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საქართველოს საელჩო ავსტრიის რესპუბლიკაში
საქართველოს მუდმივი წარმომადგენლობა ეუთო-სა და ქ. ვენაში
განლაგებულ საქართველოს ორგანიზაციებთან

BOTSCHAFT VON GEORGIEN IN DER REPUBLIK ÖSTERREICH
STÄNDIGE VERTRETUNG VON GEORGIEN BEI DER OSZE UND ANDEREN
INTERNATIONALEN ORGANISATIONEN IN WIEN

EMBASSY OF GEORGIA TO THE REPUBLIC OF AUSTRIA
PERMANENT MISSION OF GEORGIA TO THE OSCE AND OTHER
INTERNATIONAL ORGANISATIONS IN VIENNA

N: 8/39-47

NOTE VERBALE

The Permanent Mission of Georgia to the Organization for Security and Co-operation in Europe (OSCE) presents its compliments to the Missions/Delegations of participating States to the OSCE and to the Conflict Prevention Centre and has the honour to convey Georgia's Annual information Exchange on the Implementation of the Code of conduct on Politico-Military Aspects of Security.

The Permanent Mission of Georgia to the OSCE avails itself of this opportunity to renew to the Missions/Delegations to the OSCE and to the CPC the assurances of its highest consideration.

Vienna, 1 November, 2010



To: OSCE Delegations and Missions
Conflict Prevention Centre

QUESTIONNAIRE ON THE CODE OF CONDUCT ON POLITICO-MILITARY ASPECTS OF SECURITY

Section I: Inter-State elements

1.1

Georgia is part to the following universal, regional, sub-regional and bilateral agreements and arrangements on preventing and combating terrorism:

UN Conventions

1. **Convention on Offences and Certain Other Acts Committed on Board Aircraft**, signed at Tokyo on 14 September 1963 (Tokyo Convention) – acceded on 07.12.1993;
2. **Convention for the Suppression of Unlawful Seizure of Aircraft**, signed at The Hague on 16 December 1970 (The Hague Convention) – acceded on 07.12.1993;
3. **Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation**, concluded at Montreal on 23 September 1971 (Montreal Convention) – acceded on 07.12.1993;
4. **Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents**, adopted in New York on 14 December 1973 – approved on 24.09.2003;
5. **International Convention against the Taking of Hostages**, adopted in New York on 17 December 1979 – approved on 24.09.2003;
6. **Convention on the Physical Protection of Nuclear Material**, adopted at Vienna on 3 March 1980 – ratified on 07.06.2006;
7. **Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation**, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 24 February 1988 – acceded on 25.11.1998;
8. **Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation**, done at Rome on 10 March 1988 – ratified on 07.06.2006;
9. **Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf**, done at Rome on 10 March 1988 – ratified on 07.06.2006;
10. **Convention on the Marking of Plastic Explosives for the Purpose of Detection**, done at Montreal on 1 March 1991 – ratified on 11.02.2000;

11. **International Convention for the Suppression of Terrorist Bombings**, adopted in New York on 15 December 1997 – approved on 24.09.2003;

12. **International Convention for the Suppression of the Financing of Terrorism**, adopted in New York on 9 December 1999 - ratified on 07.06.2002;

13. **International Convention for the Suppression of Acts of Nuclear Terrorism**, adopted in New York on 13 April 2005 – not signed, the procedure of accession is ongoing.

CoE Conventions

1. **European Convention on the Suppression of Terrorism**, concluded at Strasbourg on 27 January 1977 – ratified on 27.09.2000;

2. **Protocol Amending the European Convention On the Suppression of Terrorism**, concluded at Strasbourg on 15 May 2003 – ratified on 26.10.2004;

3. **Council of Europe Convention on the Prevention of Terrorism**, concluded at Warsaw on 16 May 2005 – signed on 14.12.2005, the procedure of ratification is suspended;

Bilateral Agreements

1. Agreement between the Government of Georgia and the Government of the Republic of Turkey on cooperation in the field of security – signed at Ankara (Turkey) on January 13, 1994.

2. Agreement between the Government of Georgia and the Government of the Republic of Uzbekistan on cooperation in the fight against crime – signed at Tashkent (Uzbekistan) on September 4, 1995.

3. Agreement between the Executive Authority of Georgia and the Government of the Arab Republic of Egypt on cooperation in the fight against crime – signed at Cairo (Egypt) on June 3, 1999.

4. Agreement between the Government of Georgia and the Government of the Republic of Latvia on joint fight against terrorism, illicit drug trafficking and organized crime – signed on October 26, 2001.

5. Agreement between the Government of Georgia and the Government of Romania on cooperation in the fight against terrorism, organized crime, illicit trafficking of drugs, psychotropic substances, precursors and other serious crimes – signed at Bucharest (Rumania) on May 14, 2004.

6. Agreement between the Government of Georgia and the Government of the Republic of Kazakhstan on cooperation in the fight against terrorism, organized crime and related matters, illicit trafficking of drugs, psychotropic substances and precursors – signed at Astana (Kazakhstan) on March 31, 2005.

7. Agreement between the Government of Georgia and the Government of the Republic of Poland on the co-operation in the fight against organized crime and other types of crime – signed at Tbilisi (Georgia) on May 31, 2007; not in force.

Multilateral Agreements

1. Agreement between the Republic of Azerbaijan, Georgia and the Republic of Turkey on cooperation in the fight against terrorism, organized crime and other serious crimes – signed at Trabzon (Turkey) on April 30, 2002.
2. Agreement among the Governments of GUAM Participating States on cooperation in combating terrorism, organized crime and other serious crimes – signed at Yalta (Ukraine) on July 20, 2002.
3. Additional Protocol on combating terrorism to the Agreement among the Governments of the Black Sea Economic Cooperation (BSEC) Participating States on cooperation in combating crime, in particular in its organized forms – signed at Athens (Greece) on December 3, 2004.

