THE EU VISA LIBERALISATION PROCESS IN WESTERN BALKANS: A COMPARATIVE ASSESSMENT

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I. Executive Summary

The idea of EU visa liberalization for Western Balkans (WB) countries was introduced at the Thessaloniki Summit in June 2003. The EU Council proposed a list of reforms that all countries needed to undertake in order to benefit from a free visa regime. In other words, the Council made it clear that countries' progression in the process of visa liberalisation was dependent on their willingness and capability to implement substantial reforms in the areas of rule of law and security. WB countries were asked to strengthen their capacities in combating organised crime, corruption and illegal migration as well as enhance their capacity to administer and exercise border control and security of official identification documents (EC, 2003)

This report assesses the progress that WB countries including Kosovo made in fulfilling the benchmarks set in the visa liberalisation roadmaps. The research shall surface the progress made by Kosovo and areas of concern compared to other WB countries. The *comparative analysis* takes the Kosovo's roadmap as a baseline and assesses every country's standing towards that reference. The analysis narrows down to 16 months – the date when the first roadmaps were delivered to WB countries (but Kosovo), in March 2008 and October 2010 when the last recommendations (for Albania & BH) were made to the EU Council for the liberalisation of visa regime. The methodology of the research is explained in the subsequent chapter. The evidence presented in this report is based on official documents, regulations and assessments of the EU, individual country readiness and progress reports, primary statistical data independent assessments and interviews with stakeholders involved.

The Kosovo's *visa liberalisation roadmap* differs in a number of ways compared to that of other WB countries. It is generally assessed that Kosovo is subject to more benchmarks, reinforced monitoring mechanisms, a stricter and phased evaluation process and a more complex decision-making procedure. Kosovo is faced with a stricter procedures and a more unfavourable internal and EU stance.

The *readmission and reintegration* was a burden for WB countries and many governments found the implementation process as quite unpopular in many

respects. The adoption and implementation of the readmission agreement was assessed as a tough contribution that the countries had to make. Policies related to readmission were generally less favourable and found more resistance compared to other technical criteria. All WB countries signed and operationalised the procedures for readmission but faced a number of challenges in implementation. The reintegration component continues to face major institutional and resource constraints, particularly given the EU's insistence on sustainable reintegration of repatriated citizens in a context of lack of sufficient economic development.

With regard to document security, the benchmarks were rather concrete and measurable compared to other blocks. All WB countries were quick to introduce biometric passports, secure the civil registry files and the integrity of the system. Generally, all countries faced a number of challenges that relate to lack of resources, technical difficulties and in some instances political problems. Kosovo has made significant progress in this benchmark and in many respects has come fulfilling the criteria, but its track of delivery is less successful compared to Macedonia as a front-runner in this block. A number of challenges exist in terms the integrity of the system, digitalisation and political complexities in international cooperation.

All WB countries made significant progress in *border management, migration and asylum* in terms of legislative and institutional set-up in the run-up to the visa liberalisation decisions. However, the implementation of these policies continues to be a problem despite having been granted the visa liberalisation with the EU. A number of countries like Albania, Macedonia and Montenegro continued to face a number of inconsistencies in legal framework and alignment with EU *acquis* beyond the decision for visa liberalisation (EC, 2013). Implementation of migration and asylum related legislation has not been effective and coherent. Most countries continue to face resource and capacity constraints in implementation. Overall, lack of capacities and insufficient coordination of relevant institutions are yet the main challenges for WB states in reaching EU standards in this area.

Kosovo marked significant progress in advancing the criteria set out in the *public order and security block*. A number of laws and strategies were adopted and/or

modified in accordance with the requirements of EU Visa Roadmap. In addition to that the government established the institutional framework for implementation. , number of task forces was established in order to implement the existing framework in light of additional criteria which requires track of implementation. When it comes to the implementation, Kosovo achieved slightly similar levels of progress in the legislative and institutional framework in the areas of combating a wide range of organized crime. It has achieved tangible results in the practice of data protection. However, Kosovo track on combating corruption and witness protection remains the key concern in the block. Additionally, due to political complexities that Kosovo faced in the aftermath of the declaration of independence, it has struggled to achieve the desirable level of progress on regional rule of law and justice cooperation.

The fourth block on fundamental rights was generally a less salient issue for WB national governments compared to the first three blocks. There is an evident lack of scrutiny and attention to the important issues of the block. This can be confirmed by the lack of on-the ground assessments from the EC – basing much of the assessment on governments' readiness reports. The focus of progress reports placed much emphasis on the adoption of anti-discrimination laws and specific isues to resolving issues of refugees in the case of Montenegro and assistance and registration of Roma in the case of Albania. In most of the countries however, progress was formal, and was accompanied by problems in terms of definitions in the legislation, let alone implementation. Macedonia was receiveda positive visa liberalisation decision from the EC despite having failed to adopt a law on anti-discrimination (EC, 2010). Kosovo has had a more complex problem in terms implementation and enforcement of anti-discrimination and minority rights legislation – as minority communities faced several forms of social, economic and political exclusion in the aftermath of the conflict. Generally, speaking Kosovo has a more advanced legislation and institutional-set up compared to other WB states. The legislative and institutional framework is in place in part because of international administration and package of laws pased through the comprehensive political status proposal. However, it lags behind in implementation just like other WB neighbours.

II. Introduction

The idea of EU visa liberalization for Western Balkans (WB) countries was introduced at the Thessaloniki Summit in June 2003. The EU Council proposed a list of reforms that all countries needed to undertake in order to benefit from a free visa regime. In other words, the Council made it clear that countries' progression in the process of visa liberalisation was dependent on their willingness and capability to implement substantial reforms in the areas of rule of law and security. WB countries were asked to strengthen their capacities in combating organised crime, corruption, illegal migration, as well as enhance their capacity to administer and exercise border control and security of official identification documents (EC, 2003)

The first follow-up initiative came three years later in 2007 when WB countries, with the exception of Kosovo signed the Visa Facilitation and Readmission Agreements. Visa liberalisation dialogues took place from 2008 to 2010 between the European Commission (EC) and the following countries of the Western Balkans: Macedonia, Serbia, Montenegro, Albania and Bosnia and Herzegovina. The objective of this dialogue was the removal of these countries from the so-called Schengen black list 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. Croatia was not subject to visa requirements, whereas Kosovo was added to the black list under the same Regulation in late 2009.

The exemption from the visa requirement is based on "an assessment of a variety of criteria relating *inter alia* to illegal immigration, public policy and security, and to the European Union's external relations with third countries, consideration also being given to the implications of regional coherence and reciprocity" (EC, 2011). Examining these criteria, it has been argued that the link between them is the potential threat that migratory flows could potentially pose to the internal security of the Union.

The criteria from the Regulation (EC) No. 539/2001 were streamlined though the monitoring of the implementation of roadmaps prepared by the EC and delivered to the countries in the region in mid-2008. These roadmaps contained specific

benchmarks structured in four blocks: document security, illegal migration, public order and security, and external relations and fundamental rights linked to the movement of persons. The assessments on the compliance with the benchmarks took place through written responses by the national governments and several on-the ground assessments through peer-missions of experts of the EC and the European Union member states. After satisfactory progress was judged to have been made on the benchmarks, the visa requirements were lifted, first for Macedonia, Serbia and Montenegro at the end of 2009, and in the following year for Albania and Bosnia and Herzegovina.

The benchmarks of the first three blocks of the liberalisation roadmaps were mostly related to the justice, freedom and security *acquis*. The last, fourth block concerning external relations and fundamental rights has more recently been included in the context of the visa liberalisation, as it was not part of the discussions for the removal of the visa requirement for Bulgaria and Romania which took place in 2001. This dealt with two policy areas: freedom of movement and identity documents and citizens' rights, including protection of minorities. The new benchmarks dealt with issues of freedom of movement, conditions and procedures for issuing identity documents, adopting and enforcing anti-discrimination legislation and implementing policies regarding all minorities, including Roma, Ashkali and Egyptians.

The European Commission dialogue with WB countries followed a bilateral approach and allowed individual countries to speed up the implementation of the visa liberalisation roadmap. While the criteria could be assessed as technical, they nonetheless triggered many efforts to attain the desired level of reforms. As a result all WB countries, Kosovo being the exception, concluded their reforms and were granted a free visa regime by December 2010. Macedonia, Montenegro and Serbia were judged to have successfully implemented the actions of the 'Roadmap' in 2009 while Albania and B&H were asked to continue implementing reforms until 2010. This makes Kosovo the only place without liberalized visa process with EU.

Kosovo, faced with a political impasse due to initial objections from EU members that did not recognise its independence and difficulties resulting from complicated relations with Serbia, launched a self-devised visa liberalisation roadmap in order to

fulfil whatever conditions it could control. The first step in this direction was the unilateral adoption of the 'Action Plan for the Implementation of Kosovo Government Roadmap on Visa Liberalisation with the European Union' which in itself reflected a similar structure and approach to the one being negotiated by EU with other WB countries. The initiation of the 'Action Plan' resulted in the adoption of some important government policies in the area of public order and security – document security, integrated border management, migration and fundamental rights related to the freedom of movement. The official EU Visa Liberalisation dialogue started in January 2012, however the Visa Liberalisation Roadmap was handed in only on 14th of June 2012.

However, the EU approach to visa liberalisation has evolved since the first WB countries received the roadmap in 2008. Firstly, the visa liberalisation process was described as part of the European perspective for Western Balkans in 2003 Thessaloniki Agenda (EC, 2003). It is argued at the recent economic and financial crisis coupled with difficulties in ratifying an EU Constitution could have created an 'enlargement fatigue' (Mayhew, 2010). Secondly, the visa liberalisation process was initiated as an incentive in help WB countries comply with readmission of their nationals livening in EU member states and as a mechanism to secure external governments partnership in migration management (Tsolov, 2012). The granting of visa free regime to Albania, B&H, Serbia and Macedonia triggered a sudden and massive flow of migrants and asylum seekers towards EU (Frontex, 2013). Some have argued that the EC, under pressure from member states, has toughened its visa conditionality and become much more conservative in assessing the implementation of Visa roadmaps (GLPS, 2013).

The purpose of this report is therefore to assess the progress that WB countries including Kosovo made in fulfilling the benchmarks set in the visa liberalisation roadmaps, thus shedding light into areas where Kosovo has delivered to large extent as well as to identify areas where more needs to be done and to assist Kosovo Institutions to focus their efforts. The research shall surface the progress made by Kosovo and areas of concern compared to other WB countries. The comparative analysis takes the Kosovo's roadmap as a baseline and assesses every country's standing towards that reference. The analysis tackles both the progress made in legislative reforms as well as progress made in their implementation. Comparative

analysis is difficult in different time series. However, the research narrows down to 16 months – the date when the first roadmaps were delivered to WB countries in March 2008 and October 2010 when the last recommendations (Albania & BH) were made to the EC Council for the liberalisation of visa regime. Kosovo progress is measured from May 2012 to September 2013. The findings in various blocks are also mirrored into a Visa Scorecard ranging from 1 [unfulfilled benchmarks] to 5 [fully met the benchmarks. The methodology of the research is explained in the subsequent chapter. The evidence presented in this report is based on official documents, regulations and assessments of the EC, individual country readiness and progress reports, primary statistical data of Eurostat and Frontex, independent assessments and interviews with key stakeholders.

The first part of this report provides a comparative assessment of visa liberalisation roadmaps. It analyses the approach and benchmarks presented by the EU. In the second part the report discusses the Part A of the Roadmap – Readmission and Reintegration. Document Security (Block 1) is analyzed in the third section. The fourth chapter elaborates Block 2 – Border and Migration Management. The fifth chapter deals with Public Order and Security (Block 3). Finally, in part six the report illustrates the progress made and areas of concern on Fundamental Rights (Block 4). The report includes contributions from various authors.

III. **Methodology**

The findings and assessments made in this report are based in various data collection methods. The study is primarily based on desk research and processing of statistical data where necessary. Assessments have also been complemented by face-to-face interviews with key stakeholders and non-participatory observation. A number of stakeholders have been consulted in the process including practitioners, policy-makers, media, civil society organisations and international representatives. The methodological approach is based on a framework developed by Kosovo Center for Security Studies (KCSS) in cooperation with a number of regional think tanks (BCSP Belgrade, Center for Security Bosnia, IDM Albania, CDMR Montenegro, Analytica Macedonia) and which centres on measuring both policy-making and implementation process. It first assesses the degree of progress and method of policy-making and then analyses the progress made in enacting the policies and actions endorsed by the policy-making bodies.

The complete framework can be accessed in the Methodology Chapter of regional publication "Almanac on Security Sector Oversight in the Western Balkans" (2012)[1], and the same can be found also in the book published by KCSS titled 'Monitoring and Evaluation of Good Governance in the Kosovo Security Sector'. The same approach has been adjusted to analyse the progress made in legislation and implementation capacity in the security sector institutions responsible for fulfilling visa liberalisation criteria. A grading system from 1 (weakest) to 5 (best) is used to number the scale of progress. The grading system is justified below:

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[1] Regional Publication "*Almanac on Security Sector Oversight in the Western Balkans*", methodology chapter written by Sonja Stojanevic, p237-271, Regional Think Tank Consortium: **Mapping and Monitor The Security Sector Reform in the Western Balkans**, March 2012

GRADE	Category	Description
GRADE 1 Focus is on legal norms, policies and bad practice	**Legal and Policy Framework**	<u>Indicator existence of primary laws and policies</u> (e.g. whether the Law on Integrated Border Management has been adopted and Strategy on Integrated Border Management).
	Implementation and Institutional Capacities	<u>Indicator frequency, quantity and quality of bad practice:</u> There is a widespread bad practice. There is absence of implementation of related laws and policies. <u>Adequate allocation and management of material and human resources</u> necessary for implementation of the laws and strategies.
GRADE 2 Focus is on legal norms, policies and practice	**Legal and Policy Framework**	<u>Indicator existence of primary laws and policies:</u> The primary legislation and policies are in place.
	Implementation and Institutional Capacities	• <u>Indicator frequency, quantity and quality of bad practice:</u> There is still very limited practice and attempts of introducing good practice. Good practice in implementing laws and policies has not yet become a regular phenomenon. • <u>Resources</u> have either not been allocated at all or insufficient quantity and inadequate quality of material and human resources is allocated for implementation of laws and policies.
GRADE 3 Focus is on legal norms, policies and practice (minimum track of implementation a	Legal and Policy Framework	<u>Indicator existence of primary laws:</u> The entire legislation and policies required does exist in the particular field.

