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**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT, THE EUROPEAN COUNCIL AND THE COUNCIL**

Commission Opinion on Georgia's application for membership of the European Union

A. INTRODUCTION

Since its independence, Georgia has clearly expressed its European aspirations. This European ambition is included in the Georgian Constitution, and is supported by the people of Georgia (83% of Georgians approve joining the EU¹) and across the political spectrum. This has been a driver for a number of key reforms founded on European values and standards. Georgia's commitment to progress on its European path was underlined by the Government's initial intention to submit an application in 2024.

a) Application for membership

On 3 March 2022, Georgia presented its application for membership of the European Union. The application was tabled in the context of Russia's war of aggression against Ukraine. On 7 March 2022, the Council of the European Union requested the Commission to submit its opinion on this application. EU Heads of State and Government endorsed this decision at the informal leaders meeting in Versailles². Georgia received questionnaires on 11 April 2022 on the political and economic criteria and on 19 April on the EU *acquis* chapters and provided its replies on 2 May and on 10 May.

Article 49 of the Treaty of the European Union states that *'Any European State which respects the values referred to in Article 2 and is committed to promoting them may apply to become a member of the Union. The European Parliament and national parliaments shall be notified of this application. The applicant state shall address its application to the Council, which shall act unanimously after consulting the Commission and after receiving the consent of the European Parliament, which shall act by a majority of its component members. The conditions of eligibility agreed upon by the European Council shall be taken into account.'*

Article 2 states that *'the Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.'*

This is the legal framework within which the Commission submits the present Opinion.

In June 1993, in Copenhagen the European Council concluded that:

'Accession will take place as soon as a country is able to assume the obligations of membership by satisfying the economic and political conditions required.'

Membership requires:

- *that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities;*
- *the existence of a functioning market economy, as well as the capacity to cope with competitive pressure and market forces within the Union;*
- *the ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union'.*

In December 1995, the Madrid European Council referred to the need *"to create the conditions*

¹ According to the January 2022 National Democratic Institute (NDI) survey.

² 20220311-versailles-declaration-en.pdf (europa.eu)

for the gradual, harmonious integration of [the applicant] countries, particularly through the development of the market economy, the adjustment of their administrative structures and the creation of a stable economic and monetary environment."

In December 2006, the European Council agreed that *'the enlargement strategy based on consolidation, conditionality and communication, combined with the EU's capacity to integrate new members, forms the basis for a renewed consensus on enlargement'*.

In this Opinion, the Commission assesses Georgia's application on the basis of its capacity to meet the criteria set by the European Council in Copenhagen in 1993, as well as in Madrid in 1995, notably regarding the country's administrative capacity. The Opinion also takes into account Georgia's efforts in implementing its obligations under the Association Agreement (AA) and Deep and Comprehensive Free Trade Area (DCFTA). The Commission will assess the impact of Georgia's accession on the EU policy areas at a later stage.

b) Relations between the EU and Georgia

The beginning of the EU-Georgia relations dates back to the times following the independence of Georgia in 1991. The European Community established relations with Georgia in 1992. In 1996, a Partnership and Cooperation Agreement was signed (PCA), which entered into force in 1999.

An Association Agreement (AA), including a Deep and Comprehensive Free Trade Area (DCFTA) was signed in June 2014, and fully entered into force on 1 July 2016. The AA/DCFTA is the key bilateral legal instrument serving as the basis for deepening political ties, stronger economic linkages, the promotion of common values and enhanced cooperation in areas of mutual interest. The agreement contains binding provisions and provides for enhanced cooperation. In its preamble, the EU acknowledged the European aspirations and the European choice of Georgia, including its commitment to building a deep and sustainable democracy and a market economy. Based on the AA/DCFTA, Georgia has carried out a number of challenging reforms and successfully approximated its legislation with the EU *acquis* in many areas. The EU-Georgia Civil Society Platform (CSP) is one of the bodies set up under the Association Agreement between the European Union and Georgia. It enables civil society organisations on both sides to monitor the implementation process and prepare recommendations to the relevant authorities.

The subsequent Association Agendas agreed between the EU and Georgia establishes clear priorities in order to implement the Association Agreement and its DCFTA. The adoption of the new Association Agenda (2021-2027), which focuses on democracy, human rights and good governance; freedom, security and justice; and economic, trade and sectoral cooperation, is imminent.

The Georgian government does not exercise effective control over its regions of Abkhazia and South Ossetia. The EU supports Georgia's sovereignty and territorial integrity within its internationally recognised borders and has been engaged since 2008 in peaceful conflict resolution efforts, including through the EU Monitoring Mission and the EU Special Representative for the South Caucasus and the crisis in Georgia.

The EU's commitment to supporting Georgia is long-standing and has delivered results. The EU is the biggest provider of financial assistance to Georgia. Over the years 2014-2021, EU support amounted to EUR 819.2 million in grants under the European Neighbourhood Instrument, EUR 166 million under the Macro-Financial Assistance programme in the form of loans and grants to support socio-economic development, and EUR 159.6 million from foreign

policy instruments. The EU provides its support to Georgia through policy development and comprehensive reforms, with the strong involvement from EU Member States in a Team Europe spirit. Among the key programmes are the support to agriculture and rural development (ENPARD), support to public finance management, as well as the support to economic and business development.

The Economic and Investment Plan for the Eastern Partnership³ seeks to unlock EUR 3.9 billion in public and private investments for economic development of the country, including tailored flagship investments.

The EU and other financial institutions have worked hand in hand to support Georgia's reform efforts. Since 2014, the European Bank for Reconstruction and Development and the European Investment Bank have respectively allocated EUR 2.3 billion and EUR 1.6 billion in loans. The EU is also working in close cooperation with the World Bank and the International Monetary Fund, which have been key partners providing assistance to the country since 2014. EUR 12,5 million have been allocated in 2021 to strengthen the capacities of the Georgian defence forces' medical, engineering and logistic units.

