



Brussels, 15.11.2013  
COM(2013) 808 final

**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND  
THE COUNCIL**

**First Progress Report on the implementation by Georgia of the Action Plan on Visa  
Liberalisation**

## **1. Background**

The Visa Liberalisation Dialogue between the European Union (hereinafter the EU) and Georgia, aiming at examining all the relevant conditions for visa-free travel of citizens of Georgia to the EU, was launched in Brussels on 4 June 2012. On 15 October 2012, the Council reaffirmed the EU's commitment to 'the shared objective of visa free travel in due course, provided that the conditions for well managed and secure mobility are in place'.<sup>1</sup> On 25 February 2013 in Tbilisi, Georgia, the European Commission (hereinafter the Commission) presented to the Georgian authorities the Action Plan on Visa Liberalisation (hereinafter the VLAP).

The VLAP is structured around four blocks, namely (1) Document security, including biometrics; (2) Integrated border management, migration management, asylum; (3) Public order and security; and (4) External relations and fundamental rights. It contains two tiers of benchmarks: preliminary benchmarks concerning the overall policy framework (legislation and planning), which are to pave the way for meeting more specific benchmarks (effective and sustainable implementation of relevant measures).

On 20 March 2013, during the Senior Officials Meeting overseeing the Visa Liberalisation Dialogue, the Georgian authorities presented the measures that had already been undertaken in order to implement the VLAP and explained the next steps. On 5 April, Georgia submitted its first progress report, which was subsequently updated and resubmitted on 8 May. Following a preliminary assessment, on 19 June, the Commission sent to the Georgian authorities written comments on the structure and content of the progress report, highlighting the need to provide all relevant laws and policy documents. On 31 July, Georgia submitted a substantially revised version with the requested editorial changes and content-related clarifications, and a large number of laws and policy documents.

On 9-11 October, an on-site evaluation involving experts from the European Commission, EU Member States and the EU Delegation to Georgia took place in Tbilisi. The evaluation mission focused on the blocks the implementation of which was considered to be the most advanced, namely Block 1 and Block 2.

## **2. Methodology**

In line with the methodology outlined in the VLAP, the Commission is to communicate to the European Parliament and to the Council on the implementation of the VLAP by Georgia. This report is the first such communication.

The factual information included in the report is based on the progress report submitted by Georgia on 31 July 2013, subsequent updates received by the Commission as well as the information communicated during the EU evaluation mission.

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<sup>1</sup> Council conclusions on Georgia, 3191st Foreign Affairs Council meeting, Luxembourg, 15 October 2012, indent 3.

The assessment has been based on the desk-work carried out by the services of the Commission and the European External Action Service, including the EU Delegation to Georgia. In addition, Block 1 and Block 2 benchmarks were assessed on-site by Commission officials and national experts during the evaluation mission in October 2013. Accordingly, the Block 1 and Block 2 benchmarks are evaluated in detail, whereas the assessment of the Block 3 and Block 4 benchmarks is a preliminary one and will be further developed during evaluation missions that will be organised once the implementation of those benchmarks is at a more advanced stage.

The report follows the VLAP structure. Under the sections corresponding to individual VLAP blocks, the report lists all the relevant benchmarks from the first (legislative and planning) phase. It describes the state of their implementation and, where possible, considering the advancement of the implementation and available information, provides recommendations to the Georgian authorities. The concluding section of the report presents an overall assessment and outlines next steps.

### **3. Block 1: Document security, including biometrics**

#### **Consolidation of the legal and institutional framework ensuring the integrity and security of the civil status and civil registration process, including the registration of all Georgian citizens in a unified and secure electronic population registry, with adequate safeguards as far as highest data protection standards are concerned;**

The Public Service Development Agency (hereinafter the PSDA) of the Ministry of Justice is the main body responsible for civil registration and issuance of identity and travel documents. The PSDA provides services through its 65 regional offices.

A unified database for civil registration and travel documents has been in place since 2005. The digitalisation of the civil act records started in 2007, but an important number of civil acts still needs to be digitalised. In 2008, the automatization of the entire process for civil registration was introduced. Also since 2008, a face recognition system is operational, with approximately 11 million photos being stored in the database at present.

Since 1994, a personal identification number (hereinafter PIN) has been assigned to every person receiving an ID or a passport. Since 2008, the PIN is registered in the database at the time of birth registration or, for the citizens born before 2008, at the time of obtaining an identity card or a passport, or registering at the place of residence. A search in the database can be conducted on the basis of the PIN, first name, surname, date of birth, or the photo.

The law specifies conditions that need to be met for the surname to be changed. However, there is no limitation concerning the change of the first name, which results in the change of one's identity and, accordingly, the issuance of a new passport or a travel document. Although the PIN remains unchanged this is relevant for national authorities only as the EU Member States do not have access to the personal data linked to the PIN while performing external border crossing controls.

The legal acts on the organisation of different processes related to civil registration, including Order no 98 of 27 July 2011, separate the tasks between the front- and the back office. A number of quality control mechanisms are in place, including software that assigns files to staff in the back office at random, reducing the possibilities of corruption and fraud. For the same purpose every action is logged and traceable in the system.

The Law on Personal Data Protection laying down basic definitions and principles has been in force since May 2012. The Personal Data Protection Inspector was appointed in June 2013. At the Inspector's initiative, experts are currently looking into the possibility of improving further the existing legal framework.<sup>2</sup> Therefore, the complete assessment of the relevant personal data protection provisions will be carried out at a later stage.

**Consolidation of the legal and institutional framework for the issuing of machine readable biometric passports in full compliance with the highest ICAO standards and recommended practices on the basis of secure identity management (civil registry and breeder documents), according to the one person one document principle, including as regards diplomatic and service passports;**

Georgia currently issues two types of passports, namely a non-biometric machine readable passport (since 2006) and a biometric passport (since 2010), which was introduced with EU financial support. The first type is primarily issued in the consulates; the second is delivered within the territory of Georgia.

At present, it is not possible to assess the legal framework concerning the collection of fingerprints and the related exemptions as the necessary legal instrument still needs to be provided by the Georgian authorities<sup>3</sup>. The extension of validity of passports is no longer allowed; the relevant provisions were abolished in 2005 and, according to the Georgian authorities, the new provisions are laid down in a decree.<sup>4</sup> According to the Georgian authorities, the principle of "one person, one document" is laid down in a 2012 PSDA order.<sup>5</sup> The conditions under which a person is authorised to hold more than one passport will be specified in a law which is foreseen to be adopted in November 2013.

Reporting to the Interpol database on lost and stolen passports is done as a regular and standard practice.

For persons residing in Abkhazia and South Ossetia (Tskhinvali region) 233 neutral status identity cards and 29 neutral status travel documents have been issued so far.<sup>6</sup>

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<sup>2</sup> See the benchmarks concerning data protection.

<sup>3</sup> Decree no 98 of 27 July 2011.

<sup>4</sup> Ibid.

<sup>5</sup> The order needs to be provided by the Georgian authorities.

<sup>6</sup> According to the information provided, the neutral status travel document is recognised by the United States of America, Japan, Israel and eight EU Member States, namely Romania, Poland, Bulgaria, Slovakia, Czech Republic, Estonia, Latvia and Lithuania.

**Adoption of a clear timeframe for the complete roll-out of biometric passports, including at Georgia's consulates abroad, and for the complete phasing out of old non-ICAO compliant passports;**

Adoption of the legal framework regulating the rolling-out of biometric passports in consulates, together with the plan for phasing out non-biometric passports, is foreseen in November 2013.

**Adoption of an ethical code and training programmes on anti-corruption, secure management of personal documents and data protection for officials of public authorities that deal with passports, identity cards and other breeder documents;**

The legal framework for the fight against corruption in the field of document security is largely in place. The applicable legal provisions entered into force in 2008; they are currently being redrafted and are expected to be adopted by the end of 2013.

Although there are no specific training programmes focusing on the prevention of and fight against corruption, the PSDA provides internal training seminars twice a year. Also, there is an audit service that is responsible for investigating breaches of substantive and procedural law, and for investigation of corruption. The audit service reports directly to the head of the PSDA.

**On the basis of the above findings, it is recommended that, in relation to the Block 1 benchmarks, the Georgian authorities:**

- adopt the law related to the rolling-out of biometric passports in consulates, the plan for phasing out non-biometric passports, and the provisions for obtaining a second passport;
- adopt the code of conduct for officials working in the PSDA;
- establish the plan for the complete digitalisation of the civil status registries with an indicative timeframe;
- consider further the issue of the changing of the first name;
- provide all the relevant legal instruments concerning the capture and storage of fingerprints, the prohibition of passport extension, and the implementation of the "one person one document" principle;
- provide information about the possible amendments concerning the personal data protection regime relevant to Block 1 benchmarks.

**4. Block 2: Integrated Border Management, Migration Management, Asylum**

**4.1. Integrated Border Management**

**Consolidation of the legal and institutional framework for border management, according to EU and international standards, guaranteeing also an efficient inter-agency cooperation between all the agencies involved in border management, in**

**particular the Patrol Police Department, the Border Police and the Border Police Coast Guard;**

During the past few years, Georgia has managed to transform its former military-based system for border protection into a law enforcement system based on the European model. The legal and institutional framework is in place. The relevant legal rules are laid down in the Constitution, international and bilateral agreements, the 1998 Law on State Border of Georgia, the 2013 Law on Police,<sup>7</sup> the 2006 Law on Border Police, the 1998 Law on Maritime Space, the 1997 Law on Defence, Presidential decrees (e.g. the 1999 Decree on Rules Governing Border Regime and Protection, the 2008 Decree on Integrated Border Management Strategy of Georgia, etc.), the 2012 Order of the Minister of Internal Affairs on Regulation on Border Representatives – Border Commissioners, the 2013 Law on International Law Enforcement Cooperation, and various joint orders, agreements and standard operational procedures.

The reform of the institutional framework started already in 2004. As a result, the Border Police Department and the Patrol Police Department of the Ministry of Internal Affairs, and the Revenue Service of the Ministry of Finance, have become responsible for the implementation of the integrated border management of Georgia.

Inter-agency cooperation is comprehensively regulated, including by the 2010 Joint Order of the Ministers of Internal Affairs and the Finance on tasks and competencies, the 2010 Joint Order of Ministers of Justice, Foreign Affairs and Internal Affairs of Georgia on the exchange of information, and the 2013 Memorandum of Mutual Understanding between Ministries of Internal Affairs and Finance on general rules of cooperation on the issues of state border defense between the Patrol Police Department, Border Police Department of the Ministry of Internal Affairs, and the Revenue Service of Ministry of Finance.

The demarcation of state borders is progressing. The border with Turkey is already fully demarcated and State Border Delimitation Commissions have been set up for borders with other neighbouring countries. 71% of the borders with Armenia and 66% of those with Azerbaijan have been already agreed. 86% of the border with Russia has been agreed at the level of the Delimitation Commissions and Expert Groups, but the work stopped as a result of the 2008 military conflict.

The borders with Turkey, Armenia and Azerbaijan are controlled. The border with Russia is only partly monitored; the border in the two occupied territories—South Ossetia<sup>8</sup> and Abkhazia<sup>9</sup>—is not controlled by the Georgian authorities.

**Adoption of the national Integrated Border Management (IBM) Strategy and Action Plan, containing a timeframe and specific objectives for the further development of legislation, organisation, infrastructure, equipment, sufficient**

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<sup>7</sup> The law will enter into force on 1 January 2014.

<sup>8</sup> 75 km of the state border.

<sup>9</sup> 258 km of the state border.

**human and financial resources in the area of border management, as well as international cooperation;**

Adopted in 2008 and amended in 2012 with the UE support, the Integrated Border Management Strategy (hereinafter IBMS) is based on the Integrated Border Management model. The Strategy sets targets that are to be achieved during the period of 2008-2013. Following the approval of the Strategy, the Inter-agency Working Group elaborated an IBMS Action Plan, which was approved in 2009. The Georgian IBMS is very comprehensive; the IBMS and the Action Plan set attainable goals, clearly assign responsibilities, and ensure the necessary supervision. The IBMS and the Action Plan focus on capacity building and inter-agency cooperation.

Georgia is engaged in international cooperation in the area of border management. It collaborates with EU Member States,<sup>10</sup> other countries and international organisations. Regional cooperation is very advanced with Turkey. A Draft Agreement on Border Commissioners activities has been presented to Azerbaijan and the cooperation with the Border Agency of Armenia has recently intensified.<sup>11</sup> A legal framework for collaboration with Russia is also in place.

**Adoption of an ethical code and training programmes, including on anti-corruption and the fight against organised crime, respect for human rights, asylum procedures and anti-trafficking measures specifically targeting border guards, customs and any other officials involved in border management and/or surveillance;**

In May 2013, the Ministry of Internal Affairs (hereinafter MoIA) adopted the Police Code of Ethics which also applies to Border Police and Patrol Police. In April 2013, the Director General of the Revenue Service of Georgia adopted the Code of Ethics and Conduct of Georgian Customs Officers. In addition, in May 2013, the MoIA adopted separate instructions for the employees of the Border Police, Patrol Police and officials working at the border crossing. The instructions relate to human rights and emphasise employees' obligations when encountering bribery, cases of organised crime, etc.

The Ministry of Internal Affairs Academy (hereinafter the MoIA Academy) is responsible for providing basic training courses for recruits, re-training courses and promotion courses. It also delivers basic training for Customs recruits and specialised training for Customs employees (e.g. inspection of travel documents).

Curricula of the training for Border Police and Patrol Police officers are based on the recommendations of EU- and US experts. The FRONTEX Common Core Curriculum is

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<sup>10</sup> For example with Lithuania, Latvia, Estonia, Hungary, Bulgaria, Poland, Finland, and Germany.

