

## Chapter 13

# The Military Service Appeals System in Georgia

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The basic principle of the Georgian armed forces' structure is determined by Chapter 101 of the Constitution of Georgia, according to which "defence of the State and performance of conscription is a duty of all capable citizens of the country". Hence, the armed forces are based on universal military service. In the same chapter of the Constitution, it is stated "the forms of performance of military service are determined by the law". On the basis of this norm, the Law on Conscription and Military Service was passed on September 17, 1997.

This law has undergone significant changes. It is especially important to note amendments made to the law on July 21, 2002, which concern the system of appeal. Prior to January 1, 2003 an appeal on urgent military service was carried out by the military commissariats (the Soviet model) on behalf of the Ministry of Defence. As a result of the changes, the registration of recruits and appeals against military service were handed over to the bodies of local self-government, specifically to their military departments. The resolution of reservist problems was entrusted to a mobilization department of the Ministry of Defence. It was a first step in the direction of transferring the 'formation' of the armed forces to the civilian sector.

For the first time in Georgia, the so-called 'military tax' was created. In particular, recruits unable or not wishing to serve in the army received the right of delay from an appeal on military service in case of payment of the corresponding tax.

These and other innovations will be discussed in detail below. The current legislation about conscription and military service will also be discussed. In conclusion, the lack of legislation and the negative aspects of the call-up process will be discussed.

## **The Framework of Obligatory Military Service**

According to the Law on Conscription and Military Service, all able-bodied citizens of Georgia are obliged to perform military service. Military service is even extended to permanent residents in Georgia who do not have citizenship. Citizens of other states can be called up for military service at their own will and on the basis of the corresponding order of the President of Georgia. Performance of military service is divided into four stages:

1. Primary military registration
2. Preparation for military service
3. Urgent military service
4. Transfer to a reserve of the armed forces and service in a reserve unit

Accepted on December 29, 1992 (since cancelled), the Law on Universal Military Service and the Law on Conscription and Military Service of 1997 divided military service into obligatory and contracted (professional) service and reserve service. In 2001, regular military service was added to the above-mentioned types of military service. The fact that the law determined contracted (professional) service as one of forms of military service was considered a necessary condition for any transfer from universal, obligatory military service to a wholly contracted, professional service.

However, economic difficulties and unfulfilled reforms in this field did provide an opportunity for this norm to be fully realised. Since 2002, with the help of the United States via the Train-and-Equip Programme (GTEP), it became possible to take on the contracted service

of a large number of military men, and this has played a positive role in construction of the Georgian armed forces.

For an increase in the prestige and affinity of military service, and also with the aim of increasing the responsibility of civil servants, the law places some restrictions on the acceptance into public service of citizens who have not completed their military service. For example, this norm has found reflection in the Law on Diplomatic Service, according to which citizens who have not served in the army cannot be accepted into the diplomatic service. Service in the armed forces is one of the necessary conditions for work in so-called power structures (for example, the police and security service.)

In connection with the management of military service and performance of conscription, serious responsibility is assigned to certain officials in government and in the local self-government. Bodies concerned include the Ministry of Internal Affairs, civil registration departments, judicial bodies and the commission of medical-social examination. The competence of the state structures and bodies of local self-government also examines the financial maintenance of actions connected to the passage of military service.

According to Chapter 9 of the Law on Conscription and Military Service, persons liable for military registration/call-up are citizens between 18 to 27 years of age and those who have no legal grounds for delay or release from military service. Evasion is punished by the law.

## **Military Registration**

The primary military registration of citizens is carried out by the military departments of regional and municipal bodies of local self-government annually, between January 1 and March 31, attended by citizens who have reached 15 years of age. After the primary military registration the citizen is considered to be a recruit. For registration, citizens are obliged to come to military departments of regional and municipal bodies of local self-government in a place of their permanent (more than three months) or temporary residence. In cases where the residence has changed, the citizen (within a two-week term) is obliged to undertake military registration in the regional or municipal military commissariat of the new place of residence. Citizens abroad are obliged, within the

same term, to appear at an embassy or other official mission. At the demand of the military departments of the bodies of local self-government, citizens are obliged, within a two-week term, to present references as to their marital status, place of residence, place of work and for any changes in post and education.

