

Changes to the Rule of Labor Remuneration in Public Institutions



On 29 September of the current year, the government submitted a [draft law](#) on “Remuneration in Public Institutions” to the Parliament of Georgia. The author of the draft law is the Civil Service Bureau. Initiation of the draft law should have taken place by 1 September 2016, as per the obligation under the Law of Georgia on Public Service. For the given moment, the draft law has been adopted by the first hearing.

In case of being adopted, the law will be unprecedented for the Georgian legislative system - this is the first attempt to define a uniform system of remuneration for all public institutions of the country. The main purpose of the draft law is to deal with and regulate fragmented and often vague principles of labor remuneration, **to eliminate the practice of unlimited and uncontrolled distribution of bonuses and supplements to officials.**

The purpose of the law is undoubtedly well justified. In the present report, we will describe the main changes proposed by the draft law. We will also present remarks and opinions on the factors that may prevent the law from achieving set goals.

1. Areas regulated by the law

The draft law firstly regulates **remuneration of persons employed in public institutions**; in addition, it sets the maximum number of persons that can be employed **on the basis of administrative and labor contracts (non-staff employees)**. It also regulates other related issues, including remuneration of persons working in non-standard hours and periods, as well as of the persons working in hard conditions.

2. To whom will the law apply?

2.1 General application of the law

The law applies to all the persons employed in public institutions,¹ including:

- Persons holding state-political offices (the President, the Prime Minister, Minister)
- Political officials (Governor, Mayor of a municipality, Chair of a City Council)
- Professional civil servants (permanent employees)
- Persons employed on the basis of administrative contracts (advisors to state-political officials, assistants and etc.)
- Persons employed on the basis of labor contracts (non-staff employees)
- Legal entities of public law and non-entrepreneurial (non-commercial) legal entities;

Meantime, it should be noted that the law will apply to state-political and political officials referred to in lines 1 and 2 of the list starting from 2021.

Regardless of the fact that the law should apply to all the persons employed in public service as defined by the Georgian legislation, **the draft law includes a long list of exceptions to the general rule.**

2.2 Exceptions to the general rule

Congruent to the draft law, it does *not apply* to the following civil servants:

- servants of **Ministry of Internal Affairs and the Ministry of Finance** with military or special rank, servants of the **Georgian Intelligence Service**, servants of the Special State Protection Service of Georgia with special or military rank, servants of the Ministry of Defense with special or military rank, servants of the General Staff of the Armed Forces and the Georgian Ground Troops;
- servants of the **Ministry of Corrections and Probation** with special and military rank and those employees, who mainly have to operate in penitentiary establishments;
- Servants of the **State Security Service** with military and special rank;

For the above-listed parties, the law does not set an upper limit (cap) on monetary rewards and supplements. The law does not apply either to:

- Servants of national regulatory authorities;
- Servants of the National Bank;
- Members of the Constitutional Court;
- Judges of the Common Courts;
- Members of the Supreme Council of Justice;
- Prosecutors and investigators of the Prosecutor's Office;
- Notary Chamber, except of the members of its Board;
- Employees of the Public Broadcaster;
- Membership-based (except of budgetary organizations), cultural, educational, scientific-research, sports and religious legal entities of public law and persons employed at cultural, educational, research, sport and religious non-commercial legal entities.

In our opinion, inclusion of such a long list of LEPLs and non-profit legal entities in exceptions may pose problems, as there is a danger that the list will cover a large part of non-commercial legal entities, financed by the municipalities (we have [repeatedly](#) talked about the problem of increased expenses and violation of limits set on the number of staff in these entities). For instance, if we take the example of only one city, out of 15 non-profit organizations financed from Kutaisi budget in 2017, 8 fall in the list of exceptions.

¹ Under the draft law, public institution bears the same meaning as a budgetary organization under the "Budget Code";

The law does not apply either to those employees of public institutions, whose **remuneration is calculated based on the scale / cost of completed work** (hours of work, service fee and so on). It also does not apply to those employees who get remunerated on the basis of **a grant or international agreement**. The law does not apply to employees, who represent Georgia in foreign countries or international organizations on the basis of the **“Law on Diplomatic Service”**.

