

The Independent Monitor for Entry Clearance

(Refusals without right of appeal)
Foreign & Commonwealth Office
King Charles Street
London
SW1A 2AH



Report on my visit to Tbilisi and Tashkent: September 2006

In addition to preparing twice yearly Reports for the Secretary of State to present to Parliament, I also issue briefer Reports after each of my monitoring visits to visa issuing Posts. This Report covers visits to two Posts which have much higher than average rates of refusing applications where there is a limited right of appeal, mainly short term students who wish to study English in the UK for less than six months. There seems to be strong market for learning English in both Georgia and Uzbekistan and I am concerned that the level of refusal is so high, given the Prime Minister's Initiative with regard to foreign students.

Tbilisi and Tashkent normally have one Entry Clearance Officer who also undertakes Consular work and the Entry Clearance Manager has only a proportion of his time to spend on entry clearance business.

I note that in some of its statistical reports, UKvisas puts both countries into a group entitled Former Soviet Union and I think this reference to what was, rather than to what is, is unhelpful - no forward looking person, or country, likes to be known by what they were in the past.

I append the detailed Reports for each visit, but provide here an overview which focuses on common issues for UKvisas to address.

1 Information for applicants

Websites

Information is important for all applicants, but especially so for those who do not have the right of appeal. Good pre-application information gives them the best possible chance of completing the application accurately and enclosing the relevant supporting documents. UKvisas has already responded positively to my recommendation to make website information consistent worldwide and agrees that it should be the central point of reference for applicants. UKvisas is currently consulting Posts how best to resolve some of the technical and local issues that need to be resolved. In the meantime, I noted a number of inconsistencies for example,

- The website information for **Tbilisi** refers to the application form being the IM2A, which has not existed for some time, but later on to filling in a VAF1, which is the current name of the form.

Good website information is especially important in **Tashkent** because applicants have no other easy source of official advice. From November 2005 to August 2006, because of security concerns, the Embassy did not handle other than a few visa applications. Applicants now only attend for pre-arranged interviews after the application has been received. Applicants phone a commercial courier service which collects the application and delivers it to the Embassy, returning the papers and decision to the applicant. This system means that applicants do not visit the commercial partner's offices, so there is no opportunity to provide leaflets and other



guidance material before completing the application. I assume that at some point in the near future applicants will have to be seen in person - by visa staff or by a commercial partner - in order for biometric data to be captured. When that happens I hope that careful thought will be paid to providing the full range of appropriate information, including details of consular fees and on complaints.

Public Noticeboards

In **Tbilisi**, there are no notices at pavement level outside the multi-user Embassy building. Security guards who manage the small queue have been reminded not to provide information or advice.

In **Tashkent**, I was pleased to see a tidy, well managed, and up to date public noticeboard, recommending only that there should be clear banner heading to say what the noticeboard was for. When the board is relocated as planned, it would be better to have a landscape shape so that the English, Russian and Uzbek sections can be more easily separated - and so that all notices can be read by short people! The Entry Clearance Officer has an organised system to remind him of all the things that need changing when, for example, there is an amendment to the fees charged.

Leaflets

Tbilisi had a limited supply of the most common leaflets in a small rack that had not been designed to fit them. It would benefit from the poster that I recommended be commissioned showing the covers of all of the information leaflets. Having had that recommendation accepted, I was amused to see that the Entry Clearance Officer in **Tashkent** had already had the same idea and made his own version for the waiting room.

I visited the British Council offices in **Tashkent** and noted that they do get pre and post application queries. **I recommended** that the visa section provided the Council with a supply of UKvisas' Student leaflet so that they could hand that out and thus provide a standard and official source of information. I did note a particularly joined up and constructive relationship between the Council and the Embassy, and thought that it was helpful for the Entry Clearance Officer to have provided guidance and training on visa related issues.

UKvisas reply:

UKvisas agrees with this recommendation and will be supplying Tashkent with extra copies of leaflets to give to the British Council.

2 File samples

Quality of decisions

At each Post I reviewed files where visas had been refused, including a small proportion of cases where there is a right of appeal. UKvisas has accepted my July recommendation to have a consistent style and structure for Refusal Notices and will issue directions on that at the end of October. I note here that there was a significant difference between Refusal Notices in Tbilisi and in Tashkent and am pleased that work is underway to minimise structural differences.



