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NOTE VERBALE

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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 response to the Questionnaire on 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, 15 April, 2011



To: OSCE Delegations and Missions  
Conflict Prevention Centre

ENGLISH only

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

### Section I: Inter-State elements

#### 1. Account of measures to prevent and combat terrorism

1.1.

##### a) Universal Conventions

Georgia is a party to all of the **thirteen (13)** UN antiterrorism conventions (see the links provided below in order to view the status of all UN antiterrorism conventions for Georgia):

1. Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963 (Tokyo Convention) - in force for Georgia since September 14, 1994;

<http://www.icao.int/icao/en/leb/Tokyo.pdf>

2. Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970 (The Hague Convention) - in force for Georgia since May 20, 1994;

<http://www.icao.int/icao/en/leb/Hague.pdf>

3. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, concluded at Montreal on 23 September 1971 (Montreal Convention) - in force for Georgia since May 20, 1994;

<http://www.icao.int/icao/en/leb/mtl71.pdf>

4. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted in New York on 14 December 1973 - in force for Georgia since February 18, 2004;

<http://www.unodc.org/documents/treaties/Special/1973%20convention%20eng.pdf>

5. International Convention against the Taking of Hostages, adopted in New York on 17 December 1979 - in force for Georgia since February 18, 2004;

[http://www.nti.org/e\\_research/official\\_docs/inventory/pdfs/apmunter.pdf](http://www.nti.org/e_research/official_docs/inventory/pdfs/apmunter.pdf)

6. Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 3 March 1980 - in force for Georgia since October 7, 2006;

<http://cns.miis.edu/inventory/pdfs/apmnuc.pdf>

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 - in force for Georgia since March 17, 1999;

<http://www.icao.int/icao/en/leb/Via.pdf>

8. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988 - in force for Georgia since November 9, 2006;

[http://www.nti.org/e\\_research/official\\_docs/inventory/pdfs/apmsuamontreal.pdf](http://www.nti.org/e_research/official_docs/inventory/pdfs/apmsuamontreal.pdf)

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 - in force for Georgia since November 9, 2006;

[http://www.nti.org/e\\_research/official\\_docs/inventory/pdfs/apmsuamontreal.pdf](http://www.nti.org/e_research/official_docs/inventory/pdfs/apmsuamontreal.pdf)

10. Convention on the Marking of Plastic Explosives for the Purpose of Detection, done at Montreal on 1 March 1991 - in force for Georgia since June 24, 2000;

<http://www.icao.int/icao/en/leb/MEX.pdf>

11. International Convention for the Suppression of Terrorist Bombings, adopted in New York on 15 December 1997 - in force for Georgia since February 18, 2004;

<http://cns.miis.edu/inventory/pdfs/apmunterII.pdf>

12. International Convention for the Suppression of the Financing of Terrorism, adopted in New York on 9 December 1999 - in force for Georgia since September 27, 2002;

<http://cns.miis.edu/inventory/pdfs/apmunterII.pdf>

13. International Convention for the Suppression of Acts of Nuclear Terrorism, adopted in New York on 13 April 2005 - in force for Georgia since April 23, 2010;

[http://www.nti.org/e\\_research/official\\_docs/inventory/pdfs/apmnuc.pdf](http://www.nti.org/e_research/official_docs/inventory/pdfs/apmnuc.pdf)

**b) Regional Conventions** (see the links provided below in order to view the status of CoE conventions for Georgia)

- European Convention on the Suppression of Terrorism, concluded at Strasbourg on 27 January 1977 - *in force for Georgia since March 15, 2001;*

<http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=090&CM=8&DF=09/03/2011&CL=ENG>

- Protocol Amending the European Convention on the Suppression of Terrorism, concluded at Strasbourg on 15 May 2003 - *in force for Georgia since December 8, 2004.*

<http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=190&CM=8&DF=09/03/2011&CL=ENG>

- On 14 December 2005 Georgia has signed (but not ratified yet) the Council of Europe Convention on the Prevention of Terrorism, concluded at Warsaw on 16 May 2005.

<http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=196&CM=8&DF=09/03/2011&CL=ENG>

*Note: Irrespective of the fact that the Council of Europe Convention on the Prevention of Terrorism is not ratified yet, the provisions of this convention, which criminalize terrorist acts (Public provocation to commit a terrorist offence, Recruitment for terrorism, and Training for terrorism), have already been incorporated in the Criminal Code of Georgia in Article 330<sup>1</sup> (Publicly calling for Terrorism) and Article 330<sup>2</sup> (Training for Terrorist Purposes). With respect to "recruitment", although the Criminal Code does not mention the term "recruitment" itself, this action is covered by the definition of incitement for the commission of a crime, which, under Art. 24(2) is defined as "convincing someone to commit a crime".*

### **c) Sub-regional Multilateral International Agreements**

Sub-regional Cooperation within BSEC (Organization of the Black Sea Economic Cooperation) and GUAM (Georgia, Ukraine, Azerbaijan, Moldova - Organization for Democracy and Economic Development)

Georgia is a party to:

- 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 on December 3, 2004 - *in force for Georgia since October 16, 2005*;
- Agreement on cooperation among the Governments of GUUAM (*Georgia, Ukraine, Uzbekistan, Azerbaijan, Moldova*) Participating States in the field of combat against terrorism, organized crime and other dangerous types of crimes, signed on July 20, 2002.
- Protocol to the Agreement on cooperation among the Governments of GUUAM (*Georgia, Ukraine, Uzbekistan, Azerbaijan, Moldova*) Participating States in the field of combat against terrorism, organized crime and other dangerous types of crimes of the 20 July 2002, signed on December 4, 2008.

