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- Third Mission Assessment Report (MAR) of the EU Rule of Law
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Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.

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ANNEX

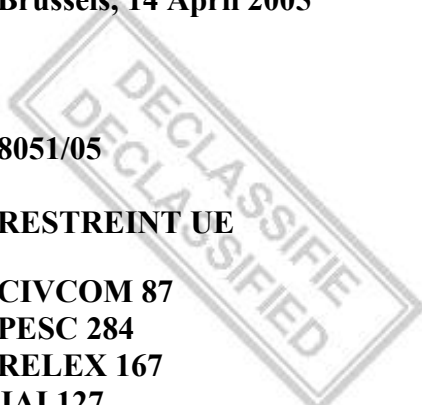
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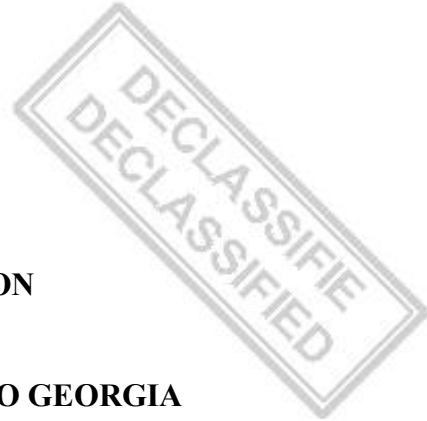
From : General Secretariat of the Council
To : Delegations
Subject : EUJUST THEMIS
- Third Mission Assessment Report (MAR) of the EU Rule of Law mission in Georgia, EUJUST THEMIS

Delegations will find enclosed the third Mission Assessment Report (MAR) of the EU Rule of Law mission in Georgia, EUJUST THEMIS.

The report was established by the Head of Mission of EUJUST THEMIS and accounts for the period from February to mid-April, 2005. It is a follow-up to the second Mission Assessment Report in January 2005 (doc. 5578/05). The report evaluates the progress of the Mission on the basis of the benchmarking indicators established in the OPLAN (doc. 11389/1/04).

The MAR also covers personnel (PERSREP) as well as procurement and logistics issues (PROLOGREP) as part of the regular update foreseen in the OPLAN.

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EUROPEAN UNION RULE OF LAW MISSION TO GEORGIA

EUJUST THEMIS

Third EUJUST THEMIS Mission Assessment Report (MAR)

TBILISI, APRIL 2005

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Executive Summary

- The Mission is progressing according to the timeline set out in the OPLAN and is currently completing its second stage.
- The high-level working group met two times during this period (March 4 and March 29, 2005) to co-ordinate and provide strategic direction to the subgroups. The third meeting of the high-level working group is planned to take place on 21 or 22 April 2005.
- Although there have been governmental reshuffles and several personnel changes in the composition of the high-level working group and subgroups during this period, the work on the development of the strategy has continued satisfactorily.
- The Mission has continued to assess the criminal justice system and produced a renewed shortened assessment of the criminal justice system in Georgia. Several questionnaires were developed by EUJUST THEMIS in order to assist the Georgian side in the development of the relevant parts of the strategy.
- Nine draft concepts according to the sectors of the criminal justice system have been developed by subgroups with the support, mentoring, and advice of EUJUST THEMIS.
- The Georgian authorities have assured EUJUST THEMIS that the nine draft concepts will be harmonised into one comprehensive strategy by the end of April 2005.
- EUJUST THEMIS notes that there are still some issues open in the draft concepts that require further harmonisation in order to avoid any contradictions and inconsistencies in the overall strategy. Subsequently, the consolidated strategy is to be approved by a high-level Georgian authority.
- The co-operation and co-ordination between the key institutions within the Georgian criminal justice system has been strengthened with the help of co-located EUJUST THEMIS experts.

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- The Mission has contributed to the co-ordination between various international donors in the field, including the European Commission. EUJUST THEMIS together with other international donors in the rule of law area have expressed their concerns to the high-level Georgian authorities on the issue of the independence of the judiciary which will remain in the focus of EUJUST THEMIS during the final stage of the mission.
- The EUSR, Ambassador Talvitie visited Georgia several times during this period. EUSR's visits were related to the conflict resolution and border issues as well as EUJUST THEMIS. EUSR office in Tbilisi was strengthened in April, 2005.
- The Mission has been visible in media via various TV reports and interviews with the HoM and its experts. The Mission is continuing to give priority to appearing in media together with its Georgian counterparts.

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Introduction

The purpose of the third Mission Assessment Report (MAR) is to give an account of the second stage of operation from February until mid-April 2005 and to evaluate progress of the Mission as part of the benchmarking indicators established in the OPLAN.

The MAR also covers personnel as well as procurement and logistics issues (PERSREP and PROLOGREP) as part of the regular update foreseen in the OPLAN.

The Context

Background

According to the Joint Action (doc. 10610/04) EUJUST THEMIS shall, in full co-ordination with, and in complementarity to, EC programmes, as well as other donors' programmes, assist in the development of a horizontal governmental strategy guiding the reform process for all relevant stakeholders within the criminal justice sector, including the establishment of a mechanism for co-ordination and priority setting for the criminal justice reform. Having finalised the assessment of the Georgian criminal justice system and thus successfully concluded the first phase of the Mission, EUJUST THEMIS is currently completing its second phase, i.e. supporting, mentoring and advising the members of the high-level working group as well as the sub-groups in developing the strategy of reforming Georgian criminal justice system.

EUJUST THEMIS is led by the Head of Mission Ms Sylvie PANTZ who is co-located with POLAD1 and administrative staff in the mission headquarters in Tbilisi (EC Delegation to Georgia and Armenia). The Deputy Head of Mission is co-located in the ministry of Justice of Georgia. Seven Senior Legal Experts (SLE) with their National Legal Assistants (NLA) are co-located in the Tbilisi Appeals Court, Ministry of Interior, General Prosecutor's Office, High Council of Justice, Public Defender's Office, and the Supreme Court of Georgia.

¹ It should be noted that the post of POLAD was vacant since January 21 until February 25, 2005. During this period there were several major political developments in Georgia, e.g. the tragic death of the late Prime Minister Zhvania and subsequent governmental reshuffles. Because of these events the HoM expressed several times her strong concerns about this vacant position and urged the DGE IX to fill this position rapidly. Subsequently, a new Political Advisor Mr. Kaupo Känd (Estonia) arrived to Tbilisi on February 25, 2005.

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By the decree of the President of Georgia No 914 of October 19, 2004 a high-level working group for the development of a strategy for reforming Georgian criminal legislation was established. This high-level working group has become the main co-ordinating mechanism and strategic decision making body of the criminal justice reform process in Georgia. It is headed by the Minister of Justice of Georgia and it includes the Secretary of the National Security Council, Secretary of the High Council of Justice, Minister of Finance, the Chairman of the Supreme Court, General Prosecutor, Public Defender, Head of the Legal Affairs Committee of the Parliament, two Members of Parliament, Member of the working group on the Criminal Procedure Code, representative of the Liberty Institute and “IRIS Georgia”. This high-level working group is assisted by nine subgroups with a primary function of drafting the strategy in relevant sectors of the criminal justice system: 1. Police Authorities and Crime Prevention, 2. the Prosecution, 3. the Bar and advancement of the Legal Aid system, 4. the Judiciary, 5. reforms of the Criminal and Administrative Violations’ Codes, 6. Execution of Penalties, 7. the Criminal Procedure’s Code, 8. reform of Public Defender’s (ombudsman) institution, 9. reform of Education of Lawyers.

EUJUST THEMIS has continued to assess the situation in the Georgian criminal justice system and develop questionnaires in order to help the Georgian counterparts to formulate a strategy according to best international and European practices. EUJUST THEMIS has facilitated co-ordination and co-operation between the relevant Georgian authorities in the rule of law area in order to harmonise and consolidate this strategy. EUJUST THEMIS has contributed to co-operation between main international donors in the rule of law area in Georgia.

