

Community-led Urban Strategies in Historic Towns (COMUS)

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# Heritage Assessment Report

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## Georgia

Tbilisi, 2015





# TABLE OF CONTENTS

1.	General Overview.....	1
1.1	Political System .....	1
1.2	Administrative System .....	1
1.3	Legal System .....	2
1.4	Economic System .....	5
2.	Specific Information.....	6
2.1	Levels of Administration for Cultural and Natural Heritage .....	6
2.2	Legal Texts for Cultural and Natural Heritage and How They Relate to Other Legal Texts and Policies.....	9
2.3	Forms of Immovable Heritage Protection .....	10
2.4	Other Protection/Safeguarding Mechanisms for Historic Towns and Settlements.....	14
2.5	Consultation Mechanisms.....	15
2.6	Statistical Details .....	16
2.7	Inventories, Recording Systems and the Planning Process.....	17
2.8	Integrated Assessment for Planning Policies .....	18
2.9	Authorization/Consent Procedures.....	21
2.10	Legal Rights of the Private Sector .....	21
2.11	Financial Assistance .....	22
2.12	Problems and Sanctions.....	23
3.	Conclusion.....	24

The Report below represents the revised Heritage Assessment Report of 2011 elaborated in scopes of the “Rehabilitation of Cultural Heritage in Historic Towns” Kyiv Initiative Joint Regional Program of the Council of Europe and European Union. The revision took place as a preparatory phase of the Community-led Strategies in Historic Towns (COMUS) joint Council of Europe and European Union Regional Project within the Council of Europe Action Plan for Georgia 2013-2015.

The revision process was led by the National Agency for Cultural Heritage Preservation of Georgia, UNESCO and International Relations Unit, with the coordination with relevant state authorities.

The content of the report is the entire responsibility of the national experts. The Council of Europe or the European Commission can not be considered as responsible for the information presented

## 1. General Overview

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### 1.1 Political System

According to the Constitution adopted in 1995, Georgia was declared a democratic republic, where the governance is divided among legislative, executive and judiciary powers.

The principle of territorial arrangement of the country is not defined before the territorial unity of the country will be fully restored. Officially Georgia is composed by nine regions, two Autonomous Republics, 69 self-governing municipalities and 20 self governing cities, including the capital city of Tbilisi. At present there is only one autonomous republic under the jurisdiction of Georgian government.

### 1.2. Administrative System

Protection of cultural heritage, protection of environment and the spatial planning issues are implemented by the Government of Georgia (GoG), the Ministry of Culture and Monuments Protection, Ministry of Environment and Natural Resources, the Ministry of Justice, the Ministry of Economy and Sustainable Development, the local government bodies as well as other bodies of public and private law, and on the territory of the autonomous republics – respective ministries and departments.

In the field of spatial planning the main decision making body is local government, which elaborates and approves the different spatial planning documents and issues construction permits. In the field of cultural and natural heritage the administrative system is rather centralized. The management is implemented by the central government bodies and the participation of local government is limited only to the assistance, when such is required by the central administration.

### 1.3 Legal System

The issues of spatial planning, nature protection and cultural heritage are regulated by different legislative and subordinate legal acts. The protection of cultural and natural heritage is implemented on the basis of national legal system and international conventions and charters ratified by Georgia. The Constitution, which is the supreme law of the country, declares cultural heritage protection and preservation a duty of every citizen of Georgia and the subject to relevant state legislation (art. 34). The major laws are the laws on Cultural Heritage, on Spatial Organization and Principles of Town planning, on Museums, on Environmental Permits, on the Control of Technical Threats, etc. Other important laws and regulations related to cultural and natural heritage and spatial planning are given in the table 1.

*Table 1. Georgian national laws related to/having a major impact on cultural heritage protection*

Field of Regulation	Title of the Law
Cultural Heritage	<ul style="list-style-type: none"><li>• The Law on Cultural Heritage, 2007 (last amendments 2013)</li><li>• The Law on the Import and Export of Cultural Goods, 2001 (last amendment 2014)</li><li>• The Law on Museums, 2001 (last amendment 2014)</li><li>• The Law on Culture, 1997 (last amendment 2013)</li><li>• The Law on the World Cultural Heritage (draft prepared in 2014, work in progress)</li><li>• The law on Intangible Heritage ( draft prepared in 2013, the work in progress)</li></ul>
Relationship of the State and the Church	<ul style="list-style-type: none"><li>• The Concordat – Constitutional Agreement between the State and the Autocephalous Orthodox Church of Georgia, 2002</li></ul>

<p>Penalties for violation of cultural heritage legislation</p>	<ul style="list-style-type: none"> <li>• The Administrative Infringement Code, 1994 (amendment related to cultural heritage, 2007 introducing stricter fines for violation of monuments protection regimes and regulations in protected zones, last amendments 2014)</li> <li>• The Criminal Code, 1999 (amendment related to cultural heritage, 2007, introducing new chapter on the crime against cultural heritage with respective provisions)</li> <li>• The Code on Production Safety and Free Circulation</li> </ul>
<p>Financial policy for cultural heritage</p>	<ul style="list-style-type: none"> <li>• The Tax Code, 2004 (amendment related to cultural heritage, 2008, VAT exemption for the World Heritage, national and religious monuments)</li> <li>• The Law on Local Tariffs, 1998 (amendment related to cultural heritage, 2007, introducing temporary local rehabilitation tax for specially designated areas max 1.5 GEL per sq/m of the building and respective provisions)</li> <li>• The Law on State Excise Duty, 1998 (amendment related to cultural heritage, 2007)</li> <li>• The Budgetary Code of Georgia, 2009 (last amendment 2014)</li> </ul>
<p>Privatization and land management</p>	<ul style="list-style-type: none"> <li>• The Law on State Property, 2010 (last amendment 2014)</li> <li>• The Law on Recognition of Title to the Land Plots Possessed (Used) by Individuals and Public Entities under the Public Law, 2007 (last amendment 2008)</li> <li>• The Law on Ownership of Agricultural Land, 1996,(last amendment 2014)</li> </ul>
<p>Licensing and permissions</p>	<ul style="list-style-type: none"> <li>• The Law on Licenses and Permits, 2005 (amendment related to cultural heritage, 2007)</li> <li>• The Code on Production Safety and Free Circulation, 2013 (incorporating the the Law on Control of Technical Threat of 2010)</li> </ul>
<p>Competencies of Self Government bodies</p>	<ul style="list-style-type: none"> <li>• The Organic Law on Self Government, 2005 (last amendment of 2014)</li> </ul>
<p>Natural heritage and environment</p>	<ul style="list-style-type: none"> <li>• The Code on the Safety of Victuals/Animals Food, Veterinary and Plant Protection, 2012 (incorporating the law on Protection of Soil of 1994 last amended in 2002)</li> <li>• The law on the System of Protected Areas, 1996</li> <li>• The law on the protection of Soil, 1994 (last amendment 2002)</li> <li>• The law on the Protection of Environment, 1996 (last amendment of 2013)</li> <li>• The law on the status of Protected Areas, 2007 (last amendment of 2014)</li> <li>• The law on Environmental Impact Permission, 2007 (last amendment of 2014)\</li> <li>• The law on Ecological Expertise, 2007 (last amendment of 2013)</li> <li>• The law on Environmental Protection Service, 2007 (last amendment of 2008)</li> <li>• The law on the Social-Economic and Cultural Development of the Mountainous Regions, 1999 (last amendment 2009, further amendments in progress)</li> <li>• The law on Creation and Protection of the Natural Heritage, 2013</li> </ul>

Despite the implemented reforms the legislation in the fields of cultural and natural heritage and spatial planning needs further improvement. A degree of overlapping between the functions of different bodies still remains an issue. For example almost all functions have been delegated from the Ministry of Culture and the Monuments Protection (MoC) to the National Agency for Cultural Heritage Preservation of Georgia (NACHPG) however certain areas remain of the shared competence (see in the sections below). The same can be said about the country and regional planning, where planning and implementation aspects are shared between the Ministry of Regional Development and Infrastructure (MRDI) and the Ministry of Economy and Sustainable Development (MoESD).

