

Minutes of the Fifth Meeting of the Investors Council

**14th June 2017, 14:00 at the State Chancellery Chaired by the
Prime Minister of Georgia Giorgi Kvirikashvili**

Present at the meeting

Participating Members of the Investors Council:

- Giorgi Kvirikashvili, Prime Minister, Chair of Investors Council
- Dimitri Kumsishvili, First Vice Prime Minister, Minister of Finance
- Irakli Khmaladze, Deputy Minister of Energy
- Zurab Alavidze, Minister of Regional Development and Infrastructure
- Levan Davitashvili, Minister of Agriculture
- Zurab Dzelashvili, Business Ombudsman
- Michael Cowgill, President, American Chamber of Georgia
- George Chirakadze, President, Business Association of Georgia
- Nino Chikovani, President, Georgian Chamber of Commerce and Industry
- Bruno Balvanera, Director for Caucasus, Moldova and Belarus, EBRD
- Jan Van Bilsen, Regional Manager for South Caucasus, IFC
- Yesim Elhan-Kayalar, Country Director for Georgia, ADB
- Mariam Megvinetukhutsesi, Head of IC Secretariat

Invited Guests:

- Tea Tsulukiani, Minister of Justice
- Nino Gvenetadze, Chief Justice
- Janos Herman, Head of the EU Delegation
- Justin McKenzie Smith, Ambassador, British Embassy
- Peter Danis, Attaché, Program Manager, EU Delegation
- Ozan Sevimli, Acting Head of Georgia Country Office, The World Bank
- George Tabuashvili, First Deputy Minister of Finance
- Nikoloz Gagua, Deputy Minister of Finance
- Nino Javakhadze, Deputy Minister of Economy and Sustainable Development
- George Chogovadze, Head of Georgian National Tourism Administration
- George Welton, Executive Director, American Chamber of Commerce
- Irakli Aslanishvili, Executive Director, Business Association of Georgia
- Tamta Shermadini, Head of Advisory Services, PWC Georgia
- Beka Injia, GCCI, Legal Council
- Loretta Martikian, EBRD
- George Jugeli, Legal Expert, IC Secretariat
- Erekle Kokaia, Business Analyst, IC Secretariat

Opening Remarks by the Prime Minister:

Giorgi Kvirikashvili, Prime Minister in his opening remarks:

- Welcomed everyone and introduced the Agenda of the meeting.

Mariam Megvinetukhutsesi, Head of Investors Council Secretariat:

- Welcomed the guests including special guests of the meeting, Head of EU Delegation H.E. Janos Herman and the UK Ambassador to Georgia H.E. Justin McKenzie Smith, whom she thanked for his support and help with majority of IC supported technical assistance work.

Progress on decisions of the previous IC meeting dated 20 May 2016

1. Tax Administration:

Presenter: Mariam Megvinetukhutsesi, Head of Investors Council Secretariat

Main Points:

- Two projects with Revenue Services, supported by IC have been completed.
- ICS is working on a new Technical Assistance Project lead by PWC and funded by British Good Governance Fund (GGF). This project will look into the harmonization of VAT legislature and tax administration aspects.
- The project will also provide support to Georgia in implementation of Estonian CIT model and thus will contribute to further improvement of risk-based audit.
- The project will help increase the Tax Revenue by decreasing the cases of tax evasion, and will provide better service to the taxpayers.

2. Proposed Improvements of the Court Injunction Practice

Presenter: George Jugeli, Legal Expert, IC Secretariat:

Main points:

- Ministry of Justice and the Supreme Court expressed their will to work on the Injunction law, so that it is able to respond to the needs of businesses.
- ICS cooperates with the judiciary, the ministry of justice, the Georgian Bar Association, the Georgian Law Firms Association, within a GIZ supported working group, created with the mission to draft proposals for a reform of the Georgian Civil Procedural Code.
- Regulations regarding injunction should insure its use only in necessary cases to avoid its abuse as a means to hurt an opposing party.
- Freezing of assets and disruption of business operations of a party for a long period of time without prior investigation by a judge should be prevented.

3. Reform of Judiciary

Presenter: Mariam Megvinetukhutsesi, Head of Investors Council Secretariat:

Main Points:

- The state of the Judiciary remains the key challenge the country faces, reflecting negatively on the public image of Georgia; ICS has repeatedly stressed the importance of the reform of judiciary.
- As partial solution to the problems the Judiciary faces, the Minister of Justice (MoJ) proposed creation of Commercial Chambers within the common court system in order to provide comfort to investors both, local and international, in making investment commitments in the country.
- ICS has been working with MoJ to coordinate number of donors' initiatives to assist the Georgian Government in establishing the chambers.
- A number of donors have already expressed interest in providing technical assistance for this initiative.
- Dechert Consultants were engaged by MoJ to draft the concept for the establishment of Commercial and Tax Chambers. Building on this work, ICS worked with GGF and PWC/Dechert on the risk and cost/benefit analysis, drafting amendments to legal acts, and developing structural/organizational setup, technical setup, and financial plan for the commercial/tax chambers technical assistance project to the Ministry of Justice.
- Once the government expresses commitment for creating such chambers, British Government would be interested in supporting the implementation of the initiative.
- The EBRD has been approached by the MoJ with the request to provide capacity building for incoming judges of commercial chambers.
- GIZ has expressed interest in providing Regulatory Impact Assessment for establishment of such Chambers in question.

