



Paving the Road towards Visa-free Travel between the Eastern Partnership countries and the EU. Case of Azerbaijan¹

Center for Economic and Social Development

Quick Summary

» *European Integration*

The EU launched formal relations with Azerbaijan on April 22, 1996 by signing the EU-Azerbaijan Partnership and Cooperation Agreement (PCA) in Luxembourg, although since the independence in 1991 Azerbaijan had already had diplomatic relations with different EU member states. After ratification of the PCA by all member states of the EU, the agreement that provided legal framework of relations entered into force on July 1, 1999. On June 14, 2004, the EU adopted the European Neighbourhood Policy's Action Plan and Azerbaijan joined to the European Neighbourhood Policy (ENP). This was a very important sign of the improvement of relations between Azerbaijan and the EU. ENP offers its help to Azerbaijan in economic and institutional reforms to enter into closer political, economic and cultural relations with the EU, and to access to the united market of the EU. The EU-Azerbaijan ENP Action Plan adopted on November 14, 2006 defined ten main priority areas of cooperation, beginning from contribution to a peaceful solution of the Nagorno-Karabakh conflict, strengthening democracy and protection of human rights and fundamental freedoms in the country through a fair and transparent electoral process, to improvement of the business and investment climate and the rule of law, particularly by strengthening the fight against corruption. The next important step in relations between Azerbaijan and the EU was the launching of the Eastern Partnership (EaP) in 2009 in Prague. The EaP serves as a continuation of past initiatives which is aimed to promote future integration to the EU, stability, good governance and economic development in Azerbaijan as well as in five other Eastern European countries.

» *Official Visa Negotiations between EU and Azerbaijan*

The European Union has recently issued a mandate to start negotiations on readmission and visa facilitation with Azerbaijan on December, 2011. The Council adopted a decision authorising the Commission to open negotiations for readmission well as visa facilitation agreements with Azerbaijan at the end of 2011. Once the Commission estimates that negotiations with Azerbaijan will have been finalized, the Council will need to adopt decisions on signing and concluding the agreements by qualified majority and the European Parliament will need to give its consent.



1 This report was undertaken as part of Paving the Road towards Visa-free Travel between the Eastern Partnership countries and the EU, a project of PASOS (Policy Association for an Open Society), supported by the Local Government and Public Service Reform Initiative (LGI) of Open Society Foundations

Finally, the European Union (EU) held its first round of the negotiations on the visa facilitation and readmission agreements with Azerbaijan on March 01-02, 2012. The visa facilitation and readmission negotiations follow the political commitment taken at the Prague Eastern Partnership Summit in May 2009 regarding the improvement of people-to-people contacts. "This is an important moment in the EU-Azerbaijan cooperation as we have concretely started to negotiate the visa facilitation and readmission agreements with Azerbaijan"- stated by EU Delegation to Azerbaijan.

The Visa Facilitation and Readmission Agreements Negotiations were conducted between the Ministry of Foreign Affairs, the State Migration Service and the EU International Affairs Unit and EU Visa Policy Unit (both from EU Commission Directorate for Home Affairs).

Existing Problems

» ***Adaptation of biometric passports***

In order to simplify visa regime between Azerbaijan and Europe, improvement of security and management of the borders, regulation of migration processes and signing readmission agreements have been accepted as principal terms. For implementation of the security of borders, one of the principal terms is starting the application of biometric passports to be read automatically. The Azerbaijan Republic has not begun application of biometric passports yet. However on February 13th 2007, the president of the Azerbaijan Republic approved 'The State Program, 2007-2012, on Creation of biometric identification system in the Azerbaijan Republic'. The purpose of this program is to modernize the national security system and to fight effectively against terrorism, unregulated migration, human trafficking and other forms of transnational organized crime.

The law "On Biometric information" has also been adopted, however the application of it has not been started yet. According to the law, the following are included the biometric information: finger, palm and face prints, iris, sound fragment and its acoustic features, result of DNA analyses, body sizes and specific features, signature, etc.

