



EUROPEAN COMMISSION CONFLICT PREVENTION AND CRISIS MANAGEMENT UNIT

**RAPID REACTION
MECHANISM:**

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

SUMMARY OF THE REPORT



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The views expressed herein are solely those of the authors and 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 Georgia. In order to be able to better manage and implement its tasks, the Ministry has 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.

The assessment and recommendations of the RRM experts are therefore the result of an extensive study on the Ministry of Justice, its role, functioning, capacity to fulfil its missions, and on the potential reforms likely to strengthen its efficiency and effectiveness as well as transparency. Main attention was given to the administrative organisation of the Ministry and its efficiency, financial and budgetary management, human resources management and – as this is one of the main new tasks the Ministry has taken up recently - the planning for the establishment of a civil registry under the Ministry of Justice.

The findings of the experts should be considered as a tool to assist in the modernisation of the Ministry of Justice. While this summary just provides a very brief overview of the main findings and recommendations, a more detailed report will be published in English and Georgian on the EC Delegation website:

<http://www.delgeo.cec.eu.int/en/index.html>

CONCLUSIONS OF THE ASSESSMENT

STRUCTURE OF THE MINISTRY OF JUSTICE

The structure of the Georgian Ministry of Justice can be characterized by its highly vertical organisation which prevents teamwork and development of inter-sectoral or inter-services coordination and co-operation. This situation is worsened by the absence of any Internal Communication Service and IT Communication System.

In its relation to each other the departments and agencies seem to operate in a separated manner, the units do not seem to be encouraged by the structural set up to cooperate with each other and there appear to exist overlaps between different administrative units.

The expert team proposed to the Ministry, as a starting point for the discussion, a revised organisational structure to which the Ministry responded with its version of a suggested structure (ANNEX 1 and 2).

HUMAN RESOURCES MANAGEMENT

The human resources management of the Ministry of Justice needs to be strengthened significantly. The records and procedures looked at alone do not encompass the necessary human resource development infrastructure which is necessary to bring the Ministry of Justice in line with its European counterparts.

With regard to the training of the staff, the Training Centre of the Ministry of Justice receives no funding from the Ministry of Justice beyond the provision of office space heat and electricity. In fact, the Training Centre is funded by outside sources and has a separate legal personality. It is quite obvious that the Training Centre has offered very few if any courses to the Ministry of Justice core staff. Rather, the centre has concentrated on commercially driven courses.

The Penitentiary Department features 3249 staff and is thus by far the largest department at the Ministry of Justice. The organisation of the penitentiary department is not unlike the current organisation of the Ministry of Justice and features a department head and four deputy department heads. Staff turnover at the penitentiary department was quite high in 2004 at 18.6% but has slowed in 2005. Very few training courses have been delivered to the penitentiary staff.

FINANCIAL AND BUDGETARY MANAGEMENT

Those participating inside and on behalf of the Ministry of Justice in the budget process have a limited understanding of the Ministry of Justice's mission, goals, and values, and cannot support them through their management of the budget process. According to interviews, the responsible staff members 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.

Because the budget preparation process occurs at multiple locations, the nature and scope of the communication and coordination is unclear and limited by the lack of modern IT networks. Ministry of Justice resources do not seem to be allocated according to clearly established priorities and justifications provided during the budget process. Although successful with international donors, the Ministry of Justice is not considering using 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.

Structurally, the Georgian Justice sector does not seem to be organised homogeneously. 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 designing a clear sector vision and building goals and strategic plans.

CIVIL REGISTRY

According to official public statements, one of the main corrupt public services under the previous government was the registration of citizens, particularly in the field of the ID Cards and Passports issuance. To fight against this curse, the issuance of passports and ID cards has been transferred to the Ministry of Justice from the Ministry of Interior, so that now all Civil Registration is under the Ministry of Justice. To face its new tasks, the Ministry of Justice has developed a strategy to make a

transparent, efficient, secure and trustworthy Civil Act Registry System (CARS).

