



**Economic Crime Division
Directorate of Co-operation
Directorate General of Human Rights and Legal Affairs**

“SUPPORT TO THE ANTI-CORRUPTION STRATEGY OF GEORGIA” (GEPAC)

**TECHNICAL PAPER
ON THE COMPLIANCE OF THE GEORGIAN LEGISLATION**

WITH THE UNITED NATIONS CONVENTION ON CORRUPTION

COE PROJECT NO: 2007/DGI/VC/779

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The views expressed in this document are author's own and do not necessarily reflect official positions of the Council of Europe

1. INTRODUCTION

Under the GEPAC project, the Government of Georgia will be provided with a Report on **Compliance of the Georgian Legislation with the United Nations Convention Against Corruption (UNCAC)**. UNCAC is to be ratified in 2009. The Government will also adopt the new Criminal Procedure Code. Once the Compliance Report (CR) is completed, the Government will be helped in drafting legal amendments in order to get their legislation in line with the Convention.

2. REVIEW APPROACH

This is the second draft review of the CR; the first was undertaken in February 2009.

At that time, the first review noted that

- the author of the CR has sought to confirm whether or not the Georgian legislation addressed all the requirements in UNCAC.
- As expected, the report of the Georgian legal framework focused to a large extent on UNCAC Chapters III, IV and V and there are a number of areas where discussion may or may not confirm the existence of appropriate legislation.
- Third, this is therefore an initial draft that seeks further clarification before concluding its review of the CR.

My view is that this revised CR report should be seen as a work-in-progress, rather than a definitive statement, and that the project look to funding Georgia's completion of the version of the UNCAC on-line self-assessment checklist agreed at Doha last year; this is a much more comprehensive and rigorous process that is completed Article by Article and for which detailed legislative information has to be provided to confirm issues of compliance or non-compliance.

CHAPTER/ ARTICLE	MANDATORY or OPTIONAL	MAIN THEMES	MAIN COMPONENTS	LEGISLATIVE IMPLICATIONS	SUMMARY OF GEORGIA REVIEW	ORIGINAL COMMENTS	GEORGIAN RESPONSE	REVISED C COMMENTS
CHAPTER II								
I-5	M	Prevention policy	Strategy Institutional arrangements Law review Risk Assessment Reform/Strategy Delivery	N	Not Relevant	None, although the presence of a Law Commission would be worth noting	<p>In the recent years the Government of Georgia invested considerable effort in creating new institutional and policy anti-corruption framework of the country. This effort yielded results. The views of the civil society organizations, international actors and the Georgian authorities coincide on that.</p> <p>The need for corruption prevention is fully appreciated. Most of the implemented measures aim at reducing the administrative burden over the businesses¹, including reduction of taxes, licensing regimes, permits and registrations; introduction of one-stop shops, abolishment of customs duties; at some cases disbanding whole structures, perceived as corrupt. Thus the economic incentives for corruption disappear, effectively eliminating the very need to corrupt.</p> <p>In order to streamline the anti-corruption strategy and coordinate anti-corruption activities the special advisory council was created by presidential decree with the function to oversee the development of anti-corruption strategy and action plan. The advisory Council consists of representatives of the government as well as representatives of civil society organizations. It has conducted several meetings already and members were offered to contribute to the development of the anti-corruption strategy.</p>	Useful introduction but not relevant to legislative compliance with UNCAC
I-6	M	Prevention Institution(s)	New or existing body Legal powers (risk assessment, inspections, hearings, research, education, coordination)	Y	No mention	Presumably there is no body with I-6 responsibilities	There is no separate body within the government that works on corruption issues. The anti-corruption activities are concentrated within the Ministry of Justice, which also operates the anti-corruption council consisting of representatives of various government as well as non-governmental organizations.	OK – arrangements not relevant to legislative compliance with UNCAC

¹ The number of the licensing procedures was reduced with 84 per cent, from approximately 950 down to 150 in the last year

			Independence & budget				The present performance of the council is responding to the current tasks but for the future tasks which is monitoring and evaluation of the strategy as well as elaboration of further recommendations, it will be desirable to increase the administrative capacities to enable the council to meet its goals.	
I-7	M	Public office	<p>Staff recruitment & promotion</p> <p>Vulnerable posts</p> <p>Pay</p> <p>Training</p> <p>Elected office criteria</p> <p>Party finance</p> <p>Conflict of interest</p>	Y	<p><u>Public Office</u></p> <p>According to Article 44(47) of the Criminal Procedure Code of Georgia, public official is to be defined as provided for in Article 2 of Georgian Law on Conflict of Interests and Corruption, the state official, the head or the deputy head of the legal person under public law, the person of managerial and/or representative capacity in the company with stock capital of 50% or more in the ownership of the state, that is charged with the crime committed while holding office in the state or other organization, against the interests of service, legalization of illegal income, extortion, misappropriation or embezzlement, evading the payment of taxes or violation of customs regulations notwithstanding the person in question is removed from office or not.</p> <p>Under Article 2, a wide range of persons are considered to be public officials: Members of the Parliament of Georgia, heads and deputy heads of the High Representative and Executive Organs of the Autonomous Republics of Adjara and Abkhazia, Ministers and Deputy Ministers of Georgia, the Head of the structural division of the Ministry of Georgia or the person equal thereto, the Head of the structural division of the State Chancellery or the person equal thereto, Heads of Divisions of Customs and Tax Departments, Head of the Central Electoral Commission, Prosecutor and Deputy Prosecutor of Georgia, heads of divisions of the Office of the Prosecutor General, prosecutors, heads of local representative and executive bodies, judges, other persons elected or appointed based on constitution, etc.</p> <p><u>Elected office criteria</u></p>	<p>LAW MAY REFLECTS UNCAC – questions as follows:</p> <p>Does Article 44 add to Article 2? Do the laws cover elected officials, ministers, President, etc?</p> <p>Is there legislation governing recruitment or is there a Law for a Public Services Commission?</p> <p>Are there any legal requirements on eligibility for seeking elected office?</p> <p>Are there any legal requirements on holding elected office?</p> <p>Are there any incompatibility mandates?</p> <p>LAW MAY REFLECT</p>	<p>The reform of civil service is currently under way and comprehensive strategy is under elaboration to reform the civil service sector and bring it up to the standards of transparency, accountability, effectiveness and efficiency. Therefore we will not touch upon these issues until the reform is proposed. One particular issue that we will shortly describe is the political party financing.</p> <p>Political party financing</p> <p>One of the issues under art. 7.3 is to regulate funding issues of candidatures for political office and political parties. The current system was introduced with the December 2005 amendments to the Organic Law of Georgia “On Political Associations of Citizens”. The amended Article 30 stipulates that, effective January 1, 2006, parties that secured at least 4% of the vote in the most recent parliamentary elections are entitled to state financial support. The amount is determined with respect to the number of votes received: a party that received less than 200,000 votes will be awarded two GEL per vote; 200,000 – 500,000 votes – an additional 1.5 GEL per vote; more than 500,000 votes – one additional GEL per vote. In addition, parties are again entitled to 200 GEL per month per proportionally elected MP.</p> <p>Beginning in 2009 there will be prohibition targeting anonymous contributions. Parties will be required to forward contributions of this kind to the state. Until 2009, however, parties may accept anonymous contributions not in excess of 30,000 GEL annually (Article 39, paragraph 7). The Contributions in excess of this amount must be transferred to the state budget. Further, annual contributions must be limited to 30,000 GEL per individual and 100,000 GEL per corporate donor (Article 27). If a party fails to forward contributions in excess of the legally acceptable amount, it is disqualified from receiving state funding for a period of one to four years depending on the sum withheld (Article 28). Parties are entitled to collect membership dues; the maximum amount per member is not specified</p>	<p>7(1) – not relevant to UNCAC legislative requirements</p> <p>7(2) – legislative requirements relating to elected office not answered</p> <p>7(3) appears to suggest legislative compliance</p> <p>7(4) does necessarily require legislation and the existing law may make Georgia compliant but without knowing the detail of the legislation I cannot comment as to whether it satisfies the UNCAC requirements</p>

				<p><u>Party Finance</u></p> <p>The current system was introduced with the December 2005 amendments to the Organic Law of Georgia "On Political Associations of Citizens". The amended Article 30 stipulates that, effective January 1, 2006, parties that secured at least 4% of the vote in the most recent parliamentary elections are entitled to state financial support. The amount is determined with respect to the number of votes received: a party that received less than 200,000 votes will be awarded two GEL per vote; 200,000 – 500,000 votes – an additional 1.5 GEL per vote; more than 500,000 votes – one additional GEL per vote. In addition, parties are again entitled to 200 GEL per month per proportionally elected MP.</p> <p>Beginning in 2009 there will be prohibition targeting anonymous contributions. Parties will be required to forward contributions of this kind to the state. Until 2009, however, parties may accept anonymous contributions not in excess of 30,000 GEL annually (Article 39, paragraph 7). The Contributions in excess of this amount must be transferred to the state budget. Further, annual contributions must be limited to 30,000 GEL per individual and 100,000 GEL per corporate donor (Article 27). If a party fails to forward contributions in excess of the legally acceptable amount, it is disqualified from receiving state funding for a period of one to four years depending on the sum withheld (Article 28). Parties are entitled to collect membership dues; the maximum amount per member is not specified.</p> <p><u>Conflict of Interest</u></p> <p>Under Article 2 of the Law of Georgia on Conflict of Interests and Corruption in Public Service, a wide range of persons are considered to be public officials: Members of the Parliament of Georgia, heads and deputy heads of the High Representative and Executive Organs of the Autonomous Republics of Adjara and Abkhazia, Ministers and Deputy Ministers of Georgia, the Head of the structural division of the Ministry of Georgia or the person equal</p>	<p>UNCAC</p> <p>What does the law require of these officials?</p> <p>Who is covered? What do they declare? Which institution is responsible for receipt, etc? What sanctions are applied?</p>	
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					thereto, the Head of the structural division of the State Chancellery or the person equal thereto, Heads of Divisions of Customs and Tax Departments, Head of the Central Electoral Commission, Prosecutor and Deputy Prosecutor of Georgia, heads of divisions of the Office of the Prosecutor General, prosecutors, heads of local representative and executive bodies, judges, other persons elected or appointed based on constitution, etc.			
I-8	M	Codes of conduct	Ethics standards Codes: design & delivery Whistleblowing Conflict of interest: asset disclosure, gifts & hospitality Disciplinary procedures Post-employment restrictions	Y	Georgian legislation provides for mandatory declaration of assets for public officials. The declared information is public and accessible for all interested parties. Refusing declaration is punishable with fine. Presently code of ethics as a general instrument is not introduced although some ministries have introduced the practice. This issue remains to be solved as well as other civil service related measures provided by the Convention. the Assets Declaration Bureau within the Ministry of Justice	By public officials, do you mean appointed and elected officials? As above; how is it accessible – is there a charge? Does it cover gifts and hospitality? Is there a Public Reporting law? Is there any legal framework for disciplinary procedures – and do they cover all public officials? Are there restrictions on posts that public officials may accept on resignation or retirement?	Presently code of ethics as a general instrument is not introduced although some ministries have introduced the practice. This issue remains to be solved as well as other civil service related measures provided by the Convention. Overall the ethics regulations will be proposed through the new reform package.	8(4) and 8(5) are the components requiring a legislative response. In relation to (5) I cannot comment – see 7(4) above. In relation to (4) there is no entry relating to any whistleblowing/ public disclosure legislation (although this component does not necessarily have to be addressed through legislation)
I-9	M	Public procurement Public finance	Procurement procedures Risk & procurement officials Budget review Publication of public expenditure External & internal audit Legislative oversight Risk management	Y		Is there a procurement law? Is there a law on budget? Is there a law on internal audit? Is there a law on external audit?	The overall assessment of the public procurement procedures is provided by Global Integrity report. The general assessment is that procurement procedures are weak and need further improvement. The main weaknesses of the system can be identified as non – systemic implementation of the existed legislation which further leads to the need of stronger enforcement mechanisms.	9(1) requires legislation; see (1(d) for example. It is not my responsibility to read the Global Integrity Report but the author to describe here the components of the legislation as they address (1). There is no information on the legislative

								framework for (2) and (3)
I-10	M	Public reporting	Public awareness Access to information & decisions Public reporting	Y		Is there a Freedom of Information law? Is there a Public Reporting law?	<p>The public information is accessible to all interested parties and in specific cases law even promotes direct participation of citizens in decision-making process. Various forms of participation are promoted by domestic legislation, including public's right to debate the draft regulations and policies openly, right to be present at the decision-making process and right to submit opinion to decision-making bodies.</p> <p>Specific mentioning is on access to information on anti-corruption organizations and policies. The government is in the process to design specific public outreach campaign which will help to facilitate the process of information exchange between state bodies and citizens, raise awareness on anti-corruption measures and various responsible agencies in the field.</p> <p>The measures prescribed by the FOIA regulations in Georgia fully comply with the provisions of art. 10.</p>	I presume that the FOIA is a Freedom of Information Act. It would have been helpful if the author had discussed its contents. Without this I cannot confirm if Georgia is compliant with UNCAC legislative requirements
I-11	O	Judiciary & Prosecution	Judicial codes Corruption prevention Prosecutor codes Court management Professional standards & independence	Y		Is there any law governing the judiciary?	<p>The judiciary is separated into two branches: Common Courts and the Constitutional Court. The common courts deal with all criminal, civil and administrative matters and consist of three tiers. The Constitutional court deals with matters of constitutional law, separation of functions among state institutions and constitutionality of laws. The independence of the common courts is guaranteed by the judicial council, where more than half of the members are selected from amongst the judges.</p> <p>The code of ethics is the main document used by the council. The hearings are closed and only parties concerned are present.</p> <p>The code of ethics for prosecutors was adopted in 2006 and regulates various aspects of exercising prosecutorial functions as well as ethical behaviour of prosecutors. Various guidelines issued prior to adopting the code of ethics served as a source for the document. The ethics code regulates various aspects of professional conduct and the violation is a basis for disciplinary measures initiated against the prosecutors.</p> <p>The measures prescribed by the Georgian legislation largely comply with the provisions of the article.</p>	The author says that " <i>The measures prescribed by the Georgian legislation largely comply with the provisions of the article</i> " but he or she does not say what they are, nor describes their contents in relation to this article. I therefore have no idea if this means that Georgia is or is not compliant.
I-12	M	Private sector	Accounting & audit standards	Y		Is there a law on company accounts and	Private sector corruption has been addressed in certain parts of the legislation. There has been special measure	This section is not only about

