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Version finale

**Answer to the
REVISED SCHEME
FOR
EVALUATING JUDICIAL SYSTEMS
2004 Data**

**Réponse à la
GRILLE REVISEE
POUR
L'ÉVALUATION DES SYSTÈMES JUDICIAIRES
Données 2004**

GEORGIA/GEORGIE



COUNCIL OF EUROPE CONSEIL DE L'EUROPE

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**EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE
(CEPEJ)**

REVISED SCHEME FOR EVALUATING JUDICIAL SYSTEMS

**adopted by the CEPEJ at its 5th Plenary Meeting
(Strasbourg, 15 – 17 June 2005)**

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DRAFT REVISED SCHEME FOR EVALUATING JUDICIAL SYSTEMS

COUNTRY: Georgia

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I. Demographic and economic data

I. A. General information

1. **Number of inhabitants** *4535200*
Source: State Department of Statistics, 2004
2. **Total of annual State public expenditure / where appropriate, public expenditure at regional or federal entity level**

State level	<i>n/a</i>
Regional / entity level	<i>n/a</i>

Source
3. **Per capita GDP** *923,1 EURO*
Source State Department of Statistics, 2004
4. **Average gross annual salary** *991,9 EURO*
Source: State Department of Statistics, 2004

I. B. Budgetary data concerning judicial system

5. **Total annual budget allocated to all courts** *7 206 338 EURO*
Source: The Law on State Budget of 2005

Please specify:

6. Within this budget, can you isolate the following budgets and specify, if appropriate, their amount:

	Yes	Amount
▪ Salaries?	yes	5 024 320 EURO
▪ IT?		€
▪ Justice expenses borne by the State?	yes	2 132 018 EURO.

Source: The Law on State Budget of 2005

7. Annual public budget spent on legal aid **69 760 EURO**

Source: The Law on State Budget of 2005, Donor Organizations

8. If possible, please specify:

▪ the annual public budget spent on legal aid in criminal cases	€
▪ the annual public budget spent on legal aid in other court cases	€

Source

9. Annual public budget spent on prosecution system **7498585 EURO**

Source: The Law on State Budget of 2005

10. Bodies formally responsible for budgets allocated to the courts:

	Preparation of the budget (Yes/No)	Adoption of the budget (Yes/No)	Management and allocation of the budget among courts (Yes/No)	Evaluation of the use of the budget (Yes/No)
Ministry of Justice	no	no	no	no
Ministry of Finances	yes	no	no	no
Parliament	no	yes	no	yes
Supreme Court	yes	no	yes	no
Judicial Council	no	no	no	no
Courts	no	no	no	no
High Council of Justice	yes	no	yes	yes
Chamber of Control	no	no	no	yes

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of your budgetary system

Department of Common Courts of the Supreme Council of Justice of Georgia is an institution that:

- a) elaborates the part of the project of the State budget for financing of the Common Courts and submits it to the Supreme Council of Justice for discussion;*
- b) submits the Supreme Council of Justice for the discussion the main principles of forming (planning), accepting, discussing, fulfilling and monitoring of the State budget;*
- c) disposes the finances to provide the court activities;*
- d) elaborates proposals for providing the Common Courts with modern technologies and the conditions of court buildings;*
- e) submits the Supreme Council of Justice for discussion the report on the budgetary principles of the Common Courts, spending of the budgetary funds and material-technical support conditions of the courts;*
- f) provides the Common Courts with modern technologies and buildings;*

The Supreme Council of Justice submits the Ministry of Finance the Budgetary Communication to be foreseen in the State Budget of the next year. The Budget of the Common Courts agreed with the Ministry of Finance shall be submitted to the Government of Georgia and the latter in accordance with the President of Georgia shall submit it to the Parliament of Georgia for the final approval.

Department of Common Courts disposes funds allocated for the Common Courts within the approved budget.

II. Access to Justice and to all courts

II. A. Legal aid

11. Does legal aid concern:

	Criminal cases	Other than criminal cases
Representation in court (Yes/No)	yes	
Legal advice (Yes/No)	yes	
Other (Yes/No). Please specify	consultations	

12. Number of legal aid cases:

- total
- criminal cases
- other than criminal cases

114 cases
114 cases

Source: High Council of Justice

13. In a criminal case, can any individual who does not have sufficient financial means be assisted by a free of charge (or financed by public budget) lawyer?

Yes No

14. Does your country have an income and asset test for granting legal aid:

- | | No | Yes/Amount |
|----------------------------------|-------------------------------------|--------------------------|
| ▪ for criminal cases? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| ▪ for other than criminal cases? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

Source: Code of Criminal Procedure

15. In other than criminal cases, is it possible to refuse legal aid for lack of merit of the case (for example for frivolous action)?

Yes No

16. If yes, is the decision taken by:

- | | Yes |
|--|--------------------------|
| ▪ the court? | <input type="checkbox"/> |
| ▪ a body external to the court? | <input type="checkbox"/> |
| ▪ a mixed decision-making body (court and external)? | <input type="checkbox"/> |

17. In general are litigants required to pay a court tax or fee to start a proceeding at a court of general jurisdiction:

- | | Yes | No |
|----------------------------------|--------------------------|-------------------------------------|
| ▪ for criminal cases? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| ▪ for other than criminal cases? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

If yes, are there exceptions? Please specify:

Parties of the Criminal case are not required to pay court tax. In general court tax has to be paid on Civil and Administrative cases, although there are some exceptions:

In Civil Litigation some categories of plaintiffs are entirely exempted from paying court expenses. This grounds are provided by the Civil Procedural Code of Georgia (Article 46). The court is authorized to exempt the citizens entirely or partially from the court expenses considering their property. The court is also authorized to take into consideration the property of the parties to postpone or divide the court expenses or minimize it (Articles 47-48 of the Civil Procedural Code of Georgia).

As for the Administrative Cases, the cost of the litigation is defined by the court. In case of cease of the proceedings, State tax will be divided in two parts. A person is obliged to pay State tax in the first instance court if he/she did not use the opportunity to submit the administrative complaint. State tax shall not be paid for the complaint regarding the issues of social defense.

