



Facilitating Effective Visa Liberalization in Georgia, Moldova and Armenia through Experience Sharing

Compendium of Policy Papers
October 2019

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Foreword

Visa liberalization with the EU has been one of the most tangible benefits of European integration for several of the EU's Eastern partner countries and, prior to that, for accession candidates in the Western Balkans. Not only has visa-free travel led to more travel, more personal interactions, and more business contacts; it has also given citizens of the EaP and Western Balkan countries the feeling to be welcome in the EU, to be respected and European. One cannot stress often enough how important freedom of travel is, how liberating it is to be able to decide spontaneously to spend a weekend in Paris or to visit a friend in Warsaw.

So far the visa barrier has been lifted for three of the six EaP countries. Among the remaining states, Armenia has the greatest interest to start a visa liberalisation process with the EU, which requires meeting a list of challenging demands set out in an action plan. Helping Armenia receive the action plan and then meet the requirements is the next challenge. The liberalisation of travel regimes has also led to a sometimes dramatic increase in the number of unfounded asylum claims in EU member states, which has reduced their appetite for more. Here it is important to continue to emphasize that it is long asylum procedures combined with generous benefits that attract people to request asylum even though they are not persecuted or in any danger. It is therefore EU member states that need to take action to prevent the abuse of their asylum systems.

The policy papers in this compendium examine the situation with visa liberalisation in three EaP countries: Moldova, as the EaP country that has enjoyed visa-free travel with the EU longest, since April 2014; Georgia, visa-free since March 2017, which is trying to tackle the issue of unfounded asylum claims by Georgian citizens; and Armenia, which would like to start a visa liberalisation process. The idea was to look at the benefits that visa-free travel (and visa facilitation in Armenia) have produced; to assess the challenges and propose solutions so that the countries continue to meet the EU's requirements for visa-free travel; and to share experience with Armenia, for Armenia is in the lucky position to be able to learn from Moldova and Georgia. The wider goal has been to ensure that visa-free travel with EaP countries remains in place and that Armenia eventually achieves it.

The implementing team has been the Georgian Institute of Politics (GIP), which has led the project; the Institute for European Policy and Reform (IPRE) from Moldova, and the Analytical Center on Globalization and Regional Cooperation (ACGRC) from Armenia. My role was to give suggestions for research and to review the policy papers, which has been a pleasure.

All of us are grateful to the EU for financing the project through the EaP Civil Society Forum Re-granting Scheme (FSTP), and to the National Endowment for Democracy (NED), which has provided co-funding. The project has sought to address the "20 Deliverables for 2020" under the thematic priorities of the Working Group 4 (Contacts between People) of the EaP Civil Society Forum.

We hope that you will find the policy papers interesting; that you will recognize the sincerity of the efforts by the governments to obtain and keep visa-free travel; and that you will realize how crucial freedom to travel is for citizens of EaP countries.

Alexandra Stiglmeier

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Mapping Georgia's Visa-Free Progress: The Quest for a Preventive Strategy

by Tatia Dolidze*

Executive Summary

This paper examines EU-Georgia post-visa free official discourse, facts and statistics against the negative benchmarks identified in the Visa Suspension Mechanism, which was introduced as a measure of self-defense by the European Union. The evaluation of relevant data confirms the legal basis for triggering the suspension mechanism, but the political sensitivity of the issue seems to be working in Georgia's advantage. Still, the author argues that Georgia will not always enjoy political immunity to the substantially increased irregular migration and security risks for the EU. The European Union remains alarmed about the rising number of unfounded asylum seekers and undocumented migrants from Georgia, as well as the intensified criminal activities by Georgian organized groups. While these numbers are being misinterpreted and utilized by Europe's pro-Russian forces to the detriment of Georgia's European future, they are also real and rising. Therefore, the paper warns Georgia against complacency and denying the depth of the problem. The paper advises the government to be proactive in both its preventive and reactive strategies, fighting the number of violations and the propaganda at the same time. The author also places responsibility on the European Union and calls for an EU-wide reform of asylum policies and the border management system to address issues that are beyond Georgia's control. The author compares the Visa Suspension Mechanism to the sword of Damocles hanging over Georgia's European future until the European Travel Information and Authorization System provides relief to all sides concerned.

Introduction

On March 28, 2017, the Georgian passengers on the Kutaisi-Athens flight made their very first visa-free air trip to a long-aspired destination—the European Union [EU]. The visa-waiver deal with the EU was the hoped-for outcome of a lengthy process that was initiated back in 2012 with the EU-Georgia visa dialogue, and a series of reforms that Georgia successfully undertook to meet the targets set in the 2013 Visa Liberalization Action Plan [VLAP]. As a result, today nearly 450,000 Georgian citizens can boast of having travelled to the Schengen+ area² visa-free more than 750,000 times³.

The European Union has, however, reserved the right to suspend the visa waiver for a period of nine months with the option of prolonging the suspension for another 18 months or lifting the visa

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¹ For feedback on the draft of the paper, the author thanks Alexandra Stiglmeier (Germany), European Stability Initiative [ESI], Senior Analyst in Brussels.

² Schengen+ area covers the 26 EU member states applying Regulation (EU) 2018/1806 [Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Germany, Estonia, Greece, Spain, France, Italy, Latvia, Lithuania, Luxembourg, Hungary, Malta, the Netherlands, Austria, Poland, Portugal, Romania, Slovenia, Slovakia, Finland and Sweden], as well as the four Schengen Associated Countries [Switzerland, Norway, Liechtenstein, and Iceland].

³ Javakhadze, N. 2019, June 3. Deputy Minister of Internal Affairs of Georgia. (T. Dolidze, Interviewer)

waiver altogether —if there is substantial abuse of the visa-free travel rules. Substantial abuse is defined as a sharp rise in the number of third country nationals refused at the EU borders; an increase in unfounded asylum claims; significant evidence of third-country citizens illegally staying in the Schengen zone; and the intensification of organized criminal activities in EU destination countries. As stated in Article 8 of the Visa Suspension Mechanism, an increase of any of these parameters exceeding a threshold of 50%, with a low recognition rate of around 3% or 4%, would qualify as a legal basis for an EU member state to request that the visa suspension mechanism be triggered by the Commission.

According to statistical data, these regulatory ‘red lines’ have regrettably been crossed repeatedly. The fear of losing the major and most tangible achievement in the European integration process runs high in the Georgian government, but experts do not believe that will come to pass⁴. In fact, apart from the legal aspect, there is a political side to the suspension mechanism and it makes the correlation between the number of irregularities and the decision to suspend the visa exemption less straightforward. The European Commission is required to assess the “emergency situations” as alleged by a complainant against “the particularly sensitive political nature” of such a move and the impact it would have on the multilateral and bilateral relations with the third country concerned⁵. That is especially true when the third country is making great efforts to find alternative solutions and collaborates effectively on readmission, which Georgia surely is.

However, the Georgian government cannot afford to lapse into complacency. Several affected EU member states have already voiced concerns and Georgia has been required to take various measures, including changing its own laws. The problems identified in the Commission’s Second Report under the Visa Suspension Mechanism need to be addressed promptly and adequately, otherwise Georgia risks losing the good will of the European Union.

Post-Visa Free State of Affairs

The three main datasets that are statistically relevant in the context of the EU visa suspension mechanism for Georgia concern Georgian (a) bogus asylum seekers, (b) undocumented migrants, and (c) organized crime groups.

Bogus Asylum-Seekers

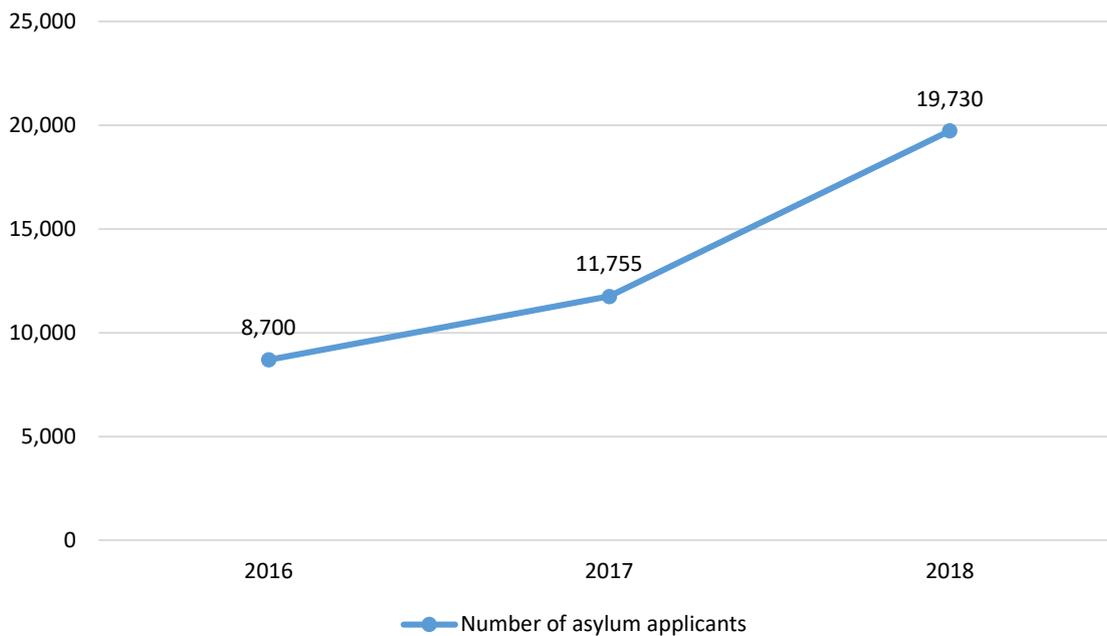
The EU-Georgia visa waiver has doubled the total number of asylum applications filed by Georgian citizens in the Schengen+ area. By 2019, the annual number of asylum applications from Georgian citizens had increased from 8,700 in 2016 to 19,730 in 2018 (Chart 1), putting Georgia on the list of the top ten countries of origin of asylum seekers in Europe⁶.

⁴ GIP Expert Comment. 2019, June 10. *What are the chances that the EU visa suspension mechanism will be used against Georgia?* Retrieved from Georgian Institute of Politics: <http://gip.ge/what-are-the-chances-that-the-eu-visa-suspension-mechanism-will-be-used-against-georgia/>

⁵ Official Journal of the European Union. November 2018. *Document 32018R1806: Regulation (EU) 2018/1806 of the European Parliament and of the Council of 14 November 2018 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement.* Retrieved from EUR-Lex: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32018R1806>

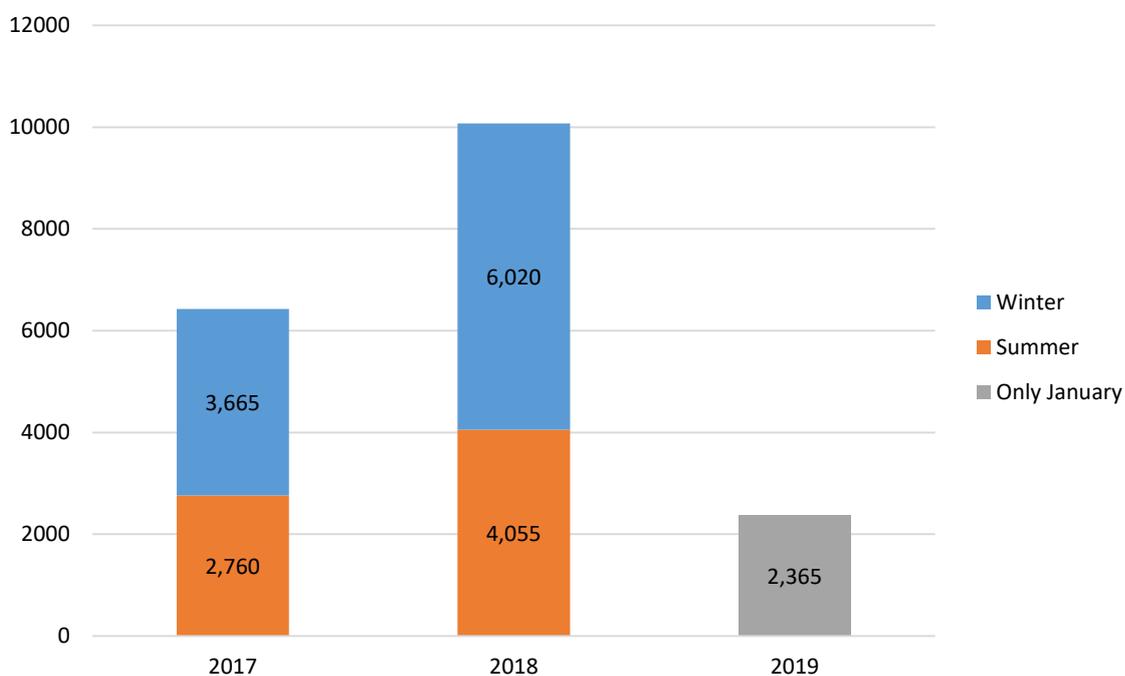
⁶ European Asylum Support Office. 2019, February 13. *Lates asylum trends -2018 overview.* Retrieved from European Asylum Support Office Web site: <https://www.easo.europa.eu/asylum-trends-overview-2018>

Chart 1. Georgian asylum and first time asylum applicants in the Schengen+ zone (rounded). Source of data: Eurostat; access date: July, 2019.



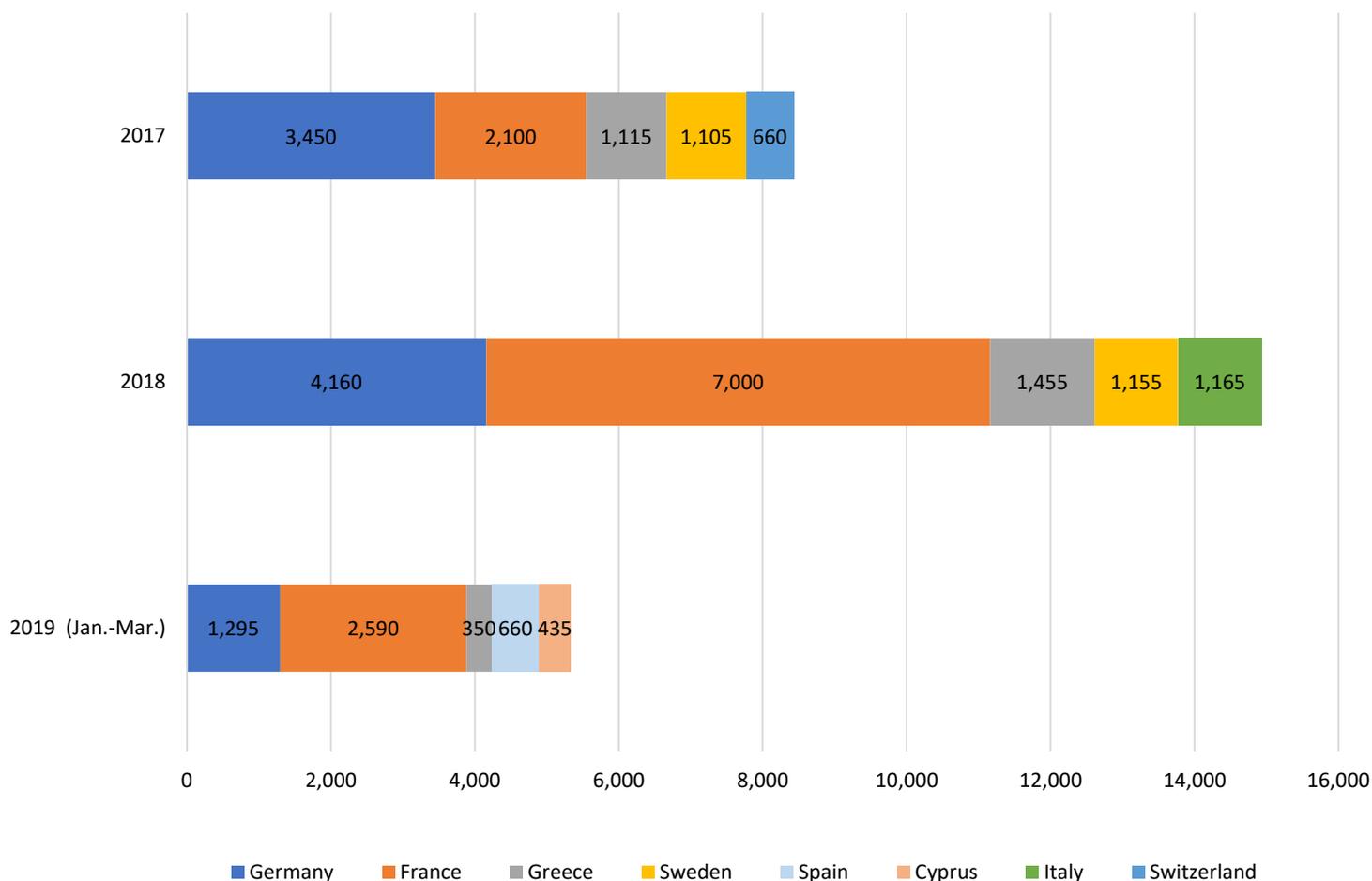
Looking at the dynamics since 2017, Georgian nationals have been lodging more applications every month, hitting a record high of 2365 in January 2019 (Chart 2). The pattern is disturbing and set to continue in the immediate future, especially now that the summer is over. Interestingly, Georgian asylum seekers seem to prefer spending the warm seasons in Georgia and leave right before or during the cold times (Chart 2) probably so as to ‘hibernate’ where they believe a better future awaits them.

Chart 2. Asylum and first time asylum applicants from Georgia in the Schengen+ zone, seasonal sum data and the latest available data from 2019. Source of data: Eurostat; access date: July, 2019.



As for the countries of destination, the list of the top 5 Schengen+ states with the highest annual numbers of Georgian asylum claims has varied over time,⁷ but the first place has always alternated between Germany and France (Chart 3). Hence if any member state were to ask for the suspension mechanism, it will most likely be one of these two. Yet, as Germany is taking over the Council presidency in 2020 with the Eastern Partnership being its proclaimed priority, it is less likely to request the suspension of visa-free travel with Georgia in the coming year⁸. Consequently, France is the member state to watch.

Chart 3. Top 5 countries of destination for Georgian asylum seekers in the Schengen+ zone; annual data from 2017 and 2018, and the latest available data from 2019. Source of data: Eurostat; access date: July, 2019.



In legal terms, a member state is allowed to file for a temporary suspension of visa-free travel for residents of non-EU countries in case of a substantial increase [more than 50%] in asylum applications with low recognition rates [around 3-4%] (a) over a period of two months “compared with the same period in the preceding year or (b) compared with the last two months prior to the

⁷ The top 5 countries of destination for Georgian asylum seekers in 2017 were Germany, France, Greece, Sweden and Switzerland, while in 2018 these were France, Germany, Greece, Italy and Sweden. The latest available data on EuroStat suggests that during the first 3 months of the year 2019, the list is still led by France and Germany, then followed by Spain, Cyprus and Greece (Annex 2).

⁸ Chkhikvadze, V. 2019, May 13. EU Integration Programme Manager at Open Society Georgia Foundation. (T. Dolidze, Interviewer)

implementation of the exemption from the visa requirement”⁹An examination of the dynamics based on these criteria suggests that the fluctuations have proved “substantial” on many occasions (Table 1). At the same time, the asylum recognition rates were low and even the lowest among the top ten countries of origin once Georgia “made it” to this list¹⁰. In 2016, the 440 positive first instance decisions for Georgian asylum seekers in the Schengen+ zone made up only 6.5% of the total 6795 decisions. This decreased to 5% in 2017 [480 positive decisions out of total 9110] and then to 4.5% in 2018 [665 positive decisions out of total 14285], or to only 3% when the rate is calculated for the EU+ area (Chart #4). As increases above 50% coupled with low recognition rates have occurred on numerous occasions, quite a few member states could have presented to the Commission the legal basis for the enactment of the suspension mechanism as early as 2017, when the visa-free regime was first introduced. The “legal” basis is, however, just one side of the coin, while the political cost and benefit analysis is the other.