			<p>Legal comparability LEA – private sector corruption Corporate integrity Published accounts Post-employment restrictions of public officials Tax deductibility of bribes</p>			<p>reporting? Is the private sector covered by the anti-corruption legislation?</p>	<p>designed as it concerns to commercial bribery. The article of CCG, 221 prescribes commercial bribery as illegal transfer of money, securities or other property or illegal rendering of property service to a person exercising managerial, representative or other special authority in an enterprise, or any other organization, in order such person to use his/her official position for the interests of a briber or other person; Illegal request or accept of money, securities, or any other property or illegal enjoyment of property service by a person exercising managerial, representative or any other special authority in an enterprise or any other organization with intent to use his/her official capacity for the interests of a briber; Illegal request or accept of money, securities, or any other property or illegal enjoyment of property service by a person exercising managerial, representative or any other special authority in an enterprise or any other organization with intent to use his/her official capacity for the interests of a briber are the punishable grounds by the law.</p> <p>Apart from this particular measure the liability of legal entities has also been introduced to the legislation. On June 25, 2006, the criminal liability of legal persons has been introduced in Georgian legislation. The said amendments entered into force on July 10, 2006. According to Article 1072 (Crimes which raise criminal responsibility of a legal person) legal person shall bear criminal responsibility for the crimes envisaged under Articles 194 (legalization of illegal incomes), 221 (commercial bribery), 339 (bribe-giving), 3391 (trade in influence), 372 (bribery or forcing a witness, victim, expert or interpreter) etc.</p> <p>Under the mentioned amendments, the legal person are brought to criminal responsibility for the crime committed in its name, through using it and/or for its benefit by the person in charge, i.e. the person with the representative or managerial capacity, the decision-maker and/or the member of the supervisory, control, consultative or auditing board of the legal person. Fine, liquidation, deprivation of the right to pursue activity and seizure (forfeiture) of property (i.e. seizure (forfeiture) of property acquired as a result of criminal activities and/or seizure (forfeiture) of the object or means of the crime) are provided for as sanctions for legal persons. Liquidation and deprivation of the right to pursue activity may be applied only as basic sanction, fine – both as a basic and additional sanction, while seizure (forfeiture) of property only as an additional sanction. It is notable that liquidation is to be applied only in exceptional circumstances, when</p>	<p>private sector corruption; it is also about company and audit law (2(f) and 3). Without this information I cannot say whether or not Georgia is legislatively compliant with this Article.</p>
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							<p>the criminal activities represent the main aim of its creation or essential part of its activities.</p> <p>Te mentioned regulations significantly improved the legal environment and created sufficient grounds for fight against corruption in private sector.</p> <p>The measures prescribed by the Georgian legislation fully comply with the provisions of the article.</p>	
I-13	M	Society	<p>Public awareness</p> <p>Freedom of information</p> <p>Public representation for Art 5 & 6</p> <p>Whistleblowing</p>	Y		Is there a Public Reporting law?		<p>This is not only about FOIA but also about legislative protection against publishing on corruption – 1(d). I cannot say whether or not Georgia is legislatively compliant with this Article.</p>
I-14	M	Anti-money laundering	<p>FIU</p> <p>Regulated sector</p> <p>SARs reporting</p> <p>Information exchange</p> <p>Monitoring cross-border cash</p> <p>Electronic transfer</p> <p>KYC/beneficial ownership</p>	Y		<p>Is the Financial Monitoring Service the FIU? Are its duties legally defined?</p> <p>Who deals with money laundering reporting and what is the law governing reporting, KYC, KYBO, etc?</p>	<p>Legalization of illegal income is criminalized in Article 194 of the Criminal Code of Georgia. It is notable that the new wording was introduced with the amendments dated December 28, 2005 and April 28, 2006. Under the current formulation, the legalization of illegal income is defined as giving the legal form to the property obtained in the illegal manner with the view of concealment of its illegal origin as well as concealment or masking the true nature, source of origin, whereabouts, location, and movement of this property. It is punishable with deprivation of liberty for a term from 2 to 4 years. The same criminal act, committed by a group, repeatedly, accompanied with the receipt of a large amount of income is punishable with deprivation of liberty for a term from 4 to 7 years. Money laundering committed by the organized group, through abuse of power, accompanied with especially large amount of income – is punishable with deprivation of liberty for a term from 7 to 10 years. For this article income with the amount from 30 000 to 50 000 GEL is to be considered of a large amount, while the income exceeding 50 000 GEL is to be considered as of especially large amount.</p>	<p>The law as described would appear compliant but without information on what the law covers in relation to banking regulation (1(a)) or information-sharing – and its relationship to DP issues – then cannot say whether or not Georgia is fully legislatively compliant with this Article.</p>
							<p>The law defines the bodies that are entitled to exercise</p>	

							<p>monitoring for the identification of suspicious transactions. Those bodies are commercial banks, organizations dealing with currency exchange, precious metals, antiques, the organizations giving out grants and involved in charity, notaries, etc. Furthermore, the mentioned law provides for existence of supervisory bodies that ensure supervision over the activities of persons that carry out monitoring, namely the National Bank of Georgia, Georgian Commission of Securities, Ministry of Finances, Ministry of Justice, etc.</p> <p>The body exercising monitoring will inform Service of Financial Monitoring about every transaction that falls within the scope of the given law, giving the special notice with regard the doubtful transactions, indicating the existence of the legalization of illegal income.</p> <p>The measures prescribed by the Georgian legislation fully comply with the provisions of the article.</p>	
CHAPTER II								
II-15	M	Bribery of public officials	<p>Defining public official</p> <p>Intentionally</p> <p>Offer to Deliver clauses</p> <p>Asking & receiving</p> <p>Third party involvement (giving, transmitting, benefit)</p> <p>Immunities</p> <p>Definitions of 'advantage'</p> <p>Act/not act</p> <p>Official duties/pretend official duties</p>	Y	<p>Direct or indirect promising, offering or giving money, securities, property or any other material benefit to an official or a person with an equal status, in favour of the bribe-receiver or third person, in order that official or a person with an equal status to perform or not to perform any action or to use his official position for that end or to exercise official patronage in favour a bribe-giver or a third person, shall be punished with fine or corrective labour for a term of 2 years or the restriction of liberty for the same term or the deprivation of liberty for a term up to 3 years.</p> <p>Direct or indirect demanding or accepting money, securities, property or any other material benefit, or accepting such a promise or offer, committed by a public official or a person with an equal status, in exchange for performing or not performing, in favour of the bribe-giver or a third person, any action as well as using his official position for that end or exercising official patronage is punished with the deprivation of liberty from 6 to 9 years.</p>	<p>LAW REFLECTS UNCAC</p> <p>Is 'public official' in the law the same as defined above (Articles 2 and 44) – and are there any immunities or exemptions?</p> <p>How is 'material benefit' defined in the law?</p> <p>Do both parts of the law allow for retrospective payment (ie, after the performance/non-performance)?</p>	<p>The law prohibits active as well as passive bribery. Direct or indirect promising, offering or giving money, securities, property or any other material benefit to an official or a person with an equal status, in favour of the bribe-receiver or third person, in order that official or a person with an equal status to perform or not to perform any action or to use his official position for that end or to exercise official patronage in favour a bribe-giver or a third person; Direct or indirect demanding or accepting money, securities, property or any other material benefit, or accepting such a promise or offer, committed by a public official or a person with an equal status, in exchange for performing or not performing, in favour of the bribe-giver or a third person, any action as well as using his official position for that end or exercising official patronage are the grounds and definitions prescribed by the law.</p> <p>For the purposes of both articles foreign and domestic public officials are equally being punished as it is described above under art. 2, part on definitions.</p> <p>The measures prescribed by the Georgian legislation fully comply with the provisions of the article.</p>	Compliant
II-16	M	Bribery of foreign	Same themes as Art 15	Y	For the purposes Article 339 and 339 ¹ of the	Law largely complies	The law prohibits active as well as passive bribery. Direct	Compliant

		& IFI public official	Specific offences (conduct of international business) Definition of officials Offences outside the jurisdiction		<p>Criminal Code, the person with an equal status to public official includes foreign state officials (members of the national legislative or administrative body), officials of international organization or organ or employees hired by contract, or any person on mission or without it, performing the functions equivalent to that of an official or other employee, member of international parliamentary bodies, judge or an official of an international court or that of a judicial organ.</p> <p>Article 4(2) of the Criminal Code of Georgia expressly states that an offence is considered to be committed on the territory of Georgia if it has started, extended, terminated or concluded on the territory of Georgia, which implies a very broad application of criminal law of Georgia.</p> <p>Georgian citizens and permanent residents of Georgia who do not have any citizenship will be subject to this code for committing acts outside the Georgian territories which are crimes according to the law of the foreign country and present code. If the committed act is not a crime under the law of foreign state in that case only crimes directed against Georgia's state interests, crimes that fall under international treaties and very grave crimes will be prosecuted by the state of Georgia.</p> <p>Corruption, even committed abroad, is considered as a predicate offence for money laundering, due to the provisions of the Criminal Code that relate to territorial and extra-territorial application of substantive criminal law.</p>	but the geographic requirement - started, extended, terminated or concluded on the territory of Georgia – should be removed.	<p>or indirect promising, offering or giving money, securities, property or any other material benefit to an official or a person with an equal status, in favour of the bribe-receiver or third person, in order that official or a person with an equal status to perform or not to perform any action or to use his official position for that end or to exercise official patronage in favour a bribe-giver or a third person; Direct or indirect demanding or accepting money, securities, property or any other material benefit, or accepting such a promise or offer, committed by a public official or a person with an equal status, in exchange for performing or not performing, in favour of the bribe-giver or a third person, any action as well as using his official position for that end or exercising official patronage are the grounds and definitions prescribed by the law.</p> <p>For the purposes of both articles foreign and domestic public officials are equally being punished as it is described above under art. 2, part on definitions.</p> <p>The measures prescribed by the Georgian legislation fully comply with the provisions of the article.</p>	
II-17	M	Public sector fraud	Offence of public trust Broad definition of value Not restricted personal benefit	Y		What's the law on misappropriation or embezzlement?	Embezzlement is addressed through criminal code and the measures prescribed by the Georgian legislation largely comply with the provisions of the article.	Unless the author tells me what is in the legislation then cannot say whether or not Georgia is legislatively compliant with this Article.
II-18	O	Trading in	Same terms as Art 15	Y		Is there a separate law or clause in anti-bribery	The article 339 ¹ of the CCG defines the trading in influence as promising, offering or giving to a person who	Compliant

		influence	Delivery not essential Official powers not essential Third party involvement			law noted for II-15 (eg patronage)?	claims that he can illegally influence an official or a person equal in the same status, directly or indirectly, of stocks, other property, material benefit or other undue advantage, regardless such influence is exercised or the desired result is obtained. The regulation also permits lifting up the sanctions in case if the violator cooperates with law enforcement agencies. The measures prescribed by the Georgian legislation fully comply with the provisions of the article.	
II-19	M	Abuse of functions	Delivery not essential Perform or fail to perform, acc. to intentions of law Evidential issues & review of monopoly or risk posts	Y		Is there a separate law or clause in anti-bribery law noted for II-15 (ie, where the official does not have the authority to deliver)?	Abuse of functions	Not answered
II-20	O	Illicit enrichment	Definition of 'significant increase' & assets Codes & asset disclosure requirements Reporting requirements Family & other associates inclusion Verification procedures Burden of proof	Y	The notions of "unexplained wealth" and "explanation of origin of wealth" were included in Article 3 of <i>Georgian Law on the Conflict of Interests</i> . Unexplained wealth means the property and income received from that property, as well as shares, when the public official or his family members or close relatives do not have the documents proving their acquisition in the legal manner or the property in question is acquired by using the financial resources obtained as a result of selling the illegal property. Explanation of origin of wealth means	LAW APPEARS COMPLIANT WITH UNCAC. Does the law cover unexplained cash? What is the legislative framework of the Assets Declarations Bureau?	The notions of "unexplained wealth" and "explanation of origin of wealth" were included in Article 3 of Georgian Law on the Conflict of Interests . Unexplained wealth means the property and income received from that property, as well as shares, when the public official or his family members or close relatives do not have the documents proving their acquisition in the legal manner or the property in question is acquired by using the financial resources obtained as a result of selling the illegal property. The unexplained wealth includes the cash and all kinds of other resources. Explanation of origin of wealth means provision of	Compliant

² According to Article 44(47) of the **Criminal Procedural Code of Georgia**, public official is to be defined as provided for in **Article 2 of Georgian Law on Conflict of Interests and Corruption**, the state official, the head or the deputy head of the legal person under public law, the person of managerial and/or representative capacity in the company with stock capital of 50% or more in the ownership of the state, that is charged with the crime committed while holding office in the state or other organization, against the interests of service, legalization of illegal income, extortion, misappropriation or embezzlement, evading the payment of taxes or violation of customs regulations notwithstanding the person in question is removed from office or not. **Under Article 2 of Georgian Law on Conflict of Interests and Corruption**, a wide range of persons are considered to be public officials: Members of the Parliament of Georgia, heads and deputy heads of the High Representative and Executive Organs of the Autonomous Republics of Adjara and Abkhazia, Ministers and Deputy Ministers of Georgia, the Head of the structural division of the Ministry of Georgia or the person equal thereto, the Head of the structural division of the State Chancellery or the person equal thereto, Heads of Divisions of Customs and Tax Departments, Head of the Central Electoral Commission, Prosecutor and Deputy Prosecutor of Georgia, heads of divisions of the Office of the Prosecutor General, prosecutors, heads of local representative and executive bodies, judges, other persons elected or appointed based on constitution, etc.

3 Administrative Procedural Code defines the "family member" as the spouse, child/stepchild or other person permanently residing with the public official.

4Administrative Procedural Code defines close relative as family member, parent, siblings, grandparents and grandchildren of the public official, parents and siblings of the spouse of public official.

5 The Administrative procedural Code defines the "related person" as the person that has certain property in possession as recorded in documents and there exists the substantiated doubt that this property is obtained, used or managed by the public official.

⁶ According to Article 44(47) of the **Criminal Procedural Code of Georgia**, public official is to be defined as provided for in **Article 2 of Georgian Law on Conflict of Interests and Corruption**, the state official, the head or the deputy head of the legal person under public law, the person of managerial and/or representative capacity in the company with stock capital of 50% or more in the ownership of the state, that is charged with the crime committed while holding office in the state or other organization, against the interests of service, legalization of illegal income, extortion, misappropriation or embezzlement, evading the payment of taxes or violation of customs regulations notwithstanding the person in question is removed from office or not. **Under Article 2 of Georgian Law on Conflict of Interests and Corruption**, a wide range of persons are considered to be public officials: Members of the Parliament of Georgia, heads

				<p>provision of documental or verbal explanation concerning the form of taking possession over the declared property and financial resources mentioning the source of obtaining. Additionally, the definition of “<i>illegal property</i>” is introduced. <i>Illegal property</i> means the property as well as income received from that property as well as shares obtained by the public official, his/her family member, close relative or other related person in the illegal manner, in contravention with the requirements of law.</p> <p><i>Based on Article 37¹ of the Criminal Procedure Code of Georgia</i>, if the prosecutor has reasonable doubt that the property in the ownership or stewardship of an accused public official is presumably obtained as a result of crimes provided for in paragraph 47 of Article 44 of the Criminal Code of Georgia, he may initiate a claim for the forfeiture of illegal or unexplained wealth, as well as income and shares received from such wealth. Forfeited illegal and unexplained wealth shall be transferred to the state. Paragraph 47 of Article 44 of the Criminal Procedure Code defines public official,² charged in crime committed against the interests of service while holding office in the public, entrepreneurial or other organization, legalization of illegal income, extortion, misappropriation or embezzlement, evading the payment of taxes or violation of customs regulations notwithstanding the person in question is removed from office or not.</p> <p><i>Administrative Procedural Code of Georgia regulates the mechanism of presenting claims for forfeiture of the illegal or unexplained wealth and its transfer to the state.</i> Under Article 21⁴ of the Administrative Procedural Code of Georgia, <i>Prosecutor is entitled</i> to present such claims against public officials, their family member³, close relative⁴ or other related person.⁵ Under Article 21⁶ the Administrative Procedural Code of Georgia, judge will consider the property of the</p>		<p>documented or verbal explanation concerning the form of taking possession over the declared property and financial resources mentioning the source of obtaining. Additionally, the definition of “<i>illegal property</i>” is introduced. <i>Illegal property</i> means the property as well as income received from that property as well as shares obtained by the public official, his/her family member, close relative or other related person in the illegal manner, in contravention with the requirements of law.</p> <p><i>Based on Article 37¹ of the Criminal Procedure Code of Georgia</i>, if the prosecutor has reasonable doubt that the property in the ownership or stewardship of an accused public official is presumably obtained as a result of crimes provided for in paragraph 47 of Article 44 of the Criminal Code of Georgia, he may initiate a claim for the forfeiture of illegal or unexplained wealth, as well as income and shares received from such wealth. Forfeited illegal and unexplained wealth shall be transferred to the state. Paragraph 47 of Article 44 of the Criminal Procedure Code defines public official,⁶ charged in crime committed against the interests of service while holding office in the public, entrepreneurial or other organization, legalization of illegal income, extortion, misappropriation or embezzlement, evading the payment of taxes or violation of customs regulations notwithstanding the person in question is removed from office or not.</p> <p>The measures prescribed by the Georgian legislation fully comply with the provisions of the article.</p>
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and deputy heads of the High Representative and Executive Organs of the Autonomous Republics of Adjara and Abkhazia, Ministers and Deputy Ministers of Georgia, the Head of the structural division of the Ministry of Georgia or the person equal thereto, the Head of the structural division of the State Chancellery or the person equal thereto, Heads of Divisions of Customs and Tax Departments, Head of the Central Electoral Commission, Prosecutor and Deputy Prosecutor of Georgia, heads of divisions of the Office of the Prosecutor General, prosecutors, heads of local representative and executive bodies, judges, other persons elected or appointed based on constitution, etc.

