

PROTOCOL III
ON A FRAMEWORK AGREEMENT
BETWEEN
THE EUROPEAN UNION
AND GEORGIA
ON THE GENERAL PRINCIPLES
FOR THE PARTICIPATION OF GEORGIA
IN UNION PROGRAMMES

ARTICLE 1

Georgia shall be allowed to participate in all current and future programmes of the Union opened to the participation of Georgia in accordance with the relevant provisions adopting those programmes.

ARTICLE 2

Georgia shall contribute financially to the general budget of the EU corresponding to the specific programmes in which Georgia participates.

ARTICLE 3

Georgia's representatives shall be allowed to take part as observers and, for the points which concern Georgia, in the management committees responsible for monitoring the programmes, to which Georgia contributes financially.

ARTICLE 4

Projects and initiatives submitted by participants from Georgia shall, as far as possible, be subject to the same conditions, rules and procedures pertaining to the programmes concerned as those which apply to Member States.

ARTICLE 5

The specific terms and conditions regarding the participation of Georgia in each specific programme, in particular the financial contribution payable, as well as reporting and evaluation procedures, shall be determined by agreement between the European Commission and the competent authorities of Georgia on the basis of the criteria established by the programmes concerned.

If Georgia applies for external assistance of the Union to participate in a given Union programme pursuant to Article 3 of Regulation (EC) No 1638/2006 of the European Parliament and of the Council of 24 October 2006 laying down general provisions establishing a European Neighbourhood and Partnership Instrument or pursuant to any similar legislative act of the Union providing for external assistance of the Union to Georgia that may be adopted in the future, the conditions governing the use by Georgia of external assistance of the Union shall be determined in a financing agreement, complying in particular with Article 20 of Regulation (EC) No 1638/2006.

ARTICLE 6

Each agreement concluded pursuant to Article 5 of this Protocol, shall stipulate, in accordance with Regulation (EU, EURATOM) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002, that financial control or audits or other verifications, including administrative investigations will be carried out by, or under the authority of, the European Commission, the Court of Auditors and the European Anti-Fraud Office.

Detailed provisions shall be made on financial control and auditing, administrative measures, penalties and recovery enabling the European Commission, the Court of Auditors and the European Anti-Fraud Office to be granted powers equivalent to their powers with regard to beneficiaries or contractors established in the Union.

ARTICLE 7

This Protocol shall apply while this Agreement is applicable.

Either Party may denounce this Protocol by written notification to the other Party.

Termination of the Protocol following denunciation by either Party shall have no influence on the checks and controls to be carried out in accordance with the provisions laid down in Articles 5 and 6 respectively.

ARTICLE 8

No later than three years after the date of entry into force of this Protocol, and every three years thereafter, both Parties may review the implementation of this Protocol on the basis of the actual participation of Georgia in Union programmes.

PROTOCOL IV DEFINITIONS

For the purposes of this Agreement:

1. "Irregularity" means any infringement of a provision of EU law, of this Agreement or ensuing agreements and contracts, resulting from an act or omission by an economic operator, which has, or would have, the effect of prejudicing the general budget of the EU or budgets managed by it, either by reducing or losing revenue accruing from own resources collected directly on behalf of the EU, or by an unjustified item of expenditure.
2. "Fraud" means:
 - (a) in respect of expenditure, any intentional act or omission relating to:
 - the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds from the general budget of the EU or budgets managed by, or on behalf of, the EU;
 - the non-disclosure of information in violation of a specific obligation, with the same effect as described in the first indent of this point;
 - the misapplication of funds referred to in the first indent of this point for purposes other than those for which they were originally granted;

(b) in respect of revenue, any intentional act or omission relating to:

- the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the illegal diminution of the resources of the general budget of the EU or budgets managed by, or on behalf of, the EU;
- the non-disclosure of information in violation of a specific obligation, with the same effect as described in the first indent of this point;
- the misapplication of a legally obtained benefit, with the same effect as described in the first indent of this point.

3. "Active corruption" means the deliberate action of whosoever promises or gives, directly or through an intermediary, an advantage of any kind whatsoever to an official for himself or for a third party for him to act or refrain from acting in accordance with his duty or in the exercise of his functions in breach of his official duties in a way which damages or is likely to damage the financial interests of the EU.

4. "Passive corruption" means the deliberate action of an official who, directly or through an intermediary, requests or receives advantages of any kind whatsoever, for himself or for a third party, or accepts a promise of such an advantage, to act or refrain from acting in accordance with his duty or in the exercise of his functions in breach of his official duties in a way which damages or is likely to damage the financial interests of the EU.

5. "Conflict of interest" means any situation that could cast doubt on the ability of staff to act in an impartial and objective manner for reasons involving family, emotional life (e.g. friendship, affectionate relations, etc.), political or national affinity, economic interest or any other shared interest with a tenderer, applicant or beneficiary, or that could reasonably appear to do so in the eyes of an external third party.
6. "Unduly paid" means paid in breach of the rules governing EU funds.
7. "European Anti-Fraud Office (OLAF)" means the European Commission's specialised anti-fraud department. OLAF has operational independence and is responsible for carrying out administrative investigations intended to combat fraud, corruption and any other illegal activity adversely affecting the financial interests of the EU, as provided for in Commission Decision 1999/352/EC, ECSC, Euratom of 28 April 1999 establishing the European Anti-Fraud Office (OLAF), Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations by the European Anti-Fraud Office (OLAF) and Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities.