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**COMMISSION STAFF WORKING DOCUMENT**  
*Accompanying the document*

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

**Third Progress Report on Georgia's implementation of the action plan on visa  
liberalisation**

{COM(2015) 199 final}

## 1. INTRODUCTION

The Commission Staff Working Document (hereafter CSWD) accompanies the Third Progress Report on the implementation by Georgia of the Visa Liberalisation Action Plan (hereafter VLAP).<sup>1</sup>

The CSWD, together with the Report, provides a detailed analysis of the most relevant developments relating to the implementation of the so-called second phase VLAP benchmarks concerning the effective and sustainable implementation of relevant measures. The annex of the CSWD includes an update to the assessment of possible migratory and security impacts on the European Union (hereafter EU) of the future visa liberalisation for Georgia.

The factual information and assessment included in the CSWD are based on the information gathered during the EU evaluation missions that took place in Georgia between December 2014 and March 2015, which included experts from EU Member States, services of the Commission and the European External Action Service (hereafter EEAS) and the EU Delegation to Georgia. Additional information was obtained through the progress reports submitted by Georgia on 15 October 2014, its updated version received by the Commission on 18 January 2015, and subsequent communications between December 2014 and April 2015.

The CSWP follows the VLAP structure. Under the sections corresponding to individual VLAP blocks, the CSWD lists all the benchmarks from the second phase and it describes the state of their implementation, in particular focussing on the developments that took place after the publication of the Second Progress Report, that is, 29 October 2014.

## 2. ASSESSMENT OF THE IMPLEMENTATION OF THE VLAP

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

- **Effective implementation of legal and institutional framework for document security, including provision of sufficient financial and human resources, with adequate training programmes;**

The Public Service Development Agency (hereafter PSDA) has responsibility for registration of all civil acts such as birth, marriage and death as well as the issuance of identity cards and passports. There is over 1000 staff employed on Agency services with over 600 employed in territorial offices. 92% of the cost of providing services is funded out of the fees; the remainder comes from grants and the state budget. Staff is recruited through advertising and interview. References are checked and background checks carried out for those being recruited. Salaries for PSDA staff are higher than the national average and a system of bonuses and pay increments is in place as well as payment for overtime and a benefits package. Staff is provided with job descriptions and guidance on dealing with conflicts of interest, acceptance of gifts, disclosure of confidential information etc. These factors significantly reduce the attraction of staff fraud/corruption.

The management structure of the PSDA is sound with clearly defined roles and responsibilities for each of the senior staff. This has ensured that all areas relevant to Block 1

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<sup>1</sup> COM (2015) 199 final.

are being properly managed with the appropriate level of staff assigned to individual areas of the operation. Senior staff of the PSDA displays a high degree of knowledge and understanding of the operation and practices were consistent between offices, primarily due to the use of a highly automated system. The PSDA has achieved effective implementation of the legal and institutional frameworks necessary for document security. It maintains a unified database linking personal data through a Personal Identification Number (hereafter PIN) used in all relevant transactions which provides a sound basis for the issue of documents.

A significant effort has been made to improve personal data protection with the appointment in 2013 of a Data Protection Officer and mandatory training courses for all staff. An Information Management Security System is almost complete and aims to be fully compliant with the relevant ISO standard(s). PSDA will be seeking accreditation for the system from ISO in due course.

- **Gradual roll-out of biometric passports in full compliance with highest ICAO standards and recommended practices, and complete phasing-out of old non-ICAO compliant passports, including at Georgian consulates abroad;**

In relation to the issuance of biometric passports, these are fully compliant with International Civil Aviation Organisation's (hereafter ICAO) specifications set out in Document 9303 and have been issued since 2010 (2014 in relation to applications made at Georgian diplomatic missions abroad). Fingerprints are included in the electronic chip in accordance with EU document security standards<sup>2</sup>. These passports contain a number of different types of security features as recommended by ICAO and were recently analysed by the MoI of France.

Various pieces of legislation have been implemented to comply with the ICAO document security requirements. These include the cessation of extending passports beyond their original validity period and the requirement for 'one person- one passport' which removed the ability to include children on an adult's passport. The previous 'capped' passport<sup>3</sup> which is insecure was invalidated for travel from 1 January 2011. A small number<sup>4</sup> of such passports (which were capable of being extended beyond the original validity date) remain valid up to 2016. The small number of 'capped' passports still in circulation should not present any significant problem.

Arrangements for overseas issuance of biometric passports are now consistent with those in Georgia with applications being sent electronically to Tbilisi for a decision and issuance. Small numbers of Status Neutral Documents are issued for Georgians living in breakaway regions of Abkhazia and South Ossetia. Arrangements for establishing entitlement and their secure issuance are satisfactory. Diplomatic and Service passports are authorised for issue by the Ministry of Foreign Affairs and have varying lengths of validity as set out in legislation, ranging from 4 years to 10 years. There are checks and balances in place to ensure that they are issued only to those entitled to such documents.

- **Implementation of the necessary measures to ensure a high level of integrity and security of the document application, personalisation and distribution process for**

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<sup>2</sup> EC 2252/2004

<sup>3</sup> All passports issued by Georgia since 1995 are in compliance with ICAO standards with different level of security.

<sup>4</sup> 18000 will expire in 2015 and the remainder in 2016

**passports, ensuring that stocks of documents are stored at adequately protected places and avoiding the issuance of multiple passports, identity cards and other breeder documents respectively per person;**

Establishing entitlement to a Georgian document is made according to a comprehensive set of guidance and legal acts. Arrangements for the establishing of identity and the secure issuance of documents (breeder, ID cards, passports both at home and overseas) are very good. This has much to do with the unified database as well as the issuance system for these documents which ensure separation of duties (between front and back offices) to prevent one person from being able to introduce a fraudulent application into the system and produce a document. There are only three personalisation centres in Georgia through which all applications are processed. Random assignment of work also contributes to the robustness of the system and reduces the opportunity for fraud. It is difficult to envisage how the system might be manipulated by corrupt employees given the various integrated checks and balances. Data security arrangements are very good. Access to databases is strictly controlled and monitored. A system-generated random supervisory check on applications seems to be lacking.

Some concerns had previously been raised regarding the ability to obtain multiple passports in the same or different names. This has been addressed through legislation<sup>5</sup> introduced in June 2014 to restrict name changes; only one change is allowed for the first name for adult. In all cases checks are made to ensure the person is not 'wanted' or has previously changed their name. In relation to the change of family name, this can only be done in very restricted circumstances. Where a change is made, the citizen's identity card is invalidated and a new card issued in the new name – the PIN remains the same. Second passports are now only granted where the reason for the request meets the strict rules set out. Since 1<sup>st</sup> September 2014, second passports are granted with one year validity only.

Arrangements for the secure storage and handling of blank travel documents are very good and ensure that they can be accounted for at all times. Destruction of spoiled/damaged passports is an overly bureaucratic process as it currently stands and results in documents being stored for lengthy periods of time.

The front office staff deal with applicants in person but the process appears to be primarily a database checking function rather than one that includes an element of fraud awareness. Fraud cases are rare, but at present it appears that potential fraud is predominantly dealt with as a back office function based on checking database information. Anti-fraud training seems to be incomplete in the curricula for front office staff.

An internal audit function exists within the PDSA. However the team is small, has a large mandate and has to cover a large number of offices across Georgia. It is important that the audit function is carried out in relation to security of the application and issuance functions, the secure handling of documents, security around the protection of identity cards and passport books.

- **Prompt and systematic reporting to Interpol/LASP database on lost and stolen passports;**

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<sup>5</sup> Amendment to the Law on Civil Acts came into force on 1 June 2014.

Reporting of lost and stolen travel passports to Interpol's Stolen and Lost Travel Document (hereafter SLTD) database is in operation and reports are sent daily from PSDA in response to a citizen reporting the loss of a passport. On 23 December 2014 PSDA and the National Bureau of Interpol (hereafter NBI) concluded a new agreement under which PSDA will provide data on all enlisted lost ID cards. This was necessary as Georgian citizens can travel visa-free to Turkey with their ID card. Based on the same act, since 23 December 2014 the NBI will be notified on a daily basis on the loss of passports and ID cards.

➤ **Regular exchange of passport specimens, visa forms and information on false documents, and cooperation on document security with the EU;**

Georgia has exchanged specimens of its passports with a number of countries. There are arrangements in place to ensure that new passport specimens are circulated as widely as possible. At present this is done primarily through the diplomatic missions overseas. In the past, some documents (for example, the Status Neutral Document) have been submitted to the EU Travel Document Expert Group to examine. Examples of Georgian passports issued since 1994 are displayed on PRADO<sup>6</sup>. A new visa format was introduced from September 2014 containing a photograph of the visa holder and a machine readable zone. In 2015 PSDA will start preparations for the issuance of new generation biometric passport, travel documents, including Status Neutral travel document. The Status Neutral travel document (currently non-biometric) may be redesigned to include an electronic chip, but it will not be a valid document for visa-free travel.

PSDA has not yet joined the ICAO Public Key Directory (hereafter PKD) nor circulated its Electronic Machine Readable Passport (hereafter eMRP) certificates or Certificate Revocation Lists (hereafter CRLs) to the relevant bodies and partners.

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

### **2.2.1. Integrated border management**

- **Effective implementation and updating of the national Integrated Border Management (IBM) Strategy and Action Plan, including legislation on border control through adequate border checks and border surveillance procedures and operational effectiveness, situational picture at national and local level, including use of risk analysis, intelligence and data-flow management, as well as direct access and consultation of relevant national and international databases;**

#### *Institutional and legal framework of Border Management in Georgia – current situation*

Progress in demarcation of state borders is still pending with Russia, Azerbaijan and Armenia. 71 % of the borders with Armenia, 66 % with Azerbaijan and 36 % with Russia have been agreed at the level of the Delimitation Commissions and Expert Groups.

Georgia has been in the process since ten years of implementing the institutional reform which started in 2004. The previous military agency, the State Border Defence Department was transformed into a law-enforcement agency in the Ministry of Interior (hereafter MoI).

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<sup>6</sup> EU Public Register of Authentic Travel and Identity Documents Online: <http://prado.consilium.europa.eu/>.

The reform has required strict efforts, including new legislation and creation of a new organisation (Border Police) and later in 2009 reorganising border checks at all border crossing points under the Patrol Police. This work is completed in practise and the focus has been and remains on strengthening the capabilities of the involved agencies.

Georgia has developed its border management and promoted the reform by adopting an Integrated Border Management Strategy (IBMS) and Action Plan (AP). The strategy identifies the key factors for effective border management. It provides policies, principles and objectives for a coherent and effective implementation based on the joint efforts of the responsible agencies. A program on Border Police Modernisation, Standardisation and Unification has been started in August 2014. An intra-agency working group in the MoI has been formed to elaborate this program for a period of 5 years according to the plan in order to establish common unified and standardised procedures.

An extensive reformation and modernisation of the customs system started in 2007 by establishing the Revenue Service that combined Customs and Tax Services.

#### *Control of Georgia's breakaway territories*

The state border in the areas of Georgia's breakaway territories is not controlled by Georgian authorities. Soon after the 2008 war, Russia (FSB) started the surveillance of the administrative boundary line (ABL) and control of the traffic across the line. Georgian Police is controlling the ABL by mobile patrols and the ABL crossings at check points. The aim of the control is to inform persons seeking to enter the breakaway areas that they are not under the control of Georgian authorities. Third country nationals who are entering the breakaway territories are registered at the check point to verify, if needed, that they have left the area under control of Georgian authorities. When entering from breakaway territories, all cars and persons (and goods) are checked in order to verify their right to stay in Georgia. Travel documents are not stamped when entering or exiting the breakaway territories.

#### *Data-flow management and access to databases*

In order to address new regulations introduced by the Law on Legal Status of Aliens and Stateless Persons, the Border Migration Administering and Reporting System (hereafter BMARS) was launched as of 1 September 2014. The system provides the information needed for border crossings and border checks.

- **Continued improvement of inter-agency cooperation (including exchange of data between all the agencies involved in border management, in particular the Patrol Police Department, the Border Police and the Border Police Coast Guard, and other law enforcement agencies, including customs);**

That basis for inter-agency cooperation exists and authorities involved in border management are willing further developing their cooperation mechanisms. There is a high level of implementation and especially in cooperation between the Patrol Police and the Revenue Service. At border crossing points the cooperation has received forms which could be considered as best practises according to the EU standards.

- **Provision of adequate infrastructure, technical equipment, IT systems, financial and human resources in accordance with the IBM Strategy and Action Plan, and effective implementation of training programmes and anticorruption measures;**

Improving land border infrastructure and surveillance tools is one of the priorities for the next years. Infrastructure supports the effective implementation of border management. Georgia has operational border crossing points, modernised and adapted to control different flows. There is a standard design model applied to all Georgian BCPs which provides for safe and well organised movement of passengers and cargo.

Salaries have been raised significantly after the start of the reform. In 2005 a border guard's monthly salary in the Border Police was 150 GEL; in 2014 it was already 1000 GEL. Respectively, for Patrol Police officer working at a BCP, the monthly salary level was 1000 GEL in 2012 and is currently 1165 GEL. The budget of the Border Police has likewise grown during the recent years, In 2012 the budget was 61,3 million GEL and in 2014 78,6 million GEL.

MoI Academy provides training and on-job retraining courses for the personnel of different departments of the MoI of Georgia.

- **Continued improvement in international cooperation, including cooperation with neighbouring countries and effective implementation of working arrangement with FRONTEX;**

International cooperation in the area of border management was noted to be extensive in border management already during the previous missions. Bilateral cooperation agreements have been adopted with all neighbouring countries. In general, the wide range of international partners' support, operational cooperation, information exchange and sharing of best practises.

### **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);**

Georgia has signed the readmission agreement with the EU, as well as Switzerland, Norway, Moldova, Ukraine and Denmark. Implementing Protocols are signed with Bulgaria, Estonia, Hungary, Austria, Benelux and Lithuania. Another 11 protocols are under negotiations and a protocol with Denmark is ready for signature. The implementation of the EU-Georgia readmission agreement has been evaluated as very good. Intra-agency cooperation in that area seems to function very well in Georgia. Georgia has introduced the Readmission Case Management Electronic System, coordinated by Ministry for Foreign Affairs. The establishment of the System was financed by EU and implemented by IOM and ICMPD. The System provides an on-line process allowing a speedy communication between the stakeholders and also provides a statistical overview on the readmission activities.

Since March 2011 until 31 December 2014; 3739 decisions to accept the person have been adopted and 292 cases have been refused. Most cases were asked and approved to Germany, Greece, France, Austria and Belgium. There have been only 5 readmission cases of third

country nationals to Georgia so far. Georgian answers to readmission applications are very clear and timely, which means that internal coordination is effective.

Negotiations on readmission agreements with Bosnia and Herzegovina, Serbia, Montenegro and Belarus are ongoing. Georgia has proposed to start negotiations to Armenia, Azerbaijan, Bangladesh, India, Pakistan, Sri Lanka and Israel as well. The main challenge for the future will be to launch negotiations with other important third countries, especially with Algeria, China, Egypt, Iran, Nepal, Nigeria and Turkey.