### **d) Bilateral International Agreements**

Georgia has signed bilateral international agreements that include the cooperation in the fight against terrorism with the following countries:

1. Austria

2. Azerbaijan
3. Bulgaria (not in force)
3. Egypt
4. Estonia
5. France (not in force)
6. Italy
7. Kazakhstan (not in force)
8. Latvia
9. Poland
10. Romania
11. Russian Federation
12. Turkey
13. Ukraine
14. United Kingdom
15. USA
16. Uzbekistan

1.2.

### **Legislative acts**

Law of Georgia on “Combating Terrorism”;

Law of Georgia on “Facilitating the Suppression of Illicit Income Legalization” (so called “AML Law”);

Criminal Code of Georgia (particularly: Chapter XXXVIII);

Criminal Procedure Code of Georgia;

General Administrative Code of Georgia

### **Laws**

Decree of the President of Georgia approving “The Rule of Organizing Overall Counterterrorist Activities in the Country and of Coordination of Activities of Agencies in Combating Terrorism”; 17 January 2008

Decree of the President of Georgia approving “The Rule of Social Rehabilitation of Participants and Victims of Counterterrorist Activities”; 17 January 2008

The crimes related to terrorism is criminalized by the Criminal Code of Georgia (*hereinafter* CCG). CCG contains separate Chapter in relation to crimes of terrorism, namely Chapter XXXVIII.

The terrorist act is defined as a crime under Article 323 of CCG. The mentioned 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.”

The legal person for the action stipulated in the above Article is punishable by liquidation or deprivation of right to its activities and/or fine.

Also, Article 324 of CCG 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. In addition, the same act that caused 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).

Apart from the abovementioned crimes, CCG criminalizes the formation of terrorist organization or leading thereof or participation therein (Article 327 of the CCG). The core reason of 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.

Besides CCG, 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 fight against terrorism, their authorities, liabilities and guarantees of social protection.

Unlike CCG which only criminalizes the crimes related to terrorism, the Law on Combating Terrorism provides legal definitions of terrorism, terrorist act, international terrorism, terrorism activity, terrorist, terrorist organization and etc.

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

According to Article 4 paragraph 2 of the present Law, the following state agencies are directly responsible for fight against terrorism:

- a. The Ministry of Internal Affairs of Georgia, which is the main authority of the joint state system in combating 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, according to the present Law, other relevant state agencies of Georgia may participate in the fight against terrorism within limits of their mandate. 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 a terrorist act; legal and social protection of persons engaged in combating terrorism; liability for participation in terrorist activity and etc.

### 1.3.

The Law of Georgia on “Combating Terrorism” 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, governmental officials and citizens in combating terrorism, their rights, obligations and their social protection guarantees.

According to the Paragraph 1 of the Article 4 of the abovementioned law, the organization of a combat against terrorism and its maintenance with special means and material resources are exercised by the Government of Georgia.

The Paragraph 2 of the Article 4 of the law sets forth the governmental agencies, which directly exercise combat against terrorism. These agencies are:

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.

According to the Paragraph 1 of the Article 5 of the law, the Ministry of Internal affairs of Georgia is the main agency, realizing struggle against terrorism with application of special (operative, operative-technical) and operative-investigative measures for uncovering, prevention and suppression of the crimes, which are committed in terrorist aims and investigation is within its competence. The Ministry of Internal affairs of Georgia accumulates and systemizes information about the activity of foreign and international terrorist organizations, coordinates activity of subjects involved in struggle against terrorism through the Counterterrorist Center of the Ministry of Internal affairs of Georgia; the Center personally provides carrying out of counterterrorist measures. Other departments of the Ministry of Interior of Georgia apply necessary powers and means and provide their efficient application in carrying out of a counterterrorist operation.

In addition to the above-mentioned, “The Rule of Organizing Overall Counterterrorist Activities in the Country and of Coordination of Activities of Agencies in Combating Terrorism” approved by the Decree of the President of Georgia entitles the Counterterrorist Center of the Ministry of Internal Affairs of Georgia with the following powers:

- 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” approved by the same decree;
- On the basis of acquired materials the Counterterrorist Center ensures providing identical and mutually agreed information base on counterterrorist condition and its dynamics, detects foreseeable threats by analyzing the information in all its aspects, and conducts measures to avoid terrorist 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;
- After the information is submitted to the Counterterrorist Center, it determines the authorized competent agency (agencies), which will carry out counterterrorist activities related to the received information;
- The Counterterrorist Center is authorized to request improved materials connected to the abovementioned information from respective government agencies;
- The Counterterrorist Center determines the expediency of continuing special measures after it receives additional information from counterterrorist activities;
- 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.