The Georgian Parliament has ratified and signed most of the important international and European treaties in the field of cultural and natural heritage and environment protection. In addition it is important that as of 27.06.2014 Georgia signed the Association Agreement with the European Union, that brings additional responsibilities related to the preservation and enhancement of cultural and natural heritage. The list of the international treaties is given in the table 2.

*Table 2: the international and European treaties on cultural and natural heritage and environment protection ratified or approved by Georgia*

<b>Ratification/signature</b>	<b>Title of the Convention</b>
<b>A. Cultural Heritage</b>	
1993 notification of succession	Convention for the Protection of the World Cultural and Natural Heritage (the World Heritage Convention), Paris, 1972
1992 ratification	The Convention for the Protection of Cultural Property in the Event of Armed Conflict, the Hague, 1954 (1 <sup>st</sup> Protocol ratified in 1993 and the 2 <sup>nd</sup> protocol in 2010)
1993 ratification	Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, Paris, 1970
2000 ratification	European Cultural Convention, Paris, 1954
2000 ratification	Convention for Protection of Architectural Heritage of Europe, Granada, 1985
2000 ratification	Convention for Protection of Archaeological Heritage of Europe, La Valetta, 1992
2004 ratification	European Charter on Local Self Government, Strasbourg, 1985
2008 ratification	Convention on the Protection and Promotion of the Diversity of Cultural Expressions, Paris, 2005
2008 ratification	Convention for Safeguarding of the Intangible Cultural Heritage, Paris, 2003
2010 ratification	European Landscape Convention, Florence, 2000
2011 ratification	Framework Convention on the Value of Heritage for Society, Faro, 2005

## **B. Natural Heritage and environment**

1994 accession	Convention on Biological Diversity, Rio de Janeiro, 1992
1994 accession	Framework Convention on Climate Change, New York, 1994
1997 accession	Convention on Wetlands, Ramsar, 1971
1999 accession	Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, Bazel, 1989
1999 ratification	Kyoto Protocol to Amend the UN Framework Convention on Climate Change, Kyoto, 1997
2000 signature	Convention on Migratory Species, Bonn, 1979
2001 signature	Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, Aarhus, 1998
2001 signature	Agreement on the Conservation of African- Eurasian Migratory Waterbirds, the Hague, 1979
2001 signature	Agreement on the Conservation of Cetaceans of the Mediterranean and the Black Sea, Bonn, 1996
2001 signature	Agreement on Conservation of Populations of European Bats, 1991
2006 ratification	Convention on Persistent Organic Pollutants (POPs), Stockholm, 2001
2008 accession	Cartagena Protocol on Bio-safety to the Convention on Biological Diversity, 2000
2009 ratification	Convention on the Conservation of European Wildlife and Natural Habitats, Bern, 1979

#### 1.4 Economic System

Since the fall of the USSR in 1991, Georgia embarked on a major structural reform designed for the transition to a free market economy. Following a severe economic collapse in 1990s, visible positive developments have been observed since early 2000s. The reform process started in 2003 and touched every aspect of the country's life. Broad and comprehensive reforms were addressed in relation to the liberalization of the economy and the business environment in order to enhance direct foreign investment inflow, stimulate entrepreneurial activities in various fields of economy and facilitate employment generation.

Due to the economic deregulation policy, the number of state regulated spheres sharply decreased and regulation procedures were simplified. The Georgian economy has been diversified, resulting in an upward tendency. The level of GDP as of 2013 constituted 16.13 percent. However, the country has a high unemployment rate (as of January 2014 – 14,6%, lower in comparison with the 17% as of May 2010) and a fairly low median income compared to other European countries.

The overall economic trend associated with financing of cultural heritage, planning and environmental sectors has been positive in recent years. For example, the national budget for the cultural heritage protection has been steadily improving since 2005. Overall economic and political changes certainly influence this trend, e.g. in 2010 the economic downturn did not allow the further growth and the budget of the National Program for Cultural Heritage significantly decreased; Similarly the changes of government in 2012 and the mobilization of the state funds for solving the social issues resulted in decrease of the NACHPG budget in 2013, however these moments are

typically followed by the improvements and the general increase of state funds for the heritage sector remains rather stable in the long term perspective (see section 2.6).

## **2. Specific Information**

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### **2.1 Levels of Administration for Cultural and Natural Heritage**

In the field of cultural heritage protection the national and local government bodies implement their authority according to the national legislation and according to the provisions of the constitutional agreement between the State of Georgia and Autocephalous Orthodox Church of Georgia” (art. 7, 8 and 9).

#### **The Cabinet of Ministers**

The competence of the Cabinet of Ministers of Georgia is limited to the designation of cultural heritage protected zones in the country on the basis of a proposal put forward by the Minister of Culture, Monuments Protection. The right for removal and inscription of the cultural heritage listed properties on the territory of Tbilisi was removed from the Cabinet of Minister’s responsibility after the change of government in 2012.

#### **The Ministry of Culture and Monuments Protection (MoC)**

The Ministry oversees the cultural heritage protection in the country, sets up and implements the state policy for cultural heritage, coordinates the identification, inventory, maintenance and monitoring as well as promotion of cultural heritage, enacts rules and procedures for these activities, maintains the National Register for Cultural Heritage, controls the exportation of cultural heritages, sets up the general protection zones for cultural heritage and respective regulations, where necessary, and presents to the Cabinet of Ministers for adoption.

In 2008 as a result of the institutional reform implemented within the Ministry, the National Agency for Cultural Heritage Preservation has been created as an entity of public law, to which most of the functions related to cultural heritage were delegated. At the same time the new department for Cultural Heritage Strategy, Coordination of Organizations and Permits was created on the basis of the previous department for Cultural Heritage.

- ***The Department for Cultural Heritage Strategy, Coordination and Permissions***

The main tasks of the department are: support measures for identification, preservation and promotion of tangible and intangible cultural heritage on the territory of Georgia; inventory, expertise and registration of cultural heritage properties and creation of unified cultural heritage database in the country; ensuring of cultural heritage preservation; elaboration of methodology for the study and maintenance of cultural heritage; cooperation with relevant administrative, judiciary and customs authorities with an aim to control the infringement of the cultural heritage legislation and ensure adequate response to the crime committed against cultural heritage.

- ***The Cultural Heritage Protection Council***

The Council is an advisory body to the Minister set up by the representatives of the key ministries which advises the Minister on the major projects and initiatives put forward by the National Agency for Cultural Heritage Preservation, among them inscription and removal in/from the Register of Cultural Heritage Listed Properties, on assigning/changing the national category to a listed property. The Council also advises on the draft spatial planning documents, the protection status to the historic settlements, enforcement of cultural heritage protection zones and administrative-legal acts to be issued by the Minister in scopes of these

zones.

The decision of the Council is not binding to the Minister; therefore he/she has the right to act according to his/her own considerations.

– ***The National Agency for Cultural Heritage Preservation***

The National Agency for Cultural Heritage Preservation is an entity of public law subordinated to the Ministry. The Agency was established on the basis of the fourteen state Museum Reserves and entrusted to carry out the protection, maintenance, inventory, research, conservation and rehabilitation of cultural heritage and to advise the Ministry on the heritage policy issues. The Agency is responsible for management and monitoring of national monuments and World Heritage Sites in the country and for granting permits for conservation and rehabilitation project for these monuments. The Agency is also responsible for protection the inventory and promotion of movable and immovable cultural heritage objects, scientific research, consulting and expertise in the field of cultural heritage.

Since 2014, on the basis of the administrative agreement between the Ministry of Culture and Monuments Protection and National Agency for Cultural Heritage Preservation the following additional issues have been delegated to the National Agency:

- Authority for inscription and removal of properties in/from the Register of Cultural Heritage Listed Properties, including intangible heritage, on the basis of the conclusion of the Cultural Heritage Council established at the National Agency; Preparation of the relevant proposals of inscription/ removal of the properties on the territory of Tbilisi to putting forward to the Ministry of Cabinet for approval.
- Modification of boundaries (extension only) of the individual protection zones of the listed properties;
- In accordance with Georgian legislation, giving agreement on the town planning documentation in the cultural heritage protection zones;
- Permissions on the archaeological investigations and works;

A degree of overlapping between the functions of the Agency and the Department at the Ministry still remains. At the legislative level the process of division of responsibilities is still not accomplished.

