

EUROPEAN COMMISSION CONFLICT PREVENTION AND CRISIS MANAGEMENT UNIT

**RAPID REACTION
MECHANISM:**

**POLICY SUPPORT AND
URGENT CAPACITY
BUILDING FOR THE
MINISTRY OF JUSTICE OF
GEORGIA**

FINAL REPORT



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5 May 2005

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The Law fixes all the rights and obligations, and consequently is as such the Keeper of Freedom. Therefore there is a difference between the power of the Law and the power of the People: things must be lay out so that "the power stops the power"

Charles de Montesquieu

The views expressed in this publication do not necessarily reflect the views of the European Commission

INTRODUCTION



The political changes in Georgia have set in motion substantial reforms in all governmental institutions as the new government has committed itself to a fundamental reform of the public sector. All Ministries are in urgent need to develop more efficient and transparent management systems, including for policy making, organisational and financial management. In addition, as part of the Government's priority to combat corruption and modernise public administration, there is a need for adapted financial, budgetary as well as human resources policies, concepts and practices.

The Ministry of Justice is de jure the legal advisor of the government and a key administration for strengthening the rule of law. In order to be able to better manage and implement its tasks, the Ministry had requested urgent support from the European Commission under its Rapid Reaction Mechanism (RRM) in 2004. This assistance was also provided in perspective of ongoing and future assistance programmes to the Ministry by the European Commission and other donors.

Five international experts and five national experts were deployed in the Ministry of Justice for assignments of 6 months. The Mission started with the arrival of the team leader on the 19th of September 2004. The other experts have been progressively deployed between October 2004 and January 2005, the Mission ended in June 2005 after the departure of the last appointed expert.

After a preliminary and complete assessment of the structure and functioning of the Ministry of Justice, the first assessment report was discussed with the Ministry in December 2004. Taking into account the comments and remarks on this report, the experts drafted the Mid-term Report with first recommendations for restructuring the Ministry of Justice.

This Final Report of May 2005 provides the synthesis of the experts' findings in relation to their different fields of analysis and the recommendations discussed with all the stakeholders for enhancing the efficiency and capacity of this Ministry.



1. THE INSTITUTIONAL STRUCTURE OF THE MINISTRY OF JUSTICE

THE CURRENT ROLE AND PLACE OF THE MINISTRY OF JUSTICE IN THE PUBLIC INSTITUTIONS IN GEORGIA

Even after its amendments in February 2004, the Georgian Constitution does not give to the Ministry of Justice and the Minister of Justice a constitutional existence, neither in Chapter IV relating to the Government of Georgia nor in Chapter V concerning the Judiciary.

While the Ministry does not play any role in the Georgian Judiciary (administration of courts) the Ministry is responsible for the execution of the Justice decisions, both at the criminal level through the Penitentiary Administration and at the civil level through the Department for Enforcement of Judgments.

The Judicial System and the Justice Administration in Georgia are established according to the so-called “Northern European Model” in which there is an independent intermediary organisation between the Judiciary and the Government or Parliament itself (named: “the Council of Justice”). This fulfils not only the functions of a safeguard of judicial independence, but is also granted powers in the area of administration, court management and budgeting of the courts.

However, the Georgian example differs from the Northern European Model insofar as the Council of Justice is not regulated by the Constitution, but is established by the Code on Courts. Such a legal definition can be questioned as it touches on a power that has a direct linkage with the institutional foundation of the State.

According to European standards, the Council of Justice assumes a role which belongs to the constitutional distribution of the State powers and should be regulated by the supreme law and not at the legislative level.

In absence of constitutional or organic law definition on the role of the Ministry of Justice within the framework of the Justice System, a governmental regulation defines its rules. According to this legal text, the competencies of the Ministry can be classified in four main operational scopes of activities:

- Legislation – Legal Advisor to the Government
- International Legal Affairs
- State Registration
- Execution of Court Decisions: Penitentiary Administration – Enforcement of Judgments.



Legislation – Legal Advisor to the Government

This function as Legal Advisor is certainly the most fundamental role of the Ministry of Justice. According to the above-mentioned regulation, it has to:

- (1) co-ordinate legal reforms and define legal terminology;
- (2) be responsible of the law-making and examination of draft normative acts;
- (3) systematize normative acts and their state registration;
- (4) publish the book of Georgian laws and the Official Gazette;
- (5) request termination or cancellation of enacted normative acts according to the legislation and procedure.

Therefore the Ministry of Justice appears as the legal advisor of the Government and should normally be completely involved in the legislative preparation work. However, as mentioned above, this task is granted to the Ministry of Justice through a regulation which is of a lower rule rank as a law. It can be modified in accordance with the policy of the Government in power. Moreover, the Ministry of Justice is currently not in a position to fulfil its mission in an effective and efficient manner that would ensure the completion of the required work for an adequate and adapted harmonization of the governmental legislative and normative activity.

Therefore the Ministry of Justice provides only legal expertise and is not consulted on the economic or social impact of a draft law/sub-law. Besides, it has no real power to control and require that a law or a regulation initiated and drafted by another Ministry be submitted to the Ministry of Justice for review and the formulation of recommendations.

For instance, the draft law on the creation of a “High School of Justice” has been introduced before the Parliament on the 29th of October 2004 without consultations with the Ministry of Justice. Consequently, the establishment of the Ministry of Justice legal function in the law foundation should be pursued as a matter of priority in order to make sure that the Government will count on an essential, permanent and serious legal advising. The Ministry of Justice should be able to issue guidelines for the entire legal service, in order to guarantee consistency and co-ordination in the legal policies of all ministries and agencies. It should also be in a position to approach various government bodies on its own initiative in order to maintain and strengthen the rule of law, and to handle requests for legal, social, economic opinions on the actions and operations of government ministries.

International Legal Affairs

The Ministry of Justice has a traditional role in this matter: International and bilateral judicial co-operation; Exequatur procedure; Representation of the Georgian State before the International Courts; Implementation of the ratified international conventions in the national legislation.



State Registration

The two main units of this function are:

National Agency for Public Registry (NAPR):

The Georgian Government decided in September 2004 to establish a more customer-oriented cadastre and registration system in order to guarantee transparent and corruption-free service to interested parties through secure electronic registration systems.

In order to achieve this objective a number of institutional changes were implemented. The State Department of Land Management of Georgia was liquidated and the National Agency for Public Registry was established as a legal person of public law under the Ministry of Justice.

Within the Agency, an Information Management Centre has been established to provide integration of the existing country-wide geo-information into the unified database. It is further planned that the registration database of the country containing graphical and textual information will be regularly collected and systematically updated in the Information Management Centre. The activities of the Centre will normally also include: digitalisation and archiving of information, preparation of different software for geo-information systems and publication of thematic maps.

Bureaus of Technical Inventory (BTIs) are liquidated and the information is handled under the supervision of the Agency. With regard to the liquidation of the Bureaus of Technical Information, the Agency is working on the transfer of the existing information to the Public Registry.

In addition, the NAPR is authorized to conduct registration of the mortgages on moveable properties. Previously, the references about mortgages were issued by the Chamber of Notaries. In future, this information from notaries will be transferred to the NAPR and further registration of the mortgages will be integrated into the unique registration system of the country. Cadastral survey will be conducted by the licensed surveyors.

At legislative level a draft law on “Real Estate Ownership Right Registration” was prepared and submitted to the government for review. A law on “Registration of Movable Property Rights” is being drafted.

This shows the commitment of the Georgian authorities to secure the ownership rights with an efficient protection of title deeds on account of a modern and performing cadastre and registration system. The policy adopted in this field by the government is an important step forward in the transition of Georgia into a market economy and can facilitate the investments, including the use of modern management methodologies.

Nevertheless these positive trends face two main challenges:

1. A total lack of Information Technology equipment which makes implementation of an effective electronic registration system impossible;
2. A lack of qualified staff which prevents from an efficient and accurate treatment of the information and affects the capacity of delivery of the new Agency.

Civil Registration



Georgia went through a period of political and economic difficulties in the last years, which were characterized by a very high level of corruption. According to official public statements, one of the most corrupt public services was the registration of citizens, particularly in the field of the ID Cards and Passports issuance. As a result of bad management of these data it is today impossible for the administration to define exact numbers of the population, to compile voter-lists, lists of pensioners, recipients of social programs and to establish a unified database of taxpayers.

Mismanagement has affected this field in all aspects and the new administration had to deal with a multifaceted problem: non-systematized and outdated legislation and procedures, lack of qualified human resources, outdated infrastructure and equipment in the offices of citizens' registration. Moreover, the process of issuing the ID cards and passports had been excessively and purposefully complicated. In order to receive an ID card or a marriage certificate, passport or other document confirming place of residence, a citizen had to visit four different state offices.

Currently the issues regarding the civil registry, ID and passport issuance are regulated by the following laws:

1. Law on Registration and Identification of Citizens of Georgia and Foreigners Living in Georgia (1996, June 27);
2. Law on Legal Status of Aliens (1993, June 3);
3. Law on Registration of Civil Acts (1998, October 15);
4. Instructions on Issuing Passport of the Republic of Georgia (1994, September 30);

According to the Law on Registration of Civil Acts and its amendments of June 24, 2004, the function of registration of civil acts was transferred from the local self-government organs to the State Territorial Organ.

According to the Law on registration of civil acts, art. 3.A, the civil acts are defined by the following documents or certificates: birth, marriage, divorce, establishment of fatherhood, adoption of a child, change of name, surname, patronymic, change of citizenship, death. All these acts are required to be state-registered.

The issuance of passports and ID cards is regulated by the Law on Registration and Identification of Citizens of Georgia and Foreigners Living in Georgia and its amendments of 24 June 2004. Article 13 stipulates that: issuing, change and completion of ID cards and passports of persons living in Georgia is the function of the territorial organ of the State Register under the Ministry of Justice.

To face its new tasks, the Ministry of Justice has developed by December 2004 a strategy to establish a transparent, efficient, secure and trustworthy Civil Act Registry System (CARS). The analysis of and comments on this strategy will be the subject of a specific chapter below as 2 EC experts from the RRM team advised the Ministry on this matter.



Execution of Court Decisions: Penitentiary Administration – Enforcement of Judgement

In terms of budget and human resources, the penitentiary administration is by far the biggest department of the Ministry of Justice. Taking into account the specifics of this complex and troubled system, this report refrains from specific recommendations¹, and only includes it within the recommendations on the structural organisation of the Ministry of Justice and the training activities.

According to relevant legislation the enforcement of judgments requires two public bodies: the bailiffs and the executive police. The perception of the general public is that these two bodies are inefficient even though the official statistics released in 2004 by the Department for Enforcement of Judgements reveal a high rate of execution (71% of the cases sent to the Department for the Enforcement of Judgements).

