

2009

Ending 'Ghettoisation' of the Western Balkans

Visa Liberalisation Prospects



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**Ending ‘Ghettoisation’ of the Western Balkans
- Visa Liberalisation Prospects –**

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Ever since the European Commission (EC) handed over the Roadmap for Visa Free Travel¹ to the Macedonian government in May 2008, visa liberalisation has been the topic of the year. There hasn't been a speech delivered by government officials, an issue of a newspaper or an event on integration held without mentioning the issue of visa liberalisation. Many reports have been written. Many researches as well as research projects have been conducted, assessing the process of visa facilitation, reviewing the fulfilment of the criteria set in the roadmap or evaluating the prospects for visa liberalisation for the near future.

After so many writings on this process, a vast media coverage as well as political exploitation of the topic, what this report aims to do is to present a compact picture on the whole process up to date. It will start by presenting an overview of events preceding the visa liberalisation negotiations, through a short history of travelling for the citizens of the Western Balkans, and presenting what was to follow in the form of Visa Facilitation Agreements and their implementation. This will be followed by an intro on the visa liberalisation process and an overview of the current progress of Macedonia against the Roadmap benchmarks. Next, a brief explanation on how will the decision on visa liberalisation be made, as well as the "what ifs?" on a positive and on a negative opinion of the EC on Macedonia's progress on the visa issue. It will wrap up with recommendations on how to further progress with this process.²

Macedonia is currently rated 63rd with a score of 49 on the 2008 Global ranking of the Henley Visa Restrictions Index³, after Serbia and before Bosnia and Herzegovina and Albania. After working hard to progress against the benchmarks set in the Roadmap, this candidate country for membership in the EU and its citizens⁴ are hoping that Macedonia will be transferred on the EU White List in the course of this year.

From visa free travel to the EU visa black list

One of the reasons for placing the countries from the Western Balkans in early 1990s on the Black List was the chain of conflicts and instability raging in the region at the end of the twentieth century. However, the region does not have only a recent history of war. It also has a history of communist and socialist past. During this period, the countries with communist regime did indeed live in an isolation (this is especially relevant for the regime in Albania). The circulation of people from the East to the West was difficult and not frequent. The same went for the movement of people from the West to the East.

However, the reality for the people from the socialist federation of Yugoslavia was a completely different one. The Yugoslavian passport gave freedom of movement to its holders to travel both East and West. Thus, Yugoslavs enjoyed true freedom of movement, even during the Cold War era, and could travel free to both the European Economic Community (today EU) and to the Communist block.

After the dissolution of Yugoslavia, series of violent conflicts occurred in the region, causing (among other effects) imposition of restrictions on travel to the citizens of the ex-Yugoslav republics in the EU. Very soon

¹ Visa Liberalisation with the former Yugoslav Republic Of Macedonia - Roadmap. *European Stability Initiative Website*. <<http://www.esiweb.org/pdf/White%20List%20Project%20Paper%20-%20Roadmap%20Macedonia.pdf>>. (Accessed on 26 February 2009).

² The research was mainly conducted through desktop research and interviews. Documents, various reports, interviews as well as speeches were separately analysed, then compared. Interviews were conducted with people working on the process as well as people researching the process.

³ The Henley Visa Restrictions Index is a global ranking of countries according to travel freedom their citizens enjoy. For a full list of the 2008 Global ranking, please see: http://www.henleyglobal.com/fileadmin/pdfs/content/HVRI2009_GlobalRanking.pdf.

⁴ Recent opinion pool shows that visa liberalisation was voted as personal priority number one for the people. For full results, please see: Јавното мислење во Македонија за рејтингот на политичките партии и личности [Public Opinion in Macedonia on the rating of the Political Parties and Individuals]. *Institute for Democracy Societas Civilis*, 09 December 2009. <<http://www.idscs.org.mk/upload/publicOpinion/IDSCS%20Izvestuvanje%20za%20mediumi%20anketa-Dekemvri%202008.pdf>>. (Accessed on 09 March 2009).

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after this, in March 2001, the Council of the EU adopted a Regulation⁵ placing countries either on a so-called White List (those who do not need visa to enter EU’s external borders) or on a Black List (those who need visa to enter EU’s external borders).

Placing the Western Balkan countries (except Croatia)⁶ on a Black list caused ‘ghettoisation’ of the Balkans. It made travel in the EU difficult to impossible. At its 2003 Thessaloniki summit, the EU acknowledged the importance of the prospect for liberalisation of the visa regime for the people and the governments of this region, and welcomed the intention of the Commission to open a dialogue on this issue with each of the Western Balkans countries.⁷

After living through the consular sadism⁸ when applying for a visa, the current generations (especially those which once were able to travel free both eastward and westward), can’t help but wonder how can the Union which declaratively admits the Western Balkans’ future is in Europe, be the same EU which subjects them to such visa procedures and makes it difficult to impossible to travel and to just see what the EU is all about. This realistically makes many wonder if the EU wants them at all.⁹

Following the 2003 Thessaloniki summit, close to nothing changed in the EU visa policy towards the region until 2007. In 2007 Agreements on Facilitation of the issuance of visas, as well as Readmission Agreements, were concluded between the EU and all countries from the Western Balkans.

Visa Facilitation: is it really?

For the purpose of facilitating the issuance of visas for an intended stay of no more than 90 days per period of 180 days, the Visa Facilitation Agreements (VFA) were signed in September 2007 with Albania, Bosnia and Herzegovina, Macedonia, Montenegro and Serbia. This presented the very first step towards easing the visa regime for these countries, and a formal assertion at the same time that this is a step towards visa liberalisation.¹⁰ They entered into force on January 1st, 2008.

⁵ 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. *EURLex*. Council of the European Union. <<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2001:081:0001:0007:EN:PDF>>. (Accessed on 26 September 2008).

⁶ Croatia was the only country from the Western Balkans placed on the White List.

⁷ The Thessaloniki Agenda for the Western Balkans. *EUROPA, EU*.

<http://ec.europa.eu/enlargement/enlargement_process/accesion_process/how_does_a_country_join_the_eu/sap/thessaloniki_agenda_en.htm>. (Accessed on 26 September 2008).

⁸ EU visas and the Western Balkans. *International Crisis Group*, 29 November 2005.

