

Mapping Georgia's Visa-Free Progress: The Quest for a Preventive Strategy

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Executive Summary

This paper examines EU-Georgia post-visa free official discourse, facts and statistics against the negative benchmarks identified in the Visa Suspension Mechanism, which was introduced as a measure of self-defense by the European Union. The evaluation of relevant data confirms the legal basis for triggering the suspension mechanism, but the political sensitivity of the issue seems to be working in Georgia's advantage. Still, the author argues that Georgia will not always enjoy political immunity to the substantially increased irregular migration and security risks for the EU. The European Union remains alarmed about the rising number of unfounded asylum seekers and undocumented migrants from Georgia, as well as the intensified criminal activities by Georgian organized groups. While these numbers are being misinterpreted and utilized by Europe's pro-Russian forces to the detriment of Georgia's European future, they are also real and rising. Therefore, the paper warns Georgia against complacency and denying the depth of the problem. The paper advises the government to be proactive in both its preventive and reactive strategies, fighting the number of violations and the propaganda at the same time. The author also places responsibility on the European Union and calls for an EU-wide reform of asylum policies and the border management system to address issues that are beyond Georgia's control. The author compares the Visa Suspension Mechanism to the sword of Damocles hanging over Georgia's European future until the European Travel Information and Authorization System provides relief to all sides concerned.

Introduction

On March 28, 2017, the Georgian passengers on the Kutaisi-Athens flight made their very first visa-free air trip to a long-aspired destination—the European Union [EU]. The visa-waiver deal with the EU was the hoped-for outcome of a lengthy process that was initiated back in 2012 with the EU-Georgia visa dialogue, and a series of reforms that Georgia successfully undertook to meet the targets set in the 2013 Visa Liberalization Action Plan [VLAP]. As a result, today nearly 450,000 Georgian citizens can boast of having travelled to the Schengen+ area² visa-free more than 750,000 times³.

The European Union has, however, reserved the right to suspend the visa waiver for a period of nine months with the option of prolonging the suspension for another 18 months or lifting the visa waiver altogether —if there is substantial abuse of the visa-free travel rules. Substantial abuse is defined as a sharp rise in the number of third country nationals refused at the EU borders; an increase in unfounded asylum claims; significant evidence of third-country citizens illegally staying in the Schengen zone; and the intensification of organized criminal activities in EU destination countries. As stated in Article 8 of the Visa Suspension Mechanism, an increase of any of these parameters exceeding a threshold of 50%, with a low recognition rate of around 3% or 4%, would qualify as a legal basis for an EU member state to request that the visa suspension mechanism be triggered by the Commission.

According to statistical data, these regulatory 'red lines' have regrettably been crossed repeatedly. The fear of losing the major and most tangible achievement in the European integration process runs

¹ For feedback on the draft of the paper, the author thanks Alexandra Stigl Mayer (Germany), European Stability Initiative [ESI], Senior Analyst in Brussels.

² Schengen+ area covers the 26 EU member states applying Regulation (EU) 2018/1806 [Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Germany, Estonia, Greece, Spain, France, Italy, Latvia, Lithuania, Luxembourg, Hungary, Malta, the Netherlands, Austria, Poland, Portugal, Romania, Slovenia, Slovakia, Finland and Sweden], as well as the four Schengen Associated Countries [Switzerland, Norway, Liechtenstein, and Iceland].

³ Javakhadze, N. 2019, June 3. Deputy Minister of Internal Affairs of Georgia. (T. Dolidze, Interviewer)

high in the Georgian government, but experts do not believe that will come to pass⁴. In fact, apart from the legal aspect, there is a political side to the suspension mechanism and it makes the correlation between the number of irregularities and the decision to suspend the visa exemption less straightforward. The European Commission is required to assess the “emergency situations” as alleged by a complainant against “the particularly sensitive political nature” of such a move and the impact it would have on the multilateral and bilateral relations with the third country concerned⁵. That is especially true when the third country is making great efforts to find alternative solutions and collaborates effectively on readmission, which Georgia surely is.

However, the Georgian government cannot afford to lapse into complacency. Several affected EU member states have already voiced concerns and Georgia has been required to take various measures, including changing its own laws. The problems identified in the Commission’s Second Report under the Visa Suspension Mechanism need to be addressed promptly and adequately, otherwise Georgia risks losing the good will of the European Union.

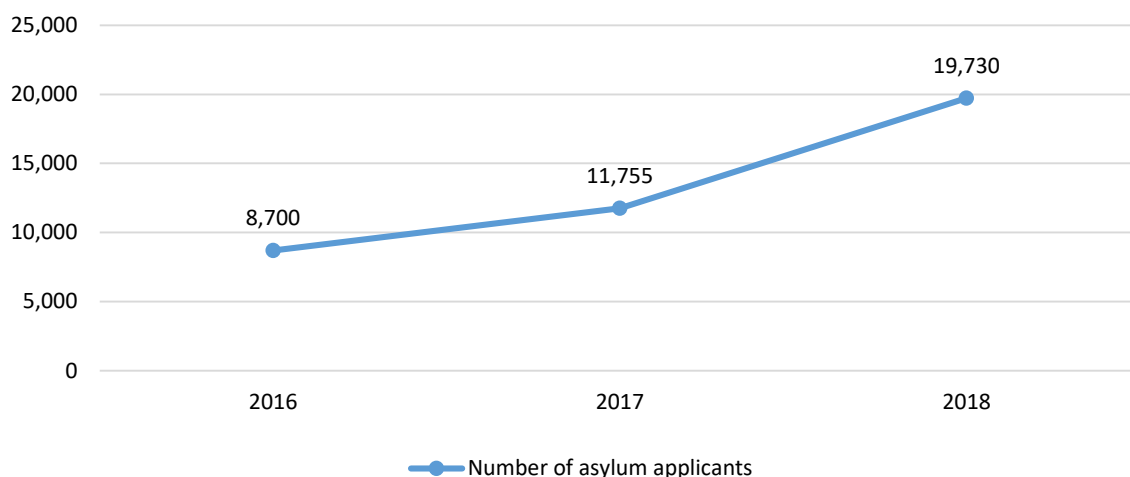
Post-Visa Free State of Affairs

The three main datasets that are statistically relevant in the context of the EU visa suspension mechanism for Georgia concern Georgian (a) bogus asylum seekers, (b) undocumented migrants, and (c) organized crime groups.

Bogus Asylum-Seekers

The EU-Georgia visa waiver has doubled the total number of asylum applications filed by Georgian citizens in the Schengen+ area. By 2019, the annual number of asylum applications from Georgian citizens had increased from 8,700 in 2016 to 19,730 in 2018 (Chart 1), putting Georgia on the list of the top ten countries of origin of asylum seekers in Europe⁶.

Chart 1. Georgian asylum and first time asylum applicants in the Schengen+ zone (rounded). Source of data: Eurostat; access date: July, 2019.



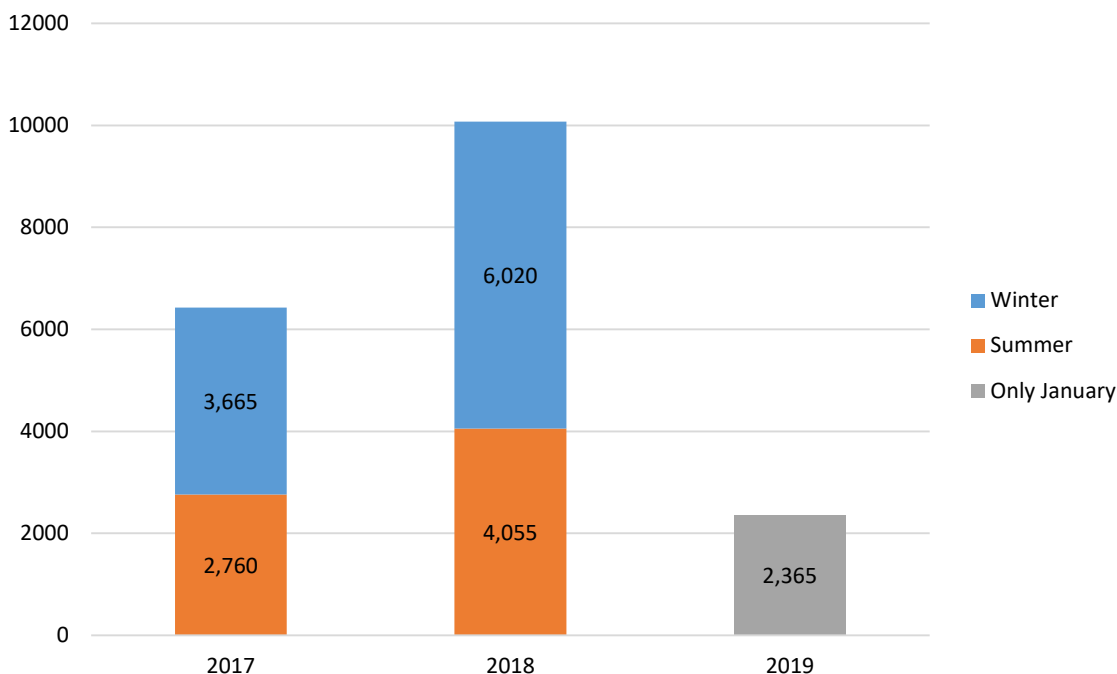
⁴ GIP Expert Comment. 2019, June 10. *What are the chances that the EU visa suspension mechanism will be used against Georgia?* Retrieved from Georgian Institute of Politics: <http://gip.ge/what-are-the-chances-that-the-eu-visa-suspension-mechanism-will-be-used-against-georgia/>

