

## **Preface**

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Strengthening parliamentary competence and ownership in the emerging democracies of South East and Eastern Europe, including cooperation with parliaments and parliamentary staffers, is one of the most important tasks the Geneva Centre for the Democratic Control of Armed Forces (DCAF) undertakes.

Cooperation with the Parliament of Georgia has been fruitful, though the full scope of DCAF's cooperation possibilities may not have been understood yet..

During 2003 and 2004, the DCAF-IPU Handbook on Parliamentary Oversight of the Security Sector was translated into Georgian and a press conference (chaired by Parliamentary Speaker Nino Burzhanadze) and seminar to launch the handbook were held in 2004, with copies distributed to the media, MPs and parliamentary staffers (available at: [http://www.dcaf.ch/partners/DCAF-IPU\\_Handbook](http://www.dcaf.ch/partners/DCAF-IPU_Handbook)).

This comprehensive collection of Georgian legislation on the Security Sector will serve two purposes: it will give Georgian and Western experts an overview in Georgian and English of what legal documents already exist in Georgia; and it will serve as a tool for identifying possibilities for adaptations to the law. In terms of the latter, Georgian experts and members of the DCAF Legal-Political Assistance Group will be invited to annotate and comment on the laws in the light of good practices elsewhere.

The Geneva Centre will stay committed to close cooperation with Georgian parliamentarians on the legislative process. In 2005 activities will concentrate on PAP-DIB relevant issues.

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## Introduction - The Legal Framework of the Security Sector Governance in Georgia

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### Introduction

Following the break-up of Soviet Union in 1991 Georgia became an independent state, and was compelled to build up its security sector from nothing. Under the 'Law on the Transitional Period' adopted on 20<sup>th</sup> December 1990, the National Guard of Georgia was formed, followed by the creation of the Ministry of Defence in 1991<sup>1</sup>. However, Zviad Gamsakhurdia, the first elected President of Georgia, did not succeed in bringing the paramilitaries under the control of the central government, and was equally unable to consolidate the security sector. The political confrontation between the President and his opponents led to an armed conflict in which the officers of the National Guard were actively involved on the side of the opposition.

A military coup brought an end to the presidency of Gamsakhurdia in January 1992. The Military Council that took over state power declared the Constitution of the first Georgian Republic (1918-1921) as the supreme law of the country. This document stipulated parliamentary supremacy in security sector governance<sup>2</sup>, but this was far from the reality in Georgia in 1992. In March 1992, after Shevardnadze returned to Georgia, the Military Council was transformed into a civilian body called the State Council. Representatives of Georgian society were invited to participate in its activities in order to provide a degree of legitimacy for the next six months. A new parliament, elected in October 1992, adopted a 'Law on State Power' on 10<sup>th</sup> November 1992, which formally established a strong legislature. However, the Head of State was at the same time the Speaker of the Parliament, directly elected by people. Thus, the legislature came under the *de facto* control of Shevardnadze for the next three years.

The outbreak of the bloody conflict in Abkhazia (1992-93) between Georgia's armed forces and local separatists, who were supported by Russian soldiers and mercenaries, brought Georgia's emerging statehood to the brink of collapse. It was not until 1995 that Shevardnadze was able to consolidate state power as he captured uncontrolled military commanders and strengthened the control of the central Government over Georgian paramilitaries<sup>3</sup>. Between 1992 and 1995 Georgia was a parliamentary republic. The presidential system of government had been discredited by the Gamsakhurdia regime of 1991-1992, but as the parliament elected in 1992 proved just as weak and politically unreliable institution, the opinion gradually prevailed that only a strong president would be able to lead the country out of the chaos.

The adoption of a new constitution in August 1995, which established a presidential system, marked a significant step towards the development of proper legal tools in respect of security sector governance. Consequently, between 1995 and 1999, the Georgian Parliament elected in October 1995 passed the vast majority of laws regulating security sector governance<sup>4</sup>.

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\* I would like to thank Mr. Stephen Murphy for his help and suggestions in revising this article.

<sup>1</sup> The Law on the Ministry of Defence adopted on 15th September 1991.

<sup>2</sup> According to Article 54 of the Constitution, adopted on 21<sup>st</sup> February 1921, armed forces and other military forces were under the control of the Parliament.

<sup>3</sup> Jürgen Gerber, *Georgian: Nationale Opposition und kommunistische Herrschaft seit 1956*, (Nomos: Baden-Baden, 1997), p 231.

<sup>4</sup> The following laws, adopted by Parliament since 1995, formed the hierarchy of norms directly or indirectly related to the security sector: Law on Defence of Georgia, adopted on 31<sup>st</sup> October 1997; on National Security Council (24th January 1996); On State Secrecy (29<sup>th</sup> October 1996); on Special Service of State Protection (20<sup>th</sup> February 1996); on the State of Emergency (31<sup>st</sup> October .1997); on Non-Military, Alternative Labour Activity (28<sup>th</sup> October .1997); on Interior Ministry Troops (30<sup>th</sup> April 1998); on the State Border of Georgia (17<sup>th</sup> July .1998); on State Security Service (18<sup>th</sup> February 1998); on the Status of Military Personnel (25<sup>th</sup> June 1998); on Intelligence Activity (19<sup>th</sup> March 1999); on Operative-Investigative Activities (30<sup>th</sup> April 1999); on Mobilisation (23<sup>rd</sup> June 1999); on Participation of Armed Forces of Georgia in Peacekeeping Operations (22<sup>nd</sup> July 1999); on Arms, Military Material and on Export Control on the Production of Double Destination (28<sup>th</sup> April 1998); on Martial Law (31<sup>st</sup> October 1997); on Military Duty and Military Service (17<sup>th</sup> September 1997); on the Pension of the Retired Military Personnel and Personnel of the Interior Troops (16<sup>th</sup> October 1996); on the Social Security of the Families of Soldiers who died in War for the Territorial Integrity and Independence of Georgia (27<sup>th</sup> December 1996); on Collections for Call-up Deferment to this legislation (21<sup>st</sup> June 2002); Criminal Code (22nd July 1999); Administrative Code (25th May 1999).

## **Institutional Framework of Security Sector Governance**

The Georgian constitution contains a special chapter (Chapter VII) on 'State Defence' and several provisions related to security sector governance. The framers undertook the first serious attempt to introduce a separation of power in security sector governance, and to establish a balance between the democratisation and effectiveness of the military based on the rule of law. However, as the following practice showed, some fundamental provisions of the constitution remained at odds with reality. Three main state actors shared responsibility for security sector governance in the country: the legislature, the executive and the judiciary. Their work in this respect was to be supported by state advisory bodies set up in the main by the president, who is head of state.

### *Recent re-arrangement of constitutional checks and balances*

The adoption of constitutional amendments on 6<sup>th</sup> February 2004 re-moulded the existing system of checks and balances to a significant extent. The post of prime minister, which was abolished with the adoption of the 1995 constitution, is to be introduced and a two-headed executive is to be established. According to the new amendments, the government is responsible for the implementation of domestic and foreign policy. The prime minister will determine the direction of governmental activities; he discusses the candidature of prospective ministers with the president before their approval by parliament and, likewise, has the power to relieve ministers of their duty. The resignation of the prime minister would be followed by the resignation of the entire government<sup>5</sup>. The prime minister, furthermore, will be responsible for the economic activities of the government and the implementation of law. However, the president may abolish unlawful acts of the government<sup>6</sup>. This was an exclusive prerogative of the constitutional court before the amendments were adopted. The defence, interior and security ministers will be directly subordinated to the president<sup>7</sup>, but, at the same time, will constitute members of the cabinet, which will be co-ordinated by the prime minister. The president concentrates power in his hands while imposing the responsibility for the activities of the government on his prime minister. Yet it is not clear exactly how great the prime minister's reach will be in terms of security sector governance.

Consequently, in this respect the division of competencies between the president and prime minister is not clear. What is clear, however, is that the president has become stronger in his relations with parliament. He may dismiss the parliament if the legislature does not approve the government<sup>8</sup> or if it rejects the budget three times. Furthermore, the president will have the power to dismiss parliament or the government if a simple majority of parliamentarians votes for the resignation of the government. In view of the fact that the government is essentially the president's 'team', the pressure on parliament will grow, and an imbalance will be created. Nonetheless, the president may not dismiss parliament during a period of martial law, if an impeachment procedure is underway in parliament, or for six months following presidential elections or, indeed, for six months before the end of the president's term of office. The agreement of one-third of parliamentary members is necessary to initiate a vote of non-confidence. Parliament is able to dismiss the government with three-fifths of the vote. If parliament fails to reach this threshold, it will not be allowed to debate this question for the following six months. However, it is questionable whether the allocation of power among the executive would be compensated by this regulation.

The constitutional amendments caused strong disquiet within Georgian civil society. The arguments expressed against these amendments may be summed up as follows. Firstly, there was criticism of the procedures, especially in respect of the lack of public discussion on the drafting of the constitutional amendments. Concern was also voiced about the very limited time given over to reviewing and adopting the amendments and, equally, about the dubious political legitimacy of the current parliament to pass them<sup>9</sup>. Secondly, criticism was directed towards the material outcome of the amendments in so far as the constitutional position of the parliament will be weakened. Likewise, the division of competencies between the president and prime minister is still unclear.

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<sup>5</sup> The Constitutional Amendments, adopted on 6<sup>th</sup> February, Article 18.

<sup>6</sup> Ibid., Article 14, Par. 3.

<sup>7</sup> Ibid., Par. 1.

<sup>8</sup> Ibid., Article 18.

<sup>9</sup> The new parliamentary elections took place on 28<sup>th</sup> March 2004.

Additionally, there were certain misgivings about whether the amendments had been designed to satisfy the ambitions for power of certain political leaders. The arguments of the official political elite for the amendments might be listed as follows. Firstly, a strong president elected on 4<sup>th</sup> January 2004 requires a greater measure of power to consolidate the country and to overcome the corruption and economic problems facing Georgia. Secondly, flexible governance is needed, which will be guaranteed by the division of competencies between the president and prime minister and the principle of collective responsibility of the government. This, in turn, will lead to improved crisis management. Under the former regulations the president was not entitled to dismiss parliament. On the other hand, the only means of dismissing ministers or the president was to impeach them<sup>10</sup> if they violated the constitution or committed a crime<sup>11</sup>. However, the impeachment procedure is very complicated. Thus the system of checks and balances established by the constitution was based on the ability of the legislature and executive to reach political consensus.

Thus, it can be stated that the adoption of the constitutional amendments does not represent a good example of a democratic change in the constitutional framework. Doubtless, the current reform causes a shift of responsibilities with regard to security sector governance. However, it should be stressed that the constitutional framework for the division of competencies between the president and prime minister in this respect remains unclear, which effectively enables the president to manipulate either his government or the parliament.

### *The role of the President*

Within the current constitutional framework the president plays a decisive role in the implementation of the security, defence and foreign policy of Georgia. He is Supreme Commander-in-Chief and thereby guarantees the independence and territorial integrity of the country. In addition, he possesses the following powers: enacts laws related to the security policy of the state; appoints and dismisses the Chief of General Staff and his principal commanders<sup>12</sup>, the Defence, Security and Interior Ministers; appoints the members of the National Security Council and presides over its sittings; bestows all higher military ranks; submits the candidature of the General Prosecutor to the parliament for approval<sup>13</sup>; undersigns international treaties and agreements on security policy issues; determines the structure of the armed forces; decides on referenda; declares states of emergency, martial law and decides on the mobilisation of armed forces.

Special legislation with regard to security sector governance broadens the president's competencies even further. The president submits the military doctrine and other conceptual documents concerning military re-structuring to parliament for approval<sup>14</sup>; confirms the military-operative plans for the territory; dislocation of the armed forces and military installations; weapons programmes and military technology<sup>15</sup>; confirms the structure of the interior forces<sup>16</sup>; approves the state programme on the activities of the security service<sup>17</sup>; confirms the statute and structure of the special service for state protection<sup>18</sup>; plays an important role in the implementation of state policy on state secrecy; confirms the list of information containing state secrecy and the list of state officials who are authorised to issue permits on access to state secrecy or who are authorised to classify the information as a state secrecy; determines other regulations concerning the classification and marking of information<sup>19</sup>; has important competencies with regard to the import and export of military arms and materials of double destination<sup>20</sup>. The president has to issue further decrees to facilitate the implementation of the laws adopted by parliament. Thus the implementation of the security policy remains out of formal parliamentary control to a significant extent. It is not clear how the president and the prime minister will share the responsibilities in the implementation of the special legislation on security sector governance. There are loopholes for further inconsistency within the

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<sup>10</sup> The Constitution of Georgia, Article 64, Par. 1.

<sup>11</sup> Ibid., Article 63-64.

<sup>12</sup> The Constitutional Amendments, adopted on 6<sup>th</sup> February, Article 14, Par. 4.

<sup>13</sup> Ibid., Article 16.

<sup>14</sup> The Law on State Defence, adopted on 31<sup>st</sup> October 1997.

<sup>15</sup> The Law on State Defence, Article 5.

<sup>16</sup> The Law on the Interior Forces, Article 7.

<sup>17</sup> The Law on State Security Service, Article 19.

<sup>18</sup> The Law on Special Service of State Protection.

<sup>19</sup> The Law on State Secrecy, Article 4, Par. 2.

<sup>20</sup> The Law on Arms, Military Material and on Export Control on the Production of Double Destination, adopted on 28<sup>th</sup> April 1998, Article 6.

Georgian constitutional system that could cause further undemocratic developments or personalisation of decision-making.

*The role of the Parliament*

The Georgian Parliament is elected by universal adult suffrage for a term of four years and will consist of two chambers when the territorial integrity of Georgia has been restored. The Upper Chamber of the Parliament, the Senate, will be made up of representatives from the regions<sup>21</sup>. Under the Georgian Constitution, Defence and Security are prerogatives of the Central Government of Georgia<sup>22</sup>, and, as such, the territorial entities do not maintain any independent armed forces. This constitutional provision, however, is not effective since two regions of Georgia that are currently the focus of separatist conflicts and are not, in effect, under the control of the central government<sup>23</sup>.

On the basis of the constitution, parliament determines the foreign and security policy priorities of the country. During the drafting process of the constitution some experts were rather pessimistic about the policy-setting function of the parliament. They regarded the norm as a relic from Soviet times, when the Supreme Councils of Soviets had only formal, but constitutionally declared power, while the true power rested with the Communist Party elite<sup>24</sup>. It turned out that these expectations were not groundless. A lack of true debate in the parliament on issues of security sector governance is evident. Moreover, the practice of parliamentary control over the security sector is not stable. Indeed, owing to the instability of the political landscape and the persistent economic crises, there can be no long-term parliamentary control since Parliament itself faces great difficulty in employing and retaining highly-qualified and expert staff. Furthermore, the bridge function of the parliament with regard to the improvement of civil-military relations is not being implemented.

The primary function of the parliament remains the passing of legislation on security and defence policy issues. In this respect, the legislature determines the structure and activities of the executive branch of government, defines the numerical strength of the armed forces by passing a respective law yearly, and adopts the defence budget. However, the influence of the parliament on the executive in drafting the budget is weak, since it is not able to participate in the elaboration of the budget or to change the budget draft by means of parliamentary deliberation. According to the new amendments to the constitution, the legislative function of the parliament could be weakened. The prime minister may call for a vote of confidence in parliament with regard to the State Budget, Tax Code and the Law on the Structure and Activities of the Executive<sup>25</sup>. Moreover, the parliament may adopt a law leading to changes in state revenues or which envisages new financial obligations of the state, only after the government consents to it<sup>26</sup>.

Nonetheless, the parliament approves major appointments within the security sector, even though some important appointments were made without parliamentary approval before the structural reform of 11<sup>th</sup> February 2004 took place. The parliament consents to deployments of foreign forces in Georgia and the deployment of the Georgian military abroad, ratifies international treaties on military issues and joining international security or defence organisations, approves declarations of emergency, martial law and the mobilisation of troops. In these respects, parliament possesses a 'war and peace' power. Parliamentary deliberations are public and, therefore, the main instrument for transparency with regard to security sector governance.

The Georgian legislature can control the implementation of security and defence policy through various means provided under the constitution. For example, it can hold hearings and ask questions<sup>27</sup>; set up any number of special parliamentary committees on a permanent basis to scrutinise parliamentary control of the government and prepare security policy issues for the plenary discussion<sup>28</sup>; set up an

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<sup>21</sup> The Constitution of Georgia, Article 4.

<sup>22</sup> Ibid., Article 3.

<sup>23</sup> For example, the separatist regimes in Abkhazia and South Ossetia recently decided to hold collective military training exercises to guarantee military readiness for possible military attack by the Government of Georgia, in: <http://www.sakartvelo.info>, 29<sup>th</sup> January 2004.

<sup>24</sup> Gaul Wolfgang, *Verfassungsgebung in Georgien: Ergebnisse internationaler rechtlicher Beratung in einem Transformationsstaat*, (Berlin 2001) (Georgische Übersetzung), p. 147.

<sup>25</sup> The Constitutional Amendments, adopted on 6<sup>th</sup> February, Article 18.

<sup>26</sup> Ibid.

<sup>27</sup> The Constitutional Amendments, adopted on 6<sup>th</sup> February 2004, Article 7.

<sup>28</sup> The Constitution of Georgia, Article 56, Par. 1.

investigative commission<sup>29</sup> able to hold respective public officers accountable for their financial and political wrongdoing. The special legislation adds further competencies to parliament in security sector governance. The legislature determines state policy in respect of state secrecy<sup>30</sup>, can form a ‘Trust Group’ that may have access to classified information<sup>31</sup> and, through the Committee on Defence and Security, oversees the activities of the Intelligence Department<sup>32</sup> and State Security Service<sup>33</sup>. However, those mechanisms are lacking which would truly facilitate the implementation of democratic control over the security sector. Moreover, the legal power of the above-mentioned bodies is extremely limited.

### *The role of the Government*

The Georgian Government, together with the president, implements security policy. The Cabinet proposes laws and budget drafts, and is responsible for conducting international negotiations on security policy matters and arms procurement. The key ministries with regard to security sector governance are the defence, security and interior ministries. The Ministry of Defence represents a state agency overseeing the armed forces, and is thus responsible for defending the state from outside threats, as well as for the proper training and development of the Georgian armed forces and the fulfilment of defence tasks facing the country<sup>34</sup>. New constitutional amendments could weaken the parliamentary accountability of the defence ministry, which is set to be transformed into a civilian institution<sup>35</sup>. The principle of collective responsibility of the government lessens the possibility of differentiating between the ministers. Their political fate depends on the position of the prime minister. There is no place for an effective parliamentary intervention in this respect. Though the parliament can raise the question of the responsibility of the ministers, the final decision rests with the prime minister<sup>36</sup>.

Other state agencies participating in the implementation of Georgian security policy are the Ministry of Foreign Affairs, the State Department for Border Guards, the Intelligence Department and the Special Service for State Protection. The parliament approved the structural reforms of the executive on 11<sup>th</sup> February 2004 as a result of which the Intelligence Department will be subordinated to the Security Ministry and the Border Guards Department will be merged into the Interior Ministry.

Special legislation regulates the further division of competencies between the main operational components of the security sector and determines the functions of the respective ministries accordingly. Georgian military forces include armed, border and interior forces. The armed forces are made up of Land, Air and Naval Forces. However, the Law on Defence does not exclude the creation of any other military forces by way of laws passed by Parliament<sup>37</sup>. Georgia has armed forces for the defence of the independence, sovereignty and territorial integrity of the country and for the fulfilment of international obligations<sup>38</sup>. The constitution forbids a merger of the army, police and the state security service<sup>39</sup>. However, the armed forces may be charged with keeping law and order within the country. This regulation constitutes an *ultima ratio* – only a subsidiary rule. In this case, parliamentary approval will be needed. Moreover, according to the Military Doctrine adopted in 1997, armed forces may be used for the restoration of public order within the state if the international community consents to this action. Although this is difficult to implement in practice, the concern of the Georgian authorities to adhere to international standards in this respect is evident.

Georgian Interior Forces, according to the Law on Interior Forces adopted on 30<sup>th</sup> April 1998, provide security within the state. They protect public order, the rule of law and human rights against crime and violence; in this respect they assist the Interior Ministry and Ministry of Security. Interior forces are charged with fighting terrorism and organized crime. Moreover, they participate in the defence of the

<sup>29</sup> Ibid., Par. 2.

<sup>30</sup> The Law on State Secrecy, adopted on 29<sup>th</sup> October 1996, Article 3, Par. 1.

<sup>31</sup> The Law on the Trust Group, adopted on 4<sup>th</sup> March 1998.

<sup>32</sup> The Law on Intelligence Service, adopted on 19<sup>th</sup> March 1999, Article 16.

<sup>33</sup> The Law on the State Security Service, adopted on 18<sup>th</sup> February 1998, Article 18.

<sup>34</sup> Amendments to the Law on State Defence, adopted on 26<sup>th</sup> October 2001.

<sup>35</sup> Thereafter the Chief of General Staff will undertake the operational command of military forces and become a military advisor to the President. The civilian Defence Minister will be charged with the budget, procurements and international relations.

<sup>36</sup> The Constitutional Amendments, adopted on 6<sup>th</sup> February 2004, Article 7.

<sup>37</sup> The Law on State Defence, Article 4.

<sup>38</sup> The Constitution of Georgia, Article 98.

<sup>39</sup> Ibid., Article 78, Par. 2.

country in wartime. The law does not detail, however, how the interior troops would be involved, or which role they would play, in wartime. During peacetime the Interior Forces are subordinated to the Interior Ministry, which, under the NATO action plan, is to be transformed into a civilian and border control state agency. The Law on Interior Forces must consequently be redefined: the Interior Troops should be demilitarised, and their military and police functions should be clearly determined in the new regulations adopted by Parliament to meet the norm outlined in Article 78 of the Constitution.

The activities of the State Security Service are regulated by the Special Law adopted on 18<sup>th</sup> February 1998. The State Security Service provides external and internal security for the country. It represents a politically neutral state agency gathering and analysing information pertaining to external and internal threats. In situations of crisis, the Security Service acts in coordination with other state agencies. However, in this respect, the clear division of competencies is still outstanding and in need of clarification. The State Security Ministry, which co-ordinates the activities of various security units, is to be transformed into a security service without the power of investigation into economic crimes.

The restriction of human rights, when this is not controlled by democratic institutions, is a grave problem in Georgia. When limiting human rights in the security interest of the community, the state authorities must observe the principles of legality and proportionality. In all cases of restriction, the Parliament should have some control over the respective state agency. According to the Law on State Secrecy adopted on 29<sup>th</sup> October 1996, no information may be qualified as a state secret if this endangers human rights or public health and safety. However, the greater share of information related to defence and security is nonetheless qualified as such. The actual legislation on state secrets should be amended in line with the interests of civil society and of human rights under the proviso of the NATO action plan. All laws and international treaties related to human rights protection must be published and made accessible to ordinary citizens. In practice, citizens' awareness of the existing and not systemically published laws and international treaties involving Georgia (i.e. those which may be applied directly within the state) is very low, which makes security sector governance less effective.

It must be stressed that parliamentary control over the respective Ministries still remains incomplete. While there are some general tools provided under the constitution, the special legislation does not specify these rules and does not establish any clearly-defined mechanisms of control. Furthermore, the ongoing reforms within the security sector require professional and responsible ministers with expanded competencies to take independent decisions. Under the current constitutional amendments, which establish centralised state power, ministers' individual responsibility is diminished.

#### *The role of the National Security Council*

The National Security Council established under the constitution<sup>40</sup> has a wide range of competencies in terms of security sector governance. The activities of the NSC are regulated by the law on the National Security Council of Georgia adopted on 24<sup>th</sup> January 1996. The National Security Council is an analysing, advisory, and co-ordinating state body charged with the organisation of state defence and military strengthening. The Council decides on the strategic questions of foreign and domestic policy, stability and public order. The NSC is involved in the elaboration of the National Security Concept; debates state programmes on state defence and security, and makes proposals on Georgian co-operation with International Organisations. For example, the Council coordinates the implementation of the Action Plan that will facilitate the fulfilment of the pre-conditions for Georgia's future membership of NATO. Furthermore, the NSC discusses the stationing of foreign troops in Georgia; elaborates draft laws and submits staffing levels for the Armed Forces to Parliament for approval; co-ordinates inter-agency co-operation through its permanent commissions and organises this cooperation during states of emergency and periods of martial law. However, the NSC is not accountable to Parliament for its activities and may therefore be regarded as an undemocratic state body<sup>41</sup>. Some experts, moreover, view the NSC as a 'small cabinet' because of its broad competencies and side functions<sup>42</sup>. The decisions of the NSC do not formally bind the President, but still bear considerable weight in the shaping of state security policy. Generally, the NSC strengthens the position of the President within the constitutional framework.

<sup>40</sup> The Constitution of Georgia, Article 99.

<sup>41</sup> Gaul, Wolfgang, p. 241.

<sup>42</sup> Archil Osidze & Ivlian Haindrava, 'Civil-Military and Interagency Cooperation in the Security Sector Reform in Georgia', in Philipp H. Fluri & Velizar Shalamanov (eds.), *Security Sector Reform, Does it Work?*, (Sofia, 2003), p. 195.

The Constitution stipulates certain other independent institutions that may control the activities of the Executive and Legislature in the security sector. The *Constitutional Court*<sup>43</sup> has jurisdiction over constitutional claims and disputes. The *Public Defender* oversees the state of affairs with regard to the implementation of human rights. The *Audit Chamber* controls the use of governmental revenues in the security sector<sup>44</sup> and is accountable to the Parliament. The Chairman of the Audit Chamber will be elected by the Parliament<sup>45</sup>. Additionally, there exists the *General Prosecutor's Office*<sup>46</sup>, to whom the *Military Prosecutor* is subordinated. The Constitutional Court and Public Defender represent two new institutions established under the Constitution in 1995. The Constitutional Court may resolve disputes between state agencies on the division of competencies in the security sector, decide on individual claims in respect of human rights' violations by state authorities, and rule on the constitutionality of signed international agreements prior to their ratification by Parliament. In addition, the Court enjoys certain other competencies provided under the Constitution<sup>47</sup>.

The Constitutional Court recently started proceedings in connection with one of the first cases directly related to the constitutional division of competences between the centre and regions in the security sector. The Court needs more time to prove how far it might involve itself in the shaping of democratic governance of the security sector. General courts have jurisdiction over legal disputes arising from the implementation of the legislation on social security, call-up deferment, conscription, the legal status of the military, and crimes stipulated by the Criminal Code of Georgia. They may, furthermore, facilitate the implementation of fundamental human rights enshrined in both the Constitution and internationally recognised standards of human rights protection in the security sector that are drawn from the European Convention on Human Rights. There are no special courts within the Georgian court system. However, the Parliament can establish military courts during a state of war. The investigation into a crime committed within the military forces constitutes a competence of the Military Prosecutor's Office of Georgia.

It is a parliamentary prerogative to appoint a Public Defender. There is no military ombudsman in Georgia, and, therefore, human rights' violations within the military are assigned to the competencies of the Public Defender. He can enter military installations and bases to investigate the facts and to obtain information from those involved or suspected of involvement in any alleged violation<sup>48</sup>. State authorities are obliged to help the Public Defender in exercising his functions. As a result of his activities, the Public Defender may propose amendments to the legislation in order to close any existing loopholes, recommend state agencies to act properly, or initiate criminal or constitutional proceedings in respective courts. As a subsidiary rule, he can approach the President or report to Parliament on actual human rights' violations. The Public Defender can contribute to the transparency and public discussion in respect of the security sector by informing the public through the mass media about the results of his activities. However, his decisions are not legally binding and are often simply ignored. For example, in 2001, the Public Defender submitted a recommendation to the Parliament that a Parliamentary Commission be set up to investigate and study the reasons behind instances of homicide and suicide in the armed forces. However, this recommendation did not lead to the creation of the respective commission<sup>49</sup>.

### *Civil Society Involvement*

In Georgia, the constitutional right to political participation, which entitles civil society to be permanently involved in security sector governance, already has procedural and substantive outlets. The procedures establish several forms of popular participation. Substantive political participation, on the other hand, means that the range of subjects involved in security sector governance reflects the whole spectrum of interests within society, i.e. those of independent researchers and ordinary citizens, national, religious and any other minorities, NGOs, independent educational institutions, and the free media.

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<sup>43</sup> The Constitution of Georgia, Article 83, Par. 1.

<sup>44</sup> Ibid., Article 97.

<sup>45</sup> The Constitutional Amendments, adopted on 6<sup>th</sup> February, Article 23.

<sup>46</sup> Ibid., Article 91.

<sup>47</sup> Ibid., Article 89.

<sup>48</sup> The Law on Public Defender, adopted on 16<sup>th</sup> May 1996.

<sup>49</sup> Report of the Public Defender of Georgia on the Situation of the Protection of Human Rights and Freedoms in Georgia, Second Half of 2001, p. 34, in:  
[http://www.ecoi.net/pub/mv170\\_publicdefender-geo.pdf](http://www.ecoi.net/pub/mv170_publicdefender-geo.pdf).



Several procedural forms of political participation are guaranteed under the Georgian Constitution: election, referendum, plebiscite, human rights. However, the general trend in Georgian society shows that these norms do not materialise in practice. Formally, free elections constitute a core element of political participation in security sector governance. According to the Georgian Constitution, the people are the source of state power<sup>50</sup>, and have the right to be kept informed about the plans of politicians in this context. Since it is their security that ultimately depends on the material outcome of their leaders' proposals, information is key in their decision on whether or not to elect them. Political parties and politicians involved in election campaigns should make the people aware of how they will guarantee security for ordinary citizens. Because of the critical economic and social problems in the country, Georgians are, in reality, much more interested in getting their unpaid salaries and the minimal social guarantees from the state in time than in particular problems of security sector governance. Furthermore, the younger generation is not interested in the military profession. As the Public Defender of Georgia noted, in her report on the situation within the army, "the government itself is pushing soldiers into desertion".

Moreover, the military is beset with problems of social discrimination, as it is mainly young people from impoverished families, who can not afford a payment for call-up deferments, who serve in the army. The Law on Alternative Labour Service adopted in 1997 was not implemented till 2002. The politicians mainly ignore this whole issue in their election hustings because of its unpopularity. In most cases, they do not have any detailed programme for the resolution of those national problems which undermine the people's sovereignty as guaranteed under the Constitution.

From the inability of the state to manage the problems of the people stems the necessity to build up alternative channels for political expression and consensus-building. In this respect, the growing interest in – and activities in relation to – security sector governance from Western-backed NGO's and the independent media must be stressed. These organisations form a most active and qualified part of the Georgian civil community by endeavouring to keep a watchful eye on the activities of the Georgian Government on security and defence policy issues. This has contributed to the strengthening of political awareness among ordinary citizens.

By using the political rights granted to them under the Constitution the citizens signal their concerns about actual developments in the security sector. Strong public interest and a consolidated civil society could become effective instruments in holding the Government accountable. When, in November 2001, the State Security Service occupied the offices of an independent Georgian broadcasting company, Rustavi 2, and unlawfully demanded its financial documentation, there was a fierce public backlash, as NGO's, student associations, and ordinary people demonstrated for a free mass media. This led to a political crisis in the country, which forced Shevardnadze to dismiss his government. The recent developments in Georgia, and the international reaction to it, demonstrate once again that the right to political participation is gaining more international relevance. The conditionality of international organisations in this respect will be strengthened. The establishing of the institutional, social and economic pre-conditions for the implementation of the constitutional provisions on political participation would make the Georgian Constitution more agreeable to international law and thereby facilitate Georgia's political and legal integration into the North Atlantic Community. Furthermore, the implementation of these principles is essential for the effectiveness of security sector governance itself.

#### *Social security and the legal status of the military*

Civilian, democratic control over the Armed Forces and other military forces constitutes a two-way relationship: not only is the civil society entitled to control over the military, but, equally, members of the military have the right to contribute to democratisation and to consider themselves an integral part of society. The Constitution of Georgia provides for military duty for every Georgian citizen<sup>51</sup>. According to the Law on the Status of Military Personnel adopted on 25<sup>th</sup> July 1998, the state guarantees the social and legal protection of military servicemen and their families. The state also has to guarantee the equality of all members of the military. Thus, the authorities are obliged to prevent corruption and other forms of discrimination within the security sector. It turns out, however, that the state has hitherto been unwilling to fight corruption and has been fully unable to provide elementary living conditions for the military.

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<sup>50</sup> The Constitution of Georgia, Article 5, Par. 1.

<sup>51</sup> The Constitution of Georgia, Article 101.

Several mutinies within the armed and interior forces that took place between 2001 and 2003 stemmed from widespread discontent about the social circumstances for military personnel. In May 2001, a battalion disobeyed orders and took over an Interior Ministry Forces' base in Mukhrovani; in May 2002, Interior Ministry Forces mutinied; in July 2002, 100 young army officers resigned, accusing the Ministry of Defence of corruption; in March 2003 army officers entered the Isani military base and demanded their wages. After the Mukhrovani insurgency of May 2001, as the insurgents advanced demands for improved social conditions (the payment of wage arrears, and the distribution of adequate kit), President Shevardnadze told journalists that he had given the Guards his "word as the President and Commander-in-Chief that none of them would be troubled by an investigator because the state itself is no less guilty for what has happened". He continued, "if our servicemen lived in normal conditions, there would have been no mutiny". Shevardnadze stressed that the country's leaders "bear moral responsibility for the incident" and that "the authorities and the country's population should pay more attention to the army"<sup>52</sup>. In resolving these problems, the Georgian government depends on the financial and technical support of its partners. In Spring 2002, the USA started the 'Train and Equip' programme in Georgia which led to the formation of elite battalions within the Georgian army, which came to enjoy relatively normal service conditions. For most soldiers, however, the situation remains critical.

### Security Sector Governance in Action

#### a) State of emergency

A state of emergency can be declared in cases of war, mass disorder, violation of national territorial integrity, military coup, armed insurrection, environmental disaster or epidemic or in other cases where state agencies are unable to exercise their functions properly. The decision of the President to declare a state of emergency or to impose martial law must be submitted to the Parliament within 48 hours for approval<sup>53</sup>. During a state of emergency or a period of martial law, the President of Georgia is authorised to restrict the exercise of certain rights and freedoms enshrined in the Constitution. These deal with the detention of an individual, the right to privacy, property rights, freedom of movement, freedom of information and the mass media, the right to public assembly, labour rights, the right to strike, and the protection of private information. If the parliament does not consent to the declaration of the state of emergency or the imposition of martial law, the presidential decision will have no legal effect. Furthermore, parliament must give its consent to any prolongation of the state of emergency. If parliament comes to the conclusion that there are no longer any lawful grounds for upholding a state of emergency, it can cancel it by passing a relevant law. According to the new constitutional amendments, the parliament, which has been dismissed by the president, convenes to approve or to prolong the state of emergency or state of war. If the parliament does not convene or does not approve the presidential decision on the state of emergency within five days, it will be abolished. The state of war must be abolished if the Parliament does not confirm it within 48 hours<sup>54</sup>.

The constitution does not provide to which extent respective human rights can be restricted and does not specify any system of control over these restrictions. The parliament may convene on its own initiative and sit until the end of a particular situation. This regulation aims at the prevention of power abuse by state agencies in an emergency situation. However, it does not provide any concrete mechanisms in this respect for how parliament might continue to oversee the activities of state authorities during the state of emergency. In addition to human rights' restrictions, the use of military force during the state of emergency is prohibited without a parliamentary agreement. Thus, Georgian law establishes the formal supremacy of the Georgian Parliament in the declaration and abolition of a state of emergency. However, during the state of emergency itself, the President possesses superior power. He issues binding decrees and is ultimately responsible for state defence, security and public order.

The Constitution does not explicitly envisage a parliamentary agreement *a posteriori*. Given that a state of emergency, in most cases, represents an immediate danger to the community that must be avoided rapidly and that parliamentary deliberations may prove time-consuming, it seems problematic to tag an a

<sup>52</sup> Pravda online, <http://english.pravda.ru/cis/2001/05/26/5985.html>, CNN "Georgia mutiny troops return to base", May 26, 2001, in:

<http://www.cnn.com/2001/WORLD/europe/05/26/georgia.army/index.html>.

<sup>53</sup> The Constitution of Georgia, Article 73, Par. 1.

<sup>54</sup> The Constitutional Amendments, adopted on 6<sup>th</sup> February 2004, Article 5.

*priori* approval of the Parliament onto an ongoing crisis situation. Furthermore, the reasons for which the legislature might not agree to the use of force in an emergency situation, or to the declaration of the state of emergency by the Executive, may owe to a lack of information or to simple incompetence. It is, on the other hand, self-evident that the declaration of a state of emergency can be abused by an undemocratic regime if there is no parliamentary control in place. Georgia has suffered from such an instance of abuse in one of its regions, where the local leader recently declared a state of emergency and restricted political rights disproportionately. A professional Parliament and an Executive guided by a democratic mindset would help avoid most complications in this respect. Some examples from the practice of the Georgian State will help to shed more light on practical questions arising from this context.

Eliava, a former General of the ousted President Gamsakhurdia, started a military insurgence in West Georgia on 18<sup>th</sup> October 1998, and marched towards Kutaisi, the second largest city in Georgia. Thereupon President Shevardnadze ordered the use of armed forces without a formal *a priori* agreement of the Parliament. However, a session of the Parliament was held on October 19<sup>th</sup>, at which Zhvania, Chairman of the Parliament, presented a report on the events unfolding in the West of the country. The Chairman regarded the revolt as "... an attempt at a *coup d'etat* and at establishing chaos in the country". The session of the Parliament, held on October 20<sup>th</sup>, was dedicated to discussing the same events. The Chairman of the Parliament gave the Members new information on the latest developments. It became clear that the Parliament supported the action of the President without adopting a formal resolution on suppressing the revolt or granting an *a priori* consent to the Government that would limit the room for manoeuvre of the officials in charge. Therefore, the activities of the Parliament in this respect could be qualified as consent by action.

On the morning of 25<sup>th</sup> May 2001, a unit of the Georgian Defence Ministry numbering roughly 400 servicemen refused to obey the orders of their Command and moved, without permission, to the area of the Mukhrovani settlement outside Tbilisi, where they occupied the territory of the dislocation of Georgia's interior troops. The non-payment of wages and other social problems were raised as one of the reasons for their disobedience. The forces of the Defence Ministry had blocked the base. President Shevardnadze called on the insurgents to surrender. The Georgian legislature reacted immediately to the crisis. Parliament interrupted its plenary session for the second closed-door emergency session of the parliamentary bureau, which constitutes the supreme administrative body of the Parliament, representing all groups and committees without having significant legal power. After the session, the members of parliament declared that the force of arms was not to be used against the insurgents, unless the situation had come to an impasse. Thus, parliament entrusted the executive with defining how the situation could be assessed as having come to an impasse. The parliament called on the government to do everything to bring the crisis to a peaceful end as soon as possible. Eventually President Shevardnadze negotiated personally with the insurgents, and the battalion returned to its place of dislocation. Herewith, the parliament supported the effectiveness of the Executive by not restricting its power of discretion to use force.

Just before his resignation in November 2003, President Shevardnadze declared a state of emergency. At that time there was no effective parliament in place which could endorse this decision. After his resignation, the president declared that he wanted to avoid the bloodshed that might take place if force were used against the demonstrators. What action should be taken in a situation where the Parliament is paralysed or directly attacked? It is evident that there is no place for an *a priori* consent. In this case, we can speak of the presumable consent of the democratically elected Parliament. Therefore, massive ballot fraud and undemocratic elections deprive the Parliament of its legitimacy and its right to consent to various human rights' restrictions initiated by the Executive. In this case the principle of democracy prevails over the principle of the effectiveness of the government.

Generally speaking, the executive should be able to order armed operations in situations of immediate danger and, thereafter, seek parliamentary approval as soon as possible. If parliament afterwards establishes that the executive acted unlawfully, the question of political responsibility can arise. Therefore, the executive will have to meet the pre-conditions of legality and proportionality in its operations during a state of emergency. It must be stressed, however, that the new constitutional amendments will weaken the position of parliament in this respect. The presidential power on the use of force will be strengthened. According to the new amendments to the Constitution, the president takes a decision on the use of force and submits it to the parliament for approval within 48 hours<sup>55</sup>. Contrary to the former wording of Article 100 Par. 1, which envisaged the use of force during the state of emergency, new

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<sup>55</sup> Ibid., Article 24.

amendments generally speak about the use of force. Moreover, the Parliament confirms the presidential decision. According to the former wording, the use of force was forbidden without parliamentary consent.

*b) International Peacekeeping*

The decision of the President on the use of armed forces for the fulfilment of international commitments becomes obligatory following parliamentary agreement. All International agreements on the participation of Georgian troops in peacekeeping, peace enforcement and all other peace operations must be ratified by Parliament in accordance with the law on the Participation of Georgian Armed Forces in Peacekeeping Operations adopted on 22<sup>nd</sup> July 1999. The main responsibilities for decision-making and the co-ordination of the participation of Georgian soldiers in international peacekeeping are divided between the President, Parliament, the Foreign Affairs Ministry and the Defence Ministry. If the Georgian Government plans to participate in peacekeeping operations that may include the use of force, the Foreign Affairs Ministry must negotiate a draft agreement with that respective country, which determines the number of deployed troops, their dislocation, tasks, readiness and means of participation. This widens the scope for parliamentary consent. It must be assumed that the legal power over ongoing operations does not pass to Parliament, but instead rests with the Executive. Interestingly, Parliament does not have the right to recall the deployed troops. Therefore, the question of what Parliament can do when, for example, there is unreasonable causality for the deployment, or if the military mission fails, remains open to debate. Nonetheless, Parliament can exercise limited political pressure.

There are, additionally, some other legally relevant points. The Constitution of Georgia and the Special Law do not explicitly regulate the participation of Georgian troops in operations that do not by necessity include the use of force - for example, in peace-building, relief or other humanitarian operations. In practice, there is no clear difference between those cases where general parliamentary consent is necessary and those where the Executive is obliged simply to inform Parliament about an ongoing operation and its changing modalities, e.g. about the numerical strength of deployed troops. There is no special regulation for situations of immediate danger, for example where troops undertake a rescue operation abroad.

