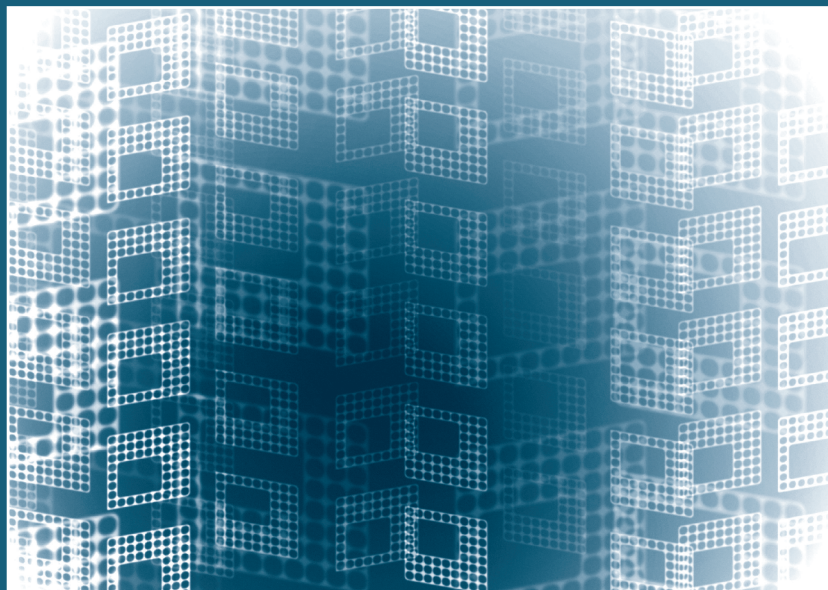


Chapter II

SHORT REVIEW OF LEGAL FOUNDATIONS OF E-GOVERNMENT AND E-TRANSPARENCY IN GEORGIA



When we talk about legal foundations regulating legal system of the government first of all, we mean the unity of norms that govern the activities targeted at increased functionality of public authorities, that involves some on-line services of public authorities by means of their web-pages; this also includes other forms of internet interactions with customers (e.g. receiving different types of documentations, opportunity of participation in trades etc) and strengthening direct response practice; and when the existence of legal foundations governing the e-Transparency of legal system of any government is concerned we mean the unity of norms that regulate electronic publication and access to the public information official web-pages of public authorities, as well as, general public involvement in decision making and discussions on issues under authority of an institution.

Below we present a short review of legal foundations considered by the existing legislation of Georgia that involves the regulation of issues mentioned above.

"Law of Georgian State Procurements"

On the 20th of April in 2005 the President of Georgia passed a Law of Georgia on State Procurements.

The rules established by this law extend to general legal, organizational and economic principles of state Procurements. It must be mentioned that the list of exclusions to this law is very long and this law does not apply to certain procurements, these are: the procurement of electric power, guaranteed capacity, natural gas and water supply state procurements, state purchase of real estate, as well as, procurement related to receipt of the real estate with right of use. This law does not apply to the procurement of television and radio broadcasting time, the spread of advertising by means of mass information and hiring certain areas for the purpose of arranging meetings etc. As a result, e-Governance of State Procurements regulated by the law is not informative as it covers a limited number of State Procurements by means of e-Government and e-Transparency.

On the basis of alteration made in the 2nd clause of this law in August of 2010, **the law defines that one of its purposes is the establishment of unified State Procurement electronic system and the development of trust of society towards it.** In relation to this alteration, it is worth mentioning that the term "system" was changed by the term "electronic system". As a result of changes made in the 3rd clause of this law in March of 2010 the term