In fact, the inefficiency of the execution systems directly relates to the citizen's rights to a fair trial and reparation in case damages have been identified and judged. If a court decision is not executed, a citizen who already has been a victim of a crime becomes victim for a second time because of the non-execution of the judicial sentence.

The current structure of the Ministry of Justice

The Ministry is composed of 19 Departments, 2 Agencies, 6 Public Legal Entities and 6 kinds of Territorial Organs. The structure of the Georgian Ministry of Justice is characterized by its highly vertical organisation which does not support sufficiently communication between departments and divisions under the supervision of the different Deputy Ministers. Moreover, the absence of any horizontality in the organisation prevents teamwork and the development of inter-sector or inter-service coordination and co-operation. This situation is worsened by the absence of any Internal Communication Service and IT Communication Policy and System.

The way the different departments and agencies are organised in their relation to each other does not stimulate sufficiently cooperation of units which should work together. For instance the Economic Department is directly attached to the Minister whereas the Human Resource Department is under the supervision of a Deputy Minister. As a result, the necessary linkage between these two key bodies in terms of managing the Ministry is very difficult to maintain.

In addition, the current structure appears to facilitate an overlap between different administrative units. For example in the penitentiary sector there is a specific Department for Penitentiary Administration Reform and Monitoring, although the General Inspection has to fulfil a general monitoring mission for all the departments and agencies of the Ministry. The roles and responsibilities do not appear to be designed in line with a general management plan.

¹ Detailed assessments and recommendations on the penitentiary have been provided by different agencies since 1999, starting with the Council of Europe assessment in the context of Georgia's Council of Europe membership and recently under EC funded assistance projects. In addition the Strategy of the reforms of the Criminal Legislation of Georgia, Tbilisi 2005, endorsed by Governmental Decree of 20 May 2005 has been developed in parallel to this assessment report in 2004/5, containing concrete policy aims on all related sectors, including the penal execution.



Such shortcomings are also reflected at the level of the regional organisation. Each Territorial Organ reports to the corresponding centralised Department or Agency without co-ordination with the other regional organs.

Under these conditions it is obviously a difficult challenge for a Minister to manage dynamically the institution, especially as he does not even have at his disposal a technical cabinet composed of advisors likely to drive the Ministry's activities in each sphere of competencies and to impose on the departments coherent execution of their functions according to an overall Ministry strategy.

The experts recommend to re-allocated some of the Ministry's functions to another ministerial umbrella. The presence inside the Ministry of Justice of the Department for Managing and Administating State Archives and the Information Bureau on the Property and Financial Condition Declarations of the Officials is disputable. The former relates more to historical and cultural research than to the administration of justice. The latter concerns the collection of financial and economic information on personal and family fortunes of officials, and is more linked with the tasks of an Audit Chamber or an independent Parliamentary Commission. Furthermore, these issues should fall under the principles of Personal Data Protection.

Of concern is the absence of a specialised structure inside the Ministry of Justice for crime prevention in the context of youth and child protection. Even though Georgia has signed the UN Convention on the Rights of the Child, according to a recent UNICEF study, there are children in detention, an important part of them even in the unacceptable environment of the pre-trial detention facilities in Tbilisi. The Ministry does not have any relevant structure which could deal with all these matters.

RECOMMENDATIONS FOR THE RESTRUCTURING OF THE MINISTRY OF JUSTICE

The Minister

Being entrusted with the governmental responsibility, it is fundamental that the Minister should be in a position where he or she is not personally involved in administration management and still maintains a complete overview on the activities of the Ministry. The Minister should have all means for developing and directing the policy for the Ministry.

To this end, the Minister would need some kind of a "filter" in order to collect systematically all information coming from the Directorates and Departments and to communicate ministerial directives to them. This role could be assumed by the so-called "Cabinet" which would be composed of technicians or specialists in each domain of activities (Penitentiary, law enforcement, legal affairs, IT, international relations, finances etc...). A Chef de Cabinet would lead such a body.

Moreover, the Ministry's policy and activities must be transparent and known by the staff of the Ministry and all the citizens of Georgia. To this end it is also recommended to create an Office of Internal and External Communications directly attached to the Minister's office. This Office should elaborate, develop and implement an external and internal communications strategy in order to make the missions and activities of the Ministry of Justice comprehensible and ensure that the Ministry is aware of expectations of the staff and citizens.



The Directorates

In order to facilitate the horizontality of relations inside the Ministry of Justice, it is recommended to divide it into large Directorates which would cover all activities which are a part of the same operative field. In this way, the co-ordination of the actions would be effective and allow the implementation of a coherent policy. The experts have suggested the establishment of three Directorates as follows:

- a) The **Directorate of General Administration**, which would develop and manage all the necessary logistical means for the support of the Ministry of Justice's activities: Human Resources, Budget, Information Technologies, Infrastructure and Equipment. Therefore this Unit would be in a position to implement the modernisation policy of the Ministry of Justice for a better Civil Service;
- b) The **Directorate of Law Enforcement**, which would put together all the activities related to the execution of court decisions, criminal as well as civil, including prevention as well as measures for the protection of youth;
- c) The **Directorate of Legal Affairs** which would gather all the legal activities of the Ministry of Justice, national as well as international. Endowed with such a legal instrument, the Ministry of Justice would be therefore in a position to strengthen its role as legal advisor to the Government and to assume the responsibility of the harmonization of Law-making in Georgia. Moreover it would be in a position to co-ordinate efficiently the different activities of the international organisation in the legal expertise field.

Currently the vertical organisation of the Ministry is managed by Deputy Ministers who have an ambivalent status insofar as they are civil servants but politically appointed by the President. In the proposed structure with a stronger horizontal focus the Directorates would only have an administrative role. That is why the experts consider that they should be led by General Directors of Central Administration protected by a non-confused status in order to ensure the permanence of the Civil Service.

A draft chart attached to this report summarizes the expert recommendations on the Ministry of Justice restructuring (ANNEX1). It can be compared to the chart drafted by the Deputy Ministers (ANNEX 2), which constitutes a very constructive proposal not incompatible with the above-mentioned suggestions.



The National Agencies

The National Agencies cannot be integrated in the Directorates because of their financial independence and their ability to recruit non civil servant staff. But due to the fact that they participate in the civil service of the Ministry of Justice, they have to maintain their dependence to the hierarchical authority of the Minister of Justice. This is why it is recommended to establish the status of the National Agencies at the level and under the direct supervision of the First Deputy Minister.

Taking into consideration that several activities in the Ministry of Justice are likely to produce extra budgetary resources, the experts suggest to keep or create the following National Agencies: the National Agency for Public Registry, the National Agency for Civil Registry, the Training Centre of Justice, the Expertise and Special Research Centre, the Editor of the Official Gazette.

The Regional Organisation

The rationalization of the internal organisation with a view of strengthening the capacity of the Ministry of Justice must also lead to the reengineering of the regional structure through the creation of a Regional Directorate in each regional administrative division of Georgia with a horizontal organisation similar to those of the central administration. Therefore the Ministry of Justice Regional Director should be the only corresponding person in charge for implementing the directives of the Ministry of Justice Central Civil Service.

This expert point of view has been criticised by the Deputy Ministers who consider that it is not necessary to accumulate all management powers on the regional level in the hands of one person. According to their opinion, the co-ordination of the regional activities within the framework of an efficient decentralization should be entrusted to a collective body composed of several regional directors being at the head of different regional directorates corresponding to the different Ministry of Justice regional activities.

Recommendations on special measures to be undertaken

As mentioned above, the presence of the “Department for Managing and Administrating State Archives” and the “Information Bureau on the Property and Financial Condition Declarations of Officials” inside the Ministry of Justice is disputable and the experts recommend extracting these two Departments from the Ministry of Justice.

Moreover, they deem that the Immigration Issues are not only a part of legal matters but are also dealing with the governmental policy on migration. Consequently they recommend positioning them at the level of the First Deputy Minister.

Lastly, the experts recommend the creation of the following two new Departments:

- a) *Vulnerables Protection Department* inside the Directorate of Law enforcement, mainly for allowing the Ministry of Justice to assume the State responsibilities relating to youth and crime prevention and child protection;
- b) *Legal Aid Department* in the Directorate of Legal Affairs: c) Until now it ap-



pears that Legal Aid was not a priority of the Georgian Government. Actually, the 2005 Ministry of Justice Budget dedicates to this issue (Budget line “Payment for the State Lawyers”) a sum of 64.000 GEL (26.238 €) which only represents 0,14% of the total amount of the Ministry of Justice Budget and even less than in 2004 when the Budget dedicated 70.000 GEL (28.840 €) for the same item. The last report on the “European Judicial Systems 2002” written by the European Commission for the Efficiency of Justice (CEPEJ) shows that Georgia did not report to this Commission statistical information relating to Legal Aid. Nevertheless, among the European countries which reported on this issue, the study reveals that Armenia is the smallest contributor with an amount of 19.000 €, just behind Moldova which dedicates 104.088 € for the same purpose. This means that Georgia was so far one of the European countries where the access to Justice is not a preferential question. Nevertheless things are changing in this sector. Recently (on the 17th of February 2005) an Order of the Ministry of Justice has established a “Public Lawyer’s Office” whose the purpose is to provide public (treasury) advocacy service to the socially vulnerable population. However the competencies of this office do not cover the entire legal aid domain insofar as they are limited to a total or partially free assistance for the criminal procedures and trials. Therefore the experts still recommend that a central unit should be implemented with territorial organs in the Regional Directorates for the development of an integrated system of legal aid open to all the judicial sectors.

