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**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND  
THE COUNCIL**

**Third Report on the Post-Visa Liberalisation Monitoring for the Western Balkan  
Countries in accordance with the Commission Statement of 8 November 2010**

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## Third Report on the Post-Visa Liberalisation Monitoring for the Western Balkan Countries in accordance with the Commission Statement of 8 November 2010

### I. Introduction

Since **19 December 2009**, the citizens of the former Yugoslav Republic of Macedonia, Montenegro and Serbia, holding a biometric passport, have enjoyed visa-free travel to the EU Member States, in accordance with Regulation 539/2001<sup>1</sup>. Under the same conditions the citizens of Albania and Bosnia and Herzegovina have enjoyed the same visa-free travel to the EU Member States since **15 December 2010**.

The decisions to grant visa-free travel to citizens of these Western Balkan countries were based on thorough assessment of the progress made in the areas identified in the **roadmaps for the visa liberalisation dialogues** (document security, border management, asylum, migration, fight against organised crime and corruption, and protection of fundamental rights). The visa-free regime is the most tangible benefit for the citizens of the Western Balkan countries in the process of their integration into the EU, and a very strong incentive for accelerating reforms in the area of justice and home affairs.

In its statement presented on 8 November 2010 at the Justice and Home Affairs Council, the Commission has explicitly underlined the importance of a continued effective implementation of all measures and reforms undertaken by the Western Balkan countries as part of their obligations for the visa dialogue. In order to assess the consistency and sustainability of the relevant reforms, the Commission has established a **post-visa liberalisation monitoring mechanism**, which covers all areas of the visa liberalisation roadmaps and allows the Commission to scrutinise the progress which has been made.

The purposes of this report are (1) to present the actions undertaken under the post-visa liberalisation monitoring mechanism, following the first and the second Commission Staff Working Papers on the post visa liberalisation monitoring issued in May and December 2011<sup>2</sup>, (2) to assess the progress made in the relevant Western Balkan countries after the last assessment (December 2011), and (3) to identify the next steps and the concrete actions to be taken.

### II. Actions undertaken under the post-visa liberalisation monitoring mechanism following the Second Commission Staff Working Paper issued on 7 December 2011

The second Commission Staff Working Paper (CSWP) on the post-visa liberalisation monitoring mechanism was issued on 7 December 2011 and was presented to the European Parliament and the Council in December 2011. It provided a detailed analysis of the progress achieved by the Western Balkan countries concerned in the areas identified in the visa dialogue roadmaps, the results of the monitoring mechanism, as well as the measures undertaken by the Western Balkan countries with a view to develop the management of their migratory outflows.

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<sup>1</sup> 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 (OJ, L 81, 21.3.2001, p. 1).

<sup>2</sup> SEC(2011) 695 final and SEC(2011) 1570 final.

In 2012 the Commission organised experts **Rule of Law assessment missions** to Montenegro (March 2012), the former Yugoslav Republic of Macedonia (April 2012) and Albania (May 2012). These missions allowed the Commission, supported by EU Member States' experts, to verify on the spot the progress made and the sustainability of the reforms.

In addition, on 1-2 March representatives from the Commission, including those from the EU Delegations in the Western Balkan countries met in Tirana in the framework of the biannual Western Balkan **JAINET forum** which represents an important mechanism for strengthening targeted expertise in the area of justice and home affairs in the EU Delegations. The meeting of JAINET constituted an operational working platform, allowing for valuable exchange of information, relevant for the post-visa liberalisation monitoring mechanism.

The dialogue between the Commission and the Western Balkan countries continues also within the framework of the **Stabilisation and Association Process**. On 24-25 April the annual Justice Freedom and Security Sub-committee with Albania was organised in Tirana. High Level meeting with the authorities of Bosnia and Herzegovina in the area of home affairs was organised in Brussels on 3 May, which also covered human rights issues previously foreseen under Block IV of the visa roadmap. These meetings allow detailed exchange of information between the Commission and the competent national authorities and stimulated fruitful discussions on the necessary reforms.

The EU Member States mostly concerned by the influx of asylum seekers continue to carry out **bilateral visits** in the relevant Western Balkan countries in order to exchange information on this phenomenon and to discuss specific measures to tackle it, while keeping Commission informed of possible developments. Representatives of the Western Balkan countries were also invited to visit the EU Member States' competent authorities.

Moreover, within the framework of the **alert mechanism** managed by **FRONTEX** through the Western Balkans Risk Analysis Network (WEBRAN), **seven** additional **alert reports** have been issued since December 2011. The FRONTEX alert reports continue to provide a detailed analysis of the dynamic migration inflow trends from the region. The reports are instrumental for better understanding the phenomenon of the abuse of visa liberalisation, assessing its development and identifying concrete measures to tackle the challenges. On the basis of these reports, the Commission provided **regular updates** and **analysis** of the migration flows to the Member States in the relevant Council working groups, as well as in a number of bilateral meetings with the EU Member States concerned.

