I. Eastern Partnership and Visa Related Issues

In their February meeting, EU foreign ministers embraced the ‘Eastern Partnership’ initiative, presented by the Commission in December. In their March meeting, the Heads of State and Government gave their support to the scheme to tie the eastern neighbors (Armenia, Azerbaijan, Belarus, Georgia, Moldova, Ukraine) closer to the EU. The incremental phasing out of visa requirements has emerged in the discussions as one of the most controversial issues. The ‘Eastern partnership’ is due to be launched on 7 May. Reportedly, Turkey and Russia could be also invited to join.

The relevant communication of the Commission (COM(2008) 823 final) states that: Visa policy would follow a phased approach, leading to visa liberalisation under specific conditions and with accompanying measures, including financial assistance for our partners.

In addition to proposals that have been tabled previously, in the framework of the pacts the EU should:

– As a first step, initiate talks on visa facilitation with partners without such agreements. Visa facilitation agreements would be accompanied by readmission agreements and, where necessary, by technical assistance under overall assistance budgets to help partners meet the obligations stemming from these agreements.

– As a second step, revise these agreements to introduce additional facilitations, e.g waiving the visa fee for all citizens.

– Develop a coordinated plan to improve Member States’ consular coverage in the region by encouraging Member States to make wider use of representation and through financial support for the establishment of Common Visa Application Centres, based on the successful experience in Chisinau.

– Once visa facilitation and readmission agreements are effectively implemented, open dialogues on visa-free travel with all cooperating partners. Dialogues would establish roadmaps leading to visa waiver, dealing with four main blocks of issues: document security; fight against irregular migration, including readmission; public order issues;
and external relation issues, including human rights of migrants and other vulnerable
groups.

- The Commission will launch a study to quantify the costs and benefits for the EU and
  for partners with regard to labour mobility and possible labour-matching measures. Depending
  on the results of the study, the EU would pursue a targeted opening of the EU labour market
to citizens of partners, as well as measures to facilitate circular migration, within the framework
of Mobility Partnerships.

- To ensure that mobility takes place in a secure environment, the EU should also help
  its partners implement the political and legislative commitments they have already
  undertaken in the ENP framework in the justice and law enforcement areas. This
could be done through reinforced technical cooperation and financial assistance,
where the role of twinning projects and TAIEX should be substantially enhanced.

(Please, find the full version at:
http://ec.europa.eu/external_relations/eastern/docs/com08_823_en.pdf)

II. The Second Generation of the Schengen Information System (SIS II)

The SIS II current status was discussed at the informal Council of Ministers for Home
Affairs (15 January) and the formal JHA meeting (26-27 February) (see Communication
on the Development of the Second Generation Schengen Information System (SIS II)
Force (EU doc no: 7789/09, 19.03.09) indicates that despite reducing a number of bugs in
the central SIS II, a number of problems have persisted during the Operational System
Test. In terms of member-states’ preparedness, at the moment (as of 12 March), according
to the report, “[T]here are 7 MS with serious budget problems, 9 MS with serious
problems in resources and 6 MS with serious contract problems. These three elements are
also the top 3 risks for MS participation in the SIS II as well as in the SIS 1+R(evolution)
alternative.”

III. The Commission

The Commission has adopted a revised mechanism for verifying the application of
Schengen rules in the Member States. This mechanism comprises two proposals, reflecting
the changes after the integration of Schengen rules in the EU framework. The new
mechanism enhances the current system of periodic on-the-spot inspections in the
Member states as well as introduces unannounced visits to ensure that the Schengen rules
are applied uniformly at all times (Source: www.eumonitor.net, 05 March 2009).

IV. Proposal for a Council Regulation

Following the circulation of the codification proposal for a Council regulation 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 (codified version)
(COM 2008 761 final, 28.11.2008):, member-states’ delegations sent comments, which
appear in the Document 5930/09, 29 January 2009, sent from the General Secretariat of
the Council to the Council Working Party on the Codification of Legislation.
V. Black Sea Cooperation Platform

Black Sea Cooperation Platform: draft joint statement on the operational cooperation within the platform in the field of migration and development in the Black Sea region, submitted by the Romanian delegation following the meeting of the High Level Working Group on Asylum and Migration on 11 March 2009 (19 March 2009, 7241/1/09).

