

Policy Paper

Monitoring the Visa Liberalisation Process with Albania:

What to expect when you are expecting?

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European Movement in Albania (EMA) is a think tank devoted to improving the quality of the debate on the European Integration process. It is a forum for exchange of views on political, legal, economic and social challenges facing Albania in its path towards European Integration. By analyzing different aspects of European Integration process, EMA therefore aims to promote new ideas for improving this process.

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1. The Visa Liberalization Process with the Western Balkan countries: main steps

The initiative of the European Union in the spring of 2008 to carry on a dialogue in order to remove the visa regime in the Western Balkan countries may be considered a natural step, to a certain extent a delayed one, through which passes the integration process of these societies in the European Union. This explains why the entire process of the visa liberalization is closely linked to the implementation of many important reforms in the context of the very integration of these countries into the EU.¹

The perspective of visa liberalization was originally designed in the Thessaloniki Summit in 2003. This perspective was structured on the basis of gradual progress, and all the Western Balkan countries were asked to finalize the Readmission Agreements and the Visa Facilitation Agreements with the European Community. The Visa Facilitation Agreement which entered into force on January, 1st 2008 marked "the first concrete step towards the visa-free regime with the citizens of the Western Balkan countries determined by the agenda of Thessaloniki".²

Taking into account the history of severe and longstanding isolation of the Albanian society, this agreement was welcomed with enthusiasm. However, even today, after more than two years of its ratification, it can be argued that the agreement has not brought any significant freedom in the movement of the Albanian citizens in the Schengen area. While many Schengen Countries' consulates claim that the foreseen provisions have taken effect after its ratification, others have gone "against the trend" by increasing the number of the rejected visas. As stated from the German Ambassador in Albania, "the visa liberalisation roadmap requests a falling refusal quota approaching 3% - ours has increased massively and is many times higher".³ Furthermore, he clarifies

¹ "Visa Liberalisation: The Implications of a Proposal", European Movement in Albania, page 4, September 2009.

² 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, 15521/09, Brussels, 24 November 2009, page 3.

³ Interview with the Ambassador of the Federal Republic of Germany to Albania, Mr. Berndt Borchardt, 1 March 2010.

that: “The refusal quota varies from month to month and has been raising sharply over the last few months because of a rising number of falsifications “.⁴

On the other hand, the Albanian institutions as well as representatives from 18 different categories of beneficiaries from the visa facilitation process otherwise considered as "agents of exchange" had higher expectations from the Schengen Member Countries regarding the implementation of this agreement.⁵ The procedures and the documents required to apply for a visa at various consulates remain non-harmonized. As the cost of the documents to be included in the application form remains high, the time frame of treating visa applications determined by the Visa Facilitation Agreement is not always respected.

The entry into force of the Visa Code from April 2010 is expected to have a positive impact on the efforts of harmonizing the documents required from the consulates to apply for a visa. This code was adopted by co-decision procedure by the European Parliament and the Council of Ministers in June 2009 and sets out clearly the procedures and conditions to issue short-term visas (90 days within a 180-day period), increasing the harmonization of the procedures, ensuring equal treatment for all applicants as well as increasing security and transparency of the procedures.⁶ The legislation on issuing long-term visas remains a national competence of Schengen Countries.

Beyond the statements from the consular services that there has been an increase in the number of the long-term visas issued, it is unfortunate to discover that, despite the fact that the Visa Facilitation Agreement should have had an impact on a substantial number of categories, the Albanian society does not share the same perception regarding facilitation to travel to the EU Countries.

Since its beginnings in the spring of 2008, the Visa Liberalization Process is evolving in a context in which the Visa Facilitation Agreement, which was supposed to be the first step, has not found proper implementation. Based on such and on the fact that Albania was not included in the list of Western Balkan countries which benefited visa

⁴ Ibid.

⁵ Interview with an official of the central public administration, 8 February 2010.

