# LAW OF GEORGIA

# CRIMINAL PROCEDURE CODE OF GEORGIA

## General Part

## Section I

## Criminal Procedure Legislation and Principles

### Chapter I - Criminal Procedure Legislation, its Objectives and Scope

#### Article 1 - Purpose of the Code

This Code establishes rules for criminal investigation, prosecution and rendering of justice.

#### Article 2 - Procedure for applying the criminal procedure law; law analogy

1. The procedural rules that are in force at the time of an investigation and court hearing shall be applied during criminal proceedings.

2. The amendments made to the Criminal Procedure Law shall result in the annulment or change of the previously adopted procedural act provided this improves the condition of the accused (convicted person).

3. If there is a defect in Georgian legislation, the criminal procedure rules may be applied by analogy, unless this restricts the human rights and freedoms provided for by the Constitution and treaties of Georgia.

4. Regardless of the place of commission of offence, criminal proceedings shall be conducted in the territory of Georgia according to the legislation of Georgia.

5. The criminal procedure legislation of Georgia shall also apply to offences committed abroad on a sea vessel flying a Georgian flag or on an aircraft bearing the nationality mark of Georgia, unless otherwise provided for by treaties and international agreements of Georgia.

6. Subject to treaties and international agreements of Georgia, the criminal procedure legislation of Georgia may also be applied in the territory of a foreign country.

7. A Georgian citizen enjoying diplomatic immunity, as well as his/her family members residing abroad shall be subject to the jurisdiction of the criminal procedure legislation of Georgia, unless they voluntarily consent to the application of the criminal procedure legislation of the country of their location.

8. When executing a request of a court or investigative authority of a foreign state for carrying out a procedural action in the territory of Georgia, the criminal procedure legislation of that state may also be applied where so provided for by a treaty of Georgia.

#### Article 3 - Definition of basic terms for the purposes of this Code

1. Minor - person who has not attained the age of 18.

2. Close relative - a parent, adoptive parent, child, adoptee, grandparent, grandchild, sibling, spouse (including the divorced spouse).

3. Family member - a spouse, minor child or stepchild, cohabitant.

4. Legal representative - a close relative, guardian, care giver, a supporter who participates in a criminal proceeding involving a minor, a person with disabilities, if due to their health status, they are not able to defend themselves, also a beneficiary of support, unless otherwise provided for by a court decision.

5. Party - the accused, convicted person, acquitted person, their defence counsel, investigator, prosecutor.

6. The prosecution - an investigator, prosecutor.

7. The defence - the accused, convicted person, acquitted person, their defence counsel.

8. The convicted person - a person against whom a court has passed a judgement of conviction.

9. Defence counsel - a person who defends the interests of the accused, convicted, acquitted persons and provides them with legal aid in accordance with the law.

10. Investigation - a combination of actions taken under this Code by an authorised person for the purpose of collecting evidence relating to an offence.

11. Probable cause - a totality of facts or information that, [together] with the totality of circumstances of a criminal case in question would satisfy an objective person to conclude that a person has allegedly committed an offence; an evidential standard for carrying out investigative activities and/or for applying measures of restriction directly provided for by this Code.

$11^1$. Evidence sufficient for delivering a judgement of conviction without hearing a case on the merits - evidence that would convince an objective person that the accused has committed an offence, taking into account the fact that the accused acknowledges the offence, does not contest the evidence provided by the prosecution and relinquishes the right to have the case heard on merits by a court.

12. High Probability – a guiding standard for a judge when making a decision whether or not to transfer a case for merits hearing at a preliminary hearing, which is based on the body of mutually compatible and convincing evidence presented at the hearing and which is sufficient for a high probability to pass a judgement of conviction on the case in question.

13. Beyond reasonable doubt - a totality of evidence required for a court to pass a judgement of conviction, which would convince an objective person of the culpability of the person.

14. Judgement - a decision of a court of the first instance, of a court of appeal or of a court of cessation under which the accused person is found guilty of committing an offence or is acquitted.

15. Ruling - a court decision (other than a judgement and order) on any issue.

16. Decree - a decision of an investigator, a prosecutor on any issue.

17. Night - period of time from 22:00 to 6:00.

18. Valid reason - non-appearance of a participant of a criminal proceeding due to his/her illness, the death of a close relative, other specific objective circumstances which, for the reasons beyond his/her control make it impossible to appear at the trial. The fact of illness shall be confirmed by a document issued by a duly authorised representative of a medical facility, and signed and stamped by an authorised person, and must directly indicate the inability [of the person] to appear at the trial. The valid reason the existence of which is known in advance shall be notified to the court at the earliest available opportunity but not later than 48 hours before the commencement of the trial. A document confirming the valid reason for non-appearance shall be submitted within five days after the non-appearance.

19. The accused - a person against whom there is a probable cause suggesting that he/she has committed an offence provided for by the Criminal Code of Georgia.

20. Witness - a person who may know the facts required for the establishment of circumstance in a criminal case. A person shall acquire the status and the rights and powers of a witness after being warned with respect to criminal liability and after taking an oath.

21. Expert - a natural person with special knowledge, skills and experience who, under this Code, has been invited by a party [to the proceedings] or by a court upon the party's motion, to carry out an expert examination and prepared a conclusion with respect to a criminal case. In addition, an expert shall assist the parties and the court in finding, examining and demonstrating evidence.

22. Victim - the State, a natural or legal person that has incurred moral, physical or material damage directly as a result of an offence.

23. Evidence - information or an item, document, substance or any other object containing the information submitted to the court in the manner prescribed by law, which parties use in a court to prove or refute certain facts and make their legal evaluation, perform duties, protect their rights and lawful interests, and which a court uses to establish whether there exists a fact or action because of which a criminal proceeding is conducted, whether a certain person has committed a certain action and whether or not a person is guilty, also to establish circumstances that affect the nature and degree of liability of the accused, and characterise the person. A document is considered to be an evidence if it contains information required for the establishment of factual and legal circumstances of a criminal case. Any source in which information is recorded in the form of words and signs and/or photo-, film-, video-, sound or other recordings, or through other technical means, shall be considered a document.

24. Testimony of a witness - information on the circumstances of a criminal case provided by a witness to a court.

25. Material evidence - an item, document, substance or any other object, which, by its origin, place and time of discovery, characteristics and the traces remained on it is related to the factual circumstances of a criminal case and may be used as a means for detecting a crime, establishing an offender or denying or confirming the charges.

26. Place of investigation - a place where the administrative building of an investigative authority is located.

27. Computer system - any mechanism or a group of interconnected mechanisms which, through a software, automatically processes data (including a personal computer, any equipment with a microprocessor, also a mobile phone).

28. Computer data - information displayed in any form convenient for processing in a computer system, including software that ensures the operation of the computer system.

29. Service provider - any natural or legal person that provides users with an opportunity to interact through a computer system, also any other person that processes or stores computer data on behalf of such communication services or of the consumers of such services.

30. Internet traffic data - any computer data related to communications and generated by a computer system that are part of a communications chain and that indicates the source of communication, destination, direction, time, date, size, duration and type of the basic service.

31. A two-stage electronic system for carrying out secret investigative actions - a combination of hardware and software solutions that excludes the possibility of independently executing an order for the activation of an object through the monitoring system of a law-enforcement agency without an electronic authorisation of a personal data protection inspector *(Invalidated) - (execution of the decision of the Constitutional Court of Georgia of 14*

***April 2016 No 1/1/625,640 shall be deferred until 31 March 2017)*** *Decision of the Constitutional Court of Georgia of 14 April 2016 No 1/1/625,640 – website 22.4.2016*

32. The relevant state agency authorised to carry out the secret investigative activities specified in Article 143 [1](1)(a) and (b) - for the purposes of Article 143 [4] of this Code, the Operative-Technical Department of the State Security Service of Georgia.

33. Retrieval of information from a communication channel - retrieval and recording by an authorised body of the transmitted, collected, processed or accumulated information from an electronic mail, computer network, telecommunication and information systems by using certain technical means.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 741 of 14 June 2013– web-site, 27.6.2013*

*Law of Georgia No 2517 of 24 July 2014 – web-site, 6.8.2014*

*Law of Georgia No 2870 of 30 November 2014 – web-site, 30.11.2014*

*Law of Georgia No 3358 of 20 March 2015 – web-site, 31.3.2015*

*Law of Georgia No 3955 of 8 July 2015 – web-site, 15.7.2015*

*Decision of the Constitutional Court of Georgia of 14 April 2016 No 1/1/625,640 – website 22.4.2016*

## Chapter II - Principles of Criminal Proceedings

### Article 4 - Inviolability of personal dignity

**1.** A judge, prosecutor, investigator and other participants of criminal proceedings shall, at every stage of the proceedings, be obliged to ensure the inviolability of personal dignity and private life of the participants in the proceedings.

2. It shall be inadmissible to exert influence upon the free will of a person by using torture, violence, cruel treatment, deception, medical intervention, hypnosis, or any other measures that affect the human memory or thinking. It shall also be inadmissible to use threats or to promise any privileges not provided for by law.

3. In the context of criminal proceedings, coercion may be used only in cases and in the manner prescribed by law.

### Article 5 - Presumption of innocence and liberty

1. A person shall be considered innocent unless his/her culpability has been established by final judgement of conviction.

2. No one shall be obliged to assert his/her innocence. The burden to prove the charges shall lie with the prosecutor. A prosecutor may dismiss the charges.

3. A suspicion arising during the assessment of evidence that cannot be confirmed under the procedure established by law, shall be resolved in favour of the accused (convicted person).

4. A person shall be free, except when the necessity of his/her detention is proved.

### Article 6 - Inadmissibility of unlawful restriction of a person's constitutional rights and liberties

**1.** Constitutional rights and liberties of a participant of a criminal proceeding may only be restricted on the basis of special provisions of the Constitution of Georgia and of this Code.

**2.** Only a court shall have the right to recognise a person as an offender and to impose a sentence on him/her.

**3.** Preference shall always be given to the most lenient form of restriction of rights and liberties.

### Article 7 - Inviolability of private life in criminal proceedings

1. During an investigation, a party may not arbitrarily and unlawfully interfere with the personal life of other persons. The inviolability of private or other property or of private communication performed by any means shall be guaranteed by law.

2. A person carrying out a procedural action shall not disclose information on a [person's] personal life, nor private information that the person considers necessary to keep confidential.

3. A person who suffered damage as a result of unlawful disclosure of information regarding his/her private life/personal data, shall have the right to be fully indemnified for the damage under the legislation of Georgia.

*Law of Georgia No 2634 of 1 August 2014 – web-site, 18.8.2014*

**Article 8 - Fair trial and expediency of justice**

1. The accused (the convict, or the acquitted person) shall have the right to a fair trial.

2. The accused shall have the right to the expediency of justice within the time limits prescribed by this Code. A person may relinquish this right if so required for the appropriate preparation of the defence.

3. A court shall prioritise the review of the criminal case in which the accused has been remanded to custody.

**Article 9 - Equality of arms and adversarial principle**

1. Upon the commencement of a criminal prosecution, criminal proceedings shall be carried out based on the equality or arms and adversarial principle.

2. Any of the parties [to the proceedings] may, under this Code, file a motion, obtain, request through a court, submit and examine all the relevant evidence.

**Article 10 - Publicity and orality of a hearing**

1. A hearing, as a rule, shall be public and oral. A hearing may be closed only where so provided for by this Code.

2. All decisions delivered by a court shall be publicly announced.

3. (Deleted - 18.1.2013, No 205).

4. Photo-, film-, video, shorthand or audio recording in a court building or a court room shall be performed in compliance with the procedure provided for by the Organic Law of Georgia on Common Courts.

*Law of Georgia No 205 of 18 January 2013 – web-site, 28. 2.2013.*

*Law of Georgia No 583 of 1 May 2013 – web-site, 20.5.2013.*

**Article 11 - Conduct of criminal proceedings in the state language**

Criminal proceedings shall be carried out in the Georgian language, and in the Autonomous Republic of Abkhazia, also in the Abkhazian language. A trial participant who has no or appropriate command of the language of the criminal proceedings shall be assigned an interpreter in the manner provided for by this Code.

**Article 12 - Legality and independence of the judiciary**

1. A person shall only be judged by the court within the jurisdiction of which, under the law, falls the review of the person's case.

2. Only a prosecutor may initiate a criminal prosecution under this Code.

3. The procedure for the investigation of a criminal case and judicial hearing provided for by the criminal procedure legislation of Georgia shall be uniform across the entire territory of Georgia and shall be mandatory for all participants of criminal proceedings.

4. In cases provided for by this Code, the lawful interests of a person shall take precedence over the public interest of solving the case and punishing the offender. The protection of a person's lawful interests in criminal proceedings serves the public interest.

**Article 13 - Evidence**

1. Evidence shall not have any pre-determined force.

2. The confession the accused, unless corroborated by any other evidence that proves the person's guilt, shall not be sufficient to pass a judgement of conviction against the accused. A judgement of conviction shall be based only on a body of consistent, clear and convincing evidence that, beyond reasonable doubt, proves the culpability of a person. ***[(the normative content of the second sentence of paragraph 2 that stipulates the possibility to pass a judgement of conviction based on the evidence determined under Article 76 of the same Code (wording dated 14 June 2013) - an indirect testimony, shall be considered invalid)*** - Decision of the Constitutional Court of Georgia No 1/1/548 of 22 January 2015 - web-site, 4.2.2015]

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Decision of the Constitutional Court of Georgia No 1/1/548 of 22 January 2015 - web-site, 4.2.2015.*

### Article 14 - Direct and oral examination of evidence

1. Evidence shall not be presented to a court (jury), unless the parties had the equal opportunity to examine it directly and orally, except as provided for by this Code.

2. A party may request to personally interrogate a witness and present him/her own evidence at the hearing.

### Article 15 - Right to refuse testimony

No one shall be obliged to testify against oneself or other persons specified in this Code.

### Article 16 - Discretionary nature of criminal prosecution

When making a decision to initiate or terminate a criminal prosecution, a prosecutor shall exercise discretionary powers and take into consideration the public interests.

### Article 17 - Bringing charges based on a probable cause

1. Charges shall be brought against a person if there exists a probable cause indicating that he/she has committed an offence.

2. Charges against a person may only be brought by a prosecutor.

### Article 18 - Impermissibility of repeated detention, accusation and conviction [double jeopardy]

1. A person may not be detained repeatedly based on the same evidences and/or the same information.

2. A person may not be charged with and/or convicted of an offence for which he/she once already been acquitted or convicted.

*Law of Georgia No 741 of 14 June 2013 – web-site, 27.6.2013*

## Section II.

## Participants in Criminal Proceedings

## Chapter III - Court

### Article 19 - Court as a judicial body

1. A court is the only state authority that is entitled to render justice, hear criminal cases and deliver a lawful, substantiated and fair judgement.

2. Administration of justice may not be refused. A court shall, in accordance with this Code, review criminal cases, motions or appeals according to its jurisdiction.

### Article 20 - Powers of a court

1. Unless a criminal case is heard by a jury at first instance, it shall be heard by a district (city) court at first instance.

2. It shall be within the powers of a magistrate judge of a district (city) court to pass a court ruling on the conduct of investigative actions with regard to the restriction of a person's constitutional rights and the application of coercive measures, to decide the question of applying a measure of restraint against the accused, to consider a complaint lodged against the unlawful actions of an investigator and/or prosecutor in cases prescribed by this Code, as well as to exercise other powers provided for by this Code. A decision on the issues provided for by this paragraph shall be made by a magistrate judge of a district (city) court within the territorial jurisdiction of which an investigative or procedural action will be or has been carried out. In cases directly provided for by this Code, a decision may be made by another magistrate judge. The issues falling within the jurisdiction of a magistrate judge under this Code may, in the case of absence of the magistrate judge, or when the place of investigation does not coincide with the place of commission of offence, be reviewed by another magistrate judge, or by a judge of the respective district (city) court according to the place of investigation.

3. An appeal lodged against a decision made on issues falling within the jurisdiction of a magistrate judge under paragraph 2 of this Code shall be considered by the investigation panel of a court of appeal.

4. An appeal against a judgement of a district (city) court or of a magistrate judge, or against any other final court decision shall be considered by the Appellate Chamber of the court of appeal.

5. A cassation appeal against a judgement of a court of appeal, or against any other final court decision shall be considered by the Criminal Chamber of the Supreme Court of Georgia.

6. The Criminal Chamber of the Court of Appeal shall, in cases and in the manner prescribed by this Code, consider appeals against final judgements passed by the common courts of Georgia, and appeals regarding the revision of any other final court decisions due to newly discovered circumstances.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

### Article 21 - Territorial jurisdiction

1. A criminal case shall be heard in a court according to the place where the accused was brought before the court.

2. A judge shall find out whether a plea bargain has been entered into between the parties, also whether a motion has been filed requesting the court to pass a judgement without hearing the case on merits. If a motion is filed, a judge shall act under Chapter XXI of this Code.

3. A motion for approving a plea bargain entered into between the parties during the investigation shall be reviewed by a court according to the place of completion of the investigation.

4. Upon a motion of a party, the chairperson of the court of a higher instance may transfer a criminal case for review to another court according to the location of the majority of victims and witnesses participating in the case, or for any other reason relating to bearing less procedural expenses.

5. If a court establishes that a criminal case does not fall within its jurisdiction, it shall, under a ruling, refer the case to another court of relevant jurisdiction.

6. A dispute over the jurisdiction shall be resolved by the chairperson of a court of higher instance.

*Law of Georgia No 3891 of 7 December 2010 – LHG I, No 67, 9.12.2010, Article 418*

### Article $21^1$ - Territorial jurisdiction of a jury

There shall be juries at Tbilisi, Kutaisi, Batumi and Rustavi city courts and at Zugdidi, Telavi and Gori district courts. Their territorial jurisdiction shall be defined by a decision of the High Council of Justice of Georgia.

*Law of Georgia No 5591 of 24 June 2016 – web-site, 13.7.2016*

### Article 22 - Composition of courts

1. A judge of a district (city) court or a magistrate judge shall deliver a decision on a criminal case sitting alone.

2. When the number of judges at a district (city) court is sufficient to hear a case by a panel of judges, the chairperson of the court before which the criminal case is bending may rule that the case be heard by a panel composed of three judges, if the hearing and resolution of the case is essential to the judicial practice, or the case is particularly complex in factual or legal terms, except when a case is heard by jury.

3. In cases provided for by this Code, a criminal case shall be heard by a district (city) court with the participation of jury and a judge.

4. A judge of the investigation panel of a court of appeal shall consider an appeal sitting alone.

5. A criminal case shall be heard on appeal at the Criminal Chamber of the Court of Appeal by a panel composed of three judges.

6. Appeals against judgements and other final decisions of district (city) courts with regard to less serious and serious criminal cases may be heard on appeal by a judge of the Criminal Chamber of the Court of Appeal. A cassation appeal shall be reviewed at the Criminal Chamber of the Supreme Court of Georgia by a panel composed of three judges or at the Grand Chamber, by a panel composed of nine judges.

8. All judges of a court panel shall have equal rights to participate in the decision-making.

9. If a criminal case is triable by a jury and the accused evades appearing in the court, the court shall hear the case in his/her absence, without the participation of the jury.

### Article 23 - Presiding judge

The presiding judge shall direct the court session, the course of the judicial deliberation, allow the parties to freely submit and examine evidence, ensure the keeping of order and exercise other powers prescribed by this Code.

**Article 24 - secretary of the court session**

1. A secretary of the court session shall check whether a person summoned to the hearing has appeared, and report to the court; at the request of the presiding judge, read publicly procedural documents; keep record of the court hearing.

2. A secretary of the court session shall be obliged to record fully and accurately in the record of the court hearing the actions and decisions of the court, as well as the actions, statements, motions, testimonies and explanations of all participants in the hearing. When preparing record of the court hearing, the secretary may use shorthand, voice recorder or other technical means.

3. A court may consider the remarks of the parties with respect to the record of the court hearing without inviting the parties. A secretary of the court session shall provide written explanations.

**Article 25 - Adversary proceedings and equality of arms**

1. A court shall be obliged to provide the parties with equal opportunities to protect their rights and lawful interests without giving preference to either of them.

2. A court shall be prohibited from independently obtaining and examining evidence that proves the guilt or supports the defence. The collection and presentation of evidence is the responsibility of the parties. In exceptional cases, a judge may, after obtaining consent of the parties, ask clarifying questions if so required for ensuring a fair trial.

3. Before passing a judgement or any other final court decision, a judge may not express their opinion as to the guilt or innocence of the accused (convicted person).

4. If both parties participate in a court hearing, the court shall also hear the opinion of the other party regarding a motion or complaint of one of the parties.

**Article 26 - Court request**

1. If a procedural action cannot be carried out at the place of the hearing of a criminal case, the court may task another court of the same or lower instance with carrying out that action.

2. The procedure for filing a court request with a court or investigative authority of a foreign country shall be determined by an agreement on legal aid entered into between Georgia and that state.

**Article 27 - Composition of a jury**

1. A jury shall be composed of 12 jurors and 2 reserve jurors, except for the cases specified in this Code.

2. A jury shall be composed of at least six jurors for cases of less serious offences, of at least eight jurors, for cases of serious offences, and of at least ten, for cases of particularly serious offences.

**Article 28 - Social guarantees of jurors (prospective jurors)**

1. Jurors and prospective jurors shall have the right to be timely indemnified by the State for all the expenses that are directly related to the performance of their duties. The amount of compensation for daily allowances, travel expenses and other direct expenses shall be determined by the High Council of Justice of Georgia. The court shall, with their consent, provide the jurors with dedicated vehicles for their transportation from their respective places of residence or places of stay to the relevant court and back.

2. While acting as jurors, the employed persons shall retain their work positions and wages.

3. A court shall be obliged to individually take into consideration the lawful interests of jurors. A court shall be discharged from that obligation if the interests protected by the satisfaction of a juror's lawful interest is less than the damage made to justice or to a third person. In that case, a person shall not be discharged from the performance of the duties of a juror.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 5170 of 28 October 2011 – web-site, 11.11.2011*

*Law of Georgia No 5591 of 24 June 2016 – web-site, 13.7.2016*

**Article 29 - [Eligibility] requirements for jurors**

A person may act as a juror at a trial, if he/she:

a) is registered with the database of the Civil Registry of Georgia as a person aged over 18;

b) has a command of the language of criminal procedure;

c) resides in eastern or western Georgia depending on the part of Georgia where the district (city) court before which the proceedings are pending is situated;

d) has no physical or mental disability that would prevent him/her to perform the duties of a juror.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 5591 of 24 June 2016 – web-site, 13.7.2016*

### Article 30 - Incompatibility

A person may not act as a juror in a criminal proceeding if there are any grounds, provided for by this Code, for challenging the juror , and/or he/she is:

a) a public official;

b) a prosecutor;

c) an investigator;

c) a police officer;

d) a defence lawyer;

e) serving in the Armed Forces;

f) a clergy member;

g) a participant of the criminal proceeding in the case in question;

h) the accused;

i) a person, on whom an administrative penalty has been imposed for abusing narcotic drugs in small quantity, and less than one year has passed since the moment when the administrative penalty was imposed on him/her;

j) previously convicted.

*Law of Georgia No 5591 of 24 June 2016 – web-site, 13.7.2016*

### Article 31 - Refusal to perform the duties of a juror

A person may refuse to act as a juror:

a) if, over the past one year, he/she has already acted as a juror;

b) if he/she carries out the work in which his/her substitution may cause substantial damage;

c) due to his/her health status;

d) if he/she has been staying in a foreign country for a long period or intends to go abroad;

e) if he/she is aged over 70.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

## Chapter IV - Prosecutor; Investigator

### Article 32 - Prosecutor's Office

The Prosecutor's Office is a prosecuting authority. To ensure the performance of this function, the Prosecutor's Office shall provide procedural guidance. The Prosecutor's Office shall, in cases and in the manner prescribed by this Code, shall undertake full-scale investigation of an offence and support the state prosecution in court.

### Article 33 - Prosecutor

1. A prosecutor shall exercise its powers on behalf of the State. A prosecutor shall act as a public prosecutor in court. He/she shall bear the burden of

proof for the prosecution.

2. When exercising his/her powers in a court, a prosecutor shall be independent and bound only by the law.

3. A superior prosecutor may annul or amend unlawful and/or unsubstantiated decisions made by a subordinate prosecutor, or replace them with a new decision.

4. A prosecutor shall be obliged to participate in a court hearing.

5. During the investigation carried out under this Code, execution of a prosecutor's decree shall be mandatory.

6. A prosecutor may:

a) in accordance with the investigative jurisdiction, task a certain law-enforcement body or investigator with the investigation of a criminal case; transfer a case from one investigator and to another investigator. The Chief Prosecutor of Georgia or a person authorised thereby may, regardless of the investigative jurisdiction, withdraw a case from one investigative authority and transfer it to another investigative authority; remove a subordinate prosecutor from the procedural guidance over the investigation and assign his/her functions to another prosecutor;

b) participate in [individual] investigative actions or conduct personally a preliminary full-scale investigation;

c) give binding instructions to an employee of a law-enforcement body and/or to a subordinate prosecutor during the investigation;

d) request individual criminal files or the entire criminal case;

e) file a motion with a court to obtain a court ruling on applying, changing or annulling a measure of restraint with respect to the accused, and on taking investigative and/or operative-investigative actions that restrict human rights, or in other cases specified by this Code;

f) annul a decree of an investigator or a subordinate prosecutor;

g) terminate a criminal prosecution and/or investigation or suspend a criminal prosecution;

h) make a decision on a complaint against an action and/or decree of an investigator, and provide necessary explanations to the court if that action or decree is appealed to a court;

i) change the charges;

j) enter into a plea bargain with the accused and file a motion with a court requesting the passing of a judgement against the accused without hearing the criminal case on merits;

k) present evidence in a court and participate in the consideration of its admissibility;

l) file a motion with the court to request evidence from private persons during the investigation;

m) request and receive without delay from state agencies documents or any other material evidence;

n) issue a decree on the conduct of search for the accused (convicted person);

o) recognise a persons as a victim and explain to them their rights and duties;

p) exercise other powers prescribed by this Code.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

### Article 34 - Investigative authorities

1. Criminal cases shall be investigated by the investigators of the Ministry of Justice of Georgia, the Ministry of Internal Affairs of Georgia, the Ministry of Defence of Georgia, the Ministry of Corrections of Georgia, the Ministry of Finance of Georgia and the investigative divisions of the State Security Service of Georgia.

2. Regardless of their departmental affiliation, all investigators shall have equal rights and duties and all investigative actions carried out by them under this Code shall have equal legal effect.

3. An investigator who is not personally involved in the investigation of a criminal case, may, upon instructions of a prosecutor, carry out all investigative actions prescribed by this Code with regard to the case in question.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 4424 of 11 March 2011 – web-site, 17.3.2011*

*Law of Georgia No 4731 of 3 June 2011 – web-site, 22.6.2011*

*Law of Georgia No 1797 of 13 December 2013 – web-site, 28.12.2013*

*Law of Georgia No 3955 of 8 July 2015 – web-site, 15.7.2015*

**Article 35 - Investigative jurisdiction**

An investigative jurisdiction shall be determined by the Minister of Justice of Georgia on the recommendation of the Chief Prosecutor of Georgia.

*Law of Georgia No 662 of 30 May 2013 – web-site, 24.6.2013*

**Article 36 -** Territorial investigative jurisdiction

The territorial investigative jurisdiction shall be determined by the Minister of Justice of Georgia on the recommendation of the Chief Prosecutor of Georgia.

*Law of Georgia No 662 of 30 May 2013 – web-site, 24.6.2013*

**Article 37 - Investigators**

1. An investigator is a public official who, within his/her powers, is authorised to investigate a criminal case. A prosecutor who is personally involved in the investigation shall have the status of an investigator.

[1. An investigator is a state servant or a public officer who, within his/her powers, is authorised to investigate a criminal case. A prosecutor who is personally involved in the investigation shall have the status of an investigator. ***(Shall enter into force on 1 July 2017)***]

2. An investigator shall be obliged to conduct an investigation thoroughly, fully and impartially.

3. An investigator shall be obliged to follow the instructions of a prosecutor with regard to the investigation of a criminal case. If an investigator does not agree with the prosecutor's instructions, he/she may submit the case and his/her opinions in writing to a superior prosecutor. A superior prosecutor may annul the instructions of a subordinate prosecutor or task another investigator with the investigation. A decision of a superior prosecutor on the issue shall be final.

4. An investigator shall be obliged to execute a court judgement.

5. A decree issued under this Code shall be binding.

6. If there are grounds established by law, an investigator may:

a) carry out all investigative and other procedural actions prescribed by this Code, except for the actions that fall within the powers of a prosecutor;

b) give written instructions to the relevant body to bring detained and arrested persons to the place of investigation;

c) request the conduct of investigative actions, as well as of revision, inventory taking, official inspection and submission of documents;

d) summon an interpreter, an expert, or a person who is to be identified;

e) if a complaint is lodges with respect to his/her actions and decisions, submit, without delay, the complaint and materials of the criminal case to the prosecutor responsible for the procedural guidance, or to the court;

f) request the prosecutor responsible for the procedural guidance to give an investigative assignment to another investigator;

$f^1$) in order to reopen a criminal case, apply in writing to the relevant body or agency and request the provision of necessary materials and/or information, also carry out full-scale procedural actions;

g) exercise other powers prescribed by this Code.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 3891 of 7 December 2010 – LHG I, No 67, 9.12.2010, Article 418*

*Law of Georgia No 4378 of 27 October 2015 – website, 11.11.2015*

*Law of Georgia No 164 of 21 December 2016 – website, 28.12.2016*

## Chapter V - The Accused; Defence Counsel

**Article 38 - Rights and obligations of the accused**

1. Upon detention, or if a person is not detained, immediately upon his/her recognition as the accused, also before any interrogation, the accused shall be notified, in the language that he/she understands, of the offence defined by the Criminal Code of Georgia in the commission of which he/she is reasonably suspected. The accused shall be handed over a copy of his/her detention report, or if he/she is not detained, - a copy of a decree to prosecute

as the accused.

2. Upon detention, or is a person is not detained, immediately upon his/her recognition as the accused, also before any interrogation, the accused shall be informed that he/she may use the services of a defence counsel, remain silent and refuse to respond to questions, exercise the right against self-incrimination, and that everything the accused says can be used against the accused, and that he/she may undergo a free medical examination upon detention, is he/she so requests, as soon as he/she is transferred to the relevant facility.

3. If the accused evades the appearance before a law-enforcement authority, a copy of a decree to prosecute as the accused shall be handed over to his/her defence counsel, which shall be considered as bringing of charges.

4. The accused may use the right to silence any time. If the accused prefers to remain silent, this may not be considered as evidence proving his/her culpability.

5. The accused may choose a defence counsel and use his/her services, also may replace the defence counsel any time, or if he/she is indigent, defence counsel may assigned to him/her at the expense of the State. The accused shall have reasonable time and means for the preparation of the defence. The relationship between the accused and his/her defence counsel shall be confidential. No restrictions may be imposed on the communication between the accused and his/her defence counsel in such a way to impede the due performance of the defence.

6. The accused may refuse to use the services of a defence counsel, and defend himself/herself on his/her own for which he/she shall be provided sufficient time and means. The accused may not refuse the services of a defence counsel if there is a case of mandatory defence established under this Code.

7. The accused may: independently or through a defence counsel, carry out an investigation, lawfully obtain and provide evidence in the manner provided for by this Code; request the conduct of investigative actions and provision of evidence that is required to refute the charges or to mitigate the liability; participate in the investigative actions carried out on his/her personal and/or his/her defence counsel's motion; request attendance of the defence counsel during the investigative action conducted by him/her.

8. The accused may, during the conduct of an interrogation and other investigative actions, use the services of an interpreter at the expense of the State, if he/she has no or insufficient command of the language of a criminal trial, or has such physical disability that does not allow him/her to communicate without an interpreter.

9. The accused may, upon detention or arrest, request a free medical examination and obtain the relevant written conclusion. This right of the accused shall be exercised immediately. The accused shall also be authorised, in accordance with the legislation of Georgia, to undergo a medical examination at any time and at his/her own expense with the participation of an expert of his/her choice.

10. The accused may, upon detention or arrest, inform his/her family members or close relatives about the detention or arrest and about his/her location and also notify creditors and other natural or legal persons with respect to whom he/she has legal obligations.

11. The accused may, by way of civil/administrative proceedings, request and obtain compensation for the damage caused as a result of the unlawful procedural action.

12. Imprisonment as a measure of restraint shall not be imposed on the accused, except when there exists a risk that he/she will abscond, continue criminal activities, exert pressure on witnesses, destroy evidence, or a risk of non-enforcement of the judgement.

13. The accused and his/her defence counsel may, within the limits and in the manner prescribed by this Code, inspect the evidence of the prosecution and obtain copies of evidence and materials of a criminal case.

14. The accused may: participate in the investigation of his/her charges, also in a court hearing, directly or indirectly, by using technical means; file motions and challenges; examine the evidence of the defence in the same conditions as those in which the evidence of the prosecution are examined; inspect the appeal filed by the party and express his/her opinion on it; examine the record of the court hearing and make remarks on them.

15. The accused may, in cases and in the manner provided for by this Code, appeal the actions of an investigator to a prosecutor, appeal the actions and decisions of a prosecutor to a superior prosecutor, and, in cases provided for by this Code, to a court. The accused/convicted person may appeal a court decision and request a copy of the appealed decision.

16. The list provided in this article shall not restrict the right of the accused to exercise all other rights granted under the legislation of Georgia and treaties.

17. The accused shall have the right not to participate in investigative actions.

18. The exercise or failure to exercise his/her rights by the accused may not be considered as evidence proving his/her culpability.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 3891 of 7 December 2010 – LHG I, No 67, 9.12.2010, Article 418*

*Law of Georgia No 6392 of 5 June 2012 – web-site, 19.6.2012*

### Article 39 - Right of the accused to obtain evidence

1. The accused may obtain evidence at his/her own expense, on his/her own and/or through a defence counsel. The evidence obtained by the accused shall have the same legal effect as the one obtained by the prosecution.

2. If such investigative or other procedural actions are required to obtain evidences that the accused or his/her defence counsel are not able to carry out alone, he/she shall have the right to file a motion with the judge, according to the place of investigation, requesting the passing of the relevant ruling .

The judge shall be obliged to take all measures to make sure that the prosecution is not informed about the obtaining of evidences by the defence.

### Article 40 - Restriction of the right of the accused to be present

1. When interrogating a witness, a judge may deny the accused the right to attend the hearing if one of the special measures of protection of a witness are applied.

2. The accused shall be timely notified of the time and place of investigative actions which are to be carried out upon his/her or his/her defence counsel's motion. The accused may not, without valid reason, request to postpone the investigative actions. If the accused has been detained and uses the services of a defence counsel, the defence counsel shall be present during such investigative action, except when the accused is required to participate personally in that investigative action. If the accused and/or his/her defence counsel are not notified, within reasonable period, of the time and place of the investigative actions, the investigative actions shall not be carried out, and the evidence obtained as a result of such investigative actions shall be considered inadmissible.

3. If a defence counsel does not participate in an the ordered investigative action with a valid reason, the prosecutor shall be obliged to postpone, only once and for a reasonable period, the investigative action in which the defence counsel should have participated, but not longer than five days. Upon the expiry of this period, the prosecutor shall carry out athe n investigative action without the participation of the defence counsel, unless there is a case of mandatory defence provided for by this Code. Non-appearance of a defence counsel shall not result in the postponement of an urgent investigative action.

### Article 41 - Hiring of a defence counsel by the accused

A defence counsel shall be selected and hired by the accused or, according to the will of the accused, by his/her close relative or any other person. An investigator, prosecutor, or a judge may not recommend any defence counsel. The accused (his/her close relative, any other person) and his/her defence counsel shall regulate their interactions based on a contract.

### Article 42 - Impermissibility of a court hearing upon motion of the accused or convicted person

1. It shall be impermissible to adjourn a court hearing on the grounds of replacing a defence counsel if it serves to prolong and impede the court hearing.

2. It shall be impermissible to adjourn a court hearing when a defence counsel is not able to perform the duties of defence for a long period, if this causes the prolongation and obstruction of the court hearing.

3. If a defence counsel of the accused or of the convicted person fails to appear at the court with out a valid reason, which the court deems to prolong the hearing, the court shall be entitled to mandatorily assign a defence counsel to the accused or convicted person, which does not restrict the right of the accused or convicted person to invite a defence counsel of his choice. Upon the appearance of the defence counsel of the accused or convicted person's choice at the court, the defence counsel assigned mandatorily shall be removed from the case hearing if the accused or the convicted person so requests.

4. If a defence counsel of the accused or convicted person fails to appear at a court without a valid reason, the court hearing shall be adjourned for not more than 10 days. If, after the expiry of that period, the defence counsel fails again to appear at the court, the procedure prescribed by paragraph 3 of this article shall apply.

5. A court decision provided for by this article shall be substantiated.

*Law of Georgia No 741 of 14 June 2013 – web-site, 27.6.2013*

### Article 43 - Confidentiality of communication between the accused and his/her defence counsel

1. The communication between the accused and his/her defence counsel shall be confidential and unrestricted.

2. The communication of a person with his/her potential defence counsel, occurring before the person is recognised as the accused, shall also be confidential.

3. The communication of the detained or arrested accused person with his/her defence counsel may only be restricted by means of visual surveillance.

### Article 44 - Legal status of a defence counsel

1. A defence counsel shall use all lawful means and instruments to establish the circumstances that acquit the accused and/or mitigate his/her liability. A defence counsel may not act contrary to the instructions and interests of the accused. A defence counsel also may not file or withdraw an appeal against the will of the accused with respect to the charges and the sentence, except when the accused has such a physical or mental disability that makes it impossible to obtain his/her consent.

2. A defence counsel shall present his/her [appointment] order and certificate to be allowed to participate in a criminal case.

3. A defence counsel may, within the limits and in the manner provided for by this Code, examine evidence of the prosecution, obtain copies of the evidence and materials of a criminal case, including [witness] examination records; a defence counsel may also enjoy all rights of the accused and other

rights of the defence specified by this Code. A defence counsel cannot enjoy the rights which, based on their nature, only the accused may enjoy.

4. A defence counsel shall be obliged to timely appear at the place of procedural actions and at the court.

*Law of Georgia No 741 of 14 June 2013 – web-site, 27.6.2013*

*Law of Georgia No 3715 of 12 June 2015 – web-site, 24.6.2015*

### Article 45 - Mandatory defence

It shall be mandatory for the accused to have a defence counsel:

a) if the accused is a minor;

b) if the accused has no command of the language of the criminal proceedings;

c) if the accused has physical or mental disabilities that prevent him/her from defending himself/herself;

d) if a ruling (decree) has been issued on the assignment of a forensic psychiatric examination;

e) if for the action committed the Criminal Code of Georgia prescribes life imprisonment as punishment;

f) if negotiations on the conclusion of a plea bargain with the accused are in progress;

g) if the criminal case is reviewed by a jury;

h) if the accused evades to appear before law-enforcement bodies;

i) if the accused has been expelled from a court room;

j) if the accused is an unidentified person;

k) in cases directly provided for by this Code.

### Article 46 - Defence at the expense of the State

1. The State shall bear the costs of the defence if:

a) the indigent accused requests the assignment of a defence counsel;

b) there is a case of mandatory defence specified by this Code and a defence counsel hired by the accused is not participating in the criminal case (defence by agreement).

2. In the case provided for by paragraph 1 of this article, the prosecution or the judge shall be obliged to immediately apply to the relevant legal aid agency and request the assignment of a defence counsel at the expense of the State.

3. In the case provided for by paragraph 1 of this article, the accused may apply to the relevant legal aid agency and request the assignment of a defence counsel at the expense of the State.

4. If the defence is undertaken at the expense of the State, the State shall, in the manner prescribed by the legislation of Georgia, also bear other necessary defence costs if they are directly related to the performance of self-defence by the accused.

5. The procedure for the selection and assignment of a defence counsel at the expense of the State shall be determined by the Law of Georgia on Legal Aid.

*Law of Georgia No 6549 of 22 June 2012 – web-site, 4.7.2012*

## Chapter VI - Witnesses and other participants of criminal proceedings

### Article 47 - Witness

When testifying before a court, an investigator, a prosecutor, an accused, a victim, an expert and an interpreter shall also have the status, and the rights and obligations of a witness.

### Article 48 - Taking an oath by a witness

1. A witness shall take a religious or non-religious oath before a court.

2. Before administering an oath, the court shall explain to the witness the importance of the oath, and the liability provided for by Articles 370–371 of the Criminal Code of Georgia.

3. When administering a religious oath, the judge shall address the witness with the following words:

“Swear before the omnipotent and omniscient God that, with all your conscience, you will only tell the truth and conceal nothing”.

A witness shall answer:

“I swear. So help me God!”

4. When administering a non-religious oath, the judge shall address a witness with the following words:

“Swear that, with all your conscience, you will only tell the truth and conceal nothing”.

A witness shall answer:

“I swear!”

5. If a witness states that due to his/her faith or other circumstances he/she refuses to take an oath, then he/she shall testify by affirmation that replaces the oath. A judge shall address the witness:

“Do you affirm before the court with full understanding of your responsibility that you will tell only the truth and conceal nothing?”

The witness shall answer:

“Yes, I do!”

6. The fact of taking an oath or providing an affirmation replacing the oath shall be confirmed by his/her signature on the text of the oath or affirmation.

7. The oath taken by the accused before testifying as a witness shall not prejudice his/her right to refuse to give an incriminating testimony against himself/herself or a close relative. The refusal to give a testimony may not be considered as an evidence that proves the culpability of the accused.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 4677 of 18 December 2015 – website, 29.12.2015*

### Article 49 - Rights and obligations of a witness

1. A witness shall have the right to:

a) be informed about the case for which he/she has been called;

b) if he/she has no or insufficient command of the language of the criminal procedure, give a testimony in the native or any other language of his/her choice, and use the services of an interpreter at the expense of the State;

c) review the record of an investigative action carried out with his/her participation, and request to make remarks, additions and amendments to the record.

d) avoid giving a testimony that discloses the commission of an offence by himself/herself or by his/her close relative;

e) participate in the conduct of investigative actions;

f) request taking a special measures of protection.

2. A witness shall be obliged:

a) to appear upon the summons of the court;

b) respond to the questions posed;

c) not to disclose circumstances of a case known to him/her, if so warned by the court;

d) observe order during the court hearing;

e) not to leave the court room without the permission of the presiding judge.