2. HUMAN RESOURCE DEVELOPMENT AND MANAGEMENT AT THE MINISTRY OF JUSTICE

REVIEW OF SIGNIFICANT INITIAL FINDINGS

In the beginning of the assignment of the human resource experts in late 2004 the Ministry of Justice did not have a strong human resource development infrastructure, what was in place was a very well staffed and directed Human Resource Department that was very willing to learn and implement the introduction of necessary new documents and the adoption of new operational methodologies. This is in no way to demean in anyway the good work of the department which was affectively keeping detailed personnel records and had many good internal procedures in place. Unfortunately, these records and procedures looked at alone did not encompass the necessary human resource development infrastructure (documents and procedures) which is necessary for modernising the Ministry of Justice. In particular, the following were missing:

- Position Descriptions
- Performance Evaluation Reviews and Interviews
- New Staff Member Orientation Training
- Staff Professional Development Programme (PDP)
- Training of Trainers Programme (ToT)



- Ministry of Justice Internal Newsletter
- Departmental Performance Audits
- Counselling-Personal Related Staff Assistance
- Hiring and Promotion Policy based on Merit
- Enhanced Employment Records
- Coaching-Skills Related Staff Assistance
- Communication Enhancement
- Training Needs Analysis Surveys
- Standard Setting and Benchmarking
- Statistical Analysis of Various Aspects of the Ministry of Justice Staff

The above fifteen areas of consideration thereafter represented the areas where the human resources team concentrated its efforts to achieve necessary improvements. It should be noted that the human resource department during the assignment period did complete position descriptions. They did this by first completing the position descriptions of the department head and staff of their own department and once this was successfully done extending the project outward until all departments of the Ministry of Justice were completed. A review of these completed position descriptions indicated they are quite well conceived but are lacking certain recommended sections. It is therefore highly recommended that the content of these position descriptions would be carefully checked against the comprehensive content list which is printed in the Three Year Action Plan and was also reviewed in the presentation for the Minister and Deputy Ministers.

Very little else has been done to this point to implement any additional recommendations in the Three Year Action Plan with two small exceptions as follows:

1. The Penitentiary Department recently initiated a pre-employment two week initial orientation training programme for guards and those carrying fire arms. Only those who pass a final test are eligible to be hired.
2. The Training Centre of the Ministry of Justice offered a training course in February 2005 in management and supervisory skills.

It should be noted that the above course was not directed at the Ministry of Justice staff. It is mentioned because it will help the Training Centre to build-up some experience in offering the type of courses in soft skills which were recommended in the Three Year Action Plan. Additionally, they would have had to source lecturers with developed curriculum which might prove helpful for future offerings.

In summation, the reality is that of the fifteen recommendations made in the Three Year Action Plan only one recommended activity (position descriptions) has been partially completed which represents approximately 5% of what needs to be achieved.

THE TRAINING CENTRE OF THE MINISTRY OF JUSTICE

In-house training responsibility for Ministry of Justice staff is currently vested in the Training Centre of Justice of Georgia, which is housed in three rooms at the Ministry of Justice (2 training rooms and 1 office). This Training Centre existed even in soviet times although it now operates under a new name.



There is a separate Judicial Training Centre in existence which has no connection with the Ministry of Justice Training Centre.

The Ministry of Justice Training Centre receives no funding from the Ministry of Justice beyond the provision of office space heat and electricity, rather, it is funded by outside sources and has a separate legal personality. Some of its past and present donors include: OSCE, GTZ, World Bank, IRIS (funded by USAID).

It is quite obvious that the Training Centre has offered very few if any courses to the Ministry of Justice core staff (approximately 300). Rather, it had to concentrate on offering commercially driven courses. In other words, courses that can raise funds to keep the centre afloat, examples would be, courses delivered for advocates and notaries. This track record presents a significant risk to any future assistance project aiming at capacity building and staff training particularly in regard to achieving sustainability.

Without a comprehensive plan in place it can be assumed that courses designed for the Ministry of Justice core staff would exist while outside funds sponsored such training. However, after the end of the assistance the Training Centre would of necessity revert to offering commercially driven courses to raise funds. For this reason in the proposed Three Year Action Plan the human resources team not only made a recommendation regarding the use of part-time trainers drawn from the existing Ministry of Justice staff but urged interaction between the Ministry of Justice and its Training Centre as a precursor to the commencement of any Professional Development Programme (PDP). Detailed discussions should take place between the Ministry of Justice and the Director of their Training Centre to determine potential funding and organization of the future training effort for the core Ministry of Justice and also the penitentiary department staff.

RECONSTITUTED CIVIL SERVICE COUNCIL

The newly reconstituted Civil Service Council and its supporting Civil Service Commission /Bureau will soon draft a new Public Service Code. This code among other revisions will establish new structures for departments and divisions throughout the civil service. Additionally, the code will almost certainly establish new position grades and pay scales based on position descriptions. Attention will also be paid to standardizing certain human resource documents, such as; position descriptions, performance evaluations (reviews and interviews), personal development (improvement) programmes, hiring practices based on merit etc. The Council has requested input on these subjects from all fifteen ministries. It is therefore extremely important that the Ministry of Justice takes a very active role in making sure its recommendations are heard in the area of human resource development, particularly, since it has had the advantage of EU technical assistance in this area. It is an opportunity for the Ministry of Justice to become a major player in this revision. However, to do this the Ministry of Justice must become very advanced in the thinking concerning human resource issues. That makes the recommendations made in the Three Year Action Plan not only timely but critical.

The new Civil Service Council has indicated their desire to listen to all ministries and take their recommendations on board. To a large extent this represents a one time opportunity not to be missed. However, to take full advantage of this opportunity will take a carefully understanding of the issues that will be decided in the new code and additionally, considerable progress in accomplishing the activities and tasks recommended in the Three Year Action Plan.

BRIEF REVIEW OF THREE YEAR ACTION PLAN: RECOMMENDATIONS



Short-term, high priority recommendations were placed in year one, intermediate and long-term recommendations were placed in years two and three respectively. Obviously, some recommended activities of necessity had to be placed in year two or alternatively three because they would benefit from the build-on process. What would be appropriate here is a discussion as to whether all these recommendations are reasonably attainable within the time frames indicated. The experts felt that the answer is a resounding: yes. It is true that some activities will prove more work intensive than others. Two activities that fall in the highly work intensive category are the Professional Development Programme (PDP) and the Training of Trainer's Programme (TOT).

It is advantageous to review briefly the fifteen major recommendations made in the three year action plan. The following chart shows the recommended activities by years:



RECOMMENDATIONS (3 YEAR PLAN) HUMAN RESOURCE DEVELOPMENT

Short term recommendations Year I	Intermediate term recommendations Year II	Long term recommendations Year III
1. <i>Position Descriptions</i> developed for all MoJMinistry of Justice core staff	1. <i>Departmental Performance</i> audits conducted periodically with all departments at the MoJMinistry of Justice by the Human resource department	1. <i>Communication</i> improvement follow-up undertaken by department heads and human resource Department
2. <i>Performance Evaluation /appraisal reviews</i> instituted for all core MoJMinistry of Justice staff on an annual or semi-annual basis. Supervisors trained in how to conduct the performance evaluation/appraisal interviews.	2. <i>New training needs analysis survey</i> -it will now be time to complete a new survey and develop new curriculum for the continuing professional development programme.	2. <i>Counselling-personal related assistance</i> offered by department heads and also the Human resource department
3. <i>New Staff Member Orientation</i> conducted the Human Resource department.	3. <i>Hiring and Promotion Policy based on merit</i> suggested to include performance ratings of staff.	3. <i>Standard Setting and Benchmarking</i> –should be international ones based on best practice in EU, USA, etc.
4. <i>Professional Development Programme</i> including five (5) one day courses and two (2) half day courses scheduled at the MoJMinistry of Justice training centre for all core staff.	4. <i>Employment records</i> suggested additional documents that must be preserved in personal file.	4. <i>Statistical Analysis of the MoJMinistry of Justice staff</i> -continuation of the information gathering thru the use of personal data forms
5. <i>“Training- of-Trainers” programme initiated.</i> Minimum of ten (10) part-time lecturers at the MoJMinistry of Justice trained.	5. <i>Coaching-job related assistance</i> to improve skill improvement undertaken by department heads and Human Resource department	5. <i>Staff Professional Development Programme</i> continues with five (5) additional one full day courses.
6. Ministry of Justice Internal Newsletter published if possible on a monthly basis	6. <i>Staff Professional Development Programme</i> continuation with five (5) additional courses offered.	

The Professional Development Programme: (PDP)



Training courses were spread rather equally over the three years in the action plan with five full day courses included in each year. The Training Centre's large classroom will comfortably hold about 50 persons theatre style. This effectively means that it will take six training days for each of the five courses to be presented to the core Ministry of Justice staff, or a total of thirty days per year. Of course a larger venue outside the Ministry of Justice could also be used, if that is deemed desirable. This could cut back the number of teaching days but would have the disadvantage of possibly taking too many staff from the Ministry at any one time. Additionally, in the first year two ½ day courses were recommended, namely; Ethics and How to Operate a Performance Evaluation Staff Interview. The estimates by years follow:

YEAR 1

Five basic one full day courses	30 days
Ethics (1/2 day course)	6 days
Performance evaluation interviews (1/2 day- department heads only)	1 day
	<u>37 days</u>

YEAR II

Five basic one full day courses	<u>30 days</u>
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YEAR III

Five basic one full day courses	30 days
Substitute course 1 (for experienced computer users)	3 days
Substitute course 2 (for experienced computer users)	3 days
	<u>36 days</u>

In Regard to the Training of Trainer's Programme: (TOT)

The recommended number of trainers drawn from the existing staff of the Ministry of Justice is ten in number. This seems an achievable objective. The manner in which the trainers will be rewarded for this added responsibility by the Ministry of Justice is carefully outlined in the Three Year Action Plan and also seems reasonable. To review the recommendation was to add the trainer's new part-time responsibilities to their position descriptions ensuring that these added duties attracted a higher pay grade and hence pay scale. In regard to those recommendations in the Three Year Action Plan beyond the Professional Development Programme (PDP) and the Training of Trainer's Programme (ToT) they should all be very attainable. There is a marked willingness on the part of the head of the Human Resources Department to implement the recommendations made by the EU experts. This is evidenced by the work already completed on the position descriptions. Additionally, the new Civil Service Council will act as another driver as they call for human resource documentation, recommendations and further collaboration.



HUMAN RESOURCE DEVELOPMENT IN THE PENITENTIARY DEPARTMENT

In January 2000 the penitentiary department was transferred to the Ministry of Justice from the Ministry of Interior. With 3249 staff members this department is by far the largest single department at the Ministry of Justice. All human resource functions within the penitentiary department fall under the direction of the human resource department head at the Ministry of Justice. A human resource unit of twelve staff under the direction of a supervisor currently is stationed in a separate penitentiary headquarters building at Gorgasali Street, 83A. Approximately 100 staff is located at this site. The organization of the penitentiary department is not unlike the current organization of the Ministry of Justice and features a department head and four deputy department heads as follows: First deputy in charge of operational work and regime, Deputy in charge of a special guard service, Deputy in charge of protection of prisoner's rights and social issues, Deputy in charge of procurement and supply.

Currently, the personnel records of 329 high ranking staff members of the penitentiary department are maintained at the Ministry of Justice human resource department offices. The human resources unit at the penitentiary headquarters keeps the personnel records of two groups, namely: all officer level staff not kept at the Ministry of Justice and convoy guards. Lower level staff serving in the various prisons and remand centres are all appointed by the individual Prison Directors.