				<p>public official, his family members or close relatives to be illegal if based on the presented evidence it establishes that property or means for the acquisition of this property are obtained in contravention with the requirements of law. The burden of proof is upon the respondent. If in the course of proceedings the defendant does not provide the Court with the documents confirming that property or financial resources necessary for the acquisition of the mentioned property were obtained in the legal way or the documents proving the payment of taxes of that property, the Court will find the property in question as unjustified.</p> <p>If the court finds the property to be illegal or unjustified, after the interests of the third parties are satisfied, it will be returned to the legitimate owner or to the state, if the legitimate owner is not established. If the legality and validity of the property is proved in part, the part of property the legality and validity of which is not substantiated will be returned to the state. If it is impossible to return the property in the initial form, the public official in question will have to pay amount of money equivalent to the value of the property. If the Court confirms that illegal and unexplained wealth is in the possession of the public official and finds the elements of the criminal act in his/her conduct, the prosecutor is entitled to commence criminal proceedings against him/her.</p> <p>Complex measures for the improvement of the procedure for forfeiture of illegal and unexplained wealth are taken in a number of legal acts. One of the most important is the amendment on paragraph 3 of Article 218 of the General Administrative Code of Georgia. According to that amendment, in the cases of forfeiture of illegal and unexplained wealth, Administrative Empowering Act can be declared null and void in all circumstances, including when the person had already taken certain legally important measures under this Act. This change is the elimination of important obstacle in the effective enforcement of the procedures for forfeiture of illegal and unexplained wealth. Furthermore, according to the amendments of February 12, 2004, paragraph 3 of Article 237 of</p>		
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					<p>the Tax Code excludes statute of limitation for the cases of forfeiture of illegal and unexplained wealth. Under Article 5 of the Law on State Levy, a plaintiff is free from official state tariff on the complaints on forfeiture of illegal and unexplained wealth.</p> <p>Georgian legislation provides for mandatory declaration of assets for public officials. The declared information is public and accessible for all interested parties. Refusing declaration is punishable with fine.</p> <p>Presently code of ethics as a general instrument is not introduced although some ministries have introduced the practice. This issue remains to be solved as well as other civil service related measures provided by the Convention.</p>			
II-21	O	Private sector bribery	<p>Same terms as Art 15, except 'business' & 'duties'</p> <p>Definition of who is covered (inc. 'in any capacity')</p> <p>Contract & other requirements</p> <p>Accounting standards</p>	Y		<p>I presume the law discussed in relation to II-15 has general applicability or is Article 221 a separate law? What are its contents and does it cover the UNCAC requirements?</p>	<p>Private sector corruption has been addressed in certain parts of the legislation. There has been special measure designed as it concerns to commercial bribery. The article of CCG, 221 prescribes commercial bribery as Illegal transfer of money, securities or other property or illegal rendering of property service to a person exercising managerial, representative or other special authority in an enterprise, or any other organization, in order such person to use his/her official position for the interests of a briber or other person; Illegal request or accept of money, securities, or any other property or illegal enjoyment of property service by a person exercising managerial, representative or any other special authority in an enterprise or any other organization with intent to use his/her official capacity for the interests of a briber; Illegal request or accept of money, securities, or any other property or illegal enjoyment of property service by a person exercising managerial, representative or any other special authority in an enterprise or any other organization with intent to use his/her official capacity for the interests of a briber are the punishable grounds by the law.</p> <p>Apart from this particular measure the liability of legal entities has also been introduced to the legislation. On June 25, 2006, the criminal liability of legal persons has been introduced in Georgian legislation. The said amendments entered into force on July 10, 2006. According to Article 1072 (Crimes which raise criminal responsibility of a legal person) legal person shall bear</p>	Compliant

						<p>criminal responsibility for the crimes envisaged under Articles 194 (legalization of illegal incomes), 221 (commercial bribery), 339 (bribe-giving), 3391 (trade in influence), 372 (bribery or forcing a witness, victim, expert or interpreter) etc.</p> <p>Under the mentioned amendments, the legal person are brought to criminal responsibility for the crime committed in its name, through using it and/or for its benefit by the person in charge, i.e. the person with the representative or managerial capacity, the decision-maker and/or the member of the supervisory, control, consultative or auditing board of the legal person. Fine, liquidation, deprivation of the right to pursue activity and seizure (forfeiture) of property (i.e. seizure (forfeiture) of property acquired as a result of criminal activities and/or seizure (forfeiture) of the object or means of the crime) are provided for as sanctions for legal persons. Liquidation and deprivation of the right to pursue activity may be applied only as basic sanction, fine – both as a basic and additional sanction, while seizure (forfeiture) of property only as an additional sanction. It is notable that liquidation is to be applied only in exceptional circumstances, when the criminal activities represent the main aim of its creation or essential part of its activities.</p> <p>Te mentioned regulations significantly improved the legal environment and created sufficient grounds for fight against corruption in private sector.</p> <p>The measures prescribed by the Georgian legislation fully comply with the provisions of the article.</p>		
II-22	O	Private sector fraud	Same terms as Art 17, except for 'business', 'embezzlement' & direct benefit Offence of trust Definition of property General theft law	Y		<p>What's the law on misappropriation or embezzlement – I presume that, as under II-17, there is a general law on deception, theft, etc? Would it cover positions of trust in the private sector?</p>	<p>Private sector corruption has been addressed in certain parts of the legislation. There has been special measure designed as it concerns to commercial bribery. The article of CCG, 221 prescribes commercial bribery as illegal transfer of money, securities or other property or illegal rendering of property service to a person exercising managerial, representative or other special authority in an enterprise, or any other organization, in order such person to use his/her official position for the interests of a briber or other person; illegal request or accept of money, securities, or any other property or illegal enjoyment of property service by a person exercising managerial, representative or any other special authority in an enterprise or any other organization with intent to use his/her official capacity for the interests of a briber; illegal request or accept of money, securities, or any other property or illegal enjoyment of property service by a person exercising managerial, representative or any other</p>	<p>This Article is about embezzlement or economic crime, not corruption. There is no information provided to show if Georgia is compliant or not</p>

						<p>special authority in an enterprise or any other organization with intent to use his/her official capacity for the interests of a briber are the punishable grounds by the law.</p> <p>Apart from this particular measure the liability of legal entities has also been introduced to the legislation. On June 25, 2006, the criminal liability of legal persons has been introduced in Georgian legislation. The said amendments entered into force on July 10, 2006. According to Article 1072 (Crimes which raise criminal responsibility of a legal person) legal person shall bear criminal responsibility for the crimes envisaged under Articles 194 (legalization of illegal incomes), 221 (commercial bribery), 339 (bribe-giving), 3391 (trade in influence), 372 (bribery or forcing a witness, victim, expert or interpreter) etc.</p> <p>Under the mentioned amendments, the legal person are brought to criminal responsibility for the crime committed in its name, through using it and/or for its benefit by the person in charge, i.e. the person with the representative or managerial capacity, the decision-maker and/or the member of the supervisory, control, consultative or auditing board of the legal person. Fine, liquidation, deprivation of the right to pursue activity and seizure (forfeiture) of property (i.e. seizure (forfeiture) of property acquired as a result of criminal activities and/or seizure (forfeiture) of the object or means of the crime) are provided for as sanctions for legal persons. Liquidation and deprivation of the right to pursue activity may be applied only as basic sanction, fine – both as a basic and additional sanction, while seizure (forfeiture) of property only as an additional sanction. It is notable that liquidation is to be applied only in exceptional circumstances, when the criminal activities represent the main aim of its creation or essential part of its activities.</p> <p>Te mentioned regulations significantly improved the legal environment and created sufficient grounds for fight against corruption in private sector.</p> <p>The measures prescribed by the Georgian legislation fully comply with the provisions of the article.</p>		
II-23	M	Money laundering	AM law PoC law Institutional arrangements Inclusion of offences related to conversion, concealment,	Y	Legalization of illegal income is criminalized in Article 194 of the Criminal Code of Georgia. It is notable that the new wording was introduced with the amendments dated December 28, 2005 and April 28, 2006. Under the current	Does this law cover Proceeds of Crime <u>and</u> Money Laundering? In the detail does it	Legalization of illegal income is criminalized in Article 194 of the Criminal Code of Georgia. It is notable that the new wording was introduced with the amendments dated December 28, 2005 and April 28, 2006. Under the current formulation, the legalization of illegal income is defined as giving the legal form to the property obtained in the illegal	Compliant

			<p>owning etc.</p> <p>Inclusion of offences of 'intentionally' (or similar term such as 'knowing')</p> <p>Inclusion of offences of participation</p> <p>Bona fide third party interests</p> <p>Sanctions linked to corruption offences</p>		<p>formulation, the legalization of illegal income is defined as giving the legal form to the property obtained in the illegal manner with the view of concealment or masking the true nature, source of origin, whereabouts, location, movement of this property. It is punishable with deprivation of liberty for a term from 2 to 4 years. The same criminal act, committed by a group, repeatedly, accompanied with the receipt of a large amount of income is punishable with deprivation of liberty for a term from 4 to 7 years. Money laundering committed by the organized group, through abuse of power, accompanied with especially large amount of income – is punishable with deprivation of liberty for a term from 7 to 10 years. For the purposes of Article 194, the income received through the commission of crime related to taxes as well as an income in the amount not exceeding 5 000 GEL is not to be considered as an illegal income. For this article income with the amount from 30 000 to 50 000 GEL is to be considered of a large amount, while the income exceeding 50 000 GEL is to be considered as of especially large amount.</p>	<p>cover all the terms noted here?</p>	<p>manner with the view of concealment of its illegal origin as well as concealment or masking the true nature, source of origin, whereabouts, location, and movement of this property. It is punishable with deprivation of liberty for a term from 2 to 4 years. The same criminal act, committed by a group, repeatedly, accompanied with the receipt of a large amount of income is punishable with deprivation of liberty for a term from 4 to 7 years. Money laundering committed by the organized group, through abuse of power, accompanied with especially large amount of income – is punishable with deprivation of liberty for a term from 7 to 10 years. For this article income with the amount from 30 000 to 50 000 GEL is to be considered of a large amount, while the income exceeding 50 000 GEL is to be considered as of especially large amount.</p> <p>The law defines the bodies that are entitled to exercise monitoring for the identification of suspicious transactions. Those bodies are commercial banks, organizations dealing with currency exchange, precious metals, antiques, the organizations giving out grants and involved in charity, notaries, etc. Furthermore, the mentioned law provides for existence of supervisory bodies that ensure supervision over the activities of persons that carry out monitoring, namely the National Bank of Georgia, Georgian Commission of Securities, Ministry of Finances, Ministry of Justice, etc.</p> <p>The body exercising monitoring will inform Service of Financial Monitoring about every transaction that falls within the scope of the given law, giving the special notice with regard the doubtful transactions, indicating the existence of the legalization of illegal income.</p> <p>The measures prescribed by the Georgian legislation fully comply with the provisions of the article.</p>	
II-24	O	Concealment	<p>Clarification in law of control & retention</p> <p>Clarification in law of 'intentionally'</p>	Y		Noted in Article 194		Appears contained in the information provided for Article 23; thus appears compliant
II-25	M	Obstruction	<p>Criminalising witness threats</p> <p>Definition of 'proceeding'</p> <p>Definition of 'interfere'</p>	Y		Presumably 363 covers this – could we have the details? Would that cover 'interference' and is it clear to what such		Is it 363 or 372 of the CCG? The author provides no information.

						conduct applies? Is there a specific law on witness intimidation or judicial proceedings?		
II-26	M	Liability of legal persons	<p>Extension of criminal legislation to corporate entities</p> <p>Ability to fine corporate entities</p> <p>Clarification of 'reasonable steps', 'participation'</p> <p>Legislative framework to ensure collective culpability</p> <p>Sanction via LEAs or regulator</p>	Y	<p>On June 25, 2006, the criminal liability of legal persons has been introduced in Georgian legislation. The said amendments entered into force on July 10, 2006. According to Article 107² (Crimes which raise criminal responsibility of a legal person) legal person shall bear criminal responsibility for the crimes envisaged under Articles 143¹ (human trafficking), 143² (trafficking in minors), 194 (legalization of illegal incomes), 221 (commercial bribery), 224¹(participation in a group of racketeers), 227¹(endangering the navigation of vessel), 227² (obtaining illegal possession over, damage or destruction of artificial platform [at the sea]), 231¹(threatening to gain illegal possession over nuclear substance), 255¹ (involvement of minor in production and/or distribution of pornographic materials), 260-271 (drug crimes), 323-330 (terrorism crimes), 330¹ (incitement to commit terrorism crime), 330² (persuasion to commit terrorism crime), 330³ (preparation/training for the commission of terrorism crime), 331¹(financing of terrorism), 339 (bribe-giving), 339¹ (trade in influence), 344¹ (facilitation of crossing Georgian border by a migrant illegally or creation favourable conditions for a illegal migrant to stay in Georgia), 364 (adverse interference in legal proceedings or pre-trial investigation), 365 (threat or violence related to legal proceedings or pre-trial investigation) and 372 (bribery or forcing a witness, victim, expert or interpreter).</p> <p>Under the mentioned amendments, the legal person are brought to criminal responsibility for the crime committed in its name, through using it and/or for its benefit by the person in charge, i.e. the person with the representative or managerial capacity, the decision-maker and/or the member of the supervisory, control, consultative or auditing board of the legal person. Fine, liquidation, deprivation of the right to pursue activity and seizure (forfeiture) of property (i.e. seizure (forfeiture) of property acquired as a result of criminal activities and/or seizure</p>	<p>Law appears to comply with UNCAC – need to clarify what are the corporate sanctions</p>	<p>Private sector corruption has been addressed in certain parts of the legislation. There has been special measure designed as it concerns to commercial bribery. The article of CCG, 221 prescribes commercial bribery as illegal transfer of money, securities or other property or illegal rendering of property service to a person exercising managerial, representative or other special authority in an enterprise, or any other organization, in order such person to use his/her official position for the interests of a briber or other person; illegal request or accept of money, securities, or any other property or illegal enjoyment of property service by a person exercising managerial, representative or any other special authority in an enterprise or any other organization with intent to use his/her official capacity for the interests of a briber; illegal request or accept of money, securities, or any other property or illegal enjoyment of property service by a person exercising managerial, representative or any other special authority in an enterprise or any other organization with intent to use his/her official capacity for the interests of a briber are the punishable grounds by the law.</p> <p>Apart from this particular measure the liability of legal entities has also been introduced to the legislation. On June 25, 2006, the criminal liability of legal persons has been introduced in Georgian legislation. The said amendments entered into force on July 10, 2006. According to Article 107² (Crimes which raise criminal responsibility of a legal person) legal person shall bear criminal responsibility for the crimes envisaged under Articles 194 (legalization of illegal incomes), 221 (commercial bribery), 339 (bribe-giving), 339¹ (trade in influence), 372 (bribery or forcing a witness, victim, expert or interpreter) etc.</p> <p>Under the mentioned amendments, the legal person are brought to criminal responsibility for the crime committed in its name, through using it and/or for its benefit by the person in charge, i.e. the person with the representative or managerial capacity, the decision-maker and/or the member of the supervisory, control, consultative or auditing board of the legal person. Fine, liquidation, deprivation of the right to pursue activity and seizure (forfeiture) of property (i.e. seizure (forfeiture) of property acquired as a result of criminal activities and/or seizure</p>	Compliant