<sup>11</sup> The "Cooperation Agreement on Border Issues" between the Border Police of Georgia and the Border Agency of Armenia is being prepared. A draft Agreement on Border Representatives between MoIA Georgia and the National Security Service of Armenia and a draft Protocol on rules of Information exchange between MoIA Georgia and the National Security Service of Armenia are also being drafted.

included in the training curriculum of the MoIA Academy. Basic training is a combination of theoretical and practical sessions. Specialised, ad hoc training is provided on subjects such as border control management, irregular migration and organised crime, trafficking, corruption, and forged documents. The MoIA Academy also offers courses on the Police Code of Ethics and Public-oriented Police, which cover relations with national, racial and religious minorities. In order to support on-the-job training, the Academy has created mobile training units.

From the beginning of 2013, the basic training courses for the officers of Patrol Police and Border Police have been extended in duration.<sup>12</sup> In addition, a number of new subjects has recently been introduced (e.g. malfeasance and misuse of authority, police and media, and trafficking in human beings, and drugs) and certain advanced training courses have been increased (e.g. for Border Police, human rights protection, fighting organised crime, asylum seekers and refugees, and corruption and malfeasance in office).

**On the basis of the above findings, it is recommended that, in relation to integrated border management benchmarks, the Georgian authorities:**

- establish a new multi-annual IBMS and accompanying Action Plan covering the post-2013 period in order to further build on the work done so far. The future IBMS should have a strong capacity building component in order to continue reinforcing border management, in particular on the green border, where technology, infrastructure and equipment-related capabilities could be further improved;
- continue to work on establishing cooperation with neighbouring countries; the necessary agreements need to be concluded in order to pave the way for technical collaboration at the border in the future;
- strengthen training of border guards, customs and any other officials involved in border management and/or surveillance by developing advanced training, and promote on-the-job training by giving special attention to developing e-learning capabilities alongside the mobile training units; and
- consider further prolongation of the duration of the basic training and further development of the advanced training.

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<sup>12</sup> For Patrol Police, training has been extended from 12 weeks (376 hours) to 20 weeks (600 hours) and for Border Police from 6 weeks (235 hours) to 14 weeks (420 hours).



## 4.2. Migration Management

**Consolidation of the legal and institutional framework for migration policy, in line with EU and international standards, including in the field of legal/labour migration, measures supporting the integration of foreigners and the reintegration of Georgian citizens (returning voluntarily or not) and the fight against irregular migration (including continued efforts to conclude readmission agreements with main countries of origin and/or transit and inland detection of irregular migrants);**

The legal framework for migration policy is being established. A draft Law on the Legal Status of Foreigners and Stateless Persons was approved by the Government on 30 October 2013 and it is expected to be submitted to the Parliament shortly. The draft law includes provisions concerning regular and irregular migration, and integration of foreigners. Once the law is adopted, some 10 by-laws will also need to be adopted in order to establish a comprehensive legal regime.

The institutional framework for coordination of migration policy is well developed. In 2010, the State Commission on Migration Issues was created. The Commission is composed of representatives of 12 competent ministries<sup>13</sup> and is responsible for the overall coordination of the migration management.

In the area of the fight against irregular migration, further streamlining is planned. Once the Law on the Legal Status of Foreigners and Stateless Persons and the 2013 Law on Police are in force, the Police will be authorised to identify and inspect foreigners and to carry out expulsion procedures. Also, a Migration Service responsible for coordinating the fight against irregular migration will be established within the structure of the MoIA.

In order to assist in the reintegration of returning Georgian migrants, a Mobility Centre has been established with EU support within the framework of the Mobility Partnership. The centre assists returning migrants by developing a personal reintegration plan, including a business plan, and by providing medical assistance where needed as well as temporary accommodation.

Georgia is also working on creating a temporary accommodation centre for irregular migrants staying on the territory of Georgia. The architectural plans have been approved and the construction of the building is expected to commence in November 2013. The centre will accommodate up to 70 persons and special arrangements for vulnerable migrants and families will be made. A draft Statue of the Accommodation Centre has already been prepared.

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<sup>13</sup> Ministry of Education and Science; Office of the State Minister for Diaspora Issues; Office of the State Minister on European and Euro-Atlantic Integration; Ministry of Economy and Sustainable Development; Ministry of Justice (chair); Ministry of Internally Displaced persons from the Occupied Territories of Georgia, Refugees and Accommodation; Ministry of Regional Development and Infrastructure; Ministry of Foreign Affairs; National Statistics Office; Ministry of Finance; Ministry of Internal Affairs (co-chair); Ministry of Labour, Health and Social Affairs.

Georgia has signed readmission agreements with the EU, Switzerland, Norway and Ukraine. Implementing Protocols within the scope of the EU Readmission Agreement have been signed with Bulgaria; Estonia; Hungary; Austria; and Belgium, the Netherlands and Luxembourg. The Protocol with Slovakia is ready to be signed, and further Protocols are under negotiation with the Czech Republic, Lithuania, Poland and Portugal. Negotiations with Cyprus, France, Germany, Greece, Italy, Spain, and Sweden have been initiated through diplomatic channels. A draft readmission agreement is ready for signature with Denmark and with Moldova. Georgia has furthermore initiated the negotiation of readmission agreements with Armenia, Azerbaijan, Bangladesh, Belarus, India, and Pakistan.

Georgia has also introduced the Readmission Case Management Electronic System, which is coordinated by the Ministry for Foreign Affairs, financed by the EU and implemented with the assistance of the International Organisation for Migration.

**Adoption of a national Migration Strategy for effective implementation of the legal framework for migration policy and of a corresponding Action Plan, containing a timeframe, specific objectives, activities, results, performance indicators and provisions for sufficient human and financial resources;**

The 2013-2015 Migration Strategy of Georgia has been established by the Georgian authorities with the assistance of EU experts in the context of the Mobility Partnership Targeted Initiative project. The Strategy was adopted in March 2013 and the accompanying Action Plan was approved in June 2013. The Strategy focuses on areas such as prevention and control of irregular migration, promotion of legal migration and reintegration of citizens in Georgia, and the development of the asylum system in Georgia. The Action Plan lists concrete activities, establishes deadlines, and designates the authorities responsible and implementing partners.

**Establishment of a mechanism for the monitoring of migration stocks and flows enabling the regular updating of Georgia's Migration Profile, with a unified electronic database containing data on both irregular and legal migration, as well as on asylum seekers/refugees, and establishment of bodies responsible for the effective collection and analysis of that data.**

The Unified Migration Analytical System is in an initial phase of development. Relevant ministries and agencies already gather information and data concerning persons crossing the border, residence permits, visas and duration, foreigners in the country, expelled foreigners from the country, legal entities established by the foreigners, etc. Once fully operational, the system will collect and process this information. An electronic database for irregular migrants has been set up within the MoIA and is currently in a testing phase. It is expected that the database will become operational once the Law on the Status of Foreigners and Stateless Persons enters into force, most likely in 2014.

