

Monitoring Report

**Agreement between the European Union and the Republic
of Armenia on the Facilitation of the Issuance of Visas
(third monitoring)**



Yerevan, 2016

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Introduction

EU-Armenia Relations in the Area of Facilitation of the Issuance of Visas: Development Trends

Incremental facilitation of the process of obtaining EU visas, transitioning to a Visa Dialogue, with the subsequent possibility of visa-free travel for short trips are of immense importance to the citizens of Armenia, as the visa issue is a key obstacle to communication, people to people contacts, free travel, and study opportunities.

The monitoring¹ of the implementation of the Agreement between the European Union and the Republic of Armenia on the Facilitation of the Issuance of Visas and the Agreement on the Readmission of Persons Residing without Authorisation allows revealing the key omissions, analyzing, and presenting recommendations on ways of addressing them, as well as having an alternative monitoring and impartial assessment of the situation, in addition to the official data, assessments, and viewpoints of the direct parties to the process (consular services of EU Member States, state bodies of the Republic of Armenia, and ordinary applicants). Hence, the importance of this monitoring and the engagement of civil society stakeholders in the processes in this area.

The implementation of the Visa Facilitation and Readmission Agreements is decisive for the future of Armenia-EU relations, as time has shown that visas and readmission remain essential areas in the Armenia-EU relations. In meetings and discussions at different levels, addressing the current level and achievements in the Armenia-EU relations, both sides have emphasized the importance of visas and readmission, which further proves the importance of this monitoring.

The importance of these issues was further underlined in the Joint Declaration of the Eastern Partnership Summit held in Riga on 21 and 22 May 2015, Paragraph 23 of which (“Mobility and people to people”) reads: “The Summit participants reconfirm that enhanced mobility of citizens in a secure and well-managed

¹ The Oxford English Dictionary defines the verb “monitor” as “observe and check the progress or quality of (something) over a period of time; keep under systematic review” (<https://en.oxforddictionaries.com/definition/monitor>). According to the Dictionary, the word “monitor” originates from the Latin *monit-* ‘warned’. Monitoring is the process of situational, current, and continuous review of development programs and their implementation, and of documenting the findings. The **monitoring** function is aimed at revealing, as swiftly as possible, actual and potential achievements and shortcomings, and helping to address and overcome them (<http://www.ampartners.am/service/monitoring-and-evaluation.html>).

environment remains a core objective of the Eastern Partnership. This will facilitate easier and more frequent travel, business and people to people contacts... They welcome the progress to date in the implementation of the Visa Facilitation and Readmission [Agreement] with Armenia... They look forward to consideration in due course of the opening of a visa dialogue with Armenia, provided that Armenia continues to ensure sustained progress in the full implementation of the Visa Facilitation Agreement and Readmission Agreement.”¹

Importantly, during his visit to Armenia on 20 July 2015, European Council President Donald Tusk made a statement that addressed important aspects of visa facilitation for Armenia’s citizens.² During a visit to Armenia in February 2017, Christian Danielsson, the Director General for Enlargement at the European Commission, urged Armenia to concentrate on the Visa Facilitation Agreement, at first trying to make the most use of opportunities it provides.³

The Analytical Centre on Globalization and Regional Cooperation (ACGRC) has been very active in this field, especially in the last three to four years: the 2014-2015 monitoring reports have been prepared and published,⁴ presenting important findings and recommendations in a number of key areas. Public statements have been made concerning visas, the operation of visa centers in Armenia, and biometric passports. With the help of international experts, ACGRC has presented the Recommendations on Forming and Implementing the Roadmap to the Symmetrical Visa-free Regime between the EU and Armenia,⁵ which has been endorsed by a number of other non-governmental organizations.

¹ Joint Declaration of the Eastern Partnership Summit (Riga, 21-22 May 2015) http://eeas.europa.eu/archives/docs/eastern/docs/riga-declaration-220515-final_en.pdf ; <http://acgrc.am/Riga%20Declaration%202015%20Final.pdf>

² Joint press conference by President of Armenia Serzh Sargsyan and European Council President Donald Tusk (20 July 2015), <http://www.president.am/hy/interviews-and-press-conferences/item/2015/07/20/President-Serzh-Sargsyan-answers-at-press-conference-with-Donald-Tusk/>

³ The EU representative urges Armenia to concentrate on the Visa Facilitation Agreement (2 March 2017) http://www.azatutyun.am/a/28277180.html?utm_source=dlvr.it&utm_medium=facebook

⁴ Agreement between the European Union and the Republic of Armenia on the Facilitation of the Issuance of Visas (reports of the first and second monitoring rounds): <http://acgrc.am/bokeng.pdf> ; <http://acgrc.am/ENG%20Version.pdf>

⁵ Recommendations on Forming and Implementing the Road Map to the Symmetrical Visa-Free Regime between the EU and Armenia <http://www.osf.am/2015/09/recommendations-on-forming-and-implementing-the-road-map-to-the-symmetrical-visa-free-regime-between-the-eu-and-armenia/>

EU-Armenia Cooperation under the Eastern Partnership Program

People to people contacts are one of the four platforms of cooperation under the Eastern Partnership Program. For Armenian citizens to enter the EU area, it presupposes obtaining an entry visa. In view of the importance of this area of EU-Armenia relations, talks on a Visa Facilitation¹ and Readmission Agreement with the EU began in Yerevan in February 2012. After three rounds of negotiations, the Agreement between the European Union and the Republic of Armenia on the Facilitation of the Issuance of Visas was signed on 17 December 2012, and the Readmission Agreement on 19 April 2013.² These Agreements were ratified by the European Parliament on 9 October 2013 and by the Armenian National Assembly on 12 November 2013, and entered into force on 1 January 2014.³

According to the Republic of Armenia Government Decree 1255-N dated 4 October 2012, citizens of the EU Member States and non-member-states that apply the provisions of the Schengen acquis may travel to Armenia without a visa from 10 January 2013, which has been an important and commendable move by Armenia.⁴

Armenia discontinued the Association Agreement talks with the EU on 3 September 2013 and started a process of accession to the Customs Union and the Eurasian Economic Union (EEU). On 2 January 2015, Armenia joined the Eurasian Economic Union and became a full member of the EEU next to Belarus, Kazakhstan, and Russia.⁵

However, the EU took an important decision on 12 October 2015: the EU Foreign Affairs Council authorized the European Commission and the EU High Representative to start negotiations on a new comprehensive and legally-binding agreement with Armenia and issued the respective mandate. This agreement will replace the current Partnership and Cooperation Agreement between the EU and

¹ The EU signed the first agreement on visa facilitation with the Russian Federation, which entered into force in 2007. https://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/visa-policy_en

² The cooperation of the Republic of Armenia with the EU, <http://www.mfa.am/hy/country-by-country/eu/>

³ Visas: European Parliament gives green light to EU-Armenia visa facilitation agreement (09.10.2013) <http://www.europarl.europa.eu/news/en/news-room/content/20131004IPR21533/html/Visas-Parliament-gives-green-light-to-EU-Armenia-visa-facilitation-agreement> , Armenian parliament ratifies visa facilitation and readmission agreements with EU (12.11.2013) http://armenianow.com/news/49985/armenia_eu visa_facilitation_readmission_agreement_parliament_ratification

⁴ Republic of Armenia Government Decree 1255-N dated 4 October 2012; <http://www.arlis.am/documentview.aspx?docID=94296>

⁵ Armenia acceded to the Eurasian Economic Union (2 January 2015); <http://www.eurasiancommission.org/hy/nae/news/Pages/02-01-2015-1.aspx>

Armenia (since 1999). These negotiations were officially launched on 7 December 2015 in Brussels.¹ By January 2017, eight rounds of negotiations on the Armenia-EU framework agreement had taken place,² and on 27 February 2017, during a working visit to Brussels, the Republic of Armenia President Serzh Sargsyan announced in a meeting with European Council President Donald Tusk that the Armenia-EU framework agreement negotiations had been completed.³ However, despite the agreements reached in the course of the negotiations, it is regrettable that they were not transparent.

Findings

The aforementioned two agreements, which are aimed at regulating and facilitating the issuance of visas to and the return of several categories of Armenian citizens, entered into force in January 2014. The first two chapters of this report are dedicated to the 2016 monitoring of the implementation of the Agreement between the European Union and the Republic of Armenia on the Facilitation of the Issuance of Visas and the Agreement on the Readmission of Persons Residing without Authorisation. The third chapter presents recommendations on transitioning to a Visa Dialogue, preventing and fighting corruption, and anti-discrimination legislation.

The study was carried out by experts of the Analytical Centre on Globalization and Regional Cooperation (ACGRC) with the support of Open Society Foundations-Armenia. For the elaboration of recommendations, we are grateful to ACGRC experts Ewa Polak and Armen Grigoryan, Transparency International Anti-corruption Center experts Varuzhan Hochtanyan and Khachik Harutyunyan, Open Society Foundations-Armenia experts Mariam Matevosyan and Hayk Abrahamyan, and Digital Rights NGO expert Andranik Markosyan. The authors of the report are grateful to Joanna Fomina (European Studies Centre of the Polish Academy of Sciences) for useful and important comments on the Report.

¹ The launch of negotiations on a framework agreement with Armenia (13 October 2015); http://eeas.europa.eu/delegations/armenia/press_corner/all_news/news/2015/2015_10_13_hy.htm

² Foreign Affairs Minister Nalbandyan's statement and answers to the questions of journalists at the 2016 annual diplomatic endyear press conference (31 January 2017) http://mfa.am/hy/press-conference/item/2017/01/31/min_dipyear_2016/

³ Republic of Armenia President Serzh Sargsyan meets with European Council President Donald Tusk (27 February 2017); <http://www.president.am/hy/press-release/item/2017/02/27/President-Serz-Sargsyan-meet-with-President-of-the-European-Council-Donald-Tusk/>

Moreover, the following civil society organizations have endorsed these recommendations: Open Society Foundations-Armenia, the Asparez Club of Journalists, the Helsinki Citizens' Assembly Vanadzor Office, the Helsinki Committee of Armenia, and the Digital Rights NGO.

In the November 2016 Conclusions of the EU Foreign Affairs Council on the Eastern Partnership, the visa liberalization for Armenia's citizens was mentioned, together with the visa requirement abolition for citizens of Georgia and Ukraine. The European Ministers underlined that they are looking forward to consideration "in due course of the possible opening of a visa dialogue with Armenia."¹

The Visa Facilitation and Readmission Agreements have been in effect for about three years now, and this Monitoring has allowed analyzing the current situation and drawing conclusions on their impact.

The successful implementation of the Agreements with the EU and continued progress towards visa liberalization require persistent action by all the stakeholders, including the Armenian authorities, the public at large, especially active groups, and the European institutions. ACGRC intends to continue working actively and to monitor the visa liberalization process in the future, as well, presenting recommendations to the stakeholders, similar to what is done in this Third Monitoring Report.

¹ The EU is preparing for visas liberalization negotiations with Armenia (14 November 2016); <http://yerkirmedia.am/1political/em-hayastan-viza-azatakanacum/>

Methodology and Scope of the Monitoring (Methodology of the 2016 Monitoring)

This Monitoring focuses on the implementation of the Agreement between the European Union and the Republic of Armenia on the Facilitation of the Issuance of Visas and the Agreement on the Readmission of Persons Residing without Authorisation. The Project included a comprehensive overview of the process of obtaining short-term EU entry visas (only visas with a validity of up to 90 days),¹ irregular migration, the readmission of persons residing without authorisation, passports, personal data, and other aspects.

The following methods were used during this study:

1. Review of the relevant Armenian and European legislation

The domestic and international legislation on this sector was reviewed. First of all, the visa facilitation agreement and the agreement on the readmission of persons residing without authorisation between the European Union and the Republic of Armenia were reviewed.² The EU Visa Code,³ the Schengen Agreements,⁴ the Dublin Convention,⁵ and other international legal instruments were reviewed. As to domestic documents, the Republic of Armenia Law on the Passport of a Citizen of the Republic of Armenia, the Republic of Armenia Law on Personal Data Protection, a number of other laws and regulations, decrees and programs of the Republic of Armenia Government on migration and readmission, annual reports of the Ministry of Foreign Affairs of the Republic of Armenia, and other texts were reviewed.

¹ Schengen Visa Types <http://www.schengenvisainfo.com/schengen-visa-types/>

² Agreement between the European Union and the Republic of Armenia on the Facilitation of the Issuance of Visas and the Agreement on the Readmission of Persons Residing without Authorisation; http://www.mfa.am/u_files/file/EU_AM_VFA_am.pdf; http://mfa.am/u_files/file/Agreement_EU_Readmissiom_Arm.pdf

³ Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code) <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:243:0001:0058:EN:PDF>

⁴ Schengen Agreements http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/borders-and-visas/schengen-agreements/index_en.htm

⁵ Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities - Dublin Convention (19.08.1997) [http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:41997A0819\(01\)&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:41997A0819(01)&from=EN)

2. Review of the websites of EU consulates, the visa centers operating in Armenia, and the relevant state authorities

The study reviewed the official websites of the consular posts of the diplomatic missions of EU Member States in Armenia, the visa centers operating in Armenia, the Passports and Visas Department of the Police of the Republic of Armenia, and the State Migration Service of the Ministry of Territorial Administration and Development of the Republic of Armenia. There was a particular focus on analyzing the information contained in the relevant websites, in view of the importance of seeking information from the worldwide web in the contemporary world.

