



POLICY NOTE

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Visa Liberalization Process in Kosovo: A prologue to achievements, challenges and needs

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Summary Points:

- A. First, a permanent dialogue between the Kosovo authorities and European Union is needed. Due to the visa-free regime effects within individual countries, the general perception however is that EU members states are willing to maintain a degree of direct involvement in this process. That being said, a proactive public diplomacy will help Kosovo avoid the potential delay or rearrangement of the visa dialogue.
- B. Second, apart from the challenges that may be encountered in fulfilling security benchmarks embedded in the roadmap, visa liberalization with Kosovo seems to reflect some concerns of EU member states related to the effects that the lifting of visa regime can have. A well-built asylum policy, an information campaign regarding the visa free movement in Schengen area and a concrete policy orientation is needed to address those challenges.
- C. Third, an important challenge for Kosovo is the border management, especially the demarcation and management of Kosovo's boundary with neighboring countries. The government should negotiate border management and customs cooperation agreements with third countries and implement Integrated Border Management policy with all neighboring countries.
- D. In the end, focusing on the current situation, Kosovo's major challenge is meeting the benchmarks related to public order and security. Due to the nature of issues that are expected to be included in the roadmap, especially those associated to anticorruption, money laundering, trafficking of human beings and narcotics, organized crime, the intensity of the implementation of benchmarks is expected to be more complex when compared to other countries.

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ABOUT GLPS

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Background

The question of admission of Kosovo to the visa-free regime has been marked as an issue of high priority, for both the government as well as for citizens of Kosovo. Among others, as a citizen of a country surrounded by states that are part of visa-free access to the Schengen area caused a feeling of isolation. When the European Union launched the visa liberalization process for Western Balkan countries back in January 2008, Kosovo had not yet declared the independence and was not therefore invited to participate in the process. However, in its Communication on Kosovo of October 2009 the European Commission affirmed that *"Kosovo citizens need to share further in the benefits of EU approximation, including the possibility to travel visa-free in the EU The Commission proposes to move forward with a structured approach to bring Kosovo's citizens closer to the EU through a visa dialogue with the perspective of eventual visa liberalisation when the necessary reforms will have been undertaken."*¹ Besides, in late 2009 the Council of the EU declared that Kosovo should also benefit from the perspective of visa liberalisation provided that it will properly meet the introductory standards. This consensus formula affirmed that twenty-seven EU Member States will act without prejudice to Member States' positions on Kosovo status.²

On the other hand, the government of Kosovo, bearing in mind the wide range of issues relevant for the visa liberalisation and the difficulties of the process decided to prepare a 'unilateral' roadmap based on Western Balkan countries experience. Moreover, it prepared an Action Plan which covered broadly those areas as set out in the 'unilateral' Roadmap and established a working group responsible for coordination and monitoring, and reporting to the Government the

implementation of the Action Plan on the Process of Visa Liberalization with the European Union.³ Moreover, it became clear that the government should fulfil two preconditions set up by the European Commission, namely, readmission and reintegration of citizens.

In December 2010, the Council affirmed *"that Kosovo will also benefit from the perspective of eventual visa liberalisation once all conditions are met... The Council takes note of the recent progress Kosovo made in adopting the legislation on readmission, in devising an Action Plan on reintegration of returnees underpinned with earmarked resources. The Council takes note of the Commission's intention to launch a visa liberalisation dialogue once all conditions are met."*⁴ Finally, the visa liberalisation dialogue between Kosovo and European Union was launched in January 2012, when the European Commissioner for Home Affairs Cecilia Malmström, presented it in Pristina. The aim of this dialogue is to lift the visa obligation for citizens of Kosovo. This will only be possible, however, once the Government of Kosovo has implemented substantial reforms in key areas such as the security of travel documents; border, migration and asylum management; public order and security issues (fight against organised crime and corruption) and fundamental rights issues related to the freedom of movement.⁵

The experience of Western Balkan countries

Visa liberalization means visa-free short term travel to the Schengen area, which involves the territories of twenty-five European countries – 22 EU member states, plus Switzerland, Norway and Iceland and allows visa-free travel for up to 90 days only (every six months). The 2003 Thessaloniki summit can be highlighted as the beginning of the EU Balkan agenda, setting the Balkan integration into the EU as one of the Union's priorities. In addition, Visa

¹ Communication from the Commission to the European Parliament and Council, Brussels, 14 October 2009, available at: http://ec.europa.eu/enlargement/pdf/key_documents/2009/kosovo_study_en.pdf

² Council Conclusion of 7-8/12/2012

³ Decision of the Ministry of Internal Affairs, 22 December 2009, available at : http://www.mpb-ks.org/repository/docs/vendimi_per_grupin_eng.pdf

⁴ Council conclusions on enlargement/stabilisation and association process, 14 December 2010

⁵ European Commission, Press release: <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/12/32>

Facilitation Agreement, which entered into force on January 2008, marked "the first concrete step towards the visa-free regime with the citizens of the Western Balkan countries as determined by the agenda of Thessaloniki"⁶.

