

Campaign Issue Policy Brief:

What BiH politicians intend to do in order to obtain liberalization and subsequent abolishment of the Schengen visa regime for all citizens of BiH?

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INTRODUCTION

Right to freedom of movement is one of the basic human rights. It is impossible to establish a stable and open society without free movement of people, flow of information and ideas. In addition, the transfer of knowledge and technology in connection with trade and investment has fostered economic growth in developing countries. One of the most important tasks for a government is to provide an opportunity to its citizens to travel abroad without restriction.

Liberalization and subsequent abolishment of the Schengen visa regime for all BiH citizens¹ is a very important topic and it is expected to play a crucial role during the election campaign. Considering that politicians were manipulating with this issue in the past, it is likely that the citizens of BiH will want to see more effective actions and results regarding visa abolishment.

In order to achieve this goal, it is necessary to meet specific EU requirements and to accomplish all required tasks, including the legal and institutional arrangements. Although there is no precise list for determining what conditions a certain country has to meet before the visa regime can be abolished, there are still certain indicators. The most important ones are: signing re-admission agreements with all European countries, establishing efficient border control and security of the personnel and travel documents, as well as improving and implementing the existing laws on migration and asylum, which have to be in accordance with European standards.

This policy brief is designed to invite stakeholders during the coming election campaign to present their action programs in order to promptly lessen, liberalize and further more abolish the visa regime during their possible mandates.

Among many existing requirements, the following are considered to be presented for the discussion between political parties during the election campaign.

¹ Bosnia and Herzegovina is listed in the so-called Annex I, the (un)popular "Black List" of the Schengen Agreement

1. BORDER SECURITY

Strength and efficiency of the border control in Bosnia and Herzegovina is of the crucial importance for reduction of crime levels and improvement of security in BiH and the EU. The government authorities of B&H need to find better ways of managing the country's borders in order to combat illegal immigration and efficiently deal with visa overstays and asylum seekers. The challenge they face is multifaceted and the security issue needs to be continually improved. The issues of human trafficking, drug smuggling and trade-in-stolen-cars are just some of the problems that have to be tackled.

In order to strengthen the B&H border control, there is a need to enhance all entry points in the country with adequate infrastructure, technical equipment and human resources. In certain cases, it is necessary to develop the existing and purchase additional technical equipment, and to provide training to the experienced and skilled authorities (consular staff, border guards and migration authorities). Furthermore, B&H does not have any central and unified database on the entry and exit information for the aliens and foreign citizens. This database should have been established by June 2005, although it is still not functioning. At present, there is no existing method to verify the length of stay for any given foreigner in the country. This creates a big space for manipulation and opens a possibility for the foreigner to illegally extend his/her stay in the country.

Analysis of the current situation

The surveillance, control and protection of state borders, in accordance with the constitutional bindings is formalized through the Law of State border service of B&H, the Law on Movement and Stay of Aliens and Asylum, and also through the accepted entity regulations for the movement inside the border belt.

The issue of necessity for the State Border Service (SBS) in Bosnia and Herzegovina was raised for the first time at the Peace Implementation Council (PIC) in Bonn, in December 1997.

In accordance to the Annex 10 of Dayton Agreement, the High Representative imposed the Law of State border service on January 13th 2000. The State Border Service (SBS) is still not fully staffed, its deployment is not complete and the operational capacities remain constrained by financial and technical weaknesses.

Retrospective on the Budget Resources foreseen for the purchase of State Border Service equipment in 2004, 2005 and 2006.

Considering the importance of adequate technical equipment, which is an important segment of good functioning of the SBS offices on the local as well as on regional and central levels, certain weaknesses should be emphasized. These are: non-existence or very low assignment of the Budget

Resources for purchasing the SBS equipment and the lack of organized information system related to the data protection and control on the state level.

Analysis of the planned and actual budget for purchasing the SBS equipment shows a disproportion between the requested and the approved budget. The SBS requested, in its Budget Proposal for 2004, 1,246 000 KM for purchasing of the equipment. Nevertheless, the Ministry of Finance and Treasury did not approve such a proposal, and the SBS remained without any financial resources for the equipment purchasing during 2004. In the meantime, the Ministry of Finance and Treasury approved the renewal of expenditures that increased the budget for "employees' salaries" with the total amount of 220,936 KM, which is not entirely in accordance to the Law. Furthermore, this caused a slowdown of the European standard implementation process related to the supervision and control of the border transitions.

In analyzing the planned, approved and actual budget in 2005 we observed a vast disproportion between the requested budget (63,660,436 KM) and the approved budget (49,285,324 KM). In 2005, the SBS requested 3,800,000 KM for purchasing equipment. However, this was revised and the SBS received the modest amount of 500,000 KM for this purpose. In 2005, the approved resources were used to supply the SBS employees with clothing (jackets, shirts, trousers, shoes and socks). In addition, it is obvious that during the same year the SBS did not purchase any professional technical equipment for the border control.

In 2006, the SBS received 1,500,000 KM from its Budget in order to purchase equipment. These means could satisfy only the basic needs and they are not enough for the SBS to supply itself with the highly sophisticated equipment that is necessary for the proper work.