The main political developments

The government of Georgia remains committed to the process of integration into European and Euro-Atlantic structures. This commitment is expressed through the governmental and institutional changes and the reforms process in general. The wide range and speed of the reforms undertaken sometimes make it difficult for the government to dedicate as much attention and diligence to the reform process. The continuing outstanding political issues in relation to South Ossetia, Abkhazia and the presence of the Russian military bases also distract the attention of the government to a certain extent.

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During the period from February to mid-April 2005 there were a number of political developments that could have an influence on the work of EUJUST THEMIS:

- 1) The tragic death of the Prime Minister Zurab Zhvania on February 3, 2005 had an impact on the mission for it was followed by another governmental reshuffle and several members the high-level working group were subsequently replaced. Because of this tragic event the meeting of the high-level working group which was supposed to take place in the first week of February was postponed. Fortunately, the main co-ordinators of the sub-groups remained the same during this period and therefore the work continued on the development of the sub-group concepts.
- 2) The termination of OSCE Border Monitoring Operation. This period coincided with the termination of the OSCE Border Monitoring Operation and EU decision to strengthen the EUSR office in Tbilisi. The latter decision has increased the EU role and visibility in the region. Border protection, security and delimitation remain one of the main priorities of this government.

The main legal developments

There have been extensive structural and personnel changes in the rule of law institutions in Georgia since the “Rose Revolution” in November 2003. Through those changes the government seeks to eliminate corruption and increase the efficiency of the civil service, including in the legal institutions. However, sometimes these changes are not transparent and do not correspond to best European practices and often institutional memory and expertise is lost in the process.

There have been several important legal developments in Georgia during this period, which will have an impact on the implementation of the strategy. EUJUST THEMIS has continued to assess the development of the legal system in Georgia. Assessing the criminal justice system in general EUJUST THEMIS also had the opportunity to examine human rights issues in relation to the criminal justice system. The advice given by EUJUST THEMIS to the Georgian counterparts on the criminal justice reform strategy has been in line with the international human rights standards.

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1) Police authorities and crime prevention

The police services were enhanced and the new patrol police is trusted by general public. However, so far there has been no co-ordinated and coherent reform of the criminal and investigative side of policing. The Public Defender's Office has reported several cases of beatings by the police of arrested persons in the pre-trial detention centres.

2) The Prosecution

The structure of the Georgian Prosecution system is highly hierarchical and there is a strong concentration of power in the General Prosecutor's (GP) hands. Individual prosecutors are reluctant to take initiative; they prefer to consult their superiors in order to receive instructions. This makes the prosecutorial activities slow and ineffective. Enhancing the prosecutor's autonomy has been recommended but this goal remains to be achieved. The prosecutors (police officers and investigators) have the power to arbitrarily arrest people. This is still central issue regarding arrests and pre-trial detention. In addition to this the level of investigation remains to be improved. The first internship competition for the prosecutor's position was conducted at the beginning of 2005. 39 interns will start their nine-month internship programs in different regions of Georgia. EUJUST THEMIS has discussed possible training of interns with the EC delegation and GP office.

On March 28, 2005 the Georgian Parliament adopted several changes to the Criminal Procedure Code (CPC) which should improve the general human rights situation and increase the effectiveness of the criminal justice system in Georgia. According to the amendments the law enforcement agencies should start gathering evidence before they make an arrest. The control of the prosecutor's office over preliminary investigations is strengthened and the two processes of enquiry and investigation will be merged. The maximum length of the pre-trial detention will be reduced from nine to four months. These amendments shall enter into force in 2006. Due to the question of plea-bargain and other crucial issues there is still a need for a new Criminal Procedure Code. The work on the new Criminal Procedure Code is still continuing and the new code should be ready by the end of 2005. The new CPC as well as amendments have been discussed in the subgroup.

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3) The Bar and Advancement of the Legal Aid System

On 26 February 2005 and on 12-13 March meetings of the Georgian Bar Association took place. Although the Association members succeeded to elect the President of the Association on the second meeting, they failed to adopt the Charter or to elect the members of the Executive Council and other relevant bodies. The losing side has contended the legitimacy of the election of the President. On March 15, EUJUST THEMIS senior legal expert Rafal Pelc met with ABA, NORLAG, GTZ, and GYLA experts to discuss possible solutions concerning the impasse of the Bar Association and its impact on the draft concept on the Bar and Free Legal Aid. EUJUST THEMIS is concerned that due to the uncertainty concerning the Georgian Bar Association the work on the development of the corresponding part of the strategy has been postponed by the Georgian counterparts. As regards Free Legal Aid system, the first two pilot Bureaus providing Free Legal Aid will be opened in the beginning of May.

1) The Judiciary

The Relevant bodies of the Georgian judiciary are the High Council of Justice, the Supreme Court, the lower courts, the Conference of judges and the President. The High Council of Justice is not part of the Judiciary, but an advisory institution to the President. The HCJ has competence concerning (a) the recruitment, selection, appointment, promotion and dismissal of judges, (b) the initiation of disciplinary proceedings against them and (c) court administration. This institution, however, is not composed in a way that is in line with the European Charter on the judiciary. Recent changes of the system caused a situation in which the disciplinary proceedings against judges are not dealt with by an independent institution, as the European Charter on the judiciary requires. Recently, some draft amendments to the Constitution have been introduced that would affect the structure and nature of the Supreme Court to a considerable degree. The main function of the Supreme Court is to deal with appeals in cassation.

In September 2004, a presidential decree was published which aimed to centralise first-instance-court competence and abolish small courts. The result would have been that quite a few first instance judges would have been dismissed or put on a reserve list with a unclear future.

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Fortunately, this reform has been postponed in order to regulate the introduction of a “judge-magistrate” at the same time.

The President has a significant role in the Georgian Constitutional system: he is at the same time head of state and chief of the executive. Because of this, he has competence to appoint and dismiss judges and to change the territorial jurisdiction of the different courts. The Venice Commission has also pointed this problem out. Especially in the field of judiciary the personnel changes, often initiated by the executive, question the independence of the judiciary and it will have a negative impact on the implement the reform strategy. During the last six months there have been two known efforts to dismiss all the judges of the Supreme Court, with the exception of the President of the Court, via legislative means. However, these efforts have failed due to a strong national and international criticism. Recent voluntary resignations of judges seemed to follow the same pattern. The question of transparency and adherence to correct procedures is paramount to EUJUST THEMIS and international donors. It should be noted that the public confidence in the judiciary in Georgia is still relatively low in comparison to other state institutions.

EUJUST THEMIS together with other international donors in the field of rule of law have expressed their concerns on the issue of the independence of judiciary to their high-level Georgian counterparts. EUJUST THEMIS together with representatives of the international community met the Chairman of the Supreme Court on March 22, 2005, to discuss recent legislation concerning the lifetime compensation (i.e. “pensions”) for voluntary retirement of judges of the Supreme Court and express concerns over the recent resignation of five Supreme Court judges. In the assessment of EUJUST THEMIS as well international experts the legislation and the appearance of the resignations have a negative effect on the independence of the judiciary by creating an atmosphere of arbitrariness, lack of transparency and infringement upon the separation of powers of the branches of government. It is the opinion of EUJUST THEMIS and international donors that if serious violations of law have occurred or there is a suspicion of violation of law, then the existing disciplinary procedures should be followed. The legislation and the resignations are inconsistent with the applicable standards of the European Convention on Human Rights and the European Charter on the Statute of Judges. The repeated efforts to get rid of some judges or making their position insecure have a negative impact on the impartiality of an individual judge. The

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independence of judiciary will stay in the focus of EUJUST THEMIS during the final stage of the mission.

5) Reform of the Public Defender's Institution

The restructuring of the Public Defender's Office (Ombudsman) as well as the recruitment of the new staff are not yet fully completed. Key positions in the Office (the heads of departments, heads of divisions, regional representatives of PD) are still not filled. Moreover, the recruitment of new employees, despite previous statements, has been non-transparent. The question of training of new staff is still open. The public confidence in the Public Defender remains relatively low, although a number of complaints to PDG have increased in last months. In April the annual report of PDG will be presented to the Parliament and the MP's debate will be devoted to human rights protection.