⁶ Information available on the website of the European Union:

http://ec.europa.eu/delegations/china/press_corner/all_news/news/2010/20100330_02_en.htm

liberalization of the European Commission's proposal in July 2009, the Albanian public opinion has shifted into thinking that the decision to lift visas for Albanian citizens will be based on merit. That means that it will be based on the required standards. Concerning the progress made so far from Albania, according to the last survey by Gallup Balkan Monitor, 59% of Albanians blame the government and the politicians in failing to obtain visa liberalization at the same time with the three other Western Balkan Countries.⁷

The dialogue on the visa liberalization process was followed by the submission of the Roadmap towards a visa-free regime for the Western Balkan Countries, which set concrete measurable criteria in order to achieve a visa-free regime. This process excluded only Kosovo, whose independence is not recognized by all the Member States of the EU. Besides some EU benevolent statements that kept on the perspective of visa-free movement of Kosovo citizens, no important step has been taken yet. The Commission proposes a structured approach whose goal would be the eventual removal of the Schengen visa regime, when Kosovo would meet the standards. However, the process has not been crystallized in a Roadmap so far, as happened in the case of other countries in the Western Balkans.⁸

The Roadmap embodies 42 benchmarks organized into four Blocks that are the same for the participating countries in this process:

- I. The Documents Security;
- II. Illegal migration including readmission;
- III. Public order and security;
- IV. External relations and fundamental rights.

The confrontation of such responsibility has made possible the comparison of the countries with each other regarding the progress the reforms and the standards.⁹

⁷ See Gallup Balkan Monitor, *Insights and Perceptions: Voices of the Balkans*, 2009, page 35.

⁸ Kosovo - Fulfilling its European Perspective, Communication from the Commission to the European Parliament and the Council, COM(2009) 5343, Brussels, 14 October 2009.

⁹ European Movement in Albania, *op. cit.*, page 7. Furthermore, in an interview given for the News 24 TV channel on 8 February 2010, Mr. Gazmend Turdiu, Secretary General of the Ministry of Foreign Affairs of

After receiving the roadmap, the governments of these countries were asked to make comments and submit their evaluation reports on the situation in the country regarding the standards set forth in the Roadmap. "In some countries the assessment reports were discussed in the parliament and were made known to the public before their submission to Brussels, while in others countries, including Albania, the governments preferred not to make public or to include in the process other institutions outside the executive and the Parliament".¹⁰ On the other hand, the European Commission answered each country through the assessment reports, which were discussed at the EU Council on Western Balkans COWEB.

The evaluation reports highlighted various stages of the Western Balkan countries. At that time, the most advanced country in such process was Macedonia, followed by Serbia and Montenegro. After various exchanges of reports and assessments from the parties in July of 2009, the European Commission proposed to the Council of EU the lifting of the visa regime with Macedonia, Montenegro, Serbia and Albania. Meanwhile, Kosovo was included in the Schengen negative list.

In November 2009, the Council of Ministers of the EU decided to lift the visa regime with the three countries mentioned above. Such decision came to power on 19 December 2009, while the European Commission continued to monitor the performance through the expert missions of Albania and Bosnia and Herzegovina during January and February of 2010. At the end of April, the assessment report was produced from the experts of the European Commission for these two countries, which may be accompanied by relevant proposal to lift the visa regime.

KEY DATES	THE STEPS OF THE PROCESS TOWARDS VISA LIBERALIZATION
Feb – May 2008	The beginning of the visa discussion with the Western Balkan countries
May 2008	The presentation of the Roadmap towards a visa-free regime in the Western Balkan Countries

Albania stated that the other Western Balkan Countries achieved visa liberalisation because they had performed better in meetings the benchmarks set in the four blocks.

¹⁰ European Movement in Albania, op. cit.,page 4-5.

September 2008	The Submission of the Situation Assessment Report by the governments of the Western Balkan countries
November, 24 th 2008	The discussion of the First Assessment Report of the European Commission at COWEB and then its submission to the Western Balkan countries
January 2009	The required documentation is completed and the information updated from the Western Balkan countries' governments and presented to the European Commission
Jan – April 2009	The experts assessment mission of the European Commission and of the EU Member States carry out the assessment of the situation in all the Western Balkan countries
May 18 th , 2009	The second assessment report of the European commission is submitted to the EU Member States and then to the Western Balkan countries
May 25 th , 2009	The discussion of the European Commission with the EU Member States over the Western Balkan countries assessment reports
July 15 th , 2009	The European Commission proposes to the EU Council of Ministers the lifting of the visa regime with Macedonia, Montenegro, Serbia and the keeping the visa regime with Albania and Bosnia and Herzegovina. Meanwhile, Kosovo is included in the Schengen negative list
Sept – Dec 2009	The European Commission continues to observe closely the situation
Sept – Nov 2009	The European Parliament discusses over the Commission Proposal and delivers its opinion to the Council
November 30 th , 2009	The Justice and Home Affairs Council votes on the proposal
December 19 th , 2010	The decision of the visa liberalization with Macedonia, Montenegro and Serbia comes to power.
During 2010	The Commission continues to observe the situation in the countries of the region remaining in the negative list because they do not meet the Roadmap standards yet: Albania and Bosnia and Herzegovina.
February 2010	The EU and national Experts organize field assessment missions in Albania for the Block two and three. Concerning Block four, written

