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3rd Narrative Progress Report

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1 Summary description

GEPAC - "Support to the Anti-corruption Strategy of Georgia" - started on 1 September 2007. The present report summarises the activities carried out during the second reporting period, from 1 September 2009 to 28 February 2009.

1.1 Project country and institution(s)

The project country is Georgia.

The main project partner on the Georgian side is the Chancellery of the Government of Georgia, appointed as the main counterpart institution in July 2008; a result of the initial main counterpart institution, the State Ministry on Reforms Coordination, having been dissolved in February 2008.

On 26 December 2008, the Presidential Decree N°622 established the Coordination Council for Fighting Against Corruption (See Annex 6).

Project beneficiaries also include:

- the Coordination Council for Fighting against Corruption (Outputs 1 & 2)
- the General Prosecutor's Office (Outputs 4 & 5)
- the Ministry of Interior (Outputs 4 & 5)

1.2 Contracting authority

Ministry for Development Co-operation of the Kingdom of the Netherlands.

1.3 Implementing organisation

The Council of Europe is responsible for the implementation of the project and the use of the project funds under the contract with the Ministry for Development Co-operation of the Kingdom of the Netherlands. Within the General Secretariat of the Council of Europe in Strasbourg, the Economic Crime Division (Technical Co-operation Department, Directorate General of Human Rights and Legal Affairs) is responsible for overall management and supervision of the project. A Local Project Team, composed originally of three Long-term National Advisers, two Non-term National Advisers since December 2008 and one Local Project Officer, based in the premises of the State Chancellery in Tbilisi, is supporting the implementation of the project.

1.4 Project objective

The overall objective of GEPAC is to contribute to fostering democracy and the rule of law through the prevention and control of corruption in Georgia, in accordance with relevant European and other international standards, including GRECO recommendations.

2 The project

2.1 Country situation

Georgia is a member of the Group of States against Corruption (GRECO) since 16 September 1999, and has signed and ratified the Civil Law and the Criminal Law Convention on Corruption of the Council of Europe.

Furthermore, Georgia is a party to the Council of Europe's mechanisms monitoring compliance with international standards in the field of money laundering, MONEYVAL.

In January 2005, the Government of Georgia initiated work on a new anti-corruption strategy and sought the support of the Council of Europe, which was provided under a joint programme of the Council of Europe and the European Commission.

The "National Anti-corruption Strategy of Georgia" was prepared by a working group led by the National Security Council in May/July 2005 and adopted by the Decree of the President of Georgia n°550 of 24 June 2005.

The "Action Plan for the Anti-corruption Strategy (2005-2006)" was drafted by a working group led by the then State Minister for Reforms Coordination, and adopted by the Decree of the Government of Georgia n°377 of 12 September 2005. This was approved by the Decree of the President of Georgia n°155 on 28 March 2006. Until its dissolution in February 2008, the State Minister for Reforms Coordination was empowered with supervising the implementation of the Action Plan.

A new draft of the Anti-corruption Strategy was also elaborated by the Office of the State Minister on Reforms Coordination in 2007, but has not been adopted yet.

In addition, Georgia continues to be an active member country in the Anti-corruption Network (ACN) for Eastern Europe and Central Asia, coordinated by the OECD Anti -Corruption Division, and participates in the ACN's Istanbul Action Plan. In this framework, Georgia has been providing its Progress Reporting on the Monitoring of the National Actions to Implement Recommendations endorsed during Reviews of Legal and Institutional Frameworks for the Fight against Corruption. The 7th General Meeting of the ACN took place in Tbilisi on 25-27 June 2008, where Georgian Government emphasized the reforms that took place in licensing, reforming the health care sector, and in improving the investment climate in general in the country. The reforms that took place in the Ministry of Interior, in particular the reform in the patrol police and the ongoing reform in the criminal police and on criminal justice matters were also discussed.

According to recent surveys and studies, corruption and conflicts of interest are reported to be widespread, and integrity to be weak in most State and public bodies. People believe that corruption – in different forms as bribes, corrupt lobbying, trading in influence, abuse of office, and other – is a common practice in everyday life. Although improvements have certainly taken place, sustainable measures should be implemented for a lasting effect on the corruption situation. For that reason, anti-corruption measures have been high on the agenda of the Georgian Government for the past years. GEPAC was therefore launched to provide necessary expertise, and to contribute to the actual implementation of

relevant reforms during 2007, 2008, and 2009. It aims at strengthening the Georgian institutions' capacities in their anti-corruption efforts, through the implementation of the Anti-corruption Strategy and Action Plan, and in promoting technical co-operation among different law-enforcement and prevention services.

2.2 Project objective

GEPAC aims at strengthening national capacities in support of the implementation of Georgia's Anti-corruption Strategy and Action Plan, in compliance with relevant European and international standards. In order to achieve this objective, the project works in five complementary directions:

- Strengthening the capacities of the anti-corruption policy institutions in order to manage, co-ordinate and monitor the implementation of the Anti-corruption Action Plan;
- Co-ordinating and monitoring the implementation of the Anti-corruption Action Plan through reviewing the Anti-corruption Strategy and up-dating the Action Plan;
- Elaborating and improving primary and secondary legislation concerning criminalisation and prevention of corruption;
- Strengthening the capacities of the prosecution to investigate and prosecute high-level corruption; and
- Introducing pilot activities to enhance integrity and institutional capacities as tools for the prevention of corruption.

2.3 Project team

Due to lack of a counterpart institution, and absence of activities under outputs 1 & 2, it was decided to suspend the contracts of two National Long-term Advisers, as from 23 September 2008. Their contracts were resumed as from 1st November, following discussions held at the 2nd Steering Group Meeting (see chapters 4.6.1 p19).

GEPAC Team Leader, left the Project in December 2008. One of the two National Long-term advisers informed the CoE secretariat, that she will leave the project at the end of her contract, on 31 March 2009. A job vacancy notice was published, and a recruitment procedure is underway to replace her. The deadline for applications is 7th April 2009, and interviews of short-listed candidates should take place during the second half of April.

2.4 Expected results and methodology

The expected results of the project are to update the existing Anti-corruption Strategy and Action Plan so that they reflect and include policy actions to implement all GRECO recommendations made in the report of the Second Round of Evaluation and in the OECD/ACN Monitoring Reports; to elaborate anti-corruption and economic crime-related draft amendments which comply with relevant international and European standards and/or best practices; to increase the capacity of the prosecution to investigate corruption cases; and to establish corruption-prevention plans.

Moreover, the project aims at supporting the establishment, as requested by the Georgian authorities, of a specialised anti-corruption body/structure responsible for the coordination of national efforts in combating and preventing corruption.

These objectives are pursued through close co-operation with all relevant stakeholders, the identification of international and national experts, through organisation of tailored activities such as round-tables, workshops, and study visits for practitioners; preparation and finalisation of feasibility studies and surveys, and harmonising legal texts in accordance with the Council of Europe's Conventions on Corruption and the United Nations' Convention against Corruption (UNCAC).

2.5 Summary of project outputs

Overall objective	To contribute to democracy and the rule of law through the prevention and control of corruption in Georgia in accordance with European and other international standards as well as GRECO recommendations
Project objective	To support the implementation of Georgia's Anti-corruption Strategy and Action Plan
Output 1	Capacity of the Office of the State Minister on Reforms Coordination (and Contact Points in co-operating institutions/Working Party) to manage, coordinate and monitor the implementation of the Anti-Corruption Plan reinforced
Activity 1.1	Inception Phase (2 months): Finalise Workplan of activities with all counterparts; conduct the recruitment of staff and long-term advisers; (commissioning, interviews, and contracting).
Activity 1.2	Organise a Start-up conference with participation of all relevant stakeholders (Tbilisi)
Activity 1.3	Provide equipment required for efficient running of the State Minister on Reforms Coordination
Activity 1.4	Advise and train the Staff at the State Minister on Reforms Coordination and Contact Points (Working Party members) on operational issues
Activity 1.5	Organise at least 2 study visits for the Staff at the State Minister on Reforms Coordination and relevant Contact Points (Working Party members)
Output 2	Anti-corruption Strategy Reviewed and Action Plan Updated
Activity 2.1	Assist and advice the Staff of the State Minister on Reforms Coordination to further elaborate and update the Anti-corruption Strategy and Action Plan in line with GRECO recommendations and other international commitments and obligations
Activity 2.2	Organise two corruption perception and attitude surveys on corruption levels
Activity 2.3	Organise a National Conference to review and overall monitor the implementation of the updated Anti-corruption Strategy and the Action Plan
Output 3	At least 6 draft amendments and regulations elaborated in co-operation with the Staff of the State Minister on Reforms Coordination and relevant partner institutions (Working Party)
Activity 3.1	Draft amendments related to the accession to international legal instruments against corruption, including those pertaining to criminalisation of corruption
Activity 3.2	Contribute to elaborate amendments/implementing tools pertaining to the reform of the system of financing of political parties and electoral campaigns
Activity 3.3	Provide training on issues related to the newly enacted anti-corruption legislation

Output 4	Capacities of the Prosecution to investigate and prosecute high level corruption strengthened
Activity 4.1	2 in-country training sessions for the staff of units specialised in investigation and prosecution of high level corruption (case studies, proactive and multidisciplinary approach)
Activity 4.2	1 in-country training session for the staff of units specialised in investigation and prosecution of high level corruption related cases
Activity 4.3	Up to 2 study visits for 6 prosecutors and 6 police officers from the specialised services
Activity 4.4	International conference on investigation and prosecution of high level corruption (Tbilisi)
Output 5	Integrity and institutional capacity for preventing corruption strengthened
Activity 5.1	Organise trainings for prosecutors/law enforcement agents on: <ul style="list-style-type: none"> - prevention of corruption within the prosecutorial and law enforcement agencies (case study) - on the implementation of the Code of Ethics

2.6 Nature of inputs during the reported period

The following types of activities are proposed within the project:

- **Expert advice** - provided by the Long-term Adviser within his competence and experience or, as necessary, by Short-term Advisers selected according to their specific field of competence, through direct conversation with individual officials or groups of officials on the issues specified in the Workplan and wherever necessary.
- **Expert opinions/technical papers** - will be provided in writing, as necessary, to comment on the pieces of legislation or their drafts or other documents, by independent experts from the Council of Europe Member States, via the CoE Secretariat.
- **Round-tables** - allowing stakeholders/professional groups and individuals to look at ways in which their own policies can be reformed. They will also be used to contribute specialist knowledge to a broader debate on a given issue.
- **Workshops** - allow a particular task to be undertaken involving multiple co-operating parties. Experts put their knowledge at the disposal of practitioners and officials. Workshops can also be used to provide specific advanced training.
- **Training courses** - allow participants to acquire new knowledge and/or professional skills through interaction with a qualified trainer. Elements of self-education can be included.
- **Translations** - make important texts and information accessible in local languages and can be used as a tool in training activities and seminars.

2.7 Recent relevant developments

On 4 November 2008, the Georgian Parliament ratified the UN Convention Against Corruption (UNCAC). The imminence of the ratification had been announced during the last Steering Group Meeting on 8 October 2008.

On 26 December 2008, President Mikheil Saakashvili signed the presidential decree N°622 establishing a Coordination Council for Fighting against Corruption (See Annex 6). The Council is placed under the authority of the Minister of Justice and is composed of twelve members of the government (see annex 6). Additionally, four representatives of civil society from the major NGOs involved in that field, have been invited to participate in the work of the Council.

The main objectives of the Council are to:

- Elaborate a general policy for fighting against corruption;
- Elaborate and periodically review the National Anti-Corruption Strategy and Action Plan;
- Coordinate and monitor implementation of the Anti-Corruption Strategy and Action Plan;

On 6 February 2009, the new Prime Minister Nika Gilauri announced the replacement of Mr Kakha Bendukidze's as Head of the Government's Administration, and consequently, as a member of the Coordination Council by Mr Davit Kereselidze as the new Head of the Chancellery, but not yet as a member of the Coordination Council as the presidential decree N°622 stipulates names and not functions. GEPAC was informed that the necessary amendment to the presidential decree should be made soon.