To address the cross-border co-operation issues arising with the EU enlargement eastwards and to promote dialogue on asylum and irregular migration issues among the countries situated along the EU eastern border, a pro-active initiative ‘The Soderkoping process’ was launched in early 2001. The process encompasses Belarus, Estonia, Hungary, Latvia, Lithuania, Moldova, Poland, Romania, Slovakia, and Ukraine, and is supported by the European Commission (EC), the Swedish Migration Board, the United Nations High Commissioner for Refugees, and the International Organization for Migration.

The Cross-Border Co-operation/Soderkoping Process (CBCP) Secretariat was established in May 2003 by the EC project to act as a service and co-ordination centre on behalf of countries and organisations participating in the Soderkoping process.

VI. Commission Report on Migration


The relevant communication of the commission (SEC (2009) 320 final) states that:

Visa Policy

Regulation (EC) No 1932/2006, adopted by the Council on 21 December 2006, amended Regulation (EC) No 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders of the European Union (negative list), and those whose nationals are exempt from that requirement (positive list). With the illegal immigration situation constituting one of the main considerations, Bolivia was transferred from the positive to the negative list; Antigua and Barbuda, the Bahamas, Barbados, Mauritius, Saint Kitts and Nevis and the Seychelles were transferred from the negative to the positive list. According to the Regulation, the visa waiver for the nationals of these six countries will start to apply as from the date of entry into force of the

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agreements on visa exemption to be concluded with the European Community. The negotiations on visa waiver have been completed with all the six countries and the agreements were initialled in November 2008. Entry into force is foreseen for spring 2009, following the ratification procedures.

The proposal for a Regulation of the European Parliament and of the Council amending the Common Consular Instructions on visas for diplomatic missions and consular posts in relation to the introduction of biometrics including provisions on the organisation of the reception and processing of visa applications was adopted by the Commission on 31 May 2006. This proposal covers on the one hand certain aspects which are not covered by the VIS Regulation, such as the obligation to capture biometric identifiers (i.e. 10 fingerprints and a facial image) from each visa applicant and the definition of categories of visa applicants exempted from this obligation; on the other hand it introduces a legal framework for cooperation between Member States in the organisation of consular services taking into account the introduction of biometrics. The proposal has been under negotiation within the Council and the European Parliament. A compromise text was found at the end of December 2008 so that adoption in early second reading (‘position commune negocié’) will be possible in the first quarter of 2009.

The proposal for a Regulation of the European Parliament and of the Council establishing a Community Code on Visas was adopted by the Commission on 28 July 2006. The purpose of the proposal is to recast all legal instruments governing all decisions in relation to visas and to incorporate them into one Code on Visas, enhancing transparency and clarifying existing rules, introducing measures intended to increase the harmonisation of procedures, and strengthen legal certainty and procedural guarantees; thus, a full common policy with equal treatment of visa applicants is ensured. The proposal also develops certain parts of the current legislation in order to take account of recent developments and new aspects of the visa issuance process and to fill in existing gaps. The proposal is still under negotiation within the Council and the European Parliament.

Visa Information System
On 9 July 2008 Regulation (EC) No 767/2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation) was adopted by the European Parliament and the Council, and on 23 June 2008 a Council Decision concerning access for consultation of the Visa Information System (VIS) by designated authorities of Member States and by Europol for the purposes of the prevention, detection and investigation of terrorist offences and of other serious criminal offences was adopted. As part of the general drive to improve the administration of the common visa policy, consular cooperation and consultation between central consular authorities, the VIS will be an important tool to curb illegal immigration by facilitating the exchange of data between Member States on visa applications and on the decisions relating thereto. With the use of biometrics, the VIS will allow more accurate checks at external border crossing points and within the territory of the Member States. Furthermore it will assist in the identification of any person who may not, or may no longer, fulfil the conditions for entry to and short stay on the territory of the Member States.
During the reporting period covered by this working document the Commission submitted annual progress reports to the Council and the European Parliament regarding the development of VIS.