⁵ Official Journal of the European Union. November 2018. *Document 32018R1806: Regulation (EU) 2018/1806 of the European Parliament and of the Council of 14 November 2018 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement.* Retrieved from EUR-Lex: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32018R1806>

⁶ European Asylum Support Office. 2019, February 13. *Lates asylum trends -2018 overview.* Retrieved from European Asylum Support Office Web site: <https://www.easo.europa.eu/asylum-trends-overview-2018>

Looking at the dynamics since 2017, Georgian nationals have been lodging more applications every month, hitting a record high of 2365 in January 2019 (Chart 2). The pattern is disturbing and set to continue in the immediate future, especially now that the summer is over. Interestingly, Georgian asylum seekers seem to prefer spending the warm seasons in Georgia and leave right before or during the cold times (Chart 2) probably so as to ‘hibernate’ where they believe a better future awaits them.

Chart 2. *Asylum and first time asylum applicants from Georgia in the Schengen+ zone, seasonal sum data and the latest available data from 2019.* Source of data: Eurostat; access date: July, 2019.

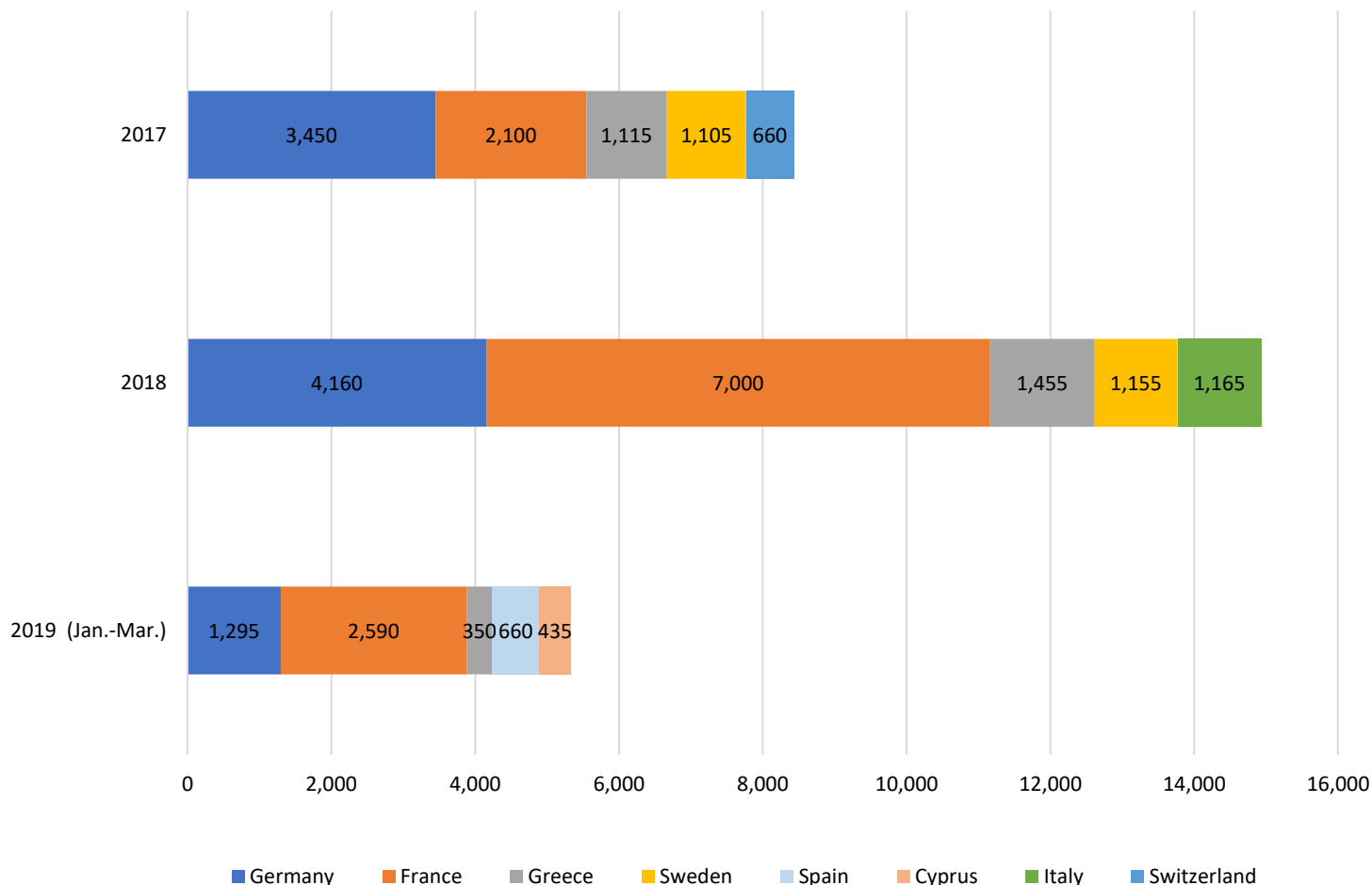


As for the countries of destination, the list of the top 5 Schengen+ states with the highest annual numbers of Georgian asylum claims has varied over time,⁷ but the first place has always alternated between Germany and France (Chart 3). Hence if any member state were to ask for the suspension mechanism, it will most likely be one of these two. Yet, as Germany is taking over the Council presidency in 2020 with the Eastern Partnership being its proclaimed priority, it is less likely to request the suspension of visa-free travel with Georgia in the coming year⁸. Consequently, France is the member state to watch.

⁷ The top 5 countries of destination for Georgian asylum seekers in 2017 were Germany, France, Greece, Sweden and Switzerland, while in 2018 these were France, Germany, Greece, Italy and Sweden. The latest available data on EuroStat suggests that during the first 3 months of the year 2019, the list is still led by France and Germany, then followed by Spain, Cyprus and Greece (Annex 2).

⁸ Chkhikvadze, V. 2019, May 13. EU Integration Programme Manager at Open Society Georgia Foundation. (T. Dolidze, Interviewer)

Chart 3. Top 5 countries of destination for Georgian asylum seekers in the Schengen+ zone; annual data from 2017 and 2018, and the latest available data from 2019. Source of data: Eurostat; access date: July, 2019.



In legal terms, a member state is allowed to file for a temporary suspension of visa-free travel for residents of non-EU countries in case of a substantial increase [more than 50%] in asylum applications with low recognition rates [around 3-4%] (a) over a period of two months “compared with the same period in the preceding year or (b) compared with the last two months prior to the implementation of the exemption from the visa requirement”⁹An examination of the *dynamics based on these criteria suggests that the fluctuations have proved “substantial” on many occasions (Table 1). At the same time, the asylum recognition rates were low and even the lowest among the top ten countries of origin once Georgia “made it” to this list*¹⁰. In 2016, the 440 positive first instance decisions for Georgian asylum seekers in the Schengen+ zone made up only 6.5% of the total 6795 decisions. This decreased to 5% in 2017 [480 positive decisions out of total 9110] and then to 4.5% in 2018 [665 positive decisions out of total 14285], or to only 3% when the rate is calculated for the EU+ area (Chart #4). As increases above 50% coupled with low recognition rates have occurred on numerous occasions, quite a few member states could have presented to the

⁹ Official Journal of the European Union. 2018, November 2018. Document 32018R1806: Regulation (EU) 2018/1806 of the European Parliament and of the Council of 14 November 2018 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement. Retrieved from EUR-Lex: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32018R1806>

¹⁰ European Asylum Support Office. 2019, February 13. *Lates asylum trends -2018 overview*. Retrieved from European Asylum Support Office Web site: <https://www.easo.europa.eu/asylum-trends-overview-2018>