For the print and application of biometric passports, an allocation of 22.0 million EURO has been set aside in the state budget. So this year in Azerbaijan, the beginning of giving biometric passports is predicted. According to the state program, passport facilitation must be finished in 2012. In order to simplify visa regime between the Azerbaijan Republic and the EU the Azerbaijan Republic must improve its border management system and provide forming of relevant database in this sphere.

» ***Document security***

The Republic of Azerbaijan does not issue machine-readable biometric travel documents/passports and ID cards yet. But on February 13, 2007, the President of Azerbaijan approved the State Program on Establishing Biometric Identification System in the Republic of Azerbaijan in 2007-2012 (SPEBISRA). On June 13, 2008, Azerbaijan also adopted the law on "Biometric information". In this law, biometric information includes finger, palm and face prints, iris of eye, the fragment of voice and its acoustic features, the result of DNI analysis, the sizes and special features of body, hand-writing and signature and etc. SPEBISRA set the plan of actions for the years 2007-2012 to fully implement the latest biometric technologies in Azerbaijan.

» ***Border management policy***

Arrivals and departures to Azerbaijan and passport issues are all regulated by the law on "To depart, to arrive and passports" which was adopted on June 14, 1994. There have been 22 amendments and changes to this law since it was adopted. According to this law, on 2001 "Exitenter" automotive information-searching system (AMAS)" was established. This system is intergovernment information database of the Ministries of National Security, Defence, Internal Affairs, Foreign Affairs, Justice, Taxes, as well as State Border Service, Special State Security Service and State Marine Service at the Ministry of Cabinet.

» ***Migration***

According to the law on Immigration, which was adopted by the Republic of Azerbaijan on December 22, 1998, an immigrant is a person (foreign citizens and persons without citizenship) who is permitted to live in Azerbaijan permanently. Before June 30, 2009, the date of the decree of the Republic of Azerbaijan on application of the "One Window System" in the regulation of migration processes, to get permission to reside in Azerbaijan permanently was difficult and a bureaucratic process that some even say was very corrupted. According to this decree, some changes were proposed to laws of the Republic of Azerbaijan and the law on issuing the ID registration cards of foreign citizens and persons without citizenship who permanently live in Azerbaijan was cancelled. Before this decree and the following changes to the legislation, persons who wanted to reside permanently in Azerbaijan had to pass through the routine and bureaucratic procedures to get permission to live in Azerbaijan. It was very significant development in the liberalization of migration procedures. But on September 13, 2010, the President of the Republic of Azerbaijan issued a decree #326 on "the registration of visas of foreigners and persons who do not have citizenship" which made some changes to previous procedures. The changes made it more difficult for foreigners to come to Azerbaijan. According to previous regulation, the foreign citizens of some countries could get a visa at the airport or at the border. Now they have to apply for the visa one-month before arriving at one of Azerbaijan's embassies outside of the country.

» ***Public Order and Security***

Since its independence, the Republic of Azerbaijan has ratified almost all significant international Conventions and treaties against organized crime, corruption, terrorism, human trafficking, as well as human rights. One of the main challenges to the democratic development, future prosperity and security of Azerbaijan is its high level of corruption. Corruption undermines all economic opportunities and projects of the government thanks to financial resources from oil and gas resources. The high level of corruption has always been subject to criticism from both domestic and international audiences, which was also acknowledged by the high level of officials of Azerbaijan that corruption is a priority issue requiring comprehensive and serious countermeasures. According to the Corruption Perception Index 2010 of Transparency International, Azerbaijan ranked 134th place among 178 states of the world. The government has failed to achieve substantial results in the last few years despite administrative and legislative measures.