Once a year, the Foreign and Defence Ministries of Georgia submit a report to Parliament concerning the participation of Georgian forces in peacekeeping, peace-enforcement and other peace operations<sup>56</sup>. However, the Parliament should be kept informed about any ongoing peace operation on a regular basis by means of its Defence or Foreign Relations Committee. Equally, parliamentarians who are experts in that field should also be included in any delegations sent to visit deployed forces. Georgia's capabilities in peacekeeping operations are limited; for the time being the Parliamentarians are unlikely to have any urgent interest in controlling them.

*c) Other Forms of International Military Co-operation*

According to Article 100 Par. 2 of the Constitution, for the purpose of state defence, in special cases, or cases envisaged by law, the decision to permit entry into and the use and movement of military forces of other countries on Georgian territory is taken by the President. The decision is immediately submitted to Parliament for approval and enters into force upon its consent. The Constitution does not differentiate between the interventions of foreign troops upon invitation, time-limited interventions, (for example, rescue operations), interventions on the basis of restoring legal order, counter-terrorist operations and the stationing of foreign military bases on Georgian soil for a relatively long time aiming at, for instance, the strengthening of a strategic and defence partnership. There is no special law on the stationing of foreign troops in Georgia by means of which this issue might be regulated. Therefore, in all cases of foreign deployment or transit in Georgia, parliamentary approval would be necessary. Because this provision was based on the historical experience that Georgia has had with regard to the stationing of Russian troops in the country, the Constitution provided for an explicit parliamentary agreement *a priori*. However, the foreign troops were already deployed in Georgia when the Constitution was adopted in August 1995. With respect to time-limited foreign interventions upon invitation, the same problematic rule can arise with regard to *a priori* consent, as already outlined in this paper.

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<sup>56</sup> The Law on the Participation of Armed Forces of Georgia in Peacekeeping Operations, adopted on 22<sup>nd</sup> July 1999, Article 10.

Furthermore, the Constitution determines the form of parliamentary authorisation. According to the Constitution<sup>57</sup>, international treaties with any military content must be ratified by Parliament. Thus, entrance into and use of foreign armed forces within the country also must be regulated by an international treaty ratified by Parliament. There are various international military agreements – from important military arrangements to treaties that regulate technical issues of military co-operation. The Georgian Constitution does not differentiate between them. The Parliament ratifies the treaties, concluded in different forms: agreements, mutual understanding memorandums, note exchanges. Thus, the scope of the international treaty on military issues, which must gain parliamentary approval, seems to be open to broad interpretation within the Georgian legal system. In addition, it must be stressed that international treaties involving Georgia, if they do not contravene the Constitution, prevail over domestic laws and other normative acts.

The fight against terrorism has represented one of the most crucial security challenges for Georgia in the last few years. After the attacks of September 11<sup>th</sup> 2001, the issue of terrorism is now discussed in terms of state sovereignty. A terrorist attack can instigate not only criminal proceedings conducted by the state authorities, but can lead to the involvement in an asymmetrical war based on interests of self-defence. Through the new legislation to be enacted soon, state authorities should be deprived of the opportunity to misinterpret terrorism in their own political interest, which would endanger democratic constitutional values. In this respect, a new role for Parliament in controlling the activities of state authorities, which bear the responsibility for fighting terrorism, must be defined and founded on a clear constitutional basis. According to the recent practice with regard to the deployment of US military experts in Georgia, co-operation with other countries to fight international terrorism must also be placed under the Georgian Constitution and approved by Parliament. This practice should become consistent and be improved in the future.

## Conclusion

During the last decade Georgia has been undergoing almost continual changes in its political system, which has effectively hindered the establishment of a consolidated security sector. The Parliament, whose primary function is to control the Government, has been dominated mainly by the Executive. This was very much the case under Gamsakhurdia and Shevardnadze until 1995. Shevardnadze abandoned the presidential system discredited by Gamsakhurdia in 1992 and established a formally stronger Parliament, which proved equally as unreliable and unconsolidated an institution. The result was a return to a Presidential Republic in 1995. The institutional and procedural framework of the Constitution provided for a strong President. The adoption of the Constitution had to guarantee the stability of the political system on the one hand, and establish a stronger Parliament on the other. However, the Executive keep parliamentary involvement in security sector governance to a minimum. Likewise, the suitability of the political system based on the Constitution adopted in 1995 had already been brought into question by 2001, when the President announced plans to introduce a cabinet system and consolidate his power. After the revolutionary change in 2003 the new political leaders of the country strengthened the Presidency through the establishment of a Cabinet to be headed by the Prime minister. Thus the syndrome of constitutional inconsistency and Executive domination seems set to persist. It is highly questionable whether the new system can better prevent political crises in the country or foster effective solutions to them.

A sound institutional framework may facilitate the improvement of the political culture, yet it does not guarantee such progress. Nonetheless, it is still necessary. It will be difficult to balance the self-contained and unaccountable Executive if democratic control is not institutionalised through an effective Parliament. Moreover, the preventive and controlling function of parliamentary consent to the activities of the Executive with regard to security sector governance could be extremely weakened within the new system. Parliament will come under pressure to consent to the respective decisions of the President and Government. As a result, parliamentary involvement in security sector governance could be marginalised. Past experience teaches that the personal and unilateral decisions in this respect during the last decade in Georgia have led to many acute problems in state-building, the establishment of democracy, conflict prevention, the promotion of human rights and dealing with external threats. In view of this, an optimal balance between the branches of government, and between democracy and effectiveness, must be maintained and improved through the institutional practice and civil society's involvement in such a way that the people's sovereignty, as guaranteed under the Georgian Constitution, is not undermined.

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<sup>57</sup> Article 65.

## **The Law of Georgia On the National Security Council**

### **Article 1. The National Security Council**

According to Article 99 of the Constitution of Georgia, the National Security Council, headed by the President of Georgia, is created for the organisation of military construction and defence of the country.

### **Article 2. The Status of the National Security Council**

The National Security Council is an advisory body of the President of Georgia for decision-making on strategic questions of the organisation of military construction and defence, internal and foreign policy related to the security of the country, maintenance of stability, law and order.

Structure, powers and order of activity of the National Security Council shall be determined by the Constitution of Georgia, this Law and other legislative acts.

### **Article 3. Powers of the National Security Council**

On behalf of the President of Georgia the National Security Council shall:

- a) provide the elaboration of the concept of national security;
- b) consider the major questions of internal and foreign policy, directly related to the maintenance of defence and the security of the state;
- c) discuss programs of construction and strengthening of the armed forces and provide the for the fulfilment of these programs;
- d) study and analyse existing situations and prospects in the places of international conflicts;
- e) develop proposals on the co-operation of Georgia with the collective security systems;
- f) in accordance with international treaties and agreements concluded or recognised by Georgia, consider the questions of participation of Georgia in the actions of security outside the country's borders;
- g) discuss the question of bringing into the country, the use and movement of the Armed Forces of other states in extraordinary circumstances and in the cases stipulated by law, for the purpose of defence of the state;
- h) draft laws and other statutory acts on questions of defence and national security;
- i) annually submit the number of the armed forces to the Parliament of Georgia for approval;
- j) discuss questions of combat and mobilisation readiness of the armed forces;
- k) prepare directive documents of the President of Georgia - Supreme Commander-in-Chief of the Armed Forces - on performance of the tasks assigned to them;
- l) co-ordinate research works in the field of military science;
- m) consider prospects of functioning and development of the war industry;
- n) discuss the questions of training, assigning of military personnel, the military draft and mobilisation;
- o) co-ordinate the activities on defence, state security, anti-criminality measures and on the protection of the public order in the strategic domain of security, law, order, and stability;
- p) control the activities of the ministries, the state departments, central administrative boards, corporations and other state departments, state bodies of autonomous republics and bodies of local government in the sphere of security and defence;
- q) under a labour contract invite scientists and experts of organisations, scientific and research establishments, legal, economic, sociological and political centres;
- r) develop and present to the President of Georgia a complex of necessary measures for revealing, forecasting, preventing and neutralising internal and external threat to the country's vital interests;
- s) in the period of an emergency situation, develop proposals for the prevention or elimination of serious political, social, economic, ecological and other consequences;
- t) organise and supervise the development and realisation of actions necessary for the reliable protection and safe functioning of the vital facilities of Georgia;
- u) consider questions related to martial law or a state of emergency, as announced by the President

of Georgia;

v) discuss questions related to the appointment of the representative of the President of Georgia in the region where the emergency situation is introduced;

w) carry out other powers stipulated by the legislation of Georgia.

#### **Article 4. Structure of the National Security Council**

The National Security Council shall consist of:

The President of Georgia (Chairman of the Council), the State Minister of Georgia, the Minister of Foreign Affairs of Georgia, the Minister of Defence of Georgia, the Minister of State Security of Georgia, the Minister of Internal Affairs of Georgia and the Secretary of the National Security Council.

The President of Georgia shall appoint these and other members of the National Security Council.

The Chairman of the Parliament of Georgia, the Chairmen of the Supreme Representative Bodies of Abkhazia and Ajara Autonomous Republics shall take part in the activities of the National Security Council directly;

The Secretary of the National Security Council, ex officio, shall be the Assistant to the President of Georgia on questions of national security.

#### **Article 5. Powers of the Secretary of the National Security Council**

The Secretary of the National Security Council shall:

- a) provide for the organisation of work of the Council of National Security;
- b) supervise the Apparatus of the Council of National Security;
- c) submit to the President of Georgia for approval the structure and the list of staff of the Apparatus of the National Security Council, as well as Provisions on the Apparatus of the National Security Council and its divisions;
- d) prepare the sessions of the National Security Council;
- e) supervise the execution of decrees, orders of the President of Georgia and other acts on questions of national security;
- f) co-ordinate activities of the permanent or temporary interdepartmental commissions, created by the National Security Council;
- g) sign orders of the National Security Council and contracts for performance of expert and analytical works;
- h) sign official documents within his competence.

#### **Article 6. The order of consideration of a question in the National Security Council**

The Sessions of the National Security Council shall be convened by the President of Georgia.

Members of the National Security Council shall elaborate recommendations on the considered questions on which a decision shall be taken by the President.

On the basis of recommendations, elaborated by the National Security Council on the questions of maintenance of national security, the President of Georgia shall issue the corresponding acts.

#### **Article 7. The interdepartmental commissions of the National Security Council**

According to the primary goals of its activity on a functional or regional basis, the National Security Council shall form permanent or temporary interdepartmental commissions.

DCAF-Security Sector Laws of Georgia

By the proposal of the National Security Council, the member of the National Security Council or the person, specially authorised by the President, shall supervise the permanent or temporary interdepartmental commission.

Powers, the order of formation and activity of the commissions of the National Security Council shall be determined by provision confirmed by the President of Georgia.

**Article 8. The apparatus of the National Security Council**

Organisational and technical, as well as informational and analytical activity of the National Security Council shall be provided by its Apparatus, headed by the Secretary of the National Security Council.

The structure and the list of staff of the Apparatus of the National Security Council, Provisions of the Apparatus and its divisions shall be approved by the President of Georgia.

President of Georgia

Eduard Shevardnadze

Tbilisi,  
January 24, 1996  
No. 90



# **The Law of Georgia On the Defence of Georgia**

## **Chapter I. - General Provisions**

### **Article 1. Sphere of Regulation of the Law**

This Law shall define the fundamentals and organisation of defence of Georgia, rights and duties of the government bodies, enterprises, establishments, organisations, officials and citizens in the sphere of defence.

### **Article 2. Fundamentals of Defence**

1. Defence of Georgia shall be a combination of political, economic, military, social, legal and other actions providing protection of the state, its population, territory and the sovereignty of Georgia from an armed attack.
2. Defence of Georgia shall be a component and one of the major functions of the state security of Georgia.
3. The organisation of defence shall be carried out according to the Constitution of Georgia, legislation and military doctrine of Georgia.

### **Article 3. The Organisation of Defence**

Defence shall include:

- a) legal regulation in the sphere of defence;
- b) forecast and assessment of the threat of war;
- c) construction, training and readiness of the Military Forces of Georgia;
- d) production and development of weapons and military-technical equipment;
- e) mobilisation readiness of the economy, state authorities, bodies of local self-government and government, enterprises, organisations and the population of the country;
- f) creation of the mobilisation reserve of material values;
- g) planning and implementation of defence activities;
- h) equipping of the territory and communications for the purposes of defence;
- i) assurance of protection of the state secret;
- j) development of the military science;
- k) international co-operation for the purpose of the state defence.

## **Chapter II. - Powers of the supreme state authorities, functions of the enterprises, establishments, organisations, rights and obligations of citizens of Georgia in the sphere of defence**

### **Article 4. Powers of the Parliament of Georgia in the sphere of defence**

1. The Parliament of Georgia shall:
  - a) define the state policy of Georgia in the sphere of defence;
  - b) approve the military doctrine of Georgia and the concept of the construction of the Military Forces of Georgia;
  - c) pass laws in the sphere of defence;
  - d) approve the text of the military oath;
  - e) consider the defence budget and approve it together with the state budget;
  - f) approve the numerical strength of the Military Forces of Georgia;
  - g) ratify, denounce and terminate international treaties and agreements on military questions;

h) control the construction of the Military Forces of Georgia and performance of the legislation of Georgia in the sphere of defence.

2. The Committee of Defence and Security of the Parliament of Georgia shall carry out the functions stipulated by the law of Georgia on the “Committees of the Parliament of Georgia”.

#### **Article 5. Powers of the President of Georgia in the sphere of defence**

1. According to the Constitution of Georgia, the President of Georgia is the Supreme Commander-in-Chief of the Military Forces of Georgia.

2. The President of Georgia shall:

- a) approve the structure and the army regulations of the Military Forces of Georgia;
- b) approve the official flags and banners of the Military Forces of Georgia;
- c) confer the state awards and supreme military ranks;
- d) in case of an armed attack on Georgia, the President may proclaim martial law and in case of the presence of corresponding conditions, conclude peace. These decisions shall be submitted to the Parliament of Georgia for approval within 48 hours;
- e) during war, mass disorder or violations of the territorial integrity of the country, in case of a military *coup d'état*, armed insurrection, ecological disaster or epidemics, when the state authorities are deprived of the opportunity to implement their constitutional duties, the President may proclaim a state of emergency throughout the whole territory of the country, or, in any part thereof. This decision shall be submitted to the Parliament of Georgia for approval within 48 hours;
- f) For the purpose of national defence and in special cases and in the cases prescribed by law, the decision to bring, use and reassign in the country the armed forces of another country shall be made by the President. The decision shall be immediately submitted to the Parliament of Georgia for its approval;
- g) conclude international treaties and agreements in the sphere of defence;
- h) submit for approval to the Parliament of Georgia the drafts of the country's military doctrine and the concept on the construction of its military forces;
- i) approve plans on the construction, usage and mobilisation of the Military Forces of Georgia, and also mobilisation plans of the national economy;
- j) approve the country's military - operating strategies;
- k) approve plans of the dislocation of the Military Forces and disposition of military facilities of Georgia;
- l) give orders to the Military Forces of Georgia on conducting the war operations;
- m) approve state programs on the development of weaponry and military technical equipment;
- n) decide on the proclamation of the mobilisation on the territory of Georgia;
- o) approve the civil defence program of Georgia.

#### **Article 6. Functions of the enterprises, establishments, organisations, rights and obligations of citizens of Georgia in the sphere of defence**

Functions of the enterprises, organisations and establishments (despite their submission or form of property), and also the rights and obligations of citizens of Georgia in the sphere of defence shall be determined by the legislation of Georgia.

### **Chapter III. - Purpose, structure and management of the Military Forces of Georgia**

#### **Article 7. Purpose of the Military Forces of Georgia**

1. Purpose of the Military Forces of Georgia shall be the protection of the independence, sovereignty and territorial integrity of Georgia, as well as performance of international commitments of Georgia.

2. Without the consent of the Parliament of Georgia it shall not be admissible to use Military Forces of Georgia during a state of emergency or for performance of international commitments.

**Article 8. Structure of the Military Forces of Georgia**

1. The Military Forces of Georgia shall consist of:

- a) Armed Forces of Georgia;
- b) Border Guards of the State Department of Protection of the State Border of Georgia;
- c) Internal Troops of the Ministry of Internal Affairs of Georgia;
- d) other armed formations created in established by the legislation order.

2. Armed Forces of Georgia shall consist of:

- a) ground forces;
- b) military - air forces;
- c) armies of anti-aircraft defence;
- d) military - naval forces. (26.10.2001 No. 1127)

**Article 9. The leadership and management of the Military Forces of Georgia**

1. The Ministry of Defence of Georgia shall be the body of state management of the Armed Forces of Georgia and shall be responsible for the training, development and implementation of assigned defensive tasks. In case of a state of emergency, martial law or mobilisation, the Military Forces of Georgia shall be managed by the General Headquarters of the Armed Forces, which shall be headed by the Commander-in-Chief of the General Headquarters. The purpose of the General Headquarters, its tasks, functions, the status of the Head of the General Headquarters and its duties and responsibilities shall be determined by the provision approved by the President of Georgia. (26. 10. 2001 No. 1127)

2. The State Department of Protection of the State Border of Georgia is the executive agency which shall provide the protection and inviolability of the State Border of Georgia on the land, sea, lakes, rivers and the general ways of international communications.

3. Internal troops of the Ministry of Internal Affairs of Georgia shall be obliged to protect the interests of the society and the state, the legitimate rights and freedoms of citizens from criminal and other illegal infringements.

4. Types, structure and the order of management of the Military Forces of Georgia shall be established by law.

**Chapter IV. - Final provisions**

**Article 10. Enforcement of the Law**

This Law shall enter into force upon its promulgation.

**Article 11. Normative act becoming invalid with enforcement of this Law**

With enforcement of this Law, the Law of the Republic Georgia "On Defence of Georgia" of December 22, 1992 (The Gazette of the Parliament of Georgia, 1992, No. 2, article 94) shall be considered as invalid.

President of Georgia

Eduard Shevardnadze

Tbilisi

October 31, 1997

No. 1030

**The Law of Georgia**  
**On Export and Import Control of Arms, Military Technical Equipment and Dual -Purpose  
Production**

This Law shall specify the foundations and order of the providing of export and import control of arms, military technical equipment, raw materials, materials, devices, technologies, scientific and technical information and services, connected with their production and use pursuant to the interests of international and national security of Georgia and for strengthening of regimes of non-proliferation of weapons of mass destruction.

**Chapter I. - General Provisions**

**Article 1. Explanatory of terms used in the law**

Explanation of terms used in the law:

- a) **production** - goods, technologies, devices, service and information subject to export and import control pursuant to this Law;
- b) **dual-purpose production** – production, which is not intended for military purposes, but can be used for the creation of nuclear, chemical and other weapons of mass destruction and for its transportation;
- c) **nomenclature of production subject to export and import control** - control lists, the list of arms and military technical equipment, dual-purpose production, among them nuclear and special non-nuclear materials, devices, technical, scientific and technical information and service, which are used or can be used for the creation of the weapon of mass destruction or means of its transportation;
- d) **rights on results of intellectual activities** - copyrights to scientific work, electronic programs and databases, industrial property, inventions, production made or belonging to natural or legal persons, the service carried out by them, including services connected with arms, military technical equipment, dual-purpose production, special equipment and industrial samples of technologies for the creation of weapons of mass destruction and know-how;
- e) **export** - export of production from the customs territory of Georgia beyond of its borders for the purpose of its permanent stationing or usage, service of the extraneous persons and assignment of the rights to results of intellectual activity connected to the arms and military- technical equipment or dual-purpose production;
- f) **re-export** - export of production made outside of the customs territory of Georgia or export to a third country of the production made in Georgia from the customs territory of another state;
- g) **transit** – displacement of the production on the customs territory of Georgia;
- h) **exporter** - the natural or legal person of Georgia, and also the natural or legal person of a foreign state, who carries out export of production from Georgia;
- i) **nuclear and special non-nuclear materials** – materials, which are defined as such according to requirements of international regimes of non-proliferation of the nuclear weapon;
- j) **export and import control** - joint actions, aimed at the implementation of rules of export and import, re-export and transit of production subject to export and import control, and avoidance, revelation and suppression of infringements of these rules by the state authorities according to this Law and other laws and normative acts;
- k) **service** – activities carried out for satisfaction of needs of other persons.
- l) **import** - import of production from the territory of a foreign state to the customs territory of Georgia for the purpose of its permanent stationing or usage, service and assignment of the rights to results of intellectual activity connected with the arms and military- technical equipment or dual-purpose production;
- m) **importer** - the natural or legal persons of a foreign state, and also the natural or legal persons of Georgia, who carry out import of production in Georgia. (7.05.2003)

## **Article 2. Principles of Implementation of export and import control**

Main principles of implementation of export and import control in Georgia shall be:

- a) observance of international commitments of Georgia on non-proliferation of weapons of mass destruction and other kinds of weapon;
- b) priority of political interests while implementing the export and import control;
- c) check of the final use of production, subject to export and import control in the frames of the regimes of non-proliferation;
- d) availability of the legislative information on export and import control.

## **Article 3. The Legislation of Georgia on export and import control**

The legislation of Georgia on export and import control shall be based on the Constitution of Georgia, present law and international treaties and agreements of Georgia.

## **Chapter II. - Production subject to export and import control**

### **Article 4. Production subject to export and import control**

1. According to requirements of this Law, the production subject to export and import control shall be taken to mean:

- a) the conventional arms and technical equipment, raw materials, materials, special devices and technologies and also the service connected with their production;
- b) nuclear materials, technologies, devices, installations, special non-nuclear materials, dual-purpose production, devices, technologies, sources of radiation and isotope production, a list made according to the international regimes of non-proliferation;
- c) dual-purpose chemicals and technologies, which can be used for the creation of chemical weapon, according to the established list of international regimes of non-proliferation;
- d) activators of diseases, their genetically changed forms and fragments of genetic materials, which can be used for the creation of bacteriological (biological) and toxic weapons, according to the established list of international regimes of non-proliferation;
- e) devices, materials and technologies, which are used for the creation of the rocket weapon, according to the list of international regimes of non-proliferation;
- f) scientifically technical information, service and results of the intellectual property connected with military production;
- g) other kinds of production specified by the decision of the President of Georgia.

2. Production listed in the present article, irrespective of the proprietor, place and time of origin, shall be subject to export and import control.

## **Chapter III. - Powers of state authorities of Georgia in the sphere of export and import control**

### **Article 5. Powers of the Parliament of Georgia**

The Parliament of Georgia shall:

- a) determine the state policy in the sphere of export and import control;
- b) create and develop the system of export and import control;
- c) present to the Permanent Interdepartmental Commission on Military Technical Questions of the National Security Council, the list of states on which the restrictions may be imposed concerning the export (import) of production subject to export and import control of the customs of Georgia;
- d) implement the legislative regulation of export and import control.

## **Article 6. Powers of the President of Georgia**

The President of Georgia shall:

- a) issue normative acts for the regulation and implementation of export and import control;
- b) approve the list of military production of strategic purpose and service subject to export and import control on presentation of the Permanent Interdepartmental Commission on Military Technical Questions of the National Security Council of Georgia;
- c) supervise the activities of the executive agencies of Georgia, who implement export and import control;
- d) determine the powers of executive agencies of Georgia in the sphere of export and import control;
- e) in cases prescribed by international treaties and pursuant to the national interests of Georgia, establish quantitative restrictions on the export (import) of production subject to export and import control;
- f) authorise the export of military production of strategic purpose subject to export and the services connected with the military production upon presentation of the Permanent Interdepartmental Commission on Military Technical Questions of the National Security Council of Georgia;
- g) authorise the transit of special cargo upon presentation of the Permanent Interdepartmental Commission on Military Technical Questions of the National Security Council of Georgia.

## **Article 7. Powers of executive agencies of Georgia**

1. Executive agencies of Georgia shall:

- a) provide direct implementation of the state policy of export and import control;
- b) develop and take measures which are connected with the implementation of the system of export and import control, unification of the rules and procedures - make their corrections;
- c) together with the Permanent Interdepartmental Commission on Military Technical Questions of the National Security Council, determine and submit the control lists and the list of production subject to export and import control to the President of Georgia for his approval;
- d) check the export, import, re-export and transit of production subject to export and import control through the empowered bodies of the state authority;
- e) expertise the applications for export (import);
- f) in case of need, give out to the applicants the conclusions on the assignment of exported (imported) production to the category that is subject to export and import control;
- g) stop the illegal moving of production subject to export and import control at the customs authorities of Georgia.

2. The Permanent Interdepartmental Commission on Military Technical Questions of the National Security Council of Georgia, in view of the list submitted by the Parliament of Georgia, shall submit the list of those states to the President of Georgia for his approval, on which restrictions on the export (import) of production subject to export and import control through the customs of Georgia may be imposed.

## **Chapter IV. - Implementation of export and import control**

### **Article 8. The export and import control and order of its implementation**

1. Export (import) of production subject to export and import control shall be carried out according to the legislation of Georgia, and also according to the international treaties and agreements of Georgia on the non-proliferation of weapons of mass destruction, other kinds of weapons and their creation technologies.

2. Export, import, re-export and transit of production subject to export control shall be carried out on the basis of the permit, which shall be issued by the Justice Ministry of Georgia on armaments (weapons),

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military technical equipment, technical documentation, services connected with the production of weapons, other services and combat materials. The permit on the dual-purpose production shall be issued by the Ministry of Economics, Industry and Trade of Georgia. (7.05.2003)

3. The permit on the transit of dual-purpose production shall be necessary if this production is marked in the list endorsed pursuant to Subparagraph (f) of Article 6. In this case, the applicant shall present to the Ministry of Economics, Industry and Trade of Georgia the documentation which is prescribed by Paragraph 2 of Article 22 of the Law “On General Procedures for Granting Business Licences and Permits”. (7.05.2003)

4. The applicant for a permit to export, import, re-export and transit the production subject to export and import control shall additionally present to the authorised executive agency the following documentation envisaged in Paragraph 2 of this Article:

- a) export or import contract;
- b) certificate on the product origin.

5. In case of export or re-export of the production which is of strategic purpose according to Subparagraph (b) of Article 6 and dual-purpose production which is marked in the list endorsed pursuant to Subparagraph (f) of Article 6, the applicant shall additionally present a certificate of the final user which shall be issued by an authorised agency and contain the obligation of the receiving country on the use of this production for peaceful purposes and on inadmissibility of its handing over to a third country without the agreement of the exporter country.

6. In case of export, import, re-export and transit of armaments (weapons), military technical equipment, technical documentation, services connected with the production of weapons, other services and combat materials the Justice Ministry of Georgia may issue a permit after presenting to it the following documentation:

- a) the copy of a signed contract (agreement) or the protocol of intentions;
- b) the permit on the implementation of export, import, re-export and transit of armaments (weapons), military technical equipment, technical documentation, services connected with the production of weapons, other services and combat materials, issued by the authorised state body of the country, on the territory of which the party of the contract or of the protocol of intentions is registered;
- c) the certificate on the final use if the applicant did not present the user.

7. In addition to the cases prescribed by Paragraph 8 of this Article the authorised executive agency of Georgia shall issue the permit on the basis of the recommendation of the Permanent Interdepartmental Commission on Military Technical Questions of the National Security Council, which shall be presented the copies of documents envisaged in Paragraphs 4-6 of this Article.

8. The permit on export, import, re-export and transit of the dual-purpose production, except for production marked in the list which is endorsed pursuant to Subparagraph (f) of Article 6, of smooth bore gun, sporting gun, the gun which is an award, gas and flint, a collection gun and combat materials necessary for their production shall be issued without the recommendation of the Permanent Interdepartmental Commission on Military Technical Questions of the National Security Council.

9. The originals of the permit and contract shall be presented to the customs authorities by the owner of the permit.

10. While exporting (importing) the nuclear and special non-nuclear materials and dual-purpose production, the contract shall prescribe that the authorised executive agencies of Georgia may check the final use of this production.

11. Export of nuclear, special non-nuclear materials, of the production of special strategic purpose, of dual-purpose production, marked in the export lists, to those countries, which do not own the nuclear weapon, may be carried out only in such case, if there is a consent of proxy state authorities of these countries that received export and import production and also nuclear or special non-nuclear materials, dual-purpose production, installations, equipment, which are produced as a result of its use:

- a) will not be used for the production of nuclear weapons or nuclear explosive installations or for other military purposes;
- b) will be subject to the control by the International Agency of Atomic Energy (guarantee) throughout the period of their use, according to the agreements on guaranties between the receiving country and the International Agency of Atomic Energy;
- c) will be provided with means of physical protection, according to a level recommended by the International Agency of Atomic Energy;
- d) will be re-exported (exported) or will leave the jurisdiction of the receiving country only on the conditions stipulated in Subparagraphs (a), (b) and (c) of the present Paragraph; and re-export of the uranium enriched over 20 % and also plutonium or heavy water will be possible only by the written agreement of the executive agency of Georgia, proxy in questions of atomic energy.

12. The person, who applied for a permit, shall be responsible for reliability of the information submitted in order to receive the permit.

13. The authorised executive agency of Georgia, issuing the permit, may terminate or suspend the permit, if the exporter (importer) violates the order of the implementation of export and import operations, additionally in cases, prescribed by Chapter VII of the Law of Georgia “On General Procedures for Granting Business Licences and Permits”.

14. The authorised agency of export and import control of executive authority of Georgia, in case of need, may check up the production subject to export control.

15. Moving of arms, military technical equipment, subsidiary property of educational and military purpose for the purpose of repair of samples of their components through the customs authorities of Georgia shall be carried out under the decision of the authorised executive agency of Georgia. The Permanent Interdepartmental Commission on Military Technical Questions of the National Security Council of Georgia shall be informed about this.

16. The customs authorities of Georgia shall supervise the export of production subject to export and import control from Georgia.

#### **Article 9. Re-export and transit**

1. Re-export of production subject to export and import control shall be carried out in the order established by this Law.

2. Re-export of production from Georgia shall be subject to export control and shall be carried out upon the permission of the authorised executive agency of Georgia.

3. Re-export of production entered on the customs territory of Georgia shall be subject to export control and may be carried out without permission of the authorised agency of the sending country.

4. Transit of production subject to export and import control, except for dual-purpose production marked in the list endorsed pursuant to Subparagraph (f) of Article 6 of this law, shall be carried out by the permission of the authorised executive agency of Georgia. The Permanent Interdepartmental Commission on Military Technical Questions of the National Security Council of Georgia shall be notified immediately about issuance of the permit.



5. In case of transit of dual-purpose production which is not marked in the list endorsed pursuant to Subparagraph (f) of Article 6 of this law, the customs authorities shall be obliged to submit the respective information to the Ministry of Economics, Industry and Trade and to the Justice Ministry.

**Article 10. Participation of Georgia in international sanctions connected with export and import control**

1. Participation of Georgia in international sanctions connected with export and import control which are imposed on one or several countries shall be determined by the legislation of Georgia, on the basis of decisions of the United Nations Organisation or other international organisations.

2. In certain cases, Georgia may apply the sanctions stipulated in Paragraph 1 of the present Article unilaterally.

3. In case of the introduction of economic sanctions, the order of compensation for damages to exporters (importers) shall be determined by the legislation of Georgia.

**Article 11. Restriction of export**

1. Georgia shall have the right to establish restrictions, including embargo, on the export of production subject to export and import control in case of infringement of the commitments taken vis-à-vis Georgia by foreign states and, also under the decision of those international organisations, member of which Georgia is.

2. Upon presentation of the Permanent Interdepartmental Commission on Military Technical Questions of the National Security Council of Georgia, the President of Georgia, according to the interests of national security and performance of international commitments of Georgia, shall approve the list of those states, in relation to which restrictions on export of production subject to export and import control through the customs of Georgia may be imposed.

**Article 12. Protection of the information**

The executive agencies and officials of Georgia authorised to export and import control shall be obliged to assure the confidentiality of the information received from exporters (importers) of production pursuant to the order established by the General Administrative Code of Georgia.

**Article 13. Participation in the activities of international organisations**

Georgia participates in the activities of those international organisations connected with the maintenance and consolidation of regimes of non-proliferation of weapons of mass destruction, which operate according to the requirements of the United Nations Organisation and other organisations in the area of export and import control.

**Article 14. Responsibility for infringement of the legislation of Georgia on export and import control**

The responsibility for infringement of requirements of this Law shall be determined according to the legislation of Georgia.

**Chapter V. - Transitive provisions**

**Article 15. Normative acts to be adopted in connection with the enforcement of the law**

Before enforcement of this Law, the following normative acts shall be adopted:

- a) Law of Georgia “On Amendments to the Criminal Code of Georgia”;
- b) Law of Georgia “On Amendments to the Criminal Procedures Code of Georgia”;

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- c) Law of Georgia “On Amendments to the Code of Administrative Offences of Georgia”;
- d) Law of Georgia “On Amendments to the Law of Georgia On Fire-Arms”;
- e) Decree of the President of Georgia “On the List of Production subject to Export Control”.

**Chapter VI. - The final provision**

**Article 16. Enforcement of the Law**

This Law shall take effect as of September 1, 1998.

President of Georgia

Eduard Shevardnadze

Tbilisi  
April 28, 1998  
No. 1351

## **The Law of Georgia On the State Border of Georgia**

Proceeding from the independence, state sovereignty and territorial integrity of Georgia, this Law shall regulate the status of the State Border, and also relations connected with establishing and maintaining the regime of the State Border on the land, in internal and territorial waters (in the territorial sea), air space, exclusive economic zone and continental shelf of Georgia.

### **Chapter I. - General provisions**

#### **Article 1. The State Border of Georgia**

1. The State Border of Georgia consists of an administrative border of the Georgian Soviet Socialist Republic established by the legislative acts of the former USSR and the State Border, recognised by the international agreements of the former Soviet Union, defining the State Border of the former USSR in the part of Georgia.
2. According to Paragraph one of Article 2 of the Constitution of Georgia, the territory of the State of Georgia shall be determined as of December 21, 1991. The territorial integrity and inviolability of the State Border of Georgia are recognised by the World Community of States and international organisations.
3. The State Border of Georgia shall be established according to the Constitution of Georgia, legislative acts of Georgia, international treaties and agreements of Georgia and this Law.

#### **Article 2. Explanation of terms**

The terms used in this Law shall have the following meaning:

- a) The State Border of Georgia** - the line and a vertical plane going along that line, separating the territory of Georgia – land, waters, air space from the territory of the adjacent state;
- b) protection of the State Border** – the complex of political and legal, economic, military – operative, operative and investigative, engineering and technical, regime, organisational, ecological, sanitary and other measures connected with the protection of the State Border providing inviolability of the State Border, performance and control over established rules in a border zone, borderland and border checkpoints and also observance of the state, private and public interests;
- c) the regime of the State Border** - the order of crossing of the State Border; rules of stay and navigation of the military and non-military ships of Georgia and other states in internal waters, ports and territorial waters of Georgia, and also rules of conducting trade and other activity, various works on the State Border;
- d) border zone** - an overland strip in width not more than 5 kilometres reaching into the territory of Georgia from either the State Border or a coastal line, and also the part of the international airport (air station), railway station, international river and seaport, where the border control connected with the crossing of border shall be carried out;
- e) border land** - a part of a border zone in width no more than 500 meters directly adjoining to the State Border;
- f) air space** - the air space (atmosphere) vertically located above the state territory of Georgia, on which, according to the generally recognised norms of international law and the international treaties and agreements of Georgia, spreads across the sovereignty of Georgia;
- g) air vessel** - the flying device with an engine or without it;
- h) air communication** - transportation by an air vessel of passengers and cargo between two states (one of which is Georgia);
- i) border checkpoint** - the site of a highway or road allowed for international communication, a part of territory of a railway station, port, airport (air station), where border and other kinds of control established by the legislation of Georgia shall be carried out, which are connected with the crossing of the border;

**j) quarantine** - temporary restriction of movement through the State Border of Georgia of people, animals, cargo, seed and planting materials, other products of animal and vegetable origin;

**k) physical and technical protection of the State Border** - protection of the State Border and its constructions (buildings, border checkpoints and other facilities) from illegal encroachments;

**l) port** - a site of a sea coast and a water space adjoining to it equipped with permanent devices and hydraulic engineering constructions necessary for enter, stay and departure of floating means, for the carrying of cargo and other works and administration;

**m) military ship** - any floating means belonging to the armed forces of any state under command of the officer of military service, which is enlisted in the record of naval officers of this state and which has decorations designating state belonging and crew submitting to the military discipline;

**n) special purpose vessel carrying out the state task** - floating means of any state used for scientific research or other non enterprise activities;

**o) nuclear vessel** - any floating means equipped with a nuclear power installation or armed with nuclear weapons, or transporting nuclear or other poisoning substances;

**p) inspection of the ship** - checking of navigating and floating means and also documents of crew members, passengers and cargoes, and in case of need, the rooms of the ship;

**q) border incident** - the conflict on the State Border of Georgia between the citizens of Georgia and border formations of the adjacent state or between border forces of the State Department of Protection of the State Border of Georgia and citizens of the adjacent state which could have an armed character.

### **Article 3. Internal waters of Georgia**

Internal waters of Georgia shall include:

- a) waters of the rivers, lakes and other reservoirs, the coasts of which completely belong to Georgia;
- b) waters of the Black Sea between direct initial lines established for counting out of land and territorial waters;
- c) waters of the ports of Georgia restricted to a line passing through the points (most removed aside the sea) of hydraulic engineering or other constant constructions of the port.

### **Article 4. Territorial waters (the territorial sea) of Georgia**

1. The territorial waters (the territorial sea) of Georgia shall include the part of coastal waters of the Black Sea at a breadth of 12 nautical miles, which shall be measured from the baselines connecting the points, the co-ordinates of which shall be approved by the President of Georgia upon presentation of the State Department of Protection of the State Border of Georgia.

2. In some cases, the width of territorial waters (the territorial sea) of Georgia may be established by the international treaties or agreements of Georgia, and in their absence, according to the generally recognised principles and norms of international law.

### **Article 5. The zone contiguous to the territorial waters of Georgia**

1. In order to suppress the infringement of customs, fiscal, immigration or sanitary legislation and rules, the contiguous zone shall be established on the territory or in the territorial waters of Georgia, which represent a strip of the sea with a width of 12 nautical miles and from the side of the high sea adjoining the territorial waters.

2. The contiguous zone shall spread to a distance of not more than 24 nautical miles from baselines from which the territorial waters shall be measured.

### **Article 6. Exclusive economic zone of Georgia**

The exclusive economic zone shall be a sea space counted from the baselines from which the territorial waters are measured and breadth of which does not exceed 200 sea miles.

**Article 7. The continental shelf of Georgia**

1. The continental shelf shall be the sea-bed extending throughout the whole natural prolongation of its land territory of a distance of 200 nautical miles up to an external border of the underwater edge of a land, or, extending for not more than 200 nautical miles from the baselines from which the territorial waters are measured, where the outer edge of the continental margin does not extend up to that distance.
2. In some cases, the external border of the continental shelf shall be established by international treaties or agreements concluded with contiguous or opposite States.

**Article 8. The legislation of Georgia on the State Border of Georgia**

1. The legislation of Georgia on the State Border of Georgia shall consist of the Constitution of Georgia, this Law, the Regulations “On Regime and Protection of the State Border” and other normative acts of Georgia.
2. The Regulations “On Regime and Protection of the State Border” shall be elaborated by the National Security Council of Georgia and approved by the President of Georgia.

**Article 9. Border policy of Georgia**

1. The border policy of Georgia as a component of a policy of maintenance of independence, state sovereignty and territorial integrity of Georgia shall be determined by the Parliament of Georgia.
2. The President of Georgia, the bodies of executive authority of Abkhazia and Ajara Autonomous Republics, the bodies of local self-government shall provide fulfilment of a border policy of Georgia within the limits of the competence given by the legislation of Georgia.
3. The State Department of Protection of the State Border of Georgia is a specially authorised executive agency of Georgia, which shall carry out actions on the maintenance of the protection of the State Border and shall supervise its fulfilment.
4. While establishing the State Border, regulating relations with other States connected with the State Border in a border zone and borderland, regulating legally international communication throughout the whole territory of Georgia, Georgia is guided by the following principles:
  - a) providing the security of Georgia and international security;
  - b) mutually beneficial and overall co-operation with other states;
  - c) observance of the generally recognised principles and norms of international law concerning state sovereignty, territorial integrity and inviolability of state borders;
  - d) the peaceful settlement of border disputes.
5. Georgia solves border questions with the contiguous states on the basis of mutual friendship and good neighbourhood, according to the Constitution of Georgia, this Law, other legal and international treaties and agreements of Georgia.
6. If the State Border of Georgia with the contiguous State is not legalised according to the norms of international law, it shall be established on the basis of the Constitution of Georgia and Paragraph one of Article 1 of this Law, by the international treaty or agreement concluded with this contiguous State.

**Article 10. Establishing the State Border of Georgia**

1. If the international treaties or agreements of Georgia do not envisage otherwise, the State Border of

Georgia shall be established:

- a) on the land - by characteristic points and lines of a relief or visible reference-points;
- b) on the sea – according to the territorial waters of Georgia and an contiguous zone;
- c) on the navigable rivers - in the middle of the main fairway or a thalweg;
- d) on the non-navigable rivers or stream - in the middle accordingly of the river or a stream, or the main arm of the river;
- e) on lakes, artificial reservoirs and water basins - by direct lines connecting the points of passing of the State Border of Georgia along lakes, artificial reservoirs and water basins;
- f) on artificial reservoirs or water basins - according to a line of the State Border in existence before their filling;
- g) on the railway and road bridges, dams and other hydraulic engineering constructions situated in the border zone - by a transversal axis of their plans or in the middle of these constructions irrespective of passing of the State Border on water.

2. If the international treaties or agreements of Georgia do not envisage otherwise, the State Border passing along the river, channel, stream, lake, artificial reservoir or water basin may not be moved nor changed an outline of their coast or water level, neither in case of a deviation of a course of the river, stream or channel to one or another side.

#### **Article 11. Marking the State Border of Georgia**

If the international treaties or agreements of Georgia do not envisage otherwise, the State Border shall be marked by obviously visible border signs, the form, sizes and the sequence of placing of which shall be determined by the Regulations “On Regime and Protection of the State Border”.

#### **Chapter II. - The Regime of the State Border of Georgia**

##### **Article 12. The Regime of the State Border of Georgia**

If the international treaties or agreements of Georgia do not envisage otherwise, a regime of the State Border of Georgia shall establish:

- a) the order of crossing of the State Border by individuals and transports and the order of their check-up;
- b) the order of moving through the State Border of persons, of the transportation of property, things, currencies, precious metals, stones, articles, subjects of history and culture protected by the State, (22.06.2001 N987) securities and animals;
- c) the order of entrance, stay and departure of persons and transport, import and export of goods from border checkpoints;
- d) the order of calling in, movement and stay of the floating means of Georgia and foreign states in the internal waters, ports and territorial waters of Georgia, and also an exit from there;
- e) the order of crossing of the State Border by air ships and other flying devices in the air space of Georgia;
- f) the order of conducting on the State Border of Georgia of trade and other activity, various works according to this Law, other legal acts and international treaties and agreements of Georgia.

##### **Article 13. Crossing of the State Border of Georgia**

1. Railway, automobile, sea, river and air communication through the State Border of Georgia shall be carried out by means of border checkpoints, confirmed by the President of Georgia according to the legislation, international treaties and agreements of Georgia.

2. The national flag of Georgia shall be set up above a border checkpoint.

3. The order of opening of border checkpoints for international communications shall be determined by the

Regulations “On Regime and Protection of the State Border”.

4. The State Department of Protection of the State Border of Georgia in co-ordination with the Customs Department of Georgia shall establish borders of border checkpoints and submits it for approval to the President of Georgia.

5. Flight of an air vessel through the State Border of Georgia outside of an air corridor shall be admissible only under the permission of the Air Department of the Ministry of Transport of Georgia. The conditions of delivery of the sanction and flight shall be defined by the Regulations “On Regime and Protection of the State Border”.

**Article 14. Control over crossing the State Border of Georgia**

1. Persons, transport, cargoes and other property moving through the State Border of Georgia shall pass border and customs control. Immigration, sanitary and quarantine, veterinary and phyto-sanitary control, and also control over moving of cultural and art values and other kinds of control shall be carried out in cases established by the Regulations “On Regime and Protection of the State Border”.

2. The Captain of floating means, the Commander of an air vessel, the Chief of a train, the driver of a vehicle arriving from abroad to Georgia and also going abroad from Georgia shall be made responsible in the order established by the legislation of Georgia for the illegal import and export of persons, transportation of forbidden cargoes by his transport means.

3. Examination of transport arriving from abroad shall be made in the presence of its owner (his representative) and (or) in presence of service personnel of transport. If the international treaties or agreements of Georgia do not envisage otherwise, in case of necessity established by the legislation of Georgia, the owner of a vehicle (his representative) shall be obliged to show to border guards a vehicle for examination, to give them an opportunity to open the sealed wagon, automobile, container, other premises of water and air transport.

**Article 15. Admission of persons, transport, animals, cargoes and other property through the State Border of Georgia**

1. Admission of persons, transport, animal, cargo and other property through the State Border of Georgia shall be carried out by use of border checkpoints, and involves a recognition of the legality of crossing of the State Border by persons and of the transportation of animals, cargo and other property.

2. Persons let through the State Border of Georgia by the employees of the State Department of Protection of the State Border of Georgia after the presentation by them of established by the legislation of Georgia documents certifying the person and corresponding documents on transport, animals, cargoes and other property.

3. If the international treaties or agreements of Georgia do not envisage otherwise, the admission through the State Border of Georgia of transport, animals, cargo and other property shall be carried out in accordance with the Regulations “On Regime and Protection of the State Border”.

**Article 16. The order of entrance of persons and transport in border checkpoints, stay there and departure, and also import and export of the goods**

The order of entrance of persons and transport in border checkpoints, stay there and departure, import and export of goods shall be established by “The Regulations on Regime and Protection of the State Border” and also by the international treaties and agreements of Georgia.

**Article 17. Take-off and landing of an air vessel**

1. Take-off from the territory of Georgia and also landing after flight in air space of Georgia of those air

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crafts, which have to cross the State Border of Georgia, shall be carried out at the airports (in air stations) opened for international flights, where there are border checkpoints, customs authorities and other corresponding services.

2. Take-off and landing of air crafts in the order distinguished from the established by the Paragraph one of the present Article, shall be admissible only under the permission of the Air Department of the Ministry of Transport of Georgia, conditions and order of delivery of which shall be established by the Regulations “On Regime and Protection of the State Border”.

3. Aircraft crossing of the State Border of Georgia and flight through the air space of Georgia during transit shall be forbidden:

- a) landing at the airports (in air stations) or take-off from the airports (from air stations), which are not open for the international communication;
- b) flights in forbidden areas, about what it shall be publicly announced in the established order;
- c) other activity forbidden by the legislation, international treaties and agreements of Georgia.

4. Entrance of a foreign military air vessel in the air space of Georgia without the sanction envisaged by this Law, shall be regarded as an encroachment on the state sovereignty and territorial integrity of Georgia, for suppression of which Georgia will take measures determined by the norms of international law.

### **Article 18. The order of calling in of foreign non-military, military and nuclear ships in the ports and internal waters of Georgia**

1. Calling in of the foreign military ships in the ports and internal waters of Georgia without the permission stipulated by this Law, shall be regarded as an encroachment on the state sovereignty and territorial integrity of Georgia, for suppression of which Georgia will take measures determined by the norms of international law.

2. Foreign non-military and military ships may enter into ports and internal waters of Georgia, if ports are open for the calling in of such vessels. The list of open ports shall be approved by the President of Georgia. Rules of calling in, stay, carrying out of cargo and passenger operations, dialogue with coast of floating means, landing on coast of the members of crew and other rules shall be established by the Regulations “On Regime and Protection of the State Border”.

3. Foreign vessel of special purpose carrying out the state task, for reception of the permit of calling into the ports and internal waters of Georgia shall raise the petition at the State Department of Protection of the State Border of Georgia through diplomatic channels not later than 14 days before its calling in. In the petition shall be specified the name, type of a vessel, the list of onboard passengers and other data stipulated by the Regulations “On Regime and Protection of the State Border”. The State Department of Protection of the State Border of Georgia shall notify the owner of a vessel (his representative) on the decision not later than 7 days before the calling in. These requirements shall not be applied to vessels carrying out salvage operations or works on liquidation of sea pollution.

4. The foreign military ship for reception of the permit of calling in the ports and internal waters of Georgia shall raise the petition before the President of Georgia through diplomatic channels not later than one month before its calling in. The National Security Council of Georgia shall consider, in a one-week term, the petition and shall present the decision to the President. The President shall take a decision in a two weeks term.

5. For reception of the permit of the calling in of a foreign nuclear vessel in the ports and internal waters of Georgia, the country-owner of a vessel not later than 30 days before calling in of the vessel through diplomatic channels, shall raise the petition before the President of Georgia. The National Security Council of Georgia shall consider the petition in a one-week term and shall present the decision to the President. This country shall be notified on the consent or refusal no later than 14 days before the calling in.



**Article 19. Innocent passage through the territorial waters of Georgia**

1. Innocent passage of vessels through the territorial waters of Georgia shall be admitted.
2. Passage through the territorial waters of Georgia shall mean continuous and expeditious crossing of territorial waters without calling in the internal waters of Georgia, or calling in the internal waters and ports of Georgia or an exit from there with the purpose of an exit in the high seas.
3. During innocent passage through the territorial waters of Georgia it shall be forbidden for vessels:
  - a) calling in the forbidden areas for navigation, about which it is publicly announced in the established order;
  - b) a stop, landing (boarding) of people, unloading (loading) of cargo, animals, launching of floating means, flight of flying means from a vessel and their reception aboard, trade and research activity in forbidden places or in the allowed places, but without the sanction established by the legislation of Georgia;
  - c) activity forbidden by the legislation, international treaties and agreements of Georgia;
  - d) any threat or use of force or other acts directed against the independence, state sovereignty and territorial integrity of Georgia in violation of the principles of international law recognised by the Charter of the United Nations Organisation;
  - e) manoeuvres or military exercises with the use of weapons;
  - f) any activity aimed at collecting information to the prejudice of security and defence of Georgia;
  - g) any act of propaganda creating a threat to the defence and security of Georgia;
  - h) acceptance on a vessel, or, removal from a vessel of any military equipment, take-off from a vessel or reception aboard of military flying means;
  - i) deliberate, significant pollution of the sea;
  - j) any activity not connected with passage of the vessel.
4. Requirements established in Subparagraphs (a), (b), (c) of Paragraph 3 of the present Article shall not be applied to those vessels, which participate in works on rescuing people.
5. During the innocent passage through the territorial waters of Georgia of foreign vessels and vessels of special purpose carrying out state tasks, the onboard weapon shall be in the condition stipulated for carriage in special covers and fishing tackles, and other equipment shall be placed in the places intended for storage.
6. Submarines and other underwater means shall move in the territorial waters of Georgia in surface position and under its flag.
7. In the territorial waters of Georgia, where ways of navigation and the schemes of traffic division are established, the foreign vessels shall follow by the specified way and at movement should use these schemes. The co-ordinates of navigation and the schemes of traffic division shall be established by the President of Georgia.
8. Proceeding from the vital and sovereign interests of Georgia, in case of need, the President of Georgia shall have the right to limit or forbid the calling in and stay of foreign nuclear vessels, military or non-military ships in any area of territorial and internal waters of Georgia.

**Article 20. Obligatory observation of navigating and other rules by foreign non-military, military and nuclear ships**

1. During calling in and stay in the territorial and internal waters of Georgia, foreign non-military, military and nuclear ships shall be obliged to observe a radio communication, navigation, port, customs and sanitary rules, as well as other requirements established by this Law and by the Regulations “On Regime and Protection of the State Border”.

2. In case of the compelled call and stay or the compelled infringement of rules of navigation in the territorial and internal waters of Georgia, the foreign non-military, military and nuclear ships shall be obliged to notify immediately the administration of the nearest port of Georgia.

3. If the foreign non-military ship does not notify the administration of the nearest port of Georgia on the compelled call and stay or the compelled infringement of rules of navigation in the territorial and internal waters of Georgia, the State Department of Protection of the State Border of Georgia independently, or, in case of need, jointly with other empowered state bodies, shall temporarily detain the vessel to determine the circumstances of infringement of the rules. If it is to find out that an infringement by a vessel of rules of call, stay or navigation in the territorial and internal waters of Georgia has no grounds for justification, the measures of compulsion stipulated by the Articles 36, 37 and 38 of this Law shall be applied to it.

4. If the foreign military ship or nuclear vessel does not notify the administration of the nearest port of Georgia on the compelled call and stay or the compelled infringement of rules of navigation in the territorial and internal waters of Georgia, the State Department of Protection of the State Border of Georgia independently or, in case of need, jointly with other empowered state bodies, shall temporarily detain this ship (vessel) to determine the circumstances, which led to infringement of the rules. In the absence of circumstances causing the compelled call of the foreign military ship or nuclear vessel in the territorial and internal waters of Georgia, and if such call had as its purpose, the actions specified in Paragraph 3 of the Article 19 of this Law, border forces of the State Department of Protection of the State Border of Georgia or, in case of need, by their invitation, the Navies of Georgia shall detain the military ship or nuclear vessel, and the corresponding empowered bodies of Georgia negotiate with the country - owner of the vessel through diplomatic channels.

**Article 21. The interdiction on realisation by foreign vessels of trade, research and hydrographic activity in the territorial and internal waters of Georgia**

If the international treaties or agreements of Georgia do not stipulate otherwise, foreign ships shall be forbidden to carry out trade, research and hydrographic activity in the territorial and internal waters of Georgia.

**Article 22. The procedure on economic activity on the State Border of Georgia**

If the international treaties or agreements of Georgia do not stipulate otherwise, the navigation, using of the facilities fit out on water, or other use of water, installation of hydro-constructions and carrying out of other works in the territorial and internal waters of Georgia, and also use of the lands and woods, conducting of mining, geological prospecting, trade and other economic activities shall be carried out in the order established by the legislation of Georgia and according to conditions determined by the Regulations “On Regime and Protection of the State Border”.

**Article 23. Temporary termination of communication through the State Border of Georgia. Quarantine**

In case of threat of distribution of dangerous infectious diseases on the territory of Georgia or in the adjacent State, under the decision of the President of Georgia, in cases stipulated by the Regulations “On Regime and Protection of the State Border” or other cases stipulated by the legislation of Georgia, communication on the State Border of Georgia may be temporarily stopped or a quarantine may be imposed for persons crossing the State Border of Georgia.

**Article 24. Trespassers of the State Border of Georgia**

Trespassers of the State Border of Georgia shall include:

- a) persons or transport crossed or trying to cross the State Border of Georgia passing border checkpoints or through border checkpoints but with infringement of the established rules at its crossing, if the treaty with the adjacent state does not provide the order of free communication

through the border;

b) foreign non-military or military ships, which at call in the territorial and internal waters of Georgia had broken rules established by this Law;

c) air vessels crossed the State Border of Georgia without the corresponding permit, or violated the order of flight through the State Border of Georgia.

### **Chapter III. - Border Regime**

#### **Article 25. The border zone and borderland**

1. The border zone, as a rule, shall be established within the limits of the territory of region, city, village, settlement adjoining to the State Border of Georgia taking into consideration local features. A part of the internal waters of Georgia and, located in these waters, islands shall enter in a border zone (where it is established).

2. The borderland shall be established along the State Border of Georgia on land or along borders of seacoasts of sea, rivers, lakes, reservoirs.

3. In the frames established by this Law, the border zone and a borderland shall be established by the President of Georgia upon presentation of the National Security Council of Georgia.

4. The territory of a borderland shall be the State property. On this site, monuments of historical and material culture, flora and fauna shall be protected by the border forces of the State Department of Protection of the State Border of Georgia with direct participation of the corresponding state institutions.

5. In a borderland, activity that is not connected with its care, with the checking of border marks and with the measures on protection of the State Border shall be forbidden, except for cases when, by the international treaties or agreements, is stipulated otherwise. In separate cases, the President of Georgia shall have the right to allow in a borderland economic activities of a certain kind.

6. The regime of a borderland shall not be applied to populated areas. In terms of the rest of the population, a regime of a borderland shall be applied only to territory, especially established by the State Department of Protection of the State Border of Georgia.

#### **Article 26. The Border regime**

1. The border regime in a border zone and in a borderland shall be established by the Regulations “On Regime and Protection of the State Border”. According to this Law, the border regime shall specify the rules of conducting works, entrance, temporary stay and moving of persons, and also the rules of registration, stay and navigation of non-military and military ships at quays, ports and other points of basing in internal waters of Georgia.

2. Taking into account Paragraph one of the present Article, the rules of registration, stay and navigation of non-military and military ships at quays, ports and other points of basing in internal waters of Georgia shall be applied also to the territory of areas adjoining to the State Border of Georgia, where a border zone is not established.

#### **Article 27. Entrance, temporary stay and movement of persons and transport in a border zone and borderland**

1. Entrance, temporary stay and movement of persons and transport in a border zone and a borderland shall be carried out as established by the legislation of Georgia upon presentation of identity documents certifying the persons and corresponding transport documents.

2. The place and time of entrance, routes of movement of persons and transport and also other conditions of their stay in a borderland shall be established by the Regulations “On Regime and Protection of the State

Border”.

**Article 28. Economic, trade and scientifically-research activity in a border zone**

1. Requirements of Articles 26 and 27 of this Law shall be observed for conducting economic, trade and scientifically-based research activity in a border zone. Persons intending to carry out such activity shall notify the State Department of Protection of the State Border of Georgia. The character, technology and technical means of realisation of economic, trade and research activity shall be specified in the notice, as well as the place, time and duration of the work, the number of participants and responsible persons.

2. According to the conclusion of the corresponding empowered State bodies of Georgia, specified in Paragraph one and two of the Article 33 of this Law, the State Department of Protection of the State Border of Georgia shall have the right to forbid persons to carry out economic, trade and research activity, if during such activity is revealed that they have specified the incorrect data in the notice, and conducted works are harmful towards the environment or people.

**Article 29. Rules of registration, stay and navigation of non-military, military ships and nuclear vessels in the internal waters, ports and other points of basing of Georgia located in a border zone**

According to the Regulations “On Regime and Protection of the State Border”, the State Department of Protection of the State Border of Georgia shall control the rules of the registration, stay and navigation of non-military, military ships and nuclear vessels in the internal waters, ports and other points of basing of Georgia located in a border zone.

**Article 30. Border regime in the border checkpoints on the State Border of Georgia**

1. Border regime in the border checkpoints on the State Border of Georgia - entrance and movement of any persons and all types of transport, as well as other activity connected with the movement of persons, transport, cargo and other property within the limits of territories of border railway and automobile stations, seaport, airport (air station) shall be determined by the Regulations “On Regime and Protection of the State Border”.

2. Border regime on the border checkpoints on the State Border of Georgia according to the Regulations “On Regime and Protection of the State Border”, shall be established by the State Department of Protection of the State Border of Georgia as agreed with the bodies of customs control. In those places and buildings, where the border control shall be carried out, the additional regime rules shall be established, which regulate control over persons and transport following from abroad and principles of admission of the serving personnel.

3. On roads intended for the international communication the border checkpoints shall be established and in the order determined by Paragraphs one, 2, 3 and 4 of the Article 13 of this Law, the border checkpoints shall be built and opened on the State Border of Georgia.

**Chapter IV. - Protection of the State Border of Georgia**

**Article 31. Tasks of protection of the State Border of Georgia**

Tasks of protection of the State Border of Georgia shall include:

- a) physical and technical protection of the State Border of Georgia;
- b) border, customs, quarantine, automobile, veterinary and phyto-sanitary control;
- c) prevention and settlement of the border incidents and repelling of a military or other aggression from the part of the adjacent states;
- d) control over migratory processes;
- e) control over crossing of the State Border of Georgia by persons and transport, as well as over moving of cargoes and other property through the State Border of Georgia;

- f) control over economic, trade and research activity in a border zone;
- g) establishment of the facts of infringement of the legislation of Georgia and application of measures of compulsion towards trespassers, elimination of the reasons and conditions of infringements.

**Article 32. Protection of the State Border of Georgia**

1. Protection of the State Border of Georgia shall be an exclusive competence of the State Department of Protection of the State Border of Georgia.
2. Protection of the State Border on land, in the territorial and internal waters of Georgia and also in the international border checkpoints on the State Border shall be entrusted to the border forces of the State Department of Protection of the State Border of Georgia, and in air space – to the forces of anti-aircraft defence of the Ministry of Defence of Georgia.
3. Border forces of the State Department of Protection of the State Border of Georgia and anti-aircraft defence forces of the Ministry of Defence of Georgia shall be guided by the legislation, international treaties and agreements of Georgia.
4. The privileges shall be established for inhabitants, as border guards, of the adjacent to the State Border of Georgia villages.
5. In high mountainous regions, the permanent residents of Georgia shall pass military service in the border forces on the place. In high mountainous regions, the privilege of passing military service shall be given also to the residents settled from these regions into the plain. (09.06.99. N 2090 Gazette of Legislation N 24(31))

**Article 33. The subjects of protection of the State Border of Georgia**

1. The subjects of protection of the State Border of Georgia shall be:
  - a) the State Department of Protection of the State Border of Georgia;
  - b) the Ministry of Defence of Georgia;
  - c) the Ministry for Foreign Affairs of Georgia;
  - d) the Ministry of State Security of Georgia;
  - e) the Ministry of Internal Affairs of Georgia.
2. The State executive agencies of Georgia, the activity of which is connected with observance of the state border regime stipulated by this Law, shall be:
  - a) the Customs Department of Georgia;
  - b) the Ministry of Transport of Georgia;
  - c) the Ministry of Health of Georgia;
  - d) the Ministry of Agriculture and the Foodstuffs of Georgia;
  - e) the Ministry of Environmental Protection and Natural Resources of Georgia.
3. The powers of bodies specified in Paragraphs 1 and 2 of the present Article for protection of the State Border of Georgia shall be determined by the Regulations “On Regime and Protection of the State Border” and other normative acts of Georgia.

**Article 34. The border representatives of Georgia - the border commissars**

1. With a view of realisation of the state border policy of Georgia and the decision making in connection with observance of a border regime and also in order to settle certain border incidents, in cases stipulated by the Regulations “On Regime and Protection of the State Border” and in the established order, the Chairman of the State Department of Protection of the State Border of Georgia shall appoint, define the

powers and submit for approval to the President of Georgia the border representatives of Georgia – border commissars.

2. The border commissar shall be guided by the Constitution of Georgia, this Law, international treaties and agreements of Georgia and other normative acts.

3. Problems that the border commissar cannot solve shall be solved by the rules of peaceful settlement of disputes stipulated by international law.

4. According to the international treaties and agreements of Georgia, the border commissar and officials accompanying him at crossing of the State Border of Georgia shall have the special status stipulated by the Regulations “On Regime and Protection of the State Border”.

### **Article 35. Rights and duties of the State Department of Protection of the State Border of Georgia**

The State Department of Protection of the State Border of Georgia in a border zone and a borderland, in the territorial and internal waters, in contagious zone, border checkpoints of Georgia shall have the following rights and duties:

- a) in case of urgent necessity may limit temporarily the property rights of the legal or natural person with subsequent indemnification at the expense of the state;
- b) in cases established by the Regulations “On Regime and Protection of the State Border” may place on the vessels a border escort with the purpose of forwarding a vessel in the port or from the port up to the State Border of Georgia;
- c) if the international treaties or agreements of Georgia do not envisage otherwise, to transfer persons specified in Subparagraphs (g), (h), (i), (u) and (G-a) of the present Article to the bodies of inquiry and investigation;
- d) to carry out the right of hot pursuit envisaged by the Convention on the law of the Sea of the United Nations Organisation of 1982;
- e) to protect the State Border of Georgia, the established border marks, other border buildings, constructions and facilities;
- f) to stop any attempts of illegal change of the State Border of Georgia;
- g) to repulse attempts of intrusion of the armed groups on the territory of Georgia or other provocations, in a border zone and borderland to protect a state ownership and private property of citizens from similar encroachments;
- h) to warn and stop persons illegally moving and also illegal moving of transport, cargoes and other property through the State Border of Georgia;
- i) to reveal and detain the infringers of the State Border of Georgia;
- j) to let pass through the State Border of Georgia, persons, transport, cargo and other property upon presentation of the documents which are necessary for crossing the border and are put in the corresponding order;
- k) to keep and protect the border checkpoints and other border facilities in proper order;
- l) in the order established by the legislation of Georgia independently or together with the Customs Department of Georgia and the bodies envisaged by Paragraphs one and two of Article 33 of this Law, to stop the transportation, through the State Border of Georgia, of explosive, poisoning, radioactive and narcotic means, weapons and ammunition and also smuggling of other prohibited articles;
- m) to provide observance of a border regime jointly with the bodies envisaged in Paragraphs one and two of Article 33 of this Law;
- n) to provide performance of international obligations of Georgia connected with the State Border;
- o) to supervise over the border regime independently or jointly with the bodies stipulated in Paragraphs one and two of Article 33 of this Law, at the airports (in air stations), railway stations, in ports, in border checkpoints of international highways;
- p) to supervise over the performance of the established rules by non-military, military ships and nuclear vessels of Georgia and foreign states during their call, stay and navigation in the territorial and internal waters of Georgia;

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q) to stop, detain, examine and, in order to suppress infringements, to take the necessary measures concerning foreign non-military, military ships and nuclear vessels in case of infringement by them of a regime of a contagious zone of the territorial waters, stipulated by the Article 5 of this Law;

r) to assist to the especially empowered State bodies in preservation of the natural resources, trade activity and protection of the ecological system, and also in liquidation of consequences of the natural calamities and extinguishing of fire in a border zone;

s) to post sentries of border protection on the State Border of Georgia;

t) for fulfilment of duties to move freely in a border zone, to check documents, control transport and cargo;

u) in the order established by the legislation of Georgia to detain and put in place of temporary detention the persons violating the legislation of Georgia;

v) in the order established by the legislation of Georgia, under the invitation of the Customs Department of Georgia and jointly with it to examine transport, cargoes and other property;

w) in the order established by the legislation of Georgia jointly with the Customs Department of Georgia to stop subjects, prohibited imports, exports and smuggling;

x) to conduct an inquiry in the order established by the legislation of Georgia;

y) from citizens entering Georgia or persons without citizenship to demand and check documents certifying identity and the right of entrance to Georgia and to make the corresponding marks in the documents;

z) to not let to pass through the State Border of Georgia persons without documents specified in the Subparagraph (y) of the present Article;

A) to forbid members of a crew of a foreign vessel and other persons on the board of a vessel from landing or staying on the coast, internal waters, ports of Georgia, territorial waters and contiguous zones in case of violations of the law. This is for internal waters and ports of Georgia, territorial waters and adjoining zones;

B) in territorial and internal waters of Georgia to demand from a vessel of Georgia or of a foreign state to lift a national flag;

C) to carry out questioning of a vessel or other floating means about the purposes of call in the territorial and internal waters of Georgia;

D) to suggest to a non-military or military ship or other floating means to change a route, if it goes aside the zone closed for navigation or does not observe the established ways of navigation and schemes of traffic separation;

E) to stop and examine a non-military or military ship or other floating means, if it does not answer signals of interrogation, is in the zone closed for navigation, breaks rules of call, stay and navigation in the territorial and internal waters of Georgia, is going towards the zone closed for navigation or does not observe the established ways of navigation and schemes of traffic separation, and also if it is engaged in the activity forbidden by Article 21 of this Law;

F) to protect scientific and research and other installations and constructions in the exclusive economic zone and in the continental shelf, the artificial islands of Georgia;

G) in the exclusive economic zone and continental shelf, to carry out control and to take measures established by the Convention of the Sea law of the United Nations Organisation of 1982 on suppression of illegal research or trade activities of the foreign states and prevention of pollution of the sea;

G-a) if the international treaties or agreements of Georgia do not envisage other rules, to remove from a vessel and to detain the members of a crew of foreign non-military vessels and other persons from the board of a vessel for committing a crimes;

G-b) to be engaged in other activities connected with the protection of the State Border of Georgia in cases stipulated by this Law, international treaties or agreements of Georgia and by the Regulations "On Regime and Protection of the State Border".

G-c) the State Department of Protection of the State Border of Georgia shall take part in the social-economic, material and cultural development of the regions and villages adjacent to the State Border. (09.06.99. N 2090 The

**Article 36. The basis of detention of non-military ships of Georgia and foreign states by the border forces of the State Department of Protection of the State Border of Georgia**

The border forces of the State Department of Protection of the State Border of Georgia shall detain non-military ships of Georgia and foreign states in territorial and internal waters and accompany them by escort to the nearest port or other corresponding point, if;

- a) the vessel is in the zone closed for navigation, goes towards the zone closed for navigation or does not observe the established ways of navigation and schemes of traffic separation;
- b) landing to a vessel, debarkation from a vessel, and loading and unloading of cargo shall be made in places not stipulated by the Regulations “On Regime and Protection of the State Border”;
- c) the vessel is engaged illegally in trade, research or hydrographic activity. If it dumps or buries substances or waste products or polluting materials that are harmful to the water resources of Georgia or to the health of the population;
- d) without the permission of the corresponding empowered bodies of Georgia, a delivery from a vessel and reception aboard any kinds of flying devices is made;
- e) the captain of a vessel does not show ship, cargo, passenger or other necessary documents;
- f) the vessel does not submit to orders of representatives of the border forces of the State Department of Protection of the State Border of Georgia or the authorised bodies stipulated in Paragraphs one and two of the Article 33 of this Law and the Regulations “On Regime and Protection of the State Border”.
- g) the vessel breaks rules established by this Law, other legislative acts and international treaties and agreements of Georgia, norms of international law.

**Article 37. The Protocol of examination and detention of a non-military ship**

1. The Protocol on examination and detention of a non-military ship shall be made, which shall be signed by the representative of the border forces of the State Department of Protection of the State Border of Georgia and the captain of the examined or arrested vessel.

2. In case of detention of a vessel, the ship and shipping documents shall be withdrawn from a captain and they shall be attached to the Protocol. If the captain of the examined or detained vessel counts actions of the border forces of the State Department of Protection of the State Border of Georgia wrongly and he disagrees with the contents of the protocol, he shall have the right to rebuke in any language in a report or in any attached document.

3. If the captain of a vessel does not sign the protocol, the corresponding note shall be made in it.

**Article 38. Further actions after detention a foreign non-military ship**

After detention, the foreign non-military ship shall be transferred to the representatives of this state who have been allotted the emergency powers. Alternatively, it may be sent out from the territory of Georgia. According to the legislation of Georgia, before taking the decision by the court, in cases stipulated by Subparagraphs (b) and (c) of the Article 36 of this Law, the temporary withdrawal of property and means of its acquisition shall be made. If the court takes the verdict of "not guilty", the withdrawn property shall be returned to the owner with full compensation at the expense of the state for damage caused by the detention.

**Article 39. Rules applied to the air vessels in case of infringement by them of rules of crossing the State Border of Georgia or stay on the territory of Georgia**

Concerning air vessels violating the order of the crossing of the State Border of Georgia or staying in the territory of Georgia, the special rules shall be established according to the Regulations “On Regime and Protection of the State Border”.



**Article 40. Use of the weapon, combat material and special means for protection of the State Border of Georgia**

1 The border forces of the State Department of Protection of the State Border of Georgia and anti-aircraft defence forces of the Ministry of Defence may use weapons and combat technical equipment for repulsion of an armed intrusion on the territory of Georgia, and of attempts to steal air or sailing transport (if there are no passengers in it), in cases stipulated by the legislation of Georgia and in the established order;

2. The weapon and combat material may be used:

- a) against persons, air, water and other types of transport crossed or trying to cross the State Border of Georgia with infringement of the rules established by this Law; in reply to use of force by them, if suppression of infringements and detention of the infringers cannot be carried out in another way;
- b) for protection of people against an attack which threatens their life and health;
- c) for the release of hostages;
- d) for suppression of an attack on persons, employees on the State Border of Georgia;
- e) for suppression of attacks on divisions and facilities of the border forces of the State Department of Protection of the State Border of Georgia and the anti-aircraft defence forces of the Ministry of Defence of Georgia including armed attacks on floating means and air vessels.

3. A warning on using of the weapon and combat material necessarily shall precede.

4. Weapon and combat material may be used without warning during an armed attack on military personnel and citizens, an attack on air, water or other types of transport, in the event of armed resistance, armed escape of detainees or hostage release.

5. Military servicemen shall have the right to use weapons upon hearing an alarm signal or signal for help and also for the neutralisation of animals threatening the life and health of military personnel and citizens.

6. It shall be forbidden to use weapon and combat material:

- a) towards women and minors, except for cases of armed attack by the persons concerned or armed resistance on air, water or other types of transport, in which there are passengers;
- b) in respect of persons who are under the influence of force majeure or, by accident, illegally cross or attempt to cross the State Border of Georgia.

7. The order of use of weapons and combat material shall be determined by the Law of Georgia "On Firearms" and by the Regulations "On Regime and Protection of the State Border".

8. Representatives of the Military Forces of Georgia, the Ministries of State Security of Georgia and the Ministry of Internal Affairs of Georgia participating in protection of the State Border of Georgia, shall use weapons and combat material according to the requirements of the present Article.

9. Use of special means (handcuffs, rubber sticks, teargas, devices for a compulsory stop of transport), physical strength, fighting methods, service dogs shall be carried out according to the Laws of Georgia "On the Police", and "On the Special State Protection Service".

10. The full list of special means of armaments of the border forces of the State Department of Protection of the State Border of Georgia shall be determined by the Regulations "On Regime and Protection of the State Border".

**Chapter V. - The responsibility for infringement of the legislation on the State Border of Georgia**

**Article 41. The responsibility for infringement of legislation on the State Border of Georgia**

1. Workers and officials of the State bodies stipulated by Paragraphs one and two of Article 33 of this Law shall be made responsible in the order established by the legislation of Georgia for exceeding the powers given to them by the legislation or other infringements of the legislation.
2. Persons who have violated or tried to violate the State Border of Georgia, who have illegally crossed or tried to cross the State Border, who have passed or tried to pass, with infringement, a border checkpoint, who have taken or tried to take out cargo, materials, documents, other subjects or otherwise violating the legislation on the State Border of Georgia, shall be made responsible in the order established by the legislation of Georgia.

**Chapter VI. - Transitive provision**

**Article 42. Innocent passage through the territorial waters of Georgia before complete restoration of jurisdiction of Georgia throughout the whole territory of the country**

Before full restoration of the jurisdiction of Georgia throughout the whole territory of the country, foreign nuclear vessels, military ships or ships of special purpose carrying out the state task, may innocently pass through the territorial waters of Georgia in case, if they notified the State Department of Protection of the State Border of Georgia about its through diplomatic channels 48 hours in advance. In the notice, the name of the vessel, its type, other attributes, a place and time of calling in and departure of the vessel shall be mentioned. The permission to pass shall be given by the State Department of Protection of the State Border Georgia. These requirements shall not be applied to the vessels participating in works on rescuing people.

**Chapter VII. - Final provisions**

**Article 43. Enforcement of the law and normative acts to be adopted**

1. This Law shall enter into force upon its promulgation.
2. To ask the President of Georgia to approve the Regulations “On Regime and Protection of the State Border” until January 1, 1999.

President of Georgia

Eduard Shevardnadze

Tbilisi  
July 17, 1998  
No. 1536

**The Law of Georgia:  
On Intelligence Activity**

**Chapter I. - General provisions**

**Article 1. Intelligence activity**

1. Intelligence activity - revealing of actions, plans, purposes, real and potential opportunities of foreign states, organisations and persons directed against the vital interests of Georgia by getting and analysing information and also by means of external counterintelligence activity.

2. Within the limits of their competence, intelligence activity shall be carried out by:

- a) the Foreign Intelligence Department of the Ministry of State Security of Georgia (hereinafter – Foreign Intelligence Department) - in political, economic, scientific and technical, military and strategic spheres and in the sphere of environmental protection (21.05.2004 N 65I);
- b) intelligence departments of the Defence Ministry of Georgia - in military, military-political, military-economic spheres and in the sphere of environmental protection;
- c) intelligence divisions of the Department of Protection of the State Border of the Ministry of Internal Affairs of Georgia - in the spheres of protection of the State Border of Georgia, territorial sea, continental shelf and control of exclusive economic zone (21.05.2004 N 65I).

3. Foreign Intelligence Department, intelligence divisions of the Ministry of Defence of Georgia and of the Department of Protection of the State Border of the Ministry of Internal Affairs of Georgia shall form the Intelligence Service system of Georgia (21.05.2004 N 65I);

4. The primary goals of the Intelligence Service system shall be:

- a) forecasting the possible foreign threat to the Georgian State and granting of information to the supreme bodies of state authority;
- b) proceeding from the state interests of Georgia, getting the intelligence information (in political, economic, strategic, scientific and technical spheres, in the sphere of environmental protection and other spheres), analysing it and in the established order, informing the President of Georgia, Parliament of Georgia and the heads of the corresponding governmental agencies;
- c) within the limits of their competence, assisting in the implementation of foreign policy and the economic and military-strategic course of Georgia.

**Article 2. Legal principles of intelligence activity**

Legal principles of intelligence activity shall be determined by the Constitution of Georgia, international treaties and agreements of Georgia, this Law and other legislative and legal normative acts of Georgia.

**Article 3. Basic directions of intelligence activity**

1. The basic directions of intelligence activity shall be defined by the program authorized by the President of Georgia.

2. The sphere of intelligence activity shall be strictly determined, and its restriction or expansion shall be possible only by law.

**Article 4. Principles, methods and operative-technical means of the intelligence service system**

1. Principles of the intelligence service system shall be:

- a) legality;
- b) observance and respect of human rights and freedoms and the rights of legal person/s;

- c) accountability to the President of Georgia;
- d) unity and centralisation.

2. While carrying out the intelligence activity, both obvious and latent methods and means may be used, the special character of which shall be determined by conditions of this activity.

3. The operating and technical means, used while carrying out the intelligence activity, shall not injure the honour and dignity of person/s nor their fundamental rights and freedoms as recognised by the Constitution of Georgia nor create threat to the life and health of a human being and damage the environment.

## **Chapter II. - Rights and duties of the intelligence system of Georgia**

### **Article 5. The general and exclusive competence of the intelligence system of Georgia**

1. The intelligence system of Georgia shall:

- a) co-operate on a voluntary basis, confidentially or obviously, with persons who have expressed a desire to co-operate;
- b) with a view of conspiracy, carry out the coding of documentation, personnel structure, departmental and organisational belongings, buildings, constructions and transportation facilities;
- c) conclude contracts with enterprises, establishments and organisations (irrespective of their organisational and legal form), which are necessary for realisation of intelligence activity;
- d) provide for safety, protects employees, operating and technical means, buildings, constructions and informational data from illegal encroachment;
- e) provide operative granting of the received intelligence information to the supreme bodies of state authority;
- f) within the limits of its competence, take part in revealing the latent intelligence activity of foreign states directed against Georgia, also in the areas of international terrorism, drug business and organised crime;
- g) in the order established by the legislation, use radio-electronic and technical means with a view of getting intelligence information from technical channels;
- h) protect intelligence data and the sources and methods used to obtain data from disclosure, without permission;
- i) within the limits of its competence, support relationships with foreign intelligence and counter intelligence services;
- j) develop protection programs of intelligence sources, methods, analytical works.

2. Foreign Intelligence Department also shall:

- a) within the limits of its competence, and in the established order, carry out observance of a regime on the state secrets protection, both in its departments and in the diplomatic and other establishments, outside of Georgia. With these purposes, carry out actions on operative, as well as on engineering and technical protection in order to prevent an outflow of state secrets from technical channels;
- b) provide for the safety of diplomatic representatives, organisations outside of Georgia and citizens on business trips as well as members of their families whose activities are connected with the information containing state secret (*21.05.2004 N 65I*);
- c) create necessary organisational structures within the limits of the authorised number;
- d) within the limits of the authorised number, create special educational establishments, scientific and research organisations, medical-preventive establishments with a view of improving professional skills, archival maintenance and the issuing of special editions;
- e) co-operate with law enforcement agencies and power structures with a view of maintaining the protection of property, facilities, information and employees.

**Article 6. Protection of information data of the intelligence system of Georgia**

Relationship connected with the state secret of the Intelligence System of Georgia shall be regulated by the Law of Georgia “On the State Secret”.

**Chapter III. - The organisation of the intelligence system**

**Article 7. The management of the system of foreign intelligence of Georgia**

1. The President of Georgia shall take the decision of expediency of interdepartmental negotiations and co-operation between the system of foreign intelligence of Georgia and intelligence and counterintelligence services of foreign states.

2. Foreign Intelligence Department of Georgia is a subdivision within the structure of the State Security Ministry of Georgia, co-ordinating the obtaining of intelligence information by the departments (divisions) of intelligence service, which form the intelligence system of Georgia.

3. Powers, structure and order of activity of the Foreign Intelligence Department shall be determined by the legislation of Georgia.

4. Intelligence information, submitted by state structures, entitled to conduct intelligence activity according to the legislation of Georgia, or when intelligence information became known to them upon realisation of their activities, through the Foreign Intelligence Department shall be provided to the Minister of State Security.

5. The Minister of State Security shall:

- a) provide the information received by intelligence methods to corresponding government institutions and to the supreme bodies of state authority;
- b) within the limits of the authorised number, appoint official representatives of intelligence in the diplomatic representations of Georgia for the performance of tasks determined by international treaties and agreements;
- c) co-ordinate the creation and introduction of the state standards of cryptographic means and codes of protection of intelligence information;
- d) provide complete mobilisation readiness of employees (21.05.2004 N 65I).

**Article 8. Financing and material-technical maintenance of the intelligence system of Georgia**

1. The Intelligence System of Georgia shall be financed from the state budget.

2. Material and technical support of the intelligence system of Georgia shall be carried out by the centralised resources of Georgia.

3. The plots of lands, buildings, constructions, devices, acquired or created at expense of the state budget of Georgia or other means, which belong to the Intelligence System of Georgia shall be the property of the State.

**Chapter IV. - Legal status and social protection of the employees of the intelligence system of Georgia**

**Article 9. Employees of the Intelligence System of Georgia**

1. Those military servicemen and civil personnel, whose activity is directly connected with the solution of tasks determined by this Law, shall work for the Intelligence System of Georgia.

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2. Citizens of Georgia, after a special examination and according to their personal and business qualities, education and status of health shall be taken on by the military service of the Intelligence System of Georgia.
3. Citizens of Georgia, who are released from military service in the order established by the legislation (except for persons released on a state of health) may be enlisted in military service of the Intelligence System of Georgia with their consent.
4. Military servicemen of Intelligence System of Georgia shall perform military service according to the law of Georgia "On Military Duty and Military Service" and may enjoy the rights and guarantees stipulated for military servicemen of the Military Forces of Georgia.
5. The labour activity of the civil personnel of the Intelligence System of Georgia shall be regulated by the Labour Code of Georgia, law of Georgia "On Public Service" and other normative acts.
6. For the employee of the Intelligence System of Georgia, who performs secret service work in other institutions or organisations (and, at the same time, is registered in the staff of intelligence system), the period of service shall be included in the length of labour service.
7. Employees of the Intelligence System of Georgia shall be forbidden to arrange strikes and (or) to participate in them, to combine in an open way other paid work, except for pedagogical, scientific and creative activity.

### **Article 10. Legal protection of employees of the Intelligence System of Georgia**

1. The employee of the Intelligence System of Georgia on duty is the representative of state authority and shall be under the protection of the State.
2. Nobody shall have the right to interfere in the service activity of military servicemen of the Intelligence System of Georgia, except for specific bodies or officials, the powers of which shall be stipulated by law.
3. Preventing military personnel of the Intelligence System of Georgia from performing official duties, injury to his honour or dignity, threat to his life, health and property shall be punishable under the legislation of Georgia.
4. It shall be forbidden to present military personnel of the Intelligence System of Georgia to the law enforcement agencies or to put military servicemen in administrative detention, to search their workplace, possessions, personal vehicle/s or other vehicle/s used by them, without the representative of the corresponding agency of the Intelligence System of Georgia. An exception shall be admissible in cases when the person is overtaken at a scene of crime upon which the corresponding establishment of the Intelligence System of Georgia shall be immediately notified.
5. The employee of the Intelligence System of Georgia shall have the right to apply directly to the court for protection of his rights and freedoms.