(yellow)	**Implementation and Institutional Capacities**	Good practice exists meaning that the laws and policies are being implemented for at least 2 years. There are still examples of limited practice in implementing parts of legislation and policies, but serious bad practice is exception. Some resources have been allocated so that tasks have been delegated in particularly implementing the provisions of laws and policies.
GRADE 4 Focus is on institutionalization and positive values (more than 4 years track of implementation)	**Legal and Policy Framework**	All the laws and policies are adopted.
	Implementation and Institutional Capacities	There is a notable track of record in implementing laws and policies. There is consistent implementation of laws and policies. The institutional capacities are well established and functional.
GRADE 5 Focus is on institutionalization and positive values (more than 6 years track of implementation)	**Legal and Policy Framework**	All the laws and policies are adopted.
	Implementation and Institutional Capacities	Significant efforts are invested in preventive and proactive work to diminish opportunities for bad practice. There is a notable track record of implementation. Implementation has become a rule and bad practice is an exception.

Note: the grading system is attached in Annex 1

IV. A comparative assessment of the roadmaps and approach to visa liberalisation dialogue structure

The Kosovo's visa liberalisation roadmap differs in a number of ways compared to that of other WB countries. It is generally assessed that Kosovo is subject to more benchmarks, reinforced monitoring mechanisms, a stricter and phased evaluation process and a more complex decision-making procedure. Kosovo is faced with a stricter procedures and a more unfavourable internal and EU stance.

More benchmarks and heavier workload – The roadmaps follow a similar sequence and similar broad categories. All countries were initially asked to sign Readmission agreements with the EU and then offered the roadmap for visa liberalisation. The Visa liberalisation benchmarks are categorized into same four broad blocks: document security, border and migration management, public order and security and fundamental rights. However , the Kosovo's roadmap differs to those of other WB states both in terms of the number as well as the depth of the benchmarks.

Firstly, the Readmission and Reintegration (RR) component is very detailed. Kosovo needed to make significant progress in this area before the much anticipated Visa Liberalisation roadmap was handed over by the EU. The Kosovo RR component includes provisions from the Stockholm Programme (2009-2014) which emphasize not only the procedural and institutional aspects of readmission but also its compliance with human rights and sustainability of readmission. This component also includes a number of lessons learned from prior visa liberalisation examples. Secondly, the Kosovo roadmap is distinct for a higher number of benchmarks and more detailed references in terms of their implementation. Thirdly, Kosovo's roadmap contains another feature in that the EC could introduce further benchmarks along the way. This resulted because of the high migratory tendencies and high number of asylum applications observed after the first wave of visa liberalisation process in WB (Frontex, 2013).

Reinforced Monitoring - the Kosovo's roadmap includes another mechanism called the 'reinforced consultation'. The Commission commits to engage the Council and the EU member states to each step of the dialogue through the full involvement in monitoring and amending the roadmap, full participation in the assessment of progress in fulfilling the requirements set out in the roadmap and strengthening the role of monitoring institutions like Eurpol, Eurojust and Frontex is assessing the progress (EC, 2012). This could have resulted from the EU domestic pressure and as a means to reassure the member states that opposed the visa liberalisation regime (GLPS, 2012). In addition, the roadmap also conditions Kosovo to fully cooperate with EU rule of law mission. This empowers EULEX to carry internal monitoring in additional to the already reinforced external monitoring mechanisms.

Strict evaluation of progress - In addition to the differences noted in the breadth and depth of the benchmarks, the evaluation of progress includes a number of differences in the case of Kosovo compared to other WB states namely (a) the emphasis on legislation and implementation makes Kosovo's roadmap more akin to those of Moldova and Ukraine rather than its neighbours (CRPE, 2012). While the progress on a number of benchmarks in the case of other WB states was measured in terms of their ability to adopt legal reforms, the EC reports in the case of Kosovo increasingly highlight the importance of implementation. The roadmap explicitly says that the assessment of progress will be made on the basis of not only legal and policy reforms but also on the scale of implementation. The framework of the roadmap dialogue in the cases of other WB countries included one phase (adoption of EU aquis and implementation intertwined). The Kosovo's roadmap seems to be divided into three separate phases: (1) adoption of EU *aquis*, (2) implementation and (3) expected migratory and security impact of the liberalisation.

Our research noted a list of discrepancies in the process of other WB countries progress reports. Firstly, Serbia and Montenegro were given positive assessments on the condition that they implemented legal reforms – making it unable for the EC to assess whether the benchmarks were fulfilled ex-post. In fact, the third Post-Visa Liberalisation Report for Western Balkans issued by the EU Commission (2012) underlines significant gaps of progress in implementing the

roadmap criteria for Albania, Macedonia, Montenegro and B&H. Secondly, the EC roadmap progress reports were much more oriented towards legislative reforms rather than the success of their implementation – nearly all countries were offered the green light without having a track of implementation in border and migration management and fundamental rights (EC, 2008). Thirdly, the Kosovo's roadmap explicitly refers to the expected migratory and security impact which the EC conducts ex-ante to any recommendation for visa liberalisation regime (EC, 2012). In the case of other WB countries, the impact was done only ex-post. In addition, there are questions over the methodological soundness in evaluating potential migratory impact hypothetically.

A more complex decision-making procedure - The proposal for lifting the visas should come from the European Commission. Pending the entry into force of the Lisbon Treaty, the Commission proposal was only subject to vote by the EU Council. After 2009, the Commission's proposal must also be approved by the European Parliament under the *co-decision procedure*. Regarding Macedonia, Montenegro and Serbia, visas were lifted before entry into force of the Treaty, but Albania and Bosnia Herzegovina have followed the new procedure and received a favourable vote also from the Parliament (ESI, 2010). The process could however be more complex in the case of Kosovo given the position of non-recognizing EU member states. This could tap into difficulties both in the Council and the EP.

A more unfriendly EU domestic opinion - Kosovo will be subject to lessons learned from the experiences of other WB countries enjoying a visa-free regime. Following the introduction of a visa free regime for EB countries in 2012, the number of asylum applications of WB nationals in 2012 was the largest recorded. In 2012 alone there were above 30,000 applications by nationals of visa-exempt nationalities alone and that represents a 53% increase compared to 2011. This phenomenon led the EC to include a clause which allows for the re-introduction of visa regimes should the trend continue (EP, 2012). The EC has enshrined the mechanism of potential migratory impact in the case of Kosovo's visa roadmap before any positive decision could be taken (EC, 2012). According to Frontex (2013), the numbers of Kosovans illegally travelling to EU as well as their asylum applications have increased significantly in recent years. The negative asylum experience from other WB countries as well as Kosovans' increasing tendency to

illegally travel to EU could negatively impact the prospect for quick visa liberalisation regime. Additionally, it may also make Kosovo subject to rigorous scrutiny of its record on implementation of roadmap benchmarks.

V. Readmission and Reintegration - PART A

5.1. General observations

The EC readmission policy was intertwined with the prospect of visa liberalisation with WB countries and incorporated in the Thessaloniki Agenda (2003). The intertwining of the policies was meant to advance the settlement of WB citizens residing in EU countries while providing incentives for implementation in the form of the promise of a dialogue for free travel to Schengen area. The conclusion of visa facilitation agreements was linked to the conclusion of readmission agreements which would also contribute to combating illegal migration (EC, 2003).

The readmission and reintegration agreements of the EU and WB countries have been used as a means of combating illegal migration. Over the course their development, the policy has become part of the immigration control systems (Tsolov, 2012). On the basis of powers vested in the Treaty of Amsterdam, the EU Commission concluded readmission agreement with all WB countries. The agreements designate the contracting authorities to readmit its nationals who do not comply with the residence conditions of an EU member state (EC, 2007). In essence the governments would have to cooperate at bilateral level with EC members in relocating their nationals who no longer enjoy the legal residence (EP, 2010). All readmission agreements also included provisions for readmitting not only nationals but also third country nationals if there is sufficient evidence that WB countries have served as a transit point for illegal migration to any EU country.

All WB countries successfully adopted the agreements in 2008. The government hosting the readmitted persons attempted at varying degrees to develop policies aimed at responding to the need of enhanced reception and reintegration capacities. The bulk of returnees would come from Germany and Switzerland and included ethnic minority groups and refugees that were affected by the conflicts in former Yugoslavia. The reintegration process conditioned other criteria in the

visa liberalisation process as majority of expected returnees faced a number of difficulties for return to their countries of origin because of lack of documents, housing, education, economic opportunities and security concerns.

The process of readmission and reintegration was generally assessed as a heavy burden for WB countries given their difficulties that they faced in both political as well as economic terms (Trauner & Kruse, 2008). While the progress of readmission and reintegration did positively reflect on the scale of countries' progress towards visa liberalisation and integration, there were also complexities in achieving acceptable levels of success due to the already high levels of unemployment and the social and cultural distance that might have resulted due to decades of migration.

In essence readmission and reintegration was a burden for WB countries and many governments found the implementation process as quite unpopular in many respects. The adoption and implementation of the readmission agreement was assessed as a tough contribution that the countries had to make. Policies related to readmission were generally less favorable and found more resistance compared to other sectors. The promise of integration seemed rather distant to generate the needed momentum to counter potential domestic opposition. However, the incentive of visa liberalisation proved to extent as 'a carrot' that governments use to ease opposition. In many other respects, the prospect of visa liberalisation seemed in many respect as a political obsession that in part shifted governments' attention and resources to other important social challenges.

5.2. Readmission

The dissolution of Yugoslavia brought sudden and massive movements on a large scale. About four 4 million people became refugees of internally displaced (Werner et al, 2002). Large numbers of people from Bosnia, Serbia, Kosovo and other former Yugoslav republics emigrated in Western Europe. Germany, Switzerland and Nordic countries had carried the main burden for nearly two decades. On the other hand, the collapse of communism and the ensuring social

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challenges pushed a third of Albania's population to migrate in neighbouring EU countries.

Due to the conflicts and economic struggles in the region, economic growth halted, unemployment increased dramatically and the standard of living had significantly decreased. WB democratisation process was slow and ethnic minorities were particularly subject to political, social and economic exclusion (ICG, 2005). These conditions not only that they did not create conducive conditions for return of the displaced but also created a series of political and cultural disincentives for the return of the remaining refugees and asylum-seekers from EU member states. During the past decade Serbia and Bosnia were faced with a number of challenges of settling the internally displaced people (Trauner, 2007). They also had to find ways to settle ethnic minorities that left their country of origin.

Negotiations on EC readmission agreements started in 2001, after the Amsterdam Treaty had transferred the competence to conclude readmission agreements with third countries to the European Union. Shortly thereafter it became clear that successful negotiations would take longer than the member states had originally hoped, because the agreements mainly bring about negative consequences and difficult challenges of varying dimensions for countries of origin or transit (Tsolov, 2012). In 2002, member states started calling for the speeding-up of ongoing readmission negotiations – a claim which has been reiterated at every opportunity ever since. Gradually it became clear that concessions needed to be made, and more-attractive packages would have to be linked to migration policy. In the months that followed, visa facilitation became the major compensation matter introduced by third countries in negotiations with the EU (Kacarska, 2012).

Readmission agreements generally cover procedural provisions regarding return procedure, transit return arrangements, responsibility criteria, standard of proof, time limits and cost distribution, although the exact nature of these procedures can vary significantly. The most difficult issue to agree upon is the readmission of third country nationals and stateless persons. Contestable points arise in approving the travel route of these migrants, and in providing evidence that they transited the country before entering the EU's territory. Proof of nationality is

highly critical, too. Other controversial technical issues include applicable time limits, the use of the EU standard travel document for expulsion, the means of evidence including prima facie evidence, and the use of charter flights (Schieffer, 2003).

The Commission initiated intensive readmission talks with WB states since 2003. The first readmission agreement was signed by Albania in 2005 regarding the readmission of persons living without authorization in EU countries (EC, 2005). The talks of readmission with other WB countries lasted for another two years. All agreements were concluded by 2007 with Macedonia (EC, 2007c), Montenegro (EC, 2007b), B&H (EC, 2007d), Serbia (EC, 2007a) and the United Nations Mission in Kosovo (UNMIK). The main advantage of readmission agreements from the EC's point of view is that the Community gets hold of a legal instrument that enables them to force transit countries to readmit not only their own, but also third country nationals. However, from the point of view of non-EC countries, EC readmission agreements only bring about negative consequences that, in the end, might put their economic, social and political stability at risk. However, the prospect of visa liberalisation coupled with EC technical assistance from Justice and Home Affairs have addressed some of the concerns.

While all countries were quick to finalise the agreements and demonstrate some commitment through the reception of their nationals residing illegally in the EU members states, over the course of 2008-2012 it became clear that nearly all WB countries' institutional infrastructure and resources to carry out the return procedure were insufficient (Trauner & Kruse, 2008). The coordination of the process among various organisational units, technical equipments and awareness on human rights aspects were noted as lingering concerns in EC pre and post-visa liberalisation reports. According to the EC readmission agreements with Macedonia, B&H and Serbia run smoothly but there were suggestions for further commitments of financial and human resources (EC, 2011). Albania made significant progress between 2008 and 2012 but there were reported delays in carrying out the readmission procedure suggesting they were also facing resource bottlenecks (EC, 2012).

Kosovo's Readmission Policy was adopted by the PISG/Kosovo Government in 2007 and approved by UNMIK in the same year. The document laid out the

procedure for the readmission of some 100,000 Kosovans assessed to be living illegally or without a residence permit in the EU (UNMIK/PISG, 2007). The UNMIK Steering Committee composed of local and international organisations adopted a strategy for the readmission of a 5000 forced returnees per year and held UNHCR position against the readmission of persons that were assessed to be vulnerable in political and social terms (UNHCR, 2006). Following the declaration of independence of Kosovo, all responsibilities in managing the readmission process were taken over by the Ministry of Internal Affairs. The institutions of the newly independent country adopted a Law on Readmission in June 2010.

In terms of legislative activity on readmission, Kosovo, Albania and Macedonia have demonstrated more commitment than other WB states. Albania and Macedonia signed around 25 agreements and protocols (Trajkovski, 2012), Kosovo signed 21 readmission agreements by June 2013 and is in the process of negotiating another nine of them (MIE, 2013). Overall, the period from 2008-2013 marked an increased legislative activity and willingness to negotiate further readmission agreements compared to years before and other regions. All countries and especially those in less favourable position have used it as an indicator of progress towards visa liberalisation and European integration. The EC reports indicate that overall the readmission agreements in WB (including Kosovo) are running smoothly (EC, 2012).

However, willingness to negotiate and sign agreements does not necessarily mean that they have the capacity and means to deliver. The data on readmitted and repatriated persons from WB countries point out that they Albania, Kosovo and Serbia had by far the greatest burden (Eurostat, 2013). Although the statistical evidence presented in WB countries migration profile is generally poor, a collection of various data reveals that Albania has had the greatest burden on readmission by accepting on average 40,000 people every year from 2008-2012. Serbia has a lower but still significant delivery with an average of 4000 readmissions per years during the same period. Kosovo ranks third with an average of 2,6500 readmissions per year. B&H, Macedonia and Montenegro have accepted less people and on average below 700 persons per year.

Approximate share of WB forced repatriations from EU countries 2008-2012
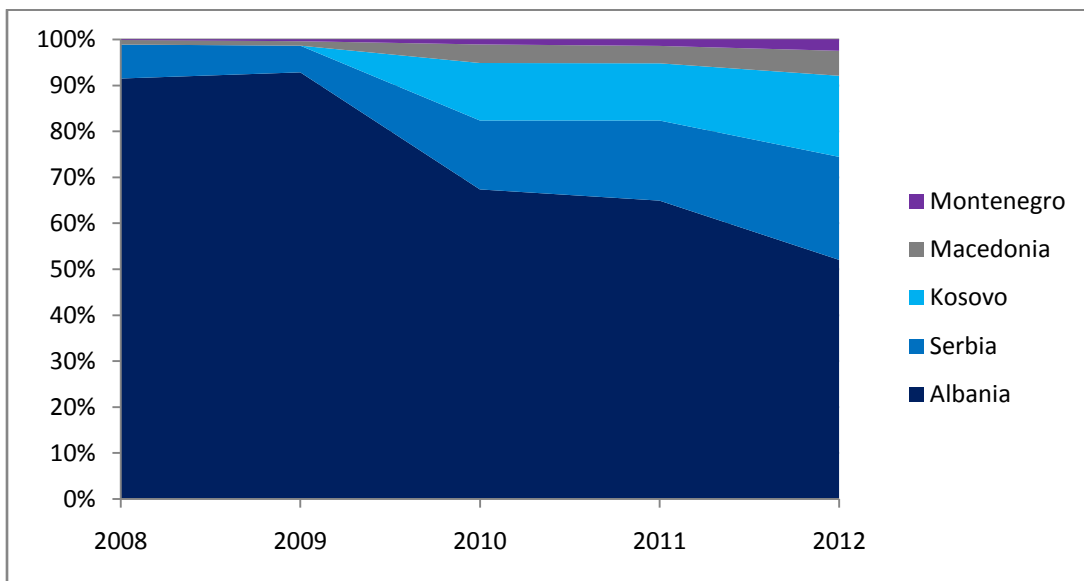
Sources: Various sources including Eurostat and country statistics

5.3. Reintegration

The readmission agreements as noted above stipulate that each state is obliged to take back its own nationals. However, since most often the number of nationals from EU neighbouring countries who migrated irregularly to the EU is substantially high, their return creates major difficulties for the home country. Albania, B&H and Kosovo were more critical cases due to their large share in the number of migrants and lack of readmission resources facilities and financial resources. On the other hand, migrants' remittances played a major role in their economies constituting nearly 18% of GDP in the case of Kosovo (IMF, 2010). There were concerns that mass returns may result in the aggravation of economic basis and affect poverty rates (Coleman, 2009).

Over the course of the 2008-2012 it became evident that the return taped into several challenges in addition to the lack of institutional capacities from the host countries. Even the case of the return of country's own nationals is a complex issue that brings about a lot of challenges to the transit countries. The lack of

support to the readmitted persons to reintegrate into their home societies and the dim prospect became disincentives for the returnees to stay. The EU members countries faced the prospect of re-emigration where the returnees would continue to seek alternative ways to go back. In addition, the EC has become increasingly more vigilant of the fundamental rights of the returnees in the face of human rights critics that judged the readmission texts did not guarantee enough protection upon return.

The WB countries with the exception of Kosovo were asked to make progress in readmission in return for the free visa regime but there were not benchmarks with regard to reintegration. All countries received a green light on visa liberalisation without a solid record of progress on readmission and reintegration. The EC seemed to have recognized this in the case of Kosovo's liberalisation roadmap when benchmarks became much more detailed and strict. In addition to readmission legislation and institutional capacity, Kosovo was asked to demonstrate significant progress in the dimension of implementation and reintegration of the returnees. The EU Visa Liberalisation Roadmap for Kosovo states that ' *The Commission has always insisted on sufficient progress in readmission and reintegration as necessary elements to be put in place before launching a visa liberalisation dialogue with Kosovo…and will continue to monitor and assess the progress in enhancing readmission and effective reintegration of returnees*' (EC, 2012a).

The EC noted in 2012 that Kosovo had made significant progress in the readmission and reintegration framework in the years before the dialogue was launched. However, it should be noted that 'reintegration' dimension was emphasized in the case of other WB countries only through the post-visa liberalisation monitoring reports. The EC working documents that assessed WB countries continued commitment to implement the visa liberalisation benchmarks noted that difficulties in readmission and reintegration persisted throughout 2012 (EC, 2012b).

Kosovo has had an impressive track record in legislative and institutional framework on reintegration. It revised the reintegration strategy and action plan and significantly increased financial resources (3.2 million Euro). The strategy focuses on the reception but also on the sustainable reintegration dimension with

vocational and employment services, support for start-ups and educational assistance for minors (EC, 2013). The institutional set-up was reformed in order to clarify the competencies and better streamline the process of delivery, however there were still concerns with regard to the effectiveness and efficiency in disbursing funds and assistance.

Montenegro adopted a Returnees Reintegration Strategy in 2012 and made only small steps in implementation (EC, 2012b). B&H adopted a similar strategy but made no progress in implementation until 2012. Serbia's track on implementing reintegration strategy was ahead of other WB counterparts enjoying a free visa regime but the scale of services and funds committed to the purpose were small. In its 2012 post-visa liberalisation monitoring report, the EC stated that '*the financial means for reintegration for all five visa-exempted Western Balkans countries remain insufficient and returnees' access to jobs, education, training and recognized qualification is still limited*' (EC, 2012b).

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VI. Document Security –

Block 1

The benchmarks on document security were introduced as part of the effort to ensure the integrity and security of the national identification and travel documents, prevent forgeries and illegal migration. The roadmap on this block is rather technical and largely similar for all WB countries. Much of the listed criteria attempt to enhance legislation and implementation in line with the EU and ICAO standards on document security. All countries were to implement the benchmarks that relate to the issuance of machine-readable biometric passports in accordance with EU and ICAO guidelines, secure personalisation and distribution process, implement anti-corruption training programmes for officials, report to INTERPOL on lost and stolen passport database and secure the breeder documents and ID cards.

The benchmarks were rather concrete and measurable compared to other blocks. All WB countries were quick to introduce biometric passports, secure the civil registry files and the integrity of the system. Generally, all countries faced a number of challenges that relate to insufficiency of the resources and technical problems of political nature. Kosovo struggled to get hold of the old registry documents on civil status from Serbia and faced a number of complex procedures in cooperating with INTERPOL since it is not a member.

6.1. Issuance of biometric passports

While Kosovo started to issue first biometric travel documents in October 2011, i.e. seven months before it received the Visa Liberalization Roadmap from the hands of EC officials on 14 June 2012, approximately one year from the start of the Visa dialogue in 2008 Albania was still in an embryonic stage with regards to the issuance of biometric passports, dealing with contract award for the production of the documents (EC, 2008). The process of issuance was initiated in February 2009, but a 'full-blown' distribution of biometric passports could be observed from June 2009. The process of issuing new biometric passports was

also slower in Bosnia and Herzegovina, where the tender for the production of biometric passports was awarded by May 2009 and a general starting date for issuing was only foreseen at that time to be January 2010, thus more than one and half year since the launch of the visa dialogue in May 2008 (EC, 2009).

However, the first wave of the 'visa-liberalized', namely Macedonia, Montenegro and Serbia, were far better placed which was confirmed by this comparative assessment, with Macedonia, being the general frontrunner (EC, 2009), having been issuing biometric travel documents since April 2007, with Montenegro having issued more than 100 000 biometric passports between May 2008 and May 2009 (EC, 2009), and Serbia surpassing the limit of 500 000 by the end of April 2009 (EC, 2009). Serbia has displayed a particularly high level of acceleration of the process of biometric passports issuance, having started in August 2008 and reaching more than 1.2 million issued biometric travel documents by September 2009.

While the speed of the process is an important indicator of both will of the political leadership of the given country to move forward in the visa liberalization process and the importance attached to the latter, it is also the level of compliance with security features and standards of the ICAO and EU which represent important criteria for determining whether the travel documents in use by citizens of third countries who wish to travel in the Schengen Area are of satisfactory quality and guarantee the lowest level of abuse, the latter being one of the central preoccupations of the Schengen states.

Given that Albania and Bosnia and Herzegovina had not started to issue biometric passports during the time span of the assessment period identified by this comparative study, they cannot be included in this element of comparison, despite the fact that it was expected that the new travel documents would meet the ICAO and EU security criteria. Biometric passports of Montenegro, Macedonia and Serbia corresponded to the required level of security, even though Macedonia and Serbia lacked the equipment for the reading of biometric data at border crossing points.

With regards to Kosovo, the EC was satisfied with the overall compliance with the international standards, but noted that fingerprints should be integrated into

biometric passports from age 12 instead of 16, as practiced by Kosovo issuing agency. This marked an additional element introduced in the case of Kosovo. Kosovo has equally lagged behind, in comparison to its Western Balkan neighbours, in the sphere of biometric ID cards. By May 2009, i.e. a year or more after the start of the visa dialogue for the WB states, all of them had initiated issuance of new biometric IDs, with Bosnia having the longest track of practice in this domain. To date, Kosovo has not embarked on producing biometric ID cards and the start date has been postponed to January 2014 (EC, 2013). The government has made the necessary preparations initiate the process (MIA, 2013).

6.2. Integrity and security of breeder documents

Approximately one year since the reception of the Visa Liberalization Roadmap, Macedonia, Montenegro and Albania were evaluated most positively by both the EC assessment of May 2009 as well as other sources, among which the European Stability Initiative (ESI, 2009). Nevertheless, if Macedonia and Montenegro had been asked to make further improvements, it was Albania who recorded the most significant progress over the period between the first and second assessment reports of the European Commission. The civil registration system was considered to function efficiently and securely and this despite its recent establishment at the end of October 2009.

Breeder documents security was equally strengthened in Serbia as a result of the creation of a central electronic database. Out of the Western Balkan states, Bosnia faced the biggest challenges in fulfilling this benchmark of the Roadmap, mainly due to the decentralization of civil registers and the concomitant lack of uniformity with regards to conditions, procedures and security features of the breeder documents issuance system.

Identity thefts over the course of 2008 pointed to the ineffectiveness of the conducted anti-corruption trainings. As for Kosovo, the latter has concentrated on the consolidation of the central registry over the given period. However, the quality of the data in the registry has constituted a major challenge. In addition, and in spite of the staff training, the EC reports noted that fraudulent use of data and cases of corruption were recorded during the observed period. This is a

benchmark that needs to be addressed in order for Kosovo to achieve a comparable level of success (EC. 2012).

6.3. Reports to INTERPOL database

Macedonia, Montenegro and Serbia were the most advanced countries when evaluated against this criteria one year on from the reception of the Visa Liberalization Roadmap. While Macedonia was largely in accordance with this benchmark even few months after the start of the process in early 2008, Serbia had gone through technical adjustments in this period, moving from a written to electronic transfer of information to Interpol. However, it was Albania and Bosnia which made the biggest progress in this field, leaving from the 'ineffective, insufficient and lack of cooperation' with Interpol on LSTD to earning the grade 1 (best) by the European Stability Initiative in their study of progress of WB countries in the visa liberalization process, within the period of seven months. In fact, this benchmark was the first to be met by Bosnia in the Block I of the Roadmap (ACIPS, 2010). While Kosovo has established a mechanism for forwarding the information on lost and stolen documents to Interpol, it has faced additional challenges fulfilling these criteria due to the non-inclusion of Kosovo country code in the Interpol database list of codes (EC, 2012).

6.4. Anti-corruption training for Civil Registry Agency and relevant Municipal staff

Compliance with this benchmark displays a greater level of diversity among the WB countries. Whereas Albania dedicated substantial attention to the trainings aimed at increasing the ability of the personnel at BCPs to distinguish forged travel documents and visas, it has been less focalized on stimulating anti-corruption behavior in the civil registration, document application and distribution process. Limited progress can be observed over the scrutinized period (until mid-June 2009), moving from plans to establish training programs for officials involved in the passports, IDs and visas domain, to realizing such programs, but in the absence of a systematic and generalized approach (EC, 2013).