18. Is there a private system of legal expense insurance for individuals in order to finance legal proceedings to court?

No Yes Please specify:

19. Do judicial decisions have an impact on who bears the legal costs which are paid by the parties during the procedure in:

- | | | |
|------------------------------|-------------------------------------|-------------------------------------|
| | Yes | No |
| ▪ criminal cases? | <input checked="" type="checkbox"/> | <input type="checkbox"/> no |
| ▪ other than criminal cases? | <input type="checkbox"/> yes | <input checked="" type="checkbox"/> |

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of your legal aid system

According to the Administrative Procedural Code of Georgia (Article 10, Chapter 2) if an administrative act had been issued without proper examination of case-related circumstances, the administrative agency shall pay proceeding costs even if the court made a decision in its favor. If the parties reached a settlement, but they could not agree upon apportionment of proceeding costs, and if none of them is exempted from the payment of the costs, they shall pay equal portions of the amount of the costs (Article 11).

As for the defining the court expenses on civil cases, according to the Civil Procedural Code of Georgia (Article 53, Chapter 1), expenses paid by the party, in whose favour the decision was made, shall be borne by the other party, whether the latter is exempted from the court expenses. If the complaint is satisfied partially, the amount indicated in the above-mentioned Article shall be borne by the claimant proportionally to the demand satisfied by the court decision. The respondent shall borne the part of the claim not satisfied by the court. Expenses provided for the assistance to the representative of the party, in whose favor the decision was made, shall be borne by the other party. According to the article 55, Chapter 1, expenses regarding the court discussion and state tax from which the claimant was exempted from, shall be borne by the respondent proportionally to the demand satisfied by the court. If the both parties are exempted from court expenses, the expenses concerning the proceeding shall be borne by the State.

-

II. B. Users of the courts and victims

II. B. 1. Rights of the users and victims
--

20. Are there official internet sites/portals (e.g. Ministry of Justice, etc.) for the following, which the general public may have free of charge access to:

- | | | |
|--|---|--|
| | Yes | No |
| ▪ legal texts (e.g. codes, laws, regulations, etc.)? | <input checked="" type="checkbox"/> yes | <input type="checkbox"/> |
| Internet address(es): www.iris.ge | | |
| ▪ case-law of the higher court/s? | <input checked="" type="checkbox"/> yes | <input type="checkbox"/> |
| Internet address(es): www.supremecourt.ge | | |
| ▪ other documents (for examples legal forms)? | <input type="checkbox"/> | <input checked="" type="checkbox"/> no |
| Internet address(es): <input type="text"/> | | |

21. Is there an obligation to provide information to the parties concerning the foreseeable timeframe of the proceeding?

Yes No

If yes, please specify:

The judge is obliged to send the claim and optional materials to the respondent party in reasonable time after he/she decides that the claim is acceptable in order the respondent to have

the possibility to be prepared for the discussion to reply the issues stated in the claim. The parties will be informed about the date of the court sitting, date and place of any court action as well.

22. Is there a public and free-of-charge specific information system to inform and to help victims of crimes?

Yes No

23. Are there special arrangements to be applied, during judicial proceedings, to the following categories of vulnerable persons:

	Information mechanism (Yes/No)	Hearing modalities (Yes/No)	Procedural rights (Yes/No)	Other (Yes/No). Please specify
Victims of rape				
Victims of terrorism				
Child/Witness/Victim				
Victims of domestic violence				
Ethnic minorities				
Disabled persons				
Juvenile offenders				
Other				

24. Does your country have compensation procedure for victims of crimes?

Yes No

25. If yes, does this compensation procedure consist in:

- a public fund?
- a court order?
- private fund?

26. If yes, which kind of cases does this procedure concern?

Civil Cases

27. For victims, are there studies to evaluate the recovery rate of the compensation awarded by courts?

No *no*
 Yes

Please specify:

II. B.2. Confidence of citizens in their justice system

28. Is there a system for compensating users in the following circumstances:

- | | | |
|------------------------------------|-------------------------------------|-------------------------------------|
| | Yes | No |
| ▪ excessive length of proceedings? | <input checked="" type="checkbox"/> | <i>no</i> |
| ▪ wrongful arrest? | <i>yes</i> | <input checked="" type="checkbox"/> |
| ▪ wrongful condemnation? | <i>yes</i> | <input checked="" type="checkbox"/> |

If yes, please specify (fund, daily tariff):

According to the legislation in force, a person wrongfully arrested or condemned has the right to demand compensation from the state. The costs are not defined in advance. There are no compensation defined for the excessive length of proceeding as well.

29. Does your country have surveys on users or legal professionals (judges, lawyers, officials, etc.) to measure public trust and satisfaction with the services delivered by the judiciary system?

Yes *yes* No

If possible, please specify their titles, how to find these surveys, etc:

30. If yes, please specify:

	Trough systematic surveys (Yes/No)	Through ad hoc surveys (Yes/No)
Surveys at national level	<i>no</i>	<i>"Basic research of public trust and opinion on the court system" was conducted by the American Bar Association, Tbilisi, 2005</i>
Surveys at court level	<i>no</i>	<i>No</i>

31. Is there a national or local procedure for making complaints about the performance of the

judicial system?

Yes **yes**

No

32. If yes, please specify:

	Time limit to respond (Yes/No)	Time limit for dealing with the complaint (Yes/No)
Court concerned	<i>no</i>	<i>No</i>
Higher court	<i>no</i>	<i>2 months</i>
Ministry of Justice	<i>no</i>	<i>No</i>
High Council of Justice	<i>no</i>	<i>2 months</i>
Other external organisations (e.g. Ombudsman)		

Can you give information elements concerning the efficiency of this complaint procedure?

In case of violations in the court system, a citizen may apply the Supreme Council of Justice, the Head of the Supreme Court of Georgia and the Heads of Courts of Appeal to discuss the application in 2 months according to the Law of Georgia on “Court Ethics and Disciplinary Legal Procedure” and the decision shall be made concerning the use of disciplinary prosecution against any judge. In case of a disciplinary prosecution against a judge, the commission shall be created and obliged to present the decision in a month to prove the disciplinary infringement and issue the recommendation about bringing a judge to disciplinary sue or ceasing a disciplinary persecution against him. The latter case shall be discussed by the disciplinary board of judges of the common court. A judge may appeal for cassation to the disciplinary board of the Supreme Court of Georgia.

As for the considering the appeals of other organizations we bring your attention on following:

According to the Organic Law of Georgia on „Public Defender”, public defender of Georgia has the right to examine the situation of protection of human rights and freedoms and facts of their violations on the basis of the received statement and by his/her own initiative as well. The Public Defender carries out the examination according to which he/she is entitled to enter any state body, to demand any information and receive explanation/interpretation from any official without any obstacles. According to the results of the examination, the Public Defender will execute warrants conferred to him by the Organic Law.

III. Organisation of the court system

III. A. Functioning

33. Total number of courts (administrative structure):

- **first instance courts of general jurisdiction** **60**

Source **Supreme Council of Justice of Georgia**

- **specialised first instance courts** **n/a**

Source **Supreme Council of Justice of Georgia**

Please specify the different areas of specialisation (and, if possible, the number of courts concerned):

According to the Constitution and Organic Law of Georgia on “Common Courts”, common courts of Georgia are: City court, the Court of Appeal, the Supreme Court of Georgia. In every administrative-territorial unit of Georgia there exists a City Court which examines cases on first instance. Courts of Appeal examine cases on second instance. Final instance of the court system is the Supreme Court of Georgia which examines on cassation.

First instance court on common jurisdiction – number of City Courts – 60 (sixty), number of Courts of Appeal – 4 (four) and Courts of cassation.

According to the Constitution and the Organic Law of Georgia on, Common Courts” establishment of special courts is prohibited. Military Courts could be established only during armed conflict and only within the system of the Common Courts. The first instance specialized courts do not exist in Georgia. The specialized boards of civil, criminal and administrative cases exist in the city (municipal) court. The Chambers of civil, administrative and criminal law exist in the Court of Appeal and the Supreme Court of Georgia.

Every court discusses cases of any category according to their territory of allocation and their competence.

34. Total number of courts (geographic locations) 65

Source **Supreme Council of Justice of Georgia**

35. Number of first instance courts competent for a case concerning:

- **a debt collection for small claims** n/a

Please specify what is meant by small claims in your country:

- **a dismissal** n/a
- **a robbery** n/a

36. Number of professional judges sitting in courts 402 judges
(present the information in full time equivalent and for permanent posts)

Source **Supreme Council of Justice of Georgia**

37. Number of professional judges sitting in courts on an occasional basis and who are paid as such:

- **gross figure** n/a
- **if possible, in full time equivalent** n/a

Source

Please specify:

38. **Number of non-professional judges (including lay judges) who are not remunerated but who can possibly receive a simple defrayal of costs** n/a

Source

Please specify:

39. **Does your judicial system include trial by jury with the participation of citizens?**

No n/a

Yes **For which type of case(s)?**

If possible, number of citizens who were involved in such juries for the year 2004?

40. **Number of non-judge staff who are working in courts** 1155
(present the information in full time equivalent and for permanent posts)

Source Supreme Council of Justice of Georgia

41. **If possible, could you distribute this staff according to the 3 following categories:**

- **non-judge staff whose task is to assist the judges (case file preparation, assistance during the hearing, keeping the minutes of the meetings, helping to prepare the decisions) such as registrars:** 359
- **staff in charge of different administrative tasks as well as of the management of the courts (human resources management, material and equipment management, including computer systems, financial and budgetary management, training management):** 413
- **technical staff:** 64

42. **In courts, do you have non-judge staff entrusted with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal (such as German and Austrian Rechtspfleger):**

No no

Yes **Number of staff**

43. **Number of public prosecutors** 532
(present the information in full time equivalent and for permanent posts)

Source: **Prosecutor General's Office**

44. Do you have persons who have similar duties as public prosecutors?

No **no**

Yes Please specify:

45. Is the status of prosecutors:

- independent within the judiciary? **no**
- independent from the judiciary ? **yes**
- under the authority of the Ministry of Justice? **no**

46. Number of staff (non prosecutors) attached to the public prosecution service **290**
(present the information in full time equivalent and for permanent posts)

Source **Staff Department of the Prosecutor General's Office**

47. Who is entrusted with the individual court budget?

	Preparation of the budget (Yes/No)	Arbitration and allocation (Yes/No)	Day to day management of the budget (Yes/No)	Evaluation and control of the use of the budget (Yes/No)
Management Board	yes	yes	yes	yes
Court President	no	no	no	no
Court administrative director	no	no	no	no
Head of the court clerk office	no	no	no	no
Other. Please specify	no	no	no	no

48. In general, do the courts in your country have computer facilities?

Yes **yes**

No

49. What are the computer facilities used within the courts?

Functions	Facilities	100% of courts	+50% of courts	-50% of courts	- 10 % of courts
Direct assistance to the judge/court clerk	Word processing	yes			
	Electronic data base of jurisprudence		yes		
	Electronic files				yes
	E-mail				yes
	Internet connection				yes
Administration and management	Case registration system	yes			
	Court management information system		yes		
	Financial information system	yes			
Communication between the court and the parties	Electronic forms				yes
	Special Website				yes
	Other electronic communication facilities				

Source: *High Council of Justice*

50. Is there a centralised institution which is responsible for collecting statistical data regarding the functioning of the courts and judiciary?

No *no*
 Yes

Please specify the name and the address of this institution:

You can indicate below:

- *any useful comments for interpreting the data mentioned above*
- *the characteristics of your judicial system*

III. B. Monitoring and evaluation

51. Are the courts required to prepare an annual activity report?

Yes No

52. Do you have a regular monitoring system of court activities concerning the:

- | | Yes | No |
|------------------------------|--------------------------|---|
| ▪ number of incoming cases? | <input type="checkbox"/> | <input checked="" type="checkbox"/> n/a |
| ▪ number of decisions? | <input type="checkbox"/> | <input checked="" type="checkbox"/> n/a |
| ▪ number of postponed cases? | <input type="checkbox"/> | <input checked="" type="checkbox"/> n/a |
| ▪ length of proceedings? | <input type="checkbox"/> | <input checked="" type="checkbox"/> n/a |
| ▪ other? | <input type="checkbox"/> | <input checked="" type="checkbox"/> n/a |
- Please specify:

53. Do you have a regular evaluation system of the performance of the court?

No *no*
Yes Please specify:

54. Concerning court activities, have you defined:

- performance indicators? Yes No

Please specify the 4 main indicators for a proper functioning of justice:

- targets? Yes No

Please specify who is responsible for setting the targets:

- | | |
|----------------------|--------------------------|
| - executive power? | <input type="checkbox"/> |
| - legislative power? | <input type="checkbox"/> |
| - judicial power? | <input type="checkbox"/> |
| - other? | <input type="checkbox"/> |
- Please specify:

Please specify the main objectives applied:

Source

55. Which authority is responsible for the evaluation of the performances of the courts:

- | | Yes | |
|----------------------------------|-----|-----------------|
| ▪ the High Council of judiciary? | n/a | |
| ▪ the Ministry of justice? | n/a | |
| ▪ an Inspection body? | n/a | |
| ▪ the Supreme Court? | n/a | |
| ▪ an external audit body? | n/a | |
| ▪ other? | n/a | Please specify: |

56. Does the evaluation system include quality standards concerning judicial decisions?

- No n/a
Yes Please specify:

Source

57. Is there a system enabling to measure the backlogs and to detect the cases which are not processed within an acceptable timeframe for:

- | | Yes | No |
|-------------------------|--|-----|
| ▪ civil cases? | | n/a |
| ▪ criminal cases? | | n/a |
| ▪ administrative cases? | | n/a |

58. Do you have a way of analysing queuing time during court procedures?

- No n/a
Yes Please specify:

59. Do you monitor and evaluate the performance of the prosecution services?

- No
Yes yes Please specify:

Various departments of the Prosecutor's Office collect everyday information notices from lower offices. These are analysed centrally by the Analytical Service of the Prosecutor General's Office and presented to the internal commission, which decides on the cases that are subject to the control. The control is exercised mainly on the issues of application of preventive measures and performance in courts (including appellate and cassation instances).

The General Inspection of the Prosecutor General's Office also performs monitoring of performance, for example, through unannounced visits to the courts where prosecutor is pleading and video- or audio-recording at various stages of the proceedings.

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of your court monitoring and evaluation system

IV. Fair trial
IV. A. Fundamental principles

60. Is there in your judicial system:
- a right for an interpreter for all those within your jurisdiction who cannot understand or speak the language used in court?
 Yes No
 - the right to have reasons given for all prisons sentences?
 Yes No
 - for all cases, an effective remedy to a superior jurisdiction?
 Yes No

61. Which is the percentage of judgements in first instance criminal cases in which the suspect is not actually present or represented?

Source

62. Is there a procedure to effectively challenge a judge if a party consider he/she is not impartial?

No

Yes If possible, number of successful challenges (in a year):

63. Please give the following data 2003 and 2004 concerning the number of cases regarding the violation of Article 6 of the European Convention of Human Rights:

		Cases communicated by the Court		Cases declared inadmissible by the Court		Friendly settlements		Judgements establishing a violation		Judgements establishing a non violation	
		2003	2004	2003	2004	2003	2004	2003	2004	2003	2004
Criminal proceedings	Article 6§1 (equity)		1								
	Article 6§1 (duration)		1								
	Article 6§2										
	Article 6§3a										
	Article 6§3b										

	Article 6§3c										
	Article 6§3d										
	Article 6§3e										
Civil proceedings	Article 6§1 (equity)	4	1								
	Article 6§1 (duration)										
	Article 6§1 (non execution only)	1	3								

Source *Ministry of Justice of Georgia*

IV.B. Timeframes of proceedings
IV. B. 1. General

64. Are there specific procedures for urgent matters in:

	Yes	No
▪ civil cases?	yes	<input type="checkbox"/>
▪ criminal cases?	yes	<input type="checkbox"/>
▪ administrative cases?	<input type="checkbox"/>	no

65. Are there simplified procedures for:

	Yes	No
▪ civil cases (small claims)?	yes	<input type="checkbox"/>
▪ criminal cases (petty offences)?	yes	<input type="checkbox"/>
▪ administrative cases?	yes	<input type="checkbox"/>

66. Is it possible for a second instance court to send back a case to a first instance court for a new examination?

Yes **yes** No

67. Do courts and lawyers have the possibility to conclude agreements on modalities for processing cases (presentation of files, binding timeframes for lawyers to submit their conclusions and dates of hearings)?

No **no** Yes **Please specify:**

IV. B. 2. Civil and administrative cases

68. Total number of civil cases in courts (litigious and not litigious):

Please specify the main types of cases:

Source 

69. Litigious administrative and civil cases in courts – please complete this table concerning the number of cases/length of proceedings/pending cases and specify definitions of incoming cases, starting and ending point of length and pending cases:

		Civil cases	Administrative cases	Divorce	Employment dismissal
Total number (1st instance)	Incoming cases				
	Decisions on the merits				
	Percentage of decisions subject to appeal in a higher court				
	Pending cases by 1 January 2005				
	Percentage of pending cases of more than 3 years				
Average length (from date of lodging of court proceedings*)	1st instance decisions				
	2nd instance decisions				
	Total procedure				









* If you cannot calculate the average length from the date of lodging of court proceedings, how do you calculate length of proceedings?

Where appropriate, please specify the specific procedure as regards divorce:

Source 

IV. B. 3. Criminal cases

70. Please describe the role and powers of the prosecutor in the criminal procedure:

	Yes	No
▪ to conduct or supervise police investigation?	yes	
▪ to conduct investigation?	yes	
▪ when necessary, to demand investigation measures from the judge?	yes	
▪ to charge?	yes	
▪ to present the case in the court?	yes	
▪ to propose a sentence to the judge?	yes	
▪ to appeal?	yes	
▪ to supervise enforcement procedure?	yes	
▪ to end the case by dropping it without the		

- need for a judicial decision? yes
 - to end the case by imposing or negotiating a penalty without a judicial decision? no
 - other significant powers? yes
- Please specify:**

**The prosecutor of Georgia can conduct investigation only for the specific crimes that are exhaustively listed in the Code of Criminal Procedure (Art. 62); mostly these include crimes against the State, crimes by State officials and money laundering.*

*** Additional powers include offering a plea agreement to the accused and negotiating a sentence with the defendant's attorney, which leads to a summary judicial procedure.*

71. Does the prosecutor also have a role in civil and/or administrative cases?

- No
- Yes **Please specify:**

The issues of seizure and confiscation of property in criminal cases are decided through the civil procedure. In administrative cases, the prosecutor's role is also related to confiscation of non-declared (unsubstantiated) property.