3. A witness may be coerced into appearing in the court in accordance with the prosecure prescribe by this Code.

### Article 50 - Persons who are not be obliged to act as a witness

1. The following persons shall not be obliged to be interrogated as witnesses, and to transfer an item, document, substance or other object that contains

information essential to the case:

a) a defence counsel - with regard to the circumstances that he/she has come to know when fulfilling the duties of a defence counsel in the given case;

b) a defence counsel who provides legal aid to a person before the person receives a defence counsel - with regard to the circumstances that he/she has come to know in connection with the legal aid;

c) a clergy member - with regard to the circumstances that he/she has come to know as a result of a confession or other act of confiding;

d) a close relative of the accused;

e) the Public Defender or a person authorised by the Public Defender - with regard to the fact that he/she has been confided in as the Public Defender;

f) a Member of the Parliament of Georgia - with regard to the fact that he/she has been confided in as a member of a representative body;

g) a judge - with regard to the circumstances that are part of the secrecy of judicial deliberation;

h) a journalist - with regard to the information obtained in the course of his/her professional activities;

i) a victim of human trafficking - during the reflection period;

j) a member of the Special Prevention Group operating under the Public Defender's Office of Georgia - with regard to the fact he/she has been confided in while carrying out the functions of the National Prevention Mechanism, provided that he/she refuses to give a testimony.

k) a member of the Supreme Council of the Autonomous Republic – with regard to the fact that he/she has been confided in as the member of the representative body.

2. A person who, due to his/her physical or mental disability, is not able to properly comprehend, memorise and recollect the circumstances that are essential to the case, and to give information or testimony, may not be interviewed or interrogated as a witness

3. A court may discharge the following persons from the duty of a witness:

a) a medical worker, if it is his/her professional duty to keep a doctor-patient confidentiality (medical secrecy) ;

b) a notary, a public servant, a military service person and a person equal in status to the military service person, provided that they have assumed the obligation not to disclose the source and contents of the information obtained;

[b) a notary, a public servant, a state servant, military service person and a person equal in status to the military service person, provided that they have assumed the obligation not to disclose the source and contents of the information obtained; ***(Shall enter into force on 1 July 2017)***]

c) a person who has been employed on the condition of non-disclosure of commercial or bank secrets;

d) a person participating in a counter-terrorist act and/or a special operation (in connection with his/her professional duty), whose activities are confidential, and the documents, materials and other data associated with such activities that constitute a state secret.

4. If a person specified in paragraph 1(i) of this article, during the reflection period, persons specified in paragraph 1(h) of this article and paragraph 3(a-c) of this article, who under the legislation of Georgia are obliged to keep confidentiality and at the same time, know that the offences specified in Article 137(3)(d) or Article 137(4)(c), Article 138(3)(d) or Article 138(4)(c), Article 139(2), Articles 140 or 141, Article 171(3), Article 253(2), Articles 255(2) or (3), Articles $255^1$ or $255^2$ has been committed against a minor, shall not be considered to be in breach of the above obligation if they voluntarily provide information during an interview or testify as a witness

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 1729 of 11 December 2013 – web-site, 25.12.2013*

*Law of Georgia No 4378 of 27 October 2015 – web-site, 11.11.2015*

*Law of Georgia No 4677 of 18 December 2015 – web-site, 29.12.2015*

*Law of Georgia No 4924 of 13 April 2016 – web-site, 26.4.2016*

*Law of Georgia No 164 of 21 December 2016 – website, 28.12.2016*

**Article 51 - Experts**

1. An expert shall be assigned all rights and obligations of a witness.

2. An expert shall be impartial regardless of the party that has summoned him/her.

3. It shall be impermissible to conduct an expert examination to prove the reliability of a witness.

**Article 52 - Rights and obligations of an expert**

1. An expert shall have the rights to:

a) review materials required for expert examination, make notes and copies of the necessary information;

b) request submission of additional materials; take a test sample of a [bullet] casing, bullet or any other item during the examination; request from the person who initiated the conduct of expert examination additional information required for the expert examination;

c) refuse to provide an expert opinion or to continue an expert examination, provided that the questions posed are outside the area of his/her expertise or the materials submitted are not sufficient for providing an expert opinion;

d) be present during an investigative action by permission of the person who initiated the expert examination, of an investigator, prosecutor or court;

e) take part in the examination of evidence relating to the object of expert examination and to the expert examination;

f) use scientific-technical means, expert knowledge and experience for the purpose of detection, examination and demonstration of evidence;

2. An expert shall be obliged to:

a) include in the expert opinion the circumstance established during the expert examination about which the person who initiated the expertise, and/or other authorised participants of the proceedings have not asked questions;

b) safeguard the object of expert examination and return it after the expert examination to the person who initiated the expertise, unless this object has been fully used up during the examination;

c) file for self-disqualification if there are relevant grounds provided for by law.

**Article 53 - Interpreter**

1. An interpreter shall be called when:

a) a trial participant has no or insufficient command of the language of the criminal procedure;

b) it is necessary to translate a text in the language of the criminal procedure.

2. A note regarding the summoning of an interpreter shall be made to the relevant record.

3. The rules applying to an interpreter shall also apply to the person who has a command of hand language.

4. Other trial participants may not act as an interpreter.

*Law of Georgia No 6549 of 22 June 2012 – web-site, 4.7.2012*

**Article 54 - Rights and obligations of an interpreter**

1. An interpreter shall have the right to:

a) put questions to trial participants to clarify the details of the interpretation;

b) review the record of the investigative action and the record of the court hearing in which he/she participated;

c) make remarks; the remarks shall be included in the record of the court hearing;

d) refuse to interpret if he/she lacks the knowledge necessary for interpretation.

2. An interpreter shall be obliged:

a) to appear upon summons of an investigator, prosecutor or a court;

b) to accurately and completely interpret/translate testimonies and documents;

c) to confirm the authenticity of a translation by signing a protocol of the investigative action in which he/she participated, or any other procedural document;

d) not to disclose investigation materials, or information concerning the personal life of citizens, without the permission of an investigator or a prosecutor.

**Article 55 - Friend of the court *(Amicus Curiae)***

1. An interested person who is not a party to a criminal case under review, may, at least five days before a hearing on the merits of the case, submit to the court in writing his/her own written opinion with regard to this case.

2. Instead of supporting any of the trial participants, a written opinion shall be intended to assist a court in appropriately evaluating the issue under review. If a court considers that a written opinion has not been drafted in compliance with the requirements of this article, it will not review it.

3. A court shall not be obliged to take into consideration the arguments provided in the written opinion.

4. A written opinion shall not exceed 30 pages. It shall be drafted in three copies, two of which shall be transferred to the parties and the other shall remain with the judge.

5. The court may, on its own initiative and/or with a prior consent of the party and the author of the written opinion summon to the merits hearing the author of the written opinion to provide oral explanations.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

## Chapter VII - Victim

### Article 56 - Recognising a person as a victim

1. A victim shall be assigned all rights and obligations of a victim.

2. A victim that is a legal person shall participate in criminal proceedings through a person with representative powers, who shall be assigned all rights and obligations of a victim.

3. In the case of an offence that caused the death of the victim, the rights and obligations of the victim shall be assigned to any of the close relatives of the victim (`a legal successor of the victim`). An investigator, prosecutor and judge may not deny a legal successor of the victim to exercise any of the rights granted to the victim. If a dispute arises between close relatives of the same level, a legal successor of the victim shall be determined by drawing lots.

4. In the case of preparation or attempt of an offence, the State, the physical or legal person that could have been harmed, shall be deemed to be a victim.

5. If there are appropriate grounds for recognising a person as a victim or as a legal successor of the victim, the prosecutor shall issue a decree on his/her own initiative, or upon the filing of the relevant application by that person. If a prosecutor does not satisfy the application within 48 hours after it has been filed, the person in question may apply once to a superior prosecutor for recognising him/her as a victim or a legal successor of the victim. The decision of a superior prosecutor shall be final and may not be appealed, except when a particularly serious offence has been committed. If a superior prosecutor does not satisfy the appeal, the person in question may appeal the decision of the prosecutor to a district (city) court according to the place of investigation.

$5^1$. A prosecutor or, upon his/her instructions, an investigator, shall familiarise the victim with the decree on the recognition of a person as a victim and explain to him/her all the rights provided for by this Code, and the procedures related to the exercise of those rights, and shall draft a report to that effect. The report shall be signed by the victim and the persons who drafted it. A victim may make remarks to the report. If a victim refuses to sign the report, the reason for the refusal shall be recorded in the report.

6. If, after issuing a decree on the recognition of a person as a victim it is established that there are no appropriate grounds for such recognition, the prosecutor shall make a decision to annul that decree and shall inform the victim about it. A victim may appeal to a superior prosecutor, only once, the decision of the prosecutor annulling the decree on the recognition of a person as a victim. The decision of a superior prosecutor shall be final and it may not appealed, except when a particularly serious offence has been committed. If a superior prosecutor does not satisfy the appeal, the victim may appeal the decision of the prosecutor to a district (city) court, according to the place of investigation.

**7.** A judge shall deliver a ruling on the issues provided for by paragraphs 5 and 6 of this Code with or without an oral hearing. The decision made by the judge may not be appealed.

*Law of Georgia No 2518 of 24 July 2014 – web-site, 6.8.2014*

### Article 57 - Rights of a victim

**1.** A victim shall have the right to:

a) be informed about the essence of the charges brought against the accused;

b) be informed about the procedural actions provided for by Article 58 of this Code;

c) during the hearing of a case on the merits, during the review of a motion for rendering a ruling without hearing the merits and at the sentencing hearing, give a testimony concerning the damage he/she has incurred as a result of the offence, or submit, in writing, that information to the court;

d) obtain, free of charge, copies of a decree/ruling, and/or of a judgement on the termination of investigation and/or criminal prosecution, or of other final court decisions;

e) be indemnified for the expenses incurred as a result of participating in the proceedings;

f) recover his/her own property that was temporarily confiscated during the investigation and court hearing for the needs of the case;

g) request the application of special protective measures if his/her or his/her close relative's or family member's life, health and/or property is endangered;

h) be informed on the progress of the investigation and review the materials of the criminal case, unless this contradicts the interests of the investigation;

i) upon request, obtain information on the measure of restraint applied against the accused, and information on the leaving of a penitentiary facility by the accused/convicted person, unless this creates a risk for the accused/convicted person;

j) review the materials of the criminal case at least 10 days before a preliminary hearing;

k) request the prosecution to file a motion for closing, in part or in full, a court hearing for the purpose specified in Article 182(3) of this Code;

l) receive explanations as to his/her rights and obligations;

m) enjoy other rights granted under this Code.

**2.** Upon satisfying a request for obtaining the information and for reviewing the materials specified in paragraph 1(h) of this article, a prosecutor/investigator shall draft a report in the manner prescribed by Article 56($5^1$) of this Code. If the satisfaction of the request contradicts the interests of the investigation, the prosecutor/investigator, immediately upon the elimination of the grounds for denying the request, shall be obliged to inform the victim and provide him/her information on the progress of the investigation and familiarise him/her the materials of the criminal case.

3. If the request referred to in this article has been denied, the prosecutor shall issue a reasoned decree. A victim may appeal this decree, only once, to a superior prosecutor.

*Law of Georgia No 5170 of 28 October 2011 – web-site, 11.11.2011*

*Law of Georgia No 2518 of 24 July 2014 – web-site, 6.8.2014*

*Law of Georgia No 3528 of 1 October 2015 – web-site, 18.5.2015*

### Article 58 - Information and explanation

1. Upon request of the victim, the prosecutor shall inform the victim in an advance on the place and time of the following procedural actions:

a) the initial appearance of the accused before a magistrate judge;

b) preliminary hearing;

c) main hearing;

d) a hearing at which a prosecutor's motion requesting the passing of a judgement without hearing a case on the merits is considered;

e) sentencing hearing;

f) appellate or cassation court hearing.

2. The information specified in paragraph 1 of this article shall be submitted to the victim in writing, except when the transfer of the information through other means is reasonable under the given circumstances and allows sufficient time for making the appropriate decision.

3. A prosecutor shall be obliged to notify the victim of the conclusion of a plea bargain.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 2518 of 24 July 2014 – web-site, 6.8.2014*

## Chapter VIII - Circumstances Excluding Participation in Criminal Proceedings; Recusal

### Article 59 - Circumstances excluding the participation of a judge, a juror, a prosecutor, an investigator or a secretary of the court session in a criminal trial

1. A judge, juror, prosecutor, investigator or secretary of the court session may not participate in criminal proceedings if:

a) he/she has not been appointed or elected to the position in the manner prescribed by law;

b) he/she participates or participated in this case as the accused, a defence counsel, a victim, an expert, an interpreter or a witness;

$b^1$) the investigation is in progress with respect to the alleged commission by him/her of an offence;

c) he/she is a family member or closely relative of the accused, defence counsel, or of the victim;

d) they are members of one family, or close relatives;

e) there are other circumstances that question his/her objectivity and impartiality.

2. A judge may not participate in the hearing of a criminal case on the merits if he/she participated in this case as an investigator, prosecutor, or as a judge of a preliminary hearing, of the court of the first instance, court of appeal or court of cassation, or as a secretary of the court session. This procedure shall apply to a judge who participated in the review of the newly discovered circumstances of a criminal case.

3. A judge may not participate in the review of the appeal filed against the decision delivered by him/her.

4. If a judge previously participated in the review of a case by way of cassation, he/she may still participate in the haring of the case at the Grand Chamber of the Supreme Court of Georgia.

5. The performance of their duties by a prosecutor and an investigator shall not impede their further participation in the case at any stage of the criminal proceedings.

6. An investigator involved in a criminal case may not participate in the investigative action that is to be carried out under a court ruling adopted on the motion of the defence, unless there is a prior written consent of the defence.

*Law of Georgia No 2518 of 24 July 2014 – web-site, 6.8.2014*

### Article 60 - Circumstances excluding the participation of a defence counsel in criminal proceedings

A defence counsel may not participate in a criminal trial if he/she:

a) was involved in this case as a judge, jury, investigator, secretary of the court session, witness or expert;

b) provides or provided legal aid to the person whose interests contradict the interests of the accused under his/her defence and whom he/she represents;

c) is related to a judge, prosecutor, investigator or secretary of the court session who participates or participated in the investigation or court hearing of this case.

### Article $60^1$ - Circumstances excluding the legal representation of a minor

At every stage of a criminal proceeding related to domestic crime and domestic violence, including during interrogation, the best interests of a minor witness and a minor victim shall be taken into consideration, according to their age and level of development. A minor witness and a minor victim may not be interrogated with respect to domestic crime, also, when issuing a protection or restraining order, a minor victim may not be interviewed (take explanations from) in the presence of the violent parent(s); also, a person who is an alleged abuser or whose impartiality is questioned based on the nature of the relationship between that person and the violent family members, or in other cases of the conflict of interest, may not be involved in criminal proceedings as a legal representative of the minor; also, such a person may not be given access to or handed over a testimony (interview record, explanations) given by a minor.

*Law of Georgia No 2706 of 17 October 2014 - web-site, 31.10.2014*

### Article $60^1$ - (Deleted)

*Law of Georgia No 3715 of 12 June 2015 - web-site, 24.6.2015*

### Article 61 - Circumstances excluding the participation of an interpreter in criminal proceedings

An interpreter may not participate in a criminal trial when he/she essentially depends on and/or is related to any participant of the criminal proceedings.

### Article 62 - Self-recusal

1. If there are any circumstances that exclude the participation of a judge, juror, prosecutor, investigator, secretary of the court session, defence counsel, interpreter or expert, he/she shall immediately declare about self-recusal.

2. An investigator shall declare about self-recusal to the prosecutor conducting procedural guidance, a prosecutor shall declare about self-recusal to a superior prosecutor, and during the court hearing, to the court.

3. A judge shall declare about self-recusal to the chairperson of the court.

4. A defence counsel, an interpreter, an expert shall declare about self-recusal to a prosecutor, while during the court hearing, the above persons and the secretary of the court session shall declare about self-recusal in the court.

5. A declaration of self-recusal shall be substantiated.

6. Professional incompetence of an expert shall serve as grounds for his/her self-recusal.

### Article 63 - Procedure for filing a motion for recusal

1. If there are any circumstance that excludes the participation of any of the trial participant in the criminal proceedings specified in this Code and the participant has not declared about self-recusal, the parties may file a motion for recusal.

2. A duly authorised person shall file a motion for refusal immediately, at the earliest available opportunity, after he/she is informed about the grounds for recusal. Otherwise, a motion shall not be considered.

3. A motion to recuse a judge, a juror, a prosecutor, a secretary of the court session, a defence counsel or an interpreter during the court hearing shall be filed with the court by duly authorised persons.

4. During an investigation, a motion to recuse an investigator or an interpreter shall be filed by the [interested party] with a prosecutor.

5. During an investigation, motion to recuse a prosecutor shall be filed by duly authorised persons with a superior prosecutor.

### Article 64 - Procedure for deciding a motion to recuse

1. A recused person may, before a motion to recuse is heard, provide explanations.

2. A decision on a motion to recuse a judge shall be made:

a) during the hearing of the case sitting alone, if a motion to recuse has been filed against the judge hearing the case, - by that judge;

b) during the review of a case by a panel of judges, if a motion to recuse has been filed against a judge (judges), - by the judge(s) against whom a motion for recusal has not been filed;

c) during the review of a case by a panel of judges, if a motion for recusal has been filed against the entire composition of the court, - by the entire composition of the court hearing the case;

d) during the examination of a witness in accordance with Article 144 of this Code, if a motion for recusal is files against the magistrate judge, - by the magistrate judge.

3. A motion for recusal filed during the investigation shall be decided within 24 hours, and a motion filed during a court sitting shall be decided immediately, by deliberation in chambers or in the court room.

4. A prosecutor shall issue a decree, and a court shall render a ruling on the filed motion for recusal. *Law of Georgia No 4677 of 18 December 2015 – web-site, 29.12.2015*

### Article 65 - Referring a case to another judge or defining a new composition of the hearing court in the case of recusal of a judge or of the entire composition of the court

1. If the court hearing a case is recused, the case shall be transferred to the chairperson of the court, who shall transfer the case for review to another composition of the same court.

2. If the entire composition of a court of the first instance is recused, for the purpose of hearing the case in another court of the same instance, the case shall be transferred to the chairperson of the respective court of appeal, who, within 48 hours of receiving the case, shall decision the given issue.

3. If the entire composition of a court of appeal is recused, for the purpose of hearing the case in another court of the same instance, the case shall be transferred to the Chairperson of the Supreme Court of Georgia who, within 48 hours of receiving the case, shall decide the given issue.

### Article 66 - Appealing a decision on a motion for recusal

1. A decision granting a motion for recusal may not be appealed.

2. A decision denying a motion to recuse an investigator may be appealed, only once, within a period of one week, to a prosecutor who is superior to the prosecutor providing procedural guidance.

3. The refusal of a court to grant a motion for recusal may be appealed along with a final decision.

## Chapter IX - Procedure for applying special protection measures to a participant of criminal proceedings

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

**Article 67 - Grounds for applying special protection measures to a participant of criminal proceedings**

Special measures for protecting a participant of criminal proceedings may be applied if:

a) the proceedings concern the commission of such an act, the public hearing of which, due to its nature, will substantially harm the personal life of the participant of the proceedings;

b) by making public the identity and the involvement in the case of a participant of the proceedings, will considerably endanger his/her or his/her close relative's life, health or property;

c) the participant of the procedure depends on the accused;

d) (deleted - 28.1.2011, No 5170)

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 5170 of 28 October 2011 – web-site, 11.11.2011*

**Article 68 - Type of special protection measures for participants of the proceedings, and person responsible for their application**

1. Inclusion of a participant of the proceedings in the special protection programme for participants in criminal proceedings is a type of a special protection measures for a participant of the proceedings.

2. A prosecutor may, with the consent of the Chief Prosecutor of Georgia of his/her deputy, apply special protection measures for participants in the proceedings and include a participant of criminal proceedings in the special protection programme specified in paragraph 1 of this article or a person who may become a participant of the proceedings, or any other person related to the person, and/or his/her close relative, with their consent.

3. The Ministry of Internal Affairs of Georgia shall, in the manner prescribed by the special protection programme for participants in criminal proceedings, apply special protection measures to persons specified by paragraph 2 of this article. These measures shall include:

a) taking measures preventing the location [of participants of the proceedings] - replacing or removing from the public registry or any other public record the data that make it possible to recognise and identify a participant of the proceedings, in particular, the participant's name, address, work place, occupation or other relevant information;

b) changing the identity and issuing new documents - assigning a pseudonym, changing the physical appearance, classifying as secret the procedural and other documents that make it possible to recognise and identify the person;

c) taking safety measures (personal protection, emergency call, etc.);

d) changing temporarily or permanently the place of residence;

e) removing (relocating) to another state.

4. The procedures for inclusion of a participant of the proceedings in the special protection programme and special protection measures shall be jointly determined by the Minister of Justice and the Minister of Internal Affairs of Georgia.

5. The expenses associated with special protection measures for participants in criminal proceedings shall be borne by the State.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 5170 of 28 October 2011 – web-site, 11.11.2011*

**Article 69 - (Deleted)**

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 5170 of 28 October 2011 – web-site, 11.11.2011*

**Article 70 - Decision on applying special protection measures**

1. A decision to apply special protection measures for trial participants shall contain:

a) the person with respect to whom a special protection measure is applied (inclusion in a special protection programme for participants in proceedings);

b) the term of the special protection measure.

2. A special protection measure may be applied for an indefinite period.

3. A decision to apply a special protection measure shall not be public. This decision shall apply only to the person under protection.

4. If the term of a special protection measure expires, it may be extended if there is still a need to apply it.

5. If the grounds for applying special protection measures no longer exist, the person who made a decision on its application shall annul this protection measure, which shall immediately be notified to the person under protection.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 5170 of 28 October 2011 – web-site, 11.11.2011*

### Article 71 - Enforcement of a decision on applying special protection measures

1. A prosecutor who applied special protection measures shall be notified of the enforcement of a decision on the application of those measures.

2. The Ministry of Internal Affairs of Georgia shall ensure the enforcement of special protection measures and the enforcement of specific protection measures taken within the limits of those measures.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 5170 of 28 October 2011 – web-site, 11.11.2011*

## Section III.

## Evidence

## Chapter X - Evidence, Subject of Proof and Procedure

### Article 72 - Inadmissible evidence

1. Evidence obtained as a result of the substantial violation of this Code and any other evidence lawfully obtained based on such evidence, if it worsens the legal status of the accused, shall be considered inadmissible and shall have no legal effect. ***(Invalidated)*** - Decision of the Constitutional Court of Georgia of 31 July 2015 No 2/2/579 - web-site, 18.8.2015

2. Evidence shall also be considered inadmissible if it has been obtained in accordance with the procedure established under this Code but a reasonable doubt has not been refuted that it has been replaced, or that its properties have been substantially changed or that the traces remaining on it have substantially disappeared.

3. The burden of proving admissibility of evidence of the prosecution and of inadmissibility of evidence of the defence shall lie with the prosecutor.

4. A party shall be obliged to submit to the court information on the origin of its own evidence.

5. A court shall decide the admissibility of evidence. A court decision shall be reasoned.

6. Inadmissible evidence may not serve as grounds for a court decision.

*Law of Georgia No 471 of 14 June 2013 – web-site, 27.6.2013*

*Decision of the Constitutional Court of Georgia of 31 July 2015 No 2/2/579 - web-site, 18.8.2015*

### Article 73 - Judicial notice

1. The judicial notice shall be taken of:

a) a universally known fact;

b) a judgement of conviction;

c) factual circumstances established by a judgement in another criminal case, unless none of the participants of the proceedings question them;

d) any other circumstance or fact on which the parties agree.

2. At the initiative of a party [to the proceedings], a court may reject a fact of which the court has previously taken judicial notice, if the fact contradicts the results of the examination of evidence in the court.

*Law of Georgia No 417 of 14 June 2013 – web-site, 27.6.2013*

### Article 74 - Testimony of the accused

1. A testimony given by the accused shall be the information provided to the court on the circumstances of the criminal case.

2. Giving a testimony shall be the right of the accused.

3. The fact of refusal of the accused to give a testimony, or of giving a false testimony may not be considered an evidence that proves the culpability of the accused.

4. The acknowledgement of the accused may not serve as grounds for a judgement of conviction, unless it can be proved by another confirming evidence. .

*Law of Georgia No 36196of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

### Article 75 - Testimony of a witness

1. A testimony of a witness may not be considered an evidence, unless the witness is able to point out to the source of information, or if it is established that due to the mental illness or physical disability, he/she is not able to properly comprehend, memorise and recollect facts.

2. If there is substantial discrepancy between the information provided by a person during the interview and his/her testimony or between the testimonies of a witness, a party may file a motion with the judge requesting the recognition of the testimony (testimonies) as inadmissible evidence.

3. A testimony of a witness shall be considered as an inadmissible evidence, unless the protocol of the interrogation of that witness has been submitted to the other party in the manner prescribed by Article 83 of this Code.

*Law of Georgia No 741 of 14 June 2014 – web-site, 27.6.2013*

*Law of Georgia No 4677 of 18 December 2015 – web-site, 29.12.2015*

### Article 76 - Indirect testimony

1. A testimony that is based on the information disseminated by any other person shall be considered indirect.

2. An indirect testimony shall be considered an admissible evidence only if the person giving an indirect testimony refers to the source of information that can be identified and the real existence of which can be established.

3. During the substantive hearing of a case at a court, an indirect testimony shall be considered an admissible evidence, if it can be proved by any other evidence that is not an indirect testimony.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 741 of 14 June 2013 – web-site, 27.6.2013*

### Article 77 - Material evidence

1. A sample of comparative examination shall be a replaceable material evidence.

2. A material evidence shall be inspected and sealed; during the inspection, its individual and familial signs shall be identified and described.

3. A seal may be removed and a material evidence may be repeatedly inspected.

4. Only the evidence the authenticity of which can be proved shall be admissible during the substantive hearing of a case.

### Article 78 - Evidentiary force of a document

1. If a party so requests, a document shall be considered to have an evidentiary force, if its origin has been established and it is authentic. A document or material evidence shall be considered an admissible evidence, if a party may interrogate as a witness a person which has acquired/produced and/or which held it before its submission to the court.

2. A document may, at the same time, serve as a material evidence in a criminal case, if it has a property of irreplaceability.

3. If the document removed and enclosed to a criminal case is required for the current registration, payment and for other lawful purposes, this document or its copy may be returned or transferred for temporary use to the lawful owner.

**Article 79 - Storage of material evidences**

1. A material evidence shall be kept under the conditions which prevent its loss and change of its properties.

2. A material evidence which shall not be destructed, returned to the owner or holder or transferred to the state, shall be kept for the term during which a criminal case shall be kept.

3. Precious metals, stones (gems), banknotes, bonds and other securities, unless their individual signs serve as evidences, shall be kept at banks.

4. A material evidence may also be kept at another place.

**Article 80 - Decision on a material evidence before the completion of a criminal trial**

1. Before the completion of a criminal trial, investigative authorities shall return to the owner or holder perishable items, as well as the items which are commonly used in a daily life, as well as domestic animals and poultry unless they have been sequestered. Before the completion of a criminal trial, investigative authorities shall return to the owner or holder transport facilities unless they have been sequestered.

2. If a material evidence is a transport facility that has been taken from lawful possession of the owner/holder against his/her will, the filing body, on its own or through an authorised body, shall offer the owner/lawful holder, in writing, if this person is identified, to retrieve the item owned by him/her. The filing body shall forward the written notification to the owner/lawful holder of the item upon establishment of his/her identity. The receipt of the written notification shall be confirmed by an appropriate document submitted by the authorised agency, or by the signature of the owner/lawful holder of the item made on the notification, and in his/her absence – by the signature of a family member and/or an authorised person, respectively. The owner/lawful holder of the transport facility shall, within 90 days after receiving the written notification, ensure, at his/her expense, that the item owned is retrieved and transported.

3. If the owner or lawful holder of an item specified in paragraph 1 of this article is not identified, or there is no document evidencing the legal origin of this item, or the item cannot be retrieved due to other reasons, it may be delivered to an appropriate person (organisation) for use, storage, or care.

4. If the owner/legal holder fails to retrieve the transport facility within the time limit determined in paragraph 2 of this article, or if the identity of the owner or legal holder of the transport facility cannot be established within 90 days after confiscation of the facility, or if the notification cannot be delivered to him/her within the same time limit, the transport facility shall, under a decree of the prosecutor, be returned to the person that acquired it and that was not aware of an offence committed in relation to the transport facility at the time of its acquisition (bona fide acquirer).

5. If an acquirer of a transport facility was aware of an offence committed in relation to the transport facility at the time of its acquisition, or the transport facility cannot be retrieved under paragraphs 2 and 4 of this article due to other reasons, a prosecutor shall, according to the jurisdiction, file a reasoned motion to a magistrate judge requesting the transfer of the transport facility under the state ownership. The magistrate judge shall, within not later than five days after filing the motion, consider it under Article 206(3) of this Code with the participation of all interested persons, and based on the evaluation of evidences presented, make a decision either to transfer the transport facility under the state ownership or to return it to the bona fide acquirer. The acquirer of the transport facility shall be considered as bona fide until proven otherwise. Burden of proving dishonesty of the acquirer of the transport facility shall lie on the prosecutor.

6. The judgement passed by a magistrate judge under paragraph 5 of this article may be appealed by a prosecutor or an interested person under the procedure established in Article 207 of this Code.

7. Making a decision under this article with regard to a material evidence shall not deprive an interested person of the right to challenge the ownership of an item in a civil procedure.

8. An item transferred under the state ownership shall be administered under the procedure established by the legislation of Georgia.

*Law of Georgia No 893 of 29 July 2013 – web-site, 20.8.2013*

*Law of Georgia No 5390 of 8 June 2016 – website, 17.6.2016*

**Article 81 - Decision on material evidences upon completion of a criminal trial**

1. In a judgement, in a decision on the termination of criminal prosecution and/or investigation, the issue of a material evidence shall be resolved in the following manner:

a) if an instrument or item of crime has no value, it shall be destroyed, and if it has a value, it shall be confiscated procedurally;

b) if an item removed from the circulation has any value, it shall be transferred to respective administrative body and if an item has no value - it shall be destroyed;

c) other items which have no value, shall, by motion of the interested person or an administrative body, shall be transferred to the person or the body, or in case of its absence - the items shall be destroyed;

d) the income/property obtained in a criminal way shall be used to indemnify the damage inflicted as a result of an offence, or to indemnify procedural costs - after the damage has been indemnified, or shall be transferred to the state budget of Georgia - if the person which has incurred the damage has not been identified;

e) all items and documents owned by a victim, the acquitted person or any other person shall be returned to the owner or holder, except for the accused and the person materially liable for them.

2. A dispute over material evidences shall be resolved with a procedure of civil proceedings. In case of such dispute, a material evidence, before the court decision enters into force, shall be kept together with the criminal case.

3. If material evidences are damaged, lost or destroyed, their owners or holders shall receive a financial compensation. This procedure shall not apply to the property subject to a procedural confiscation, destruction and indemnification of procedural costs.

### Article 82 - Evaluation of evidences

1. An evidence shall be evaluated in terms of its relevance with a criminal case, as well as of its admissibility and trustworthiness.

2. An evidence shall have no pre-determined effect.

3. To recognise a person as an offender under a judgement of conviction, a sum of agreed evidences beyond a reasonable doubt shall be necessary.

### Article 83 - Exchanging information on the potential evidences by parties

1. At any stage of a criminal trial, a request of the prosecution to be introduced to the information that the prosecution intends to submit to the court as evidence, shall be immediately satisfied. The prosecution shall, in cases provided for by this Section, also be obliged to provide to the defence all available acquitting evidences.

2. After satisfying a request of the defence, the prosecution may receive from the defence the information that the latter intends to submit to the court as an evidence.

3. The failure to submit fully to the party the materials available by the moment after the request of information exchange shall cause these materials to be recognised as an inadmissible evidence.

4. With respect to the exchange of information by the parties provided for by paragraphs one and two of this article, a protocol shall be drafted a copy whereof, together with the criminal case, shall be submitted to the court.

5. The right of the defence to obtain information may, by motion of the prosecution, only be restricted by a court only as to the information that has been acquired as a result of operative-investigative or secret investigative actions and only before a pre-trial sitting.

6. Not later than five working days before the pre-trial sitting, the parties shall submit to each other and to the court the complete information available by the moment that they intend to submit to the court as an evidence.

7. The parties shall, at their expense, submit to each other information in the form of a copy of a document, and in the case of other materials - in the form of a notice. Material evidences may also be inspected, unless this causes to damage or destroy them or the trace on them.

8. Before introducing the accused before a court, the parties shall be obliged to provide each other with the opportunity to become familiar with the information and evidence they intend to submit to the court, also to submit copies of written evidences.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 3891 of 7 December 2010 – LHG I, No 67, 9.12.2010, Article 418*

*Law of Georgia No 4631 of 5 May 2011 – web-site, 19.5.2011*

*Law of Georgia No 2634 of 1 August 2014 – web-site, 18.8.2014*

### Article 84 - (Deleted)

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 4631 of 5 May 2011 – web-site, 19.5.2011*

*Law of Georgia No 741 of 14 June 2013 – web-site, 27.6.2013*

## Chapter XI - Procedural liability for non-performance of procedural duties and for disrupting order in a courtroom.

### Article 85 - Liability for non-performance of procedural duties and for disrupting order in a courtroom

1. Order in a courtroom shall be maintained by a person designated by the chairperson of the court. Order in a courtroom shall be maintained by the presiding judge who may, taking into account the number of seats in the room, limit the number of persons attending the session.

2. If a trial participant or a person attending a court session disrupts order during a session, disobeys an order of the presiding judge or shows disrespect towards the court, the presiding judge shall give him/her an oral warning and ask him/her to stop the inappropriate behaviour. In the case of disobedience to the above request, the presiding judge shall, by deliberation in the courtroom, impose a fine and/or remove the person from the court

room. If the person removed still continues disrupting order, the court bailiff shall, upon instructions of the judge, remove the person from the court [building]; in addition, this person may receive a fine or detention.

3. If the decree of the presiding judge is for the removal from the court room of a prosecutor or defence counsel, the hearing of a criminal case shall be adjourned, except where one person is, from the very beginning, prosecuted or defended by several prosecutors or defence counsel. Regarding inappropriate behaviour of a removed prosecutor or defence counsel, a court shall deliver a special ruling that shall be forwarded to the Chief Prosecutor's Office of Georgia or to the Bar Association.

4. If the accused has been removed from a courtroom, a final court decision shall be announced in his/her presence; if the accused still continues disrupting order, the decision shall be announced in his/her absence. After that, the accused shall be handed a copy of the decision that shall be confirmed by his/her signature.

5. A person shall be deemed removed from a court room until the hearing of the case on the given charges is completed in the court of the same instance. The presiding judge may, upon a reasoned motion of a party, allow the person removed to return to the session. The person removed shall be returned to the session also if a relevant court grants an appeal of that person on the recognition of his/her removal from a court room as unlawful and on his/her return to the court room.

6. By an order of the presiding judge, a fine in the amount of GEL 50 to GEL 500 shall be imposed on a person disrupting order at a court session, including a person who is removed, , for which a writ of execution shall be issued. If the person fined continues disrupting order, the presiding judge may immediately increase the amount of the fine within the limits determined by this paragraph.

7. If an action of a person at a court session is intended to disrupt the trial, or he/she demonstrates a clear and/or gross disrespect towards the court, a trial participant or a party, upon instructions of the presiding judge, the court bailiff shall detain the person and prepare a detention report; in addition the presiding judge shall draft a statement containing the details of the violation and submit it to the court (judge) entitled to pass a decree. The person detained shall immediately, but not later than 24 hours, be present before the court to which a statement has been submitted and which is entitled to pass a decree on imprisonment of that person for up to 30 days.

8. If a court establishes that a person has already been sentenced once to imprisonment as stipulated under this article, it may issue a decree for imprisonment of that person for up to 60 days.

9. At a district (city) court that has two or more judges, a decree shall be issued by the chairperson of the court. If the violation occurs during a session conducted with the participation of the chairperson of the court, the decree shall be issued by any judge designated by the chairperson. At a district (city) court that has a single judge, a decree shall be issued by the chairperson of the nearest district (city) court. If the violation stipulated by this paragraph has occurred during the hearing of a case by a magistrate judge, a decree shall be issued by the chairperson of the district (city) court to which the magistrate judge belongs.

10. At a court of appeal, a decree shall be issued by the chairperson of the court, and if the violation occurs at a session conducted with the participation of the chairperson of the court, the decree shall be issued by the deputy chairperson or by any judge designated by the chairperson.

11. At the Supreme Court of Georgia, except for the Grand Chamber, a decree during a case hearing shall be issued by the chairperson of one of its chambers. At the Grand Chamber of the Supreme Court of Georgia, a decree during a case hearing shall be issued by a judge who did not participate in the hearing. A detained person may, if necessary, be transferred to the police.

12. If a decree on the imprisonment has been issued against a trial participant, the court session may be adjourned for a specified period. A decree shall be issued at an oral hearing as soon as the detained person is present, but not later than 24 hours.

13. If a person disrupts order in a court, shows disrespect towards the court, or interferes with the normal functioning of the court, the court bailiff may detain the wrongdoer and prepare a detention report. A court bailiff shall be obliged to present the detained person immediately, but not later than 24 hours, to the chairperson of the same court, while in the Supreme Court of Georgia, to the Deputy Chairperson of the Supreme Court. The chairperson of the court, or the Deputy Chairperson of the Supreme Court, in the case of the Supreme Court of Georgia, may, as soon as the detained person is presented, but not later than 24 hours, exercise the powers granted to him/her under this article.

14. A decree stipulated by this article, except for a decree on imprisonment, may be issued without an oral hearing, and it may, in the manner prescribed by paragraph 16 of the same article, be appealed by a person to which the decree applies. A judge reviewing the above appeal shall deliver one of the following rulings:

a) refuse to satisfy the appeal and leave the appealed decree unaltered;

b) grant the appeal and to annul the decree imposing a fine on the person, and/or to return the person to the court session.

$14^1$. Appealing a decree of the presiding judge imposing a fine shall suspend the execution of that decree.

$14^2$. A decree of the presiding judge for the imposition of a fine and/or for removal from a court room shall be delivered to the person against whom the above measure has been applied, not later than 24 hours after the decree has been passed.

15. When hearing a case on imprisonment stipulated by this article, the court shall notify the detained person of the time and place of the hearing. Non-appearance of the party shall not result in adjournment if the session. The case hearing shall begin with the report of the presiding judge who shall state against whom imprisonment could be applied; shall inform the persons participating in the hearing of their rights and obligations, publicly read the statement concerning the disruption of order and listen to the persons participating in the hearing. During an oral hearing, the wrongdoer/his/her defence counsel shall be granted an opportunity to present to the court their opinions and give explanations as to the lawfulness of the detention and of the penalty. After hearing the parties, the presiding judge (a judge) shall issue a decree on imprisonment by deliberation in the courtroom. The court that issues a decree shall immediately deliver a copy of that decree to the wrongdoer and also forward a copy for enforcement to law enforcement authorities. The term of detention shall be counted towards the total term of imprisonment.

16. A decree for imprisonment shall immediately enter into force. It may be appealed by the person sentenced to imprisonment, within 48 hours after a copy of the decree has been duly delivered to him/her. The court shall immediately refer the filed appeal to the relevant court. A decree of the chairperson of a court of the first instance or of a judge may be appealed only once to the chairperson of a court of appeal. A decree of the chairperson of

a court of appeal, of the deputy chairperson or of a judge may be appealed only once to the Chairperson of the Administrative Chamber of the Supreme Court of Georgia. A decree of the Deputy Chairperson of the Supreme Court of Georgia or of the chairperson of a chamber (except for the Grand Chamber) may be appealed only once to the Chairperson of the Supreme Court of Georgia. At the Grand Chamber of the Supreme Court of Georgia, a decree of a judge on the breaking of the order shall be appealed only once to the judge who did not participate in the hearing. An appeal shall be reviewed without an oral hearing, and the term for its review shall not exceed 24 hours after it has been filed. A judge reviewing the above appeal shall deliver one of the following rulings:

a) refuse to satisfy the appeal and leave the appealed decree unaltered;

b) grant an appeal to annul a decree for imprisonment of a person and discharge that person from imprisonment.

17. (Deleted - 14.6.2013, No 741).

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 5170 of 28 October 2011 – web-site, 11.11.2011*

*Law of Georgia No 741 of 14 June 2013 - web-site, 27.6.2013*

*Law of Georgia No 1443 of 4 October 2013 – web-site, 22.10.2013*

## Chapter XII - Procedural time limits and Costs

### Article 86 - Procedure for the calculation of procedural time limits

1. The time limits prescribed by this Code shall be calculated in hours, days and months. When calculating time limits, the day and hour on which the running of the period commences shall not be taken into account, except for terms of detention and imprisonment that are calculated in minutes.

2. Procedural time limits also include non-working hours, including holidays and non-working days.

3. A term calculated in days shall expire on the $24^{th}$ hour of the last day. A term calculated in months shall expire on the corresponding day of the last month, and if the last month has no corresponding date, on the last day of that month.

### Article 87 - Observance of the time limits

1. An appeal, a motion or any other document shall be delivered to the person authorised to receive it before the time limit expires.

2. An appeal, a motion or any other document may be delivered by any means to the person authorised to receive it.

3. By court decision, a time limit, except for periods of detention and imprisonment, shall not be considered missed if it has been missed due to an insurmountable force (force majeure).

### Article 88 - Consequences of missing of a time limit

A procedural action carried out after the expiration of an established period shall be void, unless the time limit missed is renewed.

### Article 89 - Renewal of missed [procedural] time limits

1. A court may, upon motion of a party, renew a time limit missed for a valid reason, unless it unlawfully restricts the rights and guarantees of the accused.

2. A motion to renew a missed time limit shall be filed with a court in writing within a week after the valid reason has been eliminated. The court shall hear this issue without an oral hearing within 10 days.

3. The burden of proof as to a valid reason for missing a time limit shall be on the person who missed the time limit.

4. A court decision on a motion for the renewal of the missed time limit shall be final and it may not be appealed.

### Article 90 - Procedural costs

1. Procedural costs include:

a) service costs of the defence counsel of the accused;

b) costs related to the appearance of an expert and to reimbursement of his/her activities;

c) costs related to the appearance of an interpreter and to reimbursement his/her services;

d) costs related to the appearance of a witness;

e) costs related to storing and forwarding material evidence;

f) costs related to the conduct of investigative actions using public funds upon motion of the accused or of his/her defence counsel;

g) costs related to making copies of the information provided by the prosecution to the defence;

h) costs related to the appearance of jurors and for their participation in a trial;

i) costs related to obtaining evidence.