According to the Article 5 of the Law on “Combating Terrorism”, the Ministry of Defence of Georgia:

- Ensures protection of arms, ammunition, explosive and hazardous materials that are stored in military bases or specially designated facilities;
- Ensures the preparation and use of Land Forces units of the Armed Forces of Georgia when the terrorist acts are committed within the airspace of Georgia;
- Participates in counter-terrorist operations conducted on the military installations.

1.4.

## **Financing Terrorism**

Financing of Terrorism is criminalized by Article 331<sup>1</sup> of CCG. The mentioned Article defines the financing of terrorism as allocation or distribution of financial resources or any type of property that fully or partially will be used or might be used for crimes stipulated in Articles 227<sup>1</sup> (Creation of a Threat to a Vessel’s Navigation), 227<sup>2</sup> (Illegal Appropriation, Destruction or Damaging the Stationary Platform), 231<sup>1</sup> (Threat of Illegal Appropriation of Nuclear Substances), 323-330 (terrorism related crimes) and 330<sup>2</sup> (**Training for Terrorist Purpose**) of CCG by a terrorist or terrorist organization irrespective of the fact whether a crime under these provisions had been committed.

The same action committed by group or repeatedly is punishable by imprisonment from fourteen to seventeen years. And, terrorist act is committed by the terrorist organization or it caused any grave consequence it is punishable by deprivation of liberty ranging from seventeen to twenty years or life imprisonment.

The present Article 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 (Note to Article 331<sup>1</sup>).

## **Border controls**

The major institutional reforms in the border management sector started in early 2004, when the State Border Defense State Department (independent military agency directly subordinate to the President) was transformed into a law-enforcement agency and became the part of the Ministry of Internal Affairs. In mid 2006 the Law of Georgia on Border Police was introduced therefore the MIA State Border Defense Department was transformed into the Border Police.

The most recent reform in the border management was conducted in 2009. As a result of the amendments to the relevant legislation, MIA Patrol Police Department assumed the responsibility over the border check points – replacing the MIA Border Police. This substantially improved coordination of all relevant units involved in the border management and as a result more efficient

detection, eradication and prevention of the criminal activities as well as administrative offences at the border is ensured.

According to the above-mentioned changes tasks of the Patrol Police Department at the border are as follows:

- Border-migration control at the border crossing points;
- To inspect the citizens of Georgia and foreigners on the state border check points of Georgia;
- To observe and control the legal regime of the Georgian state border;
- To Prevent, reveal and eliminate trans-border organized crime and irregular migration, trafficking in human beings, smuggling of drugs, weapons, explosive devices and the movement of means of nuclear materials and other activities as defined by the legislation;
- PPD is authorized to issue the National Visa on the state border.

Following the above-mentioned changes the most important structural reform was the merger of the Border Police Coast Guard with Armed Forces Navy. The strategic decision of merging AF Navy with the MIA Coast Guard was taken soon after Russian-Georgian War following the consultations between the MOD Joint Staff and the MIA as well as foreign recommendations which advocated the creation of single maritime force. Tasks of the BP Coast Guard remain unchanged as well as its primary role as the law-enforcement agency on the sea i.e. it is responsible for the control of the maritime space and territorial waters as well as exclusive economic zone of Georgia, enforces the border regime, conducts search and rescue operations on the sea and acts as the maritime support of the Armed Forces in case of war. MIA Border Police Coast Guard has undertaken international obligations of the Naval Forces such as participation in the Allied Operation “Achieve Endeavour”.

Other structural changes include:

- BP Special aviation unit was subordinated to the MOD Air Force;
- BP Rapid Reaction unit was subordinated to the MIA Special Tasks Main Division;
- MIA Information – Analytical Department undertook the functions of GBP C2 & Border Technologies Center;
- Border Faculty of the MIA Police Academy assumed the functions of BP Training & Retraining Center.

These changes significantly improved interoperability and contributed to forming the Border Police as a primarily law-enforcement entity. Border Police remains responsible for control of border regime and security on the “green” border and the maritime space of Georgia.

The complexity of tasks performed at a border requires the integrated approach to the Border Security. That was the base for the special attention given to the creation of the National Integrated Border Management Strategy of Georgia. This Strategy was developed by the Temporary Inter-Agency Commission at the National Security Council with the assistance of the EU Special Representative to South Caucasus and was approved by the Presidential Decree in February 2008. This document sets targets which should be achieved throughout the five years.