### **Article 11. Social protection of the military personnel of the intelligence system of Georgia**

1. Social protection of the military personnel of the Intelligence System of Georgia shall provided for by the State.
2. The military personnel of the Intelligence System of Georgia shall be subject to obligatory state insurance.
3. Damage caused to the military personnel of the Intelligence System of Georgia during performance of official duties shall be completely compensated for by the state budget of Georgia. Military personnel of the intelligence system of Georgia, injured or disabled on duty, shall be paid (from the State budget) a

## DCAF-Security Sector Laws of Georgia

monthly indemnification as a difference between monthly average wages on the last post and appointed pension, and also a lump sum as a monetary contentment for five years.

4. In case of death of military serviceman of the Intelligence System of Georgia and (or) a member of his family, and in case of death within one year after official discharge from work due to injury or disability, if connected with the intelligence duty, the state transfers the remains of the victim and also covers the cost of burial. The family of the victim shall be paid a monetary contentment equivalent to the lump sum for 10 (ten) years, and shall be given privileges stipulated by the legislation of Georgia.

5. If military servicemen of the Intelligence System of Georgia perform intelligence activity in the state, where martial law is proclaimed or combat actions take place, one day of service shall be equivalent to three days. If military servicemen of the Intelligence System of Georgia carry out the intelligence task in the state with heavy climatic conditions, one day of service shall be equivalent to two days.

6. If the military servicemen of the Intelligence System of Georgia are arrested or detained abroad, the monthly monetary contentment in the full size shall be retained and one day of detention or arrest shall be equivalent to three days of service. In case of detention, arrest or condemnation of military serviceman outside of Georgia and (or) members of his family for the aforementioned activities, the state shall be obliged to promote their full release in every possible way.

7. Military servicemen specified in Paragraphs 5 and 6 of the present Article shall be paid the monetary contentment of all kinds correspondingly in double and triple sizes.

8. For reasons independent of military servicemen of Intelligence System of Georgia or in case of full or partial loss of professional suitability as a result of his decoding, the Intelligence System of Georgia shall be obliged to ensure employment of the mentioned employee or to create conditions for his professional retraining, including compensation of expenditures connected with it.

9. The Intelligence System of Georgia, within the limits of its budget, shall provide the employee of intelligence service and, members of his family, with health services in the order established by the legislation.

10. During business trips, regular and additional holidays, military servicemen of the Intelligence System of Georgia shall have the right to use all types of road transport (except for taxi services) at the expense of the state budget as allocated by the intelligence system of Georgia. This is permitted for both the departure and return of military servicemen to a sanitary-medical establishment and also upon discharge or transfer from military service to the place of residence or settlement.

11. Military servicemen of the Intelligence System of Georgia shall be entitled to use public transport within the territory of Georgia on account of the state budget, as allocated by the corresponding department of the Intelligence System of Georgia.

12. Military servicemen of the Intelligence System of Georgia, within the limits of means allocated from the State budget, shall be entitled to use state departmental summer residences, rest houses and services of medical, sanitary institutions.

13. Military servicemen of the Intelligence System shall be entitled, in the order established by the legislation, to receive plot of land and to have a subsidiary farm.

14. Privileges determined by the law of Georgia "On the Status of Military Serviceman" shall be similarly applied to military servicemen of the Intelligence System of Georgia.

15. Within the limits of means allocated by the state budget, additional measures on social protection and privileges not stipulated by this Law may be established for military servicemen of the Intelligence System of Georgia.

**Article 12. Right to store and carry fire-arms**

1. Military servicemen of the Intelligence System of Georgia shall have the right to store, carry and use regular, military and combat fire-arms in the order established by the legislation of Georgia.
2. The list of service regular, military and combat fire-arms and ammunition of the Intelligence System of Georgia shall be approved by the President of Georgia.

**Chapter V. - Legal status and social protection of person/s rendering assistance to the Intelligence System of Georgia**

**Article 13. Person/s rendering confidential assistance to the Intelligence System of Georgia**

1. For achievement of goals of the intelligence activity, the personnel of the Intelligence Service may establish co-operative relations on a refundable or non-refundable basis with a full age able-bodied person, who voluntary gives consent to the confidential co-operation with the Intelligence System of Georgia. The order of the relationship with such person/s shall be determined by the corresponding normative acts.
2. In order to ensure the safety of the persons confidentially co-operating with the Intelligence System of Georgia and of their family members, measures for their protection may be carried out, if these measures do not violate the rights and legitimate interests of others persons.

**Article 14. Rights and duties of the person confidentially assisting the Intelligence System of Georgia**

1. A person rendering assistance to the Intelligence System of Georgia shall have the right:
  - a) to conclude a contract of confidential co-operation with the Intelligence System of Georgia or to co-operate in other established forms;
  - b) to receive explanations from the military personnel of the Intelligence System of Georgia of his tasks, rights and duties;
  - c) with a view of conspiracy to use ciphered documents by the Intelligence System of Georgia certifying the person;
  - d) to receive corresponding compensation in cases stipulated by the contract;
  - e) to receive compensation for harm or damage suffered from rendering assistance to the Intelligence System of Georgia.
2. A person co-operating with the Intelligence System of Georgia shall be obliged:
  - a) to observe conditions of co-operation with the Intelligence System of Georgia;
  - b) to not give false or slanderous information;
  - c) to protect trusted or known to him information containing state secrets.
3. A person rendering assistance to the Intelligence System of Georgia, according to the legislation of Georgia, shall bear the responsibility for disclosure of the information protected by law, and revealed during co-operation with the Intelligence System.

**Article 15. Social protection of the persons rendering (rendered) confidential assistance to the Intelligence System of Georgia**

Social protection of the persons rendering (rendered) confidential assistance to the Intelligence System of Georgia shall be determined by the corresponding normative acts.



**Chapter VI. - The control and supervision over the Intelligence System of Georgia**

**Article 16. Parliamentary control**

1. The Parliamentary control of the Intelligence System of Georgia shall be carried out by the Committee on Defence and Security of the Parliament of Georgia. Forms of parliamentary control shall be determined by the legislation of Georgia.

2. The control of the confidential activities, special programs of the Intelligence System of Georgia and expenditures allocated from the state budget for these needs, shall be carried out in accordance with the law of Georgia "On the Group of Trust".

**Article 17. Governmental control**

The Government of Georgia shall carry out the official supervision of the Intelligence System of Georgia. (21.05.2004)

**Article 18. Supervision of the Chamber of Control of Georgia**

The supervision over use and expenditures of the Intelligence System shall be carried out by the Chamber of Control of Georgia.

**Chapter VII. - The final provisions**

**Article 19. Final provision**

To charge the State Department of the Intelligence System of Georgia, the Ministry of the Defence of Georgia and the State Department of Protection of the State Border of Georgia within one month, and in the established order, to bring the corresponding normative acts in conformity with this Law.

**Article 20. Enforcement of the Law**

This Law shall enter into force upon its promulgation.

President of Georgia  
Tbilisi  
March 19, 1999  
No. 1841

Eduard Shevardnadze

**The Law of Georgia**  
**On the Internal Troops of the Ministry of Internal Affairs of Georgia**

**Chapter I. - General provisions**

**Article 1. The Internal Troops of Georgia**

The Internal Troops of Georgia (hereinafter referred to as the Internal Troops) shall be part of the system of the Ministry of Internal Affairs of Georgia and shall represent a component of the Military Forces of Georgia. They shall be destined to protect the interests of the individual, society and the state, to safeguard the constitutional rights and freedoms of citizens against criminal and other unlawful infringements.

**Article 2. Missions of the Internal Troops**

1. The Internal Troops shall be imposed with the following missions:

- a) rendering assistance to the bodies of the Ministry of Internal Affairs of Georgia and the State Security Ministry of Georgia in protection of the public order, safeguard of the public security and maintenance of the rule of law;
- b) participation in combating organised crime, terrorist and diversion groups;
- c) as established by the legislation of Georgia, independently or jointly with the Special State Security Service and other bodies of Georgia guarding of especially important state facilities and special cargoes;
- d) participation in defence of Georgia.

2. other missions may be imposed on the Internal Troops only by law.

**Article 3. Principles and legal foundations of the activities of the Internal Troops**

1. The activities of the Internal Troops shall be realised on the basis of the principles of legality, respect for human rights, centralisation of management, military call-up, and hiring on the contractual basis.

2. The Internal Troops in their activities shall be guided by the Constitution of Georgia and the laws of Georgia, decrees and orders of the President of Georgia, decisions of the Parliament of Georgia, orders of the Supreme Commander-in-Chief of the Military Forces of Georgia - the President of Georgia, the army regulations, orders of the Minister of Internal Affairs of Georgia and the Commander of the Internal Troops of Georgia.

**Article 4. Structure of the Internal Troops**

The structure of the Internal Troops shall consists of::

- a) military units and special operational formations;
- b) military units and special divisions on protection of critical state facilities and special cargoes;
- c) military units and special divisions; (16.05.2000. No. 299)
- d) patrol and sentry duty military units and special divisions;
- e) special aviation military units;
- f) administrative bodies of the Internal Troops, educational, communication and logistic divisions and establishments.

**Article 5. Property of the Internal Troops**

Property of the Internal Troops shall be:

- a) the buildings and structures of military towns of military units and divisions, military-training facilities, living quarters and other buildings used by the Internal Troops for accomplishment of

the missions imposed on them, shall be in the ownership of Georgia;  
b) the lands for stationing and permanent activities of military units and divisions, military - educational and other facilities, shall be given to them for use in the established order. Lands, natural resources, air space, water resources shall be used by the Internal Troops in compliance with the legislation of Georgia.

## **Chapter II. - Powers of the state authorities of Georgia in the domain of the activities of the Internal Troops**

### **Article 6. Powers of the Parliament of Georgia in relation to the Internal Troops**

Parliament of Georgia shall:

- a) exercise legislative governing of the organisation and activities of the Internal Troops;
- b) fix legislative guarantee of legal and social security of military servicemen of the Internal Troops and members of their families;
- c) in the legislative way determine the general tasks of the Internal Troops within the security system of Georgia.

### **Article 7. Powers of the President of Georgia in relation to the Internal Troops**

The President of Georgia shall:

- a) approve the structure and dislocation of the Internal Troops upon presentation of the Minister of Internal Affairs of Georgia;
- b) appoint the Commander of the Internal Troops and release him upon presentation of the Minister of Internal Affairs of Georgia, accept his resignation;
- c) take measures on maintenance of social protection, pension, material and household guarantees of military servicemen of the Internal Troops, members of their families, reserve and retired military servicemen and members of their families, according to the legislation of Georgia;
- d) approve tasks of the ministries, departments, other executive agencies, enterprises, establishments and the organisations of Georgia for the preparation and transfer of transport, communications and other material and technical facilities to the Internal Troops in an established order and under the legal regime of mobilisation, state of emergency or martial law;
- e) exercise other powers in the domain of activities of the Internal Troops .

### **Article 8. Powers of executive agencies of Georgia in relation to the Internal Troops**

1 The Ministry of Defence of Georgia shall:

- a) on the basis of the decree of the President of Georgia exercise the citizens' call up for military service in the Internal Troops;
- b) for accomplishment of missions imposed on the Internal Troops in the emergency situation provide aircraft and other transportation facilities for the transportation of technical equipment and staff;
- c) assist the Internal Troops in the preparation and improvement of professional skills of the officers' staff of the Internal Troops .

2. *This paragraph was excluded.*

3. While taking measures on the maintenance of a state-of-emergency legal regime and on the liquidation of the consequences of the state of emergency, the Ministry of Defence of Georgia, the Ministry of Communications and Post of Georgia, the State Security Ministry of Georgia and also other ministries and departments of Georgia shall provide the communication lines and liaison channels to the Internal Troops for realisation of management by military units and divisions of the Internal Troops.

### **Chapter III. - Military service in the Internal Troops**

#### **Article 9. Personnel of the Internal Troops**

1. The personnel of the Internal Troops shall include military servicemen and civil personnel.
2. Military servicemen of the Internal Troops shall have military ranks, clothes of the established form and badges of rank. They shall have necessary professional, legal, physical and combat training.
3. Service and labour activities of military servicemen of the Internal Troops shall be governed by the Labour Code of Georgia, other laws and normative acts of Georgia.

#### **Article 10. Military service in the Internal Troops**

1. Manning of the Internal Troops shall be effected by joining of the graduates from high military schools the military service under a contract, as well as by military draft of the citizens.
2. Procedure and terms of the doing the military service by military servicemen of the Internal Troops, their status, rights and obligations, the rules on the official displacement on service, assignments of a military rank, carrying out of certification, discharge from the military service and provision of pensions shall be determined by the legislation of Georgia.
3. Citizens enlisted in the military service of the Internal Troops shall take the military oath.
4. Military servicemen of the Internal Troops shall have the rights stipulated by the legislation of Georgia.
5. Selection of the citizens, subject to military draft, for service in the Internal Troops shall be realised by the territorial bodies of the Ministry of Internal Affairs of Georgia, the State Security Ministry of Georgia and the representatives of the Internal Troops jointly with military commissariats.

#### **Article 11. Performance of service duties by military servicemen of the Internal Troops**

Official duties of military servicemen of the Internal Troops and the procedure of their performance shall be determined by this Law, Regulation on Compulsory Service of the Internal Troops of Georgia, service and other army regulations of the Internal Troops, other normative acts of Georgia.

### **Chapter IV. - Rights and duties of the Internal Troops**

#### **Article 12. Duties of the operational military units and patrol sentry units**

1. Operational military units and patrol – sentry units shall be imposed with the following missions:
  - a) jointly with the bodies of the Ministry of Internal Affairs of Georgia protecting the public order in the cities and settlements by performance of patrol - sentry duty and also providing public security during mass actions; participation in the struggle against the organised crime, terrorist and diversion groups;
  - b) interaction with the bodies of the Ministry of Internal Affairs of Georgia and rendering any assistance to them necessary for taking immediate actions on rescue of people, protection of property remained without care, assurance of protection of the public order at failures, accidents, fires, acts of nature and other cases of emergency, as well as in providing the state-of-emergency regime;
  - c) participation in suppression of mass disorders in settlements and in case of necessity, in the law enforcement agencies;
  - d) taking intelligence actions in the areas where the Internal Troops perform their service combat tasks.

2. Participation of the Internal Troops in actions on the termination of assemblies and demonstrations shall be admissible only if these actions become illegal.

**Article 13. Duties of the special military units and formations**

Special military units and formations shall be imposed with the following missions:

- a) participation in prevention of the attempt of a coupe d'etat;
- b) participation in localisation of the areas of armed conflicts;
- c) participation in elimination of diversion groups and other armed forces of the enemy;
- d) participation in searching of sentenced and suspected persons. (16.05.2000)

**Article 14. Duties of military units on protection of critical state facilities and special cargoes**

Military units on protection of critical state facilities and special cargoes shall be imposed with the following missions:

- a) protection of critical state facilities, guard of warehouses and military bases of logistic support and military supply facilities and other facilities of the Ministry of Internal Affairs of Georgia, vitally important communications and special cargoes stipulated by the list authorised by the President of Georgia; providing intern regimes of the organisations; checking of the persons who enter the territories of guarded facilities, or leave them;
- b) participation in elimination of consequences of failures, accidents, fires, natural calamities and other emergency situations on guarded facilities and structures;
- c) to take part in the search and detention of persons, who have unlawfully penetrated the guarded territories. (16.05.2000)

**Article 15. Duties of aviation military units**

The aviation military units shall be imposed with the following missions:

- a) carriage of personnel, weapons, combat and special technical equipment and other material means of the Internal Troops;
- b) combat support of actions of the Internal Troops during their accomplishment of missions on provision of the state-of-emergency regime or martial law, and also at liquidation of consequences of other emergency situations.

**Article 16. Rights of military servicemen of the Internal Troops at performance by them of their service duties**

Performance of service duties by military servicemen of the Internal Troops with use of physical strength, special means and weapons shall be determined by this Law, the Laws of Georgia "On Police" and "On Fire-arms", the Regulation on Garrison and Guard Duties of Military Forces of Georgia and Regulation on the Combat Service of the Internal Troops of Georgia.

**Article 17. Use of combat equipment**

The combat equipment stipulated by the staff schedule of the Internal Troops, shall be applied for:

- a) release of hostages, captured guarded facilities, structures, cargoes and combat material;
- b) detention of the persons offering armed resistance;
- c) stoppage of transport vehicles during a state of emergency or martial law;
- d) repulse of an armed or group attack on military stations, military echelons and columns, guarded facilities, structures and cargoes, living premises of citizens, buildings and premises of the state authorities and public associations, enterprises, establishments and organisations, among

other things by the use of transportation facilities.

e) suppression of resistance of the armed groups when they have not complied with legal demands of military servicemen of the Internal Troops to stop illegal acts, to hand over the weapons and combat equipment.

**Article 18. Security guarantees of military servicemen of the Internal Troops and members of their families**

In order to guarantee the security of military servicemen of the Internal Troops and members of their families, the leadership of the Internal Troops shall bear the responsibility for confidentiality of the information on the personality of military servicemen, and also purposes and dislocations (moving) of the military units, which take part in clashes with illegally armed groups.

**Chapter V. - Administration of the Internal Troops**

**Article 19. Powers of the Minister of Internal Affairs of Georgia**

1. Minister of Internal Affairs of Georgia through the commander of the Internal Troops shall supervise over the Internal Troops and shall bear the responsibility for the accomplishment of their missions.

2. Minister of Internal Affairs of Georgia shall:

- a) issue the normative acts on the organisation and activities of the Internal Troops pursuant to the requirements of the Constitution of Georgia, the present and other laws of Georgia, decrees and orders of the President of Georgia, and supervises their performance;
- b) approve the structures and personnel of the Central Administrative Board of the Internal Troops, military units and establishments, provision and structure of the Military Council of the Internal Troops;
- c) present a nominee of the Commander of the Internal Troops to the President of Georgia;
- d) release from military service the officers of the Internal Troops upon presentation of the Commander of the Internal Troops according to the legislation of Georgia;
- e) take actions on social protection, pensions, material and social maintenance of military servicemen of the Internal Troops and members of their families, and also those in the reserve and resigned military servicemen and members of their families, according to the legislation of Georgia;
- f) assist in the employment of the family members of deceased military servicemen of the Internal Troops and provide settlements of their material and social needs, according to the legislation of Georgia;
- g) organise the manning of the Internal Troops – examining and selection of persons through the Commander of the Internal Troops and the Ministry of Internal Affairs of Georgia, and in case of need – through the local bodies of the State Security Ministry of Georgia;
- h) issue, on the basis of the decrees of the President of Georgia, orders on the next military draft and on transfer of military servicemen to the reserve, whose terms of military service have expired;
- i) upon presentation of the Commander of the Internal Troops, determine questions of the maintenance of the Internal Troops with material and financial resources, weapons, ammunition, combat and special technical equipment, special means, questions of mobilisation, and also other questions related to the competence of the President of Georgia, and submit offers for approval to the President of Georgia;
- j) solve other questions related to the activities of the Internal Troops, which according to the Constitution of Georgia and this Law, do not concern the competence of the President and Parliament of Georgia.

**Article 20. Powers of the Commander of the Internal Troops**

1. The Commander of the Internal Troops shall exercise management, co-ordination and administration of

the Internal Troops.

2. The Commander of the Internal Troops shall:

- a) bear the responsibility for combat and mobilisation readiness of the Internal Troops and accomplishment of their missions during war and in peacetime;
- b) be the immediate chief for the personnel of the Internal Troops;
- c) present solutions to questions of developing of the activities and structure of the Internal Troops, related to exercising of organisational actions, to the Minister of Internal Affairs of Georgia;
- d) provide the elaboration of plans on manning of the Internal Troops by military servicemen of compulsory military service, transfer them to the reserve on the basis of the decrees of the President of Georgia and orders of the Minister of Internal Affairs of Georgia;
- e) issue the orders and instructions, approve instructions, provisions, both combat and mobilisation plans and programs of the Internal Troops; presents to the Minister of Internal Affairs of Georgia the offers on the necessary changes in the personnel of the military units and establishments within the limits of fixed numerical strength of the Internal Troops;
- f) present to the Minister of Internal Affairs of Georgia solutions to questions of the maintenance of the Internal Troops by material and financial resources, weapons, ammunition, combat and special technical equipment, special means, to questions of mobilisation work and other questions;
- g) resolve questions of military service by officers and military persons of additional service;
- h) confer an officer military rank, according to the Law of Georgia “On Military Duties and Military Service”;
- i) appoint to the position, exercise official displacements, transfer to the reserve officers, including deputy commanders of separate military units and deputy chiefs of departments of Central Administrative Board of the Internal Troops; present to the Minister of Internal Affairs of Georgia the orders on discharge of officers of the Internal Troops from military service;
- j) provide for the creation of necessary social conditions and material resources for the personnel of the Internal Troops;
- k) nominate military servicemen, other personnel of the Internal Troops to the state awards of Georgia;
- l) take combat and other technical equipment and property in (armament) equipment;
- m) write off unusable property;
- n) within the limits of powers given by the Minister of Internal Affairs of Georgia during the action of an emergency legal regime, co-ordinate the interaction of the Internal Troops and corresponding territorial bodies of internal affairs, which participate in the maintenance of this regime.

#### **Article 21. Central Administrative Board of the Internal Troops**

The Central Administrative Board of the Internal Troops shall be a structural division of the Central Apparatus of the Ministry of Internal Affairs of Georgia. Its activities shall be determined by the Provision confirmed by the Minister of Internal Affairs of Georgia.

#### **Article 22. Military Council of the Internal Troops**

1. The Military Council, as an advisory body, shall be formed at the Commander of the Internal Troops and its activities shall be determined by the Provision confirmed by the Minister of Internal Affairs of Georgia.

2. The Military Council shall consist of (in order of their position): the Commander of the Internal Troops - Chairman of the Military Council, the Chief of Staff of the Internal Troops - the first Deputy to the Commander, other deputies to the Commander of the Internal Troops, the Secretary of the Military Council and other officials, according to regulations on the Military Council. Decisions of the Military Council shall be implemented on the basis of the orders and decrees of the Commander of the Internal Troops.

**Chapter VI. - Performance of duties by the Internal Troops**

**Article 23. Order of performance of duties by military units and formations of the Internal Troops**

1. The order of performance by military units and formations of the Internal Troops of their duties assigned to them shall be determined by this Law and the army regulations of the Military Forces of Georgia, service regulations of the Internal Troops of Georgia and other normative acts of Georgia.
2. Duration of the military service accounted in the long service of the officers of military units and formations of the Internal Troops, military servicemen of additional service and military servicemen at accomplishment of the missions on maintenance of the state-of-emergency regime, shall be assessed on the basis of one month for three months with the inclusion of a pension in the record of service. Aside from this, the Internal Troops shall receive additional monetary payments under the procedure established by the legislation of Georgia.

**Article 24. Performance of duties by military units and formations of the Internal Troops outside the areas of their disposition**

1. Performance by military units and formations of the Internal Troops of the duties assigned to them outside the areas of their disposition shall be effected under the order of the Minister of Internal Affairs of Georgia.
2. For rendering assistance to the bodies of internal affairs on protection of the public order within the territories of Abkhazia and Ajara Autonomous Republics senior operational heads shall be entitled to attract the patrol - sentry sub-units for the term no longer than one month, in agreement with the Minister of Internal Affairs of Georgia.

**Chapter VII. - Guarantees of legal and social security of military servicemen of the Internal Troops**

**Article 25. Obligation to perform the legal requirements of military servicemen of the Internal Troops**

1. The legal requirements of military servicemen of the Internal Troops at their discharge of their service duties shall be mandatory for execution by every person within the territory of Georgia
2. Non-execution of legal requirements of military servicemen of the Internal Troops and the actions preventing from their discharge of their service duties shall entail the responsibility established by the legislation of Georgia.

**Article 26. Entitlement of military servicemen of the Internal Troops for legal defence**

Military servicemen of the Internal Troops shall be entitled for legal defence of their rights and legitimate interests - including appeal in the court against the orders on their dismissal from military service.

**Article 27. Social security of military servicemen of the Internal Troops**

The Internal Troops shall be the component of the Military Forces of Georgia, and conditions of social protection and material maintenance, established by the legislation of Georgia for the military forces, shall be applied to them.

**Article 28. Rights of military servicemen of the Internal Troops at business trip**

Upon presentation of the business trip card, military servicemen of the Internal Troops on business trips shall be entitled for preferential purchase of tickets on all types of transport and for preferential accommodation.



**Article 29. Responsibility for non-observance of legal and social security guarantees of military servicemen of the Internal Troops**

In case of non-observance of legal and social security guarantees of military servicemen of the Internal Troops, stipulated by the legislation of Georgia, the corresponding officials shall bear the responsibility according to the legislation of Georgia.

**Chapter VIII - Financing and logistic support of the Internal Troops**

**Article 30. Financing of the Internal Troops**

The Internal Troops shall be financed on account of the State budget of Georgia, pursuant to a separate article.

**Article 31. Logistic support and military supply of the Internal Troops**

1. Logistic support and military supply of the Internal Troops shall be exercised according to the functional destination of military units.

2. Repair of military-technical equipment of the Internal Troops, shall be carried out on the contract basis at repair enterprises and workshops of the Ministry of Internal Affairs of Georgia and the Ministry of Defence of Georgia.

3. The Ministries, departments, enterprises, establishments and the organisations, under the jurisdiction of which are the facilities, protected by the Internal Troops, shall be obliged to provide the Internal Troops with premises necessary for their quartering and other buildings.

4. Quartering of the Central Administrative Board, aviation units, operational units and patrol - sentry military units of the Internal Troops shall be carried out on account of the State budget of Georgia. Repair and municipal service of barracks of the Internal Troops, sentry buildings and other facilities shall be carried out on account of the State budget of Georgia.

5. Construction, major overhaul, reconstruction and maintenance of protected facilities, and also engineering-technical means, shall be carried out on account of the ministries, departments, enterprises, establishments and organisations, under jurisdiction of which they are.

6. The personnel of the Internal Troops, temporarily carrying service outside the place of the permanent dislocation of the military unit, shall be provided with premises, transport, communication, combustive-lubricating materials, additional meal on account of specially allocated expenses from the State budget of Georgia.

**Chapter IX. - The control and supervision over the activities of the Internal Troops**

**Article 32. The Parliamentary control**

The parliamentary control over the activities of the Internal Troops shall be carried out in the order, stipulated by the Constitution of Georgia, the legislation of Georgia and the regulations of the Parliament of Georgia.

**Article 33. The Presidential control**

The President of Georgia – the Supreme Commander-in-Chief of the Military Forces of Georgia shall:

- a) consider the report of the Commander of the Internal Troops on the activities of the Internal Troops;
- b) supervise the rational use of forces and means of the Internal Troops, conformity of their

- organisational and regular structure with the volume of tasks subject to performance;
- c) approve the program of the activities of the Internal Troops ;
- d) supervise other questions of the activities of the Internal Troops through the Major Military Inspection of the President of Georgia – the Supreme Commander-in-Chief of the Military Forces of Georgia.

**Article 34. Public prosecutor's supervision**

According to the Constitution of Georgia, the Public Prosecutor's supervision of the activities of the Internal Troops, as a body of inquiry, exact and uniform execution of laws by them in the order, established by law, shall be carried out by the General Public Prosecutor of Georgia, the Main Military Public Prosecutor of Georgia and subordinated to them Prosecutors.

**Article 35. Supervision of Chamber of Control of Georgia**

The Chamber of Control of Georgia shall supervise the use of means and other material assets of the state allocated to the Internal Troops from the State budget of Georgia.

**Chapter X. - Final provisions**

**Article 36. Enforcement of the Law and the normative act which shall be issued**

1. This Law shall enter into force upon its promulgation.
2. The President of Georgia in a two-months term after this Law entered into force – shall approve the Regulation of Combat Service of the Internal Troops of Georgia.

President of Georgia

Eduard Shevardnadze

Tbilisi  
April 30, 1998  
No. 1366

## **The Law of Georgia On Martial Law**

### **Article 1.**

Martial law shall mean the proclamation of special rules throughout the whole territory of the country in case of an armed attack on Georgia in accordance with the defence interests of the country. Martial law shall be proclaimed pursuant to the Constitution of Georgia and present Law, and, shall set as its purpose, the maintenance of territorial integrity of the country, protection of the state security and observance of public order.

### **Article 2.**

1. Martial law throughout the whole territory of Georgia shall be proclaimed by the President of Georgia.
2. The President of Georgia shall warn the population of the proclamation of martial law throughout the whole territory of the country via mass media, and within 48 hours after the proclamation shall present his decision for approval to the Parliament of Georgia. If the Parliament of Georgia fails to approve the decision of the President of Georgia on the proclamation of martial law, martial law shall be considered terminated.
3. During martial law, the President of Georgia shall issue decrees with the power of law, which within 48 hours shall be presented to the Parliament of Georgia.
4. Decrees of the President of Georgia issued during martial law, limiting individual rights and freedoms listed in Articles 18, 20, 21, 22, 24, 25, 30, 33 and 41 of the Constitution of Georgia, shall be authorised by the Parliament of Georgia. The text of the decree shall be broadcasted on radio and TV of Georgia within one day after its signing and not less often than once in every two hours.

### **Article 3.**

1. Motives for the proclamation of martial law and its term shall be specified in the decree of the President of Georgia on the proclamation of martial law.
2. The President of Georgia, with the consent of the Parliament of Georgia, may prolong martial law or, terminate it, before the expiration of the established term.
3. The decision on the proclamation, prolongation of the term of martial law or its termination shall come into force from the moment of its adoption, if the legislation of Georgia does not establish other rules, and shall be published immediately.
4. With the termination of martial law, all decrees issued by the President of Georgia during martial law, shall become invalid.

### **Article 4.**

1. After the proclamation of martial law, the functions of the executive agencies in the field of maintenance of defence of the state, observance of public order and protection of state security throughout the whole territory of the country shall be transferred to the President -Commander-in Chief of the Military Forces of Georgia.
2. During martial law, according to the certain circumstances, the supreme executive agencies of Georgia, in the frames of their competence and according to the requirements of law, may take the following measures:

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- a) to strengthen protection of public order and those facilities providing for the vital activities of the population and the operation of economy;
- b) temporarily to evacuate citizens from dangerous areas with the obligatory granting of stationary or other temporary premises;
- c) in the area in which martial law is proclaimed - to introduce a special regime of entry into and exit from that area of citizens;
- d) in case of the need to limit the right of citizens and persons without citizenship to free movement - to forbid them to leave their residence or other place of stay without the corresponding permission;
- e) temporarily to withdraw from citizens firearms, steel, ammunition, and from the enterprises, establishments and organisations - educational military technical equipment, explosive, radioactive substances and materials, strong chemical and poisonous substances;
- f) ban on assemblies, meetings, street processions and demonstrations, entertainment, sports and other mass actions;
- g) to change the plans on production and delivery of products of the state enterprises and organisations, and also to resolve other questions related to their economic activities, to establish a special work regime of the state and private enterprises, establishments and organisations; (7.05.2003)
- h) if necessary, suspend from work during the effective period of martial law of directors of state enterprises, establishments and organisations, having strategic and vital value for the population, and to appoint other persons to act temporarily for those directors; to forbid in these enterprises, establishments or organisations the releasing of workers and employees at will, except for cases of dismissal for valid reasons; with the termination of martial law to appoint the suspended persons to their posts, if there is no lawful grounds for their removal from office;
- i) according to the legislation, to use resources of state enterprises, establishments and organisations for the prevention and liquidation of the consequences of martial law; for the same purposes to use property and material means belonging to another legal and also to natural persons, only with corresponding compensation, which shall be given out after the termination of martial law;
- j) to ban on strikes;
- k) to involve able-bodied citizens in the enterprises, establishments and the organisations with an average payment and also to involve them in the liquidation of consequences of martial law providing for the safety of conditions of their work;
- l) to limit or ban on the traffic in arms, strong chemical and poisonous substances, and also alcoholic drinks and substances;
- m) to impose a quarantine and to implement the obligatory sanitation and anti-epidemic measures;
- n) according to the legislation to establish control over mass media;
- o) to adopt special instructions on the use of the communication facilities;
- p) to limit the traffic and implement the vehicle examination;
- q) to declare a curfew;
- r) to forbid the creation or activities, if not stipulated by the legislation of Georgia, of the armed formations of citizens;
- s) to check documents in places of a mass concentration of citizens, and at presence of the corresponding grounds, - to carry out personal inspection of citizens, examination of their things and means of transport.

### **Article 5.**

1. The supreme agencies of the executive authority of Georgia shall have the right to cancel any decision of subordinate bodies during martial law.

2. The National Security Council of Georgia shall co-ordinate the work on the prevention and liquidation of consequences of martial law.

**Article 6.**

During the effective period of martial law, the directors of enterprises, establishments and organisations shall have the right, in necessary cases, to transfer workers and employees to another work not stipulated by labour agreement without their consent.

**Article 7.**

1. During a curfew the citizens shall not be allowed to be in streets or in other public places or, to stay outside of their premises without officially given passes and documents certifying their person.

2. Persons, violated Paragraph 1 of this Article, shall be detained by police or military patrols before the termination of the curfew, as well as those who have no personal identity documents - for the clarifying of their personal identity, but no more than for 72 hours. Detained persons may be subjected to personal inspection and their personal things may be inspected.

**Article 8.**

Infringement of the requirements established by Subparagraphs (c), (d), (f), (j) and (l)-(p), and also requirements stipulated by Paragraph 1 of Article 7 of this Law, shall entail the responsibility, according to the legislation.

**Article 9.**

Under the decision of the President of Georgia and with the consent of the Parliament of Georgia, for liquidation of consequences of martial law, for maintenance of public order and for the safety of citizens, the Military Forces of Georgia may be used, which shall operate according to this Law and other corresponding normative acts.

**Article 10.**

1. With a view of the co-ordination of actions, management and interactions of forces involved in the liquidation of consequences of martial law, the temporary bodies may be created by the decree of the President of Georgia; and, or, in the areas where the state of emergency is proclaimed, upon presentation of the National Security Council of Georgia, the representative of the President and (or) commandant may be appointed.

2. The Representative of the President of Georgia and (or) the Commandant, shall issue orders regulating questions of assistance to the regime of martial law within the framework of this Law in order to perform the normative acts issued by the President of Georgia.

**Article 11.**

During action of martial law, according to the decision of the President of Georgia and with a view of elimination of consequences of martial law, those experts, who have the necessary education and experience, may be called. Not only the Georgian experts but also the experts from foreign countries may be called. (7.05.2003)

**Article 12.**

1. The Parliament of Georgia shall have the right to introduce the military courts in the system of the general courts during action of martial law.

2. The Parliament of Georgia shall have the right to change the territorial jurisdiction of civil and criminal cases established by law in particular areas during action of martial law.

**Article 13.**

1. Citizens damaged during the state of emergency, or, in connection with the implementation of work on its prevention or liquidation, shall be given the dwellings, compensated material damage, assisted in employment and provided with other necessary assistance by the state.

2. Conditions and the procedure of the granting of dwellings, compensation of damage and rendering of other necessary assistance, according to the legislation, shall be determined by the President of Georgia.

**Article 14.**

1. If in the areas, in which martial law is proclaimed, the state authorities do not provide appropriate implementation of their functions, the President of Georgia, by the decree, may introduce the temporary governance according to the legislation of Georgia and before the termination of martial law.

2. In cases stipulated by Paragraph 1 of the present Article, powers of the corresponding state authorities shall be suspended, and their functions shall be imposed on the body created or the official appointed by the President of Georgia, who within the limits of their competence and according to the legislation, shall have the right:

- a) to take measures stipulated in Article 4 of this Law;
- b) temporarily to implement functions of the local self-government and government bodies;
- c) to make proposals in the supreme state authorities of Georgia on questions of state, economic and social construction;
- d) according to the legislation, to subordinate to itself the state enterprises, establishments and organisations located in the corresponding areas, in the order determined by the President of Georgia.

**Article 15.**

The Ministry of Foreign Affairs of Georgia shall immediately notify the Secretary General of the United Nations Organisation on the proclamation of martial law and on its termination.

**Article 16.**

1. This Law shall enter into force upon its promulgation.

2. The Law of Georgia "On Martial Law" of December 24, 1992 (The Gazette of the Parliament of Georgia, 1992, No. 2, art. 103) shall be considered as invalid.

President of Georgia

Eduard Shevardnadze

Tbilisi  
October 31, 1997  
No. 1032

## **The Law of Georgia On Military Duty and Military Service**

### **Chapter I. - General Provisions**

#### **Article 1. Military obligations**

1. According to the Constitution of Georgia, the defence of Georgia and the performance of military duty shall be the obligation of every citizen fit for this purpose. The form of performance of military duty shall be determined by law.

2. The military duty shall provide for

- a) military registration;
- b) training for military service;
- c) military service;
- d) reserve.

#### **Article 2. Types of military service**

1. The military service shall be subdivided into compulsory and contracted (professional) military service and reserve. The military duty may be performed in the form of contracted (professional) military service, the term of which may not be less than 3 years. The term of contracted (professional) service for the Special State Protection Service shall be determined according to Article 32, Paragraph 1, Subparagraph (a) and (b) of this Law. In order to be transferred from the contracted (professional) military service to the regular military service, military servicemen shall pass the qualification exams. The order and conditions of passing qualification exams shall be determined by the normative act of the Ministry of Defence of Georgia. (25.12. 2002 N 1893)

2. The persons being on military service shall be called military servicemen, and persons in the reserve – reservists.

#### **Article 3. The military oath**

1. The citizens called up for military service shall take the military oath, the text of which shall be approved by the Parliament of Georgia.

2. The persons without citizenship of Georgia, instead of bringing the military oath, shall take a written obligation.

3. Military servicemen, before bringing the military oath or taking of the written obligation, may not carry out combat tasks (combat operation, combat duty, combat post service, sentry duty).

#### **Article 4. Restrictions for the citizens, who did not perform the military duty**

The citizens, who did not perform the military duty, in accordance with the legislation, may be subject to restrictions when appointing to a post in the state service.

#### **Article 5. Duties of the citizens of a foreign state and of the persons without citizenship**

1. The persons without citizenship, permanently living in Georgia, shall be considered liable to military service, and the forms of military duty, specified by this Law, shall be applied to them.

2. The citizens of a foreign state at personal desire and at the decision of the President of Georgia may be taken into the military service of Georgia. In this case they, instead of bringing the military oath, shall take the written obligation of fidelity to the Georgian state and to military service, and on the strict performance

of the legislation. The text of the written obligation shall be determined by the Provision on Performance of Military Service and shall be approved by the President of Georgia.

3. The rights and obligations stipulated by this Law, if not specified especially, shall be applied also to the persons not having citizenship of Georgia and permanently living in Georgia.

4. The order of performance of military service for the persons listed in the present Article shall be established by this Law and the regulation authorised by the President of Georgia.

**Article 6. Duties of the bodies of the state authorities, local government and officials in connection with performance by citizens of military duty and military service**

1. Bodies of the government and local government, officials shall be obliged to:

- a) notify citizens on calls of the military department of the body of local government;
- b) to take measures within the frames established by the legislation in order to ensure for the citizens the opportunity of timely arrival to the military department of the body of local government.

1.1. The military department of the body of local government shall be obliged to ask the citizens subject to military draft on their use of the right to deferment, prescribed in Subparagraph (d) of Paragraph 1 of Article 30. (7.05.2003)

2. Officials shall be obliged to not employ or enlist the persons liable to military service in the educational institution without a document certifying that they has been enlisted in the military register.

3. It shall be forbidden to issue the passport of the citizen of Georgia without presentation of the document certifying the enlistment in the military register.

4. The Ministry of Internal Affairs of Georgia and the bodies subordinated to it, in the frames established by the legislation, shall be obliged to:

- a) inform within a 10-days term the military department of the bodies of local government of the region or city (without regional division) the data to be included into the document certifying the military registration of the citizen, who shall be obliged to be but is not included in the military register. As for reservists - to inform the Mobilisation Department of the Ministry of Defence of Georgia (mentioned below as Mobilisation Department);
- b) within a 10 days term after the registration or removal from the military register of the citizen, to inform the corresponding military department of the body of local government on the date of the registration or removal from the military register and the new address of the citizen; as for reservists - to inform the Mobilisation Department of the Ministry of Defence of Georgia (mentioned below as Mobilisation Department);
- c) to carry out search and at presence of the lawful grounds to detain the citizen deviating from the military draft or military assembly, or from performance of military service or military assembly;

5. The civil registrars offices shall be obliged to inform within a 10-days term the corresponding military departments of the bodies of local government on alterations in the civil status acts of the citizens; as for reservists, to inform the Mobilisation Department of the Ministry of Defence of Georgia (mentioned below as Mobilisation Department);

6. The bodies of inquiry and the bodies of preliminary investigation shall be obliged to inform, within a 10-day term, the corresponding military department of the body of local government of institution of criminal cases with respect to the citizens liable to military service, and as for reservists, to inform the Mobilisation Department of the Ministry of Defence of Georgia (mentioned below as Mobilisation Department);



7. The courts shall be obliged to inform, within a 10-days term, the corresponding military department of the body of local government on coming into force of a verdict with respect to the citizens, who have been enlisted or obliged to be enlisted in the military register, as well as – with respect to military servicemen. As for reservists, to inform the Mobilisation Department of the Ministry of Defence of Georgia (mentioned below as Mobilisation Department);

8. The Commission on Medical and Social Expertise shall be obliged to inform, within a 10-days term, the corresponding body of local government on acknowledgement as invalids of the citizens, who have been enlisted or obliged to be enlisted in the military register. As for reservists - to inform the Mobilisation Department of the Ministry of Defence of Georgia (mentioned below as Mobilisation Department). (21.06.2002 N1527)

#### **Article 7. Maintenance of actions related to the performance of military duty**

The state authorities and bodies of local government, within the limits of the legislation of Georgia, shall provide the actions related to the performance of military duty by citizens.

#### **Article 8. Providing material security of citizens in a view of training for military service and performance of military assemblies**

1. For the period of carrying out of the military registration, obligatory training for military service and medical examination connected with military service, the citizens shall be released from work (educational institution) with preservation of a work place (a place of study) and the average salary (grant).

