



# The Schengen White List Project Compendium

The most important texts from the website  
[www.esiweb.org/whitelistproject](http://www.esiweb.org/whitelistproject)

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## About the Schengen White List Project

(20 March 2009, updated 15 June 2011)

### About the Schengen White List Project

As far back as 2003, the EU pledged to begin discussions with the governments of the Western Balkans on the reforms necessary to lift the visa requirement for entering the Schengen area. This obligation was imposed on the region in the 1990s when war ravaged former Yugoslavia and when Albania was mired in chaos.

It took five long years for the promised discussions to begin. In the meantime, Macedonia became an official candidate for EU membership, while Albania's, Bosnia and Herzegovina's, Montenegro's and Serbia's "potential candidate" status was repeatedly underlined. Their citizens, however, continued having to obtain a visa to visit the EU.

Applying for a Schengen visa is time-consuming, costly and stressful. People throughout the region perceived the visa requirement as personal rejection, unable to reconcile it with the offer of a future in the EU. This is vividly illustrated by the [stories from the \(former\) "Balkan ghetto"](#). Pro-EU reformers felt discriminated against; businesspeople despaired over the limitations that the visa obligation imposes on their companies' growth potential; young people felt imprisoned.

In 2008, the EU at last formulated a series of demanding requirements, assigning concrete "visa roadmaps" for each country – visa-free travel being the reward for meeting these benchmarks. The goal of ESI's Schengen White List Project has been to contribute to the abolition of the visa restrictions for the Western Balkans on the basis of this approach.

We wanted to make sure that the EU-led process was merit-based: strict but fair. This was the key message of the [declaration made by the Schengen White List Project advisory board](#), chaired by former Italian Prime Minister Giuliano Amato, and by ESI.

This required that the process be transparent. The *citizens* of Albania, Bosnia and Herzegovina, Macedonia, Montenegro and Serbia had to know what had been asked of their governments in order to hold them accountable for progress (or lack thereof). The *European public* deserved to know about the far-reaching reforms that the countries were undertaking in order to keep the EU safe and to prevent illegal migration, organised crime and terrorism. The process itself becomes more credible and resistant to manipulation when it is transparent.

For this reason, ESI collected all relevant documents and put them online. They include the [roadmaps, reports on activities and achievements](#) sent by Western Balkan governments to the European Commission, and the [Commission's assessments](#).

We want to thank the many officials in the EU member states, the EU institutions and in the Balkan region who shared our belief that everybody gains from transparency. Transparency gets results: it has helped produce a Balkans better integrated into the EU and more capable of fighting crime and illegal migration.

Our efforts have paid off. The visa barrier for the citizens of Macedonia, Montenegro and Serbia was lifted on 19 December 2009. The citizens of Albania and Bosnia have been able to travel without a visa to the EU since 15 December 2010. However, there is still one Western Balkan country that neither enjoys visa-free travel, nor has received a visa liberalisation process as of June 2011: Kosovo. ESI demands that Kosovo is treated like the other Western Balkan countries and is given a roadmap towards visa liberalisation (see "[Kosovo – the Balkan Ghetto](#)").

In the meantime, another problem has emerged: following visa liberalisation for the first three Western Balkan countries at the end of 2009, the number of asylum seekers from Serbia and Macedonia has increased in three EU member states. ESI has analysed the reaction of the EU and developed recommendations what the EU can do to prevent this problem (see "[Visa-free travel and Asylum](#)").

On this site, you can find many texts that document and illustrate the Western Balkans' "road to visa-free travel". You can also find excerpts from all the relevant [EU policy documents](#) and a [chronology](#) as tools for future research. Finally, we included a detailed description of the [EU legislative process](#) that is necessary for any country to enter the Schengen White List.

While continuing to work on Kosovo and the asylum issue, ESI's attention is also turning to Turkey (see "[Turkey-the European promise](#)") and Moldova and Ukraine (see "[The EU's Eastern partners-the vision](#)"). Over the coming months, ESI's website on Europe's Border Revolution and the Schengen White List Project ([www.whitelistproject.eu](http://www.whitelistproject.eu)) will expand further.

#### The Schengen White List team:

**Gerald Knaus**, ESI chairman  
**Alexandra Stiglmayer**, project director and ESI Senior Analyst  
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Gerald Knaus – Alexandra Stiglmayer – Kristof Bender – Angela Longo – Christian Atfuldisch – Martin Chatel



Kristóf Gosztonyi – Besa Shahini – Verena Knaus – Gledis Gjipali – Blerta Hoxha – Ditmir Bushati



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At <http://www.esiweb.org/index.php?lang=en&id=342>



First board meeting and brainstorming of the White List Project in Rome in February 2009

## **Strict but fair – The Declaration (19 March 2009)**

In the 1990s, Europe underwent a fundamental transformation: in the East, democracy and market economy replaced communist dictatorships, and the continent began to grow together once again. The political reunification culminated in the abolition of border controls: the Schengen Area now includes most of Central Europe.

During this period, the citizens of the Western Balkans had a very different experience. Yugoslavia fell apart. War, displacement and economic hardship became a daily routine. Sanctions busting and the smuggling of arms, drugs and people all flourished. The people of Albania fared only slightly better, their country descending into chaos in 1997.

For outsiders, the Balkans became synonymous with refugees and crime. To close borders and to restrict travel through visa requirements was a natural response for the EU. The citizens of former Yugoslavia, accustomed to free travel, suddenly found themselves confined.

Today the Balkans are changing. A decade has passed since the last regional war, in Kosovo. Reforms in the security and judicial sectors are making it increasingly difficult for criminals to operate. Whereas in 1997 foreign troops had to be dispatched to Albania to restore order, in 2009 Albania is joining NATO. Soldiers from Bosnia's unified professional 10,000-strong army, meanwhile, contribute to peace-keeping missions around the world.

As the Balkan region is turning from a security consumer to a security provider, it is high time to take another look at the EU visa regime. It was put in place under very different circumstances. Conditions have changed. Will the visa regime?

For the last two decades, Albanians, Bosnians and Herzegovinians, Macedonians, Montenegrins, Kosovars and Serbs have dreamt about being able to travel to the rest of Europe without a visa, like most of them did as Yugoslav citizens in the 1970s and 1980s. Today, this vision might become reality.

The EU has recently taken encouraging steps. It has outlined close to 50 conditions that the Western Balkan countries need to meet to join the Schengen White List. It has dispatched experts to the region to assess progress. This suggests that it is now in the hands of Balkan politicians to obtain the prize of visa-free travel – and that the EU has an interest in seeing them succeed.

The EU's conditions are demanding. To meet them requires money and effort. But their fulfilment will make the whole of Europe, not just the Western Balkans, safer. Having

well-secured borders, regulated asylum procedures, forgery-proof passports and police structures able to cooperate with law enforcement agencies throughout Europe is a good in itself. It is cooperation, not exclusion, which works best in fighting organised crime and illegal migration.

We strongly support the visa liberalisation process, which creates real incentives for Western Balkan countries to undertake EU-guided measures that are effective in enhancing the security both of their own citizens and the EU's. The process also promises to mobilise support in the Balkans for a wider European reform agenda and to enhance the EU's credibility in the region.

We call on leaders in the Western Balkans to carry out the required reforms. We are glad to see civil society in the region increase efforts to monitor progress. We call on EU leaders and institutions to take this process seriously. The EU must not postpone rewarding countries that have made serious efforts to meet its demanding conditions. **It is appropriate for the EU to be strict; it is incumbent upon it to be fair.**

- Giuliano Amato**, chairman of the White List Project Advisory Board, former Italian prime minister and interior minister
- Charles Clarke**, former UK Home Secretary
- Misha Glenny**, author of "McMafia: Crime without Frontiers" and several books on the Balkans
- Gerald Knaus**, ESI chairman
- Radmila Sekerinska**, chairperson of the National Council for European Integration of Macedonia, former deputy prime minister of Macedonia
- Otto Schily**, former interior minister of Germany
- Alexandra Stiglmayer**, director of the White List Project, ESI senior analyst

Special guests at board meetings:

- Milica Delevic**, Head of the European Integration Office of the Serbian Government (Istanbul, July 2009)
- Tanja Fajon**, Member of the European Parliament, rapporteur for the Western Balkans visa liberalisation process (Berlin, November 2010)
- Heather Grabbe**, former senior adviser to the European Commissioner for Enlargement (Rome, February 2009)
- Bajram Rexhepi**, Kosovo Interior Minister (Berlin, November 2010)





Giuliano Amato – Charles Clarke – Misha Glenny – Gerald Knaus  
Heather Grabbe – Radmila Sekerinska – Otto Schily – Alexandra Stiglmeier  
Tanja Fajon – Bajram Rexhepi – Milica Delevic

## Stories from the (former) visa ghetto



Ohrid, Macedonia. Photo: flickr/CharlesFred

**Dzemil Ugarak**, 52, director and owner of Ugarak Produkt (Visoko, Bosnia and Herzegovina)

*"Embassies should have more understanding for a company like mine..."*

**Sanja Kostovska**, 25, researcher (Skopje, Macedonia)

*"I was upset by the humiliating and suspicious attitude of the consular staff."*

**Dejan Anastasijevic**, 47, journalist (Belgrade, Serbia)

*"Unbelievably, the question of Mr. Solana's invitation arose again..."*

**Mirela Shaqiri (pseudonym)**, 28, travel agent (Tirana, Albania)

*"I had to organise my trip three months in advance..."*

**Stanislavka Radulovic**, 33, marketing director at Jastreb (Podgorica, Montenegro)

*"I not only missed out on an interesting trip, but also lost 320 EUR."*

**Lejla Cakic**, 28, student of social work (Sarajevo, Bosnia and Herzegovina)

*"You never know how difficult it will be to get a visa..."*

**Gledis Gjipali**, 27, project manager (Tirana, Albania)

*"I will again have to apply for a visa, wasting time, money and dignity."*

**Theatre 007** (Skopje, Macedonia)

*"We did not even get a day or two extra, in case of an emergency."*

**Biljana M.**, 24, BA in political science (Belgrade, Serbia)

*"I have wasted almost a year of my time, and quite a lot of money..."*

**Hil Nrecaj**, 35, lawyer (Pristina, Kosovo)

*"They were asked why they couldn't just come and visit me in Kosovo..."*

**Travel to Europe** (students from the Western Balkans)

*"We have to be able to know these places that we can now only imagine, or which we have seen on electronic or print media..."*

At <http://www.esiweb.org/index.php?lang=en&id=344>

**Dzemil Ugarak, 52, director and owner of *Ugarak Produkt*  
Visoko, Bosnia and Herzegovina**

*"Embassies should have more understanding for a company like mine..."*



"My company produces PVC and aluminium windows and facades. We import raw materials and export our products to the EU. We have five trucks to do that, and altogether we have 76 employees. On average, we need 12 to 15 visas every year: for our drivers, but also for the technicians who have to show our European clients how to install our products.

"To get a visa is not cheap. First, there are some direct financial costs: at least 70 KM (35 EUR) per visa, this includes 25 EUR for the mandatory travel health insurance and 10 EUR for the Foreign Trade Chamber to support, in writing, the driver's request, or, if a technician is travelling, to endorse the invitation from the host company. But what costs me more is the time that my workers spend on getting a visa.

"They need to go to the embassy in Sarajevo twice – once to hand in the application, and once to pick up their visa. Each time, they need to drive from Visoko to Sarajevo (28km) and back again, which takes an hour by bus each way. If they go by car, we have to pay parking fees, which are considerable, up to 15 EUR. They need to wait at the embassies, which can take many hours. In the end, a visa easily costs me two working days per employee.

"And the pile of documents that is required! An application form, two photos, a passport plus a photocopy, a workbook plus a photocopy, a document from the health and pension funds confirming that all contributions have been paid, a driving licence approved by the Ministry of Transport, the certificate from the Foreign Trade Chamber, the travel insurance, a letter of invitation from our partner company with the provision that they will pay all costs that the traveller may incur in case he is not able to pay them... They usually also want to see a CPC licence - the Certificate of Professional Competence in National/International Road Haulage, which requires a half-year course at a cost of 500 EUR - and sometimes a school diploma, too.

"Our partner in the EU is the company Rehau Profile – so we have so far needed visas from Germany and Austria. More recently, there has been interest in our products in France and Belgium. In the end, we are very cheap, even if one has to pay the transport.

"In 2008, we lost a big contract from Paris because we could not get visas for seven technicians. The client was reluctant to sign the invitation letter, which requires guaranteeing payment of all costs caused by the travellers in case they do not pay themselves. He did not know us; it would have been our first deal, so it's understandable that he did not want to sign this.

"We had an invitation letter from Rehau Profile in Austria, but neither the French Embassy nor the Austrian Embassy accepted it, because the destination of our trip was France and only a French company should issue the invitation letter for France. The mechanics were mostly young and unmarried – potential migrants, as far as they were concerned.

"It is really difficult. Personally, I think that the embassies should have more understanding for a company like mine, which has successfully operated for 12 years, never committed any offence and which is trying hard to get a foothold in the European market."

The remaining stories from the Balkan ghetto can be found at:  
<http://www.esiweb.org/index.php?lang=en&id=344>

## ESI viewpoints

### Learning from the Western Balkans experience (January 2011)

Batory Foundation Policy Brief  
By Alexandra Stiglmeier

On 19 December 2009, the EU opened its borders to visitors from three Western Balkan states, Macedonia, Montenegro and Serbia. There were celebrations in all three countries. The first groups of travelers left for the EU as soon as the new day had started. From that date on, Macedonians, Montenegrins and Serbians have been able to enter the Schengen area as short-time guests without having to obtain a visa from a consulate beforehand.

This marked the first time that the EU lifted the Schengen visa requirement in return for a pre-defined process of internal security reforms in the countries concerned. It was EU conditionality at its best. The EU insisted that the governments of the Balkan states introduce new biometric passports, improve border security, step up the fight against illegal migration, organized crime and corruption, and launch serious cooperation with EU bodies such as Europol and Frontex. The conditions were outlined in "visa roadmaps" and follow-up documents. Experts from the European Commission and the EU member states rigorously monitored, verified and assessed progress in implementation until they were satisfied that the benchmarks had been reached.

The process is an exciting new approach to border control. The role of consulates, which usually act as the first line of protection against unwanted visitors – potential illegal migrants and criminals – is substituted by partnerships with neighboring countries, which help protect the EU from such and other threats. On balance, the EU is set to gain from this approach – its external borders will be better protected.

The Western Balkan countries (without Kosovo) are the first where the new approach has been tried. The next in line are the Eastern Partners. There are also Russia and Turkey, which regularly express their desire for visa-free travel to the EU. Now there is a blueprint in place for how to make it a reality. If these countries implement the required measures, in a few years the whole of Europe could become an area of free movement. Over 800 million people would be able to travel across the continent with few restrictions or formalities.

#### How it all began

This promising new policy is the result of a series of initially unrelated events and the longing of the people of the Western Balkans for visa-free travel.

Most were citizens of former Yugoslavia who could travel almost anywhere freely, so they were hit hard when EU countries imposed visa requirements during the violent disintegration of their country. While the visa requirement for Slovenia and Croatia was lifted again after a short while, it was kept in place for the other Yugoslav successor states: Bosnia and Herzegovina, Kosovo, Macedonia, Montenegro and Serbia. Albanians, too, suffered under a visa obligation imposed in 1992 due to social unrest and economic collapse in their country.

As soon as the situation stabilized, all the Western Balkan governments started lobbying the EU, which had developed a common visa policy in the meantime, for abolition of the visa requirement. An initial promise was made at the 2003 EU/Western Balkan Summit in Thessaloniki:

*"We acknowledge the importance the peoples of the Western Balkans attach to the perspective of liberalisation of the EU's visa regime towards them. We recognise that progress is dependent on implementing major reforms in areas such as the strengthening of the rule of law, combating organised crime, corruption and illegal migration, and strengthening administrative capacity in border control and security of documents. The Western Balkan countries welcome the intention of the Commission to hold discussions, within the framework of the Stabilisation and Association Process, with each of them, regarding the requirements for how to take these issues forward in concrete terms."*

However, there was no serious follow-up. Some EU foreign ministers were willing to think about a change in visa policy given that all Western Balkan countries were considered potential candidates for EU membership. However, EU interior ministers clung to the visa requirement.

The threat of organized crime and illegal migration from the Balkans, they believed, was still very real – and the visa obligation was keeping it at bay in their opinion.

### **Readmission and visa facilitation agreements**

Meanwhile, amendments to the EU Treaty that entered into force in 1999 authorized the European Commission to negotiate readmission agreements on behalf of the EU. Such agreements envisage not only the deportation of citizens of the country with which the EU has concluded such a readmission agreement – for example, Albania – if they are found to be illegally residing in a EU member state; but also of nationals of other countries and stateless persons who have entered the EU via Albania's territory, if the EU can prove this.

Not surprisingly, hardly any government was keen on concluding such an agreement with the EU. To make readmission agreements more attractive, an incentive was needed. The EU found it in visa facilitation – a slightly simplified procedure of receiving a Schengen visa, within a 10- day deadline, at a lower cost, and with more possibilities to obtain multiple-entry visas.

The first country with which the EU started negotiating readmission and visa facilitation agreements as a package in 2003 was Russia. A year later, the same deal was offered to Ukraine, and in 2004/2005, the EU decided officially to make visa facilitation part of its readmission policy, "based on a case by case assessment of third countries, while bearing in mind the EU's over-all relationship with candidate countries, countries with a European perspective and countries covered by the European Neighbourhood Policy as well as strategic partners."

That "countries with a European perspective" were mentioned was the result of a determined campaign by the friends of the Western Balkans inside the European Commission and among EU member states. Their main argument was that it would be counterproductive to relax the visa regime with the EU's neighbors in the East, but not with countries that were official or potential candidates for EU membership. For many EU interior ministries it was not easy to agree to modify the hitherto "untouchable" visa requirement for the Western Balkans, in this case Albania, Bosnia, Macedonia, Montenegro and Serbia. The discussions were heated and protracted. However, in the end the interior ministers gave in. This made it much easier to agree on visa liberalization later on.

As it happens, the Western Balkan countries did not rejoice when the Commission came to make the offer, fearing that it would replace visa liberalization, their actual goal. When the Commission approached Macedonia as the first country in early 2006, the government in Skopje demanded that the EU commit in writing that visa facilitation was "a first concrete step towards the visa free travel regime." The phrase was to figure in the preamble to every visa facilitation agreement with the Western Balkan countries. Now, functioning readmission agreements (and to a lesser extent visa facilitation agreements) are the precondition for any talks on visa-free travel with the EU.

The visa facilitation and readmission agreements with the five Western Balkan countries entered into force on 1 January 2008, the same day as the agreements with Ukraine and Moldova. To the surprise of many, the Council launched a visa liberalization process with the Western Balkans four weeks later.

### **The turning point**

During the 2006/2007 negotiations of the visa facilitation and readmission agreements with the Western Balkan countries, the European Commission and a growing number of EU member states realised that visa facilitation could only be an interim solution and that it was time to offer the Western Balkans more.

There were several reasons for this change of heart. Above all, the EU began to acknowledge that it was absurd to keep emphasizing the Western Balkans' European vocation, but to subject their citizens to a stressful, time-consuming, and often expensive procedure to enter the EU – which it remained even with visa facilitation. EU interior ministers also realized that the threats of migration and organized crime were diminishing as normalcy and the rule of law were returning to the Balkans.

Slovenia, which was due to take over the EU Presidency in the first half of 2008, decided to champion the cause of visa liberalization for the Western Balkans. Having already started to work on the issue in 2007, it secured the support of the Commission and managed to negotiate Council conclusions that backed concrete efforts to achieve visa-free travel.

In November 2007, the European Commission proposed a visa liberalization process based on a roadmap that would outline a number of conditions the countries would have to meet. The conditionality was important to obtain the support of the interior ministries:

*"[...] the Commission proposes to open a dialogue with each of the countries concerned with a view to establishing a road-map on the conditions to be met. These would cover effective implementation of readmission agreements, as well as progress on key areas such as border management, document security, or the fight against organised crime. Such road-maps will allow the countries concerned to better focus their reform efforts, while also reinforcing the visibility of the EU's commitment to the peoples of the region."*

The first dialogue, with Serbia, was opened on 30 January 2008. That this happened so quickly was due to political considerations. The United Nations had failed to agree on Kosovo's future status in 2007, and it had become clear that Kosovo would declare its independence with the backing of the United States and many EU member states sometime in early 2008. The EU was looking for something to offer to Serbia in order to prevent a nationalist backlash in Serbia and to strengthen the pro-European candidate in Serbian presidential elections that took place in January and February 2008. This was the prospect of visa-free travel.

On 28 January 2009 the Council kick-started the visa liberalization process with the Western Balkans.

*"The Council also welcomed the intention of the European Commission to launch soon a visa dialogue with all the countries in the region and expressed its readiness to further discuss this issue [...] with a view to define detailed roadmaps setting clear benchmarks to be met by all the countries in the region in order to gradually advance towards visa liberalisation. This would enable the Council and the Commission to closely monitor progress in necessary reforms."*

Two days later, the Commission launched the visa dialogue with Serbia.

### **The visa dialogues and the roadmaps – the process**

While the timing of the launch of the liberalization process with the Western Balkans had been determined by political considerations, the actual process was overall meritocratic. As such, it was an excellent example of EU conditionality. All countries that will go through the same process should insist that it be conducted in the same manner as with the Western Balkan countries.

During the first few months of 2008, the Commission opened visa dialogues with all the Western Balkan countries and presented visa roadmaps to all five. The last to receive a visa roadmap, on 5 June 2008, was Bosnia and Herzegovina.

The roadmaps<sup>10</sup> were almost identical, listing nearly 50 individual benchmarks, the same for all countries. However, the language of each differed slightly depending on existing legislation, practice and implementation records. The criteria were divided into four blocks (see text box). The conditions listed under blocks 1 to 3 were part of the Justice and Home Affairs (JHA) acquis, while block 4 – on access to documents, prevention of discrimination and protection of minorities – was created on an ad hoc basis.

### **The benchmarks listed in the visa roadmaps for the Western Balkans**

**Block 1: Document security** – Machine-readable biometric passports in accordance with EU and ICAO standards; secure personalization and distribution process; anti-corruption training programmes for officials; reporting to Interpol's Lost/Stolen Passports Database; secure breeder documents and ID cards.

**Block 2: Illegal migration including readmission** – Integrated Border Management; appropriate legal framework; fully equipped borders; anti-corruption training programmes for officials; working agreement with FRONTEX; legislation on carriers' responsibility; appropriate asylum legislation and related procedures and facilities; monitoring of migration flows; returnee

reintegration strategy; measures against illegal migration; law on foreigners; expulsion of illegal foreigners.

**Block 3: Public order and security** – Strategy and action plan on organized crime, corruption, human trafficking, money laundering, financing of terrorism and terrorism; anti-drug policy; implementation of UN and Council of Europe Conventions and GRECO recommendations; judicial cooperation in criminal matters at international, EU and regional levels; working relations with Eurojust; law enforcement cooperation and exchange of information nationally and at regional and EU levels; use of operational and investigative measures to fight cross-border crime; operational cooperation agreement with Europol; personal data protection legislation.

**Block 4: External relations and fundamental rights** – Freedom of movement for all citizens; access to travel and ID documents for all citizens, IDPs and refugees; anti-discrimination legislation; law on citizenship/specified conditions for acquiring citizenship; investigation of ethnically motivated incidents in the area of freedom of movement; protection of minorities.

In addition, the visa roadmaps require:

- full implementation of the readmission agreement;
- full implementation of the visa facilitation agreement;
- a “decreasing trend in the refusal rate, which should progress towards 3% for visa [applications] and 1,000 persons per year refused for entry into the common Schengen area” (however, this request was later dropped since the EU did not manage to obtain in time the relevant information);
- measures to implement EU travel bans.

Following the handover of the roadmaps, each of the countries set up a task force and mechanisms to implement the requirements. The requirements were broken up into individual tasks that were given to the relevant departments, which were placed under a common umbrella and given deadlines.

As a first step, the Commission asked each country to provide a “readiness report”, 11 outlining the state of implementation of every roadmap requirement, by 1 September 2008. Based on this information, the Commission issued its assessments 12 on 24 November 2008. The assessments identified not only progress but also shortcomings and steps that needed to be taken to reach the relevant benchmarks, and they asked for further clarifications. Macedonia, a candidate for EU membership since 2005, was the most advanced country, next came Montenegro and Serbia, and Albania and Bosnia were the least advanced.

As the next step, while the countries were sending additional information to Brussels, the Commission organised assessment missions on the ground. Between January and March 2009, there were seven missions for each country: one for block 1, three for different aspects under block 2, and another three for different aspects of block 3. The criteria mentioned in block 4 were discussed in meetings. The field missions included experts nominated by the EU member states.

This had been agreed from the outset to reassure the EU member states. In the area of justice and home affairs issues, such peer reviews are standard practice to build confidence as the issues at stake are sensitive.

On 18 May 2009, the Commission issued updated assessments that included findings from the expert missions. The overall picture remained the same. Macedonia was in the lead, Montenegro and Serbia were doing quite well, albeit with room for improvement, and Albania and Bosnia still had some work to do. Based on these assessments, the Commission proposed on 15 July 2009 visa-free travel for Macedonia with no further conditions; and for Serbia and Montenegro on condition that they reach three remaining benchmarks each in the coming months. Albania and Bosnia received letters specifying the areas they should focus on, and were asked to provide new progress reports by 1 October 2009.

This sequence of events – Commission sets conditions, government outlines progress, expert mission verifies situation, Commission issues assessment – was completed for Montenegro and Serbia in 2009. Bosnia and Albania went through it two more times, from December 2009 to September 2010. In November 2010, the Council was due to abolish the visa requirement for these two countries after the European parliament had already voted in favor of it in October. The only

Western Balkan country that remains missing is Kosovo, which, however, should be offered some kind of visa liberalization process soon.

The EU's approach to visa liberalization has proved to be very successful. Western Balkan officials and governments involved in the process<sup>13</sup> told ESI that they appreciated the clarity of the conditions and the dynamism of the whole process. When benchmarks were not clearly defined, the Commission was always ready to provide further explanations. The Commission also helped identify relevant EU funding – mostly under the Pre-Accession Instrument (IPA) – that would help the countries finance some of the more expensive measures. The deadlines that the Commission set drove the process forward.

The regatta principle produced healthy competition. However, this only worked because ESI's Schengen White List Project succeeded in creating transparency and accountability. We systematically collected all documents related to the process, from the initial roadmaps to the European Commission progress assessments, and published them on the Internet. The Commission and EU member states had planned to conduct the process behind closed doors, which would have allowed for unfair deals and excluded civil society and the public from following and monitoring it.

The case of Bosnia illustrates why transparency and a dose of competition were necessary. In May 2009, ESI published the Commission assessments of 18 May 2009 and an "ESI scorecard" comparing the countries' progress. These documents showed that Bosnia and Albania trailed behind, with no chance to obtain visa-free travel in 2009 like the other three countries. In Bosnia, this served as a wake-up call. The media and the public started to ask why Bosnia was so far behind, putting pressure on the government. In response, the political parties agreed in June to adopt four relevant laws that had been stuck in parliament, and the government created dozens of new working groups to implement the roadmap requirements. Bosnia's implementation record quickly began to improve.

Competition could also play a positive role in Eastern Europe. While there are significant differences in the technical preparedness of the six Eastern Partner countries, the two countries that are at about the same level are Moldova and Ukraine. They have just received "action plans for visa liberalisation" (roadmaps under a different name) – Ukraine in November 2010 and Moldova in January 2011. If there is enough transparency, they will compete with each other, which will speed up implementation. And once Georgia's visa facilitation and readmission agreements with the EU go into effect and the country embarks on visa liberalization, it will certainly try to catch up with Ukraine and Moldova, making it the third contender. This will make for a good regatta.

### **Visa-free travel in practice**

The first ten months of visa-free travel for Macedonia, Montenegro and Serbia appear to have gone smoothly. Apart from a few isolated incidents, travelers from the Balkans have not experienced problems at EU borders. Initial data from the three countries indicated that there had been only a small increase in trips to the EU during the first few months, possibly due to the economic and financial crises that have hit the Balkans. This may have changed over the summer.

The emotional gain is enormous. According to a survey conducted by the Serbian government in December 2009, 57% of respondents saw visa liberalization as "the opportunity to travel freely even if I would not travel in the near future" and 43% said that the freedom to travel gave them "a feeling of dignity" and "self-respect".

However, there were also developments that gave some EU member states cause for concern. In January 2010, citizens from Macedonia and Serbia, most of them Albanians from poor regions, began to arrive in Belgium in higher numbers than usual to request asylum. A similar development took place in Sweden – there, it was mostly Serbian citizens of Roma background. Altogether, 998 people from Serbia and Macedonia applied for asylum in Belgium in January-March 2010, compared with 715 during the whole year of 2009.<sup>16</sup> In Sweden, 1,515 Serbian nationals applied during the same period, compared with 567 during the whole year 2009. EU governments became nervous. Had it been a mistake to lift the visa obligation?

In the end, the problem was quickly resolved thanks to smooth cooperation between the Belgian, Swedish, Macedonian and Serbian authorities. The most important measure they took was to inform the asylum seekers in the EU as well as potential asylum seekers in Serbia and Macedonia that their chances to be granted any kind of protection in Belgium and Sweden were minimal. Belgium also offered free transport home. Had it not been for visa-free travel, it is doubtful

whether the Western Balkan governments would have made any effort to inform their citizens about asylum practices in the EU. (In September 2010, the number of Serbian asylum seekers in Sweden started to rise again. It is to be hoped that the Serbian government will react again.)

### **Conclusions**

The new approach – internal security reforms in the countries neighboring the EU and partnership with them instead of strict visa regimes – will improve the EU’s image and its leverage in the countries concerned. It will also lead to improved protection of the EU’s external borders. It is therefore important that the EU continue with this approach not only in Eastern Europe, but also in Turkey and Russia.

The Western Balkans countries have shown that the “visa roadmap approach” works. They have reacted to the carrot of visa liberalization, prioritized implementation and proven that the necessary reforms can be achieved. This does not mean that corruption and organized crime have been eliminated. It does mean, however, that the countries of the Western Balkans have established new and stronger mechanisms, which should yield results over time. They are monitoring migration flows, dealing with asylum seekers, and respecting their obligations towards readmitted persons. They have concluded working agreements with EU agencies such as Frontex, Europol and Eurojust, and they are cooperating with EU member states on a range of judicial and criminal issues. All these processes should produce better results than the screening of visitors that consulates used to conduct.

## France backtracking on EU promise to the Balkans? (29 September 2010)

By Gerald Knaus and Alexandra Stiglmeier

29 September 2010

**This opinion piece is also available in Albanian, Bosnian-Croat-Serbian, and French.**

**Update: Good news for Albania and Bosnia (1 October 2010)**

On 14 September the European Commission reported that Albania and Bosnia had done all that the European Union had asked them to do to qualify for visa-free access to the Schengen area. This was the official acknowledgement of more than two years of hard work and difficult reforms.

Macedonians, Montenegrins and Serbs have benefited from travel to the EU without any restrictions since last December. All that now separates Albanians and Bosnians from enjoying the same freedom by the end of 2010 are votes in the European Parliament and the Council lifting the visa barrier.

The EU's visa liberalisation process is a great example of EU soft power based on clear conditionality. In early 2008 five Balkan countries received detailed "visa roadmaps" that listed close to 50 benchmarks. The requirements ranged from secure biometric passports to well-protected borders, from new mechanisms to fight organised crime and illegal migration to improved cooperation with European law enforcement agencies. The process has turned the Balkan countries into partners helping protect the EU from external threats.

Serbia, Montenegro and Macedonia met the EU's conditions in 2009. Although Bosnia and Albania lagged behind back then, they are ready now. As the Commission put it, "Albania and Bosnia and Herzegovina have taken all the necessary measures to fulfil all open benchmarks [...] and consequently can be transferred from the negative (Annex I) to the positive (Annex II) list of Regulation 539/2001."

It came as a shock, therefore, that France objected to keeping the EU's promise last Thursday. During a meeting of the Council working groups due to prepare the Council decision abolishing the visa obligation, France challenged the Commission's findings in a number of areas.

The substance of France's objections is easy to dismiss. The Commission assessments are based on hundreds of specific criteria. In order to verify progress, the Commission has conducted 30 field missions to Albania and Bosnia each over the past two years. Largely to reassure national governments, each mission has included experts nominated by EU countries. ESI's own research and analyses have showed that the Commission's assessments have been both fair and sound.

The measures taken by Bosnia and Albania are already producing results. In June 2010 Interpol's Secretary-General commended Bosnia for its leadership "in preventing dangerous criminals from using fraudulent travel documents and stolen motor vehicles to cross borders." In its latest "Trafficking in Persons Report", published this summer, the US State Department moved Bosnia into the top category of countries effectively fighting human trafficking. (Croatia is the only other Western Balkan country included in this category; seven EU member states are ranked lower.) In Albania, the number of first-instance convictions for organised crime increased from 317 in 2008 to 446 in 2009. This year, Albania's public procurement agency was the second winner of the UN award for improving transparency, accountability and responsiveness in the public service.

For France to challenge the Commission findings and to argue that Bosnia and Albania should not receive in 2010 what Serbia was given in 2009 is to damage the EU's already diminishing credibility in the whole region – and to suggest that in the end EU conditionality is about politics, not reforms.

A number of possible reasons for the French shift of position are circulating. Some believe that the move is part of a French crusade against the Commission, which recently criticised the Sarkozy government over the closure of Roma camps and the expulsion of their inhabitants to Romania. Others argue that France wants to portray itself as Europe's tough policeman. There are also some who suspect anti-Muslim bias. The populations of Macedonia, Montenegro and Serbia are predominantly Christian. Albania and Bosnia-Herzegovina (and Kosovo, which has not been even given yet a visa liberalisation process) are majority Muslim.

The fact that such a perception would pose a major threat to European interests in the Balkans is lost on no one, not least the French foreign minister, Bernard Kouchner. In a commentary published a few months ago, Kouchner wrote:

*"The technical conditions must of course be met, but we must not allow the idea to gain currency that the Balkan Muslims are discriminated against and prevented from benefiting from measures from which the Serbs or the Montenegrins have, quite rightly, benefited from since the end of last year. The right to travel freely in Europe is essential to allowing the peoples of the Western Balkans to feel as full members of the entire European family."*

What are the possible outcomes of this affair? The best would be for the vast majority of EU member states and the European Parliament, which are strongly in favour of abolishing the visa requirements as soon as possible, to convince France to withdraw its objections. The French foreign ministry could chip in by warning the Elysée Palace of the enormous damage to France's image in the region if France remains opposed.

A second possibility is that the Belgian EU Presidency puts the issue to a vote regardless of French objections. As long as France stands alone, it could be easily outvoted. Even if a couple of member states join the French camp, the necessary "qualified majority" (roughly a three-quarter majority) would be reached. This would show to the region that most EU countries refuse to compromise the EU's policy of "strict but fair" conditionality.

The third and worst outcome would be for France to prevail and be joined by other EU members. In this case, the European Union would break its promise to the region. This would seriously undermine the EU's leverage at a critical moment. In Bosnia, it would discredit all those who argued in 2009 that all of the country's groups should work together to reach difficult compromises in the interest of EU integration and visa-free travel. In Albania, it would undermine European efforts bring a dose of stability to a highly polarised domestic environment. Above all, the refusal to abolish the visa requirement would send a signal of double standards.

The EU's soft power is often said to be a most powerful foreign policy tool. Yet this power depends on the credibility and consistency of the EU's policies. If the EU were to backtrack on its promise of visa-free travel, the credibility of its future efforts in Bosnia and Albania, but also in Kosovo, would suffer tremendously.

France has done a lot for the Balkan region since the Zagreb Summit in 2000. The summit itself, the first to offer the Balkans a European perspective, was initiated by then French President Jacques Chirac. The foreign minister and French intellectuals have warned against anti-Muslim prejudice in EU policies towards the Balkans.

Today, EU ambassadors will discuss the visa issue in Brussels. Their meeting is an opportunity for France to scrap its surprisingly irresponsible policy towards Bosnia and Albania.

*Gerald Knaus and Alexandra Stiglmeier founded and run the European Stability Initiative, a think-tank that has closely followed the visa liberalisation process for the Western Balkans. [www.esiweb.org/whitelistproject](http://www.esiweb.org/whitelistproject)*

*This commentary has been published, in a slightly edited version, by the [EUobserver](#).*

## Visa-free travel for Albania and Bosnia in reach (26 April 2010)

*(sent to relevant officials from the EU institutions, EU member states and Western Balkan governments, to think-tanks and to media representatives)*

26 April 2010

On 19 April 2010, the European Commission issued its detailed **assessments of progress** in Albania and Bosnia and Herzegovina with regard to conditions of the visa roadmap. This will open the door for the citizens of these two countries to travel visa-free to the European Union before the end of 2010.

The message of both reports is encouraging. Albania and Bosnia have made remarkable headway in the past year. ESI's updated **Scorecard**, which is based on an analysis of the Commission assessments, shows that today they are doing better in meeting the demanding visa roadmap conditions than Montenegro and Serbia were doing at around the same time a year ago.

- |                   |                       |                     |
|-------------------|-----------------------|---------------------|
| 1. Macedonia      | ▶ (May 2009)          | ▶ score: 1.3        |
| 2. <b>Bosnia</b>  | ▶ <b>(April 2010)</b> | ▶ <b>score: 1.4</b> |
| 3. <b>Albania</b> | ▶ <b>(April 2010)</b> | ▶ <b>score: 1.6</b> |
| 4. Montenegro     | ▶ (May 2009)          | ▶ score: 1.9        |
| 5. Serbia         | ▶ (May 2009)          | ▶ score: 2          |
| 6. Kosovo         | ▶ still missing       | ▶ score: -          |

	Albania (April 2010)	Bosnia (April 2010)	Macedonia (May 2009)	Montenegro (May 2009)	Serbia (May 2009)
<b>1. Document security</b>	1	1	1	1	1.5
<b>2. Illegal migration incl. readmission</b>	1.5	1	1.5	2	2
<b>3. Public order and security</b>	2.5	2.5	1.5	2.5	2.5
<b>4. External relations and fundamental rights</b>	1.5	1	1	2	2
<b>Average:</b>	<b>1.6</b>	<b>1.4</b>	<b>1.3</b>	<b>1.9</b>	<b>2</b>

A year ago, Montenegro and Serbia were deemed fit for visa-free travel by the Commission pending the fulfilment of a handful of still outstanding conditions. The same approach will now most likely be taken for Albania and Bosnia (see ESI's **comparison** of the open benchmarks in the four countries).

Today, the Commission will present its assessments to EU member states and tomorrow, on 27 April, to the European Parliament. Following these talks, the Commission intends to issue a legislative proposal in time for the EU-Western Balkans Foreign Ministers' Summit in Sarajevo planned for 2 June. The Commission proposal will offer visa-free travel to the two countries conditional on fulfilment of a few specific benchmarks that have remained open.

In fact, a strong case could be made in favour of giving Bosnia visa-free travel without any additional conditions. ESI already reported on the remarkable **visa breakthrough** in Bosnia that was achieved last summer. This progress has continued. Despite Bosnia's decentralised structure, its leaders have found solutions to fulfil the criteria of the roadmap. They have set up new mechanisms of coordination, cooperation and exchange of information.

However, if the Commission and EU countries decide not to offer visa-free travel to Bosnia without conditions, all the parties involved in the process should work at maximum speed to allow for the lifting of the visa barrier in the shortest possible time. This would be in the spirit of the **political declaration** that the European Parliament and the Council issued last November, urging visa-free travel for the two countries "as soon as possible".

- ▶ Albania and Bosnia can meet the outstanding conditions within a short period of time if they put their minds to it.
- ▶ This would allow the Commission to assess by July that there has been sufficient progress.
- ▶ This in turn would enable the European Parliament, which has become a co-decision maker under the Lisbon Treaty, to prepare a decision before the summer break in August.
- ▶ MEPs could then vote in the responsible committees and in a plenary session in September.
- ▶ The Justice and Home Affairs Council, whose meetings during the Belgian Presidency are scheduled for 7/8 October, 8/9 November and 2/3 December 2010, could take the final vote on 7/8 October.
- ▶ In this case visa-free travel could become a reality for Albanians and Bosnians at the end of October – 20 days after the final vote is taken, following the decision's publication in the EU's official Journal.

The slowness of the process has already led to frustrations, particularly in Bosnia. Now **images of Bosnia being walled in and comparisons to the confinement of Europeans produced by the ash cloud** circulate on the Internet. Civil Affairs Minister Sredoje Novic (a Bosnian Serb) **spoke of "particular disappointment"** by all the officials involved in meeting the roadmap criteria when they heard that they still need to meet some outstanding conditions. He also mentioned "double standards" in comparison to Bosnia's neighbours.

Every effort should now be made to live up the promise of treating visa-free travel for Bosnia and Albania with urgency. In addition it would be important for EU officials to publicly acknowledge what the two countries have achieved. In early October 2010, national elections will be held in Bosnia. Recognition of the achievements and assurance that visa-free travel is around the corner will increase popular support for the EU and give EU themes more weight in the pre-election campaign.

**Spanish Foreign Minister Miguel Angel Moratinos** and his **Italian counterpart Franco Frattini** have already commended Bosnia and Albania. When EU interior ministers meet for a Justice and Home Affairs Council on 3 and 4 June, right after the Commission plans to present its proposal, they should follow their lead; and so should all the EU foreign ministers when they come together for a General Affairs Council in 14 June.

By October, the Albanian and Bosnian visa ghettos should be a thing of the past. Then the only Balkan country under visa obligation will be Kosovo. Kosovo still needs to be given a chance to achieve visa liberalisation by receiving a roadmap.

Best regards,



Gerald Knaus,  
Chairperson of ESI



Alexandra Stiglmeier,  
Director "ESI Schengen White List Project"

## Letter to EU officials regarding Albania and Bosnia (26 February 2010)



European Commission,  
Members of the Visa Working Party and Coweb,  
European Parliament (LIBE and AFET),  
Council Secretariat,  
Selected representatives of the media

Brussels/Boston, 26 February 2010

Dear Madam/Sir,

It was very good news for the Western Balkans, as well as for the EU's policy of conditionality in the region, when the European Union decided to lift the visa requirement for Macedonia, Montenegro and Serbia in November 2009. It was also important and encouraging that the Council and the European Parliament at the same time issued a [political declaration](#) with a concrete promise to the citizens of the two countries not yet able to benefit from visa-free travel, Albania and Bosnia and Herzegovina:

*“The European Parliament and the Council express the hope that Albania and Bosnia and Herzegovina will also qualify for visa liberalisation soon. To that end, the European Parliament and the Council urge those two countries to make all efforts to comply with all the benchmarks set out in the Commission's roadmaps. The European Parliament and the Council invite the Commission to present a legislative proposal for amending Regulation (EC) No 539/2001 as soon as it has assessed that each country meets the benchmarks set out in the Commission's roadmaps, with a view to achieving visa liberalisation for citizens of those countries as soon as possible. The European Parliament and the Council will examine a proposal for amending Regulation (EC) No 539/2001 concerning Albania and Bosnia and Herzegovina as a matter of urgency.”*

In light of this promise, which explicitly refers to visa liberalisation for the two countries as "a matter of urgency" to be addressed "as soon as possible", it is disconcerting that the European Commission's current timetable effectively excludes the possibility of visa-free travel for Bosnia and Albania before the summer break, even if the two countries meet all conditions today.

This flies in the face of the declaration issued by the Council and the European Parliament. When this statement was negotiated, the target date discussed was July 2010.

The timetable also suggests that when it comes to matters of "urgency", double standards are applied to different countries in the Balkans. Most importantly, there is no good reason for the delay, except lack of political will.

Today, the last assessment mission comprising experts from the Commission and the member states will finish examining the situation on the ground in Albania. This means that by this evening all of the six envisaged missions will have completed their work. In both countries the missions have examined document security (block 1) in December, and border control and migration management (block 2) and public order and security issues (block 3) in February.

However, during a discussion in the European Parliament's LIBE Committee on Tuesday, 23 February 2010, the Commission announced that it will not present the final assessments before mid-April. A similar message was conveyed by the Commission at a meeting of the Peace Implementation Council in Sarajevo on 24 February 2010.

The consequences of this are obvious. The last JHA Council under the Spanish Presidency is scheduled for 3/4 June 2010. Even if the assessments show that Bosnia and Albania are ready for visa-free travel, the time between mid-April, when the Commissions plans to issue the assessments, and the Council meeting on 3/4 June – 6 to 7 weeks – will not enough for the Commission to draft, internally consult and adopt a legislative proposal, and for the European Parliament to do its part of the work under the co-decision procedure. This means that the June Council will be missed. (See "[The EU Decision-Making Process](#)".)

So the decision-making process will have to continue after the summer. The first JHA Council under the forthcoming Belgian Presidency is planned for 7/8 October 2010. If a decision is taken then, it can enter into force earliest 20 days later, after publication in the EU's Official Journal. So, even if Bosnia and Albania already fulfil all conditions today, their citizens will not be able to enjoy visa-free travel before the end of October 2010.

This will be one year from the time when the political declaration by the Council and the Parliament was agreed. One year is not "as soon as possible". Both the Council and the European Parliament will thus not keep their promise to the people of Albania and Bosnia.

One year is a long time to wait for a government such as Bosnia's, which has made an enormous effort to meet all the EU's conditions and achieved a remarkable success. ESI research in Bosnia in August and September 2009 showed that [Bosnia's implementation record had already reached then the levels that Serbia and Montenegro enjoyed in May 2009](#) when both were proposed for visa-free travel on condition that they meet a few outstanding requirements. The same goes for the Albanian government, which made a significant leap forward towards the end of last year reaching a similar level, [according to ESI research](#).

Most importantly, one year is also a long time for citizens who have been waiting impatiently to be able to travel freely like their neighbours.

ESI has supported the visa liberalisation process for the Western Balkans as a merit-based process based on the "[strict but fair](#)" principle. Even though the promise was given to abolish the visa requirement for Albania and Bosnia a matter of urgency, there is an unnecessary delay. This is not fair to the people of the two countries.

Fortunately, there is still an alternative to breaking this promise. Member states that have made available experts for the assessment missions can ensure that their reports reach the Commission as quickly as possible, within the next two weeks. The Commission can present the final assessments at the end of March, before Easter. This would allow it to submit a legislative proposal latest by mid-April. The European Parliament and the Council can then honour their November 2009 commitment and deal with the proposal as a matter of urgency. We believe that this is the way to go.

Once the assessments are on the table, it is also important that the two countries are evaluated solely on the basis of the visa roadmap criteria. Contrary to some ideas discussed in the corridors in Brussels, it would be deeply unfair if non-technical issues, which are not related to the roadmap conditions, influenced whether and when citizens of Bosnia and Albania will enjoy the same rights as their neighbours. This means concretely that issues such as the election date in Bosnia or the current domestic political situation in Albania should not be used as an excuse to treat the two countries unfairly.

The impression that some countries in the region are favoured, and others are treated as a matter of lesser urgency, is not one that must gain ground among the people of the Balkans.

Best regards,



Gerald Knaus,  
Chairperson of ESI



Alexandra Stiglmeier,  
Director "ESI Schengen White List Project"

## Visa-free travel in the Balkans (op-ed 6 Dec. 2009)

BY GERALD KNAUS AND ALEXANDRA STIGLMAYER

*EUOBSERVER / COMMENT - The recent EU decision to grant visa-free travel to Macedonians, Montenegrins and Serbians has brought celebrations to a region all too often trapped in gloom.*

"Europe opens its doors," announced a Montenegrin daily. "The Schengen Wall has fallen," rejoiced Serbia's public broadcaster. A Serbian airline promptly offered promotional flights to Schengen countries under the slogan "Europe for all of us".

After almost two decades of isolation, it is great news that citizens of these three countries will be able to travel without a visa to the Schengen zone from 19 December. The visa requirement was counterproductive for the EU members-in-waiting. It hampered business and created a psychological barrier that made citizens sceptical about a European future.

The EU is also getting a lot in return. As a condition of visa-free travel, the Balkan countries had to carry out far-reaching reforms in the areas of border control, passport security and the fight against organised crime, corruption and illegal migration. These measures make all of Europe safer.

However, Albania, Bosnia and Herzegovina and Kosovo are not yet part of this happy group.

With its international status still unresolved, Kosovo is the most burning issue. Until very recently, there was even no prospect of visa liberalisation for Kosovo. But last October, the Commission promised a "visa dialogue" with the perspective of eventual liberalisation, conditional on the necessary reforms. However, unlike for the other Western Balkan countries, the EU did not announce a visa roadmap setting out all the reforms that Kosovo will have to undertake. The process was left vaguer.

There are obvious reasons for beating around the bush. The Commission did not want to alienate those EU members that have declined to recognise Kosovo's independence, and who might be concerned that a visa dialogue amounted to implicit recognition, or would even open the floodgates to illegal migration.

These concerns are not justified. First, the experience with the other Balkan countries shows that a clear process centred on roadmaps with defined benchmarks has produced the swiftest reforms. Among other things, it requires a whole series of tough measures on migration control, including readmission agreements obliging the Balkan countries to take back any citizens found illegally residing in the EU. In addition, Kosovo is host to EULEX, the largest rule of law mission in the EU's history. EULEX is attempting to achieve many of the same reforms that would be set out in a road map. The conditionality in the visa liberalisation process would greatly increase its prospects of success.

Second, visa liberalisation for Kosovo can be entirely status neutral. After all, the Commission is currently in talks with Taiwan about abolishing the visa requirement, showing that international recognition and visa policy are two quite separate issues. So, there are many reasons for the EU

foreign ministers meeting on 7 and 8 December to invite the Commission now to draft a visa roadmap for Kosovo, making clear that this would be without prejudice to its status.

### **Encouraging Balkan rivalry**

The ministers could also accelerate the process of abolishing the visa requirement for Albania and Bosnia. When the EU proposed scrapping visas for Serbia, Montenegro and Macedonia last July, Albania and Bosnia were still dragging their feet on the conditions. Since then, however, they have made huge progress and will soon have ticked all the boxes. The question is thus no longer *whether* they will qualify for visa-free travel next year, but *when* next year.

There is everything to be gained from an early decision to preserve the momentum and ensure that Albanians and Bosnians do not feel discriminated against. The EU foreign ministers could set a target date for the start of visa-free travel well before the summer vacation, May or June 2010.

This would require the Commission to organise the assessment missions – there will probably be three to each country – as soon as possible. The first two are already scheduled for December, which is encouraging. Assuming a positive outcome of the mission, the Commission, Parliament and Council will then have to work swiftly to amend the relevant Regulation.

In the meantime, Serbia, Montenegro and Macedonia have to make sure that visa-free travel for the Balkans remains a success story. They must continue to press ahead with the roadmap reforms, leaving no doubt as to their continuing commitment to meeting EU standards.

They could also publicise the positive benefits of visa freedom. Is the number of Western Balkan students in the EU increasing? Is trade with the EU flourishing? Are there more cross-cultural events?

The visa liberalisation process has been an excellent example of EU soft power at work. There were very clear conditions, a rigorous process with milestones and deadlines, and a reachable, juicy carrot at the end. It created some very healthy competition among the five participating countries. When Albania and Bosnia realised last summer that they were lagging behind their neighbours, they redoubled their efforts.

There are lessons here that can be used for the wider Balkan enlargement process. Treating all countries alike in a single process, but rewarding them for their objective performance in a strict, but fair fashion, is the best way to foster national efforts to meet the demanding accession criteria. Transparent, merit-based competition works wonders, even in the Balkans. This is the kind of Balkan rivalry that citizens of the region – and across Europe – can benefit from. In fact, there cannot be enough of it.

*Gerald Knaus is the Chairman, and Alexandra Stiglmeier a Senior Analyst, of the European Stability Initiative, a think-tank that has closely followed the visa liberalisation process for the Western Balkans. More information can be found [here](#).*

## Winners, losers and the future of the Balkan ghetto (op-ed 16 July 2009)

By Gerald Knaus and Alex Stiglmeier

Yesterday, the European Commission proposed for the EU to move three West Balkan states - Macedonia, Montenegro and Serbia - from the Black onto the White Schengen List.

If the proposal is adopted by EU member states as planned before the end of this year, it will be a momentous step for the Balkan region. Macedonia was on the verge of civil war in 2001. Montenegro only became an independent state in 2006. For the citizens of all three countries, traveling visa-free to the EU from early 2010 onwards - for the first time since the collapse of socialist Yugoslavia - will be a cause for celebration. For reformers, it will be a much needed signal that their efforts are paying off.

Getting to this stage was anything but easy. The reforms required to meet the almost 50 precise EU criteria ranged from equipping border crossings to increasing document security and deepening police cooperation. As two former interior ministers, Italy's Giuliano Amato and Germany's Otto Schily, told us during a meeting of the advisory board of the ESI White List Project this week in Istanbul, such reforms make Europe safer *and* the visa requirement redundant. This is truly a win-win situation.

This is also a time of great political and economic uncertainty in the Balkans. In order for EU conditionality to deliver results, the European Commission must be *strict* when it comes to setting out conditions and *fair* when it comes to assessing progress and delivering on the EU's promises. Doing so goes a long way towards restoring the EU's credibility.

So far, so good... but incomplete.

The Commission's proposal leaves two countries - Albania and Bosnia-Herzegovina - on the Black List. It also adds Kosovo "under UN Security Council resolution 1244" to the negative list as an "entity and territorial authority not recognised as a state by at least one member state."

Influential critics in the European Parliament, led by Daniel Cohn Bendit and other European Greens, already complain that the EU is leaving some of the most fragile states, those who have experienced the worst tragedies of the last two decades, out in the cold. Is it morally justified to allow Serbian citizens in Belgrade visa free travel while denying it to the relatives of Bosniak victims of the Srebrenica genocide?

Critics are rightly concerned about a new worst-case scenario: a situation where Bosniaks, Albanians and Kosovars find themselves imprisoned inside a new, even smaller enclave. Where Bosnia is torn apart by centrifugal tendencies as Bosnian Croats and Bosnian Serbs obtain the passports of the neighbouring states, leaving Bosniaks isolated. As one Turkish paper titled today: "European Union leaves Bosnian Muslims out in the cold, once again."

At the same time, it is necessary to remember that the road to visa free travel is clearly marked out for all the countries involved. By judging all the countries by the same rules, the European Commission has made a fair proposal. Based on roadmap conditions, only those Balkan citizens who hold new biometric passports will be able to benefit from visa-free travel. Due to botched tenders, delays and lack of focus, however, BiH has delayed the introduction of such passports till

early 2010! Albania, while ahead of Bosnia, is also behind its more successful neighbours in introducing them.

ESI analysts have in recent weeks **examined in great detail the implementation record of each country**. The good news is that, given the right focus, Bosnia-Herzegovina and Albania can reach Serbia's current record on implementation within the next 12 months.

Bearing this in mind, we call on EU member states to send a signal to the citizens of both countries by moving Bosnia and Albania onto the White List now, but with the actual application of visa-free travel suspended until all conditions are met. We also call on the EU to respond to suspicions of bias through full transparency of its decision making.

While Bosnian and Albanian citizens will certainly be disappointed today, they will hardly be surprised: the **EU's score card was, after all, known for weeks already**. They know that if certain conditions are met visa-free travel is within reach. Bosnians can also see that they have many friends in Europe, who protest at the very suspicion of discrimination.

There is no such hope for Kosovars, for whom the proposal is an unmitigated disaster. For the EU's credibility in Kosovo, it is devastating.

Witness the hypocrisy: for years, when it came to repatriation, the EU considered Kosovo residents Serbian citizens according to Serbian citizenship laws. Now the Commission requires Serbia to issue entirely separate passports to all Kosovo residents. Putting a big 'K' in all passports issued to Kosovars would have been a blatant mark of discrimination. The proposal, therefore, resorts to a gimmick: all passports for Kosovo residents are to be issued by one special office (*Koordinaciona uprava*) in Belgrade – and no such passport will have visa-free access.

Consider the consequences. For years, the EU preached the value of a multiethnic Kosovo. Now Kosovo Serbs are asked to get resident status in Serbia – abandoning Kosovo – if they want to have passports that allow them to travel in Europe.

Some Kosovars who consider the idea of their citizens applying for a passport in Belgrade as a form of treason have prematurely welcomed this. They ignore the fact that the decision to exclude Kosovars in this discriminatory manner is "motivated exclusively by objectively determined security concerns", as the Commission explains, not by any emerging European consensus on Kosovo status. While many Moldovans, Turkish Cypriots or Argentineans can obtain EU member state passports (in Romania, Cyprus or Spain) based on these countries' national laws on citizenship, and then travel visa free to Europe, Kosovars holding dual citizenship cannot "in view of security concerns regarding in particular potential for illegal migration" (EC, *Explanatory Memorandum*).

What's more, the Commission does not even mention the possibility of a future roadmap for Kosovo. *All* Kosovars are seen as a security problem while *all* Bosnian Serbs can apply for Serbian citizenship, a Serbian passport, and then travel to the EU without raising any such concerns.

If adopted in its current form, the Commission's proposal undermines any notion that current EU members hold out a European perspective for Kosovo. After all, if putting Kosovo on the Black List does not require an EU consensus on its status, then neither should giving it a road map towards the White List.

"Strict but fair" conditionality has worked in Macedonia, Serbia and Montenegro. It is likely to work in Bosnia and Albania in the near future (and it is vital that civil society in Europe and the Balkans insist on transparency in the way these decisions are made). It is in the EU's interest that it also works in Kosovo.

The Commission proposal is a welcome first step. It needs to be modified, however, in order to prevent new tensions and problems.

*Gerald Knaus and Alexandra Stiglmayer are founders of and senior analysts with the European Stability Initiative, a think-tank that has been continuously monitoring the visa liberalisation process in the Balkans. [www.esiweb.org/whitelistproject](http://www.esiweb.org/whitelistproject)*

## **Visa-free travel for the Western Balkans – a win-win situation (op-ed 15 June 2009)**

BY GERALD KNAUS AND ALEXANDRA STIGLMAYER

EUOBSERVER / COMMENT - At times the Balkans can deliver a positive surprise.

Over the past year, five countries in the region have carried out fundamental reforms that will help to protect them and the EU against organised crime and irregular migration. They have introduced biometric passports, modernised their border crossing points, built reception centres for asylum seekers, established closer cooperation with Europol, Eurojust, Frontex and Interpol, and strengthened the fight against corruption and organised crime.

Most of these countries have worked with remarkable speed and determination. They have had a reason to meet close to 50 conditions set out in "visa roadmaps" issued by the European Commission last year. The ultimate reward, attractive to both citizens and leaders of these countries, is visa-free travel to the Schengen area.

The commission assessments last month noted that Macedonia has met the roadmap criteria; Montenegro and Serbia have met the majority of the conditions; and Albania and Bosnia and Herzegovina, meanwhile, will need to do more. Now the ball is in the EU's court. People across the region ask: will the EU really reward the progress made and lift the visa requirements?

The visa liberalisation process had been long in coming. Since the visa obligation was imposed on all the countries of the region except Croatia in the early 1990s, their governments had asked what they would have to do to get rid of it again.

In 2003, at the Balkan summit in Thessaloniki, they were promised discussions about the necessary reforms, but there was no serious follow-up for many years.

Thus, even though all Western Balkan countries were potential or official candidates for EU membership, their citizens have continued to queue for visas - a time-consuming, stressful and often expensive affair with no certain positive outcome. In their minds, the visa requirement has cast serious doubts on the credibility of the European perspective of their countries.

The current process was finally launched when the European Commission and a critical number of EU member states realised that the situation was to the EU's disadvantage not only for political reasons, but also from a law enforcement perspective.

### **Surrounded by EU member states**

The union needs improved co-operation with competent law enforcement bodies in the western Balkans – surrounded on all sides by EU member states - in order to fight irregular migration and organised crime more effectively.

In 2006 the EU first offered the Western Balkan countries visa facilitation (easier visa application procedures) in return for readmission agreements (which allow EU countries to return migrants found to have arrived illegally to their countries of origin or transit). This was followed in January 2008 by the current visa dialogues centred on the roadmaps.

Between January and March of this year, 15 missions comprising law enforcement experts sent by the member states, as well as commission officials, went to the western Balkans.

The experts scrutinised what had been done to advance document security, border control, migration management and public security. This was the most thorough analysis of the state-of-affairs in these areas ever undertaken. Based on the results the Commission could draw up detailed [assessments](#). To the surprise of many sceptics, the conditionality had produced results across the whole region.

### **Next steps**

What are the next steps? Now the commission must make a proposal naming the countries which should no longer be subject to a visa requirement. Afterwards the European Parliament will be consulted, and in the autumn the Council will vote on the proposal by qualified majority.

Macedonia should be granted visa-free travel since it has met the roadmap requirements. The commission should also propose placing Serbia and Montenegro on the "Schengen White List" as they have proven their political will, meeting most requirements, and still have the time, before the Council actually votes, to show their continued determination. Lastly, it would be advisable to symbolically move Albania and Bosnia and Herzegovina onto the White List, while clearly stipulating that visa-free travel will not begin for them until the commission confirms in another assessment that the two countries have met all the roadmap conditions.

The roadmap process has been a textbook example of conditionality. However, conditionality not only requires an appropriate reward and clear, detailed conditions: the reward must also be delivered when the conditions are met.

In this way, the EU will strengthen its credibility in the region, create a fertile ground for wider reforms, and encourage cross-border co-operation between ever more competent institutions to fight common threats.

### **A strong signal**

For the credibility of the process, it is important that it remains technical, based on merit. At the same time, the process has raised expectations across the region.

For this reason, EU foreign ministers meeting in Luxembourg on 15-16 June should send a clear signal that the visa liberalisation process is a priority not only for the region, but also for the EU, and that it will accelerate the decision-making process to make visa-free travel a reality by January 2010.

A strong signal is important for countries such as Macedonia where EU support has been waning; and for countries such as Serbia where the pro-European government is under pressure to deliver on its European promises. It would be also important that the EU foreign ministers reflected on how to help Kosovo, the only country that was left out of the visa liberalisation process, to qualify for visa-free travel as an incentive for Kosovo to carry out the same far-reaching reforms.

The EU talks a lot about conditionality in the Balkans. It is right to do so. Conditionality works best as long as it is credible, strict and fair and as long as the link between reforms and rewards is clearly spelt out and acted upon.

The visa roadmap story shows that there is still a lot of life in the notion of EU soft power in the Balkans. Taking the next logical step would benefit everyone, both in the EU and in the western Balkans. It is, for once, a true win-win situation.

*Gerald Knaus and Alexandra Stiglmeier are founders of and senior analysts with the European Stability Initiative, a think-tank that has been continuously monitoring the visa liberalisation process in the Balkans*

## Proposal for the way forward: letter to EU & member states' officials (1 June 2009)



Brussels/Istanbul, 1 June 2009

### **The Balkans and the Schengen White List – proposal for the way forward**

Dear ...,

In the coming weeks and months, the European Commission and the EU member states will decide which Western Balkan countries qualify for the lifting of the Schengen visa requirement. The EU's decision has the potential to restore the EU's credibility and its *soft power* in the region. It can also balance the hopes of the people in the Balkans with the concerns of those responsible for protecting the Schengen area against illegal migration and organised crime.

On the one hand, there are great expectations on the part of the governments and the citizens of the Western Balkan countries. The visa requirement has been a matter of frustration, contributing to doubts as to whether the Western Balkans' European perspective is real. Now, however, renewed enthusiasm and hope have appeared.

On the other hand, EU governments have stressed the importance of reassuring sceptical EU citizens that they will exercise fair, but strict conditionality when it comes to abolishing the visa requirement on Albania, Bosnia and Herzegovina, Macedonia, Montenegro and Serbia. The conditions were outlined in the EU visa roadmaps issued last year.

Based on what has been achieved so far (acceleration of reform efforts in the Western Balkans, numerous visits to the region by EU experts, and detailed analysis of progress by the European Commission), it is in fact possible to address both concerns – to be both strict and fair – at once.

We offer the following solution for your consideration:

#### **Macedonia**

The Commission assessments and expert reports leave no doubt that Macedonia has earned the right to visa-free travel as soon as possible, i.e. from January 2010 at the latest. Such a decision would send a powerful signal to the region that conditionality is taken seriously, and that reforms pay off.

Notwithstanding the upcoming European Parliament elections and a new Commission scheduled to take office in November, the EU institutions must make sure that a decision to amend Council Regulation 539/2001 is taken quickly.

For Macedonians to travel visa-free as of next January, the Commission must make the relevant legislative proposal within the next few weeks. The new European Parliament should then treat the dossier as a priority after the summer break, so that the Council can take the vote on it in the autumn.

### **Montenegro and Serbia**

Montenegro and Serbia still have a few conditions to meet. However, as the Commission concludes, even in areas where the two countries have not yet achieved full implementation, "a large majority" or "the majority of the benchmarks" have been met.

Given that the Council will vote on visa-free travel in five months at the earliest (at the JHA Council of 23 October), possibly even later (at the last JHA Council of 2009 on 30 November/1 December), it is advisable for the Commission to include visa-free travel for Montenegro and Serbia in the forthcoming proposal, while making sure that this is conditional on further reforms.

The next five or more months are long enough to assess whether both countries are serious about meeting outstanding requirements. If doubts persist, the Council could invite the Commission to conduct a final assessment ahead of the vote.

### **Kosovo**

The Commission and the member states must refrain from demanding that Serbia prevent residents of Kosovo from acquiring Serbian passports. One of the roadmap conditions for Serbia clearly states:

*"Serbia should ensure full and effective access to travel and identity documents for all Serbian citizens including women, children, people with disabilities, people belonging to minorities and other vulnerable groups."*

As long as Serbian governments claim, and some EU member states accept, that Kosovars are Serbian citizens (regardless of ethnicity), any open or hidden discrimination will be a breach of the principle of non-discrimination.

The EU is justified in asking for security in the process, in particular as regards the civil registries and the breeder documents that are used. But Serbia must not make the process discriminatory. As long as the EU does not offer Kosovo a visa roadmap or another process leading towards visa-free travel, it implicitly accepts that Kosovars are Serbian citizens. This means Kosovars have a right to Serbian travel and identity documents.

### **Albania and Bosnia and Herzegovina**

Albania and Bosnia and Herzegovina clearly have to do more work before they qualify for visa-free travel. Being strict is as essential to the success of this process as being fair.

The policy question now is how to ensure that both countries undertake the reforms already achieved in Macedonia, Serbia and Montenegro.

It would be counter-productive to exclude them from the current process. Seeing Serbia move ahead of it could prove destabilising for Bosnia – most Bosnian Croats use Croatian

passports, which allow visa-free travel, and an unknown number of Bosnian Serbs have acquired, or are in the process of acquiring, Serbian citizenship and Serbian passports. This would leave the Bosniaks as the only community that is subject to the visa requirement. The new Albanian government, which will emerge from the elections at the end of June, also needs a concrete prospect. For this reason it is advisable to offer both Bosnia and Albania a new timetable.

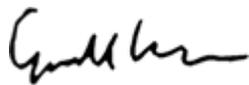
The best option would be to include the two countries in the forthcoming proposal to amend Council Regulation 539/2001 by moving them to the "white" Schengen list – but, in doing so, to stipulate that visa-free travel for Albania and Bosnia will remain pending until all conditions are met. The proposal should also include a specific date for a new assessment to be conducted by the Commission and EU national experts in early 2010.

The Council, at the same time, should continue to communicate clearly that it will take its decisions based on technical, not political, criteria – and that there will be no place in the process for discrimination or shortcuts.

It is already obvious that spelling out clear conditions has inspired reforms throughout the region that have made both the region and the EU safer. A Council decision that includes all five countries – taking note of their progress to date – will ensure that this process continues.

ESI is grateful to the Robert Bosch Stiftung for its support of the "ESI Schengen White List Project".

Many best wishes,



Gerald Knaus,  
Chairperson of ESI



Alexandra Stiglmeier,  
Director "ESI Schengen White List Project"

## Newsletter 4/2009: ESI White List Visa Project – Exclusive Scorecard of Balkan Progress (22 May 2009)

22 May 2009

### ESI White List Visa Project – Exclusive Scorecard of Balkan Progress



Young **Bosnians**: waiting for their politicians to open the door to visa free travel?

Dear friends of ESI,

This is a time for taking concrete decisions concerning visa free travel to the EU for the citizens of Western Balkan countries.

Next week, Monday, 25 May 2009, the Commission will discuss its **newest assessment reports** on the issue with EU member states' officials. For more detailed information on the assessments please look at our **exclusive Scorecard of Schengen White List Conditions** (22 May 2009).

These assessments conclude – based on the most thorough expert assessments ever undertaken in the fields of document security, border control, migration management and security – that Macedonia meets the conditions for visa-free travel, that Montenegro and Serbia meet most of the conditions for visa-free travel, and that **Bosnia-Herzegovina** and **Albania** do not (yet) meet the conditions for visa free travel.

If EU member states follow the Commission's assessments and apply the strict conditionality they have themselves defined they will offer **Macedonia** visa-free travel. As for **Montenegro** and **Serbia**, the Commission and EU member states will need to weigh whether to reward the impressive recent progress made in both countries (particularly in recent months) or whether to withhold any concrete rewards until all conditions are actually met. A third option, preferable to a negative decision, might be to make one more final assessment in these two countries before the end of July.

**Kosovo**, the sixth Western Balkan state whose citizens are required to obtain a visa to travel to the EU, is not yet included in this process leading to visa liberalisation. It risks being left behind as an isolated enclave in the region. It is not clear why the EU would wish to forego such a powerful instrument to improve policing, border controls and the rule of law in Kosovo.



**Olli Rehn, Gerald Knaus, Alex Stigmayer** discussing the Balkans



Showing the way: **Macedonian music knows no borders**

### Understanding visa liberalisation – from A to Z

ESI analysts, led by senior analyst and visa project coordinator Alex Stigmayer, and supported by Kristóf Gosztóyi have also produced a detailed glossary on visa liberalisation (**Visa Roadmap A to Z**). We are grateful to the **Robert Bosch Stiftung** for supporting this project.

This glossary explains all the key concepts and technical terms that appear in the **visa roadmaps** for Albania, Bosnia and Herzegovina, Macedonia, Montenegro and Serbia, making clear how far-reaching the reforms are that these states have to undertake to qualify for visa-free travel with the Schengen countries. It is evident that these reforms will be beneficial not only to the Balkan countries, but will also help protect the EU against crime and illegal immigration from all over the world.

In coming days we will make more information and analysis available on our website. In case of questions, please do not hesitate to contact us.

Many best wishes,

A handwritten signature in black ink, appearing to read 'Gerald Knaus'.

Gerald Knaus



Ivica Bocevski, Deputy Prime Minister of the Republic of Macedonia in charge of EU Integration – Olli Rehn, Commissioner for European enlargement

## **Interview with Ivica Bocevski, Deputy Prime Minister of Macedonia in charge of EU integration, for ESI's White List Project (19 March 2009)**

"Schengen and the Balkans: Europe, tear down this wall!"

### **1. When do you expect that Macedonian citizens will travel without a visa to the EU?**

As soon as possible. The time has come to abolish the artificial wall that separates the Republic of Macedonia from the European Union. However, we are aware of the EU procedures necessary to reach a final decision on visa liberalisation. We are calling for a decision to be made as soon as possible. We strongly believe that on the morning of 1 January 2010, Macedonian citizens will wake up in a Europe where they can travel without obstacles. This would mean a tremendous step forward on the path to uniting the citizens of Europe, as once envisaged by the bold and brave fathers of the Union.

### **2. Do you expect that EU member states will lift the visa obligation for all countries that have met the visa roadmap conditions at the end of April?**

Once countries meet the the roadmap on Visa Liberalisation benchmarks, the EU should do its part through proper evaluation, in line with the merit-based approach – so as to recommend visa free travel for countries that have met the criteria. We are aware that not all countries are performing at the same level – which is why the the Union and its member states should maintain a merit-based approach. I strongly believe that the Union and its member states should abolish the Schengen wall for all countries that meet the relevant conditions – the sooner the better.

### **3. What could be possible reasons for such a decision *not* to be taken this April for Macedonia?**

I cannot think of such a possibility. At this point, I cannot name any reason why the Union would not adopt a decision on visa liberalisation with the Republic of Macedonia. The current visa regime fails to reflect the level of cooperation between the Republic of Macedonia and the European Union. We are a candidate for EU membership; contacts between Macedonian citizens and the citizens of the EU are even greater, therefore. The visa regime only impedes further progress in relations between our country and the Union. Today, while you need only four hours to register a company and two hours to reach the EU border, our citizens need at least 4 days to obtain a Schengen visa. This is an unacceptable situation.



Ivica Bocevski speaking at a demonstration of Macedonian students in Brussels against the current visa regime (January 2009)

**4. When you meet a Minister of Interior of an influential EU country who is *not* convinced that the process of moving Macedonia onto the white list should start this year; what do you tell this Minister, how do you try to convince him or her?**

Our strongest argument is the progress made in every area of the roadmap. Since we are participating in the dialogue on visa liberalisation, the ministries involved in the process present the Macedonian case at every bilateral and multilateral meeting with representatives from the Union and the member states. Our European counterparts are noting our progress and encouraging us to produce further results. In addition to the arguments provided on the reform process, we are loudly saying that the Schengen wall is not suitable for an EU candidate country – free movement across Europe is something that is of high value for the society, especially for our young people. We are glad that we've received support from every corner of Europe, in particular from the German Minister of Interior, the French State Secretary on EU Affairs, Spanish officials, the British Minister of Europe, and so on. I am certain that our message is well received and understood by our partners and friends in Europe.

**5. Sceptics in the EU say that organised crime is out of control in the Western Balkans, and that many of the institutions and laws exist only on paper. Are they right?**

The expert mission conducted by the European Commission in the area of organised crime and corruption (in the framework of the visa liberalisation dialogue) clearly showed the progress made in our region. This time, the arguments are on our side and the EU should be well aware of it. The Schengen barrier only strengthened the power of the Balkan autocrats and this process adversely affected the consolidation of democracy and civil society in the whole region. European integration and visa free travel is the only hope for the democratic forces in the region. Some sceptics, at the beginning of the 90's, argued that the Western Balkans is a troublesome region producing crime and illegal immigration, justifying our citizens' exclusion from the Schengen zone. This assumption led to 20 years of isolation, preventing young people and students from being part of the common European space of ideas and development. There is no space for scepticism when it comes to the visa liberalisation.

## **6. How about fears of illegal migration from Western Balkan to EU countries?**

Allow me to clearly state that the current EU visa regime does not block out criminals, but common people, including students, businessmen, and researchers, all having to face humiliating procedures in front of the consulates in the early morning. We are in favour of imposing even the strictest conditions regarding migration policy and the acquiring of work permits. We are doing all of this to allow our citizens to meet Europe, to experience Europe, and to develop ties with Europe. Using the language of numbers, the last assessment by the State Department notes the progress made in the fight against human trafficking and illegal migration. The EC assessment on readmission with the Republic of Macedonia is positive, without any reservations. Moreover, Macedonia – a country of 2 million citizens – is not a threat, by any means, to the security and the migration policy of the Union. In addition, Macedonia is at the bottom of the list of states with asylum seekers.

## **7. The most recent EU commission assessments put Macedonia ahead of the other Western Balkan countries in implementing the visa roadmap requirements. Why is this so? When did Macedonia start implementing the EU Justice and Home Affairs acquis?**

Macedonian society and this generation of Macedonian politicians are firmly determined to anchor the country in the EU. As I already mentioned, our determination to provide no new arguments for further delay in the visa liberalisation process made us approach this issue seriously. When we are faced with clear benchmarks, specific deadlines and measures that are to be implemented, we always over-perform. Our efforts on visa liberalisation demonstrated the country's reform capacity and determination. In addition to fulfilling of the roadmap requirements, our government adopted a *Decision on Drafting the First National Schengen Action Plan*. In doing so, we want to send a clear message to the Union: we are committed, Macedonia is a serious partner, and we are ready to help foster a common European future.



Ivica Bocevski

## **8 . How hard has it been to meet all the visa road map requirements? How expensive? Which requirements are most difficult to meet?**

The roadmap requirements, aside from some policy benchmarks, include quite a high number of costly technical requirements. When a candidate country is trying to meet EU standards, the process requires solid planning and continuous funding over several years; and I am certain that

the Commission bears this in mind. Let me mention some statistics. Macedonian citizens are spending EUR 5 million per year on obtaining visas for Europe (excluding the most issued visa, the Greek one). Establishing a National Integrated Database for Crime Intelligence, meanwhile, costs EUR 7.5 million – and it is only one of several benchmarks requiring such an allocation. You get my point! Yet the fundamental principle of free movement for our citizens is worth all these efforts.

**9. Do you believe that the Commission and the EU member states will make an objective assessment of the implementation record?**

We believe that the Commission will provide a balanced and objective assessment. The expert missions in the country were a success. We provided all the material in advance, held regular consultation meetings, provided outstanding organisation of all the required events; we did our best in this regard. Moreover, we had a committed and reliable partner on the other side. We expect that the expert mission will confirm the preliminary report by the Commission on the significant progress made in the roadmap for visa liberalisation – and that it will recommend for the Council of the EU to lift the visa requirements for Macedonia.

**10. What would be the impact of a further delay on the citizens in Macedonia?**

Devastating! Our citizens waited for quite a long time for the Union to understand the unsustainability of its visa regime vis-à-vis Macedonia. The visa barrier is preventing contacts, impeding business, and fuelling xenophobia and radicalism, thus narrowing our citizens' horizons. An entire generation of young people has grown up without contact with their counterparts in Europe. 70% of young people in Macedonia have never visited an EU member state. Because their parents' generation experienced Europe without visa requirements, the current situation creates a catastrophic generational divide: these young people can easily fall prey to populism, demagoguery and xenophobia. Faced with calls for economic nationalism and protectionism, as well as widespread scepticism towards enlargement – the most successful policy of the Union – the EU has to answer with bolder, effective and more open leadership. It should revive the very foundation upon which Europe was built. The European idea should be kept vivid and dynamic – and every citizen in Europe should have the right to enjoy it without further delay. "Mr. Gorbachev, tear down this wall!", Reagan told the Soviet leader in 1987, signalling the collapse of communism and the end of divisions in Europe. It is now my turn to use this line. Europe, tear down the Schengen wall for our citizens!

## ESI Assessments

### ESI Scorecard – overview of all countries (22 May 2009)



### Scorecard – Schengen White List Conditions

22 May 2009

**Based on expert visits and internal assessments by the European Commission of the implementation of the visa liberalisation roadmaps by Western Balkan countries (18 May 2009)**

- |    |            |                                 |                    |
|----|------------|---------------------------------|--------------------|
| 1. | Macedonia  | <i>meets the benchmarks</i>     | <i>score: 1</i>    |
| 2. | Montenegro | <i>meets most benchmarks</i>    | <i>score: 1.75</i> |
|    | Serbia     | <i>meets most benchmarks</i>    | <i>score: 1.75</i> |
| 3. | Albania    | <i>does not meet benchmarks</i> | <i>score: 3</i>    |
|    | Bosnia     | <i>does not meet benchmarks</i> | <i>score: 3</i>    |
| 4. | Kosovo     | <i>no evaluation</i>            | <i>score: -</i>    |

Explanation: In its assessments, the Commission uses six distinct phrases to describe the countries' progress in four main areas, ranging from "meets the benchmarks" to "does not yet fully meet the benchmarks". A number was allocated to each of these phrases:

- 1 = "meets the benchmarks" *and* "generally meets the benchmarks"  
 2 = "meets a large majority of the benchmarks" *and* "meets a majority of benchmarks"  
 3 = "on the right track, but..." *and* "does not yet fully meet the benchmarks"

	Albania	Bosnia & Herzegovina	Macedonia	Montenegro	Serbia
Document security	3	3	1	1	1
Illegal migration incl. readmission	3	3	1	2	2
Public order & security	3	3	1	2	2

External relations & fundamental rights	3	3	1	2	2
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## Detailed European Commission Assessments

On 24 November 2008, the European Commission presented EU member states officials (from the Council working group on the Western Balkans and a working group on justice and home affairs) with draft assessments of the Western Balkan countries' progress in meeting the visa roadmap requirements. Judging by the Commission's assessments, the countries fell into three groups. Macedonia was the most advanced; Serbia and Montenegro made up the second group; Albania and Bosnia and Herzegovina made up the third. The assessments were based on "[readiness reports](#)" that the Western Balkan countries had submitted by September 2008. Later the Commission asked for additional information, clarifications and updates.

At the closed meeting in November, the Commission noted that it would be able to propose the lifting of visa restrictions in 2009 for the most advanced countries if the pace of reform was maintained. Enlargement Commissioner Olli Rehn made [similar comments](#). However, some member states' representatives, notably those from Germany, Spain and Belgium, objected, stating that 2009 might be premature. The Commission then invited the EU member states to nominate national experts for a series of fact-finding missions to all the Western Balkan countries. These took place between January and March 2009.

The reports from these missions, as well as additional information and updates supplied by the Western Balkan governments, [formed the basis for a new series of Commission assessments scheduled for May 2009](#). These have now been presented to the member states. These assessments conclude – based on the most thorough expert assessments ever undertaken in the fields of document security, border control, migration management and security – that Macedonia meets the conditions for visa-free travel, that Montenegro and Serbia meet most of the conditions for visa-free travel, and that Bosnia-Herzegovina and Albania do not (yet) meet the conditions for visa free travel. Kosovo, the sixth Western Balkan state whose citizens are required to obtain a visa to travel to the EU, is not yet included in this process leading to visa liberalisation and risks being left behind as an enclave in the region.

Next week, Monday, 25 May 2009, the Commission will discuss its findings with EU member states' officials. If EU member states follow the Commission's assessments and apply the strict conditionality they have themselves defined – then they will offer Macedonia visa-free travel, while (for the moment) denying it to Albania and Bosnia-Herzegovina. As for Montenegro and Serbia, the Commission and EU member states will need to weigh whether to reward the impressive recent progress made in both countries (particularly in recent months) or whether to hold out any concrete rewards until conditions are actually met in both. A third option, preferable to a negative decision, might be to make one more final assessment before the end of July.

The most problematic aspect of the current assessments is that they leave out Kosovo, the Western Balkan state where the European Union has assumed most direct responsibility. This creates problems not only for the citizens of Kosovo but also both Serbia and the EU. It is not clear why the EU would wish to forego such a powerful instrument to improve policing, border controls and the rule of law in Kosovo.

Further background information: ESI White List Project on [www.esiweb.org](http://www.esiweb.org)

	Albania	Bosnia & Herzegovina	Macedonia	Montenegro	Serbia
<b>Block 1: Document security</b>	<b>3</b>	<b>3</b>	<b>1</b>	<b>1</b>	<b>1</b>
	“It appears that Albania <u>does not yet fully meet</u> all the benchmarks specified under block 1 of the Roadmap. The issuance of biometric passports under a secure personalisation procedure could not be assessed during the period covered by this updated assessment report.” (Because too few passports issued so far.)	“It appears that Bosnia and Herzegovina <u>does not yet fully meet</u> all the benchmarks specified under block 1 of the Roadmap, inter alia due to the introduction of biometric passports foreseen only in January 2010.”	“It appears that the former Yugoslav Republic of Macedonia <u>meets</u> the benchmarks set under Block 1 of the roadmap.”	“It appears that Montenegro <u>meets</u> the benchmarks set under Block 1 of the roadmap.”	“It appears that Serbia <u>generally meets</u> the benchmarks set under Block 1 of the roadmap. Further verification is necessary concerning the issuing of breeder documents to persons residing in Kosovo and the integrity and security of the procedures followed.”
<b>Block 2: Illegal migration incl. readmission</b>	<b>3</b>	<b>3</b>	<b>1</b>	<b>2</b>	<b>2</b>
	“It appears that Albania <u>does not yet fully meet</u> all the benchmarks specified in block 2 of the Roadmap. Further progress remains to be made in particular in the areas of border and migration management.”	“It appears that Bosnia and Herzegovina <u>does not yet fully meet</u> all the benchmarks specified in block 2 of the Roadmap. Further progress remains to be made in particular in the areas of border and migration management.”	“The former Yugoslav Republic of Macedonia has made substantial progress on migration-related issues and appears to <u>generally meet</u> the benchmarks set under Block 2 of the roadmap.”	“It appears that Montenegro <u>meets a large majority</u> of the benchmarks set under Block 2 of the roadmap. Further verification is necessary on the implementation of the Law on Foreigners and additional information on a possible sustainable solution in the near future regarding displaced persons and IDPs.”	“It appears that Serbia <u>meets a large majority</u> of the benchmarks set under Block 2 of the roadmap. Further verification is necessary on the implementation of the Law on Foreigners and effective cooperation between different authorities at the boundary line with Kosovo needs to be ensured.”

<b>Block 3: Public order &amp; security</b>	<b>3</b>	<b>3</b>	<b>1</b>	<b>2</b>	<b>2</b>
	“Albania has made some progress in the area of public order and security, but it appears that it <u>does not yet fully meet</u> the benchmarks under this block.”	“Bosnia and Herzegovina has made some progress in the area of public order and security, but it appears that it <u>does not yet fully meet</u> the benchmarks under block 3.”	“It appears that the former Yugoslav Republic of Macedonia <u>generally meets</u> the benchmarks set under block 3 of the roadmap.”	“It appears that Montenegro <u>meets the majority</u> of benchmarks set under block 3 of the roadmap. Further efforts are needed regarding implementation of the legal framework, including through allocation of adequate financial and human resources.”	“It appears that Serbia <u>meets the majority</u> of the benchmarks set under Block 3 of the roadmap. Further efforts are needed regarding implementation of the legal framework, including through allocation of adequate financial and human resources.”
<b>Block 4: External rela- tions &amp; funda- mental rights</b>	<b>3</b>	<b>3</b>	<b>1</b>	<b>2</b>	<b>2</b>
	“It appears that Albania is <u>on the right track</u> to meet the benchmarks under this block. Additional efforts should be concentrated on protection of minorities and fight against discrimination.”	“It appears that Bosnia and Herzegovina is <u>on the right track</u> to meet the benchmarks under this block. Additional efforts should be concentrated on protection of minorities and fight against discrimination.”	“It appears that the former Yugoslav Republic of Macedonia <u>meets</u> the benchmarks set under block 4 of the roadmap.”	“It appears that Montenegro <u>meets a large majority</u> of the benchmarks set under Block 4 of the roadmap.”	“It appears that Serbia <u>meets a large majority</u> of the benchmarks set under Block 4 of the roadmap.”