### **III. Assessment on the continued implementation of benchmarks undertaken during the visa liberalisation dialogues by the Western Balkan countries**

The current assessment is based on (1) the **detailed reports** requested by the Commission and provided by the Western Balkan countries, (2) the information exchanged during meetings in the framework of the Stabilisation and Association Agreement Committees and other dialogue meetings, as well as (3) the outcomes of **three assessment missions** carried out in March, April and May 2012 by Commission services, accompanied by Member States' experts to Montenegro, former Yugoslav Republic of Macedonia and Albania respectively.

For each country, the assessment follows the block structure of the visa liberalisation roadmaps.

#### **Albania**

In the area of **document security**, the process of producing and distributing biometric passports and identity cards continues to run smoothly. By 30 June 2012, 2.4 million biometric passports and 3.1 million biometric ID cards were issued.

Some progress has been made in the area of **border management**. A protocol for joint patrolling was signed with Kosovo\* and an agreement for exchange of information between border migration police was signed with the former Yugoslav Republic of Macedonia. The border management police is still extending access to the criminal intelligence information system (MEMEX) to regional directorates and commissariats, while the Inter-Institutional Maritime Operational Centre is not yet connected to it. Since July 2012 the Total Information Management System (TIMS) has been linked to the civil registry database in Border Crossing Points. Risk analysis and threat assessment capacities need to be reinforced.

As regards **migration**, some progress has been achieved. The readmission agreement continues to be smoothly implemented. From November 2011 until March 2012, 2 407 return cases were recorded. Relevant institutions in charge of implementing the strategy and action plan for returned migrants should be reinforced. The adoption of the new National Migration Strategy is still pending.

In the area of **asylum**, the institutional and legal frameworks are in place. As of May 2012, 82 refugees and 24 asylum seekers have been recognised. However, preparation in this area needs to be stepped up. No ID document is yet provided to refugees and persons granted complementary protection. The Albanian **visa** regime is still not fully in line with the EU requirements.

In the field of **police cooperation and the fight against organised crime**, some progress is to be reported. The Albanian State Police is currently reviewing its structure in order to improve reporting capacities of front-line officers and proactive investigations. There is an urgent need for key institutions to step up coordination and thus maximize the capacity to investigate serious and organised crime.

There has been some progress in the area of **fight against drugs**. International cooperation is ongoing, while intelligence-led approach should be stepped up. Further efforts are necessary in order to increase the capacity of detecting and investigating drug trafficking.

Some progress has been achieved with regards to addressing **trafficking in human beings**, even though internal trafficking remains a concern. Standard operating procedures for identification and referral of victims and potential victims are in place, while the capacity of the law enforcement agencies and international cooperation need to be reinforced

Progress can be reported in the area of **money laundering**. Risk assessments were developed by the police and shared with other agencies. Based on MONEYVAL recommendations, amendments to the Criminal Code establishing the autonomy of money laundering crime from the predicate offence and the crime of self-money laundering were adopted. The number of assets investigations, as well as reporting of suspicious transactions, increased. However, the number of convictions for money laundering remains significantly low.

Limited progress has been achieved regarding the **fight against corruption**. The legal and institutional framework is generally in place, while the obstacles to proper investigation related to the immunity regime of high level public officials and the judiciary need to be removed. The implementation of anti-corruption measures remains insufficient. A solid track record of investigations, prosecutions and convictions at all levels needs to be established.

There has been uneven progress in the field of **fundamental rights**, with some progress achieved on women's rights and anti-discrimination and limited progress as regards Roma inclusion. The efforts for the implementation of the policy tools targeting vulnerable groups

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\* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

need to be enhanced. The implementation of the Strategy on improving Roma living conditions is still slow. Measures have been taken to tackle the issue of unregistered Roma children. The efforts for the implementation of the policy tools targeting vulnerable groups need to be enhanced. Overall, Roma still face very difficult living conditions and frequent discrimination, mostly regarding access to education, employment, social and health protection, as well as housing.

### **Bosnia and Herzegovina**

Good progress has been made in the area of **document security**. By May 2012, 1 187 007 biometric passports were issued, which is 72% of all passports in circulation. The new law on the identity cards has been adopted. Both entities have adopted amendments to the Law on registry books. However, its full implementation is still to be pursued. A draft law on residenceship, strengthening the legal framework remains to be adopted.

Progress was made in **border management**. Most of the legislation related to the integrated border management (IBM), including the Law on border control is mainly based on the relevant EU *acquis*. The revised IBM strategy and action plan are being implemented. Infrastructure at border crossing points is further improved. Out of 55 international border crossing points, 29 are covered by video surveillance. All international border crossings are equipped with biometric passport readers and connected to the integrated system of Control of State Border Crossings. The adoption of the Rulebook on the internal organisation of the Border Police has been further delayed. Financial resources need to be allocated to guarantee the infrastructural interventions necessary to block the unauthorised Border Crossing Points already identified along the Bosnia and Herzegovina borders with Montenegro and Serbia. Parallel action is expected also by the other two countries concerned.