3. Inquiries (see the questions below)

After reviewing the legislation and the rules that are in place, questions were prepared during the first stage of implementation of the program, which were intended for the state authorities in charge of the sector and the consular posts of the diplomatic missions of EU Member States, as well as the visa centers operating in Armenia. The questions were prepared in view of the importance of visas and migration for the public at large, especially the issues and cases encountered in everyday life and especially in the mass media, as well as the issues that came up during the 2014 and 2015 monitoring exercises.¹ Individual meetings were held with a number of national and international experts (Germany, Belgium, Poland, Lithuania, Ukraine, Georgia, and Moldova).

Inquiries were also carried out among applicants that had been refused a Schengen visa, as well as applicants that had appeals, in order to understand the overall situation. The study examined whether refused applicants receive written notice, and if yes, then in what language. It is important, because the applicant would have a document specifying the refusal grounds, and if the document is in Armenian, then it will be much easier, for those who wish, to appeal or not to repeat the mistakes when applying again.

4. Visits to the Consular Services

For the first time, study visits were carried out to the consular services, where meetings were held with the respective consul and consular staff in order to have a discussion and to understand the conditions, the visa application admission procedure, the problems encountered, and the steps taken for solving them.

¹ Monitoring Report: Agreement between the European Union and the Republic of Armenia on the Facilitation of the Issuance of Visas (2014) <http://arm.acgrc.am/bookarm.pdf>

5. Recommendations on Transition to Visa Dialogue between Armenia and the EU, and Corruption Prevention, Fighting Corruption, and Anti-Discrimination Legislation

Considering that Armenia has overcome the first stage of visa liberalization with the EU, and there is a possibility to move to the second—Visa Dialogue stage, the Recommendations on Transition to Visa Dialogue between Armenia and the EU, and Corruption Prevention, Fighting Corruption, and Anti-Discrimination Legislation were drafted.

6. Monitoring of the online media

As the Internet is a primary source of information, and the level of public awareness is low, online media were monitored with a view to comparing and tracking how various events are reported in the online media.

7. Statistical desk research

The statistics of EU visas were studied, alongside the experience of some other Eastern Partners (Ukraine, Moldova, and Georgia), which have completed the first phase of visa liberalization. Some of them (such as Moldova, and Georgia¹ recently (by a 2 February 2017 vote of the European Parliament² and EU Council approval on 27 February 2017³)) have already achieved a visa-free regime with the EU. To take a decision on the visa regime, EU Council agreement (qualified majority), as well as European Parliament approval (simple majority) are required. A new (“qualified majority”) voting procedure was introduced in the EU Council from November 2014. Under this procedure, the Council votes by proposal of the Parliament or the High Representative of the Union for Foreign Affairs and Security Policy. “Qualified majority” means that 55% of the Member States (16 out of 28) vote for, and the voting countries represent 65% of the EU population.

¹ Parallel to the decision to waive the visa requirement for Georgian citizens for short visits to EU States, the EU reserves the right, in case of violations by Georgia or failure to honor the commitments, to cease the visa-free regime, for which the European Commission will carry out monitoring (<http://www.europarl.europa.eu/news/en/news-room/20170131IPR60306/georgia-visa-waiver-approved-by-parliament>).

² Georgia visa waiver approved by Parliament (02.02.2017) <http://www.europarl.europa.eu/news/en/news-room/plenary/2017-02-01/4>; <https://news.am/arm/news/371063.html>

³ Visas: Council adopts regulation on visa liberalisation for Georgians (27.02.2017) <http://www.consilium.europa.eu/en/press/press-releases/2017/02/27-visa-liberalisation-georgia/>

This procedure is also known as the “double majority” rule. About 80% of the EU legislation is adopted under this procedure.¹

For the first time, comparative analysis of the 2012-2015 statistical data was carried out, including the total number of visas issued by consular services issuing a Schengen visa in Armenia, broken down by countries, types, refusals, and the like. As part of the comparative analysis, the impact and trends of the said two Agreements were assessed by comparing the EU official statistics for two years preceding their entry into force (2012 and 2013) and two years following their entry into force (2014 and 2015).

The beneficiaries of this Project are NGO representatives, active groups of civil society, journalists, state authorities, consular posts of the EU Member States in Armenia, and all citizens who plan to visit countries in the Schengen Area.

¹ Council of the European Union, Voting system (01.11.2014) <http://www.consilium.europa.eu/en/council-eu/voting-system/qualified-majority/>

Chapter One.

Agreement between the European Union and the Republic of Armenia on the Facilitation of the Issuance of Visas:¹ Provisions and Practice

The Agreement between the European Union and the Republic of Armenia on the Facilitation of the Issuance of Visas contemplates the following key changes:

- ✓ The issuance of a visa is easier, as fewer documents are required of the visa applicants (Article 4).
- ✓ The visa fee was reduced from 60 to 35 Euros, and free visas are issued to a number of categories (Article 6).
- ✓ The decision to issue a visa is taken faster, within 10 days (in certain cases, it can be prolonged to 30 days) (Article 7).

Under the Agreement on the Facilitation of the Issuance of Visas, the following categories of Armenian citizens benefit from a facilitated procedure of issuing a visa (see the Second Monitoring Report,² pp. 12-13). 12 groups of citizens are exempt of the visa fees (see the Second Monitoring Report, p. 13).

Diplomatic missions and consular posts of the Member States shall issue multiple-entry visas with the term of validity of one year³ to the following categories of persons, provided that during the previous year they have obtained at least one visa and have made use of it in accordance with the laws on entry and stay of the visited State.

Diplomatic missions and consular posts of the Member States shall issue multiple-entry visas with the term of validity of a minimum of 2 years and a maximum of 5 years to the categories of persons referred to in paragraph 2 of this

¹ Agreement between the European Union and the Republic of Armenia on the Facilitation of the Issuance of Visas, http://www.mfa.am/u_files/file/EU_AM_VFA_am.pdf

² Second Monitoring Report (2015), <http://acgrc.am/ENG%20Version.pdf>

³ A single-entry visa contains information on the number of authorized days (e.g. 15 days). As to the multiple-entry visas, the citizen is allowed to stay in the Schengen Area for up to 90 days during a specific 180- day time period. Information about the calculation of eligible visa days in the Schengen Area can be found using the official Schengen Calculator of the European Commission: http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/borders-and-visas/border-crossing/schengen_calculator_en.html. The long-term (over 90 days) visa issuance procedures are not defined by the EU Visa Regulations; rather, they are provided by the national legislation (Regulation (EU) No 265/2010 of the EP and of the Council of 25 March 2010 Amending the Convention Implementing the Schengen Agreement and Regulation (EC) No 562/2006 as regards to movement of persons with long-stay visa, OJ (2010) L 85/1 (31.03.2010) <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=OJ:L:2010:085:FULL&from=CS>).

Article, provided that during the previous 2 years they have made use of the one year multiple-entry visas in accordance with the laws on entry and stay of the visited State.

In justified cases of urgency, the consulate may allow applicants to lodge their applications either without appointment, or an appointment shall be given immediately.

According to Article 77 of the Treaty on the Functioning of the European Union, the Union shall have authority for the common policy on visas and other short-stay residence permits. It also includes the Schengen Code. The common visa policy of the EU is based on three legal acts—Regulation 53/2001, Regulation 1683/95, and Regulation 810/2009.¹ They prescribe the list of countries the citizens of which are required to have an entry visa to cross the border or are exempt thereof, the common visa form, the technical specifications, the procedures for issuing airport transit visas and short stay visa, and other terms.

For purposes of this Agreement, countries may be divided into three categories:

- Countries that are full participants to the Schengen Agreements (Austria, Belgium, Hungary, Germany, Greece, Spain, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Slovakia, Slovenia, Finland, France, the Czech Republic, Sweden, and Estonia), for which the provisions of those Agreements are binding. Although Iceland, Lichtenstein, Norway, and Switzerland are full participants to the Schengen Agreements, they are neither EU Member States nor parties to the Agreement between the European Union and the Republic of Armenia on the Facilitation of the Issuance of Visas. The Governments of Iceland, Lichtenstein, and Norway and the Government of Armenia need to conclude bilateral agreements on the facilitation of the issuance of short-term visas, with conditions similar to those of the Agreement between the European Union and the Republic of Armenia (see the Agreement between the European Union and the Republic of Armenia on the Facilitation of the Issuance of Visas).²

¹ Official Journal of the European Communities OJ (2001)L 81/1 (21.03.2001) <http://eur-lex.europa.eu/legal-content/GA/ALL/?uri=OJ:L:2001:081:TOC> ; Official Journal of the European Communities OJ (1995) L 164/1 (14.07.1995) <http://eur-lex.europa.eu/legal-content/GA/ALL/?uri=OJ:L:1995:164:TOC> ; Official Journal of the European Communities OJ (2009) L 243/1 (15.09.2009) <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L:2009:243:TOC>

² http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/borders-and-visas/schengen/index_en.htm

- Countries with which bilateral agreements need to be concluded (the United Kingdom of Great Britain and Northern Ireland, and Denmark, although Denmark is a Member State and is in the Schengen Area).
- Non-full members of the Schengen Agreements, which may issue only national visas, but the visas for the Schengen Area are valid in their territories (Bulgaria, Cyprus, and Romania).

On 29 February 2016, in Geneva, Armenian Foreign Minister Edward Nalbandyan and Swiss Head of the Federal Department of Foreign Affairs Didier Burkhalter signed an agreement on visa facilitation between Armenia and Switzerland. The joint statement (p. 17) on Iceland, Lichtenstein, Norway, and Switzerland, which are not party to the Agreement between the European Union and the Republic of Armenia on the Facilitation of the Issuance of Visas, signed in 2014, reads: "It would be appropriate for the authorities of Switzerland, Iceland, Lichtenstein, Norway, and Armenia conclude, without delay, bilateral short-term visa facilitation agreements on terms similar to those of the EU-Armenia Agreement." Thus, since signing the agreement with the EU, this is the first specific agreement on visa facilitation, which is very commendable.¹

All the consulates of the Schengen States in Armenia joined the Visa Information System ("VIS") on 23 June 2015. VIS was created for simplifying the visa processes and improving the security of the visa application process. It is a unified and centralized biometric database of persons that have applied for a visa at least once. Schengen visa applicants will be required to provide their biometric data (fingerprints and digital photo). The biometric data and the information contained in the Schengen visa application will be registered in the centralized VIS database. Biometric technology helps to protect the applicants against theft of private data.²

Thus, Armenian citizens applying for a Schengen visa must personally appear for giving biometric data. For further visa applications within a 5-year period, the fingerprints will be copied from the former VIS application file. For every subsequent Schengen visa application, the fingerprints for the 5-year period must be provided again. The requirement to provide fingerprints is waived for children

¹ Armenian-Swiss entry visa regime facilitation agreement is signed (29 February 2016), http://mfa.am/hy/press-releases/item/2016/02/29/min_ch/

² Fingerprints and digital photo for a Schengen visa (22 June 2015), <http://eunewsletter.am/hy/%D5%B4%D5%A1%D5%BF%D5%B6%D5%A1%D5%B0%D5%A5%D5%BF%D6%84%D5%A5%D6%80-%D6%87-%D5%A9%D5%BE%D5%A1%D5%B5%D5%AB%D5%B6-%D5%AC%D5%B8%D6%82%D5%BD%D5%A1%D5%B6%D5%AF%D5%A1%D6%80%D5%9D-%D5%B7%D5%A5%D5%B6%D5%A3/>

under the age of 12, persons whose fingerprints physically cannot be taken, heads of state, members of national governments, and spouses and official delegation members accompanying them when officially invited by governments of EU Member States or international organizations.¹

**The following questions were posed to the consulates:
Germany, Poland, Greece, France, Italy, Lithuania,
and the Czech Republic**

- ❖ Is it possible to receive a multiple-entry visa with a validity term of 3 to 5 years and free of charge (when the purpose of the trip is participation in a conference, symposium, or seminar)?
- ❖ Please, provide statistical data on visas for 2015 and January-June 2016.
- ❖ Are appropriate conditions secured for persons with limited physical mobility?
- ❖ Is the information on the new rules of visa issuance available on the official website of an EU Member State in Armenia, and if yes, in what language/-s?
- ❖ What are the most common reasons for refusing to issue a visa?
- ❖ Is written notice of refusal always given?
- ❖ Can the applicant appeal the decision after receiving the refusal, and if yes, is information about it available on the embassy's official website?
- ❖ What steps are being taken by the consular post in order to avoid long queues at the time of handing in the applications (especially during the summer and winter holidays)?

The responses were analyzed, and the results for the individual Member States are presented below.

PRACTICE

Consular Services of the Schengen Area Member States in Armenia

➤ Germany

The official website of the German Embassy is up to date and contains rather detailed information on the whole process of applying for a visa in Armenian and

¹ For more detailed information, see the Visa Information System http://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/visa-information-system_en

in German (there is also brief information in English), as well as on the visa facilitation agreement. There is a list of the countries (Belgium, Luxembourg, Sweden, Austria, and the Netherlands) for which the German Embassy issues visas. The website also contains memos that clearly explain the steps of applying for a visa.

