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Ukraine Towards Visa-free Regime (N^o 1)

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At the end of 2014 the discussion intensified about the possibility of granting visa-free regime to Ukraine during Eastern Partnership Summit in Riga (21st-22nd May). This perspective of this being achieved was strengthened by the fact that Moldovans have been able to travel to EU without a visa since April 2014. Consequently, the Stefan Batory Foundation is going to present a short summary each month about the efforts made by Ukraine in the context of both countries' striving for the achievement of visa-free travel.

In June 2010 the European Union launched visa dialogue with Ukraine with the final goal of achieving a visa-free regime for Ukrainians. The main instrument of visa dialogue between the EU and Ukraine is the Visa Liberalization Action Plan (VLAP), which consists of two phases: legislation and implementation. The VLAP covers around 60 reforms divided into 4 blocks:

1. Security of documents (including biometrics)
2. Illegal migration (border and migration management, asylum policy)
3. Public security and order (fighting organised crime, terrorism and corruption, judicial & law enforcement co-operation, data protection)
4. External relations and fundamental rights.

The technical progress is monitored by the European Commission, which periodically evaluates Ukraine's progress. On 27th May 2014 the Commission concluded that "Ukraine (...) meets the first-phase requirements of the visa dialogue. The second phase, where the Commission will be checking the implementation of all these rules, can therefore be launched"¹. The fulfilment of the second phase of the VLAP will enable the EU to take a decision about granting Ukraine visa-free movement.

Before the Riga Summit, the possibility of visa-free movement for Ukraine was announced by President Petro Poroshenko after his meeting with the High Representative of the European Union for Foreign Affairs and Security Policy and Vice-President of the European Commission Federica Mogherini, the Ukrainian Prime Minister Arseniy Yatsenyuk ("We are doing everything we can to achieve that goal"²), the EU Ambassador in Ukraine Jan Tombinski during his press conference³ and the Latvian Minister of Foreign Affairs Edgars Rinkēvičs.

Therefore, as hopes have reached this level, the question is what Ukraine has done since May 2014, i.e. before moving to the second phase of the VLAP, in order to establish visa-free regime with EU?



¹ http://europa.eu/rapid/press-release_IP-14-613_en.htm.

² <http://www.eurointegration.com.ua/rus/news/2014/12/16/7028804/>.

³ <http://www.unian.info/society/1023702-tombiski-ukraine-not-yet-ready-for-visa-free-regime-with-eu.html>.

Since 12th January 2015 Ukraine has finally started to issue biometric passports. This process was delayed in the last few years. During Victor Yanukovich's regime, the question of biometric documents' production changed into a huge corruption mechanism which made it impossible to start the whole process. At the same time the issuing of biometric passports is a condition *sine qua non* for permitting visa-free regime, because only biometric passports holders will be allowed to cross the EU border without a visa. Ukrainians with old documents will still need a visa.

The Cabinet of Ministers of Ukraine is going to channel almost 8.5 million EUR for the purchase of 600 terminals to produce biometric passports. Prime Minister Yatsenyuk announced his expectations of issuing considerably more than the 35,000 new passports currently issued each month. The Ukrainian State Migration Service (SMS) forecasts that it will issue 8,000 new passports daily which will result in almost 200,000 new passports each month. Hence, we can expect more than 2 million new biometric passport holders until the end of 2015.

One problem that will have to be solved in the near future is the cost of new passport. The Ukrainian Minister of Internal Affairs, Arsen Avakov, has said that a new passport will cost around 518 UAH but this started a nationwide debate because according to the ruling of the Supreme Court of Ukraine there should only be one price of 170 UAH, therefore meaning that the price of 518 UAH would be contrary to the existing law.

Since the end of January 2015, the consulates of the EU member states have started to collect biometric data (fingerprints) from Ukrainian citizens (people over the age of 12). The data will be valid for the next 59 months. The issuing of biometric passports and the collection of fingerprints by Schengen countries is a crucial argument against opponents of a visa-free regime with Ukraine. Previously, a lot of Ukrainians who were not allowed to cross the EU border "lost" their passports on purpose, and then applied for the new ones which did not include information about the rejected entry. From now on, this won't be possible. Secondly, it will limit the practice of changing names and surnames in the passports. Ukrainians who were not allowed to come to EU used to apply for the passports using different personal data. Now this will also not be possible.

Apart from biometric passports, it was also noticed that the infrastructure for border management is adequate and the border management officials regularly participate in anti-corruption training programs, the Plan for Cooperation between Ukraine and the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the EU (FRONTEX) has been effectively implemented, Ukraine has participated in joint projects, co-prepared reports and regularly exchanges information with FRONTEX.

In the second half of 2014 a whole package of anti-corruption laws were introduced which have been crucial in fulfilling the process of the Group of States against Corruption (GRECO) which is part of the Council of Europe, as well as the recommendations and provisions of the UN Convention against corruption. In the end, Ukraine's anti-corruption package fulfilled 16 (out of 20) GRECO recommendations.

Within the scope of the package, several independent anti-corruption institutions were established such as the National Commission for the Prevention of Corruption and National Anti-Corruption Bureau of Ukraine. At the same time, the new law cancelled the compromised National Anti-Corruption Committee, established by President Viktor Yanukovich, which had been criticised for its dependency on executive power and inefficiency. The National Bureau is allowed to employ 1,200 people. In November 2014, the Ukrainian government created the Council of Business Ombudsman, a body set up to ensure the freedom and transparency of entrepreneurship and a business-friendly environment.

At the moment the Ukrainian government is working on reforming the labour code which will prohibit discrimination on the grounds of sexual orientation. This code will be passed soon. It is the effect of the law "On Amending the Legislative Acts of Ukraine on Preventing and Combating Discrimination in Ukraine", which has been condition *sine qua non* as part of the implementation of the VLAP, although it has generated huge controversy in Ukraine. After passing the law, the Higher Specialized Court of Ukraine for Civil and Criminal Cases provided clarification that sexual orientation is implicitly considered as prohibited grounds for discrimination in the existing legislation. In spite of the negative attitude of Ukrainian society towards this law (only 13 percent of Ukrainians accept homo-sexualism) it was adopted as one of crucial requirements of the VLAP.

Obviously, the most problematic question at the moment is the future of the line between the territory held by the Ukrainian army and the territory held by separatists in Donbas, as well as the movement of people between these two areas. We are going to publish a brief about this issue in March.