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OPERATION OF THE GOVERNMENT IN ORDINARY SITUATION AND STATE OF EMERGENCY – LACK OF TRANSPARENCY, UNPREPAREDNESS AND RECIPES



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ABBREVIATIONS AND ACRONYMS

- Ministry of Health – Ministry of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs of Georgia
- Ministry of Education – Ministry of Education, Science, Culture and Sport of Georgia
- MIA – Ministry of Internal Affairs
- IA Minister – Minister of Internal Affairs
- Ministry of Economy – Ministry of Economy and Sustainable Development of Georgia
- NCDC – Legal Entity of Public Law – L. Sakvarelidze National Center for Disease Control and Public Health
- Interagency Council – Deliberative body of the government created for the prevention of spread of new coronavirus – Interagency Coordinating Council
- Security Council – Deliberative body of the Prime Minister of Georgia – National Security Council
- WHO – World Health Organization
- LEPL – Legal Entity of Public Law
- LLC – Limited Liability Company
- Bulgaria – Republic of Bulgaria
- Estonia – Republic of Estonia
- Latvia – Republic of Latvia
- Lietuva – Republic of Lietuva
- Croatia – Republic of Croatia
- Hungary – Republic of Hungary
- E.g. – For Example
- Etc. – Et Cetera
- Art – article
- Arts - articles
- Cl – clause
- Cls - clauses
- P – page

- pp – pages
- para - paragraph
- OSCE/ODIHR - Organization for Security and Co-operation in Europe/Office for Democratic Institutions and Human Rights
- OECD - Organisation for Economic Co-operation and Development
- ICCPR - International Covenant on Civil and Political Rights
- ECHR - European Convention on Human Rights.

INTRODUCTION

Every large organizational entity has a person or group of persons, who develop the directions of the activities of its system, make decisions, and at the same time, are responsible for proper implementation of these decisions.¹ In a State, this role is played by an executive government, which holds the most significant mandate in the classic three-end power division system.² It is the second link³ in the chain of the state authority system – law-making – implementation – interpretation and is responsible for the execution of acts adopted by the legislative organ and implementation of policy.⁴ However, this branch is not limited to executing the acts; it makes the most significant political decisions as well⁵ by relying on a significant institutional foundation, such as the President/Prime Minister and an enormous system of institutions of the executive branch.

In Parliamentary republics, the executive powers are, *inter alia*, vested in the government with a vote of confidence of the Parliament.⁶ The same applies to the semi-presidential premier-presidential sub-type systems. It represents the concept of political responsibility: it is staffed with the condition of trust and is linked to the elections of another organ.⁷ Despite the common institutional framework, the rule for decision-making for countries with such governance model is nonhomogeneous and depends on the distribution of powers in the Cabinet, on the role and influence of each participant.

Notably, the government, which gets the mandate from the Parliament, in some cases acts as the “secondary” legislator and is emancipated as the main decision-making institution in the country.⁸ In the States’ legislations, such instances are related to the state of emergency.⁹ This takes place when due to an extraordinary situation, it is impossible to adhere to the principle of distribution of powers, and immediate, direct executive decisions need to be taken by bypassing the primary legislator in order to ensure the return to normalcy.¹⁰

Therefore, the declaration of the state of emergency modifies the legal regime of human

¹ Kenneth Newton and Jan W. Van Deth, *Foundations of Comparative Politics, Democracies of the Modern World* (New York: Cambridge University Press, 2005), 45.

² *Ibid.*

³ Andrew Heywood, *Political Theory: An Introduction*, 3rd ed. (New York: Palgrave Macmillan, 2004), 65.

⁴ Savo Klimovski et al., *Contemporary Political Systems* (Skopje: Konrad Adenauer Stiftung, 2018), 59.

⁵ *Ibid.* 61, footnote 68.

⁶ Executive bodies exist in forms of different constitutional institutions in various systems. This branch is never represented by one organ. Here we talk about the core of the executive power, the Cabinet, where the functions imposed by the Constitution on this branch of government are concentrated in the largest dose. The term “Government” is used with different meanings. In the broadest sense it encompasses all three branches of government; and in presidential systems, it refers to the President and the system of executive bodies associated with her/him, in other arrangement - the Cabinet and its subordinates, or only the Cabinet. See Ebenezer O. Oni and Idris N.Erameh, “Structure and Organisation of Government,” in *Fundamentals of Politics and Governance* (Concept Publications Ltd, 2016), 166-167; regarding this term, see also: Cabinet Formation and Heads of State, PearsonHigherEd, available at: <https://bit.ly/36TRCeB>, updated at: 08.02.2021. In this research the term “Government” means only the “Cabinet”.

⁷ Michael Laver and Kenneth A. Shepsle, eds., *Making and Breaking Governments: Cabinets and Legislatures in Parliamentary Democracies* (Cambridge: Cambridge University Press, 1996), 29.

⁸ Mark Tushnet, “the Political Constitution of Emergency Powers: Parliamentary and Separation-of-Powers Regulation,” *International Journal of Law in Context* 3, no. 4 (2007): 275.

⁹ *Ibid.*

¹⁰ Lynford A. Lardner, “CONSTITUTIONAL DICTATORSHIP, by Clinton L. Rossiter.1 Princeton University Press, 1948 . Pp. ix, 314. \$5.00.,” *Louisiana Law Review* 9, no. 1 (1984): 143, available at: <https://bit.ly/39Yp9Gr>, updated at: 08.02.2021; see also, United Nations Human Rights Office of the High Commissioner, *Emergency Measures and a COVID-19: Guidance*, 27 April 2020, 2, available at: <https://bit.ly/3aK8vcV>, updated at: 08.02.2021.

rights as well as changes the vectors of classical distribution of powers are as well changed.¹¹ One of the indispensable outcomes of this process is the temporary abolition of differences between the legislative, executive, and judiciary branches; especially problematic is finding a clear distinction between the legislative and executive acts,¹² and subordinate dependence of judiciary on the executive branch.¹³ The scopes of the authority of the latter are significantly increased compared to that of the one it possesses during an ordinary situation (*inter alia*, it assumes the competences, which in ordinary situation, is under the authority of another branch).¹⁴ It solely determines the existence of the state of emergency and how to respond to it.¹⁵ According to *Eric Posner*, someone should have the discretion¹⁶ to act in response to unforeseeable events, and the executive is considered as such.

Transfer of emergency powers to the executive is justified with the necessity of rapid resolution of the crisis.¹⁷ As the main reason for the transfer of powers, some authors consider the possibility of taking the retaliatory measures without relevant information and long-term formal measures.¹⁸ The executive possesses the kind of field expertise and leverages for rapid action that the legislative and judiciary branches lack. Therefore, equipping them with the powers to take emergency measures would hinder the effectiveness of such actions.¹⁹ Thus, the focus in crisis is directed to the government, the flexibility of which turns it into the most effective branch.²⁰ The Venice Commission also outlines this characteristic of the executive branch, however, believes that this process lacks (or fails to have) consultations, debates, consensus between the parties, which results in the concentration of power in hands of one branch.²¹ Considering these risks, during the state of emergency, in order to avoid escalation

¹¹ OSCE/ODIHR, *OSCE Human Dimension Commitments and State Responses to the Covid-19 Pandemic*, 2020, 12, available at: https://www.osce.org/files/f/documents/e/c/457567_0.pdf, updated at: 08.02.2021; see also: Venice Commission, *Interim Report on the Measures taken in the EU Member States as a Result of the COVID-19 Crisis and their Impact on Democracy, the Rule of Law and Fundamental Rights*, CDL-AD(2020)018 (Strasbourg: Council of Europe, 2020), p. 52, available at: <https://bit.ly/3oZGAL9>, updated at: 08.02.2021; also, Venice Commission, *Respect for Democracy, Human Rights and the Rule of Law during States of Emergency, Reflections*, CDL-AD(2020)014 (Strasbourg: Council of Europe, 2020), pp. 37, 59-60, available at: <https://bit.ly/3cSmaBn>, updated at: 08.02.2021.

¹² Giorgio Agamben, *State of Exception* (Chicago: University of Chicago Press, 2005), 38.

¹³ Max Brändle et al., *Democracy and the State of Emergency: Responses to the Corona Crisis in the Western Balkans, Croatia and Slovenia*, Report One (Fridrich Ebert Stiftung, 2020), available at: <http://library.fes.de/pdf-files/bueros/belgrad/16119.pdf>, updated at: 08.02.2021.

¹⁴ Venice Commission, *Interim Report on the Measures taken in the EU Member States as a Result of the COVID-19 Crisis and their Impact on Democracy, the Rule of Law and Fundamental Rights*, p. 53.

¹⁵ David Dyzenhaus, "States of Emergency," in *the Oxford Handbook of Comparative Constitutional Law*, eds. Michel Rosenfeld and András Sajó (Oxford University Press, 2012), 405.

¹⁶ Eric Posner, "Deference to the Executive in the United States after 9/11", the magazine of the Constitutional Court of Georgia, special edition № 1 (2020): 94, available at: <https://bit.ly/39Vx2MZ>, updated at: 08.02.2021.

¹⁷ Council of Europe, *Respecting democracy, rule of law and human rights in the framework of the COVID-19 sanitary crisis: A toolkit for member states*, SG/Inf(2020)11 (Council of Europe, 2020), 4, available at: <https://bit.ly/36UjDmq>, updated at: 08.02.2021.

¹⁸ Mark Tushnet, *cited paper*, 275-276; also, Alan Greene, "Questioning Executive Supremacy in an Economic State of Emergency," *Legal Studies* 35, no. 4 (2015): 602.

¹⁹ Fiona De Londras and Fergal F. Davis, "Controlling the Executive in Times of Terrorism: Competing Perspectives on Effective Oversight Mechanisms," *Oxford Journal of Legal Studies* 30, no. 1 (2010): 27.

²⁰ Jonathan Macey, *Executive Branch Usurpation of Power: Corporations and Capital Markets*, *Yale Law Journal* 115, no. 9 (2005-2006): 2425.

²¹ Venice Commission, *Respect for Democracy, Human Rights and the Rule of Law during States of Emergency, Reflections*, p. 70; according to OECD report, the state of emergency characterizes with the shortened legislative process, accelerated and simplified procedures, less involvement of stakeholders. See OECD, *Tackling Coronavirus (Covid-19): Contributing to a Global Effort, Regulatory quality and COVID-19: The use of regulatory management tools in a time of crisis*, 30 September 2020, available at: <https://bit.ly/3cT8Imp>, updated at: 08.02.2021; accelerated procedures are also indicated by the OSCE/ODIHR. See OSCE/ODIHR, *OSCE Human Dimension Commitments and State Responses to the Covid-19 Pandemic*, 13.

of such powers of the executive into usurpation of authority, the balance and adherence to procedures bear utmost importance.

The state of emergency is defined as executive supremacy.²² Sometimes it is referred to as the constitutional dictatorship.²³ The executive approaches such regime by appropriating powers of all three branches, which is a dangerous combination.²⁴ Dictatorship may be formed in democracies as well if someone is given unchecked powers.²⁵

²² Alan Greene, *cited paper*, 595.

²³ Lynford A. Lardner, *cited paper*, 143.

²⁴ Sanford Levinson and Jack M. Balkin, "Constitutional Dictatorship: Its Dangers and Its Design," *Minnesota Law Review* 94 (2010): 1805.

²⁵ Alexander Hamilton et al., *The Federalist* (Harvard University Press, 1961), 336.

THE RESEARCH OBJECTIVES AND STRUCTURE

The state of emergency declared in Georgia in 2020 was the longest in the recent history of the country. The period from the origin of its causes until its end lasted for almost 4 months. Over this period the government, *de jure*, became the principal decision-maker in the country. This factor especially increased the interest towards the activities of the Cabinet: how, based on which procedures, by whose participation, under which circumstances did the 12-member composition decide the fate of the country over the months, and whether its activities were consistent with the principles of the delegation of power.

There is a seemingly simple formula for declaring the state of emergency: the President of Georgia shall declare a state of emergency upon the recommendation of the Prime Minister of Georgia and the Parliament shall approve it. However, this is only the tip of the iceberg of the whole process. The groundworks, the path leading to this decision, involved parties, and conditioning circumstances are also important. Therefore, the subject of this research paper is not to review the content of the state of emergency and the measures adopted. Rather, it focuses on the normative framework (which forms the governance system), its implementation process and what cannot or will not be defined normatively; as well as on something visible in the decision-making process, however, varying in accordance with the unstable situation and its participants. The paper seeks to capture these moments. Nevertheless, the authors deem it necessary to note that each finding, on occasion, only describes a specific situation, lacks the normative nature, and is not obligatory for it to apply in an identical form during other instances. Therefore, this paper aims to study the activities of the government, at legislative as well as at factual levels.

The research reviews the role of government, its members, and its leader in the decision-making process in parliamentary and premier-presidential sub-type semi-presidential republics. The main subject of the present work, along with the focus on the activities of the government during the ordinary situation, is the activities and procedures of decision-making of the Cabinet, as the main actor during the state of emergency.

The paper consists of two parts; the first part discusses typology, functions, composition, and decision-making procedures of the government (Cabinet), both in theoretic and comparative-legal context, as well as in accordance with Georgian legislation and its implementation. In the same manner, it reviews the functions and the influence on government activities of key members of the Cabinet – the Prime Minister, the vice Prime Minister, ministers, as well as, special agencies. The second part of the research is dedicated to the activities of the Cabinet during the state of emergency. Here the paper analyses the main legislative framework; reviews the preconditions of declaring the state of emergency in Georgia in 2020, the process (measures), the role of the government in this process, and the decision-making procedures. The practice of other countries is also described together with the example of Georgia. A unified analysis of both parts reveals the model used by Georgia during both the ordinary situation and the state of emergency. It also describes the former's transformation into the latter. The research identifies the pros and cons of this model, offers readers recommendations on how to eliminate existing flaws.

METHODOLOGY

Reporting Period

The reporting period of the document encompasses a timeframe from 6 January 2020 to 23 May 2020. This allowed us to evaluate, on the one hand, the rules and logic behind the activities of the Government of Georgia in the ordinary situation and on the other hand, a transitional two-month period until the declaration of the state of emergency, as well as, period after its declaration.

Research Methodology

The authors used several methods of research while working on the document: (1) doctrinal, based on which relevant legal acts are studied, as well as secondary sources – authoritative scientific literature, comments, and articles; (2) non-doctrinal method, within the framework of which the procedural flaws of decision-making by the Government of Georgia is analyzed (the study of a problem), the focus is made on basis of Government policymaking (the study of a policy) and its implementation. Based on the errors identified, the paper offers recommendations and suggests amendments to regulatory acts of both, an ordinary situation, as well as, the state of emergency (the study of a reform); (3) functional, structural and analytical methods of comparative-legislative research, based on which it became possible to identify good practices in the area of the research and to assess the perspective of their consideration in the reality of Georgia.

Research Sources

The present research relies on the following sources:

- Legislation of Georgia;
- Information on measures taken during the state of emergency in Georgia;
- International standards and best practice of EU (legislation);
- Analytical works of researchers.

At the operational level, the interviews with representatives of the Government agencies also played an important role in conducting a thorough analysis of issues on the activities of the Government of Georgia. For the purposes of the research, they provided the information, which was impossible to obtain in a physical form. Among the interviewed were the representatives of the Administration of the Government, several ministries, and the Parliament.²⁶

²⁶ The oral interviews were conducted with the following persons (the status of the respondents are indicated in accordance with the date of the interview): Nino Enukidze – the Deputy Minister of Economy; Natia Mevrishvili -the former Head of Administration; Beka Dochviri – the Parliamentary Secretary of the Government of Georgia; Levan Kasradze – the Head of the Office of the Legal Affairs Committee of the Parliament of Georgia, Shorena Okropiridze - Head of the Legal Aid Division of the Legal Department of the Ministry of Health. The written interviews were conducted with the following persons: Amiran Gamkrelidze – General Director of the National Center for Disease Control; Paata Imnadze – Deputy Director of the National Center for Disease Control; Khatuna Zakhshvili – the Head of the Contagious Diseases Department of the National Center for Disease Control; Natia Skhvitaridze – the Advisor on Global Health and Public Health issues of the National Center for Disease Control.

Within the framework of the study, the authors studied legislation regarding the arrangement of the government in general, its activities under ordinary and emergency conditions of 9 Member States of the EU (Bulgaria, Estonia, Latvia, Romania, Hungary, Poland, Slovenia, Croatia, and Lithuania). These States pursue the parliamentary and premier-presidential sub-type semi-presidential²⁷ form of governance.

Additionally, the selected States belong to the continental law system and at the same time, classification of governments characteristic to the group of continental European countries.²⁸ Therefore, notwithstanding the governance form, States belonging to Westminster (Great Britain, Ireland, New Zealand, Australia etc.) and Scandinavian (Norway, Sweden, Denmark etc.) groups were excluded from the scope of the research.²⁹ Furthermore, the study does not apply to States with federal governance forms (e.g. Germany), as they regulate the state of emergency differently, (the authority is transferred to the subjects of Federation). This could complicate their comparative-legal review with Georgia. Italy and Greece partially met the selection criteria. However, they were not included in the study, as the state of emergency is regulated by ordinary legislation rather than Constitution.³⁰

This research reviews the legislation related to both the ordinary situation as well as the state of emergency of the named countries. However, the selected States in the document are divided into two groups according to the practice related to the new Coronavirus pandemic. The First group consists of – Bulgaria, Estonia, Latvia, Romania, and Hungary, as these countries declared the state of emergency on constitutional basis. The second group consists of – Croatia, Lithuania, Poland, and Slovenia. These countries preferred to deal with the pandemic based on ordinary legislation. Taking into consideration the subject of the present study, the focus is made on the practice of countries of the first group.

General description of these countries according to forms of government:

Estonia – the President is elected by the legislative body or election panel.³¹ The President nominates the candidacy for the head of the government and the premier nominates the rest of the members.³² In case of the vote of confidence, the head of the country appoints other members with the recommendation of the head of the government.³³ The ministers are dismissed by the President on the proposal of the Prime Minister.³⁴ There is no need for a new vote of confidence for appointing a new member of the Cabinet. The Parliament is authorized to dismiss the Cabinet as a whole, the Prime Minister or the separate member by

²⁷ The group of authors was guided by the classification offered by Shugart and Carey, according to which, in the semi-presidential “premier-presidential” model the President is involved in the selection process of the Prime Minister, however the Parliament is authorized to dismiss the government. See Matthew Sjøberg Shugart, “Semi-Presidential Systems: Dual Executive and Mixed Authority Patterns,” *French Politics*, no. 3 (2005).

²⁸ Continental model of the parliamentary system is different from the Westminster model. In the first model not only one body has the monopoly on legislative power. Ackerman calls it „Constrained Parliamentarism”. See Bruce Ackerman, “the New Separation of Powers,” *Harvard Law Review* 113, no. 3 (2000): 687.

²⁹ For more details on Westminster and Scandinavian models, please see: Frederik Holm, “Primus Inter Pares? An Institutional Comparison of the Office of the Prime Minister” (PhD diss., London School of Economics and Political Science, 1997); also, Strøm Kaare et al., eds., *Delegation and Accountability in Parliamentary Democracies* (Oxford: Oxford University Press, 2005) 4; and R. A. W. Rhodes and Patrick Dunleavy, eds., *Prime Minister, Cabinet and Core Executive* (London: Palgrave, 1995).

³⁰ Constitution of the Italian Republic, available at: <https://bit.ly/3aMBexD>, updated at: 08.02.2021; The Constitution of Greece, available at: <https://bit.ly/3tDk7XH>, updated at: 08.02.2021.

³¹ The Constitution of the Republic of Estonia, art. 79, available at: <https://bit.ly/3jv7tp6>, updated at: 08.02.2021.

³² *Ibid.*, art. 89, para. 1-2.

³³ *Ibid.*, art. 89, para. 6.

³⁴ *Ibid.*, art. 90.

the vote of no-confidence.³⁵ The possibility of the head of the State to dismiss the Cabinet is not considered.

Hungary – Head of the State³⁶ is elected by the National Assembly.³⁷ The President nominates the candidacy for the Prime Minister³⁸ and the ministers are appointed by the head of the country on the recommendation of the Prime Minister.³⁹ The Parliament grants the vote of confidence to the Cabinet.⁴⁰ If the ministers are changed by the Prime Minister, a new vote of confidence is not required. The Parliament is authorized to dismiss the head of the Cabinet through a motion of no-confidence⁴¹ or in case if the Parliament adopts a motion of no-confidence against the Prime Minister.⁴² The mandate of the government shall be terminated by the termination of the Prime Minister’s mandate upon motion of a vote of no confidence.⁴³ The President is not authorized to dismiss the government.

Latvia – President shall be elected by Saeima.⁴⁴ The President nominates the Prime Minister.⁴⁵ The ministers are selected by the candidate for Prime Minister.⁴⁶ The Cabinet is granted the vote of confidence by the Saeima.⁴⁷ In case if the minister resigns, the head of the Cabinet nominates its replacement.⁴⁸ In case of such alteration, a new vote of confidence is not required. The Saeima shall initiate the no-confidence procedures against the head of the government as well as the separate ministers.⁴⁹ The President shall not be authorized to dismiss the government.

Bulgaria – President is directly elected by the people.⁵⁰ Prime Minister shall be elected by the National Assembly.⁵¹ After consultations with the parliamentary groups, the President shall appoint the Prime Minister-designate nominated by the party holding the highest number of seats in the National Assembly.⁵² The National Assembly shall dismiss the government through a motion of no confidence.⁵³ Dismissal of separate minister though the motion of no confidence is not considered, however, the National Assembly is authorized to dismiss ministers on the motion of the Prime Minister.⁵⁴ In the case of replacement of a minister by Prime Minister, no vote of confidence is envisaged. The President is not authorized to dismiss the Cabinet based on own initiative and for political reasons.

³⁵ *Ibid.*, art. 97.

³⁶ The Constitution of Hungary, art. 9, cl. 1, available at: <https://bit.ly/2MP4qvY>, updated at: 08.02.2021.

³⁷ *Ibid.*, art. 10, cl. 1.

³⁸ *Ibid.*, art. 16, cl. 3.

³⁹ *Ibid.*, cl. 7.

⁴⁰ The Constitution of Hungary, art. 1, cl. 2 (f).

⁴¹ *Ibid.*, art. 20, cl. 2 (b), art. 21, cl. 1.

⁴² *Ibid.*, art. 20, cl. 2 (c).

⁴³ *Ibid.*, art. 20.

⁴⁴ The Constitution of the Republic of Latvia, art. 35, available at: <http://bit.ly/2OlmJth>, updated at: 08.02.2021.

⁴⁵ *Ibid.*, art. 56.

⁴⁶ *Ibid.*, art. 55.

⁴⁷ *Ibid.*, art. 59.

⁴⁸ *Ibid.*

⁴⁹ *Ibid.*

⁵⁰ The Constitution of the Republic of Bulgaria, art. 92, cl. 1, available at: <http://www.parliament.bg/en/const>, updated at: 08.02.2021.

⁵¹ *Ibid.*, art. 84, cl. 6.

⁵² *Ibid.*, art. 99, cl. 1.

⁵³ *Ibid.*, art. 89.

⁵⁴ *Ibid.*, art. 84, cl. 6.

Romania – President shall be elected directly by the people.⁵⁵ The head of the State appoints a candidate for the office of Prime Minister after consulting the party disposing of an absolute majority in Parliament.⁵⁶ The candidate for the office of Prime Minister will ask for a vote of confidence from Parliament for the Cabinet,⁵⁷ both chambers of which (Chamber of Deputies and the Senate) shall decide at the joint session.⁵⁸ The President appoints the government based on a vote of confidence from the Parliament.⁵⁹ President shall appoint or dismiss the members of the government on the motion of the Prime Minister.⁶⁰ If the political structure or composition of the government is changed through the reshuffle process, the Parliament gets involved and shall grant a vote of confidence to the candidates.⁶¹ The President is not authorized to dismiss the government,⁶² only the Parliament has such right through a motion of vote of no confidence.⁶³

Croatia – The President shall be elected by the people.⁶⁴ The candidate for the position of Prime Minister selected by the President shall propose the members of the government to Sabor.⁶⁵ The co-signature of the latter is required for the decision on the appointment of ministers by the Prime Minister.⁶⁶ The motion of no confidence may be initiated against the Cabinet as a whole as well as against the single minister.⁶⁷ A vote of confidence in the Prime Minister, individual members of the Government, or in the Government as a whole, can be put in motion as well.⁶⁸ Furthermore, the Prime Minister is authorized to raise an issue with Sabor with his/her initiative.⁶⁹ In case if the Parliament motions the vote of no-confidence against a separate minister, the Prime Minister shall nominate a new candidate for the parliament to grant the vote of confidence, or the Prime Minister or the Cabinet shall resign.⁷⁰ In case of the replacement of ministers, a new vote of confidence is not required. The head of the State is not authorized to dismiss the government.

Lithuania – the head of the State shall be elected by the people.⁷¹ The President nominates the Prime Minister,⁷² the latter defines the list of members of the government.⁷³ The Parliament grants the vote of confidence to the Prime Minister and separate ministers.⁷⁴ Afterward, the President appoints the Prime Minister⁷⁵ and ministers on the recommendation of the Prime Minister.⁷⁶ S/he can dismiss the separate minister on a proposal of the Prime

⁵⁵ Romania's Constitution of 1991 with Amendments through 2003, art. 81, cl. 1, available at: <https://bit.ly/2O8iS2v>, updated at: 08.02.2021.

⁵⁶ *Ibid.*, art. 103, cl. 1.

⁵⁷ *Ibid.*, art. 103, cl. 2.

⁵⁸ *Ibid.*, art. 103, cl. 3.

⁵⁹ *Ibid.*, art. 85, cl. 1.

⁶⁰ *Ibid.*, cl. 2.

⁶¹ *Ibid.*, cl. 3.

⁶² Romania's Constitution of 1991 with Amendments through 2003, art. 107, cl. 2.

⁶³ *Ibid.*, art. 110, cl. 2.

⁶⁴ Constitution of the Republic of Croatia, arts. 94-95, available at: <https://bit.ly/2ZAPepg>, updated at: 08.02.2021.

⁶⁵ *Ibid.*, art. 109, cl. 1, art. 110, cl. 2.

⁶⁶ *Ibid.* cl. 5.

⁶⁷ *Ibid.*

⁶⁸ Constitution of the Republic of Croatia, art. 113, cl. 1.

⁶⁹ *Ibid.*, cl. 2.

⁷⁰ *Ibid.*, cl. 8.

⁷¹ The Constitution of the Republic of Lithuania, art. 78, available at: <https://bit.ly/3jtd7Im>, updated at: 02.08.2021.

⁷² *Ibid.*, art. 67, cl. 6, art. 84, cl. 4.

⁷³ *Ibid.*, art. 92.

⁷⁴ *Ibid.*, art. 61, art. 67, cl. 9, art. 92, art. 101, cl. 2.

⁷⁵ *Ibid.*, art. 92.

⁷⁶ *Ibid.*

Minister.⁷⁷ When more than half of the members of the government are changed, the government shall receive the vote of confidence of the Parliament.⁷⁸ The President dismisses the Prime Minister with the approval of the Parliament.⁷⁹ Seimas shall dismiss the Cabinet, as well as the separate minister.⁸⁰

Poland – The President shall be elected by the people.⁸¹ The President of the Republic shall nominate a Prime Minister.⁸² Which shall propose the composition of a Council of Ministers to the President.⁸³ Subsequently, the President appoints both the Prime Minister, as well as the ministers.⁸⁴ Within 14 days after the appointment of the Prime Minister, the latter shall propose the composition of the Cabinet to the lower chamber of the Parliament – Sejm for granting the vote of confidence.⁸⁵ With the recommendation of the Prime Minister, the President shall change the composition of the government.⁸⁶ In the case of the replacement of the ministers, a new vote of confidence is not required. The head of the State dismisses the ministers in case of motion of vote of no confidence by the Sejm.⁸⁷ The President shall not dismiss the Cabinet with his/her initiative.

Slovenia - The President shall be elected by the people.⁸⁸ After consultation with the leaders of deputy groups, the President of the Republic proposes to the National Assembly a candidate for President of the government,⁸⁹ and the latter – the members of the Cabinet.⁹⁰ The lower chamber of the Parliament, the National Assembly grants the vote of confidence to the Cabinet of ministers.⁹¹ The National Assembly is authorized not to grant the vote of confidence to the Cabinet⁹² and elect a new Prime Minister.⁹³ Ministers are appointed and dismissed by the National Assembly on the proposal of the President of the government.⁹⁴ In case of change of the minister, no new vote of confidence is envisaged. The head of the State is not authorized to dismiss the government.

Research Limitations

During the research, certain aspects made it difficult to identify particular details and therefore, established the limits of this document. Firstly, it is significant that Government advisory body set up to prevent the spread of the new coronavirus - the interagency council - failed to keep the minutes of the meetings. Therefore, the authors were only able to identify the specifics of the activities of the Council only through interviews, which due to human factors may be related to certain inaccuracies.

⁷⁷ The Constitution of the Republic of Lithuania, art. 84, cl. 9.

⁷⁸ *Ibid.*, art. 101.

⁷⁹ *Ibid.*, art. 92.

⁸⁰ *Ibid.*, art. 61.

⁸¹ The Constitution of Poland, art. 127, cl. 1, available at: <http://bit.ly/3aLUECT>, updated at: 08.02.2021.

⁸² *Ibid.*, art. 144, cl. 3 (14), art. 154.

⁸³ *Ibid.*, art. 154, cl. 1.

⁸⁴ *Ibid.*

⁸⁵ The Constitution of Poland, art. 154, cls. 1-2.

⁸⁶ *Ibid.*, art. 161.

⁸⁷ *Ibid.*, art. 144, cl. 14.

⁸⁸ The Constitution of Slovenia, art. 103, cl. 1. available at: <https://bit.ly/3tECMCM>, updated at: 08.02.2021.,

⁸⁹ *Ibid.*, art. 111.

⁹⁰ *Ibid.*, arts. 112, 116.

⁹¹ *Ibid.*, art. 117.

⁹² *Ibid.*, art. 116.

⁹³ *Ibid.*

⁹⁴ *Ibid.*, arts. 112, 116.

Furthermore, for the purposes of the research, the public information regarding the activities of the Government and the National Security Council was the significant source required to create the full picture of the activities of State organs during the state of emergency, however, the official sources have not provided the authors with all requested public information.

Another limitation of the research is the access to the legislative bases of the selected countries. Information of the studied countries on the practice of implementation of their legislation in English and German languages is very limited; therefore the authors were forced to refuse to continue the research in this regard. For the same reason, the data of the selected States on existing normative reality is only based on constitutions, laws on governments, and their rules of procedures. It is noteworthy that there are other laws beyond these acts, which regulate the interesting issues of this paper; however, access to these acts was limited due to the language barrier.

EXECUTIVE SUMMARY

This document studies the activities of the cabinet and its main actors both within the framework of the ordinary and extraordinary law. The research assessed the legislative background and the implementation process. Consequently, several shortcomings have been revealed that shall be eliminated through legislative amendments and in practice, utilization of different instruments properly.

Improvement of the Legislative Framework:

1) Closed Sessions

The government predominantly holds closed sessions. In some cases provided by law, also, upon the decision of the government, the session can be announced publicly. Such approach decreases the quality of public awareness not only on the issues at hand but also on the diversity of discussion and viewpoints raised or the alternatives to the solutions. **The amendments to the law of the government and the rules of procedure ensuring open sessions, where their closure is subject to specific circumstances, can solve this problem.**

2) “Electronic Government”

The decision to review governmental acts through the electronic government program is made within the discretion of the Government Administration. This procedure, prescribed by the rules of procedure, significantly simplifies/hastens decision-making process and is often utilized. However, **it would be better if the resolution of such issues through the electronic government program in Georgia is given as an exception and is decided by the Prime Minister instead of the Government Administration at the stage of preparation of the session; The ability of the initiator to request a decision-making format for their project shall also be defined.**

3) Publication of the Documents

The agendas of the Government sittings, the projects under consideration, the minutes of the meetings are not fully published on its website. **Issuing such documents and introducing feedback mechanisms for stakeholders (e.g. public consultations, commenting on projects) will substantially improve communication between the government agencies and the citizens. Accordingly, this obligation shall be reflected in the rules of procedure of the Government.**

4) Accessibility of the Governmental Acts

Unlike the ordinances, there is no obligation to publish decrees on the Legislative Herald of Georgia. They are uploaded on the government website, albeit in a non-codified form. The Legislative Herald of Georgia provides the codified version of the ordinances, however, for a certain payment. **It is important that this rule is amended in the Law of Georgia on Normative Acts and the relevant order of the Minister of Justice, allowing access to any person to the consolidated versions of the legal acts free of charge.**

5) Separation of Powers between the Cabinet and the Ministers

A study of the competencies of the government and the ministers revealed inconsistencies in their separation. The classification of competencies within the research made the overlap

of competencies of the cabinet and the ministers at the normative stage since at this level there is no principle whether the direct executive function in a particular field shall be performed by the government or the minister. **It would be appropriate, to separate the powers between the government and the ministers, in administrative duties, based on certain criteria. At the same time, the competence to determine the main directions in the field of governance of certain ministry shall be transferred to the cabinet, and the determination of the procedures shall be entrusted to the ministry.**

6) Fragmental Functions of a Prime Minister

The functions of the Prime Minister in the field of administration are fragmental. The relation of powers of the Prime Minister and the cabinet is inconsistent. Sometimes it is unclear why, within the same field, a certain authority lies upon the Prime Minister and the rest on the government/minister or vice versa. For example, the Prime Minister consents on the budgets of several LEPLs, list of personnel, decisions on real estate purchases, individual procurements. **It would be better to transfer such powers to the cabinet, which would put more sense into redistribution of direct executive functions among different actors.**

7) The Staffing Powers of a Prime Minister

In terms of personnel competencies, the head of the government has a considerable number of leverages not only in connection with the legal entities directly related to the cabinet, but also the influence on the personnel policy of the ministries. It appoints the heads of individual LEPLs operating in the field of governance of ministries. Apart from that, the head of government nominates the deputy ministers (other than the deputy state minister) based on the recommendation of the minister. To prevent the excessive power of the Prime Minister, **it is recommended that the deputy ministers are appointed by the ministers themselves, and that the heads of the LEPLs of the ministries are appointed by the relevant ministers on a competitive basis.**

8) Preliminary Agreement between the Ministers on Governmental Acts

The positive position of three ministries in the process of pre-agreement on governmental acts is mandatory in order for the project to be included in the government agenda. Such consent sometimes delays or blocks the consideration of a relevant issue at a government meeting. **A proper approach would be to amend the rules of procedure of the government so that after the first case of impossibility of prior agreement between the ministers, the issue is taken to the government sitting, where its fate will be decided in a collegial format.**

9) Extraordinary Legislation

There are norms in ordinary legislation that prescribe the possible actions to be taken during a state of emergency. For example, it describes the measures that the government can take, the possibility of introducing interim governance in a certain area, as well as approving an emergency budget. Such measures or scales cannot be predetermined and therefore it is unjustified to prescribe them as a universal norm. **It is important for good practice to abolish such provision in the legislation, leave such decision on the emergency legislation (decree). The Law of Georgia on the State of Emergency shall establish only the procedural basis for the entire cycle of the state of emergency.**

10) Regulation of Emergencies

The Law of Georgia on Civil Safety mostly deals with fire-rescue operations and fire safety rules, and regulates other emergencies superficially, which is ineffective in adapting to different situations, both in terms of response measures and institutional-personnel aspects, and soon exhausts itself in ordinary conditions. **It is important for the law to introduce an emergency administration system that best adapts to the various types of emergencies, both in terms of management and operational measures, so that they become as usable as possible during the ordinary period.**

Implementation of the Legislation

11) Use of Defense Forces

In 2020, the Prime Minister activated the mechanism of using the Defense Forces six times (including once throughout the whole country). As the epidemic has little to do with the main mission of the Defense Forces, their full mobilization for assistance, supportive measures is not advisable. The recommendation in this part is **that the Prime Minister shall use the Defense Forces during the epidemic only in the part of the country where there is its special need.**

12) Declaration of a State of Emergency

Unlike medical factors, the political-legal grounds for declaring a state of emergency were insufficiently substantiated. The reasoning behind why the government did not resort to amendments to the ordinary legislation, as well as did not use the existing institutional mechanisms in the area of crisis (for example, the National Security Council) was unconvincing. **The government is obliged to present more arguments to the public before declaring the state of emergency and not to decide to submit this solution to the leader of the country right after the closed format discussion.**

13) The Format of the Activities of the Interagency Council

The Interagency Council, a temporary body set up to prevent the spread of the COVID-19, operated in a closed format, which made it substantially difficult to analyze the reasons behind the decisions, the goals, the alternatives, the procedures for their adoption, the subjects involved and the variety of the opinions raised. It turned out that the body did not keep the minutes of the sessions either. **It is important to involve representatives of human rights institutions as well as the Parliament in the work of such agencies that in fact take the reins of governing the state (even temporarily); such participation will make the management of the state of emergency more transparent and inclusive. It is also significant for these bodies to keep the minutes of the meetings on a mandatory basis, otherwise it is impossible to assess and confirm their work, as they do not make formal decisions.**

PART I

RULES AND BASES OF ACTIVITIES OF THE GOVERNMENT UNDER ORDINARY CIRCUMSTANCES

1. THE GOVERNMENT OF GEORGIA

In accordance with the principle of separation of powers, an executive branch is one of three branches, the major function of which is to implement the acts adopted by the legislative organ.⁹⁵ In real life, it obtains more power and is presented as the natural leader both at the national as well as foreign levels.⁹⁶ Various organs are equipped with this function, however, in parliamentary and premier-presidential subtype models, its major part is concentrated in the hands of the Cabinet.⁹⁷ The aim of the first part of this paper is to outline the classification of the government as the core of the executive authority in the abovementioned types of republics, as well as, to review the status and competencies of the composition of a Cabinet and key actors, to describe and analyze decision-making procedures, both in comparative-legal context as well as on the example of Georgia.

1.1. General Typology

The Government is a collegial body, which executes its activities through the heads of different areas and directions – ministers and a Prime Minister.⁹⁸ Its typology is not explicitly formed at the legislative level. The classification can be made through analysis of roles, functions and status of the Cabinet and its members.

There are the following types of Governments:

a) **Presidential model**, where the principle „a primus solus“ applies,⁹⁹ i.e., the rule of the personal cabinet of a head of the executive authority.¹⁰⁰ Such system is referred to as “the Cult of Personality”.¹⁰¹

b) **Bicefal model**, when the Government exercises executive powers together with a President.¹⁰² It is typical to presidential-parliamentary sub-type semi-presidential governance forms;¹⁰³

⁹⁵ Markus Böckenförde et al., “A Practical Guide to constitution Building: The Design of the Executive Branch,” *International Institute for Democracy and Electoral Assistance* (2011): 1.

⁹⁶ Kenneth Newton and Jan W. Van Deth, *cited paper*, 104-106; Savo Klimovski et al., *cited paper*, 58.

⁹⁷ Matthew Sjøberg Shugart, *cited paper*, 324.

⁹⁸ Savo Klimovski et al., *cited paper*, 88-89. also, Cristina Barbieri and Michelangelo Vercesi, “The Cabinet: A Viable Definition and its Composition in View of a Comparative Analysis,” *Government and Opposition* 48, no. 4 (2013): 536.

⁹⁹ Giovanni Sartori, *Comparative Constitutional Engineering, An Inquiry into Structures, Incentives and Outcomes* (London: Palgrave Macmillan, 1994), 102-103; *Cabinet Formation and Heads of State*, PearsonHigherEd, 77.

¹⁰⁰ Arend Lijphart, “Cabinets: Concentration Versus Sharing of Executive Power,” in *Patterns of Democracy* (New Haven; London: Yale University Press, 2012), 102.

¹⁰¹ Bruce Ackerman, “The New Separation of Powers,” 657-664.

¹⁰² Giovanni Sartori, *cited paper*, 123; also, Maurice Duverger, „A New Political System Model: Semi-Presidential Government,” *European Journal of Political Research* 8 (1980): 165-187.

¹⁰³ Regarding Bicefal Model see x Gianluca Passarelli, „The government in two semi-presidential systems: France and Portugal in a Comparative Perspective,” *French Politics* 8 (2010).

c) **In the parliamentary model** the only source of legitimacy of the Government is the Parliament (and is accountable only to it). Its Status is defined as the supreme body of executive power.¹⁰⁴ A similar model can be observed in parliamentary and premier-presidential sub-type semi-presidential countries. This paper studies the government typologies within the framework of such model.

This research has chosen the most common approach from the classifications proposed in the scientific literature. It outlines three types of government: a) “**cabinet**” **government** – where the cabinet collegially creates the politics and makes a decision;¹⁰⁵ b) “**premier**” **government**, where the prime minister is the leading figure in the decision-making process,¹⁰⁶ and c) “**ministerial**” **government** – where ministers act within their fields and are less depended on the Prime Minister or Cabinet.¹⁰⁷ The first type is considered to be the most common. However, certain varieties are observed even within its scope, which causes additional differences by countries.¹⁰⁸

Cabinet description and sorting in accordance with this method (according to decision-making style) is the most common and effective way. The key and crucial question in this process is who makes the decision and how.¹⁰⁹ Therefore, it is important for the typology to be based on the analysis not only of where decisions are formally made and how many people are involved in making them but also on the determination of who has the real power to set the agenda; and how does this person make an impact.¹¹⁰ In this regard, the actual practice of policymaking and distribution of powers should also be considered. It is possible for the cabinet normatively to be the one who leads the process, while the Prime Minister holds the dominant position.¹¹¹ Only such an analysis allows an actual description and classification accordingly. Therefore, when assigning a place to the Government of Georgia in typology not only the normative order but its implementation should also be considered.

In the case of Georgia, as a result of a review of powers of the Prime Minister and ministers the formula of interrelations between them has been outlined, which is related to the classifications of Governments discussed in the first sub-chapter: the Government of Georgia prefers the cabinet style of the activities – although according to the Constitution and practice as well the government activity directions are defined by the Prime Minister, after analyzing by-laws it was revealed that the Cabinet has right to make policy-making key decisions and implement the laws, it furthermore is authorized to assign the ministries a normative regulation of a certain issue. As for the Ministers, they receive the tasks from law

¹⁰⁴ Giovanni Sartori, *cited paper*, 101; also, Michelangelo Vercesi, “Cabinets and Decision-Making Processes: Re-Assessing the Literature,” *Journal of Comparative Politics* 5 (2012): 4.

¹⁰⁵ Joint ratification of decisions is the key characteristic of the Cabinet. See Jean Blondel and Nick Manning, “Do Ministers do what they Say? Ministerial Unreliability, Collegial and Hierarchical Governments,” *Political Studies* 50, no. 3 (2002): 468.

¹⁰⁶ Frederik Holm, *cited paper*, 6.

¹⁰⁷ Rod Hague and Martin Harrop, *Comparative Government and Politics: An Introduction*, 6th ed., (Palgrave, 2004), 278; Hans Keman, “Parties and Government: Features of Governing in Representative Democracies”, in *Handbook of Party Politics* (London: SAGE Publications Ltd, 2006).

¹⁰⁸ The decisions and style of activity of Governments are also influenced by the fact whether they are coalition, minority or single party. See Kozo Kato, “Cabinet and Presidency,” in *Government and Politics* vol. 1, Masashi Sekiguchi (EOLSS Publications, 2010), 2-6, available at: <http://www.eolss.net/Sample-Chapters/C04/E6-32-02-03.pdf>, updated at: 11.02.2021.

¹⁰⁹ Michelangelo Vercesi, “Cabinets and Decision-Making Processes: Re-Assessing the Literature”, 5.

¹¹⁰ *Ibid.*, 13.

¹¹¹ Juliet Kaarbo, “Prime Minister Leadership Styles in Foreign Policy Decision-Making: A Framework for Research,” *Political Psychology* 18, no. 3 (1997).

or acts of the Government and are not independent to establish a ministerial government model. **It is significant to eliminate the flaws of separation of powers: in the strategic directions of a sectoral field of cabinet style of government activities, the decision should be made entirely by the board and not by a single minister or a head of the Government solely.**

1.2. The Status of the Government of Georgia and its Composition

The Government of Georgia holds the status of the supreme body of executive power.¹¹² It took more than 20 years and several constitutional changes to transition from the deliberative body of the President to the supreme body of executive power. Governments in studied countries hold the same status.¹¹³

In studied parliamentary systems of executive authority, a government represents the unified body which consists of the highest officials of the executive branch.¹¹⁴ In parliamentary and premier-presidential sub-type semi-presidential systems the cabinet is represented by a Prime Minister and ministers with portfolios. One or more State Ministers may be added to them (“ministers without portfolio”).¹¹⁵ Georgia also follows this path, the Government consists of Prime Minister and ministers.¹¹⁶ During the period of the study, the government consisted of the Prime Minister and 11 other ministers¹¹⁷ (10 with portfolio and 1 without portfolio). The number of ministers in the studied countries is different and varies from 10 to 22. Observation shows that this is less dependent on a size of a country or population. The ministries are created by fields. For instance, currently, there are 16 members in the Governments of Estonia,¹¹⁸ Latvia,¹¹⁹ Hungary¹²⁰ and Lithuania¹²¹, 17 – in Slovenia,¹²² 18 – in Bulgaria,¹²³ Romania¹²⁴ and Croatia,¹²⁵ 21 – in Poland.¹²⁶

¹¹² Constitution of Georgia, art. 54, para. 1.

¹¹³ The Government in Bulgaria, see България, Устройствен Правилник, Министерски съвет, чл. 2, available at: <http://bit.ly/2NDOU68>, updated at: 13.02.2021; Estonia, see The Constitution of the Republic of Estonia, art. 86; In Latvia, see Latvia, Cabinet Structure Law, Likumi.lv - Latvijas Republikas tiesību akti, available at: <http://bit.ly/2M4M8Xu>, updated at: 15.02.2021; Latvia, Rules of Procedures of the Cabinet of Ministers, art. 2, cl. 1; Romania, see România, LEGE nr. 90 din 26 martie 2001 privind organizarea și funcționarea Guvernului României și a ministerelor, art. 1, cl. 1, Portal Legislativ, available at: <http://bit.ly/2LZH2f5>, updated at: 13.02.2021; Hungary, see The Constitution of Hungary, art. 15, cl. 1; Poland, see The Constitution of Poland, art. 10, cl. 2; Slovenia, see Slovenija, Zakon o Vladi Republike Slovenije, člen 1, PisRS - Pravno informacijski sistem, available at: <http://bit.ly/2M1DhFW>, updated at: 13.02.2021; Croatia, see Constitution of the Republic of Croatia, art. 110; Lithuania, see Lietuva, Lietuvos Respublikos Vyriausybės įstatymas, art. 2, cl. 1, Dokumentų paieška – LRS, available at: <https://bit.ly/3qyO7IK>, updated at: 13.02.2021 have such status.

¹¹⁴ Michelanjelo Vercesi, „Cabinet decision-making in Parliamentary systems,” in *The Oxford Handbook of Political Executives*, eds. Rudy B. Andeweg et al. (Oxford: Oxford University Press, 2020), 439.

¹¹⁵ Constitution of Georgia, art. 54, para. 3.

¹¹⁶ *Ibid.*, para. 5.

¹¹⁷ Resolution № 4942-Іb of the Parliament of Georgia, dated September 8, 2019, on vote of confidence to the Government of Georgia.

¹¹⁸ Estonia, “Composition of the Cabinet of Ministers,” Government of the Republic of Estonia, available at: <http://bit.ly/3u3Q4ZA>, updated at: 16.02.2021.

¹¹⁹ Latvia, “Cabinet composition,” Cabinet of Ministers, available at: <https://www.mk.gov.lv/en/content/cabinet-ministers>, updated at: 16.02.2021.

¹²⁰ Hungary, “A Kormány Tagjai,” Magyarország Kormánya, available at: <https://bit.ly/3u9q6nF>, updated at: 16.02.2021.

¹²¹ Lithuania, “Ministries,” My Government, available at: <http://bit.ly/3u7dX2s>, updated at: 16.02.2021.

¹²² Slovenia, “About the Government,” GOV.SI Portal, available at: <https://bit.ly/3qvRABo>, updated at: 16.02.2021.

¹²³ България, “Биографии,” Министерски съвет, available at: <http://bit.ly/3bgW3S3>, updated at: 16.02.2021.

¹²⁴ Romania, “Ministers of the Romanian Government,” Romanian Government, available at: <http://bit.ly/37mX2PK>, updated at: 16.02.2021.

¹²⁵ Hrvatska, “Članovi Vlade,” Vlada Republike Hrvatske, available at: <http://bit.ly/2Zp4Ifv>, updated at: 16.02.2021.

¹²⁶ Polska, “Rada Ministrów,” Portal Gov.pl, available at: <http://bit.ly/3pt6reL>, updated at: 16.02.2021.

In Georgia, ministries, offices of State Minister(s), special-purpose state institutions under the direct authority of the executive power are engaged in the exercise of the higher executive powers together with the cabinet (together with state sub-agency institutions within their area of governance).¹²⁷ The legislation also provides for the possibility of the creation of commissions and councils of deliberative bodies aimed at studying certain issues.¹²⁸

1.3. Competence of a Government

The Government competencies can be divided into three directions: administrative, legislative and judicial.¹²⁹ Out of these in the Continental-European model, a Government is limited to administrative i.e. managerial function, while the legislative manifests itself by initiating acts of the Parliament and adopting by-laws.¹³⁰ One of their most common classifications is based on sectoral distribution.¹³¹

The core function of the government in Georgia is to implement the country's domestic and foreign policy defined by the Parliament of Georgia. In order to fulfil this mandate, detailed competencies are required. Directions of activities of the Government of Georgia, on the one hand, are listed in a generalized form,¹³² and on the other hand, in each specific case relevant laws indicate directly the authority of the Cabinet to regulate the relevant issue. According to legislations of studied countries, the competence of Governments is substantially similar. They can be grouped¹³³ under several blocks.¹³⁴

a) Policy-making covers issues of preparation and approval of programs, strategies and other national-level documents in various fields; the same is done by governments in Bulgaria,¹³⁵ Poland,¹³⁶ Croatia,¹³⁷ Hungary,¹³⁸ Lithuania¹³⁹ and Romania.¹⁴⁰ Inter alia, in the first five¹⁴¹ countries the governments develop public order and national security policies.

¹²⁷ The Law of Georgia on the Structure, Authority and Rules of Operation of the Government of Georgia, para. 1, art. 4.

¹²⁸ *Ibid.*, art. 29, paras 1 and 2.

¹²⁹ Ebenezer O. Oni and Idris N. Eramah, *cited paper*, 167.

¹³⁰ In the Parliamentary systems lawmaking agenda control, most frequently belongs to governments in parliamentary systems and parliaments in presidential ones. See George Tsebelis, *Veto Players: How Political Institutions Work*, (Princeton, NJ: Princeton University Press and Russell Sage Foundation, 2002), 104; as for the judicial function, this implies powers for pardoning, which is typical to presidential systems. The right to appoint judges also belongs to this category. See Ebenezer O. Oni and Idris N. Eramah, *cited paper*, 168.

¹³¹ Woodrow Wilson, *The State: Elements of Historical And Practical Politics*, ed. Edward Elliott (Boston: D.C. Heath & co., 1901); also, see Will Jennings et al., "Effects of the Core Functions of Government on the Diversity of Executive Agendas," *Comparative Political Studies* 44, no. 8 (2011).

¹³² The Law of Georgia on the Structure, Authority and Rules of Operation of the Government of Georgia, art. 5.

¹³³ This and further classifications are conditional in the paper and the powers are varied between relevant classifiers. One authority may apply to several classifiers.

¹³⁴ Detailed distribution of competences of the Government of Georgia, see the Annex № 1.

¹³⁵ The Constitution of the Republic of Bulgaria, arts. 105-106; България, Устройствен Правилник, чл. 6 (3).

¹³⁶ The Constitution of Poland, art. 146, cl 1, 4.

¹³⁷ Constitution of the Republic of Croatia, art. 110.

¹³⁸ The Constitution of Hungary, art 15, cl. 1; "Hungary," European Committee of the Regions: Devision of Powers, available at: <https://bit.ly/3ptjFrO>, updated at: 14.02.2021.

¹³⁹ The Constitution of the Republic of Lithuania, art. 94.

¹⁴⁰ Romania's Constitution of 1991 with Amendments through 2003, art. 86, art. 102, cl. 1; România, LEGE nr. 90 din 26 martie 2001, art. 1, cls. 2, 5.

¹⁴¹ see The Constitution of the Republic of Bulgaria, arts. 105-106, България, Устройствен Правилник, чл. 6 (3); The Constitution of Poland, art. 146. cls. 1-2; Constitution of the Republic of Croatia, art. 110; "Hungary," European Committee of the Regions: Devision of Powers; The Constitution of the Republic of Lithuania, art. 94.

b) Immediate executive functions (administration) imply the implementation process of normative acts. It includes making decisions of national and state importance in sectoral areas, as well as the definition of significant financial norms (e.g., domestic and foreign debt management, setting fees) and leading international relations. Similar to the Georgian Government, the governments in studied countries also have this competence. The function of implementing legislative acts is the responsibility of all governments, however, only several countries make specific reference to it. E.g., in Estonia, the government administers the implementation of laws, decrees of the Parliament and acts of the President.¹⁴² Governments in Poland,¹⁴³ Lithuania¹⁴⁴ and Croatia¹⁴⁵ have the same function. Furthermore, reference is made to various tools for foreign relations in Bulgaria,¹⁴⁶ Estonia,¹⁴⁷ Poland¹⁴⁸ and Lithuania.¹⁴⁹ Budget management and implementation authority is emphasized in Bulgaria,¹⁵⁰ Estonia,¹⁵¹ Croatia,¹⁵² Poland¹⁵³ and Lithuania.¹⁵⁴ The Governments have administrative competence in military and defense fields in Bulgaria¹⁵⁵ and Poland.¹⁵⁶

c) Within the scopes of coordination and control function the Government of Georgia oversees the current activities of the ministries, LEPLs and other executive bodies, can abolish their legal acts as well; the Cabinet oversees the status of execution of tasks by a ministry in accordance with the legislation. It is tasked to coordinate works of national significance. Such competence also implies its right to delegate a specific issue regulation authority to a Ministry, which together with the law creates legal basis of the activities of the ministry. Out of studied countries, in Slovenia,¹⁵⁷ Lithuania¹⁵⁸ and Poland¹⁵⁹ the governments are authorized to abolish legal acts of subordinate agencies and subjects. Furthermore, in Estonia,¹⁶⁰ Slovenia¹⁶¹ and Lithuania¹⁶² the government is tasked to lead and coordinate activities of the ministries and other governmental institutions, and in Bulgaria,¹⁶³ Latvia¹⁶⁴ and Poland¹⁶⁵ the government has the function of state administration control.

d) Staffing/founding authorities can be divided into appointment/nomination and founding competences. In the case of the Government of Georgia this entails the creation of state Sub-agencies under LEPLs and the ministries. The similar staffing/founding powers are as-

¹⁴² The Constitution of the Republic of Estonia, art. 87.

¹⁴³ The Constitution of Poland, art. 146, cls. 1, 4.

¹⁴⁴ The Constitution of the Republic of Lithuania, art. 94.

¹⁴⁵ Constitution of the Republic of Croatia, art. 110.

¹⁴⁶ The Constitution of the Republic of Bulgaria, arts. 105-106; България, Устройствен Правилник, чл. 6 (3).

¹⁴⁷ The Constitution of the Republic of Estonia, art. 87.

¹⁴⁸ The Constitution of Poland, art. 146, cls. 1, 4.

¹⁴⁹ The Constitution of the Republic of Lithuania, art. 94.

¹⁵⁰ The Constitution of the Republic of Bulgaria, arts. 105-106; България, Устройствен Правилник, чл. 6 (3).

¹⁵¹ The Constitution of the Republic of Estonia, art. 87.

¹⁵² Constitution of the Republic of Croatia, art. 110.

¹⁵³ The Constitution of Poland, art. 146, cls. 1, 4.

¹⁵⁴ The Constitution of the Republic of Lithuania, art. 94.

¹⁵⁵ The Constitution of the Republic of Bulgaria, art. 105-106; България, Устройствен Правилник, чл. 6 (3).

¹⁵⁶ The Constitution of Poland, art. 146, cls. 1, 4.

¹⁵⁷ Slovenija, Zakon o Vladi Republike Slovenije, člen 5, para. 3.

¹⁵⁸ Lietuva, Lietuvos Respublikos Vyriausybės įstatymas, art. 34.

¹⁵⁹ The Constitution of Poland, art. 149.

¹⁶⁰ The Constitution of the Republic of Estonia, art. 87.

¹⁶¹ Slovenija, Zakon o Vladi Republike Slovenije, členu 2, 5.

¹⁶² The Constitution of the Republic of Lithuania, art. 94.

¹⁶³ The Constitution of the Republic of Bulgaria, arts. 105-106; България, Устройствен Правилник, чл. 6 (3).

¹⁶⁴ The Constitution of the Republic of Latvia, art. 61.

¹⁶⁵ The Constitution of Poland, art. 146, cls. 1, 4.

signed to the Governments in Bulgaria,¹⁶⁶ Estonia,¹⁶⁷ Latvia,¹⁶⁸ Romania,¹⁶⁹ Poland,¹⁷⁰ Slovenia,¹⁷¹ Croatia¹⁷² and Lithuania.¹⁷³

e) Legislative competence includes submission of the legislative initiative to the Parliament as well as its own law-making. The Government of Georgia establishes the functions and rules of activities of ministries within the scopes of its powers. Similar to Georgia the governments in Lithuania,¹⁷⁴ Croatia¹⁷⁵ and Slovenia¹⁷⁶ are entitled to legislative initiative. It is important that in Croatia¹⁷⁷ and Poland¹⁷⁸ the governments have law-making powers, which include adopting decrees for the law enforcement. In Georgia,¹⁷⁹ Latvia,¹⁸⁰ Poland,¹⁸¹ Lithuania¹⁸² and Slovenia¹⁸³ development of draft state budget and submission to the Parliament is a legislative competence of the Governments. Furthermore, in Hungary¹⁸⁴ and Poland¹⁸⁵ the competences of Governments also include all those issues, which by law are not directly within the competence of another body.

In addition to directly assigned functions the Government of Georgia prevails in three cases in terms of issues to be decided by ministries and makes decisions on: 1) the issues that do not fall within the competencies of any ministry and are assigned to the executive power by law;¹⁸⁶ 2) issues that fall within competences of several ministries and there is no decision-making authority defined;¹⁸⁷ 3) the issues,¹⁸⁸ which fall within the competence of a certain ministry, however it fails to make decision on it or delays the decision.¹⁸⁹

Furthermore, in case of disagreement of relevant ministers regarding the issue falling within

¹⁶⁶ България, Закон за Администрацията, чл. 35, LEX.BG Българският правен портал, available at: <https://bit.ly/3jUMEDU>, updated at: 14.02.2021; България, Устройствен Правилник, чл. 22 (1), чл. 24.

¹⁶⁷ Estonia, Government of the Republic Act, art. 43, cl. 6, Riigi Teataja, available at: <http://bit.ly/37m2J0n>, updated at: 14.02.2021.

¹⁶⁸ Latvia, Rules of Procedures of the Cabinet of Ministers, art. 73, cl. 6, Likumi.lv - Latvijas Republikas tiesību akti, available at: <http://bit.ly/2NhrGTN>, updated at: 14.02.2021.

¹⁶⁹ România, LEGE nr. 90 din 26 martie 2001, art. 34, art. 35, cl. 2, art. 12 cls. 1, 2.

¹⁷⁰ Polska, Ustawa o Radzie Ministrów, art. 39, LexLege – System Informacji Prawnej, available at: <http://bit.ly/3jYhRWF>, updated at: 14.02.2021.

¹⁷¹ Slovenija, Poslovník Vlade Republike Slovenije, člen 4, para. 1, člen 5, para. 1, PisRS - Pravno informacijski sistem, available at: <http://bit.ly/2Ncr1mo>, updated at: 14.02.2021.

¹⁷² Hrvatska, Zakon o Vladi Republike Hrvatske, članak 24, para. 1, članak 29, para. 1, Zakon.hr - Pročišćeni Tekstovi Zakona, available at: <https://bit.ly/3at3Jev>, updated at: 14.02.2021; Hrvatska, Poslovník Vlade Republike Hrvatske, članak 9, Narodne Novine, available at: <http://bit.ly/2OPRLKd>, updated at: 14.02.2021.

¹⁷³ Lietuva, Lietuvos Respublikos Vyriausybės įstatymas, art. 22, cl. 3.

¹⁷⁴ The Constitution of the Republic of Lithuania, art. 94.

¹⁷⁵ Constitution of the Republic of Croatia, art. 110.

¹⁷⁶ Slovenija, Zakon o Vladi Republike Slovenije, členu 2, 5.

¹⁷⁷ Constitution of the Republic of Croatia, art. 110.

¹⁷⁸ The Constitution of Poland, art. 146, cls. 1, 4.

¹⁷⁹ Constitution of Georgia, art. 66, para. 2.

¹⁸⁰ The Constitution of the Republic of Latvia, art. 61.

¹⁸¹ The Constitution of Poland, art. 146, cls. 1, 4.

¹⁸² The Constitution of the Republic of Lithuania, art. 94.

¹⁸³ Slovenija, Zakon o Vladi Republike Slovenije, členu 2, 5.

¹⁸⁴ The Constitution of Hungary, art. 15, cl. 1; Hungary, 94/2018. (V. 22.) Korm. Rendelet a Kormány tagjainak feladat- és hatásköréről, Hatályos Jogszabályok Gyűjteménye - Wolters Kluwer – Jogtár, available at: <https://net.jogtar.hu/jogszabaly?docid=A1800094.KOR>, updated at: 15.02.2021.

¹⁸⁵ The Constitution of Poland, art. 146, cls. 1, 4.

¹⁸⁶ The Law of Georgia on the Structure, Authority and Rules of Operation of the Government of Georgia, para. 2, art. 16.

¹⁸⁷ *Ibid.*, para. 3.

¹⁸⁸ Except the issues related to security, defense and public safety and implementation of powers provided by the criminal legislation of Georgia. *Ibid.*, para. 2.

