

Armenia

Recommendations on Forming and Implementing the Road Map to the Symmetrical Visa-free Regime between the EU and Armenia



Joint submission by a Group of Civil Society Organizations

- Analytical Centre on Globalization and Regional Cooperation
- Open Society Foundations–Armenia
- Transparency International Anticorruption Center
- Journalists' Club Asparez
- Helsinki Committee of Armenia
- Helsinki Citizens' Assembly–Vanadzor

Introduction

The Analytical Centre on Globalization and Regional Cooperation (ACGRC), based on the rich research experience in the field of the dialogue between the Republic of Armenia and the European Union, particularly in the fields of providing visas and readmission, as well as taking into consideration the success reached by Armenia in the above mentioned fields and the possibility of moving to the next phase of Visa Liberalization, i.e. Visa Dialogue, has developed Recommendations towards Visa Dialogue. The Recommendations will contribute to the preparation of proposals necessary for Armenia in order to move to the next phase of dialogue which might later form the basis for the Road Map of the Visa Liberalization between the RA and the EU.

The Recommendations have been made with the expertise and financial support of the Open Society Foundations-Armenia. The research was carried out by the experts of the Analytical Centre on Globalization and Regional Cooperation and by Irina Sushko, the international expert and the head of the civic initiative “Europe without Barriers” (Ukraine). It should be mentioned that the Open Society Foundations–Armenia, Transparency International Anticorruption Center, Journalists' Club Asparez, Helsinki Committee of Armenia, Helsinki Citizens' Assembly–Vanadzor, have also joined these Recommendations. We would also like to point out that the Recommendations made towards moving to Visa Dialogue phase will be presented to the Government of the Republic of Armenia, the National Assembly and the European Union Delegation to Armenia which is especially important at the threshold of the Eastern Partnership Summit to be held on 21-22 May 2015, Riga.

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Recommendations on Forming and Implementing the Road Map to the Symmetrical Visa-free Regime between the EU and Armenia

Introduction

The project of the Road Map is aimed at creating common frames for cooperation between the Republic of Armenia (RA) and the European Union (EU) in spheres of justice, freedom and security. The first consistent step by the RA towards long-term perspective in introducing visa-free regime was made on September 19, 2011 when the Armenian Government and the European Commission announced the start of negotiations on visa facilitation and readmission agreements. Also, on October 27, 2011 Armenia signed the Mobility Partnership with the EU.

In January of 2013, Armenia introduced asymmetric visa regime towards the EU that brought to a visa-free travel to Armenia for citizens of the EU.

On December 17, 2012 the Agreement between the European Union and the Republic of Armenia on the Facilitation of the Issuance of Visas and on April 19, 2013 Agreement on the Readmission were signed. Both agreements came into force on January 1, 2014. The Agreement on visa facilitation foresees a facilitated entry to the EU for certain categories of citizens of the RA.

Methodology

Taking into consideration the wide range of questions regarding the visa-dialogue on visa liberalization, as well as the importance of creating a secure environment for the visa-free travel, we suggest a document, i.e. a Road Map, that includes exhaustive list of conditions and criteria, that will bring to a lift of the EU visa requirements for citizens of the Republic of Armenia. A Visa-free regime with the EU relates to Schengen visas, i.e. short-stay visas for up to 90 days within a 180-day period from the date of first entry.

The suggested Road Map is elaborated based on the current progress of the RA in the visa-dialogue connected with the four directions of the state policy. Traditionally, changes and modernization requiring state policy includes directions connected with the policy on security of identity documents, border and migration control, public order and security as well as fundamental human rights. From the moment of the receipt of the Road Map from the EU by the respective country, it is the Parliament and the Government that become obliged for the implementation of responsibilities. At the same time, inclusion of independent experts in the process of implementation of the criteria of the Action Plan on Visa Liberalization whose analysis will serve as a condition for qualified implementation of terms and goals is very important.

The Analysis and assessment of the implementation of the Road Map is done by experts of the European Commission who form the Mission of professional specialists in respective spheres. The experts of the Mission follow the progress, essential ongoing changes, that are fixed in the Reports. Depending on the level and quality of the fulfillment of conditions, the European Commission can suggest to review and to adapt the Road Map.

The European Commission will report to the Council of the EU about the implementation of the first range of criteria for adopting a decision on initiating assessment of implementation of the second range of criteria. The latter will be assessed during the audits with participation of experts from the EU member states. With this aim the Commission will suggest the RA to present detailed information (including respective statistic data) that will allow assessing concrete results in place.

Aiming to support sustainable and well planned reforms, the Road Map should comprise of two stages: 1. Legislation and planning, that will facilitate the way to concrete goals, 2. Effective and sustainable implementation of appropriate measures.

The speed towards the visa liberalization depends on the reached progress by the RA in the implementation of the conditions. Thus, there will not be any automatic performance in decision-making process and the progress in the implementation of each level of criteria will be thoroughly studied. The respective decisions will be taken by the European Commission and the Council of the EU. Before adopting decisions on initiating assessment of the second range of goals, the full implementation of the first range of criteria will be studied and checked in details. The two-stage approach gives a possibility to the Government of the country to prepare thoroughly and undertake necessary changes first in the legislative and then in the administrative spheres.

At the same time, such approach complicates and prolongs the visa-liberalization process. Hence, it is important to carry out the second implementation stage in parallel with the first stage without waiting for the completion of the first stage of the visa liberalization and official confirmation of the progress by the European Commission in order to avoid possible delays in the implementation of reforms.

The results of the effective implementation of the Agreement of Readmission between the RA and EU will have an impact on the adoption of a positive decision in the sphere of visa liberalization as well. Also attention will be given to the issues on identity documents security, in particular reducing the risks of forgery. In order to insure complex assessment of the consequences of the visa liberalization the European Commission will also do a monitoring of the issuance of visas. Specifically, the Commission will take into consideration the following risk factors: refusal rate of Schengen visas to citizens of the RA; number of citizens of the RA who were not allowed to enter the EU border or were detained for illegal stay in the EU; number of decisions on readmission in ratio with the number of the returned persons to the RA.

Status of Reforms (Benchmarks), based on Criteria of the Action Plan on Visa liberalization

Road Map components:

Block 1: Documents Security, including Biometrics

Block 1 is focused on insuring high level technical security of travel documents in compliance with international standards of personal data security.

Armenia has implemented most of the criteria of Block 1, in particular the required legislation on issuance of biometrics was adopted.

The identity documents started to be issued on June 1, 2012. Since January 1, 2014 issuance of biometric passports got a systematic high-volume character.

It should be noted that Armenia introduced biometric international passports early in the process of visa facilitation. Despite the progress in this area several critical issues remain. The expedient roll out of International Civil Aviation Organization (ICAO) compliant passports and their high price (about 55 USD) made access to such passports an issue for a certain population group. Currently, there is no clear plan for the phase out of non-ICAO compliant passports and they continue to be issued with a validity of 10 years.

Data security remains an issue, as there is no procedure for regulation of treatment of biometric data as one with highest sensitivity and its storage as per the highest security standard. Welcoming the government's readiness, efforts should be made to protect this information in accordance to these standards and to restrict access to it. Although no specific standards are mentioned, international standards such as ISO27001/2013 or similar can be used to insure integrity and security of whole application, personalization and distribution process.

At the same time the legislative framework elaborated for the issuance of travel documents needs to be fostered with respective normative acts showing legal and practical readiness to embed fundamental principals in the anti-corruption policy in the issuance of new identity documents.

Also it is necessary to elaborate administrative measures for insuring integrity and security of the process of personalization and issuance of travel documents that must comply with the ICAO and Council of Europe standards on integrated automatic system of personalization of the data of identity documents. Access to roll out of documents for all the categories of citizens must be insured.

Aim: to reach high level integrity and security during submission of applications, personalization and transmission of international passports as well as national passports and other primary identity documents.

Strengthening of anti-corruption policy in the issuance of identity documents

Armenia complies with a range of criteria in the sphere of documents security:

- It has introduced biometric international passports according to the ICAO standards
- Biometric passports are already introduced in Armenia. Legal framework for the issuance of biometric passports is adopted, including "On the Amendments to the RA Laws", "On RA Citizen's Passport", "On Identification Cards", "On State Duty", "On the Amendments to the RA Law", "On Personal Data", "On State Register of the Population", "On the Amendments to the RA Administrative Violations Code".
- Armenia has launched educational programmes and adopted anti-corruption Ethical Code for officials representing state bodies who deal with international passports and other identity documents.
- It has Elaborated educational programmes and trainings for higher qualification of staff working in execution and issuance of documents
- Law on professional ethics in civil service and prevention of conflict of interests is in place
- It has Introduced a plan for phase-out of non-ICAO compliant passports, however not implemented since 2012 (starting from parliament elections)
- Information Exchange with Interpol/LASP data base

Aim: regular exchange of passport specimens and cooperation on documents security with the EU. Improvement of the integrity and security of the documents issuance, personalization and transmission of international passports and other identity documents.

In order to complete this part of Block 1 it is necessary:

- To insure reliable data protection when submitting documents for execution of documents confirming identity and the citizenship of the Republic of Armenia, including biometric international passports, personalization and issuance of these documents
- To enhance data exchange on identity documents
- To introduce quick system providing information on lost/stolen documents
- To insure regular exchange of passport specimens and cooperation on document security with the EU
- To Elaborate and implement the Action Plan on phasing out of old type international passports that do not comply with ICAO standards
- To Reduce the price of ICAO compliant biometric passports and to ensure availability for the whole population
- To develop concrete procedures for handling, storing, accessing and processing of biometric passport database. And to establish minimal requirements/standards for storing biometric passport data

Questions that need to be taken under consideration

- *Formation of respective legislative framework that will insure precise and transparent procedures for personalization of the person, preparing, storing and delivering modern type identity documents.*
- *The best way for normative-legal regulation of the identity documents security is the adoption of the Law on "identity documents" that would precisely determine:*
- *All the main specimen of the identification documents as well as the terms and conditions for obtaining them, procedures, subjects allowed to the process of production, storing and distribution, conditions and procedures for termination of their validity.*

Block 2: Irregular Immigration, including Readmission

Aim: consistent introduction of effective methodology of identifying illegal migration in the country, risk analysis (accountability of respective state bodies and analysis on each administrative level, for example regional, central), as well as investigation of organized illegal immigration cases, in particular effective cooperation among appropriate state bodies.

Block 2 covers issues connected with fostering and protecting borders through establishing integrated border management, management of migration and adequate asylum policy.

In regard to border protection management, adoption and implementation of respective laws, as well as introduction of the Action Plan and National Strategy (with timeframe) for integrated border management are required. Implementation of the Integrated Border Management (IBM) is directed at adoption of sectoral strategies for the development of all the border services including the police, customs, sanitary and phytosanitary services. Apart from that functional strategies that cover spheres of common interests (common trainings, telecommunication and information systems, infrastructure on the border crossing points, etc.) are included.

Integrated Border Management is also aimed at coordination of all services on the border for optimizing the flow of people and goods, insuring security standards.

The direct exchange of the received data is important as it is directed at common combat for detaining smuggled goods, preventing human trafficking, fighting against smuggled arms and drugs. Besides, the IBM concept reduces state expenditure through reducing the number of civil servants in all agencies that are located on the border. IBM concept allows using facilities that are not necessary to obtain for each body but can be shared by all departments.

Anti-corruption trainings are also necessary on the basis of elaborated ethical codes for public servants. Apart from the implementation of legislation, the European Commission assesses insurance of adequate infrastructure and inter-agency and international cooperation.

In regard to the migration management, apart from the adoption and implementation of the legislative framework, implementation of the Agreement on Readmission with the European Commission is necessary. In November, 2013 the National Assembly of Armenia ratified the Agreement of Readmission along with the Agreement of Visa Facilitation.

Apart from that, the EU also demands installment of monitoring mechanism of the migration stock and flows. As for the implementation, apart from the assessment of the access to the adequate infrastructure, creation of a migration profile of the country and implementation of the methodology on illegal migration and struggle against it is necessary.

A key importance in the asylum policy is given to the consolidation and implementation of respective legislative regimes in the field of asylum, integration of refugees and other forms of security.

Border Management

Integrated Border Management as an effective tool for insuring border security

Aim - insurance of adequate infrastructure, technical equipment, IT technologies, financial and human resources in compliance with the Strategy of integrated border management; effective educational programmes and anti-corruption measures

This block foresees adoption of required legislation, its effective implementation through organizing checks at the border, through assessment of the situation on national, regional and local levels, doing risk analysis, through surveillance and control of data flow and direct access to national and international data basis for insuring its compliance.

Armenia has complied with a range of criteria in the sphere of border management:

- Approval by the President Decree of the Border Security and Integrated State Border Management Strategy of the Republic of Armenia 2011-2015 (hereinafter referred to as Strategy)
- Action Plan of the Strategy was adopted in April, 2011
- Anti-corruption trainings are organized

In order to complete Block 2 it is necessary:

- To elaborate and implement educational programmes and adopt *anti-corruption ethical codes* that relate to border guards, customs and other border-managing bodies
- To improve inter-agency cooperation, including data exchange between border service and law enforcement agencies
- To insure normative-legal regulation of procedure of data exchange among the subjects of integrated border management and to implement systematic data exchange
- To enhance international cooperation, including implementation of working agreements with the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (FRONTEX)

Questions that need to be taken under consideration

Improvement of inter-agency cooperation (including data exchange between border service and law enforcement agencies), international cooperation, more specifically implementation of Working agreements with FRONTEX.

Migration Management

In the sphere of migration management Armenia has complied with the following criteria:

- The Concept for the Policy of State Regulation of Migration in the Republic of Armenia was adopted on December 30, 2010
- The Action Plan for Implementation of the Policy Concept for the State Regulation of Migration in the Republic of Armenia in 2012-2016 was adopted on November 10, 2011
- The State Migration Service (SMS) of Armenia was created and is responsible for migration management issues and collecting data on migration stocks and flows

In order to complete the sphere of Migration Management it is necessary:

- To improve legislative framework, regulating Migration Management sphere
- To create a mechanism of regular monitoring of the migration flows, where the data regarding all types of migration (legal and illegal) will be reflected
- To improve practical measures regarding reintegration of the citizens of Armenia, who return voluntarily or through readmission procedures
- To effectively implement legislative basis in the fields of migration management, including insuring administrative structures with necessary resources, as well as effective cooperation between profile agencies
- To Consistently implement a methodology identifying illegal migration in the country, risk analysis, including reporting by profile agencies on each administrative level, as well as investigation of cases of organized illegal migration, including effective cooperation among all involved state bodies
- To insure adequate infrastructure (including detention centers), to strengthen the capacity of executive bodies dealing with readmission of illegal migrants from the territory of Armenia

Asylum policy

Aim - insurance of adequate infrastructure (including detention centers), strengthening capacities of executive bodies dealing with readmission of citizens of third countries from the territory of Armenia who reside and/or crossed the territory of Armenia illegally

In the sphere of asylum policy unification and implementation of respective legal regime in the area of asylum, integration of refugees and other forms of protection are necessary. Asylum policy must be regulated by respective legislation, by Law on providing asylum, according to which the country within its possibilities insures conditions for inclusion of refugees in social, cultural and economic life for their naturalization.

Harmonization of migration management policy and asylum provision with the EU standards and its effective realization are required.

