

Law of Georgia on Labour Inspection

Chapter I: General Provisions

Article 1: Scope of the Law

The given law defines fundamental principles and basic areas of activity of the Legal Entity of Public Law – Labour Inspection Service, under the governance of the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia; it determines powers of the labour inspection service to ensure the effective application of labour provisions and other aspects related to execution of its powers.

Article 2. Legal Status of the Labour Inspection Service

The Labour Inspection Service is the legal entity of public law under the governance of the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia as established in accordance with the Law of Georgia on Legal Entities of Public Law. The Law of Georgia on Civil Service shall apply to the Labour Inspection Service.

Article 3: Definition of Terms

1. For the purposes of this law, the terms used therein shall have the following meaning:

- a) **Labour Legislation** – norms of the Constitution of Georgia, international treaties and agreements, Labour Code, Law on Labour Safety, law prohibiting trafficking – forced labour, Law on Civil Service, Resolutions of the Government of Georgia, the ministry's orders, any other normative act of Georgia related to labour rights and conditions, as well as individual labour agreements, collective agreements, and binding resolutions to collective disputes, whether mediated agreements or arbitration awards;
- b) **Ministry** – the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia;
- c) **Minister** – the Minister of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia;
- d) **Labour Inspection Service** – the legal entity of public law under the governance of the Ministry as established in accordance with the Law of Georgia on Legal Entities of Public Law;
- e) **Chief Labour Inspector** - the head of the Labour Inspection Service;
- f) **Labour inspector** – a person duly appointed as a labour inspector by the Chief Labour Inspector in accordance with the legislation of Georgia;
- g) **Code of conduct** – means the code of conduct of the labour inspectors approved by the Minister in accordance with this law;
- h) **Employer** – an individual or a legal entity and/or the association of individuals specified in the organic law of Georgia “Labour Code”, for which a certain work is carried out on the basis

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of a labor agreement. For the purpose of this law the term also includes the public institutions defined by the “Law of Georgia on the Civil Service.”

i) **Employee** – individual specified in the organic law of Georgia “Labour Code”, who carries out certain work for an employer on the basis of a labor agreement. For the purpose of this law the term also includes the civil servants defined by the “Law of Georgia on the Civil Service”.

j) **Workplace**– a specific place where the employee and other person directly carries out work related activity.

k) **Work area** – all the workplaces and related territories taken together, where the employee and other persons/s are present/move around for work-related purposes, and who directly or indirectly are under the control of an employer.

l) **Occupational disease** – acute or chronic disease of employee, which develops by hazardous or dangerous factors, limits their professional activity for short or long period of time, and is defined by the Georgian legislation.

m) **Interested Person** -employee whose right under the Labour Legislation was violated, or person who is employed by the same employer and who got aware about the fact of violation of Labour Legislation; trade union or public defender (ombudsman) of Georgia.

Chapter II - Main Provisions

Article 4. Legal Grounds for the Activities of the Labour Inspection Service

1. The Labour Inspection Service shall execute its activity in accordance with the Constitution of Georgia, the treaties and international agreements of Georgia, Organic Law the Labour Code of Georgia, Organic Law of Georgia on Labour Safety, the Law on Civil Service, the Labour Inspection’s statute and other legislative and subordinate normative acts.

2. The Labour Inspection Service shall execute its activities in line with the following principles:

- a) objectiveness and impartiality;
- b) legality;
- c) professionalism;
- d) confidentiality.

