

EU-GEORGIA ACTION PLAN ON VISA LIBERALISATION MONITORING OF IMPLEMENTATION

Final report
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CONTENTS

INTRODUCTION	5
KEY FINDINGS AND RECOMMENDATIONS.....	5
BLOCK 1. DOCUMENT SECURITY, INCLUDING BIOMETRICS	15
BLOCK 2. INTEGRATED BORDER MANAGEMENT, MIGRATION MANAGEMENT, ASYLUM	18
BLOCK 3. PUBLIC ORDER AND SECURITY	26
BLOCK 4: EXTERNAL RELATIONS AND FUNDAMENTAL RIGHTS.....	43

INTRODUCTION

A visa liberalisation dialogue between Georgia and the EU was launched on 4 June 2012. The Action Plan on Visa Liberalisation was handed over to the Government of Georgia on 25 February 2013.

The said Action Plan contains the requirements that have to be achieved by the Georgian side for establishing the visa-free travel regime between Georgia and the EU.

The Action Plan consists of four blocks:

1. Document security, including biometrics;
2. Integrated border management, migration management, asylum;
3. Public order and security;
4. External relations and fundamental rights.

Each block, in turn, consists of two phases. The first phase encompasses legislative and policy framework reforms, and the second phase – benchmarks for implementation of the said reforms.

The report presents the monitoring results of implementation of all four blocks by the Georgian side as of February 2014. The following research only pertains to the first phase i.e. the legislative reform, as Georgia has not yet embarked upon the active implementation phase. The report presents the EU requirements contained in the Action Plan, the analysis of implementation of the said requirements by the Government of Georgia and recommendations of Transparency International Georgia.

KEY FINDINGS AND RECOMMENDATIONS

The monitoring of implementation of the EU-Georgia Action Plan on Visa Liberalisation revealed that Georgia has implemented the vast portion of the EU requirements. However, certain issues remain that require reforms.

The table presents the requirements contained in the Action Plan and our evaluation of their implementation. Currently, out of 31 EU requirements, Georgia implemented 13 of them fully, 11 – mostly, 6 – half, and one – mostly not.

<i>Action Plan Requirement</i>	<i>Implementation of Requirement</i>	<i>Comment</i>
BLOCK 1. DOCUMENT SECURITY, INCLUDING BIOMETRICS		
Consolidation of the legal and institutional framework ensuring the integrity and security of the civil status and civil registration process, including the registration of all Georgian citizens in a unified and secure electronic population registry, with adequate safeguards as far as highest data protection standards are concerned.	Mostly Implemented	So far, there has been no study conducted on the process of issuing biometric passports of Georgian citizens as well as no plan has been prepared for their treatment and reacting on identified risks.
Consolidation of the legal and institutional framework for the issuing of machine readable biometric passports in full compliance with highest ICAO standards and recommended practices on the basis of secure identity management (civil registry and breeder documents), according to the one person one document principle, including as regards diplomatic and service passports.	Implemented	
Adoption of a clear timeframe for the complete roll-out of biometric passports, including at Georgia's consulates abroad, and for the complete phasing out of old non-ICAO compliant	Half Implemented	Currently, there is no clear timeframe for the complete roll-out of biometric passports. However, non-ICAO compliant passports are phased out.
Adoption of an ethical code and training programmes on anti-corruption, secure management of personal documents and data protection for officials of public authorities that deal with passports, identity cards and other breeder documents.	Implemented	
BLOCK 2. INTEGRATED BORDER MANAGEMENT, MIGRATION MANAGEMENT, ASYLUM		
2.1. Integrated border management		
Consolidation of the legal and institutional framework for border management, according to EU and international standards, guaranteeing also an efficient inter-agency cooperation between all the agencies involved in border management, in particular the Patrol Police Department, the Border Police and the Border Police Coast Guard.	Implemented	
Adoption of the national Integrated Border Management (IBM) Strategy and Action		

Plan, containing a timeframe and specific objectives for the further development of legislation, organisation, infrastructure, equipment, sufficient human and financial resources in the area of border management, as well as international cooperation.	Implemented	
Adoption of an ethical code and training programmes, including on anti-corruption and the fight against organised crime, respect for human rights, asylum procedures and anti-trafficking measures specifically targeting border guards, customs and any other officials involved in border management and/or surveillance.	Implemented	
2.2. Migration Management		
Consolidation of the legal and institutional framework for migration policy, in line with EU and international standards, including in the field of legal/labour migration, measures supporting the integration of foreigners and the reintegration of Georgian citizens (returning voluntarily or not) and the fight against irregular migration (including continued efforts to conclude readmission agreements with main countries of origin and/or transit and inland detection of irregular migrants).	Half Implemented	The Migration Strategy of Georgia provides for development of the legal framework to ensure the positive effect from legal, temporary labour migration. For this, a bill has been prepared which is planned to be discussed and eventually presented to the Government by the end of November 2014. So far, there is no separate legal act related to measures for re-integration of Georgian citizens. Despite the measures undertaken for development of institutional framework, so far, no official or agency has been designated (in some countries, there is a position of labour attaché) with responsibility to collect information on labour markets of potential partner countries abroad in order to facilitate the circular migration; However, the Office of the State Minister of Georgia on European and Euro-Atlantic Integration, the Ministry of Foreign Affairs of Georgia and the Public Service Development Agency – legal entity of public law under the Ministry of Justice of Georgia (PSDA) cooperate with the German Agency for International Development to trial test the schemes of circular migration. Based on it, a model tailored to Georgia of this type of migration with the EU member states was developed. It needs to be pointed out that the Social Service Agency – legal entity of public law under the Ministry of Health, Labour and Social Affairs was vested in additional functions since 1 August 2013. Namely, this includes functions to organise and implement measures for professional training/re-training of jobseekers. However, so far, there is no body oriented towards professional re-training of migrants. Concerning establishment of a responsible agency for effective collection and analysis of data relating migration as well as asylum seekers/refugees, a concept note on creating migration service was developed in the Ministry of Internal Affairs. It will be responsible for identifying foreigners residing in the country without legal grounds, their detention if required, their accommodation at corresponding facilities and ensuring that they leave the country. Draft structure and charter of such service within the MIA has already been prepared, however, the migration service has not yet been launched. To ensure effective operation of the service, the MIA started construction of accommodation facility for migrants in December 2013.
Adoption of a national Migration Strategy for effective implementation of the legal framework for migration policy and of a corresponding Action Plan, containing a	Implemented	

timeframe, specific objectives, activities, results, performance indicators and provisions for sufficient human and financial resources.		
Establishment of a mechanism for the monitoring of migration stocks and flows enabling the regular updating of Georgia's Migration Profile, with a unified electronic database containing data on both irregular and legal migration, as well as on asylum seekers/refugees, and establishment of bodies responsible for the effective collection and analysis of that data.	Half Implemented	According to the information provided by the Ministry of Internal Affairs, a unified immigration electronic database has been launched at the Ministry. It will collect information relating foreigners from various agencies process it and identify persons who reside in Georgia without legal grounds. The said system will make it possible to calculate the period of legal stay of citizens of that country that do not require visa to travel to Georgia. This will enable them to enter Georgia without interruptions. The electronic system is now being tested and improved. Its launch is planned on 1 September 2014 , together with entry into force of the new Law "On Foreigners and Stateless Persons. Public Service Development Agency developed a draft concept note whereby a unified analytical system will be formed encompassing both immigration and emigration, as well as will gradually include other agencies' databases. The system is planned to be tested in 2015.
2.3. Asylum Policy		
Consolidation, according to EU and international standards, of the legal and institutional framework for asylum policy, in full compliance with the principle of non-refoulement and comprising subsidiary protection, through adoption of legislation ensuring effective access to fair procedures for status determination, rights protection (freedom of movement, healthcare, education, other labour and social rights), durable solutions, including the integration of refugees or beneficiaries of other forms of international protection, as well as special attention to vulnerable groups.	Mostly Implemented	So far, there is no joint legal act of the Ministry of Internal Affairs and Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia, which will provide for corresponding procedure for asylum seekers at the border control, as well as rules for exchanging information between these agencies. However, the draft joint order of the Minister for Internal Affairs and Minister for Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia has been prepared which will regulate these issues.
BLOCK 3. PUBLIC ORDER AND SECURITY		
3.1. Preventing and fighting organized crime, terrorism and corruption		
3.1.1. Fighting organized crime		
Consolidation, according to EU and international standards, of the legal and institutional framework for preventing and fighting organized crime, together with a national strategy and action plan containing, within a clear timeframe, specific objectives, activities, results, performance indicators and sufficient human and financial resources.	Implemented	
3.1.2. Fighting trafficking in human beings		
Consolidation, according to EU and international standards, of the legal and institutional framework for addressing trafficking in human beings, together with a corresponding national action plan, including a clear timeframe, specific objectives,	Mostly Implemented	The note to Article 143 ¹ of the Criminal Code of Georgia should be amended and definition of "exploitation" has to be exactly specified. There has not yet

activities, results, performance indicators and sufficient human and financial resources.		been developed a special database containing the statistical information about human trafficking, where the information would be divided based on the sex, age, type of exploitation, countries of origin/destination. ¹ However, the Inter-agency Coordinating Council implementing the measures against the trafficking in human beings presents the implementation report biannually which, among other undertaken measures, includes periodic statistical data.
3.1.3. Fighting corruption		
Consolidation, according to EU and international standards, of the legal and institutional framework for preventing and fighting corruption, as well as a national anti-corruption strategy and action plan containing, within a clear timeframe, specific objectives, activities, results, performance indicators and sufficient human and financial resources, including as regards the anti-corruption coordination efforts of anti-corruption bodies such as the Anti-Corruption Interagency Coordination Council (AGICC), aiming notably at ensuring the independence, efficiency, empowerment and accountability of the authorities responsible for the fight against corruption and strengthening information exchange between them; ensuring a sound legal and institutional framework, including necessary secondary legislation for an efficient functioning of internal control mechanisms that contribute to the prevention and repression of corruption, including corruption at high-levels and corruption in international transactions, and to setting integrity standards within public institutions/authorities; follow-up of GRECO (Council of Europe Group of States against Corruption) recommendations.	Mostly Implemented	So far, there has not been adopted 2014-2016 Anti-Corruption Action Plan for implementation of the Anti-Corruption Strategy.
3.1.4. Fighting money laundering and financing of terrorism		
Consolidation of the legal and institutional framework for preventing and fighting money laundering and financing of terrorism, in line with EU and international standards set by the Financial Action Task Force (FATF) on Money Laundering and Terrorist Financing.	Mostly Not Implemented	Despite the undertaken measures, relevant normative acts are not yet amended whereby the sanctions would be strengthened their effective use towards individuals and legal entities would be ensured. Furthermore, there are no provisions in the legislation related to monitoring payments made through new technologies, as well as there are no definitions of “precious metals” and “precious stones.” However, a working group was created within the Ministry of Finance, which is preparing a bill regarding this issue. So far the Administrative Procedure Code has not been amended in line with recommendations presented in Moneyval Round 4. Namely, this concerns the Article 21³¹ which must provide that a motion on freezing assets is justified when the property belongs to individuals who are in the list as provided by the Resolutions #1267 and #1373 of the United Nations Security Council. Moreover, the Code has not yet been amended abolishing the court's jurisdiction to adjudicate motions on freezing assets when it is concerned with

¹ The requirement is based on GRETA report, Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Georgia, 7 February 2012.
http://www.coe.int/t/dghl/monitoring/trafficking/docs/Reports/GRETA_2011_24_FGR_GEO_en.pdf

		individuals, groups and associations determined by the United Nations. So far an amendment has not been made to Article 12 of the Law of Georgia on "Support of Preventing Legalization of Illegal Income" which should provide that the individuals provided for by the law will not be criminally or civilly responsible for violating the obligation of protecting the confidentiality of the information provided for by a normative act or an agreement, even in those cases when they did not know exactly what criminal offence they were committing and despite whether this act was committed.
Regular updating of the corresponding national strategy.	Half Implemented	The Coordinating Council for developing and implementation the strategy and action plan for fighting against money laundering and financing of terrorism was created by the Resolution #352 of the Government of Georgia, issued on 23 December 2013. The Council must have presented its 2014-2017 Strategy and Action Plan to the Government by 1 March 2014.
Establishment and consolidation of an independent Financial Intelligence Unit, with adequate powers and resources.	Implemented	
3.1.5. Adoption of a national anti-drug strategy and action plan		
Adoption of a national anti-drug strategy and action plan, in line with EU and international standards, containing, within a clear timeframe, specific objectives, activities, results, performance indicators and sufficient human and financial resource.	Implemented	
3.1.6. Signature, ratification and transposition into national legislation of all relevant conventions and respective protocols in the areas listed above and on the fight against terrorism.		
Signature, ratification and transposition into national legislation of all relevant UN and Council of Europe conventions and respective protocols in the areas listed above and on the fight against terrorism, including the 2005 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism as well as the Hague Convention on Protection of Children (1996 Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children), the 2007 Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, and the Additional Protocol to the Criminal Law Convention on Corruption.	Mostly Implemented	A legislative amendment package based on 2007 Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse has not yet been adopted and the Convention – ratified. A package of legislative amendments based on 1996 Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children has not yet been adopted.
3.2. Judicial co-operation in criminal matters		
Consolidation of the legal and institutional framework on mutual assistance.	Implemented	
Signature, ratification and transposition into national legislation of relevant international conventions and protocols, namely the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters.	Implemented	
3.3. Law enforcement cooperation		

Establishment of an adequate coordination mechanism between relevant national agencies and a common database guaranteeing direct access for relevant officers.	Half Implemented	The Operative-technical department of Ministry of Internal Affairs developed the software for exchanging data among [the] agencies, which is being tested. However, not all [the] agencies are included in it yet.
3.4. Data protection		
Consolidation of the legal and institutional framework for the protection of personal data, in line with EU and international standards, including through the adoption of by-laws, instructions and guidelines to regulate procedures, functions and responsibilities.	Half Implemented	So far, no amendment has been made to address the problem in the law whereby stopping text messages [used in direct marketing] are only possible with a written request. The written form currently required by the law is inconvenient for citizens. Application of the law to the private sector allowing the Inspector to inspect the sector has not yet been moved at an earlier date (as noted earlier, the law will fully enter into force in relation to private sector since 1 January 2016). So far, personal data-related amendments have not been made to various legal acts, however, the work is underway to prepare corresponding bills.
Signature, ratification and transposition into national legislation of relevant international conventions, protocols and recommendations, including the 2001 Additional Protocol to the Council of Europe Convention 108 for the Protection of Individuals with regard to Automatic Processing of Personal Data, regarding supervisory authorities and cross-border data flows, and the Committee of Ministers of the Council of Europe Recommendation No. R (87) 15 regulating the use of personal data in the police sector.	Implemented	
Establishment of an independent data protection supervisory authority with adequate powers and obligations.	Mostly Implemented	Despite undertaken measures, a methodology for inspection has not yet been developed, however, active work is being undertaken towards further improving methodology of inspection and the legislation. So far, amendments have not been made to ensure larger independence of Inspector; however, the work is underway in this regard.
BLOCK 4: EXTERNAL RELATIONS AND FUNDAMENTAL RIGHTS		
4.1 Freedom of movement within Georgia		
Consolidation of the legal and regulatory framework for registration procedures for legally staying foreigners or stateless persons with a view to avoiding unjustified restrictions.	Mostly Implemented	Despite the undertaken measures, there still is no legislative act which would envisage permanent measures for registration of individuals not possessing documents (issuing temporary identification document – a new type of document provided for in the new Law of Georgia on “Legal Status of Foreigners and the Stateless Persons.” Consequently, after issuing such documents, these individuals will be registered in the database of the State Services Development Agency).

4.2 Conditions and procedures for the issuance of travel and identity documents		
Consolidation of the legal and regulatory framework so as to ensure full and effective access to travel and identity documentation without discrimination, including for women, children, people with disabilities, internally displaced persons, people belonging to minorities and other vulnerable groups.	Mostly Implemented	Despite the undertaken measures, there is no legislative act developed which would ensure issuing travel documents for person with humanitarian status for their free and uninterrupted movement. However, a temporary electronic residence permit is issued for a person with humanitarian status.
4.3 Citizens' rights including protection of minorities		
Adoption of a comprehensive anti-discrimination law, as recommended by UN and Council of Europe monitoring bodies, to ensure effective protection against discrimination.	Mostly Implemented	The bill on "Elimination of All Forms of Discrimination" is already completed and it will be soon proposed, first, to the Government and, second, to the Parliament.
Signature, ratification and transposition into national legislation of relevant UN and Council of Europe instruments in the fight against discrimination, taking into account the UN Convention on Statelessness and the standing recommendations of the Council of Europe on the European Charter for Regional or Minority Languages.	Mostly Implemented	A corresponding legislative package is prepared to harmonize Georgia's legislation with 1961 Convention on the Reduction of Statelessness. It is now discussed in the Parliament.
Establishing fair and transparent conditions for the acquisition of Georgian citizenship.	Implemented	
Adoption of a comprehensive National Human Rights Strategy and Action Plan; actively pursue in this strategy and action plan the specific recommendations of UN bodies, OSCE/ODIHR, the Council of Europe/ECRI and international human rights organizations notably in implementing anti-discrimination policies, protecting minorities and private life and ensuring the freedom of religion.	Mostly Implemented	The Strategy and Action Plan are prepared and will be presented at the nearest Government meeting.

For the Government to fully meet the requirements of the Action Plan, we think, it should take a set of recommendations into account. Namely:

1. The timeframe for the complete **roll-out of biometric passports** is clearly established;
2. **Circular migration** scheme is timely launched;
3. Instructions and internal directives by relevant agencies and officials, which will encompass the issues related to **urgent assistance to returning individuals** are created;
4. **The establishment of the migration service**, which will be responsible for collection and analysis of the data related to migrants, identifying irregular migrants, their detention and accommodation in relevant facilities is expedited;
5. Instructions and internal directives regulating in detail issues concerning **freedom of movement, healthcare, education, protection of labour and social rights** are created;
6. The draft of the **joint legal act of the Minister of Internal Affairs and Minister of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia** is timely adopted;
7. Further improvement of legislative and institutional framework in the field of **fighting organised crime** is ensured;
8. Corresponding legislative reforms **simplifying the note to Article 143¹ of the Criminal Code of Georgia** as well as **defining the term “exploitation”** is expedited;
9. **Fighting against trafficking for labour exploitation** is strengthened;²
10. **Statistical database** (with guarantees concerning the protection of personal data), where the information would be divided based on the sex, age, type of exploitation, countries of origin/destination is created;
11. The adoption of **the strategy and action plan for fighting money laundering and financing of terrorism** is expedited;
12. **The application of the Law of Georgia on “Preventing Legalization of Illegal Income” to electronic payment institutions** (e.g. pay box and other electronic payment institutions) is extended;
13. The amendment to **Article 12 of the Law of Georgia on “Preventing Legalization of Illegal Income”** is made;
14. **Sanctions under the law on “Preventing Legalization of Illegal Income”** are strengthened and their effective utilization both to individuals and legal entities is ensured;
15. Corresponding **amendments to the Code of Administrative Procedure of Georgia** on the issues related to money laundering are made;
16. **Competent body**, together with the **National Bank of Georgia**, which will be authorized in **extension of the time period for storing the documents related to financial transactions** is determined;
17. **“Precious metals”** and **“precious stones** are defined by the law;”
18. **Investigators of specialized financial cases** are re-trained and standardized operational procedures of investigation are developed;
19. **Continuous training of individuals** involved in investigation of crimes **of money-laundering and law-enforcement** is ensured;
20. Corresponding **legislative amendments abolishing the court’s jurisdiction to hear motions for freezing assets** when they concern individuals, **groups and associations** which are included in **the list of the United Nations** is ensured;

² The requirement is based on GRETA Report, Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Georgia, 7 February 2012.
http://www.coe.int/t/dghl/monitoring/trafficking/docs/Reports/GRETA_2011_24_FGR_GEO_en.pdf

21. Timely implementation of the **2007 Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse** into national legislation and its **ratification** is ensured;
22. Timely implementation of **1996 Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children** into national legislation is guaranteed;
23. Timely Inclusion of all agencies in the **software for data exchange** in order to guarantee that **the data exchange between-law enforcement agencies** is ensured;
24. For the completion of the functions of the **personal data protection inspector**, development of the **inspection methodology** is expedited;
25. Transfer to the **earlier date** of the application of the Law of Georgia on “**Personal Data Protection**” to the private sector is guaranteed;
26. The relevant **legislative amendments addressing the problem of completing** only the **written form of petition** in order to stop receiving the text messages used for direct marketing are made;
27. The **relevant legislative act** regulating issuance of a **travel document to a person with a humanitarian status** is prepared;
28. The relevant legislative act which would envisage **permanent measures of registration for persons without documentation** is made;
29. **Amendments to the laws** to enhance the **anti-drug efforts** are made;
30. **Timely adoption of the Law on “Elimination of All Forms of Discrimination” and approval of 2014-2017 human rights protection strategy and action plan** is guaranteed.

BLOCK 1. DOCUMENT SECURITY, INCLUDING BIOMETRICS

In this regard, the EU has proposed several requirements in the Action Plan on Visa Liberalisation. This part of the research presents every requirement in the first Block and the analysis of their implementation by Georgia.

Action Plan Requirement #1:

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

Implementation of the Requirement:

Accessing the electronic database where the civil registration data is stored, which enables other agencies to obtain personal data of individuals, is regulated by the Joint Order #40–#61–#222 of the Minister for Justice, the Minister for Foreign Affairs and the Minister for Internal Affairs, issued on 26 February, 2010, on “Rules for Administrative Bodies with regard to the Use of the Data of the Civil Registry Agency and the Consular Department of the Ministry of Foreign Affairs of Georgia, also to Production and Exchange of the Said Data for Conducting Criminal Investigation and Operative/Search Activities” and the Law of Georgia on “Personal Data Protection”.

Moreover, the Law of Georgia on “Data Security” entered into force in July 2012. The Law provides for binding mechanisms to ensure access to data and data systems, integrity, authentication, confidentiality and continuous functioning, which is necessary to achieve the high standard of effectiveness and security of data management.

Pursuant to Article 4(2) of the Law, the data security policy must comply with minimum requirements of information security, which are determined by the Data Exchange Agency, a Legal Entity under Public Law within the system of the Ministry of Justice of Georgia, according to the standards and requirements set by the International Organisation for Standardisation (ISO) and the Information Systems Audit and Control Association (ISACA).

According to the information provided by the Public Service Development Agency, one of [its] priorities is to study the process of issuing biometric passports of Georgian citizens and also to create a plan how to treat them and react on identified risks.

As with the protection of personal data, Georgia is a state party to “Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data” since 2005 and the Law of Georgia on “Protection of Personal Data” has been adopted on 28 December 2011.

