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European Stability Initiative
BERLIN - BRUSSELS - ISTANBUL

Saving visa-free travel

Visa, asylum and the EU roadmap policy



Serbian citizens celebrating visa free travel in 2009

Berlin – Brussels

1 January 2013

Executive Summary

Since the visa requirement was lifted for Western Balkan countries in 2009, there has been a sharp increase in claims for political asylum by citizens of the region. Barely any of these applicants qualify for asylum. Rather, they are benefitting from national asylum rules that provide relatively generous benefits during the application process.

Since 2010, EU leaders have demanded that Balkan governments take measures to stem this tide of asylum seekers. In fact, the problem lies with ‘pull factors’ inside the EU. Now, EU policymakers find themselves under increasing pressure to address the problem directly by suspending visa-free travel for Western Balkan countries. Such a draconian measure would undermine the credibility of the EU’s whole approach to visa liberalisation – not just in the Western Balkans, but also in Moldova, Kosovo, Turkey and the Ukraine. But it is by no means the only solution available.

In the world of justice and home affairs, clear-cut solutions to complex issues are generally hard to come by. There are inevitable trade-offs to be made between controlling borders and allowing the free movement of people; between protecting individual liberties and safeguarding the public. When it comes to visa liberalisation in the Balkans, however, there is a clear solution that reconciles the concerns of all the different constituencies involved. The solution is to make it less attractive for those who clearly do not qualify for asylum to submit speculative or bogus claims.

Under EU rules, all member states provide asylum seekers with financial and material support while their applications are being processed. But there is a sharp difference between two groups of countries: those that take many months to process their asylum claims, and those that dispose of them within a few weeks. It is the lengthy processing times found in Germany, Sweden and other EU members (up to 8 months with appeals) that act as the magnet for unjustified asylum seekers. The EU members able to deal expeditiously with asylum claims face a significantly lower numbers of applications.

This paper proposes two possible solutions. One is to address the problem at the national level. Those states that have seen a sharp increase in applications from the Balkans could radically shorten their procedures. They could follow the example of Switzerland, which has recently introduced a 48-hour procedure for applicants from safe European countries like the Balkans. The other option is to tackle the problem at the EU level. The EU should label countries that have completed a visa liberalisation process as “safe countries of origin”, allowing for lighter and quicker processing procedures. We believe that the ideal response would be to pursue both solutions in parallel.

Such a solution would not close off the rights of genuine refugees to apply for and receive asylum. The statistics reveal that countries with shorter procedures in fact accept a higher proportion of their asylum applications. It would, however, help to weed out speculative claims and bring down the costs for European taxpayers. It would also safeguard visa-free travel for the Western Balkans, which has proved a critical step in giving hope and a sense of direction to a troubled region on the EU’s borders.

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1. How visas might come back

In December 2009, the EU lifted the short-stay visa requirement for Macedonia, Montenegro and Serbia. In December 2010 it did the same for Albania and Bosnia and Herzegovina. Since then, the number of asylum seekers from these five countries increased from fewer than 10,000 in 2009 to almost 26,000 in 2011.¹ By October 2012, it had reached more than 33,000. Of the 30 countries that generate the most asylum seekers in the EU, the Western Balkan states are the only ones to enjoy visa-free travel to the Schengen zone.

Claims by asylum seekers in the EU in 2011²

1. Afghanistan	28,015	Visa
2. Russia	18,330	Visa
3. Pakistan	15,700	Visa
4. Iraq	15,170	Visa
5. Serbia	13,980	No Visa
6. Somalia	12,195	Visa
7. Iran	11,865	Visa
8. Nigeria	11,470	Visa
9. Kosovo	9,870	Visa
10. Bangladesh	8,290	Visa
11. Syria	7,885	Visa
12. Sri Lanka	7,375	Visa
13. Armenia	7,105	Visa
14. Georgia	7,060	Visa
15. Turkey	6,455	Visa
16. Tunisia	6,335	Visa
17. Dem. Rep. of Congo	6,285	Visa
18. Guinea	6,245	Visa
19. Eritrea	5,695	Visa
20. Macedonia	5,545	No Visa
21. China	5,540	Visa
22. Cote d'Ivoire	5,365	Visa
23. Algeria	4,385	Visa
24. Ghana	4,305	Visa
25. Mali	3,625	Visa
26. Sudan	3,130	Visa
27. Unknown citizenship	3,095	-
28. Albania	3,060	No Visa
29. Libya	2,890	Visa
30. India	2,785	Visa
Bosnia	2,595	No Visa
Montenegro	630	No Visa
Total of the five WB states	25,820	
Overall TOTAL	303,105	

¹ All the statistical data used in this paper is from Eurostat's inter-active database and not sourced separately. In cases where we have used a different source for statistical data, there is a footnote.

² Eurostat website, Statistics Explained, Asylum Statistics, at http://epp.eurostat.ec.europa.eu/statistics_explained/index.php/Asylum_statistics.

In 2011, citizens of the five Western Balkan countries were responsible for 26,000 asylum claims in the EU, or 9 per cent of the total. While this might not appear to be a huge number (in the early 1990s, refugees from conflicts in the former Yugoslavia numbered in the hundreds of thousands), it is a genuine source of concern for some EU interior ministers.

Asylum claims by Western Balkans citizens in the EU

	2009 (No visa-free travel for the five WB countries)	2010 (Serbia, Macedonia, Montenegro visa-free)	2011 (All five WB countries visa-free)	Jan.-Oct. 2012
Serbia	5,290	17,715	13,980	15,135
Macedonia	940	7,550	5,540	8,115
Albania	2,060	1,905	3,075	5,130
Bosnia	1,320	2,105	2,595	4,095
Montenegro	250	405	630	1,055
Total of the 5 WB countries	9,860	29,680	25,820	33,530*
All asylum seekers in the EU	266,395	260,835	303,105	-
Share of WB citizens	3.7%	11.4%	8.5%	-

*This number does not yet include all data for October 2012.³

First-instance recognition rates in the EU in 2011

	Decisions made	Refugee status under the Geneva Convention Granted	Subsidiary protection granted	Recognition rate (Refugee status + subs. protection)
Serbians	11,280	155	10	1.5%
Macedonians	4,490	15	20	0.8%
Albanians⁴	2,010	75	110	9.2%
Bosnians	1,940	20	10	1.5%
Montenegrins	345	0	0	0%
TOTAL	20,065	265	150	2.1%

³ Eight EU member states had not yet submitted their data, so the number for October will increase further.