<http://www.crisisgroup.org/home/index.cfm?action=login&ref_id=3809>. (Accessed on 26 September 2008), 9.

⁹ In its 2005 report “EU Visas and the Western Balkans”, the International Crisis Group (ICG) reaches the core of the visa problem for the Western Balkans. Being the first to say out loud that it is indeed ghettoisation what the EU is doing to the Western Balkans with its visa policy, they suggested facilitation of the visa regime, with a clear prospect for full liberalisation. Clearly depicting the urgency and importance of these adjustments towards the Western Balkans, the ICG illustrated the most basic but a huge positive impact from liberalisation of the visas through the statement of a senior Bulgarian official who said that granting of visa free travel for Bulgarians was a moment of trust between Bulgaria and the EU. He states it was a signal enough for both politicians and citizens to push harder and make the necessary reforms to meet EU standards. What is most important from his statement which we can apply to the current emergency of the issue for the Western Balkans is his point that at the step of moving Bulgaria on the White List, Bulgarians knew Europe was serious about their EU perspective.

¹⁰ Agreement Between the European Community and the Former Yugoslav Republic of Macedonia on the facilitation of the issuance of visas. *Official Journal of the European Union*, 19 December 2007. <<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:334:0125:0135:EN:PDF>>. (Accessed on 19 September 2009). 132.

Visa Facilitation Agreements included the following:

- ★ Simplification of the procedure for *specific categories of applicants*, such as: pupils, students, members of civil society organizations, travellers for scientific, cultural, sport and other activities, close relatives, drivers conducting international cargo as well as passenger transportation to one of the Member States, etc.
- ★ Shortening the list of *documents needed to apply* for a visa.
- ★ *Visa fee* positioning on 35 euros, with special provisions on *exemption* from this fee.
- ★ Limiting the *processing of the application* up to 10 calendar days. In cases of emergency it can be lowered to 2 working days or less. It can be extended in special cases up to 30 calendar days.

The application of this facilitation took off, but both signature sides did very little to promote the VFA. Close to nothing was done to explain to the every day citizen what the benefits from this agreement were, as well as what they can realistically expect from the facilitation.

The Macedonian government, aside from placing a Macedonian version of the VFA on the website of the Ministry for Foreign Affairs, did close to nothing to inform its citizens about the benefits from it, or to assist them in the application procedure. They also did nothing to address the problems which had arisen with issuing some of the documents needed to apply as well as to assist some of these categories of applicants.¹¹

On part of the EU, there was an effort from the Delegation of the European Commission to inform the citizens on the content of the VFA, through spreading of informational leaflets in English, Macedonian and Albanian, as well as through instructions placed on the Delegation's website. Also, since the opening of the EU Info Centre, citizens can turn there for more information. However, it was the embassies and consulates of the individual Member States of the EU which were to practically implement this agreement.¹²

Visa Free Travel for the Western Balkans: Roadmaps and Benchmarks

At the start of the Slovenian presidency with the EU and right after the VFAs entered into force, in January 2008 the European Commission started a visa liberalisation dialogue with Serbia. One month later, in February, it did the same with Macedonia¹³ and Montenegro, in April with Albania and in May with Bosnia and Herzegovina. Regardless of whether the initial launch of the Visa Free travel dialogue started with Serbia as an exchange on what was to follow next month – Kosovo's declaration of independence¹⁴, it was

¹¹ For example, the problem with the journalists who do not have a long term formal employment status and thus can not show M1 and M2 forms (Macedonia specific social security papers).

¹² Brussels based European Citizen Action Service, implemented a project on visa facilitation. According to their findings, the problems in the VFA implementation move in the following line: ambiguities about documents needed to apply for a visa; lack of explanation for rejected visa; breach on both fee and reasonable time provisions of the VFA; rude or inhuman treatment by the consular staff; etc. For detailed results, as well as for detailed descriptions on a number of individual cases, please see: the web site of the *European Citizen Action Service*: <http://www.ecas-citizens.eu> and *Monitoring of the Macedonia Visa Facilitation Agreement, Visa Hotline Progress Report, Macedonian Centre for International Cooperation*. <http://www.ecas-citizens.eu/index.php?option=com_docman&task=doc_download&gid=323&Itemid=>. (Accessed on 26 January 2009).

¹³ The Visa liberalisation dialogue with Macedonia was launched in February 2008 by Mr. Frattini, Franco. Ministry of Foreign Affairs of the Republic of Macedonia.

¹⁴ The White List Project. EU Policies on Visa-Free Travel for the Western Balkan. *European Stability Initiative*, 1 November 2008. <http://www.esiweb.org/index.php?lang=en&id=156&document_ID=106>. (Accessed on 24 February 2009).

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the first concrete action with regards to fulfilment of the EU declarative commitment for enhancement of people to people contacts¹⁵, which meant a huge stake in the European future to the people from the Western Balkans.

May 2008 was the month when Macedonia and the other countries from the Western Balkans received their Roadmaps for Visa Liberalisation, tailor-made to address the specific reform needs of all of them individually. Having already issued couple of hundred thousands of biometric passports, advanced implementation of the Integrated Border Management System, start of operations of the National Visa System and with already advanced alignment of the legislation with the demands of the EU, Macedonia was recognized as a leader in the process.

The Roadmap has two main sets of requirements:

- ✦ Requirements related to the correct implementation of the Community Visa Facilitation and Readmission Agreements; and
- ✦ Requirements grouped in the following blocks:
 - ★ Document security,
 - ★ Illegal migration including readmission
 - ★ Public order and security and
 - ★ External relations and fundamental rights.

This set consists of four blocks, each comprised of benchmarks, totalling up to forty benchmarks. The specific requirements according to the Roadmap are placed in Annex I of this report. Not to enter into many technical details,¹⁶ an overall assessment on Macedonia's implementation of the reforms foreseen in the Roadmap will be presented.

★ *Block 1: Document Security*

Macedonia has been issuing travel documents in accordance with the ICAO standards since April 2007, and has issued more than three hundred thousand documents so far. All citizens are expected to have biometric passports by 2012. The passports now do include a fingerprint and a photo. A mechanism for reporting to the Interpol is in full functioning, and there is ongoing reporting on lost or stolen passports. Amendment to the Law on Matricular Evidence have been adopted¹⁷ offering a single legal frame and procedures for handling the matricular books, and establishing a Directorate to handle the unification of the matricular books.