According to the information provided by the Public Service Development Agency, on 18 October 2013, the personal data protection officer was appointed in the Agency. He/she, together with the head of the Agency and the personal data protection group, is responsible for personal data protection. It is planned to make an amendment to Order #206/U of the head of the Public Service Development Agency on “Approval of Personal Data Protection Policy”, issued on 13 May 2013, which will specify some of the norms of the law mentioned above.

Action Plan Requirement #2:

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

Implementation of the Requirement:

The legal and institutional framework with regard to machine-readable biometric passports is in full compliance with ICAO standards. The rules of issuing passports is provided for by the Law of Georgia on “the Rules of Registration, Issuing Identity (Residence) Cards and Passports for Georgian Citizens and Foreigners Residing in Georgia” and the Order #98 of the Minister of Justice of Georgia “on the Rules of Registration and Deregistration, Issuing Identity (Residence) Cards, Passports, Travel Passports and Travel Documents for Georgian Citizens and Foreigners Residing in Georgia,” issued on 27 July 2011.

As with the one person, one document principle, according to the legislation, one passport is an identity document of only one person and it is forbidden to include data of a minor into a passport of a parent or a third person.

Action Plan Requirement #3:

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

Implementation of the Requirement:

According to the information provided by the Public Service Development Agency, three types of passports have been issued in Georgia since 1990s: 1. With Borjgali – photo attached; 2. Non-biometric with the Coat of Arms of Georgia on the cover – with photo printed according to ICAO standards; and 3. Second generation biometric passports.

Since 1 January 2011, the passports with Borjgali have been announced invalid. They remain valid only for those individuals who have left Georgia by these passports and reside abroad. In case these individuals cross the Georgian border with these passports, they will not be able to leave the country with the same passports.

The Public Service Development Agency currently issues both biometric and non-biometric passports. According to Article 20³(6) of the Law of Georgia on “the Rules of Registration, Issuing Identity (Residence) Cards and Passports for Georgian Citizens and Foreigners Residing in Georgia”, non-biometric passports can be issued to individuals when, due to health, physical conditions or other reasons, obtaining his/her biometric data is not possible.

According to the information provided by the Agency, as one of the ways to address this problem, it is discussed to shorten the validity period of non-biometric passports. However, there is no clear timeframe for the complete roll-out of biometric passports.

Action Plan Requirement #4:

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

Implementation of the Requirement:

According to the information provided by the Public Service Development Agency, corresponding training is conducted for the Agency's staff on regular basis. A document regulating the intra-agency organizational activities – internal charter of the Agency – has been created, which encompasses the rules of conduct for the Agency's staff. **The said document has been approved** under Order #520/0 of the head of the Agency, issued on 7 November 2013.

Recommendations:

Subsequently, we evaluate the implementation of the requirements included in the first phase of the first Block of the Action Plan by relevant agencies as positive. However, we think that the timeframe for the complete roll-out of biometric passports must be clearly established.

BLOCK 2. INTEGRATED BORDER MANAGEMENT, MIGRATION MANAGEMENT, ASYLUM

In this regard, the EU requirements contained in the Action Plan on Visa Liberalisation are divided into three sub-Blocks:

1. Integrated Border Management
2. Migration Management
3. Asylum

This part of the research provides the analysis of the implementation of each requirement of the second block from the Georgian side.

2.1. Integrated Border Management

Action Plan Requirement #1:

Consolidation of the legal and institutional framework for border management, according to EU and international standards, guaranteeing also an efficient inter-agency cooperation between all the agencies involved in border management, in particular the Patrol Police Department, the Border Police and the Border Police Coast Guard.

Implementation of the Requirement:

Amendments were adopted to certain legal acts in order to consolidate the legal and institutional framework for border management. Specifically, the Decree #266 of the President of Georgia, issued on 2 April 2012, amended his Decree #59, issued on 4 February 2008, on “Border Management Strategy of Georgia” determining the list of activities for integrated border management during 2008-2013 as well as specific objectives. On 17 April 2012, the Order #265 of the Minister for Internal Affairs on “the Charter for Border Representative-Border Commissioner” was adopted. According to the Order, a border commissioner is responsible for implementation of the Georgia’s state border policy, addressing the issues related to protecting the border regime and resolving border incidents. On 17 December 2013, the Georgian Government adopted Resolution #348 on “Establishment of the Joint Centre of Maritime Operations among State Border Protection Subjects and the Bodies in the Executive Branch of the Government of Georgia charged with Protection of the State Maritime Regime”. According to the Resolution, the Joint Centre of Maritime Operations is a consultative and coordinating organ for joint maritime operations in Georgia’s maritime space.

As with the consolidation of the institutional framework, responsibilities for integrated border management are shared by the Departments of Border Police and Patrol Police of the Ministry of Internal Affairs of Georgia together with the Revenue Service of the Ministry of Finance of Georgia. This is provided for by the memorandum of cooperation on “General Rules of Cooperation between the Patrol Police and Border Police Departments and the Revenue Service” adopted by the Ministry of Internal Affairs and Ministry of Finance of Georgia. In addition, for improving activities and cooperation between the Patrol Police and the Customs Department of the Revenue Service, the Joint Order #985-1187, issued on 31 December 2010, on “Rules of Making Relevant Markings in Travel Documents while Crossing the State Border of Georgia and Registration of the Data in the Automated Database of the Ministry of Internal Affairs” was amended by the Order #326-#612, issued on 8 August 2012, which specified the duties and rules of service of the staff of the Ministry of Internal Affairs and the Customs checkpoints to avoid the overlap of the functions.

In terms of inter-agency cooperation, the Joint Order #40–#61–#222 of the Minister for Justice, the Minister for Foreign Affairs and the Minister for Internal Affairs, issued on 26 February 2010, on “Rules for Administrative Bodies with regard to the Use of the Data of the Civil Registry Agency and the Consular Department of the Ministry of Foreign Affairs of Georgia, also to Production and Exchange of the Said Data for Conducting Criminal Investigation and Operative/Search Activities” needs to be singled out. Its title has been amended by the Joint Order #142–#186–#622 of the Minister for Justice, the Minister for Foreign Affairs and the Minister for Internal Affairs, issued on 9 August 2012 into: “Rules for Administrative Bodies with regard to the Use of the Data of the Public Service Development Agency and the Consular Department of the Ministry of Foreign Affairs of Georgia, also to Production and Exchange of the Said Data for Conducting Criminal Investigation and Operative/Search Activities.”

Action Plan Requirement #2:

Adoption of the national Integrated Border Management (IBM) Strategy and Action Plan, containing a timeframe and specific objectives for the further development of legislation, organisation, infrastructure, equipment, sufficient human and financial resources in the area of border management, as well as international cooperation.

Implementation of the Requirement:

“Border Management Strategy of Georgia” was approved under the Decree #59 of the President of Georgia, issued on 4 February 2008. The Action Plan was approved under Resolution #954 on 25 December 2009. Preparation of 2014-2018 Border Management Strategy of Georgia have started which will include specific objectives and timeframe related to further development of the legislation, organisation, human resources, infrastructure and equipment as well as of international cooperation. **However, on 20 September 2013, the Law of Georgia on “State Border of Georgia” was amended whereby the deadline for adopting the state border management strategy was postponed to 31 December 2015. In response to this legislative amendment, the Eastern Partnership Civil Society Forum’s Georgian National Platform has made a statement noting that such decision could seriously hinder the visa dialogue with the EU.³ On 14 January 2014, under Resolution #49 of the Government of Georgia, the Inter-agency Council charged with developing the state border management strategy was established. It had to present 2014-2018 Strategy to the Government by 1 March 2014.⁴ Within the Council, a working group was formed delegated to conduct regular consultations in relation to the state border management. The working group consists of representatives of corresponding units of all the agencies involved in the border management. The strategy developed by the working group was approved by the Government under Resolution #226, dated 13 March 2014.**

Action Plan Requirement #3:

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

Implementation of the Requirement:

³ <http://www.tabula.ge/ge/story/78641-saxelmtsifo-sazghvris-martvis-strategiis-damtkicebis-vadam-ori-tslit-gadaitsia>

⁴ https://matsne.gov.ge/index.php?option=com_idmssearch&view=docView&id=2195383&lang=ge#

According to the information provided by the Ministry of Internal Affairs, officers of the Border and Patrol Police are trained on issues related to the border control at the Faculty of Patrol and Border Police in the Police Academy. Also, customs officers, who are charged with inspection of travel documents, are trained at the Academy's Faculty of Customs Affairs.

In the beginning of 2013, the Academy made changes in the curriculum of the training courses increasing the hours of courses for the Patrol and Border Police staff. The new courses pertain to issues of improvement of public service, cybercrime, malfeasance, abuse of official authority, relations with the media, and fight against trafficking, including drug-trafficking. Among the programmes offered by the Police Academy, the courses on the ethical code of the Police and the Public Police (which involves training related to improving relations with national, racial and religious minorities) need to be particularly noted.

The Academy also developed training module concerning organised crime and specific issues of investigation. The policemen involved in cases of organised crime will undergo training using the said module.

The Ministry of Internal Affairs adopted instructions for the Border and Patrol Police and for those officials who work at border checkpoints. The instructions lay down the rules of conduct with regard to fight against bribery and organised crime for the staff of the Border and Patrol Police. In addition, "the Ethical Code of Customs Department of LEPL – Revenue Service," which entered into force under Order #14823 of the head of the Revenue Service, issued on 11 April 2013.

It also needs to be pointed out that, on 31 December 2013, Order #999 on "Adopting the Ethical Code of Georgian Police and Code of Conduct for Certain Officials of the Ministry of Internal Affairs of Georgia" was approved.

Overall, the measures undertaken for integrated border management should be evaluated positively.

2.2. Migration Management

Action Plan Requirement #1:

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

Implementation of the Requirement:

For consolidation of the legal and institutional framework for migration policy, within the migration government commission, the Ministry of Justice, the Ministry of Internal Affairs, Ministry of Foreign Affairs and the Office of the State Minister for Diaspora Issues have developed a bill "On Legal Status of Foreigners and the Stateless Persons" which envisages:

- Terms of entry and leaving the state for foreigners;
- Categorisation of visas and procedures of their issuing, renewal and termination;
- Categorization of residence permits and rules for issuing them;
- Declaration of the rights and obligations of foreigners;
- Principles and procedures of deporting foreigners from Georgia;
- Special appeals procedures against decisions on deportation;
- Legal grounds for detention of foreigners;

- Alternative measures to detention;
- Terms and procedures of detention for later deportation of foreigners;
- Terms of voluntary return;
- Required procedures and timeframe for decision-making on deportation;
- Legal grounds for use of personal data of foreigners.

Further, the Parliament of Georgia adopted the new Law “On Police” on October 4, 2013 that determines rights and duties of the police involved in fighting against illegal migration.

The Ministry of Labour, Health and Social Affairs of Georgia developed the “State Strategy on Formation of Labour Market in Georgia” and “Action Plan implementing State Strategy on Formation of Labour Market in Georgia,” approved under Resolution #199 of the Government of Georgia, issued on 2 August 2013, which provides for proactive actions with regard to developing legislative framework of labour migration.

The Migration Strategy of Georgia provides for development of the legal framework to ensure the positive effect from legal labour migration. To this end, a bill has been prepared which is planned to be discussed and eventually presented to the Government **by the end of November 2014**.

In addition, for the consolidation of the institutional framework of the migration policy, the Migration Strategy clearly determined the agencies involved in implementing migration policy that are members of the governmental commission on migration. The Commission consists of 12 state agencies. 7 international and 5 non-governmental organisations have consultative status in the commission. Further, the Migration Strategy provides for functions of various agencies vested in them based on different legal acts: The President of Georgia, who makes decisions on granting asylum, citizenship issues and sets rules related to issuing residence permits to foreigners; the Public Service Development Agency, which is responsible for issuing visas and residence permits to immigrants in Georgia as well as for providing the stateless persons and refugees with travel documents; Additionally, the Agency considers and presents conclusions regarding citizenship to the President; the Patrol Police Department of the Ministry of Internal Affairs of Georgia, which is responsible for procedural and organisational issues related to implementation of the Readmission Agreement (responsible for law enforcement activities with regard to migration on both land and coastal borders); the Office of the State Minister for Diaspora Issues, which ensures maintaining the link between the compatriots residing abroad and their homeland as well as strengthening the link by means of the Certificate of the Compatriot Residing Abroad, which was introduced by the Law on “Compatriots Residing Abroad and Diaspora Organisations” on 24 November 2011. Additionally, the Labour Migration Regulatory Division was created at the Department of Labour and Employment Policy, the Ministry of Labour, Health and Social Affairs. Its duties include developing proposals and corresponding draft normative acts.

Since 2011, under the project “Targeted Initiative for Georgia”, “the Mobility Centre” has been functioning within the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia. The project was completed on 13 December 2013.

Since January 2014, under the principle of “more for more” with support of the “Integration and Cooperation of Eastern Partnership”, the International Organization for Migration (IOM) has been implementing the project “Capacity building of the Government of Georgia in Border and Migration Management.” One of its main components is the long-term integration of Georgian citizens.

Under this project, “the Mobility Centre” will continue its operations in the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia, Tbilisi and 3 regions of the country (Batumi, Kutaisi, and Telavi).

The services of the “the Mobility Centre” includes:

- To provide primary consultation after arrival, identify needs assessment and determine possibility to support;
- To provide consultation on legal matters;
- To distribute in relevant state and private programmes (healthcare facilities, employment centres, professional education centres, etc.);
- To provide consultation, including professional re-training, preparation for job interviews, assistance in preparing CVs;
- To provide temporary accommodation for newly arrived asylum seekers;
- To provide medical assistance to patients with life-threatening severe and chronic diseases, purchasing medicine;
- To support the project’s participants who have corresponding skills in start-up of small businesses; training in start-ups and the outlook of consumer market;
- To offer and finance training courses for enhancing professional qualification;
- To assist in finding a job by centre of “Employment and Consultation”;
- To provide emergency medical assistance;
- To provide temporary accommodation, if necessary;
- To offer special training to develop a business plan;
- To make grants for small business projects.

In addition, the Ministry of Internal Affairs developed a draft charter on establishment of accommodation centre for illegal migrants aiming to create such a facility. It determines the centre’s structure, goals and activities, rights and obligations of persons accommodated in the centre, restrictions imposed on them, the rules for providing medical assistance to them. **Construction of the accommodation centre for illegal migrants started on December 2013. It is financed by the Georgian Government.**

Despite the measures undertaken for development of institutional framework, so far, no officer or agency has been designated (in some countries, there is a position of labour attaché) with responsibility to collect information on labour markets of potential partner countries abroad in order to facilitate the circular migration. However, the Public Service Development Agency – legal entity of public law under the Ministry of Justice of Georgia cooperates with the German Agency of International Development to test the scheme of circular migration.

The Migration Strategy of Georgia provides for recognition of professional skills and education obtained abroad. For this, the Ministry of Education and Science of Georgia developed “Rules for Validation of Education-related Documents issued in Georgia and Recognition of Education obtained Abroad” which was approved by Order #98/6 of the Minister of Education and Science of Georgia, issued on 1 October 2010. In accordance with these rules, recognition of education is conducted by the legal entity under public law – National Centre for Education Quality Enhancement.

It needs to be pointed out that the Social Service Agency – legal entity of public law under the Ministry of Health, Labour and Social Affairs was vested additional functions since August 1, 2013. Namely, this includes functions to organise and implement measures for professional training/re-training of jobseekers. However, so far, there is no legal act which would lay down detailed rules for issues related to re-integration of individuals who have returned to Georgia.

Concerning establishment of a responsible agency for effective collection and analysis of data relating migration as well as asylum seekers/refugees, a concept of creating migration service was developed in the Ministry of Internal Affairs. It will be responsible for identifying foreigners being in

the country without legal grounds, their detention if required, their accommodation at corresponding facilities and ensuring that they leave the country. The draft of the structure and the regulation of such service within the MIA have already been prepared, however, the migration service has not yet started functioning. To ensure effective operation of the service, the MIA started construction of accommodation facility for migrants in December 2013.

Action Plan Requirement #2:

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

Implementation of the Requirement:

The Migration Strategy of Georgia 2013-2015 was adopted on 15 March 2013 by the Resolution #59 of the Government of Georgia. It pertains to legal and institutional reforms and implementation of the legal framework of the migration policy. In June 2013, action plan on migration was approved containing a timeframe for different measures, financial indicators and provisions for sufficient human resources.

Action Plan Requirement #3:

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

Implementation of the Requirement:

According to the information provided by the Ministry of Internal Affairs, a unified electronic database has been launched at the Ministry. It will collect information relating foreigners from various agencies process it and identify persons who reside in Georgia without legal grounds. The said system will make it possible to calculate the period of legal stay of citizens of that country, which do not require visa to travel to Georgia. This will enable them to enter Georgia without interruptions. The electronic system is now being tested and improved. Its launch is planned on 1 September 2014, together with entry into force of the new Law "On Foreigners and Stateless Persons."

Public Service Development Agency developed a draft concept according to which a unified analytical system will be formed encompassing both immigration and emigration components, as well as will gradually include databases of other agencies. The system is planned to be tested in 2015.

Recommendations:

Overall, the measures undertaken with regard to migration management should be evaluated as positive. However, certain issues still require to be addressed, namely:

- Circular migration scheme is timely launched;
- Instructions and internal directives by relevant agencies and officials, which will encompass the issues related to urgent assistance to returning individuals are created;
- The establishment of the migration service, which will be responsible for collection and analysis of the data, related to migrants, identifying irregular migrants, their detention and accommodation in relevant facilities is expedited.

2.3. Asylum

Action Plan Requirement #1:

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

Implementation of the Requirement:

For the consolidation of the legal and institutional framework for asylum policy, the Law of Georgia on “Refugees’ and Humanitarian Statuses” has been approved on 6 December 2011, which lays down rules of granting a refugee’s and humanitarian status as well as determines the competent body charged with issues related thereto.

On 25 May 2012, an amendment was made to the Law of Georgia on “Refugees’ and Humanitarian Statuses” specifying the rules for termination of a residence card and travel document issued for a person with a refugee’s or humanitarian status.

With regard to the consolidation of the institutional framework of the asylum policy, the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia was designated as the responsible agency for the asylum policy, which:

- Considers petitions for asylum;
- Registers asylum seekers;
- Grants refugees’ and humanitarian statuses;
- Provides asylum seekers with temporary accommodation;
- Assists the integration process of individuals with refugees’ or humanitarian statuses;
- Coordinates the integration process of refugees and Georgian citizens returning from migration into the society.

In addition, under Resolution #114 of the Government of Georgia, issued on 27 January 2014, an amendment was made to the Charter of the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia, adopted under identically titled Resolution #34 of the Government of Georgia, issued on 22 February 2008. Specifically, under its Article 7(4)(a)(a.a), a structural unit within the Division of Refugees and Repatriation was created – Unit for Collection of Data on Asylum-seekers’ Countries of Origin. Its main functions include collecting information about countries of origin of asylum seekers, analysis and permanent updating of the acquired information.

With regard to access to fair procedures for status determination, according to the information provided by the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia, asylum seekers receive information on provisions and procedures of granting asylum during both application and interviewing step. The government commission on migration prepared a bill on “Legal Status of Foreigners and the Stateless Persons” which envisages issuing the relevant document, temporary identity document for persons seeking the refugee and the humanitarian status. The decision made by the Ministry is communicated to an asylum seeker in the language understandable for him/her. Informational brochures prepared by UNHCR/UNAG are also accessible for asylum seekers.

The Law of Georgia on “Refugees’ and Humanitarian Statuses” lays down rules related to issues of the principle of non-refoulement as well as the freedom of movement, issuance of residence permit, healthcare, education and labour rights.

So far, there is no joint legal act of the Ministry of Internal Affairs and Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia, which would provide for corresponding procedure for asylum seekers at the border control, as well as rules for exchanging information between these agencies. However, the draft joint order of the Minister for Internal Affairs and Minister for Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia has been prepared which will regulate these issues.

Recommendations:

The majority of requirements under this sub-Block have been implemented. However, it is recommended:

- Instructions and internal directives regulating in detail issues concerning freedom of movement, healthcare, education, protection of labour and social rights are created;
- The draft of the joint legal act of the Minister of Internal Affairs and Minister of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia is timely adopted.

BLOCK 3. PUBLIC ORDER AND SECURITY

This Block of the Visa Liberalisation Action Plan is divided into four parts:

- 3.1. Preventing and fighting organised crime, terrorism and corruption;
- 3.2. Judicial co-operation in criminal matters;
- 3.3. Law enforcement cooperation;
- 3.4. Data Protection;

3.1. Preventing and fighting organized crime, terrorism and corruption

This sub-Block in turn is divided into several parts:

- 3.1.1. Fighting organized crime;
- 3.1.2. Fighting trafficking in human beings;
- 3.1.3. Fighting corruption;
- 3.1.4. Fighting money laundering and financing of terrorism;
- 3.1.5. Adoption of a national anti-drug strategy and action plan;
- 3.1.6. Signature, ratification and transposition into national legislation of all relevant conventions and respective protocols in the areas listed above and on the fight against terrorism.

3.1.1. Fighting organized crime

Action Plan Requirement #1:

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

Implementation of the Requirement:

Within the legal framework that regulates issues related to fighting organized crime, the law of Georgia on “Organised Crime and Racketeering,” adopted on 20 December 2005 should be singled out. Its goal is to support the fight and prevention of organised crime, thieves-in-law and racketeering, as well as fighting the thieves-in-law to protect the private, public and state interests.

The law provides for definitions of “racketeered property” and “property of a thief-in-law” as well as determines the rules for their confiscation. Specifically, according to Article 5(3) of the Law, racketeered and a thief-in-law’s property shall be returned to its lawful owner, after satisfying the lawful interests of a third party. In case when a lawful owner of the property cannot be established, the property is transferred to the state.

Moreover, amendments were made to the Criminal Code of Georgia, namely Article 223¹ and Article 224¹ have been added, which provide for the criminal responsibility for being a thief-in-law, being a member of the mafia, as well as participating in a racketeering group.

Additionally, amendments were made to the Criminal Procedure Code of Georgia to provide protection of victims and witnesses of organized crime, as well as other participants of the process. Namely, in accordance to Article 68 of the Code, the prosecutor is entitled, with the consent of the Prosecutor General or his/her deputy, to use a special measure of protection of a process participant and involve him/her in a special protection program.

Specific special measures include:

- Changing or deleting a victim's or witness's personal identification data registered in the Public Registry;
- Guaranteeing secrecy of documents containing personal identification data of an individual;
- Giving pseudonym;
- Taking security measures for private guard;
- Changing appearance.

Besides, a new program for witness protection was developed under the U.S. Embassy assistance program, which is in place since 2012.

Furthermore, on 26 December 2013, an amendment was made to the Code of Criminal Procedure by the Georgian government's initiative, pertaining to a new rule for witness interrogation. This rule abolished the unjustified preferences given to the prosecution thereby ensuring the equality of the parties. More specifically, at the investigation stage, it is not only the prosecution who can subpoena witnesses. Instead, witnesses will be subpoenaed with equal rules applying to prosecution and the defence at the trial. However, the postponement of the enactment of the said rule till 31 December 2015 will hamper the criminal justice reform.