2. An expert or an interpreter shall not be reimbursed if the state has assigned a salary for their activities.

### Article 91 - Payment of procedural costs

1. The costs for the services on a defence counsel of the accused shall be reimbursed by the accused. If the defence is performed at the expense of the state, those costs shall be reimbursed from the state budget.

2. A convicted person shall bear the costs for a witness, interpreter or expert summoned by him/her or by his/her attorney, for storing and forwarding material evidence, for investigative actions conducted upon his/her or his/her defence counsel's motion and for the making of copies of the information received from the prosecution. If the convicted person is indigent, the court may discharge him/her, in full or in part, from payment of procedural costs.

3. When several persons are convicted, each of them shall reimburse procedural costs in proportion to the degree of guilt and gravity of the imposed sentence.

4. Successors of the deceased accused or convicted person shall be discharged from procedural costs.

5. At the stage of investigation, a prosecutor shall draft a notice of his/her own procedural costs and submit it to the judge who hears the case on the merits. If the procedural costs are changed during a hearing on the merits, the prosecutor shall be obliged to include the respective changes in the notice and submit it to the court.

6. Costs arising due to the adjournment of a court hearing that is caused by the non-appearance of a trial participant for no good reason shall be borne by that participant.

7. The methodology for calculating judicial costs shall be established by the High Council of Justice of Georgia.

8. If a trial participant fails to appear in court for no good reason, the presiding judge shall impose a fine on him/her in the amount of GEL 100 to GEL 500. This shall not discharge the trial participant from the obligation to appear. That decree shall not be appealed. The amount of a fine shall be a deterrent, proportional to the damage caused, and it shall be relevant to the person's financial status.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 741 of 14 June 2013 - web-site, 27.6.2013*

### Article 92 - Indemnification of damage

1. A person may, by a civil/administrative procedure, request and obtain compensation for damages caused by procedural actions carried out unlawfully, and by illegal decisions.

2. A person may, by a civil procedure, request indemnification of the damages incurred.

## Chapter XIII - Motion, appeal and general rules for their review

### Article 93 - Right and procedure for filing a motion

1. At any stage of criminal proceedings, the parties may file a motion in cases defined, and in the manner prescribed, by this Code.

2. A motion may be filed in writing or orally. A written motion shall be attached to criminal case files. An oral motion shall be included in the record of the court session. During a court hearing, a motion shall be filed with the court in writing, except when the party, based on new substantial circumstances files a motion at the same court hearing. A motion shall be reasoned, it shall specifically include first the request and then the relevant arguments. It shall concern circumstances that are directly related to the issues raised in the motion.

3. Before a decision is rendered with respect to a motion, the filing party may withdraw it.

4. A motion with the same content on which a decision has already been delivered, may not be heard by the same court.

5. At the investigation stage, a motion shall be reviewed and a decision shall be delivered not later than three days after it has been filed, and in court immediately, except for cases directly provided for by this Code.

6. The court shall set a reasonable period for a party to file a motion and tor submit relevant substantiation during a court hearing.

7. The court shall allow a party a reasonable period to express its opinion with regard to a motion that is filed during a court hearing.

### Article 94 - Deciding a motion

1. A motion shall be granted if granting the request contained in the motion facilitates the accomplishment of the objectives of the criminal trial. If a motion is intended to delay or interfere with a criminal trial, it shall not be granted.

2. Reasons for a motion shall be provided orally by its initiator.

3. If a person whose interests are raised in a motion or his/her defence counsel participates in a court session, they shall have the opportunity to provide their explanations and opinions.

4. After reviewing a motion, a duly authorised person shall decide whether to satisfy, partially grant or dismiss the motion.

5. The initiator of a motion shall be immediately notified of the outcome of its review. If the motion is denied, a copy of the decision shall be delivered to the initiator of the motion in the manner provided for by this Code.

6. When filing a motion, copies of the materials of a criminal case which are required for its review shall be submitted to the court.

### Article 95 - Right and procedure for filing an appeal

**1.** A criminal trial participant may, in cases directly provided for and in the manner prescribed by this Code, appeal an action or decision of a court, prosecutor or investigator.

**2.** An appeal against an action or decision of a court shall be filed with the court that delivered the decision.

3. An appeal shall be filed in writing. It shall be attached to the criminal case files.

4. When filing an appeal, the number of copies of the appeal shall be sufficient to distribute it to all participants of the hearing on the appeal.

5. An appeal may be filed at any stage of criminal proceedings, in cases directly provided for and in the manner prescribed by this Code.

6. Unless otherwise provided for by this Code, an appeal may be filed within 10 days after the appellant learns about the action or decision that it considers unlawful and unsubstantiated.

7. An appeal shall indicate which requirements were breached in delivering the appealed decision and the facts that demonstrate the erroneousness of the provisions of the appealed decision. Materials confirming the circumstances referred to in the appeal, including information on new circumstances that were not known when the appealed decision was made, shall be attached to the appeal.

8. Before a decision is made on an appeal, the filing party may withdraw it.

*Law of Georgia No 2518 of 24 July 2014 – web-site, 6.8.2014*

### Article 96 - Suspension of the enforcement of the appealed decision due to filing an appeal

Filing an appeal in cases directly provided for by this Code shall suspend the enforcement of the appealed decision. In other cases, filing an appeal shall suspend an appealed decision if the body or person reviewing the appeal considers the suspension necessary.

### Article 97 - General procedure for reviewing an appeal

1. An appeal may not be reviewed by a person whose action or decision is being appealed.

2. A body or person reviewing an appeal shall, within its powers, be obliged to immediately take measures to restore violated rights and lawful interests of criminal trial participants and other persons.

3. Unless otherwise provided for by this Code, an appeal shall be reviewed and decided within three days after the appeal is submitted to the body or person authorised to make a decision on the appeal.

### Article 98 - Decision on an appeal

1. Based on the review of an appeal, one of the following decisions may be delivered:

a) to repeal or change the appealed decision or part of it;

b) to dismiss the appeal.

2. An appeal and a decision made on it shall be attached to the criminal case file

### Article 99 - Notification of a decision on an appeal

The appellant shall be immediately notified of a decision made based on the review of an appeal. If an applicant is denied the granting of an appeal, a copy of the relevant decision shall be delivered to him/her in the manner provided for by this Code.

## Special Part

## Section IV.

## Investigation

## Chapter XIV - Grounds for Investigation

### Article 100 - Obligation to initiate an investigation

1. When notified of the commission of an offence, an investigator, prosecutor shall be obliged to initiate an investigation. An investigator shall immediately notify a prosecutor of the commencement of an investigation.

2. (Deleted - 7.12.2010, No 3891).

*Law of Georgia No 3891 of 7 December 2010– LHG I, No 67, 9.12.2010, Article 418*

### Article 101 - Information on crime

1. The grounds for initiating an investigation shall be the information provided to an investigator or a prosecutor, or information revealed during criminal proceedings, or information published in the mass media.

2. Information of a crime may be reported in writing, orally or in any other way.

$2^1$. A person who reports a crime, may request a written notice that confirms the notification of a crime.

3. A record shall be prepared if a crime is reported orally; it shall be signed by the applicant and the official receiving the report. An investigator may initiate an investigation based on an anonymous notification of a crime. A criminal prosecution may not be initiated against a person on the basis of only an anonymous notification.

4. A person who has attained the age of 14 shall be warned about the penalty for false denunciation, and written acknowledgement shall be obtained from that person.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 2518 of 24 July 2014 – web-site, 6.8.2014*

### Article 102 - Referring cases according to jurisdiction

If, after initiating an investigation, it is discovered that the investigation of a criminal case is within the authority of another investigative agency, a prosecutor shall, after carrying out urgent investigative actions, immediately refer the case according to its jurisdiction.

### Article 103 - Period of investigation

An investigation shall be carried out within a reasonable period, which shall not exceed the limitation period prescribed by the Criminal Code of Georgia for criminal prosecution of the given crime.

**Article 104 - Impermissibility of disclosing investigation data**

1. A prosecutor/investigator shall be obliged to ensure that information on the progress of an investigation is not made public. For this purpose, he/she shall be entitled to obligate a criminal trial participant not to disclose details of a case without his/her permission, and warn him/her about criminal liability.

2. Taking into account the interests of justice and of the parties involved, at any stage of investigation and court hearing, a court may, upon motion of a party or on its own initiative, deliver a decision ordering the participants of the case and/or persons present in the court room to protect certain details of the case under review from public disclosure. The breach of the above requirements shall incur a criminal penalty under the legislation of Georgia.

*Law of Georgia No 6253 of 22 May 2012 – web-site, 29.5.2012*

**Article 105 - Grounds for terminating an investigation and/or grounds for refraining from initiating or for terminating a criminal prosecution**

1. An investigation shall be terminated, and a criminal prosecution shall not be initiated or shall be terminated:

a) unless the act provided for by the criminal law takes place;

b) unless an act is unlawful;

c) if a new law annuls the culpability of an act;

d) if the law on which the charges are based has been recognised as unconstitutional;

e) if a period of limitation for criminal liability determined by the Criminal Code of Georgia has expired;

f) if an act of amnesty has been issued that discharges a person from criminal liability and punishment for the act committed;

g) if there exists a final judgement on the same charges, and/or a court ruling on the termination of criminal prosecution for the same charges;

h) if there exists a decision of a prosecutor on the termination of a criminal prosecution and/or of an investigation;

i) if a prosecutor has refused to bring charges in cases and in the manner provided for by this Code;

j) due to a voluntary abandonment of the commission of a crime (Article 21 of the Criminal Code of Georgia);

k) as a result of an active repentance (Articles 68 and 322 of the Criminal Code of Georgia and cases stipulated by the notes to Articles $164^1$, 203, 221, 223, 236, 260, $339^1$, $348^1$, 371, 375, 388 and 389 of the same Code);

l) the situation has changed.

2. Except for the cases defined in paragraph 1 of this article, a criminal prosecution may not be initiated, and an already initiated prosecution shall be terminated, if:

a) the accused person has not attained the age of criminal responsibility;

b) when committing a crime, the person was insane, which is confirmed by the conclusion of a forensic psychiatric expert examination;

c) the accused has died;

d) an act provided for by Articles $322^1$, 344 or 362 of the Criminal Code of Georgia has been committed by a person due to being a victim of the crime stipulated by Articles $143^1$and/or $143^2$ of the Criminal Code of Georgia.

3. A criminal prosecution may also not be initiated or may be terminated if it contradicts the guidelines of the criminal policy.

4. If there is probable cause that a person has committed a less serious or serious crime, and by the time of the commission of the crime he/she has not attained the age of 18, the prosecutor may, by a reasoned decree, decide not to initiate a criminal prosecution or to terminate the already initiated criminal prosecution due to the absence of public interest in the prosecution.

5. When making a decision defined in paragraph 4 of this article, a prosecutor may enter into an agreement with a juvenile for diversion and mediation, the terms of which shall be determined under an order of the Minister of Justice of Georgia. The maximum duration of this agreement shall be one year.

6. If a minor improperly performs the obligations imposed under an agreement on diversion or mediation entered into with him/her under paragraph 5 of this article, the prosecutor may, by a reasoned decree, annul a decision to refrain from initiating a criminal prosecution or to terminate a criminal prosecution that has been already initiated, and initiate or resume a criminal prosecution with a new reasoned decree.

4. (Deleted - 12.6.2015, No 3715).

5. (Deleted - 12.6.2015, No 3715).

6. (Deleted - 12.6.2015, No 3715).

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 662 of 30 May 2013 - web-site, 24.6.2013*

*Law of Georgia No 741 of 14 June 2013 - web-site, 27.6.2013*

*Law of Georgia No 3715 of 12 June 2015 – web-site, 24.6.2015*

### Article 106 - Decision to termination an investigation and/or criminal prosecution

1. A prosecutor shall, by a decree, decide to terminate an investigation and/or a criminal prosecution, except for cases provided for by paragraph 3 of this article. The prosecutor shall, within a week after making the decision, submit a copy of the decree to the victim. Before rendering a decree to terminate a criminal prosecution by exercising discretionary powers, the prosecutor shall be obliged to notify the victim of that fact and draw up a report in the manner prescribed by Article 56($5^1$) of this Code.

$1^1$. A victim may appeal a decree of the prosecutor to terminate an investigation and/or a criminal prosecution to a superior prosecutor. A decision of the superior prosecutor shall be final and it may not be appealed, except when a particularly serious offence has been committed. In that case, if a superior prosecutor does not grant the appeal, the victim may appeal the decision of the prosecutor to a district (city) court, according to the place of investigation. A court shall deliver a judgement within 15 days, with or without an oral hearing. A decision made by the court may not be appealed.

2. The accused person, his/her defence counsel and the victim shall be notified of the decision referred to in paragraph 1 of this article.

3. If a criminal prosecution is terminated based on Article 105(2)(b), a prosecutor shall be obliged to apply, according to the jurisdiction, to the appropriate court with a motion to deliver the decision provided for by Article 191(2) of this Code.

*Law of Georgia No 2518 of 24 July 2014 – web-site, 6.8.2014*

*Law of Georgia No 2539 of 26 July 2014 – web-site, 6.8.2014*

### Article 107 - Appealing a ruling on the termination of a criminal prosecution

1. A ruling to terminate a criminal prosecution may be appealed by a prosecutor.

2. A court may review an appeal provided for by this article, without an oral hearing. In the case of an oral hearing, a court shall announce the operative part of its ruling.

3. A ruling delivered with respect to an appeal provided for by this article may not be appealed.

### Article 108 - Resuming a terminated criminal prosecution

1. If a superior prosecutor annuls a decree terminating a criminal prosecution or if a court repeals a decree/ruling on the termination of a criminal prosecution, and the period of limitation for prosecution has not expired, the criminal prosecution shall be resumed. In that case, the Chief Prosecutor of Georgia, or a person authorised by him/her, shall task another prosecutor with the duty to resume the criminal prosecution and to carry out other prosecutorial activities.

2. The accused, his/her defence counsel and the victim shall be notified in writing of the resumption of the criminal prosecution.

*Law of Georgia No 2518 of 24 July 2014 – web-site, 6.8.2014*

### Article 109 - Joinder of criminal cases

Criminal cases at the stage of investigation shall be joined by a decree of a prosecutor, and in court, by a court ruling upon motion of the relevant party.

### Article 110 - Separation of a criminal case

1. At the stage of investigation, a prosecutor may separate one criminal case from another criminal case for individual proceedings.

2. In court, a criminal case shall be separated from another criminal case for individual proceedings under a court ruling delivered upon motion of the appropriate party.

## Chapter XV - Investigative Actions

### Article 111 - General procedure for carrying out investigative actions

1. When carrying out investigative actions provided for by this Code, the parties shall enjoy equal rights and obligations. The parties shall carry out

investigative actions in the manner and within the scope prescribed by this Code. Upon a reasoned motion of the defence, investigative actions shall, based on a court ruling, be carried out by an investigator who may not be the same person as the one who is investigating the given case. An investigator shall be selected by the head of the appropriate investigative authority, and his/her the defence shall be notified of the identity and contact details before an investigative action requested by a motion is carried out. In this case, the costs associated with carrying out investigative actions shall be borne by the accused, except when the accused presents to the court evidence that confirms that he/she is unable to reimburse these costs. The defence may participate in the investigative actions carried out at its request.

2. The right of the defence to file with the court a motion requesting the conduct of investigative actions shall not apply to the circumstances provided for by Article 112(5) of this Code. Without the permission of the court, the defence may not carry out such investigative actions that, under this Code, require such permission.

3. Before initiating investigative actions, the person carrying out such actions shall inform the participants of their rights and obligations and the procedures for carrying out the investigative actions. A person carrying out an investigative action shall be obliged to provide an opportunity for participants to exercise their rights.

4. If a decree of an investigator or a court ruling serves as grounds for carrying out an investigative action, the investigator shall provide it to the person for whom it is mandatory to execute the decree (ruling), which he/she shall confirm by a signature.

5. An investigative action may not be carried out at night, except in the case of urgent necessity. An investigative action shall be carried out within a reasonable period.

6. When carrying out an investigative action, scientific technical means and methods for the detection, recording and seizure of the traces of a crime and material evidence may be used.

7. When [a person] resists the conduct of an investigative action, a proportional coercive measure may be applied.

8. When carrying out an investigative action, surgical or any other medical examination methods and means that cause a severe pain may be applied only in exceptional cases with the consent of the person to whom the above means are applied. If that person has not attained the age of 16 or that person is mentally ill, it shall be necessary to obtain the consent of the parent, custodian or the care-giver, or a court ruling.

9. If the conduct of investigative actions requires special professional knowledge, the party shall carry such actions with the involvement of an expert. If an investigating action involves the removal of a person's clothing, the expert and the party shall be of the same gender as the person to be examined.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 741 of 14 June 2013 - web-site, 27.6.2013*

**Article 112 - Investigative actions carried out under a court ruling**

1. An investigative action that restricts private property, ownership or the inviolability of private life, shall be carried out under a court ruling upon motion of a party. Not later than 24 hours after receiving a motion and the information required for its review, a judge shall decide the motion without an oral hearing. A judge may review a motion with the participation of the party that filed the motion. In this case, when reviewing a motion, the procedure provided for by Article 206 of this Code shall apply. The consent of a co-owner or co-holder or of one party of communication shall be sufficient to carry out an investigative action provided for by this paragraph without a court ruling.

2. A court ruling shall include: the date and place of its preparation; the surname of the judge; the person who filed the motion with the judge; a decree on the conduct of an investigative action with a specific reference to its essence and persons it applies to; validity of the ruling; the person or body responsible for execution of the ruling; and the signature of the judge (including an electronic signature).

3. A ruling ordering a search or seizure shall also include: the movable and immovable property where an investigative action is permitted, and the natural or legal person that holds the property (if his/her identity is known); the natural person who is to be searched personally; a thing, item, substance or any other object likely to be uncovered and seized during a search or seizure, and its generic characteristics; and the right to apply a proportional coercive measure when a resistance is offered; A ruling ordering search or seizure shall be invalid, unless the investigative action is initiated within 30 days.

4. A ruling ordering the arrest and seizure of a message sent by technical means of communication shall also include: the name and surname of the person to whom the seized message is sent; the name and surname, and address (if known) of the sender; type of the seized message; the date of seizure; the title of the institution that is tasked with seizing the message; and the right of an investigator to examine and seize the message.

5. An investigative action stipulated by paragraph 1 of this article, in the case of urgent necessity, may also be carried out without a court ruling, when a delay may cause destruction of the factual data essential to the investigation, or when a delay makes it impossible to obtain the above data, or when an item, document, substance or any other object containing information that is essential to the case has been found during the conduct of any other investigative action (if found only after a superficial examination), or when an actual risk of death or injury exists; in that case, the prosecutor shall, within 24 hours after initiating the above investigative action, notify a judge under whose jurisdiction the investigative action has been carried out, or according to the place of investigation, and hand over the materials of a criminal case (or their copies), which justify the necessity of an urgent necessity in the conduct of the investigative action. Within not later than 24 hours after receipt of the materials, the judge shall decide the motion without an oral hearing. The judge may review a motion with the participation of the parties (provided that a criminal prosecution has been initiated) and the person against whom an investigative action has been carried out. When reviewing a motion, the judge shall check the lawfulness of the investigative action carried out without a court decision. To take explanations, the judge may to summon a person who carried out the investigative actions without a court ruling. In this case, when reviewing a motion, the procedure provided for by Article 206 of this Code shall apply.

6. After reviewing materials, the court shall deliver a ruling:

a) finding the conducted investigative action as lawful;

b) finding the conducted investigative action as unlawful and finding the information received as inadmissible evidence.

7. A court may hear a motion provided for by this article, without an oral hearing.

8. A court ruling delivered under this article shall be appealed in the manner provided for by Article 207 of this Code. The time limit for appealing a ruling shall commence from the day when the judgement is enforced.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 4631 of 5 May 2011 – web-site, 19.5.2011*

*Law of Georgia No 6549 of 22 June 2012 – web-site, 4.7.2012*

**Article 113 - Procedure for interview**

1. Any person who may have information that is essential to the case may be voluntarily interviewed by the parties. An interviewee may not be forced to provide evidence or disclose information.

2. An interviewee has the rights to use the services of a defence counsel at his/her own expense, not to disclose information against himself/herself or a close relative. The person conducting the interview shall inform the interviewee of these rights, as well as of the rights provided for by Article 50 of this Code, before the start of an interview.

3. Before an interview, the identity of the interviewee, and other necessary information shall be established. That information shall be included in the record of the interview.

4. The party conducting the interview shall inform the interviewee that the interview is voluntary. A note to this effect shall be entered into the record of the interview.

5. An interviewee shall, both in the case of consent or refusal to be interviewed, provide the interviewer with correct personal details.

6. If an interviewee consents to the interview, he/she shall provide the party conducting the interview with correct information on the circumstances known to him/her.

7. The party conducting an interview shall inform the person in writing against the potential criminal liability in the case of false denunciation (crime stipulated by Article 373 of the Criminal Code of Georgia) and provision of false information (crime stipulated by Article 370 of the Criminal Code of Georgia). A note to this effect shall be entered into the record of the interview.

8. If an interview is conducted by the prosecution, in the case of the refusal of an interviewee to be interviewed, the prosecution may inform the interviewee that he/she may summoned before the magistrate judge to give testimony, and that the giving of testimony is obligatory and that the failure to perform this obligation will result in the criminal liability of the interviewee. This information shall be entered into the record of the interview.

9. An audio and/or video recording technical means may be used during an interview. The interview shall be notified in advance of their use.

10. Unless this Code provides otherwise, the provisions of this article shall apply to an accused person as well.

*Law of Georgia No 4677 of 18 December 2015 – web-site, 29.12.2015*

**Article 114 - Procedure for examining a person as a witness during an investigation**

1. At the stage of investigation, a person may be examined as a witness, upon the motion of both the defence and the prosecution, before a magistrate judge according to the place of investigation or the location of the witness, if:

a) there is an actual risk to the life or health of the witness, which may interfere with his/her examination during a hearing on merits;

b) he/she intends to leave Georgia for a long period;

c) the collection, from other sources, of evidence necessary for the conduct of the hearing on merits requires unreasonable effort;

d) this is necessary for the application of a special protective measure.

2. An interviewee may also be examined as a witness, upon the motion of the prosecution, before a magistrate judge according to the place of investigation or the location of the witness, if there is a fact and/or information that would satisfy an objective person that the person in question may hold information necessary for ascertaining the circumstances of the criminal case and if this person refuses to be interviewed.

3. Giving a testimony before a magistrate judge in the manner provided for by this article shall be mandatory and a refusal to give testimony shall incur criminal liability. This rule shall not apply in the case specified in paragraph 15(b) of this article.

4. In the case defined in paragraph 2 of this article, the reasonableness of filing a motion for the examination of a person as a witness before the magistrate judge shall be decided by the prosecutor. The prosecutor may address the magistrate judge in person or instruct the investigator to file the motion.

5. In cases defined by this article, a party shall file a motion with the magistrate judge according to the place of investigation or the location of the witness. The motion shall indicate the name, surname, address and information necessary for the identification of the person, and the reasons for

examining the person as a witness before the magistrate judge.

6. The magistrate judge shall hear the motion without an oral hearing. If the motion is granted, the witness shall be examined within a reasonable time, but not later than 24 hours after the motion is filed with the court. This term may be extended in agreement with the party conducting the examination if the witness is unable to appear in court in the specified time due to a valid reason. A witness may not be examined during night time. The examination shall be stopped at the fall of night and shall be postponed to the next day.

7. In the case of denial of the motion, the magistrate judge shall render a reasoned ruling and send/deliver it to the party initiating the examination. The ruling denying the motion may be appealed only once, within 24 hours after it is rendered, to the Investigation Panel of the court of appeal. The judge of the Investigation Panel of the court of appeal shall hear the appeal sitting alone within 24 hours after the appeal is filed. If the appeal is satisfied, the ruling of the judge of the Investigation Panel of the court of appeal shall be immediately sent to the initiator of the appeal and the magistrate judge who issued the reasoned ruling. In that case, the examination of a witness before the magistrate judge shall start within a reasonable time, but not later than 24 hours after the rulling rendered by the judge of the Investigation Panel of the court of appeal is delivered to the magistrate judge. This period may be extended in agreement with the party initiating the examination if the witness is unable to appear within the specified time due to valid reasons.

8. If the motion referred to in this article is granted, the court shall call a person to be examined as a witness by a summons, phone or other technical means of communication. The summons/any other notice shall indicate who, for what purpose, before whom and at which address the person is called, also the exact time of appearance, and the consequences of the failure to appear without valid reasons. If a witness fails to appear, the procedure laid down by Article 149 of this Code shall apply. The party initiating the examination may, on its own, arrange the appearance before the magistrate judge of the person to be examined as a witness, with the written consent of this person.

9. In cases referred to in paragraph 1 (a-d) of this article and paragraph 15 (b) of this article, a person shall be examined as a witness with the participation of the parties. If the party initiating the examination fails to appear, the witness shall not be examined. The non-appearance of the other party shall not interfere with the examination. In the interests of justice and/or for the purpose of protecting the life, health, property or private life of a participant of the criminal proceedings, upon a reasonable motion of the party and the decision of the magistrate judge, a witness may be examined without prior notification and participation of the other party. In that case, the testimony given by the witness shall be considered as inadmissible evidence during the main hearing if the witness can be examined again.

10. In the case specified in paragraph 2 of this article, the defence shall not be present during the examination of a witness.

11. A witness may use the services of a defence lawyer.

12. In case defined in this article a witness shall be examined at a closed hearing in accordance with Article 115 of this Code. The restriction stipulated in Article 115(4) of this Code shall not apply during the examination of a person as a witness before a magistrate judge.

13. Immediately after the end of a witness examination, the magistrate judge shall ensure that the testimony given by the witness before the court is delivered to the party initiating the examination both in written and electronic form.

14. The defence may file a motion during the preliminary hearing requesting the court to recognise as inadmissible the testimony of a person examined as a witness before the magistrate judge if it believes that the person was examined before the magistrate judge in substantial violation of law.

15. At the stage of investigation, a person may also be examined before the magistrate judge according to the location of the person to be examined if:

a) a request of a competent foreign agency requesting legal assistance has been received on the basis of an international agreement of Georgia, individual agreement or terms of reciprocity;

b) a person to be examined is summoned according to the procedure determined by Article 7 of the Law of Georgia on International Cooperation in the Area of Criminal Law.

16. The provisions of this article shall not apply to accused persons.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 3891 of 7 December 2010– LHG I, No 67, 9.12.2010, Article 418*

*Law of Georgia No 5170 of 28 October 2011 – web-site, 11.11.2011*

*Law of Georgia No 4677 of 18 December 2015 – web-site, 29.12.2015*

### Article 115 - General rules of examination

1. Before starting an examination, the court shall establish the identity of the witness. The court shall explain to the witness, after the latter takes an oath, his/her rights and obligations, the case for which he/she has been summoned, also the obligation to disclose all information on the case known to him/her, and warn him/her about criminal penalties for refusal to give testimony, or for providing false testimony; the court shall also inform the witness that he/she is not obliged to give incriminating testimony against himself/herself or his/her relatives. The court shall also establish the type of relationship of a witness with the accused and the victim.

2. Upon the commencement of an examination, the party who initiates the summons, shall invite a witness to disclose all information on the case that is known to him/her. It shall be prohibited to interrupt a witness when the latter gives answers; however, if the witness talks about circumstances that clearly are not related to the case under review, the judge may, upon motion of the party, interrupt him/her. After that, the person who initiated the examination may, for the purpose of completeness and clarification of the testimony given by the person to be examined, ask the witness questions in accordance with Article 244 of this Code. Upon completion of direct examination, an opposing party shall be entitled to conduct a cross-examination of a witness in the manner provided for by Article 245 of this Code.

3. A witness may only be examined with regard to circumstances that are essential to the case under review.

4. A question on previous convictions may be put to a witness if it is necessary to establish the reliability of the witness.

5. If it is difficult for a witness to verbally describe the event that he/she has witnessed, he/she may make his/her testimony using other forms of expression, in particular, by a drawing, a scheme, a sketch or any other similar form.

6. During the examination, a witness may use a document, a record or any other object containing information.

7. The parties may request the person to be examined to provide the document, record or any other object containing information that he/she used during the examination, and after its examination, return it to the person or enclose it with the case files.

8. During the examination, the parties may present to a witness an item, document or any other object containing information enclosed with the case files.

*Law of Georgia No 4677 of 18 December 2015 – web-site, 29.12.2015*

**Article 116 - (Deleted)**

*Law of Georgia No 1729 of 11 December 2013 – web-site, 25.12.2013*

*Law of Georgia No 3715 of 12 June 2015 - web-site, 24.6.2015*

**Article 117 – Interviewing/examining deaf-mutes and seriously ill persons**

1. A deaf-mute shall be interviewed/examined with the participation of an interpreter having appropriate skills. If a person to be interviewed/examined is deaf, he/she can be asked questions in writing. If the person is mute, he/she may answer the questions in writing.

2. A seriously ill person shall be interviewed/examined with the permission of and, if necessary, in the presence of a physician.

*Law of Georgia No 4677 of 18 December 2015 - web-site, 29.12.2015*

**Article 118 - Examination of a witness during the hearing of a case on the merits**

1. A witness for the prosecution shall first be examined by the prosecutor and then by the defence, and vice versa.

2. A witness shall be examined separately from witnesses who have not yet been examined. At the same time, the court shall take measures to ensure that witnesses summoned for the same case, do not interact with each other until the end of their examination. After the end of an examination, the judge shall inform the witness of his/her right to be present during the court session.

3. A witness who, is not able to appear before a court for examination due to circumstances defined in Article 114(1)(a,b and d), shall not be examined. In that case, his/her pre-trial testimony shall be made public at the main hearing. Only that testimony may not serve as grounds for a judgement of conviction, unless it is corroborated by any other evidence that proves the guilt of the person.

*Law of Georgia No 3891 of 7 December 2010– LHG I, No 67, 9.12.2010, Article 418*

*Law of Georgia No 2518 of 24 July 2014 – web-site, 6.8.2014*

*Law of Georgia No 4677 of 18 December 2015 - web-site, 29.12.2015*

**Article 119 - Purpose and grounds for search and seizure**

1. If there is a probable cause, a search shall be conducted for the purpose of uncovering and seizing an item, document, substance or any other object containing information that is essential to the case.

2. A search may also be conducted to find a wanted person or a corpse.

3. An item, document, substance or any other object containing information that is essential to the case may be seized if there is probable cause that it is kept in a certain place, with a certain person and if there is no need to search for it.

4. A search to seize an item, document, substance or any other object containing information that is important for the case may be conducted, if there is probable cause that it is kept in a certain place, with a certain person and if search is necessary to discover it.

**Article 120 - Procedure for seizure and search**

1. Based on a court ruling authorising search or seizure or, in the case of urgent necessity, based on a decree of an investigator, an investigator may enter a storage facility, a dwelling place, a storage room or other property to locate and seize an item, document, substance or any other object containing information.

2. Before starting a seizure or search, an investigator shall be obliged to present a court order, or in the case of urgent necessity, a decree, to a person subjected to the seizure or search. The presentation of the ruling (decree) shall be confirmed by the signature of the person subject to search.

3. An investigator may forbid the persons who are present or who arrive at the place of search, to leave the place, to interact with each other or with any other person before the search is completed, which shall be recorded in the appropriate record.

4. After a ruling, or in the case of urgent necessity, a decree, is presented, an investigator shall offer the person subject to the search, to voluntarily turn over an item, document, substance or any other object containing information that is subject to seizure. If an object that is subject to seizure is voluntarily provided, that fact shall be recorded in the relevant record. In the case of refusal to voluntarily turn over the requested object, or in the case of its incomplete provision, it shall be seized by coercion.

5. During a search, an item, document, substance or any other object containing information that is referred to in a ruling or decree shall be searched for and seized. Also, all other objects containing information that may be of an evidentiary value for that case, or that clearly indicates another offence, as well as an item, document, substance or any other object containing information that has been withdrawn from civil circulation.

6. An item, document, substance or any other object containing information that has been detected during a search or seizure, shall, if possible, be presented, before its seizure, to persons participating in that investigative action. Then, it shall be seized, described in detail, sealed and if possible, packaged. On the packaged item, in addition to a seal, the date and signatures of the persons who participated in the investigative action shall be indicated. A document that is seized due to its contents, shall not be sealed.

7. During a search or seizure, an investigator may open a closed storage facility, dwelling place and premises, if the person subject to search refuses to voluntarily open them.

8. A person present at the place of search and/or seizure may be personally searched if there is a probable cause that he/she has concealed an item, document, subject or any other object that is subject to seizure. Such case shall be considered an urgent necessity and a personal search shall be conducted without a court ruling. The lawfulness of the search and/or seizure shall be examined by the court in the manner provided for by this Code.

9. A search or seizure of a legal person or in a building of an administrative body shall be conducted in the presence of its head or representative.

10. A prosecutor shall have the right to primary examination of an object, item, substance, or document containing information seized upon motion of the defence.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 6549 of 22 June 2012 – web-site, 4.7.2012*

*Law of Georgia No 741 of 14 June 2013 – web-site, 27.6.2013*

*Law of Georgia No 3090 of 19 February 2015 – web-site, 6.3.2015*

**Article 121 - Personal search**

1. A prosecutor, an investigator, or a person authorised to carry out detention, shall have the right, if there is probable cause, to seize during a personal search conducted in the manner prescribed by Article 120 of this Code, an item, document, substance or any other object containing information that is essential to the case and that has been discovered on the person's clothes, in the item that he/she is holding, in a vehicle or on or in that person's body.

2. If there is probable cause that the detained person has a weapon, or intends to dispose of evidence indicating his/her involvement in the commission of an offence, an official who detains that person, may, in the manner prescribed by this Code, conduct a personal search without a court order judgement, which shall be recorded in a detention record. In this case, a record of a personal search shall not be prepared. The lawfulness of a personal search shall be checked by the court in the manner provided for by this Code.

3. A detaining natural person may disarm the detainee.

4. If a personal search involves the removal of the person's clothing, the search shall be conducted by a person of the same sex. Only persons of the same sex may participate in this kind of search.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 6549 of 22 June 2012 – web-site, 4.7.2012*

**Article 122 - Seizure and search conducted in a building of a diplomatic mission and with respect to diplomatic representatives**

1. A seizure or search in the territory of a diplomatic mission, also with respect to persons holding diplomatic immunity, as well as in a building or vehicle occupied by these persons and/or their family members may be conducted only with the consent or request of the head of that diplomatic mission.

2. A consent of the head of a diplomatic mission allowing the conduct of a seizure or search shall be requested through the Ministry of Foreign Affairs of Georgia.

3. A representative of the Ministry of Foreign Affairs of Georgia shall be obliged to attend a seizure or search in cases stipulated by paragraph 1 of this article.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

**Article 123 - Search, seizure and arrest of property in the editorial offices of mass media and publishing houses, on the premises of scientific, educational, religious, public organisations and political parties**

1. An item, document, substance or any other scientific, educational object containing information may not be searched, seized and/or confiscated in editorial offices of mass media and publishing houses, or on the premises of scientific, educational, religious, public organisations and political parties if there is a reasonable expectation of its public dissemination.

2. The restriction provided for by paragraph 1 of this article shall not apply to cases where there is probable cause that an item, document, substance or any other object containing information that is subject so seizure is a subject or implement of a crime.

3. A court shall be entitled to pass a ruling on a search, seizure and/or arrest only in cases when there are obvious and convincing grounds that the conduct of an investigative action will not prejudice the right to freedom of speech, opinion, conscience, belief, religion or right to association. That investigative action shall be carried out in a manner that is efficient and that minimally restricts those rights and freedoms.

**Article 124 - Return of a seized object**

1. If a seized item, document, substance or any other object containing information is not presented by the party as evidence in court, it shall be returned to the person from whom it was seized.

2. If a third party claims an item, document, substance or any other object containing information that is returned in accordance with this article, the dispute shall be resolved through a civil procedure.

**Article $124^1$ - Monitoring of bank accounts**

1. If there is probable cause that a person is carrying out a culpable action through a bank account (accounts), and/or for the purpose of searching for/identifying property that is subject to confiscation, a prosecutor may, with the consent of the Chief or Deputy Chief Prosecutor of Georgia, file a motion with a court, according to the place of investigation, and request a ruling authorising the monitoring of bank accounts; under this ruling a bank shall be obliged to collaborate with the investigation and disclose real time information on the transactions performed on one or several bank accounts.

2. The information referred to in paragraph 1 of this article shall be reported to the authority conducting the criminal case as soon as the transaction is performed.

3. If an amount is transferred or withdrawn from a bank account, this information shall be reported to the authority conducting the case, before the transaction is performed.

4. The period of monitoring of bank accounts shall not be longer than the period required for obtaining evidence for a criminal case.

5. The court shall review a motion stipulated by paragraph 1 of this article in the manner prescribed by Article 112 of this Code.

*Law of Georgia No 5170 of 28 October 2011 – web-site, 11.11.2011*

**Article 125 - Inspection**

1. To discover a trace of a crime, material evidence, or to establish the details of an incident and other circumstances essential to a criminal case, a party may inspect the crime scene, a storage facility, a dwelling place, premises, a corpse, an item, a document or any other object that contains information.

2. If private property is to be inspected, the inspection shall be conducted under a court ruling. A court ruling shall not be required for an inspection conducted by a party in the event of an absolute necessity, or when the owner (holder) expresses his/her consent in writing.

**Article 126 - General procedure for inspection**

1. An item, document, substance or any other object containing information discovered during a search, shall, if possible, be presented, before its seizure, to persons participating in that investigative action. Then, it shall be seized, described in detail, sealed and if possible, packaged. In addition to a seal, the date and signatures of the persons who participated in the investigative action shall be indicated on the packaged item. A person participating in an inspection may draw the attention of the party to everything that, in his/her opinion, may contribute to the establishment of circumstances essential to the case.

2. If an inspection of a seized item, document, substance or information requires a long time or additional technical means, an investigative action may be continued at the place of the conduct of the investigation.

3. An inspection may be conducted by technical means, unless it destroys or damages an item, document, substance or any other object containing information, or a trace thereon.

**Article 127 - Inspection of a crime scene and other locations**

1. A crime scene shall be inspected at the location where the crime has been committed or where traces of the crime have been discovered. Until the completion of an inspection, the crime scene shall be secured.

$1^1$. Where there is a risk of destruction, loss or damage of evidence with regard to criminal cases provided for by Articles 276 and 281 of the Criminal Code of Georgia, the authorised official responsible for the protection of the crime scene may, before starting the inspection of the crime scene, record the evidence using technical means and store it.

2. If it is necessary to conduct an inspection in a residential place, a closed territory or at a work place against the will of those in possession of the premises, the party shall file a motion with a court. If there are grounds provided for by Article 112 of this Code, the court shall render a ruling authorising the inspection. The ruling shall be presented to the person on whose premises the inspection is conducted and the presentation shall be verified by his/her signature. If an inspection is conducted on the premises of a legal person or an administrative body, the ruling shall be presented to its head or representative and the presentation shall be verified by his/her signature.

3. In the case of an urgent necessity, the investigative action provided for by this article shall be carried out in the manner prescribed by Article 112(5) of this Code.

*Law of Georgia No 5743 of 2 March 2012 – web-site, 9.3.2012*

**Article 128 - Examination of a corpse**

1. A corpse shall be externally examined by the party with an expert's participation.

2. It shall be mandatory to take fingerprints and a sample for expert examination from an unidentified corpse.

3. It shall be prohibited to bury or cremate an unidentified corpse without a prosecutor's permission, except when human life or health is endangered.

**Article 129 - Purpose of conducting an investigative experiment**

To verify the information (testimony) obtained and the theories developed during the investigation, a party may conduct an investigative experiment.

**Article 130 - Procedure for conducting an investigative experiment**

1. An expert may be invited to participate in an investigative experiment. Other persons may also be involved in testing activities.

2. A person whose testimony (information provided by him/her) is to be verified may be invited to participate in an investigative experiment. The parties may participate in an investigative experiment. The participants of an investigative experiment shall be informed of the purpose and procedure for conducting the experiment.

3. If an investigative experiment is conducted to re-enact the circumstances under examination, it shall correspond to the information (testimony) or theory to be verified. A person whose testimony (information provided by him/her) is being checked, shall be asked to recollect the circumstances of the incident in which he/she participated or which he/she witnessed. If necessary, multiple investigative experiments shall be conducted.

4. An investigative experiment shall be approximated, as much as possible, to the circumstances in which the incident subject to re-enactment occurred.

5. If an investigative experiment is conducted for the purpose of verifying the information (testimony) on site, a party shall, in the presence of all participants of the investigative action, read out the information (testimony) to be verified, and ask the person who provided the information (testimony) to confirm or clarify the information (testimony) provided. This shall be accompanied by a demonstration of certain actions and clarification of the information (testimony) provided by him/her.

6. Information (testimony) provided by several persons may not be simultaneously checked on site.

7. A person whose information (testimony) is confirmed on site, shall provide explanations without other persons' involvement, or prompting and leading questions.

8. A participant of an investigative action may ask questions, request repetition of the action, participate in the inspection of the discovered item, document, any other object containing traces or information, and draw the attention of the party and of other participants to the circumstances that, in his/her opinion, are essential to the case.

**Article 131 - Presenting a person and object for identification**

1. During an investigation, presenting a person (or object) for identification shall take place with thea consent of the identifying person.

2. Before identification, the identifying person shall, under this Code, be interviewed/questioned with respect to individual and generic characteristics of the object to be identified, and to the circumstances under which he/she came into contact with that object to be identified. During the identification, the identifying person shall indicate the characteristics by means of which he/she identified the object to be identified.

3. A person to be identified shall be presented to the identifying person together with at least two persons of the same sex who do not differ significantly, in appearance and clothes, from each other and from the person to be identified (line up).

4. An object to be identified shall be presented to the identifying person together with at least two other similar objects. The identifying person shall be asked to indicate the object that he/she is able to identify, and to indicate the characteristics by means of which he/she has identified it.

5. When an object to be identified cannot be presented for identification to the identifying person, or if that requires unreasonable effort, the identification may be conducted by means of a photograph. In this case, the identifying person shall be presented with at least three other photographs depicting the objects that do not differ significantly from each other and from the object to be identified. Photographs may be presented for identification in an electronic format.

