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COMMISSION STAFF WORKING DOCUMENT
Accompanying the document

**Fourth progress report on Georgia's implementation of the action plan on visa
liberalisation**

{COM(2015) 684 final}

1. INTRODUCTION

This Commission staff working document (hereinafter CSWD) accompanies the fourth progress report on Georgia's implementation of the visa liberalisation action plan (VLAP).¹

The CSWD, together with the report, provides a detailed analysis of the most recent developments relating to the second-phase VLAP benchmarks concerning effective and sustainable implementation of relevant measures. The annex to the CSWD includes an updated assessment of potential migratory and security impacts on the European Union (EU) resulting from visa liberalisation for Georgia.

The factual information and assessment included in the CSWD are based on information gathered during the EU evaluation missions that took place in Georgia in September and October 2015, which involved experts from EU Member States, the Commission and the European External Action Service (EEAS), as well as the EU Delegation to Georgia. Additional information was obtained through the progress report submitted by Georgia on 17 August 2015, its updated versions received by the Commission on 22 October 2015, and related communications between August and October 2015.

The CSWD follows the VLAP structure. In the sections corresponding to individual VLAP blocks, the CSWD lists all the benchmarks from the second phase and it describes the state of implementation of those that were not deemed to have been achieved at the time of publication of the third progress report, on 8 May 2015.

2. ASSESSMENT OF THE IMPLEMENTATION OF THE VLAP UNDER THE REMAINING BENCHMARKS

2.1. Block 1: Document security, including biometrics

The document security benchmark, which was deemed to have been achieved in the third progress report², has remained achieved.

2.2. Block 2: Integrated Border Management, Migration Management, and Asylum

2.2.1. Integrated border management

The integrated border management benchmark, which was deemed to have been achieved in the third progress report, has remained achieved.

2.2.2. Migration management

- **Continued effective implementation of the EU-Georgia readmission agreement, as well as relevant Georgia's readmission agreements with third countries, and of measures providing for the sustainable reintegration of Georgian citizens (returning voluntarily or not)**

¹ COM(2015) 684 final.

² COM(2015) 199 final.

The joint committee of the EU-Georgia readmission agreement, which met on 13 October 2015, confirmed the continuous effective implementation of its provisions. Since the entry into force of the agreement, on 1 March 2011, until August 2015, 4587 decisions to accept people have been adopted and 320 have been refused. The rejection ratio of readmission applications has been falling, from 9.9% in 2011 to 3.1% in the first eight months of 2015.

The introduction of an electronic readmission management system in 2014 has significantly facilitated communication on readmission cases. Thirteen EU Member States are now using this web-based portal for uploading and processing readmission requests, compared to only three in 2014.

In the area of reintegration of Georgian citizens, activities have been centralised under the management of the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees (MRA). The Department for Migration, Repatriation and Refugee Issues within this ministry is responsible for the implementation of state policies in this area and for coordinating the process at national level. In order to ensure the maximum efficiency and sustainability of the programmes implemented by different ministries, each state agency has to inform the others about services offered to the Georgian returnees.

The overall policy on reintegration of Georgian nationals has been redesigned in the framework of the 2016-2020 Migration Strategy, which is to be approved by the end of the year. The strategy defines as a general objective the refinement of Georgia's reintegration policy and the expansion of related programmes. This general objective is broken down into nine specific objectives, which include ensuring the necessary funding, increasing the Mobility Centres' capacities, creating a registration system for returning Georgian nationals and improving data processing and risk analysis.

To strengthen the reintegration support provided to returned Georgian migrants, Georgia established a state programme on reintegration, financed from State budget, amounting to GEL 400.000 for 2015. State grants have been issued to six NGOs to implement projects in various fields, such as promotion of paid internships for returnees, provision of temporary accommodation, or provision of medical care. These services are similar to the support provided through the four Mobility Centres that were established in Georgia within the EU-funded project 'Reinforcing the capacities of the Government of Georgia in border and migration management'. To ensure complementarity of the services offered under the state programme and by the Mobility Centres, the MRA is now the point of entry for any returned migrant applying for reintegration assistance. Once the EU-funded project for reintegration assistance is phased out, the Mobility Centres will become subordinate to the Government of Georgia.

Since August 2015, a new analytical department within the MRA is responsible for establishing the analytical reporting system in respect of returned Georgian migrants. The objective is to consolidate data collected by the Ministry of Internal Affairs on readmitted persons, on the one hand, and the data of the Ministry of Foreign Affairs on deported and voluntary returned migrants, on the other hand, to estimate the overall number of returnees. The system will also contain data on their educational level, qualifications and professional skills and their needs for reintegration. The risk analysis system of the MRA, which will be part of the comprehensive risk analysis system that is being created on the institutional level, will process the statistical data on returnees and identify the related risks.

- **Effective implementation of legal framework for migration management, including provision of administrative structures with adequate human and financial resources with clear competences for all aspects of migration management, as well as effective cooperation between relevant agencies**

Georgia continued the implementation of its 2013-2015 Migration Strategy and Action Plan. Almost all of the 100 activities envisaged have been implemented and the next Strategy and action plan for the period 2016-2020 will be approved by the end of 2015.

Raising awareness among the Georgian population as regards the opportunities for legal migration and the possible dangers of irregular migration was among the objectives of the 2013-2015 Migration Strategy and Action Plan. An info-campaign 'Legal Migration – Best Choice' was launched in 2013. In this framework, the State Commission on Migration Issues (SCMI) finalised the 'Legal Migration Guidebook', which is a comprehensive information document covering both sides of legal migration, publicly available on various state agencies' and NGOs' websites. The guidebook on legal emigration was published in March 2015, while the immigration part was published in July 2015, after the last legislative changes in this field.

The 'Legal Migration – Best Choice' campaign was complemented by an information and communication action plan on the EU-Georgia VLAP for the period of July-December 2015. The action plan lists concrete activities to be carried out: meetings with people in the capital as well as in the regions; thematic seminars for representatives of central and regional media, as well as of central and local governments; and an information campaign (video clips, TV and radio programmes, information leaflets). According to the Office of the State Minister on European and Euro-Atlantic Integration, which coordinates this information campaign, around 200 events have taken place so far in Tbilisi and in the regions, reaching more than 25.000 Georgian citizens. Communication on the rights and obligations of Georgian citizens under a future visa-free regime with the EU is also ensured through video clips, social media and information leaflets.

The Office of the State Minister of Georgia for Diaspora Issues is also involved in the information dissemination process by organising and participating in diaspora meetings and by updating the Georgian diaspora website with relevant information. In 2015, it organised seven such meetings in EU Member States, in which over 2000 diaspora members participated, and where relevant information on migration and reintegration possibilities was disseminated.

EU-funded projects such as ENIGMMA or 'Capacity Building of the Government of Georgia in Border and Migration Management' supported several awareness-raising activities and a new information campaign on the prevention of irregular migration is being financed by Belgium. Further activities are planned under the '2014-2017 EU Integration and Communication Strategy' and the '2016-2020 Migration Strategy'.

As regards the main legislative developments, the 'Law on the legal status of aliens and stateless persons' was amended on 8 May 2015, extending the visa-free stay from 90 days to one full year. On 7 August 2015, the Government adopted a Resolution on the conditions of employment by a local employer of a labour immigrant and performance of paid labour activities by such immigrant.

➤ **Establishment and regular updating of Georgia's Migration Profile, and effective analysis of data on migration stocks and flows**

Georgia's Migration Profile for 2015 was prepared under the coordination of SCMI and will be approved by the end of 2015. It is structured around four parts: migratory trends, impact of migration, migration management and key findings and recommendations. The Migration Profile will be available on the websites of SCMI and of other agencies at the beginning of 2016 and will be published in both English and Georgian. It will be updated every two years.

➤ **Consistent implementation of an effective methodology on inland detection of irregular migrants, risk analysis (including the reporting of relevant agencies and analysis on all administrative levels), and investigation of cases of organised facilitated irregular migration, including effective cooperation between relevant agencies**

Irregular migrants in the country are detected either through routine checks carried out by the police, or on the basis of information provided by state authorities. The Minister of Internal Affairs approved on 15 October 2015 a standard operational procedure for the detection of irregular migrants. If it is established that an alien is illegally staying in Georgia and there is no ground for detention, the person has to appear at the Migration Department within a maximum period of five days. If he/she fails to appear at the Migration Department without justifiable reason, he/she will be subject to detention. From 1 July to 30 September 2015, there were 24 cases of illegal aliens detected by the police.

The Concept of Migration Risk Analysis System, together with its Action Plan for 2015-2017, was approved by SCMI on 25 September 2015. It aims at extending the risk analysis concept, currently limited to the Ministry of Internal Affairs, to all migration fields.

To this end, seven state agencies will be involved in gathering and processing information for risk analysis purposes: Ministry of Internal Affairs, State Security Service, Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees, Ministry of Foreign Affairs, Ministry of Labour, Health and Social Affairs, the Ministry of Justice's Public Service Development Agency, State Security and Crisis Management Council's Office. The resultant analytical reports will cover all migration-related risks, in the areas of regular or irregular migration, border crossing and organised crime related issues, asylum, return and reintegration of Georgian citizens, integration of foreigners and internal migration. The reports will serve as practical tools in identifying risks, forecasting threats and establishing adequate measures in this regard.

The overall migration risk analysis will be supported by a set of electronic tools: the Unified Migration Analytical System (UMAS). UMAS will ensure the collection of data from various state agencies on immigration, emigration and internal migration. The EU has contributed to the establishment of UMAS through its project 'Reinforcing the Capacities of the Government of Georgia in Border and Migration Management'. The tender for purchasing required hardware and software was announced in September 2015 and it is expected that the system will be tested by mid-2016.

➤ **Provision of adequate infrastructure (including detention centres) and strengthening of responsible bodies to ensure, according to EU and international standards and in**

full respect of migrants' human rights, effective expulsion of illegally staying and/or transiting third-country nationals from the territory of Georgia

Between September 2014 and September 2015, 34 return decisions were issued in Georgia, 21 of which were issued after 1 July 2015, when the 'Law on legal status of aliens and stateless persons' fully entered into force. During the same period, 18 aliens were detained in the Temporary Accommodation Centre.

2.2.3. Asylum policy

- **Effective implementation of asylum legislation, including provision of adequate infrastructure and strengthening of the responsible bodies (staff, funding, training programmes), in particular in the area of asylum procedures, reception of asylum seekers, refugees and other persons in need of international protection, protection of their rights and dignity**

To facilitate access to asylum procedures, the Joint Order N1033-N2975 was amended on 23 December 2014. Previously, asylum seekers were not explicitly mentioned in the legislative framework as a category that may be granted a visa on humanitarian grounds. This shortcoming has been remedied with the new amendment, which specifically provides for issuing of humanitarian visas to asylum seekers by the border authorities. Such a visa was granted on 8 October 2015 to a Pakistani citizen who landed at Tbilisi international airport. Other positive changes in the legislation include the guarantee, in the Criminal Code, of non-penalisation for illegal entry of asylum seekers, as well as the abolishment of a pre-registration procedure for asylum applications.

The procedure for determination of refugee status is being implemented by the MRA. However, the last progress report picked out the high number of rejections based on undisclosed security concerns by the State Security Agency. It was recommended that the MRA make reasoned decisions on the cases independently and strictly on individual merits. Consequently, Article 25 of the Law on Refugee and Humanitarian status has been amended and now specifies the grounds under which an application can be rejected for state security purposes, namely when there is a reasonable ground to believe that the asylum seeker has connections with armed forces hostile to Georgia, foreign intelligence services, terrorist or other criminal organisations. This article also obliges the State Security Agency to provide the MRA with minimum information about asylum seekers' potential threat to state security but the applicants themselves have no access to the classified information.

A backlog management strategy has been developed to reduce the high number of pending cases. First, clear guidelines were drafted for the Donbass region in Ukraine, for Yezidi who have fled Daesh-controlled territory in Iraq and for Sunnis out of Iraq. These guidelines, which introduce simplified procedures, together with increased specialisation of caseworkers, led to a significant decrease of the backlog, from 1174 pending cases in March 2015 to a normal workload of approximately 200 cases in October 2015. Second, a new provision of Decree No 100 'On the Procedures for Granting Refugee or Humanitarian Status' envisages the setting up of a commission that can, among other things, decide on relevant methodological guidelines and identify the need for additional human and financial resources. Finally, a new Article 5 of the 'Law on Refugees and Humanitarian Status' was introduced, enabling the use of the prima facie principle in case of massive influx of asylum seekers.

