

## PROJECT FICHE

Title	Strengthening Rule of Law in Georgia		
Indicative cost	€ 7.9 million		
Aid Method	Centralised management		
DAC-code	15030	Sector	Administrative Measures Legal and judicial development

### 1. Rationale

#### 1.1. Strategic framework

A revised country Strategy Paper and National Indicative Program (NIP) 2004-2006 for Georgia were adopted in September 2003. The NIP foresees two priority areas for intervention: 1) Support for Institutional, legal and Administrative Reforms and 2) Social Consequences of Transition.

Under the first area of cooperation, reform in judiciary and law enforcement is indicated as a priority with the following objective: Overall contribution to the strengthening of the judiciary institutions of the State and sustainable economic transition by reinforcing the rule of law including its enforcement with the involvement of civil society.

After the Rose Revolution of November 2003, new presidential and parliamentary elections were held in January and March 2004, respectively. The new government elaborated a strategic vision and urgent financing priorities for 2004-2006 that were presented at the Donor's Conference for Georgia held in Brussels 16-17 June 2004.

The Government's strategic vision for reform indicates governance and anti-corruption measures as a priority and urgent area of intervention. Within this priority, the Government's strategy document identifies the following policy goals to be supported urgently: "Create efficient, professional and transparent civil service through law enforcement and judicial system reforms; administrative and civil service reforms".

Considering EU's recent and politically highly visible involvement in the criminal justice reforms, where EU experts have assisted the government to develop a criminal justice strategy; considering that EUSR and European Commission will assist the government also in developing an Implementation Plan (and therefore completion of the Strategy); considering the arrival of the EUSR's border support mission starting in September 2005 after the withdrawal of the OSCE Border Monitoring Mission in early 2005, it is evident that the EU through its different instruments certainly has had over the last years an important role in the field of criminal justice reforms and has been a major contributor.

As Georgia aims at developing closer relationships with the European Union the government has asked the European Commission to continue to be involved on high level also with perspective of more harmonisation during the ENP in future. This is also reflected in the government proposals for the ENP, where support to the rule of law always stays as high priority.

In ongoing activities the EC is already using a variety of implementation mechanisms, starting from service, supply and works contracts, but also through grant agreements with international organisations or local and international NGOs and cooperation with member state administrations. This multifaceted and flexible approach should be maintained. EC has put a strong focus on design of these separate activities into one comprehensive program of complementary actions, complementary also to other donor's interventions and will continue with this approach.

The proposed programme intends to support the rule of law, namely starting the Ministry of Interior, Ministry of Justice (including penitentiary and probation system, legal aid system, civil registry, institutional capacity building for the Ministry of Justice and the office of the Prosecutor General.

While e.g. judiciary and the courts are not a direct beneficiary institution for this project, it will be an inbuilt principle for all operations that capacity building will involve regularly also the judges in order to enhance their capacities. It should be noted that traditionally the EC has not worked with judiciary reforms in Georgia as this field was and is very well covered by other major donors like USAID, GTZ and the World Bank. Considering this background a direct engagement with the judiciary as new beneficiary of EC assistance for this last TACIS AP was not considered to be feasible and therefore this indirect approach for involving the judiciary has been chosen.

In the field of law enforcement reform, of which border guard reform is an integral part, the European Commission focuses on institutional reform and capacity building. This field is shared with many actors. The European Commission is able to take the recommendations of the EUSR border mission into account for its programming and allow smooth follow-up. Further through its institutional focus the European Commission is able to very smoothly cooperate with most other involved actors. Most agencies involved with law enforcement have a strong focus on operative issues that lie outside of the European Commission's remit. Hence the European Commission with its focus on institutional reform is able to complement the work of other involved parties.

## **1.2. Lessons learnt**

- After the turbulent developments following the Rose Revolution in Georgia there is an urgent need to proceed with the reforms based on transparent and well coordinated processes instead of the prevalent ad hoc crisis management and in order to achieve sustainable progress; where possible this approach should be also be agreed upon with other the stakeholders, including other international donors and implementers;
- The need to take a balanced and comprehensive approach to legal, judicial and law enforcement reform, on the one hand assistance if possible targeting institutions throughout the justice chain and facilitation of coordination of the different justice institutions, instead of focussing on only the most problematic institutions, horizontal assistance however needs to be provided with a clear strategic focus (in the case of this programme institutional capacity building/public administration reform) not to loose the impact;
- The need to follow up on lawmaking with strengthening the implementation and enforcement, which needs institutional strengthening and capacity building in law enforcement bodies;
- Need of strong donor coordination at operative and decision making level;
- Need to focus on efficiency and transparency at the same time, in order to support not only institutional strengthening but also accountability and coherent democratic reforms;
- Need for balanced approach not only throughout the criminal justice system and law enforcement bodies: to build up capacities not only in the directly involved institutions but also parliament and other relevant offices like regional administrations and public defenders and civil society.

