

Mid-term Report on the Progress of Bulgaria towards accession to the Schengen area

Summary

1. Methodology

Joining the Schengen Area is part of Bulgaria's integration with 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.

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.

This Report contains an evaluation of the extent of implementation of all measures with implementation deadline of 31 August 2010.

In section **“Operation and Use of the Schengen Information System”** the progress in the implementation of measures with deadline **31 December 2010** is also considered due to the evaluation and inspection to be conducted in the period of 6-10 December 2010.

The other sections contain also an assessment of the progress in the implementation of certain measures with pending or ongoing implementation.

2. Overall assessment of the progress in the implementation of the measures as of 31 August 2010

Overall, as of 31 August 2010, Bulgaria’s preparation for accession to the Schengen Area adheres to the deadlines and there is a reason to state that the country will adhere to all the membership criteria by 31 March 2011.

The deadline for **48 of the measures** contained in the National Action Plan for Full Application of the Schengen Acquis and Lifting Internal Border Checks is 31 August 2010 (fig. 1).

More than half of these are implemented, i.e. **28 of all measures, and 15 measures are considered as rather implemented.**

Two measures were not implemented in time. These fall under **Visas** section.

Three measures are rather not implemented – one of them falls under **Visas** section and two under **Border Controls**. If the competent institutions take adequate measures, these delays could be overcome by the end of 2010.

Four measures relating to the Schengen Information System and falling under **Police and Security** with forthcoming deadline are implemented ahead of time.

The largest number of implemented measures is observed in the area of **Operation and Use of the Schengen Information System** where 14

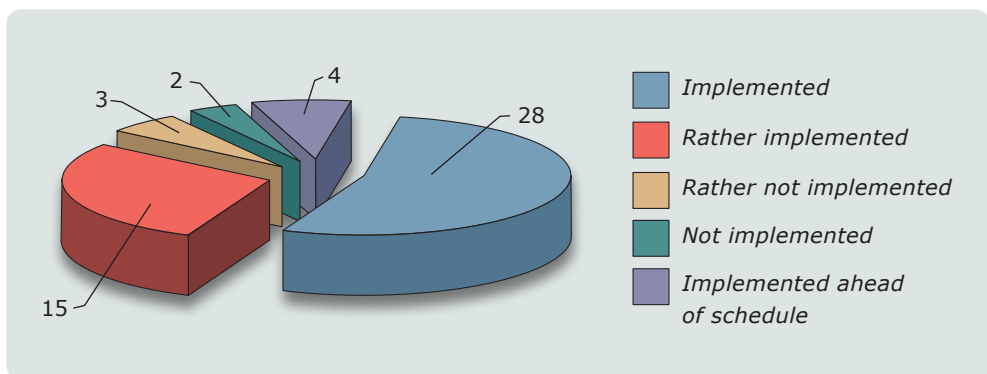


Fig. 1. Implementation of Measures for Accession to the Schengen Area

and 3 of a total of 17 measures are assessed as implemented and rather implemented. Another two measures have been implemented ahead of their deadlines. The forthcoming implementation of seven of the measures envisaged in this section would depend entirely on the revised EC schedule for SIS-II. The delays in the technical implementation of the SIS-II finalisation schedule at EU level pose a risk of delays of these measures as well. The evaluation of the progress in this area is particularly important because of the fact that the Schengen Information System serves as basis for the Schengen Mechanisms which provides all border authorities, police authorities and consular officials of the Schengen Group countries with access to database containing alerts on certain persons or on lost and stolen objects. This is the only area where evaluation and inspection are to be conducted in 6-10 December 2010.

The largest number of measures that have not been implemented was found in the area of Visas where three of the 11 measures are implemented in time. Five of the measures are rather implemented. Two of the remaining measures are not implemented and one is rather not implemented.

Most of the measures in the area of **Border Controls** with expired deadlines are implemented. The delays in the implementation of about a quarter of the measures (rather implemented or rather not implemented) might be compensated.

In the other areas the measures are evaluated as either rather implemented or their implementation is forthcoming (**Migration and Asylum**), they are with ongoing deadline, or their deadlines have not yet expired and work is in progress (**Police and Security. Firearms and Ammunition; Fight Against Drugs; and Personal Data Protection**).

3. Assessments as per areas

In the area of **Border Controls** 27 measures have been evaluated. 10 are implemented and the deadline for another 10 is 30 September 2010. Most of them will probably be implemented within this deadline. The implementation deadlines for 7 measures have expired, but work is still on progress. Five measures are rather implemented and two are rather not implemented (fig. 2).