Most related reports were concerned with the application of Ethical Code in Bosnia by mid-2009. What is more, systematic training programs on anti-

corruption in the document security field had not been put into place by the end of the examined period, but were planned for the second half of 2009. In Macedonia, these activities were subsumed by general anti-corruption training for all officials rather than developing special programs for those dealing with travel documents, IDs and breeder documents specifically. However, Macedonia showed a significant amount of previous practice in this domain, having invested into the implementation of an anti-corruption program since 2006, while at the same time actively investigating corruption cases out of which none could be identified as falling within the scope of travel and breeder document security. (EC, 2008)

While the EC concluded, in its second assessment report of May 2009 that Montenegro has taken the necessary measures for ensuring document security at all stages of their production and distribution via training, imposing severe sanctions for code of ethics violations as well as monitoring of concerned officials (EC, 2009), Serbia has managed to adopt a code of ethics within the same timeframe and was in a planning stage of implementing anti-corruption training and education. Consequently, if taken in isolation, Kosovo has fared rather well in comparison to its neighbours, as it succeeded at conducting two rounds of training with focus on the Code of Ethics and anti-corruption practices for officials involved in civil status and registration activities, both on local and national level[2] during the examined period.

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VII. Border and Migration Management - Block 2

7.1. General observations

The EU has been struggling to come up with a common migration and asylum policy since the Treaty of Amsterdam (EP, 1997). The Commission was tasked to coordinate with member states to make migration manageable, legally controlled and coordinated. The new initiative sought minimal standards on facilitation of asylum seekers, enhanced partnership with the countries of origin and transit, the principle of non-refoulement, rules on border control, standard procedures for issue of visas, residence permits and the fair treatment of third country nationals.

The key EU dilemma has since been to ensure that the external borders are protected against illegal migration and mass refugee flows. The Stockholm Program (2009-2014) sought to further advance the initiative and enshrine the principles of human rights and fundamental freedoms into national legislation. It also highlights the need for promoting the development of a dynamic and sustainable migration policy. Generally, the EU recognized that it cannot manage migration alone and it therefore need to seek ways of streamlining it more forcefully into the enlargement and neighbourhood policy. The European Pact on Immigration and Asylum (2008) stresses the need for burden-sharing and solidarity in managing migration and asylum. This strengthened the Commission's role and responsibility in establishing partnerships, instruments and monitoring of implementation with non-EU countries.

Generally speaking, all WB countries made significant progress in border management, migration and asylum in terms of legislative and institutional set-up in the run-up to the visa liberalisation decisions. However, the

implementation of these policies continues to be a problem despite having been granted the visa liberalisation with the EU. A number of countries like Albania, Macedonia and Montenegro continued to face a number of inconsistencies in legal framework and alignment with EU *acquis* even after the decision for visa liberalisation (EC, 2013). Implementation of migration and asylum related legislation has not been effective and coherent. Majority countries continue to face resource and capacity constraints in implementation. Overall, lack of capacities and insufficient coordination of relevant institutions are yet the main challenges for WB states in reaching EU standards in this area.

7.2. Border Management

The border management benchmarks related to the EU regulations and decisions on integrated border management (IBM) that aims at reaching the goals of modern border management which ensures both security and facilitates the movement of persons and goods. The framework for IBM centres on the need for an efficient and effective management of borders, with appropriate equipment, well-trained staff and streamlined processes and efficient exchange of information. The implementation of IBM necessitates cooperation and coordination at three different levels: inter-agency cooperation, inter-services cooperation and international cooperation. All services need to working towards the goal or modern border management and have clear sharing of responsibilities, tasks and information. In essence, the benchmarks seek to ensure that WB countries borders are closed to criminal activity and illegal migration and that they become conducive to the free movement of goods and people (EC, 2007).

All WB countries were quick to make the legal amendments specified in the visa roadmaps. The legislative framework and amendments constituted the adoption of the IBM concept and the subsequent reform or the Laws on Border Control, inter-agency cooperation and adoption of international standards. The legal framework was largely aligned with EU *acquis*. Some of the first EC IBM recommendations were integrated into the Comprehensive Proposal for the Kosovo Status Settlement and entered into force early in 2008. All other WB

countries implemented legislative amendments during the ensuring year. Kosovo amended its law on IBM in 2012 and early 2013 to incorporate the recommendations that derived from the visa liberalization roadmap.

The institutional framework to support the implementation of IBM stipulated the creation of institutional coordination mechanisms between agencies and services namely border police, customs, phytosanitary, veterinary and other stakeholders. Kosovo adopted its national IBM strategy and action in 2009 as part of the Governments' effort to implement its own visa liberalization roadmap. The strategy and action plan was amended in 2012 and 2013 to incorporate the new requirements and recommendations from the first EU progress report on visa liberalization. (EC, 2012)

Kosovo established its institutional framework to implement the IBM well ahead of the official EU visa liberalization roadmap. A National Coordination Body in charge of decision making included representatives from the Ministry of International Affairs, Finance, Environment, Agriculture, Transport, Health and Foreign Affairs. The second layer of management in line with IBM approach saw the establishment of the IBM Executive Board chaired by a National IBM Coordinator and representing border police, veterinary, customs, phytosanitary and other relevant stakeholders.

All other WB countries followed similar modalities of institutional set-up. The operationalisation of intra-agency and intra-service cooperation and coordination proved to be a somewhat challenging exercise for most of the WB countries in the aftermath of legislative reforms. Macedonia was relatively late in establishing a National Council on IBM monitoring (EC, 2012). The procedural aspects in streamlining the processes of IBM took time to materialize. Albania, B&H made some significant reforms in border police functions which allowed for a more efficient implementation of legal provisions. B&H faced particular obstacles for political reasons and because of its decentralized model of border control.

The establishment of communication and exchange of information between local and central levels continued to be problematic even after having received the visa liberalization green light. The EC post visa liberalization monitoring reports for 2011 and 2012 noted concerns with regard to Macedonia, B&H and Serbia – the flow of information from border crossing points to central databases was underdeveloped. Additionally, the administrative capacities and financial resources dedicated to the full implementation of IBM action plan were mostly insufficient. Nearly all countries faced budgetary and resource constraints in implementing of the legal provisions. The lack of sufficient resources did negatively impact the full operationalisation of risk and threat assessment systems at border crossings.

Kosovo made significant progress in implementing IBM and coordination with neighbouring countries. It operates joint-border controls with Albania, Macedonia, Montenegro and Serbia. The level of cooperation with Albania was been impressive, relatively developed with Macedonia and Montenegro in the form of regular information exchange and less so with Serbia. An agreement reached in during the Brussels Technical dialogue with Serbia in 2012 has continued to be implemented with measurable success though the establishment of cooperation and information exchange is underdeveloped and mainly happens with the facilitation of EULEX (EC, 2012)

However, Kosovo can be considered as a front-runner in cooperation and willingness for coordination with neighbouring countries. The visa roadmap states that Kosovo needed to finalize the demarcation of borders with Montenegro to receive a positive assessment in this respect. This urgency of the implementation of this benchmark seems to be overstated as nearly all other WB countries had similar open issues and were still offered the free visa regime. Serbia border demarcation with Bosnia and Macedonia has not been finalized even after two years of entry into force of the regime (EC, 2012). Additionally, both Serbia and Montenegro received positive assessment on the fulfilment of criteria while the EC itself recognized that there were still open benchmarks with regard to the improvement of border surveillance in 2009 (EC, 2009).

7.3   Migration Management and Asylum

Alongside with the legal harmonisation to the EU migration acquis, certain policy documents need to be adopted such as Migration Management Strategy with a corresponding action plan (MMS) and the migration profile (MP). Drafting of migration profiles in WB countries commenced in 2008, when the IOM, acting on the recommendations of the EC, began drafting MP for Albania, B&H, Macedonia, Serbia and Montenegro. Majority of MP were developed by IOM with the expectation of Serbia and B&H where their respective governments where in the lead. According to the text, migration profiles should aim to gather information on issues such as labour market situation, unemployment rates, labour demand and supply, present and potential skill shortages by sector and occupation, skills needs in the country, skills available in the diaspora, migration flows, incoming and outgoing financial flows linked with migration, migrant remittances as well as gender aspects and those related to minors (EC, 2005).

The overall aim of these documents is the establishment and implementation of mechanisms for comprehensive and consistent monitoring of migration flows. These documents help the EC to get a clearer picture regarding the migration structure and government will in facilitating migration. All WB states have developed migration management strategies with a various degree of implementation. In regards to the MP's, they correspond to the same indicators and headings, thus allowing for regional comparability. In the process of the fulfilment of visa liberalisation and integration pre-conditions, WB governments made significant efforts to improve migration management capacities by regularly updating strategies and the profiles. However, countries faced a number of challenges with regard to successful implementation of migration policies. These challenges are namely the full implementation of migration legislation and monitoring of the realization of the strategies in this field, coordination among stakeholders tasked with migration issues and the problem that one issue might be incorporated in a number of strategies which makes it very difficult to develop follow-up mechanisms.

Serbia, B&H and Macedonia have been the frontrunners in the process. In relation to the migration action plans only Macedonia and Serbia managed to implement the accompanied actions plans on migration policy, although with

some delays. B&H in particular made significant progress in fully aligning its legislation with EU acquis in the area of migration management and asylum but failed to dedicate sufficient resources for implementation. Montenegro record on implementation was also poor. While the legislative amendments to reach the visa liberalisation benchmarks were largely in line with the requirements, the asylum procedure was reported as slow and services provided to asylum-seekers were sub-standard.

Macedonia continued to have problems in the institutional set-up and legislative framework in migration management even after having been granted visa liberalisation green light (EC, 2011). Its Law on Foreigners, covering data on migration, asylum and visa was fully aligned with EC Directives only in 2012. It did make progress in the implementation phase but there were concerns with regard to the lack of secondary legislation. The asylum centres were completed but their administrative capacity and range of legal and documentary assistance to asylum-seekers remain low (EC, 2012b).

Serbia's legislative framework was largely aligned with EU acquis but there continued to be significant problems with regard to effective implementation. Besides, Serbia received a positive assessment while the EC itself recognised in a 2009 report that Serbian government did not adopt a Migration Management strategy by the time the visa free regime entered into force (EC, 2009a). The EC in 2012 post-visa liberalisation monitoring report noted that it still needed to fully align its legislation with EU acquis on legal migration, family reunification, long-term residence and the conditions of admission of third-country nationals for studies (EC, 2012b). The institutional set-up to manage the asylum policy was not fully operational until 2013. Overall, the capacity to process asylum applications continues to be limited both because of insufficient asylum reception spaces and lack of operational resources. The national database for checking personal data fingerprints of asylum-seekers did not develop as planned. However, Serbia launched a comprehensive legal and institutional transformation for migration management and asylum in 2012 in order to solve coordination problems and enable the proper flow of information and statistics between law enforcement bodies (EC, 2013).

Albania noted considerable difficulties in fully fulfilling the visa liberalisation criteria since its migration policies and legal framework continued to be sub-standard (EC, 2011). The EC post-visa liberalisation monitoring reports noted lingering concerns until the end of 2012. The reports indicate lack of capacities in implementing the migration management strategy especially with regard to risk analysis and monitoring of migration flows. Only some progress was noted in the implementation of strategy and action plan for returned migrants after nearly two years of having received the green light for visa liberalisation. Albanian legislation framework in the area of asylum was aligned with the EU acquis only in 2012. While the legal and institutional framework progressed, their implementation proved problematic. Asylum seekers absorption rates were very low and refugees struggled to get identification documents and complementary protection.

As a result of the lifting of visa regimes in December 2009 for Macedonia, Montenegro and Serbia and December 2010 for Albania and B&H there have been a steady increase of the unfounded asylum applications and immigration from these countries to EU. Most of the asylum applications were related to socio-economic difficulties. However, several EU member states that were most affected by these developments (Germany, Belgium and Sweden) asked to EC to take concrete measures to address this worrying trend. Under pressure and threatened from the possibility of a visa ban, respective WB governments introduced a number of measures to control this phenomenon – prosecution of illegal residence cases, toughened exit routes and enhanced border checks and carried information campaigns. This provided an impetus for full implementation of commitments undertaken under the visa liberalisation agreements.

The EC did subsequently establish a post-visa liberalisation monitoring report and risk analysis in cooperation with FRONTEX. In addition, it has introduced the emergency consultation arrangements with so that the EU and its member states can react to emerging future risks. The visa revisions also provide the EC the possibility to propose the suspension of the visa free travel regime.

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VIII.   Public Order and Security – Block   3

Just as Albania and Bosnia & Herzegovina in 2009 were prevented from joining Serbia, Montenegro and Macedonia in the visa free regime with the EU because of a lack of sufficient progress in implementing the Block 3 requirements of the roadmap; Kosovo has been suffered the same fate. This section will explore the crucially important benchmarks set out in Block 3 of Kosovo's roadmap and provide a comparative analysis between Kosovo's progress and the progress of other Western Balkan countries during a comparable frame. In order to provide more specific information on the outcomes of Kosovo's position in the visa liberalization process compared to that of other countries in the region, we are going to divide this paragraph according to the criteria identified in the first progress report: criminal justice reform and new justice reforms; prevention and combating organized crime, corruption and terrorism; law enforcement cooperation; judicial cooperation in criminal matters; and finally personal data protection.

8.1. Criminal Justice system and justice reforms

As elaborated in the European Commission's First progress report on Kosovo on the Visa Liberalization,[3] Kosovo, unlike other Western Balkans countries that already had existing sustainable judicial systems , is already in the final step of the new judicial reforms according to the Roadmap. This focus on judicial reforms, which began in January 2013, means that the institutional efforts of Kosovo are now going to be focused on reform implementation rather than on combating corruption and other informal practices in this sector. These reforms have been preceded by the adoption of six key legislations regulating the judicial system and the criminal procedure in Kosovo: Law on Courts, Law on State Prosecution, Criminal Code, Criminal Procedural Code, Law on Judicial Council

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[3] European Commission, Report on Progress on Kosovo Visa Liberalization Process, February 2013

and Law on Prosecutorial Council. Quality wise, the new Kosovo legislation is relative the legislation in the other Western Balkans countries but with some concerning remarks which had mainly to do with the content of the Criminal Procedural Code. Prior to the beginning of its implementation, in 2009, all Judges and Prosecutors went through a Vetting Process. Although this Vetting served as a tool for weeding out incompetent judges, it did not change the public opinion of the judiciary as being highly corrupted. Indeed, this situation with the judicial sector has been specifically pointed out by the European Commission in their assessment reports as a problem. However, the language used for Kosovo when it comes to these problems has been very specific, and harsh, demonstrating the European Commission's much harsher and more critical approach to Kosovo's reform process than that of the other Western Balkan countries. [4]

8.2. Prevention and combating organised crime, corruption and terrorism

The prevention and combating of the organized crime, corruption and terrorism represented a very broad task in which all WB countries needed to demonstrate tangible progress. For years now, the WB has been considered a primary origin, transit route and destination for various organized crime activities. Corruption affairs have also occupied the public sphere in each of the countries for years. On the other hand, terrorism has been considered a less threatening issue for the region although the requirements for adaption and implementation of counterterrorist policies were mandatory for the visa liberalization process to move forward.

(a) Organized Crime

Since 2008, all WB countries including Kosovo have set the prevention and combating of organized crime as one of their main priorities. This means that Kosovo started establishing its legal and institutional framework in accordance to the requirements of the EU visa liberalization much earlier than submitting a roadmap, which was not the case with any of the other WB countries except for

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[4] See the Visa Liberalizations Assessment Reports published by European Commission for the Western Balkans countries (Albania, Bosnia & Herzegovina, Kosovo, Macedonia, Montenegro and Serbia)

Macedonia.

The Kosovo Government did not consider it urgent to change the legal framework such as the Criminal Code and the Criminal Procedural Code, which were drafted in 2003 and belonged to the UNMIK period, as they thought that the existed legislation provided sufficient regulation in preventing, combating and punishing organized crime. For them, what was urgent was the process of drafting strategies and action planes. In 2009, Kosovo approved three main strategies on organized crime: the National Strategy for Combating the Organized Crime; National Strategy for Combating the Trafficking of Human Being; and the National Anti-Drugs Strategy. These strategies have mainly taken into consideration the content of Roadmaps sent to the other WB countries, and were structurally as well as content-wise, very similar to most strategies drafted by other WB countries. Indeed, there has been criticism of these strategies for not being a result of the detailed study of challenges in Kosovo but rather a demonstration of the commitment of Kosovo towards the ongoing EU integration process.

However, the approach of Kosovo institutions has drastically changed, triggered by new judicial reforms. In 2012, Kosovo Institutions worked intensively in renewing the legislation and strategies that covered the organized crime. In addition, new laws on organized crime and human trafficking are on the way. Also, the renewed strategies on organized crime, human trafficking and anti-drugs from 2012 were more complete and more accurately reflect the local needs and the situation on the ground. Therefore, from a current legislative and strategic point of view, despite some small reservations, Kosovo have made visible progress and does not stand far behind other WB countries who have already completed the visa liberalization.

Kosovo, in order to strengthen the role of the judiciary in the fight against organized crime and corruption, is in the process of assessing the criminal justice system as a whole. The strategic framework in fighting against organized crime and corruption has been further strengthened through the adoption of the Strategy against Arms Trafficking in February 2013,[5] as was also the case with the

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[5] See the "National Strategy for Controlling and Confiscation of the Small Arms and Light Weapons 2013-2016", Ministry for Internal Affairs, 2013, http://www.mpb-ks.org/repository/docs/Strategjia_per_Arme_Shqip.pdf

Strategy on Crime Prevention,[6] adopted in January 2013. The focus now for Kosovo is shifting towards a more systematic monitoring of its implementation. In order to strengthen the role of the concerned institutions in the fight against corruption and organized crime, codes of conduct are either being developed anew or revised. The FIU and KACA are in the final stages of developing such codes, while Customs has developed a code of conduct relating only to those in the institution dealing with investigations involving organized crime and corruption.[7] The police and the judiciary had already developed such codes and are now in the process of strengthening the relevant bodies in charge of overseeing their proper implementation.

As Kosovo comes up to its 15-month mark for strategic review, it has made significant progress in the adoption of legislation and the initial states of implementation of action plans to fight organized crime compared to other WB countries. After 15 months, the EU Commission report on the visa liberalization progress for Albania's efforts to combat organized crime noted, "a clear identification of responsibilities, a timeframe, and financial networks seem to be missing.[8]" Kosovo's progress far outweighs the progress that Serbia was able to make in the first 15 months of the visa liberalization process. The EU Commission report for Serbia's progress on combating organized crime reads, "The National Strategy to fight organized crime is in the preparation phase with the assistance of the OSCE but no timeframe is provided for its adoptions. Existing plans do not give a clear picture on further activities in prevention and fighting of organized crime.[9]"

In addition to drafting the strategies, a significant amount of effort has been dedicated to the implementation of the strategies. For each of the strategies, a Task-Force has been formed for implementation, which has been increasing capacities in order to be able to implement them successfully. Yet, findings of the European Commission made by the first Assessment Report on Kosovo shows

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[6] See the National Strategy of Republic of Kosovo on Crime Prevention, Ministry for Internal Affairs, 2013, http://www.mpb-ks.org/repository/docs/Strategjia_shtetrore_e_Republikes_se_Kosoves_per_parandalim_.pdf

[7] See the Customs and Excise Code of Kosovo, Kosovo Customs, November 2008 http://dogana.rks-gov.net/Uploads/Documents/KodiDoganorAlb.pdf

[8] http://www.esiweb.org/pdf/White%20List%20Project%20Paper%20-%20Commission%20Assessment%20Albania.pdf

[9] http://www.esiweb.org/pdf/White%20List%20Project%20Paper%20-%20Commission%20Assessment%20Serbia.pdf

that Kosovo still remains behind the other regional countries when it comes to combating of the Organized Crime phenomena. The report notes that despite the increased efforts to combat organized crime, THB and drug trafficking and the improved results in catching perpetrators, identifying victims and confiscating illicit goods are still insufficient and additional efforts needs to be demonstrated in order to receive a positive mark in this sector. The report states that cooperation between the police, customs and prosecutors in investigating and prosecuting such crimes should further improve to ensure a pro-active approach to fighting serious crime in line with the strategy and action plan on intelligence-led policing.

However, an example of such cooperation that is already in motion is the initiative undertaken by Kosovo Prosecutorial Council in establishing a tracking mechanism containing data on cases involving corruption and organized crime.[10] The mechanism has already become operational, and is supported by an inter-institutional working group made up of all concerned institutions. The operationalization of such a mechanism will ensure a harmonized approach towards the categorization of offences as per the Criminal Code, as well as it will ensure that statistical data are produced whenever necessary.[11] The first report issued from this mechanism is expected to take place in September 2013. While Kosovo has seemingly made drastic improvements in the first 15 month period since the Roadmap, the language used by the Commission to prescribe the progress reached by the WB countries who completed the visa liberalization in the past was much more positive than the language used towards Kosovo.

In the past assessment reports, progress was measured mainly in the general terms and the willingness of WB countries to dedicate certain commitment in the process was almost the main indicator which qualified some of the countries to move to the next phase of the process. The same standard has not been maintained for Kosovo. For example, although there has been an evident progress made in combating the trafficking of drugs and THB the problems in this area have been used as the main points for preventing the Kosovo's progress irrespective to the fact that all transitional roots for these drugs pass through

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[10] 1.   The Fifth Meeting of National Council for European Integration Took Place (minutes of the meeting) , Ministry for European Integration, Prishtina, 7th October 2013, http://www.mei-ks.net/?page=2,5,763
[11] Ibid

Macedonia, Albania or Montenegro who have already received positive feedback from the EU by granting them a visa free regime. Conversely, it may well be that the process of visa liberalization on this particular benchmark has evolved due to the lessons learned from other previous countries. Therefore despite the fact that the new approach for providing specific feedback may put Kosovo in a difficult position with regard to progress towards a visa-free regime, it is necessary that Kosovo takes into consideration all recommendations provided by the EU Commission, or even push forward the recommendations provided by Post-Visa Liberalization Monitoring reports send to other WB countries.

When it comes to providing statistical data, this is a concerning area which has been raised to all WB countries. Kosovo does not contain a unified digital database in which preceded cases could be evidenced. However, these types of databases are highly costly and as a result, almost none of the other WB countries who when through the process of visa liberalization contained such database.

(b) Preventing and combating corruption

Over the past decades the corruption in the WB has been a widespread phenomenon, providing a very serious challenge for the economic and political sustainability of all the countries in the region. The progress in preventing and combating corruption is also an important task which countries in the region needed to address in order to progress further with the visa liberalization process. Nevertheless, the progress of the WB countries in tackling the corruption has been relatively partial and Kosovo is no exception.

The specific legislation on Anti-Corruption has been drafted since 2006 when Kosovo established the Anti-Corruption Agency (ACA) as an independent state institution. Then, in 2008, a new Anti-Corruption Law came into place that covered institutional policies in preventing and combating corruption. In addition to that, new legislation such as the Law on Management of the Sequestrated or Confiscated Assets (June 2009);[12] the Law on the Extended

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[12]Law on Management of the Sequestrated or Confiscated Assets, Assembly of Kosovo, 17th July 2009, http://www.assembly-kosova.org/common/docs/ligjet/2009_03-L-141_en.pdf

Powers for Confiscation of Assets Acquired by Criminal Offence (March 2013)[13]; the Law on Declaration, Origin and Control of Property of Senior Public Officials and on Declaration of Origin and Control of Gifts for all Public Officials (September 2011); [14] and the Law on the Prevention of Money Laundering and Prevention of Terrorist Financing (October 2010)[15] were adopted which increased the legal background against corruption. In 2012, the new Criminal Code redefined and increased the penalties for corruption crimes. An anti-corruption council was set up in 2012, under the aegis of the president, to improve coordination among the various bodies involved in the fight against corruption.

The Special Prosecution has also established an anti-corruption task force, while the police have set up a directorate against economic crime and corruption. However, the overlapping roles and responsibilities of these anti-corruption bodies should be sorted out. Furthermore, according to the European Commission progress report published in October 2013, less than 1% of the senior officials failed to declare their assets as required by the law (European Commission, 2013). In 2012 the KACA has dealt with 131 cases involving conflict of interest, and a conflict has been avoided in 90 cases, while no such conflict has been found in 25 cases. Moreover, KACA issued relevant opinions on 4 reported cases while dismissal from the position held was required in 2 other cases. Therefore, the area of corruption in Kosovo is well covered.

Kosovo have made significant progress when it comes to drafting strategies and establishing new mechanisms to coordinate the prevention and combating of corruption phenomena. Indeed, the fists strategy against corruption in Kosovo has been drafted in 2009. It covered a period of three years and although it was relatively in line with the EU requirements it received major criticism from external actors for lacking a specified action plan or a detailed timeframe to address its objective. Having in mind that this strategy has already expired, a new draft strategy was circulating, which, despite its intent to cover a longer period of

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[13] Law on the Extended Powers for Confiscation of Assets Acquired by Criminal Offence, Assembly of Kosovo, Assembly of Kosovo, March 2013 http://www.md-ks.org/repository/docs/Ligji_per_Kompetencat_e_zgjeruara_(shqip).pdf

[14] Law on Declaration, Origin and Control of Property of Senior Public Officials and on Declaration of Origin and Control of Gifts for all Public Officials http://www.md-ks.org/repository/docs/declaration_origin_and_controle.pdf

[15] Law on the Prevention of Money Laundering and Prevention of Terrorist Financing, Assembly of Kosovo, 18th October 2010, http://www.assembly-kosova.org/common/docs/ligjet/2010-196-eng.pdf

5 years, still received similar criticism from all actors and as such still remains unapproved.

On the other hand, the efforts for prevention and combating corruption across all WB countries have been highly inconsistent. Again, it needs to be specified that more efforts have been dedicated in preventing new cases of corruption rather than in combating the existed ones. The prevention side of these efforts is mainly related to the fact that each of the WB countries worked hard to adopt new laws and strategies covering the corruption phenomena and also some new mechanisms, task forces and coordination teams to prevent and combat corruption have been established. These efforts may have had as an impact decreasing the 'grey corruption' in the public institutions of all these countries. However it is still evident that in each of these countries there has been a lack of political willingness and institutional readiness to bring under justice large scale of the corruption cases. What needs to be pointed out is that in the majority of the WB countries, there have been some concrete efforts strengthen the institutional capacities in dealing with corruption cases and clearing the judiciary from corruption elements.

In Kosovo the efforts to clear up the judiciary have been considerably limited having in mind that the focus of the Kosovo institutions has been mainly in proceeding with the judicial reforms. There have been some cases of judges and prosecutors which have been preceded by Special Prosecution and are considered by European Commission as insufficient. On the other hand, the Anti-Corruption Agency in Kosovo that was established 8 years ago still lacks capacities and sufficient financial support to allow it to implement its mandate or increase its efforts in the prevention and combating of corruption. This is a quite concerning, considering that the Agency has a relatively broad mandate. Its responsibilities are to not only conduct initial investigations related to the corruption affairs but it is also responsible for running the process of Declaring Assets and gifts of all senior institutional officials.