According to the statistical data, overall there were 5409 returns to Georgia in 2013 and 4188 returns in 2014. There were no estimations on the numbers of voluntary returns to the country.

Four Mobility Centres in Georgia were established within the project “Reinforcing the capacities of the Government of Georgia in border and migration management”. They were established in March 2013 (Tbilisi) and in the period from April to June 2014 (further 3 centres). There are 4 employees in Tbilisi Mobility Centre and 2 employees in each of 3 centres. The Centres provide reintegration support measures such as activities in return assistance, reception assistance and transport, initial counselling, providing temporary accommodation, medical assistance, support in employment and vocational training and providing support in business creation. Activities of the Mobility Centre concerning the information and counselling to potential migrants are oriented to raise awareness of safe migration, prevention of irregular migration and trafficking and to collect information about push and pull factors. The Mobility Centres have been addressed by 930 persons, returning from 32 countries. The majority of persons (82%) have returned voluntarily to Georgia, 16% were returned and 2% of the beneficiaries were readmitted to Georgia (data for the whole period since the establishments of the centres). The State budget already allocated partial funding in 2015 for reintegration activities within Mobility centres (GEL 400,000).

- **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;**

The Law on the Legal Status of Aliens has been amended in November 2014 and in February 2015 prescribing the transitional period until 1 July 2015 for foreigners to gather all documents which are necessary for the procedure of issuing a residence permit in Georgia. The implementation of the Law on the Legal Status of Aliens and Stateless Persons in the fields of legal migration and visa policy is in place since September 2014 and this was confirmed also by statistical data. Every ministry is responsible for its jurisdictions and looks after the organisation, logistics, staff and financial support, as well as training of staff. The regulatory framework provides adequate division of competences between the ministries and agencies.

The implementation of the new Law on the Legal Status of Aliens and Stateless Persons is monitored by the established working group within the State Commission on Migration Issues. The working group takes into account the opinion of non-governmental and international organisations and universities on the issues of implementation of the law.

The Migration Strategy of Georgia for 2013-2015 was adopted in March 2013 and complemented by an Action Plan from June 2013. The strategy's main areas are 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 reflects the areas with concrete activities, deadlines, responsible authorities and partners. Out of approximately 100 activities, 42 were completed, while the remaining 58 are expected to be finalised by the end of 2015. Additional financial resources might be necessary to finalise the implementation of the activities.

The preparation of the new Migration Strategy 2016-2020 has been entrusted to the State Commission on Migration Issues. The State Commission on Migration Issues acts as an advisory body to the Government, without executive functions, but has coordinative and policy making role in the system. The Commission will prepare the new strategy and action plan, the updated Migration profile, a migration text-book for academia, the plan for VLAP information campaigns, the concept of a migration analytical system and will coordinate the activities within the VLAP.

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

The Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees was previously responsible for preparation of the Migration Profile of Georgia. So far, Georgia has prepared the Profile for the years 2005 to 2010 and the Migration Profile for 2011 and 2012 was prepared and adopted in September 2013. The profile was amended in the beginning of 2014. The Migration profile for 2014-2015 will be published by the end of February 2016.

An electronic database for irregular migrants (BMARS – Border, Migration Administering and Reporting System) was established and started operating on 1 March 2015. The software counts the numbers of the days after entering the country until the departure for foreign citizens. The database includes the duration of residence and procedures that were launched by that person, including the notice on over-stayers and legal status of individual foreigners. It gives the data for the individual who is in the procedure and shows if the person has stayed in the country longer than he or she is allowed to stay.

The coordination of the activities regarding the establishment of a Unified Migration Analytical System has been taken over in February 2014 by the State Commission for Migration Issues, where a special working group has been established. The concept of the Unified Migration Analytical System has been prepared and it is expected that the System will be tested in 2016.

➤ **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;**

Inland detection of irregular migrants in Georgia is performed by the Patrol Police, Central and Regional Police. The detection of irregular migrants is executed as a routine work or on the special request of the Migration Department. The Ministry of the Interior has developed a modern and effective concept of the Risk Analyses.

Within the MoI, a well-staffed Migration Department has been established in order to ensure the coordination of the activities in the field of combating irregular migration and conduct the deportation procedures and ensure the accommodation of the foreigners in the deportation procedures. The Migration Department has 74 posts, 72 of which are occupied. The Migration Department consists of an irregular migration division (22 posts), a division for legal affairs (11) and the Temporary accommodation centre (37). The capacity seems to be sufficient for the beginning of the implementation, but attention must be given to the implementation, especially to the vulnerable categories and the overall capacity of reception system.

The Criminal police is responsible for the fight against irregular migration; the tasks are identification of irregular migrants, investigation of criminal offences on irregular migration, organise preventive actions, as well to reveal the cases of human trafficking. The Criminal police managed to launch 219 investigations for illegal crossing of the state border, 6 investigations on illegal transfer of migrant to the state border of Georgia, 4200 investigations on the use of forged documents were detected in 2014.

The authorities are aware of the division of the responsibilities of various agencies in the field of migration and consequently for the role of exchange of information and necessary co-operation. Intra-agency cooperation is covered by the Ministerial Order that established in September 2014 the Co-ordination Group on combating irregular migration; the Migration Department is a key coordinating body within the Ministry of the Interior.

- **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;**

For the accommodation of the irregular migrants who are in the expulsion procedure, Georgia has established the Temporary Accommodation Centre. The capacity of the Centre is 92 persons; up to 50 places for single men, 30 for woman and 12 places for families. Unaccompanied minors will be accommodated with the families. It has been established according to best practices and it is used for the accommodation and detention of irregular migrants since 1 March 2015. The structure of the Centre enables the proper reception and accommodation of all categories of persons; including vulnerable groups.

District and Regional Police stations in the territory of Georgia have special premises for the temporary detention of foreigners; called Temporary Detention Isolators. There are 38 Isolators, where a foreigner may be detained for maximum of 48 hours (Order 631 on detention and placement of aliens in the Temporary Accommodation Centre). A foreigner may be detained in the isolators in the first phase of the procedure. The Public defender (Ombudsman) of Georgia will regularly monitor the Centre and the Temporary Detention Isolators.

### **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;**

The law on Refugees and Humanitarian Status of 2011 provides the necessary institutional framework, legal procedures and principles and is largely in line with international and European standards. A new law is currently being drafted. It will include provisions and clarifications on accelerated procedures, "refugee sur place" concept, special procedure for vulnerable categories, the difference between "exclusion" and "denial of status" and it will introduce the concept of safe country.

Based on the 2011 Law on Refugees and Humanitarian Status a foreigner illegally residing in Georgia may express the intention to apply for asylum to every state agency in Georgia. The contacted agency has to refer the applicant to the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees (MRA), responsible for conducting the asylum procedure and providing accommodation to asylum seekers. If a person is legally staying in Georgia, he/she has to apply for asylum at the Ministry. An irregular migrant has to apply for asylum within 24 hours after entering the country. If this deadline is not met, the application shall be refused and the person is not registered as an asylum seeker. The only exception could be the existence of special circumstances.

In case the applicant is registered as an asylum seeker, the application will be assessed on its individual merits. A personal interview is done by a caseworker of the MRA and the MRA also systematically sends the personal data to the MoI for a security check. The MRA must examine the application within 6 month after the registration, a period which may be extended for another 3 months. The final decision of granting the status is made by the head of department on the basis of a draft decision by the caseworker and on the grounds of the documentation provided in the case. An appeal against a negative decision may be lodged within 10 days. All judges (especially the first instance judges) dealing with refugee issues should receive training in refugee law.

A cause for concern is the high number of rejections that are based on undisclosed security concerns by the MoI. In a total of 703 cases submitted to MoI, 15 cases received a negative security advice "with grounded arguments" and 178 received a negative security advice "without grounded arguments". Without knowing the profiles of the applications, it is difficult to imagine that in 27,5% of the cases, individual security threats were identified. Indeed, the Law on Refugee and Humanitarian Status allows for exclusion of applicants on broader grounds than the 1951 Convention Grounds. For example, art. 3 e) provides the possibility to exclude, based on a reasonable assumption, that the applicant would be a threat to state security, territorial integrity as well as to the public order of Georgia. It is advisable to limit the exclusion grounds to those foreseen in the 1951 Convention. If an applicant would meet exclusion criteria as per Article 1F of the 1951 Geneva Convention, this applicant should not be rejected based on (disclosed) security information, but should be rejected based on a decision by the MRA with a detailed reasoning on the exclusion grounds, which then could be challenged in the appeal phase.

Based on previous recommendations, a Country of Origin Unit was created in 2014. The Unit has 3 employees, the head of the unit and 2 senior specialists. These persons received EASO and UNHCR training on COI and participated in different seminars and expert missions. Standard Operating Procedures (SOP) for the COI unit were drafted in June 2014, and were

presented to UNHCR and other experts for recommendations. ICMPD also supported the drafting of the SOP.

There are clear indications that the Refugee Status Determination procedure (RSD) is of sufficient quality and efforts are made to improve the quality further. There is a clear structure for RSD<sup>7</sup>. This structure is based on international and European (EASO) standards and is being followed in practice. Rejection decisions contain a detailed reasoning on aspects of law and facts. The decision also contains detailed information on remedies, including the deadline of 10 days to submit the appeal. Confidentiality is guaranteed and the standard of the interview facilities is good: these are well equipped to guarantee a qualitative interview.

The number of staff (9 excluding the Head of Asylum Issues Division and Head of the Department) is sufficient if one takes into consideration the influx of the last months of 2014 (61 cases in November; 88 cases in December). However, there is still a backlog of around 635 cases (or 1174 persons). It's important to reduce this backlog in an expedient manner. This could for example also include the possibility for expedited processing for clearly founded cases (e.g. Syrians).

Given the fact that most of the applicants in Georgia originate from countries with armed conflicts, the recognition rate is quite low. In 2014, there were 1070 applications from Iraq, 79 from Syria and 419 from Ukraine, on a total number of 1792 applications that year. However, of the 361 decisions taken in 2014, only 29 cases received refugee status (8%) and only 104 cases humanitarian protection (29%). For Syria, no refugee statuses were granted in 2014 and 36 cases received humanitarian protection (71%). For Iraq, humanitarian protection was granted in 27% (61) of the cases treated and refugee status in 12% of the cases (28). 61% (138) of the decisions taken in Iraqi cases were rejections. Given the situation in Syria it is at least remarkable that none of the applicants would qualify for refugee status. Statistics also show that the international protection rate (Refugee Status and Humanitarian Status combined) for countries such as Ukraine, Azerbaijan and Iran was 0%.

- **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 foreseen by the legislation;**

As of January 2015, asylum seekers have access to the basic package of the universal healthcare system, giving them access to Outpatient care, surgical care, urgent medical care and critical medicine, child delivery, radiotherapy and chemotherapy. This is linked to the introduction of the temporary ID card. Refugees and humanitarian status holders already had access to this system since 21 February 2013. In 2014, at least 180 persons with a permanent residence permit have used the services of the State Specific Healthcare Program.

According to the “Law on General Education” of Georgia, asylum applicants, refugees and humanitarian status holders have the same right to education as Georgian citizens. An agreement was reached with the local authorities of Tbilisi that asylum seekers will have

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<sup>7</sup> Summary of the claim; Credibility Assessment; Assessment of criteria according to 1951 Geneva convention and 1967 Protocol; Well-founded fear; Persecution; Grounds for persecution; Internal flight alternative (if relevant); Exclusion (if relevant) and Humanitarian status assessment.

access to preschool educational institutions. In February 2015, 242 children were enrolled in schools spread over Georgia.

Within a joint MRA-UNHCR project, allowances are given to certain categories of vulnerable applicants (i.a. large families, single parents, children-at-risk, elderly, persons with medical needs). Asylum applicants have the right to work immediately after reception of the temporary ID card. Refugees and beneficiaries of international protection have access to the mainstream employment program that foresees inter alia in consultation and information services, vocational trainings

An asylum applicant is provided with the temporary identification card by Public Service Development Agency of the Ministry of Justice (MoJ). A temporary identity card is granted to asylum-seekers (and to applicants for the status of statelessness) as of 15 November 2014. This card is issued within 10 working days, has a validity of 1 year and is issued free of charge. In 2014 (15 November - 31 December) 357 temporary identity cards were granted, in 2015 (1 January - 26 February) 296.

Refugees and beneficiaries of humanitarian status are provided with freedom of movement, within the territory of Georgia, but also outside the country. Travel documents for refugees exist and are granted in practice by the Civil Service Agency of the MoJ of Georgia. In 2013, 35 travel documents were granted to refugees, in 2014, 27. Legal provisions for the granting of travel documents to humanitarian status holders who do not have personal ID documents exist, but in practice such documents are not granted.

Naturalisation is the most durable solution for refugees and stateless persons. The legislative framework to grant citizenship is in place: in 2009 26 refugees were granted Georgian citizenship, in 2010 176, in 2011 163, in 2012 114 and in 2014 27. Although the exact number is unclear, the great majority of these naturalisations were refugees originating from Chechnya. The numbers show that there were no naturalisations in 2013. In that year all applications were rejected and allegedly this was linked to internal security considerations. The new law on Georgian citizenship introduced Georgian language knowledge and knowledge of history as mandatory requirements for naturalisation. The introduction of Georgian language knowledge and knowledge of Georgian history as conditions for being granted naturalisation are as such not problematic, but it's important that these requirements are reasonable and do not lead to exclusion of the most vulnerable refugees or of refugees with a different cultural background.

### **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;**

As of 2003 a successful wave of police reforms were carried out and led to a deep structural reorganisation of the MoI. The main aim of the structural reorganisation was to depoliticise the police force, ensure accountability for any wrongdoing and transparency of police work. The tabula rasa reform of Police, replaced a police system known for corruption, bureaucracy

and wastefulness with a more efficient, well equipped and professional one, in a very short period of time. The adoption of strict legal standards against grafting, the raising of police salaries (higher than national average for the lowest ranks) along with mass dismissals, helped to eliminate much of the financial incentive to accept bribes. According to research data, citizen surveys and statistics the police forces of Georgia are deemed as trustful and carry out their duties in a transparent and effective way.

The Interagency Coordinating Council for Combating Organised Crime was established on 13 June 2013. The Council is composed of representatives of all relevant ministries and agencies and invites representatives of International organisations and NGO's to attend the meetings as well. The Council has the overall interagency coordination function and has established four thematic working groups dealing with different important crime areas. The main tools of the Council for combating organised crime (OC) are the National Strategy and Action Plan which were adopted on 2013 and are currently in the process of elaboration and to be adopted by the Government in the course of 2015.

The Council runs periodic reviews of the current legislative framework and proposes amendments when and if necessary. The basis of all the anti-OC actors is updated regularly, also taking into account human rights factors and the evolution of society and global challenges. A detailed Action Plan with timeframe and follow-up functions is in place and the Council receives reports a regular basis on the progress.

