



Monitoring of the implementation of the Government's Human Rights Action Plan

Chapter 3

Chapter 3. Prosecutor's Office

The progress of the implementation of the Chapter: 66% (The chart indicates only the implementation progress of the action plan's specific chapter and not its compliance and relevance with its goals and activities)

Executive Summary

The third chapter of the Human Rights Action Plan (HRAP) consists of one goal, 5 objectives and 19 separate activities and covers the issues such as independent, impartial and effective investigation and criminal justice policy, transparency of the Prosecutor's Office, capacity building of the Prosecutor's Office and prosecutors, etc.

Active cooperation of the Prosecutor's Office with the project team on providing relevant information and clarifying the Action Plan's indicators deserves positive assessment. It facilitated the effective monitoring of the implementation of the Action Plan and helped in drafting the present report.

First, it should be noted that the Governmental Human Rights Action Plan failed to include the following important issues: enhancing independence of the Prosecutor's Office, establishment of a prosecutorial system that would be open, transparent and accountable to public, etc. These issues shall be a priority for the Prosecutor's Office of Georgia and their importance have been stressed in numerous international or national reports.

One should underline the irrelevance of some of the objectives and activities to the aim of the Action Plan as well as vague, formalistic and, in certain cases, irrelevant indicators. Therefore, the indicators were revised in co-operation with the representatives of the Prosecutor's Office and some changes were made to them.

The Strategy of the Prosecutor's Office for 2016-2017 was also studied within the framework of the report in relevance to the third chapter of the HRAP. It turned out that the strategy contains some parts of the HRAP without any modifications, including the activities planned to be implemented in 2016; some of them have some modifications; the strategy does not mention at all the obligation undertaken by the Government in the HRAP concerning carrying out quantitative and qualitative analysis of crimes entailing human rights breaches to be published in a quarterly report. Unfortunately, it was impossible to assess the action plan of the given strategy as it was not a public document.

To assess the implementation of the activities of the HRAP, we officially requested the information from the Prosecutor's Office and received the answers in writing on 4 September and 27 December. Besides, in the assessment process, we used the interim reports on the implementation of the Action Plan approved by the Government of Georgia and the report presented by the Chief Prosecutor to the Prosecutor's Council on 19 July 2017.

The assessment shows that, at the moment of drafting the report, out of the 19 activities, 9 activities have been fully implemented; in 3 activities more than half of the issues have been covered; in 3 activities less than half of the issues have been covered; and 4 activities have not been implemented. The total progress of the implementation of the third chapter is 64 %. In conclusion, it should be mentioned that some of the objectives of the Action Plan are not relevant to its aim in terms of establishment of a human rights-oriented, independent, fair, effective and transparent prosecution system. At the same time, certain activities planned for the implementation of some of the objectives do not contribute either to their implementation or to the fulfilment of the general aim of the Action Plan. Not to mention the failure in the implementation or partial implementation of such important activities as publishing a report on human rights breaches, introduction of prosecutors' performance evaluation system, analysis of widespread crimes for the establishment of effective criminal justice policy, etc.

It should be assessed positively that more than half of the activities envisaged by the Action Plan (out of 19 activities) have been completed fully or mostly (12 activities in total) (Such as developing public-

oriented prosecutors' offices, developing a strategy and an action plan of prosecutors' training centre, adopting a new code of ethics for staff at prosecutors' offices, training sessions on various topics for prosecutors, etc.)

1. Overall Assessment of Chapter III of the Human Rights Action Plan

1. Content-Related Comments on Chapter III – Relevance to the Challenges and Recommendations

The reform of the Prosecutor's Office is one of the most important goals of the HRAP, aimed at establishing a prosecutorial system, which will carry out fair, effective and transparent prosecution and will be oriented towards human rights protection.

The HRAP of the Government of Georgia shares the importance of this aim and devotes Chapter III with 5 separate objectives to its implementation.

Objectives envisaged by the HRAP should be derived from the Human Rights Strategy and the obligations undertaken by the Georgian Government, whereas the Strategy of the Prosecutor's Office adopted on 2017 and covering 2017-2021 should be one of the means of their implementation. However, the report shows that Chapter III does not fully reflect the reality and some of its activities are irrelevant to the goals and objectives of the HRAP. Moreover, this chapter does not include the recommendations of some international experts and those of the Public Defender of Georgia; some of the objectives on strengthening the institutional capacity of the Prosecutor's Office envisaged by the national strategy are omitted in Chapter III as well.

For the reform process of the Prosecutor's Office, the HRAP considers it important to improve the control mechanism on the prosecutor's work, to carry out criminal prosecution and to use preventive measures in line with international standards. The importance of the above-mentioned as well as other issues, such as the establishment of the mechanism of effective response to the incidents of ill-treatment by law-enforcement agencies, independence of the work of the Prosecutor's Office to avert any unlawful pressure and to ensure better transparency and accountability, have been stressed by the reports of the European Committee on the Prevention of Torture^[1] and the Public Defender of Georgia.^[2] These issues have also been mentioned in the report on Progress in the Implementation of the National Strategy for the Protection of Human Rights in Georgia for 2014-2020 and Recommendations as to Future Approaches, prepared by an independent consultant and human rights international expert Maggie Nicholson.^[3] Maintaining the reform of the Prosecutor's Office to ensure its independence, protection from any unlawful pressure, its transparency and accountability is also one of the short-term priorities under the justice chapter of the agenda of the Association Agreement between Georgia and the EU.

Therefore, the following list contains the issues which due to their importance should have been included in the HRAP for 2016-2017:

- Increasing independence and political neutrality of the Prosecutor's Office;
- Establishment of an open and transparent prosecution system accountable to public;
- Increasing independence of prosecutors' individual work; and
- Creation of an effective criminal prosecution mechanism on allegations of ill-treatment by law-enforcement officials.

Besides, in spite of the fact that the development of the training centre and its provision with a library and other special programs is one of the important working directions of the Prosecutor's Office, we conclude that the human rights situation and the goal of the HRAP related to the establishment of an independent, effective and human rights-oriented criminal prosecution system could not be achieved solely by strengthening the training centre and improving prosecutors' qualifications or/and by establishing the performance evaluation system for prosecutors.

2. Assessment of the Relevance, Effectiveness and Priority of the Activities Envisaged Under Chapter III

Chapter III of the HRAP, as it has already been mentioned repeatedly, aims at establishing a prosecution system that would be able to independently perform fair, effective, transparent and human rights-oriented criminal prosecution.

The present chapter will assess the relevance, effectiveness and the priorities of the HRAP objectives with respect to the HRAP's goal and whether it is possible to achieve it by the thorough implementation of these objectives by the Prosecutor's Office.

Independence of the Prosecutor's Office from the external pressure and the need of transparent criminal prosecution are underlined in numerous reports by non-governmental organisations and the Public Defender of Georgia. These issues became especially relevant since the changes made to the Law of Georgia on Prosecutor's Office led to the introduction of the selection mechanism of the Chief Prosecutor and his/her accountability to the Council of Prosecutors. Coalition for the Independent and Transparent Justice responded to these legislative changes on 25 September 2015 with the following statement: "In spite of some positive changes to the law, the objective of the draft law envisaging de-politicisation is unattainable since these amendments are of fragmented nature and do not cover those fundamental principles which should ensure real independence of the prosecutorial system, irrespective the conclusions of the Venice Commission." Unfortunately, none of the objectives and the relevant activities envisaged under the HRAP meet this challenge to ensure the independence of the prosecutors' work from external pressure.

The goal of the HRAP is to achieve transparency and effectiveness of criminal prosecution, which is also a part of the Human Rights chapter of the AP. For its achievement, the objective of enhancing transparency and accountability of the Prosecutor's Office is planned. Although, out of the activities planned for the achievement of this objective, only one (carrying out qualitative and quantitative analysis of crimes entailing human rights breaches and publishing quarterly reports) envisages proactive publishing of certain information. Other activities are either too general (e.g. developing public-oriented prosecutors' offices) or irrelevant to the respective objectives (e.g. improving the rule for appointment and promotion of prosecutors).

The objective of paragraph 3.1.1 of the HRAP is ensuring "independent, impartial, effective investigation and a crime combating policy that conforms to the existing crime patterns" whereas the action plan itself refers to an independent, fair and effective criminal prosecution, not investigation. Moreover, none of the activities planned for the implementation of this objective ensure independence and impartial investigation. At the same time, nothing is said in the HRAP about the means of achieving crime combating policy relevant to the situation of crime.

