



საქართველოს საელჩო ნიდერლანდების სამეფოში
AMBASSADE VAN GEORGIË IN HET KONINKRIJK DER NEDERLANDEN
EMBASSY OF GEORGIA TO THE KINGDOM OF THE NETHERLANDS

№ 8/27-01...
„01“ 08 2008

International Criminal Court
The Secretariat of the Assembly of State Parties
RoomC-0691, Maanweg 174, 2516 AB the Hague

The Hague,
August 6, 2008

The Embassy of Georgia to the Kingdom of the Netherlands presents its compliments to the International Criminal Court and in response to your letter, dated from 15.04.2008 reference: ICC-ASAP/7/S/PA/21 has the honour to submit the letter of the Ministry of Justice of Georgia.

Encl.: 57 pages.

Sincerely Yours,

Maia Panjikidze
Ambassador



საქართველოს იუსტიციის სამინისტრო
MINISTRY OF JUSTICE OF GEORGIA

№ 01/23/03-6983

29 07 2008

International Criminal Court
The Secretariat of the Assembly of State Parties
Room C-0691, Maanweg 174, 2516 AB the Hague,
The Netherlands

Your reference: ICC-ASP/7/S/PA/21

The Ministry of Justice of Georgia presents its compliments to the International Criminal Court and in response to your letter dated from 15.04.2008, we would like to send you relevant Georgian legislation on the implementation of the Rome Statute and contact points for cooperation.

The Ministry of Justice of Georgia avails itself of this opportunity to renew to the International Criminal Court the assurance of its highest consideration and esteem.

Enclosure: 56 p.

Zaza Tavadze
First Deputy Minister

Contact information:

Ministry of Justice of Georgia

Public International Law Department

Address: 30 Rustaveli ave., 0146, Tbilisi, Georgia

Tel./Fax: +995 32 75 82 76

E-mail: Intlawdep@justice.gov.ge

www.justice.gov.ge

Contact persons:

Shalva Kvinikhidze

Head of the Department

Tel./Fax: +99532-75-82-78

e-mail: skvinikhidze@justice.gov.ge

David Javakhadze

Legal Adviser

Tel./Fax: +995 32 75 82 76

e-mail: d_javakhadze@justice.gov.ge

Georgian Law

On the Cooperation of Georgia with the International Criminal Court

Chapter I

General Provisions

Article 1. Scope of the law

1. Based on the Statute of Rome of 1998, 17 of July of the International Criminal Court (hereinafter – the Statute) present Law governs the issues of cooperation of Georgia with the International Criminal Court (hereinafter International Court), determines the Authorized State Body for cooperation with International Court and specifies forms of mutual legal assistance while cooperation of Georgia with International Court.
2. In the Law the terms are used in the meaning determined by the Statute.

Article 2. The Legal basis of cooperation with International Court

The legal framework of cooperation of Georgia with the International Court is the Constitution of Georgia, Statute, present Law and other Legislative Acts of Georgia.

Chapter II

State Body authorized for cooperation of Georgia with the International Court

Article 3. State Body authorized for cooperation of Georgia with the International Court

1. State Body authorized for cooperation of Georgia with the International Court is the Ministry of Justice of Georgia (hereinafter – the Competent Body), which receives the request of International Court for cooperation, takes necessary measures for fulfillment of request; in case of necessity, coordinates activities of corresponding state bodies of Georgia for execution of requests.
2. While fulfillment of functions of cooperation with the International Court the Body is authorized to:
 - a) receive the request of the International Court for cooperation;
 - b) decide on admissibility of cooperation with International Court, to work out the procedures of cooperation; in case of necessity, to decide on appeal against the jurisdiction of the International Court;
 - c) decide on taking necessary measures for cooperation; at the same time, to determine which state body is directly authorized for the execution of the request;

- d) inform the International Court about the results of the execution of the request;
- e) consult the International Court about the issues brought in request in cases determined by the statute;
- f) in case of necessity to take measures for appointing the defender in treasury manner and/or for otherwise rendering legal assistance, in accordance with the manner established by Legislation;
- g) decide on transfer of a person to the International Court;
- h) transfer the request of International Court for conducting of criminal proceedings to corresponding authorized state body in accordance with the sub-paragraph "b" of the 4th Part of Article 70 of the Statute;
- i) decide upon the request of International Court for the enforcement of sentence in Georgia, concerning deprivation of liberty, also, decide about receiving of sentenced persons or/and enforcement of pecuniary penalty or reimbursement of other expenses, imposed by the International Court;
- j) determine the form of execution of request and the terms necessary for its fulfillment for the reason of undertaking urgent measures indicated in request;
- k) transfer on behalf of Georgia the evidences and information collected by the relative State Bodies to International Court, if the indicated fact makes it possible for the International Court to start the criminal prosecution;
- l) request the International Court to reimburse expenses for the execution of requests of mentioned Court in cases envisaged by the Statute;
- m) carry out other authorizations granted by the Statute and this Law.

Article 4. Obligations of State Bodies for ensuring execution of requests of International Court

The Competent Body and relative State bodies to which the request of International Court has been transferred shall ensure its execution in a manner and within time-frames determined by the Statute and the Georgian Legislation.

Article 5. Consulting with the International Court

The authorized Body with respect to the request of International Court is authorized to hold a meeting with International Court in accordance with the rules established by the Statute. Holding the meeting with International Court is necessary, in case if execution of the request:

- a) contradicts to main legal principles of the state determined by the 3rd Part of the Article 93 of the Statute;
- b) refers to the National Security interests of State;
- c) refers to the person having the interstate or diplomatic immunity.

