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EUROPEAN COMMISSION

Brussels, 5.5.2010  
COM(2010)200 final

2010/0108 (NLE)

Proposal for a

**COUNCIL DECISION**

**concerning the conclusion of the Agreement between the European Union  
and Georgia on the readmission of persons residing without authorisation**

## **EXPLANATORY MEMORANDUM**

### **I. POLITICAL AND LEGAL FRAMEWORK**

Following the August 2008 conflict in Georgia, the Extraordinary European Council held in Brussels on 1 September 2008 decided "to step up relations with Georgia, including visa facilitation measures". According to the December 2005 COREPER common approach for the development of the EU policy on visa facilitation in principle, a visa facilitation agreement would not be concluded if no readmission agreement were in place.

On 27 November 2008, the Justice and Home Affairs Council formally authorised the Commission to negotiate a readmission agreement between the European Community and Georgia. In February 2009 the Commission transmitted a draft text to the Georgian authorities and the first round of formal negotiations could be held in Brussels on 2 April 2009. Two further formal rounds of negotiations took place, the last one in Brussels on 24-25 August 2009.

Following a consultation and approval process on both sides as well as further clarification of a few additional points, the agreed text was initialled on 25 November 2009 in Brussels by the Chief Negotiators of both Parties.

Member States have been regularly informed and consulted at all (informal and formal) stages of the readmission negotiations.

On the part of the Union, the legal basis for the Agreement is Article 79(3), in conjunction with Article 218 of TFEU.

The attached proposal constitutes the legal instrument for the conclusion of the readmission agreement. The Council will decide by qualified majority. The European Parliament's consent will be required for the conclusion of the Agreement, in accordance with Art. 218(6)(a) of TFEU.

The proposed decision concerning the conclusion sets out the necessary internal arrangements for the practical application of the Agreement. In particular, it specifies that the Commission, assisted by experts from Member States, represents the Union within the Joint Readmission Committee set up by Article 18 of the Agreement. Under Article 18(5), the readmission committee shall adopt its own rules of procedure. As in the case for the other readmission agreements so far concluded by the Union, the Union position in this regard shall be established by the Commission in consultation with a special committee designated by the Council. As regards other decisions to be taken by the Joint Committee, the Union position shall be established in accordance with the applicable provisions of the Treaty.

### **II. OUTCOME OF THE NEGOTIATIONS**

The Commission considers that the objectives set by the Council in its negotiating directives were attained and that the draft Readmission Agreement is acceptable to the Union.

The final content of it can be summarised as follows:

- The Agreement is divided into 8 sections with 24 articles altogether. It also contains 6 annexes, which form an integral part of it, and 4 joint declarations.
- The readmission obligations set out in the Agreement (Articles 2 - 5) are drawn up in a fully reciprocal way, comprising own nationals (Articles 2 and 4) as well as third country nationals and stateless persons (Articles 3 and 5).
- The obligation to readmit own nationals includes also former own nationals who have renounced, forfeited or who have been deprived of their nationality without acquiring the nationality of another State.
- The readmission obligation with regard to own nationals covers also family members (i.e. spouses and minor unmarried children) regardless of their nationality and who do not have an independent right of residence in the Requesting State.
- The obligation to readmit third country nationals and stateless persons (Articles 3 and 5) is linked to the following prerequisites: (a) the person concerned holds, at the time of submission of the readmission application, a valid visa or residence permit issued by the Requested State or (b) the person concerned illegally entered the territory of the Requesting State coming directly from the territory of the Requested State. Exempted from these obligations are persons in airside transit and all persons to whom the Requesting State has issued a visa or residence permit before or after the entry to its territory.
- For own nationals as well as for third country nationals or stateless persons, in case of expiry of specified delay, Georgia accepts the use of the EU's standard travel document for expulsion purposes (Articles 2(5) and 3(3)).
- Section III of the Agreement (Articles 6 to 12 in conj. with annexes 1 to 5) contains the necessary technical provisions regarding the readmission procedure (readmission application, means of evidence, time limits, transfer modalities and modes of transportation) and 'readmission in error' (Article 12). Some procedural flexibility is provided by the fact that no readmission application will be needed in cases where the person to be readmitted is in possession of a valid travel document or identity card (Article 6(2)).
- In its Article 6(3), the Agreement sets out the so-called accelerated procedure, which has been agreed upon for persons apprehended in the "border region", i.e. within an area which extends up to 5 kilometres from the territories of seaports including custom zones and from international airports of Member States or Georgia. Under the accelerated procedure, readmission applications have to be submitted within 2 days, and replies have to be given within 2 working days whereas under the normal procedure, the time limit for replies is 12 calendar days.
- The Agreement contains a section on transit operations (Articles 13 and 14 in conj. with annex 6).
- Articles 15, 16 and 17 contain the necessary rules on costs, data protection and the relation to other International obligations.
- The Joint Readmission Committee will be composed, and have the tasks and powers, as set out in Article 18.

- In order to facilitate the implementation of this Agreement, Article 19 creates the possibility for Georgia and individual Member States to conclude bilateral implementing Protocols. The relation between the bilateral implementing Protocols and this Agreement is clarified by Article 20.
- The final provisions (Art. 21 to 24) contain the necessary rules on entry into force, duration, possible amendments, termination and the legal status of the annexes to the agreement.
- The specific situation of Denmark is reflected in the preamble, Article 1(d), Article 21(2) and in a joint declaration attached to the Agreement. The close association of Norway, Iceland and Switzerland to the implementation, application and development of the Schengen Acquis is likewise reflected in a joint declaration to the Agreement.