Citizens of Georgia enjoy visa-free travel to the Schengen area since March 2017. An agreement on readmission between the European Union and Georgia is in force since 2011.

Georgia is a contracting Party to the Energy Community Treaty and the Agreement on the Common Aviation Area, which assist in approximating Georgian legislation to the EU *acquis*. The country is also a full member of the United Nations, the Council of Europe and a participating state of the Organisation for Security and Cooperation in Europe (OSCE).

Since 2014 Georgia has progressively extended its participation in EU programmes. It currently takes part in Horizon Europe, Creative Europe, EU4Youth, and the Black Sea Interreg programme and has recently joined the Customs programme. Organisations and individuals from Georgia can also benefit from certain actions of the Erasmus+ and European Solidarity Corps Programme. In November 2018 a high-level meeting between the European Commission and the Georgian government took place in Brussels.

The country has also concluded working arrangements or memoranda of understandings with a number of EU agencies such as the European Border and Coast Guard Agency (Frontex); the European Union Aviation Safety Agency (EASA); the European Union Agency for Criminal Justice Cooperation (EUROJUST); the European Fisheries Control Agency (EFCA), the European Agency for Safety and Health at Work (EU-OSHA), the European Environment Agency (EEA), the European Food Safety Authority (EFSA), the European Centre for Disease Prevention and Control (ECDC), the European Union Agency for Law Enforcement Training (CEPOL), the European Training Foundation (ETF), the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA), the European Union Intellectual Property Office (EUIPO), the European Police Office (Europol), and the European Maritime Safety Agency (EMSA).

Georgia is a participant in the Eastern Partnership (EaP). The EaP is based on the principle of inclusivity and differentiation. Russia's war in Ukraine has shown that multilateral cooperation and cohesion is now more important than ever, as is strengthening the resilience of the region. A focus on bilateral relations will also be important going forward, to allow Georgia to implement key reforms including in the field of governance, justice and rule of law.

³ SWD(2021) 186 final

B. CRITERIA FOR MEMBERSHIP

1. POLITICAL CRITERIA

This assessment is based on the Copenhagen criteria, related to the stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities.

1.1. Democracy

As established by its **Constitution**, Georgia is a parliamentary democracy in which the legislative powers are exercised by the Parliament, and the executive powers by the Government. The Constitution guarantees the fundamental principles of a democratic state, including the rule of law, free elections and the protection of human rights. The primacy of international law is explicitly stipulated by the Constitution, which states that an international treaty takes precedence over domestic law unless it comes into conflict with the Constitution or a Constitutional Agreement.

The Supreme Court is the highest court of general jurisdiction, whereas the Constitutional Court exercises constitutional jurisdiction.

The **President** of Georgia is the head of State, elected for a five-year term of office. He/she is formally head of the armed forces and has otherwise mostly representative functions, including representing the country in foreign relations, with the consent of the Government. The executive power is exercised by the **Government**, consisting of a Prime Minister and 12 Ministers.

The **Parliament** is the legislator in Georgia, adopting legislation, including amendments, to the Constitution. It exercises democratic control and oversight over the executive branch. Not all parliamentary procedures function properly in the spirit of control and accountability, mostly due to strong tensions between two main political parties as political dialogue is polarised. The EU-mediated 19 April 2021 agreement provided an opportunity to tackle this polarisation and to forge a cross-party consensus on crucial reforms notably in the electoral and judicial fields. This opportunity has not been seized by Georgia's political elites. More needs to be done to reduce this polarisation, and improve oversight and control of the Parliament over the government and effective scrutiny of legislative developments by Parliament.

The **electoral framework** is overall in line with relevant international standards. Through 2020 Constitutional amendments, the parliamentary elections of 2020 were held under a mixed system of 120 proportional and 30 majoritarian seats in Parliament, with a 1% threshold. Also in line with these amendments, the parliamentary elections scheduled in 2024 will be fully proportionate. Further constitutional amendments envisaged by the 19 April agreement, setting inter alia the threshold to enter Parliament from 2024 onwards, are pending in Parliament.

According to the Office for Democratic Institutions and Human Rights (ODIHR), the 2020 parliamentary elections were competitive and, overall, fundamental freedoms were respected. ODIHR also highlighted allegations of voter pressures, vote buying and the blurring of the line between the ruling party and the state. More needs to be done regarding the transparency of campaign and political party financing and countering the misuse of state resources, electoral dispute resolution, criteria for granting and conducting recounts, as well as balanced and impartial media coverage. The recommendations made by ODIHR in 2020 and 2021 should be fully addressed.

The urgency procedure to pass legislation, including in areas relevant to EU commitments, has been used often and, at times, for institutionally sensitive issues that would have merited a broader consensus. There is a legal framework providing for comprehensive impact assessments of proposed legislation, but it is only partially implemented.

Independent accountability and democratic oversight functions, including through the Public Defender's office should be strengthened, as well as effective oversight on law enforcement agencies and the control of personal data processing.

Civil society in Georgia is well developed, diverse, vibrant and enjoys freedom to operate. The country's legal framework provides an enabling environment for an active civil society. Freedom of association is protected, and specific rules for the non-profit sector, including a differentiated tax regime, are in place. Mechanisms for consultation with the public in policy-making and law-making exist and are used. Recently, some CSOs have been excluded from policy consultation; this needs to be corrected.

1.2. Public administration reform

The public administration legal framework and the civil service system are mostly in line with European public administration principles and European standards and practices. The government needs to continue to implement the legislation and ensure a stable, accountable and transparent civil service system.

Successive governments followed a **strategic framework for public administration reform**, based on the 2015-2020 public administration reform (PAR) strategy. A new PAR strategy is being elaborated. The Government Programme 2021-2024, 'Toward Building a European State', outlines a vision for building a professional, honest and streamlined system of state governance.

Regarding **multi-level governance**, the Government Programme 2021-2024 focuses on de-concentrating and decentralising the system of state governance in order to establish successful European-standard local self-government by 2024, and transform sectoral-centralised governance into effective local-territorial governance.

The reform of **public financial management** (PFM) is based on the 2019-2022 PFM strategy. A new PFM strategy is currently being developed. The Government's medium-term budget framework for 2022-2025 is in place and the 2022 budget as well as the annual budget process are reasonably well developed. Budget transparency remains strong and reforms are being addressed in the area of external audit, parliamentary oversight and public procurement.

The **public service and human resources management** is based on a coherent legal framework, which guarantees the implementation of the civil service system and continuity in the modernisation and capacity building of public administration. More work is needed to ensure a merit-based, professional civil service at all levels of the administration, as well as transparent recruitment, promotion and dismissal procedures.

The institutions and the regulatory framework for central government **policy development and coordination** are in place and functioning. This is a regulatory and procedural foundation for evidence-based policy making. This framework needs to be enforced, and there is room for further strengthening the capacity and implementation of policy-monitoring.

The central government is rationally organised, and the legal framework is being improved to ensure efficient and coherent **accountability** lines between supervisory and subordinated bodies. Access to public information is ensured by a legal framework, but the administrative capacity for its effective implementation needs to be further enhanced following a review of the overall framework.

A key government priority is to ensure a more user-oriented **service delivery**. Georgia has expanded the ‘one-stop-shop’ network of public services at central and local level and the government offers **many e-public services**. The Basic Data and Directions 2018-2021 strategy focused on the need to modernise and expand public services to serve citizens more effectively. Furthermore, the Public Administration Reform Roadmap 2020 identified some gaps in public service design and delivery to be addressed.

1.3. Rule of law

In recent years, the country has undertaken numerous legislative and institutional reforms aimed at strengthening the rule of law, including in the areas of the fight against corruption and organised crime. Overall the constitutional and legal instruments are in place to guarantee the respect of the rule of law at all levels. However, practical implementation and enforcement need to be consolidated. Moreover recent developments have not been in line with the recommendations of the Venice Commission and weakened the independence of key judicial institutions.

a) Judiciary

Four successive waves of reform have improved the legal framework regarding the functioning of the judiciary and the capacity and organisation of the Georgian justice system. However, progress on justice reforms and their implementation has now stalled and some backward steps have been taken. Public perception of the independence of the judiciary has deteriorated. Georgia has not yet adopted a strategic framework for justice reform post-2020.

The **constitutional and legislative frameworks**, in principle, guarantee the independence of the judiciary and its impartiality, including specific guarantees for judges. Codes of ethics for judges and prosecutors are in place, as is a complaint mechanism. A system of verification of asset declarations of judges and prosecutors exists, but its practical implementation needs fine-tuning.

The appointment of judges and prosecutors is largely based on merit and objective criteria, as assessed through public competitions. Presidents of individual courts are appointed by the High Council of Justice. However, as a matter of priority, a substantive reform of the High Council of Justice is required to increase its transparency, integrity and accountability, including in appointments, appraisals, promotions, transfers, disciplinary measures and appeals, in line with the Venice Commission and the Organisation for Security and Co-operation in Europe (OSCE)’s Office for Democratic Institutions and Human Rights recommendations (ODIHR). The five non-judge members of the High Council of Justice have not been appointed despite long-overdue vacancies. Concerns were expressed over the process of recent appointment of two judge members of the High Council of Justice. The published decisions of the High Council of Justice should add explanations of their reasoning.

While a system for the nominal random allocation of cases to judges is in place, more needs to be done to reduce numerous exceptions to this rule, so that the allocation of high-profile cases is not influenced.

Appointments of all the Supreme Court judges for a life-long term were made despite repeated calls by the EU to pause and revise the appointment process to bring it in line with the Venice Commission recommendations. Georgia needs to bring the Law on common courts in line with the advice of the Venice Commission in its opinions on the applicable legislation and the ODIHR recommendations issued on the procedures.

Open access to reasoned court decisions in compliance with data protection rules has yet to be fully ensured.

As regards the prosecution, the appointment process for the Prosecutor-General needs to be improved to ensure the autonomy of the office/position of the Prosecutor. Georgia has committed, in the Association Agenda, to introduce a qualified majority vote in Parliament, which is the main recommendation of the Venice Commission in this respect.

The 2020 budget for the judicial system was EUR 32.4 million (0.23 % of GDP). The number of judges (329) and the number of prosecutors (414) is low compared to the European averages of 21 judges/12 prosecutors per 100,000 inhabitants (9 judges and 12 prosecutors per 100,000 inhabitants for Georgia⁴). Judges are trained at the High School of Justice, which is assessed as adequate. Prosecutors are trained by the General Prosecutor's Office.

The Supreme Court publishes annual statistical data for each year of cases at the common courts of Georgia. The High Council of Justice publishes activity reports covering several years. An integrated case management system is in place, but needs to introduce a statistical element. In terms of **efficiency**, the disposition time in civil and commercial litigious cases increased to 433 days in 2020, compared to 274 days in 2018. The clearance rate decreased to 87 % (91 % in 2018). The disposition time remains a major concern. The backlog for pending court cases amounts to 4 322 and 746 cases for the first and second instances, respectively.

b) Fight against corruption

Georgia has introduced substantial legal reforms regarding anti-corruption, approximating to EU *acquis* and international norms. It is a participating state of the Council of Europe's Group of States against Corruption (GRECO) and the Anti-Corruption Network of the Organisation for Economic Cooperation and Development (OECD/ACN). Georgia is a party to all key international anti-corruption conventions, including the United Nations Convention against Corruption (UNCAC). Corruption remains an issue that requires continued attention.

An important number of cases of corruption involving low and-medium level officials have been successfully prosecuted, primarily in the public procurement field.

The system of asset declarations of public officials is in place, and the laws regulate conflict of interests and protection of whistle-blowers. The scope of the law related to asset declaration, its implementation and monitoring should be improved (as family members are not covered), and whistle-blower protection needs to be strengthened. There is no single independent anti-corruption agency that deals independently with conflicts of interest, verification of declared assets, auditing the spending of political parties and whistle-blowers protection. The administrative capacity to obtain effective control of party financing and electoral campaign financing needs to be strengthened.

There are no specialised law enforcement, prosecution services or specialised courts dealing with the fight against high-level corruption. More needs to be done to strengthen investigations in this area. The anti-corruption entity is part of the State Security Services. Current implementation of the policy is on-going, but the **anti-corruption policy** in Georgia is negatively affected by the fact that the National Anti-corruption Council has not met since 2019. As of the beginning of 2021, the secretariat of the Council was moved from the Ministry of Justice to the Government Administration and remains understaffed. No new national Anti-Corruption Strategy and Action Plan for 2021-2022 has been developed yet.

As regards the **track record** of high-level corruption cases, a total of 28 verdicts have been issued since 2020, out of which 21 were convicted for corruption, including a deputy minister, deputy district prosecutor, governors and members of local councils. More needs to be done to

⁴ According to the Council of Europe European Commission for the Efficiency of Justice (CEPEJ)

tackle high-level corruption and in particular, to address the role of large scale vested interests and their influence in both the economic and political sphere.

c) Organised crime

Georgia has ratified the United Nations Convention against Transnational Organized Crime, as well as its protocols on Trafficking in Persons and on Smuggling of Migrants. In these areas the criminal code is partially in line with the EU *acquis*, and anti-money laundering legislation partially reflects the provision of FATF recommendations and relevant international legislation, but there are still outstanding recommendations from MONEYVAL. Putting in place a comprehensive framework for the fight against financial crime and money laundering, and ensuring its effective implementation, are crucial to address the significant risks they pose. Georgia's criminal procedure code gives prosecutors up to ten years to trace and identify assets after conviction. The law on the confiscation of criminal assets is partially aligned with EU *acquis*. The National Strategy on Combating Organised Crime 2021–2024 and Action Plan 2021-2022 were approved in September 2021.

Investigations of organised crime are conducted by several agencies and institutions, depending on the nature of the crime. Coordination is ensured by Georgia's Inter-agency Coordination Council for Combating Organised Crime. Crime statistics are collected by the Ministry of Internal affairs in a case management data base.

Georgia concluded cooperation agreement with the European Union Agency for Law Enforcement Training (CEPOL), an operational and strategic agreement with the European Union's law enforcement Agency (Europol) and a Memorandum of Understanding with the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA). Georgia participates in the European Multidisciplinary Platform Against Criminal Threats (EMPACT). The country is a member of Interpol.

The number of organised crime convictions remains relatively low compared to the estimated value of the criminal market. In 2020, Georgia prosecuted 5 high-level cases and a further 49 individuals were detained and charged for membership of criminal organisations. 152 cybercriminals were detained by the police and brought to justice.

The number of finalised criminal proceedings on alleged crimes committed by organised crime groups has slowly increased in recent years but remains still relatively low (2021 – 499 cases; 2020 – 377 cases; 2019 – 293 cases). There are very few finalised investigations of Trafficking in Human Beings (2021 – 45 cases; 2020 – 57 cases; 2019 – 10 cases). There were 20 final convictions for organised crime in 2020.

Georgia is located at a crossroads for the smuggling of illegal goods (in particular drugs and arms) to the EU. Trafficking in human beings remains a concern: Georgia is primarily a country of origin and, to a lesser extent, destination and transit, of victims of trafficking in human beings. In 2020, 13 cases were prosecuted.

Georgia has made significant efforts to fight organised crime within the framework of its national strategy and corresponding action plans, and has stepped up cooperation with Europol and EU Member States. Continued and sustained efforts are needed, to further strengthen the capacity of law enforcement services to effectively tackle organised crime. .

1.4. Fundamental rights

a) International framework

Georgia has ratified the main international human rights instruments, including the European Convention on Human Rights, the UN Convention on the Rights of the Child and its Optional Protocols, the Convention on the Elimination of all Forms of Violence against Women and the Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention) with reservations.

b) Legal and institutional setup

The legal and institutional framework regulating fundamental rights is largely in place, and laws follow European and international standards.

The Ombudsperson institution is called the Public Defender's Office (PDO). It is designated as National Preventive Mechanism and accredited with an “A” status by the Global Alliance of National Human Rights Institutions as largely complying with the Paris Principles. The Ombudsperson is an independent and well-functioning institution. Overall, the capacity of the institutions in charge of the protection and enforcement of human rights, including the judiciary and police, needs to be further improved.

The Human Rights Strategy drafted in 2020 is yet to be adopted, preventing the approval and the implementation of related action plans. The State Inspection Service responsible for investigating alleged human rights violations committed by law enforcement and overseeing personal data protection has been recently dissolved. The newly created agencies – the Special Investigation Service and Personal Data Protection Services – still need to prove their efficiency and independence.

c) Key fundamental rights issues

Georgia has 27 judgements of the European Court of Human Rights under enhanced supervision procedure pending their enforcement. These include cases related to the right to life and protection against ill treatments, excessive use of force, abuse of pre-trial detention, failure to protect from homophobic attacks and police inaction related to domestic violence.