Chapter III Jurisdiction of the International Court

Article 6. Determination of jurisdiction and dispute about jurisdiction

1. The jurisdiction of International Court is applicable to those crimes committed in the territory of Georgia which, according to the Statute belongs to the jurisdiction of International Court. In case the Court considers that unlawful act belongs to its jurisdiction, Competent Body has the right to accept the request of International Court with the consent of bodies conducting criminal prosecution according to the Code of Criminal Procedure of Georgia or in accordance with the Article 19 of the Statute to appeal against the jurisdiction of International Court.
2. If Competent Body does not appeal against the jurisdiction of International Court or considers that the Jurisdiction of International Court is prevalent, the whole material of the case shall be transferred to International Court. Transfer of materials to the International Court results in termination of criminal prosecution being conducted by the corresponding body of Georgia.
3. The decision about appealing against the jurisdiction of International Court is not subject to claims.

Article 7. Transfer of evidences or/and information to International Court

The Competent Body is authorized to transfer to the International Court those evidences or/and information which had been acquired through investigation by Body conducting criminal prosecution, if by this evidence or/and information it is possible to initiate the criminal prosecution, or if this evidence or/and information will ease the investigation already started.

Article 8. Notification of the situation to the International Court

1. Competent Body upon the motion of General Procurator of Georgia and according to the Article 14 of the Statute decides to inform the International Court about presumable commitment of the crime, within the jurisdiction of International Court and requests the Court to conduct further investigation.
2. The Competent Body in accordance with the Article 14 of the Statute immediately sends the decision to International Court.

Chapter IV Request of the International Court

Article 9. Form of the request of International Court and terms of its acceptance

1. The request of International Court or its bodies shall be directly submitted to the Competent Body in writing.
2. The request and supplemented materials shall be drawn up in Georgian, or accompanied by duly certified Georgian translation.
3. Transfer of request for search, arrest or taking other urgent measures which shall be duly certified later, can be made with the help of International Criminal Police (Interpol) or by other means determined by the statute.

4. If the Competent Body considers that form of request of International Court does not comply with the established requirements or /and can not accept the request for consideration, Competent Body in accordance with statute immediately notifies it to International Court indicating reasons thereof and starts consulting with the Court.
5. If the Competent Body considers that the request of International Court is inadmissible or rejects to execute the request, it shall immediately notify the Court thereof. The notification of inadmissibility or rejection of the request shall be well-reasoned. The Competent Body consults the International Court before finally rejecting the execution of the request.

Article 10. Content of the International Court Request

1. Content of International Court shall comply with the requirements established by the Statute, which are necessary for conducting relevant proceedings.
2. The request should include:
 - a) Detailed review of essential circumstances and legal qualification of the case.
 - b) Detailed and complete information on those persons against whom the criminal case is being conducted, as well as the detailed information on the person, place or object establishing and identification of which is necessary for the execution of the request;
 - c) Detailed review of the object of the request, as well as the proceedings to be conducted and required assistance;
3. In case if the request does not meet the terms indicated in paragraphs 1st and 2nd of the present Article, Competent Body is authorized to request International Court or/and its Bodies to eliminate deficiencies.

Article 11. Consideration and fulfillment of the request

1. Competent Body considers received request and determines the State Body, authorized for its fulfillment. Besides, it establishes the admissible measures within the scope of mutual cooperation.
2. If the immediate execution of the request prevents investigation or criminal prosecution, being conducted in Georgia with respect to the case to which the request does not refer, the Competent Body is authorized in accordance with Article 94 of the Statute to suspend execution of the request for the period needed to make arrangements with International Court. This period shall not exceed the time-frame established for completion of investigation by the Code of Criminal Procedure of Georgia;
3. After completion of consideration of the request Competent Body shall decide on the realization and the scope of cooperation;

4. About the decision on the admission of the request the Competent Body or/and the Body executing the request shall notify in writing the person whose place of residence or activities are in Georgia and who has the right to appeal against mentioned decision.

Article 12. Protection of National Security

1. If Competent Body has a serious ground to consider that execution of the request will endanger National Security of Georgia, it shall immediately notify the National Security Council of Georgia thereof and shall cooperate with International Court in accordance with Article 72 of Statute.
2. In case stipulated by the first paragraph of the present Article, the National Security Council of Georgia has the right to decide on termination of actions concerning the execution of the request.
3. The Competent Body is authorized not to accept the request of International Court about cooperation, if execution of the request endangers national security of Georgia.

Article 13. Issues Related to Immunity

If the request of the International Court refers to the conduct of criminal prosecution towards the person who enjoys the immunity according to Georgian Legislation, Competent Body shall address the corresponding State Body about availability of grounds for conducting criminal prosecution towards such person and promotes timely undertaking of actions which with respect to immunity are envisaged by the Constitution of Georgia and Georgia Legislation.

Article 14. Acquaintance of the person with case materials

1. By decision of the Competent Body, the person to whom the request of International Court refers has the right to get acquainted with the materials of the case.
2. The rights envisaged by the first paragraph of the present Article can be limited:
 - a) for the interests of the case to be considered by the International Court;
 - b) under the existing legal basis, if it is required by the International Court;
 - c) for the purpose of immediate undertaking of urgent measures;
 - d) for the reason of protecting confidential information.

Article 15. Request submitted by Georgia

1. If there are facts of crime subject to the jurisdiction of International Court, the State Bodies conducting the criminal prosecution, have the right to address the International Court through the Competent Body.
2. The request submitted to International Court by the Competent Body on behalf of Georgia should be in conformity with requirements, established by Statute and the present Law.