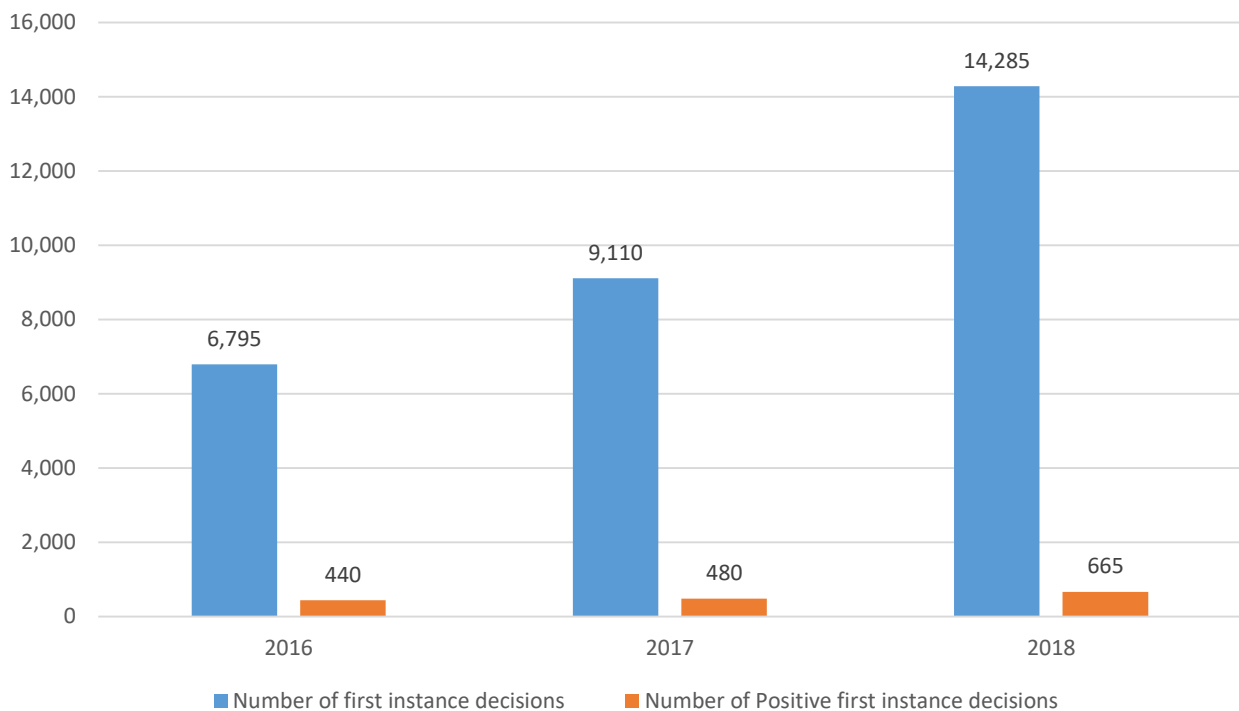
Commission the *legal basis for the enactment of the suspension mechanism as early as 2017, when the visa-free regime was first introduced. The “legal” basis is, however, just one side of the coin, while the political cost and benefit analysis is the other.*

Table 1. *Fluctuations in number of asylum applications made by Georgian citizens*
Source of data: *The Georgian Institute of Politics, access date: July, 2019.*

- a. *increase or decrease of number of asylum applications made by Georgian citizens over a two-month period compared to the same period in the previous year*
- b. *increase or decrease of number of asylum applications made by Georgian citizens over a two-month period compared to the first two months of 2017 (Jan-Feb)*

		Mar- Apr 2017	Apr- May 2017	May- June 2017	June- July 2017	July- Aug 2017	Aug- Sept 2017	Sept- Oct 2017	Oct- Nov 2017	Nov- Dec 2017	Average Increase per period
Germany	(a)	17%	19%	-6%	-8%	13%	16%	40%	86%	120%	33%
	(b)	2%	6%	-28%	-54%	-51%	-41%	-16%	32%	113%	-4%
France	(a)	24%	50%	76%	79%	71%	74%	108%	176%	229%	99%
	(b)	42%	36%	40%	94%	97%	61%	108%	163%	213%	95%
Greece	(a)	3%	21%	48%	34%	28%	45%	52%	48%	38%	35%
	(b)	58%	150%	139%	77%	85%	133%	91%	48%	18%	81%
Sweden	(a)	-23%	-42%	-23%	0%	-3%	-16%	42%	87%	119%	16%
	(b)	-8%	-18%	20%	55%	30%	8%	83%	123%	196%	54%
Switzerland	(a)	0%	7%	43%	71%	93%	50%	57%	143%	150%	68%
	(b)	0%	15%	11%	4%	35%	50%	83%	162%	150%	57%
Italy	(a)	18%	18%	73%	82%	73%	64%	109%	155%	109%	78%
	(b)	117%	63%	90%	186%	533%	500%	229%	180%	156%	228%
Netherlands	(a)	-28%	-53%	-53%	-44%	-56%	-75%	-78%	-72%	-66%	-58%
	(b)	15%	-6%	-6%	-10%	-33%	-53%	-68%	-70%	-62%	-33%
Austria	(a)	45%	0%	9%	36%	45%	27%	0%	36%	100%	33%
	(b)	100%	83%	50%	88%	33%	-18%	-35%	7%	57%	41%
Belgium	(a)	110%	90%	30%	20%	40%	20%	40%	100%	120%	63%
	(b)	110%	111%	44%	50%	250%	140%	100%	186%	144%	126%

Chart 4. Georgian nationals total number of first instance vs. number of positive first instance decisions, 2016-2018. Annual aggregated data (rounded). Source of data: Eurostat, access date: July, 2019.



Getting to suspension is not a straightforward process. To start with, the problems created in one member state need to be assessed against the total number of affected countries of destination and the Georgian “share” of responsibility for the worsened migratory situation in Europe. The decision-making process would additionally imply the examination of possible political complications such as a deterioration in bilateral relations and Euroscepticism exploding in Georgia. In addition, there are also institutional procedures that further complicate the suspension process for an individual state, as it necessitates the consent of the European Commission and a majority of EU member states. Consultations are also required with the European Parliament and the Council.

It must also be noted that a right to asylum is universal and exercising it cannot be presented as a problem in itself, but country-specific high numbers of asylum claims combined with very low recognition rates suggest an abuse of the EU's migration systems, which sets off alarm bells in the European Union. This phenomenon requires defining «bogus» asylum seekers as opposed to the «genuine» ones, and to properly identify those who claim national state benefits based on alleged political oppression, human rights abuse and generalized violence they are supposedly facing in their home counties, while in reality they are driven by the economic and social reasons that do not qualify as grounds for a refugee status.¹¹

In the case of Georgia, it is the so-called «bogus» asylum seekers that put an additional strain on the EU immigration system and are more relevant in the context of the visa suspension mechanism. Georgian state agencies report that a substantial number of asylum seekers from Georgia are economic migrants who are not eligible for asylum, but claim one just to receive welfare payments and take advantage of the host countries' healthcare systems¹². Accordingly, those who leave Georgia

¹¹ Nota Bene: “Bogus” asylum seeker is not a legal term, but the one used in the public discourse for the fraudulent economic migrants.

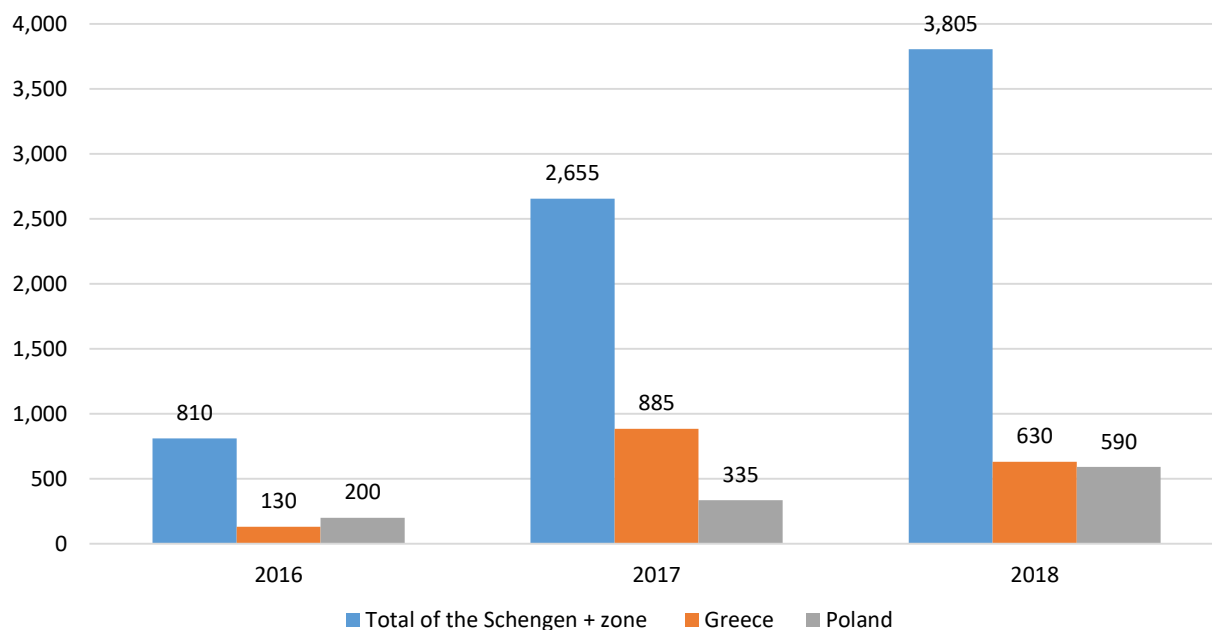
¹² Javakhadze, N. 2019, June 3. Deputy Minister of Internal Affairs of Georgia. (T. Dolidze, Interviewer)

in search of asylum in the European Union are not necessarily representatives of the most vulnerable and socially unprotected population groups and, curiously, not even the poorest. Their social backgrounds range from those living below the poverty line to those employed with regular monthly incomes¹³. Therefore, “bogus” asylum seekers do not represent a homogenous group of the population, making it impossible to design a single well-targeted policy. The only thing they have in common is the vain hope of finding El Dorado.

Undocumented Georgian Migrants

There has been a dramatic increase of 400% in the number of entry refusals at the Schengen+ borders with 3,805 Georgians refused in 2018 compared to only 810 in 2016. Greece accounted for most of the refusals in both 2017 [630 refusals] and 2018 [885 refusals], followed by Poland, the top country in 2016 [200 refusals] (Chart 6). At the Ministry of Internal Affairs of Georgia, they believe that the reason why Georgians travel to the EU without proper papers is not a lack of information but rather a willingness to take a risk in the hope they can get away with it¹⁴.

Chart 6. Georgian nationals refused entry at the external borders of the Schengen+ zone - annual data(rounded). Source of data: Eurostat, access date: July, 2019.



The reason why Greece and Poland are most affected is presumably due to stricter border controls than in other countries of destination, rather than a higher inflow of undocumented travelers. Well before the visa-free regime was introduced, Polish and Greek embassies in Georgia were commonly believed to be the strictest ones in terms of visa-granting. That both Poland and Greece are reachable by bus and flights to these destinations are relatively cheap offer additional legitimate explanations along with the rich social capital. In any case, the elevated number of refusals is not necessarily a problem per se, as it might well be evidence that visa-free movement is working according to the rules, meaning that persons who fulfil the criteria for visa-free entry enter, while those who don't are rejected at the borders.

¹³ Khulordava, T. 2019, May 24. Chairperson of the Committee on European Integration of the Parliament of Georgia. (T. Dolidze, Interviewer)

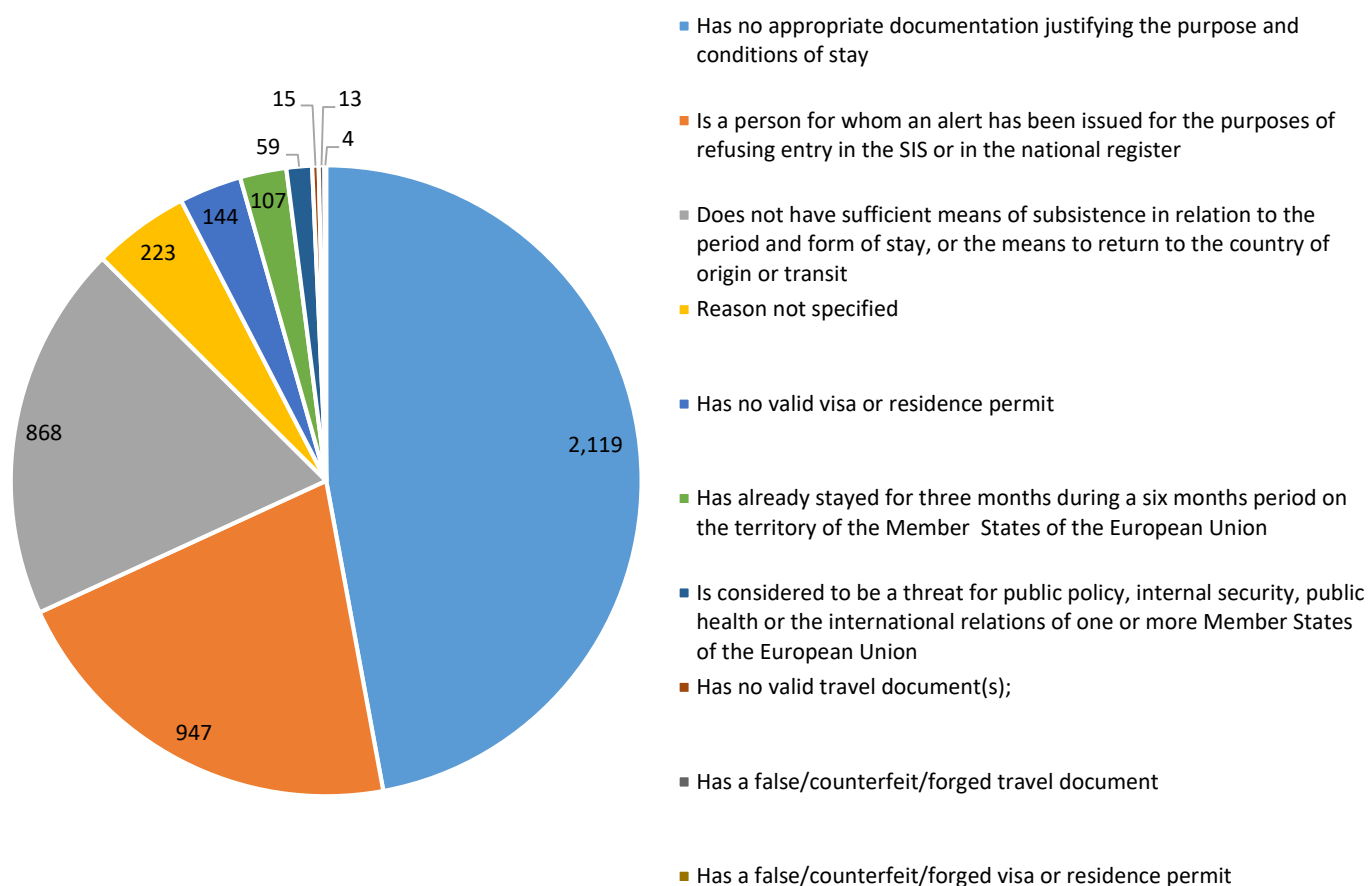
¹⁴ Javakhadze, N. 2019, June 3. Deputy Minister of Internal Affairs of Georgia. (T. Dolidze, Interviewer)

The Schengen Borders Code (Regulation (EU) 2016/399) lays down the entry conditions and reasons for refusal¹⁵. The immigration officers are authorized to carry out document checks, ask questions and decide whether the person arriving is likely to leave the EU after the permitted three months. The officers usually conduct checks on a random basis, making border control a subjective procedure that is difficult to monitor.

The three main official reasons why Georgian nationals are refused entry at the EU+ borders are the following (Chart 7):

- The person in question does not possess appropriate documentation justifying the purpose and conditions of stay [2119 refusals];
- An alert has been issued in the Schengen Information System or in a national register for the purpose of refusing entry to the person in question [947 refusals];
- The person in question does not have sufficient means of subsistence for the period and form of stay, or the means to return to the country of origin or transit [868 refusals].