¹⁵ The EU was not saving words to restate its commitment to enhancing people to people contacts through the speeches of their officials as well as through official documents. For example: Commission staff working paper, EU regionally relevant activities in the Western Balkans 2008/09 (p.6); 18 Month Program of the French, Czech and Swedish Presidency (p.9); Work Program of the Czech Presidency 2009 (p.1); and the Enlargement Strategy for 2008-2009 (p.7).

¹⁶ For a detailed overview please see: Draft assessment by the European Commission of the Implementation of the Visa Liberalisation Roadmap by the Republic of Macedonia, *European Stability Initiative Website*. <<http://www.esiweb.org/pdf/White%20List%20Project%20Paper%20-%20Commission%20Assessment%20FYROM.pdf>>. (Accessed on 24 February 2009).

¹⁷ Закон за изменување и дополнување на законот за матична евиденција [Law on Matricular Evidence]. *Official Gazette of the Republic of Macedonia*, No. 98/08, (04 August 2008). <<http://www.pravo.org.mk/download.asp?ID=2&SID=1144>>. (Accessed on 10 February 2009).

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A field mission to assess the situation on ground was conducted in the course of January 2009.¹⁸ An overall assessment¹⁹ of this block would be that there is very good progress made and that the requirements have been met.

★ *Block 2: Illegal migration, including readmission*

The legislation in the area of border police is in place. The Law on Police, Law on aliens, Law on State Border Surveillance, as well as relevant implementing legislation is in force. A lot has been done in equipping and connecting the border crossing points. However, not all border crossing points (BCP) have been connected to the central database. Worth noting is that these are some of the smallest (least frequent) BCPs. The equipment of all BCPs as well as border police stations is not in the same fashion. Some of the BCPs and border police stations, those at the most frequent places, are equipped with far more advanced technology than others. In this regard, for an equally efficient and uniform level of border control, further investments are needed. A working agreement with FRONTEX, an EU border management agency, was concluded

When it comes to asylum, it is worth to note that Macedonian legislation is largely in line with the European standards and that it is constantly improving. The latest amendments on the Law on Asylum and Temporary Protection were on subsidiary protection, and are in line with the UNHCR recommendations on principles of subsidiary protection. Also, worth noting is that since August 2008 the Department on Asylum at the Ministry of Interior started to issue identification documents to the asylum seekers free of charge.

Since August 2008 an inter-ministerial group on migration was formed with the task to work on formulating the migration policy. The results of this inter-ministerial group were formulation of a migration profile and a Strategy for the integration of migrants and refugees, and adoption by the Parliament of a Resolution on migration policy for the period of 2009 – 2014²⁰.

Readmission is part of this block through the demand for ensuring effective expulsion of illegally residing third country nationals. Implementation of the Readmission agreements is underway, as well as the conclusion of bilateral²¹ readmission agreements.

An overall assessment²² of this block would be that substantial progress has been achieved. A field mission to assess the situation on ground in the areas of border management and migration management including asylum was conducted in the course of February 2009.

¹⁸On the dates of missions and the meeting, please see: Irina Gelevska. "Започна оценувањето на ЕК за визна либерализација [Evaluations on Visa Liberalisation Started], A1, 19 January 2009. <<http://www.a1.com.mk/vesti/default.aspx?VestID=103219>>. (Accessed on February 02, 2009). And "ЕК: Визна либерализација почеток на 2009 [EC: Visa Liberalisation start in 2009]", A1, 30 November 2008. <<http://www.a1.com.mk/vesti/default.aspx?VestID=100894>>. (Accessed on February 02, 2009).

¹⁹ Macedonia's 2008 Progress Report also notes the well advanced preparations of Macedonia in this area.

²⁰ Резолуција за миграционата политика на Република Македонија 2009 -2014. [Resolution on the migration policy of the Republic of Macedonia]. *Official Gazette of the Republic of Macedonia*, No. 06/09, (19 January 2009). <<http://www.pravo.org.mk/download.asp?ID=1&zID=865>>. (Accessed on 20 February 2009).

²¹ The most recent ones with Montenegro, Serbia, Moldavia, Ukraine and Iceland.

²² The 2008 Progress Report notes that Macedonia is well on track when it comes to asylum, and that it is advanced when it comes to preparations of Macedonia in the areas of migration and border management.

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★ Block 3: Public order and security

On preventing and fighting organised crime, terrorism and corruption the expected work is close to being fully implemented. With regards to countering organized crime, there is one more segment to be fully completed, that is the establishment of the Central criminal intelligence database which is underway. On trafficking in human beings, the strategies and actions plans have been implemented. Worth noting here is the 2008 US State Department Report on Human Trafficking, which placed Macedonia in the TIER – 1 group stating that Macedonia fully complies with the minimum standards for the elimination of trafficking.²³ On fighting financial crimes, the legislation is in place, and is being implemented. Regulations referring to confiscation of assets of criminals have been adopted. The international cooperation of the country with international partners is well advanced. On the anti-drug policy, more technical advancements are needed. The GRECO assessments²⁴ of Macedonia have been overly positive, and many of the recommendations for improvements have been completed. On preventing and fighting corruption, although there have been improvements lately, the lack of capacity to counter corruption is notable and there is a need for further strengthening of the State Anti-Corruption Commission. A positive signal is that Macedonia is advancing in the Transparency International corruption perception index, since it was positioned on the 72nd place this year, in comparison with 2007 when it was on 84th, and 2006 when it was on 105th place.²⁵

The requirements in the area of judicial co-operation in criminal matters are well advanced. The institutions in this area, as well as the necessary legislation are in place. The regional cooperation, as well as the international²⁶ is well advanced. Working agreement with Eurojust has been signed.

On the law enforcement co-operation, the Action plans which cover this area have largely been adopted. The implementation of these action plans, including the one on cooperation with Europol, is underway. On the data protection, the legal and institutional framework for the protection of personal data has been established. The international conventions and their protocols relevant for this area have been ratified.

An overall assessment²⁷ of this block would be that substantial progress has been achieved. Further efforts will be needed in the administrative capacity, enhancement of the trainings, as well as technical advancements. A field mission to assess the situation on ground in the areas of organized crime and anti-corruption policy was conducted in the course of January 2009.

