

**National Report of Georgia on implementation of the United Nations
Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in
Small Arms and Light Weapons in All Its Aspects**

A) National Level

Permanent Commission of Military-Technical Issues of the Ministry of Defense of Georgia is an agency (a body), which, on the basis of cooperation with respective ministries, agencies, and organizations, exercises coordination over:

- the Georgian military-industrial and scientific-technological capacities;
- military-technical activities of power authorities;
- traffic of military and dual-use production, including weapons;
- activities related to issues of military-technical cooperation with foreign states

The Commission makes recommendations and conclusions in the abovementioned spheres. These recommendations and conclusions shall be observed by any ministry, agency, enterprise, and organization.

The composition of the Commission is determined by the Minister of Defense of Georgia.

(Article 1 of the Regulations of the Permanent Commission of Military-Technical Issues of the Ministry of Defense of Georgia approved by the Order of the Minister of Defense of Georgia: 07.12.2005)

Legislation and Regulations

Weapons production and repair (Article 15 of the law of Georgia on “Weapons”) – The production and repair of weapons, their parts, and ammunition is possible upon the license issued by the Ministry of Defense of Georgia. The license can be issued if the facilities, where weapons and ammunition has to be produced or repaired, correspond to the established standards.

The production and repair of weapons without a license gives rise to the responsibility determined by the Georgian legislation.

Weapons trade (Article 17 of the law of Georgia on “Weapons”) – The right to trade with weapons and ammunition is given to entities created especially for this purpose upon the license issued by the Ministry of Defense of Georgia. The license can be issued if the facilities, where weapons and ammunition has to be traded, correspond to the established standards.

Acquisition of weapons (Article 19 of the law of Georgia on “Weapons”) – The permission of acquisition of weapons and ammunition with the right to store is issued by the Service Agency, which is a legal entity of public law of the Ministry of Internal Affairs of Georgia.

Transportation-transfer and transition of weapons (Article 21 of the law of Georgia on “Weapons”) – Transportation-transfer and transition of weapons and ammunition is carried out upon the permission issued by the Service Agency, which is a legal entity of public law of the Ministry of Internal Affairs of Georgia.

Export, import, re-export and transit of civilian weapons (civilian weapon means a weapon which is used for self-defense, hunting, sport and collection purposes) (Article 22 of the law of Georgia on “Weapons”) – Export, import, re-export and transit of weapons, ammunition, military hardware, technical documentations, as well as export, import, re-export and transit of activities and services related to the production of weapons is carried out upon the permission issued by the Ministry of Defense of Georgia.

Export, import, re-export, transit, processing on the territory of customs, processing beyond the territory of Georgia, carrying in and/or out of military-combat weapons (Article 22¹ of the law of Georgia on “Weapons”) – Export, import, re-export, transit, processing on the territory of customs, processing beyond the territory of Georgia, carrying in and/or out of military-combat weapons is carried out upon the permission issued by the Ministry of Defense of Georgia.

Carrying weapons in and out of Georgia (Article 24 of the law of Georgia on “Weapons”) – The permission to carry single specimen of weapons in and out of Georgia by individuals is issued by the Service Agency, which is a legal entity of public law of the Ministry of Internal Affairs of Georgia.

Confiscation (seizure) of weapons (Article 28 of the law of Georgia on “Weapons”) – A weapon shall be confiscated in case if:

- a) There is no permission or license prescribed by this law;
- b) The permission or license has been revoked;
- c) There was a violation of rules of trafficking in weapons;
- d) The owner of a civilian weapon dies and the heir of this weapon is not decided.

Control of trafficking in weapons (Article 29 of the law of Georgia on “Weapons”) – The control over trade, production, acquisition, storing, carrying, transportation-transfer and transition of weapons without a respective license or

permission is exercised by duly authorized organs of the Ministry of Internal Affairs of Georgia.

Certification of weapons (Article 14 of the law of Georgia on “Weapons”) – Any weapon which is produced in or brought into Georgia is subject to obligatory certification. The certification is made by the L.E.P.L. National Agency of Standards, Technical Regulations and Metrology of Georgia.

Law enforcement/criminalization

Excerpts from the Criminal Code of Georgia:

Article 236. Illicit Purchase, Keeping, Carrying, Production, Shipment, Transfer or Sale of Fire-Arms (except hunting weapon having smoothbore barrel), Ammunition, Explosive Material or Explosive Device

1. Illicit purchase or keeping of fire-arms, ammunition, explosive material or explosive device,-
shall be punishable by fine or by restriction of freedom for up to a three-year term or by imprisonment for up to three years in length.
2. Illicit carrying of fire-arms, ammunition, explosive material or explosive device,-
shall be punishable by fine or by imprisonment ranging from three to five years in length.
3. Illicit production, shipment, transfer or sale of fire-arms, ammunition, explosive material or explosive device,-
shall be punishable by imprisonment ranging from five to eight years in length.
4. The action, referred to in Paragraph 3 of this article, perpetrated:
 - a) by a group’s conspiracy;
 - b) repeatedly,-
shall be punishable by imprisonment ranging from seven to ten years in length.