Therefore, having in mind all these shortcomings, it may be highly possible Kosovo still lacks the progress made by most of the WB countries before conclusion of structured dialogue for visa liberalization. Macedonia for example, made excellent progress in the first 15 months after the Roadmap in combating

corruption. Their EU Commission report stated they had ratified key international conventions in the area of anti-corruption policy, and had to a great extent aligned its national legislation to these standards. Law enforcement agencies including the Ministry of the Interior and the public prosecution and customs administration services demonstrated a steady determination to cooperate and coordinate. Bosnia, however, had made "some changes to the legal framework to align it with the UN Convention against Corruption" but after 15 months their legislation needed to be further adapted. Formal inter- institutional cooperation agreements were still missing, undermining Bosnia's fight against corruption. Their lack of legal framework and cooperation at the national level after 15 months hampered efficient international cooperation.

According to the EU Commission report on Montenegro, "some positive steps had been taken to tackle corruption at a local level" but efforts were still needed to further align the national law to key international instruments.

After 15 months, the anti-corruption policy framework needed to be "significantly improved" as inter-agency cooperation and coordination remained insufficient, and the annual breakdown of statistics on corruption was still lacking. Serbia, however, after 15 months, was party to all relevant international Conventions and all that was left to do was implement their provisions via national laws. For Serbia, the focus after 15 month needed to be strengthening law enforcement cooperation and implementing existing laws. For Albania, the EU Commission pointed to the lack of necessary institutional capacities for implementing the anti-corruption strategy as the weak point of the Albanian system.

The EU called for a concrete action plan spelling out concrete measures and adequate resources to be implemented. Overall, the WB countries made significant progress in the first 15 months since the Roadmap, but Kosovo is lagging because they have to focus on implementing a complete overhaul of their entire judicial process, which is to be the foundation of their anti-corruption system. While this approach is ambitious, slow-going, and will possibly prevent Kosovo from being accepted into the visa-free regime for the foreseeable future, Kosovo may easily emerge as a countries with highly advanced anti-corruption system if they continue to slowly and steadily overhaul their judicial system and take advice and influence from the shortcomings of their WB neighbour's

processes.

(c) Prevention and combating terrorism

Having in mind that terrorism has been transformed into a global challenge; the prevention and combating of terrorism represents one of the main priorities of all democratic countries. Nevertheless, due to the insignificant role of the WB countries in the war against global terrorism, the region is yet to face any major hostile threat from the terrorist cells which operate around the world. Therefore, as it stands, the WB countries' counterterrorist policies have been mainly focused on the prevention of this phenomenon. In each of the WB countries, there are legislations and strategies adopted and implementation taskforces have been established to prevent and if necessary to combat any terrorist acts including the support provided to terrorist cells.

In this regards, it worth pointing that Kosovo legislation, more specifically the Criminal Code, provides very harsh punishments to all those who commit terrorist act or support in any way a terrorist group. In addition to that, since 2009, Kosovo has had a specific strategy for combating and preventing terrorism, and since then a task force has been established to implement the counterterrorism policies in Kosovo.

(d) Prevention and combating of money laundering, financing of terrorism and confiscation of assets

In the WB countries, the problem of money laundering, controlling of suspected financial transactions and the confiscation of the illegal assets has been a long-lasting problem which has its roots in the informal economy that exists in the region. The real commitment in addressing the financial crime issues begun only after the introduction of the European integration agenda. More specifically, the Visa Liberalization Structured Dialogue increased the motivation and commitment of all WB countries towards improving legislations, drafting specific policies and action plans as well as establishing necessary mechanisms and increasing their capacities to prevent illegal transactions which may be related in any way to organized crime, corruption or terrorism. In Kosovo, money laundering, financing terrorism and asset confiscation are regulated by Criminal Code, and also by the other specific legislations such Law against Money

Laundering and Financing of Terrorism and Law on confiscation of assets. The investigation of money laundering is done by Kosovo Police in cooperation with the Financial Intelligence Unit (FIU)[16] and in certain cases, the Anti-Corruption Agency. The responsibility for monitoring the suspected financial transactions lies on the Financial Investigation Unit which is an independent mechanism under the Ministry of Finances and which has a close cooperative relationship with the Kosovo Police departments.

The law on the prevention of money-laundering and terrorist financing established the FIU as an independent institution that provides financial intelligence to investigative bodies in the field of money-laundering and terrorist financing. Looking forward, Kosovo should implement a relevant strategy and action plan for these initiatives to be more successful. However, after 15 months, neither Bosnia and Herzegovina, Serbia or Albania had adopted a sufficient strategy and action plan, so Kosovo in comparison is not too far behind. Macedonia and Montenegro had made a bit more headway in this area, as they were in the implementation stage, but in general, Kosovo is not lagging at this time compared to other Western Balkan countries.

The reports suggest that money laundering is still a significant problem that will require more commitment from the respective and relevant institutions.[17] On the other hand, there is an improving trend of reported transaction, although the huge amount of the remittance coming in Kosovo suggests that there might still be a huge amount of money entering Kosovo without being reported to Customs. On the other hand, the confiscation of assets is an issue in Kosovo, as it is in all other WB countries, and over the past few years, little has been done about this because of the informal economy and high levels of corruption which are still present in the region. It worth mentioning that the Agency for Sequestered and Confiscation of the Assets has been established 2010. However, only in February 2013 the Assembly of Kosovo adopted the a specific law which regulates the sequestration and confiscation of illegal assets [18] earned though criminal

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[16] The Financial Intelligence Unit was part EULEX until 2011 when the responsibilities where transferred to the FIU

[17] Kosovo 2013 Progress Report, European Commission, 16th October 2013, http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/ks_rapport_2013.pdf

[18] Law on Extended Competences for Sequestration and Confiscation of Illegal Assets, Assembly of Kosovo, February 2013, http://www.kuvendikosoves.org/?cid=2,191,1008

activities.[19] According to media reports the total value of all sequestrated and confiscated assets administrated by this agency is around 1.1 million Euros.[20] The majority of these confiscated assets are smuggled goods confiscated by Customs, Agency for Veterinary and Independent Council for Mines and Minerals.

8.3. Law enforcement cooperation

Developing law enforcement cooperation is another crucial aspect of the visa liberalization process in which all the WB countries have demonstrated serious commitment. However, when it comes to law enforcement cooperation matters it is worth pointing out that there is a big gap between the contexts of other WB countries and Kosovo due to its specific political status. Kosovo is yet to be recognized as a state by some of the strategically very important countries. In addition to that, Kosovo is also yet to become a member of key international organizations. This mean that unlike other WB countries that were able to sign and ratify different conventions which regulate the issues related to the international law enforcement cooperation, Kosovo has been unable to do so. As a result, Kosovo remains the only country in the WB that does not have important international law enforcement cooperation mechanisms such as INTERPOL and EUROPOL.

Kosovo Police is proactively exploring modalities of cooperation with the European law enforcement agencies, in particular EUROPOL in operational aspects leading to common objectives of fighting various forms of organized crime. During the reporting period, Kosovo Police has held 4 operational meetings with EUROPOL, as well as 3 ongoing joint investigations in addition to continues exchange of information among them. Under the supervision of EUROPOL, KP ILECU has participated in a Conference related to organized crime in Western Balkans. In terms of cooperation with INTERPOL, Kosovo Police continues to maintain contacts with the INTERPOL HQ in Lyon through UNMIK INTERPOL Office in Pristina. In this regard, Kosovo Police had an official visit in INTERPOL HQ in March, 2013, and an INTERPOL delegation

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[19] Interview of Ismet Kabashi, Chief State Prosecutor of Republic of Kosovo, provided for "Radio Free Europe", May 2013. http://www.evropaelire.org/content/article/24994045.html

[20] "In Kosovo this year only 1 million Euro Confiscated Assets", Koha Ditore, http://www.kohaditore.com/index2.php?page=1,13,118288

visited Kosovo in May, 2013. Cooperation in operational and intelligence aspects with INTERPOL has continued as 600 of a total 1490 cases processed by ILECU during the first half of 2013, were channelled through INTERPOL (MIA, 2013).

However this does not mean that Kosovo lacks commitment when it comes to developing international law enforcement cooperation. Indeed, in order to improve international cooperation in 2011 Kosovo established International Law Enforcement Coordination Units (ILECU), which operates under the Kosovo Police General Directorate. The ILECU Kosovo is part of the Regional Cooperation Council (RCC) ILECU project initiated by Austria, Slovenia and Rumania in 2008. Its aim is to establish coordination mechanisms and provide a platform for sound police cooperation between each of the South-Eastern Europe countries. Despite joining ILECU, Kosovo is yet to develop direct cooperation with countries such as Serbia, Bosnia & Herzegovina and Romania , who are also part of this initiative, due to their non-recognition of Kosovo statehood. Therefore, in an attempt to avoid any gap in the lack of cooperation with all the countries and organization that did not recognized Kosovo, there has been an agreement signed between the government of Kosovo and EULEX which authorizes this EU mission to facilitate the rule of law cooperation on Kosovo's behalf. Therefore, EULEX and UNMIK are still formally responsible for sending and receiving INTERPOL, EUROPOL requests from the countries that did not recognize Kosovo.

On the other hand, just like all other WB countries, Kosovo has been focused on developing bilateral cooperation with countries from the region, the EU and abroad. So far, there have already been police cooperation agreements with: Albania, Macedonia, Croatia, Austria and Sweden. In addition to that, Kosovo has also signed specific agreements in concrete areas, for example the ones signed with France and Macedonia on combating the trafficking of human beings; a security cooperation with Germany; an agreement in combating organized crime and irregular migration with Hungary; an agreement on customs cooperation with the United Kingdom, Germany, Ireland, Switzerland, Bulgaria, Czech Republic, Canada, Sweden, United States and Saudi Arabia.[21]

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[21] Sources from the Kosovo Police

The most recent agreement was signed between Kosovo and Italy on combating transnational criminality. Other similar agreements were reported to be in the process of conclusion. Kosovo stands behind the other WB countries when it comes to international law enforcement cooperation. This is not for a lack of willingness or effort, but because of a political problem associated with the recognition/non-recognition of Kosovo. Because Kosovo is unable to join certain international police organizations, it is of no relevance to compare Kosovo's progress to that of other WB countries after the 15 month reporting period.

8.4. Judicial cooperation in criminal matters

Similarly to the rule of law cooperation, Kosovo demonstrated significant commitment also when it comes to judicial cooperation. It has made a significant progress in improving the legislation, developing new mechanisms and increasing the institutional capacities in these matters. Kosovo have already completed the legal framework which regulates the procedure of judicial legal requests which is in accordance with EU acquis. The Criminal Procedural Code specifies the role and the procedure of the judicial cooperation in the criminal matters (Criminal Procedural Code: 2012). In addition to that the Law on International Legal Cooperation in Criminal Matters which has been redrafted lately regulates the mandate of the Office for Internal Legal Cooperation (OILC) which is responsible to deal with international legal requests applications from other countries.

In addition to the existed legislation, Kosovo applies also different bilateral judicial cooperation agreement which is already in place. These includes agreements reached in three different periods: 1) with Austria, Czech Republic and United Kingdom which are inherited from the Former Yugoslavian period; 2) with Serbia which dates back from UNMIK administrated period and 3) and the new agreements signed between Government of Republic of Kosovo and Albania, Belgium, Croatia, Macedonia, Switzerland, Turkey and the most recently with Italy.

In addition to the progress made, Kosovo is facing also with the significant challenges which are keeping Kosovo behind the other WB countries. These challenges are directly related with the inability of Kosovo to become a member of the crucial international organizations and mechanisms which facilitate the

judicial cooperation in the criminal matters represents. In attempt o escape these obstacles, these Kosovo Government engaged the EULEX to facilitate judicial cooperation in criminal matters in behalf of Kosovo institutions, respectively in sending and receiving formal requests from/to countries, organizations and mechanisms that do not recognized Kosovo, Indeed, this might not have been the ideal solution when it comes to developing sustainable judicial cooperation in this area and Kosovo institutions are tirelessly working to overcome the political obstacles are hindering the progress in country.

Nevertheless, same as with the with law enforcement cooperation case, when it comes to drawing parallels between the progress made in criminal justice cooperation between Kosovo and the other Western Balkans countries, the political obstacles cannot be used as comparable indicator having in mind the Kosovo-centric challenges with regards to the recognition of its statehood by individual countries and international organizations..

8.5. Personal Data Protection

The data protection and the right to privacy represent a new sphere in the Western Balkans, hence in Kosovo. The National Agency for Personal Data Protection (NAPDP) is the most recently established institution in the region. Yet, the difference in the exercise of practice and experience is small compared to other countries in the region. The pre-condition for other countries was the adoption of the related legislation while Kosovo, in addition to the adoption of the legislation, did enforce the implementation of the legislation through a number of decisions.

In just the first half of 2013, there were number of decisions taken by the NAPDP[22] which are quite high in the context of Kosovo's path in visa free regime a condiction not posed to other Balkan countries. Kosovo has managed to sign memorandum of cooperation with other countries which marks an important step in ensuring that the data are not shared with the third countries. The requirements for modification of the existing legislation led to the involvement of NAPDP in harmonising few provisions reflecting upon the modification of the EU directives in the field. The NAPDP faced different challenges in its pathway to

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[22] Informal communication with representatives of Government of Kosovo, July 2013

consolidation where the most notable one were those of financial nature. Limited budget and limited office space have hindered the implementation of NAPDP objectives, particularly when it comes to awareness building campaigns. In addition, the lack of appropriate and equal[23] capacity building for all members of the agency was another issue influenced by the financial restrictions.[24] Despite these obstacles, the NAPDP has managed to increase the institutional capacities of the public institutions as well as key private companies (Qehaja, 2013).

Significant improvements to raising awareness about the importance of personal data protection are made at the central level and several large private companies, while municipal level has limped - by not appointing officials for personal data protection. The main challenge in the field remains the general public awareness which is in its infancy in Kosovo and the entire Western Balkans due to a limited understanding of citizens' right to protection of personal data in the urban areas and an almost absence of knowledge of this in the rural areas (Qehaja, 2013). Overall, Kosovo's progress in the field is comparatively advanced to the progress achieved at the WB being at this stage of visa liberalisation process.