Turnover: Penitentiary Department – 2004

Staff turnover at the penitentiary department was quite high in 2004 at 18.6% but has slowed in 2005 to date. The statistics for 2004 are as follows:

In 2004:	CATEGORIES
649	New applicants were appointed; this represents 19.9% of staff
606	Staff were dismissed or left their employment for the following reasons; this represents 18.6% of the total staff.
123	Dismissed for Unsatisfactory Performance
406	Resigned at their Own Request 163 officers 243 low-level staff
43	Moved to other Government Ministries or Agencies
6	Died
4	Removed by Court Order
24	Retired
606	Total



The reasons for such a high turnover include:

- Low remuneration
- Poor working condition in many prisons
- Stressful work conditions
- Lack of training
- In view of the above, difficulty in bonding the entire force into a prideful unit

Hiring Procedures – Penitentiary Department

Much of the work of the penitentiary department is highly specialized. This has an impact on hiring procedures in several ways: First, when specific personnel are needed, a request for appropriate staff is often made to other government structures of a similar nature, i.e. military or police. Second, a waiting list of people with specific skills is maintained. About thirty persons per week apply for employment, coming from various disciplines. Currently the selection is made by an internal commission made up of three persons:

- Penitentiary Department Head
- One Deputy Department Head
- Head of the Human Resource Unit

New Staff Orientation Training – Penitentiary Department


Currently, a two week orientation course is being offered for applicants (prison guards and others who will work at the prisons). This is a compulsory course and those applicants who can't pass the course are not hired.

In regard to other training, none currently exists although it is the desire of the penitentiary department to initiate training in the use of firearms and position skill enhancement. They would eagerly cooperate with any advantageous forms of training.

A review of the training offerings of the Training Centre of the Ministry of Justice for the penitentiary department indicates that very little in the way of courses have been delivered. The records of the Training Centre indicate that one course was delivered in 2002 although the records don't show the title or the number of participants. In September and October of 2004 a course for the penitentiary department was offered to 21 participants. The title of the course was, "Basics of Teaching Methodologies" which tends to indicate that it was offered to participants who in turn would act as trainers.

The new brochure of the Training Centre for 2005 indicates there are no courses offered this year specifically designed for the penitentiary department or for the Ministry of Justice staff generally. It is true that some of the courses offered such as, "management skills" would have value for deputy heads of department and prison directors, etc. However, at 200 GEL it is doubtful any will attend even though a statement in the front of the Training Centre's brochure indicates all Ministry of Justice staff is welcome to participate in these courses.

We have repeatedly stated that the seventeen courses which we have recommended in the Three Year Action Plan should be open to department heads of the penitentiary department. If the department



heads of the penitentiary department would be included in the proposed soft skills training this should make a considerable contribution to their skills enhancement. In the opinion of the experts it would be of utmost importance that the penitentiary department heads participate in the ½ day training course regarding performance evaluation reviews and staff interviews, otherwise they will be unable to properly complete the performance evaluation reviews and conduct the staff interviews, particularly since this is a new function.

It should be noted a current EU project assisting the penitentiary department is operating until August 2005 at the Ministry of Justice. This project will also deliver a training programme, the recommendations made in our Three Year Action Plan should be applied with full force to the penitentiary department just as it is hoped it will be to the rest of the Ministry of Justice.

Recommendations: Penitentiary Department

There are a few specific recommendations that should apply exclusively to the penitentiary department as follows:

- 1) Psychological profiles should be professionally completed on all prison guards or other member's of the penitentiary department who carry fire arms to determine their psychological fitness for their assigned roles. The reports should include among other parts an evaluation of how the individual might act under stressful circumstances, i.e., personal attack, prison breakout or riots, etc.
- 2) The process of hiring officers who work at prisons is currently taking up to several months which are far too long. This aspect of the hiring process should be examined to determine its appropriateness under the current circumstances. The possible solution of having the prison directors and their in prison human resource offices handle this hiring should be examined as one of the possible solutions.
- 3) As part of the training activities for prison guards and those carrying fire arms there should be a review of all operative laws governing the detention, care and transport of prisoners. Additionally, continuing training in the use of fire arms must be provided. This fire arm training should entail both training on the firing range and classroom training as to when the use of force is called for. The proportionality of the use of force under various circumstances should be fully discussed.
- 4) Possibilities to integrate the penitentiary headquarters' department staff with the other Ministry of Justice staff should be considered. Admittedly, such possible integration to a large extent is dictated by space limitations. This would heighten the sense of belonging to the Ministry of Justice on the part of the penitentiary department and improve communication between the Ministry and the department staff.
- 5) The uniforms of the penitentiary department should be redesigned so its members are immediately distinguished as a separate and distinct force. The use of a separate arm insignia is not sufficient where the ultimate goal should be to create a unique and proud force that has a special place in society.



- 6) The central purchasing of certain produce and food stuffs evidently has created problems in the past regarding freshness upon arrival at distant points. This problem should be examined in the light of all relevant aspects which almost certainly include: financial considerations, logistics of deliveries, human resources available to purchase produce and food stuffs locally and supply of produce and food stuffs in the various regions.
- 7) It would be advantageous if the personnel records of all penitentiary staff was computerized and held in one central location with access from other human resources units on a need to know basis. Forward planning for such a change when computers are available should take place earlier rather than later.
- 8) Human rights training should be contemplated as a necessary part of both initial orientation training (short course version) and during the Professional Development Programme (PDP) (long course version).

Final Conclusion

This final report represents an abbreviated review of the realities of the current situation regarding the Ministry of Justice. However, it is not a substitute for the longer and more detailed Three Year Action Plan submitted to the Minister on 10, February 2005. It is the Three Year Action Plan document which constitutes the blue print that it is hoped the Ministry of Justice will follow to enhance its capacity and strengthen the human resources institutional infrastructure.


It should be noted that some detailed information and recommendations regarding the penitentiary department are reviewed in this final report. More detailed information can be found in the report on the penitentiary department of March 2005.

3. THE BUDGET MANAGEMENT OF THE MINISTRY OF JUSTICE

The objective of budget management activities of the Ministry of Justice is to effectively identify, allocate and account for funds used to provide the necessary services and programs in line with the Ministry's mission, goals, and objectives.

Georgia recently has improved its Budget System Law, which now should enable the institutions to build a bridge between planning and funding by correlating allocations from the state budget to specific state goals and objectives for which the Ministry of Justice is responsible. Performance measures for assessing the achievement of goals are also foreseen by the Ministry of Finance into the new Medium Term Expenditures Framework (MTEF) appropriations request.

According to the new Budget System Law, each spending unit would be responsible for developing detailed plans and annual operating budgets to implement the goals and strategies funded through the annual Budget Law. In governmental organisations, the appropriations process drives the budget process, which inherently addresses goal alignment, spending limits, stewardship and expenditure compliance



issues. As a logical consequence of the EDPRP wider Policy, the Ministry of Justice alone or in co-operation with other public entities, is required to draft its medium term strategic plan. The document should include, inter alia, the identified programmes below. Those programmes, in turn, would lead to the implementation of a result-oriented budgeting system, in line with the MTEF carried out by the Ministry of Finance.

MINISTRY OF JUSTICE BUDGET REGULATORY ENVIRONMENT

As a whole, the amended Budget System Law sets forth the legal conditions for the implementation of a modern public budgeting process in Georgia, in line with internationally accepted budgeting principles.

Each year, the Ministry of Finance provides the spending unit with an appropriate budget ceiling circular (Art. 18). Two pages directions and a six forms bundle are also attached to the circular, to be filled in as the official spending unit request budget appropriations. These two pages directions plus the six forms bundle are, with the ceilings circular, the only documentation provided in 2004 by the Ministry of Finance to spending units in view of preparing their 2005 budget requests. Although rather cursory, those directions can be seen as sufficient for a simple reiterative line-item budgeting preparatory exercise taking no considerations of results, significantly aimed at maintaining or increasing the previous year appropriations.

MINISTRY OF JUSTICE BUDGET APPROPRIATION REQUESTS SYSTEM

This short document prepared by the Ministry of Justice is attached to the Ministry of Justice 2005 budget request forms and is supposed to justify the Ministry of Justice expenditures line-items increases. It contains very few information about the Ministry of Justice strategies and while exceeding the ceiling circular of the Ministry of Finance, it reflects the disregard of the budget system law by most Ministry of Justice executives. But, here again, the budget preparation is merely seen as a simple exercise aimed at maximizing, if possible, each line-item expenditures appropriation.

MINISTRY OF JUSTICE BUDGETING PROCESS EVALUATION

Although extremely aware of the benefit of a medium term strategic plan, the Ministry of Justice management is currently unable to provide any strategy analysis documentation to its budget end users. Consequently, the budget preparation process of the Ministry of Justice:

- 1) Is not aligned with a comprehensive strategic plan;
- 2) Does not benefit from formal, logical and integrated documentation;
- 3) Is not based on quantified planned objectives and the means selected for achieving them
- 4) Takes little consideration of all the events and activities needed to fulfil the goals of each Ministry of Justice function
- 5) Is not totally integrated with the accounting system; (the 2004 deviation analysis is not available end of April 2005)
- 6) Is not really used as a basis for coordinating the operating plans of all Ministry of Justice departments and subordinated entities



- 7) Is not a means for communicating detailed work plans or action plans throughout the organisation and to relevant oversight and other interested groups, both internal and external to the Ministry of Justice
- 8) Uses the input from certain lower level managers who have more detailed knowledge of actual programme and service needs, but management arbitrates without really continuous consultations
- 9) Is not a real basis for evaluation of performance by comparing actual to budgeted data. Such comparisons highlight variances between actual and planned results, and signal the need for possible managerial action.

To be ultimately confirmed, the Ministry of Justice did not work out any consistent strategic planning process aimed at facilitating the identification of prioritised resource allocations. The so called “State target programmes” provided to the Ministry of Finance under separate activity codifications reflect essentially the Ministry of Justice organisation sub-codification.

The present Ministry’s structure is divided among a small group of functions directly subordinated to the Minister and four blocks each positioned under one Deputy Minister’s supervision. The structural functioning is not founded on strategic plan, programmes or goals because of a lack of planning capacity at the top level of the Ministry. This situation could be seen as a long-lasting remain of the previous regime where planning responsibilities belonged to the “Goss Plan” central planning & statistic.