### **III. CONCLUSIONS**

In the light of the above-mentioned results, the Commission proposes that the Council

- approve, after having received consent from the European Parliament, the attached Agreement between the European Union and Georgia on readmission of persons residing without authorisation.

Proposal for a

**COUNCIL DECISION**

of [ ... ]

**on the conclusion of the Agreement between the European Union  
and Georgia on readmission of persons residing without authorisation**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 79(3), in conjunction with Article 218 (6)(a), thereof

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament<sup>1</sup>,

Whereas:

(1) In accordance with Council Decision 2010/XXX of [...] <sup>2</sup>, the Agreement between the European Union and Georgia on readmission of persons residing without authorisation was signed by the Commission on [ ], subject to its conclusion at a later date.

(2) The Agreement should be concluded.

(3) The Agreement establishes a Joint Readmission Committee which may adopt its rules of procedure. It is appropriate to provide for a simplified procedure for the establishment of the Union position in this case.

(4) In accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland, annexed to the Treaty on European Union and to the Treaty on the functioning of the European Union, the United Kingdom has notified its wish to take part in the adoption and application of this Decision.

(5) In accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland, annexed to the Treaty on European Union and to the Treaty on the functioning of the European Union, and without prejudice to Article 4 of the said Protocol, Ireland is not taking part in the adoption of this Decision and is not bound by it or subject to its application.

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<sup>1</sup> OJ C [...], [...], p. [...].

<sup>2</sup> OJ L [...], [...], p. [...].

6) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the functioning of the European Union, Denmark does not take part in the adoption of this Decision and is not bound by it or subject to its application,

HAS ADOPTED THIS DECISION:

*Article 1*

The Agreement between the European Union and Georgia on readmission of persons residing without authorisation is hereby concluded.

The text of the Agreement is attached to this Decision.

*Article 2*

The President of the Council shall designate the person empowered to proceed, on behalf of the European Union, to the notification provided for in Article 23(2) of the Agreement, in order to express the consent of the European Union to be bound by the Agreement.

*Article 3*

The Commission, assisted by experts from Member States, shall represent the Union in the Joint Readmission Committee established by Article 18 of the Agreement.

*Article 4*

The position of the Union within the Joint Readmission Committee with regard to the adoption of its rules of procedure as required under Article 18 (5) of the Agreement shall be taken by the Commission after consultation with a special committee designated by the Council.

*Article 5*

This Decision shall enter into force on the day of its adoption. It shall be published in the *Official Journal of the European Union*.

The date of entry into force of the Agreement shall be published in the *Official Journal of the European Union*.

Done at Brussels, [...]

*For the Council*  
*The President*  
[...]

**ANNEX**

**AGREEMENT  
between the European Union and Georgia  
on the readmission of persons residing without authorization**

THE HIGH CONTRACTING PARTIES,

THE EUROPEAN UNION, hereinafter referred to as “the Union”,

and

GEORGIA,

DETERMINED to strengthen their co-operation in order to combat illegal immigration more effectively,

DESIRING to establish, by means of this Agreement and on the basis of reciprocity, rapid and effective procedures for the identification and safe and orderly return of persons who do not, or no longer, fulfil the conditions for entry to, presence in, or residence on the territories of Georgia or one of the Member States of the European Union, and to facilitate the transit of such persons in a spirit of co-operation,

EMPHASISING that this Agreement shall be without prejudice to the rights, obligations and responsibilities of the Union, its Member States and Georgia arising from International Law and, in particular, from the European Convention of 4 November 1950 for the Protection of Human Rights and Fundamental Freedoms and the Convention of 28 July 1951 on the Status of Refugees as amended by the Protocol of 31 January 1967,

CONSIDERING that the provisions of this Agreement, which falls within the scope of Title V of Part Three of the Treaty on the functioning of the European Union, do not apply to the United Kingdom and Ireland, unless they “opt-in” in accordance with the Protocol on the position of the United Kingdom and Ireland in Respect of the Area of Freedom, Security and Justice Annexed to the Treaty on European Union and the Treaty on the functioning of the European Union,

CONSIDERING that the provisions of this Agreement, which falls within the scope of Title V of Part Three of the Treaty on the functioning of the European Union, do not apply to the Kingdom of Denmark, in accordance with the Protocol on the position of Denmark Annexed to the Treaty on European Union and the Treaty on the functioning of the European Union,

HAVE AGREED AS FOLLOWS:



## *Article 1*

### **Definitions**

For the purpose of this Agreement:

- (a) 'Contracting Parties' shall mean Georgia and the Union;
- (b) 'National of Georgia' shall mean any person who holds the citizenship of Georgia;
- (c) 'National of a Member State' shall mean any person who holds the nationality, as defined for Union purposes, of a Member State;
- (d) 'Member State' shall mean any Member State of the European Union, with the exception of the United Kingdom, Ireland and the Kingdom of Denmark;
- (e) 'Third-country national' shall mean any person who holds a nationality other than that of Georgia or one of the Member States;
- (f) 'Stateless person' shall mean any person who does not hold a nationality of any state;
- (g) 'Residence permit' shall mean a permit of any type issued by Georgia or one of the Member States entitling a person to reside on its territory. This shall not include temporary permissions to remain on its territory in connection with the processing of an asylum application or an application for a residence permit;
- (h) 'Visa' shall mean an authorisation issued or a decision taken by Georgia or one of the Member States which is required with a view to entry in, or transit through, its territory. This shall not include airport transit visa;
- (i) 'Requesting State' shall mean the State (Georgia or one of the Member States) submitting a readmission application pursuant to Article 7 or a transit application pursuant to Article 14 of this Agreement;
- (j) 'Requested State' shall mean the State (Georgia or one of the Member States) to which a readmission application pursuant to Article 7 or a transit application pursuant to Article 14 of this Agreement is addressed;
- (k) 'Competent Authority' shall mean any national authority of Georgia or one of the Member States entrusted with the implementation of this Agreement in accordance with Article 19 (1) lit. a) thereof;
- (l) 'Transit' shall mean the passage of a third country national or a stateless person through the territory of the Requested State while travelling from the Requesting State to the country of destination;

- (m) 'Border region' shall mean an area which extends up to 5 kilometres from the territories of seaports including custom zones, and international airports of the Member States and Georgia.