In the last months, MRA also took measures to monitor the quality of the handling of cases. Besides establishing a separate Quality Control and Training Unit, which will identify needs in the field of research and plan training for its staff as of 1 January 2016, MRA adopted procedural quality indicators for the filing system, the application procedure, interview documents and assessment. The recent introduction of the recording of personal interviews is welcomed in this regard to evaluate the quality of interviews.

Training may contribute to better implementation of the procedure for determination of refugee status. The MRA staff has participated in various training activities organised by organisations such as UNHCR and ICMPD. The MRA has already offered to give its caseworkers internal trainings, based on national needs and given by national staff. Its new Quality Control and Training Unit will be in charge of developing the national training programme. In the meantime, and to support the work of the Quality Control and Training Unit, a migration training manual was adopted on 29 September 2015.

Caseworkers were briefed on basic principles of country of origin information (COI) in a workshop, and regular meetings were organised on recent developments in the main countries of origin. Moreover, a new database that can be consulted independently by all caseworkers contains country of origin information and enables the COI unit to post questions on specific countries, which will be answered by specialists. The MRA has working arrangements with several EU Member States, including for example direct access to the German COI database. It should be noted that the legislative framework was amended to guarantee the independence of the COI unit and clearly distinguish between COI and policy products.

In case of a negative decision, an asylum seeker now has 15 days to lodge an appeal before the court. The previous 10-day deadline was considered as too short given the vulnerability of the applicant, and has therefore been prolonged through an amendment to the Code on administrative procedures. The draft law on asylum that will enter into force as from next year provides for an appeal period of 30 days. In addition, the maximum processing time in the appeal phase has been shortened to two months. The 'Law on free legal aid' was modified on 29 July 2015 to give asylum seekers access to qualified and free legal assistance and representation in court. The new provisions will enter into force on 1 January 2016. The help provided by the Legal Aid Service will be the same as for Georgian citizens.

As regards infrastructure, a new wing of the Temporary Accommodation Centre for asylum seekers in Martkopi will open in January 2016, increasing the total capacity to 132 persons.

- **Integration of refugees and beneficiaries of international protection, ensuring their capacity to self-sustain, to access public services and social rights and to integrate in Georgia, including access to travel documents under the legislation**

Georgia has taken further steps to address integration issues, for example by giving refugees vouchers to receive vocational training or facilitating access of minors to the general education system. The integration of asylum seekers is part of the 2016-2020 Migration Strategy. The accompanying Action Plan will identify the financial needs for carrying out the planned activities.

Naturalisation is considered as the most durable solution to integrate refugees and stateless persons. The legislative framework in place since 2009 provides procedures for granting Georgian citizenship to refugees. A refugee can address to the relevant Georgian authorities a

request for granting of citizenship by naturalisation either under the ordinary procedure or by way of exception. The new law on citizenship introduced Georgian language knowledge, knowledge of history and basic principle of law as mandatory requirements for naturalisation. A special educational programme was developed in 2015 to provide Georgian language courses for asylum seekers, refugees and humanitarian status holders.

2.3. Block 3: Public Order and Security

2.3.1. Preventing and fighting organised crime, terrorism and corruption

- **Implementation of the legislation, national strategy and action plan on preventing and fighting organised crime including effective coordination between the relevant authorities, as well as conducting effective investigation, prosecution and confiscation of proceeds of crime**

The organised crime benchmark, which was deemed to have been achieved in the third progress report, has remained achieved.

- **Implementation of legislation, national strategy and action plan on addressing trafficking in human beings, including effective coordination between state agencies, effective protection of victims of trafficking, in particular children, as well as effective measures to prosecute human traffickers and users of services of trafficking victims; provision of adequate infrastructures and funds ensuring decent reception and protection of the rights and dignity of trafficking victims, and supporting their social and professional reintegration**

The protection of victims of trafficking in human beings (THB) is mainly ensured through a dedicated State Fund. The State Fund for Protection of and Assistance to (Statutory) Victims of Trafficking in Human Beings, established in 2006, is responsible for the two victim shelters and the financing of support measures. All victims, whether they are considered as 'statutory victims' by the law or not, have access to the services provided by the State Fund, including a three-month stay in one of the shelters and payment of a compensation of GEL 1.000.

The shelters are equipped to receive children and are supported in this by the Social Services of the Ministry of Labour, Health and Social Affairs. Social workers are required to draw up an individual rehabilitation plan for each child and to monitor its implementation. Two posts of 'babysitters' have recently been filled to take care of minor THB victims and children accompanying their parents, as well as to support them in their education. Unaccompanied THB victims are under the legal guardianship of the Social Service Agency and may be placed in family-type care or accommodated in a shelter.

The State Fund resources have been increased and a psychologist was recruited for the Tbilisi shelter. Every beneficiary of the shelter is subject to mandatory medical screening upon arrival and can then decide whether she/he wants to receive medical assistance. On 7 August 2015, the new Director of the State Fund approved a new offer form, which lists all available services in three languages (Georgian, Russian and English) and provides for the reason to be

given if a service is refused. In general, the State Fund resources are deemed to be flexible and responsive to the varying needs of victims.

A governmental decree of 2 March 2015 established a Labour Conditions Inspection Department within the Ministry of Labour, Health and Social Affairs. Twenty-five inspectors have recently been recruited from a variety of different professional backgrounds. They received intensive training including THB and forced labour, with the support of the International Labour Organisation. By the end of November 2015, the inspectors had visited 75 (state and private) companies and the first recommendations on occupational and health issues had reached the relevant employers. The current system is being reviewed by the Ministry of Labour, Health and Social Affairs, together with NGOs and international organisations to introduce sanctions, in compliance with the standards of the International Labour Organisation. Furthermore, a Memorandum of Understanding was signed on 13 August 2015 between the Ministry of Labour, Health and Social Affairs and the Ministry of Internal Affairs with clear arrangements for information sharing and reporting of cases.

The Central Criminal Police Department (CCPD) of the Ministry of Internal Affairs is the law-enforcement agency responsible for investigating THB. Four mobile groups complement the work of the central and regional agencies. Between January and July 2015, the mobile groups inspected 52 high-risk organisations, including venues used for prostitution such as bars, baths, saunas and hotels with clubs. The officers also liaise with childcare institutions, tourism and employment agencies and respond to hotline enquiries. Another source of information is the interviewing of deported people coming through Tbilisi international airport and the Sarpi border crossing point. Between January and October 2015, 1,265 persons were interviewed at the airport and 487 at the border crossing point. Out of 17 investigations led between January and September 2015, 11 resulted from proactive activity. Seven cases concerned labour exploitation, nine related to sexual exploitation, and one to the selling of a minor.

Furthermore, with a view to securing the testimony of buyers of the services of THB victims, Georgia amended Article 143 of its Criminal Code on 24 July 2015. Pursuant to the new provision, such persons may be relieved of criminal liability if they make a voluntary confession and cooperate with the investigation. While the main objective is to tackle traffickers, the law must be implemented rigorously to avoid a situation where buyers of the services of THB victims face no consequences for their actions.

Both the CCPD and the State Fund have separate hotlines specifically dedicated to THB. In September 2015, the hotlines received respectively 133 and 146 calls. The number of calls is tangible evidence that public awareness measures are increasing concern about the issue of THB across the country. The need for two separate hotlines was confirmed by NGOs. The State Fund provides *inter alia* useful information on preventive measures and legal consultation on labour contracts. The risk with a single hotline operated by the State Fund and law enforcement is that those who are not willing to cooperate with the police may not use the hotline at all.

Data are now collected and shared in a single database, which has been developed by the Inter-Agency Coordination Council on Combating Trafficking in Human Beings. The new database contains extensive information including details on victims, witnesses and suspected traffickers, nominated officers and contacts, stages of cases and outcomes. It is available to all key agencies in a secured way.

The allocation of police attachés has been reviewed to ensure that countries highlighted as threats in terms of trafficking are covered, i.e. Azerbaijan, Kyrgyzstan, Uzbekistan and Armenia. Moreover, in the first nine months of 2015, five mutual legal assistance requests came from Turkey and one from Azerbaijan.

➤ **Effective implementation of the legal framework and national strategy and action plan on preventing and fighting corruption**

The Anti-Corruption Council (ACC), which was established in 2008, continues to facilitate the development of state anti-corruption policy and the fight against corruption. The Government approved the new Anti-Corruption Strategy and the 2015-2016 Anti-Corruption Action Plan adopted by the ACC on 20 April 2015. The Action Plan includes all the relevant components: strategic priority, results and respective indicators, activities (indicating specific targets to be fulfilled), specific deadlines (indicating both month and year), responsible agencies/partners, risks and budget (indicating amounts allocated for each specific measure and amount of donor support as well as financial gap).

➤ **Ensuring the independence and efficient functioning (including analytical capacity) of anti-corruption bodies, including the Anti-Corruption Inter-Agency Coordination Council; ensuring effective measures for addressing corruption in areas/sectors identified as being most vulnerable (risk assessments); ensuring and maintaining a convincing track record of corruption cases (from prosecutions to final court decisions), including corruption at high-levels, as well as of detection and sanctioning of conflicts of interest and unjustified wealth**

In order to ensure the implementation of the 2015-2016 Action Plan, on 4 February 2015 the ACC adopted a new stand-alone monitoring and evaluation methodology in respect of anti-corruption policy documents. The methodology is based on the recommendations of international and local organisations, as well as monitoring mechanisms used by GRECO and OECD-ACN. In June 2015, the ACC Secretariat prepared the first progress report on achievement of six months' targets of the Anti-Corruption Action Plan (2015-2016).

The Anti-Corruption Agency was established within the Ministry of Internal Affairs at the end of 2012. As a result of the security sector reform in August 2015, which resulted in the establishment of the State Security Service of Georgia, the Anti-Corruption Agency has been subordinated to the Service. The Agency investigates cases of conflict of interests in public service and the fight against corruption and malfeasance by officials within their competence. The Agency is also required to take preventive and suppressive measures necessary for the fight against corruption.

The two specialised units responsible for handling serious corruption crimes cases within the Office of the Chief Prosecutor set up in early 2015 are the Anti-Corruption Unit and the Department for the Crimes Committed in Process of Legal Proceedings. The Anti-Corruption Unit is responsible for investigation and prosecution of the most serious corruption crimes cases. It is also in charge of trend analysis and policy making. Based on the analytical work, the unit aims to develop practical guidelines for the investigation and prosecution authorities working on corruption crime cases. The unit currently employs seven investigators, three prosecutors and various administrative staff. The staffing may further increase in light of the emerging needs. The Department for the Crimes Committed in Process of Legal Proceedings

is competent to investigate and prosecute the abuses of legal process that lead to serious human rights violations inter alia freedom from torture, inhumane or degrading treatment or punishment and arbitrary deprivation of possessions.

Corruption crimes asset recovery figures for 2015 demonstrate that Georgian authorities performed reasonably well the fight against corruption crimes. In nine months of 2015, EUR 515.000 in assets were confiscated and EUR 5.350.000 in assets were frozen by Georgian authorities.

The Georgian authorities further addressed concerns regarding the autonomy of Public Prosecution. Legislative amendments have been prepared to the 'Law on Prosecution Service'. The amendments envisage the establishment of new institutions: the Prosecutorial Council, the Conference of Prosecutors and the Special (*ad hoc*) Prosecutor.

According to the amendments, the Chief Prosecutor's Office will be headed by the Chief Prosecutor whose term of office will be six years. No person may be elected as a Chief Prosecutor for a second consecutive term.

The new institutional model for the reformed Prosecutor's Service envisages the establishment of a Prosecutorial Council consisting of fifteen members, including the Minister of Justice as a chairperson of the Council, eight prosecutors to be elected by the conference of all prosecutors, two members of Parliament (one from the parliamentary majority to be elected by the parliamentary majority, and another from the members that do not belong to the parliamentary majority to be elected by such members), two judges of general courts to be elected by the High Council of Justice, and two members of the Prosecutorial Council who will be elected by Parliament from among the candidates nominated by higher education institutions and civil society organisations. Neither the Minister of Justice nor the Council will have prosecutorial powers under this model.