¹⁸⁹ *Ibid.*

the competence of several ministries, the issue as well shall be considered by the Government.¹⁹⁰ It is noteworthy that similar to Georgian Government, in case of conflict between the ministries regarding the competence, disputes are solved by the governments in Hungary,¹⁹¹ Romania,¹⁹² Slovenia¹⁹³ and Estonia.¹⁹⁴

It is a common practice that due to the complexity of the legal regulation, an executive branch also has the law-making power in addition to the Parliament.¹⁹⁵ Legal acts are the tools for exercising the competencies of the Government, which are categorized in accordance with the normative context or the field of regulation.¹⁹⁶ Due to the diversity of the executive functions, there are various types of government acts: (1) rules regulating certain field; (2) rules regulating functions and structure of a certain body; (3) documents regulating activities of collegial body; (4) internal-agency acts.¹⁹⁷ The first is characterized by general-abstract regulation and is necessarily focused on external actions i.e. sets binding rules for unspecified addressees.¹⁹⁸ Such act represents an expression of delegated powers and a direct legal basis is necessary for its issuance.¹⁹⁹ The second case includes provisions of the higher executive bodies, which represent the direct basis of activities of these bodies, describes their functions and is not limited to internal matters of the mentioned bodies.²⁰⁰ The third case implies rules of procedures and acts, which describe the decision-making rules.²⁰¹ They are binding for this body and do not have an external effect.²⁰² The fourth type of acts are the staffing or intradepartmental orders and have only the power of pure individual action.²⁰³

According to the abovementioned, the decision to regulate legal relationships with normative or individual acts should be based on the possibility of its multiple-use and the effect of external action. Unfortunately, it is not like this in Georgia. The Government acts are divided only based on its normative nature. The normative act is called an ordinance and an individual act is called – a decree.²⁰⁴ Furthermore, it is prohibited to adopt the act of normative character in the form of the individual act and vice versa.²⁰⁵ Out of the abovementioned types, there is a nonhomogeneous approach in Georgia to legal acts regulating activities of collegial body – in some cases, they have normative context, while in others – individual. For instance, the Government of Georgia sometimes uses a decree²⁰⁶ and in others – an or-

¹⁹⁰ *Ibid.*, art. 20, para. 3.

¹⁹¹ Hungary, 1144/2010. (VII. 7.) Korm. Határozat a Kormány ügyrendjéről, art. 11, *Hatályos Jogszabályok Gyűjteménye - Wolters Kluwer – Jogtár*, available at: <http://bit.ly/3rVFrWO>, updated at: 15.02.2021.

¹⁹² Notwithstanding the fact that the legislation of Romania does not discuss the conflict of competences, it owns right to change organization and functions of ministries, also assign powers of certain ministry to the other etc. See România, LEGE nr. 90 din 26 martie 2001, art. 56.

¹⁹³ Slovenija, Zakon o Vladi Republike Slovenije, člen 5, para. 4.

¹⁹⁴ Estonia, Government of the Republic Act, art. 57, cls. 2-3.

¹⁹⁵ Jenny S. Martinez, "Horizontal Structuring," in *the Oxford Handbook of Comparative Constitutional Law*, eds. Michel Rosenfeld and András Sajó (Oxford University Press, 2012), 11.

¹⁹⁶ Jörn Ipsen, *Allgemeines Verwaltungsrecht*, 11., überarbeitete Auflage, 2019.

¹⁹⁷ *Ibid.*

¹⁹⁸ *Ibid.*

¹⁹⁹ *Ibid.*

²⁰⁰ Maximilian Wallerath, *Allgemeines Verwaltungsrecht*, Lehrbuch, 6., bearbeitete Auflage, Erich Schmidt Verlag, 2009.

²⁰¹ *Ibid.*

²⁰² *Ibid.*

²⁰³ *Ibid.*

²⁰⁴ The Law of Georgia on the Structure, Authority and Rules of Operation of the Government of Georgia, art. 6.

²⁰⁵ Organic Law of Georgia on Normative Acts, art. 2, para. 5.

²⁰⁶ E.g. Decree of the Government of Georgia № 2738, dated December 30, 2016 on Creation of a Commission to review the general plan for the development of the Anaklia Deep-water Port and the approval of its statute.

dinance²⁰⁷ to approve the composition and rules of activity (Statute) of *ad hoc* commissions and councils.²⁰⁸

The Government of Romania²⁰⁹ also creates a temporary body by normative acts. Prime Minister of Poland establishes both temporary as well as standing bodies by normative acts.²¹⁰ As for Lithuania, since the legislation does not distinguish between normative and individual-legal acts, both temporary and permanent government bodies are established by one act - resolution.²¹¹

It is significant for the Government of Georgia to resolve the issue of the establishment of temporary deliberative bodies through the abovementioned way, in particular, the purpose of its creation and characteristics of its rules of activity should be analyzed. These bodies are created in order to study and summarize the issues needed to be resolved by political bodies and officials, and to prepare recommendations. They neither make binding decisions themselves and nor issue the acts. Their composition is also temporary, while the members are appointed based on the representation of any agency/field (membership of a deliberative body does not represent any position independently). Its statute/rules of procedure is the intradepartmental act, which defines only its functions, purpose and rules of activity. Its content has no impact on external addressees and does not define any regulations towards them. Such provisions, as the body itself, will be terminated as soon as it resolves the issue for which it was created. **Therefore, the government shall create deliberative bodies by decrees, shall approve their rules of activity (statute) with the same document, while its text should not violate the individual regulation scopes (should be focused on the certain issue and shall not define obligations of external addressees). The government shall be authorized to establish only standing commissions defined by law with the normative acts.** Such practice is observed in Bulgaria,²¹² Estonia,²¹³ Latvia,²¹⁴ Hungary,²¹⁵ Slovenia²¹⁶ and Croatia.²¹⁷

²⁰⁷ Ordinance of the Government of Georgia № 190, dated April 12, 2019 “on Establishment Government Commission on Developing Housing Policy Document and Action Plan”; Ordinance № 469, dated September 14, 2018 “on Establishment of Standing Commission Developing National Strategy of Fight against Terrorism and Relevant Action Plan, and Conducting Enforcement Monitoring and approving its Charter.

²⁰⁸ Such bodies are created to study separate topics (The Law of Georgia on the Structure, Authority and Rules of Operation of the Government of Georgia, art. 29) and are different from the permanent deliberate bodies established for a purpose predetermined by a special law.

²⁰⁹ România, LEGE nr. 90 din 26 martie 2001, art. 12, art. 18, cl. 1.

²¹⁰ Polska, Ustawa o Radzie Ministrów, art. 12.

²¹¹ Lietuva, Lietuvos Respublikos Vyriausybės įstatymas, art. 22, cl. 15, art. 27, cls. 1-3.

²¹² Government of Bulgaria created permanent councils by decrees (normative act), and the temporary agencies by decision or order (individual-legal act). See България, Устройствен Правилник, чл. 22 (1), чл. 24 (1).

²¹³ Government of Estonia creates temporary committees with decrees (individual-legal act). See Estonia, Government of the Republic Act, art. 21, cl. 1.

²¹⁴ In Latvia, in relation to the certain topic, the Government is authorized to issue an order (individual legal act) on creation of councils, committees and working groups. See Latvia, Rules of Procedures of the Cabinet of Ministers, art. 73, cl. 6, art. 217.

²¹⁵ Government of Hungary creates permanent committees by decision (normative act). See Hungary, 2018. évi CXXV. Törvény a kormányzati igazgatásról, art. 9, Hatályos Jogszabályok Gyűjteménye - Wolters Kluwer – Jogtár, available at: <http://bit.ly/2ZqISsk>, updated at: 15.02.2021; e.g., see Hungary, 1150/2012. (V. 15.) Korm. Határozat a Katasztrófavédelmi Koordinációs Tárcaközi Bizottság létrehozásáról, valamint szervezeti és működési rendjének meghatározásáról, Nemzeti Jogszabálytár, available at: <https://bit.ly/3bkk4rM>, updated at: 15.02.2021.

²¹⁶ The Government in Slovenia creates permanent government body by a decree (normative act) (e.g. Council of National Security), while by a decision (individual-legal act) it creates temporary government bodies. See Slovenija, Zakon o Vladi Republike Slovenije, člen 20, člen 21, para. 3; Slovenija, Poslovnik Vlade Republike Slovenije, člen 4, para. 2; for an example. See Slovenija, Odlok o ustanovitvi in nalogah Sveta za nacionalno varnost, Glasilo Uradni list RS, available at: <https://bit.ly/2ZsH1De>.

²¹⁷ Government of Croatia creates permanent bodies by the Regulations (normative act) of the Government, while by the decision (individual legal act) it establishes temporary government agencies. See Hrvatska, Zakon o Vladi Republike Hrvatske, članak 24, para. 3.

Ordinances

The competence to adopt ordinances allows the Government of Georgia to implement laws. Its legal powers are only less than the legislative act, and by the context, it represents an extension and completion of a normative field regulated by law in an ordinary situation. Since ordinances of the Government are by-laws, in order to adopt them the legislative basis should be present.²¹⁸ The basis should consider both the power to adopt an ordinance as well as its field of regulation.²¹⁹ The Governments are authorized to issue normative acts in Bulgaria,²²⁰ Estonia,²²¹ Latvia,²²² Romania,²²³ Hungary,²²⁴ Poland,²²⁵ Slovenia,²²⁶ Croatia²²⁷ and Lithuania.²²⁸

There is only one exception when no legislative basis is required initially for issuance of an act of the Government of Georgia. This is the state of absolute necessity. At the same time the issue should not be regulated by law and should not fall within the authority of other body.²²⁹ Within one month after the adoption of such act, a legislative initiative should be submitted to the Parliament regarding granting the Government with such powers.²³⁰ If the Parliament fails to adopt this initiative in 3 months, the act shall become void.²³¹ A mechanism similar to Georgia can be observed in Romania, where the Government is authorized to adopt the normative act, so-called “Emergency ordinance” in exceptional situations when the regulation of the state of emergency cannot be postponed.²³²

The Government of Georgia adopts up to 700 ordinances throughout a year. For instance, in 2019 the Government adopted 686 ordinances, in 2018 – 695, in 2017 – 605 and in 2020 – 829.²³³

Decrees

In addition to the normative acts, the Government adopts the individual act – a decree,²³⁴ which is also issued on the basis of the legislative act and for its enforcement.²³⁵ However,

²¹⁸ Organic Law of Georgia on Normative Acts, art. 9, para. 9, and art. 12, para. 1.

²¹⁹ Venice Commission, *Parameters On The Relationship Between The Parliamentary Majority And The Opposition In A Democracy: A Checklist*, CDL-AD(2019)015 (Strasbourg: Council of Europe, 2019), p. 120.

²²⁰ The Constitution of the Republic of Bulgaria, art. 114; България, Устройствен Правилник, чл. 8 (1) - (2).

²²¹ Estonia, Government of the Republic Act, art. 26, cl. 1, art. 27, cls. 1, 3.

²²² Latvia, Cabinet Structure Law, section 31, cl 1 (1) – (2), cl. 2, art. 33, cl. 1.

²²³ Romania’s Constitution of 1991 with Amendments through 2003, art. 108, cls. 1-3; România, LEGE nr. 90 din 26 martie 2001, art. 26, cl. 1, art. 40.

²²⁴ Hungary, 1144/2010. (VII. 7.) Korm. Határozat a Kormány ügyrendjéről, arts. 7, 49, 52, 90/A (2), 70; Hungary, 134/2016. (VI. 10.) Korm. Rendelet az állami köznevelési közfeladat ellátásában fenntartóként részt vevő szervekről, valamint a Klebelsberg Központtól, Nemzeti Jogszabálytár, available at: <https://bit.ly/3aqMEYX>, updated at: 15.02.2021; „Hungary, Legislation and Official Policy Documents,” European Commission, available at: <http://bit.ly/3qvUztA>, updated at: 15.02.2021.

²²⁵ Polska, Regulamin pracy Rady Ministrów, art. 19, cl. 1, art. 27, System Informacji Prawnej, available at: <http://bit.ly/2NuWHYR>, updated at: 15.02.2021.

²²⁶ Slovenija, Zakon o Vladi Republike Slovenije, člen 21.

²²⁷ Hrvatska, Zakon o Vladi Republike Hrvatske, članci 26, 30-31.

²²⁸ The Constitution of the Republic of Lithuania, art. 95.

²²⁹ Organic Law of Georgia on Normative Acts, art. 12, para. 2.

²³⁰ *Ibid.*, para. 2 and 3.

²³¹ *Ibid.*

²³² Romania’s Constitution of 1991 with Amendments through 2003, art. 115, vl. 4.

²³³ The authors rely on the webpage of the National Herald of Georgia, an official gazette of Georgia, legal entity under public law within the Ministry of Justice of Georgia: <https://matsne.gov.ge/ka>.

²³⁴ The Law of Georgia on the Structure, Authority and Rules of Operation of the Government of Georgia, art. 6, para. 1.

²³⁵ *Ibid.*

the Government is also authorized to adopt a certain type of decrees on the basis of its own ordinance.²³⁶ The decisions on approval of an act of a President, co-signature, on the consent of the Prime Minister in the exercise of the powers of a head of a state, nomination or request of the first person of the country are approved by the decree.²³⁷ Similar to Georgia we encounter the individual legal acts in Bulgaria,²³⁸ Estonia,²³⁹ Latvia,²⁴⁰ Hungary,²⁴¹ Slovenia,²⁴² Croatia²⁴³ and Lithuania.²⁴⁴

The Government of Georgia adopts about 3000 decrees per year. For instance, in 2019 the Government adopted 2753, in 2018 – 2603, in 2017 – 2748, and in 2020 – 2632 decrees.²⁴⁵

Decree of the Government of Georgia is an individual act (should be a one-time act and should be addressed to a certain legal relation), however, the action of the majority of them applies not only to addressees indicated in the act, but also indirectly affects outside subjects during enforcement and acquires normative nature. **In order to solve the problem of what kind of act should regulate a specific legal relationship with a homogeneous approach, it is important to determine in advance the impact of the regulation on the addressees and the possibility of its multiple uses.**

1.4. Initiation of the issue in the Government of Georgia

The Government of Georgia initiates the issue through its pre-agreement procedures with the ministries. The “Electronic Government” program is used for this purpose.²⁴⁶ Without this procedure, the issue cannot fall within the agenda. Through the mentioned rule, the issues are developed in-depth before the consideration.²⁴⁷

The following subjects shall initiate the draft legal act:

- Ministries and the Office of the State Minister.
- The Administration of the Government;
- The special militarized institution under the direct supervision of the government and the Prime Minister and other state institutions of special purpose;
- State Audit Service;

²³⁶ General Administrative Code of Georgia, subparagraph “d”, art. 2, para. 1; For instance, regarding certain measures in relation to the state procurement, the Government of Georgia adopts decrees with annual ordinances to grant prior approval to public institutions for individual procurement.

²³⁷ Rules of Procedure of the Government of Georgia, art. 7, para. 5.

²³⁸ България, Устройствен Правилник, чл. 8 (3) – (4).

²³⁹ Estonia, Government of the Republic Act, art. 26, cl. 1, art. 30, cls. 1, 3.

²⁴⁰ Latvia, Cabinet Structure Law, section 32, cl. 1.

²⁴¹ Hungary, 1144/2010. (VII. 7.) Korm. Határozat a Kormány ügyrendjéről, art. 70; Hungary, 1246/2015. (IV. 23.) Korm. Határozat az eredményes koragyermekkorai intervencióhoz szükséges intézkedésekről, Nemzeti Jogszabálytár, available at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=175234.292295, updated at: 15.02.2021; „Hungary, Legislation and Official Policy Documents,” European Commission.

²⁴² Slovenija, Zakon o Vladi Republike Slovenije, člen 21.

²⁴³ Hrvatska, Zakon o Vladi Republike Hrvatske, članak 31.

²⁴⁴ The Constitution of the Republic of Lithuania, art. 95.

²⁴⁵ The authors rely on the web-page of the National Herald of Georgia, the an official gazette of Georgia, legal entity under public law within the Ministry of Justice of Georgia (<https://matsne.gov.ge/ka>) and the web-page of the Government of Georgia http://gov.ge/index.php?lang_id=GEO&sec_id=50. Furthermore, not all decrees are available on the government’s webpage.

²⁴⁶ Rules of Procedure of the Government of Georgia, art. 9.

²⁴⁷ *ibid.*, art. 11 and 30.

- Governments of Autonomous Republics;
- City hall of Tbilisi (other municipalities carry the above-mentioned through the Ministry of Regional Development and Infrastructure).
- State Appointees (Rtsmunebuli);
- Those LEPLs, which do not have state controlling bodies.²⁴⁸

The number of initiators is considerably less in the case of a draft law and is limited to ministries, the Office of the State Minister and the Parliamentary Secretary of the Government.²⁴⁹

Similar to Georgia, in Lithuania,²⁵⁰ Bulgaria²⁵¹ and Romania²⁵² the circle of subjects of the acts of the Government differs from the number of draft law initiators. In other jurisdictions (Croatia,²⁵³ Hungary,²⁵⁴ Poland,²⁵⁵ Slovenia,²⁵⁶ Latvia²⁵⁷ and Estonia²⁵⁸) the same circle of subjects is authorized to initiate these two different acts. However, unlike other countries, in Latvia and Estonia, the circle of subjects with power to the legislative initiative is considerably limited and includes only ministers.²⁵⁹

1.5. Decision-making by the Government of Georgia

The Government of Georgia acts as a collegial body.²⁶⁰ It makes a decision in two alternative ways: at the government session (including, electronic form of communication²⁶¹) or through the program of “Electronic Government”.²⁶² Within the scopes of discrete powers, the Administration of the Government of Georgia decides in which way to discuss the draft law.²⁶³ In the case of a draft law, it is established that it should be discussed at the government session. However, there are certain pre-defined technical exceptions here as well, when they can be studied in electronic format,²⁶⁴ and on the other hand, the criteria of

²⁴⁸ *Ibid.*, art. 8.

²⁴⁹ *Ibid.*, art. 27.

²⁵⁰ Lietuva, Nutarimas Dėl Lietuvos Respublikos Vyriausybės Darbo Reglamento Patvirtinimo, arts. 8, 94, Teisės Akty Registras, available at: <https://bit.ly/3psDe3D>, updated at: 15.02.2021.

²⁵¹ България, Устройствен Правилник, чл. 30 (1) – (2), чл. 31 (1).

²⁵² România, REGULAMENT din 10 mai 2009 privind procedurile, la nivelul Guvernului, pentru elaborarea, avizarea și prezentarea proiectelor de documente de politici publice, a proiectelor de acte normative, precum și a altor documente, în vederea adoptării/aprobării, art. 1, art. 2, cl. 5, Portal Legislativ, available at: <http://legislatie.just.ro/Public/DetailiiDocumentAfis/217718>, updated at: 15.02.2021.

²⁵³ Hrvatska, Poslovnik Vlade Republike Hrvatske, članak 28, para. 3.

²⁵⁴ Hungary, 1144/2010. (VII. 7.) Korm. Határozat a Kormány ügyrendjéről, arts. 7, 26.

²⁵⁵ Polska, Ustawa o Radzie Ministrów, art. 7, cl. 2.

²⁵⁶ Slovenija, Poslovnik Vlade Republike Slovenije, členi 7, 8, 8b; Slovenija, Zakon o Vladi Republike Slovenije, člen 16.

²⁵⁷ The Constitution of the Republic of Latvia, art. 61.

²⁵⁸ Estonia, Government of the Republic Act, art. 19, cl. 1.

²⁵⁹ Estonia, Government of the Republic Act, art. 19, cl. 1; The Constitution of the Republic of Latvia, art. 61.

²⁶⁰ The Law of Georgia on the Structure, Authority and Rules of Operation of the Government of Georgia, art. 8, para. 2, sub-para. “f”, art. 20, para. 2, subparagraph “i”, also, see Rules of Procedure of the Government of Georgia.

²⁶¹ This possibility appeared in the Rules of Procedure of the Government of Georgia since November 12, 2020. The Ordinance of the Government of Georgia № 677, dated November 12, 2020 „on Approval of the Rules of Procedure of the Government of Georgia“; on amendments to the ordinance of the Government of Georgia № 77, dated February 14, 2018.

²⁶² Rules of Procedure of the Government of Georgia, Chapters 4 and 5.

²⁶³ *Ibid.*, art. 12, para. 9.

²⁶⁴ These exceptions are: 1) if the draft law is regarding the change of date (terms) defined by the law or terminology or other technical changes, and if it does not change the general principle of the law; 2) if the draft law complies with prevailing legal act, constitutional agreement or international agreement or treaty; 3) if the draft law complies

special cases of considering the issue at an electronic session, which shall be decided by the Prime Minister of the Administration of the government.²⁶⁵

The draft laws are considered at the government sessions in presence of members in Bulgaria,²⁶⁶ Estonia,²⁶⁷ Latvia,²⁶⁸ Romania,²⁶⁹ Hungary,²⁷⁰ Poland,²⁷¹ Slovenia,²⁷² Croatia²⁷³ and Lithuania.²⁷⁴ In Bulgaria, as an exception and with the initiative of the Prime Minister the act may be adopted without ministers attending. However, if any member of the Government considers that the issues should be discussed by the Cabinet, the consideration shall be added to the agenda of the next government session.²⁷⁵ **It would be better if the consideration of issue through an “electronic government” is given an exceptional nature and this issue is decided by the Prime Minister rather than the Administration of the government during preparation for the government session; An opportunity for a minister to request a decision-making format for the draft initiated by him/her should also be considered.**

The quorum for making a decision at the government session in Georgia is the majority of attending members, however no less than half of the full composition.²⁷⁶ In order to open the session, attendance of 8 members (out of 12) is required.²⁷⁷ So as it turns out, the support of 6 members is required to make a decision.²⁷⁸ In the studied countries, the tendency is to make decisions with consensus (Bulgaria,²⁷⁹ Latvia,²⁸⁰ Romania,²⁸¹ Hungary,²⁸² Poland²⁸³). However, notwithstanding this fact, there are certain exceptions to this rule as well. E.g., in Bulgaria, when a certain issue is put to vote with the decision of the Prime Minister, the act shall be adopted by the majority of ministers present at the session.²⁸⁴ While in Latvia,²⁸⁵ Romania,²⁸⁶ Hungary²⁸⁷ and Poland,²⁸⁸ if any member of the Cabinet is against the decision, s/he can request to hold the ballot. Thus, the decision is made by the majority of votes.²⁸⁹ It is

with a ruling of the Constitutional Court; 4) if the draft law is a part of a legislative package as a draft law and if the main draft law was already discussed at the government session and proposed draft law does not contradict the general principles of the main draft law; 5) if the draft law is regarding correction of a flaw of the law, and it does not change the main principles of the law. Rules of Procedure of the Government of Georgia, art. 32, para. 7.

²⁶⁵ *Ibid.*, para. 7¹.

²⁶⁶ България, Устройствен Правилник, чл. 7 (2).

²⁶⁷ Estonia, Government of the Republic Act, art. 19, cl. 1.

²⁶⁸ Latvia, Cabinet Structure Law, section 28, art. 2; Latvia, Rules of Procedures of the Cabinet of Ministers, art. 164.

²⁶⁹ România, LEGE nr. 90 din 26 martie 2001, art. 25, cl. 2.

²⁷⁰ Hungary, 1144/2010. (VII. 7.) Korm. Határozat a Kormány ügyrendjéről, art. 59.

²⁷¹ Polska, Regulamin pracy Rady Ministrów, art. 15.

²⁷² Slovenija, Zakon o Vladi Republike Slovenije, člen 16.

²⁷³ Hrvatska, Poslovnik Vlade Republike Hrvatske, članak 32.

²⁷⁴ Lietuva, Lietuvos Respublikos Vyriausybės įstatymas, art. 37, cl. 1.

²⁷⁵ България, Устройствен Правилник, чл. 7.

²⁷⁶ Rules of Procedure of the Government of Georgia, art. 17.

²⁷⁷ *Ibid.*, art. 16, para. 2.

²⁷⁸ The Prime Minister is also considered in this quantity.

²⁷⁹ България, Устройствен Правилник, чл. 45 (2).

²⁸⁰ Latvia, Cabinet Structure Law, section 30, cl. 2.

²⁸¹ România, LEGE nr. 90 din 26 martie 2001, art. 27, cl. 1.

²⁸² Hungary, 1144/2010. (VII. 7.) Korm. Határozat a Kormány ügyrendjéről, art. 90/l, cl. 1.

²⁸³ Polska, Regulamin pracy Rady Ministrów, art. 15, cl. 2.

²⁸⁴ България, Устройствен Правилник, чл. 45 (2).

²⁸⁵ Latvia, Cabinet Structure Law, section 30, cl. 2.

²⁸⁶ România, LEGE nr. 90 din 26 martie 2001, art. 27, cl. 1.

²⁸⁷ Hungary, 1144/2010. (VII. 7.) Korm. Határozat a Kormány ügyrendjéről, art. 90/l, cl. 1.

²⁸⁸ Polska, Regulamin pracy Rady Ministrów, art. 15, cl. 3.

²⁸⁹ Latvia, Cabinet Structure Law, section 30, cl. 2; In Romania, in case of lack of consensus the decisive voice is given

noteworthy that in Estonia,²⁹⁰ Slovenia,²⁹¹ Croatia²⁹² and Lithuania²⁹³ the governments make decisions by the majority of votes of members present at the session.²⁹⁴

1.6. Openness of the Government of Georgia

Unlike the Parliament, the activities of the Government are less transparent.²⁹⁵ Its sessions are generally closed,²⁹⁶ however, with the decision of the government they can be open to public.²⁹⁷ Similar to Georgia, if the government does not decide otherwise, the sessions are closed in Estonia,²⁹⁸ Poland,²⁹⁹ Hungary³⁰⁰ and Slovenia.³⁰¹ The practice is different in Bulgaria,³⁰² Latvia,³⁰³ Croatia³⁰⁴ and Lithuania,³⁰⁵ where the sessions are public as a rule. Moreover, in Lithuania, the sessions are live broadcasted, and protocols and recordings of the sessions are public.³⁰⁶ The possibility of holding the government's sessions remotely, through electronic means is also considered and if such sessions cannot be live broadcasted due to technical reasons, the recording shall be published.³⁰⁷ **It is recommended for the government sessions to be open in Georgia and the decision to close them is made in individual cases.**

An agenda of the session of the Government of Georgia is not always published in advance, and information regarding already held sessions is available on the official webpage, which lacks thorough information on discussed topics. In studied countries, the information on sessions to be held and the decisions made are published on the Government's official webpage and/or in the official body of the state.³⁰⁸ In the case of Georgia, it is better if these documents are published so that the public has information on the issues under discussion.

to the Prime Minister, see România, LEGE nr. 90 din 26 martie 2001, art. 27, cl. 1; Hungary, 1144/2010. (VII. 7.) Korm. Határozat a Kormány ügyrendjéről, art. 90/I, cl. 1; Rules of Procedure of the Council of Ministers of Poland, art. 15, para. 3.

²⁹⁰ Estonia, Government of the Republic Act, art. 19, cls. 2-3.

²⁹¹ Slovenija, Zakon o Vladi Republike Slovenije, člen 16.

²⁹² Hrvatska, Poslovnik Vlade Republike Hrvatske, članak 5.

²⁹³ Lietuva, Lietuvos Respublikos Vyriausybės įstatymas, art. 37, cl. 1.

²⁹⁴ Estonia, Government of the Republic Act, art. 19, cls. 2-3; Slovenija, Zakon o Vladi Republike Slovenije, člen 16; Hrvatska, Poslovnik Vlade Republike Hrvatske, članak 5; Lietuva, Nutarimas Dėl Lietuvos Respublikos Vyriausybės Darbo Reglamento Patvirtinimo, art. 49.

²⁹⁵ Lack of transparency and decision-making behind the closed doors is typical to the executive branch, which is considered as the "Achilles heel" of their activities. see Kaare Strøm et al, *Parliamentary Democracy and Delegation*, Oxford Scholarship Online: January 2005, 45-47.

²⁹⁶ The Law of Georgia on the Structure, Authority and Rules of Operation of the Government of Georgia, art. 14, para. 4.

²⁹⁷ *Ibid.*, art. 12, para. 4.

²⁹⁸ Estonia, Government of the Republic Act, art. 18, cl. 2.

²⁹⁹ Polska, Regulamin pracy Rady Ministrów, art. 14.

³⁰⁰ Hungary, 2018. évi CXXV. Törvény a kormányzati igazgatásról, art. 7, cl. 1.

³⁰¹ Slovenija, Poslovnik Vlade Republike Slovenije, člen 52.

³⁰² България, Устройствен Правилник, чл. 84; България, „Заседания на МС,“ Министерски съвет Република България, available at: <http://bit.ly/2M1GchS>, updated at: 15.02.2021.

³⁰³ Latvia, Cabinet Structure Law, section 27.

³⁰⁴ Hrvatska, Zakon o Vladi Republike Hrvatske, članak 9.

³⁰⁵ Lietuva, Lietuvos Respublikos Vyriausybės įstatymas, art. 4.

³⁰⁶ *Ibid.*, art. 42.

³⁰⁷ *Ibid.*

³⁰⁸ Estonia, Government of the Republic Act, art. 29, cl. 2, art. 30 cl. 5, art. 51, cl. 5; Polska, Regulamin pracy Rady Ministrów, art. 17; România, LEGE nr. 90 din 26 martie 2001, art. 27, cl. 3; Lietuva, Lietuvos Respublikos Vyriausybės įstatymas, art. 42; Latvia, Cabinet Structure Law, section 27; Slovenija, Poslovnik Vlade Republike Slovenije, člen 52.

- programs initiated in the Government are not available in Georgia either, therefore there is no possibility for citizens to submit their comments and opinions on drafts to be discussed. The rules of procedure of the Government provides for publication only of 20 types of draft laws/amendments (the annex of the Rules of Procedure of the Government of Georgia refers to the titles of these laws) on the official web-page of the National Herald, before they are submitted to the Parliament.³⁰⁹ However, the Government is authorized not to publish these documents at its discretion.³¹⁰ Although the sessions of the government are closed in Estonia, in terms of transparency it is significant that the activities of the government of Estonia and its decision-making from the initiation to publication in the official body are open and electronic.³¹¹ Before the decision is made, the government shall submit the draft act, solicitation on the wording of the development plan or any other significant issue for the public consultations in the electronic consultation system.³¹² In case of necessity, it can directly apply to the interest groups to gather and listen to opinions.³¹³ The activities of the government are open and accessible in an electronic consultation system.³¹⁴ This system also ensures the public availability of draft laws and the progress made in relation to them. There is a possibility to express own opinions.³¹⁵ In Bulgaria, the government legislative program³¹⁶ and draft laws³¹⁷ of the Council of Ministers are published on the portal for public consultations. Currently, the majority of legislative acts go through this phase of consultation at the national level.³¹⁸ Relevant acts are published in the official body of Bulgaria.³¹⁹

Sharing the approaches and experiences of the discussed countries will make a significant positive contribution to the transparency of the Government of Georgia. Publicity of sessions, publication of drafts laws and agendas and organizing feedback of stakeholders will essentially improve the communication between the government bodies and citizens.

In relation to transparency access to the official publication, the body is also important. Unlike the government ordinances, there is no obligation for publishing decrees in the Legislative Herald of Georgia.³²⁰ They are published on the official webpage of the Government of Georgia, except the acts containing classified information.³²¹ Consolidated versions on the Legislative Herald are available for everybody free of charge, and as for the by-laws, only initial versions and the documents containing changes to them are available (payment is required to view consolidated versions³²²). In the studied countries, there is no such limitation

³⁰⁹ Rules of Procedure of the Government of Georgia, art. 27.

³¹⁰ *Ibid.*, art. 37, para. 3, subparagraph "e".

³¹¹ „Engagement and participation,” Republic of Estonia Government Office, available at: <http://bit.ly/3qw0hvA>, updated at: 15.02.2021.

³¹² *Ibid.*

³¹³ *Ibid.*

³¹⁴ *Ibid.*

³¹⁵ *Ibid.*

³¹⁶ България, Устройствен Правилник, чл. 30 (6).

³¹⁷ *Ibid.*, чл. 15 (5).

³¹⁸ Adrian Offerman, „Bulgarian Portal for Public Consultation pivotal in policy-making process (strategy.bg),” *Joinup, European Union*, 29 November 2015, available at: <http://bit.ly/3qAZtWB>, updated at: 15.02.2021.

³¹⁹ България, Устройствен Правилник, чл. 50 (2).

³²⁰ Organic Law of Georgia on Normative Acts, art. 26 and 27. Should also be noted here that during the State of Emergency, as an exception, all the ordinances and acts, related to regulation of the State of Emergency was published in the special filed of the Legislative Herald (StopCov).

³²¹ Rules of Procedure of the Government of Georgia, art. 22, para. 3.

³²² Order of the Minister of Justice N225, dated December 6, 2010 on “approval on the amount of fees for publishing normative acts and services and the methods of payment”.

on relevant bodies. In official legislative bases of all nine studied countries, both the consolidated as well as individual-legal acts of the Government are available free of charge.³²³

³²³ България, Държавен вестник, available at: <http://bit.ly/3dqbdXZ>, updated at: 15.02.2021; both the consolidated version and individual-legal acts of normative act are available to public in the official body of Bulgaria. For an example, see България, ПОСТАНОВЛЕНИЕ № 235 ОТ 27 АВГУСТ 2020 Г., за допълнение на Наредбата за финансирането на институциите в системата на предучилищното и училищното образование, приета с Постановление № 219 на Министерския съвет от 2017 г. (обн., ДВ, бр. 81 от 2017 г.; изм. и доп., бр. 31 и 105 от 2018 г., бр. 36 и 101 от 2019 г. и бр. 33 и 37 от 2020 г.), Държавен вестник, available at: <http://bit.ly/3jXnJPT>, updated at: 15.02.2021; България, РЕШЕНИЕ № 445 ОТ 3 ЮНИ 2016 Г., за изменение и допълнение на Решение № 265 на Министерския съвет от 2003 г. за приемане Списък на физическите лица, юридическите лица, групите и организациите, спрямо които се прилагат мерките по Закона за мерките срещу финансирането на тероризма (обн., ДВ, бр. 64 от 2003 г.; изм. и доп., бр. 86 от 2003 г., бр. 34, 61 и 87 от 2004 г. и бр. 16 от 2006 г.), Държавен вестник, available at: <http://bit.ly/2ZngRSn>, updated at: 15.02.2021; Consolidated versions of normative acts are available in official body of Estonia, as well as the individual-legal acts. For the list of normative acts see Eesti, Riigi Teataja, available at: <https://bit.ly/3jXTIVR>, updated at: 15.02.2021; for individual-legal acts see Eesti, Riigi Teataja, available at: <http://bit.ly/3s5GwLE>, updated at: 15.02.2021; for legal acts in Latvia see Latvija, Latvijas Vēstnesis, available at: <http://bit.ly/3quLO38>, updated at: 15.02.2021; for individual legal acts see Latvija, Latvijas Vēstnesis, available at: <http://bit.ly/3jYx9L8>, updated at: 15.02.2021; Consolidated versions of normative acts are available free of charge in official body of Romania, see România, Monitorul Oficial, available at: <http://bit.ly/3jYxayG>, updated at: 15.02.2021; for consolidated versions and individual legal acts of Hungary see Hungary official body, Hungary, Nemzeti Jogszabálytár, available at: <http://njt.hu/>, updated at: 15.02.2021; for examples of normative acts see Hungary, Nemzeti Jogszabálytár, available at: <https://bit.ly/3bcEgLT>, updated at: 15.02.2021; for examples of individual-legal act see Hungary, 1246/2015. (IV. 23.) Korm. Határozat az eredményes koragyermekkorri intervencióhoz szükséges intézkedésekről; for consolidated versions of normative acts of the Government of Poland see Polska, Infor.pl, available at: <https://bit.ly/3avdvU1>, updated at: 15.02.2021; consolidated versions of normative acts of the Government of Slovenia are available in official body of Slovenia, see Slovenija, Glasilo Uradni list RS, available at: <http://bit.ly/3u8qy5h>, updated at: 15.02.2021; for examples of consolidated versions of normative acts of the Government of Croatia see Hrvatska, Narodne Novine, available at: <http://bit.ly/2ZoVIY9>, updated at: 15.02.2021; for individual-legal acts see Hrvatska, Narodne Novine, available at: <http://bit.ly/3atQy3C>, updated at: 15.02.2021; for consolidated versions of normative acts and individual-legal acts of the Government of Lithuania, see Lietuva, Dokumentų paieška – LRS, available at: <https://bit.ly/3asoldi>, updated at: 15.02.2021.

2. STATUS AND POWERS OF A PRIME MINISTER

2.1. General Overview

During the 80s and 90s of the last century, debates were held regarding the political powers of a Prime Minister.³²⁴ This institute was characterized as the „person-focused political institution“,³²⁵ moderator (pouvoir modérateur), leader, who connects various political aspirations.³²⁶

The majority of EU member-states assigned effective political powers to one person – the Prime Minister. Since then the governments are identified through their leaders, while the influence of the leader is assessed by their competence.³²⁷ According to *Anthony King*, if Prime Ministers of various countries sit together and share their competencies, they will get shocked: part of them have such great powers in executive authority that the others cannot even dream of.³²⁸ However, the tendency is observed, when heads of Governments emerge as competitors of Presidents not only at national but at international levels as well.³²⁹

There are formal and non-formal sources for analyzing the powers of a Prime Minister. The first implies the powers granted by legal acts, while the second is dependent on the personal influence of a Prime Minister – how effectively does s/he use this power and how successfully does s/he bring the results of his/her activities to people.³³⁰ Accordingly, there are two parts of the powers of a Prime Minister:³³¹ legal and political.³³² This paper studies both aspects.

Considering the place and influence of a Prime Minister the most common typology is offered by *Giovanni Sartori*:³³³

a) *first above unequals* – head of the Government itself appoints and dismisses ministers.³³⁴ In such so-called “prime ministerial government”³³⁵ model, a Prime Minister is the key figure in the government decision-making process.³³⁶

b) *first among unequals* – here the legislative body elects (grants the vote of confidence to) only the Prime Minister, while selection and dismissal of ministers is a prerogative of a head of the government. S/he may not be a leader of a party and can be less influential compared to the previous option.³³⁷

³²⁴ Frederik Holm, *cited paper*, 17.

³²⁵ *Ibid.*, 19.

³²⁶ *Ibid.*, 6.

³²⁷ Patrick Weller, *First Among Equals. Prime Ministers in Westminster Systems* (Sydney: Allen & Unwin, 1985), 48.

³²⁸ Anthony King, “Chief Executives in Western Europe,” in *Developing Democracy*, eds. Ian Budge and David McKay (London: Sage), 151; Some authors indicate the significance of the personal characteristics. See Patrick Weller, *cited paper*. Also, the different, personified governance style of Prime Ministers within one and the same country and one and the same state arrangement. See George W. Jones, “The study of prime ministers: A framework for analysis,” *West European Politics: Special Issue on West European Prime Ministers 14* (1991): 1-8.

³²⁹ Frederik Holm, *cited paper*, 241. Thomas A. Baylis, “Presidents versus Prime Ministers: Shaping Executive Authority in Eastern Europe,” *World Politics* 48, no. 3 (1996): 297-323.

³³⁰ Annika Velthut, *Prime Minister’s and Sources of Authority in Cabinet Decision-Making: The Case of Estonia*, Paper presented for the NISPAcee 9th Annual Conference, Riga 2001, 5.

³³¹ David Buchanan and Richard John Badham, “Politics and Organizational Change: The Lived Experience,” *Human Relations* 52, no. 5 (1999): 611.

³³² Annika Velthut, *cited paper*, 5.

³³³ Giovanni Sartori, *cited paper*, 102.

³³⁴ *Ibid.*, 103.

³³⁵ Frederik Holm, *cited paper*, 6.

³³⁶ Savo Klimovski *et al*, *cited paper*, 176-177.

³³⁷ Giovanni Sartori, *cited paper*, 103.

c) *first among equals* – this is the most common form. Such Prime Minister is typical of the system, where the formation of the government is an exclusive right of the legislative body, while the responsibility is shared equally.³³⁸ The Parliament staffs the whole government (jointly votes for the Prime Minister and the ministers), each minister is responsible for their own field. In such model a Prime Minister does not make decisions individually, s/he is a team leader;³³⁹ Prime Minister is also characterized as a symbol of teamwork and a pilot.³⁴⁰

The status of the Prime Minister of Georgia in the Government varies between the last two from the Sartor classification. The Prime Minister has the competence to define directions of activities of the Government, which resembles the “*first among unequals*” (second type). However, his competence closely approaches the “*first among equals*” status. At the same time, the Prime Minister is the head of the Government, rather than the executive branch. The procedure for appointing by the Parliament should also be considered: legislative body votes confidence not only to the Prime Minister but to the Government in whole, which is established by the Prime Minister³⁴¹ (therefore, is not totally free in definition of members of the Cabinet). However, after receiving the vote of confidence, the Prime Minister can renew the entire composition.³⁴² Its powers are also weak in terms of rulemaking: the Prime Minister is neither authorized to issue normative acts and nor has the powers for which s/he would have issued such an act. In order to determine the real influence of the Prime Minister, beyond Sartori classification, the personal capabilities and the intensity of the exercise of the powers delegated to the Prime Minister by law, which is different in the case of different Prime Ministers, should also be considered. The specific competencies and power of the Prime Minister are discussed in the following section.

2.2. Competence of a Prime Minister

The Powers of a Prime Minister is measured by its ability to elect-dismiss ministers, define their jurisdiction, control an agenda of the Cabinet, and also by the fact whether s/he is independently accountable to Parliament or collegially as a member of the Cabinet.³⁴³ Classical functions of a Prime Minister are furthermore significant at the operational level: function of personal appointment and dismissal (this function in literature is referred to as *formateur*),³⁴⁴ the establishment of bodies, structural modification (creation or change of portfolio of a minister) and policy administration (defining agenda, Veto, giving instructions);³⁴⁵ the right of a Prime Minister to issue normative acts, create deliberate bodies and

³³⁸ Frederik Holm, *cited paper*, 11.

³³⁹ *Ibid.*

³⁴⁰ Annika Velthut, *cited paper*, 10.

³⁴¹ Constitution of Georgia, art. 56, para. 2.

³⁴² *Ibid.*, art. 55, para. 4.

³⁴³ Kaare Strøm et al., “Democratic Delegation and Accountability: Cross National Patterns,” in *Delegation and Accountability in Parliamentary Democracies*, eds. Kaare Strøm, Wolfgang C. Müller, and Torbjörn Bergman (Oxford: Oxford University Press, 2003).

³⁴⁴ Jean Blondel, *The Organisation of Government* (London: Sage Publications, 1982), 60, 77; Jean Blondel et al., “Studying decision-making in the ‘Centre of Government’ in Eastern Europe and in the CIS,” European University Institute, A research protocol for ECPR 28th Joint session of Workshops, Copenhagen, 14-19 April 2000, 13; Michael Laver and Kenneth A. Shepsle, *Cabinet ministers and parliamentary government* (New York: Cambridge University Press, 1994), 21; notwithstanding the fact that this function is assigned to the Prime minister by the Constitution, such decision is influenced by party and the Prime Minister is less independent in selection of ministers. This is especially evident in coalition governments. See Annika Velthut, *cited paper*, 2001.

³⁴⁵ Rudy B. Andeweg, “Ministers as Double Agents? The Delegation Process between Cabinet and Ministers” *European Journal of Political Research* 37 (2000): 381.

lead them, make decisions individually, give the members of the Cabinet instructions and directives etc. is essential.³⁴⁶

According to the Constitution of Georgia, the status of a Prime Minister is a “head of the Government”,³⁴⁷ while the competencies include a definition of the key competencies of activities of the Government, organization of activities of the Cabinet, coordination and control of activities of ministers, signing legal acts of the Government. The Prime Minister also has representation and staffing powers. Based on analysis of competencies scattered in legislation, several directions were outlined:³⁴⁸

a) Policy planning function implies the definition of key directions of activities of the Government of Georgia. This includes government program, engagement in the development of various action plans and making political decisions in the field of national security. The Prime Minister owns significant possibilities to fulfil the role of the head of the Government through practical mechanisms. The function of defining the key directions of the activities of the Government consists of several components and is not expressed in one concrete tool. The head of the Government develops the government program (through which s/he is granted the vote of confidence of the Parliament), the Strategy of activities of the Government and the annual Action Plan of the Government together with relevant ministers.³⁴⁹ S/he defines priorities in sectoral areas as well.³⁵⁰ The Prime Minister can approve the priority proposed by a minister, change it or reject it. These priorities shall form a basis for further activities of ministries.³⁵¹ The Prime Minister shall also set the agenda of the government session: s/he has the ability not to add the topic to the relevant agenda, take the topic off partially or fully from the agenda or add new topics.

Similar to Georgia, the competence to plan the policy and government activities is exclusively assigned to the head of the Cabinet in Bulgaria,³⁵² Estonia,³⁵³ Latvia,³⁵⁴ Romania,³⁵⁵ Hungary,³⁵⁶ Poland,³⁵⁷ Slovenia,³⁵⁸ Croatia³⁵⁹ and Lithuania.³⁶⁰ S/he leads the activities of the Government, approves the agenda, convenes and chairs the sessions of the Government, (Bulgaria,³⁶¹ Estonia,³⁶² Latvia,³⁶³ Romania,³⁶⁴ Hungary,³⁶⁵ Poland,³⁶⁶ Slovenia,³⁶⁷ Croatia,³⁶⁸ Lithuania³⁶⁹).

³⁴⁶ Kaare Strøm et al., *Delegation and Accountability in Parliamentary Democracies*, 147-153. also, Cabinet Formation and Heads of State, Pearson Higher Ed.

³⁴⁷ Constitution of Georgia, art. 55, para. 1.

³⁴⁸ Distribution of certain powers of the Prime Minister within each competence see in Annex № 1.

³⁴⁹ Interview with the former head of the Administration of the Government of Georgia.

³⁵⁰ *Ibid.*

³⁵¹ *Ibid.*

³⁵² България, Устройствен Правилник, чл. 10.

³⁵³ Estonia, Government of the Republic Act, art. 36.

³⁵⁴ Latvia, Cabinet Structure Law, section 6, cls. 1-2.

³⁵⁵ Romania's Constitution of 1991 with Amendments through 2003, art. 107.

³⁵⁶ Hungary, 94/2018. (V. 22.) Korm. Rendelet a Kormány tagjainak feladat- és hatásköréről, art. 2, cl. 1, art. 3.

³⁵⁷ The Constitution of Poland, art. 148.

³⁵⁸ The Constitution of Slovenia, art. 114.

³⁵⁹ Hrvatska, Zakon o Vladi Republike Hrvatske, članak 11.

³⁶⁰ Lietuva, Lietuvos Respublikos Vyriausybės įstatymas, art. 24, cls. 1-2.

³⁶¹ България, Устройствен Правилник, чл. 10.

³⁶² Estonia, Government of the Republic Act, art. 36.

³⁶³ Latvia, Cabinet Structure Law, section 6, cl. 1.

³⁶⁴ România, LEGE nr. 90 din 26 martie 2001, art. 24, cl. 1.

³⁶⁵ Hungary, 94/2018. (V. 22.) Korm. Rendelet a Kormány tagjainak feladat- és hatásköréről, art. 2, cl. 3.

³⁶⁶ Polska, Ustawa o Radzie Ministrów, art. 5.

³⁶⁷ Slovenija, Zakon o Vladi Republike Slovenije, člen 14.

³⁶⁸ Hrvatska, Zakon o Vladi Republike Hrvatske, članak 11.

³⁶⁹ Lietuva, Lietuvos Respublikos Vyriausybės įstatymas, art. 24, cl. 1, cl. 2 (9).

It is a significant power of a Prime Minister of Georgia to have the casting vote. The same powers are granted to the head of the Government in Latvia,³⁷⁰ Romania,³⁷¹ Hungary,³⁷² Poland,³⁷³ Estonia,³⁷⁴ Slovenia,³⁷⁵ Croatia³⁷⁶ and Lithuania.³⁷⁷ However, in Georgia, the Prime Minister has the casting vote even when the votes of other ministers are sufficient to make a decision.³⁷⁸ The procedure to agree in advance the topics to be considered by the Government, preparation stage of an agenda,³⁷⁹ and the service of the Parliamentary Secretary ensures informing the Prime Minister before the Government session, in order to outline the problematic issues and establish the guarantee of consensus-based decision making. The Prime Minister is authorized to suspend discussion of such topics during the session, which in his/her opinion requires additional works.³⁸⁰ These mechanisms underline the role and influence of the Prime Minister on the activities of the Government.

b) Immediate executive functions (administration) of a Prime Minister directly derives from the law and implies their implementation, including agreement of various financial documentation and separate competencies in sectoral areas. Such functions are assigned to Prime Minister in studied countries as well. Should be noted that in several cases the exceptional powers of a Prime Minister has been highlighted in this regard, in particular, it was reflected in the definition of powers of ministers. Namely, in Estonia,³⁸¹ Hungary,³⁸² and Poland³⁸³ competencies and powers of ministers are defined by the Prime Minister. In Slovenia, the head of the Cabinet is authorized to give a minister binding directions in relation to tasks in accordance with the policy of the Government, even if they relate to the sectoral areas of separate ministers.³⁸⁴ Such wide-scale powers of the Prime Minister differ from the practice of Georgia, where the powers of ministers are generally defined by law and ordinances of the Government.

c) Coordination and oversight function in Georgia include the oversight of both the activities of ministers, as well as various executive bodies, including, submission of reports of various LEPLs. In terms of control implies the annulment of legal acts of subordinate bodies. s/he is authorized to give tasks and directives to ministers. In case of their non-compliance, there is no direct responding mechanism, however, considering the gravity of the violation, the Prime Minister is authorized to replace the minister.³⁸⁵ Within the scopes of the same competence, the Prime Minister of Georgia also controls the execution of Action Plans of the Government of Georgia (through the Administration of the Government).³⁸⁶

³⁷⁰ Latvia, Cabinet Structure Law, section 30, cl. 2.

³⁷¹ România, LEGE nr. 90 din 26 martie 2001, art. 27, cl. 1.

³⁷² Hungary, 1144/2010. (VII. 7.) Korm. Határozat a Kormány ügyrendjéről, art. 90/l, cl. 1.

³⁷³ Polska, Regulamin pracy Rady Ministrów, art. 15, cl. 3.

³⁷⁴ Estonia, Government of the Republic Act, art. 19, cls. 2-3.

³⁷⁵ Slovenija, Zakon o Vladi Republike Slovenije, člen 16.

³⁷⁶ Hrvatska, Poslovnik Vlade Republike Hrvatske, članak 5.

³⁷⁷ Lietuva, Nutarimas Dėl Lietuvos Respublikos Vyriausybės Darbo Reglamento Patvirtinimo, art. 49.

³⁷⁸ Interview with the former head of the Administration of the Government of Georgia.

³⁷⁹ Rules of Procedure of the Government of Georgia, art. 12 and 31.

³⁸⁰ Interview with the former head of the Administration of the Government of Georgia.

³⁸¹ Estonia, Government of the Republic Act, art. 3, cl. 2.

³⁸² Hungary, 94/2018. (V. 22.) Korm. Rendelet a Kormány tagjainak feladat- és hatásköréről, art. 2, cl. 2.

³⁸³ Polska, Ustawa o Radzie Ministrów, art. 5.

³⁸⁴ Slovenija, Zakon o Vladi Republike Slovenije, člen 14.

³⁸⁵ Constitution of Georgia, art. 55, para. 4. The Law of Georgia on the Structure, Authority and Rules of Operation of the Government of Georgia, art. 8, para. 2, subparagraph "d".

³⁸⁶ Rules of Procedure of the Government of Georgia, art. 4.

In studied counties, within scopes of the abovementioned competence, a Prime Minister coordinates activities of ministers in order to implement the general policy of the Government (Bulgaria,³⁸⁷ Latvia,³⁸⁸ Romania,³⁸⁹ Hungary,³⁹⁰ Poland,³⁹¹ Slovenia³⁹²). Similar to Georgia, the head of the Cabinet is authorized to request from Ministers an explanation regarding their activities in Estonia,³⁹³ while in Poland the head of the Cabinet is authorized to supervise activities of municipal bodies.³⁹⁴ Here the government shall annul regulation or order of a minister upon a proposal of a Prime Minister.³⁹⁵ In Poland, the law grants a Prime Minister the power to resolve disputes over competencies between ministries.³⁹⁶ It is noteworthy that in terms of coordination of activities of ministers, the Prime Minister does not act as an authorized person in Latvia, Croatia and Lithuania. This competence is partially assigned to the State Chancellery in Latvia;³⁹⁷ while in Croatia – Vice Prime Ministers;³⁹⁸ In Lithuania, the coordination function of activities of ministers and ministries are assigned to the Government.³⁹⁹

d) Representative competence implies the right of a Prime Minister to represent the state and the Government in relations not only inside the country but as well abroad. The head of the Government has the function of a representative of the Cabinet of ministers in all 9 studied countries (Bulgaria,⁴⁰⁰ Estonia,⁴⁰¹ Latvia,⁴⁰² Romania,⁴⁰³ Hungary,⁴⁰⁴ Poland,⁴⁰⁵ Slovenia,⁴⁰⁶ Croatia⁴⁰⁷ and Lithuania⁴⁰⁸).

e) Staffing/founding powers in case of the Prime Minister of Georgia includes several directions: immediate appointment, appointment upon the nomination of somebody else, agreement of appointment, a proposal to other body, counter-signature. In terms of staffing powers of a Prime Minister, first of all, the power of appointing a minister is noteworthy, as well as the power of a Prime Minister to appoint deputy ministers (except the deputy to State Minister), and to task one or more ministers to act as vice-premier. Prime Ministers of

³⁸⁷ България, Устройствен Правилник, чл. 10.

³⁸⁸ Latvia, "Functions of the Prime Minister," Cabinet of Ministers, available at: <http://bit.ly/3k9bDDH>, updated at: 15.02.2021.

³⁸⁹ Romania's Constitution of 1991 with Amendments through 2003, art. 107.

³⁹⁰ Hungary, 94/2018. (V. 22.) Korm. Rendelet a Kormány tagjainak feladat- és hatásköréről, art. 2, cl. 1.

³⁹¹ The Constitution of Poland, art. 148.

³⁹² The Constitution of Slovenia, art. 114.

³⁹³ Estonia, Government of the Republic Act, art. 36.

³⁹⁴ The Constitution of Poland, art. 148.

³⁹⁵ *Ibid.*, art. 149.

³⁹⁶ Polska, Ustawa o Radzie Ministrów, art. 5, cl. 7.

³⁹⁷ Latvia, "State Chancellery," Cabinet of Ministers, available at: <https://bit.ly/3u6xwI2>, updated at: 15.02.2021.

³⁹⁸ Hrvatska, Zakon o Vladi Republike Hrvatske, članak 10, para. 4.

³⁹⁹ Lietuva, Lietuvos Respublikos Vyriausybės įstatymas, art. 23, cl. 1.

⁴⁰⁰ България, Устройствен Правилник, чл. 4.

⁴⁰¹ The Constitution of the Republic of Estonia, art. 93; Estonia, Government of the Republic Act, art. 36.

⁴⁰² Latvia, Cabinet Structure Law, section 6.

⁴⁰³ Romania's Constitution of 1991 with Amendments through 2003, art. 107; România, LEGE nr. 90 din 26 martie 2001, art. 13.

⁴⁰⁴ Hungary, 94/2018. (V. 22.) Korm. Rendelet a Kormány tagjainak feladat- és hatásköréről, art. 1, cl. 1.

⁴⁰⁵ The Constitution of Poland, art. 148, cl. 1.

⁴⁰⁶ Slovenija, Zakon o Vladi Republike Slovenije, člen 14.

⁴⁰⁷ Hrvatska, Zakon o Vladi Republike Hrvatske, članak 10.

⁴⁰⁸ The Constitution of the Republic of Lithuania, art. 97; Lietuva, Lietuvos Respublikos Vyriausybės įstatymas, art. 24, cls. 1-2.

Bulgaria,⁴⁰⁹ Estonia,⁴¹⁰ Romania,⁴¹¹ Croatia⁴¹² and Lithuania⁴¹³ also have staffing powers. The power of a Prime Minister to dismiss persons under ministers is also noteworthy, e.g., in Bulgaria the head of the Cabinet is authorized to dismiss a deputy minister.⁴¹⁴

As it appears, the head of the Government in Georgia owns quite significant leverage not only towards the legal entities directly affiliated with the government but its influence on sectoral areas can also be observed. In particular, s/he directly appoints not only heads of LEPLs under the Government, but also heads of certain LEPLs within the ministries (e.g., the director of the LEPL of the Educational and Scientific Infrastructure Development Agency of the Ministry of Education is appointed by the Prime Minister, while the others are appointed by the Minister of Education); s/he appoints some of them with own initiative (e.g., Director of Agency for State Care and Assistance for the (Statutory) Victims of Human trafficking), while the law provides for the nomination of a head of a LEPL by the relevant field Minister (e.g., on the nomination of the Minister of Finance appoints the head of LEPL Revenue Service). The existing regulations, on one hand, emphasize independent powers of the Prime Minister within the executive branch, on the other hand, due to nonhomogeneous regulation it is ambiguous based on what criteria does the law differentiates between legal entities. Moreover, in addition, the head of government nominates the deputy ministers (other than the deputy state minister) on the recommendation of the minister. To prevent excessive power of the Prime Minister, it is recommended that the deputy ministers be appointed by the minister himself, it would be better **if ministers appoint heads of the LEPLs in the sectoral areas of the ministries on the basis of competition. Such practice excludes politicization of management of LEPLs and nonhomogeneous intervention of the Prime Minister in this matter.**

d) The Rule making powers of the head of the Government of Georgia includes the signature of acts of the Cabinet, as well as the issuance of own individual acts. In the studied countries, similar to Georgia, the head of the Cabinet issues individual-legal acts (Bulgaria,⁴¹⁵ Estonia,⁴¹⁶ Latvia,⁴¹⁷ Romania,⁴¹⁸ Hungary,⁴¹⁹ Poland,⁴²⁰ Lithuania⁴²¹). While in Poland the Prime Minister issues normative acts as well.⁴²²

The act of the Prime Minister of Georgia is an individual legal instrument – order, issued within the scope of his/her competencies and for the performance of own functions. The order shall be issued on every topic which requires the Prime Minister’s decision (staff appointments, creation of commissions). As for the procedure, the Prime Minister issues own acts independently and does not agree with ministries within whose competence they

⁴⁰⁹ България, Устройствен Правилник, чл. 10.

⁴¹⁰ Estonia, Government of the Republic Act, art. 36.

⁴¹¹ România, LEGE nr. 90 din 26 martie 2001, art. 15.

⁴¹² Hrvatska, Zakon o Vladi Republike Hrvatske, članak 10.

⁴¹³ Lietuva, Lietuvos Respublikos Vyriausybės įstatymas, art. 24, cls. 1-2.

⁴¹⁴ България, Устройствен Правилник, чл. 10.

⁴¹⁵ *Ibid.*, (4).

⁴¹⁶ Estonia, Government of the Republic Act, art. 37.

⁴¹⁷ Latvia, Cabinet Structure Law, section 33.

⁴¹⁸ România, LEGE nr. 90 din 26 martie 2001, art. 19; România, “Emitent: “PRIM-MINISTRUL,” Portal Legislativ, available at: <http://bit.ly/37pUEYi>, updated at: 15.02.2021.

⁴¹⁹ The Constitution of Hungary, art. 16, cl. 2.

⁴²⁰ The Constitution of Poland, art. 148, cl. 3.

⁴²¹ Lietuva, Lietuvos Respublikos Vyriausybės įstatymas, art. 43.

⁴²² Polska, Regulamin pracy Rady Ministrów, art. 19, cl. 4.

fall.⁴²³ The orders of the Prime Minister are published on the web-page of the Government.

Prime Minister issues individual-legal acts in Bulgaria,⁴²⁴ Estonia,⁴²⁵ Latvia,⁴²⁶ Romania,⁴²⁷ Hungary,⁴²⁸ Poland⁴²⁹ and Lithuania.⁴³⁰ It is noteworthy that unlike Georgia and other studied countries the Prime Minister of Poland issues normative acts – orders.⁴³¹ With these orders, the Prime Minister approves statutes of various ministries⁴³² and creates permanent and temporary government bodies.⁴³³

Based on the analysis of competencies of a Prime Minister of Georgia, on the one hand, competencies of him/her as a head of the Government in representation and activities of the Government can be outlined and on the other hand, diversity of its fragmental competencies in various sectoral areas that are less logical considering the functions of the Cabinet. There is no coherent approach to addressing Prime Minister's and the Cabinet's powers in sectoral areas and in some cases, there is no clear principle that would differentiate the competencies between the Prime Minister and the rest – the Government/ministers and vice-versa. For instance, the head of the Government approves staff list and wage bill of the LEPL Financial Monitoring Service; receives a report of a purchasing organization in case of purchase of an object for more than 2 000 000 GEL; agrees on a budget of LEPL Sakpatenti, as well as on decisions on purchasing and owning immovable property. Similar competencies in other instances are attributed to the government, therefore, **these powers should be ascribed to the Cabinet, which makes more logical the distribution of immediate executive functions among governmental sectors.**

⁴²³ Interview with the Parliamentary Secretary of the Government of Georgia.

⁴²⁴ The Prime Minister issues orders, see България, Устройствен Правилник, чл. 10 (4).

⁴²⁵ Estonia, Government of the Republic Act, art. 37.

⁴²⁶ Latvia, Cabinet Structure Law, section 33.

⁴²⁷ România, LEGE nr. 90 din 26 martie 2001, art. 19.

⁴²⁸ The Constitution of Hungary, art. 8a, cl. 2.

⁴²⁹ The Constitution of Poland, art. 148, cls. 3 4.

⁴³⁰ Lietuva, Lietuvos Respublikos Vyriausybės įstatymas, art. 43.

⁴³¹ Polska, Regulamin pracy Rady Ministrów, art. 19, cl. 4.

⁴³² Polska, Regulamin pracy Rady Ministrów, art. 39, cl. 5; for examples of orders of the Prime Ministers, see the order of the Prime Minister on the Charter of the Chancellery, Obwieszczenie Prezesa Rady Ministrów z dnia 7 listopada 2016 r. w sprawie ogłoszenia jednolitego tekstu zarządzenia Prezesa Rady Ministrów w sprawie nadania statutu Kancelarii Prezesa Rady Ministrów, Internetowy System Aktów Prawnych, available at: <https://bit.ly/3bcoWio>, updated at: 15.02.2021; Polska, Projekt Zarządzenia Prezesa Rady Ministrów w sprawie nadania statutu Ministerstwu Sportu i Turystyki, Projekty zarządzeń Prezesa Rady Ministrów, Ministerstwo Sportu i Turystyki, available at: <http://bit.ly/3atQPDG>, updated at: 16.02.2021.

⁴³³ Prime Minister is authorized to create committees, which shall discuss certain category cases or a certain case. See Polska, Ustawa o Radzie Ministrów, art. 12.

3. DEPUTY PRIME MINISTER

Deputy Prime Minister is a deputy (legislation of some countries directly refers to it as a Deputy Prime Minister)⁴³⁴ and a leading figure in the Cabinet.⁴³⁵ The person for this position is generally selected by the Prime Minister. There are generally one or more persons in this position.

In Georgia as well, the Prime Minister tasks one of the Ministers to fulfil functions of the First Deputy Prime Minister and one or more ministers to fulfil functions of the Deputy Prime Minister.⁴³⁶ During the reporting period, there were two Deputy Prime Ministers in the Government of Georgia (one of them has the status of First). These persons coordinate either directions of the executive power in accordance with an order of a Head of the Government⁴³⁷ and execute other powers.⁴³⁸ In the studied countries, as well the deputies of a Prime Minister are tasked to coordinate several directions of the Government (Bulgaria,⁴³⁹ Hungary,⁴⁴⁰ and Croatia⁴⁴¹).

There is a position of a First Deputy Prime Minister in Croatia.⁴⁴² A Deputy Prime Minister is appointed by a Prime Minister in Estonia,⁴⁴³ Croatia,⁴⁴⁴ Latvia,⁴⁴⁵ Poland,⁴⁴⁶ Slovenia,⁴⁴⁷ Hungary⁴⁴⁸ and Bulgaria.⁴⁴⁹ Often, similar to Georgia, the status of a Prime Minister is assigned to already existing members of the Cabinet (Croatia,⁴⁵⁰ Bulgaria,⁴⁵¹ Slovenia,⁴⁵² Lithuania⁴⁵³), However, a Prime Minister may also be a minister without a portfolio i.e. who is not leading a ministry (Croatia,⁴⁵⁴ Romania,⁴⁵⁵ Latvia⁴⁵⁶).

In Georgia, Deputy Prime Minister acts as a Prime Minister in case of the absence of the

⁴³⁴ E.g., Poland, see The Constitution of Poland, art. 147, cl. 2; Slovenia, see Slovenija, Zakon o Vladi Republike Slovenije, člen 8; Bulgaria, see The Constitution of the Republic of Bulgaria, art. 108; Croatia, see Constitution of the Republic of Croatia, art. 108; Hungary, see The Constitution of Hungary, art. 16, cl. 2; Latvia, see Latvia, Cabinet Structure Law, section 2, cl. 2 (1); Lithuania, see Lietuva, Lietuvos Respublikos Vyriausybės įstatymas, art. 25; România, Codul Administrativ, art. 18, cl. 1.

⁴³⁵ Cristina Barbieri and Michelangelo Vercesi, *cited paper*, 534.

⁴³⁶ Constitution of Georgia, art. 55, para. 4.

⁴³⁷ The Law of Georgia on the Structure, Authority and Rules of Operation of the Government of Georgia, art. 10, para. 3 and 5.

⁴³⁸ *Ibid.*, para. 2.

⁴³⁹ „Cabinet Members,” Council of Ministers of the Republic of Bulgaria, available at: <http://bit.ly/3jVZPUU>, updated at: 16.02.2021; България, Устройствен Правилник, чл. 11, 14.

⁴⁴⁰ Hungary, 94/2018. (V. 22.) Korm. Rendelet a Kormány tagjainak feladat- és hatásköréről, art. 32.

⁴⁴¹ Hrvatska, Zakon o Vladi Republike Hrvatske, članak 12.

⁴⁴² Hrvatska, Zakon o Vladi Republike Hrvatske, članak 10.

⁴⁴³ The Constitution of the Republic of Estonia, art. 93.

⁴⁴⁴ Hrvatska, Zakon o Vladi Republike Hrvatske, članci 2, 16.

⁴⁴⁵ Latvia, Cabinet Structure Law, section 7, cl. 1.

⁴⁴⁶ The Constitution of Poland, art. 147, cl. 2.

⁴⁴⁷ Slovenija, Zakon o Vladi Republike Slovenije, člen 8.

⁴⁴⁸ The Constitution of Hungary, art. 16, cl. 2.

⁴⁴⁹ The Constitution of the Republic of Bulgaria, art. 108, cl. 1.

⁴⁵⁰ Hrvatska, Zakon o Vladi Republike Hrvatske, članak 10.

⁴⁵¹ „Cabinet Members,” Council of Ministers of the Republic of Bulgaria.

⁴⁵² Slovenija, Zakon o Vladi Republike Slovenije, člen 8.

⁴⁵³ Lietuva, Lietuvos Respublikos Vyriausybės įstatymas, art. 25, cl. 3.

⁴⁵⁴ Hrvatska, Zakon o Vladi Republike Hrvatske, članak 22.

⁴⁵⁵ In Romania as well, a ministry may not be led by a Prime Minister. See “Ministers of the Romanian Government,” Guvernul României, available at: <http://bit.ly/3ap0xae>, updated at: 16.02.2021.

⁴⁵⁶ In Latvia, a Prime Minister may temporarily or permanently lead a ministry or be appointed as a minister in order to perform special tasks. See Latvia, Cabinet Structure Law, section 5, cl. 2 (1), section 7, cl. 2.

latter,⁴⁵⁷ the same way as it is established in Croatia,⁴⁵⁸ Lithuania,⁴⁵⁹ Latvia,⁴⁶⁰ Estonia,⁴⁶¹ Romania,⁴⁶² Bulgaria,⁴⁶³ Hungary⁴⁶⁴ and Slovenia.⁴⁶⁵ In Georgia, only the Prime Minister leads the Government sessions. The first Deputy Prime Minister takes the place of a head of the Government, while a new Prime Minister shall be appointed by the Parliament.⁴⁶⁶ Similar to Georgia in the event of the resignation of a Prime Minister, only ministers continue to exercise the authority until a new cabinet is formed in Bulgaria,⁴⁶⁷ Slovenia,⁴⁶⁸ Romania⁴⁶⁹ and Lithuania.⁴⁷⁰ In the latter, the president is authorized to task one of the ministers to act as a Prime Minister temporarily.⁴⁷¹ Unlike Georgia, if a Prime Minister resigns in Hungary,⁴⁷² Estonia,⁴⁷³ Poland,⁴⁷⁴ Croatia,⁴⁷⁵ s/he continues to exercise the authority until a new Prime Minister is elected. In Latvia,⁴⁷⁶ a resigned Prime Minister continues to exercise the authorities if Seimas does not define another person as a Prime Minister until a new Cabinet is established. **It would be better if in Georgia the rules of succession of the Prime Minister change in case of resignation of the Prime Minister and the same person will act as the Prime Minister until a new one is elected. This will balance the principle of representation of the existing political powers in the parliament before the formation of a new government.**

⁴⁵⁷ The Law of Georgia on the Structure, Authority and Rules of Operation of the Government of Georgia, art. 10, para. 2.

⁴⁵⁸ Hrvatska, Zakon o Vladi Republike Hrvatske, članak 10.

⁴⁵⁹ Lietuva, Lietuvos Respublikos Vyriausybės įstatymas, art. 25.

⁴⁶⁰ Latvia, Cabinet Structure Law, section 10, cl. 1.

⁴⁶¹ The Constitution of the Republic of Estonia, art. 93.

⁴⁶² Romania's Constitution of 1991 with Amendments through 2003, art. 107, cl. 3.

⁴⁶³ The Constitution of Hungary, art. 22, cl. 3.

⁴⁶⁴ Hungary, 94/2018. (V. 22.) Korm. Rendelet a Kormány tagjainak feladat- és hatásköréről, art. 31.

⁴⁶⁵ Slovenija, Zakon o Vladi Republike Slovenije, člen 8.

⁴⁶⁶ The Constitution of Georgia, art. 56, cl. 1; The Law of Georgia on the Structure, Authority and Rules of Operation of the Government of Georgia, art. 10, para. 2.

⁴⁶⁷ "Bulgarian president appoints interim prime minister, calls for early elections", *News / DW*, 24.01.2017, available at: <https://bit.ly/3aMHIOs>, updated at: 24.02.2021.

⁴⁶⁸ The Constitution of Slovenia, art. 115.

⁴⁶⁹ Romania's Constitution of 1991 with Amendments through 2003, art. 107, cl. 3.

⁴⁷⁰ The Constitution of the Republic of Lithuania, art. 84, cl. 7.

⁴⁷¹ The Constitution of Lithuania, art. 84, cl. 7.

⁴⁷² The Constitution of Hungary, art. 39/C, cl. 1.

⁴⁷³ "Q&A: Estonia's government has resigned – what happens next?", *ERR: news*, 14.01.2021, available at: <https://bit.ly/37JfdiK>, updated at: 24.02.2021.

⁴⁷⁴ The Constitution of Poland, art. 162.

⁴⁷⁵ Constitution of the Republic of Croatia, art. 113.

⁴⁷⁶ Latvia, "Functions of the Prime Minister," Cabinet of Ministers.

4. MINISTRIES AND MINISTERS

4.1. Powers of a Minister

Ministers are the key political figures in the executive power.⁴⁷⁷ Their role and influence are changed by countries. There are senior ministers, state secretaries,⁴⁷⁸ ministers with portfolio, ministers without portfolio, state ministers.⁴⁷⁹ Together with their influence on the Cabinet, a rule for making government decision is also variable. According to *Laver and Shepsle*, through participation in the Government decision-making process ministers have the opportunity to influence what determines what is decided by them or by the Cabinet. They can have a substantive impact on issues to be decided by Cabinet.⁴⁸⁰ A minister is responsible for those sectoral directions, which were provided to him/her and/or is defined by law. A minister is a head of a relevant ministry, decides the issues under its jurisdiction and is directly responsible to the Government for the implementation of the Government program and the Action Plan in its own sectoral field.

Notwithstanding the fact that the Cabinet decides the most significant part of executive decisions, the multiplicity and specificity of issues require its deconcentration at sectoral bodies and relevant expertise.⁴⁸¹ With this purpose in a modern state, a governance delegation chain is presented in the following way: people – legislative organ – Prime Minister and its Cabinet – Ministers – Structure and agencies of Ministries.⁴⁸² At the same time, the delegation problem arises from the political, legal, and constitutional arrangements.⁴⁸³

In Cabinets where a Prime Minister holds a leading role, its voice is decisive, however, the principle all members are collectively accountable for such decisions - remains valid.⁴⁸⁴ The meaning of collective decision-making emphasizes the necessity to outline the ways in which ministers influence government policy,⁴⁸⁵ i.e., how they influence both each other, as well as the whole policy of the Cabinet.

There are seven directions, in which members of the Government make decisions. These are: 1) unilateral decisions taken by each minister in the area entrusted to him/her; 2) internalized coordination by a Minister, which heads several sectoral directions; 3) bilateral discussions between two ministers; 4) multilateral decisions with the participation of several ministers, beyond the formal frame; 5) decisions of the Cabinet-committee (committee implies formal groups of ministers within the Government⁴⁸⁶); 6) decisions of the Cabinet, which are made collegially; 7) partisan decisions which are made based on interparty negotiations.⁴⁸⁷

⁴⁷⁷ Cristina Barbieri and Michelangelo Vercesi, *cited paper*, 534.

⁴⁷⁸ *Ibid.*, 80.

⁴⁷⁹ Jörn Fischer et al, "The Duration and Durability of Cabinet Ministers," *International Political Science Review / Revue Internationale De Science Politique* 33, no. 5 (2012): 505-519.

⁴⁸⁰ Michael Laver and Kenneth A. Shepsle, eds., *Making and Breaking Governments: Cabinets and Legislatures in Parliamentary Democracies*, 32.

⁴⁸¹ *Ibid.*, 30.

⁴⁸² Kaare Strøm et al, *Parliamentary Democracy and Delegation*, 12, 39.

⁴⁸³ Uwe Kischel, "Delegation Of Legislative Power To Agencies: A Comparative Analysis Of United States And German Law," *Administrative Law Review* 46, no. 2 (1994): 215.

⁴⁸⁴ Michael Laver and Kenneth A. Shepsle, eds., *Making and Breaking Governments: Cabinets and Legislatures in Parliamentary Democracies*, 36.

⁴⁸⁵ *Ibid.*, 37.

⁴⁸⁶ Rod Hague and Martin Harrop, *cited paper*, 28; also, see Thomas T. Mackie and Brian W. Hogwood, "Decision Arenas in Executive Decision Making: Cabinet Committees in Comparative Perspective," *British Journal of Political Science* 14, no. 3 (1984): 285-312.

⁴⁸⁷ Thomas T. Mackie and Brian W. Hogwood, *cited paper*, 292; also, Michelangelo Vercesi, "Cabinets and Decision-Making Processes: Re-Assessing the Literature," 8.

In the parliamentary and premier-presidential sub-type systems, ministers' statuses are also influenced by the ability to combine their positions with a membership of the legislative body.⁴⁸⁸ In Georgia, it is prohibited to combine positions of an MP and a member of the Government.⁴⁸⁹ It is allowed (however not obligatory) for the Minister to be a member of the Parliament⁴⁹⁰ in Latvia,⁴⁹¹ Lithuania,⁴⁹² Poland,⁴⁹³ Romania.⁴⁹⁴ It is prohibited in Bulgaria,⁴⁹⁵ Croatia,⁴⁹⁶ Estonia,⁴⁹⁷ Hungary⁴⁹⁸ and Slovenia.⁴⁹⁹

The purpose of a ministry in Georgia is to implement state policy and governance in a certain field of Government authority.⁵⁰⁰ Within these scopes, the mandate of an executive government is always divided into directions (in some cases related directions are combined) and during the reporting period, it was divided into 10 ministries.⁵⁰¹ They do not have a collegial body status.⁵⁰² The outcome of the activity of the Ministry is reflected in legal acts and activities of its head – a Minister.⁵⁰³ However, a ministry implies not only a minister but also the whole system whose activities is this person responsible for.

Definition of powers of the Ministry is allowed to be defined law or an ordinance of the Government.⁵⁰⁴ The Charter of each ministry approved by the Government determines the sphere of governance of ministries of Georgia.⁵⁰⁵ Part of the competencies of heads of the ministries coincide with each other: all of them have a right to issue normative and individual acts, create commissions and councils within their area of governance, define the organizational structure of the ministry, they are obliged to coordinate and oversight activities of structures under them. Furthermore, the ministers additionally have defined competencies in their respective areas. Staffing powers within ministries are also in the hands of the Ministers (excluding the political component associated with the appointment of deputies). Considering the abovementioned their competencies can be classified into several directions:⁵⁰⁶

a) Policy making competence implies policy-making in a relevant sectoral field that ministers manage independently or in cooperation with another minister. These competencies are given to the ministers in all nine countries.⁵⁰⁷

b) Direct executive functions (administration/organization) imply the process of imple-

⁴⁸⁸ Rudy B. Andeweg, *cited paper*, 377-378.

⁴⁸⁹ Rules of Procedure of the Parliament of Georgia, art. 6, para. 7.

⁴⁹⁰ Jürgen Hartmann, *Westliche Regierungssysteme, Parlamentarismus, präsidentielles und semi-präsidentielles Regierungssystem*, 3 Auflage (VS Verlag für Sozialwissenschaften | Springer Fachmedien Wiesbaden GmbH, 2011), 23 - 24.

⁴⁹¹ The Constitution of the Republic of Latvia, art. 63.

⁴⁹² The Constitution of the Republic of Lithuania, art. 60.

⁴⁹³ The Constitution of Poland, art. 103, cl. 1.

⁴⁹⁴ Romania's Constitution of 1991 with Amendments through 2003, art. 71, cl. 2.

⁴⁹⁵ *Ibid.*, art. 68.

⁴⁹⁶ Constitution of the Republic of Croatia, art. 108.

⁴⁹⁷ The Constitution of the Republic of Estonia, art. 99.

⁴⁹⁸ The Constitution of Hungary.

⁴⁹⁹ The Constitution of Slovenia, art. 110.

⁵⁰⁰ Constitution of Georgia, art. 54, para. 4.

⁵⁰¹ The Law of Georgia on the Structure, Authority and Rules of Operation of the Government of Georgia, art. 14.

⁵⁰² *Ibid.*, art. 15, para. 4.

⁵⁰³ *Ibid.*, art. 20 and 21.

⁵⁰⁴ *Ibid.*, art. 15, para. 5.

⁵⁰⁵ The Law of Georgia on the Structure, Authority and Rules of Operation of the Government of Georgia, art. 16.

⁵⁰⁶ Detail distribution of powers of ministers of Georgia see in Annex № 1.

⁵⁰⁷ Notwithstanding the fact that the legislation of some countries does not explicitly indicate this competence, the existence of policy-making powers is clear from an analysis of competence of ministers.

mentation of law and organization of activities of a ministry. Ministers have this function in Georgia, as well as in studied jurisdictions (Bulgaria,⁵⁰⁸ Estonia,⁵⁰⁹ Latvia,⁵¹⁰ Hungary,⁵¹¹ Poland,⁵¹² Croatia,⁵¹³ Lithuania⁵¹⁴), which also covers execution of obligations under the Government and/or presidential acts, as well as international agreements (Romania,⁵¹⁵ Slovenia,⁵¹⁶ Croatia,⁵¹⁷ Lithuania⁵¹⁸), develop a proposal for the annual budget and/or submit it to the Cabinet (Estonia,⁵¹⁹ Romania,⁵²⁰ Lithuania⁵²¹), management of state-owned companies (Hungary⁵²²), development of statistical information system, functioning and development (Hungary,⁵²³ Romania⁵²⁴), execution of the policy and program developed by the Government (Hungary,⁵²⁵ Poland,⁵²⁶ Croatia,⁵²⁷ Lithuania⁵²⁸).

c) Coordination and control function implies oversight of activities of the agencies within the ministry (the same in Poland⁵²⁹ and Lithuania⁵³⁰) and the abolition of acts of subordinate officials. Furthermore, here is also implied the coordination with each other or the Government of the ministry (Bulgaria,⁵³¹ Poland,⁵³² Lithuania⁵³³), as well as coordination and control of elaboration and/or enforcement of international conventions and agreements, as well as other legal acts (Romania,⁵³⁴ Slovenia,⁵³⁵ Croatia,⁵³⁶ Lithuania⁵³⁷), control and coordination of policy and strategy implementation within the scope of activities of the Ministry (Roma-

⁵⁰⁸ България, Устройствен Правилник, чл. 12 (2).

⁵⁰⁹ Estonia, Government of the Republic Act, art. 49, cl. 1 (1).

⁵¹⁰ Latvia, Cabinet Structure Law, section 9, cl. 3.

⁵¹¹ Hungary, 94/2018. (V. 22.) Korm. Rendelet a Kormány tagjainak feladat- és hatásköréről, art. 39, cl. 2.

⁵¹² Polska, Ustawa o Radzie Ministrów, art. 5, cl. 7.

⁵¹³ E.g. „O Ministarstvu,” Ministarstvo Pravosuđa i Uprave, available at: <https://mpu.gov.hr/o-ministarstvu/>, updated at: 16.02.2021; also <https://mup.gov.hr/o-ministarstvu-387/387>, updated at: 16.02.2021.

⁵¹⁴ Lietuva, Lietuvos Respublikos Vyriausybės įstatymas, art. 26, cl. 3 (6), (8) - (10).

⁵¹⁵ România, LEGE nr. 90 din 26 martie 2001, art. 27, cl. 3.

⁵¹⁶ Slovenija, Zakon o Vladi Republike Slovenije, člen 17.

⁵¹⁷ E.g. see powers of the Minister of Internal Affairs of Croatia, “O ministarstvu,” Ministarstvo unutarnjih poslova RH.

⁵¹⁸ Lietuva, Lietuvos Respublikos Vyriausybės įstatymas, art. 26, cl. 3 (2), (4).

⁵¹⁹ Estonia, Government of the Republic Act, art. 49, cl. 8.

⁵²⁰ România, LEGE nr. 90 din 26 martie 2001, art. 53, cl. 1 (d).

⁵²¹ Lietuva, Lietuvos Respublikos Vyriausybės įstatymas, art. 26, cl. 3 (6).

⁵²² Hungary, 94/2018. (V. 22.) Korm. Rendelet a Kormány tagjainak feladat- és hatásköréről, art. 39, cl. 2.

⁵²³ *Ibid.*

⁵²⁴ România, LEGE nr. 90 din 26 martie 2001, art. 53, cl. 1 (l).

⁵²⁵ Hungary, 94/2018. (V. 22.) Korm. Rendelet a Kormány tagjainak feladat- és hatásköréről, art. 39, cl. 2.

⁵²⁶ Polska, Ustawa o Radzie Ministrów, art. 7, cls. 3-4.

⁵²⁷ e.g. see powers of the Minister of Internal Affairs of Croatia, “O ministarstvu,” Ministarstvo unutarnjih poslova RH.

⁵²⁸ Lietuva, Lietuvos Respublikos Vyriausybės įstatymas, art. 26, cl. 3 (1).

⁵²⁹ Polska, Ustawa o Radzie Ministrów, art. 34.

⁵³⁰ Lietuva, Lietuvos Respublikos Vyriausybės įstatymas, art. 26, cl. 3 (11) – (12).

⁵³¹ България, Устройствен Правилник, чл. 12 (2) – (3), чл. 32 (1).

⁵³² Polska, Ustawa o Radzie Ministrów, art. 34.

⁵³³ Lietuva, Lietuvos Respublikos Vyriausybės įstatymas, art. 26, cl. 3 (11).

⁵³⁴ România, LEGE nr. 90 din 26 martie 2001, art. 53, cl. 1 (a), (h).

⁵³⁵ Slovenija, Poslovník Vlade Republike Slovenije, člen 15, paras. 1, 3.

⁵³⁶ A narrow cabinet can be established within the Government of Croatia, consisting of the Prime Minister and the vice-premiers. Other members of the Government may also be invited to session of the narrow cabinet. The narrow cabinet defines ways to implement government policy, oversees the implementation of the government action program, considers the topics under the competence of the Government and coordinates the activities of members of the Government in carrying out the tasks assigned to them. See Hrvatska, Poslovník Vlade Republike Hrvatske, članak 7; Hrvatska, Zakon o Vladi Republike Hrvatske, članak 16, para. 2.

⁵³⁷ Lietuva, Lietuvos Respublikos Vyriausybės įstatymas, art. 26, cl. 3 (5).

nia,⁵³⁸ Hungary,⁵³⁹ Lithuania⁵⁴⁰).

d) Within the scopes of **representative powers**, the State Minister of Georgia represents ministry in relations with other bodies. Here also are implied the powers of the State Minister to represent Georgia in foreign relations within its competencies and to conclude inter-agency agreements. In studied jurisdictions, similar to Georgia, the Ministers represent the State, Cabinet and/or Ministry or subordinate agency on internal and international levels, in relations with other states and/or international organizations (Bulgaria,⁵⁴¹ Estonia,⁵⁴² Latvia,⁵⁴³ Romania,⁵⁴⁴ Hungary,⁵⁴⁵ Poland,⁵⁴⁶ Slovenia,⁵⁴⁷ Croatia,⁵⁴⁸ Lithuania⁵⁴⁹), participate in the initiation of international agreements and/or its development (Bulgaria,⁵⁵⁰ Estonia,⁵⁵¹ Romania,⁵⁵² Hungary,⁵⁵³ Lithuania⁵⁵⁴).

e) **Staffing/founding** function first considers the appointment of subordinate persons to minister on positions. Similar competencies can be found in studied countries (Estonia,⁵⁵⁵ Poland,⁵⁵⁶ and Lithuania⁵⁵⁷). In Georgia, the Minister is authorized to create deliberative bodies as well. Ministers have similar competencies in Poland,⁵⁵⁸ Romania⁵⁵⁹ and Lithuania.⁵⁶⁰

f) Within the scopes of **Rulemaking** function the State Minister of Georgia issues as own legal acts (orders) as well as initiates draft acts of the Government and the Parliament. The State Minister also considers legislative initiatives of the Parliamentary subjects. In this regard, the practice of the studied countries is quite diverse. In some jurisdictions, a number of titles of legal acts of ministers are quantitatively much larger than the similar mechanisms available to the member of the Cabinet of Georgia. E.g., in Bulgaria the ministers issue normative and individual-legal acts in form of rules, regulations, instructions and orders.⁵⁶¹ In

⁵³⁸ România, LEGE nr. 90 din 26 martie 2001, art. 53, cl. 1 (i).

⁵³⁹ Hungary, 94/2018. (V. 22.) Korm. Rendelet a Kormány tagjainak feladat- és hatásköréről, art. 39, cl. 2.

⁵⁴⁰ Lietuva, Lietuvos Respublikos Vyriausybės įstatymas, art. 26, cl. 3 (1).

⁵⁴¹ България, Устройствен Правилник, чл. 14 (1).

⁵⁴² Estonia, Government of the Republic Act, art. 15¹, art. 49, cl. 3².

⁵⁴³ E.g., see „Ministry of Economics of the Republic of Latvia,” Internet Archive, available at: <http://bit.ly/3pwUZ1A>, updated at: 16.02.2021.

⁵⁴⁴ România, LEGE nr. 90 din 26 martie 2001, art. 46, cl. 2, art. 53, cl. 1 (e).

⁵⁴⁵ Hungary, 94/2018. (V. 22.) Korm. Rendelet a Kormány tagjainak feladat- és hatásköréről, art. 39, cl. 2.

⁵⁴⁶ Polska, Ustawa o Radzie Ministrów, art. 9, cls. 1-2.

⁵⁴⁷ Slovenija, Zakon o Vladi Republike Slovenije, člen 18.

⁵⁴⁸ Hrvatska, Poslovnik Vlade Republike Hrvatske, članak 51.

⁵⁴⁹ In this case, the Prime Minister can assign to a minister or any other person representative competences at the international level. See Lietuva, Lietuvos Respublikos Vyriausybės įstatymas, art. 24, cl. 12.

⁵⁵⁰ България, Устройствен Правилник, чл. 14 (2).

⁵⁵¹ Estonia, Government of the Republic Act, art. 49, cl. 3².

⁵⁵² By the authority granted by the President or the Government of Romania, minister initiates and conducts negotiations regarding conventions, agreements and other international treaties or develops the forms to accede the existing ones. See România, LEGE nr. 90 din 26 martie 2001, art. 53, cl. 1 (g).

⁵⁵³ Hungary, 94/2018. (V. 22.) Korm. Rendelet a Kormány tagjainak feladat- és hatásköréről, art. 39, cl. 2.

⁵⁵⁴ Prime Minister is authorized to grant a minister the authority to held negotiations and sign international agreements. See Lietuva, Lietuvos Respublikos Vyriausybės įstatymas, art. 24, cl. 12.

⁵⁵⁵ Estonia, Government of the Republic Act, art. 49, cls. 5-7.

⁵⁵⁶ Polska, Ustawa o Radzie Ministrów, art. 34.

⁵⁵⁷ Lietuva, Lietuvos Respublikos Vyriausybės įstatymas, art. 26, cl. 3 (13).

⁵⁵⁸ Polska, Ustawa o Radzie Ministrów, art. 34.

⁵⁵⁹ Romania's Constitution of 1991 with Amendments through 2003, art. 117, cl. 2.

⁵⁶⁰ Lietuva, Lietuvos Respublikos Vyriausybės įstatymas, art. 30, cl. 1, art. 32, cl. 1.

⁵⁶¹ Rules, Regulations and instructions represent normative acts, and order is an individual-legal act. See The Constitution of the Republic of Bulgaria, art. 115; България, Закон За Нормативните Актове, чл. 7, LEX.BG Българският правен портал, available at: <https://www.lex.bg/laws/ldoc/2127837184>, updated at: 16.02.2021; България, Закон за Администрацията, чл. 26 (2).

Estonia,⁵⁶² Latvia,⁵⁶³ Romania,⁵⁶⁴ Poland⁵⁶⁵ and Slovenia⁵⁶⁶ acts have different titles. In addition, we can observe the similar to Georgia practice, where normative and individual-legal acts are referred to by one name (Hungary,⁵⁶⁷ Lithuania⁵⁶⁸). Submission of legislative acts to the Government session is the responsibility of ministers (Poland,⁵⁶⁹ Lithuania⁵⁷⁰).

Furthermore, within the rule making competence, ministers sign the government acts in accordance with the fields.⁵⁷¹ The latter procedure is not considered in Georgia. Similar to the Government, the legal basis of the normative order of a minister is a law. In case of an ordinance of the Government, the legislative act is required unambiguously, while an order of a minister can be issued in cases envisaged by an ordinance of the Government of Georgia, lacking the direct legislative basis.⁵⁷²

There are cases when authorities of two or more ministries overlap and the involvement of other minister is required to resolve an issue. In this case, a Minister corroborates the decision with a relevant colleague and only after issues an act.⁵⁷³

Similar to Georgia,⁵⁷⁴ in Lithuania,⁵⁷⁵ Bulgaria⁵⁷⁶ and Poland⁵⁷⁷ law also provides for the possibility of resolving issues through a joint normative act, when the issue falls within the

⁵⁶² In Estonia the Prime Minister manages issues under its governance, issues regulations and directives on the basis of a law. Minister's regulation is a normative act. It should refer to provision of a law, based on which it was issued. If the Government is authorized by a law to assign certain topics to a minister to regulate, minister's regulation also should refer to relevant provision of the regulation of the Government. Minister's directive is issued on individual issues. Relevant minister signs the government's regulations together with the Prime Minister and State Secretary. See The Constitution of the Republic of Estonia, art. 94; Estonia, Government of the Republic Act, art. 28, cl. 3, art. 50, cl. 1, art. 51, cls. 1-2, art. 52, cl. 1.

⁵⁶³ Latvia, Cabinet Structure Law, sections 32-33.

⁵⁶⁴ When exercising own powers, minister issues orders and directive/instructions in accordance with a law, they also, develop and approve projects, decrees, decisions in accordance with methodology and conditions approved by the Government. See România, LEGE nr. 90 din 26 martie 2001, art. 46, cl. 3, art. 53, cl. 1 (b).

⁵⁶⁵ Minister, which leads certain direction issues regulations. The minister is authorized to issue mandatory instructions and orders on the principles and direction for the units under their control and supervision. Council of Ministers creates, abolishes and changes a ministry. Prime Minister, based on an ordinance, submits a ministry a Charter, which defines its detailed organizational structure. See Polska, Ustawa o Radzie Ministrów, art. 5, cl. 7, art. 34a, cl. 1, art. 39 cls. 1, 5.

⁵⁶⁶ Minister is authorized to issue executive regulation in the form of rules and regulations. See Slovenija, Poslovnik Vlade Republike Slovenije, člen 8d; Slovenija, Pravilnik o izvajanju oprostite ali delne oprostitve plačila najemnin zaradi omilitve posledic drugega vala epidemije COVID-19 za športne organizacije, stran 31, Glasilo Uradni list RS, <http://bit.ly/3aqOkBJ>, updated at: 16.02.2021; Slovenija, Odločba o razveljavitvi dela prvega odstavka 15. člena pravilnika o lovskogospodarskih načrtih in letnih načrtih gospodarjenja z divjadjo, ki se glasi: „in strokovnih organizacij s področja varstva narave in kmetijstva“, para. 5, PisRS - Pravno informacijski sistem, available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ODLU534>, updated at: 16.02.2021.

⁵⁶⁷ In Hungary a minister prepares a proposal regarding general policy of a Government, also develops draft laws and decrees/ordinances of the Government, resolutions of the Government, Prime Minister and the President and issues decrees of Ministers on the basis of law or the decree of the Government. See Hungary, 94/2018. (V. 22.) Korm. Rendelet a Kormány tagjainak feladat- és hatásköréről, art. 39, cl. 2.

⁵⁶⁸ Lietuva, Lietuvos Respublikos Vyriausybės įstatymas, art. 26, cl. 3 (5).

⁵⁶⁹ Polska, Ustawa o Radzie Ministrów, art. 7, cl. 2; Polska, Regulamin pracy Rady Ministrów, art. 20, cl. 1 (1).

⁵⁷⁰ Lietuva, Lietuvos Respublikos Vyriausybės įstatymas, art. 26, cl. 3 (3).

⁵⁷¹ Estonia, Government of the Republic Act, art. 28, cl. 3; România, LEGE nr. 90 din 26 martie 2001, art. 27, cl. 3; Lietuva, Lietuvos Respublikos Vyriausybės įstatymas, art. 41, cl. 2.

⁵⁷² Organic Law of Georgia on Normative Acts, art. 12 and 13.

⁵⁷³ *Ibid.*

⁵⁷⁴ Organic Law of Georgia on Normative Acts, art. 21.

⁵⁷⁵ Lietuva, Lietuvos Respublikos Vyriausybės įstatymas, art. 26, cl. 3 (5).

⁵⁷⁶ България, Устройствен Правилник, чл. 31 (2).

⁵⁷⁷ Polska, Regulamin pracy Rady Ministrów, arts. 159-160.

competence of more than one ministry. Two ministers mostly issue joint acts.⁵⁷⁸

Besides agreeing on overlapping issues, before publishing an act by the Ministry of Justice, the mandatory legal expertise of separate normative orders of ministers is provided in Georgia.⁵⁷⁹ The Ministry of Justice also defines the list of acts, which do or do not require expertise.⁵⁸⁰ Should be noted that before October 9, 2020 (and accordingly during the State of Emergency)⁵⁸¹ this issue was differently regulated.⁵⁸¹ Minister's order would list the acts of ministers in a way that only a few required a conclusion of the Ministry. It was unclear based on which criteria were the acts selected to be free from expertise. This flaw was corrected with a new order of a minister, which is welcomed; however, through analysis of a different approach of the new act another problem has emerged: the act indicates that the draft normative order of the Minister is free from the expertise, and the exceptions are provided for. The list shows that they are selected based on their significance and complexity of the issue, as well as characteristics of the intensive involvement with human rights.⁵⁸² In case if the legislation defines a new issue, the normative act of the relevant minister shall be automatically excluded from the obligation of the Ministry of Justice to examine it. **It would be better, one more provision is added to this list, which would allow the ministries, if desired, to submit the Ministry of Justice such an act, which is not included in the list of issues requiring examination, but in accordance with the principle above, is subject to the review. The obligation to communicate with the Ministry of Justice in less clear cases should also be established.**

International practice in terms of examination of normative acts of ministers is also noteworthy. Notwithstanding the fact that Bulgaria lacks the mechanism with such wording, the Minister of Justice is authorized to formulate and express opinions regarding draft legal acts of other central bodies of the executive power.⁵⁸³ Unlike Georgia, the legislation of Bulgaria does not envisage the list of acts, which do not fall within the abovementioned competence of the Minister of Justice. The Minister of Justice of Hungary is authorized to participate in the process of drafting legislative acts related to the execution of the Constitution and protection of fundamental rights and freedoms and express opinion regarding all other draft legislative acts. This competence is directly related to the responsibility of the Minister to ensure compliance of law with the Constitution, enforcement of fundamental rights and freedoms related to the international law and consistency of the legal system.⁵⁸⁴ However,

⁵⁷⁸ E.g. Issue of education of accused/convicted persons is regulated with a joint order of the Minister of Justice and the Minister of Education, Science, Culture and Sports. art. 7, para. 1, subparagraph "p11".

⁵⁷⁹ Organic Law of Georgia on Normative Acts, art. 19.

⁵⁸⁰ Order of the Minister of Justice № 640, dated October 9, 2020, "on definition of draft normative acts, which do not require legal opinion of the Ministry of Justice".

⁵⁸¹ Order of the Minister of Justice № 149, dated November 21, 2011, "on definition of subordinate normative acts, which do not require legal opinion of the Ministry of Justice".

⁵⁸² Here are listed issues such as: criminal investigative and territorial investigative subordination, normative acts related to implementation of covert investigative actions and electronic surveillance measures, as well as access to, processing of, storage, issuance and destruction of information obtained as a result of such actions and measures; forms of protocols of identification of a person, interview with the invited persons, superficial examination of the person and superficial inspection of the item/vehicle; rules and conditions for protection of security and public order in a general education institution; procedure for eviction of an illegal owner and a person(s) living with him/her from a house/apartment and/or other property; rule (method) of treatment of drug addiction with a special replacement program; the rule for determining the status of disability; rules and conditions for placing in and discharging from a specialized institution; rules for adoption and foster care, etc.

⁵⁸³ България, УСТРОЙСТВЕН ПРАВИЛНИК на Министерството на правосъдието, чл. 5 (2), available at: <https://mjs.bg/home/index/69d57997-273f-4455-a053-e77f1336262f>, updated at: 16.02.2021.

⁵⁸⁴ Hungary, 94/2018. (V. 22.) Korm. Rendelet a Kormány tagjainak feladat- és hatásköréről, art. 112, cl. 2.

similar to Bulgaria these exceptions neither are provided for in the legislation of Hungary. Different practice is observed in Latvia, where the Ministry of Justice is not only authorized to submit an opinion regarding the draft legal acts prepared by other agency⁵⁸⁵ but the Ministry of Finance is also obliged to submit to the Ministry of Justice the draft legal acts on the state budget for examination.⁵⁸⁶

At an initial stage, the influence of ministers during the process of decision-making is different in Georgia. As already noted, draft law prepared by ministries first goes through the procedure of prior agreement between the ministries.⁵⁸⁷ In order to consider the issue as prior agreed between the ministries, the vote of (including the State Minister) at least 8 members (except Prime Minister)⁵⁸⁸ of the Government is required, including the mandatory votes of the Minister of Justice, Finance and the Economy, and if required based on the decision of the Administration of the Government of Georgia, of relevant sectoral minister(s) as well.⁵⁸⁹ Mandatory approval of all decisions by three ministries emphasize the dominance of these ministries over others, and therefore, lack of opinion of any of them, even if all other ministries have the consent, delays or blocks submission of the issue to the session of the Government (thus, submission to the Prime Minister) and final resolution. It is admissible to upload the same topic with unchanged wording several times.⁵⁹⁰ The role and responsibility of ministers in drafting government acts in other countries is also interesting, since here, too, is a need for inter-ministerial cooperation. In Latvia, a draft legal act of the Government shall be submitted to the session of state secretaries before being discussed at the government session, and for mandatory review and examination shall be sent to the Ministries of Finance and Justice.⁵⁹¹ Similarly in Slovenia, the draft government acts shall be submitted for an assessment to relevant ministries and interested governmental departments.⁵⁹² Bearing in mind the equal role of ministries, **necessary for the Rules of Procedure of the Government to envisage that following the very first case of disagreement between the ministers, the issue should be submitted to the government session, where it will be decided in the Cabinet format.**

Unlike the prior agreement procedure, the votes of the ministers are of equal importance for the final decision of the Government of Georgia.⁵⁹³

4.2. Separation of competencies between the Cabinet and the Ministries

Decisions to be made by the Government of Georgia, as a collegial body, the Prime Minister and ministers are separated according to the general norm.⁵⁹⁴ Separation of competencies within the executive branch, on the one hand, serves division of management and policy functions for its effective implementation, on the other hand, ensures the balance of these

⁵⁸⁵ Latvia, By-laws of the Ministry of Justice, art. 5, cl. 2, Likumi.lv - Latvijas Republikas tiesību akti, available at: <http://bit.ly/37obvL5>, updated at: 16.02.2021.

⁵⁸⁶ Latvia, Rules of Procedures of the Cabinet of Ministers, art. 115.

⁵⁸⁷ Rules of Procedure of the Government of Georgia, art. 11.

⁵⁸⁸ Rules of Procedure of the Government of Georgia, art. 11, para. 4.

⁵⁸⁹ *Ibid.*

⁵⁹⁰ *Ibid.* para. 5.

⁵⁹¹ Latvia, Rules of Procedures of the Cabinet of Ministers, art. 91.

⁵⁹² Slovenija, Poslovník Vlade Republike Slovenije, člen 10.

⁵⁹³ *Ibid.*, art. 17.

⁵⁹⁴ The Law of Georgia on the Structure, Authority and Rules of Operation of the Government of Georgia, art. 5, 8 and 19.

bodies and adherence to the rule of subordination of normative acts.⁵⁹⁵ However in this part, as it was noted above review section of powers of the Government, essential deviations are observed in some cases and powers are not fully separated between the Government and ministers – e.g. what the Government and what should regulate – by a ministry. In particular, the legislative acts of Georgia in some sectorial directions consider the full engagement of the Government and regulation of an issue with its act, while in others – this engagement is envisaged only to regulate a relatively important sectoral issue, or the acts related to the financial issues.⁵⁹⁶

The problem of confusing such regulation is clearly seen for instance in the acts regulating the education sphere. Some narrow spheres are assigned for regulation by law to the Government, while the others – to minister (e.g., in relation to teachers⁵⁹⁷). The same can be said about the defense (the Government approves such acts that are clearly sectoral and can be issued by the minister).⁵⁹⁸ The Government approves technical rules of procedure in every field upon submission by a minister (environmental, agriculture, food). Should also be considered that when studying the act submitted by a ministry to the Government, the Cabinet is still dependent on the field expertise of the initiator agency and only due to political expediency can it interfere in it. **It is recommended for the separation of powers in the administrative field between the Government and ministers to be based on certain criteria. At the same time, the competence to define key directions in the sectoral field remain with the Cabinet, while the definition of procedures – be assigned to the ministry.**

Furthermore, as it turned out, the Government and the Prime Minister hold considerable powers over LEPLs within the fields of governance of ministries (appointing heads, or agreeing appointment, approval of staff lists and remuneration funds). However, in relation to part of LEPLs, the relevant minister has the same powers (approves the staff lists, appoints the head). Minister appoints the Charters of LEPLs within its ministry, however, there is an exception, when the Government does it.⁵⁹⁹ **It is also significant here to establish a homogeneous approach and clearly separate the powers.**

⁵⁹⁵ Organic Law of Georgia on Normative Acts, art. 7, para. 11.

⁵⁹⁶ E.g. the ordinance of the Government of Georgia № 244, dated September 19, 2013, “on Determining the rules and conditions for financing vocational education and approving the maximum amount of state-funded tuition fees for educational institutions implementing vocational education programs”.

⁵⁹⁷ Ordinance of the Government of Georgia № 241, “on approving Teacher Induction, Professional Development and Career Advancement Scheme”; order of the Ministry of Education, Science, Culture and Sports № 205/ბ, “on approving external supervision scheme”, dated September 30, 2019 and order № 174/ბ “on approving rules for starting and terminating a teacher’s activity”, dated August 20, 2020.

⁵⁹⁸ Ordinance of the Government of Georgia № 238, “on approval of the Charter of the Military Service”, dated March 18, 2014.

⁵⁹⁹ For instance, the Government approves the Charter of the Agency for State Care and Assistance for the (Statutory) Victims of Human trafficking.

5. STATE MINISTER

The meaning of a State Minister is non-homogeneous. This term first appeared in the 17th Century.⁶⁰⁰ The first State Minister was a person close to King and an advisor in political, diplomatic, cultural and religious issues.⁶⁰¹ In comparative-legal terms, the status of a State Minister is quite diverse. Nowadays this institute has established in different senses in various countries of the world. In some jurisdictions, duties of a State Minister are different from the duties of the Minister of a Cabinet and it does not lead the Ministry, while in others - a Minister of a Cabinet holds a status of a State Minister as well.

The Government of Georgia may consist of the State Minister(s) together with other ministers.⁶⁰² There was one state minister in the Government during the reporting period.⁶⁰³ Out of studied countries the institute of the State Minister is found in Estonia,⁶⁰⁴ Latvia,⁶⁰⁵ Hungary⁶⁰⁶ and Slovenia,⁶⁰⁷ while in Croatia, Lithuania, Poland, Romania and Bulgaria this position is not provided.

In Georgia, the State Minister shall be appointed through the vote of confidence of the Parliament of Georgia (since a State Minister is a part of the Government) that will be followed by the act of the Prime Minister of Georgia on the appointment of a State Minister.⁶⁰⁸ Upon nomination of the Prime Minister, the president appoints a so-called minister without portfolio in Estonia.⁶⁰⁹ A Minister of this category is a part of the Cabinet, has specifically defined rights and obligations⁶¹⁰ the State Chancellery provides assistance in the implementation of which.⁶¹¹ The President shall appoint a State Minister in Hungary.⁶¹² In addition, does not lead the ministry here either.⁶¹³ It is a part of the Government and is independent of other

⁶⁰⁰ Armand Jean du Plessis de Richelieu, *Testament politique du Cardinal duc de Richelieu: premier ministre de France sous de Règne de Louis XIII, Osa 1* (Janssons à Waesberge, 1709).

⁶⁰¹ Peter Rietbergen, "Cardinal-Prime Ministers, Ca. 1450 - Ca. 1750: Careers between Personal Choices and Cultural Life Scripts," *Historical Social Research / Historische Sozialforschung* 39, no. 1 (2014): 48-75.

⁶⁰² Constitution of Georgia, art. 54, para. 5.

⁶⁰³ State Minister for Reconciliation and Civic Equality. The Law of Georgia on the Structure, Authority and Rules of Operation of the Government of Georgia, art. 24¹ para. 2.

⁶⁰⁴ Currently no State Minister is appointed in Estonia; official webpage of the Government of Estonia. See Estonia, Government of the Republic of Estonia, available at: <https://www.valitsus.ee/en>, updated at: 16.02.2021; The Constitution of the Republic of Estonia, art. 94.

⁶⁰⁵ Currently no State Minister is appointed in Latvia. See Latvia, Cabinet of Ministers; Latvia, Cabinet Structure Law, section 5, cl. 2.

⁶⁰⁶ Currently in Hungary's Government there are three State Ministers. In particular, Minister without portfolio on Issues of State Assets Management, Minister without portfolio on Domestic issues, Minister without Portfolio on issues of Nuclear Power Plant Expansion. Official webpage of the Government of Hungary, see Hungary, Magyarország Kormánya, available at: <https://kormany.hu/tarca-nelkuli-miniszterek>, updated at: 16.02.2021; The Constitution of Hungary, art. 17, cl. 2.

⁶⁰⁷ Currently in Slovenia there are two State Ministers: minister without portfolio of Development and European Cohesion Policy, whose competences cover relations between Republic of Slovenia and the population of Slovenia, who live in neighbor countries, as well as the Republic of Slovenia and Slovenians living abroad; see official webpage of the Government of Slovenia, Slovenia, "About the Government"; Slovenija, Zakon o Vladi Republike Slovenije, člen 8.

⁶⁰⁸ The Law of Georgia on the Structure, Authority and Rules of Operation of the Government of Georgia, art. 24¹, paras 1 and 4.

⁶⁰⁹ The Constitution of the Republic of Estonia, art. 94.

⁶¹⁰ *Ibid.*; also, Estonia, Government of the Republic Act, art. 3, cl. 3; Jannu Kuusik and Kart Miil, "Guide to Estonian Legal System and Legal Research," *GlobaLex*, 2013, para. 2.4, available at: <http://bit.ly/3aqXrSY>, updated at: 16.02.2021.

⁶¹¹ *Ibid.*, para. 2.5.

⁶¹² The Constitution of Hungary, April 25, 2011, art. 16, cl. 7.

⁶¹³ *Ibid.*, art. 17. cl. 2.

ministers.⁶¹⁴ In Latvia, a Prime Minister shall appoint a State Minister to perform special tasks and invite to be a member of the Cabinet.⁶¹⁵ The State Minister shall be appointed to fulfil special tasks, which can fall within the competencies of another ministry.⁶¹⁶ Minister without portfolio also is a member of the Government in Slovenia,⁶¹⁷ which shall be appointed by the Prime Minister.⁶¹⁸

In Georgia, the State Minister differs from other ministers by the fact that the State Minister has not been assigned any specific field and at the same time, and is not the head of the Ministry (is a so-called minister without portfolio), however, has its own office.⁶¹⁹ Similarly, there is a relevant body subordinate to the State Minister in Estonia⁶²⁰ Latvia,⁶²¹ Hungary⁶²² and Slovenia.⁶²³ Its Charter defines the sphere and powers of the Office as well as the field of activity of the State Minister.⁶²⁴ In the named four countries the Government or the Prime Minister holds this function by issuing the relevant act.⁶²⁵

Similar to other ministers, State Minister in Georgia has deputies,⁶²⁶ however, unlike deputies of other ministers, the State Minister appoints and dismisses own deputies.⁶²⁷

The Charter of the Office approved by the Government of Georgia defines the powers of the State Minister for Reconciliation and Civic Equality. They can be grouped in accordance with several directions:

a) Policy making – includes policy development by the Office of the State Minister in terms of reconciliation and engagement; development of initiative proposals and formats in the peace process towards the Abkhazia Autonomous Republic and former South Ossetia Autonomous District, as well as proposal and engagement in them; within the scopes of this function, the direction of activities of the Office is to develop civil integration policy of the Government. Similarly, the recent State Minister of Estonia, which was a minister without portfolio in 2007-2009 in civil relations issues⁶²⁸ and Latvia Minister of Special Assignments

⁶¹⁴ *Ibid.*

⁶¹⁵ Latvia, Cabinet Structure Law, section 5, cl. 2.

⁶¹⁶ *Ibid.*, section 8, cl. 2.

⁶¹⁷ Slovenija, Zakon o Vladi Republike Slovenije, člen 8.

⁶¹⁸ *Ibid.*

⁶¹⁹ The Law of Georgia on the Structure, Authority and Rules of Operation of the Government of Georgia, art. 24¹, para. 6.

⁶²⁰ "Ministers who had an office but lacked a portfolio," Postimes, 2 October 2019, available at: <https://bit.ly/3dvcBZF>, updated at: 16.02.2021.

⁶²¹ Latvia, Cabinet Structure Law, section 8, cl. 1.

⁶²² Hungary, 2018. évi CXXV. Törvény a kormányzati igazgatásról, art. 20.

⁶²³ Slovenija, Zakon o Vladi Republike Slovenije, člen 25.

⁶²⁴ Ordinance of the Government of Georgia № 116, dated March 6, 2017 "on approval of Charter and a staff list of the Office of the State Minister for Reconciliation and Civic Equality".

⁶²⁵ E.g. the functions of the State Minister of Estonia is defined by an order of the Prime Minister. See Estonia, Government of the Republic Act, art. 3, cl. 3; in Latvia the functions are defined by the Cabinet, for an example see Charter of the Minister for Special Assignments for Society Integration, adopted with the regulation of the Government of Latvia, Latvija, Īpašu uzdevumu ministra sabiedrības integrācijas lietās sekretariāta nolikums, Likumi.lv - Latvijas Republikas tiesību akti, available at: <http://bit.ly/2ZnibVI>, updated at: 16.02.2021; Functions of the State Minister of Hungary are defined by the Government on the basis of a decree.. See Hungary, 2018. évi CXXV. Törvény a kormányzati igazgatásról, art. 20; such competence in Slovenia is under the Government and the Prime Minister. See Slovenija, Zakon o Vladi Republike Slovenije, člen 25.

⁶²⁶ Art. 6, para. 1, Charter of the Office of the State Minister for Reconciliation and Civic Equality adopted by ordinance of the Government of Georgia № 116, dated March 6, 2017.

⁶²⁷ *Ibid.*, para. 2.

⁶²⁸ Eesti, Vastu võetud 12.04.2007 nr 60, Minister Urve Palo ülesannete kindlaksmääramine, Riigi Teataja, available at: <https://www.riigiteataja.ee/akt/12818956.txt>, updated at: 16.02.2021.

for Social Integration had the authority to develop civil integration policy.⁶²⁹ State Ministers of Estonia,⁶³⁰ Latvia,⁶³¹ Hungary⁶³² and Slovenia⁶³³ also develop policy within the scopes of own competence.

b) Immediate executive functions (administration) is related to the mandate of the State Minister of Georgia, in particular, leading peace process towards the Abkhazia Autonomous Republic and former South Ossetia Autonomous District, execute state governance in the field of labor migration within the scopes of own competence. Executive powers are vested in the State Ministers in the studied countries as well. In Estonia,⁶³⁴ Latvia,⁶³⁵ Hungary⁶³⁶ and Slovenia⁶³⁷ the State Ministers execute tasks, laws and regulations, policy planning papers assigned to them within scopes of their competencies.

c) Coordination and control include the ability of the State Minister to lead activities of the Office and carry out state control over LEPLs; in this regard, the competencies of the Office include promotion and coordination of humanitarian, socio-economic and confidence-building projects carried out by the international and non-governmental organizations in the occupied territories of Georgia, as well as dialogue and close cooperation with initiative groups. Coordination and control of implementation of policy developed within scopes of own competencies fall within the authorities of the State Ministers of Estonia,⁶³⁸

⁶²⁹ Latvija, Īpašu uzdevumu ministra sabiedrības integrācijas lietās sekretariāta nolikums, art. 3, cl. 3.1.

⁶³⁰ In Estonia last Minister of State was appointed in 2007-2009. He was a portfolio minister for civil relations and had the authority to formulate a civil integration policy. Eesti, Vastu võetud 12.04.2007 nr 60, art. 4.

⁶³¹ In Latvia, from 2007 to 2009, the Minister of State was the Special Tasks Minister for Social Integration who had the authority to develop civil integration policies. Latvija, Īpašu uzdevumu ministra sabiedrības integrācijas lietās sekretariāta nolikums, art. 4, cls. 4.1, 4.4, 4.7, 4.10.

⁶³² The Hungarian the Minister without portfolio responsible for families, Minister without portfolio responsible for the management of national assets, and Minister without Portfolio responsible for the design, construction and commissioning of the two new units of the Paks Nuclear Power Plant, also have policy-making authority. Hungary, 94/2018. (V. 22.) Korm. Rendelet a Kormány tagjainak feladat- és hatásköréről, art. 143/C, cl. 2 (b), (c), (g), art. 145, cl. 3 (a).

⁶³³ The State Minister for Relations between Slovenia and the people of Slovenia living in Slovenia, the Republic of Slovenia and neighboring countries, as well as for relations between Slovenes and foreigners living abroad, determines policies for Slovenes, both nationally and internationally. Slovenija, Odlok o organizaciji in delovnem področju Urada Vlade Republike Slovenije za Slovence v zamejstvu in po svetu, člen 2, PisRS - Pravno informacijski sistem, available at: <http://bit.ly/3jXrhBK>, updated at: 16.02.2021.

⁶³⁴ Eesti, Vastu võetud 12.04.2007 nr 60, art. 1, cl. 1.3, arts. 2, 4.

⁶³⁵ Latvija, Īpašu uzdevumu ministra sabiedrības integrācijas lietās sekretariāta nolikums, art. 3, cl. 3.2, art. 4, cls. 4.3, 4.10.

⁶³⁶ Hungary, 94/2018. (V. 22.) Korm. Rendelet a Kormány tagjainak feladat- és hatásköréről, art. 143/C, cl. 2 (d), (e), art. 145, cl. 2 (b), (d), art. 151, cl. 1.

⁶³⁷ Slovenija, Odlok o organizaciji in delovnem področju Urada Vlade Republike Slovenije za Slovence v zamejstvu in po svetu, člen 2.

⁶³⁸ In Estonia, the State Minister used to conduct preventive analysis of demographic decisions of the Government and ministers and controlled their influence on existing situation, planned demographic researches and coordinated results of the researches. See Eesti, Vastu võetud 12.04.2007 nr 60, art. 1, cl. 1.1, arts. 2, 3, 5.

Latvia,⁶³⁹ Hungary⁶⁴⁰ and Slovenia.⁶⁴¹

d) Representative authority – a State Minister in Georgia has this function as well. Legislation of studied countries does not specifically indicate the mentioned competence of the State Minister. However, based on analysis of relevant legislative acts, it is obvious that State Ministers in studied countries have this authority.

e) Staffing/founding authorities include both appointment/dismissal of persons (own deputies and employees of the Office), as well as other individual decisions, such as granting the status of repatriate, nominating a person for a state award. An Office of the State Minister in Latvia consists of several divisions. One of its components is the Minister's Office. The State Minister is responsible for the appointment of employees of the Office. The State Minister defines both their and Office's functions.⁶⁴² While the founding authorities of the State Minister of Georgia imply the right to establish commissions and councils. In Hungary, a State Minister for Asset Management prepares and executes decisions on the establishment, transformation and dissolution of state-owned companies, institutions and other organizations.⁶⁴³

f) Within the rulemaking function, the State Minister of Georgia issues an individual administrative-legal act – an order. The main act defining the powers of a State Minister - the Charter of the Office of the State Minister indicates only the right to issue an individual act.⁶⁴⁴ As for the right to issue a normative act, the State Minister and its Office do not regulate such topics that would require the issuance of a normative act, and this indicates a different condition of the State Minister. The State Minister of Estonia does not have the authority to issue individual-legal or normative acts.⁶⁴⁵ The authority to issue the abovementioned acts were not revealed through the analysis of legislation in Hungary, Slovenia or Latvia. However, State Ministers of Latvia⁶⁴⁶ and Hungary⁶⁴⁷ have the right to develop draft laws, measures to be taken and programs. In Georgia, the Office of the State Minister has the authority to initiate a draft normative act (including draft law) at the government session.

⁶³⁹ Latvia State Minister coordinated measures related to elimination of racial and ethnic discrimination, significant issues in terms of elimination of discrimination and promotion of tolerance in society, state support of national minorities and their non-governmental organizations and other issues in social integration field. See Latvija, Īpašu uzdevumu ministra sabiedrības integrācijas lietās sekretariāta nolikums, art. 4, cls. 4.3, 4.5 - 4.6.

⁶⁴⁰ The Minister without portfolio responsible for families coordinates implementation of international conventions for protecting rights of elderly, tasks related to promotion of social equality of women and men and monitors protection of women rights. The minister also coordinates and monitors issues of youth policy. State Minister of Hungary in National Assets Management supervises and controls contracts related to the national financial services. The Minister without portfolio, who is responsible for creation of two new machines, construction and acceptance into operation, coordinates regional development and implementation of innovative tasks in the nuclear industry. See Hungary, 94/2018. (V. 22.) Korm. Rendelet a Kormány tagjainak feladat- és hatásköréről, art. 143/C, cl. 2 (j), (k), art. 143/E, art. 145, cl. 2 (c), art. 147, art. 151, cl. 1 (b), cl. 2 (b), (c).

⁶⁴¹ In Slovenia the State Minister of relations between Republic of Slovenia and population of Slovenia, who live in neighbour countries, as well as between Republic of Slovenia and Slovenians living abroad, coordinates issues of culture, education, economy and politics between Slovenians. The Minister also cooperates with the Ministry of Foreign Affairs and through it proposes initiatives to diplomatic missions and consulates of the Republic of Slovenia abroad. See Slovenija, Odlok o organizaciji in delovnem področju Urada Vlade Republike Slovenije za Slovence v zamejstvu in po svetu, člen 2, člen 3, cl. 1.

⁶⁴² Latvija, Īpašu uzdevumu ministra sabiedrības integrācijas lietās sekretariāta nolikums, art. 11.

⁶⁴³ Hungary, 94/2018. (V. 22.) Korm. Rendelet a Kormány tagjainak feladat- és hatásköréről, art. 145, cl. 2 (b).

⁶⁴⁴ Charter of the Office of the State Minister, art. 5, para. 2, subparagraph "i".

⁶⁴⁵ Regulations (normative acts) and directives (individual-legal acts), see The Constitution of the Republic of Estonia, art. 94; Estonia, Government of the Republic Act, art. 28, cl. 3, art. 50, cls. 1-2, art. 51, cls. 1-2, art. 52, cl. 1.

⁶⁴⁶ Latvija, Īpašu uzdevumu ministra sabiedrības integrācijas lietās sekretariāta nolikums, art. 4, cls. 4.1 – 4.2, 4.13.

⁶⁴⁷ Hungary, 94/2018. (V. 22.) Korm. Rendelet a Kormány tagjainak feladat- és hatásköréről, art. 143/D, art. 145, cl. 1, art. 147, cl. a, art. 148, cl. a.

6. OTHER GOVERNMENT AGENCIES

Other executive agencies, which have various names (commission, committee, agency, bureau etc.), may be subordinated to the Government, ministry or the head of the Government directly. Their heads are appointed and dismissed by an act of the Prime Minister or by a collegial decision of the Government.⁶⁴⁸ Such rule is established in Georgia as well and all three subjects are allowed to create such deliberative bodies.⁶⁴⁹

By an act of the Government of Georgia both temporary deliberative bodies, as well as standing government commissions are established. As an example of such commission we can name: Government Commission for Implementation of the United Nations Security Council Resolutions,⁶⁵⁰ Government Commission on the Use of right to State-Funded Patent for an Invention and/or a Useful Model,⁶⁵¹ Governmental Coordination Commission for Census of Population of Georgia,⁶⁵² Government Commission for Emergency Management,⁶⁵³ Government Commission acting in the field of names of geographical features ('the Government Commission') in order to establish, standardize, use, register, keep records of and protect names of geographical features,⁶⁵⁴ Government Commission on Regional Development.⁶⁵⁵ However, no reference to a special law as a basis of its creation is made in the relevant act,⁶⁵⁶ but reference to a legal basis for the creation of *ad hoc* commissions created to study certain issues.⁶⁵⁷ Governments of other countries are also authorized to create various standing bodies in the exercise of their powers, such as councils (Bulgaria⁶⁵⁸), committees (Hungary,⁶⁵⁹ Slovenia⁶⁶⁰), other specialized agencies (Romania,⁶⁶¹ Lithuania⁶⁶²), commissions (Romania,⁶⁶³ Slovenia⁶⁶⁴), working groups (Croatia⁶⁶⁵). The Prime Minister shall create standing government bodies in Hungary⁶⁶⁶ and Poland.⁶⁶⁷

⁶⁴⁸ Avtandil Demetrashvili et al, edited by Avtandil Demetrashvili, *Handbook of the Constitutional Law* (Tbilisi 2005), 320.

⁶⁴⁹ The Law of Georgia on the Structure, Authority and Rules of Operation of the Government of Georgia, art. 29, para. 1.

⁶⁵⁰ Law of Georgia on Facilitating the Prevention of Money Laundering and Terrorism Financing, art. 40.

⁶⁵¹ Law of Georgia on Innovations, art. 20, para. 2.

⁶⁵² Law of Georgia on Official Statistics, art. 21, this commission was established with ordinance № 589 of the Government of Georgia, dated September 22, 2020.

⁶⁵³ Law of Georgia on Public Health, art. 45, para. 1, subparagraph "a", should be noted that this commission was established by an ordinance of the Government of Georgia № 69, March 21, 2008.

⁶⁵⁴ Law of Georgia on Naming Geographical Features, art. 4, subparagraph "e".

⁶⁵⁵ Organic Law of Georgia "Local Self-government Code", art. 12, para. 1; This commission was established with an ordinance of the Government of Georgia № 44, January 29, 2018.

⁶⁵⁶ In this case, the organic law "Local Self-Government Code".

⁶⁵⁷ The Law of Georgia on the Structure, Authority and Rules of Operation of the Government of Georgia, art. 29.

⁶⁵⁸ България, Устройствен Правилник, чл. 22 (1) – (2).

⁶⁵⁹ Hungary, 2018. évi CXXV. Törvény a kormányzati igazgatásról, art. 9; for examples see Hungary, 1150/2012. (V. 15.) Korm. Határozat a Katasztrófavédelmi Koordinációs Tárcaközi Bizottság létrehozásáról, valamint szervezeti és működési rendjének meghatározásáról.

⁶⁶⁰ Slovenija, Poslovnik Vlade Republike Slovenije, člen 4, para. 1.

⁶⁶¹ Romania's Constitution of 1991 with Amendments through 2003, art. 117, cl. 2; România, LEGE nr. 90 din 26 martie 2001, art. 34.

⁶⁶² Lietuva, Lietuvos Respublikos Vyriausybės įstatymas, art. 22, cl. 15, art. 27, cls. 4-5.

⁶⁶³ România, LEGE nr. 90 din 26 martie 2001, art. 12, cl. 2.

⁶⁶⁴ Slovenija, Poslovnik Vlade Republike Slovenije, člen 4, para. 1.

⁶⁶⁵ Hrvatska, Zakon o Vladi Republike Hrvatske, članak 24, para. 1; Hrvatska, Poslovnik Vlade Republike Hrvatske, članak 9.