Table 1. *Fluctuations in number of asylum applications made by Georgian citizens*
Source of data: *The Georgian Institute of Politics, access date: July, 2019.*

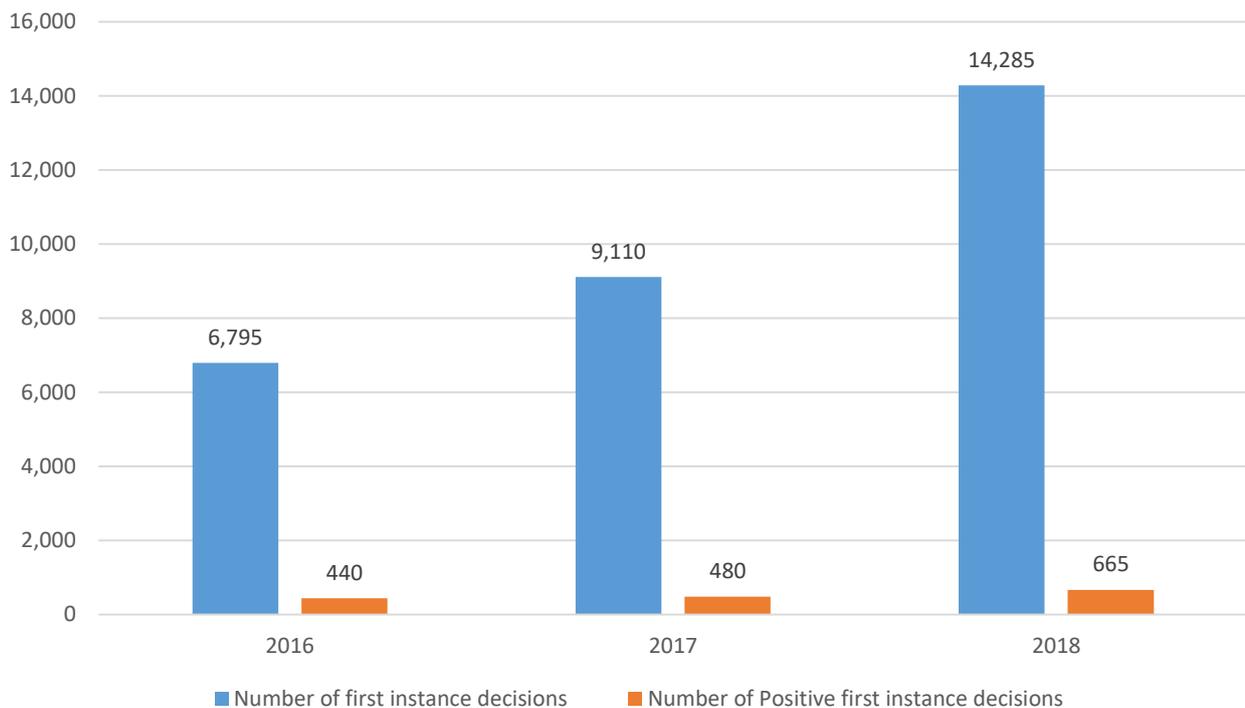
- a. *increase or decrease of number of asylum applications made by Georgian citizens over a two-month period compared to the same period in the previous year*
- b. *increase or decrease of number of asylum applications made by Georgian citizens over a two-month period compared to the first two months of 2017 (Jan-Feb)*

		Mar- Apr 2017	Apr- May 2017	May- June 2017	June- July 2017	July- Aug 2017	Aug- Sept 2017	Sept- Oct 2017	Oct- Nov 2017	Nov- Dec 2017	Average Increase per period
Germany	(a)	17%	19%	-6%	-8%	13%	16%	40%	86%	120%	33%
	(b)	2%	6%	-28%	-54%	-51%	-41%	-16%	32%	113%	-4%
France	(a)	24%	50%	76%	79%	71%	74%	108%	176%	229%	99%
	(b)	42%	36%	40%	94%	97%	61%	108%	163%	213%	95%
Greece	(a)	3%	21%	48%	34%	28%	45%	52%	48%	38%	35%
	(b)	58%	150%	139%	77%	85%	133%	91%	48%	18%	81%
Sweden	(a)	-23%	-42%	-23%	0%	-3%	-16%	42%	87%	119%	16%
	(b)	-8%	-18%	20%	55%	30%	8%	83%	123%	196%	54%
Switzerland	(a)	0%	7%	43%	71%	93%	50%	57%	143%	150%	68%
	(b)	0%	15%	11%	4%	35%	50%	83%	162%	150%	57%
Italy	(a)	18%	18%	73%	82%	73%	64%	109%	155%	109%	78%
	(b)	117%	63%	90%	186%	533%	500%	229%	180%	156%	228%
Netherlands	(a)	-28%	-53%	-53%	-44%	-56%	-75%	-78%	-72%	-66%	-58%
	(b)	15%	-6%	-6%	-10%	-33%	-53%	-68%	-70%	-62%	-33%
Austria	(a)	45%	0%	9%	36%	45%	27%	0%	36%	100%	33%
	(b)	100%	83%	50%	88%	33%	-18%	-35%	7%	57%	41%
Belgium	(a)	110%	90%	30%	20%	40%	20%	40%	100%	120%	63%
	(b)	110%	111%	44%	50%	250%	140%	100%	186%	144%	126%

⁹ Official Journal of the European Union. 2018, November 2018. *Document 32018R1806: Regulation (EU) 2018/1806 of the European Parliament and of the Council of 14 November 2018 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement.* Retrieved from EUR-Lex: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32018R1806>

¹⁰ European Asylum Support Office. 2019, February 13. *Lates asylum trends -2018 overview.* Retrieved from European Asylum Support Office Web site: <https://www.easo.europa.eu/asylum-trends-overview-2018>

Chart 4. Georgian nationals total number of first instance vs. number of positive first instance decisions, 2016-2018. Annual aggregated data (rounded). Source of data: Eurostat, access date: July, 2019.



Getting to suspension is not a straightforward process. To start with, the problems created in one member state need to be assessed against the total number of affected countries of destination and the Georgian “share” of responsibility for the worsened migratory situation in Europe. The decision-making process would additionally imply the examination of possible political complications such as a deterioration in bilateral relations and Euroscepticism exploding in Georgia. In addition, there are also institutional procedures that further complicate the suspension process for an individual state, as it necessitates the consent of the European Commission and a majority of EU member states. Consultations are also required with the European Parliament and the Council.

It must also be noted that a right to asylum is universal and exercising it cannot be presented as a problem in itself, but country-specific high numbers of asylum claims combined with very low recognition rates suggest an abuse of the EU's migration systems, which sets off alarm bells in the European Union. This phenomenon requires defining «bogus» asylum seekers as opposed to the «genuine» ones, and to properly identify those who claim national state benefits based on alleged political oppression, human rights abuse and generalized violence they are supposedly facing in their home countries, while in reality they are driven by the economic and social reasons that do not qualify as grounds for a refugee status.¹¹

In the case of Georgia, it is the so-called «bogus» asylum seekers that put an additional strain on the EU immigration system and are more relevant in the context of the visa suspension mechanism. Georgian state agencies report that a substantial number of asylum seekers from Georgia are economic migrants who are not eligible for asylum, but claim one just to receive welfare payments and take advantage of the host countries' healthcare systems¹². Accordingly, those who leave Georgia

¹¹ Nota Bene: “Bogus” asylum seeker is not a legal term, but the one used in the public discourse for the fraudulent economic migrants.

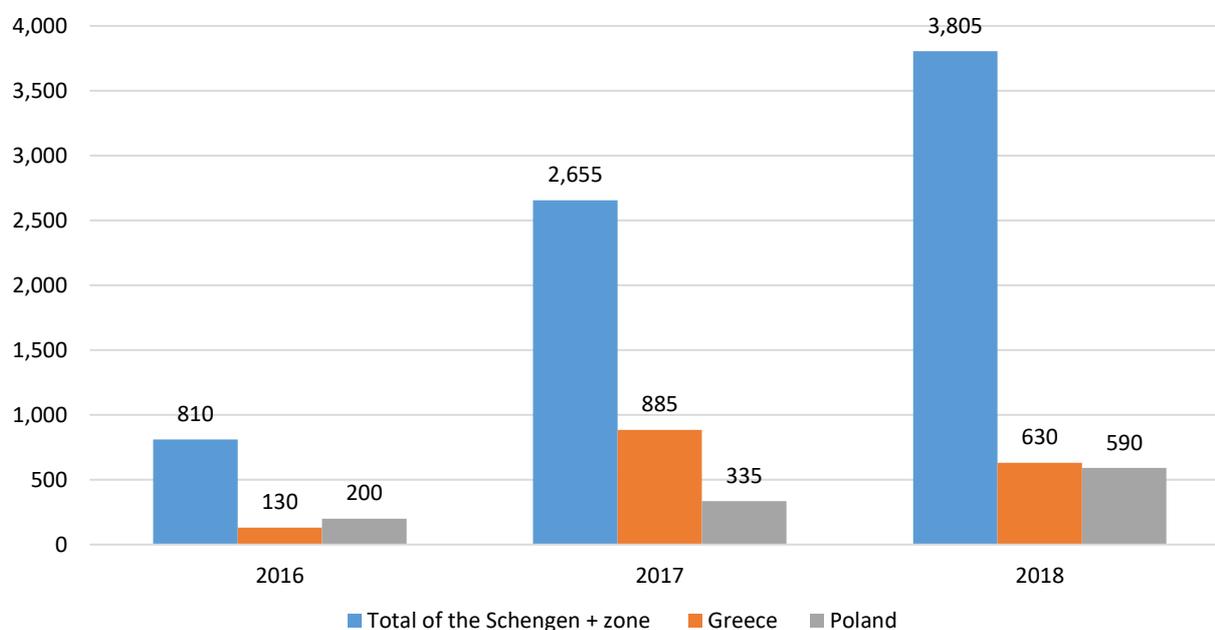
¹² Javakhadze, N. 2019, June 3. Deputy Minister of Internal Affairs of Georgia. (T. Dolidze, Interviewer)

in search of asylum in the European Union are not necessarily representatives of the most vulnerable and socially unprotected population groups and, curiously, not even the poorest. Their social backgrounds range from those living below the poverty line to those employed with regular monthly incomes¹³. Therefore, “bogus” asylum seekers do not represent a homogenous group of the population, making it impossible to design a single well-targeted policy. The only thing they have in common is the vain hope of finding El Dorado.

Undocumented Georgian Migrants

There has been a dramatic increase of 400% in the number of entry refusals at the Schengen+ borders with 3,805 Georgians refused in 2018 compared to only 810 in 2016. Greece accounted for most of the refusals in both 2017 [630 refusals] and 2018 [885 refusals], followed by Poland, the top country in 2016 [200 refusals] (Chart 6). At the Ministry of Internal Affairs of Georgia, they believe that the reason why Georgians travel to the EU without proper papers is not a lack of information but rather a willingness to take a risk in the hope they can get away with it¹⁴.

Chart 6. Georgian nationals refused entry at the external borders of the Schengen+ zone - annual data(rounded). Source of data: Eurostat, access date: July, 2019.



The reason why Greece and Poland are most affected is presumably due to stricter border controls than in other countries of destination, rather than a higher inflow of undocumented travelers. Well before the visa-free regime was introduced, Polish and Greek embassies in Georgia were commonly believed to be the strictest ones in terms of visa-granting. That both Poland and Greece are reachable by bus and flights to these destinations are relatively cheap offer additional legitimate explanations along with the rich social capital. In any case, the elevated number of refusals is not necessarily a problem per se, as it might well be evidence that visa-free movement is working according to the rules, meaning that persons who fulfil the criteria for visa-free entry enter, while those who don't are rejected at the borders.

¹³ Khulordava, T. 2019, May 24. Chairperson of the Committee on European Integration of the Parliament of Georgia. (T. Dolidze, Interviewer)

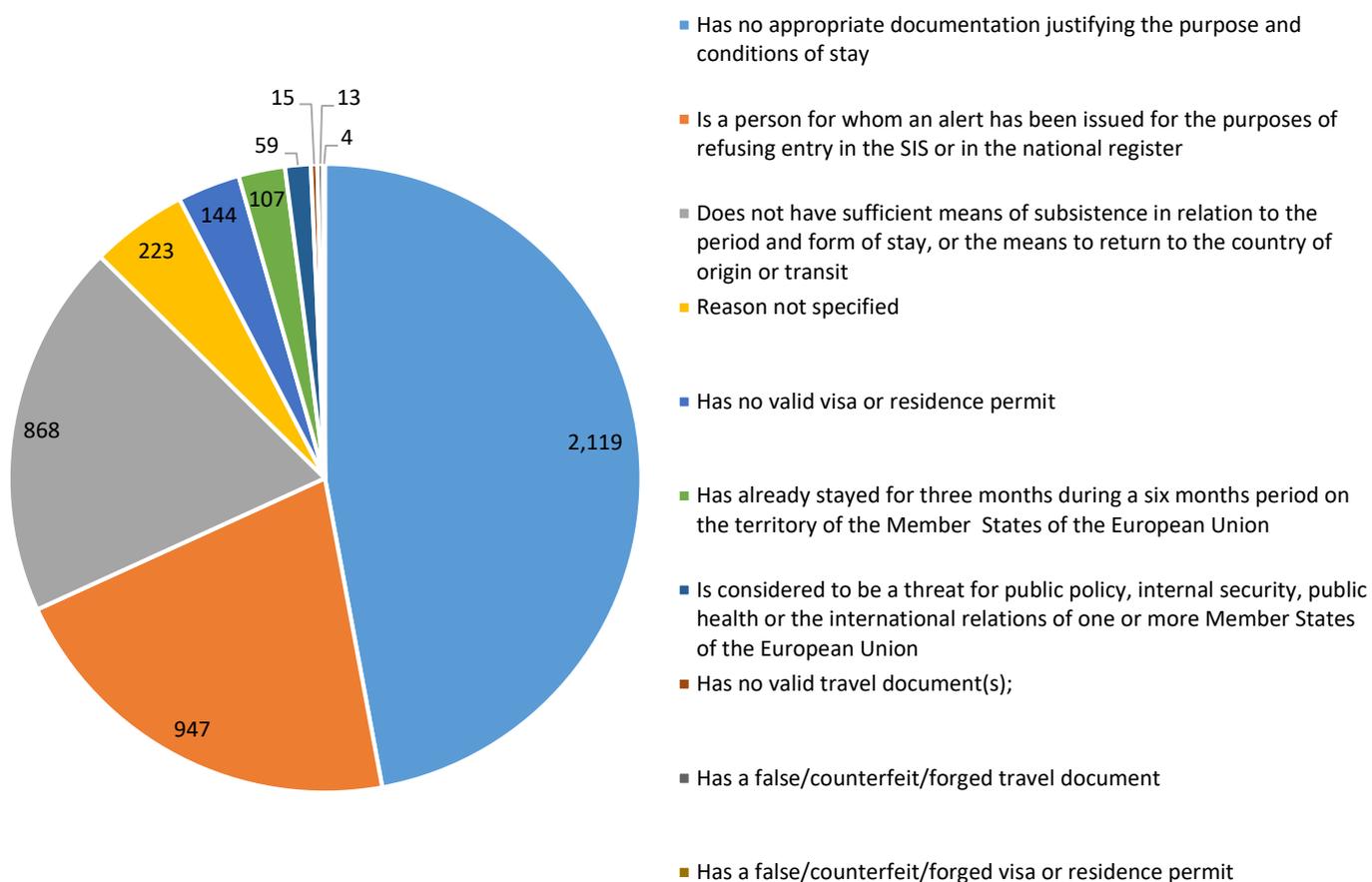
¹⁴ Javakhadze, N. 2019, June 3. Deputy Minister of Internal Affairs of Georgia. (T. Dolidze, Interviewer)

The Schengen Borders Code (Regulation (EU) 2016/399) lays down the entry conditions and reasons for refusal¹⁵. The immigration officers are authorized to carry out document checks, ask questions and decide whether the person arriving is likely to leave the EU after the permitted three months. The officers usually conduct checks on a random basis, making border control a subjective procedure that is difficult to monitor.

The three main official reasons why Georgian nationals are refused entry at the EU+ borders are the following (Chart 7):

- The person in question does not possess appropriate documentation justifying the purpose and conditions of stay [2119 refusals];
- An alert has been issued in the Schengen Information System or in a national register for the purpose of refusing entry to the person in question [947 refusals];
- The person in question does not have sufficient means of subsistence for the period and form of stay, or the means to return to the country of origin or transit [868 refusals].

Chart 7. Georgian nationals refusals of entry at the external borders of the Schengen+ zone reported by reasons for refusal, Source: Frontex, access date: July, 2019



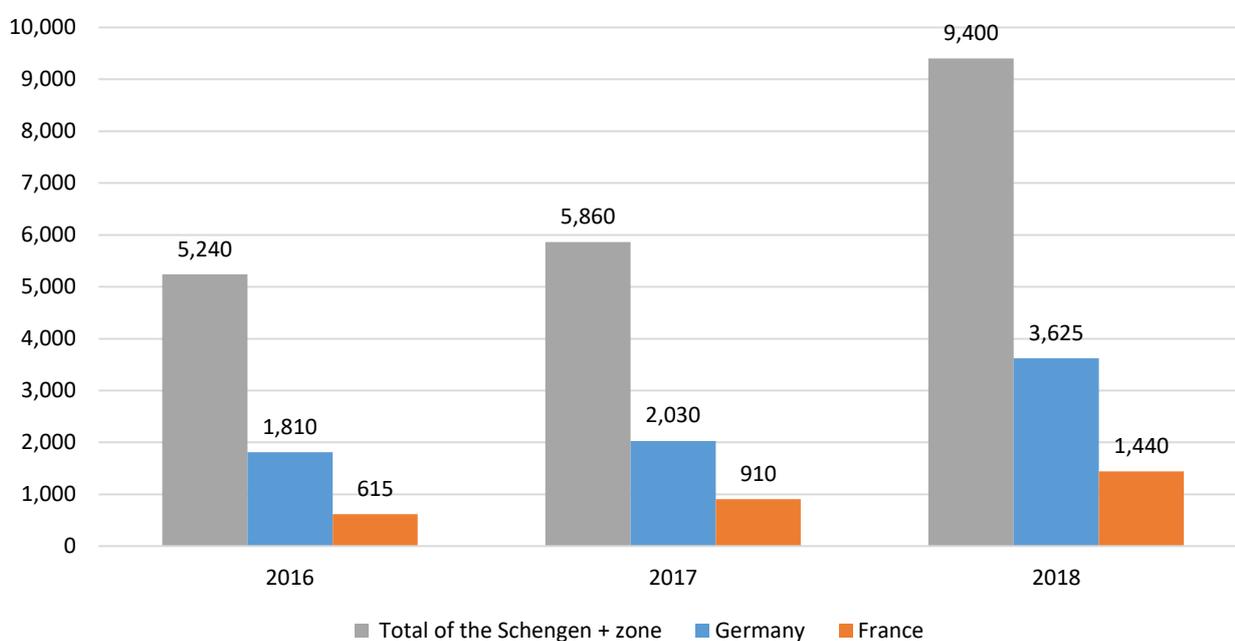
¹⁵ Official Journal of the European Union. 2016, March 23. Document 32016R0399: Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code). Retrieved from EUR-Lex: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32016R0399>

Except when crime is involved [officially stated reason #2], the main reason for denying entry is a reasonable suspicion that the person will not go back to his/her home country when the permitted period is over, and thus is actually an asylum-seeker-to-be and/or an illegal migrant-to-be [officially stated reason #1 and #3]. However, this judgment cannot be that accurate, as some manage to have all necessary documents and finances at hand, while still planning to abuse the visa-free regime.

Curiously though, illegal stays are not so popular among Georgian nationals. Reportedly, they prefer to benefit from the basic welfare packages accorded to asylum-seekers, rather than live and work in secret and fear. This interesting observation that the European side has shared with the Georgian government,¹⁶ is most likely linked to the Soviet cultural heritage of freeloading socialism.

However, lately, the prospect for Georgians to freeload has been limited due to the restriction of asylum policies in numerous member states. With the growing amount of negative asylum decisions, the number of persons illegally staying has also increased. While in 2017 the upturn was just about 11%, there was an increase of 60% in from 5860 to 9400 by 2018. The two countries with the highest number of Georgian citizens illegally in residence since 2016 is Germany [1810; 2030; 3625] followed by France [615; 910; 1440] (Chart 8)

Chart 8. Georgian nationals found to be illegally present in the Schengen+ zone - annual data (rounded). Source of data: Eurostat, access date: July, 2019



Mirroring the growing amount of negative decisions on asylum applications and subsequent illegal stays, the number of Georgian persons ordered to leave the EU has almost doubled since 2016 (Chart 9). Germany and France are still the two most affected member states, with the former proactively returning many Georgian nationals and the latter being less efficient in this regard¹⁷. While returns do not necessarily happen in the same year when the return orders are issued,¹⁸ which makes it difficult to calculate the efficiency rates for a specific period, the Eurostat data for three consecutive years clearly shows that France has indeed had very few returns compared to return orders [240/1255 in 2016; 340/1280 in 2017; 600 /2015 returns in 2018], while Germany's ratio has been

¹⁶ Javakhadze, N. 2019, June 3. Deputy Minister of Internal Affairs of Georgia. (T. Dolidze, Interviewer)

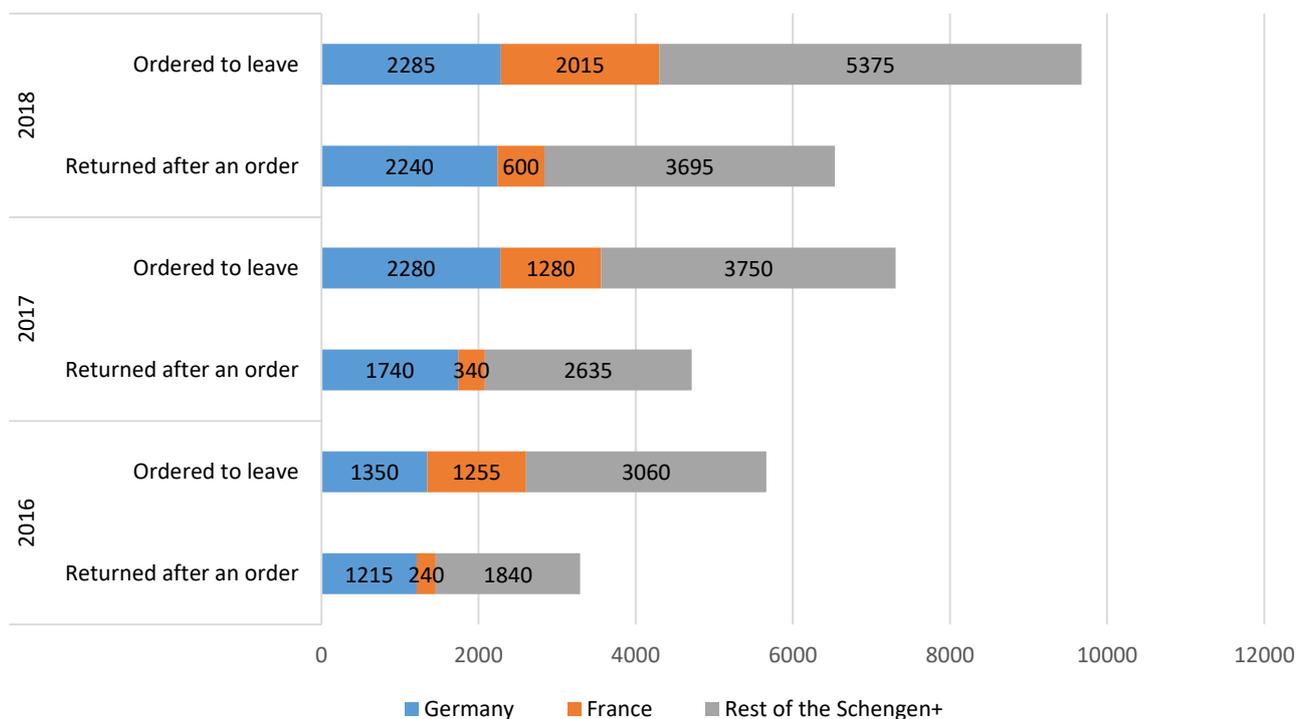
¹⁷ *ibid*

¹⁸ Return decision issued in a given month may be effectively enforced at a later date. Furthermore, return decisions may be issued without prejudice to the person's right to apply for asylum (Frontex).

much better [1215/1350 in 2016; 1740/2280 in 2017; 2240/2285/ in 2018] (Chart 9). According to the Deputy Minister of Internal Affairs of Georgia, the inherent reason why the return rates from France are so low is that the state does not prioritize migration enforcement¹⁹.