## **1.3. Complementary actions**

The European Union is currently implementing the following projects:

### **TACIS**

- AP 2001 Support to the reform of the Penitentiary System (service contract with complementary supplies);
- AP 2002 Assistance to the Elaboration of a National Infrastructure Strategy for the Penitentiary of Georgia (PAP);
- AP 2001 Support to the reform of the Office of the Prosecutor General (service contract with complementary supplies);

- AP 2002 Support to the reform of the Ministry of Interior.
- AP 2004 Policy Advice: Assistance to the development of a Criminal Justice reform Strategy Implementation Plan
- AP 2004: Assessment of the MOI (Policy Advice)

#### **EIDHR 2005/2005**

- Campaign 2: Fostering a culture of human rights (including the objective of advancing the rights of marginalised or vulnerable groups and Torture prevention or rehabilitation: 465,000 EUR p.a. for local NGOs)
- Campaign 3: Promoting the democratic process (promotion of the freedom of association, freedom of expression and developing electoral processes: 560,000 EUR p.a. for local NGOs)

#### **Rapid Reaction Mechanism (Decision of July 2004)**

- Policy Advice and preparatory works to assist the Ministry of Justice to strengthen its policy-making, institutional and human resources capacities and to establish a Civil Registry
- Rehabilitation of Rustavi prison n.6 as well as establishment of pilot offices for a new civil registry in Georgia
- Development of the Probation Service in Georgia (grant programme implemented by the NGO Penal Reforms International)

#### **EU Rule of Law mission (EUJUST THEMIS)**

- Assist the Georgian Government in developing a horizontal strategy guiding the reform process in the criminal justice sector towards international and European Human Rights standards

#### **EU Special Representative to the South Caucasus**

- Mission on Special Advisors on Border Management
- 2 Rule of law advisors monitoring and assisting the Implementation Planning for Criminal Justice Reforms in Georgia

### **1.4. Donor coordination**

The EC is in constant exchange and coordination with the donors focussing their assistance on legal and criminal justice reforms (GTZ, WB, NORLAG, USAID, USDOJ, OSCE, COE, UNDP) as well as donors involved in the general public administration reform with focus on Ministry of Finance, Ministry of Economic Development and Ministry of Agriculture as pilot institutions for World Bank, DFID, Dutch Development Cooperation,. In regular donor information sharing meetings in Tbilisi (not less than bi-monthly) the programmes and approaches of different donors are discussed. So far the involved government agencies – often competing with each other for funds more that co-operating - have not been in favour of transparent and government led donor coordination. It is one of the objectives of the EC Policy Advice Project to support implementation planning, to strengthen the capacities of the Ministry of Justice (currently the official coordinator of reforms) in donor coordination efforts with regard to these reforms.

## **2. Country context**

### **2.1. Cooperation related policy of beneficiary country**

After the Rose Revolution and the elections in January 2004 that brought the current President Mikheil Saakashvili to power, most of the past initiatives in this sector were discarded, and sweeping reforms of the justice sector were launched under the rallying call of bringing an end to corruption. Legislative changes quickly passed parliament and set the first changes to the existing system into motion, involving even several changes to the Constitution.

In the period immediately following the inauguration of the new president, the existing leadership of the justice institutions was replaced by young, energetic and largely idealistic lawyers mostly recruited

from the NGO world. At the same time a great number of staff was dismissed from the existing justice institutions, many of them on allegations of corruption. In several institutions more than half of the staff was dismissed within the first year of the Saakashvili presidency. In the first 2 years the institutions have seen several waves of change of leadership, which came along with substantial changes in policies and staff again, which has furthered the weakness of some bodies (Ministry of Justice, Ministry of Interior, Courts).

Compounding the difficulties of the justice sector institutions is the absence of effective and enforceable instruments of public sector management, notably effective public budgeting and financial management, and the low level of planning and policy-making capacity of the institutions themselves.

