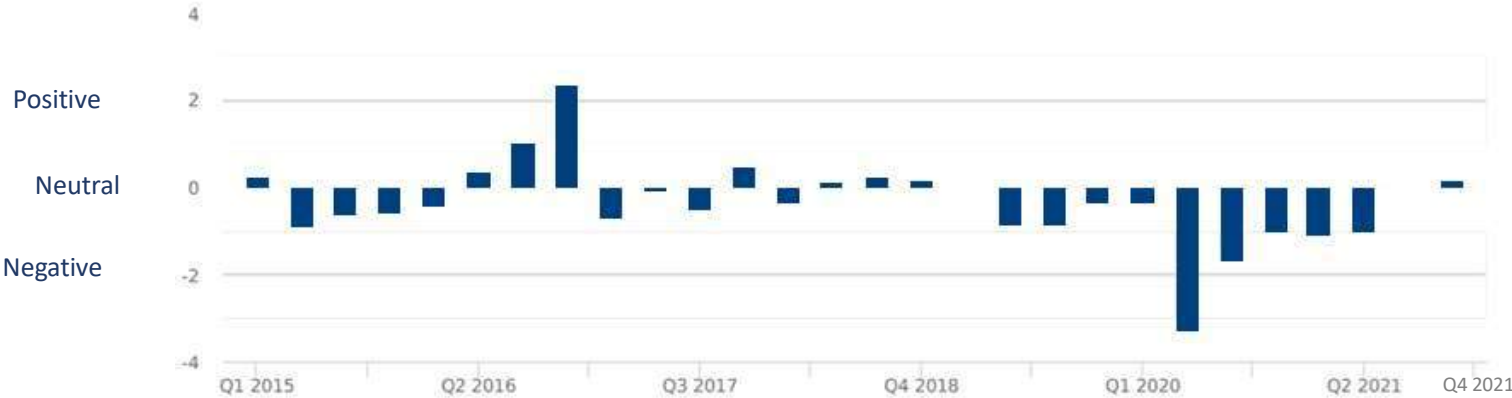
G-EPI – Economic Performance Index



Index Consists of 5 sub-components:

- Real GDP growth rate (%)
- Annual inflation rate (%)
- Export to nominal GDP ratio (%)
- Current account deficit to nominal GDP ratio (%)
- Budget deficit to nominal GDP ratio (%)

G-ESI – Economic Sentiments Index



Index is based on two independent surveys :

- Consumer Confidence Index (CCI)
- Business Confidence Index (BCI)



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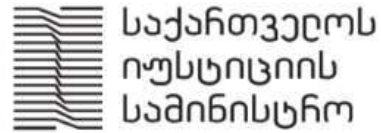


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შენი გზამკვლევი რეფორმებში



საქართველოს იუსტიციის
სასწავლო ცენტრი



საქართველოს იუსტიციის
სახანაველო ცენტრი

გადახდისუუნარობის პრაქტიკოსთა სერტიფიცირება

გადახდისუუნარობის პრაქტიკოსთა სერტიფიცირების პროგრამა:

- გადახდისუუნარობის პრაქტიკოსთა სასწავლო კურსი;
- გადახდისუუნარობის პრაქტიკოსთა საკვალიფიკაციო გამოცდა.



საქართველოს იუსტიციის
სახსნავლო ცენტრი

გადახდისუუნარობის პრაქტიკოსთა სასწავლო კურსი

სწავლების თარიღები: 2021 წლის 29 მაისიდან 2021 წლის 19 ივნისის ჩათვლით.

სწავლება მიმდინარეობდა: ელექტრონული პლატფორმა “Zoom” -ის მეშვეობით.

კურსი ხანგრძლივობა: 7 მოდული, 85 საკონტაქტო საათი, 18 სატრენინგო დღე.

სწავლების დრო: 9:00 -15:00 საათი (შესვენება 1 საათი, ჯამში სატრენინგო დღე მოიცავდა 6 საათს).

რეგისტრირებულთა რაოდენობა: 40 მონაწილე, 2 ჯგუფი.

□ სასწავლო კურსზე დასწრების მაჩვენებელი შეადგენს არანაკლებ 75 საათს.