Comments:

Bruno Balvanera, EBRD Director for Caucasus, Moldova and Belarus, stated that:

- Judiciary Reform is the most important item that ICS has dealt with and believes that the proposed solution is a sensible one, that will allow the creation of a new body with better credibility;
- It will require experts to determine what changes are needed to be implemented, including those to the constitution, to establish such chambers, as well as to make sure that the new institution enjoys high reputation and trust from all stakeholders.

Michael Cowgill, President, American Chamber of Georgia stated that:

- The Commercial Courts are a significant move forward.
- There are concerns about how they will be operating vis-à-vis the High Council of Justice, as ideally they should operate independently from the High Council of Justice.

Jan Van Bilsen, Regional Manager for South Caucasus, IFC

- Underlined the importance of this issue as viewed by the private sector.

Tea Tsulukiani, Minister of Justice:

- Thanked the British Government, the EBRD and the German partners for supporting the idea of establishing the Commercial Chambers;
- Underlined the importance of assistance, especially in Human Resources and capacity building components;
- Explained that the incoming judges for the chambers are expected to be skilled, knowledgeable individuals, with strong commercial law background and English language skills.

Justin McKenzie Smith British Ambassador to Georgia:

- Expressed British Government's willingness to support this initiative, provided that the Government of Georgia is committed to the reform, and there is more clarity on certain aspects of the concept, including the Chamber's relationship with the High Council of Justice

George Chirakadze, President, Business Association of Georgia:

- Introduced the results of BAG's survey, according to which 100% of the business organizations interviewed named Judiciary as the biggest problem in Georgia.
- Stressed the importance of communication with public in relation to the new initiative to help restore the faith in court system, which has been lost.

Giorgi Kvirikashvili, Prime Minister, Chair of Investors Council:

- Thanked the British Ambassador, the EBRD and all other stakeholders for their involvement.
- Elaborated on the problem which should be divided into two parts: i) the competence of the judges for commercial chambers and the establishment of those chambers; and ii) the problems within the judiciary system in general.
- Problems in Judiciary could further be divided into "misperceptions", that must be addressed by better communication between the court system and the public, and the fundamental problems of the court system that must be addressed.
- Pledged to personally engage in the discussions to address the fundamental problems in the judiciary.

Janos Herman, Head of the EU Delegation stated that:

- EU has been supporting Judiciary Reform in Georgia for many years.
- Elaborated on the progress to date.

- Stressed the importance of including commitment “to independence, efficiency, impartiality and professionalism of the judiciary which should be free from any political or any other undue interference” in the association agreement, to achieve the main goal of fair, swift and transparent justice.
- Expressed belief that these values are shared by the government of Georgia.
- Stressed that the most important part is how Judiciary as a whole applies the new strategy and rules in real life.
- Concluded, that based on the increasingly alarming information EU Delegation has been getting recently, there is a misuse of selection, appointment and promotion of the judges, pre-agreement of their cases, flawed procedures, cronyism, corruptions, and undue interference.
- While the Commercial Chamber is a good solution, it is important to make sure those chambers will be impartial and fair.
- Pledged the EU Delegation’s continued support to reforming Georgian Judiciary.

Decision: to establish a format to work on judicial reform, and to present it to the Prime Minister for approval and further functioning.

4. Tourism Budget Recommendations

Presenter: Mariam Megvinetukhutsesi, Head of Investors Council Secretariat:

- Presented a short summary of the Tourism Working Group’s recommendations for the Georgian national Tourism Agency (GNTA).
- Advised to involve an independent advisory board to contribute in budget planning procedures for the future.
- The ICS initiated a technical assistance project to assist the Tourism Administration to evaluate its current advertising campaign, marketing tools and to introduce the methodology to assess the effectiveness of public spending by the Administration.
- The ICS approached the GGF to fund such a project, and a number of high-level meetings took place to facilitate initiation of the project.

George Chogovadze, Head of Georgian National Tourism Administration

- Related GNTA’s new initiatives in the 2017

Giorgi Kvirikashvili, Prime Minister, Chair of Investors Council:

- Stressed the necessity to focus on international advertising, however underlined the requirement to address problems such as infrastructure development needs.

George Chogovadze, Head of Georgian National Tourism Administration:

- International British Company did mysterious shopper services in three international airports of Georgia and the results are already in.

Decision:

ICS to further assist GNTA on the budget planning recommendations and with the technical assistance project in question. GNTA to share with the IC working group its findings on Mysterious Shopper survey results.