Throughout the state apparatus of Georgia there is an incomplete separation of powers resulting in inadequate rule of law. Most institutions retain legacies from the Soviet system of state management, which exacerbates the problem of strong executive powers without effective judicial and parliamentary/public controls. According to a number of international observers the independence of the judiciary is doubtful and a matter of grave concern.

With assistance of the European Union and its different tools of assistance the government has addressed the urgent need to develop a “Strategy of the reform of the Criminal Legislation”. An EU mission (EUJUST THEMIS) assisting the government to elaborate this strategy had been invited by Decree No. 914 of 19 October 2004, by which President Saakashvili had established the governmental Working Group with the task to produce this Strategy for reforming Georgian criminal legislation in six months. The EU mission assisting the Working Group has been the first ever rule of law mission of EU member state experts, deployed by the Council Secretariat of the European Union. Its work came to an end in July 2005.

Following the Rose Revolution the European Commission has substantially enhanced assistance to important justice sector institutions (TA to Office of the Prosecutor General, Ministry of Justice, including Penitentiary and Probation reforms, Ministry of Interior) and played therefore an important role to help Georgia to start to consolidate the rule of law in the country. Thorough EC assessments of key institutions of the sector (two of which published also on the Delegation Website: Ministry of Interior and the Ministry of Justice). These assessments provide a detailed record the institutional problems of the state institutions and came up with concrete recommendations for reforms and provide therefore a solid analytical base for the formulation of a response strategy.

The government and the president have officially endorsed the “Strategy of the reform of the Criminal Legislation of Georgia” and set up a Steering Group which has to develop an Implementation Plan for the Strategy and supervise the implementation for the upcoming 4 to 5 years. With a policy advice project the EC will assist the elaboration of the Implementation Plan (which maybe considered as completion of the Strategy which is in fact a Policy Paper), in close cooperation with the legal experts under the EUSR for the South Caucasus as well as other donors in the field.

These recent developments indicate the possibility that the government will address the problems in the criminal justice system through a systematic sector wide reform process, which in the longer perspective may also prepare the ground for sector assistance from EC and other donors. However the development of Georgia’s state bodies and the stability of the country should not be overestimated and so far the necessary components which would enable a EC Sector support are not in place. Further substantial progress is necessary to prepare the ground for a Sector Programme, which is indeed one of the aims of this programme.

## **2.2. Sector context**

Following programmes of previous years provided by the European Union (TACIS AP 2001, 2004, 2004bis, RRM July 2004, EUJUST THEMIS 2004/2005, EUSR ongoing) the programme will provide assistance to institutional reforms of the criminal justice and law enforcement system in Georgia.

The Georgian government's strategy of the reform of the criminal legislation touches upon issues which concern a chain of closely interlinked institutions as well as important stakeholders outside the directly involved and responsible institutions (like Ministry of Finance, parliament and civil society but also the constituency outside the capital in the regions of the country). Therefore the programme will operate on the principal of a strong horizontal and inclusive approach in order to help the government to implement a coherent horizontal and transparent programme instead of separate actions. This will enhance ownership of a broad range of stakeholders and therefore ensure sustainability of the reforms.

Fully in line with the approach the EC has taken in this sector the programme shall focus on strengthening the institutional capacities for implementation of reforms (public administration reform: policy making, administrative reforms (budget and finance, MTEF forecasting, human resources development), internal and external communication and development of related ICT policies).

As the government has developed and adopted a new Strategy for Reform of the Criminal Justice System, assistance in legislative screening in order to establish if new legislation put into force is in line with European standards, may be also a component of the programme, however in close coordination and consultation with involved EU Member States or agencies like the Council of Europe, the OSCE, the International Organisation for Migration as well as relevant other UN bodies.

The programme is fully in line with important government policies put forward in general, as the EDPRP document of 2003-2005 (notably chapters 1.2.1 Governance, 1.2.1.3 Legal Environment, Rule of Law, Physical Safety and Human Rights). It is also fully in line with the Anti-Corruption Strategy, which was approved by presidential Decree 550 on June 24 and reads in its Preamble: "Efficient management of public services implies well-organized and law-abiding functioning of the body, oriented toward proper implementation of imposed tasks with principles of accountability and publicity duly observed." Further the programme aims to support the government fulfil its pledges presented in its "Strategic Vision and Development Priorities in 2004-2006" to the European Commission/World Bank donors conference in Brussels on 16-17 June 2004.