72. Functions of the public prosecutor in relation to criminal cases– please complete this table:

		Total number of 1st instance criminal cases
Received by the public prosecutor		43071
Discontinued by the public prosecutor	In general	7016
	Because the offender could not be identified	792
	Due to the lack of an established offence or a specific legal situation	6224
Concluded by a penalty, imposed or negotiated by the public prosecutor		n/a
Charged by the public prosecutor before the courts		7291

Source **Records of the Organizational and Analytical Unit of the Prosecutor General's Office**

73. Criminal cases in courts – please complete this table concerning the number of cases/length of proceedings/pending cases and specify definitions of incoming cases, starting and ending point of length and pending cases:

		Criminal cases	Robbery cases	Intentional homicides
Total number (1st instance)	Incoming cases			
	Judicial decisions			
	Convicted persons			
	Acquitted persons			
	Percentage of decisions subject to appeal in a higher court			

	Pending cases by 1 January 2005			
	Percentage of pending cases of more than 3 years			
Average length*(from the date of official charging)	1st instance decision			
	2nd instance decision			
	Total procedure			

* If you cannot calculate the average length from the date of official charging, how do you calculate length of proceedings?

Source 

You can indicate below:

- **any useful comments for interpreting the data mentioned above**
- **the characteristics of your system concerning timeframes of proceedings**

V. Career of judges and prosecutors

V. A. Appointment and training

74. Are judges initially/at the beginning of their carrier recruited and nominated by:

- a body composed of members of the judiciary?
- a body composed of members external to the judiciary?
- a body composed of members of the judiciary and external to the judiciary?

Yes

no

75. Are prosecutors initially/at the beginning of their carrier recruited and nominated by:

- a body composed of members of the prosecution system?
- a body composed of members external to the prosecution system?
- a body composed of members of the prosecution system and external to the prosecution system?

Yes

yes



76. Is the mandate given for an undetermined period for:

- | | | |
|----------------|--------------------------|--|
| | Yes | No |
| ▪ judges? | <input type="checkbox"/> | <input checked="" type="checkbox"/> no |
| ▪ prosecutors? | <input type="checkbox"/> | <input checked="" type="checkbox"/> no |

Are there exceptions ? Please specify:

The Prosecutor General is appointed by a term of 5 years by the Parliament of Georgia.

If no, what is the length of the mandate:

Is it renewable?

- | | | |
|-------------------|--|--------------------------|
| | Yes | No |
| ▪ of judges? | <input checked="" type="checkbox"/> 10 years | <input type="checkbox"/> |
| ▪ of prosecutors? | <input type="checkbox"/> | <input type="checkbox"/> |

You can indicate below:

- **any useful comments for interpreting the data mentioned above**
- **the characteristics of the selection and nomination procedure of judges and prosecutors**

According to the Constitution of Georgia and Organic Law of Georgia on "Common Courts" the Judges are appointed with the term of 10 years. According to the Organic Law of Georgia on "Common Courts" the Judge will be capable citizen of Georgia, aged 30 or above, if he/she has high legal education, minimum 5 years of legal qualification, knows State language and has passed the qualification exam. If the person meets the aforementioned requirements he/she can participate in the competition for Judges conducted by the Supreme Council of justice of Georgia.

77. Nature of the training of judges:

	Compulsion (Yes/No)		Frequency (Yes/No)	
Initial training	Compulsory	yes	Annual	
	Highly recommended			
	Optional			
General in-service training	Compulsory		Annual	
	Highly recommended	yes	Regular	
	Optional		Occasional	yes
In-service training for specialised functions (e.g. judge for economic or administrative issues)	Compulsory		Annual	
	Highly recommended	yes	Regular	
	Optional		Occasional	yes
In-service training for specific functions (e.g.	Compulsory		Annual	
	Highly recommended	yes	Regular	

head of court)	Optional		Occasional	yes
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78. Nature of the training of prosecutors:

	Compulsion (Yes/No)		Frequency (Yes/No)	
	Initial training	Compulsory		
Highly recommended		yes		
Optional				
General in-service training	Compulsory		Annual	
	Highly recommended	yes	Regular	
	Optional		Occasional	
Specialised in-service training	Compulsory		Annual	
	Highly recommended	yes	Regular	
	Optional		Occasional	

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of of your training system for judges and prosecutors

V. B. Practice of the profession

79. Gross annual salary of a first instance professional judge at the beginning of his/her career
4 800 EURO

Source: The Law on **State Budget2005**

80. Gross annual salary of a judge of the Supreme Court or of the highest appellate court
9 248 EURO

Source: The Law on **State Budget2005**

81. Gross annual salary of a public prosecutor at the beginning of his/her career
3576 EUR

Source: The Law on **State Budget2005**

82. Gross annual salary of a public prosecutor of the Supreme Court or of the highest appellate court
6816EUR

Source: *The Law on State Budget 2005*

83. Do judges and public prosecutors have additional benefits?

	Judges (Yes/No)	Public prosecutors (Yes/No)
Reduced taxation	No	no
Special pension	Yes	yes
Housing	Yes	no
Other financial benefit (If yes, please specify)	<i>Fond of Reform and Monitoring</i>	Compensation for death or injuries related to service duties that cause the disability

84. Can judges or prosecutors combine their work with any of the following other professions?

	Judges			Prosecutors		
	Yes with remuneration	Yes without remuneration	No	Yes with remuneration	Yes without remuneration	No
Teaching	Yes			yes		
Research and publication	Yes			yes		
Arbitrator			no			No
Consultant			no			No
Cultural function			no	yes		
Other function to specify						

85. Do judges receive bonus based on the fulfilment of quantitative objectives relating to the delivering of judgments?

No

Yes

Please specify:

V. C. Disciplinary procedures

86. Types of disciplinary proceedings and sanctions against judges and prosecutors:

		Judges	Prosecutors
Reasons for disciplinary procedures	Total number		74
	Breach of professional ethics (Yes/No) If yes, please specify the number	yes 1	3
	Professional inadequacy (Yes/No) If yes, please specify the number	no	71

