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ANALYSIS OF THE VISA LIBERALIZATION PROCESS IN GEORGIA: MOLDOVA'S EXPERIENCE AND RECOMMENDATIONS

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GEORGIAN INSTITUTE FOR STRATEGIC STUDIES
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INTRODUCTION

The relations between Georgia and the EU are based on the Partnership and Cooperation Agreement which came into force on 1 July 1999. The political priorities of cooperation with Georgia were defined by the European Neighbourhood Policy (ENP) Action Plan adopted by the EU in November 2006, while in 2009 Georgia joined the Eastern Partnership (EaP) which aims to promote the partner countries' political association, their gradual economic integration, legal mobility and visa liberalisation with the EU. In 2010, an agreement on the Mobility Partnership was signed, which aims to combat illegal migration and promote legal migration, including the possible use of circulatory migration. The Visa Facilitation and Readmission Agreements between Georgia and the EU came into force on 1 March 2011, while the European Council's 31 May 2012 conclusion contained a positive assessment of the commission's initiative to begin visa dialogue with Georgia. The Georgia-EU dialogue on visa-free travel began on 4 June 2012, while on 25 February 2013, Georgia received the Visa Liberalisation Action Plan (VLAP).

The Georgian Institute for Strategic Studies (GISS) is actively involved in the research and analysis of the topics related to European Integration. The organization, with the participation of international and local experts, representatives of the civil sector and the government, organized a round-table in October of 2013, that aimed to evaluate the challenges and prospects related to the visa liberalisation process. Meanwhile, the organization aimed to conduct research on the VLAP implementation, cooperate with all stakeholders involved in the process, and study the international experience regarding the topic.

Moldova's experience in this process is very important for Georgia: Moldova is a member state of the EaP, has experience similar to Georgia and is number one according to the *European Integration Index for Eastern Partnership Countries*.¹ The Action Plans for Moldova and Georgia are similar in content and structure, save for small thematic differences in the area of migration. Moldova began its visa dialogue with the EU on 15 June 2010 and received the Action Plan on 25 January 2011. It completed the first stage of the Action Plan in June 2012 and received permission to proceed to the second stage in November 2012. At the Vilnius Summit on 27 November 2013, it was declared that Moldova would enjoy a visa-free regime with the EU by late 2014.

The goal of the research was, on the one hand, to study Moldova's experience in terms of visa liberalisation, analyse the processes underway there and find out what challenges the country faced would be useful to consider in Georgia's case. On the other hand, the goal of the research was to assess the implementation of Georgia's VLAP, identify the challenges and elaborate relevant recommendations for interested parties.

GISS aims to inform the government, non-governmental organisations and media representatives about the results of this research, as well as the resultant recommendations, in order to expand the scope of discussion around this topic and to facilitate the active involvement of civil society in this process. In addition, we plan to start working actively to raise public awareness of this issue and cooperate with the government, civil sector and international donors in this direction.

¹ *European Integration Index for Eastern Partnership Countries*, available here: <http://www.eap-index.eu/about>

RESEARCH METHODOLOGY

The existing asymmetry (in terms of the progress in visa dialogue) between Georgia and Moldova allowed us to study the dynamic of the Action Plan implementation in both countries, to analyse the degree of involvement of interested parties and to assess the reasons for the existing challenges and the ways of addressing them. The study evaluated the extent of which benchmarks were implemented during the first stage of the VLAP in Georgia's case, and first and second stages in Moldova's case.²

The research methodology is based on qualitative research tools: study of official and alternative reports on the visa liberalisation process; interviews with representatives of Georgian and Moldovan state agencies directly involved in the implementation of VLAP; interviews with experts working on European integration and representatives of non-governmental organisations working in this field in both countries. Important for the research was the project manager's visit to Chisinau, which provided an opportunity to meet with representatives of organisations working on these issues and persons from the relevant state agencies directly involved in the visa dialogue. The study also encompassed the analysis of statistical data from local and international organisations³ working on visa liberalisation with the EU.

SUMMARY OF FINDINGS

The findings of the conducted study have identified the main challenges generally linked to the visa liberalisation process at the social, administrative and political levels, as well as the issues on technical level. The main instrument of the visa dialogue with the EU - the Visa Liberalisation Action Plan (VLAP) - consists of four key blocks of benchmarks in the following spheres: document security; border and migration management; public order and security; and external relations and fundamental rights. The plan contains two tiers: legislation and operations. The legislation tier envisages the introduction of the corresponding legislative changes and the elaboration of a policy framework, while the tier of operations involves the process of implementation and carrying out the pertinent measures.

At this stage, Georgia is in the process of developing a legal framework. Of the four blocks, part of the first stage requirements has already been fulfilled. There are, however, several areas where the development of the appropriate institutional and legal framework lags behind, due to the prevailing challenges. Georgia has made considerable progress in the first and second blocks of the VLAP, but the issues envisaged in the third and fourth blocks remain the most problematic areas, as they involve issues that are very sensitive for the public and, correspondingly, the country is behind schedule in the development of the relevant legislative amendments.

The study shows that the most problematic challenges on the administrative and political level for Georgia is to lead the process in a timely manner, gain public support, ensure transparency of the process and conduct active dialogue around the most problematic issues within society and the non-government sector. In addition, one of the main challenges facing the country is to adopt the anti-discrimination law and to implement the principles of the European Charter on Regional or Minority Languages. The issues on the technical level include: bringing migration policy in line with international standards, creating a relevant analytical system, developing circulatory migration⁴, improving asylum procedures, the green border management, combating trafficking and strengthening personal data protection mechanisms.

² The description of the technical results of the research can be found on the organisation's website - www.giss.org.ge

³ European Stability Initiative, European Initiative - Liberal Academy Tbilisi, Foreign Policy Association, International Organisation for Migration, Eastern Partnership Visa Liberalisation Index, Visa-Free Europe Coalition

⁴ This mechanism creates the possibility for citizens to legally work, study, and train in the EU for a certain period of time and then return to Georgia.

