



Progress Report of Bulgaria towards Accession to the Schengen Area as of 31st January 2011

Open Society Institute – Sofia

Summary

1. Methodology

Joining the Schengen Area is part of Bulgaria's integration into the European Union (EU). Enlargement of the Schengen Area enhances security and serves as precondition for improving the lives of European citizens and exercising their right to free movement and economic entrepreneurship.

The objective of the civic monitoring is to raise the awareness of EU citizens and of Bulgarians in particular about the level of Bulgaria's readiness to join the Schengen Area in 2011 through expert evaluation, independent from both EU and Bulgarian institutions, of the progress that the country has made in the course of its preparation.

The subject of monitoring is the progress in the implementation of measures laid down in the nine sections of the National Action Plan for Full Application of the Schengen Acquis and Lifting Internal Border Checks: Border Controls; Visas; Migration; Asylum; Police and Security and Firearms and Ammunition; Fight Against Drugs; Operation and Use of the Schengen Information System; and Personal Data Protection.

This report also evaluates the additional adopted measures within the Government Action Plan on Implementing Critical Measures related to the Accession of Bulgaria to the Schengen Area; Decree 940/27.12.2010 of the Council of Ministers.

The total number of measures, adopted by the Bulgarian government for accession to the Schengen Area is **167**. **The number of measures that should be implemented by 31st March in order to secure technical readiness of Bulgaria to join the Schengen area is 159** (135 under the National Action Plan and 24 under the Action Plan on implementing critical measures). The remaining 8 measures are envisaged under the Action plan on implementing the critical measures with upcoming deadlines.

Out of the **159 measures** on Bulgaria's accession to the Schengen area:

- **30 measures were implemented** by 31st August 2010
- **114 measures** (105 under the National Action Plan and 9 under the Action Plan on implementing the critical measures) **with deadline by 31st January 2011** are subject to evaluation under the current report AND
- **15 measures are with an upcoming implementing deadline by 31st March 2011.**

These fall under the Action Plan on implementing the urgent measures related to Bulgaria accession to the Schengen Area. Eleven out of them target Kapitan Andreevo Border Checkpoint and the Lyubimets Temporary Placement for Refugees. The state of implementation of the former measures was evaluated on a site visit by the expert team. The remaining four measures cover supplies of technical equipment and helicopter landing pads construction.

A four-level scale was used to assess the extent of implementation of these measures:

- **Not implemented** – implementation deadline missed and no implementation of the measure started.
- **Rather not implemented** – implementation deadline missed, implementation started, but still in its initial stage.
- **Rather implemented** – implementation deadline missed, implementation started and is in its final stage.
- **Implemented** – measure implemented in time.

2. Overall evaluation of the progress in the implementation of the measures as of 31st January 2011

As of 31st January 2011 there are registered delays in the implementation of the measures, included in the National Action Plan for the Accession of Bulgaria in the Schengen Areas in relation to the initially designated deadlines. Out of 159 measures in total, 27 are not fully implemented. Fifteen measures are with an upcoming deadline of 31st March 2011. Out of the 27 not fully implemented, 12 measures are evaluated as rather not implemented and the rest 15 as rather implemented. During the last month, the government has undertaken specific measures to overcome the identified delays. If the implementation of these measures prove successful and further efforts are taken to accelerate the construction work along the borders, the potential risk of Bulgaria not meeting all the necessary technical criteria by 31st March 2011 can be overcome.

As of 31st January 2011, out of 159 measures in total, 117 are implemented (30 measures were implemented by 31st August 2010 and 87 by 31st January 2011). Fifteen of the measures face an upcoming implementation deadline of 31st March 2011. Twenty seven measures are considered not fully implemented. Twelve out of them are rather not implemented and 15 are rather implemented.

Not implemented	0
Rather not implemented	12
Rather implemented	15
Implemented	117
<i>With upcoming deadline 31.03.2011</i>	15

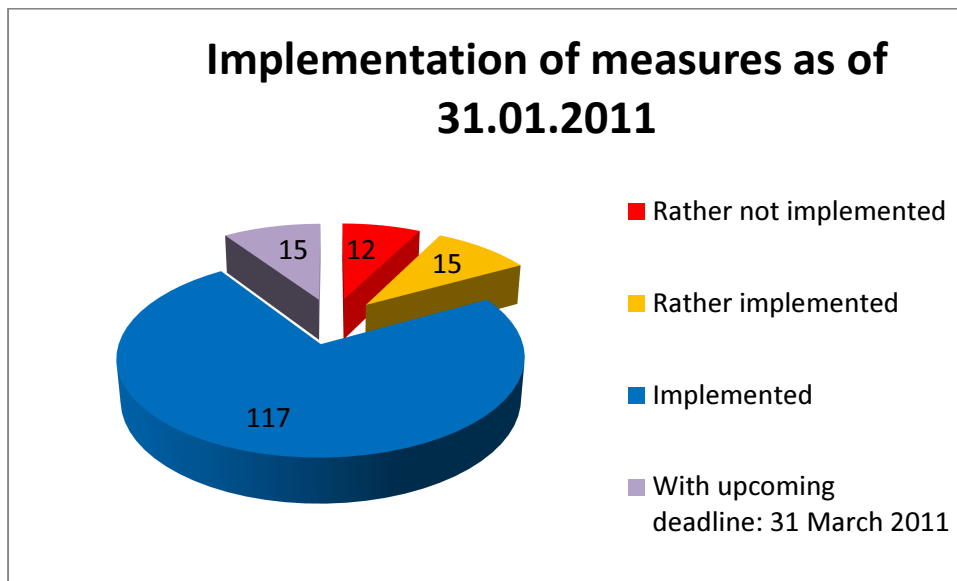


Figure 1: Implementation of measures as of 31 January 2011

Eleven measures out of the ones that are rather not implemented fall under the domain of Border control and are related to the completion of construction work and technical equipment along the external borders of Bulgaria (the Border Police Departments, as well as some of the major Border Checkpoints). In addition, further efforts and specific measures are necessary in addressing the delays and accelerating these actions on the border checkpoints.

One of the measures that is rather not implemented falls under the Personal Data protection which concerns the additional opening of 6 working places in the Commission for Personal data protection.

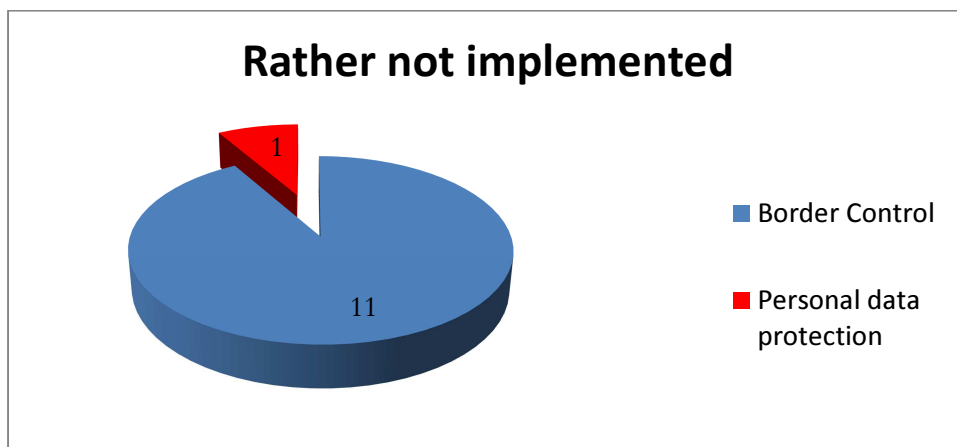


Figure 2: Rather not implemented measures

Out of the 15 rather implemented measures, 11 fall under the Border control, 2 in Visas, one in Asylum and one in Migration.

