Every country in the world is affected by human trafficking, whether as a country of origin, transit, or destination for victims. In 2000, the United Nations General Assembly adopted the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (the “Palermo Protocol”). Its definition of human trafficking contains three elements:

1. The Act: the recruitment, transportation, transfer, harbouring or receipt of persons;
2. The Means: by threat or use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability, or by giving payment or benefits to a person in control of the victim;
3. The Purpose: to exploit the prostitution of others or other forms of sexual exploitation, forced labour, slavery or similar practices, servitude or the removal of organs.

Over 110 States have signed and ratified the Palermo Protocol, however, the United Nations Office on Drugs and Crime recently reported that “[v]ery few criminals are convicted and most victims are probably never identified or assisted”.

In 2002, the U.N. based Office of the High Commissioner for Human Rights noted the need to harmonize legal definitions, procedures and cooperation at the national and regional levels consistent with international instruments like the Palermo Protocol. The purpose of this questionnaire is to explore the extent to which member countries have implemented domestic anti-trafficking legislation and whether that legislation is effective in addressing these concerns.

Question 1: Has your country signed and ratified the Palermo Protocol? If yes, on what date?

According to the resolution of June 7, 2006, of the Parliament of Georgia the Palermo Protocol was ratified.

Question 2: Does your country have special legislation for the criminal prosecution of human trafficking? If yes, please answer Questions 3 to 10. If no, is there any such legislation presently under consideration?

Human trafficking is prosecuted pursuant to the Criminal Code of Georgia and the Law of Georgia on “Fight Against Human Trafficking”.

Question 3: How is human trafficking defined in your country’s legislation?

According to the Article143 of the Criminal Code of Georgia trafficking in humans is to purchase or sale of or conducting an illegal transaction in relation to a human being as well as winning over, carriage, concealment, hiring, transportation, handover, providing shelter or receipt for exploitation of the human being by threat, violence or any other way
of compulsion, kidnapping, blackmail, fraud, deception, abuse of helpless condition or abuse of power, by giving or receiving compensation or benefit to obtaining the consent of the person, who can influence another person.

Question 4: Does the legislation criminalize:
   a) Attempts to commit a trafficking offence?
   b) Participation as an accomplice or party in a trafficking offence?
   c) Organizing or directing others to commit a trafficking offence?

According to the Articles 19, 22, 23, 24, and 25 of the Criminal Code of Georgia attempts, perpetration, complicity (the organizer shall be the one who staged the crime or supervised its perpetration as well as the one who established the organized group or supervised it) are considered as crimes.

Question 5: Can corporations be charged with human trafficking along with natural persons (i.e. employment agencies, travel agencies, escort services)?

Natural persons along with legal entities can be charged with human trafficking.

Question 6: Does the legislation contain special provisions regarding the trafficking in children? If yes, please describe.

According to the Article 143\(^2\) of the Criminal Code of Georgia trafficking in children is to purchase or sale of or conducting an illegal transaction in relation to a minor as well as winning over, carriage, concealment, hiring, transportation, handover, providing shelter or receipt of such minor for exploitation.

Question 7: What are the penalties for human trafficking offences? Do they include deportation/extradition? Do they include confiscation of instruments of trafficking and proceeds of trafficking?

According to the Articles 143\(^1\) and 143\(^2\) of the Criminal Code of Georgia, trafficking is punishable by imprisonment from seven to twelve years in length, with deprivation of the right to hold office or engage in a particular activity for the term of three years or by life imprisonment.

The Article 41, part 2 of the same Code, the deprivation of property may be awarded as additional punishment only. According to the Article 52, deprivation of property means gratuitous transfer to the state of the instrument or/and arms of a crime, the instrument intended for commission of a crime or/and the property acquired in a criminal way.

Question 8: Are there statistics available on the number of prosecutions and rates of conviction in your country for human trafficking offences since its antitrafficking legislation was adopted? If yes, please provide.
In Georgia according to the data from 2006 to six months of 2010, at the courts of first instance 63 judgments had been determined on the fact of trafficking in humans.

Question 10: Are there provisions protecting trafficked persons from being prosecuted or punished for their illegal entry or residence in your country as a result of having been the victims of human trafficking? Are there provisions preventing their deportation where there are grounds to believe that their return to their country of origin presents a significant security risk to them or their family members?

For the actions envisaged by the Article 15 of the Law of Georgia on “Fight Against Trafficking”, Articles 344 (illegal crossing of the state border of Georgia), 362 (preparation or using of forged document, seal, stamp or blank) of the Criminal Code of Georgia and Articles 172³ (prostitution), 185 (living on the territory of Georgia on the base of violation of rules for registration of Georgian citizens and foreigners) of the Administrative Delinquency Code, the victims of human trafficking shall be released from responsibility, if they conducted illegal action for being in victim of trafficking before getting the status of trafficked person.

Pursuant to the Article 20, part 7, of the Law of Georgia on “Fight Against Trafficking”, after ending of the criminal procedure determined by the law, the foreigner, who is the victim of human trafficking, according to his/her request can be given the residence on the territory of Georgia, if there are grounds to believe that their return to their country of origin presents a significant security risk to them and their family members.