“black list database of unconscientious persons involved in Procurements“ was introduced; the term is defined as a database that is operated electronically by the authorized body (State Procurements Agency) and is placed on its official web-page. According to the law, this database is accessible for every person. The database will summarise the names of those unconscientious persons, applicants and suppliers who have no right to participate in State Procurements during 1 year period from the date of their inclusion in the database; this can be defined as the effort of e-Transparency establishment from the legal point of view. Besides, according to the law, the term “State Purchase” directly involves the purchase of any goods, services and construction works electronically. The concepts introduced and defined by law carry a great importance in the establishment of e-Government regime in the sphere of State Procurements; These concepts include: the purchasing organization (the legislative specification that the entity carrying out the state purchase is registered in the unified State Procurements electronic system), the concept (term) of “electronic means” (that is in action from march of 2010 and involves means by which information can be processed (including digitally), received, sent, spread and stored by cable, optic, broadcasting or/and other electronic means), concepts (terms) in action from August 1, 2010 including ‘e-tender’ (means of purchase the value of which is 200 000 GEL or higher), simplified e-tender (means of purchase the value of which is up to 200 000 GEL) and e-Trading (procedure that is a part of e-tender and simplified e-tender, in case of which the applicant can decrease his price for the purpose of winning, during the purchase procedure, by means of unified electronic system. Specific regulations defining the activities of authorized body (State Procurement Agency) are worth mentioning. **For example, the law directly establishes that the development, improvement and monitoring of unified database is one of the functions of the Agency.** For the purpose of unified state procurement electronic system operation and electronic document management during procurement processes the agency is authorized to store electronically and send any type of document developed by the agency, as well as, publish any type of information or document that have legal power, by using unified automated management means. From March, 2010 clause of law came into force according to which the state e-procurement is carried out by simplified e-tender or e-tender. And a simplified procurement can also be carried out electronically, as a result of the organization’s decision. The statement on carrying out the e-tender and the tender documentation at first is published at the unified electronic system of state procurement but then the tender committee publishes the statement in newspaper “24 hours”, in accordance with the acting law.

In general, it may be said that the effort of transforming state procurements in electronic regime is mostly reflected in the alterations and additions to the law, made in 2010, and consequently, these legislative changes are still to be applied in practice.

"Order No. 9 on Temporary Rule of Carrying out State e-Procurement"

On the 22nd of October, in 2010 the Head of the State Procurements Agency passed an order No. 9 on "Temporary Rule of Carrying Out State e-Procurement"

The aim of the order is to support the state procurement process in organizations that decide to carry out State Procurement electronically. The order introduces terms that are significant to state e-procurement. These terms are: *unified electronic system of procurement, state e-procurement, system registration, guest, system's registered user etc.* The order also defines the following types of statuses: *tender is announced, call for proposals is on, call for proposals is finished, winner is announced, the process of developing the agreement is on, the agreement is made, ended with negative result, tender did not take place, tender is terminated etc.* The order directly establishes e-management regime by defining clauses like system registration, placement of tender proposal in the system and making alteration in the proposal statement, giving in the proposal statements, principles of qualification data development, selection/evaluation, tender commission, making agreement on state procurement and its upload on system, electronic guarantee and its price etc.

The order directly defines that the unified electronic system of procurement is a state procurement portal (www.procurement.gov.ge), that is administered by the State Procurement Agency and ensures state procurement by means of simplified electronic tender or electronic tender, in an open, transparent and competitive environment. The order also defines the following cases of e-mail (info@procurement.gov.ge) interactions with the Agency: specifying technical and procedural issues by purchasing organizations and suppliers, sending of electronic guarantee original document and copies of original document of payment to the Agency. Together with the temporary rule, the order also establishes the form of Application on Registration and Affidavit. In general terms, it may be said that the order fits well the general framework of electronic state procurement and reflects one of the principles of improving state procurement process and serves as guideline for state procurement ("Implementation of Electronic System and Electronic Procurement System Practice"), in accordance with June 3, 2010 Order No. 376 of President on "Establishment of National Anti-Corruption Strategy".

"Law of Georgia on Electronic Signatures and Electronic Document"

On March 14, 2008 the Parliament of Georgia passed a Law of Georgia on "Electronic Signatures and Electronic Document."