In order to complete Block 2 in the sphere of Asylum policy it is necessary:

- To effectively implement legislation in the area of asylum, including insuring adequate infrastructure (including reception centers)
- To strengthen capacity in procedure of receiving asylum, placing asylum seekers and their rights protection, as well as documentation of asylum seekers and refugees with the aim to insure effective access to their rights and their integration

Questions that need to be taken under consideration

- Introduction of automatized information system as a sub system for integral informative-analytical system of control of migration processes with implementation of comprehensive data protection complying with international standards
- Introduction of migration profile and its regular update, effective analysis of gathered data on the volume of migration flow

Block 3: Public Security and Order

In order to have a visa - free regime with the European Union, each country must comply with criteria in the sphere of prevention of organized crime, terrorism, corruption, human-trafficking and insure legal cooperation among law enforcing bodies and adequate data protection. Meeting the requirements is done through adopting relevant legislation, ratification of Conventions and Protocols and its implementation.

Block 3 also focuses on fight against drugs, money laundering, including effective implementation of recommendations from the Council of Europe group of states (GRECO). It is also important to show readiness of respective authorities for strengthening inter-agency cooperation as well as operational cooperation with Europol and Eurojust.

In regard to data protection, the European Union requires a consolidation and implementation of legal framework in line with international standards, which includes ratification of most important international documents.

Preventing and fighting organized crime and terrorism

Aim - implementation of the National Plan for Action to Combat Trafficking in Persons, effective coordination among state bodies and effective protection of victims of human trafficking, especially children

Armenia has complied with the following criteria in this sphere:

- In December 2011, Armenia adopted a National Strategy to improve the effectiveness of the fight against organised crime.
- UN Convention against Transnational organized crime and its Protocols was ratified on 1st July, 2003.
- Council of Europe Convention on action against trafficking in human beings, 2005 entered into force on August 1, 2008.
- The Criminal Code was amended in April 2011 in relation to combating trafficking in human beings, toughening punishment for trafficking in children and persons with mental health problems.
- National Plan for Action to Combat Trafficking in Persons for 2010-2012 was approved by government in September 2010.
- In 2012 The new National Strategy and Action Plan for Combating Money Laundering and Terrorism Financing 2013-2015 were adopted that were developed by Financial Monitoring Center (FMC)
- An Interagency Standing Commission on Fight Against Counterfeiting Currency, Plastic Cards, and Other Payment Instruments, Against the Money Laundering, as well as Financing Terrorism in the Republic of Armenia was established.
- In November 2014 the National Security Council (NSC) of Armenia approved the project of National Strategy in the Fight Against Drug Addiction and Illegal Drug Trafficking in the Republic of Armenia.

In order to complete Block 3 in the sphere of Preventing and fighting organised crime and terrorism it is necessary:

- To present the National Plan for Action to Combat Trafficking in Persons for 2016-2018 to the Government of RA
- To Implement the National Plan for Action to Combat Trafficking in Persons for including effective coordination among state bodies and effective protection of victims of human trafficking, including children
- To implement the Strategy for the period till 2016 for developing a system preventing and combating legalization (money laundering) of incomes received in a criminal way or financing terrorism and action plans on preventing and combating legalization (money laundering) of incomes received in a criminal way or financing terrorism
- To establish an integral national monitoring centre in the sphere of trafficking in illegal drugs, psychotropic substances and its precursors, referring it to the field of National Service for Drugs Control (NSDC)
- To Establish cooperation and information exchange with the appropriate bodies of foreign countries and international organizations in the struggle against drugs
- To organize complex operative-preventive operations aiming at identifying and liquidating international channels of smuggled drugs to the RA and its transit shipping through Armenia

Questions that need to be taken under consideration

- *Study of the question on concluding a Memorandum of Understanding between NSDC and European Monitoring Centre for Drugs and Drug Addiction*
- *Promulgation of information on combating trafficking in illegal drugs and psychotropic substances*

Preventing and Fighting Corruption

Aim – implementation of legislation on preventing and struggling against corruption that will insure effective functioning of an independent anti-corruption body; elaboration of ethical codes and trainings on anti-corruption for public officials working in law enforcement and judiciary.

Unfortunately, recent indices show that population, business and experts perceive Armenia as a highly corrupt country and there has been no change of this perception during the recent decade. Enforcement of legislation aimed at curbing corruption remains a problem. Armenia does not have a specialized institution fully responsible for coordination and progress of country's anti-corruption

efforts. Armenia has embarked on the process of development of new Anti-Corruption Strategy and has already established an Anti-Corruption Council, but its independence and authority are an issue. Membership of high ranking officials in the council, led by the prime minister, compromises its independence as the very institution called to address corruption issues is led by individuals perceived to be highly corrupt. Moreover, the powers of the Council are very limited as it has only a consultative function and no authority for either investigation or decision making.

The Ethics Commission of High-Ranking public Officials was established as an institution responsible for collection and review of asset and income declarations, consulting of high-ranking executive officials on conflict of interest situations, issuing conclusions on their ethical misconduct. In practice, the Commission is restrained in its functions of investigation into the asset and income declarations of officials and moreover have no sanctioning powers in case of data fraud.

Armenia has complied with the following criteria in this sphere:

- Establishment of Anti-Corruption Council, establishment of an expert group under the Council; establishment of the Anti-Corruption Monitoring Division, Anti-Corruption Strategy drafted; Concept on fighting against corruption in the public administration sector adopted
- Ethics commission of High-Ranking public Officials established, responsible for collection and review of asset and income declarations, consulting of high-ranking executive officials on conflict of interest situations, issuing conclusions on their ethical misconduct
- RA National Assembly Committee on Ethics established, responsible for issuing conclusions about the need for declaration of conflict of interests and misconduct of members of parliament
- RA police, SIS, NSS responsible for investigation of different types of corruption-related crimes, overseen by Prosecutor's office

In order to complete Block 3 in the sphere of fighting Corruption it is necessary:

- To adopt legislation on preventing and fighting corruption including separate legislation on conflict of interests, to introduce illicit enrichment to the Criminal Code and to bring provisions on the offence of the trading in influence in full compliance with international standards; to expand the definition of family relationships in the Public Service Law to include up to fifth degree of kinship
- To establish an independent anti-corruption council by changing the composition of the Anti-Corruption Council, procedures of its formation and functioning, so that it becomes a professional and independent body, with decision-making functions; to insure that membership in the Council is void of conflict of interest and that the Expert Commission under the Council has adequate financial resources; to insure that the new strategy has a strong mechanism for coordination and monitoring, to include a set of performance indicators and use of inputs from non-governmental organizations
- To insure sound legal and institutional framework, including necessary secondary legislation for efficient functioning of internal control mechanisms that contribute to the prevention of corruption, including high level corruption and to setting integrity standards within the public institutions; Amend Public Service Law to enlarge the scope of activities of the Ethics Commission of High-Ranking Public Officials to include mandatory reporting of divergence of data on assets and incomes to the law enforcement bodies and to oversee the conduct of all high-ranking officials, including the president, ombudsman and head of Special Investigation Service
- To develop codes of ethics or conduct for special categories of public servants prescribed by Law on Public Service

Questions that need to be taken under consideration

Doing analysis on requirements for elaborating and implementing sectoral codes (rules) of conduct for persons doing functions of the state or local government

Cooperation in law-enforcement questions

Aim – implementation of international conventions on judicial cooperation in criminal cases (more particularly Convention of the Council of Europe). Insuring high level operative and special investigative capacities for law enforcement bodies and its consistent and effective operation in the struggle against trans-border crimes

Armenia has complied with the following criteria in the sphere of law enforcement cooperation

- In 2001 the European Convention on Mutual Legal Assistance and in 2011 its 2nd Additional Protocol came into force

In order to complete Block 3 in the sphere of law enforcement cooperation it is necessary to demonstrate a progress:

- To ratify and implement international conventions on legal cooperation in criminal matters (more particularly conventions of the Council of Europe)
- To insure high level efficiency in judicial cooperation of judges and prosecutors with relevant state bodies in criminal matters of the EU member states
- To insure high level efficiency in law enforcement cooperation between relevant central bodies of executive and legislative powers
- To adopt exhaustive measures towards concluding the Agreement on operative cooperation between Armenia and the European Police Office

Questions that need to be taken under consideration (discussion questions)

- *Concluding the Agreement on cooperation between Armenia and the Eurojust*
- *Organizing consultations with the Eurojust on the mission in the RA aimed at assessing compliance of the institutional insurance of personal data protection in the RA with international standards*

Data Protection

Armenia ratified the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data in 2012. Following ratification, in 2014 Draft Law on personal data protection has become an agenda item for the parliament and was passed in first reading. Although the Draft Law is of progressive nature, it still lacks important elements - sanctions and remedies for violation of data protection rights and establishment of an independent supervisory authority.

Supporting legislation such as the Criminal Code and Administrative Code do not define different sanctions depending on nature for misuse of personal data. Further amendments are needed to diversify sanctions for professional negligence of personal data and willful and knowledgeable violations. Moreover, the current legislation and sub-legislative acts do not stipulate a procedure for storage of data of high sensitivity.

The Draft Law on Personal Data Protection provides excessive power for investigation and intervention, including, but not limited to issues of action order, suspension of data processing, blocking, and distraction of illegally processed data. According to the Draft, a data protection authority will be formed as a governmental body, while the international best practice stipulates absolute independence of this body, including allocation of sufficient financial means from state budget.

Armenia has complied with the following criteria in the sphere of Data Protection:

- Ratified Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data in 2012
- Based on the Convention, a Draft Law on Protection of Personal Data was prepared and adopted in first reading by National Assembly in March 2015

In order to complete Block 3 in the sphere of Data Protection it is necessary:

- To establish an independent data protection supervisory authority with adequate powers, financial means and obligations; Financial independence of personal data protection authority is better to define under the law to exclude possible pressure and influence from the government; allocate funds from the state budget for its operation. Secure independence of the authority by institutionalized participation of representatives of non-governmental human/civil rights organizations in the advisory body to ensure public trust and professionalism; introduce the concept of public accountability in the form of an annual and public report to National Assembly
- To develop and adopt minimal requirements for storing highly sensitive personal data
- To amend Criminal and Administrative Codes to secure diversification of sanctions for professional negligence of personal data and willful and knowledgeable violations of personal data. Sanctions for personal data protection violations should be as following: a) monetary sanctions applicable for negligence, unfair and/or non-proper collection, storage and processing, and b) criminal fines and penalties imposed for willful and knowledgeable violations of individuals' rights and usually if violations caused in material or moral damage.

Block 4 External Relations and Fundamental Rights

Freedom of Movement across the territory of Armenia

Aim – provision of available data on requirements for registration of the foreigners who desire to reside in the RA and provision of identical and transparent implementation of appropriate legislation

In order to complete Block 3 in the sphere of Freedom of Movement in the territory of the RA it is necessary to demonstrate a progress:

- To organize awareness raising activities aiming to increase the level of familiarity of citizens of the RA, foreigners and persons without citizenship about their rights of freedom of movement across the territory of Armenia
- To Organize awareness raising activities on legal regulations of registration by place of residence or place of stay of foreigners or persons without a citizenship of the RA

Requirements and procedures for issuance of identity documents

Aim: insuring full, effective access to travel and identity documents for all citizens of the RA, including women, children, people with disabilities and persons belonging to minorities and other vulnerable groups

In order to complete Block 3 in the sphere of Freedom of Movement across the territory of the RA it is necessary to demonstrate a progress:

- To insure a full and effective access to documents that certify identity and confirm the citizenship of the RA for all the citizens of the RA, including women, children, people with disabilities and persons belonging to minorities and other vulnerable groups

Citizens' rights, including protection of minorities

Aim: effective implementation of anti-discrimination legislation, implementation of relevant documents of the UN and CoE

Armenian legislation does not provide adequate safeguards against discrimination of minority groups, with the exception of women¹, as revealed by the recent review of legislative framework. In practice, discrimination is widespread, particularly towards certain groups,² affects all areas of life making adoption of a single, comprehensive legislation imperative.