6) Reform of the Education of Lawyers

The Law of Georgia on Higher Education came to force on January 1, 2005. It is a good basis for future reforms. The accreditation of higher education institutions has already taken place and some steps are also taken in the direction of improving specialised legal education for law enforcers, prosecutors, and judges. However, this system has to be assessed comprehensively, taking all the components into consideration. The question of the specialised legal education and training of judges and prosecutors needs to be addressed further. Currently, only two specific bodies Academy of Police and Judges' Training Centre are organising training for the employees of criminal justice field. However, due to financial difficulties, neither of them has the capability to provide regular training. There is no political consensus yet concerning the establishment of an independent High School of Justice in Georgia. Therefore the question of specialised education/training of judges and prosecutors is still open.

7) International relations in criminal matters

EUJUST THEMIS assessed the current state of play in the field of international relations (e.g. extradition, requests of legal assistance and transfer of criminal proceedings). Currently

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international relations are limited to written procedures dealt with the Ministry of Justice, the Ministry of Foreign Affairs and the International Department at the Prosecutor General's Office. Most of these cases (about 90 percent) are related to Russia and other CIS countries. There are very few cases with the Western Europe or other third states. Because of the financial difficulties only in very exceptional cases Georgian experts participate fully in the international co-operation in the criminal matters. A network of prosecutors, especially with Russia and other CIS countries, should be established in the future.

8) The Human Rights situation regarding the criminal justice system

EUJUST THEMIS experts have examined human rights issues in relation to the criminal justice system. In the opinion of EUJUST THEMIS experts human rights situation in this context is improving. Official statistical data of the last three months in this regard also supports above mentioned conclusion. However, it should be stressed that NGO's working in the field are much more sceptical in this regard. New institutions were established within the relevant governmental structures, namely within the Ministry of Internal Affairs and the General Prosecutor's Office. Their mandate is to monitor situation in terms of protection of human rights within their subordinate organs. From the formal point of view newly introduced institutions have all necessary tools to perform their functions properly and contribute to the improvement of the situation in this field. However, it is too early to assess their work, as most of them are working since late 2004.

9) Execution of Penalties

EUJUST THEMIS experts together with the EC experts and representatives of international organisations present in Georgia were actively involved in drafting a sectoral concept paper on penitentiary. EUJUST THEMIS focused on the issue of prisoners' rights, types of regimes of serving the sentences as well as procedures of classification of inmates regimes. The European Commission in co-operation with UNDP continues to work on the rehabilitation of „Rustavi 6” prison and building a new prison in Kutaisi.

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The Co-location

Co-location of HQ

The Mission HQ is co-located with the EC Delegation in Tbilisi and there has been a good working relationship on all levels. The HoM, POLAD, translator, administration, and IT expert are based in the HQ.

Co-location of the DHoM and Senior Legal Experts (SLE)

On February 1, 2005 EUJUST THEMIS was provided proper working and meeting space in the Ministry of Justice. The weekly benchmarking meetings of the mission take place there and the DHoM and NLA are permanently co-located there. As indicated in the lessons learned document the co-location of the EUJUST THEMIS SLE and NLA is one of the key factors contributing to the success of the mission. The co-location has proved especially important during the final stages of development of the concept. It has facilitated the co-ordination and co-operation between various rule of law institutions in Georgia. The co-located experts have encouraged and facilitated joint meetings of different sub-groups in order to harmonise and consolidate the draft concepts into a horizontal reform strategy. In all co-locations EUJUST THEMIS experts have had satisfactory logistical and administrative support and working conditions.

The Implementation of the Mandate

The Second Phase

In accordance with the OPLAN, from February to mid-April 2005 the Mission was focusing on supporting, mentoring and advising the development of the concepts of reform of the criminal justice system. During this period all subgroups have produced sectoral draft concepts and revised them according to the advice and comments of the EUJUST THEMIS experts. EUJUST THEMIS has facilitated the co-ordination and consultations between various subgroups and institutions. With the help of the NLA EUJUST THEMIS continues to assess relevant legal developments in Georgia.

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In order to help the sub-groups to develop the strategy, and in order to ensure that this strategy is comprehensive and realistic the Mission has prepared relevant questionnaires for the Georgian counterparts.

The Benchmarks of the Second Phase

Currently the mission is finishing its second phase. By the end of the second phase, the following benchmark indicators apply:

- the strategy for criminal justice reform developed through a consultative process for approval by Georgian authorities. The strategy to be evaluated by EUJUST THEMIS to be comprehensive, containing necessary elements as indicated in section 3.2 (Mission Concept), and the general time frames for its implementation to be evaluated as realistic;
- strengthening of co-ordination among the key institutions within the criminal justice area and assessment of its effectiveness during development of the strategy;
- effective support, mentoring and advice by EUJUST THEMIS experts to members of the group developing the strategy.

As of mid-April 2005, the following can be noted about progress towards reaching these benchmark indicators:

- Despite initial delays an effective mechanism for co-ordination and prioritisation of the development of the criminal justice reform strategy has been established by the Georgian authorities. The high-level working group, assisted by nine operational sub-groups has become the main mechanism of co-ordination and cooperation between different rule of law institutions in Georgia.
- In order to support, mentor and advise on the development of the sectoral strategies EUJUST THEMIS continued to assess the Georgian criminal justice system, developed questionnaires, organised relevant seminars and conferences on Georgian request. EUJUST THEMIS has helped to increase coherence, co-operation and consistency in reforming the criminal justice system in Georgia.

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- The nine sectoral draft concepts have been developed by the Georgian authorities with the support, mentoring, and advice of EUJUST THEMIS.
- The Georgian authorities have assured EUJUST THEMIS that the comprehensive strategy will be ready by the end of April, 2005. Subsequently the strategy is to be approved by a high-level Georgian authority.
- At the moment (mid-April 2005) there is no unified, harmonised and finalised criminal justice strategy. Therefore, EUJUST THEMIS is unable to assess whether this strategy is going to be comprehensive, coherent and horizontal, and according to best international and European practices.
- EUJUST THEMIS notes that there are still some issues open in the draft sectoral concepts that require further harmonisation in order to avoid any contradictions and incoherencies.
- The co-operation and co-ordination between the key institutions within the Georgian criminal justice system has been strengthened with the help of co-located EUJUST THEMIS experts. At the moment it is not clear yet whether this co-operation and co-ordination is going to be sustainable in the long term.
- The Mission has facilitated co-ordination between various national actors and international donors in the rule of law area in Georgia.
- The co-operation between EUJUST THEMIS and various EC programmes in the rule of law area has had a positive impact on the reform process in Georgia and demonstrates the continuing commitment of the EU in assisting Georgia in its reform process.

The high-level working group

Since the establishment of the high-level working group by a Presidential degree in October 19, 2004 and the first meeting in November 11, 2004, the Government of Georgia, as well as the high-level working group has had several significant reshuffles. Due to internal political developments as well as due to the tragic death of the late Prime Minister Mr Zhvania on February 3, 2005 these extensive personnel changes took place. Due to this tragic event the high-level working group

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which was supposed to meet at the first week of February 2005 did not meet until March 4, 2005. The high-level working group has been in charge of the co-ordination and co-operation between various subgroups and provided strategic guidance to the main Co-ordinators of the subgroups.

At the moment the high-level working group meets in the following format (see Annex II):

Konstantine Kemularia – Deputy Prime Minister and Minister of Justice of Georgia (Head of the Group)

Gela Bezhuashvili – Secretary of the National Security Council of Georgia

Valeri Tsertsvadze – Chairman of the High Council of Justice of Georgia

Valeri Chechelashvili - Minister of Finance of Georgia

Ivane Merabishvili - Minister of Internal Affairs of Georgia

2. To be asked to participate in the working group:

Kote Kublashvili – Chairman of the Supreme Court of Georgia

Zurab Adeishvili – General Prosecutor of Georgia

Levan Bezhashvili – Head of the Legal Affairs Committee of the Parliament of Georgia

Giorgi Bokeria –Member of the Parliament of Georgia

Nikoloz Gvaramia –Member of the Parliament of Georgia

Irakli Kotetishvili – Member of the working group on the Criminal Procedure Code

Levan Ramishvili – Representative of the Liberty Institute

David Usupashvili – Lawyer of the “IRIS Georgia”

Sozar Subari –Public Defender of Georgia

The new minister of Justice who is also a chair of the high-level working group was appointed on February 18, 2005. Fortunately, the new Minister of Justice Mr Kemularia is familiar with the mandate, structure and aims of EUJUST THEMIS for he was a member of the high-level working group before becoming the Minister of Justice, in his capacity as the Chairman of the Supreme Court of Georgia.