1.2

On June 27, 2007 Parliament of Georgia passed the Law of Georgia on “Combating Terrorism”. The law defines the legal basis of combating terrorism, forms of organizing combat against terrorism in Georgia, as well as the rule of coordination of governmental agencies in the field of combating terrorism, and the grounds of participation of public unions, organizations, government officials and citizens in combating terrorism, their rights, obligations and their social protection guarantees.

Amendments have been made to Criminal Code of Georgia, in particular, a new chapter has been added encompassing all forms of terrorism activities. These, *inter alia*, include: technological terrorism, cyber terrorism, formation of terrorist organization or leading thereof or participation therein, seizure of hostage for terrorist purposes etc.

1.3

The Article 4 of the abovementioned law sets forth the governmental agencies, which exercise combat against terrorism. These agencies are as follows:

1. Ministry of Internal affairs of Georgia, being the key agency in governmental system exercising combat against terrorism;
2. Ministry of Defense of Georgia;
3. Foreign Intelligence Special Service of Georgia;
4. State Protection Special Service of Georgia.

On the basis of Articles 4 and 26 of the Law of Georgia on “Combating Terrorism”, President of Georgia issued the order, which approved “the rule of organizing overall counterterrorist activities in the country and coordination of activities of agencies in combating terrorism”.

According to the rule, the overall organization and coordination of counterterrorist activities in the country are exercised by the Counterterrorist Center of the Ministry of Internal Affairs of Georgia.

The Instructions and requests of Counterterrorist Center are obligatory and must be observed by any agency.

Governmental agencies are obliged to submit to the Counterterrorist Center any information in accordance with “the List of Information ensuring overall counterterrorist activities”.

During conducting special (operational, operational-technical) and operational-investigative measures of counterterrorist activities the Counterterrorist Center and other agencies are authorized to use potential, property or material-technical base of other governmental agencies in accordance with the rules provided by legislation.

With the aid of the Minister of Internal Affairs of Georgia the Director of the Counterterrorist Center shall submit to the President of Georgia report on the counterterrorist activities conducted in the country.

1.4

I. Introduction

Deriving from the international agreements and treaties to which Georgia is the contracting party, the Government took relevant steps for the criminalization of crimes relating to terrorism in order to ensure the observance of public security and order, strategic, political and economic interests of the State. For that reason, the Criminal Code of Georgia contains separate Chapter in relation to crimes of terrorism. The present paper is drafted in accordance with the national legislation of Georgia emphasizing novelties in criminal legislation.

II. Criminalization of Terrorist Act and Technological Terrorism

With respect to the national legislation of Georgia in relation to terrorism, it is worthy to note that the terrorism and its relevant crimes have been criminalized under the Georgian criminal legislation. In particular, the terrorist act is defined as a crime under Article 323 of the Criminal Code of Georgia.

The abovementioned Article prescribes that:

1. "Terrorist act, i.e. explosion, arson, application of arms or any other action endangering the lives of people, causing sizable property damage, or any other grave consequence and undermines public security, strategic, political or economic interests of the state, perpetrated to intimidate the population or put pressure upon a governmental body,- shall be punishable by deprivation of liberty ranging from ten to fifteen years in length.
2. The same action committed:
 - a) by group;
 - b) repeatedly;
 - c) by using weapons of mass destruction,- shall be punishable by deprivation of liberty ranging from twelve to seventeen years in length.
3. The action referred to in Paragraph 1 or 2 of present Article that entailed death of persons or has given rise to any grave consequence,- shall be punishable by deprivation of liberty ranging from fifteen to twenty years in length or life imprisonment.

Note:

1. *Criminal liability shall be lifted up from the person participating in the preparation of the terrorist act who by giving a timely notice to a governmental body or acting otherwise, will assist to prevent commission of the terrorist act, in case his/her action bears no other criminal signs.*
2. *The legal person for the action stipulated in the present Article is punishable by liquidation or deprivation of activities' right and a fine."*

Due to amendments made in 2006 by the Parliament of Georgia, the terms of punishment have been altered. Prior to the amendments, the minor punishment amounted to 5 years of the deprivation of

liberty (stipulated for an action committed under the Article 323 paragraph 1) while the highest sanction equaled life imprisonment. However, under the current law, the minor term of punishment is ten years ranging to the term of life imprisonment; which depends on gravity of a crime committed.

The Following Article 324 of the Criminal Code of Georgia provides criminal liability for the technological terrorism with ten to fifteen years of deprivation of liberty. The technological terrorism is defined as: the use, or threat of use, of a nuclear, radiological, chemical or bacteriological (biological) arms or a component thereof, pathogenic micro-organism, radioactive or other substance hazardous for human health, including the seizure of the object of nuclear, chemical or strong technological or ecological vulnerability, that undermines public security, strategic, political or economic interest, perpetrated to intimidate the population or put pressure upon a governmental body. However, the same act that caused a death or any other grave consequences is punishable by deprivation of liberty from twelve to twenty years or to life imprisonment (Article 324 paragraph 2 of the CCG).

III. Formation of Terrorist Organization or Leading Thereof or Participation Therein

Apart from the abovementioned crimes, it should be underscored that the Criminal Code of Georgia makes punishable a formation of terrorist organization or leading thereof or participation therein (Article 327 of the CCG). The core reason of a criminalization of the mentioned activity is the observance of public security and strategic, political and economic interests of the State. The attention should be paid to the fact that signs of this crime will be present irrespective of a commission of a terrorist act. The crime is considered to be perpetrated from the moment of creation, leading or participation in the terrorist organization.

