

New facts and figures on Western Balkan Asylum Seekers

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Rising numbers

Since the beginning of visa-free travel for five Western Balkan countries - Albania, Bosnia and Herzegovina, Montenegro, Macedonia and Serbia (WB5) - in 2010,¹ the number of citizens from these countries who seek asylum in the EU has been rising.

2014 has set a new record: more than 70,000 WB5 citizens claimed asylum in the EU.

Asylum claims by Western Balkans citizens in the EU²

	2009 (No visa-free travel)	2010 (Serbia, Macedonia, Montenegro visa-free)	2011 (All WB5 visa-free)	2012	2013	2014
Serbia	5,460	17,740	14,105	19,055	22,375	30,810
Albania	2,065	1,925	3,080	7,500	11,075	16,805
Bosnia	1,330	2,105	2,655	5,835	7,075	10,675
Macedonia	930	7,550	5,555	9,625	11,065	10,330
Montenegro	270	405	635	1,260	945	1,845
Total of the WB5 states	10,055	29,725	26,030	43,275	52,535	70,465
All asylum claims in the EU	266,395	260,835	309,820	336,015	436,125	626,820
Share of WB5 claimants	3.7%	11%	8.4%	13%	12%	11%

¹ The citizens of Macedonia, Montenegro and Serbia have been able to enter the Schengen zone without a visa since 19 December 2009, and the citizens of Albania and Bosnia since 15 December 2010. See [ESI's website on the visa liberalisation process in the Western Balkans](#).

² All data used in this document is from [Eurostat's interactive database](#) unless explicitly stated otherwise. The Eurostat data was extracted between 18 and 31 March 2014.

Western Balkan claims among all claims in the EU

Apart from small Montenegro, the WB countries are among the top 20 countries requesting asylum in the EU.

They are the only ones that do not have to have a visa to enter the EU's Schengen zone.³

Top 20 nationalities claiming asylum in the EU in 2014

Country	No. of claims	Visa requirement
1. Syria	122,790	X
2. Afghanistan	41,305	X
3. Kosovo	37,875	X
4. Eritrea	36,990	X
5. Serbia	30,810	No
6. Pakistan	22,120	X
7. Iraq	21,330	X
8. Nigeria	19,950	X
9. Russia	19,685	X
10. Somalia	16,910	X
11. Albania	16,805	No
12. Ukraine	14,040	X
13. Mali	12,905	X
14. Bangladesh	11,650	X
15. Gambia	11,515	X
16. Iran	10,890	X
17. Bosnia and H.	10,675	No
18. Macedonia	10,330	No
19. Georgia	8,555	X
20. D.R. Congo	7,085	X
All claims in the EU	626,820	

³ The Schengen zone has 26 members: all EU member states except Ireland and the UK, which opted out of it; Croatia, Bulgaria and Romania, which are due to join eventually; as well as Cyprus, which will join once it is reunited. In addition, four Schengen-associated countries are part of the Schengen area: Iceland, Liechtenstein, Norway and Switzerland.

Low recognition rates

Only a small fraction of the WB5 asylum seekers are actually granted asylum (refugee status under the Geneva Convention or subsidiary protection) in the EU.

In 2014, the first-instance recognition rate was 2.6 percent. In the preceding years, it was between 1.8 and 2.2 percent.⁴

The EU average in 2014 - concerning all asylum claims submitted in the EU - was 40 percent.

First-instance recognition rates in the EU in 2014

	Decisions made	Refugee status under the Geneva Convention	Subsidiary protection	Recognition rate (Refugee status + subs. protection)
Serbians	22,085	260	55	1.4%
Albanians	13,390	215	560	5.8%
Macedonians	8,195	30	15	0.5%
Bosnians	7,210	155	55	2.9%
Montenegrins	1,355	5	20	1.8%
WB5 Total	52,235	665	705	2.6%
All claims in the EU	360,365	89,825	55,810	40%

Refugee status is granted when a person has “a well-founded fear of being persecuted for reasons of race, religion, nationality, political opinion or membership of a particular social group” in their home country⁵.

Subsidiary protection is extended when a person faces “risks of serious harm” at home, such as a death penalty, torture, or a threat to life due to armed conflict.⁶

There is no systemic persecution in the Western Balkans, no patterns of human rights violations, and no armed conflict. EU asylum authorities and our own research has found that WB asylum seekers are overwhelmingly fleeing poverty, unemployment and the lack of prospects in their home countries.⁷ This does not entitle them to international protection.

⁴ 2013: 2.2 percent; 2012: 2.2 percent; 2011: 1.8 percent; 2010: 1.9 percent.

⁵ [Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted.](#)

⁶ *Ibid.*

⁷ For the reasons behind the applications, see ESI’s report [Saving Visa-free Travel. Visa, asylum and the EU roadmap policy](#), 1 January 2013; European Asylum Support Office (EASO), [Asylum applicants from the Western Balkans. Comparative analysis of trends, push-pull factors and responses](#), 19 November 2013; and European Commission, [Fifth Report on the Post-Visa Liberalisation Monitoring for the Western Balkan Countries](#), 25 February 2015.

A large majority are Roma, who face discrimination.⁸ However, unless discrimination is severe and personally affects the claimant, it does not amount to persecution and is not grounds for asylum either.

If one looks at the top 20 countries of origin of asylum seekers in the EU, the recognition rates for Western Balkan citizens were among the lowest.

Recognition rates for the top 20 nationalities claiming asylum in the EU in 2014

Country	Recognition rate
Syria	94%
Eritrea	88%
Iraq	66%
Iran	57%
Somalia	57%
Afghanistan	52%
EU average	40%
Russia	22%
D.R. Congo	20%
Pakistan	19%
Ukraine	16%
Nigeria	15%
Mali	11%
Gambia	11%
Bangladesh	6.6%
Albania ⁹	5.8%
Kosovo	5.5%
Georgia	4.1%
Bosnia and Herzeg.	2.9%
Serbia	1.4%
Macedonia	0.5%

Another element that distinguishes WB5 claims is the rate of “repeat applications”. In 2014, 27 percent of the WB5 claimants had asked for asylum in the EU before, at least once and sometimes more times before. In comparison: this rate was 14 percent for all asylum claims submitted in the EU.