3. Labor remuneration

As mentioned above, labor remuneration is the main focus of the law; remuneration consists of the **salary**, as well as the **salary supplement, rank-based supplement** and **monetary reward**² in cases defined by the law. Let us consider the listed components one by one.

It should be noted that in the process of passing the reform, the **draft law prohibits all public institutions to increase remuneration pool for 2018-2020 and obliges them to maintain it at the level set for 2017**. The pool may be increased just with the consent of the Finance Minister, in the process of reviewing the budget draft before the start of the budget year.

3.1 Salary

The main novelty about the draft law is introduction of the new rule for salary calculation. For calculating amount of salary for a specific position, the draft law imposes two new instruments - **coefficient** and **base salary**. Salary for a specific position is calculated by the following formula:

$$\text{Salary} = \text{coefficient} \times \text{base salary}$$

3.1.1 Base salary

Base salary shall be revised every year based on the Budget Law and shall be expressed in nominal terms, in the national currency. According to Article 21.2 of the draft law “On the State Budget of Georgia for 2018”, the base salary is determined by the amount of 1000 GEL. It means that in 2018 budget year, base salary will be 1000 GEL. As a result, the above-given formula will look as follows for 2018: **Job salary = coefficient X 1000 GEL**.

3.1.2 Coefficients and their distribution by positions

The coefficients are separately determined for each position. They are expressed in numbers and vary by positions from 0.10 to 10.0. Values of coefficients are defined by the [appendices](#) of the draft law, which include a table of coefficients for all the positions covered by the draft law.

Below is a table from Annex N1 of the draft law, which presents the coefficients for professional civil servants.

² In 2015, under the new law “on Public Service”, the term premium has been replaced by “cash award”.

Table N1

Grade	Hierarchy of positions	Description of the position	Categories of coefficients for positional salaries									
			1	2	3	4	5	6	7	8	9	10
1	1	Head of primary structural unit of a public institution	2.00	2.20	2.50	2.80	3.30	3.80	4.40	5.00	5.60	6.00
2	2	Deputy head of a primary structural unit of a public institution	1.60	1.80	2.00	2.20	2.50	2.80	3.20	3.60	4.00	4.50
2	3	Head of secondary structural unit of a public institution	1.40	1.60	1.80	2.00	2.20	2.50	2.80	3.10	3.50	4.00
3	4	First category senior specialist of the public institution	1.30	1.50	1.70	1.90	2.10	2.30	2.40	2.50	2.60	2.80
3	5	Second category senior specialist of the public institution	0.90	1.00	1.10	1.20	1.30	1.40	1.60	1.80	2.00	2.20
3	6	Third category senior specialist of the public institution	0.75	0.80	0.85	0.90	0.95	1.00	1.20	1.40	1.60	1.80
4	7	First category junior specialist of the public institution	0.65	0.70	0.75	0.80	0.85	0.90	1.00	1.15	1.30	1.50
4	8	Second category junior specialist of the public institution	0.55	0.60	0.65	0.70	0.75	0.80	0.85	0.90	1.00	1.20
4	9	Third category junior specialist of the public institution	0.45	0.50	0.55	0.60	0.65	0.70	0.75	0.80	0.90	1.00

The first column of the table lists four grades of positions, as defined by the “Law on Public Service” for civil servants. The second and third columns provide 9 positional hierarchies, assigned to these four grades. Distribution by grades is carried out based on 24 April 2017 Decree of the Government on [„the rule of listing positions of professional civil servants and assignment to hierarchical grades”](#). The decree sets clear criteria for assigning positions to specific grades. It also outlines requirements, responsibilities and etc.

Grading of public positions in the hierarchy is important for purposes of this law, since it reflects whether the system of coefficients is equitably defined. The draft law explicitly imposes the obligation of fair remuneration: *“The system of remuneration is based on the principles of equality and transparency, which means equal pay for equal work in accordance with pre-established rules.”*

Let us briefly review the rationale of coefficient distribution at the example of table 1. As the table shows, we have two-dimensional distribution of coefficients; they are increasing vertically - from low to higher hierarchies, as well as from left to right – i.e. within the hierarchy, with increase of categories.