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The issue of the high-level working group not meeting regularly as stated in the Presidential decree was raised by the HoM and EUSR with several high-level Georgian officials, including the Prime Minister Noghaideli, the Minister of Justice Mr Kemularia, the state Minister of Euro-Atlantic integration Mr Baramidze. On all these occasions the HoM and the EUSR have been assured on the highest level on the Georgian commitment to the reform of the criminal justice system. During the reporting period EUJUST THEMIS has met several times with Mr Kemularia and has received strong signals concerning his personal commitment to the reform process. The DHoM together with his Legal Assistant is co-located in the Ministry of Justice thus being able to establish close working contacts with the Minister as well as Ministry's staff and provide timely and direct advice on relevant issues. DHoM had regular contacts with the Minister of Justice in different contexts.

Since the appointment of the new Minister of Justice and under his chairmanship the high-level working group met two times: on March 4 and March 29, 2005.

On 4 March, 2005 there was the second meeting of the high-level working group chaired by the new Minister of Justice Mr Kemularia. From EUJUST THEMIS DHoM and NLA Lali Kipshidze participated in this meeting. The coordinators of each subgroup presented a short progress report followed by a question-and-answer session. The draft concept papers of all subgroups, except the reform of public defender's office and the reform of education of lawyers, were distributed to participants.

On March 29, 2005 there was the third meeting of the high-level working group. Many questions were asked in relation to sectoral inter-linked issues. The chairman requested subgroup coordinators to finalise and submit all nine sectoral parts of the strategy by mid-April. The next meeting is planned to take place on 21 or 22 of April.

The main meetings of EUJUST THEMIS with the members of the high-level working group

During this period EUJUST THEMIS has met several times with members of the high-level working group and established a good working relationship with them.

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On 7 February, 2005 the HoM and DHoM of THEMIS met the Minister of Justice Mr Giorgi Papuashvili (as part of delegation headed by the EUSR Talvitie and including the Presidency Ambassador of the Netherlands Harry Molenaar, the Head of the EC Delegation Mr Torben Holtze, and EUSR's Assistant Mr William Boe). They discussed the progress of the EUJUST THEMIS and the main concerns, as well as the situation in South Ossetia. The Minister of Justice informed the EU delegation that a meeting of the high- level working group which was due to take place on the first week of February was postponed due to the tragic death of the Prime Minister Zhvania.

On February 17, 2005, the HoM together with the SLE Annette von Sydow and SLE Maurizio Salustro met with the General Prosecutor of Georgia. During the meeting a conference on different models of prosecution (held on February 13, 2005) was discussed. The GP noted that the conference had been a success and asked the Mission to organise similar events on other topics (pre-trial detention, pre-trial investigation, etc.).

On February 25, 2005 the HoM together with the SLE Rafal Pelc met with the Public Defender of Georgia, Mr Sozar Subari. The HoM noted her concerns regarding delay in the work of the subgroup. They discussed different models of Ombudsman institutions.

On March 2, 2005 the HoM, DhoM, POLAD met with the new Minister of Justice Mr Kemularia. HoM presented a short overview of the progress of the mission and its main concerns. Mr Kemularia noted that the Georgian side and he personally are very committed to this reform process. He assured the HoM that the strategy is the priority of this government and he is eager to finish the development of strategy according to the timeline envisaged by the end of April, 2005.

On March 2, 2005 EUJUST THEMIS met with the newly appointed secretary of the High Council of Justice, Valeri Tsertsvadze. EUJUST THEMIS expressed concern that nobody from the High Council of Justice is involved in the work of the subgroup of the Judiciary. Mr Tsertsvadze responded that he was aware of this problem he and that is going to assign Chairman of the Disciplinary Council to this subgroup. The future organization of the High Council of Justice in Georgia, disciplinary issues regarding judges and training of judges and prosecutors were also discussed.

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On 3 March, 2005 DHoM together with the Head of EC Delegation Mr Holtze (and other EC representatives), CoE SG's personal representative to Georgia Mr Gaon (and other CoE representatives), Head of OSCE Mission Mr Reeve (and other OSCE representatives) met with the new Minister of Justice Mr Kemularia. They discussed the competences of different international organisations and better coordination with donors and among Georgian institutions. The Minister informed that the Government is intending to develop a three-year plan of its activities. He will try to ensure that priorities in the rule of law area are included in this plan. Minister informed that Ms Eka Tkeshelashvili will remain the Deputy Minister and will be in charge of the coordination of development of the strategy from Georgian side. The Minister emphasised that the main tool for donor coordination will be the high-level working group created by the President.

On March 10, 2005 the HoM and the SLE, NLA had a meeting with the Minister of Internal Affairs to discuss the progress of the subgroups and the state of play of the draft sectoral concepts on the police and the penitentiary.

On March 19, 2005, SLE Maurizio Salustro met with the General Prosecutor of Georgia. The G.P. asked the Mission to give advice about on the criminal phenomenon known as "thieves in law" (mafia style organised crime).

On April 1, 2005, the HoM together with the SLE Annette von Sydow and SLE Maurizio Salustro and NLA Tina Goletiani met with the General Prosecutor of Georgia. The sectoral concept on prosecution and the upcoming seminar on the pre-trial investigation were discussed. The GP noted that as the draft concept is developed and that that EUJUST THEMIS can now comment on it.

The nine sub-groups

The co-ordinators of the sub-groups and EUJUST THEMIS SLE and NLA linked to them are listed in Annex II.

Although the high-level working group did not meet from November 2004 until March 2005 the subgroups and their respective EUJUST THEMIS experts continued to work effectively on the draft sectoral concepts during this period. Since the end of February the Deputy Minister of Justice

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Ms. Eka Tkeshelashvili is in charge of co-ordinating the subgroups. There were some personnel changes in the composition of sub-groups but fortunately the majority of co-ordinators and the key members of the subgroups remained the same during this period. The subgroups have continuously been supported, mentored and advised by the EUJUST THEMIS experts. The work of the subgroups in the development of the strategy has been assessed and evaluated on a weekly base by EUJUST THEMIS.

Numerous legal documents, draft concepts and related legal materials were translated into English and from English into Georgian by EUJUST THEMIS. Weekly up-dates were translated into Georgian and submitted to the Minister of Justice in order for him to be up-do-date with the progress of the mission. A interpreter/translator is continuously available to assist the experts in translating amended or new pieces of legislation and draft concept papers.

The subgroups met several times during this period and EUJUST THEMIS SLE and NLA worked closely together with the members of the subgroups. EUJUST THEMIS prepared several questionnaires and provided advice for relevant subgroups developing the sectoral parts of the draft concept.

On March 7 2005 EUJUST THEMIS met with Deputy Minister of Justice and the main co-ordinator of subgroups, Ms Eka Tkeshelashvili, to talk about the progress of subgroups. EUJUST THEMIS was encouraged to hear that she was planning a meeting between three different subgroups: CPC, Judiciary and subgroup on Ministry of Interior – in order to discuss the issues related to the Criminal Procedures Code.

On 17 March 2005, EUJUST THEMIS experts and NLA visited temporary detention cells of Ministry of Internal Affairs.

In order to support the subgroups in the development of the relevant concepts EUJUST THEMIS organised several conferences and seminars during the reporting period.

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On February 13, 2005 EUJUST THEMIS organised a conference on different European models of prosecution. The Prosecutor General opened and closed this conference and several high-level Georgian rule of law experts participated in it. As PG and other Georgian participants noted this conference was useful in helping to determine the future of the prosecution system in Georgia and help to draft the strategy on the prosecution.

On March 19, 2005 EUJUST THEMIS organised a seminar “European experience – Georgian modalities” on the independence of the judiciary and different European models of High Councils of Justice.