The Code of Administrative Infringements details the responsibilities of recruits evading military registration and personnel organising military registration. Those guilty of infringements are subject to fines.

Citizens called by a military department of local self-government for military registration pass checks in the commission on the military registration, as approved by the local self-government head. The commission is structured as follows:

- Chairman of the Commission – the head of regional or municipal body of local self-government
- The Deputy Chairman of the Commission – the chief of a military department of regional or municipal body of local self-government
- Members of the Commission:
  - the representative of regional or municipal bodies of internal affairs
  - the representative of local bodies of public health services
  - the representative of regional or municipal bodies of national education
  - the doctors - experts conducting medical inspection of citizens
  - The Secretary of the Commission
  - The commission on military registration is obliged:

- To carry out a medical inspection of citizens to assess their suitability for military service
- To take a decision on the citizen's potential for military registration and to release him from military duty in light of an unsatisfactory state of health
- To carry out professional and psychological reports of citizens for assessment of the sphere of their use in military service.

At the initial military registration, citizens are obliged to pass a medical inspection with a surgeon, therapist, neuropathologist, ophthalmologist, otolaryngologist, stomatologist, psychiatrist, and an expert in narcotics, and in case of need, other specialists. In cases where a medical conclusion about the suitability of the citizen to military service cannot be made immediately, the commission on military registration can direct the citizen to the nearest medical institution. A list of such medical institutions is made by the Ministry of Health of Georgia.

Medical inspection costs and the payment of specialists is covered at the expense of the local budgets of corresponding territorial units, according to the programmes authorized by the Ministries of Defence and Public Health Services of Georgia. This means that the medical inspection of citizens in these medical institutions is carried out free-of-charge.

At the next stage, the commission on military registration makes a decision. The chairman of the commission on military registration is obliged to familiarize the citizen with the conclusion of the commission and with his duties connected to the military registration. Citizens have the right to demand a copy of the conclusion of the commission on the military registration.

### **Types of Obligatory Military Service**

Georgian citizens and persons without citizenship are called-up to serve in the armed forces on the basis of the decree of the President on an

appeal to citizens of call-up age and the reserves of military men when urgent military service is required.

Appeals against obligatory military service are carried out twice yearly – in spring and autumn. Service in the armed forces of Georgia means three possible terms of service depending on a category of recruits:

- 18 months – urgent military service
- 12 months – urgent military service for persons with higher education
- not less than 24 months – military service for officers called from a reserve
- not less than 10 years – military service for regular officers.

Decisions about appeals are taken only after the individual concerned is 18 years old. Citizens who are 27 years old are not subject to conscription and are enlisted in a reserve. Citizens who have passed military training in a military faculty of one of the higher educational institutions, received a military rank and enlisted in a reserve, can be called up for voluntary military service, or, in special cases, before 30 years of age, by the decree of the President of Georgia.

## **Enforcement**

The call-up papers for those who are enlisted and for those who have reached 18 years of age are sent from a military department of local self-government institutions. After signing the call-up papers, the citizen is obliged to appear in a military commissariat specified in the call-up papers.

According to paragraph 197 of the Code of Administrative Infringements, non-appearance at a commission of appeal on obligatory military service without a respective excuse is punished by a fine of 1000 Laries. Non-payment of the fine, by the set date, results in 30 days detention. After payment of the penalty, the recruit again receives the

same call-up papers. Repeated non-appearances entail serious consequences. The military department of the appropriate body of local self-government carries out an inquiry and sends the necessary materials to the corresponding regional public prosecutor's office, which, in turn, is obliged to take a decision about instigating criminal proceedings within 20 days. After punishment, evasion of obligatory military service is punished by penalty or imprisonment up to a three year term (Criminal Code of Georgia, Point 1, Article 356).

For an appeal on obligatory military service, the regional or municipal draft commission, which is approved by the head of the corresponding body of local self-government, is created. The structure of the commission includes the same persons as the commission on the military registration.

Recruits have the right to appeal against a decision of the draft commission in a 10-day term at the central draft commission of Georgia or in the court. In this case, the decision of the draft commission is suspended up to the announcement of the decision of the central draft commission or before coming into force as a decision of the court.