Refusal Notices in **Tbilisi** were short, rarely mentioned a Rule and tended to be standardised and very general short paragraphs. I was satisfied that Refusal Notices in **Tashkent** recorded the relevant Immigration Rules and included specific and detailed information taken from the application form. Applicants in Uzbekistan had enough evidence to show them that their application form had been read, but I am less convinced that the Georgian applicant would reach the same conclusion.

Entry Clearance Officers in both Tbilisi and Tashkent appeared to be starting off their assessments from a presumption against issuing a visa. Since it re-opened in August, **Tashkent** has refused 85% of short term student applications. I was told that the reason for such caution was a survey undertaken by the Entry Clearance Officer. He had contacted the homes of short term student applicants and found that 80% had been granted extensions to their visas once in the UK. Rather than see this as evidence of compliance, in that they were in the UK lawfully, it was taken as evidence that short term applicants do not intend to comply with the terms of the visa that is issued in the first instance. In **Tbilisi**, the caution was explained by being concerned by Port Queries when single entry visas have been issued, when following guidance would reduce the number of such visas.

Having started off from that point of view, Refusal Notices in both Posts then failed to take account of evidence that indicated that the requirements of the Immigration Rules had been met. I saw a number of cases where the student applicant had provided adequate evidence of funds of their own to provide for fees, maintenance and accommodation, but the application was refused on the grounds of the credibility of the sponsor, often a parent, who had said that they would also support the applicant. One applicant was refused on the grounds that they had met only the minimum requirements of the Immigration Rules: minimum is good enough.

Administrative review

I had concerns in both Posts about the thoroughness of the Entry Clearance Manager's review and also noted that it was not always being undertaken within 24 hours of the Entry Clearance Officer's decision. **Tbilisi** had developed a complaints register, but I was not convinced by its accuracy. **Tashkent** had none.

3 Developing judgement

I note that a number of Posts with very high refusal rates have a single Entry Clearance Officer. Judgement cannot be taught on a three week training course; it comes from experience and from testing views in discussion and through challenge. Tbilisi and Tashkent are not the only Posts that I have seen where a single Entry Clearance Officer has gone there straight from the basic training course. Unless there is an exceptional Entry Clearance Manager who is sufficiently up to date with current guidance and has a strong commitment to entry clearance work, the Entry Clearance Officers can be left to develop their own benchmark which can be out of line with a reasonable norm. I am sure that this is what has happened in these two Posts. **I recommend** that after the basic training course singleton Entry Clearance Officers should go first of all to a larger Post in their region to work alongside a team of Entry Clearance Officers for 3 to 4 weeks. Not only will that help set initial judgement at a common level, but it will also provide a group of peer colleagues for informal contact and advice once out at the permanent Post.

I also noted that neither the Entry Clearance Officer nor the Entry Clearance Manager in **Tbilisi** knew who the relevant Director of Visa Services was. Both would welcome regional training



and refresher courses, but had not attended any and did not know if any had happened. I **recommend** that Directors of Visa Services consider targeted training aimed at singleton Entry Clearance Officers and multi-tasking Entry Clearance Managers, perhaps as part of a larger event. The special needs of these small Posts can be overlooked when much of the focus is on Posts handling hundreds or thousands of applications each day.

UKvisas reply:

UKvisas agrees with this recommendation, and will encourage DVSS to arrange pre-posting mentoring at larger posts in their region. Some already do. However, this is dependent on timing of the posting, availability of the new ECO and facilities at the larger post

4 Guidance

Both Tbilisi and Tashkent reported problems with AECIPS, the guidance notes from UKvisas . **Tbilisi** found that around 45 were missing from their very efficient filing system. **Tashkent** said that they had not received any for some time due, I think, to an addressing problem. I **recommend** that UKvisas looks into these problems which may be replicated elsewhere. I note here that I am making a wider recommendation regarding the usefulness, or otherwise, of the AECIP system in my 2005 Report to the Secretary of State, which may be published later this year.