The law defines management of electronic documents system and the basis of electronic signatures use in this system. According to the law mentioned above the Government of Georgia ensures the realization of electronic signatures security policy. The order introduces concepts of *electronic document, electronic signature, digital signature, digital signature certificate, body issuing the electronic signature certificate, electronic documents management*

system etc. The law defines that the digital signature on electronic document is legally equal to personal signature on hardcopy of the document. It is a very interesting fact that though according to the law the government is directly responsible for developing tools for ensuring the security of electronic signatures policy, the law does not specify the institutions which must develop those tools and deadlines for which the tools have to be developed. Until the presence of the conditions mentioned above, the law does not regulate the activities carried out in accordance with the public authority by government bodies (organizations, institutions, including legal entities of public law) when they carry out, if the use of electronic document and the electronic signature is not directly foreseen during the process of certain authorized activities realization or this is not established by the corresponding decision of the Government of Georgia. In contrast with this, the law establishes that the electronic document received from any information system has legal power, if the system ensures the automatic confirmation of the document. This represents one of the first legislative steps for the development of electronic government that to more or less extent is reflected in the services offered by the National Agency of Public Registry and Civil Registry Agency official web-pages.

“Law of Georgia on Public Registry”

On December 19, 2008 the Parliament of Georgia passed a Law of Georgia on “Public Registry.”

The law defines organizational and legal foundations of Public Registry activities, rights and responsibilities of National Agency of Public Registry that administers the public register, periods of service offered by the agency, fees, payment and exemption from payment, the regulations and terms of return of paid fee. The law defines the terms like *registration, registration administration, excerpt form the public registry, accessibility to information etc.* The law defines that the Agency applies software and automatic means of management for the purpose of public register processing and ensuring the accessibility to information. The Agency is authorized to store and reveal electronic copy of any document created by the Agency; the electronic versions of the documents have the same legal power as the original documents. The Agency is also authorized to receive, publish or send any type of information and document, by using unified automatic means of management; the data may be entered in the documentations electronically as well as mechanically. **Unfortunately, the law does not oblige the National Agency of Public Registry responsibility to publish this documentation on its official web-page. The only issue foreseen by the law is storing and sending the documents that does not involve their publishing on the web-page. Implementation of general principles of registration is also worth mentioning. This involves the fact that the registration is carried out on the basis of both the registration documents and the electronic copies of these documents.**

Payment of a fee is a pre-condition for registering declaration received by automatic means of management. The law also regulates the principles of registration termination and explains that as a rule, the cessation period of

registration is 30 days from the day of the informing of individual about the decision and/or from the day of the decision publishing on the web-page. **This means that abovementioned represents just an alternative of proactive publishing of certain type of information.** There is the same situation if we consider the case of publishing of registration decision by the Agency; this decision is published in written form when it may be done by using automatic means of management as well. The decision comes into force from the day of its publication, in accordance with the legislation of Georgia; and the placement of the decision on the official web-page of the Agency is also considered as publication.

Consequently, in the conditions of certain signs of electronic management the law does not imperatively establish the foundations of electronic transparency. Though, in accordance with this law, the rules for applying automatic means of management and the procedures and conditions of document confirmation are defined by the instruction “On Public Registry”.

“Order No.4 on Public Registry Instruction Affirmation”

On January 15, 2010 the Ministry of Justice passed the Order No 4 on “Public Registry Instruction Affirmation”.

The instruction defines the terms and conditions of proceeding and revealing the information by the National Agency of Public Registry; it defines the parties involved in the operational processes, their rights and responsibilities. According to the instruction, in cases regulated by the law, the National Agency of Public Registry is authorized to receive, send or publish any document in hardcopy as well as by using unified automatic means of management. Together with it, there is a direct notice that the documents in electronic form are issued by the corresponding links of the official web-page of the Agency - www.napr.gov.ge. And the rules do not extend to the conformation of their correspondence to the original document. Together with it the excerpt has the equal legal power as the document issued electronically. The clause on statement/declaration and document presentation represents a specific legal regulation of e-Government. According to this clause, any statement/declaration under the Agency’s competence and the attached documents may be delivered to any Regional Service or authorized person personally, electronically or by post. In case of statement/declaration post delivery, the signature must be confirmed in accordance with the active law. Consequently, we may say that the instruction establishes general regime of e-Government that involves sending, as well as, receiving of documents by the Agency.