The website of the German Consular Section states that the list of the required documents is prepared in agreement with the embassies of the Schengen Area Member States in Armenia. It means that the same visa documents are required at all of the mentioned embassies.

On 6 April 2016, ACGRC experts visited the German Consular Section in Armenia, where they met with Consul Alexander Barthold, visa section attaché Bjoern Thomas, and other employees of the consulate. During the visit, the group obtained inside information about the whole procedure—from the acceptance of the application to the provision of the response. At the time of the visit, four windows were accepting applications, and they said that another one would soon be added. In response to the issues raised, the German colleagues informed that, every year during the last two years, the number of visas with a validity term of six months or more has grown by 15 to 20 percent (in 2015, the increase was 17 percent). For visas with a validity term of one year or longer, the main factor taken into consideration is the frequency of past visits and questions of financing for the whole duration of the visa. The German Consulate also noted that they have recently seen many changes of the destination country by citizens after receiving the visa, which may lead to visa cancellation. Agreement was reached on preparing and disseminating joint materials in the future. In urgent cases, especially for health purposes, the consulate is always ready to consider an application in a speedy manner.

In response to our written inquiry, the Consulate informed us that long-term visas are mostly issued for a fee, because they may be used for visit purposes other than the free visa purposes specified in the Agreement (such as tourism). A free visa is issued for a maximum term of six months. In 2015, 13,143 visas were issued, and in January-June 2016, a total of 6,717 visas. The consulate has a ground-floor service area for serving applicants with limited physical mobility. The refusal notice is given in German, but appeals are accepted in English and German.

The most common stated reason for refusal is the low likelihood of the applicant returning to Armenia, the insufficiency of funds, and the unclear and non-credible purpose of the visit. The applicant may appeal the decision in the relevant

court of Germany (the Administrative Court of Berlin) within one month, and the website contains detailed information about the appeal possibility and procedure.

The question of queues is a very important issue in the case of Germany, because the German Consulate accepts visa applications for a number of Schengen states, and as registration is possible only online, it is often quite problematic (sometimes, the closest available date for an interview is a month away). In exceptional cases, the Consulate is ready to consider urgent applications without prior registration for the interview.

It is worth emphasizing that the German Consulate cooperated readily and swiftly responded to our inquiries.

➤ **Poland**

The consular post at the Polish Embassy, too, was very willing to cooperate. The consular post is doing a very good job organizing the daily reception of citizens. The official website contains very detailed, up-to-date, and comprehensive information; it specifies the countries, other than Poland, for which the Polish Embassy issues visas (Slovenia, and Slovakia, and Switzerland effective from March 2014). For each country, detailed three-language (Polish, Armenian, and English) information is provided on the documents required to apply for a visa, the queuing procedure, the possibility of appealing refusals, and the like. The website also contains information on the Agreement on the Facilitation of the Issuance of Visas and the main novelties introduced thereby, as well as the collection of biometric data.

On 14 April 2016, the ACGRC expert team visited the Polish Consulate and met with the Consul, Lukasz Jablonski, as well as the consular staff. During the meeting, the Consul presented the whole process in great detail. The Consulate has created convenient conditions for applicants, including a toilet, which is very important. At the time of the visit, two windows were accepting applications and taking fingerprints, and the team was told that a third window would soon be added. As to the number of applications, the Consulate reportedly receives about 33 Schengen visa and six national visa applications per day, working four days a week, and in the summer—five days. The Polish side further noted that they have started to issue a visa for up to three years more easily, and even when the citizen has requested a shorter visa, but it is possible to issue a longer visa, the consular staff does inform the applicant thereof. For a visa of one year or longer, the applicant is invited to present a written application or a statement from the place of work, with the relevant justification. The team was told that, if the documents are

incomplete, the applicant is given an opportunity to correct the documents or to present additional documents. Interestingly, the Polish Consulate has the possibility of review in case of refusal under a procedure through which the application is examined by a diplomat other than the consular officer who took the first decision.

The consular post at the Polish Embassy thoroughly replied to our inquiry. In case of meeting the multiple-entry visa provisions of the Visa Code (paragraph 24.2), a one-year or longer visa is issued, and the consular officers inform the applicants about the possibility of applying for a longer visa. As to a free-of-charge multiple-entry visa, the Consulate considers the purpose of the first entry, irrespective of the number of entries, i.e. a one-year or longer visa can be received free of charge. According to information provided by the consular post, the Polish consulate issued 3,714 visas in 2015 and 1,564 visas during January-June 2016. The refusal notice is provided in Polish (the refusal notice contains information on the appeal process and deadline), to which an Armenian translation is attached. All the necessary conditions are in place for applicants with limited physical mobility, because the Consulate is on the ground floor of the Embassy, and even the fingerprint scanners are placed at a height that is accessible for wheelchair users.

The most commonly reported reason for refusal is the failure to properly substantiate the purpose of the trip (Article 32.1(b) of the Visa Code). The Polish consulate stated that this negative trend continued to rise in 2016, during which more of the applicants have presented false documents. The applicants have much more frequently consciously presented false information or intentionally tried to conceal the truth related to their Schengen “story,” information on relatives living in the Schengen area, and the like.

An interesting move by Poland was the decision to grant Armenian citizens, as from January 2014, the right to work in Poland for a period of up to six months without a special permit; it is an indication of gradual improvements in the attitudes of the Europeans towards Armenian citizens.

The visas section of the website of the Polish Embassy contains detailed information on the consequences of unlawful residence in Poland, the conditions, the return, and other matters.¹

The implementation of a system of mandatory online registration was one of the first steps aimed at solving the problems of applicant queues and waiting time. Moreover, the Polish Consulate proposed an interesting solution: every Friday, in the morning, registration becomes possible for the following week, thereby almost

¹ The consequences of unlawful stay,
http://www.erywan.msz.gov.pl/hy/consular_information/patent_information/patent_information#6

precluding long queues. This issue becomes particularly visible during the summer and winter holidays.

For the Polish Consulate, it is particularly important to highlight the transparent practices and readiness to cooperate.

➤ **Greece**

The Consular Section of the Embassy's website has been upgraded with information. It currently contains detailed information in Armenian and English. Appointments can be scheduled only online. The website contains information on visas, the required application documents, appeals, the rights of applicants, the Visa Information System, and the like.

According to the written response by the Greek Consular Post, an applicant can receive a long-term visa if he can prove that he will work in the same position for two to three more years. Given the structure of the Embassy building, it is impossible to serve applicants with limited mobility. Therefore, a visa application may be lodged by an accompanying person or sent to the visa center. The Consulate noted that the refusals are mostly due to the absence of one of the required documents. In response to our inquiry, the Consulate noted that a sealed and signed letter is sent about refusals, indicating the right to appeal, subject to the presentation of the necessary documents. Given the possibility of queues during the year, the Consulate has started to cooperate with the respective visa center, although it is still possible to apply to the Consulate directly. The consular staff noted that, without the support of the visa center in accepting applications, it would be impossible to serve all applicants, especially in the summer months (in July 2016 alone, there were 3,020 applicants). Moreover, the Embassy has taken another important step in this direction, and on 1 February 2017, it placed an announcement about hiring seasonal field workers for up to five months.¹

➤ **France**

The official website of the consular post at the French Embassy is up to date and contains information on the new rules, as well as detailed information (in Armenian and French) needed for citizens applying for a visa. In addition to French visas, the consular post at the French Embassy is responsible for visas for Norway, Portugal, and Iceland.

¹ Announcement about seasonal field work (1 February 2017), <http://www.mfa.gr/missionsabroad/images/stories/missions/armenia/docs/anakoinosiam.pdf>

According to the written response from the French Consular Post, a visa for three to five years is issued in case of complying with the multiple-entry provisions of the Visa Code. The French Consular Post issued 5,156 visas in 2015, and 2,145 visas in January-June 2016. The refusal notice is given in French and Armenian. All the necessary conditions are available for applicants with limited physical mobility.

In 2016, the "Come live in France" information brochure was posted on the website of the French Embassy (in French and Russian). It contains useful comprehensive information for foreigners about the values and principles of French society, and the necessary administrative actions from obtaining a visa to traveling to and settling in France.¹

In a press conference in June 2016, French Ambassador to Armenia Jean-Francois Charpentier refuted the hearsay about Armenian citizens having difficulties receiving French visas and noted that he had "heard the conversations and regretted, because in reality, they do not reflect the truth. Perhaps, some time ago, there were some issues related to visa refusals, but it is no longer the case." He also presented the visa issuance statistics, according to which 16.5% of the short-term visa applications are rejected, and one out of five applications for a long-term visa is granted.²

Moreover, back in January 2016, French Foreign Affairs Minister Laurent Fabius announced that the time period for issuing French visas to citizens of Armenia, Georgia, Turkey, Vietnam, and Indonesia would be reduced, and a tourist visa would be issued in just two days.³

➤ Italy

Prior to 2015, the visa information on the official website of the Consular Section of the Italian embassy was very general, but it has now been updated, and the Entry Visas section contains general information on the issuance of long-term and short-term visas. It also states that the Consulate is authorized to issue short-

¹ "Come live in France" information brochure (8 December 2016), <http://www.ambafrance-am.org/%D4%B3%D5%A1%D5%AC-%D5%A1%D5%BA%D6%80%D5%A5%D5%AC-%D5%96%D6%80%D5%A1%D5%B6%D5%BD%D5%AB%D5%A1%D5%B5%D5%B8%D6%82%D5%B4-%D5%BF%D5%A5%D5%B2%D5%A5%D5%AF%D5%A1%D5%BF%D5%BE%D5%A1%D5%AF%D5%A1%D5%B6> ; http://www.a1plus.am/1497955.html?utm_source=dlvr.it&utm_medium=facebook

² Ambassador says there are no difficulties of receiving a French visa in Armenia (21 June 2016), <http://www.mediamax.am/am/news/foreignpolicy/18791/>

³ Citizens of Armenia to receive French visas in two days (12 January 2016), <http://www.panarmenian.net/arm/news/203595/>

term visas for Malta and Finland. The website contains an announcement that citizens can apply to the Embassy directly for a visa by calling the phone number +374 60465920, or apply to the visa center (TLS Contact). For the latter, an applicant must pay an additional 19 euros (equivalent in Armenian drams) as the visa center service fee. The main goal of cooperating with the visa center, as an external service provider, is to avoid queues and to provide better-quality service.

In attachment to the response, detailed statistics were provided on visas: 7,267 visas were issued in 2015, and 9,036 visas in January-June 2016 (the lion's share are tourist visas). The refusal notice is given in Italian and Armenian.

The most common stated reason for refusals is the insufficiency of documents, the scarcity of financial means, and migration risks. Written notice of refusal is always given, but review is not possible in case of refusal. The applicant may apply again or appeal the refusal within a 60-day period in the Lazio Administrative District, but there is no mention of the appeal in the website.

➤ **Lithuania**

The website of the Consular Section at the Lithuanian Embassy in Armenia contains detailed information on visa types and procedures, including in Armenian. A visa appointment can be scheduled only online. In addition to Lithuanian visas, this Consulate issues visas also for Latvia, Estonia, Denmark, Spain, and Hungary. The ACGRC team saw that the Lithuanian Consulate accepts visa applications for a number of other European countries, as well, it has started to cooperate with the respective visa center (United Visa Applications Center) in order to improve the possibilities available to potential applicants.

We learnt from the website of the Lithuanian visa center that, up to 31 December 2016, according to the internal rules of the Lithuanian Embassy in Armenia, the Schengen visa application package must contain originals of the passports of family members (parents, siblings, children, and spouses). The passports will be photocopies on the spot and returned to the applicants by the Embassy staff or the United Visa Applications Center staff.¹

According to the written response of the Lithuanian Consular Section, it is possible to receive a multiple-entry visa for one to five years, as well as free of charge. Reasons for refusal include the lack of documents or changing the primary destination country—for instance by receiving a Spanish visa for traveling to Germany. 9,488 visas were issued in 2015, and the 2016 data will be available only

¹ News and important information, <http://www.vfsglobal.com/lithuania/armenia/Armenian/news.html>

in the beginning of 2017. According to information from the Consulate, the number of applications has declined this year relative to the past. Refusal notice is always given. The website contains no information on refusal appeals, but refusal does not mean automatic refusal of a future application. To deal with the issue of queues, the Embassy cooperates with the visa center, which allows serving over 120 applicants a day.

➤ **The Czech Republic**

The website of the Czech Embassy contains detailed visa information in Armenian, English, and Czech. Applicant interviews can be scheduled only online and may also be modified or canceled in advance. The website contains memos explaining the steps that an applicant should take depending on the purpose and type of visit, as well as the list of required documents and the like.

In response to our written inquiry, the Czech Consular Section informed that the information on the website is regularly updated. If the relevant documents are presented, a visa for three to five years may be obtained. The main reasons for refusals are false information and lack of clarity about the destination. Appropriate conditions have been created for applicants with limited physical mobility. Refusals are communicated in writing, including the reason for the refusal. If the applicant still disagrees with the Embassy's decision after learning about the reason for the refusal, he may appeal the refusal. The website contains detailed information on the appeal procedure. It also informs about the possibility of obtaining multiple-entry visa, specifying the required conditions and documents. There are no problems of queues in the Czech Consular Section.