Article 16. Terms of reimbursement of expenses related to the fulfillment of request of International Court

1. The request of the International Court, generally, shall be executed without reimbursement of expenses, except those expenses, which are related to:
 - a) displacement and protection of witness, expert or specialist or temporary transfer of a prisoner;
 - b) translation, drawing of shorthand report or interpreter's service;
 - c) travel and per diem for a judge of the International Court, prosecutor, vice prosecutor, secretary, deputy secretary or/and other personnel of the bodies of the International Court;
 - d) conducting of expertise and preparation of expert opinion upon the request of the Court;
 - e) transportation of the person to be transferred to the International Court;
 - f) incidental expenses resulted from the consultation with the International Court for the reason of fulfillment of its request;
 - g) enforcement of judgment;
2. International Court shall reimburse expenses envisaged by the first paragraph of the present Article in a manner established by the Statute.
3. Service rendered by State Bodies of Georgia for the fulfillment of the request of the International Court with the aim of mutual assistance shall not be reimbursed;
4. Upon the motion of Competent Body expenses related to the enforcement of judgments, concerning arrest and if necessary, expenses related to the facilitation of defense for the arrestee shall be reimbursed from the State Budget.

Article 17. Using territory of Georgia for displacement of a person

1. Upon the request of the Court Competent Body shall issue the permit for transit displacement of arrestees in the territory of Georgia.
2. Arrestee, transit of which is conducted in the air space of Georgia without landing is exempted from the requirement of permit.
3. In case of unforeseen landing of plane, a person to be displaced en route shall be detained and transferred to the isolator of temporary detention envisaged by the Georgian Legislation. The Competent Body shall immediately address the International Court to send the request for transit. If within the period of 72 hours such request is not submitted, the detained person shall be released. If the request is received with delay, the released person shall be arrested again and the permit for transit displacement of arrestee shall be issued.
4. The permit issued for transit displacement shall not be subject to appeal.

Article 18. Simultaneous requests

1. If Georgia receives simultaneous requests for transfer or extradition of the same person from the International Court and other states, the Competent Body shall make decision in accordance with the Article 90th of the Statute.
2. If Georgia simultaneously receives from International Court and other States identical requests for cooperation that do not refer to the transfer of the person, competent Body shall make decision in accordance with the paragraph 9th of the Article 93 of the statute.
3. If upon simultaneous requests the Competent Body had satisfied the request of the other state, it shall immediately notify the International Court thereof.

Article 19. Compensation for Damage

1. The regulations about compensation for damage caused by unlawful arrest or other illegal act envisaged by the Georgian Legislation shall be applicable, if upon the request of International Court such acts had been committed in Georgia according to the present law with respect to the person, against whom the criminal proceedings had been conducted.
2. Compensation for damage can be reduced or rejected if the person who had been prosecuted had intentionally delayed proceedings or made difficult the conducting of investigation and the arrest completely or partially was caused by the fault of this person.
3. Damage caused by unlawful arrest or any other illegal action shall not be subject to compensation by Georgia if compensation for damage is ensured by International Court in a manner established by the Statute or if the court refuses to compensate damage.

Chapter V

Transfer of accused to the International Court

Article 20. Legal basis for transfer

1. A person shall be transferred to the International Court if in terms of the request and supplemented material the committed act is subject to jurisdiction of the International Court.
2. If the International Court considers the appeal against the jurisdiction in accordance with the Article 17 – 19 of the statute, the Competent Body is authorized to suspend execution of the request until the International Court decides on the issue.

3. If the citizen of Georgia is transferred to the International Court, the Competent Body is authorized to address the Court about returning of this person to Georgia after completion of proceedings.

Article 21. Content of the request and supplemented materials

1. The request of the International Court for arrest and transfer of the person shall include:
 - a) Data needed for identification of the person, as well as the instruction about his/her expected location;
 - b) Copy of the arrest warrant;
 - c) Basis for arrest.
2. The request for arrest and transfer of person convicted by the International Court shall additionally include:
 - a) Copy of verdict (judgment) of guilt of the International Court against person;
 - b) Certificate about already served and remained sentence, if upon the verdict of guilt the person had been sentenced to deprivation of liberty
3. The request should be supplemented by information about essential circumstances of the case, which is enough for evaluation of actual circumstances.

Article 22. Request for search and detention. Protection of evidence

1. Request for search and detention shall include:
 - a) accurate data about a person to whom the request is related, as well as indication about the expected precise location of the person;
 - b) short description of the case, as well indication of time and place of the commitment of an act;
 - c) instruction according to which there is available an order or judgment of detention being in legal force;
 - d) indication, that in case of arrest of the person the request for transfer will be submitted additionally.
2. If the Competent Body accepts the request, it shall address the General procurator of Georgia who in accordance with Georgian legislation shall ensure undertaking of measures for search and detention of person.
3. While arresting the person, objects that can be used as evidence in International Court proceedings shall be withdrawn and kept in accordance with the rules established by Georgian Legislation.
4. The Competent Body shall be notified about arrest of person and obtaining of evidence. Then the Competent Body shall inform International Court thereof and ask it about immediate sending of request for transfer.

Article 23. Detention of a person with the aim of Transfer

1. General Prosecutor of Georgia upon the request of the Competent Body and within 48 hours from the detention of a person shall appeal to the Panel of Criminal Cases of the Tbilisi City Court about issuing arrest warrant for the purpose of transferring the person to the International Court. The Court within next 24 hours shall decide on issuing arrest warrant. If the Court within this period does not make decision the detained person shall be released (23.06.2005 No. 1737)
2. The arrest warrant shall include:
 - a) information about accused person and act, for committing of which the person is accused.
 - b) indication, that the International Court requests the transfer of the person;
 - c) indication, that the person has the right for appeal and defense;
3. If arrest of a person, being under criminal prosecution is prohibited by the Code of Criminal Procedure of Georgia, the Competent Body after consulting with International Court is authorized to address the General prosecutor of Georgia to use instead of arrest other preventive measures envisaged by legislation with respect to the mentioned person.
4. During detention the identity between arrested person and the person indicated in request of the International Court shall be established. The arrested person shall be explained about the basis of his transfer to the International Court and on the simplified procedure of transfer. The arrested person shall be interrogated about personal data and shall be explained on his/her right to defense.
5. The person to be transferred has the right within the period of 5 days from the date of receiving the copy of the arrest warrant to appeal against this warrant in the Chamber of Criminal Law Matters of the Appellate Court (23.06.2005 No.1737).