So far, Georgia has prepared migration profiles for the years 2005-2010, and 2011-2013, which was adopted in September 2013.

**On the basis of the above findings, it is recommended that, in relation to migration management benchmarks, the Georgian authorities:**

- establish the legal framework for migration management by adopting the Law on the Status of Foreigners and Stateless Persons and all the necessary by-laws;
- further consolidate and streamline institutional capacities through, *inter alia*, the establishment of a Migration Service within the MoIA;
- strengthen institutionalisation of the Mobility Centre within governmental structures, including by allocating sufficient human and financial resources for the provision of reintegration assistance;
- accelerate the work on the temporary accommodation centre for irregular migrants and ensure that the necessary financial and human resources are available to guarantee the operational capacity of the centre;
- continue the implementation of the Migration Strategy and the Action Plan and start elaborating the Strategy for the next programming period;
- accelerate the development of a Unified Migration Analytical System in line with data protection standards; and
- strengthen data collection capacities by, *inter alia*, finalising the electronic database on irregular migration.

#### **4.3. Asylum**

**Consolidation, according to EU and international standards, of the legal and institutional framework for asylum policy, in full compliance with the principle of non-refoulement and comprising subsidiary protection, through adoption of legislation ensuring effective access to fair procedures for status determination, rights protection (freedom of movement, healthcare, education, other labour and social rights), durable solutions, including the integration of refugees or beneficiaries of other forms of international protection, as well as special attention to vulnerable groups.**

The Law on Refugees and Humanitarian Status (hereinafter the Law on Refugees)<sup>14</sup> was approved in 2011. Following its adoption, three by-laws laying down procedures for granting the status of a refugee or another form of protection, regulating accommodation in reception centre and determining the rules for annual registration of asylum seekers in Georgia have been enacted.

The principle of non-refoulement is adequately entrenched in the Law on Refugees. The Law also properly prescribes the grounds for granting humanitarian status in accordance with Article 3 of the European Convention on Human Rights.

According to the Law on Refugees, a person irregularly staying in Georgia has to apply for asylum within 24 hours of entering Georgian territory and only special circumstances beyond

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<sup>14</sup> The law was drafted with the EU supported project implemented by the UNHCR.

his or her control may justify an extension. If the deadline is not met, the application shall be refused. This time limit does not apply to persons legally staying in Georgia.

After a preliminary assessment of the asylum application, a profile of the asylum seeker is prepared and the person is granted the status of asylum seeker for a period of six months. A possible negative decision during this preliminary phase can be challenged in court. Once the person is registered as an asylum seeker, an interview is conducted, country of origin information (hereinafter COI) is obtained, and a decision on the status is taken. In the case of a negative decision, appeal procedures can be launched.

The Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees is responsible for asylum procedures, and for accommodation of asylum seekers and beneficiaries of international protection. Six officials are in charge of taking asylum decisions. At present, one-full time and one-part time officer gather the COI information. The Ministry plans to set up a dedicated COI Unit in 2014.

Asylum seekers are issued with a document certifying their status only after the decision on registration is adopted. The document includes a photo and basic data. The competent authority has 10 days to take the decision on registration as an asylum seeker. In case of a negative decision, appeals are possible to three consecutive court instances, which, taking into account the duration of legal proceedings, may cause situations whereby asylum seekers do not have documentation confirming their status until the end of the appeal procedure.

Reception of asylum seekers takes place in a dedicated reception centre with a capacity of 60.<sup>15</sup> Special attention is paid to the needs of vulnerable groups. According to the information received, a guardian is appointed to every unaccompanied child seeking asylum and interpretation services are available in the centre. Medical care is provided by the public health network and financed by the state budget.

Refugees and persons granted humanitarian status are entitled to accommodation in a reception centre for a period of three months after being granted the status, access to education, and medical and social assistance. Persons are allowed to travel to another country and/or return to the country of origin. They are issued a temporary residence permit and a travel document (UN Geneva Convention Passport). Access to language courses (both of Georgian, and foreign languages) and education is also provided.

**On the basis of the above findings, it is recommended that, in relation to the asylum benchmark, the Georgian authorities:**

- improve further the existing legal and institutional framework by introducing necessary amendments, including those ensuring documentation for asylum seekers from the very beginning of the asylum procedure;

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<sup>15</sup> According to the information received from the Georgian authorities, in exceptional circumstances the centre can accommodate up to 120 persons.

- reconsider the provisions imposing an obligation to apply for asylum within 24 hours after entering the territory; the submission of the application after the prescribed 24 hours should not be the sole ground for refusal to register as an asylum seeker;
- strengthen institutional capacities of the Ministry, including in respect of human resources, and in particular regarding staff responsible for the country of origin information (COI);
- increase capacity for reception and accommodation of asylum seekers;
- strengthen data collection capacities;
- provide the Commission with relevant statistical data; and
- examine further the asylum procedure in order to assess whether the possibility of appeal including its suspensive effect until the last (third) judicial instance, does not endanger the efficiency of the asylum procedure and asylum policy in general.

## **5. Block 3: Public Order and Security**

### **5.1. Preventing and fighting organised crime, terrorism and corruption**

**Consolidation, according to EU and international standards, of the legal and institutional framework for preventing and fighting organised crime, together with a national strategy and action plan containing, within a clear timeframe, specific objectives, activities, results, performance indicators and sufficient human and financial resources;**

Georgia is progressing in the consolidation of its legislative framework for preventing and fighting organised crime. In addition to the laws already in force—Law on Organized Crime and Racketeering, relevant provisions of the Criminal Code and Criminal Procedure Code, law on Criminal Intelligence Activity—a new Law on Police has been adopted on 4 October 2013 which will enter into force on 1 January 2014.

In October 2013, a National Strategy on the Fight against Organised Crime for 2013-214 was approved by a governmental decree. The strategy covers a broad range of organised crimes including so-called “thieves in law”, racketeering, theft of vehicles, illegal circulation of firearms, and cybercrime. An Action Plan on Fight against Organised Crime was adopted on 4 November 2013.

An institutional framework is also being elaborated. Pursuant to the Governmental decree of 13 June 2013, the Inter-Agency Council on Fight against Organised Crime has been established. The Council is composed of representatives of relevant Ministries and its main task is to oversee the implementation of the abovementioned Strategy and Action Plan.

**Consolidation, according to EU and international standards, of the legal and institutional framework for addressing trafficking in human beings, together with a corresponding national action plan, including a clear timeframe, specific**

**objectives, activities, results, performance indicators and sufficient human and financial resources;**

Georgia is well advanced in the implementation of the benchmark related to trafficking of human beings (hereinafter THB).

