

Georgia

National Procedures for Mutual Legal Assistance on laundering, search, seizure and confiscation of proceeds of crime (ETS 141)

Updated on 10/03/2021

Procedure for search (asset-tracing) and seizure

The Central Authority responsible for mutual legal assistance: (including freezing and seizure)	Office of the Prosecutor General of Georgia 24 Gorgasali Street, 0134 Tbilisi, Georgia Telephone: +995 32 240 51 43 / +995 32 240 50 34 / +995 32 240 52 10 / +995 32 240 51 80 E-mail: mla@pog.gov.ge
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If different from the Central Authority, the authority to which the request should be sent:	
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Channels of communication for the request for mutual legal assistance: (directly or other)	All mutual legal assistance requests must be directed to the central authority (Office of the Prosecutor General). Requests can also be transmitted through Interpol or diplomatic (not recommended) channels.
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Means of communication: (eg. by post, fax, e-mail ¹)	From 1 January 2021 onwards Georgia requires electronic submission of mutual legal assistance requests on search (asset-tracing) and seizure to mla@pog.gov.ge . Paper copies of the requests can be transmitted simultaneously to the electronic submission, but not required. We may occasionally accept paper only requests where data sensitivity could be an issue, but this should be an exception and limited to serious crimes cases. Transmission via Interpol could be an option in such cases. Request can be either electronically signed (any e-signature that is allowed under the local law of requesting state is acceptable) or electronic copies of paper documents. In order to ensure the authenticity of communications we only accept submissions that are sent from government e-mails. We
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¹ Please indicate if encryption or electronic signature is required.

	could automatically confirm the receipt of any incoming request if your message will have the tracking tool “delivery report” turned on.
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Language requirements:	Georgian, English.
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Double criminality requirement, if applicable:	Double criminality is a mandatory requirement, however, <i>in abstracto</i> approach is applied.
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Other requirements: (e.g. a link between the proceeds and the criminal offence, or that a request for the confiscation judgment or measure will be made later, or that leave is given by a judge for the seizure of assets/goods)	When requesting search, seizure or freezing, the requesting state must demonstrate the existence of reasonable grounds for believing that pertinent assets are instrumentalities of crime, proceeds of crime or equivalent property (<i>property subject to confiscation</i>). See information about the link between the property subject to confiscation and crime in the reply to the section on confiscation.
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Modalities/requirements for the execution of MLA requests for investigative assistance (search, tracing, special investigative techniques), existence of a central register of real estate/ bank accounts, duration of preservation of bank data, etc.:	<p>Availability of relevant information:</p> <ul style="list-style-type: none"> • Real estate ownership and transaction records as well as basic business registry records are open-source information available at www.napr.gov.ge and Georgia does not require either MLA or other formal cooperation for providing this information. • Georgia does not have a central registry of bank accounts. Any information containing bank secrecy can be obtained through a court warrant. Georgian banks are required to retain paper documents for 6 years and electronic data for 15 years. • Government maintains vehicle ownership database and any information thereof can be obtained either through police cooperation or MLA. • Detailed business registry records, turnover and tax records are also available through centralized government databases, but court warrant and appropriate grounds are required to retrieve relevant data through MLA). <p><i>Modalities and procedures Production of electronic data, electronic surveillance and interception:</i></p>
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	Under Georgian law, court warrant is required for the production of electronic data (including bank records), electronic surveillance and interception.
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Limitation of use of evidence obtained:	Without the prior consent of Georgia, the evidence obtained through mutual legal assistance cannot be used for the purposes other than those indicated in the request.
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Modalities/requirements related to the execution of provisional measures (freezing, prejudgment seizing) including lifting of these measures (possibilities to seize (im)movable properties) and applicable time limits, if any:	Georgian authorities are able to execute foreign requests for provisional measures (search, seizure, freezing etc.) in order to prevent any dealing in, transfer or disposal of property which, at a later stage, may be the subject of a request for confiscation. There is no specific limitation for the duration of search/seizure/freezing. However, requesting state must demonstrate that the requested duration is reasonably necessary.
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Available asset management system including preservative measures (for example prejudgment selling) concerning the seized goods:	Georgia has a system of preservation of seized assets. The existing mechanism does not provide for the possibility of selling the seized assets unless they are confiscated.
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Procedure for confiscation/ Recognition of foreign decisions. Recovery of confiscated assets.