Article 24. Detention with the aim of transfer

1. Detention with the aim of transfer lasts during the whole period of transfer process.
2. Under well-reasoned basis person, being under criminal prosecution has the right to submit motion in the Chamber of Criminal Law Matters of the Supreme Court of Georgia any time with request of temporary release from detention. Before taking decision on this issue the Competent Body immediately notifies the International Court thereof.
3. If the person to be transferred upon request of International Court is in preliminary detention or serves the sentence in place of deprivation of liberty, neither his release nor his departure from Georgia is permissible without consent of the Competent Body. Besides, the consent of Competent Body is necessary for relieving of all kind of detention conditions of this person, also, for controlling his visitors and correspondence.

Article 25. Abolishment of detention

1. On the basis of Article 92 of the Statute the detention of the imprisoned person shall be abolished if the request of International Court for transfer, with the supplemented materials, is not submitted to the Competent Body within 60 days from the date of arrest of the person.
2. If the person, being under criminal prosecution is imprisoned, counting of the period envisaged by the first paragraph of present Article starts from the moment when the person was detained for the purpose of transfer.
3. If the person had been released in accordance with the first paragraph of present Article, it shall not prejudice his/her further arrest and transfer to the International Court, in case the request for transfer and supplemented documents are send later on by the Court.
4. For the release of arrested person the provisions envisaged by the Code of Criminal Procedure of Georgia shall be applicable if they do not contradict to the requirements of the Statute.

Article 26. Rights of the person to be transferred

1. The request and supplemented materials for transfer shall be submitted to the person, being under criminal prosecution and his/her defender in language known to them.
2. The Competent Body explains to the person, being under criminal prosecution the grounds for transfer, the simplified procedure and his/her right:
 - a) to appeal against the Jurisdiction of International Court with respect to committed act;
 - b) to invite a desired defender for defending his interests or if he/she has no defender, to request the Competent Body to select or appoint defender in treasury manner in accordance with legislation.
3. The person, being under prosecution shall be interrogated about his personal data and explained on the grounds for his/her transfer. The person has the right to give contra-arguments of his/her arrest and transfer. Defender has the right to participate in the process of undertaking of above-mentioned actions.

Article 27. Permit for the transfer of person

1. Decision on transfer of a person, being under criminal prosecution, as well as the decision on transfer of the material evidence and items having the property value obtained or kept in a duly manner is taken by the Competent Body.
2. If the person, being under criminal prosecution or the Competent Body appeals against the jurisdiction of the International Court, the transfer shall be suspended until the International Court decides thereof.

3. If the third person or victim, residing in Georgia, requests the protection of property rights with respect to the obtained material and item of the property value and which can be used as an evidence, then this material or the item of the property value shall be transferred to the International Court in terms if the Court will return mentioned material or item of the property value free of charge after the completion of proceedings.

Article 28. Execution of transfer

1. Execution of transfer is undertaken immediately. For this purpose, the Competent Body shall make decision with the agreement with International Court.
2. The Competent Body is authorized to suspend the transfer of the person with the consent of International Court, if the person is under criminal prosecution or arrested for other act committed in Georgia.

Article 29. Temporary transfer of a person

In cases stipulated by the 2nd paragraph of Article 28 and the 2nd paragraph of Article 27 the Competent Body has the right to decide on temporary transfer of person, being under criminal prosecution if after consulting with the International Court there had been established:

- a) the time-frame, during which the International Court requests the transfer of the person;
- b) that the person during the whole period of transfer shall be arrested;
- c) that the person shall be returned upon the request of the Competent Body after completion of the proceedings.

Article 30. Principles of Exclusivity

Prosecution, detention or conviction of the transferred person can be conducted by International Court for all acts, which are subject to jurisdiction of International Court.

Chapter VI Other forms of cooperation

Article 31. Main principle of cooperation

1. Cooperation with International Court shall be undertaken in matters envisaged by the Statute and the Article 32 of the present Law if based on the request and supplemented materials the act is subject to the jurisdiction of International Court.
2. If International Court considers appeal against its jurisdiction in accordance with the Articles 17 – 19 of the Statute, the Competent Body shall suspend the execution of the request until the Court decides thereof. In this case, preliminary measures can be undertaken by decision of the Competent Body.

Article 32. Forms of cooperation

In accordance with the present Chapter, cooperation with International Court shall include undertaking of any procedural measure stipulated by the Georgian Legislation and the Statute which shall promote investigation and prosecution of acts, subject to jurisdiction of International Court, as well as withdrawal of unlawfully obtained property. The mentioned procedural measures are as follows:

- a) identification of persons, establishing their whereabouts;
- b) obtaining of evidence, including obtaining of testimony of the witness, preparation and submission of evidence, necessary for International Court, including expert or specialist opinion.
- c) interrogation of person to whom the investigation is being conducted or who is being prosecuted by International Court;
- d) service of documents, including the court decision;
- e) temporary transfer of arrested person;
- f) establishment of location of places and objects;
- g) search, withdrawal and sequestration;
- h) submitting of materials and documents, including the court documents;
- i) protection of witnesses and victims, as well as protection of evidences;
- j) detection of money and items of the property value, sequestering of money and items of the property value, as well as withdrawal of means and items of crime and sequestration for the purpose of confiscation;
- k) promoting voluntary appearance of witnesses and experts before the Court;
- l) conducting of exhumation, inspection of places and objects, including detection and inspection of graves;
- m) any other kind of assistance which is not prohibited by the Georgian Legislation and which contributes to investigation and prosecution of crimes within the jurisdiction of International Court.