⁴ Recognitions of Albanian claims are usually because of blood feuds. According to the European Commission, "at the end of 2011, concern arose over the issuing of false blood feud certificates by a civil society organisation enabling application for asylum in some EU Member States." European Commission, Albania 2012 Progress Report, SWD(2012) 334 final, Brussels, 10 October 2012, p. 17, at http://ec.europa.eu/enlargement/pdf/key_documents/2012/package/al_rapport_2012_en.pdf.

First of all, it is wasteful of resources. Hardly any of the applicants from the Western Balkans qualify for asylum. The success rate in 2011 was just 2 per cent. By comparison, the EU acceptance rate for all asylum claims submitted the same year was 21 per cent.⁵

Furthermore, asylum requests from the Western Balkans are concentrated in a few EU member states. Germany, Sweden and Belgium account for three quarters. If one looks at Western Balkan asylum applications in relation to population size, it is Luxemburg that carries by far the largest burden, with 30 times more claims per citizen than Germany. Last year, three quarters of all asylum claims in Luxembourg were made by Western Balkan citizens (see table in Annex).

Western Balkan asylum claims in 2011 per EU country

	Asylum claims	Percentage of all claims in the EU
Germany, Belgium, Sweden	19,430	75%
<i>1. Germany</i>	<i>9,360</i>	<i>36%</i>
<i>2. Belgium</i>	<i>5,195</i>	<i>20%</i>
<i>3. Sweden</i>	<i>4,875</i>	<i>18%</i>
Other EU member states	6,390	25%
<i>4. France</i>	<i>2,365</i>	<i>9%</i>
<i>5. Luxembourg</i>	<i>1,585</i>	<i>6%</i>
<i>6. Netherlands</i>	<i>520</i>	<i>2%</i>
<i>7. Italy</i>	<i>375</i>	<i>1.5%</i>
<i>8. Austria</i>	<i>350</i>	<i>1.4%</i>
<i>9. Greece</i>	<i>285</i>	<i>1.1%</i>
<i>10. Denmark</i>	<i>235</i>	<i>0.9%</i>
<i>11. Finland</i>	<i>120</i>	<i>0.5%</i>
<i>Others</i>	<i>555</i>	<i>2.1%</i>
EU TOTAL	25,820	100%

And the problem appears to be getting worse. For example, in the case of Germany, asylum applications from Serbian citizens top the 2012 list of asylum seekers.

In July 2012 Germany's Constitutional Court ruled that the government must increase the level of assistance offered to asylum seekers.⁶ Until then, a family of four (two adults, two kids) were entitled to a stipend of €120 per month, in addition to accommodation, food,

⁵ Eurostat website, Statistics Explained, Asylum Statistics, at http://epp.eurostat.ec.europa.eu/statistics_explained/index.php/Asylum_statistics.

⁶ English-language press release of the German Constitutional Court, "Provisions governing basic cash benefits provided for in the Asylum Seekers Benefits Act held unconstitutional", 18 July 2012, at <http://www.bverfg.de/pressemitteilungen/bvg12-056en.html>.

clothes, medical care and education. The Court raised the stipend to around €120 per month.⁷ The impact was immediate. Between September and October 2012, Germany recorded more asylum applications by Western Balkan citizens than during the entire previous year: 11,700, compared to 9,400 in 2011.

Countries of origin of asylum seekers in Germany Jan.-Oct. 2012

Rank	Country	Number of asylum claims
1	Serbia	10,412
2	Afghanistan	6,363
3	Syria	6,226
4	Iraq	4,730
5	Macedonia	6,012
6	Iran	3,766
7	Pakistan	2,863
8	Russia	2,094
9	Kosovo	2,012
10	Bosnia	1,385
All asylum claims in Germany		61,507
WB claims and their share		17,809 (28 percent)

Recent increases in asylum claims in Germany

	July 2012	Aug. 2012	Sept. 2012	Oct. 2012 ⁸
Serbia	535	935	2,245	3,838
Macedonia	340	1,015	1,565	1,881
Bosnia	65	120	260	722
Albania	20	5	40	n.a.
Montenegro	25	5	25	n.a.
TOTAL	985	2,080	4,135	6,441

⁷ Georg Classen, Flüchtlingsrat Berlin, “Das BVerfG-Urteil zur Verfassungswidrigkeit des AsylbLG” (The ruling of the Constitutional Court concerning the unconstitutionality of the law on benefits for asylum seekers), 1 October 2012, at http://www.fluechtlingsinfo-berlin.de/fr/asylblg/Zum_AsylbLG_Urteil_des_BVerfG.pdf.

⁸ The data for October is from the German Federal Office for Refugees and Migration, “Asylgeschäftsstatistik für den Monat Oktober 2012” (Asylum statistics for the month of October). We had initially used an incorrect number for Macedonian claims in October 2012, but then corrected it in the report.

Interior ministers are justly concerned about the costs of dealing with these applications. During a first-instance procedure, when administrative bodies examine an asylum claim, EU member states are obliged to provide housing, food, clothes, pocket money, medical care and education for children.⁹ The longer the procedure takes, the higher the cost.

Duration of the asylum procedure for Western Balkan citizens in some EU member states

	Until first instance decision	Until final decision after appeal
Germany	3 months ¹⁰	7 months ¹¹
Sweden	2 - 4 months ¹²	4 - 6 months ¹³
Belgium	4 months (in 2011) ¹⁴	7 – 8 months ¹⁵
Luxembourg	3 months ¹⁶	4 - 6 months ¹⁷

For those EU countries with the most Western Balkan asylum seekers, the procedures are also the slowest. The first-instance procedure takes around three months. If a claim is rejected, the failed asylum seeker is usually given a month¹⁸ to leave the country voluntarily. During this time, the benefits continue to be offered. In Belgium and Luxembourg, they are also offered during the appeals procedure (in Germany and Sweden this depends on why a claim was rejected at first instance).¹⁹ This means that these EU countries are obliged to pay

⁹ This is required under the Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers, at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:031:0018:0025:EN:PDF>.

¹⁰ Antworten der Bundesregierung auf Kleine Anfragen der Abgeordneten Ulla Jelpke, Jan Korte, Agnes Alpers, weiterer Abgeordneter und der Fraktion DIE LINKE (Reponses of the German Federal Government to parliamentary inquires by the members of parliament Ulla Jelpke, Jan Korte, Agnes Alpers, further MPs and the parliamentary group DIE LINKE), Deutscher Bundestag, Drucksache 17/9465, 27 April 2012 (<http://dipbt.bundestag.de/dip21/btd/17/094/1709465.pdf>), und Drucksache 17/10454, 10 August 2012 (<http://dip21.bundestag.de/dip21/btd/17/104/1710454.pdf>).