National information flow is arranged by electronic e-flow software which is available to all police officers. Analysis and strategic development division at the HQ is in charge of analysing the information stored in e-flow and provides analysis on current crime situation covering the whole country. The software utilises also a mapping system. When a pre-trial investigation is launched, the police and prosecution use the electronic case management software to share and store all materials made and provided during the pre-investigation. All documents and written evidence are handled electronically on line. Based on this database, the prosecutor's office is capable to map the crime situation in the regions as well. Since 2013, 42 domestic joint investigation teams have been established.

Prosecutors are responsible for leading the pre-trial investigations and the cooperation with the police is working well. The prosecutors are involved in the pre-trial investigation as soon as the criminal report is registered in a common database, e-enforcement.ge<sup>8</sup> giving the prosecutor the possibility to lead the investigations also in practice.

The interagency cooperation between all Law Enforcement agencies has been arranged according to different interagency MoUs, Joint Orders or relevant instructions. One of the comprehensive inter-agency cooperation mechanisms is the MoU on Law-Enforcement Cooperation, signatories to which are: MoI, MoJ, Prosecutor's office, Ministry of Finance, Financial Monitoring Service (FIU). Good examples of the inter agency cooperation are combined working groups and task forces<sup>9</sup>.

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<sup>8</sup> Electronic Centralised Service for Investigation of Criminal Cases.

<sup>9</sup> Drug Trafficking Prevention Group acting at Tbilisi airport and consisting officers of MoI and Ministry of Finance; Container Control Group at Poti Harbour consisting of 2 Patrol Police Officers, 2 Criminal Police officers and 2 custom officers. MoU has been signed by the MoI, The Revenue Service and United Nations Office on Drugs and Crime; and Mobile groups and Task Force on Trafficking of Human beings located in Adjara Region and composed of prosecutors and detective investigators of Human Trafficking and Irregular

Georgia has sufficient legislation and a program on witness protection and at the moment there are several persons under the program's protection.

The fight against OC, mainly against the "Thieves in Law" organisation has been effective and fruitful since the adoption of the Law on "Organised Crime and Racketeering" in 2005. According to the Criminal Code of Georgia definitions being a "Thief in Law" and being member of Thieves in Law community ("criminal circle") are recognised as types of organised crime. Article 223/1 of the Criminal Code – punishes membership of "criminal circle" and sanctions prison sentence of 5-10 years, with or without fine, as well as confiscation of illegal property. Since 2006, 293 persons have been convicted for membership of "Thieves in Law" organisation and an additional 45 for being "Thieves in Law" – overall 338 persons. Several real estate and cars as well as other property has been seized and confiscated. Many of the seized houses are currently serving as governmental estates, mainly as police stations. The total value of seized assets years 2006-2014 is GEL 54 million. Moreover the prevention of OC in the Penitentiary Institutions by monitoring the activities of personnel and convicted has made it possible to prevent the recruitments of new members by crime authorities. All the concluded activities with the purpose of raising awareness on the issues related to "Thieves in Law" and other issues related to organised crime have led to excellent results.

The MoI Central Criminal Police Department developed profiles on all known "Thieves in Law"<sup>10</sup>. Currently 348 "Thieves in Law" are registered in the police database. Confiscated assets, data on investigations and prosecutions, criminal personal details and modus operandi are collected and available according to law requirements. Currently there are 6 members of "Thieves in Law" serving their terms in prison in Georgia while the others known are abroad mainly in the Russian Federation, Ukraine and the EU. Half of them still have Georgian citizenship. Georgia is putting special efforts on cooperating with EU Member States to help tackle the activities of these EU resident "Thieves in Law". Several EU Member States have already been affected with the phenomena and, as an example, some 400 Georgians were arrested in Sweden and around 70 in Denmark year in 2014, because of committing different types of property crimes (shop lifting, burglaries etc.). Many of those arrested have applied for asylum when arriving in the country.

The actions on crime prevention and especially the results achieved should be evaluated and made use of when drafting and amending the new strategy on organised crime, also taking into consideration the possible emergence of new organised crime groups.

- **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**

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Migration Division. MoU signed by MoI, Main Prosecutor's Office and International Organisation for Migration (IOM).

<sup>10</sup> Thieves in law community is any type of union of persons acting in accordance with a self-established and recognised special rules aiming to intimidate, threaten, coerce people, act in conspiracy, arrangement of criminal argues, drawing juveniles in criminal activities, committing criminal act or tempting others to commit crime with the general purpose to illegally receive income for the members of such union or for someone else. Member of the world of thieves in law is any person who recognises the world of thieves in law and regularly acts in favor of implementation of aims of the world of thieves in law.

**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 Criminal Code is complemented by the Law of Georgia on Combating Human Trafficking, implemented in 2006. This law determines the organisational and legal grounds for preventing and combating human trafficking, the competencies and obligations of the state agencies, public officials and legal entities and rules of coordination of their activities in the measures applied against human trafficking as well as the legal status and rights of the victims of human trafficking and the guarantees of their social and legal protection. The law was updated in May 2014 to extend the definition further and to reflect the 2012 Council of Europe's Group of Experts on Action against Trafficking in Human Beings (GRETA) recommendations related to protection and assistance for child victims.

The National Action Plan (NAP) for 2015-2016 was elaborated by the Inter-Agency Coordination Council on Combating Trafficking in Human Beings (THB Council). The THB Council is the central coordinating mechanism for the fight against trafficking of human beings (THB) with key objectives of elaboration and implementation of the NAP, development of specific proposals regarding issues of THB, coordination between governmental agencies working on THB issues and cooperation with NGOs and international organisations among others. This structure comprises a permanent high-level representation and represents a significant commitment by the Georgian government to a multi-agency approach. Additionally the THB Council has an integral role in the identification and granting of victim status to identified victims of trafficking. This ongoing task is undertaken by the Permanent Working Group, established in 2006 and which is considered to be the National Referral Mechanism (NRM). The Permanent Group is regulated under the Law on Combating Trafficking in Human Beings (Article 11) and the Decree of the Government (11.04.2014) on VOT Identification Standards and Rules. The Permanent Group is thereby the authorised entity for examining the situation of a suspected VOT and granting the status of victim of trafficking to a person within the 48 hours. The NRM ensures that all suspected and identified victims of trafficking are dealt with according to a prescribed standard. It offers protection and assistance to all victims of trafficking regardless of whether they cooperate with law enforcement or not. It covers procedures from the point of first contact until the point the victim is provided with residence permit, reintegrated within Georgia, repatriated or otherwise returned to a city or country of safety. In 2015 6 permanent residents' permits were secured. Claims for asylum are also possible for VOTs and legal assistance is made available.

The State Fund for Protection of and Assistance to (Statutory) Victims of Trafficking in Human Beings was established in 2006 and is funded by the State budget. It exists within the Ministry of Labour, Health and Social Affairs under the supervision of a Director appointed by Presidential decree. The State Fund is responsible for the two victim shelters and the financing of victim protection, assistance and rehabilitation measures. The payment of compensation to victims of trafficking of 1.000 GEL is also the responsibility of the State Fund. Of the total of 60 victims dealt with by the State Fund between 2011-2014, 51 were Georgian nationals and 9 other nationalities, 23 were housed in a shelter, 18 were provided with medical assistance, 24 with psychological assistance, 38 were provided with legal aid and 42 received compensation. There were 11 accompanying minors during this period.



In 2013, the Ministry of Health planned to abolish the State Fund. External pressure stopped these plans but the State Fund's role has been further expanded. It is now responsible for victims of trafficking and domestic violence but also two elderly care homes, five homes for the disabled and one childcare home. The budget has been increased to over 8 million GEL and staff increased to 615.

There is a commitment to providing the financial and human resources for victim care but there is a need to review how these resources are allocated. In addition to the two shelters in Tbilisi and Batumi providing support and safety to victims of human trafficking there are three shelters in Tbilisi, Gori and Kutaisi providing service to victims of domestic violence. The funding for the two shelters provided for trafficking victims is increasing: Tbilisi shelter - received in 2013: 112,353 GEL, while in 2014: 125,907 GEL. The Batumi shelter received 2013: 90,010 GEL, while in 2014: 140,430 GEL.

The financial resources and mechanisms made available by the government to respond to funding requirements appear to be sufficient but there is concern about the use of funding with regard to the operation of the shelters, generally ensuring best value for money and ensuring the highest quality, individualised packages of support for VOTs.

The figures of victims accommodated within the shelters are as follows. In 2014: there were 5 adult VOTs and 2 dependants accommodated in the shelters. In 2013: 4 adults, 1 minor and 1 dependant. In 2012: 7 adults and 6 dependants. To date only one minor VOT has been identified and assisted within Georgia. This was in 2013. It involved a case of trafficking for sexual exploitation of a young girl by her Georgian mother. It is estimated that 1200 children are involved in street 'work'. The figures for the service are - 2013 – 78 children, 2014 – 350 children, 2015 – 380 children. Ethnicity as follows - 126 Georgian, 92 Azerbaijani Roma, 3 Ukrainian, 58 Moldovan Roma, 17 Armenian, 89 undefined.

A Labour Inspectorate does not currently exist; however, the Georgian authorities announced that a Labour Conditions Inspection Department is to be established within the Ministry of Labour, Health and Social Affairs. 25-30 labour inspectors are to be appointed with the role of raising awareness of current labour safety mechanisms, assessing labour conditions and identifying discrimination. Training for new staff will include THB and forced labour.

Although the numbers of prosecutions have increased year on year since 2012 the level is still low. The figures for the same periods are as follows: in 2013: 11 investigations, 5 prosecutions, 4 cases sent to court, 2 convictions, 10 statutory victims, 2 convicted traffickers. In 2014: 13 investigations, 7 prosecutions, 4 cases sent to court, 4 convictions, 7 statutory victims, 6 convicted traffickers. In 2015, from 1 January to 16. March 2015: 5 investigations took place, 1 prosecution, 1 case sent to court, 2 convictions, 3 statutory victims, 2 convicted traffickers. THB for forced labour continues to be much less visible with fewer investigations, prosecutions and convictions. The figures for the same periods are as follows: in 2013 - 3 investigations, 0 prosecutions, 0 cases sent to court, 0 convictions, 0 statutory victims, 0 convicted traffickers; in 2014: 4 investigations, 0 prosecutions, 0 cases sent to court, 0 convictions, 0 statutory victims, 0 convicted traffickers. In 2015, from 1 January to 16 March 2015: 1 investigation, 0 prosecutions, 0 cases sent to court, 0 convictions, 1 statutory victim, 0 convicted traffickers.

Georgia has signed and ratified the Council of Europe Convention against Trafficking in Human Beings which entered into force on 1 February 2008. The Convention aims to prevent trafficking in human beings, protect victims of trafficking, prosecute traffickers, and promote

co-ordination of national actions and international co-operation. It is the EU's benchmark international law and core to the aims of this Convention is the human rights, victim centred approach.

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

To facilitate the development of state anti-corruption policy and the coordinated fight against corruption, the Anti-Corruption Council (ACC) was established in 2008. Since 2013, it has become accountable to the Government of Georgia. In recent years, the membership of the ACC was expanded several times (last time in 4 February 2014), involving new state agencies, civil society organisations, international agencies and for the business representatives. Currently, the Anti-Corruption Council consists of 47 members, of which 27 are high-level governmental representatives, 2 members are from the Parliament and 1 from the judiciary; 17 observers represent local and international NGOs, international organisations, donors and the business associations. The Council is headed by the Minister of Justice.

The revision of the National Anti-Corruption Strategy adopted in 2010 and the elaboration of new Action Plan (2015-2016) was initiated by the ACC in January 2013. Both governmental and non-governmental sectors acknowledge the transparency and the inclusiveness of the process. The new strategy and action plan were adopted on 4 February 2015. The main goals of the Anti-Corruption Strategy is to develop a unified anti-corruption policy for preventing and combatting corruption; to boost public trust by increasing transparency and accountability of public entities; to enhance civil society and establish a transparent and accountable governance. The working process was guided by 13 strategic priorities of the fight against corruption, identified as a result of intensive activity undertaken by the anti-corruption working groups.

The Action Plan and the strategy would benefit from a further refinement of the measures, including a focus on measures to improve performance in the area of combating of corruption. Prioritisation should be made between various measures included in the action plan. The list of indicators should be revised to ensure the measurement of the actual impact rather than the mere fulfilment of measures.

➤ **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;**

Several bodies are competent for investigating corruption offences. The Ministry of Justice, the Anticorruption Agency within the Ministry of Internal Affairs and the Financial Investigation Service in the Ministry of Finance have competence over investigation of the staff of the respective ministries when they detect corruption offences. The Prosecution Service may take over cases for investigation in case there are doubts regarding the proper investigation by the body that detected the crime or can start directly the investigations for

corruption offences that were not detected by the specialised bodies. A memorandum of understanding was signed and is in operation between these entities.

The Ministry of Justice has a specialised investigation service competent to investigate crimes committed by the employees of the ministry and of the subordinated structure. The Financial Investigation Service has competence over corruption crimes in the private sector: bribery in the private sector, abuse of position or function in the public sectors and misuse or embezzlement in the public sector. It is staffed with 610 persons, out of which 400 have general investigative functions, not specialised for corruption offences.

The vast majority of corruption crimes in the public sector fall within the competence of the Anticorruption Agency of the Ministry of Internal Affairs which was established at the end of 2012. The Agency is responsible for detecting corruption and launching investigations, for collection of criminal intelligence and the use of special investigation measures, including wiretapping and obtaining of metadata. The Agency investigates the cases of conflicts of interest in the public service. The Anticorruption Agency is staffed with 256 employees for a ministry with 41.346 employees and has a budget of approximately 266 million euro. Trainings are periodically organised, including a three month legal training for criminal intelligence activities and inception training is available. Approximately 80 employees of the Agency were trained in 2014.

For senior public officials, including ministers and members of the Parliament, the competence for investigation of corruption stays with the Prosecution Service. The high profile of these cases justify this decision and it is up to the prosecutors to decide if they need additional assistance in a specific case and to which institution they should turn for help.

The amendments to the structure of the prosecution service on 30 May 2013, which transfer the powers of the Minister of Justice to the chief prosecutor, are welcomed developments, as the Ministry of Justice can no longer interfere in individual cases. However, there are concerns regarding the autonomy of the Public Prosecution, particularly with regard to high-level corruption investigations. Particular steps should be taken to ensure that decisions concerning the appointment and dismissal of the Chief Prosecutor are taken in an open and transparent way, free of undue political influence. Work is in progress to establish a prosecutorial council, which will have as a primary responsibility to propose by majority of 2/3 of its members a candidate for the chief prosecutor's office to the government, which then will present the candidate to the Parliament.

From 30 January 2015, the Office of the Chief Prosecutor has a specialised Anti-Corruption Unit. The Unit will investigate and prosecute the most serious cases of crimes under UNCAC as envisaged by the 7 July 2013, Decree N34 of the Minister of Justice. The unit will be staffed with supervising prosecutors and investigators of high profile cases. At present the unit has 7 investigators and 2 prosecutors and in the future they are planning to employ more. It provides for general competence of the unit to investigate a number of corruption crimes (1641, 182 § 2 (d), 220, 221, 332, 333, 337-341 of The Criminal Code of Georgia). However, the unit is not limited to high-level public officials, nor is the amount of bribe and value of damage considered as a threshold for material competence. Under those circumstances, provisions should be ensured that the resources and competences of the unit are directed to ensure that high-scale investigations are operationally ensured.

The issue of enhancing the independence of individual judges needs to be addressed. High-level corruption is not an ordinary crime: it may involve some of the most powerful individuals in a society who control important aspects of public life and sometimes even business and media. To obtain results in combating high-level corruption a balance between political decision and merit based selection process for the Chief Prosecutor, but more importantly independent and competent judges able to perform a proper review of prosecution acts. Though the principle of life tenure was introduced it is still unclear what will happen with the existing judges (for newly selected judges, the High Council of Judges has developed objective criteria and a transparent process). Before obtaining life tenure, a three-year probation period is envisaged. However, the three-year probation period is considered as excessively long and raises concerns over the independence of the judges. Judges appointed for a limited duration of time (most of them for 10 years) that is soon to expire will have to apply like any other newcomer to the judiciary for a position and if selected, only after the three-year probation, they can be appointed for life.

Although pre-trial arrests are decreasing, the issue remains sensitive. Pre-trial arrest can last for nine months and since the Criminal Procedure Code does not provide for periodic judicial review of detention, the burden of initiating a review of detention is shifted onto defence, which has according to international organisations an impact in practice on the automatic prolongation of detention up to the legal limit of nine months. A draft amendment introducing automatic and periodic judicial review of detention warrant has been adopted by the government mid-April 2015 and has been submitted to the parliament. The draft will address also the duty of the courts to substantiate their decisions on pre-trial detention. Defendants in pre-trial arrest – particularly if towards the end of pre-trial arrest term for one investigation new cases against the same person are started - are more likely to consent to signing of a plea bargaining agreement even when the incriminating evidence against him/ her are not strong enough. Amendments adopted by the Parliament to reform the plea bargaining system on 24 July 2014 to increase the transparency of the process and judges' oversight role of its fairness are a step in the right direction and offer the premises for improvements in practice in this field; particularly in light of massive allegations of plea bargain abuse before 2012.

The Government adopted the Civil Service Reform Concept on November 2014. It aims at establishing a politically neutral, open and effective civil service, a professional and carrier-based system, as well as a fair remuneration and classification system. The Civil Service Bureau (CSB) has presented a detailed action plan regarding the implementation of its tasks with clear deadlines and responsible persons. Furthermore, according to the Georgian authorities, it is planned to have job descriptions for all central state agencies by the end of 2015. In addition, the role of the CSB has been increased in the civil service human resources selection process. Two new departments (Civil Service Institutional Set-up and Practice Generalisation Department and Civil Service Human Resources Department) were created to tackle the implementation of reform and the top management of CSB was expanded by adding position of another deputy director. Additional safeguards should be included in the law to ensure the independence of the Bureau.

With regard to the protection of whistle-blowers, while detailed provisions on whistleblowing exist in the law on conflict of interest and corruption in public service, no examples of whistleblowing exist until now. The Civil Service Bureau has planned an extensive awareness program with the aim of helping civil servant to better understand their rights. A safe environment should be created in order to ensure the possibility for whistle-blowers to report

the crime and ensure that whistle-blowers will not suffer detrimental consequences as a result of reporting.

Asset declarations by public officials can be a valuable tool in combating corruption.

More than 5000 senior officials submit declarations of assets and they are published online on [www.declaration.gov.ge](http://www.declaration.gov.ge). This publication mechanism that exists since 1998 and became entirely online driven in February 2010 is a very good transparency practice which allows everybody to have insight into the declared wealth of senior officials. The next step is to set-up a verification mechanism that allows for in-depth checks and provides for sanctions to be applied in case problems are identified. The Georgian authorities reported that on 4 February 2015, the Anti-Corruption Council created a special Working Group mandated to elaborate a monitoring mechanism concept. The Working Group will present the draft amendments to the Anticorruption Council in June 2015. Once the Council approves the draft amendments, it will be submitted to the Government for their approval.

While publishing declarations of wealth is essential to ensure transparency in the public life, systematic check of these statements is equally important. Apart from accuracy checks, verification of assets disclosure forms could reveal unjustified enrichment, conflicts of interests or incompatibilities. Distinct sanctions should be included in the law for each of these cases allowing for fair and proportional treatment. At present there is reliance on NGOs that they will make best use of the available information to check the accuracy of wealth statements.

Public procurement is perceived as a sensitive area for corruption. The Georgian procurement system has undergone significant reform over the last years. Since 2010, the so-called “paper based tenders” were fully replaced by the electronic procurement system. Though there is a very transparent electronic procurement system, not all tenders have to follow the transparent route. The Government may decide to exempt itself from the use of the procurement process and use a direct contracting procedure. In 2012 the value of direct contracting, mostly for construction contracts was around 45% and in 2013, around 39% of the total amount spent on public procurement respectively. In 2014 the share of contracts concluded as a result of an open electronic tenders through eProcurement amounted to 68% of the total value of public contracts and, accordingly, the percentage of simplified procurement went down to 32%. This is a positive trend which needs to continue, particularly in the light of earlier criticism by international anticorruption watchdogs.

The competence for monitoring political finances belongs to the State Audit Office of Georgia. The State Audit Office was created in 2012 and replaced the Chamber of Control. According to the Georgian authorities the SAO received in 2013-2014 2706 declarations related to political funding. In 2013 the State Audit Office received 56 annual declarations and 118 election reports. In 2014 the State Audit Office received 57 annual declarations and 2475 election reports. After perceived politicisation of the SAO (as assessed by ODIHR) in 2012, the SAO resumed its functioning with renewed neutrality.

- **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, although a separate ethics code is not being developed, the new Law on Civil Service based on the Civil Service Reform Concept will determine comprehensive provisions on types of disciplinary infringements and sanctions, as well as classification of infringements into minor, relatively minor or gross violations, taking into consideration the specific details of the civil service. Additionally, guidelines on ethics for civil servants and a curriculum for trainers are being developed. After the completion of the workshop, the newly recognised trainers will conduct training for public servants on ethics.

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

Georgian anti-money laundering (AML) and counter terrorist financing (CFT) legislation has gradually evolved during the last decade and the necessary structures and legal provisions are mostly in place. The Georgian legal and institutional system is subject to periodic and thorough examination by external actors, most notably the Council of Europe Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (Moneyval). The recommendations by Moneyval have significantly contributed to identifying and overcoming the deficiencies. Georgian authorities seem to have addressed most of the recommendations contained in the last Moneyval report (dating back to 3 July 2012), nevertheless, Georgia is still subject to the follow-up process.

The implementation of the Strategy and Action Plan for Combating Money Laundering and Terrorism Financing adopted in March 2014 seems to be satisfactory. Inter-agency cooperation is working under the umbrella of the relevant Inter-Agency Council.

Georgia has set up an administrative-type Financial Intelligence Unit (FIU), the Financial Monitoring Service (FMS). When it comes to criminal investigation, money-laundering cases are forwarded to the Prosecution Service, while the Counter Terrorist Centre of the MoI carries out criminal investigation in terrorist financing cases.

The FMS was created in 2003 and became operational from the 1st of January 2004. The FMS is a so-called legal entity of public law. It is operating at the facilities and under the technical support of the National Bank of Georgia. Recently, the right to appoint the Head of FMS was transferred to the Government from the President due to constitutional changes. The FMS is an independent body in its activities, not subordinated to any other body and/or official. It is required to submit a report on performed activities to the Government of Georgia once a year. The functional and financial independence is guaranteed by law. The annual budget is EUR 880.000 for 2015 (EUR 15.000 increase compared to 2014). FMS has a staff of 32 persons (compared to 31 reported in 2014), however, currently 6 posts were reported as vacant (compared to 7 reported in 2014).

FMS staff shows professionalism, the necessary material preconditions for effective operation seem to be in place. The workflow has been largely automatised since 2012. Except for lawyers, all suspicious transaction reports (STRs) are sent electronically (and even for lawyers, the written STRs are forwarded to FMS in encrypted, electronic format by the Georgian Bar Association). The analytical software has recently been renewed. The FMS

claims that by the help of the available IT tools they can handle the volume of STRs without any problem. FMS closely cooperates with all relevant ministries and agencies and has access to the necessary databases. The dissemination towards the Prosecution Service does not take place on-line.

The number of suspicious transaction reports (STRs) was 3593 in 2012, 5778 in 2013 and 2497 in 2014 (resulting in 83 investigations submitted in 2014, compared to 55 in 2013 and 12 in 2012). This indicates an improvement of the reporting culture, just as in analyst work. The FIU is actively carrying out international cooperation, both incoming and outgoing requests are taking place in practice (27 outgoing and 25 incoming request were reported for 2014). The FMS indicated good cooperation with European counterparts.

The number of prosecutions and convictions relating to money laundering are quite low compared to the number of cases disseminated by the FMS (0 cases prosecuted out of 12 reports in 2012, 11 prosecutions with 5 convictions out of 55 in 2013 and 7 prosecutions with 11 convictions out of 83 in 2014). Georgian authorities claim that the reasons behind are the high number of still ongoing cases sometimes subject to international cooperation and the fact that in some cases, several reports are related to the same criminal activity.

An area of particular concern is the control of cross-border cash movements where there seems to be little progress compared to the shortcomings identified in 2014 and the envisaged legislative amendments do not seem to remedy those issues either (i.e. sanctions).

The Georgian criminal justice system as regards search, freezing, seizure and confiscation of criminal assets meets the European standards, nevertheless, the level of practical implementation of the existing legal possibilities may be improved. The statistics Georgian authorities have provided concerning the use of freezing, seizing and confiscation measures indicate that the amount actually and finally confiscated is much lower than the amount frozen or seized, even if the presence of still ongoing procedures may be an explanation for that to some extent. The overall (although not final) statistics for 2014 indicate assets frozen in the value of EUR 49 261 911 (out of which EUR 13 813 306 frozen in 10 money-laundering cases) and assets confiscated in the value of EUR 14 539 695 (out of which EUR 644 334 confiscated in 9 money-laundering cases). These figures raise some concerns as regards the consequent application of asset recovery measures in cases other than those particularly related to economic crime, although Georgian authorities confirmed the widespread use of financial investigation in criminal proceedings, especially in cases related to organised crime.

Taking into account the geographical location, the difficulties caused by the lack of Georgian state control over the breakaway regions and the obvious proximity of jihadist groups in the Northern Caucasus region of Russia on the one hand, and in Syria on the other, the verified involvement of some Georgian nationals in ISIS with some indications of supporters networks present in Georgia itself, Georgian authorities (who are under any circumstances well aware of all these factors) are encouraged to closely monitor this issue and raise awareness among all actors concerned.

- **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);**

Because of its location bridging Asia and Europe, Georgia is a transit corridor for drugs produced elsewhere. Georgian authorities are aware that their territory is used as a transit for drug smuggling towards Europe mainly via mainly the Black Sea ports of Ukraine, but also to some extent those of Romania and Bulgaria, the source being in Afghanistan and the initial transit route via Armenia and Azerbaijan or Turkey.

The national drug strategy and the action plan for 2014-2015 were adopted by the Inter-Agency Coordinating Council on Combating Drug Abuse on 4 December 2013. The Council is composed of Ministries and judicial authorities. The Council also involves NGOs in the elaboration of strategies and action plans. Actions undertaken by the different agencies are reported to the Secretariat of Inter-Agency Coordinating Council. A National Drug Monitoring Centre will start operating in mid-2015, which will be composed by the representatives from the relevant state agencies, NGOs and academia. The centre will carry out research activities to support the Council to make evidence based decisions. The centre will serve as EMCDDA focal point in Georgia and will provide annual country reports.

On 15 March 2014 new legislative amendments entered into force that criminalised the illicit traffic in some psychoactive substances being used as main substance for cooking home-made drugs. As a result, the use of so called "crocodile" (home-made drug) has decreased by approximately 99% over the last months. A package of legislative amendments related to new psychoactive substances entered into force on 1 May 2014.

Currently a Working Group is drafting amendments to the law that would set the amounts that define "small quantity" of possession for substances that are widespread in Georgia and to modify the list of controlled substances in line with international standards. An issue of concern are the low thresholds for the criminalisation of own use, as it raises the question of whether addicted or overdosed users have a realistic and a non-discriminatory possibility for access to medical treatments.

The effectiveness of the new laws is evidenced by the achieved outcomes - in comparison with the previous year, in 2014 the illicit traffic of new psychoactive substances has decreased by over 90%. The control at border crossing points has been strengthened by new and sufficient equipment and multi-agency working groups. As a result of these measures in July 2014, officers of the MoI arrested a truck, while crossing the Georgian border, with up to 3 tons of liquid heroin, containing 589 kg of heroin, more than 2 kg of codeine and 12 kilograms of morphine.

In the area of prevention, since March 2014 the MoI is conducting a wide-scale anti-drug campaign in order to increase awareness concerning the abuse of drugs and psychotropic substances and to promote healthy lifestyle among the population. Within the framework of the campaign, the Minister of Internal Affairs and other representatives of the Ministry, together with physician-narcologists, organised a number of meetings with the students of higher educational institutions and pupils of public schools. A broad media-campaign has been carried out. Harmful habits (including drug abuse) are reflected in the National Educational Plan in subjects related to nature sciences, social sciences and sport.



There are around 40.000 drugs users in Georgia most of them being injecting drugs users. Poly-substance users and home-made drug "cooking" are rising problems, but regular updates made to the legislation have put psychotropic drugs under prescription and have decreased the problem of "cooking". Another positive development is that ambulance doctors are not anymore obliged to report overdoses to the police. In 2014, the police performed urine tests on 50864 persons, out of which 36859 tested negative and 14005 tested positive for drugs. Being a first time user, the punishment is a fine while the second time will lead to criminal proceedings. The decision on conducting the test and the extraction of the samples is made when a police officer has a reasonable ground to believe, that a person is under drug influence. The tests are performed without judiciary oversight. The overall approach on drugs gives the impression that the main focus of the drug policy is on the users rather than on the drug dealers and distributors.

In the area of treatment and rehabilitation, the Ministry of Labour, Health and Social Affairs has implemented protocols and treatment standards for toxic psychosis, caused inter alia by psychoactive substances in order to increase effectiveness of detoxification treatment. An updated drug addiction state program was approved by the Government of Georgia in December 2014 with a budget of GEL 4388500. The drug-addiction state program was amended with a focus on increasing the cost-effectiveness and efficiency of program resources. A methadone detoxification program for opioid-addicts is available for every prisoner. In case of the consent of the opioid-addict, they are provided with services in two penitentiary institutions, one in Tbilisi and one in Kutaisi. In 2014, 453 prisoners received methadone detoxification service. There is a concern regarding the sustainability of the opiate treatment program, mainly issues of financing and accessibility. The drugs users should have direct and when possible, immediate access to the program and should not be imprisoned while waiting for the start of the treatment.

In the area of harm reduction, the Georgian Harm Reduction Network ensures the exchange and supply of safe injecting instruments, disseminating means for safe sex, means for treating veins, disinfection means and naloxone. In 2014 it provided services to 37895 persons, most of them injecting drugs users, and distributed 7389 units of Naloxone, 3300 injection syringes and 300000 condoms.

Since 11 August 2014, ambulance doctors are not obliged to report police on cases of drug consumption in urgent situations (overdosing). Additionally, treatment of overdosing is now funded from the state budget for individuals infected by HIV and for those who are under the poverty line. On the other hand, as the autopsy is not compulsory in Georgia, there is lack of statistics on deaths caused by drugs overdose.

In 2014 representatives of Georgia attended international conferences organised by EMCDDA and there was exchange of high-level visits between Georgia and EMCDDA. As a result, parties agreed to enhance existing cooperation and in December 2014, in response to the request of the Minister of Justice of Georgia/Head of the Inter-agency Council the EMCDDA's Management Board gave the mandate to the Director of the EMCDDA to negotiate a Memorandum of Understanding between the EMCDDA and Georgia. The first draft of MoU was provided to the Georgian side in February 2015 and is under examination. On 15-17 April, 2015 Georgia hosted an EMCDDA regional conference for the EaP states on New Psychoactive Substances and Early Warning Systems.

- **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 the 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 the other sections of this report.

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

- **Sound implementation of international conventions concerning judicial assistance, judicial cooperation in criminal matters and protection of children (in particular Council of Europe Conventions);**

The central authority is entrusted to receive and process the incoming/outgoing requests; this facilitates the optimisation of the use of resources and improves the consistency in managing the related legal and factual issues. This authority is staffed by qualified professionals in adequate number who are rationally distributed in the different areas of international co-operation.

The channels and means of communication of the incoming/outgoing requests of international co-operation are being improved; they are similar to those which are used by most countries, including EU Member States.

The central authority shows a good capacity to collect and process the data on the flow of the various incoming/outgoing requests of international co-operation.

The judiciary retains a crucial role in any international co-operation related decision where the fundamental rights of individuals are at stake.

- **Ensuring a high level of effectiveness of judicial co-operation in criminal matters of judges and prosecutors, including on extradition matters, with the EU Member States and third countries;**

The flow of incoming/outgoing requests of international co-operation is significant. The figures show that throughout 2013-2014 this flow is growing in the areas of mutual legal assistance, extradition and transfer of sentenced persons. The timeframe in which the incoming requests of international co-operation are executed *prima facie* is reasonable; in any case this average time is no longer than that which several countries, including EU MS, take to grant co-operation. With reference to 2013 statistics (the latest available) the degree of acceptance of the incoming requests of mutual legal assistance and extradition is fairly high; in the meantime no case of refusal shows any apparent anomaly; both elements can be taken as indicators of the openness of Georgian system to grant international co-operation.

No case is known where the competent authorities, by granting or refusing the co-operation, seriously harmed the general interests of justice or the fundamental rights of individuals.

In 2014 the overall number of requests was 1712, including 1637 incoming and 75 outgoing requests. Georgia granted assistance further to 568 incoming requests whilst it refused 300 of these; 769 are still pending. Foreign countries granted assistance to 38 outgoing requests whilst they refused to 3 of them; 34 requests are still pending.

The flow of incoming and outgoing requests involved mostly Turkey (83%), the Commonwealth of Independent States (11%) and the European Union Member States (4,5%).

EU Member States forwarded 57 requests to Georgia which granted assistance to 35 whilst it refused to 11 of these; 11 requests are still pending. Georgia forwarded 20 requests to EU MS which granted assistance to 6 whilst they refused to 1 of these; 13 requests are still pending.

The majority of incoming requests were related to a number of criminal offences of high/medium seriousness such as smuggling, theft, forgery of documents, bodily harm, irregular immigration, pimping, fraud, corruption, drug dealing/trafficking, armed robbery, murder, smuggling of immigrants, trafficking in human beings.

As regards extraditions in 2014, the overall number of requests of extradition was 70, including 34 incoming and 36 outgoing requests. Of the 34 incoming requests, Georgia accepted 16 whilst it rejected one and postponed 3; 14 requests are still pending. The rejected request concerned a Georgian national in the absence of reciprocity and the majority of the pending requests have been delayed because of asylum proceedings. As regards the 36 outgoing requests, foreign countries accepted 7 whilst they rejected 4 and postponed one; 24 requests are still pending.

As regards transfers of sentenced persons, there were 41 requested transfers to Georgia in 2014, most of them from Russia and Turkey. Two requests were from Austria and one from Spain.

- **In accordance with the procedures in the EUROJUST decision, conclusion of an agreement or working arrangement with EUROJUST, including on the exchange of information in common cases and the processing of personal data;**

Since January 2015, Georgia is on the priority list of countries with which Eurojust is negotiating a cooperation agreement. A condition for such an agreement is a robust regime of data protection rules and Eurojust has launched its data protection assessment. The preliminary findings are positive as to the recent amendments introduced in the law on data protection, which address the issue of the applicability of the law to the judicial sector and the strengthened powers of the Personal Data Protection Inspector.

### **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 Criminal Procedural Law provides LEAs and Prosecutors with a set of tools compliant with International and European standards. The Procedural Code envisages interrogations, identifications, searches, seizures, confiscation, inspections, investigative experiments, exhumation as well as covert investigative actions (inter alia wiretapping). Covert

investigative actions, which require court order and which are envisaged by the Criminal Procedure Code are the following: wiretapping, withdrawal and fixation of information from communication channel, control over mail-telegraph messages (except diplomatic mail), covert video-audio recording, recording videos or photos and electronic surveillance by technical means. According to the Georgian legislation, controlled deliveries and undercover operations fall under criminal intelligence activities and are envisaged by the Law of Georgia on Criminal Intelligence Activity. In order to conduct these measures no court order is required.

According to the Criminal Procedure Code, the MoI Operative-Technical Department is the only authorised body to implement covert investigative activities (wiretapping, eavesdropping and etc) at a technical level in order to minimise the risk of illegal interceptions and easily identify alleged perpetrator. After the wiretapping is ensured technically, the actual listening to the wiretapping is carried out by the operative personnel of the requesting agency. The MoI Operative-Technical Department provides technical support for investigative as well as for national security agencies in this regard.

Georgian LEAs demonstrated the capability of their investigators to use special investigative measures. Investigations and prosecutions carried out by means of undercover cooperation and wiretapping seem to be recurring. Controlled delivery methods have not been used yet, but controlled purchases did occur. For instance, a case on counterfeit currency smuggling has been solved through the deployment of two MoI undercover agents in Sarpi, thanks to a multiagency investigation and the use of controlled purchase.

- **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 relevant public actors responsible for preventing and tackling organised crime, drug trafficking and law enforcement co-operation, have at their disposal a well-equipped toolbox (legislation, regulations, policies, expertise and special investigative measures). Upper echelons as well as lower rank personnel (especially investigators and prosecutors) follow European and international best practices.

The work of the Interagency Coordinating Council for Combating Organised Crime and the provisions of the National Strategy on combatting crime have ensured a high level of cooperation between every law-enforcement agency and with the prosecution, for example through joint investigations, strong communication and confidence between prosecutors and investigators, and a clear awareness of respective agencies' tasks. In all high-profile cases a joint prosecutor-investigator team is established. The most frequent cases can concern drug smuggling, money laundering, skimming, counterfeit currency, weapon smuggling and civil asset recovery procedure. The e-flow and info-flow systems ensure a secure, digital, paperless communications among all law-enforcement and prosecution bodies.

Additionally, a memorandum of understanding (MoU) between MoI, MoJ, Ministry of Finance, Chief Prosecutor's Office and Financial Monitoring Service on Inter-Agency Cooperation on Law Enforcement issues was signed by the heads of aforementioned agencies and entered into force on 16 May 2013. The MoU regulates the cooperation between law-enforcement agencies in the area of fighting national and transnational crimes and provided for the establishment of a Working Group. In order to facilitate the exchange of information,

the parties exchange and regularly update contact points and agree on the use of secure encrypted e-mail; the memorandum also regulates the creation of ad hoc joint investigative groups on the basis of the request from one of the parties.

The Central Criminal Police Department of the MoI has an Analysis and Strategic Division composed of a Unit for Data Processing and Information Supply, an Analysis Unit and a Unit for Strategic Development. The structure was established in order to study new modi operandi and tools of criminals, face new types of offences and fill-in gaps on development of strategic policing, ensure data collection, crime analysis and the production of knowledge tools to be submitted to the policy makers and to be disseminated to the police community in order to facilitate strategic planning.

Nevertheless, even if Georgian LEAs are provided with modern automated risk systems, electronic databases and information exchange tools, it seems that they do not draw up a formal, all-encompassing knowledge product to be considered as a threat assessment or, at least, a situation report on crime with the purpose to identify new criminal trends. Currently, there is no Intelligence Led policing (ILP) model to be used as a National Intelligence Model (NIM) and hence there are no handling codes, dissemination rules and source of information standards. With databases, crime maps and the data storage systems at their disposals, Georgian LEAs should be very close to achieve a good ground for analysing crime in a proactive way in order to identify most relevant threats and set up their priorities through an independent, coherent, logic and analytical way. A certain risk exists for criminal investments as well as criminal infiltration in public contracts and the legal economy.

- **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;**

The International Relation Department is responsible for non-operative international police cooperation through the Bilateral and Multilateral Cooperation Unit (BMCU) established in 2012, such as trainings, seminars, workshops, study visits, elaboration of best practices and joint cooperation programs with partners.

The International Criminal Cooperation Centre has been established in 2012 under the umbrella of the Central Criminal Police Department of the MoI. It is in charge for the implementation of relevant provisions of the Law on International Law Enforcement Cooperation and international (universal, multilateral and bilateral) agreements concerning international operative police cooperation. Since December 2014 it also includes Regional Cooperation Unit responsible for the cooperation within GUAM, BSEC and SELEC, hence uniting all operative international cooperation units under one Centre.

The International Relations Department and International Criminal Cooperation Centre of the MoI ensure good levels of international operative cooperation through bilateral and multilateral understandings and agreements. The establishing of a Personal Data Protection Inspector Office and its new competences on home affairs issue should improve partners' trust in the Georgian authorities. The active participation in the Millennium OICP INTERPOL

Project and the latest letters to some Member States in order to arrange meetings on operative cooperation are good examples of Georgian readiness and commitment.

The Georgian Authorities cooperate with their international partners within the INTERPOL Project Millennium, aimed to tackle the Transnational Eurasian Organised Crime (TEOC). Working groups on OC ("Thieves in Law" and "criminal circles") have been established in 2014 with Austrian and German LEAs. Georgia is planning to request 14 other EU Member States to establish bilateral working groups as well.

The established framework for international cooperation supports all the needs for cooperation. However there is always room and need to enhance the awareness inside Georgian LEAs of possibilities as well as the readiness to use them.

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

In July 2014, Europol initiated the process of preparation for negotiations for the conclusion of an operational cooperation agreement with Georgia. In September 2014 a detailed questionnaire on personal data protection was submitted to the Georgian side, and then followed by an additional questionnaire sent in November 2014. Based on the answers provided by Georgia, Europol data protection experts will visit Georgia by mid-2015 in order to assess the personal data protection regime of Georgia. Following the mission, an assessment report will be drafted, based on which Europol will take a decision on commencement of negotiations on a draft operational cooperation agreement. In this field further improvements in data protection (handling code, evaluation of sources and information, dissemination rules) will help to achieve a positive decision by Europol in order to sign an operational agreement. The prompt reply to the questionnaires submitted by Europol should be evaluated at this stage as a positive step.

#### **2.3.4. Data protection**

- **Implementation of the legislation on the protection of personal data both in the public and private sectors;**

The necessary basic arrangements are in place for securing compliance with the data protection law. The arrangements for the appointment of the Personal Data Protection Inspector ('Inspector') were amended in August 2014 to strengthen the Inspector's independence and give the decision on the selection of the Inspector to the Parliament rather than to the Government. The Inspector is appointed for the relatively short period of three years and may be reappointed for only one further consecutive term. The data protection law specifies that the Inspector's duties are incompatible with membership of any state or local self-government bodies or any post within state service. The Inspector may engage in no remunerative work, except scientific, educational or artistic activity. The data protection law sets out the limited circumstances in which the Inspector may be removed from office. Article 31 of the data protection law says expressly that the Inspector is independent and not subordinated to any official or body. Any attempt to influence or interfere with the Inspector's activities is punishable by law. To help ensure independence, the State is required to provide adequate working conditions for the Inspector.

The Inspector has the power to carry out inspections of data controllers and data processors, either on her own initiative or at the request of an interested person. If the Inspector finds a breach of the data protection law, she has a range of powers to order remedial action. These include requiring the controller or processor to change their practice, ordering the blocking, deletion or depersonalisation of the data, or ordering the temporary or permanent cessation of the processing. If the requirements are not complied with, the Inspector has the power to apply to court. If the Inspector identifies an administrative offence, she has the power to impose an administrative penalty herself.

The Inspector has carried out 18 inspections involving 24 data controllers. Ten inspections involved the public sector and 8 involved the private sector. About two thirds were carried out following complaints (of which the Inspector received 28), and the remainder were on the Inspector's own initiative. The Inspector made written recommendations in 8 cases, imposed a fine in 4 cases, required data to be blocked in 6 cases, required data to be erased in 3 cases, and required processing to be terminated in 20 cases. If the Inspector believes that a criminal offence is being committed she is obliged to notify an authorised state body. Under the Criminal Code of Georgia, the illegal collection, storage, use, dissemination or disclosure of private or family secrets, private life information or personal data causing serious damage is punishable with a term of imprisonment of up to 3 years, or 7 years if there are aggravating circumstances. Three cases (involving 4 individuals) were heard under this provision in 2014, and all resulted in convictions.

The data protection law requires each data controller to maintain a catalogue of all the personal data filing systems held by the controller. The Inspector has received information about 5,032 catalogues from 1,936 organisations. Of these, 1,856 were public sector organisations and 80 were private sector organisations.

Organisations in both the public and private sectors reported a good working relationship with the Inspector and that they readily sought her help on data protection matters. According to representatives from the private sector the law has had a positive impact by encouraging them to handle personal data better. Whereas formerly they had had regard only to the need for business confidentiality, they now had a much better appreciation of the need for good personal data handling policies and a motive to implement them. They worked closely with the Inspector in revising their internal arrangements – for example by reviewing their contracts and developing data protection policies, as well as training key staff - and felt that they had a good understanding of what was required.

As regards international co-operation, the Inspector is a member of the Council of Europe Consultative Committee on Data Protection (T-PD), and participated in meetings of the Council of Europe's Ad Hoc Committee on Data Protection (CAHDATA).

- **Ensure efficient functioning of the independent data protection supervisory authority both in the public and private sectors also through the allocation of the necessary human and financial resources;**

The Inspector's funding comes from the State budget. She draws up her own spending plans and submits them to the Ministry of Finance who are responsible for submitting the State budget to Parliament. The Inspector has a separate code in the State budget. She is required to provide justification for her spending plans to the Ministry of Finance who have the power to amend them. If the Ministry of Finance do not agree with the Inspector's plans, the Inspector

has the power to go directly to the Parliament. The budget for 2015 is 2,225,000 GEL (approximately €50,000), a significant increase over 2014 when it was 600,000 GEL. There are currently 26 staff in post, and an approved complement of 40. The additional 14 staff are currently being recruited.

- **Conduct training programmes (including on anti-corruption) and raise awareness on data protection, including establishment of guidelines and ethical codes for officials and authorities concerned;**

The Inspector carried out 60 training activities across the public and private sectors and trained over 2200 people, the vast majority of which came from the public sector. As well as conducting training programmes on her own account, she co-operated with the training branches of other public sector organisations. In particular, she has co-operated with the training branches of the Ministries of Justice, Internal Affairs, Finance and Foreign Affairs. In addition she trained staff of the Public Service Development Agency, the administration of the President and the office of the Chief Prosecutor. For the future, training is planned for local self-government authorities, more private organisations, and media representatives.

The provision of information to the public about data protection is one of the four main statutory tasks of the Inspector. However, the extent of awareness of data protection is still low. Only a small number of private sector data controllers have submitted notifications to the Inspector, although the number of public sector organisations notifying is much higher. The statistics for approaches made to the Inspector for information and advice show that 438 involved the private sector, 547 the public sector, and 139 citizens. The last of these figures is the best available indicator of awareness of data protection among ordinary individuals. In a country with a population of about 4.5 million people, where data protection law has only relatively recently been introduced, a considerably greater number of requests for information should have been recorded were knowledge of the issue to be widespread among the public.

As concerns guidelines and ethical codes, one of the Inspector's tasks is to produce written guidelines for data controllers. Those produced so far cover: Personal Data Protection in Labour Relations; Data Processing for Direct Marketing Purposes; and Video Surveillance Systems. Other guidelines that the Inspector are currently working on include: Data Protection and On-line Privacy; Protection of Medical Data; Data processing in the Insurance Sector; and a Media Guide on Data Protection.

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

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

- **Ensuring that freedom of movement within Georgia of Georgian citizens, legally staying foreigners and stateless persons is not subject to unjustified restrictions, including measures of a discriminatory nature, based on any ground such as gender, race, colour, ethnic or social origin, genetic features, health status (including HIV/AIDS), language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation;**

The Organic Law on Citizenship of Georgia and the Law on Legal Status of Aliens and Stateless Persons accompanied by relevant by-laws lay down the legal framework regulating



the citizenship and residence issues. The new legal framework which introduced major changes to the status of aliens and stateless persons was adopted in 2014. Therefore, the implementation practice is still developing and authorities have to deal with some challenges arising during this process. The efforts need to be stepped up to increase knowledge of individuals concerned about their rights and obligations under the new legislation in a language that they understand. Cooperation with local governments and local communities, paying particular attention to persons belonging to national minorities, could be very useful. There is a vivid civil society in Georgia who could also be invited to be engaged in information sharing.

Georgia adopted the Organic Law on Citizenship on 30 April 2014 which entered into force on 11 June 2014. The Decree on Consideration and Decision-Making on Matters of Georgian Citizenship specifies the issues of granting and terminating Georgian citizenship and determines the procedures of considering and deciding on awarding or terminating Georgian citizenship. The new law on citizenship paid particular attention in bringing the law in line with the principles established by UN Convention on the Reduction of Statelessness.

Georgia, since its restoration of statehood in 1991, has always followed the principle of single citizenship while not foreseeing the possibility of dual or multiple citizenships. Georgian citizen may not concurrently be a citizen of another country, except if he/she has been granted Georgian citizenship by way of exception by the President. The President may grant Georgian citizenship to an alien who has made a contribution of exceptional merit to Georgia. The President may also grant Georgian citizenship by way of exception to an alien based on state interests (Article 17). A Georgian citizen shall lose Georgian citizenship *inter alia* if he/she acquires foreign citizenship (Article 21).

Georgian citizenship may be terminated by an applicant seeking the abandonment of citizenship. A person shall lose citizenship if a person acquires citizenship of another state, in this case a competent Georgian authorities apply to the PSDA Agency about the loss of citizenship or if the agency learns about the presence of grounds for the loss of citizenship, it shall consider the issue and submit its conclusion to the President who will make the final decision. It has to be stressed that nobody can be deprived of Georgian citizenship. A conclusion of the Agency on matters of Georgian citizenship can be appealed in court, a decision of the President, except of a negative decision on granting Georgian citizenship, is also open to appeal.

Law on Legal Status of Aliens and Stateless persons entered into force on 1 September 2014 and all necessary by-laws have been adopted. The law regulates previously very liberal approach to residence and visa regime. Previously citizens could stay in Georgia for a period of 360 days during one year. According to the new law a foreigner who stays in Georgia for more than 90 days within 180 days has to apply for a residence permit. This is a considerable change in comparison with the previous regulation as before there was no need for a residence permit.

A particular issue has arisen in the application of the new "Law on Legal Status of Aliens and Stateless persons" with residence permits and citizenship for holders of two or more passports in the compact populated minority regions. There has been a practice in some regions of Georgia that individuals acquire the nationality of another state in order to seek better work possibilities in neighbouring countries. It was explained to the experts that due to economic reasons men as heads of household have been entering into seasonal or temporary jobs in

neighbouring countries to support their families and while working abroad they have acquired the nationality of another country: Armenian, Azerbaijani, Russian, also Turkish in order to facilitate travelling abroad. There are economic reasons behind this choice as the unemployment rate in some regions of Georgia is high. Georgian law does not allow persons, who voluntarily acquire another nationality, to retain their previous nationality and they will, in an automatic process, lose Georgian nationality. The authorities have to initiate the proceedings of losing citizenship in respect of individuals of dual citizenship when they become aware of this fact.

There is no official data available about the number of foreign citizens living permanently in Georgia who possess double citizenship and who according to the law have no right to Georgian nationality. Different estimates of those affected have been presented by the members of the civil society ranging from 2,000-6,000 foreign citizens. There have been cases where the process of loss of citizenship has been initiated but the numbers are not very considerable. It was confirmed by the authorities that about 350 Armenian citizens have lost Georgian citizenship on the ground of prohibition of dual citizenship. Individuals possessing double nationality and two passports in violation of the law are not willing to give information about their status knowing that Georgian authorities have to initiate an automatic process of deprivation of Georgian citizenship. The authorities are not pro-actively inquiring how many passports a person has. The countries of citizenship give information to Georgian authorities but mainly information is gained on border crossings.

This is a right of an individual to choose a citizenship of a foreign country but as non-recognition of multiple nationality has been a long standing practice in Georgia, everyone living in Georgia should have been aware of the non-recognition of multiple nationality in Georgian law and about a possibility of loss of Georgian nationality in this case and this cannot come as a surprise.

The civil society expressed concern that the new immigration policy is too cumbersome and it is too complicated to apply for a residence permit in Georgia, maintaining also that it unproportionally influences the rights of persons belonging to the minorities of Russia, Azerbaijan and Armenia. Although Georgia previously had a more lenient system for aliens living in Georgia, the legislative changes introduced give foreign citizens living in Georgia a possibility to regularise their stay in Georgia. Taking into account that these persons have voluntarily acquired a nationality of a foreign country and that they can apply for a residence permit, it is reasonable to expect that they should legalise their stay in Georgia and this legal duty cannot be considered too cumbersome. Extension of deadlines in the law gives now more time to initiate relevant proceedings, showing flexible attitude from authorities to tackle unexpected shortcomings of needed reforms and legislation.

On 24 February 2015, the law was amended and the grace period to apply for a residence permit was extended until 1 July 2015. Aliens who have crossed the state border before 1 September 2014 have now until 1 July 2015 the possibility to apply directly for a 6 year residence permit in Georgia and there is no need to acquire a Georgian visa and apply for a residence permit in a diplomatic representation abroad. After this deadline immigration visa should be obtained from a diplomatic representation abroad.

The timeline extension was a welcome development and shows the willingness of Georgian authorities to guarantee to all those concerned a possibility to regularise their stay in Georgia. The prolongation of the grace period was a necessary step as during the meetings with the

representatives of civil society claimed that those concerned are not well aware how to regularise their stay in Georgia.

The question of refusal of granting a residence permit, in particular on the grounds of state security, was raised by representatives of the civil society. Authorities have stressed that all cases will be dealt with on a case-by case basis and all aspects of the case including family unity will be taken into account. There is also a possibility to appeal against a refusal to grant a residence permit. A complaint against an administrative act of refusal can be presented in the administrative court and the court has to review the case, the decision of the first instance court is open to further appeal in the second and third instance courts. There is a possibility to get legal aid in addition to criminal cases also in civil and administrative cases.

The PSDA carried out a comprehensive information campaign: information about legislative changes was provided to the Diplomatic Corps accredited in Georgia, international organisations and foreign chambers of commerce. Relevant information is also available on the websites of PSDA and MoI in Georgian and in English. Further steps have been taken by the authorities to inform persons belonging to national minorities and currently information material is being translated into Russian as being a language widely understood by persons belonging to national minorities. There have also been meetings held to discuss practical problems of implementation of legislation where representatives of state authorities, local government and local communities have participated.

Statistics show considerable reductions of statelessness in recent years: 2011 (1.958), 2012 (1.690), 2013 (783) 2014 (770). Total number of stateless persons with determined status under new law is currently 157.

The authorities continue to improve their policies as regards stateless persons. There are already specific plans for 2015: 1) Developing an action plan on reduction of statelessness; 2) Gap analysis on the situation of statelessness in Georgia; 3) Developing Special Operations Procedures on citizenship and statelessness issues.

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

- **Full and effective access to travel and identity documents for all Georgian citizens including women, children, people with disabilities, internally displaced persons, people belonging to minorities and other vulnerable groups;**

Full and effective access to travel and identity documents for all Georgian citizens including women, children, people with disabilities, internally displaced persons, people belonging to minorities and other vulnerable groups is in place in Georgia.

#### **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;**

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 provides the necessary legislative bases to ensure the implementation of the relevant benchmark; still, some of its provisions related to "public morals and state interest" should be subject to close monitoring (e.g. matters of compelling state interest.)

According to Article 11 of the Anti-Discrimination law:1. An organization, institution, or association, engaged in the protection of persons from discrimination, may apply to the Public Defender of Georgia with the request to be permitted as a third party in the trial provided for by this Law. 2. The Public Defender of Georgia may satisfy a request provided for by the first paragraph of this article only with consent of the person who considers himself/herself to be a victim of discrimination. Article 11 is applicable only in the proceeding before the Public Defender and not for the Court procedures. Anti-discrimination legislation does not include any provisions about third party participation in the Court procedures. The participation of the third party in the Court is regulated by the general provisions of the Civil and Administrative procedures codes, which clarify that the third party can be a person or organization whose rights and/or obligations can be influenced by the Court procedure.

The Law of Georgia on Elimination of all Forms of Discrimination entered into force on 7 May 2014. This is an important and positive step taken by Georgia to create a legal framework to strengthen principles of equality and non-discrimination and giving better protection to individuals. First steps taken in its implementation are encouraging and demonstrate the determination of the authorities to stay on course and continue work towards a tolerant society. According to the law two mechanisms are available to victims of discrimination: 1) the Public Defender of Georgia; 2) the Court.

On August 22, 2014 by the Decree #140 of the Public Defender of Georgia, amendments were introduced to the Statute of the Office of Public Defender of Georgia establishing the Equality Department, which is tasked to carry out the responsibilities assigned by the Law of Georgia on Elimination of all Forms of Discrimination. The functions of the Department are the following:

- Examination of applications on alleged discrimination submitted to the Office of Public Defender and preparation of relevant conclusions/recommendations/ proposals;
- Drafting constitutional complaints under its competences;
- Preparation of relevant parts of the Ombudsman's report;
- Monitoring the implementation of the recommendations made by the Ombudsman on issues within its competence;
- Planning and implementing educational activities on issues of equality;
- Analysis of laws/draft laws and preparation of recommendations/proposals.

Activities of the Department are carried out by the Head of the Department, the Deputy Head of the Department and 4 Chief Specialists. In accordance with the needs of the Office, the Public Defender of Georgia plans to gradually recruit 17 additional employees. The Public

Defender employs two legal advisers/consultants, who provide legal consultations to individuals and assists them in completing the application forms. According to the authorities financing of the Equality Departments of the Public Defender's Office is sufficient (2014 – approximately €158,291 and for 2015 €240.000 allocated) to fulfil all the tasks vested in it and currently there is no need for additional state financial resources. For the future, financing should be sustainable and financing of non-discrimination activities may deserve separate financing in future action plans which are already under consideration, including donors /EU funding.

As of February 2015, the Office of Public Defender of Georgia has reviewed 61 cases: 58 complaints of alleged discrimination and 3 cases initiated by the Public Defender: 1) access to the Sport palace for disabled persons; 2) Publication of discriminatory vacancies based on sex; 3) Publication of discriminatory vacancies based on age. 62% of the cases reviewed by the Public Defender concerned alleged discrimination in the public sector and 38% in the private sector. When reviewing the discrimination case, the Public Defender may take the following decisions: 1) Friendly settlements with the right to invite the parties in conflict and monitor fairness of the friendly settlement. 2) Recommendations when parties fail to reach an agreement and there is sufficient evidence of discrimination; 3) General proposals to prevent and combat discrimination.

The Public Defender of Georgia is also authorised to develop opinions on the necessary legislative amendments in order to ensure the compliance of national legislation with the anti-discrimination law. The Public Defender of Georgia has prepared a legislative proposal regarding the amendments into the following legal acts: Organic Law of Georgia - Labour Code; Civil Procedure Code of Georgia; Law of Georgia on Public Service. These proposals are currently pending in the legislative proceedings and deserve due deliberation.

MoI tasked analytical department to keep statistics on anti-discrimination cases and made anti-discrimination part of the basic curricula for the police. MFA is organizing targeted trainings for improving state reporting obligations under the UN treaty based bodies.

Judges face a challenge of frequent changes of the law but authorities reassured that all judges, administrative, criminal, civil judges get adequate levels of training. The High Council of Justice plans to elaborate curriculum and provide trainings on anti-discrimination with an emphasis on new anti-discrimination law and relevant international legal instruments. Forming a national case-law based on international standards is an important part of successful implementation of anti-discrimination law and qualification of judges is of crucial importance, as judges are the ones to interpret and apply the law, involvement of the case-law can lead to reviewing the law in the future, if necessary. At the moment there is not much anti-discrimination case-law and it is mainly in the developing stage, which is to be expected in the first years following the introduction of the legal framework. The Article 53(31) of the Criminal Code of Georgia concerns the issue of aggravating the penalties for crimes committed with discriminatory motives, this provision has been used very rarely (only two cases) by Public Prosecutor's Office or Georgian Courts.

### *Protection of Minorities*

The population of Georgia includes an important component of ethnic minorities of around 16% of the total population of the country (based on 2002 census). Georgia ratified the Framework Convention for the Protection of National Minorities in 2005. Although a specific

law on national or ethnic minorities does not exist in Georgia, the Constitution of Georgia and other pieces of legislation contain provisions on equality and non-discrimination in regards to ethnic minorities. Article 38.1 of the Constitution consecrates the rights of citizens to develop freely, without any discrimination and interference, their culture and to use their mother tongue in private and in public. Art. 38.2 disposes however that the exercise of “minority rights” shall not oppose the sovereignty, state structure, territorial integrity and political independence of Georgia. In addition, specific protection and provisions are contained in the Law on the Elimination of All Forms of Discrimination of 2014 and the recently adopted Human Rights Strategy and Action Plan.

The State policy on ethnic minorities is coordinated by the State Minister’s Office of Georgia for Reconciliation and Civic Equality, which also coordinates a State Inter-agency Commission overseeing implementation. The Council of Ethnic Minorities comprised of non-governmental organisations at the Office of the Public Defender and the Human Rights and Civil Integration Committee of the Parliament of Georgia constitute other important actors for consultation and monitoring of the State policy for ethnic minorities. In addition, the President and the Prime Minister have special Advisors on Ethnic Minorities.

In May 2009 the Government of Georgia adopted the key document of the State policy in relation to national minorities: the “National Concept for Tolerance and Civic Integration” and its related five-year Action Plan (2009-2014). The concept covers six strategic directions as envisaged under the action plan, namely: the rule of law; education and the state language; media and access to information; political integration and civic participation; social and regional integration and culture and preservation of identity. The Office of the State Minister with cooperation of independent experts prepared the Assessment Document on the Implementation of the National Concept for Tolerance and Civic Integration and Action Plan for 2009-2014, which reviews and analyses the policies and programs implemented. The Assessment document lists the achievements and concentrates on the remaining problems and formed the basis for establishing new priorities of a new strategy and action plan. It was prepared in open consultation with relevant stakeholders (Council of National Minorities, NGOs, and local minority groups) and received expert support from the Office of OSCE High Commissioner on National Minorities. Currently the new strategy and action plan are in an advanced stage of elaboration.

The general education system guarantees education in minority languages, and 14% of the public schools/sectors have Armenian, Azerbaijani or Russian as language of instruction. The four main directions of the education policy for integration of ethnic minorities are: a) improving the knowledge of Georgian language; b) protecting minority languages; c) ensuring the right to receive quality general education in native language; d) fostering access to higher education. In the area of media, the Public Broadcaster of Georgia airs a five-minute daily news programme in five languages and a weekly 45 minutes-programme dedicated to ethnic minorities-related TV reports. There are also radio programmes in six minority languages. The Ministry of Culture finances newspapers in Armenian, Azeri and Russian. Representatives of the national minorities have expressed some concerns in relation to stereotyped images or xenophobic statements in mainstream media coverage of minority related issues.

Concerns were also expressed in relation to occasional statements of intolerant character by senior public officials contrary to the goals of the state policy. Georgia also continues to face the challenge of integration of national minorities in state and local government institutions.

Even in the local councils of municipalities where minorities constitute a clear majority they appear to be often underrepresented. Insufficient knowledge of the State language was raised by the interlocutors as one of the main reason for this phenomenon. All these challenges are tackled as priorities under the new Tolerance concept. As a positive development a Draft Law on State Language was drafted in cooperation with OSCE Commissioner on National Minorities'. The draft law includes notion of the "language of national minorities" defined as a non-state language which is traditionally used by the citizens of Georgia living compactly in certain territory of Georgia, and guarantees for the use of minority languages in the "municipalities densely populated by national minorities".

During the last five years since the adoption of the Concept and Action Plan, significant progress has been made. Preparation of new Tolerance Concept is under way and is based on lessons learned in the period of 2009-2014. Still work is needed to improve civic integration of the ethnic minorities, who remain underrepresented locally and at the country level. Important balancing act needed to increase minority integration, while preserving linguistic and cultural rights with more emphasis on early education and responding to greater demand to learn Georgian language. Among positive elements mentioned by the ethnic minorities are improved infrastructures, agricultural vouchers, and University enrolment programme 1+4. There is also demand to learn more about the association with the EU and its benefits. The government confirmed its intention to concentrate more efforts in the regions.

Georgia remains committed to signing and ratifying the European Charter for Regional and Minority Languages and provisions to create necessary conditions will be included in the new Tolerance Concept and AP. This action will be reinforced by the two-year project in cooperation with the Council of Europe "Civic Integration of National Minorities in Georgia and the European Charter for Regional or Minority Languages" for the period 2015-2017.

- **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;**

Georgia has in 2014 adopted the National Strategy for the Protection of Human Rights in Georgia 2014-2020 accompanied with the national Action Plan (AP) for the years 2014-2016. The Strategy and the Action Plan identify human rights priorities and streamline the activities of various government agencies, while also making a positive contribution to the coordination of donor support which, in turn, should increase the effectiveness of the government's work in the area of protection of the human rights. The Strategy aims to develop a systematic approach ensuring the implementation of obligations stemming from human rights in everyday life. In order to monitor implementation of the AP an inter-agency coordination mechanism Human Rights Council (HRC) under the Government was set up. The HRC is chaired by the Prime Minister. The members of the HRC are the deputy ministers, several NGOs and all the international organisations present in Georgia. So far there have been 3 meetings of the Human Rights Council to discuss the implementation of the action plan. A Human Rights Council Secretariat is assisting the HCR in its work. In addition to the HR Strategy and AP, the Secretariat now also coordinates the UN Convention on Disability and is preparing a Strategy on Violence Prevention. The HRC has created 9 different working

groups meeting monthly on the level of deputy ministers and heads of department to monitor implementation of all 23 chapters of the AP.

The Secretariat, in cooperation with other ministries, government agencies and NGO's, has drafted a first Progress report on the implementation of the AP over the last 6 months. The Progress report was distributed for comments to relevant stakeholders in the beginning of January 2015, the discussions of the report in the working groups started in February and the draft will be presented to the HRC for approval in March. The HRC has to approve the progress report and final version will be presented to parliament. The objectives of the AP foreseen specifically for 2014 were all achieved. Specifically progress has been registered among others in the penitentiary reform, Juvenile Justice Code was prepared and important steps were taken to fight against challenges of domestic violence. The AP is a living document that can be amended to reflect needs and new challenges. The work has already started on a new Action Plan for the period 2016-2017. It will build on experience of the implementation of the previous one and will cover new areas such as for example: election rights, right to quality education, health care. As the current HR AP did not contain separate budget lines it is planned to include them into the new AP as well as to where possible introduce more concrete deadlines. The Secretariat also wants to raise public awareness and engage in the regions and introduce the Government's human rights policy and Action Plan to national minorities. Future funding by donors, including the EU, will enhance the implementation of the HR AP.



## ANNEX

### ASSESSMENT OF MIGRATORY AND SECURITY IMPACTS

#### 1. INTRODUCTION

##### 1.1. Background

According to the VLAP methodology, before moving to second phase, the Commission committed to provide an assessment of possible migratory and security impacts of future visa liberalisation for Georgian citizens travelling to the EU. Such an extensive assessment was presented with the previous VLAP CSWD<sup>11</sup>.

##### 1.2. Methodology

**This document updates the first Assessment of Impact that was published in 2014.** This assessment has been primarily based on the inputs provided by the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (FRONTEX); the European Union's law enforcement agency EUROPOL); the European Asylum Support Office (EASO); the European University Institute – Migration Policy Centre; Eurostat data. The present document also relies on a combination of official Georgian or international organisation sources.

Based on the contributions received, **the present update to the assessment aims to identify the main phenomena and key trends in the areas of migration, mobility and security in relation to Georgia and the possible impact of a visa-free regime for the Schengen area.**

This update to the assessment reflects the state of play as of March 2015 and therefore represents a snapshot of the situation at the current state of implementation of the VLAP. It is expected to change and improve, following the effective implementation of the VLAP. However, this update to the assessment does not constitute a benchmark of the VLAP.

#### 2. ASSESSMENT OF MIGRATORY IMPACTS

##### 2.1. Regular and irregular migration: trends and possible impacts of a visa-free travel

###### *2.1.1. General overview*

The migration of Georgians abroad is mostly a spontaneous circular migration to neighbouring countries. Unemployment and lack of economic opportunities are major determinants of labour migration from Georgia, keeping in mind that in 2013 and 2014 the unemployment rate in the country was around 15%<sup>12</sup>.

Even if the Russian Federation remains for Georgians the most popular destination for labour migration, economic opportunities and links with the EU result in migratory movements

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<sup>11</sup> SWD(2014) 334 final.

<sup>12</sup> National Statistics Office of Georgia and European Training Foundation "Migration and skills in Armenia, Georgia and Morocco" 2013 report with reference to The Georgia's National Statistics office.

between Georgia and its EU member states. **Germany, Italy, Greece and Poland are attractive destinations for Georgian citizen migration** but they also consider several other Member States such as Spain, France or UK as attractive destinations for labour migration. Therefore **Georgians are widespread across European countries**. Other common destinations outside EU include the United States and Turkey.

According to the International Organisation for Migration, labour migrants from Georgia represent 4.4% of the country population and almost 47% of them are male in 2013. Data on migration estimates that around 7% and 8% of Georgians have experienced migration. Studies show that Georgian families have at least one member living and working in a foreign country.<sup>13</sup> Men are mainly working in manual labour industries (construction, agriculture) and women tend to be domestic or seasonal agricultural workers.

The number of labour migrants from Georgia abroad is estimated at around 140.000 people.<sup>14</sup>

### **2.1.2 Regular migration facts**

The first table below from Eurostat shows all valid permits residents with 66.536 Georgians officially are residing in the Schengen area in 2013 (66.035 Georgians citizens are residing in EU Member States). Most of them live in Greece (16392), Italy (13051) and Germany (10741), followed by Spain (8907) and France (5027).

The data also shows an increase of average 5000 permits per year between 2011-2013 for the total EU countries, which correspond to a **growing interest for EU**.

**Table 1: All valid permits by reason, length of validity and citizenship on 31 December of each year (Georgians), 2011-2013**

Member State or Associated State	2011	2012	2013
European Union (28 countries)	57,565	60,188	<b>66,035</b>
Belgium	2,021	1,944	1,813
Bulgaria	67	79	75
Czech Republic	836	724	773
Denmark	136	135	141
Germany	10,143	10,567	<b>10,741</b>
Estonia	244	252	275
Ireland	367	364	312
Greece	16,523	15,532	<b>16,392</b>
Spain	7,601	8,389	<b>8,907</b>
France	3,945	4,468	<b>5,027</b>
Croatia	:	:	7
Italy	9,467	11,042	<b>13,051</b>
Cyprus	1,248	:	954
Latvia	243	251	289
Lithuania	243	308	325
Luxembourg	11	15	15

<sup>13</sup> The Caucasus Institute for Peace, Democracy and Development, 'Labour migration from Georgia and bilateral migration agreements: Needs and Prospects', 2009.

<sup>14</sup> Migration Policy Centre's input to the Assessment of Impacts, July 2014.

Hungary	247	226	170
Malta	47	48	64
Netherlands	733	680	483
Austria	1,073	1,352	1,560
Poland	585	924	1,320
Portugal	1,042	951	902
Romania	36	49	79
Slovenia	11	14	13
Slovakia	73	65	64
Finland	81	95	42
Sweden	542	605	1,221
United Kingdom	:	1,109	1,020
Iceland	6	6	:
Norway	72	84	91
Switzerland	:	397	410

Source: Eurostat data last updated 24.02.15, extracted on 08.04.2015

When compared to the other neighbouring countries in Caucasus better working conditions are the main factors for Georgians going to the EU. **Furthermore, with 18% of the population aged under 15 in 2013<sup>15</sup> Georgia will have to provide economic opportunities in the near future to avoid large emigration flows.** Higher wages and diaspora are probably important factors for choosing preferred Members States.

As the data in Table 2 suggest, the number of Georgian citizens getting **valid permits** in the EU varies from 6829 to **11596 (maximum registered in 2010)** in the recent years with a total of 9877 residence permits issued in 2013. Eurostat Data for 2014 is not yet available. Sudden increases in (2009/2010 and 2013) are presumably due to political developments (2008 military conflict and 2012 political power shift).

When it comes to regular migration to the EU in 2013, the most residence permits were issued in Italy (2 573), Germany (1 284), and Poland (1 211), followed by Spain, France and Greece (around 850 permits each).

**Table 2: First permits by reason, length of validity and citizenship (Georgia), 2008-2013**

Member State or Associated State	2008	2009	2010	2011	2012	2013
European Union (28 countries)	6,829	9,514	<b>11,596</b>	7,617	8,508	<b>9,877</b>
Belgium	221	395	339	217	148	98
Bulgaria	23	23	22	22	26	13
Czech Republic	203	167	176	95	130	161
Denmark	25	27	26	24	9	17
Germany	712	806	799	806	1,243	<b>1,284</b>
Estonia	41	65	83	66	58	64
Ireland	67	79	45	56	49	57

<sup>15</sup> IOM data: <http://www.iom.int/cms/en/sites/iom/home/where-we-work/europa/south-eastern-europe-eastern-eur/georgia.html>.

Greece	630	697	757	569	676	<b>809</b>
Spain	984	922	872	1,240	992	<b>901</b>
France	551	602	575	600	718	<b>857</b>
Croatia	:	:	:	:	:	1
Italy	1,091	3,590	5,898	1,483	1,952	<b>2,573</b>
Cyprus	312	243	187	184	133	137
Latvia	133	59	72	94	81	100
Lithuania	94	72	34	45	122	95
Luxembourg	:	6	1	2	3	4
Hungary	96	68	59	56	50	109
Malta	14	22	8	12	19	60
Netherlands	164	156	112	85	93	142
Austria	145	352	384	552	500	341
Poland	139	147	241	537	640	<b>1,211</b>
Portugal	190	111	107	86	67	58
Romania	14	28	13	9	13	45
Slovenia	2	4	7	9	6	3
Slovakia	19	21	20	24	16	12
Finland	19	14	8	11	19	17
Sweden	88	150	156	163	172	143
United Kingdom	852	688	595	570	573	565
Iceland	0	0	0	0	0	0
Liechtenstein	:	:	:	:	:	1
Norway	22	12	22	29	42	34
Switzerland	:	:	:	:	76	84

Source: Eurostat data last updated 24.02.15, extracted on 30.03.2015

It is also important to note the evolution of 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 from Georgians to travel to the EU**. The demand is also high regarding multiple entry visas with around 26.000 issuances per year.

The average visa refusal rate for short stay visa applications lodged by Georgian citizens dropped slightly from 11.5% in 2013 to 11.2% in 2014, whereas the multiple entry visa issuing rate was 28.2% in 2014. Countries that received the most applications in 2014 were Germany, Italy, Netherlands, Czech Republic and Greece.