The Minister of Justice and chair of the high-level working group Mr. Kemularia opened this seminar and several high Georgian officials in the rule of law area participated in it. The EUJUST THEMIS experts gave presentations on the French, Italian, Latvian, Dutch, Polish, Swedish and Danish models of High Councils of Justice. These presentations were followed by discussion concerning the best model of HCJ for Georgia. Norwegian rule of law advisors (NORLAG) also participated in this seminar.

On April 17, 2005 EUJUST THEMIS is planning to organise a seminar on the pre-trial investigation on the Georgian request. EUJUST THEMIS experts will provide the Georgian counterparts on the different European models of pre-trial investigation, which is one of the most problematic areas in the Georgian criminal justice system.

EUJUST THEMIS is planning to organise a few other seminars on the request of the Georgian counterparts addressing the most urgent needs in the rule of law area. Two seminars will take place at the end of May and mid-June supported and financed by the French government.

The main contacts with the Georgian Government

On March 9, 2005 HoM, DHoM, POLAD and NLA N.Khaindrava participated in the governmental Euro-Integration Commission chaired by the Prime Minister Mr Zurab Noghaideli. The Minister of Justice Mr Kemularia, the Minister of Foreign Affairs Mrs Zourabishvili, the State Minister for

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Euro-Atlantic Integration G.Baramidze and other ministers were present. The Head of the European Commission Delegation to Georgia T.Holtze was also present in this meeting. The HoM EUJUST THEMIS presentation on the progress of EUJUST THEMIS was followed by a question-and-answer session. The HoM stressed the fact that EUJUST THEMIS is reaching a decisive stage of its mission. The Georgian side noted that this mission has not only contributed to the strengthening and reforming of the rule of law system in Georgia, but hopefully will facilitate the process of its future integration into European structures. The Prime Minister Noghaideli asked the Minister of Justice to renew the composition of the high-level working group in order to reflect recent personnel changes; to ensure better co-ordination among the subgroups; to report once per two weeks to the government about the progress within the subgroups and the high-level working group. Minister of Justice Kemularia assured the PM and the Commission that the high-level working group will meet twice per month and that draft strategy will be prepared by mid-April 2005. Mr Kemularia assured that within two weeks after that this concept will be introduced to the cabinet. State Minister for Euro-Atlantic Integration Giorgi Baramidze noted the link with the priorities of the Action Plan within the framework of the European Neighbourhood Policy.

On March 15, 2005 the HoM, the Presidency Ambassador Molenaar, and POLAD met with the Prime Minister of Georgia Mr Noghaideli. The HoM gave a short overview on the progress of the Mission, expressed the main concerns (i.e. the independence of judiciary) and asked about the next steps of the government of Georgia concerning the reform strategy. The Prime Minister noted that Georgian authorities remain committed to the reform process in general. The top priority of this government is to fight corruption and tackle the inefficiency of the state institutions, including in the judiciary. The PM admitted that judiciary reform needs to be implemented in parallel with other urgent priorities of this government. The PM provided his initial ideas concerning the adoption of the concept and development of the plan for its implementation.

The main contacts with the Georgian Parliament

During this period there were several meetings of EUJUST THEMIS with advisors from relevant Parliamentary Committees in order to discuss the Parliament's role in the criminal justice reform process in general and regarding the reform strategy in particular.

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On January 31, 2005 DHoM and NLA met with Mr. Levan Bezhashvili, Chairman of the Parliamentary Legal Affairs Committee and discussed draft Constitutional amendments, the progress of the work of subgroups, the role of the Parliament in discussion and possible adoption of the strategy.

On March 7, 2005 DHoM, together with POLAD, met the Chairman of the Legal Committee Mr Bezhashvili. The progress of the strategy was discussed and its possible follow-up.

On March 18, 2005 EUJUST THEMIS SLE Ellen Best and Annette Von Sydow participated in a meeting of Supreme Court female judges and female Members of Parliament. This meeting has been initiated and prepared by the SLE Ellen Best and NLA Maia Chochua who started work with this group of female judges at the Supreme Court. They discussed the recent amendments to the Administrative Code and the Tax Code. The issue of recent “voluntary” resignation of judges was also discussed.

Issues of Co-ordination

As stipulated in the OPLAN and the Joint Action, EUJUST THEMIS is making continuous efforts to co-ordinate its work with other international actors in order to ensure synergy and complementarity, in particular within the EU family.

Within the EU family

Meetings with the EUSR Talvitie and the Council Secretariat in Georgia

The EUSR, Ambassador Talvitie visited Georgia several times during the reporting period. EUSR visits were related to conflict resolution and border monitoring as well as the progress of the EUJUST THEMIS.

During the first week of February, 2005 the HOM, DHoM, and experts met with the “lessons-learned team” from DGE IX (Ms Sandra Paesen and Mr Jean-Baptiste Valmary) in order to discuss

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the lessons-learned from the first EU rule of law mission. The key findings were presented to the member states in March 2005. The importance of several key elements was stressed in the lessons-learned document: collocation, national legal experts, co-ordination within the EU family and several useful recommendations for future EU rule of law missions were suggested by the “lessons-learned team”.

On February 7, 2005 the HoM and the DHoM met with EUSR Talvitie as well as the Presidency Ambassador Molenaar, the Head of the EC Delegation Mr Holtze and the assistant of the EUSR, Mr William Boe, in order to discuss the progress of the EUJUST THEMIS after the tragic death of the late Prime Minister Zhvania.

On February 24, 2005 HoM and DHoM met with Mr Pieter Feith (Deputy Director General DGE, acting Director DGE9), Mr Bruno Hanses (Head of unit DGE9), the Presidency HE Mr Harry Molenaar (Ambassador of the Netherlands), Mr Jacques Vantomme (Deputy Head of EC Delegation) and Mr William Boe (assistant of EUSR) at HQ. EUJUST THEMIS briefed the participants about the current status and perspectives of the mission and answered questions which were raised during discussion.

On April 6, 2005 the EUSR and his team met with the EUJUST THEMIS and the Presidency in order to discuss the progress of the mission, the work of the subgroups, the main concerns, and possible options concerning the extension or the follow up of the EUJUST THEMIS.

The European Commission

During this period the EUJUST THEMIS experts have met several times with Commission’s experts in the area of rule of law. The fact that EUJUST THEMIS is co-located with the EC Delegation greatly enhances the co-ordination and helped to establish good working relationship between experts. In order to ensure both the ongoing co-operation as well as to prepare for the transition from ESDP to the Community instruments in the phasing out of EUJUST THEMIS, the Mission is making particular efforts to co-ordinate with the Commission Delegation in Tbilisi. EUJUST THEMIS together with the EC delegation are going to chair the next international donors round-table on April 28, 2005.

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On February 17, 2005 there was a second co-ordination meeting between EUJUST THEMIS experts and Rule of Law experts of projects funded by EC Delegation. EUJUST THEMIS presented to the EC Delegation copy of the renewed shortened assessment of the criminal justice system of Georgia and gave a brief overview state of play of the work of sub-groups. TACIS Policy Advisor Zoran Kronic presented the main findings on the Ministry of Internal Affairs. Information was shared on the progress of the projects in the prosecution, the Ministry of Justice, the penitentiary and probation. An overall conclusion was that the capacity of key Georgian institutions is still weak, and there is a lack of a strategic approach as well as co-ordination with other relevant sectors.

On March 2, 2005 EC released a ENP country report on Georgia in which the Commission is providing an assessment of bilateral relations between the EU and Georgia. Based on this report an Action Plan will be developed together with the Georgian counterparts in order to implement the reforms in the priority areas. The support to the rule of law area is one of the priorities in the country report.

On March 10, 2005 EUJUST THEMIS DHoM and SLE Mr Van Oven met with TACIS RRM experts Mr Eric Minnegheer and Mr Michel Sigaud in order to co-ordinate a recommendation on budgetary issues that TACIS RRM project is planning to present to the Ministry of Justice. The Georgian Government is preparing for an introduction of a three-year budgetary plan (the Medium-Term Expenditure Framework) as of 2006 (covering the years 2006-2008). According to the current draft of the 2006-2008 Framework, the “justice” sector is not envisaged as one of the four priority sectors of the Georgian Government. For EUJUST THEMIS this question is particularly important for the third stage of the Mission, i.e. support to the planning for implementation of the Strategy. Ideally, once the strategy becomes an approved (and, thus, binding) document, its agreed objectives should be integrated into the Medium-Term Expenditure Framework for 2006-2008, in order to ensure funding for implementation of the Strategy from state budget.

