

Third Study Commission Questionnaire 2024

South Africa

GEORGIA

Sample questions

1. Does your country have legislation, or regulations, and/or court rules of procedure that are relevant to the topic of our focus this year – chemical substances and essential equipment possibly used in illicit drug manufacturing and trafficking, including importing, exporting, for domestic distribution and use and private sector due diligence.

Please explain.

all the above mentioned in this question is the part of criminal code and importing, exporting and domestic distribution is fully covered by criminal code norms.

2. Does your country have specific legislation on precursors control?

Yes

No....

Title of current legislation and date of adoption:

**ON NARCOTIC DRUGS, PSYCHOTROPIC SUBSTANCES AND PRECURSORS, AND
NARCOLOGICAL ASSISTANCE**

Last amended/updated in:

**the legislation has been amended 22/05/2012 and last changes in it were taken in current year –
30.05.2024.**

3. In your country, is an approval by a judge a pre-condition to launch investigations into a case of diversion and trafficking of precursors? Similarly, is a court order or approval by a judge required for effecting controlled or monitored deliveries?

Please explain:

These actions need Judicial approval, but our legislation allows to use investigative actions without court, only in urgent situations. in these cases, as well, court will consider legality of this actions, after investigation is over. If such approval would not be given, the data gathered during the investigation can't be used as evidence.

4. When a drug/precursor-related crime is being investigated in your country, does the judiciary have any role (a) in the request for information from a foreign state and/or (b) in the provision of information to a foreign state?

Yes

No....

If your answer to either (a) or (b) is yes, what legislation, regulations or rules of procedure apply to the decision of a judge involved at the investigation stage?

Georgia is a part of “ Convention on Legal Aid and Legal Relations in Civil, Family and Criminal Cases, adopted in Minsk on 22 January 1993 (The Minsk Convention)” that allows Georgia to gather information from foreign country and provide it’s help, as well.

5. Does your country have legislation or court rules that relate to monitoring manufacture and distribution of precursors which are applicable over the entire national territory?

As we mentioned above, the manufacture and distribution of precursors is considered as criminal crime, so Georgian Criminal Code includes all the regulative norms regarding such cases. we also have legislation ON NARCOTIC DRUGS, PSYCHOTROPIC SUBSTANCES AND PRECURSORS, AND NARCOLOGICAL ASSISTANCE – that contains the definition and Characterizing to all the forbidden SUBSTANCES.

6. Does your country have legislation or court rules that establish as a criminal offence the manufacture, transport and distribution of essential equipment intended to be used for illicit drug manufacturing.

Please explain:
Criminal code

7. In respect of non-scheduled chemicals/ equipment, is the fact that they have been mis-declared before the Customs, sufficient to impute ‘knowledge’ on the part of the supplier of their being used for illicit drug manufacture?

Please explain:

In Georgian law there is the principle , that says- that not knowing the law, doesn’t exemptes from criminal responsibility.

8. In your country, does domestic legislation include measures and/or civil, criminal and/or administrative sanctions to address non-scheduled chemicals and emerging precursors, namely those that are used as starting materials and/or intermediaries in the legitimate manufacture of substances in Table I and Table II of the 1988 Convention? If yes, which type of sanctions?

Please explain:

If the legislations doesn’t include substance as illegal, there would not be any sanctions applied.

9. Please elaborate on specific pieces of information and level of details that would allow you as a judge to act on information/intelligence/evidence received from counterparts in investigations related to new emerging drug precursor chemicals not under control in your country.

Please explain:

If the legislations don’t include substannce as illegal, Judge can’t interfere in the case.

10. Are there any specific provisions that allow you as judge to act on non-scheduled chemicals with no known legitimate uses? Would information from an international body, or a collection of information from other countries, that a chemical has no known legitimate use facilitate your work in any way?

Please explain:

In Georgian jurisprudence it's not possible to criminalize any chemical, if legislation doesn't consider the chemical as such. Judge has no allowance to "drop a law" and interpret the law, more than it is meant by the legislator.