Article 33. Preliminary measures

1. Upon the request of the International Court the Competent Body has the right decide on undertaking of preliminary measures for the protection of endangered evidences and other legal virtues.
2. In case of emergency the Competent Body is authorized to decide on undertaking of preliminary measures immediately after receiving of the request, if there are well-reasoned grounds for it. These measures shall be terminated if International Court fails to submit corresponding request in time-frame established by the Competent Body.

Article 34. Application of Procedural form

The request of the International Court, as a rule is executed in the procedural form established by the Georgian Legislation. Upon the request of International Court, the procedural form established by the Court can be applied for the execution of request.

Article 35. Transfer of evidences to other state

1. The International Court is authorized to address the Competent Body to approve its request for transfer of those evidences to other state, which had been transferred to the Court by Georgia.
2. The Competent Body shall approve the request of the International Court in accordance with the rules stipulated by the present Chapter if the case is related to the act, subject to the jurisdiction of the International Court. Otherwise, the issue shall be solved in accordance with the Code of Criminal Procedure of Georgia and International Agreements of Georgia, concerning mutual legal assistance.

Article 36. Interrogation of a person

1. The person suspected in committing the crime within the jurisdiction of International Court, during interrogation has the right:
 - a) to be explained before interrogation that he/she is suspected in committing the crime within the jurisdiction of International Court;
 - b) to keep silence;
 - c) to invite a desired defender or if he/she has no defender, to request the Competent Body to select or appoint defender in a treasury manner.
 - d) to be interrogated with participation of the defender if he/she does not deny it voluntarily.
2. If the interrogation is being conducted in the language which the person does not speak or speaks improperly, an interpreter shall be appointed for him/her. Also, the necessary documents shall be submitted to this person in the language understandable for him/her.
3. The person has the right not to give testimony against him/her or against those relatives the list of whom is determined by the Code of Criminal Procedure of Georgia and by the „Rules of Procedure and Proof” of the International Court, or in accordance with the Article 72 of the Statute if he/she does not want to disclose information entrusted to him with respect to the state national security. If the person enjoys the mentioned right the Competent Body decides on inadmissibility of interrogation of the person.
4. Before interrogation, person shall be explained about the rights stipulated by the present Article

Article 37. Service of procedural documents

The International Court is authorized to serve its decisions or other procedural documents to the recipient in Georgia through diplomatic channels or by mail.

Article 38. Writ of Summons before the International Court

1. The writ of summons of the witness, expert or a specialist before the International Court shall be supplemented by “Rules of Procedure and Proof” of International Court and shall be handed to a person in the language known to him/her. The witness, expert or the specialist being appeared before the International Court shall be guaranteed that he/she will not be prosecuted, arrested or otherwise deprived from liberty by the International Court for those acts, which took place before his/her appearance before the International Court.

2. The summoned person is not obliged to appear before the International Court unless reimbursement of expenses for his/her displacement is provided by the International Court.
3. In case of submitting the request envisaged by present Article, the International Court shall submit relevant document to the Competent Body, according to which the reimbursement of expenses for free displacement of a witness, expert or specialist shall be provided by the International Court.

Article 39. Conducting investigation in the territory of Georgia

1. Upon the request of International Court the Competent Body has the right to permit the representative of International Court to conduct investigation in the territory of Georgia in accordance with the Statute.
2. The Competent Body shall notify the state body authorized to undertake measures for criminal prosecution about admission of representatives of International Court for conducting investigation in the territory of Georgia.

Article 40. A temporary transfer of the detained person

1. According to the Article 93 of the Statute the person being under arrest in Georgia can be temporarily transferred to the International Court for his/her identification, interrogation, comparison or undertaking other actions.
2. The arrested person shall be temporarily transferred to the International Court if the International Court provides reimbursement of expenses for displacement of transferred person, his/her detention and return as soon as the purpose of transfer is accomplished.

Article 41. Transfer of evidences

1. Objects withdrawn as evidence, items with the property value, documents, written material or/and other things which, according to the Statute and the Code of Criminal Procedure of Georgia, can be used as an evidence, shall be transferred to the International Court upon its request.
2. If the third person or victim, residing in Georgia, requests the protection of property rights with respect to the withdrawn item or other evidence, then it shall be transferred to the International Court in case if the Court will return mentioned item or other evidence free of charge after the completion of proceedings.
3. Transfer can be suspended if the objects or other evidence is necessary for conducting criminal proceedings in Georgia and if the International Court approves it after consulting with Competent Body.

Article 42. Confiscation of objects and items of property value

1. The objects and the item of the property value, withdrawn for protection of evidence can be transferred to the International Court upon its request, in terms of confiscation, transfer to special purpose funds or providing with compensation envisaged by the Article 79 of the Statute.
2. The objects and items of the property value stipulated by this Article are as follows:
 - a) weapon of commitment of a crime, objects of criminal act;
 - b) item, money and jewellery and profit or benefit obtained by criminal act,
 - c) gift or any other financial source which served or had been used for commitment of a crime or/and was handed over for commitment of a crime.
3. The object and the item of the property value should be withdrawn and arrested until it is transferred to the International Court or until the Competent Body notifies the International Court about rejection of transfer.
4. The object and the item having the property value shall not be transferred to International Court, if:
 - a) the victim lives in Georgia and the object and item having the property value must be returned to him/her;
 - b) the third person has a legal right on this object or the item having the property value;
 - c) the person who has not participated in commitment of crime can prove that his/her property right on the object and on the item of the property value has been acquired honestly in Georgia or in other country and his/her the residence place or the place of location is in Georgia;
 - d) the object and the item having the property value is necessary for the criminal proceedings being conducted in Georgia or is subject to confiscation in the territory of Georgia.
5. If the person enjoys the right indicated in the paragraph 4 of the present Article, than transfer of the object and the item having the property value to the International Court is suspended until the legal state of the object to be transferred is clarified.

