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Kosovo and Visa-free travel regime:

—The increasing EU Member States' scepticism and regional experiences



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KOSOVO AND VISA-FREE TRAVEL REGIME: THE INCREASING EU MEMBER STATES' SCEPTICISM AND REGIONAL EXPERIENCES

Background

June 14, 2012 put an end to Kosovo's prickly path to receiving the European Union's visa liberalisation roadmap, whilst at the same time allowing it to embark on what is expected to be an arduous journey towards visa-free travel in the countries constituting the Schengen area. After five of the Western Balkan states—namely Macedonia, Montenegro, Serbia, Albania, and Bosnia and Herzegovina—witnessed the visa requirements for their citizens abolished in 2009 and 2010, Kosovars remain the last in the region to be subject to the lengthy and costly procedures each and every time they wish to enter one of the Schengen states. With around one-third of its population outside of its borders¹—concentrated primarily on the EU's territory—the ability to move easily has represented a high priority issue for the Kosovo's executive branch. What is more, the restrictions on travel in Europe—a region geographically and culturally closest to Kosovo's people—have led to the emergence of frustration and feelings of being left out and even forgotten by the EU. The isolation, termed by some a 'visa ghetto',² has also added to the number of factors precluding a sound economic development of the country. The presentation and handing over of the roadmap by the European Commissioner Cecilia Malmstrom to Kosovar representatives in June 2012 thus marked an important turning point. Moreover, it helped transform an elusive vision into an attainable objective with more concrete contours in the form of benchmarks, whose fulfilment conditions granting of the visa-free regime to the population of the 'newborn'. Whilst the representatives of Kosovo institutions expressed Kosovo's gratitude and determination to be a 'serious and good partner in the EU integration process' and to 'fulfil all [our] obligations',³ Cecilia Malmstrom reiterated that, 'whether and how soon visa-free travel becomes a reality depends on the government's commitment to implementing [these] difficult reforms on the ground'.⁴

However, the standards-driven and technical character of the visa liberalisation process insisted on by the EC has soon come under critique by Kosovar officials, who have raised their voices to make their fears heard that serious political obstacles may spring up on Kosovo's way towards final visa liberalisation as a result of the Member States remaining divided over the question of the country's recognition.⁵ In actual fact, the Roadmap for Kosovo has determined several instruments and channels through which political discretion can easily alter the technical evaluation of the Commission. In addition, some of the EC's requirements may prove too daunting to be addressed solely by Kosovo, being considered 'beyond the national scope such as

¹Karadaku, Linda (2011), 'Visa liberalisation for Kosovo 'once all conditions are met' ', Southeast European Times in Pristina (12 December 2011), available at: http://www.setimes.com/cocoon/setimes/xhtml/en_GB/features/setimes/features/2011/12/12/feature-01

²A visa roadmap for Kosovo. Available at: <http://www.esiweb.org/index.php?lang=en&id=444>

³Aliu, Fatmir (2012), 'Kosovo Awaits EU Visa-Liberalisation Roadmap', 31 May 2012, available at: <http://www.balkaninsight.com/en/article/kosovo-to-receive-visa-liberalization-roadmap-on-june-14th>

⁴European Commission Press release. 'Commission delivers visa roadmap to Kosovo government', Brussels, 14 June 2012, available at: <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/12/605&type=HTML>

⁵Kabashaj, Safet (2012), 'EU delivers visa liberalisation roadmap, some officials worried', Southeast European Times in Pristina (20 June 2012), available at: http://setimes.com/cocoon/setimes/xhtml/en_GB/features/setimes/features/2012/06/20/feature-01.

the fight against organised crime and border co-operation'.⁶ The volatile relations with Serbia, the stalemate in the northern parts of Kosovo, and the recognition of its political status are altogether intervening factors in this domain.

Finally, it should be noted that balancing between the endeavours to abide by the technical requirements and handling the inherently political aspects of the process will be crucial for the latter's advancement. Consequently, the policy report sets itself the objective to distinguish major lines, through which the process will unfold and provide guidance to its principle actors.

When the EC initiated a visa dialogue with Macedonia, Montenegro, Serbia, Albania, and Bosnia in January 2008, Kosovo was inevitably excluded from the process as, at that particular stage, its political aim was associated with the definition of the statehood. Its emergence on the political map of the world on February 17, 2008, as well as the visa dialogue underway in parallel with Kosovo's declaration of independence, caused a number of expectations to be raised concerning the possibility to 'return back to Europe' in the form of gaining an easier access to the EU's territory. After seventeen years of living on the margins of Europe (in its political configuration), the vision of travelling freely across the old continent, just as Kosovars, was coming true; however, the hopes were disappointed when the European Commission's proposal of July 15, 2009, centred on moving Kosovo onto the Black List of the Council regulation 539/2001, was approved.⁷ Thus, instead of coming closer to Europe, the grip of isolation tightened further over the young country. According to the results of the Henley & Partners Visa Restriction Index 2008 and the research undertaken by the European Stability Initiative, Kosovo ranks extremely high on the scale of isolation, outranking even the most isolated country on earth—Afghanistan.⁸ With only five countries that can be entered with Kosovar passport, without needing visa permit, an ESI analysis notes the Kosovo passport as being 'one of the least useful travel documents ever designed'.⁹ What is more, contrary to other visa-free candidates coming from the Western Balkans—but even those of the European Neighbourhood Policy and Eastern Partnership—Kosovo has been the only country not offered a visa facilitation agreement with the EU prior to reaching the stage of final visa liberalisation.

The option of circumventing the unfavourable system by acquiring Serbian passport came to be gradually limited. Following the creation of the Coordination Directorate at the Serbia's Ministry of the Interior, Kosovars would be able to acquire only such Serbian passports to which the visa-free travel did not apply. The avenues for travelling in Europe became even scarcer. Not surprisingly, visa liberalisation with the states of the Schengen zone has become *the* priority of the government, in addition to that of ordinary citizens who are confronted with significant hurdles not only in terms of free movement across the European continent, but also with feelings of humiliation, as well as the impossibility to create lasting cross-border 'people-to-people' networks.

The gloomy atmosphere surrounding Kosovo worsened: not only was Kosovo suddenly a member of the club with undetermined status, but it also had no prospects for an early lifting of visas for its citizens. Whilst the EC applied the strict measures in reaction to its 'security concerns

⁶Ibid, see the remarks by the Deputy Minister of European Integration Kasapolli.

⁷It should be noted that the term Black List refers to the list of the Non-EU Member Countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement.

⁸European Stability Initiative, 'Discussion paper: Isolating Kosovo? Kosovo vs Afghanistan 5:22', 19 November 2009, available at: http://www.esiweb.org/index.php?lang=yu&id=156&document_ID=111

⁹ Ibid.

regarding in particular potential for illegal migration',¹⁰ it was also believed that Kosovo's status was equally standing in the way of initiating a visa dialogue with Prishtina. Despite the fact that it was later proved that no legal obstacles existed for the EU to launch a dialogue with a state not recognised by the entirety of EU membership, as demonstrated by the widely cited case of Taiwan—which was in visa negotiations with the EU without being recognised by the latter—and that the security concerns of the EC would be best addressed through a strict conditionality of a visa dialogue, there was no EU initiative in visa policy towards Kosovo until autumn 2009. In October, the EC proposed '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'.¹¹ This was also reiterated by the Council on December 8/9, noting that the process would be without prejudice to Member States' positions on Kosovo's status.¹² Just as in the case of the other five Western Balkan countries, the conclusion of readmission agreement with several EU countries was a necessary precondition for the opening of the visa dialogue. Nonetheless, Kosovo was also subjected to several additional requirements, as presented in the letter of May 2010 by Cecilia Malmstrom (Home Affairs Commissioner) and Stefan Fule (Enlargement Commissioner) to the Prime Minister of Kosovo, which emphasised that, '...before a visa dialogue can begin and a visa strategy can be drafted, Kosovo has to adapt its legislation on readmission, strengthen its administrative capacity to process readmission requests and implement an effective reintegration strategy. In addition Kosovo also needs to enhance the security of borders and secure the management of civil registries and the issuance of documents'.¹³ The fact that there was no other country that would previously have to face a similar level of pre-visa dialogue conditionality led some to argue that the EU was displaying a discriminatory attitude towards Kosovars.¹⁴ The latter argument gained strength when it was reiterated that Kosovo's authorities made additional efforts to prepare for the future visa liberalisation dialogue by drafting their own unilateral roadmap in May 2009, inspired by the roadmaps of other Western Balkan countries, followed by an Action Plan on the Process of Visa Liberalisation with the European Union and creation of a working group charged with coordination, monitoring, and reporting to the government on the progress of the implementation of the Plan.¹⁵ Furthermore, although the EC noted, on several occasions, that positive developments could be observed in most of the highlighted areas, the reluctance to take a step forward and launch a visa dialogue with Kosovo was met with a great dose of disappointment in Prishtina.

It was not until January 19, 2012 that Kosovo's citizens were able to rejoice at the EC opening the dialogue, and finally giving the country clearer prospects for visa-free travel in the

¹⁰European Commission Proposal for a 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, Brussels (15 July 2009) COM(2009) 366 final, 2009/0104 (CNS), available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2009:0366:FIN:EN:PDF>.

¹¹ Communication from the Commission to the European Parliament and Council (14 October 2009), available at: http://ec.europa.eu/enlargement/pdf/key_documents/2009/kosovo_study_en.pdf.

¹²Council conclusions on enlargement/stabilisation and association process (7 and 8 December 2009) p.6, available at: http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/genaff/111830.pdf.

¹³ Letter by Home Affairs Commissioner Cecilia Malmstrom and Enlargement Commissioner Stefan Fule to Kosovo Prime Minister Hashim Thaci (5 May 2010).

¹⁴European Stability Initiative. 'Isolation Confirmed. How the EU is undermining its interests in Kosovo' (22 November 2010), available at: http://www.esiweb.org/index.php?lang=yu&id=156&document_ID=119

¹⁵Decision of the Ministry of Internal Affairs. (22 December 2009) available at: http://www.mpb-ks.org/repository/docs/vendimi_per_grupin_eng.pdf.

