

EU-GEORGIA VISA DIALOGUE

ACTION PLAN ON VISA LIBERALISATION

1. GENERAL FRAMEWORK

1.1. Background

Relations between the EU and Georgia are based on the Partnership and Cooperation Agreement which entered into force on the 1 July 1999. The EU-Georgia ENP Action Plan, adopted on 14 November 2006, sets out the mutually agreed political priorities for cooperation, and its Justice, Freedom and Security (JFS) section provides the overall framework for EU-Georgia cooperation in this area. Its priorities are regularly monitored, in particular through EU-Georgia JFS Subcommittee meetings.

A Mobility Partnership between the EU and Georgia was established on 30 November 2009, with the participation of 16 EU Member States. Such partnership aims at enhancing cooperation between the EU and Georgia as regards facilitation of legal migration, maximising the contribution of migration for development, prevention and fight against irregular immigration, as well as asylum and international protection.

The importance of enhancing mobility of citizens in a secure and well-managed environment was recognised in the Council Conclusions on Eastern Partnership adopted on 25 October 2010.

As a first gradual step towards the future visa-free travel, the EU-Georgia visa facilitation and readmission agreements entered into force on 1 March 2011. Since 1 June 2006 EU citizens are exempted from visa to travel to Georgia.

The commitment towards increased mobility was reaffirmed in the Warsaw Eastern Partnership Summit Declaration (29-30 September 2011), which welcomed the effective implementation of the visa facilitation and readmission agreements with Georgia, noting that their effective implementation is a first step towards "visa-free regimes in due course on a case-by-case basis provided that conditions for well-managed and secure mobility set out in two-phase action plans for visa liberalisation are in place."

The Council Conclusions adopted on 31 May 2012, welcomed the intention of the Commission to launch a visa liberalisation dialogue with Georgia and to fully associate the Council and the Member States with each step of the dialogue.

In this context, Georgia submitted on 3 May 2012 an updated, detailed and comprehensive report on the measures taken, or planned to be taken, in the areas relevant for the visa dialogue. Such report has been circulated on the 16 May 2012 to the EU Member States in the Council.

The visa liberalisation dialogue between the EU and Georgia aiming at examining all the relevant conditions for visa-free travel to the EU for Georgian citizens was launched in Brussels on the 4 June 2012.

The EU's commitment to "the shared objective of visa free travel in due course, provided that the conditions for well managed and secure mobility are in place" was reaffirmed in the Council Conclusions on Georgia adopted on 15 October 2012.

1.2. Methodology

Considering the wide range of issues relevant for the visa liberalisation dialogue and the importance of establishing a secure environment for visa-free travel, the objective of this Action Plan is to identify all the measures that need to be adopted and implemented by Georgia and to indicate in clear terms the requirements that have to be achieved. The Action Plan is tailor-made to Georgia's current situation, taking into account the "fact finding" conducted during the exploratory phase of the visa dialogue and the detailed information provided by Georgia related to each of the four blocks of relevant factors identified in the Terms of Reference of the dialogue: document security, including biometrics; integrated border management, migration management, asylum; public order and security; external relations and fundamental rights. In case of substantial change of the current situation, the Commission could propose a review and re-adaptation of the Action Plan.

To promote sustainable and well-planned reforms, the Action Plan contains two tiers of benchmarks: preliminary benchmarks concerning the policy framework (legislation and planning), which would pave the way for meeting more specific benchmarks (effective and sustainable implementation of relevant measures). The European Parliament and the Council will be kept regularly informed through Commission reports on the fulfilment of each set of benchmarks, which will be assessed through on-site evaluations involving experts from EU Member States. To that end, the Commission expects Georgia to provide detailed information (including relevant statistical data and financial plans to support the implementation of the Action Plan in a sustainable way) allowing for an evaluation of concrete results on the ground. With regard to the specific situation of the Georgian breakaway regions of Abkhazia and South Ossetia, and without prejudice to the Geneva International Discussions process, the Commission expects Georgia pays close attention and provides information concerning possible security and migration challenges.