Since 2013 the NACHPG is working on improving its administrative structure with the help of the EU TWINNING project that aims to improve governance in the field of cultural heritage protection through strengthened capacities and an enhanced legal framework regulating the sector. The process is on-going, including the elaboration the World Heritage Law and the Cultural Heritage Code.

The partner of the project is an Italian Danish consortium set up by the key state heritage agencies, such as the Ministry of Cultural Heritage, Activities and Tourism of Italy and the National Cultural Heritage Agency of Denmark. The project is envisaged to finish in April 2015.

– ***Museum-Reserves***

The Georgian legislation defines Museum-Reserves as the entities of public law subordinated to the Ministry of Culture and Monuments Protection. The Museum-Reserves are kind of a regional administrative units which manage the state owned monuments and archaeological properties within the borders of their administration.

The state administration of cultural heritage inherited the Soviet model of Museum-Reserve as

a regional cultural heritage administration unit. Up to the present the thirteen state Museum-Reserves exist in the country, although their legal status has changed over time. Before 2005 their post-Soviet status was not defined. In 2005-2008 they have functioned as formally autonomous public entities subordinated to the Ministry of Culture. Since 2008 the Museum-Reserves are being transformed as structural units of the National Agency for Cultural Heritage Preservation. The process is still not reflected at the legislative level.

### **The Ministry of Justice**

The functions of the Ministry of Justice regarding the cultural and natural heritage are limited to the activities of its subordinate entities of public law – the National Archive and the National Agency of Public Register.

- The **National Archive** maintains the documents of cultural heritage value which may as well be registered as cultural heritage listed properties by the Ministry of Culture and ensures their inventory, identification and rehabilitation.
- The **National Agency of Public Register** is authorized to register the title to ownership for all immovable assets and among them cultural heritage monuments as well. The registration document issued by the Agency does not provide information whether the property is listed as cultural heritage monument, i.e. the data from the Register of Cultural Heritage Listed Properties maintained by the Ministry of Culture and Monuments Protection is not integrated in the digital database of the Ministry of Justice. This may in practice cause the problems when changing ownership of cultural heritage monuments. The new owner may not be timely informed of the status of his/her property and respectively of the rights and responsibilities linked with the status. These issues are being dealt within the ongoing project on the creation of the Unified National Database for Cultural Heritage and GIS Portal implemented by the NACHPG with assistance of the Directorate for Cultural Heritage of Norway. The database is expected to become operational in 2016.

### **The Ministry of Environment Protection and Natural Resources (the MoE)**

The MoE is the chief coordinating authority in the field of natural heritage protection. The Ministry defines the state policy, strategies and priorities for planning and utilization of natural resources; elaborates and implements the ecological safety policy, etc. The Ministry manages the territories of environmental value, which apart from valuable natural resources contain historic monuments and sites. More importantly, according to environmental legislation the World Natural Heritage sites and Protected Landscapes are part of the legislative system of the nature protection, therefore they fall under the direct management of the

MoE. Thus the MoE is involved in the protection of cultural heritage, although this is not its direct competence.

The Agency of Protected Areas is an entity public law established by the Ministry for the implementation of management of protected areas. The legislation distinguishes the following types of protected areas: Strict Nature Reserve, National Park, Natural Monument, Managed Nature Reserve and Protected Landscape.

### **The Ministry of Economy and Sustainable Development**

The Ministry of Economy and Sustainable Development is a state body related to both cultural and natural heritage management. The main task of the Ministry is to support and ensure sustainable

development of the country. Among other issues, the Ministry deals with the alienation of state possessions including historic monuments and protected areas; urbanization and construction issues and development of tourism. The Spatial Planning and Construction policy Department , National Agency of State Property and the National Tourism Agency of Georgia are structural and subordinated units of the Ministry in charge of the above issues. The Ministry of Economy and Sustainable Development compulsorily consults with the MoC and the NACHPG when alienating, leasing or transferring the right of use of state owned monuments and heritage sites, developing the strategies for cultural tourism or undertaking other strategic actions which may have an impact on cultural heritage.

### **The local Self-Government**

The respective state institutions of the autonomous republics and the self-government bodies implement their authority in accordance to the Georgian legislation and the functions delegated to them by the national authorities. They ensure the identification, inventory and maintenance of cultural heritage within their administrative borders and provide information to the MoC and to the NACHPG.

Local Self-Government Code adopted in 2014 envisages the protection, maintenance and the reconstruction of cultural heritage as the authorities of the self-government. On the other hand, The Organic Law on Self-Government adopted in 2005 that became invalid upon the adoption of Local Self-Government Code in 2014, excluded cultural heritage protection from exclusive authorities of self-government. At that time such function was not delegated to them by the national government. Tbilisi and Batumi were the only self-governing units where the delegation of functions from the Ministry of Culture and Monuments Protection was exclusively enforced through a special government acts. For the rest of the self-governments in the country, the implementation of cultural heritage initiatives depended only on the voluntary initiative, for which they were not provided by special budget from central government. The tight local budgets did not allow local governments to implement such voluntary initiatives related to cultural heritage. The local budget was directed to rehabilitation of basic communal infrastructure and the social issues which were the priority. In such circumstances, to implement heritage related projects local governments depended on grants, private investments and exclusive transfers from the state budget. Such dependence reduced the autonomy of local government in decision-making on cultural heritage, and made them ineffective to implement even the basic maintenance works on listed properties, to inventory and study local heritage resources and run public awareness campaigns to promote cultural heritage. All these in turn affected the state of conservation of heritage objects and alienated local population towards cultural heritage. As protection, maintenance and the reconstruction of cultural heritage fall within the authorities of the self-government, the above-mentioned problems are to be diminished and eliminated.

Ownership is another important aspect that prevents the local self-government bodies from management of cultural heritage resources. According to the new Local-Self Government Code the land of cultural and natural monuments and protected areas remains in state ownership and is managed by the Ministry of Economy and Sustainable Development. The local governments are not authorized to manage or directly benefit from these recourses, unless the property is transferred to their ownership, which is a lengthy and complicated process.

## **2.2 Legal Texts for Cultural and Natural Heritage and How They Relate to Other Legal Texts and Policies**

### **Cultural Heritage Legislation**

The law on Cultural Heritage Protection replaced the Soviet legislation in 1999. It was amended in 2002 and in 2003. The new Law on Cultural Heritage was enacted in 2007, which was conceived as an attempt to improve and modernize the overall administration of heritage field. The Law defines the responsibilities of central and local government in the field of cultural heritage management, the

provisions for protection of discovered heritage objects, the relationships between the state and the owner of monument, the issues of inventory, classification and listing of cultural heritage objects, etc. The major innovations of the new amendments are that it allows privatization of cultural heritage monuments, exempts the rehabilitation works of national monuments from the VAT, enforces stricter fines and provisions for the infringement of the heritage legislation, regulates the procedures for the rehabilitation project application, elaborated the system of protection zones for monuments, establishes criteria for their application and the relevant protection regimes.

In September 2013, new amendments were made that envisages rules for determination of the category of national importance. It also sets the rules for definition of monuments of exceptional public interest and the rules for acceptance of general public by the owners of such properties that remained without regulations for several years.

Conforming to the new regulation (2014), the status can be granted on the basis of Cultural Heritage Council's inference by issuing individual administrative act of the Director General of the NACHPG. On the territory of Tbilisi, the same is done on the basis of Council's inference upon submission of the Ministry by adopting the order of the Government.

Respectively, the revocation of the status is also based on the Council's inference and individual administrative act of the Director General of the NACHPG. On the territory of Tbilisi, the status can be revoked on the basis of Council's inference upon submission of the Ministry by the order of the Government.

The amendments of 2008 of the law regarding the rehabilitation methodology, allowing the volumetric transformation of historic buildings (art.3) remains in force, despite much criticism from the professional society. The definition "change of an immovable monument" is retained along with conventional provisions for conservation, restoration, reconstruction and adaptation which form the internationally accepted methodology in the field of cultural heritage. The definition introduced in 2008 gave way for mass interventions in the listed properties especially in the capital city of Tbilisi. It signaled the trend towards relaxation of regulations regarding the alteration and exploitation of historic monuments. However, so far the successful examples of transformation of historic buildings for beneficial use avoiding excessive destruction of historic fabric are relatively few.

