



POLICY BRIEF

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Visa Suspension Mechanism Amended: Implications for Georgia and Response Strategies

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Executive Summary

The EU Visa Suspension Mechanism (VSM) is a regulatory tool designed to ensure that third countries benefiting from visa-free travel to the Schengen area adhere to specific conditions. The European Commission has recently proposed amendments to the VSM to enhance its effectiveness by introducing stricter activation thresholds and expanded suspension grounds. This policy brief assesses the potential impact on Georgia of these proposed VSM revisions..

Using Eurostat data from 25 EU Schengen countries, this analysis focuses on asylum applicants, entry refusals, and illegal presence. Chi-squared tests for proportions compare Georgia's data against both existing and proposed thresholds, revealing a significant increase in the likelihood of VSM activation under the new criteria in three out of four categories. The broadened suspension criteria, particularly concerning external relations, fundamental rights, and alignment with EU visa policy, are identified as the most challenging areas based on the European Commission's latest VSM report and recent political developments in Georgia.

The recommendations for the Georgian government emphasize the need for immediate and targeted actions to align with VSM standards. These include strengthening diplomatic efforts, revising

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controversial laws, enhancing monitoring and reporting systems, conducting public awareness campaigns, improving border management and aligning visa policies.

Key Words: *Visa Suspension Mechanism (VSM); EU Visa Policy; Schengen Area; Georgia; Visa-Free Travel; Irregular Migration*

Introduction

Visa-free travel for third country nationals to the Schengen area facilitates economic, social, and cultural exchanges, but also brings migration and security concerns to EU Member States, such as increased irregular migration, unfounded asylum applications, and threats to public safety. To address these issues, the EU introduced the Visa Suspension Mechanism (VSM) in 2013 through *Regulation (EU) 1289/2013* (European Parliament and Council of the European Union 2013), later replaced by *Regulation (EU) 2018/1806* (European Parliament and Council of the European Union 2018). The VSM provides a framework for temporarily suspending visa exemptions when non-EU countries fail to meet specific conditions. The VSM has been activated twice: in May 2019 for Albania, through a notification by the Dutch government, due to an increase in unfounded asylum applications and serious criminal offenses, and in 2022 for Vanuatu, by the Commission itself, owing to security risks from an investor citizenship scheme (Balakrishnan 2023). The former request was rejected by the Commission due to insufficient evidence (Bajrami 2019), while the latter resulted in the full suspension of the visa waiver agreement (Council of the European Union 2022).

Proposed Amendments to the EU Visa Suspension Mechanism

In October 2023, the European Commission proposed revising Regulation (EU) 2018/1806 to strengthen the visa suspension mechanism. The Council adopted its negotiating mandate in March 2024, and the European Parliament's draft report was presented in February 2024 (Dumbrava 2024). Now that the June 2024 European elections are over, the final decision will soon be made following continued negotiations between the Parliament and the Council under the ordinary legislative procedure (OLP). This proposal, when adopted, will enhance the EU's ability to counter situations

where visa-free travel is being abused or works against the interests of the EU. The proposal includes several key enhancements:

- **Broadened Grounds for Suspension:** Now includes hybrid threats such as the instrumentalization of migrants, investor citizenship schemes, and cases of visa policy misalignment between third countries and the EU. Significant deterioration in relations with the EU, particularly due to serious human rights violations or breaches of international law, is also included.
- **Adjusted Suspension Thresholds:** The threshold for increases in cases of refused entry, overstay and unfounded asylum applications is set at 30% (down from 50%), while the threshold for the recognition rate to be considered low was adjusted to 20% (instead of 4%), making it easier to trigger the suspension mechanism.

Additionally, the revised VSM introduces changes to the suspension procedure, extending the initial suspension phase from 9 to 12 months and allowing for an extension of up to 24 months (instead of 18 months under the previous system). During this suspension phase, the European Commission will engage in dialogue with the third country to address and remedy the issues that led to the suspension. If no solution is found to remedy the situation, the EU can decide to permanently revoke the visa-free travel regime.

These changes aim to enhance the EU's ability to address abuses of visa-free travel and ensure alignment with EU standards, while the lowered thresholds suggest that fewer abuses will be required to activate the mechanism.

Methodology for Assessing Georgia's Compliance with Revised EU Visa Suspension Mechanism Thresholds

To analyze Georgia's compliance with the revised thresholds under the EU Visa Suspension Mechanism (VSM), data from Eurostat is utilized. The focus is on the 25 EU Schengen countries, ensuring relevance to the VSM, which addresses visa-free travel abuses specifically within this area. Non-EU Schengen countries (Liechtenstein, Norway, Iceland, Switzerland) and non-Schengen EU countries (Ireland and Cyprus) are excluded from this analysis as they are not relevant to the VSM's scope.

Data is sourced from Eurostat, covering asylum applicants, positive first instance decisions, refusals of entry, and illegal presence. Eurostat data is generally provided with a monthly, quarterly, or annual frequency, necessitating different methodological approaches for analysis:

(I) Where monthly data is available, comparisons are made over every possible configuration of two months of the latest available year (in this case Jan-April 2024), relative to (a) the same period in the preceding year (which would also mean the corresponding two-month configurations of Jan-April 2023), and (b) the last two months prior to the implementation of the exemption from the visa requirement (January-February 2017 for Georgia). This principle of comparison and analysis against the thresholds is dictated by Article 8b of the proposed EU Regulation amending the Visa Suspension Mechanism (*COM(2023) 642 final*) (Council of the European Union 2023).

(II) Where data is quarterly, the analysis compares the first quarters of 2024, 2023, and 2017, following the same logic.

(III) For annual data, the analysis compares the years 2023 to 2022, and to 2016. In this context, 2023 represents the latest concluded year, and 2016 represents the last concluded year before visa liberalization. Given that this analysis is conducted in mid-2024, annual data for 2024 is not yet available. Additionally, using the annual data for 2017 would be misleading because visa liberalization for Georgia occurred in March 2017, thus not providing a full year's data to accurately reflect pre-visa liberalization conditions.

All collected data is then compared against the existing and revised thresholds set by the VSM. Specifically, increases in asylum applications, figures for refusals of entry, and instances of illegal presence are analyzed over target years to determine if they exceed the 50% (current) and 30% (suggested) thresholds, while the asylum recognition rate is compared against the 4% (current) and 20% (suggested) threshold. Additionally, chi-squared tests for proportions are conducted to assess the statistical significance of the differences between the data in the context of the existing and suggested thresholds. This approach ensures a detailed and relevant assessment of Georgia's adherence to the revised VSM criteria versus the existing ones within the EU Schengen context.

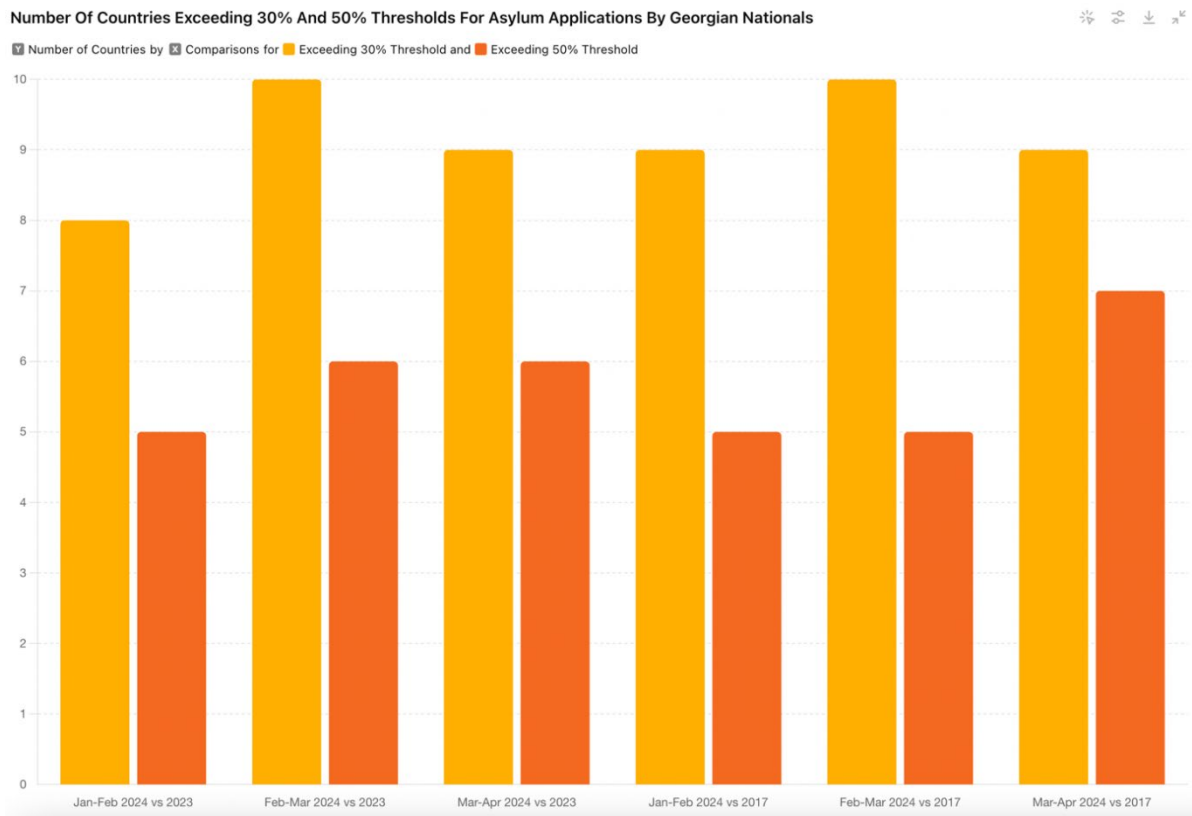
Key Findings from Data Analysis

1) Georgian asylum applicants to EU Schengen countries - monthly data compared over years

The analysis of asylum application trends for Georgian nationals to EU Schengen countries, based on the explained methodology, revealed that for the January-February 2024 vs. January-February 2023 comparison, 8 out of 25 countries exceeded the 30% threshold, whereas 5 countries surpassed the 50% mark. Similarly, in the February-March 2024 vs. February-March 2023 comparison, 10 out of 25 countries went beyond the 30% threshold, while 6 countries exceeded the 50% threshold. The March-April 2024 vs. March-April 2023 comparison showed 9 countries surpassing the 30% threshold, with 6 exceeding the 50% threshold.

When comparing January-February 2024 to January-February 2017, 9 out of 25 countries exceeded the 30% threshold, while 5 surpassed the 50% threshold. In the February-March 2024 vs. January-February 2017 comparison, 10 out of 25 countries exceeded the 30% threshold, with 5 countries surpassing the 50% mark. Similarly, in the March-April 2024 vs. January-February 2017 comparison, 9 out of 25 countries exceeded the 30% threshold, compared to 7 surpassing the 50% threshold. However, despite more countries exceeding the revised 30% threshold compared to the 50% threshold, chi-squared tests revealed that this increase is not statistically significant. The p-values for these tests were all greater than 0.05, indicating no substantial difference in the proportions.

This analysis suggests that while the lower threshold increases sensitivity, it may not significantly alter the overall landscape of visa suspension triggers based on current data. Nevertheless, the revised threshold does enable a higher number of countries to potentially trigger the VSM for Georgia.



Source: Eurostat; [Asylum applicants by type, citizenship, age and sex - monthly data](#) (Eurostat 2024a)

II) The Share of Positive Decisions on the asylum applications of Georgian nationals (recognition rate) - Quarterly Data Compared Over Years

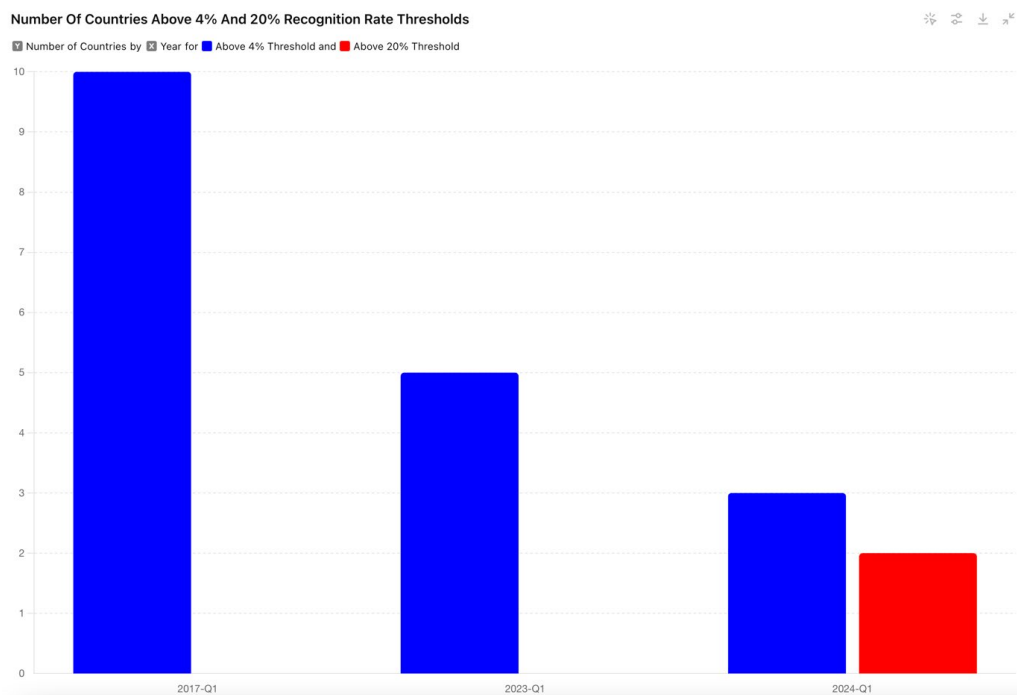
The examination of the recognition rates for Georgian nationals' asylum applications in EU Schengen countries across three distinct quarterly periods exposes considerable challenges to Georgia's visa liberalization status.

In the context of the current 4% threshold, during 2017-Q1, 10 out of the 22 countries had recognition rates exceeding 4%. By 2023-Q1, this number had dwindled to only 5 countries. In 2024-Q1, the recognition rates for Georgian nationals' asylum applications fell below this threshold in 19 out of the 22 countries analyzed. This trend illustrates a marked decline in the number of countries meeting the 4% threshold over the years, reflecting an increasingly stringent approach to asylum applications. Consequently, many countries have grounds to potentially activate the Visa Suspension Mechanism due to their low recognition rates, thereby affecting Georgian nationals' mobility within the EU.

Regarding the proposed 20% threshold, in 2017-Q1, none of the 22 countries had recognition rates above 20%. This remained unchanged in 2023-Q1, with no countries meeting the 20% threshold. By 2024-Q1, only 2 out of 22 countries had recognition rates that even neared this threshold. This disparity highlights the significant gap between current recognition rates and the proposed 20% standard, emphasizing the substantial risk of the VSM being triggered if the threshold is raised.

The analysis reveals a consistent decline in recognition rates for Georgian nationals' asylum applications in the EU Schengen countries over the periods studied. This decline is particularly alarming in the context of the proposed increase in the recognition rate threshold from 4% to 20%. If the new threshold is implemented, the likelihood of triggering the Visa Suspension Mechanism rises significantly, as most current recognition rates fall well below 20%. The chi-square test results, with a p-value of approximately 0.047, indicate that the difference in the number of countries falling below the 4% threshold compared to those that would fall below the 20% threshold is statistically significant.

This statistical analysis thus confirms that the differences in recognition rates under the existing and revised thresholds are noteworthy, underscoring the potential impact on Georgian nationals' mobility within the EU.



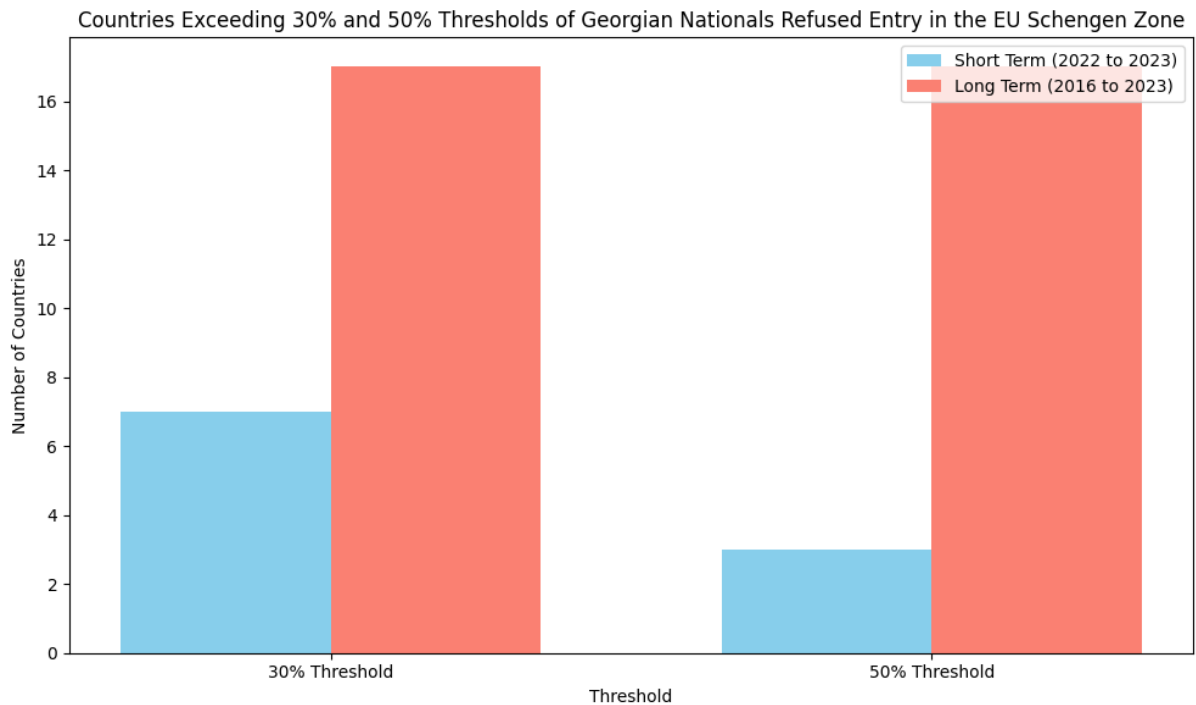
Source: Eurostat; [First instance decisions on applications by type of decision, citizenship, age and sex - quarterly data](#)
(Eurostat 2024b)

III) Refusals of Entry for Georgian Nationals at the EU Schengen Border – Annual data compared over years

The analysis of annual data examining the changes in the number of Georgian nationals refused entry at the external borders across target years indicates that visa liberalization has led to substantial increases in refusals of entry for Georgian nationals in many countries over the years. Regarding short-term changes from 2022 to 2023, seven countries exceeded the 30% threshold (Belgium, Germany, Greece, Latvia, Hungary, Slovenia, Slovakia), while three countries exceeded the 50% threshold (Belgium, Slovenia, Slovakia). In terms of long-term changes from 2016 to 2023, seventeen countries exceeded both the 30% and 50% thresholds.

To determine if the difference between the 30% and 50% thresholds is statistically significant, chi-square tests were performed. The observations for the short term were: exceeding 30% (7), not exceeding 30% (18), exceeding 50% (3), and not exceeding 50% (22). The chi-square test for the short-term change resulted in a p-value of approximately 0.032, indicating a statistically significant difference. For the long term, the observations were: exceeding 30% (17), not exceeding 30% (8), exceeding 50% (17), and not exceeding 50% (8). The chi-square test for the long-term change resulted in a p-value of approximately 0.0005, indicating a highly statistically significant difference.

The analysis highlights that the number of countries exceeding the 30% and 50% thresholds has significant implications. The chi-square test results for both short-term and long-term changes confirm that the differences are statistically significant. Under the new 30% threshold, more than double the number of countries (7 in the short term) could potentially trigger the suspension mechanism compared to the current 50% threshold (3 in the short term). This indicates that the proposed threshold would lead to a broader potential activation of the Visa Suspension Mechanism due to consistently high rates of entry refusals.



Source: Eurostat; [Third country nationals refused entry at the external borders - annual data \(rounded\)](#) (Eurostat 2024c)

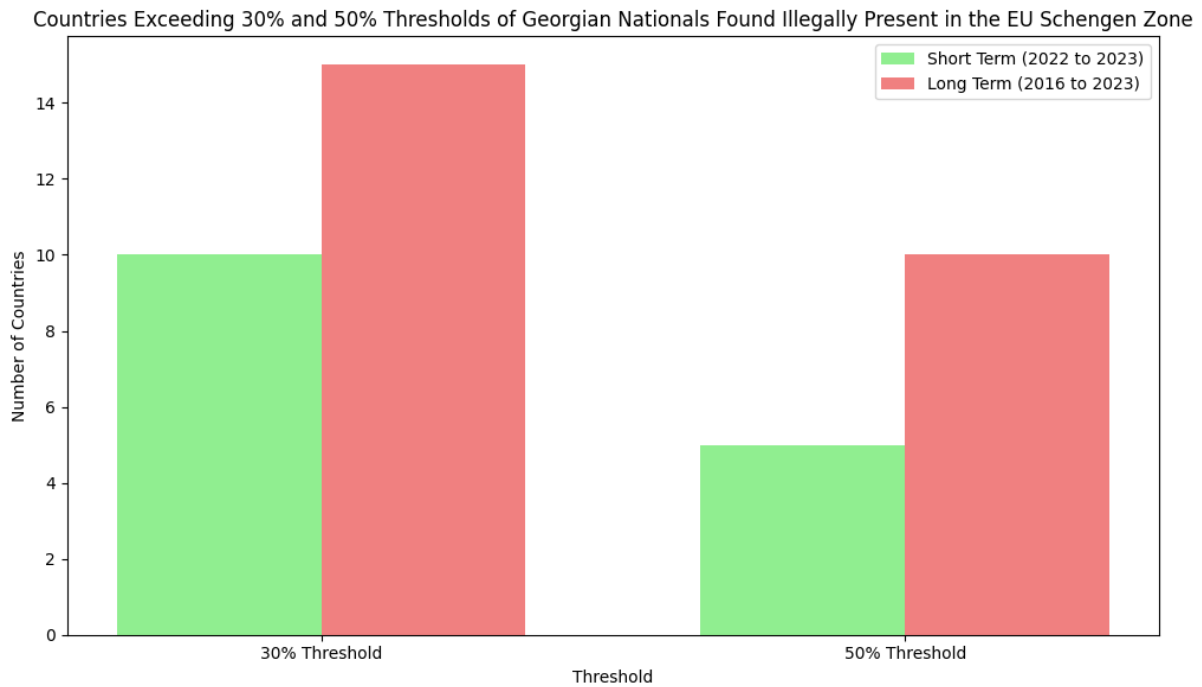
IV) Georgian nationals found to be illegally present in the EU Schengen zone - annual data compared over years

The last category of interest in the context of revised thresholds is the number of Georgian nationals found to be illegally present in the EU Schengen zone in 2016 (pre-visa liberalization), 2022, and 2023 (latest data). Comparing 2023 to 2022 (short-term) and to 2016 (long-term) reveals significant trends.

In the short term, ten countries exceeded the 30% threshold, while five exceeded the 50% threshold. Long-term data shows fifteen countries exceeding the 30% threshold, compared to ten for the 50% threshold.

To determine if the difference between the 30% and 50% thresholds is statistically significant, chi-square tests were performed. Short-term data shows a higher number of countries exceeding this threshold (10 vs. 5), approaching statistical significance ($p \approx 0.068$). Long-term data shows a substantial rise since 2016 (15 vs. 10), though not statistically significant ($p \approx 0.11$).

The analysis suggest that the 30% threshold is more likely to trigger the VSM, highlighting the need for Georgia to address the rise in illegal stays to maintain its visa-free regime.



Source: Eurostat; Third country nationals found to be illegally present - annual data (rounded) (Eurostat 2024d)

Broadened Grounds for Suspension and Potential Threats to Georgia

Apart from the adjustments to the thresholds, the revision of the Visa Suspension Mechanism (VSM) broadens the grounds for suspension to include, among others, significant and abrupt deterioration in the EU's external relations with a third country, particularly in cases related to human rights and fundamental freedoms.

This expansion poses a potential threat to Georgia, especially in light of the recently adopted law on "Transparency of Foreign Influence". This controversial law mandates NGOs and independent media receiving more than 20% of their funding from foreign donors to register as organizations "bearing the interests of a foreign power" (Bayer 2024). Critics argue that this law could be used to suppress civil liberties and draw parallels to similar legislation in Russia, which has been employed to stifle dissent. Several EU countries have already expressed support for suspending visa-free travel for Georgian nationals, viewing it as a measure to prompt the Georgian government to reconsider its position on the so called "foreign agents" law (ETIAS 2024).

What is more, the European Commission's Sixth Visa Suspension Mechanism Report claimed that Georgia is not fully aligned with the Venice Commission's recommendations as for its procedure for

appointing Supreme Court judges (European Commission 2023b). The commission highlights the need of adopting and implementing legislation on their additional integrity checks and performance evaluations. However, Georgia has not fully implemented the Venice Commission's recommendations on the “Organic Law on Common Courts” and has not started preparing legislation for additional integrity checks with international experts. The lack of progress in this area could be seen as a deterioration in the rule of law and judicial independence, further jeopardizing Georgia’s visa-free travel privileges.

Another significant concern is the draft constitutional law “on the Protection of Family Values and Minors”, widely perceived as an anti-LGBTQ measure. The Venice Commission has issued an opinion on this draft, highlighting that it discriminates against LGBTI individuals and fails to comply with the European Convention on Human Rights (Civil.ge 2024). The ruling party has interpreted Venice Commission report as an endorsement of same-sex marriage legalization, which they firmly oppose, asserting that such legalization will never occur (Interpressnews 2024).

Without amendments, the legislative measures of the “Foreign Agents Law”, “Organic Law on Common Courts” and “Law on the Protection of Family Values and Minors”, can be seen as a violation of democratic principles and human rights. As a result, given the broadened grounds of suspension, such a misalignment with European Values could potentially result in the triggering of the visa-suspension mechanism for Georgia.

Another ground for suspension, as per the revised methodology, is the alignment with the EU's visa policy. There is a concern that insufficient alignment with the EU visa policy could turn a visa-free country into a transit hub for irregular entries into the EU (European Commission 2023a). The European Commission emphasizes the need for such alignment with the EU’s list of visa-required third countries, particularly those presenting irregular migration or security risks to the EU. According to the European Commission's latest report under the VSM, as of 2022, Georgia maintained a visa-free regime with 24 countries that are on the EU's list of visa-required countries, including Armenia, Azerbaijan, Belarus, Iran, Russia, and others, and made no progress towards aligning its visa policy. With the broadened scope for suspension, this lack of alignment could contribute to the triggering of the VSM.