⁶⁶⁶ Hungary, 94/2018. (V. 22.) Korm. Rendelet a Kormány tagjainak feladat- és hatásköréről, art. 3, cl. 2 (g).

⁶⁶⁷ Polska, Ustawa o Radzie Ministrów, art. 12, cls. 1, 3.

Except for the deliberative bodies created by special law, the Government can create *ad hoc* bodies based on each specific need. However, as it turns out, out of organs established on the abovementioned basis, some are permanent (e.g. the Commission on Delimitation and Demarcation of State Border of Georgia⁶⁶⁸), while others are temporary (e.g., Commission on Developing Housing Policy Document and Action Plan.)⁶⁶⁹ **In terms of government deliberative bodies, it is important that the Government with reference to the same legislative basis and with the same ordinance tool establishes the bodies mandated by law, while in case of *ad hoc* bodies – with reference to the legislative basis of their creation and with the decree.**

Out of permanent deliberative bodies, the most important is the **National Security Council**⁶⁷⁰ created by law, the purpose of creation of which is to inform the Prime Minister on national security issues and issues that threaten the interests of the state and to prepare the political decisions to be made by him, to plan and coordinate national security at a strategic level. Its functions furthermore include developing recommendations in order to manage at the political level crisis that threatens national interests, for the Prime Minister to prepare relevant decisions.⁶⁷¹ Both in Hungary⁶⁷² and Slovenia⁶⁷³ agencies established in relation to national security issues are considered as significant permanent bodies.

In Georgia, several permanent deliberative bodies established by law are subordinate to the Prime Minister.⁶⁷⁴ the Prime Minister often uses the possibility of forming deliberative bodies in order to study the certain issue. They are created temporarily and are terminated after the issue is resolved. With the order of the Prime Minister, a public governance reform interagency coordinative council has been established.⁶⁷⁵ In Poland, the Prime Minister shall establish the temporary government body,⁶⁷⁶ in Estonia - the Government,⁶⁷⁷ in Slovenia,⁶⁷⁸ Bulgaria,⁶⁷⁹ Croatia,⁶⁸⁰ Romania,⁶⁸¹ Lithuania⁶⁸² and Latvia⁶⁸³ the Prime Minister and the Government both.

⁶⁶⁸ Ordinance № 298 of the Government of Georgia, June 22, 2017 on establishing Government Commission on Delimitation and Demarcation of State Borders of Georgia and approval of its Statute, art. 1, para. 1.

⁶⁶⁹ Ordinance of the Government of Georgia № 190, April 12, 2019.

⁶⁷⁰ Law of Georgia on National Security Policy Planning and Coordination, art. 19¹.

⁶⁷¹ *Ibid.*, art. 19², sub-paragraph “j”.

⁶⁷² Hungary, 1144/2010. (VII. 7.) Korm. Határozat a Kormány ügyrendjéről, art. 2, cl. 2.

⁶⁷³ Slovenija, Zakon o Vladi Republike Slovenije, člen 20, para. 1.

⁶⁷⁴ The Public Service Council established to promote development of unified state policy within the public service, art. 19, Law of Georgia on Public Service, Social Partnership Tripartite Commission, art. 52¹, Organic Law of Georgia Labor Code of Georgia, however its charter was approved by the Government. See ordinance of the Government № 258, October 7, 2013.

⁶⁷⁵ Order of the Prime Minister of Georgia N17, dated January 27, 2020 “on Establishment of Interagency Coordination Council of Public Administration Reform and on Approval of its Statute”.

⁶⁷⁶ Polska, Ustawa o Radzie Ministrów, art. 12, cl. 2.

⁶⁷⁷ Estonia, Government of the Republic Act, art. 21, cl. 1.

⁶⁷⁸ Slovenija, Poslovnik Vlade Republike Slovenije, člen 4, para. 1, člen 5, para. 1.

⁶⁷⁹ България, Устройствен Правилник, чл. 24 (1).

⁶⁸⁰ Hrvatska, Zakon o Vladi Republike Hrvatske, članak 23, para. 1, članak 24, para. 1, članak 19, para. 1.

⁶⁸¹ România, LEGE nr. 90 din 26 martie 2001, art. 12, cls. 1-2, art. 18, cl. 1.

⁶⁸² Lietuva, Lietuvos Respublikos Vyriausybės įstatymas, art. 22, cl. 15, art. 27, cls. (1-3), art. 28, cls. 1, 3.

⁶⁸³ Latvia, Rules of Procedures of the Cabinet of Ministers, art. 73, cl. 6, art. 217.

PART II

THE GOVERNMENT DURING THE STATE OF EMERGENCY

1. THE STATE OF EMERGENCY: THEORETICAL FRAMEWORK

The legal definition of a State of Emergency is mostly general.⁶⁸⁴ It is declared in case of special necessity when there is a significant threat to public order.⁶⁸⁵ This is caused by the fact that it is impossible to make a pre-defined comprehensive list of such circumstances, to predefine the content of the threat posed by a pure necessity and the degree of force to be used in response to it.⁶⁸⁶

The State of Emergency implies full or partial suspension of norms active during the ordinary situation in response to a critical situation, in order to maintain them.⁶⁸⁷ It is an exception, temporary measure aimed at crisis reduction and normalization of the situation.⁶⁸⁸ At the same time, the “purpose of the State of Emergency should be to convince the public that everything is under control and that the State takes short-term measures to prevent the next attacks”.⁶⁸⁹ In such situations, the State is forced to take such measures, which would have been unjustified in ordinary circumstances.⁶⁹⁰ E.g. some human rights and freedoms are restricted.⁶⁹¹

Due to special circumstances, the State institutions fail to work effectively. Therefore, immediate and decisive measures are to be taken, which require certain time and consideration during an ordinary period.⁶⁹² Therefore, the State of Emergency applies to the power distribution principle as well. In this context, supreme laws of the country provide for the declaration of a State of Emergency, and the delegation of special powers to the executive branch in order to increase the efficiency of the decision-making process.⁶⁹³ The executive branch will be given the prerogative of decision-making and other special powers as well.⁶⁹⁴

The State is given a large-scale discretion for it to define what is a special circumstance jeopardizing the society.⁶⁹⁵ However, some Constitutions provide for the categories, which distinguish between special conditions in accordance with characteristics of circumstances. At

⁶⁸⁴ Andrej Zwitter, “The Rule of Law in Times of Crisis: A Legal Theory on the State of Emergency in the Liberal Democracy,” ARSP: Archiv Für Rechts- Und Sozialphilosophie / Archives for Philosophy of Law and Social Philosophy 98, no. 1 (2012): 97.

⁶⁸⁵ ICCPR, art. 4; ECHR, art. 15.

⁶⁸⁶ Gian Giacomo Fusco, *cited paper*, 17; Giorgio Agamben, *cited paper*, 55; Andrej Zwitter, *cited paper*, 97; Roberto Gargarella, Siri Gloppen, and Elin Skaar, eds., *Democratization and the Judiciary: The Accountability Function of Courts in New Democracies* (London: Frank Cass, 2004), 34.

⁶⁸⁷ Gian Giacomo Fusco, *cited paper*, 16.

⁶⁸⁸ Vojtěch Belling, “the State of Exception and Limits of the Rule of Law,” in Jakub Jinek and Lukáš Kollert, eds., *Emergency Powers: Rule of Law and the State of Exception*, 1st ed. (Nomos, 2020), 65.

⁶⁸⁹ Bruce Ackerman, “The Emergency Constitution”, *Journal of the Constitutional Court*, Special Edition № 1 (2020): 3.

⁶⁹⁰ Kim Lane Scheppele, “Law in a Time of Emergency,” *Faculty Scholarship at Penn Law* (2004): 53.

⁶⁹¹ Venice Commission, *Emergency Powers*, Science and technique of democracy No. 12, CDL-STD(1995)012 (Strasbourg: Council of Europe, 1995), 4.

⁶⁹² John Ferejohn and Pasquale Pasquino, “The Law of the Exception: A Typology of Emergency Powers,” *International Journal of Constitutional Law* 2, no. 2 (2004): 210.

⁶⁹³ *Ibid.*

⁶⁹⁴ Andrej Zwitter, *cited paper*, 108.

⁶⁹⁵ Ireland v. United Kingdom, App no. 5310/71, (ECtHR. 1978), pp. 78-79; Brannigan and McBride v. the United Kingdom, App nos. 14553/89, 14554/89, (ECtHR. 1993), p. 41; Christopher Michaelsen, “The Proportionality Principle in the Context of Anti-Terrorism Laws: An Inquiry into the Boundaries between Human Rights Law and Public Policy,” in *Fresh Perspectives on the ‘War on Terror’*, eds. Gani Miriam and Mathew Penelope (Canberra: ANU Press, 2008), 110.

such times, in accordance with international standards, there is an obligation for a State to define in detail in the Constitution the precondition for declaring the State of Emergency.⁶⁹⁶ Furthermore, in the event of the State of Emergency, they should be clearly distinguished from each other.⁶⁹⁷ For instance, in Georgia, there is a Martial Law and a State of Emergency, different from the ordinary situation.⁶⁹⁸ Similar to Georgia non-ordinary situation is divided into two categories – State of Emergency and Martial Law in Lithuania,⁶⁹⁹ Bulgaria,⁷⁰⁰ Estonia,⁷⁰¹ Latvia,⁷⁰² Romania⁷⁰³ and Slovenia.⁷⁰⁴ The Constitution of Hungary distinguishes between six circumstances for establishing the special legal regime.⁷⁰⁵ While in Croatia⁷⁰⁶ and Poland,⁷⁰⁷ we can observe three types encounter three types of extraordinary conditions.

The ability of State organs to deal with challenges is a variable and evaluative criterion. The more incompetent the Government is, the earlier a need arises to declare the State of Emergency. Furthermore, it should be the last resort to cope with the challenges. However, in some cases, the positive obligation of the State to protect the lives and health of the population even requires the State to declare the State of Emergency.⁷⁰⁸

The State of Emergency, as an exception from the ordinary situation, has both a start and an end.⁷⁰⁹ The executive government based on the severity of the situation makes the decision on the duration of the situation. However, although the executive power enjoys broad discretion,⁷¹⁰ there are international standards, which define general legal frameworks for States.⁷¹¹ As noted above, during the State of Emergency, the power is concentrated in the hands of the executive Government,⁷¹² therefore, the risk of abusing it and implying repres-

⁶⁹⁶ Venice Commission, *Emergency Powers*, 30; Venice Commission, *Respect for Democracy, Human Rights and the Rule of Law during States of Emergency – Reflections*, p. 26.

⁶⁹⁷ Venice Commission, *Respect for Democracy, Human Rights and the Rule of Law during States of Emergency – Reflections*, p. 26.

⁶⁹⁸ Constitution of Georgia, art. 71.

⁶⁹⁹ The Constitution of the Republic of Lithuania, arts. 142,-144.

⁷⁰⁰ The Constitution of the Republic of Bulgaria, art. 84, cl. 12.

⁷⁰¹ The Constitution of the Republic of Estonia, art. 87, cl. 8, art. 65 cl. 15.

⁷⁰² However, a Martial Law in Latvia is combined under the term “emergency situation”, which also includes internal unrest in the country. See Latvia, On Emergency Situation and State of Exception, Likumi.lv - Latvijas Republikas tiesību akti, art. 4, cl. 1, art. 11, cl. 1, available at: <https://likumi.lv/ta/en/en/id/255713>, accessed: 10.02.2021.

⁷⁰³ Romania’s Constitution of 1991 with Amendments through 2003, art. 93, para. 1.

⁷⁰⁴ The Constitution of Slovenia, art. 92.

⁷⁰⁵ These are: national crisis; state of emergency; state of defence, threat of terrorism; a state of sudden attacks and extreme danger. See The Constitution of Hungary, arts. 48-52; Krisztina Binder et al., „States of emergency in response to the coronavirus crisis: Situation in certain Member States,” European Parliamentary Research Service (2020): 6, available at: <https://bit.ly/2ON5Zvh>, accessed: 10.02.2021.

⁷⁰⁶ These are: state of war, immediate threat to the independence and unity of the Republic of Croatia, and severe natural disasters. See Constitution of the Republic of Croatia, art. 17.

⁷⁰⁷ These are: state of war, state of exception and state of natural disasters. The first two categories include external threats of military nature and internal unrest, while a state of natural disaster is considered to be similar to the state of emergency declared in Georgia. See The Constitution of Poland, art. 228, para. 1.

⁷⁰⁸ See Alan Greene, “States should declare a State of Emergency using Article 15 ECHR to confront the Coronavirus Pandemic,” *Strasbourg Observers*, Available at: <https://bit.ly/3rh2dlu>, accessed: 10.02.2021.

⁷⁰⁹ Andrej Zwitter, *cited paper*, 99.

⁷¹⁰ Venice Commission, *Emergency Powers*, 30; Venice Commission, *Respect for Democracy, Human Rights and the Rule of Law during States of Emergency – Reflections*, p. 18.

⁷¹¹ ICCPR, art. 4; ECHR, art. 15; “States of Emergency,” Backgrounder security sector governance and reform, Geneva Center for the Democratic Control of Armed Forces (2005): 2, available at: https://www.files.ethz.ch/isn/14131/backgrounder_02_states_emergency.pdf, accessed: 11.02.2021.

⁷¹² Andrej Zwitter, *cited paper*, 108.

sive measures increases.⁷¹³ In order to avoid this, it is significant to follow the procedures provided for by the legislation, which include initiation of the State of Emergency, approving a decision, extending its term and/or declaring it invalid.⁷¹⁴

1.1. Regulation of a State of Emergency

An important precondition for declaring the State of Emergency is the ineffectiveness of norms and procedures used in ordinary situation to cope with the crisis.⁷¹⁵ Due to this, the legislative competence of the legislative body is transferred to the executive branch. During the State of Emergency, it is significant to analyze the legislative framework, which in an ordinary manner defines the basis of activities of the Government organs in crises, in order to outline their ability to act during the State of Emergency.

The Constitution, as well as the “Law on the State of Emergency” and the “Law on Public Safety” regulate the issues related to the State of Emergency in Georgia. Similarly, in other countries as well, major laws and bylaws regulate these issues, which include special acts issued both by the legislative as well as by the executive branch.

Similarly, the State of Emergency, primarily, is regulated by the Constitution in Bulgaria,⁷¹⁶ Estonia,⁷¹⁷ Latvia,⁷¹⁸ Romania,⁷¹⁹ Hungary,⁷²⁰ Poland⁷²¹ and Croatia.⁷²² In these countries together with the supreme law, the legislative framework includes laws on the State of Emergency as well (Bulgaria,⁷²³ Estonia,⁷²⁴ Latvia,⁷²⁵ Romania,⁷²⁶ Hungary,⁷²⁷ Poland⁷²⁸ and Croatia⁷²⁹).

⁷¹³ Elliot Bulmer, „Emergency Powers: International IDEA Constitution-Building Primer 18”, International Institute for Democracy and Electoral Assistance (2018): 12, available at: <https://bit.ly/3qtf8XT>, accessed: 11.02.2021.

⁷¹⁴ *Ibid.*

⁷¹⁵ Venice Commission, *Respect for Democracy, Human Rights and the Rule of Law during States of Emergency – Reflections*, CDL-PI(2020)005rev (Strasbourg: Council of Europe, 2020), p. 5.

⁷¹⁶ The Constitution of the Republic of Bulgaria, art. 84, para. 12.

⁷¹⁷ The Constitution of the Republic of Estonia, art. 87.

⁷¹⁸ The Constitution of the Republic of Latvia, art. 67.

⁷¹⁹ Romania’s Constitution of 1991 with Amendments through 2003, art. 93, para. 1.

⁷²⁰ The Constitution of Hungary, arts. 50, 53.

⁷²¹ The Constitution of Poland, arts. 228-230, 232.

⁷²² Constitution of the Republic of Croatia, art. 17.

⁷²³ Закон За Защита При Бедствия, чл. 2, LEX.BG Българският правен портал, available at: <https://www.lex.bg/laws/ldoc/2135540282>, accessed: 10.02.2021.

⁷²⁴ Estonia, Emergency Act, art. 13, art. 19, para. 1, art. 21, para. 1, art. 23, Riigi Teataja, available at: <http://bit.ly/2NDyJ8U>; a State of Emergency related to a pandemic or natural disaster is referred to in Estonian law as the term “Emergency situation”, however notwithstanding the terminological difference, it is similar in meaning to the definition of the “State of Emergency” in Georgia. In Estonia, the term “State of Emergency” refers to a state of war. See the Constitution of the Republic of Estonia, arts. 129-131; Estonia, State of Emergency Act, Riigi Teataja, available at: <http://bit.ly/3jTB4Ja>, accessed: 10.02.2021.

⁷²⁵ Latvia, On Emergency Situation and State of Exception.

⁷²⁶ România, ORDONAȚA DE URGENȚĂ nr. 1 din 21 ianuarie 1999 privind regimul stării de asediu și regimul stării de urgență, Portal Legislativ, available at: <http://bit.ly/3ariNQ5>, accessed: 10.02.2021; România, ORDONAȚĂ DE URGENȚĂ nr. 34 din 26 martie 2020 pentru modificarea și completarea Ordonanței de urgență a Guvernului nr. 1/1999 privind regimul stării de asediu și regimul stării de urgență, Portal Legislativ, available at: <http://bit.ly/3pv0huH>, accessed: 10.02.2021.

⁷²⁷ Hungary, 2011. évi CXXVIII. Törvény a katasztrófavédelemről és a hozzá kapcsolódó egyes törvények módosításáról, Hatályos Jogszabályok Gyűjteménye - Wolters Kluwer – Jogtár, available at: <https://net.jogtar.hu/jogszabaly?docid=a110128.tv>, accessed: 10.02.2021.

⁷²⁸ Polska, USTAWA z dnia 18 kwietnia 2002 r. o stanie klęski żywiołowej, Ustawy -Wolters Kluwer, available at: <https://bit.ly/37pExtM>, accessed: 10.02.2021.

⁷²⁹ Hrvatska, Zakon o Zaštiti od Elementarnih Nepogoda, Narodne Novine, available at: https://narodne-novine.nn.hr/clanci/sluzbeni/1997_07_73_1259.html, accessed: 10.02.2021.

Unlike Georgia and discussed seven countries, the State of Emergency in Slovenia⁷³⁰ and Lithuania⁷³¹ is regulated only by the Constitution and specialized acts adopted by the body or subject responsible for governing the situation.

1.2. Special Legislation for Crisis Management

There is special legislation in place in Georgia for crisis management. In this case, the “Law on Public Health” is relevant, which acquired special importance during the pandemic and the State of Emergency. Both general, as well as specialized acts related to it, were developed at different times. They have never been harmonized, which caused certain contradictions and overlaps between them. Unlike Georgia, the studied jurisdictions regulate the management of the State of Emergency in an organized manner; these laws are grouped in laws divided by subject matter.

Should be noted that the laws similar to the “Law on Public Health” apply in studied countries as well. Furthermore, these acts consider quarantine and isolation measures and the list of other advantages for pandemic management.⁷³²

According to the Constitution of Georgia, in connection with the restriction of fundamental rights, the President is directly authorized to replace the legislative organ during the State of Emergency.⁷³³ Although this right is granted to the Head of the State by the Constitution and by the Parliament by voting at issuance of each decree, it is considered that a decree is a presidential act and within the scopes of the delegated delegation, it has the opportunity to create its own legislative regulation instead of the Parliament. Furthermore, this action of the President is inspired by the Prime Minister, without the decision and nomination of whom, neither the State of Emergency is declared nor a decree issued.⁷³⁴ This makes the role of the President formal throughout the process.

In relation to this issue, certain vagueness and contradiction are observed in the legislation of Georgia. Although during the State of Emergency the President is authorized by the Constitution to regulate certain issues different from the law in accordance with established procedures (nomination by a Prime Minister, co-signature, approval by the Parliament), the “Law on State of Emergency” defines the measures to be taken by the executive power during the State of Emergency.⁷³⁵ This does not coincide with the logic of the Constitution of Georgia regulating the State of Emergency, according to which this process is up to the act issued by the Prime-minister, the President and the Parliament – a decree. This act creates

⁷³⁰ The Constitution of Slovenia, arts. 92, 108.

⁷³¹ The Constitution of the Republic of Lithuania, art. 144; Lietuva, Lietuvos Respublikos nepaprastosis padėties įstatymas, art. 14, Dokumentų paieška – LRS, available at: <https://bit.ly/2ZntsoC>, accessed: 10.02.2021.

⁷³² България, Закон За Здравето, LEX.BG Българският правен портал, available at: <https://bit.ly/2ZrYPI9>, accessed: 10.02.2021; Estonia, Communicable Diseases Prevention and Control Act, Riigi Teataja, available at: <http://bit.ly/3qBq19Q>, accessed: 10.02.2021; Latvia, Epidemiological Safety Law, Likumi.lv - Latvijas Republikas tiesību akti, available at: <http://bit.ly/2ZuxSKv>, accessed: 10.02.2021; România, LEGEA nr. 136 din 18 iulie 2020 (*republicată*) privind instituirea unor măsuri în domeniul sănătății publice în situații de risc epidemiologic și biologic, Portal Legislativ, available at: <http://bit.ly/2NCZuKQ>, accessed: 10.02.2021; Hungary, 1997. évi CLIV. Törvény az egészségügyről, Hatályos Jogszabályok Gyűjteménye - Wolters Kluwer – Jogtár, available at: <https://bit.ly/3kOnWC6>, accessed: 10.02.2021.

⁷³³ Constitution of Georgia, art. 71, para. 4.

⁷³⁴ *Ibid.*, paras. 2 and 3.

⁷³⁵ Law of Georgia on State of Emergency, arts. 4, 6, and 7. Should also be noted here that art. 4 is retained in the initial, 1997 edition.

the rule adjusted to the specific situation and can deviate from the ordinary legislation to the extent necessary at that moment. It is impossible to define in advance such measures or scales and therefore, apart from its unconstitutionality, logically, it is unjustifiable to have them predefined as universal norms. **Therefore, the law should indicate the decree of the President, rather than this list.**

The same problem arises with giving the Government the authority to introduce temporary rule in any part of the country during the State of Emergency.⁷³⁶ This implies the right of the Government to create an *ad hoc* organ or appoint an official at the area, where the State of Emergency is declared and where the state bodies fail to properly fulfil their functions.⁷³⁷ The competencies of temporary authority are also described there. This issue should be regulated by the decree of the President in every particular case and the purpose of their pre-regulation by law is unclear.

Notably, the Government is authorized to submit the Budget during the State of Emergency.⁷³⁸ Bearing in mind that during the State of Emergency a decree of the President can regulate all the issues that are not prohibited by the Constitution, **this norm should also be abolished in the law and be regulated by the emergency legislation.**⁷³⁹

Similar to studied countries, the legislation of Georgia distinguishes between (1) the emergency situation and (2) the state of emergency. Unlike the first, the State of Emergency is defined not as a situation or combination of situations, but the regime declared by the State organs, which is caused by the combination of emergencies or the intensity due to which the State organs can no longer exercise their constitutional powers through ordinary legislation.⁷⁴⁰ There may be an emergency situation, the State of Emergency may not be declared.

The “Law on Public Safety” defines a general rule for managing emergencies. It distinguishes such situations considering their severity and scales. It can be of local importance or national importance.⁷⁴¹ In order to manage the local emergency situation, the response forces and the means of a subject of the national system are sufficient,⁷⁴² while in the case of national importance, the emergency situations’ additional circumstances should be considered (e.g. be spread to the most territory of the country, requires international support, significant damage to the environment of the country, lasting for a longer period).⁷⁴³ The Prime Minister at the strategic (political) level manages such emergencies or a person authorized by the Prime Minister,⁷⁴⁴ and at the operational level – the MIA or Interagency Operational Center established by the Head of the Government at the recommendation of the Minister of Internal Affairs.⁷⁴⁵ The Center on the other hand is authorized to establish field operational

⁷³⁶ *Ibid.*, art. 14.

⁷³⁷ *Ibid.*

⁷³⁸ Budget Code of Georgia, art. 32.

⁷³⁹ There was no need to submit the Emergency Budget during the 2020 State of Emergency. Interview with the Parliamentary Secretary of the Government of Georgia.

⁷⁴⁰ According to the experience of the states, the concept of a State of Emergency was gradually transformed from *de facto* situation to *de jure* situation. See Gian Giacomo Fusco, “Exception, fiction, performativity,” in *States of Exception: Law, History, Theory*, eds. Cosmin Cercei, Gian Giacomo Fusco, Simon Lavis (London: Routledge, 2020), 20, 23.

⁷⁴¹ Law of Georgia on Public Safety, art. 15, para. 1.

⁷⁴² *Ibid.*, para. 2.

⁷⁴³ *Ibid.*, para. 3.

⁷⁴⁴ Law of Georgia on Public Safety, art. 16, para. 2, subparagraph “a”.

⁷⁴⁵ *Ibid.*, subparagraph “b”.

headquarters in emergency zones.⁷⁴⁶

Similar to other grounds an epidemic/pandemic in Georgia can only become the grounds for declaring the State of Emergency if there are additional preconditions: in order to manage the situation, the State bodies require regulation different from existing legislation, which would be impossible under the same legislation due to the framework of the Constitution. Therefore, it is required to abolish it and establish a new regulation. The prevention of the spread of disease is regulated by the special law – “on Public Health”. This law attributed the pandemic and epidemic to the category of the State of Emergency and its management was entrusted to the “Law on Public Safety”.⁷⁴⁷ The law considers isolation and quarantine measures or other forced measures during ordinary situation for the prevention of the spread of disease. It was the legal basis for acts adopted before the State of Emergency was declared in 2020.

Importantly, the Law on Public Safety mostly concerns fire and rescue operations and fire safety rules. Other emergency situations are regulated with general norms, which are ineffective for adapting to different situations and will exhaust themselves in an ordinary situation. It is significant for the laws to regulate other emergency situations, other than fire situations, not by the universal approach but considering relevant specifics. A holistic approach towards these issues is typical to legislations of studied countries that regulate the types of emergency in an organized manner with relevant legislative acts. Therefore, **for good practice, it is better for the “Law on State of Emergency” to create the procedural basis for the whole cycle of the State of Emergency, while the “Law on Public Safety” regulates emergency situations management system, which will be adapted to the maximum to various emergency situations, both in terms of its management and measures at operational level to make them as usable as possible during the ordinary period.**

Ordinary legislation in the field of public healthcare in Georgia, including related to communicable diseases, includes numerous by-laws as well, which provide various measures to prevent spread of infection.⁷⁴⁸ In addition, special rules for quarantine and isolation were not regulated with the separate act before the 2020 State of Emergency. The Power to determine them was granted to the Government by a decree⁷⁴⁹ and then was reflected in the Law.⁷⁵⁰

In terms of legislative regulation of healthcare, the experience of the states, which have not declared the State of Emergency and were guided by ordinary legislation during the pan-

⁷⁴⁶ Law of Georgia on Public Safety, art. 16, para. 6.

⁷⁴⁷ Law of Georgia on Public Health, art. 12, para. 1.

⁷⁴⁸ Ordinance № 473 of the Government of Georgia of September 14, 2015 “the technical regulations – on approval of aesthetic and sanitary norms of infection prevention and control while carrying out aesthetic and cosmetic procedures in public places”; ordinance of the Government of Georgia № 185 of April 24, 2015 “On approval of technical regulations of disinfection and sterilization in medical, public health and public places”; ordinance of the Government of Georgia № 336 of July 9, 2015 “On Approving Rule of Functioning of Integrated National Surveillance System on Infectious Diseases, including diseases caused by particularly dangerous pathogens”; ordinance of the Government of Georgia № 454 of September 16, 2019 “On the Approval of the Technological Scheme for Carrying out Sanitary and Quarantine Control in the Border Line and Customs Control Areas of Georgia and the Procedure for Carrying out Sanitary and Quarantine Control”.

⁷⁴⁹ Decree N1 of the President of Georgia of March 21, 2020, “On Measures to be Implemented in connection with the Declaration of a State of Emergency throughout the Whole Territory of Georgia”, art. 1, para. 2, subparagraph “a”.

⁷⁵⁰ Law of Georgia on Public Health, art. 11, para. 6.

demic, is also relevant. These countries are Poland,⁷⁵¹ Croatia,⁷⁵² Slovenia⁷⁵³ and Lithuania.⁷⁵⁴

Thus, based on the analysis of the legislative framework of studied countries, inconsistent practices of regulating and declaring the State of Emergency was revealed. However, regardless of whether these states declared the State of Emergency and used a constitutional framework for this, the fact is that, unlike Georgia, the norms related to the State of Emergency were gathered in relevant laws in an organized manner. In addition, this makes it much easier for the executive or the legislative branches to manage the State of Emergency.

⁷⁵¹ Polska, Ustawa z dnia 5 grudnia 2008 r. o zapobieganiu oraz zwalczaniu zakażeń i chorób zakaźnych u ludzi, Internetowy System Aktów Prawnych, available at: <http://bit.ly/3s2fGEp>, accessed: 10.02.2021; Polska, Ustawa z dnia 2 marca 2020 r. o szczególnych rozwiązaniach związanych z zapobieganiem, przeciwdziałaniem i zwalczaniem COVID-19, innych chorób zakaźnych oraz wywołanych nimi sytuacji kryzysowych, Internetowy System Aktów Prawnych, available at: <http://bit.ly/2NJptjC>, accessed: 10.02.2021.

⁷⁵² Hrvatska, Zakon o sustavu civilne zaštite, Zakon.hr - Pročišćeni Tekstovi Zakona, available at: <https://bit.ly/3jVvOoe>, accessed: 10.02.2021.

⁷⁵³ Slovenija, Odredba o razglasitvi epidemije nalezljive bolezni SARS-CoV-2 (COVID-19) na območju Republike Slovenije, PisRS - Pravno informacijski sistem, available at: <http://bit.ly/3auHMSW>, accessed: 10.02.2021; Slovenija, Zakon o nalezljivih boleznih (ZNB), člen 7, PisRS - Pravno informacijski sistem, available at: <http://bit.ly/3u4Hr0R>, accessed: 10.02.2021.

⁷⁵⁴ Lietuva, Lietuvos Respublikos civilinės saugos įstatymas, Dokumentų paieška – LRS, available at: <https://bit.ly/3u4CGUZ>, accessed: 10.02.2021; Lithuania, Law on the Prevention and Control of Communicable Diseases in Humans, Dokumentų paieška – LRS, available at: <https://bit.ly/3dienx3>, accessed: 10.02.2021.

2. PATH TO THE STATE OF EMERGENCY (THE BASIS FOR ITS INITIATION)

The State of Emergency shall not be declared as soon as any crisis rises. It should be a large scale so that the authorities in the usual, ordinary mode may not be able to cope with the challenge and require taking extraordinary, emergency measures in an accelerated mode. For this need to be outlined, there should be attempts to take retaliatory measures using ordinary legislation or by establishing permissible exceptions within it. In these terms, the key issue is, based on which factual circumstances and through which procedures did, the Governments of Georgia and other studied countries decided in 2020 to declare the State of Emergency. The processes, which forced the Prime Minister of Georgia to submit to the President the proposal on declaring the State of Emergency and at the same time, impose special regulations in form of a decree.⁷⁵⁵

The Government started taking proper measures to prevent the spread of the virus even before the first case of Coronavirus was confirmed⁷⁵⁶ in the country, in January 2020. Since the day of receipt of the information on the virus,⁷⁵⁷ discussions were held in informal settings regarding the pandemic. These discussions were used as an avenue to exchange the information or consider possible measures to be planned.⁷⁵⁸ Similar to Georgia, the governments of Bulgaria,⁷⁵⁹ Estonia,⁷⁶⁰ Romania,⁷⁶¹ Hungary⁷⁶² and Latvia⁷⁶³ started taking measures to fight the pandemic before the first confirmed case of the virus in the country. Similar to Georgia, these measures were an expression of readiness to enter into informal negotiations and fight the virus in case the country entered an active phase of the pandemic.

The responsive measures for managing the situation in Georgia were divided into 4 stages:

I) Retention of the spread of the virus, which served to prevent the virus from entering and its further spread.

II) Slowing down the spread of the virus, which started after the first case of the virus was confirmed.

III) The management of the spread of the virus, which implied declaring the State of Emergency and its regulation for the case if recommendatory and light preventive measures would have been insufficiently effective and, therefore, increasing the scale of the restriction would become necessary.

⁷⁵⁵ It should also be noted here that States themselves determine the need to declare a State of Emergency in each case. However, they enjoy limited freedom in this process and are subject to oversight by international institutions. See Ireland v. United Kingdom; Christoph Schreuer, "Derogation of Human Rights in Situations of Public Emergency: The Experience of the European Convention on Human Rights," Yale Journal of World Public Order 9 (1982): 122.

⁷⁵⁶ The first case of Coronavirus in Georgia was confirmed on February 26, 2020. The information received from the Ministry of Healthcare of Georgia, letter № 01/14008 of November 7, 2020.

⁷⁵⁷ January 6, 2020, the Minister of Healthcare presented the information to the Government on virus. See "Report on the Measures Implemented by the Government of Georgia Against COVID-19", the Government of Georgia (2020): 6, available at: <https://bit.ly/2NAVIHa>, accessed: 10.02.2021.

⁷⁵⁸ Interview with the former Head of the Administration of the Government of Georgia.

⁷⁵⁹ The first case of Coronavirus was confirmed in Bulgaria on March 8. See „Bulgaria confirms first four cases of coronavirus: health officials,” *REUTERS*, 8 March 2020, available at: <http://reut.rs/3atS4CC>, accessed: 10.02.2021.

⁷⁶⁰ "Political statement by Prime Minister Jüri Ratas in the Riigikogu," *KRIIS.EE*, 12 March 2020, available at: <http://bit.ly/3qaOYsv>, accessed: 10.02.2021.

⁷⁶¹ „Romania, Policy responses for Romania,” *Covid-19 Health System Response Monitor*, available at: <https://bit.ly/3jDRO75>, accessed: 10.02.2021.

⁷⁶² „Government is still not aware of any coronavirus cases in Hungary,” *About Hungary*, 27 February 2020, available at: <http://bit.ly/3a5Htxq>, accessed: 10.02.2021.

⁷⁶³ „First case of COVID-19 coronavirus confirmed in Latvia,” *eng.lsm.lv (Latvian Public Broadcasting)*, 2 March 2020, available at: <http://bit.ly/2NfEBW1>, accessed: 10.02.2021.

IV) Gradual mitigation and adaptation. The executive government would transition to this stage after the indicator of infection rate would be reduced and the third phase measures would be effective.⁷⁶⁴

At the stage of retention, the first official step was the adoption of the Operative Response Plan on infection cases caused by the new Coronavirus.⁷⁶⁵ In the following period, the Government gradually increased a number of agencies responsible for preventive measures and involved almost all sectoral directions in the process.⁷⁶⁶ At this stage, the Government also established special bodies. The *Interagency Council* established at the central level was the one with the most significant functions,⁷⁶⁷ the decisions of which have become the main basis of Cabinet's activities. Therefore, the Government have redistributed the response functions to both existing institutes and *ad hoc* bodies at the initial stage, passing the reins to medical experts and bypassed the political process, which should have provided legitimacy to the measures taken.⁷⁶⁸

In terms of the retention of the spread of the virus, the studied countries as well have taken some measures. In particular, the Government of Bulgaria established a National Operations Headquarters against the spread of Coronavirus. The Headquarters was composed of representatives of public institutions and experts.⁷⁶⁹ In February 2020, the meeting of the Crisis Management Council was held in Latvia.⁷⁷⁰ In Romania, the National Committee for Emergency Situations headed by the Minister of Internal Affairs was tasked to manage the crisis,⁷⁷¹ whose decisions were based on recommendations of the technical-scientific group and they immediately entered into force.⁷⁷² In Estonia, the Government Committee chaired by the Prime Minister was established to oversee the pandemic situation and manage the crisis,⁷⁷³ while in Hungary at the stage of virus retention the Government began to introduce

⁷⁶⁴ See „Report on the Measures Implemented by the Government of Georgia Against COVID-19”, the Government of Georgia”.

⁷⁶⁵ Decree № 164 of the Government of Georgia of January 28, 2020, “On the approval of measures to prevent the possible spread of the new Coronavirus in Georgia and the plan of operative response to the cases of the disease caused by the new Coronavirus”.

⁷⁶⁶ For more detailed regulation of management of this period see Annex № 2.

⁷⁶⁷ The date of establishment of the Interagency Council is not entirely clear. January 28 is indicated in the report by the Government as the date of its creation (decree of the Operational Response Plan were published on this day as well). Its meetings were also held from the same day. However, the decree of the government became available that created this council on March 30. It is unclear on what basis this body functioned from January 28 to March 30.

⁷⁶⁸ Stefan Meister, “Introduction by the Special Editor COVID-19 in the South Caucasus - Successful Lock Down, Structural Deficits,” Caucasus Analytical Digest, no. 115 (2020): 2, available at: <https://bit.ly/2OhR6Al>, accessed: 10.02.2021.

⁷⁶⁹ България, Заповед на министър-председателя № Р-37/26.02.2020; “Bulgaria, Policy Responses for Bulgaria,” *Covid-19 Health System Response Monitor*, available at: <https://bit.ly/3pfqnlm>, accessed: 10.02.2021.

⁷⁷⁰ „Latvian officials say all is in place for coronavirus response,” *eng.lsm.lv (Latvian Public Broadcasting)*, 26 February 2020, available at: <http://bit.ly/2ZhXqux>, accessed: 10.02.2021.

⁷⁷¹ România, Ordonanța de Urgență nr. 21 din 15 aprilie 2004 privind Sistemul Național de Management al Situațiilor de Urgență, Portal Legislativ, available at: <http://legislatie.just.ro/Public/DetaliiDocument/51410>, accessed: 10.02.2021; România, Hotărârea Guvernului României nr. 94/2014 privind organizarea, funcționarea și componența Comitetului național pentru situații speciale de urgență, Comitetului Național Pentru Situații Speciale de Urgență (CNSSU), available at: <https://www.cnssu.ro/despre/>, accessed: 10.02.2021; Romania, „Coronavirus COVID-19 outbreak in the EU Fundamental Rights Implications,” European Union Agency for Fundamental Rights (23 March 2020): 3, available at: <https://bit.ly/3s2VIJy>, accessed: 10.02.2021.

⁷⁷² România, HOTĂRÂREA NR.2 din 01.02.2020 a Grupului de suport tehnico-științific privind gestionarea bolilor înalt contagioase pe teritoriul României, *Guvernul României*, available at: <https://bit.ly/3cZ9RP>, accessed: 10.02.2021.

⁷⁷³ „The Prime Minister will be leading the Government Committee tasked with resolving the situation caused by the coronavirus,” *KRIIS.EE*, 12 March 2020, available at: <http://bit.ly/3beowYT>, accessed: 10.02.2021.

protocols and rules related to Covid-19.⁷⁷⁴

Moving to every next level in Georgia was dependent on the dynamics of four types of virus spread/generation.⁷⁷⁵ The first case of virus infection was confirmed on the 26th of February. Until the movement was fully restricted, the mobility increased the number of confirmed cases and therefore, the third generation started, a relatively complex one, which is called internal transmission (e.g. “the case after the confirmed contact”).⁷⁷⁶ Such a case was registered in Georgia on the 14th of March,⁷⁷⁷ and by that time, the daily number of the virus confirmed cases also increased.⁷⁷⁸ According to the specialists, in the event of so-called “tertiary transmission”, it is difficult or impossible to identify the infection source or all contacts,⁷⁷⁹ which require more expanded preventive measures, including restriction of rights and freedoms of various fields, with varying intensity.⁷⁸⁰ Notably, the quaternary transmission of the virus during the reporting period was not identified.⁷⁸¹

Ultimately, concrete measures⁷⁸² taken by the Government during the first and second stages, before the State of Emergency was declared, can be classified in three directions in accordance with their content.⁷⁸³

a) Restriction of rights, which was expressed in gradual closure of air and land borders, strict measures at customs (including, forced thermal screening of passengers), prohibition of import/export of certain type of goods and restriction of sectors with particularly high mobility within the country. The same measures were taken in Hungary,⁷⁸⁴ Latvia,⁷⁸⁵ Estonia⁷⁸⁶ and Romania.⁷⁸⁷

⁷⁷⁴ “Government is still not aware of any coronavirus cases in Hungary”, *About Hungary*.

⁷⁷⁵ The first generation is confirmed when a virus carrier enters the country and is isolated without transmitting the virus to someone else. Second - infecting people transmitted from the first source. The third is the spread from these people to others (although the source is known), and the most difficult type is the fourth, when the spread reaches such a scale that it is impossible to determine the source. See „Coronavirus: The four stages of a global pandemic, *The Economic Times: Politics*,” available at: <https://bit.ly/3buzSZ5>, accessed: 18.02.2021; „COVID-19: The 4 Stages Of Disease Transmission Explained,” *Netmeds.com: Indian Online Pharmacy*, 2 April 2020, available at: <https://bit.ly/3dnF5o4>, accessed: 18.02.2021.

⁷⁷⁶ “Amiran Gamkrelidze – the case of so called tertiary transmission of new Coronavirus was confirmed in the country, i.e. we have the internal transmission within the country”, *information portal „Priveli Arkhi*”, March 14, 2020, available at: <https://bit.ly/2LC5NOi>, accessed: 10.02.2021.

⁷⁷⁷ *Ibid.*

⁷⁷⁸ „Report on the Measures Implemented by the Government of Georgia Against COVID-19”, the Government of Georgia, 11.

⁷⁷⁹ Under the conditions of identification of 80% of those contacted and adequate management, it is generally possible to give the processes a manageable, predictable character, Interview with representatives of the National Center for Disease Control.

⁷⁸⁰ *Ibid.*

⁷⁸¹ Information received from the Ministry of Healthcare, letter № 01/14008 of November 7, 2020.

⁷⁸² Most of them were “non-pharmaceutical” measures, as social distancing and reduced mobility were named as the most effective ways to prevent the virus. See „Report on the Measures Implemented by the Government of Georgia Against COVID-19”, the Government of Georgia, 8.

⁷⁸³ Detailed regulation within the scopes of each, see in Annex № 2.

⁷⁸⁴ „Hungary: Wizz Air suspends all flights to/from Italy and Israel as of March 10, 12 /update 1,” *Garda*, 10 March 2020, available at: <https://bit.ly/373vb6T>, accessed: 10.02.2021.

⁷⁸⁵ „Six more coronavirus infection cases found in Latvia,” *Baltic News Network*, 9 March 2020, available at: <http://bit.ly/3p9mIFF>, accessed: 10.02.2021.

⁷⁸⁶ „Measures for preventing the spread of the coronavirus were supplemented at a Cabinet Meeting,” *KRIIS.EE*, 12 March 2020, available at: <http://bit.ly/3dmq4CP>, accessed: 10.02.2021.

⁷⁸⁷ „Romania announces unprecedented restrictions to limit coronavirus spreading,” *Romania-Insider*, 8 March 2020, available at: <http://bit.ly/2Z7J2Ve>, accessed: 10.02.2021.

b) Organizational-technical regulation – the purpose of which was to provide institutions with necessary items required for detection of virus and prevention of its spread, as well development of special response plan. The transition of public institutions to a remote work regime was also a part of the response. The same measures were taken in Bulgaria,⁷⁸⁸ Estonia⁷⁸⁹ and Romania.⁷⁹⁰

c) Recommendations and public awareness – were expressed in informing the population on the virus and ways/scales of its transmission, responsive measures, as well as calls for reducing mobility and social distancing; recommendations for transitioning to distance work regime was given to private institutions as well. Such measures were taken by the Governments in Bulgaria,⁷⁹¹ Estonia,⁷⁹² Latvia,⁷⁹³ Hungary⁷⁹⁴ and Romania.⁷⁹⁵

According to separate scholars, the significance of the retention/deceleration phase was expressed in low morbidity and mortality rates, as well as in time gained by the healthcare system to mobilize technical and human resources, and in general to strengthen the system.⁷⁹⁶ The Government of Georgia wanted to prepare the executive power for it. It also exercised its right to determine restrictions and requirements under existing law. However, with the gradual tightening of regulations, it became obvious that soon the ordinary legislation would not be sufficient to manage the existing situation. Moreover, already taken measures have become the introduction to the State of Emergency.

⁷⁸⁸ България, Заповед № РД-01-114/05.03.2020, Министерство на здравеопазването на Република България, available at: <https://bit.ly/3jDz1J4>, accessed: 10.02.2021; България, Заповед № РД-01-117/08.03.2020, Министерство на здравеопазването на Република България, available at: <https://bit.ly/3pa3акс>, accessed: 10.02.2021; България, Заповед № РД-01-118/08.03.2020, Министерство на здравеопазването на Република България, available at: <https://bit.ly/2OmaeO1>, accessed: 10.02.2021; България, Заповед № РД-01-122/08.03.2020, Министерство на здравеопазването на Република България, available at: <https://bit.ly/3a7WDCD>, accessed: 10.02.2021.

⁷⁸⁹ „The government approved the regulation on education, hobby education, refresher courses, youth work, and sport,“ KRIIS.EE, 8 January 2020, available at: <http://bit.ly/3p8WB11>, accessed: 10.02.2021.

⁷⁹⁰ „Romania - alternative working structures in the wake of COVID-19,“ *CMS Law-Now*, 12 March 2020, available at: <http://bit.ly/2LD5Dpl>, accessed: 10.02.2021.

⁷⁹¹ Official webpage of Bulgaria created on the fight with Coronavirus. See “Единен информационен портал - COVID-19,“ Coronavirus.bg, available at: <https://coronavirus.bg/>, accessed: 10.02.2021; „National Statistical Institute,“ Covid-19, NSI.bg, available at: <http://bit.ly/3dпkShs>, accessed: 10.02.2021.

⁷⁹² “Coronavirus in Estonia: All you need to know,“ *ERR News*, 9 March 2020, available at: <http://bit.ly/3psW3DN>, accessed: 10.02.2021.

⁷⁹³ Recommendations of Latvian Disease Prevention and Control Center. See „Rekomendācijas,“ Slimību profilakses un kontroles centrs: Sākumlapa, available at: <http://bit.ly/2ZyhJ6l>, accessed: 10.02.2021.

⁷⁹⁴ Official webpage of Hungary created on the fight with Coronavirus. See Coronavirus, available at: <https://koronavirus.gov.hu/>, accessed: 10.02.2021.

⁷⁹⁵ „Coronavirus in Romania: Authorities recommend citizens to stay home, more restrictions to be enforced,“ *Romania-Insider*, 15 March 2020, available at: <http://bit.ly/2Zm8uGW>, accessed: 10.02.2021.

⁷⁹⁶ COVID-19 post-crisis plan of healthcare sector, comments of working group, Economic Policy Research Center (2020), available at: <https://bit.ly/3asMQHq>, accessed: 10.02.2021.

Poland,⁷⁹⁷ Slovenia,⁷⁹⁸ Croatia,⁷⁹⁹ Lithuania⁸⁰⁰ used the public safety mechanisms existing in ordinary legislation against the pandemic and tried to cope with the crisis without activating the State of Emergency constitutional framework. Out of these states, Lithuania declared the State of Emergency before the first case of Coronavirus was confirmed in the country.⁸⁰¹ Public events and gatherings,⁸⁰² freedom of movement,⁸⁰³ commercial activities⁸⁰⁴ were restricted in all four countries, educational institutions were closed,⁸⁰⁵ visits to hospitals and

⁷⁹⁷ Under the Law on Communicable Diseases, the Minister of Healthcare of Poland declared an epidemic risk situation on 13 March and an epidemiological situation on 20 March. See Polska, Rozporządzenie Ministra Zdrowia z dnia 13 marca 2020 r. w sprawie ogłoszenia na obszarze Rzeczypospolitej Polskiej stanu zagrożenia epidemicznego; Polska, Rozporządzenie Ministra Zdrowia z dnia 20 marca 2020 r. w sprawie ogłoszenia na obszarze Rzeczypospolitej Polskiej stanu epidemii.

⁷⁹⁸ On the basis of the Law on Communicable Diseases and on the recommendation of the National Institute of Public Health, the Government of Slovenia adopted a resolution declaring the Covid-19 pandemic. See Slovenija, Odredba o razglasitvi epidemije nalezljive bolezni SARS-CoV-2 (COVID-19) na območju Republike Slovenije.

⁷⁹⁹ On March 11, the Minister of Healthcare of Croatia declared an epidemiological situation in Croatia under the "Law on Protection against Infectious Diseases" and the "Law on Healthcare". See Hrvatska, Odluka o proglašenju epidemije bolesti koronavirusom na području čitave Republike Hrvatske, Ministarstvo zdravstva Republike Hrvatske, available at: <https://bit.ly/3qxKgoU>, accessed: 11.02.2021.

⁸⁰⁰ The Government of Lithuania considered that there were no constitutional grounds for declaring a State of Emergency, it adopted a resolution on 26 February under the "Law on Public Protection" declaring the state of Extreme Situation. See Lietuva, Lietuvos Respublikos Vyriausybės Nutarimas Dėl Valstybės Lygio Ekstremaliosios Situacijos Paskelbimo.

⁸⁰¹ The first case of coronavirus was confirmed in Lithuania on 28 February 2020. See „Lithuania confirms first case of coronavirus, to deploy troops in airports,” *LRT.lt*, 28 February 2020, available at: <http://bit.ly/2NAqafm>, accessed: 11.02.2021.

⁸⁰² Poland. See Polska, Rozporządzenie Ministra Zdrowia z dnia 20 marca 2020 r. w sprawie ogłoszenia na obszarze Rzeczypospolitej Polskiej stanu epidemii; Slovenia, see Slovenija, Odlok o začasni splošni prepovedi gibanja in zbiranja ljudi na javnih mestih in površinah v Republiki Sloveniji ter prepovedi gibanja izven občin, PisRS - Pravno informacijski sistem, available at: <http://bit.ly/37og4VL>, accessed: 11.02.2021; Croatia, see „Odluka o mjeri strogog ograničavanja zadržavanja na ulicama i drugim javnim mjestima,” *Koronavirus.hr*, available at: <http://bit.ly/3bfnZpr>, accessed: 11.02.2021; Lithuania. See Lietuva, Lietuvos Respublikos Vyriausybės 2020 m. kovo 14 d. nutarimas Nr. 207 „Dėl karantino Lietuvos Respublikos teritorijoje paskelbimo“, art. 3.2, available at: <http://bit.ly/3atT211>, accessed: 11.02.2021.

⁸⁰³ Poland. See Polska, Rozporządzenie Ministra Zdrowia z dnia 20 marca 2020 r. w sprawie ogłoszenia na obszarze Rzeczypospolitej Polskiej stanu epidemii; Slovenia. see Slovenija, Odlok o začasni splošni prepovedi gibanja in zbiranja ljudi na javnih mestih in površinah v Republiki Sloveniji, Glasilo Uradni list RS, available at: <http://bit.ly/3quTvGC>, accessed: 11.02.2021; Croatia. See "Civil Protection Headquarters published on 19 March 2020," *Koronavirus.hr*, available at: <http://bit.ly/2ZnuSPY>, accessed: 11.02.2021; Lithuania. See Lietuva, Lietuvos Respublikos Vyriausybės 2020 m. kovo 14 d. nutarimas Nr. 207, art. 3.1.

⁸⁰⁴ Poland. See Aktualne zasady i ograniczenia, Portal Gov.pl, available at: <http://bit.ly/3k0lfAy>, accessed: 11.02.2021; Slovenia. see Slovenija, Odlok o začasni prepovedi ponujanja in prodajanja blaga in storitev potrošnikom v Republiki Sloveniji, PisRS - Pravno informacijski sistem, available at: <http://bit.ly/3u7pChS>, accessed: 11.02.2021; Croatia. See "Civil Protection Headquarters published on 19 March 2020," *Koronavirus.hr*; Lithuania. See Lietuva, Lietuvos Respublikos Vyriausybės 2020 m. kovo 14 d. nutarimas Nr. 207, art. 3.2.

⁸⁰⁵ Poland. See Poland, Regulation of the Minister of National Education on the temporary suspension of functioning of education facilities in relation to preventing and combating COVID-19 of 11 March 2020, *Dziennik Ustaw*, available at: <https://dziennikustaw.gov.pl/DU/2020/410>, accessed: 11.02.2021; Polska, Minister Edukacji Narodowej, Rozporządzenie zmieniające rozporządzenie w sprawie czasowego ograniczenia funkcjonowania jednostek systemu oświaty w związku z zapobieganiem, przeciwdziałaniem i zwalczaniem COVID-19, Internetowy System Aktów Prawnych, available at: <https://bit.ly/3k1e5f9>, accessed: 11.02.2021; Slovenia see Slovenija, Odlok o začasni prepovedi zbiranja ljudi v zavodih s področja vzgoje in izobraževanja ter univerzah in samostojnih visokošolskih zavodih, PisRS - Pravno informacijski sistem, available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ODLO2009>, accessed: 11.02.2021; Croatia. See "Obustava nastave na dva tjedna; odgoda plaćanja poreza na dohodak i dobit te doprinosa za poduzetnike," *Vlada Republike Hrvatske*, available at: <http://bit.ly/3s2Wnuw>, accessed: 11.02.2021; Lithuania. See Lietuva, Lietuvos Respublikos Vyriausybės 2020 m. kovo 14 d. nutarimas Nr. 207, art. 3.3.

penitentiary institutions were prohibited,⁸⁰⁶ border control was toughened⁸⁰⁷ and fines were imposed for violation of established rules.⁸⁰⁸ Except for such restrictions, in all four states decisions, the Government made the decisions on how to handle the crisis.⁸⁰⁹ The Government in Croatia tasked the Civil Protection Headquarters to manage the crisis caused by the new Coronavirus, which was fully subjected to the Cabinet.⁸¹⁰ The Deputy Prime Minister and the Minister of Internal Affairs were appointed as heads of the Headquarters.⁸¹¹ In Lithuania, the Prime Minister appointed the Healthcare Minister as the Chief Operation Officer in extreme situations, which became responsible for situation management.⁸¹²

⁸⁰⁶ Poland. See “Short Update: Prisons in Poland ban visits and significantly restrict other rights,” *Fair Trials*, 10 April 2020, available at: <http://bit.ly/3qAivMM>, accessed: 11.02.2021; Slovenia see Slovenija, Zakon o začasnih ukrepih v zvezi s sodnimi, upravnimi in drugimi javnopravnimi zadevami za obvladovanje širjenja nalezljive bolezni SARS-CoV-2 (COVID-19), PisRS - Pravno informacijski sistem, available at: <https://bit.ly/3beKx9V>, accessed: 11.02.2021; Slovenia. See „Uprava Republike Slovenije za izvrševanje kazenskih sankcij (2020), ‘Obvestilo obiskovalcem zaprtih oseb v zavodih za prestajanje kazni zapora in prevzgojnem domu – dopolnilo,’“ public release, GOV.SI Portal, available at: <http://bit.ly/37kEdNa>, accessed: 11.02.2021; Lithuania. See Lietuva, Lietuvos Respublikos Vyriausybės 2020 m. kovo 14 d. nutarimas Nr. 207, art. 3.2.

⁸⁰⁷ Poland. See Polska, Rozporządzenie Ministra Spraw Wewnętrznych i Administracji, Dziennik Ustaw, available at: <https://bit.ly/3s8482B>, accessed: 11.02.2021; Slovenia see Slovenija, Odlok o začasnem prenehanju obratovanja mejnih prehodov za obmejni promet na meji z Republiko Hrvaško, PisRS - Pravno informacijski sistem, available at: <http://bit.ly/3qwjw8l>, accessed: 11.02.2021; Slovenija, Odlok o določitvi pogojev vstopa v Republiko Slovenijo iz Italijanske republike zaradi zaježitve in obvladovanja nalezljive bolezni, Glasilo Uradni list RS, available at: <http://bit.ly/3dmqLMr>, accessed: 11.02.2021; Slovenija, Odlok o določitvi pogojev vstopa v Republiko Slovenijo iz Republike Avstrije zaradi zaježitve in obvladovanja nalezljive bolezni, PisRS - Pravno informacijski sistem, available at: <http://bit.ly/3u6mT86>, accessed: 11.02.2021; Croatia. See Hrvatska, Odluku o privremenoj zabrani i ograničavanju prelaska preko graničnih prijelaza republike hrvatske, Vlada Republike Hrvatske, available at: <https://bit.ly/375TDES>, accessed: 11.02.2021; Lithuania. See Lietuva, Lietuvos Respublikos Vyriausybės 2020 m. kovo 14 d. nutarimas Nr. 207, art. 3.1.

⁸⁰⁸ Poland. See Poland, “Coronavirus COVID-19 outbreak in the EU Fundamental Rights Implications, European Union Agency for Fundamental Rights,” European Union Agency for Fundamental Rights (23 March 2020): 5, available at: <https://bit.ly/2OMMy5K>, accessed: 11.02.2021; Slovenia see Slovenija, Odlok o začasnih splošni prepovedi gibanja in zbiranja ljudi na javnih mestih in površinah v Republiki Sloveniji; Croatia. See “Exacerbation of epidemiological measures if persons assigned to self-isolation continue to behave irresponsibly,” *Vlada Republike Hrvatse*, 3 March 2020, available at: <http://bit.ly/2OHKRq5>, accessed: 11.02.2021; Lithuania. See “Lithuania, Isolation and Quarantine,” *Covid-19 health System Response Monitor*, available at: <https://bit.ly/37pd1N7>, accessed: 11.02.2021.

⁸⁰⁹ Poland. See „Zestawienie aktów prawnych i ujednoliconych tekstów,” Rządowe Centrum Legislacji, available at: <http://bit.ly/3aqGdFi>, accessed: 11.02.2021; Slovenia, see „Coronavirus disease COVID-19,” GOV.SI Portal, available at: <http://bit.ly/3baSWve>, accessed: 11.02.2021; Croatia. See „Government Measures,” Vlada Republike Hrvatske, available at: <http://bit.ly/3pzRXKa>, accessed: 11.02.2021; Lithuania. See „Relevant information about Coronavirus (COVID-19),” Government of the Republic of Lithuania, available at: <http://bit.ly/3k2wE2u>, accessed: 11.02.2021.

⁸¹⁰ Hrvatska, Odluku o Proglašenju Zakona o Dopuni Zakona o Sustavu Civilne Zaštite, Narodne Novine, available at: https://narodne-novine.nn.hr/clanci/sluzbeni/2020_03_31_673.html, accessed: 11.02.2021.

⁸¹¹ Croatia. See „Government Measures“.

⁸¹² Lietuva, Dėl valstybės lygio ekstremaliosios situacijos valstybės operacijų vadovo paskyrimo, Dokumentų paieška – LRS, available at: <https://bit.ly/3u0tXDG>, accessed: 11.02.2021; A full list of decisions made by the Lithuanian Minister of Health as Chief Operating Officer at the state level in extreme situations. See Operacijų vadovo sprendimai, Lietuvos Respublikos Seimas, available at: <https://bit.ly/2NeuDEb>, accessed: 11.02.2021.

3. INITIATION AND DECLARATION OF THE STATE OF EMERGENCY

Declaration of the State of Emergency is divided into two stages, initiation of the idea and further approval. In some cases, the initiator is the Prime Minister or the Government⁸¹³ (e.g. such practice is observed in Poland,⁸¹⁴ Hungary,⁸¹⁵ Estonia,⁸¹⁶ Latvia⁸¹⁷ and Slovenia⁸¹⁸), in others – it is up to the President (Romania⁸¹⁹). Unlike this practice, the authority to initiate declaration of the State of Emergency and/or decide is granted to the Parliament (as is in Bulgaria,⁸²⁰ Slovenia,⁸²¹ Croatia⁸²² and Lithuania⁸²³). As for Georgia, the preconditions for declaring the State of Emergency⁸²⁴ are qualified by the Prime Minister; therefore, the initiative with the president should come from the Prime Minister.⁸²⁵

In order to declare the State of Emergency, the head of the Government of Georgia applied to the President on March 21, 2020.⁸²⁶ Out of studied countries, the states, which declared the State of Emergency, made this decision earlier than Georgia did, as the pandemic became alarming more quickly there.⁸²⁷ Similar to Georgia, the first case of the Coronavirus

⁸¹³ Venice Commission, *Emergency Powers*, 9-14.

⁸¹⁴ The State of Emergency is declared by the Council of Ministers, see The Constitution of Poland, art. 232.

⁸¹⁵ The Constitution of Hungary, art. 53.

⁸¹⁶ Estonia, Emergency Act, arts. 19-20.

⁸¹⁷ Latvia, On Emergency Situation and State of Exception, art. 5, para. 1.

⁸¹⁸ The Constitution of Slovenia, art. 92.

⁸¹⁹ România, ORDONANȚA DE URGENȚĂ nr. 1 din 21 ianuarie 1999, art. 10.

⁸²⁰ As an exception, the State of Emergency in Bulgaria is declared by the President, only in case if the Parliament cannot be convened. See The Constitution of the Republic of Bulgaria, art. 84, para. 12, art. 100, para. 5.

⁸²¹ It is noteworthy that the declaration of a state of emergency in Slovenia is initiated by the Government, and the decision is made by the National Assembly. See The Constitution of Slovenia, art. 92.

⁸²² If it is impossible to convene a parliament, then the Government shall be an initiator for declaring a State of Emergency and the President shall declare it with the counter-signature of the Prime Minister. See Constitution of the Republic of Croatia, art. 17.

⁸²³ The initiator of the State of Emergency and the body responsible for its declaration is the Parliament, however, in case of extreme urgency, between the sessions of the Parliament, the President declares a State of Emergency with the counter-signature of the Prime Minister. See The Constitution of the Republic of Lithuania, art. 144; Lietuva, Lietuvos Respublikos nepamprastosios padėties įstatymas, art. 7.

⁸²⁴ Constitution of Georgia, art. 71, para. 2.

⁸²⁵ *Ibid.*

⁸²⁶ "The Prime Minister addressed the President to declare the State of Emergency" information portal „civil.ge”, March 21, 2020, available at: <https://bit.ly/2KtAB36>, accessed: 11.02.2021.