## SECTION I

### READMISSION OBLIGATIONS BY GEORGIA

#### *Article 2*

##### **Readmission of own nationals**

1. Georgia shall readmit, upon application by a Member State and without further formalities other than those provided for in this agreement, all persons who do not, or who no longer, fulfil the conditions in force for entry to, presence in, or residence on, the territory of the requesting Member State provided that it is proved, or may be validly assumed on the basis of prima facie evidence furnished, that they are nationals of Georgia.
2. Georgia shall also readmit:
  - minor unmarried children of the persons mentioned in paragraph 1, regardless of their place of birth or their nationality, unless they have an independent right of residence in the Requesting Member State or hold a valid residence permit issued by another Member State,
  - spouses, holding another nationality, of the persons mentioned in paragraph 1, provided they have the right to enter and stay or receive the right to enter and stay in the territory of Georgia, unless they have an independent right of residence in the requesting Member State or hold a valid residence permit issued by another Member State.
3. Georgia shall also readmit persons who have been deprived of, or who have forfeited or renounced, the nationality of Georgia since entering the territory of a Member State, unless such persons have at least been promised naturalisation by that Member State.
4. After Georgia has given a positive reply to the readmission application, the competent diplomatic mission or consular office of Georgia shall, irrespective of the will of the person to be readmitted, immediately and not later than within 3 working days, issue the travel document required for the return of the person to be readmitted with a period of validity of 90 days. If Georgia has not, within 3 working days, issued

the travel document, it shall be deemed to accept the use of the EU standard travel document for expulsion purposes.<sup>3</sup>

5. If, for legal or factual reasons, the person concerned cannot be transferred within the period of validity of the travel document that was initially issued, the competent diplomatic mission or consular office of Georgia shall, within 3 working days, extend the validity of the travel document or, where necessary, issue a new travel document with a period of validity of the same duration. If Georgia has not within 3 working days issued the new travel document or extended its validity, it shall be deemed to accept the use of the EU standard travel document for expulsion purposes.<sup>4</sup>

### *Article 3*

#### **Readmission of third-country nationals and stateless persons**

1. Georgia shall readmit, upon application by a Member State and without further formalities other than those provided for in this Agreement, all third-country nationals or stateless persons who do not, or who no longer, fulfil the conditions in force for entry to, presence in, or residence on, the territory of the requesting Member State provided that it is proved, or may be validly assumed on the basis of *prima facie* evidence furnished, that such persons:
  - (a) hold, at the time of the submission of the readmission application, a valid visa or residence permit issued by Georgia; or
  - (b) illegally and directly entered the territory of the Member States after having stayed on, or transited through, the territory of Georgia.
2. The readmission obligation in paragraph 1 shall not apply if:
  - (a) the third country national or stateless person has only been in airside transit via an International Airport of Georgia; or
  - (b) the requesting Member State has issued to the third country national or stateless person a visa or residence permit before or after entering its territory unless:
    - that person is in possession of a visa or residence permit, issued by Georgia, which has a longer period of validity, or
    - the visa or residence permit issued by the requesting Member State has been obtained by using forged or falsified documents, or by making false statements, or

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<sup>3</sup> In line with the form set out in EU Council recommendation of 30 November 1994.

<sup>4</sup> Ibid.

- that person fails to observe any condition attached to the visa.
  - (c) the requested State has expelled the third country national or stateless person to his/her state of origin or to a Third State.
3. After Georgia has given a positive reply to the readmission application, it issues the person whose readmission has been accepted immediately and not later than within 3 working days a travel document for expulsion purposes. If Georgia has not, within 3 working days, issued the travel document, it shall be deemed to accept the use of the EU standard travel document for expulsion purposes.

## SECTION II

### **READMISSION OBLIGATIONS BY THE UNION**

#### *Article 4*

##### **Readmission of own nationals**

1. A Member State shall readmit, upon application by Georgia and without further formalities other than those provided for in this agreement, all persons who do not, or who no longer, fulfil the conditions in force for entry to, presence in, or residence on, the territory of Georgia provided that it is proved, or may be validly assumed on the basis of prima facie evidence furnished, that they are nationals of that Member State.
2. A Member State shall also readmit:
  - minor unmarried children of the persons mentioned in paragraph 1, regardless of their place of birth or their nationality, unless they have an independent right of residence in Georgia,
  - spouses, holding another nationality, of the persons mentioned in paragraph 1, provided they have the right to enter and stay or receive the right to enter and stay in the territory of the Requested Member State, unless they have an independent right of residence in Georgia.
3. A Member State shall also readmit persons who have been deprived of, or who have renounced, the nationality of a Member State since entering the territory of Georgia, unless such persons have at least been promised naturalisation by Georgia.
4. After the Requested Member State has given a positive reply to the readmission application, the competent diplomatic mission or consular office of that Member State shall, irrespective of the will of the person to be readmitted, immediately and not later than within 3 working days, issue the travel document required for the return of the person to be readmitted with a period of validity of 90 days. If the Requested Member State has not, within 3 working days, issued the travel document, it shall be

deemed to accept the use of the Georgian standard travel document for expulsion purposes.