Progress was achieved in the area of **migration**. The centre for temporary detention of irregular immigrants is operational. Implementation of the readmission agreement between the European Union and Bosnia and Herzegovina continued smoothly. The strategy for the reintegration of returnees remains to be implemented.

There was some progress in the area of **asylum**. Bosnia and Herzegovina continues to implement the legal and the strategic framework smoothly. The capacity of the asylum system is sufficient to address the current number of asylum applications.

Bosnia and Herzegovina is still at an early stage of addressing the **fight against organised crime**. The system of electronic data exchange from the records maintained by police and prosecutorial offices reached the testing phase, digitalisation of police archives continues. The lack of systematic exchange of proper intelligence and effective and sustainable coordination and cooperation mechanisms among the different law enforcement agencies prevents further progress in the fight against organised crime. A draft Law on Witness Protection Programme addressing shortcomings of the current legislation has been prepared and is in the procedure for adoption.

Bosnia and Herzegovina has made some progress in the area of **fight against drug trafficking**. The institutional capacities to coordinate and systematically implement the policy framework remain weak. Law enforcement activities need to be enhanced. A Rulebook on safekeeping and destruction of seized narcotic drugs was adopted by the Council of Ministers. The draft amendments to the Law on prevention and suppression of the abuse of narcotic drugs, which foresees the establishment of an Office for Drugs is yet to be adopted.

Bosnia and Herzegovina has made some progress with regards to addressing **trafficking in human beings (THB)**. The number of THB victims identified increased. Further efforts are needed to improve the coordination and maintain effective cooperation, both between

competent authorities and with NGOs dealing with human trafficking. Proactive identification of victims, as well as effective and well-functioning national referral mechanism are of utmost importance. Further strengthening of criminal prosecution is needed.

Bosnia and Herzegovina has made some progress in the area of **fight against money laundering**. There has been an increase of criminal offences and the number of confirmed indictments of money laundering has increased. The MONEYVAL recommendations, in particular those related to the operational and budgetary independence of Financial Intelligence Department, need to be promptly addressed. Amendments to the Law on prevention of money laundering and financing of terrorist activities, addressing the MONEYVAL recommendations remains to be adopted. The mechanism of confiscation of assets needs to become operational throughout the country.

Limited progress has been made in the area of **fight against corruption**. The Rulebook of the Anti-Corruption Agency was adopted in July. The further efforts are necessary for the proper implementation of the Anti-Corruption Action Plan. Effective investigations, prosecutions and convictions in corruption cases remain rare, while the number of acquittals and suspended sentences is high.

In the area of **fundamental rights** related to the freedom of movement, little progress has been made as regards the **Roma** minority. While some progress was made in the implementation of the Action Plan on housing, only little progress was made on employment, health care and education. The process of revision of the Action plans on housing, employment and health to better reflect the needs of the Roma population, in line with the recommendations of the Roma Inclusion Seminar of July 2011, has been launched. Discrimination in access to employment, health care, pension rights and the slow pace of demining, remain barriers to the sustainable return and local integration of internally displaced persons and other vulnerable groups. The difficulties as regards the available financial and human resources for the Ombudsman are still not addressed. Cases on discrimination brought by citizens remain rare.

### **The former Yugoslav Republic of Macedonia**

As regards **document security**, until March 2012 in total 1 398 280 travel documents and 1 517 873 ID cards were issued. The process of issuance is running smoothly. Upon expiry of the deadline for replacement of old passports (27 February 2012) only biometric passports are valid.

In the area of **border management**, in February 2012 a National Council for the integrated border management strategy was established. The National Council is responsible for monitoring and implementation of the strategy and its action plan. It consists of representatives of relevant ministries and institutions involved in the implementation process. Reconstruction of nine police stations for border surveillance was completed while they are still not connected to the central database of the Ministry of Interior. The joint contact centres for police cooperation were established with Albania, Serbia and Kosovo. Protocols for joint border patrols are being realised through mixed patrols with Albania, Bulgaria and Kosovo.

In the area of **asylum** a national programme for integration was adopted for 2012 ensuring state funding for housing support to persons granted asylum. The reception capacities and human resources of the asylum centre in Vizbegovo increased. Administrative capacity and efficiency of the asylum administration remain insufficient and need to be enhanced. The asylum procedure is slow; no progress has been made to speed up the process of providing asylum seekers with ID documents, providing of interpretation remains an obstacle.

As regards **migration**, the secondary legislation needed for full operability of the national database for foreigners (covering data on asylum, migration and visa) has been drafted. The national migration profile for 2011 was adopted. Four migration centres providing information on legal migration to citizens are operating. The readmission agreement with the EU has been implemented smoothly. A readmission agreement with Serbia entered into force and a readmission agreement with Montenegro was signed.