The Central Authority Responsible for confiscation/ recognition of foreign judgments/decisions/measures:	Office of the Prosecutor General of Georgia 24 Gorgasali Street, 0134 Tbilisi, Georgia Telephone: +995 32 240 51 43 / +995 32 240 50 34 / +995 32 240 52 10 / +995 32 240 51 80 E-mail: mla@pog.gov.ge
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If different from the Central Authority, the authority to which the request should be sent	
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Channels of communication for the request for mutual legal assistance: (directly or other)	Georgia accepts mutual legal assistance requests directly, through the Central Authority (Office of the Prosecutor General of Georgia). In the absence of a treaty, Georgia requires transmission of documents via diplomatic channels.
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<p>Means of communication (eg. by post, fax, e-mail²):</p>	<p>From 1 January 2021 onwards, Georgia requires electronic submission of mutual legal assistance requests to mla@pog.gov.ge.</p> <p>Paper copies of requests can be transmitted simultaneously to the electronic submission but not required.</p> <p>We may occasionally accept paper only requests where data sensitivity could be an issue but this should be an exception and limited to serious crimes cases. Transmission via Interpol could be an option in such cases.</p> <p>Request can be either electronically signed (any e-signature that is allowed under the local law of requesting state is acceptable) or electronic copies of paper documents. In order to ensure the authenticity of communications we only accept submissions that are sent from government e-mails. We could automatically confirm the receipt of any incoming request if your message will have the tracking tool “delivery report” turned on.</p>
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<p>Language requirements:</p>	<p>Georgian, English.</p>
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<p>Document requirements and modalities/requirements for the procedure of confiscation:</p>	<p>The following documents and information must be attached to the request for confiscation:</p> <ul style="list-style-type: none"> • Original or a certified copy of the confiscation order (not necessarily the judgment) issued by the competent authority of the requesting state; • An attestation by the competent authority of the requesting state that the confiscation order is final and immediately enforceable; • Information as to the extent to which the enforcement of the order is requested; • Information as to the necessity of taking additional measures at the time of execution of the foreign confiscation order; • Information whether the third parties have had the opportunity to claim their rights. <p>If the Prosecutor’s Office of Georgia considers that the documents and information referred to above are sufficient, it applies to the relevant court within a reasonable time with the motion to confiscate the property based on the confiscation order of the requesting state. The court makes decision on confiscation within one month. This period can be extended in case additional information is required from the respective foreign state. The decision of the first instance court may be appealed within 15 days by the prosecutor or the person/persons claiming the property rights over the property</p>
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² Please indicate if encryption or electronic signature is required.

	<p>at the Appellate Court. The Appellate court also makes decision on confiscation within one month, which may be extended, in case additional information is required from the respective foreign state. The decision of the Appellate Court may further be appealed within 15 days by the prosecutor or the person/persons claiming the property rights over the property at Supreme Court of Georgia. The decision of the Supreme Court, which is also delivered within one month, is final and after this, the property can be confiscated. The confiscated property is temporarily retained at the National Bureau of Enforcement, Ministry of Justice of Georgia until sharing with the respective foreign state.</p>
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<p>Other requirements, if applicable: (e.g, a link between the proceeds and the criminal offence.)</p> <p>In case of money laundering, what are the requirements for the predicate offence(s)</p>	<p>For confiscation of criminal assets in the context of crimes other than money laundering, it should be proven beyond the reasonable doubt that assets in question are instrumentalities of crime or proceeds of crime. Respectively, the link to crime is required in this case.</p> <p>When confiscation is requested in the context of Money laundering, at least it should be demonstrated that assets in question are not derived from the legal sources (concept of unjustified assets).</p> <p>Due to the nature of equivalent property confiscation, no link is required between the equivalent property and crime.</p>
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<p>Procedure /possibilities to trace assets/proceeds when a (foreign) confiscation order is already given:</p>	<p>It is possible for Georgia to trace assets when confiscation order is already given.</p>
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<p>Procedure for sharing of assets, if applicable:</p>	<p>As a rule, confiscated property is shared with the respective foreign state on a 50/50 basis. When making decision on sharing the confiscated assets, the interest of the legitimate owners and the victims are also taking into account.</p> <p>Georgia does not share the confiscated property, if:</p> <ul style="list-style-type: none"> • The respective foreign state waives its claim over it, or • The value of the confiscated assets is less than 40 000 GEL (approximately 10 000 Euros). <p>Despite the regulations referred to above, on a case-by-case basis Georgia can enter into ad hoc arrangements with the requesting country and make the decision on return and sharing of assets in a different way</p>
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<p>Where applicable, limitations to the possibility for the requesting state to serve judicial</p>	<p>N/A</p>
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documents directly to the persons concerned:	
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Other particularly relevant information on special types of assistance

Non-Conviction Based Confiscation:	N/A
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MLA regarding liability of legal persons: (criminal, civil or administrative)	The legislation of Georgia does not require the dual criminality for executing requests not involving coercive measures (e.g. <i>search and seizure</i>). Respectively, if MLA relates to a crime for which there is no corporate criminal liability in Georgia, this request can be still executed, unless it involves coercive measures. If MLA concerning legal person requires implementation of coercive measures, it should comply with the dual criminality requirement. Georgian law provides for the criminal liability of legal persons for specific crimes, which include trafficking in human beings, intellectual property crimes, money laundering, terrorism crimes, cybercrime and corruption.
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Other information: (for example, extended confiscation, confiscation for the purpose of victims)	Under Georgian law extended confiscation is allowed for specific set of crimes: organized crime, drug trafficking, trafficking in human beings, public corruption, money laundering, terrorism financing and racketeering.
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Links to national legislation, national guides on procedure:	The official versions of Georgian legislative acts can be found on the following webpage of the Legislative Herald of Georgia - matsne.gov.ge . Most of the legislative acts are also available in English and Russian languages. International Cooperation in Criminal Matters Act of 2010: https://matsne.gov.ge/en/document/view/112594?publication=4 Code of Criminal Procedure: https://matsne.gov.ge/en/document/view/90034?publication=106 Web-page of Central authority: www.pog.gov.ge
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