					(forfeiture) of the object or means of the crime) are provided for as sanctions for legal persons. Liquidation and deprivation of the right to pursue activity may be applied only as basic sanction, fine – both as a basic and additional sanction, while seizure (forfeiture) of property only as an additional sanction. It is notable that liquidation is to be applied only in exceptional circumstances, when the criminal activities represent the main aim of its creation or essential part of its activities.		(forfeiture) of the object or means of the crime) are provided for as sanctions for legal persons. Liquidation and deprivation of the right to pursue activity may be applied only as basic sanction, fine – both as a basic and additional sanction, while seizure (forfeiture) of property only as an additional sanction. It is notable that liquidation is to be applied only in exceptional circumstances, when the criminal activities represent the main aim of its creation or essential part of its activities. Te mentioned regulations significantly improved the legal environment and created sufficient grounds for fight against corruption in private sector. The measures prescribed by the Georgian legislation fully comply with the provisions of the article.	
II-27	M	Participation & attempt	Law to encompass pre-crime planning & attempts, irrespective of implementation or commission or outcome Clarification of criminal liability	Y	Articles 22 through 27 of the Criminal Code of Georgia regulate participatory acts. Criminal code indicates 4 forms of complicity: perpetrator, organizer, instigator, and assistant. The code defines between "previously agreed group" and "organized group". Under Article 27 § 2 of the Criminal Code of Georgia "previously agreed group" means the group created for the commission of that particular crime, while § 3 of the same Article defines the "organized group" as a well-structured group, operating in certain period of time, created for the purpose to pursue criminal activities and aimed at obtaining financial or other types of benefit directly or indirectly through illegal means. The <i>note</i> of the Article further defines the well structured group as one, which is not created incidentally and spontaneously for the commission of crime. The formal allocation of power among the group members as well as the permanent or uninterrupted membership and strictly defined structure is not necessary.	This law appears to focus on organised criminal activity. Would it apply to public officials involved in a corruption ring? Would it apply to family members involved in money laundering?	Articles 22 through 27 of the Criminal Code of Georgia regulate participatory acts. Criminal code indicates 4 forms of complicity: perpetrator, organizer, instigator, and assistant. The code defines between "previously agreed group" and "organized group". Under Article 27 § 2 of the Criminal Code of Georgia "previously agreed group" means the group created for the commission of that particular crime, while § 3 of the same Article defines the "organized group" as a well-structured group, operating in certain period of time, created for the purpose to pursue criminal activities and aimed at obtaining financial or other types of benefit directly or indirectly through illegal means. The <i>note</i> of the Article further defines the well structured group as one, which is not created incidentally and spontaneously for the commission of crime. The formal allocation of power among the group members as well as the permanent or uninterrupted membership and strictly defined structure is not necessary. The law applies to all participating in crime without any derogation on membership or belonging to the organizations of different kind. Knowledge and intent are also punishable. The measures prescribed by the Georgian legislation fully comply with the provisions of the article.	The answer is unclear. Does the question of assistant, etc., only apply to the question of agreed or organised group? The Article relates to any participation or attempt in any offence under UNCAC without necessarily being a previously agreed group or an organised group. If a family member helps in an AML offence they would fall under this Article. Without the relevant information cannot say whether or not Georgia is legislatively compliant with this Article.
II-28	-	Knowledge, intent	Law on evidence	Y		No law?	Articles 22 through 27 of the Criminal Code of Georgia	This is an

		& purpose	Law/definition of 3 terms Prosecution requirements Admissibility				<p>regulate participatory acts. Criminal code indicates 4 forms of complicity: perpetrator, organizer, instigator, and assistant. The code defines between "previously agreed group" and "organized group".</p> <p>Under Article 27 § 2 of the Criminal Code of Georgia "previously agreed group" means the group created for the commission of that particular crime, while § 3 of the same Article defines the "organized group" as a well-structured group, operating in certain period of time, created for the purpose to pursue criminal activities and aimed at obtaining financial or other types of benefit directly or indirectly through illegal means. The <i>note</i> of the Article further defines the well structured group as one, which is not created incidentally and spontaneously for the commission of crime. The formal allocation of power among the group members as well as the permanent or uninterrupted membership and strictly defined structure is not necessary.</p> <p>The law applies to all participating in crime without any derogation on membership or belonging to the organizations of different kind. Knowledge and intent are also punishable.</p> <p>The measures prescribed by the Georgian legislation fully comply with the provisions of the article.</p>	evidential question. For example, under Article 15, an offence is an offence if committed 'intentionally'. I do not know if these terms are legislatively applicable outside the 'groups'. Without that information cannot say whether or not Georgia is legislatively compliant with this Article.
II-29	M	Limitations	Law on limitations extended for conviction offences (offence or proceedings) Link to immunity law	Y		Is there a law on limitations?		No answer.. It is a mandatory legislative requirement
II-30	M	Sanctions	Sentencing guidelines Immunities Prosecution guidelines Disqualification from office Bail conditions	Y	From 2001 to 2006, by taking into account the experience of foreign countries with well developed legal systems and the recommendations of international organizations, various legislative reforms have been carried out in Georgia. The legislation has been revised in the sphere of immunities of certain officials of different rank. The afore-mentioned revision, by taking into consideration the role of the public service in the contemporary community and the necessity of successful performance of functions and tasks of the said service, resulted in the diminution of the guarantees of personal inviolability of certain officials, moreover the criminal liability of officials have been established on the common basis.	<p>Are there sentencing guidelines?</p> <p>Need to clarify which public officials are or are not covered by immunity</p> <p>What criteria apply to convicted elected and appointed public officials?</p>	<p>The legislation has been revised in the sphere of immunities of certain officials of different rank. The aforementioned revision, by taking into consideration the role of the public service in the contemporary community and the necessity of successful performance of functions and tasks of the said service, resulted in the diminution of the guarantees of personal inviolability of certain officials, moreover the criminal liability of officials have been established on the common basis.</p> <p>In pursuance of Article 52 of the previous edition of the Constitution of Georgia, the committal to criminal liability, arrest or detention, the search of the flat, vehicle, office of the Member of Parliament or the personal search of the former was possible only upon the permission of the Parliament of Georgia. the only exception provided for in</p>	This discusses immunities. The article also discusses prosecution discretion, bail conditions, length of sentences and disqualification from public office. Since I do not know if these have any legislative implications in Georgia, I cannot

				<p>In pursuance of Article 52 of the previous edition of the Constitution of Georgia, the committal to criminal liability, arrest or detention, the search of the flat, vehicle, office of the Member of Parliament or the personal search of the former was possible only upon the permission of the Parliament of Georgia. The only exception provided for in article, is the case of detecting person in the process of committing crime. In such a circumstance the Parliament shall be immediately informed and in case the Parliament fails to give its consent, the arrested or detained Member of Parliament shall be immediately released.</p> <p>On April 23, 2004, on the basis of the amendments to the Constitution, the immunity of the Member of Parliament from criminal liability and the arrest or detention, search of the flat, vehicle, office or the personal search of the Member of Parliament was authorized only upon the consent of the Parliament.</p> <p>In accordance with the original edition of the Criminal Procedure Code of Georgia the list of persons immune from arrest comprised the members of the highest representative bodies of the Autonomous Republics of Adjara and Abkhazia. The above-mentioned officials have been removed from the said list as well as from the list of the persons who shall not be subjected to the forced appearance as a result of the amendments of February 13, 2006. Moreover, the removal of the members of the highest representative bodies of the Autonomous Republics of Adjara and Abkhazia from their respective offices was subject to the approval of the highest representative bodies of the Autonomous Republics of Adjara and Abkhazia. The similar consent was required for the committal to criminal liability of the above-mentioned persons. According to Article 187 of the Criminal Procedure Code of Georgia that was formulated as a general rule of conduct on the basis of the amendments of February 13, 2006, the removal of the members of the highest representative bodies of the Autonomous Republics of Adjara and Abkhazia shall be</p>	<p>article, is the case of detecting person in the process of committing crime. In such a circumstance the Parliament shall be immediately informed and in case the Parliament fails to give its consent, the arrested or detained Member of Parliament shall be immediately released.</p> <p>On April 23, 2004, on the basis of the amendments to the Constitution, the immunity of the Member of Parliament from criminal liability and the arrest or detention, search of the flat, vehicle, office or the personal search of the Member of Parliament was authorized only upon the consent of the Parliament.</p> <p>In accordance with the original edition of the Criminal Procedure Code of Georgia the list of persons immune from arrest comprised the members of the highest representative bodies of the Autonomous Republics of Adjara and Abkhazia. The above-mentioned officials have been removed from the said list as well as from the list of the persons who shall not be subjected to the forced appearance as a result of the amendments of February 13, 2006. Moreover, the removal of the members of the highest representative bodies of the Autonomous Republics of Adjara and Abkhazia from their respective offices was subject to the approval of the highest representative bodies of the Autonomous Republics of Adjara and Abkhazia. The similar consent was required for the committal to criminal liability of the above-mentioned persons. According to Article 187 of the Criminal Procedure Code of Georgia that was formulated as a general rule of conduct on the basis of the amendments of February 13, 2006, the removal of the members of the highest representative bodies of the Autonomous Republics of Adjara and Abkhazia shall be determined on the basis of the established rule of Georgian Legislation.</p> <p>The deprivation of the official of the prosecutor's office represents the significant change to the legislation. In pursuance of the amendments to Article 38 of Georgian Organic Law of February 13, 2004 "on the Prosecutor's Office of Georgia", the prosecutor General of Georgia, First Deputy Prosecutor and Deputy Prosecutors, the Head of the Investigative Division of the Office of the Prosecutor General of Georgia, the prosecutors of the Autonomous Republics of Adjara and Abkhazia, the Tbilisi Prosecutor and other members of the Collegium of the Office of the Prosecutor general of Georgia i.e. the persons immune from administrative arrest, forced</p>	<p>say whether or not Georgia is legislatively compliant with this Article.</p>
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					<p>determined on the basis of the established rule of Georgian Legislation.</p> <p>The deprivation of the official of the prosecutor's office represents the significant change to the legislation. In pursuance of the amendments to Article 38 of Georgian Organic Law of February 13, 2004 "on the Prosecutor's Office of Georgia", the prosecutor General of Georgia, First Deputy Prosecutor and Deputy Prosecutors, the Head of the Investigative Division of the Office of the Prosecutor General of Georgia, the prosecutors of the Autonomous Republics of Adjara and Abkhazia, the Tbilisi Prosecutor and other members of the Collegium of the Office of the Prosecutor general of Georgia i.e. the persons immune from administrative arrest, forced appearance, arrest, detention, committal to criminal liability, the search of their flat, vehicle, office or the personal search, the control of the communication through the phone or any other technical means of communication (by taking into account the fact of detecting in the process of committing crime), shall be held liable on the common basis established by the Georgian legislation.</p>		<p>appearance, arrest, detention, committal to criminal liability, the search of their flat, vehicle, office or the personal search, the control of the communication through the phone or any other technical means of communication (by taking into account the fact of detecting in the process of committing crime), shall be held liable on the common basis established by the Georgian legislation.</p> <p>The measures prescribed by the Georgian legislation fully comply with the provisions of the article.</p>	
II-31	M	Restraint & confiscation	<p>Proceeds of crime</p> <p>Confiscation regimes</p> <p>Value/object</p> <p>Restraint procedures</p> <p>Confiscation, conviction & burden of proof</p> <p>Third party rights</p>	Y	<p>A new type of penalty, forfeiture of property, was introduced in Article 40 of the Criminal Code on December 28, 2005. At the same time, the current edition of Article 52 of the same Code defines the term of forfeiture of property and sets rules for its application:</p> <p>Article 52 of the Criminal Code reads as follow:</p> <ol style="list-style-type: none"> 1. Forfeiture of property means deprivation of object and/or means of crime, an object designated for the commission of crime and/or proceeds from crime without the compensation for the benefit of the state. 2. Deprivation of object and/or means of crime, as well as that of object designated for the commission of crime means forfeiture of the property used for 	<p>The law appears compliance with the requirements of the Article although some discussion on the integration of the confiscation regime with the criminal law proceedings would be useful</p>	<p>The seizure of property is regulated under Chapter 24(Articles 190-201) of the Criminal Procedural Code of Georgia. The court may order seizure of the property as well as bank accounts of the suspect, accused or convicted person if there are grounds to believe that the property will be concealed or expended or the property is obtained in the illegal manner. In such cases, if the suspect, accused or convicted person is the public official, the prosecutor is obliged to make claims regarding the seizure of the property, including bank accounts of the public official as well as suspension of discharging the obligations assumed by the treaties concluded by the public official in the name of the state and other measures. Seizure deprives the owner of the right to use that property. Food, heating devises the objects necessary for the professional activities, other objects necessary normal living conditions as well as the property of organizations with the exception of the part of the collective property the separation of which is possible without damaging their activities. Upon the request of the prosecutor, the judge considers the claim and issues the order regarding the seizure of property. The name of the</p>	<p>This appears to address 31 (1-2). (3) is part-covered but there is little information on any legislative requirements for 31 (4-8). Without confirming whether or not there is any legislative requirements, I cannot say whether or not Georgia is legislatively compliant with this Article.</p>