The Law of Georgia on "Intelligence Activities," adopted on 27 April 2010, plays an important role in consolidating the legal framework in the field of fighting organised crime. It defines the goals, scope and main directions of intelligence activities, as well as the intelligence agencies which undertake intelligence activities to protect the national interests of Georgia against external threats. Intelligence activities must be based on the requirements of the law. Consequently, amendments have been prepared to the Law of Georgia on "Operative-investigative activities," which will determine the principles on protection of human rights and freedoms in the course of operative-investigative activities, lawfulness, conspiracy, principles of matching open and closed methods.

Pursuant to the amendments, such measures provided for in the Law of Georgia on "Operative-investigative activities" as telephone wiretapping and recording, control of mail-telegraph correspondence, covert video and audio recording, video and photographing, electronic surveillance have become the regulated sphere of the criminal procedure legislation.

Besides, the amendments encompass the rules for storing and destroying the information obtained through operative-investigative activities, as well as the rules for destroying the information which is not related to criminal activities but contains the data about personal life of an individual. Such information is destroyed by the decision of a judge. The prosecutor and judge sign the protocol and transmit it to the Personal Data Protection Inspector of Georgia, also to the Commission on Destruction of Information obtained through covert investigative actions and will be entered in the covert investigative actions' registry.

To consolidate the institutional framework in the field of fighting organised crime, in 2012, the criminal police department of the Ministry of Internal Affairs of Georgia was transformed into the Central Criminal Police Department and was given the functions of the special operative department pertaining to fighting the organised crime.

The Government of Georgia adopted the Resolution №145 on 13 June 2013 thereby creating the Inter-agency Council on Fighting Organised Crime and adopting its regulation.

With regard to the National Strategy and Action Plan on Fighting Organised Crime, the Government of Georgia adopted the Resolution №252 adopting the National Strategy on Fighting Organised Crime (2013-2014) on 2 October 2013, and the Action Plan was adopted on 4 November 2013.

Recommendations:

Most of this sub-Block's requirements have been implemented. However, it is recommended:

- Further improvement of legislative and institutional framework in the field of fighting organised crime is ensured.

3.1.2. Fighting trafficking in human beings

Action Plan Requirement #1:

Consolidation, according to EU and international standards, of the legal and institutional framework for addressing trafficking in human beings, together with a corresponding national action plan, including a clear timeframe, specific objectives, activities, results, performance indicators and sufficient human and financial resources.

Implementation of the Requirement:

For consolidation of the legislative framework, trafficking was criminalized under Article 143¹ (trafficking in human beings) and Article 143² (trafficking in juveniles) of the Criminal Code of Georgia. In 2006-2007, further amendments were made to the Code whereby the norms of the Georgian Criminal Code have been improved and brought in compliance with the international standards. Article 143³ provides for the responsibility for using the services of a victim of trafficking. The Code also determines the responsibility for a legal entity in relation to trafficking in human beings.

The Law of Georgia on "Fighting trafficking in human beings" was adopted on 28 April 2006. For prevention of trafficking in human beings, it envisages protection, assistance and providing state services to victims, including providing shelter and compensation regardless whether they are Georgian citizens, stateless persons or foreigners, additional mechanisms to punish offenders, rehabilitation-re-socialisation programmes for victims and their secure and voluntary return to countries of origin.

In line with recommendations of GRETA, the Law of Georgia on "Fighting trafficking in human beings" was amended on 10 April 2012. Chapter IV¹ was added to the law relating social and legal protection, assistance and rehabilitation of victim, juveniles of trafficking in human beings. The amendment provides that, if required, a guardian is assigned to such a juvenile. Additionally, shelter will be provided not only to the juvenile who has been a victim of trafficking in human beings, but also to the juvenile whose one or both parents are a victims of trafficking in human beings. The internal regulation may also provide for the possibilities for juveniles to receive age-relevant basic education.

Moreover, the national referral mechanism is in operation as provided for by the Law of Georgia on "Fighting trafficking in human beings." It sets the procedures from identifying a potential victim to his/her full rehabilitation/reintegration, and as required until the moment he/she is not returned securely and voluntarily to his/her country of origin.

Also, on 20 November 2006, the Inter-agency Coordinating Council implementing the measures against the trafficking in human beings developed “Standards and Operative Procedures for Identification, Protection, Assistance, Rehabilitation and Reintegration of victims of trafficking in human beings.” Additionally, by the Decree №78 of Georgian President adopted on February 1, 2007 “the Overall Standards and Rules for Identification of victims of trafficking in human beings” was established.

It is important to note that Article 3 of the Law of Georgia on “Fighting trafficking in human beings” as well as Article 143¹ of the Criminal Code of Georgia complies with Article 4(b) of the Council of Europe Convention on Action against Trafficking in Human Beings, dated 16 May 2005. However, the note to Article 143¹ of the Criminal Code of Georgia should be amended and the term “exploitation” should be clearly defined, as the Convention does not include factual exploitation in determining a trafficking victim. Therefore, the requirement under the Georgian legislation of having the exploitative purpose (Article 143¹ of the Criminal Code of Georgia) is ambiguous and requires further specification to ensure its compliance with the international standards.

Moreover, a working group was created within the Inter-agency Coordinating Council implementing the measures against the trafficking in human beings in April 2013. The working group was charged with revising the legal framework in fighting trafficking and addressing the problems in legislation. The working group comprised of the Council member state agencies, representatives of local and international NGOs. The working group drafted the amendment for the note of Article 143¹ of the Criminal Code of Georgia which interprets “exploitation” and “slavery” in a new manner. The expert opinions were prepared for the draft law by the International Organization for Migration (IOM) headquarters, the United Nations Office on Drugs and Crime (UNODC). The working group followed their recommendations. Moreover, on 12 February 2014, at the session of the Inter-agency Coordinating Council implementing the measures against the trafficking in human beings, the legislative bill was approved which will be soon sent to the government of Georgia to propose it to the Parliament.

To consolidate the institutional framework, the decree №534 of the President of Georgia adopted on September 1, 2006 created the Inter-agency Coordinating Council implementing the measures against the trafficking in human beings. The Minister of Justice chairs the Council. Its members are representatives of ministries, the State Fund for Protection and Assistance of victims of Human Trafficking (legal entity under public law under the Ministry of Health, Labour and Social Affairs), the Prosecutor’s Office of Georgia and the Office of Public Defender of Georgia. Besides, representatives of the Parliament of Georgia, local and international NGOs and the U.S. Embassy are invited members.

By the Georgian President’s decree №437, issued on July 18, 2006 a legal entity of public law - the State Fund for Protection and Assistance of victims of Human Trafficking was established. The Ministry of Health, Labour and Social Affairs exerts the state control over the fund. In accordance with the law, the fund is the responsible agency for protection and assistance of victims of human trafficking.

Moreover, pursuant to 2013-2014 Action Plan on Fighting Trafficking, a special working group was created which must entertain the completed and terminated cases of human trafficking and reveal new forms of the crime, circumstances hindering the investigation and contemporary challenges in fight against trafficking. Members of the working group are judges, prosecutors, representatives of the Ministry of Internal Affairs, the State Fund for Protection and Assistance of (statutory) victims of Human Trafficking, the Supreme Court of Georgia and the secretariat of the Inter-agency Coordinating Council implementing the measures against the trafficking in human beings.

As regards the Action Plan, the Inter-agency Coordinating Council implementing the measures against the trafficking in human beings adopted 2013-2014 Action Plan on Fighting Trafficking in February 2013, which was approved by the Georgian President under the decree №15/03/02 issued on March 15, 2013. It provides for:

- Prevention of Trafficking;
- Identification of vulnerable groups and raising their awareness;
- Composing special mobile groups with representatives of law-enforcement agencies;
- Cooperation with local and international NGOs;
- Using improved means in fighting the crime of trafficking.

In the near future, a memorandum of cooperation will be signed among the Prosecutor's Office, the Ministry of Internal Affairs and the International Organisation for Migration to strengthen the fight against trafficking. Its draft is already prepared and its goal is to improve the professional qualification among the law-enforcement agencies in the area of human trafficking.

Furthermore, a working group within the Inter-agency Coordinating Council implementing the measures against the trafficking in human beings developed the guideline principles for prosecutors and investigators.

Additionally, on February 12, 2014 the Inter-agency Coordinating Council implementing the measures against the trafficking in human beings adopted the overall information strategy for fighting the human trafficking in order to raise the public awareness on the trafficking risks and the means of protection. Its goal is to provide information to specific target groups with right means and in a right manner. Under this strategy, measures of awareness raising are already undertaken.

Despite the measures undertaken to consolidate the institutional framework, there has not yet been developed a special database containing the statistical information about human trafficking, where the information would be divided across the sex, age, type of exploitation, countries of origin/destination.⁵

Recommendations:

To fulfil the requirements of this sub-Block, it is recommended:

- Corresponding legislative reforms simplifying the note to Article 143¹ of the Criminal Code of Georgia as well as defining the term "exploitation" is expedited;
- Fighting against trafficking for labour exploitation is strengthened;⁶
- Statistical database (with guarantees concerning the protection of personal data), where the information would be divided based on the sex, age, type of exploitation, countries of origin/destination is created.

3.1.3. Fighting corruption

Action Plan Requirement #1

Consolidation, according to EU and international standards, of the legal and institutional framework for preventing and fighting corruption, as well as a national anti-corruption strategy and action plan containing, within a clear timeframe, specific objectives, activities, results, performance indicators and sufficient human and financial resources, including as regards the anti-corruption coordination efforts of

⁵ The requirement is based on GRETA report, Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Georgia, 7 February, 2012.

http://www.coe.int/t/dghl/monitoring/trafficking/docs/Reports/GRETA_2011_24_FGR_GEO_en.pdf

⁶ The requirement is based on GRETA Report, Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Georgia, 7 February, 2012.

http://www.coe.int/t/dghl/monitoring/trafficking/docs/Reports/GRETA_2011_24_FGR_GEO_en.pdf

anti-corruption bodies such as the Anti-Corruption Interagency Coordination Council (ACICC), aiming notably at ensuring the independence, efficiency, empowerment and accountability of the authorities responsible for the fight against corruption and strengthening information exchange between them; ensuring a sound legal and institutional framework, including necessary secondary legislation for an efficient functioning of internal control mechanisms that contribute to the prevention and repression of corruption, including corruption at high-levels and corruption in international transactions, and to setting integrity standards within public institutions/authorities; follow-up of GRECO (Council of Europe Group of States against Corruption) recommendations.

Implementation of the Requirement:

Georgia has achieved important progress in fighting corruption during the last decade. This progress is a result of successful legal and institutional reforms. Certainly, a set of reforms are required to be undertaken, however, international surveys demonstrate that Georgia's corruption levels are lower than of many EU member states.

In the survey of Transparency International's Global Corruption Barometer, only 4% of Georgians have stated that they had to pay a bribe in the period of last 12 months. With such a result, Georgia is among the top countries of the world. In the same organization's Corruption Perception Index, Georgia finds itself at 55th position among 174 countries, scoring 49 (out of maximum 100 points).

The low level of corruption in the public services of Georgia is also pointed out by the European Commission whose 2012 "Eurobarometer" found that:

- 99% of Georgians have not been asked for a bribe during the last year. With such a result, Georgia stands at the first position in Europe;
- Georgian citizens encounter corruption in their daily lives 4 times less often than EU citizens;
- A vast majority of Georgians think that there is no bribery in the public and private sectors;
- 42% of Georgians trust the police investigations in corruption cases.