In the area of **fight against organised crime**, investigative centres and judicial police foreseen by the CPC have not been established yet. Further efforts are needed to implement the action plan for the enforcement of the new CPC, in particular as regards training of law enforcement agents and prosecutors. There is no progress as regards of the staff shortage of the Centre for Suppression of Organised and Serious Crime at the Ministry of Interior. The National Criminal Intelligence Database in charge of intelligence gathering is still in the tendering phase and the National Coordination Centre for fight against organised crime has not yet been established. Efforts of relevant law enforcement bodies (the Ministry of Interior, the Public Prosecutor's Office, the Customs Administration and the Financial Police) in fighting organised crime should be strengthened. Prosecutor's effectiveness is hampered by the lack of direct access to databases. Little progress can be reported in the area of the fight against drugs. The amount of drugs seized on the country's territory remained low, The human resources capacity of the Illicit Drugs Department of the Ministry of Interior should be strengthened. Efforts of the law enforcement agencies in detecting and seizing drugs need to be enhanced.

The international and regional co-operation in the area of the cross-border organised crime has continued. The operational agreement with EUROPOL was ratified.

As regards **the fight against corruption**, in December 2011 the State Commission for Prevention of Corruption (SCPC) adopted national programmes: for prevention and repression of corruption, as well as for prevention of the conflict of interest, together with the accompanying Action Plan 2011-2015. In the prevention of corruption field a number of training activities were carried out (for judges, prosecutors, law enforcement agents and civil servants). A systematic verification of asset declarations by the SCPC has been launched. The verification of conflict of interest statements has started following the adoption of secondary legislation, but the system is incomplete. The system of controlling both funding of political parties and financing of electoral campaigns need to be reinforced to ensure its transparency and accountability. A track record of high-level corruption cases has yet to be established. The independence of the judiciary remains a matter of concern affecting the determination to combat corruption.

In the field of **fundamental rights**, the Action Plan on inclusion of Roma and Roma refugees was adopted in December 2011. It includes measures for further improving the access of Roma population to employment, education, housing and personal documents. Action Plan evaluation envisages stakeholders' meetings every 6 months and a first meeting was held in February 2012. The capacities of Roma Information Centres (RIC) were enhanced through purchase of new technical equipment. In February 2012 tenth RIC was opened in Topansko pole. As regards access to education, a decision was adopted to build two schools in the Shuto Orizari municipality. Measures for granting scholarships for Roma pupils continued, as well as projects on inclusion of Roma children in the pre-school institutions. Training for Roma health mediators has been realised and 16 of them will start work in 8 municipalities.

### **Montenegro**

In the area of **document security**, 313 109 biometric passports and 444 023 ID cards were issued until 31 March 2012. The process is running smoothly.

As regards **border management**, modernisations of two border crossing points (BCP) on the border with Serbia (Dobrakovo, Dracenovac) have been finalised. IT equipment and vehicles for the border police at major BCPs have been procured, installed and made operational. For all other BCPs a detailed analysis of needs has been carried out and shortcomings in equipment identified. The capacity of the border police was also strengthened through training activities.

In the area of **migration**, a co-ordination body was established to monitor the implementation of the 2011-2016 Strategy for reintegration of persons returned under the readmission agreements. The readmission agreement between the EU and Montenegro continues to be implemented smoothly. The establishment of the reception centre for irregular migrants has been completed.

In the field of **asylum**, the Law on asylum and the Law on foreigners have been adopted, but their implementation presents a number of challenges. Competences of the relevant national bodies should be further clarified. Adjudication of asylum claims has not improved. The construction of the reception centre for asylum seekers was completed.

In the area of the **fight against organised crime**, an Action Plan for combating organized crime was adopted in January 2012 which introduces operational measures and indicators in line with the priorities identified in the 2011 Organized Crime Threat Assessment (OCTA). Amendments to the Rulebook on internal organisation and job description of the Police Administration were adopted in November 2011, introducing more specialised organisational units within the Police. Relations between the prosecution and police services need to be improved to ensure the leading role of the prosecutor in the investigations. Prosecutors' lack of direct access to relevant databases and lack of sufficient capacity hampers the effective implementation of the Criminal Procedure Code. The capacities of the law enforcement bodies in conducting financial investigations need to be strengthened. The capacity to use special investigative means has improved (in terms of staff and equipment). However, the existing time limitations hamper their effective use. The Intelligence Led Policing project needs to be rolled out throughout the country and the police staff should be trained in parallel. The international and regional co-operation on cross-border organised crime continued effectively. The competences related to the fight against drugs have been centralised at the criminal police department; its capacities were strengthened through specialised training and by the purchase of equipment to be used in anti-drug operations. Raising awareness activities on drugs were conducted in schools and at local level. Close cooperation with Europol, Interpol, EU Member States police forces, and the neighbouring countries in the field of drugs continued.