Returns are made possible through the EU-Georgia readmission agreement, the implementation of which is deemed excellent by the Member States²⁰, while non-returns can be traced to operational problems related to the identification of returnees and obtainment of the necessary documentation from Georgian authorities.

Chart 9. Georgian nationals ordered to leave the Schengen+ zone vs. Georgian nationals returned following an order to leave - annual data (rounded). Source of data: Eurostat, access date: July, 2019



Georgian OCG

The least statistically significant—but definitely not the least problematic—is the intensification of organized criminal activities by Georgian citizens in the countries of destination. Georgians are one of the most frequently reported non-EU nationals [including dual nationals] suspected in serious and organized cross-border crimes. Georgian criminal groups are, traditionally, predominantly operating in France, Greece, Germany, Italy and Spain²¹. A more recent destination for Georgian criminals is Sweden, which started to report higher numbers of ordinary crimes by Georgian citizens, including asylum seekers, soon after the visa free regime came into force²².

Most of the crimes committed by Georgians in the EU are minor and they are therefore often dismissed with no or little criminal charges made. The majority of reported cases concern low value shoplifting, mostly of foodstuff or clothing, such as the theft of fresh meat in Sweden with the

¹⁹ Javakhadze, N. 2019, June 3. Deputy Minister of Internal Affairs of Georgia. (T. Dolidze, Interviewer)

²⁰ European Commission. 2018, December 19. *Commission Staff Working Document accompanying COM(2018)856*.

Retrieved from EUR-Lex: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=SWD:2018:496:FIN>

²¹ *ibid*

²² Javakhadze, N. 2019, June 3. Deputy Minister of Internal Affairs of Georgia. (T. Dolidze, Interviewer)

intention to sell it on the black market or the well-known case of a Georgian ultra-right activist and political asylum-seeker in Germany stealing 130-euro shoes in Köln²³.

Georgian nationals are, however, also regrettably involved in serious criminal offenses [mostly organized burglaries], committed by groups run by “thieves-in-law”—a term used in the post-Soviet space for criminal bosses in the organized crime environment. However, the felonies are usually committed by Georgian Organized Crime Groups [OCGs] that became operational in the Schengen+ zone well before the visa requirement was waived. Besides, usually the thieves-in-law are not even Georgian citizens and are under the jurisdiction of Ukraine, Belarus or other post-Soviet states where they now have citizenship²⁴. Obviously these facts do not exclude possible links between Georgian OCGs and criminal bosses with visa-free travelers and asylum seekers, but they are still important factors to consider when analyzing the impact of visa liberalization on countries of destination.

The lack of relevant data makes it difficult to study the cause-effect relationship between visa liberalization and crime rates. In many of the member states, crime statistics are either not disaggregated by nationality, or are not broken down according to the residence or other legal status of the third-country nationals. Therefore, it is still a matter of judgmental discourse whether the increased number of asylum-seekers is connected to a higher security risk for the EU. Having examined the crime statistics of the countries where such differentiated data is available, however, at least a correlation between visa liberalization and crime rates can be observed. Looking deeper, what one can confidently argue is that Georgian criminals favor countries which care most about human rights, such as Sweden, and where asylum-processing times are long, such as France.

According to the Swedish sources, Georgian criminals have expanded their activities following visa liberalization and a great many of those detained in Sweden possessed an “LMA card” issued to registered asylum seekers²⁵. Similarly, French authorities report that criminal activities perpetrated by Georgian nationals in France involve a considerable number of asylum seekers who get drawn into criminal practices by organized crime networks, possibly through deception²⁶.

Adopted Countermeasures

Georgia has introduced a number of policy measures aimed at improving migration and border management to address the problems identified in the Commission’s Second Report under Visa Suspension Mechanism. The country has also taken steps to tackle the phenomenon of Georgian asylum seekers with unfounded claims in the EU. Actions taken include legal amendments, extensive bilateral cooperation, related policy reforms and information campaigns meant to (a) prevent the abuse of EU asylum systems and (b) combat organized crime.

²³ *ibid*

²⁴ *ibid*

²⁵ The European Migration Network. 2018. *Impact of visa liberalisation on countries of destination - Country Report Sweden*. Retrieved from European Commission Web site: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/27a_sweden_visa_liberalisation_en.pdf

²⁶ Commerciant. 2019, January 22. *საფრანგეთის ელჩი საქართველოსთან უვიზო მიმოსვლის შეჩერებაზე - თეორიულად არსებობს ასეთი შესაძლებლობა*. Retrieved from Commerciant Georgia: <https://commerciant.ge/ge/post/safrangetis-elchi-saqartvelostan-uvizo-mimosvliis-shecherebaze-teoriulad-arsebobs-aseti-shesadzlebloba>

Tackling the Abuse of the EU Asylum Systems

In April 2018, the Law on Civil Acts was revised to restrict the number of times a person can change his or last name. Under the new version, a last name can only be changed once, with some exceptions such as marriage or divorce²⁷. This amendment is commonly judged as efficient in terms of preventing readmitted criminal suspects from taking on new identities and reaching new visa-free destinations.²⁸ However, the segment that this law targets is very limited, and thus unlikely to make a significant difference in the overall asylum or crime statistics.

Another legal measure taken was the criminalization of aiding and abetting illegal migration, i.e. falsifying the documents and filing fabricated asylum applications for monetary rewards. The reason why the bill was introduced was the frequent reporting by Europol of cases involving Georgian criminals counterfeiting ID documents for irregular migrants trying to enter the EU²⁹. Of particular note is the fact that the bill does not raise the legal liability of irregular migrants unless the case involves an organized offense as an aggravating factor³⁰. The impact of this relatively new law is not yet readily apparent³¹.

The Georgian government has also requested the most affected member states, such as Germany, put Georgia on the 'safe country list' and examine the asylum applications from Georgia through the specific 'accelerated procedure' that this list entails³². In January 2019, the German Bundestag [the lower house] "responded" by adopting the law that would make Georgia a safe country of origin, but it still has to pass the Bundesrat [the upper house] where there is no majority for it yet since the law also aims to declare Algeria, Morocco and Tunisia as safe, which is contentious. Hence, for now, Georgia is still not considered a safe country of origin in Germany, but 14 other Schengen countries recognize it as such³³ and thus officially acknowledge that Georgia, as a whole, is not in the state of war and individuals, generally, do not suffer prosecution³⁴.

On the one hand, Georgia promoting itself as a safe country is clearly an unpopular strategy among the Georgian asylum-seekers, as 'safe' country nationals have the lowest likelihood of being granted asylum given the safety presumption against them. On the other hand, this policy is efficient in terms of discouraging people from submitting unjustified or abusive asylum bids, but, of course, is not a

²⁷ Ministry of Justice of Georgia. 2018, March 6. *საქართველოს მთავრობამ გვარის შეცვლის რეგულაციების გამკაცრებას მხარი დაუჭირა*. Retrieved from Ministry of Justice of Georgia Web site: <http://www.justice.gov.ge/News/Detail?newsId=7626>

²⁸ The Explanatory Note accompanying the draft law presented by the Ministry of Justice of Georgia specified that 8339 of Georgians had changed their last names in 2017, out of which 59 persons had done so twice and one of them - four times. Accordingly, the Ministry claimed that this civil right was being widely misused, including for the purposes of irregular migration. The text of the Explanatory Note is available at: <https://info.parliament.ge/file/1/BillReviewContent/177503?>

²⁹ European Commission. 2018, December 19. *Report from the Commission to the European Parliament and the Council: Second Report under the Visa Suspension Mechanism*. Retrieved from European Commission Web site: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20181219_com-2018-856-report_en.pdf

³⁰ Parliament of Georgia. 2019, March 15. *The Human Rights and Civil Integration Committee approved criminal sanctions for facilitation and organization of abuse of the asylum-seeking*. Retrieved from Parliament of Georgia Web site: <https://bit.ly/2KuXVJI>

³¹ Javakhadze, N. 2019, June 3. Deputy Minister of Internal Affairs of Georgia. (T. Dolidze, Interviewer)

³² Baikova, V. 2019, May 30. Head of Division for Eastern Partnership, Policy Planning and Analysis at the Ministry of Foreign Affairs of Georgia. (T. Dolidze, Interviewer)

³³ Belgium, France, Liechtenstein, Austria, Bulgaria, Netherlands, Iceland, Luxembourg, Estonia, Denmark, Czech Republic, Cyprus, Slovenia and Switzerland are the 14 Schengen+ countries that recognize Georgia as the safe country of origin and thus apply process asylum-applications by Georgian nationals through a special 'accelerated procedure'. So does Ireland, which does not belong to the Schengen+ zone.

³⁴ Ministry of Foreign Affairs of Georgia. 2019, June 13. *Slovenia recognizes Georgia as a safe country of origin*. Retrieved from Ministry of Foreign Affairs of Georgia Web site: <http://www.mfa.gov.ge/News/sloveniam-saqartvelos-usafrikho-carmoshobis-qveyna.aspx?lang=en-US>

panacea. The reality of long procedures facing third country nationals seeking asylum in Europe is much different from the deadlines set on paper, be it under the normal or accelerated procedure³⁵.

Case in point: Georgia has been on the French ‘safe country of origin’ list since 2005 [with a pause between the years 2009 and 2013 following the Russo-Georgian war³⁶], but the high number of bogus asylum claims by Georgians still remains an “anomaly” in France, according to French Minister of Interior Christophe Castaner³⁷. In theory, the asylum-granting procedure for those originating from “safe countries” is at maximum a three-month process [including appeal],³⁸ but it can take more than a year in practice^{39,40}. In the particular case of Georgian asylum claims, on average the decision-making process took 440 days in 2018⁴¹, which is what makes France attractive to Georgian asylum-seekers notwithstanding the “safety presumptions” standing in their way.

Turning to the question of those already refused asylum and ordered to leave the country, Georgia engages in facilitating both forced and voluntary returns under the framework of EU-Georgia Agreement on the Readmission of Persons Residing Without Authorization⁴². Georgia’s cooperation on readmission is exemplary as a large majority of readmission requests are normally approved by the Georgian side while at the same time being handled within the time limits specified in the relevant agreement⁴³.

Georgia has also developed an Electronic Readmission Case Management System to facilitate the process of receiving and reviewing readmission applications, which is already used by 17 partner countries, and it has introduced an electronic travel document (available for use alongside the hard copy in the process of readmission⁴⁴). The Georgian authorities are also committed to strengthening border management through scaling up cooperation with the European Border and Coast Guard Agency. Last year 1114 Georgians were returned from the EU within the framework of Frontex-supported operations⁴⁵.

What is more, three waves of intensive public information campaigns funded jointly by the EU and the Georgian government have been conducted pre- and post- visa liberalization. Preventive

³⁵ Asylum Information Database. 2016, October. *The length of asylum procedures in Europe*. Retrieved from European Council on Refugees and Exiles: <https://www.ecre.org/wp-content/uploads/2016/10/AIDA-Brief-DurationProcedures.pdf>

³⁶ ACAT France. 2015, August 4. *Des pays d'origine sûrs ? Pas si sûr. L'exemple de la Géorgie*. Retrieved from ACAT France Web site: <https://www.acatfrance.fr/actualite/des-pays-dorigine-surs---pas-si-sur---lexemple-de-la-georgie>

³⁷ Le Monde. 2019, May 10. *La France veut lutter contre l'« anomalie » des demandes d'asile géorgiennes*. Retrieved from Le Monde: https://www.lemonde.fr/societe/article/2019/05/10/la-france-veut-lutter-contre-les-demandes-d-asile-georgiennes_5460738_3224.html

³⁸ Decision-making is set to 15 calendar days, appeals can be made 1 month after the negative decision, and the final verdict needs to be settled within 5 weeks.

³⁹ Asylum applications channeled into the accelerated procedure normally represent roughly 40% of the French caseload [including the reexaminations] (<https://www.ofpra.gouv.fr/fr/l-ofpra/nos-publications/rapports-d-activite-2016-2017-2018>), which is a high percentage that translates into the delays in processing the claims.

⁴⁰ Forum Réfugiés - Cosi. 2019. *Accelerated Procedure: France*. Retrieved from Asylum in Europe:

<https://www.asylumineurope.org/reports/country/france/asylum-procedure/procedures/accelerated-procedures>

⁴¹ Mathieu, M., & Riondé, E. 2019, July 1. *Face à «l'anomalie» de la demande d'asile géorgienne, Castaner dégage un Boeing 737*. Retrieved from Mediapart: [https://www.mediapart.fr/journal/france/010719/face-l-anomalie-de-la-demande-d-asile-georgienne-castaner-degaine-un-boeing-737?utm_source=article_offert&utm_medium=email&utm_campaign=TRANSAC&utm_content=&utm_term=&xtor=EPR-1013-\[article-offert\]&M_BT=753246174816](https://www.mediapart.fr/journal/france/010719/face-l-anomalie-de-la-demande-d-asile-georgienne-castaner-degaine-un-boeing-737?utm_source=article_offert&utm_medium=email&utm_campaign=TRANSAC&utm_content=&utm_term=&xtor=EPR-1013-[article-offert]&M_BT=753246174816)

⁴² Official Journal of the European Union. 2011, February 25. *Document 22011A0225(03): Agreement between the European Union and Georgia on the readmission of persons residing without authorisation*. Retrieved from EUR-Lex: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A22011A0225%2803%29>

⁴³ European Commission. 2018, December 19. *Report from the Commission to the European Parliament and the Council: Second Report under the Visa Suspension Mechanism*. Retrieved from European Commission Web site: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20181219_com-2018-856-report_en.pdf

⁴⁴ *ibid*

⁴⁵ European Border and Coast Guard Agency. 2019, February. *Risk Analysis for 2019*. Retrieved from ReliefWeb: https://reliefweb.int/sites/reliefweb.int/files/resources/Risk_Analysis_for_2019_0.pdf

information campaigns were promoting visa-free travel rules, while reactive ones have attempted to deal with the problem of unfounded asylum claims using both positive and negative campaigning strategies. In 2018, the Information Center on NATO and EU organized 165 related events, 158 of which were face-to-face events with relevant audiences throughout Georgia⁴⁶.

Nevertheless, the findings of assessment reports [internal use only] prepared by the Ministry of Foreign Affairs suggest that the activities have not produced adequate results⁴⁷. The reason, reportedly, lies in the power of success stories told by relatives, neighbors and acquaintances as their words speak louder than the persuasive or intimidating arguments the campaigners might employ⁴⁸.

A joint action plan with the Commission was developed following the April 2019 visit of Deputy Director of DG Home Simon Mordue, which includes most of the measures identified above, along with a plan of actions to be taken in the near future⁴⁹. The document is not public though, which makes it impossible to assess its potential impact.

Combating Organized Crime

In April, 2018, two amendments were introduced to the Georgian Law on Organized Crime and Racketeering, the Criminal Code and the Civil Procedure Code, extending the state's criminal jurisdiction over crimes committed by Georgian citizens abroad⁵⁰. Correspondingly, the Georgian Interior Ministry is actively involved in efforts aimed at suppressing the activities of Georgian OCGs in the entire Schengen zone. Pro-active measures include collaboration with Europol, prompt exchange of crime-related information, the expansion of the Georgian Police Attaché network and joint operations.

In 2017, Georgia signed an Operational and Strategic Cooperation Agreement with Europol. Subsequently, an International Law Enforcement Cooperation Center [ILECC] was formed within the Central Criminal Police Department of the Ministry of Internal Affairs of Georgia acting as the national contact point between Georgia and Europol. Later in 2018, a Europol National Unit was established within the ILECC⁵¹. From January 1, 2018 till today, Georgian police and Europol have executed 21 joint operations across Europe and detained 166 members of Georgian criminal organizations, among which 10 were thieves-in-law⁵². Similarly, in April 2019, Georgia and the EU's Judicial Cooperation Unit [Eurojust] signed an agreement on cooperation in criminal matters aimed at stepping up the joint struggle against cross-border organized crime across the EU [and South Caucasus]⁵³.

⁴⁶ Bolkvadze, N. 2019, July 1. Director of NATO and EU Information Center. (T. Dolidze, Interviewer)

⁴⁷ Baikova, V. 2019, May 30. Head of Division for Eastern Partnership, Policy Planning and Analysis at the Ministry of Foreign Affairs of Georgia. (T. Dolidze, Interviewer)

⁴⁸ Bolkvadze, N. 2019, July 1. Director of NATO and EU Information Center. (T. Dolidze, Interviewer)

⁴⁹ Baikova, V. 2019, May 30. Head of Division for Eastern Partnership, Policy Planning and Analysis at the Ministry of Foreign Affairs of Georgia. (T. Dolidze, Interviewer)

⁵⁰ European Commission. 2018, December 19. *Commission Staff Working Document accompanying COM(2018)856*. Retrieved from EUR-Lex: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=SWD:2018:496:FIN>

⁵¹ European Commission. 2018, December 19. *Report from the Commission to the European Parliament and the Council: Second Report under the Visa Suspension Mechanism*. Retrieved from European Commission Web site:

https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20181219_com-2018-856-report_en.pdf

⁵² Javakhadze, N. 2019, June 3. Deputy Minister of Internal Affairs of Georgia. (T. Dolidze, Interviewer)

⁵³ European External Action Service. 2019, April 1. *Georgia and Eurojust sign cooperation agreement*. Retrieved from European External Action Service Web site: https://eeas.europa.eu/delegations/georgia/60453/georgia-and-eurojust-sign-cooperation-agreement_en

The Georgian government additionally works with EU member states in bilateral formats, which involves sending police attachés to crime-affected countries and assisting the local police in investigating or preventing crimes involving Georgian suspects. Bilateral arrangements formally exist with 17 European countries and can be activated at any moment. For the time being though, the Georgian Ministry of Internal Affairs cooperates most intensively with France⁵⁴. The Georgian Interior Ministry also shares criminal data and intelligence with the European countries concerned to assist the local police in investigations and special operations involving Georgian nationals. Information sharing also includes operational know-how about the Soviet criminal culture, which is personified in the phenomenon of the “thieves-in-law”.

On the whole, the fact that Georgia’s visa-free deal with the EU is not yet facing an immediate danger can mostly to be attributed to the excellent performance on readmissions and close anti-crime cooperation, while information campaigns, reportedly, play little if any role in regulating illegal migration.

The Sword of Damocles – Observations and Recommendations

The European Union commends Georgia for its cooperative attitude and the efforts it has made to tackle abuse of the EU’s asylum systems, but Brussels remains alarmed about the rising number of bogus asylum claims and undocumented migrants from Georgia, as well as the crimes committed by Georgian OCGs.

The European side has expressed hope that the number of claims will fade with time⁵⁵. The hike is characteristic to the early stages of visa liberalization, and the numbers will most likely reach a peak and then stabilize once those that were rejected return to Georgia and share their negative experiences.

In any event, Georgia cannot afford to adopt a policy of strategic patience and wait for natural developments to bring down the numbers. The Georgian government needs to be proactive, work with the Commission on the implementation of the above-mentioned joint action plan and continue efforts in bilateral and trilateral formats involving the Commission. **Georgia should strengthen cross-border law enforcement cooperation directed against Georgian organized crime groups and expand the police attaché network. The mandates of police officers could further be extended to cover migration policy, beyond the cases involving crime, to share know-how and help in profiling.**

By an unfortunate coincidence, France and Germany, which are the two top countries of destination for the Georgian asylum seekers, irregular migrants and criminals, are also where local far-right, pro-Russian groups are the most active. These destructive forces use the momentum of the slightest problem to ruin Georgia’s image in Europe by making highly critical political statements or publishing prejudiced articles in print and online⁵⁶. With ultra-rights consolidating their positions in leading Member States, visa suspension could become a political reality and prove detrimental to Georgia’s European future. **Georgian efforts should therefore be directed at fighting the propaganda simultaneously while fighting to bring down the numbers,**

⁵⁴ Javakhadze, N. 2019, June 3. Deputy Minister of Internal Affairs of Georgia. (T. Dolidze, Interviewer)

⁵⁵ Csaki, M. 2019, June 10. Deputy Head of Political, Press and Information Section at the EU Delegation to Georgia. (T. Dolidze, Interviewer)

⁵⁶ Javakhadze, N. 2019, June 3. Deputy Minister of Internal Affairs of Georgia. (T. Dolidze, Interviewer)

which are problematic, but have not proven to be a game changer in the wider context of Europe's migratory problems.

Apart from the reactive measures taken to tackle the abuse of the EU's migration system and fight organized crime, Georgia should employ a comprehensive preventive strategy. **In the long term, the best prevention would be to establish conditions conducive to the economic and social welfare of the Georgian people, but in the short run, legally arranged circular migration schemes between Georgia and the EU could help solve the problem of unauthorized employment and illegal stays by Georgian citizens in the Schengen zone.**

Joint information campaigns should also continue as a part of the integrated preventive strategy. **Strengthening the negative awareness raising component in the campaign strategy might be helpful. Campaigners should aim at deterring potential perpetrators by warning them about the legal consequences and punishments that illegal migration and organized crime entail, as well as the human disasters that can result from 'asylum shopping.'**⁵⁷ Telling personal stories of failures could prove more effective than the provision of statistics.

Meanwhile, the most affected member states should accept part of the responsibility and reform their asylum policies and border management systems, rather than expect the problems to be solved by Georgia alone. For example, it is redundant to impose legal restrictions on changing last names to facilitate the identification of the traveler, when the chip embedded in the Georgian biometric passport already contains all the information necessary to authenticate the visitor's identity. Besides, the identity number remains the same no matter how many times you change your family name. Yet, Georgia had to amend the law as its microprocessor chips apparently proved too advanced for EU scanners to read.