⁸ Roma represent 85-90 percent of the Serbian claimants, 50-70 percent of the Macedonian, and some of the Bosnian and Montenegrin. See ESI and EASO reports cited in the previous footnote.

⁹ The recognition rate for Albanians is higher than for the other WB countries due to blood feuds in the country. It is difficult to estimate the extent of the problem and there are allegations that it is possible to obtain false blood feud certificates. A useful report dealing with this question is: UK Home Office, [Country Information and Guidance Albania: Blood feuds](#), June 2014.

For all these reasons, EU interior ministers were alarmed when the numbers of WB5 asylum seekers started rising. They labelled it “abuse” of the EU asylum systems. In October 2010, Bavaria’s Interior Minister Joachim Hermann warned:

“We will not accept this obvious abuse of our asylum system. If this development continues, the European Union will have to act and to restore the visa requirement for these countries.”¹⁰

Please note that when EU institutions calculate recognition rates, they also consider the number of people who are given permission to stay on humanitarian grounds, mostly due to medical problems that cannot be treated in the home countries.¹¹ We decided against this method since only the rate of people receiving refugee status or subsidiary protection is an indication of the human rights situation in the country of origin.

EU target countries

Since 2010, WB5 asylum seekers have shown a strong preference to submit their claims only in certain EU countries. In 2010, 75 percent of their claims were submitted in Germany (36 percent), Sweden (25 percent) and Belgium (15 percent).

In 2014, the three top countries accounting for as many as 89 percent of all WB5 claims were Germany (76 percent), France (7 percent) and Sweden (6 percent).

Under EU legislation, all EU countries have to offer asylum seekers free accommodation, food and clothing, medical and psychological care, and schooling for the children.¹² Some also provide them with pocket money/cash benefits so they can cover smaller personal expenses. However, the reception conditions vary between the EU countries.

We have found that WB5 asylum seekers target countries where benefits are generous *and where the asylum procedure takes a long time* so that the benefits can be actually enjoyed.¹³

In 2010, the asylum procedure - from the submission of the claim until the decision by the asylum authority - took 6.8 months in Germany, 4.3 months in Sweden and 9.9 months in Belgium. If failed asylum seekers appealed the negative decision before a court, they could stay even longer. In Germany, a court appeal extended the asylum procedure to 12.9 months in 2010.

EU countries where the procedure was short did not experience an increase in WB asylum claims in 2010. In France, the procedure took 3-4 weeks. In Austria, 1-2 weeks. In the

¹⁰ Press release of the Bavarian government, [Missbrauch des Asylrechts](#) (Abuse of the asylum system), 19 October 2010.

¹¹ In 2014, 580 WB5 citizens received humanitarian status. If they are considered in calculating the recognition rate, it is 3.7 percent.

¹² [Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection](#). This Directive replaced a similar Directive, Council Directive 2003/9/EC of 27 January 2003.

¹³ Other factors include the presence of a diaspora (relatives and friends to help) and a good economic situation. However, these factors are irrelevant if the asylum procedure is short.

Netherlands, 2-3.5 weeks.¹⁴

The key: a short asylum procedure

An option for EU countries faced with an unwanted increase in WB5 asylum claims is *to shorten the asylum procedure*.

This can be done in two ways: It can be achieved by each asylum authority internally. They can decide to prioritise WB5 claims, like they prioritise claims of unaccompanied minors, pregnant women and sick people. In such cases, the interview with the claimant takes place a few days after their arrival, and the asylum authority issues its decision promptly.

It can be also done by EU governments if they declare the WB5 “safe countries of origin” and if this is linked to a short procedure. This concept allows EU member states to declare countries of origin safe,

“where, on the basis of the legal situation, the application of the law within a democratic system and the general political circumstances, it can be shown that there is generally and consistently no persecution [...], no torture or inhuman or degrading treatment or punishment and no threat by reason of indiscriminate violence in situations of international or internal armed conflict.”¹⁵

EU legislation then allows EU countries to accelerate the procedure. The definition of safe country of origin is applicable to the Western Balkan countries.

Several EU member states use this concept. However, while the associated procedure is usually shorter than in the regular procedure, it can still be quite long.¹⁶ The “safe country of origin” concept will only deter unfounded claims if it entails a procedure of a few weeks, not several months.

What is important is that the claimants are still offered a personal interview so they can argue their case. This allows those that deserve international protection – even if it is only 2 percent like in the WB5 case – to actually receive it.

So, what should change for WB5 asylum seekers is that they do not wait for months for their interview, and then again for the decision of the asylum authority. They should be heard swiftly, and provided with a decision swiftly.

Let us look at the experience of a few countries that have shortened the procedure.

¹⁴ For data in the two paragraphs, see ESI presentation [Freedom of movement in a populist age: Why Balkan visa liberalisation is \(still\) a success](#), Brussels, 30 June 2011, and ESI’s report [Saving Visa-free Travel. Visa, asylum and the EU roadmap policy](#), 1 January 2013.

¹⁵ [Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection](#), Annex I.

¹⁶ In Luxembourg, for example, all WB5 countries have been on the list of safe countries of origin since 2007. The first-instance asylum procedure still lasted 3.4 months in 2014 (7.4 months in the regular procedure). An appeal against a negative decision allows the applicant to stay until the court decision. In these cases, the average procedure length was 6.1 months in 2014. In France, on the other hand, safe country of origin entails a “priority procedure”, which lasted less than 2 months in 2013 and which does not suspend the obligation to leave even if the applicant goes to court.

The German experience

Germany has already made the experience that shortening the asylum procedure results in fewer claims.

In the second half of 2012, Germany was faced with a sudden and dramatic increase in WB5 claims. This followed a Constitutional Court decision on 18 July 2012 which raised cash benefits for asylum seekers.¹⁷ Numbers doubled from July to August, doubled again in September and continued to rise.

