I. Commission Proposal on Visa-free Travel for Citizens of Western Balkans Countries and EP Response

Following the Commission assessments on the progress of the five Western Balkan countries in meeting the visa roadmap requirements, delivered on 18 May (see brief April-June 2009), the European Commission submitted on 15 July its proposal on visa-free travel for citizens of Western Balkans countries, proposing in short:

- visa-free travel for the citizens of FYROM since this country has fulfilled all the conditions listed in the visa roadmap; technically, this should be done by moving Macedonia from the ‘black list’ onto the ‘white list’ annexed to the relevant Council Regulation;

- visa-free travel for the citizens of Serbia and Montenegro on condition that these two countries meet a few remaining conditions by the date of adoption of the proposal by EU member states;

- exclusion from visa-free regime for Serbia of holders of the new Serbian biometric passport who reside in Kosovo and persons whose citizenship certificate has been issued for Kosovo, due to “security concerns regarding in particular the potential for illegal migration from persons residing in Kosovo”; the new passport can be issued to Kosovo residents solely by the Coordination Directorate at the Interior Ministry of Serbia, which will make these passports recognisable;

- formalisation of the existing visa requirement for Kosovo residents by adding Kosovo (under UNSC Resolution 1244/99) to the ‘black list’, under the special category of “entities and territorial authorities that are not recognised as states by at least one member state” (where the Palestinian Authority and Taiwan are also listed);

- no status change for Albania and Bosnia and Herzegovina, which remain on the ‘black list’ since they have not fulfilled all conditions, but the Commission “intends to propose transferring them to the positive list as soon as they have fulfilled the necessary benchmarks”.

On September 16, the Commission presented the proposal at the European Parliament. Earlier on, the EP Foreign Affairs Committee had criticised the partial lift of visa requirements,
stressing the potential risk of regional instability. MEPs argued that it would worsen divisions in the Western Balkans, and would lead to further inequalities among the citizens even within the same country, as Bosnian Serbs and Bosnian Croats, who have dual nationality, will be able to travel freely to the EU, whereas other Bosnians cannot. Further criticism focused on the fact that the EU is leaving the most fragile states out in the cold.

The treatment of Kosovo has also stirred a lot of debate. The EU has preached the value of a multiethnic Kosovo; now, Kosovo Serbs are indirectly urged to get resident status in Serbia – abandoning Kosovo – if they want to have passports that allow them to travel in Europe. The Commission has actually proposed that Serbian passports be issued to residents of Kosovo in a single centre in Belgrade, and that holders of these biometric passports would still be required to obtain a Schengen zone visa. The government of Kosovo has expressed its support for the Commission’s proposal, which confirms that “Kosovo is a sovereign and independent state and the people of Kosovo are citizens of Kosovo” (statement by Deputy Prime Minister Kuqi).

Further announcements on Kosovo’s own visa-liberalisation prospects are expected in late autumn. “The Commission will issue a study on ways and means to further Kosovo’s political and socio-economic development within the framework of the European perspective it shares with the rest of the Western Balkans… Currently, the Commission is reflecting on possible ways how to further simplify the travel conditions for Kosovo” (EU press and information officer Maja Pavlovic, from the EU liaison office in Kosovo). The Slovenian, Social Democrat MEP and newly-appointed EP Rapporteur for visa liberalisation for the Western Balkans, Tanja Fajon, prepared a draft proposal that Kosovo should be included in the Schengen visa liberalisation process, without this move pre-empting policy on the status of Kosovo (24 September).

The European Stability Initiative [www.esi.org], which monitors the progress of the Western Balkan countries, put forward an open letter welcoming current developments but also suggesting two major revisions. First, Kosovo should also receive a visa roadmap. It must be given the opportunity to implement the same far-reaching reforms that the other five Balkan countries have set out to implement and to thus contribute to its own security, as well as to that of the entire region and the whole EU. Once Kosovo meets these conditions, the visa requirement should be abolished. If Kosovo can be placed on the visa “black list” without an EU consensus on its status, then it can also be placed on the “white list” once it meets the necessary technical requirements. The visa liberalisation process should be considered status neutral by the EU. Second, there should be no discrimination against Kosovo residents. In line with the Commission’s proposal, the 3.5 million Serbs living outside Serbia, including the Serbs of Bosnia, will be eligible to receive Serbian passports allowing visa-free travel within the EU. The residents of Kosovo, meanwhile, will not. This will have the unintended consequence of encouraging Kosovo Serbs (and Kosovo Bosniaks) to relocate and take up residence outside of Kosovo – in plain contradiction to the EU’s stated objective of a multiethnic Kosovo.

The JHA Council will decide on the Commission’s proposal at its meeting on 30 November/1 December 2009. The Council will vote by qualified majority, which means that the proposal needs 228 out of 309 votes to pass (Ireland and UK do not vote since they are not full members of Schengen).