As mentioned above, Mr Bedukidze played an important role in the field of Anti-Corruption, and was the GEPAC project's main counterpart and interlocutor as State Minister for Reforms Coordination until the dissolution of that Ministry as well as later on as Head of the State Chancellery, when the Chancellery was officially appointed as the GEPAC project counterpart institution. In between, Mr Bendukidze continued to follow the implementation of the project.

The political situation in Georgia remained tense during this six-months reporting period.

3 Overall achievements

3.1 Overview of activities

The number of activities carried out during the reporting period was significantly lower than initially foreseen in the Workplan (Annex 1) and the Calendar of Activities (Annex 2). This further increased the delays already encountered in past reporting periods (see 1st and 2nd Narrative reports).

This situation can mainly be explained as follows:

A lack of a counterpart institution since the dissolution of the Ministry for Reform Coordination in February 2008. Members of the Steering Group were informed, at their 8^t October meeting, that the State Chancellery will be the counterpart institution, and that a contact person will be appointed soon. An e-mail of 13 January 2009 informed GEPAC of the appointment of the Chief Adviser of the Prime Minister and Deputy-Chairperson of the Coordination Council for Fighting against Corruption as the main contact person for the Project.

The medium-term consequences of the armed conflict with the Russian Federation, including and increase in political tensions, the situation of IDPs, the uncertainty about the future of the OSCE, UNOMIG and EU Monitoring missions, among others, monopolised the Georgian government's work and attention. Consequently, priorities of the Government were reshuffled, affecting the fight against corruption.

This serious slow-down in the implementation of activities, in particular under Outputs 1 & 2 (related to the review of the Anti-corruption Strategy and Action Plan), led the Council of Europe to suspend the contracts of two GEPAC National Long-term Advisers from 23 September 2008. Contracts were resumed as from 1st November 2008 following the request made by the Head of the State Chancellery during the Second Steering Group meeting and his insurance that activities under outputs 1 & 2 would finally start.

During the reporting period, under Output 1, no activities had been planned or carried out, nor planned. The situation in this regard remains the same as in the 2nd narrative report.

Nevertheless, the establishment of the Coordination Council for Fighting against Corruption is an important positive step, which should be provided with the maximum possible support from GEPAC Project. The establishment of the Coordination Council as the institution responsible for the review of the Anti-Corruption Strategy, the up-dating of the Action Plan, as well as for coordinating and monitoring its implementation, echoed several announcements which were made since the beginning of the project in September 2007, about the imminence of the setting-up of such an institution.

The Coordination Council for Fighting against Corruption has inherited the task of reviewing the Anti-Corruption Strategy and Action Plan, as well as the elaboration and coordination of anti-corruption policies and implementation of GRECO recommendations. These tasks were under the responsibility of the State Chancellery since July 2008 (as stated by former PM Lado Gurgendize in his letter of 30 July 2008) without noticeable progress being achieved during that period.

It is important to stress that the review of the Anti-corruption Strategy and the up-dating of the Action Plan, as well as the elaboration of anti-corruption policies, are of vital importance for future anti-corruption efforts in Georgia and the basis of the most important part of the GEPAC project. Thus, several major activities (activities 1.4, 2.1, 2.3) are directly depending on the review of the Anti-Corruption Strategy and up-dating of the Action Plan, which is their starting point. Moreover, an anti-corruption strategy, and the resulting policies, are the key elements of the fight against corruption,

Under output 4, a training on Special Investigative Means for prosecutors and representatives of specialised units from the Ministry of Interior took place in December in Tbilisi. Two study visits for representatives of the Prosecutor's Office and the MoIA to European counterpart institutions were organised (Zagreb and Hamburg).

Several meetings with representatives of civil society, and with members of the Coordination Council for Fighting against Corruption took place during the reporting period.

The following activities were carried out during the reporting period:

Output	Description of activity	Status	Date
Output 1			
Activity 1.4 (A)	<i>Roundtable Discussion for Contact Points on tools of reporting, co-operation with partner institutions and monitoring the implementation of AC measures in line with the new AC Action Plan</i>	<i>Not completed (on hold/to be carried out after review of AC Strategy and AP)</i>	
Activity 1.4 (B)	Continuous updatig of the Project's web page within the Web site of the Economic Crime Division	Ongoing	2008-2009
Activity 1.5	<i>Study visit for the main counterpart institution and relevant staff from cooperating institutions</i>	<i>Not completed (on hold)</i>	<i>June 2008</i>
Activity 1.6	<i>Conduction of a feasibility study and possible models for a specialised anti-corruption structure</i>	<i>Not completed</i>	<i>June 2008</i>
Activity 1.8	<i>Workshop on the Elaboration of financial and human resources of the future specialised Anti-corruption Structure of Georgia</i>	<i>Not completed</i>	<i>May 2008 Tbilisi</i>
Output 2			
Activity 2.1	Workshop on "Best Practices" in Anti-Corruption bodies, for the members of the Coordination Council for Fighting Against Corruption	completed	March 2009, Tbilisi
Activity 2.2	Call for expression of interest and selection of the Survey Company	Completed	December 2008 / January 2009

	Roundtable Discussion on finalising the two survey questionnaires	Completed	3 February 2009, Tbilisi
	Finalising contract with Survey Company	Underway	
Output 3			
Activity 3.1	Two Technical Papers assessing the level of compliance of the Georgian Legislation with the provisions of the Council of Europe Criminal Law (ETS 173) and Civil Law (ETS 174) Conventions on Corruption, as well as with the United Nations Convention Against Corruption (UNCAC); The two draft Technical Papers to be prepared by National expert and to be reviewed by two International experts	Underway (Draft Technical Papers were submitted and are currently reviewed by international experts)	January/March 2009
<i>Activity 3.4</i>	<i>Assistance in drafting of the legal framework of the future specialised anti-corruption structure of Georgia</i>	<i>Not Completed (On hold)</i>	
Output 4			
Activity 4.1 (B)	Multi-Disciplinary training for prosecutors and law enforcement officers on use of special investigative means (SIMS)	Completed	9-10 December 2008, Tbilisi
Activity 4.3	Two study visits for 8 representatives of law enforcement structures (MoIA) and the Prosecutor's Office.	Completed	12-13 January 2009, Zagreb, Croatia (USKOK) 15-16 January 2009, Hamburg, Germany (Ministry of Interior)
Output 5			
	No activity		

NB: activities in Italic are either partially or not completed

4 Activities implemented during the reporting period

4.1 Output 1

Capacity of the Office of the State Minister on Reforms Coordination and Contact Points in co-operating institutions to manage, coordinate and monitor the implementation of the Anti-corruption Plan reinforced

No activity has been carried out under output 1 during the reporting period.