Cases of excessive use of force and **ill-treatment** by law enforcement officials still exist but are being addressed. The physical conditions in places of deprivation of liberty are relatively good including in pre-trial detention, but infrastructure needs to benefit from further investment.

Georgian citizens are guaranteed **freedom of expression**. The **media** environment is largely pluralistic, but intimidation and physical and verbal attacks on media professionals have increasingly taken place, especially in the context of demonstrations and election rallies, and investigations are lacklustre. Court proceedings and investigations against opposition media owners have become frequent. Recent verdicts have a chilling effect on critical media reporting. Further alignment of the legislation on the media regulator (the Georgian National Communication Commission) with European standards is needed.

The Georgian Constitution guarantees **protection against discrimination**, and the criminal code defines aggravating circumstances for crimes that include (without using the term) hate crimes. Overall, the country’s legal framework on non-discrimination and gender equality is largely in line with the EU *acquis*, but not sufficiently enforced. There are continued efforts to raise awareness on **gender equality**, to address persisting inequalities preventing women from fully exercising their equal rights. 19.3% of parliamentarians elected in 2021 are women. The scale of gender-based violence, including domestic violence and femicides remains a major concern. Women continue to face **inequality** in the labour market; a gender pay-gap persists with women overall earning 36.2% less than men on average in 2019. After Georgia’s

ratification in May 2017 of the Istanbul Convention, work has been carried out to improve access to justice and to improve the quality of social protection services. Further engagement, including on increasing public awareness, is needed. More needs to be done to protect the rights of lesbian, gay, bisexual, transgender, intersex or queer (LGBTIQ) persons in Georgia, particularly in light of the July 2021 events.

A Code on the Rights of the Child has been adopted, setting a legal framework for the **protection of the rights of the child**. There is no national strategy to address violence against children. The reform on deinstitutionalisation of children needs to be completed.

A Law on the Rights of **Persons with Disabilities** was adopted in 2020 and the Optional Protocol to the UN Convention on the Rights of Persons with Disabilities has been ratified. Persons with disabilities remain one of the most marginalised groups.

A State Strategy for Civic Equality and Integration 2021-2030 and its Action Plan are in place, but the social, economic and cultural rights of persons belonging to **minorities** and their political participation remain insufficiently enforced.

Respect for privacy of communications has been put into question by eavesdropping and illicit surveillance of politicians, journalists, civil society activists and the diplomatic community, including tapes of private life and correspondence. The pledged investigations usually do not lead to credible conclusions. The repeated calls, including by the Public Defender, to improve accountability and effective institutional oversight are yet to be addressed.

2. ECONOMIC CRITERIA

This assessment is made on the basis of the Copenhagen criteria related to the existence of a functioning market economy, as well as the capacity to cope with competitive pressure and market forces within the Union.

2.1. Functioning market economy

Georgia has a Gross Domestic Product (GDP) per capita corresponding to 33% of the EU average in terms of purchasing power parity (PPP). The country demonstrated solid economic growth of around 5% in the years before the COVID-19 pandemic. Following a year of pandemic-related contraction by almost 7% in 2020, GDP strongly expanded by over 10% in 2021.

Georgia has a good track record of applying sound fiscal and monetary policy, as commended by the International Monetary Fund in successive programme reviews. The country has strict fiscal rules imposing ceilings on the fiscal deficit (3% of GDP), government debt (60% of GDP) and revenues. Georgia generally complied with these rules before the pandemic. Fiscal deficit and public debt levels were low: below 2% of GDP and around 40% of GDP respectively. The fiscal rules were suspended for three years due to the pandemic. The vast majority of Georgia's public debt is external, coming almost solely from multilateral and bilateral partners on concessional terms.

Monetary policy is conducted in a transparent way through an inflation targeting regime, under which the National Bank of Georgia (NBG) determines the medium-term inflation target (currently 3%) and makes corresponding decisions on interest rates and other monetary policy instruments. Actual inflation fluctuated around the target in the last years before increasing sharply since mid-2021 due to external shocks, as in other economies. Georgia has a floating exchange rate regime with the rate formed on the foreign exchange market, with sporadic interventions of the NBG. Despite the gradual depreciation of the lari (by 31% against the euro between 2016 and 2021), Georgia's current account balance was consistently strongly negative

before 2020 and further deteriorated during the pandemic, leading to the accumulation of significant levels of external debt (both private and public) and some external vulnerability concerns. Georgia's international reserves gradually increased over the last years and covered 4.6 months of imports in 2021.

Over the past two decades, Georgia has pursued ambitious reforms aimed at improving its economic governance and business climate. The government-related economic institutions can be overall considered as effective, with the country scoring high on government effectiveness (75th percentile of all countries of the world) and on regulatory quality (83rd percentile) in the latest (2021) World Bank Governance indicators. Substantial progress has been made notably in the field of public financial management, public procurement, tax and customs administration, supported by EU and IMF programmes and their conditionality.

Georgia's business environment has been profoundly liberalised since the mid-2000s. According to the OECD, Georgia has managed to build up a high-standard regulatory and business environment that has received international recognition. The country scores better than other countries in the region in all dimensions of the recent (2020) OECD small and medium sized enterprises (SME) policy index. Registering a company requires just a single procedure and can be completed in a day. Licences and other barriers to market entry were systematically reduced. The new insolvency law, adopted in 2020, facilitated insolvency proceedings, made them more transparent and reduced their duration and costs. The Law on Entrepreneurs, adopted in 2021, modernised the regulations on the legal forms of companies, the procedures for their establishment and functioning. To ensure a resilient business environment, more needs to be done to strengthen the legal framework and enforcement procedures in competition law, and step up the enforcement of contracts and judicial independence.