Non-Full Members of the Schengen Area

Romania and Bulgaria are not members of the Schengen Area, and may issue only national visas. However, the multiple-entry Schengen visas are valid in their territories. The required documents are consistent with the common list for EU Schengen States. The most common reason for refusal is lack of one of the required documents. The number of refusals at the Romanian and Bulgarian consular sections has traditionally been low.

In April 2016, the European Commission announced that Romania and Bulgaria fully meet all the requirements for joining the Schengen Area, and that

now it is time to wait for a decision by all the Member States of the EU.¹ Once this decision is endorsed by the EU Member States, Romania and Bulgaria will become fully-fledged members of the Schengen Area.

From 3 June to 31 October 2016, Montenegro abolished the entry visa requirement for citizens of Armenia. This information was provided by the News Division of the Ministry of Foreign Affairs of Armenia.² This example is quite interesting—setting a temporary visa-free regime, which can serve as a precedent for other EU Member States, as well, setting up a similar visa-free regime for a short trial period. In December 2016, Serbia, too, announced the launch of a process to repeal the visa regime for citizens of Armenia, Georgia, and Azerbaijan.³

Unilateral steps, even when they are partial and leading to temporary facilitation of visa requirements for Armenia's citizens, are indicative of the successful implementation of the Visa Facilitation and Readmission Agreements.

Visa Centers

Paragraph 3 of Article 6 of the Visa Facilitation Agreement provides that if a Member State cooperates with an external service provider in view of issuing a visa, the external service provider may charge a service fee. Visa centers operate in many countries, where an embassy delegates to such organization the right to accept citizens' visa applications. According to the Agreement, such fee "shall be proportionate to the costs incurred by the external service provider while performing its tasks and shall not exceed EUR 30." However, it is important that the Member States shall maintain the possibility for all applicants to lodge their applications directly at their consulates. For the Union, the external service provider shall conduct its operations in accordance with the Visa Code and in full respect of Armenian legislation (Paragraph 3 of Article 6). The obligations of external service providers are defined in Annex X to the Visa Code.⁴

¹ "Bulgaria, Romania Qualify to Join Schengen Area, EC Spokesperson Has Said" (11.04.2016) <http://www.novinite.com/articles/173974/Bulgaria,+Romania+Qualify+to+Join+Schengen+Area,+EC+Spokesperson+Has+Said>

² Citizens of Armenia will visit Montenegro for five months without a visa (16 June 2016), <https://armenpress.am/arm/news/851131/hh-qaxaqacinery-hing-amis-montenegro-kaycelen-aranc-mutqi.html>

³ Serbia to abolish visas with Azerbaijan, Armenia and Georgia (28.12.2016) <http://visa-free-europe.eu/2016/12/serbia-to-abolish-visas-with-azerbaijan-armenia-and-georgia/>

⁴ ANNEX X List of minimum requirements to be included in the legal instrument in the case of cooperation with external providers <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32009R0810>

In Armenia, there is currently a Unified Visa Applications Center accepting visa applications for the Schengen countries. It is the company VFS Global, which provides visa application collection services in a number of CIS countries.¹ VFS Global cooperates with the embassies of Lithuania and Greece in Armenia and accepts visa applications for Lithuania, Latvia, Estonia, Spain, Denmark, Hungary, and Greece. The visa center offers a portable biometric service for applicants to file the application in any place. This service costs 100 euros, or 35 euros for every child under the age of 12.

From October 2015, the Italian Embassy in Armenia, too, started to cooperate with a visa center, namely the company TLS Contact.² We found out that this center's website contains much information, including detailed information on visa types, the required documents, and online registration. The service fee is 10,000 Armenian drams. This visa center receives applications also for Malta and Finland.

From 17 December 2016, the United Visa Applications Center operating in Armenia no longer receives applications for the Spanish Consulate in Moscow. From 17 December, all applications must be filed directly with the Spanish Consulate in Moscow. The website of the Spanish Embassy in Moscow states that the tender was awarded to BLS International Services Ltd, to which Armenian citizens must apply for Spanish visas from now on.³

The cooperation with the Visa Center has been suspended for Spanish visas, which deteriorates the situation for Armenian citizens, because there is currently no visa center that would accept applications for Spanish visas.

Given the importance of the visa center in accepting applications, it was decided to also monitor the United Visa Applications Center—its activities and website. The questions addressed to this visa center were compiled on the basis of the issues frequently raised by ordinary citizens and in the mass media in the course of this project.

However, the Visa Center did not respond to our inquiry letter at all (leaving the impression that they operate outside of the Armenian legal framework), and we had to limit the study to information on its website, media reports, our observations, and citizen complaints.

From the very first months of the United Visa Applications Center's activities, numerous complaints have emerged in connection with the quality of citizen

¹ United Visa Applications Center, <http://www.vfsglobal.com/lithuania/armenia/>;
<http://www.vfsglobal.com/greece/armenia/>

² TLScontact Italian Visa Applications Center Armenia <https://it.tlscontact.com/am/EVN/index.php>

³ Spanish Visa Center, <https://blsspain-russia.com/moscow/index.php>

services, huge queues during the holidays, a particular case of losing the applicant's documents, and the like. These issues were covered extensively in the online media.¹ Heated discussion of the visa center's work unfolded in the social media. Our organization, too, received a number of complaints. Based on applications by numerous citizens, the State Commission for the Protection of Economic Competition even launched proceedings with respect to the visa center.²

On 3 November 2016, the issue of the United Visa Applications Center was raised in the National Assembly of the Republic of Armenia. Naira Zohrabyan, the Chair of the National Assembly's Standing Committee for European Integration Affairs, noted the numerous complaints by citizens and that, in return for the fee paid, they only received long queues, unfriendly service, and extra red-tape,³ and that receiving a visa for a holiday in the EU has become a "humiliating process of suffering" for Armenia's citizens.

We have been raising the issues related to the performance of this visa center back from 2015. The Analytical Centre on Globalization and Regional Cooperation (ACGRC) could not remain indifferent to the situation: it addressed the Republic of Armenia Ministry of Foreign Affairs and the EU Delegation to Armenia with a statement⁴ criticizing the performance of the United Visa Applications Center and endorsing the statement made by MP Naira Zohrabyan in the National Assembly on 7 June 2016.⁵

The introduction of the visa centers has not only increased the visa cost, but also posed risks in the application process, given the lack of experience among the visa center staff. Staff professionalism is clearly of paramount importance.

During the meetings with our experts, the consular officers advised citizens to refrain from changing the data (a consulate may cancel a visa after issuing it, if the presented information was not truthful or if it was changed after receiving the visa, for instance if the hotel booking or ticket reservation are canceled, or the destination country is changed) and to remember that even having a visa does not create an automatic right to enter the country, because every visa holder must prove on the border that he or she meets the requirements of Article 5 of the Schengen

¹ Visa center queues for the holiday season (8 July 2015),

<http://www.tert.am/am/news/2015/07/08/visa/1728056> ; <http://www.1in.am/1665462.html>

² The visa center monopoly (14 August 2015), <http://civilnet.am/2015/08/14/visa-application-center-investigation/#.Vi4qfdlrJkg>

³ Citizens are humiliated at the visa center: Naira Zohrabyan (3 November 2016), <http://www.a1plus.am/1498882.html>

⁴ Statement (8 June 2016), <http://elq.am/169532.html>

⁵ Visa process not improved since opening the visa center: ACGRC (7 June 2016), <http://www.aravot.am/2016/06/07/701498/>

Border Code. There are currently more cases of receiving visas with the help of false documents and statements. Recently, the National Security Service of the Republic of Armenia exposed a criminal group organizing illegal migration: during 2016, under the disguise of a tourism agency, presenting false documents and information for about 200 Armenian citizens to Schengen embassies in post-Soviet countries, the organization had received visas and charged between 2,000 and 3,500 euros from citizens that were not aware of the fraud. Some of the members of the criminal machine were state officials carrying out special services, which had received bribes of varying amounts and ensured citizens' unhindered exit from Armenia on the basis of unlawfully-obtained visas.¹ Corruption remains a key challenge in the Schengen visa sphere, alongside the role of tourist companies in the black market for Schengen visas, given the relationship between this phenomenon and illegal migration. Obvious advertisement of support in obtaining a visa, too, contains large risks of corruption.

Inquiries with Refused Applicants

The consular sections of some embassies in Armenia sometimes refuse issuing a visa without a proper justification. Citizens have complained about a number of such cases, including in the social media. There are frequent cases of refusing the long-term (one-year) multiple-entry visa, instead issuing a shorter (for instance, six-month) visa, as described above. Applicants have different views on the activities of consular sections: some of the consulates are considered to be more positive and friendly, while others are believed to be more stringent.

The refusal grounds are prescribed in Article 32 of the Visa Code and the special refusal notice form (Annex VI).² To complete the study of refusals, we made inquiries with some of the refused citizens, as well as citizens that were dissatisfied with the work of the consulates and visa centers. During January-July 2016, we received about 80 complaints related to visa refusals or problems in the process of obtaining a visa. In 2014-2015, a problem frequently reported by applicants was that of queues in delivering the documents and taking the responses.

¹ National Security Service busted a criminal ring, among them officials (30 December 2016), <http://www.armtimes.com/hy/article/100367>

² Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code) (15.09.2009) <http://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:32009R0810>

Presently, owing to measures taken by the embassies, this problem has been virtually solved. In 2016, citizens are filing other complaints with respect to the refusals and the work of the consulates: queues are not as problematic as in the past, but there are problems for applicants that have relatives lawfully residing in the EU, especially in terms of free-of-charge visas. Many tourist visa applications are refused to applicants that had one or even several visas in the past. Some citizens complained about the difficulties of contacting the consular officers (telephone contact is often impossible or very difficult). Another problem is that visa applicants are required to have health insurance only for the term of the planned visit, but some embassies require health insurance for the whole duration of the visa, which implies excessive and unnecessary expenses.

Citizens had various complaints about the application process. In some cases, the written notice of refusal did not contain specific justification. In others, the refusal notice was only in a foreign language and failed to provide proper information about the possibility and procedure of appeals. Some of the persons that complained were unable to clearly present the reasons for the complaint and refused to answer questions or to present any documents. This in turn indicates that some applicants had dishonest intentions and were hiding certain circumstances. Wrong or incomplete applications are a sign of applicants not knowing the laws or the visa requirements. Raising awareness is a key objective of this project.

To make the monitoring of these refusals continuous, in view of their importance, the ACGRC website contains an announcement inviting citizens refused by the consular services of EU Member States in Armenia to send refusal information to acgryerevanoffice@gmail.com: this, however, does not imply support in obtaining a visa. Rather, it will help to analyze the refusal cases with a view to preparing recommendations for the consular services of EU Member States in Armenia and the EU institutions in the future.

Thus, it is important for us to continue inquiries, especially with visa applicants, in order to learn about their complaints and comments regarding the activities of consulates and visa centers, namely the refusals, services, and other matters, and informing them of their rights.

When consular staff violates the rights of visa applicants, the latter may appeal to their supervisors or to the foreign affairs ministry of the respective country (the websites of many such ministries contain a feedback section). It is important for Armenian citizens to be aware of the existence of the international visa consortium - the Visa-free Europe Coalition for visa matters, which is a consortium of non-governmental organizations of Eastern Partnership states, which deal with visa

issues.¹ The Analytical Centre on Globalization and Regional Cooperation (ACGRC) is a member.² For years, this consortium has carried out important activities in terms of monitoring, reporting, recommendations, and other initiatives in this sphere. The www.visa-free-europe.eu website of the Visa-free Europe Coalition for visa matters can be a platform where citizens can report the violations of their rights and inform about their complaints and grievances (see the link below).³

Comparative Analysis of Statistical Data

Based on official statistics of the EU,⁴ comparative analysis of the 2012-2015 statistics on visas issued by the consular services issuing Schengen visas in Armenia, by countries, by types, refusals, and so on.

During 2015, Schengen embassies in Armenia received a total of 57,787 visa applications, of which 7,105 (12.3 percent) were rejected. Comparing the total visa numbers for 2012-2015, it becomes clear that the total number of visa applications grew every year starting from 2012 (increasing from 38,896 to 57,787). The increase in the number of applications was 32.69% from 2012 to 2015. In the first year following the entry into force of the Visa Facilitation Agreement (2014), the number of applications grew by 12.8% relative to 2013. In 2015, it grew further by about 10% relative to 2014. Interestingly, though, the number and the percentage share of refusals grew from 2012 to 2015, as well (from 3,105 to 7,105 refusals, or from 8% to 12.3%).

¹ Visa-free Europe Coalition <http://visa-free-europe.eu/>

² Analytical Centre on Globalization and Regional Cooperation <http://acgrc.am/>

³ Visa-free Europe Coalition, <http://visa-free-europe.eu/about-us/visa-whistle-blower/>

⁴ European Commission, Complete statistics on short-stay visas issued by the Schengen States https://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/visa-policy_en

Figure 1.