In Moldova's case, it was the lack of institutional capacity that contributed to the country's failure to implement the recommendations in a timely manner. In addition, a politicised environment, political instability and the lack of trust in state institutions have also considerably hampered the reform implementation process. Other problematic issues included the introduction of anti-corruption measures, reforming the Ministry of Interior and the Ministry of Justice, as well as adopting the anti-discrimination law. Problems on technical level included: combating trafficking and illegal migration, developing personal data protection mechanisms and introducing migration management mechanisms. The automatization of procedures, the improvement of electronic registration procedures, the strengthening of the state's information resources and bringing the migration sphere in line with international standards, still leave room for improvement in Moldova.

MOLDOVA'S EXPERIENCE IN THE VISA LIBERALISATION PROCESS

Moldova has largely managed to develop the legal and institutional framework envisaged by the VLAP and has gradually fulfilled the benchmarks prescribed by all four blocks. However, in Georgia's case, it would be interesting to consider the main challenges that protracted the process for Moldova, created certain impediments at the social, administrative and political levels and are relevant for Georgia's experience.

Inter-Agency Coordination and Timeframe

One of the challenges in Moldova's visa liberalisation process was following the timeframe of measure implementation and ensuring inter-agency coordination as envisaged by the VLAP.⁵ On the one hand, this was caused by a weak political mandate and, on the other, by the struggle for political power in agencies and institutions⁶ waged amongst the parties composing the coalition.

As you know, a political crisis arose in Moldova in early 2013 and, as a result, the "Alliance for European Integration" government coalition was replaced by a new "Pro-European Coalition" whose main goal was to step-up measures and mobilise forces for European integration.⁷ Not all parties among the coalition of parties that existed prior to 2013 had similar aspirations in terms of European integration; this hampered implementing the reforms⁸ in a timely manner and reduced the dynamic of introducing the instruments of European integration. In addition, the VLAP envisaged the establishment of new institutions whose management and monitoring was often associated with political power and, correspondingly, the coalition members could not agree on who was to lead the new agencies.

It is also noteworthy that the political discourse that prevailed in Moldova from the outset attributed greater responsibility to Brussels in granting Moldova a visa-free regime in an expedited manner and avoiding Russia's influence.⁹ However, later on, when Brussels underscored the need for the country to reform, this approach changed; it was said that the duty of fulfilling these commitments lay with Moldova, which had to carry out the reforms required by the Action Plan and fulfil the relevant recommendations made by the EU. This was an important turning point in the government's approach since it prompted more proactive steps and motivated Moldova to assume greater responsibility for the fulfilment of the commitments that needed to be undertaken.

⁵ Interview with the official from the Ministry of Foreign Affairs and European Integration of Moldova

⁶ For example: the National Coordination Council which oversees organized crime issues; also, the National Anti-Corruption Commission which scrutinizes the income and property of civil servants, judges and state officials.

⁷ European Forum for Democracy and Solidarity, Political Situation in Moldova, July 2013, available at <http://www.europeanforum.net/country/moldova>

⁸ Ibid.

⁹ Interview with Leonid Litra, senior research fellow at the Institute of World Policy

Consideration should be given to the fact that the processes in Moldova unfolded more slowly due to the weakness of the political mandate. This had a corresponding negative influence on the introduction of changes and made it difficult to carry out radical and swift reforms. In addition, when Moldova was granted VLAP, its state institutions were much weaker compared to Georgia, and this process coincided with an economic crisis, which made it difficult to attract human resources to public institutions, as well as obtain the financial resources necessary to ensure their effective operation.¹⁰

Assessment of Possible Impacts of Migration

One of the challenges faced by Moldova was the European Union's requirement to conduct research/analysis of possible impacts related to migration in the event Moldova received the visa-free regime. It is noteworthy that such an approach was not taken with regard to the Western Balkan countries, and this was a prerequisite for Moldova to proceed to the second stage of the Action Plan. This requirement is applied to all EaP countries. A certain period of time would be needed to conduct the aforementioned research. In addition, the transition to the second stage was linked to going through the relevant bureaucratic procedures in Brussels.

While the need to conduct the study did prolong the process, one of the reasons for this was the fact that the appropriate legislative amendments were not made within the given timeframe, the implementation of anti-corruption reforms was also running late, and there was no adequate system in place to ensure the regular communication on changes in the law between the executive branch and members of Parliament. Moldova proactively engaged in this dynamic and facilitated the implementation of this process as quickly as possible in order to speed-up the transition from the first stage of the VLAP to the second as best it could. Although the government initiated intensive negotiations, it nevertheless took nearly five months for the decision on the transition to the second stage to come through.

Human Resources and Administrative Capacity

Moldova, as well as other Eastern Partnership members, is a post-Soviet country where the system of governance and institutions are still in the process of transformation. Correspondingly, the development and implementation of the legislation that is in line with European and international standards is hampered by certain difficulties. The personal data protection sphere is worth noting especially in this regard. A government centre for data protection was established in Moldova about four years ago, but the staff of this centre did not possess the necessary knowledge and expertise in the field, which rendered the work of the centre itself inefficient. The development of the personal data protection sphere implies the introduction of a new *modus operandi*, which means not only the creation of a new agency, but also training each person working in this sphere and improving their qualifications. Correspondingly, more resources should have been allocated for re-training the staff and improving their qualifications.

In addition, the assessments made by the non-governmental sector show that, despite the progress made and despite the development of the relevant legislative framework, the quality of the implementation of the adopted laws remained a challenge to the process. The same was true with regard to the insufficient capacity of institutions to put the corresponding legal framework into practice and actually implement the stipulated policy.¹¹ The inadequate professional skills and experience of public officials who were directly tasked with fulfilling the roles envisaged by the law

¹⁰ Interview with Nicu Popescu, expert with the European Union Institute for Security Studies, advisor to Moldova's prime minister in 2010-2013.

¹¹ Leonid Litra, "Moldova on the EU Visa Liberalisation Path", February 2012, available at <http://pasos.org/7368/moldova-on-the-eu-visa-liberalization-path/>

remained the key challenge. Correspondingly, in Moldova, the lack of human resources and administrative capacity represented one of the main challenges. These challenges remain, and require systemic and sustainable approaches.

Fighting Corruption and Implementing Institutional Reforms

Combating corruption remains one of the challenges facing Moldova. According to the Transparency International report, in 2013, Moldova was ranked 102nd among a list of 177 countries.¹² Combating corruption at a horizontal level proved difficult for Moldova, as the government was not interested in mass dismissals of staff in its agencies during an economic crisis. This is why Moldova, unlike Georgia, decided to address this problem gradually, re-train its existing human resources and implement the reforms at a slower pace.