The definition of the terrorist organization is provided in the Law of Georgia on Combating Terrorism (*information on the mentioned Law is provided in detailed manner below*). Pursuant to Article 1 subparagraph “g” of the Law of Georgia on Combating Terrorism, the terrorism organization is defined as an organization (regardless of the form) that is established for realization of terrorist activity (an act of terrorism). An organization is deemed to be a terrorist if at least of its structural subdivisions or a member of this organization engages in terrorist activities with the knowledge of at least one of the organization’s steering bodies.

IV. Incitement to Terrorism Publicly and Training for Terrorism Purpose

In 2006 the Parliament of Georgia aiming to harmonize the Georgian legislation with international conventions on terrorism has incorporated new provisions to the Chapter on Terrorism in the Criminal Code of Georgia, namely: incitement to terrorism publicly (330¹) and training for terrorism purposes (330²).

The incitement to terrorism publicly is an action which is carried out by utilization of means of communication such as: radio, internet, TV, during demonstration and etc. The action is deemed to be perpetrated regardless of the direct incitement to terrorism. The objective element of the mentioned crime is a threat that may result in public disorder and violate its security. And the subjective element can be only defined in the direct intention calling for commission of terrorism crime stipulated by the criminal legislation. Thus, Article 330¹ of the Criminal Code aims to criminalize the action even though it had not entailed any consequences.

Article 330² of the Criminal Code of Georgia stipulates criminal liability for an action that is carried out by training for terrorism purpose. The noted crime can be defined as an action that assists or creates

grounds for committing crime/s of terrorism (Articles 323-330) by training in explosive, firearms or other types of weapon or toxic or dangerous substances or utilization of other specific methods and preparation or utilization of specific techniques.

The perpetrator of mentioned crimes can be as natural person as well as legal one.¹ The latter one shall be punishable by liquidation or deprivation of activity's right and fine.

V. Cyber-terrorism

Apart from this, the Criminal Code of Georgia contains separate provision regulating the cyberterrorism and financing of terrorism which constitute novelties in the criminal legislation of Georgia since 2006.

The Criminal Code defines the cyberterrorism as unlawful possession, use or threat to use of computerized information protected by law, that poses a threat of grave consequences and undermines public security, strategic, political or economic interest, perpetrated to intimidate the population and/or put pressure upon a governmental body that is punishable by imprisonment ranging from ten to fifteen years in length. However, if the mentioned action resulted in a loss of life or any other grave consequences it will be punishable by imprisonment ranging from twelve to twenty years or to life imprisonment.

VI. Financing of Terrorism

The International Convention for the Suppression of the Financing of Terrorism was ratified by the Parliament of Georgia in 2002 which transformed into the relevant amendments in the Criminal Code of Georgia.

Article 331¹ of the Criminal Code of Georgia defines the financing of terrorism as an action of allocation or distribution of financial resources or any type of property with previous knowledge that fully or partially will be used or might be used for crimes stipulates in Articles 227¹ (Creation of a Threat to a Vessel's Navigation), 227² (Illegal Appropriation, Destruction or Damaging the Stationary Platform), 231¹ (Threat of Illegal Appropriation of Nuclear Substances), 323-330 (323 - Terrorist Act; 324 – Cyberterrorism; 325 - Assault on Political Official of Georgia; 326 - Assault on Person or Institution Enjoying International Protection; 327 - Formation of Terrorist Organization or Leading Thereof or Participation Therein; 328 - Accession and Assistance to Terrorist Organization of Foreign State or to Such Organization Controlled by Foreign State; 329 - Seizure of Hostage for Terrorist Purposes; 330 - Taking Possession of or Blocking Object of Strategic or Special Importance for Terrorist Purposes) and 330² (Training for Terrorist Purpose) of the Criminal Code by a terrorist or terrorist organization irrespective of the fact whether a crime under these provisions had been perpetrated. It should be noted that according to present Article, the illegal action is punishable from

¹ The criminal liability of a legal person also constitutes novelty in the criminal legislation. Pursuant to Article 107¹ of the Criminal Code of Georgia, legal person includes as entrepreneurial as non-entrepreneurial organization. The legal person will be criminally liable if a crime is perpetrated on behalf of legal person or by it (its utilization) or for its benefit irrespective whether it has been established that crime was committed by a natural person. It should be noted that legal person will be charged criminally responsible only for those actions that are prescribed by the Criminal Code of Georgia.

the moment of financing any terrorist organization irrespective whether or not terrorist act has been committed.

The same action committed by group or repeatedly is punishable by imprisonment from fourteen to seventeen years in length. And if the mentioned crime is perpetrated by the terrorist organization or caused any grave consequence is punishable by deprivation of liberty ranging from seventeen to twenty years or life imprisonment.

The abovementioned provision (cyberterrorism and financing of terrorism) determines criminal liability for both natural and legal persons. In case of a legal person, the sanction prescribed by law is its liquidation, deprivation of activities' right and fine.

VII. Law of Georgia on Combating Terrorism

In 2007, the Parliament of Georgia has adopted the Law on Combating Terrorism which specifies the legal and organizational foundation of the fight against terrorism in Georgia including the order of coordination of the state authorities in the sphere of fight against terrorism, grounds of participation of public associations, organizations, officials and citizens in struggle against terrorism, their authorities, liabilities and guarantees of social protection.

Unlike the Criminal Code of Georgia which only criminalizes crimes relating to terrorism, the Law on Combating Terrorism does contain a provision defining the terms on terrorism. In this relation, Article 1 of the mentioned legal instrument provides legal definitions of: terrorism, terrorism act, international terrorism, terrorism activity, terrorist, terrorist organization and etc.