## Grade report Macedonia (based on May 2009 assessment)

	ESI
<b>I. Visa Facilitation and Readmission</b>	
Readmission agreement	[1]
Visa facilitation agreement	no info
<b>II. Document Security, Illegal Migration, Public Order and Security, and External Relations</b>	
<b>Block 1: Document security</b>	
<b>Commission:</b> "FYROM meets the benchmarks set under Block 1" (1)	
1.1 Issue biometric passports in line with ICAO and EC standards	1-
1.2 Ensure integrity and security of the personalisation & distribution process	1
1.3 Establish anti-corruption training & ethical codes for officials (passports, visas)	2+
1.4 Report lost and stolen passports to Interpol/LASP database	1
1.5 Ensure a high level of security of breeder documents and ID cards, incl. issuance procedures	1
<b>Block 2: Illegal Migration including Readmission</b>	
<b>Commission:</b> "FYROM ... appears to generally meet the benchmarks set under Block 2" (1-)	
2.1.1 Implement legislation on movement of persons at the external borders & law on border authorities in line with the 2003 National Integrated Border Management Strategy	1-
2.1.2 Take budgetary and other measures ensuring efficient infrastructure, equipment, IT at borders	2+
2.1.3 Establish anti-corruption training & ethical codes for officials (border management)	1-
2.1.4 Conclude a working arrangement with FRONTEX	1
2.2.1 [Adopt and] implement legislation on carrier's responsibility	1
2.3.1 Implement the asylum legislation in line with internat. Standards	1-
2.3.2 Provide adequate infrastructure (reception centres for asylum seekers) & strengthen bodies responsible for asylum procedures	1-
2.4.1 Mechanism to monitor migration flows (incl. migration profile), set up responsible bodies	2+
2.4.2 Adopt and implement integration policy for migrants incl. sustainable financial & social support	2+
2.4.3 Conduct inland detection, improve capacity to investigate org. facilitated illegal migration	2
2.4.4 Implement a law on the admission and stay of third-country nationals	1
2.4.5 Ensure expulsion of illegally residing third-country nationals	1
<b>Block 3: Public order and security</b>	
<b>Commission:</b> "It appears that FYROM generally meets the benchmarks set under block 3" (1-)	
3.1.1 Complete implementation of the 2003 action plan for the fight against organised crime (in particular cross-border aspects)	2+
3.1.2 Implement the 2006 strategy for fighting trafficking in human beings & the 2006 action plan	1
3.1.3 Implement the 2005 national strategy to combat money laundering and financing of terrorism, implement legislation on confiscation of assets of criminals	1-
3.1.4 Implement the 2006 national drugs strategy, make information on drug seizures and persons involved accessible at BCPs, further develop cooperation with relevant int. bodies	1-
3.1.5 Implement legislation on preventing & fighting corruption, improve effectiveness of State Anti-Corruption Commission	2+
3.1.6 Implement relevant UN and CoE conventions as well as GRECO recommendations in the areas listed above and on the fight against terrorism	2+
3.2.1 Implement internat. conventions on judicial cooperation in criminal matters	1
3.2.2 Improve judicial cooperation in criminal matters with EU MS and regional countries	1
3.2.3 Develop working relations with Eurojust	1
3.3.1 Improve efficiency of law enforcement co-operation among relevant national agencies	unclear
3.3.3 Improve law enforcement cooperation and info exchange regionally and with EU MS	2+
3.3.4 Improve operational and special investigative capacity of law enforcement services to tackle cross-border crime	1-
3.3.5 Implement action plan to prepare signing of an operational coop. agreement with Europol	1-
3.4.1 Adopt and implement personal data protection law, set up supervisory authority	1-
3.4.2 Ratify and implement internat. conventions on personal data protection	1-
<b>Block 4: External Relations and Fundamental Rights</b>	
<b>Commission:</b> "It appears that FYROM meets the benchmarks set under block 4" (1)	
4.1.1 Ensure freedom of movement for citizens without discrimination	1-
4.2.1 Ensure access to travel and identity documents for all citizens	1-
4.2.2 Ensure access to identity documents for [IDPs] and refugees	1
4.3.1 Adopt and enforce legislation against discrimination	2+
4.3.2 Specify conditions and circumstances for acquisition of citizenship	1
4.3.3 Ensure investigation of ethnically motivated incidents in the area of freedom of movement	1-
4.3.4 Ensure that constitutional provisions on protection of minorities are observed	1
4.3.5 Implement relevant policies regarding minorities, including Roma	2+
<b>Final remark</b>	
Visa refusal rate and entry refusal rate	no info
Implementation of EU joint actions on travel bans	no info

## Grade report Montenegro (based on May 2009 assessment)

	ESI
<b>I. Visa Facilitation and Readmission</b>	
Readmission agreement	1
Visa facilitation agreement	no info
<b>II. Document Security, Illegal Migration, Public Order and Security, and External Relations</b>	
<b>Block 1: Document security</b>	
<b>Commission:</b> "Montenegro meets the benchmarks set under Block 1 of the roadmap" (1+)	
1.1 Issue biometric passports in line with ICAO and EC standards	2+
1.2 Ensure integrity and security of the personalisation & distribution process	1
1.3 Establish anti-corruption training & ethical codes for officials (passports, visas)	1
1.4 Report lost and stolen passports to Interpol/LASP database	1
1.5 Ensure a high level of security of breeder documents and ID cards, incl. issuance procedures	1
<b>Block 2: Illegal Migration including Readmission</b>	
<b>Commission:</b> "Montenegro meets a large majority of the benchmarks set under Block 2" (2+)	
2.1.1 Adopt and implement legislation on movement of persons at the external borders and on border authorities in line with action plan of 2006 Strategy on Integrated Border Management	2
2.1.2 Take budgetary and other measures ensuring efficient infrastructure, equipment, IT at borders	2
2.1.3 Establish anti-corruption training & ethical codes for officials (border management)	1
2.1.4 Conclude a working arrangement with FRONTEX	1
2.2.1 Adopt and implement legislation on carrier's responsibility	unclear
2.3.1 Adopt and implement asylum legislation in line with internat. Standards	2
2.3.2 Provide adequate infrastructure (reception centres for asylum seekers) & strengthen bodies responsible for asylum procedures	2-
2.4.1 Mechanism to monitor migration flows (incl. migration profile), set up responsible bodies	2
2.4.2 Take measures to ensure the reintegration of returnees incl. financial and social support	2
2.4.3 Conduct inland detection, improve capacity to investigate org. facilitated illegal migration	1-
2.4.4 Adopt and implement a law on the admission and stay of third-country nationals	1-
2.4.5 Ensure expulsion of illegally residing third-country nationals	1
<b>Block 3: Public order and security</b>	
<b>Commission:</b> "Montenegro meets the majority of benchmarks set under block 3" (2-)	
3.1.1 Implement action plan of the strategy to fight corruption and organised crime (in particular cross-border aspects) by strengthening the relevant law enforcement authorities	2-
3.1.2 Implement the national strategy to fight trafficking in human beings	1-
3.1.3 [Adopt] and implement legislation against money-laundering, strengthen anti-money-laundering directorate, implement legislation on confiscation of assets of criminals	2
3.1.4 Adopt and implement a national drug strategy & national drug action plan, make info on drug seizures and persons involved accessible at BCPs, develop cooperation with relevant int. bodies	2
3.1.5 Adopt and implement legislation to prevent and fight corruption in line with action plan	2-
3.1.6 Implement relevant UN and CoE conventions as well as GRECO recommendations in the areas listed above and on the fight against terrorism	2
3.2.1 Implement internat. conventions on judicial cooperation in criminal matters	1-
3.2.2 Improve judicial cooperation in criminal matters with EU MS and regional countries	2
3.2.3 Develop working relations with Eurojust	1
3.3.1 Improve law enforcement co-operation among relevant national agencies & with judicial auth.	2-
3.3.2 Set up coordination mechanism for information exchange between national agencies	2
3.3.3 Improve law enforcement cooperation and information exchange regionally and with EU MS	2-
3.3.4 Improve operational and special investigative capacity of law enforcement services to tackle cross-border crime	2-
3.3.5 Prepare for the conclusion of operational cooperation agreement with Europol	2-
3.4.1 Adopt and implement personal data protection law, set up supervisory authority	2-
3.4.2 Sign, ratify and implement internat. conventions on personal data protection	unclear
<b>Block 4: External Relations and Fundamental Rights</b>	
<b>Commission:</b> "Montenegro meets a large majority of the benchmarks set under Block 4" (2+)	
4.1.1 Ensure freedom of movement for citizens without discrimination	1
4.2.1 Ensure access to travel and identity documents for all citizens	1
4.2.2 Ensure access to identity documents for IDPs and refugees	1-
4.3.1 Adopt and enforce legislation against discrimination	2
4.3.2 Specify conditions and circumstances for acquisition of Montenegrin citizenship	1-
4.3.3 Ensure investigation of ethnically motivated incidents in the area of freedom of movement	unclear
4.3.4 Ensure that constitutional provisions on protection of minorities are observed	1
4.3.5 Implement relevant policies regarding minorities, including Roma	2
<b>Final remark</b>	
Visa refusal rate and entry refusal rate	no info
Implementation of EU joint actions on travel bans	no info

## Grade report Serbia (based on May 2009 assessment)

	ESI
<b>I. Visa Facilitation and Readmission</b>	
Readmission agreement	1
Visa facilitation agreement	no info
<b>II. Document Security, Illegal Migration, Public Order and Security, and External Relations</b>	
<b>Block 1: Document security</b>	
<b>Commission:</b> "Serbia generally meets the benchmarks set under Block 1 of the roadmap" (1-)	
1.1 Issue biometric passports in line with ICAO and EC standards	1-
1.2 Ensure integrity and security of the personalisation & distribution process	1
1.3 Establish anti-corruption training & ethical codes for officials (passports, visas)	2
1.4 Report lost and stolen passports to Interpol/LASP database	1-
1.5 Ensure a high level of security of breeder documents and ID cards, incl. issuance procedures	3+
<b>Block 2: Illegal Migration including Readmission</b>	
<b>Commission:</b> "Serbia meets a large majority of the benchmarks set under Block 2" (2+)	
2.1.1 Adopt and implement legislation on movement of persons at the external borders, law on border authorities in line with the 2006 Serbian National Integrated Border Management Strategy	2+
2.1.2 Take budgetary and other measures ensuring efficient infrastructure, equipment, IT at borders	2
2.1.3 Establish anti-corruption training & ethical codes for officials (border management)	2
2.1.4 Conclude a working arrangement with FRONTEX	1
2.2.1 Adopt and implement legislation on carrier's responsibility	1
2.3.1 Adopt and implement asylum legislation in line with internat. Standards	1
2.3.2 Provide adequate infrastructure (reception centres for asylum seekers) & strengthen bodies responsible for asylum procedures	1
2.4.1 Mechanism to monitor migration flows (incl. migration profile), set up responsible bodies	2
2.4.2 Adopt and implement National Returnee Reintegration Strategy incl. sustainable financial and social support	2
2.4.3 Conduct inland detection, improve capacity to investigate org. facilitated illegal migration	2
2.4.4 Adopt and implement a law on the admission and stay of third-country nationals	2
2.4.5 Ensure expulsion of illegally residing third-country nationals	2+
<b>Block 3: Public order and security</b>	
<b>Commission:</b> "Serbia meets the majority of the benchmarks set under block 3" (2-)	
3.1.1 Implement strategy to fight organised crime (in particular cross-border aspects) by adopting & implementing an action plan	2-
3.1.2 Implement strategy to fight trafficking in human beings by adopting & impl. an action plan	2
3.1.3 Adopt and implement strategy to fight money laundering and financing of terrorism, implement legislation on confiscation of assets of criminals	2+
3.1.4 Implement National Drug Strategy & National Drug Action Plan, make info on drug seizures and persons involved accessible at BCPs, develop cooperation with relevant int. bodies	1-
3.1.5 Implement legislation to prevent & fight corruption, set up independent anti-corruption agency	2+
3.1.6 Implement relevant UN and CoE conventions as well as GRECO recommendations in the areas listed above and on the fight against terrorism	2
3.2.1 Implement internat. conventions on judicial cooperation in criminal matters	1-
3.2.2 Improve judicial cooperation in criminal matters with EU MS and regional countries	1-
3.2.3 Develop working relations with Eurojust	1
3.3.1 Improve law enforcement co-operation among relevant national agencies	2+
3.3.2 Set up coordination mechanism for information exchange between national agencies	1
3.3.3 Improve law enforcement cooperation and info exchange regionally and with EU MS	2+
3.3.4 Improve operational and special investigative capacity of law enforcement services to tackle cross-border crime	1-
3.3.5 Prepare for the conclusion of operational cooperation agreement with Europol	2-
3.4.1 Adopt and implement personal data protection law, set up supervisory authority	1
3.4.2 Sign, ratify and implement internat. conventions on personal data protection	1
<b>Block 4: External Relations and Fundamental Rights</b>	
<b>Commission:</b> "Serbia meets a large majority of the benchmarks set under Block 4" (2+)	
4.1.1 Ensure freedom of movement for citizens without discrimination	1-
4.2.1 Ensure access to travel and identity documents for all citizens	1-
4.2.2 Ensure access to identity documents for IDPs and refugees	1
4.3.1 Adopt and enforce legislation against discrimination	1
4.3.2 Specify conditions and circumstances for acquisition of Serbian citizenship	[3+]
4.3.3 Ensure investigation of ethnically motivated incidents in the area of freedom of movement	1-
4.3.4 Ensure that constitutional provisions on protection of minorities are observed	2+
4.3.5 Implement relevant policies regarding minorities, including Roma	2+
<b>Final remark</b>	
Visa refusal rate and entry refusal rate	no info
Implementation of EU joint actions on travel bans	no info

## Grade report Bosnia & Herzegovina: Comparison May/September 2009

In May 2009, when the European Commission issued its assessments of progress achieved by five Western Balkan countries in visa roadmap implementation, Albania and Bosnia and Herzegovina came in last. Not surprisingly, the Commission did not offer them visa-free travel in its [legislative proposal](#) of 15 July. But then things started to change in Bosnia. Roadmap implementation became a priority across all institutions and political parties.

In August and September 2009, ESI and its partner organisation in Bosnia, [Populari](#), conducted research in the country, speaking to close to 40 officials. We wanted to find out if the new dynamism was producing results. It was. By September 2009, Bosnia had fulfilled more benchmarks than [Serbia](#) and [Montenegro](#) had by May 2009 – two countries that the [Commission had proposed](#) for visa-free travel on condition that they meet the last few remaining benchmarks by the time the EU member states vote on the Commission proposal (the vote was scheduled for, and took place on, 30 Nov. 2009).

ESI/Populari's comparison in table form between the state of implementation in Bosnia in May and in September 2009, and a comparison with the situation in the neighbouring countries, shows Bosnia's phenomenal progress.

[Bosnian Breakthrough – Scorecard of Visa Progress](#) (September 2009). This document is also available [German](#) and in [Bosnian/Serbian/Croatian](#)

A report describes in detail what Bosnia has done in relation to each benchmark based on the specific issues that the Commission asked the government in a letter dated 15 July 2009 to resolve.

[Bosnian Visa Breakthrough](#) – Detailed Scorecard of Bosnia and Herzegovina's results in meeting the EU Schengen White List Conditions (October 2009)  
[Letter](#) with [annex](#) from the European Commission to Bosnia and Herzegovina (15 July 2009)

## Grade report Bosnia & Herzegovina: Comparison May/September 2009

	May 2009	Sept 2009
<b>Block 1: Document security</b>		
<b>ESI/Populari assessment: BiH generally meets the benchmarks under block 1.</b>		
1.1 Issue biometric passports in line with ICAO and EC standards	3+	2+
1.2 Ensure integrity and security of the personalisation & distribution process	3+	1-
1.3 Establish anti-corruption training & ethical codes for officials (passports, visas)	3	1-
1.4 Report lost and stolen passports to Interpol/LASP database	3+	1
1.5 Ensure a high level of security of breeder documents and ID cards, incl. issuance procedures	3	2+
<b>Block 2: Illegal Migration including Readmission</b>		
<b>ESI/Populari assessment: BiH generally meets the benchmarks under block 2.</b>		
2.1.1 Adopt and implement Nat. Integrated Border Management Strategy and Action Plan	3+	1-
2.1.2 Adopt and implement legislation on movement of persons at the external borders, legislation on border authorities	2-	1
2.1.3 Take budgetary and other measures ensuring infrastructure, equipment, IT at external borders	3	2+
2.1.4 Establish anti-corruption training & ethical codes for officials (border management)	2+	1-
2.1.5 Conclude working arrangement with FRONTEX	1	1
2.2.1 Implement carrier's responsibility (in the Law on Movements and Stay of Aliens and Asylum)	1	1
2.3.1 Implement asylum legislation (in the Law on Movements and Stay of Aliens and Asylum)	2+	1
2.3.2 Provide adequate infrastructure (reception centres for asylum seekers) & strengthen bodies responsible for asylum procedures	1-	1-
2.4.1 Mechanism to monitor migration flows (incl. migration profile), set up responsible bodies	2-	1-
2.4.2 Adopt and implement national returnee reintegration strategy	3+	2
2.4.3 Conduct inland detection, investigations of org. facilitated illegal migration	3+	2
2.4.4 Implement the Law on Movement and Stay of Aliens and Asylum	1-	1
2.4.5 Ensure expulsion of illegally residing third-country nationals	1-	1
<b>Block 3: Public order and security</b>		
<b>ESI/Populari assessment: BiH meets the majority of benchmarks under block 3.</b>		
3.1.1 Implement 2006 strategy to fight organised crime and corruption (in particular cross-border aspects) by adopting & implementing the foreseen action plans	3+	2+
3.1.2 Adopt and implement strategy and action plan to fight trafficking in human beings	1-	1
3.1.3 Adopt and implement strategy to fight money laundering and financing of terrorism, implement legislation on confiscation of assets of criminals	3+	2+
3.1.4 Adopt and implement strategy and action plan to fight drug trafficking, info at border crossing points about drug seizures and persons involved, internat. Cooperation	3+	2+
3.1.5 Implement National Anti-Corruption Strategy and action plan, take additional measures	3+	2+
3.1.6 Implement relevant UN and CoE conventions as well as GRECO recommendations in the areas listed above and the fight against terrorism	3+	2+
3.2.1 Implement internat. conventions on judicial cooperation in criminal matters	2+	1
3.2.2 Improve judicial cooperation in criminal matters with EU MS and regional countries	3+	1
3.2.3 Develop working relations with Eurojust	1	1
3.3.1 Improve law enforcement co-operation among relevant national agencies	3+	2
3.3.2 Set up coordination mechanisms for information exchange between national agencies	3+	2+
3.3.3 Improve law enforcement cooperation and info exchange regionally and with EU MS	2-	2-
3.3.4 Improve operational and special investigative capacity of law enforcement services to tackle cross-border crime	3+	2-
3.3.5 Prepare operational cooperation agreement with Europol	3+	1-
3.4.1 Implement 2006 Law on Data Protection, set up supervisory authority	3+	1
3.4.2 Implement internat. conventions on personal data protection	unclear	unclear
<b>Block 4: External Relations and Fundamental Rights</b>		
<b>ESI/Populari assessment: BiH generally meets the benchmarks under block 4.</b>		
4.1.1 Ensure freedom of movement for citizens without discrimination	2-	2-
4.2.1 Ensure access to travel and identity documents for all citizens	1-	1-
4.2.2 Ensure access to identity documents for IDPs and refugees	2	1-
4.3.1 Adopt and enforce legislation on anti-discrimination	3+	2-
4.3.2 Implement law on citizenship	1-	1-
4.3.3 Ensure investigation of ethnically motivated incidents in the area of freedom of movement	2-	1-
4.3.4 Ensure respect for constitutional provisions on protection of minorities	2	2
4.3.5 Implement relevant policies regarding minorities, including Roma	1-	1-

## Grade report Albania: Comparison May/November 2009

During the summer, Albania was taking things a bit slower due to the elections in June 2009. However, the government produced an action plan on 29 July 2009, with ambitious but still realistic deadlines to meet the remaining roadmap conditions. On 16 September the new government pledged to achieve "free movement of Albanians in the Schengen area within the first year of the government mandate".

This soon translated into concentrated activities in Albania to achieve the remaining benchmarks. In October/November 2009, ESI and their partner organisation in Albania, the [European Movement in Albania](#), analysed the Albanian government's regularly updated readiness reports, including the then most recent of 2 November. Like in Bosnia's case, we came to the conclusion that Albania had achieved significant progress, bringing it to approximately the same level of implementation that Serbia and Montenegro had achieved in May 2009.

Fortunately, this has been recognised by the [European Parliament](#), EU member states (see [statement](#) attached to the [European Parliament Opinion](#) of 12 November 2009), and the European Commission. The Commission sent an EU national expert mission to Albania (and one to Bosnia, too) in December 2009 to assess progress under block 1. It plans to organise the remaining assessment missions in early 2010. Provided that Albania and Bosnia will have met all benchmarks by then, their citizens might be able to benefit from visa-free travel from around July 2010 onward.

[Scorecard for Albania](#) (one-page comparison May/October 2009). This document is also available in [Albanian](#).

[Letter with Annex](#) from the European Commission to Albania (15 July 2009)

## Grade report Albania: Comparison May/November 2009

	May 2009	Oct. 2009
<b>Block 1: Document security</b>		
<b>EMA/ESI assessment: Albania generally meets the benchmarks under block 1.</b>		
1.1 Issue biometric passports in line with ICAO and EC standards	2-	1
1.2 Ensure integrity and security of the personalisation & distribution process	3+	1
1.3 Establish anti-corruption training & ethical codes for officials (passports, visas)	3+	2
1.4 Report lost and stolen passports to Interpol/LASP database	2+	1
1.5 Ensure a high level of security of breeder documents and ID cards, incl. issuance procedures	2+	1
<b>Block 2: Illegal Migration including readmission</b>		
<b>EMA/ESI assessment: Albania generally meets the benchmarks under block 2.</b>		
2.1.1 Adopt and implement legislation on movement of persons at the external borders, legislation on border authorities in line with 2007 National Strategy of Integrated Border Management	3	2-
2.1.2 Take budgetary & other measures ensuring efficient infrastructure, equipments, IT at borders	3	2
2.1.3 Establish anti-corruption training & ethical codes for officials (border management)	2	2
2.1.4 Conclude working arrangement with FRONTEX	1	1
2.2.1 Adopt and implement legislation on carrier's responsibility	1-	1-
2.3.1 Adopt and implement asylum legislation, which is in line with internat. Standards	1-	1
2.3.2 Provide adequate infrastructure (reception centres for asylum seekers) & strengthen bodies responsible for asylum procedures	1	1
2.4.1 Mechanism to monitor migration flows (incl. migration profile), set up responsible bodies	1	1
2.4.2 Implement the 2005 National Migration Strategy and its Action Plan	1-	1-
2.4.3 Conduct inland detection, improve capacity to investigate org. facilitated illegal migration	2	2
2.4.4 Adopt and implement a law on the admission and stay of third-country nationals	1-	1-
2.4.5 Ensure expulsion of illegally residing third-country nationals	1-	1-
<b>Block 3: Public order and security</b>		
<b>EMA/ESI assessment: Albania meets a large majority of the benchmarks under block 3.</b>		
3.1.1 Adopt and implement draft strategy to fight organised crime (in particular cross-border aspects) by adopting and implementing an action plan	3+	2-
3.1.2 Adopt and implement draft strategy and action plan to fight trafficking in human beings	3	1-
3.1.3 Adopt and implement a strategy to fight money laundering and financing of terrorism, implement legislation on confiscation of assets of criminals	2-	2+
3.1.4 Implement 2004-2010 National Strategy and National Drug Action Plan, make info on drug seizures and persons involved accessible at BCPs, develop cooperation with relevant int. Bodies	2+	1-
3.1.5 Implement 2007-2013 National Anti-corruption Strategy, adopt and implement Anti-Corruption Action Plan, take additional measures	2	2+
3.1.6 Implement relevant UN and CoE conventions as well as GRECO recommendations in the areas listed above and the fight against terrorism	3+	2
3.2.1 Implement internat. conventions on judicial cooperation in criminal matters	3+	2-
3.2.2 Improve judicial cooperation in criminal matters with EU MS and regional countries	1-	1-
3.2.3 Develop working relations with Eurojust	1	1
3.3.1 Improve law enforcement co-operation among relevant national agencies	3+	2
3.3.2 Set up coordination mechanisms for information exchange between national agencies	2+	2+
3.3.3 Improve law enforcement cooperation and info exchange regionally and with EU MS	1-	1-
3.3.4 Improve operational and special investigative capacity of law enforcement services to tackle cross-border crime	2-	2+
3.3.5 Prepare for the conclusion of operational cooperation agreement with Europol	1-	1-
3.4.1 Implement March 2008 Personal Data Protection Law, set up supervisory authority	2-	1-
3.4.2 Sign, ratify and implement internat. conventions on personal data protection	1	1
<b>Block 4: External Relations and Fundamental Rights</b>		
<b>ESI/EMA assessment: Albania generally meets the benchmarks under block 4.</b>		
4.1.1 Ensure freedom of movement for citizens without discrimination	1-	1-
4.2.1 Ensure access to travel and identity documents for all citizens	1-	1-
4.2.2 Ensure access to identity documents for refugees	unclear	1-
4.3.1 Adopt and enforce legislation against discrimination	2	2+
4.3.2 Specify conditions and circumstances for acquisition of Albanian citizenship	1-	1-
4.3.3 Ensure investigation of ethnically motivated incidents in the area of freedom of movement	1-	1-
4.3.4 Ensure that constitutional provisions on protection of minorities are observed	1-	1-
4.3.5 Implement relevant policies regarding minorities, including Roma	2	2+

\*based on Albania's updated second readiness report of 2 November 2009 including all annexes. The grading system uses 3 grades, from 1 (top) to 3, and the corresponding colours.



Public train in Sarajevo. Photo: flickr/sgsfoto

## Bosnia and Herzegovina's rapid advancement (September 2009)

In May 2009, when the European Commission issued its assessments of progress achieved by five Western Balkan countries in visa roadmap implementation (see further below), Albania and Bosnia and Herzegovina came in last. Not surprisingly, the Commission did not offer them visa-free travel in its [legislative proposal](#) of 15 July. But then things started to change in Bosnia. Roadmap implementation became a priority across all institutions and political parties.

In August and September 2009, ESI and its partner organisation in Bosnia, [Populari](#), conducted research in the country, speaking to close to 40 officials. We wanted to find out if the new dynamism was producing results. It was. By September 2009, Bosnia had fulfilled more benchmarks than [Serbia](#) and [Montenegro](#) had by May 2009 – two countries that the [Commission had proposed](#) for visa-free travel on condition that they meet the last few remaining benchmarks by the time the EU member states vote on the Commission proposal (the vote took place on 30 Nov. 2009).

ESI/Populari's comparison in table form between the state of implementation in Bosnia in May and in September 2009, and a comparison with the situation in the neighbouring countries, shows Bosnia's phenomenal progress.

[Bosnian Breakthrough – Scorecard of Visa Progress](#) (September 2009). This document is also available [German](#) and in [Bosnian/Serbian/Croatian](#)

A report describes in detail what Bosnia has done in relation to each benchmark based on the specific issues that the Commission asked the government in a letter dated 15 July 2009 to resolve.

[Bosnian Visa Breakthrough](#) – Detailed report of Bosnia and Herzegovina's results in meeting the EU Schengen White List Conditions (October 2009)  
[Letter](#) with [annex](#) from the European Commission to Bosnia and Herzegovina (15 July 2009)

## Scorecard April 2010 – Schengen White List Conditions

Based on the assessments by the European Commission of five Western Balkan countries' progress in implementing the visa roadmap (on 19 April 2010 and 18 May 2009)

5.	Macedonia	(May 2009) score: 1.3
6.	<b>Bosnia</b>	<b>(April 2010)</b> <b>score: 1.4</b>
7.	<b>Albania</b>	<b>(April 2010)</b> <b>score: 1.6</b>
8.	Montenegro	(May 2009) score: 1.9
9.	Serbia	(May 2009) score: 2
	Kosovo	still missing score: -

	Albania (April 2010)	Bosnia (April 2010)	Macedonia (May 2009)	Montenegro (May 2009)	Serbia (May 2009)
<b>1. Document security</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>1.5</b>
<b>2. Illegal migration incl. readmission</b>	<b>1.5</b>	<b>1</b>	<b>1.5</b>	<b>2</b>	<b>2</b>
<b>3. Public order and security</b>	<b>2.5</b>	<b>2.5</b>	<b>1.5</b>	<b>2.5</b>	<b>2.5</b>
<b>4. External relations and fundamental rights</b>	<b>1.5</b>	<b>1</b>	<b>1</b>	<b>2</b>	<b>2</b>
<b>Average:</b>	<b>1.6</b> (1.625)	<b>1.4</b> (1.375)	<b>1.3</b> (1.25)	<b>1.9</b> (1.875)	<b>2</b> (2)

## Excerpts from the Commission assessments:

	Albania (April 2010)	Bosnia & Herzegovina (April 2010)	Macedonia (May 2009)	Montenegro (May 2009)	Serbia (May 2009)
<b>Block 1: Document security</b>	<b>1</b> “It appears that Albania <u>meets</u> the benchmarks set under Block 1 of the roadmap.”	<b>1</b> “It appears that Bosnia and Herzegovina <u>meets</u> the benchmarks set under Block 1 of the roadmap.”	<b>1</b> “It appears that the former Yugoslav Republic of Macedonia <u>meets</u> the benchmarks set under Block 1 of the roadmap.”	<b>1</b> “It appears that Montenegro <u>meets</u> the benchmarks set under Block 1 of the roadmap.”	<b>1.5</b> “It appears that Serbia <u>generally meets</u> the benchmarks set under Block 1 of the roadmap. Further verification is necessary concerning the issuing of breeder documents to persons residing in Kosovo and the integrity and security of the procedures followed.”
<b>Block 2: Illegal migration incl. readmission</b>	<b>1.5</b> “It appears that Albania <u>generally meets</u> the benchmarks set under Block 2 of the roadmap. Further verification is necessary concerning the development of a strategy and policy to support the reintegration of returnees.”	<b>1</b> “It appears that Bosnia and Herzegovina <u>meets</u> the benchmarks set under Block 2 of the roadmap.”	<b>1.5</b> “The former Yugoslav Republic of Macedonia has made substantial progress on migration-related issues and appears to <u>generally meet</u> the benchmarks set under Block 2 of the roadmap.”	<b>2</b> “It appears that Montenegro <u>meets a large majority</u> of the benchmarks set under Block 2 of the roadmap. Further verification is necessary on the implementation of the Law on Foreigners and additional information on a possible sustainable solution in the near future regarding displaced persons and IDPs.”	<b>2</b> “It appears that Serbia <u>meets a large majority</u> of the benchmarks set under Block 2 of the roadmap. Further verification is necessary on the implementation of the Law on Foreigners and effective cooperation between different authorities at the boundary line with Kosovo needs to be ensured.”

<p><b>Block 3: Public order and security</b></p>	<p><b>2.5</b></p> <p>“It appears that Albania <u>meets the majority</u> of benchmarks set under block 3 of the roadmap. Further efforts are needed regarding the strengthening of the capacities of law enforcement and the effective implementation of the legal framework for the fight against organised crime and corruption, including through allocation of adequate financial and human resources. In particular the implementation of the new legal framework in the area of confiscation of criminal assets needs to be pursued with determination.”</p>	<p><b>2.5</b></p> <p>“It appears that Bosnia and Herzegovina <u>meets the majority</u> of benchmarks set under block 3 of the roadmap. Further efforts are needed regarding strengthening capacities of law enforcement and the effective implementation of the legal framework, including through allocation of adequate financial and human resources. The action plan following the agreement on establishment of electronic data exchange between police and prosecution bodies should be progressively implemented. Entity-level and the Brcko District criminal codes should be amended to harmonise them with the state-level criminal code.”</p>	<p><b>1.5</b></p> <p>“It appears that the former Yugoslav Republic of Macedonia <u>generally meets</u> the benchmarks set under block 3 of the roadmap.”</p>	<p><b>2.5</b></p> <p>“It appears that Montenegro <u>meets the majority</u> of benchmarks set under block 3 of the roadmap. Further efforts are needed regarding implementation of the legal framework, including through allocation of adequate financial and human resources.”</p>	<p><b>2.5</b></p> <p>“It appears that Serbia <u>meets the majority</u> of the benchmarks set under Block 3 of the roadmap. Further efforts are needed regarding implementation of the legal framework, including through allocation of adequate financial and human resources.”</p>
<p><b>Block 4: External relations and fundamental rights</b></p>	<p><b>1.5</b></p> <p>“It appears that Albania <u>generally meets</u> the benchmarks set under Block 4 of the roadmap.”</p>	<p><b>1</b></p> <p>“It appears that Bosnia and Herzegovina <u>meets</u> the benchmarks set under Block 4 of the roadmap.”</p>	<p><b>1</b></p> <p>“It appears that the former Yugoslav Republic of Macedonia <u>meets</u> the benchmarks set under block 4 of the roadmap.”</p>	<p><b>2</b></p> <p>“It appears that Montenegro <u>meets a large majority</u> of the benchmarks set under Block 4 of the roadmap.”</p>	<p><b>2</b></p> <p>“It appears that Serbia <u>meets a large majority</u> of the benchmarks set under Block 4 of the roadmap.”</p>

Approach: The Commission uses six distinct phrases in its assessments to describe progress under each of the four blocks into which the visa roadmap is divided. They range from “meets the benchmarks” (best) to “does not yet fully meet the benchmarks” (worst). ESI has allocated grades from 1 (best) to 3 (worst) to each of the phrases to quantify progress. While in the past we have used only the grades 1, 2 and 3, now that Albania and Bosnia have caught up with the rest of the group, we have introduced interim grades (1.5 and 2.5) to be able to capture nuances.

The main assessments for Macedonia, Montenegro and Serbia were issued in May 2009. At the time, the Commission still identified a few short-comings for Montenegro and Serbia, so it proposed visa-free travel for these two countries on condition that they reach the open benchmarks. In October 2009, the Commission 2009 verified that they had done so, without issuing full-fledged assessments anymore. This is why the tables are based on the main May 2009 assessments for these two countries.

In November 2009 then, the EU lifted the visa requirement for the Macedonia, Montenegro and Serbia, so that their citizens who possess biometric passports have been able to travel without a visa to the EU since 19 December 2009.

Albania and Bosnia had to continue with roadmap implementation. In December 2009 and February 2010, missions comprising experts nominated by the EU member states and Commission officials examined the situation on the ground, and the two governments have submitted regular reports on progress. Both provided input into the updated assessments for Albania and Bosnia, which the Commission issued on 19 April 2010.

#### ESI grading:

<u>Commission phrase:</u>	<u>Grade:</u>
“meets the benchmarks”:	grade 1
“generally meets”:	grade 1.5
“meets a large majority”:	grade 2
“meets a majority”:	grade 2.5
“on the right track, but...”:	was used in the previous assessments for Albania and Bosnia, but no longer in the April 2010 assessments; grade 3
“does not yet fully meet”:	was used in the previous assessments for Albania and Bosnia, but no longer in the April 2010 assessments; grade 3

All assessments and progress reports are available at [www.esiweb.org/whitelistproject](http://www.esiweb.org/whitelistproject).

## **The final sprint: Albania's and Bosnia's progress in reaching the remaining open benchmarks (9 August 2010)**

On 27 May 2010, the European Commission presented a [legislative proposal](#), suggesting to lift the visa requirement for the citizens of Albania and Bosnia and Herzegovina if the two governments meet a few remaining open benchmarks from their "visa roadmaps". The Commission had already identified these benchmarks a few weeks earlier and asked the two governments to work on them and to send progress reports by 25 June 2010 (see [Commission letters to Albania and to Bosnia May 2010](#)).

For each country, there are three open benchmarks. Both have to strengthen capacities and fully implement legislation to fight organised crime and corruption. Albania also has to implement legislation on the confiscation of assets that are the proceeds of crime, and it has to adopt a strategy to reintegrate Albanian citizens that are returned to Albania. Bosnia, on the other hand, has to harmonise all the criminal codes across the country, and it has to make progress in establishing an electronic system through which its police agencies and prosecutors at the various administrative levels will exchange information.

ESI has analysed [Albania's and Bosnia's progress reports of 25 June](#) and come to the conclusion that both countries have made very good progress. Already now, the two countries have taken impressive steps to reach the open benchmarks, and they are likely to achieve further progress by the time the European Parliament and the Council will vote on the Commission proposal. Albania has practically already met all three open benchmarks, while Bosnia has by and large met two, and one partly. Bosnia still needs to make further progress on the establishment of the exchange server. What is needed is the adoption of a bylaw and a decision by Bosnia's government, the Council of Ministers. Bosnia must also extend the mandate of the acting director of the Anti-Corruption Agency.

The European Parliament will vote [earliest in September](#), and the Council earliest in October 2010. At the end of August, both countries are due to submit updates of their progress to the Commission. There is time for Bosnia's Council of Ministers to adopt the necessary bylaw and decision, and for Bosnia's House of Peoples to extend the mandate of the acting director of the Anti-Corruption Agency.

During evaluation missions that took place 5 to 8 July in Bosnia, and 12 to 15 July in Albania, experts from the Commission and from EU member states verified the situation on the ground. Provided that the experts have come to similar conclusions as ESI (unofficial reports indicate they have), and provided that Bosnia will take the last couple of necessary steps, the decision-making process leading to visa-free travel should begin in September.

Both countries are also ready to launch extensive public information campaigns about the provisions of visa-free travel. They will inform their citizens that visa-free travel only applies to holders of the new biometric passports, that it allows visits of up to 3 months within a 6-month period and that it does not entitle to working and residing in the EU. Albania already ran a TV campaign in April and will repeat it in the run-up to visa-free travel. It is also planning further activities together with the EU Delegation in Albania. Bosnia plans to launch a 3-month multi-media campaign, which it has coordinated with the EU Delegation in Sarajevo, around a month before the start of visa-free travel.

The Commission and a few EU countries consider these campaigns important to prevent unintentional abuse of visa-free travel.

**ESI analysis: The final sprint: Albania's and Bosnia's progress in reaching the remaining open benchmarks (9 August 2010)**

## The road to visa-free travel for five Western Balkans countries



Fence on the Albanian border

### The visa facilitation and readmission agreements

The visa facilitation agreements and readmission agreements with Albania,<sup>1</sup> Bosnia and Herzegovina, Macedonia, Montenegro and Serbia entered into force on 1 January 2008, following their negotiation and conclusion between November 2006 and November 2007. All five countries now enjoy visa-free travel with the Schengen zone, but the visa facilitation agreements continue to apply to holders of non-biometric passports; they remain obliged to obtain a visa at a consular service before they travel to the Schengen zone. The visa facilitation and readmission agreements were the stepping stone to visa liberalisation. They opened the "sensitive" visa issue to political discussion, and supporters of visa-free travel in the European Commission and in EU countries were quick to build on them and go further. The situation on the ground, however, has not changed as much as visa applicants had hoped.

There are several **types of Schengen visas**. The most frequently used to enter the Schengen zone<sup>2</sup> is a short-stay visa (type C), which can be valid for up to three months within a six-month period and does not entitle its holder to any kind of employment and residence. While the EU has prescribed some of the conditions for obtaining a Schengen visa, other requirements remain at the discretion of the issuing country (and also depend on the personal circumstances of the applicant). All of this was initially regulated in the **Common Consular Instructions**, which were later replaced by a **Community Code on Visas**. This new Regulation, which entered into force on 5 April 2010, modernised, clarified and made more transparent the provisions governing the issuance of visas.

In order to obtain a Schengen visa, an applicant must justify the purpose and conditions of the intended trip. Before the visa facilitation agreements, a consular service could request a variety of documents to demonstrate the purpose of the journey. Where there is a visa facilitation agreement in place, most categories of people have to supply only one or two documents, and the visa facilitation agreements specify which ones. A businessperson, for example, needs an invitation from the host company or organisation endorsed by his or her country's Chamber of Commerce, a student needs a letter or proof of enrolment from the host university or school, and a tourist needs a certificate from a travel agency.

However, other requirements remain in force. The applicant must demonstrate adequate financial means – by showing cash, travellers' cheques, credit cards and/or bank statements – to finance the journey, including the return trip. As a rule, applicants must have proof of adequate health insurance covering repatriation and medical care for a minimum of 30,000 €. The consular service can also require the applicant to produce proof of place of residence, of ties with the country of residence (family, employment, business or property) and proof of their social and professional status. In case of refusal to grant a visa, the visa-issuing country does not have to provide any explanation.

Other changes that the visa facilitation agreements have introduced include a reduced visa fee of 35 € instead of 60 € (countries that had negotiated visa facilitation agreements were exempted when the price of the Schengen visa increased to 60 € in January 2007), and a fee waiver for many groups of applicants, such as close relatives, children under the age of 6, members of official delegations, pensioners, students, sportspeople, journalists, etc. According to the European Commission, **up to 50% of the applicants** in Bosnia – and around **80% in Macedonia** – did not have to pay the fee in 2008, before the visa barrier was lifted for holders of biometric passports.

The visa facilitation agreements have also introduced a deadline for decisions on applications: as a rule, they must be made within 10 calendar days. Finally, they have established the categories of people who should be issued multi-entry long-term visas, in particular *bona fide* travellers, such as businesspeople, drivers, and representatives of organisations that need to travel frequently.

In 2008, a number of NGOs tried to assess the effects of the visa facilitation agreements. In June 2008, the **European Citizen Action Network (ECAS) and five regional partners** conducted hotline surveys: over the space of two weeks, people could call a telephone number advertised in the local media and discuss their experience in applying for a visa. Most people could not perceive the difference in the situation before and after the entry into force of the agreement. A number of new problems had also appeared.

Some embassies and consulates, for example, had introduced call-based procedures for making appointments for receiving visa applications, leaving their management to subcontractors. As a result, callers were made to pay a high rates (up to 1 €/minute). And although decisions on visa applications have to be made within 10 days under the facilitation agreements in order to shorten long waiting times, in Tirana the waiting time for an *appointment* with the Greek and Italian consulates to hand over the application was sometimes more than two months.

The European Movement in Albania, which surveyed visa applicants at embassies and consulates in April 2008, made similar **findings** as ECAS.

*"It was expected that the VFA [visa facilitation agreement] would bring changes in the procedures for issuing visas to Albanian citizens. These procedures, which are frequently complicated and not harmonised between the Schengen consular offices in Albania, seem to have not changed essentially."*

The European Commission issued guidelines for the implementation of the visa facilitation agreements. In addition, there is a joint committee of experts, composed of representatives of the regional government and the European Commission, and assisted by experts from EU countries, for each country. The committees discuss the difficulties in the implementation of the visa facilitation agreements, attempting to find solutions.

Some of the problems identified in 2008 have been resolved in the meantime. However, the visa application procedure will always remain difficult and unpleasant for the applicant.

#### **Agreements on the facilitation of the issuance of visas (in force since 1 January 2008):**

Albania  
Bosnia and Herzegovina  
Macedonia  
Montenegro  
Serbia

**Agreements on the readmission of persons residing without authorisation (in force since 1 January 2008 except for the agreement with Albania, which entered into force on 1 May 2006):**

Albania  
Bosnia and Herzegovina  
Macedonia  
Montenegro  
Serbia

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[1] The readmission agreement with Albania was negotiated earlier and has been in force since 1 May 2006.

[2] There are 25 Schengen zone countries. They include all the EU member states except Cyprus, Bulgaria, Ireland, Romania and the UK, and the non-EU members Iceland, Norway and Switzerland. Cyprus, Bulgaria and Romania will join once they have fully implemented the Schengen provisions. Liechtenstein is also expected to join. Ireland and the UK have decided to maintain border controls and are not part of the Schengen zone, though they participate in other Schengen activities such as judicial and police cooperation.

At: <http://www.esiweb.org/index.php?lang=en&id=351>



Baščaršija, Sarajevo. Photo: Alan Grant

## The visa roadmaps

Following the **launch of the visa dialogues** with Albania, Bosnia and Herzegovina, Macedonia, Montenegro and Serbia in early 2008, the European Commission formulated close to 50 requirements it wanted the countries to meet in order to qualify for visa-free travel. These were listed in the so-called "visa roadmaps". Serbia was the first country to receive its roadmap on 7 May 2008, and Bosnia the last on 5 June 2008.

The visa roadmaps were almost identical, but they took into account the specific situation in each country, in terms of existing legislation and practice. The conditions ranged from purely technical matters, such as the issuance of machine-readable passports with a gradual introduction of biometric data (including fingerprints), to the adoption and implementation of a raft of laws and international conventions, to very broad matters such as progress in the fight against organised crime, corruption and illegal migration.

Most of the requirements were part of the "JHA acquis" – the body of EU law in the field of justice and home affairs, which candidate countries have to implement before they can accede to the EU. However, there were a few additional conditions, mainly concerning human rights issues and the **visa facilitation and readmission agreements**.

The visa roadmaps were divided into two parts: requirements related to the implementation of the visa facilitation and readmission agreements; and requirements on document security, illegal migration, public order and security and external relations. The second part loosely follows the issues that **Council Regulation 539/2001** mentions in paragraph (5):

"The determination of those third countries whose nationals are subject to the visa requirement, and those exempt from it, is governed by a considered, case-by-case assessment of a variety of criteria relating inter alia to illegal immigration, public policy and security, and to the European Union's external relations with third countries, consideration also being given to the implications of regional coherence and reciprocity."

This is the EU law that contains the Schengen black and white lists as annexes. **It needs to be amended** if the citizens of any of the five Western Balkan countries are to be able to enter the Schengen area without a visa.

When the Western Balkan governments received the roadmaps in the early summer of 2008, they were asked to provide **"readiness reports"** detailing the state of affairs with regard to each requirement by September 2008.

## Visa liberalisation roadmaps:

- ▶ **Albania** (presented to the government on 3 June 2008)
- ▶ **Bosnia and Herzegovina** (presented to the government on 5 June 2008)
- ▶ **Macedonia** (presented to the government on 8 May 2008)
- ▶ **Montenegro** (presented to the government on 28 May 2008)
- ▶ **Serbia** (presented to the government on 7 May 2008)

At: <http://www.esiweb.org/index.php?lang=en&id=352>

## Example: roadmap for Serbia

### VISA LIBERALISATION WITH SERBIA

#### ROADMAP

##### I. INTRODUCTION - GENERAL FRAMEWORK

- A. The General Affairs and External Relations Council in its conclusions of 28 January 2008 welcomed the intention of the European Commission to launch a visa dialogue with all Western Balkan countries and expressed its readiness to further discuss this issue, based on the Commission's Communication on the Western Balkans, with a view **to define detailed roadmaps setting clear benchmarks** to be met by all the countries in the region in order to gradually advance towards visa liberalisation. The whole process will be closely monitored by the Council and the Commission which will assess the progress by each of the countries concerned and follow the adoption and implementation of the necessary reforms towards the abolition of the visa requirement.

**The Commission shall regularly report on the implementation of this road map to the Council, for the first time before the end of 2008, notably by taking into account input from experts including Member States' experts in the context of the visa dialogue.**

- B. When setting up the methodology for the visa liberalisation process, the following elements have to be taken into consideration:
- the European perspective of the Western Balkan countries ;
  - the political commitment taken by the European Union on the liberalisation of the short term visa for the citizens of all Western Balkan countries as part of the Thessaloniki agenda, which has been confirmed at political level by a series of Council conclusions since 2003<sup>1</sup>;
  - the conclusion by all countries in the region of a Community readmission agreement;
  - the visa exemption granted to all EU citizens by all Western Balkan countries.

As a first concrete step towards improving people to people contacts, the European Community has concluded in 2007 Visa Facilitation Agreements with Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Montenegro and Serbia. These agreements are in force since 1 January 2008. The preamble of the visa facilitation agreements includes a clear reference to the commitment of the parties to work towards a visa free travel regime in the future.

- C. Having in mind the wide range of issues relevant for the visa liberalisation dialogue and the need to establish an adequately secured context for visa free travel, the objective of this exercise is to identify all the measures to be adopted and implemented

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<sup>1</sup> More recently, in the Council conclusions of 18/6/07 and 10/12/07.

by the Western Balkan countries and set up clear requirements to be achieved in the near future. The whole process will be divided in four sets of issues to be covered by the dialogue: document security, illegal migration, public order and security as well as external relations items linked to the movement of persons. The dialogue will be tailor-made so as to allow each country to focus reform efforts and address the EU's requirements. The speed of movement towards visa liberalisation will depend on the progress made by each of the countries in fulfilling the conditions set.