## **Medical Assessments**

The draft commission is entrusted to carry out medical inspections of citizens subject to an appeal. The medical board has been created for this specific purpose. Depending on the results of the medical inspection of the recruits, the commission makes a conclusion about an individual's suitability to military service in accordance with the following categories (the list of diseases, on the basis of which the suitability of recruits and military men is determined is given in the appendix to the order of Minister of Defence No. 360):

- valid for military service / valid for study in military school – the health of the recruit corresponds to requirements of military service;
- valid for military service with insignificant restrictions – the health of the recruit meets the certain requirements of military

service; the place and the order of service are determined according to a state of health;

- valid for military service with restrictions –the health of the recruit does not meet requirements of military service in peacetime; the recruit is enlisted in a reserve and can be called up for military service only in case of mobilization for performance of light service according to the state of their health;
- temporarily invalid for military service – the health of the recruit at the moment of an appeal does not meet the requirements of military service and demands treatment; the recruit receives a delay from an appeal on military service before recovery not valid for military service – the health of the recruit does not meet requirements of military service; recruits of the given category completely are removed from the military registration process.

In case doctors are unable to complete municipal or regional medical boards by doctors, the inspection of recruits is carried out by a military-expert commission of the central draft commission. The medical board informs the draft commission about its conclusion, on the basis of which the draft commission, within the limits of its competence, takes one of the above-stated decisions.

The draft commission only takes decisions on a legal basis. Its decisions should not contradict the conclusions of the medical board. The draft commission has no right to change or cancel the conclusion of a medical board. The chairman of the draft commission declares the decision of the commission to recruits. On the demand of the recruit, the Chairman of the commission should provide an extract from the decision of the commission.

### **Central Draft Commission**

The central draft commission created on the basis of a Presidential decree is the supervisory body intended to control the work of the regional and municipal draft commissions. Here the permanent military–expert commission functions, the organization and rules of work are



determined by regulations concerning the military-medical examination, as approved by the President.

The value of the military–expert commission is that it actually verifies the accuracy of the final decisions of the regional and municipal draft commissions. The commission checks the competency of the conclusions of doctors on the soundness of assigning recruits to military service.

### **Legal Rights**

The right for delay or release of an appeal on military service are determined in law. This measure in the legislative order provides for a lessening of corruption on an appeal on obligatory military service.

### **Numbers Serving**

In total, the number of citizens of call-up age in Georgia is between 170,000 – 190,000 persons, while each year it is usually necessary only to call up 13,000 – 15,000. At the same time, as a result of the established privileges, the total number of citizens subject to an appeal does not exceed 50,000. However, after the introduction of military tax, some privileges were abolished in order to increase a contingent of citizens subject to an appeal. As result of it, many recruits have paid military tax.

### **Delays, Appeals, Exemptions**

In Chapters 29 and 30 of the Law on Conscription and Military Service circumstances that can form the basis for a delay or releasing of an appeal on military service are listed.

From an appeal on military service are released:

- Citizens declared invalid for military service for health reasons
- Citizens who have completed military service in the armed forces of other state – that is, persons who were, at an earlier time,

citizens of another state and have since completed military service their; those of call-up age; those who have naturalized or have moved to a permanent residence in Georgia, are released from an appeal on obligatory military service in the armed forces of Georgia

- Persons condemned for perpetration of heavy or especially heavy criminal offences – that is, citizens who have served a term of imprisonment for the perpetration of crimes, the maximum punishment for which by the Criminal Code of Georgia provides imprisonment for a period of 10 years (not so heavy crimes) or condemned for a term of more than 10 years (heavy crimes)
- Persons involved in non-military alternative labour service – that is, persons called on for non military alternative labour service, on the basis of a freedom of worship, belief and creed, and according to the decision of the draft commission and the order of Minister of Labour, Public Health Services and Social Security
- Post-graduate students – that is the persons enlisted in postgraduate study after completion of a full course of study in a higher educational institution and continuing study for reception of a scientific degree
- The persons who have received a scientific degree and are engaged in pedagogical or scientific work – that is teachers and scientific employees with a scientific degree
- Families with one son, where one member was lost in fights to preserve the territorial integrity of Georgia or during military service.