New Edition of the 26th Clause of the “Law of Georgia on Normative Acts”

From the 1st of January, of 2011 the edition of the 26th clause of the Law of Georgia “On Normative Acts” came to the force. The clause regulates the issue of publishing of normative acts. **According to this clause the official or legal**

publishing of the normative act is considered the first placement of its full text on the official web-page of “Legislative Herald of Georgia”. Together with it, systemized normative acts published electronically on this web-page also have official legal power. This very law defines registration and systematization issues of state normative acts. According to the corresponding alteration that came into force on July 2, 2010, state register of normative acts will be developed in “Legislative Herald of Georgia”; this will ensure registration, systematization and transparency of normative acts. The registry is operated electronically on the web-page of “Legislative Herald of Georgia”. In parallel with the e-Transparency regulation, the law defines the regulation of e-Government from the point of view of this sphere. This is reflected in the indirect notice made in the clause 26, mentioned above. According to this notice, the amount of fee and rule of payment for publishing of normative act in “Legislative Herald of Georgia” are defined by the Order of the Minister of Justice of Georgia.

“Order No. 225 on the Rule of Fee Estimation and Payment for Publishing of Normative Acts in Legislative Herald of Georgia”

On December 6, 2010 the Minister of Justice passed the Order No. 225 on the “Rule of Fee Estimation and Payment for Publishing of Normative Acts in Legislative Herald of Georgia”.

The order is came into force from the January of 2011. According to the order two types of fees are established. These are: publishing fee and the service fee. According to the order the publishing fee is envisaged for publishing normative acts and information documents on the web-page of the “Herald”. And the service fee is foreseen for the use of systemized normative acts and the electronic supply normative acts thar are classified thematically.

“Resolution No. 280 on Establishing Government Commission for e-Government Development”

On December 17, 2007 the Government of Georgia passed a Resolution No. 280 on “Establishing Government Commission for e-Government Development”.

The Resolution establishes the members of the Commission and affirms the annexed statute of Government Commission of e-Government Development. The Commission itself represents the successor of the Comission established by the government of Georgia by the Order No. 511 in November 3, 2007 on “Activities for Establishment of Certain Government and Other Types of Institutions Unified Government Network”. According to the Resolution, the main tasks and functions of the Commission are support of service done by government institutions, by means of e-communication, state institutions activity processes optimization, by using information technologies, coordination of electronic signatures implementation process at state institutions, coordination of unified information resources development for government of Georgia and other government bodies etc.

The main rights and duties of the Commission are: establishment of thematic

working groups, preparation of projects on decisions about compliance and their delivery to the Government of Georgia for revision, establishment of coordination groups etc.

This represents a significant step of the Government towards e-Government development. Despite the general character of some statements of the resolution, the resolution reflects the State's wish to prepare general conditions for implementation of e-Government elements that in its own way is a positive feature of the process. It must also be mentioned that the Resolution defines the processing of meetings minutes, **the accessibility of information on the commissions working meetings is very important for making the public aware of the government's activities of e-Governance implementation.** The Commission is active and its members are changed annually. The recent change of the Commission members was carried out on February 9, 2010.