The situation of Bosnia-Herzegovina and Albania will be reviewed in mid-2010.
[source: European Stability Initiative]
II. Adoption of New EU Visa Code

The European Council agreed on June 25 to approve common rules on procedures and conditions for issuing short-stay EU visas. The provisions mainly concern transits through or intended stays not exceeding three months in any six-month period, meaning short-term visas. The new regulation establishing a Community Code on Visas (known as the Visa Code) bundles all legal instruments concerning visa decisions, increasing transparency and legal security for applicants. The Code clarifies which EU member state is responsible for processing a visa application and defines the different phases for examination and decision taking; it includes new provisions allowing for multiple-entry visas under certain conditions; it lists the documents required for a visa and the procedures for their verification; it harmonises the fees that can be charged and sets common standards for the service provided.

The regulation enters into force 20 days after its publication and most of its provisions must be applied six months later. As a general rule, applicants must appear in person when lodging an application, submitting a number of documents (application form, valid travel document, photograph, a document indicating the purpose of the journey, proof of sufficient means to cover accommodation and subsistence, proof of travel medical insurance as well as information enabling an assessment of the applicant’s intention to leave the Schengen territory before the expiry of the visa). At the time of submission of the first application, member states should also collect fingerprints and introduce them -along with the photograph- into the Visa Information System (VIS).

The visa fee is set at 60 euro for people 12 and older and 35 euro for children between 6 and 11. For children under six as well as school pupils coming to Europe for study or educational training, researchers and representatives of non-profit organisations under 25 participating in seminars, conferences, sports, cultural or educational events, visas are free. The visa fee may also be waived for children between six and 11. For uniform visas, member state responsible for examining and deciding on an application shall be: a) the one whose territory constitutes the sole destination of the visit; b) if the visit includes more than one destination, the member state whose territory constitutes the main destination of the visit in terms of the length or purpose of stay; c) if no main destination can be determined, the member state whose external border the applicant intends to cross in order to enter Schengen territory.

In justified cases, consulates may call the applicant for an interview and request additional documents. In case of a refusal, member states are obliged to give a motivation of their decision and refused applicants have the right to appeal against the particular member state under its national law. The regulation also allows for the issuing of multiple-entry visas that are valid for six months to five years. Further provisions of the new rules concern cooperation between member states in countries where not all member states have consular representation, Common Application Centres, the use of external service providers and co-operation with commercial intermediaries for the lodging of applications (such as private administrative agencies, transport companies or travel agencies). Other provisions are for a set of general public information; special arrangements in relation to the Olympic Games and Paralympic Games; the collection of statistical data; and for evaluations to be carried out by the European Commission (the first one two years after all provisions are applicable).

The new Code will not affect existing visa facilitation agreements of the EU with other countries. In that respect, the European Commission reinstated in a press release, on July 1, the validity of the EU-Russia visa facilitation agreement that offers more favourable conditions to
Russian citizens travelling to the EU compared to other third countries nationals, including a fixed visa fee of 35 euro.

III. Evaluation of Bulgarian and Romanian Pathways to Schengen Membership

December marks the end of the Schengen programme, launched by the EU for Bulgaria and Romania on their accession in 2007, to facilitate their entry into the zone. The programme includes training programmes for administrative staff and border police and help with providing information systems and issuing standard biometric passports as well as the purchase of specialised vehicles, motor boats, helicopters and surveillance equipment. Both countries form the EU's outer border, highlighting the importance of having them as “non-porous” Schengen members. All the programme’s projects and tenders have to be completed by December 2009 and fulfilled by October 2010, so that the two countries can join in March 2011. This, at least, was the plan in 2007. Two years later, with the deadline fast approaching, the situation is rather worrying.

The Commission presented on 22 July the conclusions of its progress report under the Cooperation and Verification Mechanism (CVM) for the two countries. For Romania, the Commission noted that the country’s authorities had reacted effectively to concerns raised by previous assessments while in the case of Bulgaria “a positive change of attitude” could be seen. For Bulgaria, the Commission set out 21 tasks to be carried out in the coming months, ranging from developing an integrated strategy against organised crime and corruption to publishing all court decisions. In the Romanian case, the to-do list comprised 16 items, from adopting new civil and criminal procedure codes to ensuring that parliamentarians are not excluded from criminal investigations.

However, the Dutch government, in particular, has remained especially critical to the two countries’ Schengen prospects, saying they are still doing too little to tackle corruption and organized crime, and their management of EU funds is inefficient. Furthermore, the Dutch government has identified many shortcomings, including ‘the lack of political will to implement irreversible reforms’, questioning the further transfer of EU funds to the two countries and their overall accession to the Schengen area (03 September). Although the sanctions option was still on the agenda for the Dutch side, the September 15 meeting of EU foreign ministers in Brussels only demanded more results in the two countries’ crime-busting efforts.