Moreover the full and effective implementation of the EU-Georgia Joint Readmission Agreement will continue to be monitored in the relevant Joint Committee. As regards the implementation of the EU-Georgia Visa Facilitation Agreement (monitored by its respective Joint Committee) particular importance will be attached to tackling risks of fraud involving supporting documents.

The Commission will also continuously monitor *inter alia* the visa refusal rate in Georgia, the number of Georgian citizens refused entry at the EU's external border or apprehended illegally staying in the EU, the number of return decisions and the number of returns to Georgia, the number of asylum applications in the EU from Georgian citizens, as well as other relevant performance indicators. The Commission will also provide an assessment of possible migratory and security impacts on the EU of future visa liberalisation for Georgia before passing to the assessment of the second phase of benchmarks. Identified potential impacts and measures will need to be addressed throughout the process of implementing the Action Plan on Visa Liberalisation.

Progress will be founded on a performance based approach and conditioned on an effective and consistent implementation by Georgia of the benchmarks set by this Action Plan. There will be no automaticity in this process and progress in the fulfilment of each set of benchmarks will be closely examined by the Commission and the Council, with a view to reaching agreement to initiate the assessment of the second phase of benchmarks. The Commission will regularly report to the European Parliament and to the Council, including on the follow-up of measures of the assessment of possible migratory and security impacts.

When deciding on whether to present a proposal to the European Parliament and to the Council for the lifting of the short-stay visa obligation for Georgian citizens, through an amendment of Regulation 539/2001 - limited to the holders of biometric passports issued in accordance with ICAO standards - the Commission will take into account the overall relations between the EU and Georgia and possible impacts of visa liberalisation on the basis of trends in *inter alia* the visa refusal rate, the number of Georgian citizens refused entry at the EU's external border or apprehended illegally

staying in the EU, the total number of asylum applications in the EU from Georgian citizens, the number of return decisions and the number of returns to Georgia, and other relevant performance indicators.

Following the ordinary legislative procedure laid down in the Treaty on the Functioning of the European Union for these matters, on the basis of the Commission's proposal, the European Parliament and the Council will take a decision.

1.3. Initial assessment of possible impacts of future visa liberalisation

The exploratory phase of the EU-Georgia visa dialogue allowed for an initial assessment of the relevant factors for the future visa liberalisation. This detailed assessment of the situation on each of the four blocks of relevant factors identified in the Terms of Reference of the dialogue (document security, including biometrics; integrated border management, migration management, asylum; public order and security; external relations and fundamental rights), allowed for specific recommendations to be made, in view of developing the relevant conditions for the future visa-free travel for Georgian citizens to the EU.

The findings of such assessment confirm that a sustainable visa-free regime for Georgian citizens can only be established once the relevant conditions are put in place. In particular, visa liberalisation is conditional upon: continuation of Georgia's reforms aiming at ensuring a high level of document security, including biometric passports, ID-cards and breeder documents; strengthening of border and migration management and asylum policy; reforms and cooperation in the area of public order and security (including addressing trafficking in human beings and the fight against corruption); addressing external relations issues and fundamental freedoms (including human rights and protection of minorities) linked to the movement of persons. The assessment took into account the substantial progress made by Georgia in an important number of areas relevant for the visa dialogue. The continuation of such reforms and developments, including at institutional level, should result in a high level of effectiveness corresponding to relevant EU and international standards.

In addition, the full and effective implementation of the EU-Georgia Visa Facilitation and Readmission agreements (regularly monitored by the relevant Joint Committee) remains an underlying condition for the continuation of the visa dialogue and is of paramount importance for the establishment of a sustainable visa-free regime. The EU-Georgia Joint Readmission Committee has met three times since March 2011, most recently in March 2012, and has found that the implementation of the readmission agreement is proceeding in an effective and efficient manner and to the overall satisfaction of both sides. The same assessment has been made of the implementation of the EU-Georgia Visa Facilitation Agreement, the joint committee of which met also for the third time in March 2012.

In terms of initial assessment of possible impacts of future visa liberalisation, it must be noted that the visa refusal rate, although still significant, it has decreased in the period 2009-2011 from 17.2% to 14.8%, while at the same time the total number of visas issued in this period increased by some 12%. The issuance of an increasing number of multiple entry visas for frequent-bona fide Georgian travellers should also be noted.