Article 5. Goals, Main Activities and Functions of the Labour Inspection Service

1. The purpose of the Labour Inspection Service is to ensure the effective application of the Labour Legislation.

2. To achieve this purpose, the Labour Inspection Service shall, among others, use the following mechanisms:

- a) The provision of information and/or consultations related to fulfillment of labour provisions, as requested;
- b) Raising awareness and provision of information to society to promote respect for Labour Legislation in Georgia, through campaigns and other means considered effective;
- c) Receiving and resolving complaints related to alleged violations of labour legislation;

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- d) Inspection;
 - e) Developing recommendations for improving Labour Legislation and the application thereof.
3. In performing its activities, the Labour Inspection service must use the powers under this Law in a manner that ensures the greatest possible impact on the effective application of the Labour Legislation.
4. The activities of the Labour Inspection Service do not apply to the Ministry of Internal Affairs, the Ministry of Defense, the Special State Protection Service, the State Intelligence Service, the Emergency Management Agency, the State Security service, and any entities under these institutions, if these issues are regulated by effective laws governing the respective entities.
5. This Law does not apply during emergency and martial law.

Chapter III – The Property, Structure and Activity of the Labour Inspection Service

Article 6. Property and Financing of the Labour Inspection Service

1. The Labour Inspection Service owns property in order to achieve its goals and perform its functions.
2. The Labour Inspection Service shall be funded from the following sources:
- a) targeted funds allocated from the State Budget of Georgia;
 - b) grants;
 - c) other income permitted by the legislation of Georgia.
2. The funds and income referred to this article shall be used solely for the achievement of the goals and the performance of the functions of the Labour Inspection Service.

Article 7. Structure of the Labour Inspection Service

1. The Labour Inspection Service shall be headed by a Chief Labour Inspector who shall be appointed by the Minister.
2. The Chief Labour Inspector shall have at least two deputies and one of them occupies the position of a first deputy,
3. The first deputy and deputy(ies) of the Chief Labour Inspector are appointed and dismissed by the Chief Labour Inspector.
4. Selection of the candidates on the positions of Chief Labour Inspector and deputies, shall be executed in accordance with the rules of simplified competition defined under the Law of Georgia on Legal Entities of Public Law.
5. In the case of the absence of the Chief Labour Inspector, the non-performance of powers by the Chief Labour Inspector, the termination of the Chief Labour Inspector, the powers of the Chief Labour Inspector shall be exercised by the first deputy Chief Labour Inspector and in the case of the absence of the first deputy – the deputy of the Chief Labour Inspector.

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6. The structure of the Labour Inspection Service, rules of administration of the Labour Inspection Service shall be defined by the statute of the Labour Inspection Service, which shall be approved by the Chief Labour Inspector.

7. State oversight of the Labour Inspection Service shall be performed by the Minister, which shall supervise the legality and efficiency of the activities of the Labour Inspection Service, as well as its financial and economic activities, and the Minister may suspend or cancel any unlawful decisions by the Labour Inspection Service.

Article 8. Chief Labour Inspector

1. The Chief Labour Inspector:

a) manages the Labour Inspection Service and makes decisions on matters within the scope of authority of the Labour Inspection Service;

b) based on the law, Statute of the Labour Inspection Service and other normative acts, issues individual legal acts including decisions, orders, instruction,

c) develops and submits to the Minister for approval the structure, structural units, staff list and authorities of the staff of the Labour Inspection Service. Within the Law of Georgia on Labour Remuneration in Civil Service, issues related to classification of the positions and labour remuneration of the labour inspectors shall be defined by the administrative act of the Chief labour Inspector.

d) appoints and dismisses labour inspectors and other employees of the Labour Inspection Service;

f) manages the funds and property of the Labour Inspection Service;

g) Subject to the law of Georgia on the Civil Service, the Chief Labour Inspector shall determine the qualifications for appointment as a labour inspector.

h) exercises other powers provided for by the statute of the Labour Inspection Service and the legislation of Georgia.

2. The Chief Labour Inspector shall appoint as many labour inspectors as necessary to secure the effective discharge of the duties of the Labour Inspection Service. During appointment of the Labour Inspectors, Chief Labour Inspector shall take into account the qualifications and gender factors. Where necessary, special duties may be assigned to women and men Labour Inspectors.

3. The Chief Labour Inspector shall ensure professional development, qualification improvement, professional training, including periodic training for Labour Inspectors.

4. The Chief Labour Inspector is entitled to cooperate with universities and professional colleges for the creation and development of training modules for labour inspectors.