Additionally, the Law establishes the core objectives of fight against terrorism in Georgia namely: rule of law; protection and respect of the rights and freedoms of natural and legal persons; the priority of measures of terrorism prevention; complex use of legal, political, social-economic, propaganda, informational and other measures; inevitability of punishment for terrorist activity and etc.²

According to Article 4 paragraph 2 of the present Law, the following state agencies directly carry out the fight against terrorism:

- a) The Ministry of Interior of Georgia, which is the main authority of the joint state system of struggle against terrorism;
- b) The Ministry of Defense of Georgia;
- c) The special service of foreign intelligence of Georgia;
- d) Special service of the state security of Georgia.

Moreover, other relevant state agencies of Georgia may participate in the fight against terrorism within limits of their mandate.³

In this occasion, the mentioned legal instrument regulates issues concerning: control over extreme situation, originated as a result of terrorist act; provision of forces and means for counterterrorism operations; authority for application of special means or (and) physical compulsion; means of conducting negotiations with terrorists; reimbursement of damage caused as a result of an act of terrorism; legal and social protection of persons engaged in combating terrorism; liability for participation in terrorist activity and etc.

² Article 3 of the Law of Georgia on Combating Terrorism;

³ Article 4 paragraph 3 of the Law of Georgia on Combating Terrorism;

VIII. Legal Co-operation and Extradition

The Government of Georgia cooperates with foreign states, their law enforcement bodies, courts and special services as well as international organizations engaged in combating terrorism in compliance with international agreements and treaties.⁴ For that reason, Georgia delivers information to foreign states about international terrorism in compliance to the requirements of the legislation of Georgia and liabilities, stipulated in international treaties and agreements⁵, such as European Convention of Human Rights and Fundamental Freedoms.

The extradition issues are regulated by the Criminal Procedure Code of Georgia and relevant international agreements. It mainly defines: what are conditions of transfer (255 of the CPCG); grounds for a request (254 of the CPCG) and refusal of extradition (257 of the CPCG), extradition of a citizen of a foreign State (256 of the CPCG), extradition of a stateless person (258 of the CPCG) and etc. However, it should be noted that the Criminal Procedure Code of Georgia does not contain any separate or special provision that applies to persons who are engaged in terrorist crimes. The persons who are suspected in the commission of terrorist crimes have the same i.e. equal rights and obligations as any other persons suspected in commission of any other crime prescribed by the Criminal Code of Georgia.

IX. Travel Document Security

On the background of rising threat of the terrorism the security of the travel document has been defined as the most efficient tool for tackling the illegal border crossing which remains a problem in various States. For that reason, the Civil Registry Agency (CRA) of the Ministry of Justice of Georgia has taken relevant measures in this direction.

In 2010 the Civil Registry Agency is planning to introduce the second generation of biometric travel documents. It should be noted that mentioned documents fully meet international requirements/standards, such as: ICAO Standard – e.g. MRTD 9303; International Standard – e.g. ISO/IEC 19794-5; European Standard – e.g. decision of the EU Commission as of 28/VI/2006 K (2006) 2909 and National Standard –e.g. Order of the Ministry of Justice of Georgia of 5 October 2009 No.194.

The introduction of the second generation biometric travel documents will ensure the safe and accurate personal identification aiming to decrease a number of illegal border crossing events. The Civil Registry Agency is planning to introduce these types of documents from the beginning of 2010.

X. Safe Havens and Shelter to Terrorist and Terrorist Organizations

The Ministry of Justice would like to inform you that there are not any safe havens and shelters for terrorist and terrorist organizations in the territory of Georgia.

Additional Information

⁴ Article 20 of the Law of Georgia on Combating Terrorism;

⁵ Article 21 of the Law of Georgia on Combating Terrorism;

All border check points of Georgia are equipped with the data management software Personal identification and registration system that enables the Georgian Patrol Police (charged with border control) to efficiently detect fraudulent documents, maintain a database on exit/entries into the country and allows for data analysis and exchange of information.

Patrol Police Department is automatically provided with information from the local servers of the border crossing points no later than 10 minutes. The information comprises of data on wanted persons, vehicles and documents. Information on wanted persons accused of international terrorism and organized crime provided by Interpol is also included in this programme.

The programme is equipped with digital cameras which in parallel to passport control makes photo fixation of the travellers considerably improving identification and control of persons who fall under operational interest. Surveillance video cameras installed at the border crossing points are connected to the unified network that enables to conduct permanent surveillance on the border crossing points.

Article 324 of Criminal Code of Georgia stipulates that Technological Terrorism, i.e. the use, or threat of use, of a nuclear, radiological, chemical or bacteriological (biological) arms or a component thereof, pathogenic micro-organism, radioactive or other substance hazardous for human health, including the seizure of the object of nuclear, chemical or strong technological or ecological vulnerability, that undermines public security, strategic, political or economic interest, perpetrated to intimidate the population or put pressure upon a governmental body, shall bear legal consequences of deprivation of liberty ranging from ten to fifteen years. Same act that caused a death or any other grave consequences shall be punishable by deprivation of liberty from twelve to twenty years or to life imprisonment.

In 2007 "Implementation Procedures for Implementing Arrangement between the US Department of Energy and the Ministry of Internal Affairs of Georgia for Cooperation in the Prevention of Illicit Trafficking in Nuclear and Other Radioactive Material" was signed;

The purpose of the document is the development of cooperation to prevent illicit trafficking of nuclear and other radioactive material through technical and methodological cooperation, including the installation and improvement of technical system for the detection and identification of these materials at Georgia's entry/exit points and trainings of personnel. The activities are performed within the frame of Second Line of Defense Programme (SLD).

Within the framework of the program over 120 radiation portal monitors have been installed at every major border crossing point, seaport and airport of Georgia. Patrol police officers, on permanent basis, undergo the radiation detection and response basic training course.

"Joint Action Plan on Detection of Nuclear and Radioactive Materials at the Border Crossing Points, Airports, Ports and Maritime Space of Georgia" (State Agencies cooperation plan) has been elaborated and currently undergoes the governmental procedures.