Following the approval of the Strategy, Interagency Working Group operating under the NSC in cooperation with EUSR Border Support Team elaborated an IBM Strategy Action Plan. AP was approved by the president in December 2009; it envisages wide range of activities to be implemented for effective management of state borders.

“Green Border” SOPs were elaborated with the assistance of EUSR BST experts and approved by the special order issued by the Chief of Border Police. Elaboration of the SOPs for Patrol Police at the BCPs is ongoing with the support of South Caucasus Integrated Border Management Project (SC IBM) funded by EU and implemented by UNDP and ICMPD. The SOPs will be put together based on the study conducted by the EUSR BST individually, at every Border Crossing Point. It is envisaged that SOPs will be completed/approved until the end of 2011. In order to bring operations of Patrol Police and the Customs services closer to the principles of Integrated Border Management, the Joint Order of the Ministers of Internal Affairs and the Finance has been issued. The Joint Order authorized the customs officers at the BCPs to inspect travel documents of drivers as well as to put entry and exit markings whenever applicable.

Based on the progress already achieved further improvement of infrastructure and equipment at the BCPs continues. The Personal Identification and Registration System (PIRS) is installed at all BCPs. This not only expedites immigration formalities, but enables the Patrol Police to efficiently detect fraudulent documents, maintain a database on exits and entries into the country, therefore allowing for data analysis and exchange of information on migration trends. It is planned to procure “second line inspection labs” for identification suspected fraudulent documents to all BCPs with US and SC IBM project assistance in late 2011. Software allowing linking of border crossing database with other MIA databases as well as verification of persons entering or leaving Georgian territory in “live” (online) regime is introduced at every BCP.

Software is provided together with new passport readers which substantially increases the speed of the travel document processing. In parallel, digital photos of travellers are taken which enhances identification and control of crime. Video-control (CCTV) cameras at the BCPs are connected to the central database allowing for 24/7 control. Furthermore, the infrastructure of the border check points has been substantially improved – all BCPs are either solid built or equipped with modern, modular container-type offices. All road, sea, railroad and air BCPs are fully equipped with radiation detection equipment, provided by US DoE – Police Officers as well as Customs Officials have been trained in appropriate procedures.

In early 2010 UNDP in partnership with ICMPD launched implementation of EU funded programme supporting South Caucasus Integrated Border Management Systems. The overall objective of the programme is to enhance inter-agency, bilateral and regional co-operation on the border management issues between the South Caucasus countries, EU member states and other international stakeholders.

The Ministry of Internal Affairs of Georgia and FRONTEX have already signed Working Arrangement for Establishment of the Operational Cooperation. The objectives of cooperation are countering irregular migration and cross-border crime, strengthening security at the borders between EU Member states and Georgia, developing of good working relations and mutual trust

between border management authorities of the EU Member states and Georgia. Subsequent 2 year Cooperation Action Plan has been signed in October 2010.

After the latest reforms, large part of the personnel, were employed on the similar positions in Border Police, possessed relevant qualification and experience and expressed respective will, have been transferred to Patrol Police. MIA Police Academy provides training and in-service retraining courses for the personnel of different departments of the Ministry of Internal Affairs of Georgia. Patrol Police Faculty together with the Border Police Faculty conducts training courses for Border Police and Patrol Police officers. Training courses are conducted in accordance with their future specializations and envisage deeper training in border control aspects. Curriculums are based on the recommendations and direct support of European Union and US experts.

### **International Legal Framework for International Cooperation of MIA Border Police of Georgia**

The MIA Border Police of Georgia conducts international cooperation within the frames of the following instruments:

#### ***Bilateral Cooperation***

- Agreement between Georgia and the Republic of Azerbaijan on cooperation in boundary issues;
- Protocol between the State Department of State Boundary Defense of Georgia and the Ministry of National Security of the Republic of Azerbaijan on cooperation in the sphere of border control of state boundaries of Georgia-Azerbaijan;
- Protocol between the State Department of State Boundary Defense of Georgia and the Ministry of National Security of the Republic of Azerbaijan on cooperation in the exchange of information on situations at state boundaries of Georgia-Azerbaijan;
- Protocol between the State Department of State Boundary Defense of Georgia and the Ministry of National Security of the Republic of Azerbaijan on cooperation in the operative-investigatory activity;
- Agreement between the Executive Authority of Georgia and the Government of the Republic of Bulgaria on cooperation in boundary issues;
- Protocol between the Department of State Boundary Defense of Georgia and the Ministry of Internal Affairs of the Republic of Bulgaria on cooperation in operative-investigatory activity on the international traffic roads for the protection of state border;
- Protocol between the Department of State Boundary Defense of Georgia and the Ministry of Internal Affairs of the Republic of Bulgaria on an exchange of Information on situations at international traffic roads and state boundaries of Georgia and Bulgaria;
- Border treaty between Georgia and the Republic of Turkey;
- Agreement between the Government of Georgia and the Government of the Republic of Turkey on cooperation between the competent services responsible for Black Sea maritime spaces;
- Agreement between the Government of Georgia and the Cabinet of Ministers of Ukraine on cooperation in boundary issues;
- Protocol between the State Department of State Boundary Defense of Georgia and the State Committee of State Boundary Defense Affairs of Ukraine on an exchange of information on situations at state boundaries and on cooperation in the operative-investigatory activity;