Article 9. The Advisory Council

1. The Advisory Council is an authority with the Chief Labour Inspector that shall advice the Labour Inspection Service on its strategy, functioning and activities.

2. The Advisory Council shall consist of 7 members. Members are elected for not more than 2 years, with a maximum of two consecutive terms.

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3. The Advisory Council shall consist of :

- a) two members of the Tripartite Social Partnership Commission representing workers' organizations, to be nominated by all the members of the Tripartite Social Partnership Commission representing workers' organizations.
- b) two members of the Tripartite Social Partnership Commission representing employers' organizations, to be nominated by all the members of the Tripartite Social Partnership Commission representing workers' organizations.
- c) one member of the Health and Social Affairs Committee and one member of the Human Rights Committee of the Parliament of Georgia.
- d) One representative of the Office of the Public Defender;

4. The Advisory Council shall develop and by a majority of votes adopt its own rules of operation.

Article 10. Annual report

1. The Chief Labour Inspector shall submit an annual report on activities carried out by Labour Inspection Service to the the Advisory Council andParliament, no later than 6 months after the end of the year to which the report relates.

2. Labour Inspection Service Annual Report shall should cover, as a minimum, the following subjects:

- a. Laws and regulations relevant to the work of the inspection service;
- b. The strategy of the Labour Inspection Service;
- c. Staff of the labour inspection service;
- d. Statistics of workplaces liable to inspection;
- e. Statistics of inspection visits;
- f. Statistics of violations and penalties imposed;
- g. Statistics of industrial accidents; and
- h. Statistics of occupational diseases.

3. The annual report of the Labour Inspection Service is a public document and shall be accessible to all interested person.

4. The annual report of the Labour Inspection Service shall be heard at the Parliament of Georgia in accordance with Regulations of the Parliament.

Chapter IV – The Status of the Labour Inspector, Scope of the Activity and Legal Guarantees

Article 11. Status of the Labour Inspector and Scope of the Activity

1. Labour inspectors are civil servants (public officer/a person employed on the basis of an employment agreement) and they shall be appointed, and their status, social protection and guarantees, issues related to remuneration shall be defined, in accordance with the law of Georgia on the Civil Service and Law of Georgia on Labour Remuneration in Civil Service.

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2. The powers conferred on labour inspectors by this law shall be exercised:

- a) In a reasonable manner which takes into account the requirement of this law and the interests of the persons affected by the exercise of the powers;
- b) In the manner prescribed by the code of conduct.

3. The Labour Inspection Service shall ensure labour inspectors with health insurance at the labour inspection service expenses. Minimum coverage/conditions of the health insurance for labour inspectors are defined by the administrative act of the Chief Labour Inspector.

Article 12. Obstruction of labour inspectors

Liability for obstructing a labour inspector in the exercise of their functions under this law is defined by the Georgian legislation.

Chapter V – The Ground to Commence Inspection, Application and Enforcement of Labour Legislation

Article 13. The Ground to Commence the Inspection

1. The Labour Inspection Service executes Inspection:

- a) Based on the complaint filed by the Interested Person.
- b) Based on its initiative, in accordance with Resolution of the Government of Georgia on Approval of the Rules and Conditions for Entering and Inspection of the Inspection Object.
- c) Based on notification of any identifiable person related to violation of Organic Law on Labour Safety.

2. Decision on commencement of the inspection is made by the Chief Labour Inspector.

Article 14: Period to Review Complaint

1. The Labour Inspection Service shall decide on the use of administrative penalties defined in Article 20 of this law no later than two months from the date of receipt of a complaint. Considering the difficulty and circumstance of the case, based on a substantiated decision of the Chief Labour Inspector, the time limit for reviewing and resolving a complaint may be extended with one month.

2. If violation of Labour Legislation may hinder life and/or health of a person, the Labour Inspection Service, considering its capacity, shall immediately react on notification and complaint within its competence defined by the legislation of Georgia.