5. If, for legal or factual reasons, the person concerned cannot be transferred within the period of validity of the travel document that was initially issued, the competent diplomatic mission or consular office of the requested Member State shall, within 3 working days, extend the validity of the travel document or, where necessary, issue a new travel document with a period of validity of the same duration. If the requested Member State has not within 3 working days issued the new travel document or extended its validity, it shall be deemed to accept the use of the Georgian standard travel document for expulsion purposes.

#### *Article 5*

#### **Readmission of third-country nationals and stateless persons**

1. A Member State shall readmit, upon application by Georgia and without further formalities other than those provided for in this Agreement, all third-country nationals or stateless persons who do not, or who no longer, fulfil the conditions in force for entry to, presence in, or residence on, the territory of Georgia provided that it is proved, or may be validly assumed on the basis of prima facie evidence furnished, that such persons:
  - (a) hold, at the time of the submission of the readmission application, a valid visa or residence permit issued by the requested Member State; or
  - (b) illegally entered the territory of Georgia after having stayed on, or transited through, the territory of the requested Member State.
2. The readmission obligation in paragraph 1 shall not apply if:
  - (a) the third country national or stateless person has only been in airside transit via an International Airport of the requested Member State; or
  - (b) Georgia has issued to the third country national or stateless person a visa or residence permit before or after entering its territory unless:
    - that person is in possession of a visa or residence permit, issued by the requested Member State, which has a longer period of validity, or
    - the visa or residence permit issued by Georgia has been obtained by using forged or falsified documents, or by making false statements, or
    - that person fails to observe any condition attached to the visa.

- (c) the requested Member State has expelled the third country national or stateless person to his/her state of origin or to a Third State.
3. The readmission obligation in paragraph 1 is for the Member State that issued a visa or residence permit. If two or more Member States issued a visa or residence permit, the readmission obligation in paragraph 1 is for the Member State that issued the document with a longer period of validity or, if one or several of them have already expired, the document that is still valid. If all of the documents have already expired, the readmission obligation in paragraph 1 is for the Member State that issued the document with the most recent expiry date. If no such documents can be presented, the readmission obligation in paragraph 1 is for the Member State of last exit.
4. After the requested Member State has given a positive reply to the readmission application, it issues the person whose readmission has been accepted immediately and not later than within 3 working days a travel document for expulsion purposes. If the Member State has not, within 3 working days, issued the travel document, it shall be deemed to accept the use of the Georgian standard travel document for expulsion purposes.

### SECTION III

#### **READMISSION PROCEDURE**

##### *Article 6*

#### **Principles**

1. Subject to paragraph 2, any transfer of a person to be readmitted on the basis of one of the obligations contained in Articles 2 to 5 shall require the submission of a readmission application to the competent authority of the Requested State.
2. If the person to be readmitted is in possession of a valid travel document or identity card the transfer of such person can take place without the Requesting State having to submit a readmission application or written communication, as referred to in Article 11(1), to the competent authority of the Requested State.
3. Without prejudice to paragraph 2, if a person has been apprehended in the border region (including airports) of the Requesting State after illegally crossing the border coming directly from the territory of the Requested State, the Requesting State may submit a readmission application within 2 days following this person's apprehension (accelerated procedure).

## Article 7

### Readmission application

1. To the extent possible, the readmission application is to contain the following information:

the particulars of the person to be readmitted (e.g. given names, surnames, date of birth, and – where possible – place of birth, and the last place of residence) and, where applicable, the particulars of minor unmarried children and/or spouses;

- (a) in case of own nationals, indication of the means with which proof or *prima facie* evidence of nationality will be provided;
  - (b) in case of third country nationals and stateless persons, indication of the means with which proof or *prima facie* evidence of the conditions for the readmission of third-country nationals and stateless persons and unlawful entry and residence will be provided;
  - (c) photograph of the person to be readmitted;
  - (d) fingerprints.
2. To the extent possible, the readmission application shall also contain the following information:
  - (a) a statement indicating that the person to be transferred may need help or care, provided the person concerned has explicitly consented to the statement;
  - (e) any other protection, security measure or information concerning the health of the person, which may be necessary in the individual transfer case.
3. A common form to be used for readmission applications is attached as Annex 5 to this Agreement.
4. A readmission application may be submitted by any means of communication, not excluding electronic means.

## Article 8

### Means of evidence regarding nationality

1. Proof of nationality pursuant to Article 2 (1) and Article 4 (1) can be particularly furnished through the documents listed in Annex 1 to this Agreement, including documents whose validity has expired by up to 6 months. If such documents are

presented, the Member States and Georgia shall mutually recognise the nationality without further investigation being required. Proof of nationality cannot be furnished through false documents.

2. *Prima facie* evidence of nationality pursuant to Article 2 (1) and Article 4 (1) can be particularly furnished through the documents listed in Annex 2 to this Agreement, even if their period of validity has expired. If such documents are presented, the Member States and Georgia shall deem the nationality to be established, unless they can prove otherwise. *Prima facie* evidence of nationality cannot be furnished through false documents.
3. If none of the documents listed in Annexes 1 or 2 can be presented, or if they are insufficient, the competent diplomatic and consular representations of the Requested State concerned shall, upon a request from the Requesting State which is included in the readmission application, make arrangements to interview the person to be readmitted without undue delay, at the latest within 4 working days from the date of receipt of the readmission application, in order to establish his or her nationality. The procedure for such interviews may be established in the implementing Protocols provided for in Article 19 of this Agreement.