In summary, during 2005 and 2006 the SBS requested a budget for purchasing the equipment in the amount over 5,000,000 KM, but the total approved budget was 2,000,000 (mainly used for purchase of clothing). This increased the risk of the SBS not functioning properly. It is also important to emphasize that the SBS obtained most of its equipment through donations.

The SBS has organized an Information System, which is not fully established in accordance with the project plan and strategic development. The reason for this is due to the lack of financial means. Considering the fact that the SBS is territorially widespread organization with the terrain offices and border units, it needs significant financial support in order to establish an organized and centralized Information System. Although, the SBS requested such financial support, the same was not approved during the past years.

Questions

1. How do the B&H politicians prioritize this issue to directly benefit its citizens and specifically in regard to the other challenges in B&H? 2. Is an increase in expenditures on the border safety more important than the increases in government expenditure on economy, infrastructure, and social

expenditures? 3. How do the politicians plan to ensure a necessary financial means to develop and install an adequate data system for monitoring the entrance and exit of foreign citizens at all the international checkpoints, and training the officials in its use?

2. ESTABLISHMENT OF THE CENTER FOR ACCEPTANCE OF THE ILLEGAL IMMIGRANTS AND ASYLUM SEEKERS

Besides securing the borders, the other requirement for changing the visa regime for B&H is the full implementation of the Law on Movement and Stay of Aliens and Asylum of BiH and amending the parts in accordance to the EU/Schengen acquis. The Law on Movement and Stay of Aliens and Asylum of B&H was put into the force on October 14th 2003, but it is still not completely implemented. One of the main problems in terms of the implementation of the Law on Movement and Stay of Aliens and Asylum in B&H is a lack of the Centre for Acceptance of the Illegal Immigrants and Asylum Seekers. The Centre has not been established mainly because of the insufficient financial support, but also because of a lack of competent human resources. This results in the country being incapable of implementing its own decisions on a temporary accommodation and deportation, and also incapable of implementing the readmission agreements signed with other EU member states.

Analysis of the current situation

At the recommendation of the Ministry of Security, the Council of Ministers of Bosnia and Herzegovina is responsible for defining the Centre for Acceptance of the Illegal Immigrants and Asylum Seekers. It is also responsible for prescribing a model for its administration, funding conditions, operational standards and other requirements stemming from the Law and international standards.

In the frame of CARDS project, B&H is planning to build an accommodation Centre, which will be in accordance to the standards of the European Union, and right now an establishment of such Centre is in a phase of preparing the documentation for the start of the work. For now, there is a temporary solution - a small montage house, which has to be built this year and which intends to be a part of the real centre once this one is built.

The minimally recommended physical conditions that should be in place are: accommodation facilities for the immigrants and asylum-seekers with adequate standards, registration facilities, interview facilities and an archive for file management.

In the process of establishing such a centre, the B&H government together with its partners will also have to provide answers to many questions that are reflecting the EU conditions and standards. Some

of these are: What is a layout of the building – showers/toilets, accommodation for residents, staff accommodation, play area, kitchen?; What permits are necessary to provide the location?; What are the security requirements? The Ministry of Security of B&H will face many challenges in the process of establishment of the Centre for immigrants and asylum seekers.

Questions:

1. Do they have any ideas on how to secure needed financial means and human resources to fulfill this EU requirement and subsequently operate the Centre? 2. How could the MoS be successful in its work with a great lack of employees and lack of financial resources for new employment and trainings of the already employed people and eventually new staff?

3. IMPROVEMENT OF THE RELATION AND COOPERATION BETWEEN THE MINISTRIES AND AGENCIES DEALING WITH ISSUES OF LIBERALIZING THE VISA REGIME

A very important issue is a (non)existing cooperation and coordination between different B&H institutions dealing with the issues of liberalizing the visa regime and the B&H border safety. At present, the coordination between institutions or direct channels of communication exists. However, this coordination is rather weak and represents a good base for manipulation, especially at the border control points and in regards to the entry of foreigners into the country. If the Ministry of Foreign Affairs and State border control service, as well as the Agency for investigation, is not coordinated well, then the cases of illegal entrance into the country is possible. It is also indicated that there is no clearly defined competencies of the different institutions. This often leads to overlapping and ineffective actions undertaken by a single institution. The efficiency of actions undertaken is considerably jeopardized by lack of direct communication and cooperation between the government bodies and institutions (the Ministry of Foreign Affairs, the Ministry of Security BiH, State border control - DGS, SIPA). Lack of full implementation of the existing laws and their improvement makes confusion in regards to the clearly defined responsibilities of the institutions in-charge.

Analysis of the current situation

“The Law of Ministries and other B&H administration bodies” was adopted and came into the effect during 2003. Firstly, its title indicates that the Ministries and other B&H administrative organisations are established with this law. In the text of the Law, Article 14, it is stated that the Ministry of Security is competent for protection of the international borders, the internal border crossings and the regulation of B&H border crossings traffic. Also, this Ministry is competent for the implementation of

immigration and asylum politics, and arrangement of procedures related to foreigners' movement and stay in B&H.