⁸²⁷ On March 13, 2020 the Parliament of Bulgaria declared the State of Emergency for one month with the recommendation of the Council of Ministers, which was later extended to one more month. See РЕШЕНИЕ За Обявяване На Извънредно Положение, Държавен вестник, available at: <http://bit.ly/3qyEUKc>, accessed: 11.02.2021; "Bulgaria's Parliament extends the coronavirus state of emergency until May 13," *Bulgarian National Television*, available at: <http://bit.ly/3beL0cb>, accessed: 11.02.2021; The Emergency situation in Estonia was declared by the Government from March 12, 2020 to May 1, 2020 and was extended to May 17. See "The government declared an emergency situation in Estonia until 1 May," KRIIS.EE, 12 March 2020, available at: <http://bit.ly/2ZoVssb>, accessed: 11.02.2021; "SPECIAL NOTICE: The Government has extended the emergency situation in Estonia until May 17," KRIIS.EE, 24 April 2020, available at: <https://bit.ly/3dkk79x>, accessed: 11.02.2021; The Government of Latvia declared the State of Emergency on March 12, 2020, which was approved by the Parliament at an extraordinary session. This regime was twice extended until June. See "Saeima approves government decision on declaring state of emergency to contain the coronavirus Covid-19," *Latvijas Republikas Saeima*, available at: <http://bit.ly/2N6TDOE>, accessed: 11.02.2021; "Government extends state of emergency until 12 May," *Cabinet of Ministers Republic of Latvia*, 7 April 2020, available at: <https://bit.ly/2Zqxx3m>, accessed: 11.02.2021; "Strategy of the government for the next stage of Covid-19 restrictions: strict domestic health measures and gradual easing of restrictions," *Cabinet of Ministers Republic of Latvia*, 7 May 2020, available at: <https://bit.ly/3bdoeRV>, accessed: 11.02.2021; President of Romania declared the State of Emergency with a decree for 30 days on March 16, 2020. It was extended once by a decree. This decision was unconditionally approved by the Parliament. See România, DECRET nr. 195 din 16 martie 2020 privind instituirea stării de urgență pe teritoriul României, Portal Legislativ,

was confirmed in February in Estonia⁸²⁸ and Romania,⁸²⁹ while in Bulgaria,⁸³⁰ Latvia⁸³¹ and Hungary⁸³² it happened in March. In these jurisdictions, the period from the first confirmed case to the declaration of the State of Emergency varied from five to 20 days.⁸³³ While in Georgia, the State of Emergency was declared 24 days after the first confirmed case of the virus.⁸³⁴

Meetings and consultations of the National Security Council and Interagency Council preceded an appeal of the Prime Minister of Georgia to the President.⁸³⁵ In particular, the pre-consultations were held both with representatives of the Parliament as well as the President.⁸³⁶ The purpose of this process was to avoid hindering the executive power with long-lasting legal procedures; the Government must have had free space for action and, therefore, the representative of the Parliament in the Council have not created any kind of barriers for activities of the Executive Government.⁸³⁷ The topics were agreed upon before meetings via communication means and oral consultations. Neither the declaration order nor the decree has been prepared by a single person, opinions were gathered, based on which the Admin-

available at: <http://bit.ly/3pp1HGR>, accessed: 11.02.2021; România, DECRET nr. 240 din 14 aprilie 2020 privind prelungirea stării de urgență pe teritoriul României, available at: <http://bit.ly/3bczewzi>, accessed: 11.02.2021; România, Hotărârea nr. 3/2020 pentru încuviințarea măsurii adoptate de Președintele României privind instituirea stării de urgență pe întreg teritoriul României, Ministerul Afacerilor Interne, available at: <https://bit.ly/3b8HGPS>, accessed: 11.02.2021; On March 11, 2020 the Government of Hungary declared the State of Emergency with a decree. The State of Emergency is a special regime – a state of threat. See Hungary, 40/2020. (III. 11.) Korm. Rendelet veszélyhelyzet kihirdetéséről, Magyar Közlöny, available at: <http://bit.ly/3asTM7d>, accessed: 11.02.2021; The Constitution of Hungary, art. 53.

⁸²⁸ “Estonia: Government confirms first case of COVID-19 February 27,” *Garda*, 27 February 2020, available at: <https://bit.ly/3dmyslW>, accessed: 11.02.2021.

⁸²⁹ “Romania: Government confirms first COVID-19 case February 25,” *Garda*, 26 February 2020, available at: <https://bit.ly/2NcjTGE>, accessed: 11.02.2021.

⁸³⁰ „Bulgaria confirms first four cases of coronavirus: health officials,” *REUTERS*.

⁸³¹ „First case of COVID-19 coronavirus confirmed in Latvia,” *eng.lsm.lv (Latvian Public Broadcasting)*.

⁸³² “Hungary: First cases of COVID-19 confirmed March 4,” *Garda*, 4 March 2020, available at: <https://bit.ly/3qyFxU4>, accessed: 11.02.2021.

⁸³³ The first case of Coronavirus was confirmed on March 8 in Bulgaria, while the Parliament declared the State of Emergency with recommendation of the Council of Ministers for a month, on March 13, 2020. See „Bulgaria confirms first four cases of coronavirus: health officials,” *REUTERS*; РЕШЕНИЕ За Обявяване На Извънредно Положение; “Bulgaria’s Parliament extends the coronavirus state of emergency until May 13,” *Bulgarian National Television*; The first case of Coronavirus was confirmed in Estonia on February 27, while the State of Emergency was declared on March 12, 2020 by the Government. See “Estonia: Government confirms first case of COVID-19 February 27,” *Garda*; “The government declared an emergency situation in Estonia until 1 May,” *Garda*; First case of COVID-19 was confirmed on March 2 in Latvia, while the State of Emergency was declared by the Government on March 12, 2020, which was later approved by the Parliament at the extraordinary session. See „First case of COVID-19 coronavirus confirmed in Latvia,” *eng.lsm.lv (Latvian Public Broadcasting)*; “Saeima approves government decision on declaring state of emergency to contain the coronavirus Covid-19,” *Latvijas Republikas Saeima*; First case of COVID-19 in Romania was confirmed on February 25, while the President declared the State of Emergency on March 16, 2020. See “Romania: Government confirms first COVID-19 case February 25”; România, DECRET nr. 195 din 16 martie 2020; first case of Coronavirus was confirmed in Hungary on March 4, while the Government of Hungary declared the State of Emergency on March 11 with a decree. See “Hungary: First cases of COVID-19 confirmed March 4”; Hungary, 40/2020. (III. 11.) Korm. Rendelet veszélyhelyzet kihirdetéséről.

⁸³⁴ The first case was confirmed on February 26, 2020 (information received from the Ministry of Healthcare), while the State of Emergency was declared on March 21.

⁸³⁵ This authority is given to the Prime Minister by the Rules of Procedure of the Government. See the Rules of Procedure of the Government of Georgia, art. 51, para. 4.

⁸³⁶ The Head of the Presidential Administration participated in all the meetings of the Council. Interview with the Parliamentary Secretary of the Government of Georgia.

⁸³⁷ Interview with the Head of the Office of the Legal Issues Committee of the Parliament of Georgia.

istration of the Government prepared the draft legal acts or tasked relevant field ministry.⁸³⁸

From the 16th of March the possibility of declaring the State of Emergency was already discussed.⁸³⁹ However, on the 19th of March after discussing with the President and the Chair of the Parliament declaration of the State of emergency, the Prime Minister of Georgia stated that there still was no need for it.⁸⁴⁰ He also noted that *“this decision may be made tomorrow or the day after tomorrow, as soon as there is a need of it and as soon as our medics and the healthcare system tells us that in order to stop the further spread of the virus this decision should be made, we shall make such decision”*.⁸⁴¹

The need to declare the State of Emergency arose two days after this statement was made, on the 20th of March considering the epidemic situation and the virus data (on the 20th of March 4 new cases were confirmed⁸⁴² and 6 cases were added on the 21st of March).⁸⁴³ The government outlined three factors as preconditions of the State of Emergency: 1) the level of the virus transmission and readiness of the healthcare system of Georgia (the healthcare system of Georgia would have not to deal with thousands of cases⁸⁴⁴); 2) social and cultural characteristics of the society; 3) the degree of acceptance of recommendations by the society.⁸⁴⁵

Prognosis made by the epidemiologists also had a significant impact on the decision of declaring the State of Emergency. In particular, (1) due to the fact that the new Coronavirus (SARS-CoV-2) differed from the first Coronavirus in many characteristics, it was impossible to implement a similar model. Therefore, new Coronavirus-related approaches relied only on already gathered knowledge on SARS-CoV-2 and after that, considering the factors identified gradually, completely new approaches were established to modelling;⁸⁴⁶ (2) no specified anti-virus treatment was introduced; (3) there was no anti-virus vaccine, which made it difficult to make a prognosis of expected results; (4) high rate of reproduction was typical to the virus (one infected person could infect 2-3 persons). Therefore, this meant 406 infected persons within 30 days without the restrictive measures; (5) COVID-19 is characterized with particular specificity – the asymptomatic or mild cases gradually worsen with the progression of the disease, which requires hospitalization of the patients and intensive care, causing large-scale utilization of healthcare resources. This period is even longer (14-21 days) than in the case of other viruses.⁸⁴⁷

⁸³⁸ Interview with the Parliamentary Secretary of the Government of Georgia.

⁸³⁹ “There is no need to declare the State of Emergency according to the Security Council”, *information portal „On.ge”*, March 16, 2020, available at: <https://bit.ly/3bMf9S9>, accessed: 11.02.2021.

⁸⁴⁰ “We have discussed the issue of declaring a State of Emergency, there is no need yet - Gakharia,” *information portal „On.ge”*, March 19, 2020, available at: <https://bit.ly/35SW9NX>, accessed: 11.02.2021.

⁸⁴¹ *Ibid.*; Earlier, the Minister of Healthcare named the epidemic spread of the virus as a precondition for declaring a State of Emergency. See “In what cases may a State of Emergency be declared in Georgia?” *information portal „IMEDI NEWS”*, March 12, 2020, available at: <https://bit.ly/3bQEev6>, accessed: 11.02.2021.

⁸⁴² Information provided by the Ministry of Healthcare of Georgia № 01/14008, November 7, 2020.

⁸⁴³ There were 48 confirmed cases of Coronavirus in Georgia from February 26 to March 20, 2020. See *Ibid.*

⁸⁴⁴ The number of places and medical staff in hospitals (with qualifications from different directions) and their ratio to the number of patients were considered. See „Report on the Measures Implemented by the Government of Georgia Against COVID-19”, the Government of Georgia,” 18.

⁸⁴⁵ *Ibid.*, 19-20.

⁸⁴⁶ The National Center for Disease Control uses models provided by the University of Basel (Switzerland) and the Centers for Disease Control and Prevention (USA) during the pandemic. The Center has also intensively cooperated with the Institute for Health Metrics and Evaluation (IHME) (Seattle, USA) which handles various forecasting scenarios. Interview with the representatives of the Center.

⁸⁴⁷ Interview with the Parliamentary Secretary of the Government; these circumstances were highlighted by representatives of the NCDC as well.

Considering the practice of other countries and established picture (especially of “bad practice”) the specialists also assessed infection rates at that time; according to the modelling/scenario in the event of introducing the strict measures 2.7 times less cases would have been in Georgia by the 21st of March than it was in reality.⁸⁴⁸

In addition to the prognosis of epidemiologists, according to the Government, the existing legislative framework and institutional mechanisms were not sufficiently flexible to fight against existing crisis and were not adapted to the process required to manage the pandemic,⁸⁴⁹ in particular, as social distancing and mobility reduction are the most effective methods to prevent the spread of the virus, more large-scale restriction of the right to movement and traffic was required.⁸⁵⁰ Although healthcare acts could have provided quarantine measures in cases of alleged infection, however, neither exact rules of isolation/quarantine nor the norms establishing responsibility for their violation were contained by the legislation of Georgia. According to the Government, restriction of the right to assembly, property and entrepreneurship was also inevitable.⁸⁵¹

According to the relevant persons, there were no flexible institutional mechanisms existing to cope with the pandemic or potential crisis: on the one hand general regulations of the “Law on Public Safety”, which could not ensure rapid responses to the epidemic (there was a multi-step decision-making system, which was over-decentralized to manage the emergency).⁸⁵² On the other hand, the National Security Council, created to manage the various crisis, with its composition⁸⁵³ and according to directions of its activities⁸⁵⁴ failed to be a flexible structure, which would respond appropriately to the specifics of the epidemic.⁸⁵⁵

In order to qualify the basis of the State of Emergency, the above-mentioned arguments are less convincing. The concrete grounds were required: why did not the Government imply all mechanisms considered by the legislation; would it be sufficient to tighten the epidemiologic control only in the parts of the country where the most cases were confirmed; why was not the format of the State Security Council used as a deliberative body at the Prime Minister in crisis management, as well as emergency management measures provided by the Law on Public Safety. It was the Security Council mandate to address the threat posed by the pandemic. The existing legislative framework made it possible to invite non-members of the Security Council to the Security Council, whose involvement would be important in managing an emergency. Furthermore, the large-scale restriction of rights also required more substantiation – which mechanisms of the ordinary legislation were insufficient for the Government concerning each right and why there was no discussion regarding the possibility of making amendments to the law. The Government had enough time to make changes to the legislation if necessary. In addition, the Rules of Procedure of the Parliament provides for an accelerated procedure for the adoption of a bill, which was also not utilized by the

⁸⁴⁸ „Report on the Measures Implemented by the Government of Georgia Against COVID-19”, the Government of Georgia,” 10.

⁸⁴⁹ Interview with the Parliamentary Secretary of the Government of Georgia.

⁸⁵⁰ Interview with representatives of the National Center for Disease Control.

⁸⁵¹ Interview with the Parliamentary Secretary of the Government of Georgia.

⁸⁵² Law of Georgia on Public Safety, art. 16.

⁸⁵³ The permanent members of the Council are: the Prime Minister, the Minister of Defense, the Minister of the Interior, the Minister of Foreign Affairs, the Minister of Finance, the Head of the State Security Service, the Head of the Intelligence Service and the Commander of the Defense Forces. It is possible to invite other people for membership as well. See Law of Georgia on National Security Policy Planning and Coordination. art. 19³.

⁸⁵⁴ *Ibid.*, art. 19².

⁸⁵⁵ Interview with the former Head of the Administration of the Government of Georgia.

Government. Furthermore, as appeared, the days before declaring the State of Emergency there was no sharp increase of virus cases, the Prime Minister also indicated several times that there was “no need” to declare the State of emergency. Therefore, the Government was obliged to provide more argumentation to the society before declaring the State of Emergency and not propose it to the President behind closed doors.

With all the above-mentioned arguments, the Government tried to justify the inevitability of large-scale restrictions of human rights and rapid making/enforcement of managerial decisions, which indicated the inclusion of a mechanism beyond the constitutional framework operating in the ordinary situation - the state of emergency.

In 2020, the President of Georgia signed the decree and declared the State of Emergency. The act of the President entered into force upon signature, however, similar to Lithuania, one more procedure is considered here as well – the co-signature of the Prime Minister on the act,⁸⁵⁶ who shall make a decision to co-sign the decree as soon as it is handed over.⁸⁵⁷ Before the counter-assignment, the Prime Minister is authorized to discuss the order with the deliberative body,⁸⁵⁸ which first, is the National Security Council.⁸⁵⁹ In reality, the Prime Minister discussed the issue of the declaration of the State of Emergency with both deliberative bodies.⁸⁶⁰ Considering the fact that the declaration issue shall be decided with the proposal of the Head of the Government, and the President is not authorized to change anything, the obligation of additional initiator’s signature on its order makes the process more complicated and the possibility of discussing the order with the deliberative body at the indicated time is meaningless. **It is better to abolish the procedure of co-signature of the Prime Minister on the decree of the President on declaring the State of Emergency, which will eliminate additional procedural barriers (especially since the first person of the country is not authorized to change anything in the draft order).**

⁸⁵⁶ The Law of Georgia on the Structure, Authority and Rules of Operation of the Government of Georgia, art. 7³ para. 10.

⁸⁵⁷ Law of Georgia on State of Emergency, art. 2, para. 1.

⁸⁵⁸ The Rules of Procedure of the Government of Georgia, art. 51.

⁸⁵⁹ Law of Georgia on National Security Policy Planning and Coordination, art. 19², subparagraph “m”.

⁸⁶⁰ Interview with the Parliamentary Secretary of the Government of Georgia.

4. DURATION OF THE STATE OF EMERGENCY

The State of Emergency should be a temporary measure,⁸⁶¹ the duration of which depends on the existence of a state of emergency threatening public safety.⁸⁶² It can be directly indicated in the law. E.g., the State of Emergency in Poland should be declared over the pre-defined period and should not exceed 30 days,⁸⁶³ in Latvia three months,⁸⁶⁴ and Lithuania 6 months,⁸⁶⁵ while in Romania the State of Emergency shall be declared for 30 days.⁸⁶⁶ There are some cases when there is no indication about terms in the legislation.⁸⁶⁷ Legislation of some countries only generally indicates the duration of the State of Emergency. However, it is depended on the existence of those circumstances,⁸⁶⁸ which caused the declaration of the State of Emergency. A similar practice is observed in Estonia, where the discretion in determining the duration of the State of Emergency is entirely vested in the Government.⁸⁶⁹ In Bulgaria, the exact date of the start and end of the emergency regime should be indicated, however, this period is not defined by the legislation.⁸⁷⁰ In Georgia as well, according to the existing practice, the term was always indicated in a decree of the President.⁸⁷¹ On March 21, 2020, the State of Emergency was declared for a month.⁸⁷² The motif to select the terms of the emergency regime was approximate orientation in which the Government and the healthcare system could stop the growth rate of infections and take full control of the process management.⁸⁷³ It was impossible to find other information regarding the terms due to the closed-door activities of the Council.

⁸⁶¹ United Nations Economic and Social Council, *Final Report of the Special Rapporteur of the UN on human rights and states of exception*, E/CN.4/Sub.2/1997/19 (1997), pp. 69-75, available at: <https://bit.ly/3ufmrVt>, accessed: 11.02.2021.

⁸⁶² Venice Commission, *Compilation of Venice Commission Opinions and Reports on States of Emergency*, CDL-PI(2020)003-e (Strasbourg: Council of Europe, 2020), 28; Venice Commission, *Opinion on the Draft Constitutional Law on "Protection of the Nation" of France*, Opinion No. 838/2016, CDL-AD(2016)006 (Strasbourg: Council of Europe, 2016), 18; UNHRC, *CCPR General Comment No. 29: Article 4: Derogations during a State of Emergency*, CCPR/C/21/Rev.1/Add.11, (2001), p. 2.

⁸⁶³ The Constitution of Poland, art. 232.

⁸⁶⁴ Latvia, On Emergency Situation and State of Exception, art. 5, para. 1.

⁸⁶⁵ The Constitution of the Republic of Lithuania, art. 144.

⁸⁶⁶ România, ORDONANȚA DE URGENȚĂ nr. 1 din 21 ianuarie 1999, art. 5.

⁸⁶⁷ Such countries are: Hungary, Croatia, Slovenia.

⁸⁶⁸ Here not only any of emergency situations are implied (e.g., pandemic), but also the readiness of the Government to cope with it.

⁸⁶⁹ Estonia, Emergency Act, art. 21, para. 2, art. 22.

⁸⁷⁰ Republic of Bulgaria Defence and Armed Forces Act, art. 122, para. 3, Ministry of Defence of the Republic of Bulgaria, available at: <http://bit.ly/3bhMzpV>, accessed: 11.02.2021.

⁸⁷¹ E.g. an edict of the President of Georgia N424, of September 3, 2008 "On Early Cancellation of the Martial Law Declared throughout the whole Territory of Georgia and Declaration of a State of Emergency on Certain Territories of Georgia"; an edict of the President of Georgia № 621 of November 7, 2007 "on Declaring the State of Emergency throughout the whole territory of Georgia"; an edict of the President of Georgia № 173 of February 26, 2006 "on Declaring the State of Emergency on the territory of Khelvachauri"; an edict the President of Georgia № 575 of November 22, 2003 "on Declaring the State of Emergency throughout the whole territory of Georgia".

⁸⁷² Decree № 1 of the President of Georgia, dated March 21, 2020 "on Declaring the State of Emergency throughout the whole territory of Georgia".

⁸⁷³ Interview with the Parliamentary Secretary of the Government of Georgia.

5. DECREE – THE BASIS OF MANAGEMENT OF THE STATE OF EMERGENCY

As was already noted above, since the norms and procedures used during the ordinary period are ineffective to deal with the crisis, the rule-making authority of the legislative power is transferred to the executive branch. In order to regulate the State of Emergency, it takes temporary measures with legal force and issues them in the form of legal acts.⁸⁷⁴ In Georgia, the main principal for the activities of the executive power together with (and in some cases – instead of) the Parliament during the State of Emergency becomes the President. The president is authorized to define different rules with a decree, which will be enacted only during the State of Emergency together with by-laws issued under it. The decree of the President and organs of the executive power is authorized to regulate various legal relations differently from the existing legislation. They are obliged to justify their need and effectiveness compared to the ordinary rules.

The authority to issue decrees is granted to the executive power or the President. In particular, the State of Emergency is regulated by the President by issuing acts with the force of law.⁸⁷⁵ While in Estonia,⁸⁷⁶ Latvia⁸⁷⁷ and Hungary⁸⁷⁸ this authority is granted to the Government. In Lithuania, the management of the State of Emergency is instructed by the Government to the authorized body elected by it, which issues decrees, based on which it makes a decision and takes measures to eliminate the crisis.⁸⁷⁹ In Poland the State of Emergency is regulated by various subjects,⁸⁸⁰ among them, the competence of the Government includes orders of relevant Ministers, which are binding for governmental agencies (except for the Government, Prime Minister and Vice-Presidents of the Government).⁸⁸¹

There is an exception to this rule. E.g., in Bulgaria,⁸⁸² Slovenia⁸⁸³ and Croatia⁸⁸⁴ the acts regulating the State of Emergency are adopted by the Parliament, since the competence to declare the State of Emergency belongs to the Parliament. However, an act of the Parliament in Bulgaria is accompanied by orders of specific Ministers.⁸⁸⁵

⁸⁷⁴ Gian Giacomo Fusco, *cited paper*, 26, footnote 35.

⁸⁷⁵ România, DECRET nr. 240 din 14 aprilie 2020.

⁸⁷⁶ Estonia, Emergency Act, arts. 21-33; „Measures for preventing the spread of coronavirus SARS-CoV-2,” Riigi Teataja, available at: <https://www.riigiteataja.ee/viitedLeht.html?id=8>, accessed: 11.02.2021.

⁸⁷⁷ Latvia, Regarding Declaration of the Emergency Situation, Likumi.lv - Latvijas Republikas tiesību akti, available at: <http://bit.ly/3u9Nd14>, accessed: 11.02.2021.

⁸⁷⁸ The Constitution of Hungary, art. 53, para. 2.

⁸⁷⁹ Lietuva, Lietuvos Respublikos nepaprastosis padėties įstatymas, art. 14.

⁸⁸⁰ Polska, USTAWA z dnia 18 kwietnia 2002 r. o stanie klęski żywiołowej, art. 8, cls. 1-4.

⁸⁸¹ *Ibid.*, art. 13.

⁸⁸² E.g., on March 23, 2020, in order to avoid the spread of the new Coronavirus, the Parliament of Bulgaria adopted the law on measures to be implemented during the State of Emergency, which made significant changes to the spheres of justice, defence, electronic communications, protection of right to private life and other rights. See България, Закон за мерките и действията по време на извънредното положение, обявено с решение на Народното събрание от 13 март 2020 г., Държавен вестник, available at: <https://dv.parliament.bg/DVWeb/showMaterialDV.jsp?idMat=147150>, accessed: 11.02.2021.

⁸⁸³ If the Parliament cannot be convened, the State of Emergency is regulated by presidential decrees issued at the initiative of the Government. See The Constitution of Slovenia, art. 108.

⁸⁸⁴ In exceptional cases, when the Parliament cannot be convened, the decision on the State of Emergency shall be made by the President of Slovenia on the recommendation of the Government and with the co-signature of the Prime Minister. See Constitution of the Republic of Croatia, art. 17.

⁸⁸⁵ Nikolai Atanassov et al., *cited paper*, 4.

The Government of Georgia prepares a decree of the President, then formally submits it to the head of the State, after which it co-signs the document (through the Prime Minister).⁸⁸⁶ Similar to the decree on the declaration of the State of Emergency, the issue of co-signature of the decree is not discussed at the meeting of the Government and is immediately implemented.⁸⁸⁷ However, the document can be discussed at the relevant deliberative (collegial) body.⁸⁸⁸ Within the process of issuing a presidential decree, the main creator is an executive branch and as the President is not authorized to change it, it is fictitious to indicate the “ownership” of the decree. As for the co-signature, similar to the decree of declaration, the need for this procedure also does not make sense. **This procedure as well should be abolished in the law, and the possibility to discuss the issue with the deliberative body should be written at the stage of preparation of the decree.**

The content of the decree was agreed with the deliberative body – the Interagency Council, however, this did not happen when it was received for co-signature, rather when the text of the decree was prepared, which was then submitted to the President.⁸⁸⁹ The head of the country issued the decree on the same day as the State of Emergency was declared,⁸⁹⁰ which was immediately co-signed by the initiator. The decree restricted **seven** fundamental rights.⁸⁹¹ In relation to several of them, the decree made a decision itself,⁸⁹² while the right to define the exceptions within its scopes was given to the Government.⁸⁹³ It set the limits of restriction on certain rights for the Government,⁸⁹⁴ while one authority was delegated directly to the Ministry of Justice.⁸⁹⁵

Therefore, together with drafting the text of the document, the Government became an executive of the decree of March 21, 2020. The Government justified the transfer of voluminous discretion to the executive branch beyond the decree with a need for a flexible response mechanism to the daily changing situation.⁸⁹⁶ According to the Administration of the Government, defining all the details with a decree would complicate the management

⁸⁸⁶ Constitution of Georgia, art. 71, paras. 2 and 3.

⁸⁸⁷ The Rules of Procedure of the Government of Georgia, art. 49, para. 5, and art. 51.

⁸⁸⁸ *Ibid.*, art. 51, para. 4.

⁸⁸⁹ Interview with the Parliamentary Secretary of the Government of Georgia.

⁸⁹⁰ Decree № 1 of the President of Georgia, March 21, 2020.

⁸⁹¹ The rights limited by the decree: freedom of a human being, freedom of movement, rights to privacy of personal and family life, privacy and communication, right to fair administrative proceedings, access to public information, right to informative self-determination and right compensation for damage caused by public authorities, right to property, right to assembly, freedom of labor, freedom of professional association, right to strike and freedom of entrepreneurship.

⁸⁹² The decree suspended international air, land and sea traffic, the right to visit the penitentiary institutions, restricted any kind of assembly, demonstration and gathering of people.

⁸⁹³ The right to assembly was fully restricted, however the right to set exceptions to this rule was given to the Government. See Decree № 1 of the President of Georgia of March 21, 2020 art. 1, para. 6; fully suspended international air, land and sea traffic, *Ibid.*, art. 1, para. 2, subparagraph “a”, however gave the Government the right to regulate the movement of passengers and cargo on the territory of Georgia in a different way from the current legislation, *Ibid.*, art. 1, para. 2, subparagraph “c”; the right to visit penitentiary institutions was fully restricted without exceptions, *Ibid.*, art. 1, para. 3.

⁸⁹⁴ For example, the decree referred to the mobilization of persons with medical education and persons with authority within the scopes of freedom of labor, *Ibid.*, art. 1, para. 7.

⁸⁹⁵ The Minister of Justice was given right to regulate the obligation to observe the regime established by law for probationers and parolees, as well as appearance at the time and place determined by the probation officer, in a different way from the current legislation, *Ibid.*, art. 6.

⁸⁹⁶ „Report on the Measures Implemented by the Government of Georgia Against COVID-19”, the Government of Georgia,” 20. The same opinion was expressed during the interview by the Parliamentary Secretary of the Government.

of the State of Emergency, as the need for change would necessitate the involvement of the President and the Parliament, which was related to the time and the gathering of people.⁸⁹⁷ According to them, legal decisions were made based on epidemiologic situation and considering recommendations of specialists (how the state was to manage the epidemiologic situation), and decisions on procedural issues did not require the engagement of the Parliament.⁸⁹⁸ Therefore, it was decided that only major issues would be agreed upon with the Parliament, the Government would decide the rest in an accelerated manner.⁸⁹⁹

The State of Emergency in Romania was managed by decrees of the President. The decree issued in relation to the pandemic directly considered the measures to be taken during the State of Emergency.⁹⁰⁰ However, it also indicated the competence of the Minister of Internal Affairs, which was authorized with the consent of the Prime Minister to adopt military ordinances.⁹⁰¹ During the State of Emergency in Romania 12 military ordinances were issued⁹⁰² in which the Minister of Healthcare and special National Committee of Emergency Situations, staffed by members of the Government were participating.⁹⁰³ Their topics included rules for quarantine, control of the state border, restriction of the freedom of movement, suspension of means of transport, temporary closure of places of social gatherings and businesses, provision of safety and institutional protection of water, energy and gas stations, purchase of medicine and equipment required for treatment of COVID-19.⁹⁰⁴

The experience of Hungary in terms of granting emergency powers to the Government is also interesting. Here the State of Emergency was declared with the decree of the Government,⁹⁰⁵ while more detailed measures for the fight against the pandemic were regulated with another, additional decree.⁹⁰⁶ However, in this case, the problem was not the content of the first decree rather its duration, which was to expire 15 days after the declaration.⁹⁰⁷ Therefore, with the motif of removing the time limit, the Government submitted to the Parliament a draft law on stopping the spread of Coronavirus, after the adoption of which the Government was given the right to take additional emergency measures to protect human rights and maintain the stability of the economy.⁹⁰⁸ Although, it was also given a right to

⁸⁹⁷ The Interview with the former head of the Administration of the Government of Georgia; Furthermore, at that time the Rules of Procedure of the Parliament did not provide for the online session of the Parliament (the relevant initiative was considered only in the first reading by the legislative body). See draft Rules of Procedure of the Parliament of Georgia "on Changes to the Rules of Procedure of Georgia", *webpage of the Parliament of Georgia, March 18, 2020*, available at: <https://info.parliament.ge/#law-drafting/20154>, accessed: 18.02.2021).

⁸⁹⁸ Interview with the Parliamentary Secretary of the Government of Georgia.

⁸⁹⁹ *Ibid.*

⁹⁰⁰ România, DECRET nr. 195 din 16 martie 2020.

⁹⁰¹ *Ibid.*, arts. 4, 6.

⁹⁰² Bianca Seleşan-Gutan, "Romania in the Covid Era: Between Corona Crisis and Constitutional Crisis," *Verfassungsblog On Matters Constitutional*, 21 May 2020, available at: <http://bit.ly/2NAZieY>, accessed: 11.02.2021.

⁹⁰³ România, Ordonanța de Urgență nr. 21 din 15 aprilie 2004 privind Sistemul Național de Management al Situațiilor de Urgență, art. 8¹, cls. 1, 3.

⁹⁰⁴ *Ibid.*, Anexa nr. 2, cls. 1-7.

⁹⁰⁵ Hungary, 40/2020. (III. 11.) Korm. Rendelet veszélyhelyzet kihirdetéséről.

⁹⁰⁶ Hungary, 41/2020. (III. 11.) Korm. rendelet az élet- és vagyonbiztonságot veszélyeztető tömeges megbetegedést okozó humánjárvány megelőzése, illetve következményeinek elhárítása, a magyar állampolgárok egészségének és életének megóvása érdekében elrendelt veszélyhelyzet során teendő intézkedésekről, Nemzeti Jogszabálytár, available at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=218471.380733, accessed: 11.02.2021.

⁹⁰⁷ The Constitution of Hungary, art. 53, para. 3; Hungary, 40/2020. (III. 11.) Korm. Rendelet veszélyhelyzet kihirdetéséről.

⁹⁰⁸ Hungary, 2020. évi XII. Törvény a koronavírus elleni védekezésről, Nemzeti Jogszabálytár, available at: <https://bit.ly/3dmuR7h>, accessed: 11.02.2021; „Coronavirus Update: Full details published on the passed law on the coronavirus containment effort,” *About Hungary*, 31 March 2020, available at: <http://bit.ly/3seWGMn>, accessed: 11.02.2021.

extend the terms of this decree until the State of emergency is lifted.⁹⁰⁹ However, this law did not define a state of emergency. As a result, its termination depended on the decision of the government.⁹¹⁰

⁹⁰⁹ *Ibid.*

⁹¹⁰ The Constitution of Hungary, art. 53, cl. 4; Hungary, 2020. évi XII. Törvény a koronavírus elleni védekezésről, art. 3, cl. 2; “Coronavirus: Hungary votes to end Viktor Orban emergency powers,” *BBC News*, 16 June 2020, available at: <http://bbc.in/37klr7u>, accessed: 11.02.2021.

6. ACTIVITIES OF THE GOVERNMENT WITHIN THE SCOPES DEFINED BY THE DECREE

After the approval of the Parliament,⁹¹¹ the Government and ministries of Georgia started an active legislative process regarding the execution of the decree. The workload of the Government has increased significantly, which together with the existing challenges was caused by its primary legislative function. Acts of the executive government during the State of Emergency were mostly related to the measures for preventing the spread of the virus.

The content and purpose of the act of the Government were different during both terms of the State of emergency: during the first month, the tendency was to impose and tighten restrictions, while the second month was characterized by their relief, and in some cases – complete removal. Therefore, the activities of the Government in accordance with the two periods of the State of Emergency were separately assessed in the report

6.1. The State of Emergency - First Part

Based on a decree the Government of Georgia first approved the measures to be implemented in the country with an ordinance.⁹¹² This act partially repeated the norms of the Response Plan adopted before the declaration of the State of Emergency; however, it also left the plan in force.⁹¹³ The content of the ordinance was mainly the list of rights indicated in the decree and defined the scopes of enjoyment of each right. The Government regulated the rule for conducting educational process with the separate additional normative act.⁹¹⁴ Thus, the Cabinet fully took over for the next one month the role of the main norm-setting institution in the country.

The Government of Romania managed to define in the legal acts the measures to be implemented to prevent the spread of the Coronavirus. Though adopting the emergency regulations the Government announced the amendments to be made to the Criminal Code, which aggravated the sentences in case of violation of quarantine and self-isolation rules.⁹¹⁵ It is significant that the Government approved the aggravated sentence through emergency decree, instead of being passed by an emergency voting procedure in Parliament.⁹¹⁶ The Parliament of Hungary did not consider it sufficient to regulate the State of emergency with a Law on Disaster Management and adopted the law on fighting the Coronavirus, based on which the Government was given an authority to adopt additional emergency measures.⁹¹⁷

⁹¹¹ The resolution of the Parliament of Georgia № 5864-სს of March 21, 2020, on approving the decree № 1 of the President of Georgia “on Declaring the State of Emergency throughout the whole territory of Georgia”.

⁹¹² “on Approval of Measures to be Implemented to Prevent the Spread of the New Coronavirus in Georgia” Approved by the ordinance of the Government of Georgia № 181 of March 23, 2020 “Measures to be Implemented to Prevent the Spread of the new Coronavirus in Georgia” (Annex № 1).

⁹¹³ The regulations provided for by the decree N164 of the Government of Georgia of January 28 retained its legal force, except the norms, that were contrary to the rules approved by this decree. See № 181 ordinance of the Government of Georgia of March 23, 2020, art. 2; the changes to the mentioned decree were made during the State of Emergency as well.

⁹¹⁴ Ordinance of the Government of Georgia № 205 of March 31, 2020 “on Conducting Learning Process in Educational Institutions during the State of Emergency”; the right to education itself was not restricted by the decree and it is not allowed by the Constitution as well.

⁹¹⁵ România, Ordonanță de urgență pentru modificarea și completarea Legii nr. 286/2009 privind Codul Penal (forma adoptată în ședința de Guvern din data de 18 martie 2020), Ministerul Justiției, available at: <https://bit.ly/37kS3Pi>, accessed: 11.02.2020.

⁹¹⁶ Romania, „Coronavirus COVID-19 outbreak in the EU Fundamental Rights Implications,” 7-8.

⁹¹⁷ Hungary, 2020. évi XII. Törvény a koronavírus elleni védekezésről.

Because of substantive analysis of acts issued based on a decree, two directions were outlined: **restrictions** and **exceptions** from the restrictions, which were tightened or lightened depending on the epidemiological situation⁹¹⁸ almost on a daily basis.⁹¹⁹

In terms of **freedom of movement**, although the restrictions were defined with the by-laws of the Government, this basic right in the area of international traffic was completely restricted by the decree itself, while the discretion to establish exceptions from this rule was given to the Cabinet.⁹²⁰ Within the scopes of this right, the Government:

- Established exceptional cases when international air, land and sea traffic was allowed,⁹²¹
- Regulated the transportation of passengers and cargo within the country differently from existing legislation,⁹²²
- Tasked the Ministry of Health to define isolation and quarantine rules.⁹²³ The Minister approved these rules within three days of receiving the task.⁹²⁴

Similarly, the right to movement was restricted in Bulgaria,⁹²⁵ Estonia,⁹²⁶ Latvia,⁹²⁷ Romania,⁹²⁸ and Hungary.⁹²⁹

It is noteworthy that in Georgia, within the third part (definition of isolation and quarantine rules) additional delegation of the emergency regulation was made, which was contrary to the requirements of the decree. The act of the President directly established sanction for violating the State of Emergency, however, the right to define this regime was granted to the highest body of executive power and not to any of its lower levels (several wordings in the

⁹¹⁸ Most of the cases of lifting or mitigating restrictions served to revive economic activities. Interview with the Deputy Minister of Economy.

⁹¹⁹ The measures taken by the Government of Georgia, from March 21 to April 21, 2020 in accordance with the fundamental rights. See in detail in Annex № 3.

⁹²⁰ Decree № 1 of the President of Georgia of March 21, 2020 art. 1, para. 2.

⁹²¹ Measures approved by the ordinance № 181 Government of Georgia of March 23, 2020, art. 2.

⁹²² *Ibid.*

⁹²³ Measures approved by the ordinance № 181 Government of Georgia of March 23, 2020, art. 6.

⁹²⁴ Decree of the Minister of Health N01-31/6 of March 25, 2020 "On the Approval of Isolation and Quarantine Rules".

⁹²⁵ Freedom of movement and assembly in public spaces was restricted, education process transitioned to remote mode, etc. in Bulgaria. See България, Заповед № РД-01-124/13.03.2020, Министерство на здравеопазването на Република България, available at: <https://bit.ly/37nn2dl>, accessed: 11.02.2021.

⁹²⁶ Visits to hospitals, institutions of social assistance and penitentiary institutions were also restricted in Estonia. See Estonia, Decree of the person in charge of emergency situation for imposing a restriction on movement after crossing the state border, Riigi Teataja, available at: <http://bit.ly/3bgQ9QT>, accessed: 11.02.2021; Estonia, Restrictions on the freedom of movement and on holding public meetings and public events as necessary for preventing the spread of the COVID-19 disease, Riigi Teataja, available at: <http://bit.ly/3s0sfzT>, accessed: 11.02.2021; Estonia, Application of measures of emergency situation, Riigi Teataja, available at: <http://bit.ly/2NAZBXa>, accessed: 11.02.2021.

⁹²⁷ Nikolai Atanassov et al., *cited paper*, 7.

⁹²⁸ In Romania the freedom of movement was restricted, especially at night. Travel restrictions were also imposed. See România, Ordonanța Militară nr. 2 din 21 martie 2020 privind măsuri de prevenire a răspândirii COVID-19, Ministerul Afacerilor Interne, available at: <https://bit.ly/3quAJz4>, accessed: 11.02.2021.

⁹²⁹ The travel was restricted and quarantine measures were defined in Hungary. See Hungary, 41/2020. (III. 11.) Korm. rendelet az élet- és vagyonbiztonságot veszélyeztető tömeges megbetegedést okozó humánjárvány megelőzése, art. 2; Hungary, 45/2020. (III. 14.) Korm. rendelet az élet- és vagyonbiztonságot veszélyeztető tömeges megbetegedést okozó humánjárvány megelőzése, illetve következményeinek elhárítása, a magyar állampolgárok egészségének és életének megóvása érdekében elrendelt veszélyhelyzet során teendő intézkedésekről (II.), art. 6, Nemzeti Jogszabálytár, available at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=218497.380653, accessed: 11.02.2021.

text of the decree also directly indicated the competence of the Government⁹³⁰). **The rules for isolation and quarantine was to be approved by the government, as instructed by the presidential decree.**

Large-scale restrictions also affected the components of the **right to assembly** – assembly, manifestations and various forms of gatherings of people. This freedom was fully restricted by the decree and the Government was authorized to define itself as the exceptions from this rule. Within the scopes of the discretion, the Government established a limit of persons authorized on gatherings, which varied according to the epidemiological situation,⁹³¹ while allowed only remote form of cultural and sports events.⁹³²

Freedom of assembly was also restricted in Bulgaria,⁹³³ Estonia,⁹³⁴ Latvia,⁹³⁵ Romania⁹³⁶ and Hungary.⁹³⁷

The competence of the Government of Georgia **in terms of freedom of labor and entrepreneurship** was defined by establishing relevant subjects and rules within five areas.⁹³⁸ With this purpose the Government of Georgia along with other components of the named right, restricted economic activity with a few exceptions, (these exceptions were expanded or decreased depending on the situation).⁹³⁹

According to the Parliamentary Secretary of the Government of Georgia and the Deputy Minister of Economy, in terms of restricting the economic activities, the subjects of economic activity were selected by two mechanisms. In one case the field bodies (ministries) would provide the lists of concrete companies, in the second – the fields were defined activities of which should not have been terminated during the State of Emergency (priority were given to companies that produced disinfectants and face masks, as well as food manufacturers). In additions, those entrepreneurial entities were identified, whose activities were generally prohibited, although the permission to operate was given to on the condition of the fulfilment of certain requirements. These were so-called systemic companies: they had a large number of employees and suspension of their activities would be followed by the suspension of other activities as well. Lists of such enterprises were provided by the ministries according to their field of work and considering the criteria, how necessary they were to function. According to the obtained information, one of the enterprises was added to the list of economic activities based on its application.⁹⁴⁰ The final decision was made collectively. The business ombudsman was also engaged in the process (unlike him, the Public Defender was

⁹³⁰ Decree № 1 of the President of Georgia of March 21, 2020 art. 1, para. 1; para. 2, sub-paragraph “a” and art. 8.

⁹³¹ Measures approved by the ordinance № 181 Government of Georgia of March 23, 2020, art. 5.

⁹³² Decree № 1 of the President of Georgia of March 21, 2020, art. 1, para. 6.

⁹³³ In Bulgaria all public events and gatherings in public places were prohibited. See България, Заповед № РД-01-124/13.03.2020.

⁹³⁴ In Estonia gatherings in public spaces, movie screenings, night clubs, conferences and concerts were prohibited. See Estonia, Application of measures of emergency situation; restriction for public gatherings was also applied to religious services. See Ove Sander, “Ove Sander: kirikuksed on lahti, kuid jumalateenistused toimuivad internetis”, *Postimees*, 20 Märts 2020, available at: <http://bit.ly/3prSL3B>, accessed: 11.02.2021.

⁹³⁵ Nikolai Atanassov et al., *cited paper*, 7.

⁹³⁶ România, DECRET nr. 195 din 16 martie 2020, art. 2, para. “e”.

⁹³⁷ In Hungary public events and gatherings were prohibited. See „Coronavirus: State of Emergency Orders by Government,” *HUNGARY today*, 11 March 2020, available at: <http://bit.ly/2ZswzMO>, accessed: 11.02.2021.

⁹³⁸ Decree № 1 of the President of Georgia of March 21, 2020, art. 1, para. 7.

⁹³⁹ Measures approved by the ordinance № 181 Government of Georgia of March 23, 2020, art. 7.

⁹⁴⁰ Interview with the Deputy Minister of Economy. Here, in response to a relevant question, he noted that the reason for the cases of retaliation against the enterprises was to save these companies from being fined, since they were in fact operating before the relevant permit was issued.

not involved in the decision-making process at any stage of the mass restriction of human rights), who held consultations with business representatives in parallel.⁹⁴¹

During the State of Emergency, certain restrictions were considered in the Labor Code of Bulgaria. Employees were allowed to work remotely, get paid vacations etc.⁹⁴² Public entrepreneurial activities were also restricted.⁹⁴³ All business activities were restricted except for essential services in Romania.⁹⁴⁴ Freedom of labor and the right to entrepreneurship was restricted in Estonia,⁹⁴⁵ Latvia⁹⁴⁶ and Hungary.⁹⁴⁷

The scopes and purposes of restricting the **right to property** was defined for the Government of Georgia by the decree that was reflected in using the property and material resources of physical persons and legal entities, only in case of necessity, for quarantine, isolation and medical purposes.⁹⁴⁸ Therefore, the Cabinet imposed the liability of certain economic entities, at the request of the Ministry of Economy, to carry out charter flights to bring Georgian citizens, to transport passengers and cargo to quarantine zones, as well as to allocate hotels and/or similar accommodation facilities together with all accompanying services.⁹⁴⁹

In terms of providing public service and administrative proceedings,⁹⁵⁰ the Government of Georgia established some provisions itself (suspended the deadlines established by law for filing in and discussing the administrative complaints, as well as the terms for issuing public information and personal information).⁹⁵¹ The Government of Georgia has again delegated the authority to define certain special rules in terms of providing public services and administrative proceedings to the lower branches of the executive power.⁹⁵²

Similar restrictions on providing public services and administrative proceedings were imposed in Bulgaria⁹⁵³ as well. The Government in Romania limited judicial procedures, especially in civil and criminal cases.⁹⁵⁴ (Restriction of this right was established directly by a decree in Georgia).⁹⁵⁵ Should be noted that some of the regulations imposed within the scopes of this right in Georgia were less restrictive. They provided for a temporary exemption from the obligations set by ordinary legislation, transition to the procedure of electronic proceedings⁹⁵⁶ or postponement of procedures. Restrictions were expressed in postponing various

⁹⁴¹ Interview with the Parliamentary Secretary of the Government of Georgia and the Deputy Minister of Economy;

⁹⁴² България, Закон за мерките и действията по време на извънредното положение, чл. 7.

⁹⁴³ *Ibid.*, чл. 4, 5.

⁹⁴⁴ România, Ordonanța Militară nr. 2 din 21 martie 2020 privind măsuri de prevenire a răspândirii COVID-19.

⁹⁴⁵ Estonia, "Economic crisis and support," Estonian Government, available at: <https://www.kriis.ee/en/economy-and-business>, accessed: 11.02.2021.

⁹⁴⁶ Nikolai Atanassov et al., *cited paper*, 7.

⁹⁴⁷ Hungary, 46/2020. (III. 11.) Korm. rendelet az élet- és vagyonbiztonságot veszélyeztető tömeges megbetegedést okozó humánjárvány megelőzése, illetve következményeinek elhárítása, a magyar állampolgárok egészségének és életének megóvása érdekében elrendelt veszélyhelyzet során teendő intézkedésekről (III.), art. 6, Nemzeti Jogszabálytár, available at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=218547.380736, accessed: 11.02.2021.

⁹⁴⁸ Decree № 1 of the President of Georgia of March 21, 2020, art. 1, para. 5

⁹⁴⁹ Measures approved by the ordinance № 181 Government of Georgia of March 23, 2020, art. 8.

⁹⁵⁰ Regarding the standards of accessibility of public information. See "COVID-19: Governments must promote and protect access to and free flow of information during pandemic – International experts," OHCHR, available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25729>, accessed: 11.02.2021.

⁹⁵¹ Decree № 1 of the President of Georgia of March 21, 2020, art. 1, para. 4.

⁹⁵² Measures approved by the ordinance of the Government of Georgia № 181 of March 23, 2020, arts. 10-13; change of the entities regulating specific issues between ordinary and emergency situations. See Annex № 6.

⁹⁵³ България, Закон за мерките и действията по време на извънредното положение, чл. 5.

⁹⁵⁴ România, DECRET nr. 195 din 16 martie 2020.

⁹⁵⁵ Decree № 1 of the President of Georgia of March 21, 2020, art. 7.

⁹⁵⁶ According to the OECD directives, digitization of delivery of services serves to eliminate negative consequences

services, reducing the involvement of citizens in administrative proceedings and delays in receiving information.

As we can see from the above discussion, the Government of Georgia covered the issues delegated on it by the decree with its acts. While in cases, which required engagement of sectoral competencies, chose the path of additional deconcentration of relevant regulation.

Emergency Response Plan

The operational response plan, which was adopted by the Government in January, was also relevant during the State of Emergency. Notwithstanding the fact that the process was governed by emergency legislation during this period, the changes were made to the operational response plan, requirements were rightened and liabilities were imposed.⁹⁵⁷

Utilization of Defense Forces

The Constitution of Georgia provides for the possibility of using military forces during the State of Emergency.⁹⁵⁸ The President of Georgia decides on it upon recommendation of the Prime Minister of Georgia and then submits to the Parliament for approval.⁹⁵⁹ An exception to this rule is the epidemics situation when the Prime Minister shall make a decision on the use of the defence forces, and this decision shall not require Parliament's approval.⁹⁶⁰ In accordance with the defined procedure, during the State of Emergency declared in 2020, the Prime Minister issued decrees on using the military forces in various regions of Georgia. He used this right six times, and in five times only for municipalities in which the quarantine was declared.⁹⁶¹

It is noteworthy in the regard that the Head of the Government issued a similar regulation in each case, in relation to each municipality, some of which were valid throughout the State of Emergency, while the two of them – were annulled before. However, a decree on using the defense forces *throughout the whole territory of Georgia* was issued on March 30⁹⁶² (this decision was made only for two municipalities before this date).⁹⁶³ After this date, there was no need for an individual decision on using the defense forces in the separate territorial unit. Since the epidemic is not related to the main mission of the defense forces, their full mobilization is not advisable for supportive measures. **However, the recommendation in this re-**

and is welcomed. See OECD, *COVID-19 crisis response in Eastern Partner countries*, 13 October 2020, 24. available at: <http://bit.ly/3rU0yJc>, accessed: 11.02.2021.

⁹⁵⁷ 17 changes were made to the Plan during the state of emergency. (List of regulations defined in the operational plan during the State of Emergency see in Annex № 5).

⁹⁵⁸ Constitution of Georgia, art. 72, para. 2.

⁹⁵⁹ *Ibid.*

⁹⁶⁰ *Ibid.*

⁹⁶¹ From March 23 – in Marneuli and Bolnisi municipalities. See decree of the Prime Minister of Georgia of March 23, 2020 “On the Use of the Defense Forces of Georgia”; from March 30 throughout the whole territory of Georgia – the decree № 74 of the Prime Minister of Georgia “On the use of the Defense Forces of Georgia throughout the whole territory of Georgia”; from April 10 - in Lentekhi Municipality. See decree № 83 of the Prime Minister of Georgia of April 10, 2020 “On the Use of Defense Forces of Georgia”; from April 12 - in Kobuleti Municipality. See decree № 84 of the Prime Minister of Georgia of April 12, 2020 “On the Use of Defense Forces of Georgia”; on April 23 – village Gvankiti of Terjola municipality, decree № 87 of the Prime Minister of Georgia of April 23, 2020 “On the Use of the Defense Forces of Georgia” on April 26 – Tetrtskaro municipality – see decree № 88 of the Prime Minister of Georgia of April 26, 2020 “On the Use of the Defense Forces of Georgia”.

⁹⁶² Decree of the Prime Minister of Georgia № 74, March 30, 2020.

⁹⁶³ Decree of the Prime Minister of Georgia № 71, March 23, 2020.

gard is that the Prime Minister shall use the defense forces not throughout the territory of the country, but only in the certain part of the country where there is a special need for it. This will prevent less necessary use of defense forces by the State for non-military actions.

The practice of studied counties is also significant about the mentioned issue. Based on the Law of Bulgaria on measures of the State of Emergency, which was adopted by the Parliament at the initiative of the Government,⁹⁶⁴ armed forces were instructed to support state bodies in implementing certain measures, e.g., fulfill certain police functions.⁹⁶⁵

Based on the decree of the Government of Hungary, 51 hospitals were placed under the control of military officers, who were responsible for administrative oversight of pandemic-related issues there.⁹⁶⁶ A working group was staffed from soldiers, police officers and the disaster management unit workers, which was tasked to protect the Hungarian companies working in the field of energy, telecommunications, transport and healthcare, and ensure their smooth operation.⁹⁶⁷

Participation of Other Executive Bodies

Ministries also played an important role in developing emergency legislation. As already noted above, besides the Government, the decree granted only the Minister of Justice the authority to regulate certain issues of execution of the sentence.⁹⁶⁸ In other cases, the basis of competence of named institutions were either acts of the Government or the own initiative of the ministries to temporarily regulate for a certain period the legal relations within their spheres.⁹⁶⁹

As we can see according to these acts, the Government, as well as the ministries and other executive bodies were actively working during the State of Emergency. Ministers acted not only as instructed by the Government but also made changes to their ordinary acts and established exceptions for various periods. If in the first case their acts would replace rules established by other subjects during the ordinary situation and were valid only for the Emergency period, in the second case ministers would establish temporary exceptions through amendments to the existing decrees within their competence (mostly in the form of transitional provisions). At this time, they were not dependent on decrees and ordinances of the Government for neither a period nor the scopes of pre-defined regulation. Therefore,

⁹⁶⁴ Radosveta Vassileva, „Bulgaria: COVID-19 as an Excuse to Solidify Autocracy?,” *Verfassungsblog On Matters Constitutional*, 10 April 2020, available at: <http://bit.ly/3qy6h5>, accessed: 11.02.2021.

⁹⁶⁵ България, Закон за мерките и действията по време на извънредното положение, чл. 10; Coronavirus COVID-19 outbreak in the EU Fundamental Rights Implications, European Union Agency for Fundamental Rights, 23 March 2020, p. 6, available at: <https://bit.ly/3qsOPB6>, accessed: 17.02.2021.

⁹⁶⁶ “Coronavirus: 51 Hospitals under Military Command,” *HUNGARY today*, 31 March 2020, available at: <http://bit.ly/3s0sLhj>, accessed: 11.02.2021; “Coronavirus Update: Army officers begin their command of 51 hospitals in Hungary,” *About Hungary*, 31 March 2020, available at: <http://bit.ly/3u9k8mL>, accessed: 11.02.2021.

⁹⁶⁷ Hungary, 72/2020. (III. 28.) Korm. rendelet a kórházparancsnokról és az egészségügyi készlet védelméről, *Magyar Közlöny*, available at: <http://bit.ly/37phz69>, accessed: 11.02.2021; „Hungary to deploy military personnel to 140 state companies during pandemic,” *Reuters*, 19 March 2020, available at: <http://bit.ly/2Nid8TL>, accessed: 11.02.2021; „Megvan azon kritikus cégek fele, ahova bement a honvédelem,” *Index*, 19 March 2020, available at: <http://bit.ly/2ZoKmU1>, accessed: 11.02.2021.

⁹⁶⁸ Decree № 1 of the President of Georgia of March 21, 2020, art. 6; on the basis of the decree, on April 16, 2020, the Minister of Justice issued Order № 522 “On establishing a different rule for observing the regime established by law for probationers and parolees in order to prevent the spread of the new coronavirus (COVID-19) in Georgia”.

⁹⁶⁹ Measures taken by ministries and other executive bodies See Annex № 6.

in some cases, such regulations exceeded the duration of the State of Emergency.⁹⁷⁰

During the State of Emergency, bodies of the executive government participated in situation regulation in other studied countries as well. In particular, in Bulgaria the Vice-Premier presented the list of social-economic measures, which would help businesses and employed during the crisis.⁹⁷¹ The oversight of legitimacy of legislative acts in Estonia during the State of Emergency was the competence of the Minister of Internal Affairs or other body defined by the Government.⁹⁷² The Government of Latvia approved the draft-law for coping with the Covid-19 crisis developed by the Ministry of Finance of Latvia, which covered economic measures to be taken by the State to support businesses.⁹⁷³ While in Romania, the decree of the President granted the Minister of Internal Affairs the authority to issue military ordinances.⁹⁷⁴ The Minister of Healthcare and the National Committee of Emergency Situations also participated in this process.⁹⁷⁵

Activities of Special (Ad Hoc) Agencies

As for the *ad hoc* agencies, as noted above, before declaring the State of Emergency the Government of Georgia established an Interagency Council, which was the main basis for the Government's decisions. It *de facto* decided at a political level, after that they were approved with a legal act of the Cabinet or were issued as recommendations.⁹⁷⁶ Out of studied countries, special agencies to fight the pandemic were established in Bulgaria,⁹⁷⁷ Estonia⁹⁷⁸ and in Romania.⁹⁷⁹ Specialized headquarters was established in Bulgaria,⁹⁸⁰ which

⁹⁷⁰ For example, the **Minister of Education** allowed the performance of the duties of the Professional Public Servants Professional Development Program Accreditation Experts and Board Members remotely in the period *before the threat of the new coronavirus was eliminated*. See decree № 41/6 of March 24, 2020 "On Approval of Professional Public Servants Professional Development Program Accreditation statute and the fees" on amendments to the decree № 46/6 of the Minister of Education, Science, Culture and sports, dated March 6, 2020; also **the Ministers of Health and Finance** 9 types of goods intended for medical purposes exempted from VAT until October 1, 2020, with a joint decree. See decree № 01-36/6/№ 89 of April 1, 2020 "On Defining the list of goods intended for medical purposes, provision and/or import of which shall be exempt from VAT" on amendments to the joint decree № 01-69/6/№ 451 of the Minister of Labor, Health and Social Protection and the Minister of Finance of December 15, 2017.

⁹⁷¹ „Министри представиха пакет от социално-икономически мерки за първия етап от кризата с коронавируса,” *БНТ Новини*, 15 Март 2020, available at: <http://bit.ly/3pxNdEB>, accessed: 11.02.2021.

⁹⁷² Estonia, Emergency Act, arts. 45-46.

⁹⁷³ “Latvian government announces further support measures for business and employees,” *Public Broadcasting of Latvia*, 19 March 2020, available at: <http://bit.ly/2Zs7AZv>, accessed: 11.02.2021.

⁹⁷⁴ România, DECRET nr. 195 din 16 martie 2020.

⁹⁷⁵ România, Ordonanța de Urgență nr. 21 din 15 aprilie 2004 privind Sistemul Național de Management al Situațiilor de Urgență, art. 8¹, cls. 1, 3.

⁹⁷⁶ Interview with the former Head of the Administration of the Government of Georgia.

⁹⁷⁷ The specialized headquarters consisted of ministers and representatives of parliamentary groups. See “Извънредно положение за месец: Работа от вкъщи, затваряне на граници, стимули за лекарите (обновена),” *Mediapool*, 13 Март 2020, available at: <http://bit.ly/3u8XBWY>, accessed: 11.02.2021; “Measures Imposed In Bulgaria One Of The Most Liberal In Europe,” *Cord Magazine*, 1 May 2020, available at: <http://bit.ly/3jZ4mWY>, accessed: 11.02.2021.

⁹⁷⁸ „The Prime Minister will be leading the Government Committee tasked with resolving the situation caused by the coronavirus,” *KRIIS.EE*.

⁹⁷⁹ România, Ordonanța de Urgență nr. 21 din 15 aprilie 2004 privind Sistemul Național de Management al Situațiilor de Urgență, art. 8¹, cls. 1, 3; România, Hotărârea Guvernului României nr. 94/2014 privind organizarea, funcționarea și componența Comitetului național pentru situații speciale de urgență; Romania, „Coronavirus COVID-19 outbreak in the EU Fundamental Rights Implications,” 3.

⁹⁸⁰ The National Operational Headquarters was established by order of the Prime Minister on 26 February 2020

was tasked to cope with the pandemic-caused social-economic crisis.⁹⁸¹ The Government in Estonia created a committee, which lead the crisis resolution process.⁹⁸²

The composition of the Council in Georgia has not been defined by an act of its establishment. Only positions were defined, or a reference was made to a representative of any agency. The act of establishment also provided for the possibility to invite relevant field specialists and representatives of public institutions for each certain case to participate in the Council activities.⁹⁸³ Therefore, there was no exact composition of the deliberative body and with few exceptions, the members were constantly changed. This mechanism ensured the flexibility of Council activities.⁹⁸⁴

Only the medical and business sectors were involved in the work of the Interagency Council. It was impossible for any other actors to influence the process. As for the practice of studied countries, Bulgarian headquarters consisted of Ministers and representatives of the parliamentary groups.⁹⁸⁵ The Prime Minister chaired special committee of Estonia, and ministers and the Secretary of State were the members. In case of need, other persons as well would involve in the committee activities.⁹⁸⁶ In Romania the National Committee for Special Emergency Situations was chaired by the Prime Minister and depending on the emergency topics, it was composed of ministers of relevant field or Secretaries of State appointed by them or heads of central public bodies or persons appointed by them.⁹⁸⁷ **In the case of Georgia participation of institutions, protecting human rights and representatives of the Parliament in activities of the Interagency Council would make the management of the State of Emergency more transparent and inclusive.**

The basis of activities of the Interagency Council in Georgia was the Ministry of Healthcare and National Center for Disease Control, which provided recommendations developed based on the global, regional and country epidemic situation. The recommendations were based on best practice and evidence of the World Health Organization (WHO), US Centers for Disease Control and Prevention (CDC), European Centre for Disease Prevention and Control (ECDC) and other leading public health institutions.⁹⁸⁸

to organize, coordinate and monitor all actions of the competent authorities to stop the spread of COVID-19. It was also tasked with collecting, summarizing and analyzing information on the spread of COVID-19; as well as informing the media and the public. The headquarters was headed by the head of the Military Medical Academy, who was granted the competence of the advisor of the Council of Ministers, and national and regional bodies of the healthcare. The headquarters issued orders regarding the measures taken against the epidemic, България, Заповед на министър-председателя № Р-37/26.02.2020; "Bulgaria, Policy Responses for Bulgaria," *Covid-19 Health System Response Monitor*.

⁹⁸¹ "Извънредно положение за месец: Работа от вкъщи, затваряне на граници, стимули за лекарите (обновена)," *Mediapool*; "Measures Imposed In Bulgaria One Of The Most Liberal In Europe," *Cord Magazine*.

⁹⁸² „The Prime Minister will be leading the Government Committee tasked with resolving the situation caused by the coronavirus," *KRIIS.EE*.

⁹⁸³ Decree of the Government of Georgia of March 30, 2020 "On Creation of Interagency Council for preventing the new Coronavirus in Georgia" , para. 4.

⁹⁸⁴ Interview with the former Head of the Administration of the Government of Georgia.

⁹⁸⁵ "Извънредно положение за месец: Работа от вкъщи, затваряне на граници, стимули за лекарите (обновена)," *Mediapool*; "Measures Imposed In Bulgaria One Of The Most Liberal In Europe," *Cord Magazine*.

⁹⁸⁶ „The Prime Minister will be leading the Government Committee tasked with resolving the situation caused by the coronavirus," *KRIIS.EE*.

⁹⁸⁷ România, Ordonanța de Urgență nr. 21 din 15 aprilie 2004 privind Sistemul Național de Management al Situațiilor de Urgență, art. 8¹, cls. 1, 3; România, Hotărârea Guvernului României nr. 94/2014 privind organizarea, funcționarea și componența Comitetului național pentru situații speciale de urgență; Romania, „Coronavirus COVID-19 outbreak in the EU Fundamental Rights Implications," 3.

⁹⁸⁸ Interview with representatives of the National Center for Disease Control.