The Law on Cultural Heritage regulates a wide range of legal issues that require adoption of other laws and subordinate legal acts. The transitional provisions of the Law consider the duty of adoption of such legal acts. Some of them, such as the Rule on the Definition of Protection Zones, are already adopted but others still remain to be passed.

Without the comprehensive set of legal acts the state is limited in implementation of its authority in the field of cultural heritage, therefore the further improvement of the legislation in this field is ultimately necessary. It is expected that some of these improvements may happen through the elaboration of the Cultural Heritage Code in scopes of the EU funded TWINNING project implemented by the NACHG with the assistance of the Italian-Danish consortium.

## **The Concordat**

The Constitutional Agreement between the State of Georgia and the Apostolic Autocephalous Orthodox Church (2002) regulates the relationship between the state and the Church. Its provisions (art. 7, 8 and 9) have a major impact on the management of cultural heritage in the country. By this agreement all the religious buildings and related structures on the territory of the country, in use or without function, standing or in ruins, together with their parcels and also all the immovable ecclesiastic treasures protected in museums and archives are handed down in the ownership of the Church of Georgia (art.7 and 8).

The MoC, and, respectively, the NACHG must agree with the Church of Georgia in the process of adopting protection zones, rules and methodologies, planning and approving rehabilitation projects or

scientific research of movable and immovable religious monuments. Together with the state, the Church is responsible for maintenance and care of the monuments in its ownership (art.7 and 9). The property of the Church is exempt from the state taxes (art. 5).

According to the Concordat the church is the owner of the majority of immovable listed properties in the country, most of which, at the same time, are living heritage sites, with the religious function being restored and enhanced after the fall of Soviet regime. Because of this special circumstance, the specific rules for maintenance and exploitation of these properties need to be elaborated.

On 17 July 2014 on the basis of the initiative of the NACHPG the Memorandum of Cooperation was signed by the Minister of Culture and Monuments Protection and the Representative of the Patriarchate of Georgia. The memorandum envisages further improvement of cooperation between the state and the church, *inter alia*, through joining the Councils in decision making over the intervention on Listed Properties.

### **Spatial Planning Legislation**

The main document regulating the spatial organization is the Law on the Principles of the Spatial Organization and Town Planning (2005). It sets the major aims and principles in spatial organization of the country and the process of planning. The provisions set by the law are based on the principles of sustainable development which involve equal spatial development of the country, protection and rational use of the resources, decentralization and polycentrism of the spatial-economic development, equal distribution of the infrastructure on the whole territory of the country etc. One of the significant aspects of the document is that in public-private relations it gives the apparent privilege to the public interests.

The law also requires harmonization of the plans at the different levels, as well as their integration with the planning documents of different fields, such a cultural heritage or environmental protection. It is important to note that the legal texts regulating the spatial organization, construction process and housing do not contain direct regulations for cultural or natural heritage. In the provisions having a potential connection to these fields they consider and refer to the respective Laws (e.g. on Cultural Heritage) and vice versa.

The analysis of other normative texts, such as the Decree of the Government on Rules and Conditions for Construction Permits is given in the section 2.9.

Since 2013 the work is ongoing to create the Spatial Arrangement and Construction Code. The draft is being circulated between the government bodies and is expected to be adopted by the Parliament in spring 2015.

### **2.3 Forms of Immovable Heritage Protection**

The Georgian legislation defines two mechanisms for protection of cultural heritage objects (a) Initial (temporary) and (b) permanent protection through granting the status of the Cultural Heritage Property or the Listed Property status.

Initial (temporary) protection is applied when the heritage object is being discovered. In such a case the founder is obliged to inform the Ministry of Culture and Monuments Protection about the finding. The Ministry is responsible to assess the discovered object and, in case the cultural-historic value of an object is confirmed, to inscribe the object in the List of Cultural Heritage Properties. The object can be inscribed in this list for the period up to six months. This period can be extended only once for another six month. This period gives the experts the possibility to study the object more in details in case the existing material evidence is not sufficient for granting the Listed Property status. After this

period the object is either granted the Listed Property status or taken out from the List of Cultural Heritage Properties.

The permanent protection is granted by the decree of the Director General of the NACHPG, on the basis of the advice of the Cultural Heritage Council. Among other provisions the protection regime implies the establishment of the individual protection zone, corresponding areas and regulations which aim to preserve the setting of the monument which contributes to its historic, cultural and other values. It is important that while being inscribed in the list of Cultural Heritage Properties an object enjoys the same protection regulations as the Listed Property.

### **Designation Criteria**

A cultural property may be listed when it has a proved historic and cultural significance linked with its authenticity, uniqueness or age (Law on Cultural Heritage, art.15). Authenticity, uniqueness and age are the ultimate factors to define the significance of a cultural asset and to grant the status of a monument. The topographically identifiable groups of buildings or structures may also be listed as complex objects (ibid. art 3) The presence of a monument, as defined above, is the ultimate criterion for designation of the General and Individual Protected Zones. The area of an immovable listed property can be defined as a plot of land registered with a property or, in case of absence of the land register, an area occupied by the listed property (ibid, art. 3 (r)).

### **Designation Authority**

According to the national legislation, as of 2014, it is the Director General of the NACHPG to assign a Listed Property status to the historically or culturally significant object. As an exception, on the territory of the capital city of Tbilisi the responsibility for granting the monument status, listing and delisting the cultural heritage properties is handed to the Government of Georgia, which takes decisions on the basis of proposals made by the Ministry of Culture and Monuments Protection.

### **Hierarchy and Classification of Cultural Heritage Listed Properties**

According to the Law on Cultural Heritage listed property can be granted the grade of national significance on the basis of submission by the Ministry by the decree of the Georgian Government if it has the special historic and cultural value. A listed property of national significance can be nominated by the Prime Minister for inscription in the List of World Heritage Sites. Thus there can be distinguished three steps in the hierarchy of listed properties (1) listed property (2) listed property of national significance (National monument) (3) listed property of international significance (World Heritage Site).

The protection regulations are stricter for the listed properties of national significance and World Heritage Sites then for listed properties without such a grade. For example, protection zones are more extensive for national monuments and World Heritage Sites, their privatization is not allowed by the law, etc.

The Law on Cultural Heritage defines the following types of immovable listed properties:

- Archaeological (cultural stratum, underwater and underground remains of more than 100 years)
- Architectural (buildings and ensembles, castles, cult buildings, etc.)
- Engineering (bridges, tunnels, canals, aqueducts, etc)
- Urban (unity of urban structures, street networks)
- Parks and gardens (urban or rural historic parks and gardens)
- Palaeographic

- Monumental painting (frescos, wall paintings, mosaics, etc)
- Memorial (linked with the historic event of a person)
- Fine arts
- Ethnographic
- Documental (publications, manuscripts, etc)
- Property linked with the development of science and technology.

Any intervention on or use of the listed property which diminishes its historic and cultural value, damages and endangers it, affects its authenticity and prevents its interpretation is prohibited by the Law.

### **Cultural Heritage Protection Zones**

The system of protection zones provides specific tool for territorial protection of immovable cultural heritage.

The Law on Cultural Heritage defines a cultural heritage protection zone as:

“A territory around immovable monuments or the area of their abundance, where the specific regime of exploitation is applied and the aim of which is to protect monuments from adverse impact (Law on Cultural Heritage, art.3)”

This is the broad concept under which two types of protection zones are distinguished:

- a) Individual Protection Zone is a statutory territory around monument, which ensures its protection from adverse impacts. It is made up of Physical and Visual Protection Areas. The first corresponds to an immediate area surrounding a monument; the latter - to a wider landscape, views, panoramas and vistas.

Individual Protection Zones are automatically established from the moment of listing. The statutory radius of a Physical Protection Area is defined as twice the maximum height of a monument, but no less than 50m (Parliament of Georgia, 2007, art. 36 (2)). The statutory radius of a Visual Protection Area varies according to the category of a monument and the location in rural or urban setting: the monuments located in urban areas are protected with a Visual Protection Area of 150m from its outer contour, the Visual Protection Area of the monuments of national importance is 250m, these distances double in rural areas and are respectively 300m and 500m. The World Heritage Sites enjoy the greatest degree of protection with 1000m Visual Protection Area (Parliament of Georgia 2007, art.36 (4)).