The main visits by the Member States

On February 16, 2005 EUJUST THEMIS team met with the current Presidency, the Minister of Defence/Justice of Luxembourg Mr Luc Frieden and discussed the progress of the mission and the situation in the criminal justice field in Georgia. EUJUST THEMIS team valued highly this meeting

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with the Minister in the HQ. This visit was timely and highly useful for the experts and EUJUST THEMIS team.

On April 9, 2005 the DHoM met with the Minister of Foreign Affairs of Lithuania Mr Antanas Valionis and discussed the progress of EUJUST THEMIS and possible follow-up.

Co-ordination with the International Community

The Mission is continuing to actively participate in the international donors roundtable and offered to chair the next meeting on April 28, 2005 together with the EC delegation. During this period EUJUST THEMIS experts participated in various seminars and conferences in their respective fields organised by international donors.

On March 10, 2005 EUJUST THEMIS participated in international donors' roundtable meeting at the ABA/CEELI to discuss various projects in the rule of law area in Georgia and co-ordinate action.

On March 14, 2005 EUJUST THEMIS met with International Organisation for Migration (IOM) , Natia Kvitsiani and Goga Gabrichidze to discuss trafficking in human beings, a new "alien law" (entry, stay and exit) and a law on labour migration. This organisation monitors also illegal immigrants and asylum seekers. One of the key problems identified is the lack of Free Legal Aid. The IOM informed EUJUST THEMIS that they are planning to organise a seminar on the trafficking in human beings.

On March 24-27, 2005 EUJUST THEMIS experts participated in a conference in Gudauri which was held for the subgroup in order to finalise the draft concept paper on execution of penalties.

The OSCE

EUJUST THEMIS has met several times with the representatives of the OSCE delegation, including with the HoM of the OSCE Delegation, Mr Reeve, in order to exchange information on the respective activities in the area of rule of law. During this period regular contacts, both formal

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and informal, have been taking place between experts.

On April 4, 2005 HoM met with several international donor in the Mission HQ, including Mr Reeve, in order to discuss the issues related to the independence of judiciary in light of recent resignation of judges.

The Council of Europe

The Mission has continued to closely co-operate and co-ordinate its work with the Council of Europe. The Venice Commission at its 62nd Plenary Session (Venice, 11-12 March 2005) adopted an opinion on the Draft Constitutional Law on Changes and Addenda to the Constitutional of Georgia (CDL(2005)028) concerning the reform of the judiciary as requested on February 28, 2005 by the Minister of Justice of Georgia, Mr. Kemularia.

On February 9, 2005 the HoM, DHoM, Senior Legal Experts had a meeting with Council of Europe representatives: a newly appointed Special Representative of the Secretary General in Georgia Mr Igor Gaon, Mr Alessandro Mancini (Programme Adviser) and Ms Ana Rusu (Coordinator of experts). The sides exchanged information on their respective activities, including a discussion on the overall co-ordination between donors in Georgia.

On February 22, 2005 EUJUST THEMIS experts attended a conference organised by the CoE and the EC on compatibility of Georgian legislation with the standards of the European Convention on Human Rights and its Protocols. Several issues were discussed: extradition and international relation, potential consequences of the court-merger plan and the reform of the SC disciplinary proceedings against judges.

On February 23, 2005 EUJUST THEMIS SLE Uldis Kinis participated in a conference on amendments to the current Criminal Procedure Code of Georgia and draft of new CPC organised by CoE.

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On February 25, 2005 NLA Tina Goletiani participated in the conference organised by the Georgian Young Lawyers Association in co-operation with Council of Europe. The focus of the conference was on the system of the plea-bargaining in Georgia and the European Convention on Human Rights.

On March 7, 2005 the HoM, DHoM, POLAD met with the Council of Europe Director General of the Directorate General of Political Affairs Mr Klaus Schumann and SR Mr Gaon and the Head of the EC Delegation Mr Holtze. They discussed the new assessment of the Georgian penitentiary system and links with the draft concept on the penitentiary.

On March 14, 2005 the CoE released a bi-annual report (covering July 2004 - February 2005) "Compliance with commitments and obligations: the situation in Georgia". This report focuses on the institutional, legal and socio-economic reforms in Georgia against the background of persisting instability in the break-away-regions of South Ossetia and Abkhazia. It also focuses on the reform of the judicial institutions and stresses the importance of judicial independence. It points out several concerns: human rights issues, the reform of the Code of Criminal Procedure, plea-bargaining, professional training of law-enforcement and prison staff, and the fight against corruption.

The United Nations

On February 19-25, 2005 the Special Rapporteur on torture of the United Nations Commission on Human Rights, Professor Manfred Nowak, visited Georgia. The Special Rapporteur examined the situation regarding torture and other cruel, inhuman or degrading treatment or punishment in the country. He points out that one of the problems in the current Georgian criminal justice system is that the courts and prosecutors resort almost exclusively to pre-trial detention of accused persons, irrespective of the gravity of alleged offence. He presented his findings to the Commission in April. On February 24, 2005, SLE Rafal Pelc had a meeting with Manfred Nowak, UN Human Rights Commission Special Rapporteur on Tortures to Georgia. During the meeting different issues concerning human rights situation in relation to the criminal justice system in Georgia were discussed.

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On February 16, 2005 HoM met with Under-Secretary General Mr Jean-Marie Guéhenno and the Special Representative of the Secretary-General Ms Heidi Tagliavini.

On March 8, 2005 HoM with SLE Rafal Pelc had a meeting with UNDP expert William Irvine, specialist in penitentiary, rehabilitation of Rustavi 6 prison. EUJUST THEMIS informed about EUJUST THEMIS especially on the work of the subgroup on Execution of Penalties and related issues.

The USA

On February 10-12, 2005 EUJUST THEMIS experts participated in the conference held by ABA/CEELI on Judicial independence in Caucasian countries.

On February 28, 2005 the Bureau of Democracy, Human Rights, and Labor released a Country Reports on Human Rights Practices on Georgia. This report pointed to problems in the area of human rights in Georgia: deaths in custody, police brutality, corruption in law enforcement agencies, arbitrary arrest and detention remained problems, delays in trials, and prolonged pre-trial detention, lack of true independence of the judiciary system which is still by the executive branch and prosecutors' offices.

On April 4, 2005 the country director of USAID participated in the meeting of international donors in the EUJUST THEMIS HQ in order to discussed issues related to the independence of judiciary in Georgia. EUJUST THEMIS HoM informed the participants about the progress of the mission and future developments.

Norway

EUJUST THEMIS continues to co-operate with Norwegian Rule of Law Mission NORLAG. NORLAG has one year mandate (until 1 November 2005) to advise the Georgian authorities on matters related to criminal justice, based on a Memorandum of Understanding signed during a visit

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of the Norwegian Minister of Foreign Affairs on 8 October. EUJUST THEMIS experts have a good working relationship with NORLAG experts and they meet regularly also in the international donors round-table.

On February 2, 2005 SLE Maurizio and Annette von Sydow met with NORLAG to discuss Georgian legislation on pre-trial detention legislation and international relations at the Prosecutor General's Office (extradition and international legal assistance).

On March 14, 2005 POLAD met with NORLAG experts. NORLAG informed EUJUST THEMIS that it will focus on the pre-trial detention and international relations issues. EUJUST THEMIS invited NORLAG to participate in the independence of judiciary seminar. NORLAG invited EUJUST THEMIS to the seminar on the extradition planned to take place at the end of April.

On April 12, 2005 the HoM and POLAD met with NORLAG, the Ambassador of Norway Steinar Gil, and delegation from Norwegian Ministry of Justice (Secretary General Morten Ruud, Director General Karin Bugge, and Councillor Sissel Wilsgård). The progress of EUJUST THEMIS was discussed as well as the next stage of EUJUST THEMIS. NORLAG informed about their activities and priorities in supporting the reforms in the criminal justice system of Georgia in order to supplement the EU and other international donor's efforts.