¹¹ Ergänzende Informationen zur Asylstatistik für das erste Quartal 2012 (see above).

¹² The reference period is the first 10 months of 2012. Reply to an ESI inquiry by email, press office of the Swedish Migration Board, 1 November 2012.

¹³ ESI phone interview with a press officer from the Migration Court of Appeal Stockholm, Stockholm, 12 November 2012.

¹⁴ In June 2012, Belgium began applying new rules to citizens from “safe countries of origin”, so that the processing time has decreased to 3.5 weeks. Information provided to ESI upon inquiry by the Belgian Commissariat-General for Refugees and Stateless Persons, 8 November 2012 and 21 December 2012.

¹⁵ Parliamentary question by a Belgian MP of 17 July 2012 to the government of Belgium, answered by the Belgian State Secretary for Migration and Asylum. Chambre des Représentants Belgique, Questions et réponses écrites, QRVA 53 077, 13 August 2012, pp. 532-533, at <http://www.lachambre.be/QRVA/pdf/53/53K0077.pdf>.

¹⁶ ESI interviews with officials from the Luxembourg Ministry of Foreign Affairs, Directorate for Immigration, Refugee Unit, 16 October 2012 and 7 November 2012.

¹⁷ Ibid.

¹⁸ The exception is cases in Germany and Sweden that are considered “manifestly unfounded”. In Germany, the rejected claimant has a one-week deadline to leave. In Sweden, the Migration Board can issue a refusal-of-entry order with immediate enforcement.

¹⁹ If a claim is rejected as “manifestly unfounded” in Germany and Sweden the concerned asylum seeker must leave. S/he also loses all benefits. However, s/he can appeal against the “non-suspensive” effect of the decision.

for the care of Western Balkan asylum seekers for three to four months or, if they appeal, for up to eight months.

Potentially, one way to reduce the flood of applications – and therefore the costs – is to limit the number of Western Balkan citizens able to enter the EU. To that end, in early October 2012, six interior ministers – from Germany, Sweden, Belgium, Luxembourg, France and the Netherlands – publicly urged the European Commission and the Cypriot Presidency of the EU to finalise an amendment that would allow EU countries to suspend visa-free travel in an accelerated procedure.²⁰ Germany’s Interior Minister Hans-Peter Friedrich explained:

“The massive influx of Serbian and Macedonian citizens must be stopped immediately. For this, it must be possible that the EU suspends visa-free travel with these countries as quickly as possible.”²¹

Currently, re-imposing the visa requirement for a particular country is only possible by way of a change to the EU’s Visa Regulation, a process that takes several months.²² However, the EU has been working on an amendment (a “suspension clause”) that would expedite this process. The initial proposal came from France and the Netherlands in 2010.²³ In May 2011, the European Commission formally tabled the legislative amendment,²⁴ which is expected to be adopted in early 2013.²⁵

The suspension clause would work as follows: if one or several member states are faced with “a substantial and sudden increase” in the number of asylum applications from citizens of a certain country, they would be able to ask the Commission for a suspension of visa-free travel with this country. The Commission would have up to three months to examine the request and, if it proved to be justified, to put forward a draft decision suspending visa-free travel with the third country. Member state representatives would vote on this proposal by a qualified majority,²⁶ and the European Parliament would be informed. Once the proposal is approved, visa-free travel with the third country would be suspended for six months. If the Commission believed that visa-free travel with the country concerned should not be restored,

²⁰ Letter by the six interior ministers to Eleni Mavrou, Interior Minister of Cyprus, and Cecilia Malmstrom, Home Affairs Commissioner, 2 October 2012, translation from French.

²¹ Press release of the German Federal Interior Ministry, “6.691 Asylanträge im September 2012” (“6,691 asylum claims in September 2012”), 12 October 2012, at http://www.bmi.bund.de/SharedDocs/Pressemitteilungen/DE/2012/10/asylzahlen_september.html?nn=109632.

²² 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, consolidated version as of January 2011, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2001R0539:20110111:EN:HTML>.

²³ Council of the European Union, Note from the French and Netherlands delegations to the other delegations, Subject: Establishment of a mechanism to suspend visa liberalisation, Council document number 18212/10, 21 December 2010.

²⁴ European Commission, Proposal for a 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, COM(2011) 290 final, Brussels, 24 May 2011, at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0290:FIN:EN:PDF>.

²⁵ The suspension clause is one of several planned amendments of the Visa Regulation. There was disagreement about another amendment, which has delayed the adoption of the entire package.

²⁶ Although the suspension clause was generally agreed, recently new disagreements have emerged. As Ireland and the UK have their own visa policies they are not voting, so the draft decision will need to be approved with 229 out of 309 votes.

the suspension could be extended by another 12 months, while the Commission would then put forward a proposal to move the country back onto the “black list” of the Visa Regulation.

The risk that countries will avail themselves of the suspension clause, once it is adopted, is real and growing. The Commission is already under enormous pressure by a majority of member states. With elections due in Germany in September 2013, calls to address the Balkan asylum issue will only grow louder. By the summer of 2013 citizens of the Western Balkans might yet again be queuing in front of Western embassies to apply for visas.

Closing the door to free entry by citizens of the Western Balkans is not the only way of addressing the problem of asylum claims, however. A quick comparison between EU member states reveals some have not experienced the spike in asylum applications seen in Germany or Sweden. The difference lies in their greater efficiency in responding to asylum that are unlikely to be well-founded.

2. Why blaming the Balkans is wrong

From the very beginning, the EU has placed the responsibility for solving the asylum-seeker problem at the feet of the Western Balkan governments. In March 2010, then Belgian Prime Minister Yves Leterme told the Macedonian government:

“In the last two years, one single Macedonian has been granted asylum in Belgium. We are asking the authorities to tell the truth to their people. We have seen several hundred Macedonians arrive at the Office for Foreigners in two weeks, this is surreal!”²⁷

As early as October 2010, Bavaria’s Interior Minister Joachim Hermann warned:

“We will not accept this obvious abuse of our asylum system. If this development continues, the European Union will have to act and to restore the visa requirement for these countries.”²⁸

All along, the European Commission has suggested a number of measures that the Western Balkan governments should take.²⁹ A report published in August 2012 reiterated them. The Western Balkan authorities should cooperate better with their counterparts across the EU. They should investigate “facilitators like travel agencies, transport companies”, ensure exit controls and launch awareness campaigns on “the rights and obligations of visa free travel.” Finally, they should provide “assistance to minority populations, in particular Roma communities.”³⁰

²⁷ Le Soir, “Aucune chance d’obtenir l’asile” (No chance to get asylum), interview with Yves Leterme, 9 March 2010, at http://archives.lesoir.be/-aucune-chance-d-8217-obtenir-l-8217-asile-_t-20100309-00U2YC.a.html?&v5=1.