- b) General Protection Zones may be established according to the type of a protected cultural asset – be it a historic settlement, archaeological area or landscape.

General Protection Zone may be the following:

- Historical Built-up Area Protection Zone: a territory, where there is a dense concentration of monuments and other properties of cultural significance and the authenticity and integrity of the street network, the planning pattern and morphology of the built fabric is preserved.
- Built-up Area Regulation Zone: an additional layer of protection for any other Individual or General Protection Zone, or as a territory, where there are fragments of authentic street network, historic setting and planning pattern, and/or single monuments and other properties of cultural significance preserved.
- Historical Landscape Protection Zone: an urban or rural territory of historic, cultural and aesthetic significance, which had been formed as a combined work of man and nature, or which represents the traditional natural setting of a monument.

- Archaeological Protection Zone: the territory where archaeological findings are identified or observed.

The sophisticated hierarchy of zones makes the purpose of designation more specific and sets out what could be the justification in each case of designation – for example, the proportion of authentic historic fabric preserved, concentration of monuments and presence of historically evolved landscape.

The cultural heritage law of Georgia allows overlapping of Individual and General Protection Zones, which means that Individual Protection Zones remain in force after designation of General Protection Zones.

The General Protection Zones are designated by the government (the Cabinet of Ministers) following the submission of the Minister of Culture and Monuments Protection. Consultation with relevant local authorities is obligatory.

The Individual Protection Zones are established automatically at the time of listing of a monument and can be enlarged by the decree of the Minister of Culture and Monument Protection if it is deemed to be necessary for the protection of a monument.

As an exception, on the territory of the capital city of Tbilisi the right to propose the cultural heritage protection zones for approval to the government of Georgia rests on the Mayor of the city.

The cultural heritage protected zones are enforced by the Law on Cultural Heritage. The issue of territorial protection is also covered by environmental legislation (Law on Protected Territories, 1996), which introduces a category of Protected Landscape as an area evolved over time under anthropogenic factors. By definition Protected Landscapes stand close to the concept of a Cultural Landscape present in international and European treaties (e.g. European Landscape Convention, World Heritage Convention). A Historical-Cultural Zone is also present as a component of a National Park, although apart from a broad statement of purpose there is no specific protection regime defined.

The Law on Cultural Heritage requires the consideration of cultural heritage monuments and their protection zones in town and country planning documentation (art 42.8), so does the Law on the Principles of Spatial Organization and Town Planning (art 30.9) and its subordinate acts (see section 2.8).

### **Regulation for Cultural Heritage Protection Zones**

The Law on Cultural Heritage prescribes general as well as more detailed protection regimes for each type of zones. These regimes may be further refined in scope of the Historic-Cultural Reference Plan, which is the essential and mandatory basis for town planning documentation within protection zones. Where the Historic-Cultural Reference Plans are not elaborated, any project proposal should be based on preliminary Architectural and Historical Study, prepared by and at the expense of the developer.

Any intervention in the historic environment within protection zones requires consent from the local government with the approval from the NACHPG. The interventions in listed monuments and buildings inscribed in the list of Cultural Heritage Objects are the subject of the approval by the NACHPG.

Some of the most rigid regulations apply to the Historical Built-up Area Protection Zone. Here new development is only permitted when it replaces a deteriorated structure which is not of historic or cultural significance, or when it enhances the historic environment by filling the gaps in historic fabric, replacing invaluable buildings or dissonant structures and restoring the historic setting and morphology.

The demolition of buildings in all types of cultural heritage protection zones is prohibited except the cases when there is an imminent threat of destruction due to irreversible deterioration of physical condition of a building, or when it is deemed necessary to remove the buildings distorting the historical environment.

In the Historical Landscape Protection Zones only temporary constructions may be permitted when it is necessary for the purpose of protection or scientific research of protected structures within or when it is considered to be of the supreme public interest. No construction activities are to be permitted within Archaeological Protection Zones.

These general provisions are further articulated in articles 36-44 of the Cultural Heritage Law and explain the details of permitted outdoor advertisement, control of alteration of appearance of buildings, street network, landscape and streetscape as well as functions, traffic, clauses related to industrial wastes and hydro-geological conditions.

## **2.4 Other Protection/Safeguarding Mechanisms for Historic Towns and Settlements**

### **Historical-Cultural Reference Plan**

As defined by the Law on Cultural Heritage the Historical-Cultural Reference Plan is the comprehensive scientific-research instrument developed through multidisciplinary approach. It contains data and analysis of historic environment and cultural heritage monuments, as well as recommendations for the planning regulations necessary for their protection. The Historical-Cultural Reference Plan is the basis of the town planning documents, such as Building Regulation Plans.

The informative section of the Reference Plan contains informative, analytical and conclusive sections. The informative section provides an integrated database produced on the basis of comprehensive inventory of an area.

The analytical section contains the characterization of the historic environment, definition of the value of the area in general context, assessment of the historically formed architectural as well as natural spatial landmarks, etc.

The conclusive section provides the principles for protection, rehabilitation and development of cultural heritage in the given area, recommendations on permitted activities within protected zones, among others the recommendations on the properties in the need of rehabilitation (listed properties, cultural heritage properties, background buildings, public space, etc) and on the methodology for their rehabilitation. The conclusive section also provides the list of all monuments and cultural heritage objects and the synthetic map with all reference data.

Through the financing of the MoC the Historical-Cultural Reference Plans have been elaborated for the two largest historic cities in Georgia – Tbilisi and Batumi historic districts – and also for the resort town of Abastumani. These GIS based instruments have been handed to the local governments for management and control of the development in historic districts. The creation of these instruments enabled the transfer of the decision making power in relation to the listed properties and development from the MoC to the local-government in Tbilisi and Batumi. These systems have greatly contributed to development of electronic services permits procedures, making the administration of permits much more time consuming and effective.

### **Conservation Plan**

The Conservation Plan is an instrument for management of complex objects of cultural heritage (ensembles, groups of buildings, topographically definable units of immovable properties). It is

elaborated by the NACHPG and enacted through the decree of the Director General as a document mandatory for consideration. The Conservation Plan includes scientific, methodological and practical instructions in respect of the works applicable to a listed property, establishes basic regulations and the list of admissible works, procedures for maintenance and use, etc.

Even though some extensive studies have been carried out on different listed properties in the country, so far none of them is adopted as a Conservation Plan.

### **Cultural Heritage Rehabilitation Area**

The cultural heritage rehabilitation area is a territory designated under the decree of the Government of Georgia on the proposal of the MoC and on the initiative of the self-government bodies. The rehabilitation area is being designated within a General Protection Zone with an aim to support and promote cultural heritage, on the basis of a development program set up for the selected area. The development program shall be adopted by the Government and should include (a) comprehensive assessment of the historical, architectural and artistic values of buildings, (b) assessment of listed properties; (c) analysis of economic and social situation, potential tourism, economic and social development in a rehabilitation area; (d) projects for rehabilitation of communal infrastructure and listed properties; (e) cost estimates for implementation of the program.

The peculiarity of the concept of a rehabilitation area lies in its financing method. Namely along with the conventional funding sources, such a state and self-government budget, grants and donations the development program shall also be funded through the dues and fees imposed on the residents and owners in the Rehabilitation Area. The respective amendment in the Law on Local Dues and Fees define the payable amount as 1.5 GEL per square meter for each owner (legal user) within the area for the period of implementation of the development program.

The above method of financing the rehabilitation area has so far never implemented in practice, mainly because of the public protest against the new dues. The proposed formula does not consider the difficulties that these dues and fees impose on low income families, socially vulnerable groups and the population below the poverty line. It promotes gentrification and if intensively implemented may have a great influence on the social fabric in historic centres and settlements in future.

### **2.5 Intangible Heritage**

In 2008 following the ratification of the Convention for Safeguarding of the Intangible Cultural Heritage of UNESCO by the Georgian Parliament, several basic changes were introduced at legislative level, including the Georgian national law “on Cultural Heritage”.