The Status of Mission Agreement (SOMA)

The SOMA was signed on 4 December 2004 by Foreign Minister Zourabishvili and the local Presidency Ambassador Molenaar, in the presence of the HoM. The Parliament of Georgia unanimously ratified the SOMA on February 23, 2005.

Media relations

The Georgian political establishment, the legal community and law-enforcement actors and the general public

The HoM, DHoM and the majority of senior legal experts were interviewed by a periodic magazine

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of Georgian Judges Association the Judges of Georgia. The POLAD of EUJUST THEMIS has a good working relationship with the Press Officer of the EC Delegation and they co-ordinate EUJUST THEMIS related media issues. One local staff of EUJUST THEMIS is monitoring news in the field of rule of law and regularly up-dating the information concerning the coverage national legal developments and EU support in this area. Georgian media is regularly addressing rule of law issues, including the EU support to Georgia in this area.

On March 9, 2005 an interview with the new Minister of Justice Mr Kote Kemularia was published in Georgian newspaper 24 HOURS. In this interview the new Minister of Justice expresses strong personal commitment to the criminal justice sector reform process and expressed several times the importance the assistance of the EU experts in the rule of law area.

The second high-level working group meeting on 4 March 2005 was attended and reported by Georgian media representatives.

On March 19, 2005 a seminar “European experience –Georgian modalities” was organised by EUJUST THEMIS experts for high-level Georgian rule of law counterparts on the Independence of Judiciary and different European models of the High Council of Justice. MoJ Mr. Konstantine Kemularia opened this seminar and two Georgian TV stations reported on this event in the news.

On March 21, 2005 in co-ordination with the EC delegation a monthly insert on the EU was published in the Georgian newspaper 24 HOURS, which included also an article on EUJUST THEMIS.

On April 8, 2005 the EUSR Talvitie had a press conference in Tbilisi. The main topic was frozen conflict in South Ossetia and the border issues but EUJUST THEMIS related issues were also asked by the Georgian and international press and addressed by the EUSR Talvitie.

The EU audience and the international community

A Brussels based TV journalist Mr Yves DERENNE visited EUJUST THEMIS between 14-15 March 2005. He is making a documentary about EUJUST THEMIS. He visited several co-located EUJUST THEMIS experts, the HQ and interviewed the HoM, SLA, and their Georgian

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counterparts. On March 15 the HoM, the Presidency Ambassador Molenaar, and POLAD met with the Prime Minister of Georgia Mr Noghaideli. Mr Yves Derenne filmed the beginning of this meeting for the documentary on EUJUST THEMIS.

In March issue of EuroFuture: The Quarterly Review on EU International Action an extensive article on “EUJUST THEMIS: The EU Rule of Law Mission to Georgia” by the HoM. In this article the HoM gave an overview of goals of EUJUST THEMIS and its current progress.

In March issue of the Consilium Journal an article “EUJUST THEMIS: expertise for reforming Georgian criminal justice system” was published.

The French TV company Arte France interviewed the HoM on March 30, 2005 for a programme on CFSP/ESDP, including EUJUST THEMIS.

EUJUST THEMIS has got its own site pointing to the web site of the Secretariat of the Council to which also the website of the EC Delegation has got a link. As foreseen in the OPLAN, the Mission has developed a fact sheet on EUJUST THEMIS in the English and Georgian languages, which is regularly updated.

Administrative issues (including PROLOGREP and PERSREP)

PROLOGREP

During period of time February to mid-April 2005 all the tenders have been completed and equipment/goods are delivered and services are provided. The current situation is as follows:

Security Service

The service provided by Security Company “NAIA” started on August 20, 2004 and consists of:

- The installation of alarm sets in private accommodations, their maintenance and response to

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- any the alarm activation situations,
- Escort for the Head of mission and International Staff members.

During reporting period three alarm sets have been reinstalled into new accommodations of International Staff members, including the new POLAD who arrived to the mission on February 25, 2005.

Vehicle Rental

Since November 1, 2004 four vehicles together with drivers are provided by "AVIS" covering transportation needs for eight Senior Legal Experts. Another two cars are rented and assigned to the mission HQ. These two vehicles are operated by two hired drivers who are familiar with personal protection. The mission transportation needs are covered in satisfactory manner.

Information and Technology Equipment

The main tender for IT equipment was launched on September 17, 2004. However, the only company submitting an offer declared that it was not able to provide items compliant with the rules of origin so the five lots (out of ten) were declared unsuccessful as technically non-compliant. A report was sent to Brussels together with a formal request to derogate the rule of origin for these five lots. This request was approved and a new Tender was launched. Delivery of goods from the first tender was concluded by end of January and from the second tender by mid-February.

Furniture for co-locations

All sets of furniture have been delivered and assembled in the HQ and co-locations. Eight co-locations are considered as fully furnished according to the real needs as of mid-February.

Internet and Communications

A tender was launched for the provision of internet connection and for the creation of a network between HQ and the co-locations. Currently one of the co-locations is without network connection

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due to its re-location. The mission is trying to get it connected. It should be noted that not all co-locations have electricity during working hours due to rationing of electricity and black-outs in Tbilisi.

Office equipment

In line with the mission requirements office equipment (photocopiers, shredders, etc) was needed for the HQ and co-locations. Their delivery and instalment in all locations have been completed in the end of February 2005.

IT/CIS

A network has been created between the HQ and the co-locations providing internet access since mid-December. With the reception of the necessary equipment by mid-February this network was upgraded and the full IT infrastructure of the mission is now available to all mission members.

Senior Experts are provided with laptop computers and Legal Assistants with workstations. A multifunction machine (printer & scanner) is installed in every co-location.

As soon as the equipment was delivered the Chiasmus system was installed, so from mid-December the secure communication channel between Tbilisi and Brussels is functioning.

Major difficulties in the CIS/IT area are connected with the local market performance in the terms of knowledge, willingness and delivery time. The minimum period required for the delivery of goods was 45 days.

New office in the Ministry of Justice building

Last December, after few unsuccessful meetings and proposals, the Chief of Staff of MoJ made an offer to locate the mission co-location office in the big corridor in front of minister and deputy minister offices. The aim was to build up new office based on aluminium construction. The proposal has been approved by the Head of Mission and appropriate company found. The new

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office was established on January 21, 2005. The office inauguration ceremony took place on February 2, 2005 with attendance of the Deputy Minister of Justice, sub-groups co-ordinators, LL team from DG IX and the mission. The office is in use not only for co-location purposes but for sub-groups and the mission weekly meeting.

Interim Financial Report

The Interim Financial Report was prepared by Admin Office and sent to the Commission on February 25, 2005. Further amendments were submitted on March 8, 2005 together with the request for the first intermediate payment. Currently acquisitions of assets have been almost completed and payments are finalised according to the signed contract. Only running expenditures (rent, salaries, security and vehicle services, etc) plus minor secondary acquisitions are foreseen until the end of the mission. According to preliminary estimations, by the end of mission July 14, 2005 approximately 80% of the budget will be used.

PERSREP

A new Political Advisor Mr. Kaupo Känd (Estonia) arrived to Tbilisi on February 25, 2005. Prior to his departure induction training was provided by DG IX in Brussels and the hand-over took place on February 28, 2005 in Tbilisi.

Currently the mission consists of 28 staff members:

- 12 international staff members,
- 16 national staff members.

Security

The alarm systems are installed in all accommodations of international staff members. Each alarm has gas and fire detectors and a panic button working within 70 - 80 m range. A security duty room is monitoring all accommodations 24 hours per day, seven days a week and a mobile team should respond to any alarm situation in 6-8 minutes. Additionally NAIA is providing escort for the Head of Mission and international staff members whenever it's requested. The Delegation has given entry

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badges and keys to the EUJUST THEMIS premises to the HQ Staff Members, as well as to the Deputy HoM. The mission HQ is protected by an alarm system and the access code is known only to HQ International Staff Members. The evacuation plan is in place and kept updated.