Concerning the structure, the whole dialogue as a part of the overall policy of the EU towards the candidate and potential candidate countries of the Western Balkan, will take place within the framework of the structures of the Stabilisation and Association process. The visa liberalisation process will be conducted by senior officials who could decide to organise technical meetings at expert level for specific items. In the absence of a Stabilisation and Association agreement in place with Serbia, reporting on progress made on the issues covered by the visa liberalisation process will be ensured within the framework of the current structures of the enhanced permanent dialogue.

- D. The whole process will allow the Commission to make a proposal at the appropriate moment to the Council for the lifting of the visa obligation for Serbian citizens, through an amendment of Council regulation 539/2001. On the basis of the Commission's proposal, the Council, after consultation of the European Parliament will decide acting by qualified majority.

## **ROADMAP TOWARDS A VISA FREE REGIME WITH SERBIA**

### **I. Requirements related to the correct implementation of the Community Visa Facilitation and Readmission Agreements**

#### **A. READMISSION AGREEMENT:**

**Serbia has to take the necessary measures ensuring effective implementation of the Community Readmission Agreement and in particular, the replacement of the previous bilateral agreements or arrangements by the Community readmission agreement, the conclusion of 'implementing protocols' with Member States, the adoption of the measures ensuring that proper infrastructure is in place, in particular sufficient staff, to deal with readmission applications, the respect of the various deadlines set by the Community Readmission agreement, the refusals of readmission applications only on the grounds provided by the Community Readmission Agreement, the acceptance of the 'EU standard travel document for expulsion purposes', the acceptance of readmission applications for third country nationals/stateless persons**

#### **B. VISA FACILITATION AGREEMENT:**

**Serbia shall closely cooperate with the European Commission to support the EU Member States' implementation of the Visa Facilitation Agreement, ensuring in**

particular continuous monitoring of all institutions, authorities and bodies involved in Serbia with the implementation of this Agreement, as regards the issuing of invitations, certificates and other documents.

## **II. Requirements on Document Security, Illegal Migration, Public Order and Security and External Relations**

### **BLOCK 1: Document Security**

#### **Passports/travel documents, ID cards and breeder documents**

**Serbia should:**

- **issue machine readable biometric travel documents in compliance with ICAO and EC standards; and gradually introduce biometric data, including photo and fingerprints;**
- **adopt appropriate administrative measures ensuring the integrity and security of the personalisation and distribution process;**
- **establish training programmes and adopt ethical codes on anti-corruption targeting the officials of any public authority that deal with visas, passports;**
- **report to Interpol/LASP data base on lost and stolen passports;**
- **ensure a high level of security of breeder documents and ID cards and define strict procedures surrounding their issuance.**

### **BLOCK 2: Illegal migration, including readmission**

#### **Border management**

**Serbia should:**

- **adopt and implement legislation governing the movement of persons at the external borders, as well as law on the organisation of the border authorities and their functions in accordance with the Serbian National Integrated Border Management Strategy adopted in January 2006;**
- **take necessary budgetary and other administrative measures ensuring efficient infrastructure, equipments, IT technology at the external borders;**
- **establish training programmes and adopt ethical codes on anti-corruption targeting the border guards, customs and other officials involved in the border management;**
- **conclude a working arrangement with FRONTEX.**

## **Carriers' responsibility**

- **Serbia should adopt and implement legislation on carriers' responsibility defining sanctions.**

## **Asylum policy**

**Serbia should:**

- **adopt and implement legislation in the area of asylum in line with international standards (1951 Geneva Convention with New York Protocol) and the EU legal framework and standards;**
- **provide adequate infrastructure and strengthen responsible bodies, in particular in the area of asylum procedures and reception of asylum seekers.**

## **Migration management**

**Serbia should:**

- **set up and start to apply a mechanism for the monitoring of migration flows, defining a regularly updated migration profile for Serbia, with data both on illegal and legal migration, and establishing bodies responsible for collection and analysis of data on migration stocks and flows;**
- **adopt and implement a National Returnee Reintegration Strategy, including sustainable financial and social support;**
- **define and apply methodology for inland detection and take measures improving the capacity to investigate cases of organised facilitated illegal migration;**
- **adopt and implement a law on the admission and stay of third country nationals, defining rights and obligations for the persons concerned (including family members of third country nationals);**
- **ensure effective expulsion of illegally residing third country nationals from its territory.**

## **BLOCK 3: Public order and security**

### **Preventing and fighting organised crime, terrorism and corruption**

**Serbia should:**

- **implement the strategy to fight organised crime (in particular cross-border aspects) by adopting and implementing an action plan including a timeframe and sufficient human and financial resources;**

- **implement the strategy to combat trafficking in human beings by adopting and implementing an action plan including a timeframe and sufficient human and financial resources;**
- **adopt and implement a national strategy for the prevention and fighting of money laundering and financing of terrorism; adopt and implement a law on the prevention of financing of terrorism; implement relevant legislation on confiscation of assets of criminals (including the provisions addressing cross-border aspects);**
- **adopt and implement a national drug strategy and national drug action plan; make the information on drug seizures and persons involved accessible at border crossing points; further develop cooperation and information exchange with relevant international bodies in the drug field;**
- **implement legislation on preventing and fighting corruption including by establishing an independent anti-corruption agency;**
- **implement relevant UN and Council of Europe conventions, as well as GRECO recommendations and other international standards in the areas listed above and on fight against terrorism.**

## **Judicial co-operation in criminal matters**

**Serbia should:**

- **implement international conventions concerning judicial cooperation in criminal matters (in particular Council of Europe Conventions);**
- **take measures aimed at improving the efficiency of judicial co-operation in criminal matters of judges and prosecutors with the EU Member States and with countries in the region;**
- **develop working relations with Eurojust mainly through the Eurojust contact point.**

## **Law enforcement co-operation**

**Serbia should:**

- **take necessary steps to ensure efficiency of law enforcement co-operation among relevant national agencies - especially border guards, police, customs officers -, as well as cooperation with the judicial authorities;**
- **improve exchange of information between national agencies by setting up an adequate coordination mechanism;**
- **reinforce regional law enforcement co-operation and implement bilateral and multilateral operational cooperation agreements, including by sharing on time**

relevant information with competent law enforcement authorities of EU Member States;

- improve the operational and special investigative capacity of law enforcement services to tackle more efficiently cross-border crime;
- take the necessary steps to prepare for the conclusion of an operational cooperation agreement with Europol with special emphasis on data protection provisions.

## **Data protection**

**Serbia should:**

- adopt necessary legislation on the protection of personal data and implement its provisions including setting-up of an independent data protection supervisory authority ;
- sign, ratify and implement relevant international conventions, such as the Additional protocol of the Council of Europe Convention for the Protection of Individuals with regard to the Automatic Processing of Personal Data.

## **BLOCK 4: External Relations and fundamental rights**

### **Freedom of movement of Serbian nationals**

**[Serbia should:**

- ensure that freedom of movement of Serbian citizens is not subject to unjustified restrictions, including measures of a discriminatory nature, based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation.]

### **Conditions and procedures for the issue of identity documents**

**Serbia should:**

- ensure full and effective access to travel and identity documents for all Serbian citizens including women, children, people with disabilities, people belonging to minorities and other vulnerable groups;
- ensure full and effective access to identity documents for IDPs and refugees.

### **Citizens' rights including protection of minorities**

**Serbia should:**

- adopt and enforce legislation to ensure effective protection against discrimination;

- **specify conditions and circumstances for acquisition of Serbian citizenship;**
- **ensure investigation of ethnically motivated incidents by law enforcement officers in the area of freedom of movement, including cases targeting members of minorities;**
- **ensure that constitutional provisions on protection of minorities are observed;**
- **implement relevant policies regarding minorities, including Roma.**

**Final remark:**

The present roadmap includes a list of measures to be taken by Serbia in view of the lifting of the visa obligation. These measures aim at responding to the needs identified, based on the currently available information. In case of substantial change of the current situation, the Commission could propose a review and re-adaptation of the roadmap.

Based on the achievements by Serbia of the implementation of the requirements set up in the roadmap, the Commission will assess the situation, taking into account inter alia criteria, the visa refusal rate for Serbian applicants and the refusal rate of entry into the common Schengen area for Serbian nationals. In this context, the decreasing trend of the refusal rate, which should progress towards 3% for visas and 1000 persons per year refused for entry into the common Schengen area, will be used as an indicative reference. Serbia should also take the necessary measures to allow an efficient implementation of the EU joint actions on travel ban. As already mentioned before, on this basis the Commission will consider the possibility to present a proposal to the Council for the lifting of the visa obligation, by amending the Council Regulation 539/2001, and, following the procedure laid down in the EC Treaty<sup>2</sup> for these matters, the Council will on the basis of the Commission's proposal, after consultation of the European Parliament, take a decision acting by qualified majority. Such amendment could soon cover the holders of travel documents issued in accordance to ICAO and EC standards.

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<sup>2</sup> Article 67.3 and Article 62.2.b.i



River Neretva and the City of Mostar. Photo: flickr/lassi.kurkijarvi

## The readiness reports of the Western Balkans governments

When the European Commission presented the [visa roadmaps](#) to the Western Balkan governments in May and June 2008, the governments were asked to prepare "readiness reports" detailing the state of affairs and future plans with regard to each of the roadmap requirements. These reports were due by early September 2008 and are available below.

The readiness reports were the basis for the [assessments](#) that the Commission presented to representatives of EU member states on 24 November 2008. Subsequently, the Commission discussed the assessments with the Western Balkan governments and asked them for additional information and clarifications, which the governments provided (also available below). In its second set of assessments issued on 18 May 2009, the Commission included the new information.

Later on, the Commission asked four countries – all except Macedonia – for another set of readiness reports.

As regards Montenegro and Serbia, the Commission proposed these two countries for visa-free travel in its [legislative proposal of 15 July 2009](#) on condition that they meet a number of outstanding benchmarks before the Council takes the final vote. The Commission sent letters to Serbia and Montenegro on 15 July, explaining which issues they had to tackle, and asking them to report on progress by 25 September 2009 (available below).

On 15 July 2009, Albania and Bosnia, which had achieved mediocre progress by that time, also received letters from the Commission asking them to focus on specific outstanding requirements (53 in Albania's case and 48 in Bosnia's) that needed to be met in order for the related benchmarks to be achieved. The Commission asked the two countries to report on progress by 1 October 2009. (The letters and reports are below.)

Since then, the two countries have issued a number of reports to update the Commission on the measures taken to fulfil the benchmarks. These documents, as well as the results of national expert missions in December 2009 and February 2010, provided input for new assessments issued by the Commission on 19 April 2010.

Finally, on 27 May 2010, the Commission issued a [legislative proposal for Albania and Bosnia](#), suggesting lifting the visa obligation on their citizens if the two countries meet three outstanding open benchmarks each. A Commission's letter (May 2010) outlined the remaining measures to be taken. Albania and Bosnia had to report on progress by 25 June and at the end of August (reports and letters are below).

## Albania:

First readiness report (no date – around August/September 2008)  
Update (12 January 2009)  
Commission letter (15 July 2009)  
Second readiness report (1 October 2009) and Summary  
Updated second readiness report (2 November 2009)  
Updated second readiness report (16 November 2009)  
Further measures, blocks 1 and 2 (29 January 2010)  
Summary of achievements (February 2010)  
Commission letter (following 6 May 2010 meeting)  
Report on remaining benchmarks (25 June 2010)  
Annexes I-IV  
Annex V - Strategy on Reintegration of Returned Albanian Citizens

## Bosnia and Herzegovina:

First readiness report (28 August 2008)  
Update (10 January 2009)  
Report presented to the BiH Parliament (15 April 2009) (in Bosnian)  
Commission letter (15 July 2009)  
Second readiness report (1 October 2009)  
Updated second readiness report (16 November 2009)  
Further measures taken (29 January 2010)  
Further measures taken (9 March 2010)  
Further measures taken (9 April 2010)  
Commission letter (following 6 May 2010 meeting)  
Report on remaining benchmarks (25 June 2010)

## Macedonia:

First readiness report (updated October 2008)  
Update (2 February 2009)  
Update (3 March 2009)  
Commission letter (15 July 2009)

## Montenegro:

First readiness report (August 2008)  
Update (October 2008)  
Update (January 2009)  
Commission letter (15 July 2009)  
Updated report (September 2009)  
Annex I – Action Plan for IDPs  
Annex II – Law amending the Law on Foreigners  
Annex III – Rulebook on visas

## Serbia:

First readiness report (no date – around August/September 2008)  
Report and government conclusions (adopted by the Serbian government on 11 December 2008). Report in Serbian in full length.  
Update (March 2009)  
Commission letter (15 July 2009)

Updated report (25 September 2009)

Annex I – Migration Management Strategy

Annex II – Action Plan against Organised Crime / Tables

Annex III – Fight against Corruption/GRECO Recommendations

At: <http://www.esiweb.org/index.php?lang=en&id=359>



## Progress assessments by the European Commission

The European Commission assessed the progress of the five Western Balkan countries in meeting the roadmap requirements several times: during the actual visa liberalisation process 2008 to 2010 as well as afterwards ("post-visa liberalisation monitoring report"). As Albania and Bosnia needed one year more to implement all roadmap requirements, there were more progress assessments concerning these two countries. (All assessments are available on this website further down.)

### Assessments of progress by all five countries:

The European Commission assessed the progress of all five Western Balkan countries in meeting the visa roadmap requirements first on 18 November 2008 and then on 18 May 2009. The assessments in November 2008 were based on "readiness reports" that the Western Balkan countries had to submit by September 2008. According to the assessments, the countries fell into three groups. Macedonia was the most advanced; Serbia and Montenegro made up the second group; Albania and Bosnia and Herzegovina made up the third.

The second set of assessments in May 2009 was based on updates and additional information submitted by the Western Balkan governments, but also field missions conducted by EU national experts between January and March 2009. There were 15 such missions, three to each Western Balkan country, verifying and scrutinising on the ground the situation with regard to Blocks 1 to 3 of the roadmap (document security, border control, migration management and the fight against organised crime, corruption and illegal migration). Roadmap requirements related to human rights issued were discussed in seminars in Brussels, which were another source of information for the Commission.

The May 2009 assessments concluded that Macedonia met the conditions for visa-free travel, that Montenegro and Serbia met most of the conditions, but that Bosnia-Herzegovina and Albania did not yet meet all the conditions for visa free travel. The Commission proposed visa-free travel to Macedonia on 15 July 2009, and to Montenegro and Serbia on condition that the two countries meet a few outstanding benchmark before the Council's vote on 30 November 2009. This required new expert missions and another assessment, which the Commission issued on 19 November 2009, certifying that Montenegro and Serbia had met all open benchmarks. The visa barrier was lifted for Macedonia, Montenegro and Serbia, with their citizens being able to travel to the EU without a visa from 19 December 2009.

For Albania and Bosnia, which had made less progress, the visa liberalisation process continued. On 15 July 2009, the Commission asked the governments of Albania and Bosnia by letter to make progress in specific areas that would help them achieve the related benchmarks, and to report on progress by 1 October 2009, with updates in mid-November 2009. Based on the government reports, the Commission drafted new assessments dated 27 November 2009.

In December 2009 and February 2010, the Commission organised expert missions to Albania and Bosnia, which, alongside new government reports, provided input for new assessments of Albania's and Bosnia's progress, which the Commission issued on 19 April 2010. According to these assessments, both countries had

made substantial progress with only a few benchmarks remaining open. On 27 May 2010, the Commission issued a [legislative proposal for Albania and Bosnia](#), suggesting lifting the visa obligation if each of the two countries meets three separate outstanding open benchmarks.

Based on another round of expert missions and government reports, the Commission produced a new assessment of progress on 14 September 2010, concluding that "Albania and Bosnia and Herzegovina have taken all the necessary measures to fulfil all open benchmarks [...] and consequently can be transferred from the negative (Annex I) to the positive (annex II) list of Regulation 539/2001." The visa obligation for Albanians and Bosnians has been lifted since 19 December 2010.

Following a rise in asylum seekers from Macedonia and Serbia in 2010 (see "[Visa-free Travel and Asylum](#)"), the Commission decided in November 2010 to continue to monitor whether the five Western Balkan countries maintain their efforts to meet the roadmap requirements. The first "post-visa liberalisation monitoring report" was issued on 30 May 2011.

#### **Assessment by the European Commission whether the five Western Balkan countries continue to meet the roadmap requirements**

[Post-Visa Liberalisation Monitoring Report](#) (30 May 2011)

#### **Assessment by the European Commission on the fulfilment of the open benchmarks by Albania and Bosnia (14 September 2010)**

[Assessment](#) (Commission Staff Working Document)

#### **Oral assessment by the European Commission of Albania's and Bosnia's progress in meeting the remaining open benchmarks (2 September 2010)**

[Assessment](#) (transcript)

#### **Assessments by the European Commission of Albania and Bosnia (19 April 2010)**

[Albania](#)  
[Bosnia](#)

#### **Assessments by the European Commission of Albania and Bosnia (27 November 2009)**

[Albania](#)  
[Bosnia](#)

ESI open letter: [Urgency, complacency and a broken promise](#) (26 February 2010)

#### **Assessment by the European Commission on the fulfilment of the open benchmarks by Montenegro and Serbia (19 November 2009)**

[Assessment](#) (Commission Staff Working Document)

ESI op-ed: [Visa-free travel in the Balkans](#) (6 December 2009)  
ESI Newsletter 9/2009: [1989 and donkeys in Baku – Visa decision day in Brussels – ESI in Harvard](#)  
(24 November 2009)

#### Assessments by the European Commission (18 May 2009)

[Albania](#)  
[Bosnia and Herzegovina](#)  
[Macedonia](#)  
[Montenegro](#)  
[Serbia](#)

ESI Newsletter 4/2009: [ESI White List Visa Project – Exclusive Scorecard of Balkan Progress](#) (22 May 2009)  
ESI [Letter to EU officials](#) (1 June 2009)  
ESI op-ed: [Visa-free travel for the Western Balkans – a win-win situation](#) (15 June 2009)  
ESI Newsletter 6/2009: [Western Balkans Visa Grade Reports - Albanian Elections June 2009](#) (26 June 2009)  
ESI op-ed: [Winners, losers and the future of the Balkan ghetto](#) (16 July 2009)  
ESI Newsletter 7/2009: [Visa and Balkan Muslims – Kosovo Appeal by Amato and Schily – 10 years ESI](#)  
(21 July 2009)  
ESI Newsletter 8/2009: [Bosnia's visa breakthrough and the power of Europe](#) (29 September 2009)

#### Assessments by the European Commission (24 November 2008)

[Albania](#)  
[Bosnia and Herzegovina](#)  
[Macedonia](#)  
[Montenegro](#)  
[Serbia](#)

ESI document: [One-page overview of the Commission's findings](#) ESI document: [Report from the 24 November meeting with EU member state officials](#)

At: <http://www.esiweb.org/index.php?lang=en&id=353>



At the Macedonian-Serbian border. Photo: flickr/engerundio

## The Commission proposal for visa-free travel (15 July 2009)

On 15 July 2009, the European Commission submitted its proposal on visa-free travel for citizens of Western Balkans countries. In short, it proposed:

- visa-free travel for the citizens of Macedonia since this country has fulfilled all the conditions listed in the visa roadmap; technically, this should be done by moving Macedonia from the "black list" onto the "white list" annexed to the relevant **Council Regulation**;
- visa-free travel for the citizens of Serbia and Montenegro on condition that these two countries meet a few remaining conditions by the date of adoption of the proposal by EU member states;
- exclusion from visa-free regime for Serbia of holders of the new Serbian biometric passport who reside in Kosovo and persons whose citizenship certificate has been issued for Kosovo, due to "security concerns regarding in particular the potential for illegal migration from persons residing in Kosovo"; the new passport can be issued to Kosovo residents solely by the Coordination Directorate at the Interior Ministry of Serbia, which will make these passports recognisable;
- formalisation of the existing visa requirement for Kosovo residents by adding Kosovo (under UNSC Resolution 1244/99) to the black list, under the special category of "entities and territorial authorities that are not recognised as states by at least one member state" where the Palestinian Authority and Taiwan are already listed;
- no change of the status for Albania and Bosnia and Herzegovina, which remain on the black list since they have not fulfilled all conditions, but the Commission "intends to propose transferring them to the positive list as soon as they have fulfilled the necessary benchmarks".

The next step in the legislative procedure was for the European Parliament to issue a non-binding opinion on the Commission proposal, **which it did on 12 November 2009**. After that, the Council – in its formation as Justice and Home Affairs Council comprising EU interior and justice ministers – could take the official vote. The JHA Council **approved the Commission proposal** at its meeting on 30 November 2009.

### Commission proposal on visa-free travel (15 July 2009)

**Balkan Insight, Gerald Knaus and Alexandra Stiglmeier, "Winners, Losers and the Future of the Balkan Ghetto" (16 July 2009) Also available in German: "Gewinner, Verlierer und die Zukunft des Visaghetto 'Balkan'".**

At: <http://www.esiweb.org/index.php?lang=en&id=376>



Main building of the European Parliament in Brussels inside. Photo: flickr/Bernard Rouffignac

## The opinion of the European Parliament (12 November 2009)

On 12 November 2009, the European Parliament adopted its opinion of the [Commission's visa proposal of 15 July 2009](#), which offered visa-free travel to Macedonia, Montenegro and Serbia. At the time, the Parliament's opinion was non-binding, but it carried weight. (With the entry into force of the Lisbon Treaty on 1 December 2009, the Parliament has become co-decision maker on visa issues on equal footing with the Council.)

In its non-binding opinion, the Parliament supported the Commission's proposal to abolish the visa requirement for Macedonians, Montenegrins and Serbians. It also upheld ESI's other key demands. The Parliament requested:

that Bosnia and Herzegovina and Albania be moved to the "white list" (together with Macedonia, Serbia and Montenegro), but with asterisks stipulating that visa-free travel will remain suspended until the Commission assesses that the two countries meet all roadmap requirements. (ESI asked for such a solution as early as 1 June 2009 in [a letter](#) sent to the relevant EU and national decision-makers.)

that the Commission start a visa dialogue with Kosovo and establish a roadmap for visa liberalisation for Kosovo similar to those established with the other Western Balkan countries. (ESI started a campaign to achieve [a roadmap for Kosovo](#) in July 2009.)

Like ESI, the Parliament stressed that Bosnia and Herzegovina and Albania had made [progress](#) with regard to the visa roadmap since the May 2009 [Commission assessments](#); and like ESI, the Parliament called on the Commission, "without delay and no later than in early 2010", to present new assessment reports for these two countries.

The Parliament's report, which was drafted by MEP [Tanja Fajon](#) (the *rapporteur* for the Commission's visa proposal), was adopted with 550 votes in favour, 51 against and 37 abstentions. This result reflected overwhelming support of the MEPs for the abolition of the visa restrictions for citizens from the Western Balkan countries, including Kosovo.

Fajon, a Slovenian from the Group of the Progressive Alliance of Socialists and Democrats, is a member of the [Committee on Civil Liberties, Justice and Home Affairs](#) (LIBE). The LIBE Committee voted on Fajon's draft opinion on 19 October and accepted it almost unanimously with 45 votes in favour, 2 against and 2 abstentions. Previously, on 6 October, the [Foreign Affairs Committee](#) (AFET), which provided input into LIBE's report, adopted a very similar opinion with 53 votes in favour, 8 against and 7 abstentions.

The two rapporteurs, Ms Fajon for LIBE and [Sarah Ludford](#) for AFET (UK; Group of the Alliance of Liberals and Democrats for Europe), explained in their reports that their approach would prevent further divisions in the region and an isolation of Albania and Bosnia, signal to the citizens of these two countries that the EU is waiting for them, and make sure that they would enjoy visa-free travel

as soon as the conditions are met. As regards Kosovo, the two rapporteurs argued that Kosovo must not be left in "a black hole" without any perspective for visa-free travel and without an incentive to carry out necessary structural reforms.

Initially, the two MEPs also wanted to avoid a lengthy EU law-changing procedure for Albania and Bosnia by declaring positive Commission assessments sufficient for the lifting of the visa requirement, but this was legally not possible. EU decision-making procedures are defined in the EU Treaty and must not be changed. This is why the final reports no longer mention this option.

However, Fajon still succeeded in committing the EU member states to working swiftly once the Commission would assess Albania's and Bosnia's implementation record as sufficient. The then imminent entry into force of the Lisbon Treaty, which has given the European Parliament co-decision power on visa policy, and the broad support that the reports from Fajon and Ludford received in their committees strengthened Fajon's position vis-à-vis the Council.

As a result, she was able to negotiate with the EU member states a "Joint Statement by the European Parliament and the Council" aimed at making sure that Albania and Bosnia would be granted visa-free travel as soon as they meet the conditions. In this statement, the Council and the Parliament invited the Commission to present a legislative proposal for Albania and Bosnia as soon as it has assessed that each country meets the benchmarks, and the Parliament and the Council committed themselves to dealing with the proposal "as a matter of urgency."

Following the delivery of the Parliament's opinion on 12 November 2009, the Council was able to take a (positive) vote on the Commission's visa proposal on 30 November 2009, and the visa barrier was lifted for Macedonian, Montenegrin and Serbian citizens with biometric passports on 19 December 2009.

Opinion of the European Parliament (rapporteur Tanja Fajon), 12 November 2009

Joint Statement by the European Parliament and the Council, 12 November 2009

Report from LIBE, rapporteur Tanja Fajon, 21 October 2009

Opinion from AFET, rapporteur Sarah Ludford, 7 October 2009

At: <http://www.esiweb.org/index.php?lang=en&id=403>



The Council of the European Union and the ministers for internal affairs from Albania, Bosnia, Macedonia, and Serbia on 30 November 2009 in Brussels. Photo: Council of the European Union

## The Council decision giving Macedonia, Montenegro and Serbia visa-free travel (30 November 2009)

On 30 November 2009, the Justice and Home Affairs Council, which is made up of EU interior and justice ministers, took its official vote on the [Commission visa proposal of 15 July 2009](#).<sup>1</sup> The Council decided, closely following the Commission proposal:

- to abolish the visa requirement for Macedonian, Montenegrin and Serbian citizens with biometric passports from 19 December 2009 by amending [Council Regulation 539/2001](#) accordingly;
- to exclude from the visa-free regime holders of Serbian biometric passports who are residents of Kosovo (which the Council always refers to as "Kosovo as defined by UN Security Council Resolution 1244 of 10 June 1999") or which were residents of Kosovo when they acquired the citizenship certificate. Serbian passports can be issued to Kosovo residents only by the so-called Coordination Directorate of the Ministry of Interior in Belgrade. Since passports always mention the issuing authority, those belonging to Kosovo residents are thus recognisable. The Council justified its approach with "security concerns regarding in particular the potential for illegal migration" (preamble to the legislative text);
- to add Kosovo to the "black list" (Annex I) of [Council Regulation 539/2001](#). This represents a formalisation of the existing visa requirement. The Council stressed that "this is without prejudice to the status of Kosovo (UNSCR 1244)."

Compared with the Commission proposal, the only difference was that the Council stipulated 19 December 2009 as the date for the start of visa-free travel for Macedonians, Montenegrins and Serbians, while the Commission had left the date of applicability of the amendments open. The early start in December had been suggested on 4 November 2009 in one of the Council working groups preparing the JHA Council meeting in order to allow the Balkan citizens to travel during the holiday season.

The Council disregarded the European Parliament suggestion to add Albania and Bosnia symbolically to the "white list" (with visa-free travel suspended until all conditions are met), but in its [conclusions](#), it stressed:

*"Albania and Bosnia and Herzegovina are not considered to have met all the benchmarks agreed under the visa liberalisation dialogue with the countries of the Western Balkans. A political declaration, however, invites the Commission to propose visa liberalisation for these two countries as soon as they comply with all the benchmarks, with a view to achieving visa free travel for their citizens as soon as possible (see full text below)."*

This political declaration, which is part of the conclusions, was the **statement** that European Parliament rapporteur Tanja Fajon had negotiated with the Council and which was approved by the Parliament on 12 November 2009. In the statement, the Council and the Parliament not only urged the Commission to work swiftly, but they also committed themselves to examining the Commission proposal concerning Albania and Bosnia and Herzegovina "as a matter of urgency".

The Council also disregarded the European Parliament's suggestion that the Commission "should start a visa dialogue with Kosovo with a view to establishing a roadmap for visa facilitation and liberalisation similar to those established with Western Balkan countries."

This issue was taken up one week later by the General Affairs Council (EU foreign ministers), which met on 7/8 December 2009 and concluded:

*"The Council stresses that Kosovo should also benefit from the perspective of eventual visa liberalisation<sup>2</sup> once all conditions are met and invites the Commission to move forward with a structured approach to bring the people of Kosovo closer to the EU."*

ESI considers this a step in the right direction, but the formulation is still timid and vague and does not offer Kosovo what the other Western Balkan countries have had: a visa roadmap.

Justice and Home Affairs Council, 30 Nov. 2009 – **Council Regulation amending 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**

Justice and Home Affairs Council, 30 Nov./1 Dec. 2009 – **Conclusions General Affairs Council, 7/8 Dec. 2009 - Conclusions**

Gerald Knaus, Alexandra Stiglmeier, **Visa-free travel in the Balkans** (op-ed 6 December 2009)

[1] The voting mechanism that applied was "qualified majority voting", which meant that the proposal needed 228 out of 309 votes to pass. Each member state has between 3 and 29 votes. The number of votes roughly corresponds to population, but is weighted in favour of smaller states. Normally, there is a total number of 345 votes among the Council members, and a proposal requires 255 to be adopted. However, Ireland (7 votes) and the UK (29 votes) do not fully participate in Schengen (they decided to maintain their border controls) and thus do not vote on visa policy. So, qualified majority voting for a proposed amendment of Council Regulation 539/2001 to pass requires 228 out of 309 votes. The 228 votes must come from at least 12 member states, and any member state may also request verification that the qualified majority represents at least 62% of the total EU population without Ireland and the UK.

[2] Without prejudice to Member States' positions on status.

At: <http://www.esiweb.org/index.php?lang=en&id=417>



Sarajevo: The EUropean Way. Photo: DG Enlargement, European Commission

## The Commission's visa proposal for Albania and Bosnia (27 May 2010)

On 27 May 2010, the European Commission issued a legislative proposal offering visa-free travel to the citizens of Albania and Bosnia and Herzegovina on condition that these two countries meet a few outstanding benchmarks. These benchmarks are the following:

### Albania:

- the development of a strategy and policy to support the reintegration of Albanian returnees;
- the strengthening of capacities of law enforcement and the effective implementation of the legal framework for the fight against organised crime and corruption, including through the allocation of adequate human and financial resources;
- the effective implementation of the legal framework in the area of the confiscation of organised crime assets.

### Bosnia:

- the strengthening of capacities of law enforcement and the effective implementation of the legal framework for the fight against organised crime and corruption, including through the allocation of adequate human and financial resources;
- the progressive implementation of the action plan from March 2010 on the establishment of electronic data exchange between police and prosecution bodies;
- the harmonisation of Entity level and Brcko District criminal codes with the State-level criminal code.

The proposal was based on the April 2010 **assessments** by the Commission and EU member states' experts of the progress achieved by Albania and Bosnia in meeting the requirements of the **visa roadmaps**. After presenting these assessments to EU member states and the European Parliament at the end of April 2010, the Commission discussed them with Albanian and Bosnian senior officials on 6 May 2010. Afterwards it sent letters to the two countries specifying in writing what it expects them to do to achieve the benchmarks. The Commission also asked the two governments to submit reports on progress made in meeting the outstanding benchmarks by 25 June 2010, which would enable it to organise expert missions to the field in the first half of July in order to verify the progress and issue positive assessment reports.

On 7 October 2010, the European Parliament backed the Commission's proposal. On 8 November, the Justice and Home Affairs Council, which brings together the EU's interior and justice ministers, gave the green light. The visa barrier for the citizens of Albania and Bosnia was formally lifted on 15 December 2010. From this time, Kosovo has been the only Balkan country under visa obligation.

[Commission proposal on visa-free travel for Albania and Bosnia \(27 May 2010\)](#)  
[Commission letter to Albania \(following 6 May 2010 meeting\)](#)

Commission letter to Bosnia (following 6 May 2010 meeting)



Tanja Fajon (MEP) in the Committee on Civil Liberties, Justice and Home Affairs. Photo: European Parliament - Audiovisual Unit

## The European Parliament on Albania and Bosnia

The **European Parliament** has been supportive of the visa liberalisation process for the Western Balkans. It **fully backed** the Council decision of 30 November 2009 that gave visa-free travel to the citizens of Macedonia, Montenegro and Serbia.

At the time – before the entry into force of the Lisbon Treaty on 1 December 2009 – the European Parliament had to be consulted by the Council, but it did not have any decision-making power. Under the Lisbon Treaty, this has changed. Now the Council and the Parliament are on an equal footing with regard to deciding the EU's visa policy. This means that they will decide together whether and when to lift the visa requirement for Albania and Bosnia.

When the visa requirement for Macedonia, Montenegro and Serbia was abolished in November 2009, the European Parliament was keen to see that the citizens of Albania and Bosnia and Herzegovina would not have to wait for too long before they could travel visa-free. On 12 November 2009, the parliament voted in favour of visa-free travel for Macedonia, Montenegro and Serbia, also endorsing a **declaration** that its rapporteur for the dossier, **Tanja Fajon**, had negotiated with the Council. In the declaration, the parliament and the Council committed themselves to treating visa liberalisation for Albania and Bosnia as "a matter of urgency".

Meanwhile, Bosnia and Albania continued to implement the visa roadmap requirements. In December 2009 and in February 2010, the Commission sent experts' missions to assess the status of roadmap implementation in these two countries.

Following the February missions, the European Parliament's **Committee on Civil Liberties, Justice and Home Affairs** (LIBE), which Fajon belongs to, invited the Commission to update the committee members on the next steps and the expected timetable. At the LIBE meeting on 23 February 2010, the Commission announced that it would present the final assessments of progress in Albania and Bosnia only in mid-April. This meant that Albania and Bosnia could not be granted visa-free travel before the summer even if they fulfilled all conditions, since the decision-making process - from the presentation of a legislative proposal by the Commission to the voting by the parliament and the Council - takes more time (see "**The EU Decision-making Process**"). The LIBE Committee was not happy with this timetable. On 2 March 2010, the committee sent **a letter** to the Commissioner for Home Affairs, Cecilia Malmstrom, asking her to speed up the process. A few days earlier, ESI had also sent a letter to the relevant officials in EU institutions criticising the delay. It was titled **Urgency, complacency and a broken promise**.

However, the Commission did not change its timetable. It issued its **assessments of progress** by Albania and Bosnia on 19 April 2010. The assessments were largely positive, but identified a few remaining open benchmarks. As a result, the Commission decided to follow the same approach it had used with Montenegro and Serbia almost a year earlier: In its **legislative proposal of 27 May**

2010, it offered visa-free travel to Albania and Bosnia, but on condition that the two countries meet the open benchmarks, three for each country (see Commission letters following the 6 May meetings [here](#)). The two countries were asked to report on progress at the end of June and then again at the end of August 2010. On 14 September, the Commission issued a report certifying that "Albania and Bosnia and Herzegovina have taken all the necessary measures to fulfil all open benchmarks [...] and consequently can be transferred from the negative (Annex I) to the positive (Annex II) list of Regulation 539/2001."

The actual decision-making process by the European Parliament and the Council started in September 2010 with discussions and votes in the European Parliament's LIBE and AFET committees. Since the Commission issued its legislative proposal on 27 May, it would not have been possible to begin the process earlier. A provision of the Lisbon Treaty gives the national parliaments of EU member states eight weeks to study legislative proposals made by the Commission and to intervene if they think this is necessary. This meant that the European Parliament could have started to work on the Commission's proposal after 27 July, but this was already the period of the summer recess, which ends at the end of August – hence the Parliament became active in early September. However, rapporteur Fajon prepared already in July 2010 the draft decision (draft "report") on the Commission proposal to abolish the visa requirement for Albania and Bosnia. Her fellow MEP Sarah Ludford, who has acted as the rapporteur on the visa issue for the AFET Committee, [did the same](#); AFET is providing input into LIBE's report. Both draft reports envisaged approval of the Commission proposal without any amendments if the Commission certifies that all benchmarks have been fulfilled.

On 2 September, Fajon presented her report to the LIBE Committee, and the [European Commission briefed](#) the members of the LIBE Committee on progress that Albania and Bosnia had achieved in meeting the open benchmarks, concluding that they now qualified for visa-free travel (on 14 September, the Commission followed up with its written report).

On 6 September, the AFET Committee voted in favour of Sarah Ludford's report, with 41 positive votes, 2 negative votes and 3 abstentions. The LIBE Committee voted Tanja Fajon's report on 28 September; 48 MP voted in favour and 2 against (there were no abstentions). At the Plenary Session of 6-7 October 2010, Fajon's report was discussed and obtained overwhelming support: all the main political groups voted in favour of abolishing the visa requirement for Albanians and Bosnians. 538 MEPs voted in favour of her report, 47 against, and 41 abstained. All that now separates the two countries from visa-free travel is a vote by the Justice and Home Affairs Council, which is scheduled for 8/9 November 2010. As Fajon remarked, a "yes" of the EU would be "a clear signal that hard work pays off".

In the explanatory text of her report, Fajon urges not to lose any time.

*"Every effort should now be made to deliver visa-free travel for Bosnia and Herzegovina and Albania as soon as possible. We should bear in mind that after the break up of Yugoslavia, after cruel wars brutally divided the region and left very deep wounds in peoples' minds and hearts and hundreds of thousands of refugees and migrants fled the region, we witness the growth of a young generation, which is cut off from the unifying and prosperous Union. Do we really want to keep the door shut to our close neighbours, to the countries which try their best to please us? We are not deciding about granting jobs or residential rights, we are deciding about the basic right of a future EU citizen to freely travel to the Union.*

*"Bosnia and Herzegovina and Albania have made an important progress in the last few months after the European Commission last July decided they do not qualify for visa liberalisation. By prizing only some nations, there is always a risk to destabilise the region and cut the political and ethnical puzzles in even smaller pieces. Therefore, it is necessary not to lose too much time. Their governments worked hard in the last few months, so they could repair their own mistakes and delays and deliver the same quality as their neighbouring countries."*

Opinion by Sarah Ludford, AFET Committee (14 July 2010, voted in on 6 Sept. 2010)

Commission briefing on Albania and Bosnia (2 September 2010)

Report by rapporteur Tanja Fajon, LIBE Committee (12 July 2010, voted in on 28 Sept. 2010)

Letter by the EP's LIBE Committee concerning visa-free travel for Albania and Bosnia (2 March 2010)



"Family photo" with the ministers of the Justice and Home Affairs Council and Commissioner Malstroem: Photo: European Council

## **The Council decision giving Albania and Bosnia visa-free travel (8 November 2010)**

On 8 November 2010, the Justice and Home Affairs Council unanimously adopted the **Commission proposal of 27 May 2010** to abolish the visa restrictions for the citizens of Albania and Bosnia and Herzegovina. This decision is likely to go into effect on 15 December, after it is officially signed and published in the Official Journal of the EU. It will mean that the citizens of all Western Balkan countries except **Kosovo** will be able to travel without a visa to 28 Schengen/associated Schengen countries.

In May 2010, the Commission had proposed to lift the visa restrictions if Bosnia and Albania meet a number of remaining open benchmarks. In September 2010, **the Commission confirmed** that all conditions had been reached.

Prior to the Council vote, the **European Parliament had voted** on 7 October 2010 in favour of abolishing the visa obligation for Albanians and Bosnians. Under the Lisbon Treaty, which went into effect on 1 December 2009, the European Parliament and the Council are **co-decision makers on an equal footing**.

The decision-making process for Albania and Bosnia was more difficult and drawn-out than that for Macedonia, Montenegro and Serbia a year earlier. Despite a **political declaration** by the Council and the Parliament in November 2009 that they would treat the case of Albania and Bosnia "as a matter of urgency", it took another year until all the member states could agree that the two countries were ready. Until the last minute, there was reluctance. In September, France, the Netherlands and Denmark raised objections. ESI responded with a widely reported **commentary**, reminding in particular France that back-tracking on the promise of visa-free travel in return for far-reaching reforms would undermine the credibility of the EU in the Balkans. Just before the Council decision on 8 November, Germany, Denmark and Slovakia became hesitant. It took the Commission and supportive member states efforts to convince them to stay on board.

At France's insistence, the Commission committed itself at the JHA Council to establishing two mechanisms to prevent potential negative consequences of granting visa-free travel to the five Western Balkan countries: The Commission will monitor that the countries continue the reforms they had to undertake to qualify for visa-free travel. This will be discussed in the regular meetings that the Commission has with the authorities of these states, and it will be taken up in the annual progress reports that the Commission issues. In addition, the Commission will introduce emergency consultation arrangements so that EU member states, the Commission and the governments of the Western Balkan countries can quickly react to sudden increases in asylum requests and irregular migration. In this regard, the Commission will have the right to suggest suspending the visa-free travel. The background is that in 2010 there has been an increase in asylum requests from Serbian and Macedonian citizens in Sweden, Germany and Belgium.

Both Albania and Bosnia were also required to run public information campaigns explaining to their citizens that visa-free travel only entitles to a stay of a maximum of 3 months within a 6-month period in the Schengen area and is neither a work permit, nor a residence permit; that only holders of biometric passports can travel visa-free; and that the chances of asylum seekers from Albania and Bosnia to be granted protection in an EU country are minimal.

**Justice and Home Affairs Council, Brussels, 8-9 November 2010**  
**Legislative Act (Draft Regulation amending Council Regulation 539/2001)**  
**European Commission. Statement on the post-visa liberalisation monitoring mechanism for the Western Balkans, Brussels, 8 November 2010**

## Glossary: Visa Roadmap A to Z

### - All the key concepts and technical terms explained -

This glossary explains all the key concepts and technical terms that appear in the **visa roadmaps** for Albania, Bosnia and Herzegovina, Macedonia, Montenegro and Serbia. By understanding them, it becomes clear how far-reaching the reforms are that these states have to undertake to qualify or visa-free travel with the Schengen countries. It also becomes evident that these reforms will be beneficial not only to the Balkan countries, but also help protect the EU against crime and illegal immigration from all over the world.



*Young people, like these students in Bosnia, wait impatiently for visa-free travel to the EU.  
Photo: University Tuzla*

- ▶ Breeder documents
  - ▶ ID cards
- ▶ Carriers' responsibility
- ▶ Confiscation of assets of criminals
- ▶ Council of Europe Conventions
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- ▶ Corruption
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- ▶ European Police Office (Europol)
  - ▶ Strategic cooperation agreements
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- ▶ Group of States against Corruption (GRECO)
- ▶ ICAO and EC standards regarding biometric information in travel documents
- ▶ Inland detection of illegal migrants
- ▶ Integrity and security of the passport personalisation and distribution
- ▶ LASP/SLTD database
- ▶ Machine-readable biometric travel document
- ▶ Migration management
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  - ▶ Migration profiles

- ▶ Money laundering
- ▶ National Integrated Border Management
- ▶ National Strategy for Reintegration of Returnees
- ▶ Personal Data Protection Law
- ▶ Readmission agreement
  - ▶ Bilateral readmission agreement
  - ▶ Implementing protocols
  - ▶ EU standard travel documents for expulsion purposes
- ▶ Refugees and Internally Displaced Persons (IDPs)
  - ▶ Refugees
  - ▶ IDPs
- ▶ Schengen Agreement
  - ▶ Schengen White and Black Lists
  - ▶ SIS and VIS
- ▶ Trafficking in human beings
- ▶ Visa Facilitation Agreement
- ▶ Visa refusal rate and refusal rate of entry
  - ▶ Visa refusal rate
  - ▶ Refusal rate of entry

### **Breeder documents**

Basic documents that are used to obtain other documents like passports, ID cards and driver's licenses. Typical breeder documents are birth certificates, marriage certificates, death certificates, divorce certificates and – in some countries – social security cards. Since breeder documents are the basis for other documents, it is crucial to safeguard their security and prevent their falsification or manipulation.

Making breeder documents secure requires a complex set of arrangements. This includes protecting the breeder documents against falsification and securing the various civil registries where personal data (such as birth and death data) is stored. Typically, such measures include strict limits on access to civil registers, adequate security controls, security design features that make it difficult to falsify certificates, adequate and securely stored duplicates (including central electronic databases), direct links to source databases to verify information, and comprehensive and continuous training programmes for staff involved in the verification or identification of documents (including courses on corruption awareness and fraud detection).

As with the **personalisation of travel documents**, the "four-eyes principle" and "separation of duties" need to be observed at all stages of the process.

### **ID cards**

The visa roadmaps require Western Balkan states to ensure "a high level of security of breeder documents and **ID cards**" and define "strict procedures for their issuance". ID cards are included because they can function as travel documents, can on occasion be used as breeder documents, and are needed to identify a person when they request certificates, such as birth certificates.

### **Carriers' responsibility**

Carriers' responsibility refers to the obligation of carriers (persons, companies and organisations that provide passenger transport by air, sea or land) to ensure that passengers have valid and recognised travel documents, including visas or residence permits where required. Carriers that fail to adequately control travel documents and allow unauthorised foreigners to enter a country are obliged to repatriate them at their own expense. They are also liable to fines.