	information has been requested.
April 2010	The Commission presents the assessment report for Albania and Bosnia and Herzegovina.
May 2010	The Commission is expected to issues a proposal to the European Parliament and the Council of Ministers to lift the visa regime with Albania and Bosnia-Herzegovina.
October- November 2010	The European Parliament and the Council of Ministers are expected to decide on the lifting of the visa regime in Albania and Bosnia and Herzegovina. Its ratification is after 20 days.

Table 1. Key steps in the visa liberalization process with the Western Balkan countries.

2. What does the lifting of the visa regime imply?

The visa-free movement, often trumpeted by politicians and Albanian institutions as the free movement of people¹¹, has become something more than desirable to the Albanian public opinion, but at the same time unclear. In Albania, the visa liberalization process has been treated as a political game colored with superficial arguments from all across the spectrum, especially during the elections, and as a result, the citizens created high expectations from such process.¹²

Even today, only few Albanian citizens and senior officials are aware of what the visa-free regime truly consists of. Both the international community and some Albanian officials are aware of such. The information campaign organized by the Ministry of Foreign Affairs of Albania comes precisely as a response to such reality in order to inform the citizens on the rights and obligations that follow the lifting of the visa regime as well as the sanctions to its violation. Such campaigns have also been previously conducted in neighbouring countries that have benefited the visa-free regime.

Along with the entry into force of the EU decision on the lifting of the visa regime, a step that is expected to be carried out before the end of 2010, Albanian citizens and those of Bosnia-Herzegovina will have the opportunity to travel in 25 Member States of

¹¹ Description easily confusable with the free movement of people within the EU, one of the four freedoms of the internal market.

¹² Interview with a western diplomat in Tirana, 10 February 2010.

the EU within the Schengen area, as well as in 3 non-EU member states that have accepted the Schengen acquis.

Citizens disposing of a biometric passport will be able to travel for a period up to 90 days (3 months) every 180 days (6 months) for touristic or studying reasons. It is important to note that the obtainment of the citizens with the biometric passports becomes a priority because only those people who already obtain a biometric passport will take benefit from the visa liberalization process. The six-month period starts to count after the first trip to the Schengen area. Since the United Kingdom and Ireland opted out the Schengen area, in order to travel to these countries people will need to obtain a visa even after visa liberalization.

Residing in the Schengen area for employment reasons will not be possible. For any migration reason other than tourism or study visits of up to three months, the existing rules of obtaining a visa from respective consulates will continue to apply. The employment and the stay in the Schengen area without a visa or residence permit of the host country are unlawful and will be sanctioned as provided by the legislation of the host country.

Although the citizens who obtain a biometric passport will not need to apply for a visa to enter the Schengen area, the usual accessing conditions will continue to apply for the third country citizens. This means that on the border checkpoints, passengers may be asked to prove that they have sufficient financial resources to travel or they may be asked detailed information on where they are staying. In addition, these citizens should not be considered a risk to public order, public health or internal security and they shall not be persons for whom an alert has been issued for the purpose of refusing entry.

Based on the Schengen Convention, the Member State border authorities have the right to refuse entry if these requirements are not met and have the final decision on entry.¹³ Thus, if currently the responsibility to facilitate the people's movement is shared between the consular offices of Schengen area countries present in Albania and border crossing points of such area with Albania, after the removal of the visa regime, this

¹³ Article 5 of the Schengen Convention, see the webpage of EUR-Lex: [http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:42000A0922\(02\):EN:HTML](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:42000A0922(02):EN:HTML)

responsibility will be transferred to Albanian border crossing points and those of the Schengen area countries.

THE VISA-FREE MOVEMENT	
Where can I travel without a visa?	EU member countries: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden Non-EU member countries: Iceland, Norway, Switzerland
In which non-EU Member States I can NOT travel without having visa?	United Kingdom and Ireland
How long can I stay in these countries for?	Up to 90 days every 180 days (6 months)
What kind of identification do I need?	Biometric passport
Do I need other documents to cross the border?	Border control authorities can verify the financial resources to travel and to stay in the Schengen area countries, the location (e.g. hotel reservation), health insurance.