If there are sufficient grounds to believe that the Chief Prosecutor has committed a crime, the Prosecutorial Council, at the initiative of one or more Council members will discuss the issue of appointing a special (*ad hoc*) prosecutor. The Chief Prosecutor will be suspended from discharging his/her responsibilities immediately upon the appointment of the special prosecutor and suspension will be effective until the Prosecutorial Council and/or Parliament makes a decision. If the special prosecutor finds it probable that the Chief Prosecutor has committed a crime, the Prosecutorial Council will, by two thirds of its members, approve the report of the special prosecutor, following which it must apply to the Parliament to remove the Chief Prosecutor from office. Furthermore, the Chief Prosecutor may also be dismissed from office if the Prosecutorial Council, after examination, by secret ballot by two thirds of its total membership, decides that he/she has committed a disciplinary offence. In addition, the draft amendments also envisage other grounds for removal of the Chief Prosecutor from office, such as his/her resignation or incapability of discharging duties for health reasons, or taking over any other public office, or any other case of conflict of interest, etc.

A number of important safeguards have been introduced into the operation of the plea-bargaining system. Either the prosecutor or the defendant can propose a plea bargain. The district prosecutor must approve agreements entered into by lower-ranking prosecutors in his district. The judge must be satisfied that there is a proper legal basis for the conviction of the defendant and that the defendant understands the consequences of his/her action in entering into the plea bargain. The prosecutor is under an obligation to consult with the victim of the

crime although not necessarily to agree with or accept the victim's point of view. The victim is also entitled to be heard by a judge. The plea bargain has to be recorded in writing and signed by the parties concerned. Policy guidelines are in place for prosecutors, which suggest appropriate sentences for different offences and the weight which should be given to different mitigating and aggravating circumstances. The decline in the number of cases being dealt with by way of a plea bargain, from approximately 90% to approximately 70% between 2013 and 2014, would suggest that these reforms have had an effect. From January to July 2015, 64% of cases were completed with plea bargain agreement, while in 2014 there were 69.9% cases registered with this procedure.

The issue of enhancing the independence of individual judges has been further addressed in relation to the three-year statutory probation period for those judges who have served a 10-year term. The Government decided to introduce relevant provisions to the draft law currently being considered by the Parliament as a part of the third-wave judicial reform package, which is expected to be adopted by the end of 2015.

The working process on the Civil Service Reform concept, which was adopted in November 2014, revealed the need for a unified approach and some shortcomings of the legislation governing the civil service, such as the existence of contradictory provisions within main laws, or the absence of secondary legislation regulating specific legal relationships. On 28 October 2015, the Parliament adopted the 'Law on Civil Service' with the relevant package of 46 secondary laws. The respective legal acts will enter into force from 1 January 2017. The new 'Law on Civil Service' specifies the status of a civil servant, terms of recruitment and employment, civil service management issues and the employment relationship of civil servants. Pursuant to the new draft regulations, all professional civil servants must be appointed on merit on the basis of fair and open competition. Special guarantees for the independence of the head of the Civil Service Bureau (CSB) are laid down. These include conditions for early termination of his/her term of office. In addition, significant progress was made towards enhancement of the CSB's capabilities and resources. More specifically, the role of the CSB has been increased in the civil service human resources selection process. In addition, a further GEL 150.000 was added to the 2014 yearly budget of the CSB and it was entitled to hire 18 additional staff members.

The Georgian authorities took further steps to strengthen the protection of whistle-blowers, by introducing amendments to the 'Law on the Conflict of Interest and Corruption in the Public Service'. The amendments passed the third reading in the Parliament on 28 October 2015. Pursuant to the amendments, upon notification regarding misconduct of civil servants the whistle-blower protection rights prescribed by the law will be extended to 'any person' outside the public sector and will not be limited to only current or former civil servants. Furthermore, according to the draft amendments, whistle-blowers will be able to inform civil society or mass media directly after the decision is made by an application reviewing body, police, prosecutor or public defender as opposed to the existing regulation whereby whistle-blowers, before informing civil society or mass media, have to wait for two months after the decision is made by an application reviewing body, police, prosecutor or public defender. Moreover, pursuant to the amendments, the electronic appeal mechanism allowing for confidential appeal in case of doubt over misconduct by civil servants will be introduced. The appeal will be processed by the CSB in a confidential manner and then automatically forwarded to the appropriate public entity.

Further work has been carried out in order to strengthen the monitoring and verification system of asset declarations by public officials. The special working group created by the Anti-Corruption Council held a number of meetings throughout February-June 2015 and draft amendments were finalised by the CSB. The amendments were discussed at the Anti-Corruption Council Session on 29 June 2015 with the active participation of public agencies, representatives of civil society and international organizations. According to the amendments, monitoring of declarations will take place in three cases: first, constant verification of the declarations of top-level officials exposed to high risks of corruption; second, by random selection of declarations in a transparent manner through the electronic system based on specific risk criteria by the Independent Commission (the list of selected declarations will be published at the beginning of each year by the CSB); third, on the basis of well-founded written complaints/information submitted to the CSB.

The monitoring process will be completed upon cross-checking of the information in different electronic databases in accordance with the principles of confidentiality. The CSB: the first may make either a positive assessment of the declaration in question or a negative assessment thereof, the latter in the event of a violation related to non-submission of required information/documents, submission of an incomplete or incorrect declaration as well as violation of the 'Law on Civil Service and Law on Conflict of Interest and Corruption in Public Sector', which will be identified throughout the monitoring process. For minor violations, the Head of the CSB will impose a fine upon a public official amounting to GEL 1.000. In cases where it is found that a public officer has presented deliberately incomplete or incorrect data, or specific elements of crime are identified, the declaration in question together with appropriate documentation will be sent to law-enforcement bodies for their consideration.

In addition, in order to effectively implement the monitoring of asset declarations, the draft amendments define direct and indirect participation in enterprise activities, specified time of submitting asset declarations and expand the scope of information to be disclosed by public officials. Furthermore, in order to allow for comprehensive and extensive monitoring to detect conflict of interest and corruption-related offences, according to the new draft regulations officials will be obliged to fill in asset declarations a year after leaving office, if not appointed to a new position.

The amendments to the 'Law of Georgia on the Conflict of Interests and Corruption in Public Service' were adopted by the Parliament of Georgia on 28 October 2015 in third reading.

The Georgian authorities continued to improve the procurement system. The State Procurement Agency of Georgia (SPA) drew up amendments to the 'Law on State Procurement'. The changes introduced include the provision that a decision on conducting simplified procurement must be agreed with the SPA. A submitted application on the conduct of simplified procurement by the procuring entity is public and all the interested parties are entitled to express their own considerations. The SPA will take into account both the submitted application of the procuring entity and considerations expressed by the interested parties, including civil society and business sector actors. The rules, procedures, criteria and terms for agreeing a decision on conducting simplified procurement with the SPA were laid down by the corresponding by-law. Thus, the procedures explicitly require public notice and the right of objectors to be heard is ensured, and also the decision to dispense with tendering requires independent approval by the SPA. Based on the aforementioned legal amendments, the SPA drew up the Decree of the Chairman on 'Defining Criteria and Adopting Rules for

Conducting Simplified Procurement'. The Decree clearly defines the basis and criteria for awarding a contract through simplified procurement, the rule on agreeing the decision with the Agency as well as other issues concerning simplified procurement. In particular, according to the Decree, the simplified procurement can be conducted if the value of procurement is below the statutory thresholds. The Decree also defines other circumstances in which simplified procurement can be conducted, such as when supply of goods, rendering a service or carrying out construction is (a) an exclusive right of one person; (b) an urgent necessity; (c) in order to prevent the deterioration of the quality of an object, etc. For all these above-mentioned circumstances/cases the Decree sets out the criteria, which should be met in order to allow simplified procurement. The procuring entity is entitled to award a contract through simplified procurement pursuant to directly prescribed cases and established procedures of the Law and the Decree. The Decree was signed on 17 November 2015 and entered into force on 1 November 2015.

- **Development of effective ethical codes accompanied by sanctions applicable to public officials (elected and appointed) and notably regarding elected officials at central and local level, law enforcement and judiciary; ensuring appropriate capacity, specialisation and training of law enforcement and judiciary to deal with corruption cases in an efficient manner**

As regards the development of effective ethical codes accompanied by sanctions applicable to public officials, the working group responsible for the development of norms on ethical conduct of civil servants was established. The Code of Ethics will include detailed regulation of conduct in the civil service and will apply to all civil servants (with exceptions). The working group has already developed the initial draft code and submitted it for consideration to the Civil Service Bureau. Preparation of the draft code on ethics as a separate law is scheduled for the end of 2015.

Additionally, a handbook on 'Ethics and General Rules of Conduct for Civil Servants' was developed, presented officially and published online as well as sent out to all central and local governmental institutions.

- **Implementation of legislation for the prevention of money-laundering and financing of terrorism, including reporting obligations; implementation of relevant legislation on search, freezing, seizure and confiscation of assets of criminals (including the provisions addressing cross-border aspects)**

In July 2015, the Georgian Parliament adopted several amendments to strengthen its legislative framework for cross-border cash movements and improve its implementation. First, the 2003 'Law on facilitating the prevention of illicit income legalisation' was amended to extend the anti-money-laundering requirements for cross-border transportation of cash and securities to the export and import of physical currency and bearer negotiable instruments through mail and cargo containers, where the amount exceeds GEL 30.000. Consequently, the scope of the declaration system was broadened to include cash sent and received by post and freight in addition to cash physically carried by natural and legal persons. Thus, any cross-border movement is now subject to declaration if the amount exceeds GEL 30.000. Second, Article 289 of the Tax Code was reviewed to increase penalties in the event of failure to comply with the obligation to declare cross-border cash movements. Previously, administrative fines were limited to a maximum amount of GEL 3.000 or deprivation of possession. Under the new Tax Code, bypassing the customs control may lead to a penalty of

GEL 3.000 if the amount of cash movement was more than GEL 30.000, GEL 5.000 if it was above GEL 50.000, and a seizure of cash or a fine equal to 10 % of the amount transported if it had a total value of GEL 100.000 or above. Third, the declaration form has been changed to include information about the provenance and intended use of the cash. Lastly, if there are indications of illicit activity concerning amounts of cash carried which are below the declaration threshold, the Revenue Service will liaise with relevant agencies, such as law-enforcement agencies which are present at the border to take appropriate action.

In order to make better use of the existing legal framework for confiscating criminal assets, the Chief Prosecutor's Office developed a four-step action plan that was implemented during summer 2015. The first action taken involved the drafting of a Recommendation instructing prosecutors and investigators 'on certain measures to be implemented in the course of criminal proceedings'. To prevent criminals from finding ways to avoid confiscation of illicit assets through plea-bargaining, the Recommendation provides that 'measures shall be taken to ensure [the] confiscation, irrespective of the fact, whether the plea bargain agreement should be concluded with the said person'. On this last point, it should be noted that the recommendation to freeze assets and request confiscation is addressed to prosecutors whereas confiscation is ordered by courts, normally on a discretionary basis. The content of the Recommendation was discussed with its main recipients in the first half of July 2015. In total, 275 prosecutors and investigators participated in the meetings. On 4 August, the Chief Prosecutor adopted the Recommendation, which was then circulated internally. The General Inspection Unit of the Chief Prosecutor's Office was designated as the monitoring body for implementation of the Recommendation. According to a preliminary analysis by the General Inspection Unit, since the adoption and circulation of the Recommendation, the law-enforcement bodies and prosecutors have started more proactively pursuing confiscation of assets. Statistics show that in nine months of 2015, the amount of confiscated property in money-laundering cases almost doubled in comparison to 2014.

As far as the institutional framework is concerned, the Financial Monitoring Service (FMS) has operated since 2004 as the national centre for receiving, analysing and disseminating suspicious transaction reports. Whereas the FMS was previously a legal entity of public law at the National Bank of Georgia (NGB) and used to receive financing from the NGB, it is now an independent legal entity of public law that is accountable to the Government of Georgia and receives funding from the state budget. It is expected that the FMS will become more of a priority. Moreover, the FMS hired two new staff members in October 2015 and plans to shortly announce additional openings for the remaining vacancies.

The most important supervising authority is the National Bank of Georgia, which supervises all financial institutions, except for insurance companies and private pension schemes. A separate methodology and offsite inspection unit has been established within the National Bank, which exclusively performs risk-based offsite anti-money-laundering (AML) and counter-terrorist financing (CFT) supervision of financial institutions. The recruitment of six people to the unit has been completed and the first AML/CFT reports were filed by commercial banks in summer 2015. The Insurance Supervision Authority, which acts as supervising authority for insurance companies and private pension schemes, created a new separate offsite monitoring division within the supervision department. Three staff members are being recruited and work has started to define the forms of reporting and the frequency of their submission.

To address the low level of reporting in a number of professional sectors, such as lawyers, accountants or auditors, the FMS organised awareness-raising activities. Between April and August 2015, it conducted three training seminars for members of the Association of Law Firms of Georgia on customer due diligence requirements and the application of risk-based approach. The FMS also assisted the Association in drafting a lawyer's guide to the prevention of money-laundering and plans to develop training courses for lawyers in Georgia's anti-money laundering legislation as part of their continuous education programme. The FMS is currently working with the Georgian Federation of Professional Auditors and Accountants to organise training-seminars for auditing firms.

On 25 September 2015, the Council of Europe launched its project 'Combating money laundering and terrorist financing in Georgia', with EU funding. The project aims at enhancing the capacities of the anti-money-laundering and counter-terrorist financing system in Georgia in terms of legislation, institutional frameworks, skills and operational capabilities.

- **Implementation of the national anti-drug strategy and action plan, ensuring adequate working of the Inter-Agency Coordination Council on Combating Drug Abuse, making the information on drug seizures and persons involved accessible at border crossing points, and further developing cooperation and information exchange with relevant international bodies in the drug field; establishing cooperation with the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA)**

Georgia continued to implement the national drug strategy and action plan for 2014-2015. The latest developments confirmed the progress made by the authorities in shaping a balanced drug policy, pursuing both demand-reduction policies and supply-reduction measures.

As regards demand reduction, recent preventive activities that include training on risks and early identification of drug abuse were provided to 370 family doctors throughout the country between the end of 2014 and August 2015. In the area of treatment and rehabilitation, more than 3000 opiate addicted persons benefited from substitution therapies in the first half of 2015 thanks to an increase in the overall capacity of the drug-addiction state programme. Furthermore, in order to increase the number of beneficiaries of the services provided by the harm reduction centres (e.g. safe injecting instruments and HIV testing), a mobile ambulatory practice has started operating in October 2015.

As regards supply reduction, Georgia has further strengthened the drug-related provisions of its legislative framework. On 15 March 2014, new legislative amendments entered into force that criminalised the illicit trade in some psychoactive substances being used as main substance for producing home-made drugs. As a result, the use of so called 'crocodile' (home-made drug) has decreased by around 99 % in recent months.

New amendments to the Criminal Code, which entered into force on 31 July 2015, aim at distinguishing between criminal liability for possession and distribution of drugs. Thus, illegal manufacturing, production, purchase, storage, transportation, transfer or sale of narcotic drugs, their analogues, precursors or new psychotropic substances will not be punished as strictly as before, whereas distribution will still be heavily punishable. The previous version of Article 260 of the Criminal Code provided for a criminal liability of up to eleven years imprisonment for both drug possession (and other actions, such as production, storage, etc.)

and distribution. According to the new law, drug possession is punishable with up to six years imprisonment.

However, six years' imprisonment is seen as an exceptional sanction and statistics show that, even before the new amendments entered into force, between one and three years' imprisonment was imposed in the vast majority of cases (70 % of cases in 2011, 73 % of cases in 2012, 91 % of cases in 2013 and 90 % of cases in 2014). Since the entry into force of the amendment, out of 108 persons convicted under Article 260(1) of the Criminal Code, 37 were imprisoned. One of them was sentenced to over five years' imprisonment.

As to the liability for drug consumption or possession of a small amount for personal consumption, the Georgian legislation provides that the first occasion is subject to an administrative fine. The second case within the same year is punishable by a fine, community service or imprisonment of up to one year under Article 273 of the Criminal Code. As a matter of judicial practice, imprisonment is imposed only for third-time use of drugs within the same year. It should also be noted that possession of small amounts of cannabis (2-3 grams) does not reach the threshold of criminal offence in Georgia and is not punished at all under Article 260(1) of the Criminal Code.

Within the Council of Europe/EU Eastern Partnership Programmatic Co-operation Framework regional initiative, the 'Alternatives to coercive sanctions to drug law offences and drug-related crime' project is being implemented in Georgia. Comparative research is being conducted to identify what models of alternatives to imprisonment for drug-dependent offenders are applicable and feasible for Georgia. On the basis of the findings, alternatives to imprisonment will be further integrated into the policy and practice of Georgia.

In order to protect citizens from arbitrary drug testing, the Georgian legislation provides different options for appeal in respect of unplanned drug tests performed by the police. First, the 'law on police of Georgia' requires that the decision on conducting a test be based on a reasonable ground to believe that a person has consumed drugs. Pursuant to Order 725 of the Minister of Internal Affairs, approved on 30 September 2015, the reasonable ground to believe must be accompanied by other circumstances. Thus, an employee of the Ministry of Internal Affairs is authorised to transfer a person for drug testing to the forensic service of the Ministry only if (a) the employee personally witnessed that person committing an offence envisaged under the Code of administrative offences of Georgia, (b) the person attempts to flee or refuses to comply with the legal request of the police and there are sufficient grounds to believe that this person has consumed drugs or is under drug influence, or (c) information that a person has illegally consumed drugs has been obtained through operative-search or covert investigative activities conducted in compliance with Georgian legislation, has been reported to the Ministry, or submitted directly to a policeman by an identified source.

Furthermore, a person subject to an unplanned drug test has different options to challenge the police decision, from referral to the General Inspection of the Ministry of Internal Affairs, which is responsible for sanctioning illegal acts of policemen, to appeals before the Administrative Court and the Prosecutor's Office. Between 2014 and mid-2015, a total of 40 cases were reported via the hotline number of the General Inspection of the Ministry of Internal Affairs. Two cases were forwarded to the Chief Prosecutor's Office for further consideration. Besides mechanisms for challenging a decision of the administrative body, the results of the drug tests as such are subject to judicial review within 14 days.

The institutional framework in the area of drugs has been further strengthened. In addition to the Inter-Agency Coordination Council on Combating Drug Abuse, a National Drug Monitoring Centre will start operating by the end of 2015, which will produce annual country reports and serve as an EMCDDA focal point. Furthermore, cooperation with EMCDDA has been stepped up with the signing on 4 November 2015 of a Memorandum of Understanding between the EU body and the Ministry of Justice of Georgia.

- **Sound implementation of relevant UN and Council of Europe Conventions, as well as GRECO recommendations in the above-mentioned areas**

The implementation of this benchmark has been evaluated in other sections of this report.

- **Provision of sufficient financial and human resources, including adequate training programmes, to ensure effective implementation of all the measures mentioned above**

The implementation of this benchmark has been evaluated in other sections of this report.

2.3.2. Judicial co-operation in criminal matters

The judicial cooperation in criminal matters, which was deemed to have been achieved in the third progress report, has remained achieved.

2.3.3. Law enforcement co-operation

- **Ensuring a high level of operational and special investigative capacity of law enforcement services and its consistent and efficient use to tackle cross-border crime**

The Procedural Code and the Law on Criminal Intelligence Activity provide the legal framework for the operational and special investigative operations of law-enforcement services. They lay down a broad set of special investigative measures, ranging from interrogation and wiretapping to undercover operations. Georgian law-enforcement agencies have demonstrated their capability to use special investigative measures.

Besides the legal tools, Georgian authorities have sophisticated equipment at their disposal to support investigations and prosecutions. Forensic capabilities have been further strengthened, notably with the technical upgrade of a chemistry laboratory in the Samegrelo-Zemo Svaneti region. The regional laboratory can now provide advanced instrumental analysis on drugs, pharmaceutical and unknown substances for local law-enforcement agencies, independently of the Tbilisi laboratory.

- **Ensuring a high level of effectiveness of law enforcement co-operation among relevant national agencies - especially border guards, police, customs officers -, as well as cooperation with the judicial authorities**

The institutional framework and coordination tools supporting law-enforcement co-operation within Georgia are well known and used by the relevant public actors. Not only have the law-enforcement agencies shown that their co-operation is highly effective, fostered by the 2013 Memorandum of Understanding on Inter-Agency Co-operation on Law Enforcement issues, but there is also good interaction between investigators and prosecutors. Joint investigator-

prosecutor teams deal with high-profile cases and joint training courses are held within the framework of the Memorandum of Understanding. The latest were organised in July 2015 and involved representatives from the Ministry of Internal Affairs, the Ministry of Finance and the Prosecutor's Office. Furthermore, e-flow electronic exchange software enables real-time communications among all law-enforcement and prosecution bodies in a secured way.

With a view to producing a regular assessment report on all-encompassing threats, based on intelligence-led policing and continuous evaluation, an intra-agency working group within the Ministry of Internal Affairs was created on 22 June 2015. So far, each structural unit of the Ministry is carrying out its own analytical process. The Central Criminal Police Department and the Patrol Police Department are collecting and analysing data on the criminal cases falling within their respective areas of competence. This information is consolidated by the Information-Analytical Department, which analyses the data and makes recommendations. The department already documents all criminal records registered in Georgia and reflects them in statistical reports but the Ministry lacks a common system of risk analysis.

The working group has developed the concept of a *unified* risk analysis mechanism, based on intelligence-led policing. The working group held several meetings to flesh out the functions of the structural units involved in the implementation of intelligence-led policing. Representatives of the Belgian Federal Police visited Georgia on 5-9 October 2015, in the framework of the EU-funded ENIGMMA project, to share their experience in this regard. On the basis of the concept, approved on 22 October 2015, and the exchanges with partner states, the working group started preparing a detailed action plan of the measures to be adopted for the implementation of the future risk assessment system.

- **Strengthened bilateral and multilateral operational law enforcement cooperation agreements or working arrangements, namely with INTERPOL, including by sharing on time relevant information and conducting joint investigations and operations with competent law enforcement authorities of EU Member States and third countries, in line with data protection requirements and through the appropriate channels**

International cooperation is implemented on the basis of international agreements and the 'law on international law enforcement cooperation', which provides for the categories of information that can be exchanged and regulates international police cooperation even in the absence of bilateral and multilateral agreements. In the latter case, cooperation will take place on the basis of an *ad hoc* decision or under the principle of reciprocity. The rules for drafting and sending requests are laid down in the Order of the Minister of Internal Affairs No 787 dated 15 October 2014. When there is a need for international cooperation, the regional police unit sends a request via e-flow to the Ministry of Internal Affairs and the National Central Bureau of Interpol, and asks them for assistance. The information can be issued by the divisions of Ministry with the consent of the Information-Analytical Department.

Bilateral police cooperation is based on 25 agreements on security and the fight against crime, 14 of which have been concluded with EU Member States, and 16 agreements on the exchange of classified information, 13 of which have been concluded with EU Member States.

To further improve partners' trust in the Georgian authorities, the Minister of Internal Affairs adopted on 30 May 2015 by Order No 387 the 'instruction on processing and protecting personal data' within its Ministry, including for international exchange of personal data in the law-enforcement field. The aim is to promote the application of Georgia's Personal Data Protection Law and of Recommendation No R 87(15) of the Council of Europe for processing of all personal data by all departments under the authority of the Ministry of Internal Affairs, including the law-enforcement authorities.

The Georgian authorities conducted an awareness-raising programme over the last months, including in the regions, to inform the police and the Chief Prosecutor's Office about the scope for international cooperation at operational level. Thus, on 7 May 2015, the Director of the Central Criminal Police Department issued instructions on existing resources and activities to be carried out in case of need for international cooperation, which were presented to its staff in Tbilisi and in the regional main divisions. Furthermore, the National Central Bureau of Interpol produced an informational brochure on the existing cooperation mechanisms through Interpol. The document was distributed to the relevant staff of the Ministry of Internal Affairs and to the Chief Prosecutors' Office. Joint training courses for investigators from the Ministry of Internal Affairs, the Ministry of Finance and the Chief Prosecutors' Office were also held from 7 to 18 July 2015 to discuss possibilities offered by the international law-enforcement cooperation framework.