To note also that the number of Georgian citizens apprehended irregularly staying in the EU has steadily decreased in recent years, from 7 170 in 2009 to 4 275 in 2011 (5 320 in 2010). The number of Georgian asylum seekers in the EU has also decreased from 10 490 in 2009 to 7 060 in 2011 (6 865 in 2010). (*Eurostat data*)

2. ELEMENTS OF THE ACTION PLAN

2.1. Block 1: Document security, including biometrics

1st phase (legislative and policy framework):

- Consolidation of the legal and institutional framework ensuring the integrity and security of the civil status and civil registration process, including the registration of all Georgian citizens in a unified and secure electronic population registry, with adequate safeguards as far as highest data protection standards are concerned;
- Consolidation of the legal and institutional framework for the issuing of machine readable biometric passports in full compliance with highest ICAO standards and recommended practices on the basis of secure identity management (civil registry and breeder documents), according to the one person one document principle, including as regards diplomatic and service passports;
- Adoption of a clear timeframe for the complete roll-out of biometric passports, including at Georgia's consulates abroad, and for the complete phasing out of old non-ICAO compliant passports;
- Adoption of an ethical code and training programmes on anti-corruption, secure management of personal documents and data protection for officials of public authorities that deal with passports, identity cards and other breeder documents;

2nd phase (benchmarks for effective implementation):

- Effective implementation of legal and institutional framework for document security, including provision of sufficient financial and human resources, with adequate training programmes;
- Gradual roll-out of biometric passports in full compliance with highest ICAO standards and recommended practices, and complete phasing-out of old non-ICAO compliant passports, including at Georgian consulates abroad;
- Implementation of the necessary measures to ensure a high level of integrity and security of the document application, personalisation and distribution process for passports, ensuring that stocks of documents are stored at adequately protected places and avoiding the issuance of multiple passports, identity cards and other breeder documents respectively per person;
- Prompt and systematic reporting to Interpol/LASP database on lost and stolen passports;
- Regular exchange of passport specimens, visa forms and information on false documents, and cooperation on document security with the EU.

2.2. Block 2: Integrated border management, migration management, asylum

2.2.1. Integrated border management

1st phase (legislative and policy framework):

- Consolidation of the legal and institutional framework for border management, according to EU and international standards, guaranteeing also an efficient inter-agency cooperation between all the agencies involved in border management, in particular the Patrol Police Department, the Border Police and the Border Police Coast Guard;
- Adoption of the national Integrated Border Management (IBM) Strategy and Action Plan, containing a timeframe and specific objectives for the further development of legislation, organisation, infrastructure, equipment, sufficient human and financial resources in the area of border management, as well as international cooperation;
- Adoption of an ethical code and training programmes, including on anti-corruption and the fight against organised crime, respect for human rights, asylum procedures and anti-trafficking measures specifically targeting border guards, customs and any other officials involved in border management and/or surveillance.

2nd phase (benchmarks for effective implementation):

- Effective implementation and updating of the national Integrated Border Management (IBM) Strategy and Action Plan, including of legislation on border control through adequate border checks and border surveillance procedures and operational effectiveness, situational picture at national and local level, including use of risk analysis, intelligence and data-flow management, as well as direct access and consultation of relevant national and international databases;
- Continued improvement of inter-agency cooperation (including exchange of data between all the agencies involved in border management, in particular the Patrol Police Department, the Border Police and the Border Police Coast Guard, and other law enforcement agencies, including customs);
- Provision of adequate infrastructure, technical equipment, IT systems, financial and human resources in accordance with the IBM Strategy and Action Plan, and effective implementation of training programmes and anticorruption measures;
- Continued improvement in international cooperation, including cooperation with neighbouring countries and effective implementation of working arrangement with FRONTEX.