4.2 Output 2

Anti-corruption Strategy reviewed and Action Plan updated

4.2.1 Activity 2.1

Workshop on “Best Practices” in Anti-Corruption bodies (11 March 2009, Tbilisi)

Status: completed

Following the establishment, at the end of December 2008, of the Coordination Council for Fighting against Corruption (the Council) and meetings held on 4-5 February 2009 between the GEPAC project team and Deputy Chairperson of the Council (who is also the main contact person of the project), it has been decided to organise a workshop on “Best Practices” in Anti-Corruption bodies for the members of the Council.

Two Council of Europe expert-consultants in anti-corruption, including the Chairperson of the Slovenian Commission for the Prevention of Corruption and President of GRECO, made presentations and led the discussions.

Comprehensive presentations were made by the consultants and shortcomings were clearly listed, mainly:

- Lack of Independence and Autonomy
- Lack of Freedom from Pressure
- Lack of Secretariat and absence of Budget

Thus, the Coordination Council has been established by simple presidential decree (N°622), and therefore could be easily dissolved, one or more of its members dismissed and replaced, its mandate modified by the President etc. Consequently, the Coordination Council cannot be considered as being independent, autonomous, and free of pressure/influence (whereas at the same time, the President shields the Coordination Council from external influence).

Through various examples, CoE consultants emphasised the importance of securing the existence of such a body, ideally through a law. The aim of such a law would be to make its dissolution as difficult as possible for any government that may be less devoted to fighting against corruption.

Another serious shortcoming of the Council is the absence of a specific budget or Secretariat which would also contribute to guarantee its autonomy and independence. For the time being, the Council relies fully on the good will of other

entities of the administration (eg. Ministry of Justice) for putting at its disposal personnel or equipment on an ad-hoc basis, which is certainly not sustainable and limits severely its efficiency. As a start, one possibility would be for each institution to second, on a long-term or fix-term basis, one or two experts, in order to provide the Council with a Secretariat.

Finally, the Council is mainly composed of senior governmental officials who are participating in the work of the Council in addition to other priority tasks of their functions. Therefore, both experts stressed the vital importance of providing the Council with a proper Secretariat composed of lawyers and experts, specialised in the different fields of anti-corruption, who would be working on reviewing the Strategy and Action Plan, drafting recommendations to be adopted by the Council in plenary session meetings, as well as proposing preventive measures to be implemented in all areas of administration and business. Such responsibilities require daily work which can only be carried out by a specialised Secretariat which therefore requires allocation of an adequate budget to the Council.

Regarding the strategy and action plan, it was highlighted that drafting of a strategy is the first step of concretisation of the political will into a tangible list of measures and therefore add credibility and realism to political commitments. CoE consultants explained that defining the AC Strategy should derive from 3 questions: What for? How? And what exists?

A suggested Action Plan for review and updating of the Anti-corruption Strategy was distributed to the participants.

Actions	Timeline (in weeks)							
	1-2	3-4	5-6	7-8	9-10	11-12	13-14	15-16
1. Announce the process of updating the national Anti-corruption Strategy; set clear deadlines for receiving comments and organising public discussions (e.g. 1 month to receive written comments; 1.5 months for public discussion)								
1.a. Invite all interested to participate to submit suggestions for updating the Anti-corruption Strategy and Action Plan								
1.b. Invite all state agencies to review their obligations under the existing/previous Strategy and Action Plan and to submit proposals for a new Strategy and Action Plan								
2. Provide responsible individuals from state agencies with (minimum) training/guidance on formulating Anti-corruption Policies and Action Plans								
3. Review submitted proposals/suggestions								
4. Organise public discussion of proposals for updating Anti-corruption Strategy and action plan in view of appropriateness of proposed measures and feasibility of timelines								
5. Hold consultations with state agencies on ministerial/sectoral Anti-corruption policies that are to be incorporated in an updated national Strategy and Action Plan								
5.a. Hold consultations with state agencies on								

mechanisms for reporting and coordination								
6. Draft updated national Anti-corruption Strategy and Action Plan, providing justifications for measures included and proposals rejected								
7. (optional) Second public consultation on draft Anti-corruption Strategy								
8. Submit draft Strategy and Action Plan for official approval								
9. Design templates for reporting on implementation of Anti-corruption Strategy								
10. Hold trainings for responsible staff within state agencies on reporting on implementation of Anti-corruption Strategy								

4.2.2 Activity 2.2

Call for interest and selection of the Survey company

Status: on going

Background:

During the round-table discussion on conducting two surveys on corruption which took place in Baku on 16-17 July 2008, the methodology and objectives were defined. The two survey questionnaires were also adapted to the specific needs of the Georgian counterparts.

The objectives of the Household Survey are to obtain information on the following:

- Citizens' perceptions of the integrity (trustworthiness) of public institutions, including levels of corruption;
- Citizens' perceptions of the integrity (trustworthiness) of various public service providers, and their experience of corruption when accessing public services, with particular attention devoted to the judicial system, education, healthcare;
- Citizens' perceptions of the likely effectiveness of various possible public sector reforms to reduce corruption.

Sampling frame: Adult population >18

Sample size: 1 000 respondents

The objectives of the Survey of Public Officials are the following:

- To obtain information on the perceptions and experience of public officials of various aspects of the institutions in which they work, in particular the following:
 - Personnel management;
 - Budget management;
 - Procurement management;
 - Public service delivery;
 - Information management and communication;
 - Policy consistency and resource sufficiency;
 - Organisational purpose, performance and integrity.