Even though, the Minister has a strong understanding of the need to proceed budgeting in accordance with the Budget System Law and in line with modern resource allocation stepping, the current Ministry’s organisation is likely to hinder his efforts, since there is no available think tank (or cabinet- the Minister’s advisors). In addition, the structural confusion of the roles of Deputy Ministers – politically appointed by the President and consequently limited in action time – with the functions of civil service general directorates is structurally detrimental to their sub-sector programming since they are, from the very start of their assignments, overloaded by executing responsibilities.

BUDGETING RESPONSIBILITIES

The Ministry of Justice budget preparation is fully realised by the Financial Affairs department which receives annual directions and forms from the Ministry of Finance, prepares the different Orders - (Pay plan and employee’s listings) - to be endorsed by the Minister, drafts the major part of the Ministry of Finance forms and arbitrates the Ministry of Justice forms filled in by some external entities. However, the Financial Affairs department does not provide:

- 1) A Ministry of Justice’s operating budget preparation instructions or manual;
- 2) Any financial management or administration policy manual relating to the budgetary process;
- 3) Any capital budget preparation document and the related current strategic plan.

The assessment team tried to determine if and how management consciously selects and employs the assumptions, criteria, methods, processes, and techniques that are generally used in the budget process. But, here again, they did not obtain ranking criteria used by the entities to prioritise their strategies as it was not required by any appropriations request instructions. Most of department employees had a basic theoretical knowledge of cost-benefit and risk assessments tools, but, argued that they were too busy to practice such a time-consuming approach. They eventually admitted that the introduction of a result-oriented budget process may force them to use more sophisticated budget preparation analysis tools.



As detailed in the Budget Assessment Report flow charts, most draft requests (MoF form 4) are prepared by the Financial Affairs department. Some remote entities (Prisons, Public Land registrar) fill in directly the Ministry of Finance form 4. The draft documents collected by the Financial Affairs department are consolidated and in case of cost overrun, department appropriation requests are reviewed by the Deputy Ministers during budget meetings. The Minister ensures the final internal arbitrations.

MINISTRY OF JUSTICE BUDGETING SNAPSHOT

Using the generally accepted budgeting success criteria and the understanding of the Ministry of Justice's process gained above, it is likely that the current budget preparation process:

- 1) Is designed to accomplish the minimum management objective(s)- Line-Item procedure, substantial increase in the final appropriations;
- 2) Has not enough controls that could provide reasonable assurance that the process will work as intended and last permanently.

Still, in 2005, the Ministry of Justice was able to double the budget ceiling appropriations proposed by the Ministry of Finance with two pages of almost inconsistent justifications. This success must be considered objectively as a real strength while applying a simple Line-Item budget process, without any visible strategic plan and goals that could, at least, validate the obtained appropriation increases. In addition, the Ministry of Justice was also able to attract about 16.700 MGel from international donors without any published or approved comprehensive vision, goals, objectives or action plans.

Current Weaknesses of the Ministry of Justice budget preparation process

- The participants in the budget process have a limited understanding of the Ministry of Justice's mission, goals, and values and since the Ministry of Justice vision & strategic planning remain in limbo, they cannot support them through their management of the budget process.
- According to interviews, with the exception of the heads of the financial affairs and the budgeting division, most participants understand both the purpose of and their role in the current Line-Item budget process, but, are presently unable to switch to a result-oriented budget process.
- The relationship between the budget process and Ministry of Justice subordinated entity processes is not clear, since filling the Ministry of Finance form 4 is not documented explicitly.
- Because the budget preparation process occurs at multiple locations, the nature and scope of the communication and coordination among them is unclear and limited by the lack of modern IT network.
- The budget process is lacking adequate human, time, information, and asset resources. Ministry of Justice resources are not allocated according to the importance of the budget



process relative to other entity processes.

- Although successful with international donors, the Ministry of Justice does not appear to consider the use of alternative resources such as public-private partnership, concession of public services, associations, non-profit organisations, academic institutions, or other governmental entities to meet its resource needs.
- According to the project brief legal appraisal herein mentioned, no legal constraints appear preventing the Ministry of Justice to build the expected vision of the justice sector and accordingly design a medium-term strategic plan, in line with the approved EDPRP. This strategic plan should take into consideration and integrate the MTEF methodology presently implemented by the Ministry of Finance.
- Nevertheless, the main constraint is likely to be essentially structural within the Justice sector and ultimately within the Ministry of Justice.

The overall structural constraint

At first, the Georgian Justice sector does not seem to be organised homogeneously, contrary to other sectors where the Ministry, what ever the number of associated or subordinated entities, bears the Policy & Strategic unique responsibility. Instead, the Georgian Ministry of Justice is institutionally separated from the Procuracy and from the Courts. This spotted situation can be seen as a major budgeting constraint when it comes to design a clear sector vision and building goals and strategic plans. But also, advancing in scattered formation does not facilitate any Justice Sector budget appropriation increase.

Secondly, the inevitable budget arbitration process led by the Ministry of Finance is likely to play the game of connected vessels where the gains of player one are paid out from the losses of player two.

Negative effects on Ministry's planning mission

The Deputy Ministers should conceive and prepare Policies and should not substitute themselves to General Directors of central administration who are status-protected career civil servants. These officials manage the execution of the action plans prepared by the political side of the Ministry. This segregation of duties does seem to be understood in Georgia, and this is probably why Ministries are mostly unable to work out the required strategic plans. Ministers have no consistent think tanks. Deputy Ministers are currently substituting themselves to Director Generals of central administrations and consequently are immediately absorbed by daily decision-making pressures, leaving no time for Policy & Strategy designs.



Project budget component outputs

Taking into consideration major findings, the Project Budget Component compiled and prepared a set of methodological documentation aimed at providing the Ministry of Justice management with Budgeting guidelines; it comprises:

- A Ministry of Justice Indicative Budgeting Policy & Procedures guidelines framework, to be upgraded with the Ministry of Finance directions while provided;
- An Operating Budget Instructions & Forms manual that could be use as a model for the Budget Preparation In-house process;
- A Strategic Planning Guideline describing methodological planning approaches to designing Ministry of Justice “Vision, Mission, Goals, Strategies, Action Plans, Performance accountability and finally Resource allocation justifications”.

For future action the budget expert recommended the following intervention:

- Completion of the legislative process, harmonization of the internal audit functions with other relevant legal acts, the secondary implementing legislation;
- Develop, accept and implement methodological guidelines for conducting result-oriented budget preparation processes, in line with the MOF medium-term expenditures framework;
- MOJ Internal Audit Unit to be established through restructuring of the General Inspectorate;
- To Strengthen the MOJ Internal Audit (IA) Unit in order to enable it to fulfil its role of auditing MOJ’s financial statements and Strategic Planning performances; Develop, adopt and implemented methodological guidelines for conducting efficient, economic and effective internal audit;
- Training of a designated number of individuals as internal auditors to serve in the independent MOJ’s IA unit;
- MOJ’s Strategic Planning guidelines developed, approved and implemented and draft MOJ strategic plan;
- Recommendation for Justice Sector-wide Strategic Planning drafted.

4. CIVIL REGISTRY: POLICY AND IT INFRASTRUCTURE



POLICY FRAMEWORK FOR THE CIVIL REGISTRY

Introduction

At the start of the RRM project it became clear that the Ministry of Justice already made considerable efforts on the implementation of the reform of the Civil Registration system as a whole. In December 2004 the Ministry of Justice published the strategy document: Safeguarding Democracy – Reform of Civil Registry and Identity Documents. However, this document was 1) primarily aimed at supporting an application for funding by OSCE Member States and 2) therefore for the greater part focussed on the supporting IT infrastructure of the Civil Registry, which is understandable considering the necessity of an IT infrastructure.

Nevertheless the strategy document also identified a number of important issues regarding use, management and control of the system, but the issues mentioned clearly required more clarification in detail. In any case the strategy document has been a good starting point and source material for the development of a formal policy framework.

The midterm report gave a detailed description of the proposed direction in which the issues needing to be worked on in the field of use, management and control should progress. The most important issues were identified as being privacy and data protection, data quality, awareness of civil registration and proper safety measures on the production, distribution and issuing of ID-cards and passports.

Strategy for developing a Policy Framework for Civil Registration

Assessment of current civil registration in relation with the Ministry of Justice Strategy Paper

The assessment on the current situation confirms the view of the Ministry of Justice regarding the registration of Civil Acts in Georgia given in the strategy paper. The most important conclusions of the assessment are:

- Civil registration is not regulated properly; it is fragmented and as a whole it may be considered to be an inconsistent system;
The legislative base, because of the shortcomings, contradictory terms and procedures on a number of issues obviously needs precise and consistent legislative regulation. The legislative shortcomings are seen as a source of opportunities for corruption.
- Proper working conditions for normal functioning do not exist (accommodation and technical facilities);
The working conditions at the civil registration offices to perform their task can be considered inferior, which is one of the reasons why civil registration offices fail to provide proper services on time. Services are of an extremely low level, both in big cities and in small villages. Normal working conditions fail to exist not only due to the buildings



where local self-governing and government bodies work.

- No data protection which in practice represents a violation of the privacy of citizens: Collections of data of civil registration are transferred by mail. The fact that the mail service in Georgia is of a low quality (great numbers of letters are lost, do not reach respondents and delivering post is a lengthy process) as well as the legally specified period of time for transferring data increases the duration of the process. In trying to reduce the above-mentioned period (and waiting for mail for an indefinite period), citizens themselves perform courier duties that cause serious violations of data processing. In addition, Civil Status data is stored in Citizens Status Records which can be obtained from the Archives of Civil Registration by Civil Registration Bodies, the Ministry of Justice and other governmental bodies without adequate controls. This practice can represent misuse of private confidential information, and contravenes the General Administrative Code of Georgia.
- Inaccuracy of archive data and status records: There are inaccuracies in archives data and status records, discrepancies between copies of status records, and a practice of alterations and amendments of status records by crossing out words and entire sentences or paragraphs, rectifying, appending the seal. The original and a copy of a document frequently do not correspond, the certificate derived from a Status Record of a citizen contains incorrect data or on subsequent checking both copies of a status record do not match with the status record itself.
- Ignoring of civil registration obligations by citizens: As surveys show, a significant problem is the ignoring of civil registration obligations by the citizens themselves. The problem is particularly observed in the regions, where the majority of people are unaware of the significance of registration of their civil status. As a result, there are many examples of registering the birth of children born without their parents' official marriages registration; late registration of births become more frequent. Quite often, a child's birth registration is performed in the case of acute necessity, when for example a child achieves school age or is to be registered at some medical institution. Death registration causes problems as well and the number of deceased is not accurate.
- Civil servants at regional offices often make voluntary decisions on inclusion or exclusion of mandatory data: Civil registration practices show that the employees of CRO in many cases make voluntary decisions whether to record some data if they consider them not to be particularly useful or of no significance. In other words they do not act according to existing law, instructions or practice.