2.2.2. Migration management

1st phase (legislative and policy framework):

- Consolidation of the legal and institutional framework for migration policy, in line with EU and international standards, including in the field of legal/labour migration, measures supporting the integration of foreigners and the reintegration of Georgian citizens (returning voluntarily or not) and the fight against irregular migration (including continued efforts to

conclude readmission agreements with main countries of origin and/or transit and inland detection of irregular migrants);

- Adoption of a national Migration Strategy for effective implementation of the legal framework for migration policy and of a corresponding Action Plan, containing a timeframe, specific objectives, activities, results, performance indicators and provisions for sufficient human and financial resources
- Establishment of a mechanism for the monitoring of migration stocks and flows enabling the regular updating of Georgia's Migration Profile, with a unified electronic database containing data on both irregular and legal migration, as well as on asylum seekers/refugees, and establishment of bodies responsible for the effective collection and analysis of that data.

2nd phase (benchmarks for effective implementation):

- Continued effective implementation of the EU-Georgia readmission agreement, as well as relevant Georgia's readmission agreements with third countries, and of measures providing for the sustainable reintegration of Georgian citizens (returning voluntarily or not);
- Effective implementation of legal framework for migration management, including provision of administrative structures with adequate human and financial resources with clear competences for all aspects of migration management, as well as effective cooperation between relevant agencies;
- Establishment and regular updating of Georgia's Migration Profile, and effective analysis of data on migration stocks and flows;
- Consistent implementation of an effective methodology on inland detection of irregular migrants, risk analysis (including the reporting of relevant agencies and analysis on all administrative levels), and investigation of cases of organised facilitated irregular migration, including effective cooperation between relevant agencies;
- Provision of adequate infrastructure (including detention centres) and strengthening of responsible bodies to ensure, according to EU and international standards and in full respect of migrants' human rights, effective expulsion of illegally staying and/or transiting third country nationals from the territory of Georgia.

2.2.3. Asylum policy

1st phase (legislative and policy framework):

- Consolidation, according to EU and international standards, of the legal and institutional framework for asylum policy, in full compliance with the principle of non-refoulement and comprising subsidiary protection, through adoption of legislation ensuring effective access to fair procedures for status determination, rights protection (freedom of movement, healthcare, education, other labour and social rights), durable solutions, including the integration of refugees or beneficiaries of other forms of international protection, as well as special attention to vulnerable groups.

2nd phase (benchmarks for effective implementation):

- Effective implementation of asylum legislation, including provision of adequate infrastructure and strengthening of the responsible bodies (staff, funding, training programmes), in particular in the area of asylum procedures, reception of asylum seekers, refugees and other persons in need of international protection, protection of their rights and dignity, as well as integration of refugees and beneficiaries of international protection, ensuring their capacity to self-sustain, to access public services and social rights and to integrate in Georgia, including access to travel documents foreseen by the legislation;

2.3. Block 3: Public order and security

2.3.1. Preventing and fighting organised crime, terrorism and corruption

1st phase (legislative and policy framework):

- Consolidation, according to EU and international standards, of the legal and institutional framework on preventing and fighting organised crime, together with a national strategy and action plan containing, within a clear timeframe, specific objectives, activities, results, performance indicators and sufficient human and financial resources;
- Consolidation, according to EU and international standards, of the legal and institutional framework for addressing trafficking in human beings, together with the corresponding national action plan, including a clear timeframe, specific objectives, activities, results, performance indicators and sufficient human and financial resources;
- Consolidation, according to EU and international standards, of the legal and institutional framework on preventing and fighting corruption, as well as national anti-corruption strategy and action plan containing, within a clear timeframe, specific objectives, activities, results, performance indicators and sufficient human and financial resources, including as regards the anti-corruption coordination efforts of anti-corruption bodies such as the Anti-Corruption Interagency Coordination Council (ACICC), aiming notably at ensuring the independence, efficiency, empowerment and accountability of the authorities responsible for the fight against corruption and strengthening information exchange between them; ensuring a sound legal and institutional framework, including necessary secondary legislation for efficient functioning of internal control mechanisms that contribute to the prevention and repression of corruption, including corruption at high-levels and corruption in international transactions, and to setting integrity standards within the public institutions/authorities; follow-up of GRECO (Council of Europe Group of States against Corruption) recommendations;
- Consolidation of the legal and institutional framework on preventing and fighting money laundering and financing of terrorism, in line with EU and international standards set by the Financial Action Task Force (FATF) on Money Laundering and Terrorist Financing, and regular updating of the corresponding national strategy; establishment and consolidation of an independent Financial Intelligence Unit, with adequate powers and resources;
- Adoption of a national anti-drug strategy and action plan, in line with EU and international standards, containing, within a clear timeframe, specific objectives, activities, results, performance indicators and sufficient human and financial resources;
- Signature, ratification and transposition into national legislation of all relevant UN and Council of Europe conventions and respective protocols in the areas listed above and on the fight against terrorism, including: the 2005 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism; the Hague Convention on Protection of Children (1996 Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children); the 2007 Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse; the Additional Protocol to the Criminal Law Convention on Corruption.