Some of the measures which are not implemented in time relate to adoption of legislation (e.g. the drafting of instruction on the patrolling and point duty activities of the Border Police). Others are implemented as a result of terminated public procurement procedures. There is also some delay in the refurbishment of some Cross Border Points.

In the area of **Visas, three of the 11 measures are implemented in time**. Five measures are considered as rather implemented, whereas the rest are not implemented (two) or rather not implemented (one). Apart from the delays in the drafting of some by-laws and analyses, the issues in this area relate to the construction of the Visa Centre with the Ministry

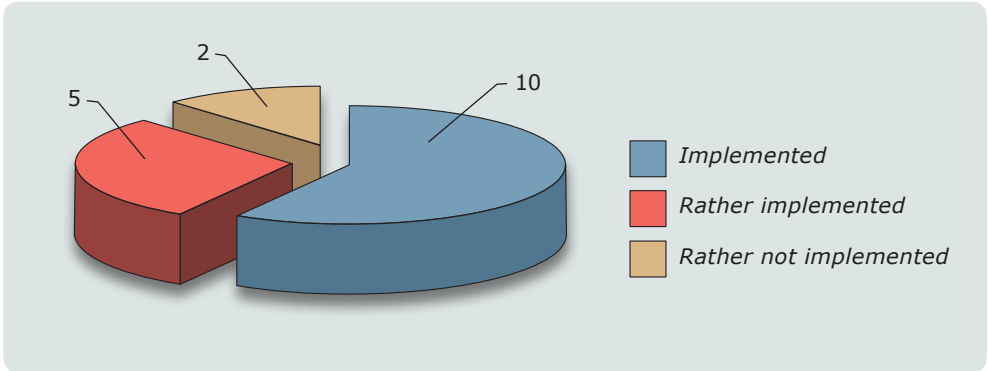


Fig. 2. Border Controls

of Foreign Affairs. The delay results from last year’s lack of resources for facilities and equipment. The delay is expected to be compensated with the connection to the Visa Information System established by November.

For the areas of **Asylum and Migration** a relatively small number of measures (one in each area) has been laid down in the National Action Plan for Bulgaria’s accession to the Schengen Area. Both are considered rather implemented.

In the area of **Police and Security, Firearms and Ammunition** a total of 7 measures have been envisaged. The implementation deadline of only one of these measures has expired and the measure is implemented. Two of the measures with deadline in December relating to the conclusion of agreements between the respective governments of the Republic of Bulgaria, the Republic of Serbia and the Hellenic Republic of Greece are implemented ahead of schedule. Work under the other measures is in progress (fig. 4).

In the areas of **Judicial Co-operation** the 3 measures envisaged are ongoing and they are currently being implemented.