**Table 3: Applications for short-term and Multiple entry visa Schengen in Georgia, 2013-2014 (Countries with Georgian consulate)**

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%	-13.9%	3.1%
Estonia	2,461	2,039	705	34.6%	421	17.1%	1,651	1,535	588	38.3%	104	6.3%	-24.7%	-16.6%
France	7,963	7,070	1,611	22.8%	891	11.2%	7,661	6,710	1,836	27.4%	942	12.3%	-5.1%	14.0%
Germany	17,625	15,592	2,918	18.7%	2,024	11.5%	16,739	15,795	3,143	19.9%	943	5.6%	1.3%	7.7%
Greece	6,144	5,294	511	9.7%	850	13.8%	10,048	8,672	600	6.9%		0.0%	63.8%	17.4%
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%	5.8%	-20.0%
Latvia	2,832	2,589	943	36.4%	243	8.6%	4,127	3,871	962	24.9%	255	6.2%	49.5%	2.0%
Lithuania	5,305	4,172	1,748	41.9%	1,192	22.5%	4,741	3,726	1,471	39.5%	941	19.8%	-10.7%	-15.8%
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%	54.2%	62.8%
Poland	3,153	2,922	979	33.5%	231	7.3%	3,890	3,715	1,393	37.5%	175	4.5%	27.1%	42.3%
Switzerland	4,159	4,016	877	21.8%	140	3.4%	3,643	3,424	704	20.6%	217	6.0%	-14.7%	-19.7%
<b>Total</b>	<b>82,159</b>	<b>72,702</b>	<b>26,002</b>	<b>31.6%</b>	<b>9,485</b>	<b>11.5%</b>	<b>93,126</b>	<b>80,967</b>	<b>26,255</b>	<b>28.2%</b>	<b>10,426</b>	<b>11.2%</b>	<b>11.4%</b>	<b>1.0%</b>

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

### 2.1.3. Irregular migration trends

Eurostat database table below shows that **5215 Georgians citizens were detected to be irregularly present in the MS and Schengen associated countries in 2013** of which the highest number (1380 cases) was detected in Germany, followed by Greece, France, Sweden and Italy. Other Eurostat data also shows that around 3000 Georgians who were found illegally in EU, returned to a third country in 2013.

**Table 4: Third country nationals found to be illegally present (annual data for Georgians), 2008-2013**

Member State or Associated State	2008	2009	2010	2011	2012	2013
European Union (28 countries)	5,120	<b>7,180</b>	5,325	4,285	<b>5,340</b>	<b>4,930</b>
Belgium	140	110	125	90	125	115
Bulgaria	25	25	25	25	15	30
Czech Republic	95	165	30	70	65	45
Denmark	5	0	0	0	0	0
Germany	460	605	710	585	1,085	<b>1,380</b>
Estonia	10	0	10	20	45	20
Ireland	145	250	120	45	25	25
Greece	1,915	2,395	1,340	850	795	590
Spain	635	595	440	355	290	245
France	0	410	400	285	390	400
Croatia	:	:	:	:	:	0
Italy	265	245	370	335	445	395
Cyprus	280	275	280	325	295	160
Latvia	15	5	5	15	70	75
Lithuania	30	80	55	130	265	220

Luxembourg	:	0	0	5	5	5
Hungary	15	30	30	35	45	65
Malta	0	0	0	0	10	10
Netherlands	95	140	280	160	:	:
Austria	490	895	450	345	410	340
Poland	20	255	75	95	210	215
Portugal	120	40	40	45	50	35
Romania	0	20	20	30	10	10
Slovenia	5	0	0	0	0	0
Slovakia	230	130	85	40	65	55
Finland	10	20	55	65	15	10
Sweden	0	345	270	240	505	405
United Kingdom	125	135	105	90	110	75
Iceland	0	0	:	:	:	:
Liechtenstein	0	0	0	0	0	0
Norway	5	0	:	10	15	40
Switzerland	:	0	0	205	200	245

Source: Eurostat data last updated 15.10.14, extracted on 30.03.2015.

This data also show sudden increases (in 2009 and 2012/2013) and decreases of irregular flows, presumably due to political developments (2008 military conflict and 2012 political power shift)<sup>16</sup>.

**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.**

**The total number of refusals of entry by Georgian citizens was 8210 cases in 2013. Poland is the main entry point to the EU and it issues the majority of refusals to Georgian nationals (7250 refusals).** Georgian nationals migrants use primarily land routes probably also because they are not able to travel by air without a visa to the EU.

**Table 5: Georgian citizens refused entry at the external borders 2012-2013**

Member State or Associated State	2012	2013
European Union (28 countries)	<b>8,980</b>	<b>8,210</b>
Belgium	10	10
Bulgaria	70	50
Czech Republic	10	10
Denmark	0	15
Germany	20	20
Estonia	10	0
Ireland	10	10
Greece	95	160
Spain	10	5
France	20	30

<sup>16</sup> FRONTEX report on implications of the visa exemption for Georgia, July 2014.

Croatia	:	20
Italy	35	60
Cyprus	10	0
Latvia	215	320
Lithuania	115	110
Luxembourg	0	0
Hungary	10	10
Malta	0	0
Netherlands	60	60
Austria	0	0
Poland	8,245	<b>7,250</b>
Portugal	0	0
Romania	10	25
Slovenia	5	0
Slovakia	0	5
Finland	5	0
Sweden	0	0
United Kingdom	20	25
Iceland	:	:
Liechtenstein	5	0
Norway	0	0
Switzerland	5	0

Source: Eurostat data last updated 25.11.14, extracted on 30.03.2015.

After being refused entry, sometimes several times due to lack of visa, some of the migrants apply for asylum while others try to cross the border illegally mostly at the EU's eastern borders, namely Lithuania, Latvia and Poland. Still, according to FRONTEX, the number of detections of irregular border-crossing has remained relatively low (with 328 cases in 2013) in comparison with the refusals.

#### **2.1.4. Visa free regime possible impacts**

**Georgian irregular migrants combine the abuse of legal entry and irregular border-crossings as entry methods to the EU. Therefore a visa-free regime could lead to an increase of the irregular migration due to the increased ease of travel.**

**A visa-free regime would help Georgians to regularise migration status and their working conditions, and would foster regular temporary and circular migration but in the framework of a visa free regime, the number of Georgians who overstay the legal limits of their travel visa to the EU could increase significantly.**

**However, the relatively small population of Georgians would likely keep the flows relatively small in comparison with larger or geographically closer neighbours of the EU. Additionally, there is no direct land-border between Georgia and direct flights between Georgia and the EU are not numerous.**

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

According to the EASO and Eurostat data during the past 5 years, Georgia has consistently been among the top 15 main countries of origin of asylum applicants in the EU+<sup>17</sup> and applications from Georgian citizens are widely distributed throughout Europe.

According to Eurostat statistics the number of Georgians seeking international protection between 2008 and 2013 in the EU+ is roughly **9000 applications a year**. However it stabilised since 2013.

The Table 6 below shows a total of Georgian asylum applicants for the EU 28 countries of 8555 in 2014 (9065 with Schengen associated countries) with the highest numbers of applicants registered in Germany (3180), followed by France (1590), Sweden (805) and Poland (720). This coincides with the most popular destination countries of Georgian labour migrants except for Italy.

**The highest number of Asylum applications recorded coincides with times of conflict or political changes in the country.** Based on EASO analysis and Eurostat statistical data, the highest peaks in asylum applicants from Georgia were registered during times of crisis, e.g. in 2003, in 2008-2009 with 11.185 applicants and in 2012 with 10.830 applicants.

**This is also due to increased forced movement of people<sup>18</sup> inside of Georgia which relates to an increased flow of citizens fleeing the conflict and moving or wishing to move to the EU countries.**

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

Member State or Associated State	2008	2009	2010	2011	2012	2013	2014
European Union (28 countries)	5,015	<b>10,500</b>	6,865	7,060	<b>10,830</b>	9,115	<b>8,555</b>
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	<b>3,180</b>
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	<b>1,590</b>
Croatia	:	:	:	:	:	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

<sup>17</sup> In this document EU+ represents the 28 European union countries + Schengen associated countries – Iceland, Norway, Switzerland.

<sup>18</sup> Roughly 250.000 IDPs according to the World Bank.



Hungary	160	115	70	20	10	40	40
Malta	5	0	0	0	0	0	0
Netherlands	75	425	610	235	250	240	350
Austria	510	975	370	260	300	255	415
Poland	70	4,180	1,085	1,735	3,235	1,240	<b>720</b>
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
Finland	10	20	55	70	30	15	40
Sweden	225	370	290	280	750	620	<b>805</b>
United Kingdom	:	100	85	45	30	50	50
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	9,835	<b>9,065</b>

Source: Eurostat data last updated 20.03.15, extracted on 25.03.2015.

Although a number of factors can influence the choice of the destination country, the presence of an established Georgian diaspora or previous experience in the destination country due to work or study 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.

Data shows a **recognition rate accounting for total 5%** as indicated by Eurostat in 2014. 340 positive decisions in the EU up to 20 March 2015 were made in regard of the 6145 applications of 2014 (and waiting for other pending cases decisions). The main positive decisions were issued in France with 190 cases, which represent 56 % of the positive decisions in all the EU+ countries.

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

Member State or Associated State	2012	2013	2014	Positive decision in 2014
European Union (28 countries)	6,850	6,350	<b>6,145</b>	<b>340</b>
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	2,600	<b>190</b>
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	295	5
Austria	285	215	:	:
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	20	10
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	6,895	6,455	350

Source: Eurostat data last updated 20.03.2015, extracted on 25.03.2015.

### 2.2.1. Visa free regime possible impacts

**In the context of current flows the most likely impact of a visa-free regime would be an increase of asylum applicants thanks to the opening of legal travel channels to previously non-eligible for visa persons: Georgian nationals wishing to overstay in the Schengen area could lodge an application for asylum as a way to legalise their stay.**

FRONTEX notes that in case of detection of irregular stay, Georgian nationals tend to apply for asylum with the intention to abscond from the asylum centre in order to continue to their principal destination countries.

Furthermore, other concerns regarding the possible development of asylum application relate to the **presence of long term IDPs in Georgia**: for them, emigration to the EU may be the best option in the future if not enough State support with monthly targeted social assistance is provided (in terms of social protection of families and children, legal assistance, education and employment proposals, pension funds warranty, etc.).

**Data also shows that a new political crisis could also increase immediately the asylum applications in all EU Schengen countries.**

### **3. ASSESSMENT OF SECURITY IMPACTS**

#### **3.1. Organised crime: trends and possible impacts of a visa-free travel**

According to Europol and the Transcrime study edited by DG HOME<sup>19</sup>, **Georgian Organised Crime Groups are already present and active in at least 12 EU Member States:** Austria, Belgium, Czech Republic, France, Greece, Germany, Italy, the Netherlands, Portugal, Slovakia, Spain and Sweden. Georgian and Russian speaking OCGs appear to be the most widespread in Europe in terms of investments in the legitimate economy with an established presence.

They are particularly active in the following criminal activities: theft, assault, pick-pocketing, residential and commercial burglaries, robberies, fraud, drug trafficking, extortion, facilitation or irregular migration, trafficking in human beings, cigarette smuggling, euro counterfeiting, murder, organised property crime, money laundering, and corruption.

Georgian and Russian speaking organised crime groups 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 control a large proportion of the criminal markets in the countries of the former Soviet Union. The use of the Russian language and a common background facilitates their cooperation with other groups from the region.

**According to Europol the visa liberalisation is not likely to result in an important increase of the smuggling of irregular migrants of Georgians to the EU.** On the contrary, the visa-free regime will provide a framework for legal travel and, consequently, should have a positive impact on reducing the facilitation services offered by Georgian OCGs and other criminal networks.

**But visa liberalisation might open up new opportunities for OCGs as they will be able to carry out their activities and investments in a less controlled environment, from the visa perspective, and adapt in their methods to the new conditions.** Nevertheless it is important to note that many of the members residing in the EU Member States have lost their Georgian citizenship, and hence do not possess the Georgian biometric passports necessary to benefit from visa-free travel.

**With the enhancing of mobility, OCGs will most likely seek the freedom of movement for the facilitation of irregular migration with counterfeit Georgian biometric passports, and seeking to abuse the asylum systems of the EU Member States.**

#### **3.2. Trafficking in human beings: trends and possible impacts of a visa-free travel**

**According to EUROPOL, EU Member States are not the main destination countries for Georgian victims of THB.** Accordingly, a visa-free regime is unlikely going to change that trend and will not lead to an increase exploitation of Georgian citizens in the EU.

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<sup>19</sup> EUROPOL input to the Assessment of Impact, July 2014 and the Transcrime study "From illegal markets to legitimate businesses: The portfolio of organised crime in Europe" (published in March 2015 and available on DG HOME's website)

### **3.3. Arms and Drug trafficking: trends and possible impacts of a visa-free travel**

There is no evidence available to suggest that Georgian OCGs are involved in arms trafficking within the EU.

**But EUROPOL notes that seizures in recent years show that the South Caucasus route is used for the trafficking of Afghan heroin.** Ferry connections across the Black Sea, especially between Georgia and Ukraine, may offer smuggling opportunities for traffickers and may require increased attention, especially should in the future Ukraine citizens obtain as well the possibility of travelling visa-free to the Schengen area.

**New channels and modalities of trafficking for the Georgian OCGs could arise in exploiting the Black Sea route for the trafficking of heroin from Afghanistan in view of a visa free regime. The growing number of passengers travelling from Georgia to the EU could also be used as couriers.**

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

The data and information available give prospective main trends in migration and security areas, showing that EU is an attractive destination for migrants from Georgia with potential security challenges to be monitored.

### **4.1. Key possible impacts on migration trends**

- (a) Visa liberalisation for Georgia will reduce the barriers and costs associated with travelling to the EU, which will lead to changes in the type of smuggling services needed (from facilitation of illegal entry to attempting legalisation of stay after overstaying).
- (b) Given the current economic developments in Georgia, EU is an attractive option for labour migrants from Georgia. Likewise, the demand for domestic work in Member States will remain robust and the demand for permits residence will likely increase.
- (c) With 18% of the population aged under 15 as at 2013, Georgia will have to provide inclusive economic opportunities in the near future to avoid large emigration flows.
- (d) Visa liberalisation could be abused to apply for asylum in EU Member states by Georgian nationals as a way to legalise their overstay.
- (e) However, the relatively small population of Georgia would likely keep the flows relatively small in comparison with larger eastern neighbours of the EU.
- (f) As seen during the last armed conflicts or past main political developments, EU Member States will remain an attractive option for asylum seekers and rapid increases of asylum applications and emigration in all EU + Schengen countries cannot be ruled out in case of new important armed conflict and the subsequent potential increase of IDPs fleeing a conflict.

#### **4.2. Key possible impacts on security trends**

- (a) Georgian OCGs are already present in several EU Member States, and Visa liberalisation in Georgia may facilitate criminal activities carried out by Georgian OCGs and their partners, especially regarding the trafficking of goods and drugs from Georgia to EU Member States.
- (b) The market for OCGs facilitating the irregular migration of Georgian nationals to the EU will probably decrease, compelling OCGs to seek new opportunities, for example by facilitating the travel of ethnic minorities or other nationalities by attempting to provide them with stolen or counterfeit Georgian passports, or helping to abuse asylum system of the EU MS.