Table 2. What is foreseen by the visa-free movement?

Based on research, the concern of a part of the diplomatic corps present in Tirana that some Albanian citizens may be denied to enter the Schengen area countries still exists. This is mainly motivated because they have surpassed their visa limit or simply based on the subjective decision that will come from the border authorities. Even though, considering that this phenomenon is not observed in cases of border crossing from the citizens of the three Western Balkan countries that benefited the lifting of the visa regime in December 2009, there should be no concern regarding the spread of such practice against Albanian citizens.

3. The policy-making process from the transparency and democracy standpoint

The month of May will mark two full years since the European Commission handed the Roadmap to Albania (and to the other Western Balkan countries). By analyzing the embedded benchmarks of the Roadmap, it is immediately evident that overall it deals with major important fields of the country's democratization process. More specifically, it deals with the design and implementation of strategies and concrete reforms to mark improvements in problematic issues such as public order and security, the fight against corruption, organized crime and illegal trafficking, the security of identification documents with biometric data, the integrated border management, illegal migration, as well as external relations and fundamental rights.

Overall, the approach of the Albanian institutions to the work in order to meet the benchmarks embedded in the Roadmap does not change significantly from the usual tradition of policy-making. The process is characterized by an underestimation of the element of transparency and publicity of documents and phases of the process. In the neighbouring countries such as Macedonia, various institutions publicly comment on assessment reports. In Albania, the information of the public opinion or of non-governmental actors on the different stages of the process or the content of documents exchanged between the government and the Commission has generally been avoided.

Progress has generally been commented from different political exponents pushed from political purposes, rather than from the aim of objective information of the public opinion, especially during the elections' campaign of June 2009. As a western diplomat, rightly points out, "the Albanian politicians have massively speculated with the issue of the visa liberalization. It has become the toy of the politicians"¹⁴. Thus, the citizens have not been completely clear on the reforms carried out by our country.

Another aspect closely related to the information about the progress of the country in the process, concerns the approach of the Albanian government regarding the inclusion of non-state actors in the design and implementation of reforms and strategies. Exactly the work of several years to achieve higher standards in important fields serving to the country's democratization such as the fight against corruption, organized crime or

¹⁴ Interview with a western diplomat, 8 February 2010.

trafficking makes the involvement of the non-governmental actors necessary in the development and implementation of reforms and strategies in the areas mentioned above.

The very fact that the state authorities interviewed bring across a single example of civil society involvement in this process, and in particular its contribution to the drafting of the anti-discrimination law, adopted earlier this year, proves that consultations have been relatively limited. Limited involvement of non-state actors in the process cannot automatically be interpreted as an exclusion from the policy-making process. Instead, it can be considered as a continuation of the "top-down" tradition of policy-making in Albania.¹⁵

Another reason limiting the involvement of non-governmental actors is associated with the pace at which the Albanian institutions are coping with different stages of the visa liberalization process. Many of the decisions are taken under the time pressure, neglecting the required timeframe that would allow for extensive consultation in a democratic society. The meetings held by several ministries with civil society representatives have been mainly characterized by formal nature. They were held in the last moments preceding the Commission expert's visits and thus playing an ineffective consulting role. However, it should be highlighted that although the inclusion of more actors in the design and implementation of strategies and reforms in the visa liberalization process, would have made this process more democratic, it would not necessarily have accelerated it. This is because more consultations would also mean more procedures.

Based on a retrospective of the visa liberalization process since its beginnings two years ago, it seems clear that despite the EU encouragement to achieve certain standards, the Albanian government have somehow slowly coped with the work required to achieve visa free regime. It seems that only the "shock of the separation from the group" of the Western Balkan countries in July 2009, shook the Albanian society, as they might not be walking at a proper pace. In addition, it has set in motion the Albanian institutions to collaborate. That is how the new energy of the Albanian institutions is explained in

¹⁵ Ibid.

order to fulfil the requirements embedded in the Roadmap starting with a new speed from the September 2009 and on.