Chart 7. Georgian nationals refusals of entry at the external borders of the Schengen+ zone reported by reasons for refusal, Source: Frontex, access date: July, 2019



Except when crime is involved [officially stated reason #2], the main reason for denying entry is a reasonable suspicion that the person will not go back to his/her home country when the permitted

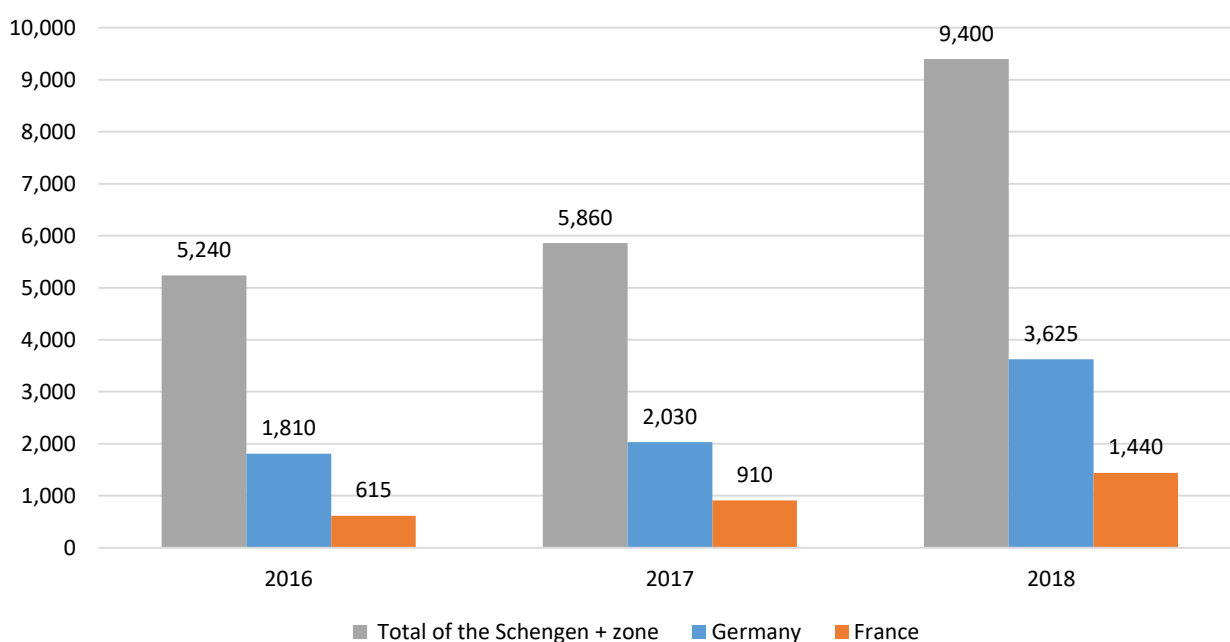
¹⁵ Official Journal of the European Union. 2016, March 23. Document 32016R0399: Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code). Retrieved from EUR-Lex: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32016R0399>

period is over, and thus is actually an asylum-seeker-to-be and/or an illegal migrant-to-be [officially stated reason #1 and #3]. However, this judgment cannot be that accurate, as some manage to have all necessary documents and finances at hand, while still planning to abuse the visa-free regime.

Curiously though, illegal stays are not so popular among Georgian nationals. Reportedly, they prefer to benefit from the basic welfare packages accorded to asylum-seekers, rather than live and work in secret and fear. This interesting observation that the European side has shared with the Georgian government,¹⁶ is most likely linked to the Soviet cultural heritage of freeloading socialism.

However, lately, the prospect for Georgians to freeload has been limited due to the restriction of asylum policies in numerous member states. With the growing amount of negative asylum decisions, the number of persons illegally staying has also increased. While in 2017 the upturn was just about 11%, there was an increase of 60% in from 5860 to 9400 by 2018. The two countries with the highest number of Georgian citizens illegally in residence since 2016 is Germany [1810; 2030; 3625] followed by France [615; 910; 1440] (Chart 8)

Chart 8. Georgian nationals found to be illegally present in the Schengen+ zone - annual data (rounded). Source of data: Eurostat, access date: July, 2019



Mirroring the growing amount of negative decisions on asylum applications and subsequent illegal stays, the number of Georgian persons ordered to leave the EU has almost doubled since 2016 (Chart 9). Germany and France are still the two most affected member states, with the former proactively returning many Georgian nationals and the latter being less efficient in this regard¹⁷. While returns do not necessarily happen in the same year when the return orders are issued,¹⁸ which makes it difficult to calculate the efficiency rates for a specific period, the Eurostat data for three consecutive years clearly shows that France has indeed had very few returns compared to return orders [240/1255 in 2016; 340/1280 in 2017; 600 /2015 returns in 2018], while Germany's ratio has been much better [1215/1350 in 2016; 1740/2280 in 2017; 2240/2285/ in 2018] (Chart 9). According to

¹⁶ Javakhadze, N. 2019, June 3. Deputy Minister of Internal Affairs of Georgia. (T. Dolidze, Interviewer)

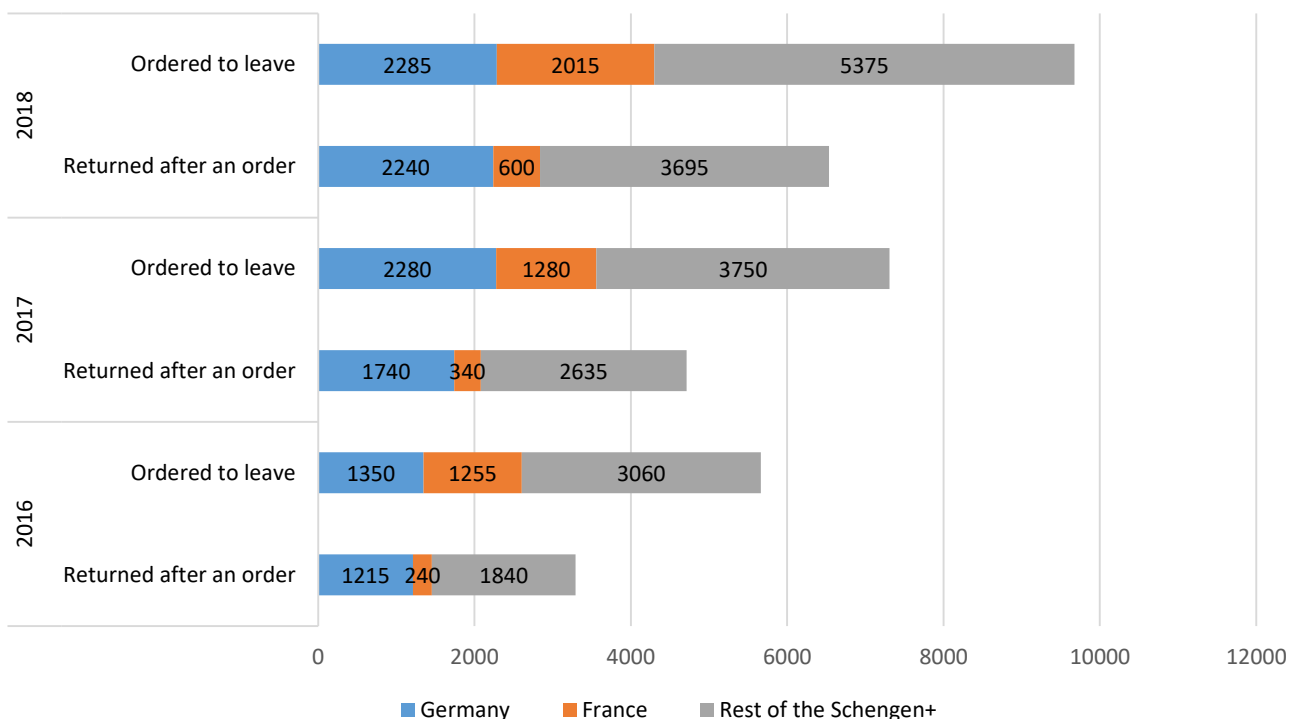
¹⁷ ibid

¹⁸ Return decision issued in a given month may be effectively enforced at a later date. Furthermore, return decisions may be issued without prejudice to the person's right to apply for asylum (Frontex).

the Deputy Minister of Internal Affairs of Georgia, the inherent reason why the return rates from France are so low is that the state does not prioritize migration enforcement¹⁹.

Returns are made possible through the EU-Georgia readmission agreement, the implementation of which is deemed excellent by the Member States²⁰, while non-returns can be traced to operational problems related to the identification of returnees and obtainment of the necessary documentation from Georgian authorities.

Chart 9. Georgian nationals ordered to leave the Schengen+ zone vs. Georgian nationals returned following an order to leave - annual data (rounded). Source of data: Eurostat, access date: July, 2019



Georgian OCG

The least statistically significant—but definitely not the least problematic—is the intensification of organized criminal activities by Georgian citizens in the countries of destination. Georgians are one of the most frequently reported non-EU nationals [including dual nationals] suspected in serious and organized cross-border crimes. Georgian criminal groups are, traditionally, predominantly operating in France, Greece, Germany, Italy and Spain²¹. A more recent destination for Georgian criminals is Sweden, which started to report higher numbers of ordinary crimes by Georgian citizens, including asylum seekers, soon after the visa free regime came into force²².

