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

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

{SWD(2014) 334 final}

1. INTRODUCTION

The European Union (hereinafter the EU) launched a visa liberalisation dialogue with Georgia on 4 June 2012. On 25 February 2013, the European Commission presented the Georgian Government with an Action Plan on Visa Liberalisation (VLAP) identifying the benchmarks Georgia needs to meet in order for its citizens, who are holders of biometric passports, to travel to the Schengen zone without the need for a visa.

On 15 November 2013, the Commission adopted its First Progress Report on the implementation by Georgia of the VLAP.¹ The report assessed the progress made by Georgia in the implementation of the first phase (legislative and planning) VLAP benchmarks as very good and put forward a number of recommendations.

In February, March and May 2014, Georgia submitted an updated progress report. An evaluation mission took place in spring 2014 with experts from EU Member States, assisted by the Commission services, the European External Action Service (EEAS) and the EU Delegation to Georgia. The mission focused on Block 3 and Block 4 of the VLAP, which had not previously been assessed on the ground.

This is the second and final progress report on the first phase of the implementation of the VLAP by Georgia.² It sets out how the first-phase benchmarks have been addressed and recommends starting the assessment of the second-phase benchmarks, which concern the effective and sustainable implementation of relevant measures.

The report is accompanied by a Commission Staff Working Document (CSWD), which looks in greater detail at the developments described here. In addition, as required by the VLAP methodology, it analyses the expected migratory and security impacts of future visa liberalisation.

The report follows the structure of the VLAP. Set out in sections corresponding to the four VLAP blocks and taking into account the recommendations made in the 2013 report, it describes how the Georgian authorities have addressed the VLAP requirements and, in the concluding section, it recommends that assessment should move on to implementation of the second-phase VLAP benchmarks.

2. ASSESSMENT OF MEASURES UNDER THE FOUR BLOCKS OF THE VISA LIBERALISATION ACTION PLAN

2.1. Block 1: Document security, including biometrics

On 29 May 2014, the Georgian Parliament adopted amendments on the rolling-out of biometric passports in Georgian consulates. Accordingly, since 28 July 2014 only ICAO compliant passports have been issued to Georgian citizens. On 11 February 2014, stricter conditions were introduced on the issuing of a second passport. The Code of Conduct of the Public Service Development Agency (PSDA) was adopted on 31 October 2013. Georgia has established a plan with an indicative timeframe and earmarked financial resources to complete the digitalisation of civil registries. On 29 May 2014, Georgia amended the relevant law limiting people's right to change their first name and, as requested, provided information on:

- relevant legal instruments on the capture and storage of fingerprints;

¹ COM (2013) 808 final.

² The Report reflects the state of play as of 25 September 2014.

- the prohibition of passport extension;
- implementation of the 'one person one document' principle; and
- personal data protection regime pertaining to Block 1 benchmarks.

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

On 13 March 2014, the Georgian Government adopted its 'State Border Management Strategy (2014-18)' and, on 6 May 2014, the accompanying Action Plan. The new Strategy has a strong capacity-building component and identifies 'green border' as one of its priority areas.

Georgia continued to collaborate with EU Member States, other countries and international organisations. In order further to reinforce cooperation with the countries in the region, it elaborated draft Bilateral Agreements on Border Commissioners which were shared with Armenia and Azerbaijan in May 2014.

In December 2013, the Georgian Ministry of Internal Affairs of Georgia and the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the EU (Frontex) concluded a Cooperation Plan for 2013-15.

Georgia has further strengthened its training programmes, inter alia adding a new training module on asylum seekers and refugees to the basic training curriculum for Patrol Police and Border Control Officers. Trainings were delivered on the 2013 'Law on Police' and, in October 2014, a new Master programme on Police Regulation Law was launched.

In the area of migration management, the 'Law on the Legal Status of Aliens and Stateless Persons' entered into force on 1 September 2014. The accompanying by-laws were elaborated and approved by the Government on 26 August 2014. A Migration Department was established in the Ministry of Internal Affairs on 1 September 2014. The Mobility Centre continued to function within the EU-financed Comprehensive Post-Arrival Reintegration Assistance Programme for Returned Migrants project, but arrangements have been made for the Ministry of Internally Displaced Persons progressively to take-over the management of the Centre. Construction of a temporary accommodation centre for irregular migrants was finalised in summer 2014.

The Secretariat of the State Commission on Migration Issues (SCMI) continued to monitor implementation of the 2013-15 Migration Strategy and Action Plan, introducing necessary adjustments and updates. In September 2014, with the support of the EU's incentive-based approach 'More for More programme' and in cooperation with the International Centre for Migration Policy Development (ICMPD), the Secretariat started to draw up a strategy for the next programming period 2016-20.

