

GEORGIA RULE OF LAW PROJECT

Quarterly Report

October 1, 2002 – December 31, 2002

USAID/Caucasus/Tbilisi

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Strategic Objective 2.2

Presented by:

The IRIS Center at the University of Maryland

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Overview

IRIS continued a vast array of activities during the fourth calendar quarter of 2002 including the preparation and approval of our Year Two Work Plan. . Our second year survey was conducted and a preliminary analysis of the results informed our second work plan.

With approval of the work plan for Year 2, IRIS completed negotiations with grantees (Georgian Young Lawyers Association, Liberty Institute, Article 42, Internews Georgia, United Nations AG, and Judicial Training Center) on new implementation plans. Grant Agreements were signed with Article 42, UNAG, Liberty Institute and Internews Georgia on November 1, 2002. Grant Agreements with GYLA and JTC were signed on December 15 and January 15 respectively.

During the reporting period IRIS was actively involved in discussing USAID future strategy with senior staff members who participated in several meetings. IRIS staff members together with other ROL partners participated in a meeting in Bakuriani initiated by USAID to discuss SO indicators.

Implementation Activities

In this report, we provide a summary of the activities under each task carried out by IRIS and its grantees. Attached are the deliverables required under the work plan, listed by task and designated as provided either electronically or in hard copy where electronic versions are unavailable.

Task 1: Raising Public Awareness, Raising Public Confidence

Activity Summary

Throughout the reporting period IRIS continued preparations necessary to launch our outdoor poster campaign as a continuation of the Public Service Announcements (PSAs) on Human and Legal Rights. Bids were solicited for the design, printing and placement of the posters and an advertising company that will implement the project was selected.

In December, these PSAs prepared by IRIS and its grantee Internews, received a special award from the Public Defender of Georgia, Dutch Ambassador and UNDP Coordinator. The journalists at Internews received the award for the best journalism in the area of human rights.

GYLA Activities

In October, GYLA continued its activities under the old grant agreement with a one month no-cost extension. Discussions between IRIS and GYLA focused on resolving financial reporting issues and a new system was initiated for the second year grant. Additionally, GYLA appointed a full-time program manager to support the IRIS grant. As the new grant agreement entered into force on December 15, fewer activities were conducted in November.

The legal aid center continued to render assistance to applicants. Town hall meetings and community mobilization efforts were directed from the central and regional offices and through mobile clinic visits. There were 12 town hall meetings, reaching 225 people. The mobile legal clinic visited 29 different localities and met with over 448 people.

GYLA prepared 10 different articles and advice columns (frequently-asked questions) for Georgian newspapers during the quarter.

Titles of newspaper articles are as follows:

Tbilisi Office:

1. Article “The rule of executing administrative penalty” – “*Rezonansi*” 10 October 2002
2. Article “Pre trial detention of an accused” – “*Rezonansi*” 10 October 2002
3. Section “Answers to questions” “The rights and obligations of a driver and a policeman” - “*Rezonansi*” 10 October 2002
4. Section “Answers to questions” “Cassation according to civil procedures” - “*Rezonansi*” 10 October 2002

Kutaisi Office:

5. Article “Pre term conditional release” - Newspaper “P.S” #38

Rustavi Office:

6. Article “Administrative act” - Newspaper Rustavi #20, October 2-9
7. Answers to the Questions - Newspaper Rustavi #20, October 2-9
8. Article “Justification of the Administrative act” - Newspaper Rustavi #21, October 20-27
9. “Entry into force of the Administrative decree “- Newspaper Rustavi #21, October 20-27
10. Answers to the Questions - Newspaper Rustavi #21, October 20-27

Statistical Summary

	<u>Number of Publications</u>	<u>Copies Distributed</u>
Newspaper	10	NA
	<u>Number of Meetings</u>	<u>Attendance</u>
Town Hall	12	225
Mobile Legal Clinic visits	29	448

Liberty Activities

During the reporting period, Liberty Institute continued organizing the regular Press Club Sessions and holding two of them. They covered issues such as the legal aspects of extradition and human rights and the democratic process in Georgia. The sessions were quite successful and remained responsive to the highly problematic issues in the field of human right protection. Consistent attendance of media representatives and the quality of subsequent coverage provides confirmation of the success of the press club sessions, which have become an accepted part of the media and human rights scene in Tbilisi.