There are two ways to assess this: a slow process of reforms would make it possible to mobilise the public towards systemic changes but, on the other hand, the inadequate political mandate of the government hampered the quick implementation of the reforms, due to which combating corruption remains a critical problem today throughout the country. Therefore, the efficiency of the aforementioned approach remains questionable.

The reform of law enforcement agencies is perceived to be one of the more difficult reforms in Moldova since these are linked to the fundamental change of an old Soviet system, as well as mentality. The government's position is that the change needs to take place from within so that the entire institutional culture and methods can change - a complex process that requires a lengthy period of time.¹³ While legal and institutional frameworks for combating corruption have been developed in Moldova, the second stage, the process of its implementation turned out to be quite difficult, specifically when it came to detaining corrupt public officials and eradicating corrupt practices, which remain a problem in the country.

Despite the fact that the EU promised to put visa-free travel into operation for Moldova, the pace of reforms in the country is very slow. Although the relations within the coalition government have improved, the struggle for power nevertheless continues to impede the processes. For the government to secure a strong public confidence mandate, the main challenge – the fight against corruption - needs to be addressed at this point. Specifically, the National Anti-Corruption Council must become independent from the government and reforms have to be carried out in the Prosecutor's Office and the justice system, both of which are staffed by representatives from the part of the coalition that was imported from the previous Communist government.¹⁴ Furthermore, to continue the reforms, it is essential for the country to sign the Association Agreement in due time, as this will be one of the means to make the implementation of reforms an irreversible process and avoid resource mobilisation in a different direction.

Anti-Discrimination Law

The anti-discrimination law was the greatest challenge in Moldova's visa liberalisation process, causing political commotion and protest rallies. The result was delays in the consolidation of the legal framework and in the timeframe of the Action Plan implementation. During the preparation of the first draft law in Moldova, consultations were held with the non-governmental sector, but the Moldovan Parliament did not pass the draft law that was prepared after the discussion. The law caused a strong wave of protest in part of the population,

¹² Transparency International's Corruption Perceptions Index 2013, available at <http://www.transparency.org/cpi2013/results>

¹³ Interview with the official from the Ministry of Foreign Affairs and European Integration of Moldova

¹⁴ Central European Policy Institute, "Moldova Reality Check: Success Story Before the Storm?", December 2013, available at <http://www.cepolicy.org/publications/moldova-reality-check-success-story-storm>

and rallies were held outside parliament and government buildings. It is telling that specific groups were behind the protests, including the Church and the Communist Party¹⁵ who were trying to generate negative propaganda around the issue.

When an issue is unpopular in Moldova, the Church tries to exploit it to attack the government. This type of approach is partly derived from the geopolitical canvas and the fact that the Moldovan Church is closely connected to the Russian Patriarch. Correspondingly, the Church attempted to portray the issues that arise in the relations between the EU and Moldova as a failure of these relations and emphasize their negative outcomes, thus discrediting Western values and underscoring Russia's importance against this background.¹⁶ Patriarch Kirill even addressed Moldova in an official letter to prevent this law from being passed.¹⁷ As such, the Church played an active role in discrediting this bill and in forming anti-Western attitudes among the public.

It should be noted that there was disagreement on this draft law within the government coalition too. As a result of the major political confrontation, the anti-discrimination law was renamed. In February 2013, this law came into force under the title of the "Law on the Provision of Equal Opportunities". Opinions still differ on the effectiveness of the law. The law provided for the formation of the Anti-Discrimination Council, which was tasked with receiving complaints, collecting information on incidents of discrimination, supplying relevant agencies with comments, and developing relevant recommendations to improve the legislation. At the time of conducting this research, however, not a single complaint has been submitted to the Council with regard to the violation of the rights of sexual minorities.¹⁸ Further, providing this Council with adequate financial resources to enable it to work more effectively remains a problem.¹⁹

It is noteworthy that the non-governmental sector's support in this process was important to the government and it regularly asked the organisations working in this field to contribute and balance-out the discussion around this issue, as well as support the adoption of the law. However, the law in its initial form and with its initial name would have been more acceptable to the EU since the changes that were made to it do not fully and clearly reflect the requirements stipulated in the VLAP: in the final version of the bill, sexual orientation was removed from Article 1 as one of the reasons for protection against discrimination and, in the law that was passed, employment is the only sphere in which discrimination on the basis of sexual orientation is prohibited. Further, the change in the title of the law weakened the emphasis of the fact that its goal is to fight discrimination in all its forms.

The protest related to the adoption of the anti-discrimination law affected the image of the EU in the country, significantly reducing the percentage share of those in favour of European integration.²⁰ Even though the law covers a number of rights, the protest organisers underscored only the part of the law that concerns sexual minorities. The government did not make many attempts to work on raising public awareness around this issue and, since the law has already been passed, this issue remains off its agenda today. The adoption of anti-discrimination law was one of the greatest challenges for Moldova and, even though the country has passed this law, the public attitude towards it remains negative.²¹

¹⁵ Gerald Knaus, "Moldova After Vilnius", European Stability Initiative, December 2013, available at http://www.esiweb.org/index.php?lang=en&id=67&newsletter_ID=71

¹⁶ Interview with Nicu Popescu.

¹⁷ Radio Free Europe/Radio Liberty, "Battle Over Moldovan Antidiscrimination Bill Reaches Fevered Pitch", 8 January 2012, available at http://www.rferl.org/content/moldova_gay_antidiscrimination_law_opposition/24541486.html

¹⁸ Interview with Leonid Litra.

¹⁹ Cristian Ghinea et al., "Helping Moldova stay on the EU course", European Policy Centre, December 2013, available at http://www.epc.eu/documents/uploads/pub_4006_helping_moldova_stay_on_the_eu_course.pdf

²⁰ Interview with representative of EU Delegation in Moldova.

²¹ Ibid.