Other Specific Examples of Legal Regulation of e-Government and e-Transparency Adopted in Recent Years

In general terms, it may be said that in the existing legislative field of Georgia the e-Government regulation norms are represented abundantly in comparison with the e-Transparency regulation norms. Besides the mentioned above, the specific examples of legislative regulation of e-Government also include:

Law of Georgia on "the Establishment of Data Exchange Agency Legal Entity of Public Law" passed on July 17, 2009 and Order No. 228 of December 22, 2009 of the Ministry of Justice of Georgia on "Affirmation of Statute of Legal Entity of Public Law under the Ministry of Justice of Georgia - Data Exchange Agency". On the basis of these legal acts the direct functions of the Agency were defined. These functions included the development of unified system based on e-Government principles that would be applied for public policy administration, the implementation of innovative service by using information technologies, implementation of standards for information storing and supply, development of the unified system for documents exchange electronically and increase of government effectiveness by applying information technologies. All these were reflected in the web-page - www.e-government.ge, developed by the Data Exchange Agency. This web-page represents a portal designed for making the accessibility to e-Government resources easier; here you can search for any type of electronic service classified in different categories that are offered by the government bodies of Georgia; On the basis of the Order No. 234 of December 28, 2009 "On Establishment of Debtors Register Proceeding Rule", passed by the Minister of Justice of Georgia, the operation of the Debtors Register is made electronically, by Legal Entity of Public under the governance of Ministry of Justice - National Bureau of Enforcement. This was practically reflected in the development of the National Bureau of Enforcement corresponding web-page - <https://public.reestri.gov.ge/DEBT> where you can find information on individuals who are registered in Debtors Register. The Order established that the statement/declaration for receiving of excerpt or certain type of certificate from the registry may be done in territorial bodies of the National Bureau of Enforcement - in Bureaus of Enforcement or at the web-page of National Bureau of Enforcement

(www.nbe.gov.ge);

In accordance with the alteration made in the 18th clause of the order “On Interest Conflicts and Corruption in Public Service” that came into force from the 1st of August of 2009, Legal Entity of Public Law - Civil Service Bureau is accountable for timely receiving of Declaration on Property from officials. The Bureau also ensures the transparency and control of timely delivery of the declaration. This is reflected in the Bureau’s web-page in Property Declarations search system: <http://www.csb.gov.ge/content.php?id=3&lang=geo>;

On the basis of the Order No. 216 of July 5, 2010 on “Establishment of Characteristic Features on Electronic ID and Residence (temporary and permanent) Card of Citizen of Georgia”, the Legal Entity of Public Law - Civil Registry Agency became accountable for carrying out all the organizational activities necessary for delivery of Electronic ID and Residence (temporary and permanent) Card of Citizen of Georgia; the order also established the characteristic features of electronic ID card.

In accordance with the clause 4¹ of Order 209, 31.12.2010 on “Affirmation of Statute of Legal Entity of Public Law - Civil Registry Agency”, the function and authority of one of the structural unit of the Agency – the Distance Service Department became the following: receiving of statements/declarations electronically and directly as a result of a visual interaction, elaboration of these statements/declarations and annexed documents and the electronic delivery of these documentation to the Agency’s territorial service;

On the basis of the order No 523, 06.01.2011 on “Affirmation of Statute of Legal Entity of Public Law - Ministry of Finance Service Agency”, clause 2, sub-point C)¹² added to point 2, the Agency supports the sales of property of interested natural persons and legal entities, by means of auctions (internet-auctions, public auctions), direct sales (on the basis of agreement with individual, trade centers, including internet shops) and on the basis of parties’ agreement, in accordance with the existing legislation. In this very Order one of the functions of the Marketing and Innovations Department became the coordination of organizational and technical ensurance of property on e-auction and in electronic shop, after the changes carried out on the 6th of January of 2011. This was practically reflected in the independent web-page of the the Ministry of Finances Service Agency www.eauction.ge. On the basis of the Order No. 996, 31.12.2010 of the Minister of Finances of Georgia, on “Taxes Administration” (clause 11 - electronic registration), it was defined that the communications between the Revenue Service and the taxpayer may be carried out electronically, in an on-line form at Revenue Service official web-page - www.rs.ge.