Consistent use, management and control of the civil registration system

A civil registration contains the personal records of all members of the population fulfilling the condition for registration because of the Civil Registration Act. The Ministry of Justice has mentioned that the objective for the operation of the civil registration system is a one-stop-shop system, which ensures that citizens can register civil acts and file applications for passports and ID-cards all at one place: the regional civil registration office. Besides this principle, the objective of civil registration should also be to make once-only entries of personal records of the citizens, and to subsequently use these on multiple-occasions (electronically). This ensures that citizens only have to register information once and

that this information is used by all governmental institutions to provide public services. In this way information on citizens is recognisable and consistent throughout all governmental services.




In order to provide a consistent functioning civil registration system, the system has to be based on solid principles. The first and most important principle is that the rights of members of the public with respect to the data that is included about them in the Civil Registration, is guaranteed by law. The framework of data protection law and practice in general should be conform to the conventional privacy principles and guidelines that are found in national privacy laws and in international instruments such as the Council of Europe Convention and the EU Directive. The processing of personal data must be based on a foundation referred to in the Personal Data Protection Act. The Personal Data Protection Act is in fact a general law which is suitable for setting the rules on data protection in all areas of social and economic life, such as permission, agreement, legal obligation, justified interest and such like. The legislator should lay down regulations regarding the Civil Registration in a separate Personal Records Database Act which of course should respect the Personal Data Protection Act. This law should lay down rules and regulations for governing lawful data protection and processing and should, in random order, involve 1) lawful basis for the data processing, 2) protection against loss and unlawful processing of personal data, 3) transparent processing of data and 4) data quality. The enforcement of Personal Data Protection Act and Personal Record Database Act should be in the hands of an independent institution. This would be a Data Protection Board to which citizens can apply to in the case of suspected violation of privacy.

The methodology for the protection of personal data deserves attention on an infrastructural level. It is important to make the best possible use of Information and Communications Technology (ICT). ICT is not only a source of privacy problems, but also a source of solutions for these problems. The crux is to find a balance between privacy and other interests within legal boundaries. Building in privacy into the (legal and IT) infrastructure afterwards could turn out to be really difficult. It should be taken into account from the very beginning. Only when privacy is build in a robust way can it be guaranteed in the long term. So called Privacy by design is the key.

The second principle is that data-collection and registration takes place in a regulated and uniform way. In its role as legislator, the government has a special responsibility towards the citizens. This also applies to the careful handling of personal data. The citizen must be able to rely on the fact that his or her personal data is in good hands when managed by the government. He or she may also expect that the civil servants that work with personal data are familiar with the statutory regulations for the processing, keeping, protecting and providing of data. The government should therefore establish a proper electronic information structure. In this way, the quality of the data and the operations can be maintained. The quality of the data registered in the Civil Registry is extremely important. Personal data must be complete, accurate, up-to-date, sufficient and not excessive. Information therefore should be registered and maintained in a transparent, unique and uniform way. This ensures that data-collection and registration is done in the same way at every regional registration office. Whether a citizen is registering in Kutaisi or Tbilisi there must be no difference in the procedures.

The third principle is that governmental institutions can receive (amendments of) the personal data of civil registration, provided that those organisations are authorized by the Ministry of Justice to receive data. Personal data may only be processed and used for specific, explicit and legitimate purposes and not processed further in a way incompatible with those purposes. These purposes require a basis in law. This will normally be that the processing is necessary to comply with a legal obligation or of the



performance of a governmental task carried out in the public interest. In view of the need for the protection of the personal privacy of the individuals registered in the Civil Registry, restrictions should be imposed for the access and use of data. Users (clients) of the Civil Registry data will have to be granted specific permission to receive data from the Civil Registry by an authorisation decree by, in the case of Georgia, the Ministry of Justice. In fact this responsibility should be incorporated in the tasks of the new National Agency Civil Registration, preferable the policy unit. The authorisation decree will make clear how data and what data from which persons may be received by each specific external user (client). The specification must be based both on the users' (client's) public (non commercial) tasks laid down in law, and therefore the specific needs for information, and the public's right to the protection of their privacy. This authorisation decree should then be implemented in technical (software) measures to prevent unnecessary provision of personal data from the civil registry: 'as required' processing. This strict privacy regime has the effect that only that information is supplied to users (clients) which is genuinely necessary to perform the users' public task. And a person is always entitled to know which users are receiving his/her information.

The fourth principle is optimal transparency. Trust is an essential value for a properly functioning information infrastructure. A good way of assuring this trust is by allowing citizens as much control over their own personal data as possible. Citizens can shape their information provision relation with the government in different ways. They can ignore the requirement to provide information if they distrust the government. But the more they trust the government and see the benefits of the information provision, the less they feel the need to control their personal data. The government therefore should guarantee optimal transparency. The person involved must be able to see who is processing his personal data and for what purpose. The law should also lay down regulations pertaining to the right of persons to become aware of their data in the Civil Registration, the use of that data, as well as their right to have any erroneous data corrected. However, even then citizens may be neither willing to nor able to keep track of everything the government does with their personal data. Therefore self control by the citizen has its limits, as well as the checks and balances in the Data Protection Act. More important is that the government works in a clear and trust-inspiring manner without the direct instructions of its citizens. Furthermore, in order to ensure trust it will be necessary to create not only technical but also organisational audit mechanisms. For instance a periodical check of regional offices to be sure they are using the regulations and instructions in the right way. This requires audit mechanisms to be incorporated into law.

Secured documents (Passports, ID-cards)

As the civil registry will be considered the foundation of a functioning public service, and data quality is equally important, then the proper identification of citizen can be considered the first step of proper registration. In order to make proper identification possible there is no doubt that a secured system of production, distributing and issuing of ID cards and passports is vital and necessary to an adequate functioning civil registry. In order to ensure proper identification of citizens the data on ID-cards and passports must be clarified. Furthermore, to prevent misuse of documents it is necessary to establish a system for verifying the validity of documents when shown for identification. However, in order to make sure that the documents are produced, distributed and issued in a secure way, security plans and procedures have to be in place. Security measures have to be taken at the production plant as well as the regional offices which are responsible for issuing ID-cards and passports. Next to security measures regarding the daily routine, there has to be a fall back plan regarding events which will prevent production of ID-cards and passports i.e. production failure due to technical problems, terrorist attacks



or natural disaster e.g. earthquake etc.


Data has to be decided on to in order to secure a unique and uniform application procedure and in addition this procedure will ensure that accurate and uniform information will be sent to the production facility for personalization of the documents. A proposal for data to be included was given to the Ministry of Justice in the midterm report.

Conclusions

As mentioned above, since the start of the RRM-project the Ministry of Justice has made considerable effort in improving the functioning of the civil registry. With the help of international donors the Ministry of Justice started a pilot at five civil registration offices in Tbilisi in order to create a proper client-service atmosphere by renovating the offices. In addition, training sessions for 300 civil servants started in December 2004 in order to train new staff on the tasks they have to perform in future. The training program comprised subjects such as Ministry of Justice structure, knowledge of legislation, regulations and procedures but also customer care. In the battle against the underlying causes of corruption, the salaries of civil servants were raised by factor 5 at the beginning of 2005. In this way civil servants at the regional offices are less vulnerable to corruption

During the lifetime of the RRM-project the Ministry of Justice attention has been mainly focussed on the establishment of the IT-infrastructure. In designing the civil registry however it would be dangerous to focus solely on the construction of the technological infrastructure and database systems. The prime imperative of the civil registry is in the appropriate use, management and control of the system. Without proper data and privacy protection in data collection and maintenance there will be no trust in the legitimacy and integrity of the system; without trust in the legitimacy and integrity, the system will fail on data quality; without data quality the system will fail in processing accurate, lawful and 'as required' information necessary to perform the foreseen tasks like accurate voter lists, statistics etc. So in fact without proper use, management and control of the civil registry, the system will in time collapse and if so there is no technological infrastructure which can prevent this from happening. For future projects regarding the development of the civil registry it is important that the Ministry of Justice should focus in greater extent to the use, management and control aspects. Especially the principle of Privacy by Design, meaning development of legislation and regulations in cooperation with the development of the IT-infrastructure, is considered to play an essential part in the development of the civil registry.

The impression is that the Ministry of Justice has made little progress in this area. Visits to regional offices showed that staffs are doing their best, but that lack of proper procedures and inconsistencies in legislation still exists. As a specific action arising from the Law on Civil Act Registration, the Ministry of Justice was tasked under Article 123 par. 2 of Chapter XV of this Law with the development and Ministerial approval of the Instruction "On Civil Registration". A draft copy of the Instruction (not yet approved by the Minister) has been translated and reviewed. The review makes clear that the draft instructions are far too general to provide proper guidelines for maintaining the civil registry in a uniform and unique way. It is absolutely vital that every civil servant at every regional registry office will perform their duty in a uniform way. For instance, a civil servant is obliged to give clear explanations of rights and obligations of the citizens and notify legal consequences. This of course is logical; however, civil servants must give this information in a uniform way to prevent that citizens receive different information at different offices. Another example is that, when recording a birth, parents are obliged to hand over a written declaration. What information this written form should contain is not



clear. In order to prevent mistakes this declaration should be provided on a standard Ministry of Justice form. These are but a few examples to demonstrate the necessity of specific user procedure manuals that serve as guidelines for the civil servant to ensure registering accurate, complete, current data in the civil registry in a uniform and unique way.

On the subject of data quality it is also necessary to do more research on data sources to be used for filling the database. Besides the database (formerly owned by the Ministry of Interior), of the source data for ID cards and national passports in circulation and issued up to 14 November 2004, research has to be done on the database maintained by the Central Election Committee on computerized voter lists. A very interesting database is held by the Ministry of Refugees and Settlement on IDP's. This database is the result of a project in cooperation with UNHCR. The project aims on the registration of every IDP above six years of age, including taking digital pictures of every registered person. The project will be carried out in 2005. However UNHCR made clear that concerning the database it is not clear how the Ministry of Refugees and Settlement will maintain the database after the project is finished. Also a meeting with UNHCR made clear that it seems that there is not enough consultation between ministries regarding the further use of this possible reliable data for the database of the civil registry.

