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WEB-MOB

Development of researchers' mobility policy guidelines for the region of Western  
Balkans

SPECIFIC SUPPORT ACTION

INTERNATIONAL COOPERATION

## **D2.1 – Mapping Exercise**

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**WEB-MOB**  
**Specific Support Action financed under the 6th**  
**Framework Programme for Research and**  
**Technology**

**MAPPING EXERCISE**  
**OBSTACLES TO MOBILITY OF RESEARCHERS**  
**IN**  
**WESTERN BALKANS**  
**FOR EACH COUNTRY**

**PREPARED BY CERTH**  
**Dr. Despina Anagnostopoulou, Lecturer on EU**  
**Policies and Institutions in the University of**  
**Macedonia, Thessaloniki, Greece.**

**Deliverable D2.1.**

**2007**  
**THESSALONIKI**

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**1. MAPPING EXERCISE**

**OBSTACLES TO MOBILITY OF RESEARCHERS**  
**IN ALBANIA**

**PREPARED BY CERTH**  
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## **1. Introduction**

### **1.1. Aim and method**

The WEB-MOB project (a Specific Support Action financed by the European Commission under the 6th Framework Programme) started operating in September 2005, with the objective of developing guidelines related to issues of policy on researchers' mobility in the region of Western Balkans.

Taking into consideration the importance placed by the European Commission on issues of incoming and internal mobility in the Western Balkans region, WEB-MOB's main objective was to attract to the region researchers:

1. From other regions (inter-regional mobility) or
2. From other countries (intra-regional mobility) – geographical mobility –,
3. Between industry and academia (intersectorial mobility) and
4. Intra-national mobility in the Western Balkan partner countries in order to raise regional cooperation and prevent brain drain in the region.

During the lifetime of the WEB-MOB project, the partners have identified existing obstacles to incoming mobility in every country, and which in many cases had not been identified by administrations in charge of research. More specifically, mobility guidelines were developed so as to be useful to national governments for the formulation of common policies in terms of enhancing researchers' mobility and eliminating mobility barriers in the region. The mobility guidelines include recommendations for measures and policies needed to improve national legislation and national research strategies.

Furthermore, the most important dissemination tool to be developed has been the WEB-MOB portal ([www.web-mob.eu](http://www.web-mob.eu)). The portal is a single-access point which provides visitors with the opportunity to exchange useful information about problems in the area of mobility of researchers, provide information on research organisations and universities and news related to the WEB-MOB project implementation.

Even though the project has just been completed (October 31, 2007), the impact already seems to be not only on a national, but also on a European level, since WEB-MOB project has contributed to national and EU actions related to the mobility and career development of researchers. Another important impact of the project has been the valuable experience on mobility policy issues gained by partners from the Western Balkan countries leading to the establishment of national ERA-MORE Networks (the Serbian national network and the Croatian one). Finally, synergies with European research organisations, universities and Mobility Centres have been encouraged and have influenced the visibility of researchers, universities and research organisations active in R&D in the Western Balkans region<sup>1</sup>.

In the questionnaire, which was the basis of the national mobility guidelines, the aim was to reflect all mobility obstacles that a researcher from any nationality faces in the WBCs<sup>2</sup>.

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1 Dimitrios Sanopoulos, The WEB-MOB project: Development of researchers' mobility policy guidelines for the region of Western Balkans, <http://see-science.eu/users/2512.html>.

2 "WBC" means "Western Balkan Country". Montenegro is not part of this project because it achieved independence in June 2006 after the launch of the project in September 2005.

In the policy guidelines the aims are to:

1) Reflect the mobility obstacles that exist in each WBC for:

- EU or EEA researchers (EU – WBC mobility)
- WBC researchers (inter WBC mobility)

2) Suggest legislation or policy modifications in two stages (not all at once) according to the political, economic and social background of each WBC. Indeed each WBC faces different problems in immigration inflows and outflows and has different international engagements with the EU in the framework of SAPs or accession processes.

The first stage is an easy one and it applies for a transitional period of one or two years. It is to:

- Find whether there is preferential treatment on any WBC nationality and apply the so called **Most Favoured Nation** (MFN) rule of the World Trade Organisation (WTO) applied by analogy (e.g. Albania's visa facilitation for Former Yugoslav Republic of Macedonia's nationals to be extended to all WBC nationals).
- Make **slight** modifications in the existing legislation or policy that will greatly improve mobility while respecting the legislative choices of the WBCs, after a cost benefit analysis.

The second stage is to align the WBC legislation to the free circulation rules that EU applies for third country researchers. Indeed Directive 2005/71/EC could serve as a model. In this way the general principle of reciprocity between WBC and EC will be respected in 3-4 years.

In this way the policy guidelines follow the example of European Partnerships where the priorities listed have been selected on the basis that it is realistic to expect that they can be completed or taken substantially forward over the next few years. A distinction is made between short-term priorities, which are expected to be accomplished within one to two years, and medium-term priorities, which are expected to be accomplished within three to four years<sup>3</sup>.

Thus the policy guidelines are drafted according to the method of neofunctionism in a realistic context, which was mostly used for the success of the European integration up to date.

## 1.2. External Relations of Albania

According to the 2007 Albania Progress Report prepared by the EU Commission

- Albania is still part of the monitoring procedure of the Parliamentary Assembly of the **Council of Europe** on verifying the fulfilment of obligations and commitments relating to its membership in the Council of Europe.
- Albania has also continued to actively participate in other regional initiatives: **Stability Pact** and the process of its transition into a more regionally owned cooperation framework with a strengthened South East Europe Cooperation Process (SEECPP) and a new Regional Cooperation Council (RCC). In its capacity as presidency-in-office of the Central European Initiative, during

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<sup>3</sup> COM 669, annex I, 3. Priorities, p. 6.

2006 Albania hosted the Heads of Government Summit and regional events focusing on transport, energy and journalism.

- Albania is party to the Energy Community Treaty and in February 2007 ratified the Agreement on the European Common Aviation Area (ECAA).
- Albania acceded to the new **Central European Free Trade Agreement** which entered into force in July 2007.
- Albania, **Croatia and the former Yugoslav Republic of Macedonia** have continued to cooperate on political, defence and economic reform through the Adriatic Charter. The Adriatic Charter focuses on the shared goal of achieving NATO membership standards and allows the three countries to contribute together to NATO operations through group military deployments<sup>4</sup>.

#### Albania's **bilateral relations with:**

- Former Yugoslav Republic of Macedonia have continued to expand, with a number of political and technical meetings taking place. A memorandum on cooperation between the Public **Prosecution** Offices of the two countries has been signed and the agreement on **cultural** cooperation has entered into force.
- with **Montenegro** have developed further, with Albania opening an embassy in Podgorica. The two countries established the first joint border crossing point in the Western Balkans at Muriqan/Sokobine.
- with **Croatia, Bosnia and Herzegovina and Serbia** have remained positive and stable. Trade has continued to be relatively limited<sup>5</sup>.

At a June 2007 meeting with the EU Troika Albania confirmed its constructive position regarding the future of **Kosovo**.

### 1.3. EU – Albania Relations

Albania is a potential candidate for EU membership.

On 14 June 2004 the Council adopted a first European Partnership with Albania<sup>6</sup>.

In January 2006 this partnership was updated and revised in order to identify renewed priorities for further work, on the basis of the findings of the 2005 Progress Report on Albania's preparations for further integration with the European Union<sup>7</sup>. **The European Partnership** identifies short and medium term priorities which Albania should address, serves as a checklist against which to measure progress, and provides guidance for EC assistance<sup>8</sup>.

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4 Albania Progress Report 2007, 2.3., pp. 17-18.

5 Progress Report 2007, 2.3. pp. 17-18.

6 **2006/54/EC: Council Decision of 30 January 2006 on the principles, priorities and conditions contained in the European Partnership with Albania and repealing Decision 2004/519/EC, OJ L 35, 7.2.2006, p. 1–18, preamble.**

7 **2006/54/EC: Council Decision of 30 January 2006 on the principles, priorities and conditions contained in the European Partnership with Albania and repealing Decision 2004/519/EC, OJ L 35, 7.2.2006, p. 1–18, preamble.**

8 Council Decision op.cit, Annex, par.1.

In June 2006 the Stabilisation and Association Agreement (SAA) between Albania and the EU was signed. An Interim Agreement is in force since December 2006<sup>9</sup>. Cooperation provisions of the 1992 Trade, Commercial and Economic Cooperation Agreement (TCECA) will remain in operation until the SAA is ratified. Albania also benefits from the EU's autonomous trade measures<sup>10</sup>.

In July 2006, Albania adopted a national action plan to implement the European Partnership recommendations. Progress on these reform priorities is encouraged and monitored by the European Commission, notably through the annual Progress Reports and through political and economic dialogue<sup>11</sup>

A number of structures have been set up under the SAP to provide for dialogue between **Albania** and the EU. The dialogue is conducted through<sup>12</sup>:

- Ministerial Troika,
- Consultative Task force (CTF),
- Joint Committee and
- Working party meetings.

The EU/Albania **Consultative Task Force** is an ad-hoc Council/Commission forum with Albania. It is co-chaired by the Council Presidency/Commission and the Albanian Minister for European Integration. CTF meetings are a key instrument for monitoring Albania's reform progress, in particular in political and justice, freedom and security. **Each CTF meeting result in jointly-agreed recommendations for action by Albanian authorities**<sup>13</sup>. Two CTF and five working party meetings took place between October 2006 and October 2007. CTF meetings focused on political accession criteria and rule of law issues. Each CTF meeting resulted in jointly agreed recommendations for action by the Albanian authorities. Working party meetings focused on economic, internal market and sectoral issues and reported to the joint committee<sup>14</sup>.

The **Joint Committee** meetings are chaired alternatively by Albania and the EU and are held once a year. Working parties meet regularly to assist the Joint Committee in conducting its tasks and focus on reforms related to SAA commitments and European partnership priorities<sup>15</sup>. The annual joint committee met in December 2006 to oversee the proper functioning of the Interim Agreement and the TCECA.

The political dialogue between EU and Albania is conducted through Ministerial Troika, joint committee and consultative task force (CTF) meetings at ministerial level and working party meetings at deputy minister level. A Ministerial Troika meeting with Albania in June 2007 focused on key political priorities, including regional issues.

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9 Progress Report 2007, 1.2.

10 Progress Report 2007?

11 Progress report 2007.

12 [http://ec.europa.eu/enlargement/albania/eu\\_albania\\_relations\\_en.htm](http://ec.europa.eu/enlargement/albania/eu_albania_relations_en.htm)

13 [http://ec.europa.eu/enlargement/albania/eu\\_albania\\_relations\\_en.htm](http://ec.europa.eu/enlargement/albania/eu_albania_relations_en.htm)

14 2007 Albania Progress Report.

15 [http://ec.europa.eu/enlargement/albania/eu\\_albania\\_relations\\_en.htm](http://ec.europa.eu/enlargement/albania/eu_albania_relations_en.htm)

In September 2007, the EU and Albania signed an agreement on **visa facilitation**. The new arrangements are important to facilitate people-to people contacts. They will simplify procedures for issuing visas for certain categories of citizens of Albania, including **students, academics, businesspeople**, journalists, and tourists. They will also keep the cost of visas at its current level and, in some cases, lead to visas free of charge. This agreement complements the EC-Albania readmission agreement which entered into force in May 2006. This will allow more interaction between citizens of the EU Member States and the citizens of Albania<sup>16</sup>.

Since January, pre-accession **financial assistance** to Albania is provided under the new Instrument for Pre-Accession Assistance (IPA). The EC allocated a total of € 61 million in 2007. The Multi-Annual Indicative Planning Document (MIPD) 2007-2009 for Albania under IPA was adopted in May 2007. Main focus areas are justice and home affairs, administrative capacity building, economic and social development and democratic stabilisation. Ongoing CARDS and IPA assistance is implemented by the EC Delegation in Tirana<sup>17</sup>.

A Framework Agreement between the Community and Albania on participation in **Community programmes** entered into force in May 2005<sup>18</sup>.

#### **1.4. Short and medium term priorities according to the European Partnership in relation to obstacles to mobility of researchers:**

In the short term priorities of the European Partnership appear the following:

- Conclude and implement **agreements with neighbouring countries** and ensure their effective implementation, notably on trade, cross border cooperation, the fight against organised crime, trafficking and smuggling, judicial cooperation, border management, readmission<sup>19</sup>.
- Modify the present legislation on the **right of establishment** to fully ensure equal treatment of foreign and domestic firms, a clear distinction between the temporary and permanent provision of services and compatibility with Stabilisation and Association Agreement (SAA) requirements.
- Ensure **proportionality** in the treatment of cross-border provision of services.
- Further align customs legislation and procedures with the EU acquis, in particular ensure that rules and procedures for transit, customs warehouses, customs valuation, physical controls and risk analysis are aligned with EU standards and, where relevant, international conventions.
- Fully implement the automatic system for custom data, customs declaration and processing system in all customs offices.
- Complete the process of **computerising tax offices**.
- Strengthen the administrative capacity for intellectual property rights (IPR) protection, including the establishment of the **Albanian Office for Copyright**.
- **Adopt new legislation on industrial property**.
- Further increase awareness of IPR issues amongst the business community and law enforcement bodies, including the judiciary.

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16 2007 Albania Progress Report.

17 2007 Albania Progress Report.

18 2007 Albania Progress Report.

19 Op. cit, par. 3.1. Short term priorities.

- **Intensify enforcement against piracy and counterfeiting.**
- **Issue travel documents in accordance with international standards and establish a centralised IT network for the administration of visas.**
- **Adopt amendments to the Law on Foreigners to bring visa legislation closer to EU standards.**
- **Implement Albania's Ohrid commitments on border security and management, in particular establishing an integrated border management strategy** in accordance with EU guidelines.
  - Focus increased financial and human resources on addressing human trafficking and illegal migration.
  - Ensure that **border management at Tirana International Airport, and at Durres and Vlora ports complies with international standards.**
  - Foster inter-agency cooperation at the border between customs and the border police.
  - Ensure signature of and alignment with the 1977 European Convention on the Legal status of Migrant Workers.
  - Implement the EC/Albania readmission agreement and negotiate readmission agreements with the countries of origin of transiting migrants.
  - Focus sufficient administrative and financial capacity on implementing legislation on asylum and migration and in particular implementing the related national strategies and action plans.

Among its medium term priorities are included:

- Ensure that the implementation of legislation on the right of **establishment** is conducted fairly and impartially.
- Ensure **progress on the full liberalisation of the movement of capital** in order to be able to fulfil Albania's 2010 WTO deadline.
- Ensure the continued approximation of Albanian customs and taxation legislation to the EU acquis, and further increase administrative capacity to implement customs legislation, and to fight corruption, cross-border crime and fiscal evasion.
- Fully implement international conventions ratified in the field of intellectual, commercial and industrial property rights.
- Ensure proper implementation of IPR, and achieve improved results in the fight against piracy and counterfeiting.
- Guarantee sufficient administrative capacity to comply with SAA requirements in this area.
- Establish **regional copyright offices.**
- **Further develop specialised business support structures (e.g. incubators and clusters) and examine feasibility for a business/technology park.**
- Start **designing and applying an integrated research policy** and further develop measures to boost innovation and competitiveness of small companies.
- Ensure **full compliance of all Albanian travel documents** with international standards.
- Implement the **integrated border management strategy** and all international commitments undertaken by Albania in the area of border management.
- Ensure that border management at Tirana International Airport, and at Durres and Vlora ports complies with international standards.
- Implement Albania's **national strategy on migration** and national action plan on asylum.

- Ensure that Albania is in a position to meet **SAA requirements regarding EU citizens working and/or residing in Albania.**
- Progressively conclude, ratify and implement all the **main international conventions in the field of migration.**

## 1.6. Human Resources

From 1990 human resources in sciences and technology have drastically decreased. Various surveys show that during 1990-1999, approximately 40% of the professors and research scientists of the universities and science institutions in the country have emigrated. This exodus is growing and according to a survey run in 1998 a greater number of highly educated people want to emigrate. They are mainly young people who wish to emigrate for a long time or forever. It is clear that if the economic and social situation in the country does not improve, the Albanian brain drain will continue as intensively as before.

- However, the continuous brain drain poses a severe threat to this system. Driving forces for the brain drain are found in the deteriorated economic living conditions, the lack of state – of – the – art infrastructure and funds that constitute serious obstacles for research. The restrictive visa regulations also hinder scientific exchange and temporary employment abroad.
- Some of the highly educated people do return after their studies and others may also consider it. During this year the new government has planned many ways to provide the facilities to have the new situation changed into : the brain gain.
- There is a total 578 scientific workers in our country: 274 in Academy of Sciences and 304 in R & D institutions of Ministries. The number of personnel in R & D in Albania are about 0,2 for 1000 habitants.

According to the Progress Report prepared by the European Commission, there has been limited progress in the area of **research**. Albania has bilateral protocols with Italy, Greece, the Former Yugoslav Republic of Macedonia, Slovenia and Turkey on scientific and technological cooperation. Some activities have taken place to ensure **familiarisation** with the Seventh Framework Programme (FP7), such as meetings with coordinators at local universities and scientific institutions and the establishment of the contact point network<sup>20</sup>.

Albania has asked to become **associated to the FP7 and the association agreements was signed on December 17, 2007.**

## 2. OBSTACLES TO MOBILITY

### 2.1. Visa

#### 2.1.1. Albania's facilitation of Mobility

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<sup>20</sup> Albania Progress Report 2007, p. 28.

According to legislation adopted on 2000, Albania<sup>21</sup>:

1. Exempts all EU and EEA nationals from holding a visa for a 3 month stay and from all other prerequisites, after paying a tax of 10 euros except for Czech Republic and Poland<sup>22</sup>
2. Exempts nationals from developed countries to enter as USA, Canada, Australia, New Zealand, Switzerland.
3. Exempts nationals from Singapore, Malaysia and Turkey
4. Facilitates only Former Yugoslav Republic of Macedonia nationals to get a visa at the border against payment of 10 euros.
5. **Issues a stay visa to the foreign citizens who foresee to stay for more than three months in the Republic of Albania. A three months, six month, or one-year stay permission can be renewed no more than three times consecutively. A foreign person can apply for five years stay permission if he/she has had a legal stay for two years consecutively in the Republic of Albania, and has durable connection.**
6. Allows the researchers to visit Albania in case of a congress if they have an invitation letter<sup>23</sup>.

After 2000 progress has been made:

1. **Citizens of Croatia, Montenegro and Kosovo do not need a visa to enter Albania.**
2. Citizens of Serbia are now exempt from visa requirements<sup>24</sup>
3. Citizens from Bosnia and Herzegovina are exempted during the summer period (15 June- 15 September) as are all tourists not exceeding a 24-hour stay<sup>25</sup>.
4. Albanian citizens continue to need visas to travel to SAP countries, except for entry to Montenegro and Kosovo<sup>26</sup>.
5. A centralised IT system to administer visas is being installed which should provide an online network for Albanian Diplomatic or Consular offices abroad. In terms of document security, technical specifications for new micro-chipped biometric passports and ID cards in line with EU standards have been approved<sup>27</sup>.
6. Draft amendments to bring the Law on foreigners and the Law on control of state borders into line with the *acquis* have yet to be finalised<sup>28</sup>.
7. The number of consular posts that Albania has abroad is limited and there is not any consular post in some regions<sup>29</sup>.

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21 **DECISION** No. 439, Dated 4.8.2000 **ON THE ENTRANCE, STAY AND TREATMENT OF THE FOREIGNERS.**

22 <http://www.mfa.gov.al/english/viza1.asp>

23 Mobility guide, 2.1.2.4.

24 Albania 2007 Progress Report. 4.3.1. *Visa, border, control, asylum and migration*

25 Albania 2007 Progress Report. 4.3.1. *Visa, border, control, asylum and migration*

26 **Regional review of Justice and Home affairs policy in the Western Balkan countries, at** [http://www.western-](http://www.western-balkans.info/htmls/page.php?category=339&id=560&page=14)

[balkans.info/htmls/page.php?category=339&id=560&page=14](http://www.western-balkans.info/htmls/page.php?category=339&id=560&page=14)

27 Albania 2007 Progress Report. 4.3.1. *Visa, border, control, asylum and migration*

28 Albania 2007 Progress Report. 4.3.1. *Visa, border, control, asylum and migration*

29 Albania 2007 Progress Report. 4.3.1. *Visa, border, control, asylum and migration*

8. The government has adopted a national integrated border management strategy and action plan which complies with EU requirements. New infrastructure at 15 border crossing points (BCPs) is improving border control
9. Albania, Former Yugoslav Republic of Macedonia, Montenegro and Kosovo (under UNSCR 1244) have jointly drafted an agreement on border police cooperation. The agreement will formalise the current procedural cooperation between the signatories and allow signature of specific bilateral protocols. A joint border patrol agreement with Former Yugoslav Republic of Macedonia was ratified. An agreement on information exchange was signed with Italy. Systematic information exchange and joint green border patrols by Albanian and Greek border police are continuing.
10. A unit to coordinate and monitor implementation of the national strategy on **migration** has been established in the Ministry of Labour and Social Affairs.
11. Albania ratified the European Convention on the Legal Status of Migrant Workers and the UN Convention on the Protection of the Rights of Migrant Workers. Field manuals on migration procedures have been introduced<sup>30</sup>

### 2.1.2. Albania's specific obstacles to mobility

a) Requirement of visa for citizens of Former Yugoslav Republic of Macedonia and Bosnia and Herzegovina.

Though citizens from WBCs are exempt from visa requirements for short stays, citizens from these countries have to submit to burdensome requirements in order to get a visa.

b) Absence or limited number of consular posts

c) Disposal of sufficient means

At the Consulate, the authorities ask the foreigners to prove that they dispose sufficient means for living, on basis of which they create the credibility and prove that they will **not ask for public funds** to ensure their life in Albania.

As such proofs will be accepted: touristic circulation ticket, business certificate, business correspondence, export and transport bills, **means of living** as cheque, credit card, bank certificate, cash, salary certificate, supporting declaration by **a guarantor** in Albania according to the definitions in the by-laws for the applications of the law, etc<sup>31</sup>.

The proof of income, property or social security is not necessary in order to get **business visa for Albania**, since either the company inviting the foreigner is to bear all the costs of foreigner's stay, or the company sending the foreigner<sup>32</sup>.

d) Interview

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<sup>30</sup> Albania Progress Report 2007, p. 45.

<sup>31</sup> Mobility guide 2.1.1.1

<sup>32</sup> Mobility guide, 2.1.1.4

At the consulate, the authorities interview the foreigners: This is very dissuasive for nationals of EU and EEA that want to have a stay visa for more than 3 months as well as WBCs since **Albania has not consular offices everywhere.**

e) Obstacles at the border

Albania allows a large margin of control, review of documents and discretion to **border authorities** since the latter:

1. May review at the border the documents on the basis of which the visa was issued apparently to confirm the validity of the visa and to prove the motive of the trip (second control)<sup>33</sup>
2. May request any document to prove credibility
3. May consider a person as undesirable any time.

These three obstacles are very dissuasive for a foreigner. It is not clear whether these obstacles apply for a researcher who wants to work in a research institute/University of Albania. It is stated that “The proof of income, property or social security is not necessary in order to get **business visa for Albania**, since either the company inviting the foreigner is to bear all the costs of foreigner’s stay, or the company sending the foreigner”<sup>34</sup>.

As a first step the following modifications in the existing legislation for visa requirements for a **stay less or more than 3 months are recommended:**

To clarify the legislation by inserting a new paragraph as following:

*“For EU, EEA and WBC researchers the original letter of invitation by the national research institution for remunerated work duly stamped and signed is an adequate means to prove to all authorities the motive of travel and the means to live as well justify their exemption from any questions or procedures at the border”.*

**As a second step the following modifications are recommended:**

1. Researchers from all WBCs could be exempt from visa requirements for 3 months stay as nationals from Serbia and Croatia are.
2. Albania could establish the scientific visa for a stay of more than 3 months as EU has done with Directive 2005/71/EC (see below).

## **2.2. Visa of longer stay in Albania**

The visa contains the timeframe for its **use**, which can be three months, six months, and one year. In the visa is also established the timeframe of the **stay**, which goes from 1 to 90 days. **The timeframe for the stay begins the day that the foreigner enters into Albania.** The visas with a timeframe of use of **more then three months can be with many passages.** The visa is extended **only one time up to the half of the first period** by the embassy of the Republic of Albania or the competent authority.

There seem to be no specific obstacles for a visa of longer stay, more than the ones for a short term visa. The requirements are the same as for a short term visa. However all

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<sup>33</sup> Mobility guide 2.1.1.1

<sup>34</sup> Mobility guide, 2.1.1.4

nationals of EU, EEA and WBC must hold such a visa if they want to stay in Albania for more than 3 months.

### **2.3. Border formalities**

The passport of the foreigner is stamped upon entry to Albania. The **purpose of the visit is stamped as well, where applicable.**

If the foreigner arrives by car, then the Control borders officer has to check if the car insurance

- is valid and
- covers Albania otherwise the driver has to buy another one at the border.

This is the standard procedure and it shouldn't take long except in high-season periods during which the traffic is intensified

There is no limit of foreign or domestic currency that the foreigner is allowed to import or export<sup>35</sup>. It seems that there is no check and issue a document stamped with the import and export of currency.

Only if the foreigner wants to register the car in Albania, then the taxes and customs must be paid<sup>36</sup>.

The foreigner may bring his/her personal belongings without payment of any taxes.

Therefore it seems to be no specific obstacles of mobility that at the present stage of EU – Albania relations could be recommended to be abolished.

### **2.4. Police announcement**

In Albania the foreigner is obliged with 10 days after arrival or after change in address to notify the police of his/her presence. Are registered at the police only the foreigners that intend to stay in Albania **no less than one year**, and when there are absence intervals to a maximum of three months<sup>37</sup>.

There seems to be no specific obstacle to mobility that at the present stage of EU – Albania relations could be recommended to be abolished. It is recommended however that if the foreigner is a researcher the law could provide that the research institution could file the announcement to the police.

### **2.5. Stay permission (residence permit)**

A three months, six month, or one year stay permission can be renewed no more than three times consecutively<sup>38</sup>. Foreigners who work for less than 3 months in the country do not need permission.

An extension of up to 60 days (90 days total) may be obtained by applying at the local police station. The conditions are the same as when the visa was originally issued<sup>39</sup>.

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35 Mobility guide at <http://webmob.masfak.ni.ac.yu/sitegenius/article.php?aid=355>.

36 Mobility Guide Yes, nationals of Serbia are friendly to foreigners of all origins.

37 Mobility guide at <http://webmob.masfak.ni.ac.yu/sitegenius/article.php?aid=358>

38 Mobility guide for Albania, 2.1.2.1

39 Mobility guide for Albania, 2.1.2.3.

A foreign person can apply **for five years stay permission** if he/she has had a legal stay for two years consecutively in the Republic of Albania, and has durable connection or activity.

In order to work in a research institution the foreigner first obtains a visa to come to Albania and then a work and a residence permit<sup>40</sup>.

It is recommended to abolish the requirement for a work permit for researchers coming from EU, EEA and WBCs.

## 2.6. Family reunion

1) Albania seems to adopt a restrictive concept of “children”, restricting the right of reunion only to children under 18 years old, unmarried living with parents, and excluding children in need of support.

2) Albania submits the reunion to the condition of **sufficient resources** to support the family to come:

3) Albania examines if there are no other reasons, defined by the Law due to which residence permit could be withdrawn.

4) Albania does not allow the spouse to work without a work permit issued. So the spouse can work only if there are no unemployed nationals with qualifications necessary for the relevant position.

It is recommended that the legislation of Albania

- a) adopts a wider concept of children
- b) does not require the proof of “sufficient resources” in case of a hosting agreement
- c) provides for the possibility of the spouses of researchers to work without the quota system being applied.
- d) As a second step it would be even better harmonised with European standards and the right of family reunion that members of the family work without work permit or are facilitated to obtain it.

## 2.7. Mutual recognition of diplomas

The process of recognition of foreign degrees in Albania **is the same**, regardless of whether the person is a foreigner or not. The problem is that at least **70%** of the curriculum of studies in the foreign University must be the same with the curriculum of the local University<sup>41</sup>.

The procedure takes maximum 3 months or more **if the foreign University delays in replying on the authenticity of the foreign diploma**. Many demands are rejected or they are partially accepted if there are **differences in conditions** under which the

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<sup>40</sup> Mobility guide for Albania 2.1.2.6.

<sup>41</sup> <http://webmob.masfak.ni.ac.yu/sitegenius/article.php?aid=356>

degree was obtained but not substantial<sup>42</sup>. In such case the Ministry makes a list of exams to be passed.

Responsible for the recognition procedure is the Ministry of Education and Science for Bachelor degrees and PhDs and the **Universities for the master diplomas**.

The recognition is direct if there are bilateral agreements such as with Russia and Former Yugoslav Republic of Macedonia.

According to the 2007 Progress Report prepared by the European Commission there was some progress as regards mutual recognition of academic and professional qualifications. An action plan to **improve the procedures for the recognition** of diplomas was adopted, Albania is building a qualifications framework in line with the European qualifications framework. **The national vocational education and training agency has started its work. It is responsible for standards, qualifications, accreditation, assessment, curricula and teacher training**<sup>43</sup>.

Until the time that recognition procedures are improved, it is recommended that the law could provide that researchers holding a hosting agreement from an accredited research institution **could be exempted from the procedure** for the recognition of the foreign degree and that the host research institution could make a declaration in the hosting agreement on the degree equivalence.

## 2.8. Residence permit

In Albania, the stages are as follows:

1. Approval of stay
2. Work permit
3. Temporary residence permit (one year)
4. Work contract signed
5. Social security contributions<sup>44</sup>

The competent authority for issuing the temporary residence permit is the **police** Authority of the district where the foreigner has chosen his living place in Albania.

The administrative fees for issuing temporary residence permit are **197 euros** (24.000 lek when 1 Euro = 121.5540 Lek and 1 Lek = 0.0082 Euros).

In case that someone does not possess a residence permit the penalty is<sup>45</sup> 10.000 to 200.000 leks.

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<sup>42</sup> Mobility guide 3.5.2.

<sup>43</sup> Albania Progress Report 2007, p. 28. The Parliament passed a new law on higher education which includes the follow-up of the Bologna process. A master plan for higher education covering the period until 2016 has been launched. Some measures have been taken to reform teacher training in universities, and to increase the financing of research related to teaching and learning. Albania is taking measures to reinforce the leadership, management and governance of the education system, improve the conditions of teaching and learning, improve and rationalise education infrastructure and pave the way for higher education reform.

<sup>44</sup> Mobility Guide 5.3.2.

<sup>45</sup> Mobility guide 5.2.8.

In Albania the foreigner should submit the following documents in order to get a residence permit:

- a) Leasing contract
- b) Proof of registration – **pension insurance** fund
- c) Fitness for work or disease with harmful effects
- d) Certificate on judicial situation at home
- e) Letter of courtesy by home police
- f) Certificate of family situation and photos of family
- g) Financial guarantee e.g. Bank guarantee, savings booklet
- h) Certificate of the visited or employer on aim and activity

No need, as in other WBCs for:

- Copy of diploma
- Declaration of guarantor of medical costs – return costs
- Medical check up to prove health

In case of refusal there must be a written notification by the authority. The foreigner can appeal in **5 days after notification** to the Minister of Labour and Social who has to decide in 2 weeks. There does not seem to be any **provisional protection**.

In Albania<sup>46</sup> the residence permit is annulled if a foreigner, without asking the authorities for extension of permitted absence stays out for a period longer than:

- 3 months, for a 1 year residence permit<sup>47</sup>
- 6 months for a 5 year residence Permit
- 2 years for permanent residence permit.

Therefore there are the following obstacles:

- a) Too many documents needed in order to get the permit
- b) The application is submitted to the police and not to a ministry
- c) The administration fees are too expensive
- d) The penalties are too heavy
- e) In case of refusal the deadline for appeal is too short (5 days) and there is no provision protection

It is recommended that the hosting agreement could replace as a first step the majority of the documents (b, c, g and h) and as a second step all documents in order to be aligned with the Directive 2005/71/EC.

## **2.9.Work permit**

The Albanian legislation provides that it is obligatory for a researcher to sign a contract with the research institution in a written form.

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<sup>46</sup> Mobility guide 5.2.6.

<sup>47</sup> Mobility guide 5.2.6.

In Albania, as in all WBCs, the authorities issue a work permit only under the condition that **no citizen of the host State with qualifications** required by the employer is registered on the list of Employment Agency<sup>48</sup>.

When foreigners want to work in the Republic of Albania for a timeframe over three months, they have to obtain a work permission issued by the Ministry of Labour and Social Affairs. The request for the provision of work permission is presented in written **before the beginning of the job**, by filling the respective official forms. The forms of the requests can be taken at the Directory of Migration, at Embassies or Consulates outside the country, or at the regional labour offices<sup>49</sup>.

The Minister of Labour and Social Affairs defines the model form of the work permissions, the respective procedures for the reception, renewal and refusal of the work permission, as well as the way of making the request and the necessary documents that have to be presented<sup>50</sup>.

A foreigner **first finds a job, and then he/she applies for work permit**. In order to get the work permit, a foreigner needs to give relevant information about the company and description of the work that he/she will be performing. After he/she gets the work permit, the contract may be signed<sup>51</sup>.

The timeframe for the issuance of the work permission is **no more than 30 days** from the date of the presentation of the documentation to the competent organ. In the cases foreseen in article 29 of the “Law on Foreigners”, this timeframe goes until 60 days.

For an employment that takes **place for the first time**, the work permission for the foreigners will be given **limited** in time. The work permission issued according to article 34 paragraph 2 of “Law on Foreigners” has validity for a timeframe of one year<sup>52</sup>.

Therefore, according to the existing legislation, the obstacles are:

- 1) **No work permit is issued if any citizen of the host State with qualifications** required by the employer is registered on the list of Employment Agency
- 2) Work permit is needed **before starting work**, so a researcher has to wait at least 30 days until he/she starts research and after the work permit he/she gets the residence permit.

Though the draft law on the employment of foreigners has not yet been finalised<sup>53</sup> and its contents are not known to the public, it is recommended that specific rules should be adopted for the researchers, so that researchers holding hosting agreements could, as a first step automatically granted a work permit and as a second step be exempted from work permits. Indeed work permits are necessary in order to invoke labour market agreements and to receive medical care in public hospitals.

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48 Mobility guide.

49 <http://webmob.masfak.ni.ac.yu/sitegenius/article.php?aid=357>

50 <http://webmob.masfak.ni.ac.yu/sitegenius/article.php?aid=357>

51 <http://webmob.masfak.ni.ac.yu/sitegenius/article.php?aid=357>

52 <http://webmob.masfak.ni.ac.yu/sitegenius/article.php?aid=357>

53 Albania Progress Report, p. 27, 4.1.2. Movement of persons, services and right of establishment.

## 2.10. Working conditions – Career issues

The labor law applies to researchers, because it defines general rules for all types of employees in Albania. These general rules are e.g. related to overtime, holidays, maternity leave etc<sup>54</sup>.

There are no specific labour market agreements for researchers. **Foreigners must already have a work permit** in order to invoke labor market agreements<sup>55</sup>.

Researchers may participate in Professional Associations and Unions<sup>56</sup>.

**There is an Internal Code of Rules** for each scientific institution, e.g. Statute of Academy of Sciences, Statute x each institution<sup>57</sup>.

However there are the following obstacles to mobility of researchers:

1. The internal code of rules for researchers could not depend on the statute of each institution, usually in the local language, but must be gradually be uniform in all research institutions of Albania according to a specific law on research institutions gradually aligned to European standards.
2. Legislation must be amended so that public hospitals offer medical care free of charge<sup>58</sup> to all foreigners who are legally present in the territory not only to those that have work permit<sup>59</sup>. Indeed if researchers are gradually exempted from work permit and the law does not change they will not be able to receive medical care in public hospitals.
3. Vacancies in researcher jobs and fellowships in Albania could be published on the internet on the official site of Albania in a Western European language as well<sup>60</sup>.
4. Specific national legislation for fees and career issues of researchers could be drafted while researchers could form associations for making better their career.

## 2.11. Social Security

The medical care system in Albania is public, but there are also private clinics offering medical care. According to the Law, **a foreigner should have a work permit in order to have health and medical care in Albania.**

The Social Insurance, hereinafter SII, is an independent public state institution. Its activity shall be ruled in conformity with Act no. 7703, date 11.05.1993 “On Social Insurance in Albania Republic”. When a researcher gets the work permit, the institution he works for must automatically pay for his social security; therefore he/she must have affiliation to the social security system of Albania<sup>61</sup>.

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54 <http://webmob.masfak.ni.ac.yu/sitegenius/article.php?aid=357>

55 <http://webmob.masfak.ni.ac.yu/sitegenius/article.php?aid=357>

56 <http://webmob.masfak.ni.ac.yu/sitegenius/article.php?aid=357>

57 <http://webmob.masfak.ni.ac.yu/sitegenius/article.php?aid=357>

58 Mobility guide, 5.4.1. and 5.4.2.

59 Mobility guide 5.4.3.

60 Mobility guide 7.2.2.1.

61 <http://webmob.masfak.ni.ac.yu/sitegenius/article.php?aid=358>.

Multilateral or bilateral agreements between Albania and EU member states and WBCs must be concluded for ensuring aggregation of periods for social security and no double taxation of researchers' income. This is already done in WBCs on the basis of bilateral agreements that each one of them has signed with each other state. There are many, but not enough, bilateral agreements for social security issues e.g. Albania has signed such agreements only with Germany, Bulgaria and Turkey.

According to the 2007 Progress Report prepared by the European Commission, there has been no progress as regards coordination of social security services<sup>62</sup>.

It is recommended that multilateral or bilateral agreements between Albania and EU member states and WBCs must be concluded for

- a) ensuring aggregation of periods for social security and no double taxation of researchers' income
- b) extending the European Social Security Card

## **2.12. Intellectual property law**

Albania ratified the Hague Agreement of 1960 and the 1999 Geneva Act on the international registration of industrial designs<sup>63</sup>.

Concerning industrial property rights, the Directorate General for patents and trademarks (GDPT) was restructured and given additional staff. Registration and administration of patents, trademarks and industrial designs has been computerized. This has improved the processing of applications and the supply of information<sup>64</sup>.

However in case that a researcher discovers know-how or an invention in the framework of a project launched by the host institution<sup>65</sup> the host institution is its owner without prejudice to the rules of the specific project specified in the guide book<sup>66</sup>.

Therefore researchers are not protected enough when they invent in Albania, since it is the host institution that has the industrial property rights. It is recommended that researchers are given either a part of industrial property rights (50-50 or 60-40) or adequate compensation

## **2.13. Declared obstacles to incoming or outcoming mobility**

According to the mobility guide of Albania, the main obstacles to incoming mobility are :

- The lack of programs inviting foreign researchers to come to Albania,
- The procedures to get work permit and residence permit last too long,
- People working in institutions competent for issuing of these permits do not speak foreign languages and it is therefore very hard for a foreigner to go by

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<sup>62</sup> Albania Progress Report, p. 27, 4.1.2. Movement of persons, services and right of establishment.

<sup>63</sup> Albania Progress Report 2007, p. 32. 4.1.7. *Intellectual property law*.

<sup>64</sup> Albania Progress Report 2007, p. 32. 4.1.7. *Intellectual property law*.

<sup>65</sup> Mobility Guide 4.6.2.

<sup>66</sup> <http://webmob.masfak.ni.ac.yu/sitegenius/article.php?aid=357>

himself to fill out applications, collect all the papers necessary for the permit etc.

Regarding the outgoing mobility, the largest problems are the visas, since the number of countries where citizens of Albania are allowed to enter without the visa is very limited<sup>67</sup>.

In addition, there seem to be no funds for scientific research and if any there is not enough financement in Albania<sup>68</sup>.

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<sup>67</sup> Mobility guideline at <http://webmob.masfak.ni.ac.yu/sitegenius/article.php?aid=360>.  
<sup>68</sup> Mobility guide 7.3.1.

## **DECISION**

No. 439, Dated 4.8.2000

### **ON THE ENTRANCE, STAY AND TREATMENT OF THE FOREIGNERS IN THE REPUBLIC OF ALBANIA**

Based on the article 100 of the Constitution, and article 83 of Law No. 8492, dated 27.5.2000 "For foreigners", upon the proposal of the Minister of Public Order, the Council of the Ministers

#### **D E C I D E D :**

1. The foreign citizens who enter or leave the territory of the Republic of Albania, are obliged to pass the border **only through the Border Pass** and Control Points (BPCP). The passing through the other part of the State border is considered as illegal, except for the cases foreseen in the bilateral or multilateral agreements on the solution of the probable incidents at the State border, or for the maintenance of the State border line as well as for the cases when foreign citizens present themselves through different directions of the State border to seek asylum in the Republic of Albania.

2. At the BPCP, after the control of the documents is kept the evidence which consists in:

- Registration of the foreign citizens, who at the exit result to have violated the dispositions in power on the foreigners, (expiring of the stay time limit, change of the points established for entry and exit, etc)
- Compilation of the general report on the foreigners who enter and leave the Republic of Albania.

3. The Border Police in the BPCP communicates to the foreign citizens that they have to present themselves at the Police Commissariat of the place where the foreigner will stay.

Only the foreign citizens who will stay in the territory of the Republic of Albania longer than 20 days will present themselves at the Police Commissariat. The foreign citizen at the Police Commissariat will fill the declaration following the model attached to this decision.

Will not present themselves at the Police Commissariat the personnel of the foreign missions, the employees of the foreign diplomats, the persons under the age of 16, the religious clerks, the crew members (ship or aeroplane), as well as the foreigners who are operating at the public institutions.

4. The foreign citizens enter in the territory of the Republic of Albania presenting to the border police valid travel documents such as passport, identity card, border document, lasser- passes, lasser – passes of the United nations Organisation and its affiliates, Council of Europe, European Union, NATO and travel document.

The foreign citizens may enter the territory of the Republic of Albania without a visa, possessing a visa issued at the border by the border police or a visa issued by the Consular Office of the Republic of Albania abroad, in accordance with the stipulation made in the Attachment no.8, enclosed to this decision.

The Ministry of Public Order communicates to the Ministry of Foreign Affairs any change in the entry and visa regime for different countries.

5. At the border or inside the territory of the Republic of Albania will be accepted with or without identity documents the foreign citizens who claim that will

enter or have entered in the Republic of Albania to seek asylum. For the asylum seekers the State Police, after having in written the asylum request of the foreigner, immediately the Ministry of Foreign Affairs, the Office for Refugees and the Office of the High Commissariat for the Refugees in Albania. In these cases the foreign citizens are kept at the police station but not longer than 10 hours from the submission of the request, until their taking and accompanation by the responsible organs to the centre for refugees.

6. The sailors of the navigation vehicles, the crews of the airplanes, the drivers of the road transport vehicles who are legally in the territory (ports, airports or BPCP) of the Republic of Albania may enter in the Albanian territory on transiting pass purposes using also the sailing or navigation passport. The transiting visa, according to the case, is issued at the BPCP in compliance with the acts regulated in the Order of the Minister of the Public Order.

7. At the consular offices in the missions of the Republic of Albania abroad, the visa applicant, who travels with simple passport presents these documents:

- The documents established in article 9 of the Law No.8492, dated 27.5.1999 “For foreigners”.
- The verbal request for a visa
- The warranty from the host in the Republic of Albania (in original copy)
- The vaccination record, when the concerned person comes from countries touched by epidemics.

In addition to the request and the warranty the concerned person fills the standard form, according to the attachment 1 enclosed to this decision.

8. At the BPCP, the foreign citizens who enter in the Republic of Albania without a visa as well as those who are issued the visa at the border, but who hold simple passports, submit:

- The documents established in article 9 of the Law No.8492, dated 27.5.1999 “For foreigners”.
  - The warranty from the host in the Republic of Albania (in original copy)
- Photocopy of the vaccination record, when the concerned person comes from countries touched by epidemics.

The procedure for the issuance of the visa at the border, for the entry at the border is defined in the bilateral agreements, when they exist or in the joint acts of the Minister of Public Order and the Minister of Foreign Affairs. For the citizens who enter in the Republic of Albania without a visa as well as for those who are issued the visa at the border, the stay time frame may not be longer than 30 days.

9. The visa that is issued by the responsible organs may be individual or collective. The collective visa is issued for not less than 10 persons and for not more than 40 persons.

The prolonging of the visa stay timeframe may be done until the half of the initial stay time frame, when the foreign citizen is physically in the Republic of Albania. The stay time frame in the initial visa and the stay timeframe in the prolonged visa should not pass the 90 days. The approval of the visa stay time for the members of the diplomatic body, for the foreign officials who are in mission in Albania and for the foreigners who are foreseen in the agreements in power and who are established by special act, is done by the Ministry of Foreign Affairs. For the other cases, when the foreign citizen is in the territory of the Republic of Albania the approval of the visa stay time is done by the ministry of the Public Order.

10. The foreign citizens who enter in the Republic of Albania and will stay for more than 90 days are provided by the Ministry of Public Order with stay permission,

which is renewable.

The request for stay permission or for its renewal is submitted at the Local Police Commissariat where the foreigner has chosen his temporary residence. For the issuance of the stay permission, the foreigner has to submit at the local police commissariat where he has chosen his residence, these documents:

- a. The request for stay permission, where will be established precisely the purpose of the visit and the address of the place where he will stay in the Republic of Albania;
- b. The passport which has enable the legal entry in the Republic of Albania and a notarised photocopy of the pages of the passport that hold data of concern (the page containing the photo and the generalities of the holder, the page that contains the Albanian visa, as well as the page containing the dated entry stamp). The passport is given back to the interested person at once; the photocopy is kept in the file;
- c. Certificate of the judicial state, issued in the country of origin;
- ç. Good behaviour letter by the police organs of the country of origin for the last six months;
- d. The house rent contract;
- dh. Translated and notarised family state certificate , if the person is married;
- e. Two photographs 3.5 x 4.5 cm, for each person of the family state;
- ë. Financial guarantees as notarised photocopies of legal documents for the permission to exercise the economical or humanitarian activity, banc guarantees, savings record;
- f. Certificate from the host or the employer on the motives of stay, adaptability for the declared activity, involvement in the activity, the need of such involvement.

All the acts should be produced and issued in the last three months, from the date of their submission at the local police commissariat.

Before the proceeding for the providing with stay permission, should be taken the confirmation by the record section of the State Information Service.

For the asylum seekers and those who are under temporary protection, the request id submitted at the Office for Refugees.

11. To renew the stay permission the foreigner has to submit at the local police commissariat these documents:

- a. The request for the renewal of the stay permission where is clearly established the purpose of the renewal;
- b. Financial guarantees as notarised photocopies of the legal documents for the allowance to exercise the economical or humanitarian activity, bank guarantees, savings record;
- c. Photocopy of the previous stay permission;
- d. One photograph 3.5x4.5 cm for the person who wants to renew the stay permission.

During the period when the documents of the stay permission demander are being processed in the State institutions his stay will be considered as legal until the receive of the respective reply.

12. The foreign students accepted in the public or private education institutions in the Republic of Albania are provided with stay permission with precedence, after their request and the written certificate of the educational institution. With regards to the payment, in the case of the students, the reciprocity principle is applied.

13. The foreigners who have helped for our national interests and who ask for

permanent residence permission in the Republic of Albania are recommended by the Science Academy of the Republic of Albania and by the central institutions of the Albanian State.

14. When the foreigner changes the residence, he notifies on this within three days, the local police commissariat where he has obtained the stay permission, as well as the police commissariat of the place where he establishes his new address.

15. The foreigners provided with a stay permission are free to enter and exit in/from the Republic of Albania, without needing a visa. The stay permission is put in the foreigner's passport in the shape of the stay visa. This service is free of charge.

16. The foreigner's stay permission is interrupted in the cases when he stays out of the territory of the Republic of Albania, beyond the time limits defined in Law for Foreigners No.8492, dated 27.05.1999, without having presented first the written request on this purpose.

The request for the extension of the stay permission is submitted before the local police commissariat where the foreigner has established his residence, or before the diplomatic or consular mission (which when they) receive such requests forward them at once to the Ministry of Public Order. For the refugees the interruption of the stay permission is done after the receipt of the written decision from the National Commissioner for Refugees.

17. The Ministry of Public Order collaborates on the problems with the foreigners, with the Ministry of Foreign Affairs, Ministry of Local Power, the General Prosecutor's Office, the State Information Service, the Ministry of Labour and Social Affairs and the Ministry of Justice. This collaboration is regulated in joint acts, issued for the application of the law.

18. The Ministry of Foreign Affairs sends every six months to the Ministry of Public Order, the list of the foreign citizens considered as *persona non grata* and of those who are rejected the request for entrance, visa or stay permission.

The Ministry of Health notifies the Ministry of Public Order, on each case on the countries touched by epidemics, as well as the preventive measures against the spreading of the epidemic in the territory of the Republic of Albania.

These lists are deposited by the Ministry of Public Order near the BPCP.

19. The diplomatic and consular missions of the Republic of Albania abroad, notify the Ministry of Foreign Affairs on all the visas issued and this last notifies the Ministry of Public Order before the time frame of the use of the visa starts.

20. All the visas issued in the Republic of Albania are of stamp shape containing security elements, as in attachment 2, enclosed to this Decision, and are stucked at the obtainer's passport page.

The Ministry of Public Order is charged with the production and the security of the stamp visa.

The diplomatic and consular missions receive the visas from the Ministry of Public Order through the Ministry of Foreign Affairs, in accordance with the financial rules in power.

21. The foreign citizens removed or expelled by the relevant Albanian authorities are not allowed to enter the Republic of Albania, before the expire of the time frame stipulated in the removal or expulsion order.

The foreign citizens who are refused the entrance in the Republic of Albania, are immediately sent back by the travel company line, through which they have come. In cases when this possibility doesn't exist or in case of asylum request, the foreign citizen may be hold at the BPCP until the examination of his complain within 48 hours. The Ministry of Public Order takes the necessary measures for their stay and

residence as well as other measures for an acceptable treatment of them. Exception from this rule may be made only on humanitarian bases as in cases of deaths, accidents or grave sicknesses of their relatives. In these cases the person interested for the visa or the stay permission has to present a official act on the concrete case.

For the foreigners who are refouled at the border, the act of refoulement is compiled, copy of which is handled to the foreigner.

22. The foreign citizens, who have entered the territory of the Republic of Albania, are allowed to exit presenting the travel documents by which they have entered this territory at the BPCP. In the cases when they have lost these documents, it is sufficient to present the pass permission issued by the Ministry of Public Order. The foreigner who is wanted by the Albanian authorities because he has committed or is suspected to have committed a criminal act and asks to go to another State is forbidden to exit the Republic of Albania, until the receipt of the answer by the responsible organ.

23. The foreign citizens who come from other countries in an illegal way, are stopped by the State Police in accordance with the legal dispositions. They are gathered in the centre established for this purpose. The foreigners stay in the centre until the solution of their problem.

The Ministry of Public Order raises for the treatment of the foreigners who enter in the territory of Albania, centres for their collection and treatment.

24. In all the cases when the foreign citizens enter in the territory of the Republic of Albania and apply for stay permission, extension of the stay time, or come as clandestine, their request may be denied in the conditions and circumstances foreseen in the law.

25. The foreign citizens, who are resident in the Republic of Albania are provided with these documents:

- Card for the foreigners, according to attachment 3, enclosed to this decision, for the citizens older than 16 years who are resident in Albania for more than one year, which is issued applying the tariff equal to the triple of the passport for abroad selling price for the Albanian citizens.
- Passport for foreigners, for the persons who have been with a permanent stay permission, 5 years stay permission or the foreigners of Albanian origin with temporary stay permission and who do not have the possibility to be provided with passport or travel document by their state of origin or by another state. The foreigners with refugee status are also provided with this passport. The tariff for the passport for the foreigners is equal to five times the passport for abroad for the Albanian citizens selling price.
- The pass permissions for the foreigners, according to attachment 4, enclosed to this decision, which is issued applying the tariff equal to the double of the passport for abroad for the Albanian citizens selling price.
- Pass permission for all the foreigners, which is issued:
  1. applying 1.5 times the passport for abroad for the Albanian citizens selling price, when it has a three months time frame;
  2. applying three times the passport for abroad for the Albanian citizens selling price, when it has a six months time frame;
  3. applying 10 times the passport for abroad for the Albanian citizens selling price, when it has a one year time frame, according to attachment 5;
  4. applying 25 times the passport for abroad for the Albanian citizens selling price, when it has a five years time frame, according to attachment 6;

5. applying 50 times the passport for abroad for the Albanian citizens selling price, when it has a permanent time frame, according to attachment 7;

For the issuance of the duplicates for each of the above documents shall be applied a scale of 50 % higher than the price of the passports for abroad, for the citizens. When the foreigner is provided with a duplicate for the second time this tariff is equal to 2,5 times of the price of the passport for abroad, for the citizens.

AVT is applied on these tariffs, in accordance with the law.

With regards to the states with which the principle of reciprocity is applied, the Ministry of Foreign Affairs sends to the Ministry of Public Order the respective list, the type and the level of the tariffs, as well as does the necessary changes on which notifies the Ministry of Finance and the Ministry of the Public Order.

For the refugees these expenses are covered by the Office for Refugees of the Republic of Albania.

The models of these documents are established according to the attachments enclosed to this decision, are produced by the Ministry of Public Order and are subject to the financial organs control.

The documents issued to the foreigners are taken away by the authorities that have issued them when they are declared invalid, or their holders are expelled. The retract of the documents is done in the moment of their departure from the territory of the Republic of Albania.

26. The passport for the foreigners as well as the pass permission are issued when the foreigner demands them for travelling out of the Albanian territory and there are no legal obstacles to leave this territory.

27. The decisions for the removal or the expulsion of the foreign citizen are taken in accordance with articles 4, 5, 46, 47 and 52 of Law no. 88492, dated 27.05.1999 "For foreigners", as well as with the written notification made by the relevant authorities, by the judicial and the administration organs.

The approval of the removal or expulsion order is done by the responsible authority at the Ministry of Public Order.

The foreign citizen who committs criminal acts in the territory of the Republic of Albania is proceded according to the dispositions of the Albanian legislation.

28. Before the foreigner is notified the removal or expulsion order, the police takes all the necessary measures for the manner of the execution of the expulsion, the necessary means, the ensurement of probable visas and tickets, as well as for other problems. The removal or expulsion order is suspended when the foreigner, within three days from the receipt of the notification, presents founded reasons according to which this order constitutes violation of the international agreements in which the Republic of Albania is party. In cases when the foreigner has not left within the timeframe and has presented a request for the revision of the order, the revision is done by the authority at the Ministry of Public Order within eight days since the day of the submission of the request.

The expulsion expenses are ensured by the police from the blocking of the money or other means of the foreigner, from the centre where the foreigner has contributed or has been employed, from the companies or the transporting companies or persons. In case these possibilities do not exist, the financial expenses for the expulsion of the foreigner are covered by the income that the Ministry of Public Order gathers from the tariffs of the services offered to the foreigners.

The Ministry of Public Order notifies on the foreigner's removal measure the Ministry of Foreign Affairs, the Ministry of Labor and Social Affairs, the Ministry of Local Power, the General Prosecutor's Office, the State Information Service, as well

as the centre where the foreigner is employed.

29. The authorities of the border police and those of public order police make the registration of the foreigners, the control, the blocking of suspected documents, put of fines, as well as the accompanation to the local police commissariats.

The fine for the administrative contraventions is applied as follows:

1. for the administrative contraventions established in points 1-2, of Law no. 88492, dated 27.05.1999 "For foreigners", the checker of BPCP applies the fines in place for an ammount of 10 000 – 20 000 leks.

2. for the administrative contraventions established in points 3, 4, 13 and 15 of Law no. 88492, dated 27.05.1999 "For foreigners", the commander of the BPCP applies the fines in place for an ammount of 30 000 – 50 000 leks. When the work permission is not consigned this fine is applied by the employment office inspector.

for the administrative contraventions established in points 5-9, of Law no. 88492, dated 27.05.1999 "For foreigners", the clerk of the State Police applies the fine in place for an ammount of 60 000 – 90 000 leks.

4. for the administrative contraventions established in points 11, 12 and 14 - 16, of Law no. 88492, dated 27.05.1999 "For foreigners", the clerk of the State Police applies the fine in place for an ammount of 100 000 – 200 000 leks.

5. for the administrative contraventions established in point 10 of Law no. 88492, dated 27.05.1999 "For foreigners", the sanitation inspector of the Ministry of Health applies the fine in place for an ammount of 10 000 – 30 000 leks.

30. The hotels, motels, pensions, as well as the subjects engaged in family tourism shall keep the record of the foreign citizens that they host. The record should contain:

- precise name and surname according to the passport presented;
- sex;
- place and date of birth;
- citizenship;
- Serial no. of the passport (or identity document);
- Serial no. of the visa, place of issuance, and the time stay expiration date in the visa.

The hotels, pensions and other permises of this character, give at the local police Commissariat every day until 24.00 hrs., precise data on the number of the foreigners that they have registered.

31. The income from the services offered to the foreigners, are predestinated income (with a participation of 10 % for the State Budget and 90 % for the institution), which cover the expenses for the performance of the services to the foreigners.

This decision enters in power after the publication in the Official Paper.

PRIME MINISTER

Ilir Meta

Law on Foreigners (1999)

Αρχή φόρμας

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Print

*Unofficial Translation*

**Law on Foreigners**

**Republic of Albania**

**Law No. 8492**

**August 1999**

This Law No. 8492 was approved by the Albanian People's Council on 27 May 1999. Declared by the decree no. 2394, dated 18.06.1999 of the President of the Republic of Albania. This law was published in the Official Gazette on the 21st of July 1999 and entered into force 15 days after the publication on the 5th of August 1999.

In accordance with articles 78 and 83 point 1 of the Constitution, by the proposal of the Council of the Ministers,

THE PEOPLE'S ASSEMBLY OF THE REPUBLIC OF ALBANIA  
DECIDED:

**CHAPTER I GENERAL DISPOSITIONS**

**Article 1 Object of the law**

This law regulates the regime of entrance, stay, circulation, employment of the foreigners in the Republic of Albania, as well as their exit from its territory.

**Article 2 Definitions**

For the application of this law the following terms have the following meanings:

"**Foreigner**" – is every person, who according to the Albanian legislation is not an Albanian citizen;

"**asylum seeker**" – is every person named as such by law 8432, date 14.12.1998 "On Asylum".

"**refugee**" – is every person named as such by law 8432, date 14.12.1998 "On Asylum".

"**Members of the family**" – are:

- a. the husband/wife (the validity of the marriage is established according to the law of the country where the marriage was bound);
- b. the parents, stepfather, stepmother;
- c. children under 18 years old, unmarried and who live with the parents;
- d. other members of the family who are legally coexisting;

"**visa**" – is the official authorisation issued by the Albanian authorities to a foreigner, to enter in the Republic of Albania;

"**mandatory preliminary request for a visa**" – means the request of the foreign citizen to have the visa before he/she presents himself at the border of the Republic of Albania.

"**stay permission**" – is the document issued to the foreigner to stay in the territory of the Republic of Albania;

"**passport for foreigners**" – is called the travel document, issued to the foreign citizens by the competent Albanian organs, to make possible the travelling abroad, but which is not proof of the identity of the citizenship;

"**work permit**" – is called the authorisation issued by the respective competent organ to a foreigner, for reasons of business, employment or self-employment;

"**request for asylum**" – is the request for the recognition of the status of refugee, according to the international acts generally accepted;

"**transporter**" – shall be called every physical or legal person who by air, land or maritime ways transports and brings foreign citizens in the Republic of Albania.