★ Block 4: External relations and fundamental rights

Freedom of movement is a constitutionally prescribed freedom and right, which is restricted only in very restricted cases. There hasn't been a case of violation of the freedom of movement reported up to date. The issuing of the identity documents has been addressed in the legislation, and is ongoing in practice including the issue of the languages on which these documents are being issued, and the issue of specific documents for refugees as well as for IDPs. When it comes to the protection of minorities, Macedonia has the legislation

²³ Trafficking in Persons Report 2008. *US Department of State*, June 4, 2008. <<http://www.state.gov/documents/organization/105501.pdf>>. (Accessed on 19 January 2009).

²⁴ Evaluation Report on the former Yugoslav Republic of Macedonia. *GRECO*. Council of Europe. <[http://www.coe.int/t/dg1/greco/evaluations/round2/GrecoEval2\(2004\)11_FyroM_EN.pdf](http://www.coe.int/t/dg1/greco/evaluations/round2/GrecoEval2(2004)11_FyroM_EN.pdf)>. (Accessed on 2 March 2009).

²⁵ For more details on the Transparency International corruption perception index, please see: *Transparency International Website*. <http://www.transparency.org/>

²⁶ The international cooperation is especially advanced through the Academy for trainings of judges and public prosecutors.

²⁷ The 2008 Progress Report notes that Macedonia is advanced in the above areas.

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in place. However, the main concern in this block will most probably be on discrimination as well as on the access to documents (Roma population especially). Law on protection from discrimination will need to be enacted. A draft version of the law was prepared, and was opened for a public debate towards the end of 2008. Although anti-discrimination clauses are part of almost every law (where relevant), formal adoption of a general law for protection from discrimination is very much needed and hasn't happened up to date.

An overall assessment of this block would be that progress has been achieved. This was the only block which was not evaluated through a field mission. A special meeting on this block was to follow the evaluation missions.

Aside from Macedonia's progress on the Roadmap, we find one step to be very important and worth noting, and that is the preparation of the Schengen Action Plan. This plan is expected to be completed in April 2009, and will be a big step ahead for Macedonia in the area of Justice and Home Affairs. It is a step which will demonstrate firm determination of the Macedonian government not just to achieve the benchmarks in the Roadmap, but also for further advancement.

Summing up on the Roadmap(s)

Macedonia did receive a Roadmap with demands higher than those of the other countries in the region, to begin with. This signalled that it is by far more advanced than the other countries in the region. As we can see from the short overview above, it is indeed well advanced. Macedonia has formally met almost all benchmarks. Although it has some impediments in the administrative capacities, technical capacities as well as budget support, it has made efforts which can serve as a valid commitment and proof to the EC that the government will further its efforts and improve its capacities.

When it comes to comparing the progress in the region as a whole, Macedonia is from the very start recognized as a leader, and still is by far more advanced than the other countries. Following Macedonia as the forerunner are Serbia and Montenegro, followed by Albania and Bosnia and Herzegovina.²⁸

As the prospect for EU membership seems too distant, after the roadmaps have been introduced they became the main goal for the governments from the Western Balkans. Macedonia is now a clear example that the EU demands can be met. The EU is now on the move to show that it does indeed deliver its promises when the demands are fulfilled. Applying the state-by-state approach, it is of highest importance now to move the most advanced countries in the process to the White list, be it only one country or a group of countries.

How is the decision on Visa Liberalisation made?

The decision on the Visa Liberalisation is actually a decision on amending the Council of the European Union Regulation 539/2001²⁹ by transferring a country from the Annex I list, which is the listing of third countries

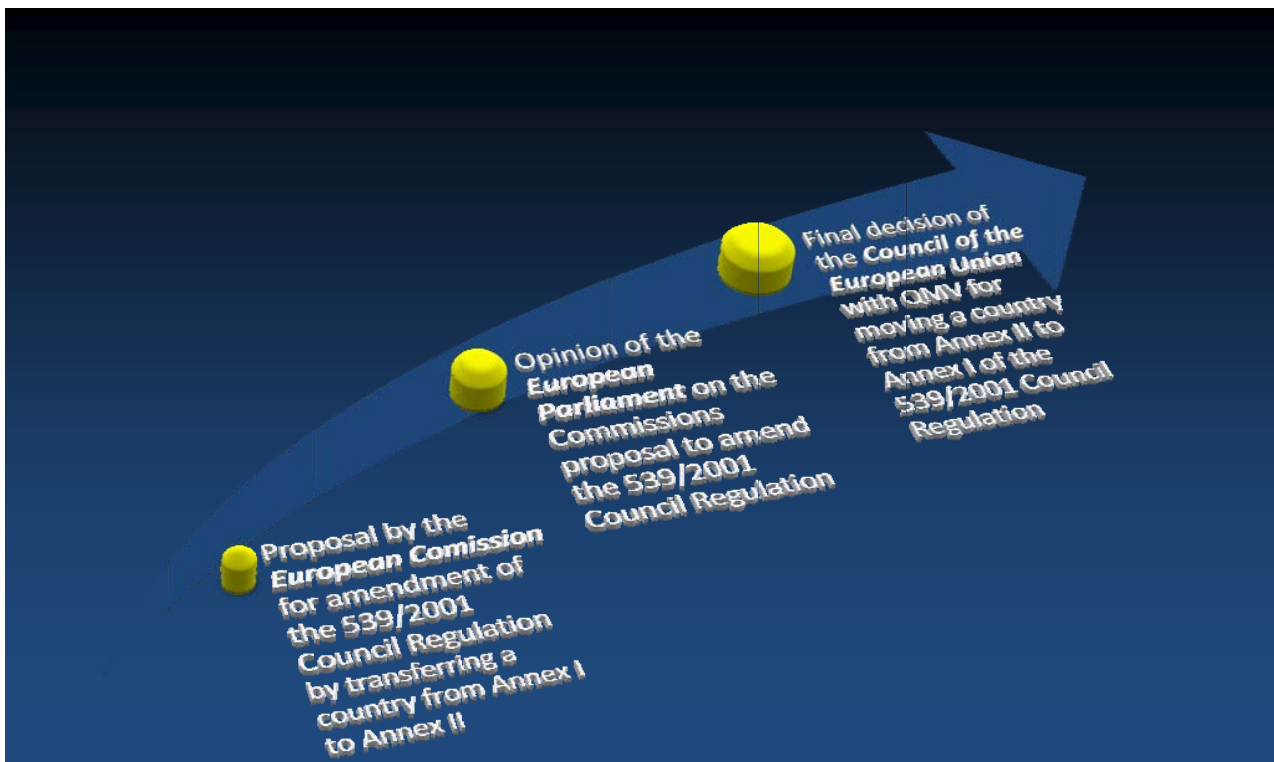
²⁸ For an overview of progress by the individual countries, please see: Excerpts from the Commission's Draft assessments of the Implementation of the Roadmaps for Visa Liberalisation, ESI. <<http://www.esiweb.org/pdf/White%20List%20Project%20Paper%20-%20Excerpts%20from%20the%20Commission%20assessments%20table%2010%20Dec%202008.pdf>>. (Accessed on 25 February 2009).