Next steps/priorities

EU Delegation to Azerbaijan stated that the Visa Facilitation agreement is aimed at the facilitation of personal interaction between the EU and Azerbaijan's people. The two agreements discussed include reduced visa fees for all citizens; issuance of visas for an intended stay of no more than 90 days per period of 180 days, fee waivers for certain categories of people; a maximum processing time of 10 calendar days; simplified supporting document requirements; wider issuance of multiple-entry visas for certain categories; and enhanced mobility in a secured and well-managed environment. The Readmission Agreement will stipulate mechanisms for the return of nationals staying without authorisation on the territories of the EU or Azerbaijan. The two aforementioned Agreements are interlinked like "twins" and can be signed and come in vigour only together. Both Agreements must be looked in the broader context of Eastern Partnership (EaP). Lifting the EU visa requirement for the citizens of partner states travelling to the EU is one of the EaP's key, although long-term, objectives. In the shorter perspective, the EaP envisages visa facilitation and readmission agreements (already signed with Ukraine, Moldova and Georgia). Mobility of citizens (achieved through visa facilitation and readmission agreements) remains one of the core objectives and partner countries are promised visa-free regime with the EU in due course.

Conclusions

As you can see above Azerbaijan has already started to some institutional, legislative and administrative reforms to meet its international commitments. Azerbaijan has already had comprehensive legislation on migration, combating organized crime, terrorism, money laundering, human trafficking and set the plan on

approximate its legislation to European standards. Azerbaijan also set the plan to apply biometric identification technologies in issuing passports and other personal IDs. While undertaking all these reforms and changes Azerbaijan still falls behind in certain areas:

- Although Azerbaijan has laid comprehensive legislative background to decrease the level of corruption, there is no significant improvement in this field
- Cooperation with Civil Society in decision-making process is one of the main areas where Azerbaijan has the most serious problems. Despite the fact that most CSOs are pro-Western and pro-European oriented, they have a very small influence on the government and their decision-making;
- After analyzing the whole reforms and convergence/approximation of laws and institutions to the European standards, we can assume that Azerbaijan has been doing all reforms unwillingly. Sometimes these changes take more time than they are supposed to. Especially, the reforms with respect to approximation of laws and regulations on the application of biometric identification technologies have taken place very slowly.

Recommendations

After analyzing the current legislation and reforms measures, we would suggest the following recommendations to the EU and the government of Azerbaijan:

On Legislation Sphere

- Adapting of Protocol to the Convention for the Protection of Individuals with regard to automatic processing of personal data regarding supervisory authorities and representatives of international information flows, 2001
- Approving of the Data Protection Directive (officially Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data), 1981
- Adapting of European Convention on the Repatriation of Minors, 1970
- Adopting and implementing of legislation on movement of persons at the external borders, legislation on border authorities in line with 2007 National Strategy of Integrated Border Management

On Technical Sphere

- Establishing of data protection according to EU standards:
- To foster the application of biometric passports
- Setting up of cooperation with FRONTEX
- Establishing of exchange system of data with Europol
- Presence of EU border assistance missions

On Management Sphere

- Combating corruption which might pave the way for organized crime and terrorist organizations to use the territory of Azerbaijan and might even undermine the reforms on application of the latest biometric identification technologies.
- Enhancing the role of Civil Society Organizations since the governments of Azerbaijan and the EU have to put more effort into making sure that the Civil Society Organizations of Azerbaijan play a larger role in the decision-making process.
- To start reforms of public administration or institutional reforms because the current structure of the government of Azerbaijan demonstrates that it needs more institutional reforms.

EC is recommended to do:

- Support convergence of the current legislation and undertaken reforms on migration, border policy, migration, terrorism, biometric documents, asylum policy, money laundering and etc., should be analyzed separately by different international experts and there must be an opinion of independent experts available for each separate law.
- Fulfilled gap in proper cooperation between Azerbaijan and EU member states on lawenforcement matters. Azerbaijan has also not had an agreement with EUROPOL on cooperation. Therefore, we think it is an area where the governments of Azerbaijan and the EU, as well as its individual member states, have to pay attention, and in coming years this gap should be fulfilled.
- EC is recommended to follow the work of others groups that deal with cross-thematic issues like academic exchange and migration, human rights, anti-corruption and all directly and indirectly spheres