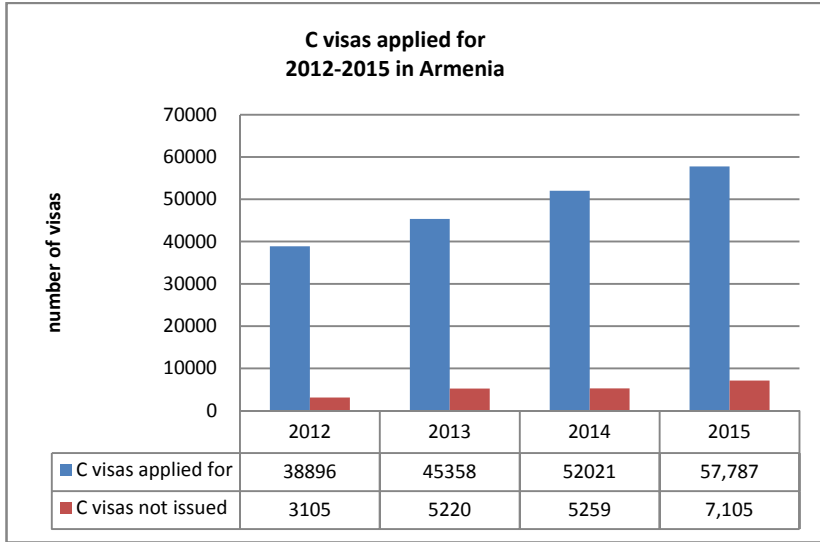
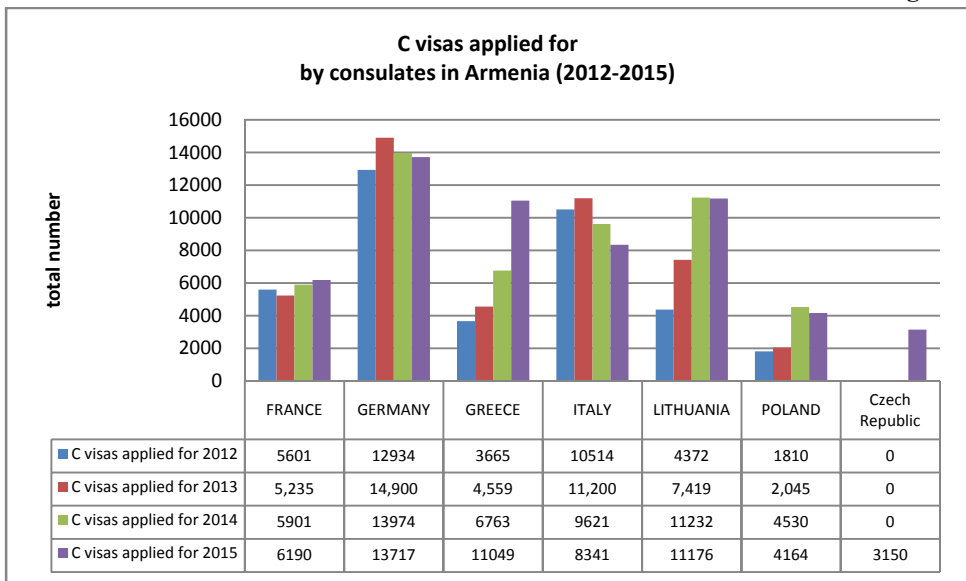


Figure 2 presents the total number of visa applications in Armenia during 2012-2015, by countries. It shows that the number of applications continued to grow significantly in the Greek Consulate (almost two-fold) and the Lithuanian Consulate. There are also some increases in the cases of Poland and France.¹

Figure 2.



¹ The Czech Consulate in Armenia was opened in 2015. Therefore, all the figures contain only data for 2015.

Figure 3.

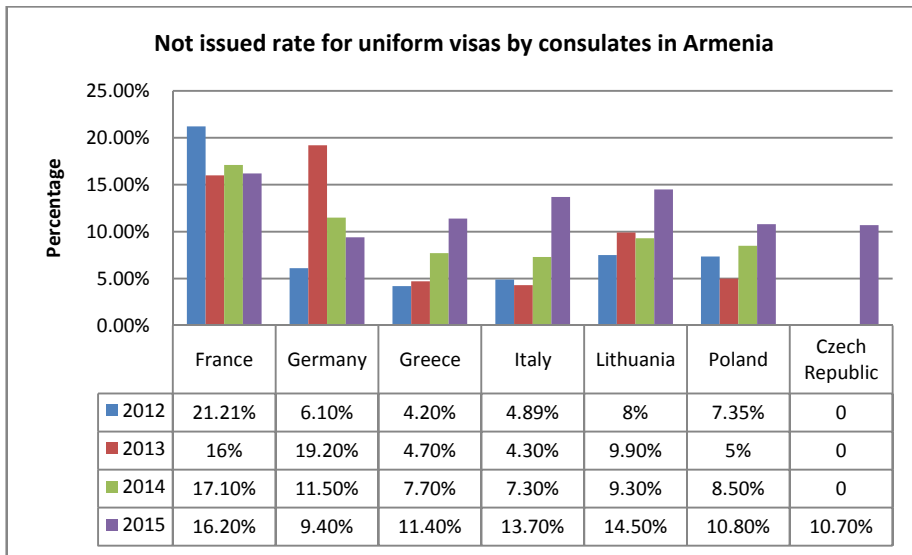
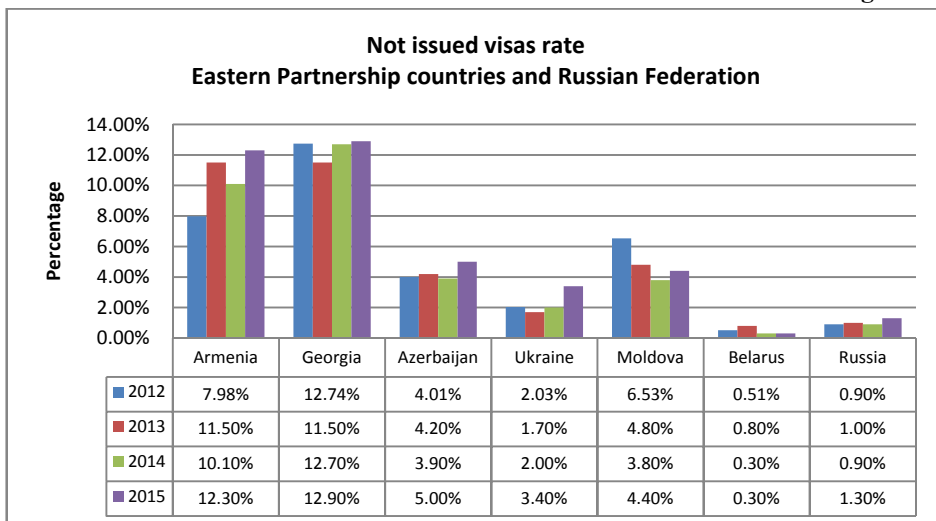


Figure 3 shows the percentage shares of visa refusals by Schengen consulates in Armenia during 2012-2015, by countries. It is clear that the refusals by France and Germany declined (from 19% to 9.4%), while refusals by the other consulates grew. In 2015, the average refusal rate was 12.3%.

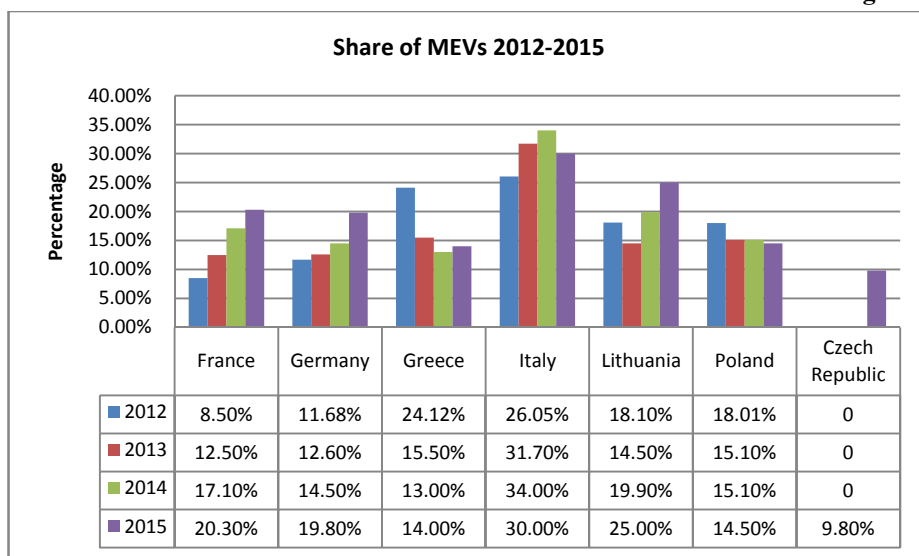
Figure 4.



The number of refusals is virtually the same in Armenia and Georgia, but significantly higher than in the other countries of the Eastern Partnership and the Russian Federation. The situation has not changed much even after the entry into force of the Visa Facilitation Agreement. In the case of Ukraine, Belarus, Russia, and Moldova,¹ it can be somewhat explained. However, it is unclear why the refusal rate is about twice lower in Azerbaijan.

When analyzing the multiple-entry visas, one should remember that the official data on multiple-entry visas is not differentiated in terms of the validity term. Thus, it is not clear what percentage of the total are visas with a validity term of one year or longer. Most of them can be for one to six months, which is often virtually useless, because the same person rarely uses the visa more than once during a period of one to three months. Only the data on Germany specifies that the multiple-entry visas contain only the visas with a validity term of one year or longer. Similarly, it is impossible to differentiate the visas with a validity term of 1, 2, 3, 4, or 5 years, in order to assess the trends and the effectiveness of the Visa Facilitation Agreement in this field.

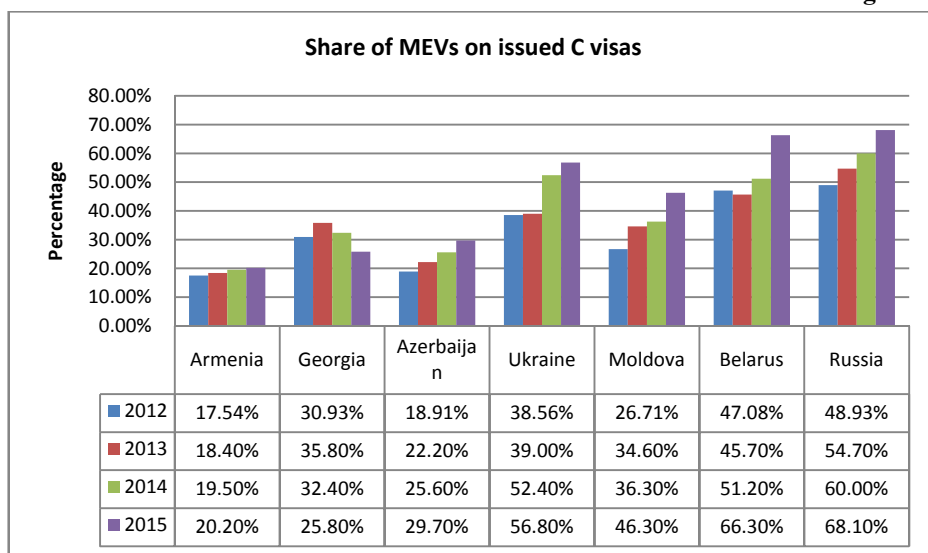
Figure 5.



¹ Since April 2014, Moldova enjoys visa-free travel to the EU, and the Moldova data in the figures concerns either persons having non-biometric passports, or citizens of other countries; hence, the very small number of both applications and issued visas.

Figure 5 shows that 10,226 of the 50,590 visas issued in Armenia in 2015 were multiple-entry visas (20.2%).¹ This number has increased every year since 2012. Despite the growing share of multiple-entry visas in total from 2012 to 2015, the growth has averaged around 3 percent, which cannot be considered sufficient.

Figure 6.



The issue of multiple-entry visas is even more concerning for Armenia when compared to other Eastern Partnership countries and to the Russian Federation. The number is the lowest in Armenia (according to average statistics, multiple-entry visas are 48.5% of the total number of visas), although the migration risks are virtually the same for all three of the South Caucasus republics.

To sum up, one can hope that the project analysis, conclusions, and recommendations will be helpful for improving the situation and considerably increasing the opportunities for Armenian citizens to interact with the European civilization.

¹ European Commission, Complete statistics on short-stay visas issued by the Schengen States http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/borders-and-visas/visa-policy/index_en.htm

Chapter Two

Passports and Visas Department of the Police of the Republic of Armenia; State Migration Service of the Ministry of Territorial Administration and Development of the Republic of Armenia

Another part of the monitoring under this project focused on the performance of the domestic authorities responsible for the sector—the Passports and Visas Department of the Police of the Republic of Armenia and the State Migration Service of the Ministry of Territorial Administration and Development of the Republic of Armenia. Questions related to the project scope and relevant functions were prepared and sent to the heads of the respective agencies in the form of official letters. Responses were received in a rather short period of time, containing detailed answers to our questions.

Passports and Visas Department of the Police of the Republic of Armenia

The following questions were posed to the Passports and Visas Department of the Police of the Republic of Armenia:

- ✓ What is the procedure of issuing biometric passports?
- ✓ Do all of the regional passport authorities of Armenia have portable stations for issuing biometric passports?
- ✓ Do all of the regional passport authorities of Armenia have the equipment for issuing biometric passports?
- ✓ Do the biometric passports contain the biological data chip?
- ✓ How many biometric passports were issued in 2015 and January-July 2016?
- ✓ Is there cooperation with the relevant EU bodies in document security? Is there information sharing about lost/stolen passports? Are passport samples exchanged with the European side?
- ✓ Are anti-corruption seminars and training courses organized for the staff of the passport authorities in an attempt to facilitate the implementation of the reforms, and how effective are they?