6. An identification shall not be conducted, and if conducted, it shall be considered inadmissible evidence, if the identifying person indicates such characteristics that are not sufficient for the identification of an object subject to identification, or if the identifying person was given a hint as to that object.

7. The identifying person may not repeatedly identify the same object, except when the previous identification was conducted by a photograph.

8. When identifying a corpse, its part, or any such object the analogue of which cannot be selected, the identification shall be conducted only according to one object to be identified.

9. An identification is not required if the identifying person provides personal details of the person to be identified and such details allow for exact identification of that person.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 6549 of 22 June 2012 – web-site, 4.7.2012*

*Law of Georgia No 4677 of 18 December 2015 – web-site, 29.12.2015*

### Article 132 - Grounds for and purpose of exhumation

1. To establish circumstances essential to the case, an exhumation (removal of a corpse from a grave) may be performed under a court ruling issued upon motion of a party.

2. The party shall, according to the place of investigation, file a motion with a magistrate judge who shall, without an oral hearing, review the motion within 48 hours after it has been filed. The court ruling may not be appealed.

3. A judgement on the exhumation shall be mandatory for the administration of the place of burial (if any), for relatives of the deceased and for other persons.

### Article 133 - Procedure for exhumation

1. Exhumation shall be performed in the manner provided for by Article 112(1) of this Code, based on a court ruling according to the place of investigation, with the participation of a representative of the administration of the place of burial (if any). An expert shall be involved in the exhumation. It shall be mandatory for a prosecutor to participate in this investigative action.

2. Relatives of the deceased may attend the exhumation.

### Article 134 - General provisions about a record of an investigative action

1. A record of an investigative action shall be prepared during the investigative action or upon its completion.

2. A record of an investigative action may be written by hand or prepared by technical means.

3. A record of an investigative action shall include: the place and date of the conduct of the investigative action; time of its commencement and completion, conditions of carrying out the investigative action; the position and surname of the person who has conducted the investigative action; names and surnames, and if required, the addresses of the participants of the investigative action. The record shall contain circumstances essential to the case, as well as statements and remarks of the participants of the investigative action.

4. If, during an investigative action, an audio and/or video recording technical means were used, or if prints or imprints of traces were made, or if a drawing or a scheme was drafted, the record of the investigative action shall contain the technical characteristics of the technical means applied, as well as the conditions for their use and the results received. Participants of an investigative action shall be notified in advance of the use of technical means, and a relevant note to that effect shall be made into the record. The materials referred to in this paragraph and containing information, shall be sealed, signed by the participants of the investigative action and be attached to the case files.

5. After a record of an investigative action is prepared, it shall be presented to all the participants of the investigative action. They shall also be informed of their right to state their remarks, make additions or amendments, which shall be included in the record. All remarks, additions or amendments included in the record shall be confirmed by the signature.

6. A record of an investigative action shall be signed by all the participants of the investigative action. If a participant of an investigative action refuses to sign the record, an appropriate note shall be made in the record, which shall be confirmed by a signature of the person who is conducting the investigative action. A person who refuses to sign the record, shall be given an opportunity to explain the reason for refusal, which shall also be included in the record. If a participant of an investigative action is not able, due to his/her physical impairment or health condition, to sign the record, a third

person shall be invited to sign the record instead of that participant.

*Law of Georgia No 6549 of 22 June 2012 – web-site, 4.7.2012*

### Article 135 - Special characteristics of preparing a record of individual investigative actions

1. A record of interview shall include the name, surname, age, citizenship, education, workplace, occupation and/or position, address, marital status of the interviewee, as well as on his/her relations with the accused or the victim, the contents of the information he/she provides, his/her opinion about appearing and testifying before a court, as well as other information specified in Article 113 of this Code.

2. A record of arrest, search and/or seizure shall indicate: the place and circumstances of discovering an item, document, substance or any other object containing information; also, whether it has been handed over voluntarily or forcibly removed. All objects shall be described in the record by indicating their quantity, weight, value (if possible), individual and generic characteristics. If, when conducting a seizure or search, there is an attempt to destroy or conceal a searched for item, document, substance or any other object containing information, and/or a person to be searched or any other person offers resistance, this shall be indicated in the record. A copy of the record of seizure or search shall be handed over to the person on whose premises the search or seizure was conducted, or to his/her adult family member, or in their absence, to the owner of the house and/or to a third person (a neighbour, close relative, representative of local authorities) who attended the seizure or search. If a seizure or search is conducted in the territory of a legal person, administrative body, or of a diplomatic mission, a copy of the record shall be handed over to the representative of the legal person, administrative body or the Ministry of Foreign Affairs of Georgia, respectively, who was present during the investigative action.

3. A record of arrest, inspection and seizure of a communication made through technical means of communication, also a record of inspection of a temporarily suspended communication shall indicate which communication made by technical means of communication was inspected and seized, which is to be delivered to the addressee or which is to be temporarily suspended and for how long, also which correspondence was copied, which technical means were used and what was revealed as a result.

4. A record of inspection shall include a description of all discovered traces, items, documents or other objects containing information, by indicating their individual and/or generic characteristics. A record shall indicate the time, weather and light conditions of the inspection, as well as technical means of the inspection and the results obtained, also the persons participating in the investigative action, and which item, document, substance or any other object containing information was sealed. The record shall also indicate the individual signs of the seal and the place to which the corpse and/or any other object essential to the case was sent after the inspection. A copy of the record shall be handed over to the holder of the seized object. If an item, document, substance or any other object containing information is seized, no separate record shall be drawn up, and that investigative action shall be described in a record of inspection.

5. A record of an investigative experiment shall include: the purpose, location and conditions of the experiment, the persons who attended and participated in it; specific facts that confirm the reenactment of the circumstances of the incident; the substance of the information (testimony) obtained on site; the item, document, substance or any other object containing information that has been discovered, inspected and seized; clarifications the person made with respect to his/her information (testimony); the testing activities, their sequence, the persons conducting them, and their frequency, and the results.

6. A record of identification shall include the identity of the identifying person and of the person to be identified (including his/her address), also individual and/or generic characteristics of any other object presented for identification.

7. During an exhumation, no separate record of inspection or identification shall be drawn up, and the contents of that investigative action shall be included in the exhumation record.

*Law of Georgia No 6549 of 22 June 2012 – web-site, 4.7.2012*

*Law of Georgia No 4677 of 18 December 2015 – web-site, 29.12.2015*

## Chapter XVI - Investigative Actions Related to Computer Data

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

### Article 136 - Requesting a document or information

1. If there is a reasonable cause to believe that information or documents essential to the criminal case are stored in a computer system or on a computer data carrier, the prosecutor may file a motion with a court, according to the place of investigation, to issue a ruling requesting the provision of the relevant information or document.

2. If there exists reasonable cause to believe that a person is carrying out a criminal act through a computer system, the prosecutor may request a court, according to the place of investigation, to deliver a ruling ordering the service provider to provide information about the user.

3. For the purposes of this article, information about the user shall be any information that a service provider stores as computer data or in any other form that is related to the users of its services, differs from the internet traffic and content data and which can be used to establish/determine:

a) the type of communication services and technical means used, and the time of service;

b) the identity of the user, mail or residential address, phone numbers and other contact details, information on accounts and taxes, which are available based on a service contract or agreement;

c) any other information on the location of the installed communications equipment, which is available based on a service contract or agreement.

4. Provisions of Articles $143^2$–$143^{10}$ shall apply to the investigative actions stipulated by this article.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 2634 of 1 August 2014 – web-site, 18.8.2014*

### Article 137 - Real time collection of internet traffic data

1. If there is reasonable cause to believe that a person is carrying out a criminal act through a computer system, the prosecutor may, according to the place of investigation, file a motion with a court for a ruling authorising a real-time collection of internet traffic data; under the ruling the service provider is obliged to collaborate with the investigation authorities and assist them, in real time, in the collection or recording of those internet traffic data that are related to specific communications performed in the territory of Georgia and transmitted through a computer system.

2. A motion specified in paragraph 1 of this article shall take account of the technical capacities of the service provider to collect and record internet traffic data in real time. The period for collecting and recording internet traffic data in real time shall not be longer than the period required to obtain evidence for a criminal case.

3. Provisions of Articles $143^2$–$143^{10}$ shall apply to the investigative actions stipulated by this article.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 2634 of 1 August 2014 – web-site, 18.8.2014*

### Article 138 - Obtaining content data

1. If there exists reasonable cause to believe that a person is carrying out a criminal act through a computer system, the prosecutor may, according to the place of investigation, file a motion with a court for a ruling authorising the collection of content data in real time; under the ruling the service provider is obliged to collaborate with the investigation authorities and assist them, in real time, in the collection or recording of content data related to specific communications performed in the territory of Georgia and transmitted through a computer system.

2. A motion specified in paragraph 1 of this article shall take account of the technical capacities of a service provider to collect and record content data in real time. The period for real-time collection and recording of content data shall not be longer than the period required to obtain evidence for a criminal case.

3. Provisions of Articles $143^2$–$143^{10}$ shall apply to the investigative actions stipulated by this article.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 2634 of 1 August 2014 – web-site, 18.8.2014*

### Article 139 - (Deleted)

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

### Article 140 - (Deleted)

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

### Article 141 - (Deleted)

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

### Article 142 - (Deleted)

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

### Article 143 - (Deleted)

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

## Chapter XVI[1] - Secret Investigative Actions

*Law of Georgia No 2634 of 1 August 2014 – web-site, 18.8.2014*

### Article 143[1] -Types of secret investigative actions

1. Types of secret investigative actions shall include:

a) secret eavesdropping and recording of phone conversations;

b) removal and recording of information from a communications channel (by connecting to the communication facilities, computer networks, line communications and station devices), computer system (both directly and remotely) and installation of respective software in the computer system for this purpose;

c) monitoring of post and telegraphic communications (except for a diplomatic post);

d) secret video and audio recording, film and photo shooting;

e) electronic surveillance through technical means, which do not endanger human life, health or the environment.

2. It shall be permissible to carry out several investigative actions at the same time.

*Law of Georgia No 2634 of 1 August 2014 – web-site, 18.8.2014*

### Article 143[2] - Principles for carrying out secret investigative actions

1. Secret investigative actions may be carried out only when investigating an offence defined in Article 143[3](2)(a) of this Code.

2. Secret investigative actions shall be carried out only if they are stipulated under this Code and if they are necessary to achieve a legitimate goal in a democratic society, in particular, to ensure national or public security, to prevent riots or crime, to protect the country's economic interests and the rights and freedoms of other persons.

3. Secret investigative actions are necessary in a democratic society if they are carried out due to urgent public needs and if they constitute an adequate and proportional means for the achieving a legitimate goal.

4. Secret investigative actions may be carried out only when the evidence essential to the investigation cannot be obtained through other means or it requires unreasonably great effort.

5. The extent (intensity) of a secret investigative action shall be proportionate to the legitimate goal of a secret investigative action.

*Law of Georgia No 2634 of 1 August 2014 – web-site, 18.8.2014*

### Article 143[3] - Procedure for carrying out secret investigative actions

1. Secret investigative actions shall be carried out under a court ruling. A judge of a district (city) court shall render a ruling upon a prosecutor's reasoned motion, except for the cases defined in paragraph 17 of this article.

2. A motion of the prosecutor shall refer to the circumstances that confirm that:

a) an investigation has been initiated and/or criminal prosecution is conducted due to an intentionally serious and/or particularly serious offence or to any of the offences defined in the following articles of the Criminal Code of Georgia: Article 117(1), Article 134, Article 139(2), Articles 140 and 141, Article 143(1), Article 143[3](1), Article 180(1), Article 181(1), Article 186(2), Article 187(2), Article 198(1), Article 210(1), Article 253(1), Articles 255[1], 259[4] and 284, Article 285(1), Articles 286 and 287, Article 288(1-2), Articles 289, 290 and 292-303, Article 304(1), Articles 305 and 306, Article 318(1), Article 322[1](1-2), Articles 340 and 341;

b) there is a reasonable cause to believe that a person against whom a secret investigative action is to be carried out, has committed any of the offences defined in sub-paragraph (a) of this paragraph (person directly related to the offence), or a person receives or transmits information that is intended for, or is provided by, a person directly related to the offence, or a person directly related to the offence uses the communication means of the person;

c) secret investigative actions are carried out due to urgent public necessity and are a necessary, adequate and proportional means for achieving legitimate goals in a democratic society, for ensuring national security or public safety, for preventing riots or crime, for protecting the interests of a country's economic welfare or any other person's rights and freedoms;

d) as a result of the requested secret investigative action, the information essential to the investigation will be obtained and that information cannot be obtained through other means or obtaining it requires unreasonably great effort.

3. The motion of the prosecutor shall include information on the investigative action (if any) that was carried out in accordance with this Code before the motion was filed and that did not allow for the achievement of the intended purpose.

4. In order for the authorised state authorities to conduct secret investigative actions provided for by Article 143[1](1)(a-b), an authorised person stipulated by the law uses technical means for real-time access to information from physical lines of communication and their connections, mail servers, base stations, communication networks and other communication connections; that person may also place and install appropriate devices and software equipment near the above communication facilities. ***(Invalidated) - (execution of the decision of the Constitutional Court of Georgia of 14 April 2016 No 1/1/625,640 shall be deferred until 31 March 2017)*** *Decision of the Constitutional Court of Georgia of 14 April 2016 No 1/1/625,640 – website 22.4.2016*

5. A judge shall, not later than 24 hours after a motion of a prosecutor and the attached materials providing grounds for the motion are submitted to the court, review the motion in accordance with this Chapter and Article 112 of this Code. A judge may review a motion without an oral hearing. A judge shall hear a motion in an oral hearing in camera in the presence of the prosecutor, and issue a ruling authorising or refusing secret investigative actions. A ruling of a judge shall be made in four copies, two of which shall be handed over to the prosecutor who filed the motion, one copy shall remain with the court and the other copy, which contains only details and an operative part, shall be immediately submitted to the inspector of personal data protection.

6. Secret investigative actions may, under a reasoned decree of a prosecutor, be carried out without a court ruling, in the case of urgent necessity, when a delay may cause destruction of the facts important for the case (investigation), or make it impossible to obtain those data. In that case, a prosecutor shall be obliged, not later than 24 hours after the beginning of the secret investigative action, file a motion with a district (city) court under the jurisdiction of which the above actions are carried out, or to a court according to the place of investigation, and request that the court recognise as lawful the secret investigative action carried out in the case of urgent necessity. A prosecutor shall, in his/her motion, prove the existence circumstances stipulated by paragraph 2 of this article, as well as the existence of the circumstances that required an urgent conduct of the secret investigative action without a court ruling. A judge shall review a prosecutor's motion, in the manner prescribed by paragraph 5 of this article, within not later 24 hours after it has been submitted to the court. When reviewing a motion, the judge shall check whether the conducted secret investigative action complies with the requirements of paragraph 2 of this article, also whether it was necessary to carry out the above action urgently, and shall issue a ruling:

a) recognising the secret investigative action as lawful and authorising its continuance;

b) recognising the secret investigative action as unlawful, ordering its termination, the annulment of its results and the destruction of information obtained as a result of that investigative action.

6[1]. To make a decision provided for by paragraph 6 of this article, a judge may request in writing from the authorised agency an electronic copy of the materials obtained up to the time of the request. After examining the materials, the judge shall ensure that it is destroyed in a prescribed manner.

6[2]. A copy of the reasoned decree of a prosecutor concerning a secret investigative action shall be immediately submitted to the inspector of personal data protection.

**7.** A ruling of a judge shall be made in four copies, two of which shall be handed over to the prosecutor who filed the motion, one copy shall remain with the court and the other copy, which contains only details and an operative part, shall be immediately submitted to the inspector of personal data protection.

8. If the prosecution considers it unnecessary to use the information obtained as a result of a secret investigative action conducted in the case of urgent necessity as evidence, the prosecution shall, not later than 24 hours after the secret investigative action is commenced, file a motion with the district (city) court under the jurisdiction of which the above action was carried out, or to the relevant court according to the place of investigation, and request a finding of that action as lawful. After a court delivers the relevant ruling, the information obtained as a result of secret investigative actions shall be immediately destroyed in the manner prescribed by Article 143[8](5) of this Code.

9. If a secret investigative action reveals signs of another crime that is not investigated, the information obtained as a result of that secret investigative action shall serve as grounds for initiating an investigation on a different a criminal case, and the question of admissibility of that information as evidence shall be decided in accordance with the general procedure provided for by this Code, without taking into consideration the circumstances determined for a secret investigative action by paragraph 2 of this article.

10. In a ruling authorising the conduct of a secret investigative action or recognising as lawful a secret investigative action carried out in the case of urgent necessity without a court ruling, a judge shall provide justification for the existence of circumstances determined by paragraph 2 of this article, and for the necessity to carry out a secret investigative action in the case of urgent necessity without a court ruling. The court ruling shall indicate: the date and place of preparing the ruling; name and surname of the judge; a person who filed the motion with the judge; a decree recognising the conduct of a secret investigative action or the already conducted secret investigative actions as lawful, indicating specifically what type of a secret investigative action is authorised or recognised as lawful, also the place and time of the conduct of the secret investigating action and the person against whom the action has been carried out, as well as persons to whom that action applies; the period of validity of the ruling; a person or agency that is charged with executing the ruling; other details required for carrying out a secret investigative action; signature of the judge (including an electronic signature).

11. A ruling of a judge refusing to grant authorisation to conduct a secret investigative action, or to recognise as lawful an already conducted secret investigative action, shall indicate that the filed motion does not prove the existence of circumstances determined by paragraph 2 of this article and of the necessity to carry out a secret investigative action without a ruling of a judge in the case of urgent necessity. The court ruling shall indicate: the date and place of its preparation; name and surname of the judge; a person who filed a motion with the judge; signature of the judge (including an electronic signature).

12. A ruling of a judge authorising the conduct of a secret investigative action shall be issued for a period that is required to achieve the goal of the investigation, but for not more than 1 month. If this period is insufficient, it may be extended for not longer than two months upon a reasoned motion of the prosecutor, under a court ruling, in the manner prescribed by this Chapter. A motion of the prosecutor shall include information on the data obtained as a result of the current secret investigative action and indicate the reasons due to which the data that would be sufficient for the investigation could not be obtained. A period for the conduct of a secret investigative action may be extended one more time, for no longer than three months, upon a motion of the Chief Prosecutor of Georgia. A period for the conduct of a secret investigative action may not be further extended.

13. A ruling concerning a secret investigative action shall not be announced publicly. The court ruling shall lose its effect after 30 days of its delivery unless a secret investigative action is initiated within that period.

14. A person who learns about the conduct of a secret investigative action against him/her during the legal proceedings on a given case, may appeal the ruling authorizing a secret investigative action only once to the investigative board of the relevant court of appeal within 48 hours after receipt of the

above information and of being informed of the right to appeal the ruling. The annulment of the appealed ruling by the court of appeal and recognition of a conducted secret investigative action as unlawful shall serve as grounds for recognising the information obtained as a result of that action as inadmissible evidence in the manner provided for by this Code. A decision made by a court of appeal on the appeal may be used as a basis for a person to demand, under Article 7(3) of this Code, compensation for damages incurred as a result of the illegal obtaining, keeping or disclosure of information on the person's private life/personal data.

15. A person who learns about the conduct of a secret investigative action against him/her after the completion of legal proceedings in a given case, may appeal the ruling authorizing a secret investigative action to the investigative board of the relevant court of appeal within one month after receiving the above information and of being informed of the right to appeal the ruling. The recognition as unlawful by a court of appeal of a conducted secret investigative action may be considered as newly discovered circumstances provided for by Article 310(h) of this Code, which may serve as grounds for the revision of a judgement, provided the evidence obtained as a result of that secret investigative action served as grounds for that judgement. A decision made by a court of appeal on the appeal may be used as a basis for a person to demand, under Article 7(3) of this Code, compensation for damages incurred as a result of the illegal obtaining, keeping or disclosure of information on the person's private life/personal data.

16. In the appeal referred to in paragraphs 14 and 15 of this article, reference shall be made to the breach of the procedure established under this Chapter for the conduct of a secret investigative action. An appeal shall be filed with the court that rendered the ruling. The investigative boards of a court of appeal shall review an appeal not later than 72 hours after it has been filed. A court of appeal shall, by notification, ensure the participation of the appellant and the prosecution in the review of the appeal. Their non-appearance shall not preclude the review of the appeal. A decision made on the appeal shall be publicly announced and, if so requested, it shall be handed over to the appellant and the prosecution.

17. A secret investigative action against a state political official, a judge and a person having immunity may be carried out under a ruling of a judge of the Supreme Court of Georgia, or upon a reasoned motion of the Chief or Deputy Chief Prosecutor of Georgia.

*Law of Georgia No 2634 of 1 August 2014 – web-site, 18.8.2014*

*Law of Georgia No 2870 of 30 November 2014 – web-site, 30.11.2014*

### Article $143^4$ - Body authorised to carry out secret investigative actions

1. Secret investigative actions shall be carried out by an authorised state body in the manner prescribed by this Code.

2. The secret investigative actions provided for by Article $143^1$(1)(a) of this Code shall be carried out by an authorised body through a two-stage electronic system for carrying out secret investigative actions.

*Law of Georgia No 2634 of 1 August 2014 – web-site, 18.8.2014*

*Law of Georgia No 2870 of 30 November 2014 – web-site, 30.11.2014*

### Article $143^5$ -Obligation of a body conducting secret investigative actions to store and keep record of information

1. A body carrying out secret investigative actions and relevant investigative authorities shall be responsible for appropriately safeguarding the information obtained as a result of secret investigative actions.

2. A body carrying out secret investigative actions shall keep a record of the following data related to secret investigative actions: the type of secret investigative actions and technical means used for the actions; time of the beginning and completion of secret investigative actions; the persons against whom secret investigative actions have been carried out; details of a ruling of a judge and/or of a decree of a prosecutor.

*Law of Georgia No 2634 of 1 August 2014 – web-site, 18.8.2014*

*Law of Georgia No 2870 of 30 November 2014 – web-site, 30.11.2014*

### Article $143^6$ -Termination of secret investigative actions

1. A decision to terminate a secret investigative action shall be made by a prosecutor upon the application of an investigator, or on his/her own initiative.

2. A secret investigative action shall be terminated if:

a) a specific objective stipulated by a ruling on a secret investigative action has been accomplished;

b) circumstances are discovered that confirm that the specific objective stipulated by the ruling on the given secret investigative action cannot be achieved due to objective reasons, or the conduct of the secret investigative action id no longer essential to the investigation;

c) the investigation and/or criminal prosecution is terminated;

d) the period for carrying out a secret investigative action expires.

3. A state authority entitled to carry out secret investigative actions shall prepare a record that provides exact information on the time of the commencement and completion of a secret investigative action, on the type of the conducted secret investigative action and the technical means used for its conduct, a specific place for carrying out a secret investigative action and the persons against whom that action has been carried out. This record

shall immediately be submitted to the prosecutor, as well as to the defence, in cases and in the manner prescribed by this Chapter.

*Law of Georgia No 2634 of 1 August 2014 – web-site, 18.8.2014*

### Article $143^7$ -Reducing the number of secret investigative actions to a minimum

1. The body conducting secret investigative actions, also investigative authorities or persons, shall be obliged, within their powers, to limit, as much as possible, the monitoring of communications and persons that are not related to the investigation.

2. Secret investigative actions against a clergy person, a defence counsel, a physician, a journalist and a person enjoying an immunity may be carried out only where this is not related to obtaining information protected by law in the course of their religious or professional activities respectively.

3. Information on a personal communication of a defence counsel obtained as a result of secret investigative actions shall be separated from the information on the communication conducted between the defence counsel and his/her client. The contents of the communication between the defence counsel and his/her client related to the defence counsel's professional activities shall be immediately destroyed.

*Law of Georgia No 2634 of 1 August 2014 – web-site, 18.8.2014*

*Law of Georgia No 2870 of 30 November 2014 – web-site, 30.11.2014*

### Article $143^8$ - Destruction of information/materials obtained as a result of secret investigative actions

1. Information obtained as a result of secret investigative actions shall, by decision of the prosecutor, be immediately destroyed after the termination or completion of such actions, unless the information is of any value to the investigation. Also, the information obtained as a result of the secret investigative action that has been carried out without a ruling of a judge in the case of urgent necessity and that, even though recognised by a court as lawful, has not been submitted as evidence by the prosecution in the manner prescribed by Article 83 to the court that hears the case on the merits. The materials shall be immediately destroyed if they are obtained as a result of operative-investigative activities and do not concern a person's criminal activities but include details of that person's or any other person's private life and are subject to destruction under Article 6(4) of the Law of Georgia on Operative-Investigative Activities.

2. Materials obtained as a result of secret investigative actions, which are recognised by a court as inadmissible evidence, shall be immediately destroyed six months after the court of the final instance renders a ruling on the case. Until destruction, these materials shall be kept in a special depository of a court. No one may access these materials, or make copies of them or use them, except for the parties who use them for the purpose of exercising their procedural powers.

3. The materials obtained as a result of secret investigative actions that are attached to a case as material evidence shall, under Article 79(2) of this Code, be kept in the court for the period of keeping this criminal case. After the expiration of this period, the above materials shall be immediately destroyed.

4. In cases provided for by paragraphs 2 and 3 of this article, an administration of the court that kept the material before its destruction shall be responsible for adequate keeping of the material obtained as a result of secret investigative actions.

5. In cases provided for by paragraph 1 of this article, the information obtained as a result of secret investigative actions shall be destroyed by a prosecutor providing procedural supervision over the investigation of the given case, or supporting the state prosecution or by their superior prosecutor, in the presence of a judge or of a judge of the court who or whose judge made a decision on the conduct of this secret investigative action, or recognised as lawful or unlawful the secret investigative action carried out without a court ruling in the case of urgent necessity. A record of the destruction of materials obtained as a result of secret investigative actions, signed by the relevant prosecutors and judges, shall be handed over to the personal data protection inspector, to the Commission for the Destruction of Information/Personal Data Obtained as a result of Secret Investigative Actions, and shall be included in the court's registry of secret investigative actions.

**6.** In cases provided for by paragraphs 2 and 3 of this article, the materials obtained as a result of secret investigative actions shall be destroyed by the judge or by a judge of that court who, or the judge of which, made a decision on the conduct of the secret investigative action or recognised as lawful or unlawful the secret investigative action that was carried out without a curt ruling in the case of urgent necessity.

*Law of Georgia No 2634 of 1 August 2014 – web-site, 18.8.2014*

### Article $143^9$ - Notification about secret investigative actions

1. Only investigators, prosecutors and judges may, before the completion of secret investigative actions, examine the information obtained as a result of those actions (provided that such information is substantially related to the issue that they are to review).

2. The information obtained as a result of secret investigative actions shall be provided to the party according to Article 83(6), also in the case of approval of a plea bargain.

3. A person against whom a secret investigative action has been carried out, shall be notified in writing of the conduct of that action as well as of the contents of the materials obtained as a result of that action and of the destruction of the above material. Along with that information, such person shall also be presented with a court ruling on the conduct of secret investigative actions against him/her, as well as the materials based on which the judge rendered such a decision, and shall be informed of the right to appeal the above ruling in the manner prescribed by Article $143^3$(15) of this Code. A decision as to the time when a person is to be notified of the conduct of secret investigative actions against him/her and be handed over the relevant ruling and materials, shall be made by the prosecutor, both during and after the legal proceedings, taking into account the interest of the legal proceedings.

4. If a prosecutor decides not to notify a person of the conduct of secret investigative actions against him/her within 12 months after the conduct of the secret investigative actions, the prosecutor shall be obliged, within not later than 72 hours before the expiration of the above term, to file a motion with the court whose judge rendered the ruling on the conduct of the secret investigative actions, and request the postponement, for no longer than 12 months, of the provision of information to the relevant person on the conduct of the secret investigative actions. The motion shall provide reasons why the notification of the person could pose a risk to the achievement of the legitimate goal of the investigative actions, to the accomplishment of the objectives and to the interests of legal proceedings. A judge shall review the motion, in the manner prescribed by Article 112 of this Code, within 48 hours after it has been filed, at his/her own discretion, with or without oral hearing. When reviewing a motion with an oral hearing, the judge shall ensure the participation of the relevant prosecutor in the review with a relevant notification. His/her non-appearance shall not impede the review of the motion. After the review, the judge shall make a decision to grant the prosecutor's motion and to postpone the notification of the relevant person or to reject the motion and refuse to postpone the provision of such information to the relevant person. A prosecutor shall, not later than 72 hours before the term for notifying the person of the conduct of a secret investigative action expires, be obliged to apply to a court with a motion stipulated by this paragraph and request the extension of this term for not longer than 12 months.

*Law of Georgia No 2634 of 1 August 2014 – web-site, 18.8.2014*

### Article $143^{10}$ -Registry of Secret Investigative Actions

1. The Supreme Court of Georgia shall prepare a registry of secret investigative actions, which shall include statistical information on secret investigative actions, in particular: information on motions filed with the courts for the conduct of secret investigative actions, and on ruling rendered by courts on those motions, as well as information on the destruction of materials obtained as a result of operative-investigative actions that did not concern criminal activities of the given person but which, include details on that or another person's private life and that has been destroyed in accordance with Article 6(4) of the Law of Georgia on Operative-Investigative Activities.

2. The Supreme Court of Georgia shall, at the end of every year, publish the information provided for by paragraph 1 of this article.

*Law of Georgia No 2634 of 1 August 2014 – web-site, 18.8.2014*

## Chapter XVII - Other Procedural Actions

### Article 144 - Grounds for ordering an expert examination

1. An expert examination shall be ordered if factual circumstances that are essential to the case cannot be established without the involvement of experts in the relevant fields of science, technology, or arts; also if a human body or any other object containing information carries a trace, sign or specific feature important for the case that can be properly understood and perceived only with a specialised knowledge.

2. An expert examination shall be conducted on the initiative of a party.

3. If the object of expert examination is in the possession of the other party, the latter shall be obliged to hand it over to the expert of the party that initiated the expert examination. The party that initiates an expert examination may conduct the expert examination. If an object of expert examination is not voluntarily handed over, the party may file a motion with the court according to the place of investigation requesting handing over the object of examination. The motion shall be reviewed within 48 hours. The parties shall be notified of the time and place of the review of the motion. If the movant fails to appear, the motion shall not be reviewed. The court may review the motion without an oral hearing. The court ruling may not be appealed.

$3^{1}$. In cases provided for by paragraph 3 of this article, if the expert of the party that initiates an expert examination cannot or does not ensure the protection of the object of an expert examination, the expert opinion shall be considered as inadmissible evidence and the expert may not be examined as a witness.

4. A decree of an investigator, prosecutor, and an application of the defence party on the conduct of an expert examination shall be binding for an expert institution, and for the person who is the object of an expert examination.

5. A decree on the conduct of an expert examination and an application of the defence shall include grounds for ordering an expert examination, questions put to the expert, name of the expert institution or the surname of the person tasked with conducting the expert examination.

6. The defence may, within the scope and in the manner prescribed by Article 46 of this Code, request reimbursement from the State of the costs of an expert examination conducted on the defence initiative.

*Law of Georgia No 4631 of 5 May 2011 – web-site, 19.5.2011*

*Law of Georgia No 741 of 14 June 2013 – web-site, 27.6.2013*

### Article 145 - Object of an expert examination

1. An object of an expert examination, if its dimensions and characteristics so permit, shall be handed over to an expert in a packaged and sealed form.

2. An object of an expert examination may be consumed to the extent necessary for the expert examination.

3. Upon completion of an expert examination, the unused portion of the object of expert examination shall be returned, in a packaged and sealed form,

to the person or body ordering the expert examination. If an expert examination is conducted under Article 144(3) of this Code, the object of the expert examination shall be returned to the party that possessed the object before the expert examination was ordered.

### Article 146 - Expert opinion

1. After conducting the required examination, an expert shall give an opinion. The expert shall confirm a written opinion by signature.

2. An expert opinion shall contain: the identity of the expert (name, education, specialty, length of service in the given specialty, academic degrees and titles, place of employment and position); the fact that he/she has been warned about criminal liability for giving an intentionally false opinion; the grounds for expert examination; persons attending the expert examination; materials used; an object, document, sample or any other object examined; type of examination conducted and methods used; substantiated answers to the questions posed; circumstances established on the expert's initiative that are important for the case.

3. The items, samples, photos and schemes remaining after an expert examination and other materials supporting the expert opinion shall be attached to the expert opinion.

4. Upon receiving an expert opinion, the party initiating the expert examination shall, upon request, immediately hand them over them to the other party.

### Article 147 - Taking samples

1. Samples shall be taken by a relevant party. A party may take a sample from a human body, corpse, animal, substance, item or any other object containing information.

2. If taking a sample requires surgical or medical means, the sample shall be taken by an expert.

3. Taking a sample that does not cause severe pain shall be allowed with the consent of the person from whom the sample is to be taken. If taking a sample does not cause severe pain and the person refuses to voluntarily provide a sample, or the person is not able to express his/her will regarding the taking of a sample from him/her, a sample shall be taken under a court ruling based on a motion of a party. If there is an urgent necessity provided for by Article 112(5) of this Code, a sample may be taken without a court ruling, based on the investigator's decree.

4. In the event of urgent necessity, within 12 hours after the commencement of the taking of a sample (and if the expiration of that period falls during non-working hours, not later than one hour after that period expires), the prosecutor shall notify the court of the taking of a sample according to the place of investigation, or to a court under the jurisdiction of which the procedural action has been carried out, file with the court a motion requesting the examination of the lawfulness of taking a sample, and submit the materials of the criminal case (or their copies) that justify the urgency of conducting the procedural action. Not later than 24 hours after receiving the materials, the court shall decide the motion without an oral hearing. A court may review a motion with the participation of the prosecutor and the person against whom the given investigative action has been carried out.

5. Taking a sample that causes severe pain shall be allowed only in exceptional cases and with the consent of the person from whom the sample is to be taken, also with the consent of his/her parent, custodian or care-giver if that person has not attained the age of 16, or is mentally ill, or under a court ruling.

*Law of Georgia No 3090 of 19 February 2015– web-site, 6.3.2015*

### Article 148 - Grounds for taking a sample

A court ruling on taking a sample shall be issued in the manner provided for by Article 144(3) of this Code.

### Article 149 - Duty to appear; compelled appearance

1. A party may file a motion requesting summoning of its witness to a court session.

2. A person summoned by a court in cases provided for by law shall be obliged to appear at exactly the designated time and place. If the person fails to appear, he/she may be compelled to appear.

3. The purpose of the compelled appearance is to ensure the participation of a witness in an investigative or any other procedural action or in a court session if a witness refuses to appear voluntarily.

4. The party initiating an expert examination shall be obliged to ensure the compelled appearance of the accused, a victim or a witness before an expert if it is necessary to examine their bodies or their mental condition, or if the presence of these persons during an expert examination is considered necessary. A person shall be compelled to appear based on a motion of a party, under a court ruling, which is issued in the manner provided for by Article 144(3) of this Code. The accused may be compelled to appear at the stage of investigation only under a court ruling.

5. A decision compelling an appearance shall include: the name of the person who is to be compelled to appear, his/her procedural status, place of residence or employment, grounds for his/her compelled appearance, time and place of appearance, and the person responsible for conducting the compelled appearance.

**Article 150 - Execution of a decision on compelled appearance**

1. A decision compelling an appearance shall be submitted for execution to the relevant law enforcement authority.

2. When a person subject to a compelled appearance is located, the authorised official shall, under a signed acknowledgement of receipt, present to him/her the decision compelling an appearance, and take that person to the body (person) indicated in the decision. In addition, a note shall be made on the decision regarding the time and place of the location of the person, the time of his/her compelled appearance and his/her statements and appeals related to that appearance.

3. A decision compelling an appearance shall be executed within a reasonable period.

4. If the authorised official establishes that a person cannot be compelled to appear, the official shall indicate in writing the relevant reasons in the decision compelling an appearance, and return the decision, unexecuted, to the person initiating the compelled appearance.

**Article 151 - Purpose and grounds for seizing property**

1. To ensure the possible forfeiture of property, as a coercive measure of criminal procedure, the court may, upon motion of a party, seize the property, including bank accounts, of the accused, of the person materially responsible for the accused person's actions, and/or of the person related to the accused person, if there is information to suggest that the property will be concealed or destroyed, and/or the property has been obtained in a criminal way. If there is information to suggest that the property has been obtained in a criminal way, but the property cannot be found, the court may seize property, the value of which is equivalent to the value of the property in question. If the accused is an official, under the conditions referred to in this paragraph, the prosecutor shall be obliged to file a motion with the court requesting the seizure of property (including bank accounts) of that official, also the suspension of the fulfilment of obligations assumed under agreements entered into by that official on behalf of the State, or the taking of other interim measures.

2. The property seizure provided for by this Code shall also be applied in the case of preparation of one of the crimes stipulated by Articles 323-330 and $331^1$ of the Criminal Code of Georgia or of any other particularly serious crime, as well as for their prevention, if there is sufficient information to believe that the property in question could be used for the commission of a crime.

3. A court may also seize property if there is sufficient evidence to believe that the property in question is obtained through corruption, racketeering or is owned by a member of a criminal underworld or by a person convicted under Article 194(3)(c) of the Criminal Code of Georgia, and/or a crime has been committed with respect to that property and/or it has been obtained in a criminal way.

4. When deciding issues concerning the seizure of property, provisions of the Civil Procedure Code of Georgia may apply, unless they contradict this Code.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

**Article 152 - Restriction of powers when seizing property**

The seizure of property shall prohibit its owner or holder from administering that property, and if necessary, using the property as well.

**Article 153 - Property that may not be seized**

Seizure may not be applied to food products, fuel, or inventory necessary for professional activities of a person, or to other items that ensure normal living conditions of a person, nor to financial collateral arrangements (financial collateral) stipulated by the Law of Georgia on Payment System and Payment Services or to settlement accounts of significant system participants.

*Law of Georgia No 6314 of 25 May 2012 – web-site, 12.6.2012*

**Article 154 - Motion to seize property and procedures for its review**

1. A party shall prepare and submit, according to the place of investigation, to the court a motion to seize property, and information required for its review.

2. Not later than 48 hours after receiving the motion and the information required for its review, a judge shall decide the motion without an oral hearing. The judge may review a motion with the participation of the party that filed the motion. In that case, the procedure provided for by Article 144(3) of this Code shall apply during the review of the motion.

**Article 155 - Decree on seizing property in urgent necessity**

1. In urgent necessity, if there is probable cause to believe that property will be concealed or destroyed, the prosecutor may issue a reasoned decree to seize the property.

2. In urgent necessity, within 12 hours after the execution of a decree for the seizure of property (if the expiration of that period falls during non-working hours, within not later than an hour after that period expires), the prosecutor shall inform the court of the seizure of property according to the place of investigation, or the court under the jurisdiction of which the procedural action has been carried out, and shall file a motion requesting the

examination of the lawfulness of the seizure, and submit to the court the criminal case materials (or their copies) that prove the necessity of conducting the investigative action. Not later than 24 hours after receiving the materials, the court shall decide the motion without an oral hearing. The court may review the motion with the participation of the prosecutor and of the person against whom the investigative action has been carried out.

**Article 156 - Appealing a court ruling seizing property**

A court ruling seizing property shall, within 48 hours after the ruling is issued, be handed over to the person authorised to appeal. This ruling shall be appealed under Article 207 of this Code. The ruling may be appealed by the prosecutor, the accused and/or a person whose material rights have been violated as a result of that ruling, as well as by their defence lawyers. The running of the time limit for appealing a ruling shall commence from the time it has been handed over to the authorised person.

*Law of Georgia No 741 of 14 June 2013 – web-site, 27.6.2013*

**Article 157 - Procedure for executing a ruling (decree) on seizing property**

1. A party shall submit a court ruling, and in the case of urgent necessity, a decree of a prosecutor on the seizure of property, to the person who keeps the property, and request delivery of the property. If that request is denied or there is reliable information that the entire property has not been delivered, a search shall be conducted in accordance with this Code.

2. When seizing property, it shall be determined what items and valuables are to be seized within the limits of the amount indicated in the ruling (decree).

3. An expert may be invited to participate in the seizure of property, and he/she shall assess the value of the property.

4. The extent of the damage caused as a result of a crime and the value of the property subject to seizure shall be determined according to the average market prices.

5. If a bank account is seized, the person's right to administer the funds available on or transferred to his/her bank account shall be restricted. If only a certain amount is seized, the person's right to administer the funds available on or transferred to his/her account shall be restricted within the limits of the seizure. If property has been acquired or increased with the resources obtained in a criminal way, the entire property or its major part may be seized. Seizure shall apply to the property (including that of a legal person and its subsidiary companies) of the accused, his/her family member, close relative, related person and/or of a racketeering group, regardless of the share of the accused in that property, provided that there is sufficient evidence to believe that the property or its part has been obtained as a result of racketeering.

6. A report shall be drawn up on the seizure of property.

7. The seized property, except for immovable and large things, shall be taken.

*Law of Georgia No 6314 of 25 May 2012 – web-site, 12.6.2012*

**Article 158 - Period of validity of a court ruling on the seizure of property**

Property shall be seized until a judgement is enforced, until a criminal prosecution and/or an investigation is terminated.

**Article 159 - Grounds for removing the accused from his/her position (work)**

An accused person may be removed from his/her position (work) if there is a probable cause that by staying at that position (work), he/she will interfere with an investigation, with the reimbursement of damages caused as a result of the crime, or will continue criminal activities. ***(the regulatory provisions that stipulate the removal from a position (work) of persons elected to a local self-government on the basis of universal, equal and direct suffrage by secret ballot shall be invalid)***

*Decision of the Constitutional Court of Georgia No 3/1/574 of 23 May 2014 - web-site, 29.5.2014.*

**Article 160 - A court ruling removing the accused from his/her position (work)**

1. After making a decision to remove the accused from his/her position (work), the prosecutor shall, in writing, file a motion with a court according to the place of investigation. The court shall, if there are sufficient grounds, deliver a ruling on the application of that measure. The court may review the motion without an oral hearing. (***Invalidated*** - Decision of the Constitutional Court of Georgia of 23 May 2014 No 3/1/574 - web-site, 29.5.2014)

2. A court ruling removing the accused from his/her position (work) shall indicate the identity of the person subject to removal, his/her position (work), grounds for removal, a request for removal of the accused, which shall be submitted to the head of the relevant establishment, enterprise or organisation.

3. A court ruling removing the accused from his/her position (work) shall be binding on the head of the relevant establishment, enterprise or organisation. The head shall be obliged to immediately execute a court ruling as soon as it is received, and inform the court accordingly.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Decision of the Constitutional Court of Georgia No 3/1/574 of 23 May 2014 - web-site, 29.5.2014.*

### Article 161 - Period of removal of the accused from his/her position (work)

1. A judge may, before delivering a final decision in a case, rule on the removal of the accused from his/her position (work).

2. A court ruling on the removal of the accused from his/her position (work) may be appealed under the procedure stipulated by Article 207 of this Code.

### Article 162 - Removal of certain persons from office (suspension from duty)

1. The question of removal from office (suspension from duty) of Members of the Parliament of Georgia, of the deputies of the highest representative bodies of the Autonomous Republics of Abkhazia and Ajara, of the Public Defender of Georgia, and of the General Auditor shall be resolved in accordance with the legislation of Georgia.

2. The Chief Prosecutor of Georgia shall have the right to request the removal from office (suspension from duty) of persons referred to in paragraph 1 of this article.

*Law of Georgia No 6 550 of 22 June 2012 – web-site, 29.6.2012*

### Article 163 - Grounds for suspending an accused (convicted) person's passport of a citizen of Georgia or a neutral travel document

The validity of a passport of a citizen of Georgia, or of a neutral travel document may be suspended if a person holding it is accused (convicted) under this Code, and there is a probable cause that this person may use the passport/travel document to leave Georgia or change locations abroad.

*Law of Georgia No 4995 of 1 July 2011 – web-site, 15.7.2011*

### Article 164 - Decision to suspend an accused (convicted) person's passport of a citizen of Georgia, or a neutral travel document

1. After making a decision to suspend an accused (a convicted) person's passport of a citizen of Georgia or a neutral travel document, the prosecutor shall, according to the place of investigation, file a written motion with a court, which, in the case of sufficient grounds, shall deliver a ruling on the application of that measure. A court may review an appeal without an oral hearing. A court ruling may be appealed under Article 207 of this Code.

2. A court ruling suspending an accused (convicted) person's passport of a citizen of Georgia or a neutral travel document shall indicate: the date and place of preparing the ruling; the official or body responsible for the execution of the ruling; the name, surname, birth date and personal number of the holder of the passport/travel document; the number, issuing authority and issuance date of the passport/travel document.

3. Suspension of a passport of a citizen of Georgia or of a neutral travel document shall mean the restriction of the right of the accused (convicted) person to leave Georgia or change locations abroad. A suspended passport of a citizen of Georgia or a suspended neutral travel document may not be used (accepted) as a document that is sufficient (required) for leaving Georgia or for changing locations abroad.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 4995 of 1 July 2011 – web-site, 15.7.2011*

### Article 165 - Term of suspension of a wanted accused (convicted) person's passport of a citizen of Georgia or a neutral travel document

1. The validity of a wanted defendant's (convicted person's) passport, of a citizen of Georgia or a neutral travel document) shall be suspended until the execution of the judgement, until the completion of the criminal prosecution.

2. The prosecutor may, at any time before the date provided for by paragraph of this article, issue a decree revoking the suspension of a passport of a citizen of Georgia, or of a neutral travel document.

3. The prosecutor shall immediately notify the Public Service Development Agency of the issuance of a decree revoking the suspension of a passport of a citizen of Georgia or of a neutral travel document.

4. A person whose passport of a citizen of Georgia, or a neutral travel document has been suspended, may notify the Public Service Development Agency of the revocation of the suspension of the passport/document.

*Law of Georgia No 4995 of 1 July 2011 – web-site, 15.7.2011*

*Law of Georgia No 6317 of 25 May 2012 - web-site, 19.6.2012*

## Section V.

## Chapter XVIII - Grounds for Criminal Prosecution; Detention; Recognising as the Accused

### Article 166 - Criminal prosecution

Prosecutors shall have sole discretion to initiate and conduct a criminal prosecution.

### Article 167 - Suspending and refraining from initiating a criminal prosecution and/or a court hearing

1. A criminal prosecution shall be initiated upon the detention of a person or upon the recognition of a person as the accused (if the latter has not been detained).

2. A criminal prosecution and/or a court hearing shall not be initiated or shall be suspended:

a) if the Parliament of Georgia, the Constitutional Court of Georgia, the Chairperson of the Supreme Court of Georgia does not consent to the prosecution of the Public Defender of Georgia, the Personal Data Protection Inspector, the General Auditor, or a judge, for the term during which the above persons are protected by immunity;

b) if a question of removing immunity from an alien has been raised, from the day the issue has been raised up to its official resolution;

c) against a person who is a victim of a crime defined in Articles $143^1$ and/or $143^2$ of the Criminal Code of Georgia - during the reflection period;

d) if a court has applied to the Constitutional Court of Georgia to decide the constitutionality of a law, from the day of application until the day when the Constitutional Court delivers a decision.

3. If there are any of the circumstances specified in paragraph 2 of this article, the prosecutor, during the conduct of an investigation, or a court during a court hearing, shall decide, upon motion of a party, to suspend a criminal prosecution and/or a court hearing.

4. If the grounds for suspension specified in paragraph 2 of this article no longer exist, a court hearing/criminal prosecution shall be initiated/resumed.

5. Special procedures for prosecuting, arresting and applying other measures of criminal procedural coercion against the President of Georgia, a Member of Parliament of Georgia, a member of the Constitutional Court of Georgia, a member of the Supreme Court of Georgia, a member of other common courts of Georgia, the General Auditor, the Public Defender of Georgia, the Personal Data Protection Inspector, persons enjoying diplomatic immunity, as well as the representative of the International Criminal Court who, when exercising his/her powers, enjoys immunity under the Regulations of the International Criminal Court, shall be defined by the Constitution of Georgia, treaties and agreements of Georgia, this Code and other legislative acts of Georgia.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 6550 of 22 June 2012 – web-site, 29.6.2012*

*Law of Georgia No 2209 of 4 April 2012 – web-site, 8.4.2014*

*Law of Georgia No 2634 of 1 August 2014 – web-site, 18.8.2014*

### Article 168 - Discretionary prosecution

1. A prosecutor shall issue a relevant decree when exercising his/her discretionary powers to refuse to initiate a criminal prosecution. Before issuing an order refusing to initiate a criminal prosecution, the prosecutor shall be obliged to consult with the victim and prepare a report in accordance with Article $56(5^1)$ of this Code, and if a decree is issued, shall forward a copy of that record to the victim within one week after the order has been issued.

2. A victim may appeal a decree of a prosecutor refusing to initiate a criminal prosecution with a superior prosecutor only once. The decision of a superior prosecutor shall be final and it may not be appealed, except when a particularly serious offence has been committed. In that case, if a superior prosecutor does not grant the appeal, the victim may appeal the decision of the prosecutor to a district (city) court, according to the place of investigation. The court shall deliver a ruling within 15 days, with or without an oral hearing. The decision of the court may not be appealed.

3. If a superior prosecutor or a court has annulled a decree of a prosecutor refusing to initiate a criminal prosecution, and the period of limitation for prosecution has not expired, a criminal prosecution shall be initiated. In that case, the Chief Prosecutor of Georgia, or a person authorised by him/her, shall task another prosecutor with the duty to initiate a criminal prosecution and to carry out other prosecutorial activities.

4. The victim shall be notified of the decisions referred to in this article.

*Law of Georgia No 2518 of 24 July 2014 – web-site, 6.8.2014*

### Article $168^1$ - Diversion

1. A prosecutor shall have the right not to initiate or he/she may terminate a criminal prosecution against a person (a subject of diversion) in the case of a less serious or serious offence, provided that person (subject of diversion) meets one or several of the following conditions:

a) transfer of illegally obtained property to the State, or reimbursement of the cost of that property;

b) transfer of an instrument of crime and/or an object removed from civil circulation to the State;

c) full or partial reimbursement of the damage caused as a result of his/her actions;

d) payment of a monetary sum in favour of the state budget in the amount of at least GEL 500;

e) performance of unpaid community service for a period of 40 to 400 hours;

f) in the case of domestic crime - completion of compulsory training courses aimed at changing the violent attitude and behaviour.

2. Diversion shall not apply to cases specified in Articles $143^1$, $143^2$, $143^3$, 144-ე, $144^1$, $144^2$ და $144^3$ of the Criminal Code of Georgia, and in the guidelines of the criminal policy.

3. If a person (subject of diversion) does not fulfil the terms of diversion, the prosecutor may initiate or reopen the criminal prosecution.

*Law of Georgia No 4868 of 21 June 2011 – web-site, 6.7.2011*

*Law of Georgia No 5352 of 25 November 2011 – web-site, 5.12.2011*

*Law of Georgia No 2706 of 17 October 2014 – web-site, 31.10.2014*

### Article $168^2$ - Procedure for applying diversion

1. A person (subject of diversion) shall be offered diversion in writing. That offer shall include terms of diversion and the time, place and means for their performance.

2. A person (subject of diversion) shall be informed in writing that the performance of the terms of diversion is voluntary and that he/she enjoys all the rights of an accused.

3. Before making a decision on diversion, the prosecutor shall consult with the victim (if any).

4. Diversion shall normally be applied before a preliminary hearing. Diversion may also be applied after a preliminary hearing, if the parties file a motion with the court requesting to return the case to the prosecutor for the purpose of application of diversion. In that case, the court may return the case to the prosecutor who shall offer diversion to the accused.

**5.** Diversion shall not apply to an accused who has been remanded into custody.

**6.** When making a decision on diversion, the prosecutor shall be guided by this Code and the criminal policy guidelines.

*Law of Georgia No 4868 of 21 June 2011 – web-site, 6.7.2011*

*Law of Georgia No 5352 of 25 November 2011 – web-site, 5.12.2011*

### Article 169 - Indictment

1. The grounds for the indictment of a person shall be the body of evidence that is sufficient to establish probable cause that the person has committed a crime. ***[(the normative content of the second sentence of paragraph 2 that stipulates the possibility of indictment based on the evidence determined under Article 76 of the same Code (version of 14 June 2013) - an indirect testimony, shall be considered invalid)*** - Decision of the Constitutional Court of Georgia No 1/1/548 of 22 January 2015 - web-site, 4.2.2015]

2. When there are sufficient grounds for bringing charges, the prosecutor may issue a decree on the indictment of the person. After issuing the decree, the prosecutor shall determine the time and place of bringing charges. Charges shall be brought not later than 24 hours after the decree has been issued.

3. A decree on indictment shall include:

a) the name, surname and patronymic, the day, month and year of birth and personal number of the accused;

b) formulation of charges - a description of the incriminated action, indicating the location, time, way, means, instrument of its commission, as well as its consequences;

c) the evidence obtained as a result of the investigation, which is sufficient to establish probable cause that the given crime has been committed by that person;

d) the article, paragraph and sub-paragraph of the Criminal Code of Georgia that refers to that crime;

4. The operative part of the decree on indictment shall include a decision to bring charges against the person.

5. The prosecutor, or upon his/her instructions,- an investigator, shall familiarise the accused and his/her defence lawyer (if the interests of the accused are defended by a defence lawyer) with the indictment; the accused and the lawyer shall confirm by signature, that they have been familiarised with the indictment and received its copy. A copy of the indictment, together with a list of the rights and obligations of the accused, shall be delivered to the accused and/or to his/her defence lawyer. If the accused or his/her defence lawyer refuses to confirm by signature that they have been familiarised with the indictment and its copy, the reasons for refusal shall be recorded in the indictment.

6. If the accused avoids appearing before an investigative authority, he/she or his/her relative shall be given a reasonable period for hiring a defence lawyer. If he/she fails to hire a defence lawyer within that period the accused shall be assigned a mandatory defence. In order to bring charges, the prosecutor, or upon his/her instructions, an investigator, shall summon the defence lawyer of the accused and familiarise him/her with the indictment, which shall be considered the same as bringing charges. The defence lawyer of the accused shall confirm in writing that he/she has become familiar with the charges.

7. To bring charges against a member of the Constitutional Court of Georgia, consent of the Plenum of the Constitutional Court of Georgia shall be required. To bring charges against the Public Defender of Georgia, the Personal Data Protection Inspector, the General Auditor, a member of the Supreme Court of Georgia, consent of the Parliament of Georgia shall be required. To bring charges against a judge of any other common court of Georgia, consent of the Chairperson of the Supreme Court of Georgia shall be required.

8. Before a preliminary hearing, a person may be indicted as a defendant due to a single episode of crime for not longer than 9 months, unless he/she was charged for another crime before the expiration of the above period. When bringing such charges, the flow of the above period shall cease and the period shall be counted from the day when new charges are brought. Upon expiration of the above period, the criminal prosecution against the person shall be terminated. If a criminal prosecution against a person has been terminated in cases provided for by this paragraph, bringing the same charges against that person in the future shall be prohibited.

9. Within 10 days after receiving an indictment, a person may, in the manner provided for by this Code, file an appeal for intentional procrastination of the commencement of criminal prosecution to a superior prosecutor, or according to the place of investigation, to a district (city) court, which shall review the appeal within 3 days after its receipt. A court may review an appeal without an oral hearing. Satisfaction of the appeal shall serve as grounds for recognising as inadmissible all the evidence relating to the charges brought against that person, which have been obtained during the investigation, after sufficient grounds for initiating a criminal prosecution against the person have been provided. In cases provided for by this paragraph, a court ruling may be appealed to the investigative panel of the relevant court of appeal in accordance with Article 207 of this Code.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 6 550 of 22 June 2012 – web-site, 29.6.2012*

*Law of Georgia No 2209 of 4 April 2014 – web-site, 8.4.2014*

*Law of Georgia No 2634 of 1 August 2014 – web-site, 18.8.2014*

*Decision of the Constitutional Court of Georgia No 1/1/548 of 22 January 2015 – web-site, 4.2.2015*

### Article 170 - Arrest

1. Arrest is a short-term restriction of a person's liberty.

2. A person shall be considered arrested from the moment when his/her liberty of movement is restricted. From the time of arrest, a person shall be considered to be the accused.

### Article 171 - Grounds for arrest

1. If there is probable cause that a person has committed a crime for which the law stipulates imprisonment, or the person will flee or will not appear before a court, destroys information important for a case, or will commit a new crime, upon motion of the prosecutor, the court, according to the place of investigation and without oral hearing, shall deliver a ruling for the arrest of the person. The ruling may not be appealed.

2. A person may be arrested without a court ruling if:

a) the person has been caught in action while or immediately after committing a crime (in flagrante delicto);

b) the person has been seen at the crime scene, and a criminal prosecution is immediately initiated to arrest him/her;

c) a clear trace of crime has been found on or with the person or on his/her clothes;

d) the person has fled after committing a crime, but he/she is identified by an eyewitness;

e) the person may flee;

f) the person is wanted.

3. A person may be arrested without a court ruling only if there is a probable cause that the person has committed a crime and the risk that he/she may flee, not appear before the court, destroy information that is important for the case, or commit a new crime cannot be prevented by an alternative measure that is proportional to the circumstances of the alleged crime and to personal characteristics of the accused.

### Article 172 - Persons authorised to make an arrest

Employees of a body authorised to carry out an investigation, who perform operative functions, keep public order, conduct investigations or criminal prosecutions shall be authorised to make an arrest.

### Article 173 - Immunity from arrest

The following persons may not be arrested: persons enjoying diplomatic immunity and their family members, the President of Georgia, a Member of the Parliament of Georgia, the General Auditor, the Public Defender of Georgia, the Personal Data Protection Inspector, and a judge. This prohibition, except for the President of Georgia, and persons enjoying a diplomatic immunity and their family members, shall not apply to cases defined in Article 171(2)(a) of this Code.

*Law of Georgia No 6 550 of 22 June 2012– web-site, 29.6.2012*

*Law of Georgia No 2634 of 1 August 2014 – web-site, 18.8.2014*

### Article 174 - Procedure for arrest

1. If there are grounds for detention, the arresting officer shall be obliged to clearly notify the arrested person of those grounds, explain which crime he/she is suspected of committing, and inform him/her that he/she may use the services of a defence lawyer, remain silent and refrain from answering questions, not to incriminate himself/herself, and that everything he/she says can be used against him/her in court. A statement made by the arrested person before being informed of his/her rights as provided for by this paragraph shall be considered as inadmissible evidence.

2. The arresting officer shall immediately take the arrested person to the nearest police station or to another law enforcement authority.

3. If there is probable cause that the arrested person has a weapon, and/or intends to get rid of it, damage or destroy an item, substance or any other object containing information that has evidentiary value, the arresting officer may conduct a personal search as prescribed by Article 121(2) of this Code.

4. As soon as the arrested person is brought to the place of custody, upon his/her request, the person shall be examined by a physician in order to establish his/her general health condition, and a relevant certificate shall be issued by the physician.

5. The period of arrest shall not exceed 72 hours. Not later than 48 hours after the arrest, the arrested person shall be given an indictment. If an indictment is not given to the arrested person within that period, he/she shall be immediately released.

6. The period of arrest shall be counted towards a term of imprisonment.

*Law of Georgia No 3891 of 7 December 2010– LHG I, No 67, 9.12.2010, Article 418*

### Article 175 - Record of arrest

1. The arresting officer shall, immediately upon arrest, prepare a record of arrest. If a record of arrest cannot be prepared immediately upon the arrest due to objective reasons, it shall be prepared as soon as the arrested person is brought to a police station or any other law enforcement authority.

2. A record of arrest shall indicate: the person arrested, the place, time and circumstances of the arrest, as well as grounds for arrest stipulated by this Code, the physical condition of the arrested person at the time of arrest, the crime that he/she is accused of committing, the exact time of bringing him/her to the police station or to any other law enforcement authority, a list of rights and obligations of the accused provided for by this Code, also, in relevant cases, the objective reason(s) due to which the record of arrest could not be prepared immediately upon arrest.

3. A record of arrest shall be signed by: the official who detained a person, the detainee and his/her defence lawyer (in case of his/her presence). When the accused is carried to a police station or to any other law enforcement authority, an authorised person of the person or of the law enforcement authority shall sign a record of arrest. A detainee shall be given a record of arrest. If a person was searched personally during his/her detention, no separate record shall be prepared on that investigative action.

4. Unless a person has been explained the rights stipulated by Article 174 of this Code and has been given a record of arrest, or if a record of arrest has been prepared with a substantial breach that worsens the person's legal status, the person deprived of liberty shall be immediately released.

### Article 176 - Grounds and procedure for releasing an arrested person

1. An arrested person shall be released if:

a) the suspicion that he/she has committed a crime has not been confirmed;

b) he/she has not been remanded into custody;

c) the period established for detention by this Code has expired;

d) a consent to arrest the person has not been received from the authorised public authority or official;

e) the criminal procedure law was substantially breached during the arrest;

f) the arrest is no longer required to achieve the goals of the criminal procedure.

2. An arrested person shall be released under a decision of a prosecutor or a judge.

3. An arrested person shall be released under a decree of the head of the place of custody if the period of arrest has expired.

4. Upon release, the arrested person shall be given a copy of the decision on the release.

5. Regardless of whether the arrested person is convicted or not, he/she shall be fully reimbursed from the state budget for the damage incurred as a result of an unlawful and unjustified arrest.

6. Under a decree of the prosecutor, the accused may be temporarily removed from the place of custody for the purpose of his/her participation in an investigative action, except when such an investigative action is to be conducted the participation in which requires the consent of the arrested person. Upon completion of an investigative action, the arrested person shall be immediately returned to the place of custody.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 3891 of 7 December 2010– LHG I, No 67, 9.12.2010, Article 418*

**Article 177 - Notification of arrest, remand detention or placement in a medical facility for expert examination**

1. The prosecutor, or upon his/her instructions, the investigator, shall, not later than 3 hours after the arrest, remand detention or placement in a medical facility for expert examination, notify any of the person's family members, or in the case of their absence, any of his/her relatives or close persons, and in the case of remand detention or placement in a medical facility also notify the place of his/her employment or education.

2. If a person arrested, remanded into custody or placed for expert examination in a medical facility is an alien, the Ministry of Foreign Affairs shall be notified of this within the period indicated in paragraph 1 of this article. The Ministry shall immediately notify the diplomatic mission or consular office of the relevant state.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 6439 of 12 June 2012– web-site, 22.6.2012*

**Article 178 - Measures for protecting the dependents of a person who is arrested, remanded into custody or placed in a medical facility for expert examination, his/her residence and any other property**

1. If a person who is arrested, remanded in custody or placed in a medical facility for expert examination has a minor child, aged parent or any other dependents who are left without care and support, the prosecutor and the court shall be obliged to transfer those persons to a relative, any other person or an appropriate institution. If that person's property is left unattended, the prosecutor and the court shall be obliged to take measures to protect the property.

2. A person arrested, remanded into custody or placed in a medical facility for expert examination shall be immediately notified of the measures taken. For this purpose, the investigator or the prosecutor shall draft a notice that shall be attached to the criminal case, and/or a relevant record shall be entered in the record of the court session.

**Article 179 - Conducting criminal proceedings against an unidentified accused/convicted person**

1. If the identity (name, surname, age, gender, citizenship) of a person detained for the commission of a crime has not been established, and that person refuses to identify himself/herself, or that person cannot be identified due to a physical disability or any other objective circumstance, the investigator or the prosecutor shall, with the involvement of relevant experts, draw up a record that shall provide a description of all potential external characteristics of the person (approximate age, gender, height, hair colour, eye colour, other special features of his/her countenance and appearance) that can be used for his/her identification (a photograph of the person shall be attached to the record). In addition, with the consent of the head of the structural division of the prosecutor's office that provides procedural supervision, a person may be assigned a conditional name using such combination of digits and/or letters which, based on the actual circumstances of the case, will allow for the identification of that person during subsequent procedural actions. A conditional name may not be degrading and insulting to human dignity.

2. In cases provided for by paragraph 1 of this article, all subsequent procedural actions stipulated by this Code shall be conducted in full, without any delay. In addition, all procedural actions taken with respect to an unidentified accused or convicted person shall be conducted with the mandatory involvement of a defence lawyer. The State shall reimburse the costs of services provided by the appointed defence lawyer.

3. Not later than 3 days after bringing charges against an unidentified person, if necessary, a medical psychiatric expert examination shall be ordered in the manner prescribed by this Code. The expert examination shall, along with other issues, establish the mental status, blood group, other biometric data of that person, and his/her fingerprints shall be registered.

4. The investigator, prosecutor, shall be obliged to ensure taking of all reasonable measures provided for by the legislation of Georgia to identify the person referred to in this article (establish his/her name, surname, age, citizenship and sanity).

5. If the identity of an unidentified person is established at any stage of criminal proceedings, the investigator, prosecutor, court shall, before the court passes a judgement of conviction, within 48 hours, be obliged to adjust to that circumstance the final decisions existing in the criminal case.

6. Before delivering judgement against an unidentified person, the court shall be obliged to make sure that all reasonable identification measures provided for by the legislation of Georgia have been taken.

7. If the identity of an unidentified person is established after a judgement of conviction against that person enters into force and this circumstance affects the qualification of the crime or the severity of the sentence, or results in discharge from criminal liability, the judgement shall be revised due to newly found circumstances in the manner prescribed by this Code, except when those circumstances cause a change for the worse.

*Law of Georgia No 6253 of 22 May 2012 – web-site, 29.5.2012*

### Article 180 - Placing a person in a medical facility

1. If there is a reasonable belief that the accused person was insane at the time of committing the crime or became insane after committing the crime, and the interests of public security require that he/she be isolated in a medical facility, the court shall, according to the place of investigation and upon motion of the prosecutor or a defence lawyer, issue a ruling placing that person in a public medical facility. The motion shall be reviewed without an oral hearing, within 48 hours, and the decision made may not be appealed.

2. A court ruling placing a person in a medical facility shall be prepared independently from a decree (ruling) assigning an expert examination. It shall include: The name, surname and procedural status of the person who is to be placed in a medical facility; the name of the medical facility in which the person is to be placed.

### Article 181 - Period of placement of a person in a medical facility

1. An accused person may be placed in a medical facility for expert examination for not longer than 20 days.

2. In exceptional cases, based on a medical report of physicians conducting the in-patient examination, that period may, under a court ruling, be extended for 10 days. The period may not be further extended, even if the person placed in a medical facility consents to such extension.

3. If a person has been placed in a medical facility several times for the same criminal case, the total period of his/her stay in that facility shall not be longer than the period prescribed by this article.

4. The accused or his/her defence lawyer may file a motion with the court requesting extension of the period of inpatient expert examination. The total duration of stay for inpatient examination may not exceed 2 months.

5. The period of stay of the accused in an inpatient facility shall be included in the term of imprisonment, except for the period of stay in an inpatient facility for expert examination that is conducted upon motion of his/her defence lawyer.

## Chapter XIX - General Provisions on Court Hearing

### Article 182 - Publicity of court sessions

1. A court session shall, as a rule, be oral and public.

2. A court shall review materials that contain state secrets *in camera*.

3. A court may, upon motion of any of the parties, or on its own initiative, make a decision to partially or fully close a session:

a) for the purpose of protecting personal data, or professional or commercial secrets;

b) (Deleted - 12.6.2015, No 3715).

c) for the purpose of personal security of a trial participant and/or of his/her family member (close relative), or if a special protective measure is applied with respect to a trial participant, which requires the closing a trial session;

d) for the purpose of defending the interests of a victim of sexual crime, trading in persons (trafficking) or domestic crime;

e) when a person whose personal correspondence or personal communications is to be produced in the trial does not give his/her consent.

4. To keep order, the judge may, on his/her initiative, close a trial in full or in part.

$4^1$. Regardless of a ruling ordering partial or full closure of a court session, the judge may allow the person who has been recognised as a victim in the given case to attend the session either in full or in part.

5. If deciding the question of closing a court session requires public discussion of such circumstances that cannot not be made public, and the opposing party disagrees with the motion to close the session, the question shall be reviewed in a closed session.

6. The judge shall be obliged to publicly announce the grounds for closing a court session.

7. The court may obligate the persons attending a closed session not to disclose information that they learns during the session.

8. Persons under 14 years of age shall not be allowed to attend a court session, except when they are trial participants. The presiding judge may allow persons under 14 years of age to attend a court session.

9. An armed person may be allowed into a court room only with permission of the presiding judge.

10. The presiding judge shall be authorised not to allow into a court session a person who appears in an inappropriate form or state.

*Law of Georgia No 63 28 of 25 May 2012 – web-site, 12.6.2012*

*Law of Georgia No 2518 of 24 July 2014 – web-site, 6.8.2014*

*Law of Georgia No 2706 of 17 October 2014 – web-site, 31.10.2014*

*Law of Georgia No 3715 of 12 June 2015 – web-site, 24.6.2015*

### Article $182^1$ - (Deleted)

*Law of Georgia No 205 of 18 January 2013 – web-site, 28. 2.2013.*

*Law of Georgia No 583 of 1 May 2013 – web-site, 20.5.2013.*

### Article 183 - Immutability of a court composition during a hearing

Cases shall be heard with the same composition of the court. If a judge is not able to participate in the proceedings, he/she shall be replaced with another judge of the same court, and the case hearing shall start anew, except for a case provided for in Article 184 of this Code.

### Article 184 - Reserve judge

By decision of the chairperson of the court, a reserve judge may be assigned to a case, who shall substitute for a judge who has withdrawn from the composition of the court, and the case hearing shall continue.

### Article 185 - Place and continuity of trial

1. A court hearing shall take place in a court room. A court hearing, upon motion of the parties, may be conducted outside a court room in order to inspect the place of the incident or any other place, a building, a vehicle or any other facility that cannot be brought into the court room, also due to the serious illness of a person who is to be examined, or due to other objective reasons.

2. A court hearing may not be interrupted, except for the time required for recess. A case hearing may be adjourned under a court ruling upon motion of a party, only if the judge, juror, party to the proceedings, witness or interpreter fails to appear, or when an investigative action is conducted, as well as in cases directly provided for by this Code. During the period of adjournment of the hearing, the court may review other criminal cases (motions, appeals).

3. After 18:00, the court may adjourn the hearing upon motion of the party or on its own initiative.

4. A party may file a reasoned motion with the court in advance to change (move back or forward) the date of a court hearing, and notify the other party accordingly. The court shall hear the motion without an oral hearing. The decision made may not be appealed.

5. Based on mutual agreement, the parties may jointly file a reasoned motion with the court in advance and request a change (moving back or forward) of the date of a court hearing. The court shall hear the motion without an oral hearing. The decision made by the judge may not be appealed.

6. A court of the first instance shall render a judgement not later than 24 hours after the judge in the preliminary proceedings makes a decision to refer the case for a main hearing.

7. The time limit defined by paragraph 6 of this article shall not apply to a criminal case where the accused avoids appearing before the court, and/or where the accused is wanted.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 3891 of 7 December 2010 – LHG I, No 67, 9.12.2010, Article 418*

*Law of Georgia No 4631 of 5 May 2011 – web - site, 19.5.2011*

*Law of Georgia No 3976 of 8 July 2015 – web-site, 20.7.2015*

### Article 186 - Hearing procedure

1. Before the court enters and leaves a court room, a secretary of the court session shall announce ”All rise, the court is in session!” or ”All rise, the court

is in recess!" respectively. Upon this announcement, all persons attending the session shall rise.

2. Trial participants shall address the court politely and with respect, after which, they shall make statements while standing. Any exception to the rules of conduct in the court shall only be allowed by the presiding judge.

### Article 187 - Commencement of a court session

A court session shall commence with an announcement of the judge (in the case of a hearing by a panel of judges, by the reporting judge) of the commencement of the hearing.

### Article 188 - Appearance of a party at the court session

1. A party shall be obliged to appear at the court session at the specified time.

2. Before a court session begins, the party shall notify the court, in the manner provided for by this Code, of his/her inability to appear for a valid reason.

3. Upon motion of a party, the court may decide that the motioning party may participate in the hearing remotely, using technical means, of which the parties shall be preliminarily notified.

*Law of Georgia No 6392 of 5 June 2012 – web-site, 19.6.2012*

### Article 189 - Hearing in the absence of the accused

1. A case hearing in the absence of the accused may be held if the accused avoids appearing before the court. In that case, participation of a defence lawyer of the accused in the case hearing shall be mandatory.

2. If a remanded accused has not been presented before the court due to a failure to transport him/her, the court shall adjourn the hearing for a reasonable period, but not longer than 10 days, and notify the Director of the Penitentiary Department of the Ministry of Corrections and Probation of Georgia accordingly, who shall be obliged to ensure the attendance of the accused at the next session, and notify the court of the reason for failure to transport the accused.

*Law of Georgia No 3528 of 1 May 2015 – web-site, 18.5.2015*

### Article 190 - Participation of a prosecutor and of a defence lawyer in a court hearing and consequences of their non-appearance

1. If a defence lawyer does not appear at a court session, the court shall provide the accused with a defence lawyer at the expense of the State, in the manner prescribed by this Code and shall adjourn the hearing for a reasonable period, but for not longer than 10 days. The court may once again adjourn the hearing at the next session for not more than 5 days, provided that the defence files a reasoned motion indicating an objective reason for the non-appearance of the defence lawyer. If the motion is not filed, or if a filed motion is rejected or if the defence lawyer fails to appear after the motion has been granted, the session shall continue with the participation of a defence lawyer from the relevant legal aid service.

2. If a case is heard against two or more accused persons and the defence lawyer of any of them fails to appear at a court session, the court may continue the hearing against the other accused person, unless this prejudices the interests of the accused and affects the full and impartial examination of evidence. In addition, the court shall make sure that the defence lawyer who does not participate in the court session held in his/her absence, is presented with the record of the court session.

3. If a prosecutor fails to appear, the court shall adjourn the hearing for a reasonable period, but for not longer than 10 days, and notify the Chief Prosecutor's Office of Georgia and the superior prosecutor accordingly; the superior prosecutor shall be obliged to ensure the participation of the prosecutor at the next session, and notify the court of the reason for non-appearance.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

### Article 191 - Termination of criminal prosecution during the main hearing; Review of an issue of insanity

1. When there are grounds provided for by this Code, the court that hears a case on its merits shall, upon motion of the party, terminate the criminal prosecution. In addition, the court shall annul the imposed measure of restraint, and decide other issues provided for by this Code.

2. If it is established that at the moment of committing a crime, the accused was insane, the court shall, upon motion of a party, terminate the criminal prosecution against the accused. In addition, the judge reviewing the case shall, if there are grounds provided for by Article $22^1$(1) of the Law of Georgia on Psychiatric Aid, decide, with the same ruling and based on the report of a forensic psychiatric examination, to order a compulsory psychiatric treatment of that person. That ruling may be appealed in accordance with Article 207 of this Code.

$2^1$. In cases provided for by paragraph 2 of this article, the judge shall, determine, with a ruling, the period for compulsory psychiatric treatment. That period shall not exceed four years. When determining the period, the mental health of the accused and the degree of risk of injury, threat and/or violence to which the accused may expose himself/herself and/or any other person, and which are indicated in the forensic psychiatric evaluation report, shall be taken into consideration. . In addition, the ruling shall indicate that a compulsory psychiatric treatment may be prematurely terminated

when the grounds provided for by Article 22 (1) of the Law of Georgia on Psychiatric Aid are eliminated, if their elimination can be confirmed in the manner prescribed by the same Law.

3. If it is established that when committing the crime the accused was sane, but became insane after committing the crime, the court shall deliver a judgement of conviction ordering the convicted person to serve the sentence in the relevant medical (healthcare) facility until he/she recovers, after which the convicted person shall continue serving the sentence in accordance with the general procedures.

4. If it is established that the accused placed in a penitentiary facility, against whom proceedings have been completed, displays signs of mental disorder, the question of providing him/her with psychiatric aid shall be resolved according to the Law of Georgia on Psychiatric Aid and the Code of Imprisonment. In the case of recovery, the convicted person shall continue serving the sentence in accordance with the general procedures.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 2539 of 26 July 2014 – web-site, 6.8.2014*

*Law of Georgia No 3528 of 1 May 2015 – web-site, 18.5.2015*

### Article 192 - Procedure for rendering a ruling at a court session

1. During a court hearing, the court shall render a ruling to decide all issues, except for a judgement.

2. The court shall render a ruling without retiring to chambers. The ruling shall be included in the record of a court session.

3. The court may render a ruling in chambers.

4. A court ruling shall be announced publicly.

### Article 193 - Court deliberations and voting during a review by a panel of judges

1. Court deliberations shall be confidential. No technical means of communication may be used in chambers.

2. The court may decide the issues relating to a case hearing without leaving the courtroom.

3. Only the judge hearing the case may participate in the court deliberations and voting.

4. The presiding judge shall chair the court deliberations and formulate issues that are to be decided.

5. The court shall deliver a decision by a ballot, with a majority of votes. A decision to impose life imprisonment as a sentence shall be made only unanimously.

6. A judge may not refrain from participating in the voting. The presiding judge shall vote last.

7. If a dissenting opinion arises with regard to an issue during a court deliberation, the opinion that is in favour of the accused shall be voted on first.

8. If, during a voting with regard to legal issues, a judge is in a minority, he/she shall be obliged to formulate the dissenting opinion in writing. The dissenting opinion shall be presented to the presiding judge and it shall be enclosed with the decision.

### Article 194 - Making a court decision public

1. During a court session, a decision delivered by the court shall be orally announced. An oral decision shall be recorded in the record of the court session, and the written decision shall be enclosed with the record and a note to that effect shall be made in the record.

2. A court decision shall be substantiated.

### Article 195 - Record of the court session

1. A record shall be prepared for each court session. A record may be drawn up in shorthand and through other technical means. The record shall fully cover the progress of the court session.

2. Not later than 5 days after the completion of a court session, or after the adjournment of a court session, if it is adjourned, the presiding judge and the secretary of the court session shall sign the record and immediately notify the parties accordingly.

3. The presiding judge shall be obliged to make sure that the parties are presented with the record.

4. The parties may, within 5 days after being notified of the signing of the record of the court session, submit their remarks with respect to the record. The court hearing the case shall review those remarks within 5 days, without an oral hearing.

5. After reviewing the remarks, the court shall render a ruling by which it confirms the correctness of the remarks or rejects them. Remarks made with respect to the record and the court ruling shall be attached to the case. The party submitting the remarks may appeal the court ruling along with the

judgement.

*Law of Georgia No 741 of 14 June 2013 – web-site, 27.6.2013*

## Chapter XX - Initial Appearance of the Accused in Court; Measures of Restraint

### Article 196 - Initial appearance of the accused in court

1. Not later than 48 hours after the arrest, the prosecutor shall, according to the place of investigation, file a motion with the court for application of a measure of restraint.

2. In special cases, when the accused cannot be brought from the place of custody to the court due to his/her illness or a natural calamity or other objective reasons, the judge may hold a court session at the detention facility.

3. If a motion provided for by this article is not filed with a magistrate judge within 48 hours after the arrest, the arrested person shall be immediately released.

### Article 197 - First proceeding before the court; informing the accused of his/her rights

1. Not later than 24 hours after a motion is filed for the application of a measure of restraint, the magistrate judge shall, at the first proceeding before the court, in the presence of the parties:

a) establish the identity of the accused;

b) find out whether the accused understands the language of the criminal proceedings;

c) inform the accused of the essence of the accusation and his/her rights, including the right to file a complaint (claim) for torture and inhuman treatment;

d) notify the accused of the type and measure of the sentence specified in the charges filed;

e) find out if it is possible to conclude a plea bargain, and in the case of consent of the parties, make a respective decision;

f) review a motion for applying a measure of restraint;

g) enquire from the accused whether he/she intends to file any complaint or motion with regard to a violation of his/her rights;

h) exercise other powers prescribed by this Code.

2. The first proceeding before the court shall be held without interruption.

### Article 198 - Purpose and grounds for applying a measure of restraint

1. A measure of restraint shall be applied to ensure that the accused appears in court, to prevent his/her further criminal activities, and to ensure execution of the judgement. Remand detention or any other measure of restraint may not be applied against the accused if the purpose stipulated by this paragraph can be achieved through another less severe measure of restraint.

2. The grounds for applying a measure of restraint shall be a reasonable assumption that the accused will flee or will not appear in court, will destroy the information that is importance to the case, or will commit a new crime.

3. When filing a motion for applying a measure of restraint, the prosecutor shall be obliged to provide reasons for the appropriateness of the requested measure of restraint, and inappropriateness of another, less severe measure of restraint.

4. A court may remand the accused into custody only when the purpose stipulated by paragraph 1 of this article cannot be achieved by the application of other less severe measures of restraint.

5. When deciding to apply a measure of restraint and its specific type, the court shall take into consideration the personality, occupation, age, health status, marital and material status of the accused, restitution made by the accused for damaged property, violation of any of the previously applied measures of restraint, and other circumstances.

### Article 199 - Types of a measure of restraint

1. Types of a measure of restraint include: bail, an agreement not to leave and to behave properly, personal surety, supervision by the command of the behaviour of a military service member, and remand detention.

2. The following measures may also be applied against the accused along with measures of restraint: an obligation to appear in court at the specified time or upon summons; prohibition to engage in certain activities or pursue a certain profession; an obligation to report to the court, police or any other

public authority daily or with other frequency; supervision by the agency designated by the court; electronic monitoring; obligation to be at a certain place during certain hours or without that; prohibition to leave or enter certain places; prohibition to meet certain persons without special authorisation; obligation to surrender a passport or any other identity document; any other measure prescribed by the court that is necessary to achieve the purpose of the measure of restraint, including prohibition to enter certain places and to approach the victim in cases where a person is prosecuted under charges relating to domestic violence or domestic crime.

*Law of Georgia No 2706 of 17 October 2014 - web-site, 31.10.2014*

*Law of Georgia No 3715 of 12 June 2015 - web-site, 24.6.2015*

### Article 200 - Bail

1. Bail is a monetary sum or immovable property. A monetary sum shall be deposited by the accused or by another person on behalf of or in favour of the accused to the deposit account of the legal entity under public law of the Ministry of Justice of Georgia - the National Bureau of Enforcement ('the National Bureau of Enforcement'), with the written undertaking given to the court that the accused will behave properly and that he/she will timely appear before the investigator, prosecutor, or the court. The immovable property deposited instead of a monetary sum shall be seized. A record shall be drawn up on the receipt of bail; one copy of the record shall be kept by the person who posted the bail.

2. When filing a motion with the court requesting bail as a measure of restraint against the accused, the prosecutor shall indicate the amount of the bail and the date of its posting. After determining the amount of bail, the accused or any other person on behalf of or in favour of the accused may, instead of the bail amount, post as bail immovable property that is equivalent to the monetary sum. The bail amount shall be determined taking into consideration the gravity of the crime committed and the financial status of the accused. Bail amount shall not be less than GEL 1 000.

3. Before posting bail, the depositor shall be warned about the potential consequences referred to in paragraph 7 of this article in the case of non-performance of the conditions set out in the written obligation.

4. The prosecutor shall, according to the place of investigation, file a motion with the court requesting the application of bail as a measure of restraint against the accused, in the manner provided for by this Code.

5. If the accused fails, within the specified period, to deposit the bail amount to the deposit account of the National Bureau of Enforcement, or to deposit immovable property, the prosecutor shall file a motion with the court requesting a more severe measure of restraint.

6. The court shall, upon motion of the prosecutor or on its own initiative, to ensure the application of bail, impose remand detention on an accused who was subjected to arrest as a coercive measure of criminal procedure, until he/she deposits, in full or in part (but not less than 50%), the bail amount to the deposit account of the National Bureau of Enforcement. The posting of bail shall be confirmed by the court or by the prosecutor.

7. If the accused against whom bail has been selected as a measure of restraint breaches the conditions of this measure or the law, the court, upon motion of the prosecutor, shall render a ruling replacing the bail with a more severe measure of restraint. Under the same ruling, the monetary sum posted as bail shall be transferred to the state budget, and the immovable property, to ensure the recovery of the bail amount, shall be transferred for enforcement in accordance with the Law of Georgia on Enforcement Proceedings.

8. The accused or the person who posted bail in his/her favour shall, within a month after the execution of the judgement, be fully reimbursed with the monetary sum deposited as bail (taking into consideration the exchange rate at time the bail was posted) and immovable property, provided the accused was performing his/her obligations properly and in good faith, and the measure of restraint selected against him/her has not been replaced with a more severe measure of restraint.

9. If, before a final decision is delivered in the case, the person who deposited bail in favour of the accused files a written statement with the prosecutor or with the court, respectively, claiming that he/she is not able to ensure the appropriate behaviour and timely appearance of the accused before the investigator, prosecutor, or the court, the depositor shall, within a month, receive back the total bail amount (taking into consideration the inflation rate at the time of depositing the bail) and immovable property, and a more severe measure of restraint may be applied against the accused.

10. A person depositing bail shall receive back the bail amount after he/she presents the decision of the relevant court or prosecutor to the National Bureau of Enforcement.