Carriers' responsibility is enshrined in Article 26 of the 1990 Schengen *Convention*, which clarifies the implementation of the 1985 **Schengen Agreement**. An EU Directive adopted in 2001 (2001/51/EC) supplements Article

26 and explains legislation on carriers' responsibilities as a measure "aimed at curbing migratory flows and combating illegal immigration." To achieve these aims, the visa roadmaps demand that the Western Balkan countries implement legislation – and define sanctions – pertaining to carriers' responsibility.

### **Confiscation of assets of criminals**

Legislation on this issue is necessary to ensure that criminals are not allowed to keep the proceeds generated through criminal activities. In general, criminal assets can also be seized, without compensation, if they have been transferred to another person. The confiscation of criminal proceeds must be based on a court decision which establishes that a crime was committed. Within the EU, a member state can request the freezing and confiscation of property related to the commission of an offence in any other EU member states.

The Council of Europe has passed two conventions on the confiscation of assets of criminals (the conventions of 1990 and 2005), based on which the EU has passed **legislation** that is even stricter than the conventions.

### **Council of Europe Conventions**

The **Council of Europe** (CoE) is a separate and older European institution than the EU. Founded in 1949, the organisation is based in Strasbourg and has 47 member states including the five Western Balkan states which participate in the visa liberalisation process (Albania, Bosnia and Herzegovina, Macedonia, Montenegro and Serbia).

The Council of Europe works mainly through conventions. By drafting conventions and international treaties, its member states agree common legal and other standards. The CoE conventions become legally binding in the member states if they sign and ratify them, and incorporate their provisions into national legislation. Several Council of Europe conventions have also been opened for signature to non-member states.

There are **205 Council of Europe treaties**, according to the CoE's Treaty Office. The Western Balkan countries are required to implement the conventions in various fields, ranging from corruption to **personal data protection** and judicial cooperation in criminal matters (see next entry).

### **Council of Europe conventions relating to judicial cooperation in criminal matters**

The two original Council of Europe treaties on judicial cooperation in criminal matters – occasionally called the "mother conventions" – are the **1957 European Convention on Extradition** and the **1959 European Convention on Mutual Assistance in Criminal Matters**. In total, however, there are **31 conventions and protocols** concerning judicial cooperation in criminal matters, such as the supervision of conditionally sentenced or conditionally released offenders, transfer of proceedings in criminal matters, transfer of sentenced persons, corruption, suppression and prevention of terrorism, money laundering and seizure of assets of the proceeds of crime, statutory limitations, human trafficking, compensation of victims of violent crime and cyber crime.

The Western Balkan countries are asked to implement international conventions concerning judicial cooperation in criminal matters, in particular the Council of Europe conventions; and to take measures aimed at improving the efficiency of judicial co-operation in criminal matters of judges and prosecutors with the EU countries and countries in the region.

### **Corruption**

Combating corruption is a priority for the EU. As disputes about the membership of Bulgaria and Romania have shown, many EU member states fear that the

accession of 'corrupt' countries might water down the integrity standards of the Union.

Transparency International's **Corruption Perception Index** – probably the best-known global index on corruption – gives fairly bad grades to the countries of the Western Balkans. On a scale of 1 to 10, where '10' signifies 'highly clean' and '0' 'highly corrupt', Western Balkan countries received ratings of 3.6 (Macedonia, the least corrupt in the group) and 3.2 (Bosnia and Herzegovina, the most corrupt in the group) in 2008. In comparison, Slovenia was rated 6.7; Denmark, the least corrupt country in the world according to TI, received 9.3 points, and Somalia was the most corrupt with 1.0.

The EU is thus keen for the Western Balkan states to implement measures against corruption by drafting and implementing anti-corruption strategies, and related action plans and legislation. The visa roadmaps also require specific measures to tackle corruption in border management agencies (e.g. border police, customs) and other bodies or institutions that handle travel documents and visas.

The roadmaps also require the Western Balkan states to implement relevant UN and Council of Europe conventions such as: the 2003 **UN Convention on Corruption**, the 1999 **Council of Europe Civil Law Convention on Corruption** and the **Council of Europe Criminal Law Convention on Corruption** from the same year.

#### **EU joint action on travel ban**

A "Joint Action" is a legal instrument of the EU's **Common Foreign and Security Policy** (CFSP). It is an action coordinated between the 27 EU member states to attain specific objectives derived from generally formulated policy goals (guidelines) set by the European Council (EU heads of state or government). If a joint action is agreed, various resources (human resources, expertise, funding, equipment, etc.) can be mobilised.

The EU has adopted several joint actions imposing travel bans on specific individuals coming from non-EU states. An example is the travel ban on senior figures of the regime in Zimbabwe, including President Robert Mugabe. The measure was motivated by the Zimbabwean government's continuing engagement "in serious violations of human rights and of the freedom of opinion, of association and of peaceful assembly." (For further information about the EU's Foreign Policy, click [here](#).)

#### **EU legislative instruments**

The EU uses a variety of legislative instruments, the most important being:

**EU Regulation:** This type of EU law is applicable in its entirety, without any changes, in the EU member states. It becomes applicable on a specified date, usually within a short period after publication in the EU's Official Journal. In case of any conflict with national laws, the Regulation prevails.

**EU Directive:** This type of EU law sets objectives that have to be achieved, but leaves the EU member states to decide on the form and method of achieving them. Each Directive sets a deadline, usually two or three years after adoption at EU level, by which time member states must have transposed its provisions into national legislation.

**EU Decision:** Both the EU Council (where all the member states are represented) and the European Commission can adopt Decisions. They are fully binding on those to whom they are addressed.

## Eurojust

**Eurojust** is an EU body established in 2002. Based in The Hague, it is a permanent network of judicial authorities tasked with enhancing the effectiveness of the investigation and prosecution of serious cross-border and organised crime in EU member states. Eurojust has 27 national members, one from each EU member state – usually a senior prosecutor, judge or police officer – who have access to the judicial authorities and case files within their country. There are also 31 Eurojust contact points in non-EU countries (2007), including all Western Balkan countries. Eurojust works with them on cases involving the countries they represent.

In April 2009, for example, the organisation facilitated several **coordinated and simultaneous arrests in Italy, the Netherlands and Columbia** in a large human- and drug-trafficking case. Eurojust's role in the investigation was to organise coordination meetings between the judicial authorities from Colombia, the Netherlands and Italy.

The visa roadmap requires the Western Balkan countries to develop working relations with Eurojust, mainly through the Eurojust contact points. The goal is enhanced cooperation in fighting serious forms of transnational crime, including terrorism. Macedonia even signed a **judicial cooperation agreement with Eurojust** on 28 November 2008.

## European Police Office (Europol)

**Europol** is a "service organisation" to EU member states with no coercive powers and no police force of its own. Its establishment was agreed in the Maastricht Treaty (effective 1993), and the agency – based in The Hague – has been fully operational since 1999.

Europol's main task is to facilitate cooperation between EU law enforcement agencies "in preventing and combating terrorism, unlawful drug trafficking and other serious forms of international organised crime." It achieves this through information exchange, intelligence analysis, expertise and training.

### Strategic cooperation agreements

Europol cooperates closely with all Western Balkan countries and has concluded **strategic cooperation agreements** with them to enhance cooperation in fighting serious forms of international crime including drug trafficking, money laundering and illegal immigration. The agreements provide for the following:

The exchange of strategic and technical information; *strategic information* includes e.g. information on enforcement actions, routes and methods used by smugglers, threat assessments and crime situation reports; *technical information* refers to issues of police methodology, administrative measures undertaken by police forces, etc.

A capacity building element with regard to how the relevant authorities of the Western Balkan states can cooperate with Europol,

A gap analysis helping to identify problems regarding the "cooperation infrastructure" between the two parties,

The possibility to exchange liaison officers.

### Operational cooperation agreements

The next step envisaged by the visa roadmaps for Western Balkan countries is "to prepare for the conclusion of **operational cooperation agreements** with Europol with special emphasis on data protection provisions." The current cooperation agreements with Western Balkan states are limited to structural and strategic issues such as the exchange of information on enforcement actions or

threat assessments. Operational cooperation goes a step further and includes, among other things, the exchange of specific data on criminals, illegal migrants, etc. This, however, requires that Western Balkan states first implement adequate measures for **personal data protection**.

## **FRONTEX**

**FRONTEX** is an EU agency based in Warsaw, which has been fully operational since October 2005. FRONTEX' main purpose is to coordinate operational cooperation between EU member states in the field of border security. It achieves this through a number of complementary activities. At the core of these activities is risk analysis: the identification, assessment and prioritisation of risks related to the security of the EU's external borders. The aim is to ensure the "right" amount of protection to counter an identified risk, without under-protecting, but also without over-protecting.

FRONTEX' activities include the coordination of operational activities of member states related to the security of external borders, assistance in training border guards, the establishment of common training standards, and research in the area of border control and surveillance. The agency also supports member states in identifying best practices regarding the acquisition of travel documents and the removal of illegal third country nationals.

FRONTEX has working agreements with non-EU countries in the EU's neighbourhood. Cooperation focuses on joint operational activities in the field of border control, training, as well as technical cooperation in the field of research and development. As of the end of April 2009, FRONTEX had established formal cooperation with the law enforcement authorities of nine non-EU countries, including four of the five countries participating in the visa liberalisation process (Albania, Bosnia and Herzegovina, Macedonia and Serbia). The remaining five were Croatia, Georgia, Moldova, Russia and Ukraine. The conclusion of a working arrangement with FRONTEX is one of the requirements of the visa roadmaps.

## **Group of States against Corruption (GRECO)**

**GRECO** is an anti-corruption monitoring body of the **Council of Europe**. It was established in 1999 and is located in Strasbourg, France. Membership in GRECO is not limited to European states (e.g. the US is also a member), though all member states of the Council of Europe are also GRECO members. All five Western Balkan countries participating in the visa liberalisation process are members of the Council of Europe and GRECO.

The organisation's task is to identify deficiencies in member states' anti-corruption policies, particularly with regard to Council of Europe anti-corruption standards, and to suggest legislative, institutional and practical reforms.

GRECO aims to reduce corruption not by imposing sanctions, but by mutual evaluation, persuasion and peer pressure. GRECO works in cycles, so-called evaluation rounds, which last three to four years. Specific themes are chosen for each evaluation round, which are then examined on a state-by-state basis. The current round, launched in 2007, deals with bribery and political party financing. At the end of an evaluation round, GRECO evaluates the implementation of its recommendations by each member country.

The visa roadmaps require the Western Balkan countries to implement all GRECO recommendations.

## **Inland detection**

Inland detection is a strategy used by authorities to search for and apprehend

**of illegal migrants**

illegal migrants within the borders of a country after they have illegally crossed state borders. The concept of inland detection is crucial for the prevention of illegal migration, as even in the case of highly sophisticated border control measures a large number of illegal migrants manage to cross state borders.

Inland detection is not random. It focuses on so-called "nexus points" – areas where illegal migration routes converge or pass through, or where services – such as safe houses and clandestine transport – are offered to illegal migrants.

The Western Balkan states are requested to define and apply inland detection in order to prevent the transit of illegal third-country migrants to the EU.

**Integrity and security of the passport personalisation and distribution process**

Personalisation is a process by which empty (blank) passport documents – which are not usable as they are – are loaded with the information (including biometric data) of the person to whom the passport will be issued.

Security in the personalisation process is critical in order to ensure that the data loaded onto the document cannot be tampered with, modified or stolen by fraudsters and criminals. Similar precaution is necessary during the entire distribution process to prevent unauthorised persons from getting hold of either the blank or the issued (personalised) passport document. This is achieved through systematic controls throughout the entire personalisation and distribution process, including the consistent application of the "four-eyes" principle (whereby a critical task is always shared by two or more people, the idea being that it is more difficult to corrupt two individuals than one) and the application of "segregation of duties" (whereby different tasks of a larger process are assigned to different individuals, so that no single person has full control of the process thus making it more difficult to commit fraud). Technical controls such as encrypted communication are also used, as well as a high degree of automation with minimal human intervention – once again reducing possibilities of fraud.

**LASP/SLTD database**

**Interpol** maintains a so-called **SLTD database** (Stolen and Lost Travel Documents). The database holds records of millions of passports, identity cards and visas that were reported as stolen or lost. It enables border authorities worldwide to check instantly whether somebody is trying to enter a country using a stolen travel document and a false identity. The database is thus a key measure for detecting criminals and illegal migrants. The Western Balkan countries are required to report to Interpol's SLTD database.

**Machine-readable biometric travel document**

A travel document that contains computer-readable biometric information about its holder. Biometric information relies on physiological characteristics (fingerprints, iris shape, hand geometry, face, voice, ear shape) or behavioural characteristics (signature), allowing authorities to rapidly and precisely authenticate a person's identity proving that the holder of the identification is indeed who he claims to be. Biometric information can also provide border services, or any other investigative body, with a means to search for matches in a database; for instance, to verify whether a person has previously entered the Schengen area under a different name. Biometric travel documents are thus seen as a key part of the fight against organised crime, terrorism and illegal immigration.

In 2004 the EU member states adopted Council Regulation **2252/2004**, according to which all new EU passports must be machine-readable and include (from 2006 onwards) digital photos of the holder and (from 2009) fingerprints. The biometric

information is stored on a chip in passports and in national databases as well as in the Schengen Information System II (SIS II). SIS II is the modernised and improved successor to SIS, both allowing national authorities in Schengen countries to share information on policies and persons trying to cross the border or to obtain a visa.

## **Migration management**

Migration is increasingly perceived as a central feature of the global economy. This realisation has led to a conceptual shift regarding the strategic goals of migration policies - from *controlling and restricting* migration to *managing* it.

The **International Organisation for Migration (IOM)**, the leading inter-governmental organisation in the field of migration, describes the goal of **migration management** as helping to harness the social and economic potential of migration to the benefit of *individual migrants* as well as *societies as a whole*. The model calls for "managing migration in an orderly way" while also "controlling irregular migration." This involves the development of a comprehensive migration management policy based on extensive empirical data on migration movements and supported by appropriate legislation and administrative structures. The gathering of information for migration management purposes requires extensive national cooperation between various in-country services and ministries, as well as international cooperation.

## **Monitoring of migration flows**

The visa roadmaps require Western Balkan states to put in place mechanisms for the **monitoring of migration flows**, to regularly update the **migration profiles** of their countries and to establish bodies responsible for the collection and analysis of data on migration stocks and flows. The obligation to monitor migration flows implies keeping records of the numbers and structure of legal and illegal migration.

## **Migration profiles**

**Migration profiles** gather and analyse all information relevant to migration in any given country. They usually include data on immigrants, emigrants, remittances, migrant communities, and irregular migration; they also provide an overview of migration policies and the legal framework in place. In preparation for its EU presidency in 2008, the Slovenian government requested the IOM to draft **migration profiles for all the Western Balkan countries** as well as for Turkey. These documents were finalised in 2007 and now need to be kept up-to-date by the Western Balkans governments.

## **Money laundering**

Money laundering is the act of concealing the true origins of money acquired by illegal means. If successful, the laundered money loses its "criminal identity" and appears legitimate. The criminal act of money laundering is *not* limited to concealing the origins of the proceeds of organised crime (such as the sale of drugs, arms trafficking and prostitution), but also relates to assets and values generated through illegal financial transactions (corruption, tax evasion, false accounting).

A typical example of money laundering is "smurfing". A large amount of cash, e.g. 100,000 €, is broken down into smaller amounts such as 10,000 € and deposited by a number of individuals in various accounts: these amounts are then transferred to the account of the original owner of the illegal money. Breaking down a large amount of money into smaller amounts is crucial, as cash payments to bank accounts below a certain limit are not reported to financial oversight bodies. Other forms of money laundering are more complex, and can use false loan repayments or forged invoices as a cover; yet other forms include depositing

large amounts of cash in offshore banks that are not under a strict anti-money laundering regime (there are number of such offshore financial centres, for example Barbados, the Cayman Islands, Belize, etc.).

The main EU law on money laundering is the Directive on "**Money laundering: prevention of the use of the financial system**" adopted in 2005. The Directive's aim is to prevent the use of the financial system for money laundering or terrorist financing. It requires financial institutions to apply customer due diligence, meaning that they have to investigate a potential financial customer's background. They also have to monitor and report all suspicious transactions to their country's Financial Intelligence Unit (FIU). The setting up of FIUs is stipulated in the EU Directive.

The Western Balkan countries are required to adopt and implement national strategies on the prevention and fighting of money laundering, including legislative measures where necessary, and to implement the relevant UN and Council of Europe conventions in this field.

### **National Integrated Border Management**

National Integrated Border Management is a concept to integrate and optimise national and international cooperation within, and between, the various agencies and services responsible for border management. These agencies include the border police, customs administration, and veterinary and phyto-sanitary inspection.

The two main goals of efficient border management are: (a) to facilitate the movement of legitimate persons and goods, while (b) preventing the entry of smuggled goods, narcotics, arms, illegal migrants, and trafficking in human beings; halting the spread of infectious diseases to people, animals, and plants; and countering terrorist threats.

In order to achieve these two central aims, the National Integrated Border Management concept for the Western Balkan states postulates improved cooperation and integration on three levels:

- Intra-service co-operation
- Inter-agency co-operation
- International co-operation

Integration at, and between, these three levels is achieved through a comprehensive package of activities and tools that include measures regarding the legal and regulatory framework, organisational structures and management, procedures, human resources and training, communication, information technology, infrastructure and equipment, and budget.

The concept of integrated border management is also implemented in Schengen zone countries, though here the emphasis is on interstate cooperation between the various national border authorities and on the establishment of a common legal framework. It goes back to a European Commission **Communication from 7 May 2002** (a policy paper) on the integrated management of the EU's external borders, primarily in order to curb illegal migration and fight terrorism (more information from the European Commission is available [here](#)). Based on the Communication, a series of legislative measures were passed. The EU is currently discussing a **new generation** of border management tools to improve border

checks and register who enters the EU.

### **National Strategy for Reintegration of Returnees**

Under the **readmission agreements** concluded between the EU and the states of the Western Balkans, the Western Balkan countries are obliged to undertake measures to reintegrate returnees who have been sent back by the EU. These measures include the issuance of personal documents, temporary accommodation and social protection, health protection and education for children.

Activities related to the reintegration of these returnees necessitate cooperation between different ministries and government bodies. Important government bodies in this respect include the Ministry of Interior, the Ministry of Labour and local administrative bodies. The National Strategy for Reintegration of Returnees – whose adoption is required by the visa roadmap – coordinates these actors in providing basic support for returnees.

### **Personal Data Protection Law**

Personal data protection is an area of law that deals with the individual's right to privacy regarding the collection and storage of personal data. The concept of personal data protection is founded on basic human rights principles on the right to privacy, such as Article 8 of the **European Convention for the Protection of Human Rights and Fundamental Freedoms**.

The challenge of data protection legislation is to strike a balance between a high level of protection of privacy and the free movement of personal data for legitimate purposes, mostly in the field of commerce (e.g. information on customers) and administration (e.g. data on citizens for tax purposes, pension funds, social benefits). The level of personal data protection is further restricted "in order to safeguard aspects such as national security, defence, public security, the prosecution of criminal offences."

In the EU a number of Directives deal with the issue, the most important of these being Directive **95/46/EC** on "the protection of individuals with regard to the processing of personal data and on the free movement of such data" and Directive **2002/58/EC** "on privacy and electronic communications". The former amplifies the **1981 Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data** and its **Additional Protocol** from 2001, which the Western Balkan countries are requested to sign, ratify and implement. (For more information about personal data protection in the EU, click [here](#).)

When processing personal data, Directive **95/46/EC** requires that "appropriate measures [must be implemented] to protect personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access." The Directive further states that the transfer of personal data from EU member states to countries outside of the EU is only authorised if the country in question has put in place "an adequate level of protection" of personal data.

Establishing operational cooperation between the law enforcement bodies of Western Balkan states and EU countries – so that personal data on criminals, illegal migrants, etc. can be exchanged – is thus preconditioned on the Western Balkan states' putting in place adequate data protection systems.

### **Readmission agreement**

An agreement between the EU and a non-EU country pertaining to the readmission of persons who do not, or no longer, meet the conditions of presence or residence on the territory of one of the two parties and are (a) nationals of the other party or (b) nationals of a third country, but have transited through the

other party's territory.

Despite the reciprocal character of readmission agreements, the real issue is the illegal presence of non-EU nationals in the EU, and not vice versa. In practical terms, readmission agreements facilitate the expulsion of illegal residents to their country of origin or transit. They are part of the EU's strategy to combat illegal immigration.

**Bilateral readmission agreement**

The **European Commission started to negotiate readmission agreements** on behalf of the EU in 2000. The first *Community* readmission agreement, with Hong Kong, entered into force on 1 March 2004. Previously, individual EU member states concluded **bilateral readmission agreements** with non-EU countries.

The issue of readmission gradually **pervaded other EU policy areas** such as trade, development aid and external relations as the EU looked for leverage to convince countries from where migrants enter the EU to conclude readmission agreements. Between 2004 (**Hague Programme**) and 2005 the EU finally decided to offer *visa facilitation* in certain cases as an incentive to achieve readmission agreements.

The EU also decided to offer this package to countries with a European perspective, such as those of the Western Balkans (even though most EU countries already had bilateral agreements with these countries). The main reason was one of diplomacy and equal treatment: it would have been strange – even unfair – to offer easier visa application procedures to distant countries, but not to potential EU candidates.

The EU readmission and visa facilitation agreements with Albania, Bosnia and Herzegovina, Macedonia, Montenegro and Serbia entered into force on 1 January 2008, with the exception of the readmission agreement with Albania, which had become effective on 1 May 2006. (For more information about the agreements with the Western Balkan countries see *The Origin and Visa Facilitation and Readmission Agreements.*)

**Implementing protocols**

The precise procedures for readmission are detailed in so-called **implementing protocols** between individual EU member states and the non-EU country in question. The implementing protocols typically include issues such as defining the competent authorities, the available border crossing points, details of communication (e.g. language), conditions for escorted returns and the documents necessary for the readmission to be carried out.

**EU standard travel documents for expulsion purposes**

Persons whose readmission has been accepted by the country of origin or transit may receive **EU standard travel documents for expulsion purposes**, which the countries of origin or transit are obliged to accept. There is a need for such travel documents if the persons to be readmitted have destroyed their ID documents and refuse to disclose their identity or if the receiving country cannot technically, or refuses to, issue the necessary identity and/or travel document.

**Refugees and Internally Displaced Persons (IDPs)**

The United Nations High Commissioner for Refugees (UNHCR), the lead UN agency responsible for the protection of refugees, defines a **refugee** as "someone who has been forced to flee his or her country because of persecution, war, or violence. A refugee has a well-founded fear of persecution for reasons of race, religion, nationality, political opinion or membership in a particular social group." Critical for the definition of a refugee is that the person has crossed an international border. The legal status of **refugees** is governed by the 1951

**Refugees**

**Refugee Convention and a Protocol from 1966** (also known as the *Geneva Convention with New York Protocol*). The roadmaps demand that the Western Balkan countries implement this convention. One of its most important provisions is that no state can expel or return a refugee against their will to a place where the refugees fears prosecution (principle of *non-refoulement*).

#### **IDPs**

**IDPs** are persons who have been forced to flee their homes for the same reasons as refugees. However, unlike refugees, IDPs remain in their home country and thus have not crossed an international border. International refugee law thus does not apply to IDPs, who remain subject to the laws of their home country. As there is no international legislation that would specifically address the issue of IDPs, the UNHCR has compiled **Guiding Principles on Internal Displacement** that summarise the rights and guarantees for the protection of IDPs. These guiding principles reflect, and are consistent with, international human rights law and international humanitarian law.

#### **Schengen Agreement**

An agreement signed in 1985 by Belgium, France, Germany, Luxemburg and the Netherlands abolishing border controls and establishing a zone of free movement of people and goods. The Agreement was followed in 1990 by the **Schengen Convention**, which defined the measures necessary for implementation. Since its establishment, the Schengen zone has expanded several times. It now encompasses 25 European states and covers a population of approximately 400 million people.

While the original Schengen Agreement was simply a treaty signed between five countries, from 1999 onwards the agreement and all related legal acts have been part of the EU body of law (EU *acquis*). These provisions are binding on EU accession countries.

However, not all EU member states fully participate in the agreement: Ireland and the United Kingdom have chosen to maintain border controls, while Bulgaria, Cyprus and Romania still have to implement some provisions to become fully integrated. Denmark has the right to choose whether or not to apply certain measures. At the same time, three non-EU members – Iceland, Norway and Switzerland – are fully integrated.

The abolition of internal border controls has gone hand in hand with strengthened controls at the external borders of the treaty area. In order to create greater efficiency and security with regard to the border regime of the Schengen zone, it was also necessary to harmonise policies and administrative measures in other relevant policy areas as well, such as immigration and visa policy, cross-border policing and judicial cooperation.

#### **Schengen White and Black Lists**

An EU law (**Council Regulation 539/2001**) lists the countries whose nationals need a visa to enter the Schengen area ("**Schengen Black List**") and those whose nationals do not ("**Schengen White List**"). A computerised information system (**SIS** - Schengen Information System) allows the national authorities of the Schengen countries to share information related to border security (including persons trying to enter the EU or obtain a visa) and law enforcement. A similar system is being set up to enable Schengen countries to share information on the entry and exit of persons under visa obligation (**VIS** - Visa Information System).

#### **SIS and VIS**

More information about the Schengen area, from the European Commission, is available [here](#).

## Trafficking in human beings

Human trafficking involves the act of recruiting, transporting, harbouring or receiving a person for the purpose of forced labour, slavery – including sex slavery – and various forms of bonded labour. (Bonded labourers work to repay a loan, such as the fee they are charged for being smuggled into the EU. The relationships between bonded labourers and their patrons are typically highly exploitative with no fair payment for the labour delivered.) Victims of human trafficking are usually recruited through force, deception or fraud; often they are in a situation of debt bondage.

Human trafficking is different from illegal migration or the smuggling of migrants. Central to the definition of human trafficking is the notion of coerced exploitation of the migrant after he or she has crossed a border. This is not the case when migrants are smuggled into a country or enter a country illegally on their own and seek illegal employment there.

Human trafficking is closely linked to organised crime and is often described as a modern form of slavery. The majority of victims are women, with sexual exploitation the most common reason for their trafficking.

In the EU, framework legislation on human trafficking ([Council Framework Decision 2002/629/JHA of 19 July 2002](#)) deals with such issues as criminalisation, penalties, aggravating circumstances, jurisdiction, extradition, and police and judicial cooperation. (More information about EU action against trafficking in human beings is available [here](#).)

A number of international conventions also deal with human trafficking, most importantly the [UN Convention against Transnational Organised Crime](#), adopted in 2000, and the [Council of Europe Convention on Action against Trafficking in Human Beings](#), adopted in 2005. Advocacy groups and even some UN organisations increasingly describe human trafficking as a crime against humanity.

## Visa Facilitation Agreement

An agreement, aimed at simplifying the visa application procedure, between the EU and a non-EU country whose citizens are under visa obligation. In the case of Albania, Bosnia and Herzegovina, Macedonia, Montenegro and Serbia, the conclusion of visa facilitation agreements was linked to the conclusion of [readmission agreements](#). The visa facilitation and readmission agreements entered into force on 1 January 2008, except the readmission agreement with Albania, which entered into force on 1 May 2006.

The visa facilitation agreements with the Western Balkan countries offer a number of improvements as compared to the normal visa regime: (a) a deadline of 10 calendar days to process visa applications; (b) a clearly specified list of documents needed to demonstrate the purpose of the trip; (c) a reduced visa fee of 35 Euro (a Schengen visa normally costs 60 Euro) along with a fee waiver for many groups of applicants, such as close relatives, children, pensioners, students, athletes, journalists, etc.; and (d) the possibility of receiving multi-entry longer-term visas, in particular for frequent travellers. For more information see [The Origin](#) and [Visa Facilitation and Readmission Agreements](#).

## Visa refusal rate and refusal rate of entry

In a section called "Final remark", the visa roadmaps state that the European Commission, in assessing a country's readiness for visa-free travel, will also take into account criteria "such as the visa refusal rate for visa applicants and the refusal rate of entry into the common Schengen area for [the country's] nationals.

In this context, the decreasing trend of the refusal rate, which should progress towards 3% for visas and 1,000 persons per year refused for entry into the common Schengen area, will be used as an indicative reference."

Both requirements have been contentious among EU member states, and it is questionable whether compliance with them can and will be considered.

**Visa refusal rate**

The **visa refusal rate**, expressed as a percentage, is simply the rate of negative decisions on visa applications. In theory, a low refusal rate could indicate that the citizens of a Western Balkan country are generally not perceived as posing any risk: that they are not likely to overstay their visa and remain in the Schengen area as illegal migrants; and that they are not likely to commit any offences.

Relying on the refusal rate as a benchmark is problematic, however. Firstly, Schengen countries are obliged to collect visa statistics and make this data available to the Council, **which publishes it annually**; the data, however, sometimes does not add up (e.g. the number of visa applications is not equal to the total number of visas granted and denied). Up-to-date data from recent months would also be very difficult for the Commission to obtain.

Secondly, the statistics do not always reflect the situation in an individual country. For example, many EU countries do not have consular offices in Kosovo: Kosovars, therefore, apply for visas at consulates in Macedonia, thus "distorting" the statistics for Macedonia. Thirdly, the visa refusal rate often hinges on different countries' different visa policies (statistics show that Germany and Austria turn down a higher rate of visa applications than, say, Italy) and on whether consulates provide sufficient information (well-briefed applicants, aware of the exact visa requirements, have a higher chance of obtaining one).

**Refusal rate of entry**

The **refusal rate of entry into the common Schengen area** is the rate of persons who are denied entry at the external borders of the Schengen area (because they do not have the necessary visa, for example, or because the border police or customs services detected irregularities). However, there is a fundamental problem with the EU's insistence that the refusal rate for the nationals of each Western Balkan country progress towards 1,000 persons per year. Serbia has 7.4 million citizens. Montenegro has 650,000. It is not fair to expect both to have the same total number of refused entries. Apart from this, in this case too it would be a tremendous challenge for the Commission to obtain the relevant information in time.

At: <http://www.esiweb.org/index.php?lang=en&id=371>



European Parliament

*1 March 2010*

## The EU decision-making process

From 19 December 2009, Macedonians, Montenegrins and Serbians travelling with new biometric passports no longer need a visa to travel to 28 European countries.<sup>[1]</sup> For Albanians and Bosnians, the visa barrier has been lifted since 15 December 2010. Their passports are simply stamped when they cross the border to a Schengen country. The stamp entitles them to stay for up to 3 months (90 days) within a 6-month period (180 days) in the Schengen zone.

This is the result of a series of tough conditions that the five countries had to meet in the areas of border control, personal document security, public order & security, and human rights, and the subsequent decision by EU member states to abolish the visa requirement. On a technical level, it is the result of an amendment of [Council Regulation 539/2001](#).

This EU law determines whether the citizens of a country can freely enter the Schengen zone, or whether they have to obtain a Schengen visa from an embassy or consulate beforehand. Annex I, the so-called "black list", lists all the countries and territories whose nationals must have a visa to cross the border into the Schengen area, and Annex II, the "white list", lists all the states whose nationals are exempted from the visa obligation. Amending Council Regulation 539/2001 takes a bit of time. The process was also different for Macedonia, Montenegro and Serbia than for Albania and Bosnia. The reason for the difference was that the [Lisbon Treaty](#) entered into force on 1 December 2009 and changed the decision-making procedure for visa policy. Let's take a look at how this decision-making process works.

Amendments of Council Regulation 539/2001 require the cooperation of three EU institutions: the [European Commission](#), the [European Parliament](#) and the [Council](#). Their roles are the following:

- ▶ The [European Commission](#) is the only institution that has the right to propose amendments to Council Regulation 539/2001.<sup>[2]</sup> The Lisbon Treaty has not changed anything in this regard. This means that the Commission has to put forward a legislative proposal if the Regulation is to be amended. In the case of visa-free travel for Macedonia, Montenegro and Serbia, the Commission issued [its proposal](#) on 15 July 2009, and for [Albania and Bosnia on 27 May 2010](#).
- ▶ The [Council of the EU](#), where all 27 EU member states are represented, has to adopt the proposed amendment. Before the entry into force of the Lisbon Treaty, the Council was the *only* body that had to adopt the proposed amendment, voting by qualified majority.<sup>[3]</sup> For Macedonia, Montenegro and Serbia, it [did so on 30 November 2009](#). Now, under the Lisbon Treaty, the Council shares its legislative power equally with the European Parliament (and continues to vote by qualified majority). It voted on the amendment lifting the visa requirement for Albania and Bosnia [on 8 November 2010](#).

- ▶ The **European Parliament** is now co-decision-maker on equal footing with the Council. Previously, the Parliament had only to be *consulted* before the Council could take a vote, but the Council was not bound by the Parliament's opinion. The Parliament issued **its opinion** of the 2009 Commission visa proposal for Macedonia, Montenegro and Serbia on 12 November 2009. The decision-making procedure that the two bodies follow now is called "ordinary legislative procedure". This means that a legislative proposal goes through one or two readings, usually always with the Parliament looking at the proposal first, and, if the two bodies cannot agree on it, it is passed on to a conciliation committee, which tries to pave the way for adoption. In the case of visa-free travel for Albania and Bosnia, the European Parliament voted on 7 October 2010 and the Council on 8 November 2010.

As can be concluded from the dates of the visa liberalisation process for the five Western Balkan countries, it took in both cases 7 months from the presentation of the legislative proposals until the citizens could really travel visa-free. Another 6 to 8 weeks should be added for the preceding work within the Commission, the drafting, consultation and adoption of the proposal. This shows that amending the Visa Regulation is by no means a quick affair.

### The procedures at the European Commission

At the Commission, two Commissioners and the departments under their authority have been in charge of the visa liberalisation process for the Western Balkans, which was launched in January 2008: **Cecilia Malmström**, the Commissioner for Home Affairs (who succeeded **Jacques Barrot**, Commissioner for Justice, Liberty and Security on 10 February 2010), and the **Directorate-General for Home Affairs** (DG HOME); and the Commissioner for Enlargement and European Neighbourhood Policy **Stefan Füle** (who succeeded Enlargement Commissioner **Olli Rehn** on 10 February 2010) and the **Directorate-General for Enlargement** (DG ELARG). DG HOME has had the lead since visa policy falls under its competence.



Cecilia Malmström (© European Parliament) – Štefan Füle (© European Commission)

The process of amending Council Regulation 539/2001 does not start with the Commission officially presenting its proposal. First the Commission has to draft the proposal and agree on it internally. So when on 15 July 2009 the Commission put forward its **legislative proposal** to give visa-free travel to Serbia, Montenegro and Macedonia, it had already worked on it for more than six weeks.

DG JLS started drafting the proposal in early June 2009, in parallel to conducting the final discussions with EU member states to obtain their agreement on the proposal. When the draft was finished, it had to be agreed with Commissioner Rehn and DG ELARG and then it had to go through an "inter-service consultation". During this process, other Directorates-General of the Commission (there were 40 in total in 2009) are invited to provide comments and suggest changes to the proposal. The Commission's Legal Service is always part of an inter-service consultation, as to ensure that every document is legally sound. When the document is shorter than 20 pages, like in the case of the visa proposal, an inter-service consultation lasts 10 working days.

The proposed amendments also had to be translated into all official EU languages (there are 23 official EU languages), which took many weeks. However, as long as there are translations into English, French and German, the three working languages of the Commission, the Commission can adopt the proposal internally, giving it official status.

The Commission mainly uses two ways to adopt proposals and other documents: by "written procedure" or by "oral procedure".<sup>[4]</sup> For the visa proposals, the oral procedure was chosen, which means that the proposals were discussed and adopted "orally" at the weekly meeting of all the 27 Commissioners on 15 July 2009 for Macedonia, Montenegro and Serbia, and on 27 May 2010 for Albania and Bosnia.

### **The opinion of the European Parliament**

The Commission's legislative proposals for the Western Balkan countries were transmitted to the Council and the European Parliament on the day of adoption by the Commission, on 15 July 2009 (Macedonia, Montenegro and Serbia) and 27 May 2010 (Albania and Bosnia). Under the so-called "consultation procedure", which still applied in 2009 in the case of the first three countries, the European Parliament had to deliver an opinion on the Commission's proposal before the Council could take a vote on it, so it was now the Parliament's turn to deal with it.

Due to the elections for a new European Parliament on 4-7 June 2009, it took some time for the new assembly to turn its attention to the proposed amendment. The weeks after the elections were devoted to establishing the new Parliament and its committees and filling all the positions, and then summer break started. The *rapporteur* for the visa proposal was only appointed on 2 September 2009. The task of the rapporteur is to manoeuvre the proposal through the lead committee, receive opinions of other interested committees, and to pave the way for a plenary vote.



Tanja Fajon

The rapporteur appointed for both Commission visa proposals was Tanja Fajon (Progressive Alliance of Socialists and Democrats), a Slovenian member of the Committee on Civil Liberties, Justice and Home Affairs (LIBE), which was the responsible committee. The Foreign Affairs

**Committee (AFET)** provided input, and AFET's rapporteur was Sarah Ludford from the UK (Group of the Alliance of Liberals and Democrats for Europe).

In the current Parliament, there are seven political groups, which are coalitions of the national political parties from the EU member countries. The largest is the **European People's Party (Christian Democrats)** (265 MEPs out of 736; 36%), followed by the **Progressive Alliance of Socialists and Democrats** (184 MEPs; 25%), the **Alliance of Liberals and Democrats for Europe** (84 MEPs; 11.4%), the **Greens** (55 MEPs; 7.5%) and the **European Conservatives and Reformists** (54 MEPs; 7.3%). The remaining two groups have 35 and 32 members, respectively, and there are also 27 independent MEPs.

EP committees usually discuss a dossier over the course of at least three separate meetings (presentation, followed by debate and discussion of amendments, followed by a vote), which can take months. However, the procedure can also be sped up, like it was for both Commission visa proposal.

LIBE and AFET committees discussed the Commission's proposal from 15 July 2009 for Serbia, Montenegro and Macedonia on 29 September (AFET) and 30 September (LIBE) and voted on the **draft reports** from the rapporteurs on 6 October (AFET) and 15 October (LIBE). Before the plenary vote, the MEPs were briefed by the Commission on Serbia and Montenegro's progress in meeting the outstanding benchmarks, which the Commission considered satisfactory. The discussion and vote in plenary took place on 12 November 2009. The result showed overwhelming support across all political groups for the **Fajon report**: 550 MEPS voted in favour, 51 against, and there were 37 abstentions.

The Parliament's opinion was non-binding for Serbia, Montenegro and Macedonia, but this changed in 2010 when it had to decide on visa-free travel for Albania and Bosnia. Under the "ordinary legislative procedure" (called "co-decision procedure" under the old EU Treaty), which applies to visa policy under the Lisbon Treaty, the two bodies have to agree on a text. As a rule, the Parliament is the first to examine a proposal from the Commission. It then goes to the Council with the Parliament's amendments. If the Council agrees to this text, the proposal is adopted in first reading. If it does not, then the proposal goes to second reading, again first to the Parliament and then to the Council. If the two bodies cannot agree, a conciliation committee is formed with representatives from the Parliament, the Council and the Commission who try to arrive at a mutually acceptable text. If they succeed, the text is sent to the Council and the Parliament for another vote. If they accept it, it is adopted; if either body rejects it, the proposal is withdrawn (which happens extremely rarely). In the case of the 27 May 2010 proposal for Albania and Bosnia, the Parliament and Council agreed on lifting the visa requirement for these two countries in the first reading. The Parliament voted on 7 October and the Council on 8 November 2010.

### **The vote by the Council**

Before the Council took the final vote on visa-free travel for Macedonia, Montenegro and Serbia on 30 November 2009, Slovenia - one of the most supportive member states concerning visa liberalisation for Western Balkans countries - proposed moving the date of the start of visa-free travel to 19 December 2009. This was the earliest day possible under the rules applying to publication of the amended Council Regulation 539/2001 in the EU's Official Journal. Member states supported this change as it would allow the Balkan citizens to travel during the holiday season.

The Council that took the final vote on the proposal was the Justice and Home Affairs Council, which is made up of interior and justice ministers from the 27 EU member states. This Council meets around six times per year, so there were only three sessions in the second half of 2009

during which it could adopt the proposal: during its meetings on 21/22 September, 23 October or 30 November/1December. The last meeting was the only feasible since the Parliament needed time to deliver its opinion. In the case of Bosnia and Albania, the Council voted on 8 November 2010.



The Council of the European Union and the ministers for internal affairs from Albania, Bosnia, Macedonia, and Serbia on 30 November 2009 in Brussels. Photo: Council of the European Union

The Council votes on visa issues by qualified majority, which means that a proposal must garner 228 out of 309 votes. (The normal number of votes in the Council is 345, but the UK and Ireland are not voting on visa policy. The number of votes per country corresponds to its population.)

Following a Council's vote, the legal act adopted is published in the **Official Journal** of the European Union: it usually takes around three weeks, but can also happen a bit faster if needed. This presupposes that the Council sent the text to lawyer-linguists before adoption so that they had enough time to check it and make sure it is legally sound. The amended Council Regulation 539/2001 with Macedonia, Montenegro and Serbia on the "white list" was published in the **Official Journal of 18 December 2009 (L 336)**, and in the **Official Journal of 14 December 2010 (L 329/1)** when Albania and Bosnia followed suit.

Most legal acts enter into force on the 20th day following the date of their publication in the EU's Official Journal, but in both cases the ministers stipulated that the amendments of Council Regulation 539/2001 should enter into force on the day following that of their publication in the Official Journal. And so the visa obligation for Macedonians, Montenegrins and Serbians was lifted on 19 December 2009, and for Albanians and Bosnians on 15 December 2010.

[1] They can travel without a visa to all EU countries except Ireland and the UK, which have decided to maintain border controls and are thus not part of the Schengen zone. In addition, they can travel without a visa to Iceland, Norway and Switzerland, which are not EU members, but participate in Schengen.

[2] The decision-making processes are defined in the EU Treaty. Under the **Lisbon Treaty**, the relevant article is 77 (2). Under the old Treaty, the relevant articles were 62 (2) (b) (i) and 67 (3). See the consolidated versions of the **Treaty on the European Union and of the Treaty establishing the European Community**.

[3] Each member state has between 3 and 29 votes. The number of votes roughly corresponds to population, but is weighted in favour of smaller states. Normally, there is a total number of 345 votes and a proposal that requires a

qualified majority needs 255 votes to be adopted. However, in the case of amendments of Council Regulation 539/2001, Ireland (7 votes) and the UK (29 votes) do not vote. These two countries have decided to maintain border controls, hence they are not part of the Schengen zone. So, qualified majority voting for a proposed amendment of Council Regulation 539/2001 to pass requires 228 out of 309 votes. The 228 votes must come from at least 12 member states, and any member state may also request verification that the qualified majority represents at least 62% of the total EU population without Ireland and the UK.

[4] Under the written procedure, the Commission's Secretariat-General sends the proposal to the cabinets of the 27 Commissioners, who have 5 working days to state their objections. If they do not object, the proposal is considered adopted. Written procedure is usually used for proposals where it is clear that there are no objections, and which are of little public interest. Under the rules, the Commissioners vote by majority; in reality, they always try to reach consensus. (Within 48 hours of oral adoption, or before the end of the written adoption procedure the proposal should be translated into all EU languages. Sometimes this rule is ignored, however.)

At: <http://www.esiweb.org/index.php?lang=en&id=354>

- (d) the civilian crew of ships navigating in international waters;  
(e) the holders of laissez-passer issued by some intergovernmental international organisations to their officials.

2. A Member State may exempt from the visa requirement a school pupil having the nationality of a third country listed in Annex I who resides in a third country listed in Annex II and is travelling in the context of a school excursion as a member of a group of school pupils accompanied by a teacher from the school in question.

3. A Member State may provide for exceptions from the exemption from the visa requirement provided for in Article 1(2) as regards persons carrying out a paid activity during their

5. part III of Annex 1 to the CCI and part III of Annex 5 of the CM shall be deleted.

3. The decisions of the Schengen Executive Committee of 15 December 1997 (SCH/Com-ex(97)32) and of 16 December 1998 (SCH/Com-ex(98)53, rev.2) shall be repealed.

#### Article 8

1. This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Communities*.

2. However, for nationals of the country in Annex II marked

Excerpt of Council Regulation (EC) No 539/2001 of 15 March 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

### Excerpts from EU policy documents (20 March 2009, updated 27 June 2011)

#### **European Council Conclusions** **Brussels, 23-24 June 2011**

22. A mechanism should be introduced in order to respond to exceptional circumstances putting the overall functioning of Schengen cooperation at risk, without jeopardising the principle of free movement of persons. It should comprise a series of measures to be applied in a gradual, differentiated and coordinated manner in order to assist a Member State facing heavy pressure at the external borders. These could include inspection visits and technical and financial support, as well as assistance, coordination and intervention from Frontex.

As a very last resort, in the framework of this mechanism, a safeguard clause could be introduced to allow the exceptional reintroduction of internal border controls in a truly critical situation where a Member State is no longer able to comply with its obligations under the Schengen rules. Such a measure would be taken on the basis of specified objective criteria and a common assessment, for a strictly limited scope and period of time, taking into account the need to be able to react in urgent cases. This will not affect the rights of persons entitled to the freedom of movement under the Treaties.