Schengen space. Five months later, on June 14, 2012, Kosovar officials received the long-awaited 'Visa Liberalisation with Kosovo-Roadmap' from the hands of the Commissioner for Home Affairs Cecilia Malmstrom. Whilst some commentators came to immediately challenge the 'strict but fair' principle on which the previous visa liberalisation processes with Western Balkans were based, pointing to the longer and more demanding list of conditions. Malmstrom asserted that, '...there is no conspiracy, no back thoughts' and that '...there is a true wish to achieve visa liberalisation'.¹⁶ In this same vein, referring to the specific Roadmap list of conditions, Vlora Citaku, Kosovo's Minister for European Integration, said, 'We don't believe it's an anti-Kosovo spirit'.¹⁷

If there is one thing true about the stricter roadmap, it is that the Kosovo government will have to labour hard to earn the EU's approval in regard to the fulfilment of the benchmarks. The politicised character of the process—which is notably dealt with in-depth in one of the subsequent chapters of the report—will require the government to strengthen its credibility, both in relation to the EU structures and population at home through a determined effort to tackle domestic policy problems in a prompt and responsible manner. Although the temptation to utilise the issue of early visa liberalisation for political purposes is great, the prioritising of particular political interests would risk endangering the success of the visa liberalisation process as a whole. Similarly, the EU has its own stake in the process as well: it finds itself between the wheels of the lack of agreement on Kosovo's status and security concerns, and of its desire to be a reliable international partner, *inter alia*, through a credible application of the principle of conditionality. Accordingly, the visa liberalisation process with Kosovo will not be a challenge only for the latter, but also for the EU, which will need to guard itself against detours away from technical criteria, control, monitoring, and supervision. What is more, the EC's continual assistance will be primordial for Kosovo's ability to abide by the tough conditions contained in the roadmap—particularly when it comes to the issues of border management and rule of law in which EULEX, the largest foreign mission ever deployed by the EU, plays a crucial role.

All of the aforementioned come together to create a complex mosaic of interests, influences, real and potential obstacles, risks, as well as opportunities, of which all the involved stakeholders should be conscious in order to ensure access to visa-free travel for Kosovo's citizens as soon and as possible.

Objectives of the Report

This policy report aims to discern the major challenges of the visa liberalisation process, and to accordingly sketch the lines along which the process will and should develop, taking into account the role of the Kosovo government, in addition to the European institutions and other stakeholders. It is particularly interested in conditionality as the main instrument of the EC to foster reform efforts in the Western Balkans and, more importantly, in Kosovo. The report examines critically the extent to which the standards-driven approach is applied in practice, and the capacity of political dynamics to steer the primarily technical process. It also aspires to serve as a tool for Kosovo's institutions to orient in a complex process so as to maximise the positive results of their reform endeavours.

With this in view, the report starts by identifying the legal foundations upon which the European visa policy has been built, proceeding with its ideational underpinnings so as to

¹⁶Gurzu, Anca (2012), 'Pristina receives road map for visa-free travel' (14 June 2012), available at: <http://www.europolitics.info/external-policies/pristina-receives-road-map-for-visa-free-travel-art337080-44.html>

¹⁷ Ibid.

understand the logic with which the wheels of the visa liberalisation process are operated. In addition, the following chapters offer an analysis of the five Western Balkan states' abolishment of the visa regime, paying particular attention to the implications—both internal and external—associated with the process. The importance of a multi-layer and multi-actor nature of European governance for the advancement towards lifting of visas is also highlighted by demonstrating, in regard to the Western Balkans case, how different agents can affect the pace, as well as the level of difficulty of the process. This serves as a basis for the second part of the document, which delivers explicit focus on the visa-liberalisation process with Kosovo. Bearing in mind the debate inflamed by the dissimilarities of Kosovo's and Western Balkans' roadmaps, a section is especially dedicated to the analysis of these differences and their significance for the headway of Kosovo towards visa-free travel in the Schengen area. This attention is further complemented by a temporal analysis, which stresses that the visa liberalisation process is, above all, a long-term process, and needs to be approached with patience and responsibility. The final chapter examines, in detail, the main challenges Kosovo will need to affront before it is considered ready to enter the White List, and further provides policy recommendations for the government of Kosovo in each of the four Blocks of the roadmap.

Methodological Approach

The report is centred on two levels of analysis, tackling both domestic and external issues related to the European Union's visa liberalisation process with Kosovo. A set of diverse methods of research was applied in order to address different aspects of the topic at hand, depending on the nature of each of the intervening elements. Whilst a detailed examination of the primary documents of European origin was undertaken so as to provide an informed description of the legal and abstract foundations of the EU's visa policy, a strongly comparative approach was employed in the following sections when dealing with the experience of the Western Balkan countries, and analysing the divergences between the Western Balkan and Kosovo's roadmaps. Here again, the primary legislative documents of the EU, reports, public declarations, and articles constituted the main source of input for the presented analysis. In order to address and reflect upon the complexity of the domestic issues and problems linked with the criteria imposed by the EC, a review of the existing legislation, national strategies and action plans was complemented with input from in-depth interviews undertaken with Kosovo's officials, governmental representatives, and representatives of the institutions involved in activities connected to the visa liberalisation process. Such actions served to evaluate the real state of affairs of the level of compliance with the EC's list of benchmarks, as well as to identify the necessary steps to be undertaken in order to come closer to the objective of final visa liberalisation with the Schengen countries. Basing itself on the mentioned material, GLPS built a matrix of the EC's conditions, existing legislation and mechanisms in place, steps taken by Kosovo's institutions over the past few years in view to advance towards visa liberalisation and, finally, of measures still needed to be adopted. This allowed for the identification of the main challenges, and the articulation of highly informed and accurate policy recommendations listed at the end of this report.¹⁸

¹⁸ For more please refer to: Group for Legal and Political Studies, Policy Note 05/2012 'Visa Liberalization Process in Kosovo: An Assessment Matrix of Achievements and Challenges', September 2012, available at:[http://legalpoliticalstudies.org/download/Policy%20Note%20\(05%202012\).pdf](http://legalpoliticalstudies.org/download/Policy%20Note%20(05%202012).pdf) .

General Introduction to the European Union's Visa-liberalisation Policy

The Schengen Agreement of 1985 marked the beginning of a common space within which border controls between countries who are members of the European Community and/or signatories of the Agreement ceased to apply to citizens of the participating countries, as well as to other citizens being in possession of a permit to stay in a Schengen Member State. However, whilst the EU significantly reduced constraints for travel within its territory, it nevertheless chose to apply much stricter conditions for travelling across its external borders. The Schengen Agreement thus introduced the harmonisation of visa policies of the Member States, constituting the Schengen space as well as uniform visa valid for the entire territory of all involved parties.¹⁹ The creation of the Area of Freedom, Security and Justice by the Treaty of Amsterdam in 1998 further enhanced the EU's prerogatives regarding the common visa policy, the emergence of the Schengen Borders Code, Integrated Border Management strategy, Frontex or Eurojust being testimonies to this development. On March 15, 2001, the Council of the European Union (the Council) which notably became the main repository of the decision-making power in the area of visa, migration and asylum policy—adopted the Council 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.²⁰ Consequently, the Annex I of the Regulation, otherwise referred to as the 'Schengen Black List', included third countries whose nationals are required to possess visas to cross the external borders of the Schengen space; Annex II, on the other hand, refers to the third countries whose citizens are exempt from such a requirement when staying no more than three months in the Schengen zone.²¹ It is crucial to point out that only decisions relating to short-term visas (allowing their holders to stay in the Schengen area for no more than three months over a six-month period) are placed under the authority of EU. The latter's role in asylum and long-term stay policies remains limited; these representing exclusive domains of individual Member States who are the only ones to decide on matters of long-term residence and/or work permits.

Particularly, with the enlargement towards the east, an effective management of human flows across the Schengen borders thus came to be perceived as a necessary means to ensuring protection against external threats, and therefore internal security of the EU. The European Security Strategy 2003 and its follow-up report of 2008, the Stockholm Programme adopted by the Council in 2009, and the Global Migration Approach of 2006 (equally the Council's initiative) all establish an explicit link between internal and external security, the 2008 European Security Strategy report identifying these two dimensions of the EU's security as inseparable.²² Accordingly, the objective to 'step up international security by strengthening the resources and

¹⁹ Members of the Schengen system: Member States of the EU (without the United Kingdom, Ireland, Cyprus, Romania and Bulgaria), Iceland, Liechtenstein, Norway, Switzerland, source: Art. 10, Convention Implementing the Schengen Agreement (The Schengen acquis - Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders), available at: [http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:42000A0922\(02\):en:HTML](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:42000A0922(02):en:HTML)

²⁰ Council Regulation (EC) No 539/2001 of 15 March 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, available at: http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=32001R0539&model=guichett

²¹ Ibid.

²² European Union Press Report S407/08, 'Report on the Implementation of the European Security Strategy- Providing Security in a Changing World' (11 December 2008), available at: http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressdata/EN/reports/104630.pdf.

abilities of third countries to act in the field of security' is part of the external dimension of the Justice and Home Affairs agenda of the EU.²³ The solution is therefore not seen in terms of imposing stricter measures on the movement across the Schengen borders, but rather in terms of building institutional, policing, and technological capacities of the partner countries, as well as in fostering their economic development and democratic governance—all of them being considered necessary pre-conditions for a secure environment.²⁴

In this vein, the visa liberalisation process has come to be utilised by the EU in order to offer motivation to third countries to pursue domestic reforms deemed by the EU to be contributing to its external and internal security. That said, the adoption of visa liberalisation, as an appropriate approach towards neighbouring countries, has been strengthened by recognising that, '...wherever visa requirements or an effective visa policy make it hard to cross a border, the only ones that manage to get through are the smugglers. Tourists and businessmen do not bother to go to Europe because they are discouraged by the visa policy'.²⁵ Therefore, as opposed to limiting risk elements from entering the Schengen area, a strict visa policy was perceived as preventing exchanges beneficial to relations between countries, and to the domestic development of the EU as such. The EU, of course, opted for easing the conditions for travel on its territory for the nationals of third countries in exchange for compliance with criteria set in the framework of readmission and visa facilitation agreements, and visa liberalisation dialogue leading to the final lifting of the visas for the concerned country.

In regards to the visa liberalisation process itself, a specific challenge for countries that were a part of this process related to the conclusion of readmission and visa facilitation agreements between the EU and the interested country. A readmission agreement means that, '...the third country undertakes to cooperate in taking back illegal residents in accordance with the agreed provisions relating to procedure, evidence, etc. The European readmission agreements apply not only to nationals of the third country but also to illegal residents who entered the EU via the territory of the third country, insofar as this can be proved'.²⁶

Visa liberalisation, on the other hand, involves a complete removal of the need of visas to be able to travel to the Schengen territory. Whilst readmission and facilitation agreements are based on a treaty signed by contracting parties, visa liberalisation is essentially realised through legislative procedure undertaken by the Council of the EU. On this occasion, the given country is moved from Annex I to Annex II by amendment of the Council Regulation (EC) 539/2001 by qualified majority of its members. However, the process of visa liberalisation is considered far more complex than the preceding agreements, and necessitates a long-term commitment from the interested party to fulfil criteria set by the Commission. The visa liberalisation process starts with a dialogue followed by the presentation of conditions in the form of a roadmap. The fulfilment of the concrete benchmarks is monitored closely by the Commission, which sends expert missions to evaluate the progress on the ground, and accordingly issues reports highlighting the positive developments, as well as remaining problems. At the end of the process, the Commission issues a legislative proposal to amend the Council Regulation (EC) 539/2001. Following the approval by the European Parliament, the proposal is voted on in the Council by a

²³Balzacq, Therry (2008), 'The external dimension of EU Justice and Home Affairs: Tools, Processes, Outcomes', CEPS Working Document NO. 303/September 2008, p.2

²⁴ Ibid.