"**material guaranties**" – means the necessary financial sum deposited by the foreign person himself/herself or by another person because which is deposited of an obligation that can arise as a consequence of an expected action or inaction of the foreign person that goes against the dispositions of this law;

"**immigration authority**" – implies all those competent respective organs which have duties according to this law;

"**resident**" – is called the foreign citizen, who disposes a stay permission issued according to this law, by the immigration authorities;

"**guarantor**" – is called the Albanian citizen or the foreign resident in Albania, who declares by means of a legal document that takes the

responsibilities for the stay of the foreigner in Albania and his removal according to the dispositions of this law;

**"undesirable person"** – means a foreign person, determined as such by the Minister of the Public Order or another instance authorised by him based on the dispositions of this law, whose entrance or stay in the Republic of Albania is considered as if damages the interests of the national security, public security, public health, and moral and other important national interests;

**"order of removal"** – means the order for the removal of a foreigner from the territory of the Republic of Albania because his/her stay is no longer legal;

**"expulsion"** – means removal by order, removal by force or banishment;

**"removal by force or banishment"** – means the integrity of the measures for the compulsory removal of the foreigner from the Republic of Albania by the police authorities;

**"police"** – is the competent authority part of the police structures of the Ministry of Public Order, with the attributes of the judicial police for the contraventions that are established in this law.

### **Article 3 Basic principles**

This law recognises and respects the principles and the norms generally accepted of the international acts, the principle of the reciprocity, the principle of the respect of the human rights, and the interests of the national and public security.

### **Article 4 Undesirable persons**

If not established differently in this law, foreign persons will be considered undesirable and will be refused the request of entrance, visa or stay permission in the Republic of Albania when:

1. they act or make propaganda against the sovereignty, national security, constitutional order and public security;
2. they have been sentenced for crimes for which the law foresees a punishment of not less than 5 years in prison;
3. they are members of terrorist organisations or organisations who violate the constitutional order, as well as when they support actions that are against any organised form of government;
4. they are wanted by international organisations for crimes against humanity, crimes committed in times of war, or other serious crimes;
5. they constitute a threat or infringe the relations of the Republic of Albania with other countries;
6. there are founded suspects that they will enter or stay in the territory of the Republic of Albania to commit a crime, or when they constitute a threat for the State;

7. they are engaged in organised crime, prostitution, traffic of narcotics, illegal traffic of clandestine in the Republic of Albania or their transiting, or in any other illegal traffic.

The prohibition, for the aforementioned persons, to enter in the Republic of Albania is valid for a period not less than 10 years from the date they are declared "undesirable persons".

When the foreign persons have made actions which constitute limitations according to paragraph 1 of this article before they reach the age of 18, have the right to ask from the Minister of Public Order to review their request of entrance, visa or stay permission in the Republic of Albania.

### **Article 5 Cases of refusal of entrance, visa and stay permission**

The request of entrance, visa and stay permission can be refused to the foreigners in cases when they:

1. are users of narcotics;
2. are chronic users of alcohol, or persons who have very infectious diseases;
3. applicate or make propaganda for prostitution or other acts which go against the public moral and are punishable by law;
4. have violated or violate provisions of the Albanian legislation;
5. work without a work permission or accept to employ foreigners without a work permission;
6. have left the country supported by public expenses or have other financial obligations towards the Albanian State or citizens, which have not been fulfilled;
7. are citizens of a State with which the Republic of Albania is in State of war, in conflict, there are serious political tensions, or of a State which is suspected of terrorism against the Republic of Albania;
8. have been expelled and try to enter or stay in the Republic of Albania during the time that the decision of the expulsion is valid;
9. come from epidemic areas and do not possess the full papers of vaccination;
10. do not have a passport or other document, according to the article 9 of this law, in order to clarify their identity and citizenship, or results that they have presented fraudulent documents;
11. have grave psychological problems and are unaccompanied by their custodies.

The cases foreseen in paragraph 1 point 7 of this article are established by special order of the Minister of the Public Order.

For the cases foreseen in this article, exception can be made only on humanitarian grounds.

### **Article 6 Entrance of minors**

Persons under 16 years old may apply for a visa permission or ask to enter in the Republic of Albania with the permission of their legal custodies and accompanied by adult persons. Exception is made for the persons who enter as asylum seekers.

### **Article 7 Decision taking regarding the foreigners**

The decisions regarding the foreigners are taken on bases of the law, known circumstances, or information that can be gathered by the Albanian authorities, taking into consideration the motives of entrance or stay, the means of the foreigner for living in the Republic of Albania, and the reasons for which the foreigner must not enter or stay in Albania.

Every decision or permission regarding the foreigners may be annulled when the reasons on which this decision has been taken do not exist any more, or the conditions on which bases was made possible the issuance of this permission change, or because of the presence of some new factors that do not allow the entrance or stay of the foreigner in the Republic of Albania.

The Minister of the Public Order, in special cases, for important State, national security and public order interests, can make exceptions with respect of the fulfillment of the conditions established in this law by a reasoned decision, taking all the due measures to avoid the negative consequences that this action can bring.

## **CHAPTER II ENTRANCE AND EXIT FROM THE REPUBLIC OF ALBANIA**

### **Article 8 Place of entrance**

The persons who enter in the territory of the Republic of Albania are obliged to pass only through the Border and Control Points.

### **Article 9 Conditions of entrance**

The foreigners have to fulfil the following conditions to enter in the Republic of Albania:

1. To hold one of the following documents:
  - a. passport, or other valid travel document which makes possible the certification of the identity of the citizenship of the person, valid until six months after the entrance in the Republic of Albania, and recognised by the Albanian authorities;
  - b. identity card for the citizens of those countries, to whom, by by-laws for the application of this law, is allowed the entrance with this document;
  - c. pass-permissions of the UN and its organisations, Council of Europe, European Union, NATO and other

organisations established in by-laws for the application of this law;

d. pass-permission for children under 16 years old.

2. To dispose the permission issued by the Albanian authorities like visa or stay permission. It can be requested to the foreigners to hold even the necessary documents on bases of which the visa has been issued, or that support the motive of the entrance in the Republic of Albania, as established in the acts issued for the application of this law.

3. The foreign citizens who, on bases of the definitions in the by-laws issued by the Council of Ministers for the application of this law, are allowed to enter in the Republic of Albania without visa, are considered to have the permit to enter into the Republic of Albania.

4. To prove that they dispose sufficient means for living, on bases of which they create the credibility and prove that they will not ask for public funds to ensure their life in Albania. As such proofs will be accepted: touristic circulation ticket, business certificate, business correspondence, export and transport bills, means of living as cheque, credit card, bank certificate, cash, salary certificate, supporting declaration by a guarantor in Albania according to the definitions in the by-laws for the applications of this law, etc.

5. The requisits of point 3 of this article are not applied to a foreigner who wants to meet members of the family, who are Albanian citizens, foreigners resident in the Republic of Albania, or refugees.

6. The disposal of the visa or of another document that authorises for the entrance of the foreigner in the Republic of Albania, is no longer valid if the foreigner is considered undesirable or is devaluated according to the stipulations in this law.

#### **Article 10 Members of foreign crews**

Members of the crew of a transport vehicle that operates with legal bases in Albania, will be liberated from some limitations and requests of this law, according to the rules established by the Minister of the Public Order.

#### **Article 11 Obligation of the readmission**

Based on the obligations that arise from the readmission agreements signed by the Republic of Albania, are readmitted the foreigners expelled by other States, who departed from the Republic of Albania.

#### **Article 12 The right to stay in the transit points**

In case of refusal of the entrance, the foreigner can stay at the transit of Border Pass and Control Points (BPCP) until the final removal and, in case of complaint or asylum request, as stipulated in this law, until their examination. The examination of the complaint for the cases Stated in this article, has to be made within 48 hours from the refusal.

#### **Article 13 Exit from the Republic of Albania**

Every foreigner is free to leave the Republic of Albania, with exception for the cases when:

1. is wanted from the Albanian authorities because he has committed, or is suspected to have committed, a criminal action;
2. wants to leave towards another country and has no visa or permission to enter in that country.

### **CHAPTER III VISAS, STAY PERMISSIONS**

#### **VISAS**

##### **Article 14 The request for visa**

The foreigners who have to present a preliminary request for visa, have to be out of the territory of the Republic of Albania at the moment of the application.

The request for the visa is presented to the representatives of the Republic of Albania outside the country. If there is no Albanian representative in the country of the applicant or in the country where he/she is a resident, the request can be presented to the Albanian representative in the neighbouring country. If this is also impossible because of the distance, the request can be presented by the interested party at the Consular Directory near the Ministry of the Foreign Affairs of Albania, and the visa is given at the border.

For the children under 16 years old, when they are not provided with personal passport, the visa can be noted at the visa of the parent or of the legal custody, in whose passport the child is registered.

##### **Article 15 Competences of the official of the diplomatic mission.**

The official of the Embassy of the Republic of Albania outside the country is entitled to give the approval for diplomatic, service, touristic, medical, business and transiting visa in the following cases:

1. For distinguished personalities of the political, social, cultural, economic life of the country where they are.
2. For foreign delegations that come by an invitation of the ministries or other institutions equal to them, municipalities and prefectures.
3. For urgent humanitarian cases (deaths, accidents or unexpected grave sicknesses).
4. For members of the families (parents, children, sisters, brothers) of the foreign diplomats in Tirana.
5. For the persons provided with a travel document of well-known international organisations and institutions.

For other cases that are not established above, the official of the Embassy requires first the approval of the Consular Directory near the Ministry of Foreign Affairs, which on its turn has to consult the competent authority near the Ministry of the Public Order.

The competences defined in the first paragraph of this article can be suspended only through a joint order of the Minister of the Public Order and the Minister of the Foreign Affairs.

**Article 16 The timeframe, number of the passages, and the length of the stay time of the visa.**

The visa contains the timeframe for its use, that means the time limit within which the foreign person has the right to use the visa to enter in Albania. The time limit of the use can be:

1. three months,
2. six months,
3. one year.

The timeframe for the use of the visa begins at the date of its issuance.

In the visa is also established the timeframe of the stay, which goes from 1 to 90 days. The timeframe for the stay begins the day that the foreigner enters into Albania. The visas with a timeframe of use of more than three months can be with many passages.

The visa is extended only one time up to the half of the first period by the embassy of the Republic of Albania or the competent authority, stipulated in this law.

The timeframe of the use and of the stay, the number of entries and the fee, can vary for citizens of particular countries depending on the reciprocity.

**Article 17 The conditions for the approval of the visa**

For the approval of the visa the following conditions have to be fulfilled:

1. The foreign citizen must be suitable to enter and stay in the Republic of Albania, according to the definitions in articles 4 and 5 of this law and by-laws for its application.
2. The foreign citizen has to hold a travel document, the validity of which overpasses at least three months the timeframe for the use and stay of the visa.
3. The foreigner states the reason of the visit in Albania.
4. Has sufficient means of living, so that will not ask for public funds.

If the foreigner has been removed before, the authority of the removal must be consulted before the approval of the visa.

**Article 18 The types of the visas**

The visa can be individual or collective in cases of groups with no less than 10 persons.

The Albanian authorities issue the following types of visas:

1. Diplomatic visa is issued for high diplomats and officials, as well as for private visits of personalities in rank no lower than minister.

The diplomatic visa can be refused only after consultations with the Ministry of the Foreign Affairs. The diplomatic visa is issued for free with the exception of the cases when reciprocity is applied.

2. Service visa is issued for officials or persons that come in the Republic of Albania in the framework of the collaboration with our public institutions.

3. Simple visa that is divided into the following categories:

a. Tourist visa is given to the foreigners that come to the Republic of Albania for tourism, visits, etc. The timeframe of its use must not pass six months including the extension. The foreigner that disposes this visa is strictly forbidden to work or exercise gainful activity.

b. Studying visa is given to the foreigners who want to follow different courses or schools in the Republic of Albania. The timeframe is established depending on the duration of the studies.

c. Business visa is given to the foreigners who will exercise a gainful activity in the Republic of Albania.

d. Medical visa is given to the foreigners who want to have medical visits or to be treated in the Republic of Albania.

e. Transiting visa that allows the stay only for 48 hours or for one transiting passage, and does not allow the foreigner to work or to exercise activity. This kind of visa can be with one, two, or many passages.

f. A visa with a stay timeframe of 72 hours is given to those foreign citizens who are obliged to present a preliminary request for visa, but that for justifiable reasons present themselves to the Points of Border Pass and Control (PBPC). This visa is given by the authorities of the Local Directory of the Police. The foreigners that take this visa have the right, within this timeframe, to present a request for obtaining another type of visa.

4. A stay visa is given to the foreign citizens who foresee to stay for more than three months in the Republic of Albania.

The visas foreseen by the points 1 to 3 of this article, except for the visa stipulated in point 3 (b), are given only in cases when the foreign persons foresee to stay in the Republic of Albania no more than three months.

## **STAY PERMISSIONS**

### **Article 19 Conditions to apply for a stay permission**

Are entitled to ask for stay permission:

1. foreign citizens who are allowed to enter without visa in the Republic of Albania;
2. foreign citizens provided with a stay visa.

The request for stay permission is presented to the competent authorities at the Ministry of the Public Order. The request is not valid if the foreigner leaves before the decision is taken.

### **Article 20 Duration of the stay permissions**

The stay permissions can be for:

1. three months
2. six months
3. one year
4. five years
5. permanent

A three months, six month, or one year stay permission can be renewed no more than three times consecutively.

A foreign person can apply for a five years stay permission if he/she has had a legal stay for two years consecutively in the Republic of Albania, and has durable connection or activity.

### **Article 21 Conditions to obtain a stay permission and its renewal**

The foreigners can be provided with stay permission if they:

1. fulfil the conditions of articles 4, 5 and 8 of this law;
2. have adequate conditions and means of living;
3. are able to reason the motive of the stay, their adequacy to exercise the foreseen activity;
4. are able to reason their full engagement, as well as the need for this engagement in the activity for which they request the stay permission.

The request for the renewal of the stay permission is presented one month before the end of the timeframe of the existing permission. It is renewed within one month, if the main circumstances for the issuance of the previous permission have not changed.

### **Article 22 Limitations in the stay permission**

The stay permission can be issued even with limitations, taking account of the motives of the stay in the Republic of Albania, that are defined in acts for the application of this law, in the interest of the national security and public order. These limitations can be changed by request of the foreigner, or by the change of the conditions.

The stay permission can be annulled to the foreigner, if he/she stays out of the territory of the Republic of Albania for a period longer than three months, for the holders of one year permissions; six months for the holders of five years permissions, and two years for the holders of permanent stay permission. The foreigners can ask for a longer timeframe for stay out of the country, if they make a previous request at the local authorities of immigration.

The Council of Ministers establishes the financial and business conditions for the investors, merchants, businessmen, trade partners and the foreign self-employed, regarding the obtention of the stay permission.

### **Article 23 Stay permission as result of the family union**

A foreigner is allowed to apply for stay permission because of family reunion, if one of the family members is an Albanian citizen, refugee, or foreign resident with a stay permission no shorter than one year.

If the person resident in Albania has more than one spouse, he has to choose only one of them.

It is accepted as a request for stay permission the request of a foreigner for family union for reasons of convivence without marriage with a foreign person resident in Albania, if in the country of one of the applicants the convivence without marriage between two persons of different sexes, is accepted as legal. Family reunion is not considered as an argument to issue stay permission to a foreign person, if the marriage or the adoption is done after an order of removal or decision of refusal for him/her.

### **Article 24 Conditions for permanent stay permission**

A foreign person can request permanent stay permission when:

1. has reasons for family reunion, if a family member is an Albanian citizen or permanent resident. The spouses must have convivence for more than one year in the Republic of Albania;
2. has had a five year stay permission and has permanent connection or activity in the Republic of Albania.

Can request for permanent stay permission also those foreign persons who have contributed to our national interests. The Minister of the Public Order decides if they can be liberated from some limitations or demands for the approval of the stay permission.

## **CHAPTER IV WORK PERMISSIONS**

### **Article 25 Obligation to obtain a work permission.**

The physical or legal persons who are not Albanian citizens, when they want to work in the Republic of Albania for a timeframe over three months, have to obtain a work permission issued by the Ministry of Labour and Social Affairs.

### **Article 26 Presentation of the request for work permission**

The request for the provision of a work permission is presented in written before the beginning of the job, by filling the respective official forms.

The forms of the requests can be taken at the Directory of Migration, at our Embassies or Consulates outside the country, or near the regional labour offices.

The Minister of Labour and Social Affairs defines the model form of the work permissions, the respective procedures for the reception, renewal and refusal of the work permission, as well as the way of making the request and the necessary documents that have to be presented.

#### **Article 27 Competent organs for the issuance of the work permission**

The competent organ for the issuance of the work permissions is the labour office of the local government unit where the foreigner wants to exercise his/her activity.

When the exercise of the activity of the foreigner is made in more than one local unit, the work permission will be issued by the Directory of Migration in the Ministry of Labour and Social Affairs.

#### **Article 28 Place of the exercising of the activity**

Unit of the local government where the citizen exercises his/her activity, will be called the one where there is the centre of the enterprise or office where the foreigner is employed or self-employed.

When the foreigner exercises his/her activity in different units, the place of the exercise of the work activity will be the one where the foreigner is paid or where the self-employed has its centre.

#### **Article 29 The request for work permission, when the foreigner has not entered the Republic of Albania.**

When the employee lives in a foreign country and is subject of the preliminary request for visa, the request for work permission is made by the employer to the respective labour office.

After the reception of the respective approval, the employer presents the individual documents of the employee, translated in Albanian and notarised, to the Directory of Migration in the Ministry of Labour and Social Affairs.

The Directory of the Migration sends this work permissions at the embassy or consular office of the Republic of Albania in the nearest living place of the employee.

#### **Article 30 Timeframe for the issuance or refusal of the work permission**

The timeframe for the issuance or refusal of the work permission is no more than 30 days from the date of the presentation of the documentation to the competent organ. In the cases foreseen in article 29 of this law, this timeframe goes until 60 days.

#### **Article 31 Issuance of the work permission for the first time**

For an employment that takes place for the first time, the work permission for the foreigners will be given limited in time.

### **Article 32 Needs of the market**

The work permission will be issued taking account of the developments and the needs of the labour market in the Republic of Albania.

### **Article 33 Priority in the issuance of the work permission**

The work permission will be issued without taking account of the situation and the developments of the labour market and without limitations according the article 34 of this law, if the foreigner:

1. is spouse of an Albanian citizen, possesses a stay permission and all the time that the spouse continues the conjugal life;
2. has finished a State or private vocational high school, recognised as such in the Republic of Albania.

### **Article 34 Limitations of the work permissions in time and profession**

The work permission can be limited or unlimited in time.

The work permission can be limited for the exercise of one certain profession in a certain subject.

The work permission can even be without limitations in the exercise of one certain profession in a certain subject.

### **Article 35 Extension in space of the work permissions**

The work permission, issued according to article 34 paragraph 2 of this law, has validity only in the administrative unit covered by the labour office that has issued its approval.

The work permission issued according to the article 34 paragraph 3 of this law, has unlimited validity in all the territory of the Republic of Albania.

### **Article 36 Extension in time of the work permissions**

The work permission issued according to article 34 paragraph 2 of this law has validity for a timeframe of one year.

The work permission issued according to article 34 paragraph 3 of this law has validity for a timeframe of five years.

### **Article 37 Types of the work permissions**

Work permission of the type A is given to foreigners for a time no longer than six months.

Work permission of the type B is given to the foreigner to be employed in a certain profession, in a certain geographical area, by a certain employer.

Work permission of type B is given for a one year period.

This kind of work permission can be renewed for a one year time frame, when the main circumstances of the issuance of the previous work permission have not changed.

Work permission of type C is given to the foreigners resident in the Republic of Albania, who have obtained work permission of type B, the total validity of which reaches the minimal time frame of three years, during a uninterrupted period of living.

Work permission is given to the foreigners to be employed in any activity and in all the territory of the Republic of Albania, without limitations to certain employer. This type of work permission is given for a five year timeframe.

Work permission of type D (permission of self-employment) is given to the foreign self-employed persons, limiting their activity to a certain geographical area. The duration of this work permission is one year with the right of renewal.

Work permission of type E (permission of self-employment) is given to the foreign self-employed persons for any kind of activity and without geographical limitations, who have obtained consecutive work permission of type (D), the validity of which has the minimal timeframe of three years. This work permission is valid for a timeframe of five years.

Work permissions of type F (for students) is given to the foreign persons who study in Albania for the current school year. This work permission is given only for reduced working hours during the school year and for full working hours during the holidays between the academic years or semesters.

Work permission of type G is given to the foreigners who invest in the Republic of Albania and employ no less than two Albanian citizens for each foreign person employed. The timeframe of this permission is one year with the right of renewal.

Work permission of type H is given to the foreigners who had before consecutive permissions of type G, validity of which reaches the minimal time frame of three years. Work permission of type H is given for a five years timeframe.

### **Article 38 End of the work permission**

The work permission ends when:

1. the timeframe for which it has been issued is expired;
2. the foreigner leaves the territory of the Republic of Albania for a period of more than six months.

### **Article 39 The renewal of the work permission**

The request for the renewal of the work permission, except for the seasonal work permission, is made one month before the end of the of the timeframe of the existing permission. It is renewed within one month if

the main circumstances of the issuance of the previous work permission have not changed.

#### **Article 40 The replacing document of the work permission**

In cases when the work permission is lost or damaged, it is replaced with a new work permission.

For the period during the which is performed the procedure of the renewal of the work permission, the foreigner will be provided with a temporary work permission, with a validity from the time of the consign of the old work permission until the provision to the foreigner with a new work permission.

#### **Article 41 Exclusions from the obligation of the provision with the work permission.**

Are excluded from the provision with the work permission, the following categories:

1. the representatives of the diplomatic missions of the international organisations with a diplomatic status, as well as foreigners who are employees of these missions;
2. representatives of the non-governmental organisations that do not follow scopes of profit;
3. executive directors and important employees of foreign companies which have activities or which intend to open activities in Albania;
4. employees and other professionists of a foreign company, who come to work in the branches or filials of this company in Albania;
5. specialists that come in the framework of bilateral and multilateral agreements;
6. the personnel of the interboundary transport of people and goods;
7. lecturers, members of the scientific staffs, teachers of the universities, members of the scientific staffs, private scientific organisations, if there is a public interest because of their special knowledges;
8. representatives of the mass-media, correspondents or reporters, who work for a foreign employer;
9. students of the universities who take part in a work exchange during the summer holidays as result of the respective agreements.

#### **Article 42 Other exclusions from the obligation of the provision with work permission**

It will not be counted as working in the Republic of Albania the person who is employee of a foreign corporation, conserves his residence out of the Republic of Albania, and performs here for a time no longer than six months, the following activities:

1. Negotiates for a foreign company, reaches agreements or looks after a pavilion in a fair.

2. Works in the field of transport.
3. Installs the machineries or the constructions that are delivered by a foreign company, does the service and the reparation of the machineries, as well as the training of the Albanian or foreign employees for their use.
4. Does the training for the use of a machinery, construction or other object, which have been bought from a foreign corporation.

#### **Article 43 The reasons of the refusal of the issuance of the work permission**

The work permission will be refused if:

1. the situation of the Albanian market of labour does not permit this employment;
2. the relations and the conditions expressed in the contract do not fulfill the demands of the Albanian legislation, as well as those of the international conventions;
3. the information and the documents requested are intentionally left unfulfilled or are false;
4. the foreign or Albanian employer does not fulfil the obligation to communicate the free place of work, according to article 21 of law 7995, dated 20.09.1995 "For the encouragement of the employment";
5. the foreign employer does not present the request within the timeframe established in article 38 of this law for the renewal of the work permission;
6. there are important reasons that constitute danger for the security of the Republic of Albania.

#### **Article 44 Appeal**

In case of refusal of the work permission the interested person is notified in written.

Within five days from the date of the notification of the refusal, he can complaint in written to the Minister of Labour and Social Affairs, who gives its decision within two weeks from the reception of the request.

#### **Article 45 Sanctions**

The sanctions for the violation of the dispositions of this chapter are decided according to law 7986, dated 13.09.1995 "For the State Inspectoriat of the Labour".

### **CHAPTER V FORCED REMOVAL, RIGHTS AND OBLIGATIONS**

#### **EXPULSION OUT OF THE TERRITORY**

##### **Article 46 Removal order**

The expulsion out of the territory of the Republic of Albania is done:

1. when there is a final court decision;
2. when the visa is rejected;
3. when its usage and stay permission term is over;
4. when the validity of the stay permission is rejected or finished.

For the cases foreseen in the provisions of this article, the competent authority in the Ministry of Public Order issues the order of expulsion.

#### **Article 47 Expulsion (forced removal)**

The foreigner will be expelled (removed by force) by a special order of the authorities of the Ministry of the Public Order when:

1. has not left or there are grounded doubts that will not leave the Republic of Albania, according to the provisions of this law;
2. has entered or is staying illegally in the Republic of Albania;
3. is expelled from another State and is newly accepted by the Albanian authorities

according to the obligations or signed agreements.

#### **Article 48 Place of removal or expulsion and the right of appeal**

The foreigner is removed or expelled to the country where he/she has come from, to the country of birth, to the country where he/she has the habitual residence, or to another country that accepts the foreigner.

Against the removal or expulsion decision, the foreigner can make an administrative appeal and an appeal before the court.

#### **Article 49 Cases of exception from expulsion**

No foreigner citizen, who has the refugee status or during the examination of the asylum request, will be removed out of the borders of the Republic of Albania towards another country, where his/her life or freedom is threatened because of race, religion, ethnic belonging, political convictions or membership of a particular social or political group.

Also it will not be removed out of the borders of the Republic of Albania those foreign persons for whom there are reasons to believe that his/her life is threatened in the country where he/she will be expelled to.

#### **Article 50 Cases of expulsion by order of the Minister of the Public Order**

There can not be expelled without the order of the Minister of Public Order the foreign persons that:

1. have been residents in Albania from the age of six;
2. have permanent stay permissions;
3. are members of families of Albanian citizens or permanent residents and have at least one year of convivence;

4. have resided and exercised activity in the Republic of Albania for more than five years;
5. are work invalids;
6. are refugees.

#### **Article 51 Postpositional of execution of removal order**

The execution of the removal order is postponed until the preparation of the travel documents, visa, etc, as well until the ending of the procedure of the appeal, if the foreigner has made it within the timeframes and the conditions foreseen in this law.

The postpositional of the execution of the removal order for more than 45 days is allowed only by decision of the court that is examining the foreigner's request for the review of the decision.

#### **Article 52 Immediate execution of the removal order**

The foreigner can be subjected to the immediate execution of a removal order, despite of article 56 of this law, or is expelled for reasons of security, when:

1. has been punished by a final court sentence for a criminal act;
2. the permission has been rejected on bases of articles 4 and 5 of this law;
3. has not left on expire;
4. has no means for residing and living;
5. has no passport or other identification document;
6. has declared that will not leave despite of the decision of the competent organs;
7. has cheated with the documents, or has falsified documents;
8. there are grounded doubts that he/she will leave in an unknown direction;
9. the reasons presented by the foreigner for the reviewing of the decision are on abusive bases.

The advanced execution of the removal order is commanded only by the Minister of the Public Order when it is considered the stay of the foreigner constitutes an immediate danger for the Republic of Albania.

The removal, or the immediate execution of the removal order is not ordered, or is suspended if such a one is given, when the foreigner presents grounded reasons that this order may constitute violation of the agreements or international acts, undersigned by the Republic of Albania.

For cases determined in the third paragraph of this article, the foreigner has to present within three days the request for the order review, which should be examined by the respective authority in the Ministry of the Public Order, no later than 8 days from its presentation.

### **Article 53 Removal of the foreigner in cases when has committed penal act**

The appeal procedure against the removal order of a foreigner that has committed a penal act must end within the period that the foreigner is kept detained or under other security measures.

### **Article 54 Content of the removal order**

The removal order determines:

1. the term within which the foreigner must leave the Republic of Albania;
2. the term within which the foreigner is forbidden entrance and stay in the Republic of Albania, making even the note in the passport;
3. Border Check Point from where the foreigner will leave;
4. the authorisation of the immediate execution;
5. taking of the finger prints.

### **Article 55 Execution of the removal order**

The removal of the foreigner, to whom the removal order is given, is done by the police.

To cover the travel expenses, if necessary, the police authorities can block the money or other foreigner's means.

### **Article 56 The administrative and judicial act**

The removal order, the refusal of any request, disciplinary measures or penalties, can be appealed before the administrative organs or before court, according to the stipulations of this law. The appeal of the foreigner at the administrative level is examined in a higher instance than the one that examined the matter first. During the examination of the request a consult is done with the organ that issued the removal order or the refusal decision. Except cases of the visas, for the review of a decision that has rejected the issuance of the stay permission, the foreign person pays 50 % of the tariff determined for the stay permission.

Against the decision of the refusal, or the removal order, given after the examination by the administrative organ, appeal can be done before the court within 8 days after the most recent decision, if the foreigner has been legally staying no less than one year in the Republic of Albania.

The persons for whom the removal order is given by an order of the Minister of the Public Order for the reasons determined in article 4 of this law, have no right to appeal before the court, except concerning the place of destination. Before giving such an order, the Minister of Public Order consults with the Consulting Committee for Foreigners. The foreign person object to this order, is given notice one week before his case is examined and is given the possibility to do the presentation of his case, to present complaint and arguments against this order to the Minister of the Public Order.

The examination of the foreigner's complaint suspends the execution of the removal order for the foreigner and his family, except the cases determined in article 52 of this law.

When the foreigners are given stay permission because of family union, only the main applicant can complain. Also, children over 18 who do not reside with him, as well as the spouse who is divorced before the refusal or removal decision.

For matters of immigration for which appeal before the court is made, the rules foreseen by the Civil Procedure Code will be applied. Although, because of the character of these cases, the examination in all the instances of the court can not take more than 45 days (30 days in the district court and 15 days in the court of appeal).

### **Article 57 Appeal for the refusal of the entrance at the border**

In cases of refusal of entrance at the border, the foreigner has the right to appeal only after he leaves the territory of the Republic of Albania except cases when:

1. he comes from countries which citizens do not need any visa to enter in Albania;
2. he has visa;
3. he asks for asylum.

For cases mentioned in items "1" and "2", the foreigner's complaint is examined within 48 hours.

### **Article 58 Obligation of the foreigner to prove that he is suitable to enter**

When a foreigner has done a request for entrance or stay in the Republic of Albania, he is obliged to prove that he is suitable to enter and to stay in the Republic of Albania under the provision of this law. If he can not prove such a thing, the requested permission can be rejected.

When a foreigner has entered in the Republic of Albania he is obliged to tell from which point he entered as well as the time and the way of entrance. If he does not fulfil these obligations by proofs, it is considered that he has entered Albania illegally.

### **Article 59 Rights and prohibitions for certain activities**

The foreigners can be engaged in social, political, economical, cultural and beneficent activities only in accordance with the Albanian legislation in power. This activity is not allowed to them if:

1. infringes the national security or the public order;
2. infringes the interests or the relations of the Republic of Albania with other States;

3. puts in danger or damages the relations between the Albanian and the foreigner citizens, or between different groups of foreigners in the territory of the republic of Albania;

4. instigates or applies the use of the violence as a means to reach political, religious interests, etc.

#### **Article 60 Notification of the relevant authorities by the judicial and the administrative organs.**

The administrative and judicial organs shall notify, according to the case, those State authorities that overtake duties for the application of this law, for the following cases:

1. For general reasons of exclusion, defined in article 4 and 5 of this law.
2. For the opening of a process, decisions, measures, sentences, limitations or obligations for the foreigners.
3. When the stay or the employment of the foreigners is illegal.
4. For the violation of a certain legal limitation.

#### **Article 61 Notification of the police by other subjects**

The hotels, boarding houses, as well as other premises of this nature are obliged to keep the record of the foreign persons that they shelter, according to the rules established in the by-laws.

The personal data of a foreigner taken from a doctor or from other physical or legal persons, have to be communicated immediately to the police without the request of this last, when they realise that:

1. the foreigner puts in danger the public health and the protective measures for the avoiding of the consequences can not be fulfilled by the foreigner;
2. are connected with reasons of exclusion, established in article 4 and 5 of this law.

#### **Article 62 Notification in case of detention or arrest of the foreigner**

In case of detention or arrest, the authorities of the Ministry of Public Order notify the diplomatic or consular mission of his/her country, or the Office of UNHCR if he/she is a refugee or stateless person.

The notification may not be done, only when an order of the Minister of Public Order is issued for strong reasons of national security or reciprocity reasons.

#### **Article 63 Rights of permanent residents**

The permanent residents are not registered at the police but at the civil status office, and if they fulfil the criteria, are provided with identity card and passport for foreigners.

The permanent residents can be employed or exercise activity without the need of being provided with a work permission.

The permanent residents have the right for education and social insurance equally as the Albanian citizens.

#### **Article 64 Obligation of the foreigner to give information**

The foreigner can be requested to give information connected with the motive of entrance, stay, and activity in the Republic of Albania, as well as other information that is considered necessary to clarify that the foreigner is not included in the prohibitions foreseen in articles 4 and 5 of this law. The non-appearance or the refusal to fulfil the aforementioned demands may constitute a reason for the refusal or the annulment of a permission or visa issued.

#### **Article 65 Responsibility of the persons that transport the foreigners**

The person that has made possible the entrance of a foreigner in the Republic of Albania against the dispositions of this law, is obliged to pay the expenses for the return of the foreigner in his country of origin, to the State that has issued the passport to him, to the State from where he was transported, or to another State where the foreigner has the necessary permission to enter from the authorities of that country.

The owner or the possessor of the vehicle will not be given the license, or will be withdrawn, if he has it, if he does not liquidate the obligation as above within 6 months from the time of notification. Such an obligation is annulled if the foreigner is provided with a stay permission or is given the status of refugee.

The owner or the possessor of a transport vehicle is obliged to present before the Ministry of the Public Order the full and exact list of the foreign persons that he transports.

### **CHAPTER VI DISPOSITIONS ON ADMINISTRATIVE ASPECTS**

#### **Article 66 Registration at the police**

Are registered at the police only the foreigners that intend to stay in Albania no less than one year, and when there are absence intervals to a maximum of three months. The registration is done not later than 10 days after the entry in the Republic of Albania. Despite of the stipulation in this paragraph, for reasons of national security and public security, the Minister of the Public Order can order the registration at the police.

Are registered at the police only by order of the Minister of the Public Order the following persons:

1. the religious persons;
2. members of a crew;
3. foreigners engaged in public institutions.

Are not registered at the police:

1. persons under 16 years;

2. personnel of the foreign missions and the employed by the foreign diplomats.

The registration at the police includes the data for the foreign person according to the definition in the by-laws, as well as the finger prints.

#### **Article 67 Card for the foreigners**

The Ministry of the Public Order will provide with a card for foreigners to the foreign persons over 16 years old who are resident in Albania for more than one year. This card is renewed every year. For the foreigner that does not possess and can not be provided with a passport for the foreigners, is sufficient the card of the foreigner in the territory of the Republic of Albania.

#### **Article 68 Passport for the foreigners**

The rules to provide the foreigners with a passport for foreigners, are established by the Minister of the Public Order. The dispose of such a passport, even when the foreigner leaves temporarily the Republic of Albania, gives him the right to return within the period of validity of this document. The limitations for the movements with these passports are the same then the limitations applied for the Albanian citizens.

The passport for foreigners is valid for two years. Are entitled to be provided with this passport:

1. the foreigners with a permanent stay permission;
2. the foreigners with a refugee status;
3. the foreigners with a five year stay permission, or the foreigners of Albanian origin with a temporary permission, who have respected the laws and the rules in power and who have no possibility to be provided with passport or travel document from the State of origin or from any other State.

#### **Article 69 Replacement of lost documents**

The loss of the passport for foreigners, identity card or any other document issued by the authorities of immigration, shall be notified within 24 hours at the issuing authority or at the local police. The foreigner can be provided again after two months with the aforementioned documents, if verifies that the loss has happened for justified reasons.

In case of loss outside the State of the passport for foreigners issued by the Albanian authorities, the Albanian mission outside the State is authorised to provide the foreigners with a pass permission to return to the Republic of Albania, upon confirmation of the immigration authorities for the issuance of this pass permission.

The foreigner has also to notify within three days the loss of other documents issued by the country of origin or another State.

#### **Article 70 Administration of irregular documents**

The passports or the suspected or falsified documents, or the passports that can be regular but are not held by the due persons, can be blocked and, except for the falsified documents which are confiscated, are sent to the organ that has issued them through the Ministry of the Foreign Affairs.

The authorities of the Ministry of Public Order can block the passport of the foreigner for the clarification of the doubts for violation of the dispositions of this law. The passport is taken away from the foreigner by means of a formal decision certified by a certification issued to the foreigner for this reason. The foreigner has the right to complain only against the decision, as result of which the passport was taken.

The passport can be blocked, according to the definition in this article, until the beginning of the legal or administrative procedures and is given to the competent organs for these procedures. At the end of these procedures, the passport is given back to the foreigner if:

1. it is regular;
2. the ulterior stay of the foreigner in the Republic of Albania will be considered legal;
3. the fine was paid or the sentence was suffered.

The card of the foreigner, the stay permission, the work permission, the passport for the foreigners are taken away to the foreigner if they have been declared not valid.

In case of expulsion, the regular passport is given back only at the moment of the departure from the territory of the Republic of Albania.

#### **Article 71 Duties of the authorities of the Ministry of Public Order and of the Police.**

The authorities of the Ministry of the Public Order are responsible for the treatment of the foreigners, the issuance of the stay permission, and the issuance of the identity or travel documents of the foreigners according to this law.

The organs of the police at the border have the responsibility of the issuance of the visa at the border, the refusal of the entrance, the return of the foreigners, the annulment of the visa, the prohibition of the departure and other measures regarding the procedures for the foreigners assigned them by the dispositions of this law and the acts for its application.

#### **Article 72 The Counselling Committee for the Foreigners**

The Council of Ministers for the issues relating to the foreigners, shall nominate a Counselling Committee for the Foreigners composed of 5 persons. It is recommended for the Head of this Committee to be a well-known lawyer; the Council of Ministers appoints him/her. The employees of the Council of Ministers can not be members of this Committee.

The Committee has the right of requesting from every person information that serves to the exercise of the functions defined on this law. It makes

analysis and gives recommendations for the policies followed for the foreigners and their State in the Republic of Albania. This Committee follows the implementation of this law and gives recommendations to the Minister of Public Order.

### **Article 73 Report of the Minister of Public Order before the People's Assembly**

The Minister of Public Order periodically shall report before the parliamentary commissions. He communicates to them the number, citizenship and nationality of the foreigners who have entered and left, how many of them have obtained stay permission or refugee status, the number of the foreigners that are supposed to have entered illegally and the numbers of those who have left, the number of the foreigners that have been subject of an immediate execution of a expulsion order, the number of the removed or expelled foreigners who according to this law have not had the right of appeal at the court, on the consequences and the effects that different elements of emigration have had relating to the order, public security, economic development, social and human field, and the recommendations for the policy that will be followed in the future.

### **Article 74 The control of the foreigners**

The control of the foreigners who seek to enter or stay in the Republic of Albania is done by the police, which has the right to:

1. ask for information on the entrance and the stay of the foreigner in Albania, for the motive or the activity that will perform, the period of staying, facts related to the adaptability of the foreigner for the stay in the Republic of Albania, and other cases related to the implementation of this law;
2. retain the documents of the foreigner, including the passport, to verify the identity and the citizenship of the foreigner or for other reasons related to the fulfilment of the conditions of the foreigner to enter and stay in the Republic of Albania.
3. verify documents when their credibility is in doubt and when it is necessary can appoint experts;
4. if it is necessary, ask the foreign missions in Tirana or the Albanian representatives abroad, the verification of the identity or any other document presented by the foreigner;
5. do the physic control of the foreigners.

Every foreigner, besides the persons stipulated in paragraph 2 of article 66 of this law, must present themselves to the police for inspection. When a foreigner tents to avoid it, he will be subdued to an accurate control.

### **Article 75 The measure of the forced accompaniment**

The police has the right to take the measure of the forced accompaniment of the foreigner or the placement of an asylum seeker in the transit center for foreigners, if

1. The foreigner does not manage to convince the competent authority on the legitimacy of the entrance and stay in the Republic of Albania, on his identity, or that he has a residence or disposes life means;
2. it is necessary as a measure for guaranteeing the expulsion of the foreigner, who is expecting the examination of the admission or appeal to a given decision and could escape to a possible decision of removal or expulsion;
3. he has refused to be removed or has declared that will not move, even when his stay in the territory of Albania is not legal;
4. he has been hiding or avoiding from the expulsion or removal order.

#### **Article 76 Obligations and limitations for the foreigners**

The foreigner's residence or circulation in a certain area will be limited for reasons of public or national security as it is established in the by-laws.

The foreigner must notify any change of his address within three days.

The foreigner must subdue to the financial control from the finance authorities or other controls authorised by the authorities of emigration, according to the procedures defined by this law.

The foreigner must keep with him and show to the competent authorities the card of the foreigner when this is requested.

The Minister of Public Order can request to the foreigner:

1. to notify the competent authorities within a defined period of time after his arrival in the Republic of Albania according to the Statements of the acts for the application of this law;
2. to present himself periodically to the police authorities, if its director considers it as necessary in interest of the public security or national security.

The foreigners with permanent stay permission and refugee status, are excluded from the above mentioned obligations.

#### **Article 77 Administrative contraventions**

There will be considered as administrative contraventions, and will be punished with fine, the following cases:

1. the foreigner contradicts or does not fulfil the requests of the authorities for verification of identity, citizenship or regarding other issues according to this law and the acts for its application.
2. the foreigner obtains or uses visa, permission, documents, card in function of entrance, stay or departure, that have not been issued or have not been intended to be used by this person;
3. the foreigner pretends for abusive reasons that he is an Albanian citizen or presents himself under a false identity or citizenship;

4. the foreigner does not consign until 60 days after the notification of the annulment or the devaluation by the organs of the immigration of a foreigner card, stay permission or work permission;
5. the foreigner presents false data for the registration, makes a false declaration in an application for entrance or stay permission in the Republic of Albania, with the aim to ensure the obtention of such permission for himself or for someone else;
6. the foreigner breaks the timeframes established in this law, does not notify or inform on questions established in this law;
7. the foreigner does not hold a passport or identity document, except for the foreign persons that are asylum seekers;
8. Albanian or foreign persons accept to give shelter or support to foreigners, against the dispositions of this law, without reporting at the immigration authorities, that do not keep the register of data for the foreigners, according to this law and the acts for its application; or that do not give the data to the inspectors assigned with the application of the dispositions of this law; or keep and abuse with the passport of the foreigner;
9. the foreigner losses the passport for the foreigners or the documents issued by the authorities of immigration and does not notify within the foreseen timeframe;
10. the foreigner does not present himself for an examination at the State sanity inspector within 10 days after the notification of this request by the competent organs;
11. the foreigner exercises different activity from the one for which he/she has taken the permission from the competent organs, or stays in the Republic of Albania for a different motive from the one for which the visa or the stay permission has been issued;
12. State organs, public, judicial or physic persons do not notify on what is established in the dispositions of this law;
13. the carriers do not report or do not present in full and exact way the list of the personnel and of the voyagers;
14. the parents or the legal custodies do not fulfil their legal responsibility regarding the dispositions of this law for the children under 16 years old;
15. the foreigner enters in the Republic of Albania or leaves from it in contradiction with the dispositions of this law or of the acts for its application;
16. the foreigner leaves to an unknown direction, leaves without notifying from the transit center for the refugees or tries to escape from the execution of an removal or expulsion order.

The violations foreseen in the points of this article are sentenced with a fine from 10.000 to 200.000 leks by the police, according to the

definitions that will be made in the acts issued for the application of this law.

The examination of the administrative contraventions, the appeal against the decisions of punishment, and the execution of the sentences is made according to the law no. 7697, dated 07.04.1993 "For the administrative contraventions".

Against the decision on the fine it can be presented an appeal at the direct higher administrative organ or at the District Court, the decision of which is final.

## **FINANCIAL ASPECTS**

### **Article 78 Payment of the warranty for the forefingers**

If it is suspected that the foreigner who asks for a visa or stay permission, can become a public burden, the visa or the stay permission can be issued after the foreigner or his guarantor in Albania has paid the warranty in bases of the definitions in the by-laws for the application of this law.

The warranty is paid at the immigration authorities. This sum is given back to the foreigner within four days if he is provided with stay permission, or leaves within the legal timeframes from the Republic of Albania. The Minister of the Public Order can decide this sum to be blocked until the end of the timeframe of a usual stay permission, but no longer than one year from its deposit.

The Minister of Public Order and the Minister of Finance establish every year the financial limits as minimum income for a foreigner, day limit for a tourist or visitor, etc.

### **Article 79 Taxes for the entrance of the foreigners**

The foreigners that enter in the territory of the Republic of Albania pay taxes for all the administrative services according to the Albanian laws in power.

### **Article 80 Use of the income obtained from the tariffs of the foreigners**

The income taken according to the definitions in this law is deposited in the account of the treasure and their use is subject to the rules and principles of the organic budget law.

### **Article 81 Expenses for the return of the foreigners**

The expenses for the return of the foreigners include:

1. The trip of the foreigner until the destination.
2. Administrative expenses for the measures regarding the removal or the expulsion of the foreigner, the expenses for translation, shelter, food and other furnishings;
3. The expenses that can be necessary for an administrative accompaniment including the personal expenses;

The expenses for the return of a foreigner can be paid by:

1. the foreigner;
2. the guarantor in Albania;
3. the transporter, if the foreigner was transported to enter against the dispositions of this law;
4. the employer, if he has employed against the dispositions of this law.

The foreigner can be sent back with the expenses of the State which have to be reimbursed in the earliest opportunity according to the dispositions of this article. The immigration authorities shall take the necessary measures against the responsible persons blocking them money, bank documents, tickets or other things of value according to the definitions in the acts for the application of this law, up to the necessary amount to ensure the coverture of the costs established in the first paragraph of this article.

### **Article 82 Administration of the data regarding the foreigners**

The data or the information gathered, regarding the status and the situation of the foreigner, or in the function of the application of this law, can be passed to other organs of the State or foreign organisations by an authorisation of the Minister of the Public Order. He may not give or may limit what above for the interest of national security or public security.

The informations defined above shall not be passed to other organs or persons if they infringe the private life of the foreigner and are not essentially linked with the scope of the application of the dispositions of this law.

### **Article 83 Acts for the application of this law**

The Minister of Public Order has to prepare and present to the Council of the Ministers the by-laws establishing the rules for:

1. the application, conditions to be fulfilled, examination, approval and refusal, duration, the appeal and the re-examination of the request (even the representation of the authorities to the court) for visa, stay permission, request for asylum, entrance at the border, documents, proofs and information required;
2. the obligation of the registration at the police, the provision with the card for the foreigner, passport and other document, rules of the issuance, extension of the timeframe, loss and reprovision;
3. administration and keeping of the data by the hotels, etc, as established in this law;
4. inspection at the border and in the field, administrative punishments, security measures in cases of removal, detention or stay at the transit stayplace for the foreigners, the rules of the administration of this centre, the control, the verification and the blocking of the documents of the foreigner;

5. the form of the visa and of the stay permission.

The Minister of Public Order establishes the rules for the examination or the interview of the foreigners, notification of all the foreigners or of the interested parties, and other issues assigned by the dispositions of this law.

The Minister of Public Order by the proposal of the Counselling Committee for the Foreigners, shall prepare and present to approval before the Council of the Ministers, the by-law with the definition for the countries whose citizens are free from the obligatory previous request for visa or take the visa at the border, as well as for the countries whose citizens are free from the obligation to present a passport at the border.

The Minister of the Foreign Affairs shall prepare and present for approval to the Council of the Ministers the by-law for the provision of the diplomatic and consular personnel, accredited in the Republic of Albania, with diplomatic visa and stay card.

The Minister of Labour and Social Affairs shall prepare and present for approval to the Council of Ministers the by-law for the issuance of the work permissions and the inspection of the questions regarding the employment of the foreigners and the exercise of the business activities.

#### **Article 84 Timeframe of approval of the by-laws**

The Council of the Ministers is assigned to approve the by-laws established in article 83 of this law within three months after the entrance in power of this law.

### **CHAPTER VII FINAL DISPOSITIONS**

#### **Article 85 Abrogation of the dispositions of the "Law on Migration"**

The dispositions regarding the immigration foreseen in the law no. 7939, dated 25.05.1995 "On Migration" are abrogated.

#### **Article 86 Entrance in power of the law**

This law enters in power 15 days after the publication in the Official Paper.

**Declared by the decree no. 2394, dated 18.06.1999 of the President of the Republic of Albania, Rexhep Meidani**

Mapping Exercise – Albania<sup>69</sup>  
*Albana Zotaj*  
**GEOGRAPHIC STUDIES CENTER**

**SITUATION OF SCIENTIFIC RESEARCH SYSTEM**

**I.1. Existing Structure and Legal Regulation**

*Main institutional elements* of the scientific research system in Albania include :

- Academy of Sciences with its research institutes/centers;
- Research institutes and centers of ministries;
- Universities

*Legal framework:* The scientific research system is administrated on the basis of legal and sub-legal frame work that includes:

- The Law on Science and Technological Development of the year 1994;
- The Law on Higher Education of the year 1999;
- The Law on the Academy of Sciences of the year 2004;
- DCM, regulations and instructions of Ministries;
- Statutes of AS and universities.

*Administration:* The diagram of vertical administration of the scientific research system includes the following institutions:

- Council of Ministries;
- Council of Scientific Policy and Technological Development (CSPTD);
- Academy of Sciences, Ministry of Education and Science, and line Ministries

**I.2 Financing of the R&D activity with:**

- Institutional financing, given by the Government for the research institutions inside the Academy of Sciences and Ministries independently from the Ministry of Education and Sciences,
  - Program Financing on the framework of NRDP through MoES according the procedures on the European standards,
  - Program Financing on the framework of the Bilateral Programs realized from the MoES through European standards,
  - Other financing beside State Budget include :
    - International collaboration
    - Other collaboration with foreign or home organizations inside the country
    - International programs (UN, EU, etc),
5. Financing from the activities for the other public or private sectors.

**I.3. Research Institutes of the Academy of Sciences**

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<sup>69</sup> See presentation of Ms Albana Zotaj in <http://webmob.masfak.ni.ac.yu/sitegenius/article.php?aid=557>.

There are 7 institutes under the **Section of Social and Albanological Sciences** :

- Institute of History
- Institute of Linguistics and Literatures
- Institute of Popular Culture
- Institute of Archeology
- Institute of Economy
- Center of Arts Studies
- Center of Albania Encyclopedia of inter-disciplinary character

There are 7 institutes under the **Section of Natural and Technical Sciences** :

- Institute of Nuclear Physics
- Institute of Informatics and Applied Mathematics
- Institute of Hydrometeorology
- Institute of Seismology
- Institute of Biological Research
- Center of Geographical Studies
- Center of Hydraulic Research

#### **I.4 Institutes of Ministries of Branches**

In addition to the Institutes of AS, there are also 24 other research-study institutes which fall under the following Ministries:

***Ministry of Agriculture, Food and Consumer's Protection***                      ***9 institutes***

1. Institute of Field Crops Research, Fushe-Kruje
2. Institute of Food Research, Tirana
3. Institute of Veterinary Research, Tirana
4. Institute of Zootechnical Research, Tirana
5. Institute of Plant Protection, Durres
6. Institute of Corn and Rice, Shkoder
7. Institute of Fruit-Growing, Vlore
8. Institute of Vegetables and Potatoes, Tirana
9. Institute of Soil Study, Tirana

***Ministry of Environment, Forests and Water Administration***                      ***3 institutes***

10. Institute of Forest and Pastures Research, Tirana
11. Institute of Research of Fishing, Durres
12. Institute of Environment, Tirana

***Ministry of Economy, Commerce and Energy***    ***6 institutes***

13. Albanian Geological Service, Tirana
14. Institute of Technology of Extraction and Processing of Minerals, Tirana
15. National Scientific Center of Hydrocarbons, Fier
16. Institute of Studies and Designs of Light Industry, Tirana

- 17. Institute of Mechanics and Wood, Tirana
- 18. Institute of Metallurgy, Elbasan

***Ministry of Public Works, Transport and Telecommunication***

***3 institutes***

- 19. Institute of Transport, Tirana
- 20. Institute of Studies of Construction, Tirana
- 21. Institute of Studies of Town-Planning, Tirana

***Ministry of Tourism, Culture, Youth and Sports***

***2 institutes***

- 22. Institute of Culture Monuments, Tirana
- 23. Center of Sports Studies, Tirana

***Ministry of Health (MH)***

***1 institute***

- 24. Institute of Public Health, Tirana

**1.5 Universities**

Currently there are 13 public higher schools in Albania :

- University of Tirana (UT)
- Polytechnic University of Tirana (PUT)
- Agricultural University of Tirana (AUT)
- Military University, Tirana (MU)
- Academy of Physical Education and Sports, Tirana (APHES)
- Academy of Arts, Tirana (AA)
- Academy of Police, Tirana (AP)
- University of Shkoder (USH)
- University of Elbasan (UE)
- Agricultural University of Korce (AUK)
- University of Gjirokaster (UGJ)
- Technological University of Vlore (UV)
- University of Durres

Higher schools function on the basis of the Law on “Higher Education” of the year 1999, changed.

There are also 10 private higher schools as well as other R&D Public and private agencies

**1.6. Human Resources**

From 1990 human resources in sciences and technology have drastically decreased. Various surveys show that during 1990-1999, approximately 40% of the professors and research scientists of the universities and science institutions in the country have emigrated. This exodus is growing and according to a survey run in 1998 a greater number of highly educated people want to emigrate. They are mainly young people who wish to emigrate for a long time or forever. It is clear that if the

economic and social situation in the country does not improve, the Albanian brain drain will continue as intensively as before.

- However, the continuous brain drain poses a severe threat to this system. Driving forces for the brain drain are found in the deteriorated economic living conditions, the lack of state – of – the – art infrastructure and funds that constitute serious obstacles for research. The restrictive visa regulations also hinder scientific exchange and temporary employment abroad.
- Some of the highly educated people do return after their studies and others may also consider it. During this year the new government has planned many ways to provide the facilities to have the new situation changed into : the brain gain.
- There is a total 578 scientific workers in our country: 274 in Academy of Sciences and 304 in R & D institutions of Ministries. The number of personnel in R & D in Albania are about 0,2 for 1000 habitants.

## **WEB-MOB**

Specific Support Action financed under the 6th  
Framework Programme for Research and Technology

**OBSTACLES TO MOBILITY OF RESEARCHERS IN  
Bosnia and Herzegovina  
Synthesis report**

**PREPARED BY CERTH  
Dr. Despina Anagnostopoulou, Lecturer on EU  
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Macedonia, Thessaloniki, Greece.**

2007  
THESSALONIKI

## **1. Introduction**

### **1.1. Aim and method**

The WEB-MOB project (a Specific Support Action financed by the European Commission under the 6th Framework Programme) started operating in September 2005, with the objective of developing guidelines related to issues of policy on researchers' mobility in the region of Western Balkans.

Taking into consideration the importance placed by the European Commission on issues of incoming and internal mobility in the Western Balkans region, WEB-MOB's main objective was to attract to the region researchers:

5. From other regions (inter-regional mobility) or
6. From other countries (intra-regional mobility) – geographical mobility –,
7. Between industry and academia (intersectorial mobility) and
8. Intra-national mobility in the Western Balkan partner countries in order to raise regional cooperation and prevent brain drain in the region.

During the lifetime of the WEB-MOB project, the partners have identified existing obstacles to incoming mobility in every country, and which in many cases had not been identified by administrations in charge of research. More specifically, mobility guidelines were developed so as to be useful to national governments for the formulation of common policies in terms of enhancing researchers' mobility and eliminating mobility barriers in the region. The mobility guidelines include recommendations for measures and policies needed to improve national legislation and national research strategies.

Furthermore, the most important dissemination tool to be developed has been the WEB-MOB portal ([www.web-mob.eu](http://www.web-mob.eu)). The portal is a single-access point which provides visitors with the opportunity to exchange useful information about problems in the area of mobility of researchers, provide information on research organisations and universities and news related to the WEB-MOB project implementation.

Even though the project has just been completed (October 31, 2007), the impact already seems to be not only on a national, but also on a European level, since WEB-MOB project has contributed to national and EU actions related to the mobility and career development of researchers. Another important impact of the project has been the valuable experience on mobility policy issues gained by partners from the Western Balkan countries leading to the establishment of national ERA-MORE Networks (the Serbian national network and the Croatian one). Finally, synergies with European research organisations, universities and Mobility Centres have been encouraged and have influenced the visibility of researchers, universities and research organisations active in R&D in the Western Balkans region<sup>70</sup>.

In the questionnaire, which was the basis of the national mobility guidelines, the aim was to reflect all mobility obstacles that a researcher from any nationality faces in the WBCs<sup>71</sup>.

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<sup>70</sup> Dimitrios Sanopoulos, The WEB-MOB project: Development of researchers' mobility policy guidelines for the region of Western Balkans, <http://see-science.eu/users/2512.html>.

<sup>71</sup> "WBC" means "Western Balkan Country". Montenegro is not part of this project because it achieved independence in June 2006 after the launch of the project in September 2005.

In the policy guidelines the aims are to:

1) Reflect the mobility obstacles that exist in each WBC for:  
EU or EEA researchers (EU – WBC mobility)  
WBC researchers (inter WBC mobility)

2) Suggest legislation or policy modifications in two stages (not all at once) according to the political, economic and social background of each WBC. Indeed each WBC faces different problems in immigration inflows and outflows and has different international engagements with the EU in the framework of SAPs or accession processes.

The first stage is an easy one and it applies for a transitional period of one or two years. It is to:

- Find whether there is preferential treatment on any WBC nationality and apply the so called **Most Favoured Nation** (MFN) rule of the World Trade Organisation (WTO) applied by analogy (e.g. Albania's visa facilitation for Former Yugoslav Republic of Macedonia's nationals to be extended to all WBC nationals).
- Make **slight** modifications in the existing legislation or policy that will greatly improve mobility while respecting the legislative choices of the WBCs, after a cost benefit analysis.

The second stage is to align the WBC legislation to the free circulation rules that EU applies for third country researchers. Indeed Directive 2005/71/EC could serve as a model. In this way the general principle of reciprocity between WBC and EC will be respected in 3-4 years.

In this way the policy guidelines follow the example of European Partnerships where the priorities listed have been selected on the basis that it is realistic to expect that they can be completed or taken substantially forward over the next few years. A distinction is made between short-term priorities, which are expected to be accomplished within one to two years, and medium-term priorities, which are expected to be accomplished within three to four years<sup>72</sup>.

Thus the policy guidelines are drafted according to the method of neofunctionism in a realistic context, which was mostly used for the success of the European integration up to date.

## **1.2. External Relations of Bosnia and Herzegovina**

It is important to confirm the status of external relations of Bosnia and Herzegovina, so that policy guidelines will not touch on sensitive issues. Bosnia and Herzegovina is an active participant in regional cooperation initiatives such as the:

- South-East European Cooperation Process (SEECP),
- The Central European Initiative,
- The Adriatic-Ionian Initiative
- The Danube Cooperation Process,

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<sup>72</sup> COM 669, annex I, 3. Priorities. P. 6

- Migration, Asylum and Refugees Regional Initiative (MARRI).

In addition it participates in the Stability Pact which is in the process of transition to a more regionally owned cooperation framework. **Bosnia and Herzegovina hosts the Secretariat of the new Regional Cooperation Council**<sup>73</sup>.

As regards regional cooperation with other WBCs the following developments could be reported<sup>74</sup>:

- Relations with **Serbia were recently affected** by the judgment on Bosnia and Herzegovina's lawsuit against Serbia and Montenegro for genocide, as the European Commission states in the 2007 Progress Report<sup>75</sup>. There were few other developments affecting bilateral relations between Bosnia and Herzegovina and **Serbia**. Serbia opened a Consulate in Banja Luka in May 2007. Issues relating to the State border, property relations and trade remain unresolved. The Inter-State Council between Bosnia and Herzegovina and Serbia did not meet in 2007. Republika Srpska has continued to intensify contacts and cooperation with Serbia on the basis of the Special Parallel Relations Agreement signed in September 2006.
- Relations with *Croatia* remained stable and bilateral contacts have been increasing. Agreements on dual citizenship and on joint supervision of the State border have been signed. **However, other border and trade-related issues have not been settled.** Ratification of the 2005 Agreement on Demarcation of the Land and River Borders is on hold, and the border dispute involving two islands –Veliki Skoj and Mali Skoj – remains unsolved, as does the issue of the Una river border. In 2007, Bosnia and Herzegovina concluded an international border cooperation agreement with **Croatia**. However, implementation is lagging behind due to limited capacity<sup>76</sup>.
- Relations with *Montenegro* have intensified. Montenegro has opened an embassy in Sarajevo. Bosnia and Herzegovina has opened an embassy in Podgorica.
- Good relations were maintained with **Former Yugoslav Republic of Macedonia**, with reciprocal high level visits.
- Diplomatic contacts with *Albania* have been limited but relations remain good.

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<sup>73</sup> Bosnia and Herzegovina Commission Progress Report 2007, 2.3, p. 21.

<sup>74</sup> Progress Report 2007.

<sup>75</sup> In February 2007, the International Court of Justice (ICJ) found that acts of genocide had been committed in Srebrenica. The ICJ judges concluded that "*Serbia has not committed genocide through its organs or persons whose acts engage its responsibility under customary international law, in violation of its obligations under the Convention on the Prevention and Punishment of the Crime of Genocide.*" They also found that "*Serbia has not conspired to commit genocide, nor incited the commission of genocide*" and acquitted Serbia on charges that it was "*complicit in genocide.*" However, the Court ruled that Serbia did not use its influence to prevent the genocide of Bosnian Muslims in Srebrenica in July 1995. It also found that its leaders failed to comply with international obligations to punish those who carried out that massacre. The verdict was followed by an exchange of diplomatic notes between the two countries. See Progress Report 2007, 2.3, p.22.

<sup>76</sup> Progress Report 2007, external relations and visa sections.

Bosnia and Herzegovina has concluded a Free Trade Agreement with *Turkey*.

**Bilateral relations with EU Member States** remain good. The EU is Bosnia and Herzegovina's main trading partner. Trade takes place in particular with Austria, Germany, Slovenia and Italy.

### **1.3. EU Relations with Bosnia and Herzegovina and European Partnership**

The Thessaloniki European Council of 19 and 20 June 2003 endorsed the introduction of the European Partnerships as a means to materialize the European perspective of the Western Balkan countries within the framework of the stabilisation and association process<sup>77</sup>.

An EU/Bosnia and Herzegovina Consultative Task Force was established in 1998 as a joint vehicle for political dialogue and expert advice. Meetings of the **Consultative Task Force (CTF) have constituted a central forum for technical and political exchanges**. In January 2006, the CTF was re-named "**Reform Process Monitoring (RPM)**" to mark the start of a new phase in the relations between the EU and Bosnia and Herzegovina<sup>78</sup>.

The negotiations on a Stabilisation and Association Agreement (SAA) were launched in November 2005. Technical talks have been completed and the SAA **was initialled on 4 December 2007**. Nonetheless, the signature of the SAA is contingent to sufficient progress in addressing key priorities, notably police reform, ICTY co-operation, public broadcasting and public administration reform<sup>79</sup>.

The priorities listed in the **European Partnership** have been selected on the basis that it is realistic to expect that Bosnia and Herzegovina can complete them or take them substantially forward over the next few years. A distinction is made between short-term priorities, which are expected to be accomplished within one to two years, and medium-term priorities, which are expected to be accomplished within three to four years. The priorities concern both legislation and the implementation thereof. **Taking into account the substantial costs involved with meeting all the EU requirements as well as the complexity of these requirements in certain areas**, the European partnership does not include all important tasks at this stage. Future partnerships will include further priorities in line with progress made by the country<sup>80</sup>.

Among the **short term priorities** described in the European Partnership agreement are the following that directly or indirectly relate to the Researchers Mobility Obstacles:

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<sup>77</sup> Council Decision 2006/55/EC of 30 January 2006, on the principles, priorities and conditions contained in the European Partnership with Bosnia and Herzegovina and repealing Decision 2004/515/EC, preamble.

<sup>78</sup> Progress Report 2007, p. 31.

<sup>79</sup>

[http://ec.europa.eu/enlargement/bosnia\\_and\\_herzegovina/eu\\_bosnia\\_and\\_herzegovina\\_relations\\_en.htm](http://ec.europa.eu/enlargement/bosnia_and_herzegovina/eu_bosnia_and_herzegovina_relations_en.htm).

<sup>80</sup> Council Decision 2006/55/EC, Annex 1, par.2.

- Ensure the adoption of a **State-level law on higher education**<sup>81</sup> paving the way to the implementation of the main elements of the Bologna process and the Lisbon Recognition Convention.
- Further align **customs** legislation and procedures to the *acquis*.
- Increase the administrative capacity to implement customs legislation, and to fight against corruption, cross-border crime and fiscal evasion.
- Provide adequate staffing to the asylum and migration sectors within the Ministry of Security.
- Implement the **2003 law on movement and stay of aliens**. Ensure that any amendments to this law are in line with the *acquis* and international standards, and that they represent an added value to the existing regulations.
- Further **reduce the number of visas issued at the border**.
- Implement all international and regional obligations in the field of border management<sup>82</sup>.

#### **Medium term priorities (among others)**

- Ensure continued approximation of customs and taxation legislation to the *acquis*, and further increase the administrative capacity to implement this legislation, and to fight against corruption, cross-border crime and fiscal evasion.
- Improve transparency and exchange of information with the EU in order to facilitate the enforcement of measures preventing the avoidance or evasion of taxes.
- Implement the SME strategy.
- Ensure the implementation of the industrial policy.
- **Start designing and applying an integrated research policy.**

#### **1.4. Progress according to the Progress Reports**

In 2005, 2006 and 2007<sup>83</sup> the European Commission issued Progress reports where the situation in Bosnia and Herzegovina is reflected. In summary the following progress has been made on issues relevant to mobility of researchers:

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<sup>81</sup> Such law was already adopted in August 2007.

<sup>82</sup> Council Decision op.cit, 3.1. Short term priorities.

<sup>83</sup> Commission Staff Working Document, *Bosnia and Herzegovina 2007 PROGRESS REPORT, accompanying the COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL Enlargement Strategy and Main Challenges 2007-2008* {COM(2007) 663 final} Brussels, 6.11.2007 SEC(2007) 1430

- **All EU citizens can enter the country without visas.**
- The number of visas issued **at the border** has been reduced further (927 in 2006 against 2,049 in 2005)<sup>84</sup>. In line with the stipulations of the *Law on Movement and Stay of Aliens and Asylum*, visas can only be issued at the border on an exceptional basis and following the recommendation of the Ministry of Foreign Affairs, for a maximum period of 15 days without the possibility of extension<sup>85</sup>.
- Efforts have been made to prepare for the transition to the four categories of visa used by the EU in the **Schengen** context.
- In July 2007, the High Representative imposed changes to the Law on **travel documents** of Bosnia and Herzegovina and the Law on identity cards of citizens of Bosnia and Herzegovina
- All data entered into local systems in diplomatic missions and consular offices are now transferred electronically to the central administration (Ministry of Security) in Bosnia and Herzegovina<sup>86</sup>.
- The migration information system came into operation in September 2007<sup>87</sup>. Its visa module is working and the diplomatic missions abroad are connected.
- The country's preparations in the field of visas are on track, even though no action has been taken on harmonisation of Bosnia and Herzegovina's visa lists with the EU list.
- Bosnia and Herzegovina has made some progress on **border management**. Efforts to reinforce the border police of Bosnia and Herzegovina have continued<sup>88</sup>.

As regards migration

- Establishment in October 2006 of a migration section (Service for Foreigners) within the Ministry of Security as a specialised body under the State-level Ministry of Security though there are staff shortcomings<sup>89</sup>.
- Lack of a National Migration Strategy at the **State-level**.
- **A new Law on movement and stay of aliens** and asylum-seekers has been prepared, but has not yet been adopted<sup>90</sup>
- Room for **improvement** regarding the implementation of the 2003 Law on Movement and Stay of Aliens.
- **A new Law on movement and stay of aliens** and asylum-seekers has been prepared in 2007, but has not yet been adopted<sup>91</sup>.

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84 Progress Report 2007, 4.1.2. Visa...

85 Progress Report 2006, 4.3.1. *Visa, border, control, asylum and migration*.

86 Progress Report 2006 and 2007, 4.3.1. *Visa, border control, asylum and migration*.

87 Progress Report 2007, p. 48

88 Progress Report 2007, p. 49.

89 Progress Report 2006 and 2007, 4.3.1. *Visa, border, control, asylum and migration*.

90 Progress Report 2006 and 2007, 4.3.1. *Visa, border, control, asylum and migration*.

91 Progress Report 2007, 4.3.1. *Visa, border, control, asylum and migration*.

As regards the **movement of persons** the Commission reported in its **2007 Progress Report**:

- The labour legislation and the policy framework remain fragmented and labour mobility continues to be limited.
- **Foreign nationals, including EU citizens, with legal residence in either Entity have legal access to employment.**
- They need to obtain a work permit. **These working permits are valid for one year and may be extended. They are issued only if no unemployed, qualified citizen of Bosnia and Herzegovina is available to fill a particular vacancy.**
- Informal **administrative procedures for foreigners** (e.g. educational qualifications requirements/ verification) are often cumbersome and represent a deterrent to mobility<sup>92</sup>.
- There is **no uniform social security system** and social benefits differ between Entities and even between cantons. This situation undermines the prospects for a coordinated social security mechanism with the EU. Ensuring the portability of pension and health benefits between individual social security systems would facilitate mobility within the country.
- No steps have been taken towards granting **social security benefits for resident** family members of foreign nationals working in Bosnia and Herzegovina.<sup>93</sup>
- There has been limited progress on implementation of the **integrated border management (IBM) strategy**. A revised strategy - fully complying with EU guidelines - and the corresponding action plan have not yet been adopted. The Ministry of Security does not yet play a central role as overall coordinator for IBM issues<sup>94</sup>.
- Cooperation with neighbouring countries is taking place, but not yet in any sustained and structured way. **Unresolved border demarcation issues are adversely affecting control of the green border.**

As regards **free movement of capital**

- Bosnia and Herzegovina has continued to apply relatively liberal rules on **inward** capital flows.
- Certain restrictions remain on **outward** transfers by individuals and non-residents as well as on the holding of foreign accounts by resident entities.
- Restrictions on **foreign direct investment** apply only to the armament and media sectors, where the foreign capital stake is limited to 49%. Transfers and repatriation of profits and remittances plus foreign currency transfers by domestic and foreign companies are liberalised. The **State-level Law on Foreign Direct Investment and the Entity-level implementing legislation establish transfer and repatriation rights.**

On taxation, the 2006 Progress Report of the Commission states that, in June 2006 an agreement on **cooperation and mutual assistance between the Indirect Taxation Authority** of Bosnia and Herzegovina and the Ministries of Finance of the Republic

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<sup>92</sup> Progress Report 2006, p. 30

<sup>93</sup> Progress Report 2006, p. 30.

<sup>94</sup> Progress Report 2006, Visa, border control, asylum and migration.

of Bulgaria, Former Yugoslav Republic of Macedonia, the Republic of Montenegro and the Republic of Serbia was signed in Skopje<sup>95</sup>.

On Industrial Property Rights the 2006 and 2007 Progress Reports of the Commission state that:

- The **Intellectual** Property Institute was established and its Book of Rules for the internal organisation was approved in May 2006<sup>96</sup>.
- Bosnia and Herzegovina is not yet able to implement and enforce key international agreements on IPR to which it is a party. It is a member of the World Organization for Intellectual Property (WIPO) and party to a number of important IPR conventions such as the Paris Convention for the Protection of **Industrial Property**, the Madrid Agreement Concerning the International **Registration of Marks**, and the Bern Convention for the Protection of Literary and Art Works<sup>97</sup>.

On the labour market:

An obstacle to the good functioning of the Bosnia and Herzegovina **labour market** is its large degree of **fragmentation and its complex administrative structure**. The policy responsibilities for the labour market are divided between the State Agency for Labour and Employment and many other organisations at Entity and Cantonal level. Under these circumstances, **policy making is particularly cumbersome** and the Agency has only a limited influence on it. Moreover there is no single labour market legislation, unemployment benefits vary within the country and the mobility and flexibility in the labour market is low, as is the level of job creation.

The complex form of government and the fragmentation of legislation have not favoured the development of an adequate system of **collective bargaining**. This, together with high labour taxes, contributes to the inflexibility of the labour market<sup>98</sup>.

The unemployment rate stood at **31%** (LFS based) in 2006. Youth unemployment is over 60% (LFS 2006) and the bulk of unemployed are very long-term unemployed (only 13.4% of unemployed have been unemployed for less than 12 months<sup>99</sup>).

Country	Ministry (one or more) / Law	Academy of Sciences	Research Council	Universities How established
Bosnia and Herzegovina	Complex structure <b>Cantonal Laws on Higher Education in the Federation (which are very</b>			Public after a Cantonal decision Private if Ministry allows

<sup>95</sup> Progress Report 2006, p. 33.

<sup>96</sup> Progress Report 2006, p. 35.

<sup>97</sup> Progress Report 2007, p. 36.

<sup>98</sup> Progress Report 2006, p. 36

<sup>99</sup> Progress Report 2007, p. 37.

	<b>similar), and Entity Law on Higher Education in the Republic of Srpska.</b>			
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Country	<b>Bosnia and Herzegovina</b>
Unemployment	45% in 2005 31% in 2006
Inflation	0,4%

Immigration	Western Balkans	Europe	America	Asia	Australia
Outward		Germany, Austria, Norway and Sweden	United States, Canada		Australia
Inward	<b>Serbia, Montenegro</b>			China	

## 2. Obstacles to mobility of researchers

### 2.1. Obstacles by the political system

**Bosnia and Herzegovina:** comprises of the **Federation of Bosnia and Herzegovina, Republic of Srpska and Brcko District**, where each of them has its own laws and regulations. Federation of Bosnia and Herzegovina is further divided into 10 cantons, which are the following: Una-Sana Canton, Posavina Canton, Tuzla Canton, Zenica-Doboj Canton, Bosnian Podrinje Canton, Central Bosnia Canton, Herzegovina-Neretva Canton, West Herzegovina Canton, Sarajevo Canton and Canton 10100. **Each canton has different legislation, in other words each canton has its own Law on Education, its own labour market agreements and regulations etc.** The country's institutional setup remains complex, with fourteen Ministers responsible for education (one at State level, one per Entity, one for the Brčko District and one for each of the ten Cantons)<sup>101</sup>.

Due to very complex structure of Bosnia and Herzegovina, there are 13 organs in this country competent for development of S&T policy. The Federal Ministry of Science and Education, Ministry of Science and Technology of RS, Government of the Brcko District and 10 Cantonal Ministries in charge of Science and Technology<sup>102</sup>.

### 2.2. Visa

#### 2.2.1. Bosnia and Herzegovina's facilitation of mobility

Bosnia and Herzegovina exempts from visa requirements:

- 1) All EU Nationals holding a valid passport
- 2) All EEA Nationals holding a valid passport
- 3) All Nationals from the following developed countries: USA, Canada, Japan, Australia and New Zealand
- 4) All Nationals from WBCs except Albania**
- 5) All nationals from Qatar, Kuwait, Malaysia, Israel, Korea<sup>103</sup>

In addition passport is not needed for holders of valid National Identity Cards issued to nationals of Austria, Belgium, Finland, France, Germany, Greece, Italy, Luxembourg, The Netherlands, Norway, Portugal, Spain and Sweden.

#### 2.2.2. Application requirements for visa<sup>104</sup>:

- Passport or official travel document valid for at least three months beyond the expiry date of the visa...
- .. **(d) Return/onward ticket.**

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[http://en.wikipedia.org/wiki/Cantons\\_of\\_the\\_Federation\\_of\\_Bosnia\\_and\\_Herzegovina](http://en.wikipedia.org/wiki/Cantons_of_the_Federation_of_Bosnia_and_Herzegovina)

101 Progress Report 2006, p. 36.

102 See mobility guide question 13 at

<http://webmob.masfak.ni.ac.yu/sitegenius/article.php?aid=380>.

103 [http://www.mfa.gov.ba/Index\\_eng.htm](http://www.mfa.gov.ba/Index_eng.htm)

104 [http://bosnia.embassyhomepage.com/bosnian\\_visa\\_bosnia\\_embassy\\_london.htm](http://bosnia.embassyhomepage.com/bosnian_visa_bosnia_embassy_london.htm)

- (e) **Sufficient funds** for duration of stay...
- (f) **Invitation letter from host, endorsed by the Chamber of Commerce or notarized by the Chamber of Commerce and Ministry of Security**<sup>105</sup>.

The authorized person in the Embassy or Consular Office checks all the documents filed with the visa application and conducts an interview with the applicant<sup>106</sup>.

Applicants from certain countries might have to submit

- **evidence of cash assets (such as a recent bank statement), as well as**
- **evidence of a negative HIV test.**

**Working days required: Approximately three weeks, as all applications are now sent to Bosnia & Herzegovina for approval**<sup>107</sup>.

**The mobility guide declares that an invitation letter is enough to enter, but as we see there are more requirements such as return/onward ticket and sufficient funds. In any case it seems that an invitation letter is important for a researcher to enter the country in order to attend a congress or seminar**<sup>108</sup>.

**A researcher of foreign nationality must file an application for a business visa if he/she comes to Bosnia and Herzegovina for a congress or seminar, or to work on a project for 3 months. If a foreigner would like to stay in Bosnia and Herzegovina for longer period of time, then he/she applies for the visa extension or temporary residence permit. (Article 32 of the Law on Migration and Stay of Foreigners and Asylum)**<sup>109</sup>.

**If the foreigner presents proofs that he is able to support the members of his family, there should be no problems then to get the visa for his family.**

**2.2.3. Bosnia and Herzegovina's specific obstacles to mobility for mobility up to 3 months** the only obstacles seem to apply to Albanian researchers.

1) Albanian nationals fall under the broad category of all other nationals who need a visa to enter Bosnia and Herzegovina. **Therefore, citizens of the Republic of Albania are required visas** when entering, exiting or travelling through Bosnia and Herzegovina, even if it is for less than 3 months stay. This restriction is reciprocal: Albania also imposes visa requirements on **regular passports for Bosnia and Herzegovina citizens.**

**It is therefore recommended to conclude a bilateral international agreement between Albania and Bosnia and Herzegovina for the facilitation of researchers' mobility.**

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<sup>105</sup> Mobility guide 2.1.1.5.

<sup>106</sup> Mobility guide, question 22,

<http://webmob.masfak.ni.ac.yu/sitegenius/article.php?aid=378>.

<sup>107</sup> [http://bosnia.embassyhomepage.com/bosnian\\_visas\\_bosnia\\_embassy\\_london.htm](http://bosnia.embassyhomepage.com/bosnian_visas_bosnia_embassy_london.htm).

<sup>108</sup> Mobility guide for Bosnia and Herzegovina, 2.1.2.4.

<sup>109</sup> Mobility guide, 2.1.1.2.

**2) Temporary measures until the adoption of the bilateral agreement:**

**a) Today Albanian nationals cannot obtain a visa from an Embassy of Bosnia and Herzegovina in Tirana but in Skopje, Former Yugoslav Republic of Macedonia, due to the lack of a consular office of Bosnia and Herzegovina in Tirana<sup>110</sup>. This is also an obstacle.**

**It is recommended, until the adoption of the recommended bilateral agreement:**

- **either an honorary consul of Bosnia and Herzegovina nationality in Tirana**
- **or cooperation with an embassy or consulate of another state in Tirana.**

**b) Today Albanian nationals will get a business visa if they submit, among other documents the following:**

- **Return/onward ticket.**
- **Sufficient funds for duration of stay.**
- **Invitation letter from the host company in Bosnia & Herzegovina, endorsed by the Chamber of Commerce and Ministry of Security.**

**It is recommended, until the adoption of the bilateral agreement, in order to restrict the discretion and uncertainty of entering Bosnia and Herzegovina:**

- **To abolish the condition of “sufficient funds”. It is said “The proof of income, property or social security is not necessary in order to get business visa for Albania, since either the company inviting the foreigner is to bear all the costs of foreigner’s stay, or the company sending the foreigner<sup>111</sup>”. We cannot be sure that all research institutions can give declaration to cover such costs but if given the requirement of sufficient funds has no use.**
- **To stop notarizing/endorsing the letter of invitation by other authorities and for a temporary period to have it notarized only by the Chamber of Commerce.**

**c) Today foreigners have to wait approximately three weeks, e.g. in London Embassy as all applications are now sent to Bosnia & Herzegovina for approval**

**It is recommended, until the adoption of the bilateral agreement:**

**- To abolish the condition of “sufficient funds” or to clarify the meaning as below**

**A foreign national submitting a visa application to a diplomatic mission or a consular office of Bosnia and Herzegovina shall be required to present a proof of sufficient funds for subsistence during his/her sojourn in the country and for the return to the country of origin or transit to a third country.**

**On his/her entry to Bosnia and Herzegovina, the border control**

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<sup>110</sup> See webpage [http://www.mfa.gov.ba/Index\\_eng.htm](http://www.mfa.gov.ba/Index_eng.htm).

<sup>111</sup> Mobility guide, 2.1.1.4

**officer shall be authorised to request that the foreign national presents funds necessary for subsistence during the sojourn in the country and for the return to the country of origin or transit to a third country.**

**The amount of currency under paragraphs 1 and 2 hereof shall be fixed at the equivalent of € 100 (in words: one hundred Euros) per day of the estimated stay in Bosnia and Herzegovina.**

**If a foreign national is in possession of a certified letter of invitation by a natural or legal person from Bosnia and Herzegovina proof of hotel booking and the like, he/she shall present proof of possessing funds equivalent to € 50 (in words: fifty Euros) per day of the estimated stay in the country. Credit and bank cards, bank statements, cheques or other documents shall be acceptable as proof of possessing sufficient funds”.**

d) Foreigners have to pass interview in order to get a visa:

It is recommended that this requirement be abolished for researchers from EU, EEA and WBC holding a hosting agreement because it is burdensome.

### **2.3. Visa of longer stay, work permit and police announcement**

**The duration of the visa is for 3 months, and after that the foreigner may prolong the visa, or ask for temporary residence permit.** Multiple entries visa may be issued for the period of one year<sup>112</sup>. The prolongation of a visa is possible **for additional 90 days**. The conditions are the **same as when the visa was originally issued**<sup>113</sup>.

Bosnia and Herzegovina does not provide for the maximum length for the visa procedure but it seems 30 days is the maximum for Bosnia and Herzegovina.

The Rulebook that regulates visa issues **does not specify that visa will not be granted in case of unemployment in the specific sector**. However, when the person arrives to Bosnia and Herzegovina and goes to Employment Agency to get the Work Permit, then he can be rejected on the grounds of unemployment in the specific sector<sup>114</sup>.

In order to work in a research institution the foreigner first obtains a business visa to come to Bosnia and Herzegovina and then a work and a residence permit<sup>115</sup>.

Obstacles:

- Prolongation of visa is difficult and uncertain since the same conditions must be re-examined.
- The procedure may take up to 30 days.

It is recommended:

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112 Mobility guide for Bosnia and Herzegovina, 2.1.2.1.

113 Mobility guide for Bosnia and Herzegovina 2.1.2.3.

114 Mobility guide for Bosnia and Herzegovina, 2.1.1.8.

115 Mobility guide for Bosnia and Herzegovina 2.1.2.6.

- 1) Prolongation could be automatic for researchers for the whole or half of the time of its issuance.
- 2) The timeframe to get a visa is too long and has to be shortened especially since all the data are computerized. It is recommended that the procedure should be shortened for researchers.

#### **2.4. Formalities at the Border and police presence report**

In Bosnia and Herzegovina seems to be no limit of foreign or domestic currency that the foreigner is allowed to import or export. However according to the Commission's report it seems that outward capital flow is less liberal than inflow. The foreigner may bring his/her personal belongings without payment of any taxes. Bosnia/Herzegovina's legislation does not seem to be restrictive on that.

The foreigner has to report his/her presence to the police within 24 hours after arrival. This is defined in Article 54 of the Law on Migration and Stay of Foreigners and Asylum (Official Gazette of Bosnia and Herzegovina, no. 29 from 6 October 2003)116.

This seems to be restrictive. It is recommended that the timeframe be extended to 10 days for researchers and that the host research institution makes the announcement.

#### **2.5. Family reunion**

The following persons are considered to be the family: a) a spouse, b) children up to 18 years of age, or all the children that need support and are living together in one household. c) parents that he/she supports, Article 38 of the Law on Migration and Stay of Foreigners and Asylum117.

a) The foreigner may ask his family to come under the following conditions: That he has **sufficient resources** to support the family to come, that there are no other reasons, defined by the Bosnia and Herzegovina Law on Migration and Stay of Foreigners and Asylum, due to which his residence **permit could be withdrawn**118.

b) Bosnia and Herzegovina does not allow the spouse to work without a work permit. However the work permit is issued only if there **are no unemployed nationals** with qualifications necessary for the relevant position.

c) Elementary and secondary school qualifications must be **validated** e.g. if somebody who completed secondary education in a foreign country wants to

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116 Mobility guide, question 6, at <http://webmob.masfak.ni.ac.yu/sitegenius/article.php?aid=382>.

117 Mobility guide question 15, at <http://webmob.masfak.ni.ac.yu/sitegenius/article.php?aid=382>.

118 Mobility guide, question 14, at <http://webmob.masfak.ni.ac.yu/sitegenius/article.php?aid=382>.

enter one of the universities in Bosnia and Herzegovina, then he/she must first validate his/her secondary school qualifications<sup>119</sup>.

It is recommended that the above obstacles could be eliminated gradually for researchers by:

- Considering the hosting agreement as proof of sufficient resources as is in EU Directive 2005/71/EC
- Granting automatically the work permit to the spouse **if the spouse has a residence permit of one year** without examining if there are any unemployed nationals
- Facilitating the validation of the children of researchers of foreign nationality by making more transparent the qualifications necessary and accelerating the procedure of validation.

## 2.6. Recognition of diplomas

**The foreigner must apply for recognition of his/her diploma at the competent authority before entering the country for 3 months with or without visa. This is imperative since the competent authorities take at least 30 days to issue the equivalency.** Informal administrative procedures for foreigners (e.g. educational qualifications requirements/verification) are often cumbersome and represent a deterrent to mobility<sup>120</sup>.

Indeed in Bosnia and Herzegovina at least 70% of the curriculum of studies in the foreign University must be the same with the curriculum of the local University. That is the reason **why it very often happens that requests for recognition of a degree are rejected**<sup>121</sup>.

The country's institutional setup remains complex, with fourteen Ministers responsible for education (one at State level, one per Entity, one for the Brčko District and one for each of the ten Cantons)<sup>122</sup>. The cantons have their own procedure which is largely similar<sup>123</sup>. As a general rule, relevant faculties of **Higher Education Institutions themselves are responsible for university degree recognition**. The relevant university appoints a Committee that generally comprises of three to five persons, who are responsible for validation of the diploma.

**The procedure takes 2 months or even a year, since there are no penalties if the relevant institution does not fulfil its obligations in time.** Many demands are rejected or they are partially accepted if there are differences in conditions under which the degree was obtained but not substantial<sup>124</sup>. In such case the Ministry

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<sup>119</sup> Mobility guide question 23, at <http://webmob.masfak.ni.ac.yu/sitegenius/article.php?aid=379>.

<sup>120</sup> Progress Report 2006, p. 31, 4.1.2 Movement of Persons.

<sup>121</sup> Mobility guide, question 5, at <http://webmob.masfak.ni.ac.yu/sitegenius/article.php?aid=382>.

<sup>122</sup> Progress Report 2006, p. 36.

<sup>123</sup> Mobility guide 3.5.1 and 3.5.2.

<sup>124</sup> Mobility guide 3.5.2.

makes a list of exams to be passed. However if one faculty rejects one, he may try with another faculty.

Therefore the procedure displays many obstacles for researchers who by definition hold a University degree.

**A national Action Plan for the Recognition of Qualifications was drafted in December 2006** in the frame of the joint project of the European Commission and the Council of Europe "Strengthening Higher Education in **Bosnia** and Herzegovina **125**. It was recommended to establish an ENIC centre in **Bosnia** and Herzegovina whose role would be advisory i.e. it will serve education authorities and higher education institutions in facilitating **recognition** procedures. The relevant education authorities or higher education institutions should make the final decision on recognition. The ENIC Centre will be responsible for the collection and update of information on education systems and **qualifications**; will have advisory functions and will ensure adequate, reliable and authentic information. The future BiH ENIC centre should by all means have its own web portal, since this would encompass its full transparency in the country and abroad while also facilitating access to information<sup>126</sup>.

**A new state level law adopted in August 2007 on higher education has established the new Agency for the recognition of diplomas<sup>127</sup>.**

It is therefore recommended to further facilitate the recognition of diplomas held by researchers of foreign nationality:

- By concluding bilateral treaties of mutual recognition with EU, EEA and WBCs.

## **2.7. Temporary and permanent work permit**

### **2.7.1. Procedural issues**

A foreigner :

- First finds a job,
- Applies and gets the decision of recognition of diploma degree
- Applies for a temporary approval of stay
- Applies for work permit.
- Gets the work permit
- Signs the work contract
- Applies for residence permit
- Extends work permit and residence permit

The police authority of the district where the foreigner has chosen his living place first issues the temporary approval of stay in Bosnia and Herzegovina, based on which a foreigner may obtain the Work Permit. After obtaining the Work Permit,

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[http://www.unsa.ba/pdf/NAP%2520BiH%2520final%2520version%2520eng.pdf+Bośnia+ Recognition+of+qualifications&hl=el&ct=clnk&cd=4&gl=gr](http://www.unsa.ba/pdf/NAP%2520BiH%2520final%2520version%2520eng.pdf+Bośnia+Recognition+of+qualifications&hl=el&ct=clnk&cd=4&gl=gr).

126 Op.cit.

127 See previous consultation by the Council of Europe at

[http://www.coe.ba/pdf/BiH%20QF%202007\\_06\\_05\\_eng\\_final.pdf](http://www.coe.ba/pdf/BiH%20QF%202007_06_05_eng_final.pdf).

foreigner may obtain the residence permit for one year, which can be prolonged if the foreigner wishes to stay for more than a year in Bosnia and Herzegovina<sup>128</sup>.

In order to get the work permit, person needs to give relevant information about the company and description of the work that he will be performing (Law on Employment of Foreign Nationals (FBiH, RS, Brcko District)<sup>129</sup>.

In order to **apply for the Work Permit the foreigner must first recognize his/her academic degree obtained** in a state of EU or any other country. When foreigners are filing applications for work permits, one of the documents they must provide with the application is the decision that the degree obtained in another country is recognized as equivalent to the degree of one of the Universities<sup>130</sup>

The labour legislation and the policy framework remain fragmented and labour mobility continues to be limited. Foreign nationals, including EU citizens, with legal residence in either Entity have legal access to employment. They need to obtain a work permit. These working permits are **temporary** and valid for one year and may be extended<sup>131</sup>.

In order to obtain the **permanent** work permit, a foreign national must :

- First obtain the permanent **residence permit**
- **Stay five years** in Bosnia and Herzegovina,
- have **necessary living resources provided**,
- have **health protection** and
- provide proof of **medical check-up**, which may not be older than three months<sup>132</sup>.

### 2.7.2. Unemployment of nationals

In Bosnia and Herzegovina, as in all WBCs, the authorities issue a work permit only under the condition that no citizen of the host State with qualifications required by the employer is registered on the list of Employment Agency of Bosnia and Herzegovina<sup>133</sup>.

### 2.7.3. Obstacles

It is clear from the above analysis that it is cumbersome for a foreigner to follow the above procedure, especially if he/she does not speak the local language. The

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<sup>128</sup> Mobility guide, Working conditions, question 2, at <http://webmob.masfak.ni.ac.yu/sitegenius/article.php?aid=381>

<sup>129</sup> Mobility guide, Working conditions, question 1, at <http://webmob.masfak.ni.ac.yu/sitegenius/article.php?aid=381>.

<sup>130</sup> Mobility guide 4.1.9.

<sup>131</sup> Progress Report 2006, p. 31, 4.1.2 Movement of Persons.

<sup>132</sup> Mobility guide for Bosnia and Herzegovina 4.16. This is all prescribed in Article 40 of the Law on Immigration and Stay of Foreigners and Asylum of Bosnia and Herzegovina, which can be found on

[http://www.mup.vladars.net/zakoni\\_lt/bih/Zakon%20o%20kretanju%20i%20boravku%20stranaca%20i%20azilu\\_lat.pdf](http://www.mup.vladars.net/zakoni_lt/bih/Zakon%20o%20kretanju%20i%20boravku%20stranaca%20i%20azilu_lat.pdf)

<sup>133</sup> Mobility guide, question 10, at <http://webmob.masfak.ni.ac.yu/sitegenius/article.php?aid=382>.

requirement that there must not be any national from Bosnia and Herzegovina with the same qualifications registered at the Employment Agency causes a lot of uncertainty to the researcher due to high unemployment to Bosnia and Herzegovina especially among the young people. It is therefore recommended, if Bosnia and Herzegovina wishes to join ERA and considers science and technology a major boost for its economy, to exempt EU, EEA and WBCs researchers from work permit procedure. Since EU member States will do the same according to Directive 2005/71/EC there will be reciprocity.

## 2.7. Residence permit

Residence permit is valid **usually for one year and can be extended each year** only if the foreigner first prolongs his residence permit in Bosnia and Herzegovina.

The foreigner needs to submit the following documents in order to get the residence permit<sup>134</sup>:

1. Application and one photograph,
2. Copy of the entire passport with official translation,
3. **Work permit**,
4. Copy of the decision about entry into the **court register** of the legal entity (for which the foreigner will work);
5. Confirmation of **solvency** of the legal entity, issued by the bank,
6. Copy of the **Contract**,
7. Copy of the **Diploma** with translation,
8. Proof of registration with the competent **Pension Insurance** Fund,
9. Declaration of the legal or physical entity that they will guarantee the **costs of medical treatment and other costs** including the costs of return to the native country of the foreigner,
10. Proof of medical **check-up** not older than 3 months, which certifies that the work permit applicant is not suffering from any disease that can have harmful effects on the people in his surroundings, or to prove that he is fit for the work he/she will be performing,
11. Proof that the foreigner has registered his stay in the country with the competent authority.

A fee is paid for the residence permit, unless the permit is needed for a period of up to 3 months, when only a small sum is paid<sup>135</sup>.

The foreigner has a right to appeal within **15 days** from the day of reception of the Refusal Decision (Article 43 of the Law on Migration and Stay of Foreigners and Asylum in Official Gazette of Bosnia and Herzegovina, no. 29 from 6 October 2003). However, the **length of this procedure** is not defined and it is not said that he/she may ask for provisional protection<sup>136</sup>.

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134 Mobility guide, question 8, at <http://webmob.masfak.ni.ac.yu/sitegenius/article.php?aid=382>.

135 Mobility guide, question 9, at <http://webmob.masfak.ni.ac.yu/sitegenius/article.php?aid=382>.

136 Mobility guide, question 11, at <http://webmob.masfak.ni.ac.yu/sitegenius/article.php?aid=382>.

In Bosnia and Herzegovina if a **foreign national obtains a permanent residence permit, then the permanent work permit may be issued as well**<sup>137</sup>.

If a foreigner stays in Bosnia and Herzegovina without a valid visa or residence permission, he will be punished with a **fine of 100 to 1.500 KM** (approx. 50 to 750 EUR), or a prison sentence of up to 30 days (Article 96 of the Law on Migration and Stay of Foreigners and Asylum)<sup>138</sup>.

The residence permit may be **withdrawn later** if the foreigner

1. is not acting in accordance with the constitutional provisions of Bosnia and Herzegovina, its entities and Brcko District,
2. if he is endangering national interests of Bosnia and Herzegovina (if for example he is engaged in smuggling of weapons etc.),
3. if he is in any way involved in organization of illegal entry to Bosnia and Herzegovina,
4. if he violated or tried to violate provisions related to Bosnia and Herzegovina border passing,
5. if the circumstances under which the residence permit was issued have changed to such extent that it would not be possible to issue this permit now,
6. if a foreigner gives wrong data or hides some information important for issuing of resident permit,
7. if the foreigner poses a threat to national safety of Bosnia and Herzegovina (Article 47 of the Law on Migration and Stay of Foreigners and Asylum in Official Gazette of Bosnia and Herzegovina, no. 29 from 6 October 2003)<sup>139</sup>.

#### 2.8.2. Obstacles

The above legislation presents the following obstacles to the mobility of researchers:

- a) **It requires too many documents.**
- b) **It is conditioned on the non existence of locals with qualifications necessary for the relevant position registered** with the Employment Agency of Bosnia and Herzegovina,
- c) **In case of refusal the length of the appeal procedure** is not defined and it is not clear whether there is provisional protection<sup>140</sup>.
- d) **Penalties for not having a residence permit are high and include imprisonment.**
- e) The residence permit may be **withdrawn later for many reasons some of which are for public order but others are not and have to be revised.**

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137 Mobility guide 4.1.4

138 Mobility guide, question 12, at

<http://webmob.masfak.ni.ac.yu/sitegenius/article.php?aid=382>.

139 Mobility guide, question 13, at

<http://webmob.masfak.ni.ac.yu/sitegenius/article.php?aid=382>.

140 Mobility guide, question 11, at

<http://webmob.masfak.ni.ac.yu/sitegenius/article.php?aid=382>.

It is recommended that legislation in Bosnia and Herzegovina is aligned with Directive 2005/71/EC.

## 2.9. Social insurance matters

1. All social insurance systems in WBCs are public<sup>141</sup> and specific legislation provides for all in Bosnia and Herzegovina<sup>142</sup>.
2. Affiliation to the host state security system is required in order to work as a researcher and is done automatically by the host institution – employer as soon as the work contract is signed.
3. There is no special social security fund for researchers in Bosnia and Herzegovina and in any WBC.
4. The social security system of Bosnia and Herzegovina remains fragmented and technically inadequate to provide for a coordinated social security mechanism with the EU<sup>143</sup>. The different social security systems adversely affect workers and citizens in general. **Rights to health insurance and other social protection**, including unemployment benefits, continue to depend on which Entity and to some extent in which canton they live in. However, there is no political consensus on establishing a State-level social policy, with Entities and cantons maintaining their constitutional rights to establish policy and deliver services<sup>144</sup>.
5. The time spent in another country may be aggregated if the Pension Fund of each country has signed an agreement with the Pension Fund of the relevant country<sup>145</sup>. There are bilateral agreements of Bosnia and Herzegovina with Former Yugoslav Republic of Macedonia<sup>146</sup>, Yugoslavia (now Serbia)<sup>147</sup>, Croatia<sup>148</sup> and France<sup>149</sup>. More are required.

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141 **Statutes of the Federal Institute for Pension and Disability Insurance of 14 May 2002.**

*Sluzbene Novine*, 2003-08-05, No. 38, pp. 2109-2112

142 In Bosnia and Herzegovina **Act of 14 December 2001 on health insurance, Act of 21 September 2006 to amend and supplement the Act on pension and disability insurance (Text No. 659).**

*Sluzbene Novine*, 2006-10-04, No. 59, p. 6217

143 Bosnia and Herzegovina Progress Report 2006, p. 31. Free Movement of Persons

144 Bosnia and Herzegovina Progress Report 2007, p. 38.

145 Mobility guide 5.3.5.

146 **Agreement between Former Yugoslav Republic of Macedonia and Bosnia and Herzegovina on social insurance. Done at Sarajevo on 17 February 2005.**

*Sluzhben Vesnik - International Agreements*, 2005-09-28, No. 82, pp. 1-42

*Sluzhbeni Glasnik (International Agreements)*, 2006-02-15, No. 1, pp. 27-33

147 **Agreement between the Republic of Yugoslavia and Bosnia and Herzegovina on social insurance. Done at Belgrade on 29 October 2002.**

*Sluzbeni List (International Agreements)*, 2003-10-10, No. 7, pp. 3-9

6. There are both public hospitals and private clinics in all WBCs. Public hospitals offer medical care free of charge<sup>150</sup> only for those foreigners that have work or residence permit in Bosnia and Herzegovina. Solutions could be found so that public hospitals offer medical care free of charge<sup>151</sup> to all EU, EEA and WBC researchers who are legally present in the Bosnia and Herzegovina<sup>152</sup>.

**7. There are international treaties for the avoidance of double taxation: Bosnia and Herzegovina has agreement with 15 EU member states, Croatia and Serbia and Montenegro<sup>153</sup>. The amount paid elsewhere will be deducted from the tax to be paid<sup>154</sup>**

## **2.10. Living conditions**

1. It is easy to rent an apartment through Real Estate Agencies, newspapers etc. for short or long periods in Bosnia and Herzegovina. Prices to rent furnished apartments vary according to location, size and luxury. It is around 100 – 750 Euros in Bosnia and Herzegovina.

2. A foreigner can buy and register a new car, relatively cheap in Bosnia/Herzegovina, once he/she gets a residence permit<sup>155</sup>.

No specific obstacles are found to mobility of researchers at the present stage of relations of Bosnia and Herzegovina and EU.

## **2.11. Working conditions – Career issues**

1. The labor law applies to researchers, because it defines general rules for all types of employees in Bosnia and Herzegovina. These general rules are e.g. related to overtime, holidays, maternity leave etc. There are no specific labour market agreements for researchers. Researchers may participate in Professional Associations and Unions.

**2. There is an Internal Code of Rules** for each scientific institution, e.g. Statute of Academy of Sciences, Statute x each institution<sup>156</sup>.

3. The selection process depends on the type of institution<sup>157</sup>. It may include:

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**148 Administrative Protocol for the adoption of the Agreement on social security between the Republic of Croatia and Bosnia and Herzegovina (Text No. 19).**

*Narodne Novine, 2002-02-06, No. 2, pp. 92-95*

**149 Convention générale sur la sécurité sociale entre la France et la Yougoslavie, fait à Paris le 5 janvier 1950**

150 Mobility guide, 5.4.1. and 5.4.2.

151 Mobility guide, 5.4.1. and 5.4.2.

152 Mobility guide 5.4.3.

153 Mobility guide 5.6.5.

154 Mobility guide 5.6.4.

155 Mobility guide 6.1.4.

156 <http://webmob.masfak.ni.ac.yu/sitegenius/article.php?aid=357>

- written exam and interview
- Only Interview
- Probation period

The need for a probation period depends on the specific research or academic organization. In Bosnia and Herzegovina it depends also on the cantonal laws applicable<sup>158</sup>.

There is a probation period of 3 months (that is the usual duration of the probation period since it is defined in the Labor law of Bosnia and Herzegovina). There is the possibility to appeal against the selection process only if the research institution is public<sup>159</sup>.

4. Salaries and extra fees depend on the contract and on the grade of the researcher<sup>160</sup>. The allowed overtime is 10 hours (Total work time 40 hours) in Bosnia and Herzegovina<sup>161</sup>.

5. Scholarships are offered for outgoing mobility by:

- foreign Universities or
- between Faculties <sup>162</sup>

Foreign publications are considered necessary for a researcher/academic career in all WBCs<sup>163</sup>.

6. Defined obstacles by the mobility guide are:

- Obstacles for ingoing mobility of researchers are considered to be:

- Lack of programmes inviting researchers to come in Bosnia and Herzegovina
- The procedure to get work permit and residence permit lasts too long and is too much paperwork
- Civil servants who issue work permits and residence permits sometimes do not speak foreign languages in Bosnia and Herzegovina.

- Obstacles for outgoing mobility are considered to be:

- Visa requirement for most countries<sup>164</sup>.

WBC Researchers that go abroad for research purposes do not lose their position or seniority in home institution<sup>165</sup>.

7. Databases of research institutions and researchers exist in Bosnia and Herzegovina<sup>166</sup>. **Vacancies in Bosnia and Herzegovina are published in newspapers and sometimes on the internet**<sup>167</sup>.

<sup>157</sup> Mobility guide 7.2.2.3.

<sup>158</sup> Mobility guide 7.2.1.1.

<sup>159</sup> Mobility guide 7.2.2.3.

<sup>160</sup> Mobility guide 7.2.3.1.

<sup>161</sup> Mobility guide 7.2.3.

<sup>162</sup> Mobility guide 7.2.1.4.

<sup>163</sup> Mobility guide 7.2.1.5.

<sup>164</sup> Mobility guide 7.2.1.6.

<sup>165</sup> Mobility guide 7.2.1.7.

<sup>166</sup> Mobility guide 8.1.1.

<sup>167</sup> Mobility guide 7.2.2.1.

## 8. Research funding:

- State (or Cantons in Bosnia and Herzegovina) provides financment
- for public research institutions
  - national programmes

There is no private financment except for own purposes<sup>168</sup>.

There are many international donors as EU, UNESCO etc.

9. The training of a new generation of researchers is not being undertaken, most of the **research infrastructure is obsolete** or in the need of repair. Bosnia and Herzegovina has not developed a countrywide **research policy** framework. Research policy remains designed and implemented at Entity level, as defined by its Constitution. Links with industry and universities need to be enhanced.

10. Considerable efforts are needed if the country is to take full advantage of its envisaged participation in the EU **7th Framework Programme** for Research and Technological Development<sup>169</sup>. This is not done yet.

The following obstacles to mobility of researchers are identified:

1. Bosnia and Herzegovina has not developed a countrywide **research policy** framework, though this is defined as a medium term priority in SAA with EU. The example of the new law on higher education of August 2007 could be followed in research as well.

2. The internal code of rules for researchers could not depend on the statute of each institution, usually in the local language, but must be gradually be uniform in all research institutions of Bosnia and Herzegovina according to a specific state-level law on research institutions gradually aligned to European standards, that will set the common goals and structures and leave discretion to the entities and cantons for procedural issues. The same law could provide for fees and career issues of researchers.

3. Vacancies in researcher jobs and fellowships in Bosnia and Herzegovina could be published on the internet on the official sites of Bosnia and Herzegovina in a Western European language as well<sup>170</sup>.

## 2.12. INNOVATION

More incentives could be given to researchers to innovate:

1. The employer has the priority over all others to purchase the invention of a researcher (Labor Law, art. 75). More incentives could be given to researcher to

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<sup>168</sup> Mobility guide 7.3.2.

<sup>169</sup> Progress Report 2007, p. 39.

<sup>170</sup> Mobility guide 7.2.2.1.

innovate. It is recommended that researchers are given either a part of industrial property rights (50-50 or 60-40) or adequate compensation.

2. Concrete progress is needed towards developing suitable financial instruments favourable to businesses in connection with technology advancements, establishing a tax policy able to further support **business start-ups and spin-offs (Technology based companies)**. The use of research and innovation policy as a means to support economic reform and capacity-building remains low<sup>171</sup>. Researchers will have better incentives for better research if they know that their invention, know how, design, any innovation will be used by start-ups and spin-offs or existing industry.

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<sup>171</sup> Progress Report 2006, p. 38.

ANNEX I - Law on Aliens

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Law on Movement and Stay of Aliens and Asylum 2002

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Τέλος φόρμας

Law on movement and stay of aliens and asylum

Based on Article IV. 4. a) of the Constitution of Bosnia and Herzegovina, the Parliamentary Assembly of Bosnia and Herzegovina, at the session of the House of Representatives held on \_\_\_\_\_ 2002 and at the session of the House of Peoples held on \_\_\_\_\_ 2002, adopted the

CHAPTER I - GENERAL PROVISIONS

Article 1(Subject-matter of the Law)

This Law shall regulate conditions and procedure for entry and stay of aliens in Bosnia and Herzegovina (hereinafter referred to as: BiH), reasons for refusal of entry and stay, reasons for cancellation of stay and expulsion of aliens from the territory of BiH, procedure for submission of requests for asylum, approval of asylum and cessation of asylum in BiH, competency of authorities relevant for implementation of this Law, as well as other issues related to asylum, stay and movement of aliens in BiH.

Article 2(Bodies responsible for implementation of the Law)

1. In accordance with this Law and by-laws passed on the basis of this Law, the procedure shall be carried out and relevant decisions taken by the:a) Council of Ministers of BiH,b) Ministry for Human Rights and Refugees of BiH (hereinafter referred to as: the Ministry),c) Ministry for Foreign Affairs of BiH (hereinafter referred to as: MFA) and diplomatic and consular representations abroad (hereinafter referred to as: DCR),d)

State Border Service (hereinafter referred to as: SBS),e) Entity Ministries of Internal Affairs, notably: cantonal ministries of internal affairs of BiH Federation, public security stations of the Ministry of Internal Affairs of the Republika Srpska and the Police of Brčko District (hereinafter referred to as: OIA)

#### Article 3(Office for aliens and asylum)

1. The Office for Aliens and Asylum shall be established within the Ministry for Human Rights and Refugees, with its departments for aliens and asylum (hereinafter referred to as: the Department) as structural units detached from the seat of the Ministry, for the purpose of applying provisions of this Law.

2. The Office for Aliens and Asylum shall be administered by the director appointed by the Council of Ministers at the proposal of the ministers of the Ministry.

3. The Ministry shall by way of a by-law specify the number of these departments, their territorial jurisdiction and structure of postings, as well as other issues relevant for their operation.

#### Article 4(Definitions)

1. For the purpose of this Law, the term:a)*an alien* refers to any person who is not a citizen of BiH or is stateless,b)*a stateless person* refers to any person who is neither a citizen of BiH, nor a citizen of any other state pursuant to legislation of that state,c)*a place of habitual residence* of an alien refers to his/her country of origin or the country of his/her permanent residence,d)*a valid travel document* refers to a passport issued by the competent foreign authority recognised in BiH and valid through and space, as well as an ID Card or another document with a photograph authorising its bearer to travel abroad, which has been recognised by an international treaty to which BiH is a Contracting Party or by the decision of the Council of Ministers of BiH, as well as a travel document issued to an alien in accordance with the present Law,e)*an asylum applicant* refers to any alien seeking asylum regardless of whether the alien has sought asylum at a border crossing or after having entered the territory of BiH. This category includes persons who have expressed fear of torture, inhuman or degrading treatment, or of any other threat to their life or freedom in the country where they are coming from.

#### Article 5(Freedom of movement of aliens)

1. Entry, stay and exit of aliens may be restricted under the terms stipulated by this Law.

2. Under the conditions specified by this Law, aliens staying in BiH shall enjoy the right to freedom of movement within the country and freedom of choosing the place of their residence, unless regulated otherwise in this or other special laws.

#### Article 6(Prohibition of discrimination)

1. There must be no discrimination expressed towards aliens on any grounds whatsoever, including sex, race, colour of skin, language, religion, political and other views, national and social origin, status of a national minority, property status, age, psychological or physical disability, status attained by birth or some other status.

#### Article 7(Obligation of compliance with regulations)

1. Aliens in BiH must respect the constitutional order of BiH and comply with regulations and decisions of the authorities of the State, Entity and Brčko District of BiH.

#### Article 8(Rights during the proceedings before the State bodies)

1. Aliens must, within a prescribed deadline, present to competent authorities relevant documents, information and attestations required for conducting the procedure related to residence permits, as defined by the present Law.

2. At all stages of the procedure aliens shall be informed of the rights and obligations that ensue from the present Law, of the right to appeal, of potential claims for damages as well as of all formalities necessary to have their rights recognised.

3. If an alien does not know the language used during the procedure, the body that conducts the procedure is obligated to give the alien an opportunity to follow the course of the proceedings through an interpreter.

#### Article 9(Proof of identity)

1. During their stay in the territory of BiH, aliens must possess documents for the purpose of verifying their identity and their right to enter and stay in BiH, and present them to the competent authority at their request.

## CHAPTER II - ENTRY AND STAY

### Part A. General entry conditions

#### Article 10(Crossing the border)

1. Aliens may cross the BiH border only at the border posts open to international traffic or at those meant for circulation between two States, unless agreements between BiH and neighbouring States provide otherwise.

2. An alien wishing to enter or leave BiH shall be subject to control by an officer authorised to control the crossing of the state border, and is obliged to subject both his/her luggage and his/her vehicle to that control.

3. At the request of the officer referred to in paragraph 2 of this Article, an alien wishing to enter or leave BiH shall be obligated to honestly and fully answer all questions and hand over all documentation, as well as to fill out additional questionnaires, if so requested by the officer.

#### Article 11(General entry conditions)

1. An alien may be granted entry to BiH provided that he/she has fulfilled the following requirements:a) that he/she is in possession of a valid passport or a travel permit,b) that he/she is in possession of a valid visa for entry and stay or for transit through the territory of BiH, or a residence permit as stipulated in this Law,c) that he/she has the means to support himself/herself during his/her entry, stay and exit from the country, including health care means, as stipulated in Article 14 of this Law,d) that he/she is in possession of an entry visa, if so required, of a neighbouring country of his/her destination, or the country the territory of which he/she is transiting through,e) that no expulsion measure from the territory of BiH has been imposed against him/her, as long as the imposed measure is in force,f) that his/her presence in the territory of BiH does not constitute a threat to national security, rule of law and public order of BiH.

2. The Council of Ministers of BiH may prescribe special conditions for entry of aliens, when so being required by reasons of national security and rule of law or by other reasons stemming from international obligations and relations.

#### Article 12(Entry under special conditions)

1. An entry may be allowed to an alien even if he/she does not fulfil the conditions referred to in Article 11 items a) and b) of this Law, if so being stipulated by an international treaty to which BiH is a Contracting Party or by a special regulation of the Council of Ministers of BiH.

#### Article 13(Exemption from visa requirement)

1. At the proposal of MFA, the Council of Ministers of BiH shall specify the countries the citizens of which shall not be required to have a visa for entering BiH (hereinafter referred to as: non-visa countries), as well as the countries the citizens of which may enter BiH with a travel document other than a passport. The Council of Ministers of BiH shall also be responsible to exempt persons whose refugee status has been recognised by other countries from visa requirement.

2. Aliens who are according to this Law exempt from visa requirement to enter the territory of BiH shall be entitled to stay in the country (hereinafter referred to as: non-visa residence) for a period of not longer than three months, unless a shorter period has been designated by an international treaty to which BiH is a Contracting Party or by a special regulation of the Council of Ministers of BiH, passed in accordance with Article 12 of this Law.3. Aliens are exempt from visa requirement to enter BiH if their permanent or temporary residence permit sticker has been affixed in their passport, for as long as that residence permit is valid.

#### Part B. Means of subsistence

#### Article 14(Means of subsistence)

1. Evidence of the existence of means of subsistence needed to support an alien referred to in Article 11 paragraph 1 item c) shall be brought through either:a) possession of cash, in the local or foreign convertible

currency,b) possession of forms of non-cash payment accepted by the banking system of BiH,c) a letter of guarantee or a letter of invitation,d) presentation of evidence of board and lodgings paid for through travel agencies, ore) possession of other reliable means.

#### Article 15

(Letter of guarantee)

1. A letter of guarantee needed for an alien to enter BiH may be issued by a citizen of BiH or by an alien who has been granted permanent residence in BiH. A letter of guarantee may be accepted as verification of possession of means of subsistence, provided that it contains the statement that the guarantor undertakes to provide lodging, costs of medical treatment and to ensure support and other expenses related to stay of that alien in BiH, as well as costs of his/her departure from BiH.
2. A statement referred to in previous paragraph must be certified by the competent administrative body in the place of residence of the guarantor.

#### Article 16

(Letter of invitation)

1. An invitation is a form of a letter of guarantee whereby a domestic or foreign legal entity registered in BiH is inviting a foreign partner to a business visit within a designated period of time.
2. The invitation shall include the statement on covering the costs referred to in Article 15 of this Law.
3. The invitation must be certified by the Chamber of Commerce of BiH and by the competent administrative authority in the place where the guarantor is seated.

#### Article 17

(Work permit)

1. When an alien wishes to enter BiH for the purpose of work or other taxable activity returning profits, entry may only take place when he/she has a work permit or its equivalent, in accordance with special regulations regulating the field of employment.
2. An alien who possesses a work permit shall be deemed to fulfil the requirements relating to the possession of means of subsistence.

#### Article 18

(Departure guarantee)

1. Evidence of the existence of a repatriation guarantee can be brought through a title of transport valid for return or continuation of the journey as well as through the legal possession of an appropriate means of transport by the concerned alien.

2. Whenever necessary, the possession of various visas authorising the alien to continue his/her trip onto the territory of another State may be required.

#### Article 19

(Evidence of the existence of means of subsistence)

1. Aliens who are under this Law exempt from visa requirement to enter the territory of BiH, must possess documents and confirmations referred to in Article 14 of this Law and present them when entering BiH to a person authorised to control the crossing of the State border at his/her request.

2. The application for issuance of a visa must be submitted by aliens who are required to have a visa, a letter of confirmation and documentation referred to in Article 14 of the Law.

3. Aliens whose BiH temporary or permanent residence permit has been entered in their valid travel document are not obliged to possess letters of confirmation and documentation referred to in Article 14 of the Law when entering BiH, for as long as their residence permit is valid.

#### Part C. Refusal of entry and competencies

##### Article 20(Refusal of entry)

1. An alien may be refused entry in BiH even if he/she fulfils entering requirements prescribed in Article 11 of this Law, if:a) while entering the country he/she fails to present requested information to the authority authorised to control the Stateb) border crossing or fails to complete certain queries or deliberately provides false information about his/her right to enter BiH or deliberately avoids such situations, orc) there are reasonable grounds to believe that he/she will be performing activities for which a work permit is required, without possessing such a permit, particularly with regard to an alien who has already been refused entry in BiH for the above mentioned reasons.

##### Article 21(Competency and appeal)

1. Decisions on refusal of entry are taken by the SBS at the border:
2. An appeal against the decision on refusal of entry may be lodged with the Ministry within 15 days from the notification of the decision.
3. An appeal does not stay the execution of the decision.

### CHAPTER III - ENTRY AND RESIDENCE PERMITS AND TRAVEL DOCUMENTS

##### Article 22(Entry permits)

1. Except in case referred to in Article 12 of this Law, permits authorising an alien to enter and stay in BiH are as follows:a) visa,b) temporary residence permit,c) permanent residence permit.

##### Article 23(Visas)

1. A visa is a permit authorising entry to and stay on the territory of BiH, as well as transit through the territory of BiH, for a limited period of time.
2. An alien shall be issued a visa if he/she fulfils requirements referred to in Article 11, items a), c), d), e) and f) of this Law and if he/she has not been registered as an international offender in the records of the competent authorities.
3. The visa shall authorise stay for the period defined therein, but for not more than 90 days. Visas for single or double entry shall be valid for not more than 90 days.
4. Visas permitting multiple entries shall be valid for not more than one year, but each period of stay on the territory of BiH shall not be longer than 90 days.
5. Within the period of validity of the visa, the period of stay defined in a single entry visa may be extended for justified reasons.
6. The visa shall be extended by issuing a new visa in accordance with the rules relevant for issuance of the visa, for no more than 90 days following the date of entry.

#### Article 24(Visa issuance)

1. Visas shall be applied for in advance.
2. Visas shall be issued by BiH DCRs.
3. An application for visa may be, for exceptional, justified reasons of humanitarian nature, made before entry at the border. Such an application shall be decided upon by SBS.
4. A decision on visa extension in the sense of Article 23 paragraphs 5 and 6 shall be made by SBS, at the proposition of MFA.
5. No appeal shall be allowed against the decision on issuance or extension of the visa.

#### Article 25(By-law)

1. The Ministry shall by way of a by-law further specify requirements for entry of aliens in BiH, issuance and extension of visas, types of visas, form and content of visa stickers, as well as other issues relevant for entry of aliens in BiH.

#### Article 26(Visa cancellation)

1. A visa shall be cancelled if it has been subsequently established that it was issued in contravention to requirements provided for by this Law.
2. The visa shall be cancelled based on the final and binding court decision or on the decision on visa cancellation taken by MFA.
3. The visa shall be cancelled by the competent Department by affixing in the travel document of an alien a stamp reading "cancelled" across the visa sticker.

4. If, during the control of entry of an alien at the border, SBS determines that his/her visa has been forged, they are obligated to cancel the visa immediately.