Apart from a first apathy approach towards the achievement of the required benchmarks in comparison to neighbouring countries such as Serbia or Montenegro, Albania faces some objective difficulties that compromise its performance in this regard. More specifically, along with the occasional lack of political will in any reform challenge, Albania faces a limited administrative capacity. “I am sure that the visa liberalization could be managed much better. However, for a better management is required a greater capacity including more trainings, more resources and more financial resource” says a western diplomat in Tirana.¹⁶

The Albanian institutions have not been reluctant to respond to the Roadmap benchmarks with strategies and different action plans. Certainly, the documents at the stage of completion of the legal framework are not missing. However, not always has existed a certain budget or detailed information for the implementation of a specific plan. Often there is a lack of coordination and coherence between different strategies.

In a way, the lack of a clear vision of how to translate something described in paper into action has penalized Albania in her attempt to attain specific standards in a well-defined and limited time. Moreover, the Albanian tradition of policy-making deals with the consolidation of practice in doing things in a way that is rushed, superficial and sometimes driven by short-term commitments, usually by international sources. All these factors explain why EU institutions ask a convincing record of accomplishments from Albania in meeting the benchmarks embedded in the Roadmap.

However, it is worth mentioning that in the last months it is noticed a significant mobilization of the Albanian institutions to accelerate the implementation of laws and other measures, which is translated into significant steps towards meeting the benchmarks to lift the visa regime. Apart from that, it is also worth mentioning an evident inter-institutional solidarity to cooperate, considering visa liberalization process as a priority for the nation. From the institutional interaction point of view, it was expected a more active role to be played by the institutions that exercise control over the

¹⁶ Interview with a western diplomat in Tirana, 16 February 2010.

other ones. For instance, the Albanian Assembly should have been more active in monitoring the work of institutions that report to it concerning the visa liberalization process.

At the political commitment level, it is worth mentioning the approval in consensual manner of the Resolution of the Albanian Assembly on March 11, 2010.¹⁷ In addition, on November 12, 2009, the European Parliament and the EU Council of Ministers issued a joint declaration that reconfirmed the political will to lift the visa regime in Albania and Bosnia and Herzegovina when the European Commission judges that the benchmarks are met and that the issue should be urgently addressed.¹⁸ Since the beginning of the visa liberalization process, European Parliament has been supportive and proactive in encouraging both the EU Council of Ministers and Western Balkan countries to finish this process as soon as possible.

4. Where do we stand in the fulfilment of the benchmarks?

By carefully revisiting the four blocks of the Roadmap, it is noticed that Albania has met a good amount of benchmarks. Meanwhile, some benchmarks still need to be addressed because of the strategy or legislation adoption in the last months.

4.1 Document Security

With regard to the Block I, Albania has made a very good progress in fulfilling the standards. This is the block with the measurable requirements. By prioritizing the distribution of the ID cards that were necessary to increase the confidence in the parliamentary elections of June 28, 2009, the Albanian institutions lost six months that they could have worked on the distribution of the biometric passports. In addition, the information campaign concerning the benefits of the biometric passports started late. Unfortunately, the Albanian institutions did not apply promotional practices that might have added the Albanian citizens' interest in the acceleration of this process.

¹⁷ See the web site of Albanian Assembly, www.parlament.al

¹⁸ See, the website of European Stability initiative:
<http://www.esiweb.org/index.php?lang=en&id=403>

After the parliamentary elections were over and the new government formed, the pace of the biometric passports distribution started to accelerate as the attention of the institutions started to focus more on this process. Currently, over 500 thousand biometric passports are issued, which is a significant indicator. However, the application process for biometric passports in Albanian consulates abroad has not started yet, which would have been an opportunity for Albanians who live abroad to get equipped with a biometric passport and at the same time increase the number of applications.

4.2 Illegal migration and readmission

Block II covers illegal migration issues including readmission policies. In this area, it is noted a significant progress particularly regarding the control of the migration flow and the use of TIMS at the border crossing points and national register of aliens. In October 2009, the Action Plan of Law on the Foreigners was adopted. It addressed respective responsibilities for state and non-state actors for each area (for instance IOM, ICITAP, and Albanian Committee of Helsinki). Some pieces of the bylaws of this plan are in implementing phase. However, this plan does not provide specific measures related to the integration of foreigners living in Albania as provided by the law.

The National Registry for Foreigners, which is currently operational, needs to be updated on daily basis with reliable data. The same applies concerning the need for migration data processing and migration profile.

In addition, progress is noticed regarding the strengthening of the administrative capacity and the technological equipment installation in terms of investigation and detection of illegal migration. An illegal migration detention center is under construction. However, it is necessary to strengthen the investigative capacity at the regional level and to separate clearly the investigative powers of the Border and Immigration Department and the Department Investigation of Crimes. Investigative procedures should be included as an element of the work done at the border crossing points.