²⁸ Press release of the Bavarian government, “Missbrauch des Asylrechts” (Abuse of the asylum system), Munich, 19 October 2010, <http://www.bayern.de/Pressemitteilungen-1255.10328648/index.htm>.

²⁹ The reports with the recommendations can be found on ESI’s website at <http://www.esiweb.org/index.php?lang=en&id=532>.

³⁰ European Commission, Third Report on the Post-Visa Liberalisation Monitoring for the Western Balkan Countries in accordance with the Commission Statement of 8 November 2010, COM(2012) 472 final, Brussels, 28 August 2012, at http://www.esiweb.org/pdf/schengen_white_list_project%20-%203rd%20report%20on%20post-visa%20liberalisation%20monitoring.pdf.

Most of the proposed remedies are redundant. There has been intense cooperation between EU member states and Western Balkan governments since the first wave of asylum seekers arrived in the EU in early 2010. It has been to no avail. Likewise, many information campaigns have been launched. They have changed nothing. The problem is not the lack of information about visa-free travel, but rather the wide availability of information about benefits for asylum seekers. At the same time, there has been no evidence that organised networks are behind the journeys to the EU, or that bus companies and travel agencies are doing anything illegal. There is nothing illegal about transporting people to the EU. If they should apply for asylum there, that is hardly the fault of their travel agent.

Roma constitute a large majority of asylum claimants.³¹ However, assistance to improve living conditions for Roma communities in the Balkans is clearly a long-term solution to a very challenging problem. Balkan Roma are underprivileged communities with entrenched social problems that are genuinely difficult to address. The average unemployment rate in Macedonia today is above 30 per cent. It is significantly higher among Macedonian Roma.³² The average net wage for those lucky enough to have a job is around €330 a month.³³ There is no question that the Balkan states can and should do more for their Roma communities, but it is not an immediate solution, and it will only become harder if visa are actually re-imposed on all Western Balkan citizens.

The only recommendation by the Commission that might actually make a difference is also the most problematic. “Exit controls”, to be implemented by Balkan border guards, might enable Balkan countries to prevent their Roma citizens from leaving their territory. This would violate the non-discrimination commitments undertaken as part of the visa liberalisation roadmap process, however, as well as, even more importantly, the European Convention of Human Rights.

The problem is not that Balkan governments are not doing what they are told, but that the EU’s policy recommendations are meaningless, damaging and unrealistic. EU officials continue to advocate them, however, and to blame Balkan governments for the lack of results. Michele Cercone, the spokesman of European Commissioner for Home Affairs Cecilia Malmstrom, told a press conference in October 2012:

“We are extremely worried. As Commissioner Malmstrom has said many times, visa liberalisation for the Western Balkans is a great achievement, a great freedom. But it comes with huge responsibilities. It is more than time now for these countries, their authorities and their citizens, to prove they can handle this huge responsibility.”³⁴

³¹ The German asylum office estimates that 90 per cent of the Serbian and Macedonian applicants are Roma (email correspondence with the German Office for Migration and Refugees, 16 October 2012); several Swedish officials from the Migration Board told us that the majority of the applicants in Sweden are Roma; in Belgium, Serbian and Macedonian applicants include both Roma and ethnic Albanians (email correspondence with Belgian Commissariat-General for Refugees, 8 Nov. 2012).

³² State Statistics Office of Macedonia, Monthly Statistical Bulletin, 30 November 2012, p. 63, at http://www.stat.gov.mk/Publikacii/Bilten_112012A.pdf, and European Commission, Commission Staff Working Document, The Former Yugoslav Republic of Macedonia 2010 Progress Report, SEC(2010)1332, Brussels, 9 November 2010, http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/mk_rapport_2010_en.pdf.

³³ State Statistics Office of Macedonia, “Average monthly net wage paid per employee”, 27 November 2012, at http://www.stat.gov.mk/PrikaziSooopstenie_en.aspx?rbtxt=40.

³⁴ Michele Cercone at the European Commission’s midday briefing on 15 October 2012, video recording at <http://ec.europa.eu/avservices/video/player.cfm?ref=88836>.

The message here is clear: Balkan governments should try harder. If they fail, and if the visa requirement is re-imposed, they will have only themselves to blame.

3. Why Austria does not have Germany’s problem

What is striking about this rhetoric, however, is that it ignores the fact that it is only a few EU member states that face the problem of increased Balkan asylum applications. Most member states have not seen any significant increase since the visa requirement was lifted for Western Balkan countries. Some have even seen a *decrease* in asylum claims

Austria is close to the Western Balkans and has a substantial Balkan migrant community. However, visa liberalisation has not led to any increase in the numbers of Balkan asylum seekers. On the contrary: claims have dropped from 1,000 in 2009 to 350 in 2011.

France also has a sizeable migrant community from the Balkans. It has a long tradition as a destination for asylum seekers, with the largest number of claims in the EU. The lifting of visa requirements has not, however, significantly changed the number of Western Balkan applications, which went from 2,150 in 2009 (when visas were still required) to 2,370 in 2011. Claims from citizens of the Western Balkans only constitute 4 per cent of all claims submitted in France.

Asylum dynamics in Austria and France

	2009 (Before visa-free travel for WB countries)	2010 (Serbia, Macedonia, Montenegro visa-free)	2011 (All five WB countries visa-free)
Austria	1,020	620 (-39%)	350 (-44% since 2010)
France	2,145	2,490 (+16%)	2,365 (-5% since 2010)

The Netherlands is also home to a large Balkan community. However, in 2011 the total number of Western Balkan asylum claims was only 520 (compared to Belgium’s 5,200), which was less than 4 per cent of all asylum claims submitted in the Netherlands.

A similar trend has been at work in Switzerland, a non-EU member of Schengen, which also has a large Balkan population. The Swiss faced a high number of Western Balkan applications as late as August 2012 – 780 in one month – but saw a drop to 335 in September and 105 in October.

