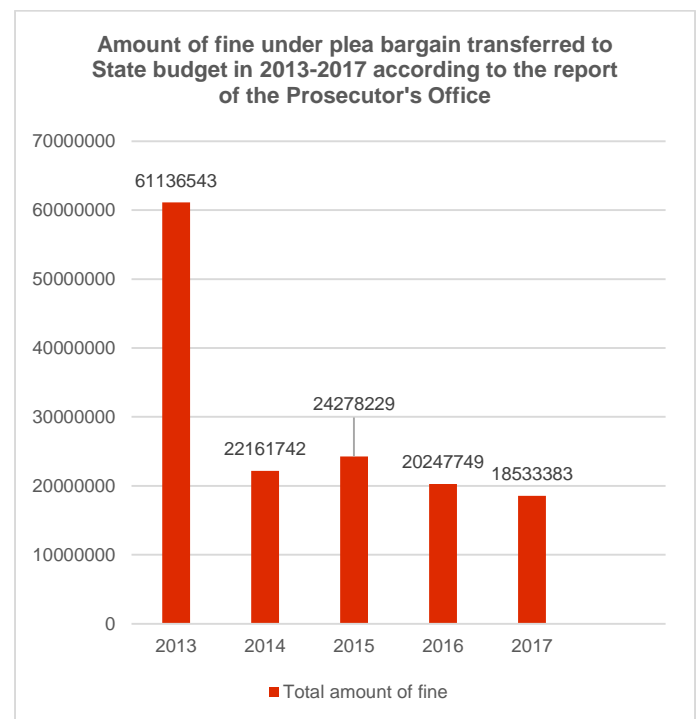
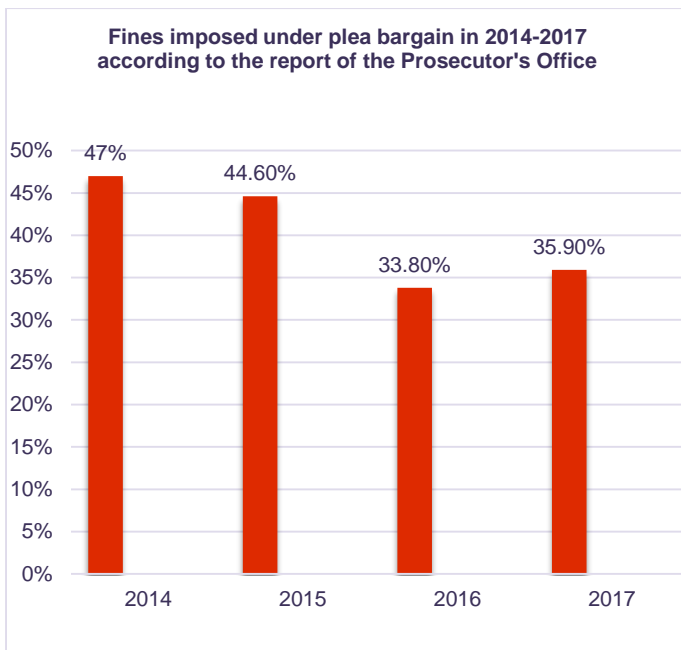




## ANALYSIS OF LEGISLATION AND PRACTICE OF PLEA BARGAIN

- ▶ According to the statistical data published by the Supreme Court of Georgia, the number of cases heard by the first instance courts on plea bargain is considerably high - in 2018, it was 66% of all cases and in the first half of 2019 - 64%.
- ▶ According to the report published by the General Prosecutor’s Office of Georgia, imposing fines on plea bargain cases in 2016-2017 is reduced compared to the previous years.

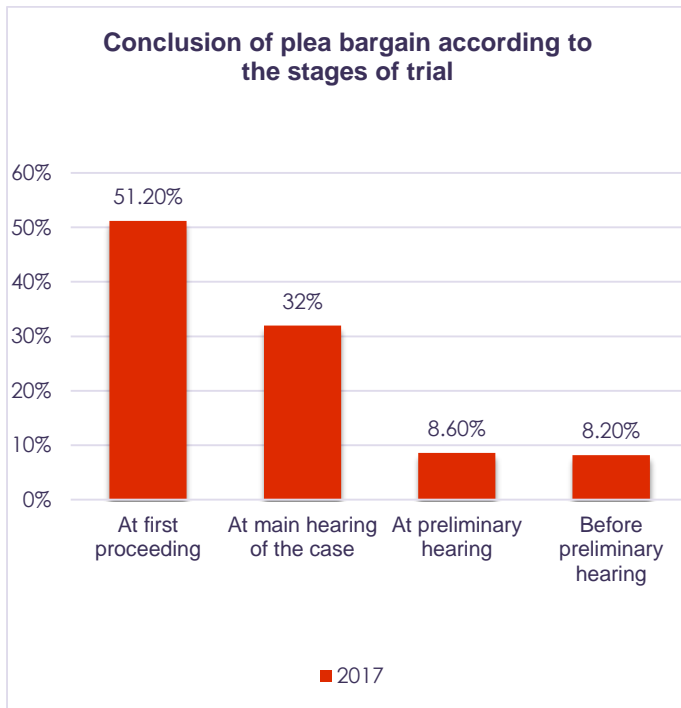
- ▶ According to the Prosecution service of Georgia, funds received by the state budget from plea bargain agreements in 2009-2017 are the following:



- ▶ Analysis of Court decisions show that conditional sentences and fines are mostly used in plea agreement cases, while community service is the most rarely used one.

- ▶ Analysis of first instance court decisions show that plea bargains are mostly used in the cases of grave crimes (50%).
- ▶ Regarding the stages of trial, plea bargains is most often concluded at the first introductory hearing/proceeding:





**Recommendations:**

- ▶ Judge shall be entitled the right to impose a sentence less than the minimum threshold of the sentence prescribed by the relevant article of the Criminal Code or any other, lenient sentence without concluding a plea bargain.
- ▶ Procedures/grounds for reviewing, deciding and substantiating an application for plea-bargain by the accused/convict and/or his/her lawyer shall be regulated by law.
- ▶ The legislation shall determine the mandatory rules for drawing up a protocol on the offer of a plea bargain and a list of the circumstances envisaged therein.

- ▶ The types of restraint measures provided by the Criminal Procedure Code shall be extended and the court and the prosecution shall be enabled to better tailor the restraint measure to the individual and individual circumstances of the case.
- ▶ In-depth examination of the voluntary agreement by the accused to the plea bargain and different factors shall be ensured. Including, assess whether the accused had any choice but to agree to a plea bargain by examining the public interest in concluding a plea bargain.
- ▶ The substantiation of courts' decisions on approval of a plea bargain shall be ensured and detailed reference to both the existing evidence and its content shall be made
- ▶ At the plea bargaining sessions, the prosecutor shall, in all cases, present information about the financial capacity of the accused and his/her personal characteristics, and the court shall examine whether the sentences imposed by the parties are fair and lawful.
- ▶ When making a decision, the judges and prosecutors shall be guided by the standard on sufficient evidence to render a judgement without hearing the case on merits, which is equivalent to the standard of beyond a reasonable doubt.
- ▶ Legislation and/or by-laws shall determine creation of a unified database on statistical data of plea bargain application as well as on processing of the data; Agencies responsible on data processing and accessibility to the information shall also be determined.