The state footprint in the economy is very modest. There are 236 state-owned enterprises (SOEs), which account for less than 5% of the total value added of the corporate sector. As many SOEs reported financial losses in the last years, a reform of SOE governance is ongoing. The government adopted in 2021 SOE corporate governance standards in line with OECD guidelines and is developing a comprehensive SOE strategy. Work is also ongoing with the IMF on disclosing and preventing fiscal risks coming from SOEs.

Georgia's financial sector is generally sound. It is dominated by banks and strongly concentrated; the two largest domestic banks, out of 16 in total, hold around three quarters of the total assets. Georgia's banking sector has a low-risk profile: the share of nonperforming loans in total gross loans has been low (between 5% and 8%) over the last five years, and the capital adequacy ratio has been high and rising (to 19.6% at the end of 2021). The IMF's recent Financial Sector Stability Assessment confirms that Georgia's banking system remains resilient after the pandemic, in spite of some losses incurred in this period. Bank lending to the private sector was the highest in the region at 80% of GDP, and has more than doubled over the last decade. The share of companies without access to credit is lower in Georgia than in the other countries of the region, although access to finance remains an obstacle for many SMEs.

The unemployment rate in Georgia stood at 19% at the end of 2021 and was high in comparison to other countries in the region. The employment rate has persistently been low (41.5% at the end of 2021). This is partially caused by a mismatch between workforce skills and fast evolving needs of employers, a high number of subsistence farmers (classified in the statistics as being outside the labour force or unemployed), as well as high informal employment, estimated at 32% of non-agricultural employment. Public employment services played a very limited role until recently, but they have been gradually strengthened following the establishment of the State Employment Support Agency in 2019.

2.2. Ability to cope with the competitive pressure and market forces of the EU

Despite high educational attainment with an average of 12.8 years of schooling, the quality of the education system and curricula is poor, which partially reflects lower spending on education (3.8% of GDP in 2020) than recorded by regional peers. Skills of graduates in Georgia are ranked only 125th out of 141 countries in the Global Competitiveness Index, and the learning outcomes measured by the PISA assessment are behind countries in the region. The authorities make efforts to improve curricula and teaching methods and to strengthen vocational education. In the latter field, the National Agency for Vocation Skills was established in 2019. Spending on R&D was low at some 0.3% of GDP in the last years. Georgia ranks 91st in the Global Competitiveness Index as regards innovation capability, behind most countries of the region.

Georgia's investment levels have been high, around 25% of GDP in the last years, but only 3-4% of GDP was spent on infrastructure. According to a recent joint EIB and EBRD assessment, the main energy infrastructure, including generation units, transmission lines and gas pipelines, has improved substantially over the last two decades. In spite of its huge potential for producing renewable energy, Georgia remains excessively dependent on fossil fuels, especially on subsidised gas, and has become a net electricity importer. In the area of transport, the quality and density of road and rail network remains weak despite gradual improvement, leading to long travel times and poor road safety records. Water supply and sanitation outside of big cities, as well as in waste management facilities, need substantial infrastructure investment. Despite the noticeable growth of the ICT sector in the last years, access to digital infrastructure remains insufficient in some parts of the country.

The Georgian economy has a diversified economic structure, with a focus on low value-added sectors. Services play a major role in the economy, especially trade and repairs (17% of GDP in 2021), real estate, construction, transport and tourism. Manufacturing accounts for 12% of GDP, agriculture for 7% and mining for 4%. Exports of goods were systematically increasing from 14% of GDP in 2016 to 23% of GDP in 2021. The structure of exports is dominated by metals (copper ores and ferroalloys), food products (wine, spirits, mineral waters, hazelnuts) and re-exported cars. The participation of Georgian firms in global value chains is very limited. The country has in recent years consistently displayed a substantial trade deficit, partially compensated by the inflow of remittances and a surplus in tourism and other services.

The Association Agreement including the Deep and Comprehensive Free Trade Area between the EU and Georgia, signed in 2014, contributes to the development of Georgia's economy through trade liberalisation and alignment with EU legislation and standards. Between 2016, when the AA entered into force, and 2021, Georgia's exports to the EU increased by 30% and imports from the EU by 11%. The EU has been the top trade partner of Georgia over the last years, accounting for 21% of the country's exports and 23% of imports in 2020. Georgia is a WTO member since 2000, with a tradition of an open trade policy.

3. ABILITY TO ASSUME THE OBLIGATIONS OF MEMBERSHIP

The ability of Georgia to assume the obligations of membership has been evaluated based on the following indicators:

- The commitments in the Association Agreement and the Deep and Comprehensive Free Trade Area and their implementation;
- The level of adoption, implementation and enforcement of the *acquis* outside the AA/DCFTA

The EU-Georgia Association Agreement, including the Deep and Comprehensive Free Trade

Area (AA/DFCTA) belongs to a new generation of most ambitious association agreements the EU has concluded with its partner countries. The Agreement captures a substantial part of the EU *acquis* with detailed timetable of implementation varying from 2 to 10 years and brings the country closer to the European Union in terms of regulatory alignment.

Since the provisional entry into force of the AA/DCFTA in 2014, EU Member States are closely involved in the implementation of the AA/DCFTA through the Association Council and the Association Committee. Common Positions are adopted for the Association Council and a detailed Annotated Agenda is agreed for the Association Committee. The strategic guidance is provided by the Association Council meetings at the highest political level. Furthermore, the EU-Georgia Parliamentary Association Committee involves the European Parliament and the Georgian Parliament into the implementation of the agreement. The discussions are also informed by the input provided by the civil society through the EU – Georgia Civil Society Platform and duly taken into account.

The institutional set-up includes also the Association Committee and the Association Committee in Trade Configuration, dedicated Sub-Committees as well as Cluster Sub-committees covering almost all chapters of the EU *acquis* allow for on-going and thorough analysis of the progress in the relationship. The EU and Georgia have worked closely together to identify key policy areas, set targets for reform and legislative progress, and benchmark achievements in those areas. The regularly updated Association Agendas set out the short- and medium-term policy objectives of EU-Georgia cooperation.

Georgia's implementation of the EU *acquis* is documented in the EU's 'Association Implementation Reports' issued annually since 2016⁵. Pending a fully-fledged analysis of all chapters to be carried out at a later stage in the process, the analysis provides examples of chapters in the clusters in which Georgia has achieved particularly good results and highlights areas where there has been a limited approximation to the *acquis*.

Following the adoption of the revised methodology⁶ and for the purpose of the EU's Enlargement policy, the EU *acquis* is structured in six thematic clusters. The EU *acquis* in these clusters is substantially covered by the Association Agreement and the Deep and Comprehensive Free Trade Area and Georgia has gradually approximated with it. Overall Georgia has a satisfactory track record of implementation, though progress is uneven and there have been some delays in meeting the ambitious times lines in the AA/DCFTA.

The **Fundamentals cluster** includes the chapters of the *acquis* on *Judiciary & fundamental rights, Justice, freedom and security, Public procurement, Statistics, and Financial control*. This cluster has been mainly assessed under the Political and Economic criteria sections.

There are areas in the cluster where approximation to the EU *acquis* is still limited, for example in *Judiciary and fundamental rights* and *Justice, freedom and security*.

The **Internal market cluster** includes the chapters of the *acquis* on *Free movement of goods, Free movement for workers, Right of establishment and freedom to provide services, Free movement of capital, Company law, Intellectual property law, Competition policy, Financial services, Consumer and health protection*. Georgia has for example made substantial progress in approximating the *acquis* in the area of *company law* by adopting new legislation, creating a uniform and transparent legal framework for corporations, their shareholders, directors, creditors, and other stakeholders.

There are other areas where the approximation to the EU *acquis* is still limited, for example, the

⁵ SWD(2021) 18 final

⁶ COM (2020) 57 final

area of *consumer protection policy*, where more efforts are needed including as regards the implementation and enforcement of recently adopted legislation.

The **Competitiveness and inclusive growth** cluster includes the chapters of the *acquis* on *Information society and media, Taxation, Economic and monetary policy, Social policy and employment, Enterprise and industrial policy, Science and research, Education and culture, Customs union*. Particularly good results were reached. For example Georgia has already made substantial progress in the area of *economic and monetary policy*, with legislation defining numerical fiscal rules for budget deficit and public debt.

On *education and culture*, Georgia is well advanced in fulfilling all recommendations and Council Decisions on the enhanced quality of all levels of education. Progress towards recognition of qualifications and competences, and ensuring transparency in the area of recognition of qualifications, is good. Georgia's association to Horizon Europe is a successful instrument for integration with the EU's practices in the field of *research and innovation*.

There are other areas where the approximation to the EU *acquis* is still very limited; for example, *electronic communication* and *social policy and employment*. Further efforts are needed to ensure effective implementation of the anti-discrimination legislation. In the field of antitrust and merger control, Georgia has partially aligned its legislation with the EU *acquis*. Georgian State aid legislation is not aligned.

The cluster on the **Green agenda and sustainable connectivity** includes the chapters of the *acquis* on *Transport policy, Energy, Trans-European networks, and Environment and climate change*. Georgia has made substantial progress in the area of *energy* by approximating the adapted EU *acquis* under the Energy Community Treaty. However, important steps still need to be undertaken to unbundle and certify the electricity and gas transmission system operators in order to accelerate the development of renewables and reduce the energy dependence on Russian fossil fuels in line with REPowerEU Plan. This is especially relevant as Georgia does not have yet physical energy interconnections with the EU. Georgia has adopted key pieces of legislation related inter alia to renewables and energy efficiency

In other areas, such as *environment and climate change*, Georgia will have to invest considerable efforts in further legislative alignment with the *acquis* and the European Green Deal policies as well as strengthening its administration to enable the green transition. Alignment with the transport *acquis*, in particular in the maritime and aviation sectors, is supported by the Common Aviation Area Agreement signed in 2010 and a multi-sectorial Transport Dialogue launched in 2019.

The cluster **Resources, agriculture and cohesion** includes the chapters of the *acquis* on *Agriculture and rural development, Food safety, veterinary and phytosanitary policy, Fisheries, Regional policy and coordination of structural instruments, and Financial and budgetary provisions*. Georgia has already made substantial progress in *food safety, veterinary and phytosanitary policy* allowing trade between the EU and Georgia to be increased and diversified. Georgia is working in close cooperation with regional *fisheries* management organisations to align its relevant legislation to the EU *acquis* and international standards. The country has started to implement some key mechanism for *regional policy*.

Georgia has been very effective in implementing the ambitious legal approximation plan of the AA/DCFTA, and is on track to achieve full approximation as scheduled. More efforts will be needed in order to effectively implementing the Directives.

The approximation to the *acquis* in the area of *Agriculture and rural development* is limited.

The cluster on **External Relations** contains the chapters on *External relations* and *Foreign*,

security and defence policy. Georgia's alignment rate with relevant High Representative statements on behalf of the EU and Council Decisions was 53% in 2021, (2020: 61%; 2019: 55%; 2018: 54%, 2017: 56%).