				<p>the commission of premeditated crime or designated to be used for that purpose, which is under the legitimate ownership or proprietorship of a suspect, accused or convicted person, without compensation for the benefit of the state. Forfeiture of object and/or means of crime, as well an object designated for the commission of crime shall be exercised only based on the court order for all premeditated crimes prescribed by this Code provided that the object and/or means of crime, as well an object designated for the commission of crime exist and the forfeiture is in the state or public interests, for the protection of the rights of others or for the prevention of crime.</p> <p>3. Forfeiture of proceeds of crime means deprivation of property (including objects and non-material property, legal documents granting property rights), the income received from such property, as well as the equivalent property of a convicted person, exercised without compensation for the benefit of state provided that such property is proceeds from crime. Forfeiture of proceeds of crime shall be ordered by the court for all premeditated crime under this Code, if it is proven that the property in question is obtained through crime.</p> <p>The first paragraph of the above-cited Article defines forfeiture of property as taking means and/or object of crime and/or <u>proceeds from crime</u> by the state without compensation. Proceeds from crime is defined broadly and includes criminally obtained property (material objects as well as rights on property and documents granting such right), income obtained from that property, or other equivalent property. The third paragraph of Article 52 forfeiture of property shall be ordered by the court for all</p>		<p>owner, his/her whereabouts and composition of the property as well as other details are included in the Order. <i>In exceptional circumstances</i>, if there are grounds to believe that the property will be concealed or destroyed, the prosecutor or the investigator with the consent of the prosecutor has the right to issue a founded decree with the view of seizing the property. However, within 24 hours the court is to be informed regarding this matter. The court has to confirm the legality of the decree or find it illegal and annul it. The decision of the judge regarding seizure may be appealed within 72 hours from its issuance or execution, while the decree regarding the refusal of seizure may be appealed within 48 hours from its issuance. The property will remain seized until the judgement against the defendant is passed or until the criminal case is terminated.</p> <p>As regards the retention of the seized property, it is subject to caption, in exception for the immovable and large-sized objects. The precious metals, currency, securities are retained in the state bank, while the obligations and lottery tickets in the savings bank. The money will be kept at the deposit (account) of the court which conducts proceedings for the criminal case in question. Other objects will be kept at the body that requested the seizure of property or will be transferred to the representative of the body of local governance or self-governance. Other property not subject to caption remains with the owners that are warned about the consequences of damaging or giving away the property. It is notable that under Article 377 of the Criminal Code of Georgia, criminal responsibility is provided for embezzlement, concealment or giving out illegally the seized property.</p> <p>The measures prescribed by the Georgian legislation fully comply with the provisions of the article.</p>	
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				<p>premeditated crimes, including the corruption related crimes. Furthermore, Article 52 introduces value confiscation, as required by various international instruments applicable to the anti-corruption and organized crime issues.</p> <p><i>Seizure of property as an interim measure</i></p> <p><i>As regards the seizure of property, this question is regulated under Chapter 24(Articles 190-201) of the Criminal Procedural Code of Georgia. The court may order seizure of the property as well as bank accounts of the suspect, accused or convicted person if there are grounds to believe that the property will be concealed or expended or the property is obtained in the illegal manner. In such cases, if the suspect, accused or convicted person is the public official, the prosecutor is obliged to make claims regarding the seizure of the property, including bank accounts of the public official as well as suspension of discharging the obligations assumed by the treaties concluded by the public official in the name of the state and other measures. Seizure deprives the owner of the right to use that property. Food, heating devices, the objects necessary for the professional activities, other objects necessary normal living conditions as well as the property of organizations with the exception of the part of the collective property the separation of which is possible without damaging their activities. Upon the request of the prosecutor, the judge considers the claim and issues the order regarding the seizure of property. The name of the owner, his/her whereabouts, composition of the property as well as other details are included in the Order. In exceptional circumstances, if there are grounds to believe that the property will be concealed or destroyed, the prosecutor or the investigator with the consent of the prosecutor has the right to issue a founded decree with the view of seizing the property. However, within 24 hours the court is to be informed regarding this matter. The court has to confirm the legality of the decree or find it illegal and annul it. The decision of the judge regarding seizure may be appealed within 72 hours from its issuance or execution, while the decree regarding the refusal of seizure may be</i></p>		
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					<p>appealed within 48 hours from its issuance. The property will remain seized until the judgement against the defendant is passed or until the criminal case is terminated.</p> <p>As regards the retention of the seized property, it is subject to caption, in exception for the immovable and large-sized objects. The precious metals, currency, securities are retained in the state bank, while the obligations and lottery tickets in the savings bank. The money will be kept at the deposit (account) of the court which conducts proceedings for the criminal case in question. Other objects will be kept at the body that requested the seizure of property or will be transferred to the representative of the body of local governance or self-governance. Other property not subject to caption remains with the owners that are warned about the consequences of damaging or giving away the property. It is notable that under Article 377 of the Criminal Code of Georgia, criminal responsibility is provided for embezzlement, concealment or giving out illegally the seized property.</p>			
II-32	M	Witness protection	<p>Witness definition</p> <p>Applicability of proceedings</p> <p>WPP models</p> <p>Inter-SP arrangements</p>	Y	<p>The measures for the protection of witnesses and collaborators of justice can be divided in two parts; first part, measures mitigating sanctions for collaborators and second part developing special measures for the protection from threat or other illegal influence. Articles 1091, 1092, 1093, 1094, 1095 of the Criminal Procedural Code of Georgia create safeguards for physical safety of witness or collaborator, including changing of names, data in state official registry etc.</p> <p>As for mitigation of sanctions, various articles of Criminal Code on corruption include collaboration as mitigating factor as it is indicated above.</p>	Appears compliant	<p>The measures for the protection of witnesses and collaborators of justice can be divided in two parts; first part, measures mitigating sanctions for collaborators and second part developing special measures for the protection from threat or other illegal influence. Articles 1091, 1092, 1093, 1094, 1095 of the Criminal Procedural Code of Georgia create safeguards for physical safety of witness or collaborator, including changing of names, data in state official registry etc.</p> <p>As for mitigation of sanctions, various articles of Criminal Code on corruption include collaboration as mitigating factor as it is indicated above.</p> <p>The whistle-blower protection was introduced through the law on Conflict of Interests and became effective on 1st of June 2009. The specific chapter is devoted to the subject fully covering the topic.</p>	<p>This does not discuss experts, victims (4), presentation of evidence (2(b)), representation in court (5). Without this information, I cannot say whether or not Georgia is legislatively compliant with this Article.</p>
II-33	O	Whistleblowing	Definitions of disclosure	Y	The whistleblower protection is not properly defined in the legislation and there is only one	Non-compliant?	The measures for the protection of witnesses and collaborators of justice can be divided in two parts; first	The author does not discuss either

			Procedures to disclose Who is covered Legal protection		general statement in the law on Freedom of Expression and Press which stipulates for the protection of whistleblowers. The draft law on whistleblowers is prepared by government and not yet adopted.		part, measures mitigating sanctions for collaborators and second part developing special measures for the protection from threat or other illegal influence. Articles 1091, 1092, 1093, 1094, 1095 of the Criminal Procedural Code of Georgia create safeguards for physical safety of witness or collaborator, including changing of names, data in state official registry etc. As for mitigation of sanctions, various articles of Criminal Code on corruption include collaboration as mitigating factor as it is indicated above. The whistle-blower protection was introduced through the law on Conflict of Interests and became effective on 1 st of June 2009. The specific chapter is devoted to the subject fully covering the topic.	the whistleblowing information and/or whether protection is provided in employment law. Without this information, I cannot say whether or not Georgia is legislatively compliant with this Article.
II-34	M	Consequences of corruption	Legal proceedings – crown, civil, disciplinary Constraint voiding Evidence admissibility Criminal liabilities of legal entities	Y		Non-compliant?	<p>Opportunity to bring the civil claims</p> <p>Chapter IV of the Criminal Procedure Code of Georgia regulates the question of filing civil claims in connection with the criminal case. In accordance with Article 30 of the Criminal Procedure Code of Georgia, civil claims may be raised by natural and legal persons, if they sustain damage as a result of the crime. The natural person may request compensation for property, physical (bodily) or moral damage, while the legal person can claim only property and moral damage. The property damage will be fully compensated, including direct damage and profit that might be received with average market prices using indexation. The civil claim may be raised at any moment during criminal proceedings before the initiation of judicial investigation. It may be presented to the investigator or the prosecutor that conducts proceedings with respect to the criminal case in question, while consideration of the claim and making a decision falls within the competence of the court that handles this criminal case. If the natural person that sustained damage dies, the right to file and support a claim is transmitted to his/her heirs. If the legal person in the same position undergoes reorganization, the right to file and support a claim will be transmitted to its successor.</p> <p>The civil claim is mainly presented against the accused. However, even if the accused is not identified, it may not serve as an impediment for filing a civil claim.</p> <p>Under Article 37 of the Criminal Procedure Code of Georgia, as amended on February 13, 2004, if the state suffered damage as a result of the crime or other wrongful act committed by the person against whom the criminal</p>	This answer partly answers the question but it is also about debarment and contract voiding. Without or not this is covered by procurement law, I don't know. Without this information, I cannot say whether or not Georgia is legislatively compliant with this Article.

						<p>proceedings are conducted, the Prosecutor is obliged to make a civil claim in the criminal case. Moreover, the prosecutor is entitled to file a civil claim at the request of the victim, if the latter does not have a lawyer or is not able to defend his/her own interests because of age, illness, dependence upon the accused or any other reason.</p> <p>Proceedings regarding the civil claims in the criminal case are regulated by the Criminal Procedure Code of Georgia. If procedural relations related to the civil claim are not settled by the Criminal Procedure Code, the provisions of Civil Procedure Code will apply. Under Article 42 of the Criminal Procedure Code of Georgia, civil claims that are satisfied will be executed as defined by civil procedural legislation.</p> <p>The measures prescribed by the Georgian legislation fully comply with the provisions of the article.</p>	
II-35	M	Compensation	Eligibility to bring civil action Civil court procedures	Y		<p>Non-compliant?</p> <p>Opportunity to bring the civil claims</p> <p>Chapter IV of the Criminal Procedure Code of Georgia regulates the question of filing civil claims in connection with the criminal case. In accordance with Article 30 of the Criminal Procedure Code of Georgia, civil claims may be raised by natural and legal persons, if they sustain damage as a result of the crime. The natural person may request compensation for property, physical (bodily) or moral damage, while the legal person can claim only property and moral damage. The property damage will be fully compensated, including direct damage and profit that might be received with average market prices using indexation. The civil claim may be raised at any moment during criminal proceedings before the initiation of judicial investigation. It may be presented to the investigator or the prosecutor that conducts proceedings with respect to the criminal case in question, while consideration of the claim and making a decision falls within the competence of the court that handles this criminal case. If the natural person that sustained damage dies, the right to file and support a claim is transmitted to his/her heirs. If the legal person in the same position undergoes reorganization, the right to file and support a claim will be transmitted to its successor.</p> <p>The civil claim is mainly presented against the accused. However, even if the accused is not identified, it may not serve as an impediment for filing a civil claim.</p>	Compliant

							<p>Under Article 37 of the Criminal Procedure Code of Georgia, as amended on February 13, 2004, if the state suffered damage as a result of the crime or other wrongful act committed by the person against whom the criminal proceedings are conducted, the Prosecutor is obliged to make a civil claim in the criminal case. Moreover, the prosecutor is entitled to file a civil claim at the request of the victim, if the latter does not have a lawyer or is not able to defend his/her own interests because of age, illness, dependence upon the accused or any other reason.</p> <p>Proceedings regarding the civil claims in the criminal case are regulated by the Criminal Procedure Code of Georgia. If procedural relations related to the civil claim are not settled by the Criminal Procedure Code, the provisions of Civil Procedure Code will apply. Under Article 42 of the Criminal Procedure Code of Georgia, civil claims that are satisfied will be executed as defined by civil procedural legislation.</p> <p>The measures prescribed by the Georgian legislation fully comply with the provisions of the article.</p>	
II-36	M	Law enforcement agency dealing with corruption	<p>New or existing agency</p> <p>Specialist power</p> <p>Focus of work</p> <p>Legal framework</p> <p>Information-sharing</p>	Y	<p>The main anti-corruption agency of Georgia used to be the Special Unit for Criminal Prosecution of Legalization of Illegal Incomes within the General Prosecutor's Office⁷. The Unit has jurisdiction over all corruption offences, committed on the territory of Georgia. It is not an exclusively anti-corruption body; its competence spans also the money laundering offences.</p> <p>It is autonomous structure within the General Prosecutor's office. The Unit has a staff of 16, out of them 11 prosecutors and investigators and 5 technical staff. It also has 9 regional branches, with staff of 5 or 6 prosecutors and investigators each. The Unit is both an investigative and prosecutorial body, with full control over the pre-trial phase of the criminal procedure. The Unit is headed by a Deputy Prosecutor General.</p>	Need discussion on role of agency in light of possible changes		Compliant

⁷ since the Prosecutor's office was merged with the Ministry of Justice this unit might also be affected.

					The activity of the Unit is fully supported by the other law enforcement and information gathering agencies. In particular it enjoys good cooperation with the Ministry of Interior, the Financial Monitoring Service, the Assets Declaration Bureau within the Ministry of Justice and the Chamber of Control.			
II-37	M/O	Cooperation with LEAs	Witness immunity Plea bargaining Waiving prosecution SP information-sharing MLAs Sentence mitigation	Y		Need to discuss MoUs and MLAs in terms of inter-agency cooperation mentioned below re: Article 42	The system of Plea Bargaining defined by the Georgian legislation was designed to encourage for the cooperation with law enforcement agencies. It provides with the opportunity to lower the sanctions or even lift the liability is suspected person cooperates and provides valuable information for investigating authorities. In several articles of the criminal law it is directly prescribed that such an opportunity can be offered to the accused person. It is the case with article on trading in influence. The measures prescribed by the Georgian legislation largely comply with the provisions of the article.	Compliant
II-38	O	LEA cooperation with public sector	Protocols between LEAs & public bodies Reporting privilege Data protection issues	Y		Is there a public/private forum or arrangements to work against corruption?	Technically, there are no guidelines for increased cooperation, exchange of information and resources between the agencies, responsible for the fight of the organized crime and the anti-corruption agencies. The cooperation between them is a fact, insofar as the prosecutor is the master of the pre-trial stage of the criminal proceedings. The Special Unit for Criminal Prosecution of Legalization of Illegal Incomes within the General Prosecutor's Office is part of the prosecution service of the country; it enjoys full control over the investigation phase of the proceedings. As far as the detection phase is concerned; all the agencies in Georgia support the activity of the Special Unit and have to submit the relevant information in a timely fashion. It must be noted that there is shared vision among the high level officials of the Georgian Government regarding the need to address the problem of corruption – and on the way to address it. As a result there is common understanding of the need to fully support the efforts of the Special Unit. The practices used by the Georgian authorities largely comply with the provisions of the article.	What should be covered here, in addition to the protection offered by Articles 32 and 37, is any legal protection for reporting (anonymity) and possible exposure in court, and handing over possibly confidential documentation.
II-39	O	LEA cooperation with private sector	Data protection issues NGO initiatives Reporting arrangements Protocols	Y		As above Is there DP legislation?		Not a legal requirement although some of the issues noted in relation to

								Article 38 may be relevant
II-40	M	Bank secrecy	Approved access for designated agencies SARs regime Sanctions for non-compliance KYC & KYBO regimes	Y		Need to discuss the SARs regime within context of AML law compliance		Not answered
II-41	O	Criminal records	SP information-sharing Centralise records Data protection issues Admissibility	Y		Need to discuss		Not answered but evidential admissibility issues
II-42	M	Jurisdiction	MLAs Extra-jurisdictional legislation Extradition Cross-border asset recovery	Y	<p>Georgia is a party to European Convention on Extradition 1957 as well as relevant bilateral agreements. The extradition is regulated by Criminal Code art. 6 and Criminal Procedures Code articles 254 – 259¹. Article 6 provides general framework and provides that citizens of Georgia are prohibited from extradition to foreign countries if there is not a special regulation of particular crime or as part of cooperation with International Criminal Court. The law also prohibits the extradition of those persons who attained political refuge in Georgia, conducted and act which is not crime on the territory of Georgia, or face death penalty in country which request extradition.</p> <p>Extradition cases are decided by Prosecutor General and if there are several countries demanding extradition of person then Prosecutor General consults Minister of Foreign Affairs and Minister of Justice. Extradition to Georgia is based on the request of Prosecutor General if the punishment for crime conducting of which the person is accused is deprivation of liberty for period of more then 1 year. Georgia will not extradite person to a third country without a prior permission from the country that extradited person to Georgia.</p> <p>The decision of Prosecution General on extradition can be appealed in the court of first instance by the subject person. The appeal should be heard by court within 15 days and the decision can be further appealed through</p>	<p>Which crimes are included for extradition?</p> <p>What are the arrangements in the Laws (40 & 52) on inter-State Party PoC hearings, provision of information and recovery proceedings?</p>		Compliant

					<p>cassation procedures to the Supreme Court within 10 days and final decision is rendered in 10 days.</p> <p>Article 4(2) of the Criminal Code of Georgia expressly states that an offence is considered to be committed on the territory of Georgia if it has started, extended, terminated or concluded on the territory of Georgia, which implies a very broad application of criminal law of Georgia.</p> <p>Georgian citizens and permanent residents of Georgia who do not have any citizenship will be subject to this code for committing acts outside the Georgian territories which are crimes according to the law of the foreign country and present code. If the committed act is not a crime under the law of foreign state in that case only crimes directed against Georgia's state interests, crimes that fall under international treaties and very grave crimes will be prosecuted by the state of Georgia.</p> <p>Corruption, even committed abroad, is considered as a predicate offence for money laundering, due to the provisions of the Criminal Code that relate to territorial and extra-territorial application of substantive criminal law.</p>			
CHAPTER III								
III-43	M	International cooperation	MLAs/conventions Legislative equivalence Central agency	Y	<p>Technically, there are no guidelines for increased cooperation, exchange of information and resources between the agencies, responsible for the fight of the organized crime and the anti-corruption agencies. The cooperation between them is a fact, insofar as the prosecutor is the master of the pre-trial stage of the criminal proceedings. The Special Unit for Criminal Prosecution of Legalization of Illegal Incomes within the General Prosecutor's Office is part of the prosecution service of the country; it enjoys full control over the investigation phase of the proceedings. As far as the detection phase is concerned; all the agencies in Georgia support the activity of the Special Unit and have to submit the relevant information in a timely fashion. It must be noted that there is shared vision among the high level officials of the</p>		<p>The Ministry of Justice of Georgia is the competent organ for international cooperation mutual legal assistance in criminal matters in Georgia when the request concerns the case at the pre-trial investigation stage. The Ministry of Justice is responsible for the legal assistance in family law, civil and commercial matters. The extract below deals with the international cooperation in criminal matters.</p> <p>The process of international cooperation in criminal matters is regulated by the European Convention on Mutual Assistance in Criminal Matters of 1959 (the Convention entered into force on November 1, 2000) and other bilateral agreements and the Code of Criminal Procedure of Georgia (February 20, 1998). If there is no treaty on mutual legal assistance between Georgia and requesting country, the special agreement can be concluded between the Prosecutor General of Georgia (the Minister of Justice within his/her competence) and</p>	Compliant re: assistance. No discussion of dual criminality in terms of exact/similar legal categorisation.