Apart from France, all these countries provide asylum seekers with comparable benefits, in accordance with EU legislation. Applicants are entitled to housing, food, clothing, medical care and education for their children. In France, Western Balkan claimants have a right to a stipend of €1 per day for each adult and to emergency medical care, while families usually receive emergency accommodation.³⁵

³⁵ All Western Balkan countries are considered “safe countries of origin” in France, except Albania since

What then is the difference between countries like Austria, France and the Netherlands on the one hand, and Sweden, Germany and Luxembourg on the other? What can explain the drop in applications between August and October in Switzerland and the threefold increase in claims reported during the same period in Germany? The answer to these questions contains the obvious solution to the Balkan asylum crisis.

In Austria, asylum claims from Western Balkan citizens are decided in 1 to 3 weeks. Whether or not they file an appeal, rejected applicants have 2 weeks to leave the country and forego their right to accommodation and assistance.³⁶

In France, the initial asylum procedure takes 2 to 3 weeks. As in Austria, an appeal does not suspend the obligation to leave the country within four weeks. The payment of the stipend also ceases after these four weeks.³⁷

Duration of the asylum procedure for Western Balkan citizens in Austria, France and the Netherlands

	Until first instance decision	Until final decision after appeal
Austria	1 - 3 weeks	An appeal does not suspend the obligation to leave and benefits cease
France	2 - 3 weeks	An appeal does not suspend the obligation to leave and benefits cease
Netherlands	2 - 3.5 weeks	An appeal is handled within the 4-week deadline that a rejected claimant is given to leave the country

In the Netherlands, the first-instance decision is issued within 2 to 3.5 weeks for Western Balkan asylum seekers. An appeal is resolved within the four-week deadline by which a failed claimant has to leave the Netherlands.³⁸

³⁶ March 2012, and requests of their citizens are channelled through the “accelerated procedure” to which the described rules apply. ESI interview with UNHCR office in France, 17 December 2012.

All Western Balkan countries are considered “safe countries of origin” in Austria, and a rejected asylum seeker has 2 weeks to leave Austria. An appeal does not suspend the obligation to leave the country (and the collective centre). However, a rejected asylum seekers can appeal the decision as well as the non-suspensive effect of an appeal. S/he has two weeks to do so and the court decides within one week. Only then can s/he be deported. ESI email conversation with UNHCR Austria, 11 December 2012, and ESI interviews with officials from the NGO Asylkoordination Österreich, 28 October and 4 December 2012.

³⁷ These are the rules for safe countries of origin in France. All Western Balkan countries are considered safe countries, except Albania since March 2012. An appeal against a negative first-instance decision takes on average 9 months, but citizens from safe countries must leave France after a negative first-instance decision (they can also appeal against this). ESI interview with UNHCR office in France, 17 December 2012, and Office français pour la protection des réfugiés et apatrides (OFPRA), Les pays d'origine sûrs, at http://www.ofpra.gouv.fr/index.html?dtd_id=11&xmld_id=2730.

³⁸ In the Netherlands, Western Balkan nationals are channelled through the “General Asylum Procedure”, which takes 14 to 21 days (2 to 3.5 weeks). If the first-instance decision is negative, the failed applicant has 4 weeks to leave the reception centre. If he or she wishes to appeal, the deadline is 1 week, and the court decides within the following 3 weeks. The deadline to leave the reception centre does not change. Immigration and Naturalisation Service (IND), The procedure at the application centre, and IND, The

Countries like Germany, Sweden, Belgium or Luxembourg are a very different story, as we have seen. These EU countries take care of Western Balkan asylum seekers for three to four months and, if they appeal, for up to eight months.

Until very recently, Switzerland, a Schengen country but not an EU member, had in place a first-instance procedure that lasted 3.5 to 4 months.³⁹ Consequently, until recently it had large numbers of asylum seekers from the Western Balkans. In 2011, the number of applicants from the region (2,810) accounted for 12 percent of its total asylum caseload.

In 2012 – after the figures started rising further – Switzerland drew the right conclusion and radically shortened the duration of the decision-making procedure. As one official told ESI, “we cannot allow people who are not being persecuted to exploit our system and live in our accommodation when we have no more space for genuine refugees from other parts of the world in crisis who need our protection urgently.”⁴⁰

In August 2012, the Swiss Federal Migration Office introduced “special measures” for European countries that figured on a national list of “safe countries of origin” and enjoyed visa-free travel with the Schengen zone.⁴¹ Now asylum seekers from such countries are sent to a reception centre in Basel, where a dedicated team conducts preliminary interviews within two days of the newcomers’ arrival. Within the following 48 hours, the authorities carry out a full interview and issue a first-instance decision. A rejected claimant has 5 days to leave Switzerland.⁴² In case of an appeal, the Federal Administrative Court issues a decision in 2 to 4 weeks.⁴³ The Swiss authorities also made a considerable effort to make the new rules known among potential asylum seekers. Explanations of the asylum measures were translated into all Balkan languages⁴⁴ and disseminated across the region, as well as among Balkan communities in Switzerland.⁴⁵

As soon as the measures took root, the Swiss experienced a drastic drop in applications. The number of claims plummeted from 780 in August 2012 to 335 in September, 105 in October,

Admissions Organisation of the Netherlands, July 2012, both available at http://english.ind.nl/Brochures_en_Formulieren/index.aspx. Also see website of the Dublin Transnational Project, at <http://www.dublin-project.eu/dublin/Netherlands>.

³⁹ Swiss Federal Office for Migration, Press and Communication, 21 November 2012.

⁴⁰ Mario Gattiker, head of the Swiss Immigration Office, quoted in an article for foreign media that was prepared by the Federal Office for Migration and made available to ESI, 15 November 2012.

⁴¹ Countries on the Swiss list of countries of safe origin include: Albania, Bosnia, Macedonia, Montenegro, Serbia, all EU countries, all EFTA states, all official EU candidate countries, Benin, Burkina Faso, Ghana, India, Kosovo, Moldova (without Transnistria), Mongolia, Senegal, Ukraine. Information provided to ESI by email, by the Swiss Federal Office for Migration, Press and Communication, 21 November 2012.

⁴² If a case is complicated the decision may take longer and the deadline to leave Switzerland is 1 month.

⁴³ The Swiss also impose Schengen entry bans on rejected asylum seekers who do not leave Switzerland within the envisaged period (5 days for people who went through the 48-hour procedure). Other reasons for entry bans are a lack of cooperation and false claims. ESI interview with a senior official at the Federal Office for Migration, 15 November 2012; also press release from the Swiss Federal Office for Migration, “Special measures for asylum seekers from safe European countries”, 21 August 2012, at http://www.ejpd.admin.ch/content/ejpd/en/home/dokumentation/mi/2012/ref_2012-08-21.html.