Four round table discussions were held in the regions. They covered issues such as freedom of religion, violation of freedom of assembly by the police in front of Kutaisi #2 detention center, and the relationship between the police and the community. Liberty published three monthly newsletters (total of 6000 printed). Newsletters were widely distributed between Tbilisi and regional and local community members.

Liberty Institute also published a brochure describing its activities (1000 copies). This publication will be a useful tool in introducing Liberty's activities in regions and to international actors operating in the field of human rights.

All four regional offices were fully operational during the quarter. Regional staff continued to work with people through newsletter delivery, visits to various interest groups and inviting interested people to round table discussions. The network of active local citizens willing to maintain close cooperation with the Liberty central and regional offices continued to expand and organization improved.

Statistical Summary

Number of Publications	<u>Copies</u>	<u>Published</u>	<u>Distributed</u>
Newsletters	3	6000	6000
Liberty Brochure	1	1000	200

	<u>Number of meetings</u>	<u>Attendance</u>
Press Club sessions	2	38
Regional Roundtables	4	92

Internews Georgia Activities

Task Order 1 between IRIS and Internews Network for 2001-2002 ended in September 2002. The new agreement is a grant that came into force in the beginning of November 2002 with Internews Georgia. Prepayment of broadcast time allowed PSAs to be broadcast during October 2002 while the new agreement and work plan were finalized.

During the November-December period, Internews worked on three different activities:

- a) Production of the Public Service Announcements;
- b) Training for television journalists on human rights related TV production, and
- c) Production of television programs on human rights issues.

a) PRODUCTION OF PUBLIC SERVICE ANNOUNCEMENTS

Internews had several meetings with IRIS to identify three PSA topics (out of 5). After topics are identified, creative briefs will be presented to scriptwriters. Further production will be done in January 2003.

b) TRAINING FOR TELEVISION PROFESSIONALS

Ten-day training was conducted in December with Donald Morefoot, an experienced New York City based TV producer, who had already served as a consultant for Internews last year. Seven journalists and producers participated in the training session. (Most of these journalists had been previously identified by Internews as the best journalists in six major cities where private TV stations are operating and had participated in the production of talk shows last year under the previous contract with IRIS.)

The goal of this part of the project was to train the professionals who would be involved in the production of the new series of TV programs on citizens' rights. The following themes were the focus of the training: 1) Format of future TV programs; 2) Possible topics for the TV programs, and 3) Selection of the topic for the first TV program.

c) PRODUCTION OF TELEVISION PROGRAMS

The first television program to be produced will concern the torture of detainees by the police. During November, research was conducted on this topic and shooting started in December. Final results will be presented to IRIS in January 2003.

List of Deliverables

Deliverables in electronic format:

1. Agenda and list of participants of Round Table Discussion on harmful practice of renaming streets in Kutaisi (October 23)
2. Agenda and list of participants of Round Table Discussion on Freedom of Religion (October 31)
3. Agenda and list of participants of Round Table Discussion on violation of freedom of assembly by the police in front of Kutaisi #2 detention center (November 8)
4. Agenda and list of participants of Round Table Discussion on relationship between the police and the community (December 1)
5. Agenda and List of Participants of Press Club Session on Legal Aspects of Extradition (October 18)

6. Agenda and List of Participants of Press Club Session on Human Rights and Democratic Process in Georgia (December 4)

Deliverables in Hard Copies:

1. Newsletter # 10
2. Newsletter # 11
3. Newsletter # 12
4. Brochure on Liberty Institute.

Task 2: Support for Legal Aid Organizations

Legal Aid Research

IRIS has initiated the collection of materials that are necessary for preparing recommendations on a legal aid system suitable for Georgia. Study has been conducted on two levels – international and national. A comprehensive set of materials on the legal underpinnings of legal aid and the practical experiences of foreign countries has been compiled (including the relevant norms of international law binding on Georgia, ECHR cases relevant to legal aid issues, the guiding principles developed by international organizations, and numerous country reports prepared within the framework Promoting Access to Justice in Central and Eastern Europe, funded by the European Union and COLPI). This set of materials will have a complementary character to the comparative analysis of various legal aid models developed in different countries that is being prepared by GYLA under the framework of our grant agreement.

Georgian normative acts relevant to legal aid were analyzed during this period. The results of this analysis will be reflected in the final report containing an assessment of the current situation in Georgia from both the legal and practical perspectives.