2. For the period of performance of military assemblies the citizens shall be released from work (educational institution) with preservation of a work place (a place of study). They shall be paid an allowance as a salary (grant), according to their military post or rank from the Ministry of Defence of Georgia or corresponding department.

3. The citizens called for military service or military assemblies shall be provided with a ration stipulated by the norms of nutrition for their travel to and from service as established for persons on military service, or shall be provided with corresponding financial compensation allocated from the means of the Ministry of Defence of Georgia or corresponding department.

### **Chapter II. - The order of performance of military duty**

#### **Article 9. The age of citizens performing military duty**

Citizens of Georgia aged from 18 to 27 years, who are registered or obliged to be registered for military service and are not entitled to be released from the military draft or to deferment of the military call-up, shall perform their military duty.

#### **Article 10. Study in a military school**

1. Citizens of Georgia with secondary, specialised and higher education (persons permanently living in Georgia without citizenship) who are enlisted in the military register, did not pass compulsory military service and did not reach 27 years of age, after the passing of entrance examinations shall be enlisted in a military school and called a cadet. In case of termination of studies, for cadet, who performed his duty by the terms stipulated by this Law with respect to military service, the military service shall be considered as passed, and he shall be enlisted in the corresponding category of reserve.

2. Citizens with secondary, specialised and higher education in the reserve enlisted in the military register, contracted (professional) and regular military servicemen, after the passing of entrance examinations shall be enlisted in a military school and called listeners. The listener shall be considered as being on contracted (professional) service or on regular military service. (21.06.2002 N1527)

### **Chapter III. - The military registration**

#### **Article 11. The duty of citizens to register for military service**

1. Every citizen shall be obliged to register for military service. The following persons shall not be subject to military registration:

- a) the citizens released from discharge of military duty in compliance with this Law;
- b) the women having no military registration speciality;
- c) the citizens doing military service;
- d) military servicemen of the Ministries of Internal Affairs or the State Security, of the State Department of Intelligence and the State Department of Protection of the State Border and contracted employees of the Special State Protection Service; (25.12. 2002 N 1893)
- e) citizens doing non military, alternative labour service;
- f) citizens reached age limit in the reserve;
- g) persons serving the criminal sentence in the form of deprivation of liberty.

2. Persons specified in Subparagraph (d) of Paragraph 1 of the present Article shall be enlisted in the special register in the corresponding body.

#### **Article 12. Bodies carrying out the military registration**

1. The military registration of citizens shall be carried out by the military departments of the bodies of local government, and as for reservists-by the Mobilisation Department according to the place of their residence. (21.06.2002 N1527)

2. The military registration of the citizens having military ranks of officers and being in the reserve of the Ministries of State Security and Internal Affairs, of the State Departments of Intelligence and Protection of the State Border, shall be carried out by the corresponding bodies in the order as defined by this Law. (25.12. 2002 N 1893)

3. The procedure of the military registration of citizens shall be determined by the Regulation on the Military Registration of Citizens and shall be approved by the President of Georgia.

#### **Article 13. The primary military registration of citizens**

1. The primary military registration of citizens shall be carried out by the military departments of the bodies of local government of the region or city (without regional division) from January 1 until April 30, when the citizen is 15 years of age. (21.06.2002 N1527)

1.1. The military department of the body of local government shall present to the President of Georgia a complete data report on the alterations in the primary military registration and registration data of the citizens, and submit this information to the General Headquarters of the Armed Forces and Ministry of Finance (7.05.2003 N1527)

2. A citizen who undergone the primary military registration shall be called a conscript.

3. The primary military registration of a woman shall be carried out by the Mobilisation Departments of the region or city (without regional division) after she acquires a military-registration speciality. (21.06.2002 N1527)

#### **Article 14. The Commission for Military Registration**

1. The executive body of local government shall approve the Commission for Military Registration of Citizens in the following structure:

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- a) the Chairman of the Commission - the head of the executive body of local government of the region, city (without regional division);
- b) the Deputy Chairman of the Commission – the head of the military department of the body of local government;
- c) Members of the Commission: the representatives of the territorial bodies of the Ministry of Internal Affairs, Ministry of Education, Ministry of Labour, Health and Social Protection, the doctor-experts, who carry out the medical examination of citizens;
- d) the Secretary of the Commission. (7.05.2003 N1527)

2. The Commission for Military Registration of Citizens shall be obliged:

- a) to arrange the medical examination of citizen and to determine their appropriateness for military service;
- b) to make a decision on the enlisting of citizens for military registration or on their releasing from military duty due to their unsuitability for military service for reasons of health;
- c) to arrange a professional psychological examination of citizens in order to determine their appropriateness for military service.

3. Chairman of the Commission for Military Registration of Citizens shall be obliged to inform the citizens on the decision of the commission and on their duties in connection with the military registration.

### **Article 15. Examination of citizens related to their military registration**

1. Citizens shall pass a medical examination under the direction of a surgeon, therapist, neuropathologist, ophthalmologist, ontologist, laryngologist, stomatologist, psychiatrist, narcology expert, and, if necessary, by other specialists. If it is not possible to make a suitable medical analysis of the capacity of citizens to undertake military service, the commission may direct them to a medical institution for out-patients or make alternative provisions for a stationary examination.

2. At a primary military registration of citizens, financing of charges for the medical examination of citizens and a payment for medical experts and/or members of a medical board shall be made according to budgets of the corresponding territorial units and shall be authorised by the Ministries of Defence and Public Health Services of Georgia.

### **Article 16. Obligations of citizens as to military registration**

1. The citizens, in connection with the military registration, shall be obliged to arrive to the military department of the body of local government upon a call of the Chairman of the Commission of that region, city (without regional division), where they live permanently (i.e., for more than three months) or temporarily.

2. The citizens discharged from the military service of Georgia, for reasons of transfer to the reserve, shall be obliged within a two weeks term after having received the document of transfer, to arrive to the Mobilisation Department of the region, city (without regional division) at his place of residence.

3. On moving to a new place of residence, the citizens shall be obliged within two weeks, to arrive to the military department of the body of local government of the region, city (without regional division) as per the place of residence to be enlisted in the military register, and in the case of moving abroad, within the same term, to arrive to the embassy or representation of Georgia; as for reservists-to the Mobilisation Department.

4. In terms of requirements of the military department or Mobilisation Department of the body of local government, the citizens on military registration shall be obliged, within two weeks, to present the information on their marital status, change of residence, place of work and education within the borders of the region, city (without regional division) to the military department or Mobilisation Department. (21.06.2002 N1527)

#### **Chapter IV. - Training of citizens for military service**

##### **Article 17. Types of training of citizens for military service**

Training of citizens for military service shall provide for:

- a) military - patriotic upbringing;
- b) training on elementary military science in a comprehensive secondary school, specialised secondary and vocational training colleges;
- c) training of military - technical experts;
- d) physical training and training in the field of military - applied sports;
- e) medical - prophylactic and sanitary work;
- f) training and retraining of military experts of the reserve in special assemblies of military units and in military schools, as well as the periodic commander training of reserve officers.

##### **Article 18. Training for the high military school in cadet corps, lyceum and in other types of specialised secondary educational institutions**

1. Training of citizens for the higher military school of Georgia shall be carried out in a military school, lyceum and in other specialised secondary educational institutions of the military type. Orphans or persons without parental care entering in these educational institutions shall be enlisted without examinations, according to the results of interview and medical examination.

2. The persons successfully graduated from a military school, lyceum or other specialised secondary educational institution of the military type may be enlisted in a higher military school without exams.

##### **Article 19. Training of reservists on a military faculty of a higher educational institution (21.06.2002 N1527)**

1. Training of reservists shall be carried out in those higher or specialised secondary educational institutions, where the military departments operate. The educational institution shall provide the military department with the necessary buildings and constructions, and, also jointly with the Ministry of Defence of Georgia, shall create the necessary educational-material basis. The Ministry of Defence of Georgia, as agreed with an educational institution, shall select teachers for the military department. (21.06.2002 N1527)

2. An educational assembly stipulated by the program of training of the reserve officers shall be considered to be a military assembly. (21.06.2002 N1527)

3. The General Headquarters of the Armed Forces of Georgia shall determine the number of officers in the reserve for their training in a military department, according to their registration speciality. (21.06.2002 N1527)

#### **Chapter V. - Military Draft**

##### **Article 20. The basis for the military draft**

1. The basis for the military draft of citizens and persons without citizenship shall be the decree of the President of Georgia, which shall be elaborated by the National Security Council on the basis of the draft submitted by the Service of Regional Policy and Management at the President of Georgia. While elaborating the draft, the requirements of the Ministries of Defence, State Security and Internal Affairs, of the State Department of Protection of the State Border and Special State Protection Service shall be taken into consideration.

2. If the persons subject to release from discharge of military duty or to deferment of military draft according to the requirements of Articles 29 or 30 of this Law, (except for the grounds stipulated by

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Subparagraphs (a) and (c) of Paragraph 1 of Articles 29 and Subparagraphs (a) and (c) of Paragraph 1 of Article 30 of this Law), who desire voluntarily to perform military duty, may be called for military service. The persons shall perform military service with a full term if there are no new circumstances, prescribed by the legislation, which entitles them for release from military service or for call-up deferment. (7.05.2003 N1527)

### **Article 21. The citizen liable to military service**

1. Persons specified in Article 9 of this Law shall perform their military duty.
2. Decision on the military draft of citizens may be taken only when they reach 18 years of age.
  - 2.1. The conscripts who want to make use of their right to call-up deferment prescribed by Subparagraph (d) of Paragraph 1 of Article 30 of this Law shall be obliged to inform the military department of the body of local government about this one month before the military draft. (7.05.2003 N1527)
3. The citizens who have reached 27-years of age shall not called for military service but shall be enlisted in the reserve.
4. The performance of the military draft by the citizens of Georgia permanently living in Georgia or working abroad shall be determined by the corresponding normative act.
5. The citizens who have passed their military training in a higher educational institution, according to the special program of training for reservists of the primary military ranks of corporal (specialist), senior sergeant or junior lieutenant, shall be given the corresponding military ranks. The reservists of such category may be called for military service voluntarily, or, in a special case and under the decree of the President of Georgia up to 30 years of age. (21.06.2002 N1527)

### **Article 22. Periods of the military draft**

1. The military draft of citizens shall be performed two times a year, in spring and in autumn.
2. The concrete period of the military draft shall be determined by the decree of the President of Georgia upon presentation of the National Security Council.

### **Article 23. Arrangement of the military draft**

1. The head of the body of local government of the region or city (without regional division) shall be responsible for the arrangement of the military draft of citizens.
2. The military draft of citizens shall be performed by the body of local government of the region, city (without regional division), and as for the military draft of contracted (professional) military service, by the Ministry of Defence of Georgia or corresponding body. (21.06.2002 N1527)
3. The procedure of the military draft of citizens shall be determined by this Law and Regulation on the Military Registration of Citizens, which shall be approved by the President of Georgia.
  - 3a. The bodies of local government of the region, city (without regional division) shall present the report on the military draft to the General Headquarters of the Armed Forces of Georgia. (7.05.2003 N1527)

### **Article 24. Military Draft Commission**

1. In order to perform the military draft the Military Draft Commission of the region, city (without regional division) shall be created. The executive body of the corresponding body of local government shall affirm the Commission. (7.05.2003 N1527)

2. The Military Draft Commission shall consist of:

- a) Chairman of the commission - the head of the body of local government of the region (city);
- b) Deputy Chairman of the commission - the head of the military department of the body of local government of the region (city);
- c) Members of the commission - representatives of the bodies of local government, public health services, education, internal affairs and of the State Department on Youth Affairs.
- d) Secretary of the Commission. (7.05.2003 N1527)

3. Structure of the Military Draft Commission shall include a medical board. (21.06.2002 N1527)

4. Medical board shall consist of: surgeon, therapist, neuropathologist, psychiatrist, the expert in narcology, ontologist, laryngologist, ophthalmologist and stomatologist, and other medical specialists.

#### **Article 25. Duties and the operating procedure of the Military Draft Commission**

1. The Military Draft Commission shall organise the medical examination of citizens subject to the military draft, and within the framework of its competence – take one of the following decisions concerning the conscript:

- a) on the military draft;
- b) on call-up deferment;
- c) on release from the military draft;
- d) on release from discharging of the military duty;
- e) on the suitability of citizens to study in a military college.

2. In case of citizen's evasion from the military draft, the Military Draft Commission shall forward the appropriate materials to the law enforcement agencies.

3. After the decision on the military draft of citizens has been taken, the Military Draft Commission shall present the conscript to the assembly allotting point determined by the order of the President of Georgia where the permanent military-medical expert commission shall operate. The commission shall determine the quality and category of the fitness of the conscripts for military service after the medical examination (in case of necessity, a local additional medical examination) took place. The assembly allotting point shall determine the category and type of compulsory military service in which the citizen shall participate. (7.05.2003 N1527)

4. The Military Draft Commission shall take a decision only on the basis of the law. Its decision shall not contradict the conclusion of the medical board with respect to the citizen's state of health and his capacity for military service.

5. Chairman of the Military Draft Commission shall announce the decision of the commission to the citizens subject to the military draft. On demand of the citizens, the Chairman of the Military Draft Commission shall give them an extract from the decision of the Commission.

6. The citizens may make an appeal against the decision of the Military Draft Commission within a 10-days term after the decision has been passed in the Central Military Draft Commission of Georgia or in the court. In this case, the decision of the Military Draft Commission shall be suspended up until the announcement of the decision of the Central Military Draft Commission or coming into force of the decision of the court.

#### **Article 25.1. Supervision over the collection of fees for a deferment of compulsory military service**

1. In the order determined by the Law "On the Fee for a Deferment of Compulsory Military Service" and in order to exercise the supervision over the revenues accumulated in the state budget of Georgia or which are to be accumulated in the state budget, the bodies of local government of the region, city (without regional division) shall be obliged to submit the report on the implementation of measures, prescribed in Articles 25

and 27 of the Law “On the Fee for a Deferment of Compulsory Military Service”, to the Finance Ministry of Georgia within a 10 days term after the period of the military draft, specified by the order of the President of Georgia, is over.

2. On the basis of the report mentioned in Paragraph 1 of this Article the Finance Ministry of Georgia shall present a conclusion to the National Security Council of Georgia which may submit the materials to the respective bodies if it finds out that there could be the infringements of the legislation. (7.05.2003 N1527)

#### **Article 26. The Central Military Draft Commission**

1. With respect to the management and control of the activities of the Military Draft Commissions of the regions and cities (without regional division), the President of Georgia, by decree, shall form the Central Military Draft Commission. The same decree shall determine the Chairman of the Central Military Draft Commission. The Central Military Draft Commission shall include a permanent military-medical commission of experts, powers of which shall be defined by the Provision on the Military Medical Examination, authorised by the President of Georgia. (21.06.2002 N1527)

2. The Central Military Draft Commission shall include:

- a) Chairman of the commission;
- b) Deputy Chairman of the commission;
- c) members of the commission - representatives of the State Office, Ministries of Defence (21.06.2002 N1527), Health, Education, Internal Affairs, the State Department on Affairs of Youth and Prosecutor’s Office. In case of need, the representatives of the public organisations and other persons may be included into the Military Draft Commission,.
- d) the Secretary of the commission.

#### **Article 27. Medical examination**

1. The citizens subject to the military draft shall undergo medical examination by a medical board.

2. During the period of postscript of citizens to the military department of the body of local government and military draft, the head of the executive body of local government shall approve a medical board upon presentation of the representative of the territorial body of the Ministry of Labour, Health and Social Protection. (7.05.2003 N1527)

3. If completion of the medical examination by the city or regional medical board is impossible, the appropriate examination of the conscripts shall be carried out by a military commission of experts of the Central Military Draft Commission.

4. If the medical examination of the capacity of citizens to participate in military service is inconclusive, the Military Draft Commission may direct him to a medical institution for outpatients near his residence or, alternatively, may carry out an examination at a stationary medical facility.

5. The medical board, according to the results of medical examination of citizens subject to the military draft, shall take a decision on his capacity to participate in military service in accordance with the following categories:

- a) fit for military service / fit for study in military school;
- b) fit for military service with insignificant restrictions;
- c) restrictively fit for military service;
- d) temporarily unfit for military service;
- e) unfit for military service.

6. The procedure of organisation and performance of medical examination shall be determined by the Provision on the Military-Medical Examinations, as approved by the President of Georgia.

7. Medical-prophylactic and sanitary measures for citizens in military service, medical examination of conscripts and the work carried out by the medical boards, shall be financed by the State budget of Georgia, by the program authorised by the Ministries of Defence and the Ministry of Health of Georgia. In this case, means shall be allocated to the Ministry of Health of Georgia. The financing of common obligatory state programs shall be carried out from allocated means.

**Article 28. Obligations of the conscripts**

The conscripts shall be obliged, on the call of the body of local government, to arrive for medical examination and to the sitting of the Military Draft Commission, and on the call-up paper of the head of the body of local government, to arrive for assignment to a military unit for doing military service. (21.06.2002 N1527)

**Chapter VI. - Release from the military draft and call-up deferment**

**Article 29. Release from the military draft**

1. The following persons shall be released from the military draft:

- a) persons recognised as unfit for military service as per their condition of health;
- b) persons who did military service in the military forces of other states;
- c) persons who have been convicted for serious or especially serious crimes;
- d) persons doing non military, alternative labour service;
- e) post-graduate students;
- f) persons with a scientific degree and engaged in pedagogical or scientific work;
- g) the only son in a family, in which even a family member has been lost in struggle for territorial integrity of Georgia or in the performance of military service.

2. The President of Georgia shall be empowered to release an especially gifted conscript from the military draft.

**Article 30. Call-up deferment**

1. Call-up deferment shall be given to a conscript, if:

- a) for reasons of ill-health, he is recognised as temporarily unfit for military service for a period of one year;
- b) a criminal charge has been brought against him – as long as no decision is taken by the respective bodies;
- c) he is a student at a higher or specialised secondary educational institution and passes military training at the corresponding military department – till the graduation from the educational institution;
- d) he has paid for call-up deferment the fee established by the Law of Georgia “On the Fee for a Deferment of Compulsory Military Service”;
- e) he is a student of general education, primary, professional or of a specialised secondary educational institution – till he has reached 20 years of age and if he had no secondary education before the enlistment in the educational institution;
- f) he cares for his invalid grandmother or grandfather, at his expense, if they do not have anybody else, who may care for them;
- h) he has two or more children;
- i) there is an invalid family member requiring permanent care and who he alone can care for at his own expense;
- j) there is an invalid family member requiring permanent care at his own expense; he has a sister living separately who cannot care for this member of the family;
- k) there is a minor and/or orphan sister or brother who he cares for at his own expense;
- l) he is a priest or studies in a spiritual school;



- m) he is the only son;
- n) he works as a teacher or doctor in a country area;
- o) the right to call-up deferment shall be given to him by the decree of the President of Georgia.  
(7.05.2003 N1527)

2. If the conscript by the day of the call-up in the order established by the legislation is registered as the candidate for the Membership of the Parliament of Georgia, the call-up deferment shall be granted to him depending on the election results. In case he is elected as a Member of Parliament of Georgia, he may be discharged from military duty.

3. The order and conditions of collection of fees defined by Subparagraph (d) of Paragraph 1 of Article 30 of this Law, shall be determined by the Law of Georgia "On the Fee for a Deferment of Compulsory Military Service". (21.06.2002 N1527)

## **Chapter VII. - Military service**

### **Article 31. Military service**

1. Military service is a state service, which includes compulsory and contracted (professional) services. (21.05.2002 N1527) The order of performance of military service shall be determined by this Law and the Regulation on Performance of Military Service, which shall be drafted by the National Security Council and approved by the President of Georgia.

2. The citizens of Georgia or persons without citizenship of Georgia, who do military service in the Military Forces of Georgia, shall be considered as military servicemen. The status of military servicemen shall be determined by the legislation of Georgia.

3. Military servicemen performing military service (discharging the military duty) shall be considered to be the representative of the state and shall be protected by the state. Military servicemen shall be subordinated only to the leadership as established by the army regulations. Interference in the service activities of military servicemen shall not be allowed.

4. In order to regulate the legal relations related to the military duty and performance of military service, the following activities shall be considered as performance of service duties:

- a) participation in combat operations;
- b) performance of official duties established by the army regulations;
- c) performance of combat duty (combat service);
- d) participation in field exercises and ship campaigns;
- e) performance of the order, decree or missions imposed by the Commander-in-Chief (Chief);
- f) staying in the territory of a military unit within the service time established by the order of the day, or during some other time in case of a service necessity;
- g) being on a service mission or on treatment;
- h) proceeding to the place of military service and back;
- i) proceeding to the place of treatment and back;
- j) undergoing of military assemblies;
- k) stay in captivity (except for the case of voluntary captivity yield) in the condition of a hostage or an internee;
- l) missing – till acknowledgement of a person missing or till declaring announcement of his death in the order established by law;
- m) protection of individual life, health, honour of other persons;
- n) rendering of assistance to the law enforcement agencies;
- o) doing of other actions recognised by the court as the ones done in the interests of the society and state;
- p) the period of serving of preventive sentence illegally imposed on the person.

5. The place of work of the person doing the compulsory military service shall be preserved. (21.05.2002 N1527)

**Article 32. Term of military service**

1. For military servicemen the following terms of military service shall be established:

- a) for the persons doing compulsory military service under the draft - 18 months (09.09.99. N2396 newspaper 'Legislative Herald of Georgia' N43(50);
- b) for the persons having higher education, doing compulsory military service under the draft - 12 months;
- c) for the officers called from the reserve, - not less than 24 months;
- d) for the regular officers - not less than 10 years.

2. The day of the registration in the military personnel of a military unit or in the military service of the corresponding military department shall be considered as the day of the beginning of military service.

3. The day of expiry of the term of military service established by this Law and removal from the list of military personnel of the military unit shall be considered as the day of end of military service.

4. Time of performance of the military assembly and military service shall be reckoned in the length of military service and/or in the general labour length of service.

**Article 33. Military positions**

1. The Minister of Defence of Georgia or the head of the corresponding military department shall compile the list of military positions, which shall be presented to the President of Georgia for approval.

2. The Ministry of Defence of Georgia or the corresponding military department shall establish the qualifying requirements for each military position.

**Article 34. The military uniform**

1. The uniform of a corresponding type of troops shall be established for military servicemen.

2. The military uniform and decorations shall be established by the President of Georgia, and rules of their wearing – by the Minister of Defence of Georgia.

**Article 35. Age limit of military servicemen**

1. Age limit of military servicemen doing active military service shall be for:

- a) corporals, sergeants and warrant officers of contracted (professional) military service - 50 years;(21.06.2002 N1527)
- b) junior officers - 45 years old;
- c) senior officers: up to colonel - 50 years old; for colonel - 55 years old;
- d) officers having the highest military rank - 60 years old.

2. For the colonel and officers having the high military ranks the age limit of military service may be prolonged with 5 years by the decree of the President of Georgia upon the presentation of the corresponding state authority or head of the department submitted to the National Security Council.

3. Once military servicemen has reached the age limit of military service, he shall be discharged from military service and transferred to the reserve or retirement.

**Article 36. Discharge from military service ahead of time**

1. Those military servicemen who are recognised by the military-medical commission as unfit for military service or fit restrictively, shall be discharged from military service ahead of schedule.
2. Other cases of pre-time discharge of military servicemen from military service shall be determined by the legislation of Georgia and the Provision on Performance of Military Service confirmed by the President of Georgia.
3. Military servicemen under the draft shall be discharged from military service ahead of schedule depending on the conditions stipulated by Articles 29 or 30 of this Law.
4. Military servicemen declared missing in the order established by the legislation, shall be excluded from the list of military personnel of the military unit.

**Article 37. Discharge from military service**

1. Discharge from military service of military servicemen participating in compulsory military service shall be carried out after expiry of terms established by Subparagraph (a) and (b) of Paragraph 1 of Article 32 of this Law.
2. Minister of Defence of Georgia, his deputies, heads of other military departments and officers having high military ranks after achievement of the age limit of military service established by this Law shall be discharged from military service by the President of Georgia.
3. Military servicemen having served 20 or more calendar years, despite the age limit of military service, may be discharged from military service and enlisted in the reserve/retirement with the right of pension. (21.06.2002 N1527)

**Chapter VIII. - Military ranks**

**Article 38. Structure of military forces and military ranks**

1. In the Military Forces of Georgia the following structure and military ranks of military servicemen shall be established:
  - a) military servicemen of compulsory military service – private soldiers (sailors) and corporals:
    - a.a) army military ranks: private soldier (cadet), corporal, corporal of second class, corporal of first class;
    - a.b) marine military ranks: sailor (cadet), senior sailor, sailor of second class, sailor of first class;
  - b) military servicemen of contracted (professional) military service – personnel of corporals and sergeants (warrant officers) and personnel of junior officers:
    - b.a) army military ranks of corporals and sergeants: corporal (expert), junior sergeant, sergeant, senior sergeant, master sergeant, battalion sergeant (sergeant of headquarters), brigade sergeant, chief sergeant, sergeant- lieutenant;
    - b.b) army military ranks of junior officers: junior lieutenant, lieutenant, senior lieutenant, captain;
    - b.c) marine military ranks of corporals and sergeants: marine corporal (expert), junior warrant officer, warrant officer, senior warrant officer, master warrant officer, warship warrant officer (headquarters warrant officer), chief warrant officer, warrant officer- lieutenant;
    - b.d) marine military ranks of junior officers: junior lieutenant, lieutenant, senior lieutenant, captain-lieutenant;
  - c) military servicemen of regular military service - senior and high rank officers:
    - c.a) army military ranks of senior officers: major, vice-colonel, colonel;
    - c.b) army military ranks of high officers: brigade general, general-major, general-lieutenant, army general;

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c.c) marine military ranks of senior officers: the captain of the third rank, the captain of the second rank, the captain of the first rank;

c.d) marine military ranks of high officers: rear admiral, vice-admiral, admiral. (21.06.2002 N1527)

2. Private soldiers (sailors), corporals (senior sailors), corporals of the second class (sailors of the second class) and corporals of the first class (sailors of the first class) being in the reserve shall be given military ranks of corporal (marine corporal), junior sergeant (junior warrant officer), sergeant (warrant officer) and senior sergeant (senior warrant officer) correspondingly at their registration on contracted (professional) military service. (21.06.2002 N1527)

3. In the guards military units and formations before a military rank the word “guards” shall be added. To a military rank of military servicemen in service in aviation, quartermaster, legal, medical or veterinary service the words “aviation”, “quartermaster service”, “legal”, “medical service”, “veterinary service” shall be added correspondingly. To a military rank of the citizens in the reserve or of retired military servicemen the words “in the reserve” or “retired” shall be added.

4. Persons with special ranks, who are passed (transferred) to the Military Forces of Georgia from other state institutions, shall be called up to the military forces from the reserve with the reserve’s military rank. (21.06.2002 N1527)

5. The certain terms shall be established for performance of military service in each military rank.

6. The military rank shall be given to military servicemen after expiry of the term of military service in the previous military rank, if he holds such a military position, for which the rank equal to a given military rank or higher military rank is stipulated by the structure of the military personnel.

7. During the period of service the military rank may be given to military servicemen ahead of schedule only once, for special services. (21.06.2002 N1527)

8. The military ranks shall be given consecutively. It is not allowed to assign the military ranks without observance of grades.

9. To the officer shall give:

a) the high officer rank - the President of Georgia;

b) a junior and a senior officer rank - the Ministry of Defence of Georgia or the head of corresponding institution;

c) temporary military rank of brigade general (rear-admiral) – the President of Georgia. The temporary military rank of brigade general (rear-admiral) shall be given to senior officers assigned on staff positions of high officers. In case of discharge from the position they preserve the old military rank.

9.1. The President of Georgia may approve the permanent military rank of the brigade general (rear-admiral), if military servicemen has served not less than 5 years in the military rank of the colonel (captain of first rank) and not less than 3 years in the military rank of brigade general (rear-admiral) position, or is nominated for more higher position. (21.06.2002 N1527)

10. The primary military rank shall be given to the officer by the Minister of Defence of Georgia, the head of corresponding military department or service:

a) primary military rank - corporal (expert), junior sergeant, junior lieutenant – shall be given to the graduates of the military department which train reservists according to the corresponding program;

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b) primary military rank - lieutenant- shall be given to the graduates of high military school or high officer courses (cadets, listeners). The terms and order of the high officer courses shall be determined by the Provision “On Performance of Military Service”. (21.06.2002 N1527)

11. The military rank of the general (admiral) shall not be given to the colonel of the reserve or to the colonel in resignation (captain of first rank).

12. For assignment of the next military rank to military servicemen of the contracted (professional) military service or to regular officers, except for a corresponding post, the following terms of performance of military service shall be established:

- a) from corporal (marine corporal) to the junior sergeant (junior warrant officer) – 6 months;
- b) from junior sergeant (junior warrant officer) to the sergeant (warrant officer)-6 months;
- c) from the sergeant (warrant officer) to the senior sergeant (senior warrant officer) - 1 year;
- d) from the senior sergeant (senior warrant officer) to master sergeant (master warrant officer) - 2 years;
- e) from master sergeant (master warrant officer) to the battalion sergeant (warship warrant officer) - 2 years;
- f) from battalion sergeant (warship warrant officer) to brigade sergeant (headquarters warrant officer) – 2 years;
- g) from brigade sergeant (headquarters warrant officer) to senior sergeant (senior warrant officer)- 2 years;
- h) from senior sergeant (senior warrant officer) to sergeant-lieutenant (warrant officer-lieutenant) – 3 years;
- i) from junior lieutenant to lieutenant – 1 year;
- j) from lieutenant to senior lieutenant – 2 years;
- k) from senior lieutenant to captain (captain-lieutenant) – 3 years;
- l) from captain (captain-lieutenant) to major (captain of the third rank) – 3 years;
- m) from major (captain of the third rank) to vice-colonel (captain of the second rank) - 4 years;
- n) from vice-colonel (captain of the second rank) to colonel (captain of the first rank) – 5 years. (21.06.2002 N1527)

13. *This Paragraph is removed (21.06.2002 N1527)*

14. To the officers of the warships of the Navies and to the officer-pilots of military air forces the next military rank shall be given at 6 months earlier than the term established by this Law for military servicemen.

15. During war or armed conflict the next military rank shall be given to the officer not less than 6 months earlier than the terms established by this Law, according to occupied position.

16. For assignment of the high military rank of the officer the terms of military service shall not be established.

17. The military rank ahead of schedule shall be given:

- a) including a rank of the vice-colonel (the captain of the second rank) – by the Minister of Defence of Georgia or by the head of corresponding military department;
- b) a rank of the colonel (the captain of the first rank) – by the President of Georgia.

18. Assignment of military ranks of army general and admiral shall be allocated only during war for special combat services.

**Article 39. Deprivation of a military rank, lowering in a military rank and reinstatement in a military rank**

1. Military servicemen, as well as the persons staying in the reserve or retired may be deprived of a military rank only upon a decision of the court.

2. The persons mentioned in Paragraph 1 of Article 1, after withdrawal (invalidation) of the conviction or rehabilitation may be reinstated in the preceding military rank by an official, authorised to confer this military rank.

3. Military servicemen may be lowered in a military rank, as well as reinstated in the preceding military rank under the procedure defined by the general regulations of the armed forces and other normative acts.

#### **Chapter IX. - Reserve of the Military Forces of Georgia**

##### **Article 40. Reserve of the Military Forces of Georgia**

1. In order to man the Military Forces of Georgia during mobilisation or wartime, the reserve shall be created out of the number of citizens:

- a) discharged from military service and enlisted in the reserve;
- b) undergone training by the reserve officers' training program for corporals (experts), junior sergeants, junior lieutenants at military departments of a high or special educational institution, and who under the order of the Minister of Defence of Georgia are given the corresponding military rank; *(21.06.2002 N1527)*
- c) not undergone military service in connection with call-up deferment;
- d) undergone the contracted service in the Special State Protection Service; *(25.12. 2002 N 1893)*
- e) undergone non military, alternative labour service;
- f) not undergone compulsory military service according to the conditions of Article 29, Paragraph 1, Subparagraph (f) of this Law;
- g) not undergone compulsory military service according to the conditions of Article 30, Paragraph 1, Subparagraph (d) of this Law and undergone a military assembly up to 6 months-term. The term of the military assemblies shall be determined by the order of the President of Georgia. *(21.06.2002 N1527)*

2. The citizen who did not perform military service established by this Law in connection with call-up deferment or release from military draft or one who is lowered in a military rank in the order established by the current legislation, together with enlistment in the reserve by the order of the Chairman of the Central Military Draft Commission shall be given the military rank of a private soldier (sailor).

3. Reserve and spare formations shall be completed and their staff shall undergo a military training pursuant to the mobilisation plan of the Ministry of Defence, which shall be approved by the President of Georgia.

##### **Article 41. Structure of the reserve of the Military Forces of Georgia**

1. The structure of the reserve of the Military Forces of Georgia shall be subdivided into three categories:

- a) first category, those reservists (till 30 years old) who wish to serve under the contract in the first category of the reserve of the Military Forces of Georgia and whose health condition and qualification is satisfying the requirements of the first category of the military reserve;
- b) second category, in which the enlisted persons' health and qualification satisfy the requirements of the second category of the military reserve;
- c) third category - enlisted military servicemen are discharged from military service in connection with the length of service in the Military Forces of Georgia, as well as the reservists of the first category. *(21.06.2002 N1527)*

1.1 Military persons of contracted (professional) and regular military services shall have the right by their own will and on the basis of a contract, to be enlisted in the reserve of first category of the Military Forces of Georgia in the order established by the legislation of Georgia.

1.2 Reservists of the first category of the Military Forces of Georgia shall be equal to the military servicemen and the period of the military assemblies for them shall be considered as military service. *(21.06.2002 N1527)*

2. *This Paragraph is removed (21.06.2002 N1527)*

3. Citizens, staying in the reserve of the Military Forces of Georgia, and have reached the ultimate age of staying in the reserve, or acknowledged unfit for military service upon condition of health, shall be transferred in resignation and removed from the military register.

**Article 42. Military assembly**

1. In preparation for the military service or for retraining, the citizens, staying in the reserve of the Military Forces of Georgia, may be called to military assemblies. The time, place and terms of military assemblies shall be determined by the Ministry of Defence of Georgia or by the corresponding military department.

2. The total duration of military assemblies, in which a citizen is involved during the period of staying in the reserve of the Military Forces of Georgia, may not exceed 12 months, except for the reserve of the first category; at the same time it may not exceed two months per year. *(21.06.2002 N1527)*

3. Duration of a military assembly shall be included in the general terms of military service and in the general length of service of the citizens.

**Article 43. Release from military gatherings**

From military gatherings shall be released:

- a) women;
- b) the civil personnel of the Military Forces of Georgia;
- c) pilots of civil aviation;
- d) technical staff of aviation and railway transport, as well as workers and clerks immediately executing and providing shipping operations or dealing with maintenance and repair of planes (helicopters), air field technical equipment, rolling stock and railway transport;
- e) personnel of the sea fleet;
- f) teachers;
- g) students and pupils;
- h) persons having any of the reasons stipulated by the Articles 29 and 30 of this Law;
- i) persons abroad;
- j) persons stipulated by the list of officials authorised by the President of Georgia;
- k) diplomatic personnel.

2. The enlistment in the first category of the reserve of the Military Forces of Georgia shall be effected on a free will and shall not be subject to release from military assemblies. *(21.06.2002 N1527)*

**Article 44. The order of performance of the military assembly**

1. The order of performance of the military assembly by citizens staying in the reserve of the Military Forces of Georgia shall be determined by this Law and the Provision on the Military Assemblies. The provision shall be drafted by the National Security Council and shall be presented to the President of Georgia for approval.

2. The military ranks shall be given to the following persons staying in the reserve of the Military Forces of Georgia:

- a) to military servicemen during the period of reserve in the first category of the Military Forces of Georgia by the order established by this Law;
- b) to the reservists during the period of reserve in the second category in the order established by this Law, after termination of the military assembly and passage of the corresponding qualification examinations;

c) the next military rank shall not be given to the reservists during the period of reserve in the third category. (21.06.2002 N1527)

**Chapter X. - The responsibility for infringement of the legislation on military duty and military service**

**Article 45. The responsibility of citizens and officials for infringement of legislation on military duty and military service**

1. The citizens, who upon the call of the military department of the body of local government did not arrive, for disrespectful reasons and in the specified time, to the military department, shall be considered as the person evading from military duty and shall be made responsible according to the legislation of Georgia.

2. The citizens, who upon the receive of a call-up paper or a call to military assemblies from the head of the body of local government or Mobilisation Department, did not arrive, for disrespectful reason and in the specified time, to the military department (or have been illegally released from military service or delayed it), shall be made responsible according to the legislation of Georgia. A valid reason of absence of the citizens upon the call by the military department of the body of local government or Mobilisation Department, ( to be confirmed by official documentation), shall be the death or illness of a close relative (mother, father, spouse, son, daughter, sister, brother) or custodian of the citizen and other insuperable circumstances of spontaneous character or other kind.

3. The doctor/expert, member of the Military Draft Commission and other officials, who participate in the medical examination of the citizens in connection with his military registration, training and performance of military service, and support them in evasion from military duty shall be made responsible according to the legislation of Georgia.

4. Military servicemen and reservists called to military assemblies shall be made responsible for any infringement of military discipline according to the Disciplinary Charter of the Military Forces, and for the perpetration of a crime according to the legislation.

5. The citizens shall bear the responsibility for wear of the military uniform and decorations illegally according to the legislation of Georgia.

**Chapter XI. - Transitive provisions**

**Article 46. Citizens released from military duty**

1. The citizens subject to military duty determined in Article 9 of this Law, who have reached by the day of adoption of this Law 25 years of age shall not perform military duty and shall be enlisted in the reserve.

2. Conscripts born in 1972 shall be released from military duty stipulated by this Law.

3. Paragraph 1, Subparagraph (a) and (b) and Paragraphs 5-8 of Article 6; Paragraph 1 of Article 12; Paragraph 1 and 1<sup>1</sup> of the Article 13; Subparagraph (a) and (b) of Paragraph 1 of Article 14; Paragraph 1-4 of Article 16; Paragraph 2 of Article 23; Subparagraphs (a) and (b) of Paragraph 2 of Article 24; Paragraph 3 of Article 25; Article 28 and Paragraphs 1 and 2 of Article 45 of this Law shall come into force from January 1, 2003. (21.06.2002 N1527)

4. The grounds for call-up deferment, despite the grounds envisaged in Paragraph 1 of Article 30 of this Law, shall be:

a) to have one or more children for the persons who were entitled to call-up deferment or were entitled to make use of this right;



b) enlistment of the conscript in the higher educational institution before 15 July 2002 – the military service shall be deferred till the graduation of the educational institution and the conscript shall not be older than 24 years of age. (7.05.2003 N1527)

**Article 46.1. Performance of military duty by amnestied persons on the basis of the Law of Georgia of December 28, 2000 “On Amnesty”**

1. Persons amnestied on the basis of the Law of Georgia of December 28, 2000 “On Amnesty”, except for the persons called or to be called for compulsory military service in 2000, shall not perform military duty and shall be enlisted in the reserve.

2. Persons called or to be called for compulsory military service in 2000, amnestied on the basis of the Law of Georgia of December 28, 2000 “On Amnesty” and acknowledged by a court verdict as “guilty”, or the case in the court is under consideration, shall not perform military duty and shall be enlisted in the reserve.

3. Military servicemen, amnestied on the basis of the Law of Georgia of December 28, 2000 “On Amnesty” shall be removed from the personnel of a military unit or other place of service. (28.12.2000 N698)

**Chapter XII. - Final provisions**

**Article 47. Normative acts subject to cancellation in connection with enforcement of this Law**

1. With enforcement of this Law:

a) to consider as invalid the Law of Georgia of December 29, 1992 “On General Military Duty” (The Gazette of the Parliament of Georgia, 1992, No. 2, Art. 136);

b) from the title of the Law of Georgia of April 29, 1993 “On Military, Special and Diplomatic Ranks” (The Gazette of the Parliament of Georgia, 1993, No. 6, Art. 99) to remove words “military and” and to consider as invalid Chapter 2 of the Law.

c) to consider as invalid the Resolution of the Parliament of Georgia N861-I Ó of September 17, 1997 “On Performance of Military Duty of Citizens of Georgia Permanently Living or Working Abroad”. (21.06.2002 N1527)

**Article 48. Enforcement of the Law and normative acts to be taken**

1. In connection with enforcement of this Law, to adopt the following legal normative acts:

a) Regulation on the Military Registration of Citizens;

b) Provision on Military-Medical Examination;

c) Provision on Performance of Military Service;

d) Provision on the Order of the Carrying out and Performance of Military Assemblies.

2. This Law shall enter into force upon its promulgation.

President of Georgia

Eduard Shevardnadze

Tbilisi

September 17, 1997

No. 860

## **The Law of Georgia On Mobilisation**

This Law shall regulate the order and conditions at the proclamation of mobilisation during martial law and/or a state of emergency, mobilisation preparation in the peacetime and legal relations related to the regime of mobilisation.

### **Chapter I. - General provisions**

#### **Article 1. Explanation of terms used in the Law**

Terms used in this Law shall have the following meaning:

- a) **mobilisation preparation** - a complex set of measures carried out in the peacetime providing creation of mobilisation resources and reserves by the economy of Georgia, executive agencies, local self-government and government bodies, the state enterprises, establishments and organisations of Georgia in order to assure the readiness of the Military Forces of Georgia during martial law and/or a state of emergency and the satisfaction of urgent needs of the state and the population;
- b) **mobilisation** - a complex set of measures, providing use of the created mobilisation resources and reserves for needs of the military or/and a state of emergency (mobilisation may be general, as well as partial);
- c) **general mobilisation** - a complex set of measures, carried out during martial law and providing for the full use, throughout the whole territory of Georgia, of the mobilisation resources and reserves for the needs of martial law;
- d) **partial mobilisation** - a complex set of measures, carried out during a state of emergency and providing a partial use of mobilisation resources and reserves in operative directions, as determined for needs of the state of emergency.

#### **Article 2. The legislation of Georgia on mobilisation**

The legislation of Georgia on mobilisation shall consist of the Constitution of Georgia, international treaties and agreements, this Law and other normative acts.