²⁵Reactor.'The Visa Liberalisation Project'.available at: <http://www.reactor.org.mk/NewsDetails.aspx?id=15&&newsID=51>.

²⁶ Document of the Belgian Presidency of the Council of the EU: 'EU external visa policy', available at: http://www.eutrio.be/files/bveu/media/documents/EU_external_visa_policy.pdf.

qualified majority vote. Once the amendment has passed, it is published in Official Journal of the European Union, and if not specified otherwise, it enters into force 20 days after its publication.

The progress of the Western Balkan countries towards a complete lifting of visa requirement in recent times can be seen as the biggest success of the EU's visa liberalisation policy. Nonetheless, the latter region is not the only geographical area in which the EU seeks to promote the enhanced mobility of the third countries' nationals. In 2003, the European Neighbourhood Policy was launched, and in 2008 the Eastern Partnership was designed by the Commission in view of stepping up cooperation with the EU's neighbours to the east—especially through readmission and visa facilitation agreements with Armenia, Azerbaijan, Belarus, Georgia, Moldova, and Ukraine. Its long-term objective is 'full visa liberalisation' with the respective countries.²⁷

The process in the case of the eastern partners follows the lines of the process the Western Balkan states went through from 2006/2007 until the final removal of visas on December 19, 2009, for citizens of Serbia, Montenegro and Macedonia, and on November 8, 2010 for citizens of Albania and Bosnia and Herzegovina. Therefore, the negotiation and implementation of facilitation and readmission agreements is followed by a visa dialogue, the latter leading to an 'action plan for visa-liberalisation'. Just as in the case of roadmaps, the action plan presents a country with a number of benchmarks grouped under four different categories (document security, illegal immigration and border management, public order and security, external relations and fundamental rights), all of which need to be fulfilled in order to eventually proceed towards visa liberalisation. However, although the process shares many of its patterns with the one of the Western Balkans, contrary to the latter, it is intended to be long-term and open-ended.²⁸ The name 'action plan' as opposed to 'roadmap' is a reflection of this intention. In addition, the action plans should be implemented in two phases: first, the adoption of the legal framework, plans, and strategies; and second, their implementation.²⁹ Notably, this is in contrast to the Western Balkan roadmaps, which did not operate the separation of the two phases.

The most advanced in this process are Moldova and Ukraine, the first receiving its action plan in January 2011, the second three months earlier, in November 2010. To date, both have been working on the implementation of the action plans, with Moldova fulfilling all the benchmarks of the first phase on June 22, 2012, as evaluated by the Commission.³⁰ Following the entry into force of the visa facilitation and readmission agreements with Georgia in March 2011, the Commission decided to start visa liberalisation dialogue on June 4, 2012. The remaining three countries of the Eastern Partnership, namely Belarus, Armenia, and Azerbaijan, are, for the time being, moving towards negotiations of visa facilitation and readmission agreements. They are therefore following the usual sequence of events, leaving Kosovo as the only country not having been offered a visa facilitation agreement prior to the launching of the visa liberalisation process.

²⁷ Note from the Presidency to the General Affairs Council/European Council. 'The Stockholm Programme – An open and secure Europe serving and protecting the citizens', available at: <http://register.consilium.europa.eu/pdf/en/09/st17/st17024.en09.pdf>, p. 79.

²⁸ Presse Release 78. Joint Declaration of the Prague Eastern Partnership Summit (7 May 2009), available at: http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/er/107589.pdf.

²⁹ European Stability Initiative. 'The Eastern Partnership countries and visa-free travel', available at: <http://www.esiweb.org/index.php?lang=yu&id=445>.

³⁰ Report from the Commission to the European Parliament on the Implementation by the Republic of Moldova of the Action Plan on Visa Liberalisation (22 June 2012), available at: http://ec.europa.eu/home-affairs/doc_centre/external/docs/COM%20Report%20VLAP%20Moldova%20June%202012%20FINAL.PDF.

Despite the fact that Russia does not take part in the Eastern Partnership, nor the European Neighbourhood Policy, it has been in negotiations for a 'Common Steps' agreement (another name for action plan or roadmap) as a part of the visa liberalisation dialogue launched in September 2007.

Comparative Analysis of the Visa-liberalisation Process in the Western Balkans

Aside from the human, economic, and social losses brought about by the violent dissolution of the Yugoslav state in the 1990s and the post-communist transition, the new countries of the Western Balkans have faced re-imposition of the visa regimes on their citizens by the European Community very early after their coming into being. Contrary to Slovenia and Croatia, both of which were soon exempted from the visa obligation, Albania, Bosnia and Herzegovina, Macedonia, Montenegro, Serbia, and later Kosovo, remained subject to the European visa requirements.

It was not until 2003 that the EU sent a clear signal of its willingness to reconsider the status of the concerned countries under the current European visa policy. Accordingly, the final statement of the Thessaloniki EU/Western Balkan Summit contained acknowledgement of 'the importance the peoples of the Western Balkans attach to the perspective of liberalisation of the EU's visa regime towards them'.³¹ It also stipulated clearly that materialisation of such a perspective would be determined by each country's effort to undertake extensive reforms in areas reaching from different aspects of rule of law to issues related to the management of borders.³²

In order to appease the fears that readmission and visa facilitation agreements (henceforth RVF) would constitute a substitution for visa liberalisation, Macedonia, the first Balkan country to come to be engaged in the process, insisted on the Commission committing itself that visa facilitation would be 'a first step towards the visa-free travel regime' and not the final stage.³³ The successful conclusion and entry into force of the RVF agreements on the first day of 2008 was shortly followed by the initiation of the visa liberalisation process with all of the Western Balkans states (Kosovo excluded).

On the other hand, the motivation for launching the dialogue with Serbia, for example, signalled that, despite the initial intention to exclude political considerations as a factor of progress of the visa liberalisation agenda, politics would have its say on the way in which free travel could be achieved for south-east European citizens. Thus, the proposal to Serbia to start the dialogue with the EU reflected the latter's need to provide a 'compensation' for the Kosovo's up-coming independence.

By June 5, 2008, all five Western Balkan countries received a roadmap detailing conditions set by the Commission that needed to be fulfilled in order to advance towards the travel without visa requirement. Importantly, almost 50 benchmarks for each country were grouped into 4 blocks, each tackling a number of issues related to document security, illegal

³¹ Press Release 163. EU-Western Balkans Summit – Declaration, Thessaloniki (21 June 2003)

³² Ibid.

³³ Annex of every facilitation agreement with the five Western Balkan countries, eg. Macedonia: Agreement between the European Community and the Former Yugoslav Republic of Macedonia on the facilitation of the issuance of visas (19 December 2007), available at: <http://www.esiweb.org/pdf/White%20List%20Project%20Paper%20-20Agreement%20on%20visa%20facilitation%20Macedonia.pdf>.

migration, including readmission, public order and security, and external relations and fundamental rights.³⁴³⁵

The implementation of the set criteria was followed closely by the Commission through governmental readiness reports, expert missions on the ground, and Commission's assessments, outlining advancement as well as remaining drawbacks in the fulfilment of the benchmarks. The first series of assessments, released by the Commission on November 24, 2008, identified three groups of countries according to their level of compliance with the roadmaps: whilst Macedonia was to be seen a leader of the group, followed by Serbia and Montenegro, Albania and Bosnia, on the other hand, were lagging behind.

The same pattern was to be observed in May 2009 when the Commission published another series of evaluations.³⁶ The latter served as a basis for the Commission's proposal of July 15, 2009 so as to allow for visa liberalisation for Macedonia without reservations, whilst Montenegro and Serbia were asked to fulfil three more benchmarks and Albania and Bosnia needed to progress in several focus areas and submit new progress reports with October 1, 2009 as deadline. Following the Commission's proposal to amend the existing Council regulation 539/2001³⁷ by moving the three more advanced countries from the Black list (Annex I) to the White list (Annex II), along with Parliament's approval, the Council agreed to open the visa barriers to Macedonia, Montenegro and Serbia from December 19, 2009.³⁸ Albania and Bosnia

³⁴ Roadmaps of the five Western Balkan states, available at <http://www.esiweb.org/index.php?lang=tr&id=352>

³⁵ Block I: Document security – Machine-readable biometric passports in accordance with EU and ICAO standards; secure personalization and distribution process; anti-corruption training programmes for officials; reporting to Interpol's Lost/Stolen Passports Database; secure breeder documents and ID cards. Block II: Illegal migration including readmission – Integrated Border Management; appropriate legal framework; fully equipped borders; anti-corruption training programmes for officials; working agreement with FRONTEX; legislation on carriers' responsibility; appropriate asylum legislation and related procedures and facilities; monitoring of migration flows; returnee reintegration strategy; measures against illegal migration; law on foreigners; expulsion of illegal foreigners. Block III: Public order and security – Strategy and action plan on organised crime, corruption, human trafficking, money laundering, financing of terrorism and terrorism; anti-drug policy; implementation of UN and Council of Europe Conventions and GRECO recommendations; judicial cooperation in criminal matters at international, EU and regional levels; working relations with Eurojust; law enforcement cooperation and exchange of information nationally and at regional and EU levels; use of operational and investigative measures to fight cross-border crime; operational cooperation agreement with Europol; personal data protection legislation. Block IV: External relations and fundamental rights – Freedom of movement for all citizens; access to travel and ID documents for all citizens, IDPs and refugees; anti-discrimination legislation; law on citizenship/specified conditions for acquiring citizenship; investigation of ethnically motivated incidents in the area of freedom of movement; protection of minorities. In addition, the visa roadmaps require: full implementation of the readmission agreement; full implementation of the visa facilitation agreement; a 'decreasing trend in the refusal rate, which should progress towards 3% for visa [applications] and 1,000 persons per year refused for entry into the common Schengen area' (however, this request was later dropped since the EU did not manage to obtain in time the relevant information); measures to implement EU travel bans. Source: Stiglmayer, Alexandra (2011), 'Learning from the Western Balkans experience' policy brief, Batory Foundation, p.5, available at: http://www.batory.org.pl/doc/Stiglmayer_eng.pdf.

³⁶ Progress assessment reports of the five Western Balkan countries of May 2009, available at: <http://www.esiweb.org/index.php?lang=tr&id=353>.