As for the rules of activity of the Interagency Council, its statute, including the procedures for making recommendations or conclusions, has not been approved by the founding act. Furthermore, meetings of the deliberative body were closed. The issues were only discussed at the meetings, it formally made no decisions, but the Cabinet approved the recommendations developed because of discussions (if the legal act was required). According to the former head of the Administration of the Government of Georgia, decisions at the Council meetings were made unanimously, however, there were debates as well and dissenting opinions were discussed.⁹⁸⁹ The Council members were gathering several times per day, as required. As it turned out, this body did not keep the minutes of meetings.⁹⁹⁰ In fact, the activities of the key organ managing the State of Emergency was confirmed by briefings and specially developed web-pages. The decisions approved by the Cabinet were also available only through legal acts. Due to lack of access to agendas, minutes of meetings and explanatory notes to acts, it was impossible for the authors of the research to analyze reasons of decisions, purposes, alternatives, procedures for their adoption, engaged subjects and differences of opinion. It was impossible to evaluate all this not only in parallel to the State of Emergency but several months later as well, which in general deserves the harsh criticism – **the already closed regime of the Cabinet activities was even further closed due to the lack of documented materials/secretcy of the activities of the interagency Council and weakened the possibility of public feedback to the only branch of the Government in place for months.**

On March 30, an operational headquarters was established at the Interagency Council.⁹⁹¹ The head of the headquarters was to be selected out of deputies of permanent members of the National Security Council; the Prime Minister was granted an authority to appoint its head. The Head of the Government also defined rules of activity of the headquarters, while its administrative and legal support was tasked to the Office of the National Security Council.⁹⁹² The operational staff was authorized to create local operational staffs under it. Numerous decisions were agreed upon with this organ made by subordinate bodies.⁹⁹³

As already mentioned, the establishment of such body is provided for by the “Law of Georgia on Public Safety”,⁹⁹⁴ according to which management of response to the emergency situation of national importance shall be carried out at operational level by the MIA or on the basis of a recommendation of the Minister an *Interagency Operational Center* established with the decision of the Prime Minister. Setting up local field headquarters is also possible. This mechanism was essentially similar to the institute of Operational Headquarters used in practice; however, as the former head of the Administration of the Government noted, the Government did not rely entirely on the named provision of the law in establishing this agency and introduced a more flexible mechanism. Operational headquarters was the body established at the level of deputy ministers/heads of departments of ministries, which received the tasks from the Interagency Council, as the policy-making organ by that time. At its lower level were regional councils/headquarters, which included police, municipalities,

⁹⁸⁹ *Ibid.*

⁹⁹⁰ Interview with the former Head of the Administration of the Government of Georgia.

⁹⁹¹ The ordinance of the Government of Georgia № 204 of March 30, 2020 on amendments to the ordinance № 181 of the Government of Georgia of March 23, 2020 “on Approval of Measures to be Implemented to Prevent the Spread of the New Coronavirus in Georgia”.

⁹⁹² *Ibid.*, (№ 204 amendment of March 30).

⁹⁹³ *Ibid.*

⁹⁹⁴ Law of Georgia on Public Safety, art. 16, para. 2, subparagraph “b”.

and representatives of local hospitals.⁹⁹⁵ As it turned out, the operational headquarters set up during the state of emergency was analogous to the Interagency Operational Center provided by ordinary legislation, and the degree of its decentralization was equivalent to field operational headquarters. This further proves that the ordinary law provided the appropriate institutional basis for managing the emergency, and in case of insufficient flexibility, it was possible to refine them through accelerated parliamentary procedures, which the government did not use.

6.2. Extension and Termination of the Term of the State of Emergency

In the majority of cases, legislations of countries provide for the extensions of the term of the State of Emergency. However, it is impermissible for the executive government to do so arbitrarily.⁹⁹⁶ This decision shall be subject to continuous discussions and review by the Parliament.⁹⁹⁷ In Romania⁹⁹⁸ and Poland,⁹⁹⁹ the State of Emergency shall be extended only with the consent of the Parliament; however, the legislation does not specify how many times it can be extended once. The term of the State of Emergency in Latvia may be extended not exceeding three months with the decision of the Government and this decision is subject to parliamentary oversight.¹⁰⁰⁰ In Lithuania, the term may be extended several times for a period not exceeding six months.¹⁰⁰¹ The Parliament makes a decision at the session, and in the period between sessions - the President, subject to further parliamentary oversight.¹⁰⁰² Unlike discussed practice, the decision to extend the State of Emergency in Estonia is made by the Government.¹⁰⁰³

Similar to Bulgaria, Slovenia, Hungary and Croatia, in Georgia as well the extensions of the term of the State of Emergency is not provided. If necessary, it can be re-declared with the same procedure, as was initially declared. Therefore, neither the repetition of the extension nor the terms are defined. The State of Emergency declared on March 21, 2020, despite contradictions¹⁰⁰⁴ was extended for one month a month later.¹⁰⁰⁵ The State of Emergency

⁹⁹⁵ Interview with the former Head of the Administration of the Government of Georgia.

⁹⁹⁶ Venice Commission, *Respect for Democracy, Human Rights and the Rule of Law during States of Emergency – Reflections*, p. 36.

⁹⁹⁷ Venice Commission, *Opinion on the Draft Constitutional Law on “Protection of the Nation” of France*, 19; Brannigan and McBride v. the United Kingdom, p. 54; Venice Commission, *Respect for Democracy, Human Rights and the Rule of Law during States of Emergency – Reflections*, p. 36.

⁹⁹⁸ România, ORDONANȚA DE URGENȚĂ nr. 1 din 21 ianuarie 1999, art. 15.

⁹⁹⁹ The Constitution of Poland, art. 232.

¹⁰⁰⁰ Latvia, On Emergency Situation and State of Exception, art. 5, para. 3, art. 10, para. 1.

¹⁰⁰¹ Lietuva, Lietuvos Respublikos nepamprastosios padėties įstatymas, art. 5, para. 2.

¹⁰⁰² *Ibid.*, arts. 6-8.

¹⁰⁰³ Declaration of Emergency Situation in the Administrative Territory of the Republic of Estonia, art. 2, Riigi Teataja, available at: <https://www.riigiteataja.ee/en/eli/517032020002/consolide>, accessed: 11.02.2021.

¹⁰⁰⁴ The decree of the President of Georgia did not gain full support of the Parliament unlike the first decree. See “97 for, 10 against - Parliament approves the decree of the President of Georgia regarding the continuation of the state of emergency in the country”, website of the Parliament of Georgia, 22 April 2020, available at: <https://bit.ly/34rEk8V>

¹⁰⁰⁵ Decree of the President of Georgia № 2 of April 21, 2020 “On Declaring a State of Emergency”.

was extended in studied countries as well (Bulgaria,¹⁰⁰⁶ Estonia,¹⁰⁰⁷ Latvia,¹⁰⁰⁸ Romania¹⁰⁰⁹ and Hungary¹⁰¹⁰).

According to the Parliamentary Secretary of the Government of Georgia, the need for extension of the term was caused by the still insufficient outcomes of the fight against the virus. An epidemic situation was assessed by the end of the first month and the picture did not allow for ending the State of Emergency. According to the Secretary, simultaneous lifting of the imposed restrictions would lead to the annulment of the results and the situation would become unmanageable.¹⁰¹¹ According to the statistical data obtained during the research, from March 21 to April 21, 360, cases of infection were confirmed in Georgia and 320 were added in the next month. Despite the restrictions imposed during the first month of the State of Emergency, the cases of infection have not been substantially reduced (the difference was only 40). According to the epidemiologist's prognosis, from mid-April, the pick of confirmed cases was expected.¹⁰¹² Indeed, from 11 to 17 April, the sharpest increase was observed. When discussing the extension of the State of Emergency, initially it was thought to extend the State of Emergency until the 10th of May,¹⁰¹³ however, what was the reason for selecting one month, was impossible to get the information on.

Since the "side effects" of the State of Emergency also affected the economy and the education system, the Government received the consent of the Parliament to declare the State of Emergency for the second term on the condition of submitting anti-crisis plans for these areas.¹⁰¹⁴ Furthermore, the President indicated the rising cases of infections in the country, the goal to stop the spreading of the virus and maintaining its effective management as additional grounds for declaring the State of Emergency.¹⁰¹⁵

The ordinary legislative activities of the executive power have increased from the second month of the State of Emergency. If before that generally, the emergency acts were issued, after the first month changes were made to the current acts and the exceptions previously

¹⁰⁰⁶ in Bulgaria the State of Emergency was extended by one month. See "Bulgaria's Parliament extends the coronavirus state of emergency until May 13," *Bulgarian National Television*.

¹⁰⁰⁷ in Estonia the term was extended for 16 days, see "SPECIAL NOTICE: The Government has extended the emergency situation in Estonia until May 17," KRIIS.EE.

¹⁰⁰⁸ in Latvia the State of Emergency was extended twice from March to June. The state of emergency was declared on March 12 and lasted for the first time until May 12 and for the second time until June 9.. See "Government extends state of emergency until 12 May," *Cabinet of Ministers Republic of Latvia*; "Strategy of the government for the next stage of Covid-19 restrictions: strict domestic health measures and gradual easing of restrictions," *Cabinet of Ministers Republic of Latvia*.

¹⁰⁰⁹ in Romania the term of the State of Emergency was extended once. See România, DECRET nr. 240 din 14 aprilie 2020.

¹⁰¹⁰ In Hungary, the parliament has extended the state of emergency once. See Hungary, 2020. évi XII. Törvény a koronavírus elleni védekezésről; Kriszta Kovács, „Hungary's Orbánistan: A Complete Arsenal of Emergency Powers," *Verfassungsblog On Matters Constitutional*, 6 April 2020, available at: <http://bit.ly/37jzjzO>, accessed: 11.02.2021; "Coronavirus: Hungary votes to end Viktor Orban emergency powers," *BBC News*; „Coronavirus Update: Parliament terminates state of emergency powers," *About Hungary*, 17 July 2020, available at: <http://bit.ly/3jXjJUH>, accessed: 11.02.2021.

¹⁰¹¹ Interview with the Parliamentary Secretary of the Government of Georgia.

¹⁰¹² This forecast was one of the reasons that led to the initiation of a second extension of the state of emergency. The factor of upcoming religious holidays marked by the mobility of citizens was also partially taken into account. Interview with Former Head of Administration of the Government of Georgia.

¹⁰¹³ "The state of emergency will last until May 10," *information portal „BMG*", February 12, 2020, available at: <http://bit.ly/3s1lGvT>, accessed: 11.02.2021.

¹⁰¹⁴ "The party "Social Democrats" explain why they supported the continuation of the State of Emergency," *information portal „Interpressnews*", April 23, 2020, available at: <http://bit.ly/3quBkXU>, accessed: 11.02.2021.

¹⁰¹⁵ Decree of the President of Georgia № 2 of April 21, 2020 "On Declaring a State of Emergency".

imposed on the basis of the decree were gradually revised.¹⁰¹⁶ Should also be noted here that from May 2, the changes to the Code of Administrative Offenses and Criminal Code of Georgia entered into force that established the relevant responsibility for violating the State of Emergency and violating the rules of quarantine and isolation.¹⁰¹⁷

Similar to Georgia, Bulgaria,¹⁰¹⁸ Estonia,¹⁰¹⁹ Latvia¹⁰²⁰ and Hungary¹⁰²¹ started to ease the restrictions after the State of Emergency was extended. Unlike these countries, Romania has not eased the restrictions during the second term of the State of Emergency.¹⁰²²

Generally, the State of Emergency is lifted when its term expires. However, it is also possible to terminate it ahead of time, if the circumstances that caused its declaration do no longer exist.¹⁰²³ the same can be observed in Bulgaria,¹⁰²⁴ Estonia,¹⁰²⁵ Latvia,¹⁰²⁶ Romania,¹⁰²⁷ Poland¹⁰²⁸ and Hungary.¹⁰²⁹

¹⁰¹⁶ On the measures taken by the executive power in the second half of the State of Emergency. See Annex № 4.

¹⁰¹⁷ Law of Georgia № 5889-ლს “On amendments to the Criminal Code of Georgia” of April 23, 2020; Law of Georgia № 5887-ლს “On Amendments to the Code of Administrative Offenses of Georgia” of April 23, 2020.

¹⁰¹⁸ Bulgaria declared a State of Emergency from March 13 to April 13, and subsequently extended it until May 13. However, some restrictions have already been lifted since May 4. See „Bulgaria: State of emergency to end on May 13 /update 7,“ *Garda*, 5 May 2020, available at: <https://bit.ly/3dnImVA>, accessed: 11.02.2021.

¹⁰¹⁹ The Government of Estonia has begun to lift some restrictions before the end of the second term of the State of Emergency. See „SPECIAL NOTICE: Outdoor gyms will be opened as of 2 May,“ KRISSE.EE, 27 April 2020, available at: <http://bit.ly/2NxMaYj>, accessed: 11.02.2021; Eesti, Peaministri 14. märtsi 2020. a korralduse nr 29 „Eriolukorra juhi korraldus seoses avalikuks kasutamiseks mõeldud asutustele kehtestatavate piirangutega“ muutmise, KRISSE.EE, available at: <https://bit.ly/37kJvs0>, accessed: 11.02.2021; „SPECIAL MESSAGE: Open-air museums will be opened and outdoor sports events will be allowed from 2 May,“ KRISSE.EE, 28 April 2020, available at: <http://bit.ly/3bhOdYD>, accessed: 11.02.2021; Eesti, Vabariigi Valitsuse 13. märtsi 2020. a korralduse nr 77 „Eriolukorra meetmete rakendamise“ muutmise, KRISSE.EE, available at: <https://bit.ly/2ZoTckz>, accessed: 11.02.2021; „SPECIAL ANNOUNCEMENT: The government eases restrictions in the fields of education, culture, and sports,“ KRISSE.EE, 5 May 2020, available at: <http://bit.ly/2Nf8iXt>, accessed: 11.02.2021; Eesti, Vabariigi Valitsuse 13. märtsi 2020. a korralduse nr 77 „Eriolukorra meetmete rakendamise“ muutmise, KRISSE.EE, available at: <https://bit.ly/3k47bG3>, accessed: 11.02.2021; Eesti, Vabariigi Valitsuse 13. märtsi 2020. a korralduse nr 77 „Eriolukorra meetmete rakendamise“ muutmise korralduse seletuskiri, KRISSE.EE, available at: <https://bit.ly/2ZmgbNe>, accessed: 11.02.2021.

¹⁰²⁰ in Latvia easing of measures against the new Coronavirus started after the second term of State of Emergency. See “The Cabinet of Ministers has decided on the legal framework for the period after the end of the state of emergency,” *Cabinet of Ministers Republic of Latvia*, 28 May 2020, available at: <https://bit.ly/2Nv8YI2>, accessed: 11.02.2021.

¹⁰²¹ Easing of measures began after the extension of the term in Hungary. See “Hungary: Authorities to begin easing COVID-19 restrictions in Budapest May 18 /update 8,“ *Garda*, 17 May 2020, available at: <https://bit.ly/3u8HKYE>, accessed: 11.02.2021.

¹⁰²² România, DECRET nr. 240 din 14 aprilie 2020; “Head of RO emergency service: Lockdown restrictions might not be lifted on May 15 if coronavirus situation does not improve,“ *Romania Insider*, 28 April 2020, available at: *Garda*, 6 April 2020, available at: <https://bit.ly/2OLt0Pc>, accessed: 11.02.2021.

¹⁰²³ Venice Commission, *Compilation of Venice Commission Opinions and Reports on States of Emergency*, 21.

¹⁰²⁴ Republic of Bulgaria Defence and Armed Forces Act, art. 122, para. 3.

¹⁰²⁵ Estonia, Emergency Act, art. 22.

¹⁰²⁶ Latvia, On Emergency Situation and State of Exception, art. 5, para. 2.

¹⁰²⁷ România, ORDONANȚA DE URGENȚĂ nr. 1 din 21 ianuarie 1999, art. 10.

¹⁰²⁸ Polska, USTAWA z dnia 18 kwietnia 2002 r. o stanie klęski żywiołowej, art. 6, para. 2.

¹⁰²⁹ The Constitution of Hungary, art. 53, para. 4.

The decision on lifting the State of Emergency is made by the body, which declared it.¹⁰³⁰ The State of Emergency is automatically lifted in Georgia, upon the expiration of the term of the order. As no maximum term is provided for by the legislation in Georgia, theoretically it is possible to declare it without indicating the end date. In this case, it should be lifted with the same procedure, as was declared – by the President with the recommendation of the Prime Minister and with the approval of the Parliament.¹⁰³¹ The same rule will be implied if the State of Emergency has to be suspended ahead of time. The term of the State of Emergency was expired on May 22, 2020, and had not been extended for the third term.

¹⁰³⁰ The government declares a State of Emergency invalid in Estonia. See Estonia, Emergency Act, arts. 22-23; in Latvia. See Latvia, On Emergency Situation and State of Exception, art. 5, para. 2; The decision to declare a State of Emergency in Lithuania is declared invalid by the Parliament. See Lietuva, Lietuvos Respublikos nepaprastosios padėties įstatymas, art. 9, para. 1; The decision to lift the State of Emergency in Slovenia is made by the parliament at the initiative of the Government. See The Constitution of Slovenia, art. 92; The Government in Hungary has the power to declare a State of Emergency invalid, but the cabinet may also lift it at the initiative of parliament. See The Constitution of Hungary, art. 53, para. 4; Hungary, 2020. évi XII. Törvény a koronavírus elleni védekezésről, art. 3, para. 2.

¹⁰³¹ Constitution of Georgia, art. 71, para. 6.

SUMMARY. FINDINGS AND RECOMMENDATIONS

As a rule, any extraordinary situation or circumstance attracts more attention than usual processes. The provocation of special interest is conditioned by the establishment of rules and subjects different from those operating specifically for this situation. At the national level, such unusual situations are manifested in the declaration of a state of emergency, the purpose of which is to return to the ordinary rhythm of public life.

The state of emergency is not unfamiliar to Georgia. However, in 2020, due to the epidemic situation, it was first declared throughout the country. Like other states, in accordance with the Constitution, the redistribution of power among the branches of government has been modified here as well, and has been directed by the executive. The rules have also changed – together with the initiator, the Government has become the decision-maker, the executive and, in some cases, the judge.

The study became interested in how the Government was acting during the state of emergency in 2020; Whether it followed the written or unwritten rules and, despite the expedited decision-making process, to what extent it was able to ensure public participation or feedback in the process. For this purpose, the authors of the study surveyed the activities of the Cabinet within the framework of ordinary legislation and the framework of the state of emergency. While working on the document there were identified deficiencies not only in the operational level of government functioning but also in the regulatory framework. In parallel with their identification, the study suggests recommendations and ways to improve performance, including taking into account the best practices of other countries.

If one intends to summarize the findings of this study and tries to make the main point in a few sentences, one should definitely emphasize the following circumstances: The status of the Prime Minister of Georgia varied between the formulas: “First among inequalities” and “First among equals”, although beyond the institutional framework the influence of the head of government depends on his aspirations and the balance of political power between the ruling party and coalition parties (if any). It should also be noted that the separation of competencies between the Cabinet and the Ministries is unclear, which complicates the administration of the centre of the gravity of power. If this is added by the lack of transparency characteristic in the work of the Georgian Government, it can be said that there is a good basis for influencing the Cabinet based not on formal rules but personal characteristics. As for the second part of the study, it was revealed that Georgia was unprepared for the declaration of the state of emergency, both in terms of the normative framework and the epidemiological point of view, which led to the declaration of a state of emergency, intensive, and undesirable interference with human rights. The government has not used (or not properly used) pandemic management bodies that already exist at the normative or factual level, specifically designed for crisis management and created a new interim system, the need for which has not been confirmed at any stage of the study. Cabinet activities became even more opaque during the state of emergency. The decisions made were largely based on the opinions of epidemiologists, and the country was in fact governed by medical prescriptions. At the discussion stage, there was no mechanism for involving the ombudsmen of the state and civil society. Parliament was practically excluded from the process, and only the business community was granted access.

Activities of the Government in an Ordinary State

The authors of the document also studied the activities of the Cabinet of Ministers and its key subjects in accordance with the current legislation. An analysis of their competencies and decision-making rules revealed a number of shortcomings.

A succession of the Prime Minister

According to the current law when the Prime Minister resigns, the Deputy Prime Minister will serve as Head of Government until a new Government is formed. This rule does not reflect the idea of the representation of political forces in the Cabinet of Parliament. It would be better if the resigned prime minister, along with the rest of the cabinet, takes office until a new government is formed.

Legal Acts of the Government

Unlike the practice of other countries, the legislation of Georgia chooses the method of classifying legal acts only according to their normative and individual content. Consequently, in some cases, various aspects of the field of regulation cannot be fully placed under a decree or ordinance. Most government regulations apply not only to the addressees specified in the act, but also to external entities who indicate their normative content. **In order to take an identical approach to the problem of what kind of act a particular legal relationship should be regulated by, it is important to determine in advance the impact of the regulation on the addressees and the possibility of its multiple use.**

Formation of Deliberative Bodies by the Government

The Government has the right to establish deliberative bodies to study a particular issue. Sometimes the law requires it to create such an agency. In the first case, they are temporary (ad hoc) and exhaust themselves by studying the issue for which they were formed. Its need and mandate are determined independently by the government. In the second case, the basis for the creation of these bodies is a special law. It sets the mission of the agency and ensures that a pre-written assignment is delegated to it. Despite this difference, it was found that in some cases the rule for the creation of deliberative bodies is not respected: On the one hand, deliberative bodies defined by law are created ad hoc on the legal basis of a special agency, and on the other hand, the legal instrument for their creation is used incorrectly. **In order to eliminate such inconsistent practices, it is important that the commissions instructed by law be established by the government based on the same legislative reference and normative act (ordinance), and special (ad hoc) bodies - on a general basis and by an individual act (decree). In the latter case, the text of the legal act should not violate the scope of individual regulation; in particular, it should be directed to a specific issue and not set out the obligations of the addressees.**

Electronic Government

For several years now, the rules for making decisions through the electronic government program is implemented in the Georgia government. This procedure does not require the assembly of Cabinet members and the approval of the legal act is done in a simplified way,

through software. The decision to use such an alternative is made by the Government administration. The most important part of this process is its conclusion after expert review. Despite the flexibility of resolving issues through the program, the risk of speeding error increases. Consequently, **it would be better if the issue of electronic government in Georgia is resolved as an exception and this is decided by the Prime Minister instead of the government administration at the stage of preparation of the government session; there should also be an opportunity for the initiator to request a decision-making format for the project initiated by him.**

Openness of Activities

The Government operates in a substantially closed format. This reduces the quality of informing the public not only about the issues to be discussed but also about the ongoing debate, the divergence of opinions or solution alternatives during the discussion. **It would be better if the sessions of the government in Georgia would be open, and in some cases, the possibility of closing them would be determined.**

Other problems were identified in terms of public involvement and access. In particular, the agenda projects to be discussed, minutes of the sessions are not fully published. Sharing the approaches and experiences of the countries discussed in the study will make a significant positive contribution to the transparency of the Georgian government. **Publishing the aforementioned documents and organizing feedback from stakeholders will substantially improve communication between government agencies and citizens.**

As for the access to the already adopted legal acts, a problem has been identified in this regard as well: unlike the decrees, there is no obligation to publish the decrees in the Legislative Herald. They are uploaded on the Government website, although in an uncodified form. And in order to see the codified version of the decrees on the Legislative Herald requires payment. **The government should change this rule and allow any person to have free access to consolidated versions of legal acts.**

Separation of Powers

A study of the powers of the Government, the Prime Minister and ministers revealed an inconsistent practice of their separation. The classification of competencies in the study made visible the overlap between the powers of the Cabinet and the ministers at the normative stage. There is no clear approach to determining which performer is responsible for direct executive functions in a particular field. **It would be advisable that the division of powers between the government and the ministers in part of the administration be subject to certain criteria. At the same time, the right to determine the main directions in the field, without artificially dividing the issues, has to be transferred to the Cabinet, and the writing of procedures - entrusted to the Ministry.**

A similar shortcoming is also revealed with regard to the Prime Minister. There is a fragmented part of the administration functions; There does not appear to be a consistent approach by him and the Cabinet in terms of the distribution of competencies in sectoral areas; In some cases, it is unclear why only Prime Minister has one specific authority and the other - the government/minister, or vice versa. **It is better to transfer such powers to the Cabinet, which would make more sense to redistribute direct executive functions among**

government entities. In addition to this, in terms of personnel competencies, the head of the Georgian Government has quite a lot of advantage not only in relation to legal entities directly related to the Government but his influence is also felt in the sectoral areas. In addition, the head of government nominates the deputy ministers (other than the deputy state minister) on the recommendation of the minister. In order to prevent the excessive power of the Prime Minister, **it is recommended that the Minister himself appoint the Deputy Ministers and that the relevant Minister on a competitive basis appoints the heads of the LEPLs in the sphere of governance of the Ministries. Such practice precludes the politicization of the management of LEPLs and the non-uniform intervention of the Prime Minister in this matter.**

Legal Expertise of the Ministry of Justice

Prior to the publication of the acts of the executive bodies, the stage of their legal examination by the Ministry of Justice has been established in Georgia. The relevant rule stipulates that the draft normative order of the Minister is exempt from expertise. There are exceptions, the list of which shows that they are selected according to the importance of the issue, the complexity and the characteristics of the intense conflict with human rights. In case a new topic arises in the legislation, which should be conceptually exceptional (i.e., requires expertise), the normative act of the responsible Minister shall be automatically excluded from the obligation of the Ministry of Justice to conduct expertise. **It is better to add another norm to this list, which will allow the ministries if they wish to send and act to the Ministry of Justice that is not on the list of issues subject to expertise but shares the approach of this list. The obligation to communicate with the Ministry of Justice in less clear cases should also be established.**

Preliminary Agreement between Ministers on Government Acts

The project undergoes a preliminary agreement procedure between the ministries before being initiated in the Government. In this process, the need for mandatory consensus on all decisions for the three ministries emphasises their dominance over others. Thus, the non-fixation of the position of any of them, even with the consent of all other ministries, delays or blocks the submission of the issue to a government session (hence, a formal presentation to the Prime Minister) and the final resolution. It is allowed to upload the same issue several times with the same version. **The correct approach would be to determine the need to bring the issue to a government meeting after the first case of impossibility of preliminary agreement between the ministers, where the issue will be resolved in a collegial format.**

Activities of the Government during the State of Emergency

The Government's performance during the state of emergency was assessed from two angles: the legislative framework and implementation. Deficiencies were identified on both sides.

Emergency Legislation

In the ordinary legislation of Georgia, we find norms that prescribe the possible actions to be taken during a state of emergency. This refers to the individual steps of the Government, the possibility of introducing interim governance, as well as the emergency budget. Such an arrangement does not correspond to the logic of the constitutional regulation of the state of emergency, by which this process is entrusted to the Prime Minister-President-Parliament Act-decree. They create the rule adapted to the particular situation and deviates from the ordinary legislation to the extent necessary for that moment. Such measures or scales cannot be predetermined; therefore, it is unjustifiable to write them as a universal norm. **For good practice, it is important that such records be abolished and that their resolution is left to the emergency law, and that the law on the state of emergency establishes only the procedural basis for the entire emergency cycle.**

Regulation of Emergency Situations

The Law on Civil Security regulates the management of such emergencies that have not yet led to the declaration of a state of emergency. However, it mainly deals with fire-rescue operations and relevant rules, while other emergencies are regulated by general norms, which are ineffective for adjusting to different situations and soon exhaust themselves under ordinary conditions. **It is important that the law covers other emergencies, not with a universal approach, but taking into account the relevant specifics. It should introduce a system that is properly adapted to a variety of emergencies, both in terms of management and operational measures, to make them as usable as possible during the ordinary period.**

Counter-signature of the Prime Minister on State of Emergency Acts

Currently, the legislation provides for a presidential decree declaring a state of emergency and the signature of the head of government on the decree, as well as the possibility of discussing the issue with the deliberative body. **It is better in the law to exclude the need for the president to sign these acts by the prime minister, which will eliminate additional procedural barriers. The opportunity to discuss the issue with the deliberative body should be written at the stage of preparation of documents (especially since the first person of the country does not have the right to change anything in these projects).**

Isolation and Quarantine Rules

The Presidential Decree regulates certain measures itself, and some of them are handed over to the executive and indicate to the body that should do it. In contrast, isolation and quarantine rules in a state of emergency were approved by the line ministry and not by the government, as mandated by the decree. **It is important that the government avoids over-delegating matters to subordinate bodies and follows the procedure set out in the President's Act.**

Utilization of Defence Forces

The Constitution of Georgia allows for the use of defence forces during a state of emergency. During an epidemic, the Prime Minister decides this. In 2020, he used this mechanism six times (including once - throughout the country). Since the pandemic situation is not related

to the main mission of the Defence Forces, **it is better for the Prime Minister to use the defence Forces only in those parts of the country where there is a special need for it. This prevents the state from engaging the defence forces in non-military actions.**

Declaration of a State of Emergency

A pandemic/epidemic is an emergency that requires special measures. However, an additional criterion for its qualification is required as a basis for the state of emergency: Authorities should not have been able to exercise their powers and additional, extraordinary measures should have been taken. In 2020, the government came up with less convincing arguments for this. The specific justification was compulsory: Why the executive power failed to use all the mechanisms provided by the ordinary legislation; Would it not be enough to tighten epidemiological control only in the area of the country where most cases of infection were recorded; What was the principle of selecting the terms of the state of emergency both initially and during its extension; Why it was impossible to use the National Security Council as the format of the Prime Minister's advisory body in the field of crises and the means of managing the emergency provided by the Law on Public Safety, could not be used. In addition, more arguments were needed in favour of restrictive rights - what mechanisms for each right did not exist in the ordinary legislation of the Government and why the possibility of amending the laws had not been considered. **Thus, the Government was obliged to submit more arguments to the public before declaring a state of emergency and not to decide in a closed format the issue of its proposal to the first person of the country.**

Emergency Management - Interagency Council

Prior to the declaration of the state of emergency, the Georgian Government established an advisory body - the Interagency Council, which became the main basis for the Cabinet's decisions. The main target of the research, together with the Cabinet, was this agency. However, conducting their activities in a closed format has made it essentially difficult to analyse the reasons, goals, alternatives for decision-making, the procedures for making them, the diversity of subjects and opinions. The main findings and recommendations of the document also respond to this part.

The Interagency Council did not formally make decisions, issues were only discussed, and the Cabinet (in case of need to adopt a legal act) approved recommendations. Its sessions were closed. As it turned out, the council did not keep the minutes of the meetings. In fact, the activities of the main body of the state of emergency were confirmed through briefings and specially created websites. The decisions approved by the Cabinet could be reviewed only through legal acts. The authors of the study did not have access to the agendas, minutes of the sessions and explanation cards of the acts. It was impossible to assess all this not only in parallel with the state of emergency but also after a few months, which, overall, deserves sharp criticism. The already closed mode of work of the Cabinet was further closed by the lack of documented materials/activities of the Interagency Council. This has weakened the possibility of public feedback to the only branch of government in power for months.

The main recommendation of the research is related exactly to this process. At first glance, the important principles of democracy such as transparency of governance, openness and public participation shall not be sacrificed in the interest of prompt resolution of issues through effective mechanisms. Protecting this is even more important because the legitima-

cy of governance also depends on them - what is known only to the decision-maker cannot guarantee the fairness of that decision, since the outside eye cannot judge the process. Activities behind closed doors and presenting only a resolution part of these activities to the public substantially undermine the principles of democracy and the rule of law. **Thus, in addition to the fact that the Government shall strictly ensure extensive access to non-confidential materials related to the activities of the collegial bodies, the deliberative bodies shall compulsorily keep the minutes of the sessions. It is otherwise impossible to evaluate and validate their work, as they do not make formal decisions. It is also important to involve representatives of human rights institutions and parliament, whose participation will make the management of the state of emergency more transparent and inclusive, in the work of such agencies that actually take over the reins of government (even temporarily). Only such process serves the legitimacy of governance.**

ANNEXES

ANNEX №1

Competencies of the Government, the Prime Minister and the Ministers in Ordinary Legislation

Competence	Government	Prime Minister	Ministers	State Minister
<p>a) Policy Making</p>	<ul style="list-style-type: none"> - Develops state policy in various fields. For example: - Economics;¹ - Field of electronic communications;² - Policies for the recognition, realization and protection of the rights of the child;³ - Border policy;⁴ - Higher education, science and technology;⁵ - Field of geodetic and cartographic activities;⁶ - Field of labour migration;⁷ - The field of tourism and resorts;⁸ - Areas of Food / Animal Feed Safety, Veterinary and Plant Protection.⁹ - Develops / approves state programs, strategies and other national level documents. For example: 	<ul style="list-style-type: none"> - Defines the main directions of government activities;³³ - Determines the agenda of the Government session;³⁴ - Makes political decisions on issues that threaten national security and state interests;³⁵ Plans and coordinates national security policy at the strategic level;³⁶ - Manages emergency response of national importance at the strategic (policy) level;³⁷ Makes political decisions in order to manage emergencies;³⁸ - Makes a decision on the declassification of information constituting a state secret, and on the removal of the classification of secrets;³⁹ - Approves the National Intelligence Program based on the National Security Concept of Georgia, which defines the main goals, directions and priorities of intelligence activities;⁴⁰ - Makes a decision on the expediency 	<p>Develops policies in the relevant field;⁴³</p>	<ul style="list-style-type: none"> - (State office) develops policies for reconciliation and engagement;⁴⁴ - Develops initiative proposals and formats for the peace process towards the Autonomous Republic of Abkhazia and the former South Ossetian Autonomous District;⁴⁵ - Develops the government's civil integration policy.⁴⁶

	<ul style="list-style-type: none"> - The Government program;¹⁰ - National Security Concept of Georgia (develops and submits to the Parliament);¹¹ - National strategies in the field of security;¹² - State programs for reducing and eliminating unemployment;¹³ - Unified strategy and action plan on issues related to persons with disabilities;¹⁴ - Strategic research programs necessary for the country;¹⁵ - National Radioactive Waste Management Strategy and its action plan;¹⁶ - National Action Program for Environmental Protection;¹⁷ - State Strategy for Response to Radiation Emergencies;¹⁸ - State programs in the field of labour migration;¹⁹ - National Waste 	<p>of interdepartmental negotiations and cooperation between special services of Georgia and services of foreign intelligence and counterintelligence;⁴¹</p> <ul style="list-style-type: none"> - Manages the main directions of state policy in the field of electronic communications.⁴² 		
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	<p>Management Action Plan,²⁰</p> <ul style="list-style-type: none"> - State strategy in the field of labour safety;²¹ - Vocational education development strategy;²² - Document of National Goals of General Education (receives and submits it to the Parliament for approval);²³ - Scheme of professional development and career growth of teachers;²⁴ - Spatial planning plan of Georgia;²⁵ - National Energy Efficiency Action Plan;²⁶ - National report and action plan for assessing the risks of money laundering and terrorist financing;²⁷ - Georgian Threat Assessment Document and Georgian National Defence Strategy, as well as national level organizational documents 			
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	<p>for state defence planning;²⁸</p> <ul style="list-style-type: none"> - Aviation security program;²⁹ - Technological scheme of sanitary and quarantine control in the border zone of Georgia and customs control zones;³⁰ - Long-term government tobacco control strategy and annual government program;³¹ - List of subjects of critical information system.³² 			
<p>b) Direct Executive Functions (Administration)</p>	<ul style="list-style-type: none"> - Conducts all actions related to the negotiation of an intergovernmental agreement at the international level, the signing of the agreement and its binding recognition;⁴⁷ Makes a decision on the intention of Georgia to participate in the international agreement;⁴⁸ - Provides state domestic and foreign debt management;⁴⁹ - Gives consent to take a state foreign loan or to issue a state guarantee for the loan;⁵⁰ - Gives a special investment 	<ul style="list-style-type: none"> - It is authorized to issue a permit to a foreign military ship to enter the inland waters of Georgia, open ports and raids;⁷⁷ - , in the interests of the vital and sovereign interests of Georgia, has the right to temporarily restrict or prohibit the entry and presence of foreign ships, nuclear vessels and military ships in any area of the territorial sea and inland waters of Georgia;⁷⁸ - Presents an Immovable cultural property of national importance for inclusion in the World Heritage List (upon the request of the relevant 	<ul style="list-style-type: none"> - Establishes the structure and rules of procedure of the state sub-institutions within the sphere of governance of the Ministry, except for the cases, when they are established by legal acts superior to the order of the Minister;⁸⁵ - Approves the regulations of the structural subdivisions of the Ministry, the structural subdivisions 	<ul style="list-style-type: none"> - Issues consent for the implementation of prohibited activities defined by the legislation in the occupied territories of Georgia;⁹² - Provides the government with information on activities to be carried out in the occupied territories;⁹³ - Carries out state administration in the

	<p>status;⁵¹</p> <ul style="list-style-type: none"> - Has the right, in case of emergency in Georgia, to restrict the departure of conscripts, reservists and military servicemen from Georgia;⁵² - In case of an emergency in another state, has the right to restrict a citizen of Georgia from leaving this country for a certain period of time;⁵³ - Issues a permit for the alienation of a ship belonging to the state of Georgia, to another state, to an individual or legal entity of another country;⁵⁴ - Takes the necessary measures to ensure the defence and state security of the country;⁵⁵ - Proclaims mobilization in case of declaration of martial law and/or state of emergency;⁵⁶ - Resolves the issue of purposeful use of the state 	<p>Minister or on his own initiative);⁷⁹</p> <ul style="list-style-type: none"> - Approves the staff list and salary fund of LEPL – Financial Monitoring Service of Georgia;⁸⁰ - Determines the amount of the salary of the business ombudsman;⁸¹ - Receives the report of the Procuring Entity in case of procurement of an object worth more than GEL 2 000 000;⁸² - Makes decisions on the allocation of up to GEL 100,000 from the Government Reserve Fund to cover projects to be implemented in the regions and debts incurred in previous years, and from court enforcement funds;⁸³ - Agrees with the budget of LEPL – Sakpatenti, as well as decisions on purchase and management of real estate;⁸⁴ 	<p>of the sub-department operating in the field of governance of the Ministry and their structural units;⁸⁶</p> <ul style="list-style-type: none"> - Issues grants;⁸⁷ - Submits a proposal to the Prime Minister on the issues of revenue and expenditure of the annual budget of the Ministry, and if necessary – on the draft additional budget;⁸⁸ - Makes decisions on the targeted use of budget funds;⁸⁹ - In accordance with the state budget, approves the budget of the state sub-institutions within the sphere of governance of the Ministry, exercises control over 	<p>field of labour migration within the limits of its competence.⁹⁴</p> <ul style="list-style-type: none"> - Manages the activities of the Office of the State Minister and resolves issues pertaining to the scope of the Office;⁹⁵
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	<p>reserve of Georgia (intact supply of special purpose material values),⁵⁷</p> <ul style="list-style-type: none"> - Submits to the President a proposal to call a referendum on the introduction of a new type of general state tax (except excise), or on an increase in the upper limit of the existing rate according to the type of national tax;⁵⁸ - Has the right to request a temporary increase in taxes - for a period not exceeding 3 years (in this case, a referendum is not held),⁵⁹ - Approves grant agreements;⁶⁰ - Is authorized to determine the types of paid services to be provided by legal entities under public law created by it and the amounts of fees;⁶¹ - Approves the financial norms for one pupil and their respective standard and increased voucher amounts;⁶² 		<p>its implementation and gives instructions on the use of budget funds;⁹⁰</p> <ul style="list-style-type: none"> - In case of declaring martial law or a State of Emergency, the Minister of Finance is authorized to issue an order on the introduction of special conditions on the whole territory of Georgia or in any part of it.⁹¹ 	
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	<ul style="list-style-type: none"> - Approves the volumes and amounts of funding of persons enrolled in the annual and various programs of state education grants;⁶³ - Determines the grounds and procedure for the imposition of financial liability, release from financial liability, its postponement or reduction in case of early termination of an agreement concluded for contract (professional) military service.⁶⁴ - Approves the methodology for calculating the subsistence minimum,⁶⁵ as well as the methodology of assessing the socio-economic status of the family,⁶⁶ determines the amount of subsistence allowance,⁶⁷ - Ensures the establishment of an integrated national system of epidemiological surveillance of infectious diseases;⁶⁸ - Sets the rates of the 			
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	<p>permitting fee for the organization of a bookmaker's office and a gambling club;⁶⁹</p> <ul style="list-style-type: none"> - Issues permits for simplified procurement;⁷⁰ - Creates a free industrial zone;⁷¹ - Gives the territory the status of a state forest;⁷² - Defines a category of national importance of a cultural heritage monument;⁷³ It also assigns a state (national) category to the museum;⁷⁴ - Gives the object within the administrative boundaries of the Tbilisi municipality the status of a cultural heritage monument;⁷⁵ - Decides on the issue of making the Government session public.⁷⁶ 				<p>c) Coordination and control</p> <ul style="list-style-type: none"> - The government coordinates and controls the activities of the ministries, state sub-departments under their - Convenes and chairs government meetings;¹¹⁰ - Is authorized to change the sequence of projects to be discussed - Monitors the implementation of duties by the subdivisions of - manages the activities of the office;¹³⁵ - Exercises state
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	<p>jurisdiction, the Office of the State Minister, the special-purpose paramilitary institution under the direct authority of the government, as well as the activities of other special purpose state institutions;⁹⁶</p> <ul style="list-style-type: none"> - It is authorized to repeal the legal acts of the Ministers, heads of state sub-institutions, heads of special-purpose paramilitary institutions and other special-purpose state institutions;⁹⁷ - It is authorized to suspend or revoke the illegal decision of the State Insurance Supervision Service;⁹⁸ - Defines the rules of coordination in the fight against crime;⁹⁹ - Coordinates emergency response, mitigation and liquidation works.¹⁰⁰ - Implements state control over the following LEPLs: State Procurement Agency,¹⁰¹ State 	<p>in the agenda of the meeting. Also add projects to the agenda of the government session;¹¹¹</p> <ul style="list-style-type: none"> - Determines the identities of the persons present at the Government session, which are not defined by the Government regulations;¹¹² - Determines the initiating authority of the project, if it is impossible to establish a policy-making ministry in the relevant field in order to fulfil the tasks assigned to the government by the legal acts of the Parliament;¹¹³ - In exceptional cases, makes a decision on the discuss of the draft laws at the electronic session of the government;¹¹⁴ - Gives instructions to ministers on the basis of law;¹¹⁵ - Heads the government administration;¹¹⁶ - Controls and coordinates the activities of the ministers;¹¹⁷ - It is authorized to repeal individual legal acts of ministers and heads of special institutions (including special- 	<p>Ministry, LEPLs and territorial bodies within the field of structural subdivisions and governance of the Ministry;¹³⁰</p> <ul style="list-style-type: none"> - Exercises official supervision over the decisions and activities of civil employees of the Ministry¹³¹ - Supervises the legality and expediency of the activities of the structural subdivisions of the Ministry, state sub-departments and territorial bodies within the sphere of governance of the Ministry;¹³² - Recognizes as invalid the legal acts and actions of the Deputy Ministers, structural subdivisions of the Ministry and other officials, heads of 	<p>control over a legal entity under public law,¹³⁶</p>
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	<p>Department for Veterans' Cases,¹⁰² National Academy of Sciences,¹⁰³ Kutaisi International University,¹⁰⁴ Georgian Organization for Reforms and Cooperation,¹⁰⁵ State Language Department¹⁰⁶ etc;</p> <ul style="list-style-type: none"> - Supervises the operation of free industrial zones;¹⁰⁷ - Establishes the rule of exercising state control when checking the fulfilment of the conditions of the mineral extraction license or the mineral exploitation license;¹⁰⁸ - Coordinates geodetic and cartographic activities on the territory of the country in order to pursue a unified technical policy; it is also responsible for coordinating international programs and projects in the field of geodetic and cartographic activities in Georgia;¹⁰⁹ 	<p>purpose paramilitary institutions) on the grounds of their legality or inexpediency;¹¹⁸</p> <ul style="list-style-type: none"> - Carries out legal supervision over the activities of municipal bodies;¹¹⁹ - Coordinates the implementation of regional policy and government relations with municipal bodies;¹²⁰ - Appoints an independent body to resolve an administrative complaint;¹²¹ - Implements official supervision over the functioning of the intelligence system.¹²² - Supervises the activities of the membership-based Public Law Corporation - the Chamber of Commerce;¹²³ - Controls the activities of the following bodies by submitting reports: <ul style="list-style-type: none"> - All public institutions (on December 10 of each year);¹²⁴ - Operational-Technical Agency of Georgia;¹²⁵ 	<p>the relevant ministries of the Autonomous Republics, which do not comply with the Constitution, other laws, presidential acts issued during Martial Law or state of emergency, government decrees and orders of the Minister;¹³³</p> <ul style="list-style-type: none"> - Resolves legal disputes between structural subdivisions of the Ministry, as well as between state sub-departments within the field of its governance.¹³⁴
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<p>d) Legislative</p>	<ul style="list-style-type: none"> - Presents a legislative initiative in Parliament;¹³⁷ - Addresses the legislature on ratification, denunciation and annulment of the international treaty of Georgia;¹³⁸ - Develops and submits to the Parliament the draft state budget;¹³⁹ - Approves the regulations of the offices of the Ministries, the Office of the State Minister, the special purpose paramilitary institution of the executive power under the direct authority of the government and other special purpose state institutions, as well as the regulations of the governmental commission and council established to study 	<ul style="list-style-type: none"> - LEPL - Civil Service Bureau;¹²⁶ - Competition Agency;¹²⁷ - Counterintelligence Coordination Service;¹²⁸ - Sakpatenti.¹²⁹ 	<ul style="list-style-type: none"> - The Prime Minister signs the decrees and ordinances of the government;¹⁴³ - Issues individual legal acts – orders.¹⁴⁴ 	<ul style="list-style-type: none"> - Issues individual and normative acts – orders;¹⁴⁵ - Initiates draft normative acts on behalf of the Ministry at the Government session;¹⁴⁶ - Discusses legislative initiatives sent by the Parliament and submits opinions;¹⁴⁷ - The Ministry of Justice carries out legal expertise of certain normative acts of other Ministers.¹⁴⁸ 	<ul style="list-style-type: none"> - Issues an individual administrative-legal act – order;¹⁴⁹ - Initiates draft normative acts at the Government session on behalf of the Office of the Minister;¹⁵⁰
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<p>e) Staff / Founding Powers</p>	<p>certain issues;¹⁴⁰</p> <ul style="list-style-type: none"> - Adopts resolutions and ordinances;¹⁴¹ - Approves technical regulations.¹⁴² 	<ul style="list-style-type: none"> - Appointment / Present: <ul style="list-style-type: none"> - Addresses the President with a proposal on the appointment and dismissal of Georgian ambassadors and heads of diplomatic missions;¹⁵¹ - Agrees to receive the accreditation of Ambassadors and other diplomatic representatives of other states and international organizations;¹⁵² - Nominates candidates for membership of national regulatory bodies in order to be elected by the Parliament;¹⁵³ - appoints an acting head prior to the approval of the results of the first election of the head of a state-run higher education institution;¹⁵⁴ 	<ul style="list-style-type: none"> - Directly appoints: <ul style="list-style-type: none"> - Ministers¹⁶⁶ (one of them is the First Vice Prime Minister, and one or more of them is the Deputy Prime Minister¹⁶⁷); - Head of the LEPL Financial Monitoring Service of Georgia;¹⁶⁸ - Chairman of the LEPL Public-Private Cooperation Agency;¹⁶⁹ - Head of the LEPL Operational-Technical Agency of Georgia;¹⁷⁰ - Head of the LEPL Civil Service Bureau;¹⁷¹ - Chairman of the LEPL State Language Department;¹⁷² - Deputy Heads of the State Security Service;¹⁷³ - Head of LEPL Levan Samkharauli National Forensics Bureau;¹⁷⁴ 	<ul style="list-style-type: none"> - Appoints and dismisses employees of the Ministry, employees of territorial bodies, heads of state sub-departments, LEPLs within the scope of its competence (with a few exceptions),²⁰⁸ <ul style="list-style-type: none"> - In some cases, approves the head of the LEPL for the appointment and dismissal of employees;²⁰⁹ - The Minister of Defence nominates the Commander of the Defence Forces to the Government.²¹⁰ - It can establish 	<ul style="list-style-type: none"> - appoints and dismisses its deputies and staff members, exercises other personnel powers;²¹² - Gives a person the status of a repatriate;²¹³ - Nominates a person for the state award to the president;²¹⁴ - Creates commissions and councils, in the activities of which it participates with a deliberative right.²¹⁵
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	<ul style="list-style-type: none"> - Determines the composition of the joint stock company established by the state - the Supervisory Board of the Partnership Fund;¹⁵⁵ Create / Establishment - Establishes legal entities under public law;¹⁵⁶ - Establishes scientific-research institutions in the form of a legal entity under public law,¹⁵⁷ it also has the right to establish such institutions in the form of a non-profit (non-commercial) legal entity under private law;¹⁵⁸ - establishes LEPL - scientific-research institution with the (LEPL) University;¹⁵⁹ - Establishes a legal entity under public law or a non-profit (non-commercial) legal entity under private law in order to obtain the status of a higher education institution,¹⁶⁰ as well as naval and military higher education institutions;¹⁶¹ 	<ul style="list-style-type: none"> - Chairman of the Independent LEPL Competition Agency;¹⁷⁵ - Chairman of the LEPL Organization for Reforms and Cooperation of Georgia, subject to state control of the Government;¹⁷⁶ - Director of the LEPL State Service for Veterans Affairs;¹⁷⁷ - Chairman of the Independent LEPL National Centre for Intellectual Property – Sakpatenti;¹⁷⁸ - Head of the Special State Protection Service;¹⁷⁹ - Chairman of the Independent LEPL State Procurement Agency;¹⁸⁰ - Director of the LEPL Agency for State Care and Assistance for the (Statutory) Victims of Human Trafficking;¹⁸¹ - Head of the LEPL Youth Agency and its deputies;¹⁸² - (in agreement with the Government) Parliamentary 	<p>commissions and councils in its area of government with the right of deliberation and determine their duties and rules of operation;²¹¹</p>	
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	<ul style="list-style-type: none"> - Establishes LEPL - museum-reserves.¹⁶² - Establishes state sub-institutions in the Board of the Ministry;¹⁶³ - Makes decisions on the establishment and liquidation of a diplomatic mission;¹⁶⁴ - It is authorized, on its own initiative, on the basis of consultation with the Municipal Council and the population or upon the motion of the Municipal Council and after consultation with the population, to submit a proposal to the Parliament on the establishment or dissolution of the municipality.¹⁶⁵ 	<p>Secretary to the Government;¹⁸³</p> <ul style="list-style-type: none"> - (with the consent of the Chairman of the Parliament) Business Ombudsman;¹⁸⁴ - Appoints by someone's representation; - <i>On the recommendation of the Minister of Finance</i> - the Head of the Investigation Service of the Ministry of Finance¹⁸⁵ and the Head of the LEPL - Revenue Service;¹⁸⁶ - <i>Upon the recommendation of the Minister of Internal Affairs</i> - the Head of the Emergency Management Service;¹⁸⁷ - <i>On the recommendation of the Minister of Economy</i> - General Director of the LEPL Accreditation Centre;¹⁸⁸ - <i>On the recommendation of the Minister of Environment and Agriculture</i> - Head of the LEPL National Food Agency;¹⁸⁹ - <i>On the recommendation of the Minister of Education, Science,</i> 	
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		<p><i>Culture and Sports</i> - Director of the LEPL Educational and Scientific Infrastructure Development Agency;¹⁹⁰ Members of the Board of Authorization of General Education, Vocational and Higher Education Institutions, Accreditation of Educational Programs and Appellate Councils;¹⁹¹</p> <ul style="list-style-type: none"> - <i>On the recommendation of the Academic Council of the University</i> - Executive Director of Kutaisi International University;¹⁹² - <i>On the recommendation of the Independent LEPL Geostat Board</i> - the Executive Director of Geostat;¹⁹³ - <i>Upon the recommendation of the relevant Minister</i> - the head of the state sub-agency.¹⁹⁴ <p>Gives consent for appointments:</p> <ul style="list-style-type: none"> - <i>Minister of Education, Science, Culture and Sports</i>: on appointment of Heads of Scientific Foundations;¹⁹⁵ Director of the LEPL National Centre for Teacher 		
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		<p>Professional Development;¹⁹⁶ Director of the LEPL National Centre for Education Quality Enhancement;¹⁹⁷ Director of the National Centre for Assessment and Examinations¹⁹⁸,</p> <ul style="list-style-type: none"> - <i>Minister of Economy and Sustainable Development</i> - on Appointment of the Head of the State Oil and Gas Agency.¹⁹⁹ - Presents to the Parliament for appointment: - Candidates for State Inspector;²⁰⁰ - With the consent of the Parliament appoints: - Members selected by the Geostat Board through a competition;²⁰¹ - Makes counter signature: - On the act of the President on the nomination of the members of the Regulatory Commission in the Parliament;²⁰² - Assigns the highest diplomatic ranks;²⁰³ As well as the highest special 		
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<p>f) Representative powers</p>		<p>ranks,²⁰⁴</p> <ul style="list-style-type: none"> - Establishes deliberative bodies - commissions and councils to study certain issues,²⁰⁵ - gives consent to the relevant Ministry to the establishment of LEPL scientific foundations,²⁰⁶ - Executes administrative contracts, encourages employees and imposes disciplinary measures.²⁰⁷ 		
		<ul style="list-style-type: none"> - Represents the government in foreign relations,²¹⁶ - Represents Georgia with other state institutions and international organizations,²¹⁷ - Concludes international agreements on behalf of the country,²¹⁸ - Has the right to attend the sittings of the Parliament on its own initiative,²¹⁹ Also ask Parliament to listen to it at the sitting.²²⁰ - Coordinates the relationship of the government with the municipal bodies.²²¹ 	<ul style="list-style-type: none"> - Represents the Ministry in relations with other bodies,²²² - Concludes inter-agency international agreements on behalf of the Ministry,²²³ - The Minister of Foreign Affairs has the right to perform all actions related to the conclusion of an international agreement of Georgia without submitting an authorization.²²⁴ 	<p>Represents the Office of the State Minister.²²⁵</p>

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- ¹ Law of Georgia on the Structure, Powers and Rules of Activity of the Government of Georgia, article 5, subparagraphs "h", "i" and "k".
 - ² Law of Georgia on Electronic Communications, Article 6, Paragraph 1.
 - ³ Code of the Rights of the Child, Article 90, paragraph 1, Sub-clause "a".
 - ⁴ Law of Georgia on the State Border of Georgia, Article 9, Paragraph 2.
 - ⁵ Law of Georgia on Higher Education, Article 6, Paragraph 1, Subparagraph "a"; Law of Georgia on Science, Technology and their Development, Article 5¹, Paragraph 1.
 - ⁶ Law of Georgia on Geodetic and Cartographic Activities, Article 5, Paragraph 2, Subparagraph "a".
 - ⁷ Law of Georgia on Labour Migration, Article 4.
 - ⁸ Law of Georgia on Tourism and Resorts, Article 4, Paragraph 4, Subparagraph "a".
 - ⁹ Food / Animal Feed Safety, Veterinary and Plant Protection Code, Article 19, paragraph 1.
 - ¹⁰ Law of Georgia on the Structure, Powers and Rules of Procedure of the Government of Georgia, Article 5, Subparagraph "g".
 - ¹¹ Law of Georgia on Rule of National Security Policy Planning and Coordination, Article 15, Paragraph 2.
 - ¹² *Ibid*, Paragraph 4.
 - ¹³ Law of Georgia on the Structure, Powers and Rules of Activity of the Government of Georgia, Article 5, Subparagraph "p".
 - ¹⁴ Law of Georgia on the Rights of Persons with Disabilities, Article 21, Subparagraph "d".
 - ¹⁵ Law of Georgia on Science, Technology and their Development, Article 5¹, Paragraph 1, Subparagraph "a".
 - ¹⁶ Law of Georgia on Radioactive Waste, Article 5, Paragraph 1, Subparagraphs "a" and "b".
 - ¹⁷ Law of Georgia on Environmental Protection, Article 15, Paragraph 5, Subparagraph "b".
 - ¹⁸ Law of Georgia on Nuclear and Radiation Safety, Article 29, Paragraph 1.
 - ¹⁹ Law of Georgia on Labour Migration, Article 5, Subparagraph "b".
 - ²⁰ Waste Management Code, Article 12, paragraph 1.
 - ²¹ Organic Law of Georgia on Labour Safety, Article 16, Paragraph 1.
 - ²² Law of Georgia on Vocational Education, Article 21, Subparagraph "b".
 - ²³ Law of Georgia on General Education, Article 25, Paragraph 2, Subparagraph "a".
 - ²⁴ *Ibid*, Subparagraph „d“.
 - ²⁵ Code of Spatial Planning, Architectural and Construction Activities of Georgia, Article 19, Paragraph 7.
 - ²⁶ Law of Georgia on Energy Efficiency, Article 3, Subparagraph "q".
 - ²⁷ Law of Georgia on Promoting the Prevention of Money Laundering and Terrorist Financing, Article 5, Paragraph 1.
 - ²⁸ Law of Georgia on Defence Planning, Article 6, Paragraph 4 and Article 61, Paragraph 1.
 - ²⁹ Air Code of Georgia, Article 82, Paragraph 2.
 - ³⁰ Law of Georgia on Public Health, Article 32, Subparagraph "d".
 - ³¹ Law of Georgia on Tobacco Control, Article 4, Paragraph 1.
 - ³² Law of Georgia on Information Security, Article 3, Paragraph 2.
 - ³³ Constitution of Georgia, Article 55, Paragraph 2.
 - ³⁴ Law of Georgia on the Structure, Powers and Rules of Activity of the Government of Georgia, Article 12, Paragraph 2.

- ³⁵ Law of Georgia on Rule of National Security Policy Planning and Coordination, Article 19¹, Paragraph 1.
- ³⁶ *Ibid.*
- ³⁷ Law of Georgia on Civil Security, Article 16, Paragraph 2, Subparagraph "a".
- ³⁸ *Ibid.*
- ³⁹ Law of Georgia on State Secrets, Article 16, Paragraph 1, Subparagraph "d".
- ⁴⁰ Law of Georgia on Intelligence Activities, Article 3, Subparagraph "b".
- ⁴¹ *Ibid*, Article 9, paragraph 4.
- ⁴² Law of Georgia on Electronic Communications, Article 6, Paragraph 2.
- ⁴³ All ministries of Georgia have this function according to the relevant regulations. The functions assigned to the Ministry are performed by the Minister.
- ⁴⁴ Statute of the Office of the State Minister of Georgia for Reconciliation and Civic Equality, approved by the Resolution N116 of the Government of Georgia of March 6, 2017 on the Statute and Staff List of the Office of the State Minister of Georgia for Reconciliation and Civic Equality, Article 3, sub-paragraph "h".
- ⁴⁵ *Ibid*, Article 4, paragraph "a".
- ⁴⁶ *Ibid*, subparagraph „d“.
- ⁴⁷ Law of Georgia on International Agreements, Article 4, paragraph 2¹.
- ⁴⁸ *Ibid*, Article 10.
- ⁴⁹ Law of Georgia on the Structure, Powers and Rules of Activity of the Government of Georgia, Article 5, Subparagraph "n".
- ⁵⁰ Law of Georgia on Public Debt, Article 22, Paragraph 2¹.
- ⁵¹ Law of Georgia on State Investment Support, Article 9, Paragraph 3.
- ⁵² Law of Georgia on the Rules of Departure and Entry of Georgian Citizens from Georgia, Article 18, Paragraph 2.
- ⁵³ *Ibid*, Article 17.
- ⁵⁴ Maritime Code of Georgia, Article 42.
- ⁵⁵ Law of Georgia on Defence of Georgia, Article 5¹, Paragraph 1, Subparagraph "a".
- ⁵⁶ Law of Georgia on Mobilization, Article 5¹, Paragraph 1, Subparagraph "a".
- ⁵⁷ Law of Georgia on State Material Reserves of Georgia, Article 1, Paragraph 1.
- ⁵⁸ Organic Law of Georgia on Referendum, Article 4, Paragraph 1¹.
- ⁵⁹ Organic Law of Georgia on Economic Freedom, Article 6, Paragraph 6.
- ⁶⁰ Law of Georgia on Grants, Article 3, Paragraph 2.
- ⁶¹ Law of Georgia on Legal Entities of Public Law, Article 13, Paragraph 1¹.
- ⁶² Law of Georgia on General Education, Article 25, Paragraph 2, Subparagraph "b.a".
- ⁶³ Law of Georgia on Higher Education, Article 6, Paragraph 1, Subparagraphs "b" and "c-1".
- ⁶⁴ Law of Georgia on Military Obligation and Military Service, Article 2, Paragraph 1⁵.
- ⁶⁵ Law of Georgia on the Rule of Calculating the Subsistence Minimum, Article 6.
- ⁶⁶ Law of Georgia on Social Assistance, Article 16, Paragraph 1, Subparagraph "c".
- ⁶⁷ *Ibid*, Article 7, Paragraph 3.
- ⁶⁸ Law of Georgia on Public Health, Article 21, Paragraph 1.
- ⁶⁹ Law of Georgia on License and Permit Fees, Paragraphs 10⁵ and 10⁶.

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- ⁷⁰ Law of Georgia on State Procurement, Article 10¹, Paragraph 3.
- ⁷¹ Law of Georgia on Free Industrial Zones, Article 4, Paragraph 1, Subparagraph "a".
- ⁷² Forest Code of Georgia, Article 12, Paragraph 1.
- ⁷³ Law of Georgia on Cultural Heritage, Article 18.
- ⁷⁴ Law of Georgia on Museums, Article 7, Paragraph 1.
- ⁷⁵ Law of Georgia on Cultural Heritage, Article 15, Paragraph 3.
- ⁷⁶ Rules of Procedure of the Government of Georgia, Article 16, Paragraph 1.
- ⁷⁷ Law of Georgia on Maritime Space of Georgia, Article 11, Paragraph 1.
- ⁷⁸ *Ibid*, Article 16, Paragraph 6.
- ⁷⁹ Law of Georgia on Cultural Heritage, Article 18, Paragraph 2.
- ⁸⁰ Law of Georgia on Facilitation of Money Laundering and Prevention of Terrorist Financing, Article 33, Paragraph 4.
- ⁸¹ Law of Georgia on Business Ombudsman, Article 4, Paragraph 3.
- ⁸² Law of Georgia on State Procurement, Article 22, Paragraph 5.
- ⁸³ Budget Code of Georgia, Articles 28-30.
- ⁸⁴ Patent Law of Georgia, Article 11, Paragraph 7.
- ⁸⁵ Law of Georgia on the Structure, Powers and Rules of Activity of the Government of Georgia, Article 20, Paragraph 2, Subparagraph "g".
- ⁸⁶ Regulation on the Approval of the Statute of the Ministry of Justice of Georgia, approved by the Resolution of the Government of Georgia N389 of December 30, 2013, Article 5, Paragraph 2, Subparagraph "u".
- ⁸⁷ Law of Georgia on Grants, Article 3, Paragraph 1, Subparagraph "d".
- ⁸⁸ Law of Georgia on the Structure, Powers and Rules of Activity of the Government of Georgia, Article 20, Paragraph 2, Subparagraph "e".
- ⁸⁹ *Ibid*.
- ⁹⁰ *Ibid*, Subparagraph "f".
- ⁹¹ Tax Code of Georgia, Articles 74-75.
- ⁹² Statute of the Office of the State Minister of Georgia for Reconciliation and Civic Equality, Article 5, Paragraph 2, Subparagraph "e".
- ⁹³ *Ibid*, Subparagraph "f".
- ⁹⁴ Law of Georgia on Labour Migration, Article 4.
- ⁹⁵ Statute of the Office of the State Minister of Georgia for Reconciliation and Civic Equality, Article 5, Paragraph 2, Subparagraph "a".
- ⁹⁶ Law of Georgia on the Structure, Powers and Rules of Activity of the Government of Georgia, Article 5, Subparagraph "a".
- ⁹⁷ *Ibid*, Subparagraph "a".
- ⁹⁸ Law of Georgia on Insurance, Article 19, Paragraph 2.
- ⁹⁹ Law of Georgia on the Prosecutor's Office, Article 28, Paragraph 2.
- ¹⁰⁰ Law of Georgia on State of Emergency, Article 5, Paragraph 2.
- ¹⁰¹ Law of Georgia on State Procurement, Article 4, Paragraph 4.
- ¹⁰² Law of Georgia on Veterans of War and Defence Forces, Article 3¹, Paragraph 1.
- ¹⁰³ Law of Georgia on the National Academy of Sciences, Article 15.
- ¹⁰⁴ Law of Georgia on the Establishment of a Legal Entity under Public Law - Kutaisi International University, Article 13, Paragraph 1.