With regard to policies for the criminal justice sector, the programme is also fully in line with the governmental sector policy, namely "Strategy of the reform of the Criminal Legislation" approved by Governmental Order (No 195, 20 May 2005) and Presidential Decree (Decree 549 of 9 July 2005). It is notable that the elaboration of this strategy benefited from the first ever Rule of Law mission deployed by the EU Council to Georgia from July 2004 to 2005 as well as emergency assistance following the Rose Revolution provided by EC under the RRM instruments and later TACIS AP 2004 Policy Advice Projects.

The programme outlined above is also fully in line with the EC general policy on cooperation with third countries, as the Guidelines on EC Support to Sector Programmes (due to the weak state capacities the programme should be seen as a preparation programme in perspective of Sector support possible under ENP). It is also fully in line with the Communication from the Commission on Governance and Development of 2003, where institutional capacity-building particularly in the area of good governance and the rule of law is one of the six priority areas for EC development policy that is being addressed in the framework of EC programmes in developing countries.

The programme is fully in line with the relevant EC programming documents for Georgia as the CSP 2003-6 as well as the TACIS NIP 2004 to 2006, where the reform of law enforcement and implementation of new criminal procedures legislation is described as being at the core of the measures to adequately address Georgia's socio economic crisis and to bring the country closer in line with EU standards and thus given high priority. Not at least the AP 2006 shall be seen in the context of the ENP and therefore preparation of Georgian institutions for closer cooperation with their European counterparts is one of the direct aims of the programme, which can only be achieved through institutional capacity building and reform.

The programme further complements the PSC decision of 28 July 2005 to extend the mandate of the EU Special representative to the South Caucasus (EUSR). This decision followed the decision of the

OSCE Permanent Council of 30 December 2004 to not extend the mandate of the OSCE border monitoring mission. It granted the EUSR a support team on border issues. One of the programme components aims to strengthen the law enforcement system by supporting the Georgian border guards in their transition from a conscript based military formation into a professional, civilian police force. Thus it addresses institutional as well as capacity issues and hence strengthens Georgia's border security.

### **3. Description**

#### **3.1. Objectives**

To improve the human rights situation and governance in the country through support to the implementation of the justice system (inter alia based on the reform strategy adopted by the government in May 2005 and endorsed by the president in July 2005) and to strengthen the capacities of relevant institutions to implement and enforce the reforms within a coherent and consistent policy framework.

The specific objective of this programme is to support legal and administrative reforms in Georgia with focus on criminal justice reforms. In order to achieve this the project aims at strengthening the management and implementation capacities as well as accountability and transparency of the key institutions: Ministry of Justice, Office of the Prosecutor General, Ministry of Interior. The program will take a strong horizontal and inclusive approach to the benefit of all institutions of relevance in the justice chain of the criminal justice system (including where relevant the judiciary) and will foresee independent monitoring of the progress in implementing the reforms from the side of local civil society organisations.

#### **3.2. Expected results and main activities**

##### **Expected results**

- Improvement of the human rights record of Georgia with regard to criminal justice cases;
- Implementation of the "Strategy of the reform of the Criminal Legislation" approved by Governmental Order (No 195, 20 May 2005) and Presidential Decree (Decree 549 of 9 July 2005) in line with the Implementation plan the Georgian government will put forward by spring 2006;
- In terms of administrative reform the project will strengthen institutional and professional capacities of involved bodies;
- Policy making and reform execution capacities of criminal justice institutions strengthened;
- Policies and procedures of cooperation and information sharing with other relevant state institutions developed and operational;
- Strengthened human-resources management (including training) and capacities to implement new responsibilities;
- Strengthened financial management and budgeting capacities as well as audit functions and in result coherent budget allocations to the involved institutions and reforms;
- Strengthened internal and external information system to facilitate exchange of data between the different justice agencies, including policies on Information technology,
- Preparation of involved Ministries and agencies for potential partnerships with their European counterparts and other ways of cooperation as possible and envisioned under the ENP.

##### **Main activities**

Following up on previous assistance provided by the European Union (TACIS AP 2001, 2004, 2004bis, RRM July 2004, EUJUST THEMIS 2004/2005, EUSR ongoing) the programme will support institutional reforms of the criminal justice sector in Georgia. The criminal justice system reform currently ongoing touches upon issues which concern a chain of closely interlinked and interdependent

institutions as well as important stakeholders outside the directly involved and responsible institutions (like parliament and civil society). Therefore the programme will operate on the principal of a strong horizontal and inclusive approach in order to help the government to implement a coherent horizontal and transparent programme instead of separate actions. This will enhance ownership of a broad range of stakeholders and ensure sustainability of the reforms.