#### *Article 9*

#### **Means of evidence regarding third-country nationals and stateless persons**

1. Proof of the conditions for the readmission of third-country nationals and stateless persons laid down in Article 3 (1) and Article 5 (1) shall be particularly furnished through the means of evidence listed in Annex 3 to this Agreement; it cannot be furnished through false documents. Any such proof shall be mutually recognised by the Member States and Georgia without any further investigation being required.
2. *Prima facie* evidence of the conditions for the readmission of third-country nationals and stateless persons laid down in Article 3 (1) and Article 5 (1) shall be particularly furnished through the means of evidence listed in Annex 4 to this Agreement; it cannot be furnished through false documents. Where such *prima facie* evidence is presented, the Member States and Georgia shall deem the conditions to be established, unless they can prove otherwise.
3. The unlawfulness of entry, presence or residence shall be established by means of the travel documents of the person concerned in which the necessary visa or other residence permit for the territory of the Requesting State are missing. A statement by the Requesting State that the person concerned has been found not having the necessary travel documents, visa or residence permit shall likewise provide *prima facie* evidence of the unlawful entry, presence or residence.



## *Article 10*

### **Time limits**

1. The application for readmission must be submitted to the competent authority of the Requested State within a maximum of 6 months after the Requesting State's competent authority has gained knowledge that a third-country national or a stateless person does not, or does no longer, fulfil the conditions in force for entry, presence or residence. Where there are legal or factual obstacles to the application being submitted in time, the time limit shall, upon request by the Requesting State, be extended but only until the obstacles have ceased to exist.
2. A readmission application must be replied to in writing
  - within 2 working days if the application has been made under the accelerated procedure (Article 6(3));
  - within 12 calendar days in all other cases.

This time limit begins to run with the date of receipt of the readmission request. If there was no reply within this time limit, the transfer shall be deemed to have been agreed to.

3. Reasons shall be given in writing for the refusal of a readmission request.
4. After agreement has been given or, where appropriate, after expiry of the time limits laid down in paragraph 2, the person concerned shall be transferred within three months. On request of the Requesting State, this time limit may be extended by the time taken to deal with legal or practical obstacles.

## *Article 11*

### **Transfer modalities and modes of transportation**

1. Without prejudice to Article 6(2), before returning a person the competent authorities of the Requesting State shall notify in writing at least 3 working days in advance the competent authorities of the Requested State regarding the transfer date, the point of entry, possible escorts and other information relevant to the transfer.
2. Transportation may take place by air or land. Return by air shall not be restricted to the use of the national carriers of Georgia or the Member States and may take place by using scheduled or, in case of nationals of the Requested State, charter flights. In the event of escorted returns, such escorts shall not be restricted to authorised persons of the Requesting State, provided that they are persons authorised by Georgia or any Member State.

*Article 12*

**Readmission in error**

The Requesting State shall take back any person readmitted by the Requested State if it is established within a period of 6 months, and in case of third country nationals or stateless persons 12 months, after the transfer of the person concerned, that the requirements laid down in Articles 2 to 5 of this Agreement are not met.

In such cases the procedural provisions of this Agreement shall apply mutatis mutandis and all available information relating to the actual identity and nationality of the person to be taken back shall be provided.

## SECTION IV

### TRANSIT OPERATIONS

#### *Article 13*

##### **Principes**

1. The Member States and Georgia should restrict the transit of third-country nationals or stateless persons to cases where such persons cannot be returned to the State of destination directly.
2. Georgia shall allow the transit of third-country nationals or stateless persons if a Member State so requests, and a Member State shall allow the transit of third-country nationals or stateless persons if Georgia so requests, if the onward journey in possible other States of transit and the readmission by the State of destination is assured.
3. Transit can be refused by Georgia or a Member State:
  - (a) if the third-country national or the stateless person runs the real risk of being subjected to torture or to inhuman or degrading treatment or punishment or the death penalty or of persecution because of his race, religion, nationality, membership of a particular social group or political conviction in the State of destination or another State of transit; or
  - (f) if the third-country national or the stateless person shall be subject to criminal sanctions in the Requested State or in another State of transit; or
  - (g) on grounds of public health, domestic security, public order or other national interests of the Requested State.
4. Georgia or a Member State may revoke any authorisation issued if circumstances referred to in paragraph 3 subsequently arise or come to light which stand in the way of the transit operation, or if the onward journey in possible States of transit or the readmission by the State of destination is no longer assured. In this case, the Requesting State shall take back the third-country national or the stateless person, as necessary and without delay.

#### *Article 14*

##### **Transit procedure**

1. An application for transit operations must be submitted to the competent authority of the Requested State in writing and is to contain the following information:
  - (a) type of transit (by air or land), possible other States of transit and intended final destination;
  - (b) the particulars of the person concerned (e.g. given name, surname, maiden name, other names used/by which known or aliases, date of birth, sex and – where possible – place of birth, nationality, language, type and number of travel document);
  - (c) envisaged point of entry, time of transfer and possible use of escorts;
  - (d) a declaration that in the view of the Requesting State the conditions pursuant to Article 13 (2) are met, and that no reasons for a refusal pursuant to Article 13 (3) are known of.

A common form to be used for transit applications is attached as Annex 6 to this Agreement.

2. The Requested State shall, within 5 calendar days after receipt of the application and in writing, inform the Requesting State of the admission, confirming the point of entry and the envisaged time of admission, or inform it of the admission refusal and of the reasons for such refusal.
3. If the transit operation takes place by air, the person to be readmitted and possible escorts shall be exempted from having to obtain an airport transit visa.
4. The competent authorities of the Requested State shall, subject to mutual consultations, assist in the transit operations, in particular through the surveillance of the persons in question and the provision of suitable amenities for that purpose.
5. Transit of the persons shall be carried out within 30 days upon receiving of consent on the request.