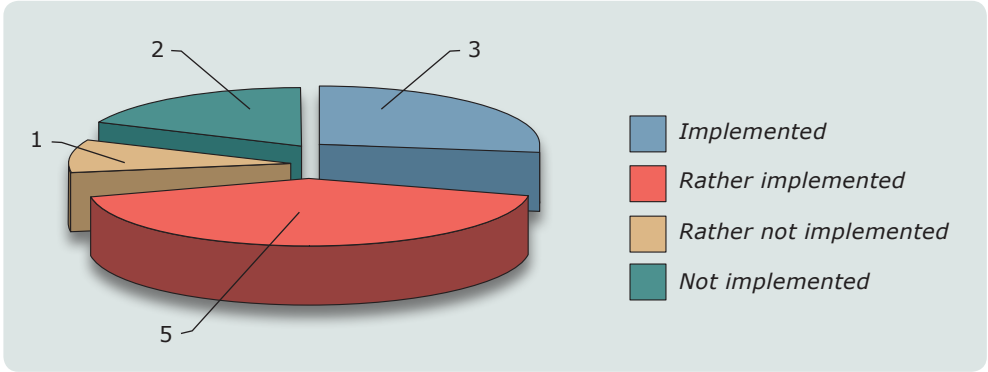


Fig. 3. Visas

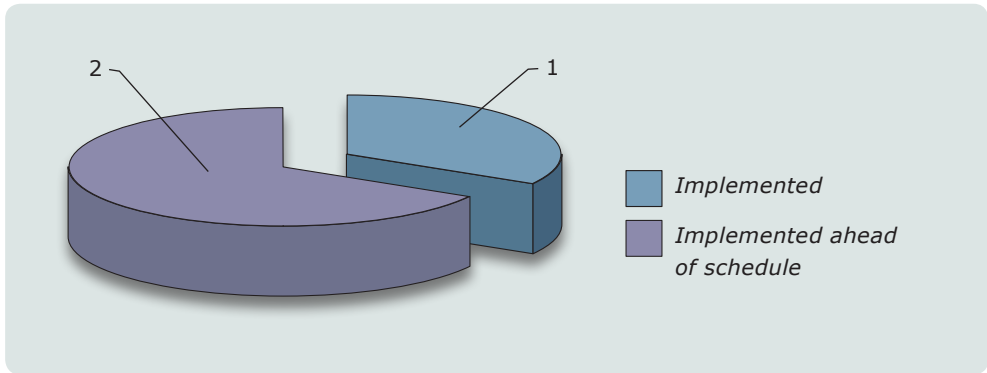


Fig. 4. Police and Security

In the area of **Fight Against Drugs** 4 of a total of 7 measures are with current deadline and the deadline for the remaining three is in December. All measures are currently being implemented.

The area of **Operation and Use of the Schengen Information System** is the only one which has not yet undergone evaluation and inspection. The mission will take place in 6-10 December 2010. This makes the evaluation of the progress in this area even more important.

Out of 17 measures with deadline 31 August, 14 are implemented and 3 are rather implemented. Another two measures are implemented ahead of their deadlines.

The implementation of seven of the measures envisaged in this section depends entirely on the revised EC schedule for SIS-II. The delays in the technical implementation of the SIS-II finalisation schedule at EU level pose a risk of delays of these measures as well (fig. 5).

In the area of **Personal Data Protection** one of the 5 envisaged measures has its deadline in December, whereas the remaining ones are with ongoing implementation and are currently being carried out.

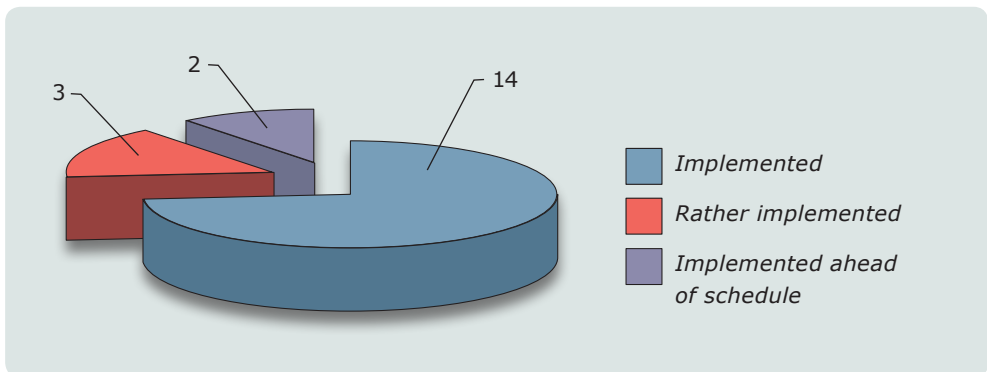


Fig. 5. SIS

4. Recommendations

- The interdepartmental process of documents approval should be optimised and the adoption of by-laws, including the Instruction on the patrolling and border-check point duty activities of the Border Police, should be accelerated.
- Works on the construction of the Visa Centre with the Ministry of Foreign Affairs should be accelerated and the refurbishment of consular offices as laid down in the forthcoming measures in the Schengen Criteria should be completed in due time.
- More flexibility should be allowed in the application of the procedures in the Public Procurement Act, whereas possible (procedures should be simplified and the application deadlines should be extended).
- All officials with the Migration Directorate of the Ministry of Interior should attend active training and be allowed to partake in the preparation towards accession to the Schengen Area. Therefore, it is important to adopt and apply the experience of the countries which joined the Schengen Area in 2007 relating to their preparation towards the application of integrated border controls within the country, where immigration services work together with border police and police to prevent illegal migration.
- The National Assembly should include among the priority tasks for its autumn session the bills on the amendment of the Ministry of Interior Act and the Personal Data Protection Act, respectively.
- Specialised judicial co-operation training modules on the issues relating to EU rules in the field of criminal law and criminal procedure should be held by the end of the year.
- The National Strategy and the measures for combating drug addiction should be optimised through active participation and exchange of experience and practices within the network of the European Monitoring Centre for Drugs and Drug Addiction located in Lisbon. There should also be pro-active participation in the absorption of resources from the existing EU financial instruments for supporting measures against drug addiction and drug trafficking.
- The training of personal data administrators and processors should be accelerated.
- Framework Decision 2008/977/JHA on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters should be transposed by 27 November 2011.