A relationship exists between performance of the civil registry system and the willingness of citizens to register Civil Acts. Citizens who may be difficult to register include those who live in remote areas, those who change their address frequently and nomads who have no real permanent address. It is essential that an awareness campaign starts as soon possible to clarify why a functioning civil registration system is for the benefit of government as well as the citizen. The size of the public awareness program implemented that accompanies the development of a civil registry depends on available budget and the need to inform the citizenry through massive advertising. However, it is essential that citizens are made aware of the requirements for registration. The key points are the importance of informing citizens of new procedures and requirements for registration. When mobile registration offices are used, it is particularly important to inform citizens of the dates during which the mobile registration offices will be in their vicinity. In developing an effective media and public awareness campaign, it is important to highlight that registration is mandatory (with a civil registry it invariably is) and that registration must take place in order for the government to plan and maintain adequate public services for the citizen. The Ministry of Justice should anticipate a variety of concerns and/or misunderstandings regarding the capabilities and use of computers. Therefore it is equally important to give sufficient attention to the advantages as well as the disadvantages of the civil registry for citizens.

Finally the Ministry of Justice should consider an achievable objective on the timeframe for establishing the civil registry. During the RRM-project it became clear that the Ministry of Justice is very eager to establish the civil registry as soon as possible. Although this of course is considered to be a good attitude it is important to recognize that developing a functioning civil registry takes time. In the case of Georgia this recognition seems even more important. The Ministry of Justice will probably get only one chance to do this right. Not only it is not likely that international donors, if initial funding is provided, will provide this kind of funding a second time in the case of failure and secondly and more importantly in order to keep the trust of the population it is also necessary to do it right. Failure to establish a functioning civil registry will almost certainly lead to further disillusionment and distrust by the population. Therefore it is extremely important to take the necessary time for the development of civil registry regarding the IT-infrastructure and the adequate policies on use, management and control of the system.

For international donors it is important to be aware that it is important not to lose the momentum for the development of the civil registry. To ensure a functioning civil registry funding should start now rather than for instance just before new elections are due. In this way Georgia is allowed to develop a sustain-

able system which in future can make a contribution not only to accurate voter lists, but to functioning public services as a whole with benefits to the government as well as citizens.



Recommendation on Policy Framework

The recommendations on the policy framework should have the objective of supporting the concept of adequate use, management and control of the civil registry. To establish this, the policy framework regarding the use of the civil registry should focus on creating an infrastructure to secure completeness, currency and accuracy of the civil registry. Regarding the management of the civil registry the policy framework should focus on creating an infrastructure to secure the legitimacy and integrity of the civil registration system. Regarding the control of the system the policy framework should focus on a system of auditing. When the civil registry is considered as the foundation of good functioning of public service, it is necessary to ensure the maintenance of the register.

This leads to the following recommendations to be established in order to create proper use, management and control of the system:

- Development of privacy and data protection legislation which should correspond with the EU Directive on privacy. In addition to a general law on data protection a specific data protection law on personal record data protection regarding the civil registry should be established. Development must take place in close cooperation with the development of the IT-infrastructure (Privacy by Design).
- Establishment of an independent Data Protection Board which can enforce privacy and data protection legislation.
- Development of Regulations and procedures to ensure uniform and unique registration and leading to complete, accurate and up-to-date data in the civil registry. For this, the development of extensive users procedure manuals are necessary. Examples of good user procedure manuals and regulations in European countries should be used as a guideline.
- Awareness campaign should start as soon as possible in order to gain the trust of the population and to stress the importance of registration. Also, governmental institutions should gain awareness of the fact that there must only be one authentic database on personal data in Georgia and to be used for performing public services
- Development of a system of auditing. Besides audit trails in the IT-infrastructure it is also necessary to develop an auditing system in order to check whether regulations and procedures on use and management of the system are performed correctly. This will lead to consistency of the civil registry system. Examples of good auditing systems in European countries should be used as a guideline.
- Development of procedures on data-collection in order to secure a unique and uniform application procedure; in addition this procedure will ensure that accurate and uniform information will be sent to the production facility for personalization of the documents. In addition, to ensure that the documents are produced, distributed and issued in a secure way, security plans and procedures have to be in place. Security measures have to be taken at the production plant as well as the regional offices which are responsible for issuing ID-cards and passports. Next to security measures regarding the daily routine, there has to be a fall back plan regarding events which will prevent production of ID-cards and passports i.e. production failure due to technical problems, terrorist attacks or natural disaster i.e. earthquake etc.



IT INFRASTRUCTURE OF THE CIVIL REGISTRY

Introduction

Information Technology is an indispensable adjunct of any modern Civil Registration system for the methodical collection, verification, secure storage and lawful dissemination of citizens' Civil Status and identification data. Such data is required by most government organisations in their interactions with the citizen, either individually (as in Social Welfare, employment, health, education, law enforcement etc) or collectively for demographic and social planning purposes. It is also an important cornerstone of a democratic society, which provides and continuously updates the national register of persons legally entitled to vote in municipal and national elections.

In Georgia the Civil Registry system as operated under the aegis of the Ministry of Internal Affairs suffered from a large number of shortcomings, due to its organisationally and geographically fragmented nature, legislative and operational anomalies and inconsistencies and a shortage of resources coupled with corrupt practices in various forms. As such, this (largely paper-based) system was unable to register in a systematic, accurate and reliable way the information relating to individual citizens or to provide this information to government organisations. With effect from 15th November 2004 responsibility for all aspects of Civil Registration (registration of Civil Acts and the issue of ID cards and passports) was therefore transferred to the Department of Civil Registration (DCR) of the Ministry of Justice. This provided an ideal opportunity for a wholesale rationalisation of the system in terms of legislation, geographic and structural organisation, operational procedures and methodologies, together with the development and implementation of a modern supporting infrastructure including Information Technology.

Being tasked with the establishment of an entirely new national organisation, the DCR went back to first principles and drew up the strategy document referred to above; *Safeguarding Democracy – Reform of Civil Registry and Identity Documents*. The strategy included the merger of Civil Acts registration and ID card and Passport issue functions in 80 Regional Offices managed under 12 Regional Headquarters (and the refurbishment of its offices), the management and operational structure of the central organisation, staff recruitment and training, legislative development and public awareness programmes, modernisation of the technology for the production of ID card and passports and the establishment of a national IT infrastructure. Initially a number of national and international experts collaborated in the preparation of the Reform Strategy, and subsequent to its first issue members of this RRM project also provided significant technical assistance in the revision of the strategy for funding consideration by the international donor community.

As described in the First Assessment and Mid-term reports of this RRM Project, the IT infrastructure of the Ministry of Justice as a whole is minimal, comprising an inadequate number of PC Workstations in some (but not all) departments of the Ministry, used primarily as office and/or e-Mail systems. There is no formal IT department and therefore no overall strategy for the exploitation of Information Technology in the Ministry. The DCR not having an existing institutional infrastructure or strategic planning capability to draw on, the IT infrastructure plan outlined in the overall strategy document was developed with the assistance of experts of this RRM project into the draft IT Strategy appended to the project's Mid-term Report.

It should be noted at this stage that although the Government of Georgia attaches great political and social importance to the success of the reform of Civil Registration, financial constraints prevent it



from fully funding the establishment of the national programme as costed in the budgetary estimates included with the overall strategy document (approximately € 16 million). Full implementation of the strategy in the near future is therefore (at least in part) contingent on international donor funding. Subsequent to its initial submission, the draft IT Strategy was therefore further refined and widened in scope to facilitate its potential use as a source document both in drafting the Terms of Reference for the establishment of a stand-alone IT implementation project and tender dossiers for the IT equipment itself.

Rationale for the use of IT in Civil Registry

The overall objective of the use of Information Technology is to enable the establishment of an effective, technologically sophisticated Civil Registration system serving the Rule of Law and democracy whilst protecting the rights of individuals to privacy and confidentiality of personal data. The specific objectives are:-

1. Support of the operation of an effective and simplified system based on a “one-stop-shop” principle in Civil Registration Offices for the registration of Civil Acts and the processing ID card /Passport applications and their issue;
2. The establishment of a centralised National Civil Register as an electronic record of the population and the allocation of a Personal Identification Number (PIN) to every individual as the basic authentication index of persons in the Civil Register;
3. Establishment of a secure system of data acquisition and provision for the production of ID Cards and Passports and their subsequent distribution;
4. The provision of authenticated source data to the Central Electoral Commission for the preparation of an Electoral Register;
5. The provision of citizens’ identity and civil status data to government organisations requiring such data for the provision of public services or Law Enforcement;
6. Provision of aggregated demographic data for statistics and national planning.

As mentioned in the foregoing, implementation of an integrated IT infrastructure is a critical factor in the achievement of the government’s policy objectives in the reform of Civil Registration. Prolongation of the current mainly paper-based processing and storage will perpetuate the old bureaucratic system with all its shortcomings, inefficiencies and delays, despite the dedication and efforts of the staff of the DCR.

From the Government’s viewpoint two particular issues impacting on democracy and the Rule of Law should be highlighted; the provision of accurate voter information in preparation for the forthcoming national and presidential elections, and national Identity Card and Passport authentication data for law enforcement and border policing purposes. Effective and timely data collection and provision can only be made in electronic form via the use of IT.

From the citizen’s viewpoint the important issues are the restoration of public confidence in the system, and the provision of an efficient and „citizen-friendly“ service, both of which must be supported by



IT-based services and security measures.

IT Strategy Overview

The functional structure of the DCR is based on the administrative regions (rayons) of Georgia, with 10 Registry Offices and a Headquarters unit in Tbilisi and 70 Regional Registry Offices (including 12 Regional Headquarters offices) around the country.

For a number of operational, technical and security reasons the DCR decided on a centralised Client-Server IT architecture, i.e. a system where all data is input via PC workstations organised in a Local Area Network in the Regional Registry Offices (RROs), and transmitted for validation, processing and storage on a central Server cluster system located in Tbilisi. Users at remote RRO locations will be linked to the central system via the Governmental Special Communications and Informational Agency network currently under development. Each RRO will therefore be a functionally self-contained unit providing a “one-stop” location for service to citizens in the registration of Civil Acts and the issue of the relevant certification(s), and for passport and ID-Card applications.

In the interests of security and to protect the individual’s rights to privacy, each of these functions will be serviced by a separate software sub-system on the central server cluster. A decision in principle was also made that these software systems should be designed and developed in Georgia by local experts under the aegis of the DCR. Although there are a number of ready-made (albeit generalised) Civil Registry-type applications available on the international IT market, the decision against purchase was made on the following grounds:

- The basic and subsequent maintenance cost of such packages;
- Cost of translating the user interface screens and outputs into Georgian;
- Procedural complexity and cost of necessary modifications;
- Access to and national control of the source code of such software.