The President of Georgia has the right to release from performance of conscription especially gifted citizens of call-up age (Chapter 29, point 2). For example, if the recruit has had exclusive successes in sports, science, culture or arts, the management of corresponding establishments

can request the recruit's release from obligatory military service. If recommendations are expediently recognized, the recruit is released from conscription by the Decree of the President of Georgia.

The following recruits have the right of delay from an appeal on military service:

- Recognized temporarily invalid for military service for health reasons – for the period of one year;
- Persons against which a criminal case is brought until a decision on prosecution by the law enforcement bodies concerned;
- The students of high or secondary special educational institutions involved in military preparation in military faculties – up to the end of study: that is, the students of high or secondary special educational institutions involved in military preparation in military faculties are enlisted in a reserve of the armed forces upon termination of study;
- Persons who have paid tax at a rate established by the Law on the Tax for Delay of an Appeal on Obligatory Military Service – that is, recruits not wishing or unable to pass military service should pay tax annually at a rate of 200 Laries or a lump sum of 2000 Laries;
- Pupils of general educational, primary professional or general educational special schools – before reaching 20 years of age: pupils of schools, professional and technical schools (colleges) are permitted to delay appeals of military service before reaching 20 years of age; upon reaching a specified age they are obliged to interrupt study and to undertake obligatory military service;
- Persons caring for an invalid grandmother or grandfather in their support, if there are no other legal tutors capable of supporting them – that is, persons recognized as invalids by the Ministry of Labour, Public Health Services and Social Security and requiring

permanent care and attention,— the delay of an appeal on military service operates until circumstances change;

- Recruits having two or more children;
- Persons having dependent invalid members of families requiring permanent care and attention, if there are no other persons capable of caring for them – that is, if the recruit is the only source of financial support for invalid members of their family;
- Recruits having dependent minors and/or orphan sisters/brothers, that is, if the recruit has a dependent brother or sister under 18 years of age, or, if the recruit has dependent adult orphan siblings;
- Church employees of call-up age and pupils of spiritual schools;
- Only sons – that is, the only son from a marriage;
- Teachers of rural schools and rural doctors of call-up age;
- Recruits receiving a delay from an appeal on military service by decree of the President of Georgia –the President has the right to defer an appeal on military service for recruits;
- Recruits with one child who is under three years of age;

If on the day of an appeal, the recruit in the legal order is registered as the Candidate for the Member of Parliament of Georgia, he receives a delay from an appeal up until approved election results. In the case of elections as Member of the Parliament of Georgia, the recruit is released from the performance of conscription (Chapter 30).

After the central draft, the commission will make a decision on an appeal of a citizen on obligatory military service. The recruit is instructed to a distributive point, at which point he is enlisted in the structure of one of the below-mentioned military departments:

- subdivisions and units of the Ministry of Defence internal forces of the Ministry of Internal Affairs
- boundary forces of the State Department of Protection of Frontier
- subdivisions of Special Service of the Governmental Protection
- subdivisions of the Ministry of State Security

Something about Practice of an Appeal on Obligatory Military Service and the Lacks of the Law

It is necessary to note that the existing system of conscription in the armed forces of Georgia is inherited from Soviet times. The State is not capable of providing for the activity of a military contingent. In such a society, people perceive the military call-up as an inevitable necessity and frequently try to avoid it. The reason primarily being the heavy social and economic situation of the Georgian army coupled with the unworthy, frequently humiliating treatment of soldiers. The normative acts regulating an appeal on obligatory military service generally do not work in practice. The mass infringements of the rights of recruits in military departments and the draft commissions add to this fact. The current legislation is broken by the military departments, the draft commissions and by citizens who, in every possible way, try to evade military service.

In the next part working practice of an appeal is considered in two stages:

1. until January 1, 2003 and
2. against a background of changes brought into the legislation on July 21, 2002.

### **Appeals on Obligatory Military Service until 2003**

Against a background of corruption in the country, the Law on conscription and military service was broken, in most cases, by citizens

at the stage of primary military registration and also during appeals on obligatory military service. The draft commissions abused the rules of release and delays of an appeal on military service. From the very beginning of an appeal, military commissariats knew precisely how many recruits should be called up for military service, i.e. there was a so-called plan of appeal. During the appeal, only a small number of recruits appeared in corresponding establishments – 20 - 30 %. Here, it is necessary to note that there is the possibility that the data does not correspond to real figures, as there was often a private agreement between the recruit and commissariat, according to which the recruit was not called in the commissariat and his data was not fixed in the general statistics. The difference between the total number of recruits and number of the recruits required under the plan, was so huge, that it created ground for bias, social injustice and corruption, especially as the salary of civil servants is less a than living wage.