Communication with the General Public

Despite the fact that the issue of visa-free travel arrangements with the EU was popular in Moldova, public awareness of the criteria envisaged by the VLAP was low. The government failed to develop an information campaign that would from the outset enhance public knowledge about the commitments undertaken by the country. When the discussion of the anti-discrimination law began, the public's reaction was quite strong. This can partly be attributed to the fact that the public did not know and was not provided with an explanation of the principles and directions of the reforms the fourth block of the VLAP envisaged and, as a result, the government succumbed easily to the influence and opinions expressed by anti-Western groups.

There are many groups in Moldova that are trying to promote a negative perception of the EU which is why - in order to avoid incorrect expectations - it is necessary to raise awareness about what each agreement signed with the EU entails. There has been no information campaign of any kind in Moldova in the process of implementing the VLAP. Even though the issue was popular among the public, the society is hardly aware of the problems and requirements of the visa-free travel conditions.

Diminished support for European integration on the part of Moldova's population was a significant challenge as well. As you know, the government coalition in Moldova which was called the Alliance for European Integration was later replaced by the Pro-European Coalition and, when a government cannot fulfil its commitments, it is immediately reflected on the public attitude towards European integration. As was noted earlier, the decrease in support was obvious when the anti-discrimination law was being adopted. In addition, the November 2013 survey showed that, when asked "If you could choose, which alliance do you think Moldova should join - the EU or the Eurasian Union?" - 44 per cent of the population responded "European Union" while 40 per cent supported the Eurasian Union.²² These results reflect public attitudes in Moldova, as well as low support for European integration, which is partially caused by Russia stepping-up its activities in the region and by the fact that there is a need to conduct a more active informational campaign for the general public, a campaign that would raise awareness about the ways European integration can benefit the country.

Involvement of Non-Governmental Organisations in the Process

The involvement of civil society in the process of the development of the anti-discrimination law was particularly important in Moldova since the government was very much in need of civil society's support in this regard. There are several non-governmental organisations in Moldova which work on the issue of visa liberalisation and produce regular monitoring reports. However, the monitoring of this process by the non-governmental sector remains difficult since some information is not open and requesting the information is a time and resource consuming process.

Experts working on this topic confirm that cooperation with the government was very close when it comes to anti-discrimination law. However, they speak of a frequent practice when the government required the expert knowledge of the civil sector and its recommendations on other specific topics. However, due to the fact that the cooperation was not active in these spheres from the outset and information had not been exchanged with the non-governmental sector, it was difficult to study the relevant information and analyse it in a short period of time.²³ Correspondingly, from the very beginning, the involvement of the non-governmental sector in all those directions to the development of which they could contribute significantly and develop recommendations in a timelier manner had to be considered.

²² "Moldova Reality Check", policy paper by Slovak Atlantic Commission and Central European Policy Institute, December 2013, available at http://www.cepolicy.org/sites/cepolicy.org/files/attachments/moldova_reality_check_-_second_non-paper_-_final_version_0.pdf

²³ Interview with Leonid Litra.

Cooperation with Transnistria

The on-going situation in Transnistria is one of the challenges that are related to the successful implementation of the visa liberalization process, as it complicates the control of migration flows. As such, Moldova stationed six mobile checkpoints along the border with Transnistria.²⁴ Tiraspol protested against this - which is an interesting fact, as Transnistria should be more interested in reinforcing the administrative border, but it is not since this will make the situation more difficult for those who hold Russian and Ukrainian passports, complicating their travel to other countries through Moldova.

Chisinau believes that visa-free travel is one of the instruments that will make Moldova more attractive to the residents of Transnistria. Currently, Soviet passports with the Transnistrian stamp are issued in Transnistria, but the population cannot travel anywhere with these passports, the documents carry only symbolic significance. However, Russia's influence is so strong that it is hard to achieve any progress in establishing real cooperation and open relations with the Transnistrian governing bodies; cooperation at this stage only takes place to maintain the status quo.

It is also worth noting that Chisinau is trying to involve Transnistria in settling technical issues related to visa liberalisation and to promote the exchange of information among experts. There is communication at the political level, but what remains one of the challenges in this process is the fact that the population of Transnistria is not informed about the benefits that follow the signing of the Visa Liberalisation and Deep and Comprehensive Free Trade Area agreements (DCFTA) with the EU. This too confirms the existence of an information barrier with regard to the process of European integration. One of the main impediments to this dynamic is Russia's strong influence in the region.

CHALLENGES TO THE VISA LIBERALISATION PROCESS IN GEORGIA AND RELEVANT RECOMMENDATIONS

Political Mandate to Implement Reforms

A strong political will that Georgia would draw closer to European institutions as soon as possible was in place in the country in recent years, and this allowed for mobilising as many resources as possible in the direction of European integration. It also provided for effective and timely fulfilment of the commitments undertaken. Unlike the previous government, the current administration is a coalition and this poses certain challenges to maintaining unified support for European integration within the ruling team. If we cite Moldova's experience as an example, it is noteworthy that disagreement within the ruling coalition caused suspension in the dynamic in certain directions, especially in terms of European integration. We believe that Moldova's experience in this regard needs to be taken into account and it is important to express a unified and strong position on the issues that cause disagreements within certain segments of society and raise questions around the inevitability of Georgia's European choice.

The existence of effective coordination between the government and parliament is especially important for the timely implementation of the VLAP in order to prevent delays in the transition to the second stage and to consolidate the legislative framework in due time. Also, it cannot be ruled out that political confrontation will intensify on such issues as the anti-discrimination law and the European Charter for Languages, especially against the background of reforming the local self-government system which has already caused heated debate among the parties involved. Therefore, it is important for the government to have a firm position on the fulfilment of the commitments undertaken in terms of European integration and with regard to the timely introduction of principles envisaged by the VLAP.

²⁴ COM(2013) 807.

Recommendations:

- Unity among leading collation is directly connected to the further success of European integration and the prevention of any obstacles in the process. In addition, it is essential to have strong cooperation between the political majority and minority in this regard and mobilise all resources to gain wider public support for the process. Moldova's example shows that the weakening of political will and mandate can strongly affect the formation of public opinion itself. It is essential that the government is consistent and reasonable with regard to every aspect of European integration, and that it mobilises the resources necessary to maintain the country's progress in this direction and implements the recommendations envisaged by the VLAP effectively and in due time.