- ✓ How is personal data storage and use regulated? What is the procedure of registering citizens in the integrated population register?

The biometric passport issuance began in Armenia in 2012. According to a decision of the National Assembly of the Republic of Armenia, a biometric passport had to be issued to citizens in case of receiving a new passport after January 2014, parallel to which the ID card was introduced. From January 2014, citizens could receive only a passport containing biological data, paying 25,000 drams, or 28,000 drams for a passport and ID card together.

The biometric passport issuance procedure is regulated by Article 5 of the Republic of Armenia Law on the Passport of a Citizen of the Republic of Armenia, which provides that a biometric passport shall contain a technical part—the data storage. According to amendments in 2016, the procedure of taking fingerprints was changed: from now on, all fingers have to be printed when receiving a passport (in the past, only the index fingers had to be printed). For children, fingerprints are taken after the age of six, and the photo is changed every time a new passport is issued, regardless of age. Photos and fingerprints are taken at the Passport Division of the Police, and for applications abroad—in the respective diplomatic mission or consular post of Armenia. The Eurodac common system of fingerprints was created and operates under the Dublin Convention to address irregular migration between the Eastern Partnership countries and the EU.¹

The Republic of Armenia Law on the Passport of a Citizen of the Republic of Armenia was amended, too, with respect to the validity term of biometric passports issued to children under the age of 16. The amendment entered into force on 6 August 2016. Prior to the amendment, a biometric passport was issued to a child (under the age of 16) for a validity term of three years. According to the amendment, a passport shall be issued to a citizen under the age of six for a validity term of three years, and for citizens between the ages of six and 16—for a validity term of five years, but not beyond turning 18 years old. Due to this, a draft Government Decree has been circulated, which will introduce the same procedure and validity terms for passports issued to children under the age of 16. A citizen who has reached the age of 16 may apply for a passport without the parents.²

¹ Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities - Dublin Convention (19.08.1997) [http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:41997A0819\(01\)&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:41997A0819(01)&from=EN)

² A passport will be issued to children under the age of six for a term of three years (6 August 2016), <http://araratnews.am/minchev-6-tarekannerin-andznagir-ktramadrvi-3-tari-zhamketov/>

In personal data protection and use, the Passports and Visas Department follows the Republic of Armenia Law on the Protection of Personal Data, Republic of Armenia Government Decree 1154-N dated 4 October 2007 "Establishing the Procedure of Receiving Information on the Citizenship of a Person," Republic of Armenia Government Decree 1231-N dated 14 July 2005 "On Implementing the System of the State Population Register in the Republic of Armenia," and other legal acts adopted by other state agencies for the purpose of information provision from the State Register of Population. The personal registration data processing and registry operation, as well as the procedure of recording in the State Register of Population are regulated by the Republic of Armenia Law on the State Register of Population and the Republic of Armenia Government Decree 1231-N dated 14 July 2005 "On Implementing the System of the State Population Register in the Republic of Armenia." However, personal data security remains an issue, as there is still no procedure of storing biometric data "special category data." Hence, we urge taking measures to store the data adequately and to restrict their use. To ensure the lawfulness and security of the whole use, identification, and distribution process, the international ISO27001/2013 standard of other similar standards can be used.

As noted above, the biometric passport and ID card contain a chip that carries personal data of the citizen. However, a number of citizens, in view of their religious beliefs, refused to take these newly-created documents. Back in 2014, this issue was raised by a group of citizens and non-governmental organizations before the Human Rights Defender (HRD). The HRD in turn applied to the Constitutional Court, and on 8 December 2015, the Court found that the procedure is not unconstitutional, but in its legal position, suggested finding a solution that would correspond to all the religious views. Pending a final solution, an interim solution was found: in an extraordinary sitting, the National Assembly of the Republic of Armenia amended the Law on the Passport of a Citizen and the Law on the Identification Card, and the amendments that entered into force on 6 August 2016 gave citizens the opportunity to choose between a biometric passport and an old type of passport, setting 1 January 2019 as the deadline before which the old type of passport can be issued. According to the Head of the Passports and Visas Department of the Police, if the issues related to the religious factor are not solved finally by 2019, the deadline for extending the old type of passport can be extended.

According to the response received from the Passports and Visas Department of the Police, 115,682 biometric passports were issued in 2015, compared to

53,954 during January-June 2016. Thus, during 2014-2016, around 300,000 citizens received biometric passports.

Clearly, the number of identification cards and biometric passports is quite large for such a short period of time.

However, from mid-June 2016, many citizens have complained to us that they are unable to receive biometric passports. The citizens' complaints were covered by a number of mass media, and heated discussions took place in the social media. Citizens were also drawing attention to the fact that the biometric passports were not working well in foreign states. They complained that the foreign border crossing equipment could not read the passports well, and many people had to wait for hours for the problem to be solved.¹

In view of Armenia's success in having passports meeting the EU's requirements and the importance of these matters for moving to a Visa Dialogue—the next stage of visa liberalization, ACGRC was carefully following the developments and anticipating that the problem would be properly solved. ACGRC adopted a statement on the biometric passports, in which it expressed concerns and opinions.² Initially, the explanation was that there were problems of running out of the template paper, the need to conclude a new contract with the supplier Polish company, and so on. According to Mnatzakan Bichakhchyan, the Head of the Passports and Visas Department of the Police, Armenia has ordered biometric passport template paper with a Polish company (the contract was signed in 2011 for five years), whereby a total of 304,000 biometric passports had to be supplied to Armenia. Subsequently, we learnt that the contract with the Polish company supplying passports and ID cards would not be extended after it ended in 2016, because, according to Mr. Bichakhchyan, "...as the international relations have advanced, better and newer documents have been introduced, which are more protected and more resilient, and we also plan to announce a new tender in the future and to put forth new conditions, such as a plastic photo page of the biometric passport, which is more resilient."³

Thus, the suspension of the issuance of biometric passports has caused deep concern. Under these circumstances, the EU's relevant bodies may view these

¹ Biometric passports of Armenian citizens were not working well, anyway (6 August 2016), <http://www.aravot.am/2016/08/06/724073/>

² The biometric passport issuance suspension is not concerning: a Statement (28 September 2016), <https://news.am/arm/news/348788.html>

³ The contract with the Poles was not extended; the mandatory requirement to receive a biometric passport has been waived for several years (1 July 2016), <http://hetq.am/arm/news/68926/leheri-het-paymanagiry-chi-erkaracvel-kensachapakan-andznagir-stanalu-partadir-paymany-mi-qani-tarov-hanvel-e.html>

problems as a step back by the Armenian authorities and question the visa liberalization process. Although the issuance of biometric passports is still not a mandatory requirement at the current stage of the Visa Facilitation and Readmission agreements with the EU, it is a mandatory condition for continuing the visa liberalization process.

ACGRC is hopeful that the state authorities in charge will solve all the problems related to the issuance of biometric passports in a short time and prove that Armenia is committed to continue the visa liberalization process with the EU. In a session on 16 February 2017, the Government of Armenia decided to announce a new tender for the printing of biometric passports and ID cards.¹ ACGRC plans to carry out a new inquiry in relation to the tender and expects that accountability and transparency in tendering and contracting will be safeguarded in line with the letter and spirit of the law.

Taking into consideration the reforms implemented in the system in recent years, it is important to ensure the presence of portable stations for issuing biometric passports and identification cards, especially for citizens with limited mobility, as well as the residents of remote and borderline areas (this was a mandatory requirement of the EU). The Passports and Visas Department informed us that 10 portable stations operate in the PVD and its subdivisions, and that all the subdivisions, save for the Davitashen passport department, have the biometric documentation system.

The availability of equipment in the regional passport authorities is an important step towards document protection, personal data security, and compliance with the EU's technical requirements.

It is essential that the identification cards and biometric passports are ICAO-compliant and have been reviewed by the relevant experts. Their samples are exchanged under the appropriate procedures. Data on stolen and lost documents is provided to Interpol National Central Bureau of Armenia for furthering sharing with the Interpol Central Bureau, and passport samples have been provided to the Interpol NCB for sharing with all foreign states.

According to the law, a biometric passport is issued within 15 working days for a fee of 25,000 Armenian drams. A citizen can obtain a biometric passport faster for an additional fee.²

¹ Government to announce a new tender for printing passports and ID cards (17 February 2017), <https://news.am/arm/news/373675.html>

² Republic of Armenia Police clarifies the circulated misinformation (4 July 2014),

Another important change was introduced for citizens by a Government Decree dated 8 July 2015, which approved the list of embassies and consulates presented by the Ministry of Foreign Affairs, which are authorized to issue or change passports.¹

Armenia is ranked as number 80 in the 2016 Global Visa Restrictions Index (Henley & Partners Visa Restrictions Index, with the support of the International Air Transport Association (IATA), analyzes the visa laws of about 200 countries and ranks them in terms of the number of countries that have visa free access). According to this ranking, 57 countries can be visited with an Armenian passport without a visa. The leader is Germany (177 countries can be visited without a visa by holders of a German passport). As to Armenia's neighbors, Russia's passports have visa-free access to 105 countries, Turkey's passports to 102, Georgia's passports to 67, and Azerbaijan's passports to 62.²

To curb corruption risks and to boost the effectiveness of reforms, the regional passport authorities were placed under the direct supervision of the regional police authorities, which can be considered progress in terms of improving transparency.

In addition to training courses required by law, the staff of the passport authorities takes part in staff workshops in the PVD and regional passport authorities every Friday, which are aimed at enhancing the professional knowledge of the staff.

The Passports and Visas Department operates a hotline for accepting and processing citizens' complaints. Legal explanations on issues related to this sector are frequently provided in the mass media and the social media.

In view of the unprecedented increase in the number of citizens applying to the passport services due to the summer holiday season, and in order to avoid queues and to maintain service quality, it was decided to extend the duration of the working day and to work also on non-working days.³

As a part of the reform process, SMS notices about application progress are now sent to the mobile phone of the citizen. Citizens can also track progress on the

<http://www.police.am/news/view/%D5%A1%D5%BA%D5%A1%D5%BF%D5%A5%D5%B2%D5%A5%D5%AF%D5%A1%D5%BF%D5%BE%D5%B8%D6%82%D5%A9%D5%B5%D5%B8%D6%82%D5%B6.html>

¹ For the list of embassies and consulates, see <http://news.am/arm/news/276004.html>

² The Henley & Partners Visa Restrictions Index 2016

<https://www.henleyglobal.com/files/download/HP/hvri/HP%20Visa%20Restrictions%20Index%20160223.pdf>

³ Notice (11 July 2016),

<http://www.police.am/news/view/%D5%AB%D6%80%D5%A1%D5%A6%D5%A5%D5%AF%D5%B8%D6%82%D5%B4110716.html>

official website of the Police. This procedure is being regularly updated, and additional mechanisms are being introduced. From September 2016, a written confirmation is immediately printed and provided to the citizen when filing a citizenship application at the Passports and Visas Department. This document contains the individual code and the means through which the citizen can obtain information about the application progress.¹

Importantly, Armenians abroad can pose questions to a representative of the Police through Skype, including questions on acquiring or terminating Armenian citizenship, obtaining or exchanging an Armenian citizen or identification card, registering at a place of residence, acquiring a residence permit, and on other key functions of the Passports and Visas Department.

The PVD currently does not have an official website (there used to be a website, www.passportvisa.am). The Police website (www.police.am) contains a section providing the application forms filled out for services provided to citizens by the Passports and Visas Department of the Republic of Armenia Police.² A standalone website would inform citizens about all the changes and procedures directly from an official website of the Department.

These initiatives are aimed at improving transparency and the quality of citizen services. While the Passports and Visas Department has implemented commendable reforms (including improved citizen services, technical refurbishment, and introduction of more protected documents), a number of questions still remain, about which we will present comments and recommendations in the Conclusions.

State Migration Service of the Ministry of Territorial Administration and Development of the Republic of Armenia

The following questions were posed to the State Migration Service of the Ministry of Territorial Administration and Development of the Republic of Armenia:

- ❖ Do you carry out general monitoring of compliance with the provisions of the Readmission Agreement?

¹ SMS notices on the application progress will now be available (9 May 2016), <http://iravaban.net/137425.html>

² Application forms filled out for services provided to citizens by the Police PVD, <http://www.police.am/letterheads/passport-and-visa-department-letterheads.html>

- ❖ Please, provide readmission statistics for the period after the entry into force of the Agreement.
- ❖ What specific steps must Armenia take for returned/readmitted citizens or non-citizens, and what programs are implemented in practice?
- ❖ Do you plan negotiations to conclude readmission agreements with countries that are not party to the Readmission Agreement?
- ❖ Have implementation protocols been concluded with the EU Member States that are a party to the Readmission Agreement?