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[23] The direct beneficiaries of trainings were only managerial staff of the NAPDP
[24] KCSS interview with Mr. Bekim Demiri, National Supervisor for Personal Data Protection, March 2013

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IX. Human Rights and protection of minorities – Block 4

9.1. General observations

The Visa Liberalisation with Kosovo Roadmap[25] repeatedly reminds the reader of Kosovo's disputed status, hence the rather conspicuous asterisk. The condition that 'visa dialogue will be conducted without prejudice to Member States' position on status' acknowledges opponents' scepticism over Kosovo's sovereignty whilst allowing for the pragmatic implementation of anti-discrimination measures and the promotion of fundamental rights. It ensures the neutrality of the Commission throughout the process of visa liberalisation, recognising the danger of promoting Kosovo sovereignty. Yet there is a distinct irony in having to appease the protests of those opposed to a victimised state's search for autonomy whilst advocating the improvement of minority groups' situations within that society. Nevertheless, this illustrates the need to consider Kosovo separately when assessing the 'Fundamental Rights Related to the Freedom of Movement' in the Western Balkans.

The fundamental rights related to the freedom of movement referred to in the Balkan Roadmaps are in concordance with the European Convention on Human Rights. It shares values with Article 13 of the Universal Declaration of Human Rights[26], which states that: *(1) Everyone has the right to freedom of movement and residence within the borders of each state. (2) Everyone has the right to leave any country, including his own, and to return to his country.* The European Convention on Human Rights[27] adds the following: *(3) No restrictions shall be placed on the exercise of these rights other than such as are in accordance with law and are necessary in a democratic society in the interests of national security or public safety, for the maintenance of public order, for the*

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[25] 'Visa Liberalisation with Kosovo* Roadmap', (2012), EU Commission
[26] 'Universal Declaration of Human Rights', (1948), United Nations General Assembly
[27] 'European Convention on Human Rights', (2010), European Court of Human Rights

prevention of crime, for the protection of health or morals, or for the protection of the rights and freedoms of others. (4) The rights set forth in paragraph 1 may also be subject, in particular areas, to restrictions imposed in accordance with law and justified by the public interest in a democratic society

Block 4 of the Western Balkans' Roadmaps[28][29][30] is predominantly concerned with these rights. However, the process to achieve freedom of movement is hindered by the socioeconomic oppression of minority groups within each country. Until recently, little has been done to alleviate the inequality linked to minorities, but this must be addressed if universal freedom of movement is to be accomplished. The Western Balkan Roadmaps indicate that the integration of the Roma is a priority in this regard. The Roma are often victimised the Balkan states and their suffering is identified as a problem that transcends state boundaries. In this regard, it is difficult to establish the unilateral improvement of living conditions for the Roma people and is limited by each individual state's involvement and willingness to act. Therefore, the three reports issued by the European Commission that monitor the progress of Balkan states' actions to improve fundamental rights concentrate, above all else, on the inclusion of Roma in society.

Although this process is individually assessed for each state, most Western Balkan states began the process prior to Kosovo's inclusion. Not only does Kosovo endure the pressure of receiving its Roadmap after its neighbours have already implemented many of its requirements, it has additional criteria to combat in the category of minority groups. Although the Commission expressed the need for Western Balkan states to address the needs of all minorities, it specifically mentioned those groups in the Kosovo roadmap. In addition to combating the exclusion of Roma, the roadmap emphasised the Kosovo Serb, Ashkali, Egyptian, Bosniak, Turkish and Gorani minorities. The subsequent report that monitored Kosovo's implementation of policy refers to the status of Roma and Kosovo Serbs, whereas in the three reports on Albania, Macedonia and Serbia, there is no mention of minority groups beyond the Roma. It can therefore be argued that Kosovo is under stricter scrutiny in the field of fundamental rights

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[28] 'Visa Liberalisation with Albania Roadmap', (2008), EU Commission
[29] 'Visa Liberalisation with Macedonia', (2008), EU Commission
[30] 'Visa Liberalisation with Serbia', (2008), EU Commission

compared to its neighbours. In addition, it will inevitably be compared to their current progress, despite being in the adolescent stages of the process.

Table 1 outlines the requirements for Albania, Macedonia, Serbia and Kosovo in relation to freedom of movement and fundamental rights. It should be noted that this block was titled 'External Relations and Fundamental Rights' for Albania, Macedonia and Serbia, but titled 'Fundamental Rights related to the Freedom of Movement' for Kosovo. This is a further reminder of Kosovo's exceptional status, a factor that is elaborated upon with the omission of 'constitutional' provisions in the Kosovo case. The requirements for Kosovo are essentially the same as the other Balkan states, but are slightly intensified due to its unprecedented context. Another anomaly with the discourse in Kosovo's Roadmap is the avoidance of the term 'nationals', referring to 'citizens' in an attempt to avoid a dispute of sovereignty.

	Albania/Macedonia/Serbia	Kosovo
Freedom of Movement	- Citizens should not be restricted or discriminated against on the basis of their race, sex, disability, etc.	- Citizens should not be restricted or discriminated against on the basis of their race, sex, disability, etc.
Conditions and Procedures for issuing identity documents	- Ensure citizens' access to travel and identity documentation regardless of background - Ensure full and effective access to identity documents for refugees	- Ensure citizens' access to travel and identity documentation regardless of background - Ensure full and effective access to personal travel and identity documents for internally displaced persons, refugees and returnees

Human rights and respect for and protection of minorities	- Ensure that constitutional provisions on protection of minorities are observed - Adopt and enforce legislation to ensure effective protection against discrimination - Specify conditions and circumstances for acquisition of citizenship - Investigate ethnically motivated incidents in the area of freedom of movement - Implement relevant policies regarding all minorities, including Roma	-Ensure the human rights/protection are ensured/respected - Ensure relevant legislate to protect against discrimination is implemented - Implement legislation defining the conditions and circumstances of acquiring citizenship - Investigate ethnically motivated incidents carried out in the area of free movement - Ensure the integration of persons belonging to the Kosovo Serb, Roma, Ashkali, Egyptian, Bosniak, Turkish and Gorani Minorities

(Table. 1)[31]

Third Report Serbia	Limited progress in freedom of movement	Significant financial resources required to improve Roma conditions	Ministry of Interior campaign to recruit staff from minority communities		Strategy/Action plans seek to improve status of Roma – slight improvement in education/health care/civil registration	Roma continue to be vulnerable / marginalised, access to labour market still limited
Third Report Macedonia			Roma Integration Centres capacities enhanced, technical equipment provided	Action Plan on inclusion of Roma/refugees adopted in December 2011	Action plan includes measures to Roma population's access to education, housing, and personal documents	Schools built, measures to grant scholarships continued. Training for Roma health mediators provided
Third Report Albania	Uneven progress relating to fundamental rights. Some progress on anti-discrimination of women			Requires further enhancement of policy tools targeting vulnerable groups.	Slow implementation of Roma living conditions strategy	Limited progress in Roma inclusion. Still discriminated against in major categories.

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[31] "Block 4", 'Visa Liberalisation with Kosovo* Roadmap', (2008) & Albanian, Macedonian, and Serbian Roadmaps

	First Report Albania	First Report Macedonia	First Report Serbia	Second Report Albania	Second Report Macedonia	Second Report Serbia
Protection against discrimination / freedom of movement	Progress in the functioning of Commission for Protection Against Discrimination	Law on prevention & protection against discrimination 1st Jan 2011	General framework in place but requires further implementation	Uneven progress in freedom of movement. Some improvement in children's rights	Ministry of Labour & Social Policy is implementing project for legal assistance to Roma	Comprehensive anti-discrimination law in place since 2009
Financial Resources	Sufficient budget allocated for Commission but not for 2003 National Strategy	Commitment by authorities to address minorities needs financial backing, as does Roma Strategy		No budget for provision of basic services		
Public Awareness	Low awareness of anti-discrimination act			Registration / awareness campaigns organised but not entirely effective	7 Offices to be created offering advice on fundamental rights	
Implementation of Initiatives and legislation	Insufficient implementation of Anti-discrimination act and 2003 National Strategy	Implementation of Ohrid Framework Agreement ongoing	Implementation of strategies for Roma need to be more effective. Need to ensure civil registration of all Roma	Local level action plans are not clearly defined		
Measures taken to integrate minority groups into society	Efforts to implement National Strategy on improving Roma living conditions must continue/need more financial means	Implementation of Roma Strategy and action plans needs improvement			Intensification of civil registration of Roma. Improved influence or Roma integration centres/ social care institutions/NGOs	Roma Strategy Plan has improved education, civil registration, and health care.
Improvement in minority groups' inclusion/living conditions	Roma face poverty/ marginalisation. Limited access to social/public provisions	Roma continue to face difficult living conditions/ discrimination	Poor socioeconomic conditions in general. Must legalise illegal minority settlements	Roma still face difficulties in living conditions, discrimination, access to education, etc.	Lack of personal documents for Roma presents problems when accessing benefits. Rise in Roma education.	Roma still face poor socioeconomic conditions / marginalisation / limited access to labour marker

(Table. 2)[323334]

Table 2 displays the Commission's assessment of Albania, Macedonia and Serbia in the three reports that have been published since their Roadmap's implementation. A recurrent theme among the three countries relates to a lack of consistency, especially when it comes to the financial backing of projects and implementation of legislation. This has resulted in limited public awareness, especially from those that would benefit the most. The analysis puts particular emphasis upon the measures applied for the benefit of the Roma population. Although there are examples of positive progression, one can conclude that the three nations have a long way to go in order to meet the conditions outlined in the roadmap. The report on Kosovo's progress was published earlier this year and after the three reports on the other Western Balkan states. Any areas in which Albania, Macedonia, or Serbia surpass Kosovo should be consider that, so far, Kosovo has only received one monitory report. However, as will be demonstrated, Kosovo excels in some areas of fundamental rights and the integration of minority populations compared to its neighbours.

9.2. Protection against discrimination / freedom of movement

Despite the lack of reference to Kosovo's 'constitution' in Block 4 of its Roadmap, the first progress report states that 'human and fundamental rights are enshrined in Kosovo's constitution… to be interpreted in line with the decisions of the European Court of Human Rights'. The constitution is a vigil of sovereignty and

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[32] 'Commission Staff Working Paper – On the post-visa liberalisation monitoring for the Western Balkan countries in accordance with the Commission Statement on 8 November 2010', (30.5.2011), European Commission

[33] 'Commission Staff Working Paper – Second report on the post-visa liberalisation monitoring for the Western Balkans countries in accordance with the Commission Statement on 8 November 2010', (7.12.2011), European Commission

[34] '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', (28.8.2012)

All three abovementioned reports are mentioned regularly in this article, referred to as 'Commission's first/second/third report'

the protection of human rights 'enshrined' within it demands that Kosovo's responsibility towards the protection of fundamental rights is tantamount to other Balkan states. This seems to nullify the difference in language used in Kosovo's roadmap in relation to the forms in which protection against discrimination is ensured.

The report commented that 'the people have the constitutional right to refer to the constitutional court over fundamental rights,' including disputes over human rights, gender discrimination and missing persons. By establishing structures at central and municipal levels to provide reinforcement to the protection of fundamental rights, Kosovo certainly seems to have made progress comparable to, if not surpassing, that of the other Balkan states. It seems that Kosovo has the basic infrastructure in place to catalyse the implementation and development of protection against discrimination and freedom of movement. The report also comments on the 'solid legal framework' that has been established in Kosovo, ensuring the protection and legal prevention against discrimination.

The legal structure is as solid as in other Balkan states, including laws for gender equality, anti-discrimination (currently under review to 'strengthen its sanction mechanism), employment of disabled persons, and an ombudsman law. Macedonia introduced a law protecting against discrimination in January 2011, whereas Serbia had a 'comprehensive' law in place since 2009. Kosovo had these laws in place well before Macedonia and Serbia, promulgated by UNMIK in 2004. However, as a 2008 UNIJA report described, it was very much a 'law on paper', hence the recent review on its capacity to implement its mandate[35]. Nevertheless, Kosovo has a legal framework for the protection against discrimination in place to the same standard as, if not stronger, the other Balkan states. It has also fulfilled these requirements in a shorter period of time.

(a) Financial Resources

A recurrent criticism in the Commission's reports on the Western Balkan countries' progress is the lack of financial backing provided for the anti-discrimination projects. The initial report comments that the 'commitment by [Macedonian] authorities to address minorities' problems' needs further financial

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[35] 'Submission to the UN Committee for Economic, Social and Cultural Rights', (2008), UNIJA – Federation of IDPs Associations

backing, as does Roma Strategy and action plans. The first report stated that there was a 'sufficient budget allocated for Commission for the protection against discrimination' but insufficient financial and human resources for the implementation of the 2003 National Strategy. Moreover, the second report suggests that in Albania there is no budget for the provision of basic services. The third report highlights the lack of funding provided to improve Roma living conditions in Serbia. In comparison, little is mentioned on the financial provisions in Kosovo's status report.

Prior to the introduction of the Kosovo Roadmap, the Prime Minister's Office published the 'Strategy for the Integration of Roma, Ashkali and Egyptian Communities in the Republic of Kosovo 2009-2015'. This indicates that the government demonstrated interest in the issue of anti-discrimination at a similar time to neighbouring countries, even though Kosovo had not received a detailed Roadmap initiative from the European Commission. The strategy articulated the requirements for financial backing if the project was to succeed. It committed government resources to increasing the living standards of minority groups, although emphasis is placed upon the international community and organisations to assist in the financial support of displaced persons. However, what is interesting about the report is the commitment to providing cultural integration and support as well as the financial backing for anti-discrimination measures and improvements to living conditions.