As regards the area of **the fight against corruption**, further steps have been taken to strengthen the legal framework. Still, the mechanisms for controlling funding of political parties and electoral campaigns, as well as the enforcement of sanctions need to be reinforced and further specified in the legal framework. Control mechanisms in public procurement need to be reinforced. Following the entry into force of amendments to the Law on prevention of conflict of interest, all 36 Members of the Parliament who were also members of management boards of state-owned companies resigned from these positions and all 16 Members of Parliament who also held executive positions (including 2 mayors) have resigned from one of their functions. The Commission for the Prevention of Conflict of Interest lacks the capacity to control the accuracy of civil servants' asset declarations and declarations of interest, as well as to identify illicit enrichment since it has no investigative powers and no access to relevant databases. The number of corruption cases in which seizure of assets was ordered is still very low. Legal provisions on extended confiscation have not been used so far. A number of awareness-raising campaigns for reporting corruption have been carried out. The Directorate



for Anti-Corruption Initiatives was transferred under the authority of the Ministry of Justice. However its competences need to be upgraded and its capacities reinforced to ensure better co-ordination of corruption prevention activities.

In the area of **fundamental rights**, the members of the Council for the protection against discrimination were appointed in February 2012. Awareness-raising activities have been launched during the reporting period. However, the capacities of the Ombudsman's Office need to be strengthened by financial means and through the appointment of new staff. Legalisation of the status of displaced persons has advanced and should move forward. A strategy to improve the situation of the RAE population was adopted in April 2012 together with its action plan. Projects on social inclusion of RAE population continued. However, sustainable efforts are needed to improve access to economic and social rights for the displaced persons and for the RAE persons. Further efforts are needed to provide sustainable living conditions in Konik.

## **Serbia**

In the area of **document security**, the process of producing and distributing biometric passports and secure ID cards continued. Between July 2008 and March 2012, Serbian authorities issued more than 3.8 million biometric passports and nearly 3.5 million ID cards. A special coordination directorate is responsible for issuing biometric passports and ID cards to persons residing in Kosovo. Between November 2011 and March 2012, it issued 17,000 biometric passports to persons residing in Kosovo.

In the area of **border management**, Serbia has continued to implement its IBM strategy and action plan. It has established contact points for cross-border cooperation with Bosnia and Herzegovina and Montenegro. It continued to upgrade video surveillance facilities and carried out joint operations at border-crossing points with neighbouring countries. The operation of the early warning system to detect false travel documents is running smoothly. However, the IBM strategy needs to be updated. Full connection between all border crossing points and the central database of the Ministry of the Interior remains to be ensured. The establishment of several new BCPs has put a strain on resources; and the domestic sharing of data and risk profiles, particularly in combatting trafficking in human beings, remains deficient. The control of the administrative boundary line with Kosovo remains a considerable challenge, and information exchange with EULEX should improve. Serbia should sign and implement the Technical Protocol for implementation of the IBM Agreed Conclusions of the Belgrade - Pristina Dialogue of 2 December 2011.

In the field of **migration**, Serbia has not made progress. The legislative framework largely meets EU standards but remains to be effectively implemented. Claims are still temporarily processed by the Border Police Asylum Unit, as the Asylum Office foreseen as the first instance body has not been formally established yet. The mandate of the Asylum Commission, the second instance body, expired in April 2012 and new members remain to be elected. Serbia has two asylum reception centres, but they have insufficient capacity to provide services for all asylum seekers. Serbia should improve its asylum regime by swiftly establishing a third centre, developing a system to process asylum seekers' biometric data and enhancing conditions for integrating asylum seekers. It should take further steps to align its legislation with the EU *acquis* on legal migration, notably on the right to family reunification, long-term residence and the conditions of admission of third-country nationals for studies. A national database for checking personal data and fingerprints of asylum-seekers is still missing. Readmission between the EU and Serbia functions smoothly.

In the area of **fight against organised crime**, Serbia has made progress. A number of legislative proposals seeking to enhance law enforcement capacity and improve asset recovery

are in the pipeline. The special prosecutor for organised crime initiated a number of high-profile cases in the reporting period, but confiscation of assets remains moderate. Cooperation with Europol and Eurojust is improving, and Serbia is closer to signing an operational agreement with Europol. Serbia remains a country of origin, transit and destination for trafficking in human beings. The legislative and institutional framework in the fight against drug trafficking is in place, but Serbia remains an integral part of the drug trafficking route across the Western Balkans. Addressing these challenges will require continuous efforts.

Little progress has been achieved in the area of **fight against corruption**. Serbia has put in place the legal and institutional framework to combat corruption, including an Anti-Corruption Agency and a new law on funding of political parties in line with European standards. The Minister of Justice was appointed anti-corruption coordinator. However, the introduction of a proactive, intelligence-led approach in the fight against corruption as well as organised crime remains outstanding. The authorities have not yet finalised its National Anti-Corruption Strategy for 2012-2017 and its Action Plan. The Anti-Corruption Agency has still to establish a track record of effective control of party funding and to improve cooperation with relevant stakeholders to investigate declarations of assets effectively. There is little implementation of protection of whistle-blowers. The capacity to carry out complex financial investigations remains limited; a centralised criminal intelligence system is lacking; and asset recovery remains moderate.