The Commission is invited to submit a proposal for such a mechanism in September.

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#### **Justice and Home Affairs Council – Conclusions** **Luxembourg, 9-10 June 2011**

9. The Council is committed to the further development of a balanced visa policy in order to effectively tackle illegal migration as well as enhance the mobility of bona fide travellers. In this regard the Council **takes note of the Commission's recent proposal to amend Council Regulation (EC) No 539/2001 in order to make provision, inter alia, for a visa safeguard clause.** The Council also notes the substantial progress made by the Commission and Member States in the development of the Visa Information System, which will allow the start of operations in October 2011. In case of visa liberalization, the Council stresses the importance of a continued monitoring mechanism in appropriate cases which covers inter alia border management, document security, combating organised crime and corruption, effective implementation of readmission agreements and management of migration flows between the EU and the countries concerned.

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#### **European Commission Post-Visa Liberalisation Monitoring Report, assessing the progress made by the Western Balkan countries in continuing the visa roadmap reforms. It**

**encourages further and stronger efforts from the countries concerned, and suggests additional actions from information campaigns to increased checks at the border.**

**Brussels, 30 May 2011**

Based on the monitoring that has been carried out in the last six months, the following conclusions can be made:

(1) It is important to note that the majority of travellers from the countries concerned are **bona fide travellers** and thus the original objective of the visa liberalisation dialogues - to facilitate people to people contacts, enhance business opportunities and cultural exchanges and give the possibility for the people of the region to get to know the EU better- is being fulfilled.

(2) Implementation of the reforms by the Western Balkan countries continued, but **continuous** and in some cases **reinforced efforts** are needed from the authorities to maintain/strengthen the positive achievements of the visa liberalisation dialogues. This is of key importance not only for the **credibility** of the whole **visa dialogue process**, for which substantial efforts were made by the countries of the region, but also for progress in the framework of the Stabilisation and Association Process.

(3) The current problem of the high numbers of unfounded asylum applications in certain Member States appears to relate to large extent to the situation of **minority populations** in their country of origin, as the large majority of these persons are of Roma origin with extremely poor living conditions and no prospect of improvement in the near future. Their main reason for leaving their country of origin is economic, based on false perceptions of financial advantages that they will acquire by requesting asylum in certain Member States.

(4) The overall evaluation of the implementation of the EU Readmission agreements with all the countries is quite positive. Only a few concerns were signalled by a limited number of Member States. Those points have been addressed both in the framework of the readmission committee meetings and on a bilateral basis in particular for the countries concerned by rising illegal migration flows.

The countries of the region appear to be committed to finding solutions to the current problems as keeping the achievement of visa free travel is of crucial importance. Through the inter-ministerial committees that were established for this purpose, a number of immediate measures have been taken over the past months; the committees are working together with the Commission and the relevant Member States to put in place additional measures that are deemed necessary. It is clear that their impact on the ground may take some time to become visible in the monitoring mechanism.

On the basis of the above conclusions, it appears appropriate to identify the following actions as necessary follow-up measures:

(1) **Continued and enhanced cooperation** with the authorities of the Western Balkan countries is necessary to monitor and overcome the difficult situation faced by some EU Member States. This cooperation should be based on regular information exchange between Commission, Member States most frequently targeted by these asylum requests and the countries of the region.

(2) **Continuing targeted information campaigns** both by the countries concerned and by the Commission with the participation of the EU Delegations and targeted Member States. The Commission services will develop a specific information tool that could be used for the information campaigns and can be continuously distributed via the EU Delegations. Apart from describing the rights and obligations of visa free travel, this information material should also clearly explain that the abuse of rights under the visa free regime will not produce financial benefits to the person concerned.

(3) **Increasing and targeting assistance to minority populations**, in particular Roma communities, in the countries of origin. This should include assistance of the authorities of the concerned countries, available EU assistance and bilateral assistance of Member States. The Commission services are ready to put additional emphasis on further strengthening its assistance provided under TAIEX and the Instrument for Pre-Accession (IPA).

(4) Encouraging the countries of origin and transit States to **increase controls at borders**, in line with the Schengen acquis, with a view to avoiding – as far as possible - abuse of the visa free

travel. For this purpose, Frontex could facilitate cooperation and exchange of information between all parties concerned.

(5) **Entry bans:** the Commission services will continue consultation with the relevant EU Member States and with the countries of origin to find a durable solution to the current situation. In cases of repeated or particularly serious noncompliance of an individual with EU migration rules, Member States can issue entry bans in accordance with Directive 2008/115/EC. Such entry bans should always be entered into the Schengen Information System (SIS).

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**European Commission proposal to amend Council Regulation 539/2001 in order to introduce the option of suspending visa-free travel (safeguard clause)**  
**Brussels, 24 May 2011**

Article 1a – Safeguard clause

1. Paragraphs 2 to 5 of this Article shall apply in the event of one or more Member States being confronted by an emergency situation characterised by the occurrence of any of the following:

(a) a sudden increase of at least 50%, over a six month period, in the number of nationals of a third country listed in Annex II found to be illegally staying in the Member State's territory, in comparison with the previous six month period;

(b) a sudden increase of at least 50%, over a six month period, in comparison with the previous six month period, in the number of asylum applications from the nationals of a third country listed in Annex II for which the recognition rate of asylum applications was less than 3% over that previous six month period;

(c) a sudden increase of at least 50%, over a six month period, in the number of rejected readmission applications submitted by a Member State to a third country listed in Annex II for its own nationals, in comparison with the previous six month period.

2. A Member State which is confronted by any of the emergency situations described in paragraph 1 may notify the Commission. This notification shall be duly motivated and shall include relevant data and statistics as well as a detailed explanation of the preliminary measures that the Member State concerned has taken with a view to remedying the situation.

3. The Commission shall examine the notification taking into account the number of Member States affected by any of the situations described in paragraph 1 and the overall impact of the increases on the migratory situation in the Union as the latter appears from the data provided by the Member States as well as from reports prepared by FRONTEX and/or the European Asylum Support Office, and, within three months following receipt thereof, the Commission may adopt an implementing decision suspending the exemption of visa requirement for the nationals of the third country concerned for a period of six months. The implementing decision shall be adopted in accordance with the procedure referred to in Article 4a (2). The implementing decision shall determine the date on which the suspension of the exemption of visa requirement is to take effect.

4. Before the end of the period of validity of the implementing decision adopted pursuant to paragraph 3, the Commission, in cooperation with the Member State(s) concerned, shall submit a report to the European Parliament and the Council. The report may be accompanied by a proposal amending this Regulation in order to transfer the third country concerned to Annex I.

5. Where the Commission has proposed an amendment to this Regulation in order to transfer a third country to Annex I pursuant to paragraph 4, it can extend the validity of the implementing decision adopted pursuant to paragraph 3 for a period of maximum nine months. The decision to extend the validity of the implementing decision shall be adopted in accordance with the procedure referred to in Article 4a (2).

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**Justice and Home Affairs Council**  
**Luxembourg, 11-12 April 2011**

Visa facilitation agreements

The Council adopted three decisions authorising the Commission to open negotiations with the Russian Federation, Ukraine and the Republic of Moldova for the conclusion of agreements on the issuance of visas which amend the visa facilitation agreements currently in force between the European Union and these countries.

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**Justice and Home Affairs Council**  
**Brussels, 24-25 February 2011**

EU-Turkey readmission agreement

Ministers reached political agreement on a draft EU-Turkey readmission agreement. The Commission may now proceed to initial the draft agreement with Turkey.

Three more procedural steps have subsequently to be taken before the agreement can enter into force: the Council needs to sign the agreement with Turkey and the European Parliament needs to give its consent before the Council can adopt a decision to conclude the agreement.

Along with the political agreement on the file, the Council adopted [conclusions](#) and the Commission and several member states entered a number of statements.

More information in the [background note](#), p. 3.

Post-visa liberalisation mechanism for the Western Balkans

The committee took note of the recent establishment of a follow-up mechanism to the visa liberalisation process for the Western Balkan countries by the Commission.

In November 2010, the Council decided that citizens of Albania and Bosnia and Herzegovina possessing biometric passports would be able to travel to and throughout the Schengen area without a visa. The former Yugoslav Republic of Macedonia (FYROM), Montenegro and Serbia joined the visa-free regime in December 2009.<sup>1</sup> It applies to stays of up to 90 days.

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**General Affairs Council**  
**Brussels, 14 December 2010**

The Council welcomes the amendments to Council Regulation (EC) No 539/2001, as it applies to Member States, so as to establish a visa-free regime for the citizens of Albania and Bosnia and Herzegovina starting from 15 December 2010. This demonstrates that the implementation of concrete reforms brings tangible results to the citizens. The Council considers that further efforts are needed by the countries concerned to inform their citizens about the scope and limits of the visafree regime, to monitor closely its implementation and, where required, take adequate corrective measures. In this respect, the Council welcomes the statement entered in the minutes of the Council meeting of 8 November 2010 and encourages the Commission to continue to closely monitor the implementation of all conditions set for the visa liberalisation, through its follow-up mechanism, including reporting regularly to the Council and the European Parliament

The Council reaffirms that Kosovo will also benefit from the perspective of eventual visa liberalisation once all conditions are met. The Council underlines that further progress in the area of justice, freedom and security is essential. The Council takes note of the recent progress Kosovo made in adopting the legislation on readmission, in devising an Action Plan on reintegration of returnees underpinned with earmarked resources. The Council takes note of the Commission's intention to launch a visa liberalisation dialogue once all conditions are met and the Commission's intention, before launching such a dialogue, to share its assessment with the Council on the fulfilment of these conditions.

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**Justice and Home Affairs Council  
Brussels, 8-9 November 2010**

**Visa liberalisation for Albania and Bosnia and Herzegovina**

Citizens of Albania and Bosnia and Herzegovina possessing biometric passports will be able to travel to and throughout the Schengen area without a visa. That is the result of a unanimous decision by the Council which amends regulation No 539/2001 (**PE-CONS 50/10**). The European Parliament gave its green light to the amendments on 7 October 2010.

The visa free regime concerns stays of up to 90 days. Concerning the entry into force, article 2 of the adopted text reads: "on the day following that of its publication in the Official Journal of the European Union". This is expected to occur in mid-December.

With this decision Albania and Bosnia and Herzegovina join the former Yugoslav Republic of Macedonia (FYROM), Montenegro and Serbia who already enjoy a visa free regime since 19 December 2009.<sup>1</sup>

The Commission entered a statement to the minutes of the Council meeting on the establishment of a follow-up mechanism to the visa liberalisation process for the Western Balkan countries. This follow-up mechanism concerns the monitoring of the reforms which these countries need to continue to carry out. It also introduces emergency consultation arrangements so that the European Union and its member states can, in cooperation with the authorities of the countries concerned, react in the best possible conditions to any specific difficulties which might arise with flows of persons from the countries of the Western Balkans. This includes that the Commission may if necessary propose the suspension of visa free travel. The Commission will report back regularly to the Council and the European Parliament.

[...]

<sup>1</sup> The amended regulation from late 2009 also makes a reference to Kosovo under UNSCR 1244/99 with the result that

persons residing in Kosovo require a visa when travelling to the EU (**15521/09**).

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**Foreign Affairs Council – Conclusions  
Luxembourg, 25 October 2010**

**Bosnia and Herzegovina - Council Conclusions**

Reiterating its support to the objective of visa liberalisation on the basis of fulfilment of all benchmarks and recalling the European Parliament's vote on this issue on 7 October, the Council underlined its intention to take a decision on 8 November.

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**DRAFT REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL 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**

**28 October 2010**

The text of the draft regulation can be found [here](#).

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**Position of the European Parliament adopted at first reading on 7 October 2010 with a view to the adoption of Regulation (EU) No .../2010 of the European Parliament and of the Council 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.**

**EP-PE\_TC1-COD(2010)0137**

**7 October 2010**

The text of the position can be found [here](#).

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**Report on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders of Member States and those whose nationals are exempt from that requirement**

**(COM(2010)0256 – C7-0134/2010 – 2010/0137(COD))  
A7-0256/2010**

**Committee on Civil Liberties, Justice and Home Affairs**

**Rapporteur: Tanja Fajon**

**30 September 2010**

The text of the legislative resolution can be found [here](#).

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**Foreign Affairs Council – Conclusions**

**Luxembourg, 14 June 2010**

**Council Conclusions on the Western Balkans**

Recalling its previous conclusions according to which the EU strongly supports the goal of the abolishment of the visa regime for all the countries of the Western Balkans, as well as the joint statement of the European Parliament and the Council of 30 November 2009, the Council welcomes the progress achieved by Albania and Bosnia and Herzegovina in reaching the criteria of visa liberalisation, as stressed in the Commission proposal of 27 May 2010 for a European Parliament and Council decision to amend Regulation 539/2001, as it applies to Member States. The Council and the European Parliament will take a decision as soon as the Commission assesses that all the outstanding benchmarks are met and in the light of such assessment.

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**Justice and Home Affairs Council  
Luxembourg, 3/4 June 2010**

**Visa liberalisation for the Western Balkans**

The issue of visa liberalisation for the Western Balkans was discussed and the Commission reported on the adoption of a proposal to modify Regulation 539/2001 in order to extend visa liberalisation to Albania and Bosnia and Herzegovina.

Delegations welcomed the presentation of the proposal and expressed the hope that it would be possible to adopt it quickly once the two countries concerned meet the outstanding benchmarks under the visa liberalisation dialogue.

The Council decided in November 2009 to amend this regulation and to grant visa free travel to and throughout the Schengen area for citizens of the former Yugoslav Republic of Macedonia, Montenegro and Serbia (15521/09). The visa waiver became effective on 19 December 2009 to holders of biometric passports.

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**High Level Meeting on the Western Balkans – Statement by the Chair  
Sarajevo, 2 June 2010**

"The participants welcomed the European Union's intention to extend visa liberalisation to all the people of the Western Balkans, once conditions are met. In this context, they welcomed the Commission's proposal to extend the visa free regime to the citizens of Albania and Bosnia and Herzegovina."

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**European Commission: Proposal for an European Parliament and Council Regulation amending 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  
27 May 2010, COM (2010) 256**

"In proposing this amendment to Regulation (EC) No 539/2001 as last amended by Regulation (EC) No 1244/2009, the Commission is pursuing the following objectives:

(...)

– transferring Albania and Bosnia and Herzegovina [meeting all the benchmarks by the date of adoption of the present Regulation] from the Annex I to the Annex II of the Regulation. This visa waiver should only apply to holders of biometric passports issued by each of these two countries"

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**General Affairs Council – Conclusions on Enlargement/ Stabilisation and Association Process  
Brussels, 7-8 December 2009**

**Western Balkans**

28. The Council is very pleased to have decided on the amendments to Council Regulation 539/2001, as it applies to Member States, so as to establish a visa free regime for the citizens of the former Yugoslav Republic of Macedonia, Montenegro and Serbia starting from 19 December 2009. This demonstrates that the implementation of concrete reforms brings tangible benefits for citizens. The Council encourages the Commission to table similar proposals for Albania and Bosnia and Herzegovina as soon as it has assessed that each country meets the benchmarks set out in the Commission's roadmaps.

29. The Council stresses that Kosovo should also benefit from the perspective of eventual visa liberalisation [3] once all conditions are met and invites the Commission to move forward with a structured approach to bring the people of Kosovo closer to the EU.

[3] Without prejudice to Member States' positions on status.

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## **The Stockholm Programme – An open and secure Europe serving and protecting the citizens**

**Brussels, 2 December 2009**

"In the Western Balkans, Stabilisation and Association Agreements are progressively entering into force and notable progress has been made in the area of visa policy, with visa facilitation and readmission agreements in place and a comprehensive visa liberalisation dialogue already achieved for some countries and still under way for others. Further efforts, including use of financial instruments, are needed to combat organised crime and corruption, to guarantee fundamental rights and to build administrative capacities in border management, law enforcement and the judiciary in order to make the European perspective a reality."

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## **Justice and Home Affairs Council**

**Brussels, 30 November/1 December 2009**

### **"Visa liberalisation for Western Balkans countries**

The Council decided to grant visa free travel to and throughout the Schengen area for citizens of the former Yugoslav Republic of Macedonia, Montenegro and Serbia (15521/09). It did so by adopting amendments to regulation No 539/2001. The visa waiver will apply from 19 December 2009 to holders of biometric passports.

"Albania and Bosnia and Herzegovina are not considered to have met all the benchmarks agreed under the visa liberalisation dialogue with the countries of the Western Balkans. A political declaration, however, invites the Commission to propose visa liberalisation for these two countries as soon as they comply with all the benchmarks, with a view to achieving visa free travel for their citizens as soon as possible (see full text below). The main areas where benchmarks were set under the visa liberalisation dialogue are border controls, passport security, fight against organised crime and corruption as well as external relations and fundamental rights.

"The amended regulation also makes a reference to Kosovo under UNSCR 1244/99 with the result that persons residing in Kosovo require a visa when travelling to the EU.

"The visa liberalisation dialogue with the countries of the Western Balkans was launched in early 2008. The Commission presented a proposal to amend regulation 539/2001 in July 2009, and the European Parliament delivered its opinion on 12 November 2009.

"The text of the joint political declaration of the European Parliament and the Council reads:

'The European Union strongly supports the goal of the abolishment of the visa regime for all the countries of the Western Balkans.

'The European Parliament and the Council recognise that the former Yugoslav Republic of Macedonia, Montenegro and Serbia fulfil all conditions for visa liberalisation. This has allowed for the adoption of the amendments to Regulation (EC) No 539/2001 in due time to allow those three countries to join the visa-free regime by 19 December 2009.

'The European Parliament and the Council express the hope that Albania and Bosnia and Herzegovina will also qualify for visa liberalisation soon. To that end, the European Parliament and the Council urge those two countries to make all efforts to comply with all the benchmarks set out in the Commission's roadmaps.

'The European Parliament and the Council invite the Commission to present a legislative proposal for amending Regulation (EC) No 539/2001 as soon as it has assessed that each country meets the benchmarks set out in the Commission's roadmaps, with a view to achieving visa liberalisation for citizens of those countries as soon as possible.

'The European Parliament and the Council will examine a proposal for amending Regulation (EC) No 539/2001 concerning Albania and Bosnia and Herzegovina as a matter of urgency.'

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**Justice and Home Affairs Council – Legislative act  
Council Regulation amending 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  
Brussels, 30 November 2009**

The text of the legislative act can be found [here](#).

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**EU/Western Balkans Ministerial Forum on Justice and Home Affairs – Conclusions  
Brussels, 16-17 November 2009**

"The questions relating to visa and mobility received high attention, with the Commission having proposed to the Council that the visa obligation be lifted for citizens of the former Yugoslav Republic of Macedonia, Serbia and Montenegro. The Forum welcomed the Commission proposal and looked forward to its swift adoption by the Council. The adoption of the proposal will demonstrate that reforms bring tangible benefits for citizens.

"The Commission highlighted the good progress that has been made regarding the continued visa dialogue with Albania and Bosnia and Herzegovina. The Commission has already further intensified its efforts to assist these countries with a view to helping them meet the benchmarks. It will propose lifting the visa obligation as soon as they have met the necessary benchmarks.

"The Forum took note of the Commission's proposal to move forward with a structured approach to bring Kosovo's citizens closer to the EU through a visa dialogue with the perspective of eventual visa liberalisation when the necessary reforms will have been undertaken and the conditions met."

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**European Parliament opinion: Third-country nationals subject to or exempt from a visa requirement when crossing external borders**

**A7-0042/2009 - Rapporteur: Tanja Fajon**

**(Consultation procedure)**

**12 November 2009**

The text of the legislative resolution can be found [here](#).

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**Joint Statement by the European Parliament and the Council**

**(annexed to the European Parliament opinion above)**

**12 November 2009**

"The European Union strongly supports the goal of the abolishment of the visa regime for all the countries of the Western Balkans.

"The European Parliament and the Council recognise that the former Yugoslav Republic of Macedonia, Montenegro and Serbia fulfil all conditions for visa liberalisation. This has allowed for the adoption of the amendments to Regulation (EC) No 539/2001 in due time to allow those three countries to join the visa-free regime by 19 December 2009.

"The European Parliament and the Council express the hope that Albania and Bosnia and Herzegovina will also qualify for visa liberalisation soon. To that end, the European Parliament and the Council urge those two countries to make all efforts to comply with all the benchmarks set out in the Commission's roadmaps.

"The European Parliament and the Council invite the Commission to present a legislative proposal for amending Regulation (EC) No 539/2001 as soon as it has assessed that each country meets the benchmarks set out in the Commission's roadmaps, with a view to achieving visa liberalisation for citizens of those countries as soon as possible.

"The European Parliament and the Council will examine a proposal for amending Regulation (EC) No 539/2001 concerning Albania and Bosnia and Herzegovina as a matter of urgency."

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**Commission Communication, Enlargement Strategy and Main Challenges 2009-2010**

**14 October 2009, COM(2009) 533 final**

"The establishment of a visa-free regime for the former Yugoslav Republic of Macedonia, Montenegro and Serbia at the beginning of 2010, based on the Commission's proposal, will demonstrate that reforms bring tangible benefits for citizens. The Commission will table similar proposals for Albania and Bosnia and Herzegovina by mid-2010, provided these countries meet the conditions set."

**Achieving visa-free travel**

"The process of visa liberalisation for the Western Balkan countries, in line with the Thessaloniki Agenda commitment, has entered its decisive phase. Visa facilitation agreements have been implemented with all countries concerned since January 2008, in parallel with readmission agreements. The roadmaps adopted in 2008 for each country in the context of the visa liberalisation dialogue proved to be successful drivers for accelerating reforms in the relevant areas, notably document security, border and migration management, and the fight against

corruption and organised crime. Taking account of progress achieved by each country in meeting the relevant benchmarks for visa liberalisation, the Commission proposed in July 2009 that a visa-free regime be established for the former Yugoslav Republic of Macedonia, Montenegro and Serbia. Establishing a visa-free regime by the beginning of 2010 will be an important contribution to people-to-people contacts demonstrating to the citizens of the countries concerned that reforms linked to the European perspective provide tangible benefits. The Commission will table proposals for Albania and Bosnia and Herzegovina, by mid-2010, provided these countries meet the conditions set. The study on Kosovo to be adopted together with this Communication proposes that visa facilitation should continue to be promoted and a process should be launched for Kosovo, aiming at eventual visa liberalisation when the necessary reforms will have been undertaken and the conditions met."

"The EU supports the economic and political development of Kosovo through a clear European perspective, in line with the European perspective of the region. [...] the Commission, in parallel with the present Strategy Paper, has approved a Communication entitled "Kosovo\* – Fulfilling its European Perspective". This study [...] proposes a structured approach to bring Kosovo's citizens closer to the EU, including through a visa dialogue with the perspective of eventual visa liberalisation."

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**Communication from the Commission to the European Parliament and the Council:  
"Kosovo - Fulfilling its European Perspective"  
(The so-called "Kosovo Study")  
Brussels, 14 October 2009**

**Part 6: BRINGING KOSOVO CITIZENS CLOSER TO THE EU**

"A number of countries in the region have made substantial progress in the area of freedom of movement. In return for agreements on re-admission, they have been able to benefit from visa facilitation agreements with the EU. Visa liberalisation roadmaps have provided crucial guidance on issues such as the security of documents, the fight against organised crime, migration and border security. Progress has been monitored and evaluated through dialogue at senior official level. The prospect of visa-free travel has been a powerful incentive for these countries to carry out reforms. As a result, the Commission has proposed the relevant Council Regulation<sup>11</sup> be amended to make citizens of the former Yugoslav Republic of Macedonia, Montenegro and Serbia eligible for visa-free travel to the EU as from January 2010. Citizens from Albania and Bosnia and Herzegovina could also benefit from this as soon as these countries meet the remaining requirements.

Kosovo started issuing its own passports in July 2008. The process for individual Kosovo citizens to apply for visas has been made easier. Most EU Member States use the flexibility offered by EU legislation to simplify procedures to issue short-stay visas to individual Kosovo residents.

Kosovo citizens need to share further in the benefits of EU approximation, including the possibility to travel visa-free in the EU. This is only possible if Kosovo can ensure that relevant reforms are implemented and rules and procedures are respected so as to minimise the associated security risks for EU Member States. The starting point for these reforms is properly functioning readmission arrangements. Kosovo needs to adapt its legislation, strengthen its administrative capacity to process readmission requests and implement an effective reintegration strategy. It also needs to enhance the security of its borders and secure the management of civil registries and the issuance of documents.

The Commission proposes to move forward with a structured approach to bring Kosovo's citizens closer to the EU through a visa dialogue with the perspective of eventual visa liberalisation when

the necessary reforms will have been undertaken. Based on a thorough assessment the Commission proposes to draft a comprehensive strategy to guide Kosovo's efforts to meet the EU's requirements for visa liberalisation. This strategy will set benchmarks to measure Kosovo's progress in the context of a visa dialogue and will be presented to the Council for information.

The Commission will regularly assess Kosovo's progress in the implementation of the strategy, drawing on evaluation missions by Member State and Commission experts. The Commission will support Kosovo in the implementation of its strategy through technical and financial assistance. In addition, within the wider framework of the rule of law and as a corollary to EULEX's activities, the Commission will explore the possibility of involving Kosovo in judicial cooperation initiatives at the regional level. The arrangements for Kosovo to cooperate and be associated with the work of Europol, Eurojust and Frontex require further examination, including through the possible involvement of EULEX."

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**European Commission: Proposal for a Council Regulation amending 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**

**15 July 2009, COM (2009) 366**

"In proposing this amendment to Regulation (EC) No 539/2001 as last amended by Regulation (EC) No 1932/2006, the Commission is pursuing the following objectives:

(...)

– transferring the former Yugoslav Republic of Macedonia, Montenegro and Serbia from the Annex I to the Annex II of the Regulation; introducing Kosovo under United Nations Security Council Resolution (UNSCR) 1244/99 into Annex I of Regulation (EC) No 539/2001 under "Entities and territorial authorities that are not recognised as states by at least one Member State". This is without prejudice to the status of Kosovo under UNSCR 1244/99."

The full text of the proposal can be found [here](#).

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**General Affairs and External Relations Council - Conclusions**

**Luxembourg, 15/16 June 2009**

**"VISA LIBERALISATION**

"The Council restates its support for the dialogue on visa liberalisation with Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Montenegro and Serbia, based on the roadmaps containing clear and realistic benchmarks and on a country-by-country assessment. The Council recalls that the countries concerned should continue to focus on full implementation of these benchmarks.

"In this regard, the Council welcomes the updated assessment reports presented by the European Commission on the progress in the visa liberalisation dialogues with these countries. The reports reflect the clear progress made by these countries in meeting the benchmarks set out in the visa liberalisation roadmaps. In this context, the Council encourages the European Commission to present as soon as possible a legislative proposal amending Regulation 539/2001, as it applies to

the Member States, in order to achieve a visa free regime ideally by the end of 2009 with those countries that will have met all the benchmarks.

"Acknowledging the significance of visa liberalisation for the Western Balkans region, the Council underlines the importance of all the countries concerned achieving a visa free regime by their own merits. Therefore, the Council welcomes the progress achieved so far and calls for the countries in the region to further accelerate and implement reforms to fulfil soon the necessary benchmarks."

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**General Affairs and External Relations Council - Conclusions  
Brussels, 8/9 December 2008**

"The Council restates its support for the dialogue on visa liberalisation with Albania, the former Yugoslav Republic of Macedonia, Bosnia and Herzegovina, Montenegro and Serbia, based on the roadmaps containing clear and realistic benchmarks. It invites the countries concerned to focus on full implementation of these benchmarks. The Council and Commission will closely monitor the process, based on country-by-country assessment."

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**General Affairs and External Relations Council - Conclusions  
Luxembourg, 16/17 June 2008**

**"Roadmaps for visa liberalisation**

"The Council welcomed the presentation of the roadmaps for Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Montenegro and Serbia, in order to gradually advance towards visa liberalisation and as a clear sign of the political commitment of the EU for the visa free travel for the citizens of the Western Balkans. It called on these countries to focus now on the full implementation of the requirements contained in the roadmaps. The Council and the Commission will closely monitor the process."

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**Commission Communication, Western Balkans: Enhancing the European perspective  
5 March 2008, COM (2008) 127 final**

**"Towards visa-free travel**

"Visa-free travel to the EU is of considerable importance to the people of the Western Balkans. Citizens of the Western Balkan countries, except Croatia, still need visas to enter the EU. Moving towards a visa-free regime is part of the preparations for EU membership, which includes eventually becoming part of the Schengen area. At the same time, steps towards liberalisation of travel need to take into account the internal security and migration interests of the EU. They are, therefore, conditional on necessary reforms by the Western Balkan countries."

"As a first step towards visa liberalisation, the Commission has negotiated visa facilitation agreements with the Western Balkan countries. These were signed in September 2007 and entered into force on 1 January 2008. The agreements substantially improve the conditions for obtaining visas for travel to the EU: they establish a reduced fee for obtaining a visa (€35 instead of €60) and exempt broad categories of persons from these fees. They set time-limits for issuing a visa (normally 10 days) and simplify and clarify the procedures for issuing a visa to certain categories of

persons. The facilitation agreements are linked to readmission agreements that were negotiated and concluded in parallel, and to the introduction of biometrics."

"The Western Balkan countries and the Member States need to ensure proper implementation of the visa facilitation and readmission agreements. Joint committees will be established to monitor implementation; they will meet in spring 2008. These committees will adopt guidelines for the Member States' consulates to ensure even application of the agreements."

"In line with the Thessaloniki agenda and the June 2007 Council (GAERC) conclusions, the Commission is taking steps towards preparing for visa liberalisation with the Western Balkans. In its enlargement strategy paper of November 2007, the Commission announced its intention to start a dialogue with each country with a view to establishing road-maps on the conditions to be met for lifting the visa requirement."

"The Council in its conclusions of 28 January 2008 welcomed the intention of the European Commission to launch soon a visa dialogue with all the countries in the region. It expressed its readiness to further discuss this issue, based on the present Communication, with a view to defining detailed roadmaps setting clear benchmarks to be met by all the countries in the region in order to gradually advance towards visa liberalisation."

"The Commission started visa liberalisation dialogues with Serbia in January and with the former Yugoslav Republic of Macedonia and Montenegro in February. The dialogue with Albania will start in early March. Bosnia and Herzegovina will follow."

"Road-maps will be drawn up by the Commission in consultation with the Council. The Western Balkan countries will provide input in this context. The road-maps will cover four sets of issues: document security, illegal migration, public order and security as well as external relations. The road-maps will be tailor-made to allow each country to focus reform efforts and address the EU's requirements. The Commission's intention is to finalise the roadmaps as soon as possible after the launching of each dialogue, in order for the necessary reforms to start being implemented promptly."

"The speed of movement towards visa liberalisation will depend on each country's progress in fulfilling the benchmarks. For the whole process, the countries' capacity to ensure correct and effective implementation of the visa facilitation and readmission agreements will also be taken into consideration. The Commission will provide financial and technical assistance to support implementation of the road-maps."

"The Commission and the Council will closely monitor progress in the relevant reforms. Once the conditions for each country have been fulfilled, the Commission will propose to the Council the lifting of the respective visa obligation, by amending Council Regulation 539/2001."

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## **General Affairs and External Relations Council - Conclusions Brussels, 28 January 2008**

### **"VISA FACILITATION AND READMISSION AGREEMENTS**

"The Council welcomed the entry into force of the visa facilitation and readmission agreements with Albania,[2] Bosnia and Herzegovina, Montenegro, Serbia and the former Yugoslav Republic of Macedonia on 1 January 2008. They will foster more people-to-people contacts and increase the economic ties between the EU and the region."

"Recalling its conclusions of 10 December 2007, the Council also welcomed the intention of the European Commission to launch soon a visa dialogue with all the countries in the region and expressed its readiness to further discuss this issue, based on the Commission's forthcoming Communication on the Western Balkans, with a view to define detailed roadmaps setting clear benchmarks to be met by all the countries in the region in order to gradually advance towards visa liberalisation. This would enable the Council and the Commission to closely monitor progress in necessary reforms."

(...)

"ANNEX

"Invitation of the European Union to Sign an interim Political Agreement on Cooperation with Serbia

"(...) The European Union will continue to reach out to the people of Serbia and recognises the importance of making it easier for Serbians to travel in the European Union. To this end the Commission will start a dialogue on visa liberalisation."

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### **General Affairs and External Relations Council - Conclusions Brussels, 10 December 2007**

"The Council welcomed the Commission's intention to present a communication early in 2008, in which it takes stock of developments and points the way forward in following up the Thessaloniki Agenda, as well as the Salzburg communication, on promoting the course of the countries of the Western Balkans towards the EU. In this context, the Council invited the Commission to further explore possibilities to promote people-to-people contacts as well as civil society development."

"Recalling its 18 June conclusions, the Council expressed its readiness to hold a discussion during the first half of 2008 on these issues, based on the Commission's communication, as well as on Member States' contributions."

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### **Commission Communication, Enlargement Strategy and Main Challenges 2007-2008 6 November 2007, COM(2007) 663 final**

"Easier travel to the European Union is an issue of utmost importance to the peoples and governments of the Western Balkans. In Thessaloniki, the EU recognised this fact and committed to steps for achieving this goal. Steps towards liberalising travel need to take into account the internal security and migration interests of the EU. A visa-free regime has been in place with Croatia for many years. The Commission recently negotiated visa facilitation agreements together with readmission agreements with the other countries of the region. These were signed in September and are expected to be approved by the Council shortly, so that they can enter into force on 1 January 2008. The agreements will improve substantially the conditions for obtaining visas for travel to the EU. It is important that Member States ensure their proper implementation."

"The facilitation agreements are an important step towards full liberalisation of the visa regime. The Commission considers that it is now time to gradually move towards visa liberalisation with the Western Balkan countries through further concrete steps. To that end the Commission proposes to open a dialogue with each of the countries concerned with a view to establishing a road-map on the conditions to be met. These would cover effective implementation of readmission agreements, as well as progress on key areas such as border management, document security, or the fight

against organised crime. Such road-maps will allow the countries concerned to better focus their reform efforts, while also reinforcing the visibility of the EU's commitment to the peoples of the region."

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**General Affairs and External Relations Council - Conclusions  
Luxembourg, 18 June 2007**

**"VISA FACILITATION AND READMISSION AGREEMENTS**

"8. The Council welcomed the initialling of the agreements on visa facilitation and readmission with Albania, [1] Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Montenegro and Serbia. The conclusion of such agreements will promote people-to-people contacts between the EU and the Western Balkan countries and will increase the opportunities for travelling, especially for the younger generation."

"9. Recalling the Thessaloniki Agenda, the Council also acknowledged the importance the people of the Western Balkans attach to the perspective of visa-free movement. In this respect, it welcomed the efforts of the Commission to take these issues forward in concrete terms. Furthermore, the Council underlined the desirability of promoting people-to-people contacts by also making available more scholarships for the students of the region."

"10. Therefore the Council looks forward to a prompt conclusion of all necessary procedures to ensure that the agreements enter into force as soon as possible."

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**European Council – Conclusions  
Brussels, 14/15 December 2006**

"The European Council welcomes the launch of visa facilitation and readmission negotiations with all the countries of the region with a view to concluding the negotiations as soon as possible. The conclusion of such agreements will promote people-to-people contacts between the EU and the Western Balkan countries and will increase the opportunities for travelling, especially for the younger generation. Recalling the Thessaloniki Agenda, the European Council also acknowledges the importance the people of the Western Balkans attach to the perspective of visa-free movement. Furthermore, the European Council underlines the desirability of promoting people-to-people contacts by also making available more scholarships for the students of the region."

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**General Affairs and External Relations Council - Conclusions  
Brussels, 13/14 November 2006**

**"VISA FACILITATION AND READMISSION AGREEMENTS**

"1. Recalling the European Council conclusions of June 2006, the Council adopted the negotiation mandates for visa facilitation and readmission agreements with Bosnia and Herzegovina, former Yugoslav Republic of Macedonia, Montenegro and Serbia. The Council also adopted the negotiation mandate for a visa facilitation agreement with Albania, recalling that the EU already has a readmission agreement with Albania."

"2. The Council urged the Commission to start the negotiations in the course of November, and expressed its confidence that the negotiations could be concluded as soon as possible. The conclusion of these agreements will be important in fostering people to people contacts between the Western Balkan countries and the EU."

"3. Recalling the Thessaloniki agenda, the Council reiterated that the EU is aware of the particular importance the peoples in the Western Balkans attach to the visa issue. It underlined that visa facilitation and readmission agreements will be an important and necessary step forward. The Council also noted that further progress will depend on implementing relevant reforms and encouraged the countries of the Western Balkans to step up their efforts in implementing reforms in the area of rule of law, combating organised crime, corruption and illegal migration, and strengthening their administrative capacity in border control and security of documents."

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**European Council – Conclusions, Declaration on the Western Balkans  
Brussels, 15/16 June 2006**

"The European Council is conscious that the question of visa facilitation is particularly important for the people of the countries of the region. The European Union therefore hopes to adopt negotiation mandates for visa facilitation and readmission agreements in the course of this year, in line with the common approach to the development of the EU policy on visa facilitation agreed in December 2005, so that negotiations can be concluded as soon as possible, ideally in 2007 or earlier where possible."

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**Salzburg Declaration  
Informal meeting of EU and Western Balkan foreign ministers  
Salzburg, 11 March 2006**

"The participants welcomed the Commission's Communication 'The Western Balkans on the road to the EU: consolidating stability and raising prosperity', and expressed their intention to take forward its implementation. The EU will continue assisting the Western Balkan countries through practical measures to make the European perspective more tangible. In this context, the participants (...) look forward to the Commission's proposals on people to people contacts, including visa facilitation in line with the common approach (...). In order to master the challenges that the region faces in 2006 and beyond, the EU is determined to fully implement the commitments given in the Thessaloniki agenda."

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**Commission Communication, The Western Balkans on the road to the EU: consolidating  
stability and raising prosperity  
27 January 2006, COM (2006) 27 final**

"Visa policy and measures relating to the facilitation of movement of persons"

"In Thessaloniki, the EU recalled the importance the peoples and governments in the Western Balkans attach to the perspective of liberalisation of the visa regime. The Union noted that progress was dependent on these countries implementing major reforms in areas such as strengthening the rule of law, combating organised crime, corruption and illegal migration, and strengthening their administrative capacity in border control and security of documents. The Commission has discussed with each of the Western Balkan countries the requirements for taking

these issues forward in concrete terms These discussions confirmed that the necessary reforms would require substantial efforts by the countries in question. Lifting the visa obligation is a long-term issue."

"Meanwhile, it should be possible to facilitate visa issuing procedures, which will make travel from the Western Balkans to the EU/Schengen area easier. The Member States and the Commission agreed in December 2005 on a common approach to visa facilitation, as foreseen by the Hague Programme adopted in November 2004. A case by case approach will be applied. The special relationship the EU has with certain countries, notably their status as candidates or potential candidates for accession, will be taken into account."

"In this context, the Commission plans to start exploratory talks in the Western Balkans, starting with the former Yugoslav Republic of Macedonia in early 2006, in view of presenting to the EU Council draft negotiation mandates for Western Balkan countries in the course of the year."

"Progress in negotiations on visa facilitation will be linked to negotiations on readmission agreements with the European Community and to progress in reforms in relevant areas. The Commission also plans to present, in spring 2006, a proposal aiming inter alia at simplifying and speeding up visa issuing procedures at local consulates."

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**The Hague Programme strengthening freedom, security and justice in the EU  
Adopted by the European Council  
Brussels, 5 November 2004**

"The European Council (...) invites the Council and the Commission to examine, with a view to developing a common approach, whether in the context of the EC readmission policy it would be opportune to facilitate, on a case by case basis, the issuance of short-stay visas to third-country nationals, where possible and on a basis of reciprocity, as part of a real partnership in external relations, including migration-related issues."

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**EU/Western Balkans Summit - Declaration  
Thessaloniki, 21 June 2003**

"We acknowledge the importance the peoples of the Western Balkans attach to the perspective of liberalisation of the EU's visa regime towards them. We recognise that progress is dependent on implementing major reforms in areas such as the strengthening of the rule of law, combating organised crime, corruption and illegal migration, and strengthening administrative capacity in border control and security of documents. The Western Balkan countries welcome the intention of the Commission to hold discussions, within the framework of the Stabilisation and Association Process, with each of them, regarding the requirements for how to take these issues forward in concrete terms."

At: <http://www.esiweb.org/index.php?lang=en&id=346>

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[1] The EC/Albania readmission agreement entered into force on 1 May 2006.

[2] The EC/Albania readmission agreement entered into force on 1 May 2006.

[3] Without prejudice to Member States' positions on status.



The road to visa-free travel

*"We acknowledge the importance the peoples of the Western Balkans attach to the perspective of liberalisation of the EU's visa regime towards them."*

EU-Western Balkans Summit in Thessaloniki, 21 June 2003

## Chronology

30 May 2011	Commission publishes its "post-visa liberalisation monitoring report". It assesses the progress made by the five Western Balkan countries in continuing the visa roadmap reforms, encouraging stronger efforts, and analyses the situation concerning asylum seekers from Serbia and Macedonia in the EU. The Commission suggests additional actions ranging from information campaigns to increased checks at the border.
24 May 2011	Commission proposes amending the visa regulation 539/2001 to introduce the option of suspending visa-free travel in a fast-track procedure, for half a year. The European Parliament and Council need to decide on the proposal.
3-6 May 2011	Commission and member state experts visit Macedonia to check on continued implementation of the roadmap reforms and the measures taken to reduce the number of asylum seekers in the EU.
26-29 April 2011	Commission and member state experts visit Serbia to check on continued implementation of the roadmap reforms and the measures taken to reduce the number of asylum seekers in the EU.
24/25 February	Commission presents its monitoring mechanism to the JHA Council. It will assess the implementation of measures taken by the Western Balkan countries during the visa liberalisation process and act as a prevention mechanism against new situations of high inflow of persons from the region.
21 December 2010	France and the Netherlands propose a change of Council Regulation 539/2001 that would allow for a suspension of visa-free travel in certain situations. The proposal is not accepted for the time being.
15 December 2010	Visa-free travel becomes effective for Bosnians and Albanians.
8 November 2010	Justice and Home Affairs Council adopts Commission proposal of 27 May 2010 (qualified majority voting) and thus lifts the visa requirement for Albania and Bosnia. At the same time, the Commission issues a statement committing itself to establishing a follow-up monitoring mechanism to monitor continued implementation of the roadmap conditions as well as inflows of asylum seekers or illegal migrants from the Western Balkans.
6/7 October 2010	European Parliament votes in favour of abolishing the visa requirement for Albania and Bosnia (538 MEPs voted in favour, 47 against, 41 abstained).

6 and 28 Sept. 2010	AFET and LIBE Committees of the EP vote in favour of the Commission proposal of 27 May 2011, which proposes visa-free travel for Albania and Bosnia.
14 Sept. 2010	Commission issues assessment concluding that Bosnia and Albania have met the remaining open benchmarks and qualify for visa-free travel.
2 Sept. 2010	During a briefing of the European Parliament's LIBE Committee, the Commission indicates that Albania and Bosnia have met the remaining open benchmarks.
July 2010	Commission to assess if Albania and Bosnia meet the outstanding benchmarks.
27 May 2010	Commission issues legislative proposal offering visa-free travel to Albania and Bosnia on condition that the two countries meet a few outstanding benchmarks in the coming weeks.
19 April 2010	Commission issues updated assessments for Albania and Bosnia. The assessments indicate that both countries have made substantial progress. There is only a limited number of outstanding benchmarks.
9 Feb. 2010	The European Council appoints the new European Commission 2010 – 2014 with the support of the European Parliament. The new Commissioners in charge of the visa liberalisation process for the Western Balkans are Ms Cecilia Malmstrom, Commissioner for Home Affairs, and Mr Stefan Fule, Commissioner for Enlargement and Neighbourhood Policy.
Feb. 2010	Further EU expert missions in Albania and Bosnia: Bosnia, block 2: 8-12 Feb. Bosnia, block 3: 15-19 Feb. Albania, block 2: 22-26 Feb. Albania, block 3: 8-12 Feb. Block 4 was discussed with the authorities in writing.
19 Dec. 2009	Macedonia, Montenegro and Serbia begin to enjoy visa-free travel to Schengen countries.
8 – 9 Dec. 2009	EU General Affairs Council "stresses that Kosovo should also benefit from the perspective of eventual visa liberalisation (without prejudice to Member States' positions on status) once all conditions are met and invites the Commission to move forward with a structured approach to bring the people of Kosovo closer to the EU".
7 – 17 Dec. 2009	EU national expert missions examine situation with regard to document security in Albania (14-17 Dec.) and Bosnia (7-11 Dec.)
30 Nov. 2009	Justice and Home Affairs Council votes on the Commission proposal (qualified majority voting), giving visa-free travel to Macedonia, Montenegro and Serbia.
19 Nov. 2009	Commission issues positive report concerning Serbia's and Montenegro's compliance with the outstanding roadmap requirements.
12 Nov. 2009	European Parliament plenary adopts its (non-binding) opinion on the Commission proposal. It approves visa-free travel for Macedonia, Serbia and Montenegro; urges a quick decision-making process for Albania and Bosnia and their symbolic placing on the white list already now; and demands a roadmap for Kosovo.
4 November 2009	Slovenia proposes to grant visa-free travel to Macedonia, Serbia and Montenegro as of 19 December 2009.
12 - 16 Oct. 2009	EU national expert missions to Serbia and Montenegro examine the situation on the ground.
1 Oct. 2009	Albania and Bosnia submit updated progress reports.
29 Sept. - 19 Oct. 2009	Responsible European Parliament committees discuss Commission proposal and adopt their opinions.