Although the Readmission Agreement with the European Community is implemented in a satisfactory way, concerted measures are needed for the re-integration of returnees.

Generally speaking, the returnees are registered and controlled at the border authorities where the informative brochures are distributed. In this regard, the cooperation between state actors and non-state actors needs to be more effective.

In order to ensure the re-integration of the returnees into society, there should be taken measures that somehow can provide solutions to the migration issues. This is not an easy task and cannot be achieved in a short time. However, statistical and socio-economical studies of the returnees will serve in order to create a panorama that would ease and make more efficient the decision-making in this regard.

The Implementation of the Strategy of the Integrated Border Management and the Action Plan has significantly improved in the last months as the completion of the legal framework that enables the collaboration of different services in the integrated border management. Meanwhile, the measures of anti-corruption and civilian program at the sea border are under the process of implementation. In the last months there has been progress regarding the strengthening of the Border and Migration Department capacity and of the Modern Technology Installation at the border crossing points.

Generally speaking, Albanian institutions have shown commitment in meeting the benchmarks embedded in Block II. However, the authorities need to further consolidate the good practices and show an increase in the level of the statistical achievements in the future.

4.3 Public Order and Security

Block III covers areas that represent major challenges in meeting the benchmarks set out in the Roadmap as public order and security. Due to the nature of issues that this block includes, related to anticorruption and money laundering, trafficking in human beings and narcotics, organized crime, the level of the implementation of benchmarks is lower when compared to other blocks.

Specifically, in the fight against crime, Albania has walked forward in meeting the legal framework, cooperation and interaction of various agencies and the extent of the MEMEX information system at the regional police unit. However, the fight against the

organized crime remains a serious issue in Albania that needs the political will and the cooperation between various agencies.

Progress is also seen in data protection where is created the Office of the Commissioner for Data Protection that is equipped with human and financial resources.

However, alongside to the adoption of laws and strategies this area needs a convincing implementation in practice. The constant replacements of the police officers also remain a problem. The police and judicial officers need further training.

The progress is noticed in terms of social aspects of human trafficking and protection of victims. However, Albania remains the country of origin and of transit for trafficking and narcotic victims. The police lack effective methods of investigation and investigative capabilities regarding trafficking. Besides co-ordination between all police instances and non-state actors related to trafficking, Albania should demonstrate a more reliable data that explains the punishments of people involved in such criminal activities, which also means a more efficient judicial system. Corruption in Albania is 'prevalent in many areas and continues to be a particularly serious problem'.¹⁹

The implementation of the anti corruption strategy is primarily focused on technical aspects of it. While the level of penalties in corruption and economic crime cases, especially in high-level officials, remains modest. Concerning the acquired assets seize due to criminal activity and the fight against money laundering there are needed results that should be more concrete.

Despite the positive signs such as the increased number of corruption investigation cases or the judges' immunity removal, there are still important steps to take in the fight against corruption and financial crime. In particular, the EU expects from Albania a compelling number of searches and punishments without political interference in cases of high-level corruption.²⁰

¹⁹ Commission of the European Communities, Albania Progress Report 2009, SEC (2009) 1337, Brussels, 14 October 2009, page 13.

²⁰ Statement by Pierre Mirel, Director of Western Balkans, European Commission, during the first meeting of Stabilization and Association Committee, EU-Albania, Tirana, March 2010.

4.4 External Relations and fundamental rights

It is to be affirmed that the implementation of benchmarks embedded in Block IV, regarding fundamental rights and external relations, has proceeded gradually and without any objective obstacle. Albania has made some concrete steps towards respecting minorities and cultural minorities' rights. Adoption of the Strategy for improving the living conditions of Roma and Decade Action Plan of Roma Inclusion remain to be implemented properly.

The entry into force on March 2010, of the law against discrimination proposed by civil society representatives is considered as another step towards meeting the benchmarks embedded in this block.

5. When?

During recent months, Albania has made progress towards meeting the benchmarks set forth in the roadmap. However, it is necessary for Albania to show concrete results, particularly as regarding the fight against organized crime, trafficking and corruption, which remain matters of concern.