Note: the person who voluntarily hands over the weapons referred to in this article, shall be absolved from criminal liability if his/her action bears no signs of any other offence.

Article 237. Illegally Taking Possession for Misappropriation Purposes or Extortion of Arms, Ammunition, Explosive Material or Explosive Device

1. Illegally taking possession of fire-arms (except hunting weapon having smoothbore barrel), their component, ammunition, explosive material or explosive device for misappropriation purposes or extortion thereof,- shall be punishable by imprisonment ranging from four to seven years in length.
2. Illegally taking possession, for misappropriation purposes, or extortion of nuclear, chemical, biological weapons or those of mass destruction or material or device for manufacturing such weapons,- shall be punishable by imprisonment ranging from six to nine years in length.
3. The action referred to in Paragraph 1 or 2 of this article, perpetrated:
 - a) by a group's conspiracy;
 - b) by using one's official position;
 - c) under violence which does not endanger life or health or threat of by such violence,- shall be punishable by imprisonment ranging from eight to twelve years in length.
4. The action referred to in Paragraph 1, 2 or 3 of this article, perpetrated:
 - a) by an organized group;
 - b) under violence endangering life or health or threat of by such violence;
 - c) by a person who had two or three convictions for illegally taking possession or extortion of other's object,- shall be punishable by imprisonment ranging from ten to fourteen years in length.

B) Regional Level

Georgia has concluded legally binding international instruments with neighboring countries and with many of the European Union member states on cooperation in the fight against crime, especially against organized crime, including the fight against illicit traffic in weapons, ammunition, or explosives.

Council of Europe

In 2002 Georgia has signed European Convention on the Control of the Acquisition and Possession of Firearms by Individuals, concluded at Strasbourg on 28 June 1978.

Cooperation within the frames of The Organization of Black Sea Economic Cooperation (BSEC)

- Agreement among the Governments of the Black Sea Economic Cooperation (BSEC) Participating States on cooperation in combating crime, in particular in its organized forms, signed on October 2, 1998 – *in force for Georgia since July 27, 2000.*
- Additional Protocol (establishing a network of liaison officers) to the Agreement among the Governments of the Black Sea Economic Cooperation (BSEC) Participating States on cooperation in combating crime, in particular in its organized forms, signed on March 15, 2002 – *in force for Georgia since May 30, 2004.*
- Additional Protocol on combating terrorism to the Agreement among the Governments of the Black Sea Economic Cooperation (BSEC) Participating States on cooperation in combating crime, in particular in its organized forms, signed on December 3, 2004 – *in force for Georgia since October 16, 2005.*

Cooperation within the frames of The Organization for Democracy and Economic Development – GUAM (Georgia, Ukraine, Azerbaijan, Moldova)

- Agreement on cooperation among the Governments of GUUAM Participating States in the field of combat against terrorism, organized crime and other dangerous types of crimes, signed on July 20, 2002.
- Protocol to the Agreement on cooperation among the Governments of GUUAM Participating States in the field of combat against terrorism, organized crime and other dangerous types of crimes of the 20 July 2002, signed on December 4, 2008.

It is noteworthy to mention, that there is a virtual center established in the GUAM National Law enforcement Center within the Ministry of Internal Affairs of Georgia, which gives a possibility to a rapid exchange of operative information on facts of illicit traffic in weapons with the respective services of other GUAM member states

C) Global Level

International Instruments against terrorism and crime which Georgia has signed, ratified or acceded to are the following:

13 Antiterrorism Conventions

1. **Convention on Offences and Certain Other Acts Committed on Board Aircraft**, signed at Tokyo on 14 September 1963 (Tokyo Convention) – *in force for Georgia since September 14, 1994*;
2. **Convention for the Suppression of Unlawful Seizure of Aircraft**, signed at The Hague on 16 December 1970 (The Hague Convention) – *in force for Georgia since May 20, 1994*;
3. **Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation**, concluded at Montreal on 23 September 1971 (Montreal Convention) – *in force for Georgia since May 20, 1994*;
4. **Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents**, adopted in New York on 14 December 1973 – *in force for Georgia since February 18, 2004*;
5. **International Convention against the Taking of Hostages**, adopted in New York on 17 December 1979 – *in force for Georgia since February 18, 2004*;
6. **Convention on the Physical Protection of Nuclear Material**, adopted at Vienna on 3 March 1980 – *in force for Georgia since October 7, 2006*;
7. **Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation**, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 24 February 1988 – *in force for Georgia since March 17, 1999*;

8. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988 – *in force for Georgia since November 9, 2006*;

9. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on 10 March 1988 – *in force for Georgia since November 9, 2006*;

10. Convention on the Marking of Plastic Explosives for the Purpose of Detection, done at Montreal on 1 March 1991 – *in force for Georgia since June 24, 2000*;