2nd phase (benchmarks for effective implementation):

- Implementation of the legislation, national strategy and action plan on preventing and fighting organised crime including effective coordination between the relevant authorities, as well as conducting effective investigation, prosecution and confiscation of proceeds of crime;
- Implementation of legislation, national strategy and action plan on addressing trafficking in human beings, including effective coordination between state agencies, effective protection of victims of trafficking, in particular children, as well as effective measures to prosecute human traffickers and users of services of trafficking victims; provision of adequate infrastructures and funds ensuring decent reception and protection of the rights and dignity of trafficking victims, and supporting their social and professional reintegration;
- Effective implementation of the legal framework and national strategy and action plan on preventing and fighting corruption, ensuring the independence and efficient functioning (including analytical capacity) of anti-corruption bodies, including the Anti-Corruption Inter-Agency Coordination Council; ensuring effective measures for addressing corruption in areas/sectors identified as being most vulnerable (risk assessments); ensuring and maintaining a convincing track-record of corruption cases (from prosecutions to final court decisions), including corruption at high-levels, as well as of detection and sanctioning of conflicts of interest and unjustified wealth; development of effective ethical codes accompanied by sanctions applicable to public officials (elected and appointed) and notably regarding elected officials at central and local level, law enforcement and judiciary; ensuring appropriate capacity, specialisation and training of law enforcement and judiciary to deal with corruption cases in an efficient manner;
- Implementation of the legislation for the prevention of money-laundering and financing of terrorism, including on reporting obligations; implementation of relevant legislation on search, freezing, seizure and confiscation of assets of criminals (including of the provisions addressing cross-border aspects);
- Implementation of the national anti-drug strategy and action plan, ensuring adequate working of the Inter-Agency Coordination Council on Combating Drug Abuse, making the information on drug seizures and persons involved accessible at border crossing points, and further developing cooperation and information exchange with relevant international bodies in the drug field; establishing cooperation with the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA);
- Sound implementation of relevant UN and Council of Europe Conventions, as well as GRECO recommendations in the above mentioned areas;
- Provision of sufficient financial and human resources, including adequate training programmes, to ensure effective implementation of all the measures mentioned above.

2.3.2. Judicial co-operation in criminal matters

1st phase (legislative and policy framework):

- Consolidation of the legal and institutional framework on mutual assistance;

- Signature, ratification and transposition into national legislation of relevant international conventions and protocols, namely the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters;

2nd phase (benchmarks for effective implementation):

- Sound implementation of international conventions concerning judicial assistance, judicial cooperation in criminal matters and protection of children (in particular Council of Europe Conventions);
- Ensuring a high level of effectiveness of judicial co-operation in criminal matters of judges and prosecutors, including on extradition matters, with the EU Member States and third countries.
- In accordance with the procedures in the EUROJUST decision, conclusion of an agreement or working arrangement with EUROJUST, including on the exchange of information in common cases and the processing of personal data.