In order to accelerate the development of a Unified Migration Analytical System, a working group was created within the SCMI in February 2014. The group consulted international experts on a comprehensive concept paper prepared in August 2014. It is expected that the system will become operational by mid-2016. The 'Over-stayers' Alert System' that has operated in test mode since April 2013 was officially launched in September 2014.

In the field of asylum, Georgia amended its legal framework on 26 December 2013, introducing an amendment ensuring documentation of asylum-seekers from the very start of the asylum procedure. Further amendments that entered into force on 1 September 2014 provide for the issuance of a temporary identity card for asylum seekers. Georgia clarified the implementation of the provision imposing the obligation to apply for asylum within 24 hours of the person entering the territory: to date, there have been no cases of late applications being

rejected. The capacities of the Ministry responsible for asylum-seekers are being strengthened; additional staff is being recruited to determine refugee status and intensive training courses have been planned. The operational capacities of the Country of Origin Information unit have also been strengthened.

In February 2014, the Georgian Government provided the necessary funding and concluded an agreement with United Nations Refugee Agency (UNHCR) and the United States Office of Defence Cooperation for the extension of the reception centre in Martkopi. The planning work was completed in summer 2014 and construction will start in early autumn 2014. Georgia undertook efforts to strengthen its data collection capacities. The Ministry of Internally Displaced Persons, in close cooperation with UNHCR, and with UNHCR financial support, designed a new electronic database, which is expected to become operational in December 2014. The Ministry examined the procedures for appealing against asylum decisions and drew up draft amendments, which it sent to UNHCR for comments in March 2014.

2.3. Block 3: Public Order and Security

Georgia continued to make progress on preventing and fighting organised crime. In October 2013, it adopted a 2013-2014 National Strategy on the Fight against Organised Crime and, in November 2013, the accompanying Action Plan. The Interagency Coordinating Council for Combating Organised Crime actively monitors the implementation of both documents and presented its first implementation report in July 2014.

With the existing legal and policy framework on trafficking in human beings (THB), Georgia is suitably equipped to properly address the issue. The 2013-14 National Action Plan is in place and the THB Council is the central coordinating mechanism for the fight against THB. The Council elaborated the 'Guidelines for the Law Enforcement on the Investigation and Prosecution of Trafficking Cases and Treatment with Victims and Statutory Victims of Trafficking in Persons', which were disseminated to all competent law enforcement authorities in June 2014. The National Referral Mechanism, which has been in place since February 2007, ensures that all presumed and identified victims of trafficking are dealt with according to the prescribed legal standards. Since 2006, the State Fund for the Protection of and Assistance to Victims of THB has been responsible for two victim shelters, the financing of victim protection, assistance, rehabilitation measures, and payment of compensation. The Central Criminal Police Department in the Ministry of Internal Affairs is the law enforcement agency competent for investigating THB. In addition, a regional service was established in the Adjara region in January 2014. Training and awareness-raising are important elements of Georgia's approach to preventing and combating THB and are carried out on a regular basis. With a view to the second phase of the VLAP implementation, Georgia is encouraged to develop the threat assessment reporting mechanism further and, in the context of the ongoing reform of labour law, to address the THB-related issue of a labour inspectorate mechanism.

The legal and institutional framework on preventing and fighting corruption is in place. In general, the existing legislation is well-drafted, appropriate and in accordance with European norms where these exist. New legislative provisions on the protection of whistle-blowers entered into force on 14 April 2014. Also in April 2014, the Anti-Corruption Interagency Coordination Council created an *ad hoc* Working Group on the implementation of the Group of States against corruption (GRECO) and United Nations Convention against Corruption (UNCAC) recommendations, which elaborated recommendations on political party funding that are being analysed by the Ministry of Justice. In order to further improve the asset

declaration monitoring system, the Civil Service Bureau conducted extensive research and public consultation on the issue and will present a legislative proposal to the Government in autumn 2014.

There have been positive developments in areas relating to the fight against corruption. A new law on the civil service is being elaborated. The so-called Civil Service Reform Concept has been prepared and the Government is expected to adopt it in autumn 2014. At present, there is neither a specialised prosecutor nor a specialised agency within the prosecutor's office dealing with corruption cases. Therefore, in order to facilitate the effective implementation of the second-phase VLAP benchmarks, the Georgian authorities should consider further safeguards ensuring the independence of the Chief Prosecutor and establishing a specialised prosecutor's office or a specialised unit for corruption cases.