## SECTION V

### COSTS

#### *Article 15*

#### **Transport and transit costs**

Without prejudice to the right of the competent authorities to recover the costs associated with the readmission from the person to be readmitted or third parties, all transport costs incurred in connection with readmission and transit operations pursuant to this Agreement as far as the border of the State of final destination shall be borne by the Requesting State.

SECTION VI  
DATA PROTECTION AND NON-AFFECTION CLAUSE

*Article 16*

**Data Protection**

The communication of personal data shall only take place if such communication is necessary for the implementation of this Agreement by the competent authorities of Georgia or a Member State as the case may be. The processing and treatment of personal data in a particular case shall be subject to the domestic laws of Georgia and, where the controller is a competent authority of a Member State, to the provisions of Directive 95/46/EC and of the national legislation of that Member State adopted pursuant to this Directive. Additionally the following principles shall apply:

- (a) personal data must be processed fairly and lawfully;
- (b) personal data must be collected for the specified, explicit and legitimate purpose of implementing this Agreement and not further processed by the communicating authority nor by the receiving authority in a way incompatible with that purpose;
- (c) personal data must be adequate, relevant and not excessive in relation to the purpose for which they are collected and/or further processed; in particular, personal data communicated may concern only the following:
  - the particulars of the person to be transferred (e.g. given names, surnames, any previous names, other names used/by which known or aliases, sex, civil status, date and place of birth, current and any previous nationality),
  - passport, identity card or driving licence (number, period of validity, date of issue, issuing authority, place of issue),
  - stop-overs and itineraries,
  - other information needed to identify the person to be transferred or to examine the readmission requirements pursuant to this Agreement;
- (d) personal data must be accurate and, where necessary, kept up to date;
- (e) personal data must be kept in a form which permits identification of data subjects for no longer than is necessary for the purpose for which the data were collected or for which they are further processed;

(f) both the communicating authority and the receiving authority shall take every reasonable step to ensure as appropriate the rectification, erasure or blocking of personal data where the processing does not comply with the provisions of this article, in particular because those data are not adequate, relevant, accurate, or they are excessive in relation to the purpose of processing. This includes the notification of any rectification, erasure or blocking to the other Party;

(g) upon request, the receiving authority shall inform the communicating authority of the use of the communicated data and of the results obtained there from;

(h) personal data may only be communicated to the competent authorities. Further communication to other bodies requires the prior consent of the communicating authority;

(i) the communicating and the receiving authorities are under an obligation to make a written record of the communication and receipt of personal data.

#### *Article 17*

#### **Non-affection clause**

1. This agreement shall be without prejudice to the rights, obligations and responsibilities of the Union, the Member States and Georgia arising from International Law and, in particular, from:

- the Convention of 28 July 1951 on the Status of Refugees as amended by the Protocol of 31 January 1967 on the Status of Refugees,
- the international conventions determining the State responsible for examining applications for asylum lodged,
- the European Convention of 4 November 1950 for the Protection of Human Rights and Fundamental Freedoms and its Protocols,
- the UN Convention of 10 December 1984 against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment,
- international conventions on extradition and transit,
- multilateral international conventions and agreements on the readmission of foreign nationals, such as the Convention on International Civil Aviation of 7 December 1944.

2. Nothing in this Agreement shall prevent the return of a person under other formal or informal arrangements.

#### SECTION VII

#### **IMPLEMENTATION AND APPLICATION**

## Article 18

### **Joint readmission committee**

1. The Contracting Parties shall provide each other with mutual assistance in the application and interpretation of this Agreement. To this end, they shall set up a joint readmission committee (hereinafter referred to as “the committee”) which will, in particular, have the task:
  - (a) to monitor the application of this Agreement;
  - (b) to decide on implementing arrangements necessary for the uniform application of this Agreement;
  - (c) to have regular exchanges of information on the implementing Protocols drawn up by individual Member States and Georgia pursuant to Article 19;
  - (d) to recommend amendments to this Agreement and its Annexes.
2. The decisions of the committee shall be binding on the Contracting Parties.
3. The committee shall be composed by representatives of the Union and Georgia.
4. The committee shall meet where necessary at the request of one of the Contracting Parties.
5. The committee shall establish its rules of procedures.

## Article 19

### **Implementing Protocols**

1. On request of a Member State or Georgia, Georgia and a Member State shall draw up an implementing Protocol which shall, *inter alia*, cover rules on:
  - (a) designation of the competent authorities, border crossing points and exchange of contact points;
  - (b) conditions for escorted returns, including the transit of third-country nationals and stateless persons under escort;
  - (c) means and documents additional to those listed in the Annexes 1 to 4 to this agreement;
  - (d) the modalities for readmission under the accelerated procedure;
  - (e) the procedure for interviews.

2. The implementing Protocols referred to in paragraph 1 shall enter into force only after the readmission committee, referred to in Article 18, has been notified.
3. Georgia agrees to apply any provision of an implementing Protocol drawn up with one Member State also in its relations with any other Member State upon request of the latter.

#### *Article 20*

### **Relation to bilateral readmission agreements or arrangements of Member States**

The provisions of this Agreement shall take precedence over the provisions of any bilateral agreement or arrangement on the readmission of persons residing without authorisation which have been or may, under Article 19, be concluded between individual Member States and Georgia, in so far as the provisions of the latter are incompatible with those of this Agreement.

## SECTION VIII

### **FINAL PROVISIONS**

#### *Article 21*

### **Territorial application**

1. Subject to paragraph 2, this Agreement shall apply to the territory in which the Treaty on European Union and the Treaty on the functioning of the European Union are applicable and to the territory of Georgia.
2. This Agreement shall not apply to the territory of the United Kingdom, Ireland and the Kingdom of Denmark.