Largely, the broadened grounds for suspension in the VSM make it more likely for the EU to take action against Georgia if the situation deteriorates further. This would significantly impact Georgian citizens, who would bear the consequences of their government's actions, potentially leading to increased public pressure on the Georgian authorities to align more closely with EU standards and

values. Thus, the revised VSM's broader criteria and extended suspension procedures present a tangible risk to Georgia's visa-free travel privileges, especially in light of recent legislative developments.

Overall Findings and Recommendations

The proposed amendments to the EU Visa Suspension Mechanism (VSM) introduce more stringent thresholds and broadened grounds for suspension, significantly impacting Georgia's visa-free regime. Specifically, the proposed increase in the recognition rate threshold from 4% to 20% and the adjustment of asylum applications, refusals of entry, and illegal stays thresholds to 30% are problematic, as most current rates fall well below these new standards. In three categories out of four, the statistical tests confirm the significance of these differences between the existing and revised thresholds, highlighting the need for immediate and targeted action to address these issues. Additionally, the broadened grounds for suspension, including significant deterioration in EU relations related to human rights and fundamental freedoms and the lack of alignment with the EU visa policy further increase the risk of suspension in light of legislative developments such as the recent adoption of the controversial "foreign agents" law, and earlier legislative amendments aimed at reviewing the selection process of Supreme Court judges.

The European Commission's sixth report under the VSM (European Commission 2023b) highlighted areas where Georgia needs to improve, including the abovementioned. The following recommendations are informed by the Eurostat data analysis and the report, and aim to address these concerns practically. By taking the following proactive steps, Georgia can better align with the revised VSM criteria, address EU concerns, and safeguard its visa-free travel privileges within the EU Schengen zone.

1. **Strengthening Diplomatic Efforts:** Engage in proactive and transparent diplomatic dialogues with EU member states to address concerns related to migration, asylum applications, and human rights. Regular high-level meetings and the establishment of joint task forces to monitor and respond to emerging issues are recommended.
2. **Legislative Revisions:** Revisit and amend controversial laws, such as the "Foreign Agents Law", "Organic Law on Common Courts" and "Law on the Protection of Family Values and

Minors”, according to the Venice Commission’s recommendations, to ensure alignment with EU democratic principles and human rights standards.

3. **Enhanced Monitoring and Reporting:** Implement an advanced monitoring system for tracking migration trends, asylum applications, and legal compliance, with real-time data analytics and reporting capabilities, and regular updates to EU authorities in order to demonstrate Georgia's commitment to transparency and proactive issue resolution.
4. **Public Awareness Campaigns:** Resume nationwide public awareness campaigns to educate Georgian nationals on the legal and social implications of abusing visa-free travel privileges. Collaborate with civil society organizations and media outlets to disseminate information and promote compliance with visa regulations.
5. **Policy Adjustments:** Develop and implement targeted policies to address the root causes of illegal stays and unfounded asylum applications. This includes strengthening border controls, enhancing asylum processing procedures, and increasing support for voluntary return programs. Collaborate with EU Member States to share best practices and develop coordinated strategies.
6. **Enhanced Border Management and Cooperation:** Increase cooperation with EU member states through joint operations, deployment of Georgian officers, and active participation in EU border management initiatives. Strengthen partnerships with Frontex by increasing the number of joint operations and training programs for Georgian border officials.
7. **Alignment with EU Visa Policies:** Conduct a comprehensive review of Georgia’s visa policies to ensure alignment with the EU’s list of visa-required third countries. Prioritize adjustments for countries that present significant irregular migration or security risks to the EU. Implement a phased approach to policy alignment with regular progress reports to the EU.

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