Charity for orphanage

The Head of Mission and Admin Staff initiated the charity for orphanage and this idea was fully supported by all mission staff members. All staff members have contributed and TV set, 15 pairs of winter shoes, sweets were purchased. On 21 January the Head of Mission together with representation of staff members handed over the charity to children and the orphanage management.

Conclusions

Despite several governmental reshuffles and extensive personnel changes in the governmental and legal institutions, including in the high-level working group, the work on the development of the strategy continued throughout this period. The high-level working group has become the main mechanism of co-ordination between the key institutions and point of contact for international donors. Fortunately, the main co-ordinators and the key members of the subgroups remained the same during this period.

During the second stage of the mission EUJUST THEMIS has supported, mentored and advised the Georgian counterparts in developing the criminal justice reform strategy. Nine draft sectoral concepts were developed by the operational subgroups. These concepts need to be harmonised and consolidated into one unified strategy. The Georgian counterparts have assured EUJUST THEMIS that will be completed by the end of April, 2005.

According to EUJUST THEMIS several issues remain open in the sectoral drafts concepts. They require further harmonisation in order to avoid contradictions and ensure that the strategy is coherent. Due to internal political sensitivities and complexities EUJUST THEMIS is concerned about meeting deadlines by the Georgian side.

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In order to help the development of the concept EUJUST THEMIS prepared several detailed questionnaires and continued revise and update the assessment the Georgian criminal justice system. Through co-location EUJUST THEMIS experts has strengthened the co-ordination and co-operation between various Georgian institutions. However, this co-operation needs to be further improved in order to make sustainable in the long term.

In relation to the future implementation of the strategy EUJUST THEMIS and international donors have expressed their concerns about the independence of judiciary in Georgia. The extensive personnel changes, often initiated by the executive, question the independence of the judiciary as well as possibility to implement the reform strategy in the future. The question of transparency and adherence to proper procedures is paramount and will continue to be in the focus of EUJUST THEMIS during the final stage of the mission.

During this period the Mission has been visible in Georgian and international media at the same time where possible giving priority to appearing in media together with the Georgian counterparts.

The mandate of the mission expires on July 14, 2005. If a justified follow-up is requested from the Georgian side then it necessary for the EU to plan for the extension of the mission or for the follow-up of EUJUST THEMIS. The de-procurement issues need to be addressed during the final phase of the mission.

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ANNEX I

President of Georgia

DECREE

No. 914

October 19, 2004

Tbilisi



“On creation of the working group to develop a strategy for reforming Georgian criminal legislation”

1. For the purpose of developing a strategy for reforming Georgian criminal legislation, supported by the EU Rule of Law Mission (EUJUST THEMIS), the working group is to be created with the following composition:

a) Giorgi Papuashvili – Minister of Justice of Georgia (Head of the group).

On 17.02.2005 became the Minister of Environment replacing Ms.Tamar Lebanidze.

Konstantine Kemularia the ex-Chairman of the Supreme Court of Georgia became the new Minister of Justice.

b) Gela Bezhuashvili – Secretary of the National Security Council of Georgia

c) Pavle Kublashvili – Chairman of the High Council of Justice of Georgia

On 21.02.2005 resigned because of the conflict of interests on 19.02.2005 for his brother Kote Kublashvili was nominated by the President as the new Chairman of the Supreme

Court. On 21.03.05 Pavle Kublashvili was appointed as President’s Parliamentary Secretary.

On 23.02.2005 Valeri Tsertsvadze, (Ex-Chairman of Department of International and Juridical relations at the office of the Prosecutor General) became the new Chairman of the High Council of Justice.

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d) Zurab Nogaideli - Minister of Finance of Georgia

On 17.02.2005 became the PM following the tragic death of the late Prime Minister Zurab Zhvania on 03.02.2005. On 17.02.2005 Ex-Ambassador to Russia Valeri Chechelashvili became the Minister of Finance

e) Irakli Okruashvili - Minister of Interior of Georgia

On 27.12.2004 became the Defence Minister replacing Giorgi Baramidze who was appointed the State Minister for Euro-Atlantic Integration.

On 27.12.2004 Vano Merabishvili became the new Minister of Police and Public Security, which was set up after a merger of the Security and Interior Ministries

2. To be asked to participate in the working group:

a) Konstantine Kemularia – Chairman of the Supreme Court of Georgia

On 17.02.2005 Became Deputy PM and the Minister of Justice replacing Giorgi Papuashvili

On 19.02.2005 President Saakashvili nominated Kote Kublashvili (brother of Pavle Kublashvili, Chairman of the High Council of Justice), a lawyer, previously served as a chief of the Georgia's Development and Reform Fund on the Chairman's post.

On 23.02.05 The Parliament unanimously endorsed Kote Kublashvili as the new Chairman of the Supreme Court of Georgia for a 10-year term

b) Zurab Adeishvili – General Prosecutor of Georgia

c) Levan Bezhashvili – Head of the Legal Affairs Committee of the Parliament of Georgia

d) Giorgi Bokeria –Member of the Parliament of Georgia

e) Nikoloz Gvaramia –Member of the Parliament of Georgia

f) Irakli Kotetishvili – Member of the working group on the Criminal Procedure Code

RESTREINT UE

- g) Levan Ramishvili – Representative of the Liberty Institute
- h) David Usupashvili – Lawyer of the “IRIS Georgia”
- i) Sozar Subari –Public Defender of Georgia

3. The working group should develop the strategy for reforming Georgian criminal legislation within a period of 6 months.

4. The working group should inform the President of Georgia on its current activities once per month.

5. This decree enters into force on the date of its signature by the President.

<Signed>

Mikheil Saakashvili

NB! During one year of presidency Mikheil Saakashvili has made three government reshuffles which have also affected the composition of the high-level working group and thus have had an impact on EUJUST THEMIS.

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ANNEX II



#	Subgroup name	Primary expert	Experts assigned	Contact points	Current Information on the Subgroups
1.	Police authorities and crime prevention	Ole Flemming Jensen Gaard	Maurizio Salustro Annette Von Sydow	David Tsulaia	Ivan Merabishvili Co-ordinator/Minister of Interior
2.	The prosecution	Annette Von Sydow	Maurizio Salustro	Tina Goletiani	Nona Tsotsoria - Co-ordinator/ Prosecution
3.	Bar and Advancement of the Legal Aid System	Rafal Pelc	Uldis Kinis	Leila Marshania Maia Chochua	Eka Tkeshelashvili - Co-ordinator/ MOJ
4.	Judiciary	Ellen Best	Uldis Kinis, Maurizio Salustro Gerritjan Van Oven	Maia Chochua Levan Bodzashvili Nino Khaindrava	Giorgi Gogiashvili - Co-ordinator/ Chairman of Tb. Distr. Court
5.	Reforms of the Criminal and Administrative Violations' Codes	Uldis Kinis	Ellen Best	Nino Khaindrava Maia Chochua	Nika Gvaramia - Co-ordinator / MP
6.	Execution of Penalties	Rafal Pelc	Sylvie Pantz	Leila Marshania Tina Goletiani	Eka Tkeshelashvili - Co-ordinator/ MOJ
7.	Criminal Procedure Code	Maurizio Salustro	Uldis Kinis	Kakha Tsikarishvili	Eka Tkeshelashvili - Co-ordinator/ MOJ
.	Reform of Public Defender's Institute	Rafal Pelc	-	Leila Marshania	Bachana Akhalaia - Co-ordinator/ Deputy PD
9.	Reform of Education of Lawyers	Uldis Kinis	-	Nino Khaindrava	Besick Loladze - Co-ordinator/ MOJ

ANNEX III



EU RULE OF LAW MISSION IN GEORGIA
EUJUST THEMIS

DEPLOYMENT OF PERSONNEL BY ORIGIN
AS OF 15.04.2005

Origin/Country		International Civilian		Total
		Seconded	Contracted	
	DENMARK	1		1
	ESTONIA	1		1
	FRANCE		1	1
	GERMANY	1		1
	GREECE		1	1
	ITALY	1		1
	LATVIA	1		1
	LITHUANIA	1		1
	NETHERLANDS	1		1
	POLAND	1	1	2
	SWEDEN	1		1
	TOTAL	9	3	12
	NATIONAL STAFF			16
	MISSION TOTAL			28