Most of the crimes committed by Georgians in the EU are minor and they are therefore often dismissed with no or little criminal charges made. The majority of reported cases concern low value shoplifting, mostly of foodstuff or clothing, such as the theft of fresh meat in Sweden with the

¹⁹ Javakhadze, N. 2019, June 3. Deputy Minister of Internal Affairs of Georgia. (T. Dolidze, Interviewer)

²⁰ European Commission. 2018, December 19. *Commission Staff Working Document accompanying COM(2018)856*. Retrieved from EUR-Lex: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=SWD:2018:496:FIN>

²¹ *ibid*

²² Javakhadze, N. 2019, June 3. Deputy Minister of Internal Affairs of Georgia. (T. Dolidze, Interviewer)

intention to sell it on the black market or the well-known case of a Georgian ultra-right activist and political asylum-seeker in Germany stealing 130-euro shoes in Köln²³.

Georgian nationals are, however, also regrettably involved in serious criminal offenses [mostly organized burglaries], committed by groups run by “thieves-in-law”—a term used in the post-Soviet space for criminal bosses in the organized crime environment. However, the felonies are usually committed by Georgian Organized Crime Groups [OCGs] that became operational in the Schengen+ zone well before the visa requirement was waived. Besides, usually the thieves-in-law are not even Georgian citizens and are under the jurisdiction of Ukraine, Belarus or other post-Soviet states where they now have citizenship²⁴. Obviously these facts do not exclude possible links between Georgian OCGs and criminal bosses with visa-free travelers and asylum seekers, but they are still important factors to consider when analyzing the impact of visa liberalization on countries of destination.

The lack of relevant data makes it difficult to study the cause-effect relationship between visa liberalization and crime rates. In many of the member states, crime statistics are either not disaggregated by nationality, or are not broken down according to the residence or other legal status of the third-country nationals. Therefore, it is still a matter of judgmental discourse whether the increased number of asylum-seekers is connected to a higher security risk for the EU. Having examined the crime statistics of the countries where such differentiated data is available, however, at least a correlation between visa liberalization and crime rates can be observed. Looking deeper, what one can confidently argue is that Georgian criminals favor countries which care most about human rights, such as Sweden, and where asylum-processing times are long, such as France.

According to the Swedish sources, Georgian criminals have expanded their activities following visa liberalization and a great many of those detained in Sweden possessed an “LMA card” issued to registered asylum seekers²⁵. Similarly, French authorities report that criminal activities perpetrated by Georgian nationals in France involve a considerable number of asylum seekers who get drawn into criminal practices by organized crime networks, possibly through deception²⁶.

Adopted Countermeasures

Georgia has introduced a number of policy measures aimed at improving migration and border management to address the problems identified in the Commission’s Second Report under Visa Suspension Mechanism. The country has also taken steps to tackle the phenomenon of Georgian asylum seekers with unfounded claims in the EU. Actions taken include legal amendments, extensive bilateral cooperation, related policy reforms and information campaigns meant to (a) prevent the abuse of EU asylum systems and (b) combat organized crime.

²³ *ibid*

²⁴ *ibid*

²⁵ The European Migration Network. 2018. *Impact of visa liberalisation on countries of destination - Country Report Sweden*. Retrieved from European Commission Web site: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/27a_sweden_visa_liberalisation_en.pdf

²⁶ *Commersant*. 2019, January 22. *საფრანგეთის ელჩი საქართველოსთან უვიზო მიმოსვლის შეჩერებაზე - თეორიულად არსებობს ასეთი შესაძლებლობა*. Retrieved from *Commersant Georgia*:

<https://commersant.ge/ge/post/safrangetis-elchi-saqartvelostan-uvizo-mimosvli-shecherebateoriulad-arsebobs-aseti-shesadzlebloba>

Tackling the Abuse of the EU Asylum Systems

In April 2018, the Law on Civil Acts was revised to restrict the number of times a person can change his or last name. Under the new version, a last name can only be changed once, with some exceptions such as marriage or divorce²⁷. This amendment is commonly judged as efficient in terms of preventing readmitted criminal suspects from taking on new identities and reaching new visa-free destinations.²⁸ However, the segment that this law targets is very limited, and thus unlikely to make a significant difference in the overall asylum or crime statistics.

Another legal measure taken was the criminalization of aiding and abetting illegal migration, i.e. falsifying the documents and filing fabricated asylum applications for monetary rewards. The reason why the bill was introduced was the frequent reporting by Europol of cases involving Georgian criminals counterfeiting ID documents for irregular migrants trying to enter the EU²⁹. Of particular note is the fact that the bill does not raise the legal liability of irregular migrants unless the case involves an organized offense as an aggravating factor³⁰. The impact of this relatively new law is not yet readily apparent³¹.

The Georgian government has also requested the most affected member states, such as Germany, put Georgia on the 'safe country list' and examine the asylum applications from Georgia through the specific 'accelerated procedure' that this list entails³². In January 2019, the German Bundestag [the lower house] "responded" by adopting the law that would make Georgia a safe country of origin, but it still has to pass the Bundesrat [the upper house] where there is no majority for it yet since the law also aims to declare Algeria, Morocco and Tunisia as safe, which is contentious. Hence, for now, Georgia is still not considered a safe country of origin in Germany, but 14 other Schengen countries recognize it as such³³ and thus officially acknowledge that Georgia, as a whole, is not in the state of war and individuals, generally, do not suffer prosecution³⁴.

On the one hand, Georgia promoting itself as a safe country is clearly an unpopular strategy among the Georgian asylum-seekers, as 'safe' country nationals have the lowest likelihood of being granted asylum given the safety presumption against them. On the other hand, this policy is efficient in terms of discouraging people from submitting unjustified or abusive asylum bids, but, of course, is not a

²⁷ Ministry of Justice of Georgia. 2018, March 6. *საქართველოს მთავრობამ გვარის შეცვლის რეგულაციების გამკაცრებას მხარი დაუჭირა*. Retrieved from Ministry of Justice of Georgia Web site: <http://www.justice.gov.ge/News/Detail?newsId=7626>

²⁸ The Explanatory Note accompanying the draft law presented by the Ministry of Justice of Georgia specified that 8339 of Georgians had changed their last names in 2017, out of which 59 persons had done so twice and one of them - four times. Accordingly, the Ministry claimed that this civil right was being widely misused, including for the purposes of irregular migration. The text of the Explanatory Note is available at: <https://info.parliament.ge/file/1/BillReviewContent/177503?>

²⁹ European Commission. 2018, December 19. *Report from the Commission to the European Parliament and the Council: Second Report under the Visa Suspension Mechanism*. Retrieved from European Commission Web site: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20181219_com-2018-856-report_en.pdf

³⁰ Parliament of Georgia. 2019, March 15. *The Human Rights and Civil Integration Committee approved criminal sanctions for facilitation and organization of abuse of the asylum-seeking*. Retrieved from Parliament of Georgia Web site: <https://bit.ly/2KuXVJI>

³¹ Javakhadze, N. 2019, June 3. Deputy Minister of Internal Affairs of Georgia. (T. Dolidze, Interviewer)

³² Baikova, V. 2019, May 30. Head of Division for Eastern Partnership, Policy Planning and Analysis at the Ministry of Foreign Affairs of Georgia. (T. Dolidze, Interviewer)

³³ Belgium, France, Liechtenstein, Austria, Bulgaria, Netherlands, Iceland, Luxembourg, Estonia, Denmark, Czech Republic, Cyprus, Slovenia and Switzerland are the 14 Schengen+ countries that recognize Georgia as the safe country of origin and thus apply process asylum-applications by Georgian nationals through a special 'accelerated procedure'. So does Ireland, which does not belong to the Schengen+ zone.

³⁴ Ministry of Foreign Affairs of Georgia. 2019, June 13. *Slovenia recognizes Georgia as a safe country of origin*. Retrieved from Ministry of Foreign Affairs of Georgia Web site: <http://www.mfa.gov.ge/News/sloveniam-saqartvelos-usaftrkho-carmoshobis-qveyana.aspx?lang=en-US>

panacea. The reality of long procedures facing third country nationals seeking asylum in Europe is much different from the deadlines set on paper, be it under the normal or accelerated procedure³⁵.

Case in point: Georgia has been on the French ‘safe country of origin’ list since 2005 [with a pause between the years 2009 and 2013 following the Russo-Georgian war³⁶], but the high number of bogus asylum claims by Georgians still remains an “anomaly” in France, according to French Minister of Interior Christophe Castaner³⁷. In theory, the asylum-granting procedure for those originating from “safe countries” is at maximum a three-month process [including appeal],³⁸ but it can take more than a year in practice^{39,40}. In the particular case of Georgian asylum claims, on average the decision-making process took 440 days in 2018⁴¹, which is what makes France attractive to Georgian asylum-seekers notwithstanding the “safety presumptions” standing in their way.