The programme shall consist of a comprehensive interlinked set of interventions. Implementation shall be guided and supervised by one Steering Committee including high government officials, EC and other stakeholders, supporting the governmental Steering Group for the Implementation of Reforms, which has been established as outlined above should play a leading role.

As the Minister of Justice is the Chairman of this Steering Group and as major components of the assistance are under the authority of the Ministry of Justice (Penal Systems Reforms (penitentiary, probation), Free Legal Aid, the Ministry of Justice will be the one of the main beneficiaries. However other direct beneficiary institutions will be: Ministry of Interior and Office of the Prosecutor General. Courts (judges, the High Council of Justice, Training School for Judges) and employees of the office of the Public Defender as well as other relevant stakeholder will also benefit from the programme mostly in terms of capacity building, due to the horizontal and inclusive approach this programme has. Further modalities for the implementation arrangements will be identified in the programme formulation phase which shall start 2006.

The programme should operate with clear conditions and the contracts should be equipped with clear suspension and exit clauses, at least in the sectors closely related to the ENP or the activities of the special representative.

### **Support to the Ministry of Justice**

#### **1) Institutional reform and capacity building of the Ministry of Justice - Phase 2**

The overall objective of this project is to support the Ministry of Justice to implement its new institutional responsibilities in relation with consolidating the rule of law and the fight against corruption in Georgia. The specific objective is to strengthen the capacities of the Ministry to implement comprehensive internal public administration and management reforms in line with the general public administration reform. Building on the results of the RRM assessment on the Ministry of Justice, conducted in 2004/2005 and the TACIS project which has been designed under the AP 2004bis, this new project will consolidate the achievements of previous projects and aim in the following direction:

- Implementation of the recommendations of the needs analysis in relation to the reform and the modernization of the Ministry of Justice, in terms of reorganization, strengthening the policy making capacities, the operational efficiency and transparency and human resources development;
- In the context of administrative and management reform support on drafting legislation, administrative instructions, manuals and other relevant documentation;
- Further support for the development of an integrated financial management system and support to the elaboration of a Medium Term Expenditure Forecasting (MTEF); replication of capacity raising to relevant offices throughout the country including the implementation of a professional practice framework for internal auditors in co-operation with the Ministry of Finance and the Chamber of Controls according to the administrative reform of audit-evaluation of administrative activities of the MOJ;
- Capacity building: implementation of training recommendations, including curricula, developed by previous RRM and TACIS projects, continuous learning facilities and training-of-trainers program, in line with the civil-service reform, replication of trainings to relevant offices

throughout the country, specific attention should be given to the International Legal Relations Department and the Forensics Department in the Ministry;

- Strengthening internal and external information systems to facilitate exchange of data between the different justice agencies, including development strong policies on ICT, including also preparation of the Ministry of Justice for potential partnership with European Justice Ministries and other ways of cooperation as possible and envisioned under the ENP.

## **2) Strengthening Penitentiary and Probation Reforms in Georgia (Phase 3)**

EC has been the main provider of financial assistance in Georgia to penitentiary and probation reforms through different programs launched following the Rose Revolution (TACIS, RRM, EIDHR). Continued assistance will be important to achieve sustainable progress in this sector, which still struggles with the effects of more than a decade of dramatic mismanagement under the previous regime/s. The government has asked the EC for assistance in this field as it wishes to align the Georgian system with the European standards.

An important step was taken to ensure that the reforms in this sector are implemented in a planned and comprehensive manner when a new concept paper on criminal justice reforms was developed and adopted by the government in May 2005. The EU rule of law mission EU JUST THEMIS as well as EC experts assisted in the elaboration of this document. This is a considerable step forward in the reforms as it enables the officials to more consistently approach reforms in this complex and interconnected sector. The new project will broaden the scope of assistance and include also support to implementation of existing provisions of the law regarding alternative sentences. By targeting specifically administrative and management reforms the project promotes practical and concrete reforms, also in order to prepare the institutions relevant for penal execution in criminal justice for closer cooperation with relevant European bodies as part of the judicial cooperation possible and envisioned under the ENP. The project will operate in the following main directions:

- Assistance to the relevant governmental body supervising and steering reforms in the penal execution sector in order to strengthen capacities of senior staff to manage governmental policy development and implementation capacities, action planning and monitoring of reforms along agreed timelines and budgetary commitments;
- In the context of administrative and management reform support in drafting legislation, administrative instructions, manuals and other relevant documentation;
- Assistance to strengthen management in penitentiary and probation as well as other relevant departments of this sector, specifically but not limited to capacity building for human resources management, budget management, computerization of workflow, communication and statistics, capacity building to ensure proper and efficient infrastructure development and management;
- Pilot projects to assist the introduction of new ways of treatment of offenders, including those prescribed by the Criminal Code (Alternatives to Imprisonment);
- Social rehabilitation programs for offenders extended, in coordination with relevant state bodies and NGOs;
- Facilitation and strengthening communication and cooperation with other relevant services in the government, parliament as well as civil society and NGOs;
- Preparation of sustainable partnerships, most notably between services but also institutions in Georgia and Europe.

### **3) Support to the establishment of a legal aid system under the Ministry of Justice of Georgia**

In the context of the reform of the criminal justice system the government has put forward a concept for reforming the legal aid system. This new system will build on a decision of the Ministry of Justice of Georgia of 17 February 2005 by which a “Public Attorney’s Office” has been established. In line with this concept a countrywide legal aid system will be developed. The development of this concept and the fact that the government recognizes its obligation to provide for free legal aid is an important move forward in the reform of the criminal justice system. Currently 2 pilot offices are operating for one year until mid 2006 in order to test the concept, a working group is developing legislation in this field. These practical steps will provide a solid empirical base to review the planning of the Ministry and assist the further development of the legal aid system. The project will operate in the following main directions:

- Assistance to strengthen management, specifically but not limited to capacity building for human resources management, budget management, computerization of workflow and statistics, capacity building to ensure proper and efficient procurement of works, supplies and services;
- Monitoring and assessment of ongoing pilot activities, recommendations and implementation of actions for improvement of the operations;
- Development and/or revision of legislation and procedures;
- Learning from best practices in EU member states through exchange of professionals and study visits;
- Facilitation and strengthening communication, public awareness and cooperation with other relevant services in the government, the judiciary as well as civil society and NGOs.

### **4) Support to the Civil Registry System**

The government’s strategic vision for reform indicates governance and anti-corruption measures as a priority and urgent area of intervention. In this context a reliable civil registry is one of the most important tools, which, when established and functioning, will enable the government to better manage a broad range of fields under its responsibility, starting from elections and the rule of law sector but also governmental programs in the economic and social sphere. Introduction of new management systems including ITC is already ongoing in the justice sector, however a functioning registration system (including proper privacy protection) is an inadmissible component to further strengthen the management of this system. Therefore the project will assist under one of its components in the strengthening of a modern Civil Registration System with its constituent elements as identified by European and local experts during an assessment in 2004/5. The project will continue assistance already provided under the Ministry of Justice project under the AP2004bis, which aims to strengthen the institutional capacities of the Ministry of justice and contains a component on the civil registry. Its purpose is to lead to a simplification of interactions between citizens with due consideration of privacy protection and a wide range of state institutions, and enhance the democratic and economic life of the country by supporting the development of customer oriented public services which should:

- Assist in the provision of members of the public with a simple "one stop shop" access to Civil Acts registration, identity documentation and passport issue facilities throughout the country;
- Based on a principle of “register once – multiple use”, provide namely the justice institutions but also other relevant state bodies with up to date information about the population and enable the regulated and safe exchange of sensitive information between state institutions and organizations in accordance with international and namely EU regulations, the Georgian legislation and prescribed procedures;
- Development and implementation of privacy and data protection legislation and relevant enforcement measures which should correspond with relevant EU Directives and must take place in close cooperation with the development of the IT-infrastructure (Privacy by Design).

- Strengthen or develop the independent Data Protection Board;
- Development of Regulations and procedures as well as awareness raising and trainings to ensure uniform and unique registration and leading to complete, accurate and up-to-date data in the civil registry.
- Development of a system of auditing in order to check whether regulations and procedures on use and management of the system are performed correctly.

### **Strengthening the reform of the Office of the Prosecutor General, Phase 3 (Office of the Prosecutor General)**

The EC has assisted the reform of the Office of the Prosecutor General starting from April 2004 with 2 subsequent programs, which had and have the main objective to bring the operations of the office in line international standards (COE, UN) and to contribute to legal administrative reforms and the fight against corruption in Georgia. The Office of the Prosecutor General has been strongly committed to and efficient in implementing institutional reforms and modernization of its operations. The adoption of the concept paper on criminal justice reforms, advised by the EU through the EU JUST THEMIS mission, has provided a clear base for further reforms. A third phase of EC assistance to Office of the Prosecutor General reforms provides the opportunity to continue to strengthen management and administration reform of the Prosecutor's office of Georgia, to continue its harmonization with international standards and prepare the institution for closer cooperation with relevant European bodies as part of the judicial cooperation possible and envisioned under the ENP.