11. International Convention for the Suppression of Terrorist Bombings, adopted in New York on 15 December 1997 – *in force for Georgia since February 18, 2004*;

12. International Convention for the Suppression of the Financing of Terrorism, adopted in New York on 9 December 1999 - *in force for Georgia since September 27, 2002*;

13. International Convention for the Suppression of Acts of Nuclear Terrorism, adopted in New York on 13 April 2005 – *Georgia has recently acceded to this convention, not in force.*

Organized Crimes

- **United Nations Convention against Transnational Organized Crime**, adopted by the General Assembly on 15 November 2000 (Palermo Convention) – *in force for Georgia since September 5, 2006*;
- **Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Woman and Children**, supplementing the United Nations Convention against Transnational Organized Crime, adopted by the General Assembly on 15 November 2000 (Palermo Protocol) – *in force for Georgia since September 5, 2006*;
- **Protocol against the Smuggling of Migrants by Land, Air and Sea**, supplementing the United Nations Convention against Transnational Organized Crime, adopted by the General Assembly on 15 November 2000 (Palermo Protocol) – *in force for Georgia since September 5, 2006.*

Training and capacity-building

The Academy of the MoIA, in cooperation with the US, France, and various international organizations elaborated special study guide on the use of physical coercion by the police. The course covers the issues of handling aggressive suspects, use of minimum necessary force, escalation of force in response to violence/resistance, human rights related to the use of coercion, use of firearms and the cases of absolute necessity. Although there have been no reports on use of excessive force by police specifically against the minorities, implementation of use of force training manual helped to raise the police proficiency in use of necessary force, and significantly diminished number of reports on the use excessive or unnecessary force.

Noteworthy to mention are the measures that MoIA undertakes in order to prevent any excessive or illegal use of force by policemen. With this regard Police Academy of the Ministry of Internal Affairs devotes special attention to the teaching of legal basis for the use of coercive force and acquisition of relevant practical skills by future policemen. Curriculums contain extensive tactical training course, national legislation as well as the course on national human rights law. The course on use of force represents an integral part of the basic preparation course, mandatory for all police officers and is taught with a special reader (compilation of documents) on Use of Force elaborated for the students of Police Academy in cooperation with international organizations. It is envisioned in the basic training course and represents one of the important parts in the human rights thematic. The overall duration of the basic training course is 223 hours, 38 hours out of which is specifically dedicated to the issue of use of force and special means and firearms (10 hours of the course are lectures and 28 hours – practical training). The course cover the issues of tactical training and legislative basis for use of coercive measures, use of special means and firearms etc.:

- **Legal framework** for the use of physical force, special means and firearms, sequence and escalation of force, precautions to be taken, as well as types of penalties, including criminal sanctions for improper resort to coercion. Students of the police academy study law on firearms, law on police, which regulates in detail modalities of the use of coercive force by police, as well as relevant criminal and administrative legislation. Human rights law course puts special emphasis on the right to life and physical security, especially in conjunction with the right to use firearms by the policeman.
- **Tactical training** involves development of skills for action in critical circumstances, assessment of risk and danger in particular situation, and methods and modalities of the response in accordance with the legislation

regulating use of force. During this course students also acquire necessary negotiation skills for managing critical situations and for ensuring that coercive force is used as last resort.

- **Use of special means and firearms** – practical training for prospective policemen for legitimate and effective use of special means. At the end of the course practical exam is held, where unsuccessful students are unable to graduate from the academy. The course is conducted in the form of trainings and role plays where students carry out moot police operations of search and apprehension of suspects by inflicting minimum necessary harm.

Apart from mandatory preparatory courses at the Police Academy, involving familiarization with legal framework on the use of coercive force, tactical training and training in the use of special means, including use of firearms, the Academy cooperates with international partners, having sufficient expertise in this field, with a view of organizing ad hoc topic oriented courses in specific aspects of police activities.

TRAININGS in cooperation with international organizations:

2007:

Training on human rights for Temporary Detention Isolators (TDI) staff; - organized by Rule of Law Mission of Norway (26 February – 26 March)

Training on tactical preparedness; - organized by US Department of State (11 June)

2008:

“Human rights and investigative interrogation” Training (II round); - organized by CoE (22-24 January)

Training on acquiring professional skills for detention; - organized by the French Embassy to Georgia (1-11 April)

“Human rights and investigative interrogation” Training (III round); - organized by CoE (25-27 November)

2009:

Training on tactical preparedness; - organized by UNOMIG (23-27 February)

Tactical preparedness course; - organized by UNOMIG (23-27 March)

Tactical preparedness course; - organized by the US Embassy to Georgia (11-22 May)

Training on tactical issues; - organized by Public Service Academy College of the Republic of Estonia (29 October – 6 November)

Workshop on Police Ethic Code - organized by CoE (9-10 December)

All of the abovementioned trainings and courses involved the issues related to the use of means of coercion, including firearms and special means.