Western Balkan Countries were moreover invited to consolidate peace, promote democratic and economic development, fight organized crime, and enhance regional co-operation as a fundamental step toward the European integration. Accordingly, visa facilitation agreements and readmission agreements with Albania, Bosnia and Herzegovina, Macedonia, Montenegro and Serbia entered into force in January 2008. Moreover, the European Commission formulated some requirements that were listed in the so-called "visa roadmaps". In general, the visa roadmaps were almost identical in terms of structure and principles, taking into account the specific situation in each country. The list of requirements ranged from technical issues, such as the issuance of machine-readable passports, adoption and implementation of laws and international conventions, to very broad matters such as, the progress in the fight against organised crime, corruption and illegal migration.

The core meaning of visa dialogue was the continuous inspection/supervision of the European Commission on the fulfilment of roadmap-related criteria. The European Commission monitored the process and continuously assessed the progress of the five Western Balkan countries in meeting the roadmap requirements. In the time of this writing, except Kosovo, all five countries enjoy visa-free travel within Schengen zone. It should be noted that the visa facilitation agreements continue to apply to holders of non-biometric passports.

In the end, the process of visa liberalization showed that comprehensible end-results of direct benefit to citizens, combined with clear reform benchmarks and the positive aspects of regional competition are able to create, through actions of civil society and the media, the imperative

stipulation needed for the successful implementation of even the most difficult reforms.

It started as a unilateral process...

Visa liberalization process marks a stage of concrete and rigid roadmap based communication with EU. So far, the dialogue on the visa liberalisation process for the Western Balkan Countries was followed by the submission of the Roadmap, a set of concrete and measurable criteria in order to achieve a visa free regime. Kosovo at the beginning was excluded from this process; however, EU continuously affirmed that Kosovo has a perspective of visa free movement. In October 2009, the Commission acknowledged a list of pre-conditions that Kosovo had to meet before a visa dialogue is opened, primarily related to "functioning readmission arrangements". It therefore confirmed that *"Kosovo needs to adapt its legislation, strengthen its administrative capacity to process readmission requests and implement an effective reintegration strategy. It also needs to enhance the security of its borders and secure the management of civil registries and the issuance of documents"*.⁷ Moreover, the Commission proposed to move forward through a visa dialogue with the perspective of 'eventual' visa liberalisation only after these necessary reforms are undertaken.

It should however be noted that the Republic of Kosovo took unilateral steps in order to be prepared for all the requirements of the visa liberalization process. To this propose, the Ministry of Internal Affairs prepared a unilateral 'Roadmap on visa liberalization with the European Commission', based on and according to the practices of neighbouring countries roadmaps. This roadmap was approved by the Government of the Republic of Kosovo on the 15 May 2009.⁸ Moreover, the government prepared the Action Plan for Visa Liberalization with the European Union,

⁶ 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.

⁷ Communication from the Commission to the European Parliament and Council, Brussels, October 2009, available at:

http://ec.europa.eu/enlargement/pdf/key_documents/2009/kosovo_study_en.pdf

⁸Visa liberalisation Report: http://www.mpbks.org/repository/docs/Raporti_per_liberalizim_te_vizave%20ENG.pdf

which covers all the broad areas, as set out in the Roadmap, and established a working group responsible for coordination the process.⁹ Here again, based on the other countries experiences, the roadmap towards visa free regime prepared by the government was divided into four blocks, each of which containing a number of requirements to be met by Kosovo authorities, namely, a) the documents security, b) illegal migration including readmission, c) public order and security, and d) external relations and fundamental rights.