In order to strengthen the accountability of the Office of the Prosecutor General strong involvement of civil society it shall be foreseen by including a mechanism of complementary involvement of independent civil society organisations under this programme (Subcontracts or Subgrants of minimum 20 % of the allocation for the component targeting the Office of the Prosecutor General reform). The project will have the following main directions:

- In the context of administrative and management reform support on drafting legislation, administrative instructions, manuals and other relevant documentation;
- Training courses and capacity building measures to improve the qualifications of senior officials involved in the reform, at central and regional level;
- Development and implementation of modern human resources management in the head office and in the regional branches;
- Development of policies and capacities on use of ICT in the criminal justice sector, statistics as well as capacity building in the use of modern investigation methods and technology and forensics;
- Establishment and facilitation of sustainable cooperation with other government-institutions to make sure that the reform is in line with the general civil service and judicial reform in order to make best use of potential;
- Strengthen cooperation with to relevant European bodies in perspective of the new EU neighbourhood policy;
- Enhance cooperation with other relevant stakeholders in order to ensure that the public and the parliament have regulated oversight over the work of the Office of the Prosecutor General and transparency and anti-corruption measures including civil society are in place, also in the regions of Georgia.

### **Ministry of Internal Affairs Reform (Phase 3)**

The Rose Revolution in 2003 had a strong impact on the Ministry of Internal Affairs and issues related to policing in Georgia. Reforms were driven by young enthusiastic people with mainly law background. The Ministry of Internal Affairs has also been marked by frequent changes of ministers. Several key reforms were undertaken since the beginning of 2004 most notably the transfer of the Ministry of Internal Affairs troops to the Ministry of Defence, the incorporation of the State Border Guard Department, the incorporation of the Ministry of State Security, the abolishment of the road inspectorate (traffic police) and the introduction of a public order police (so-called Patrol Police). However, accountability of the ministry remains low, its style of work secretive and unpredictable.

The European Commission supported reform actions within its remit in the fields of institution and capacity building in close contact with present EU Member States, other countries (eg United States, Turkey) and international governmental organization (eg. OSCE, IOM). The European Commission is supporting the Ministry of Internal Affairs in reaching its reform goals first outlined in January 2004 aiming to make the ministry a civilian and accountable government institution. To that end the European Commission supported the “Democratic Policing” conference in May 2004 that played a key role defining the “Strategic Vision and Development Priorities in 2004-2006” that the Georgian government later presented at the European Commission/World Bank donors conference in Brussels on 16-17 June 2004. Basing itself on the afore-mentioned document the European Commission brought a policy advisor to further advise on Ministry of Internal Affairs reform. A comprehensive TACIS Project (AP 2004/5) will then ensure the appropriate support to the Ministry in the internal reorganisation and institutional capacity building.

The European Commission focussed its support on the border guards, as stipulated in the Tacis Georgia Action Programme 2002. The European Commission is aiming to support the institutional integration of the border guards into the Ministry of Internal Affairs and its transition from a conscript based military force into a professional, civilian branch of the police.

This objective has been even further highlighted through the withdrawal of the OSCE Border Monitoring Mission in early 2005 and the arrival of the EUSR’s border support mission in September 2005. The project will prepare the institution further for closer cooperation with relevant European bodies as part of the judicial cooperation possible and envisioned under the ENP.

The future assistance shall have the following priorities:

- Enhancing the legal basis for the work of the border guards. A border guard code has been elaborated with German assistance. The border guard code needs to be backed up with regulations and other related legislation needs to be adapted to the border guard code.
- Building capacity in the border guards through enhancing the border guards training activities. Depending on the success of the project “Support to the establishment of a border police faculty in the police academy” further work on the training of the border guards in the police academy could be foreseen. This component needs to be well coordinated with donors active in phase III (United States, Turkey, OSCE, IOM, etc.). Possibly the closer coordination of phase II and III training. Support to the implementation of further training stages.
- Supporting the budgeting capacity and financial transparency of the Ministry of Internal Affairs, through technical assistance the capacity to do forward planning (MTEF exercise in line with the provisions provided by the Budget Law and the Ministry of Finance) and the estimation of future budget requirements should be enhanced, introduction and enhancement of Internal Audit Capacities,
- Assistance in the reform of the General Inspections in line with the governmental plans to reform the General Inspections in all law enforcement.