Based on these amendments the duty for defining and implementation of the state policy in the field of intangible cultural heritage has been assigned to the Ministry of Culture and Monuments Protection of Georgia. Since 2011 the administration of the field is delegated to its subordinate institution - the National Agency of Georgian Cultural Heritage Protection.

The draft national law on the Safeguarding of Intangible Heritage of Georgia, that was developed by the National Agency in 2013 envisages further improvement of the institutional capacity for intangible heritage (ICH) management in the country, namely to refine the duties and responsibilities with a view to delegate some of the functions related to the identification and protection of the ICH elements to local authorities. However before such can take place still more intensive collaboration with regions of Georgia is necessary in order to enable the local governments to develop capacities and skills necessary for ICH identification and safeguarding.

With regards to planning policies the on-going work on the Guidelines for Intangible Heritage Management is ultimately important. The document is expected to define the key aspects of ICH management at national, regional and local levels, for public as well as private sectors.

## **2.5 Consultation Mechanisms**

The legal obligation of the state bodies to provide citizens with the out of charge scientific-methodological and legal consultation in the sphere of cultural heritage protection is defined by the law. The NACHPG has started to develop such consultation services rather recently, since 2014. There is an appointed staff, in the Permits Department, to provide all relevant consultation to the citizens.

Also the permanent meetings with the relevant stakeholders, including the self-governing entities are taking place to discuss and agree with the protection and development issues of the cultural heritage field.

The consultations prior to construction and archaeological works are relatively intensive as such works require adequate permits. Consultation may be sought formally or informally prior beginning the process of permit.

The construction permit is issued through the public administrative procedure. A person, who seeks the permit, must put up an information board on the construction site with the details of planned development and later with the land use conditions defined by the permit. This rule applies when the planned construction is situated within a built-up area. At the same time a responsible administrative body is obliged to publish a public notice as it starts the administrative procedure for issuing the permit. Within 20 days from the public notice anyone has the right to submit an opinion on the project. The public hearing may as well be held during the process. An administrative body issuing the permit has the right to consider or ignore these opinions, except the opinions of those directly affected by the planned project (e.g. residents and owners of businesses, of the area, etc).

The consultations with the owners of listed properties or general public are rarely held prior to listing the properties or enacting the protection zones. The reasons may be different: (a) the large number of properties were listed already in the Soviet period and now the inscription in the Register of Listed Properties is just a formality following the adoption of the new legislation; (b) the responsible bodies lack the implementation mechanism and adequate organization; (g) the lack of experience in designation of protected areas (since 2007 the protection zones were legally enacted only in three cases (Mtskheta historic town, Gonio fortress and Sakdrisi mining site).

In the field of natural heritage protection, due to the existence of the inspection of environmental protection, the citizens often address the MoE or the organs of self governments to avoid the sanctions.

## 2.6 Statistical Details

- a) The financial budget devoted to heritage protection in relation to the different institutions or administrations involved:

Table. 3. The budget for the National Program for Cultural Heritage<sup>1</sup>

Year	The implementing body	Annual budget approved
2005	National Program for Cultural Heritage (the MoC)	504.700
2006	National Program for Cultural Heritage (the MoC)	2. 536. 700
2007	National Program for Cultural Heritage (the MoC)	2. 682. 000
2008	National Program for Cultural Heritage (the MoC)	6. 876. 599
2009	National Program for Cultural Heritage (the National Agency)	7. 553. 172
2010	National Program for Cultural Heritage (the National Agency)	3. 321. 000
2011	National Program for Cultural Heritage (the National Agency)	9. 760.000
2012	National Program for Cultural Heritage (the National Agency)	17. 728. 400
2013	National Program for Cultural Heritage (the National Agency)	7. 000. 000
2014	National Program for Cultural Heritage (the National Agency)	7. 839. 000

- b) The number of different types of specific immovable and environmental assets that have been designated for protection:

The revision of the state inventory of cultural heritage was intensively implemented in 2004-2008 in order to update the lists of monuments of the Soviet period and identify new objects for designation in different regions and historical towns of the country. The registration cards were filled for each of the inventoried object. The process allowed the updating of the National Register of the Listed Properties.

Table. 4. Number of listed properties in historic cities and towns inventoried in 2004-2014

Tbilisi	1763
Abastumani	128
Telavi	218
Signagi	101
Batumi	378
Gori	58
Poti	68

Mtskheta	43
Kutaisi	265
Dusheti	93

In terms of environmental protection there are 14 Strict Nature Reserves, 11 National Parks, 19 Managed Nature Reserves, 41 Natural Monuments and 2 Protected Landscape in Georgia, the total area of these makes 600 490, 04 ha, or 8.62 % of the country's territory.

- c) The number of staff in the state (or regional) protection services and their status and expertise as well as staff involved in such protection within the remit of local self-governments' responsibilities.

Table. 5. Number of Staff in the state institutions related to immovable cultural heritage management

Institution	Number of staff
National Agency for Cultural Heritage Preservation	109
Museum-Reserves and museums subordinated to the National Agency	184
The Department for Cultural Heritage Strategy, Coordination and Permissions (MoC)	14

<sup>1</sup> Since 2008 the National Agency for Cultural Heritage Preservation has a major share in the state budget for cultural heritag.

In relation to the number of staff and professionals in the regions of the country the following is to be taken into account: Georgia is not a party of the paragraph 2, article 6 of the European Charter of the Local Self-Government which provides the obligation of the state to ensure the employees of regional and local state institutions with adequate working conditions. The working conditions and salary of the employees has been much poorer in regions than in central institutions. Hence there is a deficit of qualified personnel and professionals in the regional and local government institutions. Ensuring adequate working conditions in regions would encourage qualified professionals to work in local government bodies in the regions and would greatly improve local professional capacity to adequately address cultural heritage and other issues.

## 2.7 Inventories, Recording Systems and the Planning Process

### Recording and Registration Tools

The Law on Cultural Heritage defines the following instruments for identification and registration of immovable heritage:

- The List of Cultural Heritage Objects;
- The Registration Card of an immovable object/listed property;
- The State Register of Listed Properties;
- The certificate of immovable listed property.

The registration documentation is processed by the Department for Cultural Heritage Strategy, Coordination and Permissions at the NACHPG.

The List of Cultural Heritage Objects is a tool for the Immediate/temporary protection of cultural heritage objects. From the moment of inscription in this list an object becomes the subject of same legal regulation as of the immovable listed property. The List contains the following information: number, name, address/location and additional information if necessary for identification of the object.

The Registration Card of an immovable cultural heritage object/listed property is a statutory annex to the resolution of the Director General of the NACHPG on granting the status of a listed property or inscription in the list of cultural heritage objects. It contains basic information for identification of the property.

In a month's period from adopting the resolution on granting the status of a listed property or its cancellation the information is to be reflected in the State Register of Listed Properties.

The Certificate of a listed property is a document adopted through the legal act of the Director General of the NACHPG. It contains information from the Registration Card and also the scientific and research information on the property including the cartographic and cadastral information, plan of the protected zone, graphic documentation of a building, etc.

The forms of the abovementioned documents is based on the standard recommended by the Council of Europe for documenting cultural heritage, namely on the Core Data Index on historic buildings and architectural monuments. The same time the format of the document is adapted to the cultural heritage digital database which is being developed by the MoC and the NACHPG.

### **Comprehensive Inventory**

The Comprehensive Inventory is a method defined by the law for collecting information on historic settlements and historic centres of the towns. It implies collecting basic information required by the Registration Card on every immovable property in the area and processing the data in GIS database. Such comprehensive Inventories were implemented by the MoC in two major cities – Tbilisi and Batumi (in 2005-2006) and a resort town of Abastumani (in 2008). In Tbilisi historic district 12 000 immovable properties were inventoried, which allowed identification of many new properties of high historic-cultural value. As a result the number of listed properties increased from 812 to 1768. In Abastumani the inventory enabled identification of 350 cultural heritage objects, out on which the list of monument was set up for the first time with 128 outstanding properties.