The remaining time for other achievements is limited. Therefore, it seems that the decision of the EU institutions will be based on the trust that some of the benchmarks will be met from the moment of proposal to remove visa regime to its entry into force with Albania. In fact, this has been the case of Serbia and Montenegro when the positive decision to lift visa regime for these countries was made. Following this example, it would be unfair for the process to be held hostage due to a number of benchmarks to be fulfilled. But, on the other side the concern of EU member states, consisting in exercise of influence for the proper implementation of reforms until the lifting of visa regime and not after this moment, is understandable.

For the Albanian society that for the two past decades has experienced various dangerous forms of illegal migration, often resulting in putting lives at risk, the effects of visa liberalization will be psychological. As the Macedonian Foreign Affairs Minister,

Milosovski stated, having in mind its country's experiences "even if the citizens do not really travel abroad, the mere fact that they just can, makes them feel better"²¹.

This reality, along with the sense of lagging behind in comparison with its neighbouring countries, increases the pressure on Albanian institutions to engage in every aspect in achieving quicker visa liberalization. Besides the commitment to meeting technical aspects of the visa liberalization process, the Albanian institutions have to do a better job than the neighbours to change the country's image and to convince the most sceptical in the process that Albania does not constitute an increased risk of organized crime or mass migration in the European space.

Even though different national and European institutions adamantly defend the idea that the process is simply technical, Albania should not underestimate the element of lobbying in favour of its cause. Beyond efforts to meet the standards from a technical point of view, "Albania and in particular its diplomats should work more on the political aspects of the process as a whole, especially to persuade those member states which have more weight in decision making such as France and Germany. It is important for Albania to do so, because beyond its technical aspects, the process of visa liberalization is also a matter of perception and image of the country"²².

Beyond the somewhat speculative propaganda of a number of Albanian politicians, a more realistic prediction would be that the European Commission decides that some standards still remain to be achieved, especially at the level of implementation of legal framework, thus making by the end of April, a positive but conditioned rating. In this case, the Commission will be expected to present the European Parliament and Council of Ministers of EU, with the proposal to lift visa regime with Albania and Bosnia-Herzegovina during May. Given the current situation, it appears that the Commission will ask the two countries to meet some "outstanding benchmarks", so far being just on paper²³. This is the same procedure that the European Commission adopted in the case of Montenegro and Serbia.

²¹ From the speech of Macedonian Foreign Affairs Minister addressed at the Albanian Diplomacy Academy, Albanian Ministry of Foreign Affairs, Tirana, February 8th 2010.

²² Ibid.

²³ From Ms. A. Stiglmeier, Director of the Schengen White List Project, European Stability Initiative, speech addressed at the conference "Visa Liberalisation: What it actually means", Tirana, April 2nd 2010.

This means, of course that the Commission will give these countries a certain time to meet the remaining benchmarks²⁴. Taking into consideration that more progress is required by the Albanian side in areas mainly dealing with the fight against corruption and organized crime and the sensitivity of some EU member states in this regard, Albania is required to totally fulfil the unmet benchmarks, specifically on cases dealing with corruption punishment and confiscation of assets obtained as result of criminal activity.

Thus, the final decision can be taken in autumn. Following the co-decision procedure, the European Parliament, which has clearly shown a distinct proactive approach to this issue, especially by its Rapoteur Tanja Fajon, will be the first institution to take the decision²⁵. The decision-making process will be completed with a vote by the Council of Justice and Home Affairs, which during the second half of 2010 will meet in October, November and December. If the benchmarks are met and a positive decision is taken in the autumn of 2010, it will enter into force after 20 days, thus fulfilling an early aspiration of the citizens of Albania and Bosnia-Herzegovina.

6. Following the lift of visa regime

Apart from insufficient progress in fulfilling security benchmarks embedded in the roadmap, visa liberalisation with Albania also seems to encounter some concerns of EU member states on what might happen as a result of the lifting of visa regime. These concerns relate mainly to the dissatisfaction of the Albanians with the living conditions in their country and their aspirations for long-term immigration in EU countries. Especially after the migration flows of population of Presevo in Serbia and the Albanian part of Macedonia, the idea of abuse from free movement granted by the lift of visa regime is no longer an abstract thought for EU member countries.

But more than a political asylum request, Albanian citizens, or at least some categories and some of the poorest provinces are expected to immigrate to relatives residing in a member country in order to find employment. According to the latest survey conducted by Gallup Balkan Monitor, 64% of Albanians believe that they can find better living

²⁴ Ibid.