²⁹ 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. *EURLex*. Council of the European Union. <<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2001:081:0001:0007:EN:PDF>>. (Accessed on 26 September 2008).

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whose nationals must be in possession of visas when crossing the external borders, to the Annex II list, which is the listing of third countries whose nationals are exempt from that requirement.

The procedure in which the decision will be reached is proscribed in Article 62 (2,b,i)³⁰ and Article 67 (3)³¹ of the Treaty establishing the European Community. The Roadmaps also describe the procedure in which the decision will be reached. It states that the Council will on the basis of the Commissions' proposal, after consultation of the European Parliament, take decision acting by a QMV.



As we can see from the above graph, the technicalities related to the fulfilment of the roadmap are not the end of the liberalisation process. A substantial part of the decision making is a political one, and will be done in the frame of the Council of the EU. There are other factors besides the progressing on the Roadmap benchmarks which might influence the final decision.

Is there more on the road to Visa Liberalisation for Macedonia than a fulfilled roadmap?

Indeed there is. Having reported on the overall progress on the roadmap, hosted three field evaluating missions and participated at one specialised meeting on further assessment of the implementation of the Roadmap, Macedonia has one more step to make. Macedonia has to show the democratic capacity to

³⁰ Treaty establishing the European Community (Amsterdam consolidated version) text of Article 62. *EURLex*. <<http://eur-lex.europa.eu/Notice.do?val=217031:cs&lang=en&list=217031:cs,&pos=1&page=1&nbl=1&pgs=10&hwords=&checktexte=checkbox&visu=#texte>>. (Accessed on 17 January 2009).

³¹ Treaty establishing the European Community (Amsterdam consolidated version) text of Article 67. *EURLex*. <<http://eur-lex.europa.eu/Notice.do?val=217036:cs&lang=en&list=217036:cs,&pos=1&page=1&nbl=1&pgs=10&hwords=&checktexte=checkbox&visu=#texte>>. (Accessed on 17 January 2009).

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organize free and fair elections on the municipal and presidential elections to be held in late March and early April 2009. This is an important step not only for the Visa Liberalisation,³² but for Macedonia’s integration future in the EU in general, since it will also be a crucial whether Macedonia can expect the EC to recommend a date for start of the accession talks this fall.

Macedonia is not the only one holding elections this year. The EU citizens are also voting in the elections for the European Parliament in June this year. We should not expect a negative effect on the visa liberalisation decision. What it will for sure influence on is the time needed for completion of the procedure.

An inevitable issue which can influence this decision, is the name dispute with Greece. Technically, visa liberalisation decision is not to be made with unanimity. Greece thus far has not shown desire to block the visa liberalisation. It has easiest procedure for issuing visas among EU member states for the Macedonian citizens and certainly it has interest from visa free travel. What we can also look upon as a signal in Macedonia’s favour is the latest Resolution of the European Parliament, with which the Parliament calls on the EC, given the progress Macedonia has achieved, to recommend to the Council as soon as possible visa liberalisation for its citizens.³³

“What Ifs” of the Visa Liberalisation in 2009 for Macedonia

Once the European Commission makes its assessments on the implementation of the Roadmap for visa free travel, two scenarios can happen. It can recommend for Macedonia to be moved on the White List, or it can decide to delay the process.³⁴

If the commission decides to grant Macedonia access to the EU without visas, it will for sure add a realistic element to the EU integration process. It will be a step forward for the country, which has not happened since Macedonia was granted candidate country status. It might contribute to a drop in the currently rising EU scepticism. It will add a realistic element to the EU integration process in the Western Balkans, and is very much needed in Macedonia since it is expected to lower the currently raising nationalism.

A big migration wave is not expected.³⁵ There can be an initial increased migration, however not a significant one. Everyone who wanted to migrate into the EU has already done so, with or without the visa barrier.³⁶ A brain-drain is a possibility. However, it is very likely that it will be accompanied by a returning migration. Thus, it can reverse into brain-gain for Macedonia, in the form of an increase of the quality and skills of the workers.

Organized crime is also not a valid concern for Europe, if visa liberalisation is granted to Macedonia or to any other country from the Western Balkans. As Giuliano Amato states in an interview “Criminality is already borderless. Borders are limits for me and for my policemen, they are not limits for criminal

³² Z.P.V. “Боцевски контра Вељаноски за визите [Bocevski counter Veljanovski on the Visas]”, *Dnevnik*, 06 February 2008. <<http://www.dnevnik.com.mk/?itemID=617A0DC33F9CCE40B9BC01736C5222D9&arc=1>>. (Accessed on February 06, 2009).

³³ European Parliament resolution of 12 March 2009 on the 2008 progress report on the former Yugoslav Republic of Macedonia. European Parliament, *EUROPA*, 12 March 2009. <<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2009-0135+0+DOC+XML+V0//EN&language=EN>>. (Accessed on 14 March 2009). paragraph 4.

³⁴ There is another combination, that of Macedonia not being among the countries for which the EC will recommend visa liberalisation. However, according to the signals coming from the EU, as well as from what is known on progress of the countries against the criteria in the Roadmaps, this is a most unlikely option. If it did happen, it will represent a very deep violation of the established rules and a deep undermining of the credibility of the process itself as well as of the credibility of the EU’s. We do not consider this as a realistic option for now.

³⁵ Migration, Asylum Refugee Regional Initiative (MARRI) is preparing a study on the effects from visa liberalisation, whose draft findings are expected this June.