Secondly, this law has extreme shortcomings regarding the question of cooperation between the Ministry of Foreign Affairs and the Ministry of Security, both of which have an impact on the international border protection and the internal border crossings, as well as the implementation of immigration and asylum politics. For example, "The Law of Ministries and other B&H administration bodies" has no article regarding the cooperation of these two Ministries on the mentioned issues.

The Law states that the independently operational SBS, as an administrative organisation, constitutes part of the Ministry of Security. The B&H's SBS is established according to the SBS Law as a SBS body under the authority of B&H, while its functioning is to execute police activities related to the supervision and control of the border crossings and airport security. The SBS, with its headquarters in Sarajevo, is structured to ensure coordination of all activities on the central, regional and local level; to ensure special services within its competence as well as the safe exchange of information between the Units on central, regional and local levels.

Questions:

1. How do the B&H politicians plan to secure better cooperation between different institutions dealing with the visa and border security issues? 2. How do they intend to define the competencies of institutions to avoid overlapping and extensive budget expenditures?

4. INTRODUCTION OF BIOMETRIC PASSPORTS

As part of the international drive for greater security at the border control, the ICAO² has recommended the introduction of biometric identifiers on machine-readable travel documents (MRTD).

The development of more secure travel documents has been an integral part of preventing illegal immigration and combating organized crime, while greatly facilitating legitimate travel. Following the September 11 terrorist attacks, the US government emphasized the need for "biometrics identifiers" as the essential component of travel documentation, specifically for those participating in the Visa Waiver Programme³.

² The International Civil Aviation Organization (ICAO), an arm of the United Nations, sets nonbinding passport standards which are internationally recognized. Individual countries take these standards into consideration when developing their own passports. It was established in 1947 for the purpose of reducing friction and promoting cooperation in international travel.

³ Allows travelers from any member country to travel to another member country for up to 90 days without obtaining a visa (Members: Andorra, Austria, Australia, Belgium, Brunei, Denmark, Finland, France, Germany, Iceland, Ireland, Italy, Japan, Liechtenstein, Luxembourg, Monaco, Netherlands, New Zealand, Norway, Portugal, San Marino, Singapore, Slovenia, Spain, Sweden, Switzerland, and the United Kingdom (for citizens with the unrestricted right of permanent abode in England, Scotland, Wales, Northern Ireland, the Channel Islands and the Isle of Man).

The introduction of based biometric scans in passport will make these documents more secure against forgery and fraudulent use. Better protection against counterfeiting and falsification through chips and electronic signatures as an additional security feature makes it more difficult for people other than the actual holders to use authentic passports fraudulently:

Biometrics is a means of identifying a person by biological features unique to an individual, using an advance computerized recognition techniques. This makes possible a rapid comparison, either one-to-one with the person and document, or one-to-many using a database to positively identify an individual.

ICAO has defined what they call the LDS or “logical data structure”, which identifies the fields where biographic and biometric data will be placed on a chip in the ePassport. For example, “Data Group 1” holds the biographic data we typically associate with a passport, such as the name, nationality, and date of birth. “Data Group 2” holds the “global interchange feature”, a compressed facial image that will serve as the universal biometric. The data groups 3 and 4 are intended for fingerprinting and iris biometric images and data, respectively.

Analysis of the current situation

Through the Citizens Identification Protection System (CIPS) project, new identity documents have been introduced in Bosnia and Herzegovina. Within the framework of the CIPS project, B&H is producing secure documents with a view to respond to the international (ICAO) and the EU standards. Siemens Business Services has been commissioned by the Bosnian Ministry of the Interior to implement IT infrastructure for personalisation and issuance of the cards.

Biometric passports or ePassports have lately been mentioned as one additional requirement for liberalizing and abolishing visa requirements for the B&H citizens. Until today, the B&H government did not set the date for the introduction of biometric passports.

Only 9 member states of the EU introduced biometrical passports or are in the process of introducing them. The Commission decided that August 2006 is the timeframe for an implementation of the facial image phase for all EU countries. The second phase is designated for a fingerprints implementation, which Member States will have to store in their newly issued passports 36 months from 28 June 2006, therefore at the latest on 28 June 2009.⁴

Ireland, as a country with the similar number of inhabitant as B&H, has estimated that the cost of introducing the Irish ePassport will be € 8.8 million in 2006.

Questions:

⁴<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/06/872&format=HTML&aged=0&language=EN&guiLanguage=en>

1. How fast will B&H have to move towards introducing and implementing these changes? 2. For countries such as France and Austria, introducing biometric passports will present a huge burden. How is then B&H, as a much poorer country, to cope with these changes, especially when taking into the account its struggling with implementing and financing more simply changes and improvements on the border control? 3. How do the B&H politicians propose to solve this issue? 4. Who will bear the expense of introducing biometric passports and additional equipment for their maintenance? 5. Will B&H citizens be forced to change their passports once more just in order to be able to travel out of the country or in order to be able to obtain visas for EU countries?