It appears that the Georgian government is committed to doing its utmost, but it is not fully within Georgia's power to halt unfounded asylum claims and irregular migration to the Schengen zone. For example, it is up to destination countries to reduce the long processing times of the asylum requests that attract Georgian migrants. **What Georgia can do, and is doing, is to share with the EU all the necessary information about the social and healthcare services the state offers to its citizens in order to facilitate the recognition of unfounded asylum requests as well as suggest Georgia's inclusion in the 'safe country' list. Yet, it remains the prerogative of the individual state to make use of the provided information, assign the 'safe country' status and then ensure that the asylum procedure is rapidly completed and short deadlines for the consideration of appeals are actually met. It is also their responsibility to make sure that rejected asylum seekers either leave voluntarily or are deported, and to impose Schengen entry bans of a few years in such cases.**

Likewise, the European Union should give Georgia access to the data kept in the Schengen Information System or at least compile the relevant information and send it to Georgian Ministry of Interior agencies so that its work becomes more efficient.

With regard to border management strategies, the Commission insists that Georgia amend the Law on the Rules and Procedures for Georgian Citizens Exiting and Entering Georgia to allow Georgian border guards to prevent their co-nationals from traveling to the Schengen+ zone based on criteria similar to those set in the Schengen Border Code. This draft law is still pending in the Parliament of Georgia as it contradicts Article 14 of the Georgian Constitution which guarantees that "Everyone lawfully staying in Georgia shall have the right to... leave Georgia freely." The current restrictions on

⁵⁷ Asylum shopper is the asylum seeker "travelling to the desired destination, where the chances for being granted full refugee status are best and better living conditions are expected" (Dublin III Regulation).

that right are not directly applicable for the purpose of safeguarding visa-free travel with the EU⁵⁸. Besides, exit controls would deprive the visa-free movement of the quality that makes it so appealing to the Georgian population.

Restrictions of the right of Georgian citizens to free movement would, therefore, be legally problematic and politically costly. **As a counter proposal, Georgia could offer to immediately return any travelers that are refused entry at the Schengen+ border. Alternatively, Georgia could let Frontex officers assume the responsibility, scan for the undocumented migrants at the Georgian border crossing points and alert the border guards of the destination countries when needed. It is of critical significance to make sure any tightening of border controls does not violate the fundamental right to freedom of movement.**

However, at this point, the Georgian side ought to do its best to avoid this extreme measure. In 2021 the European Travel Information and Authorization System [ETIAS] will become operational. ETIAS supposes an electronic pre-travel check for non-visa-requiring citizens to verify that they meet entry requirements before traveling. It will complement EU's visa free regimes with 62 countries including Georgia and is expected to make border management more effective and secure⁵⁹.

Still, additional measures are necessary for border control and border management within the Union. Currently there are no fully integrated EU external borders, and no electronic system that includes built-in EU-wide content to identify travelers unless the person is listed in the Schengen Information System or wanted by Interpol⁶⁰. An EU Entry/Exit System (EES) is in the process of being established and will allow for entry and exit data to be compiled and checked electronically⁶¹. This is an important step forward, but much remains to be done for effective information sharing between the member states. For example, currently even if the Common European Asylum System contains fingerprint datasets, they are incomplete and inter-Schengen returns under the Dublin Regulation are notoriously difficult. Besides, an asylum applicant can submit repeated claims arguing that there are new threats against them back home or that they have obtained new evidence. Basically, once the Schengen zone is reached, shopping for the most attractive regime of protection is a common practice, just as when Georgian asylum-seekers came together in France and turned Montpellier and Strasbourg into tent cities, expressing their readiness to move to other EU states if they were rejected⁶².

In closing, it is unlikely that the visa suspension mechanism will be triggered, in part due to upcoming parliamentary elections in Georgia in October 2020, the forthcoming Council presidency of Germany and the overall political sensitivity of the issue serving as a shield protecting the EU-Georgia visa-free deal. But the risk that it could be triggered remains leverage for both the European Union and pro-Russian forces and it hangs like a Sword of Damocles over Georgia's European future.

⁵⁸ Parliament of the Republic of Georgia . 1995, August 24. Constitution of Georgia. Retrieved from Legislative Herald of Georgia: <https://matsne.gov.ge/en/document/view/30346?publication=35>

⁵⁹ Schengen Visa Information. 2019, April 3. ETIAS – European Travel Information and Authorisation System . Retrieved from Schengen Visa Info: <https://www.schengenvisainfo.com/etias/>

⁶⁰ Javakhadze, N. 2019, June 3. Deputy Minister of Internal Affairs of Georgia. (T. Dolidze, Interviewer)

⁶¹ Schengen Visa Information. 2019, April 3. ETIAS – European Travel Information and Authorisation System . Retrieved from Schengen Visa Info: <https://www.schengenvisainfo.com/etias/>

⁶² Nutsubidze, T. 2019, May 31. *I will never return to Georgia - "Courier" filmed Tent Street in Strasbourg* . Retrieved from Rustavi2 Official Website: <http://rustavi2.ge/en/news/134875?fbclid=IwAR3OaEO9tst8-aBqp8SVzdibv0qIt8nnDGpT7a2euOD7MOcelz15OGwYuGA>

Five Years of EU-Moldova Visa Free Travel

by Iulian Rusu**

Executive Summary

The visa free travel regime with the EU is considered one of the key results of EU-Moldova cooperation since the Eastern Partnership (hereinafter EaP) was launched in May 2009. To date, over 2.1 million Moldovan citizens (over 60% of the population) have travelled to the EU without visas. Moldova continues to respect the requirements for visa free travel to the EU: state-issued documents comply with the International Civil Aviation Organisation (ICAO) security standards. The number of asylum applications from Moldovan citizens to EU countries has increased from 480 in 2014 to 3,835 in 2018. However, the number is still relatively small. The application of the readmission agreement with the EU is well implemented. The Moldovan government has generally complied with requests for readmission of Moldovan citizens and third country nationals.

Some issues remain problematic, however. For instance, important policy actions are needed to reduce the risks of money laundering. Specifically, off-shore jurisdictions should be excluded from certain categories of transactions (including privatisation, public procurement, concessions and public-private partnerships) and there should be increased monitoring of suspicious transactions as well as improved mechanisms for freezing and seizing illegal funds. Additional data from abroad is essential to identify the real assets of public officials and investigate their source. That will allow the Moldovan public to hold officials accountable if allegations are proven, thus reducing the risks of corruptive or criminal activities.

Overview of the Visa Free Travel With the EU

The visa free travel regime with the EU is considered one of the key results of EU-Moldova cooperation since the Eastern Partnership was launched in May 2009. To date, over 2.1 million Moldovan citizens (over 60% of the population) have travelled to the EU without visas. They have crossed the Moldovan border to travel to EU member states over 6.25 million times. The majority of the travellers were between 18 and 36 years old (i.e. 62.88%), while 23.2% were over 46 years old.⁶³

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⁶³ Ministry of Foreign Affairs and European Integration, press release "More than 2 million Moldovan citizens have freely travelled to the EU in the last 5 years", 28 April 2019, available at: <https://www.mfa.gov.md/en/content/more-2-million-moldovan-citizens-have-freely-traveled-eu-last-5-years>, last access on 31 July 2019

Visa free travel with the EU, coupled with the liberalisation of the air space in 2012 when Moldova acceded to the EU's Common Aviation Area, has increased travel by Moldovan citizens to the EU. The majority of the citizens still use cars, buses and trains to reach to the EU, however the number of those who use airplanes has increased significantly. During the period of April 2014 to March 2019, around 372,000 citizens travelled to the EU via Chisinau international Airport.⁶⁴ That trend has been bolstered by the fact that flight tickets have become cheaper and low-cost companies have introduced new destinations between EU member states and the Moldovan capital Chisinau. In general, visa free travel to the EU has provided additional opportunities for improved mobility and enhanced people-to-people contacts for young people, families, tourists and businesspeople.

Moldova continues to respect the requirements for visa free travel to the EU in line with the government's commitments following the EU-Moldova Association Agenda for 2017-2019.

The country is cooperating well on the readmission and return of its citizens. According to Frontex data, the number of refusals of entry to the EU is low with a rate of 0.3% out of all entries, while illegal stay were about 0.5% out of the total number of entries.⁶⁵ The number of Moldovan asylum seekers in the EU has remained relatively low despite an increase in 2018, and the average asylum recognition rate in the EU stayed in the range of 1.35% (2017 data).⁶⁶ However, the European Commission stressed in its December 2018 Report on the Visa Suspension Mechanism that, in order to fully comply with their obligations, Moldovan authorities still need to effectively implement the Law on the Prevention and the Fight Against Money Laundering, including the declaration of assets and interests, the fight against corruption and the effective recovery of proceeds of crime. The Commission also pointed to the need to review the conditions of tax incentives and the "citizenship through investment" introduced in 2018.

In the next three sections we will provide a brief assessment of the main results and challenges of visa free travel with the EU, focusing in particular on the key issues that have required continuous efforts from the Moldovan authorities after 28 April 2014, in the areas of (1) the security of documents, (2) irregular migration and readmission, and (3) public order and security.

Security of Documents

The key policy measures required from the Moldovan government in order to implement the Visa Liberalization Action Plan (VLAP) included the introduction of biometric travel documents for its citizens. As a result of continuous efforts, the documents issued by Moldovan authorities comply with the standards of the International Civil Aviation Organisation (ICAO) on document security. This concerns not only travel and ID documents for citizens, but also those for foreigners, including stateless persons and applicants and beneficiaries of refugee status. In 2009 the Republic of Moldova also joined PRADO—the online Public Register of Authentic Identity and Travel Documents of the Council of the European Union. Moldovan biometric passports with security features were added to the register in 2018.⁶⁷

Particular attention was given to enhancing control over the civil status documents issued to Moldova citizens residing in the Transnistrian region. Several steps have been taken to improve the security of biometric documents issued to Moldovan citizens born in that region. These include the

⁶⁴ Data from the Moldovan Border Police, 20 May 2019

⁶⁵ European Commission, "Second Report under the visa suspension mechanism", *COM(2018) 856*, Brussels, December 18, 2018, Available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20181219_com-2018-856-report_en.pdf, last access on 31 July 2019

⁶⁶ Ibid.

⁶⁷ More information on the types of passports may be found at: <https://www.consilium.europa.eu/prado/en/prado-documents/MDA/A/docs-per-category.html>, last access on 31 July 2019

digitalization of the archives of civil status documents as well as the development of methodologies to identify Moldovan citizens from the Transnistrian region via access to information from relatives and other confirmation tools.⁶⁸ Moldovan citizens residing in the Transnistrian Region and applying for their first biometric passport were exempted from passport fees as part of a special government policy to increase trust. The Moldovan authorities recognise birth confirmation documents issued by doctors from the region. These documents, once they are cross-checked with civil status documents, can serve as the basis to issue a birth certificate and subsequently a national ID and a biometric passport. These documents may be obtained at the multifunctional centres of public services of the Public Services Agency.

As of 1 April 2019, over 2.3 million citizens of the Republic of Moldova (over 65% of the total population), including over 167,000 citizens residing in the Transnistrian region, had been issued biometric passports.⁶⁹ According to the official data provided by the Moldovan MFA, compared with the total number of Moldovan citizens that have travelled to the EU since 28 April 2014, over 91% of Moldovan citizens holding biometric passports have used them to visit the EU in the last 5 years.

Irregular Migration And Readmission

Border Management

In the area of border management, important reforms were carried out at the institutional level to professionalize the border guard service, transforming it from a military structure to a border police force—a civil service body. Already in 2011, the parliament of Moldova approved the law on border police⁷⁰ and the law on the state border of the Republic of Moldova.⁷¹

At the capacity building level, the effectiveness of the border police and the available infrastructure including technical equipment were improved, including with funds from the development partners, including the EU, US and UN. The government approved consecutive strategies on integrated border management and the related implementation plans for the years 2011-2013,⁷² 2015-2017⁷³ and 2018-2023.⁷⁴ No major issues related to the implementation of the strategy have been so far identified. A special contribution to strengthening policies and institutional and operational capacities in the implementation of the integrated border management strategies has been provided by the EU Border Assistance Mission to Moldova and Ukraine (EUBAM).⁷⁵ The EUBAM has been present in Moldova since 2005 and currently has a staff of 132 people, out of which 50 are from 11 EU Member States and 82 are Moldovan and Ukrainian nationals. The mandate of the EUBAM is to assist the

⁶⁸ Interview with Ms. Olga Poalelungi, Director of the Bureau for Migration and Asylum, held on 15 June 2019, Chisinau, Republic of Moldova

⁶⁹ Interview with Ms. Daniela Morari, State Secretary of the Ministry of Foreign Affairs and European Integration, held on 7 June 2019, Chisinau, Republic of Moldova

⁷⁰ Law no. 283 from 28.12.2011 on the border police, available in Romanian at: <http://lex.justice.md/md/342897/>, last access on 31 July 2019

⁷¹ Law no. 215 from 04.11.2011 on the state border of the Republic of Moldova, available in Romanian at: <http://lex.justice.md/md/342894/>, last access on 31 July 2019

⁷² Government Decision no. 1212 from 27.12.2010 on the approval of the National Strategy of integrated border management for years 2011-2013, available in Romanian at:

<http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=337349>, last access on 31 July 2019

⁷³ Government Decision no. 1005 from 10.12.2014 on the approval of the National Strategy of Integrated border management for years 2015-2017 and its implementation Plan, available in Romanian at:

<http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=355944>, last access on 31 July 2019

⁷⁴ Government Decision no. 1101 from 14.11.2008 on the approval of the National Strategy of Integrated border management for years 2018-2023 and its implementation Plan for 2018-2020, available in Romanian at:

<http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=378310>, last access on 31 July 2019

⁷⁵ European Union Border Assistance Mission, Available at: <http://eubam.org/>, last access on 31 July 2019

harmonisation of the border control, customs and trade standards and procedures. In 2017 the mandate of the mission was extended until the end of 2020.

The border police also enhanced their cooperation with the EU's border agency Frontex (now European Border and Coast Guard) by ensuring the constant exchange of information on crossings at Moldovan frontiers. The border police also benefitted from support under the Eastern Partnership IBM Capacity Building Project, involving hardware as well as training and experience exchange. In 2018 the Moldovan Border Police Inspectorate and Frontex signed a new Cooperation Action Plan for the years 2018-2020,⁷⁶ aimed at further improving the exchange of data on migratory flows and the use of relevant data to combat cross border crime as well as providing technical assistance to the Moldovan authorities.

In 2018, the IOM Office in Moldova launched a new EU-funded Project (EUR 4.75 million) to further improve Integrated Border Management (IBM) in Moldova and the transparency and operational capacity of Moldovan and Ukrainian border and customs authorities.⁷⁷ To date seven joint border crossing points (JBCPs) on the Moldovan-Ukrainian border are functioning, including one on the Transnistrian segment of the border with Ukraine. A roadmap to open another seven JBCPs on the Transnistrian segment for the period 2019-2022 is being implemented. In November 2018,⁷⁸ the Moldovan and Romanian Border Police agreed to conduct joint mobile patrols of the border, although there is no joint control at the Moldovan-Romanian border crossing points. The still pending decision to accept Romania in the Schengen area may prevent the JBCPs from opening at the Romanian-Moldovan border.

Migration Management

The Bureau for Migration and Asylum (BMA) was created in Moldova in 2005 as a specialized central public administration body responsible for the management of migration and of asylum applications, in line with the international commitments Moldova undertook in the areas of labour, migration and asylum. Regulations passed in 2014 enhanced the bureau's functions,⁷⁹ giving it additional functions and resources to manage the stay of foreigners, both short and long term, including the management of individuals illegally staying in the country. The bureau is responsible for the registration of foreigners in Moldova, including of stateless persons and asylum applicants. The BMA also contributes to the implementation of the 2016-2020 action plan⁸⁰ related to the National Strategy on Migration and Asylum for 2011-2020. The action plan concerns international cooperation on migration, implementation of emigration and immigration policies, the fight against illegal stay, and the delivery of asylum and stateless persons protection as required by Moldova's international commitments.

Since 2010, Moldovan authorities have developed and regularly updated the Extended Migration Profile of the Republic of Moldova with support from IOM.⁸¹ This document is an analytic tool which

⁷⁶ Press release may be found at: <https://frontex.europa.eu/media-centre/news-release/frontex-and-moldova-sign-new-cooperation-plan-glADrH>, last access on 31 July 2019

⁷⁷ More information on the mission of the IOM project may be found at: <https://iom.md/sites/default/files/publications/docs/IBM%20Project%20Leaflet.pdf>, last access on 31 July 2019

⁷⁸ More information on the common border patrol may be found at: <https://www.politiadefrontiera.ro/ro/main/i-patrolare-in-comun-la-frontiera-cu-republica-moldova-14876.html>, last access on 31 July 2019

⁷⁹ Government Decision no. 914 from 07.11.2014 on the approval of the Regulation on the organization and functioning of the Bureau for Migration and Asylum, available in Romanian at: <http://lex.justice.md/md/355409/>, last access on 31 July 2019

⁸⁰ The Action Plan is available in Romanian at: <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=365369>, last access on 31 July 2019

⁸¹ The latest Extended Migration Profile of the Republic of Moldova is available in English at: <http://iom.md/sites/default/files/publications/docs/Extended%20Migration%20Profile%20of%20the%20Republic%20of%20Moldova%202010-2015.pdf>, last access on 31 July 2019

presents migration trends in Moldova over a 5-year period, with yearly updates of the main statistical figures.⁸² This is an excellent informational tool to design and adjust migration policies in the country based on identified trends, and to set priorities for the coming years in the area of migration management including illegal migration and the negotiation and conclusion of additional readmission agreements.

The entry and stay of foreigners in Moldova is regulated by a number of requirements such as the existence of a visa,⁸³ which is currently required from citizens of 120 states, and the availability of an invitation,⁸⁴ which is a requirement for the citizens of 35 states. The visa regime for EU citizens has been abolished since 2007. The Moldovan Government started issuing e-visas on 1 August 2014 to streamline the visa process.⁸⁵ This process has reduced the formalities for many foreigners to enter Moldova, but it has increased the burden on the national authorities to manage the foreigners in the country, as less information is collected compared to the previous visa applications at the Moldovan embassies and consulates.

The 10th anniversary of the EU-Moldova Mobility Partnership was marked in 2018. This instrument has been vital to ensure the implementation of migration-related measures under the visa liberalisation action plan (VLAP). To date, over 100 projects have been implemented in the field of migration cooperation with the support of 16 EU member states, the European Commission, Frontex, the European Training Foundation and ICMPPD (International Centre for Migration Policy Development, an intergovernmental body with 17 participating states). One of the key priorities for the future development of the EU-Moldova Mobility Partnership is to continue to strengthen the human and institutional capacities of the relevant Moldovan authorities in the area of migration and security and to involve more actively civil society organizations in the field of migration management.

In its second Visa Suspension Mechanism Report, the Commission identified good results in the implementation of the national migration management policies, particularly on aspects of awareness campaigns for Moldovan nationals.

Asylum Policy

In the context of VLAP implementation, additional measures were taken to process asylum applications in Moldova as well as to address the issue of the mostly unfounded asylum applications of Moldovan citizens in EU member states. Among other things, the Law on the Integration of Foreigners⁸⁶ was adopted and the implementation of the Law on Asylum was improved.⁸⁷

The number of asylum applications in Moldova is relatively small. In mid-2019, 530 persons were registered as asylum seekers or beneficiaries of international protection in Moldova: 110 asylum seekers, 165 refugees and 255 beneficiaries of international protection.⁸⁸ There are two distinct

⁸² The latest statistical compendium is available in Romanian at:

http://bma.gov.md/sites/default/files/media/cs_pme_2017.pdf, last access on 31 July 2019

⁸³ Government Decision no. 50 from 15.01.2013 on the approval of the Regulations on the issuance of visas, available in Romanian at: <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=346380>, last access on 31 July 2019

⁸⁴ Government Decision no. 311 from 05.05.2011 on the issuance of invitations for foreigners, available in Romanian at: <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=338513>, last access on 31 July 2019

⁸⁵ More information on the e-visa requirements may be found at: <https://www.evisa.gov.md>, last access on 31 July 2019

⁸⁶ Law no. 274 from 27.12.2011 on the integration of foreigners in the Republic of Moldova, available in Romanian at: <http://lex.justice.md/viewdoc.php?action=view&view=doc&id=342438&lang=1>, last access on 31 July 2019

⁸⁷ Law no. 270 from 18.12.2008 on asylum, available in Romanian at: <http://lex.justice.md/md/330978/>, last access on 31 July 2019

⁸⁸ The national legislation defines the asylum seekers, beneficiaries of refugee status and beneficiaries of international protection as three distinct groups; more detailed information is available in Romanian at:

<http://bma.gov.md/ro/content/ziua-mondială-refugiatului-1>, last access on 31 July 2019

procedures for asylum in Moldova: regular and accelerated. The accelerated procedures are applied when applications are believed to be unfounded or when the person who applies for asylum represents a threat to the national security of the country.⁸⁹ The integration centres for foreigners offers accommodation for asylum seekers. These centres also support persons holding refugee or international protection status, with integration services, including assistance with social integration and economic life.

Implementation of the Readmission Agreement with the EU

The EU and the Republic of Moldova concluded in 2007 the Agreement on the Readmission of Persons residing without Authorization⁹⁰ (hereinafter the Readmission Agreement), which entered into force in January 2008. The Readmission Agreement was negotiated and agreed between the EU and Moldova as part of the process of visa facilitation. It sets the key rules for the readmission of Moldovan and third-country nationals. Up until now Moldova has concluded implementation protocols with the following EU member states: Austria, Bulgaria, Belgium, Czech Republic, Denmark, Estonia, Italy, Hungary, Germany, Greece, Latvia, Lithuania, Luxemburg, Malta, the Netherlands, Poland, Romania, Slovakia, Slovenia and Spain.⁹¹ Additionally, Moldova has concluded agreements on readmission with Norway and Switzerland.

With respect to non-EU, non-Schengen states, Moldova has concluded readmission agreements with Albania, Bosnia and Hercegovina, Georgia, Kazakhstan, Macedonia, Montenegro, Serbia, Turkey and Ukraine. A rather complex matter is the on-going negotiations and conclusion of readmission agreements with Armenia and Azerbaijan, due to the unresolved territorial dispute between the two countries.⁹²

The identification of Moldovan citizens without identification documents in the EU requires diligence from both the concerned EU member state and the Moldovan authorities. Thus, targeted verification questions related to the origin of the person who claims to be a Moldovan national are asked, such as the description of the place of origin for example. This is an important tool to ensure that third-country nationals are not wrongly identified as Moldovan nationals, which would require readmission and result in transport costs. This condition was described as particularly relevant in the case of Kazakhstan nationals of Roma ethnicity claiming to have Moldovan citizenship.

Pursuant to the EU-Moldova readmission agreement, Moldova also has to readmit irregular third country nationals who have reached an EU member state via Moldovan territory and either have stayed legally or illegally in Moldova or transited illegally through Moldovan territory. This obligation poses an important burden on the Moldovan government to ensure that third-country nationals are registered on the territory of Moldova, with subsequent appropriate actions of return or integration in case of founded asylum applications. The BMA is the central authority tasked with dealing with foreigners who are detected in Moldova without authorisation and managing the complex process of readmitting Moldovan and third-country nationals.

⁸⁹ Interview with Ms. Olga Poalelungi, Director of the Bureau for Migration and Asylum, held on 15 of June 2019, Chisinau, Republic of Moldova; article 62, 63 of the Law no. 270/2008 on asylum, available in Romanian at: <http://lex.justice.md/md/330978/>, last access on 31 July 2019

⁹⁰ Agreement between the European Community and the Republic of Moldova on the readmission of persons residing without authorisation, available in English at: [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22007A1219\(10\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22007A1219(10)&from=EN), last access on 31 July 2019

⁹¹ A complete list of bilateral agreements may be consulted in Romanian at: https://www.mfa.gov.md/sites/default/files/lista_tratatelor_bilaterale_incheiate_de_republica_moldova_0.pdf, last access on 31 July 2019

⁹² Interview with Ms. Olga Poalelungi, Director of the Bureau of Migration and Asylum held on 15 June 2019, Chisinau, Republic of Moldova

The application of the readmission agreement with the EU has so far proved to be smooth. During the last five years the Moldovan government has generally complied with the requests for readmission of Moldovan citizens and third country nationals. Thus, in 2018, 413 persons were transferred to Moldova from a total of 492 requests. Similarly, in 2017, 847 persons were transferred from a total of 864 requests. In 2016, there were a high number of Moldovan citizens who were rejected for asylum particularly in Germany, which generated in total 1,199 requests, out of which 389 were accepted by the Moldovan authorities.⁹³

Both voluntary and forced return procedures for Moldovan citizens to Moldova were assessed positively in the second Commission report on the application of the Visa Suspension Mechanism from December 2018. The procedure of carrying out the forced return of Moldovan citizens when identified as an illegal stay should be improved to at the level of the EU Member States to avoid the simple notification of the Moldovan citizen residing illegally without taking safeguards to effectively identify the person in case he or she does not board the airplane. The recent practice of charter flights shows that the planes are at times filled only at 30-35% capacity. These measures may require a revision of the internal administrative procedures of the Member States to increase the effectiveness of the use of public funds associated to the charter transport to Moldova.

There is a growing need to conclude readmission agreements with countries in Central Asia, due to the increasing number of foreigners who, at present, are residing legally in Moldova. Although currently the number of individuals temporarily placed in integration centres for foreigners is relatively small and most of the foreigners are legally staying in Moldova, the lack of such agreements may pose an additional burden on the budget in the long term if the number of illegally staying third-country nationals increases. The government has approved a mechanism of contingency in case of an increased flux of foreigners.⁹⁴

Public Order and Security

The Moldovan government has implemented the following key measures: (1) it has approved legislation on personal data protection⁹⁵ and ensured its effective implementation; (2) it has enhanced international legal cooperation on criminal matters, including with Eurojust; (3) it has approved and implemented additional legislation on the prevention and fight against corruption; (4) it has adopted and implemented legislation against money laundering; and (5) it has strengthened the fight against organized crime.

Other cross-cutting and interlinked commitments are related to the approval of integrity legislation, such as assets and interests declarations, integrity whistle-blowers and legislation on the recovery of proceeds of crime. Later in this report we will review the most important achievements in the areas of anti-money laundering; the fight against high level corruption and organized crime; the enforcement of integrity legislation; asset recovery; and specific fiscal legislation.

⁹³ Data from the Bureau for Migration and Asylum, 20 June 2019

⁹⁴ Government Decision no. 1146 from 20.12.2017 on the approval of the National Mechanism of coherent and unitary management of the situation in case of an increased flux of foreigners, available in Romanian at: <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=373691>, last access on 31 July 2019

⁹⁵ Law no. 133 from 08.07.2011 on personal data protection, available in Romanian at: <http://lex.justice.md/md/340495/>, last access on 31 July 2019

Anti-Money Laundering Mechanisms

The anti-money laundering mechanism was heavily criticized for improper implementation. Although it sets extensive obligations to declare assets and personal interest as well as harsh penalties for not declaring them, including dismissal from public office, practical implementation via thorough reviews from the National Integrity Authority has proved ineffective. In fact, as it was later revealed, the banking fraud⁹⁶ and the Russian laundromat⁹⁷ operation took place during the time when the VLAP was implemented, generating significant social and political turmoil after the two became public in Moldova.

At the institutional level most of the required reforms, which were also linked to justice sector reform, either did not take place or were carried out with significant delays. The Law on Prevention and Fight against Money Laundering and Financing of Terrorism was approved at the end of 2017,⁹⁸ although planning documents envisaged the approval of new legislation or the adaptation of existing legislation on these issues since 2011.

The National Anticorruption Centre, a public institution independent from the government that is responsible for the prevention and fight against corruption, had a financial intelligence unit (i.e. the Centre for Prevention of Money Laundering (CPML)). The CPML became an independent authority in 2018 with the adoption of Law no. 308/2017. Its main purpose is to analyse data on suspicious transactions reported by public and private entities. Additionally, a new law on prosecutors' offices⁹⁹ and specialised prosecutors' offices¹⁰⁰ was approved in 2016.

Criminal investigations into money laundering operations that were part of the Russian laundromat scheme have been initiated by the Anticorruption Prosecutor's Office, and one prominent actor has been convicted. Due to the complexity of the investigation, many of the cases are pending trial, and since they involve many judges and other actors in the justice sector, ongoing trials move slowly due to obvious resistance and conflict of interest. In many cases the judges assigned to these cases challenge ex officio their impartiality due to personal reasons (class-mates in university, prior close professional activity etc. with the defendants)

The legal framework is still very permissive concerning financial transactions involving entities from off-shore jurisdictions, which do not provide reliable data on sources and beneficiaries of transfers. This continues to allow money laundering activities, as legal entities from these jurisdictions can be used freely as vehicles of disguise.

Fight Against High-Level Corruption and Organized Crime

The institutional framework on the prevention and fight against organized crime and high-level corruption was strengthened with the creation of two specialized Prosecutors' Offices—Anticorruption (APO) and Organized Crime (SPOCSC). Additionally, the National Anticorruption Centre (NAC) is involved in the investigation of such crimes. However, as in the case of money

⁹⁶ In late 2014 the Moldovan public became aware of a series of fraudulent activities which resulted in an estimated \$1 billion in funds being extracted from the banking system, with backed-up bail-outs offered by the government to stabilise three commercial banks.

⁹⁷ During 2011-2013 an estimated \$20 billion were money-laundered via the Moldovan judiciary and commercial banks, more details at: <https://www.rise.md/english/the-russian-laundromat/>, last access on 31 July 2019

⁹⁸ Law no. 308 from 22.12.2017 on the prevention and fight against money laundering and financing of terrorism, available in Romanian at: <http://lex.justice.md/md/374388/>, last access on 31 July 2019

⁹⁹ Law no. 3 from 25.02.2016 on prosecutors' offices, available in Romanian at: <http://lex.justice.md/md/363882/>, last access on 31 July 2019

¹⁰⁰ Law no. 159 from 07.07.2016 on specialized prosecutors' offices, available in Romanian at: <http://lex.justice.md/viewdoc.php?action=view&view=doc&id=366052&lang=1>, last access on 31 July 2019

laundering, there have been few results except some politically driven trials, such as the trial of a former prime minister. High-level corruption is mostly not addressed, so the NAC and of the APO have mainly delivered low-level corruption cases to date. The SPOCSC has also produced some results, mostly related to trafficking of drugs and human beings as well as the theft of luxury cars in EU member states. There is also cooperation with equivalent agencies in EU member states.

At the policy level, the Moldovan authorities have also approved a package of integrity and anticorruption legislation: (1) The Law on Integrity,¹⁰¹ (2) the National Integrity and Anticorruption Strategy,¹⁰² and (3) the Law on Integrity Whistle-Blowers.¹⁰³

At the same time, controversial laws on citizenship through investment,¹⁰⁴ fiscal amnesty¹⁰⁵ and the decriminalization of certain economic offences¹⁰⁶ were approved by the Moldovan Parliament, which significantly undermines the work of the law enforcement agencies and generally set an unclear policy path. In June 2019, the new Parliament initiated the repeal of the law on citizenship through investment.

Implementation of National Integrity System

The Justice Sector Reform Strategy envisaged the creation of a National Integrity Commission (NIC) and enhanced legislation on the declaration of assets and interests. The Law on Declaration of Assets and Personal Interests,¹⁰⁷ which covers a wide range of public officials (over 60 thousand), including MPs, members of Cabinet, judges, prosecutors, was approved only in 2016. The National Integrity Commission worked for 4 years before it was reformed into the National Integrity Authority (NIA),¹⁰⁸ due to its political control by the parliament. Both NIC and NIA were created as independent authorities to review asset declarations and to initiate investigations in cases of disproportionate assets compared to legal income.

The NIA became operational only in 2018 due to the inability of the Integrity Council, which is to approve the strategic documents of the NIA and appoint the leadership, to agree on the conditions of competition and appointment. The NIA has still not filled the 46 posts envisaged for integrity officers, having recruited currently only 9 officers, which significantly undermines the effectiveness of the institution.

¹⁰¹ Law no. 82 din 25.05.2017 on integrity, available in Romanian at: <http://lex.justice.md/md/370852/>, last access on 31 July 2019

¹⁰² Law no. 56 din 30.03.2017 on the approval of the National Integrity and Anticorruption Strategy, available in Romanian at: <http://lex.justice.md/md/370789/>, last access on 31 July 2019

¹⁰³ Law no. 122 din 12.07.2018 on integrity whistleblowers, available in Romanian at: <http://lex.justice.md/md/376825/>, last access on 31 July 2019

¹⁰⁴ Law no. 786 from 04.10.2017 on obtaining citizenship through investment, available in Romanian at: <http://lex.justice.md/md/371843/>, last access on 31 July 2019. The law sets a minimum limit of 250,000 EUR as investment to benefit from citizenship. On 27 July 2019 the Government announced a moratorium on the application of this law for 4 months.

¹⁰⁵ Law no. 180 from 26.07.2018 on voluntary declaration and fiscal declaration, available in Romanian at: <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=376854>, last access on 31 July 2019. The law allowed declaration of assets for persons who have not declared them in the past with an obligation to pay 3%, later amended to 6%, of the declared assets;

¹⁰⁶ Law no. 179 from 26.07.2018 on the amendment of certain legislative acts, available in Romanian at: <http://lex.justice.md/md/376851/>, last access on 31 July 2019. The amendments to the Criminal Code absolved businesses from criminal liability provided they pay the damages caused and that the crime was committed for the first time;

¹⁰⁷ Law no. 133 from 17.06.2016 on the declaration of assets and personal interests, available in Romanian at: <http://lex.justice.md/md/366046/>, last access on 31 July 2019

¹⁰⁸ Law no. 132 from 17.06.2016 on the National Integrity Authority, available in Romanian at: <http://lex.justice.md/md/366044/>, last access on 31 July 2019

An important accomplishment for the NIA was to ensure a complete online submission of asset declarations by public officials, which can be viewed online by any interested party with the appropriate filtering out of personal data.

Asset Recovery

Asset recovery was generally not a subject of interest and little attention was paid to it prior to the banking fraud, which became publicly known in late 2014. In 2017, the Parliament adopted the Law on the Agency of Recovery of Criminal Assets,¹⁰⁹ which was set up as a separate structure within the National Anticorruption Centre. As of today, this agency is fully staffed and works alongside the specialised Prosecutors' Office on the identification, seizure, management and confiscation of proceeds of crime. However, the agency needs to improve cooperation with its counterparts in other countries to ensure the effective and efficient identification and seizure of criminal assets.

Key Challenges in Complying with the EU's Visa Free Requirements

In this section we will address the key challenges identified by the European Commission in the Second Report on the Visa Suspension Mechanism from December 2018, referring to: (1) irregular migration and readmission and (2) public order and security.

Irregular Migration and Readmission

The statistical data presented by Frontex¹¹⁰ and Eurostat¹¹¹ for 2018 show an increase in the number of Moldovan citizens refused entry at the external borders of the EU, from 3,043 in 2015 to 6,368 in 2018. The two main reasons for the refusals are lack of documents to confirm purpose of stay (2,676 cases in 2018) and insufficient financial resources (1,525 cases in 2018). The number of Moldovan nationals found to be illegally residing in EU member states also increased from 2,240 in 2014 to 11,220 in 2018, the main countries being Germany, Hungary, Poland and France.¹¹² Readmission of Moldovan and third country nationals who entered the EU/Schengen area from Moldova works fairly well. Although there is no comparable data, Eurostat reports that over 5,000 persons from Moldova were returned to the country and over 3,000 left the Schengen area in 2018.¹¹³

Refusals to Entry and Illegal Stay

As mentioned before, the two main reasons Moldovan citizens are refused entry to the EU/Schengen area are (1) lack of documentation confirming the purpose of the visit and (2) lack of sufficient

¹⁰⁹ Law no. 48 from 30.03.2017 on the Agency of Recovery of Criminal Assets, available in Romanian at: <http://lex.justice.md/viewdoc.php?action=view&view=doc&id=370165&lang=1>, last access on 31 July 2019

¹¹⁰ For more details please consult the Frontex Risk Analysis for 2019, available in English at: https://frontex.europa.eu/assets/Publications/Risk_Analysis/Risk_Analysis/Risk_Analysis_for_2019.pdf, last access on 31 July 2019

¹¹¹ Data available at <https://ec.europa.eu/eurostat/data/database>, last accessed on 31 July 2019

¹¹² Data based on information available at <https://ec.europa.eu/eurostat>, last access on 31 July 2019

¹¹³ Ibid.

financial resources to cover the stay. Although the share of refusals is only at around 0.3% in the total number of visits, these two main reasons for refusals may be significantly reduced by further improving the information campaigns the Moldovan citizens on the requirements to legally travel to the EU.¹¹⁴

At the same time, Moldovan authorities face a number of challenges related to the travel of foreigners to Moldova and their potential subsequent illegal travel to the EU/Schengen states. Two issues require careful assessment and action: (1) the Transnistrian region, which is not effectively controlled, requires more effective control at the internal administrative borders inside Moldova and (2) Moldova needs more readmission agreements with third countries to be able to return foreigners who do not have the right to legally stay in Moldova.

To address the need for effective control at the internal administrative border, six regional offices of the BMA were established in October 2013 at the internal administrative borders.¹¹⁵ Their purpose is to deal with foreigners crossing the border. The regional offices collect data on administrative border crossings by foreigners and apply domestic legislation related to the stay of foreigners in Moldova.

The statistical data from the BMA show that there are a considerable number of third country nationals currently residing legally in Moldova, either with a temporary or a long-term residence permit.¹¹⁶ Among the largest groups are citizens of Ukraine (5,417), Russia (4,522), Israel (2,079), Romania (982), Turkey (988), India (354), Azerbaijan (367), Syria (133) and Uzbekistan (141). Although Moldova has concluded readmission agreements with its two neighbouring countries—Romania and Ukraine—no such agreements exist with the other countries listed above. This may pose a problem in the future since it can be assumed that where there are large communities of legally staying foreigners, there will also be irregular migrants belonging to these communities. The persons found to be residing illegally in Moldova are temporarily held in centres for foreigners, while the BMA takes measures to return them to their countries of origin.

Asylum Applications

Asylum applications by Moldovan citizens in EU member states, in particular as they are largely unfounded, have recently become a reason of concern for some member states. Although the number of annual applications has not been high in absolute terms, there has been an increase since visa free travel was introduced in 2014. The statistical data for 2014-2019 shows that the number of asylum applications has increased from 480 in 2014 to 3,835 in 2018, even though an important decrease was registered in 2017 (1,620 applications) compared with 2016 (3685).¹¹⁷ Based on Eurostat data, during the first six months of 2019, 1,955 applications, including repetitive and those applying for the first time, were submitted, compared to 1,625 during the same period in 2018.¹¹⁸ The main destination countries are Germany, the Netherlands and France. Most Moldovan nationals applying for asylum are of Roma origin. Additionally, it appears that a significant group of third country nationals, specifically Kazakhstani citizens of Roma origin, pretend to be Moldovans when they apply

¹¹⁴ Ibid.

¹¹⁵ Government Decision no. 234/2013 is available in Romanian at:

http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=349958&fbclid=IwAR1gg0i4rtRbTADcysLc6CQpIYI2OEhmk7sTu_YZgEvtkEXjNz_hS7mcHeg, last access on 31 July 2019

¹¹⁶ For more details please consult the statistical data from the Bureau for Migration and Asylum, updated as of 31.03.2019, available in Romanian:

http://bma.gov.md/sites/default/files/media/inf_pag_web_str_doc_sf_trim_i_2019_3.pdf, last access on 31 July 2019

¹¹⁷ Data available at <https://ec.europa.eu/eurostat/data/database>, last accessed on 31 July 2019

¹¹⁸ Data from EASO presents first time applications only, (1590 for January – May 2019). More information is available at: <https://www.easo.europa.eu/latest-asylum-trends>, last access on 31 July 2019

for asylum in EU/Schengen countries. To overcome the issue of unfounded claims by Moldovans, three main actions were taken:

1. The German authorities have simplified the procedure of asylum seekers originating from the Republic of Moldova.
2. The Moldovan authorities have taken actions in the country to integrate persons who belong to the Roma community and who have been returned to Moldova, by involving community mediators at the local level and social service workers, including school representatives, to establish as many ties as possible with the community and ensure the integration of returned members of the Roma community.
3. An administrative arrangement between Germany and Moldova was concluded in September 2018 to ensure the fast return of Moldovan nationals from Germany after they have been identified as residing in Germany illegally.¹¹⁹ In this regard, the reduced number of days—from eleven to three—to verify the identity of the person claiming to be of Moldovan origin poses an additional burden on the Moldovan authorities, including the BMA and the diplomatic missions of Moldova located abroad, which are involved in confirming the identity of the person who is to be readmitted, possibly issuing travel documents and helping to organise the return.

So far, these measures have not reduced the number of Moldovan applications of asylum in Germany. For instance, in the first six months of 2019, the number of applicants was 1180, out of which 825 were first time applicants, compared to the six months of 2018, when the number of applicants was 1060, out of which 805 were first time applicants.¹²⁰ As the changes were implemented recently, more time is needed to make a more complete evaluation of the impact, however.

Additionally, following the lack of any significant impact by information campaigns in other countries whose citizens tend to submit unfounded asylum claims in EU member states (i.e. Albania and other Western Balkan countries), the Moldovan government chose not to appeal to the public to refrain from unfounded asylum claims in EU member states. It was of the opinion that such messages would in fact fuel the phenomenon and further exacerbate the problem.

Public Order and Security

Anti-Money Laundering Mechanisms

Since the CPML¹²¹ became an independent body in 2018 and the new specialised prosecutorial bodies were created in 2016, the anti-money laundering mechanisms are still weak and require strengthening, including improved inter-institutional cooperation. To date, the only prominent case of high-level money laundering, the Platon case,¹²² ended with a conviction and a 25-year prison sentence. More investigations and convictions linked to high-level money laundering cases are required, including convictions and the related confiscation of the proceeds of the crimes.

¹¹⁹ The contents of the Administrative Arrangement may be consulted in Romanian and English at: <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=377756>, last access on 31 July 2019

¹²⁰ Data available at <https://ec.europa.eu/eurostat/data/database>, last accessed on 31 July 2019

¹²¹ The CPML acts as a Financial Intelligence Unit, created by the government, which gathers data on suspicious transactions and reports to the law enforcement agencies in cases of suspicion of money laundering activities

¹²² Platon was a Moldovan banker who was charged and convicted for money laundering activities that were linked to the Russian Laundromat. More on the implications of the case may be found at:

<https://anticoruptie.md/en/investigations/justice/50-shadows-of-the-billion-dollar-theft-cases>, last access on 31 July 2019

The legislation related to investment through citizenship is being reviewed by the recently elected legislature,¹²³ where the majority has been formed out of opposition parties in the previous Parliament. As the scheme is already being implemented, there are concerns that the Moldovan government might suffer financially if it is terminated immediately, however.

Important policy actions are still required to reduce the risk of money laundering, including excluding off-shore jurisdictions from transactions with the public (in privatisation, public procurement, concessions and public-private partnerships); significantly increasing the monitoring of suspicious transactions; and, where needed, freezing and possibly seizing the money involved.

Fight Against High-Level Corruption and Organised Crime

High level corruption cases have not been effectively investigated, with the exception of a few cases which were considered politically driven. An important remaining challenge is the cleansing of the prosecutorial and judicial system from corruption, particularly as a new government is in place and there are serious allegations in the public that the judiciary has been under heavy political control.

The self-governing judicial and prosecutorial bodies—the Supreme Council of Prosecutors and the Supreme Council of Magistrates—require more initiative to launch disciplinary measures against judges and prosecutors who have not acted impartially, with integrity and determination, in the investigation and prosecution of high-level corruption and organised crime cases. The inspection of judges and prosecutors should be strengthened, and the independence of these investigations should be guaranteed.

The judicial system must deliver more prominent cases of high-level corruption involving public officials to demonstrate its effectiveness and gain the public's trust. External support for the justice sector should be considered again to improve its performance, including the launch of a review of the integrity of judges and prosecutors, the increase of the scope of the judges' and prosecutors' inspections and the use of the self-governing bodies—the Supreme Council of Magistrates and the Supreme Council of Prosecutors.

Implementation of the National Integrity System

Insufficient resources for the National Integrity Authority, both at the level of human resources and the available information to investigate the integrity of public officials, are the main challenges for the institution. The authority lacks cooperation agreements at the international level to exchange information about assets, including on property, bank accounts, shares and other valuables held by Moldovan public officials abroad. This data is essential to identify the real assets of public officials, to investigate their sources and, where needed, to dismiss these officials and increase disincentives for corruptive or criminal activity.