5. No appeal is allowed against the decision on visa cancellation.

#### Article 27(Visa revocation)

1. A visa shall be revoked under the conditions as follows:a) where an alien does not comply with the constitutional order and regulations of BiH, its Entities and Brčko District of BiH, or hastaken activities in breach of the constitutional system or security of BiH, or where an alien is a member of an organisation that has taken such activities,b) where an alien has jeopardised BiH national interests by his/her actions in a way that he/she has been engaged in smuggling of fire arms, explosives, radioactive materials or narcotics or has been engaged in unauthorised transport and trade of materials and equipment for production of arms or other weapons of mass destruction or has produced or possessed narcotics or psychotic substances intended for sale, or has been a member of an organisation included in the stated activities,c) where an alien has organised illegal entry to, stay on or exit from BiH of individuals or groups or has organised or participated in trafficking of human beings,d) where an alien has breached or has attempted to breach regulations concerning the crossing of the state border of BiH, regardless of whether the breach has occurred at entry to or exit from Bosnia and Herzegovina,e) where circumstances on the basis of which the visa was issued have changed to such an extent that they would presently exclude any possibility to issue the visa,f) where an alien has intentionally provided incorrect data or intentionally disguised circumstances of relevance for visa issuance,g) where an alien has performed activities for which a work permit is required, without possessing such a permit,h) where the presence of an alien constitutes threat to public order and national security of BiH.

2. The existence of an international warrant of arrest and/or of a final and binding court decision shall be taken as the basis for establishment of the reasons for visa revocation under items a), b), c) and d) of previous paragraph.

#### Article 28

(Competency and appeal)

1. The decision on visa revocation shall be issued by the Department, at the request of the court, OIA or SBS.

2. An appeal against the decision referred to in paragraph 1 of this Article may be lodged with the Ministry within 15 days as of the date of notification of the decision.

3. A visa holder cannot be expelled or forcibly removed from the territory of BiH pending the expiration of the deadline provided for appeal and/or pending the procedural decision upon the appeal.

#### Article 29

(Travel permit)

1. A travel permit for aliens is a travel document valid for one single trip abroad and shall be issued to an alien:a) whose valid travel document has got lost or destroyed and cannot be replaced, while the country of his/her citizenship neither has their DCR in BiH, nor their interests have been represented by another state, in order to give that alien an opportunity to return to the country of his/her habitual place of residence,b) who has been granted asylum or a residence permit on humanitarian grounds or who has enjoyed protection based on Article 84 of this Law in order to give him/her an opportunity to return to his/her native country or the country of his/her habitual residence or into the third country which has admitted that person,c) who has been released from BiH citizenship for the purpose of going abroad.

2. A travel permit for aliens may also be issued in other cases if there exist justified reasons for such an action.

3. A travel permit for aliens shall be issued by the Department to which the loss or destruction of the travel document has been reported or by the Department on the territory of which the alien has registered his/her temporary or permanent residence.

#### CHAPTER IV - RESIDENCE PERMITS

Article 30(Types of residence permits)

1. In the sense of the present Law, residence of aliens shall refer to non-visa residence, temporary residence and permanent residence.a) non-visa residence is the right of stay for aliens arriving from non-visa countries, pursuant to the provision of Article 13 of this Law,b) temporary residence is residence on the territory of BiH for the period of one year, unless specified otherwise in the residence permit,c) permanent residence is residence on the territory of BiH for an indefinite period of time.

Part A. Temporary residence

Article 31(Application for a residence permit)

1. If an alien wishes to stay in BiH after the period specified in his/her visa, and/or after the period determined for his/her non-visa residence, he/she must submit the application for a temporary residence permit.

2. The application for a temporary residence permit, in the sense of paragraph 1 of this Article shall be submitted not later than 15 days before the expiry of validity of the visa, and/or non-visa residence.

Article 32(Conditions for granting temporary residence)

1. A temporary residence permit may be issued for justified reasons such as: marriage with a citizen of BiH, reunification of families, education, scientific/research and artistic work, employment as specified in the work permit granted, for business purposes, medical treatment, tourism or for humanitarian reasons.

2. A temporary residence permit may be issued for the time of up to one year or for the time of validity of the alien's passport, if that passport is valid for less than one year.

3. Temporary residence reasoned on humanitarian grounds in cases as prescribed in Article 34 paragraph 1 item a) of this Law shall be granted for the time of up to 3 months.

4. An alien who has entered BiH as a tourist, cannot be granted temporary residence on employment grounds. A temporary residence permit may be extended at the request of an alien and under the conditions prescribed for issuing the requested residence permit.

#### Article 33(General conditions for granting residence permits)

1. Temporary residence shall be granted to an alien on the condition that:a) he/she has evidence justifying the existence of the ground required for granting temporary residence as prescribed in Article 32 of the Law,b) he/she has funds to support himself/herself, including the funds for his/her health care,c) he/she has a medical certificate issued not more than 3 months following the date of submitting the application, showing that he/she does not have a disease with a high risk factor for the community.

2. Evidence referred to in item a) of paragraph 1 of this Article shall refer to:a) marriage certificate or other relevant evidence of marriage concluded,b) work permit issued by the competent employment agency,c) decision on registration of the legal entity into the court registry, accompanied with the evidence on their solvency,d) attestation of enrolment into an educational institution for the current year,e) medical findings, accompanied with the recommendation of a health institution confirming the necessity of a long-term medical treatment in BiH,f) documents on completed education and qualifications acquired,g) other evidence appropriate to support the stay of the alien in the country.

#### Article 34(Temporary residence on humanitarian grounds)

1. Temporary residence on humanitarian grounds shall be exceptionally granted to an alien who does not fulfil the requirements for granting temporary residence prescribed in this Law, as follows:a) to an alien who has been a victim of an organised crime and/or trafficking of human beings, for the purpose of providing protection and assistance for his/her rehabilitation and repatriation into the country of his/her habitual residence,b) to a minor child of aliens if he/she has been abandoned or has been a victim of an organised crime or has remained without parental protection for any other reason whatsoever,c) to a stateless person,d) to an alien with respect to whom the requirements referred to in Article 59 of the present Law have been met and to whom asylum has not been granted pursuant to this Law,e) for other justified humanitarian reasons.

2. Temporary residence shall be exceptionally granted to an alien who does not fulfil the requirements needed for issuance of a temporary residence permit prescribed by this Law, if so being in the function of enabling the administration of the court proceedings, and/or in cases

where the alien co-operates with authorities in revealing crimes and their offenders, or if he/she has been a victim of an organised crime and his/her presence in BiH is indispensable for conducting the court proceedings where he/she shall appear as a plaintiff, an injured party or a witness.

Article 35(Recommendation of a competent body)

1. The assessment of the authority before which the administrative or court proceedings have been conducted in the sense of Article 34 of this Law, or recommendation of another competent authority, or findings of a health specialist from the appropriate health institution showing the necessity for his/her treatment and rehabilitation shall be required for granting temporary residence on humanitarian grounds, in addition to other evidence relevant for assessing the rationale of the application.

Article 36(Protection of victims of trafficking)

1. The Ministry has been responsible for providing special protection and assistance to victims of trafficking of human beings for the purpose of their rehabilitation and repatriation into the country of their habitual residence.

2. The Ministry shall by way of a by-law specify rules and standards concerning the actions, admission and other issues related to admission of victims of trafficking of human beings, their rehabilitation and repatriation.

Article 37(Temporary residence reasoned on reunification of a family)

1. Close family members of a BiH citizen with permanent residence in BiH, or of an alien holding a temporary or permanent residence permit, may be granted temporary residence for the purpose of family reunification on the conditions as follows:a) where a BiH citizen and/or a person holding a residence permit in BiH has a permanent source of income, or where he/she has means of subsistence to support the respective applicant in BiH,b) where there are no reasons which exclude issuance of residence permits as set out by this Law.

2. In the sense of this Law, close family members shall refer to:a) spouse,b) children under 18 years of age or children supported in the joint household,c) parents supported in the joint household.

3. Temporary residence reasoned on this ground shall be extended on the same conditions as required for issuance of the residence permit.

Article 34(Residence with respect to divorce of marriage)

1. Where a marriage has been divorced during the time of the validity of a temporary residence permit issued for the purpose of family reunification, a former spouse who has been granted temporary residence as a close family member, pursuant to provision of Article 37 of the Law, shall not acquire the right to extension of his/her temporary residence, unless:a) he/she has a custody of a child who has the citizenship of BiH and who has been born in the marriage with a BiH citizen, orb) he/she has been continually residing in BiH for three years on the basis of

temporary residence granted for the purpose of family reunification and meets special requirements set out in this Law for granting temporary residence on other grounds, orc) he/she has expressed reasons relevant for granting temporary residence on humanitarian grounds in the sense of Article 34 of this Law.

2. Provision of paragraph 1 of this Article shall also apply if cessation of the marriage has been provoked with death of the spouse who is a BiH citizen or a foreigner holding a temporary or permanent residence permit in BiH.

#### Part B. Permanent residence

##### Article 39(Conditions for granting permanent residence)

1. A permanent residence permit shall be issued to an alien on the following conditions:a) that he/she has resided on the territory of Bosnia and Herzegovina, on the basis of a temporary residence permit, for at least five years uninterruptedly before submitting the request for issuance of a permanent residence permit,b) that he/she has funds to support himself/herself, including the funds for his/her health care,c) that he/she has a medical certificate issued over the period of last three months before the application was submitted, showing that he/she does not suffer from a disease with a high risk factor for the community.

2. Any stay outside BiH for the time of up to ninety days during the same year shall not be considered as an interruption of residence, in the sense of this Article.

#### Part C. Procedure and documents

##### Article 40(Refusal of the application for a residence permit)

1. An application for temporary or permanent residence shall be refused even if the alien meets conditions required for granting temporary or permanent residence, in the following cases:a) if the alien has entered the territory of BiH while not respecting the entry requirements set out in this Law, unless there exist reasons for issuance of a residence permit on humanitarian grounds in the sense of Article 34 of this Law, orb) if the alien has intentionally provided incorrect information or intentionally disguised circumstances of relevance for issuance of the permit, orc) if expulsion measure from BiH has been imposed against the alien, for as long as the measure is in force, ord) if the alien has been registered as an international offender, ore) if there are other compelling reasons arising from international treaties to which BiH is a Contracting Party, orf) if his/her presence constitutes a threat to public order and national security of BiH.

##### Article 41(Application for a residence permit)

1. An application for a residence permit shall be submitted to the competent Department.

2. The application for a residence permit may also be submitted from abroad, through BiH DCRs.

3. The application must be submitted at least fifteen days before the expiry of a valid period of residence, and/or where applicable, before entry and shall include documents substantiating such a request.4. The body referred to in paragraph 1 of this Article shall take the decision on the application for a residence permit without unnecessary delay and at the latest within 30 days from the date of notification of the application.

5. When an alien, in his/her application, expresses reasons which are in connection with Article 59 of this Law, the decision on validation of his/her request and on granting temporary residence on humanitarian grounds in the sense of Article 34 item d) of the Law shall be taken by the Ministry.

6. The applicant shall be issued an attestation of the submitted application, which shall serve in lieu of a residence permit, pending the final decision, except in the case referred to in paragraph 2 of this Article.

#### Article 42(Appeal against the decision of the Department)

1. An appeal against the decision taken by the Department upon the request for a residence permit may be filed with the Ministry within 15 days from the date of notification of the decision.

2. The applicant for a residence permit cannot be expelled or forcibly removed from the territory of BiH pending the expiry of the deadline provided for appeal and/or pending the procedural decision upon the appeal.

#### Article 43(Appeal against the decision of the Ministry)

1. No appeal is allowed against the decision of the Ministry on granting temporary residence on humanitarian grounds in the sense of Article 34 paragraph 1 item d) of this Law.

2. An alien cannot be expelled or forcibly removed from the territory of BiH until the decision taken in the sense of Article 34 paragraph 1 item d) of this Law becomes final and binding.

#### Article 44(Residence permit sticker)

1. A residence permit sticker shall be affixed in the valid travel document of an alien.

2. An alien is obligated to have and at the request of an official person to present his/her valid travel document showing that he/she has been granted residence on the territory of BiH.

#### Article 45(ID Card for aliens)

1. Every alien who has been granted permanent residence shall be issued an ID card for aliens by the competent administrative body of the place of his/her permanent residence.

2. The alien is obligated to submit the application for ID Card for aliens referred to in paragraph 1 of this Article to the competent body within 8

days from the date of notification of the decision granting him/her permanent residence in BiH.

3. ID cards for aliens shall be valid for 5 years, unless otherwise stipulated by a special regulation.

4. The alien is obliged to have and at the request of an official person to show his/her ID Card for aliens.

#### Part D. Revocation of residence

##### Article 46(Reasons for revocation of residence)

1. Right to residence and residence permits shall be revoked on the following conditions:a) where an alien does not comply with the constitutional order and regulations of BiH, its Entities and Brčko District of BiH, or has taken activities in breach of the constitutional system or security of BiH, or where an alien is a member of an organisation that has taken such activities,b) where an alien has jeopardised BiH national interests by his/her actions in a way that he/she has been engaged in smuggling of fire arms, explosives, radioactive materials or narcotics or has been engaged in unauthorised transport and trade of materials and equipment for production of arms or other weapons of mass(*translator's note: part of the sentence probably missing*)or has been a member of an organisation included in the stated activities,c) where an alien has organised or participated in organisation or assisted illegal entry to, stay on or exit from BiH of individuals or groups or has organised or participated in trafficking of human beings,d) where an alien has breached or has attempted to breach regulations concerning the crossing of the state border of BiH, regardless of whether the breach has occurred at entry to or exit from BiH,e) where circumstances on the basis of which the residence permit was issued have changed to such an extent that they would presently exclude any possibility to issue the permit,f) where an alien has intentionally provided incorrect data or intentionally disguised circumstances of relevance for issuance of a residence permit,g) where an alien has performed the activities for which a work permit is required, without possessing such a permit,h) where the presence of an alien constitutes threat to public order and national security of BiH.

2. The existence of an international warrant of arrest and/or of a final and binding court decision shall be taken as the basis for establishment of the reasons for revocation of residence prescribed in items a), b), c) and d) of previous paragraph.

3. Provisions of items e) and g) shall not be applied if an alien holding a permanent residence permit in BiH is able to show evidence of the existence of exceptional reasons justifying this exemption.

##### Article 47(Special reason for revocation of permanent residence)

1. The Decision on granting permanent residence shall be revoked where it has been established that the alien has not been residing in BiH for more than a year and has not informed OIA and the Department on the territory of his/her permanent residence about the reasons of his/her

absence, or for less than a year if there exist circumstances on the basis of which it can be explicitly established that the alien has no intention to return and take permanent residence in BiH.

#### Article 48(Competency and appeal)

1. The decision on residence revocation shall be issued by the Department *ex officio* or at the request of the court, OIA or SBS.
2. The applicant is obligated to submit all information and documentation relevant for passing the decision along with his/her application.
3. An appeal may be filed against the decision referred to in paragraph 1 of this Article.
4. The appeal shall be lodged with the Ministry within 15 days from the date of notification of the decision.

#### Article 49(Execution of the decision on residence revocation)

1. A residence permit sticker shall be cancelled by the competent Department in the travel document of the alien or in another identification document recognised in BiH, by imprinting the stamp reading "cancelled" across the sticker, after the decision on revocation of a residence permit becomes final and binding.
2. The decision on revocation of residence shall be executed by the Department in co-operation with OIAs, pursuant to this Law.

#### Part E. Residence registration of aliens

##### Article 50(Obligation to register temporary/permanent residence)

1. An alien is obligated to register his/her temporary residence and any change of his/her home address, as well as to register and/or de-register his/her permanent residence.
2. Registrations and de-registrations referred to in previous paragraph shall be submitted to OIA in the place of the alien's temporary or permanent residence.

##### Article 51(Temporary and permanent residence)

1. In the sense of this Law, temporary residence refers to the place where an alien resides temporarily.
2. In the sense of this Law, permanent residence refers to the place where an alien who has been granted permanent residence in the territory of BiH, has taken up residence with intention to live there permanently.

##### Article 52(Deadlines)

1. An alien who has been granted permanent residence is obligated to register his/her permanent residence and any change of his/her home address in the place of permanent residence not later than 8 days from the date of notification of the decision on granting permanent residence, and/or from the date of arriving to the place of permanent residence, and/or from the date of changing his/her home address.

2. An alien referred to in paragraph 1 of this Article as well as an alien who has been granted temporary residence is obligated to register his/her temporary residence and any change of his/her home address not later than 48 hours from the date of notification of the decision on granting temporary residence, and/or from the date of arriving to the place of temporary residence, and/or from the date of changing his/her home address.

Article 53(Natural and artificial persons obligated to register their temporary residence)

1. Natural and artificial persons that provide accommodation services to aliens are obliged to report any stay of an alien to the competent OIA, within 24 hours after providing accommodation, and/or after the moment the alien has arrived.

2. Natural and artificial persons that provide accommodation services are obliged to keep records on aliens (hereinafter: the registry book of aliens) to whom they have rendered accommodation services. They are obliged to keep the registry books of aliens for at least three years after closing them. The registry books of aliens shall be verified by the OIA in the place of permanent residence of the provider of accommodation services to aliens.

3. An alien who does not use accommodation services of natural and artificial persons referred to in paragraph 1 of this Article is obliged to register his/her residence with the competent OIA within 48 hours as of the moment of crossing the state border.

4. OIA is obligated to communicate all information relating to registration or de-registration of permanent or temporary residence of an alien, and/or relating to any change of his/her home address, to the competent Department within 24 hours from the moment of registration.

Article 54(By-law)

The Ministry shall by way of by-laws further regulate requirements and rules relating to residence of aliens in BiH.

## CHAPTER V - REMOVAL OF AN ALIEN FROM THE COUNTRY

### Part A. Expulsion

Article 55(Expulsion measure)

1. Expulsion is a measure instructing an alien to leave BiH and disallowing him/her to enter and stay in BiH for a certain period of time, which cannot be longer than ten years.

2. The decision on expulsion of aliens from the territory of BiH shall be issued by the Department *ex officio*, at the request of the court, OIA or SBS.

3. The period of expulsion shall commence on the day of issuing a final decision. The time spent in prison shall not be counted towards the term of this measure.

4. The decision on expulsion shall specify the deadline for voluntary enforcement of the decision, which cannot be longer than 15 days.

#### Article 56(Reasons for imposing expulsion measure)

1. An alien may be expelled from BiH for one of the following reasons:a) if he/she has remained in BiH after the expiration of his/her visa or residence permit or after the expiration of the period of his/her entitlement to non-visa residence,b) if he/she has remained in BiH after the cessation of his/her asylum status or after a final and binding decision on refusal of his/her application for asylum has been taken, while he/she has neither acquired the right of residence in accordance with this Law nor has acquired the citizenship of BiH,c) if he/she has remained in BiH after withdrawal or release from BiH citizenship, while he/she has not realised the right of residence in accordance with this Law,d) if he/she has violated or attempted to violate regulations on crossing the state border of BiH, regardless of whether the violation has occurred while entering or exiting BiH,e) if the right of residence of the alien or a residence permit has been revoked by a final and binding decision in accordance with this Law,f) if he/she has been convicted by a final and binding court decision for a crime which can be qualified as dealing of narcotics, selling of weaponry, trafficking of human beings, smuggling of people, terrorism, laundering of money or as any other type of organised crime, while the court has simultaneously not imposed the security measure of his/her expulsion from the territory of BiH,g) if he/she has been convicted by a court in BiH of another crime and sentenced to more than four years of imprisonment, while the court has not simultaneously imposed the security measure of his/her expulsion from the territory of BiH,h) if presence of the alien constitutes threat to national security and public order of BiH.

2. While assessing whether the expulsion measure from BiH territory shall be imposed against an alien and/or while taking the decision on duration of that measure, the Department is obligated to carefully review all the reasons relevant for issuing the decision, both detrimental and beneficial ones.

#### Article 57(Execution of the decision on expulsion)

1. An appeal against the decision on expulsion may be filed with the Ministry within 15 days from the date of notification of the decision.

2. A final decision on expulsion shall be executed by the Department, in co-operation with the competent OIA and SBS, by undertaking measures for forcible removal of the alien from BiH, in accordance with this Law.

#### Article 58

##### (Special cases of expulsion)

1. Exceptionally, at the reasoned proposal of the state ministry or the competent Entity OIA, the Council of Ministers of BiH may, while resolving individual cases, take the decision on expulsion of the alien from BiH if they have assessed that his/her expulsion is necessary and

that it is in the interest of public order or national security, in the sense of provision of Article 1 paragraph 2 of Protocol 7 to the European Convention on Protection of Human Rights and Fundamental Freedoms.

2. The decision referred to in paragraph 1 of this Article cannot be executed contrary to the requirements referred to in Article 59 of this Law.

#### Part B. Provisions of protection

##### Article 59(*Refoulement*)

1. Aliens shall not be returned or expelled in any manner whatsoever to the frontier of territories where their life or freedom would be threatened on account of their race, religion, nationality, membership of a particular social group or political opinion, regardless of whether or not they have formally been granted asylum. The prohibition of return or expulsion shall also apply to persons in respect of whom there is reasonable suspicion for believing that they would be in danger of being subjected to torture or other inhuman or degrading treatment or punishment. Aliens may not be sent to a country where they are not protected from being sent to such a territory either.

##### Article 60(Special procedure)

1. When the alien has expressed reasons referred to in Article 59 of this Law, the procedural authority shall refer the case to the Ministry for the purpose of initiating the procedure for verifying the validity of his/her statement and determining the existence of conditions required for granting temporary residence on humanitarian grounds in the sense of Article 34 paragraph 1 item d) or granting asylum in the sense of Article 75 of this Law.

2. The decision on expulsion may be executed only after the decision issued in the sense of paragraph 1 of this Article becomes final and binding.

#### Part C. Forcible removal of an alien from the country

##### Article 61(Conclusion on authorisation of enforcement)

1. An alien may be forcibly removed from BiH.

2. Forcible removal of an alien from BiH shall be carried out *ex officio* by the Department which has made the decision on expulsion of the alien or by the Department on the territory of which the alien who illegally resides there has been found and arrested, by taking the conclusion on authorisation of the enforcement.

3. The conclusion on authorisation of the enforcement shall be taken without any delay and at the latest within 7 days from the date the decision has become enforceable and shall be immediately communicated to the alien.

4. The conclusion shall specify the manner and the time for enforcement of the decision.

5. An appeal against the conclusion may be filed with the Ministry within 8 (eight) days from the date of notification.

6. The appeal does not stay the execution of the conclusion.

#### Article 62

##### (Restriction clauses)

1. Where the court proceedings have been instigated against the alien, a decision on expulsion cannot be enforced earlier than the case is resolved with a final and binding decision.

2. The decision on expulsion cannot be enforced earlier than the prison sentence imposed against the alien is fully served, except in probation cases.

3. If there exist reasons for forcible removal of the alien prescribed in this Law, the alien shall not be forcibly removed if so being in the interest of conducting the court proceedings where the alien shall appear as a plaintiff, an injured party or a witness, being a victim of trafficking of human beings or any other form of an organised crime or where the alien shall co-operate with authorities in revealing crimes and their offenders. The alien shall be granted residence prescribed in Article 34 paragraph 2 of the present Law for as long as these circumstances are present.

4. Forcible removal of an alien from the country shall not be commenced if the alien has decided to leave the territory of BiH by himself/herself or with the assistance of international governmental or non-governmental organisations and has provided an adequate guarantee for such a decision (title of transport, attestation of governmental or non-governmental organisation, etc.).

#### Article 63(Repatriation country)

1. If enforcement of the decision is not subject to restrictions referred to in Article 59 of this Law, an alien who has been expelled shall be sent to his/her country of origin or the country from which he/she came to BiH.

2. The alien shall be communicated to which country he/she will be sent.

#### Article 64(Repatriation costs)

1. The alien is obligated to pay the costs of his/her trip to the place where he/she is being sent.

2. If it is established that the alien does not have funds necessary to pay the costs of his/her trip to the sending place, the costs of his/her trip shall be born by: a) a person who has issued a letter of guarantee or invitation for the purpose of entry of the alien, b) natural or artificial person, association or organisation that has employed the alien, although he/she did not have a work permit, c) BiH.

#### Article 65(By-law)

1. The Ministry shall by way of a by-law further regulate the manner and procedure for forcible removal of aliens from BiH.

## CHAPTER VI - RECEPTION OF ALIENS AND SUPERVISION

### Part A. Specialised institutions for reception of aliens

#### Article 66(Structure of institutions)

1. Immigration centres, asylum centres, centres for accommodation of victims of trafficking of human beings and other institutions specialised for reception of aliens may be established for the purpose of implementing the present Law.
2. The Council of Ministers of BiH shall by way of by-laws determine the title and the type of a specialised institution for reception of aliens, method of their administration, financing conditions, functioning standards, the method for ensuring special conditions for beneficiaries of a special institution, providing supervision of aliens against whom a measure of supervision has been imposed, as well as other issues relevant for operation of a certain type of a specialised institution.
3. The prescribed special conditions in specialised institutions for reception of aliens shall comply with the requirements ensuing from the Constitution and international standards relating to the treatment of beneficiaries of specialised institutions.
4. Supervision of the operation of the institution specialised for reception of aliens shall be conducted by the Ministry.

### Part B. Placing an alien under supervision

#### Article 67

##### (Imposing supervision)

1. Supervision may be imposed against an alien for the purpose of ensuring the enforcement of the decision on expulsion or the decision on refusal of entry.
2. Supervision shall be imposed against an alien if there are reasonable grounds to believe that:a) the alien shall escape or otherwise prevent the execution of decisions referred to in paragraph 1 of this Article,b) free and unrestricted movement of the alien might jeopardise national security and public order of BiH.
3. For the same reasons, supervision may also be imposed against the alien admitted under international agreement on co-operation in delivering and admitting aliens whose stay is illegal.

#### Article 68

##### (Decision on placing an alien under supervision)

1. The decision on placing an alien under supervision shall be taken by the Department and/or SBS and shall be communicated to the alien without any delay, simultaneously with executing the decision.
2. The decision referred to in paragraph 1 of this Article shall incorporate the ruling on placement of the alien under supervision, the ruling on

accommodation of the alien in a specialised institution, date and time of accommodation and intended period of accommodation, date and time of intended forcible removal of the alien from the country, travelling method, as well as the ruling on the amount and the party obliged to bear the costs of forcible removal. Each ruling contained in the disposition of the decision must be separately and fully explained and must contain all the reasons relevant for taking the decision.

#### Article 69

##### (Appeal)

1. An appeal against the decision on placing an alien under supervision may be lodged with the Ministry within 3 days from the date of notification of the decision.
2. The appeal does not stay the execution of the decision.
3. The Ministry is obligated to take the decision upon the appeal within 7 days from the date of notification of the appeal.

#### Article 70

##### (Execution of the decision)

1. The measure of placing an alien under supervision shall be carried out by accommodating the alien in an institution specialised for reception of aliens.
2. The alien shall remain under supervision until the moment of his/her forcible removal from the country or until the reasons that have constituted grounds for his/her placement under supervision are considerably changed.

### CHAPTER VII - ASYLUM

#### Part A. Conditions for granting asylum

#### Article 71

##### (Definition of the term "Refugee")

1. Under this Law, asylum shall be granted to: a) an alien who according to the definition stated in Article 1 A (2) of 1951 Convention Relating to the Status of Refugees and Article 1 of 1967 Protocol, owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his/her nationality and is unable or, owing to such fear, is unwilling to avail himself to the protection of that country; or b) to an alien who, not having a nationality and being outside the country of his/her former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

#### Article 72

##### (Exemptions)

1. Provisions of Article 71 of this Law shall not apply to an alien with respect to whom there are serious reasons for believing that:a) he/she has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes,b) he/she committed a serious non-political crime outside the country of refuge before his/her entry to that country has been approved,c) he/she has been guilty of acts contrary to the purposes and principles of the United Nations.

2. Asylum may be denied to an alien who has been recognised as a refugee by another country or who has found effective protection in another country and would be able to return to that country and re-avail himself/herself of such protection.

#### Part B. Procedure and competent bodies

##### Article 73

(Request for asylum)

1. An alien may lodge the request for asylum with the Department, SBS and OIA.

2. The request for asylum, accompanied with all the supported documentation, must be forwarded to the Ministry without any delay.

3. The Ministry shall issue an attestation of the request to the asylum applicant, which shall be considered as a residence permit pending a final and binding decision upon his/her request.

##### Article 74

(Provision of protection)

1. No penalty shall be imposed to an asylum applicant coming directly from a territory where his/her life or freedom was threatened on account of his/her illegal entry or presence in the country, at the condition to immediately register himself/herself with the bodies referred to in Article 73 paragraph 1 of this Law and express justified reasons for his/her illegal entry or presence.

##### Article 75

(Procedure and competency for issuing the decision)

1. The requests for asylum shall be considered and decisions taken and issued by the Ministry.

2. The decision shall be taken after finalisation of a complete interview procedure where all facts relevant for taking the decision shall be established. An applicant must be given the opportunity to present all the circumstances known to him/her, to have access to all available evidence, as well as to suggest presentation of particular evidence.

3. An alien shall be given an opportunity to follow the course of the procedure through an interpreter if he/she does not know the language used during the procedure, as well as to use the services of a legal or

another counsellor. The obligation of the conductor of the procedure is to inform the applicant about all the rights and obligations stemming from the Law.

4. Recognition of the refugee status is not dependent on the production of any particular formal evidence.

5. Any decision taken upon validity of the request for asylum must be fully reasoned and shall be communicated to the applicant in person.

6. The decision must clearly demonstrate the right to complaint and the deadlines.

#### Article 76(Protection of data)

1. Asylum procedures shall be closed for public and all information in connection with this procedure shall be considered as confidential.

#### Article 77

##### (Complaint)

1. No appeal is allowed against the decision referred to in Article 75 of this Law.

2. The complaint shall stay the execution of the decision.

#### Article 78

##### (Provisions on protection)

1. The asylum applicant who has exhausted all available legal remedies and whose asylum request has been rejected with a final and binding decision, but with respect to whom it has been determined in the course of the procedure that he/she nevertheless cannot be removed from the territory of BiH for the reasons prescribed in the provision of Article 59 of the Law, shall be issued a temporary residence permit reasoned on humanitarian grounds in the sense of Article 34 paragraph 1 item d) of the Law.

#### Article 79

##### (Reception of asylum applicants)

1. The Ministry shall make provision for adequate conditions of reception of asylum applicants, notably in the area of accommodation, food, access to health care and education.

### Part C. Rights and obligations of a refugee

#### Article 80(Rights of a refugee)

1. An alien to whom asylum has been granted shall acquire the refugee status and shall be entitled to rights defined in Articles 3 to 34 of the 1951 Convention Relating to the Status of Refugees.

2. Provisions of 1951 Convention Relating to the Status of Refugees shall not prejudice the provisions of this and other special domestic laws or provisions of other international instruments which are already in force

and to which BiH is a Contracting Party, in case that they accord a more favourable treatment to aliens with the recognised refugee status.

3. The alien holding a refugee status shall be entitled to reside on the territory of BiH as long as his/her asylum is legitimate and shall be issued to that end a residence permit for refugees. The refugee status shall in principle be extended to the spouse and minor children as well as other close family members if they are living in the same household, on the territory of BiH. Entry visas shall be provided to close family members of an alien to whom asylum has been granted. An alien to whom asylum has been granted shall be authorised to work and shall have access to education, medical care and social welfare on the same conditions as citizens of BiH.

#### Article 81

(Documents for refugees)

1. Identity papers shall be issued to an alien holding a refugee status and staying in the territory of BiH.

2. The alien holding a refugee status, who does not have a valid travel document or is unable to obtain a travel document from the country of his/her habitual residence may be issued a travel document for refugees for the purpose of travelling abroad and returning to the territory of BiH, unless there exist compelling reasons of national security and public order.

3. The travel document for an alien shall be issued for the period of validity of not less than two years and shall be extendable.

#### Part D. Cessation of asylum

#### Article 82

(Reasons for cessation of asylum)

1. Asylum granted in BiH shall cease for an alien: a) who has voluntarily re-availed himself/herself of the protection of the State of his/her citizenship, or b) who, having lost the citizenship of another country has voluntarily re-acquired it, or c) who has acquired a new citizenship and enjoys the protection of the country of this new citizenship, or d) who has voluntarily re-established himself/herself in the State which he/she left or outside which he/she remained owing to fear of persecution, or e) who can no longer, because the circumstances in connection with which he/she has been recognised as a refugee have ceased to exist, continue to refuse to avail himself/herself of the protection of the State of his/her citizenship, or f) who being stateless can no longer, because the circumstances in connection with which he/she has been recognised as a refugee have ceased to exist, refuse to avail himself/herself of the protection of the State of former habitual residence, or g) who has obtained the citizenship of BiH.

2. If an alien is able to invoke compelling reasons arising out of previous persecution for refusing to avail himself/herself of the protection of the

country of his/her citizenship as referred to in item e) of paragraph 1 and/or the country of his former habitual residence as referred to in item f) of paragraph 1, the stated items shall not be applied.

#### Article 83

(Competency and complaint)

1. The decision on cessation of asylum shall be taken by the Ministry *ex officio* or at the request of MFA, OIA, SBS or the Department.
2. No appeal is allowed against the decision referred to in Paragraph 1 of this Article.
3. The complaint filed with the competent court by the alien shall stay the execution of the decision.
4. The alien may neither be expelled nor forcibly removed from the territory of BiH before the decision referred to in paragraph 1 of this Article becomes final and binding.

#### Article 84

(Mass influx of aliens)

1. In cases of mass influx, or imminent mass influx, of aliens in need of international protection, the Council of Ministers of BiH may, in consultation with UNHCR, issue special regulations for their protection.
2. The Council of Ministers of BiH shall, in consultation with UNHCR, cancel regulations referred to in paragraph 1 of this Article, after cessation of the reasons justifying their existence, which shall be without prejudice to the rights of aliens who by way of these regulations have been granted protection, to seek asylum.

#### Article 85

(Co-operation with UNHCR)

1. Asylum applicants shall be given the opportunity, at all stages of the procedure, to communicate with UNHCR or with other refugee organisations that may be working on behalf of UNHCR, and vice versa. The representative of UNHCR shall be informed of the course of the procedure, of the decisions of the competent authorities and shall be given opportunity to submit his/her observations.

#### Article 86

(By-law)

1. The Ministry shall by way of a by-law further regulate issues regulated in Chapter VII of this Law.
2. The method and procedure for registration of refugees, as well as principles of data protection relating to refugees shall be established in the act referred to in paragraph 1 of this Article.

### CHAPTER VIII - SPECIAL PROVISIONS

#### Article 87(Protection of rights)

1. No provision of this Law shall preclude any person covered by this Law from exercising and protecting his/her rights before any responsible authority in accordance with the Constitution and legislation of BiH, Entities and Brčko District of BiH.

#### Article 88(Privileges and immunities)

1. Provisions of this Law, with the exception of the Chapter relating to asylum, shall not be applicable to diplomatic and consular agents or other persons covered by specific agreements on privileges and immunities to which BiH is a Contracting Party.

#### Article 89

(Application of provisions)

1. Chapters II, III, IV and IX, except for Articles 21, 50, 52, 84 and Article 94 of this Law, shall not apply to asylum applicants as well as to persons who have been granted asylum.

#### Article 90

(Official records)

1. In accordance with this Law, official records shall be kept on:a) aliens with permanent or temporary residence,b) travel documents for aliens issued in accordance with this Law,c) aliens who have been refused entry or who have been expelled,d) executed measures with regard to aliens,e) reported missing travel documents of aliens,f) issued personal documents,g) residence registration, residence de-registration and change of address,h) aliens who have been granted asylum or aliens who have submitted the application seeking asylum,i) aliens who have been forcibly removed from the territory of BiH.

2. Official records shall be kept by the authority which is under this Law competent for acting upon certain matters, and which shall forward any information obtained from the records to the Ministry.

#### Article 91

(Central database)

1. Central database of aliens shall be established within the Ministry for the purpose of recording and monitoring the movement of aliens and the status of asylum.

2. The authorities of OIA and SBS shall have access to these records and data, if so necessary for executing their duties stipulated by this Law.

3. Processing of all data referred to in this Law shall be subject to principles of data protection valid in BiH.

4. SBS shall keep special records where data relating to the identity, purpose of entry, stay and exit of the alien from BiH shall be copied from

a valid travel document of the alien and from his/her supporting travel documentation. Article 92

(By-law)

1. The Ministry shall by way of by-laws further regulate rules and regulations on keeping records, using and accessing central database of aliens.

## CHAPTER IX - PENALTY PROVISIONS

### Article 93

1. A natural person who has rendered accommodation services to an alien shall be fined with 200.00 KM - 1,000.00 KM for the offence if: a) he/she has failed to report, within a prescribed deadline, stay of the alien to whom accommodation services have been rendered (Article 53), b) he/she has failed to keep records of aliens to whom accommodation services have been rendered or if he/she has kept these records improperly (Article 53).

2. An artificial person who has rendered accommodation services to an alien shall be fined with 500.00 KM - 2,000.00 KM for the offence referred to in paragraph 1 of this Article.

### Article 94

1. An alien shall be fined with 100.00 KM to 500.00 KM for the offence if: a) he/she has refused to show the document verifying his/her identity or his/her right to enter and stay to the authorised official or if he/she does not have the document to verify his/her identity (Article 9), b) he/she has not registered his/her permanent or temporary residence, change of his/her home address in the place of permanent residence within a prescribed deadline or if he/she has failed to de-register his/her permanent residence before his/her departure from the place of permanent residence (Article 52).

### Article 95

1. An alien shall be fined with 100.00 KM to 1,500.00 KM or sentenced to imprisonment of 30 days for the offence if: a) he/she has entered BiH contrary to the requirements prescribed in provisions of Articles 10 and 11 of the present Law, b) if he/she has stayed in BiH longer than specified in his/her visa, stay permit or residence permit, c) if he/she has failed to leave the territory of BiH within the deadline determined in this Law.

2. An authorised official responsible to control crossings of the state border may at the border crossing collect the fine in the amount of 100.00 KM for each day of delay for the offence referred to in item 4 paragraph 1 of this Article, unless the alien has not exceeded his/her stay for more than five (5) days and is able to justify the reasons for this delay.

### Article 96(Competency)

1. The offence courts established by Entity regulations and/or by regulations of Brčko District of BiH shall be competent for conducting

the offence proceedings in accordance with provisions of this Law, for as long as a special law provides otherwise.

## CHAPTER X - TRANSITIONAL AND FINAL PROVISIONS

### Article 97(Acquired rights)

1. All persons who have already acquired a refugee status or who have been granted temporary admission within the territory of BiH before the entry into force of this Law shall have that status recognised in the sense of this Law.

2. The Ministry may, with the consent of the Council of Ministers of BiH, by way of by-laws regulate conditions for further enjoyment of that status.

### Article 98(Pending cases)

1. All cases upon which a final and binding decision has not been taken before entering into force of this Law shall be finalised in accordance with provisions of regulations that were in force at the time of initiating the proceedings.

### Article 99(Competency of structural units of OIAs)

1. Pending the commencement of the operation of the Office for Immigration and Asylum of the Ministry for Human Rights and Refugees, all administrative matters which are under this Law in the competency of the Department for Immigration and Asylum shall be performed by adequate structural units within the Public Security Centres of the Ministry of Internal Affairs of the Republika Srpska, cantonal Ministries of Internal Affairs in BiH Federation and the Police of Brčko District of BiH.

### Article 100(Establishment of the Office)

1. The Ministry is obligated to establish the Office for Immigration and Asylum within a year from the date of entering into force of the present Law.

2. The Ministry shall take over resources, equipment and files from the respective structural units of OIAs, which pursuant to Article 99 of this Law have performed activities from the competency of the Ministry.

3. The employees of OIAs who have performed activities from the competency of the Ministry shall be transferred into the Departments if they fulfil special requirements prescribed in the by-law referred to in Article 3 of the present Law, while other employees shall be deployed by OIAs in accordance with their acts on internal organisation and systematisation of posts.

### Article 101(Cessation of validity of regulations)

1. The Law on Immigration and Asylum of BiH (Official Gazette of BiH, number 23/99), the Book of Rules on Conditions and Procedures for Entry of Aliens, Issuance of Visas and Other Travel Documents and

Issuance of Attestations for the Stay of Aliens in BiH (Official Gazette of BiH, number 29/01), the Decision on Establishment and Composition of the Appeal Panel (Official Gazette of BiH, number 12/01) and the Decision on Conditions for Announcing an Alien as Undesirable Person in Bosnia and Herzegovina (Official Gazette of BiH, number 6/02) shall cease to be applied from the date of entering into force of this Law.

2. The bodies specified in this Law are obligated to pass the by-laws within one year from the day of entering into force of this Law.

3. Entities and Brčko District of BiH are obligated to harmonise their legislation with this Law within six months from the day of entering into force of this Law.

Article 102(Entry into force)

This Law shall enter into force on the eighth day after its publication in the Official Gazette of BiH and shall be published in Official Gazettes of the Entities and Brčko District of BiH.

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Law on Movement and Stay of Aliens and Asylum 2002

Αρχή φόρμας

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Τέλος φόρμας

Law on movement and stay of aliens and asylum

Based on Article IV. 4. a) of the Constitution of Bosnia and Herzegovina, the Parliamentary Assembly of Bosnia and Herzegovina, at the session of the House of Representatives held on \_\_\_\_\_ 2002 and at the session of the House of Peoples held on \_\_\_\_\_ 2002, adopted the

## CHAPTER I - GENERAL PROVISIONS

### Article 1(Subject-matter of the Law)

This Law shall regulate conditions and procedure for entry and stay of aliens in Bosnia and Herzegovina (hereinafter referred to as: BiH), reasons for refusal of entry and stay, reasons for cancellation of stay and expulsion of aliens from the territory of BiH, procedure for submission of requests for asylum, approval of asylum and cessation of asylum in BiH, competency of authorities relevant for implementation of this Law, as well as other issues related to asylum, stay and movement of aliens in BiH.

### Article 2(Bodies responsible for implementation of the Law)

1. In accordance with this Law and by-laws passed on the basis of this Law, the procedure shall be carried out and relevant decisions taken by the: a) Council of Ministers of BiH, b) Ministry for Human Rights and Refugees of BiH (hereinafter referred to as: the Ministry), c) Ministry for Foreign Affairs of BiH (hereinafter referred to as: MFA) and diplomatic and consular representations abroad (hereinafter referred to as: DCR), d) State Border Service (hereinafter referred to as: SBS), e) Entity Ministries of Internal Affairs, notably: cantonal ministries of internal affairs of BiH Federation, public security stations of the Ministry of Internal Affairs of the Republika Srpska and the Police of Brčko District (hereinafter referred to as: OIA)

### Article 3(Office for aliens and asylum)

1. The Office for Aliens and Asylum shall be established within the Ministry for Human Rights and Refugees, with its departments for aliens and asylum (hereinafter referred to as: the Department) as structural units detached from the seat of the Ministry, for the purpose of applying provisions of this Law.
2. The Office for Aliens and Asylum shall be administered by the director appointed by the Council of Ministers at the proposal of the ministers of the Ministry.
3. The Ministry shall by way of a by-law specify the number of these departments, their territorial jurisdiction and structure of postings, as well as other issues relevant for their operation.

### Article 4(Definitions)

1. For the purpose of this Law, the term: a) *an alien* refers to any person who is not a citizen of BiH or is stateless, b) *a stateless person* refers to any person who is neither a citizen of BiH, nor a citizen of any other state pursuant to legislation of that state, c) *a place of habitual residence* of an alien refers to his/her country of origin or the country of his/her permanent residence, d) *a valid travel document* refers to a passport issued by the competent foreign authority recognised in BiH and valid through and space, as well as an ID Card or another document with a photograph authorising its bearer to travel abroad, which has been recognised by an international treaty to which BiH is a Contracting Party or by the decision

of the Council of Ministers of BiH, as well as a travel document issued to an alien in accordance with the present Law, e) *an asylum applicant* refers to any alien seeking asylum regardless of whether the alien has sought asylum at a border crossing or after having entered the territory of BiH. This category includes persons who have expressed fear of torture, inhuman or degrading treatment, or of any other threat to their life or freedom in the country where they are coming from.

#### Article 5(Freedom of movement of aliens)

1. Entry, stay and exit of aliens may be restricted under the terms stipulated by this Law.
2. Under the conditions specified by this Law, aliens staying in BiH shall enjoy the right to freedom of movement within the country and freedom of choosing the place of their residence, unless regulated otherwise in this or other special laws.

#### Article 6(Prohibition of discrimination)

1. There must be no discrimination expressed towards aliens on any grounds whatsoever, including sex, race, colour of skin, language, religion, political and other views, national and social origin, status of a national minority, property status, age, psychological or physical disability, status attained by birth or some other status.

#### Article 7(Obligation of compliance with regulations)

1. Aliens in BiH must respect the constitutional order of BiH and comply with regulations and decisions of the authorities of the State, Entity and Brčko District of BiH.

#### Article 8(Rights during the proceedings before the State bodies)

1. Aliens must, within a prescribed deadline, present to competent authorities relevant documents, information and attestations required for conducting the procedure related to residence permits, as defined by the present Law.
2. At all stages of the procedure aliens shall be informed of the rights and obligations that ensue from the present Law, of the right to appeal, of potential claims for damages as well as of all formalities necessary to have their rights recognised.
3. If an alien does not know the language used during the procedure, the body that conducts the procedure is obligated to give the alien an opportunity to follow the course of the proceedings through an interpreter.

#### Article 9(Proof of identity)

1. During their stay in the territory of BiH, aliens must possess documents for the purpose of verifying their identity and their right to enter and stay in BiH, and present them to the competent authority at their request.

## CHAPTER II - ENTRY AND STAY

### Part A. General entry conditions

#### Article 10(Crossing the border)

1. Aliens may cross the BiH border only at the border posts open to international traffic or at those meant for circulation between two States, unless agreements between BiH and neighbouring States provide otherwise.
2. An alien wishing to enter or leave BiH shall be subject to control by an officer authorised to control the crossing of the state border, and is obliged to subject both his/her luggage and his/her vehicle to that control.
3. At the request of the officer referred to in paragraph 2 of this Article, an alien wishing to enter or leave BiH shall be obligated to honestly and fully answer all questions and hand over all documentation, as well as to fill out additional questionnaires, if so requested by the officer.

#### Article 11(General entry conditions)

1. An alien may be granted entry to BiH provided that he/she has fulfilled the following requirements:a) that he/she is in possession of a valid passport or a travel permit,b) that he/she is in possession of a valid visa for entry and stay or for transit through the territory of BiH, or a residence permit as stipulated in this Law,c) that he/she has the means to support himself/herself during his/her entry, stay and exit from the country, including health care means, as stipulated in Article 14 of this Law,d) that he/she is in possession of an entry visa, if so required, of a neighbouring country of his/her destination, or the country the territory of which he/she is transiting through,e) that no expulsion measure from the territory of BiH has been imposed against him/her, as long as the imposed measure is in force,f) that his/her presence in the territory of BiH does not constitute a threat to national security, rule of law and public order of BiH.
2. The Council of Ministers of BiH may prescribe special conditions for entry of aliens, when so being required by reasons of national security and rule of law or by other reasons stemming from international obligations and relations.

#### Article 12(Entry under special conditions)

1. An entry may be allowed to an alien even if he/she does not fulfil the conditions referred to in Article 11 items a) and b) of this Law, if so being stipulated by an international treaty to which BiH is a Contracting Party or by a special regulation of the Council of Ministers of BiH.

#### Article 13(Exemption from visa requirement)

1. At the proposal of MFA, the Council of Ministers of BiH shall specify the countries the citizens of which shall not be required to have a visa for entering BiH (hereinafter referred to as: non-visa countries), as well as the countries the citizens of which may enter BiH with a travel document other than a passport. The Council of Ministers of BiH shall also be

responsible to exempt persons whose refugee status has been recognised by other countries from visa requirement.

2. Aliens who are according to this Law exempt from visa requirement to enter the territory of BiH shall be entitled to stay in the country (hereinafter referred to as: non-visa residence) for a period of not longer than three months, unless a shorter period has been designated by an international treaty to which BiH is a Contracting Party or by a special regulation of the Council of Ministers of BiH, passed in accordance with Article 12 of this Law.3. Aliens are exempt from visa requirement to enter BiH if their permanent or temporary residence permit sticker has been affixed in their passport, for as long as that residence permit is valid.

#### Part B. Means of subsistence

##### Article 14(Means of subsistence)

1. Evidence of the existence of means of subsistence needed to support an alien referred to in Article 11 paragraph 1 item c) shall be brought through either:a) possession of cash, in the local or foreign convertible currency,b) possession of forms of non-cash payment accepted by the banking system of BiH,c) a letter of guarantee or a letter of invitation,d) presentation of evidence of board and lodgings paid for through travel agencies, ore) possession of other reliable means.

##### Article 15

###### (Letter of guarantee)

1. A letter of guarantee needed for an alien to enter BiH may be issued by a citizen of BiH or by an alien who has been granted permanent residence in BiH. A letter of guarantee may be accepted as verification of possession of means of subsistence, provided that it contains the statement that the guarantor undertakes to provide lodging, costs of medical treatment and to ensure support and other expenses related to stay of that alien in BiH, as well as costs of his/her departure from BiH.

2. A statement referred to in previous paragraph must be certified by the competent administrative body in the place of residence of the guarantor.

##### Article 16

###### (Letter of invitation)

1. An invitation is a form of a letter of guarantee whereby a domestic or foreign legal entity registered in BiH is inviting a foreign partner to a business visit within a designated period of time.

2. The invitation shall include the statement on covering the costs referred to in Article 15 of this Law.

3. The invitation must be certified by the Chamber of Commerce of BiH and by the competent administrative authority in the place where the guarantor is seated.

##### Article 17

(Work permit)

1. When an alien wishes to enter BiH for the purpose of work or other taxable activity returning profits, entry may only take place when he/she has a work permit or its equivalent, in accordance with special regulations regulating the field of employment.
2. An alien who possesses a work permit shall be deemed to fulfil the requirements relating to the possession of means of subsistence.

Article 18

(Departure guarantee)

1. Evidence of the existence of a repatriation guarantee can be brought through a title of transport valid for return or continuation of the journey as well as through the legal possession of an appropriate means of transport by the concerned alien.
2. Whenever necessary, the possession of various visas authorising the alien to continue his/her trip onto the territory of another State may be required.

Article 19

(Evidence of the existence of means of subsistence)

1. Aliens who are under this Law exempt from visa requirement to enter the territory of BiH, must possess documents and confirmations referred to in Article 14 of this Law and present them when entering BiH to a person authorised to control the crossing of the State border at his/her request.
2. The application for issuance of a visa must be submitted by aliens who are required to have a visa, a letter of confirmation and documentation referred to in Article 14 of the Law.
3. Aliens whose BiH temporary or permanent residence permit has been entered in their valid travel document are not obliged to possess letters of confirmation and documentation referred to in Article 14 of the Law when entering BiH, for as long as their residence permit is valid.

Part C. Refusal of entry and competencies

Article 20(Refusal of entry)

1. An alien may be refused entry in BiH even if he/she fulfils entering requirements prescribed in Article 11 of this Law, if:a) while entering the country he/she fails to present requested information to the authority authorised to control the Stateb) border crossing or fails to complete certain queries or deliberately provides false information about his/her right to enter BiH or deliberately avoids such situations, orc) there are reasonable grounds to believe that he/she will be performing activities for which a work permit is required, without possessing such a permit, particularly with regard to an alien who has already been refused entry in BiH for the above mentioned reasons.

#### Article 21(Competency and appeal)

1. Decisions on refusal of entry are taken by the SBS at the border:
2. An appeal against the decision on refusal of entry may be lodged with the Ministry within 15 days from the notification of the decision.
3. An appeal does not stay the execution of the decision.

### CHAPTER III - ENTRY AND RESIDENCE PERMITS AND TRAVEL DOCUMENTS

#### Article 22(Entry permits)

1. Except in case referred to in Article 12 of this Law, permits authorising an alien to enter and stay in BiH are as follows: a) visa, b) temporary residence permit, c) permanent residence permit.

#### Article 23(Visas)

1. A visa is a permit authorising entry to and stay on the territory of BiH, as well as transit through the territory of BiH, for a limited period of time.
2. An alien shall be issued a visa if he/she fulfils requirements referred to in Article 11, items a), c), d), e) and f) of this Law and if he/she has not been registered as an international offender in the records of the competent authorities.
3. The visa shall authorise stay for the period defined therein, but for not more than 90 days. Visas for single or double entry shall be valid for not more than 90 days.
4. Visas permitting multiple entries shall be valid for not more than one year, but each period of stay on the territory of BiH shall not be longer than 90 days.
5. Within the period of validity of the visa, the period of stay defined in a single entry visa may be extended for justified reasons.
6. The visa shall be extended by issuing a new visa in accordance with the rules relevant for issuance of the visa, for no more than 90 days following the date of entry.

#### Article 24(Visa issuance)

1. Visas shall be applied for in advance.
2. Visas shall be issued by BiH DCRs.
3. An application for visa may be, for exceptional, justified reasons of humanitarian nature, made before entry at the border. Such an application shall be decided upon by SBS.
4. A decision on visa extension in the sense of Article 23 paragraphs 5 and 6 shall be made by SBS, at the proposition of MFA.
5. No appeal shall be allowed against the decision on issuance or extension of the visa.

#### Article 25(By-law)

1. The Ministry shall by way of a by-law further specify requirements for entry of aliens in BiH, issuance and extension of visas, types of visas, form and content of visa stickers, as well as other issues relevant for entry of aliens in BiH.

#### Article 26(Visa cancellation)

1. A visa shall be cancelled if it has been subsequently established that it was issued in contravention to requirements provided for by this Law.

2. The visa shall be cancelled based on the final and binding court decision or on the decision on visa cancellation taken by MFA.

3. The visa shall be cancelled by the competent Department by affixing in the travel document of an alien a stamp reading "cancelled" across the visa sticker.

4. If, during the control of entry of an alien at the border, SBS determines that his/her visa has been forged, they are obligated to cancel the visa immediately.

5. No appeal is allowed against the decision on visa cancellation.

#### Article 27(Visa revocation)

1. A visa shall be revoked under the conditions as follows:a) where an alien does not comply with the constitutional order and regulations of BiH, its Entities and Brčko District of BiH, or hastaken activities in breach of the constitutional system or security of BiH, or where an alien is a member of an organisation that has taken such activities,b) where an alien has jeopardised BiH national interests by his/her actions in a way that he/she has been engaged in smuggling of fire arms, explosives, radioactive materials or narcotics or has been engaged in unauthorised transport and trade of materials and equipment for production of arms or other weapons of mass destruction or has produced or possessed narcotics or psychotic substances intended for sale, or has been a member of an organisation included in the stated activities,c) where an alien has organised illegal entry to, stay on or exit from BiH of individuals or groups or has organised or participated in trafficking of human beings,d) where an alien has breached or has attempted to breach regulations concerning the crossing of the state border of BiH, regardless of whether the breach has occurred at entry to or exit from Bosnia and Herzegovina,e) where circumstances on the basis of which the visa was issued have changed to such an extent that they would presently exclude any possibility to issue the visa,f) where an alien has intentionally provided incorrect data or intentionally disguised circumstances of relevance for visa issuance,g) where an alien has performed activities for which a work permit is required, without possessing such a permit,h) where the presence of an alien constitutes threat to public order and national security of BiH.

2. The existence of an international warrant of arrest and/or of a final and binding court decision shall be taken as the basis for establishment of the

reasons for visa revocation under items a), b), c) and d) of previous paragraph.

#### Article 28

(Competency and appeal)

1. The decision on visa revocation shall be issued by the Department, at the request of the court, OIA or SBS.
2. An appeal against the decision referred to in paragraph 1 of this Article may be lodged with the Ministry within 15 days as of the date of notification of the decision.
3. A visa holder cannot be expelled or forcibly removed from the territory of BiH pending the expiration of the deadline provided for appeal and/or pending the procedural decision upon the appeal.

#### Article 29

(Travel permit)

1. A travel permit for aliens is a travel document valid for one single trip abroad and shall be issued to an alien:a) whose valid travel document has got lost or destroyed and cannot be replaced, while the country of his/her citizenship neither has their DCR in BiH, nor their interests have been represented by another state, in order to give that alien an opportunity to return to the country of his/her habitual place of residence,b) who has been granted asylum or a residence permit on humanitarian grounds or who has enjoyed protection based on Article 84 of this Law in order to give him/her an opportunity to return to his/her native country or the country of his/her habitual residence or into the third country which has admitted that person,c) who has been released from BiH citizenship for the purpose of going abroad.
2. A travel permit for aliens may also be issued in other cases if there exist justified reasons for such an action.
3. A travel permit for aliens shall be issued by the Department to which the loss or destruction of the travel document has been reported or by the Department on the territory of which the alien has registered his/her temporary or permanent residence.

### CHAPTER IV - RESIDENCE PERMITS

#### Article 30(Types of residence permits)

1. In the sense of the present Law, residence of aliens shall refer to non-visa residence, temporary residence and permanent residence.a) non-visa residence is the right of stay for aliens arriving from non-visa countries, pursuant to the provision of Article 13 of this Law,b) temporary residence is residence on the territory of BiH for the period of one year, unless specified otherwise in the residence permit,c) permanent residence is residence on the territory of BiH for an indefinite period of time.

#### Part A. Temporary residence

#### Article 31(Application for a residence permit)

1. If an alien wishes to stay in BiH after the period specified in his/her visa, and/or after the period determined for his/her non-visa residence, he/she must submit the application for a temporary residence permit.
2. The application for a temporary residence permit, in the sense of paragraph 1 of this Article shall be submitted not later than 15 days before the expiry of validity of the visa, and/or non-visa residence.

#### Article 32(Conditions for granting temporary residence)

1. A temporary residence permit may be issued for justified reasons such as: marriage with a citizen of BiH, reunification of families, education, scientific/research and artistic work, employment as specified in the work permit granted, for business purposes, medical treatment, tourism or for humanitarian reasons.
2. A temporary residence permit may be issued for the time of up to one year or for the time of validity of the alien's passport, if that passport is valid for less than one year.
3. Temporary residence reasoned on humanitarian grounds in cases as prescribed in Article 34 paragraph 1 item a) of this Law shall be granted for the time of up to 3 months.
4. An alien who has entered BiH as a tourist, cannot be granted temporary residence on employment grounds. A temporary residence permit may be extended at the request of an alien and under the conditions prescribed for issuing the requested residence permit.

#### Article 33(General conditions for granting residence permits)

1. Temporary residence shall be granted to an alien on the condition that:a) he/she has evidence justifying the existence of the ground required for granting temporary residence as prescribed in Article 32 of the Law,b) he/she has funds to support himself/herself, including the funds for his/her health care,c) he/she has a medical certificate issued not more than 3 months following the date of submitting the application, showing that he/she does not have a disease with a high risk factor for the community.
2. Evidence referred to in item a) of paragraph 1 of this Article shall refer to:a) marriage certificate or other relevant evidence of marriage concluded,b) work permit issued by the competent employment agency,c) decision on registration of the legal entity into the court registry, accompanied with the evidence on their solvency,d) attestation of enrolment into an educational institution for the current year,e) medical findings, accompanied with the recommendation of a health institution confirming the necessity of a long-term medical treatment in BiH,f) documents on completed education and qualifications acquired,g) other evidence appropriate to support the stay of the alien in the country.

#### Article 34(Temporary residence on humanitarian grounds)

1. Temporary residence on humanitarian grounds shall be exceptionally granted to an alien who does not fulfil the requirements for granting temporary residence prescribed in this Law, as follows: a) to an alien who has been a victim of an organised crime and/or trafficking of human beings, for the purpose of providing protection and assistance for his/her rehabilitation and repatriation into the country of his/her habitual residence, b) to a minor child of aliens if he/she has been abandoned or has been a victim of an organised crime or has remained without parental protection for any other reason whatsoever, c) to a stateless person, d) to an alien with respect to whom the requirements referred to in Article 59 of the present Law have been met and to whom asylum has not been granted pursuant to this Law, e) for other justified humanitarian reasons.

2. Temporary residence shall be exceptionally granted to an alien who does not fulfil the requirements needed for issuance of a temporary residence permit prescribed by this Law, if so being in the function of enabling the administration of the court proceedings, and/or in cases where the alien co-operates with authorities in revealing crimes and their offenders, or if he/she has been a victim of an organised crime and his/her presence in BiH is indispensable for conducting the court proceedings where he/she shall appear as a plaintiff, an injured party or a witness.