CHAPTER VII

APPEAL

Article 43. Appeal to the court

1. Decision taken by the Competent Body regarding the request of the International Court can be appealed before the Panel of Criminal Cases of the Tbilisi Appellate Court by person, to whom the decision refers or if he/she has legal grounds for alteration or abolishment of the decision after the completion of the procedure of consideration of the request (23.06.2005 No.1737).

2. If the person authorized for appeal, appeals against the issue which, in accordance with the Statute can be assessed only by the International Court, the Competent Body shall send appeal to the International Court if it has not already decided thereof.
3. The appeal against completion of the procedure of consideration of the request can be submitted within 10 days from the date of completion of request consideration procedure.
4. Panel of Criminal Cases of the Tbilisi Appellate Court makes decision regarding the appeal within the period of 15 days from the submission of the appeal. (23.06.2005 No.1737).

Article 44. Suspension of execution of the request of International Court

1. Appeal results suspension of execution of International Court request.
2. In case of emergency stipulated by the Statute, the Competent Body is entitled to address the Supreme Court of Georgia with request for annulment of suspension of execution.
3. If the appeal is not satisfied, execution of request of the International Court shall be renewed.

Chapter VIII

Execution of decisions of the International Court

Article 45. Terms of execution of International Court decisions

1. Upon the request of the International Court Georgia can enforce the decision of the International Court which has entered in legal force if the convicted person is a citizen of Georgia or/and permanently lives in the territory of Georgia or/and has the property in the territory of Georgia.
2. Monetary sanction imposed by the International Court as a form of punishment can also be enforced in Georgia, if the sentenced person permanently resides abroad but has a property in Georgia.
3. The decision of International Court shall be enforced in accordance with the rules established by the Law of Georgia "On imprisonment", Law of Georgia "On the enforcement of Judgments" and Law of Georgia "On non-Custodial punishments and probation".

Article 46. Enforcement of Custodial punishments

1. The decision of the International Court on the custodial punishment shall be enforced in the territory of Georgia after the Competent Body decides thereof.

2. The Competent Body, with the consent of state bodies authorized for enforcement of custodial punishments decides the International Court request for the enforcement of custodial punishment in Georgia.

3. Upon the request of the International Court the Competent Body transmits to the Court information regarding enforcement of punishment of the person convicted by the International Court. The International Court is entitled to send its representative to Georgia any time to inspect the conditions of enforcement of the sentence, to meet and talk with the convicted. The relation between the International Court and the convicted person is confidential.

4. If the convicted person brings the motion about conditional release, pardon award, appeal, or about initiating criminal proceedings on the basis of newly discovered and newly revealed circumstances the Competent Body shall transmit such motions together with other necessary documents to the International Court.

5. Other issues related to enforcement of the sentence shall be solved in accordance with the Georgian Legislation.

Article 47. Enforcement of decision about confiscation of objects or items having the property value

For the enforcement of the International Court decision on confiscation of object or the item having the property value rules established by the present Law and the Code of Criminal Procedure of Georgia shall be applied, if in accordance with the Statute the International Court has decided on confiscation of the object or the item having the property value and requests Georgia to undertake measures related the enforcement.

Article 48. Enforcement expenses

The transportation expenses and expenses envisaged by the paragraph 4 of Article 103 and the Article 100 of the Statute related to the enforcement shall be compensated by the International Court. The Georgian party shall compensate other expenses related to the enforcement if the enforcement is being conducted in Georgia.

Chapter IX Transient and final provisions

Article 49. Measures to be carried out for implementation of this Law

1. Within the period of 30 days from the date of entry into force of this Law the Ministry of Justice of Georgia shall undertake organizational and legal measures necessary for cooperation with the International Court.

2. The Ministry of Finances of Georgia shall envisage in the State Budget of 2004 the expenses necessary for realization by the Ministry of Justice of Georgia authorization stated by this Law and for cooperation of Georgia with International Court.

Article 50. Entry into force

1. This Law, except the Article 49, shall enter in force from the date of entry in force of the Statute for Georgia.
2. The Article 49 of this Law shall enter into force from the moment of publication.

President of Georgia

Eduard SHEVARDNADZE

Tbilisi,
2003, 14 August
No. 2972 - RS

Criminal Code of Georgia

General Part

Part First Criminal Law

Chapter I Georgian Criminal Law Legislation

Article 6. Transfer and extradition of a criminal (14.08.No.2980)

1. A citizen of Georgia, as well the stateless person permanently residing in Georgia can not be extradited to other state for serving the sentence unless otherwise determined by the International Treaty of Georgia. Transfer of a citizen of Georgia, as well of a stateless person living permanently in Georgia to International Criminal Court is realized according to the Statute of International Criminal Court (the Rome Statute) and in cases stipulated by the Georgian Law "On Cooperation of Georgia with the International Criminal Court" and according to the established procedure (14.08.2003 No.2980).
2. A citizen of a foreign country, as well as a stateless person who is on the territory of Georgia, and has committed a crime can be extradited to other State or to the International Criminal Court for criminal prosecution or for serving a sentence in compliance with the International Treaty of Georgia (14.08.2003. No.2980).
3. It shall be inadmissible to extradite the person under asylum who has committed a crime and who is being persecuted for political creed or the person who has committed the action not regarded as crime under the legislation of Georgia or for this crime capital punishment is prescribed in the state seeking extradition. The question of criminal liability of such persons shall be settled in a manner and to the extent permitted by the international law.

Article 332. Abuse of official power (25.07.2006 No.3530)

1. Abuse of official power of an official or the person equaled thereto contrary to public interests in order to gain benefit or privilege for oneself or others that has substantially prejudiced the rights of a natural or legal person, legal public or state interests, -
shall be punishable by fine or by imprisonment for up to three years in length, by deprivation of the right to hold office or engage in a particular activity for the term not in excess of three years.
2. Abuse of official power by the government political official, -

shall be punishable by fine or by imprisonment from three to five years in length, by deprivation of the right to hold office or engage in a particular activity for the term not in excess of three years.