				<p>Georgian Government regarding the need to address the problem of corruption – and on the way to address it. As a result there is common understanding of the need to fully support the efforts of the Special Unit.</p> <p>The Office of the Prosecutor General of Georgia is the competent organ for mutual legal assistance in criminal matters in Georgia when the request concerns the case at the pre-trial investigation stage. The Ministry of Justice is responsible for the legal assistance in family law, civil and commercial matters. The extract below deals with the international cooperation in criminal matters.</p> <p>The process of international cooperation in criminal matters is regulated by the European Convention on Mutual Assistance in Criminal Matters of 1959 (the Convention entered into force on November 1, 2000) and other bilateral agreements and the Code of Criminal Procedure of Georgia (February 20, 1998). If there is no treaty on mutual legal assistance between Georgia and requesting country, the special agreement can be concluded between the Prosecutor General of Georgia (the Minister of Justice within his/her competence) and the relevant foreign authorities to render the legal assistance in question as provided by Article 247 §2 of the Criminal Procedure Code of Georgia. The Office of the Prosecutor General of Georgia is currently drafting the new law on International Legal Cooperation encompassing both mutual legal assistance and extradition.</p> <p>In conformity with Articles 14 and 15 of the European Convention on Mutual Assistance in Criminal Matters and the relevant Georgian reservation, the request for legal assistance shall be drawn up in Georgian, English or Russian and shall be sent by the competent authorities of a requesting state to the Office of the Prosecutor General of Georgia. The extract/s from article/s (extract of the whole article and not of its part only) of the Criminal Code of the requesting state, in accordance with which the conduct has been qualified, shall be annexed to the request. The request itself and all the pages</p>		<p>the relevant foreign authorities to render the legal assistance in question as provided by Article 247 §2 of the Criminal Procedure Code of Georgia. The Office of the Prosecutor General of Georgia is currently drafting the new law on International Legal Cooperation encompassing both mutual legal assistance and extradition.</p> <p>In conformity with Articles 14 and 15 of the European Convention on Mutual Assistance in Criminal Matters and the relevant Georgian reservation, the request for legal assistance shall be drawn up in Georgian, English or Russian and shall be sent by the competent authorities of a requesting state to the Office of the Prosecutor General of Georgia. The extract/s from article/s (extract of the whole article and not of its part only) of the Criminal Code of the requesting state, in accordance with which the conduct has been qualified, shall be annexed to the request. The request itself and all the pages of the papers annexed shall be certified by the official stamp.</p> <p>Under article 251 of the Criminal Procedure Code of Georgia, investigative or judicial measures which involve restriction of constitutional rights and freedoms of citizens of Georgia are executed only if they are duly authorized by judicial or other relevant authorities of the foreign country concerned. In certain cases envisaged by international treaties, foreign agents may attend the execution of request for legal assistance.</p> <p>The execution of the request for legal assistance may be refused if its impossible due to factual circumstances, or it contradicts the national interests, sovereignty and security of Georgia. In any case, requested country shall be informed concerning the reasons of the refusal. As regards other possible basis for refusal, Georgia has availed itself to the right provided by article 5 of the European Convention on Mutual Assistance in Criminal Matters. Therefore, execution of letters for search and seizure of property can be conditional to the dual criminality principle, i.e. that the offence motivating the letters is punishable under the laws of both requesting and requested states, either the principle that the offence motivating the letter is an extraditable offence in the requested country. Furthermore, according to the Georgian reservation to the European Convention on Mutual Legal Assistance in Criminal Matters, the execution of a request may be refused if criminal proceedings have been instituted in Georgia for the offence in respect of which assistance is requested or if the offence in respect of which assistance is requested has already been tried by a court of law and the judgment has entered into force.</p>	
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				<p>of the papers annexed shall be certified by the official stamp.</p> <p>Under article 251 of the Criminal Procedure Code of Georgia, investigative or judicial measures which involve restriction of constitutional rights and freedoms of citizens of Georgia are executed only if they are duly authorized by judicial or other relevant authorities of the foreign country concerned. In certain cases envisaged by international treaties, foreign agents may attend the execution of request for legal assistance.</p> <p>The execution of the request for legal assistance may be refused if it is impossible due to factual circumstances, or it contradicts the national interests, sovereignty and security of Georgia. In any case, requested country shall be informed concerning the reasons of the refusal. As regards other possible basis for refusal, Georgia has availed itself to the right provided by article 5 of the European Convention on Mutual Assistance in Criminal Matters. Therefore, execution of letters for search and seizure of property can be conditional to the dual criminality principle, i.e. that the offence motivating the letters is punishable under the laws of both requesting and requested states, either the principle that the offence motivation the letter is an extraditable offence in the requested country. Furthermore, according to the Georgian reservation to the European Convention on Mutual Legal Assistance in Criminal Matters, the execution of a request may be refused if criminal proceedings have been instituted in Georgia for the offence in respect of which assistance is requested or if the offence in respect of which assistance is requested has already been tried by a court of law and the judgment has entered into force.</p> <p>Georgia will not execute any request related to political, fiscal or military offence. As regards freezing assets based on the court order issued in foreign country, Georgia can execute them in conformity with the national legislation.</p>	<p>Georgia will not execute any request related to political, fiscal or military offence. As regards freezing assets based on the court order issued in foreign country, Georgia can execute them in conformity with the national legislation.</p> <p>Sharing of information is regulated by article of Criminal Procedures Code 260¹, which states that in relevant cases Ministry of Foreign Affairs informs International Maritime Agency as well as IAEA .</p> <p>The practices employed by the Georgian authorities largely comply with the provisions of the article.</p>	
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					Sharing of information is regulated by article of Criminal Procedures Code 260 ¹ , which states that in relevant cases Ministry of Foreign Affairs informs International Maritime Agency as well as IAEA.			
III-44	M	Extradition	Legislative arrangements Procedural arrangements Human rights Political crime MLAs Central agency	Y	<p>Georgia is a party to European Convention on Extradition 1957 as well as relevant bilateral agreements. The extradition is regulated by Criminal Code art. 6 and Criminal Procedures Code articles 254 – 259¹. Article 6 provides general framework and provides that citizens of Georgia are prohibited from extradition to foreign countries if there is not a special regulation of particular crime or as part of cooperation with International Criminal Court. The law also prohibits the extradition of those persons who attained political refuge in Georgia, conducted and act which is not crime on the territory of Georgia, or face death penalty in country which request extradition.</p> <p>Extradition cases are decided by Prosecutor General and if there are several countries demanding extradition of person then Prosecutor General consults Minister of Foreign Affairs and Minister of Justice. Extradition to Georgia is based on the request of Prosecutor General if the punishment for crime conducting of which the person is accused is deprivation of liberty for period of more then 1 year. Georgia will not extradite person to a third country without a prior permission from the country that extradited person to Georgia.</p> <p>The decision of Prosecution General on extradition can be appealed in the court of first instance by the subject person. The appeal should be heard by court within 15 days and the decision can be further appealed through cassation procedures to the Supreme Court within 10 days and final decision is rendered in 10 days.</p>	Appears compliant	<p>Georgia is a party to European Convention on Extradition 1957 as well as relevant bilateral agreements. The extradition is regulated by Criminal Code art. 6 and Criminal Procedures Code articles 254 – 259¹. Article 6 provides general framework and provides that citizens of Georgia are prohibited from extradition to foreign countries if there is not a special regulation of particular crime or as part of cooperation with International Criminal Court. The law also prohibits the extradition of those persons who attained political refuge in Georgia, conducted and act which is not crime on the territory of Georgia, or face death penalty in country which request extradition.</p> <p>Extradition cases are decided by Prosecutor General and if there are several countries demanding extradition of person then Prosecutor General consults Minister of Foreign Affairs and Minister of Justice. Extradition to Georgia is based on the request of Prosecutor General if the punishment for crime conducting of which the person is accused is deprivation of liberty for period of more then 1 year. Georgia will not extradite person to a third country without a prior permission from the country who extradited person to Georgia.</p> <p>The decision of Prosecution General on extradition can be appealed in the court of first instance by the subject person. The appeal should be heard by court within 15 days and the decision can be further appealed through cassation procedures to the Supreme Court within 10 days and final decision is rendered in 10 days.</p> <p>The measures prescribed by the Georgian legislation fully comply with the provisions of the article.</p>	There are a number of components of this Article and it would be helpful, to confirm compliance, if the author was able to say whether the CC and CPC covers each.
III-45	O	Transfer of convicted persons	Legislative arrangements Procedural arrangements Rights of appeal	Y		Is this part of the legislative arrangements mentioned above re:		No answer

			Central agency			Article 43 & 44?		
III-46	M	MLA	MLAs on activities in UNCAC Dual criminality	Y		Need discussion	<p>The Ministry of Justice of Georgia is the competent organ for international cooperation mutual legal assistance in criminal matters in Georgia when the request concerns the case at the pre-trial investigation stage. The Ministry of Justice is responsible for the legal assistance in family law, civil and commercial matters. The extract below deals with the international cooperation in criminal matters.</p> <p>The process of international cooperation in criminal matters is regulated by the European Convention on Mutual Assistance in Criminal Matters of 1959 (the Convention entered into force on November 1, 2000) and other bilateral agreements and the Code of Criminal Procedure of Georgia (February 20, 1998). If there is no treaty on mutual legal assistance between Georgia and requesting country, the special agreement can be concluded between the Prosecutor General of Georgia (the Minister of Justice within his/her competence) and the relevant foreign authorities to render the legal assistance in question as provided by Article 247 §2 of the Criminal Procedure Code of Georgia. The Office of the Prosecutor General of Georgia is currently drafting the new law on International Legal Cooperation encompassing both mutual legal assistance and extradition.</p> <p>In conformity with Articles 14 and 15 of the European Convention on Mutual Assistance in Criminal Matters and the relevant Georgian reservation, the request for legal assistance shall be drawn up in Georgian, English or Russian and shall be sent by the competent authorities of a requesting state to the Office of the Prosecutor General of Georgia. The extract/s from article/s (extract of the whole article and not of its part only) of the Criminal Code of the requesting state, in accordance with which the conduct has been qualified, shall be annexed to the request. The request itself and all the pages of the papers annexed shall be certified by the official stamp.</p> <p>Under article 251 of the Criminal Procedure Code of Georgia, investigative or judicial measures which involve restriction of constitutional rights and freedoms of citizens of Georgia are executed only if they are duly authorized by judicial or other relevant authorities of the foreign country concerned. In certain cases envisaged by international treaties, foreign agents may attend the execution of request for legal assistance.</p> <p>The execution of the request for legal assistance may be refused if its is impossible due to factual circumstances, or it contradicts the national interests, sovereignty and</p>	<p>This is in part answered by the re4sponse to Article 43 but does not cover legal entities and the specific assistance listed in 3(a) – (b), (d) – (h). In relation to 3(j) and (k), the author says “Georgia can execute them in conformity with the national legislation.” Without knowing if the national legislation covers (a)-(b), (d)-(h) I do not know if Georgia is compliant or not (although it probably is).</p>

							<p>security of Georgia. In any case, requested country shall be informed concerning the reasons of the refusal. As regards other possible basis for refusal, Georgia has availed itself to the right provided by article 5 of the European Convention on Mutual Assistance in Criminal Matters. Therefore, execution of letters for search and seizure of property can be conditional to the dual criminality principle, i.e. that the offence motivating the letters is punishable under the laws of both requesting and requested states, either the principle that the offence motivating the letter is an extraditable offence in the requested country. Furthermore, according to the Georgian reservation to the European Convention on Mutual Legal Assistance in Criminal Matters, the execution of a request may be refused if criminal proceedings have been instituted in Georgia for the offence in respect of which assistance is requested or if the offence in respect of which assistance is requested has already been tried by a court of law and the judgment has entered into force.</p> <p>Georgia will not execute any request related to political, fiscal or military offence. As regards freezing assets based on the court order issued in foreign country, Georgia can execute them in conformity with the national legislation.</p> <p>Sharing of information is regulated by article of Criminal Procedures Code 260¹, which states that in relevant cases Ministry of Foreign Affairs informs International Maritime Agency as well as IAEA .</p> <p>The practices employed by the Georgian authorities largely comply with the provisions of the article.</p>	
III-47	O	Transfer of criminal proceedings	Legislative arrangements Procedural arrangements Central agency	Y		Need discussion		No answer
III-48	M	LEA-LEA Cooperation	MLAs Information-sharing Data protection issues Legality of shared operational work Cooperation procedures	Y	Technically, there are no guidelines for increased cooperation, exchange of information and resources between the agencies, responsible for the fight of the organized crime and the anti-corruption agencies. The cooperation between them is a fact, insofar as the prosecutor is the master of the pre-trial stage of the criminal proceedings. The Special Unit for Criminal Prosecution of Legalization of Illegal Incomes within the General Prosecutor's Office is part of the prosecution service of the country; it enjoys full control over the investigation phase of the proceedings. As far as the detection	Non-compliant ?		Answers already included in response to Article 46; appears largely compliant

					phase is concerned; all the agencies in Georgia support the activity of the Special Unit and have to submit the relevant information in a timely fashion. It must be noted that there is shared vision among the high level officials of the Georgian Government regarding the need to address the problem of corruption – and on the way to address it. As a result there is common understanding of the need to fully support the efforts of the Special Unit.			
III-49	O	LEA joint operations	MLAs Legal arrangements Procedural arrangements Admissibility of evidence	Y		Non-compliant?		No answer
III-50	M	Special investigative techniques	Human rights Data protection Admissibility of evidence Legal arrangements Procedural arrangements Judicial/prosecutorial oversight	Y		Are there laws governing covert and other activities?	The provisions of this chapter are largely met by Georgian legislation. The special investigative techniques supported by the law on police and law on operative actions as well as criminal procedural code provide for various measures that can be employed by investigators to detect and further investigate the acts of corruption. The financial monitoring service is employed to monitor the legality of various transactions and banks are required to comply with the provisions of the identity check etc.	Since the author does not provide the details of the relevant legislative, then I do not know if Georgia is compliant
CHAPTER IV								
GENERAL COMMENT IN REVISED REPORT:								
IV-51	M	Asset recovery	Proceeds of crime laws Money laundering law Designated agency	Y	Legalization of illegal income is criminalized in Article 194 of the Criminal Code of Georgia. It is notable that the new wording was introduced with the amendments dated December 28, 2005 and April 28, 2006. Under the current formulation, the legalization of illegal income is defined as giving the legal form to the property obtained in the illegal manner with the view of concealment of its illegal origin as well as concealment or masking the true nature, source of origin, whereabouts, location, movement of this property. It is punishable with deprivation of liberty for a term from 2 to 4 years. The same criminal act, committed by a group, repeatedly, accompanied with the receipt of a large amount of income is punishable with deprivation of liberty for a term from 4 to 7 years. Money laundering committed by the organized group, through abuse of power, accompanied with	Need to clarify		Answer not relevant

					especially large amount of income – is punishable with deprivation of liberty for a term from 7 to 10 years. For the purposes of Article 194, the income received through the commission of crime related to taxes as well as an income in the amount not exceeding 5 000 GEL is not to be considered as an illegal income. For this article income with the amount from 30 000 to 50 000 GEL is to be considered of a large amount, while the income exceeding 50 000 GEL is to be considered as of especially large amount.			
IV-52	M	Asset tracing and restraint	SARs regime PEPs regime KYC & KYBO regime Designated agency Asset disclosure for public officials	Y	Georgian legislation provides for mandatory declaration of assets for public officials. The declared information is public and accessible for all interested parties. Refusing declaration is punishable with fine. Presently code of ethics as a general instrument is not introduced although some ministries have introduced the practice. This issue remains to be solved as well as other civil service related measures provided by the Convention.	Need to discuss the AML legislation		This is also about the AML legislation and the related advisories - KYC, EDD, PEPs, banking legislation, etc
IV-53	M	Asset recovery	Civil & criminal recovery regimes Compensation SP status in civil court	Y	A new type of penalty, forfeiture of property, was introduced in Article 40 of the Criminal Code on December 28, 2005. At the same time, the current edition of Article 52 of the same Code defines the term of forfeiture of property and sets rules for its application: Article 52 of the Criminal Code reads as follow: 4. Forfeiture of property means deprivation of object and/or means of crime, an object designated for the commission of crime and/or proceeds from crime without the compensation for the	Need to discuss the contents of the legislation to consider if compliant	Article 52 of the Criminal Code reads as follow: Forfeiture of property means deprivation of object and/or means of crime, an object designated for the commission of crime and/or proceeds from crime without the compensation for the benefit of the state. Deprivation of object and/or means of crime, as well as that of object designated for the commission of crime means forfeiture of the property used for the commission of premeditated crime or designated to be used for that purpose, which is under the legitimate ownership or proprietorship of a suspect, accused or convicted person, without compensation for the benefit of the state. Forfeiture of object and/or means of crime, as well an object designated for the commission of crime shall be exercised only based on the court order for all premeditated crimes	This is fine but does not answer if this applies to foreign governments wanting the right of representation in Georgian courts and to be a recognised for compensation, etc. Without this information, I cannot say whether or not Georgia is

⁸ Administrative Procedural Code defines the “family member” as the spouse, child/stepchild or other person permanently residing with the public official.