All smuggled and seized radioactive substances as well as out of use material from the health care and agricultural facilities are transferred to the Radioactive and Nuclear Material Depository in Mtskheta, Georgia. Transportation is carried out by the Nuclear and Radioactive Safety Office of the Ministry of Environment Protection and Natural Resources of Georgia. The transportation, on the basis of prior notice, is assisted by the Ministry of Internal Affairs of Georgia which assigns special protection unit for the transportation purposes. Physical protection of the Mtskheta facility is conducted by the Protection Police of the Ministry of Internal Affairs of Georgia.

Cyber terrorism, - as defined by the Law - i.e. unlawful possession, use or threat to use of computerized information protected by law, that poses a threat of grave consequences and undermines public security, strategic, political or economic interest, perpetrated to intimidate the population and/or put pressure upon a governmental body shall be punishable by deprivation of liberty from ten to fifteen years. Same act that caused a death or any other grave consequences shall be punishable by deprivation of liberty from twelve to twenty years or to life imprisonment.

Georgia presents information on international terrorism to the foreign state in compliance with the requirements of Georgian legislation and international commitments.

Citizens of other states and/or non-citizens who do not reside in Georgia on permanent basis involved in terrorist activities may be extradited to other state for the purpose of bearing criminal responsibility on them. The extradition of the said persons is carried out for the purposes of bearing criminal responsibility and for ensuring the implementation of commitments assumed under international treaties and agreements.

Counterterrorist Centre of MoIA has its own data base as well as the list of terrorist groups and networks provided by the UN that is updated every year. On the basis of this information the Counterterrorist Centre sets its vision and code of conduct and via Interpol establishes direct links with relevant agencies of foreign states.

2. Stationing of armed forces on foreign territory

2.1

Georgia has its Armed Forces, which defend the independence, sovereignty and territorial integrity, and perform the international liabilities in compliance with the Constitution of Georgia.

For the time being neither of the international agreements or treaties of Georgia envisages such an international liability, which stipulates the deployment of the certain amount of the Armed Forces of Georgia in the territory of other state.

1. Agreement between the Government of Georgia and the Government of the Republic of Turkey “On the Georgian Peacekeeping contingent participates in Kosovo peace operation under the commander of the military contingent of the Republic of Turkey” was signed in 19 August, 1999.
2. Agreement between the Ministry of Defense of Georgia and the Federal Republic of Germany on Cooperation and Support within the framework of the Kosovo Security Insuring Forces signed in Berlin on 4 February 2003.
3. Agreement between the Ministry of Defense of Georgia and the Federal Republic of Germany on Cooperation and Support within the framework of the ISAF in Afghanistan signed in on 23 September 2004.
4. Technical agreement between the Ministry of Defense of Georgia and the Ministry of Defense of Lithuania “On Inclusion of Georgian Forces in Reconstruction Group under Lithuanian Command in Afghanistan, Province Ghor” signed in 27 June, 2007.
5. Technical regulation between the Ministry of Defence of Georgia and the Ministry of Defence of the Republic of France “On Bilateral Logistic Support Between the ISAF Contingent of Georgia and ISAF Contingent of the Republic of France” in the process of registration.

3. Implementation of other international commitments related to the Code of Conduct

3.1. According to the provisions of the CFE Treaty, Georgia as a member state is providing the implementation of the following arrangements:

1. According to the 1st paragraph II chapter of the CFE Treaty's protocol on inspections, Georgia receives the following kinds of inspections:
 - I) Declared site Inspection.
 - II) Challenge inspection within specified areas
 - III) Inspection of reduction
2. According to the Chapters I, II, III, V, VI, VII, IX, X of the protocol on notification and exchange information of the CFE Treaty, with the means of INA system Georgia prepares and circulates corresponding notification forms for the member states.
3. According to the paragraph 1(C) of the Chapter VII of the protocol on notification and exchanging information and annex of exchanging information format, in the special programs of ADS (Automated Date Systems) Georgia makes and annually on December 15 circulates via diplomatic channels annual military exchange information about its own armed forces , which is valid until the 1st of January of the next year.
4. According to the protocol of CFE Treaty about regulation of procedures of limited arms and reducing of technique requirements, embodies the reduction of the written-off technique by the means of their destruction.

3.2 According to the requirements of the Vienna Document (1999), Georgia as a member state is providing the implementation of the following arrangements:

1. According to the articles IX and X of the 1st chapter of VD99 in the special programs of ADS (Automated Date Systems) makes and annually on December 15 circulates via diplomatic channels annual military exchange information about its own armed forces , which is valid until the 1st of January of the next year (AEMI).
2. According to the article XV of the II chapter of VD99 makes and circulates via diplomatic channels information about the defense planning.
3. According to the articles 74-106 of the IX chapter of VD99 receives inspections on the specified regions.
4. According to the articles 107-137 of the IX chapter of VD99 receives evaluation visits of the military sub-divisions.
5. According to the article 144.9 of the X chapter of VD99 receives additional inspections/evaluation inspection
6. According to VD99 spreads the corresponding notification forms during the year.
7. According to the Global Exchange Military Information document of OSCE's forum for Security cooperation Georgia makes and circulates via diplomatic channels Global military exchange information annually till April 30th

8. According to the provisions of the „Open Skies’’ Treaty, Georgia as a Member-State receives 4 (four) observation inspections (passive quota). These measures are carry out by the Arms Control and Verification Division of the Joint Staff in conjunction with other relevant agencies.

Section II: Intra-State Elements

1. National planning and decision-making process

1.1. According to the Article 3 of the Constitution of Georgia the following shall fall within the exclusive competence of higher state bodies of Georgia:

- the status, boundary regime and defense of the state frontiers; the status and defense of territorial waters, airspace, the continental shelf and Exclusive Economic Zone;
- state defense and security, armed forces, military industry and trade in arms;
- the issues of war and peace, the determination of a legal regime of the state of emergency and the martial law and their introduction;
- foreign policy and international relations;
- criminal police and investigation;
- The creation of armed formation by public and political associations shall be impermissible.