A letter/document delivered electronically by using this web-page as well as document/letter created and sent by the taxation body does not require signature of the authorized person and has the same power as the hardcopy of the document that is signed and stamped officially. E-communication is carried out by the video call made or the corresponding written message sent by the taxpayer. During 3 working days from the receiving of the message, the taxation body ensures the electronic communication for the taxpayer and sends him/her about the authorization. Besides, the taxpayer has right to use video call or send message to contact the taxation body for the purpose of ID or password recovery, or terminate the video call. According to the 13th clause (electronic complaint)

of this order, it was defined that the individuals have right to present complaints to the Ministry of Finances system electronically by means of this page, though he has a right of having written communications with the body reviewing the taxation dispute. The complaint presented electronically by the Service web-page is considered that it is signed by the prosecutor and registered. The individual is informed about the progress of the complaint review stages and results by short text messages, though this does not free the body reviewing the dispute from the responsibility of informing the prosecutor about the decision regarding his/her complaint. In accordance with the clause 93, permission for arranging casinos, parimutual and playing machines, lottos, bingos and other encouraging games is issued by the Revenue Service in a poligraphic or electronic form by means of Revenue Service web-page - www.rs.ge. And in case of informing individual about the granting the special status for import VAT, the Revenue Service sends the benefitor short text message by means of the Revenue Service official web-page - www.rs.ge. **It turns out that the order mentioned above represents a wide and significant regulation and defines various forms of e-communications (short text-message, video call, communication by means of the official web-page).**

The list of regulating norms of e-Government are not exhaustive from the point of view of every specific sphere. But they make clear that the government really makes some efforts of e-Government implementation.

Legal norms regulating e-Transparency are represented much more scarcely. **The conditions become harder due to the fact that the public authorities do not have unified standard of publishing public information on their official web-pages and the desire of interested persons of access to certain information is limited to the public authorities' desire whether or not to place the information on its web-page. Furthermore, except of some exclusion, the placement of the official web-page in the internet represents the good will of the public authority itself.** *Consequently, the norms established by the government to regulate e-Transparency, during recent years, represent unstandardized examples of legal regulation that lack correlation and seem to be conditioned by specific official web-pages and represent the examples of proactive publishing of public information rather than the efforts of government for e-Transparency implementation.* Below we present a number of examples to illustrate everything in regard with mentioned above:

In the first clause of the the acting resolution of Georgian Government on Statute Affirmation of **Ministry of Energy of Georgia** (Ministry Statute) the ministry web-page is presented (www.minenergy.gov.ge) and specifies that this page represents a public place. In one of the sub-points of the 3rd clause of the same resolution, it is stated that the Ministry has right to place individual administrative or legal act and/or some other type of information at place from which it will be accessible for everyone and/or at the web-page of the Ministry. And according to the 4th point of the 6th clause **one of the functions of the Administrative Departments is the development and constant renewal of the web-page. Its function is the publishing of ministry normative acts, minutes, annual reports, statistic data of technical and economic character and other public information on the Ministry web-page.**

In the acting statute (point 6) of **the Energy and Water Supply National Commission** that acts as an independent national regulatory body, e-mails and web-page addresses are presented, and in the 14th clause of the same statute it is defined that one of the basic functions of the commission structural unit (Public Relations and International Relations Department) is the development of the web-page, its design and constant renewal. Its function is the publishing of the commission's resolutions, decisions and the corresponding minutes, annual reports, technical and economic data in electric power and natural gas sector, and *other public information* on the Commission's web-page. **It becomes clear that, the legislation of Georgia directly and imperatively defines that the public information must be electronically transparent in regard to the field of energetics, in general, and to the corresponding ministry and independent regulatory body, in specific terms.**

The 2nd point of the statute of **the Border Police of Georgia** that is a sub-agency of the Ministry of Internal Affairs of Georgia defines that the Border Police must have the official web-page. According to the 18th point of the same

statute one of the structural units of the Border Police (Press and Public Relations Department) ensures the functionality of the web-page. Unfortunately, the regulation is not complete as there is no indication about what kind of information is considered public and must be published on the web-page.