The DCR’s software systems will comprise the following:-

- a) End-user Functions
 - User login and Identification
 - Hierarchical Menu system
 - Civil Acts Registration
 - Identity Card and Passport Applications Processing
 - Assignment of Personal Identification Number
- b) Centralised functions
 - Central Help-desk
 - Audit & Security
 - ID Card and Passport Production
 - Data Transmission Encryption
- c) Data Transfer functions to External Organisations, for
 - Electoral Registration



- Demographic & Statistical Data
- Population data (to social & welfare ministries)
- Law Enforcement
- Border Management.
- Government Revenue Collection.

The National Civil Register (NCR)

The software systems listed above will provide the necessary functions for the interaction of all internal and external users and DCR management with the National Civil Register. In essence, the NCR will be a large database system holding details of all residents of Georgia. These details will be “person-oriented”, i.e. an individual’s record in the database will integrate in one location the individual’s “civic data” as documented in registered Civil Acts as well as ID card/passport details and biometrics.

In actual fact, this database system will comprise four separate but interlinked databases; the main one will contain individuals identity (including biometric and ID card and passport) data, the second one their relationship to other individuals (parents, children, spouses etc), and the third one their biographic (Civil Acts certifications) data. The fourth database will hold archived (inactive and less frequently accessed) data, for example the data of recently deceased individuals. The unifying index for an individual’s data and its relationship(s) with other individuals will be the PIN, which will also appear on all Civil Acts registration and identity documents.

It must be stressed that development and implementation of the NCR database is only the first step; actually loading the database with data will be a continuous and lengthy process (lasting several years) before it can be used to provide a comprehensive and accurate picture of the individuals comprising the entire population of Georgia.

ID Card and Passport Production and Issue

At the time of writing a contract (signed by the previous Government) exists between the Ministry and the company “Groupe Imprimerie Nationale” for the establishment of a modern ID-Card and Passport Production capacity, together with the necessary technological hardware and software components. Establishment of the production unit is outside the immediate scope of the IT infrastructure project; apart from other considerations, the “automated” production process is contingent on the establishment of an IT infrastructure and the NCR database. However, it is important to note that, because of the self-contained nature of this production process, its specific data structuring and formatting requirements do not place any constraints on work on the design of the DCR IT system. The central DCR system will be able to produce a Production Order to any format or structure required by the production technology.

The actual operational concept is that production of ID Cards and passports will be carried out by a self-contained and secure specialist technical unit. The personal details content of the ID card or passport will be based on the application form(s) submitted at any RRO, as validated and processed via a secure (encrypted) on-line connection between an RRO and the central system. The validated application data, the applicant’s digitised image and other biometric data as appropriate will be stored in the NCR database. The central system will create a Production Order from this information and forward it to the Production Unit. The personalised ID-Cards and passports will be taken from this unit by a



security courier service (also operated by the DCR) to the appropriate RRO for issue.

Currently certain decisions remain to be finalised on the precise technical characteristics of the new ID-Card in relation to biometric identification features and the inclusion of a chip to provide significantly increased data storage capacity, security and conformance with potential future e-Government initiatives.

System and Data Security

One of the major factors behind the decision of the Government of Georgia to concentrate all Civil Acts Registration, National Identity Registry and Identity Card and Passport issue functions in the Ministry of Justice was the need to eliminate opportunities for “corrupt practices”. In order for the DCR to demonstrate its compliance with the Government and the public’s expectations in this regard, it will implement strict controls on the security and integrity of its procedures and data holdings. The design of the system will therefore also take account of the data and privacy protection legislation being drafted by the legal experts of the Ministry of Justice.

System and data security and confidentiality issues will be addressed by the DCR at four levels, as follows:-

- a) At the underlying communications level, all data transmitted via the network between DCR units will be specially protected by DCR’s own encryption mechanisms to prevent unauthorised access to or manipulation of the contents of data traffic by any external entity.
- b) At the operational users’ level, the system will maintain strict control of all functionality by a hierarchy of permissions specifically assigned to each individual user, i.e. each user will only be permitted to perform a pre-defined set of functions from their assigned PC Workstation. The system will also automatically log all interactions between RRO staff and the NCR database, providing a clear evidential “audit trail” for monitoring and analysis.
- c) At the organisational level, a dedicated unit will be responsible for audit and security, separating this function from the “service provision” arm (the RROs) and the “service enabling” arm (the IT unit).
- d) At the inter-organisational data exchange level, all data transfers to external organisations will be subject to individually negotiated agreements to establish that organisation’s legal right to the data and compliance with Data and Privacy Protection legislation.

Conclusions and Recommendations



The importance and in particular the urgency of the development and implementation of the DCR's IT infrastructure cannot be over-emphasized. As observed above and in our mid-term report, continuation of paper-based processing poses considerable risks for the achievement of the Government's reform objectives:-

- There is a serious danger in the loss of momentum in the implementation of the reform;
- It is likely that staff and the public will become disillusioned about the sincerity of the Government's reform intentions;
- In the absence of IT-based and automated security mechanisms the potential opportunities for corrupt practices will continue to exist;
- Law Enforcement and Border Control agencies will continue to be unable to properly authenticate identity cards or passports with any degree of certainty;
- It is already very doubtful whether one of the Government's primary objectives, the establishment of an accurate register of voters from the Civil Registry will be achievable in time for the next set of national and presidential elections.

Currently the organisation is trying to do its best, operating with very limited resources. Some emergency funds were recently obtained for equipping the 12 Regional Headquarters units with a PC to record passport applications, but the DCR is still largely dependant on urgent international donor funding for its critical developments.

In view of the urgency of the situation, it is recommended that the following measures are considered to break this deadlock and achieve a measure of progress in the short term:

1. The critical path of the project starts with the design and development phase as described above, and is scheduled to take approximately six months; without completion of this phase, no material progress can be made. In other words, even if the full funding requirement was met immediately, there is a six-month hiatus while the design and development work is carried out.
2. Further relatively small amounts would enable the cleansing of the former Ministry of Internal Affairs ID Card and Passports database and digitisation of some Civil Status certificates as a separate exercise would produce a significant amount of clean and validated data for immediate loading of the National Civil Register database as soon as the central system is installed.
3. The management of the DCR collaborates with the Ministry of Refugees and Settlement over the issue of the registration of IDPs, with a view to incorporating the data thus obtained in the National Civil Register.

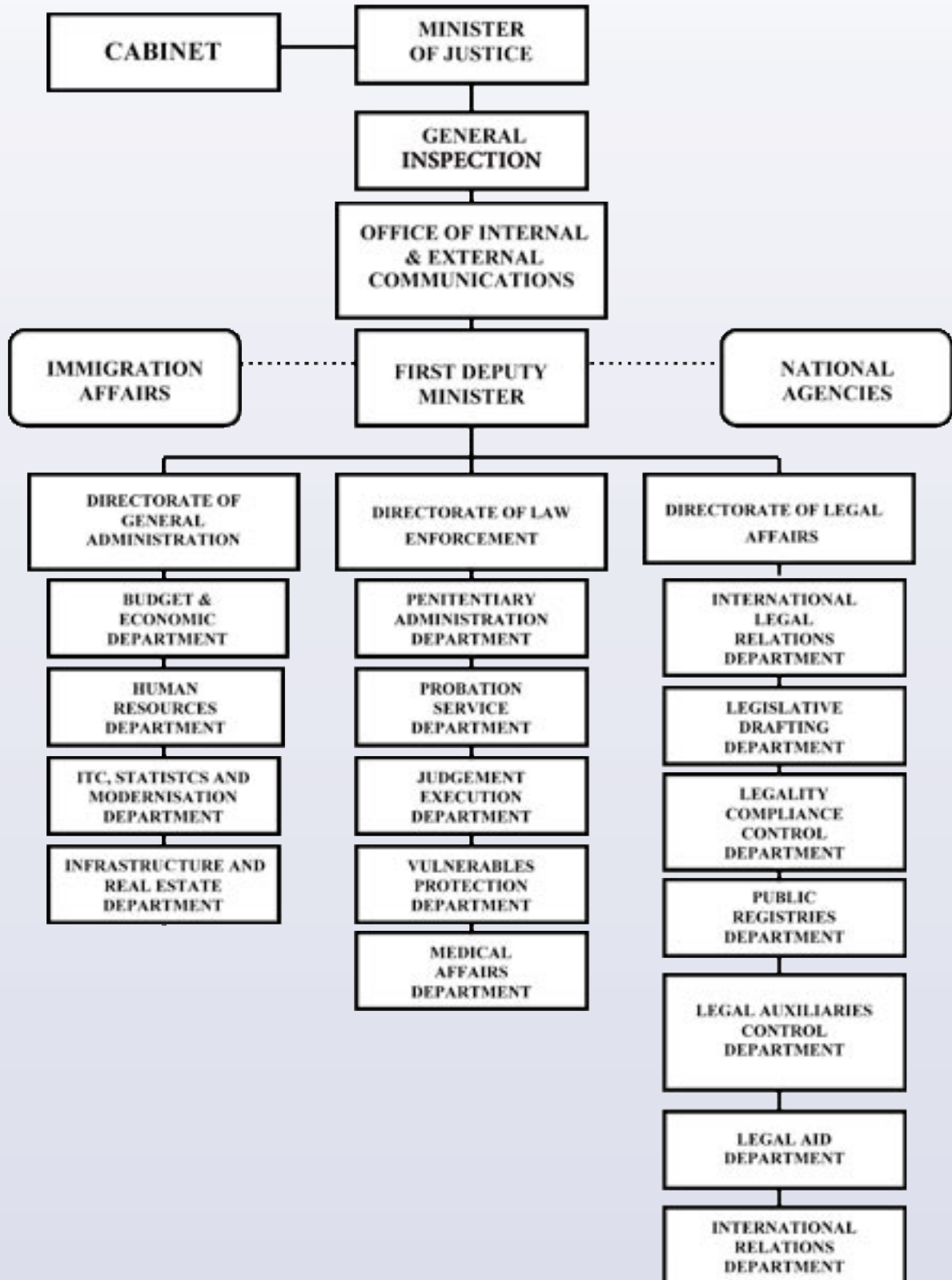
There is no doubt on the technical competence and dedication of the staff of the Ministry of Justice and the DCR to carry out the onerous task of the reform Georgian Civil Registration system. Accomplishment of the objectives of the reform is important to the progress of democracy in Georgia, the provision of efficient services to the citizen and the strengthening the Rule of Law.



ANNEX I :

(RRM Experts Recommendation)

MINISTRY OF JUSTICE ORGANISATIONAL STRUCTURE



ANNEX II

(Ministry of Justice Deputy Ministers Proposal)

MINISTRY OF JUSTICE ORGANISATIONAL STRUCTURE