➤ **Conclusion of an operational cooperation agreement with EUROPOL ensuring an adequate level of data protection**

Significant progress has been made since July 2014, when Europol initiated the process of preparing negotiations for the conclusion of an operational cooperation agreement with Georgia. During summer 2015, Europol finalised its assessment on the existence of an adequate level of data protection in Georgia, which is a prerequisite for entering into negotiations. The scrutiny of Georgia's data protection framework was done in close cooperation with their competent authorities, which provided Europol with detailed information in questionnaires as well as during video conferences and the data protection study visit which took place from 2 to 5 June 2015. Experts conducted meetings with the relevant departments of the Ministry of Internal Affairs as well as with representatives of the Personal Data Protection Inspector's office, the General Prosecutor's Office and the Financial Police of the Ministry of Finance. The data protection report was submitted to the Management Board of Europol on 6 October 2015, which approved it for sending to the Joint Supervisory Board. The Joint Supervisory Board has issued its opinion before the Management Board, which gave, on 1 December 2015, the authorisation to commence negotiations on an operational agreement. Final steps for formalising the operational agreement will follow in the coming months.

2.3.4. Data protection

The protection of personal data benchmark, which was deemed to have been achieved in the third progress report, has remained achieved.

2.4. Block 4: External Relations and Fundamental Rights

2.4.1. Freedom of movement within Georgia

The freedom of movement benchmark, which was deemed to have been achieved in the third progress report, has remained achieved.

2.4.2. Conditions and procedures for the issuance of travel and identity documents

The benchmark on the conditions and procedures for the issuance of travel and identity documents, which was deemed to have been achieved in the third progress report, has remained achieved.

2.4.3. Citizens' rights including protection of minorities

- **Effective implementation of legislation and policies on anti-discrimination, including by ensuring effective legal aid and the independence of the judiciary; implementation of relevant UN and Council of Europe instruments**

The anti-discrimination law assigns the function of supervising the elimination of discrimination and ensuring equality to the Public Defender's Office (PDO).

Following a thorough assessment of the shortcomings of the law, the PDO addressed the Parliament on 11 February 2015 with a proposal to amend three legal acts: the Organic Law of Georgia on the Labour Code, the Civil Procedure Code and the Law on Public Service. An amendment to the Law on Elimination of all forms of Discrimination would require private persons to provide the Public Defender with necessary materials, documents or information for the examination of a case.

Due consideration was given to the legislative proposals by both the Human Rights and Civil Integration Committee and the Legal Committee. A working group set up within the Human Rights' Committee has finalised its work and drafted the relevant amendments. It is expected, that by the end of 2015, the Parliament of Georgia will reflect the changes into the Law on Elimination of all forms of Discrimination.

- **Effective implementation of the National Human Rights Strategy and Action Plan measures to fight against discrimination (including allocation of adequate human and financial resources); general awareness-raising campaigns against racism, xenophobia, and other forms of discrimination; strengthening the capacities of responsible bodies for anti-discrimination policy and combating racism, xenophobia and other forms of discrimination**

On 2 May 2014, the Parliament of Georgia adopted the Law on Elimination of all forms of Discrimination. The PDO plays a key role in monitoring and overseeing the efforts to eliminate discrimination. Since November 2014, it is assisted by the Equality Department which has been granted sufficient human resources and budget to support the PDO activities including in the field of awareness-raising. To explain the grounds on which discrimination is prohibited and the application procedure for getting PDO's support, a promotional video has been broadcast on TV and social media. A set of frequently asked questions and responses on the equality mechanism in Georgia has been uploaded on the website of the PDO and is therefore accessible to all. Training courses were organised jointly with the Ministry of Internal Affairs to raise awareness on equality and diversity. In particular, training courses were delivered to the Ministry's staff on 'Elimination of all forms of Discrimination' (this

topic was also included in the curriculum of the Academy for police officers) and 'personal data protection'. Journalists and students also benefited from training sessions.

In addition, brochures on elimination of discrimination and activities of the Equality Department are being prepared (EU-funded project expected to be launched in November 2015) and should be disseminated through PDO regional offices and Public Service Halls. Those information brochures will be available in Georgian, Russian, Armenian and Azerbaijani languages.

Finally, the Human Rights Secretariat has been conducting awareness-raising campaigns across Georgia to inform local municipalities and NGOs on the National Human Rights Strategy and the Governmental Action Plan. This campaign helps to educate citizens and representatives of the State in all regions of Georgia about notions of freedom, tolerance, equality and diversity.

Raising communities' awareness about their citizens' rights and the state services and benefits available

The population of Georgia includes a significant proportion of ethnic minorities constituting around 16 % of the total population of the country (based on 2002 census).

As coordinator of the state policy on ethnic minorities, the State Minister's Office for Reconciliation and Civic Equality played a key role in drafting the new Strategy on Equality and Civic Integration. Emphasis has been put on improving ethnic minorities' access to decision-making, political life and public services, including by overcoming language barriers. The strategy and action plan were considered and discussed with the Council of National Minorities and representatives of ethnic minorities.

Together with relevant state agencies the office of the State Minister for Reconciliation and Civic Equality organised and participated in lectures and seminars in higher education institutions on ethnic minorities' rights and on the state policy on civic integration in general.

Since 2014, several information measures targeting ethnic minority representatives have been conducted by:

- the Ministry of Justice on illegal migration and protective measures;
- the Central Election Commission of Georgia on election procedures. To ensure equal electoral rights for those living in the regions populated by national minorities, trainings were conducted targeting specifically young voters, women and people with disabilities from minorities who could be involved in the election process. Electoral documents are translated into Azerbaijani and Armenian.
- the State Attorney-Governor's Administration on new norms of legislation, anti-discrimination regulations, protection of the rights of ethnic minorities;
- the Office of the State Minister for Europe and European Integration on the Georgian Euro-Integration process and the EU-Georgia Association Agreement in particular (information materials prepared in ethnic minorities' languages);

- the Ministry of Health, Labour and Social Affairs on the state healthcare programmes and social benefits. Brochures and booklets on emergency medical care, social protection, health of mothers and children, and Hepatitis C programmes are available in ethnic minorities' languages;

- the Georgian Ministry of Agriculture on specific programmes and innovations in the field of agriculture (ethnic minorities addressed here in the framework of a larger information campaign).

Education undoubtedly plays a key role in ensuring ethnic minorities' sustainable integration in wider Georgian society. The 'higher education mitigation system' (or quotas for national minority students) introduced in 2010 has proved successful as the number of non-Georgian students has significantly increased. The National Assessment and Examination Centre conducted information programmes on the higher education entrance examinations for ethnic minorities' representatives. The preparatory materials were translated and published in Armenian, Azerbaijani and Russian languages.

Further effort has been put into assisting the Roma population with regard to citizenship. The Ministry of Justice ensures legal support for undertaking the necessary steps to provide appropriate status.

Finally, the Ministry of Culture and Monument Protection implements a dedicated programme to promote and popularise identities and cultures of ethnic minority groups. 'Supporting National Minorities' culture' funds a variety of activities (exhibition, concerts, festivals) and also museums, theatres and publications.

New strategy to promote tolerance and civic integration

In 2014, the Office of the State Minister for Reconciliation and Civic Integration has triggered a review of the National Concept for Tolerance and Civic Integration (NCAP) and its Action Plan for 2009-2014. The objective was to assess the implementation of the Action Plan and the impact of civic integration programmes conducted so far. The performance assessment released in June 2014 concluded on the need to adapt the strategy, also to take into account the EU-Georgia Association Agreement.

The new strategy was prepared in a cooperative and consultative manner with the relevant stakeholders: the Council of National Minorities, representatives of local and civil society as well as international organisations, the Human Rights and Civic Integration Committee of the Georgian Parliament, political parties and experts. The representatives of ethnic minorities as well as the OSCE High Commissioner on National Minorities were also consulted.

The Georgian Government adopted the Civic Equality and Integration Strategy together with an Action Plan for 2015-2020 on 17 August 2015. The strategy will be translated into English and Russian.

The State Inter-Agency Commission is in charge of monitoring the implementation of the strategy and action plan, including the results to be achieved by 2020. The composition of the Commission is being reviewed in order to cover all relevant institutions, including the Council of National Minorities operating under the PDO. The action plan includes benchmarks and specific indicators for each area. Each state agency involved in the

implementation will draw up a detailed annual action plan within its area of competence. Overall assessment of the implementation of this revised strategy is envisaged at an intermediate stage (2017) and by its due completion in 2020.

Financial support for the activities planned in the action plan is to be provided by the state agencies within their profile and competence.

Training of legal professionals

To conduct capacity-building programmes, the Public Defender's Office and relevant ministries have been working closely with the European Union, the Council of Europe, the United Nations Development Programme but also with the Open Society Foundation and some local NGOs. Representatives of the PDO have attended workshops and seminars organised in the framework of the European Network of Equality Bodies (EQUINET).

Legal professionals have benefited directly from these growing exchanges with civil society and international organisations. The Prosecutor's Office organised a couple of training sessions for the prosecutors on the obligations of the State with regards to the prohibition of discrimination and the definition of hate crimes. The High School of Justice has started preparing a curriculum on discrimination-related issues with an emphasis on the new anti-discrimination law of Georgia and relevant international legal instruments. It has already conducted two training sessions on gender equality for judges.

Within the framework of an EU-funded project, the Ministry of Internal Affairs has since May 2015 organised 11 training sessions across the country for investigators on adequate Human Rights Protection in Temporary Detention Isolators. In total more than 220 representatives of the MIA and the Prosecutor's Office have been trained on the subject of elimination of discrimination.

ANNEX

ASSESSMENT OF MIGRATORY AND SECURITY IMPACTS

1. INTRODUCTION

1.1. Background

In line with the Visa Liberalisation Action Plan (VLAP) methodology, before moving to the second phase, the Commission undertook to provide an assessment of the potential migratory and security impacts of future visa liberalisation for Georgian citizens travelling to the Schengen area.³ An extensive assessment was accordingly presented in the Commission staff working document (CSWD)⁴ accompanying the second progress report on Georgia's implementation of the VLAP.⁵

After Georgia had started the second phase of its Visa Liberalisation Action Plan, the Commission, in the CSWD⁶ accompanying the third progress report on Georgia's implementation of the VLAP,⁶ provided an update on the potential impact of Georgian nationals travelling to the Schengen area without a visa.

1.2. Methodology

This document updates the latest assessment of impacts that was published in May 2015. This assessment has been based on the updates provided in October 2015 by EU Agencies and the EU Monitoring Mission (EUMM) in Georgia. The present document also draws on a combination of official Georgian and international organisation sources, and Eurostat data.

Based on the contributions received, the present update aims to identify new phenomena and emerging trends in the areas of migration, mobility and security in relation to Georgia and the possible impact of a visa-free regime for the EU and the Schengen area. This update to the assessment reflects the state of play as of October 2015 and therefore represents a snapshot of the situation.

This assessment does not constitute a benchmark of the VLAP. Nevertheless, this document also lists some measures and targeted actions developed by Georgian authorities, notably throughout the process of implementing the VLAP, addressing issues that are likely to arise in the migration and security areas as identified by the assessment of impacts. In conclusion, some possible mitigation measures that may be undertaken by EU Member States are set out.

³ The visa waiver would apply to the Schengen area including: EU Schengen States, EU Member States who not yet fully apply the Schengen acquis, Non-EU Schengen States.

⁴ COM(2014) 681 final.

⁵ SWD(2014) 334 final.

⁶ SWD(2015) 103 final.

2. ASSESSMENT OF MIGRATORY IMPACTS

2.1. Regular and irregular migration: trends and potential impacts of visa-free travel

2.1.1. General overview

The migration of Georgians abroad is mostly a spontaneous circular movement to neighbouring countries. Georgian migrants worldwide are estimated at approximately 770 000,⁷ including 630 000 in Russia and a total of 66 042 Georgians citizens holding valid permits in the EU in 2013.⁸ According to Eurostat data, 35 % of Georgian migrants holding a valid residence permit in the EU in 2014 are male, 65 % are female. Men work mainly in manual labour industries (construction, agriculture) and women tend to be domestic or seasonal agricultural workers.

High currency devaluation, inflation, high unemployment rate and lack of economic opportunities are major determinants of labour migration from Georgia. However there is a positive investment climate, average monthly nominal salary of employees has been steadily rising for the last 20 years and unemployment in the country has fallen from 15% in 2012 and 14.6% in 2013 to 12.4 % in 2014.⁹ With 18% of its population aged under 15 in 2013,¹⁰ Georgia will still have to provide inclusive economic opportunities in the near future to avoid large emigration flows. Economic and social development on both national and local levels remains one of the major priorities of the Georgian Government (i.e. business incentives, employment promotion, poverty reduction, health and social protection, education, protection of rights, integration programmes).