It is worth mentioning that some of the activities of the HRAP are too general (e.g. capacity building of prosecutors; conducting training sessions on various topics for prosecutors). The indicators designed for the assessment of the performance of these activities are also vague and formalistic; the quantitative and qualitative indicators used are very few. Therefore, the working group in co-operation with the Prosecutor's Office's representatives reviewed the indicators and made some changes to them.

1.3 Assessment of Other Relevant Action Plans with Reference to Chapter III of the HRAP

In parallel to the HRAP, on 31 January 2017, the Chief Prosecutor approved the Strategy of the Prosecutor's Office for 2017-2021. Later, the relevant action plan has been designed. The strategy of the Prosecutor's Office is public and is placed on the website of the Prosecutor's Office, although according to the representatives of the Prosecutor's Office, the relevant action plan was not public and thus was not available for the working group. Therefore, the comparison between the timeframes of the activities of the HRAP and the action Plan of the Prosecutor's Office turned out to be impossible.

According to the Strategy of the Prosecutor's Office, during 2017-2021 the Prosecutor's Office of Georgia plans to implement the activities to strengthen the independence of the prosecutor's office and prosecutors, increasing the efficiency of fight against certain crimes (including human trafficking, corruption, terrorism, drug-related crimes and cybercrime), protection of human rights, enhancing the quality of prosecutorial work and establishing a homogeneous criminal policy, increasing public trust, prevention of crime and improving the professionalism and qualifications of staff members.

Some of the HRAP activities have been expected to be implemented in 2016, whereas they are still included in the 2017-2021 Strategy of the Prosecutor's Office. Therefore, it was possible to compare only the activities planned for 2017. Out of the activities planned for 2017, the Strategy of the Prosecutor's Office contains elaboration of the guidelines on the investigation of corruption committed by legal entities,^[4] introduction of the prosecutor's performance evaluation system,^[5] introduction of a transparent system for prosecutors' disciplinary responsibilities,^[6] conducting various training sessions for prosecutors^[7] as well as strengthening the capacity of the prosecutors' training centre and elaboration of relevant training programs.^[8] The activity of the HRAP on increasing the intensity of and improving the efficiency of local crime prevention councils' meetings^[9] has been differently interpreted in the strategy. The Strategy of the Prosecutor's Office envisages not improving the efficiency of the acting local councils but the establishment of new ones.

One should also take into consideration that the activities planned for 2016 under the HRAP, such as the introduction of the performance evaluation system, elaboration of a handbook on legal writing and the investigation methodology, are included in the Strategy of the Prosecutor's Office for 2017-2021 designed in 2017.

The most important is the fact that the Strategy of the Prosecutor's Office does not contain the obligation on carrying out qualitative and quantitative analysis of crimes violating human rights and publishing quarterly reports envisaged under the HRAP although the strategy devotes the whole chapter to the protection of human rights.

Therefore, one could conclude that the Strategy of the Prosecutor's Office and the HRAP are not in compliance with each other either by content or with regard to the timeframes given for the implementation for certain activities. Though it should be noted that the Strategy of the Prosecutor's Office reflects the current situation in the field much better in terms of human rights protection, increasing the quality of the prosecution and investigation, standard of professional ethics, improving the prosecutors' qualifications, increasing the independence of the prosecutors and the Prosecutor's Office as well as its institutional development that the HRAP does with its objectives and relevant activities.

Recommendations and Suggestions

To the Prosecutor's Office:

1. Conduct an analysis of prevalent crimes and elaborate relevant recommendations for an effective criminal policy;
2. Ensure timely introduction of the handbook on holistic methodology of investigation and evaluation;
3. Prepare the analysis of alternative mechanism of prosecution – diversion of adults and introduce it

- to the prosecutors;
4. Prepare and publish quantitative and content-based quarterly report on criminal cases on human rights violations;
 5. Study the rules of appointment and promotion of ordinary prosecutors and elaborate the changes for their improvement;
 6. Continue intensive work for the establishment of the system of disciplinary responsibility of the prosecutors, which would be transparent for public, in line with the Public Defender's recommendations;
 7. Elaborate the monitoring mechanism of the implementation of some of the activities envisaged under the action plan (methodology of investigation, Code of Ethics, performance evaluation system) and introduce it into practice; and

[1] Report to the Georgian Government on the visit to Georgia carried out by the European Committee on the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. Available at: <https://rm.coe.int/16806961f8>, (accessed 13.01.2018).

[2] Reports of the Public Defender of Georgia on the situation of Human Rights and Freedoms in Georgia for the years of 2014 and 2015; available at: <http://www.ombudsman.ge/en/reports/saparlamento-angarishebi>, (accessed 13.01.2018).

[3] Report on Progress in the Implementation of the National Strategy for the Protection of Human Rights in Georgia 2014-2020, and Recommendations as to Future Approaches, Maggie Nicholson; available at: <http://ewmi-prolog.org/images/files/4265ReportonimplementationHumanRightsStrategyENGEWMIUNDP.PDF>, (accessed 18.01.2018).

[4] Human Rights Action Plan approved by the Government of Georgia, 26.07.2016, Chapter III, Activity 3.1.1.6., available at: <http://myrights.gov.ge/uploads/files/docs/2085HRAActionPlan16-17ENG.PDF>, (accessed 07.03.2018).

[5] Ibid, Activity 3.1.3.1.

[6] Ibid, Activity 3.1.3.3.

[7] Ibid, Activity 3.1.4.1.

[8] Ibid, Activity 3.1.5.

[9] Ibid, Activity 3.1.2.3.

Goal 3.1. Establish an independent prosecution system which will be able to carry out, fair, effective and transparent criminal prosecution oriented on human rights

The progress of the implementation of the Goal: 66.85%

Objective 3.1.1. Independent, impartial, effective investigation and a crime policy that conforms to the existing crime patterns

The progress of the implementation of the Objective: 75.95%

The present objective is one of the most important parts of the HRAP. It contains the following 6 activities: capacity building of prosecutors; introduction of a holistic methodology of investigation; publishing a legal writing handbook; developing recommendations on particular crimes and responsibility for legal entities; and analysis of the use of alternative mechanisms for criminal prosecution.

Despite the title of the objective, it does not include publishing correct statistical data on crimes and review of the guiding principles of the criminal policy for improving the existing criminal situation. The need for the latter is underlined even by the HRAP and numerous non-governmental organisations.

Special attention should be paid to the following activities: introduction of a holistic methodology of investigation, publishing a legal writing handbook and analysis of the use of alternative mechanisms for criminal prosecution. We believe that none of them serve the implementation of the present objective – independent, impartial, effective investigation and a criminal policy that conforms to the existing criminal situation and relevant to the general goal of the HRAP.

Despite the above-mentioned, we assessed the implementation of the activities envisaged by this part of the action plan. It turned out that 3 out of them, analysis of particular crimes and preparing recommendations, elaboration of the legal writing handbook and its introduction into the daily work as well as development of a handbook on the investigation and prosecution of crimes of the corruption committed by legal persons, are fully completed. Analysis of the use of alternative mechanisms for criminal prosecution is mostly completed, whereas 2 activities (capacity building of prosecutors and introduction of the holistic methodology of investigation) are completed only up to 30-35%.

Activity 3.1.1.1. Empower prosecutors

Responsible agency:

- Prosecutor's Office

Indicator:

1. Analysis is carried out and the recommendations are developed;
2. Analysis and developed recommendations are provided on prevalent crimes;
3. Number of recommendations and analysis documents.

Status: Mostly incompleted

The progress of the implementation of the Activity:
33%

Start date: 2016-01-01

Deadline: 2016-12-31

Assessment

To prepare qualitative and quantitative assessment of the given activities as well as to check the relevant timeframe, we addressed the Prosecutor's Office of Georgia and asked to provide the information on which particular crimes the analysis and recommendations were drafted in 2016 and the number of recommendations.

In a letter received from the Prosecutor's Office, dated 27 December 2017, activities 3.1.1.1 (capacity building of prosecutors) and 3.1.1.3 (developing recommendations for prosecutors based on the analysis of particular crimes) are united and the list of analytical works carried out by the Prosecutor's Office in 2016 and the relevant recommendations are provided.