In vertical distribution, along with increase of positional hierarchy, we observe increase of coefficients, which is quite logical, as higher hierarchy position implies greater responsibilities, difficult tasks and etc. Consequently, higher rank positions should be better remunerated. However, the explanatory note does not state whether functional workload of each position has been analyzed and whether specific values of the coefficients have been defined accordingly. Comments with regard to fairness of the coefficients were expressed at the parliamentary hearings as well.³

Horizontal distribution of coefficients implies their distribution within the hierarchy, between the categories from 1 to 10; the difference between the categories may be substantial. For instance, in table 2, coefficient of the first category position in the 1st hierarchy (coefficient 1.00) is 3.5 times higher than the coefficient of the 10th category position (3.50) in the same hierarchy. It gives a significant difference and proportionately affects the amount of salary.

³ Notes on the draft law, notes N2 and N6, <https://info.parliament.ge/file/1/BillPackageContent/5560?>

In this case, in contrast to the vertical distribution, we are talking about the positions that are assigned to one and the same hierarchy by [the decree of the Government](#).⁴ A wide range of coefficients within the hierarchy may serve as a flexible tool for a decision-maker to encourage achievement of public goals, but there is a high risk of its misuse: while the rule of job grading and distribution in hierarchies is established by the Government, **the decision on assigning categories from 1 to 10 is up to an “authorized official”, who is guided by one general criterion – to select coefficient “for each grade/position based on the functional workload”⁵, which grants unreasonably broad discretion and undoubtedly, poses risk of misuse.**

It is noteworthy that we do not observe similar problems with distribution of coefficients in the categories of high-rank officials. As we can see from tables 3 and 4 of the [annex](#), categories are not considered for such positions and coefficients are rigidly defined⁶.

The described rule of salary calculation is common for all public positions to which the draft law applies; though [coefficients](#) vary by different grades/positions.

3.1.3 Exceptions to the rule of salary calculation

The draft law provides for cases when a salary of a civil servant employed on the basis of an **administrative and labor contract** may exceed the salary defined by the general rule. In this case, an authorized person should submit a duly justified request to the Ministry of Finance⁷. The Ministry decides whether to grant an exception. It is noteworthy that temporary staff is employed in public institutions by labor contracts.

3.2 Salary supplement, monetary reward, rank-based supplement

Under the new Law on Public Service adopted in the previous year, the term “bonus” has been replaced by the new term “monetary reward”. Specific definition of the new term should be provided by the law on “remuneration in public institutions.” One of the most important components of the law is regulation of this issue. The draft law defines salary supplement, monetary reward and rank-based supplement in the following manner:

3.2.1 Monetary reward

The draft law provides the following definition: “by the Law of Georgia on Public Service, a performance-based incentive for a servant as well as an incentive for employees of public institutions (other than servants) for outstanding and excellent performance of assigned duties, for long-term and honorable service and/or for performance of a particularly complex or important task”.

As the definition implies, monetary reward may be given to *a professional civil servant* based on appraisal of his/her performance, as provided by Article 53 of the Law on Public Service. Relevant procedures are thoroughly outlined in the Government’s Decree on [„approval of the rule and conditions for civil servants’ performance appraisal”](#). The results of the appraisal will determine disbursement of the monetary reward to the servant.

Unlike professional civil servants, performance appraisal envisaged by the Law on Public Service does not apply to other officials, employees on administrative or labor contracts, employees of LEPLs and non-profit legal entities. Accordingly, disbursement of a monetary reward depends on the sole discretion of the head of the institution or a superior official⁸.

⁴ According to the resolution, when distributing positions in the hierarchy, importance of each position is assessed based on the following factors: responsibilities, complexity of tasks, competences, necessary qualifications, work experience;

⁵ Article 5 (3) of the draft law;

⁶ It is noteworthy that the positions envisaged by tables 3 and 4 are assigned coefficients of upper (salary) limit. It allows to apply lower coefficients;

⁷ In case of an autonomous republic, with its government;

⁸ For those officials, who do not have superiors, decisions on disbursement of monetary reward are adopted but the officials themselves.

An important novelty about the draft law is setting of the upper limit on monetary rewards for all the persons covered by the law: the total amount of monetary reward received by a public employee per year **shall not exceed 10% of the annual salary defined for that person’s grade/position.** Monetary reward above the set limit may be granted in exceptional cases by decision of the government.