In the area of **fundamental rights** related to the freedom of movement, Serbia has made limited progress. The Ministry of Interior has launched a campaign to recruit staff from minority communities. A strategy and an action plan seek to improve the status of the Roma in Serbia. The Conditions for basic education, enrolment in schools, civil registration and access to health care have slightly improved. Further serious efforts, including financial resources, are needed in order to improve the status and socio-economic conditions of the Roma, who continue to be the most vulnerable and marginalised minority. Access to the labour market remains particularly challenging.

#### **IV. Prevention mechanism against abuse of visa liberalisation by citizens from the Western Balkan countries: evaluation of its implementation**

The present evaluation is based on the 12<sup>th</sup> to 18<sup>th</sup> **FRONTEX alert reports** as well as on the **reports** provided by the **Western Balkan countries**, as requested by the Commission.

As outlined in the first and the second CSWPs of 2011, referred above, some EU Member States have experienced seasonal **waves of increasing number of asylum seekers** following the decisions taken at the end of 2009 and 2010 to grant visa-free travel to the Western Balkan countries<sup>3</sup>.

During the reporting period Belgium, Germany, Luxembourg and Sweden remain favourite destination countries. In addition, from the beginning of 2012 Switzerland is experiencing higher pressure to its asylum system due to the significant increase of asylum seekers, mainly from Serbia. As one of the Schengen Associated Countries, Switzerland was invited and subsequently has joined the Post Visa Liberalisation Monitoring Mechanism Task Force in February 2012.

The seasonal character of the arrival of asylum seekers from the Western Balkan countries continues to be observed also during the first half of 2012, while some **new dynamics** have been identified. The FRONTEX alert reports show that the **total number** of asylum seekers from the region has **decreased** in comparison with the previous reporting period (January -

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<sup>3</sup> The former Yugoslav Republic of Macedonia, Montenegro and Serbia in 2009 and Albania, Bosnia and Herzegovina in 2010.

31%, February -20%, March -20%, April -15%) while slight increase has been observed in May (+20%). The decline is mainly due to the considerable decrease of the number of asylum seekers from Serbia and the former Yugoslav Republic of Macedonia which still remain the top two asylum intake nationalities. The sudden increase in May is due to significant increase followed by significant decrease of asylum applications of Albanian citizens triggered by rumours and misinformation.

The positive effect of the seasonal decrease illustrated during the first four months is, however, counteracted by several phenomena. Firstly, the decreasing trend is not equally spread among all five visa-free Western Balkan countries. While the number of asylum seekers from the former Yugoslav Republic of Macedonia and Serbia decreased or remained stable, those from Albania, Bosnia and Herzegovina and Montenegro increased when compared with the same period of 2011<sup>4</sup>.

Secondly, some EU Member States experienced increase of asylum seekers coming from the region despite the initial seasonal decreasing trend. The highest numbers have been registered in Belgium (+20% in April), Luxembourg (+31% in May) and Sweden (+133% in May). Moreover, sharp off-trend fluctuations have been observed in some countries of origin and countries of destination<sup>5</sup>.

Furthermore, the annual comparison of the number of asylum seekers from the region suggests **delayed seasonality with less pronounced increasing and decreasing trends**. The weekly increase during the last two weeks of April (+31%) suggests that the new wave of asylum applications started with one month and a half delay in comparison with 2011. In addition, as outlined in the last CSWP (December 2011) the delayed winter pick in 2011 was 30% lower than the one in 2010. This phenomenon might have an impact on the level of the currently observed starting spring/summer wave.

The most frequent **reasons for asylum claims** continue to be lack of health care, unemployment and lack of schooling. In addition, an increasing number of asylum seekers have been motivated to leave their countries of origin on the basis of rumours and received wrong information for asylum protection given on economic grounds. In relation to the latter, the EU Member States embassies in the Western Balkan countries have intensified their efforts to clarify the purpose and the conditions of the asylum protection. The FRONTEX alert reports confirmed that the majority of people continue to choose the same EU countries as destination, because of information which they receive from friends and relatives who have already travelled to these countries. Most of them are also aware that there is little chance for their asylum request to be granted, but try their chances anyway.

As regards the underlying reasons for the high number of asylum applications which are subsequently judged to be unfounded, the **duration of asylum procedures** and the **associated length of authorised stay** in a given Member State remain relevant **factors** which are taken into account by the would-be asylum seeker.

As mentioned in the previous CSWP, the concerned EU Member States put in place specific **counter-measures**, e.g. informational campaigns, optimisation of human resources employed

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<sup>4</sup> Comparative statistical data for May 2012 versus May 2011: Albania (+725%); Bosnia and Herzegovina (+14%); the former Yugoslav Republic of Macedonia (-48%); Montenegro (+77%), Serbia (-13%).