³⁶ Alina Mungiu-Pippidi, *Seeking the Virtuous Circle: Migration and Development in South Eastern Europe*. In: Development and Transition, A newsletter published by UNDP and the London School of Economics, Issue 2, November 2005, pp. 7-11, available at: <http://www.developmentandtransition.net/uploads/issuesAttachments/13/DevelopmentAndTransition2.pdf>. The article is based on a study done for UNDP. As cited in: The White List Project. EU Policies on Visa-Free Travel for the Western Balkan. *European Stability Initiative*, 1 November 2008. <http://www.esiweb.org/index.php?lang=en&id=156&document_ID=106>. (Accessed on 24 February 2009). 3.

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organizations.”³⁷ Additionally, the UNODC March 2008 report finds the Western Balkans region to be one of the safest in Europe.³⁸

Economic effects of the visa liberalisation can also be positive. This is one of the expectations of the Western Balkan governments, in terms of an increased flow of ideas and capital.³⁹ As we could see in the examples of the VFA implementation, people who do business with European countries do encounter problems and losses due to the visa barrier. With the waving of the visas, this problem will be solved. What should not be expected is a rise in the foreign investments as a direct result from the liberalisation. These are usually a consequence of NATO membership or of start of the negotiations talks with the EU.

One of the effects which can not be overlooked is that by granting Macedonia visa free travel it will for sure bring down one of the main reasons for a phenomenon present in Macedonia, that of Macedonians acquiring Bulgarian IDs and documents. Most of these people say they feel as Macedonians not as Bulgarians. However, they point out that only with Bulgarian documents they can freely travel to Europe.⁴⁰

If the commission decides to maintain the visa regime with Macedonia as it is now, it will for sure cause a rise in the euroscepticism. In the case of Macedonia, it will create a situation similar to the one it recently lived through with the NATO Bucharest Summit, that is that Macedonia did all it was asked to do, but it was still not granted entry to NATO. It will also mean that the VFA will continue to be implemented. As we have seen through the implementation of the VFA, it hasn’t proven as a lucky solution so far. It will cause an urgent need for revision of the VFA.

A possibility worth looking into: Visa Free Balkans

Visa Free Balkans was a recommendation given at the 2003 Thessaloniki Summit to the Western Balkan countries.⁴¹ It was recommended to these countries to commit themselves to explore the possibility of abolishing the visa requirements for travel between their countries, through bilateral agreements. This process was recommended to be conducted under the auspices of the Stability Pact.

Years have passed since this summit, and not an action has been taken in this regard. The Stability Pact is now replaced with the Regional Cooperation Council (RCC). Maybe this is an initiative which the RCC can engage itself in. For now, the SEECP has been preparing an analysis on this issue, which will hopefully result in a conference where government representatives will be present, and where this initiative will finally see the roots of its realisation.

³⁷ Giuliano Amato. “Return to Europe”, Interview by ESI, ESI Website. <http://www.esiweb.org/index.php?lang=en&id=314&video_ID=5>. (Accessed on 22 February 2009).

³⁸ Crime and its Impact on the Balkans, Preface. United Nations Office on Drugs and Crime. *UNODC Website*. <http://www.unodc.org/documents/data-and-analysis/Balkan_study.pdf>. (Accessed on 5 October 2008). 5.

³⁹ Gordana Jankulovska, Обраќање на министерот за внатрешни работи Гордана Јанкуловска на МАРПИ дипломатскиот брифинг [Speech of the Minister for Internal Affairs at the MARRI diplomatic briefing] *Macedonian Informative Agency – MIA*. <<http://www.mia.com.mk/default.aspx?mId=120&vId=58008681&IId=1&title=%D0%9C%D0%90%D0%9A%D0%95%D0%94%D0%9E%D0%9D%D0%98%D0%88%D0%90+%D0%9E%D0%A0%D0%98%D0%93%D0%98%D0%9D%D0%90%D0%9B%D0%9D%D0%98+%D0%A2%D0%95%D0%9A%D0%A1%D0%A2%D0%9E%D0%92%D0%98>>. (Accessed on 26 February 2009).

⁴⁰ Meri Jordanovska and Emil Zafirovski. “Признавам, Бугарин сум и дајте ми лична карта! [I admit, I am Bulgarian, so give me an ID!]", *Nova Makedonija*, 16 March 2009. <<http://www.novamakedonija.com.mk/DesktopDefault.aspx?tabindex=0&tabID=2&fCat=1&EditionID=341&top=1&ArticleID=2029>>. (Accessed on March 16, 2009).

⁴¹ The Thessaloniki Agenda for the Western Balkans. *EUROPA, EU*. <http://ec.europa.eu/enlargement/enlargement_process/accession_process/how_does_a_country_join_the_eu/sap/thessaloniki_agenda_en.htm>. (Accessed on 26 September 2008).

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As the current constellation of the visa regime in the region is, it is Albania which is the most isolated.⁴² Thus, it is no wonder that it was the Albanian President who called for a creation of a Mini-Schengen.⁴³ Other than Albania, Croatia has a visa regime towards Montenegro and Serbia.

Taking into consideration that it will for sure be some time until all of the countries of the Western Balkans enter the EU or its White List, we find it very important to ease the travel within the region. And as the case with Croatia shows, it is not necessary for a country which is on the White List to impose visas for the countries which are not on this list.

Recommendations

The assessment of the EC and its proposal for amendment of the 539/2001 Regulation was announced for during the Czech presidency. However, the Commission in its detailed plan for 2009⁴⁴ plans this amendment for September 2009.⁴⁵ There is a probability for this to remain unchanged because of the elections in the EU.

From what has been done on the roadmap in the case of Macedonia, we can see that overall the criteria have been met. Macedonia can make further efforts in improving its administrative capacities as well as technical capacities. However, given that the specialist missions as well as meetings have been completed, and that there is no more room for fulfilment against the criteria in the Roadmap, we can not make any recommendations regarding the technical details of the process. However, there are steps that can be made and facts which can be taken into consideration by both the Macedonian Government and the EU.