Asset Recovery and Fiscal Legislation

The Agency for the Recovery of Criminal Assets is not sufficiently equipped and does not have enough staff to carry out parallel financial investigations, asset identification, freezing of assets, management and confiscation. The recent political changes in the country have generated additional

¹²³ The draft law may be consulted in Romanian at: <http://www.parlament.md/ProcesulLegislativ/Proiectedeactelegislative/tabid/61/LegislativId/4579/language/ro-RO/Default.aspx>, last access on 31 July 2019

tasks for the agency, including the seizure of the property of corrupt politicians. More prominent and determined action is required to show the public that stolen assets are being returned and that victims are being compensated in order to increase society's trust in law enforcement and judicial bodies.

Conclusions

- The Moldovan government has taken significant steps to set up new institutions or to transform or strengthen existing institutions and to adopt legislation on the status of foreigners, asylum, personal documents, the fight against corruption and organized crime including money laundering and financing of terrorism, as well as the integrity of public officials and asset recovery. There was a delay, however, in approving legislation concerning integrity, anti-corruption and organized crime, and asset recovery;
- Moldova is complying with ICAO standard by ensuring a high level of security of documents for its citizens as well as for foreigners residing in Moldova including refugees, asylum seekers and stateless persons. The positive experience in implementing high levels of security of documents was shared with other countries in the EaP region. Internally, an advanced mechanism of verification of the papers of citizens coming from the Transnistrian region was put in place, which reduces the likelihood of fake birth certificates or other forged civil status documents and increases the integration of the citizens in the Transnistrian region;
- A new civilian border police has been created that replaced the old military border guard service, and the BMA has been strengthened and received new powers and tasks to manage migration;
- The application of the readmission agreements with the EU has so far proved to be successful. The voluntary and forced return of Moldovan citizens to Moldova was assessed positively in the second Commission Report on the application of the Visa Suspension Mechanism from December 2018;
- Unfounded applications for asylum by Moldovan nationals in Schengen countries has been the subject of concern for some EU member states recently, as the numbers increased from 480 in 2014 to 3,835 in 2018. A separate administrative arrangement with the German authorities was concluded to expedite the return rejected asylum seekers from Moldova;
- The public order and security components have not been implemented as effectively. The anti-money laundering mechanisms should be strengthened; the judicial and prosecutorial services should be more effective and less corrupt; the National Integrity Authority and the Agency for the Recovery of Criminal Assets should be strengthened and allocated more resources; and more cases of high-level corruption and organized crime cases should be prosecuted and brought to trial;
- Additional steps should be taken to ban transactions with off-shore jurisdictions (in privatisations, public procurement, concessions and public-private partnerships). In this context, it is also necessary to increase scrutiny of suspicious transactions to avoid money laundering activities;
- At the international level, enhanced cooperation is necessary to obtain data on assets held by Moldovan citizens abroad, monitor their transactions and to freeze and seize assets which are suspected of being the results of criminal activity.

Recommendations

Irregular Migration and Readmission

- Expand information campaigns to the public at large on the requirements to legally travel and reside in the EU, including on TV, at the border crossing points, at the Public Service Agency multifunctional offices when picking up the passport, at travel agencies, including online when receiving e-tickets;
- Continue with the process of negotiating readmission agreements with countries from which many nationals are residing in Moldova;
- Continue the good practice of integrating minorities in Moldova to reduce the likelihood they will submit unfounded asylum applications in EU member states;
- Liaise with the main destination Schengen countries and urge them to shorten the length of asylum procedures for Moldovan citizens and maintain limited associated benefits (e.g. in-kind benefits instead of cash benefits, collective accommodation centres instead of private homes);

Public Order and Security

- Make more progress in the investigation of the money laundering schemes that have become public, including the banking fraud and the Russian Laundromat;
- Significantly improve internal selection procedures for prosecutors and judges to restore the public's trust in the judicial system and to increase the effectiveness of investigations and adjudication in high-level cases of money laundering, corruption and organised crime;
- Strengthen the capacities of the National Integrity Authority and the Agency of the Recovery of Criminal Assets to investigate asset declarations and ascertain whether they correspond to the real assets held, to be able to conduct parallel financial investigations, identify, seize and confiscate proceeds of a crime. Consider transferring the management of seized assets to a different authority;
- Review the legislation offering “decriminalisation for certain economic crimes” and assess the impact of the fiscal amnesty law, as well as consider repealing the law on citizenship through investment.

EU-Armenia Relations in the Framework of Visa Facilitation and Liberalization

by Dr. Stepan Grigoryan***

Executive Summary

Obtaining a visa-free regime with the EU is one of the main goals set both in the EU's Eastern Partnership and in the 2019 Programme of the Government of Armenia. The final stage for reaching the visa-liberalization agreement, namely the Visa-Dialogue between the EU and Armenia, has not been launched yet. Armenia and the EU face a high risk of irregular migration from Armenia. The EU also expects a strong political commitment from the Armenian government to carry out democratic reforms, and improve migration management, readmission, document security, human rights and the fight against corruption.

This paper highlights the Armenian authorities' key achievements, such as the EU-Armenian cooperation in sectors of mobility and border management and the ratification of the 2014 Visa-Facilitation and Readmission Agreements. It details the rights and benefits that the Visa-Facilitation Agreement has provided to the citizens of Armenia. The paper highlights the main issues related to the full transition to biometrical passports, data protection, and readmission. The paper is based on statistical data about Schengen visa issuance and refusal rates over time, as well as the number of asylum-seeking applications from Armenian citizens. The paper concludes with series of recommendations that would assist the Armenian government in reaching a visa-free regime with the EU.

Introduction

The 2014 EU-Armenia Visa Facilitation Agreement is one of the main frameworks of cooperation between the European Union (EU) and Armenia. The process towards greater mobility was launched as part of the 2009 Eastern Partnership programme. Armenia and the EU signed a Mobility Partnership in 2011 and the EU-Armenia Visa Facilitation and Readmission Agreements in 2012 and 2013. If and when Armenia and the EU launch a visa dialogue on visa liberalization, it will pave the way to a visa-free regime with the EU for Armenian citizens. Visa liberalization is highlighted in the EU-Armenia Comprehensive and Enhanced Partnership Agreement (CEPA), which has been provisionally applied since June 2018, and its importance has been repeatedly highlighted by the Armenian government. At the same time, there are certain issues, especially the risk of an increase in irregular migration from Armenia if the visa barrier is lifted, which slow down the process. Additionally, visa liberalization with the EU requires numerous improvements in the areas of border control, migration management, readmission, document security, human rights' protections and the fight against corruption and organised crime. In order to achieve visa liberalization, Armenia will have to demonstrate strong political will for the necessary reforms and further improve cooperation in the framework of the EU-Armenia Readmission Agreement.

This paper highlights the main developments related to people-to-people cooperation between the EU and Armenia. It consists of four parts. The first part is about the main developments in the areas of visa facilitation and the Mobility Partnership and about the steps undertaken for the final visa liberalization stage. The second section provides a statistical analysis of requested and issued Schengen visas for Armenian nationals. It also reflects on the lessons learned from Georgia—a country that has benefited from a visa-free regime since March 2017. Section three is about the implementation of the Visa Facilitation Agreement by Armenia. Section four includes information about Armenia and EU cooperation under the Readmission Agreement. The paper concludes with recommendations. The recommendations are presented thematically for the Armenian government, civil society organizations and the EU.

Trends in EU-Armenia Relations in the Framework of Visa Facilitation

The EU- Armenia Mobility Partnership and Visa Facilitation

The key step towards enhanced cooperation in the area of mobility was the Joint Declaration on a Mobility Partnership, signed between the European Union and Armenia in Luxembourg on 27 October 2011.¹²⁴ In this document, the parties confirmed their commitment to facilitate the movement of persons between Armenia and the European Union, while working to ensure better management of migration flows, including preventing and reducing irregular immigration.

Various projects have been undertaken to improve border management in Armenia. From 2012-2016, the EU has implemented a three-million-euro project called “Strengthening Armenia’s Migration Management Capacities, with Special Focus on Reintegration Activities in the Framework of the EU-Armenia Mobility Partnership.” The aim of the project was to increase the capacities of the competent authorities and civil society organizations in Armenia to actively support return and reintegration as well as address the challenges posed by irregular migration.¹²⁵ In 2017 the “iMigrantArmenia.EU” project was launched to assist Armenians working abroad who are interested in investing and establishing businesses in Armenia.¹²⁶

Following the Mobility Partnership Declaration, talks on Visa Facilitation and Readmission Agreements with the EU were launched in Yerevan in February 2012. The Agreement between the European Union and the Republic of Armenia on the Facilitation of the Issuance of Visas entered into force on 1 January 2014. Visa liberalization as a long-term goal was mentioned for the first time in the 2009 Eastern Partnership programme. This programme also envisaged Association Agreements (AA) together with the Deep and Comprehensive Free Trade Agreements (DCFTA)

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¹²⁴ Council of the European Union. 2011. *Joint Declaration on a Mobility Partnership between the European Union and Armenia*. http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/jha/125698.pdf (Accessed 12 Sept. 2019).

¹²⁵ EEAS Homepage. 2016. *Strengthening Armenia’s Migration Management Capacities, with Special Focus on Reintegration Activities in the Framework of the EU-Armenia Mobility Partnership*. https://eeas.europa.eu/headquarters/headquarters-homepage/11239/strengthening-armenias-migration-management-capacities-with-special-focus-on-reintegration-activities-in-the-framework-of-the-eu-armenia-mobility-partnership_sr (Accessed 12 Sept. 2019).

¹²⁶ EEAS Homepage. 2016. *Strengthening Current and Future Employment and Self-Employment Programmes Through Sustainable Value Chain*. https://eeas.europa.eu/delegations/armenia/39534/imigrantarmeniaeu-strengthening-current-and-future-employment-and-self-employment-programmes_en (Accessed 12 Sept. 2019).

between the EU and the six Eastern Partner countries. These two bilateral agreements were intended to serve as the main legal basis of cooperation. The Association Agreements were to structure and advance political dialogue in the spheres of foreign and security affairs, justice and domestic affairs, as well as economic and sectoral cooperation, while the DCFTAs offered deeper economic cooperation and harmonization of legislation with the EU's *acquis communautaire*.

However, despite long and active negotiations with the EU and extensive effort, Armenia discontinued the Association Agreement talks with the EU and started the process of accession to the Russia-led Eurasian Customs Union and the Eurasian Economic Union (EEU). On 3 September 2013, Armenian President Serzh Sargsyan made an official visit to Moscow and announced the decision of Armenia to join the Russia-led Customs Union. Such a sudden refusal to sign the Association Agreement with the EU was a clear indicator of pressure from the Russian side and showed Armenia's dependence on Russia. On 2 January 2015, Armenia joined the Eurasian Economic Union and became a full member of the EEU next to Belarus, Kazakhstan, and Russia.¹²⁷

But although Armenia refused to sign the AA in 2013, later a new Comprehensive and Enhanced Partnership Agreement (CEPA) was drafted with the EU and it was signed on 21 March 2017. This time the Armenian government remained committed to the new agreement. On 11 April 2018 the National Assembly of the Republic of Armenia unanimously ratified the Comprehensive and Enhanced Partnership Agreement with the European Union.¹²⁸ The agreement has been provisionally applied since 1 June 2018. CEPA includes a strong commitment to democratic reforms, such as developing effectiveness of democratic institutions, respect for human rights, independent judiciary, and fighting corruption.

Alongside a strong commitment to cooperation in the political sector, CEPA also gives importance to mobility and the visa liberalization process. Cooperation in this sector is discussed under Title 3 – Justice, Freedom and Security. Article 15 of the Agreement is devoted to the “Movement of persons and readmission” and includes the commitment to promote the mobility of citizens through the Visa Facilitation Agreement and to fight irregular migration by implementing the Readmission Agreement. It also considers holding a visa liberalization dialogue with Armenia in the future, provided that well-managed mobility is in place beforehand.¹²⁹ The document also envisages cooperation in the field of fighting against organized crime and terrorism.

Stalemate of Launching a Visa Liberalization Dialogue with Armenia

In February 2019, the Armenian government approved the new government programme, which states entering into a visa-free regime with the EU as an important goal.¹³⁰

On 30 April 2019, the Standing Committee on European Integration of the Parliament of Armenia hosted Carel Hofstra, the Team Leader of Yerevan Office of the International Centre for Migration Policy Development (ICMDP). During the meeting, The representatives of the ICMDP noted that Armenia had made significant progress in issuing biometric passports, improving border control and

¹²⁷ Eurasian Economic Commission. 2015. *Armenia acceded to the Eurasian Economic Union*.

<http://www.eurasiancommission.org/en/nae/news/Pages/02-01-2015-1.aspx> (Accessed 12 Sept. 2019).

¹²⁸ MFA of RA. 2018. National Assembly of Armenia Ratified Armenia-EU New Framework Agreement. <https://www.mfa.am/hy/press-releases/2018/04/11/dfm-na-cepa/8126> (Accessed 12 Sept. 2019).

¹²⁹ Council of the European Union. 2017. *EU-Armenia Comprehensive and Enhanced Partnership Agreement*.

https://eeas.europa.eu/sites/eeas/files/eu-armenia_comprehensive_and_enhanced_partnership_agreement_cepa.pdf (Accessed 12 Sept. 2019).

¹³⁰ Government of Armenia. 2019. *Government Programme of RA*. <https://www.gov.am/files/docs/3133.pdf> (Accessed 12 Sept. 2019).

modernising the northern border crossing checkpoints of the country between Armenia and Georgia.¹³¹ The northern border between Armenia and Georgia includes three checkpoints-Bagratashen, Bavra and Gogavan, and was modernised thanks to support from the EU. From 2012-2016, in the framework of the project “Modernisation of Bagratashen, Bavra, and Gogavan Border Crossing Points,” the EU supported Armenia by improving border management and control, as well as enhancing inter-agency cooperation efficiency and technical capacity for information exchange.¹³² The project included both assistance for effective performance of border checks, and upgrading of the three checkpoints between Armenia and Georgia, the roads and associated infrastructure.¹³³

Visa-liberalization as a priority was also mentioned in an interview on 15 May 2019 by Minister of Foreign Affairs Zohrab Mnatsakanyan during a visit to Brussels. At the same time, after stating that the EU had mentioned the risk of an abuse of a liberalized travel regime, Mnatsakanyan stressed that Armenia’s relevant departments on migration are in contact with relevant European experts to evaluate the level of development of Armenia’s capabilities. He noted that Armenia already meets the conditions for visa liberalization and can counter potential risks of visa-free travel, which means the country is ready to start the visa liberalization dialogue.¹³⁴

However, despite the reiteration of the importance of a visa-liberalization process, it seems that the EU expects stronger action and commitment from Armenia, which would include addressing the issue of irregular migration from Armenia. As a result of these and other reforms, Armenia should prove its ability to modernize the country and to create a solid foundation based on democracy, human rights, and the rule of law, approximating governance to the standards of the European Union.

The Partnership Implementation Report issued on 20 May 2019 by the European Commission mentions several positive steps taken by Armenia in the field of mobility, as well as the areas that require improvement.¹³⁵ The Implementation Report acknowledged the largely satisfactory implementation of the Visa Facilitation and Readmission Agreements, as well as Armenia’s desire to launch the EU-Armenia visa liberalization process. At the same time, the European Commission mentioned the need to improve the low rate of returns of 27.2% in 2017 (this is the rate of actual returns in relation to return orders issued by EU member states). The Commission also noted the increase in the issuance of multiple entry visas. As the Commission wrote, the visa refusal rate decreased slightly from 12.8% in 2017 to 11.8% in 2018. It explained that the most common reasons for refusal were insufficient documentation about the reasons for travel by the applicants and difficulties proving intention to return after the trip.¹³⁶

Along with the need to enhance cooperation in the framework of the Readmission Agreement, Armenia also needs to adopt an anti-discrimination law and ratify and implement the Istanbul Convention against violence against women. Both are requirements for improving democratic trends

¹³¹ Parliament of Armenia. 2019. *Visa-Liberalisation for Citizens of Armenia with EU Discussed*. http://www.parliament.am/news.php?cat_id=2&NewsID=11489&year=2019&month=04&day=30&lang=eng (Accessed 12 Sept. 2019).

¹³² EEAS Homepage. 2016. *Modernisation of Bagratashen, Bavra, and Gogavan Border Crossing Points*. [https://eeas.europa.eu/delegations/armenia_en/11233/Modernisation%20of%20Bagratashen,%20Bavra,%20and%20Gogavan%20Border%20Crossing%20Points%20\(MBBG\)](https://eeas.europa.eu/delegations/armenia_en/11233/Modernisation%20of%20Bagratashen,%20Bavra,%20and%20Gogavan%20Border%20Crossing%20Points%20(MBBG)) (Accessed 12 Sept. 2019).

¹³³ European Commission. 2012. *Modernisation of Bagratashen, Bavra, and Gogavan Border Crossing Points*. https://ec.europa.eu/europeaid/blending/modernisation-bagratashen-bavra-and-gogavan-border-crossing-points-mbbg_en (Accessed 12 Sept. 2019).

¹³⁴ News.am. 2019. “Armenia’s Mnatsakanyan: Visa Liberalization with EU is Very Fundamental Matter to Us.” May 15, 2019. <https://news.am/eng/news/512683.html> (Accessed 12 Sept. 2019).

¹³⁵ European Commission. 2019. *Partnership Implementation Report on Armenia*. https://eeas.europa.eu/sites/eeas/files/partnership_implementation_report_armenia.pdf (Accessed 12 Sept. 2019).

¹³⁶ *Ibid*

in Armenia and for gaining a visa-free travel regime with the EU. However, the parliamentary hearing for the Istanbul Convention have been postponed from September 2019 to the year of 2020. The need for the anti-discrimination law has not been discussed by the Armenian government.

Schengen Visa Applications in Armenia: Explaining Migration Flows

The EU-Armenia Visa Facilitation Agreement

The EU-Armenia Visa Facilitation Agreement of 2013 has provided important benefits for Armenian citizens in relation to the visa application process and the visa fee as well as the required documentation. According to Article 6 of the Agreement, all Armenian citizens benefit from a lower visa fee of 35 Euro instead of 60 Euro, and, as stated in Article 7, the decision to issue a visa is taken within 10 days (in certain cases, it can be prolonged to 30 days). Furthermore, a significant number of people, including from official delegations, academics, civil society representatives, students, participants in sport activities, pensioners and many others are exempted of paying the visa fee (Article 6). Additionally, many categories of people, from businesspeople, journalists and civil society representatives to relatives of Armenians living in the EU, benefit from standardized and less demanding document requirements (see Article 4.)¹³⁷

The Visa Facilitation Agreement has also provided significant advantages in terms of visa duration. According to the Article 5, paragraph 2, multiple-entry visas shall be issued with a one-year validity to persons participating in scientific and cultural events, students, journalists, civil society representatives, persons who need to visit Europe regularly for medical reasons, businesspeople and participants in international sports events, provided that during the previous year they had obtained at least one visa and had not violated its terms. Visa applicants can also be issued multiple-entry visas with a validity between two and five years if they had used a one-year multiple-entry visa during the previous two years in accordance with the laws on entry and stay of the visited state.¹³⁸ In justified cases of urgency, the consulate may allow applicants to lodge their applications either without appointment, or an appointment shall be given immediately.

Concerning the application of the Agreement on the Facilitation of the Issuance of Visas, countries can be divided into four categories:

1. EU member states that are full participants in the Schengen agreements. They are legally obliged to fully implement the agreement. This is Austria, Belgium, Germany, Denmark, Estonia, Spain, Italy, Latvia, Poland, Lithuania, Luxembourg, Greece, Hungary, Malta, the Netherlands, Sweden, the Czech Republic, Portugal, Slovakia, Slovenia, Finland, and France.
2. Iceland, Lichtenstein, Norway, and Switzerland are full participants in Schengen, but they are neither EU Member States nor parties to the Visa Facilitation Agreement. These countries need to sign separate visa facilitation agreements with Armenia with conditions similar to those of the EU-Armenia agreement. Armenia and Norway signed such

¹³⁷ Official Journal of the EU. 2013. *Agreement between the European Union and the Republic of Armenia on the Facilitation of the Issuance of Visas*. [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22013A1031\(01\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22013A1031(01)&from=EN) (Accessed 12 Sept. 2019).

¹³⁸ EUR-Lex. 2013. *Agreement between the European Union and the Republic of Armenia on the Facilitation of the Issuance of Visas*. [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22013A1031\(01\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22013A1031(01)&from=EN) (Accessed 12 Sept. 2019).

agreement in 2015.¹³⁹ A Separate Visa Facilitation Agreement between Armenia and Switzerland came into force in 2016.¹⁴⁰ The governments of Iceland and Lichtenstein and of Armenia still need to conclude such bilateral agreements.

3. EU MS that are not full Schengen members and with which bilateral agreements need to be concluded (the United Kingdom, Ireland and Denmark). On 14 March 2018, Foreign Affairs Ministers of Armenia and Denmark signed a visa facilitation agreement in Copenhagen.¹⁴¹
4. EU member states that are on the way to become full members of the Schengen agreements. They may issue only national visas, but the visas for the Schengen area are valid in their territories (Bulgaria, Croatia, Cyprus, and Romania).

Citizens of Armenia can apply for a Schengen visa at consulates accredited in Armenia. Embassies can also delegate the right to accept citizens' visa applications to visa centres. There are currently three unified visa application centres in Yerevan, the capital of Armenia, accepting visa applications for the Schengen countries. As of May 2015, a visa centre run by the company VFS Global opened in Yerevan and accepts visa applications for Lithuania, Latvia, Estonia, Spain, Denmark, Hungary, and Greece.¹⁴²¹⁴³ In October 2015, the Italian Embassy in Armenia also started to cooperate with a visa centre, namely the company TLS Contact in Yerevan, which also receives applications for Malta and Finland, as Italy issues visas on behalf of these two countries. Since April 2018, applications for a Schengen visa for Germany, Belgium, the Netherlands, Luxembourg, Austria, and Sweden have been accepted by a separate service-provider company called VisaMetric, which cooperates with the German Embassy.¹⁴⁴

Visa centres were created in order to facilitate the visa issuance process to accommodate a larger numbers of applications than the consulates have the capacity to process. At the same time, it should be noted that the visa centres operate only in the capital of Armenia, in Yerevan. But it is quite difficult to reach Yerevan from other major cities such as Gyumri (northern Armenia), Vanadzor (north-east Armenia) or Kapan (southern Armenia). Additionally, applicants often complain about the low quality of the service provided by the visa Centres, such as limited technical capacity and poor communication skills. Visa centres charge an additional fee per application for services provided, on average around 20-22 euro.