11. If the accused fulfils the assumed obligation in good faith, the prosecutor may file, according to the place of investigation or jurisdiction, a motion with the court requesting reduction of the bail amount. When filing and reviewing the above motion, the procedures provided for by this paragraph and by this Code shall apply. At the stage of investigation, a motion shall be reviewed without an oral hearing, within 24 hours after it has been filed.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 3972 of 10 December 2010 – LHG I, No 72, 22.12.2010, Article 436*

### Article 201 - Placing an accused minor under supervision

1. The purpose of placing a minor under the supervision of a parent, custodian, care-giver or the administration of a special institution for children is to ensure that one of the above persons or the administration assumes a written obligation that the accused minor will appear before the investigator, prosecutor, or the court, and will behave properly.

2. An accused minor may be placed under the supervision of a parent, custodian, care-giver or any other person only with the consent of the accused minor and of that person.

3. A parent, custodian, care-giver or any other person may, at any time, refuse to supervise an accused minor, if he/she is not able to guarantee his/her appropriate behaviour.

4. When taking a written assurance from a parent, custodian, care-giver or the head of the administration of a special institution for children, they shall be informed of the essence of the charges brought against the minor, the sentence that may be imposed on the accused, and the liability they will incur if the minor commits an act for the prevention of which he/she has been placed under supervision.

5. A person who supervises a minor and who fails to fulfil the obligations assumed, may not make excuses by claiming that he/she was not able to control the behaviour of the accused, except when he/she proves the existence of *force majeure*. If an accused minor breaches the conditions of the measure of restraint, the court may, upon motion of a party, impose a fine on the person who supervised the minor in accordance with Article 91(8) of this Code.

### Article 201 - (Deleted)

*Law of Georgia No 3715 of 12 June 2015 - web-site, 24.6.2015*

### Article 202 - Agreement not to leave and to behave properly

An agreement not to leave and to behave properly may be applied only for criminal offences that carry imprisonment for not more than one year.

### Article 203 - Personal surety

1. When providing personal surety, trustworthy persons shall assume a written obligation to ensure the appropriate behaviour of the accused and his/her appearance before the investigator, prosecutor, and the court.

2. The number of persons serving as sureties shall be determined by the court.

3. A personal surety may be selected only upon motion or consent of the surety, as well as with the consent of the accused.

4. The surety shall be informed of the essence of the charges for which the given measure of restraint has been selected, the sentence that may be imposed on the accused, and the liability that will be imposed on the surety if the accused commits an act for the prevention of which the personal surety has been applied. In addition, a written assurance shall be taken from each surety and attached to the criminal case files.

5. A surety may, before the grounds are detected that result in his/her liability, renounce the obligations assumed. If a surety fails to fulfil the obligation assumed, he/she may not make excuses by claiming that he/she was not able to control the behaviour of the accused, except when he/she proves the existence of *force majeure*.

6. If the accused commits an act for the prevention of which surety was applied as a measure of restraint, the court may, upon motion of a party, impose a fine on each surety, under Article 91(8) of this Code.

### Article 204 - Supervision of a military service member's behaviour by the Command

1. The accused who is performing compulsory military service, is a contracted (professional) service member or a reserve service member, may, under a court ruling, be transferred to the supervision of the command of a military unit, division, or a military establishment.

2. Supervision by the command shall mean the taking of measures provided for by the regulations of the armed forces to ensure the appropriate behaviour of the accused, or his/her appearance before the investigator, prosecutor or the court.

3. During the period of that measure of restraint, the accused may not be assigned to serve as a guard, or to perform any other responsible duty. He/she shall be deprived of the right to carry arms during peaceful times, shall not be sent to work alone outside the military unit, shall not be released from the unit and shall be supervised by the military command and superiors.

4. The command of a military unit, military division or military establishment shall be informed of the essence of the charges for which this measure of restriction was applied.

5. A court ruling on the selection, change or annulment of that measure of restraint shall be binding on the command of the military unit, military division and military establishment.

6. The command of the military unit, military division and military establishment shall inform the prosecutor or the court of the imposition of supervision.

7. A military commander (superior) supervising the accused shall be obliged to immediately inform the investigator, prosecutor, or the court of the inappropriate behaviour of the accused for the prevention of which that measure of restraint was selected. In that case, a more severe measure of restraint shall be selected upon motion of the prosecutor.

### Article 205 - Remand detention

1. Remand detention as a measure of restraint shall be applied only if it is the only means to prevent:

a) the accused from hiding and from interfering with the rendering of justice;

b) the accused from interfering with the collection of evidence;

c) the accused from committing a new crime.

2. The total term of remand detention of the accused may not exceed 9 months. After that period expires, the accused shall be released from the remand detention. The period of remand detention of the accused shall be calculated from the moment of his/her arrest, or if the accused has not been arrested, from the moment of enforcement of a court ruling on the selection of this measure of restraint, to the moment when the court of the first instance that hears the case on its merits renders the relevant judgement. ***(the normative content of paragraph 2 of this article that permits a remand detention of the accused on a specific criminal case shall be deemed invalid if after bringing the charges on this case or after revealing sufficient grounds for bringing charges, the total period of time spent by the accused in custody is 9 months within the scope of any criminal proceedings instituted against him/her)*** - Decision of the Constitutional Court of Georgia of 15 September 2015 No 3/2/646 – website, 29.9.2015.

3. The term of the remand detention of the accused before a preliminary hearing shall not exceed 60 days after he/she has been arrested. After that term expires, the accused shall be released from detention, except in the case provided for by Article 208(3) of this Code.

4. Co-defendants in the same criminal case shall be placed separately. The administration of the investigation isolator shall be obliged to take measures to prevent their interaction with each other. By decision of the investigator, prosecutor or the court, this procedure may also apply to other accused persons.

5. A convicted person may be transferred from a penitentiary facility to a remand prison or be left in a remand prison after a judgement enters into force, if that person is a witness, victim or defendant in another case.

6. If a court is located far from a penitentiary facility and the removal/transfer of the accused is complicated, under a court ruling, during a hearing, the accused may be temporarily placed in the nearest penitentiary facility or a temporary detention isolator where he/she shall be supervised by the Ministry of Corrections and Probation of Georgia.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 560 of 19 April 2013 – web-site, 10. 5.2013.*

*Law of Georgia No 1797 of 13 December 2013 – web-site, 28.12.2013*

*Law of Georgia No 3528 of 1 May 2015 – web-site, 18.5.2015*

*Decision of the Constitutional Court of Georgia of 15 September 2015 No 3/2/646 – website, 29.9.2015*

**Article 206 - Applying, changing and annulling measures of restraint**

1. A measure of restraint shall be applied, changed and annulled according to the jurisdiction provided for by Article 20(2) of this Code. The question of applying a measure of restraint may also be reviewed at a preliminary hearing and during the main hearing, in the manner prescribed by this Code.

2. The prosecutor shall file a motion with the court requesting the application of a measure of restraint not later than 48 hours after the arrest.

3. The judge shall review the motion for a measure of restraint not later than 24 hours after it is filed. The question of the application, change and annulment of a measure of restraint shall be discussed in open court, except when there are grounds provided for by this Code for closing the session. The judge shall review the motion sitting alone, with the participation of the parties. The judge shall open the court session and announce what motion is to be reviewed, declare the names of the trial participants, and establish whether there are any challenges. The initiator of a motion shall provide reasons for the motion. Then the floor shall be given to the other party, after which, the parties may put questions to each other. Non-appearance of the parties shall not result in the adjournment of the review of a motion.

4. A party may present to the court the documents and information required for examining a motion.

5. A motion shall indicate the identification details of the accused, the essence of the charges, also any information or evidence on which the charges are based, and the measure of restraint requested. After verifying the reasonableness of the motion and the formal (procedural) and factual grounds for applying a measure of restraint, the judge shall render a reasoned ruling. When reviewing a motion for the application of a measure of restraint, the judge may, by providing relevant reasons, reject a measure of restraint indicated in the motion, or select another, less severe measure of restraint, or not use a measure of restraint at all.

6. A ruling applying, changing or annulling a measure of restraint shall indicate: the date and place of drafting the ruling, the names of the judge, prosecutor, accused and his/her defence lawyer, the essence of the charges brought, and reference to the application, change or rejection of a measure of restraint. In addition, the ruling shall indicate exactly: the essence of the ruling and the persons to whom it applies; the evidence based on which the judge was convinced of the necessity to apply, change or annul a measure of restraint; the official or authority responsible for executing the ruling; the procedure for appealing the ruling; the signature of the judge (including an electronic signature).

7. One copy of a ruling on the application, change or annulment of a measure of restraint shall remain with the court and each copy of it shall be handed over to the accused or his/her defence lawyer, investigator, prosecutor, the institution enforcing the measure of restraint, while in the case of convicted persons who have been sentenced to a non-custodial sentence or a conditional sentence, one copy of the ruling on the application, change or annulment of a remand detention as a measure of restraint shall be forwarded to the relevant territorial body of the legal entity under public law - the National Agency for the Enforcement of Non-custodial Measures and Probation.

8. A party may, according to the place of investigation, file a motion with a magistrate judge requesting the change or annulment of a measure of restraint applied against the accused. Within 24 hours after a motion is filed, the magistrate judge shall, without an oral hearing, decide the admissibility of the motion. In particular, the magistrate judge shall decide what new, essential issues have been raised that may indicate the possibility to change or

annul the measure of restraint applied. The magistrate judge shall render a ruling on the admissibility of a motion. If a motion is found to be admissible, the court shall hold an oral hearing within the time limits and in accordance with the standards established by this Code.

9. When reviewing the question of application, change or annulment of a measure of restraint, the burden of proof shall, in any event, be on the prosecutor.

10. A motion requesting remand detention may also be filed with the court, in the manner provided for by this Code, when the accused has fled. In that case, after the arrest of the accused, he/she shall be brought before the magistrate judge, according to the place of investigation, not later than 48 hours after the accused is brought to the place of investigation. This term may be extended for not more than 15 days in the case of natural calamities or other *force majeure*, as well as in the case of a sharp deterioration of the health of the accused, which shall be confirmed by a health certificate, due to which, the accused cannot be presented before the relevant court. The wanted accused, if detained in a foreign country, shall, within 48 hours after bringing him/her to the place of investigation in Georgia, be presented to the respective court. The judge shall hear the explanations of the parties, after which he/she shall make a decision on the annulment or change of a measure of restraint, or upholding it.

11. The court shall read out the operative part of ruling rendered on the issues provided for by this article. If a remand detention has been applied against the accused as a measure of restraint, the judge shall, orally, briefly inform the parties of the evidence on which that measure is based, and also explain why he/she considers that the purpose of the measure of restraint could not have been achieved with a more lenient measure of restraint.

12. (Deleted - 21.6.2011, No 4868)

*Law of Georgia No 4631 of 5 May 2011 – web-site, 19.5.2011*

*Law of Georgia No 4868 of 21 June 2011 – web-site, 6.7.2011*

*Law of Georgia No 1473 of 4 October 2013 – web-site, 16.10.2013*

*Law of Georgia No 3976 of 8 July 2015 – web-site, 20.7.2015*

### Article 207 - Procedure for appealing a ruling on the application, change or annulment of a measure of restraint

1. A ruling on the application, change or annulment of a measure of restraint may, within 48 hours after it has been made, be appealed only once by the prosecutor, the accused and/or his/her defence lawyer to the investigative board of the court of appeals. The appeal shall be filed with the court delivering the ruling, and the court shall immediately forward the appeal and related materials to the relevant court according to the jurisdiction. Appealing a ruling shall not suspend its execution.

2. The appeal shall specify the requirements that were breached when delivering the appealed decision, and demonstrate the wrongfulness of the provisions of the appealed decision. An appeal against a measure of restraint may also indicate the essential issues and evidence that were not examined or assessed by the court of the first instance in the manner prescribed by this Code, which could have affected the lawfulness of applying the measure of restraint against the person concerned.

3. The parties shall be notified of the day and time of the review of an appeal within a reasonable period.

4. The judge of an investigative board of the court of appeals shall review an appeal sitting alone, not later than 72 hours after it has been filed, in the manner prescribed by Article 206(3) of this Code. The judge shall, without an oral hearing, decide the admissibility of an appeal against a measure of restraint; in particular, the judge shall decide whether the appeal meets the requirements set by paragraphs 1 and 2 of this article, and also, whether the court of the first instance has examined and evaluated the substantial evidence in accordance with this Code, which could have affected the lawfulness of applying the measure of restraint against the person. The judge shall render a reasoned ruling on the admissibility of the appeal.

5. If an appeal is found to be admissible, the judge shall hold an oral hearing within the period and in the manner established by this Code. The judge may, without an oral hearing, review an appeal that does not concern a ruling on a measure of restraint.

6. After reviewing an appeal, copies of the ruling shall be handed over to the parties, shall be forwarded to the court that delivered the appealed decision, and to the body responsible for the execution of the ruling.

7. A ruling delivered under this article shall be final and it may not be appealed.

8. The judge shall read out the operative part of the ruling made, and briefly inform the parties of the grounds for the ruling.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 5170 of 28 October 2011 – web-site, 11.11.2011*

*Law of Georgia No 741 of 14 June 2013 – web-site, 27.6.2013*

*Law of Georgia No 3976 of 8 July 2015 – web-site, 20.7.2015*

### Article 208 - Decision of a magistrate judge on the appointment of a preliminary hearing

1. Unless a plea bargain has been entered into between the parties, the magistrate judge shall, after hearing the opinions of the parties, determine a date for a preliminary hearing.

2. When determining a date of a preliminary hearing, a magistrate judge shall take into consideration the opinion of the parties, the complexity and volume of the case. The judge shall allow parties sufficient time and means to prepare the defence and the accusation.

3. A preliminary hearing shall be held not later than 60 days after a person has been arrested or indicted (if the person has not been detained). A party may file a reasoned motion with the court requesting the extension or reduction of the above period by a reasonable period, and it shall notify the other party accordingly. The other party may submit in writing its opinions to the court within 3 days after a motion is filed. After this period expires, the court shall review a motion without an oral hearing. The decision made may not be appealed.

4. If a remand detention has been applied against the accused as a measure of restraint, and if a motion is granted to extend the period for holding the preliminary hearing according to paragraph 3 of this article, not later than 72 hours after the motion is granted, the court shall summon the parties to establish the necessity of leaving the remand detention in force. When deciding the given issue, the court shall act in accordance with the procedure and standards set out in Article 206 of this Code.

*Law of Georgia No 3891 of 7 December 2010– LHG I, No 67, 9.12.2010, Article 418*

*Law of Georgia No 3976 of 8 July 2015 – web-site, 20.7.2015*

## Chapter XXI - Plea Bargain

### Article 209 - Essence of plea bargaining

1. A plea bargain under which the accused pleads guilty and agrees with the prosecutor to a sentence, to mitigation or to partial removal of charges.

2. When entering into a plea bargain, the accused may, in addition to the terms stipulated by paragraph 1 of this article, agree with the prosecutor to collaboration and/or to indemnification of damages.

3. (Deleted - 24.7.2014, No 2517).

4. (Deleted - 24.7.2014, No 2517).

5. (Deleted - 24.7.2014, No 2517).

6. (Deleted - 24.7.2014, No 2517).

7. (Deleted - 24.7.2014, No 2517).

*Law of Georgia No 2517 of 24 July 2014 – web-site, 6.8.2014*

### Article 210 - Entering into a plea bargain

1. A plea bargain shall be entered into with a preliminary written agreement with a superior prosecutor.

$1^1$. A plea bargain may be offered either by the accused/convicted person or by the prosecutor. When considering a case, the court shall be authorised to determine whether it is possible for the parties to enter into a plea bargain.

$1^2$. When entering into a plea bargain, the prosecutor shall be obliged to warn the accused about the consequences of the plea bargain, and explain to him/her that if a plea bargain is entered into, the court will render a judgement of conviction without direct and oral examination of evidence, and that the plea bargain will not release the accused from civil and other liabilities.

$1^3$. In exceptional cases, the Chief or Deputy Chief Prosecutor of Georgia may file a motion with the court requesting full or partial release of the accused from civil liability. In that case, the State shall be held liable for civil damages.

2. Based on a plea bargain, a prosecutor may request the reduction of the sentence for the accused, or in the case of multiple offences, make a decision to mitigate or partially removal the charges.

3. When requesting a reduction of a sentence, or when making a decision to mitigate or partially remove the charges against the accused, the prosecutor shall take into account the public interest, which he/she shall determine based on the legal priorities of the State, the crime committed and the gravity of the potential sentence, the nature of the crime, the degree of culpability, public danger posed by the accused, personal characteristics, record of conviction, collaboration with the investigation, and the assessment of the conduct of the accused with respect to the indemnification of damages caused as a result of the crime.

4. A plea bargain may not be entered into without direct involvement of the defence lawyer or without the prior consent of the accused.

5. It is impermissible to enter into a plea bargain that restricts the right of the accused to request the commencement of criminal prosecution against the relevant persons in the case of torture, or inhuman or degrading treatment.

6. A record shall be drawn up on a plea bargain, which shall reflect the process of negotiations between the accused and the prosecutor (a plea bargain record). A copy of the plea bargain record shall be handed over to the accused and to his/her defence lawyer. The accused and his/her defence lawyer may express their remarks on the plea bargain record. The remarks shall be attached to the record. The plea bargain record shall be signed by the prosecutor, the accused and his/her defence lawyer, also by a legal representative (if any) of the accused.

*Law of Georgia No 2517 of 24 July 2014 – web-site, 6.8.2014*

**Article 211 - Form of a motion to render judgement without main hearing**

1. If the prosecutor, the accused and his/her defence lawyer agree to enter into a plea bargain, the prosecutor shall prepare a written motion, which shall include:

a) the name, surname and the day, month and year of birth of the accused;

b) formulation of charges - a description of the incriminating action, indicating the location, time, way, means, instrument of its commission, as well as its consequences;

c) evidence sufficient to render a judgement without a main hearing on the case provided for by Article $11^1$(3) of this Code;

d) in the case of collaboration of the accused with the investigation, the form and content of the collaboration;

e) the article, paragraph and sub-paragraph of the Criminal Code of Georgia stipulating the crime in question;

f) the type and extent of sentence requested by the prosecution;

g) reference to the warning stipulated by Article 210($1^2$) of this Code or to a reasoned decision of the Chief or Deputy Chief Prosecutor of Georgia stipulated by paragraph $1^3$ of the same article.

2. A motion of the prosecutor requesting the court to render judgement without a main hearing shall be accompanied by a written application signed by the accused and his/her defence lawyer. The application of the accused shall demonstrate that the accused, after receiving legal aid from his/her defence lawyer, voluntarily agrees to the rendering by the court of a judgement without a main hearing. In addition, the accused shall fully understand the contents of the plea bargain and the legal consequences of the expected judgement; a note to that effect shall be made in the application of the accused.

3. A motion of a prosecutor requesting the court to rendering a judgement without a main hearing shall be signed by the prosecutor, the accused and his/her defence lawyer, as well as by the legal representative (if any) of the accused.

4. (Deleted - 24.7.2014, No 2517).

5. (deleted - 11.3.2011, No 4430)

6. A motion of the prosecutor requesting the court to render a judgement without a main hearing and a plea bargain record shall be publicly available, except for the part that contains information provided by the accused to the investigation. The information provided by the accused to the investigation shall be available only to the persons that signed the information and to the court, as well as to the accused person (his/her defence lawyer) about whom another accused person provides incriminating information to the investigation on the basis of a plea bargain. The contents of the above plea bargain shall be made fully available to that accused person (his/her defence lawyer).

7. A plea bargain record shall be attached to the motion of a prosecutor requesting the court to render a judgement without a main hearing.

*Law of Georgia No 4430 of 11 March 2011 – web-site, 22.3.2011*

*Law of Georgia No 2517 of 24 July 2014 – web-site, 6.8.2014*

**Article 212 - Review of the motion of a prosecutor requesting the court to render a judgement without a main hearing**

1. A plea bargain shall be entered into in writing and be approved by the court. A plea bargain shall be reflected in the judgement rendered by the court.

2. The court shall be obliged, before approving a plea bargain, to make sure that:

a) the plea bargain has been entered into without torture, inhuman or degrading treatment or other violence, threat, deception or any unlawful promise;

b) the plea bargain has been entered into voluntarily and the accused voluntarily pleads guilty;

c) the accused is fully aware of the legal consequences of the plea bargain, including the legal consequences of conviction;

d) the accused had the opportunity to receive qualified legal aid;

e) the accused is fully aware of the nature of the offence of which he/she is accused;

f) the accused is fully aware of the sentence foreseen for the crime to which he/she pleads guilty;

g) the accused is aware of all the statutory requirements and plea bargain requirements with respect to a guilty plea;

h) the accused is aware that if the court does not approve the plea bargain, any information provided by him/her to the court during the review of the plea bargain may not be used against him/her in the future;

i) the accused is aware that he/she has the right to:

i.a) a defence;

i.b) reject a plea bargain;

i.c) have the case heard on the merits by the court;

j) the accused agrees with the factual grounds of the plea bargain with respect to the guilty plea;

k) the plea bargain contains all the conditions of the agreement reached between the accused and the prosecutor;

l) the accused and his/her defence lawyer are fully familiar with case materials.

3. The judge shall be obliged to inform the accused that a complaint about being subjected to torture, inhuman or degrading treatment filed by the accused will not interfere with the approval of the plea bargain concluded in compliance with the law.

4. (Deleted - 24.7.2014, No 2517).

5. The judge shall deliver a decision on a plea bargain based on law and shall not be obliged to approve the agreement reached between the accused and the prosecutor.

*Law of Georgia No 2517 of 24 July 2014 – web-site, 6.8.2014*

**Article 213 - Court decision to render judgement without a main hearing**

1. A court may, after reviewing a motion to render a judgement without a main hearing, deliver a decision to render judgement without a main hearing, to return the case to the prosecutor or to hear the case on the merits in accordance with this law.

2. A decision to render judgement without a main hearing shall be made by the court according to the jurisdiction over the relevant criminal case.

3. A court shall, based on case materials and on the guilty plea of the accused, check whether the charges are reasoned, whether there are circumstances stipulated by this Code and whether the sentence indicated in a prosecutor's motion to rendering judgement without a main hearing is lawful and fair.

$3^1$. A court shall not approve a plea bargain if it considers that it did not receive convincing answers as to the circumstances provided for by Article 212(2) of this Code.

4. If a court considers that sufficient evidence, as prescribed by Article $3(11^1)$ of this Code, has been provided to render a judgement without a main hearing, and that it has received convincing answers as to the circumstances stipulated by Article 212(2) of this Code, and the sentence requested is lawful and fair, the court shall decide to render judgement without a main hearing. The above judgement shall be rendered within 15 days after the prosecutor files the relevant motion.

5. If a prosecutor's motion for rendering judgement without a main hearing is reviewed before a preliminary hearing and the court considers that a plea bargain has been entered into as a result of torture, inhuman or degrading treatment or other violence, threats, deception or any other illegal promise, it shall transfer the case to a superior prosecutor. The superior prosecutor shall task another prosecutor with the conduct of prosecutorial activities.

6. The court may make amendments to a plea bargain only with the consent of the parties.

$6^1$. If the court considers that there is insufficient evidence, as provided for by Article $3(11^1)$ of this Code, to render a judgement without a main hearing, or establishes that a motion of the prosecutor requesting the rendering of judgement without a main hearing has been filed in violation of other requirements of this Chapter, it shall return the case to the prosecutor. Before returning the case to the prosecutor, the court, during the review of the motion at a court session, shall offer to the parties to alter the terms of the plea bargain, which shall be agreed with a superior prosecutor. If the court is dissatisfied also with the altered terms of the plea bargain, it shall return the case to the prosecutor.

7. The accused may, any time before the court renders judgement without a main hearing, reject the plea bargain. That rejection shall not require an approval of the defence lawyer. A plea bargain may not be rejected after a judgement is rendered.

8. The parties may, before a court renders a judgement without a main hearing, alter the terms of the plea bargain.

*Law of Georgia No 3891 of 7 December 2010– LHG I, No 67, 9.12.2010, Article 418*

*Law of Georgia No 4631 of 5 May 2011 – web-site, 19.5.2011*

*Law of Georgia No 5170 of 28 October 2011 – web-site, 11.11.2011*

*Law of Georgia No 2517 of 24 July 2014 – web-site, 6.8.2014*

**Article 214 - Admissibility of evidence obtained as a result of a plea bargain in the case of annulment of a court judgment on the approval of a plea bargain**

If a court annuls a court judgement approving a plea bargain, or the accused himself/herself rejects a plea bargain, the testimony provided by the accused may not be used against the accused.

**Article 215 - Entry into force and appeal of a court judgement approving a plea bargain**

1. A court judgement on cases provided by this Chapter shall enter into force upon its announcement, and shall be appealed in cases and in the manner prescribed by this article.

2. A party may, within 15 days, appeal the court's refusal to approve a plea bargain to the court of a higher instance.

3. A convicted person may, within 15 days after a judgement provided for by this Chapter has been rendered, file an appeal to a court of a higher instance requesting the annulment of a court judgement on the approval of a plea bargain, if:

a) the plea bargain has been entered into by coercion, threat, violence, intimidation or deception;

b) the right of defence of the accused has been restricted;

c) the plea bargain has been entered into in such a way that there was insufficient evidence, as provided for by Article 3(11[1]) of this Code, to render judgement without a main hearing.

d) if the court hearing the case has ignored the substantial requirements provided for by the Criminal Code of Georgia and by this Chapter.

4. If the accused has breached the terms of a plea bargain, the prosecutor may, within a month after the breach has been detected, file an appeal with a court of a higher instance requesting annulment of the judgement approving the plea bargain.

5. When a court judgement approving a plea bargain is annulled in cases provided for by paragraphs 3 and 4 of this article, the court shall return the case to the prosecutor.

*Law of Georgia No 2517 of 24 July 2014 – web-site, 6.8.2014*

**Article 216 - Service of a judgement**

Within 3 days after a judgement is rendered, the accused, his/her defence lawyer and the prosecutor shall be served with the copies of the judgement.

*Law of Georgia No 4631 of 5 May 2011 – web-site, 19.5.2011*

**Article 217 - Rights of a victim in the case of a plea bargain**

1. The prosecutor shall, before entering into a plea bargain, consult the victim and notify him/her of the conclusion of the plea bargain, and prepare the relevant record.

1[1]. When the court approves a plea bargain, the victim may provide information to the court in writing, or to the judge, orally, at a court session, on the damage that he/she has sustained as a result of the crime.

2. A victim may not appeal the plea bargain.

3. A plea bargain shall not deprive a victim of the right to file a civil claim.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 2517 of 24 July 2014 – web-site, 6.8.2014*

**Article 218 - Full release of the accused from liability or sentence and revision of a sentence prescribed for a person sentenced to imprisonment**

1. In special cases, when, as a result of collaboration of the accused/convicted person with investigative authorities, the identity of an official who has committed a crime, and/or of a person who has committed a serious or particularly serious offence, is established, and the direct assistance of the accused/convicted person contributes to the creation of essential conditions for solving the crime, the Chief Prosecutor of Georgia may file a motion with the court requesting full release of the accused from liability or sentence or a revision of the sentence of the convicted person.

2. The grounds for the motion referred to in paragraph 1 of this article shall be a plea bargain on special collaboration entered into between the accused/convicted person and the Chief Prosecutor of Georgia.

3. When concluding a plea bargain on special collaboration, the Chief Prosecutor of Georgia shall take into account the public interest, which he/she shall determine based on the assessment of circumstances stipulated by Article 210(3) of this Code. The outstanding sentence shall also be taken into account when determining the public interest with regard to the convicted person. A plea bargain on special collaboration shall be concluded only when a crime is solved as a result of this collaboration and the public interest to solve this crime prevails over the interest to hold the person liable, to impose a sentence on him/her or to have the person serve the sentence.

4. A plea bargain on special collaboration shall indicate that if the accused/convicted person does not collaborate with investigative authorities, the agreement shall be considered void in accordance with the terms of the plea bargain.

5. A plea bargain on special collaboration shall be signed by the accused/convicted person, his/her defence lawyer and the Chief Prosecutor of Georgia.

6. If a motion for a full release of the convicted person from the sentence is granted, the accused shall be considered as previously convicted.

7. If a motion for the revision of a sentence imposed on a convict is granted, the court shall make the respective decision to reduce the term of sentence, to change the type of the sentence or to fully release the convict from the sentence.

8. The accused/convicted persons may not be fully released from a sentence for criminal offences provided for by Articles 144 [1]–144 [3]of the Criminal Code of Georgia.

9. A motion for the revision of a sentence imposed on the convict shall be reviewed by the court of the first instance that has passed that judgement. The court may hear this motion without an oral hearing.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 4789 of 17 June 2011 – web-site, 28.6.2011*

*Law of Georgia No 2517 of 24 July 2014 – web-site, 6.8.2014*

## Section VI.

## Preliminary and Main Hearings

## Chapter XXII - Preliminary hearing

### Article 219 - Preliminary hearing

1. If, after the accused is brought before a magistrate judge, the charges have been altered, the judge shall, at the preliminary hearing, inform the accused of the essence of the charges and the sentence stipulated for those charges.

2. At a preliminary hearing the judge shall inquire whether the accused pleads guilty to the charges brought, and to what extent, and about the possibility of entering into a plea bargain. In that case, the provisions regarding a plea bargain stipulated by this Code shall be applied.

3. If the accused is charged with the commission of a crime subject to a jury trial, the judge shall be obliged to explain to the accused the provisions of the jury trial and the related rights of the accused. After that, the judge shall find out whether the accused agrees to have the case tried by a jury. If the accused does not reject a jury trial, the judge shall set a date for the jury selection session.

4. A judge of the preliminary hearing shall:

a) review motions of the parties regarding the admissibility of evidence;

b) review motions for the application, change or annulment of a measure of restraint in accordance with the rules and standard established by Article 206 of this Code. If an accused person has been sentenced to remand detention, the judge shall, on his/her own initiative, review, at the first preliminary hearing, the necessity to leave the remand detention in force, regardless of whether the party has filed a motion for change or annulment of the remand detention. After that, the court shall, on its own initiative, review, at least once in two months, the necessity to leave the remand detention in force;

c) review motions to secure procedural confiscation;

d) review other motions of the parties;

e) decide on referring a case for a main hearing.

5. A case may be referred for a main hearing if a court is convinced that the evidence provided by the prosecutor provides grounds to believe with high probability that the person committed the crime.

6. If the evidence provided by the prosecutor does not provide grounds to believe with high probability that the crime has been committed by that person, the judge of the preliminary hearing shall terminate the criminal prosecution by a ruling. The ruling may be appealed only once to the investigative board of the court of appeal, within 5 days after it has been delivered. The judge shall review the appeal with or without an oral hearing. If the investigative board of the court of appeal annuls the ruling of the judge of the preliminary hearing, it shall return the case to the chairperson of the district (city) court that delivered the appealed decision. The chairperson shall ensure the holding of a preliminary hearing to solve the issues stipulated by Article 220 of this Code.

7. The decision of the judge of the preliminary hearing on the recognition of evidence as inadmissible may be appealed only once, within 5 days, through the court that delivered the decision. The court shall immediately refer the appeal, case materials and the record of the preliminary session to the court of appeal. The judge of the investigative board of the court of appeal shall, with or without oral hearing, review the appeal within 5 days after it has been received;

*Law of Georgia No 3090 of 19 February 2015 – web-site, 6.3.2015*

*Law of Georgia No 3976 of 8 July 2015 – web-site, 20.7.2015*

### Article 220 - Preparation for the main hearing

To prepare for the main hearing, the judge of the preliminary hearing shall, with the participation of the parties:

a) determine the date of the commencement of the main hearing:

b) send summons to persons who are to be invited to the main hearing;

c) approve a list of evidence to be provided by the parties, as well as a list of the evidence received form them, which the parties do not contest;

d) inform in writing an accused person, who is not in custody, of the consequences of non-appearance at the main hearing:

e) take any other measures to prepare for the main hearing.

### Article 221 - Compiling a list of prospective jurors

1. Before a jury selection session, the judge, after hearing the opinions of the parties, shall, on a random basis, compile a list of prospective jurors from the unified list of citizens who have attained the age of 18. The list shall include not more than 300 candidates. A randomly chosen ordinal number shall be assigned to each prospective juror. A questionnaire approved by the judge shall be sent to the prospective jurors at their home address at least 20 days prior to the jury selection session. The questionnaire shall be approved by the judge after consultation with the parties. A prospective juror shall, within 5 days, return the completed questionnaire to the judge. The judge shall, within 5 days, hand the questionnaire in to the parties.

2. The Public Service Development Agency shall annually, but not later than 1 July, submit the unified list of citizens who have attained the age of 18 to the relevant court.

3. The court shall be obliged to notify the parties of the place and time of selection of jurors. The parties may attend the jury selection procedure. A party may, only once, within 24 hours, appeal an unlawful decision or action of the presiding judge of the jury selection trial. The appeal shall be filed with the chairperson of the court hearing the case. The chairperson shall, without an oral hearing, decide the appeal by a ruling within 24 hours after it has been filed.

4. The list of prospective jurors selected in accordance with paragraph 1 of this article shall indicate the names and surnamed of the prospective jurors. The list shall be signed by the presiding judge. Copies of the list of prospective jurors shall be given to the parties.

5. Before the jury selection session, a notice shall be sent to prospective jurors indicating the time and place of the session and the obligation to appear. The summons to attend the first jury selection session shall be sent to not more than the first 150 prospective jurors on the list of prospective jurors defined in this article, by their respective ordinal numbers.

6. If there are reasons for challenge determined under Article 30 of this Code, a prospective juror shall, within 2 days after the receipt of the court notice, inform the court accordingly.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 6317 of 25 May 2014 - web-site, 19.6.2012*

*Law of Georgia No 5591 of 24 June 2016 – web-site, 13.7.2016*

### Article 222 - Jury selection session

1. A jury selection session shall be an open session. The presiding judge may make a decision on holding a closed session in cases provided for by Article 182 of this Code. The presiding judge shall open the court session after which the secretary of the session shall announce the identities of prospective jurors.

2. Even if less than 50 prospective jurors appear before the court, the judge shall be authorised to start the session and the jury selection procedure.

3. The presiding judge shall:

a) introduce himself/herself and the secretary of the session;

b) address the prospective jurors and inform them of the purpose of the summon;

c) announce the case to be heard, and familiarise the prospective jurors with the content of the charges;

d) inform the prospective jurors about the law that will be used during the case hearing;

e) announce the parties to the hearing;

f) determine the duration of the session, and other procedural issues.

4. The court shall provide prospective jurors with instructions on the applicable law prepared with the participation of the parties.

*Law of Georgia No 5591 of 24 June 2016 – web-site, 13.7.2016*

### Article 223 - Jurors selection, challenge and self-challenge

1. A party may file a motion to challenge a prospective juror, which may be either reasoned or peremptory. A party shall have the right to file motions on an unlimited number of reasoned challenges and a definite number of peremptory challenges. The parties shall first file motions on reasoned challenges, and then file motions on peremptory challenges. The right to each type of challenge shall be exercised by the parties separately and in turn, first by the prosecution, then by the defence.

2. The judge shall examine all circumstances that may serve as grounds for challenging (self-challenge) of prospective jurors, and allow the parties to put questions to the prospective jurors and submit additional materials in support of the challenge.

3. The judge may request the parties to preliminarily submit to him/her the questions that they are going to put to prospective jurors; this shall not restrict the parties to put clarifying questions. The presiding judge shall determine for the parties and prospective jurors a reasonable period to put and answer questions.

4. A prospective juror shall be obliged to provide correct and comprehensive answers to the questions put to him/her, provide other required information about himself/herself and about his/her relations with the participants of the case to be heard, also about all those circumstances that may prevent the candidate from considering the case in an objective and unbiased manner.

5. The questions put to a prospective juror shall not encroach upon his/her personal details, professional and/or commercial secrets, except when it is required in the interest of justice. A prospective juror may be requested to provide this information only upon a reasoned request of a party. If the disclosure of that information may inflict irreparable damage to the interests of the prospective juror, the prospective juror shall provide information only to the presiding judge and the parties directly.

6. (Deleted - 24.6.2016, No 5591).

7. A prospective juror may file a motion with the judge requesting self-challenge, and indicate circumstance that will prevent him/her from fulfilling the duties of a juror. A declaration of self-challenge shall be reasoned. The parties may express their opinions regarding the self-challenge of a prospective juror.

8. The judge shall render a reasoned judgement as a result of filing a motion on self-challenge on the part of a prospective juror. The judge shall hear motions for challenge separately, with the participation of the prosecutor and defence lawyer only, and the persons attending the session shall not leave the court room. The challenged prospective juror shall leave the court room.

9. If after the first jury selection session all the jury was not selected, the judge shall, for not more than 10 days, adjourn the session and invite the remaining prospective jurors from the list of prospective jurors indicated in Article 221 (1) of this Code. If after self-challenges and challenges the number of prospective jurors on the list is fewer than 14, the judge shall, for not more than 10 days, adjourn the session again and additionally invite not more than 100 prospective jurors, in the manner provided for by this Chapter, to fill the list of the jury up to the number established under this Code.

10. If the charges stipulate life imprisonment, each party shall have 10 peremptory challenges. In other cases, a party shall have 6 peremptory challenges.

11. If there are several defendants in the case, each of them shall have three peremptory challenges. The same right shall be given to the prosecution. If any of the accused persons does not use to the full his/her quota for declaring challenges, the right to use that quota shall be granted to another defendant in the same case. In that case, the prosecution shall have as many peremptory challenges as were used by all the defendants in total.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 6328 of 25May 2012 – web-site, 12.6.2012*

*Law of Georgia No 3990 of 10 July 2015 – web-site, 17.7.2015*

*Law of Georgia No 5591 of 24 June 2016 – web-site, 13.7.2016*

### Article 224 - Appointing prospective jurors as jurors

1. The presiding judge shall appoint as jurors 12 of the prospective jurors remaining after the challenge procedures and two prospective jurors shall participate in the case hearing as reserve jurors. Based on the complexity of the case, the judge may decide to approve more reserve jurors. That decision shall be entered in the record of the court session.

2. A reserve juror shall attend the court session but he/she may not express his/her opinion, influence jurors or attend the court deliberation. A reserve juror shall participate in the court deliberation and voting only if he/she has replaced a juror in cases and in accordance with the procedure provided for by Article 232 (1) of this Code. In such a case a court deliberation shall start from the beginning.

3. After the completion of the jury selection procedure, the presiding judge shall set a day for case hearing, which shall be not later than the third day after the completion of that procedure.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 5591 of 24 June 2016 – web-site, 13.7.2016*

## Chapter XXIII – Main Court Hearing

**Article 225 - Time of the commencement of the main court hearing**

The main court hearing (except cases when the jury participates in the case hearing) shall start not later than 14 days after completion of the preliminary hearing, unless the court, upon a motion of a party, determines any other period.

*Law of Georgia No 5591 of 24 June 2016 – web-site, 13.7.2016*

**Article 226 - Jury trial**

1. The case shall be heard by a jury if the charges are brought under Articles 108 (completed) and 109 (completed), Article 117(2), (4), (6) and (8), Article 126(2), Article $135^1$, Article 143(2-4), Articles $143^1$ and $143^2$ , Article $143^3$ (2-4), Articles 144–$144^2$, Article $144^3$(2), Article 146(2), Articles 147 and 149, Article 197(4), Article 198(3), Article 229 of the Criminal Code of Georgia.

2. The accused shall have the right to request that the case be heard without the participation of a jury. In such a case, the case shall be heard by a judge of a district (city) court.

3. The composition of the jury shall ensure its independence and impartiality.

4. If a fair and objective review of a case cannot be ensured, taking into account its intensive coverage by mass media, or the attitude of the population residing in a specific territory towards the case, the court hearing the case may, based on a motion of a party, with the consent of the Chairperson of the Supreme Court of Georgia, rule to transfer the jury trial to another court provided for by Article $21^1$ of this Code.

*Law of Georgia No 5170 of 28 October 2011 – web-site, 11.11.2011*

*Law of Georgia No 5591 of 24 June 2016 – web-site, 13.7.2016*

**Article 227 - Presiding judge**

The presiding judge shall preside over the main hearing.

**Article 228 - Appearance of the parties and witnesses**

1. The parties shall ensure the appearance of their witnesses before the court.

2. If a party does not intend to interrogate a person in court as a witness, the court may not summon and interrogate that person on its own initiative.

3. The secretary of the court session shall announce to the court the appearance of the parties and witnesses or the reasons for their non-appearance.

4. The presiding judge shall warn the trial participants and persons attending the proceedings about the binding nature of the instructions of the court and the possible measures that may be applied against those who disturb order at the court session.

5. After the verification of appearance, persons who are to be interrogated as witnesses, except for the accused, shall leave the court room. The presiding judge may order that the above persons be taken to the room designated for them, and shall take measures to prevent their communication with each other before their examination.

**Article 229 - Announcement of the composition of the court. Making decisions on the exclusion of trial participants from the case and on challenges filed against trial participants**

1. The presiding judge shall announce the composition of the court, as well as the names of persons who support the charges and of the persons who defend, and ask the parties whether they have any grounds for challenging the judge, prosecutor, defence lawyer, secretary of the session, interpreter or other trial participants.

2. The presiding judge shall inform the parties that they have the right to challenge individual judges as well as the entire composition of the court.

3. The presiding judge shall inform the trial participants of their rights and obligations.

**Article 230 - Establishing the identity of the accused by the presiding judge and informing the defendant of his/her rights**

1. The presiding judge shall establish the identity (name, surname, year, month, day of birth and birth place) of the accused and inform him/her about his/her rights, the content of the charges, the qualification of incriminating action, the minimum and maximum sentences stipulated by the Criminal Code of Georgia, taking into account mitigating and aggravating circumstances. The presiding judge shall also inform the accused that it is his/her right to testify regarding the charges as a witness. If there are several accused persons in the case, such explanation shall be given to each of them.

2. The presiding judge shall inquire whether the accused pleads guilty, and if he/she does, to what extent. It shall be explained to the accused that he/she is not bound by his/her plea of guilty or not guilty, also that he/she is not obliged to answer questions posed, and that his/her exercise of the right to silence cannot be used against him/her.

3. The presiding judge shall inquire about the possibility of entering into a plea bargain. In that case, the provisions for a plea bargain stipulated by this Code shall be applied.

### Article 230[1] - Deciding the question of remand detention during the main hearing

1. If the accused has been remanded to custody, before delivering the judgement, periodically, at least once in two months, the presiding judge shall, on his/her own initiative, review the necessity of leaving the accused in custody. This two-month period shall start from the day when the pre-trial judge makes a decision to leave the remand detention in force. When deciding the issue provided for by this paragraph, the court shall be guided by the procedure and standard established by Article 206 of this Code.

