European Parliament:
The European Parliament's Committee on Civil Liberties, in its meeting on 19 October, concluded that Albania and Bosnia-Herzegovina have still to catch up with the needed reforms to qualify for a short-stay visa waiver like those given to FYROM, Serbia and Montenegro. The Committee stressed that the visa liberalisation dialogue places all countries on an equal footing, without any discrimination, and that the same criteria should apply to all countries concerned without lowering common standards. The visa liberalization process should serve as a reference for defining relations with the eastern partners, and particularly with Moldova, where, according to the Committee, a significant democratic shift has taken place. The Committee adopted a report on the issue by MEP Tanja Fajon.

During the 12 November sitting, the report was put to a plenary vote. In the discussion, several MEPs suggested adding Albania and Bosnia-Herzegovina to the list of visa-free countries (annex II of the proposal), albeit with a footnote stating that the visa exemption would take effect only after an assessment by the Commission that the countries in question meet all the benchmarks and in accordance with the procedures as provided by the Treaty. However, both countries provisionally remained in annex I (countries whose citizens require a visa). The EP also urged the Commission to start visa dialogue with Kosovo to establish a roadmap for visa facilitation and liberalisation similar to those with the other Western Balkan countries, adding that the visa liberalisation process should serve as a reference for defining relations also with the EU’s eastern partners. The report was adopted with 550 votes in favour, 51 against and 37 abstentions.

Albania and Bosnia-Herzegovina:
In its newest evaluation of the Albanian and Bosnian efforts, the European Stability Initiative (ESI), a Think Tank following closely developments in the Western Balkans and especially the visa liberalisation process, comes to the conclusion that Albania and Bosnia-Herzegovina have achieved significant progress since the last assessment round. This progress was recognised by the EP (see statement attached to the EP Opinion of 12 November 2009), and the Commission. The Commission sent an EU national expert mission to Albania and Bosnia in December 2009, planning to organise the remaining assessment missions in early 2010. Provided that Albania and Bosnia will have met all benchmarks by then, July 2010 emerges as a possible date for the extension of visa-free travel to these two countries.

Council decision to abolish visa requirements for FYROM, Serbia and Montenegro (30 November) (Council Regulation 1244/2009 amending Regulation 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):

On 30 November, the EU Council of Ministers for Interior and Justice has abolished visa requirements for citizens of FYROM, Montenegro, and Serbia, to take effect on 19 December.

Turkey’s negative response (20 December):

In a joint press conference following a meeting of the Reform Monitoring Group (RİG), which consists of the justice minister, the foreign minister, the interior minister, the chief negotiator for EU affairs, and the Turkish Foreign Minister, Ahmet Davutoğlu, called on the EU to extend visa-free travel regime to Turkish citizens as well. He stated, “…it is unacceptable that certain Balkan countries that are in the starting phases of association and which have not begun negotiations have received Schengen privileges, and that Turkey, taking into consideration the level it has reached in EU negotiations, has not”.

In November, a hotline that was set up for Turkish citizens to report difficulties and perceived injustices faced in the process of acquiring Schengen visas, revealed the arbitrariness of EU visa officials when it comes to issuing visas to Turks. The hotline, a joint effort of the Economic Development Foundation (İKV), the Turkish Union of Chambers and Commodity Exchanges (TOBB) and the European Citizen Action Service (ECAS), received 57 complaints in its first two days of going into service.


Article in European Voice criticising the handling of visa issues by member-states’ consulates in Western Balkans (17 December):

[extract] In recent years, the EU has signed visa facilitation agreements with all the countries of the Balkans as well as with Ukraine, Russia and Moldova. Those agreements were supposed to make travel to the Schengen area easier: applying for a visa was to be cheaper and faster. However, officials from these countries complain that the process is not working as designed. European Voice has seen numerous examples from Bosnia and Herzegovina, FYROM, Serbia and Ukraine of embassies of EU member states violating the terms of the agreements. Certain consulates appear routinely to fail to inform students and pensioners that they are eligible for a waiver of the visa fee. While it is impossible for outsiders to know or to prove, it is possible that the fee – €35 – might be pocketed by the consular staff, usually local, who receive applications. Some consulates also appear routinely to demand documents that are not required by the agreements, for example, medical records, including HIV tests. Applicants describe such demands as “humiliating”. Officials from the countries affected describe such violations as systemic and say that complaints to the European Commission have remained unanswered. A senior government official recalled how staff at a member-state consulate openly solicited a bribe when he applied for a visa for a private trip. Anecdotally, it seems that visa applicants have fairly accurate ideas of what might await them in certain consulates, so they will avoid the Austrian or Spanish consulates and go instead to the consulates of the Netherlands or Denmark, for example. Thus, irregularities at certain consulates are not only a major nuisance for visa applicants; they also shift the burden of processing applications to other countries’ consulates, putting additional strain on the resources of those consulates that fully implement the facilitation agreements. (Travellers are supposed to apply at the consulate of the main, or first, destination, but the rule is easily circumvented in practice.) [author: Toby Vogel]

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II. **Commission Report on Certain Third Countries' Maintenance of Visa Requirements in Breach of the Principle of Reciprocity** (20 October)

The Commission published its fifth report on certain third countries' maintenance of visa requirements in breach of the principle of reciprocity, accompanied by an ad-hoc Report on the re-introduction of the visa requirement by Canada for citizens of the Czech Republic (MEMO/09/466). The Report was based on Council Regulation (EC) No. 851/2005, which introduced a new mechanism building on a system of compulsory notification of cases of non-reciprocity, including steps by the Commission to ensure reciprocity in visa waiver for all EU Member States. Furthermore, it called the Commission to issue reports on that issue, possibly together with proposals for a temporary reintroduction of the visa obligation for the nationals of the third countries concerned. The new mechanism also includes a joint Council/Commission declaration, which refers to the possibility of applying to the third country or countries concerned other provisional measures, particularly in political, economic or commercial fields. The first Commission report was adopted on 10 January 2006, the second on 3 October 2006, the third on 13 September 2007 and the fourth on 23 July 2008. These reports describe the steps taken by the Commission towards the third countries notified by the Member States in relation with non-reciprocity situations and gives information about their results.

III. **Stockholm Programme–An Open and Secure Europe Serving and Protecting the Citizens** (2 December)

The Programme was discussed at the meeting of Justice and Home Affairs Council (30 November and 1 December) and following revisions was submitted at and approved by the December European Council. The programme defines strategic guidelines for legislative and operational planning within the area of freedom, security and justice. On visa issues, in particular, it is stated (p.58):

"The European Council believes that the entry into force of the Visa Code and the gradual roll-out of the VIS will create important new opportunities for further developing the common visa policy. That visa policy must also be part of a broader vision that takes account of relevant internal and external policy concerns. The European Council therefore encourages the Commission and Member States to take advantage of these developments in order to intensify regional consular cooperation by means of regional consular cooperation programmes which could include, in particular, the establishment of common visa application centres where necessary on a voluntary basis.

The European Council also invites:

- the Commission and Council to continue to explore the possibilities created by the conclusion of visa facilitation agreements with third countries in appropriate cases,
- the Commission to keep the list of third countries whose nationals are or are not subject to a visa requirement under regular review in accordance with appropriate criteria relating e.g. to illegal immigration, public policy and security, which take account of the Union’s internal and external policy objectives,
- the Commission to strengthen its efforts to ensure the principle of visa reciprocity and prevent the (re)introduction of visa requirements by third countries towards any Member State and to identify measures which could be used prior to imposing the visa reciprocity mechanism towards those third countries."
The European Council, with a view to creating the possibility of moving to a new stage in the development of the common visa policy, while taking account of Member States competences in this area, invites the Commission to present a study on the possibility of establishing a common European issuing mechanism for short term visas. The study could also examine to what degree an assessment of individual risk could supplement the presumption of risk associated with the applicant’s nationality.”

IV. EP Resolution on Progress of SIS II and VIS (22 October 2009)

On 22 October, the EP adopted a resolution on the progress of the Schengen Information System II (SIS II) and the Visa Information System (VIS). In it, among others, the EP:

- stressed the fact that the establishment of SIS II still remains a priority for the Parliament and that it should be operational as soon as possible, introducing several improvements and new functionalities, as foreseen in the legal basis;
- expressed deep concern at the delays in the start of operations of both the SIS II and the VIS systems, asking for information about the results of the technical milestone 1 test, due to take place on 22 December 2009, immediately after its completion;
- called for full transparency as regards the implementation process, also concerning the financial aspects, and asks to be informed, as co-legislator, whether the so-called milestone 1 and 2 tests are still within the scope of the present SIS II development contract or whether they will have to be treated as additional requirements, and what extra costs are envisaged in that case;
- urged the Commission and the Member States to avoid through concerted and coordinated efforts the scenario that happened in connection with the development of the SIS II being repeated in relation to the VIS;
- asked the Council and the Commission to give a reasoned explanation of the grounds on which they continue to have confidence in the current contractor and in its ability to take the VIS and SIS II systems forward successfully and without further delays;
- called the Commission to clarify whether any cancellation of the contract will automatically lead, in the case of the SIS II project, to the back-up or contingency solution being implemented, and to outline the possible effects on the VIS project;
- instructed its relevant committee to monitor this issue closely and to prepare a follow-up resolution for plenary as soon as new developments warrant it, and at the latest after the completion of the milestone 1 test.

V. ECJ Ruling: the Schengen Convention and Borders Code Do not Oblige Member States to Expel Third-Country Nationals Who Do not Meet Applicable Conditions for Stays on its Territory (22 October)

According to a preliminary ruling of the European Court of Justice, the Schengen Convention and Borders Code do not oblige member states to expel third-country nationals who do not meet applicable conditions for stays on its territory. This ruling came in response to a request by the Tribunal Superior de Justicia de Murcia (High Court of Justice of Murcia - rulings in joined Cases C-261/08 and C-348/08).
The ECJ points out that the Schengen Border Code (and, until 13 October 2006, the Convention Implementing the Schengen Agreement, or CISA) establishes a presumption whereby, if the travel document of a third-country national does not bear an entry stamp, the competent national authorities may presume that the person does not meet or no longer meets the conditions for duration of stay applicable in the member state concerned. If the foreigner concerned cannot prove that these conditions have been respected, the two texts provide that the competent authorities may expel the third-country national from the member state’s territory. The court begins by signalling a discrepancy between the Spanish version of the Schengen Border Code and the other language versions, in that the Spanish text imposes the obligation of expulsion from Spanish territory if the presumption is not rebutted, whereas in all the other language versions expulsion is an option for the national authorities. As a result, the court concludes that this discrepancy is due to a translation error and that it was not the legislator’s intention to oblige member states to expel third-country nationals who fail to rebut the presumption, but simply to give them the possibility to do so.


VI. 1st Eastern Partnership Foreign Ministers Meeting (Brussels, 8 December)

In their first meeting, the foreign ministers of 27 Member States, Armenia, Azerbaijan, Belarus, Georgia, Republic of Moldova and Ukraine, as well as representatives of EU institutions took note of the progress made on both the bilateral and the multilateral tracks of the Eastern Partnership (EaP) and endorsed the Work Programmes for 2010 elaborated by the multilateral platforms. Bilateral work on further deepening of relations is advancing well, with 2010 likely to see negotiations with five EaP partner countries on association agreements.

According to Commissioner Benita Ferrero-Waldner, “...the Eastern Partnership with its bilateral and multilateral components answers the aspirations of all Eastern Partnership countries to come closer to the European Union, both politically and economically. Bilaterally the Eastern Partnership offers deeper relations according to partner’s needs and ambitions, i.e. through new Association Agreements (for those partners that have made sufficient progress towards democracy, the rule of law, respect for human rights and principles of market economy, sustainable development and good governance). Currently, negotiations with Ukraine are ongoing; talks with Republic of Moldova will start in the beginning of 2010 and final work on negotiation mandates for Caucus countries is also ongoing...The EU recognizes the aim of increased mobility for citizens of partner countries. Visa facilitation and readmission agreements are the necessary first step in a gradual process towards full visa liberalization, which is a long term goal. Visa dialogues address the individual situation and needs of each partner country on a case by case basis...”

VII. EU-Russia Relations

EU-Russia meeting preparing the November Summit (Brussels, 19 October):

The Russian Foreign Minister, Sergei Lavrov, urged the EU to say when it would allow Russians visa-free travel to member countries. The response of the EU External Relations Commissioner Benita Ferrero-Waldner was that consensus on the issue within the EU is unlikely in the short or medium term. “We [have] always said that visa-free travel is, of course, a long-term perspective,” Ferrero-Waldner said. “This was particularly mentioned [today] because we need of course also always a close mandate [to proceed with negotiations] and a close agreement of all the member states”. Several EU member states believe the issue of
visa-free travel for Russians, which holds great symbolic importance for the Kremlin, represents one of the EU’s best levers for dealing with Moscow.


**EP resolution in view of the EU-Russia Summit (12 November):**

The EP “…notes with interest the ongoing dialogue between the European Union and Russia on further visa liberalisation; calls for further cooperation on illegal immigration, improved controls at cross-border checkpoints and information exchange on terrorism and organised crime; emphasises that the Council and Commission must ensure that Russia complies with all the conditions set out in any negotiated agreement on the abolition of visas for travel between the two sides, so as to prevent any breach of security in Europe; stresses, in this context, the importance of people-to-people contacts and their beneficial effect on the development of EU-Russia relations”.

**EU-Russia Summit: Launch of Cross-Border Cooperation Programmes with Russia in the framework of the European Neighbourhood and Partnership Instrument (ENPI) (18 November):**

At the EU-Russia Summit, Commissioner for External Relations, Benita Ferrero-Waldner, and the Russian Minister for Regional Development, Viktor Basargin, signed the Financing Agreements for five cross-border co-operation programmes (CBC). These financing agreements are central to the implementation of cooperation programmes between the border regions of EU and Russia. The programmes have a total budget of approximately €437 million until 2013, and are funded by different sources: European Commission (€267 mio), Member States (€67 mio) and the Russian Federation (€103 mio). The co-financing confirms the spirit of partnership at the core of the European Neighbourhood and Partnership Instrument (ENPI).

According to the Commissioner Ferrero-Waldner, “…the CBC programmes with Russia will allow the regions on both sides of the border to intensify co-operation in the areas of common interest that have been jointly identified. The border regions will jointly promote economic and social development, address common environmental challenges and ensure efficient and secure borders. Direct people-to-people contact is an essential element of these programmes, so joint actions in areas as education, culture, civil society are a central component. I am convinced that the CBC programmes will bring tangible benefits to people in the regions on both sides of the EU border”.

The innovative character of this kind of cooperation lies in its balanced partnership: for the first time partner countries and EU member states apply a single set of implementing rules, share one single budget and take decisions together within a common management structure. Common needs are identified by local partners on both sides of the border for activities that are most relevant to their local situation, creating an approach from the bottom and according to real needs. The programmes involving Russia are:

"Kolarctic-Russia" (Sweden Finland, Norway, Russia) – €70.48 mio

"Karelia-Russia" (Finland, Russia) – €46.40 mio

"South East Finland-Russia" (Finland, Russia) – €72.36 mio

"Estonia-Latvia-Russia" – €73.08 mio

"Lithuania-Poland-Russia" (the Kaliningrad programme) – €176.13 mio
Public Statements of Russia’s EU envoy and Javier Solana on Visa Issues (18 November):

According to Russia’s EU envoy, Vladimir Chizhov, the introduction of visa-free travel between Russia and the European Union is being hampered by a “considerable political component” in the talks. In an interview with the Rossiiskaya Gazeta government daily, he recalled that while serving as European Commission president in 1999-2004, Romano Prodi said visas would have been scrapped by 2008. “It is 2009 now... Obviously, this has something to do with various positions of EU member countries,” Chizhov said. He said it had taken the republics of former Yugoslavia several months to complete all bureaucratic procedures to have visas scrapped with the EU from January 1, 2010. “This means there is a considerable political component to the problem... But we will continue working actively in this direction,” he told the paper.

On the eve of the EU-Russia summit, Javier Solana said that the visa issue could not be swiftly resolved as it was tied up in the ongoing discussion on a new cooperation agreement between Russia and the EU. The previous agreement has been temporarily kept in force since it expired two years ago, and a seventh round of negotiations on a fresh deal is due in December.


Italy may propose visa-free EU travel for Russia in 2010 (9 December):

The Italian foreign minister, Franco Frattini, expressed support for visa-free travel to the EU for Russians, in an interview with Russia Today television, expressing his view that Italy could propose such a visa-free regime with Russia within 2010. The Italian foreign minister said in the future that issues would be settled by a majority vote and it would be impossible for any single EU member to block any decision, as is currently the rule. “I am sure there will be enough of a majority to get a visa-free regime for Russians in 2010”, Frattini told RT.