Working meeting between IRIS Georgia, USAID, ABA and the World Bank was arranged at the request of World Bank representative, Friedrich Peloschek. The main purpose of the meeting was to coordinate our activities in the area of legal aid in order to avoid overlaps and ensure effective use of limited resources.

GYLA activities

GYLA continued to provide legal aid through consultations and court representations. According to the statistics, the Kutaisi Office has rendered 524 consultations, with 182 meetings in person, 152 telephone consultations, and 187 field visits, 2 in a written form.

Since the entry into force of the new grant agreement, the legal aid center is using a case selection criteria included in the new grant agreement. The selection criteria were developed with

goal and actual capacities of the center in mind and are aimed at ensuring more effective and efficient use of resources by clearly defining the scope of operations.

During this quarter GYLA undertook 18 new cases, which are classified below in the statistical summary. There were favorable decisions in 13 cases, including those initiated in previous quarters. There were successful administrative cases, some of them concerning FOI issues. Several cases are described below:

The case of *Rostom Khomeriki* is a good example of the reluctance of some governmental agencies to provide individuals with public information. The Ministry of Education refused to disclose public information to Mr. Khomeriki. On September 27, the case was filed in the Tbilisi Court of Appeal. On October 4, the Ministry of Education satisfied his demand and gave him all the necessary documentation. After a few days, R. Khomeriki approached GYLA again and declared that the information provided was not complete. He applied to the Ministry of Education again, but without success. GYLA has prepared the new lawsuit, which was filed to the district court and has been satisfied by the court.

Another interesting case concerned the illegal seizure of a driving license by the traffic police. In December, Mr. Sikhuashvili appealed to GYLA for legal assistance. He stated that the traffic police of the Gldani-Nadzaladevi region seized his driving license and fined him. No document had been given to him identifying the specific violation allegedly committed and defining the amount of the corresponding fine. GYLA consultants explained to Mr. Sikhuashvili, that the policemen had violated Article 266 and Article 268 of the Georgian Code of Administrative Violations. GYLA consultants prepared an application requesting the above-mentioned document from the district department of the traffic police. The department of the traffic police explained to Mr. Sikhuashvili that he had not violated any rules; therefore seizure of his license and imposition of the fine was unreasonable, and the driving license was returned to the owner.

The case of Gocha Endeladze is important in revealing serious violations of fundamental human rights in criminal proceedings. On February 11, 2002, Gocha Endeladze appealed to GYLA for legal advice. He was accused of complicity in an attack. During detention, Mr. Endeladze was subjected to physical and psychological pressures from the police and was coerced to plead guilty. At the stage of pretrial investigation, the other accused also admitted his complicity, though at the end they declared that they were coerced to do so. Police demanded money from Endeladze in exchange for termination of criminal proceedings against him. Mr. Endeladze was not able to collect sufficient funds, so the criminal proceedings continued. Tbilisi Didube – Chugureti district court found him guilty and sentenced him to six years of confinement. The decision was appealed to the Tbilisi Court of Appeal. At court hearings, it was discovered that the investigator did not even initiate a criminal case against Endeladze, as prescribed under the rules of criminal procedure. Therefore, all investigative actions conducted became void as being legally unfounded and nonexistent. The case was eventually dismissed.

In this quarter, there was an important development in one of the constitutional cases prepared by GYLA. On November 5, the Constitutional Court of Georgia rendered a decision on the case of *GYLA vs. Parliament of Georgia on Freedom of Assembly*. The decision, which partially

satisfied the suit, is very controversial. The court did not declare the provisions of the Law on Assembly and Manifestations unconstitutional. These provisions, being at variance with Article 25 of the Georgian Constitution, provide the possibility for the enjoyment of this freedom in certain areas and more importantly, the possibility to ban assembly of citizens beforehand. GYLA and IRIS will continue to monitor developments and respond as appropriate.

Two reports on legal aid-related issues were prepared by GYLA. One provides a comparative analysis of various legal aid systems in the world. The second report is about the right to be represented by council in general and its safeguards under Georgian legislation. The reports are being edited for publication.