Since 2003, the Criminal Code of Georgia criminalises trafficking in human beings. Subsequent amendments to the Code have increased sanctions for the crime of trafficking, introduced criminal liability of legal persons, and criminalised the use of services of victims of trafficking. In April 2012, pursuant to the recommendation of the Council of Europe's Group of Experts on Action against Trafficking in Human Beings (GRETA), the 2006 Law on the Fight against Trafficking in Human Beings and the Law on Child Victims of Trafficking in Human Beings were amended introducing, *inter alia*, a provision on individual risk assessment on the basis of the child's best interests.<sup>16</sup>

A State Fund for the Protection of THB Victims and an Inter-Agency Council on the Fight against Trafficking in Human Beings have been in place since 2006. The Council is led by the Ministry of Justice and consists of representatives of relevant ministries and governmental agencies. On 15 March 2013, the President of Georgia adopted the 2013-2014 National Action Plan on the Fight against Trafficking in Human Beings that was elaborated by the Council. The Action Plan covers issues such as prevention of THB, cooperation with local and international non-governmental organisations, improvement of specific investigation techniques of the prosecution services, and coordination of THB-related activities between relevant agencies.

**Consolidation, according to EU and international standards, of the legal and institutional framework for preventing and fighting corruption, as well as a national anti-corruption strategy and action plan containing, within a clear timeframe, specific objectives, activities, results, performance indicators and sufficient human and financial resources, including as regards the anti-corruption coordination efforts of anti-corruption bodies such as the Anti-Corruption Interagency Coordination Council (ACICC), aiming notably at ensuring the independence, efficiency, empowerment and accountability of the authorities responsible for the fight against corruption and strengthening information exchange between them; ensuring a sound legal and institutional framework, including necessary secondary legislation for an efficient functioning of internal control mechanisms that contribute to the prevention and repression of corruption, including corruption at high-levels and corruption in international transactions, and to setting integrity standards within public institutions/authorities; follow-up of GRECO (Council of Europe Group of States against Corruption) recommendations;**

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<sup>16</sup> In April 2012.

Over the last decade, Georgia has engaged in a comprehensive anti-corruption reform process and put in place a legal and institutional framework which has brought about tangible results in the prevention and fight against corruption.<sup>17</sup> Georgia is party to the United Nations Convention against Corruption and it has ratified the relevant Council of Europe conventions on corruption, namely the 2003 Civil Law Convention on Corruption, and the 2008 Criminal Law Convention on Corruption and its 2013 Additional Protocol.

Georgia has made significant progress in criminalising corruption. Offences of active and passive bribery in the Criminal Code of Georgia include the offer and promise of a bribe, bribery in favour of a third person and bribery through an intermediary. In November 2011, the offence of active trading in influence was amended to include third parties. Criminal liability of legal persons is triggered for passive and active bribery, trading in influence, money laundering, and commercial bribery.

According to GRECO's third evaluation round compliance report on incriminations,<sup>18</sup> three out of five recommendations have been implemented satisfactorily by Georgia and two recommendations, referring to the ratification of the Additional Protocol to the Criminal Law Convention on Corruption and the provision of effective regret, have been partly implemented. On 27 July 2013 Georgia ratified the Additional Protocol, thus four out of the five recommendations can be considered as fully implemented.

The Anti-Corruption Interagency Coordination Council (hereinafter the ACICC) started its work in 2008. It is composed of 34 members<sup>19</sup> and its tasks are the coordination of anti-corruption efforts, participating in monitoring the implementation of anti-corruption measures, and legislative drafting in the areas of prevention and fight against corruption. Currently the key strategic priorities of the ACICC are prevention of corruption in law enforcement bodies, customs, and tax-systems, and the transparency of party funding.

In 2011, Georgia amended the Organic Law of Georgia on Political Unions of Citizens. The new rules on financing of political parties include prohibition of donations from legal persons, caps on donations, bank transfers as a method of donations to ensure transparency and better accounting of party financing, restrictions on taking loans by parties, and limitations of membership fees. Supervision over party- and election campaign financing is assigned to the State Audit Office.

The 2009 Law of Georgia on Conflicts of Interests and Corruption in Civil Service requires, among others, public disclosure of economic interests of public officials and protection of

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<sup>17</sup> A report by World Bank (2012) commends Georgia's success in fighting corruption in the public sector since 2003. According to the Global Corruption Barometer 2013, only 4% of Georgians reported to have paid a bribe to any of the eight services in the past 12 months. As many as 70% of the respondents believed that the level of corruption had decreased considerably over the last two years. Georgia is ranked 51 in the Transparency International Corruption Perception Index 2012 with a score of 52 out of maximum 100.

<sup>18</sup> GRECO Third Evaluation Round: Compliance Report on Georgia of 21 June 2013. The Report is available from [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3\(2013\)9\\_Georgia\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3(2013)9_Georgia_EN.pdf)

<sup>19</sup> 15 high-level government representatives, two MPs, a representative of the judiciary, and 16 observers representing local and international NGOs, international organisations, donors and business associations.

whistle-blowers. The Civil Service Bureau of Georgia and the ACICC are finalising a new draft Law of Georgia on the Protection of Whistle-blowers.

The online asset declaration mechanism for senior public officials also aids in preventing and fighting corruption.<sup>20</sup> In September 2013, an amendment extending the mechanism to 400 additional public officials was introduced to the Law on Conflicts of Interests and Corruption in Civil Service.

Recent amendments to the Law of Public Service include a new Chapter on Code of Conduct for public officials based on the Model Code of Conduct for public officials of the Committee of Ministers of the Council of Europe.<sup>21</sup> The amendments introduce an obligation for all public servants to report to their supervisor or law enforcement bodies any evidence or grounded suspicion of illegal activity, including corruption. The amendments also foresee mandatory training on corruption related issues for new civil servants.

In May 2013, the Georgian Parliament adopted amendments to the Law on Courts of General Jurisdiction of Georgia strengthening the independence and the integrity of the judiciary. The amendments aimed at ensuring compliance with international and European standards as well as the Opinion of the Venice Commission adopted during the 94<sup>th</sup> Plenary Session.<sup>22</sup> Georgia envisages further reforms on the appointment of judges and their promotion.

Amendments to the Law of Georgia on the Prosecution Service were adopted by the Parliament and entered into force in June 2013. As a result, all prosecutorial powers previously vested in the Minister of Justice have been transferred to the Chief Prosecutor of Georgia. The Chief Prosecutor is appointed and dismissed by the President of Georgia upon a proposal of the Minister of Justice. The Chief Prosecutor appoints and dismisses all prosecutors and employees of the Prosecution's Office, carries out investigation and prosecution of offences, including corruption-related offences, perpetrated by high officials such as the President, members of Parliament or the Government, the Chief Justice, the Public Defender, and the Auditor General.

The State public procurement system was reformed in 2010 establishing a Unified Electronic System of State Procurement. Currently, all tenders are conducted electronically. The Unified Electronic System of State Procurement has set up a "black list" of companies prohibited from participating in state procurement procedures for a period of a year, and a "white list" of eligible companies.

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<sup>20</sup> At present, over 2 800 officials are under obligation to declare their assets.

<sup>21</sup> OECD Istanbul Anti-Corruption Action Plan. Second Round of Monitoring. Georgia Progress Report (2011). Anti-Corruption Network for Eastern Europe and Central Asia. The Report is available at: <http://www.oecd.org/corruption/acn/48807498.pdf>

<sup>22</sup> Joint Opinion of the Venice Commission and the Directorate for Justice and Human Dignity of the Directorate General of Human Rights and Rule of Law of the Council of Europe on the draft amendments to the Organic Law on Courts of General Jurisdiction of Georgia. adopted by the Venice Commission at its 94<sup>th</sup> Plenary Session. Venice 8-9 March. The Opinion is available at: [http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2013\)007-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2013)007-e).



**Consolidation of the legal and institutional framework for preventing and fighting money laundering and financing of terrorism, in line with EU and international standards set by the Financial Action Task Force (FATF) on Money Laundering and Terrorist Financing, and regular updating of the corresponding national strategy; establishment and consolidation of an independent Financial Intelligence Unit, with adequate powers and resources;**

In recent years Georgia has improved its Anti-Money Laundering/Combating the Financing of Terrorism legislative framework (hereinafter AML/CFT) by increasing technical compliance with both international AML/CFT standards and EU law.

For instance, in 2012, leasing companies, auditors, accountants and qualified credit institutions were classified as "obliged entities",<sup>23</sup> and preventive measures for financial institutions were strengthened. While Georgia intends to include also lawyers in the near future, the list of obliged entities is not yet fully in line with international and European requirements considering that the AML law is not applicable to real estate agents, trust and company service providers, and e-money institutions. Georgia has adopted a number of legal acts based on AML law defining in more detail the requirements applicable to obliged entities such as credit unions, exchange bureaus, money remitters, casinos, lotteries, notaries, etc.

As regards the need to reinforce institutional cooperation, although a number of competent Ministries have signed a Memorandum of Understanding on the Improvement of Effectiveness of Inter-agency Cooperation in the Law Enforcement Field, including the offence of money laundering, Georgia has not yet set up an AML/CFT Council that could be instrumental in steering and coordinating all AML/CFT activities.

Georgia plans to adopt a National AML/CFT Strategy together with an Implementing Action Plan and has set up an interagency working group for this purpose.

Establishing the National Agency of Public Registry (NAPR) in order to manage the legal entities registration system is an important first step in preventing the misuse of legal persons. However, a 2012 assessment of Georgia carried out by the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (hereinafter MONEYVAL) noted a number of important deficiencies.<sup>24</sup> Also, even though Georgia in December 2011 amended its framework in order to implement United Nations Security Council Resolutions (hereinafter UNSCR) 1267 and 1373, the MONEYVAL assessment pointed to a failure to fully comply with certain legal standards.

The Financial Monitoring Service (hereinafter the FMS) – the Financial Intelligence Unit of Georgia has been established pursuant to Article 10 of the 2003 AML Law. The FMS has

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<sup>23</sup> The term 'obliged entities' signifies the natural and legal persons who are subject to the obligations of the Georgia's AML Law.

<sup>24</sup> Report on Fourth Assessment Visit; Anti-Money Laundering and Combating the Financing of Terrorism, Georgia, 3 July 2012, available at: [http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/round4/GEO4\\_MER\\_MONEYVAL\(2012\)18\\_en.pdf](http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/round4/GEO4_MER_MONEYVAL(2012)18_en.pdf).

operational independence and is not subordinate to any agency in performing its activities. The FMS serves as a national centre for receiving, analysing, and disseminating suspicious transaction reports, cash transaction reports, and other relevant information concerning money laundering and terrorist financing. At present, in cooperation with relevant institutions, the FMS is preparing amendments to the AML/CFT law aimed at addressing the shortcomings identified in the 2012 MONEYVAL assessment.

According to information provided by Georgia, new software enhancing suspicious transaction reporting was introduced in December 2011. Even if its effectiveness cannot be fully assessed at this stage, the reported increase in the number of cases disseminated by the FMS to law enforcement agencies is encouraging.<sup>25</sup>

**Adoption of a national anti-drug strategy and action plan, in line with EU and international standards, containing, within a clear timeframe, specific objectives, activities, results, performance indicators and sufficient human and financial resources;**

In November 2011, an Inter-Agency Coordination Council Combating Drug Abuse (hereinafter the Council) was established under the auspices of the Ministry of Justice. International and non-governmental organisations are part of the Council. In June, the Council drafted the 2013-2015 National Drug Strategy and the accompanying Action Plan. According to the information received from the Georgian authorities, in drafting both documents, the Council relied on the 2012 EU Drugs Strategy and on expert advice of the Council of Europe Pompidou Group responsible for combating drug abuse and drug trafficking. At the time of writing the report, the Council has been incorporating the comments of the Pompidou Group into both documents, which are expected to be adopted by the Government by the end of 2013. The work is also progressing on drafting amendments relevant legislative instruments.<sup>26</sup>

**Signature, ratification and transposition into national legislation of all relevant UN and Council of Europe conventions and respective protocols in the areas listed above and on the fight against terrorism, including the 2005 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism as well as the Hague Convention on Protection of Children (1996 Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children), the 2007 Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, and the Additional Protocol to the Criminal Law Convention on Corruption;**

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<sup>25</sup> From 12 in 2012, to 27 in the first half of 2013.

<sup>26</sup> E.g. Code on Administrative Offences, Criminal Code, Law on Narcotic Drugs, Psychotropic Substances, Precursors and Narcotic Assistance.

The Additional Protocol to the Criminal Law Convention on Corruption was ratified by the Georgian Parliament in July 2013, and the 2005 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism was ratified in October 2013. As for the instruments concerning the protection of children, the necessary internal legal procedures are under way.

## **5.2. Judicial co-operation in criminal matters**

### **Consolidation of the legal and institutional framework on mutual assistance**

The Law on International Cooperation in Criminal Matters governing issues of international cooperation entered into force in October 2010.<sup>27</sup> The law covers international cooperation, including aspects such as mutual legal assistance, extradition, transfer of sentenced persons, transfer of proceedings and the enforcement of criminal judgments. Georgia is also a party to a number of UN- and Council of Europe conventions and bilateral agreements, which provide the legal base for cooperation with other states.<sup>28</sup> Georgia is also examining the possibility of signing the Third Additional Protocol to the 1957 European Convention on Extradition.

### **Signature, ratification and transposition into national legislation of relevant international conventions and protocols, namely the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters;**

The Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters was signed in March 2013 and ratified by the Georgian Parliament in October 2013. A new Law on International Law Enforcement Cooperation introducing into Georgian legislation the necessary provisions envisaged by bilateral and multilateral international treaties entered into force on 22 October 2013.