³⁷ European Commission Proposal for a 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 (15 July 2009), available at: http://www.esiweb.org/pdf/schengen_white_list_project_Commission%20proposal%20for%20visa-free%20travel%20%2815%20July%202009%29.pdf

³⁸ 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 (24 November 2009), available at: [http://www.esiweb.org/pdf/schengen_white_list_project_Council%20decision%20giving%20Macedonia,%20Montenegro%20and%20Serbia%20visa-free%20travel%20\(30%20November\).pdf](http://www.esiweb.org/pdf/schengen_white_list_project_Council%20decision%20giving%20Macedonia,%20Montenegro%20and%20Serbia%20visa-free%20travel%20(30%20November).pdf)

and Herzegovina were required to undergo the process of Commission's conditions, governmental readiness reports, expert verification missions, and Commission's assessments two more times before the Council decided to terminate the visa regime for the travellers from these countries on November 8, 2010.³⁹

It is crucial to bear in mind that the visa liberalisation process proved to be a long-term process. Of course, some critics argued that visa liberalisation process does not depend entirely on the country's ability and capacity to implement benchmarks; thus, the country's position vis-a-vis open conflicts and regional peace is playing a particular role in this process. Whilst Serbia, Montenegro and Macedonia needed less than two years to convince the EU about their readiness, the remaining Albania and Bosnia reached the same stage one year later. It is worth pointing out that political dynamics within the EU—both inside and amongst several EU bodies, as well as Member States—affected the final decision to lift the visa requirement. Therefore, if the criteria to fulfil were very much alike (although with some minor adjustments to the internal circumstances and level of legislative and institutional advancement), the approach of the EU changed over time as a result of the learning process it experienced following the first wave of the abolishment of visas for the three Balkan countries, as well as with the fluctuating political priorities and perceptions of its Member States. Hence, although Albania and Bosnia displayed a greater level of readiness before the decision of the EU's bodies on their future visa-free travel than did Montenegro, Macedonia and Serbia one year earlier at the same stage of the process, reluctance amongst some Member States persisted. As will be detailed below, the reticence was linked to the consequences of the 'first wave' of visa-liberalisation and had, at the same time, several ramifications—both at a national and European level.

Domestic and External Policy Implications of the Visa Liberalisation with Western Balkans

Being able to travel in the Schengen space and the ease of the visa regime had several ramifications within the states, as well as on a European level.

First, internally, the boosting of institutional, security, and technological capacities has resulted in a greater transparency of activities of corresponding bodies, which helped reduce the influence of criminal structures in those countries and, consequently, led to a more secure internal environment in general. Second, the visa liberalisation process also contributed, at least seemingly, to the amelioration of the situation of marginalised groups of citizens, such as minorities (of whom Roma were predominantly affected), and internally displaced persons and refugees who were issued documents due to presence of corresponding benchmarks in the roadmaps. Nevertheless, it is also crucial to highlight that vulnerable communities—and especially the Roma—became prey to ethnic and economic 'profiling' exercised by the controls at borders, who were put under pressure by the EU through their respective governments due to the rising numbers of asylum seekers from Macedonia, Montenegro, and Serbia during the months following exemption from visas.⁴⁰ The escalating 'securitisation'⁴¹ of the visa-free travel by the EU

³⁹Press Release 291. 3043rd Council meeting of the Justice and Home Affairs Council of the European Union (8 and 9 November 2010), available at: http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/jha/117609.pdf.

⁴⁰Kacarska, Simonida (2012), 'Europeanisation through mobility: visa liberalisation and citizenship regimes in the Western Balkans', The Europeanisation of Citizenship in the Successor States of the Former Yugoslavia, CITSEE Working Paper Series 2012/21, p.20, available at:

thus led to a deepening of discrimination of certain groups of citizens, directly contradicting ideas contained within the benchmarks of Block IV. One is inevitably brought to question the wholeheartedness of the EU's belief in its fundamental values, i.e. human rights, non-discrimination and equality before law of each individual, which underpin not only the process of visa liberalisation but the European Union project as a general concept.

Third, from another perspective—and linked to the previous point—the visa liberalisation process carried in itself a strong psychological dimension. Desisting from or hesitating about its commitments, the EU risked losing its position as a credible partner caring about the future of the Balkan peoples. As asserted, maintaining the visa regime would contribute to the spread of nationalism, protectionism, scepticism surrounding enlargement, and the risk of falling 'prey to populism, demagoguery and xenophobia' of the young generation, which, contrary to their parents, had grown up in isolation from Europe.⁴² Therefore, the benefits (and shortcomings) of the visa-free travel to the Schengen space need to be measured and judged, not only in regard to what visa liberalisation has brought, but also in terms of what it prevents from happening.

Fourth, visa liberalisation—particularly in the case of Serbia—had a number of detrimental effects on Serbs residing in Kosovo⁴³ with passports issued after the conclusion of visa liberalisation in 2009. Serbs living in Kosovo were hoping to benefit from the visa liberalisation process with Serbia, mainly owing to their loyalty towards Serbia. Regardless of their hopes, however, Serbs living in Kosovo could not be incorporated into the category of citizens enjoying the visa-free travel regime. Moreover, in Kosovo, as the country was put on the Black List in 2008 at the beginning of liberalisation dialogue with the rest of the Balkan states, in addition to owing to the urgency and seriousness of the situation, some employed the term 'visa ghetto' to express the dramatic effects on Kosovo's citizens.⁴⁴

However, those countries that went through the process of visa liberalisation were not the only ones seen to be affected by it. The EU, besides, was brought to face a number of foreseen as well as unexpected and unintended implications of enlarging the space of countries not subject to visa requirement. To begin with, in reaction to the surge of numbers of asylum seekers from Macedonia, Montenegro and Serbia, the EU has not only put pressure on the three mentioned countries to exert stricter controls at borders, but has also devised a new post-visa liberalisation monitoring system, thus creating the option for itself to temporarily suspend the visa-free regime in times of emergency.⁴⁵ What is more, it also became more hesitant to include

http://www.law.ed.ac.uk/file_download/series/374_europeanisationthroughmobilityvisaliberalisationandcitizenshipregimesinthewester.pdf.

⁴¹Angelescu, Irina, 'Blurry Boundaries: The External Dimension of the EU's Visa Policies', University of Rome Tor Vergata, IHEID – Geneva, Brookings, p.8, available at: http://euce.org/eusa/2011/papers/12h_angelescu.pdf.

⁴²European Stability Initiative. 'Interview with Ivica Boceviski, Deputy Prime Minister of Macedonia in charge of EU integration', for ESI's White List Project (19 March 2009), available at: <http://www.esiweb.org/index.php?lang=tr&id=355>

⁴³Kacarska, Simonida (2012), 'Europeanisation through mobility: visa liberalisation and citizenship regimes in the Western Balkans', The Europeanisation of Citizenship in the Successor States of the Former Yugoslavia, CITSEE Working Paper Series 2012/21, p.10, available at: http://www.law.ed.ac.uk/file_download/series/374_europeanisationthroughmobilityvisaliberalisationandcitizenshipregimesinthewester.pdf.

⁴⁴ Kosovo visa liberalisation: an Open Letter by the Schengen White List Project (27 July 2009), available at: http://ecfr.eu/content/entry/commentary_schengen_white_list_project_kosovo_visas/

⁴⁵European Commission Proposal for a Regulation of the European Parliament and of the Council amending Council 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- Establishing a visa safeguard clause for suspending visa liberalisation (24 May 2011), available at:

more countries in the visa-free space, consequently making it more difficult for acceding Albania and Bosnia to gain the same privileges as their predecessors. A similar pattern was repeated later with Kosovo when the Member States displayed hesitation in terms of launching visa dialogue with the young country. In the context of an atmosphere of rising protectionism against immigrants in several countries of Western Europe—particularly France, Denmark and Benelux countries—the increase in asylum seekers from the Balkans can exacerbate anti-immigrant rhetoric in the respective countries, seeking to further constrain EU's 'benevolence' in regards to migration policies.⁴⁶ Voices have been raising warning against the creation of 'Fortress Europe'.⁴⁷ Oppositional political parties and in general the public, for example, see the 'double standards' the EU developed in reaction to the presented events casting serious doubts on the declared apolitical and merit-based character of the visa-liberalisation process. The unequal treatment of 'visa-free candidates' not only challenged the perceptions over the EU in each of the involved countries, but also sent signals to other European partners (especially those on the way towards visa-free travel, such as Russia, Ukraine and Moldova, for example) that the use of European 'soft power' is impacted on largely by politics and agendas of multiple actors.

From the perspective of the future European enlargement, visa-liberalisation has represented a significant step towards the materialisation of the 'European perspective' for the Western Balkans, given that the conditions included in the roadmaps for visa-liberalisation correspond to those contained within the Stabilisation and Association process preceding the accession itself. Accordingly, the main challenges the EU has been faced in relation to easing the conditions for travel inside its borders for the Western Balkans have been a struggle in terms of achieving a balance between a merit-based and political approach, preserving the 'carrot-stick' effect of conditionality, and protecting its borders for fear of organised crime and illegal immigration.

Regardless of the fact that the EU has recently made numerous efforts to unify its actions in external policies, it still very much has to face the challenge of multiple positions, interests, and agendas of different EU bodies, as well as its Member States, on each of the external policy matters. The EU visa-liberalisation towards the Western Balkans was not an exception in this sense: whilst the European Commission and European Parliament usually adopted a forward looking attitude, the Council showed itself on several occasions to be hesitant to move towards enlarging the visa-free travel to the South-East Europe. The Council was particularly reticent to bring to life the visa-free regime for Albania and Bosnia as a result of protests of several states (of which France was most vocal) in reaction to the negative effects of the first wave of liberalisation.⁴⁸ It has shown clearly that a permanent potential of fragmentation exists within the EU as a corollary to its multi-layer, multi-agent and multi-national governance; however, the changes brought about by the entry into force of the Lisbon Treaty at the end of 2009 fundamentally strengthened the position of the European Parliament vis-à-vis the Council, and in particular of MEP-s, who are pushing the visa liberalisation agenda forward. For example, in relation to Albanian and Bosnia, as the process became slowed down due to the aforementioned hesitations on the side of some Member States in the first half of 2010, Tanja Fajon represented

http://www.esiweb.org/pdf/schengen_white_list_project%20-%20proposal%20to%20suspend%20visa-free%20travel%20-%2024%20may%202011.pdf

⁴⁶Euractiv (4 October 2010), 'France opposes further EU visa liberalisation talks', available at: <http://www.euractiv.com/enlargement/france-opposes-eu-visa-liberalis-news-498429>

⁴⁷Filat, Vlad (2010), 'Towards a secure, visa-free Europe' (10 June 2010), available at: <http://www.europeanvoice.com/article/imported/towards-a-secure-visa-free-europe/68187.aspx> By Vlad-

⁴⁸Knaus, Gerald, Stiglmayer, Alexandra (2010), 'France backtracking on EU promise to the Balkans?' (29 September 2010), available at: <http://www.esiweb.org/index.php?lang=tr&id=481>

an important impulse for pursuing the initiated path, in particular by presenting a draft decision on the Commission proposal to abolish the visa requirement for Albania and Bosnia in July 2010.⁴⁹ The report was voted on by the European Parliament in October, receiving an overwhelming majority, and thus putting pressure on the subsequent decision-making of the Council.⁵⁰ Consequently, the institutional system of the EU not only permits for entry into play of different institutional actors and Member States, but also individuals who contributed, as demonstrated above, to the mosaic of influences on the way towards liberalisation of visas for the Western Balkans.