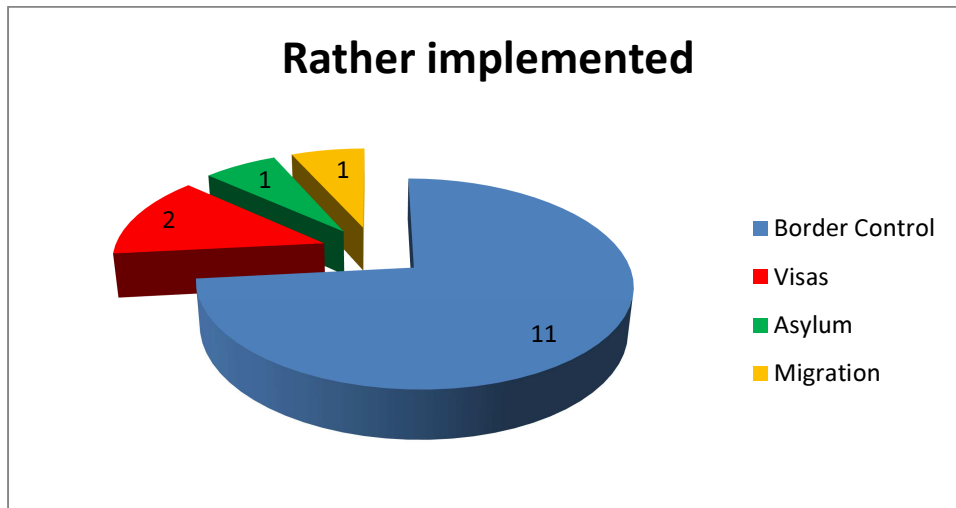


Figure 3: Rather implemented measures

The measures adopted under the Action plan on implementing critical measures related to the Accession of Bulgaria to the Schengen Area from 27th of December 2010, most of which fall under **Border Control**, contribute to the final implementation of the rather implemented ones.

3. Evaluation per areas:

Out of **67 measures under Border control**, **45 measures are implemented** (10 measures are implemented as of 31st August 2010 and 35 as of 31st January 2011). **Eleven measures are rather not implemented and other 11 are evaluated as rather implemented.**

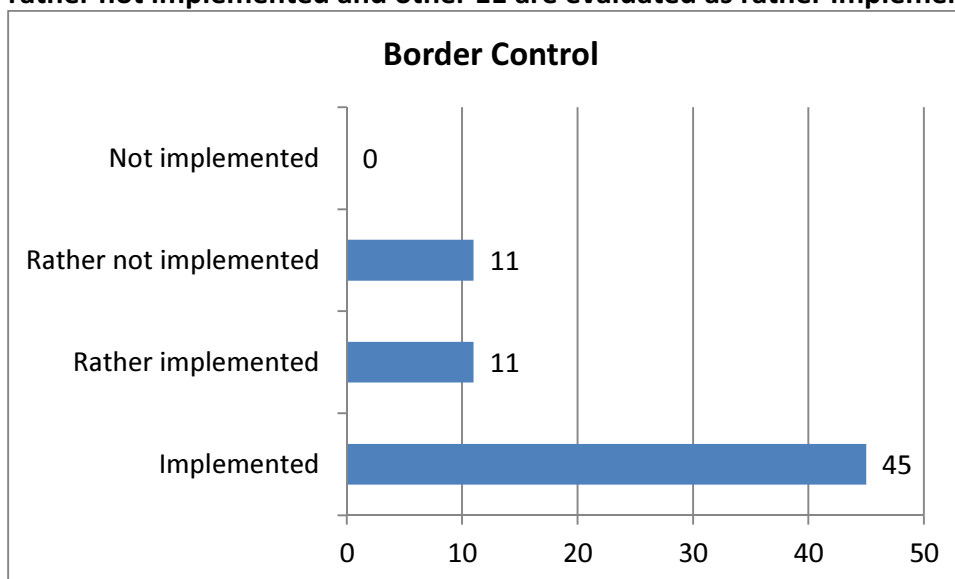


Figure 4: Border Control

The measures that are rather not implemented are related totally to completion of construction works at:

- Vrashka Chuka Border checkpoint
- Border Police Department Otomantsi
- Border Police Department and Border checkpoint Kalotina
- Administrative building of the Regional Directorate Border Police Dragoman
- Administrative building of the Regional Directorate Border Police Elhovo
- Administrative building of Regional Directorate Border Police Kyustendil
- Border Police department Elhovo
- Kapitan Andreevo Border checkpoint
- Stanke Lisichkovo Border checkpoint
- Zlatarevo Border checkpoint

The implementation of five of these measures falls under the auspices of the Ministry of Finance. The OSI-Sofia team does not have information on the implementation progress of the construction works on Vrashka chuka Border Checkpoint, Kalotina, Stanke Lisichkovo and Zlatarevo. Therefore, the respective measures are evaluated as rather not implemented.

The Council of Ministers of Bulgaria adopted additional Action Plan on Implementing the Critical Measures related to the Accession of Bulgaria to the Schengen Area on 27 December 2010. Most of the measures fall under the Border Control area and will complement the process of implementation of the measures assessed as rather implemented by 31st March 2011.

Further measures are adopted to secure full operation of the Kapitan Andreevo Border Checkpoint. The site visit evaluation carried out on 1st February 2011 provided evidence that the envisaged additional measures are implemented according to the designated deadline and the identified delays could be overcome if this pace of operation is preserved.

The adopted Action Plan by the Council of Ministers, however, does not stipulate critical measures to address the delays in the implementation of the construction works along the remaining border checkpoints. While construction and repair work are not directly linked to the full readiness of Bulgaria to join the Schengen area, it is recommended that specific measures are taken to speed up these actions on the Border checkpoints in order to overcome the delays.

Three of the rather implemented measures are related to the completion of the construction work on Border Police Departments of Malko Tarnovo, Tsarevo and Bourgas.

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The remaining eight rather implemented measures are:

- **Legislative**

It is necessary to accelerate the process of amending the Instruction of Cooperation between the Ministry of Interior and the Ministry of Finance from 4th of August 2006, which aims at improving the mutual operation of the mobile groups between General Directorate Border Control and Customs Agency.

The process of clarification of the legal status of property (land, buildings and equipment) in the borderline checkpoint areas and adoption of the respective legal acts is in its final stage.

The analysis of the existing legal framework and the process of updating the Intergovernmental Agreement of Cooperation between the security bodies on the border between Bulgaria and Turkey is finalized and Turkey's response is expected.

The forthcoming adoption of the legal amendments of the Penal Code will legally define the notions of “external” and “internal” border in the existing legal acts, according to the stipulations in Regulation 562. The draft of the amendments in the Penal Code is deposited and discussed at the seating of National Assembly Committee on European Affairs and oversight of the European funds.

The passing of the draft on amending the Legal Act on Civilian Air Transport creating a common framework on “security” airport charges depends entirely on the adoption of the EU Directive.

- **Technical**

The measure concerning the control systems for the detection of illegal migrants on vehicles is to be implemented through the additional measures under the Action Plan on critical measures related to the Accession of Bulgaria to the Schengen area.

In regard to the infrastructure and technical equipment within the Regional Directorates of Border Control, situated on the external borders, as well as the technical equipment of the air surveillance on the external borders, the Action Plan on critical measures safeguards respective measures.