Article 15. Withdrawal of Information

1. Any State or Municipal organ, natural and/or legal person shall provide to the Labour Inspection Service, upon request, documents and information, including information containing professional secrets, personal data, including special categories of data that are necessary to conduct an Inspection. The Labour Inspection Service is entitled to request tax secret information from the tax body.

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2. Any State or Municipal organ, natural or legal person shall be obliged immediately to provide the Labour Inspection Service information and/or document requested.

Article 16. Rules to Conduct Inspection

1. In order to enter in a workplace or work area, a labour inspector shall show their identity card (which is given to him for exercising powers or performing functions) to:

- a. The employer, or their representative;
- b. The owner, occupier of the workplace or work area, or their representative,

2. For the purposes of Inspection, a labour inspector may:

- a) Enter freely and without previous notice at any hour of the day or night a workplace or work area liable to inspection in accordance with the Resolution of the Government of Georgia on Approval of the Rules and Conditions for Entering and Inspection of the Inspection Object.
- b) without previous notice, enter at any hour of the day or night, on the basis of a court order, any building/space which they may have reasonable cause to believe to be that there might be forced labour and/or labour exploitation;
- c) Direct that the workplace or work area or any part of it not be disturbed as long as it is reasonably necessary to inspect the workplace or work area;
- d) Search for and examine any book, material and/or object which is connected with possible administrative offence, and/or any information, document which the labour inspector reasonably believes is relevant for the inspection;
- e) For the purposes of inspection examine, make a copy or seize and/or seal any book, document, object or substance produced pursuant to this section. The procedures for seizure/sealing, including the timeframe therefore, shall be defined by a Ministerial act.
- f) Take a sample of any object, substance, material or atmosphere found;
- g) Take measurements, readings, recordings or photographs;
- h) Question any person at the workplace or in the work area, but without requiring any person to give information that may incriminate that person;
- i) Request to appear at the Labour Inspection Service and interview an employer, employee, or any relevant other person, on condition of confidentiality;
- j) Inspect or view any work place, work space, material, machinery, appliance, or any other equipment or tools;
- k) Require any person who has control over any book, document, object or substance, whether held at the workplace or in the work area or not, and which the labour inspector reasonably believes is relevant for the inspection to produce the book, document, object or substance and/or to explain any entry in the book or document, or on the object;
- l) Be assisted where necessary by a member of the Police, an interpreter or such other person with appropriate technical expertise as may be required by the labour inspector;
- m) Issue administrative acts, administrative protocol, impose administrative liability measures, and issue instructions as are provided for in this law or Organic Law of Georgia the Labour Code or the Organic Law of Georgia on Labour Safety.

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3. The Labour Inspector who seizes/seals a book, document, or object pursuant to the powers conferred by this Law, shall allow the person from whom the book, document or object is seized to make a copy or take a photograph of it.

4. The Labour Inspector shall form the protocol on any book, document or object seized and/or sealed, at the time the labour inspector seizes the book, document or object and provide it to the person mentioned in paragraph one of this Article.

5. During the period for which a labour inspector retains a book, document or object seized/sealed pursuant to the powers conferred by this Law, the labour inspector shall permit the person otherwise entitled to possession of the book, document or object, or a person authorised by that person, to inspect or make copies of such book, document or object at all reasonable times.

6. If a labour inspector exercises a power under this Law to take a sample of any atmosphere, material, object, or substance, the labour inspector shall notify the employer, the owner of the workplace, or the occupier or apparent occupier of the workplace, and provide them with a portion of the sample.

Article 17. Cooperation with public and municipal authorities

1. Provisions of Articles 15 and 16 related to withdrawal of information and conduct of inspection shall not apply to operational and investigative materials.

2. In circumstances defined in Articles 15 and 16, the Labour Inspection Service is allowed to withdraw information/documentation, related to public safety/crime prevention, crime investigation and criminal prosecution, in accordance with the legislation of Georgia.