Yet, from the domestic perspective of candidates for visa-free travel, the determination of national leaders played a crucial role in the process. In actual fact, the delay in fulfilling benchmarks of the roadmap of Albania and Bosnia was ascribed by some to the lack of political will to undertake difficult, time- and finance-consuming reforms, and, particularly in the case of Bosnia, the lack of cooperation between political, judicial, security and other structures of the different entities. However, the example of Macedonia, Montenegro and Serbia that hard work 'pays off'⁵¹ provided the necessary motivation for overcoming of the initial difficulties.

Comparative Analysis of the Kosovo and Western Balkans' Roadmaps

If the roadmap for Kosovo presented by the Commission on June 14, 2012 allowed Kosovars to be hopeful that an end would soon be put on their visa isolation, it also became obvious that the country's institutions would have to carry a heavier burden than expected to fulfil the set conditions. The Kosovo government hoped that it would be subject to the same requirements as its neighbouring countries were on their way towards visa liberalisation.

In May 2009, the Kosovo government prepared its own unilateral roadmap in view of accelerating the process once offered an official EC roadmap by proceeding with the fulfilment of benchmarks in advance. Assuming that the Kosovo's roadmap would, to a great extent, resemble those of other Western Balkan countries that had previously successfully gone through the process, the governmental document drew strong inspiration from the list of conditions the EC imposed in the past on Kosovo neighbours.⁵² Nevertheless, the expectations were eventually turned down by the roadmap of EC's production, differing largely from what has been imagined by Kosovar authorities.

Probably the most obvious difference from the previous Balkan roadmaps is the length of the document. Whilst other Western Balkan states were each presented with between 40 and 50 benchmarks, the number of conditions in Kosovo's case is approaching 100. If one could argue that the longer list of criteria reflects a limited preparedness of Kosovo in comparison to its neighbours, it also points to a greater weariness of the EU to easily open the gates of the Schengen wall to the 'newborn'. Another of possible interpretations might also be that the EC has

⁴⁹ Draft-Report on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders of Member States and those whose nationals are exempt from that requirement, Committee on Civil Liberties, Justice and Home Affairs European Parliament, Rapporteur: Tanja Fajon (12 July 2010), available at: http://www.esiweb.org/pdf/schengen_white_list_project_-_Fajon_draft_report_12-July-2010.pdf

⁵⁰ 538 MEPs voted in favour of her report, 47 against, and 41 abstained
Source: European Stability Initiative. 'The European Parliament on Albania and Bosnia', available at: <http://www.esiweb.org/pdf%1F/index.php?lang=yu&id=479>.

⁵¹ Ibid.

⁵² Roadmap, Visa liberalization with the Republic of Kosovo; Ministry of Internal Affairs, Republic of Kosovo.

been using the more extensive and strict conditions as a tool to reassure several of the Member States—particularly those who have been reluctant to facilitating processes potentially leading to increased immigration flows, and those who have so far failed to recognise Kosovo as a sovereign state. What is more, it needs to be considered that the EU has gained a substantial experience from the previous visa-liberalisation processes. Having to face negative ramifications of loopholes in the roadmaps or in the fulfilment of the criteria by the candidate states, the EU has now sought to limit the post-visa-liberalisation risks by offering an enriched list of benchmarks: instead of imposing further measures after the visa regime for Kosovo is lifted, it seeks to enhance sustainability of its internal development prior to the granting of visa-liberalisation as a means to ensure the highest level of the EU's domestic security. Finally, according to the recent study by the European Stability Initiative, although the number of benchmarks has been practically doubled for Kosovo when compared with its Balkan predecessors, a closer study makes clear that the higher number of criteria can be ascribed to the EC splitting one benchmark into several, and providing details that were mentioned previously in the EC's letters or progress assessments rather than in the roadmaps themselves.⁵³ Thus, the idea is that Kosovo is asked the same as other Western Balkan states, and that the overall approach of the EU remains the same in regards to Kosovo. Whilst it is doubtlessly true that the roadmap's expansion can be seen as optical rather than substantive, it nevertheless fails to identify the different 'atmosphere' of the document, linked to EU's underlying motivations to adjust its approach to the particular domestic and international context in which Kosovo operates, as presented in this paragraph.

Besides, not only does the Kosovo roadmap contain more conditions with which to comply, but it steps on a new level in terms of precision and concreteness of conditions that are imposed. While, the Western Balkan countries were generally required to adopt and/or implement legislative acts of a variety of kinds depending on the current state of affairs in each of them, Kosovo is confronted with a list of much more concrete and specific criteria. In this vein, listing a number of 'new' benchmarks for Kosovo means the application of a new set of evaluation standards. This, as a result, makes the process more difficult, open-ended, and discretionary.

For illustration purposes, in the border management part of Block II: Border and Migration Management, Kosovo is asked to 'enhance the prevention, detection and investigation of serious cross-border crime, notably trafficking in human beings, facilitated irregular migration, trafficking in drugs and precursors, trafficking in weapons and crimes committed by mobile itinerant criminal gangs, by exchanging with the competent law enforcement authorities of Member States and third countries, in line with domestic data protection requirements and through the appropriate channel, the necessary strategic and operational information and criminal intelligence', etc., whereas Albania, Bosnia, Macedonia, Montenegro and Serbia were asked only to 'adopt and implement legislation governing the movement of persons at the external borders' (for more see Table 1 below). It seems that the Commission made an apparent effort to set the criteria as precisely and exhaustively as possible: on the one hand, the precision and clarity of the benchmarks can be perceived as a positive phenomenon as it allows for a more transparent relationship between fulfilment of the benchmarks and its reflection in the form of advancement towards visa-free travel; on the other hand, however, it eliminates the space for manoeuvre that the previous visa-free candidates had at their disposal. From this perspective, it

⁵³ European Stability Initiative, 'Moving the goalposts? A comparative analysis of the visa liberalisation roadmaps for Kosovo and other Western Balkan countries' (6 July 2012).

seems that the EC's conditionality methodology might/should be the most transparent and standards-driven one amongst the Western Balkans states.

Nonetheless, the EULEX's role should not be forgotten or neglected, especially in the area of rule of law, which is its *raison d'être* in Kosovo. As a significant part of the competencies of the Kosovar rule of law authorities is shared by EULEX, substantial effort should also be devised by the mission of the EU towards the implementation of benchmarks that fall under its field of expertise and prerogatives. The responsibility for a successful fulfilment of the set criteria—namely those in the Block III: Public Order and Security—will thus lie with EULEX, as well as with the Kosovo government, although its share may be distributed unequally amongst the two agents (for more see Table 1 below).

What is also apparent from the roadmap is that the EC places great importance in its ability to monitor closely and supervise the visa-liberalisation process with Kosovo. Contrary to those of its Balkan neighbours, Kosovo's roadmap comprises a number of mentions regarding the need to share statistics and intelligence on, for example, various personal travel documents and IDs issued (Block I) on border crime (Block II) and control measures (Block III) or on investigation, prosecution, and the adjudication of cases of organised crime, corruption, and terrorism (Block III) with Member States, the Commission and EULEX (for more see Table 1 below). Almost every section in each of the four blocks of the roadmap creates an obligation for Kosovo to share statistical and intelligence information with the three mentioned actors and groups of actors. A similar obligation existed in the case of other Western Balkan candidates for visa liberalisation only in some domains and required no more than sharing of relevant information with relevant bodies.

However, it is the line containing 'fully associate the Council and Member States to each step of the dialogue' in the roadmap that represents the most significant development in the area of the control and supervision of Kosovo's progress, thus allowing each of the Member States to bring comments into the debate on the visa-liberalisation for Kosovo, and to demand the fulfilment of conditions (for more refer to table 1). This becomes particularly problematic with Member States failing to recognise Kosovo, whose political leaders might find it opportune in terms of relying on their strengthened competencies to delay the acquisition of travel without visa requirements for Kosovo's citizens.

Related to the latter is another explicit condition that the roadmap for Kosovo is an open roadmap, signifying that new criteria can be added along the way as deemed appropriate by the EC, Council, or Member States. It is worth reiterating that additional conditions were also imposed in the case of Albania and Bosnia; however, contrary to Kosovo, their roadmaps did not explicitly stipulate that a possibility of expansion of the roadmaps existed. Such a modification of criteria in the case of Kosovo not only reflects the 'learning capacity the EU' has developed over time, taking lessons from the consequences of an imperfect compliance with the conditions by the previous wave of 'visa-liberalised', but also the doubts that the visa-liberalisation with Kosovo induces on the side of some EU countries. The EU is keeping its back door open by providing forms of reassurance to the more reticent Member States. On the other hand, it seems crucial to point out that it is some kind of political trade-off that can be observed in the EC creating instruments for involved stakeholders to push the breaks if they consider it necessary. The process becomes politically feasible and acceptable for some of the Member States owing to the possibility to slow it down. The harsher conditions for Kosovo, in comparison to its predecessors from the Balkan region, can thus be interpreted as a necessary price to be paid for the Member States' nod to initiate the process leading to the final lifting of visas.

Nonetheless, this, it is argued, at the same time, leaves a large space for the EU to exert pressure on the Kosovo government to engage in and proceed with the dialogue with Serbia. Whilst it places a particular form of leverage into the hands of Kosovo's political leaders, they

should be cautious about trading concessions for the vision of free movement in Europe. Again, a skilful balancing between the two will be primordial. Including the success or failure of the Kosovo–Serbia Dialogue within the equation of the Kosovo’s visa-liberalisation progress would undermine any possibility of seeing the end-state of the process as technical.

External elements that are of high importance in the eyes of the EU—amongst which the normalisation of relationship with Serbia is of primary concern—inevitably will intervene in the EU’s evaluations and overall willingness to proceed with the process. The reality proved, however, that a technical approach cannot be distilled from political implications in such an inherently political controversy, and that the ramifications of such technique can be far-reaching and detrimental to the state of affairs, as opposed to merely producing intended *rapprochement* via technical forms of cooperation.

But, here again, popular perception of the EU as a positive agent within the region would be put in danger as a result of a feeling that resolution of a dispute in the EU’s backyard has been prioritised over the right of free movement of the Kosovo’s people. Whilst it needs to be acknowledged that the ‘Serbia question’ is linked inextricably to the advancement towards visa-free regime, since a number of border management and rules of law benchmarks touch upon the necessity to improve the Serbia-Kosovo relationship in order to achieve their fulfilment, the EU should beware of investing too much political capital into it as it might prove highly counterproductive.