However, citizens of Armenia often lack information about of the provisions of the visa code and their rights defined by the Visa Facilitation Agreement. Thus, many Armenian citizens do not know about the visa fee waiver. Unfortunately, there are cases when consulates and visa centres charge a visa fee even though the applicant is eligible for the visa fee waiver.

¹³⁹ ArmenPress. 2015. "Armenia and Norway to Sign Agreement on facilitation of Visa Issuing Procedure". November 26, 2015. <https://armenpress.am/eng/news/827357/armenia-and-norway-to-sign-agreement-on-facilitation-of-visa-issuing-procedure.html> (Accessed 12 Sept. 2019).

¹⁴⁰ Federal Department of Foreign Affairs FDFA. 2018. *Bilateral Relations Switzerland-Armenia*. <https://www.eda.admin.ch/eda/en/home/representations-and-travel-advice/armenia/switzerland-armenia.html> (Accessed 12 Sept. 2019).

¹⁴¹ ArmenPress. 2019. "Foreign Affairs Ministers of Armenia and Denmark sign the Agreement on the Facilitation of the Issuance of Visas". 14 March 2018. <https://armenpress.am/arm/news/926119/hh-ev-daniayi-ag-nakharnery-storagrel-en-vizaneri-tramadrummy.html> (Accessed 12 Sept. 2019).

¹⁴² Webpage of the VFS Global. <http://www.vfsglobal.com/lithuania/armenia/> (Accessed 12 Sept. 2019).

¹⁴³ Visa applications can be submitted for Latvia, Estonia, Spain, Denmark, Hungary, as the Embassy of Lithuania issuance visa on behalf of these countries in Armenia.

¹⁴⁴ Webpage of the VisaMetric: <https://www.visametric.com/iran/Germany/en/p/about-visametric> (Accessed 12 Sept. 2019).

Updates on Border Management from the EU Side

In November 2017, the EU adopted a regulation establishing a new Entry-Exit System (EES), which will register electronically the time and place of entry/exit of third-country nationals. The system is planned to be operational from 2020.¹⁴⁵ There will be no more manual stamps in passports. Rather, each traveller will be electronically registered using biometric data. The self-service systems and e-gates will be introduced, and third country national travellers will have their data verified, their picture or fingerprint taken and a set of questions asked. Visa-required travellers would also be able to see the maximum length of their authorised stay. By the time the traveller is guided towards a border control lane, all this information would have reached the border guard, who may ask additional questions before granting the passenger access to the Schengen area.¹⁴⁶ The automation of the preparatory steps is expected to reduce the workload of border guards and reduce the long queues.

The EU has three centralized information systems: the Schengen Information System (SIS), the Visa Information System (VIS) and Eurodac. The VIS is a unified and centralized biometric database of persons who have applied for a visa at least once and is used to exchange information on visa applications and decisions. Eurodac is a database in which EU member states are required to enter the fingerprint data of irregular migrants and asylum-seekers to record where they entered the EU, and thus determine the member states responsible for examining their asylum application if they apply for protection. All consulates of the Schengen states in Armenia joined the Visa Information System (VIS) on 23 June 2015. The biometric data and the information provided for the Schengen visa application is registered in the centralized VIS database.¹⁴⁷

Schengen Visa Applications in Armenia: Statistical Data and Analysis

Globally, Schengen consulates received a total of over 16 million visa applications in 2018.¹⁴⁸ The number of Schengen visa applications by Armenian citizens has steadily increased since 2012.

Figure 1 presents the number of applications at Schengen consulates in Armenia during 2012-2018.¹⁴⁹ It should be noted that most consulates in Armenia also issue visas on behalf of other Schengen countries:

- The German embassy in Yerevan issues visas also on behalf of Austria, Belgium, Luxemburg, Netherlands and Sweden.
- Poland issues visas on behalf of Slovenia, Slovakia and Switzerland.
- The consulate of Lithuania in Armenia issues visas also for Latvia, Estonia, Denmark, Spain and Hungary.

¹⁴⁵ EUR-Lex. 2017. *Regulation (EU) 2017/2226 of the European Parliament and of the Council of 30 November 2017 establishing an Entry/Exit System (EES)*. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32017R2226> (Accessed 12 Sept. 2019).

¹⁴⁶ European Parliament. 2018. *Smart Borders: EU Entry/Exit System*. [http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/586614/EPRS_BRI\(2016\)586614_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/586614/EPRS_BRI(2016)586614_EN.pdf) (Accessed 12 Sept. 2019).

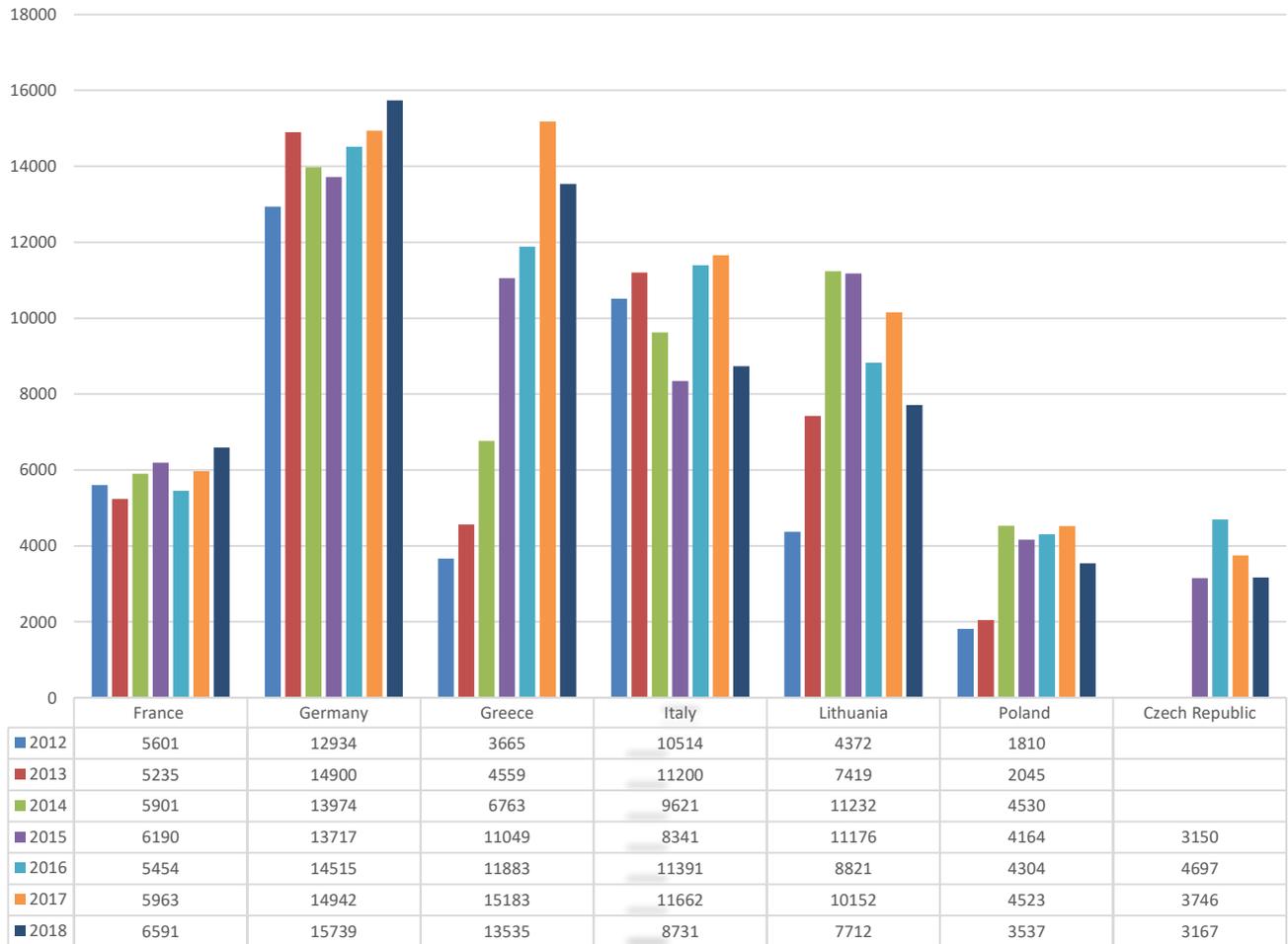
¹⁴⁷ EU Newsletter. 2015. *Fingerprints and digital photo for a Schengen visa*. <http://eunewsletter.am/fingerprints-and-digital-photos-for-schengen-visas-2/> (Accessed 12 Sept. 2019).

¹⁴⁸ Schengen Visa Info. 2019. *Statistics Reveal Schengen Consulates Received Over 16 Million Applications in 2018*. <https://www.schengenvisainfo.com/news/statistics-reveal-schengen-consulates-received-over-16-million-applications-in-2018/> (Accessed 12 Sept. 2019).

¹⁴⁹ Czech Republic introduced consular service in Armenia starting from 2015, thus in Figure 1, under the Czech Republic no numbers are indicated for the years preceding that year.

- The Italian Embassy in Armenia issues visas on behalf of Italy, Malta and Finland.
- France issues visa on behalf of Norway.

Figure 1: Uniform visas applied for at Schengen Consulates in Armenia 2012-2018¹⁵⁰



The only EU and Schengen countries with a consular representation in Armenia are France, Italy, Lithuania, Greece, Poland, Czech Republic and Germany.¹⁵¹ Figure 1 shows that the number of applications has continued to grow significantly in virtually all the consulates. The largest increases were recorded by the Greek Consulate in Armenia (from 3,665 to 12,535), the Polish Consulate (from 1,810 to 3,537) and the Lithuanian Consulate (from 4,372 to 7,712).¹⁵²

Figure 2 illustrates the number of applications for Schengen C visas in Armenia, as well as the number of refusals (C category stands for a short-term visa which allows the holder to reside in a Schengen country for a certain period of time and can be obtained in a form of single-entry visa, double-entry visa or multiple-entry visa. C category multiple-entry visa holders can stay in the Schengen area for 90 days within a 180-day period). The total number of visa applications grew every year from 2012 on (increasing from 38,896 in 2012 to 59,012 in 2018). The number of times

¹⁵⁰ The numbers are collected from the EU's official statistical data. https://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/visa-policy_en (Accessed 12 Sept. 2019).

¹⁵¹ Bulgaria and Romania have their consulates accredited to Armenia, but are not full members of the Schengen agreements yet, and issue only their national visas.

¹⁵² The Czech Consulate started operating in Armenia in 2015; hence, all the figures contain only data for 2015-2018.

Armenian citizens visited the Schengen area grew considerably. The green line in the Figure 2 shows the rate of refusal of visas, which fluctuated between 10% and 12.8% in the time period of 2012-2018.

Figure 2. The number of visas applied for and refusal rates in Armenia¹⁵³



There has been a slight increase in refusal rates during the last three years. According to off-the-record meetings with EU MS diplomats accredited in Armenia, the reasons for visa refusals are mostly missing documents in the visa applications, as well as the lack of reliable proof of purpose of travel. Often the applicants also do not provide documentation regarding accommodations, as well as bank statements indicating that they have a sufficient amount of money in their account to allow them to finance their trip and return back home. As it was mentioned, many visas are also refused because applicants struggle to prove that they will return to Armenia before the visa expiry date.

EaP Countries Benefiting Visa-Free Travel: Lessons Learned from Georgia

Among the six Eastern Partnership countries, three countries have already achieved visa-free travel with the EU. Moldova was the first post-Soviet republic to receive a visa-free travel regime in April 2014, followed by Georgia in March 2017 and Ukraine in June 2017.¹⁵⁴ During the first 14 months after the visa requirement for Georgians was lifted on 28 March 2017, 255,400 citizens of Georgia travelled to Schengen zone countries.¹⁵⁵ As of December 2018, two million Ukrainian nationals had

¹⁵³ The numbers are collected from the EU's official statistical data. https://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/visa-policy_en (Accessed 12 Sept. 2019).

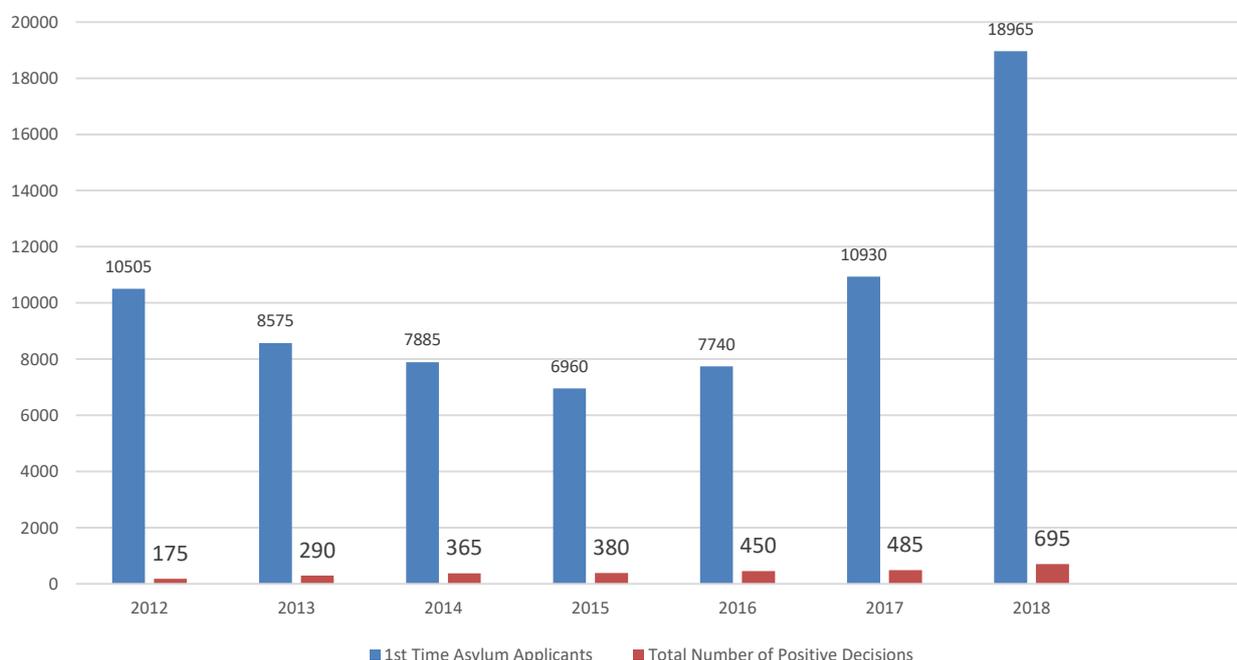
¹⁵⁴ European Commission. N.d. *Visa Liberalization with Moldova, Ukraine and Georgia*. https://ec.europa.eu/home-affairs/what-we-do/policies/international-affairs/eastern-partnership/visa-liberalisation-moldova-ukraine-and-georgia_en (Accessed 12 Sept. 2019).

¹⁵⁵ News.am. 2018. "Georgian Citizens Traveled to Europe Without a Visa About 358,000 Times". June 29, 2018. <https://news.am/arm/news/464103.html> (Accessed 12 Sept. 2019).

travelled visa-free to the EU until December 2018.¹⁵⁶ It should be noted that the visa-free regime with these countries is subject to certain restrictions and requirements: citizens must have a biometric passport, prove the existence of a return ticket and accommodation as well as sufficient funds for the trip and return.

In parallel to the benefits of the visa-free regime, such as freedom of movement, there is also a risk of irregular migration (continued stay after the authorized period). In response to concerns over the abuse of the visa-free regime, in 2013 the EU Council adopted a suspension mechanism (Regulation No 1289/2013) which outlines a procedure under which EU member states can raise problems and demand the suspension of the regime. The regulations were further amended in 2018. Suspensions are possible in cases of a sudden and substantial increase in unfounded asylum claims, in the number of irregularly residing persons, in entry refusals, or if there is a lack of cooperation on readmission or an increased risk or imminent threat to the public policy or internal security of member states, in particular a substantial increase in serious criminal offences (see Regulation No 2018/1806, provision 22).¹⁵⁷ The European Commission can first suspend the visa-free regime for nine months and extend the suspension if a qualified majority of member states agree. During the suspension, the Commission and the concerned country should seek a solution to the situation.

Figure 3. Number of first-time asylum claims by citizens of Georgia and number of total positive decisions in EU MS and in Norway, Switzerland, Iceland and Liechtenstein¹⁵⁸



¹⁵⁶ Government of Ukraine. 2019. *Two Million Ukrainians Benefitted From Visa-Free Travel to the EU Countries.* <https://www.kmu.gov.ua/en/news/2-miljoni-ukrayinciv-skoristalisya-bezvizom-pryamuyuchi-do-krayin-yes>. (Accessed 12 Sept. 2019).

¹⁵⁷ EUR-Lex. 2018. *Regulation No 2018/1806 of the European Parliament and of the Council of 14 November 2018.* <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018R1806&from=EN> (Accessed 12 Sept. 2019).

¹⁵⁸ The data are collected from the Eurostat statistical office of the European Union. http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_asyappctza&lang=en (Accessed 12 Sept. 2019).

As indicated in the Figure 3, in the case of Georgia there has been an increase in asylum applications since the visa-free regime was introduced. The number grew from 7,740 in 2016 to 10,930 in 2017 when visa-free travel began in March. In 2018 this number almost doubled compared to 2017, reaching 18,965 asylum applications. Most of the claims are rejected as the claimants have no reason to fear for their lives and freedoms in Georgia.

There is a risk of an increase in unfounded asylum claims by Armenians or in continued, irregular stays after the expiry of the permitted three-month period as well if a visa-free regime is granted to the country. The review and analysis of data on countries granted a visa-free regime, such as Georgia, as well as their experience and the measures they took to counter such negative effects is important for Armenia. In fact, Armenia could already start to address the issue of unfounded asylum claims and irregular migration by Armenian citizens to show its commitment to achieving visa liberalisation and minimising potential risks.

Implementing Visa Facilitation Agreement Requirements: Introduction of Biometric Passports

As part of the visa facilitation process, Armenia introduced two new identity documents in July 2012. One is an ID card with electronic signature, which can be used within the country, and the other a biometric passport with an electronic chip to be used for traveling abroad. The biometric passport includes biometric data, i.e. the passport holder's image and fingerprints, and thus it is much easier to identify the person at border checkpoints. The biometric passport costs 25,000 AMD (about 50 euro), and the passport and ID card together cost 28,000 AMD (53 euro). Both documents are in line with the standards of the International Civil Aviation Organization (ICAO).

At the same time, it should be noted that the government of Armenia has frequently postponed the process of transitioning to only biometric passports. According to a decision of the National Assembly of the Republic of Armenia, in January 2014 citizens who receive a new passport were given biometric documents. However, this later changed, and currently both the traditional and biometric types of passports are functional and Armenian citizens can choose which type to get. Armenians can continue travelling with their old passports.

In August, 2016 Mnatzakan Bichakhchyan, the head of the Passports and Visas Department of the Police, said in an interview that both types (traditional and biometric passports) were legal in Armenia. Armenia did not demand the replacement of the old passports since some people refused to provide fingerprints for biometric passports based on religious beliefs. So Armenia allowed its citizens to use the old passports (designated by Decree 821 dated 25 December 1998) until 1 January 2019.¹⁵⁹ As this date came closer, a similar discussion started in August 2018 when the Ministry of Justice announced a public discussion of amendments in the Law on Identification Cards and the Law on the Passport of the Citizen of the Republic of Armenia. On 7 September 2018, the Parliament of Armenia amended the law to allow the issuing of traditional passports until 1 January 2021. The postponement of ending the validity of the old passports has been explained with the need to

¹⁵⁹ Zakaryan, A. 2016. "Biometric Passports are no Longer Required, Old-Type Passport Will be Issued to Citizens". August 3, 2016. <https://www.armtimes.com/hy/article/90836> (Accessed 12 Sept. 2019).

organise a new tender to choose the company that will produce the biometric passports and identification cards.¹⁶⁰

There are no provisions in the visa facilitation agreement with the EU concerning biometric passports, thus holding a biometric passport is not mandatory to be able to benefit from visa facilitation. Nevertheless, for visa liberalization the issuance of biometric passports will be mandatory since only holders of biometric passports will be able to travel without a visa.

In addition to the introduction of biometric passports, the issue of data protection is also important as EU-standard data protection will be a requirement for visa liberalisation. However, the 2015 Law of the Republic of Armenia on Protection of Personal Data requires amendments, as it is too generous concerning the transfer of personal data to third parties and access to data without the consent of the person concerned (Article 26). Personal data can be transferred without the subject's consent if it is prescribed by law or an interstate agreement. The Border Control Department of the Russian Federal Security Service has access to the data of the Border Control Service of Armenia regarding the travel of persons to and from Armenia. This means that the Russian Federation can see who crosses the Armenian border, the direction of the travel, means of transportation and the travel company, as well as the personal IDs of the travellers.¹⁶¹ As already mentioned, data protection is one of the important requirements by the EU that Armenia needs to ensure in order to reach the goal of visa liberalization.

Furthermore, the agency dealing with the protection of personal data is not independent. The institution, Agency for Protection of Personal Data of the Ministry of Justice of the Republic of Armenia, is a state institution. According to the statute of the agency, one of its main aims is the implementation of the Law of the Republic of Armenia on Protection of Personal Data.¹⁶² However, as mentioned above, the law allows third countries to access personal data. Additionally, the fact that the agency is a state institution also underscores the problems with data protection in Armenia.