- Perceptions and experience of public officials of corruption;
- Perceptions of public officials of the likely effectiveness of various possible public sector reforms to reduce corruption.

Sampling frame: Civil servants > 18
 Sample size: 800 respondents

Following this preparatory work, a call for interest was made on 1st December 2008 and published on the GEPAC project webpage (on CoE's website), the CoE Office in Georgia's webpage, as well as in two local newspapers: "Messenger" and "24 hours"; the initial period of three weeks was later extended until 12 January 2009,.

Five proposals were received by GEPAC before the deadline and were examined by GEPAC Project Officer, as well as one CoE consultant, who had been involved in the preparations for this activity, especially as regard the questionnaires. Following a careful consideration of qualifications and experiences, the company GORBI – Gallup international was finally selected.

On 3 February 2009, GEPAC project Officer, a CoE consultant, as well as the Local Project team, met with the Director of GORBI and other representatives, in order to finalise the two questionnaires, discuss the methodology and timetable for the implementation of the two surveys, as well as data processing, analysis, and reporting.

A contract between GORBI and the CoE was drafted and is in its finalisation phase. The implementation of the two surveys from start to the final report in the beginning of June 2009 should take two months.

4.3 Output 3

At least 6 draft amendments and regulations elaborated in co-operation with the Office of the State Minister on Reforms Coordination and relevant partner institutions

4.3.1 Activity 3.1

Status: ongoing

Two Technical Papers assessed the level of compliance of the Georgian Legislation with the provisions of the Council of Europe Criminal Law (ETS 173) and Civil Law (ETS 174) Conventions on Corruption, as well as with the United Nations Convention against Corruption (UNCAC). The two draft Technical Papers were prepared by a national expert and submitted to two international experts for their review and additional comments.

4.4 Output 4

Capacities for the Prosecution to investigate and prosecute high level corruption strengthened

4.4.1 Activity 4.1

Status: completed

Multi-Disciplinary training for prosecutors and law enforcement officers on use of special investigative means (9-10 December 2008, Tbilisi)

Within the framework of the GEPAC project, the Council of Europe organised a training on special investigative means for 34 representatives of the Prosecutor's Office and Ministry of Internal Affairs (mainly prosecutors and investigators) who are investigating corruption cases.

Two international consultants from Slovenia and Germany, both heads of undercover units, as well as one national expert, senior prosecutor (Chief Prosecutor's Office of Georgia) made presentations and led the discussions.

Following the presentation from the national expert on the notion of corruption and its main elements, a description of widespread corruption-related crimes as well as problems of legal qualification of corruption crimes, experts introduced the participants with the use of special investigative means in Slovenia and Germany. Presentations were also made on the European working group on undercover activities (ECG), European standards on undercover activities, as well as cross-border deployment of undercover agents, and international cooperation in use of SIMs.

The experts described in detail the different phases and steps to undertake in order to establish, select, train, and equip an undercover unit, as well as operative methods, techniques and procedures used by such units.

Specific problems faced by these means of investigation, such as security of undercover agents, provocation to commit a crime, pretend purchases and bribes, or the difficulty to include legislative provisions on special operative-investigative activities, especially since these activities are often on the edge of legality or breaching the law, were addressed. On the latter, the international experts regretted not having had the possibility to comment on the new drafts of the Criminal and Procedural Law as these were not available in English. Nevertheless, they stressed the importance of including provisions on undercover operations within that law as it is the case in most European countries.

Although there is good experience in telecommunication interception and surveillance inherited from former Soviet Union, it appears from that training that there is no specific functional unit in Georgia carrying out undercover investigations according to European standards. The main problem is that there is no clear division of tasks and responsibilities between the criminal police on the one hand, and state security agencies on the other hand.

Following that training, the possibility of organising a study visit for one or two senior police officers or representatives of MoIA from specialised units, to European counterpart institutions as a possible follow-up to this training was discussed. Preliminary contacts were already made with the German Police.

4.4.2 Activity 4.3

Two study visits of representatives from the General Prosecutor's Office and the Ministry of Internal Affairs to European partner institutions (Zagreb + Hamburg 12-16 January 2009)

Status: completed

Following the preparatory work carried out in June and July 2008, a delegation of 8 representatives of the General Prosecutor's Office and Ministry of Internal Affairs, went to Zagreb, Croatia, to visit the Office for the Prevention of Corruption and Organised Crime, USKOK and to Hamburg, Germany, to visit the Department of the Internal Investigations of the Federal State of Hamburg. These study visits were originally planned for September 2008, but postponed due to the events of August 2009.

Visit to USKOK – Office for the Prevention of Corruption and Organised Crime

USKOK is an Anti-Corruption structure with both law enforcement and prevention components.

The first day, participants received background information on the situation with regard to corruption in Croatia, the history of USKOK, its establishment following Croatia's ratification of UNCAC, and information about the existing network of State Attorney's Offices and their competences in these specific fields not being adequate, as well as information on the way it is structured, its main departments and staff

The Head of USKOK described the difficulties faced by USKOK at its beginning and how it managed to overcome them and to achieve results which could not have been envisaged only a few years ago. He insisted on the following indispensable criteria:

- Complete legal framework
- Good selection and training of the staff
- Adequate means (financial, human, and technical)
- Excellent cooperation between Prosecutors, Secret Services, and Police

On the second day, participants met with representatives of the Criminal Police, as well as with prosecutors and representatives of the Ministry of Justice.

The Head of the National Police Office for Suppression of Corruption and Organised Crime, explained the history of his Office, which is composed of more than 400 criminal police officers, who are essentially working with USKOK on corruption or organised crime cases. He explained the particularly important role of criminal intelligence gathering, as it determines their way of functioning as well as their structure ("intelligence-led policing").