On part of the European Union:

- ✪ When formulating its assessments on the roadmaps, the European Commission must take into consideration:
 - the past history of travel of most of the countries of the Western Balkans, as a factor that makes the issue of the visas an especially grave and urgent one;
 - take into serious account the fact that this is, after all, not entrance in the Schengen zone but a lift of the barrier which exists between the people from the Western Balkans and the people of the EU, and which is in line with the EU calls for enhancement of people-to-people contacts.
- ✪ The European Commission should recommend amendment of the Regulation 539/2001 by moving countries from the Western Balkans which have fulfilled the demands posed to them in the Roadmaps, be it a recommendation to move only one country or a group of countries, from the Annex I to the Annex II. It should keep its promise that all countries will be assessed on basis of their individual achievements. Given the current assessments, as well as the signs coming from the region, Macedonia is an absolute leader in the region, and should thus be moved on the White List. Any other country which has risen up to the demands in the roadmaps should also be moved on the White list. At the moment, closest to Macedonia are Serbia and Montenegro. Since Macedonia's leading position is widely recognized in the region and in Brussels from the very start, any decision other than granting Macedonia visa free travel will seriously undermine the credibility of this process. Awarding the efforts of Macedonia in this regard must be made. It will show that the EU does indeed deliver its promises, once the countries rise up to the criteria set.

⁴² We do not consider Kosovo in this regard, since for now it is not included in the visa liberalisation, nor in the facilitation processes.

⁴³ Albania Floats Idea Of Balkan Schengen. *Balkan Insight*, 09 January 2009.

<http://balkaninsight.com/en/main/news/15913/?tpl=299&ST1=Text&ST_T1=Article&ST_AS1=1&ST_max=1>. (Accessed on 15 January 2009).

⁴⁴ The Commission's work programme is announced on the Europa web site, and is being regularly updated every month. The date presented here is from the Commission actions expected to be adopted, file last updated on 09 March 2009. The full Commission's work program is available on: http://ec.europa.eu/atwork/programmes/index_en.htm.

⁴⁵ Planned Commission Legislative initiatives until December, The Commission's work programme. *European Commission*, EUROPA Website.

<http://ec.europa.eu/atwork/programmes/docs/forward_programming_2009.pdf>. (Accessed on 19 March 2009). 13.

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- ✦ The European Commission should avoid making optional plans, which will mean only partial liberalisation of the visa regime for these countries. It must provide in full what it has promised, and that is visa free travel for the citizens of the countries once they fulfil the Roadmap criteria.
- ✦ The Council of the European Union and the European Parliament should accept the proposal from the EC on moving a country/ countries from the Western Balkans which will receive a positive assessment from the European Commission.
- ✦ Work on improvement of the Visa Facilitation with the countries which will not be given a recommendation for moving on the White list.
- ✦ Support efforts to keep the borders between neighbours in the Balkans open, even if visa liberalisation is granted to some of them.

On part of the Macedonian government:

- ✦ What can be done now:⁴⁶
 - Macedonia can continue to work on improving in the areas covered by the roadmap on: enhancement of the administrative capacities, improving the technical capacities, ratification and implementation of international documents of significance for this process. It should also work on improving the inter-ministerial coordination, especially with regards to the implementation of the Visa Facilitation agreement.
 - It should engage in improving the Visa facilitation process. After all, in case if Visa Liberalisation is not granted to Macedonia, it is under this regime that the Macedonian citizens will have to continue acquiring visa.
- ✦ In case if Visa Liberalization is granted to Macedonia:
 - Do not use the visa liberalization for political marketing. The advancements against the roadmap have been completed during the mandate of several governments, not just the current one.
 - Inform the citizens on what exactly does visa liberalisation mean, on the benefits, but as well as the obligations of the citizens traveling to the EU.
 - Spread the positive Macedonian experience in the region as know-how to the countries which can use the Macedonian experiences.
- ✦ In case if Visa Liberalisation is not granted to Macedonia:
 - Accept the decision with cold heads, and reaffirm Macedonia's commitment towards this effort.

⁴⁶ Because of the vicinity of the elections date and the one of the publishing of the report, we find it improper to make any kind of recommendations regarding the elections. For a note on the elections, please see page 10.

Annex I

Roadmap on Visa Free Travel for the Republic of Macedonia ♦

- Benchmarks -

Parts	Main Groups of Requirements	Detailed Requirements
<p><i>Requirements related to the correct implementation of the Community Visa Facilitation and Readmission Agreements</i></p>	<p><i>Visa Facilitation Agreement</i></p>	<p>The Republic of Macedonia shall closely cooperate with the European Commission to support the EU Member States' implementation of the Visa Facilitation Agreement, ensuring in particular continuous monitoring of all institutions, authorities and bodies involved in the Republic of Macedonia with the implementation of this Agreement, as regards the issuing of invitations, certificates and other documents.</p>
	<p><i>Readmission Agreement</i></p>	<p>The Republic of Macedonia shall closely cooperate with the European Commission to support the EU Member States' implementation of the Visa Facilitation Agreement, ensuring in particular continuous monitoring of all institutions, authorities and bodies involved in the Republic of Macedonia with the implementation of this Agreement, as regards the issuing of invitations, certificates and other documents.</p>
<p><i>Requirements on Document Security, Illegal Migration, Public Order and Security and External</i></p>	<p><u>BLOCK 1:</u> <u>Document Security</u></p> <p><i>Passports/travel documents, ID cards and breeder documents:</i></p>	<ul style="list-style-type: none"> ● continue to issue machine readable biometric travel documents in compliance with ICAO and EC standards and gradually introduce biometric data, including photo and fingerprints; ● implement appropriate administrative measures ensuring the integrity and security of the personalisation and distribution process; ● establish training programmes and adopt ethical codes on anti-

♦ The original version of the document uses the form "Former Yugoslav Republic of Macedonia". *Source:* Visa Liberalisation with the former Yugoslav Republic Of Macedonia - Roadmap. *European Stability Initiative Website.* <<http://www.esiweb.org/pdf/White%20List%20Project%20Paper%20-%20Roadmap%20Macedonia.pdf>>. (Accessed on 26 February 2009).