Implementing the EU-Armenia Readmission Agreement: Return and Reintegration

Asylum-Seeking Applications from Armenia

The launch of the visa liberalisation dialogue with Armenia will, among other key issues, depend largely on Armenia's readiness to facilitate the return of Armenian citizens who reside in the EU MS with irregular status. In this context, readmission agreements are an effective tool as they enable the identification of persons who do not meet or no longer meet the conditions of entry into or stay/residence in the territory of the inquiring state.¹⁶³ Under the EU-Armenia readmission agreement, Armenia undertakes to readmit its own citizens, as well as third-country citizens and stateless persons who have reached an EU member state by transiting Armenia. Prior to the 2013 EU-Armenia

¹⁶⁰ IravabanNet. 2018. "Old-specimen Passports will be Issued up to 1 January 2021". August 24, 2018. <https://iravaban.net/199667.html> (Accessed 12 Sept. 2019).

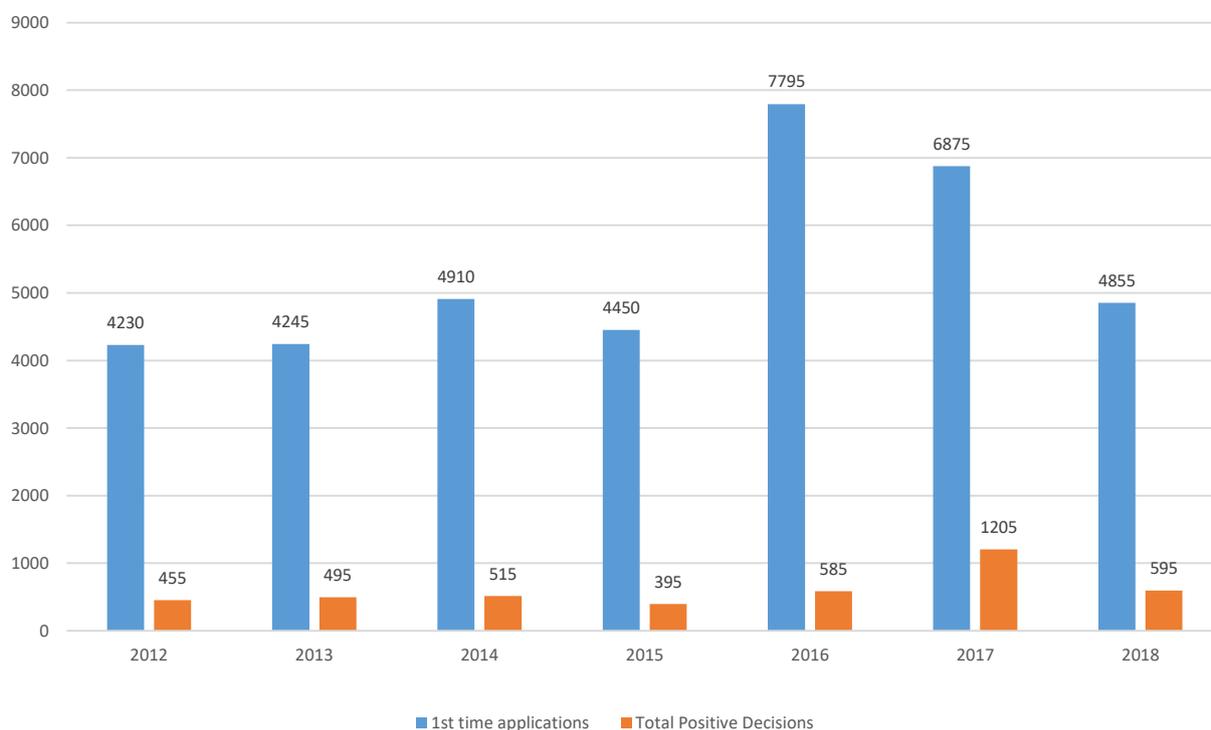
¹⁶¹ Open Society Foundations, Armenia. n.d. *Personal Data Protection Issues in Armenia and Georgia*. http://www.osf.am/wp-content/uploads/2017/01/Article-5-RT-Personal-data_eng.pdf (Accessed 12 Sept. 2019).

¹⁶² Ministry of Justice of RA. *Statute of Agency for Protection of Personal Data of the Ministry of Justice*. <http://www.justice.am/en/structures/view/structure/32> (Accessed 12 Sept. 2019).

¹⁶³ EUR-Lex. 2013. *Agreement on the Readmission of Persons Residing without Authorization between the EU and Armenia*. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A22013A1031%2802%29> (Accessed 12 Sept. 2019).

Readmission Agreement, Armenia signed readmission agreements with the EU individual states. Readmission agreements exist with Latvia, Denmark, Lithuania, Germany, Bulgaria, Sweden, Czech Republic, Denmark, as well as with Switzerland, Norway. In June 2018, a readmission agreement was also signed with the Benelux countries.

Figure 4. Number of first time asylum applicants and the number of total positive decision from Armenia in the EU MS and in Norway, Switzerland, Iceland and Liechtenstein ¹⁶⁴



In view of the fact that Armenian citizens wishing to reside, work, receive medical services, or otherwise settle in the EU often use or abuse the EU's asylum system, it can be concluded that the return/readmission trend will not decline. Figure 4 shows the number of first-time asylum applicants by the Armenian citizens in the EU MS and in Norway, Switzerland, Iceland and Liechtenstein. It also shows the total number of positive decisions. The numbers of first-time asylum applications between 2012 and 2015 fluctuated from 4000 to 5000. The number of asylum applicants was especially high in 2016 (7795). It slightly decreased to 6875 in 2017 and reached to 4855 in 2018.

Rejected asylum seekers have the right to appeal a negative first-instance decision in court. If they don't, or if the court confirms the negative decision, they receive a return order under which they have to leave the EU, usually within four weeks (depending on the member state and the circumstances of their claim). If they leave voluntarily, they receive financial support. Otherwise they risk being deported against their will.

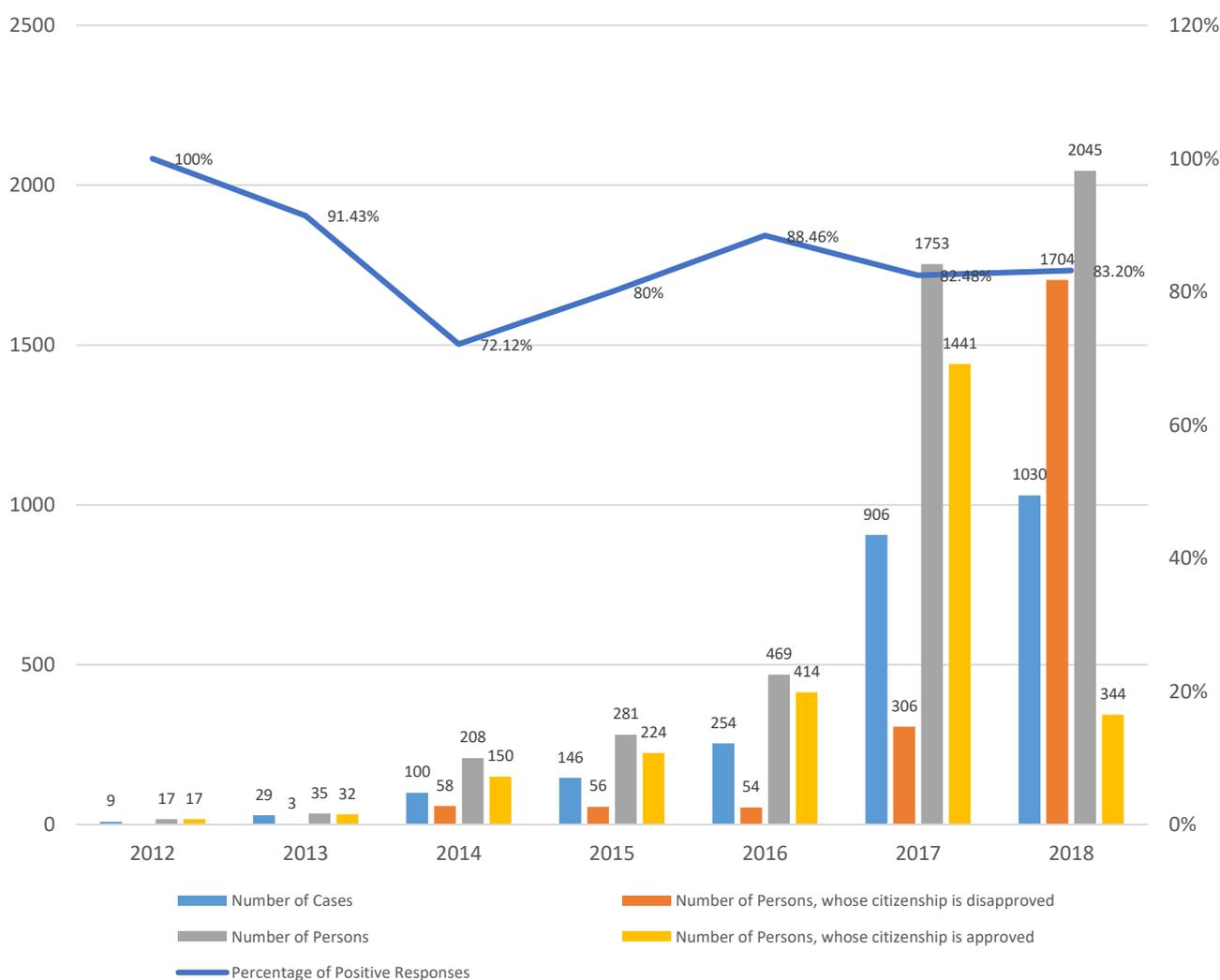
¹⁶⁴ The data are collected from the Eurostat statistical office of the European Union: http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_asyappctza&lang=en (Accessed 12 Sept. 2019).

The graph shows a relatively low rate of positive decisions, illustrating that a large number of Armenians abuse the EU asylum system by benefiting from the services that asylum seekers are entitled to (accommodation, medical care, school for children, food, cash benefits). But very few Armenians receive asylum status. It should be noted that such a high number of asylum applications is connected with the difficult economic and political conditions in Armenia. The number of applicants increased in the years of 2016 and 2017, a period when freedoms in the country gradually decreased. Journalists, civil society members and peaceful protestors were often attacked during demonstrations against economic and political issues in the country. In 2018 the number of first-time asylum applicants from Armenia decreased. This coincides with political changes in the country, specifically the 2018 Velvet Revolution. The change in power gave Armenians new hope and expectations.

Readmission Requests: Statistics for 2018

According to information provided by the Armenian Migration Service, the total number of readmission requests received from EU countries has grown considerably in recent years. In 2015, a total of 146 requests were received from EU Member States, compared to 989 in 2018.

Figure 5: The number of readmission requests received from 2012-2018¹⁶⁵



¹⁶⁵ The data for this graph was provided to ACGRC by the State Migration Service of the Republic of Armenia.

In 2014, only two Member States of the EU (Sweden and Poland) sent readmission requests, compared to eight requesting Member States in 2018. About 80 percent of the responses confirmed the fact that the individual in question had Armenian citizenship. In the last two years, Germany has topped the list of countries sending readmission requests: in 2017, Germany sent 499 requests (concerning 1,022 persons), compared to 681 requests in 2018 (concerning 1,385 persons).

Table 1 details the numbers of the requests submitted according to country and the number of persons with confirmed citizenship. When applying for asylum some citizens of Armenia provide information about their country of origin, others do not declare their citizenship, opting instead to destroy their personal documents. The Armenian government has shown its willingness to cooperate and assist in the identification of Armenian nationals. The numbers underscore the government's readiness to cooperate on readmission.

Table 1: Number of readmission requests received, by countries, 2018¹⁶⁶

Requesting country	Number of persons mentioned in the requests	Number of persons with confirmed citizenship	% of positive responses
EU MS (Total)	1995	1670	83.37%
Austria	182	116	63.74%
Belgium	44	43	93.48%
Bulgaria	3	1	50.00%
Germany	1385	1211	86.50%
Poland	38	30	90.91%
The Netherlands	139	109	77.30%
Sweden	78	50	64.94%
France	126	110	90.16%

*** The % of positive responses is calculated relative to the sum of the number of persons with confirmed citizenship and the number of persons without confirmed citizenship during the year.**

According to Eurostat data, 1455 persons were returned to Armenia in 2017, compared to 1935 in 2018.¹⁶⁷ At the same time it should be noted that actual returns include both voluntary and forced returns, but many EU MS do not have sufficient system to record voluntary returns. Often a return order is issued in one year, but the return, in particular if it is forced (deportation), takes place the following year. Thus, numbers might differ. In 2017, the Partnership Implementation Report set the return rate at 29%.¹⁶⁸ It grew to 49% in 2018. The increased percent of returned persons is a positive trend that indicates improved cooperation on border management between the EU and Armenia, as well as Armenia's readiness to accept its citizens back. The Partnership Implementation Report also noted that the electronic Readmission Case Management System became operational in early 2019,

¹⁶⁶ The data for this table was provided to ACGRC by the State Migration Service of the Republic of Armenia.

¹⁶⁷ Data are from Eurostat statistical office of the EU.

http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_eirtn&lang=en (Accessed 12 Sept. 2019).

¹⁶⁸ European Commission. 2019. Partnership Implementation Report on Armenia.

https://eeas.europa.eu/sites/eeas/files/partnership_implementation_report_armenia.pdf (Accessed 12 Sept. 2019).

and will further facilitate to effectively deal with the expected increase in readmission applications in the near future.¹⁶⁹

The day-by-day increase in the number of readmission requests received under the Armenia-EU Readmission Agreement is due to the tightening of migration policies of EU MS, including countries that received a large increase in migrants in 2015 and 2016, such as Germany, Austria and Sweden. Another reason is connected with the fact that most asylum services prioritise people both from countries with low recognition rates and countries with high recognition rates because these cases are usually easy to decide. Armenians fall in the latter category, so they are often prioritised for this reason. But the underlying reason for the low recognition rate is a result of the fact that political persecution and other grounds for asylum are rare in Armenia.

Return and Reintegration Programs

Presently, a number of organizations in Armenia, including the International Organization for Migration, the French Office of Immigration and Integration, the French-Armenian Development Foundation, the Armenian Caritas and the International Centre for Migration Policy Development, are implementing reintegration programs, the beneficiaries of which are migrants referred or compulsorily returned from EU Member States. The reintegration support programmes in Armenia offer the following types of support: information and counselling, referral to the relevant structures, support to social and health needs, professional training and small business grants. Unfortunately, currently there is no available data regarding the number of people who benefited from reintegration programmes and any details regarding such programmes.

An important project “Assistance to Armenian Migrants in the Return and Reintegration Process” was launched in Armenia by the European Return and Reintegration Network (ERRIN) on 8 November 2018.¹⁷⁰ Under the programme, around 400 returnees will receive information, advice and referrals on reintegration and various mechanisms of direct social and economic assistance. The programme will not only provide practical support to returnees, but also help to develop the capacity of the relevant state bodies.

The Reintegration Single-Window Service

On 22 February 2018, a Memorandum of Understanding was signed between the French-Armenian Development Foundation and the Migration Service under the Ministry of Territorial Administration and Development. The Memorandum is aimed at deepening cooperation between the sides and, through the “single-window” service, to ensure the continuity of support to migrants returning to Armenia, irrespective of whether they return compulsorily or voluntarily. The “single window” or “one stop-shop” principle ensures that the beneficiary can receive all requested services at one place. The service provides returnees the necessary information on reintegration programmes, the organizations that implement them, the types of support offered and the state bodies related to return and reintegration.

During the first nine months of the service, it received applications from 44 returning migrants, which have been referred to reintegration programs, including 38 from Germany, three from France,

¹⁶⁹ *ibid*

¹⁷⁰ ERRIN webpage. 2018. *Government to Government Cooperation*.

https://returnnetwork.eu/post_type_activities/government-to-government-cooperation/ (Accessed 12 Sept. 2019).

two from Austria and one from Poland. Only 13 of the 44 migrants had returned voluntarily; the others had been returned compulsorily.¹⁷¹ In total, need-specific counselling and referral services were provided to 72 citizens. They were referred to not only specific programmes for receiving reintegration support, but also to state bodies and structures, such as the State Employment Agency under the Republic of Armenia Ministry of Labour and Social Issues, the State Service for Social Security, the Republic of Armenia Ministry of Defense, Republic of Armenia Ministry of Education and Science, the Agency for Registration of Civil Status Acts and the Passports and Visas Department of the Police.

Conclusions and Recommendations

Armenia has signed the Visa Facilitation and Readmission Agreements with the EU which are important steps for the EU visa-free regime. The Visa Facilitation Agreement has provided a number of benefits for Armenian nationals, such as a lower visa fee rate and a faster procedure for issuance of visas. In addition, the Armenian authorities have improved their cooperation with the EU in the framework of the Readmission Agreement. The number of readmission requests from the EU MS to the Armenian government has increased.

At the same time, there are certain shortcomings and issues that need to be improved in order to decrease the number of refusals of visa applications and to launch the visa liberalization dialogue. For instance, the transition to only biometric passports—a necessary condition for the visa-free regime—has been postponed, most recently due to announced tenders.

There has been a slight increase in the refusal of Schengen visas, especially due to discrepancies in the documents submitted by Armenian citizens when applying for visas. There are also risks that the number of Armenian asylum-seeking applications might increase. The following section highlights certain steps that might assist Armenia in the process of visa facilitation and liberalization with the EU.

Government of the Republic of Armenia

On Democratic Reforms for launching Visa Dialogue:

- In order to accelerate the launch of the visa liberalization dialogue, Armenian authorities need to adopt anti-discrimination legislation and the Istanbul Convention. The parliamentary hearing on Istanbul Convention has been postponed from September 2019 to spring of 2020. Anti-discrimination legislation still has not been mentioned as a topic for a parliamentary hearing.

On Data Protection:

- Specific procedures should be developed for biometric data processing, storage, provision, and use. Currently, biometric data is processed and stored the Armenian Police. Instead, a separate competent state institution needs to be created that will undertake these procedures as well as ensure the cyber security of the biometric data.

¹⁷¹ Reintegration advisor at the reintegration single-window service.

- The Law on Protection of Personal Data of the Republic of Armenia should be improved; in particular the grounds and procedure of providing biometric data to other countries should be clarified.
- The independence of the Agency for Protection of Personal Data under the Ministry of Justice should be ensured. It will be necessary to transform the Agency into a separate state body, independent from the Ministry of Justice, which will be accountable to the Prime Minister and will be under the control of the Parliament of Armenia. There should be a practice of reporting to the public in the form of an annual report that will be presented to the National Assembly and published.

This will ensure more effective implementation of data protection and make the institution more independent from such bodies as the police and the border management of Armenia, and would also assist in restricting biometric data transfer to other countries.

On Issuing Biometric Passports:

- Ensure the uninterrupted process of issuing biometric passports. Accountability and transparency of the calls for bids, tenders, and new contract awards should be ensured.
- The fee for biometric passports should be reduced in order to make them affordable for the whole population. The biometric passport costs 25,000 AMD (about 50 euro), which is quite high for Armenia, where the average salary is 168,152 AMD (about 320 euro)¹⁷².

On Reintegration of the Returned Citizens of Armenia from the EU:

- Despite the existence of a number of reintegration programmes in Armenia, there is currently no programme of state assistance. To this end, we propose developing an action plan for Armenian citizens returning to Armenia under the EU-Armenia Readmission Agreement, which will specify actions, the responsible authorities and the implementation timetable.
- Raise public awareness of migration-related matters. A key challenge for Armenia in the sphere of migration is the low-level of public awareness of the risks and consequences of irregular migration.

On Schengen Visa Applications:

- The Armenian government should run public awareness-raising campaigns regarding how to apply for a Schengen visa. The campaign needs to include information about the preparation and collection of documents required for a visa, and advice against providing false data and documents as well as instructions to refrain from changing the reasoning documents after receiving a visa (for instance, changing the destination country), because the visa may be cancelled in such cases, or entry may be prohibited at the border.

¹⁷² The average salary is as of January 2018 available at the National Statistical Service of Armenia: https://www.armstat.am/file/article/sv_02_18a_142.pdf (Accessed 12 Sept. 2019).

Armenian Civil Society and International Donors

On Raising Awareness about Schengen Visa Rules:

- The CSOs should disseminate materials on the Schengen visa application requirements and importance of being attentive to the visa application requirements. CSOs should also organize trainings regarding the rights that the citizens of Armenia under the Visa Facilitation Agreement.
- CSOs should also organize campaigns regarding the Schengen Visa Code, Armenia-EU Readmission Agreement and the consequences of illegal migration. Such information campaigns will raise awareness among the population of Armenia, and prevent illegal migration from Armenia.

On Monitoring the Government of Armenia for Further Reforms:

- CSOs should monitor how the government implements the Visa Facilitation and Readmission Agreements, as well as steps that are being undertaken to launch visa-free regime dialogue. This will assist the Armenian government with EU-Armenian mobility cooperation and facilitate a quicker start for the visa dialogue stage.

The European Union

On EU-Armenia Cooperation in the Field of Visa Facilitation and Liberalization

- The EU needs to be more active in relation to the requirements and need to start the EU-Armenia visa dialogue process. The EU needs to engage active civil society organizations from Armenia in the visa and migration processes, namely in monitoring and evaluating the reforms implemented by the Armenian authorities in these fields. Inclusion of civil society organizations in the EU-Armenia negotiations and official process is highlighted in the CEPA.
- In the framework of the CEPA, EU needs to create a platform between the EU and the Armenian government on the visa facilitation and visa dialogue stage, which would include civil society organizations dealing with the topic. Additionally, when there are discussions or hearings organized regarding visa facilitation and liberalization by the authorities of Armenia, civil society representatives need to be invited.

On the EU-Armenia Visa Facilitation Agreement and Visa Applications

- The decision on a visa fee waiver that is indicated in the Visa Facilitation needs to be implemented by consulates and visa centres. The visa fee waiver provision is often violated by the consular officers and the visa centre employees (for the same type of visit purpose, a visa fee is sometimes collected and sometimes waived). In order to implement the visa fee waiver consistently, the application forms could include a section related to the visa fee waiver category.
- EU Member States should be encouraged to open visa centres in other towns of Armenia (Gyumri, Vanadzor, and Kapan), so that citizens of remote towns can complete the visa procedures in a more convenient manner.

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Grants are available for CSOs from the Eastern Partnership and EU countries. Key areas of support are democracy and human rights, economic integration, environment and energy, contacts between people, social and labour policies.