The reform of the civil registration system is despite all efforts of the Ministry still in its very initial stage. The system is not regulated properly; it is fragmented and as a whole it may be considered to be an inconsistent system. The legislative shortcomings can still be seen as a source of opportunities for corruption.

The working conditions at the civil registration offices are considered inferior. Collections of data of civil registration are transferred by mail, despite the fact that the mail service in Georgia is of a low quality. In trying to reduce this dysfunction, 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.

As surveys show a significant problem is that citizens themselves ignore their civil registration obligations. At the same time civil registration practices show that the employees of civil registration offices do not act sufficiently according to existing law, instructions or practice.

RECOMMENDATIONS

STRUCTURE 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/she is not personally involved in the Ministry of Justice administration management and has a complete overview over the activities of the Ministry and all the means for directing the policy defined by the Government. To this end, the Minister needs a filter, a role which could be played by a so-called Cabinet, composed of technicians or specialists.

- **The Directorates**

In order to facilitate the horizontality of relations inside the Ministry of Justice, it is recommended to divide it into large Directorates covering all activities which are a part of the same operative field. In this way, the co-ordination of the actions would be effective and would allow the implementation of a coherent policy. 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 of the permanence of the civil service.

- **The National Agencies**

Because of their financial independence and their ability to recruit non civil servant staff, they cannot be integrated in the Directorates. Nevertheless, 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.

- **The Regional Organisation**

The rationalization of the internal organisation with a view to strengthening the institutional 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.

- **Other measures to be undertaken**

The current presence inside the Ministry of Justice of the Department for Managing and Administrating State Archives and the Information Bureau on the Property and Financial Condition Declarations of the Officials is disputable. The experts recommend extracting them from the Ministry of Justice. Moreover the experts conclude on the creation of two new Departments: (i) *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; (ii) *Legal Aid Department* inside the Directorate of Legal Affair.

HUMAN RESOURCES MANAGEMENT

- Short term recommendations
 - Development of the Position Descriptions for all the Ministry of Justice staff;
 - Institution of a Performance Evaluation for all the Ministry of Justice staff;
 - Definition of New Staff Member Orientation Strategy;
 - Elaboration of a Professional Development Programme;
 - Development of a Training of Trainers Programme;
- Intermediate term recommendations
 - Establishment of Departmental Performance Audits conducted periodically with all Departments at Ministry of Justice by the Human Resources Department;
 - Establishment of counselling-personnel related assistance;
 - Implementation of Hiring and Promotion Policy based on merit;
 - Implementation of a Coaching-job related Assistance;
 - Upgrading of the Staff Professional Development Programme;

- Long term recommendations
 - Internal Communication Strategy;
 - New training needs analysis;
 - Statistical Analysis of the Ministry of Justice Staff;
 - Continuation of the Staff Professional Development Programme.

The penitentiary department, and specifically the relevant heads of departments, should be included in the overall reform process of the Ministry, at the same this service will also need specific attention in terms of human resources management. 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. A review of all operative laws governing the detention, care and transport of prisoners is recommended.