2.3.3. Law enforcement co-operation

1st phase (legislative and policy framework):

- Establishment of an adequate coordination mechanism between relevant national agencies and a common database guaranteeing direct access to relevant officers;

2nd phase (benchmarks for effective implementation):

- Ensuring a high level of operational and special investigative capacity of law enforcement services and its consistent and efficient use to tackle cross-border crime;
- Ensuring a high level of effectiveness of law enforcement co-operation among relevant national agencies - especially border guards, police, customs officers -, as well as cooperation with the judicial authorities;
- Strengthened bilateral and multilateral operational law enforcement cooperation agreements or working arrangements, namely with INTERPOL, including by sharing on time relevant information and conducting joint investigations and operations with competent law enforcement authorities of EU Member States and third countries, in line with data protection requirements and through the appropriate channels.
- Conclusion of an operational cooperation agreement with EUROPOL ensuring an adequate level of data protection.

2.3.4. Data protection

1st phase (legislative and policy framework):

- Consolidation of the legal and institutional framework for the protection of personal data, in line with EU and international standards, including through the adoption of by-laws, instructions and guidelines to regulate procedures, functions and responsibilities; .

- Signature, ratification and transposition to national legislation of relevant international conventions, protocols and recommendations, including the 2001 Additional Protocol to the Council of Europe Convention 108 for the Protection of Individuals with regard to Automatic Processing of Personal Data, regarding supervisory authorities and cross-border data flows, and the Committee of Ministers of the Council of Europe Recommendation No. R (87) 15 regulating the use of personal data in the police sector.
- Establishment of an independent data protection supervisory authority with adequate powers and obligations

2nd phase (benchmarks for effective implementation):

- Implementation of the legislation on the protection of personal data both in the public and private sectors
- Ensure efficient functioning of the independent data protection supervisory authority both in the public and private sectors also through the allocation of the necessary human and financial resources;
- Conduct training programmes (including on anti-corruption) and raise awareness on data protection, including establishment of guidelines and ethical codes for officials and authorities concerned.

2.4. Block 4: External relations and fundamental rights

2.4.1. Freedom of movement within Georgia

1st phase (legislative and policy framework):

- Consolidation of legal and regulatory framework on registration procedures for legally staying foreigners or stateless persons with a view to avoiding unjustified restrictions.

2nd phase (benchmarks for effective implementation):

- Ensuring that freedom of movement within Georgia of Georgian citizens, legally staying foreigners and stateless persons is not subject to unjustified restrictions, including measures of a discriminatory nature, based on any ground such as gender, race, colour, ethnic or social origin, genetic features, health status (including HIV/AIDS), language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation.

2.4.2. Conditions and procedures for the issuance of travel and identity documents

1st phase (legislative and policy framework):

- Consolidation of legal and regulatory framework so as to ensure full and effective access to travel and identity documentation without discrimination, including women, children, people with disabilities, internally displaced persons, people belonging to minorities and other vulnerable groups.

2nd phase (benchmarks for effective implementation):

- Full and effective access to travel and identity documents for all Georgian citizens including women, children, people with disabilities, internally displaced persons, people belonging to minorities and other vulnerable groups.

2.4.3. Citizens' rights including protection of minorities

1st phase (legislative and policy framework):

- Adoption of a comprehensive anti-discrimination law, as recommended by UN and Council of Europe monitoring bodies, to ensure effective protection against discrimination;
- Signature, ratification and transposition into national legislation of relevant UN and Council of Europe instruments in the fight against discrimination, including taking into account the UN Convention on Statelessness and the standing recommendations of the Council of Europe on the European Charter for Regional or Minority Languages.
- Establish fair and transparent conditions for the acquisition of Georgian citizenship;
- Adoption of a comprehensive National Human Rights Strategy and Action Plan; actively pursue in this strategy and action plan the specific recommendations of UN bodies, OSCE/ODIHR, the Council of Europe/ECRI and international human rights organisations

notably in implementing anti-discrimination policies, protecting minorities and private life and ensuring the freedom of religion;

2nd phase (benchmarks for effective implementation):

- Effective implementation of legislation and policies on anti-discrimination, including by ensuring effective legal aid and the independence of the judiciary; implementation of relevant UN and Council of Europe instruments;
- Effective implementation of the National Human Rights Strategy and Action Plan measures to fight against discrimination (including allocation of adequate human and financial resources); general awareness raising campaigns against racism, xenophobia, and other forms of discrimination; strengthening the capacities of responsible bodies for anti-discrimination policy and combating racism, xenophobia and other forms of discrimination.