Turning to the question of those already refused asylum and ordered to leave the country, Georgia engages in facilitating both forced and voluntary returns under the framework of EU-Georgia Agreement on the Readmission of Persons Residing Without Authorization⁴². Georgia’s cooperation on readmission is exemplary as a large majority of readmission requests are normally approved by the Georgian side while at the same time being handled within the time limits specified in the relevant agreement⁴³.

Georgia has also developed an Electronic Readmission Case Management System to facilitate the process of receiving and reviewing readmission applications, which is already used by 17 partner countries, and it has introduced an electronic travel document (available for use alongside the hard copy in the process of readmission⁴⁴). The Georgian authorities are also committed to strengthening border management through scaling up cooperation with the European Border and Coast Guard Agency. Last year 1114 Georgians were returned from the EU within the framework of Frontex-supported operations⁴⁵.

What is more, three waves of intensive public information campaigns funded jointly by the EU and the Georgian government have been conducted pre- and post- visa liberalization. Preventive information campaigns were promoting visa-free travel rules, while reactive ones have attempted to

³⁵ Asylum Information Database. 2016, October. *The length of asylum procedures in Europe*. Retrieved from European Council on Refugees and Exiles: <https://www.ecre.org/wp-content/uploads/2016/10/AIDA-Brief-DurationProcedures.pdf>

³⁶ ACAT France. 2015, August 4. *Des pays d'origine sûrs ? Pas si sûr. L'exemple de la Géorgie*. Retrieved from ACAT France Web site: <https://www.acatfrance.fr/actualite/des-pays-dorigine-surs---pas-si-sur--lexemple-de-la-georgie>

³⁷ Le Monde. 2019, May 10. *La France veut lutter contre l'« anomalie » des demandes d'asile géorgiennes*. Retrieved from Le Monde: https://www.lemonde.fr/societe/article/2019/05/10/la-france-veut-lutter-contre-les-demandes-d-asile-georgiennes_5460738_3224.html

³⁸ Decision-making is set to 15 calendar days, appeals can be made 1 month after the negative decision, and the final verdict needs to be settled within 5 weeks.

³⁹ Asylum applications channeled into the accelerated procedure normally represent roughly 40% of the French caseload [including the reexaminations] (<https://www.ofpra.gouv.fr/fr/l-ofpra/nos-publications/rapports-d-activite> 2016, 2017, 2018), which is a high percentage that translates into the delays in processing the claims.

⁴⁰ Forum Réfugiés - Cosi. 2019. *Accelerated Procedure: France*. Retrieved from Asylum in Europe:

<https://www.asylumineurope.org/reports/country/france/asylum-procedure/procedures/accelerated-procedures>

⁴¹ Mathieu, M., & Riondó, E. 2019, July 1. *Face à «l'anomalie» de la demande d'asile géorgienne, Castaner dégage un Boeing 737*. Retrieved from Mediapart: [https://www.mediapart.fr/journal/france/010719/face-l-anomalie-de-la-demande-d-asile-georgienne-castaner-degaine-un-boeing-737?utm_source=article_offert&utm_medium=email&utm_campaign=TRANSAC&utm_content=&utm_term=&xtor=EPR-1013-\[article-offert\]&M_BT=753246174816](https://www.mediapart.fr/journal/france/010719/face-l-anomalie-de-la-demande-d-asile-georgienne-castaner-degaine-un-boeing-737?utm_source=article_offert&utm_medium=email&utm_campaign=TRANSAC&utm_content=&utm_term=&xtor=EPR-1013-[article-offert]&M_BT=753246174816)

⁴² Official Journal of the European Union. 2011, February 25. *Document 22011A0225(03): Agreement between the European Union and Georgia on the readmission of persons residing without authorisation*. Retrieved from EUR-Lex: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A22011A0225%2803%29>

⁴³ European Commission. 2018, December 19. *Report from the Commission to the European Parliament and the Council: Second Report under the Visa Suspension Mechanism*. Retrieved from European Commission Web site: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20181219_com-2018-856-report_en.pdf

⁴⁴ *ibid*

⁴⁵ European Border and Coast Guard Agency. 2019, February. *Risk Analysis for 2019*. Retrieved from ReliefWeb: https://reliefweb.int/sites/reliefweb.int/files/resources/Risk_Analysis_for_2019_0.pdf

deal with the problem of unfounded asylum claims using both positive and negative campaigning strategies. In 2018, the Information Center on NATO and EU organized 165 related events, 158 of which were face-to-face events with relevant audiences throughout Georgia⁴⁶.

Nevertheless, the findings of assessment reports [internal use only] prepared by the Ministry of Foreign Affairs suggest that the activities have not produced adequate results⁴⁷. The reason, reportedly, lies in the power of success stories told by relatives, neighbors and acquaintances as their words speak louder than the persuasive or intimidating arguments the campaigners might employ⁴⁸.

A joint action plan with the Commission was developed following the April 2019 visit of Deputy Director of DG Home Simon Mordue, which includes most of the measures identified above, along with a plan of actions to be taken in the near future⁴⁹. The document is not public though, which makes it impossible to assess its potential impact.

Combating Organized Crime

In April, 2018, two amendments were introduced to the Georgian Law on Organized Crime and Racketeering, the Criminal Code and the Civil Procedure Code, extending the state's criminal jurisdiction over crimes committed by Georgian citizens abroad⁵⁰. Correspondingly, the Georgian Interior Ministry is actively involved in efforts aimed at suppressing the activities of Georgian OCGs in the entire Schengen zone. Pro-active measures include collaboration with Europol, prompt exchange of crime-related information, the expansion of the Georgian Police Attaché network and joint operations.

In 2017, Georgia signed an Operational and Strategic Cooperation Agreement with Europol. Subsequently, an International Law Enforcement Cooperation Center [ILECC] was formed within the Central Criminal Police Department of the Ministry of Internal Affairs of Georgia acting as the national contact point between Georgia and Europol. Later in 2018, a Europol National Unit was established within the ILECC⁵¹. From January 1, 2018 till today, Georgian police and Europol have executed 21 joint operations across Europe and detained 166 members of Georgian criminal organizations, among which 10 were thieves-in-law⁵². Similarly, in April 2019, Georgia and the EU's Judicial Cooperation Unit [Eurojust] signed an agreement on cooperation in criminal matters aimed at stepping up the joint struggle against cross-border organized crime across the EU [and South Caucasus]⁵³.

The Georgian government additionally works with EU member states in bilateral formats, which involves sending police attachés to crime-affected countries and assisting the local police in investigating or preventing crimes involving Georgian suspects. Bilateral arrangements formally

⁴⁶ Bolkvadze, N. 2019, July 1. Director of NATO and EU Information Center. (T. Dolidze, Interviewer)

⁴⁷ Baikova, V. 2019, May 30. Head of Division for Eastern Partnership, Policy Planning and Analysis at the Ministry of Foreign Affairs of Georgia. (T. Dolidze, Interviewer)

⁴⁸ Bolkvadze, N. 2019, July 1. Director of NATO and EU Information Center. (T. Dolidze, Interviewer)

⁴⁹ Baikova, V. 2019, May 30. Head of Division for Eastern Partnership, Policy Planning and Analysis at the Ministry of Foreign Affairs of Georgia. (T. Dolidze, Interviewer)

⁵⁰ European Commission. 2018, December 19. *Commission Staff Working Document accompanying COM(2018)856*. Retrieved from EUR-Lex: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=SWD:2018:496:FIN>

⁵¹ European Commission. 2018, December 19. *Report from the Commission to the European Parliament and the Council: Second Report under the Visa Suspension Mechanism*. Retrieved from European Commission Web site: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20181219_com-2018-856-report_en.pdf

⁵² Javakhadze, N. 2019, June 3. Deputy Minister of Internal Affairs of Georgia. (T. Dolidze, Interviewer)

⁵³ European External Action Service. 2019, April 1. *Georgia and Eurojust sign cooperation agreement*. Retrieved from European External Action Service Web site: https://eeas.europa.eu/delegations/georgia/60453/georgia-and-eurojust-sign-cooperation-agreement_en

exist with 17 European countries and can be activated at any moment. For the time being though, the Georgian Ministry of Internal Affairs cooperates most intensively with France⁵⁴. The Georgian Interior Ministry also shares criminal data and intelligence with the European countries concerned to assist the local police in investigations and special operations involving Georgian nationals. Information sharing also includes operational know-how about the Soviet criminal culture, which is personified in the phenomenon of the “thieves-in-law”.

On the whole, the fact that Georgia’s visa-free deal with the EU is not yet facing an immediate danger can mostly be attributed to the excellent performance on readmissions and close anti-crime cooperation, while information campaigns, reportedly, play little if any role in regulating illegal migration.