Statistical Summary

Number of citizens represented in Courts & Administrative Agencies	Total 63	Civil 16	Criminal 21	Admin 24	
Cases Initiated	Total 18	Civil 5	Const 1	Criminal 8	Admin 4
Court Decisions	14	3	1	7	3
Consultations	Total 1184	Civil/Others 696	Criminal 272	Admin 216	

Article 42 activities

As previously mentioned, IRIS signed a new one-year grant with Union Article 42 of the Constitution. This grant will allow Article 42 to continue providing assistance in criminal cases to the rural population of eastern Georgia appearing in the Second Instance Court of Tbilisi and lacking proper legal representation. During the reporting period the office received 37 applications (one person appealed twice). Among these applications, 19 did not match the project priorities. The office accepted 13 applications. Among these, 3 were from the past reporting period. Four applications from the past reporting period are still under consideration and three cases have been sent for cassation. 29 cases are in progress.

Liberty activities

During the reporting period Liberty Institute continued to monitor human right violations in Tbilisi and the regions. Around 14 serious human rights abuses have been traced. Follow-up actions have been taken on each case and, when necessary, the victims of violations were transferred to partner organization – GYLA and Article 42 – for further legal assistance.

Task 3: More Open and Transparent Administrative Process

Activity Summary

IRIS continued cooperation with the Gori Information Center (GIC) on establishing proper FOI procedures in the city of Gorgeoba and Sakrebulo of Gori. This cooperation has primarily been focused on providing expert consultations on their draft regulations for the local PR office. In the last quarterly report, we mentioned a promising political environment for the realization of FOI initiatives in Gori. After intensive discussions with the NGO coalition, it was agreed that the draft provision and instructions for the PR office needed substantial redrafting. IRIS remained involved in this process and provided written opinions on some of the disputable questions. During the reporting period, model rules were finalized and sent to Gori Information Center (GIC).

IRIS established cooperation with the Mayor's Office of Rustavi. For the purpose of ensuring openness of public information in Rustavi, IRIS provided assistance to a local Freedom of Information Office, including office furniture, a computer, printer and UPS to create a normal work environment. IRIS staff installed basic software on the donated computer. Basic materials on the freedom of information, such as copies of the General Administrative Code, the FOI manual, and administrating drafting guide and chart were also provided. The FOI Officer in Rustavi had previously participated in IRIS-funded training and was familiar with freedom of information-related matters. We believe that the assistance will help the office to improve and expedite handling of requests for public information.

It must be noted that implementation of desk audit recommendations is the most difficult part of our activities, because it is directly related to the political willingness of state officials. Although IRIS staff had several meetings with representatives of the Ministry of Finance, Ministry of Justice and the Ministry of Health, there are no tangible results in terms of implementation to date. We will continue to explore various ways of encouraging cooperation.

IRIS conducted FOI training for UNAG Staff members and regional contact persons. This training aimed to clarify some complex issues and questions identified during practical application of the Freedom of Information Chapter. Some issues that are not directly regulated by the Code were also discussed.

UNAG Activities

A new grant was issued to the United Nations Association of Georgia (UNAG) on October 29, 2002. Naturally, the first stage of project implementation focused on preparatory activities, such as recruitment of project staff, procurement of equipment, and preparation of necessary documentary materials, etc. However, certain initiatives undertaken during this period will serve as the basis for the realization of the entire project.

In November 2002, the project staff prepared a 12-page-long questionnaire, which is being used as an essential instrument in the first stage of preliminary assessment of public institutions. This

questionnaire enables UNAG to assess the current situation in public institutions and determine if and how the principles and procedures required by the Freedom of Information Chapter of the General Administrative Code are being implemented. The questionnaire is made up of 55 questions, answers to which are designed to draw a comprehensive picture of the situation existing in each public institution.

In December, the working group prepared a special form, which will be filled out for each public institution and will include the information obtained through the questionnaire, and visits by the project staff. It will demonstrate the existing situation and help develop future plans of action.

On November 25 and 26, a two-day working meeting was held with participation of the interviewer, members of the main working group and representatives of IRIS. For the period of two weeks, interviewers visited the selected public institutions, asked the public officials to fill out the questionnaires and gathered information for the preliminary reports. By December 20th, UNAG received the questionnaires from all interviewers and a total of 160 public institutions had agreed to fill out the questionnaire; only a few of the selected institutions refused to cooperate. UNAG has started analyzing the data.

In December 2002, project staff started working on the desk calendar for public institutions for 2003. It consists of 12 topics (for 12 months) taken from the Freedom of Information Chapter of the General Administrative Code. The calendar will be designed as follows: the front page will include a quotation from the Freedom of Information Chapter; back page of the calendar will include clear and popular explanation of (or more detailed information about) the selected topic and a case study. Twelve case studies will describe the experience of the character *Givi* and his friends and relatives with various public institutions.