The Ministry of Justice has the responsibility for the implementation and monitoring of the Anti-Corruption Strategy and Action Plan. The Head of Sector for Anti-Corruption, told participants that the Anti-corruption Strategy and Action Plan are continuously reviewed, and the relevance of its measures assessed and adapted. A working group works on a regular basis on the Strategy and Action Plan in order to draft the necessary legal amendments required by the new measures decided.

Participants were particularly interested by the presentation made by a prosecutor, who described investigations made on one of the biggest cases investigated by USKOK, on the purchase of land properties on the Croatian coast in the framework of the privatisation amounting to 28-30 millions Euros (of which there were an estimated 1,75 millions of bribes) and involving four Vice-Presidents of the privatisation fund.

Visit to Ministry of Interior – Department of Internal Investigation

Participants became acquainted with structure, functions, and legal framework of the Department of Internal Investigations. The representative of the Department of Internal Investigation explained the benefits of concentrating repressive and preventive policies in the fight against corruption in one structure.

Special attention was paid to the prevention of corruption in public services. Following a description of a risk analysis methodology on corruption in sensitive areas, such as public procurement, methods were explored on how to minimise those risks. Participants familiarised themselves with the various indicators connected to the persons (unusual behaviour of a civil servant) and those administering procedures (missing of required document).

A representative of the Department of Internal Investigations, gave a step-by-step presentation of an investigation case on corruption offence. He detailed the entire procedure including information gathering, formal and informal inquiry, planning of search operation, material gathering, analysis of human resources, and technical equipment needs for the operation, as well as protection and analysis of the evidences, questioning of suspects etc.

4.5 Output 5

Integrity and institutional capacity for preventing corruption strengthened

No activity has been carried out under output 1 during the reporting period.

4.6 Other activities

4.6.1 Second Steering Group Meeting (8 October 2008, Tbilisi)

The second GEPAC Steering Group Meeting took place at the State Chancellery in Tbilisi on 8 October 2008. The aim of the meeting was to review the progress made during the first year of implementation of the project, and to discuss the current institutional priorities in view of the revision of the Workplan adopted at the 1st Steering Group meeting.

The following issues were discussed:

- Status of workplan's activities;
- Nomination of Project's main counterpart institution which would also be responsible for the implementation and monitoring of the Anti-corruption Strategy and Action Plan;
- Nomination of a Project Coordinator within the counterpart institution for day-to-day cooperation;
- The establishment of a working group for the new Anti-corruption Strategy and Action Plan;

- The government's processes in analysing and updating the Anti-corruption Strategy and Action Plan;
- Planning of activities according to the Government's current priorities and needs;
- Revision of the workplan based on current institutional needs;
- Role of National Long-term advisers,

Invitees:

1. Ms Janet Alberda, Deputy Head of Mission, Embassy of the Netherlands
2. Mr Kakha Bendukidze, Head of State Chancellery
3. Mr Vakhtang Lejava, First Deputy Minister, Ministry of Economic Development
4. Ms Tina Burjaliani, First Deputy Minister, Minister of Justice (MoJ)
5. Mr Shalva Kvinikhidze, MoJ
6. Ms Nino Lapiashi, Main Specialist, International Cooperation Unit, Ministry of Interior (MoI)
7. Ms Natia Gvazava, Head of International Relations Department, MoI
8. Ms Mariam Gotsiridze, Legal Adviser, Office of the Prosecutor General
9. Mr Igor Gaon, Special Representative of the Secretary General in Georgia, Council of Europe (CoE)
10. Mr Alexander Seger, Head of Economic Crime Division, CoE
11. Ms Tanya Peshovska, GEPAC Project Officer, CoE
12. Ms Tamara Katsitadze, GEPAC Local Project Officer, CoE
13. Mr Levan Khetsuriani, GEPAC Team Leader/CoE

Overview of discussions:

Following the review of implemented activities, CoE and donor representatives insisted on the importance of starting implementation of activities related to the review and update of the Anti-corruption Strategy and Action Plan. Mr Bendukidze underlined that institutional restructuring which followed both presidential and parliamentary elections as well as the armed conflict with the Russian Federation impeded the implementation of several activities. He took the opportunity to inform the SG that the establishment of a Specialised Anti-corruption Body, which had been confirmed as being a priority during the 1st SG meeting in April 2008 and which had been supposed to continue after the parliamentary elections of May 2008, was not anymore on the agenda for the moment.

Mr Bendukidze informed the SG that the State Chancellery has been appointed as the main counterpart institution and that a main contact person will be soon appointed within the Chancellery (the Chief Adviser of the Prime Minister was subsequently appointed in beginning of January 2009). He also proposed the establishment of a working group, composed of representatives of the main governmental agencies, to work on the review and Anti-corruption Strategy and Action Plan (the Coordination Council for Fighting against Corruption has been established on 26 December 2008 under the responsibility of the Minister of Justice). Imminent ratification of the United Nations Convention against Corruption (UNCAC) was also announced (UNCAC was ratified on 4th November 2008).

Priority activities for the Prosecutor's Office and Ministry of Internal Affairs were also discussed, especially in terms of training and study visits.

Following Mr Bendukidze's assurances that activities would be implemented as agreed under the new Workplan and calendar of activities, SG agreed to resume

the contracts of the two National Long-term advisers which were suspended due to the lack of counterpart institutions and considerable delays in the implementation of the project activities.

4.6.2 Meetings with Representatives of Civil Society 8-11 December 2008

On the margins of the training on Special Investigative Means (SIMs), GEPAC Project Officer, together with one CoE consultant, held several meetings with representatives of civil society, specifically with representatives of the Georgian Young Lawyers Association, the Liberty Institute, as well as Transparency International, who confirmed their readiness in participating in the process of the review of Anti-corruption Strategy and Action Plan.

4.6.3 Meetings with Main Contact Person and Members of the Coordination Council for Fighting against Corruption 4-5 February 2009

A CoE consultant, and the GEPAC Project Officer, held several meetings with members from governmental agencies as well as civil society representatives, of the newly-established Coordination Council for Fighting against Corruption. Two meetings were held with the Chief Advisor of the Prime Minister and Deputy-Chairperson of the Council, at the beginning and at the end of the visit.