The Republic of Armenia Prime Minister’s Decree 1228-A dated 12 December 2012 approved the “Action Plan for the Armenia-EU Readmission Agreement.” On 19 March 2014, the Republic of Armenia Government enacted Decree 300-N “On the Measures to Ensure Implementation of the Agreement on the Readmission of Persons Residing without Authorisation between the European Union and the Republic of Armenia.” The decree regulates the procedure of Armenian state authorities reviewing applications received under the aforementioned agreement. The State Migration Service under the Republic of Armenia Ministry for Territorial Administration was designated as the “competent authority” of the Republic of Armenia under the agreement. To monitor the implementation of the commitments under the agreement and to discuss the issues that arise, an inter-agency group led by the Head of the State Migration Service, Gagik Yeganyan, was created.

As the interconnected processes of readmission and visa facilitation are crucial for the EU, they entered into force concurrently. The procedures of returning irregular migrants are defined by the domestic legislation of the EU Member States. The readmission agreements define only the inter-state procedures of return.

Four bodies are involved in the readmission process on the part of the Republic of Armenia—the State Migration Service, the National Security Service, the Police, and the Ministry of Foreign Affairs. For further details on the readmission process, see the Second Monitoring Report on the Agreement between the European Union and the Republic of Armenia on the Facilitation of the Issuance of Visas, pp. 31-34.¹

However, the return process is rather complicated [and bureaucratic], so the person is not necessarily returned after his citizenship has been established. According to the State Migration Service, a bilateral memorandum on the return procedures needs to be concluded with each Member State of the EU, in addition to the readmission agreement, in order to expedite the return of citizens. Under the

¹ Agreement between the European Union and the Republic of Armenia on the Facilitation of the Issuance of Visas (report of the second monitoring round), <http://acgrc.am/ENG%20Version.pdf>

EU-Armenia Readmission Agreement, bilateral implementing protocols have already been received from Estonia, France, Lithuania, Latvia, Poland, and the Benelux countries.

On 14 June 2016, the Third Meeting of the Joint Armenia-EU Readmission Commission took place, during which a number of issues related to readmission were discussed, including the statistics of readmission requests. Information was provided on the progress of signing bilateral implementing protocols under the EU-Armenia Readmission Agreement. The FRONTEX representative proposed conducting a training course for the staff of the Armenian side escorting persons during their return.¹

In May 2016, the French Office for Immigration and Integration, in cooperation with the Republic of Armenia Ministry of Territorial Administration and Development and the Republic of Armenia Ministry of Foreign Affairs, organized a seminar-discussion for consular officers of the Republic of Armenia on the return and readmission programs implemented in Armenia, as well as the return and readmission possibilities under the Readmission Agreement, which was attended by the consuls of Armenia in Austria, Germany, Belgium, the Czech Republic, and the Netherlands. During the seminar, participants discussed issues related to the current migration situation in Armenia, the Visa Facilitation and Readmission Agreements, and streamlining the process of returning Armenian citizens residing in foreign states.²

According to data provided by the State Migration Service of the Ministry of Territorial Administration and Development of the Republic of Armenia, during 2014, 68 readmission requests concerning 163 persons were received (including 56 from Sweden and 12 from Poland). In the first half of 2015, 61 readmission requests concerning 139 persons were received (including 46 from Sweden 9 from Poland, 4 from Belgium, and 2 from Bulgaria). Clearly, most readmission requests come from Sweden.

In early 2016, Germany published a list of countries from which it will not accept refugees. The list included Armenia, Georgia, Moldova, Ukraine, India, Mali, Mongolia, Algeria, Gambia, and Bangladesh. Those are countries the applications of the citizens of which are very rarely granted by the Federal Office for Migration and Refugees. Less than 10 percent of the applications of their

¹ Third meeting of the Joint Armenia-EU Readmission Commission (15 June 2016), http://www.smsmta.am/?show_news&news_id=540

² Seminar-discussion for the consuls of Armenia (20 May 2016), http://www.smsmta.am/?show_news&news_id=538

citizens are granted, because those countries are deemed safe. A country is deemed safe if there is no political persecution therein.¹

There are some difficulties with the EU in cases of returning Syrian Armenians from the EU, when the person received Armenian citizenship before traveling to the EU. The readmission process in the EU may be protracted, because some countries have more than one agency responsible for readmission. A problem also arises when the returnee is old or underage, or does not have relatives/caretakers or a place to live in Armenia, or when the returnee is an ethnic Armenian who never lived in Armenia (for instance, moved from Azerbaijan), and they are trying to return such person to Armenia.

In the context of the readmission agreement, the reintegration of persons returning/returned to Armenia is very important, as well. The government and civil society have certain obligations in this area. Although the Readmission Agreement does not stipulate specific obligations with respect to returning/returned citizens, the Government of Armenia endorsed the procedure of maintaining the <http://www.tundarc.am> online information portal under Priority Area 8 (“Return of Armenian Citizens from Foreign States and Support to Their Subsequent Reintegration in Homeland”) of the “2012-2016 Action Plan for Implementation of the State Policy of Migration Regulation of the Republic of Armenia” approved by the Republic of Armenia Government Decree 1593-N dated November 2011. Through this portal, persons wishing to return to Armenia from foreign states (including dual citizens) can ask questions to the state authorities and even obtain answers through video link. By visiting the “Return Programs” section on the website, one may gain information about the return and reintegration projects implemented by international and non-governmental organizations present in Armenia. The “Return Stories” section contains short stories of the reintegration experience of specific individuals returned under return and reintegration projects, by chronology and headings. The “News” section of the website contains comprehensive news on migration and return issues.

Through the first practical program under the EU-Armenia Joint Declaration on the Mobility Partnership, and under the EU-funded Targeted Initiative for Armenia project,² the French Office for Immigration and Integration, in close cooperation with the State Migration Service of Armenia, opened a Referral Center for

¹ Germany clarifies the countries from which it will not accept refugees: Armenia is also in the list (14 January 2016), <http://news.am/arm/news/306064.html>

² «Opening of a Referral Centre for Reintegration» (26.04.2014) <http://eunewsletter.am/referral-centre-for-reintegration/>

Reintegration in Yerevan, which aims at supporting establishment in Armenia after returning from abroad. Armenian citizens that have lived in a European country for at least one year and have contacted the Center for support within at least six months of their return may apply to the project. The Center maintains regularly updated information on all of the available reintegration projects.

Citizen awareness on readmission is significantly lower, although it is a very important procedure. Having basic knowledge about readmission would cause Armenian citizens to think twice before leaving Armenia for good.

The EU Delegation in Armenia, too, is implementing a number of projects aimed at the reintegration of returnees. Under one such migration project of the EU, employment and income-earning opportunities were created for around 400 Armenians in the Lori Region of Armenia. Individual grants were provided, and training courses organized on beekeeping, vegetable and meat production, and the creation and running of a family business.¹

These types of projects demonstrate how important it is for the EU to further improve the management of migration flows in Armenia. They also demonstrate the extensive support provided for capacity building of the relevant agencies for improving migration management and the reintegration process.

Various projects and types of support are available for the reintegration of returnees, from advice to the provision of a certain amount of funding for starting a small private business, or professional training, children's education, health care, and the like. Such projects are implemented by the government, international organizations, and/or non-governmental organizations, and are not sustainable. However, the returnees need lasting support. Otherwise, they may become motivated to emigrate again.²

We highly appreciate the willingness of the State Migration Service to cooperate and the detailed response to our inquiry, as well as the active involvement of its representatives in our events, although much still remains to be done in solving the problems related to migration.

¹ The EU project has created a better future for around 400 Armenians (21 June 2016),

https://www.facebook.com/pg/eudelegationtoarmenia/photos/?tab=album&album_id=1045021222218473

² V. Bakhshetzyan, Concept Paper on Reintegration Policy for Armenian Citizens Returning to Armenia,

<https://www.google.am/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKEwjokMu8rcTRAhWiCpoKHSL5D->

00FggZMAA&url=http%3A%2F%2Fwww.smsmta.am%2Fupload%2FVeraimtegrum_.doc&usg=AFQjCNGMNCYVNiHMuGdcsUNvdIc788vChw

Chapter Three.

Recommendations on Transition to Visa Dialogue and Legislation on Corruption Prevention and Anti-Corruption and Anti-Discrimination Efforts

In addition to activating people to people contacts and promoting the exercise of the right to freedom of movement, the mobility and visa facilitation process should also be viewed in a much broader and comprehensive context, as it will enable Armenia to carry out reforms in a number of fields, such as irregular migration, security, document and personal data protection, border security and management, the fight against and prevention of organized crime, terrorism, and discrimination, and corruption, human rights promotion, including the adoption of the Law against Discrimination, cooperation between law-enforcement agencies, and the like.

Under this project, the Analytical Centre on Globalization and Regional Cooperation (ACGRC), based on the Armenia-EU dialogue, as well as its rich experience of studying the issuance of visas and readmission between Armenia and the EU, and taking into consideration the possibility of transition to a Visa Dialogue, initiated and, on 13 December 2016, presented to the EU Delegation in Armenia and the diplomatic missions of the EU Member States a set of Recommendations on Transition to Visa Dialogue and Legislation on Corruption Prevention and Anti-Corruption and Anti-Discrimination Efforts. Although such study and recommendations will be published and disseminated as a standalone document, in view of their importance, we have decided to present them in this Monitoring Report, as well, with a view to facilitating the continuity of efforts by Armenia towards visa liberalization.

Recommendations on anti-corruption, anti-discrimination, personal data protection and biometric data for passing from Visa Facilitation to Visa Dialogue has been drawn up by Analytical Centre on Globalization and Regional Cooperation (ACGRC) in cooperation with Open Society Foundations–Armenia, Transparency International Anticorruption Center, Journalists' Club Asparez, Helsinki Committee of Armenia, Helsinki Citizens' Assembly–Vanadzor and Digital Rights NGO.

Recommendations on anti-corruption

- Establish an independent, specialized anti-corruption body, void of conflict of interest, vested with authority to investigate and render normative decisions on corruption-related crimes. Members of the anti-corruption body shall be appointed based on the criteria of their integrity, apolitical stance, impartiality, neutrality and competence.
- Develop a mechanism for monitoring of implementation of the 2015-2018 Anti-Corruption Strategy Action Plan with a special focus on performance indicators and use of input from a wide spectrum of specialized civil society organizations as a constituent part of the monitoring mechanism and conditional funding by the EU.
- Adopt a separate legislation on conflict of interest, determine conflict of interest as a situation incompatible with public service, stipulate clear mechanisms for regulation and management of conflict of interest.
- Define norms that prevent, restrict and regulate conflict of interest for officials at all levels of state and local self-government bodies, as well as for all high level officials of state funded and/or community budget funded organizations.
- Strengthen the operational independence of the Commission on Ethics for High-Ranking Officials, granting it a clear mandate, authority and adequate resources to verify asset and income declarations, to investigate irregularities, to initiate proceedings and impose effective, proportionate and dissuasive sanctions.
- Extend the requirement on submission of asset and income declarations to the high ranking officials' parents, underage and adult children, expand the definition of family relationships in the Public Service Law to include up to fifth degree of kinship.
- Define a requirement for publication of the names of real owners (beneficiary ownership) of the companies that participate in public procurement, public bargaining, auctions, and contracts for use of public resources.
- Stipulate by law, that the reporting persons (whistleblowers) shall enjoy the same means of special protection prescribed by the criminal-procedure legislation as the victims, witnesses and experts.

- Reform the procedure for the formation of the State Commission for Protection of Economic Competition of the Republic of Armenia, and enable the parliamentary opposition, the civil society and the private sector to play a certain role in selecting the management of the Commission. The Commission should also have effective punitive mechanisms, so as to ensure the preventive effect of sanctions.

Recommendations on anti-discrimination

• **Follow-up on the current Draft Law on Equality, to ensure that the draft:**

- (i) provides definitions of major concepts and types of discrimination;
- (ii) covers all protected features or grounds;
- (iii) provides burden of proof on defendant, not the victim of discrimination;
- (iv) defines the functions and positive obligations of the government and local authorities, as well as employers in preventing and combating discrimination;
- (v) prescribes the legal standing of NGOs ensuring the procedural right to file *actio popularis* claims in discrimination cases;
- (vi) provides for a Liability Clause and rules of evidence and standard of proof of discrimination (distribution of the burden of proof, specific mentioning of situation testing and use of statistics as evidence, irrelevance of intent, etc.);
- (vii) envisages establishment of a national equality body in line with the principles of independence and effectiveness, ensuring that its formation is not totally dependent on the Ombudsman and that the Regulations of the equality body should be adopted by the body itself;
- (viii) empowers the equality body with the functions, such as hearing and making decisions on cases of discrimination, independent assistance to victims; investigative powers, including the authority to demand information from public authorities; the right to initiate and participate in court proceedings; submission of Amicus Curiae opinions to the Constitutional Court; development of guiding documents in combating discrimination; monitoring legislation and advice to legislative and executive authorities; independent research and study on discrimination, collection of statistics and data on cases

of discrimination; independent reports and recommendations, and awareness raising – all of which the equity body should be allowed to perform without the prior approval by the Ombudsman.

• **Elaboration of the National Strategy on Anti-discrimination and accordingly the National Action Plan on Anti-discrimination, as well as the National Human Rights Protection Action Plan shall:**

- (i) rely on the specific recommendations of UN bodies, OSCE/ODIHR, the Council of Europe/ECRI and international human rights organisations, as well as local civil society organizations;
- (ii) be elaborated with the active participation of CSOs at all levels and stages of the process: needs assessment, elaboration, development, implementation, monitoring and assessment; all these stages shall be envisaged as the integral part of the Action Plans;
- (iii) representatives of vulnerable groups shall be involved in the process of elaboration of Action Plans.