In the area of preventing and fighting money-laundering and the financing of terrorism, Georgia prepared the necessary legislative amendments to the 'Law on Facilitating the Prevention of Illicit Income Legalisation' to follow-up the recommendations made in 2012 by the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL). The amendments were reviewed by the Government in summer 2014 and are scheduled for adoption by the Parliament during the 2014 autumn plenary session. The shortcomings concerning the financing of terrorism, as identified by MONEYVAL, were addressed in November 2013, when Parliament amended the relevant provision of the Criminal Code. The amendments entered into force on 15 January 2014. Georgia signed the Council of Europe Convention on the Prevention of Terrorism (CETS 196) in 2005 and the ratification procedure is ongoing.

An Inter-Agency Council for Developing and Coordinating Implementation of the Strategy and Action Plan for Combating Money Laundering and Terrorism Financing was established in December 2013. In March 2014, the Government adopted the Strategy for Combating Money Laundering and Terrorism Financing (2014–17) and accompanying Action Plan. The Financial Monitoring Service (Georgia's Financial Intelligence Unit) continued to operate. At present, the Service is not competent to suspend suspicious transactions, even on a temporary basis, with the exception of transactions that may be used for terrorism financing. Georgia may wish to give further consideration to this matter in the context of the second phase of VLAP implementation.

Georgia continued to consolidate the legislative and policy framework in the area of drug use prevention. On 4 December 2013, it adopted a National Drug Strategy and Action Plan for 2014-15. The documents take into account the recommendations of the Pompidou Group and they are in accordance with European and international standards. In terms of financing, Georgia relies extensively on foreign donor assistance, which, in the long run, may raise questions concerning the sustainability of the implementation of the Strategy and Action Plan.

Georgia signed the 2005 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism in March 2013 and ratified it in October 2013. In April 2014, Georgia acceded to the Hague Convention on Protection of Children, which will enter into force on 1 March 2015. Georgia signed the 2007 Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse in March 2009 and the Parliament ratified it in March 2014. The Additional Protocol to the Criminal Law Convention on Corruption was signed in March 2013 and ratified in July 2013.

Georgia's legislative and institutional framework for judicial cooperation in criminal matters is in line with European standards. In the second phase of the VLAP, Georgia could provide

information on procedural safeguards available when dealing with mutual assistance requests. Georgia could also consider further improving qualitative data collection and training for prosecutors and judges.

Law enforcement cooperation has been strengthened by the introduction of an intra-agency electronic exchange (InterFlow) software in December 2013. The system is equipped with a digital signature, provides fast data search and allows users to manage tasks, enabling a real-time exchange of documents in a secured way.

Georgia has advanced in the area of data protection, bringing its legislative and institutional framework further into line with European standards. On 1 August 2014, Parliament adopted a number of important amendments to the Law on Personal Data Protection and several other laws, which include:

- extending the mandate of the Personal Data Protection Inspector (PDPI) towards data processing in the police sector,
- giving the PDPI supervisory powers over the private sector from 1 November 2014 and
- strengthening the independence of the PDPI.

Also, on 2 May 2014, Parliament adopted amendments to the Criminal Code criminalising violation of data protection rules.

On 10 January 2014, Georgia ratified the 2001 Additional Protocol to Council of Europe Convention No 108, which entered into force on 1 May 2014. The Minister of Internal Affairs' Order Relating to the Processing and Protection of Personal Data within the Ministry entered into force on 1 March 2014.

The PDPI's Office continued to operate. The Office has 15 employees, including lawyers, data security analysts, a training manager, and a filing systems catalogues specialist. Since 2014, it has its own line in the state budget and this is considered sufficient to finance current activities. However, in the second phase of the VLAP, and taking into account of the extension of the PDPI's powers and responsibilities, consideration should be given to allocating additional financial resources. Also, it should be ensured that the PDPI Office is located in premises which are suitable given its new functions and, in particular, the need to ensure access by broader public.

Beyond the VLAP benchmarks, but relevant for their assessment, are developments related to the judiciary and prosecution. On 1 August 2014, in line with Organisation for Economic Co-operation and Development (OECD) recommendations, Parliament adopted the 'Law on Amendments to the Organic Law of Georgia on Courts of General Jurisdiction' that regulates the procedure for the lifetime appointment of judges. The law entered into force on 19 August 2014. The 2013 amendments to the 'Law on the Prosecution Service' represent an important step towards ensuring compliance with European standards. However, the appointment of the Chief Prosecutor continues to be made by the Prime Minister on the recommendation of the Minister of Justice.

2.4. Block 4: External Relations and Fundamental Rights

The 'Law on the Legal Status of Aliens and Stateless Persons', which entered into force on 1 September 2014, provides the legal basis for entry, stay, transit and departure of aliens. It defines the rights and obligations of aliens, stateless persons, the types of and procedures for removal, and the competences of state institutions concerned. The requisite legal framework

ensuring access to travel and identity documents for both Georgian citizens and aliens is also in place.