Transparency of the Process and Civil Society Involvement

There was active cooperation within Moldova's civil society with regard to the anti-discrimination law, but not on other issues. Correspondingly, the government has encountered obstacles in many sector-specific issues, such as personal data protection, migration and combating trafficking. However, because they failed to include the non-governmental sector in the discussion of these issues from the beginning, the late involvement made it impossible to consider the expertise or recommendations of the non-governmental sector in a timely manner, as they did not have access to the on-going process and dynamic in the early stages.

It is noteworthy that from the very beginning, the visa liberalisation process in Georgia was not particularly transparent. The Action Plan received by Georgia was not translated and made public for three months. Unlike Moldova, the internal action plan adopted by the government has also not been made public. The non-governmental sector does not participate in inter-agency meetings and has no access to the discussion results. In general, the lack of transparency during the process significantly influences the quality of its dynamics. The more open the cooperation is between the government and the non-governmental sector, the more dynamic the process will be. This is because challenges can be identified in a timely manner and the relevant measures can be developed to quickly overcome them.

Also, there is no cooperation between the state and the non-governmental sector with regard to the Visa Facilitation Agreement, which is also linked to the visa liberalization process. Georgia has the highest visa rejection rate of all the Eastern Partnership countries.²⁵ These rejections can be attributed to many factors, but the number of appeals by citizens is very low and so is the population's awareness about the Visa Facilitation Agreement. Government representatives were ready to involve the non-governmental organisations working on the relevant issues in the meetings of the government commission on visa facilitation in order to have the non-governmental sector make its assessment, but this remains nothing but a promise to this day. According to the official agencies, they regularly respond to citizens' complaints. Similar violations no longer take place,²⁶ but research and focus group meetings²⁷ show that unresolved problems still prevail in this area.

As demonstrated by the Moldovan example, the non-governmental sector has to be involved in the visa liberalisation process. Moreover, the dialogue has to be of regular nature in order to ensure the sustainability of the process, to prevent hindering events, and to facilitate the generation of public support around the systematic changes. Civil society needs to know what timeframe is being negotiated, what mechanisms are used to resolve the prevailing problems, and whether or not the relevant measures are implemented in order to carry out the process in due time.

²⁵ "Visa Liberalization Perspectives: Civic Engagement and Advocacy", Liberal Academy Tbilisi, Interim Report, October 2013, available at <http://www.ei-lat.ge/publications-alias.html?lang=en-GB>

²⁶ Interview with the representative of the Ministry of Foreign Affairs of Georgia.

²⁷ Liberal Academy Tbilisi (ibid.)

Recommendations:

- The visa liberalisation process and related systematic changes need to become more transparent and the non-governmental sector has to be given more opportunities to contribute to the effective management of the process through its expertise and recommendations. As demonstrated by Moldova's experience, the successful and timely implementation of the process is linked to public's readiness and support of the process. We believe that these relations need to be institutionalised, as this will strengthen cooperation between the government and civil society and contribute to the proper implementation of the recommendations. To this end, it would be useful to make information about the results of the Inter-Agency Commission sessions available to the interested parties. Alternatively, regular unofficial meetings could be organised between the government and civil society to discuss the progress of the internal action plan on visa liberalisation where the achieved progress would be presented, and the main challenges and participants' assessments and recommendations would be discussed. It is also important to create a format - parallel with the meetings of the government commission on visa facilitation - where government and non-governmental actors would meet and share ideas and remarks about the on-going process. This would be useful for both sides, especially with regard to settling the identified problems.

Information and Communication with the Public

Public awareness about the EU in general and the agreements signed between Georgia and the EU is quite low. The public has limited information about the meaning of a specific agreement, its criteria and how it affects everyday life. Integration with the EU frequently becomes a topic of political discussion, but the public is not informed about the benefits a specific agreement could entail or what challenges exist with regard to the process of its implementation.

Visa-free travel to the EU is, at a glance, a popular issue among the Georgian public, but the level of awareness is quite low about the process of visa liberalisation itself and the commitments and results that it entails. Moreover, a large part of the public has no information on the specific benefits which, for example, the Visa Facilitation Agreement is offering them. The awareness of this issue is especially low among the youth and students²⁸ - one of the target groups in this process.

A large portion of the public is also unfamiliar with the conditions envisaged by the final goal of the visa liberalisation process - visa-free travel with the EU. As a result of this supply of inaccurate information, incorrect expectations are often formed among society since an ordinary citizen often links visa-free travel to the EU to the right to live and work in EU territory. Therefore, the creation of false expectations among the public need to be avoided and the conditions of visa-free travel need to be explained with greater clarity.

The media interest in this issue is also low. The media appears mostly interested in large-scale events or the visits of high-ranking officials. For example, the media covered this issue when the VLAP was being adopted, when Commissioner Cecilia Malmström was in Georgia. Afterwards, however, this topic lost its popularity. It is also noteworthy that the media cover general issues and do not provide specific details about the key points of agreements or treaties which cause changes in the existing situation and affect the rights of citizens or provide them with new opportunities.

The events that unfolded in Moldova during the adoption of the anti-discrimination law made it clear how important it is to provide the public with accurate information. In Moldova, only the part of the law related to sexual minorities became an issue. This tarnished the image of the EU, causing a decrease in the support for the pro-European government.

²⁸ Interview with Salome Bulia, analyst, European Initiative - Liberal Academy Tbilisi.

The Georgian Government has developed a Communication Strategy on European Integration and adopted a corresponding Action Plan in December of 2013.²⁹ The implementation of measures listed in the Action Plan is to begin in January 2014. Correspondingly, active monitoring of measures listed in the Action Plan need to be conducted and mechanisms need to be developed to evaluate the quality of implementation of the strategy and its efficiency in terms of raising public awareness.