It becomes even harder than in the previous cases of, particularly Albania and Bosnia, to defend the a-political character of the process. In actual fact, radically contrary to the preceding wave of visa-free candidates, the roadmap for Kosovo acknowledges openly the presence of political elements by stating that ‘the Commission will take into utmost consideration the political conclusions of discussions in the Council’. Although still asserting that ‘the pace of movement...will depend on Kosovo’s progress’, thus insisting on the merit-based nature of the process and its foundations rooted in principles of conditionality. Nevertheless, if nothing more, a term ‘deflated conditionality’ appears to be a more accurate reflection of reality. At the same time, the politicisation of the process is a necessary co-product of the unresolved issue of recognition of Kosovo as an independent and sovereign state by all members of the EU. Whilst the strengthened involvement of political considerations can be criticised to some extent, it certainly cannot be otherwise, and moreover, should not constitute an excuse for Kosovar authorities not to invest in the fulfilment of the benchmarks.

Table I
(highlighting the difference between Kosovo visa liberalization roadmap and Western Balkans countries visa liberalization roadmaps)

I. Requirements related to Readmission and Reintegration	
	Additional Requirements for Kosovo
I. Readmission	<ol style="list-style-type: none"> 1. Ensure that readmission procedures, conducted through the appropriate channels, function in relation to all Member States; 2. Strengthen the capacity of the competent authority to process readmission applications and reduce the number of pending readmission requests; 3. Ensure that applications for readmission are processed in compliance with domestic data protection requirements; 4. Compile and share in a timely manner with the competent authorities of Member States, the European Commission and EULEX detailed statistics on readmission.

2. Reintegration	<ol style="list-style-type: none"> 1. Adopt and implement measures defining the roles and responsibilities of the competent authorities in charge of reintegration, the application and decision-making procedure and beneficiaries' rights and obligations under the reintegration programme; 2. Implement the reintegration strategy and action plan, with a particular emphasis on reporting and monitoring; the disbursement and decentralisation of the Reintegration Fund; and enhancing the access of returnees, notably those from the Roma, Ashkali and Egyptian minorities, to employment, vocational training and education; 3. Compile and share in a timely manner with the competent authorities of Member States, the European Commission and EULEX detailed statistics on the reintegration of returnees.
II. Requirements related to Block I (Document Security), Block II (Border and Migration Management), Block III (Public Order and Security), Block IV (Fundamental Rights related to the Freedom of Movement).	
Block I. Document Security	Additional Requirements for Kosovo
a. Personal travel documents, ID cards and breeder documents	<ol style="list-style-type: none"> 1. Explore possible avenues of cooperation with ICAO and Interpol; 2. Adopt and implement measures ensuring the integrity and security of the civil status and civil registration process, including the integration and linking of the relevant databases and the verification of scanned data against the civil status database, paying particular attention to the amendment of individuals' basic personal data; 3. Provide samples and specimens of all valid personal travel documents to the competent Member State authorities and EULEX, communicating any changes introduced to such documents; 4. Strengthen the capacity of the civil registration agency; 5. Compile and share in a timely manner with the competent authorities of Member States, the European Commission and EULEX detailed statistics on the number of personal travel documents and ID cards, including biometric ID cards, issued.
Block 2. Border and Migration Management	Additional Requirements for Kosovo
a. Border management (In cooperation with EULEX and KFOR)	<ol style="list-style-type: none"> 1. Align with the EU <i>acquis</i>; 2. Implement in a co-ordinated manner with the other party the Technical Protocol for implementation of the IBM Agreed Conclusions of the Dialogue of 2 December 2011; 3. Endeavour to complete, in a co-ordinated manner with the other party, the delineation of the border with Montenegro; 4. Where appropriate, establish joint border crossing points for co-ordinated checks and surveillance on persons; 5. Enhance the prevention, detection and investigation of serious cross-border crime; 6. Strengthen the capacity of the domestic co-ordination centre to coordinate operational cooperation between all domestic authorities involved in IBM, including border surveillance; 7. Compile and share in a timely manner with the competent authorities of Member States and EULEX detailed statistics on border control measures, including the number of co-ordinated monitoring and patrol operations
b. Carriers' responsibility	None
c. Migration management	<ol style="list-style-type: none"> 1. Adopt and implement legislation on legal and irregular migration in accordance with the EU <i>acquis</i>; 2. Develop a migration database and provide access thereto to all authorities involved in migration management, in accordance with domestic data protection requirements; 3. Conduct training programmes on anti-corruption and establish an ethical code for officials involved in migration policy; 4. Compile and share in a timely manner with the competent authorities of Member States and EULEX detailed statistics on legal and irregular migration flows and stocks; 5. Explore avenues of cooperation with regional initiatives on migration, asylum and refugees.
d. Asylum	<ol style="list-style-type: none"> 1. Improve the existing material reception conditions, documentation and other public services available for asylum-seekers, including persons with special needs; 2. Ensure the independence and enhance the capacity of the supervisory authority in charge of asylum; 3. Conduct training programmes on anti-corruption and establish an ethical code for officials involved in asylum policy; 4. Compile and share in a timely manner with the competent authorities of Member States, the European Commission and EULEX detailed statistics on asylum; 5. Explore modalities of cooperation with EASO.
Block 3: Public order and security	Additional Requirements for Kosovo

a.Preventing and combating organised crime, corruption and terrorism	<ol style="list-style-type: none"> 1. Improve coordination, cooperation and the exchange of information and criminal intelligence between law enforcement and judicial authorities, notably the police and the prosecutorial service, to improve Kosovo's track record in investigating and prosecuting cases of organised crime and corruption, economic and financial crime and terrorism; 2. Implement the existing legislation on witness protection and strengthen the capacity of the police to establish and operate a witness protection programme; 3. Establish a reliable criminal records database, including on the basis of mutual legal assistance in criminal matters; 4. Ensure the effective and efficient enforcement of court decisions; 5. Establish effective mechanisms for the prevention of corruption and for the identification and follow-up of corruption risks, including risk assessments in vulnerable sectors; ensure the transparency, integrity and accountability of public administration and elected officials, the detection and removal of conflicts of interests, the verification of public officials' wealth and the transparency of political party financing; 6. Enhance the effectiveness of the anti-corruption agency; 7. Conduct training programmes on anti-corruption and organised crime and establish an ethical code for public officials involved in investigating, prosecuting and adjudicating cases of organised crime and corruption; 8. Compile and share in a timely manner with the competent authorities of Member States, the European Commission and EULEX detailed statistics on the investigation, prosecution and adjudication of cases of organised crime, corruption and terrorism.
b. Law enforcement co-operation	<ol style="list-style-type: none"> 1. Where appropriate, deploy law enforcement liaison officers to Member States and third countries; 2. Establish an arrangement with EULEX for the secure, reliable and efficient exchange of strategic and operational information and criminal intelligence necessary for the prevention, detection and investigation of serious crime; implement the existing arrangement with EULEX on the exchange of customs and tax data; 3. Ensure that law enforcement information exchange, conducted through the appropriate channels, functions in relation to all Member States; 4. Enhance operational cooperation with the law enforcement authorities of Member States and third countries, notably by conducting joint investigations and operations; 5. Compile and share in a timely manner with the competent authorities of Member States, the European Commission and EULEX detailed statistics on law enforcement information exchange, joint investigations and joint operations; 6. Explore modalities of cooperation with EUROPOL and EMCDDA; 7. Explore avenues of cooperation with regional initiatives on law enforcement cooperation.
c. Judicial co-operation in criminal matters	<ol style="list-style-type: none"> 1. Implement the technical arrangement with EULEX on mutual legal assistance; 2. Ensure that judicial cooperation in criminal matters, conducted through the appropriate channels, functions in relation to all Member States; 3. Compile and share in a timely manner with the competent authorities of Member States, the European Commission and EULEX detailed statistics on cases of judicial cooperation in criminal matters; 4. Explore modalities of cooperation with EUROJUST.
d. Data Protection	<ol style="list-style-type: none"> 1. Align with the EU <i>acquis</i>; 2. Conduct training programmes on anti-corruption and establish an ethical code for officials of the data protection authority.
Block 4: Fundamental Rights related to the Freedom of Movement	Additional Requirements for Kosovo
a. Freedom of Movement	None
b. Conditions and procedures for issuing identity documents	None
c. Human rights and respect for and protection of minorities	None
Final Remarks	Additional Requirements for Kosovo
	<p>The Commission will continue to monitor and report to the Council and Member States, as well as the European Parliament, on Kosovo's progress in adopting and implementing the measures and fulfilling the requirements set out in this roadmap, taking into account, <i>inter alia</i>, the following performance indicators:</p> <ol style="list-style-type: none"> 1. The number of Kosovo citizens found to be illegally staying in the territory of one of the Member States; 2. The total number of asylum applications from Kosovo citizens; and 3. The number of rejected readmission applications submitted by a Member State to Kosovo for Kosovo citizens. <p>The present roadmap includes a list of reforms to be adopted and implemented by Kosovo so that the visa obligation may be lifted. These reforms are necessary to ensure the freedom of movement in a secure and predictable manner and were developed on the basis of information available at the time of drafting. According to the Roadmap 'the Commission, in reinforced consultation with the Council and Member States, may decide to amend this roadmap'.</p> <ol style="list-style-type: none"> 1. The full involvement of the Council and Member States in developing and, if necessary,

	<p>amending this roadmap.</p> <ol style="list-style-type: none"> 2. The full participation of Member State experts in assessing Kosovo's progress in fulfilling the requirements set out in this roadmap; 3. Utilising the expertise of EUROPOL, EUROJUST, FRONTEX, EASO, as well as EULEX, in assessing Kosovo's progress in meeting these requirements.
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On the other hand, however, Kosovo's prospects for an early lifting of visas are also blurred by the status of Kosovo. Although the roadmap states in its beginning that the progress of Kosovo towards visa-liberalisation will be judged 'without prejudice to Member States' position on status', it has been shown above that avenues and channels to implement hurdles in Kosovo's way to the Schengen area exist even without making an explicit reference to the country's status. A partial remedy to this difficulty should be found in the government actively engaging in lobbying to the individual Member States in order to create a constructive flow of communication on the situation in Kosovo in general, as well as on the progress regarding visa-liberalisation in particular. Working on Kosovo's reputation and perception abroad appears to be an indispensable element of a sustainable strategy; this is the more relevant that a failure to do so could actually create a fertile soil for politics playing a decisive role in a process, intended by the EC, and wished by Kosovo, to be primarily merit-based. A good illustration of such a risk is France's reticence to give its nod to Albania and Bosnia in 2010, basing itself on unsubstantiated doubts on matters in which the two countries complied with the conditions more than the three previous, but whose process was not marked by similar 'perception' obstacles (for example refer to fig 1 below). The Kosovo government will be responsible if such hurdles dominate the visa-liberalisation process.