⁴⁴ The press release from the Swiss Federal Office for Migration, “Special measures for asylum seekers from safe European countries, 21 August 2012”, is available in all Western Balkan languages, at http://www.ejpd.admin.ch/content/ejpd/en/home/dokumentation/mi/2012/ref_2012-08-21.html.

⁴⁵ Information provided to ESI by email, by the Swiss Federal Office for Migration, Press and Communication, 21 November 2012.

and 95 in November.

The Swiss experience provides a blueprint for reducing baseless asylum claims. But does shortening the asylum procedure infringe on the rights of those who might have legitimate claims?

In the last three years, Germany, Sweden and Luxembourg – countries with long decision-making procedures – processed a total of 19,650 asylum claims by Serbian nationals. They granted refugee status to 10 applicants and subsidiary protection to another 5 - a combined recognition rate of just 0.1 per cent.

Meanwhile, France and Austria – which resolve claims from Western Balkan citizens in 2 to 3 weeks – handled 2,965 individual cases from Serbia over the last three years. They accorded protection to 215 Serbians, a recognition rate of more than 7 per cent.⁴⁶

This means that the length of the asylum procedure has nothing to do with the right to asylum. In fact, the data appears to point to an unexpected conclusion – that the longer the procedure, the lower the chance of gaining asylum.

First-instance decisions on Serbian asylum claims (2009- 2011)

	Number of decisions made	Refugee status granted	Subsidiary protection granted	Recognition rate (Refugee status + subsidiary protection)
Germany	11,610	5	5	0.5%
Sweden	7,495	5	0	0.1%
Luxembourg	545	0	0	0%
TOTAL	19,650	10	5	0.1 %

France	1,630	100	15	7%
Austria	1,335	70	30	7.5%
TOTAL	2,965	170	45	7.3%

4. National solutions, safe countries and short procedures

Some EU member states we have examined, including Austria and France, use the concept of “safe countries of origin” to shorten the asylum procedure in certain cases.⁴⁷ EU legislation

⁴⁶ The picture for all the Western Balkan nationalities combined is similar: then it is recognition rate of 0.2 percent in the EU member states with long procedures versus 6.4 percent in Austria and France in 2011 (see table in the Annex).

⁴⁷ Countries on the Austrian list also include all EU member states, Croatia, Iceland, Liechtenstein, Norway, Switzerland, Canada, Australia and New Zealand. Bosnia, Macedonia, Serbia and Montenegro were added on as of 1 July 2009, and Albania was added in December 2009. The French list comprises Armenia, Bangladesh, Benin, Bosnia, Cap Verde, Croatia, Ghana, India, Macedonia, Mali (for men only), Mauritius, Moldova, Mongolia, Montenegro, Senegal, Serbia, Tansania and Ukraine. Albania was taken off the list in March 2012 due to a decision by the French Conseil d’Etat.

allows member states to prioritise asylum claims from citizens of such countries and to accelerate processing them.⁴⁸

The EU's Asylum Procedures Directive defines a "safe country of origin":

"A country is considered as a safe country of origin where, on the basis of the legal situation, the application of the law within a democratic system and the general political circumstances, it can be shown that there is generally and consistently no persecution..., no torture or inhuman or degrading treatment or punishment and no threat by reason of indiscriminate violence in situations of international or internal armed conflict."⁴⁹

UNHCR notes:

"UNCHR does not oppose the notion of 'safe country of origin' as long as it is used as a procedural tool to prioritise and/or accelerate examination of an application in carefully circumscribed situations."⁵⁰

The procedure should include the usual minimum procedural requirements, which the Asylum Procedure Directive defines as follows:

"The procedure in which an application for asylum is examined should normally provide an applicant at least with the right to stay pending a decision by the determining authority, access to the services of an interpreter for submitting his/her case if interviewed by the authorities, the opportunity to communicate with a representative of the United Nations High Commissioner for Refugees (UNHCR) or with any organisation working on its behalf, the right to appropriate notification of a decision, a motivation of that decision in fact and in law, the opportunity to consult a legal adviser or other counsellor, and the right to be informed of his/her legal position at decisive moments in the course of the procedure, in a language he/she can reasonably be supposed to understand."⁵¹

The EU Asylum Procedure Directive also demands the possibility of effective legal remedy before a court or a tribunal.⁵² UNHCR also stresses the need for a personal interview, at the outset of which claimants should be informed that their home country is considered safe and that they must argue why it is not safe for them. The current Asylum Procedure Directive allows the omission of the personal interview, but a revised version, which is due to be adopted soon, includes it.

⁴⁸ Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status, entry into force 2 January 2006, transposition deadline 1 December 2007, Article 23, paragraph 4, at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32005L0085:EN:NOT>.

⁴⁹ Ibid.

⁵⁰ UNHCR, *Improving Asylum Procedures: Comparative Analysis and Recommendations for Law and Practice*, Key Findings and Recommendations, March 2010, p. 65, at <http://www.unhcr.org/4ba9d99d9.html>.

⁵¹ Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status, entry into force 2 January 2006, transposition deadline 1 December 2007, Paragraph 13 of the preamble, at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32005L0085:EN:NOT>.

⁵² The European Court of Human Rights has identified weaknesses of the French "accelerated procedure." Case *I.M. vs France*, application number 9152/09, 2 February 2012, at <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-108934>.

Some fear that the concept of safe countries could infringe on the right to asylum. As we have seen, however, Western Balkan asylum seekers have a greater chance of obtaining international protection in Austria and France, which use safe country lists, than in Germany and Sweden, which do not.⁵³

However, the concept of safe countries is only really effective if it serves to shorten the application procedure. This is not always the case.

Luxembourg uses the concept of safe countries, and its list includes all the Western Balkan countries.⁵⁴ However, the first-instance procedure is still long (around 3 months) for Western Balkan citizens. The only difference is that the deadline for an appeal is two weeks instead of four weeks plus the fact that the subsequent court decision is final and cannot be contested (the normal procedure allows two appeals). Numbers of Western Balkan claimants are high.⁵⁵

Switzerland also uses the concept. However; until August 2012, when it introduced special measures for *European* safe countries with visa-free travel, a first-instance procedure for Western Balkans citizens still took 3.5 to 4 months. Numbers were high. In August 2012, Switzerland introduced the “48-hour procedure”, and numbers started dropping.