- Protocol between the State Department of State Boundary Defense of Georgia and the State Committee of State Boundary Defense Affairs of Ukraine on interaction in the protection of individual, state and other types of property on the Black Sea from criminal abuse and rendering assistance in this sphere;
- Protocol between the State Department of State Boundary Defense of Georgia and the State Committee of State Boundary Defense Affairs of Ukraine on cooperation in the sphere of border control of international traffic roads;
- Agreement between the Department of State Boundary Defense of Georgia and the Department of Defense of the United States of America on support to Georgia in elaboration of export control system for prevention of the proliferation of weapons of mass destruction;
- The Agreement on Cooperation between the Ministry of Internal Affairs of Georgia and FRONTEX;
- The Agreement on Border Cooperation between the Ministry of Internal Affairs of Georgia and the Ministry of Interior of the Republic of Latvia;
- Action Plan on Bilateral Cooperation for the year 2010 between the Border Agency of the Republic of Bulgaria and the MoIA Border Police of Georgia;
- Action Plan on Bilateral Cooperation for the year 2010 between the Federal Police of Germany and the MoIA Border Police of Georgia;
- Action Plan on Bilateral Cooperation for the year 2010 between the Armed Forces of the Republic of Turkey and MoIA Border Police of Georgia;
- Training Action Plan for the years 2009-2010 between the Armed Forces of the Republic of Turkey and MoIA Border Police of Georgia;
- Cooperation Agreement on Border Issues between the Ministry of Internal Affairs of Georgia and the National Security Service of the Republic of Armenia;
- Equipment Agreement between the USA Department of Defense National Security Agency Information Assurance Directorate and the Ministry of Internal Affairs State Subordinated Entity- Border Police of Georgia;
- Memorandum of Understanding between the Ministry of Defense of the Republic of Latvia and the Ministry of Internal Affairs of Georgia on Cooperation between Latvian Coast Guard Service and Coast Guard department of MoIA Border Police of Georgia;
- Cooperation Plan between Frontex and Ministry of Internal Affairs of Georgia for 2010-2012 years.

#### ***Multilateral Cooperation:***

- The Implementation of Ministerial Declaration of the EU and Georgia supporting Integrated Border Management systems in South Caucasus countries has been started;
- Memorandum of the Working Group Session on Cooperation between the Border Services and Other Competent Bodies in Combating Drug Smuggling held within the International Border Police Conference was signed on 2nd of December 2009 in Tbilisi. The MoIA Border Police of Georgia is head of the mentioned Working Group;
- Tactical Memorandum of Understanding between the Ministry of Internal Affairs Border Police of Georgia and Allied Maritime Component Command Naples regarding the Coast Guard Department of MoIA Border Police of Georgia participation and contribution to Operation Active Endeavour;
- Operational Arrangement between the Navy of the Republic of Albania, of the Republic of Croatia, of the Republic of Cyprus, of the Hashemite Kingdom of Jordan, of the Hellenic Republic, of the State of Israel, of the Italian Republic, of the Portuguese Republic, of Romania, of the Republic of Senegal, of the Republic of Turkey, of the United Kingdom, of

the United States of America, the Ministry of Internal Affairs of Georgia Subordinated State Entity - Border Police of Georgia, the Armed Forces of the Republic of Malta, the Ministry of Defence of the Kingdom of Belgium, of the Republic of Bulgaria, of the French Republic, of Montenegro, of the Kingdom of Netherlands, of the Republic of Slovenia, of the Kingdom of Spain, the Federal Ministry of Defence of the Federal Republic Germany, Concerning the Establishment of a Trans-Regional Maritime Network for the Global Maritime Information Sharing.

## **Travel Document Security**

The Civil Registry Agency (*hereinafter* CRA) of the Ministry of Justice, which is a responsible state entity for issuing travel documents, has taken relevant measures to increase the security of travel documents.

From May 15, 2010 CRA started to issue the travel documents including the second generation biometric data. Apart from other personal data, the biometric passport also includes the biometric photo of the owner's face, the fingerprint and the pattern of the signature, therefore confidence quality is considerably increased. CRA has already issued 185479 biometric passports.

The biometric travel documents meet the ICAO standards and possess 3 levels of protection elements:

Level one: Protection elements for visual identification without special equipment (Paper: multi tone water mark; Protective thread; Chemical sensitization; Print: lengthily structures, Rainbow printing; Micro letter printing, Multi color deep printing; Latent imaging, etc).

Level two: Hidden elements that will be identified with portative detectors (Paper: light ultra violet; Collation thread: luminescent elements; Printing: ultra violet elements; Ink: photo chrome ink, Metallica fluorescent bearing ink; numbering: invisible number of the passport, etc.).