After two and a half years, the increase of the security and quality of documents issuance was guaranteed, and the Civil Registration Agency was established. Furthermore, almost all municipal offices of civil status, including local community offices were utilizing the new IT application with access to central database of civil status. On October 2011, Kosovo started issuing biometric passports. With regard to block II (of the Kosovo unilateral roadmap); the law on readmission was adopted. It defines the procedures for verification and return of Kosovo citizens and foreigners who crossed in transit from Kosovo to other countries.¹⁰

In addition, the Government concluded bilateral agreements on readmission with some European countries. On the other hand, the Minister of Internal Affairs and international partners have finalized the Standard Operating Procedures for processing asylum seekers requests.¹¹ Concerning the public order and security, several laws were adopted, such as the Law on Prevention of Money Laundering and Financing of Terrorism, the Law on Preventing and Combating Cyber Crime, Law on Preventing Conflicts of Interest Exercising Public Functions, Law on Declaration, Origin and Control of Property, and the Law on Personal Data Protection.

Challenges in the Visa Dialogue between Kosovo and the European Union

In the meeting held in Brussels on June 30, the European Commission and Kosovo have launched the Structured Dialogue on the Rule of Law. Following the session, Commissioner Füle declared

that "We started the Structured Dialogue on the Rule of Law and at the same time, in the presence of my colleague Cecilia Malmström we have discussed the state of play on the Visa Roadmap. Everything is now set up for Cecilia to present the roadmap formally to Kosovo authorities later in June".¹² The moment that the Kosovo government will receive the Roadmap on Visa Liberalisation marks the beginning of the Kosovo Government to obligation fulfil a fixed set of conditions in order to grant the citizens of Kosovo visa-free travel in the Schengen area.

The implementation of all requirements implies a hard work as well as tough commitment. In general, the process is difficult and complicated. There are, however, several reasons that explain this argument.

First, a permanent dialogue between the Kosovo authorities and European Union is needed. The government should be very active in the diplomatic area as lobbying and advocacy are an integral part of the process. Due to the visa-free regime effects within individual countries, the general perception however is that EU members states are willing to maintain a degree of direct involvement in this process. Therefore, through this process member states ensure both a direct involvement in the process and legitimize the rearrangement of the dialogue according to their own needs and interests. That being said, a proactive public diplomacy will help Kosovo avoid the delay or rearrangement of the visa dialogue.

Second, apart from the challenges that may be encountered in fulfilling security benchmarks embedded in the roadmap, visa liberalization with Kosovo seems to embark some concerns of EU member states related to the effects that the lifting of visa regime can have. That being said, the main argument is that given the current political and economic situation of Kosovo many citizens are expected to immigrate to relatives currently residing in a member country in order to find employment. A well-built asylum policy, an information campaign regarding the visa free movement in Schengen area

⁹ Ibid

¹⁰ Assembly of Republic of Kosovo, Law No.03/L –208, June 2010

¹¹ Government of Kosovo, Visa Liberalization Report

¹² European Commission, Press release, 30 June 2012, available here: <http://europa.eu/rapid/pressReleasesAction.do?reference=M EMO/12/394&format=HTML&aged=0&language=EN&guiLanguage=en>

and a concrete policy orientation is needed to address those challenges.

Third, an important challenge for Kosovo is the border management, especially the demarcation and management of Kosovo's boundary with neighbouring countries. The government should negotiate border management and customs cooperation agreements with third countries and implement Integrated Border Management policy with all neighbouring countries.

In the end, focusing on the current situation, Kosovo's major challenge is meeting the benchmarks related to public order and security. Due to the nature of issues that are expected to be included in the roadmap, especially those related to anticorruption, money laundering, trafficking of human beings and narcotics, organized crime, the intensity of the implementation of benchmarks is to be more complex when compared to other countries. To that aim, Kosovo authorities should, in particular, increase substantially the efforts to fight organized crime. As of other countries experience, it is expected that Kosovo authorities should be required to adopt important laws in the field of confiscation of organized crime assets for fighting against organized crime and corruption. Along with the legal framework, a large number of strategies and action plans should be adopted and implemented. Moreover, in order to meet these criteria Kosovo should ratify the main European and international conventions in the field of extradition, mutual legal assistance and other forms of legal and judicial cooperation. As Kosovo is not part of the European agencies like (EUROPOL and EMCDD)¹³ a specific attention should be devoted to the modalities of cooperation with those institutions, in order to prevent and combat organized crime. To conclude, an efficient implementation of adopted laws must take place, in order to meet the criteria set by EU in the visa liberalisation process.

¹³ European Police Office and European Monitoring Centre for Drugs and Drug Addiction

POLICY NOTES

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