UKvisas reply:

UKvisas is looking at this matter in conjunction with the recommendations in the 2005 Report. Posts receive a bi-annual checklist of AECIPs which they should use to check against those received. Missing AECIPs can be retrieved from the ECO FCONet website, or requested from Communications Section. The bi-annual checklist acts as a glossary of the AECIPs issued and can be used to find related AECIPs. UKvisas will be reminding ECMs of this facility.

5 Facilitations

Facilitation is a "fast track" for visa applications, used when requests are made to take applications out of turn or, in exceptional medical/compassionate cases only, process them out of Visa Section public opening hours. There is nothing intrinsically wrong in facilitations of that nature, and I note here my appreciation for the heroic efforts by UKvisas' London staff and the British Embassy in Tashkent to in order to arrange my own Uzbekistan visa.

The term is also used however, where senior Embassy staff are approached in an attempt to put persuasive pressure on the decision maker. In those circumstances there needs to be strict procedures in order to protect the Ambassador's position and to emphasise the nature of UKvisas' decision making - an assessment of the evidence available to the Entry Clearance Officer at the time, against fixed Immigration Rules.

The Diplomatic Service Procedures refer the enquirer to Section 7.7 of UKvisas' guidance on Best Practice. That turns out to be about hand-written vignettes. The guidance is there though, at 4.15. It says, in part;

- Whilst there are bound to be a few cases where some form of facilitation is unavoidable, such requests should be kept to an absolute minimum. The facilitation process should be used sparingly for applications submitted by persons of very high



- standing in the local community where there is clear overriding benefit, e.g. political or economic interest to the UK. In many cases the need for facilitation will be obviated as we offer a same day service for straightforward applications.
- Heads of Missions should issue a minute to all Heads of Sections reminding them of the procedures for the use of facilitation It should be recirculated every six months.
 - All facilitation requests from within the Mission should be submitted using a special form. All facilitations whether from a member of staff at Post or from a person from an outside organisation, must be routed through and vetted by the ECM, and entered in a facilitations register.
 - All requests for facilitation must be submitted to the Entry Clearance Manager on the attached form and should be signed by a Head of Section. All requests will be entered in a register. The register is regularly checked by the Entry Clearance Manager and senior management.

Facilitation was a live issue in **Tbilisi** with a specific case rattling round the Embassy whilst I was there. I noted that despite the very firm and specific guidance, there was no Register of Facilitations and comments tended to be passed on in person. In **Tashkent**, the Entry Clearance Officer thought that there was a Register but, in the absence of the Ambassador, it could not be found.

In many countries, business is conducted by personal contact and influence. It is therefore to be expected that an Ambassador will be approached at a number of stages in the process. In addition to complying with the formal guidance as noted, I **recommended** that the Ambassador's response to an approach before an application has been made should be to suggest that any special information is included in Section 10 of the Visa Application Form because that will ensure that it is taken into account by the Entry Clearance Officer. I also **recommended** that both Tbilisi and Tashkent made sure that their systems were in accord with the guidance included in Best Practice, though I note that given their compliance with the PSA turnaround times, facilitation in its true sense - the need to speed up an application - should rarely apply.

UKvisas reply:

UKvisas agrees with this recommendation. Facilitation should only be used in rare cases to speed up the processing of an application, although some applicants and sponsors think the Ambassador can have an influence over the outcome of the application. Section 10 should be used for any additional information, and this should be noted on the PROVISO record as well as recording details in the Facilitation Log as directed in Best Practice.

Overview

Tbilisi and Tashkent are 20th and 4th in a table that shows the proportion of applications with limited rights of appeal that are refused. Chisinau is at the top, and I visited that Post as part of my induction. I have noted common features in all three Posts and consider that UKvisas should be paying attention to smaller Posts whose refusal rates are very wide of the global average. In these visits, I have identified some of the factors that may have led to the current position. More importantly, I have agreed action plans with the Entry Clearance Managers to improve current practice.

I do note that there was much that was positive about Tbilisi and Tashkent: the Entry Clearance Officers ran efficient offices with skilled Entry Clearance Assistants who contributed to a high level of service. Part time Entry Clearance Managers need to make the time to provide adequate

The Independent Monitor for Entry Clearance



support and supervision, and there needs to be regional opportunities to help with judgement and benchmarking.

L M Costelloe Baker
Independent Monitor