2. The procedure determined by paragraph 1 of this article shall also apply if the period for starting the main hearing specified by Article 225 of this Code and upon motion of a party, exceeds two months.

*Law of Georgia No 3976 of 8 July 2015 – web-site, 20.7.2015*

### Article 231 - Instructions provided by the presiding judge to the jury

1. Upon the opening of a court session and before retiring to the deliberation room, the presiding judge shall instruct the jury on the applicable law. The instructions of the presiding judge may not contradict the Constitution of Georgia, this Code and other normative acts of Georgia. Those instructions shall be given to the jurors in writing as well.

2. Those instructions shall be given in writing to the parties a reasonable time in advance. They may file a motion with the presiding judge for making amendments and additions to the instructions. If the parties do not exercise that right before the jury retires to the deliberation room, the fairness and lawfulness of the instructions of the presiding judge may not serve as grounds for a cassation appeal.

3. The presiding judge may, before the jury retires to the deliberation room, briefly inform the jurors of the procedure for assessing all pieces of evidence discussed at the session. The presiding judge shall provide such information as prescribed by paragraph 2 of this article. When instructing the jury, the presiding judge may not express, in any way, his/her personal opinion on the issues to be decided by the jury.

4. The presiding judge shall inform the jurors:

a) of the contents of the charges and their legal grounds;

a[1]) of the necessity of confirming that the accused committed an act for which guilt is imputed to him/her, including proving the presence of each element of objective corpus delicti of the act; the essence and meaning of intent and negligence; circumstances excluding unlawfulness and/or guilt;

b) of the general procedure for evaluating evidence;

c) of the concept of the presumption of innocence, and of the condition that any reasonable doubt is to be resolved in favour of the accused, as well as the meaning of the standards of reasonable doubt;

d) that a verdict of guilt shall be based on the law on which they were instructed by the presiding judge and on the body of evidence excluding reasonable doubt, examined during the court hearing;

e) that during a session, the jurors may make and use notes;

f) that the verdict must be based only on the evidence examined during the trial; that no evidence shall be taken into account upon the instructions of another person; that the verdict shall not be rendered based on assumptions or inadmissible evidence;

g) the procedure for rendering a verdict on each charges brought;

h) that at first, a verdict of not guilty on all charges brought shall be voted on. If the verdict cannot be reached, a verdict of guilt shall be voted on in the ascending order of the gravity of the charges;

i) that they must sign only one of the forms of verdict presented for each charge - not guilty or guilty verdict form.

5. The presiding judge shall finish his/her instructions by reminding the jurors that they have taken an oath.

6. After hearing the instructions of the presiding judge, the jurors may put questions in writing to the presiding judge. Additional instructions shall be provided in the manner prescribed by paragraph 1 of this article.

7. The presiding judge shall, on the grounds of a motion of a party, explain to the jurors that the accused may have committed a relatively less serious crime, the elements of corpus delicti of which are included in the crime specified by the charges brought. In this case, a guilty verdict form shall be additionally presented to jurors in accordance with paragraph 4(i) of this article, and the judge shall explain to them what are the common features and what is the difference between the crime specified by the charges brought and another, relatively less serious crime.

*Law of Georgia No 5591 of 24 June 2016 – web-site, 13.7.2016*

### Article 232 - Replacing a juror with a substitute juror

1. If, during a court hearing it appears that a juror is not able to fulfil his/her duty, or grounds for his/her challenge have been revealed, or a juror has violated the requirements of this Code, the presiding judge shall release that juror from his/her duty and replace him/her with the substitute juror next in the list of jurors.

2. If the number of jurors is less than the number determined under this Code, the presiding judge shall start a new selection of jurors, and the case hearing shall start from the beginning, in the manner prescribed by this Code.

### Article 233 - Jury foreperson

1. The presiding judge shall appoint a jury foreperson from among the panel of jurors by drawing lots.

2. A jury foreperson shall preside over the deliberations of the jury, apply in writing on behalf of that jury to the presiding judge with questions, sum up the results of voting, draft relevant documents, sign the verdict and announce it at the court session.

3. If the jury foreperson is dismissed, the jury shall elect a new jury foreperson from among its panel by drawing lots.

### Article 234 - Taking an oath by jurors and substitute jurors

1. After the appointment (election) of the jury foreperson, the jurors shall take an oath. The presiding judge shall read out the text of the oath: "I swear to fulfil the duty of a juror honestly and impartially, take into consideration all lawful evidence, make a decision based on my inner belief as befits a fair person!".

2. After reading out the text of the oath, in the order as they appear on the list of jurors, every juror shall say: "I Affirm!"

3. Substitute jurors shall take an oath in the same manner.

4. The procedure for taking an oath shall be included in the record of the court session.

5. Jurors shall stand when taking an oath.

6. After the jurors take an oath, the presiding judge shall inform them of their rights and obligations.

### Article 235 - Rights of jurors

1. A juror may, in response to his/her written application, receive:

a) instructions of the court on the law to be applied;

b) preliminary information on the circumstances of the case and on the evidence subject to examination;

c) additional clarifications during a court session:

from the presiding judge - on the applicable law, from a witness - on factual circumstances, from a party - regarding their closing arguments;

d) an additional clarification from the judge on the applicable law during the jury deliberations.

2. The judge shall inform the jurors of their right to make notes during a session. Before retiring to the deliberation room, the jurors shall be given the record of the court session, except for the parts which concern inadmissible evidence.

### Article 236 – Duties of jurors (substitute jurors, prospective jurors)

1. Jurors and substitute jurors may not:

a) leave the court room during the hearing;

b) disclose information obtained during the case hearing, or express one's own opinion on the case to be heard, before rendering the verdict;

c) communicate with anyone, other than the presiding judge, on the circumstances of the case to be heard;

d) obtain information related to the case outside of the trial;

e) breach the confidentiality of the deliberations and voting of the jury trial;

f) disturb the order in the court building and ignore the respective instructions of the presiding judge.

2. A juror shall be obliged to attend the case related court sessions and the deliberations of the jury.

3. The failure of a juror (prospective juror) to fulfil the procedural duty determined by this Code shall incur a liability as prescribed by the legislation of Georgia.

4. The presiding judge shall warn the jurors about possible penalties, and also inform them that, in the case of failure to fulfil their procedural obligations, the presiding judge will, on his/her own initiative or upon motion of a party, discharge them from the duty to act as jurors.

*Law of Georgia No 5170 of 28 October 2011 – web-site, 11.11.2011*

### Article 237 - Requirement to inform jurors about the existence of a plea bargain

The presiding judge shall inform the jurors about the existence of a plea bargain on issues that are essentially related to the case under consideration.

### Article 238 - Prior conviction of the accused

Before the announcement of the verdict, the jurors shall not be notified of a previous criminal or administrative liability or conviction of the accused (unless this constitutes one of the qualifying elements of the charges brought, and/or is intended to verify the reliability of the testimony of the accused), nor of any other evidence that is not related to proving the charges.

### Article 239 - Filing and deciding motions

1. The presiding judge shall enquire whether the parties intend to file a motion stipulated by this article. Similar motions shall be filed together with the court. A person filing a motion shall be obliged to indicate the circumstances that need to be established under the motion.

2. When providing additional evidence during the main hearing, the court shall, upon motion of a party, review its admissibility, and enquire about the reason for failure to provide the evidence before the main hearing, based on which he/she shall make a decision whether or not to admit the evidence.

3. During jury trials the admissibility of evidence shall be decided without the participation of the jury.

4. If presented additional evidence is admitted in the case, the court may, upon motion of a party, adjourn the case hearing for a reasonable period if a party needs additional time to prepare his/her defence or prosecution.

5. A motion for obtaining substantially new evidence during the main hearing shall be granted if obtaining such evidence or filing such a motion in the manner provided for by this Code was objectively impossible before. If the motion is granted, evidence shall be obtained in the manner prescribed by this Code.

6. The evidence provided for by this article shall be examined in accordance with the general procedures established by this Code, taking into account the specifics of the main hearing.

### Article 240 - Case hearing in the absence of trial participants

1. If any of the trial participants fails to appear, the presiding judge shall, in the manner established by this Code, make a decision to continue or adjourn the main hearing. If a trial participant fails to appear without valid excuse, the presiding judge shall, by an order, impose a fine on him/her in the amount from GEL 100 to GEL 500, which shall not release the trial participant from the obligation to appear. The order shall not be appealed. A party may file a motion with the court requesting to compel the appearance of a person summoned.

2. If the main hearing is adjourned, the court shall enquire with the parties about the possibility to examine a witness who has appeared. A witness examined in this manner shall be summoned upon motion of a party only as required.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 741 of 14 June 2013 – web-site, 27.6.2013*

### Article 241 - Opening statements of the parties

1. The presiding judge shall give the prosecution the right to make an opening statement for the prosecution. After that, the defence lawyer and the accused shall be entitled to deliver an opening statement for the defence.

2. The presiding judge shall give the parties reasonable time for delivering an opening statement.

### Article 242 - General procedure for examining evidence

1. The examination of evidence shall start after the parties deliver their opening statements.

2. The evidence presented by the prosecution shall be examined first and then the evidence presented by the defence. The order and extent of evidence provided for examination shall be determined by the party presenting the evidence.

3. The defence shall participate in the examination of evidence presented by the prosecution, and the prosecution shall participate in the examination of

evidence presented by the defence.

**Article 243 - Examination of interview records and testimony given during the investigation; distance examination of a witness**

1. If a witness fails to appear before the court at the main hearing to give testimony, the information obtained at the time of his/her interview or the testimony given in accordance with Article 114 of this Code during the investigation may be publicly read, and the audio or video recording of the information/testimony obtained may be played (demonstrated) only if the witness has died, is outside Georgia, his/her location is unknown or all reasonable ways to bring him/her before the court have been exhausted and the interview/examination was conducted in the manner prescribed by this Code. Only this evidence may not serve as grounds for a judgement of conviction.

2. If a witness appears before the court to give testimony at the main hearing, a party may request that the record of interview of that person or the testimony given in accordance with Article 114 of this Code be publicly read fully or partially, and that the audio or video recording of this testimony be played (demonstrated). The court shall be obliged to satisfy this request.

3. By a court decision, upon motion of a party, a witness may be examined remotely, by using technical means from the same or another court or any other place, of which the parties shall be notified in advance.

4. If a minor is a witness or victim of sexual exploitation or sexual violence, upon request of the minor or his/her legal representative, he/she shall be interrogated in the manner provided for by paragraph 3 of this article.

4. (Deleted - 12.6.2015, No 3715).

*Law of Georgia No 1729 of 11 December 2013 – web-site, 25.12.2013*

*Law of Georgia No 3715 of 12 June 2015 – web-site, 24.6.2015*

*Law of Georgia No 4677 of 18 December 2015 – web-site, 29.12.2015*

**Article 244 - Direct examination**

1. A direct examination shall be carried out by the party that summoned the witness for examination.

2. During a direct examination, leading questions may not be put.

A party may file a motion not to allow a leading question and/or to recognise such question and the answer to it as inadmissible evidence.

3. The presiding judge shall give a party (witness) a reasonable period to put a question(s) and answer the question asked.

**Article 245 - Cross examination**

1. A cross examination shall be conducted by the party that did not summon the witness for examination.

2. During a cross examination, leading questions may be asked.

3. The presiding judge shall give a party (witness) a reasonable period to put a question(s) and answer the question asked.

**Article 246 - Re-direct and re-cross examination. Objected questions**

1. A party may conduct a re-direct and re-cross examination.

During a re-direct examination, a party will be limited to the limits of cross examination, and during a re-cross examination, to the limits of re-direct examination.

2. During the examination of a witness, objected questions shall, upon motion of a party, be struck by the presiding judge.

**Article 247 - Inadmissibility to use the information provided by the accused before the main hearing**

1. If the accused objects, it shall be impermissible to publicly read the information provided by him/her during an interview before the main hearing or to play (demonstrate) the audio or video recording of that information and to use that information as evidence. Refusal of the accused to have the information provided by him/her publicly read or the audio or video recording of that information played (demonstrated), may not be considered as evidence proving his/her culpability.

2. The restriction provided for by paragraph 1 of this article shall not apply to information obtained as a result of operative-investigative or secret investigative actions.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 2634 of 1 August 2014 – web-site, 18.8.2014*

*Law of Georgia No 4677 of 18 December 2015 – web-site, 29.12.2015*

### Article 248 - Presenting evidence during a court hearing

1. A party may, with the consent of the presiding judge, present evidence available in the case files during the session. During the main hearing, only the evidence the authenticity of which can be proven shall be considered admissible.

2. Written evidence shall be publicly read by a party.

### Article 249 - Completion of the examination of evidence

After the completion of the examination of evidence, the presiding judge shall allow the parties to deliver their closing arguments.

### Article 250 - Withdrawal of charges or part of charges

1. The prosecution may, with the consent of a superior prosecutor, withdraw charges or part of the charges, or replace the existing charges with more lenient charges. If the prosecutor withdraws charges or part of the charges, the court shall render a ruling to terminate the criminal prosecution with respect to the withdrawn charges or part of the charges.

2. The prosecution shall enjoy the right provided for by paragraph 1 of this article until the court of any instance delivers a judgement, except when a judgement is reviewed due to newly found circumstances.

3. The charges withdrawn by the prosecutor or part of the charges and the evidence that support those charges may not be presented before the court again against the same accused.

*Law of Georgia No 662 of 30 May 2013 – web-site, 24.6.2013*

*Law of Georgia No 5576 of 24 June 2016 – web-site, 12.7.2016*

### Article 251 - Closing arguments of the parties

1. Closing arguments shall first be delivered by the prosecution, and then by the defence.

While delivering closing arguments, the parties may not refer to the evidence that has not been examined by the court.

2. If several prosecutors, defence lawyers or accused persons are involved in the case, then the presiding judge shall invite them to agree among them on the order of their closing arguments.

If the trial participants fail to reach an agreement, lots shall be drawn.

3. The presiding judge shall give a party a reasonable period for delivering his/her closing argument.

### Article 252 - Rebuttals

After delivering closing arguments, the parties shall have one more opportunity, within a reasonable period as determined by the presiding judge, to briefly, in the form of a rebuttal, express their opposing opinions and/or remarks. In any case, the defence shall have the right to a final rebuttal.

### Article 253 - Final statement of the accused

1. After the parties deliver closing arguments and make rebuttals, the accused may make a final statement.

2. The presiding judge may not specify the duration of the final statement of the accused, but the presiding judge may interrupt the accused if he/she speaks of circumstances not related to the case in question or that have not been examined during the trial.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

### Article 254 - (Deleted)

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

### Article 255 - Rendering of a final decision by the court

1. After hearing the final statement of the accused, the court shall retire to chambers to deliver a decision.

2. The court may deliver a decision without leaving the courtroom.

### Article 256 - Deliberation of the jury

1. After receiving instructions from the presiding judge, the jurors shall retire to the deliberation room to deliver a verdict. Except for jurors, no one shall be present in the deliberation room or influence the verdict of jurors in any manner.

2. Jurors may stop deliberation only with the consent of the presiding judge.

3. After the jurors review the case, the jury foreperson shall put to open vote each issue one by one in the order and wording determined by the presiding judge. First, a verdict of not guilty on all charges brought shall be voted for. If that verdict cannot be reached, a verdict of guilty shall be voted for in the ascending order of the gravity of the charges.

4. Each juror shall express his/her positive or negative opinion towards the issue. Jurors may not refrain from voting. Jurors shall be obliged to immediately notify the judge if any of the jurors refrains from voting, neglects the instructions provided by the judge, take into consideration evidence that was not examined by the court, demonstrates clear bias and/or otherwise clearly violates the law. In that case, the judge shall be obliged to warn the juror and in the case of repeated violation, dismiss him/her and replace him/her with a substitute juror. If the obligation of dismissing a juror originates, and there are no substitute jurors on the list left, the judge shall dismiss the entire panel of jurors and set a new date for a new jury selection session.

5. Jurors shall vote in their order as they appear on the list of jurors. The jury foreperson shall vote last and summarise the results of the voting.

*Law of Georgia No 5591 of 24 June 2016 – web-site, 13.7.2016*

### Article 257 – Receiving additional clarifications

If, during a court hearing or deliberation, a juror considers that he/she needs additional clarification of the law, factual circumstances, or closing argument, he/she shall present to the presiding judge a written request for additional clarification, specifying the relevant questions.

The presiding judge shall make a decision on the above request in the manner prescribed by this Code, taking into account the positions of the parties.

The presiding judge may, upon motion of a party, restrict a juror's right to submit a written request.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

## Chapter XXIV – Rendering and Executing Court Judgements

### Article 258 - Rendering and announcing a court judgement in the name of Georgia

A court judgement shall be rendered and announced in the name of Georgia.

### Article 259 - Legality, reasonableness and fairness of a court judgement

1. A court judgement shall be legitimate, reasoned and fair.

2. A court judgement shall be considered legitimate if it has been rendered in compliance with the requirements of the Constitution of Georgia, this Code and other laws of Georgia, the provisions of which were applied during the criminal proceedings.

3. A court judgement shall be considered reasoned if it is based on the body of evidence excluding reasonable doubt that has been examined during the court hearing. All findings and decisions provided in a court judgement shall be reasoned.

4. A court judgement shall be considered fair if the sentence imposed corresponds to the personality of the convicted person and to the gravity of the crime he/she has committed.

*Law of Georgia No 5591 of 24 June 2016 – web-site, 13.7.2016*

### Article 260 - Issues to be resolved by the court when rendering a judgment

1. When rendering a judgement, the court shall resolve the following issues in the order presented:

a) whether the accused has committed an action defined in the criminal law;

b) whether the action of the accused is unlawful;

c) whether guilt is to be imputed to the accused for the act committed;

d) whether the accused is to be punished for the crime committed;

e) which sentence is to be imposed on the accused and to what extent;

f) whether the accused is to serve the sentence imposed;

g) issues related to measures for ensuring possible procedural confiscation;

h) the fate of material evidence;

i) who is to bear the procedural costs, and to what extent;

2. When convicting a person for multiple crimes, the court shall decide the issues specified in paragraph 1 of this article separately according to each crime and cumulatively.

3. When convicting several accused persons of committing a crime, the issues specified in paragraph 1 of this article shall be decided separately for each accused person.

### Article 261 - Verdict of the jury

1. The jury shall adjudicate and deliver a decision on the facts.

The jury shall deliver decisions on the facts based on decisions made and instructions provided by the presiding judge with respect to legal issues.

2. The jurors shall decide whether the person in question is guilty or innocent with respect to each charge.

3. The jury shall reach a verdict unanimously.

4. If the jury fails to arrive at a unanimous decision within 4 hours, the decision shall be made within the next 8 hours with the following majority of votes: if the jury is composed of at least 11 jurors, the judgement shall be delivered with 8 votes; if the jury is composed of 10 jurors, the judgement shall be delivered with 7 votes; if a jury is composed of 9 jurors, the judgement shall be delivered with 6 votes; if a jury is composed of 8 jurors, the judgement shall be delivered with 5 votes; if a jury is composed of at least 7 or 6 jurors, the verdict shall be rendered with 4 votes.

5. If the jury fails to reach a common agreement, the presiding judge shall once again instruct the jurors on the importance of the verdict and ask the jury foreperson to inform the presiding judge if any of the jurors refuses to participate in the deliberations or has private interest in the case that the juror did not disclose during the selection of jurors. After providing the above instructions, the presiding judge shall ask the jurors to return to the deliberation room and deliver a verdict in accordance with the law.

6. If, after returning to the deliberation room, the jury still fails to deliver a verdict within the next 3 hours in accordance with paragraph 4 of this article, the judge shall allow them an additional reasonable period or shall dismiss the entire panel of jurors and set a date for a new jury selection session. If the new jury also fails to deliver a decision in the manner prescribed by this Code, the accused shall be acquitted.

7. The presiding judge may overturn a verdict of guilty reached by the jury and set a date for a new jury selection session if the verdict manifestly contradicts the body of evidence, is groundless, and the overturning of the verdict of guilty is the only way to ensure fair justice. The presiding judge may not exercise the right provided for by this paragraph only on the grounds that he/she disagrees with the evaluation by the jurors of the trustworthiness of the testimony given by a witness, or with the significance of any evidence.

8. The jury foreperson shall complete the jury verdict form in which he/she shall include the results of the voting; the verdict shall be signed by all jurors.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 5591 of 24 June 2016 – web-site, 13.7.2016*

### Article 262 - Form of a verdict

1. The presiding judge shall prepare 2 forms of a verdict for each accused person. These forms shall be submitted to jurors: one form is for a verdict of not guilty, the other, for a verdict of guilty.

2. A form of a verdict shall be read as follows:

a) not guilty verdict: in the case (number and title of the case), the jury has found the accused (name, surname) not guilty of the commission of the crime (name of the crime) defined in Article (paragraph, sub-paragraph)(number) of the Criminal Code of Georgia;

b) guilty verdict: in the case (number and title of the case), the jury has found the accused (the name) guilty of the commission of the crime (name of the crime) defined in Article (paragraph, subparagraph)(number) of the Criminal Code of Georgia;

**Article 263 - Announcing a verdict**

1. After the jury foreperson signs the verdict, the jurors shall return to the court room and the jury foreperson shall hand over the verdict to the presiding judge.

2. The presiding judge shall read the verdict and make sure that:

a) the verdict for each charge has been delivered as a result of correct voting;

b) there is no clear contradiction between the forms of verdict;

c) the verdict has been rendered with respect to all charges brought.

3. If the presiding judge considers that the form of verdict complies with the requirements of paragraph 2 of this article, he/she shall return the verdict to the jury foreperson for its announcement before the court.

4. The jury foreperson shall announce the verdict in the court room.

5. If the presiding judge considers that the form of the verdict does not meet the requirements of paragraph 2 of this article, he/she shall return the verdict to the jury foreperson and request that the jurors return to the deliberation room to correct the mistakes.

6. After announcing the verdict, the presiding judge shall thank the jurors for their participation in the rendering of justice, and dismiss them, except for a case defined in Article 264 of this Code.

7. In the case of a not guilty verdict, the accused kept in custody shall be immediately released. As soon as the not guilty verdict is announced, the presiding judge shall be obliged to deliver a judgement of acquittal.

8. Upon the announcement of a guilty verdict, the presiding judge shall set a date for a sentencing hearing. The sentencing hearing shall be held not later than 3 days after the announcement of the verdict.

**Article 264 - Sentencing hearing**

1. If a case is heard by a jury, during the sentencing hearing, the parties shall, based on the body of evidence examined during the case hearing, as well as on other presented evidence, taking into account mitigating and aggravating circumstances, present their opinions as to the type and extent of the sentence.

If neither of the parties objects, the sentencing hearing shall be held with the participation of the jury.

Upon the motion of a party and by decision of the presiding judge, the evidence that was ruled as inadmissible during the main hearing may be admitted at the sentencing hearing.

2. If, during the sentence hearing, the jury, by a majority of votes, agrees on a recommendation to mitigate the sentence, the presiding judge may not impose on the accused more than two thirds of the sentence prescribed for that crime under the Criminal Code of Georgia. If the minimum limit of the sentence prescribed under the Criminal Code of Georgia exceeds two thirds of the maximum limit, the minimum sentence shall be imposed on the convicted person.

3. If, during the sentencing hearing, the jury, by a majority of votes, agrees on a recommendation to aggravate the sentence, the presiding judge may not impose on the accused less than two thirds of the maximum limit of the sentence prescribed under the Criminal Code of Georgia for that crime.

4. If the jury is unable to agree on a recommendation to mitigate or aggravate the sentence, the sentence shall be imposed by the presiding judge.

5. A party may express its opinion with respect to the opinion presented on the sentence by the opposing party.

6. The presiding judge shall impose a sentence on the accused taking into account the recommendation agreed to by the jurors on the mitigation or aggravation of the sentence.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

**Article 265 - Judgement in a jury trial**

1. During a sentencing hearing, the presiding judge shall render a judgement that shall be expressly based on the verdict delivered by the jury.

2. The presiding judge shall not question either the verdict delivered by the jury nor the recommendation on the mitigation or aggravation of the sentence.

3. The presiding judge, when delivering a judgement in a jury trial, shall not provide grounds for the verdict. A judgement delivered at a jury trial, taking into account the recommendation on the mitigation or aggravation of the sentence, shall be reasoned only in the sentencing part.

4. A judgement delivered at a jury trial shall enter into force upon announcement.

**Article 266 - Appealing a judgement delivered at a jury trial**

1. A judgement of acquittal delivered at a jury trial shall be final and it may not be appealed.

2. A party may appeal, a judgement of conviction to the court of appeal by way of cassation if:

a) the presiding judge made an unlawful decision on the admissibility of evidence;

b) while reviewing a motion filed by a party, the presiding judge made an unlawful decision that substantially violated the adversarial principle;

c) the presiding judge made a substantial mistake before the jurors retired to the deliberation room;

d) when rendering the judgement, the presiding judge did not, in full or part, rely on the verdict delivered by the jurors;

e) when rendering the judgement, the presiding judge relied on the verdict delivered in violation of the requirements of this Code;

f) the sentence is unlawful and/or clearly unreasonable;

g) the presiding judge did not take into account the recommendation for mitigation or aggravation of a sentence made by the jury.

3. If the cassation appeal stipulated by paragraph 2(a-e) of this article is satisfied, the case shall be transferred to a new jury for a new trial.

4. If the sentencing part of a jury trial judgement is cancelled on the grounds stipulated by paragraph 2(f-g) of this article, the Court of Appeal shall, with a judgement, render a new sentence. In this case the judgement of the Court of Appeal shall be final and without appeal.

*Law of Georgia No 5591 of 24 June 2016 – web-site, 13.7.2016*

**Article 267 - Procedure for court deliberation and for making decisions on case-related individual issues**

1. When a case is considered by a panel of judges, the rendering of a judgement shall be preceded by a court deliberation in the manner prescribed by this Code.

2. The presiding judge shall raise the issues to be decided by judges in the order specified by Article 260 of this Code. The judge who hears criminal cases sitting alone shall decide those issues in the same order.

3. For each issue, the decision that is most favourable for the accused shall be voted for first. If one judge requests the acquittal of the accused and two other judges have different opinions on the qualification of that crime and on the extent of the sentence, at the time of -making a decision, the vote of the judge who is in favour of the acquittal shall be combined with the vote of the judge whose decision is most favourable for the accused.

**Article 268 - Types of court judgement**

1. A court judgement may be either a judgement of conviction or a judgement of acquittal.

2. A court judgement may find the accused guilty of some counts of the charges and not guilty of other counts.

**Article 269 - Judgement of conviction**

1. A judgement of conviction includes a court decision on finding the accused guilty.

2. An assumption may not serve as grounds for a judgement of conviction.

3. A judgement of conviction may be delivered:

a) by imposing a sentence to be served;

b) by imposing but releasing from the serving of the sentence;

c) without imposing a sentence.

4. When rendering a judgement of conviction imposing a sentence to be served, the court shall precisely determine the type and extent of the sentence and the date from which the term of the sentence is to start. The period of arrest, remand detention and stay in a medical facility for expert examination shall be included in the term of the sentence imposed by the court.

5. The court shall render a judgement of conviction imposing a sentence and releasing the person from serving the sentence if, by the time the judgement is rendered:

a) an act of amnesty has been issued under which the person is released from serving the sentence imposed under the judgement;

b) a limitation period for criminal prosecution for that crime has expired;

c) a new law decriminalises the action; ((***invalidated)*** - Decision of the Constitutional Court of Georgia of 13 April 2016 No 3/1/633,634 - web-site, 22.4.2016))

d) a person has voluntarily given up the crime;

e) a person has actively repented;

f) an action provided for by Articles 3221, 344 or 362 of the Criminal Code of Georgia has been committed by a person due to being a victim of the crime defined in Articles 1431 and/or 1432 of the Criminal Code of Georgia.

6. A court shall render a judgement of conviction without imposing a sentence, if, by the time of rendering the judgement, the person has died.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Decision of the Constitutional Court of Georgia of 13 April 2016 No 3/1/633,634 - web-site, 22.4.2016*

**Article 270 - Judgment of acquittal**

1. A judgement of acquittal means that the charges brought against the accused have not been proved.

2. A judgement of acquittal shall not contain any formulation that excludes the innocence of the acquitted person or discredits the acquitted person.

**Article 271 - Form of a judgement**

1. A judgement shall consist of introductory, descriptive-reasoning and operative parts.

2. A judgement shall be signed by all judges, except for a judge who dissents.

3. Any corrections made to a judgement shall be agreed on and signed by all the judges before the announcement of the judgement.

**Article 272 – Introductory part of a judgement**

The introductory part of a judgement shall indicate:

a) that the judgement has been rendered in the name of Georgia;

b) the time and place of rendering the judgement;

c) the name and composition of the court that rendered the judgement as well as the names of the secretary of the court session, of the prosecutor and the defence lawyer;

d) personal details of the accused and other related details that are important for the case;

e) the relevant criminal law under which the accused has been charged.

**Article 273 - Descriptive-reasoning part of a judgement of conviction**

1. The descriptive-reasoning part of a judgement of conviction shall include a description of the criminal action that has been recognised as established by the court. In addition, the judgement shall indicate the place of the commission of the crime, the time and manner, as well as the form of guilt, motive, purpose and consequences of the crime. A judgement shall also indicate the evidence on which the court findings are based, and the reason for which the court admitted certain evidence and rejected other evidence. In addition, a judgement shall indicate circumstances which mitigate or aggravate liability. If the charges are found to be groundless, or if the qualification of the crime is incorrect, the grounds and motives for changing the charges in favour of the accused shall also be indicated.

2. The court shall also be obliged to provide grounds for the type and extent of the sentence, the imposition of a conditional sentence, the imposition of a sentence that is less than the minimum sentence stipulated by the Criminal Code of Georgia for this crime, and the imposition of a more lenient sentence, a decision on the annulment or further application of a procedural coercive measure.

*Law of Georgia No 5170 of 28 October 2011 – web-site, 11.11.2011*

**Article 274 - Operative part of a judgement of conviction**

1. The operative part of a judgement of conviction shall include:

a) the name and surname of the accused;

b) a decision recognizing the accused as guilty of the commission of a crime;

c) the article (paragraph, sub-paragraph) of the Criminal Code of Georgia under which the accused has been found guilty;

d) the type and extent of the sentence that has been imposed on the accused for each crime, the total term of the sentence to be served;

e) the length of the probation period, if a conditional sentence has been imposed;

f) a decision to include in the term of the sentence the period of detention, arrest or stay in a medical facility for expert examination;

g) the length of any deferment of the execution of a judgement and the duties imposed on the convict;

h) a decision on the fate of material evidence;

i) a decision on the forfeiture and procedural confiscation of property;

j) decision on the deprivation of a state award, military, honorary or special title;

k) (deleted - 28.10.2011, No 5170);

l) the right to appeal the judgement, the period and place for its appeal.

2. If a person has been charged under several articles of the Criminal Code of Georgia, the operative part of the judgement shall precisely indicate the charges on which the person has been acquitted and convicted.

3. If the accused is released from serving the sentence, this shall be indicated in the operative part of the judgement.

4. The operative part of a judgement shall be worded in such a way that it does not give rise to any doubt as to the type and extent of the sentence imposed by the court during the service of the sentence.

*Law of Georgia No 5170 of 28 October 2011 – web-site, 11.11.2011*

### Article 275 - Descriptive-reasoning part of a judgement of acquittal

A descriptive-reasoning part of a judgment of acquittal shall include:

the content of the charges brought, the circumstances and evidence established by the court that support the opinion of the court that the accused is innocent; the reason why the court considers the evidence upon which the charges brought are based, as unreliable or insufficient, and/or why the court considers that no crime has been committed, or that the action committed by the accused does not constitute a crime.

### Article 276 - Operative part of a judgement of acquittal

The operative part of a judgement of acquittal shall indicate:

a) the name and surname of the accused;

b) a decision finding the accused not guilty and acquitting the accused;

c) a decision annulling a measure of restraint selected against the accused, and a decision for his/her immediate release, where the accused is a prisoner;

d) a decision on the measures applied for ensuring procedural confiscation;

e) the right of the acquitted person to be reimbursed for damages incurred;

f) the right to appeal the judgement, and also the period and place of its appeal.

### Article 277 - Announcing a judgement

1. A judgement shall be rendered in the court room or in chambers, after which the presiding judge shall publicly announce the operative part of the judgement in the court room.

2. If the accused has no or inadequate command of the language of the criminal proceedings, the judgement shall, upon its announcement or simultaneously, be translated for the accused in his/her mother language or any other language that he/she understands.

3. The presiding judge shall instruct the parties on the procedure and time frames for appealing the judgement.

A convicted person shall also be informed of the right to file a petition for pardon.

### Article 278 - Service of a copy of the judgement and of a dissenting opinion

A copy of the judgement and of a dissenting opinion shall be served on the convicted person or on an acquitted person and on the prosecutor not later than 5 days after the judgement is announced, or not later than 14 days, in the case of a complex or multi-volume or multi-defendant cases.

A copy of the judgement shall be handed over to other trial participants, at their request, within the same periods.

### Article 279 - Entry into force and enforcement of a judgement

1. A judgement shall enter into force and be enforced upon its public announcement by the court.

2. Upon the announcement of the judgement, the following persons shall be released from remand detention:

a) an acquitted person;

b) (deleted - 24.9.2010, No 3616

https://matsne.gov.ge/ka/document/view/1021946

On making additions and amendments to the Criminal Procedural Code of Georgia

c) a convicted person, with release from serving the sentence;

d) a convicted person who has been sentenced to imprisonment for a term that does not exceed the term for his/her detention, arrest and stay in a medical facility for expert examination;

e) a convicted person who has been sentenced to imprisonment conditionally or with deferment of execution of the judgement;

f) a convicted person who is sentenced to punishment that is not related to imprisonment.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

### Article 280 - Procedure for enforcing a judgement, ruling and order

1. The court that renders a judgement or ruling shall be responsible for the enforcement of that decision. A court shall, along with a copy of the judgement, send an order for enforcement of the judgement to the body that is tasked with its enforcement.

2. A body responsible for the enforcement of the judgement shall immediately inform the court that rendered the judgement about the enforcement of the judgement.

3. If a judgement requires the deprivation from a convicted person of a state award or a military, honorary or special title, the court shall submit a copy of the judgement to the body that awarded that convicted person or granted him/her the military, honorary or special title.

4. A writ of execution shall be drawn up for the enforcement of a judgement with respect to the imposition of a fine and other property charges.

5. If a court decides to transfer for custody, a minor child of a person sentenced to imprisonment, also any other dependant of the convicted person, to a relative, to any other person or to the appropriate facility, it shall, according to the location of the child, notify the guardianship authority of that decision, as well as the convicted person.

6. An order (ruling) terminating a criminal prosecution shall be immediately enforced in the part that is related to the release of the accused from remand detention.

### Article 281 – Notification of the enforcement of a judgement

After entry into force and enforcement of a judgement under which the convicted person has been sentenced to imprisonment, the administration of the detention facility shall be obliged to notify the family of the convicted person of the place where he/she has been sent to serve the sentence, as well as about a change of the place of the service of the sentence.

### Article 282 - Searching for a convicted person

1. In cases stipulated by Article 30 of the Law of Georgia on Enforcement Proceedings as well as by Article 18(4) of the Law on the Procedure for the Execution of Non-Custodial Sentences and Probation", the trial court of the first instance shall, upon the reasoned motion of the head of the National Bureau of Enforcement - a legal entity under public law operating within the Ministry of Justice, or the head of the Bureau of Execution of Non-Custodial Sentence and Probation, render a ruling on the search for and compelled appearance of a convicted person by police forces.

2. During the search for a convicted person, the running of the period of probation shall be suspended.

3. If a convicted person is compelled to appear, the court shall, by a ruling, replace the sentence imposed with a stricter sentence. In the case of a conditional sentence, release on parole, and deferment of the service of the sentence, the court shall decide on revoking the conditional sentence, of release on parole and deferral of the sentence, and may order the service of the sentence or of the outstanding sentence imposed under the judgement, or the transfer of the convicted person to the place prescribed by the judgement to serve the sentence.

4. If a convicted person violates the terms of a conditional sentence, and his/her location cannot be established, the proceedings stipulated by paragraph 3 of this article shall take place without the participation of the convicted person.

**Article 283 - Deferral of the execution of a judgement**

1. Based on the report of a forensic medical examination, the court that rendered the judgement may defer execution of the judgement against a convicted person who has been sentenced to imprisonment, and the deferral shall be specified in the same judgement, or if the judgement has already been rendered, in a [separate] ruling, provided that the following grounds exist:

a) the convicted person is ill with a serious illness that prevents him/her from serving the sentence - until his/her recovery or substantial improvement of his/her health;

b) the convicted person is pregnant at the time of the execution of the judgement - for up to a year after giving birth.

$1^1$. In cases provided for by paragraph 1 of this article, the court may, after rendering a judgement, defer its execution without an oral hearing.

2. The court shall consider the issue of deferring the execution of a judgement upon the motion of the convicted person, his/her defence lawyer, legal representative or the Director of the Penitentiary Department of the Ministry of Corrections and Probation.

3. If the execution of a judgement is deferred due to a serious illness, the court that rendered the decision shall, under the same judgement (ruling) determine the periodicity of the conduct of an expert examination (at least once in a year) at the expense of the convicted person in order to establish the convicted person's health status, and the periodicity of the submission of an expert opinion by the convicted person.

If the convicted person fails to submit an expert opinion, with specified periodicity, to the court, the court shall, without oral hearing and by issuing a ruling, make a decision to return the convicted person to the appropriate facility to serve the outstanding sentence.

4. If a convicted person submits an expert opinion, the court that makes a decision to defer execution of the judgement shall, without oral hearing, make a decision, by issuing a ruling, to keep in force the decision of the court to defer the execution of the judgement, or to return the convicted person to the appropriate facility to serve the outstanding sentence.

5. If a convicted person gives up a child or avoids raising a child after he/she has been warned by the Bureau of Probation, the court that made a decision to defer the execution of the judgement, may, without oral hearing, by issuing a ruling, revoke, upon the recommendation of the Bureau of Probation, the deferral of the service of the sentence, and transfer the convicted person to the place prescribed under the judgement for serving the sentence.

6. When a convicted person's child attains the age of one year, the court that deferred the execution of the judgement shall, without oral hearing, release, by issuing a ruling, the convicted person from serving the outstanding sentence, or replace the outstanding sentence with a more lenient sentence, or return the convicted person to the relevant facility to serve the outstanding sentence.

7. With respect to the deferral of the execution of a judgement, the National Bureau of Non-Custodial Sentences and Probation shall act according to the Law of Georgia on the Procedure for the Execution of Non-Custodial Sentences and Probation.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 5170 of 28 October 2011 – web-site, 11.11.2011*

*Law of Georgia No 741 of 14 June 2013 – web-site, 27.6.2013*

*Law of Georgia No 3528 of 1 May 2015 – web-site, 18.5.2015*

**Article $283^1$ - Deciding issues arising during the execution of a judgement entered against a convicted person subject to extradition to Georgia**

1. If a competent body of a foreign state makes a decision to refuse to satisfy, in full or in part, a motion for the extradition of a convicted person to Georgia for the execution of a judgement, this fact shall immediately be reported to the court that rendered the judgement.

2. After receiving the notification provided for by paragraph 1 of this article, the court that has rendered the judgement shall make a decision to defer, in full or in part, the execution of the judgement.

3. The issue of full or partial deferral of the execution of a judgement shall be reviewed by the court that has delivered the judgement, without oral hearing, at any time after receiving the notification specified by paragraph 1 of this article, but not later than 48 hours after the convicted person is transferred to the relevant authorities of Georgia.

4. In cases provided for by this article, the execution of a judgement shall be deferred in full or in part for the period when the execution of a judgement delivered against a convicted person extradited to Georgia was impossible to execute under Article 16(2) of the Law of Georgia on International Cooperation in Criminal Law.

5. The court that delivered a judgement with respect to the issue referred to in paragraph 2 of this article, shall deliver a ruling, a copy of which shall be sent to the convicted person and to the Ministry of Corrections and Probation of Georgia.

6. The ruling provided for by paragraph 5 of this article shall, in addition to other data, include information about which part of the judgement is subject to execution and to full or partial deferral.

7. If a court decides to defer, in full or in part, the execution of a judgement, and the convicted person is entitled to appeal the judgement, the running of the time limit for filing the appeal as prescribed by this Code shall start from the time when there no longer exists the impeding circumstance stipulated

by Article 16(2) of the Law of Georgia on International Cooperation in Criminal Law.

8. A judgement deferred in full or in part shall be subject to immediate execution after the impeding circumstance stipulated by Article 16(2) of the Law of Georgia on International Cooperation in Criminal Law has been eliminated. If a person is in hiding, the court that rendered the judgement, shall, sitting alone, make a decision on starting a search for the convicted person through the police.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 3891 of 7 December 2010 – LHG I, No 67, 9.12.2010, Article 418*

*Law of Georgia No 1797 of 13 December 2013 – web-site, 28.12.2013*

**Article 284 - Release from further serving a sentence due to illness or old age**

1. The court, or in the case of a sentence of imprisonment, the Joint Standing Commission of the Ministry of Corrections and Probation of Georgia and the Ministry of Labour, Health and Social Protection of Georgia, may release a person from further serving a sentence if the person, before or after committing a crime, has become ill with a serious illness that hinders service of the sentence.

2. The court, or in the case of sentence of imprisonment, the Joint Standing Commission of the Ministry of Corrections and Probation of Georgia and the Ministry of Labour, Health and Social Protection of Georgia, may release from further serving a sentence a person who has attained an old age (women - from 65 years, men - from 70 years) during the service of the sentence, if the convicted person has not been sentenced to life imprisonment and if he/she has served at least half of the term of the sentence.

3. In cases provided for by this article, the court of the first instance may, according to the place of the service of the sentence of a person who has attained an old age, or of a convicted person who is seriously or terminally ill according to the report of the relevant expert institution, upon motion of the convicted person, deliver a ruling, without an oral hearing, releasing the convicted person from further serving the sentence.