## **5.3. Law enforcement cooperation**

### **Establishment of an adequate coordination mechanism between relevant national agencies and a common database guaranteeing direct access for relevant officers;**

A Memorandum of Understanding on Inter-Agency Cooperation on Law Enforcement issues between the Ministry of Internal Affairs, the Ministry of Justice, the Ministry of Finance, the Chief Prosecutor's Office and Financial Monitoring Service entered into force on 16 May 2013. In order to facilitate law enforcement coordination, the Memorandum provides, among other elements, for the creation of contact points, a secure e-mail exchange system, the establishment of ad-hoc investigative teams, etc.

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<sup>27</sup> According to the Law, there is only one central authority, namely the Ministry of Justice which is forwarding requests to other authorities.

<sup>28</sup> Including the 1957 European Convention on Extradition with its additional 1975 and 1978 Protocols, the 1959 European Convention on Mutual Assistance in Criminal Matters with its additional 1978 Protocol, the 1970 European Convention on the International Validity of Criminal Judgments, 1977 European Convention on the Suppression of Terrorism, and 1993 Convention on Legal Assistance and Legal relations in Civil, Family and Criminal Matters.

The Ministry of Internal Affairs is elaborating electronic interagency data exchange software to facilitate the exchange of confidential data.

#### **5.4. Data Protection**

**Consolidation of the legal and institutional framework for the protection of personal data, in line with EU and international standards, including through the adoption of by-laws, instructions and guidelines to regulate procedures, functions and responsibilities;**

The Law on Personal Data Protection (hereinafter the Law on PDP) entered into force in May 2012. The provisions of Chapter VII on Administrative liability entered into force in January 2013 and certain provisions relating to the powers of the Personal Data Protection Inspector towards private sector will enter into force only in 2016.

The newly appointed Personal Data Protection Inspector considers the possibility of a revision to the 2012 Law on PDP and, to this end, experts are currently examining the existing legal framework.

**Signature, ratification and transposition into national legislation of relevant international conventions, protocols and recommendations, including the 2001 Additional Protocol to the Council of Europe Convention 108 for the Protection of Individuals with regard to Automatic Processing of Personal Data, regarding supervisory authorities and cross-border data flows, and the Committee of Ministers of the Council of Europe Recommendation No. R (87) 15 regulating the use of personal data in the police sector;**

Georgia signed the 2001 Additional Protocol to the Council of Europe Data Protection Convention in May 2013 and the Protocol was ratified by the Parliament in July 2013. The Ministry of Internal Affairs, after consulting the Personal Data Protection Inspector, is finalising the Instruction on Processing and Protection of Personal Data within the Ministry of Internal Affairs of Georgia.

**Establishment of an independent data protection supervisory authority with adequate powers and obligations;**

According to the Law on PDP, the Inspector is independent; he or she should not be subordinate to any other public official or body and, in his or her work, the Inspector is guided by the Constitution of Georgia, international agreements, the Law on PDP, and other relevant normative acts and statutes.

On 28 June 2013, Personal Data Protection Inspector was appointed in accordance with the Law on PDP by Decree of the Prime Minister. During the first months in the office, the Inspector elaborated the structure and statute of the office and launched the staff recruitment process. Governmental Order 699 of 3 July 2013 established a Reserve Fund for the PDP

Inspector Office for 2013. The offices and the necessary equipment are to be provided by the Government.

**On the basis of the above preliminary findings, it is recommended that, in relation to the Block 3 benchmarks, the Georgian authorities:**

- continue to pursue efforts in the area of preventing and fighting against organised crime and, in particular, consolidate further the legal and institutional framework by, *inter alia*, adopting the Action Plan on Combating Organised Crime;
- carry on progress in the implementation of EU and international standards on preventing and fighting against THB, in particular, it is recommended that, in re-assessing the legislative framework in place, the Georgian authorities consider, *inter alia*, the establishment of a national rapporteur or equivalent mechanism responsible for carrying out assessments of trends of THB, measuring the results of anti-trafficking actions, reporting, and extending the THB training currently provided to judges and police to other front line officials, such as consular services, trade unions, and non-governmental organisations;
- continue the progress on establishing a legislative and policy framework for preventing and fighting against corruption and, in particular, ensure that legislative, institutional and operational guarantees are in place to secure the independence of prosecutors from any political interference; continue the reforms to further strengthen integrity and independence of the judiciary; with regard to asset declarations and conflicts of interests, ensure that efficient and independent verification mechanisms, as well as effective, proportionate and dissuasive sanctioning systems are in place; revise further the regulations on party funding, taking into account the recommendations of GRECO, the Venice Commission and OSCE/ODIHR; ensure that the Anti-Corruption Council has the necessary analytical and organisational capacities, including adequate financial and human resources; adopt the legislation on protection of whistle-blowers and set up a whistle-blowing protection system for employees working in private companies delivering services funded with public resources;
- strengthen efforts in establishing the legal and institutional framework for preventing and fighting money laundering and financing of terrorism. In particular, the shortcomings identified in the MONEYVAL's report should be addressed. Also, operational capacities and inter-ministerial coordination need to be improved, and establishing an AML/CFT Council may help to advance the work in the area. Finally, the National AML/CFT Strategy and accompanying Action Plans should be adopted;
- adopt the National Drug Strategy and the accompanying Action Plan in line with European and international standards and ensure that the necessary human and financial resources will be made available for their implementation; and consolidate further the legislative and policy framework;
- transpose into national legislation the 2005 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism, the Additional Protocol to the Criminal Law Convention on Corruption as well as the Hague Convention on Protection of Children (1996 Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures

for the Protection of Children), and the 2007 Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse;

- provide further information on the legislative and institutional framework on judicial cooperation in criminal matters, including relevant provisions of the Criminal Procedure Code;
- continue reinforcing law enforcement cooperation, *inter alia*, through the elaboration of secure data exchange software;
- provide further information on the legislative and institutional framework on data protection, including amendments to existing legal framework that are under consideration;
- finalise the drafting and adopt the Instruction on Processing and Protection of Personal Data within the Ministry of Internal Affairs of Georgia; and
- foresee the necessary human, logistical and financial resources for the Personal Data Protection Inspector's Office.

## **6. Block 4: External Relations and Fundamental Rights**

### **6.1. Freedom of movement within Georgia**

**Consolidation of the legal and regulatory framework for registration procedures for legally staying foreigners or stateless persons with a view to avoiding unjustified restrictions;**

The legislative and regulatory framework is being elaborated. The Working Group on the Reduction of Statelessness has prepared a draft law on Georgian citizenship, which has undergone the inter-ministerial consultation process and is expected to be submitted to the Parliament in the coming months. The draft law introduces a series of mechanisms aimed at preventing and reducing statelessness as stipulated in the 1961 United Nations Convention on the Reduction of Statelessness. Georgia is also considering accession to the 1961 Convention.