According to the Constitution of Georgia:

- The Parliament of Georgia:
 - shall be the supreme representative body of the country, which shall exercise legislative power;
 - decision on Presidential proposal on announcement of the state emergency or martial law is made by the majority of the total members;
 - by the majority of the total number of the members of the Parliament shall ratify, denounce and annul the international treaties and agreements;
 - annual adoption of the state budgetary law is made by majority of the listed membership;
- The president of Georgia:
 - Shall be the Head of State of Georgia. He/she shall lead and exercise the internal and foreign policy of the state, ensure the unity and integrity of the country and the activity of the state bodies in accordance with the Constitution;
 - Signs laws adopted by the Parliament, from them law of budget;
 - Be entitled to dissolve the Government, dismiss the Ministers of Home Affairs, Defense and State Security of Georgia on his/her own initiative or in other cases envisaged by the Constitution;
 - Declare a martial law in the case of armed attack on Georgia, make peace when appropriate conditions exist and submit the decisions to the Parliament within 48 hours for approval;
 - In the case of war or mass disorder, infringement upon the territorial integrity of the country, coup d'etat, armed insurrection, ecological disasters, epidemics or in other cases, when state bodies are unable to normally exercise their Constitutional powers, shall declare a state of emergency throughout the whole territory of the country or a certain part thereof and submit this decision to the Parliament within 48 hours for approval. In the case of a state of emergency issue the decrees having the force of law, which shall remain in force until the end of the state of emergency, shall take emergency measures. The decrees shall be submitted to the Parliament when it is assembled. Emergency authorities shall apply only to the territory where the state of emergency is declared for the reasons mentioned in the present paragraph.

- Shall award state honors, higher military ranks, special and honorary titles and higher diplomatic ranks;
- The President shall be the Higher Commander-in-Chief of the armed forces of Georgia. He/she shall appoint the members of the Council of National Security appoint and dismiss the head of general staff of the armed forces of Georgia and other commanders (acquired a new wording by the Constitutional Law of 6 February 2004).

To refrain from repetition of functions between military and armed forces in the state, laws of Georgia “On Defense of Georgia”, “On Police”, “On Civil Security Service” and “On Intelligence Activities” and other legislative acts are defining functions of state bodies. The establishment of the conception of the military restoration and the policy of the state Defense, generally, are based on the Constitution of Georgia and the laws of Georgia adopted under the Constitution: “On Defense of Georgia”, “On Mobilization”, “On Martial Law”, “On State of Emergency”, as well as the military doctrine and other legislative acts of Georgia.

The Executive and Legislative Branches of Government, as well as the local bodies of self-government and government, within their competence participate in the process of elaboration, determination and adoption of the Policy of Military Restoration and State Defense.

Before the adoption by the Parliament of the general guidelines of the defense policy, the appropriate Executive Body, in particular, the Ministry of Defense, works intensively in cooperation with the rest Law Enforcement Bodies and other executive institutions, according to their competence, for the definition of the above-mentioned issue. The documents, elaborated by them are submitted for consideration to the Presidential Consultative Body – the National Security Council for the further improvement. After this step, by the decision and initiative of the President, the drafts of the Law on the Definition of the general guidelines of the defense policy, are submitted for consideration to the Parliament, where under coordination of the respective committee, the rest committees of the Parliament, Factions, members of the Parliament and other appropriate organs of the Parliament work on the above-mentioned issues. After this procedure the drafts of the Law on the Definition of the General Guidelines of the Defense Policy coordinated between the Executive and Legislative Bodies are submitted for the consideration to the Parliament Plenary Session, where after the final considerations and discussions the Law is adopted by the Parliament of Georgia. Finally the Law enters into force after the signature of the President of Georgia.

Drawing up of the Defense Budget within the frames of the State budget constitutes the indispensable condition for determining the general guidelines of the Defense policy and its further realization. The Ministry of Defense, internal forces and the Border Police (within the budget of the Ministry of Home Affairs), Special Service of State Protection, within their competence, is charged with forming of the Defense Budget and the initial determination of its main parameters. The above-mentioned institutions shall submit the draft budget to the Government, the National Security Council. After the agreement of the executive authority, the President shall submit the Defense Budget, as an integral part of the State Budget, to the Parliament. The important part in forming the Defense Budget is assigned to the relevant Committee of the Parliament, which, under the general guidelines of the Defense policy and on the basis of the appropriate priorities, thoroughly perfects the budget and, within the frames of the state budget, submits it to the plenary session of the Parliament, which after the final consideration and discussions, shall adopt it.

1.2

According to the Chapter 7 of the Constitution of Georgia “Georgia shall have the armed forces for the defense of the independence, sovereignty and territorial integrity of the country, as well as for the honoring its international obligations”.

The Law of Georgia “On Participation of the Armed Forces of Georgia in Peacekeeping Operations” adjust legal relations existing in Georgia and the obligations undertaken by Georgia under international treaties and agreements connected with the participation of the armed forces and civil personnel of Georgia in operations on maintenance and restoration of international peace and in other kinds of peacekeeping activities.

2. Existing structures and processes

2.1

According to Article 60 of the Constitution of Georgia, each member of the government i.e. the executive branch is obliged to, upon request and on his own will, present annual report on the activities of the relevant ministry to the Parliament of Georgia as well as to answer questions raised by the MPs. The Minister of Internal Affairs also reports to the President of Georgia on conducted activities.

The major mechanisms of democratic control over the military forces are defined by the Georgian Constitution, according to which the Parliament of Georgia is a supreme legislative body effecting democratic control over the activity of the military forces.