#### **Article 3. Principles of mobilisation**

The principles of mobilisation shall be:

- a) the centralised management;
- b) the preliminary preparation;
- c) mobilisation readiness;
- d) planned character;
- e) integrated approach;
- f) co-ordination and control.

#### **Article 4. Essence of mobilisation**

The essence of mobilisation shall be:

- a) maintenance of mobilisation readiness and its scientific and material support;
- b) defining the work regime of executive agencies, local self-government and government bodies, of the state enterprises, establishments and organisations, legal persons of private law and preparing them to work during mobilisation;
- c) realisation of measures aimed at shifting of executive agencies, local self-government and government bodies, the state enterprises, establishments and organisations, legal persons of private

law to the regime of mobilisation in the order established by the legislation of Georgia; (27.02.2003)

- d) preparing the military forces to the mobilisation;
- e) transition of military forces on the legal regime of martial law or/and a state of emergency;
- f) elaboration of mobilisation plans of the economy of Georgia, Military Forces of Georgia;
- g) appraising the state of the mobilisation readiness of Georgia;
- h) the creation, maintenance and development of mobilisation reserves necessary to satisfy the requirements of the state, of the military forces and the needs of the population during mobilisation;
- i) preparing the technical equipment which shall be supplied to the military forces during mobilisation;
- j) creation, accumulation, storage and duly renewal of mobilisation reserves of material values, the emergency stock of the foodstuffs and oil products;
- k) preparing and organising the supplies of the foodstuffs and non-foodstuff products to the population during mobilisation, rendering it medical aid, and providing it with the transportation facilities and means of communication;
- l) the setting up a management centre of the executive agencies and preparing it to work during mobilisation;
- m) preparing the mass media to work during mobilisation;
- n) assigning the reservists in the executive agencies, local self-government and government bodies, at the enterprises, establishments and organisations to work for those branches of the economy which are operating during mobilisation;
- o) holding the exercises and the training drills, involved in the mobilisation deployment and in fulfilling the mobilisation plans.

## **Chapter II. - Powers of the President of Georgia, Parliament of Georgia, executive agencies, local self-government and government bodies in the sphere of mobilisation readiness and mobilisation**

### **Article 5. Powers of the Parliament of Georgia**

Parliament of Georgia shall:

- a) determine the state policy in the sphere of mobilisation;
- b) carry out legislative regulation of mobilisation, approve charges in this area;
- c) ratify, denounce and terminate international treaties and agreements of Georgia in the sphere of mobilisation.

### **Article 6. Powers of the President of Georgia**

The President of Georgia shall:

- a) in case of the proclamation of martial law and/or a state of emergency, proclaim a general or partial mobilisation and in the order established by the legislation of Georgia, bring this decision to the Parliament of Georgia for approval;
- b) in case of the proclamation of martial law and/or a state of emergency order the issuing of material assets from the mobilisation reserve;
- c) issue normative acts in the sphere of mobilisation readiness and mobilisation;
- d) provide the co-ordinated actions of executive authority and the establishments in the sphere of mobilisation readiness and mobilisation;
- e) determine the goals and the tasks of mobilisation readiness and mobilisation;
- f) establish the work regime for executive agencies, local self-government, government bodies, state enterprises, establishments and organisations during mobilisation;
- g) grant call-up deferment during mobilisation, and also suspend the already made decisions on call-up deferment.

**Article 7. Powers of agencies of executive authority**

Agencies of executive authority within the limits of their powers shall:

- a) as agreed with the State Department of Material Reserves of Georgia carry out operations on accumulation, storage, delivery, distribution, renewal, replacement, removal from the reservation, issue of material values of mobilisation reserves in the order established by the legislation of Georgia;
- b) carry out storage of material values of mobilisation reserves (in the storehouses of the state or private property), service and carry out operations related to it and, also, control over the materially responsible storage, in the order established by the legislation of Georgia;
- c) carry out creation, accumulation, storage, updating of mobilisation stocks, material values of mobilisation and state reserves, and also inviolable, not reduced stocks of foodstuffs, medical goods and oil products;
- d) in order to create the mobilisation reserves conclude contracts with the enterprises for maintenance by them of the performance of mobilisation tasks (orders), for providing material and technical resources, in the order established by the legislation of Georgia;
- e) supervise over mobilisation readiness;
- f) supervise over realisation of mobilisation preparation of the structural divisions, subordinated establishments, territorial bodies, and also the subordinated enterprises;
- g) participate in the elaboration of mobilisation plans;
- h) participate in preparation of drafts of normative acts in the sphere of mobilisation preparation and mobilisation;
- i) organise scientific, material-technical and informational support for mobilisation preparation and mobilisation;
- j) operate the process of mobilisation preparation and supervise its statistical reporting;
- k) at the proclamation of mobilisation organise the control of actions aimed shifting the military forces to the regime of mobilisation;
- l) in the order determined by the President of Georgia, at the proclamation of mobilisation, organise the shifting of corresponding branches of the economy of Georgia to the regime of mobilisation;
- m) during mobilisation readiness assign the citizens in the reserve, working in agencies of executive authority, in their structural divisions, subordinated establishments and territorial bodies, for the needs of national economy.
- n) organise the holding of the exercises and of the educational and training drills stipulated by plans of mobilisation deployment and mobilisation readiness;
- o) in case of the proclamation of mobilisation, organise, as stipulated by mobilisation plans, the transfer of technical equipment subject to delivery, vehicles, motorcades of army type and other material values of mobilisation reserves in the order established by the legislation of Georgia;
- p) ensure performance of the legislation of Georgia in the sphere of mobilisation in the agencies of executive authority.

**Article 8. Powers and functions of the bodies of local self-government and government**

Bodies of local self-government and government within the limits of their powers, except for functions specified in Subparagraphs (a) – (d) of Article 7 of this Law shall:

- a) organise and provide mobilisation preparation and activity;
- b) ensure performance of this Law and also realisation of other acts of the President of Georgia and agencies of the executive authority of Georgia in the sphere of mobilisation preparation and mobilisation;
- c) elaborate local work plans;
- d) carry out actions on mobilisation preparation of the economy;
- e) as agreed with agencies of executive authority, carry out actions on maintenance of performance of mobilisation plans;

- f) conclude contracts with the enterprises for the supply of products, for the allocation of the labour power and of the means, and for rendering services in order to provide for the mobilisation preparations and realisation of mobilisation actions;
- g) assist local military commissariats on maintenance of mobilisation readiness and assume the responsibility for performance of the mentioned actions;
- h) in case of the proclamation of mobilisation, organise the call-up in the established order, the notification and the arrival of the citizens at the assembly points or military units, and also the transfer of technical equipment, buildings and constructions, communications, the land plots, vehicles and other material values of mobilisation reserves stipulated by mobilisation plans and subject to supply, according to the order established by the President of Georgia;
- i) organise the assignment of the citizens in the reserve working in the institutions of local self-government and government;
- j) present proposals on questions of the perfection of realisation of mobilisation preparation and mobilisation to the corresponding agencies of executive authority.

### **Chapter III. - Duties of the state enterprises, establishments, organisations, legal persons of private law and citizens during mobilisation readiness and mobilisation**

#### **Article 9. Duties of state enterprises, establishments and organisations**

1. The State enterprises, establishments and organisations, except for functions specified in Subparagraphs (a) – (d) of Article 7 of this Law, shall be obliged:

- a) to organise and carry out actions on maintenance of mobilisation readiness;
- b) during mobilisation readiness and mobilisation to appoint the workers who shall perform the mobilisation tasks;
- c) to elaborate mobilisation plans within the limits of their powers;
- d) to carry out actions related to the preparation of the production for performance of mobilisation tasks in the period of the mobilisation;
- e) to carry out mobilisation tasks assigned to them in order to provide for mobilisation readiness and mobilisation;
- f) when declaring the mobilisation to carry out actions on the shifting of the production to the work regime during martial law and/or the state of emergency;
- g) to provide for the supply of vehicles, stipulated by mobilisation plans, to the technical equipment gathering points of military commissariats or to the military units;
- h) to transfer, in accordance with the mobilisation plans, buildings, constructions, communications, land plots, vehicles and other material values of mobilisation reserves to the corresponding establishments in the order established by the legislation;
- i) to provide assigning of reservists working in the state enterprises, establishments and organisations and submit the report on assigning to the local military commissariats.

2. Legal and natural persons of private law shall carry out the mobilisation tasks, as a rule on the basis of a contract, under condition of the subsequent compensation by the state, of the damage if such takes place.

#### **Article 10. Duties of the citizens**

1. The citizens shall be obliged:

- a) to come upon the summons to the Mobilisation Department of the Ministry of Defence of Georgia and to undertake certain tasks during mobilisation; (21.06.2002 N 1543)
- b) to satisfy the demands, stipulated by the mobilisation agenda, which they have received from the Mobilisation Department of the Ministry of Defence of Georgia; (21.06.2002 N 1543)
- c) during mobilisation to transfer property, for the needs of the state, defence and security with further compensation in the order established by the legislation of Georgia.

2. During mobilisation and war, the citizens, in the established order, may be drawn into the performance of the works, aimed at providing for the defence and the security of the state.

3. The citizens shall bear the responsibility for non-fulfilment of requirements during mobilisation readiness and mobilisation in the order established by the legislation of Georgia.

#### **Chapter IV. - Organisational foundations of mobilisation readiness and mobilisation**

##### **Article 11. The organisation and the order of mobilisation preparation and mobilisation**

1. The order of mobilisation readiness and mobilisation of agencies of executive authority, bodies of local self-government and government, state enterprises, establishments and the organisations of the military forces shall be determined by the legislation of Georgia.

2. The order of mobilisation preparation and the organisation of mobilisation of the economy of Georgia shall be determined by the legislation of Georgia.

3. Officials of agencies of the executive authority, of the institutions of local self-government and government, of the state enterprises, establishments and the organisations shall bear the personal responsibility for performance of the duties assigned to them during mobilisation and mobilisation readiness.

##### **Article 12. Mobilisation agencies**

1. Agencies of executive authority, institutions of local self-government and government, state enterprises, establishments, organisations having mobilisation tasks or planning to carry out the tasks connected with the mobilisation works, in order to increase the capacity of mobilisation actions, shall create the mobilisation agencies within their structures.

2. Heads of mobilisation agencies shall be subordinated directly to the corresponding heads of agencies of the executive authority, heads of institutions of local self-government and government, corresponding heads of the state enterprises, establishments and organisations.

3. Financing of mobilisation agencies and mobilisation employees shall be carried out:

- a) in agencies of executive authority - within the limits of means allocated for these purposes from the state budget;
- b) in institutions of local self-government and government - due to budgets of the corresponding territorial units;
- c) at the state enterprises, establishments and organisations - from their own incomes.

4. Functions, rights and duties of mobilisation agencies created on the basis of the present article shall be determined by the normative act of the President of Georgia.

##### **Article 13. Military - transport duty**

1. According to the legislation, the military - transport duty shall be established for needs of the Military Forces of Georgia during mobilisation.

2. Military - transport duty shall be extended to the means of state automobiles, motorcades of army type, railway, sea, river, air, pipeline, animal-drawn and pack vehicles, motorcycles, trade and special ships, tractors, trailers and semi-trailers, road-building (both hoisting-and-transport machines and mechanisms), which are in the structure of mobilisation reserves and are created by executive authorities, bodies of local self-government and government, the state enterprises, establishments, organisations; and also to the citizens – the owners of the transportation facilities (under condition of the further compensation). Military

- transport duty shall be extended also to ports, quays, airports, tank farms, bases of swapping of fuel, motor transportation and other organisations, providing means of transport.

3. Withdrawal of necessary transportation facilities for satisfaction of mobilisation needs of the Military Forces of Georgia from executive agencies, local self-government and government bodies, state enterprises, establishments, organisations shall be carried out gratuitously, and of the transportation facilities of natural persons and legal persons of private law – shall be carried out with the further corresponding compensation. The compensation of the cost of a transportation facility, withdrawn in the order established by the legislation, shall be carried out in accordance with the price-list made according to the existing market prices and a price reduction due to deterioration of the transportation facility, and shall be fulfilled after the termination of martial law.

4. The order of deprivation of property shall be determined by the Organic Law of Georgia, “On the Order of Deprivation of Property at Urgent Necessity for Social Needs”.

#### **Article 14. Financing of mobilisation preparation and mobilisation**

1. Mobilisation preparation and mobilisation shall be financed by the state budget.
2. Actions on local mobilisation preparation shall be financed from the budgets of the corresponding territorial units.

#### **Article 15. Protection of state secrets at realisation of mobilisation readiness and mobilisation**

The organisation of the works on maintenance of mobilisation readiness and mobilisation shall be carried out with observance of requirements of the Law of Georgia “On State Secret” and in accordance with the existing normative acts on questions of confidential record-keeping.

### **Chapter V. - Call-up of the citizens being in the reserve during mobilisation**

#### **Article 16. Call-up of the citizens being in the reserve during mobilisation**

1. The citizens enlisted in the reserve of the Military Forces of Georgia shall be subject to the call-up for the military service by mobilisation.
2. The order of completion of the reserve of the Military Forces of Georgia shall be determined by the legislation of Georgia.

#### **Article 17. Term of the citizens’ call-up during mobilisation and the mobilisation plan of the Military Forces of Georgia**

The term of the citizens’ call-up for the military service by mobilisation shall be determined by the mobilisation plan of the Military Forces of Georgia, which shall be defined by the decree of the President of Georgia.

#### **Article 18. The organisation of the call-up of citizens being in the reserve during mobilisation**

1. To timely shift the Military Forces of Georgia to the regime of martial law and/or a state of emergency, the citizens, enlisted in the reserve, shall be preliminarily registered with the military units in order to perform the military service in the military posts in accordance with the mobilisation stuff schedule.
2. The order of the preliminary registration of the reservists with the military units in accordance with the mobilisation stuff schedule shall be determined by the legislation of Georgia.

**Article 19. Duties of citizens in the reserve subject to the call-up for the military service by mobilisation**

1. When declaring the mobilisation, the citizens, who are subject to the call-up for the military service, shall be obliged to arrive to the assembly points within the term, as specified in the mobilisation notification of the military commissariats of the region/city.

2. The citizens, put on the military registration records, shall be forbidden as from the moment of the proclamation of mobilisation, to leave the place of their residence without a permit from the Mobilisation Departments of the Ministry of Defence of Georgia in the region, city (21.06.2002 N 1543), if the decree of the President of Georgia limits human rights stipulated by Article 22 of the Constitution of Georgia.

**Chapter VI. - Assigning the citizens being in the reserve**

**Article 20. Assigning the citizens**

1. The citizens subject to assigning during martial law and/or a state of emergency shall be released from the call-up.

2. Assigning the citizens shall be carried out by the State Commission on the Reserving the Labour Power for the Economy of Georgia created at the Ministry of Economy of Georgia in the order established by the legislation of Georgia.

3. The citizens in the reserve, except for the reservists of the first rank, (21.06.2002 N 1543) shall be assigned in accordance with the condition of economy of Georgia, in order to ensure the normal activities of government agencies, institutions of local self-government and government, enterprises, establishments and organisations.

**Chapter VII. - Transitive provisions**

**Article 21. Normative acts to be accepted in connection with coming into force of this Law**

To ask the President of Georgia to issue the following legal normative acts till September 1, 1999:

- a) On Conditions of Creation and Command of Mobilisation Reserves;
- b) On Actions on Maintenance of Mobilisation Readiness of the Economy of Georgia, on Transition of Corresponding Branches of the Economy on the Work Regime Established in the Period of the Mobilisation and on Realisation of Mobilisation;
- c) On Mobilisation Readiness and the Order of Mobilisation of Agencies of Executive Authority, Bodies of Local Self-government and Government, State Enterprises, Establishments and Organisations, Military Forces;
- d) On Mobilisation Agencies;
- e) On Mobilisation Plan of the Military Forces of Georgia.

**Chapter VIII. - The final provision**

**Article 22. Enforcement of the Law**

This Law shall enter into force upon its promulgation.

President of Georgia

Eduard Shevardnadze

Tbilisi  
June 23, 1999  
No. 2150



**The Law of Georgia**  
**On Participation of the Armed Forces of Georgia in Peacekeeping Operations**

This Law shall adjust legal relations existing in Georgia and the obligations undertaken by Georgia under international treaties and agreements connected with the participation of the armed forces and civil personnel of Georgia in operations on maintenance and restoration of international peace and in other kinds of peacemaking activities.

**Article 1**

1. Georgia participates in operations on maintenance and restoration of international peace and security and in other kinds of peacemaking activities according to the Constitution of Georgia and obligations undertaken under international treaties and agreements of Georgia and the legislation of Georgia.
2. In each separate case, Georgia independently determines appropriateness of the participation in operations.
3. In order to realise the purposes of this Law, and within the limits of the numerical strength of the armed forces, authorised in the order specified by the legislation of Georgia, the peacekeeping forces shall be created (subdivisions, formations), which shall pass special preparation and training (the control over performance of a cease-fire agreement, disengagement of the confronting parties, their disarmament and disbandment, doing engineering works).
4. Structure of peacekeeping forces shall be determined within the limits of structure of the armed forces in the order specified by the legislation of Georgia.

**Article 2**

The presentation and the use of peacekeeping forces of Georgia for realisation of operations on maintenance and restoration of international peace and security and other kinds of peacemaking activities, which may also include implementation of coercive measures, shall not be allowed without the consent of the Parliament of Georgia.

**Article 3**

The President of Georgia upon presentation of the Ministries of Foreign Affairs and Defence of Georgia shall take a decision on a voluntary assignment of the separate military personnel for executing of the cease-fire agreement, disengagement of the confronting parties and performance of other functions in order to maintain and restore the international peace and security, and also to realise other kinds of peacemaking activities, which are not connected with implementation of coercive measures and use of force.

**Article 4**

The Ministry of Foreign Affairs of Georgia after co-ordination with the corresponding agency shall present to the President of Georgia the candidature of public employee, who on the basis of the decision of the President of Georgia with the status of the auxiliary civil personnel shall be sent for participation in operations on maintenance and restoration of international peace and security and in other kinds of peacemaking activities, which are not connected with implementation of coercive measures and use of force.

**Article 5**

1. The Ministry of Defence of Georgia in co-ordination with the State Department of Material Reserves of Georgia shall present to the President of Georgia proposals on allocation from the state material reserves of material-technical, overland, air and sea transportation facilities in order to provide the operations on

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maintenance and restoration of international peace and security and to participate in other kinds of peacemaking activities.

2. The President of Georgia shall take a decision on allocation of material means from the state reserves specified in Paragraph 1 of the present Article.

### **Article 6**

1. If Georgia, according to the international treaties and agreements, will start formation of peacekeeping forces with a view of participation in operations on maintenance and restoration of international peace and security and in other kinds of peacemaking activities, which are connected with implementation of coercive measures and use of force, the Ministry of Foreign Affairs of Georgia on behalf of the President of Georgia shall carry on negotiations in order to sign the corresponding treaties and agreements which determine the number and types of armies, their dislocation, degree of readiness, character of means of services and assistance.

2. International treaties and agreements, specified in Paragraph 1 of the present Article, shall be subject to ratification in the order envisaged by the legislation of Georgia.

### **Article 7**

All international treaties and agreements of Georgia providing participation of peacekeeping forces and the civil personnel in operations on maintenance and restoration of international peace and security and in other kinds of peacemaking activities, shall be subject to ratification in the order specified by the legislation of Georgia.

### **Article 8**

1. The President of Georgia - Supreme Commander-in-Chief of the Military Forces of Georgia with a view of participation of peacekeeping forces or/and the civil personnel in operations on restoration and maintenance of international peace and security or/and in other kinds of peacemaking activities, shall approve the plan of organisational measures.

2. Financial maintenance of peacekeeping forces of Georgia shall be carried out from the state budget of Georgia within the limits of the budget of the Ministry of Defence of Georgia and also from other sources.

### **Article 9**

1. For preparation of peacekeeping forces with a view of maintenance of tasks on international peace and security, the Ministry of Defence of Georgia shall:

- a) present to the President of Georgia - Supreme Commander-in-Chief of the Military Forces of Georgia - a proposal on structure and numerical strength of peacekeeping forces;
- b) develop the list of those subdivisions and formations of the Armed Forces of Georgia, which will participate in peacekeeping operations on maintenance and restoration of international peace and security and in other kinds of peacemaking activities;
- c) carry out training and arming of peacekeeping forces, and also provide them with technical equipment and other material and technical means;
- d) develop, according to international norms, uniform and decorations of the military personnel of peacekeeping forces and presents them for approval to the President of Georgia - Supreme Commander-in-Chief of the Military Forces of Georgia.

2. Preparation of peacekeeping forces shall be carried out from the state budget of Georgia.

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**Article 10**

The Ministries of Defence and Foreign Affairs of Georgia, not less often than once a year, shall present the report on participation of the Armed Forces of Georgia in operations on restoration and maintenance of international peace and security and in other kinds of peacemaking activities to the Parliament of Georgia.

**Article 11**

This Law shall enter into force upon its promulgation.

President of Georgia

Eduard Shevardnadze

Tbilisi  
July 22, 1999  
No. 2292

**The Law of Georgia**  
**On Non-Military, Alternative Labour Service**

Proceeding from the conventional international principles of human rights and according to the rights guaranteed by the Constitution of Georgia, - freedom of conscience, religion and beliefs - this Law shall regulate legal relations connected with performance by the citizens of Georgia of conscription in the form of non military, alternative labour service.

**Chapter I. - General provisions**

**Article 1. Purpose of the Law**

On the basis of the Universal Declaration of Human Rights this Law shall determine non military, alternative labour service as the reasonable and humane compromise between the free expression of ideas, freedom of conscience, religion, beliefs and military duty.

**Article 2. Legislation of Georgia on non military, alternative labour service**

The legislation of Georgia concerning non military, alternative labour service consists of the Constitution of Georgia, this Law and other normative acts.

**Article 3. Non military, alternative labour service**

1. Non military, alternative labour service shall be socially useful civil service replacing military service and based on a substantiation of refusal from the performance of conscription in the form of military service grounded on the freedoms of conscience, religion and beliefs.
2. Non military, alternative labour service, by its character, shall correspond to difficulties existing in military service. Its duration shall exceed the duration of military service established by the legislation on military service on call.
3. Call-up for non military, alternative labour service shall be performed by the State Commission on Call-up of Citizens for Non Military Alternative Labour Service.
4. The citizens involved in non military, alternative labour service may, with their family, use privileges established by the legislation for military servicemen.
5. Terms of non military, alternative labour service shall be included in the general and special labour length of service of the citizens. The citizen's social protection at performing of non military, alternative labour service shall be provided by the legislation.

**Article 4. Citizens who are to be sent to non military, alternative labour service**

In the peace-time and according to the legislation of Georgia, a citizen shall be sent to non military, alternative labour service if, due to reasons of conscience, religion or belief, he refuses to participate in military service.

**Article. 5. Types and places of performing non military, alternative labour service**

1. Citizens shall perform non military, alternative labour service in the following special non military labour formations, in groups or individually:
  - a) rescue, ecological, fire-prevention or other special non military labour formations;
  - b) engineering, repair organisations and facilities of civil purpose;
  - c) organisations and facilities making agricultural production;
  - d) establishments of public service;

e) establishments of health protection.

2. Assignment of the citizens by the State Commission on the Call-up of Citizens for Non Military, Alternative Labour Service to care for aged persons, invalids, persons without any care, and, according to the legislation, other socially unprotected persons, shall be considered as non military, alternative labour service.

3. Citizens of Georgia involved in non military, alternative labour service may participate in other services or non military labour formations, the list of which shall be approved by the President of Georgia. The citizens involved in non military, alternative labour service may participate in engineering, agricultural and other subdivisions of the Armed Forces of Georgia at the corresponding civil position. (05.12.2000)

4. Upon the decision of the President of Georgia, the citizens participating in non military, alternative labour services may be occupied in works of liquidation of the consequences of natural disasters, in seasonal works during harvesting and other works of a non military character.

5. The nature and location of non military, alternative labour service work shall be established by the State Commission on the Call-up of Citizens for Non Military, Alternative Labour Service, according to corresponding requirements submitted by the interested organisations. The competence of the Commission shall be determined by this Law and, according to it, by the Provision of the State Commission on the Call-up of Citizens for Non Military, Alternative Labour Service confirmed by the President of Georgia.

6. Citizens involved in non military, alternative labour service shall be given the corresponding document in which the work and location of non military, alternative labour service shall be specified.

#### **Article 6. The Term of non military, alternative labour service**

1. The term of non military, alternative labour service shall be:

- a) for persons with a higher education-18 months;
- b) for persons without a higher education-24 months. (18.05.2002 N 1468)

2. Beginning of the term of non military, alternative labour service shall be the date specified in the order of the Minister of Labour, Health and Social Protection of Georgia. (05.12.2000)

### **Chapter II. - Sequence of replacement of military service with non military, alternative labour service**

#### **Article 7. Application on replacing of military service with non military, alternative labour service**

A citizen who shall perform his/her military duty but has pertinent reason(s), as stipulated by this Law, to not participate in military service, shall submit an application form to the Military Forces of Georgia at the regional/city Military Draft Commission within 10 days of the announcement of the military call-up by the President of Georgia.

#### **Article 8. Consideration of the application by the Military Draft Commission**

1. The regional (city) Military Draft Commission shall prove the private affairs of the conscript and on demand, obtain materials confirming the viability of the application.

2. The applicant shall be entitled to be present at the session of the commission and to prove his considerations.

3. The regional (city) Military Draft Commission shall be obliged within 20 days to consider the application of the citizen and to take the corresponding decision, which along with the private dossier shall

be sent to the State Commission on the Call-up of Citizens for Non Military, Alternative Labour Service for the final conclusion.

4. The State Commission on the Call-up of Citizens for Non Military, Alternative Labour Service shall take a decision within one month after receiving the application, personal dossier and the decision of the regional (city) Military Draft Commission.

5. The Minister of Labour, Health and Social Protection of Georgia, on the basis of the conclusion of the State Commission on the Call-up of Citizens for Non Military, Alternative Labour Service shall take the decision on the call-up of citizens for non military, alternative labour service and, in the case of refusal, issue a corresponding order.

6. If the Commission satisfies the request of the applicant, and the Minister of the Labour, Health and Social Protection issues the corresponding order, the applicant shall be registered for non military, alternative labour service. (5.12.2000)

#### **Article 9. Regional (city) Military Draft Commission**

The regional (city) Military Draft Commission shall assess the private dossier of the citizens.

#### **Article 10. The State Commission on the Call-up of Citizens for Non Military, Alternative Labour Service**

1. The State Commission on the Call-up of Citizens for Non Military, Alternative Labour Service shall:

- a) provide for the transfer of the citizens to the work place specified by the Commission for performance of non military, alternative labour service;
- b) provide for the call-up of citizens for non military, alternative labour service;
- c) supervise the organisation of the performance of non military, alternative labour service by the citizen and control the work of the regional (city) Military Draft Commissions in the sphere of the call-up, performance and organisation of non military, alternative labour service;
- d) according to the requirements submitted by the interested organisations, establish the type of work and place where the citizens shall perform non military, alternative labour service;
- e) allocate places of non military, alternative labour service;
- f) consider applications and complaints of citizens submitted from the regional (city) Military Draft Commissions;
- g) take decisions on questions of its competence;
- h) on the basis of the application of the employee of non military, alternative labour service take decisions on the pre-schedule termination of this service or transfer of the citizens from non military, alternative labour service to military service.

2. The State Commission on the Call-up of Citizens for Non Military, Alternative Labour Service shall be entitled to offer to the ministries and institutions and also to the enterprises, organisations and establishments of Georgia (irrespective of the type of property) the labour power for the performance of non military, alternative labour service.

3. The Ministries and departments and also enterprises, organisations and establishments of Georgia (irrespective of the type of property), if there is an interest, shall be obliged to give annually to the State Commission on the Call-up of Citizens for Non Military, Alternative Labour Service the corresponding data on the amount of free workplaces for the performance of non military, alternative labour service.

#### **Article 10. Department of non military, alternative labour service.**

1. Department of Non Military, Alternative Labour Service (below-Department) shall provide for the realisation of work and decisions taken by the State Commission on the Call-up of Citizens for Non Military, Alternative Labour Service.

2. The Department shall be under the jurisdiction of the State and shall be subordinated to the Ministry of Labour, Health and Social Protection of Georgia, powers of which and the main field of activity shall be determined by this Law, the corresponding order of the President of Georgia, order of the Minister of Labour, Health and Social Protection of Georgia and the Provision of the Department. (18.05.2002 N 1468)

**Article 11. Settlement of disputable questions**

The citizens, who's application on non military, alternative labour service are rejected, may appeal, within a 10 days term, in the court against the decision of the Minister of Labour, Health and Social Protection of Georgia. (5.12.2000) The court shall be obliged to consider the issue in a ten-days term and take a decision on the leaving in force or the termination of the Minister's decision. (5.12.2000)

**Chapter III. - Performance of non military, alternative labour service**

**Article 12. Call-up of citizens for non military, alternative labour service**

1. The State Commission on the Call-up of Citizens for Non Military, Alternative Labour Service shall register the persons who are to be sent to non military alternative labour service and give them the document on the call-up, in which the place of performance of non military, alternative labour service and the date of its start shall be specified.

2. Citizens participating in non military, alternative labour service, may be directed to the corresponding educational institution for professional training. Time of training shall be considered as non military service.

3. Administration of the enterprise, organisation or establishment, which directed the corresponding requirement to the State Commission on the Call-up of Citizens for Non Military, Alternative Labour Service, shall have no right to refuse a citizen who has the call-up document, provided by the Commission.

4. On the basis of the corresponding decision of the State Commission on the Call-up of Citizens for Non Military, Alternative Labour Service, the Department shall conclude a contract with the interested enterprise, organisation or establishment on job placement of the citizens performing non military alternative labour service. (18.05.2002 N 1468)

**Article 13. Order of performance of non military, alternative labour service**

The order of performance of non military, alternative labour service shall be determined by this Law and by the Provision approved by the President of Georgia.

**Article 14. Rights of the citizens performing non military, alternative labour service**

1. Citizens performing non military, alternative labour service shall enjoy all rights stipulated by the Constitution of Georgia.

2. As a rule, the citizens shall perform non military, alternative labour service according to their place of residence.

3. Citizens performing non military, alternative labour service shall have no right to hold a supervising or materially responsible position, to demand higher wages from an administration or to participate in strikes.

4. Without the co-ordination of the State Commission on the Call-up of Citizens for Non Military, Alternative Labour Service, an administration shall have no right to release or transfer the employee participating in non military, alternative labour service to another work.

**Article 15. Responsibility of participants of non military, alternative labour services**

In the case of a law violation, a citizen performing non military alternative labour service shall bear the responsibility according to the legislation of Georgia.

**Article 16. Responsibility for evasion from non military, alternative labour service**

1. Evasion of the employee of non military, alternative labour service from non military, alternative labour service, termination of service, leaving the workplace without a valid reason, absence during assignment, transfer, business trip, return from holiday or from hospital, shall be punished by double the number of days missed. The administration, enterprise, organisation or establishment where the citizen participates in non military service shall be entitled to register this decision with the co-ordination of the State Commission.

2. For regular infringements of the labour discipline the administration may prolong the term of performing of non military, alternative labour service for 3 months. The administration shall notify the State Commission of this decision within 10 days.

**Article 17. Ending or pre-schedule termination of non military, alternative labour service**

1. When the established term of non military, alternative labour service is finished, the citizen shall leave the service and shall be enlisted in the reserve of non military, alternative labour service.

2. Citizen who is released from non military, alternative labour service, shall be obliged within 5 days after expiry of the term, to arrive to the corresponding regional (city) Military Draft Commission for the registration. The Military Draft Commission shall make the corresponding record in his registration card.

3. Citizen participating in non military, alternative labour service may be dismissed ahead of schedule for reasons, which according to the legislation, shall be valid for a pre-scheduled dismissal from military service, or, on the basis of the personal application whereby a citizen may be transferred from non military, alternative labour service to military service. While transferring from non military, alternative labour service to military service, the term passed in non military, alternative labour service shall not be included in the length of military service.

**Article 18. Service in the reserve**

1. Citizen participating in non military, alternative labour service shall be registered in the reserve up until 50-years of age.

2. Citizen participating in non military, alternative labour service and enlisted in the reserve may be called for works on liquidation of sequels of natural disasters and failures, and also at the proclamation of mobilisation or an emergency situation. Term of the call-up shall be defined by the corresponding normative act.

**Chapter IV. - Final provisions**

**Article 19. Enforcement of the Law**

This Law shall enter into force from January 1, 1998

**Article 20. Normative acts, which become invalid with the adoption of this Law**

With the adoption of this Law, the following shall be considered invalid:

- a) Decision of a Supreme Soviet of the Republic Georgia ‘On Entering into Force of the Law of Republic of Georgia “On Non Military, Alternative Labour Service” of June 14, 1991 (The Gazette of the Supreme Council of Georgia, 1991, No. 6, art. 435);



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- b) Law of Georgia “On Non Military, Alternative Labour Service” of June 14, 1991 (The Gazette of the Supreme Council of Georgia, 1991, No. 6, art. 436);
- c) Decision of a Supreme Soviet of Georgia “On Enforcement of the Temporarily Provision on Performance of Non Military, Alternative Labour Service by the Citizens” of June 14, 1991 (The Gazette of the Supreme Council of Georgia, 1991, No. 6, art. 437);
- d) Temporary Provision “On Performance of Non Military, Alternative Labour Service by the Citizens” (The Gazette of the Supreme Council of Georgia, 1991, No. 6, art. 438).

**Article 21. Normative acts to be issued**

To ask the President of Georgia to approve until January 1, 1998:

1. Provision of the State Commission on the Call-up of Citizens for Non Military, Alternative Labour Service and the structure of the commission;
2. Provision on Performance of Non Military, Alternative Labour Service. (5.12.2000)

President of Georgia

Eduard Shevardnadze

Tbilisi  
October 28, 1997  
No. 1012

**The Law of Georgia**  
**On the State Security Service**

**Chapter I - General provisions**

**Article 1. State Security Service**

1. The State Security Service is a system of special law-enforcement militarised establishments included in the executive authority of Georgia, which within the limits of its competence shall provide safety of the person, society and the State from internal and external threat.

2. The system of the State Security Service includes: the Ministry of State Security of Georgia, its departments, central administrative boards, management, regional management, city and district divisions, divisions of special purpose, other structural sections of special scientific, research and educational establishments and ministries (21.05.2004 N 63-I).

3. The Ministry of State Security is a special governmental establishment providing the security of the state as the task assigned to it by the legislation of Georgia and this Law. Powers, structure and the order of activity of the Ministry of State Security shall be determined by the Regulation of the Ministry of State Security of Georgia, which upon the presentation of the government shall be approved by the order of the President of Georgia (21.05.2004 N 63-I).

**Article 2. Principles and methods of activity of the State Security Service**

1. The principles and methods of activity of the State Security Service shall be:

- a) legality;
- b) observance and respect of the rights and freedoms of the person, the rights of legal persons;
- c) combination of forms of latent and obvious activity;
- d) subordination and accountability to the President of Georgia;
- e) unity and centralisation.

2. It shall be forbidden to create a political party or other political union in the State Security Service. The employee of the State Security Service may not be a member of a political party or other political union.

3. It shall be forbidden to disclose information on the private life of a person, information containing state secrets, and other information protected by law, materials of investigation and inquiry, except for cases stipulated by law.

4. The employee of the State Security Service shall be forbidden to arrange strikes or to participate in them, to work in combination on paid governmental, public or private enterprises, establishments and organisations, except for scientific, pedagogical or creative activity.

**Article 3. Legal grounds of activity of the State Security Service**

1. Legal grounds of activity of the State Security Service shall be: the Constitution of Georgia, the international legal acts, this Law, laws of Georgia, normative acts of the President of Georgia, of the Parliament of Georgia, of the Government of Georgia, and of the Ministry of State Security of Georgia (21.05.2004 N 63-I).

2. Proceeding from the international treaties and agreements of Georgia, in the order established by law, the Ministry of State Security of Georgia shall cooperate with the corresponding services of foreign states in combating international terrorism, drug business, organised and other international crimes.

**Article 4. Main directions of activity of the State Security Service**

1. The main directions of activity of the State Security Service shall be:

- a) protection of the constitutional system of Georgia, the sovereignty of the country, territorial integrity, scientific-economical and military potential from the illegal actions of the special services and separate persons of other states;
- b) revealing, prevention, inquiry and preliminary investigation of crimes which fall under the competence of the bodies of the State Security Service in accordance with the Criminal Procedures Code of Georgia and are determined by the international treaties of Georgia;
- c) realisation of measures on providing of protection of the state secret and control over their fulfilment in the order established by the legislation of Georgia.

2. The main directions of activity of the system of the State Security Service shall be determined and supervised by the Ministry of State Security of Georgia.

3. The State Security Service of Georgia in the order and in the frames established by law, shall present the information to the President of Georgia, the Parliament of Georgia, supreme bodies of government, mass media, natural and legal persons.

4. The sphere of activity of the State Security Service of Georgia shall be strictly determined and may be limited or extended only by law.

**Chapter II - Rights and duties of the State Security Service**

**Article 5. Duties of the State Security Service**

The State Security Service shall be obliged:

- a) to carry out counter-intelligence activity in order to prevent, reveal and suppress the intelligence activity of special services and organisations of foreign states directed against Georgia;
- b) in the order established by law to carry out operation and investigation measures (including latent video- and audio records, cinema and photography, external supervision, electronic control), getting information from technical communication channels (telephone, telegraph, fax, telex, radio communication, etc.) and control over either.
- c) in the order established by law, in cases related to its competence established by the legislation, to carry out inquiry and preliminary investigation, to search and detain criminals or persons suspected in crimes;
- d) to carry out counter-intelligence activity in the Military Forces of Georgia in order to ensure the state security;
- e) to take part in the actions against organised criminality, corruption and drug business together with the Prosecutor's Office, the Ministry of Internal Affairs, the Special State Protection Service and other governmental bodies (21.05.2004 N 63-I);
- f) in the order established by law to take part in the working out and realisation of measures on protection of the state secret, to carry out control over its preservation in those organisations (despite the form of their property), in which the activity connected with the state secret is carried out;
- g) to check the person for admitting to the state secret;
- h) jointly with the corresponding departments to carry out measures in ensuring the security of the state border of Georgia, vitally important facilities of strategic purpose, transport, communication means;
- i) to warn the state bodies, enterprises, establishments and organisation on those violations, which threaten the security of Georgia;
- j) to inform the President of Georgia, the Chairman of the Parliament of Georgia, the supreme governmental bodies and departments of the possible threat to the state security;

- k) in the frames of its competence, and in co-ordination with the Department of Protection of the state border of the Ministry of Internal Affairs and the Special State Protection Service, carry out operative ensuring of the protection of the state border of Georgia, strategic facilities and supreme officials of governmental bodies of state authority (21.05.2004 N 63-I);
- l) to provide the supreme governmental bodies and officials with separate, closed inter-city telephone “high-frequency” and also radio and telegraph communication;
- m) in the order established by the legislation of Georgia to carry out the control of import, export, production and use in Georgia of electronic means of surveillance (phone, microphone, special technical equipment of a radio communication and other means of surveillance, by means of which by the electronic or mechanical devices the latent links are revealed without the consent of one of the parties);
- n) for maintenance of the protection of state secrets in the order established by the legislation of Georgia, in enterprises, establishments and organisation to carry out the control over electronic communication and computer science facilities, which are used for creation, storage and transfer of information containing state secrets;
- o) in the order established by the legislation of Georgia, to check departments, enterprises, establishments and organisation for registration of the appropriate sanctions for granting of the right to realisation of activity connected with the state secret;
- p) within the limits of its competence, and on the basis of interstate treaties and agreements jointly with the corresponding departments, to take measures in the maintenance of personal and property safety of representations of foreign states and international organisation on the territory of Georgia, and also safety of the establishments and citizens of Georgia outside of Georgia;
- q) under decision of the President or Parliament of Georgia to participate in the ensuring of actions on security of international character;
- r) to provide safety and readiness of the state mobilisation-induction stations and headquarters of operative management during a state of emergency or martial law;
- s) to provide full mobilisation readiness of the bodies of state security;
- t) to provide safety and departmental communication;
- u) to carry out legal maintenance of mutual relations with the bodies of legislative, executive and judicial authority;
- v) to accept and register the information on those crimes, record-keeping on which is relevant to the competence of the Ministry of State Security of Georgia, to carry out registration of persons who committed such crimes;
- w) in the order established by law to carry out preventive measures of those crimes, which, according to the law, are relevant to the competence of the Ministry of State Security of Georgia.

## **Article 6. The rights of the State Security Service**

### **1. The State Security Service shall have the right:**

- a) in the order established by law to carry out operative, investigation and operative-technical measures and investigation actions on the prevention, revelation and suppression of those crimes which, by the legislation of Georgia, are related to the competence of the Ministry of State Security of Georgia;
- b) in urgent cases to use a communication facility belonging to the state organisation, enterprises and establishments and also to public associations and citizens; at the same time the State Security Service shall be obliged to compensate owners of the communication facility utilised;
- c) in urgent cases for travel to a place of incident, for prevention of a crime or detention of persons committing a crime or suspected in its fulfilment, to use vehicles belonging to citizens, enterprises, organisation, establishments and public associations (except for vehicles belonging to diplomatic representatives, consulates and other establishments of the foreign states, international organisation); at the same time the State Security Service shall be obliged to compensate owners of the vehicles utilised or damaged
- d) in urgent cases determined by law, when delay creates a threat to the life and health of a person, freely to enter to the citizens dwellings and premises, on the territory of the enterprises, establishments, organisation, buildings and constructions (except for buildings and constructions

of diplomatic representatives, consulates and the international organisation with diplomatic immunity) for prevention of such crime, which, according to the legislation of Georgia, is related to the competence of the Ministry of State Security of Georgia, and for detention of the person who committed such crime or has been otherwise suspected. The State Security Service shall inform the court of this within twenty-four hours, which within 48 hours after receipt of materials shall check their legality;

e) in order to establish the identity of the person - to check the citizens' documents, certifying the person, if there are sufficient grounds to suspect them in a crime or if this check is connected with the performance of official duties by the employees of the Ministry of State Security of Georgia;

f) to receive free of charge from the enterprises, establishments and organisation the information necessary for the performance of tasks assigned to it, except for those cases, when the law establishes other orders concerning receiving information;

g) in case of need for performance of the assigned tasks, according to the legislation, for maintenance of State security - to appoint the officer on security issues in the State bodies and establishments of special value and also in the State representations of Georgia abroad;

h) to allow employees of the State Security Service to store and to carry the service regular weapon and special means, the use of which is allowed by this Law and legislation of Georgia;

i) to use voluntary confidential assistance of citizens of Georgia, citizens of foreign states and persons without citizenship, and establish with them open or latent relations;

j) to provide functioning of investigation isolator submitted to it.