	Criminal offence (Yes/No) If yes, please specify the number	<i>The decisions of the court blaming 2 Judges are already in force. In total the criminal sue is driven against 10 Judges.</i>	The procedures related to the criminal offence, committed by the Prosecutor's Office employee, are entirely prescribed in the Criminal Procedural Code
	Other (Yes/No) If yes, please specify	<i>Rough/multi violation of the law by the Judge; Inadequate activity of the Judge that damages the trust of the court; Procrastination of the case; not fulfillment of the obligation of the Judge or other violation of the labor discipline; Divulgence of the meeting or professional secret of the Judge; Unhonorable behavior towards the disciplinary body.</i>	No
Types of sanctions	Total number	116	74
	Reprimand (Yes/No) If yes, please specify the number	yes 35	70
	Suspension (Yes/No) If yes, please specify the number	yes 0	The mentioned type of sanction is not prescribed by the Organic Law on Prosecution; although it's specified by the Law on Public Service as a disciplinary measure, this does not apply the Prosecution employee
	Dismissal (Yes/No) If yes, please specify the number	yes 15	4
	Fine (Yes/No) If yes, please specify the number	no	Fine as a disciplinary sanction is not established by the Georgian legislation
	Other (Yes/No) If yes, please specify	<i>Reprimand - 19; Severe reprimand - 14; Excluding the reserved common court Judges from the reserve position - 0; Addressing the Judge by</i>	No

the private recommendation note - 19; Dismissal from the position of the Head of the Court, first deputy or deputy Judge of the Head of the Court, Head of Court Chamber or Head of the Board of the Court - 14.

You can indicate below:

- **any useful comments for interpreting the data mentioned above**
- **the characteristics of your system concerning disciplinary procedures for judges and prosecutors**

VI. Lawyers

87. Number of lawyers practising in your country **approx. 1000**

Source: **Ministry of Justice of Georgia, Council of Legal Aid**

88. Does this figure include legal advisors (solicitors or in-house counsellor) who cannot represent their clients in court?

Yes No

89. Do lawyers have a monopoly of representation:

	Monopoly (Yes/No)		If no, possible representation by (Yes/No)		
Civil cases*			Member of family		
			Trade Union		
			NGO		
			Other		
	Defendant			Member of family	
				Trade Union	
				NGO	
				Other	

Criminal cases*	Victim	Member of family	
		Trade Union	
		NGO	
		Other	
Administrative cases*		Member of family	
		Trade Union	
		NGO	
		Other	

* If appropriate, please specify if it concerns first instance and appeal.

90. Is the lawyer profession organised through?

- a national bar?
- a regional bar?
- a local bar?

Yes

yes

Please specify:

91. Is there a specific initial training or examination to enter the profession of lawyer?

Yes **yes**

No

92. Is there a mandatory general system for lawyers requiring continuing professional development?

Yes **yes**

No

93. Is the specialisation in some legal fields tied with a specific level of training/ qualification/ specific diploma or specific authorisations?

No

Yes **yes** Please specify:

94. Can users establish easily what the lawyers' fees will be?

Yes

No **no**

95. Are lawyers fees:

- regulated by law?
- regulated by Bar association?
- freely negotiated?

Yes

yes

96. Have quality standards been formulated for lawyers?

Yes **yes**

No

97. If yes, who is responsible for formulating these quality standards:

- the bar association? Yes
- the legislature? yes
- other? Please specify:

98. Is it possible to complain about :

- the performance of lawyers? No
Yes Please specify:

In PAS, performance of the lawyer can be complained to head of the service

- the amount of fees? Yes No

99. Disciplinary proceedings and sanctions against lawyers:

	yes /No (If yes, please specify the annual number)	
Reasons for disciplinary proceedings	Breach of professional ethics	
	Professional inadequacy	
	Criminal offence	
	Other	
Type of sanctions	Reprimand	
	Suspension	
	Removal	
	Fine	
	Other	

100. Who is the authority responsible for the disciplinary procedures:

- a professional body? Yes Please specify:

- the judge?
- the Ministry of justice?
- other? Please specify:

--

You can indicate below:

- **any useful comments for interpreting the data mentioned above**
- **the characteristics of your system concerning the organisation of the Bar**

All answers are based on the practice of the Public Attorney Service, a Legal entity created on July 1st, 2005, which provides free legal aid to financially eligible citizens in criminal cases and provides free consultations but at the moment is based on the territorial principle.

VII. Alternative Dispute Resolution

101. If appropriate, please specify, by type of cases, the organisation of the judicial mediation:

	Compulsion (Yes/No)		Body providing mediation (Yes/No)	
Civil cases	Compulsory stage prior to court proceedings		Private mediator	
			Public or authorised by court body	
			Court	
Family cases	Compulsory stage in court proceedings		Judge	
			Prosecutor	
Administrative cases	Compulsory stage prior to court proceedings		Private mediator	
			Public or authorised by court body	
			Court	
Employment dismissals	Compulsory stage in court proceedings		Judge	
			Prosecutor	

	Ordered by judge in certain cases		Prosecutor	
Criminal cases	Compulsory stage prior to court proceedings		Private mediator	
			Public or authorised by court body	
			Court	
	Compulsory stage in court proceedings		Judge	
	Ordered by judge in certain cases		Prosecutor	

102. Can you provide information about accredited mediators?

n/a

103. Can you provide information about the total number of mediation procedure concerning:

- civil cases? n/a
- family cases? n/a
- administrative cases? n/a
- employment dismissals? n/a
- criminal cases? n/a

Source

104. Can you give information concerning other alternative dispute resolution (e.g. Arbitration)? Please specify:

n/a

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of your system concerning ADR

VIII. Enforcement of court decisions

VIII. A. Execution of decisions in civil matters

105. Are enforcement agents:

▪ judges?	Yes
▪ bailiff practising as private profession ruled by public authorities?	<input type="checkbox"/>
▪ bailiff working in a public institution?	yes
▪ other enforcement agents?	<input type="checkbox"/>

Please specify their status:

106. Number of enforcement agents 116

Source: *Order of the Minister of Justice on the amount of the staff*

107. Is there a specific initial training or examination to enter the profession of enforcement agent?

Yes No

108. Is the profession of enforcement agent organised by?

▪ a national body?	Yes
▪ a regional body?	yes
▪ a local body?	<input type="checkbox"/>

109. Can users establish easily what the fees of the enforcement agents will be?

Yes No

110. Are enforcement fees:

▪ regulated by law?	Yes
▪ freely negotiated?	yes

111. Is there a body entrusted with the supervision and the control of the enforcement agents?

No
Yes Which authority is responsible for the supervision and the control of

enforcement agents:

- a professional body?
- the judge?
- the Ministry of justice?
- the prosecutor?
- other?