4. When releasing a convicted person from further serving the sentence due to the illness or old age, the convicted person may also be released from auxiliary punishment.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 741 of 14 June 2013 – web-site, 27.6.2013*

*Law of Georgia No 1797 of 13 December 2013 – web-site, 28.12.2013*

**Article 285 - Conditional early release from serving a sentence and replacing the outstanding sentence with a more lenient sentence**

1. A person who has been sentenced to community service, corrective work, service restriction of a military serviceperson or restriction of freedom, may be conditionally released from serving the sentence if the court considers that serving the full term of the sentence is no longer required for his/her correction. If a person has been sentenced to imprisonment, he/she may be conditionally released from serving the sentence if the Local Council of the Ministry of Corrections and Probation of Georgia considers that serving the full term of a sentence is no longer required for his/her correction. At the same time, he/she may, in full or in part, be released from auxiliary punishment.

2. The court of the first instance shall, according to the place of serving the sentence, conditionally release a convicted person from serving a sentence of community service upon the recommendation of the head of the Bureau of Execution of Non-Custodial Sentences and of Probation.

3. The Local Council of the Ministry of Corrections and Probation of Georgia may replace the outstanding sentence of a convicted person sentenced to imprisonment for a less serious offence with a more lenient sentence, taking into account his/her conduct during the period of serving the sentence.

In addition, he/she may, in full or in part, be released from serving an auxiliary punishment (except for forfeiture of property).

4. The Local Council of the Ministry of Corrections and Probation of Georgia may replace the outstanding sentence of a convicted person sentenced to imprisonment with community service with his/her consent, during the period of serving the sentence. In that case, the requirements of Article 44 of the Criminal Code of Georgia (except for paragraphs 1 and 2) shall not apply. Furthermore, a convicted person may, in full or in part, to be released from serving an auxiliary punishment (except for forfeiture of property).

$4^1$. The Local Council of the Ministry of Corrections of Georgia may, with the convicted person's consent, replace the outstanding sentence of a convicted person sentenced to imprisonment, with a restriction of liberty, which the convicted person shall serve in a liberty restriction facility. In that case, the requirements of Article 47(4-5) of the Criminal Code of Georgia shall not apply. Furthermore, a convicted person may, in full or in part, be released from serving an auxiliary punishment (except for forfeiture of property).

5. The decision-making court of the first instance may, upon motion of the convicted person, decide, without oral hearing, to release the convicted person from serving a sentence of deprivation of the right to hold any office or to carry out certain activities.

6. If a court refuses to satisfy a request or a motion stipulated by this article, a request or motion on the same issue may be reviewed again only after 6 months, except when the term of the outstanding sentence does not exceed 6 months, and/or when there exists a particular circumstance.

7. When a convicted person is released conditionally from serving a sentence, a duty may be imposed on him/her as stipulated by Article 65 of the Criminal Code of Georgia.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 4631 of 5 May 2011 – web-site, 19.5.2011*

*Law of Georgia No 5626 of 27 December 2011 – web-site, 12.1.2012*

*Law of Georgia No 6504 of 19 June 2012 – web-site, 2.7.2012*

*Law of Georgia No 1797 of 13 December 2013 – web-site, 28.12.2013*

*Law of Georgia No 3715 of 12 June 2015 – web-site, 24.6.2015*

**Article 286 - Executing a judgement when there exists another non-executed judgement**

If there are several non-executed judgements against a convict, upon motion of the Director of the Penitentiary Department of the Ministry of Corrections and Probation of Georgia, the court of the first instance shall, according to the place of serving the sentence, deliver a ruling, without an oral hearing, to impose on the convicted person a sentence according to all existing judgements.

*Law of Georgia No 3528 of 1 May 2015 – web-site, 18.5.2015*

**Article 287 - Eliminating ambiguities-inaccuracies revealed during the execution of a decision**

The adjudicating court may, without an oral hearing and by a ruling eliminate the ambiguities- inaccuracies present in a decision, which shall not result in its annulment or change. The court may, in particular:

a) specify the dates of detention and arrest, as well as the term that has been counted towards the sentence when imposing a sentence;

b) correct personal data of the trial participants;

c) specify and allocate procedural costs;

d) decide issues relating to evidence;

e) clarify the issue of the seizure of property;

f) make other clarifications that shall not affect the court's opinion as to the qualification of the action committed by the convicted person, on the sentence imposed.

**Article 288 - Review by the court of the removal of conviction**

1. The issue of removal of conviction shall, upon motion of the person who has served a sentence, be reviewed by the court that rendered the decision or by a district (city) court of the first instance, without an oral hearing, according to the permanent place of residence of the person.

2. If a motion for removing a conviction is denied, a new motion may be filed only after 3 months.

*Law of Georgia No 657 of 30 May 2013 - web-site, 19.6.2013*

**Article 289 - Procedure relating to serving an outstanding sentence in Georgia by a person convicted under a judgement of a foreign court**

1. According to the treaties and international agreements of Georgia, the issue of serving in Georgia of an outstanding sentence imposed on a Georgian national or on a person permanently residing in Georgia under a judgement of a foreign court shall, according to the respective jurisdiction, be reviewed by a court of first instance, according to the place of registration of the convicted person.

2. Within one month after receiving the case materials, the court shall review, without an oral hearing, the issue of serving in Georgia of an outstanding part of a sentence imposed on a Georgian national or on a person permanently residing in Georgia under a judgement of a foreign court.

3. The Georgian court shall deliver a ruling with respect to serving in Georgia of the outstanding part of the sentence imposed under a judgement of a foreign court.

4. The ruling shall include:

a) the name and place of the foreign court that delivered the judgement, as well as the time of delivery of the judgement;

b) details of the last place of residence and work place and occupation of the convicted Georgian national or of the person permanently residing in Georgia;

c) the qualification of the action for the commission of which the person is charged under the criminal law;

d) the article of the Criminal Code of Georgia that imposes a penalty for the action committed;

e) the type and length of the sentence that the convicted person is to serve in Georgia, indicating the start and end dates of serving the sentence, and the

procedure for reimbursing damages.

5. The outstanding part of the sentence imposed under a judgement of a foreign court shall be served in Georgia in the same manner and conditions as judgements of Georgian courts rendered with respect to crimes committed in Georgia.

6. If a judgement against a person extradited to Georgia to serve a sentence is revised, changed or annulled by the foreign court, the question of the execution of that judgement shall be decided according to this article.

7. A copy of the ruling issued by the Georgian court on the execution of a judgement of a foreign court against a person extradited to Georgia to serve a sentence shall be forwarded to the Ministry of Justice for further notification of the competent bodies of the state concerned.

8. The judgement of a foreign court and/or of the International Court rendered against a person who has been extradited to Georgia to serve a sentence shall have the same legal consequences of conviction as against a person convicted by a Georgia court.

9. The acts of amnesty or pardon issued by a foreign state that has rendered the judgement or by Georgia shall apply against the person extradited to Georgia to serve the sentence in accordance with the conditions and procedures established under that act, unless otherwise provided for by treaties and international agreements of Georgia.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

### Article 290 - Confirming correspondence of the court judgement of a foreign state with the crime stipulated by the relevant article of the Criminal Code of Georgia

1. If a citizen of Georgia has been convicted by a foreign court for the commission of a crime that, under the Civil Procedure Code of Georgia, carries the confiscation of unlawful and/or undocumented property, the Chief Prosecutor of Georgia may, within 3 months after receipt of a judgement of conviction, file a motion with the Supreme Court of Georgia requesting the confirmation of the correspondence of the factual and legal circumstances of the crime committed to the crime stipulated by the relevant article of the Criminal Code of Georgia.

2. The motion shall, within 3 months, be reviewed by the Criminal Chamber of the Supreme Court of Georgia.

3. The convicted person and his/her defence lawyer or legal representative may participate in the review of the motion. Failure of the parties to appear shall not impede the review of the motion.

4. Based on the review of the motion, the court shall render a ruling granting the motion and confirming the compliance of the factual and legal circumstances established under the judgement of the foreign court with the crime stipulated by the relevant article of the Criminal Code of Georgia or denying the motion and identifying the noncompliance. The ruling shall state the name and place of the foreign court that rendered the judgement, the time of rendering the judgement, details of the convicted Georgian national, factual and legal circumstances established by the foreign court, by making reference to the relevant article of the criminal law, the article of the Criminal Code of Georgia that imposes liability for the commission of the crime in question.

5. The ruling shall be final and it shall enter into force upon its announcement.

6. The prosecutor may, within 10 years after entry of the ruling into force, file an appeal, in accordance with the Civil Procedure Code of Georgia, for the confiscation and transfer of the unlawful and/or undocumented property of the convicted person to the state.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

### Article 291 - Appealing a ruling delivered by a court with respect to issues arising during the execution of a judgement

1. A judgement delivered by a court according to Articles 282, 283, 284, 285, 286, 287, 288 and 289 of this Code may, within 10 days, be appealed only once to the Criminal chamber of the Court of Appeal, which shall, within one month, review the appeal without an oral hearing.

2. The prosecutor shall not participate in the review of the above issues either in the court of first instance or in the court of appeal.

## Chapter XXV – Appeals

### Article 292 - General provisions

1. A party may appeal a judgement of a court of first instance if the appellant considers it to be unlawful and/or unreasonable.

2. An appeal may be filed by the prosecutor, superior prosecutor, the convicted person and/or the convicted person's defence lawyer.

3. A convicted person against whom a judgement of conviction has been rendered in his/her absence, may appeal the judgement within one month: after being remanded to custody; or from the time of appearing before the relevant authorities; or from the announcement of the judgement by the court of first instance, if a convicted person requests the review of the appeal without his/her participation.

4. An appeal may not be filed against a judgement rendered based on a jury verdict.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

**Article 293 - Time limit and form for filing an appeal**

1. An appeal shall be filed with the court that has rendered a judgement, within a month after the judgement has been announced.

2. An appeal shall include:

a) the name of the court with which the appeal is filed;

b) the name and surname, place of residence and procedural status of the person filing the appeal;

c) the court that has rendered the appealed judgement, and the date of its rendering;

d) the appealed provisions of the judgement;

e) the essence of the unlawfulness and/or unreasonableness of the appealed provisions;

f) the evidence confirming the appellant's position;

g) the evidence, including a new evidence, that is to be examined by the court of appeal;

h) materials submitted additionally (if any).

3. Filing of an appeal shall not suspend execution of the judgement.

4. The appeal shall indicate the part of the judgement that is appealed, and the arguments confirming the appeal.

**Article 294 - Sending a copy of appeal to a party; response**

1. An appeal shall be filed with the court that rendered the judgement in as many copies as required for the court to send it to the parties.

2. The court shall, within not later than 5 days, send a copy of the appeal to the other party so that the latter can file a response to the appeal. The other party(s) shall file a response with the court within not later than 5 days after receipt of a copy of the appeal.

3. The appellant may request the court to provide a copy of the response to the appeal.

**Article 295 - Deciding admissibility of an appeal**

1. The case, the appeal and the response to the appeal shall be sent to the court of appeal by the court of the first instance.

2. Within 10 days after receipt of the appeal and the case, the court of appeal shall decide, without oral hearing, the admissibility of the appeal.

3. If the appeal does not comply with the requirements of Article 293(2) of this Code, the court of appeal shall, without oral hearing, allow the appellant, under a ruling, 5 days to correct the mistakes in the appeal. If the appellant fails to fulfil this requirement, the court of appeal shall, without oral hearing, render a ruling finding the appeal to be inadmissible; the ruling shall be final and may not be appealed. If, within the above time frames, the appellant corrects the mistakes, the court of appeal shall, without oral hearing, render a ruling on admissibility of the appeal and set a date for the appeal hearing.

4. If the court of appeals considers that the appeal complies with the requirements of Article 293(2) of this Code, it shall, without oral hearing, render a ruling on admissibility of the appeal and set a date for the appeal hearing.

5. An appeal hearing shall be held within a month after the appeal is found to be admissible.

6. The court of appeal shall render a judgement within 2 months after the appeal is found to be admissible.

7. The court reviewing the appeal may, within 2 weeks after the appeal has been found to be admissible, review, without oral hearing, an appeal on less serious offences, as well as an appeal that concerns only the reduction of the sentence. The court may, without oral hearing, reduce the imposed sentence by not more than one fourth.

8. Before a final decision is rendered, the appellant may withdraw his/her appeal. In that case, the court of appeal may, without oral hearing, render a ruling dismissing the appeal; the ruling shall be final and may not be appealed. An appeal may not be filed repeatedly.

**Article 296 - Appearance of the parties**

1. A convicted person in custody may request in an appeal that he/she directly participate in the appeal hearing. The decision on this request shall be made by the court reviewing the appeal.

2. If an appellant fails to appear at the appeal hearing without a valid reason, the court of appeal shall, by a ruling, dismiss the appeal.

The ruling shall be final and it may not be appealed.

### Article 297 - Appeal hearing

An appeal shall be reviewed according to the norms applicable during the main hearing in the court of the first instance, with the following changes:

a) opening statement and closing argument is first presented by the appellant and then by the opposing party;

b) the burden of proof of the unlawfulness and/or unreasonableness of the judgement shall rest with the appellant;

c) during the appeal hearing, only evidence newly submitted in the court of appeal may be examined, and all evidence examined by the court of first instance shall be considered examined, except when the evidence was examined in substantial violation of the law and a party files a motion for the re-examination of the evidence;

d) upon motion of a party and by decision of the court, the new evidence may be examined by the court of appeal if the person filing the motion proves that the evidence is particularly important for justifying his/her position, and the presentation of this evidence during the hearing at the court of first instance was objectively impossible;

e) evidence shall be examined within the scope of the appeal and the response;

f) the procedure for examining evidence prescribed by this article shall not apply to those criminal cases in which the court of the first instance rendered a judgement in the absence of the accused, except when, according to the request of the convicted person, the appeal hearing is conducted without his/her participation;

g) the appeal shall be reviewed within the scope of the appeal and the response. ***(the normative content of subparagraph (g) of this article that excludes the possibility of the court of appeal to go beyong the scope of the appeal where a person is convicted again for the same crime shall be deemed to be invalid)*** - Decision of the Constitutional Court of Georgia of 29 September 2015 No 3/1/608,609 – website, 13.10.2015.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Decision of the Constitutional Court of Georgia of 29 September 2015 No 3/1/608,609 – website, 13.10.2015*

### Article 298 - Appeal judgement and prohibition of *reformatio in peius*

1. A court of appeal shall, under a judgement, make one of the following decisions:

a) to overrule the judgement of conviction of the first instance court and deliver a judgement of acquittal instead;

b) to overrule the judgement of acquittal of the first instance court and deliver a judgement of conviction instead;

c) to make changes to the judgement of the court of first instance;

d) to uphold the judgement of the court of first instance and deny the appeal.

2. The judgement of the court of appeal shall replace the judgement rendered by the court of first instance.

3. The court of appeal may not render a judgement of conviction instead of a judgement of acquittal, apply a stricter article of the Criminal Code of Georgia, impose a stricter sentence or deliver any other decision that is unfavourable for the convicted person, if a case is reviewed based on the appeal of the convicted person or the convicted person's defence lawyer, and the prosecution has not filed an appeal.

4. The court of appeal may render a judgement of conviction instead of a judgement of acquittal, apply a stricter article of the Criminal Code of Georgia, impose a stricter sentence or otherwise change the position of the convicted person for the worse if the prosecution filed an appeal with this very request and if it maintained such position in the court of the first instance.

### Article 299 - Appeal as grounds to re-examine a judgement delivered against other convicts in the case

If an appeal has been filed by a convicted person and the court satisfies it in full or in part, the court of appeal shall, under this judgement, review the case with respect to other persons convicted in the same case who have not filed an appeal.

## Chapter XXVI – Cassation

### Article 300 - General provisions

1. A judgement rendered by the Criminal Chamber of the court of appeal may be appealed through the cassation procedure if the appellant believes that the judgement is illegal.

A judgement shall be deemed illegal if:

a) the Criminal Procedure Code of Georgia has been substantially violated, which was not revealed or was allowed by the court of the first instance or by the court of appeal during the case hearing and adjudication;

b) the action of the convicted person has been improperly qualified;

c) such type or extent of a sentence was applied that clearly does not correspond to the nature of the action and the personality of the convicted person.

2. A cassation appeal may be filed by the prosecutor, superior prosecutor, the accused and/or his/her defence lawyer.

3. A convicted person against whom a judgement of conviction of the court of appeal has been rendered without his/her participation, may appeal the judgement within one month:

from the moment of being remanded to custody; or from the moment of appearing before the relevant authorities; or from the time of announcement of the judgement of the court of appeal, if the convicted person requests that the cassation appeal be reviewed without his/her participation.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 741 of 14 June 2013 – web-site, 27.6.2013*

### Article 301 - Form of a cassation appeal

1. The appellant shall indicate in the cassation appeal the extent to which he/she is appealing the judgement, and the extent to which he/she requests its annulment or change. The appellant shall also provide grounds for his/her request.

2. A cassation appeal shall include:

a) the name of the court where the appeal is filed;

b) details of the person filing the appeal (name and surname, place of residence, procedural status);

c) the appealed judgement, the court that rendered it, and the date of its rendering;

d) the legal issue that, in the appellant's opinion, was resolved unlawfully, and facts supporting that;

e) additionally submitted materials.

### Article 302 - Filing a cassation appeal

1. A cassation appeal shall be filed with the court that rendered the judgement, within one month after the judgement has been announced.

2. A cassation appeal shall be filed with the court that rendered the judgement in as many copies as required for the court to deliver copies to the parties.

3. The court shall, within not later than 5 days, send a copy of the cassation appeal to the other party(s), so that the latter can file a response. The other party shall file a response with the court within not later than 5 days after receipt of a copy of the appeal.

4. The appellant may request the court to provide a copy of the response.

5. The case, the appeal and the response shall be sent from the court of appeal to the Supreme Court of Georgia.

### Article 303 - Deciding the admissibility of a cassation appeal

1. If the appeal does not comply with the requirements of Article 301(2) of this Code, the cassation court shall, without oral hearing, allow the appellant 5 days to correct the deficiency in the appeal. If the appellant does not comply with the above requirement, the cassation court shall, without an oral hearing, dismiss the appeal by a ruling. The ruling shall be final and it may not be appealed.

2. The cassation court may examine the admissibility of a cassation appeal without oral hearing.

3. A cassation appeal shall be admissible if:

a) the case is essential for the development of the law and for establishing uniform judicial practice;

b) the decision of a court of appeal differs from the case law of the Supreme Court of Georgia previously applicable with respect to cases of this category;

c) the court of appeal reviewed the case with considerable legal or procedural violation, which may have substantially affected the outcome of the hearing.

4. A ruling of the cassation court finding the appeal as inadmissible shall be final and it may not be appealed. Within 5 days after delivering a ruling finding the cassation appeal as inadmissible, the court shall notify the parties in writing, and if a cassation appeal of the prosecutor has been found to be inadmissible, also the superior prosecutor.

5. If the cassation court finds the appeal admissible under a ruling, it shall set a date for the cassation hearing. A cassation hearing shall be held within a month after the appeal has been found to be admissible.

6. The cassation court may review a case without oral hearing.

7. Before a final decision is made, the appellant may withdraw his/her appeal.

In that case, the cassation court may, without oral hearing, deliver a ruling dismissing the appeal; the ruling shall be final and may not be appealed. An appeal may not be filed again.

8. A final decision on a cassation appeal shall be delivered at a court of cassation within not later than 6 months after the case and the appeal have been submitted to the court of cassation.

**Article 304 - Referring a case to the Grand Chamber**

The panel of the Criminal Chamber of the Supreme Court of Georgia hearing the case may, under a ruling, refer a case for review to the Grand Chamber, if:

a) reviewing and deciding the case are particularly important for the development of uniform judicial practice;

b) due to its content, the case constitutes an unusual legal question.

**[Article 304[1] - Applying for an advisory opinion of the European Court of Human Rights**

1. After a case and an appeal are submitted to the cassation court, the cassation court may apply for an advisory opinion to the European Court of Human Rights on important aspects of the interpretation or application of the rights and freedoms provided for by the Convention for the Protection of Human Rights and Fundamental Freedoms and related Protocols.

2. The cassation shall provide reasons for its request for an advisory opinion of the European Court of Human Rights and provide the Court with relevant legal and factual circumstances relating to the case.

3. The cassation court shall notify the parties of its application for an advisory opinion of the European Court of Human Rights.

4. The advisory opinion of the European Court of Human Rights shall not be binding.

5. The running of the time limit provided for by Article 303(8) of this Code shall be suspended from the moment when the cassation court applies to the European Court of Human Rights for an advisory opinion until it receives the advisory opinion. (***Shall become effective upon entry into force of the Protocol No 16 of the Convention for the Protection of Human Rights and Fundamental Freedoms in relation to Georgia)]***

*Law of Georgia No 3668 of 29 May 2015 - website, 5.6.2015*

**Article 305 - Appearance of the parties**

1. A convicted person in custody may request, by a cassation appeal, direct participation in the cassation hearing; the decision on this issue shall be made by the court reviewing the cassation appeal.

2. If the appellant fails to appear at a cassation hearing without a valid reason, the cassation court shall, under a ruling, dismiss the cassation appeal.

The ruling shall be final and it may not be appealed.

**Article 306 - Cassation hearing**

1. The presiding judge shall establish that the parties have appeared at the hearing.

2. Then the parties shall make their statements. The appellant shall make the first statement.

3. The burden to prove the unlawfulness of the judgement shall rest with the appellant.

4. The cassation appeal shall be reviewed within the scope of the appeal and the response. ***(the normative content of paragraph 4 of this article that excludes the possibility of the court of cassation to go beyond the scope of the cassation appeal and to release a person from liability where a law adopted after the commission of the act decriminalises the act shall be deemed to be invalid)*** - Decision of the Constitutional Court of Georgia of 29 September 2015 No 3/1/608,609 – website, 13.10.2015.

5. After the parties make their statements, rebuttals shall be made first by the appellant and then the opposing party.

6. If the convicted person (acquitted person) is present during the hearing, his/her right to the final statement shall be guaranteed.

7. The presiding judge shall specify a reasonable period for the parties to make statements and make rebuttals.

8. The presiding judge may not determine the length of a party's final statement, but he/she can stop the person if he/she is referring to a circumstance that is not related to the case reviewed.

*Decision of the Constitutional Court of Georgia of 29 September 2015 No 3/1/608,609 – website, 13.10.2015*

**Article 307 - Judgement of a court of cassation**

1. The court of cassation shall, under a judgement, make one of the following decisions:

a) overrule the judgement of conviction of the court of appeal and render a judgement of acquittal instead;

b) overrule the judgement of acquittal of the court of appeal and render a judgement of conviction instead;

c) make changes to the judgement of the court of appeal;

d) uphold the judgement of the court of appeal and deny the cassation appeal.

2. The judgement of the cassation court shall replace the judgement rendered by the court of appeal.

3. The judgement of the cassation court shall be final and it may not be appealed.

**Article 308 - Prohibition of *reformatio in peius***

1. The cassation court may not render a judgement of conviction instead of a judgement of acquittal, apply a stricter article of the Criminal Code of Georgia, impose a stricter sentence or deliver any other decision that is unfavourable for the convicted person if the case is reviewed based on an appeal filed by the convicted person or the convicted person's defence lawyer and if the prosecution has not filed an appeal.

2. A cassation court may render a judgement of conviction instead of a judgement of acquittal, apply a stricter article of the Criminal Code of Georgia, impose a stricter sentence or otherwise put the convicted person in a worse position if the prosecution has filed the cassation appeal with this very request and if he/she maintained such position in the courts of the first instance and of appeal.

**Article 309 - Cassation appeal as grounds to re-examine judgements entered with respect to other convicts in the same case**

If, based on the appeal of a convicted person, the cassation court, annuls or alters the judgement in the convicted person's favour, on the grounds that the criminal law was applied in violation of the law and this legal mistake also affects other persons convicted in the same case who have not filed a cassation appeal, the cassation court shall be obliged to review the case with respect to those convicted persons too.

## Chapter XXVII – Procedure for Reviewing Judgements Due to Newly Found Circumstances

**Article 310 - Grounds for reviewing a judgement due to newly found circumstances**

A judgement shall be reviewed due to newly found circumstances if:

a) a court judgement that has entered into force has established that the evidence on which the judgement to be reviewed was based is false;

b) there exists a circumstance that proves the illegal composition of the court that rendered the final judgement, or the inadmissibility of the evidence on which the judgement subject to review was based;

c) under a final court judgement it has been established that the judge, the prosecutor, a juror or any other person in relation to a juror has committed a crime with respect to that case;

d) there exists a decision of the Constitutional Court of Georgia that has found that a criminal law applied in that case is unconstitutional;

e) there exists an effective decision (judgement) of the European Court of Human Rights that has established that the European Convention for the Protection of Human Rights and Fundamental Freedoms or the Protocols to the Convention has been violated with respect to that case, and the judgement subject to review was based on that violation;

$e^1$) there exists a decision of the United Nations Human Rights Committee, Committee on the Elimination of Discrimination against Women, Committee on the Rights of the Child, Committee against Torture or Committee on the Elimination of Racial Discrimination ('the Committee') that has established that the Convention on the basis of which that Committee was found, has been violated with respect to that case, and the judgement subject to review was based on that violation.) a new law annuls or mitigates the criminal liability for the action for the commission of which a person was convicted under the judgement subject to review;

g) a new fact or evidence has been provided that was unknown when a judgement subject to review was rendered, and that, separately or along with any other established circumstance, confirms the innocence of the convicted person, or the commission of a crime that is less or more serious than the crime for the commission of which he/she has been convicted, and also proves the guilt of the acquitted person, or the commission of a crime by the person against whom a criminal prosecution was terminated;

g[1]) a decree of a prosecutor has been provided concerning substantial violation of the rights of the convicted person while processing the criminal case, that was unknown when a judgement subject to review was rendered, and that, separately and/or along with any other established circumstance, confirms the innocence of the convicted person, or the commission of a crime that is less serious than the crime for the commission of which he/she has been convicted;

h) there exists a ruling of a court of appeal which established that the secret investigative action that led to the collection of the evidence that served as grounds for the judgement was illegal.

*Law of Georgia No 5170 of 28 October 2011 – web-site, 11.11.2011*

*Law of Georgia No 5925 of 27 March 2012- website, 19.4.2012*

*Law of Georgia No 2634 of 1 August 2014 – web-site, 18.8.2014*

*Law of Georgia No 5011 of 27 April 2016 - website, 13.5.2016*

*Law of Georgia No 5576 of 24 June 2016 – web-site, 12.7.2016*

*Law of Georgia No 200 of 22 December 2016 – web-site, 29.12.2016*

**Article 311 - Time limit for reviewing a judgement due to newly found circumstances**

There shall be no time limit for reviewing a judgement due to newly found circumstances, except for the cases defined in Article 310(e) and (e[1]) of this Code.

A person may apply to a court for the review of a judgement due to newly found circumstances under Article 310(e) of this Code within a year after a decision (judgement) of the European Court of Human Rights enters into force, and due to newly found circumstances under Article 310(e[1]) of this Code a person may apply to a court for the review of a judgement within a year after a decision (judgement) of the relevant Committee enters into force.

*Law of Georgia No 5925 of 27 March 2012 - website, 19.4.2012*

*Law of Georgia No 5011 of 27 April 2016 - website, 13.5.2016*

**Article 312 - Filing a motion for reviewing a judgement due to newly found circumstances**

1. A motion for reviewing a judgement due to newly found circumstances shall be filed in writing with the court of appeal, according to the jurisdiction.

2. The right to file a motion for reviewing a judgement due to newly found circumstances shall be enjoyed by the prosecutor, the convicted person and/or his/her defence lawyer, and in the case of the death of the convicted person, by his/her legal successor and/or his/her defence lawyer.

2[1]. The convicted person and/or his/her defence lawyer, and in the case of the death of the convicted person, his/her legal successor and/or his/her defence lawyer, in order to file a motion for reviewing a judgement due to newly found circumstances, shall enjoy the right to receive free of charge certified copies of evidence and materials of the criminal case, on which a decree of a prosecutor concerning substantial violation of the rights of the convicted person while processing the criminal case has been received.

3. The motion shall indicate the grounds and evidence for reviewing the judgement.

4. Filing a motion shall not impede the execution of the judgement.

*Law of Georgia No 741 of 14 June 2013 -web-site, 27.6.2013*

*Law of Georgia No 5576 of 24 June 2016 – web-site, 12.7.2016*

**Article 313 - Examining the admissibility and reasonableness of a motion**

1. Within 2 months after filing a motion for reviewing a judgement due to newly found circumstances, the court shall, without oral hearing, examine whether the motion has been filed according to the requirements of this Code, and whether it is reasonable.

2. If a motion has not been filed according to the requirements of this Code, or if a motion is not reasonable, the court shall, under ruling, and without oral hearing, find it to be inadmissible. A cassation appeal may be filed against the ruling, in the manner provided for by this Code, within 2 weeks after the judgement has been rendered.

3. The cassation court shall review the appeal without oral hearing, without examining its admissibility. The cassation court may uphold or annul the ruling of the court of appeal and instruct the court of appeal to admit the motion.

4. If a motion has been filed according to the requirements of this Code and it is reasonable, the court shall, under ruling and without oral hearing, admit the motion, set a date for the main hearing and allow the parties a reasonable period of time for preparation for the main hearing.

**Article 314 – Court session held due to newly found circumstances. Judgement**

1. The main hearing shall be held in the court of appeal according to the norms applicable during the main hearing.

A court of appeal may review a case without oral hearing.

2. After the main hearing, the court shall either uphold the judgement, or alter or annul it, and enter a new judgement.

3. A cassation appeal against a judgement of a court of appeal shall be filed in the manner prescribed by this Code.

4. A cassation court shall review an appeal in the manner prescribed by this Code, without examining its admissibility.

*Law of Georgia No 3891 of 7 December 2010 – LHG I, No 67, 9.12.2010, Article 418*

**Article 314[1] – Payment of an indemnity on the basis of a decision of the Committee**

A person shall be entitled to file an action to a court for the payment of an indemnity on the basis of a decision of the Committee with regard to the payment of an indemnity by the State. The court shall determine the amount of an indemnity considering the gravity of violation of human rights and other objective factors. The action filed to the court to obtain an indemnity shall be reviewed in accordance with the procedures defined by the Administrative Procedure Code of Georgia.

*Law of Georgia No 5011 of 27 April 2016 - website, 13.5.2016*

## Section VII.

## (Deleted)

## Chapter XXVIII - (Deleted)

*Law of Georgia No 3715 of 12 June 2015 - web-site, 24.6.2015*

**Article 315 - (Deleted)**

*Law of Georgia No 3715 of 12 June 2015 - web-site, 24.6.2015*

**Article 316 - (Deleted)**

*Law of Georgia No 3715 of 12 June 2015 - web-site, 24.6.2015*

**Article 317 - (Deleted)**

*Law of Georgia No 3715 of 12 June 2015 - web-site, 24.6.2015*

**Article 318 - (Deleted)**

*Law of Georgia No 3715 of 12 June 2015 - web-site, 24.6.2015*

**Article 319 - (Deleted)**

*Law of Georgia No 3715 of 12 June 2015 - web-site, 24.6.2015*

**Article 320 - (Deleted)**

*Law of Georgia No 3715 of 12 June 2015 - web-site, 24.6.2015*

**Article 321 - (Deleted)**

*Law of Georgia No 3715 of 12 June 2015 - web-site, 24.6.2015*

**Article 322 - (Deleted)**

*Law of Georgia No 3715 of 12 June 2015 - web-site, 24.6.2015*

**Article 323 - (Deleted)**

*Law of Georgia No 3715 of 12 June 2015 - web-site, 24.6.2015*

**Article 324 - (Deleted)**

*Law of Georgia No 3715 of 12 June 2015 - web-site, 24.6.2015*

## Chapter XXIX - Procedure for Prosecuting Legal Persons

**Article 325 - Application of the provisions of this Code to legal persons**

1. The criminal proceedings intended for prosecuting legal persons shall be conducted in compliance with the general procedures determined by this Code and this Chapter.

The provisions of this Code shall apply to legal persons taking into account their content.

2. For the purposes of this Chapter, a legal person shall mean an entrepreneurial (commercial) or non-entrepreneurial (non-commercial) legal person (his/her legal successor).

**Article 326 - Applying measures of coercion of criminal procedure and of other restrictions against a legal person**

It shall be prohibited to conduct liquidation or reorganisation procedures against a legal person from the moment of the initiation of criminal proceedings against it until the entry into force of a court's judgement of conviction or the termination of criminal prosecution.

**Article 327 - Referring a case to court to prosecute a legal person**

The prosecutor shall notify the defence lawyer of the legal person of a decision to refer the case to court for prosecuting the legal person, and inform him/her of the right to inspect the case materials.

The procedure for inspecting the case materials shall be determined by the relevant articles of this Code.

**Article 328 - Publishing a court judgement delivered against a legal person**

1. A final judgement of conviction delivered a legal person shall be published. The judgement shall be published at the expense of the convicted legal person.

2. The court may determine the form in which the judgement is to be published. When publishing a judgement, the identity of the victim may only be disclosed with his/her consent.

## Section VIII.

## Transitional and Final provisions

## Chapter XXX - Transitional and final provisions

**Article 329 - Repealed normative act**

1. Upon entry into force of this Code, the Criminal Procedure Code of Georgia of 20 February 1998 shall be declared invalid (Parliamentary Gazette, No 13-14, 8.4.1998, p. 31).

2. The procedural decisions made before entry into force of this Code shall retain their legal effect.

3. Criminal proceedings on cases of criminal prosecution that were initiated before entry into force of this Code shall continue in the manner prescribed by the Criminal Procedure Code of Georgia of 20 February 1998, except for cases of application of diversion provided for by Articles 1681 and 1682 of the same Code. ***[(the normative content that prohibits the application of a maximum 9-month period, prescribed by this Code, during which a person is deemed to be the accused until the preliminary trial, in cases of criminal prosecution initiated before the entry into force of this Code, shall be deemed invalid)***

***(The normative content that prohibits the hearing of a case with the participation of the jury in cases of criminal prosecution initiated before the entry into force of this Code shall be deemed invalid)*** - Decision of the Constitutional Court of Georgia No 1/4/557,571,576 of 13 November 2014 - web-site, 26.11.2014)

$3^1$. If a criminal prosecution against the accused was initiated before the entry into force of this Code, and the running of the period of being the accused is or was suspended, the criminal proceedings shall continue in the manner provided for by the Criminal Procedure Code of Georgia of 20 February 1998 (except for the suspension of the running of the period of being the accused provided for by Article 75(5). In that case, the period of being deemed as the accused until court proceedings shall be 9 months. The running of that period shall continue from 1 May 2015. The above period shall not include the period during which the running of the period of being the accused was suspended.

4 (Deleted - 24.9.2010, No 3616)

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 5352 of 25 November 2011 – web-site, 5.12.2011*

*Decision of the Constitutional Court of Georgia No 1/4/557, 574, 576 of 13 November 2014 - web-site, 26.11.2014*

*Law of Georgia No 3520 of 30 April 2015 - website, 30.4.2015*

**Article 330 - Temporary jurisdiction of jury trials**

1. Until 1 October 2011, jury trials shall take place only in the Tbilisi City Court and shall review criminal cases relating to crimes (only completed) defined in Article 109 of the Criminal Code of Georgia that fall within its territorial jurisdiction.

In the case of multiple offences, if a person is also accused of a crime (only completed) defined in Article 109 of the Criminal Code of Georgia, the criminal case shall be reviewed by a jury in the manner prescribed by this Code.

$1^1$. From 1 October 2011 until 1 October 2012, jury trials shall take place only in the Tbilisi City Court and shall review criminal cases relating to the crimes defined in Article 109 of the Criminal Code of Georgia that fall within its territorial jurisdiction.

In the case of multiple crimes, if a person is also accused of a crime defined in Article 109 of the Criminal Code of Georgia, the criminal case shall be reviewed by a jury in the manner prescribed by this Code.

2. From 1 October 2012 to 1 October 2017, jury trials in the Tbilisi City Court shall review criminal cases defined in Articles 110-114 of the Criminal Code of Georgia that fall within its territorial jurisdiction.

In the case of multiple crimes, if a person is also accused of a crime defined in Articles 110-114 of the Criminal Code of Georgia, the criminal case shall be reviewed by a jury in the manner prescribed by this Code.

3. From 1 October 2012 to 1 October 2017, the cases concerning crimes defined in Article 109 of the Criminal Code of Georgia shall be reviewed in the first instance with the participation of a jury by the Tbilisi and Kutaisi City Courts.

In the case of multiple crimes, if a person is also accused of a crime defined in Article 109 of the Criminal Code of Georgia, the criminal case shall be reviewed by a jury, in the manner prescribed by this Code.

$3^1$. (Deleted - 19.2.2015, No 3090).

4. For the purposes of paragraph 3 of this article, the procedure for territorial jurisdiction of the Tbilisi and Kutaisi City Courts shall be determined by the High Council of Justice of Georgia, and jurors shall be selected from the Public Service Development Agency's unified list of citizens who have attained the age of 18 years.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 6253 of 22 May 2012 – web-site, 29.5.2012*

*Law of Georgia No 6317 of 25 May 2012 - web-site, 19.6.2012*

*Law of Georgia No 205 of 18 January 2013 – web-site, 28. 1.2013*

*Law of Georgia No 2663 of 18 September 2014 – web-site, 25.9.2014*

*Law of Georgia No 3090 of 19 February 2015 – web-site, 6.3.2015*

*Law of Georgia No 5591 of 24 June 2016 – web-site, 13.7.2016*

**Article 331 - (Repealed from 1 October 2012 under Article 333(3) of this Code)**

**Article 332 - Provisional procedure for interrogation during investigation**

1. Until 20 February 2016, an interrogation during an investigation shall be conducted in the manner provided for by the Criminal Procedure Code of Georgia of 20 February 1998 (except for Article 305(6)).

2. In the case provided for by paragraph 1 of this article, Article 243(3) of this Code shall apply during the interrogation of a person, including in cases with respect to which criminal prosecution has been initiated before the entry into force of this Code.

3. Until 1 January 2017, during the investigation of crimes defined in Articles 315, 324, $324^1$, $329^1$-$330^2$, 331-$331^1$ of this Code, interrogations shall be conducted in accordance with paragraphs 1 and 2 of this article.

4. Until 1 January 2018, during the investigation of crimes defined in Articles 108, 109, 115, 117, $126^1$, 178, 179, 276, 323–$323^2$, 325–329 and $378^2$ of this Code, interrogations shall be conducted in accordance with paragraphs 1 and 2 of this article.

5. In the case of multiple crimes, if a person is also accused of the crime(s) defined in paragraph 3 or 4 of this article interrogations during the investigation shall be conducted in accordance with paragraphs 1 and 2 of this article.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 6253 of 22 May 2012 – web-site, 29.5.2012*

*Law of Georgia No 205 of 18 January 2013 – web-site, 28. 1.2013*

*Law of Georgia No 848 of 24 July 2013 – web-site, 9.8.2013*

*Law of Georgia No 1872 of 26 December 2013 - website, 31.12.2013*

*Law of Georgia No 4643 of 16 December 2015 - website, 17.12.2015*

*Law of Georgia No 4677 of 18 December 2015 - website, 29.12.2015*

**Article $332^1$ - Additional grounds for revising a judgement due to newly discovered circumstances**

1. Along with the grounds listed in Article 310 of this Code, a judgement shall also be revised due to newly discovered circumstances if Article 414(8) of the Criminal Code of Georgia improves the position of a convicted person.

2. Along with the grounds listed in Article 310 of this Code, a judgement shall be revised due to newly discovered circumstances in relation to a convicted person recognised as a person detained for political reasons, or as a person prosecuted for political reasons under Resolution No76-Iს of 5 December 2012 of the Parliament of Georgia on Persons Detained for Political Reasons or Prosecuted for Political Reasons if the judgement was delivered before passing the Resolution and if an appropriate motion is filed with the court before 1 July 2017.

*Law of Georgia No 547 of 17 April 2013 – web-site, 8.5.2013*

*Law of Georgia No 5443 of 22 June 2016 – website, 29.6.2016*

**Article $332^2$ – (Deleted)**

*Law of Georgia No 893 of 29 July 2013 – web-site, 20.8.2013*

*Law of Georgia No 5390 of 8 June 2016 – website, 17.6.2016*

**Article $332^3$ - Implementation of a two-stage electronic system of secret investigative activities**

Before 31 March 2015, the Ministry of Internal Affairs of Georgia shall ensure the implementation of technical and organisational measures required for the operation of a two-stage electronic system of secret investigative activities, as well as the creation of the appropriate software.

*Law of Georgia No 2870 of 30 November 2014 – web-site, 30.11.2014*

**Article $332^4$ - Legal regulation of issues related to persons found legally incompetent by court before 1 April 2015 during the transitional period**

For the purposes of this Code, the legal representative of a person recognised as legally incompetent by court before 1 April 2015 shall be his/her guardian, until the legally incompetent person is individually evaluated.

*Law of Georgia No 3358 of 20 March 2015 – web-site, 31.3.2015*

**Article 333 - Entry into force of the Code**

1. This Code, except for Article 310(e), shall enter into force from 1 October 2010.

2. Articles 310(e) of this Law shall enter into force from 1 January 2012.

$2^1$. Article 310(e) of this Code shall apply to persons against whom a decision (judgement) of the European Court of Human Rights was delivered before 1 January 2012 and who, due to newly discovered circumstances, apply to a court, before 1 July 2012, to review the judgement.

3. Articles 331 of this Law shall be deemed repealed from 1 January 2012.

4. (Deleted - 24.9.2010, No 3616)

5. Before this Code enters into force, the Minister of Justice of Georgia shall determine the investigative and territorial investigative jurisdiction determined by Articles 35 and 36 of this Code.

6. The right of the defence to file a motion stipulated by Article 180(1) of this Code shall enter into force from 1 October 2012.

7.If, in order to perform the court obligations stipulated by Article 1821(1) of this Code, it is necessary to take organisational and technical measures in certain courts. Article 1821(1) shall enter into force upon completion of the above measures, but not later than 1 June 2013.

8. A court of the first instance shall deliver a judgement on the criminal cases pending in the court at the time of entry into force of Article 185(6) of this Code not later than 36 months after the entry into force of that article.

9. Articles 185(6) and (7) of this Code shall enter into force from 1 January 2016.

*Law of Georgia No 3616 of 24 September 2010 – LHG I, No 50, 24.9.2010, Article 328*

*Law of Georgia No 5170 of 28 October 2011 – web-site, 11.11.2011*

*Law of Georgia No 205 of 18 January 2013 – web-site, 28. 1.2013.*

*Law of Georgia No 3976 of 8 July 2015 – web-site, 20.7.2015*

**President of Georgia** **Mikheil Saakashvili**

**Tbilisi**

**9 October 2009**

**No 1772 – IIს**