Relations

		<p>corruption targeting the officials of any public authority that deal with visas or passports;</p> <ul style="list-style-type: none">🔴 [report to Interpol/LASP data base on lost and stolen passports;]🔴 ensure a high level of security of breeder documents and ID cards and define strict procedures surrounding their issuance.
<p><u>BLOCK 2:</u> <u>Illegal migration,</u> <u>including</u> <u>readmission</u></p>	<p><i>Border management</i></p>	<ul style="list-style-type: none">🔴 implement the legislation governing the movement of persons at the external borders, as well as the legislation on the organisation of the border authorities and their functions in accordance with the 2003 national Integrated Border Management strategy;🔴 take necessary budgetary and other administrative measures ensuring efficient infrastructure, equipments, IT technology at the external borders;🔴 establish training programmes and adopt ethical codes on anti-corruption targeting the border guards, customs and other officials involved in the border management;🔴 conclude a working arrangement with FRONTEX.
	<p><i>Carriers' responsibility</i></p>	<p>Macedonia should [adopt and] implement the legislation on carriers responsibility defining sanctions.</p>
	<p><i>Asylum policy</i></p>	<ul style="list-style-type: none">🔴 implement the legislation in the area of asylum in line with international standards (1951 Geneva Convention with New York Protocol) and the EU legal framework and standards;🔴 provide adequate infrastructure and strengthen responsible bodies, in particular in the area of asylum procedures and reception of asylum seekers.

*Migration
management*

- set up and start to apply a mechanism for the monitoring of migration flows, defining a regularly updated migration profile for the Republic of Macedonia, with data both on illegal and legal migration, and establishing bodies responsible for collection and analysis of data on migration stocks and flows;
- adopt and implement the integration policy for migrants including sustainable financial and social support;
- define and apply a methodology for inland detection and take measures improving the capacity to investigate cases of organised facilitated illegal migration;
- implement a law on the admission and stay of third country nationals, defining rights and obligations for the persons concerned (including family members of third country nationals);
- ensure effective expulsion of illegally residing third country nationals from its territory.

*Block 3:
Public order and
security*

*Preventing and
fighting organised
crime, terrorism
and corruption*

- complete implementation of the 2003 Action Plan for the fight against organised crime (in particular cross-border aspects) and ensure sufficient human and financial resources;
- implement the 2006 Strategy for Combating Trafficking in Human Beings and the 2006 Action Plan and ensure sufficient human and financial resources;
- implement the 2005 National Strategy to Combat Money Laundering and Financing of Terrorism; adopt and implement a law on the prevention of financing of terrorism; implement relevant legislation on confiscation of assets of criminals (including the provisions addressing cross-border aspects);
- implement the 2006 National Drugs Strategy; make the

		<p>information on drug seizures and persons involved accessible at border crossing points; further develop cooperation and information exchange with relevant international bodies in the drug field;</p> <ul style="list-style-type: none"> ● implement legislation on preventing and fighting corruption and improve effectiveness of the State Anti-Corruption Commission; ● implement relevant UN and Council of Europe conventions, as well as GRECO recommendations and other international standards in the areas listed above and on fight against terrorism.
	<p><i>Judicial co-operation in criminal matters</i></p>	<ul style="list-style-type: none"> ● implement international conventions concerning judicial cooperation in criminal matters (in particular Council of Europe Conventions); ● take measures aimed at improving the efficiency of judicial co-operation in criminal matters of judges and prosecutors with the EU Member States and with countries in the region; ● develop working relations with Eurojust mainly through the Eurojust contact point.
	<p><i>Law enforcement co-operation</i></p>	<ul style="list-style-type: none"> ● take necessary steps to ensure efficiency of law enforcement co-operation among relevant national agencies - especially border guards, police, customs officers through full interagency cooperation in the field of intelligence exchange -, as well as cooperation with the judicial authorities; ● reinforce regional law enforcement services co-operation and implement bilateral and multilateral operational cooperation agreements, including by sharing on time relevant information with competent law enforcement authorities of EU Member States; ● improve the operational and special investigative capacity of law enforcement services to tackle more efficiently

		<p>cross-border crime;</p> <ul style="list-style-type: none"> ● implement the action plan for the signature of an operational cooperation agreement with Europol.
	<i>Data protection</i>	<ul style="list-style-type: none"> ● adopt necessary legislation on the protection of personal data and implement its provisions and ensure the independence of the Data Protection Directorate; ● ratify and implement relevant international conventions, such as the Additional protocol of the Council of Europe Convention for the Protection of Individuals with regard to the Automatic Processing of Personal Data.
	<i>Freedom of movement of nationals of the Republic of Macedonia</i>	<p>[ensure that freedom of movement of citizens of the Republic of Macedonia is not subject to unjustified restrictions, including measures of a discriminatory nature, based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation.]</p>
<u>BLOCK 4:</u> <u>External Relations and Fundamental Rights</u>	<i>Conditions and procedures for the issue of identity documents</i>	<ul style="list-style-type: none"> ● ensure full and effective access to travel and identity documents for all citizens including women, children, people with disabilities, people belonging to minorities and other vulnerable groups; ● ensure full and effective access to identity documents for [IDPs] and refugees.
	<i>Citizens' rights including protection of minorities</i>	<ul style="list-style-type: none"> ● adopt and enforce legislation to ensure effective protection against discrimination; ● specify conditions and circumstances for acquisition of citizenship;

Final Remarks

- ensure investigation of ethnically motivated incidents by law enforcement officers in the area of freedom of movement, including cases targeting members of minorities;
- ensure that constitutional provisions on protection of minorities are observed;
- implement the relevant policies regarding minorities, including Roma.

The present roadmap includes a list of measures to be taken by the Republic of Macedonia in view of the lifting of the visa obligation. These measures aim at responding to the needs identified, based on the currently available information. In case of substantial change of the current situation, the Commission could propose a review and re-adaptation of the roadmap.

Based on the achievements by the Republic of Macedonia of the implementation of the requirements set up in the roadmap, the Commission will assess the situation, taking into account inter alia criteria such as the refusal rate for visa applicants and the refusal rate of entry into the common Schengen area for nationals of the Republic of Macedonia. In this context, the decreasing trend of the refusal rate, which should progress towards 3% for visas and 1000 persons per year refused for entry into the common Schengen area, will be used as an indicative reference. The Republic of Macedonia should also take the necessary measures to allow an efficient implementation of the EU joint actions on travel ban.

As already mentioned before, on this basis the Commission will consider the possibility to present a proposal to the Council for the lifting of the visa obligation, by amending the Council Regulation 539/2001, and, following the procedure laid down in the EC Treaty for these matters, the Council will on the basis of the Commission's proposal, after consultation of the European Parliament, take a decision acting by qualified majority. Such an amendment could soon cover the holders of travel documents issued in accordance with ICAO and EC standards.

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