### **The Information Systems in Cultural Heritage Management**

The first project in Georgia drawing on the European experience of applying GIS for the inventory of cultural heritage was the Tbilisi Pilot Project implemented in 1999-2000 in scope of the joint program of the World Bank and the Georgian Government implemented with the assistance of the Council of Europe. The methodology elaborated within this project enabled the development of large scale GIS projects for inventory of urban heritage in Tbilisi, Batumi and Abastumani in 2005-2008. The elaboration of the Historical-Cultural Reference Plans of these historic cities was made possible thanks to the immense data processing and analytical capacity offered by the GIS.

In the scope of Tbilisi and Batumi projects the special computer program has been created to manage and process information in digital format. The program allows integration of the attribute and graphical data and is equipped with the comprehensive search tool and a tool for generation of different thematic maps. This GIS based program has set the model for elaboration of Historical-Cultural Reference Plans in other historic towns and settlements. Moreover, GIS has been increasingly used in the inventory of immovable objects and for creation of cultural heritage protection zones all over the country (e.g. Mtskheta, Kutaisi, Signaghi, Telavi, etc).

As the experience and volume of the digitalized information has been steadily growing in the recent years, the need to systematize the information and create an integrated information system for data storage, processing and updating became evident. In 2005-2007 thanks to the financial assistance of the Development and Reform Fund of Georgia and UNDP the MoC launched a project for creation of

the unified information system in the field of cultural heritage. The model of the system was elaborated integrating the different information on cultural heritage (protected zones, immovable and movable listed properties, museum-reserves, etc) and allowing external links to similar systems of different related institutions, e.g. State Customs Office. The integrated information system represents one of the key instruments for management and planning in the field of cultural heritage. Currently it is being tested and revised to make it efficient in practice.

Since 2009, within the Agreement between the National Agency for Cultural Heritage Preservation of Georgia and Norwegian Cultural Heritage Directorate, thanks to the financial support of the Norwegian party, the comprehensive program on creation and development of Georgian Cultural Heritage Database Management System and GIS Portal is running: The Project aimed at creation of Georgia Cultural Heritage Database Management System and GIS for developing complex management instrument of cultural heritage administration of Georgia; provision of connections between the cultural heritage management central and regional structures; making information regarding the cultural heritage publicly accessible and exchangeable with different organizations.

In line with the above-mentioned program, the project on digitalization of the Archive of Cultural Heritage is running with the financial support of Norway. Up today, the documentation on 8700 heritage objects (measured drawings, photos, certificates, etc) have been digitalized.

The National Agency for Cultural Heritage Preservation of Georgia and the National Agency of Public Registry plan to sign a memorandum of understanding aiming at cooperation with the view of development of national spatial information systems in Georgia and establishment of a permanent information exchange system.

## **2.8 Integrated Assessment for Planning Policies**

The following section explains the overall legal basis and administrative organization of the spatial planning system in the country and provides specific information as to how the process of spatial planning relates to the preservation of historic towns and monuments.

The main document regulating the spatial organization of the country is the Law on the Principles of the Spatial Organization and Town Planning (2005). It sets the major aims and principles in spatial organization and the process of planning. The provisions set by the law are based on the principles of sustainable development which imply equal spatial development of the country, protection and rational use of the resources, decentralization and polycentrism of the spatial-economic development, equal distribution of the infrastructure, etc.

One of the significant aspects of the document is that in public-private relations it gives the apparent privilege to the public interests (art.6 par.1, 2). Under the term “public interests in the spatial organization and town planning” the law defines the following aspects: (1) ensuring the conditions for sustainable and secure development of the settlements and the inter-settlement territories of the country; (2) functioning of the engineering and transport infrastructure; (3) protection and further development of the natural resources, cultural and natural heritage and recreational territories. According to the law any spatial organization and town planning document that opposes the above public interests should be halted. The “private interests in the spatial organization and town planning” are interpreted as the interests of the physical and legal persons related to the spatial-territorial planning, development and maintaining the healthy conditions of their immovable property. The activity of the physical and legal persons can be restricted if they oppose the public interests in the field of spatial-territorial planning. These provisions are very important in the process of town planning and heritage protection as they are a tool for the protection of public interests against the pressure of the market forces in the historic centres. In spatial terms this tool could help to maintain and harmoniously develop the public domain in the historic towns.

The law requires the harmonization of the spatial plans of different levels, as well as their integration

with the planning documents of other related fields, such as cultural heritage or environmental protection. The legal texts regulating the spatial organization, construction process and housing do not contain direct provisions for cultural or natural heritage. The provisions related to these fields consider and refer to the respective Laws (e.g. on Cultural Heritage) and vice versa.

The Georgian legislation does not provide for a Strategic Environmental Assessment. Only an Environmental Impact Assessment (EIA) is issued by the MoE for the types of development defined by the law. These are the developments bearing risks to the environment, such as: the heavy industry plants, mines, energy plants, oil/gas pipelines, etc. The list of developments, bound by the law to obtain the EIA prior to construction permit, has been considerably reduced in the last years.

The key body responsible on spatial planning is the Ministry of Economy and Sustainable Development of Georgia and in the autonomous republics – bodies of the local executive government. On the local level the planning is implemented by the executive and representative organs of the local self government bodies.

The Ministry of Economy and Sustainable Development of Georgia adopts the Basic Provisions on the Use of the Territories of the Settlements and Building Regulation. On the basis of these Provisions the self governing bodies of the country adopt the Rules on the Use of the Territory and Building Regulation. These two documents are the foundation for elaboration of particular land use and planning documents.

There are three levels in the hierarchy of the plans for the spatial management of the country:

- National level: The General Scheme of the Spatial Organization of the Country. This planning document is initiated by the Ministry of Economy and Sustainable Development.
- Regional level: Plan of the Spatial-Territorial Development of the Region. This planning document is initiated by the regional government, or, if the planning extends to several regions, the central government of the country.
- Local level: town planning of the settlements (city, town, community and village) is based on two types of plans: (a) the General Land Use Plan and (b) the Building Regulation Plan. The local planning documents are initiated and adopted by the local government, or, if planning extends to several settlements, jointly by the corresponding local governments. The spatial planning documents of settlements are enacted by the executive organs of the self government bodies, except of the General Land Use Plan, which is adopted by the Council.

The management of the spatial-territorial development of settlements is executed with the help of the General Land Use Plan and the Building Regulation Plan. If the Building Regulation Plan is found sufficient for defining the land use parameters and planning decisions, the General Land Use Plan is not obligatory to be elaborated.

The General Land Use Plan provides key principles for the spatial-territorial development such as: the use of the territories (zoning), main axis of the spatial and infrastructural development, etc. The General Land Use Plan shall identify four types of the zones:

- General Functional Zones, describing the functional uses of the territories;
- Territorial-Structural Zones, indicating the spatial-structural features of the territories;
- Zones of the Special Spatial-Territorial Regulation: this status is entitled to the specific territories or settlements on the basis of the government's initiative, through the resolution of the Parliament of Georgia. Among other reasons, the justification of such a status can be the ecological or cultural features of the area. Therefore historic towns may also be designated as Zones of Special Spatial-Territorial Regulation. The Zones of the Special Spatial-Territorial Regulation are defined by the decree of the President

of Georgia. The self governing bodies of such territories are required to get the agreement regarding any plans related to these territories with the central government. The Building Regulation Plan for such zones is enacted by the President of the country.

- Zones of the Environmental and Cultural Heritage Protection are defined by the MoC and the MoE and incorporated in the General Land Use Plan.

The Building Regulation Plan provides the terms for the land use and spatial development of sites including physical, volumetric, technical, etc. conditions. Namely, it provides the following:

- Terms for the regulation of the use and building-up the territories of the settlements;
- Indexes for the built intensity, compactness and greenery of the areas;
- Precise functional zones (General Plan of the Land Use provides broader definition of the functional zones)
- Zones of the Environment and Cultural Heritage Protection (as defined by the MoC and the MoE).

The Law on Cultural Heritage defines the additional requirements for the Building Regulation Plan within the cultural heritage protected zones. The Plan should include (a) the requirements for cultural heritage protection and rehabilitation; (b) requirements for the development and new constructions, identification of conservation and development areas, allowable parameters of new constructions (scale, height, spatial and planning configuration, fenestration, rhythm), and (c) requirements for public space improvement.