Better working conditions is the main reason why Georgian nationals go to the EU, even if the Russian Federation remains a popular destination for labour migration. Economic opportunities and links with the EU result in migratory movements between Georgia and Member States. The statistics show that Greece, Italy and Germany are attractive destinations for Georgian citizen migration, but they also consider several other Member States such as Spain, France, Belgium, Austria, Poland, Sweden and the UK as attractive destinations for labour migration. Therefore Georgians are widespread across European countries but form compact communities only in a few countries of the EU. Other common destinations outside the EU include the United States and Turkey.

The presence of an established diaspora can also be a major pull factor even if compared to other regions of the world. The Georgian diaspora in Europe is small and concentrated in Greece, Germany, Italy and Spain.

As these relatively low overall figures reveal, Georgia is not among the main origin countries of migrants in the EU and migration to the EU is not quantitatively impressive.

2.1.2 Regular migration facts

⁷ European University Institute / Migration policy centre – Migration profile Georgia 2013.

⁸ Eurostat data.

⁹ National Statistics Office of Georgia (Geostat), employment and unemployment figures, (http://geostat.ge/index.php?action=page&p_id=146&lang=eng)

¹⁰ International Organisation for Migration - Mission to Georgia: <http://iom.ge>.

The first table below from Eurostat, based on the stock of valid residence permits in 2013 and available figures for 2014, shows that the largest communities of Georgian citizens in the EU and Schengen area are hosted in Greece (16 392 Georgians holding a valid residence permit in 2013), Italy (14 130 in 2014), Germany (11 223 in 2014), Spain (9 318 in 2014) and France (5 564 in 2014). Compared to the stock of valid residence permits registered for other countries of origin (e.g. around 850 000 valid residence permits for Ukrainians in 2013), the total number of 66 042 valid permits held by Georgians in the EU in 2013 can be considered relatively small.

However, the data also show an increase in the number of permits each year from 2011 for the total EU countries, with roughly 5 000 more permits between 2012 and 2013, which corresponds to a growing preference for the EU.

Table 1: All valid residence permits by reason, length of validity and citizenship (Georgians), 2011-2014

EU Member States and Schengen area	2011	2012	2013	2014
European Union (28 countries)	57 565	60 188	66 042	NA
Belgium	2 021	1 944	1 813	1 720
Bulgaria	67	79	75	133
Czech Republic	836	724	773	839
Denmark	136	135	141	137
Germany	10 143	10 567	10 741	11 223
Estonia	244	252	275	338
Ireland	367	364	312	327
Greece	16 523	15 532	16 392	NA
Spain	7 516	8 275	8 907	9 318
France	3 945	4 468	5,027	5 564
Croatia	NA	NA	7	5
Italy	9 467	11 042	13 051	14 130
Cyprus	1 248	NA	954	773
Latvia	243	251	289	282
Lithuania	243	308	325	430
Luxembourg	11	15	15	22
Hungary	247	226	170	NA
Malta	47	48	71	66
Netherlands	733	680	483	NA
Austria	1 073	1 352	1 560	NA
Poland	585	924	1 320	1 441
Portugal	1 042	951	902	847
Romania	36	49	79	86
Slovenia	11	14	13	14
Slovakia	73	65	64	64
Finland	81	95	42	59
Sweden	542	605	1 221	578
United Kingdom	NA	1 109	1 020	1 014
Iceland	6	6	6	NA

Liechtenstein	NA	NA	2	2
Norway	72	84	91	86
Switzerland	NA	397	410	414

Source: Eurostat data. Last updated 09.10.15, extracted on 09.10.2015

When compared with the neighbouring countries in the South-Caucasus, better working conditions (higher wages) and diaspora presence are probably two of the main reasons for preferring EU Member States.

When it comes to regular migration to the EU and Schengen area, as the data in Table 2 suggest, the number of Georgian citizens getting valid permits varies from 11 596 (maximum registered in 2010) to 9 850 residence permits issued in 2013, and 9 457 in 2014 (waiting for final data from Austria). Therefore the data available for 2014 generally confirm the same trend of the past years, with a significant increase in France and considerable variations between Member States in 2013 and 2014.

The residence permits were mostly issued in France (869 in 2013, 1 653 in 2014), Italy (2 573 in 2013, 1 402 in 2014), Germany (1 284 in 2013, 1 312 in 2014), Poland (1 211 in 2013, 1 342 in 2014) and Greece (809 in 2013, 1 096 in 2014), followed by Spain (901 in 2013, 802 in 2014) and UK (565 in 2013, 521 in 2014).

Sudden increases in (2009/2010 and 2013) are presumably due to political developments (2008/2012 military conflict and 2012 political power shift).

Table 2: First residence permits by reason, length of validity and citizenship (Georgia), 2009-2014

EU Member States and Schengen area	2009	2010	2011	2012	2013	2014
European Union (28 countries)	9 514	11 599	7 617	8 508	9 850	9 457
Belgium	395	339	217	148	98	113
Bulgaria	23	22	22	26	13	38
Czech Republic	167	176	95	130	161	147
Denmark	27	26	24	9	17	13
Germany	806	799	806	1 243	1 284	1 312
Estonia	65	83	66	58	64	103
Ireland	79	45	56	49	57	68
Greece	697	757	569	676	809	1 096
Spain	922	875	1 240	992	901	802
France	602	575	600	718	869	1 653
Croatia	NA	NA	NA	NA	1	2
Italy	3 590	5 898	1 483	1 952	2 573	1 402
Cyprus	243	187	184	133	137	99
Latvia	59	72	94	81	100	67
Lithuania	72	34	45	122	95	159
Luxembourg	6	1	2	3	4	6
Hungary	68	59	56	50	109	100
Malta	22	8	12	19	21	17
Netherlands	156	112	85	93	142	112

Austria	352	384	552	500	341	NA
Poland	147	241	537	640	1 211	1 342
Portugal	111	107	86	67	58	74
Romania	28	13	9	13	45	46
Slovenia	4	7	9	6	3	5
Slovakia	21	20	24	16	12	8
Finland	14	8	11	19	17	22
Sweden	150	156	163	172	143	130
United Kingdom	688	595	570	573	565	521
Iceland	0	0	0	0	1	NA
Liechtenstein	NA	NA	NA	NA	1	1
Norway	12	22	29	42	34	36
Switzerland	NA	NA	NA	76	84	46

Source: Eurostat data. Last updated 08.10.15, extracted on 09.10.2015

It is also interesting to note the trend in the issuing and refusal rates for the different types of visas.

According to the DG HOME data based on Member State contributions, in terms of absolute numbers, 82 159 short-stay visas were applied for by Georgian nationals during 2013 and 93 126 in 2014. That represents a 13% increase which in turn signals a greater interest among Georgians on travelling to the EU. The demand for multiple entry visas is also high, with around 26 000 issued each year.

In 2014, Germany was the main issuer of EU/Schengen visas to Georgian nationals, followed by the Netherlands and Italy. These data roughly correlate with the known Georgian communities in the EU.

The average refusal rate for short-stay visa applications lodged by Georgian citizens increased slightly from 11.5 % in 2013 to 12.7 % in 2014, and continues to be relatively high compared to the world average (5.1 %). The multiple entry visa (MEV) issuing rate was 28.2 % in 2014, having dropped slightly from 2013 (31.6 %). However, this is due to a correction of the Italy' MEV issuing policy, under which MEVs are no longer issued for short periods.

The refusal rates between different issuing countries vary greatly, from 4.5 % in Poland in 2014 to 20.7 % in the Netherlands, indicating differing perceptions of the level of risk associated with irregular migration. These high visa refusal rates can be explained by the fact that Georgian nationals frequently falsely declare business, training events or visiting acquaintances as the purpose of their intended travel, as well as by the high number of falsified supporting documents, such as false bank statements or proof of employment that are often provided to the applicants by assisting agencies. Apparently the main risk is that these visas would be used for travelling to other Member States and/or for reasons other than those stated in the application (e.g. unauthorised work). Differing perceptions of irregular migration risk are likely to remain even after visa liberalisation and will be driven by similar considerations (risk of overstay or abuse of visa-free travel to engage in illegal work).

Table 3: Applications for short-stay and multiple entry Schengen visas in Georgia, 2013-2014 (countries with consular presence in Georgia)

Schengen State	C visas applied for 2013	C visas issued 2013	MEVs issued 2013	MEVs issuing rate 2013	C visas not issued 2013	C visa refusal rate 2013	C visas applied for 2014	C visas issued 2014	MEVs issued 2014	MEVs issuing rate 2014	C visas not issued 2014	C visa refusal rate 2014	C visas applied for - change 13-14	C visas issued - change 13-14
Czech Republic	8,760	7,791	587	7.5%	968	11.1%	7,832	6,709	605	9.0%	1,123	14.3%	-10.6%	-13.9%
Estonia	2,461	2,039	705	34.6%	421	17.1%	1,651	1,535	588	38.3%	104	6.3%	-32.9%	-24.7%
France	7,963	7,070	1,611	22.8%	891	11.2%	7,661	6,710	1,836	27.4%	942	12.3%	-3.8%	-5.1%
Germany	17,625	15,592	2,918	18.7%	2,024	11.5%	16,739	15,795	3,143	19.9%	943	5.6%	-5.0%	1.3%
Greece	6,144	5,294	511	9.7%	850	13.8%	10,048	8,672	600	6.9%	1,376	13.7%	63.5%	63.8%
Italy	13,464	12,185	11,673	95.8%	1,271	9.4%	14,906	12,886	9,338	72.5%	2,018	13.5%	10.7%	5.8%
Latvia	2,832	2,589	943	36.4%	243	8.6%	4,127	3,871	962	24.9%	255	6.2%	45.7%	49.5%
Lithuania	5,305	4,172	1,748	41.9%	1,192	22.5%	4,741	3,726	1,471	39.5%	941	19.8%	-10.6%	-10.7%
Netherlands	10,293	9,032	3,450	38.2%	1,254	12.2%	17,888	13,924	5,615	40.3%	3,708	20.7%	73.8%	54.2%
Poland	3,153	2,922	979	33.5%	231	7.3%	3,890	3,715	1,393	37.5%	175	4.5%	23.4%	27.1%
Switzerland	4,159	4,016	877	21.8%	140	3.4%	3,643	3,424	704	20.6%	217	6.0%	-12.4%	-14.7%
Total	82,159	72,702	26,002	31.6%	9,485	11.5%	93,126	80,967	26,255	28.2%	11,802	12.7%	13.3%	11.4%

Source: European Commission, Directorate-General for Migration and Home Affairs. October 2015

It is not possible to measure the extent to which the visa requirements have deterred Georgians from travelling to the EU. However, it is reasonable to assume that when visa requirements for Georgians are abolished, they will be more likely to leave their home country to travel to the EU. However, the availability of financial means will also be a key factor shaping their decision to travel.

Increased circularity of the migratory flows from Georgia to the EU and Schengen area is expected to occur as a result of abolition of the visa requirement, which in turn would strengthen people-to-people contacts.

2.1.3. Irregular migration trends

Entry point

Georgians tend to use relatively few major land entry points to the EU, mainly Poland and Latvia, and to a much lesser extent Greece and Lithuania, while there is much more variation regarding their preferred destination countries. Georgian would-be migrants use primarily land routes probably because they are not able to board aircraft without a visa on the way to the EU.

A total of 8 210 Georgian citizens were refused entry in 2013 as shown in the table below (Eurostat data). The corresponding figure of 3 205 in 2014 resulted mainly from a significant drop in refusals of entry issued to Georgians by Poland.

Table 4: Georgian citizens refused entry at the EU's external borders 2012-2014

EU Member States and Schengen area	2012	2013	2014
European Union (28 countries)	8 980	8 210	3 205

Belgium	10	10	15
Bulgaria	70	50	20
Czech Republic	10	10	5
Denmark	0	15	0
Germany	20	20	25
Estonia	10	0	5
Ireland	10	10	5
Greece	95	160	210
Spain	10	5	25
France	20	30	5
Croatia	NA	20	45
Italy	35	60	70
Cyprus	10	0	5
Latvia	215	320	960
Lithuania	115	110	145
Luxembourg	0	0	0
Hungary	10	10	10
Malta	0	0	0
Netherlands	60	60	45
Austria	0	0	10
Poland	8 245	7 250	1 345
Portugal	0	0	0
Romania	10	25	230
Slovenia	5	0	5
Slovakia	0	5	0
Finland	5	0	0
Sweden	0	0	5
United Kingdom	20	25	20
Iceland	NA	NA	NA
Liechtenstein	5	0	0
Norway	0	0	0
Switzerland	5	0	0

Source: Eurostat data. Last updated 20.08.15, extracted on 12.10.2015.