Under the International Financial Corporation's (IFC) 2012 survey of business perception, managers/owners of 1,029 companies working in Georgia were surveyed. The survey showed that only 6% of respondents have heard about corruption in state agencies. The same organization's survey of customs zones, only 2 out of 515 respondents (0.4%) in Tbilisi, Batumi and Poti stated that they had to pay a bribe.

The World Bank research "Fight Corruption in Public Services: Chronicling Georgia's Reforms" noted that Georgia has achieved the unique success in fighting corruption. It proved that a success can be achieved in a short period of time if there is a political will and coordinated actions by the authorities. Georgia has shattered the myth that corruption is a cultural phenomenon.

The Bertelsmann Foundation's Transformation Index also recognizes achievements made by Georgia in fighting corruption. The report positively evaluates the anti-corruption reforms and changes made to increase the effectiveness of the public administration. However, it also notes that further strengthening of various institutions is required.

Regarding the state institutions for fighting corruption, the Inter-Agency Coordinating Council on Fighting Corruption was established by the Georgian President's decree №622 on 26 December 2008. Article 12¹ of the Georgian Law on "Conflict of Interest and Corruption in Public Service" provides that the main goal of the Council is to determine the overall policy for fighting corruption, to develop national anti-corruption strategy and action plan, to update and monitor their implementation. The members of the Council are approved by the Government of Georgia.

On 30 December 2013, the Georgian Government's №390 Resolution approved the composition of the Inter-Agency Coordinating Council on Fighting Corruption as well as its charter. In line with the Resolution, there are 41 members in the Council.

The Council only consultative but does not have investigative/research and regulatory functions, unlike e.g. the State Audit Office and the Public Defender's Office.

On 5 July 2013, the Inter-Agency Coordinating Council on Fighting Corruption adopted the strategic priorities of fighting corruption for 2014-2016. **However, an action plan for implementation of the 2014-2016 anti-corruption strategy has not yet been adopted.**

In the end of 2012, a structural reorganization was conducted in the Ministry of Internal Affairs of Georgia whereby Constitutional Security and Special Operative Departments were abolished. Their functions were transferred to new State Security and Anti-corruption Agencies. The Anti-corruption Agency's mandate is to investigate corruption cases which were different agencies' functions before.

Many legal reforms have taken place in terms of fighting corruption. Georgia is a state party to the UN Convention against Corruption and the Council of Europe conventions, including Civil Law Convention on Corruption, 2008 Criminal Law Convention on Corruption as well as 2013 Additional Protocol to the Criminal Law Convention on Corruption.

To ensure compliance with GRECO recommendations, amendments relating corruption were made to the Criminal Code of Georgia in 2011. Also important is the draft law on "protecting whistle-blowers" already prepared and proposed in the Parliament.

The current legal framework operative in financing of political parties was again revised by the Inter-Faction Group of the Parliament. The Group developed recommendations, which ensure the transparency of financing of parties. The NGO sector has also approved the amendments to the Organic Law of Georgia on "Political Associations of Citizens." The Parliament adopted these amendments in the summer of 2013.

In 2013, the Georgian Law on "Conflict of Interest and Corruption in Public Service" was amended whereby the list of officials now also include a head of division in a ministry of Georgia and his/her deputy, deputy head of a structural unit in the office of a state minister or equivalent, as well as deputy head of subordinate entity of Georgia. In addition, the obligation of asset declarations were also imposed on heads and deputy heads of legal entities of public law (except for entities created for religious, cultural, educational and scientific-research), as well as heads of non-for-profit organizations founded by the state and the corporation whose 100% shares are owned by the state or local municipality.

As regards the reforms undertaken in public service since 2003, this process has been quite productive and it had a big role in fighting corruption. However, this field requires further reforms in order to protect it from such forms of corruption as nepotism.

We think that it is necessary to introduce so-called Performance Based Management in all state agencies. This means that functions of each member of staff will be defined; qualitative or quantitative indicators are determined to assess the work of the staff; performance systematically assessed and identified problems are addressed.

Promotion, assigning bonus salary or dismissing the staff should be based on the quality of his/her performance. The performance reviews should inform the new needs such as hiring new staff, re-training of the existing staff etc.

This not only will further the effectiveness of the public service, but will also raise motivation of civil servants, complicate hiring relatives or friends, promotion, assigning bonus salaries (because now it will be

necessary to showcase why someone was promoted when he/she does not provide as good results as other personnel who had not been promoted) and will support promoting most effective staff and selection of most qualified human resources.

3.1.4. Fighting money laundering and financing of terrorism

Action Plan Requirement #1:

Consolidation of the legal and institutional framework for preventing and fighting money laundering and financing of terrorism, in line with EU and international standards set by the Financial Action Task Force (FATF) on Money Laundering and Terrorist Financing.

Implementation of the Requirement:

For consolidation of the legal framework for preventing and fighting money laundering and financing of terrorism, on 6 June 2003, the Law of Georgia on “Support of Prevention of Legalization of Illegal Income” was adopted. The law provides definition of the persons who monitor; the supervisory agencies who control persons conducting monitoring and subjected transactions. The law also determines the rules and terms for identification and verification of clients and their beneficiary owners as well as for storing the information obtained through the identification and verification.

As a result of legislative reforms in 2008-2012, definitions of “suspicious transactions” and “beneficiary owner” were improved; a definition of “client” was added to the law; the obligation was established to undertake intensified monitoring of a determined list of individuals in the circumstances provided by the law.

On 27 June 2007, the Law of Georgia on “Fighting Terrorism” was adopted. The law determines those organizational forms and legal bases for fighting terrorism in Georgia as well as the rules for coordination among state agencies, for participation of civic associations and organizations, officials and citizens and clarifies their rights, obligations and their social protection guarantees.

On 24 August 2011, the President of the National Bank of Georgia issued the Order #65/04 on determining the list of special attention zones for the purposes of the Law of Georgia on “facilitating the prevention of illicit income legalisation.” It obliges the Financial Monitoring Service of Georgia to annually check the list of special attention zones and present relevant information to the National Bank in case of a necessity to make justifiable changes to the list.

On 22 February 2010, the President of the National Bank of Georgia issued the Order #18/01 on “Determining, imposing and enforcing pecuniary fines on registrars and brokering companies for violating the Law of Georgia on “facilitating the prevention of illicit income legalisation.” It provides for pecuniary fines for non-compliance with normative acts adopted by the Financial Monitoring Service of Georgia.

In line with the recommendations presented within the fourth round of Moneyval, on 30 May 2013, an amendment was made to Article 8 of the Law of Georgia on “Prosecutor’s Office” whereby the Ministry of Justice is no longer entitled to start prosecution.

On 27 November 2013, the Law of Georgia on “facilitating the prevention of illicit income legalisation” was reformed whereby attorneys have become subject of legal norms regulating the field of fighting money-laundering and terrorism.

On 13 November 2013, the Civil Procedure Code was amended which will make it possible to confiscate the property and its transfer to the state from the individuals who are convicted under Article 194 (Legalization of illicit Income (Money-Laundering)) and Article 331¹ (Financing Terrorism) of the Criminal

Code of Georgia. To this end, an amendment was made to Chapter XLIV¹ of the Criminal Procedure Code which talks about the special rules for appropriation of property of the convicted in various crimes and its transfer to the state.

On 27 November 2013, the Law of Georgia on “Fighting Terrorism” and the Criminal Code of Georgia were amended. The amendment made to the Law of Georgia on “Fighting Terrorism” redefined a “terrorist organization” and “terrorist act.” Also, the definition of “terrorist intent” was added to the law while “terrorist intent” was clarified in the Criminal Code of Georgia.

Despite the undertaken measures, relevant normative acts are not yet amended according to which the sanctions are strengthened and their effective use to individuals and legal entities is guaranteed. Furthermore, there are no norms in the legislation related to monitoring payments made through new technologies, as well as there are no definitions of “precious metals” and “precious stones.” However, a working group was created within the Ministry of Finance, which is preparing a bill regarding this issue.

So far the Administrative Procedure Code has not been amended in line with recommendations presented in Moneyval Round 4. Namely, this concerns the Article 21³¹ which must provide that a motion on freezing assets is justified when the property belongs to individuals who are in the list as provided by the Resolutions #1267 and #1373 of the United Nations Security Council.

Moreover, the Code has not yet been amended abolishing the court’s jurisdiction to adjudicate motions on freezing assets when it is concerned with individuals, groups and associations determined by the United Nations.

So far an amendment has not been made to Article 12 of the Law of Georgia on “facilitating the prevention of illicit income legalisation” which should specify that the individuals provided for by the law will not be criminally or civilly responsible for violating the obligation of protecting the confidentiality of the information provided for by a normative act or an agreement, even in those cases when they did not know exactly what criminal offence they were committing and despite whether this act was committed.

For the consolidation of institutional framework for preventing and fighting money laundering and financing of terrorism, the following institutions were added to the acting Financial Monitoring Service of Georgia, law-enforcement agencies and supervisory bodies (National Bank of Georgia, Legal person of public law- State Insurance Supervision Service of Georgia, Ministry of Justice of Georgia, and Ministry of Finance of Georgia):

- Persons conducting accounting/audit activities who can obtain, systematize, process and provide information to the Financial Monitoring Service of Georgia in line with the rules laid down by the Order #12, issued on January 31, 2012 by the head of the Financial Monitoring Service of Georgia;
- Qualified credit institutions which can obtain, systematize, process and provide information to the Financial Monitoring Service of Georgia in line with the rules laid down by the Order #1, issued on June 27, 2013 by the head of the Financial Monitoring Service of Georgia;
- Leasing companies, which can obtain systematize process and provide information to the Financial Monitoring Service of Georgia in line with the rules laid down by the Order #2, issued on September 5, 2013 by the head of the Financial Monitoring Service of Georgia.

On December 21, 2011 under the Resolution #487 of the Government of Georgia, the Governmental Commission on Implementation of Resolutions of the UN Security Council was established. It ensures freezing assets of persons linked to terrorism and of persons who are provided in resolution of the UN

Security Council in order to prevent those persons from financing terrorism or other illicit activities or supporting these activities by other means. The Commission is authorized to develop a list of individuals linked to terrorism by means of consulting with relevant agencies abroad or/and in Georgia and appeal to the court to freeze the individuals' assets with the use of procedure set out in the administrative procedure legislation of Georgia.

On May 15, 2013 in order to develop local coordination, a memorandum of understanding was signed among the Financial Monitoring Service of Georgia, the Ministry of Internal Affairs of Georgia, the National Bank of Georgia, the Ministry of Finance of Georgia, the Ministry of Justice of Georgia (including the Prosecutor's Office) enabling the Financial Monitoring Service of Georgia to have access to databases of the Ministry of Justice of Georgia and the Ministry of Internal Affairs of Georgia.

New software enhancing electronic reporting by individuals who undertake the monitoring was introduced by the Financial Monitoring Service of Georgia in December 2011.

Action Plan Requirement #2:

Regular updating of the corresponding national strategy.

Implementation of the Requirement:

The Coordinating Council for developing the strategy and action plan for fighting money laundering and financing of terrorism and their implementation was created by the Resolution #352 of the Government of Georgia, issued on 23 December 2013. The Council must have presented its 2014-2017 Strategy and Action Plan to the Government by 1 March 2014.

Action Plan Requirement #3:

Establishment and consolidation of an independent Financial Intelligence Unit, with adequate powers and resources.