საქართველოს იუსტიციის
სახსნავლო ცენტრი

გადახდისუნარობის პრაქტიკოსთა სერტიფიცირება

გადახდისუნარობის პრაქტიკოსთა სასწავლო კურსი მოიცავს შემდეგ სავალდებულო მოდულებს:

- ა) გადახდისუნარობის კანონმდებლობისა და პრაქტიკის საფუძვლები (30 საათი);
- ბ) სამეწარმეო სამართლის საფუძვლები (5 საათი);
- გ) საგადასახადო სამართლის საფუძვლები (10 საათი);
- დ) საფინანსო და საბუღალტრო საქმიანობის საფუძვლები (5 საათი);
- ე) სახელშეკრულებო და შრომითი სამართლის საფუძვლები (5 საათი)
- ვ) გადახდისუნარობის პრაქტიკოსის ზოგადი უნარ-ჩვევები (20 საათი);
- ზ) პროფესიული ეთიკა (10 საათი).



საქართველოს იუსტიციის
სახანაველო ცენტრი

საკვალიფიკაციო გამოცდა

- გამოცდა მოიცავს 100 ტესტურ დავალებას, 3 საათი.
- საკვალიფიკაციო გამოცდა ჩაბარებულად ითვლება თუ მონაწილემ მიიღო 75 ან მეტი ქულა.
- გამოცდაზე დარეგისტრირდა 40 აპლიკანტი, ხოლო 75 ქულაზე მეტი მიიღო 21 აპლიკანტმა.
- სულ დარეგისტრირდა 8 საპრეტენზიო განცხადება. კომისიის გადაწყვეტილებით გასაჩივრებული განცხადებები არ დაკმაყოფილდა.

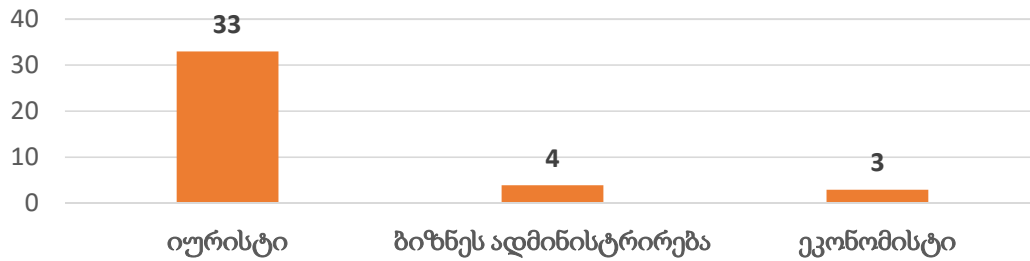




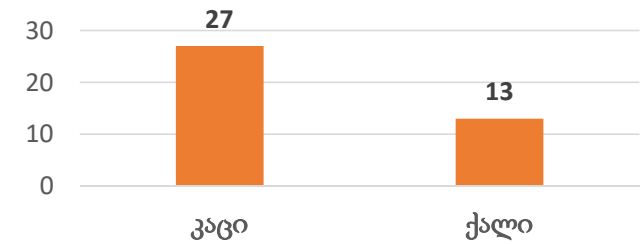
საქართველოს იუსტიციის
სასწავლო ცენტრი

სტატისტიკა

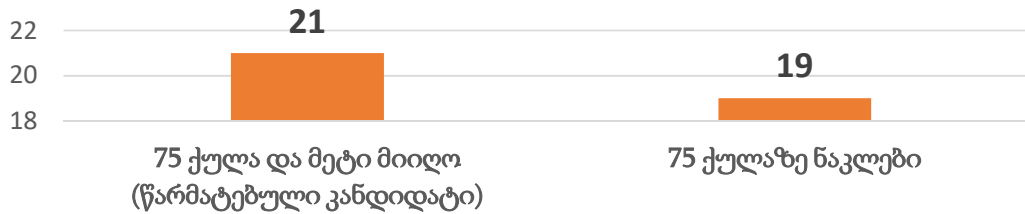
მონაწილეთა სტატისტიკა პროფესიულ ჭრილში



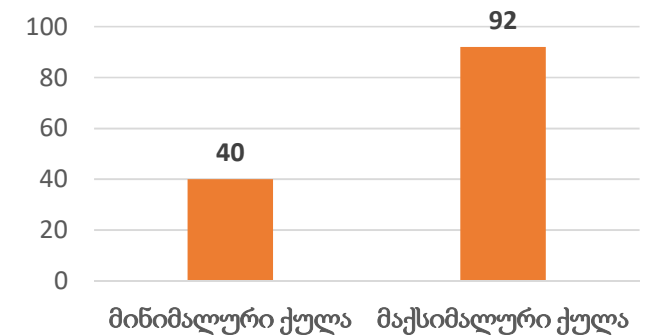
რეგისტრირებული აპლიკანტები გენდერულ ჭრილში



საკვალიფიკაციო გამოცდის შედეგები



შედეგები





საქართველოს იუსტიციის
სახანაველო ცენტრი

მადლობა ყურადღებისთვის!
კითხვები?