The plan of an appeal, in which there was a predetermined number of recruits, created a fertile field for the blossoming of corruption in the call-up system. Absolutely healthy recruits could be released or defer military service with the help of a bribe. Even those unfit for service necessarily paid money to have their physical defect recorded. The question could also be solved without money, through the interference of influential patrons. Sons of the country's various important officials or businessmen never served in army. Unwritten "tariffs" were given by military commissariats of a delay of an appeal for 6 months costing between 100 - 200 dollars. The release of individuals from military service for reasons of ill health with reception of the military card, costing between 1000 - 1500 dollars. An actual release from military service was far more expensive, with a formal transfer of the recruit from the military unit and a guarantee of reception of the military card upon termination of service term.

As shown, fallaciousness of the given system stems not only from the unfair actions of those in the military commissariats, but also by an absence of control over them. Besides, any measures of punishment against them really were not applied. The Ministry of Defence did not deny that bribery existed in the military commissariats and tried to find a way out through the legalization of bribes.

Representatives of the military commissariats explain the widespread departure from service in the army by the social and economic situation existing in the armed forces. Besides, as argued, there are many ways to evade military service. For instance, recruits enter higher education institutions to avoid conscription (until July 21, 2002 a delay from an appeal was given to students of those high schools where there was no military faculty; the number of such students was between 70 000 -80 000). At the same time, the military cited an absence of recruit registration as the main problem of the draft process. Military registration and enlistment offices were dissatisfied by the elimination of the system of residence permits, as it became impossible to find citizens who were subject to an appeal. However, it was possible to gauge whether or not the registration of recruits was well organized. This argument was deemed one of the reasons for the failure of the appeal plan. Employees of law-enforcement bodies who gave military commissariats the informal information on recruits actively participated in this process, i.e. informing of a place of stay of those citizens who were not registered in the corresponding police branches with the hope of receiving a certain share of the bribe paid for by the recruit.

As mentioned, the appeal of citizens is preceded with the registration of recruits from where infringement of the corresponding legislation begins. During the primary military registration, enlistment offices do not carry out detailed medical inspections of recruits, though the rules of medical inspection and procedures, which are necessary for admitting recruits, are specified in the Law on Conscription and Military Service, as well as in the regulations concerning the military-medical examination. Instead of observing the rules and procedures, military commissariats tried to take on as many recruits as possible, despite the fact that many among them were patients with enuresis, flat-foot, tuberculosis, nephritis, diseases of the stomach, anxiety and mental disorders. Medical inspections should be financed from the local budget, however this requirement is compromised because of a lack of a resources. The allocated scanty means are insufficient for a full medical examination. The military-medical commissions have developed a rather original method, i.e., a superficial, visual survey of recruits as opposed to a necessary thorough inspection.

A similar situation took place also during an appeal on obligatory military service. There were cases where the police accompanied by those from the military registration and enlistment offices ‘recruited’ people of call-up age directly from the street. The nongovernmental organization association “Justice and freedom,” has carried out investigations among military men<sup>1</sup>, concluding that 43% of those recruited for military service were brought in through violent means, 31% from their homes, 5% from the street and 7% from educational institutions. Military commissioners do not deny such facts. During the investigations<sup>2</sup>, in response to the question “How frequently you had to bring recruits in a military registration and enlistment office by force?” only one military commissioner answered negatively.

Medical inspection of recruits had a formal character both in the regional draft commissions and in the central draft commission.

Only 54% of the interrogated military men passed the medical inspection in the regional draft commission, and 26 % in the central draft commission.

Upon revealing serious diseases at the formal inspection, members of the draft commission, military registration and enlistment offices frequently promised recruits that there would be corresponding treatment carried out in the armed forces. By "involving" them in military service in such fraudulent way, it was necessary for the fulfilment of the plan on an appeal.