Implementation of the Requirement:

Establishment of Financial Intelligence Unit is addressed by establishment of the Financial Monitoring Service of Georgia. The latter operates on the basis of the following laws: the Organic Law of Georgia on "National Bank (24 September 2009), the Law of Georgia on "facilitating the prevention of illicit income legalisation" (6 June 2003), the Law of Georgia on "Legal Entity under Public Law" (28 May 1999) and the Charter of the Financial Monitoring Service of Georgia established under Resolution #399 of the Government of Georgia, issued on 31 December 2013.

The main functions of the Financial Monitoring Service of Georgia are fighting and preventing legalization of illegal income, financing terrorism and other criminal acts.

Recommendations:

For implementation of the remaining requirements:

- The adoption of the strategy and action plan for fighting money laundering and financing of terrorism is expedited;

- The application of the Law of Georgia on “Preventing Legalization of Illegal Income” to electronic payment institutions (e.g. pay box and other electronic payment institutions) is extended;
- The amendment to Article 12 of the Law of Georgia on “Preventing Legalization of Illegal Income” is made;
- Sanctions under the law on “Preventing Legalization of Illegal Income” are strengthened and their effective utilization both to individuals and legal entities is ensured;
- Corresponding amendments to the Code of Administrative Procedure of Georgia on the issues related to money laundering are made;
- Competent body, together with the National Bank of Georgia, which will be authorized in extension of the time period for storing the documents related to financial transactions is determined;
- “Precious metals” and “precious stones are defined by the law;”
- Investigators of specialized financial cases are re-trained and standardized operational procedures of investigation are developed;
- Continuous training of individuals involved in investigation of crimes of money-laundering and law-enforcement is ensured;
- Corresponding legislative amendments abolishing the court’s jurisdiction to hear motions for freezing assets when they concern individuals, groups and associations which are included in the list of the United Nations is ensured.

3.1.5. Adoption of a national anti-drug strategy and action plan

Action Plan Requirement #1:

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

Implementation of the Requirement:

The Anti-drug Inter-Agency Council developed and, on 4 December 2013, it adopted the draft projects of 2013-2015 Anti-drug Strategy and Action Plan. In both the Strategy and Action Plan **there are clear deadlines, specific goals, measures, results, indicators and sufficient human and financial resources.**

Recommendations:

For implementation of the remaining requirements:

- Amendments to the laws to enhance the anti-drug efforts are made.

3.1.6. Signature, ratification and transposition into national legislation of all relevant conventions and respective protocols in the areas listed above and on the fight against terrorism.

Action Plan Requirement #1:

Signature, ratification and transposition into national legislation of all relevant UN and Council of Europe conventions and respective protocols in the areas listed above and on the fight against terrorism, including the 2005 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds

from Crime and on the Financing of Terrorism as well as the Hague Convention on Protection of Children (1996 Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children), the 2007 Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, and the Additional Protocol to the Criminal Law Convention on Corruption.

Implementation of the Requirement:

On March 25, 2013, Georgia signed 2005 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism. Georgia ratified it on October 4, 2013. For implementation of the Convention into national legislation, an amendment was made to the Civil Procedure Code on November 13, 2013 incorporating the Convention's requirement – having civil judicial mechanism for confiscating illegal income. The mechanism applies to both money laundering and financing of terrorism.

The Additional Protocol to the Criminal Law Convention on Corruption was ratified on July 27, 2013.

The 2007 Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse has been signed **and is currently undergoing the internal ratification procedures. Based on the Convention, a legislative amendment package has been prepared and is presented in the Parliament; however, it is not yet adopted.**

1996 Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children is also currently undergoing the internal ratification procedures in the Parliament. Regarding the ratification, the package of amendments is ready in order to amend the Civil Code and Civil Procedure Code of Georgia. Namely, the amendment will be made to Article 1198¹ of the Civil Code of Georgia which provides for children's and other individuals' opportunities to apply to the central agency (a structural entity of the Ministry of Justice of Georgia) in cases of violations of rights enshrined in the Convention. In addition, chapter XLII³ will be added to the Civil Procedure Code of Georgia, which lay down rules for cases provided by the Convention.

Recommendations:

For implementation of the remaining requirements:

- Timely implementation of the 2007 Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse into national legislation and its ratification is ensured;
- Timely implementation of 1996 Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children into national legislation is guaranteed.

3.2. Judicial co-operation in criminal matters

Judicial cooperation in criminal matters is divided into two parts and concerns the consolidation of legislative and institutional framework, as well as signing, ratification and implementation in national legislation of the second Optional Protocol of the European Convention on Mutual Assistance in Criminal Matters.

Action Plan Requirement #1:

Consolidation of the legal and institutional framework on mutual assistance.

Implementation of the Requirement:

For consolidation of the legal framework, on July 21, 2010 the Law of Georgia on “Mutual Legal Assistance in Criminal Matters” was adopted which envisages mutual assistance, extradition and enforcement of court decisions.

The Ministry of Internal Affairs developed the draft law on “International Law Enforcement Cooperation” - adopted on October 4, 2013. The law regulates issues of mutual assistance and ensures effective prevention, identification and fighting a crime, determines rules and procedures in the field of law enforcement, which are based on bilateral and multilateral treaties of Georgia or, in case of absence of such a treaty, creates a firm legal basis for such mutual assistance.

For consolidation of institutional framework, the coordination of the following agencies was established:

- The Ministry of Justice of Georgia is an intermediary/focal point for receiving and transmitting request on criminal mutual assistance;
- The Prosecutor’s Office itself discusses requests on criminal mutual assistance and enforces, as well as makes decisions regarding extradition or investigative procedures;
- The Ministry of Internal Affairs of Georgia implements mutual assistance in criminal matters in terms of criminal intelligence activities (fighting and suppression of crime), as well as gives opinion on the legality of the offenders’ transfer to/from Georgia;
- The Courts of General Jurisdiction of Georgia are authorized to make decisions regarding enforcement of judgments made by the foreign courts or request enforcement of judgments made by the courts of Georgia in foreign countries.

Action Plan Requirement #2:

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

Implementation of the Requirement:

On March 25, 2013 Georgia signed the second Additional Protocol of the European Convention on Mutual Assistance in Criminal Matters, which was ratified on October 4, 2013.

For the transfer into national legislation of the Second Additional Protocol of the European Convention on Mutual Assistance in Criminal Matters, on May 30, 2013 by the initiative of the Prosecutor’s Office, amendments were made to the Law of Georgia on “International Law Enforcement Cooperation”– adding several articles. Namely, the amendments envisage:

- Rules of temporary transfer of detained persons to the territory of the foreign state for participation in investigation proceedings;
- Rules for delivery of procedural documents;
- Issues related to interrogation of persons conducted by audio and video devices;

- Specific issues related to setting up of joint investigation teams.

As mentioned above, for the transfer into national legislation of the Second Additional Protocol of the European Convention on Mutual Assistance in Criminal Matters, on October 4, 2013 the Ministry of Internal Affairs introduced the draft law on “International Law Enforcement Cooperation” ensuring effective prevention and suppression of the crime. It regulates the following issues related to international mutual assistance:

- Exchange of criminal intelligence information and personal data;
- Protection of criminal case participants and other persons;
- Realization of criminal intelligence activities, including, the realization of controlled deliveries and cross-border observation;
- Search for persons and items and establishment of their whereabouts;
- Other issues falling within the competence of law enforcement agencies of Georgia.

3.3. Law enforcement cooperation

Action Plan Requirement #1:

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

Implementation of the Requirement:

On May 15, 2013, a memorandum of cooperation between the Ministry of Internal Affairs, the Ministry of Justice, the Ministry of Finance, the Chief Prosecutor’s Office, and Financial Monitoring Service of Georgia was signed concerning law enforcement cooperation envisaging:

- Cooperation between law-enforcement agencies in the area of fighting national and transnational crimes;
- Creation of ad hoc joint investigation teams on the basis of the request from one of the agencies;
- Exchange of the information about the measures undertaken on the basis of the data received from each other at least twice a year.

The Operative-technical department of the Ministry of Internal Affairs elaborated the software for exchanging the data between law-enforcement agencies, which is being tested. However, not all the agencies are included in it yet.

Recommendations:

For implementation of the remaining requirements:

- Timely inclusion of all agencies in the software for data exchange in order to guarantee that the data exchange between-law enforcement agencies is ensured.

3.4. Data Protection

Action Plan Requirement #1:

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

Implementation of the Requirement:

For the consolidation of institutional and legislative framework the Law of Georgia on “the Personal Data Protection” was adopted on December 28, 2011. The main part of the law entered into force on May 1, 2012 and Chapter VII (administrative responsibility for violation of the law) – on January 1, 2013. Particular provisions of the law with regard to private sector will enter into force on January 1, 2016.

On July 19, 2013 under the Resolution #180 of the Government of Georgia, the statute regulating the activities of the Personal Data Protection Inspector was adopted.

The Regulation of the Inspector’s staff is also adopted determining the structure of the staff and delimiting functions among the structural units.

The form of application and corresponding instructions for a permit to transfer data to the other state or/and international organizations have been developed.

Two types of forms of notices for private and public sectors have been developed as well. In these notices, the relevant organizations must indicate what data is processed, on what basis and for what purpose and whether there is a person’s consent to it. The forms of notice concern the filing system catalogues and processing the biometric data. Together with the forms, the guidelines were developed.

A special group was created working on the compliance of the Georgian legislation (concerning the personal data protection) with International and European standards.

The Personal Data Protection Inspector prepared a package of amendments to the Law of Georgia on “the Personal Data Protection” which envisages:

- Strengthening safeguards for privacy of Georgian citizens and protection of personal data;
- Extending the scope of special category of data and improving the grounds for processing of such data;
- Improving norms pertaining to the direct marketing;
- Application of the law to the private sector at an earlier date;
- Regulation of video-surveillance at public areas and public transport;
- Improving norms relating rights of the data subjects.

So far, no amendment has been made to address the problem in the law whereby stopping of text messages used in direct marketing is only possible with a written request. The written form currently required by the law is inconvenient for citizens.

Application of the law to the private sector allowing the Inspector to inspect the sector has not yet been moved at an earlier date (as noted earlier, the law will fully enter into force in relation to private sector on January 1, 2016).

Action Plan Requirement #2:

Signature, ratification and transposition into national legislation of relevant international conventions, protocols and recommendations, including the 2001 Additional Protocol to the Council of Europe Convention 108 for the Protection of Individuals with regard to Automatic Processing of Personal Data,

regarding supervisory authorities and cross-border data flows, and the Committee of Ministers of the Council of Europe Recommendation No. R (87) 15 regulating the use of personal data in the police sector.

Implementation of the Requirement:

On March 15, 2013 Georgia signed the 2001 Additional Protocol to the Council of Europe Convention 108 for the Protection of Individuals with regard to Automatic Processing of Personal Data, regarding supervisory authorities and cross-border data flows, which was ratified on July 27, 2013 and is transposed in various laws.

For the transposition into national legislation of the 2001 Additional Protocol to the Council of Europe Convention 108 for the Protection of Individuals with regard to Automatic Processing of Personal Data, regarding supervisory authorities and cross-border data flows and the Committee of Ministers of the Council of Europe Recommendation No. R (87) 15 regulating the use of personal data in the police sector, the Ministry of Internal Affairs of Georgia, on December 19, 2013 adopted Order №967 containing “Instructions for Processing Personal Data and its Protection in the Ministry of Internal Affairs of Georgia” which entered into force on 1 March 2014.

Moreover, the new Law “On Police” regulates processing data by the police. Namely, the police must process data in accordance with the Georgia’s legislation in the field of personal data protection.