2. Forms, methods and means of realisation of activity of the State Security Service shall be determined by the legislation of Georgia and legal acts of the State Security Service. Used methods and means may not harm the life, health of a person, humiliate his honour or dignity, nor inflict harm to the environment.

### **Chapter III. - Powers and means of the State Security Service**

#### **Article 7. Employees of the State Security Service**

1. Employees of the State Security Service shall be military servicemen and those employees, whose activity (open or latent) is directly connected with the solution of tasks determined by law.

2. The citizens of Georgia shall be taken in the State Security Service after special examination, if they are capable by their personal and business qualities, education, physical preparation and a state of health to carry out assigned functions.

3. According to the legislation, the citizens of Georgia shall be taken into military service in the State Security Service. The citizens, who under the legislation are exempt from military service (except for persons released on a state of health) may be also taken into military service in the case of their consent. The order and conditions of enlisting citizens in the military service shall be determined by the legislation of Georgia.

4. The following persons shall not be taken into the State Security Service:

a) persons previously convicted in court;

b) persons subject to alcoholism, drug addiction, toxic mania and other chronic diseases;

c) persons recognised as incapable in the judicial order.

5. Military servicemen of the State Security Service shall pass military service according to the Law of Georgia "On Military Duty and Military Service" and shall enjoy the rights and guarantees envisaged for military servicemen of military forces.

6. In special cases, highly skilled specialists may be involved in the State Security Service under special contracts.

7. Labour activity of the civil personnel of the State Security Service shall be regulated by the Labour Code

of Georgia.

8. In the State Security Service, as in the system of legal special militarised establishments, additional requirements on passing of service shall be established by the legislative act. *(23.10.2001 N1129)*

**Article 8. The right to use physical strength, special means and firearms by the employee of the State Security Service**

1. In the order established by law, on duty the employee of the State Security Service shall have the right to use physical strength, special means and service regular firearms.

2. The right to use firearms stipulated by the military legislation shall be also applied to the military servicemen of the State Security Service.

3. The employee of the State Security Service shall be obliged to warn the person of any use of physical means and fire-arms, to give him enough time to perform legal requirements of an employee of the State Security Service, except for cases in which delay can cause an encroachment on the health and life of citizens and employees of the State Security Service, other serious consequences or, if, in the existing situation, it is impossible to give such warning.

4. While determining the type of special means, and intensity of physical strength, a concrete situation, character of the offence and individual features of the infringer shall be taken into consideration.

**Article 9. The right of application of physical strength**

The employee of the State Security Service shall have the right to use physical strength, including special methods of fighting in order to protect his personal safety and the safety of citizens, to prevent the crime and to detain the criminal, if the use of non-violent methods do not assist the employee of the State Security Service in the duties assigned to him by law.

**Article 10. The right to use special means**

1. While performing official duties the employee of the State Security Service shall have the right to use special means: handcuffs or other means of binding, rubber baton, tear gas or gas of special influence permitted by international conventions, light-sound devices of psychological influence, means of barrier destruction, a compulsory stop of transport, water-thrower, an armoured car and other special vehicles, special paint, electroshock devices and service dogs in the following cases stipulated by the present article:

- a) handcuffs and other means of binding – with respect to the person who has committed a crime and shows resistance to the state security employee. Or, in trying to run; from a convoy of detained or arrested persons, if the person by its actions can harm themselves or other persons;
- b) a rubber baton - for repulsion of an attack on the citizen, on the employee of the State Security Service or protected facilities; detention of the person who has committed a crime, if he obviously does not submit to a legal requirement of the employee of the State Security Service;
- c) teargas or gas of special influence allowed by the international conventions - for repulsion of an attack on the employee of the State Security Service, on the citizens, and protected facilities; for releasing of hostages; detention of the person who has committed a crime or with the purpose of forcing him to leave a vehicle or building;
- d) light-sound device of psychological influence - for repulsion of an attack on governmental and public facilities, on the employees of the State Security Service or citizens; for detention of the person showing armed resistance; for eviction of the criminal from a building, construction, plot of land, vehicle; for release of hostages;
- e) means of a compulsory stop of transport - for a compulsory stop of a vehicle, in which the driver has not executed the legal requirement made by the employee of the State Security Service to stop;
- f) means of destruction of barrier - detention of the person who has committed a crime; for

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releasing hostages;

g) water-thrower and an armoured car - for the purposes of repulsion of a group attack on the state or public facilities; for a compulsory stop of a vehicle, the driver of which has not executed the requirement of the employee of the State Security Service - to stop a vehicle; for detention of armed criminals;

h) a special paint - for purposes of uncovering the person who has committed an illegal act;

i) a service dog - convoy of the person who has committed an illegal act, for repulsion of an attack on the employee of the State Security Service or on the citizens during operative - investigation measures;

j) the electroshock device - protection against an attack on the employee of the State Security Service, the citizen or protected facility.

2. The employee of the State Security Service shall be obliged to render the medical aid to persons injured from using special means or physical strength, immediately to notify the superior or the public prosecutor of the nature and extent of personal injury.

3. It shall be forbidden to use physical strength or special means against persons who are pregnant, to infants and the elderly or those with physical inability. The exception is for those who have participated in an armed or group attack or show armed resistance to the employees of the State Security Service.

4. The employee of the State Security Service shall be forbidden to use such means of physical strength or special means, which may cause serious traumas or unjustified risk to the person concerned, as outlined by international conventions and other international acts.

5. The order of storage, carrying and use of special means being in the armoury of the State Security Service shall be established by the legislation of Georgia.

### **Article 11. The right to use firearms**

1. The employee of the State Security Service shall have the right to store, carry and use service regular firearms.

2. The order of storage and carrying of firearms being at disposal of the employee of the State Security Service shall be established by the legislation Georgia.

3. The aimed shot shall be considered as the use of a firearm.

4. The employee of the State Security Service shall have the right to use service regular firearms as an extreme measure for:

a) protection of citizens and self-defence from danger threatening their life or health;

b) suppression of an attempt to take his fire-arms;

c) release of hostages;

d) suppression of runaways from places of detention or imprisonment;

e) suppression of a serious crime, at detention of the person committed such crime, if he shows resistance to the employee of the State Security Service, or at attempt to flight;

f) repulsion of an attack on the dwelling of citizens, protected facilities, facilities of the state bodies, public organisation, private property;

g) protection of citizens against an attack of dangerous animals;

h) submission of an alarm signal or a call of auxiliary force;

i) damage of a vehicle with the purpose to stop it, if actions of the driver create real threat to the health and life of people, and the driver does not submit to the numerous requirement of the employee of the State Security Service to stop a vehicle.

5. A verbal warning shall precede the use of firearms. It is possible to make a precautionary shot.

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6. Use of firearms without warning shall be admitted at:
  - a) sudden armed attack; attack with use of military equipment, transport or mechanical means of any kind;
  - b) runaway of the arrested or detained person with use of transport;
  - c) showing armed resistance during detention or arrest;
  - d) the armed runaway of detained or arrested person.
7. It shall be forbidden to use fire-arms in such places, where there is the possibility of causing harm to other persons, in inflammable or explosive places, or in the presence of persons having obvious signs of pregnancy, infancy, physical inability, an old age, except for those cases, when they participate in armed or group attack, or are showing resistance to the employee of the State Security Service.
8. Upon the use of firearms, the employee of the State Security Service shall be obliged to take all measures to ensure the safety of other persons and to render immediate medical assistance to the injured.
9. The employee of the State Security Service shall be obliged to immediately inform his supervisor or public prosecutor on the use of firearms.
10. The list of service regular firearms and ammunition being at the disposal of the employee of the State Security Service shall be approved by the President of Georgia.
11. It shall be forbidden to use such types of firearms and ammunition, which inflict an unjustified risk and are forbidden by the international conventions and other international acts.

### **Article 12. Legal protection of the employees of the State Security Service**

1. The employee of the State Security Service upon performance of service duties is representative of authority and shall be under protection of the State.
2. Nobody shall have the right to intervene in a service activity of the employee of the State Security Service, except for those bodies or officials, the powers of which are envisaged by law.
3. Creation of obstacles to the employee of the State Security Service, insult of his honour and dignity, menace, resistance or encroachment on his life, health or property shall be punishable under the legislation of Georgia.
4. It is forbidden to present the employee of the State Security Service to the corresponding law enforcement bodies or to put him in administrative detention, to search his workplace, things, personal vehicle or other vehicle used by him, without the empowered representative of the corresponding establishment of the State Security Service. Cases of exception concern any person who has been overtaken at the scene of crime, of which the Ministry of State Security of Georgia shall be immediately notified.
5. The employee of the State Security Service shall be guided by law. In cases of an obviously illegal order or instruction, the employee of the State Security Service shall be obliged to take measures for fulfilment of the law.
6. The employee of the State Security Service shall have the right to apply directly to the court for protection of his rights and freedoms.

### **Article 13. Social protection of the employee of the State Security Service**

1. Social protection of the employee of the State Security Service shall be provided by the state.
2. The employee of the State Security Service shall be subject to obligatory state insurance.
3. Damage caused to the employee of the State Security Service during performance of official duties shall



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be completely compensated. The compensation shall come from the state budget of Georgia. An employee of the State Security Service who has been injured or disabled during the performance of his official duties, shall be paid (from the State budget) a monthly indemnification as a difference between monthly average wages on the last post and the appointed pension. In addition, there is also a lump sum as a monetary contentment for five years.

4. In case of death of the employee of the State Security Service during performance of his official duties and in case of death within one year after his discharging from work due to injury or disability, his family, or, persons under his care, shall be paid a lump sum equating to 10 (ten) years of work and shall be given privileges stipulated by the legislation of Georgia.

5. The State shall provide the employee of the State Security Service with an apartment. The order and conditions of providing the employee an apartment shall be determined by law.

6. The State shall provide the employee of the State Security Service and members of his family with health services. The order and conditions of health services shall be established by the legislation.

7. If the legislation of Georgia does not envisage otherwise, the employee of the State Security Service, within the limits allocated from the State budget, shall have the right once a year to use state transport (except for a taxi) free of charge to travel within the territory of Georgia with the members of his family.

8. If the legislation of Georgia does not envisage otherwise, the employee of the State Security Service within the limits allocated from the state budget, shall have the right to use all types of city, suburban and local state transport (except for a taxi).

9. The employee of the State Security Service within the limits allocated from the state budget, on his permanent place of residence shall be provided with telephone in the order and terms established by the legislation of Georgia.

10. If the legislation does not establish otherwise, the employee of the State Security Service within the limits allocated from the state budget, shall have the right to use the state departmental summer residences, rest houses and services of medical and sanitary institutions.

11. The employee of the State Security Service shall have the right, in the order established by the legislation, to receive a plot of land and to have subsidiary farmland.

12. According to the legislation of Georgia, within the limits of means allocated from the state budget, additional measures and privileges on social protection not stipulated by this Law may be established for the employee of the State Security Service.

### **Article 14. The rights and duties of persons rendering assistance to the State Security Service**

1. With the aim of protection of State security, the person shall have the right to cooperate voluntarily and to render assistance to the State Security Service.

2. The person rendering assistance to the State Security Service shall have the right:

- a) to conclude a contract with the State Security Service on a confidential basis;
- b) to receive from the employees of the State Security Service an explanation of his tasks, rights and duties;
- c) with a view of conspiracy to use ciphered documents certifying the person;
- d) to receive compensation according to the cases stipulated by the contract, and also compensation for harm or damage caused to his health or property at rendering assistance for the State Security Service.

3. Person co-operating with the State Security Service on the basis of a special contract shall be obliged:

- a) to fulfil works of the State Security Service for solution of the posed tasks;
- b) to observe conditions of contract with the State Security Service;
- c) to not give intentionally false or slanderous information to the State Security Service.

4. In cases where a person rendering assistance to the State Security Service, has given intentionally false and slanderous information to the Service or disclosed information protected by law, which became known to him during co-operation with the State Security Service, shall bear the responsibility according to the legislation of Georgia.

5. Protection of social rights of the person rendering assistance to the State Security Service shall be determined by the legislation of Georgia.

6. Person rendering assistance to the State Security Service may be enlisted in the State Security Service according to the legislation of Georgia and to the rules established in the Ministry of State Security.

#### **Article 15. Operative and technical means of the State Security Service**

1. The State Security Service in the framework of competence given by this Law and other laws shall create and use operative and technical means and ensures their protection.

2. Operative and technical means used by the State Security Service and the methods of its use shall not abuse the honour and dignity of the person or the fundamental human rights and freedoms recognised by the Constitution of Georgia and shall not threaten the life or health of a person, or damage the environment.

3. Use of operative and technical means shall be fulfilled according to the legislation of Georgia.

#### **Article 16. Informational maintenance of the State Security Service**

1. Informational maintenance of the State Security Service shall be ensured by creation and use of the informational systems.

2. Grounds and order of the registration of data on law infringements directed against the security of Georgia, activity of the special services and organisation of foreign states shall be determined by the legislation of Georgia.

3. Grounds and order of admission of a citizen to the protected by law data of the informational systems of the State Security Service shall be determined by the legislation of Georgia.

#### **Article 17. Material and technical maintenance of the State Security Service**

1. Funding of the State Security Service shall be carried out from the state budget of Georgia.

2. Material and technical maintenance of the State Security Service shall be carried out at the expense of the centralised resources of Georgia.

3. The plot of land, buildings, constructions, equipment being at disposal of the State Security Service, enterprises and property acquired or created at the expenses of the state budget of Georgia or other means, shall be the property of the state.

### **Chapter IV. - The control and supervision over activity of the State Security Service**

#### **Article 18. The Parliamentary control**

1. The Parliamentary control over the State Security Service shall be carried out by the Committee on Defence and Security of the Parliament of Georgia. Forms of parliamentary control shall be defined by the

legislation of Georgia.

2. Members of the Parliament of Georgia may receive from the State Security Service the information protected by law according to legislation of Georgia.

**Article 19. The Presidential and Governmental control**

1. The Ministry of State Security of Georgia shall be accountable to the President and to the Government of Georgia.

2. The state programs on the activities of the State Security Service shall be approved by the President of Georgia (21.05.2004 N 63-I).

**Article 20. The Judicial control**

Fulfilment of investigation and judicial procedures limiting individual rights and freedoms, determined by the Constitution of Georgia, shall be admitted by the motivated decision of the court in the order established by law.

**Article 21. Supervision of the Chamber of Control of Georgia**

Supervision over using and expenditures by the State Security Service of means, allocated from the state budget, and other material assets of the state shall be carried out by the Chamber of Control of Georgia.

**Article 22. Public Prosecutor's supervision**

1. Supervision over exact and uniform performance of law in the activities of the State Security Service, as an investigation body, shall be carried out by the General Public Prosecutor of Georgia and the public prosecutors subordinated to him in the order established by law.

2. Data on persons, who are rendering or rendered confidential assistance to the State Security Service, are co-operating or co-operated with it, and also methods, tactics and the organisation of getting the information of operative - investigative character shall not be the subject to the public prosecutor's supervision.

**Chapter V. - Transitive and final provisions**

**Article 23. Transitive provision**

Within a one month term of putting this Law into force, to bring the Provision of the Ministry of State Security into conformity with this Law.

**Article 24. Enforcement of the Law**

1. This Law shall enter into force upon its promulgation.

2. After enforcement of this Law the following acts shall be considered as invalid:

a) Resolution of the State Council of Georgia of August 31, 1992 "On Approval of Temporary Provision on the Information and Intelligence Service of Georgia" (the Collection of Normative Acts of the State Council of Georgia, 1995, volume II, art. 153);

b) authorised by the Resolution of the State Council of Georgia on August 31, 1992 "Temporary Provision on the Information and Intelligence Service of Georgia" (the Collection of Normative Acts of the State Council of Georgia, 1995, volume II, art. 154).

President of Georgia  
Tbilisi  
February 18, 1998  
No. 1227

Eduard Shevardnadze

## **The Law of Georgia On the State of Emergency**

### **Article 1.**

1. The state of emergency is a provisional measure, proclaimed according to the legislation of Georgia for the purpose of safety of citizens of Georgia during war or mass disorders, violation of territorial integrity of the country, in case of a military coup d'état or armed insurrection, ecological disasters and epidemics, natural calamities, large crashes, epizootics or in other cases, when the state authorities are deprived of the opportunity to implement their constitutional powers.

2. The purpose of the proclamation of the state of emergency shall be the prompt normalisation of the situation, restoration of the rule of law and order.

### **Article 2.**

1. The state of emergency throughout the whole territory of Georgia or any part thereof shall be proclaimed by the President of Georgia.

2. The President of Georgia via mass media shall warn the population on the proclamation of the state of emergency throughout the whole territory of the country or any part thereof, and within 48 hours after the proclamation shall submit this decision to the Parliament of Georgia for its approval. If the Parliament of Georgia has not approved the decision of the President of Georgia on the proclamation of the state of emergency, from that moment the state of emergency shall be considered terminated.

3. During the state of emergency the President of Georgia shall issue decrees with the power of law, which within 48 hours shall be presented to the Parliament of Georgia.

4. The decree issued during the state of emergency by the President of Georgia limiting the individual rights and freedoms, listed in Articles 18, 20, 21, 22, 24, 25, 30, 33 and 41 of the Constitutions of Georgia, shall be authorised by the Parliament of Georgia. The text of the decree shall be transferred by mass media within one day after signing, not less often than once in every two hours.

### **Article 3.**

1. The motives for the proclamation of the state of emergency shall be specified in the decree of the President of Georgia along with the terms and borders of the territory in which the state of emergency is imposed.

2. The President of Georgia may prolong the state of emergency with the consent of the Parliament of Georgia or terminate it ahead of schedule.

3. If the Parliament of Georgia considers that there are no preconditions stipulated in Article 1 of this Law, served as the grounds for the proclamation of the state of emergency, the Parliament shall adopt the law on its termination.

4. The decision on the proclamation, prolongation or termination of the state of emergency, shall enter into force from the moment of its adoption, if the legislation of Georgia does not stipulate other rules, and shall be published immediately.

5. With the termination of the state of emergency all decrees issued by the President of Georgia during the state of emergency shall become invalid.

**Article 4.**

During the state of emergency, and according to concrete circumstances, the supreme agencies of the executive authority of Georgia, within the framework of their competence, observing requirements of the legislation, may carry out the following actions:

- a) to strengthen protection of public order and those facilities providing for the vital activities of the population and the operation of economy;
- b) temporarily to evacuate citizens from dangerous areas with the obligatory granting of stationary or other temporary premises;
- c) in the area in which the state of emergency is proclaimed - to introduce a special regime of entry into and exit from that area of citizens;
- d) in case of the need to limit the right of citizens and persons without citizenship to free movement - to forbid them to leave their residence or other place of stay without the corresponding permission, to evict transgressors, not being inhabitants of the given district, at their expense to the place of their permanent stay or out of the borders of the district, in which the state of emergency is proclaimed;
- e) temporarily to withdraw from citizens firearms, steel, ammunition; and from the enterprises, establishments and organisations - educational military technical equipment, explosive, radioactive substances and materials, strong chemical and poisonous substances;
- f) ban on assemblies, meetings, street processions and demonstrations, entertainment, sports and other mass actions;
- g) to change the plans on production and delivery of products of the state enterprises and organisations, and also to resolve other questions connected with their economic activities, to establish a special work regime of the state and private enterprises, establishments and organisations; (7.05.2003)
- h) if necessary, suspend from work during the effective period of the state of emergency of directors of state enterprises, establishments and organisations, having strategic and vital value for the population, and to appoint other persons to act temporarily for those directors; to forbid in these enterprises, establishments or organisations the releasing of workers and employees at will, except for cases of dismissal for valid reasons; with the termination of the state of emergency to appoint the suspended persons to their posts, if there is no lawful grounds for their removal from office;
- i) according to the legislation, to use resources of state enterprises, establishments and organisations for the prevention and liquidation of the consequences of the state of emergency; for the same purposes to use property and material means belonging to another legal and also to natural persons, only with corresponding compensation, which shall be given out after the termination of the state of emergency;
- j) to ban on strikes;
- k) to involve able-bodied citizens in the enterprises, establishments and the organisations with an average payment and also to involve them in the liquidation of consequences of the state of emergency providing for the safety of conditions of their work;
- l) to limit or ban on the traffic in arms, strong chemical and poisonous substances, alcoholic drinks and spirituous substances, to forbid carrying of the military uniform and subjects of equipment without the permission;
- m) to impose a quarantine and to implement the obligatory sanitation and anti-epidemic measures;
- n) according to the legislation to establish control over mass media;
- o) to adopt special instructions on the use of the communication facilities;
- p) to limit the traffic and implement the vehicle examination;
- q) to declare a curfew;
- r) to forbid the creation or activities, if not stipulated by the legislation of Georgia, of the armed formations of citizens;
- s) to check documents in places of a mass concentration of citizens, and at presence of the corresponding grounds – to carry out personal inspection of citizens, examination of their things and means of transport.

**Article 5.**

1. The supreme agencies of the executive authority of Georgia shall have the right to cancel any decision of subordinate bodies in the districts in which the state of emergency is proclaimed.
2. The National Security Council of Georgia shall co-ordinate the work on the prevention and liquidation of consequences of the state of emergency .

**Article 6.**

During the state of emergency, the directors of enterprises, establishments and organisations shall have the right, in necessary cases, to transfer workers and employees to another work not stipulated by labour agreement without their consent.

**Article 7.**

1. During a curfew the citizens shall not be allowed to be in streets or in other public places or, to stay outside of their premises without officially given passes and documents certifying their person.
2. Persons violating the order stipulated by Paragraph 1 of the present Article shall be detained by police or military patrols before the termination of the curfew, as well as those who have no personal identity documents, for no more than for three days; detained persons may be subjected to personal inspection, and the inspection of their personal belongings may also take place.

**Article 8.**

Infringements of requirements, established according to Subparagraphs (c), (d), (f), (j) and (l) – (p) of Article 4, and also requirements stipulated by Paragraph 1 of Article 7 of this Law, shall entail the administrative responsibility according to the legislation.

**Article 9.**

Under the decision of the President of Georgia and with the consent of the Parliament of Georgia, for liquidation of consequences of the state of emergency, for maintenance of public order and for the safety of citizens, the Military Forces of Georgia may be used, which shall operate according to this Law and other corresponding normative acts.

**Article 10.**

1. With a view of the co-ordination of actions, management and interactions of forces involved in the liquidation of consequences of the state of emergency, the temporary bodies may be created by the decree of the President of Georgia; and, or, in the areas in which the state of emergency is proclaimed, upon presentation of the National Security Council of Georgia, the representative of the President and (or) commandant may be appointed.
2. In order to perform the normative acts issued by the President of Georgia the Representative of the President of Georgia and (or) the commandant in a scene of action of the state of emergency shall issue orders regulating questions of assistance to the regime of the state of emergency within the framework of this Law.

**Article 11.**

At the proclamation of the state of emergency according to the decision of the President of Georgia, the experts, who may assist the liquidation of consequences of acts of nature, large failures or accidents,

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epidemics, epizootics, may be called for the term of about two months. Not only the Georgian experts but also the experts from foreign countries may be called. (7.05.2003)

### **Article 12.**

The Parliament of Georgia shall have the right to change the territorial jurisdiction of civil and criminal cases established by law during the state of emergency.

### **Article 13.**

1. Citizens damaged during the state of emergency, or, in connection with the implementation of work on its prevention or liquidation, shall be given the dwellings, compensated material damage, assisted in employment and provided other necessary assistance by the state.

2. Conditions of the granting of dwellings, compensation of damage and rendering of other necessary assistance, according to the legislation, shall be determined by the President of Georgia.

### **Article 14.**

1. If, in the areas, where the state of emergency is proclaimed, the state authorities do not provide appropriate implementation of their functions, the President of Georgia, by the decree, may introduce the temporary governance according to the legislation of Georgia and before the termination of the state of emergency.

2. In cases stipulated by Paragraph 1 of the present Article, powers of the corresponding state authorities shall be suspended, and their functions shall be imposed on the body created or the official appointed by the President of Georgia, who within the limits of their competence and according to the legislation, shall have the right:

- a) to take measures stipulated in Article 4 of this Law;
- b) temporarily to implement functions of the local self-government and government bodies;
- c) to make proposals in the supreme state authorities of Georgia on questions of state, economic and social construction;
- d) according to the legislation, to subordinate to itself the state enterprises, establishments and organisations located in the corresponding areas, in the order determined by the President of Georgia.

### **Article 15.**

The Ministry of Foreign Affairs of Georgia shall immediately notify the Secretary General of the United Nations Organisation on the proclamation of the state of emergency and on its termination.

### **Article 16.**

1. This Law shall enter into force upon its promulgation.

2. The Law of the Republic Georgia “On the State of Emergency” of December 11, 1990 (The Gazette of the Supreme Council of the Republic Georgia, 1990, No. 12, Article 364) shall be considered as invalid.

President of Georgia

Eduard Shevardnadze

Tbilisi

October 17, 1997

No. 972

## **The Law of Georgia On the Status of Military Servicemen**

This Law shall specify the status of military servicemen, persons having the status of military servicemen, their rights and obligations, and also the basic guarantees of their social and legal protection, as well as members of their families and persons discharged from military service.

### **Chapter I. - General provisions**

#### **Article 1. Terms used in the Law**

Terms used in the law shall have the following meaning:

- a) **the military serviceman** - the citizen of Georgia, the person without citizenship of Georgia or foreign citizen (in cases established by Article 5 of the Law of Georgia “On Military Duty and Military Service”), who perform military service in the Military Forces of Georgia or in the first rank of the reserve of the military forces; *(21.06.2002 N 1541)*
- b) **the status of military serviceman** – rights, freedoms, duties and responsibilities established by law and guaranteed by the state;
- c) **persons having the status of military servicemen** - military servicemen of the military forces and military departments of Georgia and the reservists of the first rank: private soldiers (sailors), sergeants, foremen (warrant officers), junior, senior and high rank officers. *(21.06.2002 N 1541)*

#### **Article 2. Status of military serviceman**

1. Aspects of the legal status of military servicemen shall be defined by the duties assigned to them for the armed defence of the State. Performance of the set tasks shall be expected under any condition, including at the risk of the life.
2. Military servicemen shall perform military service according to the Law of Georgia “On Military Duty and Military Service” and other legislative acts of Georgia.
3. Military servicemen shall be given documents specified by the legislation of Georgia, identifying their identity, citizenship and legal status.
4. Military servicemen shall have the right to keep, carry and use weapons in the order, specified by the legislation of Georgia and the regulations of the Military Forces of Georgia.
5. Compensation for the partial restriction of civil rights and freedoms of military servicemen, which is connected with the special conditions of military service, shall be made according to this Law and others normative acts.
6. Aspects of the status of military servicemen during a state of emergency or martial law and mobilisation shall be specified by the legislation of Georgia.
7. Other privileges specified by this Law and the legislation of Georgia shall be applied to military servicemen, the members of the families of military servicemen and to persons discharged from military service and the members of their families.

#### **Article 3. Persons having the status of military servicemen**

1. The status of military servicemen shall be given to the citizens of Georgia, to persons without citizenship permanently living in Georgia and to foreign citizens from the date of their enlisting in military service. Military servicemen shall lose this status from the day of discharge from military service



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2. The status of military servicemen in case of performing military service in the establishment of Georgia situated in other states, shall be determined by this Law, international treaties and agreements.

3. The status of military servicemen shall be preserved, if military servicemen is captured and interned in a neutral state, if this capture is not voluntary and if a captured person has not committed acts directed against Georgia.

4. If while performing military service the military serviceman is deprived of freedoms because of crimes committed, privileges established by this Law shall be lost.

### **Article 4. Guarantees of social and legal security of military servicemen**

1. Guarantees of social and legal security of military servicemen shall be given by the state, which shall provide military servicemen with corresponding conditions of life taking into consideration special conditions and features of military service.

2. Every military serviceman irrespective of post or military rank shall be equal to the law. Legal distinctions of military servicemen, conditions of the performing of military service and the order of material maintenance shall be established by the legislation of Georgia.

3. Social and legal security of military servicemen, of persons discharged from military service and members of their families shall be provided for by the state.

4. Taking into consideration the special conditions of military service, other additional guarantees of social security for military servicemen shall be determined by the corresponding legislation of Georgia.

## **Chapter II. - Rights of military servicemen, persons discharged from military service and members of their families and guarantees of realisation of these rights**

### **Article 5. Participation in the state and public affairs**

1. Military serviceman shall have the right to take part in the activity of non-enterprise (non-commercial) legal persons, as well as in the elections of the bodies of government, governmental management and local self-government.

2. Military serviceman shall be forbidden to become a member of a political party, to organise assemblies and demonstrations and/or participate in them, to carry out enterprise activity and to combine other services, except for scientific and pedagogical activity, if it does not prevent performance of service duties.

### **Article 6. Freedom of speech and information**

Military serviceman shall have the right to freedom of speech, the right to express opinions and views and the right to receive and spread information that do not contain state secrets, including service ones.

### **Article 7. Freedom of conscience, religion and belief**

Military serviceman shall have the right to profess any religion, to perform religious ceremonies, providing they do not prevent the performance of official duties or create conditions for additional privileges.

### **Article 8. Protection of freedom, honour and dignity of the personality**

Personal freedom, honour and dignity of military serviceman shall be protected by law.

**Article 9. The right to freedom of movement**

1. Military serviceman on duty shall have the right to freedom of movement with permission of the corresponding chief.
2. Military servicemen shall have the right to change a place of military service, if they or the members of their families require a change of a place of service (residence) due to the state of health, on the basis of conclusion of a medical board.
3. Military servicemen shall travel on business with permission of the military leadership, and on the basis of the corresponding normative acts.

**Article 10. Realisation of the right to labour**

1. The military service is a special kind of state service, which sets as a purpose ensuring of defence of Georgia.
2. The state shall guarantee to military servicemen:
  - a) occupation of a military post and promotion, taking into account achieved results in service activity and qualification;
  - b) improvement of professional skills at own will and in a view of interests of military service;
  - c) assignment of a military rank according to the staff schedule and an occupied post in the order established by the legislation of Georgia. A delay in assignment of the next military rank may not be permitted.
3. The period of military service shall be included in their total length of service, and in cases specified by the legislation of Georgia – in the length of work according to acquired speciality.

**Article 11. Work time and right to rest**

1. Total duration of the weekly work time of military servicemen, except for cases specified in Paragraph 3 of the present Article, shall not exceed the normal duration of the weekly work time, specified by the Labour Code of Georgia.
2. Military serviceman called up for compulsory military service, cadet of a military educational institution shall be granted not less than one rest day weekly.
3. Measures connected with the performance by military servicemen of official duties, the list of which shall be determined by the legislation of Georgia, in case of need, shall be carried out without any restrictions of general duration of weekly work time.
4. While currying out military service military servicemen shall be given annual leave:
  - a) for service in the military forces of less than 10 years - 30 days;
  - b) for service in the military forces of over 10 years - 45 days;
  - c) for work in air services, military service in the Navy of Georgia, rocket and torpedo boats, in the border forces of Georgia, in detachments of special purpose and also on combat sentry in special conditions - 45 days.
5. Due to family circumstances or other reasons the military serviceman may be given short-term leave for the period of 10 days. Short-term leave shall not be counted as regular leave.
6. Military serviceman called up for compulsory military service during the whole period of performing of military service shall be given a ten-day-term leave only once. As encouragement, a 10 day-term leave may be given in the order stipulated by the Disciplinary Regulation of the Military Forces of Georgia.

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7. Cadet of a military educational institution shall be given vacation leave in the terms established by the curriculum.

8. The graduates of a military educational institution, who are awarded the primary officer rank, shall be given 30-days leave before their assignment.

9. Military service - woman shall be given maternity leave covering the period of pregnancy, childbirth and child-care, according to the Labour Code of Georgia.

### **Article 12. Money allowance**

1. Military serviceman shall be on full State allowance.

2. For honest performance of the service duties, exemplary discipline and excellent parameters in combat training the monetary premium and/or material aid may be given to military servicemen within one year and upon participation in military exercises, along with duty travel expenses, a daily compensation shall be given in the order established by the legislation of Georgia.

3. Military serviceman (except for military servicemen of compulsory service), according to the norms established by the legislation of Georgia, shall be given a food ration, uniform or corresponding monetary compensation.

4. Officer, depending on a long-service calendar years on his post (including service in the Armed Forces of the former USSR and other states), shall be given a money allowance according to the following rate increases:

from 1 to 2 years - 5 percent;  
from 2 to 5 years - 10 percent;  
from 5 to 10 years - 20 percent;  
from 10 to 15 years - 25 percent;  
from 15 to 20 years - 30 percent;  
from 20 to 25 years - 35 percent;  
from 25 to 30 years - 40 percent;  
more than 30 years - 45 percent.

5. According to the decree of the President of Georgia, official allowances may be increased for foremen (warrant officers) depending on a length of their service.

### **Article 13. The right to property**

1. Military serviceman shall have the right to be a proprietor, to own, use, dispose his property in the order specified by the legislation of Georgia.

2. The order of storage of property of military servicemen in military units shall be determined by the Army Regulation.

### **Article 14. The right to housing**

1. The State shall provide the military serviceman with housing. Military serviceman, upon commencing service, according to the established norms and order, shall be provided with an apartment from available housing funds handed over to the corresponding military department.

2. Military servicemen and their family members shall have the right to be registered at the address of the military unit. Prior to receiving a permanent place of residence, these persons shall be given the right to temporary office accommodations and/or rooms in a hostel.

3. Officers called up from the reserve on biennial military service shall be given a room in a hostel. If the officers continue military service after a biennial term, a place of living shall be given to them in the order established for military servicemen.

4. Persons called up for compulsory military service under the Regulation of Internal Service shall be placed in barracks.

**Article 15. Calculation of the length of service and material security**

1. One day of participation of military servicemen in an acting military unit during martial law, or, direct participation in an armed conflict, or, fulfilling of a special task in peacetime, which is equivalent to a combat operation, (20.07.2001 N1036) shall reckoned as three days of service. One day of service of the person who did not take direct part in an armed conflict and was in a condition of alertness, assisting combat operations, or in a zone of the armed conflict in structure of peacekeeping forces, shall be reckoned as two days of service.

2. During this period of time, military servicemen specified in Paragraph one of the present Article shall be paid all kinds of the money allowances accordingly in threefold and double sizes.

3. Depending on the length of service, military servicemen shall be awarded decorations and medals by the order of the President of Georgia.

4. One day of service in which military servicemen have direct contact with unhealthy liquids, chemical, poisoning, radioactive and other substances, shall be reckoned as one and a half days. All kinds of the money allowances shall be paid in one-and-a-half sizes.

5. In cases where military servicemen are carrying out service in another state, military servicemen shall be paid allowances partially in a national currency of the country and, partially, in the national currency of Georgia.

6. Special conditions of performing military service in the border forces of Georgia, Internal troops, closed military garrisons and special military units, naval, air, antiaircraft defence and in some of military units and formations of other categories, in groups of special purpose, and also for military servicemen specified in Paragraph one of the present Article, shall be established by the President of Georgia.

**Article 16. Protection of the life and health, medical security**

1. Protection of the life and health of military servicemen shall be provided for by creation of strict standards and suitable conditions of military service and also by a system of measures aimed at the reduction of risk factors typical for military service. This system shall be carried out by the commander (chief) jointly with the bodies of state authority and local bodies of self-government and government.

2. Protection of the life and health of military servicemen shall be entrusted to the commander (chief). He shall be entrusted also with the maintenance and observance of safety rules of military service, carrying out of military training, studies on combat training, operation of military technical equipment and weapons and performance of others works.

3. In case of injury during the performance of service duties by military servicemen, their families shall be paid from the state budget a lump sum at a rate of 5-years of rank and military allowance or allowance of special rank. (24.12.99 N 91 The Legislative Herald of Georgia N 52(59))

4. In case of destruction of military servicemen or their death as a result of disease during performance by them of service duties, their families shall be paid from the state budget a lump sum at a rate of 10-years of rank and military or special rank allowance. (24.12.99 N 91 The Legislative Herald of Georgia N 52(59)) The State shall takes all charges on transportation and burial of remains.

5. Military serviceman in military-medical sub-units, military units and military medical institutions shall enjoy the right of medical treatment at the expense of the state.

**Article 17. The State insurance of military servicemen. Compensation of damage**

1. Every military serviceman shall be subject to obligatory state insurance, conditions of which shall be determined by the legislation of Georgia.

2. In case of destruction, death, physical inability or injury of the insured military serviceman, a lump sum shall be given, the order and amount of payment of which shall be determined by the corresponding legislation.

3. Guarantees established by the present Article, shall be applied also to persons discharged from military service of a certain age or state of health, as a result of reorganisation and staff reduction, who have a rank of colonel or the highest military ranks, and also veterans of war and military forces discharged from the military service for the above mentioned reasons.

4. Guarantees established by Paragraph 2 of the present Article shall be applied to reservists called for military assemblies.

**Article 18. Education. Participation in the cultural life**

1. Military serviceman shall have the right to receive a professional education, to enter in a military educational institution, training or retraining course and to study at courses aimed at the improvement of skills.

2. Military serviceman in view of the conditions of military service shall have the right to study in higher, secondary and professional civil educational institutions. All privileges established by the legislation for a person combining military service with study in educational institutions shall be applied to military servicemen of this category. After discharge from military service, the military serviceman shall have the right to continue study in this educational institution.

3. Officers and military servicemen of contracted (professional) service with high or specialised secondary education, who are performing military service according to the acquired speciality, shall be equated with persons who have graduated from a higher or secondary military educational institution.

4. Military serviceman shall have the right to take part in the cultural life of Georgia and to use establishments of culture.

5. The military leadership shall be obliged to develop and carry out measures concerning the patriotic, moral and esthetic education of military servicemen, to develop the reasonable initiative, to nurture in them respect for national traditions, religion, aged people and minors.

6. At the expenses allocated for the corresponding military department from the state budget, the military serviceman in a place of the disposition of the military unit may use libraries and reading rooms, cultural and educational establishments, sport constructions and inventory, cinema and video films, and also may take part in sport and amateur measures.

**Article 19. Privileges at using of transport and municipal services**

1. During business trips, travel to and from sanatorium or medical establishments basic and additional holidays, upon discharge from military service and upon transfer to another settlement, the military serviceman shall have the right to use all kinds of road transport (except for a taxi) at the expense of the state budget as allocated by the corresponding military department.

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2. Military serviceman shall have the right to travel by public transport within Georgia – bus, trolleybus, tram, underground and suburban rail transport at the expense of the state budget as allocated by the corresponding military department.

3. Military servicemen (except for military servicemen of temporary service) and members of their families pay 50 percent of the cost of apartment rent, telephone installation and subscription (except for international and intercity conversations), collective aerial, radio network usage, gas, heating, domestic services, hot water and other municipal services, and the remaining 50 percent shall be compensated at the expense of the state budget as allocated by the corresponding military department.

### **Article 20. Proposals, applications, complaints**

1. In the order specified by the legislation, the military serviceman shall have the right to bring in proposals, applications and complaints in the bodies of the government and management and also to submit them to the commander and chief.

2. Military serviceman may appeal in court through the commander (chief) or personally against illegal acts of the bodies of the government and management or officials of the military departments.

3. Consideration of the complaints of military servicemen connected with their service activities and adoption of the corresponding decision shall be made in the order envisaged by the army regulations. In case of refusal of consideration of the complaint or unsatisfactory result of consideration, the military serviceman shall have the right to appeal to the higher commander (chief), in the Office of Public Prosecutor or Court.

4. It shall be forbidden to stop consideration of the complaint or to punish or pursue military servicemen because of their complaints.

5. Military serviceman who has made complaints shall not be released from performance of orders and service duties. In cases of performance of illegal orders, responsibility shall be imposed on the person who has issued the order.

### **Article 21. Discharge from military service**

1. Discharge of military servicemen from military service shall be made on the basis of this Law and other legislative acts of Georgia.

2. Military serviceman shall be discharged from the service in the following cases:

- a) upon achievement of the age limit;
- b) illness;
- c) in connection with reorganisation and staff reduction;
- d) in view of service discrepancy;
- e) for actions discrediting the dignity of military servicemen;
- f) for commitment of serious or especially serious criminal offences-after taking decision by the court;
- g) personal desire, if, as an officer, he has served for not less than 10 years;
- h) as agreed by parties or for the infringement of the contract conditions;
- i) under personal statement, as an exception, for reasons confirmed by the corresponding documents (marital status, moving on a place of permanent residence in another state, election or assignment in the bodies of the government).

3. Military serviceman dismissed from military service without grounds and illegally, shall be restored by the Minister of Defence of Georgia or the head of the corresponding department in the same post and, in the same unit, where they served prior to discharge from military service. High military rank officers shall be restored by the Supreme Commander-in-Chief of the Military Forces of Georgia. The time of the

compelled idle time after discharge from military service shall be reckoned in terms of the length of service. In the name of protection of individual rights, the military serviceman may address the court.

### **Chapter III. - Duties and responsibility of military servicemen for infringement of the law**

#### **Article 22. Duties of military servicemen**

Protection of the state sovereignty and territorial integrity of Georgia, maintenance of internal and external security of the country, repulsion of an armed attack and aggression shall represent the essential military obligations of military servicemen:

- a) strictly to observe requirements of the military oath and the army regulations, truly to serve to Georgia, to carry out the military duty;
- b) to raise a level of military, technical and common knowledge;
- c) to master and, in case of need, to use entrusted weapons and combat material;
- d) to protect state and public property;
- e) to value military rank, honour and dignity;
- f) to strictly protect entrusted military and state secrets;
- g) to submit to the commander (chief), precisely and in time to carry out his orders and directions.