According to the Article 99, Paragraph 1 of the Constitution of Georgia “With the view of organizing the military construction and defense of the country, the Council of National Security shall be set up which shall be guided by the President of Georgia”.

On the basis of the above-mentioned, organ law “On National Security Council” was adopted in November 11, 2004, where, according to the Article 1, Paragraph 2 “National Security Council of Georgia is the consultative office of the President, which is set up for organizing the military construction and defense of the country, establishing state security issues of foreign and internal policy, stability and legislation ensure strategy, as well as getting high decision in the sphere of state security”.

In accordance with Article 3 of the Georgian Constitution, “National defense and security, military forces, military industry and trade of arms come exclusively within the special competence of supreme state authorities of Georgia”.

Within the limits prescribed by the Constitution, the Parliament of Georgia exercises control over the activity of the government (Article 48, Constitution of Georgia). The Parliament of Georgia ratifies the international agreements on military issues as well as those making amendments to the provisions on territorial integrity and state border of Georgia. It is inadmissible without the Parliament’s consent to bring the military forces into the territory of Georgia, to deploy or use them in the state of emergency or with a view to fulfilling international obligations.

One of the levers of control granted to the parliament is the right of a PM to appeal with a question to separate members of the government, who, on their part, are obliged to answer these questions.

The democratic control over the military forces is manifested in a range of authorities granted by law to court and prosecutor’s office. More concretely, the military forces are prohibited without court decision

to infringe upon privacy, disclose private letters divulge telephone conversations or search dwelling houses against the will of their owners.

According to article 78 of the Constitution of Georgia government, including the police and other law-enforcing agencies, is accountable to the parliament of Georgia. Furthermore, there is a law on Group of Trust according to which the mentioned Group is established in the Parliament of Georgia chaired by the head of Defense and Security Committee. The Group exercises overall democratic control on power agencies.

2.2

According to Georgian legislation Prosecutors Office is the supervisor body of the Ministry of Internal Affairs. The responsibility of the Prosecutors office is to supervise that activities of the MoIA are carried out in accordance with respective legislation. This concerns, in particular, activities related to criminal investigation, as well as other measures envisaged by the legislation.

Control on the expenditure of the Ministry of Internal Affairs is carried out by the Chamber of Control of Georgia. The Chamber controls daily financial activities of the Ministry, as to the control of the secret expenditure; this is exercised by Trust Group in the Parliament of Georgia. The Group is created on the basis of the law of Georgia on the Trust Group. The Group is composed of 5 members of parliament, including the MPs elected by majority voting system and representative of the opposition.

On the basis of the Constitution of Georgia, as well as the Law on Parliamentary Committees of Georgia and the Parliamentary Regulations, there is the Defense and Security Committee set up in Parliament along with other committees. The major functions of the Committee are as follows:

- to elaborate, review and prepare the drafts of laws, parliamentary resolutions and other decisions for consideration at the parliamentary session;
- to exercise control over the execution of laws, parliamentary resolutions and other decisions and, where necessary, to submit conclusions to the parliament;
- to exercise control over the activity of the government and state bodies accountable to the parliament and, where necessary, to submit conclusions to the parliament;
- to decide the organizational issues of its activity.

2.3

The military, paramilitary and security forces insure the protection of Georgia's constitutional order, sovereignty, territorial integrity and military potentiality against illegal acts of special services and separate individuals.

In accordance with the Law of Georgia on National Security, the control over the national security services is affected by the Parliament of Georgia (through the Defense and Security Committee), the President of Georgia, judicial authorities (Article 21) and General Prosecutor's Office of Georgia (Article 22).

In accordance with Article 7 of the Law of Georgia on Defense, the objective of the Georgian military forces is to insure the protection of Georgia's independence, sovereignty and territorial integrity and the implementation of the obligations assumed by Georgia. The exercise of control over the activity of military forces is prescribed by the law, according to which it is inadmissible to use the military forces in the state of emergency or for the implementation of international obligations.

Mechanisms for democratic control of the armed forces in Georgia are the following:

- The President of Georgia, who shall be elected on the basis of universal, equal and direct suffrage by secret ballot, and according to the Constitution, is the Higher Commander-in-Chief of the Armed Forces of Georgia.
- The Parliament of Georgia approves the number of military forces, adopts State Budget, the part of which is a defense budget, declares the power of attorney to the Government, the member of which is the Minister of Defense of Georgia.

For the ensuring of democratic control on Defense system, a project of the law of Georgia “On Georgian Defense” has been adopted, about the changes and additions in the Georgian law, which was adopted by the Parliament of Georgia on December 9, 2004.

According to the above-mentioned law, functions between the Ministry of Defense and the General Staff (civilian and military) have been divided on the legislative level. Particularly, the Ministry of Defense was defined as a State Managing Body of the Armed Forces and General Staff – as the Operative Managing Body of the Armed Forces.

According to the law, civilian office of the Ministry of Defense:

- in the frame of the competition observes the defense budget and purposeful spending and use of material welfare;
- one of the most important mechanisms of democratic control over the defense sector is that the Head of the Ministry of Defense is civilian, state-political person.

Moreover, the Constitution of Georgia, laws “On Ombudsmen of Georgia”, “On Committees of the Parliament of Georgia”, “On Parliamentary Fractions” and “On Chamber of Control of Georgia”, by legislative points of view, ensures democratic control on Armed Forces, legislative and security services.

3. Procedures related to different forces personnel

3.1

According to the Constitution “Defence of Georgia shall be an obligation of every citizen of Georgia”. Besides, according to the Law of Georgia “On Military Duties and Military Service” citizens of Georgia aged from 18 to 27 years, who are registered or obliged to be registered for military service and are not entitled to be released from the military draft or to deferment of the military call-up, shall perform their military duty.