In response, the German Federal Office for Migration and Refugees (BAMF) tasked its then 205 case workers across Germany to prioritise WB5 claims, starting in October 2012. Sixty Federal Police supported them by receiving applicants, taking their fingerprints and starting files. The effort brought the average length of the asylum procedure for WB citizens from 3 months down to 9 days, from the submission of the claim to the first-instance decision.¹⁸ The effect was immediate: application numbers started falling in November and dropped even more in December.

Asylum claims from Western Balkan countries in Germany in 2012

	July 2012	Aug. 2012	Sept. 2012	Oct. 2012	Nov. 2012	Dec. 2012
Serbia	550	975	2,275	3,875	1,780	570
Macedonia	345	1,025	1,560	1,880	695	185
Bosnia	65	120	270	730	785	190
Montenegro	15	5	40	100	60	30
Albania	25	5	30	30	55	25
TOTAL	1,000	2,130	4,175	6,615	3,375	1,000

However, the BAMF did not sustain the effort. Although it has continued to prioritise claims of WB5 citizens, the length of the procedure started to rise again and so did the numbers of claims.

During 2013, the procedure took an average 2.5 months. This was much shorter than the average of 7.1 months for all claimants, but still long enough to attract asylum seekers with no real asylum case. In 2014, the average time that WB5 claimants spent in the procedure rose to

¹⁷ Until the ruling, a family of four (two adults, two kids) were entitled to a stipend of €120 per month, in addition to free accommodation, food, clothes, medical care and education. The Court raised the stipend to €420 per month. Georg Classen, Flüchtlingsrat Berlin (Refugee Council Berlin), [Das BVerfG-Urteil zur Verfassungswidrigkeit des AsylbLG](#) (The ruling of the Constitutional Court concerning the unconstitutionality of the law on benefits for asylum seekers), 30 March 2013.

¹⁸ ESI email exchanges with the German Federal Office for Asylum and Migration in December 2012 and January 2013.

4.2 months.¹⁹ The number of WB5 claims climbed from 22,700 in 2012 to 33,900 in 2013 and 53,900 in 2014.

This happened against the background that Germany grants particularly few WB5 asylum seekers international protection. In both 2013 and 2014, the recognition rates were 0.2 percent. Put differently: in two years, only 115 persons out of 57,680 claimants received refugee status or subsidiary protection.

Western Balkan claims in Germany

	2009 (No visa-free travel)	2010 (Serbia, Macedonia, Montenegro visa-free)	2011 (Begin of visa-free travel for all 5 WB states)	2012	2013	2014
Serbia	890	6,795	6,990	12,810	18,000	27,145
Macedonia	160	3,545	1,755	6,890	9,415	8,905
Bosnia	250	335	405	2,370	4,845	8,475
Albania	55	45	85	250	1,295	8,110
Montenegro	95	95	125	395	380	1,270
TOTAL	1,450	10,815	9,360	22,715	33,935	53,905

The Swiss experience

Switzerland²⁰ also saw WB5 applications drop when it introduced a short procedure in 2012. It is not an EU member state, but a Schengen country that implements EU common visa policy.

The Western Balkan countries were already on the Swiss list of safe countries of origin when the visa requirement was abolished.²¹ However, the first-instance procedure still took 3.5 to 4 months. WB5 asylum claims were rising – from 950 in 2009 (before visa liberalisation) to 1,550 in 2010, and then 2,810 in 2011. The year 2012 was beginning to show yet another increase.

In August 2012, the Swiss Federal Migration Office introduced “special measures” for visa-exempt “safe European countries”. Its staff conducts a preliminary interview with asylum seekers within two days of their arrival at a reception centre. Within the following 48 hours then, the authorities carry out a full interview and issue a first-instance decision (unless

¹⁹ Own calculations based on information from [Antwort der Bundesregierung auf eine Kleine Anfrage der Fraktion Die Linke](#), (Reply of the Federal Government to a Parliamentary Question by the Linke), 28 January 2015, and Eurostat.

²⁰ The information about Switzerland was provided to ESI by officials of the Swiss Federal Office for Migration in November 2012. See also the press release of the Swiss Federal Office for Migration, [Special measures for asylum seekers from safe European countries](#), 21 August 2012.

²¹ Countries on the Swiss list of countries of safe origin include: Bosnia and Macedonia (both since 1 Aug. 2003), Albania (before 2003), Montenegro (since 1 Jan. 2007), Serbia and Kosovo (both since 1 April 2009), all EU countries, all EFTA states, all official EU candidate countries, Benin, Burkina Faso, Georgia, Ghana, India, Moldova (without Transnistria), Mongolia and Senegal.

further research is necessary, which, however, is not the case in the overwhelming majority of cases). Rejected claimants have 5 days to leave Switzerland.²² If they turn to a court to appeal the negative decision, they can stay until the court decision, but the Federal Administrative Court renders its decision in two to four weeks.

The authorities explained these measures with the absence of persecution in the WB5 countries and the strain the claimants put on the Swiss asylum system:

“[...] in most cases, asylum seekers from those countries do not need to seek protection against persecution as defined in the Asylum Act. They also take up places within the Swiss asylum system, leading to bottlenecks. This situation impairs the credibility of the Swiss asylum system, which is based on the principle that people who genuinely face persecution can find refuge in Switzerland and receive decent treatment.”²³

As soon as the measures took root, the Swiss experienced a drop in applications. The number of claims plummeted from 780 in August 2012, to 65 in December 2012:

*Western Balkan asylum claims in Switzerland
after the introduction of “48-hour procedure” in August 2012*

	Aug. 2012	Sept. 2012	Oct. 2012	Nov. 2012	Dec. 2012
Serbia	410	200	60	35	30
Macedonia	260	45	20	10	10
Bosnia	95	80	20	35	15
Albania	15	5	5	10	10
Montenegro	0	5	0	5	0
Total WB5	780	335	105	95	65

Numbers have remained low:

Western Balkan asylum claims in Switzerland

	2009 (No visa-free travel)	2010 (Serbia, Macedonia, Montenegro visa-free)	2011 (All WB5 visa-free)	2012 (48-hour procedure in August)	2013	2014
Total of the WB5 states	950	1,550	2,810	3,670	770	620
All claims in Switzerland	16,005	15,565	23,880	28,640	21,460	23,770
Share of WB5 claimants	6%	10%	12%	13%	3.6%	2.6%

²² If a case is complicated the decision may take longer and the deadline to leave Switzerland is 1 month.

²³ Press release of the Swiss Federal Office for Migration, [Special measures for asylum seekers from safe European countries](#), 21 August 2012.

The French experience

Like Switzerland, France maintains a list of safe countries of origin.²⁴ All WB5 countries were already on this list when the visa requirement was abolished in 2009 and 2010. France did not experience a significant increase in claims:

WB5 applications in France

2009 (No visa-free travel)	2010 (Serbia, Macedonia, Montenegro visa-free)	2011 (All WB5 visa-free)
2,095	2,490	2,365

If applicants are from a safe country of origin, they are channeled through an accelerated “priority procedure”. Under this procedure, the French asylum authority - the Office for the Protection of Refugees and Stateless Persons (OFPRA) - is legally obliged to render a decision within 15 days.²⁵ Nonetheless, the real average processing time in 2013 was close to two months (55 days), compared with almost seven months (204 days) in the regular procedure.²⁶ OFPRA examines each application individually and conducts an interview in both procedures. Under the priority procedure, an appeal against a negative first-instance decision does not suspend the claimant’s obligation to leave France within four weeks.²⁷

In April 2012, Albania was taken off the French list of safe countries following a ruling by the Conseil d’Etat, the highest administrative court.²⁸ As a result, instead of receiving a decision on their asylum claims in some six weeks, Albanian asylum seekers now waited up to six months for a decision (2012 figures).²⁹

Their number quintupled from 505 in 2011, to 2,705 in 2012, reaching 5,065 in 2013.

²⁴ Currently there are 16 countries on this list: Albania, Armenia, Benin, Bosnia and Herzegovina, Cap Verde, Georgia, Ghana, India, Macedonia, Mauritius, Moldova, Mongolia, Montenegro, Senegal, Serbia and Tanzania. OFPRA website, [Les pays d’origine sûrs](#) (Safe countries of origin).

²⁵ [Code de l’entrée et du séjour des étrangers et du droit d’asile](#) (Act on the entry and residence of foreigners and on the right to asylum), R723-3, consolidated version 15 March 2015.

²⁶ OFPRA, [Rapport d’activité 2013](#) (Activity Report 2013), pp. 36-37.

²⁷ The benefits are somewhat different. Claimants in the regular procedure are entitled to accommodation provided by state, while claimants in the priority procedure can only obtain emergency accommodation or find refuge in shelters provided by NGOs (which they usually do). Instead of accommodation, the state offers them a stipend of 11.45 Euro per day or 343.50 Euro per month (for adults). Applicants in both procedures are entitled to medical care and school education for their children. See French Public Administration, [Étranger en France: allocation temporaire d’attente \(Ata\)](#) (Foreign in France: Temporary Waiting Allowance (ATA)); OFPRA, [Les pays d’origine sûrs](#) (Safe countries of origin); French Ministry of the Interior, [Les droits sociaux des demandeurs d’asiles](#) (The social rights of asylum seekers); and ESI interview with UNHCR office in France, 17 December 2012.

²⁸ [Letter by the French Interior Ministry to the prefectures](#), 4 April 2012.

²⁹ In 2012, the average processing time in the priority procedure was 45 days, and in the regular procedure 186 days. OFPRA, [Rapport d’activité 2012](#) (Activity Report 2012), p. 38.

At the end of December 2013, Albania was added again to the safe list of countries.³⁰ As a result, numbers dropped to 2,970 in 2014. This is still many more claims than in 2011, but 41 percent fewer than the year before.

Albanian asylum applications in France

2010 (Visa requirement)	2011 Short procedure	2012 Long procedure	2013 Long procedure	2014 Short procedure
515	505	2,705	5,065	2,970

In fact, the main reason why WB5 asylum applications in France have risen since visa liberalisation is the claims by Albanian citizens:

Western Balkan asylum claims in France

	2009 (No visa-free travel)	2010 (Serbia, Macedonia, Montenegro visa-free)	2011 (All 5 WB states visa-free)	2012 (Albania long procedure)	2013 (Albania long procedure)	2014 (Albania short procedure)
Bosnia	450	500	250	785	925	810
Serbia	980	800	665	840	700	570
Montenegro	80	80	200	320	245	260
Macedonia	75	595	745	855	345	235
Subtotal WB4	1,585	1,975	1,860	2,800	2,215	1,875
Albania	560	515	505	2,705	5,065	2,970
Total WB5	2,145	2,490	2,365	5,505	7,280	4,845
All claims in France	47,625	52,725	57,335	61,455	66,265	62,735
Share of WB5 claims	4.5%	4.7%	4.1%	9%	11%	7.7%

Does a short procedure result in fewer positive asylum decisions?

For our report “Saving Visa-free Travel” published in January 2013,³¹ we looked into the question whether a short procedure leads to fewer positive decisions. This would mean that it negatively affects the right to asylum.

We found that this was not the case. We examined Germany and Sweden, both of which had long procedures of several months. During the three-year period 2009 to 2011, they decided

³⁰ [Letter by the French Interior Ministry to the prefectures](#), 2 January 2014.

³¹ ESI report [Saving Visa-free Travel. Visa, asylum and the EU roadmap policy](#), 1 January 2013.

more than 27,000 WB5 claims, granting international protection only in a total of 45 cases. The recognition rates in both countries were 0.2 percent.

To our surprise, the recognition rates in Austria and France, both with short procedures of 1-3 weeks during this period, were higher: 7.4 and 5.9 percent, respectively. Even though they decided only some 7,000 claims, they granted international protection in 290 cases.