#### Article 35(Recommendation of a competent body)

1. The assessment of the authority before which the administrative or court proceedings have been conducted in the sense of Article 34 of this Law, or recommendation of another competent authority, or findings of a health specialist from the appropriate health institution showing the necessity for his/her treatment and rehabilitation shall be required for granting temporary residence on humanitarian grounds, in addition to other evidence relevant for assessing the rationale of the application.

#### Article 36(Protection of victims of trafficking)

1. The Ministry has been responsible for providing special protection and assistance to victims of trafficking of human beings for the purpose of their rehabilitation and repatriation into the country of their habitual residence.

2. The Ministry shall by way of a by-law specify rules and standards concerning the actions, admission and other issues related to admission of victims of trafficking of human beings, their rehabilitation and repatriation.

#### Article 37(Temporary residence reasoned on reunification of a family)

1. Close family members of a BiH citizen with permanent residence in BiH, or of an alien holding a temporary or permanent residence permit, may be granted temporary residence for the purpose of family reunification on the conditions as follows: a) where a BiH citizen and/or a person holding a residence permit in BiH has a permanent source of income, or where he/she has means of subsistence to support the respective applicant in BiH, b) where there are no reasons which exclude issuance of residence permits as set out by this Law.

2. In the sense of this Law, close family members shall refer to:a) spouse,b) children under 18 years of age or children supported in the joint household,c) parents supported in the joint household.

3. Temporary residence reasoned on this ground shall be extended on the same conditions as required for issuance of the residence permit.

#### Article 34(Residence with respect to divorce of marriage)

1. Where a marriage has been divorced during the time of the validity of a temporary residence permit issued for the purpose of family reunification, a former spouse who has been granted temporary residence as a close family member, pursuant to provision of Article 37 of the Law, shall not acquire the right to extension of his/her temporary residence, unless:a) he/she has a custody of a child who has the citizenship of BiH and who has been born in the marriage with a BiH citizen, orb) he/she has been continually residing in BiH for three years on the basis of temporary residence granted for the purpose of family reunification and meets special requirements set out in this Law for granting temporary residence on other grounds, orc) he/she has expressed reasons relevant for granting temporary residence on humanitarian grounds in the sense of Article 34 of this Law.

2. Provision of paragraph 1 of this Article shall also apply if cessation of the marriage has been provoked with death of the spouse who is a BiH citizen or a foreigner holding a temporary or permanent residence permit in BiH.

#### Part B. Permanent residence

##### Article 39(Conditions for granting permanent residence)

1. A permanent residence permit shall be issued to an alien on the following conditions:a) that he/she has resided on the territory of Bosnia and Herzegovina, on the basis of a temporary residence permit, for at least five years uninterruptedly before submitting the request for issuance of a permanent residence permit,b) that he/she has funds to support himself/herself, including the funds for his/her health care,c) that he/she has a medical certificate issued over the period of last three months before the application was submitted, showing that he/she does not suffer from a disease with a high risk factor for the community.

2. Any stay outside BiH for the time of up to ninety days during the same year shall not be considered as an interruption of residence, in the sense of this Article.

#### Part C. Procedure and documents

##### Article 40(Refusal of the application for a residence permit)

1. An application for temporary or permanent residence shall be refused even if the alien meets conditions required for granting temporary or permanent residence, in the following cases:a) if the alien has entered the territory of BiH while not respecting the entry requirements set out in this Law, unless there exist reasons for issuance of a residence permit on

humanitarian grounds in the sense of Article 34 of this Law, orb) if the alien has intentionally provided incorrect information or intentionally disguised circumstances of relevance for issuance of the permit, orc) if expulsion measure from BiH has been imposed against the alien, for as long as the measure is in force, ord) if the alien has been registered as an international offender, ore) if there are other compelling reasons arising from international treaties to which BiH is a Contracting Party, orf) if his/her presence constitutes a threat to public order and national security of BiH.

#### Article 41(Application for a residence permit)

1. An application for a residence permit shall be submitted to the competent Department.
2. The application for a residence permit may also be submitted from abroad, through BiH DCRs.
3. The application must be submitted at least fifteen days before the expiry of a valid period of residence, and/or where applicable, before entry and shall include documents substantiating such a request.
4. The body referred to in paragraph 1 of this Article shall take the decision on the application for a residence permit without unnecessary delay and at the latest within 30 days from the date of notification of the application.
5. When an alien, in his/her application, expresses reasons which are in connection with Article 59 of this Law, the decision on validation of his/her request and on granting temporary residence on humanitarian grounds in the sense of Article 34 item d) of the Law shall be taken by the Ministry.
6. The applicant shall be issued an attestation of the submitted application, which shall serve in lieu of a residence permit, pending the final decision, except in the case referred to in paragraph 2 of this Article.

#### Article 42(Appeal against the decision of the Department)

1. An appeal against the decision taken by the Department upon the request for a residence permit may be filed with the Ministry within 15 days from the date of notification of the decision.
2. The applicant for a residence permit cannot be expelled or forcibly removed from the territory of BiH pending the expiry of the deadline provided for appeal and/or pending the procedural decision upon the appeal.

#### Article 43(Appeal against the decision of the Ministry)

1. No appeal is allowed against the decision of the Ministry on granting temporary residence on humanitarian grounds in the sense of Article 34 paragraph 1 item d) of this Law.
2. An alien cannot be expelled or forcibly removed from the territory of BiH until the decision taken in the sense of Article 34 paragraph 1 item d) of this Law becomes final and binding.

#### Article 44(Residence permit sticker)

1. A residence permit sticker shall be affixed in the valid travel document of an alien.
2. An alien is obligated to have and at the request of an official person to present his/her valid travel document showing that he/she has been granted residence on the territory of BiH.

#### Article 45(ID Card for aliens)

1. Every alien who has been granted permanent residence shall be issued an ID card for aliens by the competent administrative body of the place of his/her permanent residence.
2. The alien is obligated to submit the application for ID Card for aliens referred to in paragraph 1 of this Article to the competent body within 8 days from the date of notification of the decision granting him/her permanent residence in BiH.
3. ID cards for aliens shall be valid for 5 years, unless otherwise stipulated by a special regulation.
4. The alien is obliged to have and at the request of an official person to show his/her ID Card for aliens.

#### Part D. Revocation of residence

#### Article 46(Reasons for revocation of residence)

1. Right to residence and residence permits shall be revoked on the following conditions:a) where an alien does not comply with the constitutional order and regulations of BiH, its Entities and Brčko District of BiH, or has taken activities in breach of the constitutional system or security of BiH, or where an alien is a member of an organisation that has taken such activities,b) where an alien has jeopardised BiH national interests by his/her actions in a way that he/she has been engaged in smuggling of fire arms, explosives, radioactive materials or narcotics or has been engaged in unauthorised transport and trade of materials and equipment for production of arms or other weapons of mass(*translator's note: part of the sentence probably missing*)or has been a member of an organisation included in the stated activities,c) where an alien has organised or participated in organisation or assisted illegal entry to, stay on or exit from BiH of individuals or groups or has organised or participated in trafficking of human beings,d) where an alien has breached or has attempted to breach regulations concerning the crossing of the state border of BiH, regardless of whether the breach has occurred at entry to or exit from BiH,e) where circumstances on the basis of which the residence permit was issued have changed to such an extent that they would presently exclude any possibility to issue the permit,f) where an alien has intentionally provided incorrect data or intentionally disguised circumstances of relevance for issuance of a residence permit,g) where an alien has performed the activities for which a work permit is required, without possessing such a permit,h) where the presence of an alien constitutes threat to public order and national security of BiH.

2. The existence of an international warrant of arrest and/or of a final and binding court decision shall be taken as the basis for establishment of the reasons for revocation of residence prescribed in items a), b), c) and d) of previous paragraph.

3. Provisions of items e) and g) shall not be applied if an alien holding a permanent residence permit in BiH is able to show evidence of the existence of exceptional reasons justifying this exemption.

#### Article 47(Special reason for revocation of permanent residence)

1. The Decision on granting permanent residence shall be revoked where it has been established that the alien has not been residing in BiH for more than a year and has not informed OIA and the Department on the territory of his/her permanent residence about the reasons of his/her absence, or for less than a year if there exist circumstances on the basis of which it can be explicitly established that the alien has no intention to return and take permanent residence in BiH.

#### Article 48(Competency and appeal)

1. The decision on residence revocation shall be issued by the Department *ex officio* or at the request of the court, OIA or SBS.

2. The applicant is obligated to submit all information and documentation relevant for passing the decision along with his/her application.

3. An appeal may be filed against the decision referred to in paragraph 1 of this Article.

4. The appeal shall be lodged with the Ministry within 15 days from the date of notification of the decision.

#### Article 49(Execution of the decision on residence revocation)

1. A residence permit sticker shall be cancelled by the competent Department in the travel document of the alien or in another identification document recognised in BiH, by imprinting the stamp reading "cancelled" across the sticker, after the decision on revocation of a residence permit becomes final and binding.

2. The decision on revocation of residence shall be executed by the Department in co-operation with OIAs, pursuant to this Law.

### Part E. Residence registration of aliens

#### Article 50(Obligation to register temporary/permanent residence)

1. An alien is obligated to register his/her temporary residence and any change of his/her home address, as well as to register and/or de-register his/her permanent residence.

2. Registrations and de-registrations referred to in previous paragraph shall be submitted to OIA in the place of the alien's temporary or permanent residence.

#### Article 51(Temporary and permanent residence)

1. In the sense of this Law, temporary residence refers to the place where an alien resides temporarily.

2. In the sense of this Law, permanent residence refers to the place where an alien who has been granted permanent residence in the territory of BiH, has taken up residence with intention to live there permanently.

#### Article 52(Deadlines)

1. An alien who has been granted permanent residence is obligated to register his/her permanent residence and any change of his/her home address in the place of permanent residence not later than 8 days from the date of notification of the decision on granting permanent residence, and/or from the date of arriving to the place of permanent residence, and/or from the date of changing his/her home address.

2. An alien referred to in paragraph 1 of this Article as well as an alien who has been granted temporary residence is obligated to register his/her temporary residence and any change of his/her home address not later than 48 hours from the date of notification of the decision on granting temporary residence, and/or from the date of arriving to the place of temporary residence, and/or from the date of changing his/her home address.

#### Article 53(Natural and artificial persons obligated to register their temporary residence)

1. Natural and artificial persons that provide accommodation services to aliens are obliged to report any stay of an alien to the competent OIA, within 24 hours after providing accommodation, and/or after the moment the alien has arrived.

2. Natural and artificial persons that provide accommodation services are obliged to keep records on aliens (hereinafter: the registry book of aliens) to whom they have rendered accommodation services. They are obliged to keep the registry books of aliens for at least three years after closing them. The registry books of aliens shall be verified by the OIA in the place of permanent residence of the provider of accommodation services to aliens.

3. An alien who does not use accommodation services of natural and artificial persons referred to in paragraph 1 of this Article is obliged to register his/her residence with the competent OIA within 48 hours as of the moment of crossing the state border.

4. OIA is obligated to communicate all information relating to registration or de-registration of permanent or temporary residence of an alien, and/or relating to any change of his/her home address, to the competent Department within 24 hours from the moment of registration.

#### Article 54(By-law)

The Ministry shall by way of by-laws further regulate requirements and rules relating to residence of aliens in BiH.

### CHAPTER V - REMOVAL OF AN ALIEN FROM THE COUNTRY

## Part A. Expulsion

### Article 55(Expulsion measure)

1. Expulsion is a measure instructing an alien to leave BiH and disallowing him/her to enter and stay in BiH for a certain period of time, which cannot be longer than ten years.
2. The decision on expulsion of aliens from the territory of BiH shall be issued by the Department *ex officio*, at the request of the court, OIA or SBS.
3. The period of expulsion shall commence on the day of issuing a final decision. The time spent in prison shall not be counted towards the term of this measure.
4. The decision on expulsion shall specify the deadline for voluntary enforcement of the decision, which cannot be longer than 15 days.

### Article 56(Reasons for imposing expulsion measure)

1. An alien may be expelled from BiH for one of the following reasons: a) if he/she has remained in BiH after the expiration of his/her visa or residence permit or after the expiration of the period of his/her entitlement to non-visa residence, b) if he/she has remained in BiH after the cessation of his/her asylum status or after a final and binding decision on refusal of his/her application for asylum has been taken, while he/she has neither acquired the right of residence in accordance with this Law nor has acquired the citizenship of BiH, c) if he/she has remained in BiH after withdrawal or release from BiH citizenship, while he/she has not realised the right of residence in accordance with this Law, d) if he/she has violated or attempted to violate regulations on crossing the state border of BiH, regardless of whether the violation has occurred while entering or exiting BiH, e) if the right of residence of the alien or a residence permit has been revoked by a final and binding decision in accordance with this Law, f) if he/she has been convicted by a final and binding court decision for a crime which can be qualified as dealing of narcotics, selling of weaponry, trafficking of human beings, smuggling of people, terrorism, laundering of money or as any other type of organised crime, while the court has simultaneously not imposed the security measure of his/her expulsion from the territory of BiH, g) if he/she has been convicted by a court in BiH of another crime and sentenced to more than four years of imprisonment, while the court has not simultaneously imposed the security measure of his/her expulsion from the territory of BiH, h) if presence of the alien constitutes threat to national security and public order of BiH.
2. While assessing whether the expulsion measure from BiH territory shall be imposed against an alien and/or while taking the decision on duration of that measure, the Department is obligated to carefully review all the reasons relevant for issuing the decision, both detrimental and beneficial ones.

### Article 57(Execution of the decision on expulsion)

1. An appeal against the decision on expulsion may be filed with the Ministry within 15 days from the date of notification of the decision.
2. A final decision on expulsion shall be executed by the Department, in co-operation with the competent OIA and SBS, by undertaking measures for forcible removal of the alien from BiH, in accordance with this Law.

#### Article 58

##### (Special cases of expulsion)

1. Exceptionally, at the reasoned proposal of the state ministry or the competent Entity OIA, the Council of Ministers of BiH may, while resolving individual cases, take the decision on expulsion of the alien from BiH if they have assessed that his/her expulsion is necessary and that it is in the interest of public order or national security, in the sense of provision of Article 1 paragraph 2 of Protocol 7 to the European Convention on Protection of Human Rights and Fundamental Freedoms.
2. The decision referred to in paragraph 1 of this Article cannot be executed contrary to the requirements referred to in Article 59 of this Law.

#### Part B. Provisions of protection

##### Article 59(*Refoulement*)

1. Aliens shall not be returned or expelled in any manner whatsoever to the frontier of territories where their life or freedom would be threatened on account of their race, religion, nationality, membership of a particular social group or political opinion, regardless of whether or not they have formally been granted asylum. The prohibition of return or expulsion shall also apply to persons in respect of whom there is reasonable suspicion for believing that they would be in danger of being subjected to torture or other inhuman or degrading treatment or punishment. Aliens may not be sent to a country where they are not protected from being sent to such a territory either.

##### Article 60(Special procedure)

1. When the alien has expressed reasons referred to in Article 59 of this Law, the procedural authority shall refer the case to the Ministry for the purpose of initiating the procedure for verifying the validity of his/her statement and determining the existence of conditions required for granting temporary residence on humanitarian grounds in the sense of Article 34 paragraph 1 item d) or granting asylum in the sense of Article 75 of this Law.
2. The decision on expulsion may be executed only after the decision issued in the sense of paragraph 1 of this Article becomes final and binding.

#### Part C. Forcible removal of an alien from the country

##### Article 61(Conclusion on authorisation of enforcement)

1. An alien may be forcibly removed from BiH.
2. Forcible removal of an alien from BiH shall be carried out *ex officio* by the Department which has made the decision on expulsion of the alien or by the Department on the territory of which the alien who illegally resides there has been found and arrested, by taking the conclusion on authorisation of the enforcement.
3. The conclusion on authorisation of the enforcement shall be taken without any delay and at the latest within 7 days from the date the decision has become enforceable and shall be immediately communicated to the alien.
4. The conclusion shall specify the manner and the time for enforcement of the decision.
5. An appeal against the conclusion may be filed with the Ministry within 8 (eight) days from the date of notification.
6. The appeal does not stay the execution of the conclusion.

#### Article 62

##### (Restriction clauses)

1. Where the court proceedings have been instigated against the alien, a decision on expulsion cannot be enforced earlier than the case is resolved with a final and binding decision.
2. The decision on expulsion cannot be enforced earlier than the prison sentence imposed against the alien is fully served, except in probation cases.
3. If there exist reasons for forcible removal of the alien prescribed in this Law, the alien shall not be forcibly removed if so being in the interest of conducting the court proceedings where the alien shall appear as a plaintiff, an injured party or a witness, being a victim of trafficking of human beings or any other form of an organised crime or where the alien shall co-operate with authorities in revealing crimes and their offenders. The alien shall be granted residence prescribed in Article 34 paragraph 2 of the present Law for as long as these circumstances are present.
4. Forcible removal of an alien from the country shall not be commenced if the alien has decided to leave the territory of BiH by himself/herself or with the assistance of international governmental or non-governmental organisations and has provided an adequate guarantee for such a decision (title of transport, attestation of governmental or non-governmental organisation, etc.).

#### Article 63 (Repatriation country)

1. If enforcement of the decision is not subject to restrictions referred to in Article 59 of this Law, an alien who has been expelled shall be sent to his/her country of origin or the country from which he/she came to BiH.
2. The alien shall be communicated to which country he/she will be sent.

#### Article 64(Repatriation costs)

1. The alien is obligated to pay the costs of his/her trip to the place where he/she is being sent.
2. If it is established that the alien does not have funds necessary to pay the costs of his/her trip to the sending place, the costs of his/her trip shall be born by:a) person who has issued a letter of guarantee or invitation for the purpose of entry of the alien,b) natural or artificial person, association or organisation that has employed the alien, although he/she did not have a work permit,c) BiH.

#### Article 65(By-law)

1. The Ministry shall by way of a by-law further regulate the manner and procedure for forcible removal of aliens from BiH.

### CHAPTER VI - RECEPTION OF ALIENS AND SUPERVISION

#### Part A. Specialised institutions for reception of aliens

#### Article 66(Structure of institutions)

1. Immigration centres, asylum centres, centres for accommodation of victims of trafficking of human beings and other institutions specialised for reception of aliens may be established for the purpose of implementing the present Law.
2. The Council of Ministers of BiH shall by way of by-laws determine the title and the type of a specialised institution for reception of aliens, method of their administration, financing conditions, functioning standards, the method for ensuring special conditions for beneficiaries of a special institution, providing supervision of aliens against whom a measure of supervision has been imposed, as well as other issues relevant for operation of a certain type of a specialised institution.
3. The prescribed special conditions in specialised institutions for reception of aliens shall comply with the requirements ensuing from the Constitution and international standards relating to the treatment of beneficiaries of specialised institutions.
4. Supervision of the operation of the institution specialised for reception of aliens shall be conducted by the Ministry.

#### Part B. Placing an alien under supervision

#### Article 67

#### (Imposing supervision)

1. Supervision may be imposed against an alien for the purpose of ensuring the enforcement of the decision on expulsion or the decision on refusal of entry.
2. Supervision shall be imposed against an alien if there are reasonable grounds to believe that:a) the alien shall escape or otherwise prevent the execution of decisions referred to in paragraph 1 of this Article,b) free

and unrestricted movement of the alien might jeopardise national security and public order of BiH.

3. For the same reasons, supervision may also be imposed against the alien admitted under international agreement on co-operation in delivering and admitting aliens whose stay is illegal.

#### Article 68

(Decision on placing an alien under supervision)

1. The decision on placing an alien under supervision shall be taken by the Department and/or SBS and shall be communicated to the alien without any delay, simultaneously with executing the decision.

2. The decision referred to in paragraph 1 of this Article shall incorporate the ruling on placement of the alien under supervision, the ruling on accommodation of the alien in a specialised institution, date and time of accommodation and intended period of accommodation, date and time of intended forcible removal of the alien from the country, travelling method, as well as the ruling on the amount and the party obliged to bear the costs of forcible removal. Each ruling contained in the disposition of the decision must be separately and fully explained and must contain all the reasons relevant for taking the decision.

#### Article 69

(Appeal)

1. An appeal against the decision on placing an alien under supervision may be lodged with the Ministry within 3 days from the date of notification of the decision.

2. The appeal does not stay the execution of the decision.

3. The Ministry is obligated to take the decision upon the appeal within 7 days from the date of notification of the appeal.

#### Article 70

(Execution of the decision)

1. The measure of placing an alien under supervision shall be carried out by accommodating the alien in an institution specialised for reception of aliens.

2. The alien shall remain under supervision until the moment of his/her forcible removal from the country or until the reasons that have constituted grounds for his/her placement under supervision are considerably changed.

### CHAPTER VII - ASYLUM

#### Part A. Conditions for granting asylum

#### Article 71

(Definition of the term "Refugee")

1. Under this Law, asylum shall be granted to: a) an alien who according to the definition stated in Article 1 A (2) of 1951 Convention Relating to the Status of Refugees and Article 1 of 1967 Protocol, owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his/her nationality and is unable or, owing to such fear, is unwilling to avail himself to the protection of that country; or b) to an alien who, not having a nationality and being outside the country of his/her former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

#### Article 72

##### (Exemptions)

1. Provisions of Article 71 of this Law shall not apply to an alien with respect to whom there are serious reasons for believing that: a) he/she has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes, b) he/she committed a serious non-political crime outside the country of refuge before his/her entry to that country has been approved, c) he/she has been guilty of acts contrary to the purposes and principles of the United Nations.

2. Asylum may be denied to an alien who has been recognised as a refugee by another country or who has found effective protection in another country and would be able to return to that country and re-avail himself/herself of such protection.

#### Part B. Procedure and competent bodies

#### Article 73

##### (Request for asylum)

1. An alien may lodge the request for asylum with the Department, SBS and OIA.

2. The request for asylum, accompanied with all the supported documentation, must be forwarded to the Ministry without any delay.

3. The Ministry shall issue an attestation of the request to the asylum applicant, which shall be considered as a residence permit pending a final and binding decision upon his/her request.

#### Article 74

##### (Provision of protection)

1. No penalty shall be imposed to an asylum applicant coming directly from a territory where his/her life or freedom was threatened on account of his/her illegal entry or presence in the country, at the condition to immediately register himself/herself with the bodies referred to in Article 73 paragraph 1 of this Law and express justified reasons for his/her illegal entry or presence.

## Article 75

(Procedure and competency for issuing the decision)

1. The requests for asylum shall be considered and decisions taken and issued by the Ministry.
2. The decision shall be taken after finalisation of a complete interview procedure where all facts relevant for taking the decision shall be established. An applicant must be given the opportunity to present all the circumstances known to him/her, to have access to all available evidence, as well as to suggest presentation of particular evidence.
3. An alien shall be given an opportunity to follow the course of the procedure through an interpreter if he/she does not know the language used during the procedure, as well as to use the services of a legal or another counsellor. The obligation of the conductor of the procedure is to inform the applicant about all the rights and obligations stemming from the Law.
4. Recognition of the refugee status is not dependent on the production of any particular formal evidence.
5. Any decision taken upon validity of the request for asylum must be fully reasoned and shall be communicated to the applicant in person.
6. The decision must clearly demonstrate the right to complaint and the deadlines.

## Article 76(Protection of data)

1. Asylum procedures shall be closed for public and all information in connection with this procedure shall be considered as confidential.

## Article 77

(Complaint)

1. No appeal is allowed against the decision referred to in Article 75 of this Law.
2. The complaint shall stay the execution of the decision.

## Article 78

(Provisions on protection)

1. The asylum applicant who has exhausted all available legal remedies and whose asylum request has been rejected with a final and binding decision, but with respect to whom it has been determined in the course of the procedure that he/she nevertheless cannot be removed from the territory of BiH for the reasons prescribed in the provision of Article 59 of the Law, shall be issued a temporary residence permit reasoned on humanitarian grounds in the sense of Article 34 paragraph 1 item d) of the Law.

## Article 79

(Reception of asylum applicants)

1. The Ministry shall make provision for adequate conditions of reception of asylum applicants, notably in the area of accommodation, food, access to health care and education.

Part C. Rights and obligations of a refugee

Article 80(Rights of a refugee)

1. An alien to whom asylum has been granted shall acquire the refugee status and shall be entitled to rights defined in Articles 3 to 34 of the 1951 Convention Relating to the Status of Refugees.

2. Provisions of 1951 Convention Relating to the Status of Refugees shall not prejudice the provisions of this and other special domestic laws or provisions of other international instruments which are already in force and to which BiH is a Contracting Party, in case that they accord a more favourable treatment to aliens with the recognised refugee status.

3. The alien holding a refugee status shall be entitled to reside on the territory of BiH as long as his/her asylum is legitimate and shall be issued to that end a residence permit for refugees. The refugee status shall in principle be extended to the spouse and minor children as well as other close family members if they are living in the same household, on the territory of BiH. Entry visas shall be provided to close family members of an alien to whom asylum has been granted. An alien to whom asylum has been granted shall be authorised to work and shall have access to education, medical care and social welfare on the same conditions as citizens of BiH.

Article 81

(Documents for refugees)

1. Identity papers shall be issued to an alien holding a refugee status and staying in the territory of BiH.

2. The alien holding a refugee status, who does not have a valid travel document or is unable to obtain a travel document from the country of his/her habitual residence may be issued a travel document for refugees for the purpose of travelling abroad and returning to the territory of BiH, unless there exist compelling reasons of national security and public order.

3. The travel document for an alien shall be issued for the period of validity of not less than two years and shall be extendable.

Part D. Cessation of asylum

Article 82

(Reasons for cessation of asylum)

1. Asylum granted in BiH shall cease for an alien:a) who has voluntarily re-availed himself/herself of the protection of the State of his/her citizenship, orb) who, having lost the citizenship of another country has

voluntarily re-acquired it, orc) who has acquired a new citizenship and enjoys the protection of the country of this new citizenship, ord) who has voluntarily re-established himself/herself in the State which he/she left or outside which he/she remained owing to fear of persecution, ore) who can no longer, because the circumstances in connection with which he/she has been recognised as a refugee have ceased to exist, continue to refuse to avail himself/herself of the protection of the State of his/her citizenship, orf) who being stateless can no longer, because the circumstances in connection with which he/she has been recognised as a refugee have ceased to exist, refuse to avail himself/herself of the protection of the State of former habitual residence, org) who has obtained the citizenship of BiH.

2. If an alien is able to invoke compelling reasons arising out of previous persecution for refusing to avail himself/herself of the protection of the country of his/her citizenship as referred to in item e) of paragraph 1 and/or the country of his former habitual residence as referred to in item f) of paragraph 1, the stated items shall not be applied.

#### Article 83

(Competency and complaint)

1. The decision on cessation of asylum shall be taken by the Ministry *ex officio* or at the request of MFA, OIA, SBS or the Department.

2. No appeal is allowed against the decision referred to in Paragraph 1 of this Article.

3. The complaint filed with the competent court by the alien shall stay the execution of the decision.

4. The alien may neither be expelled nor forcibly removed from the territory of BiH before the decision referred to in paragraph 1 of this Article becomes final and binding.

#### Article 84

(Mass influx of aliens)

1. In cases of mass influx, or imminent mass influx, of aliens in need of international protection, the Council of Ministers of BiH may, in consultation with UNHCR, issue special regulations for their protection. 2. The Council of Ministers of BiH shall, in consultation with UNHCR, cancel regulations referred to in paragraph 1 of this Article, after cessation of the reasons justifying their existence, which shall be without prejudice to the rights of aliens who by way of these regulations have been granted protection, to seek asylum.

#### Article 85

(Co-operation with UNHCR)

1. Asylum applicants shall be given the opportunity, at all stages of the procedure, to communicate with UNHCR or with other refugee organisations that may be working on behalf of UNHCR, and vice versa.

The representative of UNHCR shall be informed of the course of the procedure, of the decisions of the competent authorities and shall be given opportunity to submit his/her observations.

#### Article 86

(By-law)

1. The Ministry shall by way of a by-law further regulate issues regulated in Chapter VII of this Law.

2. The method and procedure for registration of refugees, as well as principles of data protection relating to refugees shall be established in the act referred to in paragraph 1 of this Article.

### CHAPTER VIII - SPECIAL PROVISIONS

#### Article 87(Protection of rights)

1. No provision of this Law shall preclude any person covered by this Law from exercising and protecting his/her rights before any responsible authority in accordance with the Constitution and legislation of BiH, Entities and Brčko District of BiH.

#### Article 88(Privileges and immunities)

1. Provisions of this Law, with the exception of the Chapter relating to asylum, shall not be applicable to diplomatic and consular agents or other persons covered by specific agreements on privileges and immunities to which BiH is a Contracting Party.

#### Article 89

(Application of provisions)

1. Chapters II, III, IV and IX, except for Articles 21, 50, 52, 84 and Article 94 of this Law, shall not apply to asylum applicants as well as to persons who have been granted asylum.

#### Article 90

(Official records)

1. In accordance with this Law, official records shall be kept on: a) aliens with permanent or temporary residence, b) travel documents for aliens issued in accordance with this Law, c) aliens who have been refused entry or who have been expelled, d) executed measures with regard to aliens, e) reported missing travel documents of aliens, f) issued personal documents, g) residence registration, residence de-registration and change of address, h) aliens who have been granted asylum or aliens who have submitted the application seeking asylum, i) aliens who have been forcibly removed from the territory of BiH.

2. Official records shall be kept by the authority which is under this Law competent for acting upon certain matters, and which shall forward any information obtained from the records to the Ministry.

#### Article 91

(Central database)

1. Central database of aliens shall be established within the Ministry for the purpose of recording and monitoring the movement of aliens and the status of asylum.
2. The authorities of OIA and SBS shall have access to these records and data, if so necessary for executing their duties stipulated by this Law.
3. Processing of all data referred to in this Law shall be subject to principles of data protection valid in BiH.
4. SBS shall keep special records where data relating to the identity, purpose of entry, stay and exit of the alien from BiH shall be copied from a valid travel document of the alien and from his/her supporting travel documentation. Article 92

(By-law)

1. The Ministry shall by way of by-laws further regulate rules and regulations on keeping records, using and accessing central database of aliens.

## CHAPTER IX - PENALTY PROVISIONS

### Article 93

1. A natural person who has rendered accommodation services to an alien shall be fined with 200.00 KM - 1,000.00 KM for the offence if: a) he/she has failed to report, within a prescribed deadline, stay of the alien to whom accommodation services have been rendered (Article 53), b) he/she has failed to keep records of aliens to whom accommodation services have been rendered or if he/she has kept these records improperly (Article 53).
2. An artificial person who has rendered accommodation services to an alien shall be fined with 500.00 KM - 2,000.00 KM for the offence referred to in paragraph 1 of this Article.

### Article 94

1. An alien shall be fined with 100.00 KM to 500.00 KM for the offence if: a) he/she has refused to show the document verifying his/her identity or his/her right to enter and stay to the authorised official or if he/she does not have the document to verify his/her identity (Article 9), b) he/she has not registered his/her permanent or temporary residence, change of his/her home address in the place of permanent residence within a prescribed deadline or if he/she has failed to de-register his/her permanent residence before his/her departure from the place of permanent residence (Article 52).

### Article 95

1. An alien shall be fined with 100.00 KM to 1,500.00 KM or sentenced to imprisonment of 30 days for the offence if: a) he/she has entered BiH contrary to the requirements prescribed in provisions of Articles 10 and

11 of the present Law,b) if he/she has stayed in BiH longer than specified in his/her visa, stay permit or residence permit,c) if he/she has failed to leave the territory of BiH within the deadline determined in this Law.

2. An authorised official responsible to control crossings of the state border may at the border crossing collect the fine in the amount of 100.00 KM for each day of delay for the offence referred to in item 4 paragraph 1 of this Article, unless the alien has not exceeded his/her stay for more than five (5) days and is able to justify the reasons for this delay.

#### Article 96(Competency)

1. The offence courts established by Entity regulations and/or by regulations of Brčko District of BiH shall be competent for conducting the offence proceedings in accordance with provisions of this Law, for as long as a special law provides otherwise.

### CHAPTER X - TRANSITIONAL AND FINAL PROVISIONS

#### Article 97(Acquired rights)

1. All persons who have already acquired a refugee status or who have been granted temporary admission within the territory of BiH before the entry into force of this Law shall have that status recognised in the sense of this Law.

2. The Ministry may, with the consent of the Council of Ministers of BiH, by way of by-laws regulate conditions for further enjoyment of that status.

#### Article 98(Pending cases)

1. All cases upon which a final and binding decision has not been taken before entering into force of this Law shall be finalised in accordance with provisions of regulations that were in force at the time of initiating the proceedings.

#### Article 99(Competency of structural units of OIAs)

1. Pending the commencement of the operation of the Office for Immigration and Asylum of the Ministry for Human Rights and Refugees, all administrative matters which are under this Law in the competency of the Department for Immigration and Asylum shall be performed by adequate structural units within the Public Security Centres of the Ministry of Internal Affairs of the Republika Srpska, cantonal Ministries of Internal Affairs in BiH Federation and the Police of Brčko District of BiH.

#### Article 100(Establishment of the Office)

1. The Ministry is obligated to establish the Office for Immigration and Asylum within a year from the date of entering into force of the present Law.

2. The Ministry shall take over resources, equipment and files from the respective structural units of OIAs, which pursuant to Article 99 of this Law have performed activities from the competency of the Ministry.

3. The employees of OIAs who have performed activities from the competency of the Ministry shall be transferred into the Departments if they fulfil special requirements prescribed in the by-law referred to in Article 3 of the present Law, while other employees shall be deployed by OIAs in accordance with their acts on internal organisation and systematisation of posts.

#### Article 101(Cessation of validity of regulations)

1. The Law on Immigration and Asylum of BiH (Official Gazette of BiH, number 23/99), the Book of Rules on Conditions and Procedures for Entry of Aliens, Issuance of Visas and Other Travel Documents and Issuance of Attestations for the Stay of Aliens in BiH (Official Gazette of BiH, number 29/01), the Decision on Establishment and Composition of the Appeal Panel (Official Gazette of BiH, number 12/01) and the Decision on Conditions for Announcing an Alien as Undesirable Person in Bosnia and Herzegovina (Official Gazette of BiH, number 6/02) shall cease to be applied from the date of entering into force of this Law.

2. The bodies specified in this Law are obligated to pass the by-laws within one year from the day of entering into force of this Law.

3. Entities and Brčko District of BiH are obligated to harmonise their legislation with this Law within six months from the day of entering into force of this Law.

#### Article 102(Entry into force)

This Law shall enter into force on the eighth day after its publication in the Official Gazette of BiH and shall be published in Official Gazettes of the Entities and Brčko District of BiH.

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**3. MAPPING EXERCISE**  
**OBSTACLES TO MOBILITY OF RESEARCHERS**  
**IN CROATIA**

**Synthesis report**

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**2007**  
**THESSALONIKI**

## OBSTACLES TO MOBILITY OF RESEARCHERS IN CROATIA

### 1. Visa formalities - The situation in Croatia

#### 1.1. Visa procedure

A foreign citizen is required to get a visa before entering the Republic of Croatia, in accordance with the visa system prescribed by the Croatian government. The diplomatic mission or the consular office of the Republic of Croatia normally issues visas<sup>172</sup>. In exceptional circumstances, such as humanitarian, professional or personal reasons (specified by *the Rules on aliens' travel documents, visas, border passes and treatment of aliens*), visas can be issued by the authorities competent for state border control<sup>173</sup>. Visa cannot be used as a work permit<sup>174</sup>. Croatian visa regime does not prohibit the visa issue in case of unemployment in specific sector<sup>175</sup>.

Along with the application form, a foreigner needs to include:

- travel document
- colour photo 30x35 mm
- documents that prove:
  - the **purpose** of visiting the Republic of Croatia,
  - ensured **accommodation and covered expenses** of staying in the Republic of Croatia
  - the intention of **returning to homeland**, i.e. the capacity to enter a third country
  - **means of travel**<sup>176</sup>

#### **Some applicants may be asked to submit an additional document as:**

- Letter of Guarantee (Affidavit of Support) from a person living in the Republic of Croatia (authorized by Notary Public in Croatia)
- Proof of purchased vacation package, reservation of hotel, etc
- Other documents from employer, school or college.

The maximum length for the visa issuance **procedure is two months** according to the General administrative procedure act (OG No. 53/91); under condition the foreigner has attached all the necessary documents<sup>177</sup>.

The Government of the Republic of Croatia has adopted the Regulation on Visa System, which has been in force since 1st December 2005. This Regulation defines the visa system of the Republic of Croatia and the **amount of means of subsistence**

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<sup>172</sup> See on chapter 2.1. of the present Report on visa policy and migration the Information network for linking all diplomatic missions and consular offices.

<sup>173</sup> Mobility guide 2.1.1.2. See however Progress Report 2007, 4.24 and in this WEB-MOB report, chapter 2.a), according to which an increasing number of visa are being issued at the border.

<sup>174</sup> Mobility guide 2.1.1.1.

<sup>175</sup> Mobility guide 2.1.1.7.

<sup>176</sup> Mobility guide for Croatia 2.1.1.1.

<sup>177</sup> Mobility guide for Croatia 2.1.1.8.

that an alien shall have while staying in the Republic of Croatia and for their return to the country they came from or for travelling to the third country.

### 3.1.2. Visa exemptions

The Croatian Regulation on Visa System of **21 October 2005**<sup>178</sup> provides a list of countries whose nationals need a visa to enter the Republic of Croatia and stay there for the period of 90 days, or to cross the territory of the Republic of Croatia, as well as a list of countries whose nationals, holders of valid travel documents, can enter the Republic of Croatia without a visa (web pages of the Ministry of Foreign Affairs and European Integration).

**According to art. 2 and 3 of the Regulation of 21 October 2005, citizens of the following countries do not need a visa to Croatia for stay up to 90 days:**

- EU. Bulgaria and Romania included (also with identity card)
- EEA
- Developed Countries, US, Canada, Australia, New Zealand, Japan, Switzerland ( the latter also with identity card)
- **WBC : Bosnia and Herzegovina, Former Yugoslav Republic of Macedonia**
- **NAC: None**
- Latin and Central American countries: Argentina, Bolivia, Brazil, Chile, Costa Rica, Guatemala, Honduras, Mexico, Nicaragua, **Panama, Paraguay, El Salvador, Uruguay, Venezuela**
- **Other countries: Brunei Darussalam, Israel, Republic of Korea, Malaysia, Singapore, Turkey, Vatican City**<sup>179</sup>.

The above beneficiaries must apply for a visa only for a stay **more than 90 days**. All visa applicants should present their application in person at the Consular Department and **provide proof of subsistence financial funds**. **Citizens of Russia do not need a visa if they have invitation letter or a voucher.**

**Citizens of Albania and Serbia and Montenegro must apply for a visa in any case since they are included in article 4** of the above law which states that “Nationals of the following States shall require an entry visa for a stay of up to 90 days in the Republic of Croatia and for transit through its territory”. Diplomats of these countries may enter without visa for 90 days stay (art. 5). **However, as stated in the Commission’s progress reports, there is a provisional exemption from visa requirements for nationals from Serbia and Montenegro**<sup>180</sup>.

**So only nationals from Albania should obtain visa either for 90 days stay or more than 90 days.**

### 3.1.3. Subsistence funds

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<sup>178</sup> *Official Gazette No. 127/05, 26 October 2005*

<sup>179</sup> <http://croatia.visahq.com/requirements/Albania>

<sup>180</sup> Progress Report for Croatia, 2007, 4.24.

**The Regulation states that:**

“A foreign national submitting a visa application to a diplomatic mission or a consular office of the Republic of Croatia shall be required to present a proof of sufficient funds for subsistence during his/her sojourn in the Republic of Croatia and for the return to the country of origin or transit to a third country.

On his/her entry to the Republic of Croatia, the border control officer shall be authorised to request that the foreign national presents funds necessary for subsistence during the sojourn in the Republic of Croatia and for the return to the country of origin or transit to a third country.

The amount of currency under paragraphs 1 and 2 hereof shall be fixed at the equivalent of **€ 100** (in words: one hundred Euros) per day of the estimated stay in the Republic of Croatia.

If a foreign national is in possession of a certified letter of invitation by a natural or legal person from the Republic of Croatia, proof of hotel booking and the like, he/she shall present proof of possessing **funds equivalent to € 50 (in words: fifty Euros) per day** of the estimated stay in the Republic of Croatia. **Credit and bank cards, bank statements, cheques or other documents shall be acceptable as proof of possessing sufficient funds”.**

**3.1.4. Validation of invitation letter**

If foreigners are coming to Croatia on a **business** visit, when applying for visa, they have to submit a legal person’s **invitation letter** for foreigners as a proof of the purpose of their visit<sup>181</sup>. The legal person’s invitation letter has to **be validated with an official stamp and the signature of an authorised representative. The diplomatic mission/consular office of the Republic of Croatia at which the foreigner is applying for a business visit visa, retains the original copy of the invitation letter.** The applicant is given the copy of the invitation letter so that they could produce it as a proof of the purpose of their visit if requested by a border control body<sup>182</sup>.

A foreigner can obtain a visa in order to attend a seminar / congress; it is necessary to get an invitation letter form the institution organising the event<sup>183</sup>.

**3.1.5. Short and Long term stay of foreign Researchers in Croatia: travel visa and its extension**

A researcher of foreign nationality in order to visit a Croatian institution for a congress or seminar, a project or work for **3 months to 1 year** can apply for a travel visa and temporary residence<sup>184</sup>.

In such case, a researcher seems to have to submit proof of sufficient funds<sup>185</sup>.

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181 The content of the invitation letter is regulated by the stipulations from Article 70 of the Rule on Travel Documents for Foreigners, Visas, Border Passes and Treatment of Foreigners (Official Gazette – hereinafter referred to as OG No. 202/03, 10/05, 19/05) and Article 9 of the Rule on Issuing Travel Certificates, Visas and Special IDs for Foreigners (OG No. 82/05).

182 Mobility Guide 2.1.1.5.

183 Mobility guide 2.1.2.4.

184 Mobility guide, 2.1.1.2.

185 Mobility guide, 2.1.1.4

The travel visa is issued for one, two or more visits to the Republic of Croatia, for tourist, **business**, personal or other purposes. **Travel visa is valid for a one-year period only**<sup>186</sup>.

A travel visa can exceptionally be extended due to *force majeure*, humanitarian, **professional or personal reasons** if the application is submitted before its expiry<sup>187</sup>.

Even in cases of visa extension, an alien CANNOT stay in the Republic of Croatia longer than 90 days in the period of six months, counting from the day of his/her first entry, **except if there is a permit for temporary stay**<sup>188</sup>.

### **3.1.6. Long term stay of foreign Researchers in Croatia: work permits and quotas**

An alien can work in the Republic of Croatia on the basis of a WORK or BUSINESS permit. In cases laid down by the Aliens Act<sup>189</sup>, an alien can work without a work permit<sup>190</sup>. **The researchers were in the same category as other migrant workers and the number of work permits was governed by quotas**<sup>191</sup>.

The total annual quota of work permits for the employment of aliens in the Republic of Croatia is **1,837**, and the quota for the extension of already authorised work permits is 800. The annual work permit quota for **newly employed** aliens is **1,037**: For **SCIENCE AND EDUCATION** there were only **10 work permits**. It seems that **this quota is for teachers not for researchers**.

Some categories of aliens shall be granted **work permits that are NOT included in the quota**. These work permits are granted for, among others, alien's spouses and children with authorised permanent residence in the Republic of Croatia<sup>192</sup>.

In addition according to article 95 of the Aliens Act, “professors invited as **lecturers** by Croatian universities, scientists doing **scientific and professional further studies**, scientific representatives of international organisations and **scientists taking part in the execution of scientific research projects important for the Republic of Croatia**” do not need a work permit<sup>193</sup>.

Therefore it is not clear whether the quota system to protect Croatians from unemployment is applied to mobility of researchers.

### **3.1.7. Croatia's specific obstacles to mobility because of visa requirements and policy guidelines**

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<sup>186</sup> Mobility guide for Croatia, 2.1.1.8.

<sup>187</sup> Mobility guide for Croatia 2.1.2.3.

<sup>188</sup> Mobility guide for Croatia, 2.1.2.3. See also webpage of the Ministry at <http://www.mup.hr/1266.aspx>><http://www.mup.hr/1266.aspx>.

<sup>189</sup> Official Gazette No. 109/03.

<sup>190</sup> Mobility guide for Croatia, 2.1.2.6.

<sup>191</sup> Mobility guide for Croatia, 2.1.2.7. and 2.1.3.1.

<sup>192</sup> Mobility guide for Croatia, 2.1.3.1.

<sup>193</sup> [http://www.mup.hr/main.aspx?id=1266#\\_Rad\\_BEZ\\_radne\\_dozvole](http://www.mup.hr/main.aspx?id=1266#_Rad_BEZ_radne_dozvole). Mobility guide for Croatia 2.6.1.

1. For up to 3 months stay

- a) only citizens of Albania must apply for a visa at any case. This is done even though Albania does not require visa for Croatian nationals.

We suggest to abolish visa requirements for Albanian nationals for reasons of reciprocity.

b) Serbian citizens enjoy a temporary visa exemption status for 90 days stay. It is recommended that this be made permanent.

2) For 3 months up to one year all researchers of any country must submit for a travel visa. In such case proof of subsistence funds and validation of invitation letter seem to be the specific obstacles, they are however very well restricted to what is necessary.

In order to facilitate further the mobility of researchers it is recommended that a scientific visa be established for researchers in reciprocity with EU rules. In particular:

As a first step that:

1. The Ministry of Science and Education in Croatia confirms the list prepared by WEB-MOB with all the public research organizations (including Universities) and adds eventually all the private research organizations that are so recognized by the Ministry.
2. Acknowledge the lists prepared by EU states.
3. At the same time conclude reciprocal visa and residence permit facilitation agreements between Croatia and WBCs that, among other provisions, would provide a specific simple procedure for the “scientific visa” based on the hosting agreements of the accredited research organisations. The model of Directive 2005/71/EC could be followed in this regard. **The Directive 2005/71 allows the EU member states in order to issue of a residence permit to request to the third country researchers:**
  - a) **valid travel document,**
  - b) present a **hosting agreement** signed with an accredited research organisation
  - c) where appropriate, present a **statement of financial responsibility** issued by the research organisation and
  - d) not be considered to pose a threat to **public policy**, public security or public health.
4. Until the time of conclusion of agreements the competent authorities may commit themselves through a declaration for exemption /facilitation of all researchers having a hosting agreement with an accredited institution from work permits, and the easing of the procedure for the residence permit following the model of Recommendation EC 2005/762.

As a second step to exempt researchers from WBCs working in accredited research institutions from visa requirements and work permits **for no more than 3 months** stay (e.g. for conferences and seminars) in Croatia following as model:

1. the fact of the abolishment by all WBCs of visa requirements for EU nationals for 3 months stay and
2. the Recommendation EC 2005/761 **which asks the Members to facilitate the issue of uniform short-stay visas for researchers from third countries travelling within the Community for the purpose of carrying out scientific research**<sup>194</sup>.

In this way reciprocity and common rules between EU and WBC researchers could be established.

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<sup>194</sup> of the European Parliament and of the Council of 28 September 2005, *L 289*, 3.11.2005.

### 3.2. General formalities at the border

After the airport gate entering Croatia the researcher –foreign national has to show his/her passport to the officials and get it stamped, then he/she can proceed to get his/her baggage. In case he/she has something to declare for customs duties, he/she can do it just before leaving transition lounge of the airport<sup>195</sup>. According to the Customs act (OG No. 47/03) there is no limit to the foreign or domestic currency a foreigner is allowed to import. Nevertheless, a foreigner can export up to the amount he declared at the custom while entering the Republic of Croatia<sup>196</sup>.

If the foreigner arrives by car, then the Control borders officer has to check, in addition, if the car insurance is valid and covers the WBC in question **otherwise the driver has to buy another one at the border.**

In WBCs **a car registered abroad may be imported without additional payment** of taxes and customs duties if the driver **has** all the documents that he usually carries with him – driving license, registration permit and green card.

In Croatia foreigners who have been granted temporary stay may use their car not longer than **3 months** and then they have to register it. The validity of the foreign **driver's licence lasts 1 year** after the day of entry (Article 225 and 226 of the Road Traffic Safety Act (OG No. 105/04)<sup>197</sup>.

The foreigner may bring his/her **personal belongings** without payment of any taxes. Croatia allows importation if the foreigner has a temporary stay up to one year<sup>198</sup>.

For the present stage of integration of Croatia with EU other rules do not seem to be very burdensome for the researchers. Of course stamping the passports, declaration of goods for customs duties will be abolished by accession for EU citizens.

**What seems very burdensome and disproportionate is buying an insurance for the researcher's car at the border, if its own is invalid. The aim of this measure seems to be that no uninsured cars would circulate in Croatia, but it must clarify what means "invalid insurance", whether the foreigner-as consumer- has choice and time to consider the best insurance company, whether fees are proportionate, and whether the same aim could be achieved in a certain deadline or by other means.**

### 3.3. Linguistic barriers

At the moment, there are not any reception points for foreign researchers in Croatia<sup>199</sup>

Though public officials have a certain level of familiarity in at least one foreign language and some speak foreign languages, mostly English, German and Italian,

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<sup>195</sup> Mobility guide for Croatia, 2.2.2.

<sup>196</sup> Mobility guide for Croatia, 2.2.3.

<sup>197</sup> Mobility guide 2.2.4.

<sup>198</sup> Mobility guide 2.2.5.

<sup>199</sup> Mobility guide 2.3.2.

linguistic skills of public officials are not required by law<sup>200</sup>. Unfortunately, this means that in practice competence levels vary widely. For help dealing with administrative procedures upon arrival, bringing a native guide is highly recommended<sup>201</sup>.

After all formalities are completed, there are no formal language requirements for those involved in research. Arrangements may be freely made within a particular research group, with English probably being the first choice<sup>202</sup>.

***We therefore highly recommend the establishment of reception points at research institutions that will finish all paperwork with the authorities. Indeed in the framework of measures aimed at ensuring successful participation in the Framework Programme for Research and Technological Development, Croatia created a network of coordinators at all higher education institutions and research institutes<sup>203</sup>. Maybe this could be used for this purpose.***

### **3.4. Normal Residence and invitation letter**

Place of residence is an important part of an invitation letter that a foreign citizen needs to obtain in order to come to Croatia (in case of a tourist visit, he/she needs to inform the authorities about his residence upon his/her arrival):

- **Foreigner is on a private visit, invited by a physical person**  
If a foreigner is coming to Croatia on a private visit, when applying for visa, they have to submit a physical person's invitation letter for foreigners as a proof of the purpose of their visit, filled out by the inviter from Croatia.
- **Foreigner is on a business visit, invited by a legal person**  
If a foreigner is coming to Croatia on a business visit, when applying for visa, they have to submit a legal person's **invitation letter for foreigners as a proof** of the purpose of their visit, filled out by the inviting legal person from Croatia<sup>204</sup>.

### **3.5. Family reunion<sup>205</sup>**

#### **3.5.1. Who is family**

The right of the foreigner to bring his family in the host state is recognised in all WBCs. Most WBCs consider as family the members that are so considered by EU legislation:

1. Spouse
2. Parents that he/she supports and
3. **Children up to 18 years of age, who have not yet established a family<sup>206</sup>**

**Croatia does not include in family all the children that need support and are living together in one household.**

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<sup>200</sup> Mobility guide 2.4.3.

<sup>201</sup> Mobility guide 2.4.1.

<sup>202</sup> Mobility guide 2.4.5.

<sup>203</sup> Progress Report for Croatia, 2005, chapter 25.

<sup>204</sup> Mobility guide 5.2.2.

<sup>205</sup> Mobility guide, 5.2.10, 5.2.11.

<sup>206</sup> Mobility guide 5.2.11.

### 3.5.2. Rights of the Spouse

Croatia applies the quota system for spouses except for visiting professors and scientists or a free lance profession<sup>207</sup>. It does not seem to apply the quota system for spouses of EU citizens<sup>208</sup>.

Indeed, the spouse of an EU citizen falls into a category of workers who require work permits but are not subject to the quota system, under the category:

“alien workers and their family members, whose status is regulated by *the Stabilisation and Association Agreement* between the European Communities and their Member States and the Republic of Croatia;” **209**.

There are no other privileges for being a spouse of a foreigner researcher<sup>210</sup>.

### 3.5.3. Rights of the Children

The legal system in Croatia allows for private educational institutions in the primary, secondary and tertiary level<sup>211</sup>. There are no fees at public schools of primary and secondary education – the cost of education is covered by the state through the authority of the Ministry of Science, Education and Sport (MSES). There are however **variable tuition fees at the tertiary level public** institutions in Croatia<sup>212</sup>. Typically tertiary education institutions in Croatia hold entrance exams for entry into their programmes. Foreigners are enrolled in tertiary education under the same conditions as home students, except that they **do not qualify for financial assistance by the MSES and they pay a higher tuition fee** (determined by the Croatian Rectors' Conference)<sup>213</sup>.

## 3.6. Facing the new culture – Indirect obstacles

### 3.6.1. The general situation in WBCs

The people in Croatia and all WBCs are very hospitable and friendly to all foreigners no matter their religious affiliation<sup>214</sup>. Foreigners can practice their religious beliefs and they can attend religious ceremonies in churches, mosques, synagogues in

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<sup>207</sup> Mobility guide 2.6.1.

<sup>208</sup> Mobility guide for Croatia 2.6.3.

<sup>209</sup> Mobility guide 2.6.3. See

[http://www.mup.hr/main.aspx?id=1266#\\_Radna\\_dozvola](http://www.mup.hr/main.aspx?id=1266#_Radna_dozvola)

<sup>210</sup> Mobility Guide 2.6.2.

<sup>211</sup> Mobility guide 3.1.2.

<sup>212</sup> Mobility guide 3.1.3.

<sup>213</sup> Mobility guide 3.1.3.1 The legislation regulating tertiary education in Croatia is the Act on Science and Higher Education, available in Croatian:

<http://www.nn.hr/clanci/sluzbeno/2003/1742.htm>

<sup>214</sup> Mobility Guides 2.3.1 and 2.3.3.

Croatia and all WBCs<sup>215</sup>. There are foreign cultural institutions in all WBCs such as the British Council, The Goethe Institut, Spanish Italian, US cultural organisations etc. There are festivals, theatres, libraries.

Lectures in Universities are in the local language except in certain other private universities. English is the main language for international projects and for lectures given by visiting foreign instructors<sup>216</sup>. There is no official directive as to what language should a foreign researcher speak, but the use of English language prevails and therefore it is highly recommendable to be fluent in English<sup>217</sup>.

In Croatia all children learn to speak English, and then depending on the school it might be obligatory to take one more foreign language – in most cases French, Italian or German<sup>218</sup>. Croatian people prefer to speak German in the north and Italian on the coast<sup>219</sup>. A foreigner can easily learn the local language in organised courses.

**In all WBCs a foreigner can enrol his/her children in public schools for kindergarden, elementary, primary and secondary education if they are able to understand the local language. Otherwise he/she is obliged to enrol them in private schools. There are many private schools, teaching courses in EU languages<sup>220</sup>. However, as proper placement depends on the administratively involved procedure of validation of foreign elementary and secondary school qualifications, it may not be the most practical option for a short term stay<sup>221</sup>. Foreign education qualifications of primary or secondary education are recognized by the Ministry of Science, Education and Sport of Republic of Croatia, and there exists a formal procedure of validation<sup>222</sup>. Indeed in the area of primary education a new Croatian National Educational Standard was adopted in 2005 which defines the knowledge, skills and abilities to be acquired by pupils at various levels of their education<sup>223</sup>.**

However planned amendments to incorporate the **non-discrimination principle** relating to alignment with the Directive on education of children of migrant workers **into the Act on primary education are still outstanding<sup>224</sup>. There are currently few children of EU nationals enrolled in Croatian schools. By the time of accession, appropriate measures for the education of children of migrant workers will need to have been adopted by Croatia to meet the specific requirements of the *acquis*<sup>225</sup>.**

In the field of secondary education:

- **a Law on the National Centre for the External Evaluation of Education** (2005) which establishes a new public body responsible for the external

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215 Mobility Guides 2.3.4.

216 Mobility Guides 2.4.4.

217 Mobility Guides 2.4.3.

218 Mobility Guides 2.4.7.

219 Mobility Guides 2.4.8.

220 Mobility guides 2.5.1 and 2.5.3.

221 Mobility guide 2.5.1.

222 Mobility guide 2.5.5. Details can be found on the Ministry website: <http://public.mzos.hr/Default.aspx?sec=2531>.

223 Progress Report for Croatia 2005.

224 Progress Report for Croatia, 2007, 4.26.

225 Progress Report for Croatia 2005, chapter 25.

evaluation of the education system and the implementation of national standards for exams, including the exams for access to university<sup>226</sup>.

- the planned amendments to incorporate the **non-discrimination principle into the Act on secondary education are still outstanding**<sup>227</sup>.

In the field of university education **in Croatia foreigners do not qualify for financial assistance for attending tertiary education and they pay a higher tuition fee. In 2007 the principle of non-discrimination in access to education for EU citizens** has been introduced in higher education by the amendments to the Act on Science and Higher Education<sup>228</sup>. **It should be changed for WBC nationals under reciprocity.**

In addition, foreign children do not seem to be able to receive scholarships or other privileges without discrimination<sup>229</sup>.

### **3.6.2. Mobility obstacles**

#### **3.6.2.1. Validation of children's previous education in another country**

All WBCs impose such procedure in order to prove that one diploma is identical to the other. Such procedure has proven very difficult in the EU countries where since 1985 the principle on mutual recognition and trust has been adopted.

We suggest that EU and WBCs conclude a reciprocal multilateral agreement for mutual recognition of preschool, elementary, primary and secondary education.

### **3.7. Mutual recognition of diplomas of researchers**

#### **3.7.1. The situation of education in all WBCs**

In all WBCs <sup>230</sup>

- Primary education lasts from 6-9 to 14-15 years of age and the secondary from 14-15 to 18-19 years of age according to each country.
- There are private schools and Universities.
- There are no fees for elementary, primary and secondary education
- There are fees for public and private Universities
- The primary education is mandatory
- There is vocational training instead of secondary education
- There are entrance exams for public Universities
- The obligatory minimum duration is 3 years of studies in the University<sup>231</sup>

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<sup>226</sup> Progress Report for Croatia, chapter 26.

<sup>227</sup> Progress Report for Croatia, 2007, 4.26.

<sup>228</sup> Progress Report for Croatia, 2007, 4.26.

<sup>229</sup> Mobility guide 2.5.2.

<sup>230</sup> See mobility guides 3.1.1., 3.1.2, 3.1.3., 3.2. ,

<sup>231</sup> Mobility guides 3.1.3.2

- Postgraduate studies usually last for two years<sup>232</sup>
- There is the possibility of distance learning.

### 3.7.2. Recognition of University diplomas

Since 2002 a lot has been done to make the process of recognition of foreign degrees in Croatia faster, more transparent and efficient. The legislation that regulates this area is the *Act on foreign education qualification recognition*<sup>233</sup>. The *Amended Act on foreign education qualification recognition* separated academic and professional recognition of higher education qualification, though at first Croatian legislation did not distinguish between the recognition of academic and professional qualifications<sup>234</sup>

- Recognition of diplomas is done without discrimination against foreigners.
- The prerequisites for the equivalence are the same for all regardless of the country in which the degree was obtained<sup>235</sup> Under their autonomy higher education institutions are responsible for academic recognition of higher education qualification.
- Amended Act annulled the paragraph which demands foreign citizens to provide **legal interest for recognition** of qualification while Croatian citizens are not obliged to do that: all citizens have rights for recognition of their qualification under the same conditions.
- The National ENIC NARIC office is still responsible for **professional** recognition procedure, both for regulated and non-regulated professions. Amended Act took effect from 28th of December 2006 and now Agency, Croatian ENIC/NARIC Office is no longer responsible for final decisions on **academic recognition. That is responsibility of Higher Education Institutions.**
- Croatian ENIC/NARIC Office still performs the role as **information centre** responsible for recommendation regarding both, academic and professional recognition<sup>236</sup>.
- With respect to the recognition of a higher education degree, the prescribed period is 3 months<sup>237</sup>.
- **There is an appeal procedure indirectly foreseen against a negative decision to the responsible Ministry.**

However, several sectoral acts impose nationality requirements which restrict access to certain profession to Croatian citizens and set out a priori conditions for

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<sup>232</sup> Mobility guides 3.1.3.4.