3. Inspection activities as defined in Articles 15 and 16, in the state secret bodies (including bodies containing NATO classified information registry/sub-registry), withdrawal of information and/or documentation, using photo-video equipments during inspection, are allowed only upon approval of the state secret body.

4. Access of the Labour Inspection Service to the information containing state secret is regulated by the legislation of Georgia on state secret.

5. Labour Inspection Service is authorized to enter into any form of cooperation with any public and municipal authority of Georgia.

6. Labour Inspection Service may, in exceptional situations and where considered necessary, conduct joint inspections in cooperation with relevant other supervisory public and municipal authorities of Georgia.

7. If, in the process of an inspection, the Labour Inspection Service considers that there are grounds to suspect an offence or crime may have been committed which falls outside the purview of its authority, it is obliged to report this, in writing, to the relevant public and/or municipal authority in charge, immediately after becoming aware of the possible offence or crime.

8. The rules for coordination and functioning of the Labour Inspection Service and investigative bodies, including information exchange, may be defined by the joint orders of

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the Minister of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia and authorised person of the relevant body.

Chapter VI – Conflict of Interest and the Principle of Confidentiality

Article 18. Conflict of Interest

1. A Labour Inspector must not have any direct or indirect proprietary or private interest in any object of the inspection. The Labour Inspector shall immediately notify their direct supervisor concerning any such interest. Issues related to conflict of interest are defined by the Law of Georgia on Conflict of Interest and Corruption in Public Institutions.
2. A labour inspector who violates paragraph one of this Article shall be removed from office and liability under Georgian legislation may be imposed.

Article 19. Confidentiality

1. Except for as defined by legislation, a labour inspector must not, even after termination of their employment with the Labour Inspection Service, divulge any information coming to their knowledge in the course of their employment. The Labour Inspector shall be held liable in accordance with Georgian legislation in case of violation of this requirement.
2. A labour inspector shall not disclose, except to a superior officer, the source of any complaint received by the labour inspector during the course of their employment.
3. The confidentiality of a complaint and/or interview of a person is guaranteed. The Labour inspectors, and all staff of the labour inspection service, shall treat as absolutely confidential the identity of a person questioned by the Labour Inspector and/or the source of any complaint.
4. The identity of a person interviewed by the Labour Inspector and/or who submitted a complaint may only be disclosed if the person consents, or in cases determined under Georgian legislation.
5. A labour inspector shall treat as confidential any information obtained in the exercise of powers conferred by this law, and may only disclose it to interested authorities if valid ground for such disclosure exists.
6. A labour inspector who violates given Article shall be removed from office or disciplinary liability may be imposed.

Chapter VII – Administrative Liability for Violation of Labour Legislation and Rules of Appeal

Article 20. Administrative Liability

1. Liability for violation of Labour Legislation is defined by:
 - a) Organic Law on Labour Safety;
 - b) Organic Law the Labour Code of Georgia;.

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2. Issues related to liability for violation labour safety norms are regulated by the Organic Law of Georgia on Labour Safety or other special laws. Questions not governed by the Organic Law of Georgia on Labour Safety or by other special law shall be regulated by this chapter.

3. The following administrative penalties can be used for violating labour provisions:

- a. Warning;
- b. Fine;
- c. Suspension of the work process.

4. The Labour Inspection Service shall have discretionary power in deciding when and what penalties and sanctions may be applied with the Labour Code and Organic Law on Labour Safety. Administrative penalties applied shall be proportionate to violation of labour provisions.

5. When applying administrative penalties provided by subparagraphs (a) or (b) or (c) of paragraph 3 of this article, the Labour Inspection Service shall issue an instruction on the violations identified by the Labour Inspection Service to be corrected within reasonable time period.

6. The time considered reasonable for correcting the identified violations shall be defined by the Labour Inspection Service, after consultation with the employer and the employees' association (where such exists) and/or the employee representative (where such exists) and shall be included in the relevant protocol, signed by the Labour Inspection Service and the employer. Refusal by the employer to sign the protocol shall be noted in the protocol by the Labour Inspection service with the reasons for the refusal, but shall not invalidate the protocol.