- Romania: after an evaluation of the Romanian embassies and consulates in Chisinau and Istanbul with a view to Romania’s accession to the Schengen Area, the conclusions of the EU experts were that Romania could still meet the required visa standards within the current timetable, according to Romanian Foreign Minister Cristian Diaconescu. The evaluation of the consulates is part of a broader verification carried out in several stages, covering police cooperation (March 2009), data protection issues (April), visa issues (June); the maritime, air and land borders are to be checked in September, November and December respectively. [31 July, source: AGERPRES]. Following the criticism of the Dutch government on the Romanian progress, Romania’s Foreign Minister cancelled the planned visit to the Netherlands. “The [Romanian] Ministry of Foreign Affairs considers that the move [of the Dutch government] is unfriendly and inappropriate to the state of relations between the two countries” [source: EurActiv Romania].
- **Bulgaria**: the Director of Bulgarian Border Police was replaced on August 24, allegedly blamed for low absorption rates of EU Schengen funds. Earlier, the Bulgarian Foreign Affairs Minister, Rumiana Jeleva, pledged to speed up the country’s preparations to fully join the Schengen zone within schedule (March 2011), which however remains highly doubtful given especially the delay in the award of a tender to produce biometric passports and lack of progress on the second generation of Schengen Information System (SIS II) (31 August). The Bulgarian intentions were reinstated by Bulgarian Interior Affairs Minister, Tsvetan Tsvetanov, in his meeting with Jacques Barrot, the Justice and Home Affairs Commissioner, on 10 September. The Bulgarian minister has been assured that the Schengen process will not be tied with the Cooperation and Verification Mechanism, a view that has been vocally promoted by some of the harshest critics of Bulgaria in the EU, such as the Netherlands. After the meeting, Tsvetanov said that Bulgaria still had a chance to join the visa-free area in 2011 but that much would depend on the EC’s evaluation of Bulgaria’s progress due to appear in December 2009. One of Tsvetanov’s first statements when he took office, on July 27, had been that the Interior Ministry’s previous leadership had proved slow in preparing the country for Schengen accession, with Bulgaria having absorbed only 31 per cent of funds, just four months ahead of the deadline. His first test was to cope with the Dutch government’s negative reaction requesting the Commission to impose sanctions on Bulgaria and Romania because of the two countries’ unconvincing pace of reforms.

IV. **EU - South Caucasus – Georgia**

The General Affairs and External Relations Council has asked the Commission, on its 15 September meeting, to table proposals regarding the launch of Association Agreements negotiations with the three South Caucasus countries (Georgia, Armenia, and Azerbaijan) in early November. According to the current President of General Affairs and External relations Council, Swedish Minister for Foreign Affairs, Carl Bildt, “[t]he Council unanimously supports the process and looks to the Commission’s proposals. The EU has an important role to play in supporting the region”. This issue will be further discussed in late September and then the meetings of Cooperation Councils between these countries and EU will be held in the margins of General Affairs and External Relations Council on October 26-27. Existing relations between the EU and the three Southern Caucasian countries are currently based on partnership and cooperation agreements, which entered into force in 1999 for an initial period of ten years and are now automatically extended on a yearly basis. [source: General Affairs and External Relations Council, 13028/09]

During talks on August 24-25, in Brussels, an agreement emerged between Georgia and the EU on issues of visa facilitation and readmission with details set to be ironed out at the next Georgia-EU Committee meeting on 23 September. The signing of the agreements is scheduled by the end of 2009. [31 August, source: Trend News]

V. **Belarus – EU Visa Developments**

Slovakia suggests reducing Schengen visa fees for Belarusian citizens (Ambassador Extraordinary and Plenipotentiary of Slovakia to Belarus, Marian Servatka, 26 August); Germany advocates the same proposal (Head of Visa Department of German Embassy in
Belarus, Hildegard Efferts, 4 September). The Belarusian President, Lukashenko, expressed the same expectations on the ground that the accession of Poland and the Baltic states to the Schengen zone significantly restricted the possibility of the Belarusians to maintain contacts with the neighbouring countries. The President underlined that Belarus relies on Lithuania’s assistance as this issue directly affects the relations between the Belarusians and Lithuanians and considerably restrains the development of cultural exchange, tourism and trade. Alexander Lukashenko was glad to state that Belarus and Lithuania manage to address this issue on the bilateral level by creating favourable conditions for crossing the border for the residents of transboundary areas (16 September).

VI. Other Related Developments

i. From July 1st, Norwegian Schengen visas may be issued at the Hungarian Consulate in Istanbul (source: http://www.mfa.gov.hu).

ii. Four new states (Finland, Belgium, Switzerland, and Greece) will join the Chisinau-based Common Visa Issuing Centre, located inside the Hungarian Embassy, at the start of 2010. The Centre already issues Schengen visas for Austria, Denmark, Estonia, Latvia, Slovenia, and Sweden. Croatia and Slovakia are also interested in joining in due time (04 September) (source: Moldovan Ministry of Foreign Affairs).

iii. Senior Ukrainian diplomats have come out on the record stating that the country will formally apply for EU membership in early 2010 (12 September).

iv. Turkey and Armenia issued on 1 September a joint statement, agreeing steps to overcome their bilateral disputes with a view to re-opening their borders that have remained closed since 1993, when Turkey lent support to Azerbaijan in its conflict with Armenia over their Nagorno-Karabakh dispute.

v. Trinidad and Tobago have requested review of visa requirements for their citizens, along the lines of the short-stay visa waiver agreement signed between the European Community and Antigua and Barbuda, The Bahamas, Saint Kitts and Nevis, Mauritius, Barbados and Seychelles on 28 May 2009 (13 August).

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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