⁹ Administrative Procedural Code defines close relative as family member, parent, siblings, grandparents and grandchildren of the public official, parents and siblings of the spouse of public official.

¹⁰ The Administrative procedural Code defines the “related person” as the person that has certain property in possession as recorded in documents and there exists the substantiated doubt that this property is obtained, used or managed by the public official.

				<p>benefit of the state.</p> <p>5. Deprivation of object and/or means of crime, as well as that of object designated for the commission of crime means forfeiture of the property used for the commission of premeditated crime or designated to be used for that purpose, which is under the legitimate ownership or proprietorship of a suspect, accused or convicted person, without compensation for the benefit of the state. Forfeiture of object and/or means of crime, as well an object designated for the commission of crime shall be exercised only based on the court order for all premeditated crimes prescribed by this Code provided that the object and/or means of crime, as well an object designated for the commission of crime exist and the forfeiture is in the state or public interests, for the protection of the rights of others or for the prevention of crime.</p> <p>6. Forfeiture of proceeds of crime means deprivation of property (including objects and non-material property, legal documents granting property rights), the income received from such property, as well as the equivalent property of a convicted person, exercised without compensation for the benefit of state provided that such property is proceeds from crime. Forfeiture of proceeds of crime shall be ordered by the court for all premeditated crime under this Code, if it is proven that the property in question is obtained through crime.</p> <p>The first paragraph of the above-cited Article defines forfeiture of property as taking means and/or object of crime and/or proceeds from</p>	<p>prescribed by this Code provided that the object and/or means of crime, as well an object designated for the commission of crime exist and the forfeiture is in the state or public interests, for the protection of the rights of others or for the prevention of crime.</p> <p>Forfeiture of proceeds of crime means deprivation of property (including objects and non-material property, legal documents granting property rights), the income received from such property, as well as the equivalent property of a convicted person, exercised without compensation for the benefit of state provided that such property is proceeds from crime. Forfeiture of proceeds of crime shall be ordered by the court for all premeditated crime under this Code, if it is proven that the property in question is obtained through crime.</p> <p>The procedure for forfeiture of illegal and unexplained wealth</p> <p><i>Administrative Procedural Code of Georgia regulates the mechanism of presenting claims for forfeiture of the illegal or unexplained wealth and its transfer to the state.</i> Under Article 21⁴ of the Administrative Procedural Code of Georgia, <i>Prosecutor is entitled</i> to present such claims against public officials, their family member⁹, close relative⁹ or other related person.¹⁰ Under Article 21⁶ the Administrative Procedural Code of Georgia, judge will consider the property of the public official, his family members or close relatives to be illegal if based on the presented evidence it establishes that property or means for the acquisition of this property are obtained in contravention with the requirements of law. The burden of proof is upon the respondent. If in the course of proceedings the defendant does not provide the Court with the documents confirming that property or financial resources necessary for the acquisition of the mentioned property were obtained in the legal way or the documents proving the payment of taxes of that property, the Court will find the property in question as unjustified.</p> <p>If the court finds the property to be illegal or unjustified, after the interests of the third parties are satisfied, it will be returned to the legitimate owner or to the state, if the legitimate owner is not established. If the legality and validity of the property is proved in part, the part of property the legality and validity of which is not substantiated will be returned to the state. If it is impossible to return the property in the initial form, the public official in question will have to pay amount of money equivalent to the value of the property. If the Court confirms that illegal and unexplained wealth is in the</p>	<p>legislatively compliant with this Article.</p>
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					<p><u>crime</u> by the state without compensation. Proceeds from crime is defined broadly and includes criminally obtained property (material objects as well as rights on property and documents granting such right), income obtained from that property, or other equivalent property. The third paragraph of Article 52 forfeiture of property shall be ordered by the court for all premeditated crimes, including the corruption related crimes. Furthermore, Article 52 introduces value confiscation, as required by various international instruments applicable to the anti-corruption and organized crime issues.</p>		<p>possession of the public official and finds the elements of the criminal act in his/her conduct, the prosecutor is entitled to commence criminal proceedings against him/her.</p> <p>The Office of the Prosecutor General of Georgia initiated more than 30 claims against 200 persons at the courts of general jurisdiction on the forfeiture of illegal and unexplained wealth of convicted public officials, their family members, close relatives and related persons. According to the court decisions the Government obtained various types of property, as illegal and unexplained, under the ownership of public officials, their family members and close relatives and related persons. The property forfeited as being illegal and unexplained amounts about 100.000.000 (hundred million) GEL (approximately 50 million USD).</p> <p>Complex measures for the improvement of the procedure for forfeiture of illegal and unexplained wealth are taken in a number of legal acts. One of the most important is the amendment on paragraph 3 of Article 218 of the General Administrative Code of Georgia. According to that amendment, in the cases of forfeiture of illegal and unexplained wealth, Administrative Empowering Act can be declared null and void in all circumstances, including when the person had already taken certain legally important measures under this Act. This change is the elimination of important obstacle in the effective enforcement of the procedures for forfeiture of illegal and unexplained wealth. Furthermore, according to the amendments of February 12, 2004, paragraph 3 of Article 237 of the Tax Code excludes statute of limitation for the cases of forfeiture of illegal and unexplained wealth. Under Article 5 of the Law on State Levy, a plaintiff is free from official state tariff on the complaints on forfeiture of illegal and unexplained wealth.</p> <p>The provisions prescribed by the legislation largely comply with the convention.</p>	
IV-54	M	Asset recovery – international	Enforcing overseas orders procedures Recognition of orders for civil recovery	Y		Need to discuss the contents of the legislation to consider if compliant	<p>Article 52 of the Criminal Code reads as follow: Forfeiture of property means deprivation of object and/or means of crime, an object designated for the commission of crime and/or proceeds from crime without the compensation for the benefit of the state. Deprivation of</p>	This does not answer if this applies to Georgia acting on behalf of

			Designated agency Legal arrangements Procedural arrangements			<p>object and/or means of crime, as well as that of object designated for the commission of crime means forfeiture of the property used for the commission of premeditated crime or designated to be used for that purpose, which is under the legitimate ownership or proprietorship of a suspect, accused or convicted person, without compensation for the benefit of the state. Forfeiture of object and/or means of crime, as well an object designated for the commission of crime shall be exercised only based on the court order for all premeditated crimes prescribed by this Code provided that the object and/or means of crime, as well an object designated for the commission of crime exist and the forfeiture is in the state or public interests, for the protection of the rights of others or for the prevention of crime.</p> <p>Forfeiture of proceeds of crime means deprivation of property (including objects and non-material property, legal documents granting property rights), the income received from such property, as well as the equivalent property of a convicted person, exercised without compensation for the benefit of state provided that such property is proceeds from crime. Forfeiture of proceeds of crime shall be ordered by the court for all premeditated crime under this Code, if it is proven that the property in question is obtained through crime.</p> <p>The procedure for forfeiture of illegal and unexplained wealth</p> <p><i>Administrative Procedural Code of Georgia regulates the mechanism of presenting claims for forfeiture of the illegal or unexplained wealth and its transfer to the state.</i> Under Article 21⁴ of the Administrative Procedural Code of Georgia, <i>Prosecutor is entitled</i> to present such claims against public officials, their family member¹¹, close relative¹² or other related person.¹³ Under Article 21⁶ the Administrative Procedural Code of Georgia, judge will consider the property of the public official, his family members or close relatives to be illegal if based on the presented evidence it establishes that property or means for the acquisition of this property are obtained in contravention with the requirements of law. The burden of proof is upon the respondent. If in the course of proceedings the defendant does not provide the</p>	foreign governments on restraint, seize and confiscation cases. Without this information, I cannot say whether or not Georgia is legislatively compliant with this Article.
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¹¹ Administrative Procedural Code defines the “family member” as the spouse, child/stepchild or other person permanently residing with the public official.

¹² Administrative Procedural Code defines close relative as family member, parent, siblings, grandparents and grandchildren of the public official, parents and siblings of the spouse of public official.

¹³ The Administrative procedural Code defines the “related person” as the person that has certain property in possession as recorded in documents and there exists the substantiated doubt that this property is obtained, used or managed by the public official.

						<p>Court with the documents confirming that property or financial resources necessary for the acquisition of the mentioned property were obtained in the legal way or the documents proving the payment of taxes of that property, the Court will find the property in question as unjustified.</p> <p>If the court finds the property to be illegal or unjustified, after the interests of the third parties are satisfied, it will be returned to the legitimate owner or to the state, if the legitimate owner is not established. If the legality and validity of the property is proved in part, the part of property the legality and validity of which is not substantiated will be returned to the state. If it is impossible to return the property in the initial form, the public official in question will have to pay amount of money equivalent to the value of the property. If the Court confirms that illegal and unexplained wealth is in the possession of the public official and finds the elements of the criminal act in his/her conduct, the prosecutor is entitled to commence criminal proceedings against him/her.</p> <p>The Office of the Prosecutor General of Georgia initiated more than 30 claims against 200 persons at the courts of general jurisdiction on the forfeiture of illegal and unexplained wealth of convicted public officials, their family members, close relatives and related persons. According to the court decisions the Government obtained various types of property, as illegal and unexplained, under the ownership of public officials, their family members and close relatives and related persons. The property forfeited as being illegal and unexplained amounts about 100.000.000 (hundred million) GEL (approximately 50 million USD).</p> <p>Complex measures for the improvement of the procedure for forfeiture of illegal and unexplained wealth are taken in a number of legal acts. One of the most important is the amendment on paragraph 3 of Article 218 of the General Administrative Code of Georgia. According to that amendment, in the cases of forfeiture of illegal and unexplained wealth, Administrative Empowering Act can be declared null and void in all circumstances, including when the person had already taken certain legally important measures under this Act. This change is the elimination of important obstacle in the effective enforcement of the procedures for forfeiture of illegal and unexplained wealth. Furthermore, according to the amendments of February 12, 2004, paragraph 3 of Article</p>	
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							<p>237 of the Tax Code excludes statute of limitation for the cases of forfeiture of illegal and unexplained wealth. Under Article 5 of the Law on State Levy, a plaintiff is free from official state tariff on the complaints on forfeiture of illegal and unexplained wealth.</p> <p>The provisions prescribed by the legislation largely comply with the convention.</p>	
IV-55	M	Confiscation & international recovery	<p>Applying overseas confiscation orders</p> <p>Bank arrangements</p> <p>'de minimis' rules</p> <p>Legal arrangements</p> <p>Procedural arrangements</p> <p>Designated agency</p>	Y		<p>Need to discuss the contents of the legislation to consider if compliant</p>	<p>Article 52 of the Criminal Code reads as follow:</p> <p>Forfeiture of property means deprivation of object and/or means of crime, an object designated for the commission of crime and/or proceeds from crime without the compensation for the benefit of the state. Deprivation of object and/or means of crime, as well as that of object designated for the commission of crime means forfeiture of the property used for the commission of premeditated crime or designated to be used for that purpose, which is under the legitimate ownership or proprietorship of a suspect, accused or convicted person, without compensation for the benefit of the state. Forfeiture of object and/or means of crime, as well an object designated for the commission of crime shall be exercised only based on the court order for all premeditated crimes prescribed by this Code provided that the object and/or means of crime, as well an object designated for the commission of crime exist and the forfeiture is in the state or public interests, for the protection of the rights of others or for the prevention of crime.</p> <p>Forfeiture of proceeds of crime means deprivation of property (including objects and non-material property, legal documents granting property rights), the income received from such property, as well as the equivalent property of a convicted person, exercised without compensation for the benefit of state provided that such property is proceeds from crime. Forfeiture of proceeds of crime shall be ordered by the court for all premeditated crime under this Code, if it is proven that the property in question is obtained through crime.</p> <p>The procedure for forfeiture of illegal and unexplained wealth</p> <p>Administrative Procedural Code of Georgia regulates the mechanism of presenting claims for forfeiture of the illegal or unexplained wealth and its transfer to the state. Under Article 21⁴ of the Administrative Procedural Code of Georgia, Prosecutor is entitled to</p>	As above

						<p>present such claims against public officials, their family member¹⁴, close relative¹⁵ or other related person.¹⁶ Under Article 21⁶ the Administrative Procedural Code of Georgia, judge will consider the property of the public official, his family members or close relatives to be illegal if based on the presented evidence it establishes that property or means for the acquisition of this property are obtained in contravention with the requirements of law. The burden of proof is upon the respondent. If in the course of proceedings the defendant does not provide the Court with the documents confirming that property or financial resources necessary for the acquisition of the mentioned property were obtained in the legal way or the documents proving the payment of taxes of that property, the Court will find the property in question as unjustified.</p> <p>If the court finds the property to be illegal or unjustified, after the interests of the third parties are satisfied, it will be returned to the legitimate owner or to the state, if the legitimate owner is not established. If the legality and validity of the property is proved in part, the part of property the legality and validity of which is not substantiated will be returned to the state. If it is impossible to return the property in the initial form, the public official in question will have to pay amount of money equivalent to the value of the property. If the Court confirms that illegal and unexplained wealth is in the possession of the public official and finds the elements of the criminal act in his/her conduct, the prosecutor is entitled to commence criminal proceedings against him/her.</p> <p>The Office of the Prosecutor General of Georgia initiated more than 30 claims against 200 persons at the courts of general jurisdiction on the forfeiture of illegal and unexplained wealth of convicted public officials, their family members, close relatives and related persons. According to the court decisions the Government obtained various types of property, as illegal and unexplained, under the ownership of public officials, their family members and close relatives and related persons. The property forfeited as being illegal and unexplained</p>	
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¹⁴ Administrative Procedural Code defines the “family member” as the spouse, child/stepchild or other person permanently residing with the public official.

¹⁵ Administrative Procedural Code defines close relative as family member, parent, siblings, grandparents and grandchildren of the public official, parents and siblings of the spouse of public official.

¹⁶ The Administrative procedural Code defines the “related person” as the person that has certain property in possession as recorded in documents and there exists the substantiated doubt that this property is obtained, used or managed by the public official.