These meetings showed that the purpose, mandate, working procedures, and immediate tasks of the Council were not very clear. It appeared also that neither a specific budget, nor a dedicated Secretariat were foreseen to provide indispensable support to the Council's activities and work.

It was finally agreed to hold a workshop on "Best Practices" and lessons learnt from success and failures of other Anti-corruption bodies, mainly in Europe.

Following this visit and meetings, the CoE consultant drafted a Technical Paper on further activities which could be carried out by the GEPAC project in cooperation with the Council, as regards the review of the national Anti-corruption Strategy and Action Plan which was handed-over to the main counterpart contact person (see annex 3)

4.6.4 Meetings attended by GEPAC Local Project Team

The GEPAC Local Project team attended the three meetings of the Council which took place since its establishment (29 December 2008, 9 January and 20 February 2009). The first meeting was devoted to the presentation of the Council, its mandate and objectives, to its members. The meeting on 9 January was aiming at establishing a working group who would work on the review of the Strategy and Action Plan, while the third meeting, held on 20 February, was focused on the role of NGOs in the strategy.

The GEPAC National Long-term Advisors were also asked to take part in meetings on the draft law on "Corruption and Conflict of Interest in the Public Service", which was already adopted in the first hearing, in order to provide advice to ensure that it addresses GRECO's recommendations.

5 Future Activities

5.1.1 Activities related to the review of the Anti-corruption Strategy and Action Plan (activities 1.4 (A), 2.1 and 2.3)

To be effective and successful, the fight against corruption should follow a coherent approach made up of a series of different phases and steps. The GEPAC Workplan reflects that approach, had been agreed upon with the Georgian authorities. Summarised as follows, the setting up of the GEPAC Project, especially outputs 1 and 2, consist first of defining and establishing a specialised anti-corruption body which would be in charge of reviewing the Anti-corruption Strategy and Action Plan, to place it in a legal framework, to establish a methodology to analyse current the Anti-corruption Strategy and Action Plan in order to make recommendations for their revision and update, and finally, to set up tools to coordinate and monitor its implementation.

With the establishment of the Coordination Council for Fighting against Corruption, which is in charge, among other things, to review the Anti-corruption Strategy and Action Plan, all obstacles are theoretically lifted to carry on with the activities 1.4 (A), 2.1 and 2.3.

Following the shortcomings described above (see chapters 4.2.1 and 4.6.3), GEPAC efforts and priorities should now focus on assisting the Council to address these shortcomings, consolidate its position, as well as increase its power and importance.

As the Council already started its work, GEPAC could propose combined actions by providing immediate assistance in terms of methodology, working procedures, guidelines on the review of the Anti-corruption Strategy and Action Plan through workshops and round tables, while, at the same time, carrying out a full assessment expertise of the Council, with the aim of rapidly providing comprehensive recommendations to tackle shortcomings.

5.1.2 Activities related to a specialised anti-corruption structure (activities 1.6, 1.7(D), 1.8, 3.4,4.1)

Background:

After a difficult period in Georgia in October - November 2007, when several high-level politicians were accused of committing corruption offences by the General Prosecutor's Office, the President of Georgia stressed the need to establish a new anti-corruption body. This was confirmed at many occasions, during the GEPAC Start up event (October 2007) or during the first SGM (April 2008).

Activities related to the establishment of such a specialised body were included in the GEPAC Project as agreed with the Georgian authorities. A drafting of the legal framework of the future specialised Anti-corruption Body was prepared by GEPAC and translated in June 2008. Following Mr Bendukidze's remarks made on the draft during discussions held in June 2008, GEPAC started the contracting procedure of two international experts in order to review the draft and provide an external expert opinion. But the procedure was cancelled as no clear indication regarding the establishment of the Anti-corruption Structure had been sent to the Secretariat by the State Chancellery. During the second SGM, Mr Bendukidze informed the participants that the creation of a specialised Anti-corruption Body was no longer a priority of the government.

However, in a meeting with the President of GRECO and the GEPAC Project Officer, which took place at the margins of the workshop on "Best Practices" (11 March 2009), the Minister of Justice, mentioned that there were still internal discussions on whether or not to establish this specialised Anti-corruption Body, and what should be its exact responsibilities and competences.

Although the Council of Europe always welcomed the possibility of establishing a specialised Anti-corruption Body responsible, in particular, for the prevention, coordination and monitoring of the Anti-corruption Strategy, the Action Plan, and relevant policies and guidelines, attention was drawn on several occasions that law enforcement and investigation responsibilities should remain within the regular criminal police and justice system. This was furthermore stressed by the Council of Europe experts at the workshop on "Best Practices".

Five activities linked with the establishment of a specialised Anti-corruption Body are currently on hold: activities 1.6, 1.7(D), 1.8, 3.4, 4.1. This issue, and the future, or review, of these activities should be clearly discussed at the 3rd SGM.

One of the options could be that, once its mandate is clarified and its position consolidated, the newly-established Coordination Council for Fighting against Corruption could be a good basis for becoming the permanent Specialised Anti-corruption Body.

Regarding the analysis of the functioning of the existing legislation on financing of political parties (activity 3.2), proposal for the submission of expertise were already made by the GEPAC Officer during recent meetings. Cooperation is envisaged with the Venice Commission, as it has been officially requested by the Georgian authorities to provide an opinion on the new organic Law on the Political Union of Citizens.

For the reasons explained above, GEPAC has been facing considerable delays in implementing its activities. The appointment of a counterpart institution, and more recently of a main contact person, as well as the establishment of the Coordination Council for Fighting against Corruption, are positive signs which could give a second impetus to the Project, boosting activities which were on stand-by until now, on the basis of an excellent cooperation between GEPAC and the Council. Under this assumption, and taking into consideration delays accumulated during the implementation of the activities, an extension of the Project could be envisaged to carry out activities through to their successful conclusion. This option shall be discussed at the next SGM.