25 Sept. 2009	Montenegro and Serbia submit reports whether they meet the outstanding requirements.
15 July 2009	Commission submits proposal to introduce visa-free travel for Macedonia, as well as Serbia (without Kosovo residents) and Montenegro if the two countries meet a few outstanding requirements; no change for Albania and Bosnia and Herzegovina since they do not yet fulfil the roadmap conditions; Kosovo (which has not been part of the visa liberalisation process) to be added to the black list.
25 May 2009	Commission and representatives of EU member states (Coweb and visa Council working groups) begin discussions of the assessments and the forthcoming Commission proposal.
18 May 2009	Commission finalises its updated assessments of roadmap implementation by each Western Balkan country and sends them, together with the reports from the expert missions, to the EU member states.
Jan.-March 2009	Expert missions including experts from the EU member states verify the situation on the ground in the Western Balkan countries, and seminars with MS experts discuss the Block 4 requirements.
Dec.-Jan. 2009	Western Balkan governments answer additional questions.
24 Nov. 2008	Commission presents assessments of visa roadmap implementation by the Western Balkan countries to a joint Coweb/justice and home affairs Council working group in Brussels and subsequently presents the assessments to the Western Balkan governments.
By 1 Sept. 2008	Western Balkan countries have to submit "readiness reports" and do so with a small delay.
5 June 2008	Visa roadmap presented to Bosnia and Herzegovina.
3 June 2008	Visa roadmap presented to Albania.
28 May 2008	Visa roadmap presented to Montenegro.
26 May 2008	Launch of the visa dialogue with Bosnia and Herzegovina.
8 May 2008	Visa roadmap presented to Macedonia.
7 May 2008	Visa roadmap presented to Serbia.
7 March 2008	Launch of the visa dialogue with Albania.
30 Jan. 2008	Launch of the visa dialogue with Serbia.
28 Jan. 2008	GAERC welcomes the Commission's intention to launch visa dialogues and define "detailed roadmaps setting clear benchmarks to be met by all the countries in the region in order to gradually advance towards visa liberalisation."
1 Jan. 2008	Visa facilitation and readmission agreements enter into force in the Western Balkan countries.
6 Nov. 2007	In its Enlargement Strategy, the Commission proposes to open visa liberalisation dialogues and establish visa roadmaps.
Sept.-Nov. 2007	Visa facilitation and readmission agreements are signed, approved by the Parliament, concluded by the Council and ratified by all Western Balkan countries.
18 June 2007	GAERC "acknowledged the importance the people of the Western Balkans attach to the perspective of visa-free movement. In this context, it welcomed the intention of the Commission to take these issues forward in concrete terms". This is the first clear indication that visa facilitation will be followed by visa liberalisation.
13 April – 16 May 2007	Visa facilitation and readmission agreements are agreed and initialled with all five Western Balkan countries.
20 Nov. 2006	Negotiations of the visa facilitation and readmission agreements with the Western Balkan countries are launched.
13/14 Nov. 2006	GAERC (EU foreign ministers) mentions that "visa facilitation and readmission agreements will be an important and necessary step

	forward" with regard to the visa issue.
13 Nov. 2006	Council gives go-ahead for the negotiation of the visa facilitation and readmission agreements with all five Western Balkan countries.
20 July 2006	Commission presents to the Council draft mandates to negotiate visa facilitation and readmission agreements with Albania, <sup>1</sup> Bosnia and Herzegovina, Montenegro and Serbia, too.
May 2006	European Commission requests the Council to authorise it to negotiate visa facilitation and readmission agreements with Macedonia, presenting the required negotiating mandate for adoption by the Council.
20 Dec. 2005	Council decides to account for "the EU's overall relationship with candidate countries, countries with a European perspective and countries covered by the European Neighbourhood Policy as well as strategic partners" when launching negotiation of visa facilitation and readmission agreements, opening the way for the negotiation of such agreements with the Western Balkan countries.
5 Nov. 2004	EU leaders endorse the Hague Programme, a new 5-year programme for justice and home affairs, and decide to examine the possibility of offering visa facilitation to third countries in exchange for readmission agreements.
21 June 2003	EU/Western Balkans Summit in Thessaloniki acknowledges "the importance the peoples of the Western Balkans attach to the perspective of liberalisation of the EU's visa regime towards them" and promises discussions with the Commission about the necessary reforms and requirements, but there is no serious follow-up.

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[1] Only visa facilitation, a readmission agreement has been in force since 1 May 2006.

At: <http://www.esiweb.org/index.php?lang=en&id=350>



Border fence in Albania

## Recommended reading and watching

### Films and exhibitions

[White Wedding](#), an exhibition by Kosovo artists on the problem of visa liberalization in Kosovo, Pristina – Brussels, February 2010

[Balkan Cage](#), a short film by Boris Kaeski (1'46"), November 2008

Return to Europe: [The European visa regime](#) (Bosnia), 2008

Return to Europe: [Costs of isolation in Kosovo](#), 2008

Return to Europe: [No Balkan Ghetto – It depends on us](#) (Trailer), 2007

[Should I stay or should I go](#), a short film by Peter Gerlach (1'30"), supported by OBESSU (Organising Bureau of the European School Student Unions), 2005

### Reports

Using the Western Balkan experience and ESI's Schengen White Project as an example, a number of networks of think-tanks and NGOs have come together to help the EU's Eastern Partners (Moldova, Ukraine, Georgia, Armenia, Azerbaijan and Belarus) achieve visa liberalisation:

Since its creation in 2008, the Ukrainian NGO ["Europe without Barriers"](#) (EWB) promotes efforts towards the abolition of visa restrictions between the European Union and Ukraine. Initially created as a consortium of nine Ukrainian NGOs, it became a full-fledged independent NGO in 2009.

In November 2010 the [Stefan Batory Foundation](#) in Poland launched the ["Coalition for a European Continent Undivided by Visa-Barriers"](#). It comprises more than 30 NGOs coming from all over Europe. By its own description, the "coalition takes joint actions to speed up the process of EU visa liberalization with the countries of the Eastern Partnership (Ukraine, Moldova, Belarus, Armenia, Azerbaijan and Georgia) and Russia. We want to make ourselves better heard by decision-makers and make a stronger stand for a visa-free Europe."

In March 2011, a new [multi-NGO project "No Visa"](#) was launched by PASOS (Policy Association for an Open Society), with the support of the OSI- Local Government and Public Service Reform Initiative. As a consortium of 8 different NGOs, the project advocates for establishing visa-free travel regimes between the EU and the six Eastern Partnership countries.

The projects have generated a lot of worthwhile studies, among them:

International Centre for Policy Studies (ICPS), [Mission Impossible? A visa liberalisation view from within the EU](#), by Raul Hernandez i Sagrera, European Focus Nr. 14, June 2011

Policy Association for an Open Society (PASOS), [How to achieve visa-free regime with the European Union? The Western Balkan countries experience for Ukraine](#) (Comparison Serbia roadmap/Ukraine action plan by Group 484 from Serbia) ([Part 1](#); [Part 2](#)), March 2011.

Stefan Batory Foundation // Europe Without Barriers, ["Learning from the Western Balkans Experience"](#), by Alexandra Stiglmayer, Batory Foundation Policy Brief (January 2011).

Europe without Barriers; Center for Peace, Conversion and Foreign Policy of Ukraine, "[Visa-free Travel with the EU is Achievable](#)", by Alexandra Stiglmeier in, "Visa-free Europe for the Eastern Partnership: A Way to Achieve", Kiev (2010).

NGOs in the Western Balkans and the EU monitored the efforts of their governments to implement the visa roadmaps and qualify for visa-free travel. They acquired expertise and played a crucial role in promoting reforms in their countries.

European Movement in Albania, [How does visa-free travel in the Schengen area affect Albanian citizens? \(Findings of a survey\)](#), 21 April 2011

European Movement in Albania, [Informative Booklet on the Visa Liberalisation Process](#), February 2011

Reactor, [Taking Down the Schengen Wall](#), Skopje, 24 April 2009

Analytica, [Ending 'Ghettoisation' of the Western Balkans. Visa Liberalisation Prospects](#), Skopje, 20 March 2009

Policy Association for an Open Society (PASOS)/European Institute Bulgaria, [Could EU visa-free travel become a key incentive for Western Balkans countries to establish better democratic institutions and the rule of law?](#), Policy Brief, 5 March 2009.

Group 484, [Towards White Schengen List, Serbia Progress Report on Visa Liberalisation Process](#), Belgrade, December 2008

Center for Research and Policymaking (CRPM), [Macedonian Progress with regard to the Benchmarks set in the Roadmap on Visa Liberalisation](#), October 2008

Agenda Institute, [Towards visa free regime](#), Tirana, December 2007

Analytica, [Grassroots Europeanisation in the Western Balkans is just starting: Visa facilitation](#), Brief, Skopje, May 2007.

Institute of International Politics and Economics, European Movement in Serbia, Group 484, [Visa Policy and the Western Balkans](#), Belgrade 2006

Group 484, [Towards the white Schengen list](#), Belgrade, December 2005

International Crisis Group, [EU Visas and the Western Balkans](#), 29 November 2005

Some had also taken a hard look at the visa facilitation agreements.

European Movement in Albania (EMA), [One year from the Visa Facilitation Agreement. What has really changed?](#), January 2009

European Citizen Action Service (ECAS) project: [Does it really matter? Visa facilitation in the Western Balkans - Monitoring of the new agreements](#), 2008

Examining the levels of crime in the Balkans in 2008, the UN Office on Drugs and Crime came to the surprising conclusion that most of the region is safer than Western Europe with regard to conventional crime, and that organised crime activity is diminishing.

United Nations Office on Drugs and Crime, [Crime and its Impact on the Balkans](#), May 2008

Based on a survey of 28,000 people in 2010, the [UN Office on Drugs and Crime](#) produced a report on corruption in the Western Balkans. It came to the conclusion that corruption is of major concern for citizens of the region, ranking third in the list of most pressing issues, after unemployment and poverty, but well ahead of security and education.

United Nations Office of Drugs and Crime, [Corruption in the Western Balkans: Bribery as experiences by the population](#), May 2011

The [Balkan Monitor of Gallup](#), one of the world's leading polling institutes, analysed attitudes towards migration in the Western Balkans in 2006 and 2008. The data shows that, unlike widely believed, relatively few people have concrete plans to leave their home countries.

Gallup Balkan Monitor, [Insights and Perceptions: voices of the Balkans](#), 2010 findings  
Gallup Balkan Monitor, [Focus On: The impact of migration](#), June 2009 (report)  
Gallup Balkan Report, [The Western Balkans: the impact of migration](#), 26 June 2009

Alina Mungiu-Pippidi, president of the Romania's largest think-tank SAR (Romanian Academic Society), examined in 2005 how many people from the Balkans would be willing to emigrate to the EU:

Alina Mungiu-Pippidi, [Seeking the Virtuous Circle: Migration and Development in South Eastern Europe](#). In: Development and Transition, A newsletter published by UNDP and the London School of Economics, Issue 2, November 2005, pp. 7-11. The article is based on a study done for UNDP

The Secretariat of the EU Council publishes annually detailed statistical information about Schengen visa applications, approvals and denials.

[2009](#)  
[2008](#)  
[2007](#)  
[2006](#)

Addendum 1: [Statistics from Romania for 2006](#)

Addendum 2: [Statistics from Austria for 2006](#)

[2005](#)

A number of foundations and NGOs are trying to work against the isolation of the citizens of the Western Balkans, in particular the young generation. In collaboration with the [Balkan Trust for Democracy](#), the [Robert Bosch Stiftung](#) annually organises a one-month trip in Europe for several hundred students from the Western Balkans, helping them to get a visa and the mandatory health insurance, and providing them with train tickets and some pocket money.

Robert Bosch Stiftung, [Travel to Europe](#)



Prizren, Kosovo. Photo: flickr/rich rich rich

## A roadmap for Kosovo

### About visa and Kosovo

On 17 February 2008, Kosovo declared independence.

Just a few weeks earlier, on **28 January 2008**, the EU finally decided to give Western Balkan countries the opportunity to eliminate the Schengen visa requirement imposed on them. The EU offered to lift the visa requirement if they met a series of challenging conditions in the fields of document security, border control and the fight against illegal migration, organised crime and corruption. The conditions were set out in a "**visa roadmap**" that was presented to each country.

Five countries were invited to participate in the process: **Albania, Bosnia and Herzegovina, Macedonia, Montenegro and Serbia**. Kosovo was not part of this group, which was perhaps not surprising given its undecided status.

Over the next two years, Macedonia, Montenegro and Serbia met all the conditions during a **well-structured process, which was strict, but fair**. The visa requirement for their citizens was lifted on 19 December 2009. Albania and Bosnia needed one year more, so that their citizens have been able to travel visa-free to the EU since 15 December 2010.

Kosovo, however, is still excluded from the process.

Kosovo has been recognised by 76 UN countries, including 22 EU member states. In fact, only five EU member states have not recognised Kosovo: Cyprus, Greece, Romania, Slovakia and Spain.

In terms of travel opportunities, **Kosovo is one of the most isolated places on earth**. Not only the EU and associated Schengen countries require Kosovars to obtain a visa before they can visit them; most other countries in the world also require visas. Holders of the Kosovo passport can travel to only five countries without a visa: neighbouring Albania, Montenegro, Macedonia, Turkey, and Haiti.

The EU did not allow Serbia to issue the new biometric Serbian passport, which allows for visa-free travel, to Kosovo residents. Kosovars have the right to obtain this passport, but it can be obtained only at a special department in Belgrade – and holders of passports issued by this special department are banned from travelling to the Schengen zone without a visa.

The rationale for this measure is fear of illegal migration from Kosovo. This fear is one of the reasons why the EU has been reluctant to offer a visa liberalisation process to Kosovo. The other one is the claim by the five non-recognising EU countries that Kosovo's unresolved status makes it difficult to design a proper visa liberalisation process.

Both arguments are unsustainable. If Kosovo were given a roadmap and treated in the same manner as its neighbours, it would put in place safeguards against illegal migration – this would be one of the required conditions. And regarding the status question, visa policy is status neutral.

This was finally acknowledged by the EU member states in December 2009, when they agreed "that Kosovo should also benefit from the perspective of eventual visa liberalisation once all conditions are met" (without prejudice to Member States' positions on status). These Council conclusions came in response to an [October 2009 policy paper by the European Commission](#), which strongly suggested a visa liberalisation process for Kosovo.

However, the Commission has refrained from using the same terminology as used in the process for the first five Western Balkan countries. Instead of a "visa roadmap", Kosovo will have a "comprehensive strategy" "with benchmarks" "to guide Kosovo's efforts to meet the EU's requirements for visa liberalisation". The use of different language may jeopardise the end goal. Why is Kosovo subject to different conditions in the visa liberalisation process than its neighbours?

Before a visa dialogue is opened and Kosovo receives the visa strategy, Kosovo must meet a number of conditions, some of which the other five Western Balkan did not have to meet. Like the other countries, it has to put into place and implement provisions for readmission. It has done it. However, Kosovo has also been asked to draft and implement a strategy to integrate forcefully returned Kosovars; to enhance the security of borders and to ensure secure management of civil registries and issued documents. The other five Western Balkan countries had to do these things only as part of the visa liberalisation process, but not ahead of it. Kosovo has clearly been discriminated, which ESI has pointed out in its report "Isolation Confirmed. How the EU is undermining its interests in Kosovo" from 22 November 2010 (see further below).

As of June 2011, Kosovo still had no visa liberalisation process.

However, it has a lot of good will and trust in the EU. It has resolved the readmission issue as required. It is implementing the readmission strategy. It has agreed to take back the 14,000 Kosovars from Germany, including 10,000 Roma, whose reintegration poses a particular challenge.

From the beginning, ESI has demanded that Kosovo officially receive a roadmap from the Commission like its neighbours and is given the chance to carry out the same reforms – reforms that will make the EU safer as a whole and further the goals of the EULEX mission in Kosovo. The prospect of the abolition of the visa requirement will encourage Kosovo's government to carry out reforms in the rule of law field, which will boost EULEX and increase the likelihood of its success.

It is now more important than ever that a roadmap, which is also called "roadmap", is handed over. The roadmap will reassure Kosovo that the outcome of the process will be the same as that of its neighbours: visa-free travel. Different terminology may imply that Kosovo is a different case: it might be subject to different requirements and may never reap the same reward at the end. The fact that Kosovo has to design and implement a reintegration strategy as a precondition for the visa liberalisation process is a worrying sign.

On the Kosovo webpage, we are presenting ESI's activities to help Kosovo receive a full-fledged visa liberalisation process based on a visa roadmap. We are detailing Kosovo's activities to qualify for such a process and meet as many benchmarks as possible in advance. We are also offering a chronology of events and excerpts from EU policy documents related to the issue of visa-free travel for Kosovo. Finally, we recommend reports to read and films and exhibitions to watch.

We are grateful to the [Robert Bosch Stiftung](#) which has supported ESI's activities on visa-free travel for Kosovo as part of the Schengen White List Project.



Supported by the  
Robert Bosch **Stiftung**

## **ESI Discussion paper: Isolation confirmed. How the EU is undermining its interests in Kosovo**

Berlin – Brussels - Pristina  
22 November 2010

### **Executive Summary**

This report highlights the discriminatory treatment of Kosovars – whether they are Kosovo Albanians, Kosovo Serbs, Kosovo Roma, Kosovo Bosniaks, or Kosovo Ashkali and Egyptians – by the European Union in the context of the EU's visa policy.

The first step in this treatment was the specific solution the EU insisted on for Kosovars holding Serbian passports (as they are allowed to do under the provisions of the Ahtisaari Plan and the Kosovo constitution): Kosovo residents, regardless of their ethnicity, can only receive a Serbian passport from a special directorate of the Serbian Interior Ministry. But passports issued by this directorate are excluded from visa-free travel to the Schengen area. The second step was withholding until today a normal visa roadmap from Kosovo, as it has been given to all other countries. The recent declaration that Kosovo is not ready yet even to have the very basic first step, what the EU calls a "visa dialogue", because, in the words of Commissioner Malmstrom, it "is not ready" was a huge disappointment for pro-European forces in Pristina. It makes little sense for the EU to have a "visa dialogue" with Russia, Ukraine and Moldova but not also with this small Balkan state.

This discriminatory treatment is not only a problem for citizens of Kosovo but also undermines the interests of the European Union. It undermines the EU's efforts to promote much needed institution building in Pristina. It weakens the position of pro-European reformers in Kosovo. It makes it less likely that the most ambitious rule of law missions in the EU's history, EULEX, will be as successful as it could be. It makes it more difficult to create the conditions in Kosovo which would allow EU member states to repatriate thousands of illegal Kosovo residents without meeting loud criticism from international organisations and NGOs. Current EU policy preserves rather than changes a problematic status quo in which Kosovars are the fifth largest group of nationals requesting asylum across the EU today, despite the existing visa requirement. It also undermines the EU's leverage when it comes to moderating in the upcoming dialogue between Belgrade and Pristina.

Decision-makers in EU member states and in EU institutions are obviously justified not only to ask tough *questions* about Kosovo's institutions but also to demand far-reaching *reforms* before any

visa liberalisation can be granted. This is the basic rationale behind the roadmap process: to demand tough reforms in return for access to the EU. Visa liberalisation must also be in the EU's own security interest. This is the reason so many current and former foreign and interior ministers throughout Europe – as well as the vast majority of members of the European Parliament – have come out so strongly in favour of the roadmap process for the Balkans.

The Commission has neither opened a visa dialogue with Kosovo, nor has it presented a roadmap or any document listing what Kosovo needs to do to be granted visa-free travel. Kosovars still have to go through a cumbersome, stressful and often expensive visa application procedure to visit any EU country – and there is no clear prospect that this will change any time soon. There is no reason, however, that the same logic which applies to Macedonians, Montenegrins and Serbians should not apply to Kosovars.

This paper explores what has happened in the last twelve months in detail. It argues that the EU has demanded things from Kosovo to be allowed to start a visa liberalisation process than it had not demanded from all other Western Balkan countries. Importantly, our analysis shows that in fact Kosovo has met even those additional demands. Nevertheless, it is still kept out in the cold.

## **I. introduction: Kosovo's isolation 2009 and today**

In November 2009 ESI published a report on Kosovo and visa-free travel to the EU.<sup>3</sup> We noted that Kosovo was the most isolated place on earth, its citizens able to travel to only five countries without a visa: neighbouring Albania, Macedonia and Montenegro, Turkey and Haiti. Although the European Commission had proposed to start a visa liberalisation process with Kosovo in October 2009, strong doubts remained whether it would apply the same conditions to Kosovo as it had to the other Western Balkan countries. We suggested that the EU follow the recommendation of the European Parliament:

“... The Commission, within the limits of its competence and in the light of UN Security Council Resolution 1244 (1999), should start a visa dialogue with Kosovo with a view to establishing a roadmap for visa facilitation and liberalisation similar to those established with Western Balkan countries.”<sup>4</sup>

One year has since passed. For the five Western Balkan countries, it was a year of remarkable progress. Serbia, Macedonia and Montenegro obtained visa-free travel to the Schengen countries in December 2009. Albania and Bosnia will follow in December 2010. In 2008 each of these countries was offered a so-called “visa dialogue” followed by a “roadmap” towards visa-free travel. The visa roadmaps all looked more or less the same.<sup>5</sup> They set out close to 50 demanding conditions in areas like document security, border control and the fight against illegal migration, organised crime and corruption. Together with experts from the EU member states, the Commission regularly assessed each country's progress until the conditions were met.<sup>6</sup>

The process proved to be a tremendous success. All the countries involved carried out a large number of reforms. Only two years ago, there was talk of a Western Balkan visa ghetto. Yet by the end of 2010 all the citizens of the Balkans – Bulgarians and Romanians, Serbians and Croatians, Albanians, Macedonians, Bosnians, Montenegrins, some 50 million people in total – will be able to travel to the EU without a visa.

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<sup>3</sup> ESI, *Isolating Kosovo? Kosovo vs. Afghanistan 5:22*, 19 November 2010, [http://www.esiweb.org/pdf/esi\\_document\\_id\\_111.pdf](http://www.esiweb.org/pdf/esi_document_id_111.pdf).

<sup>4</sup> European Parliament, European Parliament legislative resolution of 12 November 2009 on the proposal for a Council regulation amending 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 (European Parliament opinion on visa-free travel for Macedonia, Montenegro and Serbia), rapporteur: Tanja Fajon, 12 November 2009, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+TA+P7-TA-2009-0062+0+DOC+PDF+V0//EN>.

<sup>5</sup> ESI visa website, *The Roadmaps*, at <http://www.esiweb.org/index.php?lang=en&id=352>.

<sup>6</sup> ESI visa website, *Progress Assessments by the European Commission*, <http://www.esiweb.org/index.php?lang=en&id=353>.

There is one glaring exception to this success story, however: Kosovo and its 2 million inhabitants. While the citizens of Serbia can now travel to 88 countries without a visa, Kosovars are as isolated now as they were twelve months ago.<sup>7</sup>

## II. THE ELUSIVE VISA DIALOGUE

The European Commission started a visa dialogue with Serbia on 30 January 2008. Within the next few months, it opened visa dialogues with Albania, Bosnia-Herzegovina, Montenegro and Macedonia. By 5 June 2008, the five countries had also all received visa roadmaps that set out the specific requirements they had to fulfil to be granted visa-free travel.<sup>8</sup> Prior to the visa dialogues, all five countries had negotiated readmission agreements with the EU. (A readmission agreement makes it possible to deport illegal migrants back to the country from which they came.) These entered into force in January 2008. The EU had repeatedly stressed that this was the first step towards the abolishment of the visa requirement.

The first country with which the European Commission decided to launch a visa dialogue was Russia, back in April 2007. The Commission then launched a visa dialogue with Ukraine in September 2008. Since June 2010, the EU has also had a visa dialogue with Moldavia. In Kosovo's case, there is no visa dialogue in place, however, let alone a visa roadmap. This is hard to justify.

The European Commission and Kosovo have communicated intensively about visa issues since autumn 2009. In October 2009, almost two years after launching the visa liberalisation process with the other five Western Balkan states, the European Commission declared:

"Kosovo citizens need to share further in the benefits of EU approximation, including the possibility to travel visa-free in the EU."<sup>9</sup>

It also stressed that this required meeting certain conditions, as to address the concerns of EU member states:

"This is only possible if Kosovo can ensure that relevant reforms are implemented and rules and procedures are respected so as to minimise the associated security risks for EU Member States."<sup>10</sup>

The Commission set out some of these conditions, beginning with the issue of readmission. This was a fair demand: Albania, Bosnia and Herzegovina, Macedonia, Montenegro and Serbia, but also Russia, Ukraine and Moldova, all had readmission agreements with the EU before visa dialogues were opened. In the case of Kosovo, however, the Commission's policy paper also mentioned additional conditions concerning reintegration, border security and civil registries and documents.<sup>11</sup>

"The starting point for these reforms is properly functioning readmission arrangements. Kosovo needs to adapt its legislation, strengthen its administrative capacity to process readmission requests and implement an effective reintegration strategy [of people sent back by EU member states]. It also needs to enhance the security of its borders and secure the management of civil registries and the issuance of documents. The Commission proposes to move forward with a structured approach to bring Kosovo's citizens closer to the EU through a visa dialogue with the perspective of eventual visa liberalisation when the necessary reforms will have been undertaken."<sup>12</sup>

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<sup>7</sup> Please note that *Henley and Partners Visa Restriction Index, Global Ranking 2010* ([http://www.henleyglobal.com/fileadmin/pdfs/content/hvri2010\\_globalRanking.pdf](http://www.henleyglobal.com/fileadmin/pdfs/content/hvri2010_globalRanking.pdf)) shows data on Kosovo for the first time and they point out that Kosovo citizens can travel to 37 countries visa free. This is simply a mistake. For more on this please see: ESI, *Isolating Kosovo? Kosovo vs. Afghanistan* 5:22, 19 November 2010, [http://www.esiweb.org/pdf/esi\\_document\\_id\\_111.pdf](http://www.esiweb.org/pdf/esi_document_id_111.pdf).

<sup>8</sup> ESI visa website, *Chronology*, at <http://www.esiweb.org/index.php?lang=en&id=350>.

<sup>9</sup> Communication from the Commission to the European Parliament and the Council, *Kosovo – Fulfilling its European Perspective*, COM (2009)5343, 14 October 2009, [http://ec.europa.eu/enlargement/pdf/key\\_documents/2009/kosovo\\_study\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2009/kosovo_study_en.pdf).

<sup>10</sup> *Ibid.*

<sup>11</sup> *Ibid.*

<sup>12</sup> *Ibid.*

However, it was not clear at which stage all these conditions would have to be met: before the visa dialogue, or afterwards as part of the visa liberalisation process? In the case of the other Western Balkan countries, these conditions had to be met as part of the roadmap implementation process.

In December 2009, the General Affairs Council of the EU, which brings together the EU's foreign ministers, agreed in a carefully formulated statement

“that Kosovo should also benefit from the perspective of eventual visa liberalization (without prejudice to Member States' positions on status) once all conditions are met and invites the Commission to move forward with a structured approach to bring the people of Kosovo closer to the EU.”<sup>13</sup>

This formulation again did not make it clear either at which stage Kosovo would have to meet “all” the conditions. The only promise was of a “perspective of eventual visa liberalization”. The visa dialogue proposed by the Commission was not even mentioned.

In January 2010, officials of the European Commission and the Kosovo government met within the framework of the Stabilisation and Association Process Dialogue (SAPD) to discuss “justice, freedom and security”.<sup>14</sup> Some 120 specific reforms were tackled and listed in the conclusions. Progress on all the issues “will also be crucial on the path towards the visa liberalisation dialogue,” the Commission declared in its official conclusions. Privately, it recommended to the Kosovars that they concentrate on readmission, reintegration and the reform of its civil registry system.

Kosovars hoped that this intense discussion was the beginning of the visa dialogue. The Commission insisted that it was not. “The SAP Dialogue is not to be mistaken with the process of visa liberalisation dialogue which has not started yet,” it announced in a press release published after the meeting.<sup>15</sup>

Three months later, in April 2010, the European Commission Liaison Office (ECLLO) in Kosovo produced a follow up document: a “fact sheet” on visa liberalisation. This was the first time that a written document clearly stated that Kosovo had to meet pre-conditions for the launch of the visa dialogue (while wrongly claiming that reintegration had also been a precondition for the other five countries):

“Like for the five countries of the Western Balkans which started the visa liberalisation dialogue in early 2008, in particular sound readmission and reintegration policies are required before a visa liberalisation dialogue could start. There are many other challenges for Kosovo, including security of documents, border and migration management, protection of personal data and results in the fight against organised crime and corruption. Once the European Commission judges the situation satisfactory, it will decide to launch a visa liberalisation dialogue with Kosovo and develop a strategy.”<sup>16</sup>

The Commission still insists that all of this official communication did not amount to a visa dialogue.

So when would a “real” visa dialogue begin? In early July, during another meeting (the first annual SAP Dialogue meeting) with EU Commission officials in Pristina, Balkan Enlargement Director Pierre Mirel announced that he expected the dialogue on liberalisation to start in September. The next day all major Kosovar dailies reported the encouraging news:

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<sup>13</sup> Council of the European Union, General Affairs, 7 and 8 December 2010,

[http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/EN/genaff/112480.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/genaff/112480.pdf).

<sup>14</sup> This is a “status neutral” process for Kosovo that is modelled on the Stabilisation and Association Process (SAP).

<sup>15</sup> European Commission Liaison Office (ECLLO) in Kosovo, *Press Release: First SAP Dialogue meeting on justice, freedom and security*, 28 January 2010, <http://www.delprn.ec.europa.eu/?cid=2,103,729>.

<sup>16</sup> European Commission Liaison Office in Kosovo, *Fact Sheet: Toward a Visa Liberalisation dialogue with Kosovo*, [http://www.delprn.ec.europa.eu/repository/docs/Visa\\_Liberalisation\\_Fact\\_Sheet\\_-\\_ENG.pdf](http://www.delprn.ec.europa.eu/repository/docs/Visa_Liberalisation_Fact_Sheet_-_ENG.pdf).

“Concrete progress of Kosovo in many of the issues we discussed today will enable the EU to push ahead the proposals we made last year, in particular the start of the visa liberalization dialogue,” Mirel said.<sup>17</sup>

September came and went. The visa dialogue did not start. Finally, on 6 October 2010, Home Affairs Commissioner Cecilia Malmstrom spoke in the European Parliament. Announcing that Bosnia and Albania had met the benchmarks for visa-free travel to the Schengen countries, she also explained:

“Kosovo is not forgotten. Kosovo is of course also a very important partner in this. They have made a lot of progress but still, in order to be credible, the Commission has to watch over all the benchmarks and all the conditions if we want to have a credibility and legitimacy for this process. And *Kosovo is not ready*.”<sup>18</sup>

### III. WHAT KOSOVO HAS DONE

#### A. Readmission

We have already noted that *all other countries* started their visa dialogue with the EU only after resolving the issue of readmission. For them, this was the sole precondition.

In the case of Kosovo, readmission used to be handled by the United Nations Interim Administration Mission in Kosovo (UNMIK) until November 2008, when the Kosovo government took over. Even before it signed any readmission agreements with EU member states, Kosovo took back thousands of forced returnees per year.<sup>19</sup> In its progress report, the Commission commended the Kosovo government for dealing with readmission agreements from European countries “in an efficient way”.<sup>20</sup>

From Germany alone, 21,852 persons were forcefully repatriated between 1999 and mid-2009 (in addition to 92,240 voluntary returns).<sup>21</sup> After it took charge, the Kosovo government remained open to readmission, rarely refusing a repatriation request. Of the 1,580 requests made by Germany between 1 January and 31 August 2009, Kosovo accepted 1,553, while rejecting only 27.<sup>22</sup> In its progress report, the Commission commended the Kosovo government for dealing with readmission agreements from European countries “in an efficient way.”<sup>23</sup>

In parallel, Kosovo concluded bilateral readmission agreements with all interested countries: Albania (October 2009), Belgium (October 2009), France (December 2009), Macedonia (December 2009), Switzerland (February 2010), Germany (April 2010), Denmark (June 2010), Norway (October 2010) and Austria (September 2010). Agreements with Luxembourg, the Netherlands,

<sup>17</sup> UNMIK, *Media Monitoring*, 7 July 2010, [www.unmikonline.org](http://www.unmikonline.org).

<sup>18</sup> European Parliament, Debate on visa-free travel for Albania and Bosnia-Herzegovina, 6 October 2010, <http://www.europarl.europa.eu/wps-europarl-internet/frd/vod/player?date=20101006&language=en>.

<sup>19</sup> The Kosovo government took back 2,550 forced returnees in 2008 and 2,962 in 2009. In previous years, the numbers were: 3,554 (2005); 3,569 (2006); 3,219 (2007). UNHCR data quoted in OSCE Mission in Kosovo, *Implementation of the Strategy for Reintegration of Repatriated Persons in Kosovo's Municipalities*, November 2009, p. 4, [http://www.osce.org/documents/mik/2009/11/41281\\_en.pdf](http://www.osce.org/documents/mik/2009/11/41281_en.pdf), and in Amnesty International, *Not welcome anywhere. Stop the forced return of Roma to Kosovo*, 27 September 2010, p. 16, <http://www.amnesty.org/en/library/asset/EUR70/011/2010/en/f4d99ef1-725a-462f-81f3-e413083a4228/eur700112010en.pdf>. Latest figure from UNHCR in Pristina: ESI/UNHCR email communication on 15 November 2010.

<sup>20</sup> European Commission, *Kosovo 2010 Progress Report*, SEC (2010)1329, 9 November 2010, [http://ec.europa.eu/enlargement/pdf/key\\_documents/2010/package/ks\\_rapport\\_2010\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/ks_rapport_2010_en.pdf).

<sup>21</sup> Deutscher Bundestag, Antwort der Bundesregierung auf die Kleine Anfrage der Abgeordneten Ulla Jelpke, Sevim Dagdelen, Kersten Naumann, Jörn Wunderlich und der Fraktion DIE LINKE, Abschiebungen in das Kosovo, Drucksache 16/14129, 12 October 2009, <http://dip21.bundestag.de/dip21/btd/16/141/1614129.pdf>.

<sup>22</sup> *Ibid.*

<sup>23</sup> European Commission, *Kosovo 2010 Progress Report*, Brussels SEC (2010)1329, 9 November 2010, [http://ec.europa.eu/enlargement/pdf/key\\_documents/2010/package/ks\\_rapport\\_2010\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/ks_rapport_2010_en.pdf).

the Czech Republic, Hungary and Slovenia are being negotiated at the time of writing. Negotiations with Sweden and Italy are due to start soon.<sup>24</sup>

In addition, on 25 June 2010 Kosovo adopted a Law on Readmission, as requested by the Commission, which covers all EU countries that will not sign bilateral readmission agreements with Kosovo. The new law obliges Kosovo to take back citizens found to be residing in an EU country illegally, as well as third-country nationals proven to have entered the EU via Kosovo. In its progress report the Commission noted that the law "broadly meets EU requirements".<sup>25</sup>

However, this turned out not to be enough to receive a visa dialogue. Instead, the Commission decided to insist on additional pre-conditions, which had not been applied to any of the other countries. In a joint letter to the Kosovo Prime Minister in May 2010, Home Affairs Commissioner Cecilia Malmstrom and Enlargement Commissioner Stefan Fule wrote:

"... before a visa dialogue can begin and a visa strategy can be drafted, Kosovo has to adapt its legislation on readmission, strengthen its administrative capacity to process readmission requests and implement an effective reintegration strategy. In addition Kosovo also needs to enhance the security of borders and secure the management of civil registries and the issuance of documents."<sup>26</sup>

## **B. Border security**

Among the pre-conditions specific to Kosovo, which Commissioners Malmstrom and Fule mentioned in their letter of 5 May 2010, was to "enhance the security of borders".<sup>27</sup> A large EULEX mission, on the ground since 2008, has a specific mandate to help the Kosovo authorities in the field of border security. The EU and Kosovo's neighbours have an obvious interest in making sure that the country's borders are well managed. Improving border controls and implementing integrated border management (IBM) is also a key prerequisite for visa liberalisation.

Kosovo has 605 kilometres of borders. Until recently these were entirely controlled by KFOR, an international military force. On 28 April 2010, the Kosovo Border Police took over responsibility from KFOR for the surveillance of the border with Albania. 127 new officers were recruited.<sup>28</sup> The Border Police is currently hiring new staff in preparation for the handover of the border with Macedonia.<sup>29</sup> The border with Montenegro, still in the process of being demarcated, continues to be patrolled jointly with KFOR. With the new recruits, the Border Police will have around 1,200 staff. As Kosovo takes over responsibility for the control of all of its borders, 400 more border officers are expected to be hired in the near future.

Responsibility for Kosovo's 15 border *crossing points* has been handed over to the Kosovo border police, except around Mitrovica, the Serb-majority enclave north of the Ibar River where the Kosovo government has only very limited presence and authority. The border on the Kosovar side is controlled by KFOR, while the two border crossings (Gates 1 and D31) are controlled by EULEX. Since Serbia considers Kosovo to be part of its territory, the Serbian side of the border is not controlled by regular Serbian border police, but by Serbian police. This is certainly the most problematic border for both Kosovo and Serbia. However, in the case of Serbia the EU did not consider this an obstacle to grant visa-free travel.

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<sup>24</sup> Government of Kosovo, *Visa Liberalization Report*, October 2010, [http://www.mpb-ks.org/repository/docs/Raporti\\_per\\_liberalizim\\_te\\_vizave%20ENG.pdf](http://www.mpb-ks.org/repository/docs/Raporti_per_liberalizim_te_vizave%20ENG.pdf).

<sup>25</sup> European Commission, *Kosovo 2010 Progress Report*, SEC (2010)1329, Brussels, 9 November 2010, [http://ec.europa.eu/enlargement/pdf/key\\_documents/2010/package/ks\\_rapport\\_2010\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/ks_rapport_2010_en.pdf).

<sup>26</sup> Letter by Home Affairs Commissioner Cecilia Malmstrom and Enlargement Commissioner Stefan Fule to Kosovo Prime Minister Hashim Thaci, 5 May 2010.

<sup>27</sup> European Commission, *Communication from the Commission to the European Parliament and the Council, Kosovo – Fulfilling its European Perspective*, 14 October 2009, [http://ec.europa.eu/enlargement/pdf/key\\_documents/2009/kosovo\\_study\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2009/kosovo_study_en.pdf).

<sup>28</sup> EULEX, *Programme Report 2010*, p. 8, <http://www.eulex-kosovo.eu/docs/tracking/EULEX%20Programme%20Report%202010%20.pdf>.

<sup>29</sup> Interview with Ahmet Nuredini, Acting Chief for Liaison with International and Local Agencies, Border Police, Kosovo Ministry of the Interior, Pristina, 24 August 2010.

Except for a few regulations, most of the necessary legislation is now in place. The management structures for Integrated Border Management have been established. Cooperation between the different agencies operating at the border – border police, customs, food and veterinary service – has begun.<sup>30</sup> A joint operational centre between the police and customs has been opened. Joint risk assessment procedures have been drafted. The border police and the customs service have carried out a number of joint operations. Initiatives to share equipment and infrastructure are in place. Joint border police-customs-veterinary service facilities have been opened at two of Kosovo's 15 border crossing points.

Communications infrastructure linking the different border crossings with each other and with the centre has also improved. Kosovo's Border Police have signed memoranda of understanding with all neighbouring countries except Serbia. Kosovo's customs service has signed cooperation and assistance agreements with Albania, Montenegro,<sup>31</sup> France, Turkey and Finland.<sup>32</sup> Regular meetings are held with Macedonian, Montenegrin and Albanian counterparts.

Many problems remain. As the Commission notes in its 2010 progress report, "Kosovo is at an early stage of addressing the challenges of integrated border management."<sup>33</sup> So far, however, the government has shown visible commitment to improving border control and border management. As the Commission acknowledges, "Kosovo has made some progress" in the field.<sup>34</sup>

### C. Civil registries

The Malmstrom/Fuele letter mentions an additional precondition: the issue of civil registries and documents:

"Kosovo also needs to enhance the security of its borders *and secure the management of civil registries and the issuance of documents.*"<sup>35</sup>

When the Serbian administration and army withdrew from Kosovo following the end of the 1999 war, an estimated 70 percent of registry books were either taken to Serbia or destroyed. In 2000, UNMIK started to register the population anew and to reconstruct the birth, death and marriage books. This registration process was fraught with difficulties: many displaced residents had lost their Yugoslav IDs and birth certificates. Registration of minorities proved to be particularly difficult.<sup>36</sup> The haste with which the UNMIK-led registration process was conducted produced doubts about its integrity.

In the meantime, a high number of old duplicate/backup books (some 80 percent of the original ones) have been found. These are now used as originals.<sup>37</sup> The re-construction of the missing civil status books is also well under way. The process involves the use of supporting documents – old ID backups, birth and marriage certificates and files, social welfare receipts and other documents held by municipal archives or private citizens.<sup>38</sup>

To date, about 80 percent of the data in registry books has been digitalised. The rest is expected to be digitalised by the end of the year. Over 250 people have been hired to scan all registry books and to double-check the digitalised data. At the central registry, all staff have unique usernames

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<sup>30</sup> EULEX, *Programme Report 2010*, p. 11.

<sup>31</sup> *Ibid.*, p. 60.

<sup>32</sup> Government of Kosovo, Office of National Coordinator, *Strategy on IBM: Progress report January-June 2010*, prepared for presentation in Brussels, June 2010.

<sup>33</sup> European Commission, *Kosovo 2010 Progress Report*, SEC (2010)1329, Brussels, 9 November 2010, p. 50, [http://ec.europa.eu/enlargement/pdf/key\\_documents/2010/package/ks\\_rapport\\_2010\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/ks_rapport_2010_en.pdf).

<sup>34</sup> *Ibid.*

<sup>35</sup> Letter by Home Affairs Commissioner Cecilia Malmstrom and Enlargement Commissioner Stefan Fuele to Kosovo Prime Minister Hashim Thaci, 5 May 2010.

<sup>36</sup> UNMIK, *UNMIK's achievement in the area of civil registration: Press Release*, 26 December 2007, [http://www.unmikonline.org/DPI/PressRelease.nsf/0/FCF00EFE616C14D0C12573BD003BDD4B/\\$FILE/pr1717.pdf](http://www.unmikonline.org/DPI/PressRelease.nsf/0/FCF00EFE616C14D0C12573BD003BDD4B/$FILE/pr1717.pdf)

<sup>37</sup> Government of Kosovo, Ministry of Internal Affairs, Civil Registration Agency, *Assessment of the Municipal Civil Status Offices MCSO and Municipal Civil Registration Offices MCRC – With conclusions and recommendations*, September 2010, p. 61.

<sup>38</sup> *Ibid.*, p. 60.

and passwords with a trail documenting their activities on the system. The Commission has acknowledged that "progress has been achieved."<sup>39</sup> The Kosovo government, supported by EULEX, has also taken measures to increase the security of private data and its distribution.

Between June and August 2010, the Kosovo Ministry of the Interior and EULEX scrutinised in a joint effort all stages of the process of document issuance, looking at the 255 offices responsible for distributing documents ranging from birth and marriage certificates to passports. Based on the findings, some steps were immediately taken to improve the security of these processes; further measures will be outlined in an action plan. Almost all offices now have access to electronic databases.

Most of the required laws have been passed, while the important Law on Civil Status is expected soon. The Law on the Classification of Documents and Security Clearance<sup>40</sup> (regulating the classification of documents and clearance for public servants who handle them) is now before the parliament.

The Commission recognises in its progress reports that "Kosovo passports, identification cards and civil status documents have high technical security standards."<sup>41</sup> At the same time, it identifies deficiencies in the quality of civil status data, security and control over the collection of civil status data, and issuance of civil status documents. Still, the Kosovo government has shown that it is committed to addressing these deficiencies and is making good progress.

#### **D. Reintegration**

Kosovo first adopted a Strategy for the Reintegration of Repatriated Persons in October 2007, followed by an action plan in early 2008. The document foresaw several levels of assistance – from temporary accommodation to medical care – for forced returnees. It divided responsibilities between different ministries and municipalities. The latter were to register the returnees, and provide them with assistance in accessing health care, education, social welfare and employment, as well as the repossession of property.