Yes

yes

Please specify:

Department of Enforcement

112. Have quality standards been formulated for enforcement agents?

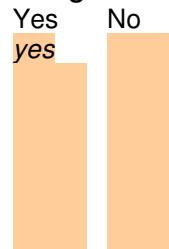
No no
Yes

Who is responsible for formulating these quality standards?

Source Department of Enforcement

113. What are the main complaints of users concerning the enforcement procedure:

- no execution at all?
- lack of information?
- excessive length?
- unlawful practices?
- insufficient supervision?
- excessive cost?
- other?



Source Department of Enforcement

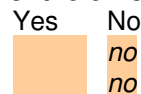
114. Does your country prepared or has established concrete measures to change the situation concerning the enforcement of court decisions?

No
Yes yes

Please specify:

115. Is there a system measuring the timeframes of the enforcement of decisions :

- for civil cases?
- for administrative cases?



116. As regards a decision on debts collection, can you estimate the average timeframe to notify the decision to the parties which live in the city where the court seats:

Yes

- between 1 and 5 days
- between 6 and 10 days
- between 11 and 30 days
- more: please specify

no

Source Department of Enforcement

117. Disciplinary proceedings and sanctions against enforcement agents:

	Yes /No (If yes, please specify the total number)	
Disciplinary proceedings	Breach of professional ethics	yes
	Professional inadequacy	yes
	Criminal offence	yes
	Other	
Sanctions	Reprimand	yes
	Suspension	yes
	Dismissal	yes
	Fine	yes
	Other	

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of your enforcement system of decisions in civil matters

Approximately 20% of the enforcement agents have been sanctioned

VIII. B. Enforcement of decisions in criminal matters

118. Is there a judge who has in charge the enforcement of judgments?

Yes Please specify his/her functions and activities (e.g. Initiative or control functions):

No Please specify which authority is entrusted with the enforcement of judgements (e.g prosecutor):

Department of Enforcement, General Inspection of the Ministry of Justice

119. As regards fines decided by a criminal court, are there studies to evaluate the effective recovery rate?

No
 Yes **Please specify:**

Department of Enforcement

You can indicate below:

- *any useful comments for interpreting the data mentioned above*
- *the characteristics of your enforcement system of decisions in criminal matters*

IX. Notaries

120. Is the status of notaries:

- a private one?
 - a status of private worker ruled by the public authorities?
 - a public one?
 - other?
- Please specify:**

Yes	Number
Yes	

Source

121. Do notaries have duties:

- within the framework of civil procedure?
- in the field of legal advice?
- to authenticate legal deeds?
- other?

Yes	No
yes	
yes	
yes	

If yes, please specify:

According to Article 1, paragraph 2 of the Instruction on “Rule of Fulfillment of Notary Activities”, the main functions of the notary are:

a) Drafting and legitimating of the acts which according to the rule of notary must be approved for the validity of these acts;

b) Drafting and legitimating of the acts that do not have to be approved but a person is willing to grant validity to the act by the approval of the notary;

- c) Legitimizing of the authenticity of the signature;
- d) Fulfillment of other functions established by the legislation.

According to paragraph 3 of the above-mentioned Article, a notary is an impartial legal adviser to his/her client.

122. Is there a body entrusted with the supervision and the control of the notaries?

No
 Yes

Which authority is responsible for the supervision and the control of the notaries:

- a professional body?
- the judge?
- the Ministry of justice?
- the prosecutor?
- other?

Yes

yes

Please specify:

Notary Department, Ministry of Justice of Georgia

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of your system of notaries

According to Paragraph 2, Article 1 of the Law of Georgia on Notaries, based on the Georgian legislation State regulation of the notaries is carried out by the Ministry of Justice of Georgia and the Ministries of Justice of the Autonomous Republics of Abkhazia and Adjara.

According to Paragraph 1, Article 11 of the same Law, the Minister of Justice of Georgia supervises the official activities of notaries and within his/her competence:

- a) through the Chamber of the Notary controls the rightness of the fees borne for notary activities;
- b) requests registries, books or other materials from the notary which are important for him/her to carry out the supervision;
- c) makes the amendments in the Notary Chamber decision if the latter contravenes the Georgian legislation.

According to Paragraph 2, Article 11, delegates the Notary Chamber the right of supervision on the separate issues of notary activities.

According to Paragraph 1, Article 14, the notary is assigned by the Minister of Justice. After assignment the notary is granted the license and defined working area.

According to paragraph I, Article 18 of the regulation on “Disciplinary Responsibility of the Notaries” grounds established by the Article 17 of the abovementioned Regulation, the Minister of Justice of Georgia and the board of the Notary Chamber have the right to initiate the administrative proceeding against all notaries of Georgia.

123. Please indicate main orientations for reform and concrete measures which could improve the quality and the efficiency of your judicial system:

Reform of judiciary is part of the bigger process of comprehensive reforms that are currently undergoing in Georgia. Approach of the government from the beginning of reforms was to have a consistent well developed strategy for the reform of the whole system of justice ensuring its overall sustainable success rather than realisation of changes in one segment of justice system not supported by necessary changes in other relevant segments leading to decreased ultimate effectiveness of reforms and posing risks for their sustainability.

Reform of criminal justice is a good example of that. By Decree No. 914 of 19 October 2004, the President of Georgia established a working group charged with the task of developing a strategy for reforming Georgian criminal legislation (the Strategy), supported by the European Union Rule of Law mission to Georgia EUJUST THEMIS. Strategy was adopted in May 2005. It lists a comprehensive set of guiding principles which would support the reform of criminal procedure in a systematic manner, taking into account international and European standards. The Strategy focuses on the following aspects: changes needed in the legislation, including the Code of Criminal Procedure; changes in the competences and organization of key institutions; and changes in the education and training of legal professionals. Strategy encompasses the following directions: 1) Police authorities and crime prevention; 2) the Prosecution; 3) the Bar and Advancement of the Legal Aid System; 4) the Judiciary; 5) Reforms of the Criminal and Administrative Violations' Codes; 6) Execution of Penalties; 7) the Criminal Procedure Code; 8) Reform of the Public Defender's Institute; 9) Reform of the Education of Lawyers. The general timeframe for implementation of the Strategy will be four to five years. Upon the necessity the Strategy may be updated to reflect the changed circumstances.