The authorities argue that the current overhaul of major legislation, including Criminal and Civil Codes, creates favorable grounds for addressing discrimination. At best, this reform will be finalized in 2017 while full protection against discrimination should be insured without delay. Moreover, adoption of a single and coherent Law will signal commitment to addressing discrimination comprehensively by providing adequate protection mechanisms, serving an educative purpose by promoting equal rights, opportunities and equal treatment and measures for all, as per international standards. Adoption of a standalone law is also mandated by the best practice of the Council of Europe countries and lack of such law was noted by the European Committee on Racism and Intolerance in its monitoring report.³ Lack of comprehensive anti-discrimination legislation has been noted by the Human Rights Committee,⁴ Committee on Economic, Social and Cultural Rights⁵ and other treaty bodies⁶.

The National Human Rights Strategy is declarative and its Action Plan does not provide relevant measures to address most pressing human rights issues. International structures, including the EU representatives in Yerevan and Brussels, have noted that adoption of the Strategy and the Action Plan is a necessary but not sufficient measure to address legislative and implementation problems.

In order to complete Block 3 in the sphere of Citizens' Rights including protection of minorities it is necessary:

- To adopt comprehensive legislation, including a standalone anti-discrimination law, as recommended by the UN and Council of Europe monitoring bodies; to insure effective protection against discrimination; to establish a specialized body to combat discrimination at national level, to secure its independence
- To revise the National Human Rights Action Plan addressing issues of discrimination, torture, women's rights, children's rights and making it efficient by providing timelines and funding; to secure an open and public revision process and full participation of civil society organizations

¹ RA Law "Ensuring Equal Rights and Opportunities for Men and Women", adopted in 2013. See the Law in Armenian <http://www.parliament.am/drafts.php?sel=showdraft&DraftID=28173>

² OSF Armenia. 2014. 21st Session of the Universal Periodic Review. Joint submission by a group of civil society organizations to the UN Human Rights Council. June 2014. Volumes one and two http://www.osf.am/wp-content/uploads/2015/04/UPR_FFHR_Volume-I.pdf; http://www.osf.am/wp-content/uploads/2015/04/UPR_FFHR_Volume-I.pdf; OSF Armenia 2014. Briefer on Non Discrimination http://www.osf.am/wp-content/uploads/2014/12/non-discrimination_briefer.pdf

³ ECRI Report On Armenia, Fourth Monitoring Cycle; Adopted On 7 December 2010

⁴ Human Rights Committee Concluding observations adopted by the Human Rights Committee at its 105th session, 9-27 July 2012

⁵ Committee on Economic, Social and Cultural Rights - Concluding observations on the combined second and third periodic reports of Armenia 16 July 2014

⁶ Committee on the Elimination of Racial Discrimination - Concluding observations; February - March 2011; Committee on the Elimination of Discrimination against Women Concluding observations January - February 2009; Committee on the Rights of the Child - Concluding observations May - June 2013

Questions that need to be discussed

*Maintenance of legislation in the Parliament of the RA that foresees compliance with the provisions of *acquis communautaire* in the sphere of employment policy.*

References:

1. RA Law "Ensuring Equal Rights and Opportunities for Men and Women", adopted in 2013. See the Law in Armenian <http://www.parliament.am/drafts.php?sel=showdraft&DraftID=28173>
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3. ECRI Report on Armenia, Fourth Monitoring Cycle; Adopted On 7 December 2010
4. Human Rights Committee Concluding observations adopted by the Human Rights Committee at its 105th session, 9-27 July 2012
5. Committee on Economic, Social and Cultural Rights - Concluding observations on the combined second and third periodic reports of Armenia 16 July 2014
6. Committee on the Elimination of Racial Discrimination - Concluding observations; February - March 2011; Committee on the Elimination of Discrimination against Women Concluding observations January - February 2009; Committee on the Rights of the Child - Concluding observations May - June 2013