Another problematic question, which was also of great importance for the fair carrying out of an appeal, was the procedure of lodging a complaint against the medical boards. If the recruit did not agree with the conclusion of a military medical board and demanded an appeal, workers of a military registration and enlistment office directed him to the stationary medical inspection only in strictly certain medical institutions (for example, in the central republican hospital). As practice has shown, doctors and specialists working in these establishments always tried to uphold the conclusions of the draft commissions and, as a rule, to leave them in force. Despite the fact that according to Chapter 44

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<sup>1</sup> In total 890 military men were questioned. Here we note that each mention of interviews with military personnel in this article is based on this figure.

<sup>2</sup> In total 18 military commissioners and 17 chiefs of mobilization departments have been interrogated..



of the Law on the Rights of the Patient, “military men of urgent service, recruits and employees of the armed forces on a contracted basis have the right to independent medical examination for definition of the state of their health,” this norm was not put into practice. In response to the question “Have recruits an opportunity to choose medical institution for stationary inspection?”, the responses were documented as six stating “yes” and 29 stating “no.”

A separate problem is when an appeal in the armed forces is undertaken by an ethnic minority. Local recruits frequently do not speak the state language and do not understand Russian. This fact "made easier" infringement of the law in such areas – as a rule, recruits were brought into military registration and enlistment offices by force. In most cases, medical inspections were not carried out and frequently the army even took on family recruits.

Another problem concerned the low level of civil education among recruits and their families. As a rule, recruits have little or no knowledge of their rights, and the workers of the draft bodies withheld this information to meet their own interests. Intimidation and the threatening of recruits and their families was not uncommon.

One of problematic questions is the delivery of documents and references from military registration and enlistment offices to recruits, which are necessary for the authorisation of identification cards and passports upon entering higher educational institutions or working. If a recruit should receive call-up papers in the nearest appeal, he could be refused documents, even if the appeal had not yet started. This could occur under the pretext that, in some months, he would be called to the armed forces. In such cases, recruits had to pay, as a rule, a bribe to workers of the military registration and enlistment offices for documents to which they had a legitimate right.

In addition, the majority of recruits did not know their legitimate rights. According to the investigation, 68% of the interviewed military personnel did not know recruits’ rights, and 68% declared that neither the military registration nor the enlistment offices had explained their rights for the following principal reasons:

- the majority of them are from socially unprotected families and have insufficient education

- to the recruits living in regions, it is difficult to receive the legal information or consultation of competent experts

Workers of military registration and enlistment offices used these lacks in their purposes, in result of which the legislation was frequently violated.

It is necessary to emphasise the question of the completion of the draft commissions. As practice revealed, in spite of the fact that these commissions were not permanent, they were completed with the same people, which automatically led to the forming of the mechanism of corruption. Illegal incomes have taken root in the system and, in this business, practically everything that excluded a principle of fairness in the system was involved.

### **Appeal on Obligatory Military Service on a Background of Changes Brought in the Legislation on July 21, 2002**

As previously mentioned, as a result of the changes in the Law on Conscription and Military Service (July 21, 2002), organization for the process of appeal on obligatory military service was handed from military commissariats to the military departments of local self-government bodies. The law went into force at the beginning of 2003. Taking democratic principles into consideration, it is necessary to welcome the fact that the process of appeal will be carried out by civil services. However, the current processes testify that for the meantime, the appeal is carried out by the same military persons dressed in civilian clothes. Thus, from the viewpoint of results, practically nothing changes. In light of the fact that changes have been declared beforehand, the 2002 plan of appeal has failed. Having understood that after 2003 there position of supervision over the system of appeal was coming to an end, the workers of the military registration and enlistment offices seized every last chance to obtain bribes from recruits. As a consequence, the plan of an appeal has been fulfilled 26% and this has seriously undermined the feasible defence of the country.

The second serious innovation was that privileges for students of high schools without military faculties were abolished (earlier they had

the legitimate right for a delay from an appeal), and in their place “military tax” has been established. In other words, the number of recruits subject to an appeal has considerably grown (only one out of each ten recruits is subject to an appeal), and for other recruits (who were not called-up and for whom it was not necessary) the tax was established. If earlier military registration and enlistment offices extorted bribes from recruits for a delay from an appeal then, according to changes in the legislation, "bribery" has been legalized, but it should be paid from the State budget. The delay for one year informally cost the recruit 400 Laries. The Law on the tax for a delay from obligatory military service was 200 Laries. According to the same law, the significant part of the paid tax was transferred to the special account of military departments and intended for social and economic repair of the army and reform of the professional army. However, the facts determine that these sums were spent for other tasks and this was clear for the simple reason that there was no evidence documenting the creation of a professional Georgian army.