							<p>amounts about 100.000.000 (hundred million) GEL (approximately 50 million USD).</p> <p>Complex measures for the improvement of the procedure for forfeiture of illegal and unexplained wealth are taken in a number of legal acts. One of the most important is the amendment on paragraph 3 of Article 218 of the General Administrative Code of Georgia. According to that amendment, in the cases of forfeiture of illegal and unexplained wealth, Administrative Empowering Act can be declared null and void in all circumstances, including when the person had already taken certain legally important measures under this Act. This change is the elimination of important obstacle in the effective enforcement of the procedures for forfeiture of illegal and unexplained wealth. Furthermore, according to the amendments of February 12, 2004, paragraph 3 of Article 237 of the Tax Code excludes statute of limitation for the cases of forfeiture of illegal and unexplained wealth. Under Article 5 of the Law on State Levy, a plaintiff is free from official state tariff on the complaints on forfeiture of illegal and unexplained wealth.</p> <p>The provisions prescribed by the legislation largely comply with the convention.</p>	
IV-56	O	Special cooperation	Data protection Human rights Designated agency Spontaneous transfer Legal arrangements Procedural arrangements Designated agency	Y		Need to discuss the contents of the legislation to consider if compliant	<p>Article 52 of the Criminal Code reads as follow: Forfeiture of property means deprivation of object and/or means of crime, an object designated for the commission of crime and/or proceeds from crime without the compensation for the benefit of the state. Deprivation of object and/or means of crime, as well as that of object designated for the commission of crime means forfeiture of the property used for the commission of premeditated crime or designated to be used for that purpose, which is under the legitimate ownership or proprietorship of a suspect, accused or convicted person, without compensation for the benefit of the state. Forfeiture of object and/or means of crime, as well an object designated for the commission of crime shall be exercised only based on the court order for all premeditated crimes</p>	This is about sending information re: offences under UNCAC to another government, <i>without</i> any prior request

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¹⁹ The Administrative procedural Code defines the “related person” as the person that has certain property in possession as recorded in documents and there exists the substantiated doubt that this property is obtained, used or managed by the public official.

						<p>prescribed by this Code provided that the object and/or means of crime, as well an object designated for the commission of crime exist and the forfeiture is in the state or public interests, for the protection of the rights of others or for the prevention of crime.</p> <p>Forfeiture of proceeds of crime means deprivation of property (including objects and non-material property, legal documents granting property rights), the income received from such property, as well as the equivalent property of a convicted person, exercised without compensation for the benefit of state provided that such property is proceeds from crime. Forfeiture of proceeds of crime shall be ordered by the court for all premeditated crime under this Code, if it is proven that the property in question is obtained through crime.</p> <p>The procedure for forfeiture of illegal and unexplained wealth</p> <p><i>Administrative Procedural Code of Georgia regulates the mechanism of presenting claims for forfeiture of the illegal or unexplained wealth and its transfer to the state.</i> Under Article 21⁴ of the Administrative Procedural Code of Georgia, <i>Prosecutor is entitled</i> to present such claims against public officials, their family member¹⁷, close relative¹⁸ or other related person.¹⁹ Under Article 21⁶ the Administrative Procedural Code of Georgia, judge will consider the property of the public official, his family members or close relatives to be illegal if based on the presented evidence it establishes that property or means for the acquisition of this property are obtained in contravention with the requirements of law. The burden of proof is upon the respondent. If in the course of proceedings the defendant does not provide the Court with the documents confirming that property or financial resources necessary for the acquisition of the mentioned property were obtained in the legal way or the documents proving the payment of taxes of that property, the Court will find the property in question as unjustified.</p> <p>If the court finds the property to be illegal or unjustified, after the interests of the third parties are satisfied, it will be returned to the legitimate owner or to the state, if the legitimate owner is not established. If the legality and validity of the property is proved in part, the part of property the legality and validity of which is not substantiated will be returned to the state. If it is impossible to return the property in the initial form, the public official in question will have to pay amount of money equivalent to the value of the property. If the Court confirms that illegal and unexplained wealth is in the</p>	
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						<p>possession of the public official and finds the elements of the criminal act in his/her conduct, the prosecutor is entitled to commence criminal proceedings against him/her.</p> <p>The Office of the Prosecutor General of Georgia initiated more than 30 claims against 200 persons at the courts of general jurisdiction on the forfeiture of illegal and unexplained wealth of convicted public officials, their family members, close relatives and related persons. According to the court decisions the Government obtained various types of property, as illegal and unexplained, under the ownership of public officials, their family members and close relatives and related persons. The property forfeited as being illegal and unexplained amounts about 100.000.000 (hundred million) GEL (approximately 50 million USD).</p> <p>Complex measures for the improvement of the procedure for forfeiture of illegal and unexplained wealth are taken in a number of legal acts. One of the most important is the amendment on paragraph 3 of Article 218 of the General Administrative Code of Georgia. According to that amendment, in the cases of forfeiture of illegal and unexplained wealth, Administrative Empowering Act can be declared null and void in all circumstances, including when the person had already taken certain legally important measures under this Act. This change is the elimination of important obstacle in the effective enforcement of the procedures for forfeiture of illegal and unexplained wealth. Furthermore, according to the amendments of February 12, 2004, paragraph 3 of Article 237 of the Tax Code excludes statute of limitation for the cases of forfeiture of illegal and unexplained wealth. Under Article 5 of the Law on State Levy, a plaintiff is free from official state tariff on the complaints on forfeiture of illegal and unexplained wealth.</p> <p>The provisions prescribed by the legislation largely comply with the convention.</p>		
IV-57	M	Return & disposal of assets	Confiscation & compensation costs Transfer value or asset Legal arrangements	Y	A new type of penalty, forfeiture of property, was introduced in Article 40 of the Criminal Code on December 28, 2005. At the same time, the current edition of Article 52 of the same Code defines the term of forfeiture of property and sets	Need to discuss the contents of the legislation to consider if compliant	<p>Article 52 of the Criminal Code reads as follow: Forfeiture of property means deprivation of object and/or means of crime, an object designated for the commission of crime and/or proceeds from crime without the compensation for the benefit of the state. Deprivation of</p>	This is about the return of assets to another government

			Procedural arrangements Designated agency		<p>rules for its application: Article 52 of the Criminal Code reads as follow:</p> <p>7. Forfeiture of property means deprivation of object and/or means of crime, an object designated for the commission of crime and/or proceeds from crime without the compensation for the benefit of the state.</p> <p>8. Deprivation of object and/or means of crime, as well as that of object designated for the commission of crime means forfeiture of the property used for the commission of premeditated crime or designated to be used for that purpose, which is under the legitimate ownership or proprietorship of a suspect, accused or convicted person, without compensation for the benefit of the state. Forfeiture of object and/or means of crime, as well an object designated for the commission of crime shall be exercised only based on the court order for all premeditated crimes prescribed by this Code provided that the object and/or means of crime, as well an object designated for the commission of crime exist and the forfeiture is in the state or public interests, for the protection of the rights of others or for the prevention of crime.</p> <p>9. Forfeiture of proceeds of crime means deprivation of property (including objects and non-</p>		<p>object and/or means of crime, as well as that of object designated for the commission of crime means forfeiture of the property used for the commission of premeditated crime or designated to be used for that purpose, which is under the legitimate ownership or proprietorship of a suspect, accused or convicted person, without compensation for the benefit of the state. Forfeiture of object and/or means of crime, as well an object designated for the commission of crime shall be exercised only based on the court order for all premeditated crimes prescribed by this Code provided that the object and/or means of crime, as well an object designated for the commission of crime exist and the forfeiture is in the state or public interests, for the protection of the rights of others or for the prevention of crime.</p> <p>Forfeiture of proceeds of crime means deprivation of property (including objects and non-material property, legal documents granting property rights), the income received from such property, as well as the equivalent property of a convicted person, exercised without compensation for the benefit of state provided that such property is proceeds from crime. Forfeiture of proceeds of crime shall be ordered by the court for all premeditated crime under this Code, if it is proven that the property in question is obtained through crime.</p> <p>The procedure for forfeiture of illegal and unexplained wealth</p> <p><i>Administrative Procedural Code of Georgia regulates the mechanism of presenting claims for forfeiture of the illegal or unexplained wealth and its transfer to the state.</i> Under Article 21⁴ of the Administrative Procedural Code of Georgia, <i>Prosecutor is entitled</i> to present such claims against public officials, their family member²⁰, close relative²¹ or other related person.²² Under Article 21⁶ the Administrative Procedural Code of Georgia, judge will consider the property of the public official, his family members or close relatives to be illegal if based on the presented evidence it establishes that property or means for the acquisition of this property are obtained in contravention with the requirements of law. The burden of proof is upon the respondent. If in the course of proceedings the defendant does not provide the</p>
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²⁰ Administrative Procedural Code defines the “family member” as the spouse, child/stepchild or other person permanently residing with the public official.

²¹ Administrative Procedural Code defines close relative as family member, parent, siblings, grandparents and grandchildren of the public official, parents and siblings of the spouse of public official.

²² The Administrative procedural Code defines the “related person” as the person that has certain property in possession as recorded in documents and there exists the substantiated doubt that this property is obtained, used or managed by the public official.

				<p>material property, legal documents granting property rights), the income received from such property, as well as the equivalent property of a convicted person, exercised without compensation for the benefit of state provided that such property is proceeds from crime. Forfeiture of proceeds of crime shall be ordered by the court for all premeditated crime under this Code, if it is proven that the property in question is obtained through crime.</p> <p>The first paragraph of the above-cited Article defines forfeiture of property as taking means and/or object of crime and/or <u>proceeds from crime</u> by the state without compensation. Proceeds from crime is defined broadly and includes criminally obtained property (material objects as well as rights on property and documents granting such right), income obtained from that property, or other equivalent property. The third paragraph of Article 52 forfeiture of property shall be ordered by the court for all premeditated crimes, including the corruption related crimes. Furthermore, Article 52 introduces value confiscation, as required by various international instruments applicable to the anti-corruption and organized crime issues.</p>	<p>Court with the documents confirming that property or financial resources necessary for the acquisition of the mentioned property were obtained in the legal way or the documents proving the payment of taxes of that property, the Court will find the property in question as unjustified.</p> <p>If the court finds the property to be illegal or unjustified, after the interests of the third parties are satisfied, it will be returned to the legitimate owner or to the state, if the legitimate owner is not established. If the legality and validity of the property is proved in part, the part of property the legality and validity of which is not substantiated will be returned to the state. If it is impossible to return the property in the initial form, the public official in question will have to pay amount of money equivalent to the value of the property. If the Court confirms that illegal and unexplained wealth is in the possession of the public official and finds the elements of the criminal act in his/her conduct, the prosecutor is entitled to commence criminal proceedings against him/her.</p> <p>The Office of the Prosecutor General of Georgia initiated more than 30 claims against 200 persons at the courts of general jurisdiction on the forfeiture of illegal and unexplained wealth of convicted public officials, their family members, close relatives and related persons. According to the court decisions the Government obtained various types of property, as illegal and unexplained, under the ownership of public officials, their family members and close relatives and related persons. The property forfeited as being illegal and unexplained amounts about 100.000.000 (hundred million) GEL (approximately 50 million USD).</p> <p>Complex measures for the improvement of the procedure for forfeiture of illegal and unexplained wealth are taken in a number of legal acts. One of the most important is the amendment on paragraph 3 of Article 218 of the General Administrative Code of Georgia. According to that amendment, in the cases of forfeiture of illegal and unexplained wealth, Administrative Empowering Act can be declared null and void in all circumstances, including when the person had already taken certain legally important measures under this Act. This change is the elimination of important obstacle in the effective enforcement of the procedures for forfeiture of illegal and unexplained wealth. Furthermore, according to the amendments of February 12, 2004, paragraph 3 of Article</p>
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							<p>237 of the Tax Code excludes statute of limitation for the cases of forfeiture of illegal and unexplained wealth. Under Article 5 of the Law on State Levy, a plaintiff is free from official state tariff on the complaints on forfeiture of illegal and unexplained wealth.</p> <p>The provisions prescribed by the legislation largely comply with the convention.</p>	
IV-58	M	FIU	<p>Rules of an FIU</p> <p>Location of an FIU</p> <p>Information collection & sharing</p> <p>Legal arrangements</p> <p>Procedural arrangements</p> <p>Designated agency</p>	Y	the Financial Monitoring Service	Need to discuss its legislative framework	<p>Article 52 of the Criminal Code reads as follow:</p> <p>Forfeiture of property means deprivation of object and/or means of crime, an object designated for the commission of crime and/or proceeds from crime without the compensation for the benefit of the state. Deprivation of object and/or means of crime, as well as that of object designated for the commission of crime means forfeiture of the property used for the commission of premeditated crime or designated to be used for that purpose, which is under the legitimate ownership or proprietorship of a suspect, accused or convicted person, without compensation for the benefit of the state. Forfeiture of object and/or means of crime, as well an object designated for the commission of crime shall be exercised only based on the court order for all premeditated crimes prescribed by this Code provided that the object and/or means of crime, as well an object designated for the commission of crime exist and the forfeiture is in the state or public interests, for the protection of the rights of others or for the prevention of crime.</p> <p>Forfeiture of proceeds of crime means deprivation of property (including objects and non-material property, legal documents granting property rights), the income received from such property, as well as the equivalent property of a convicted person, exercised without compensation for the benefit of state provided that such property is proceeds from crime. Forfeiture of proceeds of crime shall be ordered by the court for all premeditated crime under this Code, if it is proven that the property in question is obtained through crime.</p> <p>The procedure for forfeiture of illegal and unexplained wealth</p> <p>Administrative Procedural Code of Georgia regulates the mechanism of presenting claims for forfeiture of the illegal or unexplained wealth and its transfer to the state. Under Article 21⁴ of the Administrative Procedural Code of Georgia, Prosecutor is entitled to</p>	Need to discuss the FIU legislation

						<p>present such claims against public officials, their family member²³, close relative²⁴ or other related person.²⁵ Under Article 21⁶ the Administrative Procedural Code of Georgia, judge will consider the property of the public official, his family members or close relatives to be illegal if based on the presented evidence it establishes that property or means for the acquisition of this property are obtained in contravention with the requirements of law. The burden of proof is upon the respondent. If in the course of proceedings the defendant does not provide the Court with the documents confirming that property or financial resources necessary for the acquisition of the mentioned property were obtained in the legal way or the documents proving the payment of taxes of that property, the Court will find the property in question as unjustified.</p> <p>If the court finds the property to be illegal or unjustified, after the interests of the third parties are satisfied, it will be returned to the legitimate owner or to the state, if the legitimate owner is not established. If the legality and validity of the property is proved in part, the part of property the legality and validity of which is not substantiated will be returned to the state. If it is impossible to return the property in the initial form, the public official in question will have to pay amount of money equivalent to the value of the property. If the Court confirms that illegal and unexplained wealth is in the possession of the public official and finds the elements of the criminal act in his/her conduct, the prosecutor is entitled to commence criminal proceedings against him/her.</p> <p>The Office of the Prosecutor General of Georgia initiated more than 30 claims against 200 persons at the courts of general jurisdiction on the forfeiture of illegal and unexplained wealth of convicted public officials, their family members, close relatives and related persons. According to the court decisions the Government obtained various types of property, as illegal and unexplained, under the ownership of public officials, their family members and close relatives and related persons. The property forfeited as being illegal and unexplained</p>
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IV-59	O	Bilateral & multilateral agreements	MLAs on Chap V	Y		See Article 43 above	<p>Article 52 of the Criminal Code reads as follow:</p> <p>Forfeiture of property means deprivation of object and/or means of crime, an object designated for the commission of crime and/or proceeds from crime without the compensation for the benefit of the state. Deprivation of object and/or means of crime, as well as that of object designated for the commission of crime means forfeiture of the property used for the commission of premeditated crime or designated to be used for that purpose, which is under the legitimate ownership or proprietorship of a suspect, accused or convicted person, without compensation for the benefit of the state. Forfeiture of object and/or means of crime, as well an object designated for the commission of crime shall be exercised only based on the court order for all premeditated crimes</p>	No answer

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CHAPTER V							
V-60	M	Training	MLAs Procedural arrangements Inter-agency protocols	N	Not relevant		

V-61	O	Information-sharing	Sharing anti-corruption information Agency or agencies under Article 6	N	Not relevant			
V-62	O	Training	MLAs Protocols Development agency and coordination & cooperation	N	Not relevant			