EU-Russia Permanent Partnership Council (Areas of Freedom, Security and Justice) (Stockholm, 2 December):

The eleventh meeting of the EU-Russia Permanent Partnership Council (PPC) on Freedom, Security and Justice was held on 2 December 2009 in Stockholm. The participants reviewed the state of play of the implementation of the EU-Russia Roadmap on the Common Space of Freedom, Security and Justice and reiterated their commitment to continue close cooperation on implementation of all its provisions. The participants decided, among others, to:

- continue to work towards the full implementation of the EC-Russia visa facilitation and readmission agreements in the two joint monitoring committees, which work in a constructive atmosphere, while expressing their overall satisfaction with the implementation of these agreements;

- discuss possible amendments to the EC-Russia visa facilitation agreement with a view to ensuring further mutual travel facilitations for EU and Russian citizens, and in this context consider ways of travel facilitations for residents of the Kaliningrad region, while looking forward to negotiating and concluding local border traffic agreements between the Russian Federation and interested neighbouring EU Member States;

- lend their support for the swift negotiation and conclusion of bilateral implementing protocols to the readmission agreement between EU Member States concerned and the Russian Federation;

- look forward to the Senior Officials’ report on the EU-Russia Visa Dialogue and task them to move forward on outstanding issues by the next PPC.
VIII. **Denmark-Russia**

On 26 October, the governments of Denmark and Russia signed a bilateral agreement to facilitate visa issuance for citizens of both nations. The agreement will remove the need for visas for citizens with diplomatic passports and simplify documentation requirements for the issuance of visas. It will also be possible for citizens of Denmark and Russia to receive long-term multiple-entry visas. In addition, the terms of the agreement mean that the length of time to process a visa can be no longer than 30 days. The agreement entered into effect in October of 2009.


IX. **Bulgaria: Introduction of Biometric Data but Ex-Interior Minister Pessimistic about Schengen Entry**

Foreigners who apply for a Bulgarian visa will have to provide biometric data as of early 2010. The changes to the Foreigners Act, approved by the Government on October 28, were in line with Schengen requirements, being part of Bulgaria’s preparation to join the Schengen area and the future connection between the Bulgarian and the EU visa information systems. The new system was expected to be operational at the beginning of 2010.

However, despite these efforts, Bulgaria’s former Interior Minister, Mihail Mikov, believes that the new Ministry budget is not adequate to ensure the country’s Schengen entry. In an interview to the Bulgarian National Radio (BNR), on 1 December, he was adamant that the Schengen zone entry plan cannot be carried out only with the amount of money allocated through the EU “Schengen Facility” programme even if 100% of those funds are absorbed by Bulgaria. He added that the country needs to provide additional own funds at least equaling this amount.


X. **EU-Belarus**

A request by Belarus for a simplification of visa regime was actively supported by the Foreign Ministers of Poland, Lithuania, and Latvia. The request aimed to halve the visa cost and facilitate visa issuance and was discussed at the first ministerial session of EU Eastern Partnership initiative in Brussels, on 8 December. The Lithuanian Minister, Vygaudas Ušackas, urged the EU to end the discriminatory policy towards the Belarusian citizens, who have to pay for a Schengen visa twice as much as citizens from other Eastern Partnership countries.


XI. **EU-South Caucasus**

According to Hans Gunnar Aden, the Ambassador of Sweden for Armenia, Azerbaijan and Georgia, the Commission is negotiating an Association Agreement with Armenia, Azerbaijan and Georgia. Discussions on relaxation of visa regime with Armenia, as one of the Eastern Partnership components, have already started following the tracks of the EU visa regime policy with FYROM, Serbia and Montenegro (11 December).

XII. EU-Ukraine Summit (Kiev, 4 December)

In their joint statement (17145/09), the leaders of the EU and Ukraine welcomed the progress in the implementation of the Ukraine-EU visa facilitation scheme, looking forward to the continuation of the discussions on the Visa Facilitation Agreement in the competent Joint Committee in spring 2010. They reinstated their objective to establish a visa free regime as a long term perspective and endorsed the proposal to move to a structured visa dialogue focused on sequenced priorities of action and recommendations to the Ukrainian authorities.

**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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