The situation is further rendered complex as a result of the creation of the principle of 'reinforced consultation', which markedly engages the Member States, the Commission, EUROPOL, EUROJUST, FRONTEX, EASO and EULEX in assessing Kosovo's progress(see table 1 above). Kosovo is thus facing a strong scrutiny, and will therefore need to dedicate particular attention to satisfying all stakeholders involved. However, other Western Balkan countries were subject to a similar control, although with the difference that they had concluded working arrangements with the concerned agencies and the channels of communication between them, and individual countries and their organs were more direct.

In terms of the benchmarks presented to Kosovo, they focus on some extra areas that were not included or highlighted in other Western Balkan countries' roadmaps, tailored to the Kosovo's particular internal context. The document is particularly preoccupied by fighting corruption in all spheres of public life, law enforcement bodies, as well as agents involved in the management of borders. It also emphasises the need to establish a remedy to the lack of internal cooperation and coordination in order to strengthen the capacities of bodies engaged in intervening against organised criminal activities, as well as to ensure an efficient management and control of the border areas.

Finally, and as mentioned throughout this report, the EU has been a (relatively) fast-learning student, seeking to reflect lessons learned in its approach towards policy-making and partners. Whilst the booming numbers of asylum seekers from the first wave of the visa-liberalisation process in the Western Balkans provoked hesitation on the side of some of the Member States to give their blessing to Albania and Bosnia for joining the visa-free Annex II and subsequently led the EU to establish a post-visa liberalisation safeguard mechanism, thus allowing for temporary suspension of visa-free regime, it motivated the EC to impose new conditions on Kosovo, directing special focus on the migratory and security impacts of visa liberalisation with Kosovo. The latter will have the opportunity to enter the visa-free Europe, but

only in the case of positive asylum seekers trends (besides fulfilling the rest of the roadmap's benchmarks), based on the evaluation of 'the visa refusal rate for applicants from Kosovo, the rate of refused entry into the common Schengen area for Kosovo citizens, the number of Kosovo citizens found to be illegally staying in the territory of one of the Member States, the total number of asylum applications from Kosovo citizens and the number of rejected readmission applications submitted by a Member States to Kosovo for Kosovo citizens'. If the visa refusal rate and rate of refused entry within the Schengen zone constituted a condition for the rest of the Western Balkan states, they were eventually rather disregarded as a country's leverage to influence them is very limited; the main criteria in this sphere thus becomes the rate of rejected readmission applications. Whether or not the EU will adopt the same approach as it did with other Balkan applicants for visa-free travel is yet to be seen.

The extent to which Kosovo's roadmap differs from the roadmaps of other Western Balkan states further comes to light when one directs attention to the table above (Table 1), built by the GLPS for comparative purposes of the present report. The column dedicated to the Kosovo's roadmap contains conditions that are either unique to the visa-liberalisation process, that in some way go beyond the criteria imposed on the five previous candidates for visa-free travel from the Balkan region, or otherwise contain elements absent in other roadmaps. A good illustration of this are the benchmarks of the Block III concerned with 'Preventing and combating organised crime, corruption, and terrorism', stressing the importance of 'transparency, integrity and accountability' of public administration, officials and parties that represent a reflection of internal context unique to Kosovo, whilst the need to '*proactively* investigate inexplicable wealth' places higher demands on Kosovo's institutions than those faced by the five Balkan states who went through the process at an earlier stage in time (see table 1). The table makes evident what has been analysed in detail in the previous section, which is that, although substantial similarities can be identified in the EC's approach towards eventual visa liberalisation with the whole of the Balkans, the way forward for Kosovo is delineated in a different manner, tailored to both internal and external circumstances.

The Lisbon Treaty and its Implications for Kosovo's Visa Liberalisation Process

The Lisbon Treaty has brought about several changes, amongst which the establishment of the co-decision procedure is particularly relevant for Kosovo's way towards achieving visa-free regime with the Schengen zone. The co-decision procedure empowers the European Parliament, and significantly strengthens its position vis-à-vis the Council through transforming its consultative competence into a right to approve or refuse legislative proposals originating from the Commission. The Parliament is thus placed on equal footing with the Council, and any regulation needs to be given the green light by both the Parliament and the Council in order to be approved. Whilst there were already two countries that entered the visa-free Schengen under the new regime, namely Albania and Bosnia, it is Kosovo that may particularly benefit from the new constellation of prerogatives. If the Council tends to be more rigid in regards to migration matters—as it gives the opportunity to those Member States facing immigration difficulties to raise their voices and preoccupations about expanding the non-visa area—the Parliament holds a more favourable stance. The Liberties, Justice and Home Affairs Committee in charge of preparing a report on visa-liberalisation processes with third countries and their progress within the Parliament, with the participation of the Foreign Affairs Committee, has a very liberal attitude towards civil rights and the freedom of movement of persons. Moreover, the Parliament itself also tends to be more approving in relation to such issues. The fact that the Parliament has been strengthened by the Lisbon Treaty is therefore a positive factor for Kosovo as it is likely that a result of a vote on granting visa-free travel to Kosovo's citizens following the fulfilment of the

benchmarks would be positive. Moreover, once there is a positive vote on the Parliament's side, it creates, as a minimum, a psychological pressure on the Council to follow in its steps. This could effectively limit, to some degree, the politicisation of the decision in the Council where, as developed in other sections of the present policy report, such risk is present. Accordingly, the decision-making mechanisms valid under the Lisbon Treaty have the potential to positively impact the visa liberalisation process with Kosovo, most notably in its final and most decisive phase.

Managing Expectations: Temporal Aspects of the Visa-liberalisation Process with Kosovo

The Programme of the Government of the Republic of Kosovo 2011–2014, for example, sets a goal to achieve final lifting of visa requirements for its citizens in fifteen months after 'receiving the visa strategy from the European Commission'.⁵⁴ Kosovo's Prime Minister Hashim Thaci has stated recently that the government sees the possibility to move across Schengen borders without visas in nine months' time, thus magnifying the already significant ambitiousness of the project. Therefore, it seems clear that rhetoric of unrealistic and inflated promises is an inherent part of political struggle for the support of the electorate. Such attitude would not only risk enfeebling the reform efforts and their effects as a result of the waning support of the population troubled by disappointment of a slower advancement of the process than declared by the governmental representatives, but would eventually threaten the political survival of the current government coalition itself. Being overly optimistic in public declarations might therefore turn out to be counter-productive—both for the current political elite in Kosovo and, more importantly, for the Kosovo's peoples' prospects to step out of the years long isolation. It has been reiterated by the EU's representatives on a number of occasions that the way towards achieving the abolishment of visas is a long and difficult process.

In fact, this has been proved by the experience of Macedonia, Montenegro, Serbia, Albania and Bosnia. Although Macedonia was the first of the group to comply with the set criteria, and thus the first to have qualified for the lifting of long-term visa obligation for its citizens, a year needed to pass before it was considered ready to be moved from the Black List to the White List. What is more, an additional seven months were necessary for the European institutions to go through the associated procedures and to accordingly give the final approval in December 2009—one and a half years following the country receiving its roadmap (see fig. 1). Whilst Albania and Bosnia took twenty-seven months to fulfil the EC's benchmarks, they benefited from an accelerated procedure that allowed them to gain the approval of all EU bodies involved two months after the EC declared them ready in September 2010 (see fig 1). Considering the nature of challenges affronted by Kosovo in the fulfilment of the conditions (developed in detail in the following section), some of them, being highly dependent on the willingness of external actors to move things forward (the example of Serbia being the most notable one, particularly in the field of border management), the inherently slow pace of European decision-making, and the inevitably more pronounced presence of political elements in the visa liberalisation process with Kosovo, it appears appropriate to conclude that the government's scenario of nine/fifteen months, and even the end of 2013 as a date for extending the visa-free travel to Kosovo will probably not be realised (see fig .2). If the process since the beginning of the visa dialogue with Kosovo has greatly resembled those of other Western Balkan countries in terms of its speed, as

⁵⁴ The Program of the Government of the Republic of Kosovo 2011 - 2014.

can be seen when considering the schemes below, the pace of future developments is difficult to predict owing to the reasons presented.

Figure 1 explaining the Western Balkans countries experiences toward achieving visa liberalization

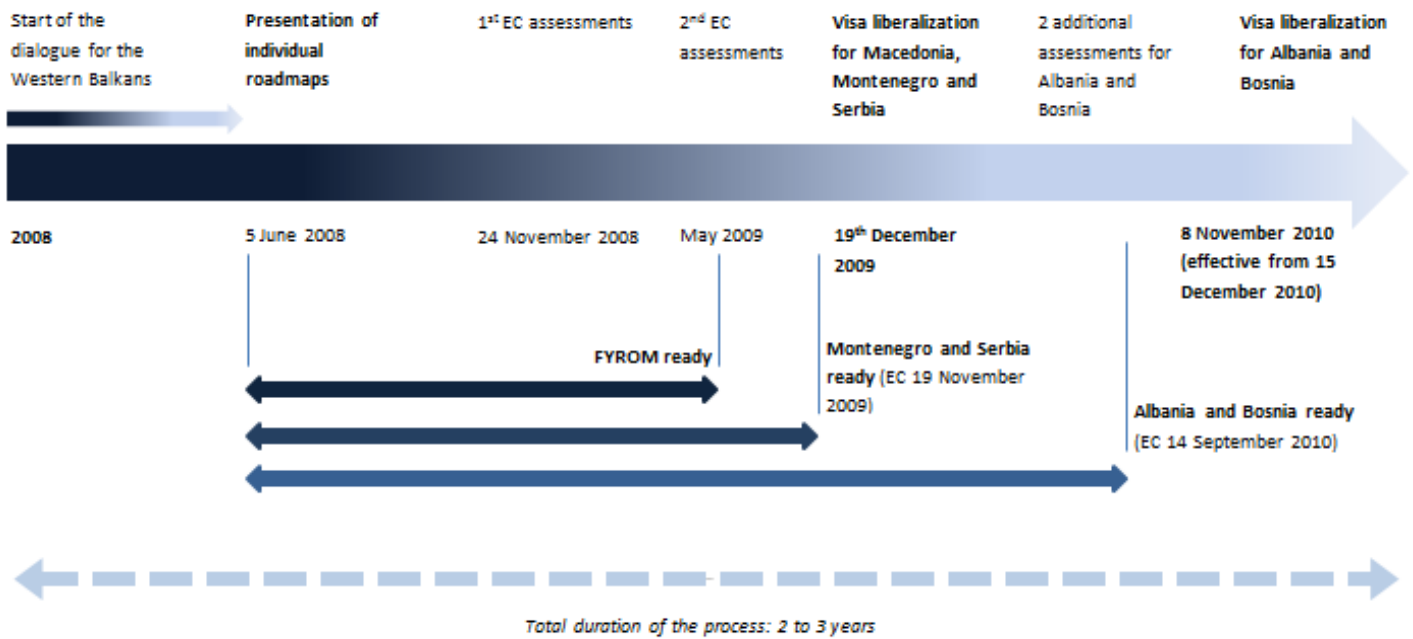


Figure 2 operates with an assumption that the same approach will be applied by the EU stakeholders in the case of Kosovo as they did during the two previous waves of Western Balkan visa-liberalisation, and that Kosovo will show satisfactory progress in the adoption and implementation of the required reforms. Nevertheless, a strong basis exists for believing that the process will be more protracted, and that the government should reflect it in its rhetoric and actions so as to ensure the earliest and least painful transfer of the country from Annex I to Annex II. However, political bargains between the EU Member States and Kosovo authorities may as well impact the date for extending the visa-free travel to Kosovo by the end of 2013.