Level three: deep hidden security elements, which can be identified only in a criminal laboratory through special optical instruments.

## **Security of radioactive sources**

Ministry of Internal Affairs pays particular attention to radiation security issue, especially prevention of smuggling of radioactive substances through Georgian borders. The United States Department of Energy, Second Line of Defense Programme has been working with the Patrol Police to install radiation detection equipment and to provide sustainable trainings. Presently, all major road, sea, railroad and air BCPs are fully equipped with radiation detection equipment. Equipment handover is planned to be continued. Besides SLD has provided to the Patrol Police two vans configured with the radiation detection equipment for the operation within Georgia for the purpose of enhancing the security of the Georgian against terrorism and nuclear smuggling.

The video-control cameras are installed at the border crossing points. They are connected to the central database which enables permanent control and the additional deterrent to potential terrorist and the criminal activities.

## **Use of Internet and other information networks for terrorist purposes**

CCG prohibits the incitement to terrorism publicly (Article 330<sup>1</sup>). The incitement to terrorism publicly is an action which is carried out by utilization of means of communication such as: radio, internet, TV and etc. According to CCG, the present crime is committed even in case of indirect incitement. The objective element of the mentioned crime is a threat that may result in public disorder and violate its security. The subjective element can be only defined in the direct intention calling for commission of terrorism crime stipulated by the criminal legislation. Thus, Article 330<sup>1</sup> of CCG aims to criminalize the action even though it had not entailed any consequences.

Also, CCG foresees separate Article dealing with Cyber-Terrorism. In particular, the Article 324<sup>1</sup> (Cyber-Terrorism) criminalizes illegal possession, use or threat of use of legally protected computer data which poses threat of serious consequence and breaches public security, strategic, political or economic interests of a state and is committed for the purpose of spreading fear amongst population and/or influencing the state institution. Punishment for this offence is deprivation of liberty from 10 to 15 years. In addition, Paragraph 2 of the Article 324<sup>1</sup> foresees aggravating circumstances and states that if the abovementioned offence caused death of a person or other grave consequence the punishment is deprivation of liberty from 12 to 20 years. Article 324<sup>1</sup> also provides for the responsibility of a legal person for committing the mentioned offence. Sanctions for legal persons are liquidation or deprivation of a right to pursue a particular activity and fine.

Additionally, amendments regulating cybercrime related issues were introduced in the Criminal Code, Criminal Procedure Code, Law on Investigative-Operational Activities and Law on Electronic Communications of Georgia in 2010. The amendments were adopted by the Parliament of Georgia and entered into force on 24 September 2010. The main aim of the amendments was to bring national legislation in compliance with the standards provided by the Convention on Cybercrime (ETS 185), which was signed by Georgia in April 2008, as well as to develop and modernize legislation for the purposes of prevention, suppression and prosecution of cybercrime. The key amendments include establishment of criminal responsibility for illegal access, system and/or data interference, illegal interception as well as misuse of devices.

## **Legal co-operation including extradition**

The issues of international legal cooperation in criminal cases, including extradition, are regulated by the 2010 Law of Georgia on International Cooperation in Criminal Matters. According to the mentioned Law, there are following legal bases for international legal cooperation:

- 1) International conventions (multilateral and bilateral), such as *International Convention for the Suppression of the Financing of Terrorism*, *European Convention on the Suppression of Terrorism*, and other conventions to which Georgia is a party;
- 2) Regarding the states, which are not members of the same international conventions as Georgia, legal cooperation may be carried out on the basis of an ad hoc agreement between the states;
- 3) Principle of reciprocity is one of the bases for international legal cooperation, except extradition and enforcement of judgment.

The mentioned Law sets out the procedures for the enforcement of requests for international cooperation, extradition and communication of these requests to the foreign authorities. The Law also specifies those requirements which requests for legal assistance and extradition must meet, such as transmitting authority, channels and means of communication, language, grounds for refusal of mutual assistance and extradition, etc.

International cooperation in criminal matters is conducted through the means and channels of communication set by the relevant international conventions. If the relevant convention does not set the specific channels and means of communication, international cooperation is conducted via direct channels, unless established otherwise by the legislation of a foreign state. When international cooperation is carried out on the basis of reciprocity, Georgia uses diplomatic channels. Interpol and other channels of communication can also be used, unless established otherwise by the legislation of a foreign state.

Law of Georgia on International Cooperation in Criminal Matters sets out important safeguards with respect to extradition. Namely, according to Article 22, extradition is not allowed if the offence for which extradition is requested is punishable by death penalty under the law of the requesting State. Also, extradition of nationals of Georgia to foreign country is explicitly prohibited by the above-mentioned Law (Article 21). Article 19 stipulates that extradition shall not be granted if the crime in relation to which extradition is requested is regarded as a political offence by Georgia. Also, extradition is prohibited for the crimes which are deemed to be military offences by Georgia, unless particular international agreement of Georgia envisages otherwise (Article 20).