The **Netherlands**, on the other hand, does *not* use the concept. In July 2010, the Netherlands introduced what it calls the “Improved Asylum Procedure” to deal quickly with every claimant. After a rest and preparation period of 6 days, an asylum seeker goes through the “general asylum procedure”, which lasts 8 working days and can be extended to a maximum of 14 working days. 56 per cent of all claims, including almost all Western Balkan applications, are resolved at this stage.⁵⁶ The Netherlands has relatively small numbers of Western Balkan asylum seekers: 520 in 2011, or 4 per cent of the total number of claimants.

This shows that the important point is short processing times. **Germany**, looking for ways to reduce the number of Western Balkan asylum seekers, should be aware of this. One of the proposals on the table in Germany is to declare Serbia and Macedonia “safe countries of origin”. Germany currently has a list of safe countries which mentions the other EU member states, Ghana and Senegal. However, the approach that Germany applies to citizens of safe countries is the same that it already applies to 70 per cent of the Western Balkan asylum seekers.⁵⁷ To declare some or all Western Balkan states “safe countries” might therefore not change much.

⁵³ Germany uses the concept of safe countries of origin, but considers only other EU member states, Senegal and Ghana safe. Sweden does not operate with this concept.

⁵⁴ Apart from the five Western Balkan countries, the Luxembourg list of safe countries includes Benin (men only), Cape Verde, Croatia, Ghana (men only), Mali (men only), Senegal and Ukraine.

⁵⁵ Some citizens of safe countries do not even go through the accelerated procedure. This is decided during the first interview. ESI telephone interviews with Luxembourg Ministry of Foreign Affairs, Directorate for Immigration, Refugee Unit, 16 October and 17 December 2012.

⁵⁶ The remaining 44 percent are complicated cases and go through the “extended asylum procedure.” IND (Dutch Immigration and Naturalisation Service), De IND belicht - Jaarresultaten 2011 (IND Highlights – Annual Results 2011), p. 17, at <http://www.ind.nl/organisatie/cijfers-en-rapportages/jaarresultaten/>, and IND, The procedure at the application centre, and IND, The Admissions Organisation of the Netherlands, July 2012, both available at http://english.ind.nl/Brochures_en_Formulieren/index.aspx.

⁵⁷ In Germany, claims from citizens of safe countries are usually rejected as “manifestly unfounded.” Already now Germany also rejects 70 per cent of the Western Balkan claims in this way (3,696 out of 5,300 in the first half of 2012). Information provided to ESI by the Federal Office for Migration and Refugees, 18 December 2012.

What is really needed is to make permanent what the German Federal Office for Migration and Refugees has, as a temporary measure, done since November 2012 at the request of the Interior Ministry: it has dispatched more personnel to deal with Western Balkans claims and treats them as a priority. This has reduced the processing time of Serbian and Macedonian applications to 10 days (from 3 months during the first half of 2012). Interior Minister Hans-Peter Friedrich stated that all procedural guarantees and quality criteria are still being respected and that “it will soon be possible to again focus on asylum applications of claimants who are really persecuted and flee to Germany from the crisis areas of this world.”⁵⁸

At the end of 2011, the **Belgian** government also introduced the concept of safe countries in its asylum legislation, stipulating deadlines and new procedures. All five Western Balkan states, as well as Kosovo, are on this list, which became operational in June 2012. Since then, claims from Western Balkan citizens have been decided in 3.5 weeks.⁵⁹ An appeal from a person from a safe country does not suspend the obligation to leave Belgium 30 days after the negative first-instance decision.⁶⁰ The number of claims has fallen slightly from 330 in June 2012 to 300 in September 2012 (usually they increase before the winter). Unlike Switzerland, however, Belgium has not yet widely publicised the new rules among Western Balkans communities in Belgium and in the region.⁶¹

5. A European solution

EU countries deal with asylum claims from the Western Balkans in different ways. Even those that use the concept of safe countries of origin have implemented widely differing procedures. What their accumulated experience teaches, however, is that the key to reducing asylum claims is to shorten the time in which they are processed.

Sweden and Luxembourg have yet to find ways to do this. Germany, meanwhile, should maintain a high number of staff to deal with the task and keep the processing times short, as it has done in November. Finally, Belgium should make its new rules better known among potential asylum seekers.

⁵⁸ Press release by the Federal Ministry of the Interior, “8.849 Asylanträge im November 2012“ (8,849 asylum applications in November 2012), 14 December 2012, at http://www.bmi.bund.de/SharedDocs/Pressemitteilungen/DE/2012/12/asylzahlen_november.html?nn=3314842.

⁵⁹ Claims by citizens from a safe country of origin must be resolved within 15 working days (3 weeks) by the Belgian Commissariat-General for Refugees and Stateless Persons (CGRS). The average for Western Balkan citizens has been 14 working days. To this, one has to add 6-7 calendar days that it takes the Immigration Department, which initially receives an application, to forward it to the CGRS. ESI correspondence with the CGRS, 11 October 2012.

⁶⁰ A failed asylum seeker can appeal against the non-suspensive effect of an appeal. Until now Western Balkan asylum seekers have been allowed to stay until the decision of the court, which must be rendered within two months. Website of the CGRS, Appeal against the decision, at http://www.cgra.be/en/Procedure_d_asile_en_pratique/Recours_contre_la_decision/, and ESI telephone interview with an official from the GCRS’ international department, 30 October 2012.

⁶¹ The websites of the Belgian embassy in Belgrade (which also covers Montenegro - <http://www.diplomatie.be/belgradefr/>) and in Sofia (which covers Macedonia and Albania - <http://www.diplomatie.be/sofiafr/>) do not even carry an item announcing the new rules since June 2012. In Bosnia, Belgium is represented by the Netherlands for visa purposes.

For the EU, the best thing would be to use a common approach, which would apply in all Schengen countries. The EU should declare the Western Balkan countries – as well as others that successfully complete a visa liberalisation process in the future – safe countries of origin at the EU level.

This would not be anything new. The concept of safe countries is already in use at the EU level. One of the protocols to the Amsterdam Treaty, in force since 1999, reads as follows:

“Given the level of protection of fundamental rights and freedoms by the Member States of the European Union, Member States shall be regarded as constituting safe countries of origin in respect of each other for all legal and practical purposes in relation to asylum matters.”⁶²

In 2005, two years before Bulgaria and Romania joined the bloc, EU member states declared them safe countries of origin.⁶³

The Asylum Procedures Directive is currently being amended.⁶⁴ There is still time to add another amendment. ESI proposes that the EU label all states that successfully complete the visa liberalisation process as safe countries of origin, set a binding 3-week deadline for resolving claims from such countries, and establish procedural and other safeguards to protect the rights of “safe country” asylum seekers.