Recommendations:

- It is essential for the process to raise civic awareness and provide information about the implications of the visa liberalisation process and of visa-free travel with the EU. Relevant informational campaigns, and videos aired by central and regional TV channels need to be developed effectively and in a timely manner. Active cooperation between the government and civil society is also important in order to make sure that the information campaign is designed for target groups, is large-scale and result-oriented. The population needs to be aware of where the country stands in terms of the visa-liberalisation process and what the timeframe is for completing this process.
- It is especially important that the government mobilises more resources for providing the public with accurate information, especially about the issues that are most sensitive for the society, such as the anti-discrimination law and the European Charter for Regional or Minority Languages. Our recommendation in this regard is to conduct a large-scale information campaign which will include information videos, brochures, round-tables and meetings with the local population. This should aim at disseminating information about the instruments of European integration, the commitments undertaken by the country, the principles of the agreements and the mechanisms with which Georgia is planning to introduce those principles - all of which need to be phrased in a language comprehensible to the public. It is important to make this information available on the Internet and on social networks.

Anti-Discrimination Law

The adoption of the anti-discrimination law remains one of the key challenges in the country. In our view, this issue could become a subject of a heated confrontation within the general public. In general, the issue of the protection of minority rights is quite problematic for our country and the events that unfolded on 17 May 2013 demonstrated that public opinion and attitudes directly contradict the principles and recommendations stipulated by the Action Plan. This is mostly caused by low levels of awareness and the ability of conservative and anti-western groups to exert strong influence on the formation of public opinion. In addition, we believe that there is a high risk of provocative statements being made by various groups at the time of the adoption of the anti-discrimination law, which could negatively affect the level of support for European integration.

In our opinion, the planned discussions on the prepared anti-discrimination draft law need to be held in close cooperation with civil society; its remarks should be taken into consideration and their capacity should be utilised. According to the latest version of the draft law, an Equality Protection Inspector will work on identifying and eradicating incidents of discrimination. The Parliament of Georgia will elect the inspector for a four-year term, while the candidacies will be nominated by higher education institutions and the non-governmental organisations whose activities are within the human rights sphere. The inspector will be equipped with potent mechanisms to effectively combat dis-

²⁹ The Office of State Minister of European and Euro-Atlantic Integration, Communication Strategy on European Integration and Action Plan, available at <http://www.eu-nato.gov.ge/ge/news/4910>

crimination.³⁰ However, the most important thing in this process is the effective operation of the institution itself. For example, in Moldova, insufficient financial resources are attributed to the ineffective work of the Equality Council. Correspondingly, it needs to be considered whether the finances allocated in the state budget would be adequate to ensure effective functioning of the inspector's institution.

We also believe that the public and the interested parties involved in this process need to be better informed about the principles stipulated by the anti-discrimination law. It is especially important to understand that discrimination is defined as different treatment of persons with equal rights because of certain characteristics, and this law does not concern solely the discrimination of sexual minorities. Without active communication and the raising of awareness among the public, effective implementation of the adopted legal and institutional framework will be hampered because specific policies need to enjoy public legitimacy and the mobilisation of the society. We also believe that it is essential for the government to publicly condemn any act of discrimination - violence or violation of equal rights - and adopt all the necessary measures to prevent confrontation between people on religious, ethnic grounds or due to other belonging.

Recommendations:

- Sharing Moldova's experience should be considered in two aspects: dialogue with the Church and the media should be intensified in order to reduce the risk of using this issue for provocative purposes. On the other hand, the benefits and importance of European integration should be emphasised in order to prevent the reduction of public support for European integration, especially against the background of Russia stepping up its activities in the region.
- Also, to avoid the expected intense confrontation, measures need to be developed in close cooperation with the civic sector to contribute to the formation of public opinion and its preparation for the change. It is essential in this case to develop a correctly calculated informational campaign that clearly defines the main goals and objectives of the anti-discrimination law. A message needs to be sent that this law serves the protection of human rights in general by prohibiting any kind of discrimination and that it protects all minorities equally. These measures need to be developed in a timely manner so that the stage of implementing the legal and institutional framework after the adoption of the law is sustainable and irreversible as a process.
- Relevant administrative and financial resources need to be generated to provide the Inspector's institution envisaged by the law with adequate administrative capacity and human resources to enable it to operate effectively, respond to complaints without delay and conduct active dialogue with the government on the eradication of the identified problems. It is also necessary in this regard to clearly delineate the jurisdiction of the Public Defender and the aforementioned institution, informing the public about this since, in the current practice, the Public Defender is viewed as the main instrument used to respond to facts of discrimination, although this agency's decisions have been limited to recommendations and do not envisage sanctions.

³⁰ According to the draft law, the Inspector will be authorised to compel the violator to implement the necessary measures to rectify the results of the discrimination on the one hand and, on the other, fine the violator. Those who commit acts of discrimination are obliged to abide by the decision of the Equality Protection Inspector and submit a relevant written report. Failure to fulfil the decision of the Equality Protection Inspector results in administrative sanctions.

European Charter for Regional and Minority Languages

The fourth block of the VLAP envisages the introduction of the principles of the European Charter for Regional and Minority Languages into the country's legislation. We believe that this issue is one of the challenges for the country, especially against the background of the on-going reform in the self-government system, since it has not been defined how the recommended changes will be reflected in the country's legislation. A government commission has been created to work on this issue, although it is unknown what approaches it has elaborated with regard to these challenges or what the timeframe will be for implementing the corresponding measures.

Recommendations:

- Consultations need to be conducted with the population and civil society on this issue. It is also important to inform the public about the principles of the Charter itself, and its objectives and goals. This topic could become a risky event given the public attitudes in Georgia, as certain groups could hamper the process by incorrectly interpreting the planned changes. The population needs to know that one of the main principles of the Charter is that the development of regional or minority languages must not impede the knowledge and dissemination of the primary language.
- The work of the Inter-Agency Commission working on the recommendations regarding Georgia's fulfilment of the commitments related to the European Charter for Regional and Minority Languages should be more open and effective and the decisions made and approaches assumed should be regularly communicated to the general public and interested parties. It is important for us to know what measures are planned to be implemented with regard to reflecting the Charter's principles in the legislation.

The Sphere of Migration and Increase in the Number of Asylum Seekers

One of the main issues in the process of visa liberalisation is migration management and the improvement of the related legal and institutional framework. Even though legislative changes were passed in the country and relevant agencies continue introducing the criteria envisaged by the VLAP, certain challenges still exist despite the progress achieved by the country. These include developing circulatory migration, informing the migrants about their rights, fighting illegal migration and conducting informational campaigns for target groups. One of the challenges that still need to be addressed is the creation of a relevant analytical system that will unify the databases of various agencies and facilitate the exchange of information, allowing for the analysis of data and the identification of problems more efficiently. At this point, a concept defining the conditions for creating such an analytical system has been developed, although it is difficult to establish whether or not such a system would be created and put into operation in a timely manner.