Under the **Visas section, out of 30 envisaged measures, 28 are implemented** (3 measures are implemented by 31st August 2010 and 25 by 31st January 2011), whereas **2 measures are evaluated as rather implemented and their completion is upcoming.**

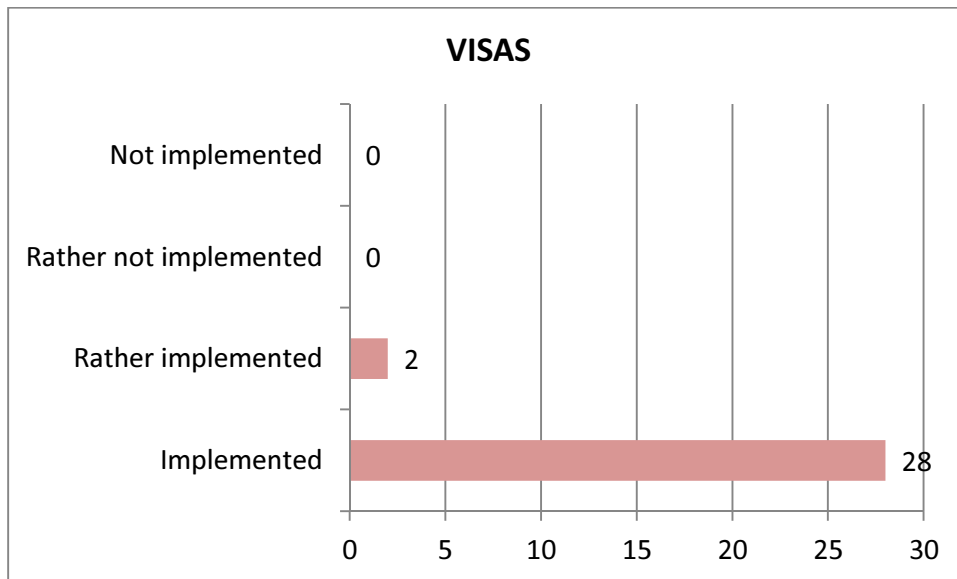


Figure 5: Visas

One of these measures is related to analysing alternative solutions to providing consular services in third countries. This is a dynamic process which will be in place after accession to the Schengen area, with the decisions being adapted depending on the effectiveness of Bulgarian missions abroad, such as possible changes in workload, new stipulations of EU visa policy, and other factors of relevance.

The other measure – concerning the process of defining in a legal act the national law-enforcing bodies that will have access to the National Visa Information System and to the VIS of the EU, as well as the regulations and right of access will be completed within the deadline of 4 May 2011.

In the Asylum section, out of 2 measures, 1 is implemented and the other is rather implemented.

The opening of a temporary refugee centre in the village Pastrogor is in progress. The Action plan on implementing critical measure related to accession of Bulgaria to Schengen area lists additional measures for ensuring the functionality of the centre with a deadline of 1st May 2011.

Under the Migration section, out of five measures, 4 are implemented and one is rather implemented. The Instructions on Improving the Cooperation between the Migration Directorate of the Ministry of Interior and the State Agency for Refugees under the auspices of the Council of Ministers in a case of temporary placement of foreigners and processing the necessary documents is on-going.

In the area of **Personal Data protection**, out of the five measures, one is rather not implemented – regarding the additional 6 workplaces in the Commission for Personal Data Protection. The remaining four measures are implemented or in a process of implementation, being with continuous implementation deadline.

In the areas of **Police and security. Firearms and Ammunition; Judicial Cooperation, Fight against drugs and Operation and Use of the Schengen Information System**, the included **35 measures** are either implemented or in progress.

Table 1. State of implementation of measures as of 31st January 2011

	Implemented	Rather implemented	Rather not implemented	Not implemented	In progress/ permanent measures	TOTAL
Border control	45	11	11	0		67
Visas	28	2		0		30
Asylum	1	1		0		2
Migration	4	1		0		5
Police and Security	7			0		7
Fight against drugs	2			0	2	4
Judicial cooperation				0	1	1
SIS	23			0		23
Personal Data protection	4		1	0		5

***Other 15 measures with upcoming deadline of 31st March 2011**