First-instance decisions on WB5 asylum claims during the 2009- 2011 period

	Number of decisions	Refugee status or subsidiary protection	Recognition rate
Germany	17, 240	35	0.2%
Sweden	9,980	20	0.2%
TOTAL	27,220	45	0.2%

Austria	2,155	160	7.4%
France	4,630	270	5.9%
TOTAL	6,785	290	6.4%

More recent data confirms this finding: a short procedure does not make a positive decision less likely.

In France, a higher share of Albanian asylum seekers received international protection – refugee status or subsidiary protection – in the fast priority procedure than in the lengthy regular procedure.

Recognition rates for Albanians in France

	2011 Short procedure	2012 Long procedure	2013 Long procedure	2014 Short procedure
Recognition rate	8.6%	5.9%	4.1 %	9.5%
Pos. decisions / decided cases	40 out of 465	40 out of 680	135 out of 3,325	555 out of 5,835

In Switzerland, there has not been much difference. The recognition rates have fluctuated between 3 and 3.6 percent before and after introduction of the 48-hour procedure in 2012. The only exception is the year 2012 itself when the recognition rate was just 0.2 percent.

Recognition rates for WB5 citizens in Switzerland

	2011 Long procedure	2012 Introduction of short procedure	2013 Short procedure	2014 Short procedure
Recognition rate	3%	0.2%	3.1%	3.6%
Pos. decisions / decided cases	25 out of 835	5 out of 2,330	20 out of 640	20 out of 550

“Safe country of origin” status in Germany – the solution?

In 2014, Germany declared Serbia, Macedonia and Bosnia “safe countries of origin”. The relevant amendment went into force on 6 November 2014.

The other safe countries of origin in Germany are all EU member states, Ghana and Senegal. Albania and Montenegro were left out from the measure as their numbers were low,³² and the phenomenon of blood feuds made the government wary of declaring Albania safe.³³

Most of the WB5 claims in the EU are filed in Germany. In 2014, they made up 54,000 or 76 percent of the 70,000 WB5 claims in the EU. Germany is thus key to resolving the issue of unfounded WB claims. If it manages to reduce the numbers, the data for the EU as a whole will look much different.

Share of WB5 asylum seekers submitting their claims in Germany

	2009 (No visa-free travel)	2010 (Serbia, Macedonia, Montenegro visa-free)	2011 (All WB5 visa-free)	2012	2013	2014
WB5 claims in Germany	1,450	10,815	9,360	22,715	33,935	53,905
WB5 claims in the EU	10,055	29,725	26,030	43,275	52,535	70,465
German share	14%	36%	36%	52%	65%	76%

This would also relieve the German asylum system where WB5 claims made up more than a quarter of all claims in the last three years:

³² To declare Serbia, Macedonia and Bosnia “safe countries of origin” was part of the [coalition agreement of 27 November 2013](#) between the ruling Christian-Democrat and Social-Democrat parties. Until 2012, both Albanians and Montenegrins had filed only a few hundred asylum claims in Germany. Albanian claims rose to 1,295 in 2013 and 8,110 in 2014; and Montenegrin claims increased to 1,270 in 2014.

³³ For blood feuds in Albania, see European Asylum Support Office (EASO), [Asylum applicants from the Western Balkans. Comparative analysis of trends, push-pull factors and responses](#), 19 November 2013, and UK Home Office, [Country Information and Guidance Albania: Blood feuds](#), June 2014.

Share of WB5 claims among all claims in Germany

	2009 (No visa-free travel)	2010 (Serbia, Macedonia, Montenegro visa-free)	2011 (All WB5 visa-free)	2012	2013	2014
WB5 claims in Germany	1,450	10,815	9,360	22,715	33,935	53,905
All claims in Germany	33,035	48,590	53,345	77,650	126,995	202,815
WB5 share	4.4%	22%	18%	29%	27%	27%

When the German government presented the draft law in May 2014, it pointed to the high number of unfounded claims by citizens of Serbia, Macedonia and Bosnia and the low recognition rates (0.1-0.3 percent in 2013 and 2014). They cause “significant costs” to the public budgets, the government stated. They also tie up capacities of the asylum system “at the expense of asylum seekers genuinely in need of protection” whose claims cannot be processed swiftly.³⁴ The aim of declaring these three countries safe was,

“to shorten the length of the asylum procedures for claimants from these countries, and thus the length of their stay in Germany. In this way, Germany will become less attractive as a destination country for claimants who submit asylum claims for motives not relevant to asylum.”³⁵

However, “safe country of origin” status in Germany does not affect the time that an asylum seeker from such a country has to wait for the interview. Who is prioritised and how many resources are allocated to which cases are internal issues for the German asylum office (Bundesamt für Flüchtlinge and Migration, BAMF) and the German Interior Ministry to decide.

The BAMF had prioritised WB5 claims all along (see next table). Now, it announced, “The asylum procedure will be finished in a few days. There is an especially established group of staff at the BAMF who are responsible only for asylum seekers from safe countries of origin. This will further accelerate the procedure.”³⁶ It told ESI that this group - set up shortly before the new law on Serbia, Macedonia and Bosnia became effective - is made up of 47 case workers (staff entitled to conduct interviews and decide on asylum claims) who work at reception centres and the BAMF headquarters.³⁷

However, so far the duration of the procedure has remained long:

³⁴ German government, [Entwurf eines Gesetzes zur Einstufung weiterer Staaten als sichere Herkunftsstaaten](#) (Draft law aimed at declaring additional countries as safe countries of origin), 2 May 2014.

³⁵ German government, [Entwurf eines Gesetzes zur Einstufung weiterer Staaten als sichere Herkunftsstaaten](#) (Draft law aimed at declaring additional countries as safe countries of origin), 2 May 2014.

³⁶ BAMF website, [Neues Gesetz zu sicheren Herkunftsstaaten](#) (New law on safe countries of origin).

³⁷ Information provided to ESI by the BAMF, 11 March 2015.