6. Presentation by the government

Pension Reform

Presenter: Nino Javakhadze, Deputy Minister of Economy and Sustainable Development

- Presented the Pension Reform progress to the Investors Council.
- Explained the organizational structure of the pension agency.
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- Explained that the public consultation on the reform would start in summer.

The draft law to be submitted to the Parliament in autumn 2017.

George Chirakadze, President, Business Association of Georgia:

- Stressed the importance of the pension reform for the future of Georgia.
- Proposed that one special session of the IC be dedicated to discussion of the Pension Reform.

Decision: MoESD will start discussions on the pension reform with business associations in Georgia, and the ICS will act as a coordination agency for this purpose where required.

7. Insolvency Law and Draft Law of Entrepreneurs

Presenter: George Jugeli, Legal Expert, IC Secretariat:

- The ICS Company Law Working Group consisting of leading Georgian business lawyers and representatives of businesses reviewed the draft and produced a consolidated position of the Group resonating with the needs of the Georgian business community.
- ICS will be providing all relevant ministries and other stakeholders with the document, and expects that the drafters will consider those suggestions before the draft goes to the Parliament.
- The new Law of Entrepreneurs (LoE) will lead to a coherent and predictable legal and judicial practice.
- Another objective of the draft is to harmonize the Georgian company law with the relevant EU directives.
- To address the problem with the Insolvency Law, a drafting group has been created consisting of representatives of the MoJ and MoESD, ICS, local practitioners and foreign experts.
- EBRD Legal Transition Team expressed interest to provide comments to the draft once the initial text is finalized.
- The drafting of the Insolvency Law might be followed by development of a RIA

document evaluating impact of the planned legislative novelties.

Mariam Megvinetukhutsesi, Investors Council Secretariat:

- Underlined the importance of Insolvency reform for the business environment.
- Noted that the success of ICS's functioning is also dependent on the progress of Georgia's ranking in Resolving Insolvency legislation problem.

Dimitri Kumsishvili, First Vice Prime Minister, Minister of Finance:

- Announced that Dr. Paul Romer, the Chief Economist from the World Bank, is interested in helping Georgia deal with the Insolvency Reform, arriving to Georgia in September, by which time the draft law might be ready for his input.

Bruno Balvanera, EBRD Director for Caucasus, Moldova and Belarus,

- Congratulated IC for being able to tackle so many important issues during the meeting.
- Thanked the Prime Minister for his determination on behalf of the Government on the Judiciary Reform.

Giorgi Kvirikashvili, Prime Minister, Chair of Investors Council underlined that:

- The inclusive working formats are necessary to implement the decisions made during the council meetings.

Decision: Drafts of both laws will be finalized in the near future. ICS to follow up with relevant ministries on the draft of Insolvency Law and the Law of Entrepreneurs, and to report on the progress;

8. Additional Topics of Discussion:

Two other topics were addressed by the members during discussion

- a) Proposed Constitutional Changes to the so called Liberty Act agricultural land ownership.

George Chirakadze, President, Business Association of Georgia:

- Twelve Business Associations made a joined statement regarding constitutional changes on Article 94, called "Liberty Act", which prohibits the government of Georgia from independently increasing the tax rates; Business Associations believe that it is important to keep this Article intact.
- Removal of the clause would send alarming signals to investors local and international.

- b) Proposed Constitutional Changes to agricultural land ownership

Ban of foreign citizens' ownership of agricultural land in Georgia would create significant challenges to financial institutions, including the IFIs to provide financing to agribusiness, as

well as would limit access to finance to the agricultural sector.

Giorgi Kvirikashvili, Prime Minister, Chair of Investors Council:

Acknowledged the importance of the issues raised by Mr. Chirakadze.

Michael Cowgill, President, American Chamber of Georgia:

- Expressed his disappointment in the agricultural land ownership law proposed changes and highlighted the insufficient communication with the private sector, as many of the AmCham's members are also confused about the proposed changes.

Bruno Balvanera, Director for Caucasus, Moldova and Belarus, EBRD:

- Agriculture is one of the key potentials of Georgia, therefore there should be a window for the high tech companies to be able to invest here.
- Expressed his concern that one year will not be enough time for banks to liquidate the agricultural land as some potential buyers might just wait for one and then buy it for lower price than the market value.

Tea Tsulukiani, Minister of Justice:

- Minister of Justice and the Chief of Justice will be presenting the pilot project in Rustavi City Court for establishing electronic assignment of the court cases; the process is going according to the schedule.
- MoJ has completed working on the draft of the law on mediation to help offload the courts, and this draft will be presented to the public in the nearest future.

It was agreed that next meeting would take place on September 6, 2017

Agenda of the next meeting to be determined in due course.

Giorgi Kvirikashvili

Chair of investors Council

Mariam Megvinetukhutsesi

Head of IC Secretariat