7. After the expiry of the time defined by the instruction of the Labour Inspection Service, the Labour Inspection Service checks the offender and the document of the check is made. The document of the check will contain the factual conditions related to instruction, in particular:

- a) The instruction was fulfilled;
- b) The instruction was not fulfilled.

8. If the violation is not redressed within the time indicated in the instruction, the Labour Inspection Service decides on using administrative penalty defined in subparagraph (b) of the paragraph 1 of this article and to issue additional reasonable period for the implementation of the instruction to redress the violation.

9. On the cases of administrative violations indicated in this law, the Labour Inspection Service issues relevant administrative-legal act, which is immediately transferred to the interested party. If the administrative-legal act cannot be handed over to the identified party, the rules defined under Article 18(8) of the Organic Law on Labour Safety shall apply.

10. In case the perpetrator does not pay the imposed fine within the timeframe as established, the Labour Inspection Service will impose further additional penalty in the amount equal to

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double of the initial fine. If the fine and/or additional penalty are not paid within 30 days, compulsory execution according to the law of Georgian on 'Enforcement Proceedings' will take place.

11. Imposition of administrative fine does not release an employer from the implementation of other regulations imposed by the legislation of Georgia.

12. The use of administrative penalty stipulated in subparagraph "c" of paragraph 3 of this article is limited only to violations of labour provisions related to child labour and/or forced labour, notwithstanding any authority accorded to the Labour Inspection Service to suspend operations under any other Laws or regulations.

13. Issues related to the administrative offence proceedings are also regulated by the Administrative Offence Code of Georgia, unless otherwise provided by this law.

Article 21. Rules for Appeal

1. The decision on the administrative offences considered in this chapter is made by the Labour Inspector. Such decision can be appealed in accordance with the legislations of Georgia, with the Court.

3. The form, rules of completion and submission of the protocols on the administrative offences considered in this chapter are defined by the administrative act of the Minister.

Chapter VIII - Transitional and final provisions

Article 22 - Transitional provisions

1. The Minister shall, before 1 January 2021, appoint the Chief Labour Inspector.

2. The Minister shall call the first meeting of the Advisory Council within 3 months after appointment of the Chief Labour Inspector.

3. The Ministry shall, before 1 January 2021, approve:

a) the statute of the LEPL Labour Inspection Service.

b) the code of conduct.

4. Before 1 January 2021, re-organization shall be carried out in the Ministry of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs of Georgia and functions and powers of the Department of Labor Conditions Inspection shall be granted to the Legal Entity of Public Law- the Labor Inspectorate

5. Legal Entity of Public Law- the Labor Inspectorate shall be deemed as a successor to the Ministry of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs of Georgia within the framework of powers granted to the Department of Labor Conditions Inspection.

6.If necessary, before entering this law into force, Legal Entity of Public Law- the Labor Inspectorate shall ensure transfer of employees of the Ministry of Internally Displaced

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Persons from the Occupied Territories, Labor, Health and Social Affairs of Georgia on the relevant positions without competition.

7. Legal acts issued by the Department of Labor Conditions Inspection of the Ministry of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs of Georgia shall retain the legal force.

8. Within 10 business days after entering this law into force, the Ministry of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs of Georgia shall create relevant commission, which shall determine and dispose assets and current obligations transferrable to Legal Entity of Public Law- the Labor Inspectorate, as well as, working documentation, including, relevant archive material and other documentation and property necessary for functioning of the Labor Inspectorate within the period of time defined by it. Other liabilities of afore-mentioned commission are determined by the decree of the Minister of the Ministry of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs of Georgia

9. Before 1 January 2021, for the purpose of compliance with this law, the Ministry of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs of Georgia shall ensure preparation of the relevant statutory acts and carrying out events necessary for their adoption.

Article 23. Enactment of the Law

This law shall enter into force upon promulgation.

President of Georgia

Salome Zurabishvili