#### *Article 22*

### **Amendments to the Agreement**

This Agreement may be amended and supplemented by mutual consent of the Contracting Parties. Amendments and supplements shall be drawn up in the form of separate protocols, which shall form an integral part of this Agreement, and enter into force in accordance with the procedure laid down in Article 23 of this Agreement.

#### *Article 23*

### **Entry into force, duration and termination**



1. This Agreement shall be ratified or approved by the Contracting Parties in accordance with their respective procedures.
2. This Agreement shall enter into force on the first day of the second month following the date on which the last Contracting Party has notified the other that the procedures referred to in the first paragraph have been completed.
3. This Agreement is concluded for an unlimited period.
4. Each Contracting Party may denounce this Agreement by officially notifying the other Contracting Party. This Agreement shall cease to apply six months after the date of such notification.

*Article 24*

**Annexes**

Annexes 1 to 6 shall form an integral part of this Agreement.

Done at ..... on the ..... day of..... in the year ..... in duplicate in the Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish, Swedish and Georgian languages, each of these texts being equally authentic.

For the European Union

For Georgia

(...)

(...)

*ANNEX 1*

**COMMON LIST OF DOCUMENTS THE PRESENTATION OF WHICH IS  
CONSIDERED AS PROOF OF CITIZENSHIP**

**(ARTICLES 2 (1), 4 (1) AND 8 (1))**

- passports of any kind (national passports, diplomatic passports, service passports, collective passports and surrogate passports including children's passports),
- identity cards (including temporary and provisional ones),
- citizenship certificates and other official documents that mention or clearly indicate citizenship,

## ANNEX 2

### COMMON LIST OF DOCUMENTS THE PRESENTATION OF WHICH IS CONSIDERED AS *PRIMA FACIE* EVIDENCE OF NATIONALITY

#### (ARTICLES 2 (1), 4 (1) AND 8 (2))

Where the Requested state is either one of the Member States or Georgia:

- documents listed in Annex 1 whose validity has expired by more than 6 months,
- photocopies of any of the documents listed in Annex 1 to this Agreement,
- driving licenses or photocopies thereof,
- birth certificates or photocopies thereof,
- company identity cards or photocopies thereof,
- statements by witnesses,
- statements made by the person concerned and language spoken by him or her, including by means of an official test result,
- any other document which may help to establish the nationality of the person concerned.
- service books and military identity cards,
- seaman's registration books and skippers' service cards,
- laissez-passer issued by the Requested State.

Where the Requested State is Georgia:

- confirmation of identity as a result of a search carried out in the Visa Information System<sup>5</sup>,
- in the case of Member States not using the Visa Information System, positive identification established from visa application records of those Member States.

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<sup>5</sup> Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation), OJ L 218 of 13.8.2008, p. 60

ANNEX 3

**COMMON LIST OF DOCUMENTS WHICH ARE CONSIDERED AS PROOF OF THE  
CONDITIONS FOR THE READMISSION OF THIRD COUNTRY NATIONALS AND  
STATELESS PERSONS**

**(ARTICLES 3 (1), 5 (1) AND 9 (1))**

- visa and/or residence permit issued by the Requested State,
- entry/departure stamps or similar endorsement in the travel document of the person concerned or other evidence of entry/departure (e.g. photographic),

## ANNEX 4

### **COMMON LIST OF DOCUMENTS WHICH ARE CONSIDERED AS *PRIMA FACIE* EVIDENCE OF THE CONDITIONS FOR THE READMISSION OF THIRD COUNTRY NATIONALS AND STATELESS PERSONS**

#### **(ARTICLES 3 (1), 5 (1) AND 9 (2))**

- description issued by the relevant authorities of the Requesting State, of place and circumstances under which the person concerned has been intercepted after entering the territory of that State;
- information related to the identity and/or stay of a person which has been provided by an International organisation (e.g. UNHCR);
- reports/confirmation of information by family members, travelling companions, etc.;
- statement by the person concerned.
- information showing that the person concerned has used the services of a courier or travel agency;
- official statements made, in particular, by border authority staff and other witnesses who can testify the fact of the border crossing for the person concerned;
- official statement by the person concerned in judicial or administrative proceedings;
- documents, certificates and bills of any kind (e.g. hotel bills, appointment cards for doctors/dentists, entry cards for public/private institutions, car rental agreements, credit card receipts etc.) which clearly show that the person concerned stayed on the territory of the requested State,
- named tickets and/or passenger lists of air, train, coach or boat passages which show the presence and the itinerary of the person concerned on the territory of the requested State.

ANNEX 5

[Emblem of Republic of Georgia]



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.....  
.....  
.....

.....  
.....

(Place and date)

(Designati  
on of  
requesting  
authority)

Reference: .....

To

.....  
.....

.....  
.....

.....  
.....

(Designation of requested authority)

- ACCELERATED PROCEDURE (Article 6(3))
- INTERVIEW REQUEST (Article 8(3))

1. READMISSION APPLICATION

**pursuant to Article 7 of the Agreement of..... between  
the European Union and Georgia  
on the readmission of persons residing without authorisation**

**A. PERSONAL DETAILS**

Full name (underline surname):

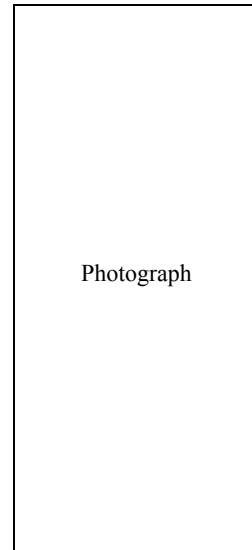
.....

2. Maiden name:

.....

3. Date and place of birth:

.....



4. Sex and physical description (height, colour of eyes, distinguishing marks etc.):

.....