In addition, extradition is not permitted if there exists reasonable suspicion that the extradition of the person is requested for the purpose of bringing him/her liable for or punishing him/her on the ground of his/her race, nationality, ethnic origin, religious or political views or due to other similar circumstances (Article 29.1.). Also, the present Law prohibits extradition if there exists reasonable suspicion that a person will be subjected to torture, cruel, inhuman, degrading treatment or punishment, which is related to torture, cruel, inhuman, degrading treatment in case of extradition to the requesting State.

## **Safe heavens and shelters to terrorists and terrorist organizations**

there are not any safe havens and shelters for terrorist and terrorist organizations in the territory of Georgia.

## **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 Participating States.

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

#### **3.1**

According to the provisions of CFE Treaty, Georgia as a state party is providing the implementation of the following treaties and documents:

1. According to the protocol on inspections of the CFE treaty, 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 of information of the CFE treaty, Georgia prepares and circulates corresponding notification forms for the states parties by means of INA system and OSCE network.
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, Georgia annually prepares and circulates via diplomatic channels annual military information regarding its own armed forces in the special ADS (Automated Data Systems) program on December 15, which is valid until the 1<sup>st</sup> of January of the next year.
4. Reduction of the decommissioned Treaty Limited Equipment by the means of their destruction according to the protocol of CFE treaty regarding the regulations of procedures on reduction of TLE.

#### **3.2**

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

1. According to the articles IX and X of the 1<sup>st</sup> chapter of VD99, Georgia annually prepares and circulates via diplomatic channels annual military information regarding its own armed forces in the special ADS (Automated Data Systems) program on December 15, which is valid until the 1<sup>st</sup> of January of the next year (AEMI).
2. According to the article XV of the II chapter of VD99 prepares 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 in the specified areas.
4. According to the articles 74-137 of the IX chapter of VD99 receives evaluation visits in the military units and formations.
5. According to the article 144.9 of the X chapter of VD99 receives additional inspections/evaluation visits according to the bilateral agreements.
6. According to VD99 Georgia prepares and circulates the corresponding notification forms during the year (INA System and OSCE network).

7. Georgia annually prepares and circulates via diplomatic channels Global Exchange of Military Information (GEMI) until April 30<sup>th</sup>.
8. According to the provisions of the "Open Skies" Treaty, Georgia as a State Party receives 4 (four) observation flights (passive quota). These measures are implemented by the Arms Control and Verification Division of the Joint Staff of the Armed Forces of Georgia 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 is impermissible.

According to the constitution of Georgia:

- The Parliament of Georgia:
  - Is 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 majority of the total numbers;
  - 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 laws 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;
  - Is entitled to dissolve the government, dismiss the ministers of internal affairs, defense and justice on his/her own initiative or in other cases envisaged by the constitution;
  - Declare material law in the case of armed attack on Georgia, make peace when appropriate conditions exist and submit the decisions to parliament within 48 hours for approval;
  - In the case of war or mass disorder, infringement upon to 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 power 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 is the Supreme Commander-in-chief of the armed forces of Georgia. He/she appoints and dismisses the heads of general staff of armed forces of Georgia and other commanders. He/she Chairs the National Security Council and appoints the Secretary of the National Security Council.

To refrain from repetition of functions among security forces and armed forces in the state, laws of Georgia “On defense of Georgia”, “on police”, “On public security service”, and “On intelligence activities”, and other legislative acts are defining functions of the state security bodies. The establishment of the concept for military formation and the policy of the State Defense, generally, are based on the constitution of Georgia and laws of Georgia adopted under the Constitution of Georgia: “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 Georgia, 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 Formation 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 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 issue. After this procedure the drafts of the Law on the Definition on the General Guideline 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 the force after the signature of President of Georgia.

Drawing up of the Defense Budget within the frames of the state budget constitutes indispensable condition for determining the general guidelines of the Defense Policy and its further realization. The draft of the Defense Budget is submitted to the Government and the National Security Council. After consent 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 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 of maintenance and restoration of International Peace and in other kinds of Peacekeeping Activities.

Georgia meets all international commitments related to defence issues such as international agreements, treaties, and memorandums (including adherence to the 6 point ceasefire agreement of August 12, 2008). Georgian defence capabilities fall under the ceilings regulated in the framework of Organization for Security and Cooperation in Europe. It remains transparent and shares information on defence matters in accordance with international obligations (including CFE, Vienna Document, Open Sky treaty, CCW and the Memorandum of Understanding between the Ministry of Defence of Georgia and the European Union Monitoring Mission of January 26, 2009).

## **2 Existing Structures and Processes**

### 2.1.

According to the 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 report on the activities of the relevant ministry to the Parliament of Georgia parliamentary commission and committee as well as to answer questions raised by 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 exercising democratic control over the activity of the Military Forces.