Another challenge facing Georgia is the large number of asylum seekers residing in the EU countries. In 2012, the number of asylum seekers was 10,830, while in the third quarter of 2013 alone this number amounted to 6,705.³¹ It is noteworthy that on 16 December 2013, France included Georgia into the category of so-called "safe" countries, which means that persons who intend to seek asylum in France, will not be granted asylum and will not be allowed

³¹ Eurostat, number of asylum seekers by country, 2013, available at http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-QA-13-016/EN/KS-QA-13-016-EN.PDF

to enter the country while their application is being reviewed.³² A large number of asylum-seekers compared with the data from other EaP countries represent a significant challenge for Georgia, since this is directly linked to the country's democratic and social environment. In order for EU member states to suspend the admission of asylum seekers to their countries, Georgia has to be put on the list of the so-called "safe" countries, which is directly linked to the quality of reform implementation and the state of affairs in the country.

Recommendations:

- It is essential that an analytical system is introduced and put into operation in a timely manner in order to allow the collection and analysis of the appropriate data. It is important to ensure that the exchange of information between agencies is open in order to identify the existing shortcomings in a more effective and timely manner. Further, it is important to conduct the necessary research of labour market demand in the partner countries, as well as to improve the legal and institutional framework of education recognition and professional re-training in a timely manner in order to develop circulatory migration. In addition, an information campaign needs to be conducted for those wishing to work abroad so that the public is made aware of the opportunities related to circulatory migration.
- It is important that the government analyses information about asylum seekers, gather relevant information and parameters in order to evaluate this data and identify target groups. To this end, the state needs to actively cooperate with the appropriate EU agencies and request corresponding information.

Green Border Management and Combating Trafficking

Given the criteria stipulated by the second block of the VLAP, green border management represents one of the challenges for Georgia. At the time of this research, 29% of the green border with Armenia and 34% with Azerbaijan are not demarcated.³³ It is essentially important for the EU that the country controls its green border with the required infrastructure in place. This issue also needs to be considered in light of the future Integrated Border Management Strategy that is currently being developed. It is also unknown whether there is a specific agreement with the Armenian and Azerbaijani sides regarding corresponding border cooperation or short-term plans in this direction.

The issue of combating trafficking has also become problematic for the country. In 2013, according to the latest report by the US Department of State Office to Monitor and Combat Trafficking in Persons, Georgia's situation in terms of trafficking in human beings has deteriorated and the country has moved from the first to the second category.³⁴ According to Georgia's official agencies, the reason for these outcomes is a discrepancy in reporting periods, because the investigations that started in the second quarter of 2013 and continue today, have not been included in the State Department's 2013 reporting period. Among the criteria of VLAP, is the enhancement of combating trafficking and effective enforcement of the law, therefore, the country's transition to the second category has an adverse effect on the country's image in this direction.

³² Asylum Information Database for EU countries, available at <http://www.asylumineurope.org/news/31-12-2013/albania-georgia-and-kosovo-added-french-list-safe-countries-origin>

³³ COM(2013) 808.

³⁴ US Department of State, 2013 report on trafficking, June 2013, available at <http://www.state.gov/documents/organization/210739.pdf>

Recommendations:

- Despite the fact that border demarcation and effective management of the green border are related to a number of political issues, we believe that the work in this direction needs to be stepped up and practical steps need to be taken, especially in terms of the improvement of the required border management infrastructure and technology on the green border with Armenia and Azerbaijan. Given the security principles of the EU and its member states, it is essential that the country's border is comprehensively managed and controlled.
- The work of the Inter-Agency Coordination Council composed of the departments implementing measures against trafficking, should be made more effective. It has to communicate information in a timely manner since, if picturing the country accurately in international organisations' reports depends on technical factors, communicating relevant data would prevent a negative influence on the country's international image. We also believe that stronger security and oversight mechanisms in combating trafficking should be put into operation. Furthermore, we think that information and the description of persons who receive services should be made public, as this will help other interested parties conduct research and analyse the relevant information.

Lobbying to Make Political Decisions at the EU Level

To successfully complete all the processes that are under way within the framework of the Eastern Partnership, the political will needs to exist on the part of the EU, especially when the decisions by the European Council are at issue. It also has to be noted that there are always countries within the EU which have relatively strict migration policies and are sceptical about visa-free travel to the EU. Therefore, more active work with these countries is required, both through diplomatic channels, as well as through communication with the agencies that have authority at the technical level.

For example, despite the fact that Moldova did not fully meet the criteria envisaged by the visa liberalisation process, it began to actively lobby the successes that it did achieve. Even though the country did not have the lobbying resources at the level of Brussels itself, it actively attempted to deepen diplomatic cooperation with member countries, open new embassies, and organise meetings and presentations for the member state agencies at the technical level in order to fully demonstrate the success of the country and its achievements in specific fields.

It also needs to be considered that the positions of and decisions made by the member states' Ministries of Internal Affairs play an indispensable role in the visa liberalisation process. Therefore, the member states' Ministries of Internal Affairs are the most important target for lobbying one's success. For a political decision to be made at the EU level, consent of the member states is required for the decision-making process at the European Council. In this regard, it is important to secure the support from the so-called "sceptical countries" which hold the overwhelming majority of votes - France, Germany, UK, Italy, Spain and the Netherlands.

Recommendations:

- The political decisions made at the EU level are the most important factors in introducing visa-free travel for Georgian citizens. Correspondingly, cooperation needs to be deepened and stepped-up, not only with the foreign departments of member countries, but also with their Ministries of Internal Affairs. It would be useful

to create a short publication and video for presentations at official and unofficial meetings and forums to demonstrate as effectively as possible Georgia's achieved successes and implemented reforms, as well as to show the country's progress with regard to the process of implementing the VLAP.