The VIS detailed technical specifications were finalised in the first quarter of 2008 and the development of the system started immediately afterwards. The first wave of tests (Factory Acceptance Tests) took place between June and August 2008 and was successful; preparations were made for the second wave of tests on the central system (System Solution Tests) and the first tests of the national systems (Compliance Tests), which started in October and December 2008 respectively. The roll-out of a wide area communications network between the National Interface in each Member State and the Central VIS was completed according to schedule before 30 June 2008, to allow the communication of VIS with the national visa systems. In only a few cases, Member States have requested postponement of the network installation due to preparatory work at national level. In this context Commission Decision 2008/602/EC laying down the physical architecture and requirements of the National Interfaces and of the communication infrastructure between the Central VIS and the National Interfaces for the development phase was adopted on 17 June 2008. The network connections between the central and back-up sites were installed in April 2008. Installation of the biometrics component of the system started in mid-2008 and is being extensively tested. In the latter part of 2008, Member States requested new orientations for VIS, adding six months to the VIS planning timetable and pushing the readiness of the system back to December 2009.


VII. Bulgaria’s Schengen Preparations

According to press reports, Bulgaria has not yet been able to absorb EU funding allocated to the country in preparation for joining the Schengen zone. Dnevnik daily reports that in the two previous years, the Bulgarian government has managed to put into use only 1.4% of the allocated funds; indicatively since the beginning of the program in 2007, 9 out of the 11 tenders announced have been suspended. As a result, the 2011 objective for joining Schengen is in jeopardy and delay is possible. EC experts will examine from March to June Bulgaria’s progress. By June, Bulgaria should be ready with biometric data in passports. (Source: www.emportal.co.yu, 12 February 2009).

VIII. Roundtable Discussion on EU-Russia Visa Freedom

The EU-Russia Centre hosted on 13 March a roundtable discussion on the potential for visa freedom between the EU and Russia, illustrating the divergence of views among EU member-states on this issue. The roundtable discussed a report by the Finish Institute of International Relations, entitled “Practice What You Preach”, which maps the positions of five EU member-states (Estonia, Finland, Germany, Italy, and Poland) on the current obstacles for visa abolishment. The report highlights the strong but sometimes
undocumented assumptions, on which visa policy perceptions in these countries are based.

**Recommendations from the FIIA report:**
In the current situation, both visa freedom and tightening the regime are impossible. At the same time, the current visa practices are inadequate and the situation will only deteriorate in the future. As an interim solution, this report advocates further liberalisation in Russia-EU visa relations.

First, based on our assessment, the status of bona fide travelers should be improved. It could be proposed that people with a reliable return record and reputation should be eligible not only for one- and two-year multiple-entry visas, but visas for the duration of the validity of their passports, up to five years. This can only be done on a reciprocal basis. It is enabled by the visa facilitation agreement, but is at the discretion of a visa official and is rarely implemented. More automatic application in this particular aspect of the agreement would improve the situation.

Second, the visa facilitation agreement omits tourists. This category should be of great interest to both entities and the next step towards further liberalisation should be taken to make tourist travel easier. Experiences of this already exist. Russia granted visa-free travel for seventy-two hours for travellers using the services of a certain shipping company. The European Union states could apply a similar practice by naming certain accredited travel agencies through which Russian travellers could stay short term and visa-free in the European Union states, thus following the precedent that Russia has already set for Europe.

The question of visas should be regarded seriously on both sides. Visas play an integral part in building the image of both an individual country and the whole Russia-EU relationship. Standing in long queues outside embassies or being overcharged by visa centres does nothing to facilitate travel or communication. Russia and the EU have set the goal of achieving visa freedom in the long run, and it is regrettable that no one can provide even tentative timeframes for this. The likelihood of further liberalisation on the road to visa freedom cannot be ignored; therefore it is crucial that technical preparations get underway immediately. The readiness of the European external border has been questioned; its external readiness seems to be a matter of pure political will. Provided the political will exists, the required finances will be allocated to start improving the infrastructure at the border crossing points; this would send out a clear signal that the issue is being taken seriously.