For further information, we visited the website of the Ministry of Internal Affairs and found out information on the crime statistics for 2016.^[1] It turned out that the following crimes were prevalent in Georgia in 2016: crime against property (37%); drug-related crime (14%); crime against health (13%); traffic crime (9%); crime against the government functioning (6%); crime against public security and order (5%); and other crimes envisaged by the Criminal Code comprised 16% out of the registered offences.^[2]

The information provided by the Prosecutor's Office mentions analysis and recommendations only on violence (crime against health) and drug-related crimes. It shows that the HRAP activity on drafting recommendations on prevalent crimes to be implemented in 2016 is mostly incomplete (completed only by 33%) as out of the above-mentioned 6 types of crime, only 2 were subject to analysis and recommendations.

^[1] Ministry of Internal Affairs of Georgia, registered crimes, 2016, available in Georgian at: <http://police.ge/files/pdf/statistika%20da%20kvlevebi/2016/%E1%83%93%E1%83%90%E1%83%9C%E1%83%90%E1%83%A8%E1%83%90%E1%83%A3%E1%83%9A%E1%83%98%E1%83%A1-%E1%83%A1%E1%83%A2%E1%83%90%E1%83%A2%E1%83%98%E1%83%A1%E1%83%A2%E1%83%98%E1%83%99%E1%83%90-2016.pdf>, (accessed 08.01.2018).

^[2] Ibid, p. 6.

Activity 3.1.1.2. Effective implementation of a holistic methodology of investigation

Responsible agency:

- Prosecutor's Office

Indicator:

1. A holistic methodology of investigation is approved and is available for all the prosecutors and investigators;
2. Training of trainers (ToT) is conducted (% of trained prosecutors); All the prosecutor were trained on holistic methodology of investigation; (The prosecutors from all the regional offices were trained);
4. Number of trainings conducted by the trainers/prosecutors for the investigators from all the

structures; % of participants out of the total number of investigators from relevant offices;

5. Percentage of the trained investigators in regional offices;

6. The content of methodology is relevant to the objective and the goal;

7. The handbook is a part of a training module.

Status: Mostly incompletd

The progress of the implementation of the Activity:

30%

Start date: 2016-01-01

Deadline: 2016-12-31

Assessment

To assess the present activity, we addressed the Chief Prosecutor's Office of Georgia with an official letter and asked to provide the information whether the holistic methodology of investigation was available for all prosecutors and investigators; prosecutors from which regional offices were trained as trainers; and whether the handbook on holistic methodology of investigation was included in the training module, if not, when the latter was planned. Moreover, we asked to be provided with the information on the training sessions for investigators to assess the range of introduction of the methodology in practice; in case the training sessions have not been launched, we were interested in when they were planned to start and finish.

We [received the information\[1\]](#) that the handbook on holistic methodology of investigation was published in September 2017 and it became available for all prosecutors and investigators for using it in their daily work. Introduction of this methodology into practice, ToTs and training of investigators were planned for the beginning of 2018 and would be implemented in several stages. At the same time, the inclusion of the methodology in the training module would take place.

As for the relevance of methodology to the HRAP objectives and goals, the content includes all the investigation and procedural methodology, which falls under the authority of the prosecutor and investigator during the investigation process of a case (search, seizure, inspection, investigative experiment, etc.). We believe that thorough implementation of all the steps included by the methodology would ensure their conformity with the procedural code and human rights protection mechanisms; and, the handbook, as soon as it is used in practice, will help the investigative authorities in meeting the legislative requirements.

To sum up, we should note that the whole activity has not been implemented within the timeframes envisaged by the HRAP. According to the HRAP, publishing of the methodology, its incorporation into practice and subsequent monitoring of the procedural documents to assess the results of the activity were planned to take place in 2016. It seems that the handbook has not been incorporated into practice even in 2017, not to mention the monitoring of procedural documents which is a time-consuming and lengthy process.

Activity 3.1.1.3. Develop recommendations for prosecutors based on the analysis of particular crimes and identification of problems

Responsible agency:

- Prosecutor's Office

Indicator:

1. The recommendations have been elaborated;
2. The recommendations include the family violence, beating-torture; ill-treatment, fraud, corruption and other important issues;
3. Number of provided recommendations;

Status: Fully completed

The progress of the implementation of the Activity:
100%

Start date: 2016-01-01

Deadline: 2016-12-31

Assessment

To assess the given activity, we addressed the Prosecutor's Office and requested public information on the list of certain crimes, which had been studied and recommendations on which were elaborated in 2016 as well as the number of these recommendations.

The letter received from the Prosecutor's Office on 27 December 2017 showed that, in 2016, the relevant department of the Prosecutor's Office prepared analytical papers on corruption and drug-related crimes, crimes committed by and against juveniles, domestic violence, homicide of women and crimes against sexual liberty and security. Moreover, based on the analysis and other current issues, the recommendations have been elaborated on investigation of domestic violence, crimes committed on the ground of discrimination, investigation of trafficking, use of Juvenile Justice Code and rules on interrogating/interviewing witnesses. Recommendations have also been elaborated on use of detention and plea bargaining in certain circumstances, guarantees on protection of the rights of disabled persons and taking into consideration their special needs during investigation process, proper categorisation and the strategy on investigation in case of alleged ill-treatment cases; categorisation of hate speech crimes and application of Article 53.3¹ of the Criminal Code in practice.

According to the given letter, the analytical papers, elaborated recommendations based on them as well as the handbooks are only for internal use and not public. Therefore, it is impossible to judge how the topics have been selected; what is the content of the elaborated documents and how they are related to the HRAP objective.

The provided information made clear the fact that, in 2016, the Prosecutor's Office prepared numerous analytical papers and recommendations on current topical issues, therefore, the given activity should be assessed as completed.

Activity 3.1.1.4. Analyze use of alternative mechanisms for criminal

prosecution

Responsible agency:

- Prosecutor's Office

Indicator:

1. Analytical work has been carried out on Juvenile diversion/mediation and diversion for the adults;
2. Results of the analytical work have been introduced to the prosecutors working on juvenile cases;
3. Intensity of analytical work on Juvenile diversion/mediation.

Status: Fully completed

The progress of the implementation of the Activity:
100%

Start date: 2016-01-01

Deadline: 2016-12-31

Assessment

To assess the given activity, we addressed the Prosecutor's Office requesting information on whether analytical work has been carried out on juvenile diversion/mediation and diversion for adults. In case of a positive answer, we were interested how many analytical papers have been produced, their timeframes and whether they have been introduced to the prosecutors.

The [letter\[1\] received](#) from the Prosecutor's Office shows that the Prosecutor's Office carries out monitoring of the implementation of the juvenile justice program once in six months (biannually) and prepares a relevant report on the diversion program and the juveniles under the prosecution. According to the letter, these documents contain statistical data as well as the results of the monitoring. Findings of the report are sent to the prosecutors by e-mail and are discussed during working group meetings. The monitoring reports are only for internal use and are not for the public. Therefore, we lack the opportunity to assess its content and quality. Based on the letter, we could conclude that the part of the activity related to juvenile diversion/mediation has been fully completed as far as the action plan envisaged only conducting analytical work. The Prosecutor's Office not only carried out analytical work, but also the gaps revealed by the analysis were sent to prosecutors for information and further consideration.

Unfortunately, the provided information does not mention diversion for adults, which is the alternative mechanism of criminal prosecution. Since we could not find out such information neither in the report of the Chief Prosecutor to the Prosecutors' Council[1] nor in the HRAP implementation report[2] approved by the Government of Georgia, we consider the activity, namely, analysis of the practice of using alternative mechanisms of criminal prosecution, to be completed by 60%.

[1] Report of the Chief Prosecutor of Georgia, 19 July 2017, available at: <http://pc.gov.ge/block/index/465>, (accessed 6 January 2018).

[2] Report on the implementation of the HRAP of the Government of Georgia (for 2016-2017), 2018.

Activity 3.1.1.5. Publish a handbook for legal writing in order to implement a unified standard for legal writing

Responsible agency:

- Prosecutor's Office

Indicator:

1. Handbook on legal writing has been published.
2. Training of trainers has been conducted
3. Percentage of the trained prosecutors out of the total number;
4. Percentage of the trained prosecutors from the Regional Prosecutor's Offices;

Status: Fully completed

The progress of the implementation of the Activity:
100%

Start date: 2016-01-01

Deadline: 2016-12-31

Assessment

To assess the implementation of the present activity, we addressed the Prosecutor's Office and requested [information](#) whether the legal writing handbook had been published, whether the ToT for prosecutors had been conducted on the application of the handbook and from which regional offices the prosecutors had been trained.