5. Also known as (earlier names, other names used/by which known or aliases):

.....

6. Nationality and language:

.....

7. Civil status:  married  single  divorced  widowed

If married: name of spouse .....

Names and age of children (if any) .....

.....

.....

.....

8. Last address in the requested State:

.....

**B. PERSONAL DETAILS OF SPOUSE (IF APPROPRIATE)**

- 1. Full name (underline surname): .....
- 2. Maiden name: .....
- 3. Date and place of birth: .....
- 4. Sex and physical description (height, colour of eyes, distinguishing marks etc.):  
.....
- 5. Also known as (earlier names, other names used/by which known or aliases):  
.....
- 6. Nationality and language:  
.....

**C. PERSONAL DETAILS OF CHILDREN (IF APPROPRIATE)**

- 1. Full name (underline surname): .....
- 2. Date and place of birth: .....
- 3. Sex and physical description (height, colour of eyes, distinguishing marks etc.):  
.....
- 4. Nationality and language:  
.....

**D. SPECIAL CIRCUMSTANCES RELATING TO THE TRANSFEREE**

- 1. State of health  
(e.g. possible reference to special medical care; Latin name of contagious disease):  
.....
- 2. Indication of particularly dangerous person  
(e.g. suspected of serious offence; aggressive behaviour):  
.....

**E. MEANS OF EVIDENCE ATTACHED**

- 1. ....  
(Passport No.) (date and place of issue)  
.....



<p>(issuing authority)</p> <p>2 .....</p> <p>(Identity card No.)</p> <p>.....</p> <p>(issuing authority)</p> <p>3 .....</p> <p>(Driving licence No.)</p> <p>.....</p> <p>(issuing authority)</p> <p>4 .....</p> <p>(Other official document No.)</p> <p>.....</p> <p>(issuing authority)</p>	<p>(expiry date)</p> <p>.....</p> <p>(date and place of issue)</p> <p>.....</p> <p>(expiry date)</p> <p>.....</p> <p>(date and place of issue)</p> <p>.....</p> <p>(expiry date)</p> <p>.....</p> <p>(date and place of issue)</p> <p>.....</p> <p>(expiry date)</p>
--	--

**F. OBSERVATIONS**

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(Signature) (Seal/stamp)

ANNEX 6

[Emblem of Republic of Georgia]



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.....  
.....

(Place and date)

.....  
.....

(Designation  
of  
requesting  
authority)

Reference

.....

To

.....  
.....

.....  
.....

.....  
.....

(Designation of requested authority)

**TRANSIT APPLICATION**

**pursuant to Article 14 of the Agreement of ..... between  
the European Union and Georgia  
on the readmission of persons residing without authorisation**

**A. PERSONAL DETAILS**

1. Full name (underline surname):

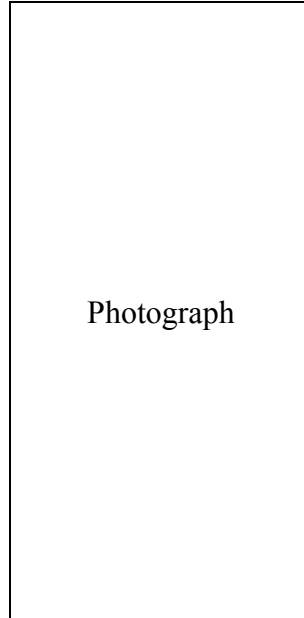
.....

2. Maiden name:

.....

3. Date and place of birth:

.....



4. Sex and physical description (height, colour of eyes, distinguishing marks etc.):

.....

5. Also known as (earlier names, other names used/by which known or aliases):

.....

6. Nationality and language:

.....

7. Type and number of travel document:

.....

**B. TRANSIT OPERATION**

1. Type of transit

by air

by land

2. State of final destination

.....

3. Possible other States of transit

.....

4. Proposed border crossing point, date, time of transfer and possible escorts

.....  
.....  
.....

5. Admission guaranteed in any other transit State and in the State of final destination  
(Article 13 paragraph 2)

yes

no

6. Knowledge of any reason for a refusal of transit (Article 13 paragraph 3)

yes

no

**C. OBSERVATIONS**

.....  
.....  
.....  
.....  
.....

(Signature) (Seal/stamp)

### **Joint Declaration concerning Articles 3(1) and 5(1)**

The Parties agree that a person is 'entering directly' from the territory of Georgia within the meaning of these provisions if such person arrived on the territory of the Member States without having entered a third-country in between, or, where the requested State is one of the Member States, arrived on the territory of Georgia, without having entered a third-country in between. Airside transit stays in a third country shall not be considered as entry.

### **Joint Declaration concerning Denmark**

The Contracting Parties take note that this Agreement does not apply to the territory of the Kingdom of Denmark, nor to nationals of the Kingdom of Denmark. In such circumstances it is appropriate that Georgia and Denmark conclude a readmission agreement in the same terms as this Agreement.

### **Joint Declaration concerning Iceland and Norway**

The Contracting Parties take note of the close relationship between the European Union and Iceland and Norway, particularly by virtue of the Agreement of 18 May 1999 concerning the association of these countries with the implementation, application and development of the Schengen acquis. In such circumstances it is appropriate that Georgia concludes a readmission agreement with Iceland and Norway in the same terms as this Agreement.

### **Joint Declaration concerning Switzerland**

The Contracting Parties take note of the close relationship between the European Union and Switzerland, particularly by virtue of the Agreement concerning the association of Switzerland with the implementation, application and development of the Schengen acquis, which entered into force on 1 March 2008. In such circumstances it is appropriate that Georgia concludes a readmission agreement with Switzerland in the same terms as this Agreement.