Legislative changes - *Substantial changes in the legislation (criminal, civil and administration) are aimed at improving material norms as well as changing procedural norms in legislation causing undue prolongation of court proceedings being one of the main reasons of backlogs in the courts.*

Reform of the judiciary

Reform is aimed at creating strong, effective, efficient and uncorrupt independent judiciary. Main directions of the reform are:

The institution of a judge magistrate shall be initiated. It will become part of the lower unit (chain) of the Common Courts and ensure fast and trustful administration of justice locally. Magistrate judge shall hear the cases on application of the procedural coercive measures and other cases stipulated in the Code of Criminal Procedures individually.

Judge in the Regional (City) Court shall hear the categories of criminal cases of less serious and serious crimes individually, motions on application of the coercive measures, on the extension of their terms and other issues determined in this Code. Court shall hear collegially (panel) criminal cases on especially grave crimes.

The jury institution shall be instituted according to the Constitutional provision

From November 2005 strict functional separation of courts of first and second instances was carried out. Appeals court was created as a court of second instance rather than court hearing some cases as a court of first instance. Supreme Court became pure Cassation Court. One of the main aims of it is to develop dynamic, advancing, and unifying interpretation of law, which should take decisive role in reinforcing legal security. Constant interpretation of law in the jurisprudence of the Supreme Court as well as court of appeals will contribute to the efficiency of the whole justice system.

Specialization of judges in all courts aimed at raised professionalism as well as efficiency of judges.

Increase of the number of judges as well as improvement of the selection mechanisms. Transparency of the competition for appointment of judges administered by High Council of Justice shall secure appointment of professional individuals with high personal integrity and values.

Training of future judges as well as development of training curriculums for continuing education for judges is extremely important. In order to fulfill this goal, creation of the High School of Justice which under the rules set by a law will provide preparation and training of theoretically and practically skillful judges is highly important as well. Following the graduation of the High School of Justice the High Council of Justice will take over the assignment procedure of the judges in each court.

Salary increase as well as better social guarantees for judges (although already carried out on a substantial level) is set as an issue requiring constant attention from the government.

Substantial improvement of court buildings as well as technical equipment of courts.

New mechanisms of court management, changes in the administrative and procedural rules in this direction. Raised qualification of administrative staff of courts aimed at increased effectiveness and efficiency of courts. Development of process based data management system, network connection between all courts, enabling more effective court as well as case management in all courts

Creation of court marshalls system for maintaining security in the courts in general as well as court rooms.

Reform of the High Council of Justice, increase of the number of judges in the overall number of

members of the council. The new model of the High Council of Justice comprises even number of members from judiciary and non judiciary organs. Improved mechanism for disciplinary hearings for judges.

Legal Aid

The right to a fair trial and access to the judiciary are one of the foundations of a democratic society along with the freedom of speech and expression, freedom of belief, freedom of assembly and association, and other rights protected by fundamental human rights instruments.

In May 2004 the Georgian government took the first steps to reforming the country's legal aid system, to make it more responsive to the needs of the poor. It is further noteworthy that the Constitution – the supreme law of Georgia – as well as all international instruments created for the protection of human rights recognize the right to defense and even assigns it one of the priority levels within the hierarchy of rights. In addition, in accordance to our Constitution “the right for protection is guaranteed”, this means that the government is obliged to provide each insolvent citizen with qualified legal aid. However, the existing legal aid system in Georgia has number of flaws and fails to meet the mentioned obligation.

In May 2004 under the initiative of the Ministry of Justice of Georgia along with the NGO, Young Lawyers Association the working group was created that prepared a concept on the future free of charge legal aid. The Concept implies a profound of the existing system.

The purpose of the reform is to provide quality legal aid to each member of society who is unable, due to financial limitations, to receive qualified legal services and fully exercise the constitutional right to address the court.

Varying from country to country, the Georgian legal aid system is based upon the English legal aid model, since the latter one is more acceptable and better harmonizes with Georgian existing system.

In order to fully implement the conditions of the concept paper, under the decree of the Ministry of Justice of Georgia the “Public Attorney Service” was established and launched as a pilot project on July 1, 2005 with the financial support of the Ministry of Justice of Georgia and the Open Society Institute Georgia Foundation.

Structure of the Service:

- *The system is headed by the Legal Aid Council, which is established to control the legal aid system and consists different public officials;*
- *The Head of the Legal Aid Service, who is in charge of fulfilling the obligations of the Council and is managing the Service;*
- *Legal aid is provided by Legal Aid Bureaus.*

The territorial scope of the Legal Aid Bureaus at the moment is limited. However, according to

the Draft Law on Legal Aid the Service will cover the whole country by September 1st 2007.

The establishment of the Service is the part of on-going reform process. At the moment there are two territorial bureaus across the country, where 14 attorneys are working permanently, who provide free, high qualified legal aid to financially eligible citizens as well as in the cases of mandatory defense under the Articles provided in the Criminal Procedure Code of Georgia as well as give free consultation in Civil and Administrative Law.

Composition of the Legal Aid Bureau

The Legal Aid Bureau lawyers, within the territorial scope of the Bureau, provide the following legal services to people eligible for such legal aid:

- provide legal advice in criminal as well as civil and administrative cases;*
- draft legal documents;*
- defend client's interests at the pre-trial stage in criminal cases;*
- defend client's interest before court.*

Starting July 2005 until June 2006 the Bureaus have received more than 260 applications and have appointed attorneys in criminal cases. They have given more than 650 free legal consultations to eligible citizens.

The necessity and need from the citizens is rather high, however, before the law on legal aid will be adopted bureaus can only appoint lawyers in criminal cases but after the adoption of the Law on Legal Aid (which will be submitted to Parliament in fall for their approval) starting January 1st 2009 Bureaus will provide such service as in Civil as well as in Administrative and Constitutional matters. But until September 1st 2007, according to the Draft Law the Ministry of Justice of Georgia has to guarantee free legal aid throughout the whole country in criminal cases.