According to the letter received from the Prosecutor's Office, the handbook was drafted and published in 2016. The ToT took place in April of the same year, whereas training sessions of the prosecutors were launched in the beginning of 2016 and were at the finishing stage when the official answer was sent. The same letter stated that, complying with the deadline of 2016-2017, within the framework of the activity on legal writing handbook, 259 prosecutors and intern-prosecutors underwent training sessions, which constituted 83% out of the total number of prosecutors. 81 prosecutors (60% of the total number) were from regional offices. Therefore, we could conclude that the given activity has been completed.

Activity 3.1.1.6. Develop a handbook on the investigation and prosecution of crimes of the corruption committed by legal persons

Responsible agency:

- Prosecutor's Office
- Ministry of Finance

Indicator:

1. The handbook has been elaborated;
2. The handbook has been incorporated into the training module.

Status: Fully completed

The progress of the implementation of the Activity:
100%

Start date: 2016-01-01

Deadline: 2017-12-31

Assessment

To assess the present activity, we addressed the Prosecutor's Office and requested information on the handbook on investigation and prosecution of corruption crimes committed by legal persons, when the presentation of the handbook was planned and whether the handbook was included into the training module.

According to the [information received](#) from the Prosecutor's Office, the handbook was being drafted and at the time of sending the official answer, the publishing process was ongoing. As for the incorporation of the handbook into the training module, we were verbally informed that it was planned for the beginning of 2018. Because the handbook has not been published yet we failed to check the compliance of the content of the handbook with the HRAP objectives. Although, the HRAP envisaged only publication of the handbook; therefore, we could conclude that the present activity has been completed.

Objective 3.1.2. Improve the quality of performance and accountability of prosecutor's offices

The progress of the implementation of the Objective: 50%

The implementation of the present objective is an important part of the HRAP as the goal of the action plan as a whole is to ensure transparent criminal prosecution. To implement this objective, the HRAP contains 4 following activities: developing public-oriented prosecutors' offices; carrying out qualitative and quantitative analysis of crimes entailing human right breaches and publishing quarterly reports; intensifying local crime prevention councils' meetings; and improving the procedure for appointment and promotion of prosecutors.

First, one should note that out of the above-mentioned activities, only two of them (publishing reports and developing public-oriented prosecutors' office) are relevant to increasing the transparency and accountability of the Prosecutor's Office, whereas the other two are completely irrelevant to this objective of the HRAP as intensifying local crime prevention council meetings and improving the rules for promotion are more the issues of internal transparency and efficient decision-making process.

Regarding the implementation of the above-mentioned activities, we could state that only half of the objective is completed. Because, the most important component of increasing transparency and accountability of the prosecutor's office, which is qualitative and quantitative analysis of crimes violating human rights and publishing the relevant report, has not been implemented. On the other hand, development of public-oriented prosecutors' offices and other activities envisaged under the action plan only partly ensure the implementation of the objective.

Activity 3.1.2.2. Carry out qualitative and quantitative analysis of crimes violating human rights and publish quarterly reports

Responsible agency:

- Prosecutor's Office

Indicator:

1. Intensity of publication of a report (quarterly);
2. Number of studied cases;
3. Analysis of statistical data is performed;
4. The report covers the content of the cases and revealed deficiencies.

Status: Not implemented

The progress of the implementation of the Activity:
0%

Start date: 2016-01-01

Deadline: 2016-12-31

Assessment

To assess the given activity, we addressed the Chief Prosecutor's Office and requested information whether the quarterly reports had been drafted and published in 2016 and 2017 and if the implementation of the activity was planned for each year. We also asked the Prosecutor's Office to send us a copy or electronic version of the drafted report to assess its content.

According to the [answer received](#) from the Chief Prosecutor's Office on 4 September 2017, information on the quarterly reports on human rights violations is included in the reports of the Chief Prosecutor, which are public and available on the website of the Prosecutor's Office. After repeatedly requesting the information, we received the answer on 27 December 2017, informing us that results of the study of criminal cases (statistical and content-wise indicators) in terms of human rights violations are referred to in the Chief Prosecutor's reports, which includes a special chapter on this category of crime. According to the same letter, the report has been presented to the Council of Prosecutors once in a six-month period; it was public and available for all stakeholders.

It should be noted here that the HRAP obliged the Prosecutor's Office to prepare a quantitative and qualitative study of criminal cases involving human right breaches and publish quarterly (once in 3 months) reports. According to Article 8¹ (6) of the Law of Georgia on the Prosecutor's Office, at least once in six months or by a decision of the majority of the Council of Prosecutors, the Council of Prosecutors is obliged to hold a hearing of a report of the Chief/Deputy Chief Prosecutor on the policy on fight against crime, statistical data, protection of human rights and freedoms during criminal procedures, and other issues of high public interest.[\[1\]](#)

We looked for the reports[\[2\]](#) of the Chief Prosecutor on the website of the Prosecutor's Office of Georgia to assess implementation of the present activity. It turned out that the report of the Chief Prosecutor, as of 19 July 2017, contains the chapter on incidents of ill-treatment.[\[3\]](#)

Therefore, the available information allows us to conclude that the activity on carrying out qualitative and quantitative analysis of crimes violating human rights and publication of quarterly reports envisaged by the HRAP have not been implemented within the planned timeframe. The Chief Prosecutor's report contains only a small part of statistical data and is published once in 6 months, whereas the qualitative and quantitative analysis has not yet been published by the Chief Prosecutor's Office. Thus, we could conclude that the given activity has not been implemented.

[1] Article 8¹.5.d), Law of Georgia on the Prosecutor's Office; 18.09.2015; available in Georgian at: <https://matsne.gov.ge/ka/document/view/19090>, (accessed 6 January 2018).

[2] The first report of the Chief Prosecutor of Georgia dates to 30 May 2016 and covers the period from 25 November 2015 until 30 May 2016; the second report dates to 28 November 2016 and covers the period in-between 30 May and 28 November 2016 and the third report dates to 19 July 2017 and covers the year 2016 and the first half of 2017, which is exactly the timeframe planned for the HRAP.

[3] According to the report, in 2016, the investigation was launched on 184 criminal cases and criminal prosecution started against 10 persons. The criminal prosecution was launched on the following articles of the Criminal Code of Georgia: against 1 person - on Article 144¹ (torture); against 4 persons – on Article 144³ (inhuman or degrading treatment); against 5 persons – on Article 333 (abuse of power). In the first 6 months of 2017, investigation on ill-treatment was launched in 99 criminal cases and prosecution against 8 persons. Out of these 8, criminal prosecution on Article 144³ (inhuman or degrading treatment) of the Criminal Code of Georgia was launched against 7 staff members of the Penitentiary establishments and on Article 333 (abuse of power) – against 1 staff member of the police. Report of the Chief Prosecutor of Georgia; 19 July 2017. P.51, Georgian version is available at: <http://pc.gov.ge/block/index/465>, (accessed 6 January 2018).

Activity 3.1.2.3. Reactivate local crime prevention council's meetings

Responsible agency:	
• Prosecutor's Office	
Indicator:	
1. Number of meetings per year (at least once in six months);	
2. Content and importance of discussed issues;	
3. Number of meetings held.	
Status: Fully completed	The progress of the implementation of the Activity: 100%
Start date: 2016-01-01	Deadline: 2017-12-31

Assessment

To assess the given activity, we addressed the Prosecutor's Office of Georgia and requested information on the number of meetings of local councils on crime prevention, held from January 2016 till 31 October 2017 and the topics of the meetings. We also asked for the protocol of the meetings in case the latter existed.

Unfortunately, none of the letters received from the Chief Prosecutor's Office contains the information on the implementation of this activity. The report on the implementation of the HRAP approved by the government says that, in March 2016, the Prosecutor's Office launched a new project Local Councils, which are the coordinating bodies on a regional level. The council consists of the representatives of law-enforcement bodies, local self-government, executive authority, non-governmental organisations and public. The main function of the council is to discuss the criminal situation in the region, making decisions on relevant preventive measures, elaboration of initiatives as well as developing the co-ordinated plan on fight against crime in cooperation with other governmental and non-governmental organisations.