<sup>5</sup> Sharp off-trend increase of asylum applications have been registered by Albanian citizens in Luxembourg (+275% in February and +233% in March), and in Sweden (+268% in April and May +413%); citizens of Bosnia and Herzegovina in Luxembourg (+1600% in April); citizens of the former Yugoslav Republic of Macedonia in Luxembourg (+480% in May); Montenegrin citizens in Germany (+750% in January) and in Switzerland (+200 % in May).

in treating asylum claims, decrease of the average processing time for manifestly unfounded asylum applications and more effective procedures for appeals. It appears that the information of the measures have had an impact on the choice of countries of destination of some national groups.

The **common profile of the asylum seekers** has been confirmed also during the first half of 2012. The majority of the claims continue to be persons belonging to the Roma minority, who often arrive with their families. The level of education among the Roma population in the region remains low, and unemployment rates are very high, contributing to social exclusion and deterioration of living conditions.

The **attempts to circumvent the asylum and return procedures**, as outlined in the previous CSWP continue. Some asylum seekers do not present their biometric passports when claiming asylum which impede their identification.

The **asylum recognition rate** remains very low<sup>6</sup>, indicating, as in the previous reports, the unfounded nature of most asylum claims. However, unlike the previous period, when the new asylum applications out-numbered the number of returns, since mid-January 2012 the ratio between the number of new asylum claims and the number of returns is currently fairly balanced.

The authorities of the five **Western Balkan countries** have continued to take measures as requested by the Commission to counter the phenomenon, as detailed above under section II. The former Yugoslav Republic of Macedonia has adopted a new plan (April – September 2012) focussing particularly on social and economic measures aiming to improve the living conditions of vulnerable groups, including Roma minority.

All update reports on the implementation of the action plans dedicated to counteract abuse of the visa-free regime presented by the Western Balkan countries continue to give particular importance to **information campaigns**. Posters, brochures and leaflets clarifying the obligations and rights stemming from the visa-free travel to the Schengen area, as well as information on the rules for access to the EU labour market have been distributed throughout the countries. The Western Balkan countries report on increasing involvement of local NGOs in this process. The EU Delegations in the region continue to play an important role in this respect.

Measures to strengthen **border controls** continue to be applied. Particular attention has been given to border crossing points with high road traffic intensity. All visa-exempted Western Balkan countries report on relatively high number of identified persons who attempted to leave their countries of origin without meeting the legal requirements. Measures for enhancing cross-border cooperation between the neighbouring countries have been also intensified.

The Western Balkan countries also reported on continuation of measures as regards the **control of travel agencies** and **transport companies** potentially involved in misinforming citizens about asylum benefits. Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia and Serbia continue to coordinate actions of their law enforcement agencies and the Ministries of transport to investigate possible irregularities. The authorities of Bosnia and Herzegovina reported on withdrawn transport licences based on irregularities as regards the rules of international transport of persons while several cases are in prosecution phase.

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<sup>6</sup> **'Recognition rate'** was calculated as a share of positive decisions (those granting refugee status or subsidiary protection (Directive 2004/83) or humanitarian status (national law)) in the total number of decisions in first instance procedures. The total number of decisions consists of positive and negative decisions.

The amendments of the legal framework in the former Yugoslav Republic of Macedonia introducing a **new criminal offence** of facilitation of the misuse of the visa-free regime, as reported in the previous CSWP (December 2011) have been implemented.

**Long-term measures for better integration of the Roma minority** have been agreed with each country at seminars held by the Commission, in particular on housing and access to health, education and employment. Their successful and continuous implementation is of utmost importance for addressing the phenomenon of unfounded asylum applications (see also the country's analysis in section III). The European Commission had organised jointly with the respective authorities throughout 2011 a series of "Roma seminars" in the region to review and find solutions to the challenges the Roma community faces. Overall horizontal findings identified an important gap between the adequate legislation and policies currently in place, and their proper implementation on the ground. The seminars led to a number of operational conclusions in key areas such as: civil registration, education, employment, social and health care, housing and freedom of movement. Follow up sessions on the implementation of the conclusions jointly agreed with the authorities are scheduled in 2012. In addition, the successful conclusion of the 'Sarajevo process' for the return or local integration of the most vulnerable refugees and IDPs will provide an important contribution to settling these communities.

Additional efforts have been made for the **integration of returnees**<sup>7</sup>. Serbia continued to implement its reintegration strategy and reported on a project to develop a database tracking returnees' access to public services. Three reception centres welcome returnees in Serbia. An information booklet on return has been translated into several languages. Yet, the financial means for reintegration for all five visa-exempted Western Balkan countries remain insufficient and returnees' access to jobs, education, training and recognised qualifications is still limited.

The European Parliament and the Council are currently discussing legislative proposals aiming, *inter alia*, at limiting the abuse of the asylum systems in the EU Member States and **preventing asylum shopping**. In addition, the proposal of the Qualification Directive has been adopted in December 2011. Work on other instruments continues.

Finally, the co-legislators are in the final stage of discussing the Commission's proposal for an amendment of Regulation 539/2001 (which lists the third countries whose nationals must be in possession of a visa when crossing the external borders and those whose nationals are exempted from that requirement)<sup>8</sup>. This proposal, foresees *inter alia* a visa safeguard clause allowing the temporary suspension of the visa waiver for a third country whose nationals are exempted from the visa obligation in case of an emergency situation, where an urgent response needs to be given to solve difficulties faced by one or more Member States. Such a mechanism would be a measure of last resort and can be applied to any third country exempted from the visa obligation.