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- 105 *Ibid*, Article 1.
- 106 Organic Law of Georgia on the State Language, Article 36, Paragraph 4.
- 107 Law of Georgia on Free Industrial Zones, Article 13, Paragraph 3.
- 108 Law of Georgia on mines, Article 31, Paragraph 3¹.
- 109 Law of Georgia on Geodetic and Cartographic Activities, Article 5, Paragraph 2.
- 110 Law of Georgia on the Powers and Rules of Procedure of the Structure of the Government of Georgia, Article 8, Paragraph 2, Subparagraph "f".
- 111 Rules of Procedure of the Government of Georgia, Article 16, Paragraph 3.
- 112 *Ibid*, Article 15, paragraph 4.
- 113 *Ibid*, Article 8, paragraph 4.
- 114 *Ibid*, Article 32, paragraph 7¹.
- 115 Law of Georgia on the Structure, Powers and Rules of Activity of the Government of Georgia, Article 15, Paragraph 1, and Article 20, Paragraph 2, Subparagraph "k".
- 116 Rules of Procedure of the Government of Georgia, Article 6, Paragraph 2.
- 117 Law of Georgia on the Powers and Rules of Activity of the Government of Georgia, Article 8, Paragraph 2, Subparagraph "b".
- 118 *Ibid*, Article 31, Paragraph 1.
- 119 Organic Law of Georgia "Local Self-Government Code", Article 130, Paragraph 1.
- 120 Law of Georgia on the Structure, Powers and Rules of Activity of the Government of Georgia, Article 8, Paragraph 2, Subparagraph "g".
- 121 General Administrative Code of Georgia, Article 160.
- 122 Law of Georgia on Intelligence Activities, Article 15.
- 123 Law of Georgia on the Georgian Chamber of Commerce and Industry, Article 8.
- 124 General Administrative Code of Georgia, Article 49.
- 125 Law of Georgia on the Legal Entity of Public Law - Operational-Technical Agency, Article 25.
- 126 Law of Georgia on Civil Service, Article 23.
- 127 Law of Georgia on Competition, Article 16, Paragraph 3.
- 128 Law of Georgia on Counterintelligence Activities, Article 26.
- 129 Patent Law of Georgia, Article 8, Paragraph 5.
- 130 Law of Georgia on the Structure, Powers and Rules of Activity of the Government of Georgia, Article 20, Paragraph 2, Subparagraph "c".
- 131 *Ibid*.
- 132 *Ibid*, Article 32, Paragraph 1.
- 133 *Ibid*, Paragraph 2.
- 134 *Ibid*.
- 135 Statute of the Office of the State Minister of Georgia for Reconciliation and Civic Equality, Article 5, Paragraph 2, Subparagraph "a".
- 136 Law of Georgia on Legal Entities of Public Law, Article 11, Paragraph 2.
- 137 Constitution of Georgia, Article 45, Paragraph 1.
- 138 Law of Georgia on International Agreements, Article 15, Paragraph 1.
- 139 Constitution of Georgia, Article 66, Paragraph 2.
- 140 Law of Georgia on the Structure, Powers and Rules of Activity of the Government of Georgia, Article 5, Subparagraphs "b" and "e".

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- 141 *Ibid*, Article 6, Paragraph 1.
- 142 Product Safety and Free Circulation Code, Article 58, Paragraph 2.
- 143 Law of Georgia on the Powers and Rules of Activity of the Government of Georgia, Article 8, Paragraph 2, Subparagraph "f".
- 144 *Ibid*, Subparagraph „f“.
- 145 Organic Law of Georgia on Normative Acts, Article 13.
- 146 Rules of Procedure of the Government of Georgia, Article 8, Paragraph 1, Subparagraph "a".
- 147 *Ibid*, Article 38.
- 148 Organic Law of Georgia on Normative Acts, Article 19.
- 149 Statute of the Office of the State Minister of Georgia for Reconciliation and Civic Equality, Article 5, Paragraph 2, Subparagraph "i".
- 150 Regulation of the Government of Georgia, Article 8, Paragraph 1, Subparagraph "b".
- 151 Law of Georgia on the Structure, Powers and Rules of Activity of the Government of Georgia, Article 5, sub-paragraph "w".
- 152 *Ibid*, Subparagraph "k".
- 153 *Ibid*, Subparagraph "Sh".
- 154 Law of Georgia on Higher Education, Article 22, Paragraph 2.
- 155 Law of Georgia on Joint Stock Company - Partnership Fund, Article 6, Paragraph 3.
- 156 Law of Georgia on Legal Entities of Public Law, Article 2, Paragraph 1.
- 157 Law of Georgia on Science, Technology and their Development, Article 101, Paragraph 1.
- 158 *Ibid*, Article 10, Paragraph 2.
- 159 Law of Georgia on Higher Education, Article 6, Paragraph 1, Subparagraph "d".
- 160 *Ibid*.
- 161 *Ibid*, Subparagraphs "f" and "g".
- 162 Law of Georgia on Cultural Heritage, Article 8, Paragraph 1.
- 163 Law of Georgia on the Structure, Powers and Rules of Activity of the Government of Georgia, Article 25, Paragraph 2.
- 164 Law of Georgia on Diplomatic Service, Article 8, Paragraph 1.
- 165 Organic Law of Georgia "Local Self-Government Code", Article 10, Paragraph 2.
- 166 Constitution of Georgia, Article 56, Paragraph 5.
- 167 Law of Georgia on the Structure, Powers and Rules of Activity of the Government of Georgia, Article 10, Paragraph 1.
- 168 Law of Georgia on Prevention of Money Laundering and Financing of Terrorist Financing, Article 32, Paragraph 2.
- 169 Law of Georgia on Public-Private Partnership, Article 9, Paragraph 4.
- 170 Law of Georgia on Legal Entity of Public Law - Operational-Technical Agency of Georgia, Article 19, Paragraph 1.
- 171 Law of Georgia on Civil Service, Article 20, Paragraph 2.
- 172 Organic Law of Georgia on the State Language, Article 36, Paragraph 3.
- 173 Law of Georgia on the State Security Service of Georgia, Article 6, Paragraph 4.
- 174 Law of Georgia on the Establishment of a Legal Entity under Public Law - the Levan Samkharauli National Forensics Bureau, Article 2, Paragraph 1.
- 175 Law of Georgia on Competition, Article 17¹, Paragraph 1.
- 176 Law of Georgia on the Establishment of a Legal Entity under Public Law - the Organization for Reforms and Cooperation of Georgia, Article 6, Paragraph 1.

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- 177 Law on war and defence veterans, Article 31, Paragraph 3.
- 178 Patent Law of Georgia, Article 8, Paragraph 2.
- 179 Law of Georgia on the Special State Protection Service, Article 7, Paragraph 1.
- 180 Law of Georgia on State Procurement, Article 4, Paragraph 1.
- 181 Law of Georgia on Combating Trafficking in Human Beings, Article 9, Paragraph 3.
- 182 Regulation on the Establishment of the Legal Entity of Public Law - Youth Agency and Approval of the Statute, approved by the Resolution of the Government of Georgia N411 of August 26, 2019, paragraph 1 of Article 4.
- 183 Law of Georgia on the Parliamentary Secretary, Article 4, Paragraph 2.
- 184 Law of Georgia on Business Ombudsman, Article 4, Paragraph 2.
- 185 Law of Georgia on the Investigation Service of the Ministry of Finance of Georgia, Article 13, Paragraph 1.
- 186 Law of Georgia on Revenue Service, Article 6, Paragraph 1.
- 187 Law of Georgia on Civil Security, Article 42, Paragraph 1.
- 188 Product Safety and Free Circulation Code, Article 99, Paragraph 2.
- 189 Food / Animal Feed Safety, Veterinary and Plant Protection Code, Article 211, Paragraph 4.
- 190 Law of Georgia on General Education, Article 26, Paragraph 1, Subparagraph „d“.
- 191 *Ibid*, Article 32, Paragraph 6¹.
- 192 Law of Georgia on the Establishment of a Legal Entity under Public Law - Kutaisi International University, Article 7, Paragraph 1.
- 193 Law of Georgia on Official Statistics, Article 8, Paragraph 2.
- 194 Law of Georgia on the Structure, Powers and Rules of Activity of the Government of Georgia, Article 25, Paragraph 6.
- 195 Law of Georgia on Science, Technology and their Development, Article 15¹, Paragraph 2.
- 196 Law of Georgia on General Education, Article 26, Paragraph 1, Subparagraph "e" .
- 197 Law of Georgia on the Development of Quality of Education, Article 4, Paragraph 2.
- 198 Law of Georgia on Higher Education, Article 7, Paragraph 1, Subparagraph „d1“.
- 199 Law of Georgia on Oil and Gas, Article 8, Paragraph 3.
- 200 Law of Georgia on the State Inspector Service, Article 6, Paragraph 5.
- 201 Law of Georgia on Official Statistics, Article 12, Paragraph 9.
- 202 Law of Georgia on Energy and Water Supply, Article 8, Paragraph 8. Law of Georgia on Broadcasting, Article 9, Paragraph 11.
- 203 Law of Georgia on Diplomatic Service, Article 34, Paragraph 1.
- 204 Law of Georgia on State Special Ranks, Article 7, Paragraph 3.
- 205 Law of Georgia on the Powers and Rules of Procedure of the Structure of the Government of Georgia, Article 29, Paragraph 1.
- 206 Law of Georgia on Science, Technology and their Development, Article 15¹, Paragraph 1.
- 207 Law of Georgia on the Powers and Rules of Activity of the Government of Georgia, Article 8, Paragraph 2, Subparagraph "m".
- 208 *Ibid*, Article 20, paragraph 2, sub-paragraph "d".
- 209 Law of Georgia on the Structure, Powers and Rules of Activity of the Government of Georgia, Article 20, Paragraph 2, Subparagraph „d1“.
- 210 Regulation on the Approval of the Statute of the Ministry of Defence of Georgia, approved by the Resolution N580 of the Government of Georgia of December 12, 2018, Article 7, Paragraph 2.

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- ²¹¹ Law of Georgia on the Structure, Powers and Rules of Procedure of the Government of Georgia, Article 20, Paragraph 5.
- ²¹² Statute of the Office of the State Minister of Georgia for Reconciliation and Civic Equality, Article 5, Paragraph 2, Subparagraph "c" and Article 6, Paragraph 2.
- ²¹³ Law of Georgia on Repatriation of Internally Displaced Persons from the Georgian SSR in the 1940s by the former USSR, Article 8, Paragraph 1.
- ²¹⁴ Law of Georgia on State Awards and Bonuses of Georgia, Article 4, Paragraph 3.
- ²¹⁵ Statute of the Office of the State Minister of Georgia for Reconciliation and Civic Equality, Article 5, Paragraph 2, Subparagraph "l".
- ²¹⁶ Constitution of Georgia, Article 55, Paragraph 3. This authority is its authority as the highest official of the executive branch of the state as a whole, and not only as the head of government.
- ²¹⁷ Law of Georgia on the Powers and Rules of Procedure of the Structure of the Government of Georgia, Article 8, Paragraph 2, Subparagraph "l".
- ²¹⁸ Constitution of Georgia, Article 55, Paragraph 3.
- ²¹⁹ Rules of Procedure of the Parliament of Georgia, Article 92, Paragraph 3.
- ²²⁰ *Ibid*, Article 40, Paragraph 1.
- ²²¹ Law of Georgia on the Powers and Rules of Activity of the Structure of the Government of Georgia, Article 8, Paragraph 2, Subparagraph "g".
- ²²² These powers are vested in the Ministers of Defence, Justice, Health, Foreign Affairs, Finance and Interior, in accordance with the regulations of the relevant ministries.
- ²²³ Law of Georgia on International Agreements, Article 4, Paragraph 4.
- ²²⁴ *Ibid*, Article 12, Paragraph 1.
- ²²⁵ Statute of the Office of the State Minister of Georgia for Reconciliation and Civic Equality, Article 5, Paragraph 2, Subparagraph "a".

ANNEX №2

Measures taken by the Government of Georgia before the declaration of a State of Emergency

1. Rapid Response Implementing Agencies:¹

- Ministry of Internally Displaced Persons From the Occupied Territories, Labour, Health and Social Affairs of Georgia;²
- LEPL - National Centre for Disease Control;³
- LEPL - Emergency Situations Coordination and Urgent Assistance Centre;⁴
- Ministry of Finance;⁵
- Ministry of Internal Affairs;⁶
- Structures of the Ministry of Economy;⁷
- Ministry of Education, Science, Culture and Sport of Georgia;⁸
- Ministry of Foreign Affairs;⁹
- Revenue Service of the Ministry of Finance;¹⁰
- Patrol Police;¹¹
- National Food Agency;¹²
- Georgian Airports Association Ltd;¹³
- LEPL - Land Transport Agency;¹⁴
- LEPL - National Tourism Administration;¹⁵
- Mountain Resorts' Development Company Ltd;¹⁶
- Local Governments;¹⁷
- Public Broadcasting.¹⁸

2. Measures to prevent the possible spread of the new coronavirus

(1) Restriction of rights

Restrictions on entry into the country

- Gathering detailed travel history from areas designated as high risk areas for coronavirus transmission from the passengers arriving at international airports and major checkpoints¹⁹ (and from March 6 - all customs checkpoints²⁰);
- Thermo screening of incoming persons;²¹
- Immediate on-site isolation of cases identified during screening;²²

- Quarantine passengers entering from areas designated as high risk zones for coronavirus transmission;²³
- Request for a Certificate of Coronavirus (COVID-19)²⁴ (PCR research²⁵) from persons arriving in Georgia who have been in or through epidemic countries for the past 14 days.²⁶ From March 16, this notice must have been issued by the country of departure within the last 3 days;²⁷
- Obligation to undergo epidemiological screening for individuals who failed to submit a PCR examination certificate, followed by a mandatory 14-day isolation procedure;²⁸
- Replacement of truck driver entering areas designated as high risk areas for coronavirus transmission²⁹ (A few days later this restriction extended to light vehicles and buses as well³⁰).
- Detection of suspected cases during screening at customs points and their immediate temporary isolation on the spot. In case of inability to isolate the person on the spot - transfer him/her to the appropriate nearest customs control zone;³¹
- Mandatory transfer of Georgian civil servants returning from a country of epidemic risk to self-isolation, and in case of suspicious symptoms - to consult a doctor.³²

Restrictions on crossing the air and land border of Georgia

- Direct international flights from the People's Republic of China have been suspended until the end of the winter navigation season (March 29, 2020).³³ Since February 26, direct international flights have been suspended indefinitely: to the People's Republic of China;³⁴ With the Islamic Republic of Iran;³⁵ With the Italian Republic;³⁶ With the French Republic;³⁷
- During the period of March 14-18, air and land traffic to neighbouring countries was restricted (restrictions on movement through Georgia were also established),³⁸ And after 00:00 on March 18, 2020, only Georgian citizens, as well as their family members were allowed to enter Georgia for 2 weeks from all countries;³⁹
- Direct international regular flights were completely suspended since March 21, 2020.⁴⁰

Restrictions on Import / Export

- Due to the epidemic situation, the export of certain pharmaceutical products and medical items from Georgia (export and re-export) was temporarily restricted;⁴¹
- The importation of live animals from the People's Republic of China was banned;⁴²
- International freight land transportation with the Republic of Azerbaijan, the Republic of Armenia, and the Russian Federation was carried out on the territory of Georgia in accordance with the relevant rules and norms, under the control of the responsible authorities.⁴³

Domestic traffic

Local governments have been asked to restrict the transfer of passengers by M2 category buses within the administrative boundaries of the municipality from March 18, 2020.⁴⁴

(2) Organizational and technical regulations

Coordination and cooperation

- Public agencies had until March 1, 2020 to approve their own special operational plans;⁴⁵
- The Revenue Service was instructed to immediately transmit information on on-sites the isolation identified during screening to the National Centre for Disease Control;⁴⁶
- The Ministry of Health was instructed to provide information to the government immediately upon detection of a possible infection;⁴⁷
- The National Centre for Disease Control was instructed to provide information on persons subject to self-isolation to the Ministry of Internal Affairs;⁴⁸
- The National Centre for Disease Control was instructed to act as a secretariat, which included collecting / analysing information and, if necessary, submitting it to the relevant agencies;⁴⁹
- The agencies involved in the response process were instructed to exchange the information obtained for coordination.⁵⁰

Prepare of the Medical Sector

- Planning response measures for public health purposes and coordinating their implementation;⁵¹
- Develop case management and screening protocols;⁵²
- Epidemiological surveillance of cases to detect coronavirus facts (including laboratory diagnosis);⁵³
- If necessary, send suspicious / positive samples to the WHO Referral Laboratory for confirmation and further testing;⁵⁴
- Identify medical institutions for the management of suspicious and/or confirmed cases and activate the referral mechanism;⁵⁵
- Providing information and training to medical staff;⁵⁶
- Tightening infection control measures to prevent the spread of coronavirus;⁵⁷
- Mobilize three hospitals for cases of virus detection and refer patients for relocation to other facilities.⁵⁸

Organizing execution

- Registration of information on the accommodation of passengers entering Georgia from areas designated as high risk areas for the spread of coronavirus at border checkpoints;⁵⁹
- Coordinate all preventive and response measures and ensure the safety of medical facilities;⁶⁰
- Protection of public order and security of strategic state facilities;⁶¹
- Assisting and ensuring the movement of ambulances and other vehicles while transporting patients for isolation and restraint of patients;⁶²
- Quarantine measures - isolation and safety of coronavirus disease;⁶³
- Escort of a transit vehicle with a risk of spreading the coronavirus on the territory of Georgia to the relevant border checkpoint;⁶⁴
- Enforcement of the relevant decision on self-isolation and / or quarantine;⁶⁵
- Take appropriate measures regarding border crossing;⁶⁶
- Connecting owner companies to local carriers for towing vehicles (with drivers) or simply replacing drivers for the vehicles entering from the border checkpoints of Georgia, the drivers of which are subject to preventive measures;⁶⁷
- Carrying out appropriate preventive measures in general education, vocational education, higher education and scientific-research institutions included in the system of the Ministry of Education.⁶⁸

Suspension of the Learning Process

On March 2, the government suspended the educational process in educational institutions (for disinfection purposes).⁶⁹

Switch to remote work of government agencies

- Heads of public institutions were instructed to remotely transfer employees whose activities did not require special presence in the workplace;⁷⁰
- Public institutions were instructed to restrict business trips, and in the institution building - access and movement of unknown persons.⁷¹

(3) Information and recommendations

- Distribution of information cards (memorabilia) to travellers entering the country from coronavirus outbreak;⁷²
- Informing importers and recommending, if possible, the importation of goods by rail;⁷³
- Informing tourists and travellers about the risks of transmission of coronavirus and the necessary actions;⁷⁴

- Providing information related to the spread of coronavirus to individuals and legal entities employed in the tourism industry;⁷⁵
- Informing the relevant embassies about the need for health insurance when their citizens enter Georgia, as well as the preventive regulations introduced by the government;⁷⁶
- Providing official information related to the disease to the competent authorities of foreign countries and international organizations;⁷⁷
- Informing the Government by the Ministry of Foreign Affairs about Georgian citizens being diagnosed with coronavirus in countries at high risk of spreading the coronavirus, as well as Georgian citizens in other countries;⁷⁸
- Providing accurate and necessary information to the general public by the Public Broadcaster on measures to reduce the risk of coronavirus outbreaks and its impact;⁷⁹
- Recommendation for switching to remote operation mode for private institutions;⁸⁰
- Provide healthcare and customs information to local transporters on measures to reduce the risk of coronavirus transmission.⁸¹

3. Events' Financing Rule

- Relevant government agencies were instructed to fund the activities outlined in the Response Plan from their own allocations;⁸²
- Georgian Airports Union Ltd was instructed to immediately purchase thermoscanners and related equipment (along with installation and integration services) at its own expense for placement at Georgian international airports;⁸³ From 26 February, the purchased thermoscanners were to be handed over to the Revenue Service for temporary gratuitous use;⁸⁴
- In order to prevent the spread of the coronavirus to the Ministry of Economy, appropriate goods and services should be procured in order to prepare the face masks;⁸⁵
- Ordinary rule of public procurement was simplified - without government order, state agencies were allowed to use the simplified procurement mechanism to fund events, only with the consent of the Procurement Agency. And the LEPL National Tourism Administration and the Mountain Resorts Development Company Ltd were able to not comply with the requirements of the contract form when purchasing;⁸⁶
- In case of need for additional financial resources, appropriate allowances were allocated by the Ministry of Finance to the relevant state agencies/institutions created with state participation (including from the Reserve Fund of the Government of Georgia);⁸⁷
- In order to prevent the spread of the coronavirus, the LEPL National Tourism Administration was instructed to procure various goods and services related to the mandatory quarantine of the relevant persons for placement, transportation, food, cleaning, safety and creation of appropriate conditions during the quarantine period;⁸⁸

- The Mountain Resorts Development Company Ltd. had to procure various goods and services related to avalanche works in order to ensure the smooth movement of vehicles on the Kobi-Gudauro road section.⁸⁹

¹ Decree №164 of the Government of Georgia of January 28, 2020, On the approval of measures to prevent the possible spread of the new Coronavirus in Georgia and the plan of operative response to the cases of the disease caused by the new Coronavirus (“Operational Response Plan”).

² The Operational Response Plan, Article 4, Paragraph 1.

³ *Ibid.*

⁴ *Ibid.*

⁵ Decree №164 of the Government of Georgia of January 28, 2020, On the approval of measures to prevent the possible spread of the new Coronavirus in Georgia and the plan of operative response to the cases of the disease caused by the new Coronavirus, paragraph 2, sub-paragraph "b".

⁶ Operational Response Plan, Article 4, Paragraph 2.

⁷ *Ibid.*, Paragraph 7.

⁸ *Ibid.*, Paragraph 10 (Amendment №377 of February 26).

⁹ *Ibid.*, Paragraph 8.

¹⁰ *Ibid.*, Paragraph 3.

¹¹ Operational Response Plan, Article 4, Paragraph 5.

¹² *Ibid.*, Paragraph 4.

¹³ *Ibid.*, Paragraph 7¹ (Amendment №278 of February 19).

¹⁴ *Ibid.*, Paragraph 8¹ (Amendment №435 of March 2).

¹⁵ *Ibid.*, Paragraph 8¹ (amendment №538 of March 13).

¹⁶ Operational Response Plan, Article 4, Paragraph 8³ (Amendment №576 of March 20).

¹⁷ *Ibid.*, Paragraph 9¹ (amendment №546 of March 17).

¹⁸ *Ibid.*, Paragraph 6.

¹⁹ *Ibid.*, Paragraph 3, sub-paragraph "b.a".

²⁰ *Ibid.*, Subparagraph Paragraph 3, „b.b“.

²¹ Operational response plan, Article 4, paragraph 3, Subparagraph "b.b".

²² *Ibid.*, Paragraph 3, Subparagraphs „b.c“.

²³ *Ibid.*, paragraph 1, Sub-paragraph "h" (amendment №377 of February 26).

²⁴ Operational Response Plan, Article 4, Paragraph 4, Subparagraph „b.d.a“ (Amendment №493 of 9 March, effective from March 6).

²⁵ Specific laboratory polymerase chain reaction (PCR) study.

²⁶ These countries were: the People's Republic of China, South Korea, the Italian Republic, the Islamic Republic of Iran. They were joined on 12 March by the Republic of Austria, the French Republic, the Federal Republic of Germany, the Kingdom of Spain, Article 4, Paragraph 4, Subparagraph "b.d" the Response Plan (amendment №514 of March 12). On March 16 - Federal Republic of Germany, Kingdom of Spain, Confederation of Switzerland, Kingdom of Norway, Kingdom of Denmark, and from 00:00 on March 18, 2020 all other countries. Operational Response Plan, Article 4, paragraph 4, sub-paragraph "b.d" (amendment №540 of 16 March).

²⁷ *Ibid.*, Subparagraph „b.d.a“ (№540 amendment of March 16).

²⁸ *Ibid.*, Subparagraph „b.d.a“ (№540 amendment of March 16).

²⁹ *Ibid.*, Subparagraph „c“ (Amendment №435 of 2 March). Additional conditions were disinfection of the truck; Return of the truck driver (foreign citizen) or, depending on the clinical condition, quarantine / placement in the appropriate medical facility; Replacing the truck with a tow truck that is not considered to be at risk of spreading the coronavirus.

³⁰ Operational Response Plan, "Note" of Paragraph 4 of Article 4 (Amendment №493 of 9 March, effective since March 6).

³¹ *Ibid.*, Subparagraph „e. b“ (Amendment №493 of 9 March, effective since March 6).

³² Government Decree №529 of 12 March 2020 On Determining Special Measures for Activities in Public Institutions to Prevent the Possible Spread of New Coronavirus (COVID-19).

³³ Operational Response Plan, Article 4, Paragraph 7, Subparagraph "c". This restriction may be revised in the light of epidemic risks, as directed by the Ministry.

³⁴ *Ibid*, Paragraph 4, Subparagraph "b" (Amendment №377 of February 26, effective from 23 February 2020). The restriction does not apply to flights in which aircraft from the given countries will arrive in Georgia without passengers in order to take them from Georgia.

³⁵ *Ibid* (Amendment №377 of 26 February, effective from 23 February 2020). The restriction does not apply to flights in which aircraft from the given countries will arrive in Georgia without passengers in order to take them from Georgia.

³⁶ *Ibid*, Article 4, paragraph 7, sub-paragraph "b" (amendment №492 of March 9, effective since March 6, 2020).

³⁷ *Ibid*, paragraph 4, Subparagraph "b" (amendment №576 of March 20, effective since March 19).

³⁸ Operational Response Plan, Article 4, Paragraph 4, Subparagraph "f" (amendment №540 of 16 March).

³⁹ The spouse, child or parent of the person was considered a family member, which must be confirmed by the submission of appropriate documentation. *Ibid*, Note to subparagraph "g" (amendment №540 of 16 March).

⁴⁰ The restriction does not apply to such flights during which an aircraft from foreign countries will arrive in Georgia without passengers in order to take them from Georgia. The restriction does not apply to cargo, government, outpatient, emergency, technical landing, aviation and search-and-rescue flights. *Ibid*, Paragraph 7, Subparagraph „b¹“ (amendment №577 of March 20).

⁴¹ Operational Response Plan, Article 4, Paragraph 4, Subparagraph "h" (amendment №540 of 16 March).

⁴² *Ibid*, Paragraph 5 (Amendment №377 of February 26).

⁴³ *Ibid*, paragraph 4, Sub-paragraph "v.b.g" (amendment №540 of March 16).

⁴⁴ *Ibid*, Paragraph 9¹ (Amendment №546 of March 17).

⁴⁵ Decree №164 of the Government of Georgia of January 28, 2020, On the approval of measures to prevent the possible spread of the new Coronavirus in Georgia and the plan of operative response to the cases of the disease caused by the new Coronavirus, paragraph 2, sub-paragraph "a" (amendment №377 of February 26).

⁴⁶ Operational Response Plan, Article 4, Paragraph 3, Subparagraph "c" (First Edition).

⁴⁷ *Ibid*, Subparagraph "k" of paragraph 1 (First Edition).

⁴⁸ *Ibid*, Subparagraph „o“ (amendment №540 of March 16).

⁴⁹ Decree №164 of the Government of Georgia of January 28, 2020, On the approval of measures to prevent the possible spread of the new Coronavirus in Georgia and the plan of operative response to the cases of the disease caused by the new Coronavirus, paragraph 3¹ (Amendment №377 of 26 February).

⁵⁰ Operational Response Plan, Article 4, Paragraph 9 (First Edition).

⁵¹ *Ibid*, paragraph 1, Subparagraph "a" .

⁵² *Ibid*, Subparagraphs "b" and "c".

⁵³ *Ibid*, Subparagraph "e".

⁵⁴ *Ibid*, Subparagraph "f".

⁵⁵ Operational Response Plan, Article 4, Paragraph 1, Subparagraph "h" (first edition).

⁵⁶ *Ibid*, Subparagraph "i" (first edition).

⁵⁷ *Ibid*, Subparagraph "j" (first edition).

⁵⁸ Government Decree №545 of 17 March 2020 on Preventing the Spread of Possible Cases of New Coronavirus COVID-19 in Georgia and Measures to Be Taken to Respond to Suspicious and / or Confirmed Cases (The ordinance was passed by the government on March 17, although its effect extended to relations arising from March 2).

⁵⁹ Operational Response Plan, Article 4, Paragraph 5, Subparagraph "b" (first edition).

⁶⁰ *Ibid*, paragraph 2, Sub-paragraph "a" (first edition).

⁶¹ *Ibid*, Subparagraph "d" (first edition).

⁶² *Ibid*, Subparagraph „b“ (Amendment №377 of February 26).

⁶³ *Ibid*, Subparagraph "c" (first edition).

⁶⁴ Operational Response Plan, Article 4, Paragraph 2, Subparagraph "e" (Amendment №435 of 2 March).

⁶⁵ *Ibid*, Subparagraph "f" (Amendment №540 of March 16).

⁶⁶ *Ibid*, paragraph 4, Subparagraph "f" (amendment №540 of March 16).

⁶⁷ *Ibid*, Paragraph 8¹, Subparagraph „a“ (Amendment №435 of 2 March).

⁶⁸ *Ibid*, Paragraph 10 (amendment №377 of 26 February).

⁶⁹ Decree N434 of the Government of Georgia of March 2, 2020 On the implementation of preventive measures to prevent the spread of coronavirus in the country. It should be noted that, in parallel, the Minister announced the holidays by a normative act. See Order №84/n of the Minister of Education and Science of Georgia of September 3, 2010, On Determining the End of the School Year and the Start and End Dates of Holidays in Public Schools, paragraph 5³.

⁷⁰ Government Decree №529 of 12 March 2020 On Determining Special Measures for Activities in Public Institutions to Prevent the Possible Spread of New Coronavirus (COVID-19).

⁷¹ *Ibid*.

⁷² Operational Response Plan, Article 4, Paragraph 3, Subparagraph "a" and Paragraph 5, Subparagraph "a" (First Edition).

⁷³ *Ibid*, paragraph 4, Sub-paragraph "c" (amendment №435 of March 2).

⁷⁴ *Ibid*, paragraph 7, Subparagraph "a".

⁷⁵ *Ibid* (Amendment №377 of February 26).

⁷⁶ *Ibid*, Paragraph 8, Subparagraph "a" (First Edition).

⁷⁷ Operational Response Plan, Article 4, Paragraph 8, Subparagraph "b" (First Edition).

⁷⁸ *Ibid*, Subparagraph „c“ (First Edition).

⁷⁹ *Ibid*, Paragraph 6.

⁸⁰ Government Decree №529 of 12 March 2020 On Determining Special Measures for Activities in Public Institutions to Prevent the Possible Spread of New Coronavirus (COVID-19).

⁸¹ Operational Response Plan, Article 4, Paragraph 8¹, Subparagraph „b“(amendment №435 of 2 March).

⁸² Decree №164 of the Government of Georgia of January 28, 2020, On the approval of measures to prevent the possible spread of the new Coronavirus in Georgia and the plan of operative response to the cases of the disease caused by the new Coronavirus, paragraph 2, sub-paragraph "a".

⁸³ In the event that the total cost of the purchase exceeded € 75,000, it should have immediately applied to the Ministry of Finance for additional financial resources. See Operational Response Plan, Article 4, Paragraph 8, Subparagraph "c" (Amendment №377 of February 26).

⁸⁴ *Ibid*, Paragraph 7¹ (№278 of February 19).

⁸⁵ *Ibid*, Paragraph 7, Subparagraph „d“(amendment №555 of March 18).

⁸⁶ The Rule approved by the Order № 13 of the Chairman of the LEPL State Procurement Agency on August 17, 2015 On Defining the Simplified Procurement Criteria and Approving the Rules for Conducting Simplified Procurement", Article 10, Paragraph 8.

⁸⁷ Decree №164 of the Government of Georgia of January 28, 2020, On the approval of measures to prevent the possible spread of the new Coronavirus in Georgia and the plan of operative response to the cases of the disease caused by the new Coronavirus, paragraph 2, sub-paragraph "b".

⁸⁸ Operational Response Plan, Article 4, Paragraph 8² (Amendment №538 of March 13).

⁸⁹ *Ibid*, Paragraph 8³ (amendment №576 of March 20).

ANNEX №3
Measures taken during a State of Emergency (March 21 - April 21)

Fundamental Right	Presidential Decree	Government
(1) The right to freedom (Article 13)	Relevant bodies defined by law had the right to forcibly transfer a person to an appropriate facility in a place designated by the government for violation of the isolation or quarantine rules established by the government. ¹	The rules of isolation and quarantine were established by the Minister of Health. ²
(2) Freedom of movement (Article 14)	a) Gave the government the right to establish rules of isolation and quarantine; ³ b) Suspend international air, land and sea traffic, except in exceptional cases provided by government decree; ⁴	The government has delegated the power to set isolation and quarantine rules to the Minister of Health. ⁶ The government has established exceptions: ⁷ <ul style="list-style-type: none"> - The suspension of direct international scheduled flights has not been announced: - On flights during which an aircraft from a foreign country arrives in Georgia without passengers in order to withdraw them from Georgia; - On cargo, government, military, outpatient, emergency, for the purpose of

	<p>c) The government has given the right to regulate the transportation of passengers and cargo on the territory of Georgia in a manner different from the current legislation.⁵</p>	<p>technical landing, aviation and search-and-rescue flights;</p> <ul style="list-style-type: none"> - Under the operational command of the Joint Naval Forces of the North Atlantic Alliance, NATO-flagged naval unit helicopter flights for training purposes within the Georgian territorial sea; - Allowed the possibility of individually reviewing the application for irregular (charter) flights;⁸ - The naval restriction did not apply to the entry of a NATO-flagged naval unit and / or vessel under the command of the Joint Naval Forces of the International North Atlantic Treaty Organization into the Georgian open sea and navigation ports.⁹ - During the state of emergency, an individual person was obliged to have an identity document with him / her while moving.¹⁰ - Suspended the transfer of passengers by M2 buses within the administrative centre of the municipalities;¹¹ - Since March 28, the municipality has been authorized to define routes for transporting passengers by M2 category buses within the framework of permitted economic activities and prevention of the spread of the new coronavirus.¹² From March 30, the municipality had to agree this decision with the operational headquarters of the Interagency Council.¹³ - Suspended passenger transport by rail, except for official rail traffic. JSC Georgian Railway was instructed to transfer employees from their place of residence to their place of work and vice versa;¹⁴ From March 30, this decision had to be agreed with the operational headquarters.¹⁵
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		<ul style="list-style-type: none"> - From March 24, suspended intercity passenger transportation by road in vehicles of categories M2 and M3.¹⁶ - Suspended regular air traffic for the purpose of transporting passengers within the country, but allowed the application of irregular (charter) flights to be considered individually;¹⁷ - From March 30: <ul style="list-style-type: none"> - Suspended the transfer of passengers within the city and / or administrative boundaries of the municipality by vehicles of M2 and M3 categories;¹⁸ - Suspended public transport, including subway and cable car;¹⁹ - Prohibited the movement of more than 3 persons (including the driver) in a vehicle. In addition, passengers should be placed in the back seat of the driver and follow the recommendations of the Ministry of Health;²⁰ - Imposed a curfew, in particular, banned the movement of persons from 09:00 PM to 06:00 AM, both on foot and by vehicle;²¹ - Established an age restriction on movement. In particular, persons aged 70 and over (except medical staff) were prohibited from leaving their actual / registered place of residence;²² - Checkpoints were set up near the administrative borders of Tbilisi, Batumi, Kutaisi, Rustavi, Poti, Zugdidi and Gori.²³ Akhaltsikhe and Telavi were added to them;²⁴ - From April 15, entry and exit to Tbilisi, Rustavi, Kutaisi and Batumi municipalities were restricted (exceptions were defined);²⁵ - From April 17: <ul style="list-style-type: none"> - Prohibited from traveling by car (with a few exceptions), including taxis.²⁶
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		<ul style="list-style-type: none"> - Restricted access to cemeteries.²⁷ - All persons were obliged to wear a face mask in a closed public space.²⁸ <p>Completely restricted by the presidential decree.</p>
(3) Right to privacy (Article 15)	Suspended the right of appointment in penitentiary institutions under the Code of Detention. ²⁹	
(4) Access to public services (Article 18)	Gave the government the right to determine by decree the rules different from the current legislation on public services and administrative proceedings. ³⁰	<ul style="list-style-type: none"> - Suspended legal deadlines for filing and reviewing administrative complaints, issuing public information and personal information;³¹ - Terms of administrative proceedings were suspended in connection with the authorization and accreditation of educational institutions/programs, as well as the acquisition of the right to carry out vocational training and vocational retraining, vocational training programs for professional public employees, if it was impossible to conduct them remotely, using modern electronic means of communication;³² - Since March 24, public institutions, individuals and legal entities have been authorized to use an electronic document and/or electronic signature issued in accordance with conditions different from the law.³³ - Empowered the Minister of Internal Affairs to establish rules different from the legislation regarding the provision of services and fees in its system;³⁴ - The Minister of Justice has been given the right to determine the rules of administration of the activities of the Special Penitentiary Service, the Notary Chamber and the National Archives;³⁵ - Gave the State Inspector the right to suspend consideration of relevant offence cases and the time limit for filing an administrative penalty, the time for submitting or sending decisions on infringement cases, deadlines for execution

		<p>and appeal of decisions, if it were impossible to determine the circumstances of the case in a timely, comprehensive, complete and objective manner.³⁶</p> <ul style="list-style-type: none"> - From March 26, suspended the deadlines for payment of fines and/or penalties for administrative offenses in the field of road safety for offenses under the Ministry of Internal Affairs;³⁷ - From 26 March, the Minister of the Internal Affairs was authorised to establish different rules in the field of combating illegal migration;³⁸ - On March 27, it decided to conduct administrative proceedings for the issuance of a scoping report and environmental decision under the Environmental Assessment Code without a public hearing; and allowed the public to participate in administrative proceedings and to submit opinions and comments in writing and/or electronically;³⁹ - From March 28, suspended the period of technical inspection of vehicles and their trailers (Primary / Repeated), if it coincided with the period of state of emergency;⁴⁰ - From March 30, suspended the terms of the competition in the administrative body, where due to the state of emergency, it was impossible to hold it in accordance with the legislation of Georgia;⁴¹ - From March 30, the activities of the State Service Development Agency, the National Agency of Public Registry, the House of Justice were restricted, and the Minister of Justice was entrusted with the establishment of a different rule for the administration of activities;⁴² - Established rules for restricting the activities of the National Bureau of Enforcement (including suspending / postponing various enforcement actions and initiating proceedings);⁴³ From March 30, it was delegated to the Ministry of Justice;⁴⁴
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		<ul style="list-style-type: none"> - As of March 30, the Minister of Justice has been empowered to set terms and conditions different from those established by legislation for LEPLs, Notaries and private bailiffs for the service of persons;⁴⁵ - From 3 April, the Tax / Customs Dispute Resolution Authority in the Ministry of Finance system allowed the appeal to be heard remotely, using technical means, in the absence of the complainant, if the factual circumstances related to the subject matter of the dispute were fully established from the materials in the case;⁴⁶ - From April 4, suspended the deadlines for reviewing the cases of violations within the competence of the LEPL Technical and Construction Supervision Agency, as well as the fines and/or penalties imposed in accordance with the Product Safety and Free Circulation Code;⁴⁷ - From April 4, it was possible to contribute the status of a grant and humanitarian aid for imported goods without a notarized translation of documents drawn up in a foreign language;⁴⁸ - From April 9, the State Inspector was given the right to suspend the term of execution of the imposed administrative penalty in accordance with the legislation in case of a written request / application of the person imposed an administrative penalty;⁴⁹ - From April 11, the administrative bodies were not authorized to request a notarized translation of the document into a foreign language, as well as a copy of the document.⁵⁰
(5) Property rights	Gave the Government the right, if necessary, to restrict property rights for quarantine, isolation and medical purposes in accordance with the rules established by it , and to use the	<p>Legal entities and individuals who had the opportunity to do so, upon the request of the Ministry of Economy, became obliged:</p> <ul style="list-style-type: none"> - To carry out a charter flight in a specific direction in order to bring Georgian citizens to Georgia and / or to transport the relevant cargo;

(Article 19)	property and material assets of individuals and legal entities. ⁵¹	<ul style="list-style-type: none"> - Relevant persons were transported to the quarantine zones by road transport in the required directions (throughout Georgia), and / or the relevant cargo was transported to the destination; - Allocate hotel and / or similar accommodation (with all accompanying services).⁵²
(6) Right of assembly (Article 21)	Any kind of gathering, demonstration and gathering of people was completely restricted, ⁵³ except for the exceptional cases defined by the resolution of the Government of Georgia. ⁵⁴	<ul style="list-style-type: none"> - Gathering and demonstration were completely forbidden, without exception⁵⁵ - Only remotely allowed cultural (concerts, performances, temporary and permanent exhibitions, rehearsals, tours, masterclasses, trainings and conferences) and mass sports events (competition, training / gathering process, all types of sports-related training, seminars and / or conferences).⁵⁶ - A maximum of 10 individuals were allowed to gather in the public space.⁵⁷ From March 30 this number was reduced to 3;⁵⁸ - Social events (e.g., banquets, weddings, etc.) were initially allowed in the event of a gathering of a maximum of 10 individuals.⁵⁹ From March 30, this figure was reduced to 3;⁶⁰ - The following exceptions have been made regarding restrictions on gathering in public space:⁶¹ <ul style="list-style-type: none"> - Gathering persons in medical institutions, public institutions, defence forces, special penitentiary institutions, law enforcement bodies to perform the functions assigned to them⁶² - Public transport - until March 30;⁶³ - Construction-infrastructure works (from March 30 these works had to be agreed with the operational headquarters).⁶⁴
(7) Freedom	a) Subjects of private law provided for by a government decree were	<ul style="list-style-type: none"> - Suspended the supply / sale of any goods / products, with a few exceptions;⁷⁰

<p>of labour (Article 26)</p>	<p>prohibited, restricted or instructed to carry out certain activities in accordance with the rule provided by the same decree;⁶⁵</p>	<ul style="list-style-type: none"> - Allow the activities of restaurants, public catering establishments, catering establishments in enterprises / organizations only with on-site delivery or transportation service of the product, without the user's access to the sales area;⁷¹ - Suspended activities of club and entertainment centres, cinemas, sports and recreation centres, beauty salons and nightclubs. The provision of gambling and winning game services was allowed only in electronic form;⁷² - From March 30, all economic activities were banned, with some exceptions;⁷³ - From March 30, the operation of wine and other alcoholic beverages, as well as spirits and beer outlets was banned;⁷⁴ - From March 30, the government has been empowered to further define the list of economic activities and/or economic activity / entrepreneurial entities that were not restricted and whose operation was necessary during the state of emergency;⁷⁵ - From March 31: <ul style="list-style-type: none"> - Food and medical goods / pharmaceutical delivery services were added to the permitted economic activities. Oil and gas extraction, refining; As well as any economic activity, if it was carried out remotely, only from home;⁷⁶ - The list of entrepreneurial entities carrying out economic activities, which were not restricted from functioning during the state of emergency, came into force.⁷⁷ A list of economic activities that could function under appropriate conditions was also approved.⁷⁸ - A list of entities carrying out economic activities was established, which were not restricted from functioning during the state of emergency only for the purpose of implementing the projects defined by the same act.⁷⁹
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	<p>b) The government should have established the special rules for the observance of sanitary-hygienic norms by individuals and legal entities and public institutions;⁶⁶</p>	<ul style="list-style-type: none"> - In all allowed economic activities it became mandatory to follow the recommendations issued by the Ministry of Health,⁸⁰ - The facilities that produced / processed the food were obliged to:⁸¹ <ul style="list-style-type: none"> - Observe temperature regimes during food cooling, freezing and thermal processing; - Staff wore a face mask, headscarf and gloves; - Staff had to often wash their hands and treat them with a disinfectant liquid; - Wash and disinfect with increased frequency for all surfaces and inventory that came into contact with food; - Check the health of the staff (cough, shortness of breath, temperature) before starting work. - Food delivery service facilities must comply with the following conditions:⁸² <ul style="list-style-type: none"> - Staff should be equipped with a face mask and gloves; - Food had to be placed in a single container, and reusable containers were required to be washed and disinfected after each use; - When transporting food, its temperature regime should have been observed. - Retailers / wholesalers had to additionally control the protection of social distance (not less than 2 meters) by consumers when delivering products.⁸³
	<p>c) The government should, if necessary, have regulated prices for medicines, medicines, services and</p>	<ul style="list-style-type: none"> - On March 23, approved the state program for maintaining prices for primary food products.⁸⁴

	<p>primary consumption products that are essential for human life and health;⁶⁷</p> <p>d) Gave the government the right to establish rules and conditions different from the rules established by the laws of Georgia "On Early and Preschool Education", "On General Education", "On Vocational Education", "On Special Vocational Education", and "On Higher Education";⁶⁸</p> <p>e) Gave the government the right to ensure the mobilization of persons with appropriate medical education and authority in accordance with a rule established by government decree.⁶⁹</p>	<p>- The educational process was suspended until April 21 in educational institutions. Allowed its implementation only through the use of various forms of distance learning / communication;⁸⁵</p> <p>- By 21 April, administrations of educational and research institutions must work remotely (except in critical cases);⁸⁶</p> <p>- Prohibited all types of training, conference, seminar, except for remote form;⁸⁷</p> <p>Three hospitals and persons with relevant medical education and authorities were mobilized;⁸⁸ For cases of virus detection; Indications were issued for the transfer of patients to other facilities there.⁸⁹</p>
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¹ Decree №1 of the President of Georgia of March 21, 2020 on the measures to be taken in connection with the declaration of a state of emergency on the entire territory of Georgia, Article 1, paragraph 1.
² Order of the Minister of Internally Displaced Persons from the Occupied Territories of Georgia, Labour, Health and Social Affairs of March 25, 2020 №01-31 / n "On Determining the Rules of Isolation and Quarantine".

³ Decree №1 of the President of Georgia of March 21, 2020, Article 1, Paragraph 2, Subparagraph "a".

⁴ *Ibid*, Subparagraph „b“.

⁵ *Ibid*, Subparagraph „c“.

⁶ "Measures to be taken to prevent the spread of the new coronavirus (COVID-19) in Georgia", approved by the Resolution №181 of the Government of Georgia of March 23, 2020, "On Approval of Measures to Prevent the Spread of New Coronavirus in Georgia", Article 6.

⁷ *Ibid*, Article 2, Paragraph 2.

⁸ *Ibid*, Paragraph 3.

⁹ *Ibid*, Paragraph 4.

¹⁰ *Ibid*, Paragraph 12 (amendment N204 of 30 March). It should be noted that the restriction of this right in this case was a side effect of the restriction of freedom of movement.

¹¹ "Measures to be taken to prevent the spread of the new coronavirus (COVID-19) in Georgia", Article 2, paragraph 5.

¹² *Ibid*, Paragraph 5 (amendment №202 of 28 March).

¹³ *Ibid* (amendment №204 of March 30).

¹⁴ *Ibid*, Paragraph 6, Subparagraph "a" (amendment N186 of 23 March).

¹⁵ *Ibid*, Paragraph 6 (amendment N204 of 30 March).

¹⁶ "Measures to be taken to prevent the spread of the new coronavirus (COVID-19) in Georgia", Article 2, Paragraph 6, Subparagraph "b" (Amendment №186 of March 23).

¹⁷ *Ibid*, Subparagraph „c“ (amendment №186 of March 23).

¹⁸ *Ibid*, Subparagraph „b“ amendment №204 of March 30).

¹⁹ *Ibid*, Subparagraph „c“ (amendment №204 of March 30).

²⁰ *Ibid*, Paragraph 7 (amendment №204 of 30 March).

²¹ "Measures to be taken to prevent the spread of the new coronavirus (COVID-19) in Georgia", Article 2, Paragraph 9 (amendment №204 of March 30). This restriction did not apply to international freight shipments, as well as persons / vehicles on the list agreed upon with the operational headquarters by public institutions and entities carrying out permitted economic activities, whose movement was critically necessary for the performance of official duties during the state of emergency.

²² *Ibid*, Article 5¹ (amendment №204 of 30 March). This prohibition did not apply to a person leaving a place of residence to receive medical care that he or she could not receive at home, as well as to leave a place of residence to purchase food and medical / pharmaceutical products.

²³ *Ibid*, Article 13¹ (amendment №204 of March 30).

²⁴ *Ibid* ((Amendment №207 of 31 March).

²⁵ *Ibid*, Article 1¹ (Amendment №242 of 14 April).

²⁶ "Measures to be taken to prevent the spread of the new coronavirus (COVID-19) in Georgia", Article 2, Paragraph 6, Subparagraph "b" (Amendment №252 of 16 April).

²⁷ *Ibid*, Article 2² (Amendment №252 of 16 April).

²⁸ *Ibid*, Article 5, Paragraph 2 (amendment №252 of 16 April). It should be noted that the restriction of this right in the present case was a side effect of the restriction of the freedoms of movement and assembly.

²⁹ Decree №1 of the President of Georgia of March 21, 2020, Article 1, paragraph 3.

³⁰ *Ibid*, Paragraph 4.

³¹ "Measures to be taken to prevent the spread of the new coronavirus (COVID-19) in Georgia", Article 13, Paragraph 1.

³² *Ibid*, Article 3, Paragraph 4.

³³ *Ibid*, Paragraph 3 (amendment №186 of 23 March).

³⁴ *Ibid*, Article 10.

³⁵ *Ibid*, Article 11.

³⁶ "Measures to be taken to prevent the spread of the new coronavirus (COVID-19) in Georgia", Article 13, Paragraph 4.

³⁷ *Ibid*, Article 10, Paragraph 2 (amendment №192 of 26 March).

³⁸ *Ibid*, Paragraph 3 (amendment №192 of 26 March).

³⁹ *Ibid*, Article 13, Paragraph 5 (amendment №196 of 26 March).

⁴⁰ *Ibid*, Article 17 (Amendment №201 of 27 March).

⁴¹ "Measures to be taken to prevent the spread of the new coronavirus (COVID-19) in Georgia", Article 13, Paragraph 2¹ (Amendment №204 of March 30).

⁴² *Ibid*, Article 11, Paragraph 1 (amendment №204 of 30 March).

⁴³ *Ibid*, Article 12.

⁴⁴ *Ibid*, Article 11, Paragraph 1 (amendment №204 of 30 March).

⁴⁵ *Ibid*, Paragraph 2 (amendment №204 of 30 March).

⁴⁶ "Measures to be taken to prevent the spread of the new coronavirus (COVID-19) in Georgia", Article 13, Paragraph 6 (Amendment №212 of April 2).

⁴⁷ *Ibid*, Article 11¹, Paragraph 1 (Amendment №219 of 3 April).

⁴⁸ *Ibid*, Article 13, Paragraph 7 (amendment №214 of 3 April).

⁴⁹ *Ibid*, Paragraph 4 (amendment №230 of 8 April).

⁵⁰ *Ibid*, Paragraph 7 (amendment №238 of 10 April).

⁵¹ Decree №1 of the President of Georgia of March 21, 2020, Article 1, paragraph 5.

⁵² "Measures to be taken to prevent the spread of the new coronavirus (COVID-19) in Georgia", Article 8.

⁵³ This restriction did not apply to individual protests and religious gatherings.

⁵⁴ Decree №1 of the President of Georgia of March 21, 2020, Article 1, paragraph 6.

⁵⁵ "Measures to be taken to prevent the spread of the new coronavirus (COVID-19) in Georgia", Article 5, paragraph 1.

⁵⁶ *Ibid*, Article 4.

⁵⁷ *Ibid*, Article 5, Paragraph 2.

⁵⁸ *Ibid* (№204 amendment of March 30).

⁵⁹ *Ibid*, Paragraph 3.

⁶⁰ Measures to be taken to prevent the spread of the new coronavirus (COVID-19) in Georgia", Article 5, Paragraph 3 (amendment №204 of March 30).

⁶¹ In these cases, more than the prescribed number of individuals was allowed to gather, taking into account the specifics of the facility, with a social distance of at least 2 meters and following the recommendations.

⁶² "Measures to be taken to prevent the spread of the new coronavirus (COVID-19) in Georgia", Article 5, Paragraph 4.

⁶³ *Ibid*, Subparagraph „b“.

⁶⁴ *Ibid*, Subparagraph „c“ (№204 amendment of March 30).

66 Decree №1 of the President of Georgia of March 21, 2020, Article 7, Paragraph 7, Subparagraph "a".

67 *Ibid*, Subparagraph „b“.

68 *Ibid*, Subparagraph „c“.

69 *Ibid*, Subparagraph „d“.

70 *Ibid*, Subparagraph „e“.

71 "Measures to be taken to prevent the spread of the new coronavirus (COVID-19) in Georgia", Article 7, paragraph 1.

72 *Ibid*, Paragraph 2.

73 *Ibid*, Paragraph 3.

74 *Ibid*, Paragraph 1 (№204 amendment of March 30).

75 *Ibid*, Paragraph 4 (№204 amendment of March 30).

76 "Measures to be taken to prevent the spread of the new coronavirus (COVID-19) in Georgia", Article 7, Paragraph 2 (amendment №204 of March 30).

77 *Ibid*, paragraph 1, Subparagraph "t" (amendment №211 of April 1).

78 Article 1¹ of the Resolution №181 of the Government of Georgia of 23 March 2020 (Amendment №209 of 1 April) on the approval of measures to be taken to prevent the spread of the new coronavirus in Georgia.

79 *Ibid*, Articles 1² and 1³ (Amendment №211 of 1 April).

80 *Ibid*, Article 1⁴ (Amendment №216 of 3 April).

81 "Measures to be taken to prevent the spread of the new coronavirus (COVID-19) in Georgia", Article 7, paragraph 4.

82 *Ibid*, Article 9, Paragraph 1.

83 *Ibid*, Paragraph 2.

84 *Ibid*, Paragraph 3.

85 Resolution №185 of the Government of Georgia of March 23, 2020 "On Approval of the State Program for Preservation of Prices for Consumer Food Products". This act was not limited to a state of emergency and its validity was determined by the end of 2020.

86 "Measures to be taken to prevent the spread of the new coronavirus (COVID-19) in Georgia", Article 3, Paragraph 1.

87 *Ibid*, Paragraph 2.

88 *Ibid*, Paragraph 3.

89 By the orders of the Minister of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs №01-136 / o, №231 / o, №01-306 / o and №01-476 / o, medical institutions were mobilized, which included the mobilization of the staff of the medical institution. Letter №01 / 14008 of the Ministry of Health of November 7, 2020.

90 Decree №545 of the Government of Georgia of 17 March 2020 on the Prevention of the Spread of Possible Cases of New Coronavirus COVID-19 in Georgia and Measures to Be Taken to Be Ready to Respond to Suspicious and Confirmed Cases (the ordinance was passed by the government on March 17, although its effect extended to relations arising from March 2).

ANNEX №4
Measures taken during a State of Emergency (April 21 – 22 May)

Fundamental Right	Presidential Decree	Government
<p>(1) The right of freedom (Article 13)</p>	<p>Relevant bodies defined by law were allowed to forcibly transfer a person to a relevant institution, at a place designated by the government, for violation of the isolation or quarantine rules established by the government.¹</p>	<p>The rules of isolation and quarantine were established by the Minister of Health.²</p>
<p>(2) Freedom of movement (Article 14)</p>	<p>The government was given the right to regulate the transportation of passengers and cargo on the territory of Georgia in a manner different from the current legislation.³</p>	<ul style="list-style-type: none"> - From April 22, it made an exception for driving and allowed it to carry out agricultural work from 06:00 to 08:00 AM and from 06:00 to 07:00 PM (except for Tbilisi Municipality). Exceptions were also made to the movement of agricultural machinery / equipment;⁴ - From 27 April, traffic was allowed again (except for intercity and / or municipal M2 and M3 categories of passengers within the administrative boundaries of the municipality);⁵ as well as by car - taxi (M1 category) (the driver should have been equipped with a face mask);⁶ - Restrictions on entry to Kutaisi and Batumi were lifted on May 5. It remained in force only in relation to Tbilisi and Rustavi;⁷

		<p>- Entry and exit restrictions on Tbilisi have been lifted since May 11,⁸ From May 14 - on Rustavi;⁹</p> <p>- Since May 18, the ban on more than 3 people in a car, as well as the placement of a passenger in the driver's back seat, has not been extended to the practical test for obtaining the right to drive a vehicle.¹⁰</p> <p>- From April 29, the terms provided by the state program on the rules and conditions of internship in a public institution were suspended; Also - deadlines for payment of fines for violations of the rule provided by the Law on Conflict of Interest and Corruption in Public Institutions;¹²</p> <p>- According to the amendment of May 11, from the declaration of the state of emergency until May 5, 2020, the deadlines provided by law for issuing instructions to the municipal offenders under the authority of the Municipal Inspection of Tbilisi City Hall, drawing up an inspection report and adopting a resolution were suspended.¹³</p> <p>- From May 18, it again allowed gatherings of up to 10 individuals (including social events). The requirement to wear a face mask in a closed public place has been retained.¹⁵</p> <p>- From April 21, the educational process was suspended until the end of the state of emergency in educational institutions. This was only allowed through the use of various forms of distance learning / communication;¹⁷</p> <p>- From April 21, the administrations of the educational and scientific-research institutions switched to the remote operation mode until the end of the state of emergency (except for a critical necessity).¹⁸</p>
(3) Access to public services (Article 18)	The government was empowered by a decree to determine rules different from the current legislation on public services and administrative proceedings ¹¹	
(4) Right of assembly (Article 21)	Any kind of gathering, demonstration and gathering of people was completely restricted, except for the exceptional cases defined by the resolution of the Government of Georgia. ¹⁴	
(5) Freedom of labour (Article 26)	Private law entities envisaged by a government decree were prohibited, restricted or ordered to carry out certain activities in accordance with the rule provided by the same decree. ¹⁶	

		<ul style="list-style-type: none"> - From April 27: <ul style="list-style-type: none"> - Allowed open type agrarian markets / fairs;¹⁹ - Delivery services were still fully allowed (And not just delivery of food, groceries and medical supplies / pharmaceuticals);²⁰ - Again allowed remote (so-called "online") trade, provided that no more than 5 people are in the workplace / warehouse;²¹ - Several enterprises were added to the economic activities allowed on April 28;²² - On May 1, it approved another list of entities carrying out economic activities, which were not restricted to function only for the implementation of projects specified in the same list;²³ - From May 5: <ul style="list-style-type: none"> - With regard to the prohibition of sports events, allowed exceptions to sports events held in the Georgian Defence Forces;²⁴ - All construction-infrastructure works were allowed, which provided for the gathering of more people than allowed. This no longer required an agreement with the Operations Headquarters.²⁵ - It was possible to produce equipment / installations needed to generate electricity;²⁶ - In addition to car service, the maintenance of vehicles, including car washes, as well as their on-site sale of parts, accessories and materials necessary for maintenance were again allowed;²⁷ - Construction-repair and construction supervision activities were resumed, as well as production of construction materials, wood and glass;²⁸ - On May 6, in addition to the permitted economic activities, added translation
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		<p>activities in order to investigate, prosecute, administer justice, provide legal aid and extradition, and perform the functions assigned to it by the administrative body.²⁹</p> <ul style="list-style-type: none"> - From May 11: <ul style="list-style-type: none"> - Any kind of production and extraction was allowed; Lending, Activities of household appliances, including repair services of computers and communication equipment;³⁰ - The functioning of open leisure and recreation areas has been resumed;³¹ - The operation of retail and wholesale outlets (shops), which had an independent entrance from the street, except for clothing and footwear trade and shopping centres (the restriction remained on the so-called malls) was restored;³² - The ban on the operation of wine and other alcoholic beverages of grape origin, as well as spirits and beer outlets was lifted;³³ - The activities of beauty salons and aesthetic medicine centres have been resumed since May 18.³⁴
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Remark: The other restrictions set out in Annex 3 remained in force until the end of the state of emergency.

¹ Decree №1 of the President of Georgia of March 21, 2020 on the measures to be taken in connection with the declaration of a state of emergency on the entire territory of Georgia, Article 1, paragraph 1.
² Order of the Minister of Internally Displaced Persons from the Occupied Territories of Georgia, Labour, Health and Social Affairs of March 25, 2020 №01-31 / n "On Determining the Rules of Isolation and Quarantine".

³ Decree №1 of the President of Georgia of March 21, 2020, Article 1, paragraph 2, sub-paragraph "c".

⁴ "Measures to be taken to prevent the spread of New Coronavirus (COVID-19) in Georgia" approved by the Resolution of the Government of Georgia of March 23, 2020 №181, "On Approval of Measures to Prevent the Spread of New Coronavirus in Georgia", Article 2, paragraph 6¹, sub-paragraph "p" (Amendment №258 of 22 April).

⁵ *Ibid*, Paragraph 6, Subparagraph „b“ (Amendment №264 of 24 April).

⁶ *Ibid*, Article 7, Paragraph 1, Subparagraph „m“ (Amendment №264 of 24 April).

⁷ *Ibid*, Article 2¹ (Amendment №287 of 4 May).

⁸ *Ibid* (№297 amendment of May 29).

⁹ "Measures to be taken to prevent the spread of the new coronavirus (COVID-19) in Georgia", Article 2¹ (Amendment №298 of 11 May).

¹⁰ *Ibid*, Paragraph 8 of Article 2 (Amendment №310 of May 18).

¹¹ Decree №1 of the President of Georgia of March 21, 2020, Article 1, paragraph 4.

¹² "Measures to be taken to prevent the spread of the new coronavirus (COVID-19) in Georgia", Article 11² (Amendment №268 of 28 April).

¹³ *Ibid*, Article 11³ (Amendment №299 of 11 May).

¹⁴ Decree №1 of the President of Georgia of March 21, 2020, Article 1, paragraph 6.