According to the same report, in 2016, local council meetings were held in a number of cities. At the meetings, participants were informed on the aim and functioning of the local council taking into consideration the regional particularities. They also received information on the results of surveys on domestic violence and on sexual intercourse with a minor (younger than 16). A number of preventive measures were arranged in the regions within the framework of the local councils in which non-governmental organisations were also actively involved together with government representatives.^[1]

In 2017, 14 meetings of local councils were held in the following cities: Kutaisi, Mtskheta, Samtredia, Tbilisi, Telavi, Rustavi, Gori and Zugdidi. At the Tbilisi meetings, the local council, with the participation of state agencies and non-governmental organisations, discussed preventive measures on drug-related crimes whereas the other councils discussed preventive measures applied in domestic violence cases. Besides, the report drafted on the work of the local councils was presented to the advisory board.^[2]

Taking into consideration all the above-mentioned, we could conclude that the given activity has been fully completed.

[1] Interim report of the Government of Georgia on the implementation of the Human Rights Action Plan for 2016-2017, 2017, p.23, available at: <http://myrights.gov.ge/uploads/files/docs/2085HRAActionPlan16-17ENG.PDF>, (accessed 6 January 2018).

[2] Report of the Prosecutor's Office on the implementation of the Chapter III of the HRAP, p. 8, February 2018.

Activity 3.1.2.4. Improve the rule for the appointment and promotion of prosecutors

Responsible agency:

- Prosecutor's Office

Indicator:

1. Analysis has been carried outm./kl/p;
2. Gaps in the appointment and promotion procedures of prosecutors revealed based on the analysis performed;
3. New rule on appointment and promotion procedures has been developed, the quality of which is in line with the objective; appointment and promotion criteria are precisely formulated in the law/bylaws.

Status: Not implemented

The progress of the implementation of the Activity:
0%

Start date: 2016-01-01

Deadline: 2016-12-31

Assessment

To assess the activity, we addressed the Chief Prosecutor's Office and requested information on whether the changes had been introduced regarding the rules on appointment and promotion of prosecutors. We also asked to send us a copy of the relevant normative act or the Chief Prosecutor's order, which regulated the functioning and duties of the consultative council.

Unfortunately, none of [the letters](#) received from the Chief Prosecutor's Office contain the information on the implementation of this activity. The report on the implementation of the HRAP approved by the government says that, according to an order of the Chief Prosecutor, of 19 February 2016, a consultative council was set up to discuss important issues for strengthening the Prosecutor's Office, including the promotion of staff members. The consultative council has already studied several persons' cases and provided the Chief Prosecutor with recommendations on their promotion. These recommendations were taken into consideration. According to the same report, one of the objectives of the Strategy of the Prosecutor's Office for 2017-2018 is to carry out the reforms, which brings light to the rule on appointment of prosecutors.^[1]

At the same time, the report of the Chief Prosecutor to the Council of Prosecutors mentioned the work of the consultative council on number of issues, including promotion, dismissal and demotion of prosecutors. This issue was discussed during the assessment of action 3.1.3.3.

The information received from the Chief Prosecutor's Office after discussions around the interim report showed that a working group has been set up for improving the rules on appointing and promoting ordinary prosecutors without competition, by which time, elaboration of the draft was ongoing.

Therefore, one could conclude that the activity planned for the end of 2016 has not been implemented, in particular: review of the existing procedure on appointment and promotion of prosecutors and introduction of relevant changes in legislative and normative acts did not take place. It is also vague as to which criteria does the consultative council uses in its decision-making process on promotion and/or demotion of prosecutors, as the Chief Prosecutor's Office failed to introduce any normative act to govern the work of the council. Moreover, we received the information that such regulations do not exist at all. It should be noted that it was the initiative of the Public Defender of Georgia and some of the non-governmental organisations to include this activity in the HRAP.

[1] Interim report of the Government of Georgia on the implementation of the Human Rights Action Plan

Activity 3.1.2.1. Develop public oriented prosecutor's offices

Responsible agency:

- Prosecutor's Office

Indicator:

1. Develop and approve public relations strategy and action plan or the relevant chapter is included in the Strategy and Action Plan of the Prosecutor's Office.
2. The Strategy and Action Plan include the part on the accountability obligation as well as the intensity of reporting before public and Council of Prosecutors.
3. The Strategy and the Action Plan are in full compliance with the legislation: a) Law of Georgia on the Prosecutor's Office; b) regulation of the Council of Prosecutors; c) Charter of the Chief Prosecutor's Office.
4. Number of Number of trainings carried out within the frame of the Community Prosecution project and their compliance with the objectives and the goal;
5. Number of awareness raising activities and their compliance with the objective and the goal;
6. The number of beneficiaries of the activities (target groups, juveniles);
7. Number of actions undertaken by the Witness and Victim Assistance Service (how many witnesses were met and the intensity of the meetings).

Status: Fully completed

The progress of the implementation of the Activity:
100%

Start date: 2016-01-01

Deadline: 2016-12-31

Assessment

To assess the given activity, we addressed the Chief Prosecutor's Office and requested information on the implementation of the activities.

In response to our letter, the Prosecutor's Office of Georgia [informed](#) us on 27 December 2017 that, in 2016, 20 regional prosecutors' offices were involved in the "Community Prosecution" project. They organised 178 activities in total; 149 out of them were educational-intellectual, 7 – cultural, and 12 were sports related and recreational. They also organised 10 different social actions and the week for the prevention of juvenile delinquency, within the framework of which, the prosecutor's organised lectures and seminars in different schools throughout Georgia on the topic of drug-related offences prevalent among juveniles. 6,166 persons took part in these activities in total.

According to the letter, the scope of the project was broadened and 8 more regional offices were involved in it. Thus, currently 28 regional prosecutors' offices participate in the project.

Unfortunately, we have not received any further information on the given activity; although the working group members learned that the Strategy of the Prosecutor's Office^[1] includes a separate chapter on enhancing public trust, which envisages introduction of a common practice in media communication, improving the website of the Prosecutor's Office, modernisation of the system of coordinators, elaboration of the communication documents with citizens and introduction of an electronic program as well as proactive publishing of statistical data. The above-mentioned document envisages a list of activities as well as the obligation of the Prosecutor's Office to proactively inform public about crime statistics and analytical work on these issues.

Regarding the activities on the witness and victim coordinators, we could get only little information from the report of the Chief Prosecutor's Office, according to which, 13,683 citizens^[2] benefited from the witness and victim assistance service in 2016 and the first half of 2017.

Therefore, having analysed the information at our disposal, we could conclude that the given activity of the HRAP is fully completed due to the following reasons:

- The Strategy of the Prosecutor's Office includes the actions to be undertaken in terms of public relations and is in line with the Georgian legislation;
- Numerous educational, social or intellectual activities have been organised within the framework of the Public Prosecutor Project, which is in line with the HRAP objective and goal; and
- Witness and victim coordinators perform their duty quite actively within their competence.

^[1] The Strategy of the Prosecutor's Office, year 2017, p. 43; available in Georgian at: <http://pog.gov.ge/res/docs/saqartvelosprokuratuisstrategia.pdf>, (accessed 6 January 2018).

^[2] The report of the Chief Prosecutor, 19 July 2017, p. 66, available in Georgian at: <http://pc.gov.ge/block/index/465>, (accessed 16.01.2018).

Objective 3.1.3. Develop such mechanism of control which will ensure impartial and efficient supervision measures

The progress of the implementation of the Objective: 64%

Public trust to a great extent depends on unbiased, fair and efficient work of the staff-members of the Prosecutor's Office. For the implementation of this objective, the HRAP includes the following 3 activities: introduction of prosecutors' performance evaluation system, adoption of the new Code of Ethics and introduction of a transparent system for prosecutors' disciplinary responsibility. This objective is the result of monitoring of the reform of the prosecution system. The fourth report^[1] of the Council of Europe Group of States against Corruption (GRECO) reveals disproportion between disciplinary responsibility envisaged by law and disciplinary misconduct. Therefore, the GRECO recommended to review the existing rules on disciplinary offences, ensure more precise definition of disciplinary offences and proportionality of sanctions. The same report underlines the need to resume working on the Code of Ethics, introduce it to all prosecutors and make it public.