Planned activities for March-August 2009

Output	Description of activity	Status	Date
Output 1			
Activity 1.4 (A)	Round table Discussion on tools of reporting, cooperation with partner institutions and monitoring the implementation of anti-corruption measures in line with the new Anti-corruption Action Plan (2 RTD to be organised)	Planned	May/June2009
Activity	Updating of the webpage on anti-corruption	On-going	2009

1.4 (B)	activities within the website of the Chancelley and of the Project's web page within the Web site of the Economic Crime Division		
Activity 1.5	Study visit for up to 8 members of the State Chancellery and relevant staff from cooperating institutions (proposed countries - Slovenia and France)	Planned	2009
Activity 1.6	<i>RTD on the final concept of AC Body</i>	<i>On hold</i>	<i>2009</i>
Activity 1.7	<i>Expert opinion on the draft law to be provided followed by RTD on the final draft before submission to the Parliament</i>	<i>On hold</i>	<i>2009</i>
Activity 1.8	<i>Workshop on the AC Specialised Body</i>	<i>On hold</i>	<i>2009</i>
Output 2			
Activity 2.1	Analysis and recommendations on the Anti-corruption Strategy and Action Plan (Workshops or RTDs to be organised in cooperation with the Council)	Planned	2009
Activity 2.2	Contracting of Research Company and Workshop on the finalisation of the Survey	Planned	March/June2009
Activity 2.3	National Conference to review and monitor implementation of AC Strategy and Action Plan	Planned	July/August2009
Output 3			
Activity 3.1	Technical Papers on level of compliance of Georgian Legislation with CoE Convention on criminal and civil law (ETS 173 & ETS 174) and UNCAC	Underway	April 2009
Activity 3.1	Workshop on new draft anti-corruption legislation	Planned	2009
Activity 3.2	Analysis of the new Law on Financing of Political Parties Training on Financing of Political Parties	Planned	May/June2009
Activity 3.4	<i>RTD on AC Specialised Body (3 RTD planned)</i>	<i>On hold</i>	<i>2009</i>
Output 4			
Activity 4.1	Multi-disciplinary training for prosecutors/law enforcement officers on use of SIMS and criminal law procedures when investigating and prosecuting high-level corruption cases (outside Tbilisi)	Planned	2009

Activity 4.2	Workshop on criminal justice and proceedings against corruption-related offences	Planned	June 2009
Activity 4.3	1 study visit for one or two senior police officers or MoIA representatives from specialised units, to European counterpart institution	Planned	May/June 2009
Activity 4.4	International conference on investigation and prosecution of high-level corruption	Planned	July 2009
Output 5			
Activity 5.1	Multi-disciplinary training for prosecutors/law enforcement officers on prevention of corruption (case studies)	Planned	2009
Activity 5.2	Training for prosecutors/police officers on the Code of Conduct	Planned	2009

NB: activities in Italic are currently on hold as they are linked to the establishment to this specialised Anti-corruption body.

6 Strategic overview and conclusion

Since November 2007, the project has been operating against the background of a difficult political situation which, provoked serious delays in the implementation of project activities. This situation was aggravated by the lack of a main counterpart institution and a main contact person within the counterpart institution for some time. Although the State Chancellery had been appointed as the main counterpart institution in July 2008 by Prime Minister Lado Gurgenzidze, and confirmed by the Head of the Chancellery at the second Steering Group meeting on 8 October 2008, the GEPAC Project was only informed about the nomination of the Chief Advisor of the Prime Minister, as the main contact person, in January 2009.

As mentioned in previous narrative reports, and expressed during the 1st and 2nd Steering Group meetings, the implementation of activities has been considerably delayed, especially those related to the review of the Anti-corruption Strategy and Action Plan, and to the establishment of a specialised Anti-corruption body.

Nevertheless, the Project team, together with the Georgian institutions, managed to carry out several activities under the Workplan and Calendar of activities, mainly under outputs 3 and 4 for the benefit of the Prosecutor's Office and Ministry of Internal Affairs whose constructive and fruitful cooperation should be underlined.

The Council of Europe is committed to continue assisting Georgian authorities in their fight against corruption through this project. In this respect, the establishment of the Coordination Council for Fighting against Corruption is undoubtedly a positive sign of Georgian efforts to move forward in this field. However, as mentioned, meetings with members of the Council, as well as the workshop on "Best Practices" revealed serious shortcomings which must be appropriately addressed, to enable the Council to properly perform the tasks it was put in charge of. A new calendar of activities, especially as regards the review of the Strategy and Action Plan, should therefore be established as soon as possible together with the Council and upon proposals of this later.

Given the current situation and the need to discuss further steps, especially as regards the Anti-corruption Strategy and Action Plan, as well as to review the Workplan and Calendar of Activities taking into account the latest developments, the Council of Europe would like to propose to hold the third Steering Group Meeting (SGM) during the second half of April 2009 in Tbilisi. The SGM will bring together representatives of the Embassy of the Kingdom of the Netherlands in Tbilisi, the Georgian authorities, and of the Council of Europe, to review the progress made during the second six months period and adopt effective measures to ensure the continuity of the project's implementation.

The Steering Group should, in particular, clarify the following issues:

- Further implementation of activities related to the review of the Anti-corruption Strategy and Action Plan, and proposals to the counterpart in this respect;
- Situation regarding the Specialised Anti-corruption Body and future of related activities;
- Review of the GEPAC Workplan and Calendar of Activities based on proposals of counterpart institutions;

- Possible extension of the GEPAC Project due to delays in the implementation of activities as originally planned, on the basis of proposals and review of the Workplan and Calendar of Activities!

The results of the SG should then result in a decision as to whether the project should be extended, and what the priorities should be during the extension period within the limits of the budget originally planned.

7 Appendix

Annex 1: GEPAC Workplan of Activities

Annex 2: GEPAC Calendar of Activities

Annex 3: Technical Paper on Further Activities on Revising the National Anti-Corruption Strategy and Action Plan, Marijana Trivunovic, February 2009

Annex 4: Outcomes of the training on Special Investigative Means (SIMs), Davor Pešić and Gerhard Spiesberger, December 2008

Annex 5: Outcomes of the training on Special Investigative Means (SIMs), Genadi Kachibaia, December 2008

Annex 6: Unofficial translation of Presidential Decree N°622