Belarus has no visa requirement for Georgian citizens and regular and direct flights exist between the two countries, making Belarus the main transit country for irregular migration to the EU. Therefore Poland is the main entry point to the EU and it issues the majority of refusals to Georgian nationals (7 250 refusals in 2013, with a steep fall in 2014 to 1 345 cases), followed by Latvia (960 cases in 2014, a big increase from 2013).

After being refused entry at the EU's eastern borders with Belarus because they do not have a visa, some migrants apply for asylum while others try to cross the border illegally. The number of irregular border-crossings detected is still relatively low (328 cases in 2013, 267 in 2014 – Frontex - European Agency for the Management of Operational Cooperation at the External Borders of the European Union - data) in comparison with the refusals. When such attempts or secondary movements inside the area of free movement are detected, Georgian

nationals tend to apply for asylum with the intention of absconding from the asylum centre in order to continue to their preferred destination countries.

Frontex also notes that in Greece, which used to be the other main entry point and final destination country, the number of detections has dropped sharply in recent years. Reasons for this shift may include the difficult situation in the Greek labour market, making Greece a less attractive destination country.

Detection of irregular migrants

Eurostat's database table below shows a sizeable increase in irregular migrants found to be illegally present in the EU Member States from 2013 to 2014, with respectively 4 930 and 6 290 Georgians citizens having been detected. Germany accounted for the highest number (1 580 cases), followed by France (905), Greece (820), Sweden (795), Italy (420) and Austria (390), showing the irregular migrants' preferred route and final destination.

The most noticeable increase compared with 2013 was recorded in France, Sweden and Germany, which is probably an indicator of new preferred destination countries for future years.

Detection of illegal stay can pertain both to persons who have entered the country irregularly and have been detected staying illegally and to persons who entered legally but overstayed the duration of their regular visa or residence permit (i.e. persons who entered the territory legally but remained after their visa expired or, in the case of Georgian citizens who cannot have their first or subsequent residence permit renewed because they have lost their job and might be requested to leave the EU country they are residing in). Since, to a large extent, the number of illegal stayers reflects the number of overstayers, it is logical that the countries hosting the largest number of Georgian citizens with visas/temporary residence permits are also the ones showing the highest level of detections of illegal stayers.

However, according to Frontex,¹¹ an increase in the number of illegal stayers detected while the numbers of entry refusals and detection of illegal border-crossings are decreasing may point to some abuse of legal entry channels as well.

Table 5: Third-country nationals found to be illegally present (annual data for Georgians), 2008-2014

EU Member States and Schengen area	2008	2009	2010	2011	2012	2013	2014
European Union (28 countries)	5 005	7 180	5 325	4 285	5 335	4 930	6 290
Belgium	140	110	125	90	125	115	180
Bulgaria	25	25	25	25	15	30	20
Czech Republic	95	165	30	70	65	45	30
Denmark	5	0	0	0	0	0	0
Germany	460	605	710	585	1 085	1 380	1 580
Estonia	10	0	10	20	45	20	15
Ireland	145	250	120	45	25	25	10

¹¹ Eastern Borders Annual Risk Analysis 2015.

Greece	1 915	2 395	1 340	850	795	590	820
Spain	635	595	440	355	290	245	390
France	0	410	400	285	390	400	905
Croatia	NA	NA	NA	NA	NA	0	0
Italy	265	245	370	335	445	395	420
Cyprus	280	275	280	325	295	160	90
Latvia	15	5	5	15	70	75	65
Lithuania	30	80	55	130	265	220	175
Luxembourg	NA	0	0	5	5	5	10
Hungary	15	30	30	35	45	65	45
Malta	0	0	0	0	10	10	10
Netherlands	95	140	280	160	NA	NA	NA
Austria	490	895	450	345	410	340	390
Poland	20	255	75	95	210	215	210
Portugal	NA	40	40	45	50	35	25
Romania	0	20	20	30	10	10	15
Slovenia	5	0	0	0	0	0	0
Slovakia	230	130	85	40	65	55	15
Finland	10	20	55	65	15	10	20
Sweden	NA	345	270	240	505	405	795
United Kingdom	125	135	105	90	110	80	70
Iceland	0	0	NA	NA	NA	NA	NA
Liechtenstein	0	0	0	0	0	0	0
Norway	5	0	NA	10	15	35	40
Switzerland	NA	0	0	205	200	245	220

Source: Eurostat data. Last updated 20.08.15, extracted on 09.10.2015.

These data also show that political factors and effects of internal displacement cannot be totally excluded, as for example the peaks in detection of irregular flows in 2009 and 2012.

2.1.4. Visa-free regime potential impacts

Increased circularity of migratory flows from Georgia to the EU and vice versa is expected to occur as a result of simplified travel arrangements but visa liberalisation would not lead to massive migration. It is more likely to foster regular temporary and circular migration and strengthen people-to-people contacts. If a visa-free regime with the EU/Schengen area is implemented, the flows of Georgian migrants are likely to become more self-regulated and more regularised. Regarding labour migration when there is no demand for specific jobs, Georgian nationals will either refrain from entering the EU countries or leave the EU area with no fear of not being able to return in the event that better economic opportunities arise.

Furthermore, the relatively small population of Georgians (less than 5 million) would tend to keep the flows relatively small. Additionally, there is no direct land-border with Georgia and direct flights between Georgia and the EU are not numerous.

Regarding irregular migration trends, Georgians combine the abuse of legal entry and to a lesser extent irregular border-crossing as methods of entry to the EU. The detection of Georgians who overstay the legal limits of their travel visa is increasing. Presumably, after

visa liberalisation, the most likely *modus operandi* will continue to be linked to the abuse of legal entry; however, the visa-free regime arrangements could also mitigate this trend.

It is also important to note that under the VLAP Georgia has since 2013 modernised its migration management policy and introduced a number of systematic reforms to control immigration and emigration. Georgian authorities have also developed targeted awareness-raising campaigns on visa liberalisation, with a focus on repercussions of violating the terms of legal stay, including resulting entry ban, as well as pointing out economic opportunities in Georgia with the aim of minimising the number of Georgians overstaying in EU Member States. The draft of Georgia's 2016-2020 Migration Strategy also pays special attention to the issue of raising public awareness on migration-related issues. It is also worth mentioning that the four mobility centers operating under the Ministry of Refugees and Accommodation of Georgia (in cooperation with IOM) are providing advice to potential emigrants.

The visa-free regimes with Turkey and Israel for Georgian nationals show that organised movement of Georgian migrants within the legal framework of stay is in general properly observed under the provisions laid down.

2.2. Asylum: trends and potential impacts of a visa-free travel

During the past five years, Georgia has consistently been among the top 15 main countries of origin of asylum applicants in the EU and Schengen area and applications from Georgian citizens are spread widely throughout Europe. However, there has been a decrease in applications since 2013 and in 2014 Georgia was ranked 21st in terms of country of origin of applicants registered in the EU and Schengen area.

Table 6 below shows that Georgian asylum applicants for EU 28 countries totalled 9 090 applicants in 2013 (9 815 with Schengen area) and 8 560 in 2014 (9 070 with Schengen area).

Georgian applicants have been primarily concentrated in a small number of countries, which tend to be the most popular destination countries of Georgian labour migrants (except for Italy).

Since 2008, Poland, France, Germany and Greece can be considered the main receiving countries for Georgian applicants; however, destinations vary significantly from year to year. Greece ranked first in 2008 and has since then received fewer applicants from Georgia, while Poland ranked first in 2009 and 2012. In terms of main receiving countries, the importance of France and Germany has grown since 2008 and they became the main EU countries receiving Georgian applications in 2013. The ranking changed in 2014, with Germany taking over as the top destination country for Georgian applicants (3 180) followed by France (1 610), Sweden (constant increase from 2008 with 805 applicants in 2014) and Poland (in spite of a steep drop from 2012, with 720 applicants in 2014).

Although a number of factors can influence the choice of destination country, the presence of an established Georgian diaspora and previous work or study experience in the destination country are significant pull factors. Therefore the existence of Georgian residents seems to explain the geographical distribution of Georgian applicants for asylum, except in the case of Italy, which has not registered high numbers of applications for asylum.

Certain characteristics of the asylum system within a given EU or Schengen associated State may also act as pull factors for persons who are not in need of international protection, but who want instead to take advantage of access to the EU/Schengen area and other benefits linked to the asylum procedure.

It should be noted that the highest numbers of asylum applications recorded coincide with times of conflict in the country. This also leads to forced movement of people within Georgia¹² and produced an increased flow of citizens fleeing the conflict and moving or wishing to move to EU countries. The highest peaks in asylum applicants from Georgia have been registered during times of crisis, e.g. in 2003, in 2008-2009 with 11 185 applicants and in 2012 with 10 830 applicants. The figures show a decreasing trend since 2013 owing to the current stable political situation in Georgia.

Table 6: Asylum applicants by citizenship (Georgia), 2008-2014

EU Member States and Schengen area	2008	2009	2010	2011	2012	2013	2014
European Union (28 countries)	5 015	10 500	6 865	7 060	10 830	9 090	8 560
Belgium	275	385	365	400	505	370	430
Bulgaria	5	15	15	5	5	5	0
Czech Republic	40	35	10	15	10	15	20
Denmark	25	15	15	15	75	65	105
Germany	285	640	750	525	1 430	2 485	3 180
Estonia	0	5	0	5	35	10	5
Ireland	180	90	55	15	20	15	20
Greece	2 240	2 170	1 160	1 120	895	535	350
Spain	60	35	50	10	10	10	20
France	460	540	1 435	1 740	2 680	2 695	1 610
Croatia	NA	NA	NA	NA	NA	0	0
Italy	65	85	80	30	65	105	90
Cyprus	120	75	40	15	10	0	10
Latvia	15	0	0	175	105	145	175
Lithuania	10	75	250	230	310	120	115
Luxembourg	0	0	5	15	5	20	10
Hungary	160	115	70	20	10	40	40
Malta	5	0	0	0	0	0	0
Netherlands	75	425	610	235	250	215	335
Austria	510	975	370	260	300	255	415
Poland	70	4 180	1 085	1 735	3 235	1 240	720
Portugal	5	0	5	5	5	0	0
Romania	55	40	10	25	0	25	5
Slovenia	0	0	5	0	0	0	0
Slovakia	120	100	65	65	55	35	15

¹² According to Ministry of Internally Displaced Persons in Georgia, about 266 835 Internally Displaced Persons from breakaway regions are registered in Georgia, see also UNHCR data - <http://www.unhcr.org/pages/49e48d2e6.html>

Finland	10	20	55	70	30	15	40
Sweden	225	370	290	280	750	620	805
United Kingdom	NA	100	85	45	30	50	55
Iceland	5	0	0	5	10	5	5
Liechtenstein	0	0	0	0	0	0	0
Norway	20	45	85	50	110	65	35
Switzerland	480	640	640	400	725	655	465
Total	5 520	11 185	7 595	7 515	11 675	9 815	9 070

Source: Eurostat data. Last updated 09.09.15, extracted on 12.10.2015.

Data show an overall recognition rate of 5.5 % as indicated by Eurostat in 2014. Such a low recognition rate indicates that a majority of the Georgian applicants do not have clear grounds for protection but there is also a variation in the recognition rate between EU countries due to differing perceptions of the Georgian applicants' need for protection. 335 first instance positive decisions in the EU were made in respect of the 6 135 applications in 2014 (October 2015 data). The bulk of positive decisions were issued in France, involving 195 cases, which represent 56 % of the positive decisions in the EU/Schengen area as a whole.