- It is also important to step up cooperation with all the agencies that are involved in the process of political decision-making at the EU level; it is important to establish active contacts with the European Parliament's Committees on Foreign Affairs (AFET) and Civil Liberties, Justice and Home Affairs (LIBE) and the rapporteurs of these committees. In addition, active contacts need to be established with political groups, as the European Parliament plays an important role during the final decision-making stage in Brussels. The fact that right-wing forces are becoming more active in Europe also needs to be considered. According to studies, right-wing forces could receive 30 per cent of the seats in the European Parliament in the 2014 election.³⁵ Therefore, deepening the relationship with important contacts needs to be considered. Decisions at the European Council are made by the majority of votes, which is why more active lobbying in countries with a large number of votes (France, Germany, UK, Spain) is necessary.
- The Georgian side needs to consider that lobbying has to reflect the benefits of the process for both sides - the importance of implemented reforms for the country on the one hand and, the contribution to security and protection of EU borders on the other, especially in terms of illegal migration and organised crime. The issues in which the EU needs to cooperate with Georgia should be emphasised (organised crime, terrorism, trafficking, and drug trade) in order to maintain stability and to prevent this threat from spilling over to EU borders.

Occupied Territories and Intensification of Russia's Activities in the Region

Georgia's European aspirations are a precondition for its long-term development and democratisation. Georgia's progress on its path to European integration is connected to the future of the occupied territories. The mechanisms and agreements of the EU in which Georgia participates (the Association Agreement, DCFTA, Visa Liberalisation and others) create a potential for Georgia to become more attractive so that the occupied regions might become more interested in European prospects.

The prospects of visa-free travel will increase the motivation for the population living in these territories to accept Georgian passports since, in the event of a visa-free regime coming into force, they too will be able to travel to the EU, even though there are many challenges that hamper this prospect. The events that have recently unfolded in Ukraine have demonstrated that Russia will make every effort to stop the building of closer ties between the countries of the region (including Georgia) and the EU. In this context, Russia's aspiration to obtain a liberal visa regime with Europe is also noteworthy. In October 2013, Russian Foreign Minister Sergey Lavrov said that Russia expects to resume cooperation with the EU with regard to the visa dialogue under the Greek presidency. Greece has already said that it intends to put the relations between Moscow and Brussels on the agenda and, correspondingly, intensify the procedures of visa facilitation for Russian citizens³⁶ who are one of the most significant sources for the European tourism industry. Regardless of how realistic it is to expect visa-free travel between Russia and the EU, Russia's policy remains a challenge for Georgia, especially given the illegal distribution of passports to the population in the territories occupied by Russia.

³⁵ Study on the 2014 European Parliament elections, London School of Economics and Political Science, December 2013, available at <http://blogs.lse.ac.uk/europpblog/2013/12/03/the-2014-european-parliament-elections-will-see-populist-parties-make-gains-but-they-will-remain-a-battle-for-control-between-mainstream-parties/>

³⁶ Hurriy Daily News, "Russia 'looks forward' to restart talks on EU visa deal", 20 October 2013, available at <http://www.hurriyetaidailynews.com/russia-looks-forward-to-restart-talks-on-eu-visa-deal.aspx?pageID=238&nID=57123&NewsCatID=359>

Visa Liberalisation and the DCFTA are viewed as elements that will help facilitate the gradual re-integration of the occupied regions. As such, it is essential that the population living in these territories sees Georgia as a country that is close to the EU and one that embraces Western values; a country the EU is ready to launch visa-free travel with, given the reforms it has implemented.

The post-Vilnius period is linked to significant challenges for Georgia, especially against the background of Russia stepping up its activities in the region. The government has not yet decided how it will deal with the expected intensification of Russia's activities in the region. These challenges will reduce the room for manoeuvre for the Georgian Government, forcing it to make concrete decisions. This is why it is essential for the country to mobilise its forces and channel its resources correctly in order to maintain Georgia's European choice as the country's main priority. It is important to make the process of European integration irreversible and prevent it from being hampered by political ambitions or confrontations, so that the country can ensure the sustainability of this process with unified forces and resources.

Recommendations:

- Given all of the above, there is need for developing the kind of sustainable measures and mechanisms that will contribute to building closer ties with the occupied regions. The Georgian Government needs to be proactive, and more tools need to be created to ensure the exchange of information between the sides. The involvement of civil society in the process is essential in this regard. The relations between the EU and Georgia should be popularised, and awareness needs to be raised, while Sokhumi and Tskhinvali should be actively informed about the specific benefits.
- Georgia should also try to make sure that the EU actively uses diplomatic mechanisms to demonstrate Georgia's successes, making it attractive for Sokhumi and Tskhinvali. Civil society should actively participate in the generation of ideas and the research of instruments that are conducive to the gradual involvement of these regions in the aforementioned mechanisms.
- When developing the measures mentioned above, the process must be open and transparent in order to provide civil society and the general public access to information about the on-going events from both sides. The Georgian Government needs to manage and fulfil their commitments in a timely manner while the progress towards European integration should not be hampered by internal political agenda. The steps taken by the state in the direction of European integration must be sustainable and of a systemic nature.

CONCLUSION

The idea of visa-free travel to the EU is topical among the Georgian public, although public discussion and deliberation over the visa liberalisation process and its related challenges is not particularly active. Due to the absence of transparency and informational campaign, public awareness about the visa liberalisation dynamic is still low, which, in our opinion, generates false expectations within society. In addition, the public is not aware of the commitments that have been undertaken by the country and whose fulfilment is directly linked to the visa liberalisation process and deeper integration with the EU.

The lack of public legitimacy of the process could potentially be reflected with great intensity in the process of enforcing the legislation or implementing policies that represent the second component of the VLAP. This is why the challenges related to the process need to be better defined and cooperation with civil society needs to be stepped-up in order to enable the country to move on to the second stage in due time and to avoid as much as possible the obstacles which could slow down the dynamic of the process itself.

The implementation of the VLAP within an established timeframe (as well as signing the Association Agreement in a timely manner) is an important factor for the country's European integration efforts. This is especially true against the background of Russia stepping-up its presence in the region and the likely probability of Moscow making every effort to thwart the attempts by the countries of the region, including Georgia, to deepen institutional ties with the EU, especially with regard to visa-free travel and economic integration. Therefore, the government needs to be proactive with regard to the expected challenges, mobilise all forces to achieve the set goal of the European integration process, and ensure the sustainability of the reforms and introduction of European principles.

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