The EU needs to start practising what it preaches. It needs to harmonise its visa practices firstly among the Schengen states, while leaning on Russia to achieve openness. Similarly, Russia needs to make its consular sections more approachable and abandon the registration procedures in order to be on a par with the EU.


**IX. Visas for Turkish Lorry Drivers**

The European Court on Justice issued a ruling on the ‘Soysal case’ on 19 February 2009. The case dealt with the rejection from the German authorities of a visa renewal during 2001-2 for lorry drivers working for a Turkish company engaged in international transport between Turkey and Germany, driving lorries registered in Germany. It was
linked with the application of the 1970 Protocol signed between the EC and Turkey that obliges the two sides to refrain from the imposition of further restrictions on the freedom of establishment and the freedom to provide services.

XI. EU-Georgia Visa Regime

Brussels hosted the first round of formal negotiations between Georgia and the EU on simplification of visa regime and readmission. Deputy Foreign Minister David Jalaganiya headed the Georgian delegation at the talks and European Commission Deputy Director General for Common Foreign and Security Policy Karel Kovanda headed the EU delegation. The parties presented their positions on the draft treaty at the meeting and agreed that the second round of talks will be held in Tbilisi on July 4, and consultations will continue until then. (*Source:* Trend News Agency, 03 April 2009).

XII. Ukraine-Georgia

Georgian Deputy Foreign Minister, David Dzhalagania, claimed that the Ukrainian government is considering the possibility of introducing visas in relations with Georgia in response to the activity of Georgian criminals in Ukraine. This claim was denied by the Ukrainian Ministry of Foreign Affairs (*Source:* [http://www.kyivpost.com](http://www.kyivpost.com)).

XIII. Serbia

In April, EU experts will evaluate Serbia’s application of the roadmap to visa liberalization in view of the country’s inclusion in the ‘White Schengen List’ of countries whose citizens do not require visas to enter Schengen zone (*source:* Judith Crosbie in the *European Voice*, 09.02.09). The Head of the EC delegation to Serbia, Josep Lloveras, made clear that Serbia’s visa liberalization process is not linked to that of the other countries in the region and pointed out that the visa area is an example of full harmonization and consensus among the government and opposition (*Source:* [http://www.b92net](http://www.b92net), 20 March 2009).

XIV. Kosovo and Albania

Kosovo and Albania have said they will sign an agreement for the creation of a zone allowing the free movement across their borders within two months. After the two states sign the agreement, their presidents plan to send it to other states in the Balkans, primarily FYROM and Montenegro, as an example of trade liberalisation and integration on their way to the EU. FYROM is already considering the proposal of the presidents of Albania and Kosovo. “The idea for a visa-free regime sounds nice, it is attractive, but since it has just been introduced, we haven’t managed to look into it. We’ll have to ask the judicial experts in the Interior Ministry, to make sure there are no legal impediments,” FYROM’s Vice-Interior Minister Zoran Petrov told the newspaper Vest. In addition to a visa-free regime and travelling through the borders of the four countries without restrictions, the publication wrote that Albania’s and Kosovo’s president propose as well a unified economic and external policy between the four, following the model of the Benelux countries (*Source:* [http://www.balkantravellers.com](http://www.balkantravellers.com)).
XV. Visa Liberalization in the Western Balkans

Experts from Albania, Bulgaria and FYROM presented in Brussels, on 5 March 2009, the main findings and recommendations of a study on EC roadmaps on visa liberalisation in the Western Balkans. The event was attended by representatives of the DG Enlargement, as well as representatives of the Western Balkans missions to the EU. Based on the individual country assessments by partner institutes in Albania, Bosnia and Herzegovina, FYROM, Montenegro, and Serbia, the European Institute prepared a policy brief, with specific recommendations for the European Commission, for the Czech EU Presidency, and for the national governments of the five Western Balkans countries (see the report at http://www.pasos.org).

Brief on Visa Developments is a brief of visa and visa related issues and developments covering the Black Sea region. It is produced by the ICBSS, a think-tank aiming to foster regional cooperation in the Black Sea area.

The contents of the Brief on Visa Developments are exclusive responsibility of the authors and do not necessarily reflect the opinions of the ICBSS.

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