3.2

According to the Chapter 29 of the Law of Georgia “On Military Duties and Military Service”

1. the following persons shall be released from the military draft:

- Persons recognized as unfit for military service as per their condition of health;
- Persons who did military service in the military forces of other states;
- Persons who have been convicted for serious or especially serious crimes;
- Persons doing non military, alternative labour service;
- Post-graduate students;
- Persons with a scientific degree and engaged in pedagogical or scientific work;
- The only son in a family in which even a family member has been lost in struggle for territorial integrity of Georgia or in the performance of military service.

2. The president of Georgia shall be empowered to release an especially gifted conscript from the military draft.

Besides, the Law considers the cases of call-up deferment.

According to the Article 5 of the Law of Georgia “On Non-Military, Alternative Labour Service”: Citizens shall perform non military, alternative labour service in the following special non military labour formations, in groups or individually:

- rescue, ecological, fire-prevention or other special non military labour formations;
- engineering, repair organizations and facilities of civil purpose;
- organizations and facilities making agricultural production;
- establishments of public service;
- establishments of health protection.

Under this Law assignment of the citizens by the State Commission on the call-up of Citizens for Non Military, alternative labour service to care for aged persons, invalids, persons without any care, and, according to the legislation, other socially unprotected persons, shall be considered as non military, alternative labour service.

According to the Paragraph 3 of the same article, citizens of Georgia involved in non military, alternative labour service may participate in other services or non military labour formations, the list of which shall be approved by the President of Georgia. The citizens involved in non military, alternative labour service may participate in engineering, agricultural and other subdivisions of the Armed Forces of Georgia at the corresponding civil position. And according to the Paragraph 4, the citizens participating in non military, alternative labour services may be occupied in works of liquidation of the consequences of natural disasters, in seasonal works during harvesting and other works of non military character upon the decision of the President of Georgia.

3.3

The Law of Georgia “On the Status of Military Servicemen” defines the status of military servicemen, persons having the status of military servicemen, their rights, obligations, and also the basic guarantees of their social and legal protection, as well as members of their families and persons discharged from military service.

According to the article 387 of the Criminal Code of Georgia, insult of the military servicemen is punishable.

4. Implementation of other political norms, principles, decisions and international humanitarian law

4.1

According to the Article 1, Paragraph 3 of the Georgian Law from July 22, 1999 “On Participation of Georgian Armed Forces in the peacekeeping operations” for implementation of the aims of Law, Peacekeeping forces have special training and studies (control on the agreement of ending fire, separate adversarial sides, their disarmament and dispersal, conduction of engineering works) and are created in the frame of the number of military forces, approved by Georgian legislation rules

Lawyers, employed at the military divisions, permanently give instructions to military persons due to be informed about normative acts (from them local and international legislation), by other side, military divisions’ lawyers are taking consultations and necessary normative acts at the Board of Justice of the Ministry of Defense of Georgia.

Moreover, according to the October 25, 2002 agreement “On Cooperation in the Sphere of Integration of International Humanitarian Law between the Ministry of Defense of Georgia and International Committee of Red Cross” Georgian Armed Forces officers, with support of the Committee of International Red Cross, are studying on military conflicts law courses.

4.2

The Joint Staff of Georgian AF on regular base co-operates with the International Committee of Red Cross (ICRC) (exclusion: 2004-2006). Relevant trainings (“training the trainers”) have been conducted on each level of the AF. Inclusion of the international and national law into the military regulations is in the stage of discussion. In this respect the AF will be adjust in accordance with the NATO Standards.

4.3

According to the Constitution of Georgia and the Law of Georgia “On Defense of Georgia” the objective of the Georgian military forces is to insure the protection of Georgia’s independence, sovereignty and territorial integrity and the implementation of the obligations assumed by Georgia. Besides, during the state emergency the use of armed forces can be done only after the consent of the Parliament of Georgia.

The Criminal Code of Georgia considers number of regulations on the penalties against the violation of human rights and freedom, including the violation against human equality.

4.4

Law of Georgia “On the Status of Military Servicemen” defines the status of military servicemen, persons having the status of military servicemen, their rights and obligations, and also the basic guarantees of their social and legal protection, as well as members of their families and persons discharged from military service.

According to the Chapter 5 of the Article 26 of the Constitution of Georgia “A person who is enrolled in the personnel of the armed forces, state security offices or the forces of the bodies of internal affairs or a person having been designated as a judge or a prosecutor shall cease his/her membership of any political association”.

4.5

Conceptual documents should be in compliance with the Georgian legislation and International law.

Law department is taking part in the drafting process of each doctrine and political document, it also ensures these documents to be in compliance with the international law

Section III: Public access and contact information

1. Public Access

In accordance with the Constitution and Article 37 of the General Administrative Code of Georgia, any person is entitled to have access to the public information in spite of its physical form and keeping conditions, and can choose the form for obtaining the information.

Chapter 3 of the General Administrative Code prescribes the rule of extending public information. Public institutions are obliged to insure the availability of copies of public information. It is inadmissible to institute fees on the issue of public information, except for the fees necessary for making copies. The public institution is obliged to issue information immediately, not later than 10 days. The refusal of the public institution to issue public information should be communicated to the applicant.

Generally, information is public, but Georgian law “On State Secret” regulates the legislative relations with consideration as a secret, classification as a secret and protection of information.

The rule of obtaining and familiarization of the available public information at the Ministry of Defense is stated in the General Administrative Code of Georgia. Particularly, by Chapter 3 of the Code – Freedom of Information, there is detail definition of situations, in which it is possible to obtain, familiarize or refuse the distribution of information.

Georgian Law “On the Freedom of Speech and Expression” regulates the free expression of speech and opinion, as well as abolishment of the freedom of speech and expression.