3.2.2 Salary supplement

The draft law provides the following definition: “the amount of money paid for overtime work and/or performance of additional functions by an employee of a public institution, including for work performed at night, on holidays and in hard working conditions.”

In case of officials covered by the law, the upper limit of the supplement shall be defined by the superior political official/body, if any.

According to the law, the upper limit shall be defined in the following manner: **amount of one-time supplement shall not exceed one month salary set for a specific position whereas total amount of the supplements disbursed over a year shall not exceed 20% of the annual salary amount.**

3.2.3 Rank-based supplement

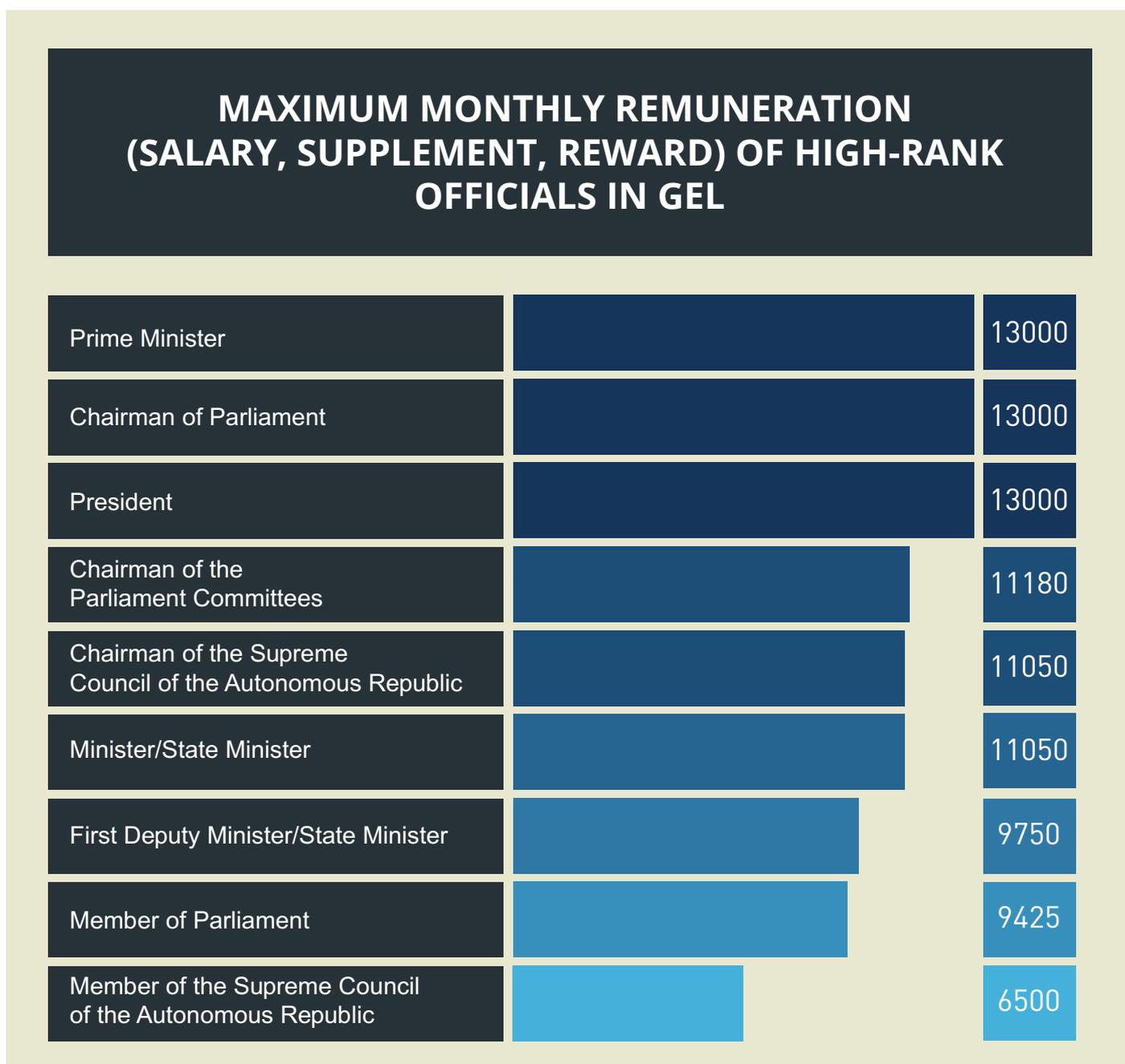
Rank-based supplements are intended just for professional civil servants based on the ranks of the servants, as defined by the Law of Georgia on Public Service. Ranks are assigned on the basis of performance appraisal⁹; ranks cannot be cancelled, an official retains rank-based supplement even after his/her transfer to another position. In total, there are 12 ranks, the draft law determines the amount of supplement for each rank:

Tale N2

Rank	1	2	3	4	5	6	7	8	9	10	11	12
Rank-based supplement	1%	2%	3%	4%	5%	6%	7%	8%	9%	10%	12%	15%

⁹ The rule of assigning ranks is defined by 28 April 2017 decree of the Government on “rules and conditions of assigning ranks to professional civil servants”;

Diagram 1. Maximum monthly remuneration of high-rank officials envisaged by the draft law.



4. Maximum number of employees on administrative and labor contracts

The number of employees on administrative contract cannot exceed 10% of the total staff of the public institution; exceptions may be applied by decision of the public institution in agreement with the Civil Service Bureau and the Ministry of Finance of Georgia.

The above-mentioned restriction does not apply to persons employed on administrative contract in representative authorities (Parliament, Sakrebulo).

The number of civil servants employed in a **public institution by a labor contract cannot exceed 5% of the total staff.**

According to the draft law, exceptions to the given rule shall be determined by the annual law on the state budget and the Georgian legislation. According to the [draft law](#) “on the State Budget of 2018”, exceptions to the restriction may be applied in agreement with the Government of Georgia; In case of municipalities, except of Tbilisi, exceptions may be applied in agreement with Municipality Sakrebulo. In case of Tbilisi and Autonomous Republics, exceptions shall be determined in agreement with the relevant executive authorities.

Till now, restrictions on non-staff employees used to be imposed on budgetary organizations by the Budget Law of the relevant year; the given restriction constituted 2%. Exceptions to 2% could be applied only with the consent of the government. According to our 2015 [research](#), 61 out of 79 budgetary organizations had secured consent of the government on increase of the limit; overall, in 2013-2015, the government has issued up to 170 degrees on granting of consent to the budgetary organizations on increase of law-stipulated limits. Meantime, the decrees did not justify necessary of increasing set limits. As the research showed, in fact, **the limits imposed by the Budget Law set no barriers for budgetary organizations.**

3. Conclusion/recommendation

The new rule of determining remuneration is undoubtedly a step forward. The new legal framework brings along the possibility of establishing improved standards of transparency, legality and equality.

While the draft law simplifies terms on increase of remuneration for certain positions, it sets limits on increase of the remuneration fund for 2018-2020, **implying that the total expenditure will be maintained at the same level as it was in 2017.**

We undoubtedly welcome setting of upper thresholds and strict regulation of salary supplements, monetary rewards and rank-based supplements.

Despite the positive changes, the draft law contains certain ambiguous provisions that need to be improved to provide for its effective implementation, in particular:

- We could not get justification for the fact that the law will apply to political officials just from 2021 while it will come into force for all other positions from 1 January 2018;
- Distribution of categories within positional hierarchies needs to be brought in a normative framework in order to eliminate possibilities of misuse due to excessive discretion;
- The Ministry of Finance approves exceptions to remuneration of employees on labor and administrative contracts. It is not quite clear what criteria the Ministry will use for issuing its approval; in addition, it may not be appropriate, for example, for the Parliament of Georgia to agree the remuneration cases with the Ministry of Finance;
- Criteria for granting coefficients need to be thoroughly outlined; it is not quite clear from the explanatory note whether each individual position has been analyzed for functional workload and whether specific value of each coefficient has been defined accordingly;

In public institutions, exceptions to the maximum number of temporary staff should be granted by the government, though it not clear what criteria the government should use for granting the permission. Out of 78 budget organizations we [studied](#) in 2015, 61 had obtained such approval; in the period of two years, the government has issued up to 170 permits on increase of set limits. Without well-documented procedures, the set limits may not be effective.

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