Table 7: First instance decisions on applications by citizenship (Georgia), 2012-2014 with positive decision in 2014, per country

EU Member States and Schengen area	2012	2013	2014	Positive decision in 2014
European Union (28 countries)	6 850	6 350	6 135	335
Belgium	540	230	285	25
Bulgaria	0	0	0	0
Czech Republic	10	20	20	0
Denmark	25	40	30	0
Germany	585	1 380	1 035	10
Estonia	25	0	5	0
Ireland	15	15	10	5
Greece	1 120	855	1 090	10
Spain	10	10	20	0
France	2 585	2 335	2 610	195
Croatia	0	0	0	0
Italy	35	110	60	25
Cyprus	5	5	5	0
Latvia	45	30	40	0
Lithuania	230	70	35	0
Luxembourg	0	5	0	0
Hungary	5	15	20	5
Malta	0	0	0	0
Netherlands	245	150	285	5
Austria	285	215	NA	NA
Poland	490	435	170	40
Portugal	0	0	0	0
Romania	5	15	5	0

Slovenia	0	0	0	0
Slovakia	10	0	5	0
Finland	15	5	10	0
Sweden	530	385	360	15
United Kingdom	25	20	40	0
Iceland	0	5	5	0
Liechtenstein	0	0	0	0
Norway	80	60	30	0
Switzerland	450	475	275	10
Total	7 380	6 890	6 445	345

Source: Eurostat data. Last updated 18.09.2015, extracted on 12.10.2015.

2.2.1. Visa-free regime potential impacts

There is a probability that the number of asylum applications from Georgian citizens will continue to decrease as a result of visa liberalisation, since the use of the asylum procedure might be considered less necessary for staying in EU Member States or Schengen Associated States.

Conversely, in the context of current flows one of the effects of a visa-free regime could be an increase in the number of asylum applicants as a result of the opening of legal travel channels giving easier access to the asylum procedure.

In that context, there could also be a rise in the number of Georgian asylum applicants if Georgian overstayers apply for international protection as a means to legalise their stay.

As already mentioned, Frontex also notes that in the case of detection of Georgian nationals engaged in irregular border crossing, they tend to apply for asylum with the intention of absconding from the asylum centre in order to continue to their principal destination countries.

As regards possible abuse of the Schengen Member States' asylum systems of by Georgian citizens, in spite of an already low recognition rate, putting Georgia on the Member States' lists of safe country of origin might be a further means of preventing abuse. Georgia is also effectively implementing the readmission agreement in place with the EU.

However, other concerns over asylum applications relate to the presence of long-term internally displaced persons (IDPs) in Georgia: for them, emigration to the EU may be an option in the future if not enough state targeted social assistance is provided (in terms of social protection of families and children, legal assistance, education and employment proposals, pension funds warranty, etc.). In order to guarantee protection of the rights of the IDPs, as well as their reintegration and to provide a durable solution, the Government of Georgia adopted in 2007 the Strategy on IDPs managed by the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia. Durable housing and social and employment assistance for IDPs are part of the long-term strategy.

Data show that a new political crisis or armed conflict could cause an immediate rise in asylum applications throughout the EU and Schengen area. However, according to the EUMM in Georgia, the likelihood of another violent armed conflict between Georgia and Russia is low and therefore there is no reason to expect a rapid increase of refugees/asylum seekers from Georgia in the foreseeable future.

3. ASSESSMENT OF SECURITY IMPACTS

3.1. Organised crime: trends and potential impacts of a visa-free travel

According to the Transcrime study edited by DG HOME,¹³ Georgian organised crime groups (OCGs) are already present and active in several EU Member States. Georgian OCGs appear to be widespread in Europe in terms of investments in the legitimate economy with an established presence.

Georgian OCGs including "thieves-in-law" invest mainly in construction, transportation and logistics, real estate, wholesale and retail trade, hotels, bars and restaurants. Their activities in the legal economy are often related to schemes to launder the proceeds of their criminal activities.

Georgian OCGs active in the EU engage in organised property crime, waste management, payment card fraud, money laundering, forgery of documents, facilitation of irregular migration, extortion/racketeering and drug trafficking, but they are also active in the following criminal activities: theft, assault, pick-pocketing, trafficking in human beings, cigarette smuggling, euro counterfeiting, murder, and corruption in general.

Georgian OCGs also control a large proportion of the criminal markets in the countries of the former Soviet Union. Use of the Russian language and a common background make it easier for them to cooperate with other groups from the region.

With visa liberalisation, the market for OCGs facilitating the irregular migration of Georgian nationals to the EU will probably decrease, compelling OCGs to seek new opportunities. Nevertheless, as a result of enhanced mobility, OCGs will most likely seek to exploit freedom of movement for facilitating irregular migration for ethnic minorities or other neighbouring nationalities not eligible to benefit from a visa-free regime with the EU,¹⁴ for example with counterfeit Georgian biometric passports (in spite of Georgia's cooperation with Interpol¹⁵). There is however a minimal risk that third-country nationals will use Georgia as a transit country to reach the Schengen area and apply for asylum due to the fact that Georgia has established effective mechanisms not only for detection and management of irregular migrants but also for reception and protection of asylum seekers on its territory. In 2015 asylum seekers came mainly from Iraq and Ukraine (roughly 900 applicants in total).¹⁶

¹³ Transcrime study: "From illegal markets to legitimate businesses: The portfolio of organised crime in Europe" (published in March 2015).

¹⁴ Residents of Abkhazia and South Ossetia who apply for and received Georgian travel documents according to the legislation in force in Georgia will benefit from a future visa-free regime.

¹⁵ The National Central Bureau of Interpol in Georgia actively cooperates with the Interpol General Secretariat and EU Member States' national bureaux of Interpol.

¹⁶ Statistics provided by Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia in September 2015.

Furthermore, Georgian OCGs might be able to abuse the asylum systems of the EU Member States and Schengen area and the legitimacy of long-term stay for Georgian citizens (i.e. use of false entry/exit stamps).

Visa liberalisation might also open up new opportunities for OCGs as they will be able to carry out their activities and investments with flexibility and adaptability. A visa-free regime might therefore facilitate the smuggling of various commodities or illicit goods (i.e. precious metals and stones) on the Southern Caucasus route.

Georgian authorities are facing up to the risks posed by OCGs and "thieves-in-law" of Georgian origin by establishing the necessary legislative framework and institutional mechanisms notably introduced under the VLAP; for example by sharing operative information and intelligence through international police cooperation¹⁷ or by developing anti money laundering (AML) mechanisms compliant with international standards. Georgia has also criminalised the status of "thief-in-law", meaning inter alia that known Georgian "thieves-in-law" are not eligible to receive Georgian biometric passports.

3.2. Trafficking in human beings: trends and potential impacts of visa-free travel

Georgia is a source, transit and destination country for the trafficking in human beings. The threat to the EU remains low as Georgia is listed neither among the major non-EU countries of origin for victims nor for suspected traffickers identified in the UE.

3.3. Arms and Drug trafficking: trends and potential impacts of a visa-free travel

There is no evidence to suggest that Georgian OCGs are involved in arms trafficking within the EU. To be noted that certain sources indicate that OCGs in the ex-USSR region could be involved in arms trafficking.

Regarding drug trafficking, the South Caucasus route is used for the trafficking of heroin from Iran and Afghanistan, as an alternative transit hub to the EU. After crossing the Black Sea, the heroin is further trafficked to Western European countries. Ferry connections may therefore offer smuggling opportunities for traffickers and may require increased attention, especially if in the future Ukraine's citizens also become eligible for travelling visa-free to the Schengen area.

A visa-free regime could provide Georgian OCGs with new channels and modalities of trafficking, exploiting the Black Sea route. The growing number of passengers travelling from Georgia to the EU could also be used as couriers.

It is however important to note that in connection with the drug benchmark of the VLAP, Georgian authorities have developed in particular infrastructure and control capacities, human resources training and a risk management system for establishing risk profiles to identify possible perpetrators, their transport means and suspicious transactions in advance.

¹⁷ So far Georgia has concluded bilateral agreement with 25 countries on cooperation in the field of combating crime and police cooperation, and 16 international agreements on the exchange and mutual protection of classified information. Georgia's Ministry of Internal Affairs actively cooperates with police attachés of the EU Member States represented in Georgia or covering Georgia from other countries.

Information about cargo is added to the system at the border crossing points. The risk management system automatically processes information and if risk is detected, a customs officer receives an electronic message about the need for more detailed inspection of the cargo and the officer carries out checks as defined by the risk profile.

4. MAIN CONCLUSIONS SUMMARY IN CASE OF VISA-FREE REGIME

The updated data and information available point to the most likely developments in the migration and security areas, with the EU remaining an attractive destination for migrants from Georgia and potential migratory and security challenges therefore need to be monitored.

4.1. Key potential impacts on migration trends

- (a) About 66 000 Georgian nationals were legally residing in various Member States in 2013. Latest trends show a growing interest in migrating to the EU. Visa liberalisation for Georgia will reduce the barriers associated with travelling to the Schengen area, fostering existing regular temporary and circular migration and strengthening people-to-people contacts. However, the relatively small population of Georgia would be likely to keep the flows at a low level. Georgia is not among the main origin countries of migrants in the EU.
- (b) Given the economic and social prospects in Georgia, the EU is an attractive option for labour migrants from Georgia. Additionally, the demand for residence permits will most likely increase. Georgia will have to provide inclusive economic opportunities in the near future to avoid emigration flows. Economic development on both national and local levels must remain one of the major priorities of the Georgian Government.
- (c) There is a continuing shift in *modus operandi* of Georgian irregular migrants as methods of entering the Schengen area move from illegal border-crossing and asylum applications to abuse of legal entry, as shown by an increase in detection of overstaying irregular migrants. Presumably, in the event of visa liberalisation, the most likely *modus operandi* will continue to be linked to the abuse of legal entry; the visa-free regime arrangements could however also mitigate this trend.
- (d) There is a probability that the number of asylum applications from Georgia will decrease as a result of visa liberalisation, since the asylum channel will not be considered as one of the best ways to enter in the EU Member States. On the other hand, in spite of an average low recognition rate and current trend of decreasing asylum applications, one of the effects of a visa-free regime could be an increase in the number of asylum applicants as a result of the opening of legal travel channels giving easier access to the asylum procedure. There is also a chance that asylum procedure could be used as a method to legalise overstay in an attempt to avoid return procedures.
- (e) In the wake of armed conflicts or major political developments, as seen in the past, the Schengen area will remain an attractive option for asylum seekers and a rapid increase in asylum applications and emigration cannot be ruled out in the event of new armed conflict and subsequent potential increase of internally displaced persons fleeing such conflict.

Possible mitigation measures to be undertaken by the EU Member States

The EU Member States could take the following measures to foster development of legal migration channels between Georgia and the EU:

- Work more actively on establishing circular/temporary/seasonal migration schemes with the Georgian Government to facilitate legal migration of eligible Georgian nationals to the EU;
- Work on establishing legal channels through which migrants from Georgia who are in an irregular situation can regularise their status, provided they qualify and meet the needs of EU Member States' labour markets;
- Provide opportunities for university graduates from Georgia who have graduated in EU Member States to extend their stay for work purposes;
- Cooperate with the Georgian Government on better protecting the rights of Georgian labour migrants in the EU Member States in general, and establishing a social benefit transfer system in particular;
- Revise the approach and procedures for processing asylum applications, especially in those EU Member States where asylum claims are particularly high, to mitigate the abuse of asylum benefits. Continue to implement effectively the readmission agreement in place with the EU at the level of each Member State.

4.2. Key potential impacts on security trends

- (a) Visa liberalisation with Georgia would not lead to any notable increase of security risks for the EU Member States compared to the existing situation, and measures are in place to mitigate potential impacts as well as to address them subsequently.
- (b) It is unlikely that visa liberalisation with Georgia will bring about a major change in the activities of Georgian organised crime groups (OCGs). These groups have already found ways to overcome travel restrictions and are already active in several EU Member States.
- (c) Nevertheless, visa liberalisation might facilitate to some degree the criminal activities carried out by Georgian OCGs regarding the trafficking of goods and drugs from Georgia to EU Member States, through possibly taking advantage of people travelling from Georgia to the EU.
- (d) The market for OCGs facilitating the irregular migration of Georgian nationals to the EU will probably shrink, compelling OCGs to seek new opportunities, for example by attempting to provide ethnic minorities or other nationalities with stolen or counterfeit Georgian passports, or to consider services linked to the legalisation of long-term stay in the EU for Georgian citizens.

Possible mitigation measures to be undertaken by the EU Member States

The EU Member States could take the following measures to address potential security impacts of a visa-free regime with Georgia:

- Conclude bilateral agreements on cooperation in the fight against organised crime and establish relevant contact points, when applicable, by deploying police attachés;
- Invite Georgian counterparts to participate in Joint Investigation Groups (Georgia-EU Member States), with the aim of exchanging expertise and insights into the *modus operandi* of Georgian criminals;
- In order to support the development of Georgia's tools for crime analysis and facilitate exchange of corresponding information, accelerate the process for concluding an agreement with EUROPOL.