(b) Public Awareness

The Commission's most recent report on Kosovo's progress paid little attention to public awareness. In contrast, the reports published on Albania, Macedonia and Serbia emphasised the need to create public awareness and monitored their progression. A 2011 EU progress report on Kosovo states that the 'the government has continued to carry out a few awareness-raising campaigns on the antidiscrimination law' but that the poor implementation of legislation against discrimination discourages people from using the judicial mechanisms in place. An OSCE report from September 2012 commented that the government is 'mandated... to conduct public awareness-raising campaigns on discrimination issues' and has held workshops and public information campaigns to raise

awareness on the Law on Anti-Discrimination[36]. The evidence suggests that the Kosovo government is making some effort to stimulate public awareness, but that the process is half-hearted; for example, the OSCE found that there have been no campaigns on the Law of Use of Language.

Public awareness campaigns in the other Balkan states have been equally sporadic. There was little mention of public awareness in the Commission's first report on the three countries, and there significant progress did not seem to occur until the most recent report. In this respect, although Kosovo's campaigns have been intermittent, the government seems to have made similar levels of progress in a shorter time frame. These efforts are hindered, as in the other countries, by the poor implementation of legislation.

(c) Implementation of Initiatives and Legislation

The most detrimental factor affecting Kosovo's ability to fulfil the conditions of its Roadmap relates to the implementation of its policy ideas and legislation, an issue reflected in many of its neighbours. The Commission's progress report states that, with relation to Kosovo's strategy and action plans, there is a 'lack of political will and weak capacity in ministries and municipalities.' Some examples, highlighted by the report, relate to identity. Although amendments to legislation on travel documents and identity cards were passed in 2010 and 2012 respectively, the report found that freedom of movement is considerably limited due to a 'lack of implementation at municipal level'[37][38]. The legal framework relating to civil registration was also considered 'satisfactory', but hindered by poor levels of implementation. The OSCE found that the implementation of legislation, specifically the Law on anti-discrimination, is 'hampered due to the ambiguity of some of its provisions' [39]. The Commission also noted the inconsistency of the functionality of Municipal Community Safety Councils. The general consensus among international bodies is that the necessary legislation is in place but is not being implemented on the ground.

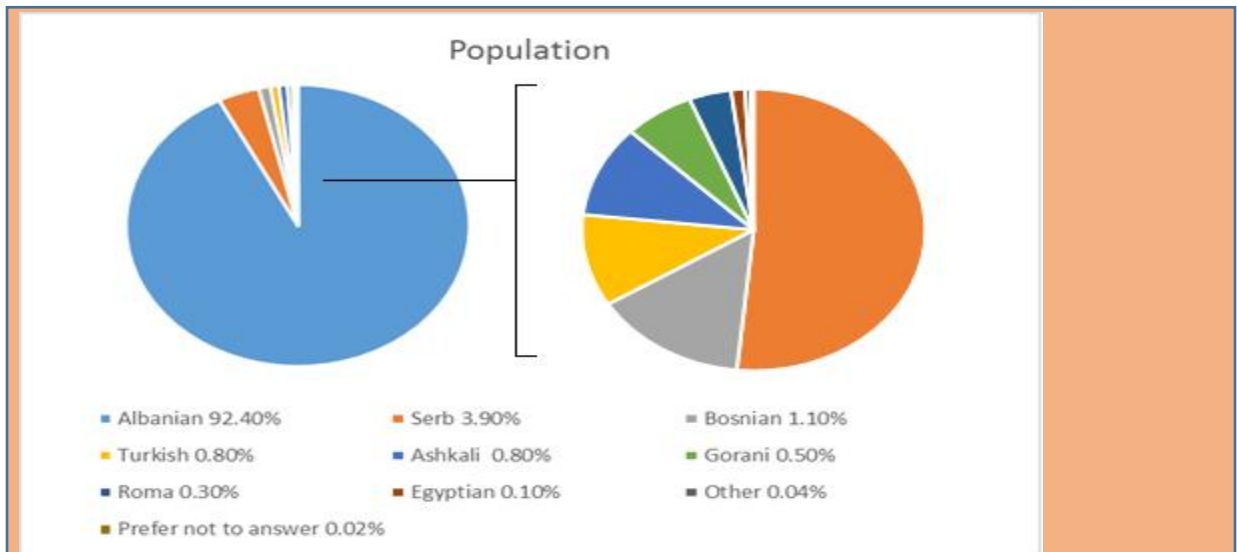[36] 'Implementation Measures for Legislation Impacting Human Rights in Kosovo', (2012), OSCE
[37] 'Law no.04/L-126 on Amending and Supplementing the Law no.03/L-099 on Identity Card', (2012), Assembly of Republic of Kosovo
[38] 'Law no.03/L-217 on Amending and Supplementing the Law no.03/L-037 on Travel Documents', (2010), Assembly of Republic of Kosovo
[39] 'Implementation Measures for Legislation Impacting Human Rights in Kosovo', (2012), OSCE

The Commission's original evaluation of Albania and Macedonia demonstrated insufficient implementation of anti-discrimination policy. Evidence suggests that neither country are any more committed to enforcing legislation. The Commission's assessment of Albania's implementation of legislation demonstrates levels of apathy, and shows little improvement with the publication of each report. Public perception is a major contributor to indifference over legislation's enforcement. A study showed that Albania tends to conservative in its approach to the LGBT community and is in fact considered among the most homophobic nations in Europe[40]. However, Albania is not exceptional in this regard; the Commission found that 'the lesbian, gay, bisexual, transvestite and transsexual (LGBT) community faces stigmatisation and the threat of violence' in Kosovo as well. This demonstrates that the reluctance to enforce legislation in Kosovo and other Balkan states might be limited by a lack of political will. This is catalysed by public perception, indicating that the governments must engage in rigorous anti-discrimination campaigns to stimulate the implementation of legislation.

Measures taken to integrate minority groups into society

Population

- Albanian 92.40%
- Serb 3.90%
- Bosnian 1.10%
- Turkish 0.80%
- Ashkali 0.80%
- Gorani 0.50%
- Roma 0.30%
- Egyptian 0.10%
- Other 0.04%
- Prefer not to answer 0.02%

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[40] 'Albania is Europe's Most Homophobic Country, Survey Says', (25.03.13), "Balkan Insight", available at: http://www.balkaninsight.com/en/article/albania-is-the-most-homophobic-country-in-europe-survey-says

The exact numbers of minority groups are incredibly difficult to measure due to the large number of unregistered people. However, the ethnic demographics of Kosovo, as determined by the 'Demographic, Social and Reproductive Health Survey in Kosovo', are shown in table. 3. The Kosovo Roadmap emphasises the need to integrate the Roma minority in Western Balkan states. However, in Kosovo there are multiple other minority groups with higher populations, most notably the 3.9% of Serbs. In Serbia, for example, some measurements suggest the Roma make up 2.05% of a considerably larger national population. These statistics demonstrate minority groups make up roughly 8% of the overall population in Kosovo. However, the Kosovo Security Barometer has found that 28% of people questioned consider themselves part of a social groups that is discriminated against in Kosovo. This indicates the difficulties in measuring the levels of minority groups, not to mention their successful integration into society.

(Table. 3)[41][42][43]

The integration of minority groups into society requires more than the creation of legislation, as legal protection does not necessarily improve public perception or socioeconomic conditions for minorities, unless effectively enforced. The first report demonstrated that efforts to integrate minority groups into Albanian, Macedonian and Serbian society were extremely limited. Although they had similar legislation to Kosovo in place, supposedly protecting citizen's against discrimination, public perception transcends into a lack of political will to integrate minority groups into society. The first report indicated that none of the countries in question had made significant headway in the inclusion of Roma. Kosovo was found to have similar strategy and action plans in place for the integration of Roma, Ashkali and Egyptian minorities. The legal frameworks established were considered 'satisfactory' but, as seems to be a recurrent trend, they are not implemented effectively.

By the second Commission report, the Roma Strategy Plan in Serbia had supposedly improved their education, civil registration and health care. Macedonia demonstrated similar success; civil registration of Roma had increased, alongside a more effective capabilities of Roma integration centres and social care institutions. The third report reiterated the moderate success of Macedonia's action plan and announced a slight improvement in education, health care and civil registration of Roma in Serbia. In contrast, all three reports

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[41] 'Demographic, Social and Reproductive Health Survey in Kosovo', (2011), Republic of Kosovo – Ministry of Public Administration
[42] '2011 Census of Population, Households and Dwellings in the Republic of Serbia', (2012), Statistical Office of the Republic of Serbia
[43] 'Kosovo Security Barometer', (2013), Kosovo Center for Security Studies

showed little indication that Albania had engaged in any significant measures to integrate Roma into their society. The third report mentioned the 'slow implementation' of the strategy to improve Roma living conditions. Kosovo's progress is perhaps somewhere between that of Albania and Macedonia in this category. Although measures have been taken to introduce action plans and establish bodies such as the Municipal community safety councils, the Commission report suggests that 'there has been limited progress in the area of social inclusion, including anti-discrimination. Combined with weak civil society activism, the antidiscrimination law has not yet created an effective protection mechanism against discrimination.' This demonstrates that although some efforts are being made to build an infrastructure of social inclusion, they suffer from a lack of effective implementation.

The recent agreement signed with Serbia indicates that both nations are taking a pragmatic approach to appeasing tension in northern Kosovo. Although the agreement solidifies Kosovo's administrative authority over the ethnic Serbs in the region, it allows for areas such as health, education and culture to remain under Serb's jurisdiction. This is a significant step towards fulfilling the requirements set out in Kosovo's Roadmap, and although the decision has not received unanimous approval from the Serb population, it demonstrates an element of benevolence towards appeasing racial tensions in the region.

9.3. Improvement in minority groups' inclusion/living conditions

Intuitively, due to the insufficient measures taken by the Kosovo authorities, there has been no significant improvement to minority groups' living conditions. The Commission's report comments that there has been 'limited progress' in the area of social inclusion, including anti-discrimination. It stated that there is not yet an 'effective protection mechanism against discrimination.' This implies that the government policies have been of little or no benefit to minorities, as they are not enforced effectively. One must acknowledge that improving living conditions for the population as a whole is a daunting task; the Commission made regular allusions to the poor living conditions in Serbia as a whole, when assessing the

conditions of Roma. There is a similar situation in Kosovo, and any improvement in living conditions is likely to be minimal at best.

Social integration of Serbian minorities in Kosovo tends to be tumultuous in northern areas of the country. The recent unrest over the agreement with Serbia is a reminder of the social tension encompassing many regions in Kosovo. The Commission referred to the presence of ethnically motivated crime, targeted at all minorities and that 'persons belonging to the Serbian minority have raised concerns about the freedom of movement in the context of Kosovo's implementation of the agreement with Serbia on the freedom of movement.' The LGBT community continues to face severe discrimination in society; the social condemnation is comparable to that of Albania.

It was not until the third Commission report that Albania and Macedonia indicated slight improvements in the social conditions of Roma. Kosovo therefore cannot be considered to have failed in this respect, in comparison to its neighbours, and clearly more time is necessary to see an improvement. Roma in Kosovo face similar difficulties in Kosovo as in other Balkan states. One of Kosovo's priorities is to increase Roma children's access to education. In 2004, a UN report published the following statistics about Roma children[44]:

> Illiterate: 16%
>
> Children attending primary education: 75%
>
> Children attending secondary education: 25%
>
> Attending or finished high school: 1.4%

 (Table. 4)[45]

A more recent journalistic report in 2012 suggested that these figures had not improved at all.[46] The Commission reported that Serbia had action plans in place

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[44] 'Human Development Report – Kosovo' (2004), United Nations Development Programme

[45] Statistics found in 'Strategy for the Integration of Roma, Ashkali and Egyptian Communities in the Republic of Kosovo 2009-2015', (2009), Office of the Prime Minister – Republic of Kosovo

[46] 'Deported Roma children face challenges in Kosovo' by Muhamet Brajshori, (20/11/12), SETimes.com, available at: http://www.setimes.com/cocoon/setimes/xhtml/en_GB/features/setimes/features/2012/11/20/feature-04

to combat education, and began to see improvements in Roma children's access to education by the third report. Although Kosovo has plans in place to tackle the issue, it seems as though empirical evidence of improvement is a long way off.

9.4. Recommendations/Conclusions

The Commission reports made recommendations for future progress in each country. To summarise, the three reports on Albania, Macedonia and Serbia emphasised the economic difficulties faced by the minority groups. They expressed the need for more assistance from EU member states and bilateral assistance. Kosovo, on the other hand, was given far more explicit targets relating to fundamental rights and the freedom of movement. For example, Kosovo was advised to amend laws on anti-discrimination and on foreigners and achieve an agreement with Serbia for freedom of movement. The normalisation agreement agreed upon earlier this year is an indication that the latter is being addressed. However, the remaining recommendations for Kosovo are more obscure, stating the need to implement strategies more effectively, which, as this article has demonstrated, is not easily accomplished due to lack of political will. The third report on Albania, Macedonia and Serbia expressed the benefits of seminars held to create agreements on the long term measures for integration of minority groups, specifically the Roma. Kosovo seems to have been neglected in this regard; the Commission's report makes no reference to seminars relating to Kosovo's development.

Although the report's recommendations are sound, they are also quite obvious. The implementation of legislation and government policies clearly need stronger enforcement. Kosovo shows similar commitment to its neighbours in implementing measures to integrate minority groups, with the aim of improving freedom of movement and fundamental rights. However, its effectiveness is sporadic; the other Balkans countries demonstrate similar situations. For there to be effective implementation of strategies, more effort must be made in public awareness and financial backing, rather than simply establishing legal frameworks that are rarely enforced. This is comparable to the situations in neighbouring Balkan states, and despite their advantage of having longer to act upon their Roadmaps, they have gained no considerable advantage in the integration of minority groups. All the Balkan states, including Kosovo, require more time to integrate minorities and ensure the efficient implementation of

policies relating to the freedom of movement. The Commission reports demonstrate varying levels of success, but none of the nations referred to in this article have indicated that they are especially close to fulfilling the requirements of their Roadmaps.

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