<sup>233</sup> Available at: <http://www.nn.hr/clanci/sluzbeno/2003/2258.htm>. The Act has been amended in 2006, and the amendments are available at: <http://www.nn.hr/clanci/sluzbeno/2006/3114.htm>

<sup>234</sup> Progress report for Croatia 2006, 4.3. Progress report for Croatia 2007, 4.3.

<sup>235</sup> Mobility guide 3.5.6.

<sup>236</sup> Mobility guide 3.5.1.

<sup>237</sup> Mobility guide 3.5.4.

disproportionate linguistic skills in order to gain access to regulated professions, both of which are incompatible with the acquis<sup>238</sup>.

### **3.7.3. Mobility obstacles because of recognition procedures for University degrees**

There are certain measures to improve the procedure of mutual recognition of diplomas:

- The decision of the relevant authority has to be justified
- The legislation has to expressly provide for an appeal against the decision before the Minister and then before a judicial organ
- There must be penalties for no prompt reply e.g. automatic recognition
- Establish equivalents for new degrees, already known, otherwise undue delays will be created, through **bilateral or multilateral agreements concluded for automatic recognition of diplomas just like as ex Yugoslavia and Albania did.**

## **3.8. WORKING CONDITIONS**

### **3.8.1. WORK PERMITS**

#### **3.8.1.1. Situation in all WBCs for one year work permit (Temporary)**

In all WBCs a foreigner who wants to work for more than 3 months, has to do the following:

1. Requests for his/her **degree** obtained in another country be recognised as equivalent to the degree of one of the local universities
2. **Temporary approval of stay** (employment visa)
3. Finds a job
4. Requests in written form **work permission** before beginning to work from the relevant authority providing information about the company and description of the work
5. Gets **work permit**
6. Signs the contract
7. Applies for and gets **residence permit** for one year
8. Works

#### **3.8.1.2. Situation in Croatia**

In Croatia, it is necessary for a foreigner first to recognise his/her academic degree as issued by a State of the EU or any other country an equivalent to an academic degree of Croatia and then ask for a work permit<sup>239</sup>. The foreigner has to find a workplace and then his/her employer (legal or natural person) applies for the issuing of an alien work permit at the competent police administration/police station according to their head office. Among the documents necessary for applying for the work permit, an

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<sup>238</sup> Progress report for Croatia 2005. Progress report for Croatia 2006, 4.3. Progress report for Croatia, 2007, 4.3.

<sup>239</sup> Mobility guide 4.1.6.

employer should submit the data on an alien the employer intends to conclude a contract of employment or other relevant contract<sup>240</sup>.

A work permit is issued to a foreigner under condition he/she obtained a temporary **stay in Croatia**. After that, the foreigner can apply for a residence permit<sup>241</sup>

In Croatia, an **employer is bound to conclude** a contract of employment or other relevant contract with an alien in a written form before the beginning of the work, and **at the latest within 15 days following the issuing of the work permit**<sup>242</sup>.

The duration of the work permit is one year, although the legislation allows for two years as well<sup>243</sup>. In cases of a work permit extension, along with the aforementioned, an employer shall submit a copy of the previously issued work permit, a copy of the previous contract of employment or other relevant contract and a copy of an alien's employment record.

Croatia excludes from work permits:

- "professors invited as lecturers by Croatian universities, scientists doing scientific and professional further studies, scientific representatives of international organisations and **scientists taking part in the execution of scientific research projects important for the Republic of Croatia**".

These people do not require a work permit to become employed, but this fact has no impact on the applicability of labour market agreements (which apply to all employed persons, as stated in 4.2.1.).

The new Aliens Act was adopted in July 2007. The main amendments to the Aliens Act cover temporary and permanent residence. **Temporary residence could be granted for researchers, family reunion and humanitarian purposes** (to victims of trafficking in human beings, abandoned minors from a foreign country and victims of crime)<sup>244</sup>.

The Act aims, *inter alia*, at **abolishing work permits as a condition for EU nationals and their family members to work in Croatia**. These amendments will enter into force by accession<sup>245</sup>.

However the new Aliens Act permits certain categories of aliens to be exempted from the work permit or operating licence requirement, provided that they do not reside in the Republic of Croatia for more than **30 days** during a year. Such are :

"14. **university professors ...** and other lecturers invited by the Croatian universities, scientists participating in scientific and professional training, scientists – representatives of international organisations, as well as **scientists who will participate in scientific and research projects important for the Republic of Croatia**,

... 17. members of **international missions doing scientific research** in the Republic of Croatia approved by the Government of the Republic of Croatia".

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240 Mobility guide 4.1.1.

241 Mobility guide 4.1.2.

242 Mobility guide 4.1.5.

243 Mobility guide 4.1.4.

244 Progress report for Croatia, 2007, 4.24.

245 Progress Report 2007, 4.2.

**Therefore researchers seem to be able to make research in Croatia without work permit and without temporary stay for 30 days.**

However the new Act causes confusion when it states in Article 140 that:

“The following categories of aliens shall work without a work permit or an operating licence:

1. aliens who have been granted permanent stay,
- ...3. aliens who have been granted temporary stay for the purpose of family reunification with a Croatian national, a foreigner on permanent stay or an asylum seeker,
- ...6. **aliens who have been granted temporary stay for the purpose of scientific research referred to in Article 67 of this Act”** (see below under temporary stay).

**The new Act continued confusion by establishing two categories of researchers in art. 139 par. 14 and Art. 140 respectively, the first is able to work without work permit for 30 days and the other with temporary stay is a able to work for a year. What is more confusing is that art. 119 of the new Aliens Act does not exclude researchers or scientists from work permits in general.**

**It is therefore recommended to be made clear that all researchers from EU, EEA and WBCs having a hosting agreement with an accredited research institution should be exempted from the requirement of work permit (as it is done by EU for all researchers from third countries). There should be no quotas on researchers’ mobility.**

TABLE 1: TEMPORARY WORK PERMIT

Country	Relevant authority	Who files the request	How long is the procedure	Initial validity	Extension	No necessity for work permit
Albania	Ministry of Labour and Social Affairs	The foreigner	30 days to 60 days	1 year	Application 1 month before 5 years and then permanent permit	
Bosnia and Herzegovina		The foreigner		1 year		
Croatia	Police station/administration	Employer		1 year in practice 2 years in law		

Former Yugoslav Republic of Macedonia	Employment agency with rational explanation why a foreigner	Employer		1 year		
Serbia	National Employment Office	Foreigner if permanent residence permit or Employer if temporary residence permit		As long as residence permit	After expiry extension of residence permit	If residence permit and performs professional activities for technology – business cooperation contract.

### 3.8.1.3. Unemployment of nationals

In all WBCs the authorities issue a work permit only under the condition that no citizen of the host State with qualifications required by the employer is registered on the list of Employment Agency e.g. in Albania and BH.

In Croatia there is the quota system of work permits providing for 10 work permits for newly employed foreigners in 2006 in Science and Research. Some categories of aliens shall be granted work permits that are NOT included in the quota. These work permits are granted for:

- alien workers and their family members, whose status is regulated by *the Stabilisation and Association Agreement* between the European Communities and their Member States and the Republic of Croatia; .
- alien's spouses and children with authorised permanent residence in the Republic of Croatia<sup>246</sup>.

2) In Croatia, the work permit is always temporary for a foreign citizen <sup>247</sup>

### 3.8.2. Approval of Temporary stay

#### 3.8.2.1. Beneficiaries and documents

In Croatia, foreigners obliged to have a temporary stay permit are those who<sup>248</sup>:

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<sup>246</sup> Mobility Guide 4.1.3.

<sup>247</sup> Mobility Guide 4.1.6.

<sup>248</sup> Mobility Guide 5.2.3.

- 1) intend to stay in the Republic of Croatia for a **longer period** of time or for reasons other than those the visa was issued for;
- 2) are not required a visa to enter the country but intend to stay in the Republic of Croatia longer than 90 days or for the purposes stated in Article 37 of the Act (stay for the **purposes of work, studying, education, family reunion** and other justifiable reasons);
- 3) are engaged in the activities and jobs set out in Article 95 of the Act (categories of persons who can, under certain conditions, work without a work permit), and who intend to stay in the Republic of Croatia **longer than 30 days**<sup>249</sup>.

Temporary residence (stay is official translation) is needed if a researcher works more than 30 days, not 90 days. See at

<http://www.mup.hr/1266.aspx>><http://www.mup.hr/1266.aspx>

According to the new Act on Aliens of July 2007 scientific research is one of the purposes for granting temporary stay.

Indeed art. 51 par. 4 states that:

“The purposes used as grounds for granting temporary stay shall be:

1. family reunification,
2. work,
3. secondary school education and university-level studies,
4. **scientific research**,
5. humanitarian grounds”.

Besides valid passport, completed form, photographs and the payment of prescribed tax, the prerequisites for granting temporary residence permit are the following<sup>250</sup>:

- proof of **sufficient means** of subsistence,
- proof of **provided accommodation** and
- **health insurance**, and
- proof of **justifiability of stay** (e.g. marriage certificate, work permit or similar)

According to Art. 67 of the new Aliens Act:

“Temporary stay for the purpose of scientific research shall be granted to an alien if he has a **visiting contract** and meets the conditions referred to in Article 52 of this **Act**.

**The temporary stay permit for the purpose of scientific research shall be issued with the term of validity of up to one year”.**

Indeed, according to art. 52 of the new Aliens Act:

“An alien shall be granted temporary stay if:

1. he has means of supporting himself;
2. he has a place to live,
3. he has health insurance, that is, if he encloses proof that he has paid the related obligations,
4. there are no obstacles referred to in Article 34 of this **Act**,
5. he has justified the purpose of temporary stay”.

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<sup>249</sup> <http://www.mup.hr/1266.aspx>><http://www.mup.hr/1266.aspx>.

<sup>250</sup> Mobility Guide 5.2.4.

**However, according to Article 212 of the New Aliens Act, the Minister of Science, with the consent of the Minister of the Interior, shall adopt the regulation regarding the method of setting out the conditions for granting temporary stay for the purposes of scientific research.**

Temporary stay is also permitted to members of the family of researcher: According to Article 56 of the new Aliens Act : “Temporary stay for the purpose of family reunification may be granted to an alien who is a member of the nuclear family of:

- - an alien who was granted a permanent stay permit,
- **an alien who was granted a temporary stay permit for the purpose of scientific research....”**

The competent authority for issuing the temporary residence permit is the Ministry of Interior.

### 3.8.2.2. Procedure

- Time to submit application: 3 days<sup>251</sup>
- Time of issuance : 25 days
- Administrative fees for issuing temporary residence permit: :150 HRK for temporary RP and 900 HRK for permanent RP.

### 3.8.2.3. Problems in residence permit

#### 3.8.2.3.1. Refusal of residence permit in Croatia

Residence may be refused if the foreigner does not fulfil the prerequisites. In addition, he may be refused if

- The foreigner has been condemned to a final non suspended prison sentence (Article 38 and 45 of Aliens Act)
- **For reasons of public order, national security or public health**
- Whose residence would present a **financial burden** for the state;

In case of refusal the foreigner can appeal.

TABLE : Procedure for residence permit in WBCs

Country	Justification of judgment	Written notification	Deadline from notification	To whom	How long to decide	Provisional protection
Albania		Yes	5 days	Minister of Labour and Social Affairs	2 weeks	?
BH		Yes	15 days		?	?
Croatia		Yes	8 days	Police or via	2 months (General	

<sup>251</sup> Mobility Guide 5.2.4.

				consular office if visa needed Ministry of Interior decides	adm. Procedure )	
Former Yugoslav Republic of Macedonia		Yes	8 days		15 days	Only in case of a child in the same household
Serbia						

### 3.8.2.3.2. Absence of residence permit

In case that someone does not possess a residence permit the penalty is 252 500 – 5.000 HRK and may be **deported** due to protection measures.

### 3.8.2.3.3. Possibility of revocation of residence permit<sup>253</sup>

In Croatia, the residence permit will not be automatically terminated

- in case of unemployment which is not caused by the fault of worker, or
- in the case of illness or accident.

The foreigner will continue residing in Croatia in the same status until the approval for residence expires on another ground.

### 3.8.3. Police announcement

Croatian legal and natural persons who provide accommodation to foreign citizens, and persons who are visited by foreign citizens, shall report their stay at a police administration/police station within the period of 12 hours following the moment of their arrival. Foreign citizens who do not use the above stated accommodation services shall report their stay at a police administration/police station within 24 hours following their entry into the Republic of Croatia or the change of their address within 24 hours following the change of their address in the place of their stay. Likewise, foreign citizens can report their up to 90 days stay at a tourist board of the municipality or town they are staying in<sup>254</sup>.

The place of residence is an important part of an invitation letter that a foreign citizen needs to obtain in order to come to Croatia (in case of a tourist visit, he/she needs to inform the authorities about his residence upon his/her arrival):

- Foreigner is on a private visit, invited by a physical person

If a foreigner is coming to Croatia on a private visit, when applying for visa, they have to submit a physical person's invitation letter for foreigners as a proof of the purpose of their visit, filled out by the inviter from Croatia.

<sup>252</sup> Mobility guide 5.2.8.

<sup>253</sup> Mobility guide 5.2.9.

<sup>254</sup> Mobility guide 5.2.1.

- Foreigner is on a business visit, invited by a legal person

If a foreigner is coming to Croatia on a business visit, when applying for visa, they have to submit a legal person's invitation letter for foreigners as a proof of the purpose of their visit, filled out by the inviting legal person from Croatia<sup>255</sup>.

Country	Who	To whom	Deadline after entry	Stay
Albania	Foreigner  Foreigner if change address in	Police	10 days	1 year absence intervals 3 months
Bosnia and Herzegovina	Foreigner		24 hours	
Croatia	a) Croatian natural and legal persons providing accommodation or visited b) Other Foreigners who do not use the above accommodation services c) Foreigners	Police  Tourist board of the municipality	a) 12 hours  b) 24 hours	90 days
Former Yugoslav Republic of Macedonia	a) Organisation of accommodation b) Private person visited c) If own accommodation, the foreigner	Police station  Ministry of internal affairs	12 hours  3 days  3 days	
Serbia	a) Serbian natural and legal persons providing accommodation or visited b) if own accommodation,	Police	12 hours  Next day	

<sup>255</sup> Mobility guide 5.2.2. For more details check: <http://www.mup.hr>.

	the foreigner			
	c) Foreigner arrival or change of address		24 hours	
	d) For permanent work permit foreigner			

### 3.8.4. Permanent residence permit in Croatia

In Croatia permanent residence shall be granted by Croatian Ministry of Interior to a foreign citizen who<sup>256</sup>:

- has been granted a temporary stay for at least five consecutive years prior to the day of his/her application for permanent residence, or
- has been granted a temporary stay in the Republic of Croatia, and has been married for three years to a Croatian national or an alien who has been granted permanent residence.

When applying for the permanent residence permit, the foreigner must submit in addition to passport and photos:

- a birth certificate (not older than six months),
- proof of sufficient means of subsistence,
- proof of provided accommodation
- health insurance,
- a certificate of registered sojourn,
- a marriage certificate (not older than six months), proof of Croatian nationality, or a spouse's stay permit.

### 3.9. Working conditions for Researchers in Croatia and in particular Foreign Researchers

In all WBCs and especially in Croatia:

1. **State employees must have the local citizenship, thus excluding foreign researchers to work in state institutions**<sup>257</sup>
2. There seems to be no other facial (direct) discrimination in terms of work especially since the Constitution or labour law forbids it<sup>258</sup>.
3. There are no specific labour agreements for researchers – the usual ones that apply for all workers apply to them if they have a contract of work (no fellowship or other contracts)<sup>259</sup>.
4. The researchers must obtain a work permit in order to be able to invoke labour market agreements<sup>260</sup>
5. **The researchers conclude a work contract in a written form – this is not obligatory in Croatia**<sup>261</sup>.

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<sup>256</sup> Mobility Guide 5.2.3.

<sup>257</sup> Mobility Guides 4.1.8.

<sup>258</sup> Mobility Guide, 4.1.9

<sup>259</sup> Mobility Guide 4.2.1. and 4.2.3.

<sup>260</sup> Mobility Guide 4.2.2.

6. Though the majority of the researchers seem to be state employees employed in university, in the Academy of Sciences and its institutes, in the Ministries institutes, even holding permanent positions, their position is regulated by the usual Labour law (on overtime, holidays, maternity), the Law on Science and the Statute of each organization they are employed. Any Code for Civil Servants does not apply. If they are foreigners, the Law on Employment of Foreign Nationals applies<sup>262</sup>.
7. **Other people are considered as researchers e.g. for the duration of pre-doctoral or post-doctoral training** <sup>263</sup>.
8. There are levels in a researcher's career and it seems that advancement up to higher degrees is possible according to scientific output <sup>264</sup>.
9. Researchers, even if they are foreigners, seem to be able to participate in professional Associations or Unions either new or existing ones (e.g. Medical Societies, Bar Associations)<sup>265</sup>.
10. In case that a researcher discovers know-how or an invention in the framework of a project launched by the host institution, the rules vary in WBCs <sup>266</sup>:**but in Croatia the inventor or his/her legal successor (host institution, employer) according to the contract (Croatia, Patent law).**
11. Innovation policy in the WBCs if any is promoted by the establishment of Patent Offices and Business Development Centres for Innovation<sup>267</sup> as well as Technology parks.

### 3.10. Social insurance matters

In all WBCs and in particular Croatia:

1. All social insurance systems in WBCs are public<sup>268</sup>.
2. Affiliation to the host state security system is required in order to work as a researcher and is done automatically by the host institution – employer as soon as the work contract is signed.
3. There is no special social security fund for researchers in any WBC.
4. The time spent in another country may be aggregated if the Pension Fund of each country has signed an agreement with the Pension Fund of the relevant country<sup>269</sup>. There are many bilateral agreements of Croatia with Germany<sup>270</sup>, Belgium,

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<sup>261</sup> Mobility Guide, 4.3.1.

<sup>262</sup> Mobility Guides 4.3.3., 4.5.1., 4.6.4.

<sup>263</sup> Mobility Guide 4.3.2.

<sup>264</sup> Mobility Guide 4.3.2

<sup>265</sup> Mobility Guide 4.4.1, 4.4.3.

<sup>266</sup> Mobility Guide 4.6.2.

<sup>267</sup> [www.rome-interreg.net/index.php?em\\_cat](http://www.rome-interreg.net/index.php?em_cat), Mobility Guide 4.6.3.

<sup>268</sup> **Statutes of the Federal Institute for Pension and Disability Insurance of 14 May 2002.**

*Sluzbene Novine*, 2003-08-05, No. 38, pp. 2109-2112

<sup>269</sup> Mobility guide 5.3.5.

<sup>270</sup> **Law on the Agreement between the Federal Republic of Germany and the Republic of Croatia on Social Security.**

*Bundesgesetzblatt, Part II*, 1998-09-03, No. 33, pp. 2032-2059

Luxemburg, Denmark<sup>271</sup>, Hungary, Bulgaria<sup>272</sup>, Austria, Switzerland, Turkey, Canada and Australia.

All these agreements provide for aggregation of time. The State Pension and Disability Insurance Fund is responsible for carrying out these agreements<sup>273</sup>

5. Social security contributions are paid by the employee directly to the fund

6. There is a social security number for every employee received after registration in the competent institution-fund after temporary residence permit.

7. There are both public hospitals and private clinics. **Public hospitals offer medical care free of charge<sup>274</sup> only for those foreigners that have work or residence permit<sup>275</sup>.**

**8. European Social Security card is not accepted** since WBCs are not member States, except for Croatia that has concluded bilateral agreements with Slovenia, Czech Republic and Hungary<sup>276</sup>.

9. Retirement age in WBCs varies among countries and among sexes. Usually women retire at an earlier age than men.

- The usual age: For men is 59, for women 54 years
- Years of work: For men 35, for women 30 years

10. The pension is not calculated according to the last wage received but a Formula calculates all wages received (Croatia)

12. There is loss of pension rights because of mobility in case that there is no agreement between the home country and the country of work. Only in such case can the years be aggregated<sup>277</sup>. Only Croatia seems to aggregate periods of work abroad without mentioning the conclusion of bilateral agreements.

According to Croatia's Progress Reports prepared by the European Commission:

1. As regards the coordination of social security systems there has been only limited progress. **Croatia has concluded bilateral social security agreements with 24 countries in total, 15 of which are EU Member States.**

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**271 Social Security Agreement between the Republic of Croatia and the Kingdom of Denmark. Done at Copenhagen on 21 April 2005.**

*Narodne Novine (International Agreements), 2006-03-29, No. 3, pp. 255-261*

**272 Agreement between the Republic of Croatia and the Republic of Bulgaria on Social Insurance. Signed at Sofia on 14 July 2003 (Text No. 37).**

*Narodne Novine (International Agreements), 2004-06-21, No. 4, pp. 219-225*

*Narodne Novine (International Agreements), 2004-08-04, No. 7, p. 448*

273 Mobility Guide 5.3.7.

274 Mobility guide, 5.4.1. and 5.4.2.

275 Mobility guide 5.4.3.

276 Mobility Guide 5.4.4.

277 Mobility guide 5.7.4.

- In the context of these agreements, Croatia has continued to apply the principle of accumulation and transfer of social security rights<sup>278</sup>.**
2. **As regards supplementary pension rights, in order to cover all supplementary pension schemes, compulsory or voluntary, linked to a person's employment or self-employment, at present, such schemes do not seem to exist in Croatia<sup>279</sup>.**
  3. **As regards** mechanisms involved in social security coordination, sufficient administrative capacity needs to be developed to apply Community provisions in this field<sup>280</sup>.
  4. Croatia needs the financial stability to meet the extra cost of applying EU provisions, in particular health care provisions<sup>281</sup>. Mainly technical modifications will therefore be necessary to Croatian legislation in order to take account of the particularities of Croatia's social security system<sup>282</sup>.
  5. As regards the introduction of the **European Health Insurance Card<sup>283</sup>** no progress can be reported. Preparations in this area are at an early stage<sup>284</sup>.

### **3.11. Banks and Taxation**

1. There are both public and private banks in Croatia and all WBCs<sup>285</sup>.
2. It seems that Bank accounts can be easily opened without problems for non residents. Croatia proceeded in 2006 to lift some of the restrictions on cash transactions between residents and non-residents, on non-resident cash transactions to and from domestic bank accounts, and on investments by residents in foreign investment funds<sup>286</sup> and partially aligned with the Directive on Cross-Border Credit Transfers, thus making progress in the area of **payment systems<sup>287</sup>**.
3. **Loans are granted to foreigners only if they have a permanent residence permit and a permanent work contract<sup>288</sup>.**
4. It is very easy to buy or exchange foreign currency in banks and offices in WBCs<sup>289</sup>
5. It is very easy to import or export foreign currency through Bank accounts or Western Union services<sup>290</sup>

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<sup>278</sup> Progress report for Croatia, 2005. No progress in Progress Report 2006.

<sup>279</sup> Progress report for Croatia, 2005. No progress in Progress Report 2006.

<sup>280</sup> Progress Report for Croatia 2007, 4.2. reported no progress on these issues.

<sup>281</sup> Progress Report for Croatia 2007, 4.2. reported no progress on these issues.

<sup>282</sup> Progress report for Croatia, 2005. No progress in Progress Report 2006.

<sup>283</sup> Progress report for Croatia, 2005. No progress in Progress Report 2006.

<sup>284</sup> Progress report for Croatia 2007, 4.2.

<sup>285</sup> Mobility guide 5.5.1.

<sup>286</sup> Progress Report for Croatia, 2006, 4.4. (through decisions adopted by the Croatian National Bank (HNB))

<sup>287</sup> Progress Report for Croatia, 2006, 4.4.

<sup>288</sup> Mobility guide 5.5.3.

<sup>289</sup> Mobility guide 5.5.4

<sup>290</sup> Mobility guide 5.5.5.

6. The foreigner is charged with the revenue tax only for the income produced in the WBC<sup>291</sup>.

7. The foreigner seems to enjoy the same tax privileges as nationals. The tax privileges are the same as for the nationals, and they are not connected to the place of permanent residence<sup>292</sup>

8. Research activities of Universities and non profit organisations are not taxed with VAT in Croatia.

**9. There are international treaties for the avoidance of double taxation: Croatia has agreement with Bosnia and Herzegovina and Former Yugoslav Republic of Macedonia<sup>293</sup>.**

### **3.12. Access to Justice**

1. Foreigners have equal access to judicial system on the same terms as the national citizens<sup>294</sup>

2. The European Convention on Human Rights is respected in the WBCs and has a constitutional value. Croatians have already complained to the European Court of Human Rights for breach of art. 6 of the European Convention on fair trial.

3. A translator is always provided in a hearing of a local court if the party involved is a foreigner who does not speak the local language<sup>295</sup>.

### **3.13. LIVING CONDITIONS and SOCIAL ISSUES**

1. One needs to come to Croatia **one month before** in order to find and rent an apartment for 1 year or 2-3 months before for renting a furnished apartment only for 3 months. Prices to rent furnished apartments vary according to location, size and luxury are 100 – 300 HRK.

2. There are no shortages in heat, water and medical supplies in any WBC.

3. People are friendly to foreigners of any origin and religion and there is no social reaction in case that a foreigner marries a local<sup>296</sup>.

4. A foreigner can buy and register a new car once he/she gets a residence permit Croatia<sup>297</sup>.

5. A foreigner is not entitled to vote or be voted in municipal or parliament elections in any WBC.

6. There are many festivals and cultural events organized both by state and municipalities as well as operas, museums etc., sports events in all WBCs<sup>298</sup>

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291 Mobility guide 5.6.1.

292 Mobility guide 5.6.2.

293 Mobility guide 5.6.5.

294 Mobility guide 5.8.1

295 Mobility guide 5.8.3.

296 Mobility guide 6.1.1. and 6.1.2.

297 Mobility guide 6.1.4.

## 4. ISSUES REGARDING THE RESEARCHERS

### 4.1. Career issues

1. In all WBCs researchers are not civil servants and the Code of Civil Servants does not apply to them. Therefore researchers can work in private companies or exercise the profession of engineer and at the same time work in a university or research institution. There are not any incompatibilities except if the contract provides otherwise<sup>299</sup>.
2. There is not a supreme body or association overseeing the conduct of researchers besides the ministry of Science<sup>300</sup>.
3. The selection process depends on the type of institution<sup>301</sup>. In Croatia it may include
  - written exam and interview or
  - Only Interview
  - Probation period
4. There is the possibility to appeal against the selection process only if the research institution is public<sup>302</sup>.
5. Public institutions have to announce in newspapers the vacant position and follow a selection procedure while private institutions do not<sup>303</sup>.
6. The selection process is different from the one for civil servants and is regulated by a different law<sup>304</sup>.
7. Multiple careers are possible for researchers who want to work in their home institution as well as abroad if the contract of work does not prohibit so<sup>305</sup>.
8. Whether a researcher has a permanent or temporary job depends on the contract<sup>306</sup>.
9. There are no facilitation measures or quota system to assist women become researchers<sup>307</sup>.

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298 Mobility guide 6.3.1 – 6.3.3.

299 Mobility guide 7.1.1, 7.1.2, 7.1.3.

300 Mobility guide 7.1.4.

301 Mobility guide 7.2.2.3.

302 Mobility guide 7.2.2.3.

303 Mobility guide 7.2.2.6.

304 Mobility guide 7.2.2.2.

305 Mobility guide 7.2.1.2.

306 Mobility guide 7.2.2.4.

307 Mobility guide 7.2.2.5.

10. Salaries and extra fees depend on the contract and on the grade of the researcher<sup>308</sup>. The allowed overtime is 10 hours (Total work time 40 hours) in Croatia<sup>309</sup>.

11. Public research organizations have established procedures and committees for the evaluation of the progress of the institution and each researcher<sup>310</sup>.

12. There are 3 to 5 levels of researchers according to certain criteria of progress<sup>311</sup>.

13. There is no Code of Conduct of Research. In Croatia the University of Zagreb will adopt the Code of Ethical Conduct<sup>312</sup>.

14. Databases of research institutions and researchers exist in Croatia (Who is Who in Croatian Science)<sup>313</sup>.

#### **4.2. Inward and outward mobility**

1. There are no specific provisions for inviting researchers from abroad to WBCs. In practice there are invitations to foreigners from time to time if there is money to cover the costs<sup>314</sup>. **In Croatia the letter of invitation is enough to get a visa for an invited foreign researcher.**

2. The specific Department of the Ministry of Foreign Affairs is in charge of preparing and processing the international agreements with other states and organizations for international cooperation and grants<sup>315</sup>.

3. Scholarships are offered for outgoing mobility by

- state<sup>316</sup>.

There are bilateral agreements that provide for exchange programmes

- between faculties and between Ministries<sup>317</sup>

Foreign publications are considered necessary for a researcher/academic career in all WBCs<sup>318</sup>.

#### **4. Obstacles to incoming mobility are considered to be, according to the experience of host institutions<sup>319</sup>:**

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308 Mobility guide 7.2.3.1.

309 Mobility guide 7.2.3.

310 Mobility guide 7.2.4.1.

311 Mobility guide 7.2.4.2. and 7.2.4.3.

312 Mobility guide 7.4.1.

313 Mobility guide 8.1.1.

314 Mobility guide 7.2.2.1.

315 Mobility guide 7.2.2.2.

316 Mobility guide 7.2.1.3.

317 Mobility guide 7.2.1.4.

318 Mobility guide 7.2.1.5.

319 Mobility guide 7.2.1.6.

**-For foreign students in Croatia:**

- High taxation on student scholarships
- High overheads on funds for scholarships - fellowships
- Obligatory use of local language especially for thesis

For foreign researchers in Croatia:

- Administrative obstacles

- **No distinction among researchers and economic migrants**
- Procedure to get work permit and residence permit lasts too long and is too much paperwork
- Lack of experience of the institutions in charge
- Vacancies in WBCs are published in newspapers and sometimes on the internet also<sup>320</sup>.

-Other issues

- Undeveloped health and social security system for foreign researchers and uncertain information
- Weak formal rental market
- Low level knowledge transfer between academia and industry

5.Obstacles for outgoing mobility are considered to be:

- Visa requirement for most countries<sup>321</sup>.

WBC Researchers that go abroad for research purposes do not lose their position or seniority in home institution<sup>322</sup>.

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320 Mobility guide 7.2.2.1.

321 Mobility guide 7.2.1.6.

322 Mobility guide 7.2.1.7.

Chapter 2: *Freedom of movement for workers*

The *acquis* under this chapter provides that EU citizens of one Member State have the right to work in another Member State. EU migrant workers must be treated in the same way as national workers in relation to working conditions, social and tax advantages.

This *acquis* also includes a mechanism to coordinate national social security provisions for insured persons and their family members moving to another Member State. Limited progress can be reported in this area.

Concerning **access to the labour market**, in April 2005 the Minister of the Interior adopted a decision establishing a working group to analyse the application of the 2004 Act on foreigners, to bring it further into line with the *acquis*. A number of important adjustments, as outlined in the Opinion, will need to be made to Croatian legislation in order to align it with EU rules on the free movement of workers, mainly as regards nondiscrimination against EU migrant workers. **This includes the principle that EU citizens will not be subject to a work permit or residence permit regime.** The *acquis* pertaining to the rights of **family members** accompanying EU migrant workers will also have to be implemented: the right of family members to reside in the country, their right to take up employment or self-employment, and the rights of children of Community workers to be admitted to the educational institutions under the same conditions as Croatian nationals.

In relation to access to employment, EU citizens may not be discriminated against on the basis of nationality, irrespective of their country of residence. Croatia will also need to pay particular attention to restrictions on access to public sector positions and to legislative requirements on language proficiency.

No progress can be reported on preparations for participation in EURES.

There has been only limited progress as regards the **coordination of social security systems. Croatia has concluded bilateral social security agreements with 24 countries in total, 15 of which are EU Member States. In the context of these agreements, Croatia has continued to apply the principle of accumulation and transfer of social security rights.**

Croatia will have to adopt measures in line with the *acquis*, in particular on **supplementary pension rights, in order to cover all supplementary pension schemes, compulsory or voluntary, linked to a person's employment or self-employment, even if, at present, such schemes do not seem to exist in Croatia.** While there appears to be adequate knowledge of the mechanisms involved in social security coordination, sufficient administrative capacity needs to be developed to apply Community provisions in this field. Croatia needs the financial stability to meet the extra cost of applying EU provisions, in particular health care provisions. It must also prepare for the introduction of the European Health Insurance Card.

Conclusion

A number of important adjustments will need to be made to Croatian legislation in order to align it with EU rules on access to the labour market, mainly as regards nondiscrimination against EU migrant workers.

Mainly technical modifications will therefore be necessary to Croatian legislation in order to take account of the particularities of Croatia's social security system.

Moreover, administrative structures will need to be strengthened to coordinate with other social security systems correctly.

### ***Chapter 3: Right of establishment and freedom to provide services***

Member States must ensure that the right of establishment of EU national and legal persons in any Member State and the freedom to provide cross-border services is not hampered by national legislation, subject to the exceptions set out in the Treaty. The *acquis* also harmonises the rules concerning regulated professions to ensure the mutual recognition of qualifications and diplomas between Member States; for certain regulated professions a common minimum training curriculum must be followed in order to have the qualification automatically recognised in an EU Member State. As regards postal services, the *acquis* also aims at opening up the postal services sector to competition in a gradual and controlled way, within a regulatory framework which assures a universal service.

Limited progress has been made in this chapter.

Concerning the **right of establishment**, in March 2005 the government introduced a ministerial decree which applies higher fees to foreign vessels, including those flying the flag of an EU Member State, for entry in the registers of ships, yachts or boats. This difference of treatment raises concerns as to its compatibility with the Stabilisation and Association Agreement and with the general principles of the EC Treaty. A similar concern applies to an amendment in January 2005 of the statutes of the Croatian Bar Association which impedes the establishment of branches and subsidiaries of EU law firms. Overall, Croatia needs to adapt its regulatory framework to ensure that existing barriers are abolished, and to have mechanisms in place to avoid the introduction of new barriers.

As regards **freedom to provide cross-border services**, the Obligations Act was slightly amended in February 2005. The amendments, which will enter into force on 1 January 2006, include provisions meant to align with the *acquis* on self-employed **commercial agents**. Croatia needs to remove remaining barriers to the provision of cross-border services by EU natural and legal persons. Operators from EU Member States are required to establish a branch or a subsidiary in order to provide services in Croatia on an occasional or temporary basis, and face several restrictive requirements e.g. the need to provide certified translations of documents, the need to obtain a licence for a craft, and the need for both a “manager” and an “authorised representative”.

In the area of postal services, a number of implementing measures pursuant to the Postal Act of 2003 were adopted during the reporting period. Amendments to the Postal Act were adopted in July 2005 which bring the definitions of reserved and universal service closer to those of the directive and amend provisions regarding notifications and procedures. However, courier services are subject to inspection by postal inspectors in accordance with these amendments, even though the amendments do not define courier services as postal services. This raises questions. Limited staff recruitment took place, and ten registrations for the provision of postal services have been notified to the Council, mostly by courier service providers. Overall the legislation needs to be further amended, in particular as regards authorisation and notification procedures and quality of service, while the operational independence of the Postal Services Council and its interaction with postal inspectors need to be clarified.

As regards **mutual recognition of professional qualifications**, some limited progress has taken place through the setting-up of a centre for academic mobility and

recognition of higher education qualifications within the Agency for Science and Higher Education.

However, this appears to cover mainly academic recognition, and has limited impact on the recognition of professional qualifications. In general, the Croatian framework only partly meets the *acquis* requirements, especially as regards the recognition procedures and in sectors where directives coordinate training and provide for automatic recognition.

A number of clauses on nationality, residence or language should also be repealed or modified in line with the *acquis*.

#### *Conclusion*

Limited progress has been achieved in this chapter. The progress made is mainly in specific areas of postal services. The level of alignment remains low in all chapter sectors.

With regard to both the right of establishment and the freedom to provide cross-border services, the Croatian regulatory framework needs to be adapted so as to abolish barriers preventing natural and legal persons from the EU from establishing themselves or from providing services. Effective mechanisms should be put in place in the regulatory process in order to prevent the introduction of new barriers.

In the area of postal services, the legislation should be further amended to align it fully and the operational independence and capacity of the national regulatory agency should be reinforced.

Regarding mutual recognition of professional qualifications, the legislation should still be brought up to standard as regards compliance with the minimum training requirements and the system of recognition of qualifications.

#### ***Chapter 25: Science and research***

The *acquis* in the field of science and research does not require transposition of EU rules into the national legal order. Implementation capacity relates to the existence of the necessary **conditions for effective participation in the EU's Framework Programmes**. In order to ensure the full and successful association with the Framework Programmes, Member States need to ensure the necessary implementing capacities in the field of research and technological development including adequate staffing. Progress has been made.

Croatia has taken a number of measures aimed at ensuring successful participation in **the 6th Framework Programme for Research and Technological Development (FP6), including training measures for the National Contact Points designated in July 2005, the creation of a network of coordinators at all higher education institutions and research institutes, and enhanced information activities.** In June 2005, Croatia requested to be fully associated with the FP6 for the remaining year of 2006. The necessary procedure has been launched and the memorandum of understanding stipulating the terms and conditions of this association is expected to enter into force on 1 January 2006. In parallel, Croatia is improving its research capacity to stimulate participation in and take up of Community programmes. Croatian participation in the Framework Programme as a third country has been running satisfactorily.

**In March 2005, an Agency for Science and Higher Education was established, though it is not yet operational.** In the area of science, the Agency will be responsible for carrying out administrative tasks related to the evaluation of the science system and for providing logistic support for the activities of the National Science Council.

Government expenditure on research and development remains fairly low, totaling around HRK 2 billion (approx. EUR 270 million) or little more than one percent of GDP in 2004. This compares with an EU average R&D spend of around 2% of GDP. Croatia has not requested to be associated with the **Euratom Research Framework Programme**.

### *Conclusion*

Association with the Framework Programmes should be the first step towards full implementation of the *acquis* in the field of research. This will require further development of research policy, infrastructure and appropriate institutional arrangements.

Successful participation in the Framework Programmes will require continued thorough preparations as well as the availability of the necessary financial resources. Greater efforts will be needed to make Croatian research and technological development efficient and competitive at the European level.

### **Chapter 26: Education and culture**

The areas of education, training, youth and culture are primarily the competence of the Member States. A cooperation framework on education and training policies aims to converge national policies and the attainment of shared objectives through an open method of coordination, which led to the “Education and Training 2010” program, which integrates all actions in the fields of education and training at European level. As regards cultural diversity, Member States need to uphold the principles enshrined in Article 151 of the EC Treaty and ensure that their international commitments allow for preserving and promoting cultural diversity. Member States need to have the legal, administrative and financial framework and necessary implementing capacity in place to ensure sound financial management of the education, training and youth Community programmes (currently Leonardo da Vinci, Socrates, Youth).

Overall, there has been good progress in the area of education and culture.

Several measures were adopted for the reform of the **education and training** system. In the area of secondary education, a **Law on the National Centre for the External Evaluation of Education** entered into force in January 2005. With this measure, this new public body will be entrusted with the external evaluation of the education system and the implementation of national standards for exams, including the exams for access to university. The Law on Secondary Education was adapted and amended in July 2005 to take into account these changes. A new Croatian National Educational Standard was also adopted in June 2005 which defines the knowledge, skills and abilities to be acquired by pupils at various levels of their education. In the field of basic education, measures intended to support foreign language learning from the first year of primary school were approved.

In the context of higher education reform, a number of decisions and implementing rules have been issued in relation to the Law on Science and Higher Education of July 2003, including the appointment of members of the Governing Board of the Agency for Science and Higher Education, established in July 2004. However, this Agency – the key body for the execution of reforms – is not yet fully operational. Staff have been gradually allocated since April 2005 but their job profiles remain unclear; furthermore, the Agency does not seem to have a real operational budget and hence its functioning is rather dependant on the Ministry. However the ENIC/NARIC office,

which has benefited from technical assistance under the 2002 CARDS programme, is already fully operational.

Since January 2005, in coordination with all Croatian universities and polytechnics, the Ministry of Education, Science and Sports has accelerated the introduction of the Bologna process in higher education study programmes. By the end of May 2005, around 900 study programmes had been assessed by independent experts. Higher education students to take their first year in September 2005 will already study under this new system in line with the principles of the Bologna process. The Tempus programme, through its various activities such as Structural Measures and Joint European Projects between universities in the EU and Croatia and other partner countries, supports the higher education reform in Croatia and contributes to preparing the country for future participation in the Community programmes.

In the area of vocational education, an **Agency for Vocational Education** was established in January 2005. However, the Croatian system of vocational education and training (VET) has not seen major systemic change since the early nineties. In order to meet either the demands of the national and international labour market or modern EU standards, Croatia needs to substantially improve its VET system. A process of reform has started, but efforts need to be stepped up to overcome the main challenges such as the lack of qualified teachers, low investment levels, the lack of a system of nationally agreed occupational and qualification standards, and **insufficient links with the private sector**.

**There are currently few children of EU nationals enrolled in Croatian schools. By the time of accession, appropriate measures for the education of children of migrant workers will need to have been adopted to meet the specific requirements of the *acquis*.**

There are no particular developments to report as regards **youth policy**. Croatia has developed a structured youth policy and is implementing it on the basis of a National Action Plan for Young People from 2003. However, available funds have reduced to the point where there is no allocation whatsoever for the implementation of the Plan in the State budget for 2005.

In the field of **culture**, in April 2005 Croatia submitted a letter of intent on its possible participation in the future Culture 2007 programme. A certain number of Croatian cultural operators have taken part in the activities undertaken within the framework of the Culture 2000 Programme as associated partners, acting on a unfunded basis. Cultural Correspondents within the Ministry of Culture have been established, as have informal contacts with Cultural Contact Points of Member States and candidate countries.

#### *Conclusion*

Croatia's educational priorities have been gradually refocused to cope with the needs of a free market economy and to improve the quality of the education and training system.

Several measures were adopted for the reform of the education and training system, in particular in the area of higher education with the introduction of the **Bologna process** in higher education study programmes. However, the Croatian system of vocational education and training (VET) needs substantial improvement, given in particular the need for a VET system more responsive to labour market needs. A new VET law based on a coherent vision of national policy in this area is required. More attention should be paid to youth policy. Good prospects for future cooperation exist in the field of culture.

#### ***Chapter 16: Taxation***

The *acquis* on taxation covers extensively the area of indirect taxation, namely value added tax (VAT) and excise duties. It lays down the scope, definitions and principles of VAT. Excise duties on tobacco products, alcoholic beverages and energy products are also subject to EU legislation. As concerns direct taxation, the *acquis* covers some aspects of taxing income from savings of individuals and of corporate taxes. Furthermore, Member States are committed to complying with the principles of the Code of Conduct for Business Taxation, aimed at the elimination of harmful tax measures. Administrative co-operation and mutual assistance between Member States is aimed at ensuring a smooth functioning of the internal market as concerns taxation and provides tools to prevent intra-Community tax evasion and tax avoidance. Member States must ensure that the necessary implementing and enforcement capacities, including links to the relevant EU computerised taxation systems, are in place.

Croatia has made very little progress in the area of taxation.

In the area of **indirect taxation**, no particular developments can be reported on further alignment of VAT. In July 2005, Croatia introduced a uniform VAT rate of 10% for the tourism sector and prolonged the period for VAT refund from 15 to 30 days. The application of a uniform rate on tourism services serves to eliminate an element of discrimination, but the rate of 10% is not in line with the *acquis*. **Significant steps are required in the field of indirect taxation, in particular as concerns the elimination of zero VAT rates** together with the introduction of VAT refunds to non-established traders and of special schemes provided for in the *acquis*.

As regards *excise duties*, Croatia has increased the rate of duty applied on cigarettes. However, the level of the duties is still significantly lower than the EU requirements. It also introduced new excise duties on coffee. More generally, the excise duty regime requires further substantial alignment with regard to the level and structure of the rates applied and the product coverage. A duty suspension regime must be introduced. Finally, certain exemptions from the VAT and excise regime for free zones must be fully brought into line with the requirements of the *acquis*.

No progress regarding further alignment with the *acquis* can be reported in the field of **direct taxation**. Alignment is at an early stage and Croatia will have to start work on transposing the merger, parent-subsidiary, interest and royalties, and savings directives.

Croatia furthermore needs to avoid introducing tax measures which would be against the principles of the code of conduct for business taxation.

As regards **administrative cooperation**, a new division for international cooperation was set up within the Tax Administration, which – once properly staffed – will constitute the initial core of the future Central Liaison Office.

In the field of IT and interconnectivity, Croatia **has set up an Interoperability Implementation Strategy, and the business team for the VAT Information Exchange System (VIES) project.**

With regard to administrative capacity, inspectors for VAT control of large taxpayers have completed a specialised training course. Some limited strengthening of the excise duties service which remains the responsibility of the Customs Administration has taken place. It is also worth noting that Croatia set up a Financial Police department in December 2004. However, it is too early to assess its impact on the efficiency of tax collection and the size of the grey economy. The collection and control functions of the tax and customs administrations remain insufficient and procedures to effectively prosecute tax fraud need to be simplified.

*Conclusion*

Given the very limited legislative developments, **Croatia's tax legislation remains only partially aligned with the *acquis*. Significant alignment is needed in the area of indirect taxation, both on VAT and on excise duties**, as well as in the field of direct taxation.

Only limited steps have been taken to strengthen administrative capacity. Croatia needs to significantly modernise its tax administration, in order to improve tax collection and compliance. Particular attention has to be paid to IT and interconnectivity, where Croatia needs to ensure the necessary ownership of the interconnectivity projects as well as the necessary resources for their execution.

### ***Chapter 19: Social policy and employment***

The *acquis* in the social field includes minimum standards in the areas of labour law, equality, health and safety at work and anti-discrimination. The Member States participate in social dialogue at European level and in EU policy processes in the areas of employment policy, social inclusion and social protection. The European Social Fund is the main financial tool through which the EU supports the implementation of its employment strategy and contributes to social inclusion efforts (implementation rules are covered under *Chapter 22*, which deals with all structural instruments). There has only been limited progress in this area. In the area of **labour law**, there are no new developments to report. The most recent amendments to the Labour Code date from 2003. Several main principles of the *acquis* are in place but further harmonisation is needed, particularly as regards the directives on European Work Councils and the European Company Statute, the sectoral working time directives, and the directive on the posting of workers. A number of shortcomings should be addressed with regard to other directives, such as those concerning fixed term and part-time work, the transfer of undertakings, collective redundancies and on employers' insolvency.

In the area of **health and safety at work**, several pieces of legislation intended to transpose the *acquis* have been adopted, covering, *inter alia*, safety at the workplace in general, safety at work with display screen equipment, provision of safety signs and manual handling of loads. Implementation and enforcement capacity remain a source of serious concern, however, and capacity will need to be substantially improved if the *acquis* in this field is to be properly applied.

There are no particular developments to report as regards **social dialogue**. Social dialogue is quite developed in Croatia, both between the State and the social partners and between the State and other economic and social actors within a multipartite process.

There is scope, however, for improved autonomous bipartite social dialogue and greater involvement of social partners in decision-making.

**In the area of employment policy, in December 2004 Croatia adopted a National Employment Action Plan based on the guidelines of the European Employment Strategy.** However, there is scope for improving policy strategy and coordination and for upgrading the administrative capacity of the administration and public authorities involved in employment policy planning and delivery. A process of cooperation between the EU and Croatia was launched in September 2005 with the aim of drafting a Joint Assessment of Employment Policy Priorities (JAP process). In the context of the current labour market, **the unemployment rate remains stubbornly high in Croatia** (*see also the economic chapter*), despite some reduction in recent years.

Also, activity rates remain worryingly low, and there are significant regional disparities in labour market performance.

There are no particular developments in view of preparations for the **European Social Fund**. Croatia will have to adapt its structures and legislation in order to create adequate administrative capacity for the management, implementation, monitoring, audit and control of ESF-type measures at both the national and regional levels.

As regards **social inclusion** and **social protection**, a kick-off meeting for the Joint Inclusion Memorandum process (JIM) between the EU and Croatia was held in September 2005. There remains a need for more specific analysis of social exclusion and poverty in Croatian society as well as the introduction of related internationally comparable qualitative and quantitative indicators, as a basis for future programmes for vulnerable groups such as pensioners, long-term unemployed, people with disabilities, refugees and minority groups. While Croatia adopted measures in March 2005 in support of the employment of people with disabilities, attention should also be paid to centralized and decentralised structures and facilities for people with disabilities and to communitybased services as an alternative to institutions. The pension and healthcare systems have been undergoing important changes as regards financing and organisation and the effects of these changes in terms of their adequacy and sustainability will need to be monitored.

**There are still geographical disparities in the supply of health care; improving cost control and patient choice are also issues of concern. There has been limited progress in the anti-discrimination field. A comprehensive national strategy for the elimination of discrimination has not been adopted according to schedule. Legislation transposing the *acquis* in this field will have to be introduced and implemented. Further efforts will be needed in order to ensure full conformity, including the establishment of the Equality Body required by the *acquis* (see also Part 1, Political Criteria.)**

There are no significant developments to report in the field of **equal opportunities**.

While in general it appears the basic legislation is largely in place, legal adjustments are necessary for example in connection with the removal of overprotection of women as regards night work, physically heavy work, work underground and in a hypobaric atmosphere. Shortcoming with respect to parental leave, maternity benefits and excessive compulsory maternity leave as well as wider difficulties faced by pregnant women and mothers with small children in the field of employment also need to be addressed.

Further adaptations appear necessary with respect to different retirement ages for men and women in the police, military and the civil service. Unequal treatment in unemployment benefit needs to be removed and legislation adapted so that associations which have a legitimate interest in ensuring that the principle of equal treatment is applied, may engage, either on behalf or in support of the complainant in any judicial or administrative procedure.

The enforcement of existing rules remains problematic, and is hampered by the absence of gender-segregated statistical indicators. Legal provisions providing for deterrent and dissuasive compensation in case of discrimination will be required

### *Conclusion*

The area of employment and social policy appears to have been rather neglected. Legislative activity has been limited to health and safety at the workplace, without, however, building up the necessary enforcement capacity. Alignment remains far from complete in all areas, while regulatory and administrative capacity is particularly

weak, be it in the competent ministries, the labour inspectorates or the Croatian Employment Service. There is a need to significantly strengthen administrative capacity at all levels of the administration in order to enable Croatia to implement the *acquis*. Human resource development policies need to be further developed including through a broad activation approach. Work under the Joint Assessment Papers on employment policies in acceding countries (JAP) and Joint Inclusion Memorandum (JIM) processes should continue.

There remains a need for a specific analysis of social exclusion and poverty in Croatian society as a basis for future programmes, in particular for vulnerable groups. Antidiscriminatory and gender equality policies have generally not received the required attention or been pursued with resolve

## ANNEX II: Abstracts from Croatia Progress Report 2006

### **4.2. Chapter 2: Freedom of movement for workers**

There have been no developments on access to the labour market. A number of important adjustments still need to be made to Croatian legislation to align it with EU rules on the free movement of workers and the rights of accompanying family members, mainly as regards non-discrimination. No progress can be reported on preparations for participation in EURES. There has been little progress on coordination of social security systems. Sufficient administrative capacity must be developed to apply Community provisions in this field, and pre-accession assistance should be used to this effect.

#### *Conclusion*

Overall, limited progress has been achieved in this chapter. Considerable and sustained efforts will be needed by Croatia under this chapter, particularly in terms of developing administrative capacity for the coordination of the social security systems.

### **4.3. Chapter 3: Right of establishment and freedom to provide services<sup>324</sup>**

Limited progress can be reported regarding the **right of establishment**. In early 2006, the Government changed the decree on the registration fee for ships, yachts and boats eliminating the discriminatory treatment of vessels flying the flag of an EU Member State. However, numerous restrictions on the right of establishment remain, the main obstacles being citizenship and residence requirements, language requirements, restrictions on purchasing property (see also Chapter 4, Free Movement of Capital) and the one-office rule.

Certain institutions in the sense of the Institutions Act cannot be set up by foreigners, including EU citizens. The provision of some services, such as tourist guide services, is reserved to Croatian nationals.

There has been no progress regarding the freedom to provide cross-border services. At present, Croatian legislation does not provide sufficient legal certainty that cross-border provision of services is possible without establishing a commercial presence in Croatia.

No further progress has been made in the field of **postal services** where the level of legislative alignment is already relatively high. Some outstanding issues have not been addressed, such as a better structuring of the "inspectional supervision" of the providers of postal services, the public financing of the Universal Service Provider (Croatian Post), the inadequate administrative capacity and insufficient funding of the Council for Postal Services as National Regulatory Authority.

No progress could be observed regarding the mutual recognition of professional qualifications. Croatian legislation does not distinguish between the recognition of academic and professional qualifications. It also contains nationality requirements which restrict access to certain profession to Croatian citizens and sets out a priori conditions for linguistic skills.

#### *Conclusion*

Limited progress has been achieved in this chapter. Substantial obstacles to the right of establishment remain and further work is required in the field of mutual recognition

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of professional qualifications. Overall alignment with the *acquis* is at a reasonable level although considerable and sustained efforts are still required in some areas.

#### **4.4. Chapter 4: Free movement of capital**

Some **progress** can be reported in the area of **capital movements and payments**. Decisions were adopted by the Croatian National Bank (HNB) which lifted some of the restrictions on cash transactions between residents and non-residents, on non-resident cash transactions to and from domestic bank accounts, and on investments by residents in foreign investment funds. Some statements by the head of the HNB on the potential take-over of a Croatian bank by EU-based bank raised questions about the application of objective criteria.

As regards the acquisition of real estate by foreign nationals, amendments to the Property Act were adopted to simplify the authorisation procedure for the acquisition of real estate by foreigners, which will now be managed solely by the Ministry of Justice.

However, the practical effect of the new procedure remains to be seen, particularly given most of the bottlenecks in the system rest with the Ministry of Justice. Improved case management and strengthened staff numbers will be required, not least in view of the growing backlog of pending applications. Preparations for alignment with the *acquis* in this area are underway.

On the whole, the short-term partnership priority calling for a streamlining of procedures for authorising the purchase of real estate by EU nationals on a non-discriminatory basis and substantially reducing the large backlog of applications has been fulfilled only partially.

There has been some **progress** in the area of **payment systems**. In June 2006, a Decision of the Croatian National Bank entered into force which partially aligned with the Directive on Cross-Border Credit Transfers. Preparations are already well underway in this field.

Some **progress** can be reported as regards the **fight against money laundering**. Amendments to the Foreign Exchange Act entered into force in December 2005 introducing 'fit and proper' criteria for owners of foreign exchange offices in line with one of the key recommendations of the second MONEYVAL evaluation of **Croatia**. As of January 2006, the amended Civil Obligations Act no longer allows the opening of bearer pass books, although existing bearer passbooks have not yet been abolished. Memoranda of understanding on exchange of information were signed with the Serbian and Ukrainian Financial Intelligence Units (FIUs).

There is a need for further legislative alignment with the directives as well as the standards of the Financial Action Task Force in this area. Institutional capacity needs to be strengthened.

Monitoring and supervision of reporting entities remains inadequate, especially outside the banking sector, and the enforcement record (including convictions, confiscations, seizures and asset freezing) is still weak. Improving anti-money laundering legislation, ensuring effective implementation, strengthening the FIU and improving inter-agency cooperation are all short-term partnership priorities which remain to be fulfilled.

##### *Conclusion*

There has been some **progress** in this chapter. **Croatia** has further liberalised transactions on the capital account. Despite amendments to the Property Act that appear to be a step in the right direction, **Croatia** is not complying with the SAA

obligation to make “full and expedient use” of its procedures to authorise the acquisition of real estate by EU nationals. Legislation in the area of fight against money laundering needs further alignment and administrative and enforcement capacity should be strengthened. Increased efforts will be needed to meet the requirements of this chapter.

#### **4.7. Chapter 7: Intellectual property law**

No particular **progress** can be reported in the field of **copyright and related rights**. The administrative capacity of enforcement bodies needs to be reinforced, and the legal Procedures implementing the rules in this area need to be reviewed. Improvements need to be made as regards the implementation of the directive concerning satellite broadcasting and cable retransmission, in particular as regards compulsory collective management for satellite broadcasting. Overall, alignment with the *acquis* is already well advanced in this area.

No particular **progress** can be reported in the field of **industrial property rights**. Alignment with the *acquis* is already well advanced in this area.

Some **progress** can be reported as regards **enforcement**. In September 2005, Croatia adopted a National Strategy for the Development of the Intellectual Property System (2005-2010). It aims at achieving the level of protection granted by the Enforcement Directive through improvements in the legislative and institutional framework, reform of the judicial system and encouraging rights holders to set up further collective rights management associations (CRMA). In November 2005, amendments to the State Inspectorate Act entered into force which expanded its competence in the field of copyright to supervision of circulation and duplication of books. The State Intellectual Property Office (SIPO) recruited and trained 7 junior clerks in January 2006. In 2005, actions to enforce IPR were performed, which gave rise to misdemeanour proceedings concerning computer programmes sound recording media, cinematographic works and video games. Also in 2005, more than 4 000 inspections to enforce the Trademark Act were carried out (mainly concerning textile products, shoes and leather goods), which resulted in 102 misdemeanour proceedings. The strengthening of implementing capacity, including through specialised training and improved cooperation among enforcement bodies, remains a challenge.

#### *Conclusion*

Some **progress** has been made in this chapter, particularly on enforcement. Continued efforts by **Croatia** should allow for meeting the requirements of this chapter.

#### **4.16. Chapter 16: Taxation**

No **progress** can be reported in the area of **indirect taxation**. Croatian tax legislation concerning VAT and excise duties remains only partially aligned to the *acquis*. Discrepancies to the *acquis* in the field of VAT include amongst others certain reduced and zero-rates applied in **Croatia**, the scope of tax exemptions, the inclusion of free zones in the tax-territory, the special schemes and the introduction of VAT refunds to non-established traders. Also, the system of excise duties will require substantial changes regarding for example product coverage, rates and duty suspensions. Alignment in the area of indirect taxation is at an early stage.

Limited **progress** was made in the area of **direct taxation**. Amendments to the Law on Profit Tax were adopted in May 2006 and will enter into force in January 2007 with the objective of aligning certain special fiscal regimes to the state aid *acquis* (see Chapter 8, *Competition*) and the code of conduct for business taxation. Divergences

to the *acquis* remain with regard to the merger, interest and royalties, and savings directives. **Croatia** furthermore needs to avoid introducing tax measures which would be against the principles of the code of conduct for business taxation. Alignment in the area of direct taxation is at an early stage.

Some **progress** can be reported with regard to **administrative cooperation** and operational capacity. The new division for international cooperation and European integration set up within the Tax Administration became operational in late 2005. It is foreseen to become the future Central Liaison Office and has 11 staff members. A 'Financial Police' created in 2004 to curb fraud became operational in January **2006** and focuses mainly on excise duties. Some steps have been taken to strengthen the IT-divisions of the Tax Administration. However, these divisions remain strongly dependent on external companies, with very limited internal capacity to guarantee the continuity of the IT services. IT-interconnectivity with the Community systems needs to remain a priority for the authorities. Despite ongoing efforts to improve performance, the overall administrative capacity of the Croatian Tax and Customs Administrations (the latter being responsible for excise duties) remains limited and preparations are only starting.

#### *Conclusion*

In the area of taxation **Croatia** has made limited **progress**. While the overall structure of tax legislation is similar, Croatian tax legislation is at an early stage of alignment with the *acquis*. Significant efforts are needed to accelerate alignment and to strengthen the Tax Administration, including with regard to IT-interconnectivity, in order to make sure that **Croatia** is in a position to implement and enforce the *acquis*.