*Length of the asylum procedure in Germany at first instance - in months*³⁸

	2013	2014	Nov. 2014	Dec. 2014	Jan. 2015
Serbia	2.1	4	4.7	3.8	3.9
Macedonia	2.4	5.3	6.9	5.5	5.5
Bosnia	3.9	3.9	4.8	4.1	4.1
All claims in Germany	7.2	7.1	6.7	5.7	5.6

The BAMF explained this for ESI with the high number of pending cases, which are being slowly reduced and increase the average. In most of the new cases, it stated, decisions are made within 14 days.³⁹

If the BAMF can maintain this, there is a good chance that the numbers of asylum claims from these three countries will start dropping.

Due to a general rise in asylum claims in Germany – from 78,000 to 203,000 in the past three years – the BAMF faces considerable pressures. It has already received additional staff,⁴⁰ but estimates are that the number of refugees seeking asylum in Germany will rise to around 300,000 in 2015.⁴¹ In 2012, the BAMF saw that it can reduce the number of unfounded Western Balkan claims by shortening the length of the asylum procedure. It is worthwhile trying this now as a permanent, and not just temporary, policy.

Background to safe country of origin status in Germany:

Under German law,⁴² claims from citizens of safe countries of origin are to be rejected as “manifestly unfounded” unless the claimants can demonstrate during the interview that they face the threat of persecution or serious harm at home. A negative decision has the following consequences:

- The failed claimant has only 1 week to leave Germany (and not 1 month like in the regular procedure);
- S/he also has only 1 week - the same week - to appeal the decision (2 weeks in the regular procedure⁴³);

³⁸ For 2013 and 2014: [Antwort der Bundesregierung auf eine Kleine Anfrage der Fraktion Die Linke](#), (Reply of the Federal Government to a Parliamentary Question by the Linke), 28 January 2015. For Nov. 2014 to Jan. 2015: Information provided to ESI by the BAMF in writing, 11 March 2015.

³⁹ Information provided to ESI by the BAMF in writing, 11 March 2015.

⁴⁰ In 2014, the BAMF received 300 additional staff for the asylum section, and in 2015, 350. Information provided to ESI by the BAMF, 11 March 2015

⁴¹ Website of the BAMF, [Asylprognose für das Jahr 2015](#) (Asylum forecast for the year 2015), 26 March 2015.

⁴² [Asylverfahrensgesetz](#) (Asylum Procedure Law), consolidated version. The relevant articles are 29a, 30 and 36.

⁴³ The two-week deadline in the regular procedure applies to an initial appeal. There is then more time – at least 1 month, but usually even more – to submit the reasons and evidence. An appeal in the regular procedure suspends the appellant’s obligation to leave Germany.

- The appeal does not suspend the obligation to leave Germany unless the failed asylum seeker requests the court to suspend this obligation at the same time when s/he files the appeal;
- The appeal has to be dealt with by the responsible court within one week after the appeal (certain extensions of this deadline are possible), only in written form, and no new evidence may be introduced.

Claims can also be rejected as manifestly unfounded in a number of other cases. One of them is, “if it is obvious from the circumstances of the individual case show the foreigner is on Federal territory only for economic reasons or to escape from a general emergency situation”.⁴⁴

For years, the BAMF has rejected many WB5 claims as manifestly unfounded for this reason. During January to October 2014 (before Serbia, Macedonia and Bosnia were declared safe), this was the case for 94 percent of the Serbian cases; and 91 percent of the Macedonian and Bosnian cases each. (For Albanian cases, the rate was 88 percent, and for Montenegrin cases 97 percent.)⁴⁵

So, safe country status for the three WB countries is not going to change anything on its own. Only if the BAMF manages to decrease the length of the asylum procedure for Serbians, Bosnians and Macedonians, it can expect to see lower numbers of asylum claims in the future.

What has not worked: making the Western Balkans responsible

Since the numbers of WB5 asylum seekers started rising in 2010, EU member states and the European Commission have put pressure on the WB5 governments to resolve the issue, at times threatening with a re-imposition of the visa requirement. However, their course of action has been misguided and ineffective.

In May 2011, the Commission started issuing “Post-Visa Liberalisation Monitoring Reports”, of which there are five now.⁴⁶ In all of them it has recommended that the WB5 governments:

- conduct information campaigns to inform their citizens about their rights under visa-free travel, the small chances to be granted asylum in the EU, and the danger of a re-imposition of the visa requirement;
- investigate bus companies and tour operators, punishing those that lure passengers to the EU with false promises; and investigate facilitators of irregular migration and prosecute those who enable the abuse of the visa-free scheme;
- closely cooperate and exchange information with EU member states, the Commission and EU agencies on border management, migration flows, asylum issues and readmission;
- conduct exit controls at the borders; and

⁴⁴ [Asylverfahrensgesetz](#) (Asylum Procedure Law), consolidated version, Art. 30, point 2.

⁴⁵ Information provided to ESI by BAMF in writing, 11 March 2015.

⁴⁶ All five reports are available on ESI’s website [Visa-free Travel and Asylum](#).

- increase assistance to Roma communities and take measures to improve their integration and their access to education, employment and public services.

The WB5 government have taken all these measures. But they have not worked. They *cannot* work.

The WB governments, terrified of losing visa-free travel, have worked closely with EU member states, the EU institutions and EU agencies, so this has not been a problem. But this does not prevent their citizens from filing asylum claims in the EU.

There is undoubtedly a need to improve the integration of Roma and provide them with assistance, but this will take persistent efforts and cannot be achieved overnight.

Exit controls can be used only very cautiously since they infringe on people's right to freedom of movement. In November 2013, the Council of Europe's Human Rights Commissioner, Nils Muiznieks, reprimanded the EU for pressuring the WB governments to restrict people's right to leave. He said this is a human rights violation in itself and leads to ethnic profiling targeting Roma and other human rights violations.⁴⁷

Information campaigns have been ineffective. The problem is not a lack of information, but sufficient information about the benefits that asylum seekers are entitled to in EU countries and the time it takes them to resolve claims.

Investigations of bus companies and tour operators have also turned out to be futile. The WB governments have not detected schemes to lure people to the EU with false promises. Likewise, they have not found "facilitators of irregular migration who enable the abuse of the visa-free scheme". Transporting people to the EU, who have valid passports and do not need a visa, is not illegal. Neither is, on the part of these people, traveling to the EU and submitting asylum claims.