3. The action stipulated by paragraph 1 and 2 of this Article, committed:

- a) repeatedly;
- b) by using violence or arms;
- c) by degrading the victim,

shall be punishable by imprisonment from five to eight years in length, by deprivation of the right to hold office or engage in a particular activity for the term not in excess of three years..

Note: the malfeasance crimes stipulated in this Chapter also involve the crimes committed by the representatives of the International Criminal Court and by the officials issuing administrative acts under the General Administrative Code of Georgia or by the official of a body discharging public powers.

Article 381. Non-execution or Obstructing the Execution of Sentence or Any Other Court Decision (22.06.2007 No.5035)

1. Non-execution or obstructing the execution of a valid sentence or any other court decision, -

shall be punishable by fine or by socially useful labour ranging from one hundred and eighty to two hundred and forty hours in length or by imprisonment for up to a two-year term.

2. The same action committed by any representative of public authority, officer of the state, local self-administration body, -

shall be punishable by fine or by socially useful Labour ranging from two hundred and forty to three hundred and sixty hours in length or by imprisonment from two to four years in length, by deprivation of the right to hold office or engage in a particular activity for the term not in excess of three years.

Note: The crime against judicial authority stipulated in this section also includes the crime against the International Criminal Court.

PART FOURTEENTH

Crime against the Mankind

CHAPTER XLVII

Crime against the Peace, Security and International Humanitarian Law

Article 404. Preparation and waging of an aggressive war

1. Planning or preparing of an aggressive war,
 - shall be punishable by deprivation of liberty for the period from seven to fifteen years.
2. Unleashing or waging of the aggressive war, -
 - shall be punishable by deprivation of liberty for the period from fifteen to twenty years or by life imprisonment. (28.04.2006. No.2937)

Article 405. Calling for unleashing an aggressive war

1. Calling the country for unleashing an aggressive war,

is punishable by fine or deprivation of liberty for the period from two to five years, deprivation of right to hold of post or engage in a particular activity for the term not in excess of three years.

Article 406. Production, purchase or sale of the weapon of mass destruction (28.04.2006. No. 2937)

Production, purchase or sale of chemical, biological or other weapons of mass destruction prohibited under the International Agreement of Georgian, -

- shall be punishable by deprivation of liberty for the period from ten to fifteen years.

Article 407. Genocide (28.04.2006. No 2937)

Genocide, i.e. the action committed in order to realize a plan of complete or partial killing of any national, ethnic, racial, religious or any other group, which is expressed in killing the members of such group, serious health damages, purposely creating hard living conditions, reduction of childbearing by force or transfer of a baby by force from one ethnic group to another, -

shall be punishable by deprivation of liberty for the period from twelve to twenty years or by life imprisonment.

Article 408. Crime against humanity (28.04.2006.No. 2937)

Crimes against humanity, i.e any action committed within the limits of large-scale and systematic attack on the civilians or the persons expressed in murders, in mass killing of people, heavy damage of health, deportation, illegal deprivation of liberty, rape, torture, holding in sexual subservience, compulsion into prostitution, forced pregnancy, violent sterilization, persecution of a group of people on the basis of political, racial, national, ethnic, cultural, religious, sexual or any other affiliation, through apartheid and other inhuman action, which inflict serious damage to the physical or/and mental condition of a human being, -

- shall be punishable by deprivation of liberty for the period from twelve to twenty years or by life imprisonment .

Article 409. Ecocide (28.04.2006. No. 2937)

1. Ecocide, i.e. the contamination of atmosphere, land, water resources, mass destruction of flora and fauna, or/and other actions which could have caused ecological disaster, - shall be punishable by deprivation of liberty for the period from twelve to twenty years.
2. Same actions committed during the armed conflicts, -
 - shall be punishable by deprivation of liberty for the period from fourteen to twenty years or by life imprisonment.

Article 410. Participation of mercenary in armed conflict or war hostilities (28.04.2006.No.2937)

Collecting, training, financing or any other material assistance of mercenary, the use of such person in an armed conflict or hostilities - shall be punishable by imprisonment extending from five to seven years in length.

2. The same action perpetrated by using one's official position or against a minor - shall be punishable by imprisonment extending from nine to thirteen years in length

Participation of a mercenary in an armed conflict or hostilities, - shall be punishable by deprivation of liberty for period from four to six years.

NOTE: Mercenary is the person who is not a citizen of the state involved in an armed conflict or hostilities and acts for material compensation, does not permanently reside on the territory of this state, as well as the one who is not sent to carry out the official duty.

Article 411. Deliberate violation of the norms of the International humanitarian law during the armed conflict

1. Deliberate violation of the norms of the International humanitarian law during interstate or internal armed conflict, in particular:
 - a) Attack on civilian population or civilians;
 - b) Indiscriminate attack on civilian population or civil objects when it is known that this will cause casualties in civilian population or will inflict damages to civil objects;
 - c) Attack on buildings or installation comprising the increased danger, when it is known this will cause casualties among the civilian population or inflict damages to civil objects;
 - d) Attack on unprotected area or demilitarized zones;
 - e) Attack on the person when it is known that this person has discontinued to participate in hostilities;
 - f) Undue usage of the flag for temporary ceasing the fire, State flag, opposite party, as well the UN, Red Cross Crescent or /and other protective signs, form or signal recognized by International Humanitarian Law which caused people's death or their heavy physical damage; (14.08.2003 No.2980).