### **4.17. Chapter 17: Economic and Monetary Union**

In the field of **monetary policy**, no **progress** can be reported. **Croatia** will need to continue to implement the necessary changes to its institutional and legal framework. In particular, the HNB (Hrvatska Narodna Banka) has to adopt a secondary objective that allows for general economic objectives of the European Community taking precedence over domestic objectives. In addition, it has to adopt the relevant rules and structures related to the integration of the HNB into the European System of Central Banks by the time of EU-accession.

The provisions in the Croatian legislation only provide for a partially independent central bank. Several provisions, in particular concerning institutional and personal independence are not compliant with the *acquis*. A draft proposal for a new Croatian National Bank Act was formulated in April **2006**. There are still some provisions in the Croatian legislation that do not preclude monetary financing of the public sector and give rise to privileged access of public authorities to financial institutions. Overall, preparations in the area of monetary policy are well on track.

In the area of **economic policy**, the country has made some **progress** in its alignment with the *acquis*. In particular, the Pre-accession Economic Programme (PEP), which was submitted to the Commission in November 2005, provided a sound basis for economic policy coordination in the medium term (**2006-2008**) since quality significantly increased compared with the previous PEP. The medium-term fiscal framework adopted by the Government as well as the Budget Act set objectives in line with *acquis* reference values. Pursuant to the Government's Economic and Fiscal Policy Guidelines **2006-2008**, **Croatia** has started in **2006** the implementation of the

ESA 95 methodology for the purpose of statistical reporting to the EU within the framework of fiscal surveillance.

However, several ministries and government agencies have varying degrees of responsibility in key and interrelated economic policy areas. The strong fragmentation of responsibilities hampers the effectiveness of policy formulation and implementation. As result, key decisions on economic policy are often delayed. Nonetheless, in the area of economic policy, **Croatia** is fairly advanced.

#### *Conclusion*

There has been some **progress** in the area of economic and monetary union. However, further efforts have to be made, in particular with respect to full Central Bank independence. Preparations to align with the *acquis* are well under way in this chapter.

#### **4.19. Chapter 19: Employment and Social Policy**

In the area of **labour law**, the Ministry of Economy, Labour and Entrepreneurship launched in June 2006 a wide consultation process with economic and social partners in order to agree an action plan for the adoption and/or amendment of regulations necessary for transposing the *acquis*.

Concerning **health and safety at work**, no new legislation transposing the *acquis* has been adopted. The Labour Inspectorate needs substantial strengthening, and it needs to become more mobile.

As regards **social dialogue**, a number of activities have been undertaken relating to the provision of support to social partners in capacity building, and in particular through bipartite social dialogue. There is still scope, however, for improvement in this area. In general, tripartite dialogue seems to be well developed in **Croatia**. However, clarification on the criteria for including employers' associations other than the Croatian Employers' Association in the work of the Economic and Social Council is needed.

In the area of **employment policy**, in March 2006 the Government adopted an annual programme for the promotion of employment in line with the provisions of the National Employment Action Plan 2005-2008. The funds allocated for the implementation of this programme amounted to HRK 335 million for 2006. Launched in September 2005, work under the Joint Assessment of Employment Policy Priorities (JAP) process has been relatively modest. A roadmap has been agreed for its completion. Despite some reduction in recent years, the unemployment rate remains high in **Croatia**. Regional inequalities are also considerable and qualification and skills levels of the Croatian labour force are lower than in the EU. Attention should be paid to undertaking active labour market measures, as well as to adult education and training. Efforts should also be pursued to tackle illegal work.

Preparations for the **European Social Fund** work have started in particular in the framework of the IPA pre-accession instrument and its component VI on human resources development. In this context, work has started on the relevant programming documents including the single Operational Programme.

As regards **social inclusion** and **social protection**, work on the Joint Inclusion Memorandum process (JIM) between the EU and **Croatia** is well advanced. In terms of social exclusion and poverty in Croatian society, much remains to be done. A more strategic approach to social benefit reforms is necessary in order to provide more effective support for the most vulnerable groups of the population. Concerning people

with disabilities, sufficient financial resources should be allocated in order to ensure implementation of the National Strategy for the Disabled.

There has been limited **progress** in the **anti-discrimination** field. A comprehensive national strategy for the elimination of discrimination still remains to be adopted. There has been no new legislation transposing the *acquis* in this field; nor has there been **progress** in the establishment of the Equality Body. Serious attention should be paid to availability of sufficiently comprehensive statistical data to allow monitoring of discrimination.

There have been some developments in the field of **equal opportunities**. Shortcomings with respect to parental leave are being addressed and the review of the Croatian legislation on occupational pension schemes is underway. In September **2006**, the Government adopted the National Policy for the Promotion of Gender Equality **2006-2010** (*see also political criteria*).

In terms of *administrative capacity*, a new Regulation on Internal Organisation of the State Inspectorate was adopted, which increased the number of inspectors by 50, and the Act on Amendments to the State Inspectorate Act widened the powers of inspectors and introduced more stringent criminal sanctions. An initiative has also been launched to set up special departments and chambers within the courts to deal with procedures in civil suits deriving from labour related disputes. An internal reorganisation was undertaken at the Ministry of the Economy, Labour and Entrepreneurship resulting in the establishment of a new Department for Project Preparation and Monitoring within its Directorate for Labour and Labour Market.

Of the total six staff required, four have already been hired. A new department with four full-time employees has been established in the Croatian Employment Service.

#### *Conclusion*

There has been limited **progress** in this chapter. Specific gaps remain to be addressed particularly in relation to administrative capacity, which remains weak and which is a key element for the accession negotiations in this chapter. Overall considerable and sustained efforts are needed to meet the requirements of the social policy and employment *acquis*.

#### **4.20. Chapter 20: Enterprise and Industrial Policy**

Notable but uneven **progress** has been made in the area of **enterprise and industrial policy principles**. **Croatia** has initiated preparations for a comprehensive industrial strategy aimed at improving its industrial competitiveness in line with EU policy principles. With regard to privatisation, no particular developments can be reported concerning large state-owned companies and utilities outside the portfolio of the State Privatisation Fund. The portfolio of the State Privatisation Fund still comprises of 965 companies of which 68 are majority state-owned. The remaining 897 represent minority participation, with the State owning less than 50%. In 848 companies, the State holds less than 25%.

Good **progress** can be reported in the field of the business environment and SME policy. **Croatia** has further extended the services provided by the one-stop system for companies. Time for company registration has been limited to five days and online registration is now possible in the crafts sector. **Croatia** has introduced initial regulatory impact assessments but there remains scope for improving the quality and regularity of consultation between government and the business community on

relevant draft legislation. **Croatia** has also launched a project aimed at reducing regulation redundancies and consequently lowering regulatory burdens on the business sector. **Croatia** has continued to successfully implement the European Charter for Small Enterprises. **Croatia's** SME definition is largely in line with that of the EU. Preparations in the area of business environment and SME policy are well advanced while the development of an industrial strategy and privatisation require further attention.

Some **progress** has been made in the area of **enterprise and industrial policy instruments**. In July **2006**, **Croatia** initiated the procedure for participating in the EU's Competitiveness and Innovation Programme. **Croatia** has to a large extent transposed Directive 200/35/EC combating late payments in commercial transactions. Preparations in this area are well underway.

Limited **progress** was made with regard to **sectoral policies**. Some sectoral industrial strategies, such as for textiles, are being prepared. In March **2006**, **Croatia** adopted a targeted support programme for the tourism sector. With regard to restructuring of industrial sectors, **Croatia** has not yet adopted restructuring plans for its shipbuilding companies. This sector is of high importance to the country and requires urgent and significant restructuring, given its deficit in global competitiveness compensated by large scale government subsidies.

Concerning steel, **Croatia** has made some **progress** towards a National Restructuring Programme for the steel sector. A draft programme has been sent to the Commission in June **2006** and is currently being revised. These programmes urgently need to be adopted in order to comply with state aid rules and with SAA obligations (*see also Chapter 8: Competition Policy*). Preparations in this area are at an early stage.

#### *Conclusion*

**Croatia** has made notable but uneven **progress** in this chapter. Good **progress** in the area of business environment and SME policy contrasts with limited **progress** in the fields of industrial strategy as well as privatisation and restructuring, in particular in the steel and shipbuilding sector, where increased efforts are required. Overall, **Croatia** has achieved a reasonable alignment with the *acquis* in this chapter.

### **Chapter 23: Judiciary and fundamental rights**

As regards the **independence of the judiciary**, there have been some developments. Amendments to the Law on the State Judicial Council adopted in December 2005 establish a Disciplinary Council, consisting of three members, and extend the time limit for initiating disciplinary proceedings from two to three years. A new Law on Courts, also adopted in December 2005, includes more elaborate and verifiable evaluation criteria for the work of judges, obligatory training for judges, and the introduction of a judicial inspection. These new provisions now need to be implemented. In 2005 disciplinary proceedings were brought against judges in eight new cases, and measures were taken in three cases, including two fines and one dismissal. However, as private parties do not have standing to initiate or request disciplinary proceedings against judges, a large number of complaints are instead lodged with the ombudsman, who has no competence to examine complaints concerning the judiciary. Private parties need to be given an appropriate forum for complaints and disciplinary proceedings need to be processed in a more transparent way.

There has been some **progress** in the area of *minority rights*. However, a number of important challenges still remain (*see political criteria*).

As regards **EU citizens' rights**, there have been no particular developments.

#### *Conclusion*

**Croatia** has made some **progress**. However, given the scope of this chapter, substantial efforts will still be required overall. **Progress** is being made in the judicial reform process but reform is at an early stage and improving the functioning of the judiciary remains a major challenge for **Croatia**. There has been some **progress** in the fight against corruption, but this issue remains a serious problem. The situation as regards fundamental rights in **Croatia** leaves scope for further improvements in various fields, notably as regards non-discrimination.

#### **4.24. Chapter 24: Justice, Freedom and Security**

In the field of **Schengen and external borders**, **progress** can be noted in the area of border management, in particular regarding land borders. The situation on the blue border requires special attention but is in the process of improving. A working group for integrated border management (IBM) has been established and met on five occasions. Inter-agency cooperation works well in practice at the border posts and has benefited from the separation of the Border Police from the general police structures. Shortage in staffing remains an issue and stands now at 4 643 border guards. The IBM strategy was adopted in April 2005. Overall, staffing targets and training need to be clarified, based on an updated IBM Action Plan, which is a key element for accession negotiations in this chapter.

**Progress** was noted in the area of **visa policy**, mainly on visa issuing procedures and technical equipment. **Croatia** has further aligned to the EU visa negative list by introducing visa requirements for Ecuador as of December 2005. **The exemption of the visa regime for citizens of Serbia and of Montenegro was extended for the whole of 2006.** **Croatia's** visa policy is broadly in line with the EU's, but alignment with the Visa Regulation (EC) No 539/2001 will need to be gradually completed before accession. **Croatia** needs to prepare for the introduction of biometric identifiers into passports and travel documents. Thirty two diplomatic missions and consular offices are now linked by online connection to IKOS, the information system of the Ministry of Foreign Affairs and European Integration. An Action Plan for linking up all diplomatic missions and consular offices into an information network was adopted in January 2006, under the coordination of the Ministry of Foreign Affairs.

In the field of **migration**, the legal framework for dealing with both legal and illegal migration is in place, although a coherent migration strategy is still missing (the current one was sent back by Parliament in May 2006). During 2005, around 3 814 work permits and 3 356 business permits were issued, mainly to nationals of Bosnia and Herzegovina and the former Yugoslav Republic of Macedonia. In 2005, 5 406 illegal border crossings were registered, although there are signs that only a fraction of actual cases are detected. **Croatia** has 24 readmission agreements in force and further readmission agreements are under preparation with Moldova and Ukraine.

The illegal migration deportation centre at Jezevo has a capacity of 116 beds, and overcrowding remains an issue. Forced expulsions from **Croatia** in 2005 were 1 760 and about 750 expulsions took place in the first half of 2006.

The **Asylum Act**, which entered into force in July 2004, brings the legislative framework closer into line with the *acquis* and the Geneva Convention, by guaranteeing the basic rights of asylum seekers. However, the new Act does not cover accelerated procedure, temporary protection as well as special procedures at airport and harbours. Currently, asylum decisions of the Ministry of Interior can be appealed, with suspensive effect, to the Government Commission deciding Asylum Appeals. The latter's decisions are subject to judicial review by the Administrative Court, without suspensive effect. **Croatia** should step up preparations for participation in Dublin and EURODAC systems. The number of asylum seekers is low: there were 210 applications in 2005. Although all the relevant by-laws adopted so far allow for the integration of recognised refugees (family reunification, education, and access to work), it is impossible to assess their functioning as there has, to date, been no recognised refugee in **Croatia**.

**Progress** can be reported on the opening of a temporary asylum reception centre, in June **2006**, at Kutina where about 20 asylum seekers have stayed so far. The centre has a capacity of 100 beds.

As there are no detention facilities at the border, asylum seekers are transferred from the border immediately to Jezevo for registration and then on to Kutina, if seeking asylum. Often asylum seekers just disappear during this transfer process. In order to enhance transparency, the current asylum appeal process handled by the Government Commission needs reviewing and the role of the Administrative court clarified.

**Police cooperation and the fight against organised crime** continue to work well, with further **progress** expected as reorganisation plans get underway. Four pilot schemes on community policing have been introduced in major urban areas. The operational agreement with Europol has been ratified by Parliament in June **2006**. Neither Europol coordination unit nor a unit on counterfeiting the Euro has been set up yet. **Croatia** should consider the posting of a liaison officer at Europol. ....

....

#### *Conclusion*

**Progress** can be reported in this chapter, particularly in border management, visa policy and asylum. However, the integrated border management action plan should be updated and equipment needs upgrading. Alignment with the *acquis* in this chapter is well underway but continued and sustained efforts are needed to ensure administrative and enforcement capacity particularly regarding multidisciplinary inter-agency cooperation, including law enforcement authorities, customs service, prosecutors and the judiciary system as well as the prevention of corruption and fight against organised crime.

#### **4.25. Chapter 25: Science & Research**

There has been good **progress** in the area of **research policy**. In May 2006, Croatia adopted the 'National Scientific and Technological Policy 2006-2010' which sets out both short-term and long-term strategic aims, establishes a new financial instrument, and defines new rules and procedures for individual research grants and existing research programmes. The National Science Council, assisted by the Agency for Science and Higher Education, has also adopted a series of implementing regulations in the area of science. However, research grants remain low, and a proper peer review system is lacking. There is room for improvement in terms of participation of industry in research projects.

**Croatia** continues to take actions to facilitate increased participation in the 6th **Framework Programme** for Research and Technological Development (FP6), following full association to the EC Framework Programme on 1 January **2006**. **Croatia** was not associated with the EURATOM Research Framework Programme under FP6, but is considering its association to the 7th Framework Programme. Regarding the activities of the Joint Research Centre (direct actions), **Croatia** has been able to fully participate in specific actions organised for acceding and candidate countries.

There have been some initiatives for further integration into the **European Research Area**. **Croatia** became an observer in the CREST group.

#### *Conclusion*

Overall, there has been good **progress** in this chapter. **Croatia** has already reached a good level of alignment with the *acquis* in this field. However, continued efforts are required in certain areas, such as budgetary provisions, improved research facilities and human resources capacity building for participation in EU projects and Framework Programmes, and ensuring improvements in the granting of national funds by introducing international peer reviews.

#### **4.26. Chapter 26: Education & Culture**

There has been reasonable **progress** in the area of **education, training and youth**. **Croatia** is continuing the education reform process under the Education System Development Plan 2005-2010, which establishes a framework of national indicators and benchmarks. **Croatia** started actively participating in the Education and Training 2010 Work Programme Coordination Group (ETCG). An Agency for Adult Education has been established and an Adult Education Act is in preparation. However, increased efforts are required to develop a coherent and comprehensive national strategy for lifelong learning and to raise participation. **Croatia** has started preparing a National Qualification Framework. **Progress** is continuing in relation to the introduction of the Bologna process in higher education study programmes.

Further efforts are needed to improve the system of vocational education and training. **Croatia** has presented an alignment plan regarding the non-discrimination principle in access to education as well as for education of children of migrant workers.

In the area of youth policy, the Operational Plan of the National Youth Action Plan for the period of **2006-2007** was adopted by the Government in December 2005, but some challenges remain, such as the need to improve coordination and communication between youth organisations.

To participate in the Integrated Lifelong Learning Programme and the Youth in Action Programme, **Croatia** will need to establish the appropriate legal, institutional and administrative framework for the management and monitoring of these programmes. In the field of **culture**, **Croatia** ratified the UNESCO Convention on the Protection and Promotion of Diversity of Cultural Expression in May **2006**. **Croatia** has confirmed its intention to fully participate in the Culture 2007 programme.

#### *Conclusion*

There has been reasonable **progress** in this chapter. **Croatia** has achieved a good level of preparation for implementing the *acquis*. However, further attention will need to be paid to the establishment of the management structures and implementation of the future Integrated Lifelong Learning Programme and Youth in Action Programme,

as well as measures to guarantee non-discrimination between EU and Croatian nationals.

#### **4.29. Chapter 29: Customs Union**

There has been good **progress** in the area of **customs rules**. Amendments to the Croatian Customs Act entered into force in January **2006**. Their objective is to align legislation on national transit to Common Transit requirements and to provisions on customs procedures with economic impact, guarantees and occurrence of customs debt. The amendments also introduce the concepts of 'risk management' and 'authorised economic operator'. Amendments to the implementing regulation to the Customs Act entered into force in July **2006**. They introduce payment of customs duties on equipment used in free zones, as required by the *acquis*, and align time limits for binding opinions. A new regulation on intellectual property rights entered into force in May **2006** aimed at aligning with the relevant *acquis*.

Discrepancies to the *acquis* remain in areas such as counterfeit, drug precursors, rules of origin, customs debt, guarantees, summary declarations, customs declaration, cultural goods, cash controls, customs valuation and tariff, management of tariff quotas, duty relief and mutual assistance and cooperation. In the area of customs rules, alignment to the *acquis* is well on track.

Little **progress** can be reported in the area of **administrative and operational capacity**. The Customs Training Centre started its activities in 2006. A Code of Ethics has been prepared but remains to be formally adopted and implemented. Work has continued in the field of computerisation and interconnectivity and the Croatian Customs Administration has set up project teams for the main IT-interconnectivity projects. The administrative capacity in the IT-field of the Customs Administration remains weak and heavily dependent on external companies, with very limited internal capacity to guarantee the continuity of the IT services. This situation is a reason for concern. More generally the Croatian Customs Administration will require further strengthening to ensure it will be able to manage and implement the *acquis*. In the area of administrative and operational capacity, **Croatia** only partially meets its targets and priorities.

##### *Conclusion*

In the area of customs, **Croatia** has made some **progress**, notably by further aligning customs procedures and customers protection of intellectual property rights. Croatian Customs legislation is already well aligned to the *acquis*. However, increased efforts will be needed to significantly strengthen administrative capacity, including with regard to timely preparation for IT-interconnectivity and operating with the centralised and decentralised Community IT systems.

#### **4.30. Chapter 30: External Relations**

There has been some **progress** in the field of the **common commercial policy**. **Croatia** continued the process of gradual reduction of customs duties, in line with its WTO commitments and bilateral agreements such as the Stabilisation and Association Agreement with the EU. Under WTO commitments, 2007 is the final year for the transitional period to reduce customs duties on agricultural products. In line with a key accession partnership recommendation, **Croatia** completed negotiations with the Commission in March **2006** on a protocol introducing tariff quotas for sugar replacing the present bilateral regime which permits **Croatia** to export unlimited duty-free

quantity of sugar to the EU. **Croatia** should continue to co-operate and co-ordinate closely with the Commission in international fora, mainly with regard to the Doha Development Agenda negotiations, in particular so as to ensure that, upon accession to the EU, its commitments under the GATS are as consistent as possible with those of the Community. The administrative capacity to participate in the common commercial policy requires strengthening.

... In the area of **bilateral agreements with third countries**, **Croatia** has been very active in promoting the simultaneous enlargement and modernisation of the Central European Free Trade Agreement (CEFTA) as a means to upgrading the network of existing bilateral FTAs into a single regional FTA, in line with the relevant European Partnership recommendation.

**Croatia** actively participates in the negotiations to this effect which started in June **2006**. A free trade agreement with Kosovo under UNSCR 1244 was initialled in September **2006** and an agreement on trade and economic cooperation with Libya entered into force in March **2006**. Also a bilateral investment treaty with Belarus came into force. **Croatia** will have to analyse all of its existing agreements and, as part of its future EU accession commitments, bring them into conformity with the *acquis*. Preparations in this area are just starting. Limited **progress** can be reported with regard to **development policy** and **humanitarian aid**.

...

#### *Conclusion*

**Croatia** has made some **progress** in this chapter. Provided **Croatia** continues preparations as scheduled and improves its administrative capacity, it should be able to apply the *acquis* and participate in the common commercial policy upon accession. Enhanced efforts are needed in the areas of development policy and humanitarian aid.

### **Annex III: Abstracts from Progress Report for Croatia 2007**

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#### **4.2. Chapter 2: Freedom of movement for workers**

Some progress has been made in the area of **access to the labour market**. In July 2007, Parliament adopted amendments to the Act on Foreigners which aim, *inter alia*, at abolishing work permits as a condition for EU nationals and their family members to work in Croatia.

These amendments will enter into force by accession.

No specific progress can be reported on future participation in the **EURES** network. Gaps remain especially in the language skills of potential EURES advisers and, with a view to the required connection to the EURES Job Mobility Portal upon accession, in ensuring that all job vacancies of the Public employment services are displayed on its public website and can therefore be made available for publication on the Portal. In this area, Croatia is already moderately advanced.

There has been no progress on **coordination of social security systems**. Sufficient administrative capacity has not yet been developed to apply the *acquis* in this field.

No progress can be reported with introduction of the **European health insurance card** in Croatia. Preparations in this area are at an early stage.

#### *Conclusion*

Some progress has been made on this chapter. A satisfactory level of legal alignment has been reached. However, Croatia's legislation is not yet fully in line with the EU rules on access to the labour market, and the administrative capacity for coordination of social security systems is not yet sufficiently developed. Increased efforts are required to align legislation with the *acquis* and to implement and enforce it effectively.

#### **4.3. Chapter 3: Right of establishment and freedom to provide services**

Limited progress can be reported on the **right of establishment**. In the tourism sector, nationality restrictions for bed-and-breakfast operators were repealed by the new Hospitality and Catering Industry Act adopted in December 2006. The Act on the Provision of Tourism Services and the Act on Amendments to the Sojourn Tax Act were adopted with the aim of reaching further compliance with the *acquis*. However, numerous restrictions on the right of establishment remain in many sectors, the main obstacles being citizenship and residence requirements, disproportionate language requirements, the requirement that certain economic activities need to be carried out without an interruption longer than six months and the one office rule. Furthermore, the Law Practice Act has not yet been brought in line with Croatia's commitments under Article 49 of the Stabilisation and Association Agreement (SAA) so as to unambiguously allow for the establishment of branches of Community law firms providing those legal services to which Croatia under international agreements committed to grant market access.

There has been some progress regarding the **freedom to provide cross-border services**. Croatia adopted a new Aliens Act in July 2007 (See also Chapter 24 – *Justice, freedom and security*), under which upon Croatia's accession to the EU citizens of EEA Member States and their family members may work and provide services in Croatia without a work permit or operating licence. However, several

restrictions that hamper cross-border provision of services still remain in both horizontal and sectoral acts.

No further progress has been made towards legislative alignment in the field of **postal services**, where the level of alignment is already relatively high. Despite the recruitment of two additional staff during the reporting period, the level of funding and administrative capacity of the Council for Postal Services (the national regulatory authority) is still low.

Some progress has been made on **mutual recognition of professional qualifications**.

The amendments to the Act on the Recognition of Foreign Educational Qualifications adopted in December 2006 introduced a distinction between recognition of academic and professional qualifications. However, several sectoral acts still impose citizenship and disproportionate language requirements in order to gain access to regulated professions, both of which are incompatible with the *acquis*.

#### *Conclusion*

Some progress has been made on this chapter, particularly regarding freedom to provide cross-border services and mutual recognition of professional qualifications. However, further work is required in order to fully align Croatia's legislation with the *acquis* in these areas.

Substantial obstacles to the right of establishment and freedom to provide services remain in both horizontal and sectoral legislation. Overall, alignment with the *acquis* is at a reasonable level, although considerable efforts are still required in some areas.

#### **4.4. Chapter 4: Free movement of capital**

Good progress can be reported concerning **capital movements**. The amendments to the Foreign Exchange Act that entered into force in December 2006 fully liberalise portfolio investment. Changes the same month to the Securities Market Act and the Savings and Loan Cooperatives Act further liberalised the capital market for institutional investors. Some provisions discriminating between investment into domestic and foreign assets remain in Croatian legislation, however.

The administrative capacity of the Ministry of Justice has been reinforced in order to expedite the processing of applications for the purchase of real estate by foreigners. This is starting to have a noticeable impact and the backlog of cases is being reduced. Good progress is thus being made towards streamlining of procedures for the authorisation on a non-discriminatory basis of real estate purchases by EU nationals. Croatia was also able to determine that its nationals are free to acquire real estate in Italy and Slovenia, thereby facilitating the application of reciprocity when processing applications from these Member States. The number of backlog cases remaining to be definitively settled remains high however. Croatia has not yet been able to ensure applications are generally dealt with in line with the target turn-around time of 30-60 days.

There has been no progress in the area of **payment systems**.

As regards the **fight against money laundering and combating terrorist financing** (AML/CTF), the Croatian government has still to adopt a comprehensive action plan aimed at reinforcing the national AML/CTF legal and institutional framework, which is a key element for the accession negotiations in this chapter. An Inter-Institutional Working Group was established in March 2007 bringing together representatives from 11 governmental institutions and agencies involved in AML/CTF. Its aim is to contribute to fulfilling the strategic and operational goals in the prevention of money laundering and terrorist financing, through, inter alia, identifying weaknesses and

risks and removing obstacles to progress. The Croatian FIU concluded bilateral agreements with its Georgian and Moldovan counterparts.

There has been no progress on further legislative alignment with the AML directives as well as the standards of the Financial Action Task Force. Institutional capacity needs to be strengthened. Monitoring and supervision of reporting entities remains inadequate, especially outside the banking sector, and the enforcement record (including convictions, confiscations, seizures and asset freezing) is still weak. Moreover, further efforts are required in improving anti-money laundering legislation, ensuring effective implementation, strengthening the FIU and improving inter-agency cooperation.

#### *Conclusion*

There has been some progress in this chapter, mainly as regards liberalisation of the capital account, including with respect to SAA obligations on the acquisition of real estate by EU nationals. Further progress is necessary to align legislation, improve administrative capacity and strengthen enforcement concerning the fight against money laundering and combating terrorist financing. Overall a reasonable level of alignment has been achieved.

#### **4.7. Chapter 7: Intellectual property law**

There has been good progress in the field of **intellectual property rights**. Amendments to the Copyright and Related Rights Act, adopted in July 2007, have filled the key remaining gaps in the legislation, which is a key element for the accession negotiations in this chapter. This concerns also the exhaustion of rights, and implies that Community exhaustion will apply from the date of Croatia's accession to the EU. However, some further adjustments are necessary to align with the *acquis*.

There has been good progress on **industrial property rights**. Amendments to the Patent Act, the Designs Act and the Trademark Act have filled the key remaining gaps in Croatia's legislation, including on exhaustion of rights, compulsory licensing of pharmaceutical patents and the availability of special protection certificates. They also provide for extension of the Community trademark and of the Community design in Croatia following its accession to the EU.

Some progress can be reported on **enforcement**. The abovementioned amendments to the substantive acts almost fully align Croatia's legislation with the Enforcement Directive, although some further minor adjustments are required. The report on implementation of the national strategy was adopted by the government in April 2007. Over the reporting period, some 260 misdemeanour trials were requested on the basis of investigations by the State Inspectorate. The role of the judiciary in handling IPR cases and systematic collection of statistics are addressed in the national strategy but specialised training for the judiciary and overall commitment remains at a low level.

As regards administrative capacity, the abovementioned amendments to the substantive acts introduce from June 2008 an internal appeal board within the State Intellectual Property Office (SIPO), empowered to hear appeals against all administrative decisions taken by SIPO. The coordination between the enforcement bodies at central and regional levels has improved but remains weak, particularly in terms of policy. Light sanctions for criminal offences in the field are also a cause for concern, since they have little or no deterrent effect in terms of preventing crime. In addition, they are evidence of a rather low recognition of the economic and social effects of counterfeiting. A sufficient administrative capacity and a satisfactory track record of implementation are key elements for the accession negotiations in this chapter.

### *Conclusion*

Good progress can be reported both on legislative alignment and on enforcement. Alignment with the *acquis* is well on track, but continued efforts are required regarding administrative capacity to enforce rights in the fight against piracy and counterfeiting and to establish an enforcement track-record.

#### **4.16. Chapter 16: Taxation**

No progress can be reported in the area of **indirect taxation**. Croatia's legislation on VAT and excise duties remained partially aligned with the *acquis*. Deviations from the *acquis* in the field of VAT include certain reduced or zero rates applied in Croatia, the scope of the reduced rates and of exemptions, the exclusion of free zones from the fiscal territory, the special schemes and the lack of legislation for VAT refunds to non-established traders. The system of excise duties requires substantial changes to, for example, product coverage, rates and duty suspensions. In addition, the current excise duty regime for cigarettes results in a de-facto discrimination against imported products and would thus be incompatible with the SAA. In the area of indirect taxation Croatia has not addressed its priorities.

Very limited legislative progress has been made in the area of **direct taxation**. The amendments to the Law on Profit Tax entered into force. These amendments aim to align certain special tax arrangements to the state aid *acquis* (See Chapter 8 - *Competition*) and with the code of conduct for business taxation. Divergences from the Merger, Interest and Royalties, and Savings Directives persist. In the area of direct taxation, Croatia has only very partially addressed its priorities.

Limited progress can be reported with regard to **administrative cooperation and mutual assistance**. Croatia has started to participate in the Fiscalis 2007 programme.

There was some progress with regard to **operational capacity and computerisation**. The tax administration adopted an IT strategy setting policy objectives and providing for staff increases in order to ensure interconnectivity with the EU systems upon accession. Work on operational and IT capacity continued, albeit with some delays. The tax administration is heavily dependent on external expertise but it has started to reinforce its in-house IT department. Overall, preparations in this area are at an early stage.

### *Conclusion*

In the area of taxation, Croatia made very limited progress. The overall structure of the tax legislation is similar to the *acquis*. However, alignment of the Croatian tax legislation is far from complete and the excise duty problem on cigarettes needs to be resolved. Substantial efforts are also required to strengthen the administrative capacity, including regarding IT interconnectivity.

#### **4.17. Chapter 17: Economic and monetary policy**

Substantial progress can be reported on alignment with the *acquis* governing **monetary policy**. In December 2006, Parliament adopted amendments to the Law on the Croatian National Bank (CNB), which significantly strengthened the independence of the CNB.

Furthermore, the CNB adopted a secondary objective that allows general economic objectives of the European Community to take precedence over Croatia's domestic objectives. In addition, rules and structures relevant to integrating the CNB into the European System of Central Banks by the time of EU accession have been incorporated. The amended CNB Law more comprehensively prohibits monetary financing of the public sector. The definition of "public sector" has been changed and

now also includes extra-budgetary funds, local selfgovernment units and other public bodies. The provisions that permitted the Croatian government to cover any shortfalls between the income and expenditure of the CNB that are larger than the CNB's general reserves either from the state budget or by issuing bonds have been revoked. A new law on credit unions and amendments to the act on compulsory and voluntary pension funds were adopted in respectively December 2006 and July 2007 and restricted privileged access for public authorities to financial institutions.

However, Croatia has not yet completed its legal alignment in order to ensure full central bank independence. Furthermore, there are still provisions in the Croatian legislation that give rise to privileged access for public authorities to financial institutions. Overall, preparations in the field of monetary policy remain well on track. In the area of **economic policy**, the country has made some progress in its alignment with the *acquis*. Croatia submitted its third Pre-Accession Economic Programme, covering the period 2007-2009, in December 2006. It presents a sound and coherent medium-term macroeconomic and fiscal framework and a broad agenda for structural reforms. Croatia submitted its third fiscal notification in March 2007. Reporting of fiscal data on the basis of ESA 95 has improved. Some further progress has been made in enhancing the institutional capacity for economic policy formulation and implementation. However, several ministries and government agencies have varying degrees of responsibility in key and interrelated economic policy areas. The wide fragmentation of responsibilities has hampered the effectiveness of policy formulation and at times led to delays in implementation. Overall, in the field of economic policy Croatia is making progress.

#### *Conclusion*

There has been significant progress in the area of economic and monetary policy. However, Croatia has not yet completed the necessary alignment, in particular in the cases of privileged access for the public sector to financial institutions and of full independence for the Central Bank. Overall alignment with the *acquis* in the area of economic and monetary policy is well advanced.

#### **4.19. Chapter 19: Employment and social policy**

There has been some progress in the area of **labour law**. Legal alignment has continued, as amendments to the **Air Traffic** Act with the aim of transposing the *acquis* in the field of working hours for mobile workers in civil aviation, as well as amendments to the Railway Safety Act aiming at transposing the *acquis* in the area of working conditions of mobile workers in the railway sector were adopted in April 2007. As regards administrative capacity, a new Regulation on the internal organisation of the Ministry of Economy, Labour and Entrepreneurship (MoELE) was adopted in February 2007. It aims at changing the organisational structure of the Directorate for Labour and the Labour Market and at hiring additional staff in 2007. The short-term priority of the Accession Partnership has therefore been partially met. Specialist training has been provided for judges and court councils for labour disputes. In general, however, shortcomings persist as regards legal alignment and administrative capacity.

Good progress can be reported in the field of **health and safety at work**. Legal alignment has continued with the adoption of legislation aiming at transposing the *acquis* on mineralextracting industries, carcinogens and mutagens as well as asbestos. The short-term priority of the Accession Partnership has therefore been partially met.

Also the Law on Occupational Diseases has been amended. Funds have been earmarked, in the State budget for 2007, for establishment of the State Institute for the Protection of Health and Safety at Work by merging the present Croatian National Institute of Occupational Medicine and the Institute for Safety at Work within the MoELE. However, implementation and enforcement capacity is still not sufficiently developed, and sufficient funding of implementation remains a problem.

The Labour Inspectorate is not sufficiently mobile either. Preparations in this area are well underway.

As regards **social dialogue**, there has been limited progress. Awareness-raising activities have been carried out, and training activities have taken place on settling individual labour disputes and at local government level. Representativeness criteria for participation by the social partners in the Economic and Social Council are being discussed. However, the main pending issues for social dialogue in Croatia remain: the lack of a sufficiently developed bipartite

dialogue, poor social dialogue at sectoral level, scarce capacity on the part of social partners, unclear representativeness criteria for social partners, especially for employers' organisations, and fragmentation of trade unions. In general, the influence of social dialogue on the decisionmaking process and policy design remains weak. The contribution by the tripartite dialogue remains modest.

Good progress has been reached in the area of **employment policy**. In March 2007 the Government adopted the Annual Plan for Employment Promotion in line with the National Employment Action Plan for 2005–2008. Active labour market measures have contributed to the upward trend in the employment rate. Significant results were achieved in 2006, both in terms of coverage of unemployed persons and in the number of employed persons. Measures were taken to boost entrepreneurship and self-employment along with employment of persons in a difficult position on the labour market. Work under the Joint Assessment of Employment Policy Priorities (JAP) is nearing completion. However, the unemployment rate remains high (10.5 % in the second half of 2006 compared with 12.3 % in the second half of 2005). Regional disparities are still considerable, and the qualification and skills levels of the Croatian labour force are lower than in the EU. Preparations in this field are advancing.

There has been some progress in the preparations for the **European Social Fund**, although administrative and management capacity is not yet sufficiently developed with a view to its future implementation. A decree adopted by the Government in February 2007 established the management structures for IPA component IV (Human Resources Development). The Head of the Operating structure is located within the Labour and Labour Market Directorate of the MoELE with the objective of using this structure as a 'pre-cursor' for building the required capacity for the future management and implementation of the ESF. This new department is expected to employ 10 staff, of whom 7 have already been mobilised in two separate units.

Preparations in this field have started.

Good progress can be reported in the field of **social inclusion**. The Joint Inclusion Memorandum (JIM) between the EU and Croatia was signed in March 2007, and the first JIM follow-up seminar was held in July in Zagreb. The follow-up activities for 2007–2008 focus on a strategy on decentralisation of social services and on a de-institutionalisation action plan.

In April 2007 the Government adopted a strategy for the reform of social benefit spending which aims at facilitating access to social rights by streamlining numerous benefit schemes.

However, in the case of people with disabilities, budgetary constraints continue to limit the scope of their rights to health and special care and their social integration. Preparations in this area are advancing.

Some progress can be reported in the field of **social protection**. The Parliament adopted in July 2007 amendments to the Law on Pension Insurance increasing, *inter alia*, the level of minimum pension and of old-age early retirement pension. However, the pension and health care systems are not yet financially sustainable or socially effective. Preparations in this field have started.

There has been limited progress in the field of **anti-discrimination**. A National Plan to Combat Discrimination is being drafted. However, legislation in this field is not yet fully in line with the *acquis*, and the required equality body has not yet been established. Vulnerable groups and ethnic minorities, particularly the Serb and the Roma minorities, continue to face significant discrimination in economic and social life (See *Political criteria – Economic and social rights*). The limited statistics currently available do not allow monitoring of discrimination on different grounds, as required by the *acquis*.

Some progress can be reported on **equal opportunities**. The National Policy for the Promotion of Gender Equality for 2006–2010 was adopted by the Government in October 2006. Production and dissemination of gender-segregated statistics has advanced.

Awareness-raising activities have been organised among social partners on equal pay. However, the legislation in this field is not yet fully in line with the *acquis*, and the required gender equality body has not yet been established.

#### *Conclusion*

Some progress has been made on this chapter. A good level of legal alignment has already been reached. Specific gaps remain in relation to completing legal alignment and particularly to strengthening administrative capacity which is a key element for the accession negotiations on this chapter. Increased efforts are required to align legislation with the *acquis* and to implement and enforce it effectively.

#### .... Judicial Reform

...

There has been some progress in the area of *minority rights and cultural rights*. For the first time, a recruitment plan for minorities in the State administration has been prepared, albeit at a certain level of generality and only for the year 2007. Funding for minority organizations has continued to increase; increased funds for implementation of the Roma Action Plan have also been made available. However, a number of important challenges still remain, especially in terms of implementation. The Serb and Roma minorities face significant difficulties. There are also still obstacles to the sustainable return of Serb refugees, such as enduring hostility in certain localities, and remaining housing concerns, mainly those involving former tenancy rights holders as well as problems with validation of pension rights. Implementation of the Constitutional Law on the Rights of National Minorities provisions in practice presents a mixed picture, some provisions are implemented well, others only to a limited extent.

Particular attention needs to be paid to its employment provisions as well as to tackling discrimination more widely, especially in the public sector.

As regards **EU citizens' rights**, there have been no developments.

#### *Conclusion*

Croatia has made some progress on this chapter. Reform of the judiciary is moving forward but significant challenges remain, especially to improve judicial efficiency. Some progress has been made in the fight against corruption, with further legislative strengthening and first results in some important cases handled by USKOK. However, corruption remains a widespread problem and considerable efforts are still needed. Measures are generally in place to guarantee fundamental rights. However, further efforts are required, especially as regards implementation of minority rights, including refugee return. It will be important not to neglect the rights of other socially vulnerable groups.

#### **4.24. Chapter 24: Justice, freedom and security**

Good progress can be reported as regards **Schengen and external borders**. Integrated Border Management Action Plan, which was adopted in November element for the accession negotiations on this chapter and provides ....

Some progress has been made on **visa policy**. In December 2006 Croatia adopted a plan for alignment with EU visa arrangements. The exemption of visa requirements for citizens of Serbia and Montenegro was extended to the end of 2007. IKOS, the information system of the Ministry of Foreign Affairs and European Integration, has now been introduced in 56 out of 71 diplomatic missions and consular posts and staff are being trained. The final deadline for introducing IKOS in all diplomatic missions and consular posts is the third quarter of 2008. An increasing number of visas are being issued at the borders, 5,289 for 2006 and 4,274 up to July 2007 (including 1132 for transit and 4480 for travel visas). The procedure for issuing visas currently differs, depending whether the visa is issued at the border or at a consulate or diplomatic mission. Overall, a coherent system for issuing visas still has to be established. Croatia needs to prepare for the introduction of biometric identifiers in passports and travel documents.

.....

In the field of **migration**, a Migration Policy Strategy for 2007-2008 was adopted in July 2007. A proper action plan remains to be developed to implement the Strategy. The new Aliens Act was adopted in July 2007. The main amendments to the Aliens Act cover temporary and permanent residence. Temporary residence could be granted for family reunion and humanitarian purposes (to victims of trafficking in human beings, abandoned minors from a foreign country and victims of crime). Granting of a work permit or opening of a company in Croatia will no longer automatically mean that temporary residence would be granted.

#### **Conclusion**

Progress can be reported on this chapter, particularly in the areas of border management, migration and asylum. However, the integrated border management action plan remains to be implemented as planned and equipment upgraded. Alignment with the *acquis* in this chapter is well underway, but considerable efforts are needed to ensure administrative and enforcement capacity, particularly in terms of inter-agency cooperation including law enforcement authorities, the customs service, prosecutors and the judiciary system, as well as to prevent corruption and to fight organised crime.

#### **4.25. Chapter 25: Science and research**

Croatia has made good progress with designing a **research policy**. It has adopted amendments to the Act on Science and Higher Education. These amendments relate to the evaluation of research institutions and incentives for research and development.

Croatia has presented a draft Action Plan for Implementation of the National Science and Technology Policy for 2006-2010. This includes a list of priority activities, implementing agencies and progress indicators. Further efforts are required to ensure effective implementation of the Action Plan presented. Croatia has improved the evaluation and selection procedures and introduced a peer review system for national research grants. Further efforts are required to develop a fully transparent system. Good progress has also been made on participation in the EC Framework Programmes. The grants awarded under the 6th Framework Programme for Research and Technological Development (FP6) have demonstrated Croatia's increased absorption capacity since it became associated with FP6. Croatia is continuing to take action to facilitate greater participation in the Framework Programmes. Croatia has signed the Memorandum of Understanding on association with the 7th Framework Programme (FP7) and has applied for association with the EURATOM Research Framework Programme. A good level of alignment with the *acquis* has been achieved.

With a view to further integration into the European Research Area, Croatia has presented a draft "National 3% Action Plan". Croatia has also taken several preparatory steps to improve its human resources capacity and ensure mobility of researchers. All these measures and activities confirm Croatia's further integration into the European Research Area and demonstrate that a good level of alignment with the *acquis* has been achieved.

#### *Conclusion*

Good progress has been made on this chapter. However, further attention will need to be paid to implementation of research policy, activities and plans. The system for awarding national funds for research grants will need to be further improved to ensure scientific excellence and participation in the EC Framework Programmes on a competitive basis. Overall, a good level of alignment with the *acquis* has been achieved.

#### **4.26. Chapter 26: Education and culture**

Some progress has been achieved in the field of **education, training and youth.** Croatia is continuing the education reform process under the Education System Development Plan for 2005-2010 and is participating in the EU Education and Training 2010 Work Programme. The process of modernisation of the vocational education and training system was initiated by the adoption of a White Paper. The Agency for Adult Education has become operational with satisfactory staff and resources at its disposal. The Adult Education Act has been adopted, but the related implementing legislation is still outstanding. Croatia adopted a basic concept for a national qualifications framework (NQF). Implementation of the Bologna process in higher education is continuing, and Croatia has adopted amendments to the Act on Science and Higher Education which introduce incentives for investment by enterprises in higher education.

The principle of non-discrimination in access to education for EU citizens has been introduced in higher education by the amendments to the Act on Science and Higher Education. However, the planned amendments to incorporate the non-discrimination principle into the Act on secondary education are still outstanding. The same goes for the planned amendments to the Act on primary education relating to alignment with the Directive on education of children of migrant workers.

In February 2007, Croatia adopted the **Youth** Council Act which aims to promote the

participation of young people in public life.

Preliminary steps have been taken to establish the National Agency which will be in charge of managing the Community Lifelong Learning and Youth in Action Programmes. However, the legal and administrative frameworks need to be completed and the capacity of the Agency built up, staff trained and preparatory measures implemented with a view to future participation in these programmes.

In the field of **culture**, good progress can be reported. Croatia has ratified the Memorandum of Understanding on participation in the Culture Programme. The Memorandum of Understanding on Croatia's participation in the Europe for Citizens Programme was signed in September 2007.

#### *Conclusion*

Good overall progress has been made in the area of education, training, youth and culture. A good level of alignment has been achieved. However, measures envisaged in Croatia's alignment plan to guarantee non-discrimination between EU and Croatian nationals in secondary education and alignment with the Directive on education of children of migrant workers have not been completed.

#### **4.29. Chapter 29: Customs union**

Croatia has continued its good progress in the area of **customs rules**. Amendments to the Croatian Customs Act and two related implementing regulations entered into force in January 2007. They aim at further alignment with the Community Customs Code, in particular regarding invalidation of customs declarations, certain provisions on transit, repayment of customs duties and certain reliefs from duty. A new implementing regulation on the export of cultural goods was adopted in December 2006 with the objective of further alignment with the relevant *acquis*. In January 2007 an implementing regulation on customs tariffs entered into force, aligning Croatia's customs tariff with the 2007 Combined Nomenclature.

Some discrepancies from the *acquis* remain in areas such as rules of origin, transit, duty relief, drug precursors, cash controls, customs valuation, mutual assistance and cooperation, as well as fees related to customs services and fees collected by customs for the use of border crossing points. Adopting legislation in the limited remaining areas requiring further alignment is a key requirement in the accession negotiations. Overall, in the area of customs rules, alignment with the *acquis* is well on track.

Some progress can also be reported in the area of **administrative and operational capacity**.

A Code of Ethics for Customs Officers was adopted in November 2006 and an Ethics Board was established which will monitor its implementation. A campaign on raising awareness of corruption as a criminal offence was started. The Customs Training Centre became fully operational, stepped up its activities, and a specific plan on professional training was adopted.

Work has continued on computerisation and interconnectivity, a key requirement in the accession negotiations, albeit with some delays. More generally, the Croatian customs administration remains weak on IT-capacity and heavily dependent on external companies. It has very limited in-house capacity to guarantee the continuity of its IT services. This situation is still a cause for concern. More generally, the Croatian customs administration will require further strengthening to ensure that it will be able to manage and apply the *acquis* in a consistent and homogenous way, which is a key requirement in the accession negotiations. A uniform system for risk analysis needs to be developed and rolled out to the customs offices.

Overall, in the area of administrative and operational capacity, Croatia has started to address its targets and priorities.

#### *Conclusion*

Croatian customs legislation is already well aligned with the *acquis* and Croatia has made some progress on legislative alignment. Croatia has also continued its efforts to improve its administrative capacity and develop IT systems but in these areas preparations are still at an early stage, in particular with regard to IT interconnectivity. Increased efforts are needed to align legislation and to implement and enforce it effectively, as well as to implement an effective risk analysis system.

#### **4.30. Chapter 30: External relations**

There has been some progress in the field of the **common commercial policy**. In line with a key partnership priority, a protocol introducing tariff quotas for sugar entered into force in January 2007 and negotiations on an Enlargement Protocol to the SAA to take account of the accession of Romania and Bulgaria were concluded in July 2007. Croatia will need to continue to cooperate and coordinate closely with the Commission and to align with the policies and positions of the EU towards third countries and within international organisations, particularly the World Trade Organisation.

In the area of **bilateral agreements with third countries**, an enlarged and modernized Central European Free Trade Agreement (CEFTA) including Croatia was signed in December 2006. The new CEFTA agreement replaced and upgraded the network of existing bilateral FTAs into a single regional FTA. It was ratified by Croatia in May 2007 and implementation started in August 2007. A bilateral investment treaty with Moldova came into force in March 2007. Croatia still has to finalise its analysis of all its existing agreements and, in particular, will need to bring all investment and trade-related agreements into conformity with the *acquis*. Preparations in this area have started.

Annex IV : Council Decision of 2 June 2005  
concerning the conclusion of a Framework Agreement between the European  
Community and the Republic of Croatia on the general principles for the participation  
of the Republic of Croatia in Community programmes  
(2005/526/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 13, 71, 80, 95, 127, 137, 149, 150, 151, 152, 153, 157, 166, 175, 280 and 308 in conjunction with the second sentence of the first subparagraph of Article 300(2), the second subparagraph of Article 300(3), and Article 300(4) thereof,

Having regard to the proposal from the Commission,

Having regard to the assent of the European Parliament [1],

Whereas:

(1) The Thessaloniki European Council of June 2003 approved the "Thessaloniki Agenda for the Western Balkans: moving towards European integration", which provided for Community programmes to be opened up to the Stabilisation and Association Process (SAP) countries along the lines established for the participation of candidate countries.

(2) In its communication on "Preparing for the participation of the Western Balkan countries in Community programmes and agencies", the Commission advocated concluding with Albania, Bosnia and Herzegovina, Croatia, the Former Yugoslav Republic of Macedonia and Serbia and Montenegro framework agreements laying down the general principles governing each country's participation in Community programmes.

(3) In accordance with the negotiating directives adopted by the Council on 29 April 2004, the Commission, on behalf of the Community, has negotiated a Framework Agreement with Croatia on the general principles for its participation in Community programmes.

(4) This Agreement was signed, on behalf of the Community, on 22 November 2004 in Brussels, subject to conclusion at a later date.

(5) With regard to some of the programmes covered by the Agreement, the Treaty does not provide for powers other than those under Article 308.

(6) The specific terms and conditions regarding the participation of Croatia in the Community programmes, including the financial contribution payable, should be determined by the Commission on behalf of the Community. For that purpose the Commission should be assisted by a special committee appointed by the Council.

(7) Croatia may request financial assistance for participating in Community programmes under Council Regulation (EEC) No 3906/89 of 18 December 1989 on economic aid to certain countries of Central and Eastern Europe [2] or under any similar Regulation providing for Community external assistance for Croatia that may be adopted in future.

(8) The Framework Agreement will be added as a protocol to the Stabilisation and Association Agreement (SAA) between the European Communities and their Member States, of the one part, and Croatia, of the other part, which entered into force on 1 February 2005, and will be an integral part thereof.

(9) The application of the Agreement should be reviewed periodically.

(10) The Agreement should be approved,

HAS DECIDED AS FOLLOWS:

Article 1

The Framework Agreement between the European Community and the Republic of Croatia on the general principles for the participation of the Republic of Croatia in Community programmes is hereby approved on behalf of the Community.

The text of the Agreement is attached to this Decision [3].

#### Article 2

1. The Commission is authorised to determine, on behalf of the Community, the specific terms and conditions applicable to the participation of the Republic of Croatia in any given programme, including the financial contribution payable. The Commission shall be assisted in this task by a special committee appointed by the Council.

2. Where the Republic of Croatia requests external assistance, the procedures provided for in Regulation (EC) No 3906/89, and in similar Regulations providing for Community external assistance to the Republic of Croatia that may be adopted in the future, shall apply.

#### Article 3

No later than three years after the date of entry into force of the Agreement, and every three years thereafter, the Commission shall review the implementation of the Agreement and report thereon to the Council. The report shall be accompanied where necessary by appropriate proposals.

#### Article 4

The President of the Council shall, on behalf of the Community, give the notifications provided for in Article 10 of the Agreement.

Done at Luxembourg, 2 June 2005.

For the Council

The President

L. Frieden

[1] Assent delivered on 10 May 2005 (not yet published in the Official Journal).

[2] OJ L 375, 23.12.1989, p. 11. Regulation as last amended by Regulation (EC) No 2257/2004 (OJ L 389, 30.12.2004, p. 1).

[3] See page 8 of this Official Journal.

**Participation in Community programmes is open to countries associated with the European Union, non-member European countries, candidate countries and potential candidate countries. It forms part of the move towards ever closer relations between the Union and these countries and familiarises them with policies and working methods while facilitating exchanges of experience and best practices. Its objective is to support the process of stabilisation and association of the Western Balkans countries in view of their European perspective.**

#### ACTS

**Council Decisions of 2 June 2005 concerning the conclusion of a Framework Agreement between the European Community and the countries of the Western Balkans on the general principles for their participation in Community programmes:**

**Decision 2005/524/EC with the Republic of Albania;**

**Decision 2005/525/EC with Bosnia and Herzegovina;**

**Decision 2005/526/EC with the Republic of Croatia;**

**Decision 2005/527/EC with Serbia and Montenegro;**

**Decision 2005/528/EC with the former Yugoslav Republic of Macedonia concerning the conclusion of a Protocol to the Stabilisation and Association Agreement on a Framework Agreement.**

#### SUMMARY

Participation of the associated countries in Community programmes is designed to enable them to familiarise themselves with the methods and policies of the European Union (EU). In the case of the countries of the Western Balkans, this forms part of their European perspective and, more specifically, of the Thessaloniki agenda adopted in 2003, which expressly provides for such participation as an instrument in the stabilisation and association process ( SAP ) and in the process of rapprochement with the EU, particularly as regards the adoption and implementation of the *acquis*.

#### **Nature of participation in Community programmes under framework agreements and the procedure involved**

The countries of the Western Balkans can notably take part in all the Community programmes that meet their specific needs and are in line with the objectives and priorities of the SAP. The current programmes in which they can participate are listed in the annex containing the framework agreements. The Western Balkan countries may also ask to participate in other programmes, whether these programmes already exist or need to be developed.

Representatives from the Western Balkan countries can be present as observers at meetings of the committees responsible for the programmes to which they are contributing financially.

For each programme, the Commission and each country decide the arrangements and conditions for participation, including the financial contribution to be made by the country to the EU's general budget. The financial contribution is based on the needs of each country. The countries can receive support for their financial contribution through the Instrument for Pre-Accession Assistance ( IPA ), which replaces the CARDS programme, or any other external aid for which they might be eligible.

Participation by the Western Balkan countries in Community programmes is regulated by framework agreements laying down the general principles governing each

country's participation in the programmes. For countries that have concluded a stabilisation and association agreement (SAA), the framework agreement is annexed to the SAA as a protocol. These framework agreements are negotiated and concluded by the European Commission, acting on behalf of the European Community, and by each country.

The framework agreements are concluded for an unlimited period. However, they are reviewed every three years.

**Background: The communication of 3 December 2003 "Preparing for the participation of the Western Balkan countries in Community programmes and agencies"**

Following the adoption of the Thessaloniki agenda, the Commission submitted a communication on 3 December 2003 [COM(2003) 748 final] laying down the arrangements and guidelines for participation by the Western Balkan countries in Community programmes and agencies. It based itself on the experience already acquired regarding participation by the associated European countries (non-member European countries and candidate countries).

In particular, the Commission emphasises that a gradual and selective approach will be taken in choosing programmes and agencies, in order to assess participation in certain programmes and agencies before extending it to others, if necessary.

Participation is based on the needs and priorities of each country, the SAP and the CARDS programme (customs cooperation, justice and home affairs). Participation in very specific programmes concerning a particular sector is also possible. However, the countries concerned must have the necessary administrative and absorption capacities to enable them to fulfil their obligations.

In addition, the participating countries make a financial contribution to the financing of the programmes and agencies, thereby contributing to the general budget of the EU. In fact, most of the Community programmes consolidate the EU's internal policies, and their financing comes under internal budget headings, with the exception of programmes with an external component such as TEMPUS or LIFE , with which the Western Balkan countries are already associated. The associated countries' financial contribution is assessed on the basis of the numbers of their nationals who will be participating.

The Commission submits a tight schedule for implementation of the initial participation in 2005 in order to assess needs and improvements in light of the 2007-2013 Financial Perspective.

The Commission takes the same approach for the Community agencies as for the Community programmes. In this case, five agencies will initially cooperate with the SAP countries before participation is extended to other agencies: namely, the European Environment Agency ( EEA ), the European Monitoring Centre for Drugs and Drug Addiction ( EMCDDA ), the European Monitoring Centre for Racism and Xenophobia ( EUMC ), the European Maritime Safety Agency ( EMSA ) and the European Aviation Safety Agency ( EASA ).

**REFERENCES**

Act	Entry into force - Date of expiry	Deadline for transposition in the Member States	Official Journal
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Act	Entry into force - Date of expiry	Deadline for transposition in the Member States	Official Journal
Decision <a href="#">2005/524/EC</a>	02.06.2005	-	OJ L 192 of 22.07.2005
Decision <a href="#">2005/525/EC</a>	02.06.2005	-	OJ L 192 of 22.07.2005
Decision <a href="#">2005/526/EC</a>	02.06.2005	-	OJ L 192 of 22.07.2005
Decision <a href="#">2005/527/EC</a>	02.06.2005	-	OJ L 192 of 22.07.2005
Decision <a href="#">2005/528/EC</a>	02.06.2005	-	OJ L 192 of 22.07.2005

#### RELATED ACTS

**Commission Communication of 3 December 2003 to the Council and Parliament - Preparing for the participation of the Western Balkan countries in Community programmes and agencies [[COM \(2003\) 748 final](#) - Not published in the Official Journal].**

Framework Agreement between the European Community and the Republic of Albania on the general principles for the participation of the Republic of Albania in Community programmes [Official Journal L 192 of 22.07.2005].

Framework Agreement between the European Community and Bosnia and Herzegovina on the general principles for the participation of Bosnia and Herzegovina in Community programmes [Official Journal L 192 of 22.07.2005].

Framework Agreement between the European Community and the Republic of Croatia on the general principles for the participation of the Republic of Croatia in Community programmes [Official Journal L 192 of 22.07.2005].

Framework Agreement between the European Community and Serbia and Montenegro on the general principles for the participation of Serbia and Montenegro in Community programmes [Official Journal L 192 of 22.07.2005].

Protocol to the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the former Yugoslav Republic of Macedonia, of the other part, on a Framework Agreement between the European Community and the Former Yugoslav Republic of Macedonia on the general principles for the participation of the Former Yugoslav Republic of Macedonia in Community programmes [Official Journal L 192 of 22.07.2005].

**WEB-MOB**  
**Specific Support Action financed under the 6th**  
**Framework Programme for Research and**  
**Technology**

**MAPPING EXERCISE**  
**For the mobility of researchers in**  
**Former Yugoslav Republic of Macedonia**

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**Deliverable D.2.1.**

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**THESSALONIKI**



## 1. Introduction

### 1.2. Aim and method

The WEB-MOB project (a Specific Support Action financed by the European Commission under the 6th Framework Programme) started operating in September 2005, with the objective of developing guidelines related to issues of policy on researchers' mobility in the region of Western Balkans. Taking into consideration the importance placed by the European Commission on issues of incoming and internal mobility in the Western Balkans region, WEB-MOB's main objective was to attract to the region researchers from other regions (inter-regional mobility) or from other countries (intra-regional mobility) – geographical mobility –, and to promote the intersectorial mobility (mobility between industry and academia) and intra-national mobility in the Western Balkan partner countries in order to raise regional cooperation and prevent brain drain in the region. During the lifetime of the WEB-MOB project, the partners have identified existing obstacles to incoming mobility in every country, and which in many cases had not been identified by administrations in charge of research. More specifically, mobility guidelines were developed so as to be useful to national governments for the formulation of common policies in terms of enhancing researchers' mobility and eliminating mobility barriers in the region. The mobility guidelines include recommendations for measures and policies needed to improve national legislation and national research strategies.

Furthermore, the most important dissemination tool to be developed has been the WEB-MOB portal ([www.web-mob.eu](http://www.web-mob.eu)). The portal is a single-access point which provides visitors with the opportunity to exchange useful information about problems in the area of mobility of researchers, provide information on research organisations and universities and news related to the WEB-MOB project implementation.

Even though the project has just been completed (October 31, 2007), the impact already seems to be not only on a national, but also on a European level, since WEB-MOB project has contributed to national and EU actions related to the mobility and career development of researchers. Another important impact of the project has been the valuable experience on mobility policy issues gained by partners from the Western Balkan countries leading to the establishment of national ERA-MORE Networks (the Serbian national network and the Croatian one). Finally, synergies with European research organisations, universities and Mobility Centres have been encouraged and have influenced the visibility of researchers, universities and research organisations active in R&D in the Western Balkans region<sup>325</sup>.