Re-imposing the visa requirement for the Western Balkans, aside from being patently unfair, would undermine the EU’s credibility and undercut visa liberalisation with other states. On the other hand, an amendment to the Asylum Procedures Directive, as discussed above, would not only resolve the problem of Western Balkan asylum seekers but also clear the way for other countries – Kosovo, Turkey, Moldova, Ukraine and others – to make further progress towards visa free travel.

The Western Balkan states had to meet a range of human rights requirements to qualify for visa free travel. Other European countries currently undergoing or interested in a visa liberalisation process should be expected to meet the same standards. This would be an additional incentive to improve human rights standards in the European periphery. The goals of increasing freedom of movement and promoting respect for human rights would mutually reinforce each other.

⁶² Treaty of Amsterdam amending the Treaty on European Union, the Treaties establishing the European Communities and certain related acts; Protocol on asylum for nationals of Member States of the European Union, 2 October 1997, at <http://eur-lex.europa.eu/en/treaties/dat/11997D/htm/11997D.html>.

⁶³ A recital of the Asylum Procedures Directive reads: “It results from the status of Bulgaria and Romania as candidate countries for accession to the European Union and the progress made by these countries towards membership that they should be regarded as constituting safe countries of origin for the purposes of this Directive until the date of their accession to the European Union.” Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status, entry into force 2 January 2006, transposition deadline 1 December 2007, recital (20), at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32005L0085:EN:NOT>.

⁶⁴ The Commission has put forward a modified proposal on 1 June 2011, which is debated by the European Parliament and the Council. European Commission, Amended proposal for a Directive of the European Parliament and of the Council on common procedures for granting and withdrawing international protection status (Recast), Brussels, 1 June 2011, COM(2011) 319 final, at http://ec.europa.eu/home-affairs/news/intro/docs/110601/319/1_EN_ACT_part1_v12%5B1%5D.pdf.

ANNEX

Key concepts

Refugee status is the highest form of international protection. Under EU asylum legislation, which is based on the 1951 UN Geneva Convention relating to the Status of Refugees and its 1967 Protocol, EU member states are committed to offering refugee status to third-country nationals that have “a well-founded fear of being persecuted for reasons of race, religion, nationality, political opinion or membership of a particular social group” in their home country.⁶⁵

Subsidiary protection 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.”⁶⁶

There is also **protection on humanitarian grounds**, also defined as “compassionate grounds”, which can cover a wide range of situations. It is at the discretion of EU member states to grant it, so it is regulated by national legislation. Most often it is extended to people with medical problems that cannot be treated in their home country.⁶⁷ Eurostat does not have complete data on it since not all EU member states submit it.

At first instance, asylum claims are decided by administrative bodies. Rejected asylum seekers have a right of appeal before a court, so this is the next instance. In some EU countries, this is the final instance, while others offer the possibility of an appeal against the court decision, so there are two court appeal options. In its data, Eurostat cites the decisions against which no appeal is possible anymore, and calls them **final decisions**.

⁶⁵ 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, at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004L0083:EN:HTML>.

⁶⁶ Ibid.

⁶⁷ Ibid.

Additional statistics

The Swiss experience

Western Balkan asylum claims in Switzerland

	2009 (No visa-free travel for the five WB countries)	2010 (Serbia, Macedonia, Montenegro visa-free)	2011 (All five WB countries visa-free)	Jan. to August 2012
Serbia	575	910	1,435	1,560
Macedonia	60	415	990	1,060
Bosnia	280	190	290	270
Albania	20	15	65	50
Montenegro	15	20	30	30
Total of the 5 WB countries	950	1,550	2,810	2,970
All asylum seekers in Switzerland	16,005	15,565	23,880	-
Share of WB citizens	6%	10%	12%	

Introduction of “48-hour procedure” (August 2012): Decreases in claims in Switzerland

	Aug. 2012	Sept. 2012	Oct. 2012	Nov. 2012
Serbia	410	200	60	35
Macedonia	260	45	20	10
Bosnia	95	80	20	35
Albania	15	5	5	10
Montenegro	0	5	0	5
Total of the 5 WB countries	780	335	105	95

Luxembourg's burden

Luxembourg is the EU country most affected in terms of WB asylum claims in relation to its population:

Asylum claims from Western Balkan citizens in relation to the host country's population in 2011 – 10 top EU MS

EU member state	Population (million)	Number of claims per 100,000 inhabitants
1. Luxembourg	0.5	311
2. Sweden	9.5	51
3. Belgium	11.0	47
4. Germany	82.0	11
5. France	65.3	4
6. Denmark	5.5	4
7. Austria	8.4	4
8. Netherlands	16.7	3
9. Greece	10.7	3
10. Finland	5.4	2
11. Italy	60.8	0.6

Luxembourg also heads the statistics concerning the share of asylum claims of WB citizens among all asylum claims submitted in that country:

Share of asylum claims by Western Balkan citizens among all asylum claims in a given EU member state in 2011

	All asylum claims	Claims from WB citizens	Share
Luxembourg	2,155	1,585	74%
Germany	53,345	9,360	18%
Sweden	29,710	4,875	16%
Belgium	32,270	5,195	16%
Denmark	3,985	235	6%
France	57,335	2,365	4%
Finland	2,975	120	4%
Netherlands	14,600	520	4%
Austria	14,455	350	2%
Italy	34,115	375	1%
EU total	303,105	25,820	8.5%

Asylum granted to WB claimants 2009-2011 by EU member states

The following two statistics show that Germany, Sweden and Luxembourg not only rarely extend international protection to Serbs, but have the same attitude towards all Western Balkan citizens. France and Austria are more generous. The courts in these five countries reflect the same attitude.

First-instance decisions on asylum claims from the citizens of all five Western Balkan states during the 2009- 2011 period

	Number of decisions made	Refugee status granted	Subsidiary protection granted	Recognition rate (Refugee status + subsidiary protection)
Germany	17, 240	20	15	0.2%
Sweden	9,980	10	10	0.2%
Luxembourg	825	10	0	1.2%
TOTAL	28,045	40	15	0.2%

France	4,630	200	75	5.9%
Austria	2,155	90	70	7.4%
TOTAL	6,785	290	145	6.4%

Final (court) decisions on asylum claims from the citizens of all five Western Balkan states during the in 2009-2011 period

	Number of decisions made	Refugee status granted	Subsidiary protection granted	Recognition rate (refugee status and subsidiary protection)
Germany	7,135	0	0	0%
Sweden	2,110	5	15	0.9%
Luxembourg	260	0	5	1.9%
France	1,475	160	80	16.2%
Austria	1,140	10	30	3.5%