List of Deliverables

Deliverables in electronic format:

1. Model FOI regulations for local entities
2. UNAG questionnaire
3. Agenda of UNAG training

Task 4: Support for Legislative Drafting

Activity Summary

Analysis of the legislation on personal information was conducted and recommendations were finalized. The final version of recommendations was sent to the State Department of Informatization. IRIS representatives followed-up the recommendations with a meeting with Mr. Tarkhan-Mouravi, the head of the Department, who accepted the above-mentioned recommendations and expressed his willingness for future cooperation.

Considerable work was performed to improve legislation on state secrets. Draft recommendations aimed at improvement of the legislation was prepared and sent to the Minister of Security. A meeting followed with the Minister and an agreement concerning future cooperation was reached. IRIS prepared draft amendments to the Law on State Secrets designed to harmonize the legislation on state secrets with the General Administrative Code. Draft amendments will be translated into English and sent to various international experts.

During the reporting period IRIS also worked on drafting legislation concerning broadcasting from the perspective of the General Administrative Code.

IRIS also participated in a three-day conference on the drafting of legislation against money laundering and participated in a conference on federalism issues organized by GTZ and the Institute of Law.

List of Deliverables

Deliverables in electronic format:

1. Research on personal data (in English)

Task 5: Information and Training

Activity Summary

In October, IRIS Georgia purchased furniture and equipment for the Constitutional Court library, including tables, chairs and desk lamps for the library and reading hall. The library was also equipped with an air conditioner. The assistance provided by IRIS to the Court will improve the functioning of the library and create better work conditions for library visitors.

Also in October, IRIS procured and donated 229 Russian language legal books to the library of the Supreme Court of Georgia. The donation will enhance the Court's library, which will be accessible not only to Court employees, but also to the general public. In addition, selected English language books were purchased in the US and are currently being transported.

IRIS donated approximately 50 books to "Society, Person and State," a Kutaisi-based NGO.

In December, the Public Defender's Office (PDO) of Georgia hosted a presentation of the books that IRIS donated to their Library and regional centers in August 2002. The PDO Library provides citizens with free access to the information on human rights and freedoms. PDO also operates human rights information units in public libraries throughout Georgia. In addition, 40 English language books on different aspects of human rights were purchased in the US and will be delivered to the library shortly.

IRIS Georgia continued to participate in trainings conducted on administrative law within the framework of other programs funded by other donor organizations. For example, IRIS experts

participated in two trainings organized by the National Democratic Institute (NDI) for representatives of the newly elected local government and self-government bodies. Trainings were conducted in Likani on FOI and other administrative law issues. The Drafting Guide on the General Administrative Code was adapted to the particularities of local government bodies. The new version of the Drafting Guide was published in the format of a small brochure and was distributed at the seminar along with charts. An IRIS attorney also participated as a FOI expert in workshop for media in Kobuleti. (The workshop was organized by ABA/CEELI.) IRIS provided World Learning with charts and Drafting Guides on the Administrative Code.

As part of our continuing legal education activities, an IRIS Georgia attorney led a seminar for the journalist class at the Georgian Institute of Public Affairs. The seminar was devoted to the legal aspects of freedom of speech and freedom of information, as well as legal means for the protection of journalist rights.

IRIS continues preparation of an English-Georgian Law Dictionary for publication. After a competitive bidding process, a publishing company was selected. Currently the dictionary is in the final stages of editing and will be ready for publishing in January 2003.

IRIS continued distributing Wolfgang Gaul's book, *Drafting and Adoption of the Georgian Constitution*. Approximately 700 copies (of 1,000 printed) of the book have been distributed.

Two English language books were selected for translation into Georgian and negotiations were started with copyright holders and the process of selecting translators and senior lawyers/editors for the project.

IRIS joined a number of USAID contractors that will be using TraiNet, software developed by USAID. IRIS will be using TraiNet to report details of its USAID-sponsored workshops/conferences to USAID.

Our website is constantly updated; resources include translations of legal and other relevant materials and updates on IRIS activities and other news relating to democracy and rule of law. The website is available at: <http://www.iris.ge>.

List of Deliverables

Deliverables in hard copies

1. Drafting Guide distributed at Likani workshops

Deliverables in electronic format

1. List of the books donated to the library of the Supreme Court of Georgia.
2. List of books donated to the NGO "Society, Person and State."