According to the Article 99, Paragraph I 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 I, Paragraph II “National Security Council of Georgia is the consultative office of the President, which is set up for making high political decisions on the organization of the military formation and defense of the country, foreign and

internal policy of state security, strategic issues of stability and rule of law as well as other matters 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 Authority 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 of fulfilling international obligation.

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

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 Security Council. The Group exercises overall democratic control on power agencies.

The democratic control over the Armed Forces of Georgia is ensured by the civilian Ministry of Defence. T

## 2.2.

On the bases of Constitution of Georgia, as well as the Law of Parliamentary Committees of Georgia and the Parliamentary Regulations, there is the defense and security Committee set up in the parliament along with other committees. The major functions of the committee are as follows:

- to elaborate review and prepare the draft of Laws parliamentary resolutions and other decisions for consideration at the parliamentary sessions;
- to exercise control over the execution of laws, parliamentary resolutions and other decisions and, where necessary, to submit consultation to the parliament;
- to exercise control over the activity of the government and the state bodies accountable to the parliament and, where necessary, to submit consultations to the parliament;
- to decide the organizational issues of its activity,  
the institutions which exercise democratic political control of the above-mentioned forces under the Constitution of Georgia are the Parliament of Georgia, the President of Georgia, and the Public Defender of Georgia (regarding control over activities of these forces for ensuring protection of human rights and fundamental freedoms).

Parliamentary and presidential control over the security forces, intelligence services and the police are reiterated by the provisions of the following Laws of Georgia: Law of Georgia on Police; Law of Georgia on Public Security Service; Law of Georgia on Counterintelligence Activity; Law of Georgia on Combating Terrorism; Law of Georgia on Trust Group and etc.

For example:

According to the Article 26 of the Law of Georgia on Counterintelligence Activity, head of the service coordinating counterintelligence activity will be obliged to submit the report to the President of Georgia at least once a year;

Provisions of the Law of Georgia on Police, Law of Georgia on Public Security Service, Law of Georgia on Combating Terrorism envisage the procedures of parliamentary and presidential control of police, security forces, and forces exercising counterterrorist activities;

### 2.3.

The military, parliamentary and security forces ensure the protection of Georgia's Constitutional order, sovereignty, territorial integrity and military potentiality against illegal acts on special services and separate individuals.

The strategic guidance documents specify a number of broad objectives and missions for the Georgian Armed Forces, such as protection of the nation's independence and territorial integrity, promotion and protection of vital national interests, support to civil authorities in case of emergencies and fulfillment of international commitments. More specifically, the National Military Strategy (NMS) identifies five missions for the Georgian Armed Forces:

- Prevention
- Deterrence
- Defence
- NATO integration, International Military Cooperation and Participation in multinational operations
- Develop capabilities to support civil authorities in emergencies caused by natural and manmade disaster

Mechanisms of Democratic control of the armed forces of Georgia are the following:

- President of Georgia who is elected on the base of universal, equal and direct suffrage by secret ballot and according to the constitution is the supreme commander-in-chief of the Armed forces.
- The parliament of Georgia approves the number of military forces, adopts State Budget, the part of which is the Defense Budget, declares the power of attorney to the government, the member of which is the minister of defense of Georgia.

For ensuring democratic control of Defense System, 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 above-mentioned Law, functions between the Ministry of Defense of Georgia and General Staff (Civilian and Military) have been divided on the Legislative level. Particularly, the Ministry of Defense was defined as the 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 their defense sector is that the head of the Ministry of Defense is civilian, state-political person.

Moreover, the Constitution of Georgia, Laws “On Ombudsman 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 forcers 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 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 may 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 communal/utility services;

- 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.

Besides, the rights of all service personnel are protected according to the state laws on “public (civil) service”, “Labor Code” and “Military Obligation and Military Service”.

The servicemen enjoy all rights provided by the Constitution except the following:

- membership of any political party;
- Organization of demonstrations and participation in demonstrations;
- Owning business or another simultaneous job (excluding scientific, pedagogical and medical assignments, if they do not prevent or hamper responsibilities related to military service);
- Distribution of classified information.

Military servicewomen (as well as civilians) enjoy special rights defined by the law on “Labor Code” in case of pregnancy, giving birth of growing child.

According to the abovementioned laws, servicemen have right to appeal to above-standing administrative structures as well as to the Court or Ombudsman.



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

### **4.1**

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).

Filed manuals and guiding documents consider the aspects of IHL in it.

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 taking courses on law of military conflicts.

On the basis of memorandum of understanding of 2007 signed between the Joint Staff and International Committee of Red Cross “IHL integration working group” was created. The latter is planning the 5 days IHL course for the officers or Joint Staff (training of trainers) and performs it jointly and with the support of ICRC (Tbilisi Delegation).

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.

### **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.

Criminal Code of Georgia contains a separate section on crime against the humanity which on its own consists of subsection on crime against humanity, peace, security and International Humanitarian Law.

### **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 international obligations assumed by Georgia.

Besides, during the state emergency the use of armed forces can be done only by 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, 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 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.

## Contact information

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