According to the Order No 115, 18.06.2010 (chapter 3, clause 8, sub-point 3) of the Minister of Justice, on Rule of Openings of Public Officers of Ministry of Justice of Georgia: “the information on opening **may** placed by the Human Resources Department on the corporate web-page of the Ministry and other corresponding web-pages”. **This clearly reflects the approach that the placement of certain public information by the public institution depends on the will of the institution and does not carry a direct, imperative character.**

According to the alteration made to the 4th point of the clause 9, on July 15, 2008 to the Election Code of Georgia, **the Central Election Commission of Georgia** is accountable for the elaboration of the unified voters electronic list and its placement on the CEC-s web-page (only the public information - name, surname, date of birth, registration address, temporary address for individuals who were forced to leave their place of residence is considered) www.cec.gov.ge. And on the basis of the alteration No 6013 made to the 11th point of the 48th clause of the same Code, on March 21, 2008, information on election donations is open, public and accessible for everyone. CEC is obliged to send any information connected with the election campaign fund of election subject to every interested person and ensure the publishing of this information on the corresponding web-page in 2 working days period from its receipt;

According to the alteration No. 67 made to the 24th point of the law “on Electronic Communications” of Georgia, on June 27, 2008, decisions made by **the National Commission of the Communications** that are taken on the preliminary analysis of market regulation and analysis, are published in Internet – on web-page of the Commission (www.gncc.ge), except the parts of decisions on state, commercial and private secret are not published. According to the alteration No 3453 made to the clause 52 of the same law, on July 14, in 2006, the commission takes the decision on arranging auction for receiving radio frequency spectrum or/and numeration resource licence, minimum 1 month before the auction and the information is spread by means of mass information and is published on the official web-page of the Commission;

In accordance with the alteration No 2457 made to the clause 3 of the law “on Entrepreneurs”, on December 25, 2009, decision of the registering body of the registration comes in action from the moment of informing the party about it or its publishing; the publishing is the placement of the decision on the web-page of the registering body; According to the alteration No 2457 made to the clause 7, on December 25, 2009, electronic copies used as basis of entrepreneurs and non-entrepreneurs (non-profit) legal entities registers are placed on the corresponding web-page of the national Agency of Civil Registry and are accessible for every interested person, free from charge;

The obligation of proactive publishing is also presented in the 33rd clause of the Law of Georgia “on Insurance”. This clause concerns the liquidation of the insurer. According to the clause the party carrying out the liquidation of the insurer must publish the decision on the liquidation in 15 days period in “Legislative Herald of Georgia” and on official web-page of **the National Bank**.

The clause 33⁴ of the same law, concerning the bankruptcy of the insurer, defines that the bankruptcy manager is obliged to publish the decision on beginning of the bankruptcy process in the “Legislative Herald of Georgia” and on the official web-page of the National Bank (www.nbg.gov.ge), in 14 days period from this decision;

According to the 2nd point of clause 34 of the Civil Code of Georgia data on entrepreneur and non-entrepreneur (non-profit) legal entities are public. The registering body is obliged to publish the data on the registered non-entrepreneur (non-profit) legal entity on its web-page;

According to the clause 56² of Law of Georgia on “Higher Education” that is in action from the 1st of September of 2010, decision on authorization of the Higher Educational Institution must be published on the web-page of **National Center for Educational Quality Enhancement** (www.nea.ge), within 10 days period after its issuance.