Georgia has been an active contributor to EU CSDP missions and operations: it currently contributes to the European Union Training Mission (EUTM) in Central African Republic with 32 personnel ensuring protection, and with 1 military officer in EUTM Mali. A High-Level Political and Security Dialogue with Georgia was launched in 2017, to complement the regular exchanges under the Association Council and further promote the gradual convergence on foreign and security policy matters. There is scope to further enhance cooperation in the area of Common Security and Defence Policy. Efforts should be made to increase Georgia's convergence with the Common Foreign and Security Policy, including on EU positions.

4. CONCLUSIONS AND RECOMMENDATIONS

Georgia is a parliamentary democracy. Recent national and local elections have been recognised as competitive and conducted with overall respect of fundamental freedoms. Crucial challenges nevertheless remain in particular due to the overly divided political scene. There is an urgent need to address this political polarisation and enhance democratic oversight. Eradication of vested interests needs to be a high priority. Georgia has a well-developed and dynamic civil society whose opinion and input needs to be taken into account in a more systematic manner. A strategic framework for reforms in public administration is in place and includes provisions to strengthen local governance. Regarding the judiciary Georgia had undertaken important judicial reforms, but later changes have stalled this positive trend. The independence of the judiciary needs to be consolidated and accountability and impartiality of the entire judicial institutional chain ensured. Georgia has taken important steps to fight corruption yet more needs to be done to strengthen the anti-corruption processes and their effectiveness. In particular, fighting high-level corruption and eliminating vested interests, including that of oligarchs, require further decisive actions. Similarly, important measures undertaken to tackle organised crime need to be strengthened further. A vocal pluralistic media environment exists and needs to be protected including in legal proceedings. Fundamental rights laws broadly follow European and international standards. The enforcement of these rights needs to be strengthened. Overall, as regards the **political criteria**, Georgia has a foundation in place to reach the stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities, even if recent developments have undermined the country's progress.

As regards the **economic criteria**, Georgia has achieved a good degree of macroeconomic stability with a track record of sound economic policy and a favourable business environment. In order to improve the functioning of its market economy, further reforms and investment are needed to ensure long-term inclusive growth and external competitiveness. In order to reinforce the capacity of the country to cope with competitive pressure in the EU, Georgia needs to strengthen in particular its human capital (particularly through education reform) to ensure skills for the labour market and innovativeness, strengthen physical infrastructure including renewable energy generation and transport infrastructure, as well as access to global value chains.

As regards the **capacity to fulfil the obligations of membership**, Georgia has worked since 2016 on the implementation of the EU-Georgia Association Agreement, including a Deep and Comprehensive Free Trade Area (AA/DFCTA). These agreements already capture an unprecedented amount of the EU *acquis*. Georgia has gradually approximated to substantial

elements of the EU acquis across many chapters. It has an overall positive track record of implementation, while in some sectors the country is more advanced than in others. Overall Georgia has established a solid basis for further alignment.

Georgia is a European State committed to respecting and promoting the values on which the European Union is founded. The Commission therefore recommends to the Council that Georgia should be given **the perspective to become a member** of the European Union.

The Commission recommends that Georgia be granted **candidate status**, once the following priorities will have been addressed:

- address the issue of political polarisation, through ensuring cooperation across political parties in the spirit of the April 19 agreement;
- guarantee the full functioning of all state institutions, strengthening their independent and effective accountability as well as their democratic oversight functions; further improve the electoral framework, addressing all shortcomings identified by OSCE/ODIHR and the Council of Europe/Venice Commission in these processes.
- adopt and implement a transparent and effective judicial reform strategy and action plan post-2021 based on a broad, inclusive and cross-party consultation process; ensure a judiciary that is fully and truly independent, accountable and impartial along the entire judicial institutional chain, also to safeguard the separation of powers; notably ensure the proper functioning and integrity of all judicial and prosecutorial institutions, in particular the Supreme Court and address any shortcomings identified including the nomination of judges at all levels and of the Prosecutor-General; undertake a thorough reform of the High Council of Justice and appoint the High Council's remaining members. All these measures need to be fully in line with European standards and the recommendations of the Venice Commission.
- strengthen the independence of its Anti-Corruption Agency bringing together all key anti-corruption functions, in particular to rigorously address high-level corruption cases; equip the new Special Investigative Service and Personal Data Protection Service with resources commensurate to their mandates and ensure their institutional independence;
- implement the commitment to “de-oligarchisation” by eliminating the excessive influence of vested interests in economic, political, and public life;
- strengthen the fight against organised crime based on detailed threat assessments, notably by ensuring rigorous investigations, prosecutions and a credible track record of prosecutions and convictions; guarantee accountability and oversight of law enforcement agencies.
- undertake stronger efforts to guarantee a free, professional, pluralistic and independent media environment, notably by ensuring that criminal procedures brought against media owners fulfil the highest legal standards, and by launching impartial, effective and timely investigations in cases of threats against safety of journalists and other media professionals;
- move swiftly to strengthen the protection of human rights of vulnerable groups, including by bringing perpetrators and instigators of violence to justice more effectively;
- notably consolidate efforts to enhance gender equality and fight violence against women;

- ensure the involvement of civil society in decision-making processes at all levels;
- adopt legislation so that Georgian courts proactively take into account European Court of Human Rights judgments in their deliberations;
- ensure that an independent person is given preference in the process of nominating a new Public Defender (Ombudsperson) and that this process is conducted in a transparent manner; ensure the Office's effective institutional independence.

The Commission will monitor Georgia's progress to address these priorities and report on them by the end of 2022.

The accession process remains based on **established criteria and conditions**. This allows any country in the process to progress based on own merits but also means that steps towards the EU can be reversed if the underlying conditions are not met anymore.