## V. Next steps and concrete actions

The Commission considers that the **post-visa liberalisation monitoring mechanism** currently in place continues to function effectively and to provide the necessary tools to

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<sup>7</sup> 2,400 Serbian nationals have been returned to Serbia between November 2011 and March 2012. 2,400 Albanian citizens have been returned to Albania between November 2011 and March 2012. 983 citizens of former Yugoslav Republic of Macedonia have been returned during 2011. 234 Montenegrin nationals have been returned between January 2011 and April 2012.

<sup>8</sup> COM (290) 2011.

monitor the continuous implementation of the visa liberalisation benchmarks by the Western Balkan countries and the migration flows between these countries and the Union. The alert mechanism has the capacity to help EU decision-makers, including the Commission, to understand the nature of the current phenomenon, to assess its developments and to prepare for possible future measures and decisions.

The FRONTEX alert mechanism is crucial to enable the Commission and the Member States to continue the effective monitoring of the situation and of migration flows between the Western Balkan region and the Union. The alert mechanism should therefore be continued. An assessment concerning its further extension will be made in the beginning of 2013.

Based on the monitoring during the last six months and in comparison with the December 2011 CSWP, the following **conclusions** can be drawn:

The large majority of travellers from the visa-free Western Balkan countries continue to be **bona fide travellers** and thus the genuine purpose of visa liberalisation - to facilitate people-to-people contacts, enhance business opportunities and cultural exchanges and give the possibility to the people of the region to get to know the EU better – continues to be satisfactory.

Implementation of the reforms undertaken by the Western Balkan countries in the area covered by the visa liberalisation roadmaps continued. However, in some cases **reinforced efforts** are needed to ensure the full sustainability and irreversibility of the reforms.

The level of bilateral cooperation and implementation of the **EU Readmission Agreements** with the Western Balkan countries continue to be positive.

The **phenomenon of abuse of visa liberalisation** has developed in terms of **seasonality** and **geographical scope**. At a global level, the total number of asylum seekers from the Western Balkan countries has **decreased in comparison with the previous reporting period of 2011**. However, the year-by-year comparison demonstrates increase of asylum seekers during the off-pick season. Combined with the decrease during the pick season, as reported in the previous CSWP, this development shows **delayed and less sharp seasonality trends**. Moreover, the trends observed as regards individual countries of origin and countries of destination outline fluctuations which are not compatible with the global trend. For a second consecutive year, the phenomenon has broadened geographically.

The **poor level of integration of local communities, in particular of Roma origin**, continues to be a push factor for the vast majority of unfounded asylum applications. The main reasons for leaving remain economic, based on expected financial advantages associated with asylum claims in some EU Member States.

The Western Balkan countries remain committed to finding solutions to the current problems and some of the measures put in place have produced positive results. However, the broadened geographical dimension and the **increasing frequency of well-organised groups of asylum-seekers** of Roma origin call for more targeted result-oriented actions.

On the basis of the above conclusions, as well as of the consultations and exchange of best practices undertaken in the last months between the Commission, the Western Balkan countries and the EU Member States concerned, the following **actions** continue to be identified as necessary:

- (1) Firstly, **enhanced cooperation** with the authorities of the Western Balkan countries should continue in order to help to overcome and if possible to anticipating difficult situations faced by some EU Member States. This cooperation is of a particular importance in view of the diverging trends of some countries of origin and some

countries of destination. The cooperation should be based on **regular information exchange** between the Commission, EU Member States concerned and the countries of the region, in accordance with EU and national legislation.

- (2) Secondly, efforts as regards the **investigation of facilitators** like travel agencies, transport companies etc. need to be intensified.
- (3) Thirdly, efforts to **strengthen exit controls** (in the Western Balkan countries) and **entry controls** (at EU borders) should be further enhanced. In this context, the EU Member States which have a direct responsibility for managing EU external borders should continue to give particular attention to the phenomenon, in line with the Schengen *acquis* and in close collaboration with Western Balkan countries, EU Member States of destination and FRONTEX.
- (4) Moreover, **continuous, targeted information awareness campaigns** shall be intensified aiming to clarify the rights and obligations of visa-free travel, including information on rules for access to the EU labour market and liability for any abuse of rights under the visa-free regime.
- (5) **Assistance to minority populations**, in particular Roma communities, **should be substantially increased and more targeted in the countries of origin**. Particular attention should be given to increase the level of school enrolment of Roma children, as well as the employment rate. This should include implementation of national strategies and assistance by the authorities of the countries concerned, supported by available EU assistance and bilateral assistance of Member States. The Commission is ready to put additional emphasis on further strengthening assistance provided under the Instrument for Pre-accession Assistance (IPA), including TAIEX.