The boundaries of different zones of each document (The General Land Use Plan and Building Regulation Plan) are delineated taking into consideration several criteria and among them - the boundaries of cultural heritage and environmental protection zones defined by the appropriate state bodies. By law, when functional zones are overlapped by the zones of cultural heritage and environmental protection, the regulations of the latter two are enforced as a priority.

The legislation in spatial organization and town planning is defined sufficiently for effective management and development of the settlements; however the absence of the planning documentation for most of the settlements doesn't enable their organized development.

There are 69 municipalities in Georgia. The majority of these are small or medium-size towns up to 10.000 inhabitants. About 35 of these are historic towns were formed before the 19<sup>th</sup> century. The rest of the small towns had been developed in 19<sup>th</sup> century and only few – in 20<sup>th</sup> century. The small towns do not have adequate planning documentation. The master plans of Soviet period are long outdated. The radical difference of current political and economic organization of the country makes these plans inapplicable in practice.

At present only very few of these towns have new planning documents and only one of them - Abastumani has a full set of planning documentation required by the legislation (the General Land Use Plan of the Building Regulation Plan and Historical- Cultural Reference Plan). There are also several small towns (e.g. Mtskheta) which have cultural heritage protection zones defined and legally established, although this is hardly enough for regulating the complex urban activities within the historic areas. Some other towns (e.g. Signaghi, Telavi, Kutaisi) have cultural heritage protection zones defined, however these are not yet legally adopted.

## 2.9 Authorization/Consent Procedures

The conservation, rehabilitation and reconstruction works on listed properties, as well as construction, demolition, landscaping or placing temporary structures within the cultural heritage protection zones are subject to construction permit. The construction permit is not required for refurbishment, facing, equipping and repair works.

The procedure of granting the construction permit is divided in three stages: (1) Identification of town planning conditions, (2) Agreement of the architectural-construction project, and (3) Granting the construction permit. The entire procedure and related administrative work must be implemented in 60 days. The conditions and the rules for granting a construction permit are defined by the Law on the Control of Technical Threat, which replaced the Law on Construction Permits in 2010.

In towns and settlements the permit is granted by the local self-government, however there are other administrative bodies that participate in the first and second stages of the process:

- The Ministry for Economic Development (in recreational zones of the settlements of Gudauri, Bakuriani, Bakhmaro and Ureki and for the special building regulation zones on the territory of the town Borjomi);
- The National Agency for Cultural Heritage Preservation of Georgia
- The Ministry of Culture of Adjara autonomous republic (in cultural heritage protection zones in Adjara and the listed properties in Batumi);
- The Ministry of Environment Protection and Natural Resources (in the protected areas and in case when the Environmental Impact Assessment (EIA) is required by the law);
- The Monitoring and Prognoses Centre of the MoE (in coastal zones);
- The Border Police of Georgia (subordinate to the Ministry of Internal Affairs) in state border zones.

The permits for archaeological works, for cultural heritage listed properties are granted by the NACHPG. For the construction of objects of special national importance a permit is granted by the Ministry of Economy and Sustainable Development.

## 2.10 Legal Rights of the Private Sector

Since the independence from the Soviet Union in 1992 and the transfer from state Socialism to the free market economy the percentage of private owners in the field of cultural heritage has greatly increased. During the Soviet period the state used to own all such immovable properties as at that time the private ownership was largely not accepted. After the collapse of the Soviet regime the ownership was transferred to private ownership. In relation to cultural heritage these were mainly the housing stock in the historic districts and towns. As a result, the majority of the residential listed properties in historic town are privately owned by the physical persons or legal entities.

The relationship and obligations of the private owners of listed properties and the state is regulated by the Law on Cultural Heritage. According to the law the owner (legal user) of a listed property is obliged to sign an

agreement with the MoC concerning the maintenance of the listed property. The agreement shall secure the protection of the property from damage and destruction and preservation of its historical and cultural values. In Tbilisi, as an exception, the Mayor's office is also a party to this agreement. An owner is obliged to inform the MoC about changes of the condition of a property and its state of preservation, to prevent any unlawful influence, alteration, fragmentation, to give prior notice to the MoC in the event of alienation and inform the buyer on the status of the property.

So far this mechanism has not been effective as the necessary coordination among the state institutions is not yet achieved. For example, the National Agency for Public Registry does not have information on listed properties integrated in its database, thus it is not possible to verify the status of a

property and, in case the owner does not inform the buyer, there is no barrier to prevent alienation of the listed property. The owner may lack information on the status of its property as they are rarely informed when the property is granted a listed property status (see section 2.5). This issue is expected to be solved through implementation of the national database and signing of the memorandum with the Public Registry.

The rights and obligations of the Church as a private owner has to be discussed separately (see section 2.2). According to the Concordat the Church is the owner of the most listed properties in the country and should take care of its properties together with the State. Moreover the churches, as the places of worship, represent a specific type of cultural heritage: since the collapse of the Soviet regime the mass rehabilitation of the religious functions of these historic buildings, previously abandoned or converted into different uses, has taken place all over the country. These circumstances are to be considered in the process of elaboration of the specific rules for the maintenance and rehabilitation of these properties. Before such rules are laid down, the relationship between the Church and the State, with regard to the maintenance and rehabilitation of monuments, remains without specific regulation.

### **2.11 Financial Assistance**

The financing of cultural heritage is defined by the Law on the Budgetary System, 2004, the Law on the State Budget of Georgia, 2005 and the Tax Code, 2004.

These cultural and natural heritage properties are basically financed from the state budget through the programs of the respective ministries (the MoC and MoE). In addition to these programs, the state budget contains reserve funds for the Georgian President and the Parliament. The funds from these reserves are held for emergencies and are dispensed via the relevant ministries.

Since 2007 the restoration-conservation and research works on national monuments are free from VAT. So far this is the only incentive for rehabilitation of cultural heritage monuments in the country.

The policy on sponsorship and charity does not give special attention to cultural or natural heritage. There are 44 charity organizations in the country, which are principally focused on providing social services for the poor. Since 2005 the Tax Code has provided few incentives for such organizations; nevertheless often neither donors nor the beneficiaries are aware of these incentives (Civil Society Institute, 2007). There is a need to raise awareness of the potential donors and provide additional advantages that would encourage them to donate for cultural or natural heritage preservation.

The specific notice should be given to the Fund for Preservation and Rescue of Georgian Historical Monuments, which is the only privately funded donor organization active in cultural heritage field since 2004. The Fund has a greatest share in financing the restoration, inventory and rehabilitation of listed properties. In 2004-2014 the Fund financed more than 500 projects all over the country, among these 400 Orthodox churches (After the restoration most of these churches regained their function). The archaeological works have been implemented on the most important sites in Georgia and abroad (e.g. Ghalia Monastery in Cyprus). The Fund also provided financing to equip conservation research laboratories at the Restoration Faculty of the Academy of Fine Arts and the Nokalakevi museum-reserve. The Fund actively co-operates with the MoC, the National Agency for Cultural Heritage Preservation and the Patriarchate of Georgia to define the priorities and agree the annual list of monuments for rehabilitation.

### **2.12 Problems and Sanctions**

According to the Law on Administrative Infringements a person violating the rules in the fields of town planning, environmental and cultural heritage protection is to be punished and sanctioned. The major sanction is a fine, although the officials, physical persons and legal entities are sanctioned in different ways. A person who violates the conditions of construction permit, rules of maintenance of a listed property, etc. shall be given a notice or a fine equal to five times a minimum amount of a salary. This

amount shall be tripled every six month if the conditions of a fine are not eliminated. Apart from the fine a person may be required to reimburse the costs necessary to restore the damage caused by the violation.

The crime against cultural heritage and environment is also considered by the Criminal Code, which defines responsibilities for illegal archaeological works, damage and destruction of cultural heritage properties, violation of regulations of cultural heritage protection zones, violation of provisions on protection of cultural heritage in the event of armed conflict, etc. In these cases the sanctions are much stricter, e.g. the damage or destruction of a World Heritage Property shall be the subject of imprisonment up to 8 years.

In practice there is a big gap between committed and identified violations and crimes against cultural heritage. The lack of coordination between different responsible authorities and indifference of citizens towards the identification and eradication of such infringements and crimes results in the fact that the guilty persons are hard to identify and almost never punished.