On 7 May 2014, the 'Law on the Elimination of All Forms of Discrimination' (Anti-Discrimination Law) entered into force. The purpose of the law is 'to eliminate every form of discrimination and to ensure equal rights of all natural and legal persons under the legislation of Georgia, irrespective of race, skin colour, language, sex, age, citizenship, origin, place of birth or residence, property or social status, religion or belief, national, ethnic or social origin, profession, marital status, health, disability, sexual orientation, gender identity and expression, political or other opinions, or other characteristics'. It has a wide scope and applies also to the private sector.

The law defines direct and indirect discrimination, covers discrimination by association and explicitly prohibits forcing, encouraging or supporting a person to discriminate against a third person, as well as multiple and multi-dimensional discrimination. It also introduces the notion of positive action in relation to gender equality and specific cases such as those involving maternity, pregnancy, or disabilities.

The Anti-Discrimination Law envisages the strengthening of the role of the Public Defender as an equality body responsible for eliminating discrimination and ensuring equality. To protect and assist victims of discrimination, the Defender is to act as a mediator between parties with the purpose of promoting reconciliation. The new Law envisages judicial litigation before the competent court as the main remedy for discrimination and, in order to make the judicial remedy more accessible, a number of amendments have been made to the Civil Procedure Code, the Criminal Code, the Law on Gender Equality and the Law on Public Defender to facilitate access to justice in discrimination cases.

While the adoption of the Anti-Discrimination Law, together with other relevant acts of the legislative framework, provides the necessary legislative basis to ensure the implementation of the relevant benchmark, guarantees will need to be given in the implementation phase, especially of procedural nature, to ensure that protection against discrimination is sufficiently and effectively ensured and any derogation is applied in line with the principles of necessity and proportionality. In the second phase of the VLAP, the implementation of the Anti-Discrimination Law will be closely monitored and, if deemed necessary, further amendments should be considered in close consultation with civil society and international experts.

Georgia has a well-developed policy in the field of civic integration and the protection of minority rights. The National Concept for Tolerance and Civil Integration and the Action Plan (2009-14) are being implemented. In June 2013, the Government established a high-level inter-agency commission that is working on a new national concept and action plan. Recently, Georgia stepped up its efforts on the right of use of minority languages in relations with public authorities and local topographical indications and, by doing so, it started preparing the ground for the signing and ratification of the European Charter for Regional or Minority Languages.

On 2 April 2014, the Georgian Parliament adopted a Resolution Ratifying the 1961 United Nations Convention on the Reduction on Statelessness. The instrument of accession to the Convention was deposited in Geneva on 1 July 2014. The 'Law on Georgian Citizenship', which entered into force on 11 June 2014, brings the existing legal framework into line with the principles of the Convention.

The National Human Rights Strategy (2014-20) was approved by Parliament on 30 April 2014 and the accompanying Action Plan (2014-15) by the Government on 9 July 2014. The

Strategy and the Action Plan identify human rights priorities and streamline the activities of various government agencies. The Strategy is built on four cornerstones — the inviolability of human rights by the state, the protection of human rights from violations by other persons, the development of the system enabling people to enforce their rights, and raising people's awareness about their rights — and lists 23 strategic areas of intervention. The Action Plan specifies goals, objectives, activities, responsible agencies, timeframes and indicators.

3. OVERALL ASSESSMENT AND NEXT STEPS

The Commission has assessed Georgia's implementation of the VLAP in line with the established methodology and on the basis of the information and relevant legislative and policy documents it has provided. An evaluation mission was carried out by experts from EU Member States, assisted by the Commission services, the EEAS and the EU Delegation to Georgia.

The EU also monitored Georgia's progress in VLAP-related areas in the EU-Georgia Joint Visa Facilitation Committee, the EU-Georgia Joint Readmission Committee, the EU-Georgia Subcommittee on Justice, Freedom and Security, and Human Rights and Democracy, as well as in the Human Rights Dialogue. In each of these committees, the dialogue and cooperation between the EU and Georgia is considered as very advanced.

The legislative and policy developments described in both the first progress report and this second report are testimony to Georgia's genuine commitment to the visa liberalisation dialogue. On the basis of a thorough analysis of the content and extent of the introduced reforms, the Commission is able to conclude that Georgia has successfully attained the first-phase VLAP benchmarks and that the second-phase benchmarks should now be assessed.

In the second phase, the Commission will focus on assessing the effectiveness and sustainability of the implementation of the second-phase VLAP benchmarks. It will also continue to monitor the adequacy of the legislative and policy framework, as the two sets of benchmarks are closely linked.

The Commission will continue to assist Georgia in the implementation of the VLAP and actively monitor its fulfilment of all VLAP benchmarks with a view to presenting the European Parliament and the Council with a report on further progress in 2015.