According to the clause 5 of Law on “State Property” of Georgia that is in action from the 1st of January of 2011, the information on state property privatization by means of auction should be published on the web-page of the state property owner or/and on the web-page - www.auction.ge, that is considered as an official publication of the information. For the purpose of ensuring information publicity and accessibility, the information on state property privatization by means of auction must be published in the newspaper - “24 hours”;

According to the addition made to the clause 16 of the order No. 127 on “Affirmation of Statute of the Unified National Examinations” issued by the Minister of Education and Sciences of Georgia, scores received by the exam-takers at the Unified National Exam are published on the official web-page of **the National Examinations Center** (www.naec.ge); Clause 2 of the order No. 247, on “Affirmation of Statute of Legal Entity of Public Law - Finance and Analytic Department” issued on March 31, 2010 by the Minister of Finances of Georgia, defines that the department ensures the administration of the Ministry web-resources, in accordance with legislation of Georgia and enhances publishing of public information on the web-page of the Ministry of Finances of Georgia; There is the same legal regulation in case of Resolution No. 18 Government of Abkhazia on the “Affirmation of Statute of **Ministry of Finance of Abkhazia Autonomous Republic**”; according to the addition to the 12th clause, made on September 2, 2009 one of the main duties of Financial Policy and Information Technologies Department is the administration of the Ministry web-page and the ensurance of public information publishing on the web-page.

Besides the cases mentioned above, there are number of cases when officials of certain public institutions give directions on publishing public information on the web-page of the institution, by passing individual administrative and legal acts. **Though as we have already mentioned these cases do not allow us to talk about unified tendency of legislative nature in connection with regulation on placement of public information on web-pages or its standardization. It may be said that nowadays, the existence of public authorities’ web-pages sharing public information in internet depends on the good will of the public authority...**

The presented short review of the legislative base of Georgia on e-Governance and e-Transparency makes clear that some legislative regulation is to be

made in the future. First of all, it must be mentioned that the Government is on the first stage of transformation to the e-Government. It is natural that the legislative base at this stage is not so well-developed for state bodies and public employees as well as for citizens and businessmen, from the point of view of e-Government. The institutions of e-Transparency and e-Consulting are also underdeveloped and it may be said that there is no e-Controllershship regulatory legislative base. The existing legislation of Georgia does not consider the specific ways of receiving public information electronically; it does not consider the opportunities of receiving legal answers to questions sent electronically from the public authorities' web-pages that in its own way may be considered equal to the existing form of sending and receiving of public information, in accordance with the current legislation. **As for the unified regulatory legislative base of e-Transparency, it may be said that such base does not exist at all. On official web-pages of public authorities there are no standards implemented for proactive publishing of information. At the same time, there is no legislative norm that would oblige all public authorities to have official web-page for the purpose of public relations, accountability, publicity and increase of information quality.**

The prior aim of IDFI is active participation in the development of regulatory legislative base of e-Government for citizens, that may be reflected in offering consulting, considering the analysis of the corresponding international practice or society requirements; its aim is the development of statements of legislative nature that will fit the real conditions in Georgia. This can not be done without the public's interest towards information publicity, so it is necessary to spark the interest toward publicity of information among individuals, by carrying out certain activities. The present legislative analysis, and the report in general, serve as a tool for these activities. The term of "e-Government" involves the active involvement and participation of the government that must be reflected in the corresponding legislative base. **Together with it, the concept of "e-Transparency" involves the publishing of information electronically not in vague but in standard regulatory form, considering the information consisting of private commercial or state secret.**

IDFI considers that the collaboration with the state (be it the Parliament, the Ministry of Justice or other public authority) is of a great priority, from the point of view of legislative problem cases extinction and making corresponding corrections. It is a positive fact that despite the absence of unified legislative regulation that would imperatively oblige all public authorities to have official web-pages, still almost all important public authorities have their own official web-pages. Many public authorities make steps towards the implementation of e-Government (e.g. system of Ministry of Finances and the Ministry of Justice of Georgia); activities for e-Transparency carried out by the Ministry of Energy are worth mentioning. Alterations and additions in the legislation of Georgia during last year do reflect the wish of government in preparation of ground for e-Government and e-Transparency. IDFI will continue the study of legislative base on e-Governance and e-Transparency and welcomes all the representatives of private and public sector for collaboration.