In short: the Western Balkan governments have done what they have been asked to do. But the recommended actions have not have the desired effect.

The EU has also introduced a new legal provision that allows EU member states and the Commission in a fast-track procedure to suspend, and ultimately cancel, visa-free travel with a third country in "emergency situations". One of these situations is "a substantial and sudden increase" in the number of asylum applications "where such an increase is leading to specific pressures on the Member State's asylum system".⁴⁸ This provision, in force since January 2014, has added additional pressure on the WB governments.

Fortunately it has not been used. ESI has written many times that it would be wrong to use it since it would punish hundreds of thousands of Western Balkan citizens who use visa-free

⁴⁷ Press Release by the Office of the Human Rights Commissioner, [EU border control policies negatively affect human rights](#), 6 November 2013, and report by the Commissioner for Human Rights, [The right to leave a country](#), Issue paper, October 2013.

⁴⁸ [Regulation \(EU\) No 1289/2013 of the European Parliament and the Council of 11 December 2013 amending Council Regulation \(EC\) No 539/2001 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](#), effective 9 January 2014.

travel for its intended purposes: to travel more, to get to know the EU and its citizens, and to establish business and other contacts more easily.⁴⁹

A suspension of visa-free travel could also derail the accession processes. All five Western Balkan countries are on the way to joining the EU; Serbia and Montenegro are already negotiating accession. What would support for the EU be like in those countries if the EU suddenly shut the door to their citizens?

Moreover, there is another solution: to shorten the asylum procedure for applicants from the Western Balkans.

The European Commission and EU member states seem to be slowly realising this.

The Commission Fifth Post-Visa Liberalisation Monitoring Report from February 2015 is the first one that clearly asks EU member states to take action. The main measure it recommends is:

“Where appropriate, consider streamlining asylum procedures for the citizens of the five visa-free Western Balkan countries, including by having more staff assess asylum cases in peak periods or by establishing an accelerated procedure that enables the swift processing of applications at peak times or for citizens of particular countries. Where appropriate, consider using the safe country of origin concept as part of reforming domestic asylum procedures.”⁵⁰

ESI has advocated this since 2011.⁵¹

The Kosovo case

Unlike the WB5, Kosovo has remained under visa requirement. It started a visa liberalisation dialogue in January 2012 and received a roadmap setting out the required reforms in June 2012. However, progress has been slow.

Despite the visa requirement, which means that Kosovars can enter the EU only with a visa or illegally, the numbers of asylum seekers have significantly increased in 2013 and 2014:

Asylum claims by citizens of Kosovo in the EU 2009-2014

	2009	2010	2011	2012	2013	2014
Kosovo claims	14,275	14,310	9,880	10,210	20,225	37,865
All asylum claims in the EU	266,395	260,835	309,820	336,015	436,125	626,820
Share of Kosovar claimants	5.4%	5.5%	3.2%	3%	4.6%	6%

⁴⁹ See for example Balkan Insight, Alexandra Stiglmayer, ["Brussels Gets it Wrong on Balkan Asylum Seekers"](#) (6 December 2013).

⁵⁰ European Commission, [Fifth Report on the Post-Visa Liberalisation Monitoring for the Western Balkan Countries](#), 25 February 2015.

⁵¹ ESI presentation [Freedom of movement in a populist age: Why Balkan visa liberalisation is \(still\) a success](#), Brussels, 30 June 2011.

The increase in 2014 took place particularly during the last few months of the year. It continued in 2015:

Asylum claims by citizens of Kosovo in the EU in recent months

Sept. 14	Oct. 14	Nov. 14	Dec. 14	Jan. 15	Feb. 15
3,460	3,925	8,045	13,905	14,690	21,790

One of the reasons for the increase since 2013 is the fact that, as a result of the normalisation of relations with Serbia, citizens of Kosovo can now easily travel to and through Serbia. In Serbia, people smugglers help them to cross illegally into Hungary. Many are detained in Hungary (in violation of EU law) and submit an asylum claim to avoid instant deportation. Others succeed in reaching Germany, which is the preferred destination country, followed by France, Austria (in 2014), Sweden and Belgium (declining).

Main destination countries for asylum seekers from Kosovo

	2009	2010	2011	2012	2013	2014
EU	14,275	14,310	9,880	10,210	20,225	37,865
Hungary	1,785	380	210	225	6,210	21,455
Germany	1,900	2,205	1,885	2,535	4,425	8,920
France	4,580	5,285	3,240	3,715	5,550	2,735
Austria	1,305	610	340	310	935	1,905
Sweden	1,235	1,715	1,320	1,045	1,270	1,480
Belgium	2,515	3,230	2,320	1,740	1,270	840

The recent peak took place against the background of a dire economic situation in Kosovo including the lack of jobs, the onset of winter, rumours of work possibilities in Germany, and a lack of information about the status of irregular migrants and the chances to obtain asylum in the EU. It also appears that the departure of the first groups had a snowball effect, triggering more departures.

The recognition rates (refugee status and subsidiary protection) of asylum claims by Kosovars in the EU have been slightly higher than the WB5 rates, but are still low. In 2014, the rate was 5.5 percent, and in the previous years it was between 2.8 and 4.6 percent.⁵²

It appears that in this case too, a short asylum procedure can be a means to reduce claims.

Since 18 February 2015, case workers of the German asylum office (Bundesamt für Flüchtlinge and Migration, BAMF) in the four most affected *Länder* work only on Kosovar claims, which are decided within two weeks at the most.⁵³ In mid-March two other *Länder*

⁵² The recognition rate in 2013 was 2.8 percent; 2012: 4.6 percent; 2011: 4.2 percent; 2010: 3.5 percent; and 2009: 4.6 percent. The number of people accorded a permission to stay for humanitarian reasons was between 115 and 220.