• **Ratification of relevant UN and Council of Europe instruments in the fight against discrimination, including:**

- (i) making a declaration under Article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD);
- (ii) ratification of the European Convention on Nationality;
- (iii) ratification of the European Convention on the Participation of Foreigners in Public Life at Local Level;
- (iv) ratification of the European Convention on the Legal Status of Migrant Workers;
- (v) monitor Armenian legislation in order to identify possible legal gaps and amend local legislation in line with international standards and commitments of Armenia.

• **Taking measures to raise public awareness on:**

- (i) The draft law on anti-discrimination, with particular focus on informing on types of discrimination, prohibited grounds of discrimination and possible remedies; distribution of information and training materials, including guidelines for the prevention of discrimination in education, justice, healthcare, labour and others;
- (ii) Human Rights Defender's and Equality Body's/Anti-discrimination Council's role and scope of activities;

- (iii) inadmissibility of hate speech and expressions by public officials that can directly or indirectly support stereotypes, stigma or harassment of certain individuals or groups;
 - (iv) diversity of society, including representatives of various social groups as full-fledged members of society via holistic revision of school textbooks, curricula and teaching practices.
- **Training for members of the judiciary, law-enforcement authorities and lawyers on:**
 - (i) domestic and international norms against discrimination, racism and related intolerance;
 - (ii) prevention, investigation and detection of crimes and offences in compliance with the principle of equality and non-discrimination.

Conclusions and Recommendations

The monitoring carried out in 2016 and the collected materials support certain conclusions and recommendations, which are presented below, as per the target groups.

Consular Services of EU Member States in Armenia

- ✓ The consulates should avoid issuing single-entry or 1-6-month visas to applicants with a positive Schengen visa history. The visa terms should be at least six months, as stipulated by Article 24.2 of the Visa Code. The one-year or longer visas should become the rule, rather than the exception. This step, too, will help reduce migration risks. Although they have started to issue longer-term (especially five-year) visas, it is still rare, although doing so more frequently could very much ease the life of travelers to the EU and reduce the workload of the consulates and visa centers. Each next visa should not be for a term shorter than the previous one, unless there are serious grounds for it.
- ✓ The consular services should make more frequent use of the possibilities provided by the Schengen acquis in order to issue multiple-entry long-term visas. They should inform eligible applicant of their right to apply for a long-term visa.
- ✓ The consulates should not demand the long-term visa applicants to provide invitations and precise plans for their future visits, for visas with a term of one year or longer, because it is often virtually impossible to present such an invitation, and whenever presented, such visit plans are far from being precise.
- ✓ The consulates should accept the electronic versions of documents, especially if they are sent from abroad: this would not increase the likelihood of falsifying documents; rather, it would considerably streamline and speed up the collection of the necessary documents by the applicant. Some consulates refuse to accept electronic versions or copies of documents (mostly, the invitations). Greater use of electronic documents will help to streamline the procedures, because not all the consulates accept the electronic documents. In some cases, applicants were unable to attend planned events due to late arrival of the original invitation. A similar problem arises with respect to the right to submit documents through an authorized person, but only when there is no need to give fingerprints.
- ✓ The consular services should be more transparent by providing statistical data on the number of visa applications, the number and types of visas issued, and the number of refusals.
- ✓ The consular services should continue the process of harmonizing the visa requirements and procedures.

- ✓ The common list of documents and the common procedures are not used to the fullest in order to safeguard equal rights to citizens (the same holds true for the additional list of documents¹). The EU Delegation in Armenia should oversee the consulates' compliance with the requirements on the common list and additional list of documents.

Visa Centers Operating in Armenia

- ✓ The selected companies should strictly comply with the Armenian and EU legislation, especially the provisions concerning data privacy and document security and transportation.
- ✓ We urge the visa centers to operate more transparently and not to turn down cooperation offers (for instance, the Unified Visa Applications Center did not respond to our inquiry letters at all).
- ✓ The visa centers should improve the selection and training of their technical personnel, including on topics of customer service and dealing with applicants, as there are issues of document security, storage, transportation, and return, in addition to professional knowledge and skills. In order to ensure the effective functioning of the centers, they should have staff with sufficient experience and knowledge, as well as adequate technical equipment.
- ✓ Visa centers should have adequate conditions and facilities for the visa applicants (including queue management systems, capacity, seats, sun and rain cover, and the like).

The European Union

- ✓ It is essential for the European Commission to carry out comprehensive monitoring of the visa sphere, taking into consideration the number of refusals, the number of citizens refused entry on the border, the number of return decisions due to irregular stay in the EU territory, the number of persons returned, and so on.
- ✓ It is crucial for the European Commission to provide additional statistics in order to better assess compliance with and effectiveness of the Visa Code and the Visa Facilitation and Readmission Agreements and to comprehensively analyze the data related to visas. The EU's official statistics do not break down the visas in terms of their validity terms.² If possible, the statistics should contain specific data on 3-5-year visas, as

¹ ANNEX II, List of supporting documents to be presented by visa applicants in Armenia, (https://ec.europa.eu/home-affairs/sites/homeaffairs/files/e-library/documents/policies/borders-and-visas/visa-policy/docs/20150320_1_annexe_acte_autonome_cp_part1_v4_en.pdf)

² European Commission Migration and Home Affairs- Visa Policy http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/borders-and-visas/visa-policy/index_en.htm

well as the number of citizens who requested and received political asylum. The number of issued visas is not the same as the number of persons that received Schengen visas, because the same person often has to apply for a visa two or three times a year (if not more).

- ✓ Persons having a positive visa history should benefit from the facilitated rules even if they do not belong to the categories that are entitled to a facilitated visa under the Agreement.
- ✓ Consider the possibility of introducing a 10-year visa, provided that the previous visa was for three or five years (similar to the USA, where a five- or 10-year visa is issued even if the application is for a short-term visit).
- ✓ We recommend to the EU and to the consular services of EU Member States in Armenia to pay close attention to appeals against refusals and to ensure a more transparent, accessible, and streamlined process of reviewing decisions, which will enable the appealing citizens to get replies within a reasonable period. There is no data on the number of decisions changed as a result of appeals, which would make it possible to assess the effectiveness of the appeal process. Alternative avenues of appeal should be introduced, which will provide genuine opportunities for the exercise of the rights of applicants.
- ✓ Greater cooperation in accepting visa applications between EU Member States should be encouraged (for countries that do not have a consulate in Armenia), as it will contribute to better coordination of the EU's visa policies and will highlight the advantages of the Schengen Area as a common area.
- ✓ EU Member States should be encouraged to open visa centers in other towns of Armenia (Gyumri, Vanadzor, and Kapan), so that especially citizens of remote towns can complete the visa procedures in a more convenient manner.
- ✓ The decision to collect or not to collect a visa fee in consulates and visa centers needs to be clarified. The visa fee waiver provision is often not too clearly construed by the consular officers and the visa center employees (for the same type of visit purpose, a visa fee is sometimes collected, and sometimes waived).
- ✓ The possibility of introducing an electronic visa (eVisa) system should be considered. The 21st century technology advances and the opportunities provided by the Internet should be more extensively used in order to facilitate faster and easier visa and readmission processes. The UN's World Tourism Organization, too, recommends using e-visas as a safer and more effective alternative to a paper visa.¹ They are easier to obtain, do not require physical presence of the applicant or presentation of the passport, which is especially important for countries having few consulates, such as

¹ United Nations World Organization, Visa Facilitation, Stimulating Economic Growth and Development Trough Tourism http://www3.weforum.org/docs/TTCR/2013/TTCR_Chapter1.3_2013.pdf

Armenia. By the way, Armenia is issuing e-visas.¹ Clearly, the introduction of e-visas, when the applicant is not required to be present at a consulate, may become an important step towards visa facilitation.

- ✓ The visa center selection transparency should be boosted, enabling local companies to participate in the selection tenders, too.

Armenian Citizens and State Authorities

- ✓ Citizens applying for a visa are urged to be more diligent in the preparation and collection of documents required for a visa, and refrain from changing the reasoning documents after receiving a visa (for instance, changing the destination country), because the visa may be canceled in such cases, or entry may be prohibited at the border.
- ✓ We recommend various public awareness-raising activities in this field, including publishing and dissemination of information materials. This recommendation concerns especially the non-governmental organizations active in relation to visas and migration.
- ✓ We recommend to the Armenian state authorities to continue organizing seminars, study tours, and training programs for their staff working in this field.

Passports and Visas Department of the Police

- ✓ Ensure the uninterrupted process of issuing biometric passports. Accountability and transparency of the calls for bids, tenders, and new contract awards should be ensured in accordance with the letter and spirit of the law.
- ✓ The fee for biometric passports should be reduced in order to make them affordable for the whole population.
- ✓ The passport samples should be regularly exchanged with the EU, and there should be cooperation in matters of document security.
- ✓ Specific procedures should be developed for biometric data processing, storage, provision, and use. The grounds and procedure of providing biometric data to other countries should be prescribed clearly, as well.
- ✓ Measures should be implemented to create a website of the Department in order to provide comprehensive information to the public.
- ✓ The Republic of Armenia Law on Protection of Personal Data should be supplemented in order to ensure the independence of the personal data protection authority from state bodies, to prescribe its rights and obligations, and to provide it with sufficient financing.
- ✓ To ensure the effective operation of the personal data protection authority, it should be equipped with sufficiently experienced and knowledgeable

¹ **E-VISA** Issuance System, Ministry of Foreign Affairs of the Republic of Armenia <https://evisa.mfa.am/>

human resources, professional equipment, and methodology. 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.

Parallel to the visa facilitation process, and in order to carry out systemic assessment of the effectiveness of the Agreements, as well as to deepen the Armenia-EU cooperation in this sphere, it is necessary to monitor the visa issuance process, including the visa refusals, the citizens refused entry on the EU border, the number of Armenian citizens arrested while staying unlawfully in EU territory, and the number of Armenian citizens seeking asylum in the EU (according to our information, the number of citizens seeking asylum tripled in 2016 relative to the same period in 2015¹). It is also necessary to carry out comparative analysis of the number of decisions to return to Armenia and the number of returned persons. The monitoring provides comprehensive information within the same analysis.

The Armenia-EU relations in the field of visas and migration were also affected by the situation in the EU in 2015-2016, given the unprecedented influx of migrants to the EU. The migration crisis remains a serious challenge for the EU. According to data of the EU's Frontex (the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union), over 1.26 million irregular migrants from 126 countries crossed the border into the EU during 2015. Most of the irregular migrants applying for refugee status in the EU came from the Middle East (29% of the total number came from Syria). In 2014, however, the total number of migrants into the EU was just 280,000.²

The refugee influx into the EU does not stop, and EU Member States believe that restoring border controls is a means of countering the flow of migrants. To control the migration flows and for reasons of security, some countries decided to temporarily “close” the borders, thereby also reducing their costs of expelling irregular migrants. In January 2016, under the respective law, seven countries within the Schengen Area (Norway, Sweden, Denmark, Austria, Germany, France, and Malta) restored internal border controls.³ In May 2016, Germany, France, Austria, and Denmark, and Sweden applied to the EU, on the basis of the “highly unstable” migration situation and the recent terrorist attacks, asking to allow extending their right to establish internal border controls.⁴ Back in January 2016, EU justice and interior ministers had asked the European Commission to adopt

¹ 1,070 persons in the third quarter of 2015, and 3,035 persons in the third quarter of 2016. First time asylum applicants in the EU by citizenship (28.02.2017) http://ec.europa.eu/eurostat/statistics-explained/images/7/73/First_time_asylum_applicants_in_the_EU-28_by_citizenship%2C_Q3_2015_%E2%80%93_Q3_2016.png

² 710,000 migrants entered EU in first nine months of 2015 (13 October 2015), <http://frontex.europa.eu/news/710-000-migrants-entered-eu-in-first-nine-months-of-2015-NUiBkk>

³ Within the Schengen area, seven countries have introduced internal border controls: European Commission (18 January 2016), <http://www.tert.am/am/news/2016/01/18/schengen/1902726>

⁴ European Union set to extend Schengen border controls (3 May 2016),

<http://www.schengenvisainfo.com/european-union-set-extend-schengen-border-controls/>

legislative amendments to allow establishing internal border controls for a term of up to two years, because under the current laws, a country may close down its borders only for up to six months.¹

All of this is of course not tantamount to the end of the idea of the Schengen Area. All of the country limitations concern only the irregular migrants. Persons having the right to enter and stay in the Schengen Area lawfully (tourists, students, and others) may move freely within the area, simply spending more time on the border checks.

This monitoring has shown that there is clearly progress. Much work is being carried out by the EU and Armenia, but it is important to note that active efforts in this field should be continued, and the cooperation should be deepened.

To conclude this study into the practical application of the Agreement between the European Union and the Republic of Armenia on the Facilitation of the Issuance of Visas and the Agreement on the Readmission of Persons Residing without Authorisation, we believe there is a need to make our monitoring continuous and more extensive.

¹ EU Ministers demand changing the rules of the Schengen Area (25 January 2016), http://www.bbc.com/russian/news/2016/01/160125_migrant_schengen_changes

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