The importance of the Code of Ethics is mentioned in the Report on Progress in the Implementation of the National Strategy for the Protection of Human Rights in Georgia 2014-2020, and Recommendations

as to Future Approaches, drafted by Maggie Nicholson in March 2017. Maggie Nicholson, the expert, recommends the Prosecutor's Office of Georgia to approve the Code of Ethics, which better determines disciplinary prosecution, as soon as possible. At the same time, in the expert's opinion, the Code of Ethics should be a constantly updated document which should be disseminated among prosecutors and followed by practical measures for ensuring its implementation.[2]

The assessment of the Prosecutor's Office made by the Public Defender in his special report also deserves consideration. According to the document, the General Inspectorate of the Prosecutor's Office launches official inspection only in few cases; the normative act does not define the criteria for launching the inspection and the recommendation of the General Inspectorate might not be taken into consideration without further justification by the consultative council working on the promotion and disciplinary issues of the staff members; thus, a person might not be held responsible. It is also important to keep the applicants informed on the developments of their cases and on the closing of their cases, which is a problematic issue. Moreover, the Public Defender recommends ensuring the transparency of internal inspection, periodical publication of relevant statistical data and making the website more user-friendly for citizens.[3]

Taking into consideration the above-mentioned recommendations while assessing the implementation of the given objective in terms of introduction of controlling mechanisms, it turned out that only one activity (elaboration of Code of Ethics) has been implemented, whereas one of the other two activities (introduction of transparent disciplinary responsibility) is mostly completed and the other one (introduction of the performance evaluation system of prosecutors) is mostly incomplete.

[1] GrecoEval4rep (2016)2, January, p. 57, available at: <https://rm.coe.int/16806dc116>, (accessed 10.01.2018).

[2] Report on Progress in the Implementation of the National Strategy for the Protection of Human Rights in Georgia 2014-2020, and Recommendations as to Future Approaches, Maggie Nicholson; March 2017, page 21, available at: <http://ewmi-prolog.org/images/files/4265ReportonimplementationHumanRightsStrategyENGEWMIUNDP.PDF>, (accessed 10.01.2018).

[3] The results of the study by the Public Defender of Georgia on disciplinary proceedings against the employees of the Chief Prosecutor's Office, Ministry of Internal Affairs, Ministry of Corrections and State Security Service of Georgia based on individual complaints, Tbilisi, 2017, p. 7, available at: <http://www.ombudsman.ge/en/reports/specialuri-angarishebi/disciplinary-proceedings-against-the-employees-of-the-prosecutors-office-of-georgia-ministry-of-internal-affairs-penitentiary-and-state-security-service-of-georgia-on-the-basis-of-individual-complaints.page>, (accessed 10.01.2018).

Activity 3.1.3.1. Implement prosecutor's performance evaluation system

Responsible agency:

- Prosecutor's Office

Indicator:

1. Performance evaluation criteria for the prosecutors has been elaborated and approved;
2. The criteria are in line with the main characteristics of the prosecution work (number of cases, launching prosecution, termination of prosecution, plea bargaining, diversion, consideration of complaints, participation in the substantial consideration of a case, participation in appellate hearings and etc.)
3. % of the evaluated prosecutors;
4. Results of the evaluation; % of promoted, demoted and dismissed prosecutors out of the total number.

Status: Mostly incompleted

The progress of the implementation of the Activity:
40%

Start date: 2016-01-01

Deadline: 2017-12-31

Assessment

Considering the fact that the activity envisaged is not only the elaboration of the performance evaluation system but also its introduction, we addressed the Chief Prosecutor's Office of Georgia and requested information on the criteria of the performance evaluation of prosecutors as well as the number of evaluated prosecutors and, as a result of the evaluation, the number of promoted, demoted or dismissed prosecutors.

[The letter](#) as of 4 September 2017 informed us that the performance evaluation system of prosecutors was approved by the Chief Prosecutor of Georgia on 31 January 2017, whereas from the letter of 27 December 2017, we received additional information that the performance evaluation process of prosecutors had been launched and the first results would be available in the first quarter of 2018.

Therefore, it seems that in this part of HRAP, the activity is mostly incomplete: the performance [evaluation system](#), which is in line with the main characteristics of the prosecutorial work by its content, has been elaborated and approved by the Chief Prosecutor.^[1] According to the given document, performance evaluation will be based on managing prosecution, support of the state prosecutor at court hearings, justified procedural documents, discipline, ethical norms, results of participation in training sessions, volunteering and pro-activeness. According to the authors of the document, the introduction of the performance evaluation system will ensure the improvement of quality of prosecutorial work, transparency in promotion and disciplinary responsibility system as well as increasing the motivation of the prosecutors. Apart from the above-mentioned, the performance evaluation process will reveal the direction of work requiring qualitative improvement and ensure undertaking additional steps towards this aim.^[2]

It should be noted that by the end of 2017, performance evaluation has not been conducted for any of the prosecutors and, therefore, there is no information about promoted, demoted or dismissed employees as a result of the evaluation, although the process had been launched.

Taking into consideration the above-mentioned, since the elaboration of the system constitutes only 40% of the activity implementation, we think that the activity is mostly incomplete.

^[1] Prosecutor's performance evaluation system, 2017, available in Georgian at:

Activity 3.1.3.2. Adopt a new code of ethics for staff at prosecutor's offices

Responsible agency:	
• Prosecutor's Office	
Indicator:	
1. The Code of Ethics has been adopted	
2. The provisions of the new Code of Ethics have been improved compared to the previous document;	
3. The new Code of Ethics is in line with the goal and objective	
Status: Fully completed	The progress of the implementation of the Activity: 100%
Start date: 2016-01-01	Deadline: 2016-12-31

Assessment

This part of the HRAP envisaged adoption of the new Code of Ethics for the employees of the Prosecutor's Office. As only the adoption of the Code of Ethics was marked as the indicator of the implementation of the activity, the working group tried to refine the indicators and added the level of improvements in the new Code of Ethics and how it was in line with the goal and objectives of the given action plan.

The [information received](#) from the Prosecutor's Office of Georgia shows that although the activity was planned to be implemented in 2016, the new Code of Ethics[1] was approved by Order no. 234 of the Minister of Justice on 25 May 2017. The same order invalidated the previous Code of Ethics[2] for the employees of the Prosecutor's Office, approved by the General Prosecutor on 19 June 2006.

Comparison of the invalidated code and the new Code of Ethics shows that the latter contains obligations on protecting human rights, including the respect for private life while working on personal information; underlines inadmissibility of any type of discrimination on the part of an employee of the Prosecutor's Office; prohibits revealing and personal use of not only secret information, but also any other confidential and non-public information; obliges the employees of the Prosecutor's Office to act with dignity even outside the work and to take care of the reputation; and the employees' actions in the internet space should be correct and be in line with the principle of the Code of Ethics. Moreover, current Code of Ethics defines types and reasons for disciplinary responsibility, which should be considered as a step

forward in terms of the transparency of the process.

We think that the weakness of the current Code of Ethics is that it does not contain the obligation of the prosecutor to obey court practice along with the law, internal instructions and public interest in general; abstain from expressing one's religious views publicly if it violates others' human rights; not to use the service property for personal use and in case of damaging such property, to compensate the state for the damage. Still, these deficiencies do not have an impact on the implementation progress of the activity.

Therefore, despite the late adoption of the Code of Ethics, it is fully in line with the modern tendencies and challenges of the Prosecutor's Office as well as with the experts' recommendations. It describes in detail the basis and types of disciplinary responsibility, some of the issue are regulated in a new way and generally it is in conformity with the HRAP goal and objectives. Therefore, we believe that this activity has been fully completed.

[1] Code of Ethics for the employees of the Prosecutor's Office of Georgia, 25 May 2017; Georgian version available at: <https://matsne.gov.ge/ka/document/download/3679145/0/ge/pdf>, (accessed 10.01.2018).

[2] Code of Ethics for the employees of the Prosecutor's Office of Georgia, 12 June 2006; Georgian version available at: <https://matsne.gov.ge/ka/document/download/65056/0/ge/pdf>, (accessed 10.01.2018).

Activity 3.1.3.3. Introduce a transparent system for prosecutor's disciplinary liabilities

Responsible agency:

- Prosecutor's Office

Indicator:

1. The mechanism of disciplinary liability is established, which ensures the joint decision making process;
2. Elaborated system allows proper functioning of fair and unbiased legal proceedings: the mechanism ensured the transparent system for prosecutors and gives them the possibility to defend themselves in case of any misconduct;
3. In case of necessity, the types and number of follow-up decisions on disciplinary liabilities;

Status: Mostly completed

The progress of the implementation of the Activity:
60%

Start date: 2016-01-01

Deadline: 2017-12-31

Assessment

In order to assess the present activity, we addressed the Chief Prosecutor's Office of Georgia and requested information on what has been done in 2016-2017 in terms of establishing a transparent system for prosecutors' disciplinary responsibility; when the Consultative Council^[1] was established and how many cases have been considered since then until 31 October 2017; in case of disciplinary misconduct, what types of responsibility were used in 2016-2017 (until 31 October 2017) and how many such decisions were made.