## **Civil Society Monitoring**

In order to allow for testing the accountability and transparency of all institutions strong and continuous involvement of civil society in terms of monitoring, public awareness and capacity building shall be foreseen for this project, complementary to all components. This will also significantly enhance the visibility of the programme.

### **3.3. Stakeholders**

Law enforcement agencies (Ministry of Interior (the border guard department and the police academy in particular) Justice, Office of the Prosecutor General) Advocates, Judiciary (Courts, High Council of Justice), Public Defenders office and Ministry of Finance (the ministry's Customs department), but indirectly all governmental agencies, the Presidential administration and the Prime Ministers office, parliament, namely but not limited to Committee on Legal Affairs, Human Rights Committee, the Committee on Defence and Security, National Security Council, representatives from regional branch offices of involved institutions as well as regional authorities, local civil society, human rights activists, International Organisations, arrested people and convicts and relatives of arrested and convicts, the population in general.

### **3.4. Risks and assumptions**

- The political and security situation remains stable;
- The government remains committed to reforms and provides adequate human and financial resources to all institutions to set off a well planned process of reforms to strengthen efficiency and transparency of their operations;
- The Government of Georgia remains committed to the strategic objectives of the reinforcement of the rule of law and the Public Administration reforms;
- The Ministry of Justice remains fully cooperative and committed to the program objectives.

### **3.5. Conditionalities**

The programme should operate with clear conditions and the contracts should be equipped with clear suspension and exit clauses, at least in the sectors closely related to the ENP or the activities of the special representative.

General objective indicators for the following conditions need to be established and monitored:

- The government meets its commitments with regard of protection of human rights under the ECHR and takes tangible steps to improve the human rights situation in the country (COE, OSCE, UN reports, reports from local and international watch dogs, number of cases at the European Court for Human Rights, official statistic of number of cases of torture in detention);
- The government maintains its commitment to move on with the fight against corruption and the building of transparent and efficient state institutions (governmental policies and implementation of these policies, reports of Transparency International and other NGOs, GRECO, OECD);
- The government maintains its commitment to build Georgia as democratic state with appropriate division of powers among the executive, legislative and judiciary;
- The government maintains its commitment to the strategy of the reform of the criminal legislation, its law enforcement system, to transparent planning and coherent implementation of the reforms envisioned in the strategy (EUSR reports, COE, OSCE reports);
- The government takes actions and allocates budget to improve the situation with regard to torture of detainees by law enforcement and misconduct in the justice sector (state budget 2006 January 2006; number of disciplinary procedures launched against misconduct of officials, introduction and dissemination of ethical codes for professionals like police and prosecutors), further adequate budget needs to be made available to all law enforcement bodies including the Georgian border guards and penitentiary and probation staff for salaries, logistics, training and equipment and maintenance;

- The government implements its commitments under specific programs under this programme timely and fully (project reports, Monitoring Reports).

### **3.6. Crosscutting issues**

The proposed project is clearly in support to the democratic process and good governance in Georgia. Moreover, in all its components the project will constantly include a gender analysis in order to contribute to gender equality within all services.

## **4. Implementation issues**

### **4.1. Implementation method**

Centralised management.

### **4.2. Budget and calendar**

Service and/or twinning mechanism might be considered for the implementation of the technical assistance of the project. In addition, grant agreement with civil society organisation might also be considered. For the other components of the project, works and supply contracts might also be used, as appropriate and necessary.

The indicative amount allocated to this project is €7.9 million tentatively. It is envisaged that an estimated amount of €6.4 million will be used for provision of technical assistance (including the potential grant contract), and an estimated budget of €1.5 million is earmarked for works and supplies.

The project duration is estimated, indicatively, at 24 months.

### **4.3. Procurement and award of grants procedures**

All contracts implementing the financing agreement must be awarded and implemented in accordance with the procedures and standard documents laid down and published by the Commission for the implementation of external operations, in force at the time of the launch of the procedure in question.

All programme estimates must respect the procedures and standard documents laid down by the Commission, in force at the time of the adoption of the programme estimates in question.

### **4.4. Performance monitoring**

The project will be monitored by the TACIS monitoring office and closely followed by the Delegation.

### **4.5. Evaluation and audit**

A final evaluation should be foreseen and, if necessary, an audit.

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