Figure 2, explaining the pace of Kosovo towards Visa Liberalization.



Challenges and Recommendations

As mentioned previously, the visa-liberalisation process is difficult and implies hard work, as well as tough commitment from the government. Besides the external political barriers, Kosovo should be well prepared to address the domestic policy reforms, and to introduce technical reforms so as to meet all the requirements of the road map. Therefore, in the following part of the paper, the main challenges for Kosovo have been identified in relation to each block of the Roadmap.

First, all Western Balkan countries concluded the readmission agreements with the EU, and were obligated to undertake measures to reintegrate returnees who have been sent back by the EU. As Kosovo is not recognised as an independent state by all EU Member States or by the EU as an international organisation, the main challenge is to agree upon modalities that permit the latter to conclude bilateral agreements with those remaining EU non-recognising countries. Kosovo, until now, has signed sixteen readmission agreements with France, Germany, Denmark, Austria, Slovenia, Belgium, Netherland, Luxembourg, Czech Republic, Sweden, Finland, Hungary, Switzerland, Norway, Albania and Montenegro, and should continue signing such agreements with the remaining countries. Moreover, related to the reintegration policy, it is necessary to improve the cooperation between the state institutions and relevant bodies of the EU Member States in order to exchange detailed information and statistics on readmission, and to push forward a more uniformed approach on this issue. In accordance with the Strategy and Action Plan, relevant state bodies should fully implement reintegration programmes, and the government should ensure effective cooperation and communication between relevant offices and departments, as well as direct attention towards increasing the capacity of municipalities for the reintegration of repatriated persons. Furthermore, in accordance with provisions of the Law on Asylum of the Republic of Kosovo, third-country nationals should have access to the system of refugee protection.

Block I of the visa-liberalisation roadmap requires Kosovo to ensure ‘a high level of security of breeder documents and ID cards’ and define ‘strict procedures for their issuance’⁵⁵. The main challenge here is the improvement of technical infrastructure (databases) so as to ensure a more secure protection of sensitive personal data and effective exchange of this information. It is crucial to safeguard the security and accordingly prevent the falsification or manipulation of the breeder documents as they are the basis for issuing other personal documents. Moreover, the number of biometric passports distributed should be increased, whereas the government should start immediately with the issuance of biometric ID cards in accordance with the new law, which is yet to be adopted by the Assembly. Furthermore, another challenge relates to the government’s efforts to promptly inform EU Member States, European Commission, and EULEX on the number of personal travel documents and biometric ID cards issued so far, and the developments taking shape in this block of the Roadmap.

Regarding Block II of the Roadmap, an important challenge for Kosovo is border management and control, particularly in regard to the demarcation and integrated management of Kosovo’s border with neighbouring countries, Serbia in particular. The most urgent consideration in this vein appears to be the unresolved border issue with Serbia (particularly ‘prevention, detection and investigation of cross B/B crime’). Moreover, this is related to the inability of Kosovo’s Government, EULEX, and KFOR to exercise effective authority in the Northern Kosovo. As the ability to effectively exercise border control at all crossing points with

⁵⁵ Visa Liberalisation with Kosovo, Roadmap, Block I, June 2012, available here: http://www.mei-ks.net/repository/docs/Kosovo_visa_roadmap_FINAL.pdf.

other countries is one of the most imperative conditions of the Roadmap, the progress towards final liberalisation appears to be dependent upon the progress of relations between Pristina and northern Kosovo.

Another key challenge of this block is the migration and asylum policy. Kosovo's government should work more on repatriating citizens that have attempted unsuccessfully to seek asylum in other countries, and should also improve the conditions for new potential asylum seekers to Kosovo. It is essential that the Kosovo government provide the funds necessary in the budget allocated for the work of the Asylum Centre in Magure (Lipjan), and continue the trainings of the border police on the rights of asylum seekers, pushing forward a prevention policy as regards this issue. Furthermore, the government should seek to implement campaigns geared towards achieving greater awareness concerning travelling to Europe, aiming to explain the rights and obligations of the visa-free regime, including information on rules regulating access to the EU labour market, so as to prevent potential future illegal migration. The challenge here is to offer an alternative to those who consider asylum as a way of escaping poverty or reaching better social status and living standards; thus, the real challenge is to work towards economic betterment within Kosovo, and to offer opportunities to the young generation, which is the populace hit mainly by unemployment and the lack of economic prospects. Hence, the government needs to devise a complex policy linking the migration and development of Kosovo.

Focusing on the benchmarks of the Block III, as well as on the current situation of Kosovo, one can conclude that the key challenge for Kosovo is to meet the requirements related to public order and security. First, Kosovo authorities should, in particular, substantially increase the efforts to fight organised crime and corruption. On the basis of other countries' experience, it is expected that Kosovo authorities adopt important laws in the field of confiscation of organised crime assets, and establish the necessary state mechanisms to apply such legislation with a high degree of responsibility. Along with the legal framework, a large number of strategies and action plans should be adopted and, what is more, implemented. Furthermore, the capacity of the police and its units responsible for financial intelligence to conduct effective and impartial investigations of organised crime and corruption, including money-laundering and economic and financial crime, should be strengthened,⁵⁶ whereas the government should ensure that a fully functional and depoliticised police system implements this policy.

In addition, Kosovo should find a way of acceding to the main European and international conventions within the field of extradition (or should sign bilateral agreement with EU Member States), mutual legal assistance, and other forms of legal and judicial cooperation in criminal matters. One of the main challenges relating to the judicial cooperation in criminal matters is the difficulties deriving from the non-recognition of Kosovo amongst the five EU Member States. Such countries communicate through EULEX/UNMIK, and not directly with Kosovo bodies, to prevent the assumption of recognition. Thus, joint investigations and operations mentioned in the roadmap become problematic—at least for the EU non-recognising states. Moreover, another challenge concerns Kosovo-finding appropriate channels of communication with the European agencies, such as EUROPOL and EMCDD; this would help to prevent and combat organised crime, either through the assistance of EULEX or of the European Commission. Penetration in regard to such European-level mechanisms is the key for Kosovo's participation in regional and European-level rule-of-law cooperation.

⁵⁶ Visa Liberalisation with Kosovo, Roadmap, June 2012, available here: http://www.mei-ks.net/repository/docs/Kosovo_visa_roadmap_FINAL.pdf

Third, regarding law enforcement cooperation, Kosovo should intensify the cooperation of the police services in the region through bilateral agreements on cross-border cooperation in combating organised crime and border control. The key challenge here is that Kosovo is asked to 'explore avenues of cooperation'⁵⁷ with regional initiatives since its contested status might be an issue.

Importantly, in the last part of this block, Kosovo is required to 'align with the EU acquis and implement legislation on the protection of personal data'.⁵⁸ The key challenge here is the implementation of the Law on the Protection of Personal Data adopted by the Kosovo Assembly in April 2010, wherein the government has taken some initial good steps. As pointed out through the Block IV of the Roadmap, Kosovo should 'ensure that the freedom of movement of Kosovo citizens is not subject to unjustified restrictions, including measures of a discriminatory nature, based on any ground...'.⁵⁹ One of the main challenges for the government in this regard is to ensure the freedom of movement of citizens in the Northern part of Kosovo, wherein EULEX and KFOR certainly share a huge part of the responsibility. Besides that, facilitated procedures should be ensured, providing undisturbed access to identity documents for displaced persons and refugees in the whole of northern Kosovo.

CONCLUSION

The list of challenges/recommendations presented above makes clear that a greater engagement from the side of the Government of Kosovo is necessary if Kosovars are to benefit from visa-free travel in the Schengen area in the near future. A lack of effective communication, cooperation, and coordination of the involved agencies poses difficulties in the implementation of reintegration programmes, whilst technical difficulties are encountered in the field of personal data protection and document issuance. The exercise of effective control at the borders is particularly challenged by the still-hostile relations with Serbia, with progress in the fight against corruption and organised crime constrained by Kosovo's exclusion from international rule-of-law and law enforcement agencies. Moreover, there is a long way ahead to stabilise the situation in the field of migration and asylum policy. These are some of the most burning problems that remain unresolved. Accordingly, it needs to be acknowledged that the Government of Kosovo has devised some effort to adopt a number of legislative acts, strategies, and action plans over the period of the last few years. However, the implementation has been often lagged behind, and the government willingness has so far been judged unconvincing by the Kosovar civil society. In addition, if it is understandable that the focus of the leading elite has been directed towards the domestic issues in the period immediately following the declaration of independence, it seems vital for the success of the visa liberalisation project to direct some attention towards bodies of international and regional cooperation. The claim that Kosovo should be able to fulfil benchmarks linked to the domestic policy issues can be proved true only if state authorities address them with the highest level of responsibility. This applies equally to the issues of regional and international character where the results of governmental endeavours are potentially more volatile.

⁵⁷ Visa Liberalisation with Kosovo, Roadmap, June 2012, Block 3, available here: http://www.mei-ks.net/repository/docs/Kosovo_vis_a_roadmap_FINAL.pdf

⁵⁸ Visa Liberalisation with Kosovo, Roadmap, June 2012, Block 3, available here: http://www.mei-ks.net/repository/docs/Kosovo_vis_a_roadmap_FINAL.pdf

⁵⁹ Visa Liberalisation with Kosovo, Roadmap, June 2012, Block 4, available here: http://www.mei-ks.net/repository/docs/Kosovo_vis_a_roadmap_FINAL.pdf

POLICY REPORTS

Policy Reports are lengthy papers which provide a tool/forum for the thorough and systematic analysis of important policy issues, designed to offer well informed scientific and policy-based solutions for significant public policy problems. In general, Policy Reports aim to present value-oriented arguments, propose specific solutions in public policy – whereby influencing the policy debate on a particular issue – through the use of evidence as a means to push forward the comprehensive and consistent arguments of our organization. In particular, they identify key policy issues through reliable methodology which helps explore the implications on the design/structure of a policy. Policy Reports are very analytical in nature; hence, they not only offer facts or provide a description of events but also evaluate policies to develop questions for analysis, to provide arguments in response to certain policy implications and to offer policy choices/solutions in a more comprehensive perspective. Policy Reports serve as a tool for influencing decision-making and calling to action the concerned groups/stakeholders.