Despite the above-mentioned request, the letters received from the Prosecutor's Office of Georgia do not contain any information regarding the implementation of this activity. However, this information could be found in the report^[2] of the Chief Prosecutor to the Council of Prosecutors as of July 2017.

As stated in the report, the head of the Consultative Council, the Chief Prosecutor of Georgia, took into consideration all the recommendations provided by the council.^[3]

The report and the information published on the website of the Prosecutor's Office give the possibility to conclude that the Consultative Council has been established in the Prosecutor's Office in the beginning of 2016. Since then, it has considered number of cases on encouragement, promotion and disciplinary responsibility of prosecutors. Though it is difficult to find out from the report what kind of information was used as a ground for the decisions. It is also vague as to what other measures have been undertaken to create a transparent system for prosecutors' disciplinary responsibility apart from establishing the Consultative Council in which the same prosecutor who was alleged of misconduct could participate.

We should assess as a positive tendency the fact that the Code of Ethics for the employees of the Prosecutor's Office of Georgia, approved by the Minister of Justice on 25 May 2017, contains the grounds for disciplinary responsibility and types of disciplinary misconduct. It makes the application of disciplinary responsibility and their grounds^[4] more transparent and clear compared to the previous Code of Ethics.

It should also be taken into consideration that this activity was included in the action plan following the assessment by the Public Defender of Georgia which recommended ensuring the transparency by periodical publication of the relevant statistical data and making the website more user-friendly for the citizens/applicants. Unfortunately, we could not find any information on the implementation of this recommendation.

Coming from the above-mentioned, we consider the activity to be mostly completed by 60%. Because, the objective and relevant recommendations required establishing a system of disciplinary responsibility for prosecutors, transparent for public, which was not fulfilled.

^[1] We received the information on the existence of the Consultative Council during the meeting with the representatives of the Prosecutor's Office. Information is available at: http://pog.gov.ge/geo/news?info_id=849, (accessed 10.01.2018).

^[2] The General Inspectorate of the Prosecutor's Office conducted 97 internal inspection against 181 employees. Disciplinary sanctions were imposed on 37 employees due to deficiencies in work; recommendations were sent to 70 employees; 17 employees were dismissed upon their request; and 2 employees were demoted to lower positions. At the same time, the General Inspectorate launched investigation in 27 criminal cases; criminal prosecution – against 7 employees; diversion was used against 1 employee whereas 19 pled guilty (3 advocates; 10 citizens; 1 advisor at the Prosecutor's Office; 1 former prosecutor; 1 employee of the public registry; 3 notaries). In line with the needs

assessment, 214 employees participated in the training sessions on ethical standards and conflict of interest.

In 2016 and the first half of 2017, the General Inspectorate sent to the Consultative Council reports on the inspection of the work of 60 employees and only in 34 cases it was considered to impose disciplinary sanctions. At the same time, the Consultative Council discussed the promotion of 299 employees, which was positively decided in case of 108 persons. The Council also discussed the issue of promotion to managerial post of 58 employees and a positive decision was made in 22 cases.

[3] Ibid, p. 62.

[4] Code of Ethics of the employees of the Prosecutor's Office, 25 May 2017, Articles 24 and 25, Georgian version available at: <https://matsne.gov.ge/ka/document/download/3679145/0/ge/pdf>, (accessed 10.01.2017).

Objective 3.1.4. Improve qualifications of prosecutors

The progress of the implementation of the Objective: 100%

Improving qualifications of the prosecutors in terms of human rights protection is one of the objectives of the HRAP. For the implementation of the present objective, the HRAP includes 2 main activities, viz., provide training sessions on various topics for prosecutors and improve the rules for interviewing witnesses and provide respective training sessions to prosecutors. This part of the action plan is much more refined and the given indicators provide the possibility of qualitative assessment of its implementation. Still, the working group reviewed the indicators and together with the working group of the HRAP, they were modified and further used for the present assessment.

Finally, it turns out that both activities envisaged by the HRAP have been fully completed.

Activity 3.1.4.1. Provide trainings on various topics for prosecutors

Responsible agency:

- Prosecutor's Office

Indicator:

1. The training plan has been elaborated:
2. Number of organized trainings
3. The relevance of the topics of trainings with the objectives of the HRAP;
4. Percentage of the trained prosecutors on certain topics out of the total number of the prosecutors;
5. Percentage of the trained prosecutors from regional offices;
6. Plan of trainings until the end of 2017.

Status: Fully completed

The progress of the implementation of the Activity:

100%

Start date: 2016-01-01

Deadline: 2017-12-31

Assessment

To assess the implementation of the activity, we addressed the Chief Prosecutor's Office of Georgia and requested information on the topics of the training sessions as well as their geographical scope. The received [information](#) shows that the Centre of Professional Development and Career of the Department of Human Resources and Development of the Prosecutor's Office of Georgia, provides training needs assessment at the end of each year, which defines training priorities for the following year. According to the same letter, in 2016 and during 10 months in 2017, 1,075 prosecutors participated in 63 different training sessions of various length and content, which are fully in line with the goal envisaged by the HRAP, namely, fair, transparent and effective criminal prosecution, oriented towards human rights protection. Within this period, the training sessions were organised on the following rights envisaged by the European Convention on the Protection of Human Rights: right to a fair trial, prohibition of discrimination, right to life, prohibition of torture and ill-treatment, etc. From 1 January 2016 until 15 August 2017, 81 activities and 8 study visits were organised on human rights protection issues. Prosecutors from all the regional offices took part in the training courses. In 2016, 62 interns participated in a 2-months training course, which also envisaged topics on human rights protection. According to the information received from the Chief Prosecutor's Office, it is also planned to organise an introductory training course for interns and training sessions for prosecutors by the end of 2017 on the following topics: fight against hate speech, fight against domestic violence and violence against women, right to respect for private and family life, personal information, etc.

Therefore, we consider that the Prosecutor's Office fully completed the obligation undertaken under the HRAP to provide training sessions for all prosecutors and interns on human rights issues. The training covered the following important topics on the protection of human rights: right to life, right to a fair trial, right to liberty, fight against hate speech, fight against domestic violence and violence against women, right to respect for private and family life, personal information, etc.

Activity 3.1.4.2. Improve the rules for interviewing witnesses and provide respective trainings to prosecutors

Responsible agency:

- Chief Prosecutor's Office of Georgia

Indicator:

1. Percentage of the trained prosecutors of the total number;
2. Percentage of the trained prosecutors from regional offices out of the total number of prosecutors;
3. Rules on interviewing witnesses have been elaborated;
4. Elaborated rules have been improved.

Status: Fully completed

The progress of the implementation of the Activity:

100%

Start date: 2016-01-01

Deadline: 2016-12-31

Assessment

According to the present activity, the Prosecutor's Office had the obligation to train prosecutors on the changes made to the Criminal Procedure Code of Georgia in December 2015 on interviewing witnesses. After having used the new rules in practice, to improve them, the Prosecutor's Office had to initiate relevant changes for the Government of Georgia, although according to [information](#) from the Prosecutor's Office as of 4 September 2017, it turned out that from 1 January 2016 until 31 December 2017, 21 activities were organised on the topic of interviewing witnesses (6 activities in Tbilisi and 15 in the regions), that allowed to retrain 339 prosecutors and 90 investigators. Out of the total number, 231 persons (171 prosecutors and 60 investigators) were from Tbilisi offices and 198 (138 prosecutors and 30 investigators) were from regional offices. Training on introduction of the new rules on interviewing witnesses aimed at proper implementation of the legislation in practice.

By the [letter sent](#) on 27 December 2017, the Prosecutor's Office informed us that the process of improving the rules on interviewing witnesses and the relevant training sessions continued in 2017. In December 2017, investigators from the Prosecutor's Office participated in training sessions on interrogation/interviewing techniques, organised in cooperation with the Justice Department of the United States.

Taking into consideration the above-mentioned, we believe that the Prosecutor's Office of Georgia fully completed the obligation on training its staff on the new rules. In terms of improving the rules on interviewing, which is also envisaged under the HRAP, no steps have been undertaken as it was decided that the study of practice had not revealed the need.[\[1\]](#)

Taking into consideration the above-mentioned, we conclude that the activity has been fully completed.