²⁵ Ibid.

opportunities outside their country. Albanians also, have the highest percentage of relatives residing abroad (32%) and 38% of them said they would like to live abroad in long terms²⁶.

Misinformation regarding the visa free movement in Schengen area and the lack of concrete plans by the government to develop certain areas or categories so that the citizens won't be tempted by the idea of immigration, should be added to the context of poorness and desire to immigrate.

7. Conclusions and recommendations

An overview upon the process of visa liberalisation helps in objectively and comparatively gauging our country, capacities to achieve advanced standards in given areas and in the meantime to have a strategic vision regarding the future of the integration process towards EU in general.

It is important that Albanian institutions intensify the rhythm of proper fulfilment of all benchmarks embedded in the Roadmap, in order to exploit the timeframe starting with a legislative proposal by the European Commission until the decision of European Parliament and Council of Ministers of EU to lift visa regime enters into force.

Generally, the visa liberalisation process is misused by the Albanian politicians to gain political support amidst the public opinion. Specifically, often they have misinformed the public opinion regarding this issue, thus creating misunderstandings between the concepts of visa free movement for touristic purposes and free movement within EU for employment, studying and permanent residence.

The specific way how the whole process is handled and a bitter reality of a harsh isolation of the Albanian society, has raised high expectations for the visa liberalisation process. Part of the Albanian society simply identifies EU integration process with free movement. The same context can lead, in a near future with the lifting of visa regime, to a decline of support for the EU integration process or to the first signs of euro-

²⁶ Gallup Balkan Monitor, op. cit., pg. 33-34.

scepticism resulting in disappointment from limited employment, that visa free regime holds.

In this regard, the information campaign initiated by the Ministry of Foreign Affairs will help Albanian citizens to create a realistic image and expectations related to the process. It is recommended for the information to clarify as much as possible the limitations of visa free movement as well as sanctions in case of violation of Schengen area regulations. The information should effectively reach those areas of the country with high immigration probability (less developed areas). In this regard, cooperation with civil society actors will give better results.

Focusing in detail on the development process, it can be concluded that generally, this process should be more transparent in terms of documents and reports exchanged between the European Commission and Albania. Also, the involvement of non-governmental actors in the design of reforms and strategies remains limited, which is regrettable, especially if considered that the reforms and the necessary legal framework for liberalization of visa are also priority for the country's democratization and integration in general.

While the EU integration process, which passes through visa liberalisation, intensifies affecting an increasing number of important areas of the country's sovereignty, as well as its democratization and sustainable development, a more opened policy-making with a wider consultation of non-governmental actors present in the country is recommended.

The visa liberalisation issue has positively increased communication and cooperation between state institutions and in the meantime, it has helped to coordinate targets. However, despite increased inter-institutional cooperation, what has slowed the visa liberalisation process is the fact that strategies or reforms remain unimplemented.

Visa liberalization process marks a stage of concrete and rigid conditional cooperation with EU. Only after measurable results are achieved, decision-making process can step further. Albania is recommended to make use of the new practice rising with the visa liberalization process, focusing on the legal framework implementation and keeping low hopes in “generous” and unconditional political decisions by EU. Above all, this

practice should be consolidated and lead to focus on growth and development of our country's democratic standards as a major objective in itself and not as “do the minimum required” acts, functional of different stages of the integration process envisaged by the EU.

In the following months, with the introduction of the Commission's assessment, which is thought to be positive and opening of decision-making within EU about this issue, the process will come to a closure. After that Albanian citizens, along with those of Bosnia and Herzegovina can benefit from visa-free movement within the Schengen area by the end of 2010.

Bearing in mind that Albania should still work to implement the adopted legal framework, the decision to lift the visa regime is most likely to be conditional, where further progress would be expected, especially in areas as fighting corruption, organized crime and trafficking.

While preparing for its citizens to travel without visas within the Schengen area, it is important for Albania to consider increasing its capacities and improving the quality of consular services to its citizens in Schengen area countries.²⁷

The visa regime removal with Albania carries in itself the risk of migration for employment purposes by citizens of some of the country's most underdeveloped areas. Therefore, alongside better information by state authorities on the rights arising from a visa-free regime and the sanctions to be applied in cases of violations of these rights, it is recommended for Albania to build strategies and policies of greater impact in short and medium term economic and social development of the population or economically vulnerable areas, in order to project their lives and European vision in their country.

²⁷ Interview with N. Giordano, Head of Mission, International Organisation for Migration, Tirana, February 8th 2010.