¹⁵ "Measures to be taken to prevent the spread of the new coronavirus (COVID-19) in Georgia", Article 5, Paragraph 2 (amendment №305 of May 14).

¹⁶ Decree №1 of the President of Georgia of March 21, 2020, Article 1, Paragraph 7, Subparagraph "a".

¹⁷ "Measures to be taken to prevent the spread of the new coronavirus (COVID-19) in Georgia", Article 3, Paragraph 1 (Amendment №257 of 22 April).

¹⁸ *Ibid*, Paragraph 2 (amendment №257 of 22 April).

¹⁹ *Ibid*, Article 7, Paragraph 1, Subparagraph „b“ (Amendment №264 of 24 April). This activity was allowed under the conditions of compliance with the recommendations issued by the Ministry of Health and the National Food Agency.

²⁰ *Ibid*, Subparagraph „o“ (amendment №264 of April 24).

²¹ *Ibid*, Subparagraph „o¹“ (Amendment №264 of 24 April).

²² Annex №1 to the Resolution of the Government of Georgia №181 of March 23, 2020 (Amendments №270 and №274 of April 28) "On Approval of Measures to Prevent the Spread of New Coronavirus in Georgia".

²³ *Ibid*, Article 1⁵ (Amendment №284 of May 1. This amendment came into force on April 10).

²⁴ "Measures to be taken to prevent the spread of the new coronavirus (COVID-19) in Georgia", Article 4, Paragraph 3 (amendment №285 of May 4).

²⁵ *Ibid*, Article 5, Paragraph 4, Subparagraph „b“ (Amendment №287 of 4 May).

²⁶ *Ibid*, Article 7 Paragraph 1, Subparagraph „d“ (Amendment №287 of 4 May).

²⁷ *Ibid*, Subparagraph "r" (Amendment №287 of 4 May).

²⁸ *Ibid*, Subparagraphs "q" and "w" (Amendment №287 of 4 May).

²⁹ "Measures to be taken to prevent the spread of the new coronavirus (COVID-19) in Georgia", Article 7, paragraph 1, sub-paragraph "sh" (amendment №291 of May 6. This amendment came into force on March 30).

³⁰ *Ibid*, Paragraph 1 (№297 Amendment of May 8)

³¹ *Ibid*, Article 7, Paragraph 1 of (№297 Amendment of May 8).

³² *Ibid* (№297 Amendment of May 8).

³³ *Ibid*, Article 7, Paragraph 1 (№297 Amendment of May 8).

³⁴ Measures to be taken to prevent the spread of the new coronavirus (COVID-19) in Georgia ", Article 7, Paragraph 1, Subparagraph "z" (Amendment №305 of May 14).

ANNEX №5

Operational response plan¹ during State of Emergency

(1) Restriction of rights

- From March 14, 2020 from the Republics of Azerbaijan and Armenia, as well as from the Russian Federation, using both land and air space, and from 00:00 on March 18, 2020 - from all countries, only Georgian citizens and their family members were allowed to enter Georgia (the list of family members was narrowed down and indicated only by the spouse and minor child);²
- From March 31, the Ministry of Finance was instructed to restrict the export of certain pharmaceutical products and medical items from Georgia (export and re-export) due to the epidemic situation, by the decision of the government (instead of the proposal of the Ministry of Health);³
- From April 5, the patrol police was instructed to register information on the placement of passengers in Georgia not only from the areas designated as high risk areas for the spread of coronavirus but from any foreign country;⁴
- On April 3, instead of the Revenue Service, the government itself identified those pharmaceutical products and medical items that were restricted to export from Georgia;⁵
- From April 10, removed face shields from the list of items banned for import;⁶
- After April 30, the length of stay in the country of a truck (with crew) coming from a foreign country with a risk of spreading Coronavirus before leaving Georgia has been extended from 48 to 96 hours;⁷
- From May 22 it became possible to take the face masks outside from Georgia (export and re-export).⁸

(2) Organizational and technical regulation

- With the change of April 3 (retroactively from January 28) the Ministry of Foreign Affairs was instructed to organize the transportation of Georgian citizens abroad to Georgia as much as possible;⁹
- From April 5, the Ministry of Internal Affairs was instructed to monitor the movement of a foreign-registered truck with a risk of spreading the coronavirus (along with its crew) on the territory of Georgia under different conditions;¹⁰
- From April 5, the Revenue Service had to disinfect all vehicles imported from abroad (and not only from high-risk countries);¹¹
- From April 5, self-governments were additionally asked to provide daily disinfection treatment of specially arranged areas (STOP POINT) in coordination with relevant companies;¹²

- From April 10, the Ministry of Internal Affairs was to monitor the movement of any trucks not only registered in a foreign country, but also imported from a foreign country, at risk of spreading the coronavirus.¹³

- From April 28, regulations were added, which provided for the arrangement of a Tirpark for trucks and their operation, namely:

- LEPL Land Transport Agency was instructed to provide the material and technical equipment (including household items) of the Tirpark for self-isolation of Georgian citizen drivers carrying out international freight transport by land, to provide food to the truck drivers and staff working in the area, to ensure the security and disinfection of the inner perimeter of the Tirpark, ensure the functioning of the relevant telephone service centre;

- Poti and Rustavi municipalities were asked to arrange lighting and other necessary communications on the outer perimeter of the park arranged within their administrative boundaries; Organising the distribution of food products to the drivers of the vehicles located there; Cleaning, disposal of household waste and disinfection;

- Georgian Airports Union Ltd was instructed to transfer these plots to the LEPL Land Transport Agency for temporary gratuitous use in order to arrange a Tirpark on certain land plots owned by it.¹⁴

(3) Recommendations and information

- Drivers of trucks entering the territory of Georgia were suggested to have non-cash payments and use personal protective equipment.¹⁵

(4) Financing

- From March 28, the Land Transport Agency was instructed to procure services related to the special charter transportation of Georgian citizens from the Republic of Bulgaria to prevent the spread of the coronavirus;¹⁶

- From April 2, the Government of the Autonomous Republic of Adjara¹⁷ was instructed to procure various goods and/or services related to: Purchasing food for people with relevant needs; Placement of persons in compulsory quarantine, transportation, food, cleaning, security and creation of appropriate conditions during the quarantine period; Transportation of Georgian citizens from another state by special charter flight; Equipping Batumi multi-profile clinical hospital with medical equipment; Purchasing of medical and personal protective equipment;¹⁸

- From April 16, Georgian Post Ltd, on the basis of instructions of the Ministry of Economy and / or the Ministry of Health, had to deliver medical supplies and medicines, as well as any other postal items to residential addresses free of charge;¹⁹

- On April 30, in order to partially subsidize the flight costs, the Georgian Airports Union Ltd was instructed to compare the information received from the airline about the ticket prices sold by the Georgian National Tourism Administration under the relevant agreement signed with the airline. LEPL Georgian National Tourism Administration was

instructed to partially subsidize charter flights for the return of Georgian citizens remaining in various European cities (Tbilisi-Riyadh-Amani-Tbilisi route has been added to the routes from European cities to Tbilisi or Batumi from May 5)²⁰ due to restrictions on international flights (appropriate amounts were also determined)²¹

(5) Privileges

- If a foreigner or stateless person who was legally present on the territory of Georgia by March 14, 2020 and could not leave the country before the expiration of his / her legal stay in Georgia, was allowed to remain on the territory of Georgia until June 30, 2020, if:

- a) The state of citizenship of the person was included in the high risk zone for the relevant period;
- b) The relevant state imposed restrictions on the border crossing;
- c) The person was hospitalized, quarantined, or self-isolated due to a health condition;
- d) The person was unable to leave the country due to cancelled flights within the stipulated time.²²

¹ Decree №164 of the Government of Georgia of January 28, 2020, On the approval of measures to prevent the possible spread of the new Coronavirus in Georgia and the plan of operative response to the cases of the disease caused by the new Coronavirus (“Operational Response Plan”).

² Operational Response Plan, Article 4, Paragraph 4, Subparagraph „g“, Note (Amendment №625 of 1 April).

³ *Ibid*, Subparagraph „h“ (Amendment №621 of March 31).

⁴ *Ibid*, Article 4, paragraph 3, sub-paragraph “b” (amendment №643 of 2 April).

⁵ These items were: Tests (from April 13 - tests for the diagnosis of COVID 19 infection; see Amendment №678 of April 13); Plastic footwear; Face shields; Gloves; Insulating overalls; Medical coats; Sets of medical coats, hats and footwear; Face masks; Cotton and textile foot-wears; Medical hats; Plastic protective goggles; Contactless thermometers; Artificial respiration apparatus; Disinfectants.

⁶ Operational Response Plan, Article 4, Paragraph 4, Subparagraph “h.c” (Amendment №672 of April 10)..

⁷ *Ibid*, Article 4, Paragraph 4 (Amendment N746 of 30 April).

⁸ *Ibid*, Subparagraph „f.h“ (№846 amendment of May 22).

⁹ *Ibid*, Article 4, paragraph 9, sub-paragraph “e” (amendment №648 of 3 April).

¹⁰ *Ibid*, paragraph 2, Sub-paragraph “e” (amendment №643 of 2 April).

¹¹ Operational Response Plan, Article 4, Paragraph 4, Subparagraph „e.b“(Amendment №643 of April 2).

¹² *Ibid*, Paragraph 9¹, Subparagraph „b“(Amendment №643 of April 2).

¹³ *Ibid*, Paragraph 2, Subparagraph „e“(Amendment №673 of April 10).

¹⁴ “Decree №164 of the Government of Georgia of January 28, 2020, On the approval of measures to prevent the possible spread of the new Coronavirus in Georgia and the plan of operative response to the cases of the disease caused by the new Coronavirus, Paragraph 2¹ (Amendment №731 of April 28. Spread to relationships arising from April 12).

¹⁵ Operational Response Plan, Article 4, Paragraph 2, Sub-paragraph “e.c” (Amendment №643 of April 2).

¹⁶ *Ibid*, Paragraph 8¹, Subparagraph “c” (Amendment №617 of March 28).

¹⁷ Ministries, sub-departments of the Ministry, enterprises operating with 100% shareholding of the Autonomous Republic of Adjara, legal entities of public law under the control of the Autonomous Republic of Adjara, etc.

¹⁸ Operational Response Plan, Article 4, Paragraph 8⁴ (Amendment №640 of April 2).

¹⁹ *Ibid*, Paragraph 8⁵ (Amendment №696 of April 16).

²⁰ *Ibid*, Paragraph 8⁶ (Amendment №764 of May 5).

²¹ *Ibid* (Amendment №744 of April 30).

²² *Ibid*, Article 5 (Amendment №694 of April 16. This rule applied to relationships arising from 14 March).

ANNEX №6
Activities of the Ministries during the State of emergency

1. Measures taken on the instructions of the President / Government

Assignment of the President/ Government	Performance	Ordinary rule
<p>The decree of the President gave the Minister of Justice the right to regulate the regime prescribed by law for a probationer and a person released on parole, as well as to regulate the appearance at the time and place determined by the probation officer in a manner different from the law.¹</p> <p>By government decree, the competence to regulate enforcement services was transferred to the Ministry of Justice.²</p>	<p>By the order of the Minister of Justice, until the lifting of the state of emergency, conditionally convicted and paroled persons were removed from the obligation to appear for listing and registration in accordance with the regime established by the probation officer. Control mechanisms for these individuals were also identified.⁴</p> <p>The Minister of Justice:⁵</p> <ul style="list-style-type: none"> - Gave the National Bureau of Enforcement the right to obtain/register and commence enforcement proceedings without the original of the writ of execution / enforcement act; - In order to initiate enforcement proceedings, the creditor/applicant was allowed to submit the following acts only through the electronic portal; - Suspended seizure of movable property located in a residential area; 	<p>Law on Crime Prevention, Rules for Execution of Non-custodial Sentences and Probation.</p> <p>Law on Enforcement Proceedings.</p>

<p>By the decision of the Government, the Ministry of Justice has been authorized to define special rules and conditions for the service of persons by LEPLs, notaries and private bailiffs operating in its field of governance.³</p>	<ul style="list-style-type: none"> - Until the end of the state of emergency, it was prohibited to forcibly evict the debtors and his / her accomplices from the real estate indicated in the writ of execution in cases of restitution of real estate from the ownership / use of another; - Suspended proceedings for the purpose of establishing facts, except for the necessity caused by a special accident. <p>(1) Towards LEPL State Services Development Agency:⁶</p> <ul style="list-style-type: none"> - The services that were allowed to be received were exactly written during the State of Emergency; - Specific addresses where the agency staff would provide services were identified; - In order to receive a separate service, it was necessary to book the visit in advance by phone; - It was possible for certain categories of persons to provide separate services at the address indicated by the applicant; - Certain categories of persons were exempted from paying the service fee. <p>(2) Towards LEPL National Agency of Public Registry:⁷</p> <ul style="list-style-type: none"> - In order to submit material applications and 	<p>Law on Civil Acts.</p> <p>Government Resolution No. 508 of December 29, 2011 On Approval of the Terms, the Fees and the Rules for Payment of the Fee of Services provided by LEPL State Services Development Agency and the Consular Officer within Delegated Authority.</p> <p>The law "On Public Registry".</p>
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<p>documents requesting the Agency's services, it was necessary to determine the time of the visit of the interested person through the citizen's portal and to book the queue;</p> <ul style="list-style-type: none"> - It was possible for certain categories of persons to provide separate services at the address indicated by the applicant; - The flow of time set by the Agency for the submission of additional documentation or information to interested parties in order to eliminate the deficiency has been suspended; - The administrative proceedings of the Agency were to be conducted without an oral hearing, and if necessary - through an oral hearing, through electronic communication; - The agency was authorized in some cases to register without the originals of the registration documents. <p>(3) Towards LEPL National Archives:⁸</p> <ul style="list-style-type: none"> - The archive became authorized to receive an application for the provision of archival services from an interested person via e-mail and/or hotline; - Specific archival information of a social-legal nature was determined, which was issued by the archive through electronic communication; 	<p>General Administrative Code of Georgia.</p> <p>Law on the National Archival Fund and the National Archives.</p> <p>Government Resolution N506 of December 29, 2011 On the approval of the amounts of the fee for the services, the payment method and the terms of the service provided by Legal</p>
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	<p>- The archive was obliged to send the archival notice prepared for the interested person to the e-mail address and / or through the "Georgian Post" (upon request).</p> <p>(4) Towards Notary offices:⁹</p> <ul style="list-style-type: none"> - Any notarial activity not envisaged by the order of the Minister was prohibited; - Temporary notary offices were set up to provide notary services; - The rule of notaries' rotation and the obligation to complete the work at a precisely defined time was established; - In order to receive notary services, the applicant was obliged to agree in advance on the time and place of receiving services through the citizen portal; - Only on the basis of a preliminary decision of the Board of the Notary Chamber was it possible to provide several types of notary services to interested persons; - Certification of a contract for in vitro fertilization by a public or private notarial deed, including the use of electronic means of communication, was not permitted if at least one of the child's parents was a foreign national. 	<p>Entity of public law - National Archives.</p> <p>Law on Notary.</p> <p>Law on Civil Acts.</p> <p>Law on Health Care.</p> <p>Resolution N507 of the Government of December 29, 2011 On Approval of Remuneration for the Performing of Notarial Acts, Amounts of Fees and Rules for Their Payment and Terms of Service Established for the Notary Chamber of Georgia.</p>
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	<p>(5) A private bailiff could initiate enforcement proceedings only on the basis of an enforcement form /enforcement document submitted electronically.¹⁰</p>	Law on Enforcement Proceedings
<p>By the decision of the government, the Ministry of Health was instructed to approve the rules of isolation and quarantine.¹¹</p>	<p>According to the order of the Minister of Health:¹²</p> <ul style="list-style-type: none"> - <i>Obligations of individuals</i>: Not to carry out activities that posed a risk of spreading contagious diseases; Provide information on the circumstances necessary to assess the risk of spreading the disease; In case of danger of detection and spread of contagious diseases, at the request of the competent authorities, conduct all medical procedures to prevent transmission to other persons; Stop operating if it posed a threat to public health; Observe sanitary and epidemiological norms; - <i>Isolation and quarantine measures</i>: grounds for placement of persons, term, rule, their obligations and responsibilities. 	<p>Law on Public Health.</p> <p>Government Resolution N336 of 9 July 2015</p> <p>On the approval of the rules for the functioning of the integrated national system of epidemiological surveillance for infectious diseases, including diseases caused by particularly dangerous pathogens.</p>
<p>According to the government decree, the Ministry of Internal Affairs has been given the authority to define different rules in the field of combating illegal migration during the state of emergency.¹³</p>	<p>The Minister of Internal Affairs defined different rules on the implementation of the asylum procedure and the fight against illegal migration.¹⁵ Namely:</p> <ul style="list-style-type: none"> - Receipt of applications and relevant administrative proceedings should be done remotely, via letters/ applications received by e-mail; - The foreigner's inquiries, interview / dialogue, for a period of the state of emergency, held only in case of the foreigners' request or official necessity. <p>- Suspended:</p>	<p>Law on International Protection.</p> <p>Law on the Legal Status of Foreigners and Stateless Persons.</p>

<p>The Ministry of Internal Affairs was authorized to establish different regimes and fees for some services in its system in order to prevent the spread of the coronavirus.¹⁴</p>	<ul style="list-style-type: none"> - The procedure for registering an application for international protection and issuing a certificate to an asylum seeker; - On a separate basis, submit a motion to the court to initiate consideration of the issue of deportation of an foreigner from Georgia; - Administrative proceedings related to granting the right of temporary stay in Georgia. <p>The Minister of Internal Affairs:¹⁶</p> <ul style="list-style-type: none"> - Set different deadlines for obtaining a driver's license; - Allowed all applications related to security activities to be received through hotline calls; - In certain cases, the interested person was exempted from the service fee, or defined different fees; - Suspended: <ul style="list-style-type: none"> - Theoretical examinations for the right to drive a vehicle; - Examinations provided by gun legislation, also gun registration (issuance of purchase permits); - The process of developing requirements for fire safety measures, emergency prevention and response; Teaching fire safety rules; Teaching the rules of behaviour in emergency situations, as well 	<p>Law on Fees and Terms for Services Provided by the LEPL Service Agency of the Ministry of Internal Affairs of Georgia.</p> <p>Law on Weapons.</p> <p>Resolution №162 of the Government of September 21, 2005 On the Procedure for Issuing Licenses and Permits of the Ministry of Internal Affairs of Georgia and Establishing Additional Permit Conditions.</p>
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<p>According to the Government's decision, simultaneously, the competencies of three Ministries (Health, Economy and Regional Development) were established for the approval of the rules for international freight transportation, self-isolation and placement of Georgian citizen drivers in the quarantine area by land and their movement (excluding transit) on the territory of Georgia.¹⁷</p>	<p>as the organisation of emergency management; Develop an evacuation plan for buildings.</p> <p>The Ministers issued a joint order:¹⁸</p> <ul style="list-style-type: none"> - Rules for placement of Georgian citizens involved in international cargo transportation in self-isolation, space arranged for isolation (Tirpark and relevant hotel) and other quarantine space, their movement on the territory of Georgia, as well as functions of relevant agencies for enforcement of this rule; - Rights and responsibilities of drivers; - Term of Isolation. 	<p>Law on the State Border of Georgia.</p> <p>Law on Road Transport.</p> <p>Government Resolution №386 of December 30, 2013 On Approval of the State Border Regime and Rule of Protection.</p>
<p>In order to prevent the spread of the new coronavirus (COVID-19) in the workplace during economic activities, the right to control the implementation of the recommendations developed by the Ministry of Health, by decision of the government, was given to the LEPL Technical and Construction Supervision Agency, and the procedures were established by the Ministries of Health and Economy by joint order.¹⁹</p>	<p>The Ministers of Economy and Health issued a joint order to control the implementation of the recommendations of the Ministry of Health in the workplace. This included:</p> <ul style="list-style-type: none"> - Enter the territory of the object and move freely; - Requesting and receiving any information, documents required for control; - Consideration of an administrative offense case on the spot and imposing an administrative penalty on the offender on the spot, if the relevant offense did not require further investigation.²⁰ 	<p>Organic Law on Labour Safety.</p> <p>Law on Control of Entrepreneurial Activity.</p>

<p>According to the government decree, The Ministers of Economy, Interior, Environment and Agriculture were instructed to determine the list of entrepreneurial entities in the territory of Marneuli and Bolnisi municipalities, whose activities were not restricted.²¹</p>	<p>The Ministers of Economy, of the Interior and of the Environment and Agriculture:</p> <ul style="list-style-type: none"> - Jointly defined the list of entrepreneurial entities in Marneuli and Bolnisi municipalities and the rules of operation, namely: Activities / work should be conducted, mainly in open space, following the recommendations of the Ministry of Health; The entrepreneur was obliged to transfer the employed persons to the workplace and return them by a route agreed in advance with the Ministry of Interior.²² 	<p>Organic Law "Labour Code".</p>
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2. Measures taken by ministries / LEPLs on their own initiative

(1) The Minister of Justice:

- Exempted from the legal conclusion of its agency the draft normative acts based on the Presidential Decree and the Government Resolution;²³
- Suspended all diversion and mediation agreements with minors;²⁴
- Established a temporary rule for consideration and decision-making on the issue of parole by the local councils of the Special Penitentiary Service;²⁵
- Established a special rule for supervising on COVID infected defendant / convict in a civilian medical institution;²⁶

(2) The Ministers of Health and Finance issued a joint order exempting 9 types of goods intended for medical purposes from VAT until October 1, 2020;²⁷

(3) The Minister of Education:

- The performance of the functions and responsibilities of the Professional Development Officer of the Professional Public Servant and the members of the Board in the period before the elimination of the threat of the spread of the new coronavirus was allowed remotely;²⁸
- Due to the suspension of the teaching process, the fulfilment of the obligations under the intensive short-term teaching search program has been postponed for the next semester;²⁹
- Postponed deadlines for external observation by teachers for the next semester;³⁰
- Changed the rules for pupil assessment in the second semester of the 2019-2020 academic year and annual pupil assessment in the 2019-2020 academic year;³¹
- For the 2020-2021 school year, as an exception, allowed the enrolment of relevant pupils in the first grade of a public school without determining the status of special educational needs and the conclusion of the multidisciplinary team;³²

(4) LEPL Maritime Transport Agency:

- Suspended process of ship registration renewal, seafarers' certification and seafarers' qualification examinations (interview/testing);³³
- Approved some measures to be taken in the field of seafarer training and certification in relation to the spread of the coronavirus;³⁴

- (5) LEPL Civil Aviation Agency** has determined the measures to be taken to supervise aviation activities during the state of emergency.³⁵

¹ Decree №1 of the President of Georgia of March 21, 2020 on the measures to be taken in connection with the declaration of a state of emergency on the entire territory of Georgia, Article 6.

² "Measures to be Taken to Prevent the Spread of New Coronavirus (COVID-19) in Georgia", approved by the Resolution №181 of the Government of Georgia of March 23, 2020 "On Approval of Measures to Prevent the Spread of New Coronavirus in Georgia", Article 11. However, these regulations were initially drafted by government decree (see Resolution №181, first edition).

³ *Ibid*, Article 11 (Amendment of March 30).

⁴ Order №522 of the Minister of Justice of 16 April 2020 on the Establishment of a Different Rule for the Protection of the Regime Established by Legislation for Conditionally Convicts and Parolees in Georgia in order to facilitate the prevention of the spread of the new coronavirus (COVID-19).

⁵ Order №515 of the Minister of Justice of 6 April 2020 on the separate regulation of certain issues provided for by the Law of Georgia on Enforcement Proceedings in order to prevent the spread of the new coronavirus (COVID-19).

⁶ Order №518 of the Minister of Justice of April 9, 2020 On Approval of the Rules for Administration of Services and Activities of the LEPL State Services Development Agency to facilitate the prevention of the spread of the new coronavirus (COVID-19).

⁷ Order №521 of the Minister of Justice of 15 April 2020 on the Terms and Conditions of Service by the National Agency of Public Registry, a legal entity under public law, in order to prevent the spread of the new coronavirus (COVID-19).

⁸ Order №516 of the Minister of Justice of April 6, 2020 On Approval of the Rules for Administration of the Activities of the National Archives of Georgia in order to facilitate the prevention of the spread of new coronavirus (COVID-19).

⁹ Order №511 of the Minister of Justice of March 31, 2020 On the Activities of the Notary Chamber of Georgia, a Legal Entity under Public Law, and the Rules and Conditions of Services for Notaries in order to facilitate the prevention of the spread of the new coronavirus (COVID-19) in Georgia.

¹⁰ Order №515 of the Minister of Justice of 6 April 2020 on the separate regulation of certain issues provided for by the Law of Georgia on Enforcement Proceedings in order to prevent the spread of the new coronavirus (COVID-19).

¹¹ "Measures to be taken to prevent the spread of the new coronavirus (COVID-19) in Georgia", Article 6.

¹² Order №01-31 / n of the Minister of Internally Displaced Persons from the Occupied Territories of Georgia, Labour, Health and Social Affairs of March 25, 2020 On Determining the Rules of Isolation and Quarantine.

¹³ "Measures to be taken to prevent the spread of the new coronavirus (COVID-19) in Georgia", Article 10, paragraph 3 (amendment №192 of March 26).

¹⁴ *Ibid*, Article 10.

¹⁵ Order №26 of the Minister of Internal Affairs of April 2, 2020 On Preventing the Spread of the New Coronavirus (COVID-19) by the Migration Department of the Ministry of Internal Affairs of Georgia in the Field of International Protection and / or Combating Illegal Migration.

¹⁶ Order №21 of the Minister of Internal Affairs of March 24, 2020 On Defining Different Regimes for Provision of Some Services in the System of the Ministry of Internal Affairs of Georgia and Preventing Separate Service Fees in order to prevent the spread of the new coronavirus (COVID-19).

¹⁷ "Measures to be taken to prevent the spread of the new coronavirus (COVID-19) in Georgia", Article 18 (amendment №251 of April 16).

¹⁸ Joint order №1-1 / 179 – №01-44 / n-№99 –№2 / n of Minister of Economy and Sustainable Development of Georgia, Minister of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs, Minister of Finance of Georgia and Minister of Regional Development and Infrastructure of Georgia of April 28, 2020 on Establishing the Rules for the International Self-Isolation of Land Freight Drivers Carrying Out International Freight Carriers, Self-Isolated Space (Tirpark) and Quarantine, for their Movement (Except for Transit) and Arrangement of Relevant Infrastructure during the state of emergency.

¹⁹ "Measures to be taken to prevent the spread of the new coronavirus (COVID-19) in Georgia" (amendment №219 of 3 April).

²⁰ Joint Order №1-1 / 162 - №01-38 / N of the Minister of Economy and Sustainable Development and the Minister of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of April 6, 2020 On Determining the Procedures for Monitoring the Implementation of the Recommendations Developed by the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia to Prevent the Spread of the New Coronavirus (COVID-19) in the Workplace.

²¹ Resolution of the Government of Georgia of March 23, 2020 №180, on quarantine measures to be carried out in Marneuli and Bolnisi municipalities in order to prevent the spread of the new coronavirus, Article 1, sub-paragraph "e.d" of (the title of the resolution was changed twice, on May 14 and 19).

²² Joint Order №1-1 / 455, №23, №2-281 of March 26 2020 of the Minister of Economy and Sustainable Development, the Minister of Internal Affairs and the Minister of Environment and Agriculture on the Rules for the List and Functioning of Entrepreneurial Entities in the Marneuli and Bolnisi Municipalities.

²³ Order №510 of the Minister of Justice of March 31, 2020 on the Amendment to the Order №149 of the Minister of Justice of Georgia of November 21, 2011 On the Definition of By-Laws that Do Not Require a Legal Opinion of the Ministry of Justice of Georgia.

²⁴ Order №520 of the Minister of Justice of Georgia of 14 April 2020 on the Amendment to the Order №120 of the Minister of Justice of Georgia of February 1, 2016 On the Rules for the Use of the Diversion / Diversion and Mediation Program for Minors and the Approval of the Basic Conditions of the Agreement to be Concluded between the Parties.

²⁵ Order №508 of the Minister of Justice of March 27, 2020 on the Amendment to the №320 Order of the Minister of Justice of Georgia of August 7, 2018 On Consideration of the Issue of Conditional Early Release from Sentencing by the Local Councils of the State Sub-Institution - Special Penitentiary Service within the System of the Ministry of Justice of Georgia and Approval of the Decision-Making Rule.

²⁶ Order №533 of the Minister of Justice of 13 May 2020 "On Change to the Order № 149 of the Minister of Corrections and Probation of October 19, 2015 "On Approval of the Rule of Escort / Transfer of Accused / Convicts".

²⁷ Joint Order №89 №01-36/n/ of April 1, 2020 of the Minister of Labour, Health and Social Affairs on amendments to the Joint Order №01-69 / n / №451 of the Minister of Labour, Health and Social Affairs of Georgia and the Minister of Finance of Georgia of December 15, 2017 On the determination of the list of goods intended for cure/medical purposes, the supply and / or import of which is exempt from VAT without the right to deduct.

²⁸ Order №41 / n of the Minister of Education, Science, Culture and Sports of March 24, 2020 on Amendments to the Order №46 / n of the Minister of Education, Science, Culture and Sports of March 6, 2019 On Approval of the Accreditation Regulations and Fees of the Professional Development Program for Professional Public Servants.

²⁹ Order №56 / n of the Minister of Education, Science, Culture and Sports of May 20, 2020 On Amendment to the Order of the Minister of Education, Science, Culture and Sports of the Minister of Education, Science, Culture and Sports of August 16, 2019 On the rules for the registration of applicants for teachers and the passage of the pedagogical period and the approval of a sample document confirming the passage of the pedagogical period.

³⁰ Order №54 / n of the Minister of Education, Science, Culture and Sports of 13 May 2020 on the Amendment to the Order №205 / n of the Minister of Education, Science, Culture and Sports of Georgia on the Approval of the Rule of External Monitoring.

³¹ Order №55 / n of the Minister of Education, Science, Culture and Sports of the Minister of Education, Science, Culture and Sports of May 15, 2020 on Amendments to the Order №40 / n of the Minister of Education and Science of May 18, 2016 On the Approval of the National Curriculum.

³² Order №50 / n of the Minister of Education, Science, Culture and Sports of the Minister of Education, Science, Culture and Sports of April 7, 2020 on Amending the Order №04/n of the Minister of Education and Science of January 11, 2017 On Approval of the Rules for Enrollment and Suspension of Student Status in a General Education Institution.

³³ Order №03 of the Director of the Maritime Transport Agency of March 23, 2020 on the suspension of some of the Agency's powers in connection with the spread of the new coronavirus COVID 19.

³⁴ Order №N05 of the Director of the Maritime Transport Agency of April 6, 2020 on some measures to be taken in the field of training and certification of Georgian seafarers in connection with the spread of the new COVID 19.

³⁵ Order №76 of the Director of the Civil Aviation Agency of 17 April on the measures to be taken to monitor the aviation activities during the operation of the state of emergency response to the spread of the new coronavirus COVID 19.

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Legal Acts

Legislation of Georgia

Legislative Acts

- 1) Constitution of Georgia;
- 2) Organic Law of Georgia on Economic Freedom;
- 3) Organic Law of Georgia on Normative Acts;
- 4) Organic Law of Georgia on Referendum;
- 5) Organic Law of Georgia on Labour Safety;
- 6) Organic Law of Georgia on the State Language;
- 7) Organic Law of Georgia "Local Self-Government Code";
- 8) Organic Law of Georgia "Labour Code of Georgia".
- 9) Organic Law of Georgia on the Prosecutor's Office;
- 10) Decree №1 of the President of Georgia of March 21, 2020 "on the measures to be taken in connection with the declaration of a state of emergency on the entire territory of Georgia".
- 11) Rules of Procedure of the Parliament of Georgia;
- 12) Law of Georgia on the Structure, Powers and Rules of Procedure of the Government of Georgia;
- 13) Law of Georgia on Combating Trafficking in Human Beings;
- 14) The Code of the Rights of the Child;
- 15) Law of Georgia on Business Ombudsman;
- 16) Law of Georgia on Nuclear and Radiation Safety;
- 17) Law of Georgia on the Development of Quality of Education;
- 18) Law of Georgia on Environmental Protection;
- 19) Law of Georgia on Naming Geographical Features;
- 20) Law of Georgia on Geodetic and Cartographic Activities;

- 21) Law of Georgia on Grants;
- 22) Law of Georgia on Insurance;
- 23) Law of Georgia on Diplomatic Service;
- 24) Law of Georgia on Electronic Communications;
- 25) Law of Georgia on Energy Efficiency;
- 26) Law of Georgia on Energy and Water Supply;
- 27) Law of Georgia on Rule of National Security Policy Planning and Coordination;
- 28) Law of Georgia on General Education;
- 29) Law of Georgia on Defence Planning;
- 30) Law of Georgia on Free Industrial Zones;
- 31) Law of Georgia on Tobacco Control;
- 32) Law of Georgia on State Investment Support;
- 33) Law of Georgia on Innovations;
- 34) Law of Georgia on Information Security;
- 35) Law of Georgia on Competition;
- 36) Law of Georgia on Counterintelligence Activities;
- 37) Law of Georgia on Cultural Heritage;
- 38) Law of Georgia on Broadcasting;
- 39) Law of Georgia on Science, Technology and their Development;
- 40) „Law of Georgia on the National Academy of Sciences;
- 41) Law of Georgia on Mobilization;
- 42) Law of Georgia on Museums;
- 43) Law of Georgia on Oil and Gas;
- 44) Waste Management Code;
- 45) Law of Georgia on Veterans of War and Defence Forces;
- 46) Law of Georgia on Official Statistics;
- 47) Product Safety and Free Circulation Code;
- 48) Law of Georgia on Vocational Education;
- 49) Law of Georgia on Radioactive Waste;
- 50) Law of Georgia on the Rule of Calculating the Subsistence Minimum;
- 51) Law of Georgia on State of Emergency;
- 52) Law of Georgia on Joint Stock Company - Partnership Fund;
- 53) Law of Georgia on Intelligence Activities;

- 54) Law of Georgia on International Agreements;
- 55) Law of Georgia on Public Health;
- 56) Law of Georgia on License and Permit Fees;
- 57) Law of Georgia on Civil Security;
- 58) Law of Georgia on Military Obligation and Military Service;
- 59) Law of Georgia on the Parliamentary Secretary;
- 60) Law of Georgia on the State Border of Georgia;
- 61) Code of Spatial Planning, Architectural and Construction Activities of Georgia;
- 62) Air Code of Georgia;
- 63) Budget Code of Georgia;
- 64) Maritime Code of Georgia;
- 65) Patent Law of Georgia;
- 66) Forest Code of Georgia;
- 67) Tax Code of Georgia;
- 68) General Administrative Code of Georgia;
- 69) Law of Georgia on Maritime Space of Georgia;
- 70) Law of Georgia on the Rules of Departure and Entry of Georgian Citizens from Georgia;
- 71) Law of Georgia on Defence of Georgia;
- 72) Law of Georgia on State Material Reserves of Georgia;
- 73) Law of Georgia on the Investigation Service of the Ministry of Finance of Georgia;
- 74) Law of Georgia on State Awards and Bonuses of Georgia;
- 75) Law of Georgia on the Georgian Chamber of Commerce and Industry;
- 76) Law of Georgia on Public Debt;
- 77) Law of Georgia on the State Security Service of Georgia;
- 78) Law of Georgia on State Secrets;
- 79) Law of Georgia on State Procurement;
- 80) Law of Georgia on State Special Ranks;
- 81) Law of Georgia on the State Inspector Service;
- 82) Law of Georgia on the Special State Protection Service;
- 83) Law of Georgia on Civil Service;
- 84) Law of Georgia on Public-Private Partnership;
- 85) Law of Georgia on Legal Entity of Public Law;
- 86) Law of Georgia on the Legal Entity of Public Law - Operational-Technical Agency;

- 87) Law of Georgia on the Establishment of a Legal Entity under Public Law - Kutaisi International University;
- 88) Law of Georgia on the Establishment of the Levan Samkharauli National Forensics Bureau, a Legal Entity under Public Law;
- 89) Law of Georgia on the Establishment of a Legal Entity under Public Law - the Organization for Reforms and Cooperation of Georgia;
- 90) Law of Georgia on Social Assistance;
- 91) Food / Animal Feed Safety, Veterinary and Plant Protection Code;
- 92) Law of Georgia on Tourism and Resorts;
- 93) Law of Georgia on Higher Education;
- 94) Law of Georgia on Facilitation of Money Laundering and Prevention of Terrorist Financing;
- 95) Law of Georgia on Repatriation of Internally Displaced Persons from the Georgian SSR in the 1940s by the former USSR;
- 96) Law of Georgia on the Rights of Persons with Disabilities;
- 97) Law of Georgia on Revenue Service;
- 98) Law of Georgia on Labour Migration;
- 99) Law of Georgia on mines;

By-laws

- 1) Ordinance of the Government of Georgia №77, dated February 14, 2018, on Approval of the Rules of Procedure of the Government of Georgia“;
- 2) Resolution of the Parliament of Georgia №5864-ლს of March 21, 2020, on approving the decree №1 of the President of Georgia “on Declaring the State of Emergency throughout the whole territory of Georgia“;
- 3) Resolution №185 of the Government of Georgia of March 23, 2020 “On Approval of the State Program for Preservation of Prices for Consumer Food Products“;
- 4) Resolution of the Government of Georgia of March 23, 2020 №180, on quarantine measures to be carried out in Marneuli and Bolnisi municipalities in order to prevent the spread of the new coronavirus;
- 5) Resolution №4942-ლს of the Parliament of Georgia, dated September 8, 2019, on vote of confidence to the Government of Georgia;
- 6) Regulation on the Approval of the Statute of the Ministry of Justice of Georgia, approved by the Resolution of the Government of Georgia №389 of December 30, 2013;
- 7) Regulation on the Approval of the Statute of the Ministry of Defence of Georgia, approved by the Resolution N580 of the Government of Georgia of December 12, 2018;
- 8) Statute of the Office of the State Minister of Georgia for Reconciliation and Civic Equality, approved by the Resolution №116 of the Government of Georgia of March 6, 2017 on the Statute and Staff List of the Office of the State Minister of Georgia for Reconciliation and Civic Equality;

- 9) Regulation on the Establishment of the Legal Entity of Public Law - Youth Agency and Approval of the Statute, approved by the Resolution of the Government of Georgia №411 of August 26, 2019;
- 10) Ordinance of the Government of Georgia №190, dated April 12, 2019 “on Establishment Government Commission on Developing Housing Policy Document and Action Plan”;
- 11) Ordinance №469, dated September 14, 2018 “on Establishment of Standing Commission Developing National Strategy of Fight against Terrorism and Relevant Action Plan, and Conducting Enforcement Monitoring and approving its Charter;
- 12) Ordinance of the Government of Georgia №244, dated September 19, 2013, “on Determining the rules and conditions for financing vocational education and approving the maximum amount of state-funded tuition fees for educational institutions implementing vocational education programs”;
- 13) Ordinance of the Government №258, October 7, 2013 on Approval the Statute of Social Partnership Tripartite Commission;
- 14) Ordinance №589 of the Government of Georgia, dated September 22, 2020 on Establishment and Approval the Statute of Governmental Coordination Commission for Census of Population of Georgia;
- 15) Ordinance of the Government of Georgia №69, March 21, 2008 on Approval the Statute of Government Commission for Emergency Management;
- 16) Ordinance of the Government of Georgia №44, January 29, 2018 on Approval the Statute of Government Commission on Regional Development;
- 17) Ordinance №298 of the Government of Georgia, June 22, 2017 on establishing Government Commission on Delimitation and Demarcation of State Borders of Georgia and approval of its Statute;
- 18) Ordinance of the Government of Georgia №190, dated April 12, 2019 “on Establishment Government Commission on Developing Housing Policy Document and Action Plan”;
- 19) Ordinance №473 of the Government of Georgia of September 14, 2015 “the technical regulations – on approval of aesthetic and sanitary norms of infection prevention and control while carrying out aesthetic and cosmetic procedures in public places”;
- 20) Ordinance of the Government of Georgia №185 of April 24, 2015 “On approval of technical regulations of disinfection and sterilization in medical, public health and public places”;
- 21) Ordinance of the Government of Georgia №181 of March 23, 2020 “on Approval of Measures to be Implemented to Prevent the Spread of the New Coronavirus in Georgia”;
- 22) Ordinance of the Government of Georgia №205 of March 31, 2020 “on Conducting Learning Process in Educational Institutions during the State of Emergency”;
- 23) Ordinance of the Government of Georgia №336 of July 9, 2015 “On Approving Rule of Functioning of Integrated National Surveillance System on Infectious Diseases, including diseases caused by particularly dangerous pathogens”;

- 24) Ordinance of the Government of Georgia №454 of September 16, 2019 “On the Approval of the Technological Scheme for Carrying out Sanitary and Quarantine Control in the Border Line and Customs Control Areas of Georgia and the Procedure for Carrying out Sanitary and Quarantine Control”;
- 25) Ordinance of the Government of Georgia №241 of May 23, 2019 “on approving Teacher Induction, Professional Development and Career Advancement Scheme”;
- 26) Ordinance of the Government of Georgia №238 of March 18, 2014 “on approval of the Charter of the Military Service”;
- 27) Order of the Minister of Justice №225, of December 6, 2010 “on approval on the amount of fees for publishing normative acts and services and the methods of payment”;
- 28) Order of the Minister of Justice №640, dated October 9, 2020, “on definition of draft normative acts, which do not require legal opinion of the Ministry of Justice”;
- 29) Order of the Minister of Justice №149, dated November 21, 2011, “on definition of subordinate normative acts, which do not require legal opinion of the Ministry of Justice”;
- 30) Order of the Minister of Justice №522 “On establishing a different rule for observing the regime established by law for probationers and parolees in order to prevent the spread of the new coronavirus (COVID-19) in Georgia”;
- 31) Order №515 of the Minister of Justice of 6 April 2020 on the separate regulation of certain issues provided for by the Law of Georgia on Enforcement Proceedings in order to prevent the spread of the new coronavirus (COVID-19);
- 32) Order of the Minister of Justice of April 9, 2020 №518 “On Approval of the Rules for Administration of Services and Activities of the LEPL State Services Development Agency to facilitate the prevention of the spread of the new coronavirus (COVID-19)”;
- 33) Order №521 of the Minister of Justice of 15 April 2020 on the Terms and Conditions of Service by the National Agency of Public Registry, a legal entity under public law, in order to prevent the spread of the new coronavirus (COVID-19);
- 34) Order of the Minister of Justice of April 6, 2020 №516 “On Approval of the Rules for Administration of the Activities of the National Archives of Georgia in order to facilitate the prevention of the spread of new coronavirus (COVID-19)”;
- 35) Order №511 of the Minister of Justice of March 31, 2020 “On the Activities of the Notary Chamber of Georgia, a Legal Entity under Public Law, and the Rules and Conditions of Services for Notaries in order to facilitate the prevention of the spread of the new coronavirus (COVID-19) in Georgia”;
- 36) Order №120 of the Minister of Justice of Georgia of February 1, 2016 “On the Rules for the Use of the Diversion / Diversion and Mediation Program for Minors and the Approval of the Basic Conditions of the Agreement to be Concluded between the Parties”;
- 37) Order №533 of the Minister of Justice of 13 May 2020 “On Change to the Order № 149 of the Minister of Corrections and Probation of October 19, 2015 “On Approval of the Rule of Escort / Transfer of Accused / Convicts”;
- 38) Joint Order №89 №01-36/n/ of April 1, 2020 of the Minister of Labour, Health and Social Affairs on amendments to the Joint Order №01-69 / N / №451 of the Minister

- of Labour, Health and Social Affairs of Georgia and the Minister of Finance of Georgia of December 15, 2017 “On the determination of the list of goods intended for cure/ medical purposes, the supply and / or import of which is exempt from VAT without the right to deduct”;
- 39) Order №320 of the Minister of Justice of Georgia of August 7, 2018 “On Consideration of the Issue of Conditional Early Release from Sentencing by the Local Councils of the State Sub-Institution - Special Penitentiary Service within the System of the Ministry of Justice of Georgia” and Approval of the Decision-Making Rule”;
 - 40) Order №26 of the Minister of Internal Affairs of April 2, 2020 “On Preventing the Spread of the New Coronavirus (COVID-19) by the Migration Department of the Ministry of Internal Affairs of Georgia in the Field of International Protection and / or Combating Illegal Migration”;
 - 41) Joint order №1-1 / 179 – №01-44 / n-№99 –№2 / n of April 28, 2020 of Minister of Economy and Sustainable Development of Georgia, Minister of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs, Minister of Finance of Georgia and Minister of Regional Development and Infrastructure of Georgia on “Establishing the Rules for the International Self-Isolation of Land Freight Drivers Carrying Out International Freight Carriers, Self-Isolated Space (Tirpark) and Quarantine, for Their Movement (Except for Transit) and Arrangement of Relevant Infrastructure” during the state of emergency;
 - 42) Joint Order №1-1 / 155, №23, №2-281 of March 26 of the Minister of Economy and Sustainable Development, the Minister of Internal Affairs and the Minister of Environment and Agriculture on the Rules for the List and Functioning of Entrepreneurial Entities in the Marneuli and Bolnisi Municipalities;
 - 43) Joint Order №1-1 / 162 - №01-38 / N of the Minister of Economy and Sustainable Development and the Minister of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs “On Determining the Procedures for Monitoring the Implementation of the Recommendations Developed by the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia to Prevent the Spread of the New Coronavirus (COVID-19) in the Workplace”;
 - 44) Order №21 of the Minister of Internal Affairs of March 24, 2020 “On Defining Different Regimes for Provision of Some Services in the System of the Ministry of Internal Affairs of Georgia and Preventing Separate Service Fees” in order to prevent the spread of the new coronavirus (COVID-19);
 - 45) Order №46 / N of the Minister of Education, Science, Culture and Sports of March 6, 2019 “On Approval of the Accreditation Regulations and Fees of the Professional Development Program for Professional Public Servants”;
 - 46) Order №169 / N of the Minister of Education, Science, Culture and Sports of August 16, 2019 “On the rules for the registration of applicants for teachers and the passage of the pedagogical period and the approval of a sample document confirming the passage of the pedagogical period”;
 - 47) Order №40 / n of the Minister of Education and Science of May 18, 2016 “On the Approval of the National Curriculum”;
 - 48) Order №04/n of the Minister of Education and Science of January 11, 2017 “On Ap-

- proval of the Rules for Enrolment and Suspension of Student Status in a General Education Institution”;
- 49) Order №41 / N of the Minister of Education, Science, Culture and Sports of March 24, 2020 on Amendments to the Order №46 / N of the Minister of Education, Science, Culture and Sports of March 6, 2019 “On Approval of the Accreditation Regulations and Fees of the Professional Development Program for Professional Public Servants”;
 - 50) Order №205 / n of the Minister of Education, Science, Culture and Sports of Georgia on the Approval of the Rule of External Monitoring;
 - 51) Order №174/6 “on approving rules for starting and terminating a teacher’s activity”, dated August 20, 2020;
 - 52) Decree of the Minister of Health №01-31/6 of March 25, 2020 “On the Approval of Isolation and Quarantine Rules”;
 - 53) Decree №1 of the President of Georgia, dated March 21, 2020 “on Declaring the State of Emergency throughout the whole territory of Georgia”;
 - 54) Decree of the President of Georgia №2 of April 21, 2020 “On Declaring a State of Emergency”;
 - 55) Edict of the President of Georgia №173 of February 26, 2006 “on Declaring the State of Emergency on the territory of Khelvachauri”;
 - 56) Edict of the President of Georgia №424, of September 3, 2008 “On Early Cancellation of the Martial Law Declared throughout the whole Territory of Georgia and Declaration of a State of Emergency on Certain Territories of Georgia”;
 - 57) Edict of the President of Georgia №621 of November 7, 2007 “on Declaring the State of Emergency throughout the whole territory of Georgia”;
 - 58) Edict the President of Georgia №575 of November 22, 2003 “on Declaring the State of Emergency throughout the whole territory of Georgia”;
 - 59) Joint Order №89 №01-36/n/ of April 1, 2020 of the Minister of Labour, Health and Social Affairs on amendments to the Joint Order №01-69 / N / №451 of the Minister of Labour, Health and Social Affairs of Georgia and the Minister of Finance of Georgia of December 15, 2017 “On the determination of the list of goods intended for cure/ medical purposes, the supply and / or import of which is exempt from VAT without the right to deduct”;
 - 60) Order №13 of the Chairman of the LEPL State Procurement Agency on August 17, 2015 “On Defining the Simplified Procurement Criteria and Approving the Rules for Conducting Simplified Procurement”;
 - 61) Order №03 of the Director of the Maritime Transport Agency of March 23, 2020 on the suspension of some of the Agency’s powers in connection with the spread of the new coronavirus COVID 19;
 - 62) Order №05 of the Director of the Maritime Transport Agency of April 6, 2020 on some measures to be taken in the field of training and certification of Georgian seafarers in connection with the spread of the new COVID 19;
 - 63) Order №76 of the Director of the Civil Aviation Agency of 17 April on the measures to

be taken to monitor the aviation activities during the operation of the state of emergency response to the spread of the new coronavirus COVID 19.

Individual Acts

- 1) Ordinance №164 of the Government of Georgia of January 28, 2020 “On Measures to Prevent the Possible Spread of New Coronavirus in Georgia and to Approve an Operational Response Plan for Cases of New Coronavirus Disease”;
- 2) Ordinance №618 of the Government of Georgia of March 30, 2020 “On establishment of the Interagency Council to prevent the spread of the new coronavirus”;
- 3) Government Decree №529 of 12 March 2020 “On Determining Special Measures for Activities in Public Institutions to Prevent the Possible Spread of New Coronavirus (COVID-19)”;
- 4) Government Decree №545 of 17 March 2020 on Preventing the Spread of Possible Cases of New Coronavirus COVID-19 in Georgia and Measures to Be Taken to Respond to Suspicious and / or Confirmed Cases“;
- 5) Decree №434 of the Government of Georgia of March 2, 2020 “On the implementation of preventive measures to prevent the spread of coronavirus in the country”;
- 6) Decree of the Government of Georgia №2738, dated December 30, 2016 on Creation of a Commission to review the general plan for the development of the Anaklia Deep-water Port and the approval of its statute;
- 7) Order of the Prime Minister of Georgia №17, dated January 27, 2020 “on Establishment of Interagency Coordination Council of Public Administration Reform and on Approval of its Statute”;
- 8) Decree №71 of the Prime Minister of Georgia, March 23, 2020 “on use of Defense Forces”;
- 9) decree №74 of the Prime Minister of Georgia March 30, 2020 “On the use of the Defense Forces of Georgia throughout the whole territory of Georgia”;
- 10) Decree №83 of the Prime Minister of Georgia April 10, 2020 “On the use of the Defense Forces”;
- 11) Decree №84 of the Prime Minister of Georgia April 12, 2020 “On the use of the Defense Forces”;
- 12) Decree №87 of the Prime Minister of Georgia April 23, 2020 “On the use of the Defense Forces”;
- 13) Decree № 88 of the Prime Minister of Georgia April 26, 2020 “On the use of the Defense Forces”.

Legislation of the studied countries

Romania

- 1) Romania's Constitution of 1991 with Amendments through 2003;
- 2) DECRET nr. 195 din 16 martie 2020 privind instituirea stării de urgență pe teritoriul României;
- 3) DECRET nr. 240 din 14 aprilie 2020 privind prelungirea stării de urgență pe teritoriul României;
- 4) Hotărârea Guvernului României nr. 94/2014 privind organizarea, funcționarea și componența Comitetului național pentru situații speciale de urgență;
- 5) Hotărârea nr. 3/2020 pentru încuviințarea măsurii adoptate de Președintele României privind instituirea stării de urgență pe întreg teritoriul României;
- 6) HOTĂRÂREA NR.2 din 01.02,2020 a Grupului de suport tehnico-științific privind gestionarea bolilor înalt contagioase pe teritoriul României;
- 7) LEGE nr. 90 din 26 martie 2001 privind organizarea și funcționarea Guvernului României și a ministerelor;
- 8) LEGEA nr. 136 din 18 iulie 2020 (*republicată*) privind instituirea unor măsuri în domeniul sănătății publice în situații de risc epidemiologic și biologic;
- 9) ORDONANȚA DE URGENȚĂ nr. 1 din 21 ianuarie 1999 privind regimul stării de asediu și regimul stării de urgență;
- 10) ORDONANȚA DE URGENȚĂ nr. 21 din 15 aprilie 2004 privind Sistemul Național de Management al Situațiilor de Urgență;
- 11) ORDONANȚĂ DE URGENȚĂ nr. 34 din 26 martie 2020 pentru modificarea și completarea Ordonanței de urgență a Guvernului nr. 1/1999 privind regimul stării de asediu și regimul stării de urgență;
- 12) Ordonanța Militară nr. 2 din 21 martie 2020 privind măsuri de prevenire a răspândirii COVID-19;
- 13) REGULAMENT din 10 mai 2009 privind procedurile, la nivelul Guvernului, pentru elaborarea, avizarea și prezentarea proiectelor de documente de politici publice, a proiectelor de acte normative, precum și a altor documente, în vederea adoptării/aprobării.

Bulgaria

- 1) The Constitution of the Republic of Bulgaria;
- 2) Закон за Администрацията;
- 3) Закон За Защита При Бедствия;
- 4) Закон За Здравето;
- 5) Закон за мерките и действията по време на извънредното положение, обявено с решение на Народното събрание от 13 март 2020 г.;
- 6) Закон За Нормативните Актове;

- 7) Заповед № РД-01-114/05.03.2020;
- 8) Заповед № РД-01-117/08.03.2020;
- 9) Заповед № РД-01-124/13.03.2020;
- 10) Заповед на министър-председателя № Р-37/26.02.2020;
- 11) ПОСТАНОВЛЕНИЕ №235 ОТ 27 АВГУСТ 2020 Г., за допълнение на Наредбата за финансирането на институциите в системата на предучилищното и училищното образование, приета с Постановление № 219 на Министерския съвет от 2017 г. (обн., ДВ, бр. 81 от 2017 г.; изм. и доп., бр. 31 и 105 от 2018 г., бр. 36 и 101 от 2019 г. и бр. 33 и 37 от 2020 г.);
- 12) РЕШЕНИЕ № 445 ОТ 3 ЮНИ 2016 Г., за изменение и допълнение на Решение № 265 на Министерския съвет от 2003 г. за приемане Списък на физическите лица, юридическите лица, групите и организациите, спрямо които се прилагат мерките по Закона за мерките срещу финансирането на тероризма (обн., ДВ, бр. 64 от 2003 г.; изм. и доп., бр. 86 от 2003 г., бр. 34, 61 и 87 от 2004 г. и бр. 16 от 2006 г.);
- 13) РЕШЕНИЕ За Обявяване На Извънредно Положение;
- 14) УСТРОЙСТВЕН ПРАВИЛНИК на Министерството на правосъдието.

Hungary

- 1) The Constitution of Hungary;
- 2) 1144/2010. (VII. 7.) Korm. Határozat a Kormány ügyrendjéről;
- 3) 1150/2012. (V. 15.) Korm. Határozat a Katasztrófavédelmi Koordinációs Tárcaközi Bizottság létrehozásáról, valamint szervezeti és működési rendjének meghatározásáról;
- 4) 1246/2015. (IV. 23.) Korm. Határozat az eredményes koragyermekkori intervencióhoz szükséges intézkedésekről;
- 5) 1997. évi CLIV. Törvény az egészségügyről;
- 6) 2011. évi CXXVIII. Törvény a katasztrófavédelemről és a hozzá kapcsolódó egyes törvények módosításáról;
- 7) 2018. évi CXXV. Törvény a kormányzati igazgatásról;
- 8) 2020. évi XII. Törvény a koronavírus elleni védekezésről;
- 9) 40/2020. (III. 11.) Korm. Rendelet veszélyhelyzet kihirdetéséről;
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- 14) 94/2018. (V. 22.) Korm. Rendelet a Kormány tagjainak feladat- és hatásköréről.

Lithuania

- 1) The Constitution of the Republic of Lithuania;
- 2) Dėl valstybės lygio ekstremaliosios situacijos valstybės operacijų vadovo paskyrimo;
- 3) Law on the Prevention and Control of Communicable Diseases in Humans;
- 4) Lietuvos Respublikos civilinės saugos įstatymas;
- 5) Lietuvos Respublikos nepaprastosios padėties įstatymas;
- 6) Lietuvos Respublikos Vyriausybės Nutarimas Dėl Valstybės Lygio Ekstremaliosios Situacijos Paskelbimo;
- 7) Lietuvos Respublikos Vyriausybės 2020 m. kovo 14 d. nutarimas Nr. 207 „Dėl karantino Lietuvos Respublikos teritorijoje paskelbimo“;
- 8) Nutarimas Dėl Lietuvos Respublikos Vyriausybės Darbo Reglamento Patvirtinimo.

Latvia

- 1) The Constitution of the Republic of Latvia;
- 2) By-laws of the Ministry of Justice;
- 3) Epidemiological Safety Law;
- 4) Īpašu uzdevumu ministra sabiedrības integrācijas lietās sekretariāta nolikums;
- 5) On Emergency Situation and State of Exception;
- 6) Regarding Declaration of the Emergency Situation;
- 7) Rules of Procedures of the Cabinet of Ministers.

Estonia

- 1) The Constitution of the Republic of Estonia;
- 2) Application of measures of emergency situation;
- 3) Communicable Diseases Prevention and Control Act;
- 4) Declaration of Emergency Situation in the Administrative Territory of the Republic of Estonia;
- 5) Emergency Act;

- 6) Government of the Republic Act;
- 7) Order of the person in charge of emergency situation for imposing a restriction on movement after crossing the state border;
- 8) Restrictions on the freedom of movement and on holding public meetings and public events as necessary for preventing the spread of the COVID-19 disease;
- 9) State of Emergency Act;
- 10) Vabariigi Valitsuse 13. märtsi 2020. a korralduse nr 77 „Eriolukorra meetmete rakendamise“ muutmise;
- 11) Vabariigi Valitsuse 13. märtsi 2020. a korralduse nr 77 „Eriolukorra meetmete rakendamise“ muutmise korralduse seletuskiri;
- 12) Vastu võetud 12.04.2007 nr 60, Minister Urve Palo ülesannete kindlaksmääramine.

Croatia

- 1) Constitution of the Republic of Croatia;
- 2) Odluka o proglašenju epidemije bolesti koronavirusom na području čitave Republike Hrvatske;
- 3) Odluku o privremenoj zabrani i ograničavanju prelaska preko graničnih prijelaza republike hrvatske;
- 4) Odluku o Proglašenju Zakona o Dopuni Zakona o Sustavu Civilne Zaštite;
- 5) Poslovnik Vlade Republike Hrvatske;
- 6) Zakon o sustavu civilne zaštite;
- 7) Zakon o Vladi Republike Hrvatske;
- 8) Zakon o Zaštiti od Elementarnih Nepogoda.

Poland

- 1) The Constitution of Poland;
- 2) Obwieszczenie Prezesa Rady Ministrów z dnia 7 listopada 2016 r. w sprawie ogłoszenia jednolitego tekstu zarządzenia Prezesa Rady Ministrów w sprawie nadania statutu Kancelarii Prezesa Rady Ministrów;
- 3) Projekt Zarządzenia Prezesa Rady Ministrów w sprawie nadania statutu Ministerstwu Sportu i Turystyki, Projekty zarządzeń Prezesa Rady Ministrów;
- 4) Regulamin pracy Rady Ministrów;
- 5) Rozporządzenie Ministra Spraw Wewnętrznych i Administracji;
- 6) Rozporządzenie Ministra Zdrowia z dnia 13 marca 2020 r. w sprawie ogłoszenia na obszarze Rzeczypospolitej Polskiej stanu zagrożenia epidemicznego;
- 7) Rozporządzenie Ministra Zdrowia z dnia 20 marca 2020 r. w sprawie ogłoszenia na obszarze Rzeczypospolitej Polskiej stanu epidemii;

- 8) Rozporządzenie zmieniające rozporządzenie w sprawie czasowego ograniczenia funkcjonowania jednostek systemu oświaty w związku z zapobieganiem, przeciwdziałaniem i zwalczaniem COVID-19, Internetowy System Aktów Prawnych;
- 9) Ustawa o Radzie Ministrów;
- 10) USTAWA z dnia 18 kwietnia 2002 r. o stanie klęski żywiołowej;
- 11) Ustawa z dnia 2 marca 2020 r. o szczególnych rozwiązaniach związanych z zapobieganiem, przeciwdziałaniem i zwalczaniem COVID-19, innych chorób zakaźnych oraz wywołanych nimi sytuacji kryzysowych;
- 12) Ustawa z dnia 5 grudnia 2008 r. o zapobieganiu oraz zwalczaniu zakażeń i chorób zakaźnych u ludzi.

Slovenia

- 1) The Constitution of Slovenia;
- 2) Odločba o razveljavitvi dela prvega odstavka 15. člena pravilnika o lovskogospodarskih načrtih in letnih načrtih gospodarjenja z divjadjo, ki se glasi: „in strokovnih organizacij s področja varstva narave in kmetijstva“;
- 3) Odlok o določitvi pogojev vstopa v Republiko Slovenijo iz Italijanske republike zaradi zaježitve in obvladovanja nalezljive bolezni;
- 4) Odlok o organizaciji in delovnem področju Urada Vlade Republike Slovenije za Slovence v zamejstvu in po svetu;
- 5) Odlok o ustanovitvi in nalogah Sveta za nacionalno varnost;
- 6) Odlok o začasnem prenehanju obratovanja mejnih prehodov za obmejni promet na meji z Republiko Hrvaško;
- 7) Odlok o začasni prepovedi ponujanja in prodajanja blaga in storitev potrošnikom v Republici Sloveniji;
- 8) Odlok o začasni prepovedi zbiranja ljudi v zavodih s področja vzgoje in izobraževanja ter univerzah in samostojnih visokošolskih zavodih;
- 9) Odlok o začasni splošni prepovedi gibanja in zbiranja ljudi na javnih mestih in površinah v Republici Sloveniji;
- 10) Odlok o začasni splošni prepovedi gibanja in zbiranja ljudi na javnih mestih in površinah v Republici Sloveniji ter prepovedi gibanja izven občin;
- 11) Odlok o začasni splošni prepovedi gibanja in zbiranja ljudi na javnih mestih in površinah v Republici Sloveniji;
- 12) Odredba o razglasitvi epidemije nalezljive bolezni SARS-CoV-2 (COVID-19) na območju Republike Slovenije;
- 13) Poslovnik Vlade Republike Slovenije;
- 14) Pravilnik o izvajanju oprostitev ali delne oprostitev plačila najemnin zaradi omilitve posledic drugega vala epidemije COVID-19 za športne organizacije;
- 15) Zakon o nalezljivih boleznih (ZNB);

- 16) Zakon o Vladi Republike Slovenije;
- 17) Zakon o začasnih ukrepih v zvezi s sodnimi, upravnimi in drugimi javnopravnimi zadevami za obvladovanje širjenja nalezljive bolezni SARS-CoV-2 (COVID-19).

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