#### **Article 23. Responsibility for encroachments on military servicemen and for their insult**

1. The state shall protect military servicemen. The law shall protect the life, health, honour and dignity of military servicemen.
2. Insubordination to a legal requirement of military servicemen during service, physical insult, resistance, violence, threats or encroachments on their life, and other actions, which prevent them from performing the missions imposed on them, shall entail the responsibility established by law .

#### **Article 24. Responsibility of the military serviceman for infringements of the law**

1. Military serviceman, depending on the nature and extent of the committed offence shall bear disciplinary, administrative, civil or criminal responsibility.
2. For misdemeanours connected with the infringement of military discipline and any humiliation of military dignity, the military serviceman shall bear the responsibility on the basis of the General Army Regulation.
3. Military commander (chief) shall have no right to issue an order or instruction that is illegal or unrelated to military service.

### **Chapter IV. - Transitive and final provisions**

#### **Article 25. Transitive provisions**

Articles 12, 17 and 19 of this Law and also Paragraphs 3 and 4 of Article 16 shall take effect as of January 1, 1999.

#### **Article 26. Enforcement of the Law**

This Law shall enter into force upon its promulgation.

President of Georgia

Eduard Shevardnadze

Tbilisi, June 25, 1998, No. 1462

**The Law of Georgia**  
**On the Special State Protection Service**

**Chapter I. - General provisions**

**Article 1. Special State Protection Service**

1. The Special State Protection Service is a militarised, governmental institution of executive authority of special purpose, directly subordinated to the President of Georgia, which shall provide the safety of the state through the implementation of the powers and duties given by this Law. *(11.02.2004 N 3281-II)*.

2. The Special State Protection Service shall carry out protection of the branches of the state authority and physical protection of their officials from illegal encroachments with the aim of providing the State security. *(25.12.2002 N 1885)*

**Article 2. Legal principles of activity of the Special State Protection Service**

The activity of the Special State Protection Service shall be determined by the Constitution of Georgia, this Law and other legislation of Georgia.

**Article 3. Basic principles of activity of the Special State Protection Service**

The basic principles of the activity of the Special State Protection Service shall include:

- a) legality;
- b) protection and respect of generally recognised human rights;
- c) mutually co-ordinated actions agreed with the law-enforcement and other agencies of state authority;
- d) undivided management and centralisation;
- e) combination of organisational, security, regime, operative and investigative, technical, open and confidential methods.

**Article 4. The task of the Special State Protection Service**

1. The task of the Special State Protection Service shall be to protect the safety of the supreme legislative, executive and judicial authority, and also officials from illegal actions, in particular, to protect:

- a) leading officials of the supreme bodies of state authority;
- b) buildings, constructions and affiliated to them territories being at the disposal of the supreme bodies of state authority of Georgia;
- c) being on a visit in Georgia high ranking officials of the foreign states, representatives of the international organisations and other important persons;
- d) diplomatic representatives and consulates of foreign countries and international organisations;
- e) the order on the work place, a permanent or temporary place of residence of the supreme bodies of state authority and officials.

The Special State Protection Service shall use special communication and transportation facilities, means of maintenance of consumer and medical services in order to solve its tasks.

2. Supreme bodies of legislative, executive and judicial authorities of Georgia shall establish a regime in buildings, constructions and adjoining to them territories, as agreed with the Special State Protection Service.

3. It is forbidden to entrust to the Special State Protection Service and its employees the functions not stipulated by this Law.



**Article 5. Persons and facilities subject to protection**

1. Persons subject to protection by the Special State Protection Service shall be:

- a) the President of Georgia - from the date of election - the personal guards shall be appointed for protection of the President of Georgia at places of his permanent or temporary residence. During the tenure of the President, the personal guards for the members of his family shall be appointed and their protection shall be preserved also after expiration of the presidential powers up to the end of his life;
- b) the Chairman of the Parliament of Georgia;
- c) the Heads of the supreme legislative and executive authority of Abkhazia and Ajara;
- d) the Chairman of the Constitutional Court of Georgia;
- e) the Chairman of the Supreme Court of Georgia;
- f) the candidate for Presidency of Georgia during pre-election campaign and elections;
- g) the Heads of foreign states being on a visit in Georgia.

2. Personal guards may be appointed to:

- a) the high ranking officials of foreign countries and representatives of international organisations during their visit to Georgia;
- b) to the Deputy Chairman of the Parliament of Georgia, to a Member of Parliament, to the General Public Prosecutor, to the State Minister, to the Secretary of the National Security Council, to the Chairman of the Chamber of Control, to Ministers, to other Heads of State Institutions during the term of their service in a place of their work, and in special cases - in a place of the residence, if there is enough data to show that there is a threat to the life and health of their family members.

3. A decision on personal protection of persons listed in the second part of this article shall take the President of Georgia. The costs on personal protection shall be compensated from the budget of Georgia in the order determined by the legislation.

4. The Special State Protection Service shall protect administrative buildings and constructions of the supreme bodies of state authority of Georgia, governmental residences, diplomatic and consular establishments situated on the territory of Georgia, and also other buildings and constructions of state importance.

5. The President of Georgia shall approve the exhaustive list of persons and facilities subject to protection by the Special State Protection Service.

**Article 5.1. Types of service in the Special State Protection Service**

1. The following types of service shall exist in the Special State Protection Service:

- a) contracted;
- b) contracted-professional;
- c) regular. (25.12.2002 N 1885)

**Chapter II. - The organisation of the Special State Protection Service**

**Article 6. Organisational system and structure of the Special State Protection Service**

1. The Special State Protection Service, which includes the structural units of Abkhazia and Ajara Autonomous Republics, shall perform its duties throughout the whole territory of Georgia.

2. The Special State Protection Service shall be a centralised system.

3. Structure of the Special State Protection Service shall be determined by the Service Provision, which shall be approved by the President of Georgia. (25.12.2002 N 1885)

#### **Article 7. Competence of the Chief of the Special State Protection Service**

1. The Chief of Service, who shall be appointed and released from the post by the President of Georgia, shall supervise over the Special State Protection Service.

2. The Chief of Special State Protection Service shall:

- a) carry out organisation and management of the Special State Protection Service;
- b) approve provisions of Service subunits;
- c) define powers of the chiefs of structural units of the Special State Protection Service;
- d) upon the agreement of the President of Georgia appoint to the post and dismisses the Deputy Chiefs of Special State Protection Service;
- e) upon the agreement with the Heads of Abkhazia and Ajara Autonomous Republics appoint to the post and dismisses the Heads of special subunits of the State Protection of Autonomous Republics;
- f) appoint to the post and dismisses from the post the heads of subunits and other employees of Special State Protection Service;
- g) within the limits of his powers hire citizens on service;
- h) confer special ranks including the rank of the colonel in the order established by law; (25.12.2002 N 1885)
- i) encourage and impose disciplinary sanctions on the employees of the Special State Protection Service;
- j) according to the laws of Georgia, issue orders, instructions and other acts and supervise over their fulfilment;
- k) in case of need, and within the limits of his powers, issue joint orders and acts;
- l) in the order established by law, dispose of money resources and material assets of Special State Protection Service;
- m) in separate cases establish personal official rates for attraction of highly qualified experts in Special State Protection Service;
- n) bear the personal responsibility for performance of tasks assigned to the Special State Protection Service;
- o) represent the Special State Protection Service in corresponding international organisations.

3. The order, instruction and direction of the Chief of the Special State Protection Service shall be obligatory for the whole system and for officials of the Special State Protection Service.

4. In case of absence of the Chief of the Special State Protection Service, and under his order the Deputy Chief of the Special State Protection Service shall perform his duties.

#### **Chapter III - Rights and duties of the Special State Protection Service**

##### **Article 8. Rights of the Special State Protection Service**

The Special State Protection Service shall have the right:

1. Under preliminary co-ordination with the Ministries of Defence, Internal Affairs, State Security of Georgia, and in case of need, with other bodies of state government, to involve their forces and means in the preparation and carrying out of protective measures.

2. With a view of the safety of persons and facilities subject to protection and in the order established by legislation, to receive operative reports from the Ministries of State Security, Internal Affairs and other departments.

3. In order to perform its tasks, by the order of the President of Georgia, to appoint service officers in certain governmental bodies and institutions with keeping them on a regular service. (25.12.2002 N 1885)

**Article 9. Duties of the Special State Protection Service**

The Special State Protection Service shall be obliged:

- a) to provide security actions on permanent and temporary routes of movement of a person subject to protection;
- b) to carry out an operating and technical examination in places of permanent and temporary stay of the person subject to protection, to conduct preventive fire-prevention actions of protected facilities;
- c) within the limits of its competence, to carry out operational - investigative actions in the order established by the legislation;
- d) for safety of the person subject to protection, to develop and carry out special actions in extreme situations;
- e) to arrange manning the Service by the staff;
- f) within the limits of its competence to provide safety of the state secret;
- g) to carry out actions on the improving of material and technical recourses and social conditions of employees;
- h) to carry out other powers given by the legislation.

**Chapter IV. - Employees of the Special State Protection Service**

**Article 10. Employees of the Special State Protection Service**

1. The activity of the employees of the Special State Protection Service shall be directly connected with the fulfilment of service tasks. (25.12.2002 N 1885)

2. The citizens of Georgia with knowledge of a state language, personal qualities, education, physical preparation and a state of health, which enable them to perform the duties assigned to them, may be taken into the Special State Protection Service: on the corresponding position of special junior rank - citizens of Georgia, 18 - 35 years old, and in the officers structure – citizens of not more than 30 years old. (25.12.2002 N 1885)

3. The following persons may not be enlisted In the Special State Protection Service:

- a) persons recognised guilty by the verdict of the court;
- b) persons suffering alcoholism, drug addiction, toxic mania, AIDS, mental or other chronic diseases;
- c) persons recognised by the court as incapable.

4. The order of the hiring of military servicemen into the Special State Protection Service shall be determined by this Law. (25.12.2002 N 1885)

5. *This Paragraph is removed.* (25.12.2002 N 1885)

6. The persons on the corresponding position of special junior rank may be appointed on the basis of the contract and, as for the corresponding position of officer, - as regular officer. (25.12.2002 N 1885) In special cases, highly skilled experts may be involved under contract in the Special State Protection Service.

7. The employee of the Special State Protection Service shall be removed from the registration and shall be enlisted in the staff personnel of the service. (25.12.2002 N 1885).

**Article 10.1. Age limit of the employee of the Special State Protection Service**

1. The age limit for the employee of the Special State Protection Service shall be:
  - a) for persons having junior and average special ranks – 45 years old;
  - b) for persons having senior rank up to rank of colonel - 50 years old;
  - c) for colonel – 60 years old;
  - d) for persons having senior special rank – 60 years old.
2. Age limit for persons having special junior, average and senior ranks (up to colonel) may be extended up to 5 years by the order of the Chief of Service.
3. Age limit for persons having rank of colonel and special senior ranks may be extended up to 5 years on the basis of the presentation of the Chief of Service to the National Security Council, and by the order of the President of Georgia.
4. Extension of the age limit shall be allowed only once.

**Article 10.2. Performance of military duties in the Special State Protection Service**

1. The conscript, whose term of service is determined by the law of Georgia “On Military Duty and Military Service” may be enlisted in the Special State Protection Service.
2. Selection of conscripts to be enlisted in the Special State Protection Service and the order of performance of the service shall be determined by Provision “On the Order of Performance of Compulsory Military Service in the Special State Protection Service”, which shall be approved by the President of Georgia.
3. Performance of service by the conscripts in the Special State Protection Service shall be considered as performance of compulsory military service, and the mentioned person, after performance of military duty, shall be enlisted in the reserve of military forces with a military rank of foot soldier.

**Article 10.3. The uniform of the employee of the Special State Protection Service**

The employee of the Special State Protection Service shall wear special uniform. The uniform shall be established by the order of the President of Georgia.

**Article 10.4. The oath of employee of the Special State Protection Service**

1. After enlisting in contracted service, the person shall swear a military oath and an oath of the employee of the Special State Protection Service.
2. After enlisting in contracted professional and regular service the person shall swear an oath of the employee of the Special State Protection Service.
3. The text of the oath of the employee of the Special State Protection Service shall be approved by the order of the President of Georgia.

**Article 10.5. Primary officers’ and professional retraining courses for the employee of the Special State Protection Service**

1. The employee of the Special State Protection Service before awarding primary special rank of officer shall pass a special theoretical and practical training course. The order and terms of passing of the course shall be determined by the Regulation on Order of Awarding of Special Ranks.
2. The employee of the Special State Protection Service, by order of the Chief of Service, and by the established terms and order, shall pass professional retraining courses. (25.12.2002 N 1885)

**Article 11. Order of dismissal of the employee of the Special State Protection Service**

1. The employee of the Special State Protection Service shall be discharged from service for the following reasons:

- a) age or length of service;
- b) deterioration of state of health, injury or chronic disease;
- c) expiration of the terms stipulated by the contract;
- d) failure to meet requirements stipulated by the contract; (25.12.2002 N 1885)
- e) service discrepancy;
- f) regular infringement of service discipline;
- g) staff redundancy;
- h) election or assignment in legislative, executive or judicial bodies;
- i) for an oath violation, offence not compatible with the dignity of the employee of the Special State Protection Service; (25.12.2002 N 1885)
- j) for a crime. On the basis of a verdict of guilty, entered into force;
- k) agreement of the parties;
- l) expiration of the term of a regular service.

2. The decision of discharging an employee of the Special State Protection Service shall be taken by the Chief of the Special State Protection Service.

**Article 11.1. Taking the employee of the Special State Protection Service at disposal of the cadres**

1. The employee of the Special State Protection Service may be taken at disposal of the cadres with discharging from the corresponding position due to service reorganisation, staff redundancy, attestation results and, on the basis of the agreement of the parties, official investigation and personal report.

2. The term of serving at the disposal of the cadres shall not be more than four months. The employee at disposal of the cadres shall get reimbursement during first two months.

3. By decision of the Chief of Service and by agreement of the employee, the term of service at disposal of the cadres, determined in the Paragraph 2 of this Article, may be extended for no longer than two months.

4. After expiration of the term of service at disposal of the cadres the employee shall be appointed on the position or removed from the registration of the service personnel.

5. The term of service of the employee at disposal of the cadres shall be included in the length of his service. (25.12.2002 N 1885)

**Article 12. Right to use physical strength, special means and fire-arms by the employee of the Special State Protection Service**

1. The employee of the Special State Protection Service on duty shall have the right to use physical strength, special means and service fire-arms in the order and cases stipulated by this Law.

2. As stipulated by the legislation of Georgia, employees of the Special State Protection Service shall have the right to use fire-arms. (25.12.2002 N 1885)

3. An employee of the Special State Protection Service shall be obliged to warn person/s beforehand of any intention to use physical strength, special means or fire-arms, thereby allowing for enough time to carry out the legal requirements of the employee of the Special State Protection Service. The exception shall be for cases when delay can entail an encroachment on the life or health of the person or the employee of Special State Protection Service, or, if in the certain circumstances, such warning is not possible.

4. The type of special means and physical strength shall be defined according to a concrete situation, nature of the offence and specific features of infringement.

**Article 13. Right to use physical strength**

Employees of the Special State Protection Service shall have the right to use physical strength, including special ways of single fight, for ensuring the safety of the protected facility, prevention of a crime and detention of person/s, if the employee of Special State Protection Service cannot fulfil legal duties by non-coercive methods.

**Article 14. The right to use special means**

1. The employee of the Special State Protection Service shall have the right to use special means: handcuffs or other means of binding, rubber baton, tear gas, light-sound devices, means of barrier demolition and a compulsory stop of transport, armoured cars and other special vehicles, water-thrower, electroshock device, service dogs, technical means of the individual control:

- a) handcuffs and other means of binding - towards persons who committed a crime showing resistance to the employee of the Special State Protection Service or attempting to escape;
- b) rubber baton – upon detention of the suspect, if he/she shows obvious insubordination to a legal requirement;
- c) tear gas - upon detention of a suspect, or with purpose to make the suspect leave a vehicle or building;
- d) light-sound device of psychological influence - for repulsing an attack on the person, the employee of the Special State Protection Service or detention of the person showing armed resistance, for removal of the criminal from a building or a particular site, from a vehicle, for release of hostages;
- e) means of a compulsory stop of transport - for a violent stop of a vehicle, if its driver has disobeyed the requirement of the employee of the Special State Protection Service to stop;
- f) means of barrier demolition - upon detention of a person who committed a crime, release of hostages;
- g) water-thrower or an armoured car - for repulsing of a group attack on State or public facilities, to stop a vehicle, if its driver has not obeyed the requirement of the employee of the Special State Protection Service to stop, for detention of armed suspects;
- h) electroshock device - for repulsing attacks on a person, an employee of the Special State Protection Service or a protected facility;
- i) service dogs - for repulsing attacks on a protected facility and carrying out operative - investigative measures.

2. The employee of the Special State Protection Service shall be obliged to render first aid to persons injured from the use of physical strength or special means, immediately to inform the superior and public prosecutor if, as a result of the use of physical strength or special means, the persons have been injured.

3. It shall be forbidden to use physical strength or special means towards persons with obvious signs of pregnancy, infancy, invalidity, age, except in cases of armed attack or armed resistance, if it threatens the life and health of a person or a employee of the Special State Protection Service and such an attack can not be repulsed by other means.

4. For the employee of the Special State Protection Service, it shall be forbidden to use such physical strength or special means, which result in the significant injury of persons or are connected with unjustified risk or are forbidden by international conventions and other international acts.

5. The order of storage, carriage and use of special means of the Special State Protection Service shall be established by the legislation of Georgia, this Law, normative acts of the President of Georgia and Special State Protection Service.

6. Within the limits of the competence given by this Law and other laws of Georgia, the Special State Protection Service shall create and use operating and technical means and shall provide their safety.

7. Operating and technical means used by the Special State Protection Service and methods of their application shall not endanger the life or health of persons or damage the environment.

8. The use of operating and technical means shall be carried out in the order established by the legislation.

**Article 15. The right to use fire-arms**

1. The employee of the Special State Protection Service on duty shall have the right to store, carry and use regular fire-arms.

2. The storage and carrying of fire-arms by the employee of the Special State Protection Service shall be established by the legislation of Georgia and normative acts of the Special State Protection Service.

3. The employee of the Special State Protection Service shall have the right to use fire-arms as an extreme measure:

- a) for protection of a citizen and himself from a real threat posed to their life or health;
- b) for prevention of the plunder of fire-arms;
- c) for release of hostages;
- d) for prevention of runaway from a place of detention;
- e) for suppression of serious crimes and, if, upon detention of persons, they show resistance to the employee of the Special State Protection Service;
- f) upon repulsing an attack on the dwellings of citizens, protected facilities, premises of state bodies, public organisations, facilities of a private property;
- g) for protection of citizens against an attack by dangerous animals;
- h) as an alarm signal or call for reinforcement;
- i) for purposes of stopping a vehicle, if the action of the driver creates a real threat to the life or health of others, and if the driver disobeys the numerous requirements of the employee of the Special State Protection Service to stop the vehicle.

5. Before the use of fire-arms, a verbal warning shall take place; possibly by means of a precautionary shot.

6. It is possible to use fire-arms without warning:

- a) during a sudden armed attack with the use of military equipment, any types of transport or mechanical means;
- b) if the detainee has escaped in a vehicle, or in places of limited visibility/woody district;
- c) if the detainee shows armed resistance;
- d) upon the armed runaway of a detainee.

7. It shall be forbidden to use fire-arms in places, where other persons can suffer from it, in fire-dangerous or explosive places, and also towards persons with obvious signs of pregnancy, infancy, invalidity, age, except in cases of armed attack from their side which endangers the life of a citizen or an employee of the Special State Protection Service.

8. In case of the use of fire-arms, the employee of the Special State Protection Service shall be obliged to call all forces for ensuring the safety of other persons and for rendering urgent medical aid to injured persons.

9. The employee of the Special State Protection Service shall be obliged to inform immediately the immediate superior and procurator on the use of fire-arms.

10. The list of fire-arms and ammunition at the disposal of the Special State Protection Service shall be affirmed by the President of Georgia.

11. It shall be forbidden to use such types of fire-arms or ammunition, which are connected with unjustified risk and forbidden by the international conventions and others international acts.

**Article 15.1. Ensuring the preservation of security rules at performance of service**

Ensuring the preservation of security rules during service, exploitation of arms and performance of other works by the employee of the Special State Protection Service, shall be entrusted to the immediate Chief.

**Article 15.2. Obligatory fulfilment of legal requirements of the employee of the Special State Protection Service**

All natural and legal persons shall be obliged to fulfil the legal requirements of the employee of the Special State Protection Service.

**Article 15.3. Encouragement for successes in service**

1. The following kinds of encouragement may take place upon the successful performance of service duties by the employee of the Special State Protection Service:

- a) expression of thanks;
- b) payment of bonus or financial compensation;
- c) giving of 5-day additional leave;
- d) awarding the regular special rank ahead of time;
- e) pre-term remission of preliminary disciplinary sanction;
- f) presentation to the State award for showing courage during performance of service duties.

2. The order of encouragement for the employee of the Special State Protection Service shall be established by the service disciplinary regulations, which shall be approved by the order of the President of Georgia.

**Article 15.4. Responsibility of the employee of the Special State Protection Service**

1. The employee of the Special State Protection Service in the established order shall bear the responsibility for a crime and violation of administrative law.

2. Detained, arrested or convicted employees of the Special State Protection Service shall be placed and pay penalties separately from other convicted persons.

3. For a violation of the service discipline, the following disciplinary sanctions may be applied to the employee of the Special State Protection Service:

- a) remark;
- b) reprimand;
- c) severe reprimand;
- d) demotion;
- e) demotion of the special rank at one grade;
- f) dismissal.

4. The order and conditions of pre-term remission of a disciplinary sanction shall be determined by the service disciplinary regulations. (25.12.2002 N 1885)

**Chapter IV.i. - Attestation of the employees of the Special State Protection Service**

**Article 15.5. Attestation**

Attestation of the employees of the Special State Protection Service shall take place with an aim of the right selection and classification of staff personnel, estimation of conformity of the employee's professionalism,



qualification, possibilities and personal qualities to the posed requirements of the occupied position (or the position to be occupied).

**Article 15.6. Person subject to attestation**

1. Employee of the Service shall be subject to attestation:
  - a) once in a 3-year period (attestation period);
  - b) if the employee is presented for a promotion.
2. The employee of the Service shall not be subject to attestation, if:
  - a) he/she is appointed by the President;
  - b) he/she is on contracted or contracted professional service.

**Article 15.7. Time for conducting the attestation**

1. Chief of the Service shall determine the time for conducting the attestation.
2. The employee, which during the last year of the attestation period was performing his service duties with a term less than 6 months, shall be subject to attestation in the coming calendar year.

**Article 15.8. Attestation Commission**

1. Attestation Commission of the Service shall carry out the attestation of the employees.
2. The Chairman of the Commission shall be entitled to create the specialised structure of the Attestation Commission according to the professional or territorial principles.

**Article 15.9. Chairman of the Commission**

1. The Chief of the Service ex officio shall be the Chairman of the Attestation Commission.
2. In case of specialised structure of the Attestation Commission, the Chairman of the Commission determined in the Paragraph 1 of this Article shall appoint the Chairman of the Attestation Commission of specialised structure.

**Article 15.10. The structure of the Commission**

1. The number and structure of the Attestation Commission shall be determined by the Chairman of the Commission taking into consideration the necessary needs. The Commission shall consist of the persons (invited) with corresponding special knowledge.
2. From the members of the Commission, the Chairman of the Commission shall appoint the Deputy Chairman of the Commission, who substitutes him in case of his absence.
3. The employee may not be a member of the Commission, which carries out his attestation.

**Article 15.11. Activity of the Commission**

The order of the Attestation Commission's activity, conditions and amount of reimbursement for Commission members shall be determined by the legislation of Georgia and regulations of the Commission. (25.12.2002 N 1885)

**Chapter V. - Guarantees of legal and social protection of the employee of the Special State Protection Service**

**Article 16. Status of the employee of the Special State Protection Service**

1. The employee of the Special State Protection Service on duty is the representative of state authority with special rank, whose status shall be determined by present law.
2. Features of legal status of the employee of the Special State Protection Service shall be determined by his service rights and duties, which are connected with the performance of his service tasks.
3. The employee of the Special State Protection Service on duty is the representative of the government and shall be protected by the State.
4. The employee of the Special State Protection Service shall get the identification card of the standard established by the order of the Chief of Service.
5. Putting obstacles in the way of the employee of the Special State Protection Service upon performance of his official duties, insult, threat to his honour and dignity, outward resistance, violence or encroachments on his life, health or property connected with the performance of his official duties, shall entail the responsibility stipulated by the legislation of Georgia.
6. The employee of the Special State Protection Service shall be obliged to fulfil an order upon its reception. Upon reception of an obviously illegal order, the employee of Special State Protection Service shall have the right to make an appeal to officials in a higher position, or, in the court. In case of execution of the illegal order, responsibility shall be imposed on persons responsible for having issued the order.
7. Employees of the Special State Protection Service shall be forbidden to declare strikes or to participate in them, to perform in combination paid work in the state, public or private enterprises, establishments and organisations, except for scientific, pedagogical or creative activity, if it is not connected with the performance of the administrative functions.
8. The employee of the Special State Protection Service on duty shall have the right to store, carry and use the service's regular firearms. *(25.12.2002 N 1885)*

**Article 17. Social protection of the employee of the Special State Protection Service**

1. The State shall provide the social protection of the employee of the Special State Protection Service. *(25.12.2002 N 1885)*
2. The employee of the Special State Protection Service shall be subject to obligatory state insurance. Damages incurred by the employee of the Special State Protection Service during performance of official duties shall be compensated from the state budget of Georgia.
3. In cases of injury suffered during duty and, according to the degree of injury, the employee of the Special State Protection Service shall be compensated an indemnification from the budget funds at a rate of earnings received by him from one to five years.
4. In case of death of the employee of the Special State Protection Service on duty, resulted from illness or physical trauma, his/her family shall receive a lump sum at a rate of 10-years earnings from the State budget, taking into consideration the employee's position and special rank. The State shall bear all funeral charges. *(25.12.2002 N 1885)*
5. The State shall be responsible for the social and legal protection of employees of the Special State Protection Service and of persons discharged from Service and their families, in the order established by law. *(25.12.2002 N 1885)*

6. The family of a lost (died) employee of the Special State Protection Service shall keep the right to use of an apartment on the bases and conditions existing up to his death.
7. The State shall provide the employees of the Special State Protection Service and members of their families with medical service. The order and conditions of health services shall be determined by the legislation of Georgia.
8. The employee of the Special State Protection Service shall have the right to use all types of city, suburban and local state transport (except for a taxi).
9. Persons determined in Paragraph 6 of Article 10 of this Law shall enjoy the guarantees of social protection established for military servicemen of the Special State Protection Service.
10. Persons transferred to the Special State Protection Service from the Ministries of Defence, State Security and Internal Affairs, shall be kept the rights acquired for the length of service performed in these institutions.
11. The Parliament and the President of Georgia shall have the right to establish additional measures and privileges of social protection for the employees of the Special State Protection Service, not envisaged by this Law.
12. The employee of the Special State Protection Service shall be provided with favourable social conditions necessary for the performing of the state protection service.
13. Other legal and social protection guarantees shall be determined by the Law of Georgia “On the Status of Military Serviceman”. (25.12.2002 N 1885)

**Article 17.1. Realisation of the rights and freedoms**

The employee of the Special State Protection Service may enjoy all human rights and freedoms envisaged by the legislation of Georgia, except for cases when, according to the Constitution of Georgia, or, by the legislative act issued on the basis of the Constitution, the employee is forbidden to fulfil one of these rights. (25.12.2002 N 1885)

**Chapter VI. - Material support and financing of the Special State Protection Service**

**Article 18. Material support and financing of the Special State Protection Service**

1. The Special State Protection Service shall be financed from the State budget of Georgia.
2. Material and technical support of the Special State Protection Service shall be provided for by the centralised resources.
3. With a view of improvement of material and technical recourses of the Special State Protection Service, the employees shall have the right to conclude contracts for the protection of persons and facilities.
4. The land plots, buildings, constructions, enterprises and equipment of the Special State Protection Service shall be the state property.

**Chapter VII. - The control and supervision over the activity of the Special State Protection Service**  
(25.12.2002 N 1885)

**Article 19. Parliamentary control**

Parliamentary control of the Special State Protection Service shall be carried out under the form and in the order envisaged by the Constitution of Georgia and the Rules of the Parliament of Georgia.

**Article 20. Control of the President of Georgia**

The President of Georgia shall receive a report from the Chief of the Special State Protection Service on its activities and thereafter approve the program on activity of the Special State Protection Service.

**Article 21. Public prosecutor's supervision**

Supervision of the Special State Protection Service as a body of inquiry, which shall provide exact and uniform implementation of laws, shall be carried out by the General Public Prosecutor of Georgia and prosecutors subordinated to him.

**Chapter VII.i - Transitional and final provisions**

**Article 22. Enlisting the military servicemen of the Special State Protection Service in the reserve of the Military Forces of Georgia**

In one-month term following from the date this law comes into force, the military servicemen of the Special State Protection Service shall be enlisted in the reserve of the Military Forces of Georgia with a military rank.

**Article 23. Giving special rank to military servicemen of the Special State Protection Service after the Law comes into force**

1. After the law comes into force, military servicemen of the Special State Protection Service shall receive the special rank, which corresponds to the military rank.
2. After this law comes into force, the determined term for conferring the next special rank shall be counted from the day of granting of the military rank before the enforcement of the law.

**Article 24. Legal normative acts to be issued in connection with adoption of the Law**

In connection with adoption of this law the following legal normative acts shall be issued:

1. The Order of the President of Georgia:
  - a) On Approval of the Provision of the Special State Protection Service;
  - b) On Approval of the Regulation On the Order of Passing of Contracted Service in the Special State Protection Service;
  - c) On Approval of the Disciplinary Regulations of the Special State Protection Service;
  - d) On Approval of Special Uniform for the Employee of the Special State Protection Service;
  - e) On Approval of the Text of the Oath for the Employee of the Special State Protection Service.
2. The Order of the Chief of Special State Protection Service:
  - a) On Approval of the Sample of the Contract for the Employee of the Special State Protection Service;
  - b) On Approval of the Sample of the Identification Card for the Employee of the Special State Protection Service;
  - c) On Approval of the Regulation on the Order of Awarding of the Special Rank;
  - d) On Approval of the Regulation on the Order of Passing of Professional Retraining Courses for the Employee of the Special State Protection Service. (25.12.2002 N 1885)

DCAF-Security Sector Laws of Georgia

President of Georgia  
Tbilisi  
February 20, 1996  
No. 110

Eduard Shevardnadze

**The Law of Georgia**  
**On the Fee for a Deferment of Compulsory Military Service**

**Article 1. General provisions**

According to Article 94 of the Constitution of Georgia and Laws of Georgia “On the Principles of the System of Fees” and “On Military Duty and Military Service”, this Law shall define an amount, order and the conditions of payment of fees for a deferment of compulsory military service.

**Article 2. Definition of the fee for a deferment of compulsory military service**

The fee for a deferment of compulsory military service shall be an obligatory payment to the state budget of Georgia, which shall be paid for using the right to deferment of compulsory military service envisaged by Subparagraph (d) of Paragraph 1 of Article 30 of the Law of Georgia “On Military Duty and Military Service”.

**Article 3. Payer of the fee for a deferment of compulsory military service**

Payers of the fee for a deferment of compulsory military service shall be persons aged between 18-27 years old, who according to the Law of Georgia “On Military Duty and Military Service” shall be subject to the call-up and wish to defer it.

**Article 4. Deferment of compulsory military service**

1. Established by this Law payment of the fee for a deferment of compulsory military service shall be the basis for the conscript's postponement of compulsory military service.
2. In cases of payment of this fee by a conscript, the military department of the body of local government shall make the corresponding record in his private dossier and attach the document certifying payment of the fee.

**Article 5. The rate of the fee for a deferment of compulsory military service**

A fee for a deferment of compulsory military service for the person subject to the call-up for compulsory military service shall make annually 200 (two hundred) laries or a lump sum - 2000 (two thousand) laries.

**Article 6. The order of payment of the fee for a deferment of compulsory military service in the state budget of Georgia**

1. 20 % fee for a deferment of compulsory military service shall be entered in the state budget of Georgia, 10% - in the respective local budget, 45% shall be paid to the Ministry of Defence, 15% - to the Ministry of Internal Affairs, and 15% - to the State Department of Protection of the State Border of Georgia. These payments shall be made on the accounts of special incomes in the state treasury.
2. The term for the payment of the fee for a deferment of compulsory military service shall be determined by the decree of the President of Georgia.
3. In order to define an estimated amount of revenues which shall be accumulated by the collection of fees for a deferment of compulsory military service and to supervise the accumulation of these revenues, the bodies of local government, by August 1<sup>st</sup> annually, shall present the corresponding calculations on the estimated amount of revenues, which shall be accumulated by the collection of these fees during next financial year, to the Ministry of Finance of Georgia. (7.05.2003)

**Article 7. The order of consideration of disputable issues**

Disputed questions connected with the payment of the fee for a deferment of compulsory military service

shall be resolved by the court.

**Article 8. Enforcement of the Law**

This Law shall enter into force upon its promulgation.

President of Georgia

Eduard Shevardnadze

Tbilisi  
June 21, 2002  
No. 1531

## Annex 1: About DCAF

### The Geneva Centre for the Democratic Control of Armed Forces (DCAF)

The Geneva Centre for the Democratic Control of Armed Forces (DCAF), established in October 2000 on the initiative of the Swiss government, encourages and supports states and non-state-governed institutions in their efforts to strengthen democratic and civilian control of armed and security forces, and promotes international cooperation in this field, initially targeting the Euro-Atlantic area. To implement these objectives, the Centre:

- collects information, undertakes research and engages in networking activities in order to identify problems, to establish lessons learned and to propose the best practices in the field of democratic control of armed forces and civil-military relations;
- provides its expertise and support to all interested parties, in particular governments, parliaments, military authorities, international organisations, non-governmental organisations, academic circles.

DCAF works in close cooperation with national authorities, international and non-governmental organisations, academic institutions and individual experts. In its operational and analytical work, DCAF relies on the support of 46 governments represented in its Foundation Council, on its International Advisory Board comprising some 50 renowned experts in the field of defence and security, on its Think Tank, Outreach, and International Projects Departments.. The Centre has established partnerships or concluded cooperative agreements with a number of research institutes and with several international organisations and inter-parliamentary assemblies.

In order to be able to thoroughly address specific topics of democratic control of armed forces, DCAF has established dedicated working groups covering the following issues: security sector reform; parliamentary oversight of armed forces; legal dimension of the democratic control of armed forces; transparency-building in defence budgeting and procurement; civilian experts in national security policy; democratic control of police and other non-military security forces; civil-military relations in conversion and force reductions; military and society; civil society building; civil-military relations in post-conflict situations; criteria for success or failure in the democratic control of armed forces; civil-military relations in the African context. Planning, management, and coordination of the working groups is centralised in DCAF's Think Tank.

DCAF provides its expertise on bilateral and multilateral levels, and also addresses the interests of the general public. A number of bilateral projects in the areas of security sector reform and parliamentary control of armed forces are underway within the states of South Eastern and Eastern Europe. At the multilateral level, DCAF implements several projects in the framework of the Stability Pact for South Eastern Europe, the Organisation for Security and Cooperation in Europe, NATO, Council of Europe, and the United Nations. The Centre regularly produces publications, organises conferences, workshops and other events. It uses information technology, including its own website (<http://www.dcaf.ch>), to reach both target audiences and the general public.

DCAF is an international foundation under Swiss law. Forty-six governments are represented on the Centre's Foundation Council.\* The International Advisory Board is composed of the world's leading experts on the subjects of defence and security, who advise the Director on the Centre's overall strategy. DCAF is staffed by some 50 specialists of more than 20 different nationalities,

The Swiss Federal Department of Defence, Civil Protection and Sports finances most of the DCAF budget. Another important contributor is the Swiss Federal Department of Foreign Affairs. Certain member states of the DCAF Foundation support DCAF by seconding staff members or contributing to the Centre's specific projects.

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Albania, Armenia, Austria, Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Cote d'Ivoire, Croatia, Czech Republic, Denmark, Estonia, Finland, France, FRYROM/Macedonia, Georgia, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Moldova, Netherlands, Nigeria, Norway, Poland, Romania, Russian Federation, Serbia and Montenegro, Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Ukraine, United Kingdom, United States of America, and the Canton of Geneva.



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## **The DCAF Legal-Political Assistance Group (LPAG)**

The DCAF Legal-Political Assistance Group (LPAG) (<http://www.dcaf.ch/lpag/about.html>) was set up in 2002 to meet a growing demand from parliaments for assistance with their law-making activities. The LPAG is a non-permanent body of renowned experts on legal and law-making matters who may constructively assist with the theoretical and practical aspects of legislative activity. Jointly operating under the direction of the DCAF Deputy Director and Head of International Projects, LPAG members are invited to collaborate on projects that are suited to their particular expert fields.

Collaboration usually takes the form of attending and contributing papers at a conference, participating in workshops, and/or critically commenting on legal texts. In each country where the LPAG operates, DCAF seeks to collate and publish in written and electronic form the collected security sector laws of the country concerned. The laws are also added to the DCAF legal database (<http://www.dcaf.ch/legal/intro.htm>)

Mandates for cooperation with the LPAG currently exist with the following institutions:

- The Russian State Duma Defence Committee
- Ukrainian Verkhovna Rada Foreign Relations Committee
- The Parliament of Georgia
- The CIS Parliamentary Assembly in St. Petersburg

### **LPAG Activities 2002-2004**

#### **Conferences**

In the CIS (in cooperation with the Centre for Political and International Studies (CPIS)).

Round-Table discussions of draft laws in the context of international good practices have taken place in Russia in cooperation with the Centre for Political and International Studies (CPIS).

- November 2002 Moscow – CIS Model Laws on Parliamentary Oversight of Armed Forces and Civil Military Relations
- November 2003 Moscow – CIS Draft Model Law on Peacekeeping
  - Model Law unanimously adopted at the 23<sup>rd</sup> Session of the CIS Inter-Parliamentary Assembly April 17th, 2004.

Conferences have also taken place in Ukraine in Kiev (September, December 2002 – Ukrainian law draft on Parliamentary Oversight of Armed Forces).

- December 2002 Kiev - Hearing on Money-Laundering (in cooperation with Rada Foreign Relations Committee and NATO representative to Ukraine), leading to legislation on Money-Laundering
- September 2002, December 2002, February 2003, September 2003 Kiev - Hearings on Parliamentary Oversight of Armed Forces and Security Sector Law  
Draft law on Oversight issues accepted February 2003.

LPAG members have also participated in the workshops and conferences of 2004 Ukraine programme

- May 2004 Kiev - DCAF-Rada-NIISP Conference on 'Ukrainian Security Sector Reform'
- April & July 2004, Kiev - DCAF-Rada Roundtable 'Parliamentary Oversight of the Security Sector – Defence Budget Transparency and Parliamentary Powers'.

#### **Seminars**

Members of the LPAG also participate in DCAF's Civil Society Working Group's 'The Civil Society Building Project (CSBP) in Russia'. The Project's activities consist of ten seminars in Moscow on various aspects relating to civil society with particular emphasis on legislative aspects. The Working Group's

activities form a complementary adjunct of the LPAG. The proceedings are being published and widely distributed to political and academic institutions in Russia and other Former Soviet countries.

### **Inventories of Security Sector Legislation**

Russian and English versions of the Russian Federation's security sector laws have been published in Moscow in December 2002 (Russian) and March 2003 (English) in cooperation with the Centre for Political Centristism in Moscow. This is now a template for the type of cooperation and publication sought with LPAG partners. Similar inventories are being established for Ukraine and Georgia.

### **Members**

LPAG members are invited to activities according to their specializations and the needs identified by the respective parliaments.

Mr. Yevhen R. Bersheda	<i>former Ambassador of Ukraine to Switzerland; Ukrainian Academy of Sciences</i>
Dr. Hans Born	<i>Senior Fellow, Geneva Centre for the Democratic Control of Armed Forces</i>
Mr. Roy Cullen	<i>MP (Canada); Parliamentary Secretary of Finance Ministry</i>
Dr. Wim van Eekelen	<i>Dputy Secretary General NPA, former WEU Secretary General &amp; Netherlands MP</i>
Dr. Lidija Georgieva	<i>Assistant Professor of Peace, Conflict and Etiology of Threats, Institute of Defence and Peace Studies, Skopje University, Macedonia</i>
Mr. Simon Lunn	<i>Secretary General, NATO Parliamentary Assembly</i>
Mr. Anthony Foley	<i>Senior Legal Advisor, Ministry of Defence, Republic of Ireland</i>
Lt. Todd Huntley	<i>JAGC USN, and Member of DIILS</i>
Professor Ian Leigh	<i>Director, Centre for Human Rights, University of Durham, UK</i>
Dr. Dov Lynch	<i>Research Fellow, ISS EU Institute for Security Studies, Paris, France</i>
Mr. Leigh Merrick	<i>Former NATO Representative to Ukraine, UK</i>
Gen. Karlis Neretnieks	<i>President, National Defence College, Sweden</i>
Dr. Michael Noone	<i>Catholic University of America, Washington DC</i>
Dr. Ioan Pascu	<i>Professor, Defence Minister of Romania</i>
Lt. Col. Andreas Pruefert	<i>Chairman, EUROMIL</i>
Dr. Janusz Onyszkiewicz	<i>Former Defence Minister, Warsaw, Poland</i>
Cptn. Shackley Raffeto	<i>Judge, JAGC USNR, and Member of DIILS</i>
Dr. Velizar Shalamanov	<i>George C. Marshall Association, Sofia, BG</i>
Mr. James Sherr	<i>Analyst, Conflict Studies Research Centre (CSRC), UK National Defence Academy</i>
Mr. Bruce Weinrod	<i>Managing Director and General Counsel ITTA, Formerly Deputy Assistant Secretary of Defence for European and NATO Policy, Washington DC</i>

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