- g) Transfer of civilian population of the occupant country to the occupied territory or deportation or any illegal expulsion within or outside of this territory, of civilian population or civil persons of occupied country;
 - h) The groundless hindrance to the repatriation of prisoners of war or the civil persons;
 - i) Apartheid or any other inhumane action based on racial discrimination that is offensive to human dignity;
 - j) Attack on property of an opposite party, including the historical monument, sample of arts or cult place, as a part of cultural heritage which caused its destruction or capture and which should not be conditioned by military necessity, -
- shall be punishable by deprivation of liberty for the period from ten to fifteen years (14.08.2003 No.2980)/
2. Deliberate violation of International humanitarian Law during international and internal armed conflicts, directed against persons not participating in war hostilities or not having means of defense, as well as wounded, ill, medical and religious personnel, sanitary units, sanitary vehicle, war prisoners, civilians or the foregoing violation, within the occupied territory or the zone of hostilities, directed against the civilian population, the persecuted, apartheid, within the zone of the hostilities, or other persons enjoying protection amid hostilities, namely:
- a) premeditated murder;
 - b) torture or any other inhumane treatment, including a medical experiment;
 - c) deliberately inflicting great suffering or serious trauma that poses a threat to a person's physical or mental condition;
 - d) coercion of a citizen of the opposite side, war prisoner or any other person enjoying protection to serve in the enemy's armed forces or to take part in hostilities against his country regardless whether they served the fighting party before starting the war;
 - e) depriving a war prisoner; a citizen of the opposite side; or any other person enjoying protection of the right to a fair trial; (14.08.2003 No.2980).
 - f) deportation or any other illegal expulsion or arrest of a person enjoying protection;
 - g) hostage-taking;
 - h) Arbitrary and large scale destruction or misappropriation of property not caused by necessity of war , -

shall be punishable by deprivation of liberty for the period from fifteen to twenty years or life imprisonment.

Article 412. Violation of the norms of International Humanitarian Law during interstate or internal armed conflicts by creating danger for health or by mutilation

Carrying out a medicinal procedure towards the person enjoying protection of the government of the hostile side or the one otherwise deprived of freedom, which is not required by the person's health conditions and which does not correspond to the universally recognized medical norms regardless of such person's consent, in particular:

- a) an action causing mutilation;
 - b) conducting a medicinal or scientific experiment;
 - c) removal of the organ of a human, part of an organ or the tissue for carrying out a transplantation operation, -
- shall be punishable by deprivation of liberty for the period from eight to twelve years.

Article 413. Violations of other norms of International Humanitarian Law

An action which does not comprise the signs of crime envisaged by Article 411 or 412, in particular:

- a) marauding, i.e. seizing of the object of a killed or wounded person during the hostilities, as well as the property of civilians abandoned in the zone of hostilities; robbery of a populated point or other territorial unit (14.08.2003 No.2980).
 - b) Using of citizens for protection of army or objects from military operations;
 - c) Application of arms, war material, or the weapon of mass destruction in military operation or armed conflict, as well as using methods of war waging which cause superfluous damage, unjustified torture or violation of International norms of armed conflicts; that are banned under international treaties (14. 08. No.2980).
 - d) Other crimes of the war, which are envisaged by the International Treaties of Georgia and are not punishable by the Articles 411 and 412 of this Code, - (05.05.2000).
- shall be punishable by deprivation of liberty for the period from ten to twenty years.

NOTE the head of military forces or their subdivisions participating in the armed conflict or/and other head bears responsibility for the crime envisaged by this part in accordance with this Chapter even if the crime is committed by the armed forces under its control or subordination and was caused by inactivity of the commander or/and other respective authority (14.08.2003 No.2980).

Criminal Procedure Code of Georgia

General Part

PART FIRST Main Provisions

CHAPTER I

Criminal Procedure Code

Article 9. Equality before the Law and the Court

1. Everyone is equal before the Law and the Court regardless of race, nationality, language, sex, social origin, property and official status, place of residence, attitude towards religion, belief, as well as of other circumstances.
2. Special rules for bringing to justice, arresting and applying other measures of legal coercion towards the member of the Parliament, member of the Constitutional Court of Georgia, member of the Supreme Court of Georgia and the judge of other general court, Chairman of the Georgian Chamber of Control, Public defender of Georgia, a person enjoying the diplomatic immunity, as well that representative of International Criminal Court who while realizing his authority enjoys the immunity in accordance with the Statute of Criminal International Court, - is determined by the Georgian Constitution, the International Treaties and agreements, this Code and other Laws of Georgia . (13.02.2004 No.3287)
3. The application of privileges and immunities by the persons indicated in paragraph 2 in order to avoid criminal liability is inadmissible.

CHAPTER V

Meaning of some notions used in this Code

Article 44. Definition of terms used in this Code

46. For the purposes of International legal assistance:

Transfer - Transfer of the person by the State to the International Criminal Court in accordance with the Statute of International Criminal Court;

Extradition – Transfer of a person by one state to the other under the provisions of an international agreement or national legislation.

CHAPTER XXXII

International Cooperation in the sphere of Criminal Law

3. Cooperation of Georgia with the International Criminal Court is regulated by Law of Georgia on “Cooperation of Georgia with the International Criminal Court” (14.08.2003 No.2976).

Article 252. Sending materials about the crime committed on the territory of Georgia by a citizen of foreign country or by stateless person

If a foreign citizen or a stateless person who committed a crime on the territory of Georgia has left the territory of Georgia, all the materials of investigated case should be transferred to the Procurator General of Georgia or to an authorized procurator or/and in accordance with the Georgian Legislation to the body authorized for cooperation with International Criminal Court which shall forward the indicated materials to respective institution of foreign state or/ to the International Criminal Court for prolongation of criminal prosecution, or shall address with a request for extraditing the accused to the Georgian authorities.

Article 621. Results of Conviction

In respect of a person brought to Georgia for serving the sentence from a foreign state under a judgment of a foreign state court an/or the International Criminal Court shall apply same legal consequences as in respect of a person convicted by a court of Georgia. (14. 08. 2003 No. 2976).