⁵³ Information provided to ESI by the BAMF, 11 March 2015.

followed suit. (In 2014, the length of the first-instance asylum procedure was 3.7 months, and in cases of appeal, 9.5 months.⁵⁴) This focus and the resulting short procedure are yielding results. On 20 March 2015, the BAMF declared that while 1,400 Kosovars arrived in Germany every day in early February, the number of arrivals had dropped to 100 to 200 per day.⁵⁵

Switzerland introduced the 48-hour procedure for Kosovar citizens on 25 March 2013⁵⁶ and saw claims drop in 2014 to the lowest level since Kosovo's independence.

Claims by Kosovar citizens in Switzerland

2009	2010	2011	2012	2013	2014
695	600	660	585	700	405

In France, Kosovo has been twice added to France's list of safe countries of origin, and twice taken off again following court rulings since 2011.⁵⁷

The procedure for citizens of safe countries takes less than two months, and the regular procedure some six months.

If one disregards the two months following a decision, an analysis of the monthly numbers of claims shows that they were more than two times higher when Kosovar claims were processed in the regular procedure than when they were processed quickly:

Average monthly number of claims by Kosovar citizens in France

Procedure & period	Average number of monthly claims
Long (Jan. 2010 – March 2011)	440
Short (June 2011 – March 2012)	181
Long (June 2012 – Dec. 2013)	439
Short (March – Oct. 2014)	197

⁵⁴ [Antwort der Bundesregierung auf eine Kleine Anfrage der Fraktion Die Linke](#), (Reply of the Federal Government to a Parliamentary Question by the Linke), 28 January 2015.

⁵⁵ BAMF website, [Kosovo: Asylanträge sinken](#) (Kosovo: asylum claims are dropping), 20 March 2015.

⁵⁶ Swiss Justice and Police Department, [48-Stunden-Verfahren wird auf Kosovo und Georgien ausgeweitet](#) (48-procedure extended to Kosovo and Georgia), 26 March 2015.

⁵⁷ Kosovo was added to the list of safe countries of origin on 27 March 2011 ([Letter by the French Interior Ministry to the prefectures](#), 26 March 2011), taken off on 4 April 2012 ([Letter by the French Interior Ministry to the prefectures](#), 4 April 2012), added on 29 December 2012 ([Letter by the French Interior Ministry to the prefectures](#), 2 January 2013), and taken off on 17 October 2014 ([Letter by the French Interior Ministry to the prefectures](#), 17 October 2014).

Overview: WB5 asylum claims in the 28 EU member states⁵⁸

	2009 (Visa required for all WB5)	2010 (Serbia, Macedonia, Montenegro visa-free)	2011 (All WB5 visa-free)	2012	2013	2014
Germany	1,450	10,815	9,360	22,715	33,935	53,905
France	2,095	2,490	2,365	5,505	7,280	4,845
Sweden	965	7,380	4,875	6,410	3,930	4,230
UK (visa requirement⁵⁹)	285	260	470	1055	1,630	1,905
Belgium	1,170	4,355	5,195	4,470	2,075	1,805
Austria	1,020	620	380	600	565	805
Greece	520	705	275	390	585	575
Netherlands	105	485	430	295	555	555
Luxembourg	80	205	1,585	1,435	430	515
Italy	400	1,525	375	490	460	495
Hungary	635	70	30	30	145	230
Denmark	205	305	235	660	610	205
Finland	70	195	120	235	125	185
Ireland (visa requirement)	50	20	35	45	45	100
Romania	30	10	5	20	10	25
Czech Rep.	5	10	0	10	10	25
Slovenia	75	45	20	20	15	20
Croatia	-	-	-	-	-	15
Spain	15	20	0	10	25	10
Estonia	0	0	0	0	5	0
Bulgaria	0	0	0	5	0	0
Malta	0	0	0	5	0	0
Slovakia	25	10	10	0	0	0
Cyprus	175	45	5	0	0	0
Portugal	5	0	5	0	0	0
Poland	5	0	0	0	0	0
Latvia	0	0	0	0	0	0
Lithuania	0	0	0	0	0	0
EU total	10,055	29,725	26,030	43,275	52,535	70,465

⁵⁸ The data for the years 2009 to 2013 was extracted on 10 August 2014. Some of it might have changed due to corrections made afterwards. The data for 2014 was extracted on 18 March 2015.

⁵⁹ The UK and Ireland do not participate in the EU's common visa policy and have not lifted the visa requirement for WB5 citizens.

Terminology concerning international protection in the EU

Refugee status (persecution) is the highest form of international protection. Under EU asylum legislation, which is based on the 1951 UN Geneva Convention relating to the Status of Refugees and its 1967 Protocol, EU member states are committed to offering refugee status to third-country nationals that have "a well-founded fear of being persecuted for reasons of race, religion, nationality, political opinion or membership of a particular social group" in their home country".⁶⁰

Subsidiary protection (risks of serious harm) is accorded to people who face "risks of serious harm" at home, but who do not meet the UN definition of refugee. The relevant EU Directive defines "serious harm" as "(a) death penalty or execution; or (b) torture or inhuman or degrading treatment or punishment of an applicant in the country of origin; or (c) serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict."⁶¹

Humanitarian shelter: Some asylum seekers are allowed to remain in an EU country "for reasons not due to a need for international protection, but on a discretionary basis on compassionate or humanitarian grounds"⁶². As it is at the discretion of EU member states to grant this status, it is regulated by national legislation. Most often it is offered to people with medical problems that cannot be treated in their home country. Eurostat does not have complete data on it since not all member states offer it or because it is granted by authorities other than the asylum authorities.⁶³

At first instance, asylum claims are decided by administrative bodies, that is the asylum authorities. Rejected asylum seekers have a right of appeal before a court, so this is the next instance. In some EU countries, this is the final instance, while others offer the possibility of an appeal against the court decision, so there are two court appeal options.

⁶⁰ [Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted.](#)

⁶¹ *Ibid.*

⁶² *Ibid.*

⁶³ There is no data on humanitarian protection from Austria, Belgium, Bulgaria, Croatia, France, Ireland, Latvia, Lithuania, Luxembourg, Portugal and Slovenia.