However, not much of this materialised. In November 2009, the OSCE reported "a general lack of awareness among relevant local authorities of their roles and responsibilities vis-à-vis repatriated persons." The funds necessary for the implementation of the strategy, it found, had not been made available. It also complained that "concrete measures to facilitate the reintegration of repatriated persons in the key areas of health, education, employment and housing are still lacking."<sup>42</sup> Its report concluded:

"The lack of assistance they face in the areas of housing, schooling, and economic opportunities often involves serious reintegration problems for individuals and families, in particular persons belonging to non-majority communities."<sup>43</sup>

It was only in 2010 that the Kosovo government began to work seriously on reintegration. For Kosovo to obtain a visa dialogue and a visa strategy, Commissioners Malmstrom and Fule demanded that Kosovo "implement an *effective* reintegration strategy".<sup>44</sup>

The government first conducted an assessment identifying the exact problems with the implementation of the 2007 reintegration strategy.<sup>45</sup> These were found to include insufficient cooperation among Kosovo institutions; the lack of staff to welcome the returnees upon their

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<sup>39</sup> European Commission, *Kosovo 2010 Progress Report*, p. 50.

<sup>40</sup> Draft Law on the Classification of Documents and Security Clearance <http://www.assembly-kosova.org/?cid=2,194,130>.

<sup>41</sup> European Commission, *Kosovo 2010 Progress Report*, p. 50.

<sup>42</sup> OSCE Mission in Kosovo, *Implementation of the Strategy for Reintegration of Repatriated Persons in Kosovo's Municipalities*, November 2009, [http://www.osce.org/documents/mik/2009/11/41281\\_en.pdf](http://www.osce.org/documents/mik/2009/11/41281_en.pdf).

<sup>43</sup> *Ibid.*

<sup>44</sup> Letter by Home Affairs Commissioner Cecilia Malmstrom and Enlargement Commissioner Stefan Fule to Kosovo Prime Minister Hashim Thaci, 5 May 2010.

<sup>45</sup> Kosovo Government, Ministry of Internal Affairs, *Assessment of the Mechanisms for Reintegration of Repatriated Persons*, April 2010, p. 9, [http://www.esiweb.org/pdf/schengen\\_white\\_list\\_project-final\\_assessment\\_of\\_mechanism\\_for\\_reintegration\\_of\\_repatriated\\_persons.pdf](http://www.esiweb.org/pdf/schengen_white_list_project-final_assessment_of_mechanism_for_reintegration_of_repatriated_persons.pdf).

arrival at border crossing points and help them once they settled down (at the municipal level returned persons were not even registered); and the absence of a coherent plan to enrol repatriated children who did not speak any of the languages used in Kosovo schools. Most strikingly, as the OSCE had pointed out, the government had failed to allocate funds for reintegration.

Based on this study, which the European Commission described as “a thorough assessment of gaps,”<sup>46</sup> the initial reintegration strategy was revised. A new one was adopted by the government on 25 June 2010. A month later the government also adopted an action plan. Both were approved by the parliament in October 2010. A budget of 500,000 Euro was allocated for the implementation of the strategy for the remainder of 2010. For years 2011 and onwards, 3.5 million Euro per year are earmarked.<sup>47</sup> In light of Kosovo’s dire economic and fiscal situation, this was a significant amount. In its 2010 progress report, the Commission assessed the action plan as “a good basis for improvement in this area.”<sup>48</sup>

Implementation has already begun. By now every municipality has designated an officer responsible for the reintegration of repatriated persons. The government, in cooperation with the OSCE, trained these officers in June-July 2010.<sup>49</sup> Special booklets were drawn up explaining the officers’ roles and tasks in the reintegration process. In addition, information brochures for returnees have been drafted in Albanian, Serbian, English, German and French. The government has adopted a bylaw for the management of a Reintegration Fund. A task force is currently drafting the criteria under which returnees will be able to benefit from the fund.<sup>50</sup>

Does all this mean that “an effective reintegration strategy” has been “implemented”, as the European Commission has demanded? In its progress report, the Commission cautions that “reintegration remains a challenge and further efforts by Kosovo authorities are needed.”<sup>51</sup> This is certainly true. But is this a good enough reason to deny Kosovo the immediate launch of a visa dialogue as well as a roadmap similar to those awarded to its neighbours?

ESI has closely examined 16 Commission progress assessments of the other five Western Balkan countries. We also looked at more than 50 reports by member state experts (which informed the Commission’s assessments). In the assessments, as a rule, the Commission considers a strategy as having been “implemented” when the following has taken place: an action plan has been adopted; all bylaws have been passed; the necessary human and financial resources have been allocated; and implementation of the various activities is progressing well. By this definition, Kosovo has made the grade.

#### **IV. WHY WILL KOSOVO NOT GET A ROADMAP?**

The Commission Enlargement Strategy Paper 2010-2010, published on 9 November 2010, suggests that a visa dialogue with Kosovo is imminent.

“The Commission welcomes the recent progress Kosovo made in adopting the legislation on readmission, in devising an Action Plan on reintegration of returnees underpinned with earmarked resources. Subject to its continued implementation, the Commission is *committed to launch a visa liberalisation dialogue shortly.*”<sup>52</sup>

This will obviously be an overdue step forward. But it will not be enough.

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<sup>46</sup> European Commission, *Kosovo 2010 Progress Report*, Brussels SEC (2010)1329, 9 November 2010, p. 51, [http://ec.europa.eu/enlargement/pdf/key\\_documents/2010/package/ks\\_rapport\\_2010\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/ks_rapport_2010_en.pdf).

<sup>47</sup> Government of Kosovo, *Visa Liberalization Report*, October 2010, [http://www.mpb-ks.org/repository/docs/Raporti\\_per\\_liberalizim\\_te\\_vizave%20ENG.pdf](http://www.mpb-ks.org/repository/docs/Raporti_per_liberalizim_te_vizave%20ENG.pdf).

<sup>48</sup> European Commission, *Kosovo 2010 Progress Report*.

<sup>49</sup> Government of Kosovo, *Visa Liberalization Report*, October 2010.

<sup>50</sup> Government of Kosovo, *Action Plan: Implementing the Strategy for the Reintegration of Repatriated persons*, July 2010.

<sup>51</sup> European Commission, *Kosovo 2010 Progress Report*.

<sup>52</sup> European Commission, *Enlargement Strategy and Main Challenges 2010-2011*, 9 November 2010, p. 23, [http://ec.europa.eu/enlargement/pdf/key\\_documents/2010/package/strategy\\_paper\\_2010\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/strategy_paper_2010_en.pdf).

In the case of the Western Balkan countries, it had taken roughly three months between the opening of a visa dialogue and the presentation of a roadmap. However, this sequence of events cannot be taken for granted. Russia has had a visa dialogue with the EU since 2007. Three years later, Russia still has no roadmap, nor even a promise thereof.

In its Communication of October 2009, the Commission had announced that instead of a roadmap Kosovo will receive a sui generis "comprehensive strategy":

"The Commission proposes to move forward with a structured approach to bring Kosovo's citizens closer to the EU through a visa dialogue with the perspective of eventual visa liberalisation when the necessary reforms will have been undertaken. Based on a thorough assessment the Commission proposes to draft a comprehensive strategy to guide Kosovo's efforts to meet the EU's requirements for visa liberalisation. This strategy will set benchmarks to measure Kosovo's progress in the context of a visa dialogue and will be presented to the Council for information."<sup>53</sup>

Does it matter that the term "roadmap" is not used? Unfortunately (and despite Commission officials' assurances to the contrary) it does. There are reasons for Kosovo politicians to worry. In the EU, such small distinctions matter. To give a concrete example: on 12 May 2010, the European Commission issued a Communication concerning its visa policies towards its eastern neighbours.

"The Commission ... intends to propose the following measures: *roadmaps to a visa-free regime* for short stays with Ukraine, with which the EU already carries out a visa dialogue, and Moldova, with which such a dialogue is set to start soon. Progress will depend on fulfilment of all the necessary conditions."<sup>54</sup>

The explicit mention of "roadmaps" for visa-free travel was welcomed by leaders in Ukraine and Moldova. It also triggered immediate intense debate within the EU. A number of important member states, led by Germany, responded with dismay. As a Polish think tank explains, Germany was in no hurry to move towards visa-free travel with the EU's eastern neighbours:

"In the EU dialogue with the partner countries, German diplomacy tries to prevent the use of any statements that could suggest that this goal is feasible in the near future. Instead, Germany prefers to use terms like 'long term' and 'gradual'. It also opposes the introduction of any 'road maps', which they perceive as the EU's legal commitment to introduce a visa free regime, once the given country fulfils the criteria laid down by the EU."<sup>55</sup>

These pressures produced a result. The Commission dropped all references to "roadmaps" for Ukraine and Moldova. The 9 June 2010 conclusions of an EU/Ukraine ministerial meeting introduced a new term. Instead of a "roadmap", they referred to an "action plan".

"The Parties endorsed the Senior Officials' recommendations to enter into a fully operational phase of the *visa dialogue* on the basis of an *Action Plan* setting out all technical conditions to be met by Ukraine before the possible establishment of a visa-free travel regime."<sup>56</sup>

The fact that member states fought to remove the word "roadmap" makes it clear that there is something at stake. Terminology matters. As far as those who ultimately count most – EU member states and EU officials – are concerned, an "action plan" or a "comprehensive strategy" does not entail the same commitment as a "roadmap".

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<sup>53</sup> *Communication from the Commission to the European Parliament and the Council, Kosovo – Fulfilling its European Perspective, COM (2009)5343, 14 October 2009, p. 6, [http://ec.europa.eu/enlargement/pdf/key\\_documents/2009/kosovo\\_study\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2009/kosovo_study_en.pdf).*

<sup>54</sup> Commission Communication, *Taking stock of the European Neighbourhood Policy*, 12 May 2010, COM (2010) 207, [http://ec.europa.eu/world/enp/pdf/progress2010/com10\\_207\\_en.pdf](http://ec.europa.eu/world/enp/pdf/progress2010/com10_207_en.pdf).

<sup>55</sup> Justyna Gotkowska, *Germany and the Eastern Partnership*, Centre for Eastern Study (OSW), 18 June 2010, <http://www.osw.waw.pl/en/publikacje/osw-commentary/2010-06-18/germany-and-eastern-partnership>.

<sup>56</sup> Ministerial Meeting on Justice, Freedom, Security between Ukraine and the EU, Conclusions, Brussels, 9 June 2010.

History also matters. Until 2007 the EU had not been serious about visa liberalisation in the rest of the Balkans. In 2003, during a summit with Balkan leaders, the EU promised the Western Balkan countries talks with the European Commission on the necessary reforms. Nothing came of this. In November 2007, however, the EU changed its approach and introduced the “roadmap” concept for the first time:

“The Commission considers that it is now time to gradually move towards visa liberalisation with the Western Balkan countries through further concrete steps. To that end the Commission proposes to open a dialogue with each of the countries concerned with a view to establishing a road-map on the conditions to be met.”<sup>57</sup>

It also explained what this meant:

“Such road-maps will allow the countries concerned to better focus their reform efforts, while also reinforcing the visibility of the EU’s commitment to the peoples of the region.”<sup>58</sup>

This has clear implications for Kosovo – and for the EU’s credibility. There are now two positive scenarios and one negative scenario. One positive scenario is that Kosovo will receive a “normal” roadmap. A second one is that the Commission will clearly state that even if Kosovo will receive a “comprehensive strategy” it will be treated the same way as its Balkan neighbours, i.e. that it will be granted visa-free travel when it fulfils all the conditions.

The negative scenario is that the EU will pretend that there is no issue to be resolved, storing up frustration and disappointment for the near future as expectations continue to diverge.

Clearly there are already divergent expectations. One striking example is the translation of the Council Conclusions from December 2009, which for the first time mentioned visa liberalisation for Kosovo and implied that status was not an issue. The English version reads:

“The Council stresses that Kosovo should also benefit from the perspective of eventual *visa liberalisation* once all conditions are met and invites the Commission to move forward with a structured approach to bring the people of Kosovo closer to the EU.”<sup>59</sup>

The French conclusions say something different:

“Le Conseil souligne que le Kosovo devrait également se voir offrir la perspective d’un *assouplissement du régime en matière de visas* une fois que toutes les conditions seront remplies et invite la Commission à poursuivre une approche structurée afin de rendre l’UE plus proche des citoyens kosovars.”<sup>60</sup>

“Assouplissement du régime en matière de visas” means a “softening” of the visa regime, as opposed to abolishing the visa requirement altogether, which visa liberalisation entails.

This difference is worrying. Are the French aware of it? Was this just a mistake? Most importantly, is there now a commitment from all 27 EU member states to allow visa liberalisation for the Kosovars?

## **V. IS KOSOVO’S STATUS THE PROBLEM?**

In a speech announcing that Bosnia and Albania had met the benchmarks for visa-free travel to the Schengen countries, Commissioner Malmstrom told the European Parliament:

“I can reassure you that (concerning Bosnia and Albania) the benchmarks have been met. We have been monitoring very closely and will of course remain in contact and

<sup>57</sup> [Commission Communication, Enlargement Strategy and Main Challenges 2007-2008](http://ec.europa.eu/enlargement/pdf/key_documents/2007/nov/strategy_paper_en.pdf), 6 November 2007, [http://ec.europa.eu/enlargement/pdf/key\\_documents/2007/nov/strategy\\_paper\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2007/nov/strategy_paper_en.pdf).

<sup>58</sup> *Ibid.*

<sup>59</sup> Council of the European Union, General Affairs Council, 7 and 8 December 2010, [http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/EN/genaff/112480.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/genaff/112480.pdf).

<sup>60</sup> Council of the European Union, General Affairs Council, 7 and 8 December 2010, French version, [http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/FR/genaff/111868.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/FR/genaff/111868.pdf).

monitor this, but they have been fulfilled. *All countries must be treated equally.* The benchmarks are clear; they are very transparent; the process has been as transparent as possible.<sup>61</sup>

Why, then, is the EU treating Kosovo differently from the other Western Balkan countries?

There is one possible answer to this question that seems obvious: it is all a result of continuing European disagreements concerning Kosovo's status: 22 of 27 EU member states have recognised Kosovo's independence. Five have not done so. The lack of unanimity on the issue means that the EU as a whole does not treat Kosovo as an independent state. This complicates many aspects of Kosovo's relations with the EU, including the visa process.

However, there are three very good reasons why this explanation is not convincing.

First, there is the already widely quoted case of Taiwan. At this moment, the EU is in the process of lifting the visa requirement for Taiwan.<sup>62</sup> The European Commission presented its legislative proposal last July and the European Parliament adopted it on 11 November 2010. All that now remains is a vote in the Council (which is expected to be positive). Yet Taiwan has not been recognised by a single EU member state. So as to reconcile this with the current rules on visa free travel, a draft amendment adds a new category to the Schengen "white list" regulation on visa-free travel to the EU: "entities and territorial authorities that are not recognised as states by at least one Member State."<sup>63</sup> This category already exists in the "black list", where Kosovo finds itself next to Taiwan and the Palestinian Authority.<sup>64</sup> If Taiwan can be moved to the white list and a new special category can be created for countries whose statehood is contested, then this is obviously possible for Kosovo, too.

Second, European institutions have themselves issued statements confirming that Kosovo's status is irrelevant for its visa regime. In December 2009 the Council concluded that the visa requirement for Kosovo can be abolished "without prejudice to Member States' positions on status."<sup>65</sup>

Finally, even if all five EU countries that do not recognise Kosovo were to oppose lifting the visa requirement in the Council, they cannot veto it. For a proposal to pass, a "qualified majority" is required, which has been set at 228 out of 309 votes.<sup>66</sup> A blocking minority requires at least 82 votes. Cyprus (4), Greece (12), Romania (14), Slovakia (7) and Spain (27) have a total of 64.

The Commission and the Council should remove all ambiguity on this issue. They should make clear that visa-free travel is a status-neutral issue. The best way of doing so practically, of course, would be to give Kosovo a roadmap as soon as possible.

## VI. FRUSTRATION IN PRISTINA

Despite repeated unofficial announcements by Commission officials that the start of the visa process was imminent, Commissioner Malmstrom claimed that Kosovo has not met the EU's

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<sup>61</sup> European Parliament, Debate on *Third countries whose nationals must be in possession of visas when crossing the external borders of Member States*, 6 October 2010, <http://www.europarl.europa.eu/wps-europarl-internet/frd/vod/player?date=20101006&language=en>.

<sup>62</sup> The decision-making process and all documents related to the Taiwan visa proposal can be found on Pre-Lex: [http://ec.europa.eu/prelex/detail\\_dossier\\_real.cfm?CL=en&DosId=199481](http://ec.europa.eu/prelex/detail_dossier_real.cfm?CL=en&DosId=199481).

<sup>63</sup> Annex II of *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, [http://eur-lex.europa.eu/smartapi/cgi/sga\\_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=en&model=guicheti&numdoc=32001R0539](http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=en&model=guicheti&numdoc=32001R0539).

<sup>64</sup> Annex I of *Council Regulation (EC) No 539/2001*, *ibid*.

<sup>65</sup> Council of the European Union, General Affairs, 7 and 8 December 2010, [http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/EN/genaff/112480.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/genaff/112480.pdf).

<sup>66</sup> Ireland and the UK are not voting on EU visa policy issues since they are not full members of Schengen. That leaves 309 total votes in the Council.

preconditions. Her spokesman even claimed that no promise had ever been made to Kosovo officials as to when the visa dialogue would start.<sup>67</sup>

This has led to a growing sense of disappointment, frustration and even anger in Pristina. Besim Beqaj, the outgoing minister of European Integration, spoke of double standards. He also complained that the EU was setting conditions for Kosovo that other countries did not have to deal with. His demand was simple: "We want to be treated equally as other states in the region."<sup>68</sup>

Other Kosovo politicians have not hidden their disappointment either. At a November 2010 event in Berlin, Bajram Rexhepi, the outgoing Kosovar Minister of Internal Affairs, said:

"The EU should tell us why we are not getting a roadmap. The European Commission is a house with different rooms, which are not well connected. It seems they don't speak with each other, they don't communicate ... Pierre Mirel [the responsible director at DG Enlargement] encouraged us, promised us the strategy for September 2010. Now the office of [Home Affairs Commissioner] Ms. Malmstrom says that we are not ready."<sup>69</sup>

How long will Kosovo politicians be ready to wait, work on issues that are normally part of a visa liberalisation process and hope for the start of this process, before they will turn their backs on the EU and its vague promise?

## VII. WHY THE EU SHOULD Want a Roadmap

### A. Reintegration

In 2009, Germany announced its intention to deport 14,400 Kosovars in smaller groups over the next few years. Of these 2,400 are Kosovo Albanians; the remaining 12,000 include 9,842 Roma, 1,755 Ashkali, 221 Kosovo Serbs and 173 Egyptians (Ashkali and Egyptians are Albanian-speaking Romani, while Kosovo Roma often speak Serbian).<sup>70</sup> Kosovo's minority communities had been allowed to stay longest in EU countries, so they are the last to be sent back.

Currently Germany plans to request the readmission of a maximum of 2,500 persons per year. However, even this is problematic. In Germany, the government was heavily criticised by human rights NGOs when it signed the readmission agreement with Kosovo in April 2010.

"The readmission agreement signed yesterday by Germany and Kosovo has legalized what has been irresponsible practice – the deportation to Kosovo of members of minorities (Roma, Ashkali and others) who will have to deal with massive discrimination in Kosovo and a life at the sidelines of dumping grounds. ProAsyl considers the deportations of Roma people irresponsible [...]."<sup>71</sup>

In November 2009, the OSCE found that the lack of assistance by the Kosovo government causes "serious reintegration problems," in particular for persons belonging to minority communities.<sup>72</sup>

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<sup>67</sup> Balkan Insight, *Kosovo's Visa Liberalisation On Hold*, 9 November 2010, <http://www.balkaninsight.com/en/article/kosovo-s-visa-liberalisation-on-hold>.

<sup>68</sup> The Associated Press in Metronews, *Kosovo official slams EU for double standards*, 9 November 2010, <http://www.metronews.ca/edmonton/world/article/687048--kosovo-official-slams-eu-for-double-standards>.

<sup>69</sup> Minister Rexhepi at a policy briefing, *Visa-free travel for the Western Balkans: What about Kosovo*, at Deutsche Gesellschaft für auswärtige Politik, Berlin, 11 November 2010.

<sup>70</sup> This group included 9,842 Roma, 2,408 Kosovo Albanians, 1,755 Ashkali, 221 Kosovo Serbs and 173 Egyptians. Deutscher Bundestag, *Antwort der Bundesregierung auf die Kleine Anfrage der Abgeordneten Ulla Jelpke, Sevim Dagdelen, Kersten Naumann, Jörn Wunderlich und der Fraktion DIE LINKE, Abschiebungen in das Kosovo*, Drucksache 16/14129, 12 October 2009, <http://dip21.bundestag.de/dip21/btd/16/141/1614129.pdf>.

<sup>71</sup> ProAsyl, *Press Release: Rückübernahmeabkommen Deutschland – Kosovo unterzeichnet, Fortsetzung der unverantwortlichen Abschiebungen*, 15 April 2010, [http://www.proasyl.de/de/presse/detail/news/rueckuebernahmeabkommen\\_deutschland\\_kosovo\\_unterzeichnet/](http://www.proasyl.de/de/presse/detail/news/rueckuebernahmeabkommen_deutschland_kosovo_unterzeichnet/).

<sup>72</sup> OSCE Mission in Kosovo, *Implementation of the Strategy for Reintegration of Repatriated Persons in Kosovo's Municipalities*, November 2009, [http://www.osce.org/documents/mik/2009/11/41281\\_en.pdf](http://www.osce.org/documents/mik/2009/11/41281_en.pdf).

Human rights organisations such as Human Rights Watch complain that the government, “rather than insist that returns be linked to adequate conditions, is facilitating them in an unregulated manner and without taking key steps necessary for reintegration”.<sup>73</sup>

“RAE [Roma, Ashkali, Egyptians] who are deported to Kosovo face numerous obstacles to their basic human rights, including lack of access to personal documents; statelessness; problems repossessing their property or obtaining housing; difficulties accessing education, health, employment and social welfare; and separation from family members. [...] Such problems are not unique to RAE sent back to Kosovo against their will. All Kosovo citizens are affected by limited access to health, employment and social welfare. [...] But the persistent discrimination, social exclusion, and lack of familiarity with the health and education system to which they are returning means that RAE deported fare worst of all.”<sup>74</sup>

In November 2009, the UN High Commissioner for Refugees (UNHCR) had issued guidelines declaring that Serbs, Albanians in minority situations and Roma “face a particular risk of persecution or serious harm in Kosovo, including through cumulative discriminatory acts”.<sup>75</sup>

“Kosovo Serbs and Kosovo Albanians inhabiting areas where they are in the minority, and Kosovo Roma inhabiting any part of Kosovo, continue to face serious restrictions to their freedom of movement and the exercise of fundamental human rights, including serious societal and sometimes administrative discrimination that would limit in particular their ability to exercise their political, social and economic rights. Furthermore, there are reports of threats and physical violence perpetrated against these communities”.<sup>76</sup>

UNHCR demanded:

“Asylum applications of members from these communities should be assessed carefully in order to evaluate whether there is a need for international protection, based on a risk of persecution grounded on actual or perceived race or nationality”.<sup>77</sup>

Just this year, Human Rights Watch,<sup>78</sup> Amnesty International,<sup>79</sup> UNICEF,<sup>80</sup> the Parliamentary Assembly of the Council of Europe (PACE),<sup>81</sup> and the Council of Europe’s Human Rights Commissioner Thomas Hammarberg,<sup>82</sup> have all advised against the forceful return of Kosovo’s minorities. PACE urged the member states of the Council to Europe,

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<sup>73</sup> Human Rights Watch, *Rights Displaced, Forced Returns of Roma, Ashkali and Egyptians from Western Europe to Kosovo*, October 2010, p. 15, at <http://www.hrw.org/en/node/93831/section/1>.

<sup>74</sup> *Ibid.*, pp. 7-10.

<sup>75</sup> UN High Commissioner for Refugees, *UNHCR’s Eligibility Guidelines for Assessing the International Protection Needs of Individuals from Kosovo*, 9 November 2009, HCR/EG/09/01, p. 17, <http://www.unhcr.org/refworld/docid/4af842462.html>.

<sup>76</sup> *Ibid.*, pp. 17-18.

<sup>77</sup> *Ibid.*, p. 18.

<sup>78</sup> Human Rights Watch, *Rights Displaced, Forced Returns of Roma, Ashkali and Egyptians from Western Europe to Kosovo*, October 2010, <http://www.hrw.org/en/node/93831/section/1>.

<sup>79</sup> Amnesty International, *Not welcome anywhere. Stop the forced return of Roma to Kosovo*, 27 September 2010, <http://www.amnesty.org/en/library/asset/EUR70/011/2010/en/f4d99ef1-725a-462f-81f3-e413083a4228/eur700112010en.pdf>.

<sup>80</sup> UNICEF Germany, *Integration unter Vorbehalt. Zur Situation von Kindern kosovarischer Roma, Ashkali und Ägypter in Deutschland und nach ihrer Rückführung in den Kosovo*, 8 July 2010, [http://www.unicef.de/fileadmin/content\\_media/presse/Roma-Studie\\_2010/UNICEF-Studie\\_Roma\\_2010neu.pdf](http://www.unicef.de/fileadmin/content_media/presse/Roma-Studie_2010/UNICEF-Studie_Roma_2010neu.pdf).

<sup>81</sup> Parliamentary Assembly of the Council of Europe, *Resolution 1740 (2010), The situation of Roma in Europe and relevant activities of the Council of Europe*, 22 June 2010, <http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta10/ERES1740.htm>.

<sup>82</sup> Council of Europe, *Report of the Council of Europe Commissioner for Human Rights’ Special Mission to Kosovo*, 23–27 March 2009, Strasbourg, 2 July 2009, [https://wcd.coe.int/ViewDoc.jsp?id=1466279&Site=CommDH&BackColorInternet=FEC65B&BackColorIntranet=FEC65B&BackColorLogged=FFC679#P468\\_89578](https://wcd.coe.int/ViewDoc.jsp?id=1466279&Site=CommDH&BackColorInternet=FEC65B&BackColorIntranet=FEC65B&BackColorLogged=FFC679#P468_89578).

"[...] to avoid returning Roma to Kosovo until the Office of the United Nations High Commissioner for Refugees (UNHCR) has confirmed that the situation there has sufficiently improved in terms of security and access to social rights."<sup>83</sup>

The Council of Europe's Human Rights Commissioner voiced the same opinion in his report on Kosovo:

"The Commissioner appeals to governments in Europe to avoid forced returns of minorities to Kosovo and to regulate the status of those in their host country until conditions in Kosovo permit their safe return. In the Commissioner's assessment there is currently no adequate capacity on the part of the authorities to receive and integrate mass returns in Kosovo. The economic and social situation is a major obstacle to a sustainable return process. While security issues have improved, in the Commissioner's opinion the situation remains tense with inter-ethnic violence occurring sporadically."<sup>84</sup>

The roadmap process offers the only promising way out of this predicament – it could upend a state of affairs that serves nobody's interest. Effective implementation of the Reintegration Strategy is already a precondition for Kosovo and will remain at the fore when Kosovo receives a roadmap; it is part of Block 2 of the roadmap, which deals with border control, asylum procedures, migration and readmission.

There is also Block 4 of the roadmap for the Western Balkan countries. This deals with fundamental rights, including anti-discrimination legislation, freedom of movement, access to identity and travel documents, investigation and prosecution of ethnically-motivated incidents, protection of minorities, and policies on Roma. In Kosovo's case, it should also include full implementation of the 2009-2015 Strategy for the Integration of Roma, Ashkali and Egyptian Communities<sup>85</sup> and the related 2009 action plan.<sup>86</sup> The Strategy was drafted with the support of the OSCE mission in Kosovo and the Kosovo Foundation for Open Society (KFOS).

The Kosovo government should vigorously address all the problems mentioned in the Reintegration Strategy and all issues under Block 4, and implement the Integration Strategy. This will improve the lives of Kosovo's minority communities and, in turn, make it easier for EU governments to send Kosovars, including members of the minority communities, back to Kosovo.

## **B. Asylum requests**

Kosovo not only has a problem with integrating and re-integrating its minorities. In the field of asylum, the status quo is also arguably the worst of all possible worlds.

Kosovars are currently the fifth-largest group of asylum seekers in the EU, with more than 14,000 requests in 2009 (see table 1). Amazingly, adjusted for its population, it is the current world leader in terms of the number of asylum requests.

*Table 1: 10 top countries of origin of asylum seekers in the EU-27 in 2009<sup>87</sup>*

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<sup>83</sup> Parliamentary Assembly of the Council of Europe, *Resolution 1740 (2010)*.

<sup>84</sup> Council of Europe, Report of the Council of Europe Commissioner for Human Rights' Special Mission to Kosovo, paragraph 163.

<sup>85</sup> Government of Kosovo, *Strategy for the Integration of Roma, Ashkali and Egyptian Communities 2009-2015*, <http://www.kfosweb.info/pdf/Strategy%20for%20the%20Integration%20of%20Roma,%20Ashkali%20and%20Egyptian%20Communities%20in%20the%20Republic%20of%20Kosovo%202009-2015.pdf>.

<sup>86</sup> Government of Kosovo, *Action Plan on the Implementation of the Strategy for the Integration of Roma, Ashkali and Egyptian Communities, 2009-2015*, at [http://www.kfosweb.info/pdf/Kosovo%20Action%20Plan%20on%20the%20Implementation%20of%20the%20Strategy%20for%20the%20Integration%20of%20RAE\\_ENG.pdf](http://www.kfosweb.info/pdf/Kosovo%20Action%20Plan%20on%20the%20Implementation%20of%20the%20Strategy%20for%20the%20Integration%20of%20RAE_ENG.pdf).

<sup>87</sup> Around 261,000 asylum applicants from 151 different countries were registered in the EU-27 in 2009. In Eurostat, *Statistics in Focus*, 27/10, [http://epp.eurostat.ec.europa.eu/cache/ITY\\_OFFPUB/KS-SF-10-027/EN/KS-SF-10-027-EN.PDF](http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-SF-10-027/EN/KS-SF-10-027-EN.PDF), and also Eurostat, Asylum and new asylum applicants by citizenship,

Rank	Country	Asylum requests 2009	Population (millions)	Requests per 100,000 people
1	Afghanistan	20,455	29	71
2	Russia	20,095	142	14
3	Somalia	19,000	9	211
4	Iraq	18,940	31	61
5	Kosovo	14,275	2	713
6	Georgia	10,470	4.5	233
7	Nigeria	10,270	158	7
8	Pakistan	9,935	170	6
9	Iran	8,520	75	11
10	Zimbabwe	8,045	12	69

This situation is neither in the interest of EU governments nor in Kosovo's. It is also obvious that EU governments will not agree to abolish the visa requirement (even if Kosovo meets all other roadmap conditions) as long as so many asylum seekers originate from Kosovo. The key question is: how can this situation best be addressed?

Table 2: Asylum requests from Western Balkan countries in the EU-27 in 2009<sup>88</sup>

Country	Total Population (in million)	Asylum requests in 2009	Asylum requests per 100,000 inhabitants
Albania	3.2	2,060	64
Bosnia	3.5	1,320	38
Macedonia	2.1	940	45
Montenegro	0.7	250	36
Serbia	7.4	5,290	72
Kosovo	2.0	14,240	713

Table 3: Positive decisions to asylum requests from Western Balkan countries in the EU-27 in 2009<sup>89</sup>

Country	Positive decisions in 2009 <sup>90</sup>	Refugee status + subsidiary protection	Humanitarian grounds	Refugee status + subsidiary protection granted per 100,000 inhabitants
Albania	275	230	45	7.2
Bosnia	100	50	50	1.4
Macedonia	45	15	30	0.7
Montenegro	10	10	0	1.5

age and sex, Annual aggregated data,

[http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_asyappctza&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_asyappctza&lang=en).

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Eurostat, Asylum and new asylum applicants by citizenship, age and sex, Annual aggregated data, [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_asyappctza&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_asyappctza&lang=en); Eurostat, First instance decisions on applications by citizenship, age and sex, Annual aggregated data, [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_asydcfsta&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_asydcfsta&lang=en); Final decisions on applications by citizenship, age and sex, Annual aggregated data, [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_asydcfina&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_asydcfina&lang=en).

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*Ibid.*

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Decisions at first instance as well as decisions at the appeals' stage. In Kosovo's case, 7,520 decisions were taken at the first instance, with 545 positive decisions, and another 2,360 appeals cases were decided, resulting in 320 positive decisions.

Serbia	675	485	190	9.1
Kosovo	965	675	290	33.8

It is useful to put the Kosovo situation in a regional perspective (see Table 2). Kosovo obviously leads the Balkans in terms of the numbers of asylum requests. The countries generating the least number of requests are Bosnia, Macedonia and Montenegro. Kosovo also leads, most importantly, when it comes to the number of positive decisions – in the first and second instance – issued in response to asylum requests.

So what are the obvious ways to address this problem? The strategy should be clear.

First, Kosovo needs to remove the root causes that lead so many of its citizens to receive asylum in the EU. As an immediate and quantifiable aim, it should bring the number of asylum requests granted to below 10 per 100,000 inhabitants (i.e. a total of less than 200 positive decisions in a year). This would place it in the same league with the other five Western Balkan countries.

In order to do this, the Kosovo government should determine the reasons that the responsible EU authorities in charge of asylum seekers and EU courts take into account when they grant international protection to Kosovars, and remove these. It should work with, and seek the advice of, international human rights bodies concerned with the discrimination faced by Kosovo's minority communities (see previous chapter). Their complaints – that Kosovo's minorities face harassment, intimidation and sporadic violence, that they do not enjoy complete freedom of movement, that they are often terribly poor, that they are frequently not registered and sometimes stateless, and that they have difficulties in accessing health care, employment, schooling, social welfare and justice – should serve as a yardstick for the Kosovo government.

The government cannot change everything, of course. Kosovo Albanians are also poor. They too have problems in accessing health care and obtaining (very limited) social welfare. However, the government can make an effort to register members of the minority communities, to resolve the status of stateless persons, and to assist minorities in accessing public services. It can prosecute all acts of intimidation and violence. It can encourage school attendance by offering language classes and catch-up classes, providing free school materials and free transport for students. In fact, many measures to that effect are outlined in the government's 2009-2015 Strategy for the Integration of Roma, Ashkali and Egyptian Communities<sup>91</sup> and its 2009 action plan.<sup>92</sup> If it is implemented, the situation of minorities will improve dramatically.

Many asylum seekers are abusing the system to legalise their stay in the EU for the entire duration of the asylum procedure. However, too many Kosovars still have reason to apply. Their chances of receiving asylum remain quite high. In 2009 EU member states granted protection to 965 out of 9,880 Kosovar asylum seekers, a rate of 10 percent. It is much less than for Somalis (67 percent of all decisions were positive) or Afghans (39 percent), but it is not insignificant.

In 2009:

- 480 Kosovars received full protection under the 1951 UN Refugee Convention and its 1957 Protocol<sup>93</sup> and the Directive implementing it in the EU:

"Refugee means a third country national who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, political opinion or membership of a particular social group, is outside the country of nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country."<sup>94</sup>

<sup>91</sup> Government of Kosovo, Strategy for the Integration of Roma, Ashkali and Egyptian Communities 2009-2015.

<sup>92</sup> Government of Kosovo, Action Plan on the Implementation of the Strategy for the Integration of Roma, Ashkali and Egyptian Communities, 2009-2015.

<sup>93</sup> UNHCR, Convention and Protocol Relating to the Status of Refugees, Basic Documents, 1 September 2007, <http://www.unhcr.org/protect/PROTECTION/3b66c2aa10.pdf>.

<sup>94</sup> Council of the European Union, *Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted*, Article 2c, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004L0083:EN:NOT>.

- 195 Kosovars received subsidiary protection; this 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.”<sup>95</sup>

- 290 Kosovars received protection on humanitarian grounds. Protection on humanitarian grounds, also defined as “compassionate grounds”, can cover a wide range of situations. It is at the discretion of EU member states to grant it. The authorities can decide, for example, not to send back a person suffering from a serious disease that cannot be treated in his or her home country, a single mother, or a family with children that attend school in the EU and do not speak the language of their parents.

The fact that medical care and living standards are generally better in the EU than in Kosovo – leading to applications for asylum on humanitarian grounds – is something that the Kosovo government cannot change in the short term. However, it can and must do something about the first two categories of asylum seekers.

Once the number of positively decided asylum cases drops sizeably, the Kosovo government will find it easier to take further measures to discourage its citizens from requesting asylum. It can run public information campaigns informing citizens that their chances of being granted protection in the EU are minimal and that a high rate of asylum requests harms Kosovo’s chances of visa-free travel; it can order border guards to pass the same message; and it can investigate cases where large numbers of Kosovars have requested asylum in a specific EU country (in order to see whether this was organised and to respond to the reasons behind it).

### **C. EU soft power**

Visa liberalisation is in the EU’s own interest. The EU’s current approach deprives the EU of the opportunity to turn its rule of law mission, EULEX, in Kosovo into an obvious success. This mission is the largest civilian Common Security and Defence Policy (CSDP) mission the EU ever deployed. Its aim is to help the Kosovo authorities establish the rule of law by assisting and supporting the government in the fields of police, judiciary and customs. In November 2009 EULEX fielded no less than 2,643 staff, of which 1,622 were international staff. The mission has over 40 prosecutors and 20 judges. Its annual budget exceeds 200 million Euro.

A visa roadmap would provide an obvious and clear common agenda for cooperation between EULEX and the Kosovo Government. It would greatly enhance the incentives for the Kosovo government to implement even difficult reforms in all the areas in which EULEX operates, such as the fight against organised crime and corruption, border control and customs.

The visa liberalisation process is also a test for EU soft power in the Balkans at a crucial moment in regional politics. The EU has made a successful Serbia-Kosovo dialogue one of the most important objectives of its emerging common foreign policy. Currently, both Kosovo’s and Serbia’s EU accession paths are blocked. With five EU member states refusing to recognise its independence, Kosovo currently lacks a credible perspective. Serbia – although the Commission has started to prepare an opinion on its readiness to become an official candidate for EU membership – risks being held back until it normalises its relations with Kosovo. Catherine Ashton, the EU’s High Representative for Foreign Affairs and Security Policy, sees the Kosovo-Serbia dialogue as a means of unblocking the two countries’ EU perspective.

There is an imbalance, however. EU accession is a credible incentive that gives the EU influence over Serbia (as became clear during the last Serbian elections and over the UN resolution on Kosovo last summer). Yet the EU has still not offered Kosovo a similar perspective. Due to the non-recognition issue, it has so far failed to clear the path for a Stabilisation and Association agreement, let alone for a serious accession process.

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<sup>95</sup> *Ibid.*, Article 15.

A visa roadmap could be a first step towards a more creative approach to designing a status-neutral EU accession process. The visa liberalisation process is one of few areas where the EU can immediately show that it is serious about treating Kosovo like the rest of the Western Balkans. This would also make it considerably easier for the Kosovar political leadership to participate in the talks with Serbia (and to justify them to an electorate that remains sceptical about the idea).

### VIII. OPTIONS TO CHANGE THE STATUS QUO

During the last twelve months the EU has demanded more from Kosovo than from any other Western Balkan country. Kosovo has met most of these additional demands. There is no good reason as why it should still be kept out in the cold.

The European Parliament, which has been co-decision maker on an equal footing with the Council since the entry into force of the Lisbon Treaty in December 2009, has been supportive of Kosovo. This summer, it passed a Kosovo resolution stating that the Parliament “would welcome the recognition by all Member states of the independence of Kosovo”, with 455 against 155 votes.<sup>96</sup> As far as the visa issue is concerned, it called on the Commission

“to include Kosovo in the screening process starting in early 2011 with a view to preparing the country for the launch of negotiations on the Stabilisation and Association Agreement and to communicate to the Kosovo authorities which steps need to be taken before the Commission prepares the road map for visa liberalisation and to define the road map immediately after these steps are taken.”<sup>97</sup>

Despite such backing Kosovo has fewer friends among EU member states than its Balkan neighbours had back in 2003 when all states of the region were stuck in their attempts to make progress on the visa issue.

So what can Kosovo politicians do? They can do one thing above all: to highlight that the status quo is not in the interest of the EU itself.

The EU itself should reassess its current approach. How can it be possible to start a visa dialogue with Ukraine, but not with Kosovo? How can a small country with the highest concentration of EU-seconded law enforcement experts not be model of institutional reform? And how is it, as far as the visa liberalisation process is concerned, that Kosovo can be held to a different standard than its neighbours? This analysis highlights what can only be described as discriminatory treatment of Kosovars – whether they are Kosovo Albanians, Kosovo Serbs, Kosovo Roma, Kosovo Bosniaks, or Kosovo Ashkali and Egyptians – by the European Union.

There are both positive and inconvenient facts. Kosovo has done much more than the EU has given it credit for. At the same time – as its asylum figures show – it still has a steep hill to climb. This will take time and effort, and it will only work in a climate of trust between the EU and Kosovo institutions. The moment to start the climb is now.

**Berlin – Brussels –Pristina, 22 November 2010**

At [http://www.esiweb.org/index.php?lang=en&id=156&document\\_ID=119](http://www.esiweb.org/index.php?lang=en&id=156&document_ID=119)

This document is also available in [Albanian](#).

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<sup>97</sup> European Parliament, *Resolution of 8 July 2010 on the European integration process of Kosovo, Strasbourg*, 8 July 2010, <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P7-TA-2010-0281&language=EN&ring=B7-2010-0409>.

## **A Visa Roadmap for Kosovo! Open Letter (20 July 2009) by the Schengen White List Project**

**20 July 2009**

We welcome the recent European Commission proposal on visa liberalisation in the Western Balkans. It is an important step forward in a process that will allow people from the Western Balkans, like other Europeans, to travel freely around Europe.

We appreciate the fact that the visa liberalisation process is based on objective benchmarks. Governments in the region have a duty to implement wide-ranging reforms to enhance the EU's security and allay the concerns of EU citizens. The countries of the Western Balkans have been asked to improve control of their borders, introduce forgery-proof biometric passports, and put in place concrete strategies to combat organised crime, corruption and illegal migration.

Now the European Commission has found that three countries – Macedonia, Serbia and Montenegro – have largely met these conditions. We are glad that the European Commission is in a position to propose visa-free travel for them. This shows that the process works.

We also hope that the authorities in Albania and Bosnia-Herzegovina will soon fulfil the remaining criteria and gain visa-free access to the Schengen zone before the end of 2010. We welcome the fact that the European Commission is specifying in detail which conditions still have to be met by both countries, ensuring a rigorous and transparent procedure.

However, we are disturbed by the fact that Kosovo has been left out of this process, a blanket visa requirement having been proposed for all of its residents, including those with Serbian citizenship – this, without any mention of a process that could possibly lead to this requirement being lifted.

We know that EU member states currently disagree on the question of Kosovo's independence. However, all member states should agree that leaving Kosovo residents of all ethnicities trapped in a visa ghetto would be a serious problem – not only for Kosovo, but also for the entire Western Balkans and the EU's interests in the region.

We are convinced that it is in the EU's interest to encourage the same reforms in Kosovo as have already taken place in Macedonia and Montenegro. To do this, the EU should use the considerable human and financial resources it already deploys in Kosovo.

Bearing this in mind, we call on all EU member states – whatever their view on the status of Kosovo – to consider two changes to the Commission proposal.

First, Kosovo should also receive a visa roadmap. It must be given the opportunity to implement the same far-reaching reforms that the other five Balkan countries have set out to implement and to thus contribute to its own security, as well as to that of the entire region and the whole EU. Once Kosovo meets these conditions, the visa requirement should be abolished.

If Kosovo can be placed on the visa "black list" without an EU consensus on its status, then it can also be placed on the "white list" once it meets the necessary technical requirements. The visa liberalisation process should be considered status neutral by the EU.

Second, there should be no discrimination against Kosovo residents. In line with the Commission's proposal, the 3.5 million Serbs living outside Serbia, including the Serbs of Bosnia, will be eligible to receive Serbian passports allowing visa-free travel within the EU. The residents of Kosovo,

meanwhile, will not. We disagree with such thinking. It will have the unintended consequence of encouraging Kosovo Serbs (and Kosovo Bosniaks) to relocate and take up residence outside of Kosovo – in plain contradiction to the EU's stated objective of a multiethnic Kosovo.

For years, the countries of the Western Balkans have been waiting for visa-free travel. In the region's relationship with the EU, few issues have been as important. The EU has been on target with its policy of roadmap conditionality and strict but fair evaluations. In the interests of European – and Balkan – security, it must build on this success.

Signed:

**Giuliano Amato**, chairman of the Schengen White List Project Advisory Board, former Italian prime minister and interior minister

**Otto Schily**, former interior minister of Germany, member of the German Bundestag

**Radmila Sekerinska**, chairperson of the National Council for European Integration of Macedonia, former deputy prime minister of Macedonia

**Misha Glenny**, author of "McMafia: Crime without Frontiers" and several books on the Balkans

**Ivan Krastev**, chairman of the Centre for Liberal Strategies, Sofia

**Jordi Vaquer**, director of the Centre for International Relations and Development Studies (CIDOB), Barcelona

**Heather Grabbe**, former senior adviser to the European Commissioner for Enlargement



*Giuliano Amato – Otto Schily – Radmila Sekerinska – Misha Glenny  
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Gerald Knaus – Alexandra Stiglmeier*

Further material on Kosovo is available at: <http://www.esiweb.org/index.php?lang=en&id=382>



Waiting for a visa. Photo: unknown

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