FINANCIAL AND BUDGETARY MANAGEMENT

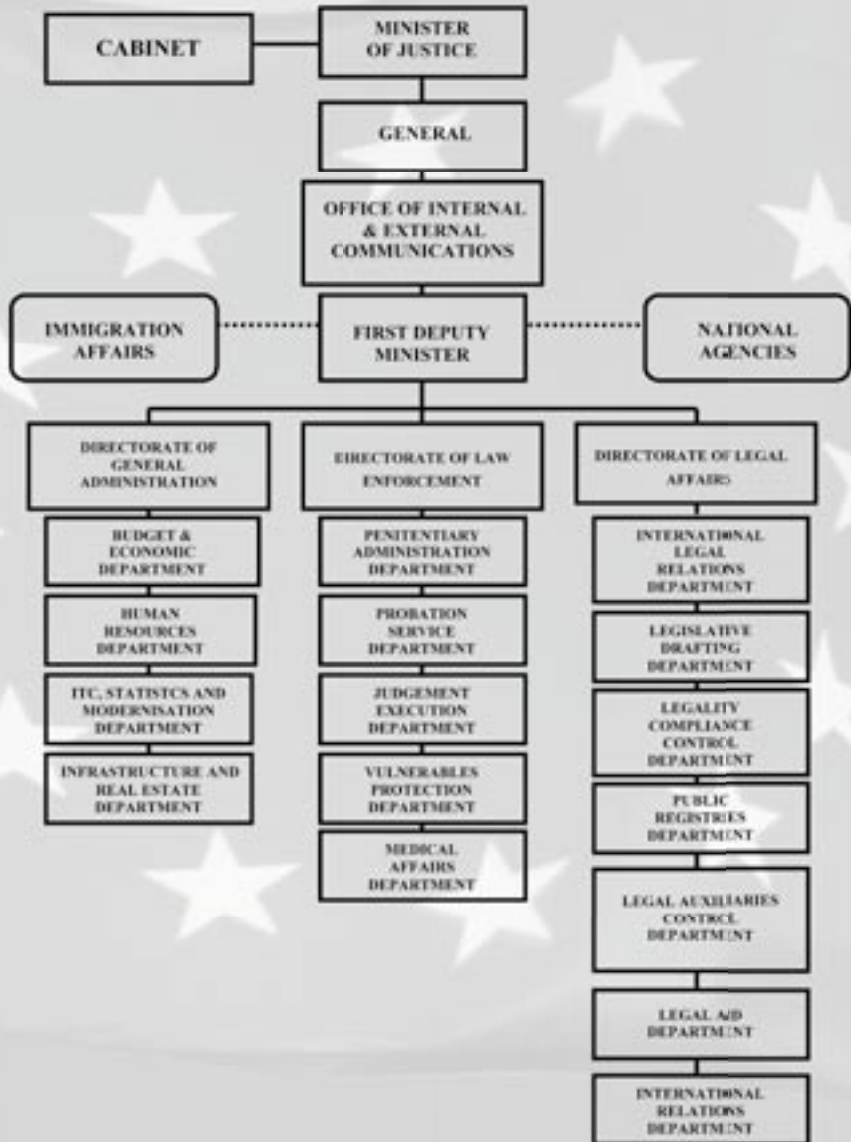
- Completion of the legislative process, harmonization of the internal audit functions with other relevant legal acts and secondary implementing legislation;
- Establish Ministry of Justice Internal Audit Unit through restructuring of the General Inspectorate;
- Strengthen the Ministry of Justice Internal Audit (IA) Unit in order to enable it to fulfil its role of auditing Ministry of Justice's financial statements and Strategic Planning performances, develop, adopt and implemented methodological guidelines for conducting efficient, economic and effective internal audit;
- Develop, accept and implement methodological guidelines for conducting result-oriented budget preparation processes, in line with the Ministry of Finance medium-term expenditures framework;
- Develop and introduce modern available tools (software) for budget management;
- Draft and implement recommendation for Justice Sector-wide Strategic Planning.

CIVIL REGISTRY

- Development of privacy and data protection legislation which should correspond with the EU Directive on privacy and must take place in close cooperation with the development of the IT-infrastructure (*Privacy by Design*).
- Establishment of an independent Data Protection Board
- 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.
- Awareness campaign should start as soon as possible in order to gain the trust of the population and to stress the importance of registration.
- Development of a system of auditing in order to check whether regulations and procedures on use and management of the system are performed correctly.
- Development of procedures on data-collection in order to secure a unique and uniform application procedure.

ANNEX I
(RRM Experts Recommendation)

MINISTRY OF JUSTICE ORGANISATIONAL STRUCTURE



ANNEX II

(Ministry of Justice Deputy Ministers Proposal)

MINISTRY OF JUSTICE ORGANISATIONAL STRUCTURE