Action Plan Requirement #3:

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

Implementation of the Requirement:

The Law of Georgia on “Personal Data Protection” envisages creation of an independent supervisory authority which is chaired by the Personal Data Protection Inspector. The Personal Data Protection Inspector was selected by an open competition under Order №64 of the Prime Minister of Georgia. Ms. Tamar Kaldani was appointed at the position under Order №132, issued on June 28, 2013.

As noted earlier, on July 19, 2013 under the Resolution #180 of the Government of Georgia, the statute regulating the activities of the Personal Data Protection Inspector was adopted, which determines the Inspector’s authority and obligations.

The function of the Personal Information Protection Inspector is:

- To consult public and private organizations (individuals) on issues relating personal data protection;
- To consider application/petitions regarding personal data protection;
- To check (inspect) legality of processing the data in public and private organizations;
- To inform the public on the current situation and important events in the area of the personal data protection in Georgia.

The independence of the Personal Data Protection Inspector is guaranteed by Article 31 of the Law of Georgia on “the Personal Data Protection.” According to the Article while implementing its obligations the Inspector is independent and is not subjected to any other official or agency. Any type of influence or interference with the Inspector’s activities is punishable under the law. The Inspector is entitled not to give a

testimony about the fact which he/she obtained serving as the Personal Data Protection Inspector. This entitlement continues after termination of the office as well.

Furthermore, the state creates relevant conditions to ensure the Inspector's independence. Under the Resolution #699 of the Government of Georgia, issued on July 3, 2013, GEL 204, 000 was allocated from the reserve fund of the Government. The Inspector's budget was assigned with a separate budgetary code in the Law of Georgia on "2014 State Budget of Georgia."

Despite the measures taken, a methodology for inspection has not yet been developed; however, active work is being undertaken towards further improving methodology of inspection and the legislation.

Recommendations:

For the implementation of the remaining requirements:

- For the completion of the functions of the personal data protection inspector, development of the inspection methodology is expedited;
- The transmission to the earlier date of the application of the Law of Georgia on "Personal Data Protection" to the private sector is guaranteed;
- The relevant legislative amendments addressing the problem of completing only the written form of petition in order to stop receiving the text messages used for direct marketing are made.

BLOCK 4: EXTERNAL RELATIONS AND FUNDAMENTAL RIGHTS

In this regard, the EU requirements in the Visa Liberalisation Action Plan are divided into three sub-blocks:

4.1 Freedom of movement within Georgia;

4.2 Conditions and procedures for the issuance of travel and identity documents;

4.3 Citizens' rights including protection of minorities.

4.1 Freedom of movement within Georgia

Action Plan Requirement #3:

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

Implementation of the Requirement:

On June 27, 1996 the Law of Georgia “on the Rules of Registration, Issuing Identity (Residence) Cards and Passports for Georgian Citizens and Foreigners Residing in Georgia” was adopted and amended in 2011-2013. The law provides for procedures of registration and issuing identity (residence) cards for Georgian citizens and foreigners residing in Georgia.

In addition, the Law of Georgia on “Legal Status of Foreigners and the Stateless Persons,” adopted on 27 December 2005, regulates the legal status of foreigners. Article 26 of the Law as well as the Order #98 of the Minister of Justice of Georgia “on the Rules of Registration and Deregistration, Issuing Identity (Residence) Cards, Passports, Travel Passports and Travel Documents for Georgian Citizens and Foreigners Residing in Georgia,” issued on July 27, 2011 lay down rules for registration and issuing residence permit to foreigners. Also, it provides for one month period since issuing residence permit, or, in case a person is abroad – after returning to Georgia, issuing corresponding residence permit document.

Under this Order, issues related to registration and deregistration, issuing identity (residence) documents for foreigners residing in Georgia are regulated in detail.

On June 28 2006, under Decree #400 of the Georgian President, “Regulation of Considering-Decision-making related to Granting Residence Permit” was adopted. It determines procedures for granting residence permit and its prolongation.

Order #616 of the Minister of Justice “On the adoption of the form for the residence permit of foreigner residing in Georgia,” issued on June 23, 2006 establishes the residence permit form. Additionally, under Order #91 of the Minister of Justice, issued on July 14, 2011 form and technical characteristics of electronic (temporary or permanent) identity card of a Georgian citizen and residence permit of a foreigner residing in Georgia were approved.

The Georgian President’s Decree #515, which was issued on June 27, 2012, approved “the Rules for Determining Status of Stateless Persons,” which regulates issues related to application, consideration and decision-making regarding determining the status of stateless persons.

On March 5, 2013 the Georgian Parliament adopted the new Law of Georgia on “Legal Status of Foreigners and Stateless Persons.”

Despite the measures taken, there still is no legislative act which would envisage permanent measures for registration of individuals not possessing documents (Issuing temporary identification document – a new type of document provided for in the new Law of Georgia on “Legal Status of

Foreigners and the Stateless Persons.” Consequently, after issuing such documents, these individuals will be registered in the database of the State Services Development Agency).

4.2 Conditions and procedures for the issuance of travel and identity documents

Action Plan Requirement #1:

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

Implementation of the Requirement:

For the consolidation of the legal framework, on June 27, 1996 the Law of Georgia “on the Rules of Registration, Issuing Identity (Residence) Cards and Passports for Georgian Citizens and Foreigners Residing in Georgia” was adopted which regulates the issues of registration and deregistration in detail. It determines rules for registration of individuals younger than 14 year old. It provides that such individuals, together with individuals under guardianship/custody, identity document shall be issued at the request of their legal representatives. As with individuals younger than 16, together with individuals under guardianship/custody, shall be registered with parents, guardians, custodians, or other legal representatives.

Order #98 of the Minister of Justice of Georgia “on the Rules of Registration and Deregistration, Issuing Identity (Residence) Cards, Passports, Travel Passports and Travel Documents for Georgian Citizens and Foreigners Residing in Georgia,” issued on July 27, 2011 regulates issues related to identity documents, as well as granting travel documents to refugees – specifying the rules for electronic application submission of requests for the travel documents. It also provides for personalisation rules for identity and travel documents. Personalisation encompasses the process of filling out/registering details of an ID and is conducted in Georgian language, and for documents issued for individuals registered in the Autonomous Republic of Abkhazia – in Georgian and Abkhaz languages. Further, in accordance with standard norms of the International Civil Aviation Organization (ICAO), personalisation of electronic identity (residence) document is conducted in Georgian and English languages.

It is important to point out that the Order #98 of the Minister of Justice of Georgia “on the Rules of Registration and Deregistration, Issuing Identity (Residence) Cards, Passports, Travel Passports and Travel Documents for Georgian Citizens and Foreigners Residing in Georgia,” issued on July 27 2011, regulates issues related to granting travel passport to stateless persons in Georgia who have such status.

Among the measures aimed at consolidation of the institutional framework, it is worth to single out the service delivering at home since 2011. This service ensures the smooth issuing process of identity documents to persons with disabilities. Before, it was impossible to obtain biometric data of persons with disabilities without them leaving their homes. After the introduction of this service, representatives of the Public Service Development Agency arrive at residences of individuals with disabilities and obtain biometric data on-spot.

Additionally, the Public Service Development Agency undertakes various activities to ensure full and effective accessibility to travel and identity documents for women, children, persons with disabilities, internally displaced persons, representatives of minorities and other vulnerable groups. Namely, in cooperation with United Nations Children's Fund (UNICEF) and United Nations High Commissioner for Refugees (UNHCR), the Agency implemented an important project whose objectives was registration and documentation of minors born abroad. The Agency, in cooperation of the Consular Department of the Ministry of External Affairs of Georgia, legalized their documents thereby ensured their documentation.

The Public Service Development Agency issues travel documents for refugees since 2008. Since 2010, it issues biometric travel documents for these individuals.

A project of issuing identity documents to internally displaced persons was implemented in 2013. Within this project, approximately 70,000 internally displaced persons received documents without paying service fees.

Despite the measures taken, there is no legislative act developed which would ensure issuing travel documents for person with humanitarian status for their free and uninterrupted movement. However, a temporary electronic residence permit is issued for a person with humanitarian status.

Recommendations:

For implementation of the remaining requirements:

- The relevant legislative act regulating issuance of a travel document to a person with a humanitarian status is prepared;
- The relevant legislative act which would envisage permanent measures of registration for persons without documentation is made.

4.3 Citizens' rights including protection of minorities

The current Georgian legislation is quite advanced. As a rule, the problem rests in enforcement of this legislation. However, as this report concerns only with the legislative framework, we will not focus on enforcement of the laws.

Action Plan Requirement #1:

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

Implementation of the Requirement:

The Georgian Constitution, administrative, labour and criminal laws prohibit discrimination. In addition, Georgia is a state party to those main conventions adopted under the UN, the Council of Europe, the International Labour Organization and other main human rights conventions whose goals are prohibition of discrimination.

Moreover, the Ministry of Justice of Georgia prepared the draft law on "Elimination of All Forms of Discrimination" in 2013. It was presented to the public for discussion. The draft law was sent to the OSCE and the Council of Europe for assessment of its compliance with international standards. According to the information provided by the Ministry of Justice, the assessment of the draft law is already completed and it will be soon proposed, first, to the Government and, second, to the Parliament.

Action Plan Requirement #2:

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

Implementation of the Requirement:

Georgia is a state party to Convention on the Elimination of All Forms of Racial Discrimination (CERD) and Framework Convention for the Protection of National Minorities. Also, a corresponding legislative package is prepared to harmonize Georgia's legislation with 1961 Convention on the Reduction of Statelessness. It is now discussed in the Parliament.

As regarding the European Charter for Regional or Minority Languages, according to the information provided by the Office of the State Minister of Georgia for Reconciliation and Civic Equality, under Resolution #163 of the Government of Georgia, the Inter-agency Council for developing recommendations regarding Georgia's obligations under the European Charter for Regional or Minority Languages was established. Its functions include:

- a) Analysis of compliance of the European Charter for Regional or Minority Languages with the legislation of Georgia;
- b) Study of Georgia's obligations in terms of factual compliance with the European Charter for Regional or Minority Languages;
- c) Supporting to develop an overall position of the Government of Georgia regarding signing and ratification of the European Charter for Regional or Minority Languages, etc.

Action Plan Requirement #3:

Establishing fair and transparent conditions for the acquisition of Georgian citizenship.

Implementation of the Requirement:

For establishing fair and transparent conditions for the acquisition of Georgian citizenship, the working group of statelessness under the Governmental Commission on Migration completed working on a new draft bill of the Organic Law of Georgia on "Citizenship of Georgia." It envisages possibilities for citizens of other countries to acquire and restore Georgian citizenship. The draft law lays down new conditions for acquiring and termination of Georgian citizenship which comply with norms of 1961 Convention on the Reduction of Statelessness and European Convention on Nationality. The draft law was initiated in the Parliament on 16 January 2014 and was adopted on March 5, 2014.

Action Plan Requirement #4:

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

Implementation of the Requirement:

On July 5, 2013 under the Resolution #169 of the Government of Georgia, the Inter-agency Council developing strategy and action plan for human rights protection was established.

Development of the strategy and action plan was open and transparent. All corresponding groups were involved in the process from the beginning. The Council included representatives of the executive branch of the government, the Parliament, the Prosecutor's Office, the judiciary, the Public Defender of Georgia, the Georgian Bar Association, international organisations and NGOs.

The Council must have delivered the strategy and action plan to the Government by 1 January 2014. According to the information provided by Ms. Tamar Chugoshvili, the Prime Minister's Advisor, the draft strategy and action plan are completed and will be presented to the Government in the nearest future.

Recommendations:

It is recommended:

- Timely adoption of the Law on "Elimination of All Forms of Discrimination" and approval of 2014-2017 human rights protection strategy and action plan is guaranteed.