Besides, the law brought with it a certain ambiguity. In particular, for a delay of one year, a recruit is required to pay 200 Laries. With a payment of 2000 Laries, an appeal can be deferred for 10 years. However, it does mean a delay, but moreover, a release from an appeal. Such a situation theoretically is very possible, when all recruits will be expected to pay the tax and when there will be nobody to call up for military service. This fact alone puts the defence of the country under threat.

In my opinion, the form of an imposed military tax in contemporary Georgia causes social discrimination, dividing recruits into two groups between solvent and insolvent. Under the current legislation, those recruits who wish to serve (about 1%) are called into the army as are those who cannot pay 200 Laries, i.e. those who face the most dire social and economic situation. The result is on the one hand, a poor army, with the lowest physical and intellectual level and, on the other hand, a layer of citizens who, for 200 Laries per year, manage to evade performance of a military duty, i.e. required by Chapter 101 of the Constitution.

The legislative changes of July 2002 urged the provision of additional finances to military departments. Financial problems should

be solved not at the expense of citizens, but at the expense of the State budget. If the State cannot find the means for defence, this does not mean that citizens should be required to pay additional taxes.

In fact, the failure of the plan on appeals has exposed the fact that within Georgia there is an insufficient contingent of recruits. Privileges aimed at increasing their number have been abolished and, against this background, recruits have been forced to pay taxes. With the military tax and having increased a contingent of recruits subject to an appeal, the State has found alternative sources of financing. It means that the State "will feel a taste" for additional financing on the basis of conscription and will never agree to establish a professional army. The State will do everything possible to sustain the system of appeal without changes and, accordingly, to receive additional funding from its citizens through compulsory military service.

After the first appeal of the newly introduced military tax, the service of regional management and the President of Georgia prepared changes in the law. Military tax was increased from 200 to 1000 Laries. The Parliament, quite fairly, did not ratify the amendment. If the military tax was to increase, the system of appeal would return to one based on bribery. Citizens, on the whole, could not or would not wish to pay 1000 Laries and instead of this "would agree" on a negotiated sum with the military departments. Taking into account that the number of citizens subject to an appeal has increased to 100 000 persons, dozens of millions Laries every year would settle in the pockets of corrupt officials in the military departments.

However, as the current processes have shown, the new tax has not eradicated corruption. It has simply lowered "rates". It is possible to say that the current system seriously undermines the defence of the country for the following reasons:

- introduction of the tax will cause social discrimination and recruits called up for military service, taking into account their physical and intellectual level, will not be able to meet requirements of military service
- if it is the transition of the Georgian army into a professional army is planned and put into action and the military tax is

intended for its funding, responsibility for the defence and security of the country should not be given to recruits alone. It concerns all citizens, irrespective of age and sex. Thus, if the ways for the creation of a professional army are found and funding accounted for, it might be expedient to, increase income tax by a certain percentage and only for the term necessary for its creation in place of introducing a separate tax for recruits.

- the basic lack of a system of appeal meant that a high degree of non-professionalism and corruption in the corresponding structures overwhelmed the system for many years. The military consistently showed its discontent with respect to the shortage of recruits and corruption. The reality was that corruption was rife in their departments. The military criticised the absence of appropriate control over the system. It is, therefore, firstly necessary to strengthen the mechanisms of control and to involve those measures of punishment, which are already stipulated by the legislation
- and finally, as a whole, it is necessary to note that the long-term practice of the violent call-up of recruits makes the system privy to potential criminals. The military manoeuvres carried out recently with the United States and the forming of highly paid professional divisions have shown that Georgia should go in this direction. The appeal on military service should be carried out only according to the personal desire of citizens. This circumstance specifies that it is time to transfer, in a practical way, the deliberations about the forming of professional army in Georgia into a reality through the formation of a concrete document, which will determine the required actions and means necessary for this purpose.