### **6.2. Conditions and procedures for the issuance of travel and identity documents**

**Consolidation of the legal and regulatory framework so as to ensure full and effective access to travel and identity documentation without discrimination, including for women, children, people with disabilities, internally displaced persons, people belonging to minorities and other vulnerable groups;**

The Public Service Development Agency in cooperation with UNHCR and UNICEF has conducted several EU-funded projects aimed at addressing the issue of undocumented persons. Reportedly, since 2008 more than 11 000 undocumented persons have been identified, of whom approximately 7 000 have undergone civil registration and received the relevant documents. Since 2008, refugees are provided with travel documents, and, since 2010, these travel documents include biometric data. Practical steps have been taken to address the needs of people with disabilities.

### **6.3. Citizens' rights including protection of minorities**

#### **Adoption of a comprehensive anti-discrimination law, as recommended by UN and Council of Europe monitoring bodies, to ensure effective protection against discrimination;**

Georgia is currently working on establishing a comprehensive legislative framework to fight discrimination. In addition to constitutional provisions on anti-discrimination and provisions included in various criminal,<sup>29</sup> civil and administrative laws, the Ministry of Justice has prepared a draft anti-discrimination law, which is being reviewed by international experts and is expected to be presented to the Parliament before the end of 2013.

The draft law aims to 'eliminate all forms of discrimination within the territory of Georgia or under its jurisdiction and to ensure for every person equal enjoyment of rights prescribed by law, irrespective of race, color, language, sex, age, citizenship, origin, place of birth, place of residence, marital status, pregnancy or maternity, material or social status, health condition, disability, religion or belief, national, ethnic or social belonging, political or other opinion or view, sexual orientation, gender identity or any other ground'.<sup>30</sup> It prohibits multiple discrimination,<sup>31</sup> defines direct and indirect discrimination,<sup>32</sup> and provides for protection of victims of discrimination from victimisation.<sup>33</sup> Although the law is to be applied to all areas of activity of public institutions, natural and legal persons,<sup>34</sup> it is not clear whether it will also extend to the private sector. The draft law also introduces the Equality Protection Inspector<sup>35</sup> and lays down the provisions on the appeal procedures,<sup>36</sup> including provisions on the burden of proof.

#### **Signature, ratification and transposition into national legislation of relevant UN and Council of Europe instruments in the fight against discrimination, taking into account the UN Convention on Statelessness and the standing recommendations of the Council of Europe on the European Charter for Regional or Minority Languages;**

Georgia has ratified a number of international treaties on minority protection and elimination of various forms of discrimination, including the UN International Convention on the Elimination of all Forms of Racial Discrimination and the Council of Europe's Framework Convention on the Protection of National Minorities.

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<sup>29</sup> Including the provision making discrimination an aggravating circumstance in the Criminal Code in 2012.

<sup>30</sup> Article 1 of the draft law.

<sup>31</sup> Article 2 of the draft law.

<sup>32</sup> Ibid.

<sup>33</sup> Article 21 of the draft law.

<sup>34</sup> Including labour relations, social security and health care, access to education and vocational training, culture, elections, civil and political activities, public information and media, justice, penitentiary, law enforcement, military, state services, and the use of goods and services, Article 3 of the draft law.

<sup>35</sup> Article 7 and following of the draft law.

<sup>36</sup> Article 16-18 of the draft law.

Georgia is also preparing for the ratification of the European Charter for Regional or Minority Languages. To this end, in June 2013, the Government established a high-level interagency commission responsible for the formulation of policy in this regard. The Commission is working closely with governmental authorities, civil society and minority community groups, and Council of Europe experts.

**Establishing fair and transparent conditions for the acquisition of Georgian citizenship;**

As stated above, Georgia is preparing a new law on Georgian citizenship. The draft aims to introduce a legal framework for the acquisition of Georgian citizenship which takes into consideration the standards laid down in the UN Convention on the Reduction of Statelessness.

**Adoption of a comprehensive National Human Rights Strategy and Action Plan; actively pursue in this strategy and action plan the specific recommendations of UN bodies, OSCE/ODIHR, the Council of Europe/ECRI and international human rights organisations notably in implementing anti-discrimination policies, protecting minorities and private life and ensuring the freedom of religion;**

The Governmental Decree of 5 July 2013 established an Interagency Council for the Development of a Human Rights Protection Strategy and Action Plan. The Council is composed of representatives of competent Ministries and other governmental bodies. A number of representatives of non-governmental organisations and international institutions,<sup>37</sup> including the EU Delegation to Georgia, are invited to participate in the work of the Council.

**On the basis of the above preliminary findings, it is recommended that, in relation to Block 4, the Georgian authorities:**

- adopt a new law on Georgian citizenship in line with European and international standards;
- bring the legislative framework in line with the 1961 United Nations Convention on the Reduction of Statelessness;
- devise a strategy on dealing with the issue of undocumented persons on a more systematic and sustainable basis;
- provide information on applicable legal provisions and comprehensive statistical data concerning the registration procedures for legally staying foreigners and stateless persons;
- adopt a comprehensive anti-discrimination law in line with European and international standards and, given the sensitivity of the matter, envisage a public

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<sup>37</sup> The UN Office in Georgia, the Council of Europe Office in Georgia, the USAID Office in Georgia, the Georgian Bar Association, the Georgian Young Lawyers' Association, Transparency International Georgia, Open Society Georgia Foundation, etc.



campaign explaining the law and raising awareness; and ensure that training curricula of public officials will include sessions explaining the new legal framework;

- continue the elaboration of policy leading to the adoption of the European Charter for Regional or Minority Languages and envisage awareness raising activities; and
- adopt a comprehensive National Human Rights Strategy and accompanying Action Plan.

## **7. Overall assessment and next steps**

In line with the established methodology, the Commission has assessed the implementation of the VLAP by Georgia on the basis of the information and relevant legislative and policy documents provided by Georgia. The desk-based evaluation of Block 1 and Block 2 has been complemented with an on-site evaluation mission carried out by the Commission services assisted by the experts from EU Member States and the EU Delegation to Georgia.

The Commission furthermore also monitored the progress made by Georgia in VLAP-related areas through the EU-Georgia Joint Visa Facilitation Committee, the EU-Georgia Joint Readmission Committee, and the EU-Georgia Subcommittee on Justice, Freedom and Security, and Human Rights and Democracy. In each of these frameworks the state of the dialogue and cooperation between the EU and Georgia is advanced.

On the basis of the above, the Commission considers that Georgia has made very good progress in the implementation of the first phase VLAP benchmarks. The legislative and policy framework required by benchmarks on document security, including biometrics, and benchmarks concerning integrated border management is already at an advanced stage of fulfilment. Georgia is also progressing well in the implementation of the first phase benchmarks relating to migration management, asylum, public order and security, and external relations and fundamental rights.

The Commission will continue to assist Georgia in the implementation of the VLAP and actively monitor the fulfilment of all benchmarks under the four Blocks of the VLAP with a view to communicating on future progress in the VLAP implementation to the European Parliament and the Council in 2014.