The Sword of Damocles – Observations and Recommendations

The European Union commends Georgia for its cooperative attitude and the efforts it has made to tackle abuse of the EU’s asylum systems, but Brussels remains alarmed about the rising number of bogus asylum claims and undocumented migrants from Georgia, as well as the crimes committed by Georgian OCGs.

The European side has expressed hope that the number of claims will fade with time⁵⁵. The hike is characteristic to the early stages of visa liberalization, and the numbers will most likely reach a peak and then stabilize once those that were rejected return to Georgia and share their negative experiences.

In any event, Georgia cannot afford to adopt a policy of strategic patience and wait for natural developments to bring down the numbers. The Georgian government needs to be proactive, work with the Commission on the implementation of the above-mentioned joint action plan and continue efforts in bilateral and trilateral formats involving the Commission. **Georgia should strengthen cross-border law enforcement cooperation directed against Georgian organized crime groups and expand the police attaché network. The mandates of police officers could further be extended to cover migration policy, beyond the cases involving crime, to share know-how and help in profiling.**

By an unfortunate coincidence, France and Germany, which are the two top countries of destination for the Georgian asylum seekers, irregular migrants and criminals, are also where local far-right, pro-Russian groups are the most active. These destructive forces use the momentum of the slightest problem to ruin Georgia’s image in Europe by making highly critical political statements or publishing prejudiced articles in print and online⁵⁶. With ultra-rights consolidating their positions in leading Member States, visa suspension could become a political reality and prove detrimental to Georgia’s European future. **Georgian efforts should therefore be directed at fighting the propaganda simultaneously while fighting to bring down the numbers, which are problematic, but have not proven to be a game changer in the wider context of Europe’s migratory problems.**

⁵⁴ Javakhadze, N. 2019, June 3. Deputy Minister of Internal Affairs of Georgia. (T. Dolidze, Interviewer)

⁵⁵ Csaki, M. 2019, June 10. Deputy Head of Political, Press and Information Section at the EU Delegation to Georgia. (T. Dolidze, Interviewer)

⁵⁶ Javakhadze, N. 2019, June 3. Deputy Minister of Internal Affairs of Georgia. (T. Dolidze, Interviewer)

Apart from the reactive measures taken to tackle the abuse of the EU's migration system and fight organized crime, Georgia should employ a comprehensive preventive strategy. **In the long term, the best prevention would be to establish conditions conducive to the economic and social welfare of the Georgian people, but in the short run, legally arranged circular migration schemes between Georgia and the EU could help solve the problem of unauthorized employment and illegal stays by Georgian citizens in the Schengen zone.**

Joint information campaigns should also continue as a part of the integrated preventive strategy. **Strengthening the negative awareness raising component in the campaign strategy might be helpful. Campaigners should aim at deterring potential perpetrators by warning them about the legal consequences and punishments that illegal migration and organized crime entail, as well as the human disasters that can result from 'asylum shopping.'**⁵⁷ Telling personal stories of failures could prove more effective than the provision of statistics.

Meanwhile, the most affected member states should accept part of the responsibility and reform their asylum policies and border management systems, rather than expect the problems to be solved by Georgia alone. For example, it is redundant to impose legal restrictions on changing last names to facilitate the identification of the traveler, when the chip embedded in the Georgian biometric passport already contains all the information necessary to authenticate the visitor's identity. Besides, the identity number remains the same no matter how many times you change your family name. Yet, Georgia had to amend the law as its microprocessor chips apparently proved too advanced for EU scanners to read.

It appears that the Georgian government is committed to doing its utmost, but it is not fully within Georgia's power to halt unfounded asylum claims and irregular migration to the Schengen zone. For example, it is up to destination countries to reduce the long processing times of the asylum requests that attract Georgian migrants. **What Georgia can do, and is doing, is to share with the EU all the necessary information about the social and healthcare services the state offers to its citizens in order to facilitate the recognition of unfounded asylum requests as well as suggest Georgia's inclusion in the 'safe country' list. Yet, it remains the prerogative of the individual state to make use of the provided information, assign the 'safe country' status and then ensure that the asylum procedure is rapidly completed and short deadlines for the consideration of appeals are actually met. It is also their responsibility to make sure that rejected asylum seekers either leave voluntarily or are deported, and to impose Schengen entry bans of a few years in such cases.**

Likewise, the European Union should give Georgia access to the data kept in the Schengen Information System or at least compile the relevant information and send it to Georgian Ministry of Interior agencies so that its work becomes more efficient.

With regard to border management strategies, the Commission insists that Georgia amend the Law on the Rules and Procedures for Georgian Citizens Exiting and Entering Georgia to allow Georgian border guards to prevent their co-nationals from traveling to the Schengen+ zone based on criteria similar to those set in the Schengen Border Code. This draft law is still pending in the Parliament of Georgia as it contradicts Article 14 of the Georgian Constitution which guarantees that "Everyone lawfully staying in Georgia shall have the right to... leave Georgia freely." The current restrictions on that right are not directly applicable for the purpose of safeguarding visa-free travel with the EU⁵⁸.

⁵⁷ Asylum shopper is the asylum seeker "travelling to the desired destination, where the chances for being granted full refugee status are best and better living conditions are expected" (Dublin III Regulation).

⁵⁸ Parliament of the Republic of Georgia . 1995, August 24. Constitution of Georgia. Retrieved from Legislative Herald of Georgia: <https://matsne.gov.ge/en/document/view/30346?publication=35>

Besides, exit controls would deprive the visa-free movement of the quality that makes it so appealing to the Georgian population.

Restrictions of the right of Georgian citizens to free movement would, therefore, be legally problematic and politically costly. **As a counter proposal, Georgia could offer to immediately return any travelers that are refused entry at the Schengen+ border. Alternatively, Georgia could let Frontex officers assume the responsibility, scan for the undocumented migrants at the Georgian border crossing points and alert the border guards of the destination countries when needed. It is of critical significance to make sure any tightening of border controls does not violate the fundamental right to freedom of movement.**

However, at this point, the Georgian side ought to do its best to avoid this extreme measure. In 2021 the European Travel Information and Authorization System [ETIAS] will become operational. ETIAS supposes an electronic pre-travel check for non-visa-requiring citizens to verify that they meet entry requirements before traveling. It will complement EU's visa free regimes with 62 countries including Georgia and is expected to make border management more effective and secure⁵⁹.

Still, additional measures are necessary for border control and border management within the Union. Currently there are no fully integrated EU external borders, and no electronic system that includes built-in EU-wide content to identify travelers unless the person is listed in the Schengen Information System or wanted by Interpol⁶⁰. An EU Entry/Exit System (EES) is in the process of being established and will allow for entry and exit data to be compiled and checked electronically⁶¹. This is an important step forward, but much remains to be done for effective information sharing between the member states. For example, currently even if the Common European Asylum System contains fingerprint datasets, they are incomplete and inter-Schengen returns under the Dublin Regulation are notoriously difficult. Besides, an asylum applicant can submit repeated claims arguing that there are new threats against them back home or that they have obtained new evidence. Basically, once the Schengen zone is reached, shopping for the most attractive regime of protection is a common practice, just as when Georgian asylum-seekers came together in France and turned Montpellier and Strasbourg into tent cities, expressing their readiness to move to other EU states if they were rejected⁶².

In closing, it is unlikely that the visa suspension mechanism will be triggered, in part due to upcoming parliamentary elections in Georgia in October 2020, the forthcoming Council presidency of Germany and the overall political sensitivity of the issue serving as a shield protecting the EU-Georgia visa-free deal. But the risk that it could be triggered remains leverage for both the European Union and pro-Russian forces and it hangs like a Sword of Damocles over Georgia's European future.

⁵⁹ Schengen Visa Information. 2019, April 3. *ETIAS – European Travel Information and Authorisation System*. Retrieved from Schengen Visa Info: <https://www.schengenvisainfo.com/etias/>

⁶⁰ Javakhadze, N. 2019, June 3. Deputy Minister of Internal Affairs of Georgia. (T. Dolidze, Interviewer)

⁶¹ Schengen Visa Information. 2019, April 3. *ETIAS – European Travel Information and Authorisation System*. Retrieved from Schengen Visa Info: <https://www.schengenvisainfo.com/etias/>

⁶² Nutsubidze, T. 2019, May 31. *I will never return to Georgia - "Courier" filmed Tent Street in Strasbourg*. Retrieved from Rustavi2 Official Website: <http://rustavi2.ge/en/news/134875?fbclid=IwAR3OaEO9tst8-aBgp8SVzdibv0qIt8nnDGpT7a2euOD7MOcelz15OGwYuGA>

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