[\[1\]](#) Report of the Prosecutor's Office on the implementation of the Chapter III of the HRAP, p. 10, February 2018.

Objective 3.1.5. Build capacity of prosecutor's training center and develop training curricula

The progress of the implementation of the Objective: 46%

The present objective envisages capacity building of the training centre of the Prosecutor's Office and elaboration of the training programs.

Although the present objective is very important for strengthening the Prosecutor's Office, the analysis of this objective and the relevant activity shows inconsistency with the HRAP goal. It is impossible to measure whether capacity building of the training centre that means opening and its equipment and

elaboration of the strategy and action plan of the teaching program helped or will help the Prosecutor's Office to become more independent, fair, effective, transparent and human rights oriented.

Moreover, along with the capacity building of the training centre, the objective envisaged elaboration of training programs, though none of the planned activities were dedicated to it.

In total, 4 activities were planned for the implementation of this objective. Only one of them (develop a strategy and action plan) is fully completed; another one (equipment of the library) is mostly completed whereas none of the activities related to e-programs have been implemented.

Activity 3.1.5.1. Create a special electronic programme for the analysis of training needs

Responsible agency:

- Prosecutor's Office

Indicator:

1. Technical specifications have been prepared;
2. Technical specifications are in line with the objective and the goal, in particular, ensure the capacity building of the training center and elaboration of the training programs;
3. e-program has been developed;
4. e-program is in line with the objectives and the goal, in particular, ensure the capacity building of the training center and elaboration of the training programs

Status: Not implemented

The progress of the implementation of the Activity:
0%

Start date: 2016-01-01

Deadline: 2017-12-31

Assessment

To assess the given activity, we addressed the Prosecutor's Office of Georgia and requested public information on whether the e-program on training needs assessment and analysis had been elaborated and asked to provide detailed information on the project. Furthermore, for the efficient assessment of the activity, we asked about the frequency of the use of the e-program, how many prosecutors filled in the questionnaires since its launch and in how many cases the needs/requests of the prosecutors were satisfied.

[A letter](#) sent from the Prosecutor's Office on 27 December 2017 in reply stated that a working group had been set up on the e-program on training needs assessment, the concept of the e-program has been already drafted and at the time of sending the letter the group was working on technical specifications. According to the letter, development of e-program on training needs assessment and analysis was

planned for 2018.

Taking into consideration that the HRAP envisaged development of an e-program on training needs assessment and analysis in 2016-2017 and only preparation works have been undertaken and the activity is postponed for the year 2018, in our opinion the activity has not been implemented.

Activity 3.1.5.2. Develop a strategy and an action plan

Responsible agency:	
• Prosecutor's Office	
Indicator:	
1. The Strategy and Action Plan have been elaborated and/or the relevant chapter is included in the overall Strategy of the Prosecutor's Office and its Action Plan.	
2. The Strategy and the Action Plan define objectives and priorities for the capacity building of the training center; the timeframe for activities is properly designed	
Status: Fully completed	The progress of the implementation of the Activity: 100%
Start date: 2016-01-01	Deadline: 2017-12-31

Assessment

To assess the activity, we addressed the Chief Prosecutor's Office and officially requested information about whether the Strategy and Action Plan for the training centre had been developed and, in case of a positive answer, we asked to send us a copy of the document. Unfortunately, the letter sent from the Prosecutor's Office in reply did not contain any answer to our question. However, during the meetings with the persons responsible on the implementation of the HRAP, we learned that the overall Strategy and Action Plan of the Prosecutor's Office included all the working directions and capacity building of a training centre was among them.

Hence, for the assessment of the given activity, we studied the Strategy of the Prosecutor's Office approved by the Chief Prosecutor on 31 January 2017, the XII Chapter of which aims at increasing the professionalism and qualifications of the employees of the Prosecutor's Office. For this aim, the Prosecutor's Office of Georgia plans to use target-oriented training sessions. There are plans on the elaboration and introduction of new training programs, which will be based on interactive methods, etc.[\[1\]](#)

Therefore, one could conclude that the strategy of capacity building of the training centre is included in the overall Strategy of the Prosecutor's Office and this part of the activity has been fully completed. Although, one could argue whether the strategy fully reflects objectives and priorities necessary for the capacity building of the training centre. In particular:

The objective of the above-mentioned chapter (improving the professionalism and qualifications of the

employees) of the strategy are the following:

- Providing the Prosecutor's Office with qualified and professional employees;
- Facilitation of introduction of international standards on human rights protection in the system;
- Improve the quality of investigation and prosecution on certain crimes;
- Facilitate the introduction of holistic approach in practice;
- Properly implement the obligations undertaken by the Prosecutor's Office within the framework of different action plans;
- Encourage the employees' professional development and promotion;
- Awareness raising, promotion of legal education and co-operation with universities; and
- Development of flexible e-programs for the employees.

To achieve the above-mentioned objectives, the strategy plans to ensure training of the employees; elaboration and introduction of new training programs; introduction of the mentorship program; introduction of new e-products; organisation of educational activities for students and reform of the ranking system.

Based on the analysis of the information available in the strategy, we could conclude that the Strategy of the Prosecutor's Office and its XII Chapter (paragraph 6) fully reflects the objectives needed for the capacity building of the training centre, namely, introduction of a new e-program, ensuring the availability of the relevant literature and facilitation of the process; training of prosecutors on the topic of great priority such as prohibition of discrimination, right to fair trial, skills used at the court, protection of women's rights and gender equality, right to respect for private and family life, hate speech; etc. Because the Action Plan of the Strategy is not public, we lack the opportunity to assess the timeframe of the planned activities. Despite all the above-mentioned, we conclude that this activity has been fully implemented.

[1] The Strategy of the Prosecutor's Office of Georgia (2017-2021), p. 55, available at: <http://pog.gov.ge/res/docs/sagartvelosprokuratuirstrategia.pdf>, (accessed 15.01.2018).

Activity 3.1.5.3. Update and equip the library with respective literature

Responsible agency:

- Prosecutor's Office

Indicator:

1. Number of provided literature.
2. Relevance of the provided literature with the prosecutorial work

Status: Mostly completed

The progress of the implementation of the Activity:
80%

Start date: 2016-01-01

Deadline: 2017-12-31

Assessment

To assess the implementation of the activity, we addressed the Prosecutor's Office with the official request of information on how many books were added to the library of the Prosecutor's Office from 1 January 2016 until 31 July 2017 and the type of literature procured. [Letter sent](#) from the Prosecutor's Office in reply on 4 September and 27 December 2017 informed us that the library had been equipped with legal literature of 22 different titles in the period from 1 January 2016 until 31 December 2017. Therefore, we fail to provide quantitative analysis of the activity's implementation. Though, as for the content of the books, they are fully in compliance with the work of the Prosecutor's Office as well as with the goal and objectives of the HRAP.

Moreover, one should take into consideration the fact that the existing literature does not fully meet the needs of the Prosecutor's Office either in terms of fair and effective criminal prosecution or human rights protection.

Thus, we could conclude that the activity has been mostly completed. We would also like to give a recommendation to the training centre of the Prosecutor's Office to equip the library with literature that would contain important aspects such prohibition of torture, effective investigation of ill-treatment, liberty and security, fair trial, freedom of expression, freedom of religion, right to assembly and demonstrations. etc., which we consider to be the priority of the prosecutor's work.

Activity 3.1.5.4. Create an electronic library

Responsible agency:	
• Prosecutor's Office	
Indicator:	
1. E-library has been developed	
2. The relevant of uploaded literature with the activity.	
Status: Not implemented	The progress of the implementation of the Activity: 0%
Start date: 2016-01-01	Deadline: 2017-12-31

Assessment

To assess the implementation of the activity, we addressed the Prosecutor's Office with an official request for public information, whether the e-library had been developed, how many books were available in the e-library and what kind of books were uploaded there.

In reply to our letter, we received the [information\[1\]](#) that a working group has been set up for the development of an e-program. The concept has been drafted in co-operation with the EU and the work on the technical specifications was ongoing. According to the letter, introduction of the e-library was planned for 2018-2019.

Since the indicator for this activity was introduction of the e-library which has not been currently the case, we conclude that this activity has not been implemented.

[\[1\]](#) Letter of the person responsible for providing public information, 27 December 2017.