In the questionnaire, which was the basis of the national mobility guides, the aim was to reflect all mobility obstacles that a researcher from any nationality faces in the WBCs<sup>326</sup>.

The aims of this mapping exercise are to:

1) Reflect the mobility obstacles that exist in each WBC for:

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<sup>325</sup> Dimitrios Sanopoulos, The WEB-MOB project: Development of researchers' mobility policy guidelines for the region of Western Balkans, <http://see-science.eu/users/2512.html>.

<sup>326</sup> "WBC" means "Western Balkan Country". Montenegro is not part of this project because it achieved independence in June 2006 after the launch of the project in September 2005.

- a) EU or EEA researchers (EU – WBC mobility)
- b) WBC researchers (inter WBC mobility).

2) Suggest legislation or policy modifications in two stages (not all at once) according to the political, economic and social background of each WBC. Indeed each WBC faces different problems in immigration inflows and outflows and has different international engagements with the EU in the framework of SAPs or accession processes.

The first stage is an easy one and it applies for a transitional period of one or two years. It is to:

- a) Find whether there is preferential treatment on any WBC nationality and apply the so called **Most Favoured Nation** (MFN) rule of the World Trade Organisation (WTO) applied by analogy (e.g. Albania's visa facilitation for Former Yugoslav Republic of Macedonia's nationals at the border to be extended to all WBC nationals).
- b) Make **slight** modifications in the existing legislation or policy that will greatly improve mobility while respecting the legislative choices of the WBCs, after a cost benefit analysis.

The second stage is to align the WBC legislation to facilitation of mobility that EU applies for third country researchers. Indeed Directive 2005/71/EC could serve as a model. In this way the general principle of reciprocity between WBC and EC will be respected in 3-4 years.

In this way the policy guidelines follow the example of European Partnerships where the priorities listed have been selected on the basis that it is realistic to expect that they can be completed or taken substantially forward over the next few years. A distinction is made between short-term priorities, which are expected to be accomplished within one to two years, and medium-term priorities, which are expected to be accomplished within three to four years<sup>327</sup>.

Thus the policy guidelines are drafted according to the method of neofunctionism in a realistic context, which was mostly used for the success of the European integration up to date.

## **2. Obstacles to mobility**

### **2.1. Visa**

#### **2.1.1. Visa facilitation by Former Yugoslav Republic of Macedonia**

Former Yugoslav Republic of Macedonia has bilateral agreements with many countries; therefore it is not easy to be sure for the status of visa regime of each state easily. On 27 August 2007 the Minister of Foreign Affairs of Former Yugoslav Republic of Macedonia has issued a statement with Former Yugoslav Republic of Macedonia's policy for each of 197 states<sup>328</sup>.

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<sup>327</sup> COM 669, annex I, 3. Priorities. P. 6

<sup>328</sup> <http://www.mfa.gov.mk/Upload/ContentManagement/Files/MFA-VisaRegime.doc>.

- a) For EU and EEA nationals no visa is necessary for a stay of 3 months but again the visa policy is not uniform, at least yet, for all countries.
- b) For nationals from US and Japan no visa is necessary for a stay of 3 months for tourist and business purposes. However for nationals from Canada, Australia, Russia, China, visa is necessary.
- c) For Albanian nationals a visa is necessary<sup>329</sup>. However, it seems that **on basis of a bilateral Agreement, for citizens of the Republic of Albania and Former Yugoslav Republic of Macedonia single entry visas or transit and group passport visas are issued at the border crossings between the two countries.**
- d) For nationals from Bosnia and Herzegovina as well as Croatia, no visa is necessary if they stay **only 3 months.**
- e) **For nationals from Serbia no visa is necessary if they stay in Former Yugoslav Republic of Macedonia only 2 months.**

Although Former Yugoslav Republic of Macedonia currently experiences little immigration, political attention to the subject, due in part to the prospects for EU accession, inspired a new Aliens Act, which came into force in **March 2007**. It regulates the conditions on admission, leave and stay of the foreigners in Former Yugoslav Republic of Macedonia, and their rights and obligations<sup>330</sup>.

The Inter-ministerial Body for integration of refugees and **aliens** has been established. It is estimated that some 20 bylaws are required to enable implementation<sup>331</sup> which are envisaged to be adopted within 6 months after the entrance into force of the law. No translation in english was found for the new Aliens act. It is considered by many that it is in line with EU requirements, such as they exist on immigration.<sup>332</sup>

From the information found on the internet (the ministry of foreign affairs did not have this information on its website) we have found that in order to enter the country it is necessary to have a Passport with at least three to six months' validity (depends on the individual case).

**Nationals who require Visas<sup>333</sup>** should submit have:

- a return ticket,
- an invitation letter or hotel booking to obtain a visa.

**It is said that** proofs for foreigner's income, property or social security should be provided (see next chapter)<sup>334</sup>

**Validity:** Valid for up to three months. Transit visas valid for up to five days.

**Working Days Required:** Usually one to three. The embassy in the UK can process within the same day<sup>335</sup>.

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329 Mobility guide, 2.1.2.9.

330 <http://www.migrationinformation.org/Profiles/display.cfm?ID=608>.

331 <http://www.migrationinformation.org/Profiles/display.cfm?ID=608>.

332 See [macedonianembassy.org.uk/non%2520paper.htm+Macedonia+Law+Aliens+2006&hl=el&ct=clnk&cd=28&gl=gr](http://macedonianembassy.org.uk/non%2520paper.htm+Macedonia+Law+Aliens+2006&hl=el&ct=clnk&cd=28&gl=gr).

333 <http://www.iexplore.com/dmap/Macedonia/Visa+and+Health>.

334 Mobility guide 2.1.1.4.

335 <http://www.iexplore.com/dmap/Macedonia/Visa+and+Health>.

Document that covers 3-month period of stay the country (one pass as well as multi pass) issued for matters of scientific, personal or touristic (not business) nature is called “Visa for short-term stay (Type C)”.

For period greater then 3 months “Visa for long-term stay” (Type D) is required. It provides free entrance and covers 30 days period of stay of which the foreigner is obliged to inform the **Ministry of Internal Affairs upon the first 5 days of arrival, in order to receive temporary residence permit**<sup>336</sup>.

For cases of **employment** obtaining visa isn't sufficient (because temporary residence permit is required too), nor invitation by the host institution is sufficient. Work permit should be provided, too.

For the rest of the cases (e.g. cases other then employment) invitation by the host institution can be accepted as sufficient in order to get visa, only if it contains statement signed by the organizer and if it is **notarized by the Chamber of Commerce and Ministry of Interior** (Article 13 - “Law for the Foreigners”)<sup>337</sup>.

The foreigner may bring his/her family with him/her if he/she submits:

- Documents proving the **family relationships with** the foreigner residing in the country;
- Documents proving **stable and regular incomes** that will provide financial support during the stay;
- Proof of **provided accommodation**;
- Personal **Health Insurance**;
- **Notarized copies from the travel documents.**

### **2.1.2. Former Yugoslav Republic of Macedonia's obstacles to inward mobility for 3 months stay**

Former Yugoslav Republic of Macedonia does not present obstacles **for 3 months** stay for EU and EEA nationals.

Former Yugoslav Republic of Macedonia however presents the following obstacles for inward mobility for WBC nationals:

#### **1) Differentiated treatment**

Former Yugoslav Republic of Macedonia, as other WBCs presents a differentiated treatment for WBC nationals.

There is no visa requirement for 90 days stay for nationals of

- Bosnia and Herzegovina and
- Croatia

There is no visa requirement for 60 days for nationals of Serbia who however can enter Former Yugoslav Republic of Macedonia without visa requirements for longer stay<sup>338</sup>.

However, there are visa requirements for nationals of Albania – this is reciprocal on the part of Albania. There is a bilateral agreement signed that provides that **single**

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336 Mobility guide, 2.1.1.2.

337 Mobility guide 2.1.1.5.

338 Visa regime ... towards other countries..., Valid from 26 November 2007 at <http://www.mfa.gov.mk//Upload/ContentManagement/Files/MFA-VisaRegime.doc>.

**entry visas or transit and group passport visas are issued at the border crossings between the two countries**<sup>339</sup>.

It is recommended to proceed to :

- either the strengthening of reciprocal agreement between Former Yugoslav Republic of Macedonia and Albania
- or simultaneous abolishment of visa requirements in Former Yugoslav Republic of Macedonia and Albania for 3 months stay at least.

2) The requirements of return ticket and letter of host company for those nationals who need a visa can be considered as justified in the previous stage of relations. These requirements do not give a margin of discretion to the authorities or create unforeseen problems.

3) In case of a seminar or a congress, articles 13 and 14 of the Law of Foreigners provide that invitation letter by the host institution is of great importance and it will be accepted as sufficient, only if it contains statement signed by the organizer and if it **is notarized by the Chamber of Commerce and Ministry of Interior.**

**This is an obstacle hindering mobility of researchers. It is recommended that this last requirement of notarisation would be abolished in case of a hosting agreement with an accredited institution.**

#### **4) Proof of sufficient funds**

**According to art. 12 of the “law for foreigners”** proofs for foreigner’s income, property or social security should be provided (Article 12 from the “Law for the Foreigners”). The applicant can prove his ability to cover living and travel expenses in one of the following ways:

- Possession of money in cash (domestic or foreign convertible currency);
- Possession of money on credit cards, travellers checks etc. The bank account can grant such information;
- Possession of property as stated in the State Law;
- **Guarantee Letter** from national citizen / foreigner whit permission for stay in country, stating that he/she will bear the costs of the applicants stay;
- **Invitation Letter** provided from the domestic/foreign legal person/institution (registered in the country) that is to bear all the costs of foreigner’s stay, regardless whether it is inviting the foreigner or sending him/her to our country.

The Travel Insurance should also be presented along with the rest of the documentation<sup>340</sup>.

To prove income is an obstacle. It is recommended that at the present state of relations between EU and Former Yugoslav Republic of Macedonia this article could be amended so that a hosting agreement by an accredited institution certifying that it will bear all the costs for a researcher’s stay is adequate proof of sufficient funds.

## **2.2. Visa of longer stay for entering Former Yugoslav Republic of Macedonia**

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339 Op.cit.

340 Mobility guide 2.1.1.4.

The visa for short-term stay (**type C**) covers **3 months period** of continuous stay as well as total of 3 months period in case of repeated entries in the country, starting from the first day of the arrival. In the later case (e.g. multiple entries) this period of 90 days should be used in the time interval of 6 months. This type of visa is valid for period of 1 year.

For period of stay that lasts longer than expected - the foreigner may apply for visa extension, and if the total period exceeds 3 months time interval, he/she should ask for temporary residence permit<sup>341</sup>.

**In order to participate in a research project of more than 3 months the foreigner must obtain visa type D (for long-term stay) and temporary residence permit.** Documents from the institution that is running the project stating that the **foreigner is being invited** and confirming his/her acceptance, are a necessity in order to fulfill the propositions for temporary residence permit. Documents describing the nature, time-frame and detailed program of the project can be useful, too<sup>342</sup>.

**It is recommended that the hosting agreement with an accredited institution will be an adequate proof for a visa type D if the other requirements of Directive 2005/71/EC are fulfilled.**

### **2.3. Border formalities**

#### **2.3.1. The present situation in Former Yugoslav Republic of Macedonia**

The border control officer must:

- a. Check for valid travel document (e.g. passport);
- b. Check for visa (if needed);
- c. **Check for additional documents which could describe the purpose and nature of the trip;**
- d. Check the passenger's computer file in order to exclude those that are threat to the peace and stability of the country<sup>343</sup>.

**In Former Yugoslav Republic of Macedonia**, the foreigner can freely import / export **up to 2.000 euros or 20.000 denars** per person. Sums that are higher **must be declared at customs** control and their representatives will issue confirmation document in return. The foreigner is obliged to present this document at the customs control when leaving the country. **In cases of sums which are higher than 10.000 euros the legislation for prevention of criminal acts with money takes effect**<sup>344</sup>.

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341 Mobility guide for Former Yugoslav Republic of Macedonia 2.1.2.1.

342 Mobility Guide for Former Yugoslav Republic of Macedonia, 2.1.2.6.

343 Mobility guide for Former Yugoslav Republic of Macedonia, 2.2.

344 Mobility guide for Former Yugoslav Republic of Macedonia, 2.2.3. More can be found on:

<http://www.customs.gov.mk/Uploads/Vnesuvawe%20i%20iznesuvawe%20na%20doma%5Bni%20i%20stranski%20pari,%20~ekovi%20i%20monetarno%20zlato%20vo%20patni~kiot%20promet.pdf> (In local Language).

In Former Yugoslav Republic of Macedonia the car has to be declared to the customs authorities as vehicle for personal use.

Former Yugoslav Republic of Macedonia clarifies what it deems personal belongings and imposes declaration at the customs control.

It is recommended that at the present state of relations between EU and Former Yugoslav Republic of Macedonia the border officer will not **check for additional documents which could describe the purpose and nature of the trip if the visa was issued for research purposes.**

### **2.3.2. Mobility obstacles**

In Former Yugoslav Republic of Macedonia the border control officer must:

1. Stamp the passport
2. Confirm the purpose of visit and stamp the relevant document
3. Check and issue a document stamped with the import and export of currency
4. Check the documents of the car and its insurance
5. Stamp declaration of temporary importation

For the present state of relations of Former Yugoslav Republic of Macedonia and EU, these obstacles must be gradually eliminated for EU nationals.

### **2.4. Report presence to the police**

In Former Yugoslav Republic of Macedonia, the organisation of accommodation (e.g. hotel) must declare within 12 hours to the police station the arrival of a foreigner.

If the foreigner has his/her own accommodation, the foreigner must report his/her presence and exact address to the Ministry of internal affairs within 3 days , as well as any change in 3 days.

It is recommended that the research institution and not the researchers that reports the presence of the researcher in 10 days.

### **2.5. Family reunion**

1. Former Yugoslav Republic of Macedonia extends the concept of children to older children in need of support only in exceptional cases.

2. In Former Yugoslav Republic of Macedonia, the foreigner can apply for residence permit of his/her family on the basis of family reunion. The terms under which **temporary residence permit** is granted are:

- Document proving that foreigner residence inside the country is legal and lawfully authorized by governing institutions;
- Documents proving the family relationships with the foreigner;
- Documents proving stable and regular **incomes** that will provide financial support during the stay e.g. supporting assets proof;
- Proof of provided **accommodation**;
- Personal **Health Insurance**;
- **Notarized copies from the travel documents.**

These documents are too many. Simplification is recommended in harmonisation with Directive 2005/71/EC.

3. Former Yugoslav Republic of Macedonia allows the spouse to work without permit if the spouse performs expertise laid down in the agreements on business-technical cooperation, technology and foreign investment<sup>345</sup>.

It is recommended that the legislation of Former Yugoslav Republic of Macedonia provides for the possibility of the spouses of researchers holding hosting agreements to work without the quota system being applied. It would be even better harmonised with European standards and the right of family reunion that members of the family work without work permit or are facilitated to obtain it.

## 2.6. Validation of children's previous education in another country

All WBCs impose a validation procedure in order to prove that one diploma is identical to the other. In Former Yugoslav Republic of Macedonia it is a process of evaluating the education system in another country, its curriculum, and duration, the rights and privileges to the applicant. Such procedure has proven very difficult in the EU countries where since 1985 the principle on mutual recognition and trust has been adopted.

Due to the present state of relations between EU and Former Yugoslav Republic of Macedonia it is recommended to make more transparent the qualifications needed for each grade and accelerate the procedure of validation.

## 2.7. Mutual recognition of diplomas

A foreigner must first recognise his/her academic degree as issued by a State of EU an equivalent to an academic degree of the country, and then to apply for a work permit<sup>346</sup>. The EU Council has included as a priority in the European Partnership the obligation of the Former Yugoslav Republic of Macedonia to **adopt legislation for the recognition of foreign professional qualifications and create administrative structures and procedures for this purpose**<sup>347</sup>.

Today, in Former Yugoslav Republic of Macedonia:

- a. The recognition of diplomas is done without discrimination against foreigners.
- b. The prerequisites for the equivalence are the same in all WBCs regardless of the country in which the degree was obtained, except in case of **automatic recognitions because of the agreements signed**<sup>348</sup>.
- c. There is an **appeal** procedure foreseen against a negative decision of the Ministry.

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345 Mobility guide for Former Yugoslav Republic of Macedonia, 2.6.1.

346 Mobility guide for Former Yugoslav Republic of Macedonia 4.1.7.

347 Decision 2006/57/EC: Council Decision of 30 January 2006, on the principles, priorities and conditions contained in the European Partnership with the former Yugoslav Republic of Macedonia and repealing Decision 2004/518/EC, *OJ L 35, 7.2.2006, p. 57–72*.

348 Mobility guide, op.cit. 3.5.6.

In order for the relevant degree to be recognized it is necessary that the conditions under which the degree was obtained (curriculum, duration of the studies etc.) **are similar to the conditions** under which the same degree is obtained in the country.

The Ministry of Education and Science is responsible for the recognition of foreign higher education qualifications. The final decision is being made following the decision of a specific commission established within the Ministry of Education and Science. The procedure usually takes 3 months. It may take longer **especially if the bachelor degree has no equivalent in the country. There are no penalties for a prolonged procedure**<sup>349</sup>.

The procedure may present an obstacle to researchers. It is recommended that for researchers coming from EU, EEA and WBC:

- Either bilateral agreements are signed for automatic recognition of diplomas (which for the moment there are not any in Former Yugoslav Republic of Macedonia)<sup>350</sup> or
- Or the diploma is not submitted under the procedure of recognition of equivalency for **all** researchers of EU, EEA and WBC and that the hosting research institution certifies the qualifications of the researcher (see art. 67 of the 2007 Act on Aliens).

## 2.8. Work permits

In order to be employed (regardless of the area of interest), the foreigner is requested to apply **for temporary residence permit and in order to do that he/she must apply for work permit first.**

The employer files the request for a work permit to the Employment Agency. In the application he/she includes a rational explanation why a foreigner and not a national must be employed. The work permit is valid for one year. In Former Yugoslav Republic of Macedonia a foreigner can be employed only if there is deficit of employees with qualifications required by the employer.

The work permit will be issued without previous signature of a work contract, **only if the potential employer can guarantee for the foreigner**<sup>351</sup>. The work permit is valid usually for one year and can be extended each year only if the foreigner first prolongs his residence permit.

In 2006 with Art. 65 of the Act on Aliens, for scientific research the following conditions should be met and they are listed in the text below:

- **Contract with institution evidenced in the registry of scientific institutions** (by the Ministry of Science and Education or Macedonian Academy of Sciences and Arts) or accredited and registered as high-

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349 Mobility guide 3.5.4.

350 Mobility Guide 3.5.7.

351 Sources from Mobility Guide:

<http://www.zvrm.gov.mk/mkd/stranci.html> (Web-site of the Employment Agency – in local Language).

profile educational institution (e.g. faculty or university – See article 65 of the Act for Aliens 2006).

- Document confirming **financial responsibility of the hosting institution to cover living and travel expenses** of the foreigner as well as his/her health insurance;
- **Financial support agenda of the project;**
- **Notarized copy of the faculty / university diploma as a proof for the degree of education.**
- **Temporary Residence Permit** is issued for period of 1 year<sup>352</sup>.

In addition more prerequisites are necessary

- o The prior consent of the Minister of Education and Sciences is a necessary prerequisite which will be notified about the results of the project after 2 months of its termination(art. 66)
- o The approval of the hosting agreement by the competent organs of the research institution who certify for the necessary qualifications (Art. 67)
- o A certified **copy of the foreign diploma** (art. 67)
- o Proof of sufficient means of living, health insurance and return back home (art. 67).

In Former Yugoslav Republic of Macedonia the foreigner may obtain the **permanent residence permit** either for employment, work or self-employment, which can be issued to a foreigner with **high qualifications and education essential** for the functioning of the organization in the country.

In 2007 the legislation has recently changed with the Act of 28 May 2007 on employment and work of aliens (Text No. 892). *Sluzben Vesnik, 2007-06-05, No. 70, pp. 2-17.*

The new law on the employment of foreigners<sup>353</sup> stipulates the conditions under which foreign citizens may be employed in Former Yugoslav Republic of Macedonia and the procedures for their employment. **A foreigner may work in Former Yugoslav Republic of Macedonia only if staying legally, and with a work permit<sup>354</sup>.**

The **new Law** regulates the conditions:

- Of employment and work in the Republic of Former Yugoslav Republic of Macedonia;
- **Of issuing work permits, types of work permits and the procedure of issuance work permits;**
- Of cross- border provision of services by foreign companies through directing workers and directing workers to branch offices and associations of foreign companies in the Former Yugoslav Republic of Macedonia,
- Of seasonal work of foreigners,
- Of working of foreign representatives in companies

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352 Mobility guide for Former Yugoslav Republic of Macedonia, 2.1.2.6.

353 The government's short-term priority was a law on the **employment of foreigners**, which had been postponed until the new Aliens Act was in place in 2006.

354 <http://www.migrationinformation.org/Profiles/display.cfm?ID=608>.

- Of self-employment of foreigners in the Former Yugoslav Republic of Macedonia
- Of other issues regarding the work of foreigners, supervision, records,
- Of protection of rights, labour relations etc.

The law transposes the following EU measures:

- Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services,
- Directive **2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely** within the territory of the Member States<sup>355</sup>,
- **Directive 2003/86/EC** of the Council on the right to family reunification,
- Directive 2003/9/EC laying down minimum standards for the reception of asylum seekers and
- Directive **2004/114/EC** on the conditions for admission of third-country nationals for the purpose of studies, pupil exchange, unremunerated training or voluntary service<sup>356</sup>.

The Act establishes the procedures and conditions for employment of aliens **except if otherwise stated by international conventions** (Art. 1 par. 1 and art. 3 par. 1). The Government may conclude international agreements establishing conditions under which certain categories of employed aliens or services rendered will be **exempted from quotas** and at the same time take measures for the protection of the local labour market (art. 4 par. 2).

The provisions of the Act (which is not translated in English yet) are not applicable for:

- 1) Aliens that provide services in Former Yugoslav Republic of Macedonia
  - a) On the basis of
    - Bilateral or multilateral agreements or
    - Agreements with the EU or
    - **International organisations for professional specialisation, education, postgraduate studies or research**
 Or b) that are **part of a project** organised in accordance with the above agreements and registered in the appropriate Ministry (art. 3 par.2 second sentence).
- 2) Aliens and accompanying technical staff that participate as trainers in organised specialised meetings and **make presentations of scientific achievements** or sometimes participate in their application (art. 3 par.2 ninth sentence).
- 3) Aliens that stay in Former Yugoslav Republic of Macedonia on the basis of international agreements in order to participate in programmes of international students exchange or with the aim of their **specialisation and their professional**

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355 This Directive amends Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC.

356 Monthly Progress Brief for European Partnership 5/07 at [http://www.sei.gov.mk/portal/mak/bilten/MONTHLY%20PROGRESS%20BRIEF\\_May%2007\\_kor.pdf](http://www.sei.gov.mk/portal/mak/bilten/MONTHLY%20PROGRESS%20BRIEF_May%2007_kor.pdf).

**training** (art. 3 par. 2 tenth sentence). These aliens do not have the right to work during their stay in Former Yugoslav Republic of Macedonia (art. 4 par. 12).

The New Act in 2007 still requests from all aliens:

- a) to have a work permit though without any discrimination (Art. 4 par.3)
- b) to submit to the quota system established by article 5. The proposal for the annual quotas is submitted by the Employment Agency to the government that decides (article 5)
- c) to request from the Employment Agency to certify that there is no local with the same qualifications (Art. 11)
- d) that there will be no negative consequences to the local labour market (art. 13 par.3).

However the new Act seems to be more progressive than previous legislation because, among others, it:

- Establishes that **work permits will be issued without any quota system in case of foreigners involved with sports, civilisation, scientists because the nature** of their work has nothing to do with the local labour market (Art. 13 par.4)
- Clarifies that there is an appeal procedure in case of negative answer within 8 days after written notification. The Minister of Employment decides on the appeal within 15 days and if the answer is still negative the foreigner may file action before the courts (art. 9 par. 3).
- Establishes that **aliens rendering services in the sector of science, sports, civilisation, health and education may obtain work permits** of 1 year if there are not any conditions for establishing a labour relation (contract) (art. 26 par.3).

Therefore, Former Yugoslav Republic of Macedonia has almost aligned its legislation to Directive 2005/71/EC on the basis of art. 65 of the Law of Aliens (2006). The new Act 2007 on the Employment of Aliens (not found in English yet) takes into account the importance of science but can be a little confusing since it seems to establish many categories of researchers/scientists. Indeed it:

- Exempts from work permit procedure only certain categories of researchers (e.g. for registered projects on the basis of bilateral agreements or agreements with the EU or other countries or for scientific presentations)
- Imposes work permit procedure to scientists which are however exempted from the **quota system** and
- Facilitates other categories of aliens (e.g. aliens rendering services in the sector of science) to get work permits
- Does not exempt the spouses of researchers at least from the quota system.

Indeed Former Yugoslav Republic of Macedonia, which is already associated with the 7th Framework Programme of EU, has done a lot for the mobility of researchers. It is recommended that

- a) more clarifications are given for the new Act on Employment and international agreements for the mobility of researchers are concluded between Former Yugoslav Republic of Macedonia and WBCs.
- b) the Ministry of Education and Science, as it already plans, establishes the "National Agency for European Educational Programmes and Mobility" and four regional contact centers for mobility in all state universities (second work package (WP2) of ERA-MORE network portal).

## 2.9. Temporary and permanent residence permit

If the purpose for residence is employment, then the foreigner must apply for temporary residence permit, which is granted on the grounds of previous work permit<sup>357</sup>.

In Former Yugoslav Republic of Macedonia, a temporary residence permit is required for a period of stay that is longer than 3 months (up to 1 year) and in order to be able to work. For those periods "Visa for long-term stay" (Type D) is required, too.

Actually, the foreigner has to obtain **work permit first. Then he/she can obtain visa type D** that will provide him / her with free entrance in the country and 30 days of grace period of which the foreigner is obliged to inform the Ministry of Internal Affairs upon the first 5 days of arrival, **in order to receive temporary residence permit<sup>358</sup>**.

In order to obtain temporary residence permit the application should include:

- Valid travel document;
- Copy of the travel document with the entry visa;
- Confirmation that the foreigner is a pupil/full-time student at the appropriate school or faculty;
- Approval for justification of the residence (previously obtained approval by the Employment Agency, working agreement or confirmation from a legal or physical person where he/she will attend his/her specialization or training);
- Accommodation proof (e.g. rent agreement);
- Supporting assets proof (bank account certificate in the country or a foreign bank, certificate from the enterprise, or other legal person or body on the amount of salary or scholarship, etc.).

- **The time to submit application is the first 5 days after arrival<sup>359</sup>**
- The temporary residence permit is issued within 25 days
- The administrative fees for issuing temporary residence permit is 5 Euros for 3 months and 10 euros for 1 year<sup>360</sup>.

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357 References used from Mobility Guide:

[http://www.pravo.org.mk/download/Zakoni/strancite\\_23032006.pdf](http://www.pravo.org.mk/download/Zakoni/strancite_23032006.pdf) (Article 58 from the Law for Foreigners - in Macedonian Language)

<http://www.mvr.gov.mk/ShowAnnouncements.aspx?ItemID=200&mid=717> (Website of the Ministry of Internal Affairs - in Former Yugoslav Republic of Macedonia's Language).

358 Mobility Guide 5.2.3.

359 Mobility Guide 5.2.4.

Residence may be refused<sup>361</sup> if the foreigner does not fulfil the prerequisites. In addition, he/she may be refused if:

- Expulsion is ordered as security measure (Art. 17 of the Law on Movement and Residence of Foreigners), e.g. The foreigner is registered in the records of the competent body as an international offender or there is grounded suspicion for the foreigner that he/she enters the country in order to commit terrorist or other crime;
- The residence of the foreigner in the country would present a **financial burden** for the state;
- The foreigner does not possess the required **entry visa** for the state he/she travels to after the exit from the territory of the country;
- The foreigner, in his/her request for issuing an entry visa, has provided **false** data about himself/herself or about the purpose of the trip and residence, or has provided false identification papers;
- The foreigner does not possess documents to verify his/her identity;
- The foreigner comes from a region where infectious diseases are spread, and he/she does not possess vaccination proof.

In case of refusal the foreigner can appeal within 8 days after written notification. It takes 15 days for the Ministry to decide. Provisional protection is provided only in case of a child in the same household.

A revocation of the residence permit is possible<sup>362</sup>

- **if the circumstances under which the residence permit was issued have changed to such extent that it would not be possible to issue this permit now**
- if the foreigner's actions:
- Infringe constitutional provisions
- Show involvement in organisation of illegal entry, violating provisions related to border passing
- **Show that the purpose is the opposite of the one stated**
- **If supporting assets expire and in the meantime the meantime the foreigner has not provided any new additional sources of incomes as a financial support.**

Permanent permit is issued to a foreigner who has stayed in Former Yugoslav Republic of Macedonia for a period of minimum 5 years, meaning that he/she hasn't stayed more than 6 months out of the state during that period<sup>363</sup>. According to the Law for Aliens in Former Yugoslav Republic of Macedonia, the foreigner must first obtain the permanent residence permit, and then the permanent work permit can be issued as well. Permanent residence permit for employment, work or self-employed persons can be issued to a foreigner with high qualifications and education essential for the functioning of the organization in the country.

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360 Law on Administrative Fees (Official Gazette No 17/93, 20/96, 7/98, 13/2001, 24/2003, and 19/2004). Mobility Guide 5.2.5.

361 Mobility guide 5.2.6.

362 Mobility guide 5.2.9.

363 Mobility Guide 5.2.3.

Though Former Yugoslav Republic of Macedonia has adopted a detailed legislation on residence permits, it seems that there is a lot of discretion on the hands of the authorities who can refuse and revoke residence permits that causes a lot of uncertainty for the visiting researcher. Too much of paperwork is necessary and too short are the deadlines (5 days from arrival). It would be recommended that Former Yugoslav Republic of Macedonia facilitates the residence permits of the researchers coming from EU, EEA and WBCs that hold a hosting agreement as it does for the work permits.

## **2.10. Working conditions for Researchers in Former Yugoslav Republic of Macedonia and in particular Foreign Researchers**

In Former Yugoslav Republic of Macedonia:

11. State employees must have the local citizenship, thus excluding foreign researchers to work in state institutions<sup>364</sup>
12. There seems to be no other facial (direct) discrimination in terms of work especially since the Constitution or labour law forbids it<sup>365</sup>.
13. There are no specific labour agreements for researchers – the usual ones that apply for all workers apply to them if they have a contract of work (no fellowship or other contracts)<sup>366</sup>.
- 14. The researchers must obtain a work permit in order to be able to invoke labour market agreements<sup>367</sup>**
15. The researchers conclude a work contract in a written form<sup>368</sup>. **The contract is confirmed by the employment agency.** One copy is kept at the employer's working premises and the employee keeps the second copy.
16. Though the majority of the researchers seem to be state employees employed in university, in the Academy of Sciences and its institutes, in the Ministries institutes, their position is regulated by the **usual Labour law** (on overtime, holidays, maternity), the Law on Science and the Statute of each organization they are employed. Any Code for Civil Servants does not apply. If they are foreigners, the Law on Employment of Foreign Nationals applies<sup>369</sup>.
17. Other people are considered as researchers or stand-alone/individual researchers<sup>370</sup>.
18. Researchers can be members of Academy of Sciences and Arts, University employee (professors, associate professors, and assistant professors), scientist with doctoral degree (stand-alone/individual researchers). **Researchers in public scientific institutions are elected at collaborating and scientific level. At collaboration level there are two degrees: Junior Research Assistant and Research Assistant, and at scientific level there are three**

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364 Mobility Guides 4.1.8.

365 Mobility Guide, 4.1.9

366 Mobility Guide 4.2.1. and 4.2.3.

367 Mobility Guide 4.2.2.

368 Mobility Guide, 4.3.1.

369 Mobility Guides 4.3.3., 4.5.1., 4.6.4.

370 Mobility Guide 4.3.2.

degrees: Scientific Collaborator, Senior Scientific Collaborator and Scientific Advisor (Law for Scientific Research, article 51)<sup>371</sup>.

19. Researchers, even if they are foreigners, seem to be able to participate in professional Associations or Unions either new or existing ones (e.g. Medical Societies, Bar Associations)<sup>372</sup>.
20. In case that a researcher discovers know-how or an invention in the framework of a project launched by the host institution<sup>373</sup>, the host institution is its owner without prejudice to the rules of the specific project.
21. Innovation policy in the WBCs if any is promoted by the establishment of Regional Innovation Centres.

The situation of rights of researchers in Former Yugoslav Republic of Macedonia is parallel to the one in other WBCs. Obstacles defined may be that:

1. Foreigners that do not have work permit (mainly all EU researchers) may not invoke labour market agreements, so the question rises whether labour market agreements must be extended to all researchers or even better whether all rights of local researchers be indirectly extended to foreigners through the principle of non discrimination
2. There do not seem to exist any particular and uniform rights of researchers – more could be done in the existing Law for Scientific Research to align with the situation in EU
3. In case of innovation the researcher does not have any Industrial Property Right so there is no incentive for an EU Researcher to innovate in WBCs.

## 2.11. Social insurance matters

1. All social insurance systems in former Yugoslav Republic of Macedonia are public<sup>374</sup>. The former Yugoslav Republic of Macedonia has to develop sufficient administrative capacity to implement the Community rules on the **coordination of social security schemes**<sup>375</sup>.

2. Affiliation to the host state security system is required in order to work as a researcher and is done automatically by the host institution – employer **as soon as the work contract is signed**<sup>376</sup>.

3. There is no special social security fund for researchers in any WBC.

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<sup>371</sup> Mobility Guide 4.3.2.

<sup>372</sup> Mobility Guide 4.4.1, 4.4.3.

<sup>373</sup> Mobility Guide 4.6.2.

<sup>374</sup> **Statutes of the Federal Institute for Pension and Disability Insurance of 14 May 2002**. *Sluzbene Novine*, 2003-08-05, No. 38, pp. 2109-2112.

<sup>375</sup> Decision 2006/57/EC: Council Decision of 30 January 2006, on the principles, priorities and conditions contained in the European Partnership with the former Yugoslav Republic of Macedonia and repealing Decision 2004/518/EC, *OJ L 35*, 7.2.2006, p. 57–72.

<sup>376</sup> Mobility Guide 5.3.2.

4. The time spent in another country may be aggregated if the Pension Fund of each country has signed an agreement with the Pension Fund of the relevant country<sup>377</sup>. There are many bilateral agreements of Former Yugoslav Republic of Macedonia with<sup>378</sup>

- 17 EU member states (Austria, Denmark, Germany, France, Belgium, Luxemburg, Netherlands, Great Britain, Italy, Sweden, Poland, Hungary, Czech Republic, Slovakia, Slovenia, Bulgaria, Romania),
- One EEA state (Norway)
- 3 WBCs (Albania, Croatia and Serbia and Montenegro)
- 4 developed countries (Switzerland, Russia, Ukraine, Turkey)

All these agreements provide for aggregation of time. The State Pension and Disability Insurance Fund is responsible for carrying out these agreements<sup>379</sup>

5. The social security contributions are paid, under the threat of penalties against the employer, by the employer in whole<sup>380</sup>.

6. There is a social security number for every employee received after registration in the competent institution-fund after temporary residence permit.

7. There are both public hospitals and private clinics in all WBCs. Public hospitals offer medical care free of charge<sup>381</sup> only for those **foreigners that have work or residence permit**. In order to be able to enter the country (e.g. to get the visa) the foreigner is obliged to cover personal health insurance for the visiting period. Once inside the country – he/she can receive medical care without the residence/work permit. The foreigner will just have to **pay an additional amount** of money in order to get treatment in a public hospital, while in the private ones the price is the same for all the people, regardless of the nationality.

In cases when foreigner is unemployed (e.g. doesn't have a work permit) and wants to have covered health insurance the **basic condition is to have a residence permit**, first. As soon as he has this residence permit he can register at the local Centre for employment and he is entitled to the health insurance (since this is the only way for the unemployed persons to be medically insured).

**8. European Social Security card is not accepted** since WBCs are not member States, except for Croatia that has concluded bilateral agreements with Slovenia, Czech Republic and Hungary<sup>382</sup>.

9. Retirement age in WBCs varies among countries and among sexes. Usually women retire at an earlier age than men. The usual age for retirement:

- For men is 64
- For women 62

The number of years of work varies too:

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<sup>377</sup> Mobility guide 5.3.5.

<sup>378</sup> Mobility guide 5.3.6.

<sup>379</sup> Mobility Guide 5.3.7.

<sup>380</sup> Mobility guide 5.3.12.

<sup>381</sup> Mobility guide, 5.4.1. and 5.4.2.

<sup>382</sup> Mobility Guide 5.4.4.

For men 25 years but 40 years of contributions and  
For women 20 years but 35 years of contributions.

11. The pension is not calculated according to the last wage received but as the **monthly wage average e.g. from 1970 until the end of work.**

12. Loss of pension rights because of mobility in case that there is **no agreement** between the home country and the country of work. Only in such case can the years be aggregated<sup>383</sup>.

13. In Former Yugoslav Republic of Macedonia the insurance risks are the following:

- Health /sickness
- Age
- Maternity/Family
- Unemployment

Therefore it is recommended that more bilateral agreements:

- For aggregation of periods are concluded with the EU and EEA states as well as Bosnia – Herzegovina and Montenegro.
- For the extension of the European Social Security card.

In addition gradually free access to public hospitals could be granted for those who are legally present in the country (not only for those who have residence/work permits).

## **2.12. Banks**

1. There are both public and private banks in Former Yugoslav Republic of Macedonia<sup>384</sup>.
2. It seems that Bank accounts can be easily opened without problems for non residents.
3. Loans are granted to foreigners only if they have a permanent residence permit and a permanent work contract<sup>385</sup>.
4. It is very easy to buy or exchange foreign currency in banks and offices in former Yugoslav Republic of Macedonia<sup>386</sup>
5. It is very easy to import or export foreign currency through Bank accounts or Western Union services<sup>387</sup>

Therefore there are no comments in the present state of relations with the EU.

## **2.13. Taxation**

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383 Mobility guide 5.7.4.

384 Mobility guide 5.5.1.

385 Mobility guide 5.5.3.

386 Mobility guide 5.5.4

387 Mobility guide 5.5.5.

1. The foreigner is charged with the revenue tax only for the income produced in the WBC<sup>388</sup>.

2. The foreigner seems to enjoy the same privileges as nationals. The tax privileges are the same as for the nationals, and they are not connected to the place of permanent residence<sup>389</sup>

3. In Former Yugoslav Republic of Macedonia the preferential VAT of 5% applies for publications

However imports of

- i. **own works of scientists**, writers and artists,
- ii. laboratory animals, goods and substances for examination and research as well as
- iii. congress and seminars documents

are exempted from VAT.

#### **4. There are international treaties for the avoidance of double taxation:**

Indeed the former Yugoslav Republic of Macedonia has agreements with 15 member states and all WBCs (Albania, Bosnia and Herzegovina, Croatia and Serbia and Montenegro).

Therefore more international treaties for the avoidance of double taxation should be concluded with EU and EEA countries.

#### **2.14. Access to Justice**

1. Foreigners have equal access to judicial system on the same terms as the national citizens<sup>390</sup>

2. The European Convention on Human Rights is respected in Former Yugoslav Republic of Macedonia and has a constitutional value.

3. A translator is always provided in a hearing of a local court if the party involved is a foreigner who does not speak the local language<sup>391</sup>.

#### **2.15. Living Conditions and Social issues**

1. It is easy to rent an apartment through Real Estate Agencies, newspapers etc. for short or long periods. Prices to rent furnished apartments vary according to location, size and luxury: 200-500 and 1000 in Skopje.

2. There are no shortages in heat, water and medical supplies in Former Yugoslav Republic of Macedonia.

3. People are very friendly to foreigners of any origin and religion and there is no social reaction in case that a foreigner marries a local<sup>392</sup>.

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388 Mobility guide 5.6.1.

389 Mobility guide 5.6.2.

390 Mobility guide 5.8.1

391 Mobility guide 5.8.3.

392 Mobility guide 6.1.1. and 6.1.2.

4. A foreigner can buy and register a new car, relatively cheap once he/she gets a residence permit<sup>393</sup>. Taxis are also available.

5. A foreigner is not entitled to vote or be voted in municipal or parliament elections in Former Yugoslav Republic of Macedonia.

6. There are many festivals and cultural events organized both by state and municipalities as well as operas, museums etc., sports events in Former Yugoslav Republic of Macedonia<sup>394</sup>.

In the present state of relations with the EU, there seem to be no obstacles to mobility of researchers.

### **3. MORE ISSUES REGARDING THE RESEARCHERS**

#### **3.1. Career issues**

1. In all WBCs researchers are not civil servants and the Code of Civil Servants does not apply to them. Therefore researchers can work in private companies or exercise the profession of engineer and at the same time work in a university or research institution. There are not any incompatibilities except if the contract provides otherwise<sup>395</sup>.

2. There is not a supreme body or association overseeing the conduct of researchers besides the ministry of Science<sup>396</sup>.

3. The selection process depends on the type of institution<sup>397</sup>. Sometimes a probation period is necessary but it is not the rule.

4. There is the possibility to appeal against the selection process only if the research institution is public<sup>398</sup>.

5. Public institutions have to announce in newspapers the vacant position and follow a selection procedure while private institutions do not. In Former Yugoslav Republic of Macedonia, in case of an emergency need, a contract may be concluded without any publication in the press but only for 30 days and with the assistance of the Employment Agency<sup>399</sup>.

6. The selection process is different from the one for civil servants and is regulated by a different law<sup>400</sup>.

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393 Mobility guide 6.1.4.

394 Mobility guide 6.3.1 – 6.3.3.

395 Mobility guide 7.1.1, 7.1.2, 7.1.3.

396 Mobility guide 7.1.4.

397 Mobility guide 7.2.2.3.

398 Mobility guide 7.2.2.3.

399 Mobility guide 7.2.2.6.

400 7.2.2.2.

7. Multiple careers are possible for researchers who want to work in their home institution as well as abroad if the contract of work does not prohibit so<sup>401</sup>.

8. Whether a researcher has a permanent or temporary job depends on the contract. In Former Yugoslav Republic of Macedonia the researcher has permanent job in most cases <sup>402</sup>.

9. There are no facilitation measures or quota system to assist women become researchers<sup>403</sup>.

10. Salaries and extra fees depend on the contract and on the grade of the researcher<sup>404</sup>.

11. Public research organizations have established procedures and committees for the evaluation of the progress of the institution and each researcher<sup>405</sup>.

12. There is no Code of Conduct of Research<sup>406</sup>.

13. Vacancies in research jobs in Former Yugoslav Republic of Macedonia are published in newspapers and sometimes on the internet also<sup>407</sup>.

14. Databases of research institutions and researchers do not exist<sup>408</sup>.

#### **It is recommended that more**

- 1. Vacancies are also published on the internet**
- 2. Create databases of research institutions and researchers in continuation of the Web-mob Project.**
- 3. Establish a uniform Code of Conduct of Research in alignment with European Standards**
- 4. Adopt facilitation measures for women researchers**

### **3.2. Inward and outward mobility**

- There are no specific provisions for inviting researchers from abroad. In practice there are invitations to foreigners from time to time if there is money to cover the costs<sup>409</sup>. In Former Yugoslav Republic of Macedonia scholarships are granted by the Ministry of Education for postgraduate studies abroad by means of open

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401 7.2.1.2.

402 Mobility guide 7.2.2.4.

403 Mobility guide 7.2.2.5.

404 Mobility guide 7.2.3.1.

405 Mobility guide 7.2.4.1.

406 Mobility guide 7.4.1.

407 Mobility guide 7.2.2.1.

408 Mobility guide 8.1.1.

409 Mobility guide 7.2.2.1.

competition for a certain time period only and only **if there are no postgraduate studies** in Former Yugoslav Republic of Macedonia for the specific field<sup>410</sup>.

- There are bilateral agreements that provide for exchange programmes between faculties and between Ministries<sup>411</sup>
- 6. Foreign publications are considered necessary for a researcher/academic career in all WBCs<sup>412</sup>.

Obstacles to incoming mobility are considered to be, according to the experience of host institutions<sup>413</sup>:

- Procedure to get work permit and residence permit lasts too long and is too much paperwork
- Recognition of foreign diplomas
- Undeveloped health and social security system for foreign researchers and uncertain information
- Low salaries for researchers
- There seem to be no adequate funds for scientific research<sup>414</sup>

Obstacles for outgoing mobility are considered to be:

- Visa requirements needed for most countries<sup>415</sup>.
- Researchers that go abroad for research purposes do not lose their position or seniority in home institution<sup>416</sup>.

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410 Mobility guide 7.2.1.3.

411 Mobility guide 7.2.1.4.

412 Mobility guide 7.2.1.5.

413 Mobility guide 7.2.1.6.

414 Mobility guide 7.3.1.

415 Mobility guide 7.2.1.6.

416 Mobility guide 7.2.1.7.

ANNEX I – Legislation for a visa

<http://www.mfa.gov.mk//Upload/ContentManagement/Files/MFA-VisaRegime.doc>

**4\*** Visa isn't necessary for diplomatic and official passports and "business" clause bilaterally (also for regular Chinese official use passport).

**5\* For issuing entry visa for the Republic of Macedonia for citizens of these countries an approval from the Ministry of Interior is needed, except for the barriers of the diplomatic and official passports from R.Moldova and diplomatic and official passports and ,passports for public affairs, from P.R. of China.**

**6\*** Visa is not necessary for holders of Macedonian diplomatic and service passports.

**7\*** Holders of passports issued by Diplomatic Consular Missions of one of the countries an exit visa is required issued by the competent organs of the country. In this case as well as case of obligatory visa (Article 12 of the Law on aliens and stay longer than 60 days) tax is not charged. No tax is charged for the approval for stay.

**8\*** These countries are not charged tax for issuing visas for entry into the Republic of Macedonia.

**9\* Holders of diplomatic, official and special passports of both countries, members of the Diplomatic Consular missions or international organizations, visa is not required during the length of their office, while if they are not holders of such function they may enter and exit without a visa up to 90 days if they are not involved in any business activities. The citizens of both countries with approved stays are not required a visa to exit and return to the country of stay.**

**10\*** On basis of the bilateral Agreement (exchange of notes), for the citizens of Romania and the Republic of Macedonia only unlimited visas with duration of 6 months are issued, with the right of stay of 90 days at the most.

The Diplomatic, Consular missions of the two countries abroad, for the citizens of Romania and the Republic of Macedonia, also issue unlimited visas with the duration of 1 year for the following categories of citizens:

- a). Economic agents with frequent business trips between the countries;
- b). Drivers of transportation vehicles working in international forwarding;
- c). Members of air transport teams;
- d). Employees of railway transport teams;
- e). Students and pupils enrolled in regular studies;
- f). Journalists travelling on official business.

**11\* On basis of the bilateral Agreement, for citizens of the Republic of Albania and the Republic of Macedonia Single entry visas or transit and group passport visas are issued at the border crossings between the two countries.**

**12 \*** In issuing visas by Diplomatic and Consular Missions for stay longer than 60 days and visas for employment, education, and other activities, the consular tax shall

not be charged (for the Republic of Macedonia, these are cases from Article 12 of the Law on Movement and Stay of Aliens).

Nationals of both countries, that are granted temporary and permanent stay, may exit and return in the country of stay, without visas, provided that their absence is not longer than 90 days."

**13\*** For entry in the Republic of Macedonia of the citizens of these countries applicable is the Treaty mentioned in 3\*

**14\*** For entry of the citizens of the Republic of Macedonia in Singapore with tourist purpose and stay up to 14 days, there is no visa requirement. For stay with other purpose, there is visa-obligation.

**15\*** For entry of the citizens of the Republic of Macedonia in Hong Kong with tourist purpose and stay up to 15 days, there is no visa requirement. For stay with other purpose, there is visa-obligation.

**16\*** Visa for short stay up to 90 days for the citizens of the R.Macadonia is issued free of charge for the following countries:

- Republic of Estonia
- State of Israel
- Republic of Poland (only in the Embassy of Poland in Skopje)
- Slovak Republic
- Czech Republic
- Republic of Latvia

**17\*** On basis of the bilateral Agreement with **Argentina**, there is no visa requirement for the holders of ordinary passports of both countries solely for the purpose of tourism and maximum stay of 3 months. For other purposes of traveling and for the holders of diplomatic and official passports, there is visa-obligation.

**18\*** For entry of the citizens of the Republic of Macedonia holders of ordinary passports in Kenya with tourist purpose and stay up to 3 months, there is no visa requirement. For stay with other purpose and for holders of diplomatic and officials passports, there is visa-obligation, which will be issued at the border (with official note).

**19\*** Visas for the citizens of the Republic of Macedonia can be issued at the border crossings.

**20\*** Macedonian citizens will not need a transit visa (stay not exceeding 5 days) if they are in possession of one of the following valid documents:

- Short-term uniform Schengen visa (type B or C).
- Type B or C visa issued by a new EU member state.
- Long-stay visa (type D) issued by an EU member state, Iceland or Norway
- residence permit issued by an EU member state, Iceland, Norway, Switzerland or Lichtenstein

It is important to note that visas issued by the United Kingdom and Ireland are not subject to these EU decision.

**21\*** Holders of special passports of Peru are not required visas.

**22\* Visa is not required for tourist purpose, for stay with other purposes (students and business, there is visa obligation).**

**Visa is required** for countries not mentioned in this overview.

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**Skopje, 29 August 2007**

## ANNEX II: LEGISLATION FOR ENTRY AND EMPLOYMENT OF FOREIGNERS

**2007-05-28** MKD-2007-L-76737  
**Macedonia, The Former Yugoslav Republic of**  
**Migrant workers**  
**Act of 28 May 2007 on employment and work of aliens (Text No. 892).**  
*Sluzben Vesnik, 2007-06-05, No. 70, pp. 2-17*

Provides for a limitation of the number of aliens on the labour market, and deals with work permits and employment authorizations. Also contains provisions on seasonal workers.

**Date of entry into force:** 2007-06-13

**Repealed** **text(s):**  
1993-02-26 (MKD-1993-L-39453)  
Act of 26 February 1993 to amend the Act on conditions of establishment of labour relations with foreign citizens.

**2007-05-18** MKD-2007-L-76751  
**Macedonia, The Former Yugoslav Republic of**  
**Migrant workers**  
**Act of 18 May 2007 to amend and supplement the Act on asylum and temporary protection (Text No. 871).**  
*Sluzben Vesnik, 2007-05-31, No. 66, pp. 3-4*

**Date of entry into force:** 2008-07-01. except Sections 10, 19, 20, 21 and 22

**Amended** **text(s):**  
2003-07-16 (MKD-2003-L-64466)  
Act of 16 July 2003 on asylum and temporary protection (Text No. 1137).

**2006-03-14** MKD-2006-L-73329  
**Macedonia, The Former Yugoslav Republic of**  
**Migrant workers**  
**Aliens Act of 14 March 2006 (Text No. 397).**  
*Sluzhben Vesnik, 2006-03-23, No. 35, pp. 2-25*

Provides for conditions of entry of aliens in the Republic of Macedonia, their rights, visas and permits (Section 58 concerns work permits).

**Date of entry into force:** 2006-03-31

**2003-07-16** MKD-2003-L-64466  
**Macedonia, The Former Yugoslav Republic of**  
**Migrant workers**  
**Act of 16 July 2003 on asylum and temporary protection (Text No. 1137).**  
*Sluzhben Vesnik, 2003-07-25, No. 49, pp. 1-8*

Provides for conditions and procedure for a refugee to obtain the right to asylum  
or protection.

**Date of entry into force:** 2003-08-02

**Amending** **text(s):**  
2007-05-18 (MKD-2007-L-76751)  
Act of 18 May 2007 to amend and supplement the Act on asylum and temporary  
protection (Text No. 871).

**1993-02-26** MKD-1993-L-39453  
**Macedonia, The Former Yugoslav Republic of**  
**Migrant workers**  
**Act of 26 February 1993 to amend the Act on conditions of establishment of**  
**labour relations with foreign citizens.**  
*Sluzhben Vesnik, 1993-03-04, No. 12, p. 247*

**Date of entry into force:** 1993-03-11

**Repealing** **text(s):**  
2007-05-28 (MKD-2007-L-76737)  
Act of 28 May 2007 on employment and work of aliens (Text No. 892).

**WEB-MOB**  
**Specific Support Action financed under the 6th**  
**Framework Programme for Research and**  
**Technology**

**5. MAPPING EXERCISE**  
**FOR MOBILITY POLICY AND**  
**OBSTACLES TO MOBILITY OF RESEARCHERS**  
**IN SERBIA**

**PREPARED BY CERTH**  
**Dr. Despina Anagnostopoulou, Lecturer on EU**  
**Policies and Institutions in the University of**  
**Macedonia, Thessaloniki, Greece.**

**Deliverable D2.1.**

2007

# THESSALONIKI

## **1. Introduction**

### **1.1. Aim and method**

The WEB-MOB project (a Specific Support Action financed by the European Commission under the 6th Framework Programme) started operating in September 2005, with the objective of developing guidelines related to issues of policy on researchers' mobility in the region of Western Balkans.

Taking into consideration the importance placed by the European Commission on issues of incoming and internal mobility in the Western Balkans region, WEB-MOB's main objective was to attract to the region researchers :

9. From other regions (inter-regional mobility) or
10. From other countries (intra-regional mobility) – geographical mobility –,
11. Between industry and academia (intersectorial mobility) and
12. Intra-national mobility in the Western Balkan partner countries in order to raise regional cooperation and prevent brain drain in the region.

During the lifetime of the WEB-MOB project, the partners have identified existing obstacles to incoming mobility in every country, and which in many cases had not been identified by administrations in charge of research. More specifically, mobility guidelines were developed so as to be useful to national governments for the formulation of common policies in terms of enhancing researchers' mobility and eliminating mobility barriers in the region. The mobility guidelines include recommendations for measures and policies needed to improve national legislation and national research strategies.

Furthermore, the most important dissemination tool to be developed has been the WEB-MOB portal ([www.web-mob.eu](http://www.web-mob.eu)). The portal is a single-access point which provides visitors with the opportunity to exchange useful information about problems in the area of mobility of researchers, provide information on research organisations and universities and news related to the WEB-MOB project implementation.

Even though the project has just been completed (October 31, 2007), the impact already seems to be not only on a national, but also on a European level, since WEB-MOB project has contributed to national and EU actions related to the mobility and career development of researchers. Another important impact of the project has been the valuable experience on mobility policy issues gained by partners from the Western Balkan countries leading to the establishment of national ERA-MORE Networks (the Serbian national network and the Croatian one). Finally, synergies with European research organisations, universities and Mobility Centres have been encouraged and have influenced the visibility of researchers, universities and research organisations active in R&D in the Western Balkans region<sup>417</sup>.

In the questionnaire, which was the basis of the national mobility guides and policy guidelines, the aim was to reflect all mobility obstacles that a researcher from any nationality faces in the WBCs<sup>418</sup>.

In the mapping exercise and the policy guidelines the aims are to:

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<sup>417</sup> Dimitrios Sanopoulos, The WEB-MOB project: Development of researchers' mobility policy guidelines for the region of Western Balkans, <http://see-science.eu/users/2512.html>.

<sup>418</sup> "WBC" means "Western Balkan Country". Montenegro is not part of this project because it achieved independence in June 2006 after the launch of the project in September 2005.

1) Reflect the mobility obstacles that exist in each WBC for:  
EU or EEA researchers (EU – WBC mobility)  
WBC researchers (inter WBC mobility).

2) Suggest legislation or policy modifications in two stages (not all at once) according to the political, economic and social background of each WBC. Indeed each WBC faces different problems in immigration inflows and outflows and has different international engagements with the EU in the framework of SAPs or accession processes.

The first stage is an easy one and it applies for a transitional period of one or two years. It is to:

- Find whether there is preferential treatment on any WBC nationality and apply the so called **Most Favoured Nation** (MFN) rule of the World Trade Organisation (WTO) applied by analogy (e.g. Albania's visa facilitation for Former Yugoslav Republic of Macedonia's nationals to be extended to all WBC nationals).
- Make **slight** modifications in the existing legislation or policy that will greatly improve mobility while respecting the legislative choices of the WBCs, after a cost benefit analysis.

The second stage is to align the WBC legislation to the free circulation rules that EU applies for third country researchers. Indeed Directive 2005/71/EC could serve as a model. In this way the general principle of reciprocity between WBC and EC will be respected in 3-4 years.

In this way the policy guidelines follow the example of European Partnerships where the priorities listed have been selected on the basis that it is realistic to expect that they can be completed or taken substantially forward over the next few years. A distinction is made between short-term priorities, which are expected to be accomplished within one to two years, and medium-term priorities, which are expected to be accomplished within three to four years<sup>419</sup>.

Thus the policy guidelines are drafted according to the method of neofunctionism in a realistic context, which was mostly used for the success of the European integration up to date.

## 1.2. External Relations of Serbia

Serbia participates in the Council of Europe, the Black Sea Cooperation Council, the Stability Pact and South East Europe Cooperation Process (SEEC) and the new Regional Cooperation Council (RCC)<sup>420</sup>.

Serbia participated actively and constructively in the negotiations on the amended Central European Free Trade Agreement (CEFTA) and ratified the agreement in

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419 COM 669, annex I, 3. Priorities, p. 6

420 Serbia 2007 Progress Report, **Enlargement Strategy and Main Challenges 2007-2008**, COM(2007) 663 final, Brussels, 6.11.2007, SEC(2007) 1435 in [http://ec.europa.eu/enlargement/pdf/key\\_documents/2007/nov/serbia\\_progress\\_reports\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2007/nov/serbia_progress_reports_en.pdf).

September 2007. However, Serbia needs to show a more constructive approach towards the participation of Kosovo under UNSCR 1244 in regional cooperation and other fora<sup>421</sup>.

According to the Serbia Progress Report prepared by the European Commission in 2007, Serbia continues to have generally good **bilateral relations with other enlargement countries and neighbouring member states**.

Relations with *Montenegro* are good. Since Montenegro's independence, several agreements were signed, including an **Agreement on Social Security** and an Agreement Entrusting Serbia with the Protection of Interests of Montenegrin Citizens abroad<sup>422</sup>.

Relations with *Croatia* are good in general. **The provisional visa-free regime** remains in force but the two countries have **not yet signed a border agreement**. The Croatian State Prosecutor and the Serbian War Crimes Prosecutor signed an agreement on cooperation on war crimes prosecution. However, Croatia continues to pursue its case for genocide against Serbia before the International Court of Justice (ICJ). There are still a number of outstanding issues regarding property and refugee return<sup>423</sup>.

**Relations with Bosnia and Herzegovina were affected by the International Court of Justice (ICJ) ruling in February 2007. The ICJ, in its case of Bosnia and Herzegovina versus Serbia and Montenegro**, found that acts of genocide had been committed in Srebrenica<sup>424</sup>. A Serbian Consulate was opened in Banja Luka in May 2007. In July 2007, Serbia ratified an Agreement with the Republika Srpska on Special Parallel Relations. **There is not yet a border agreement between Serbia and Bosnia and Herzegovina**. There are also some outstanding issues related to trade and property.

Serbia continues to have good relations with the *Former Yugoslav Republic of Macedonia*, with high level visits taking place. A bilateral agreement on protection of national minorities entered into force. There are some unresolved issues between the Serbian and Former Yugoslav Republic of Macedonia<sup>425</sup> Orthodox Churches but these did not have an adverse impact on overall relations between the two countries.

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421 The Serbian President, together with his **Croatian, Bosnian** and Montenegrin counterparts, signed a Joint Statement, initiated by NGOs and municipalities from all respective countries, providing a political commitment towards promotion of good neighbourly relations, reconciliation and refugee return.

422 [http://ec.europa.eu/enlargement/pdf/key\\_documents/2007/nov/serbia\\_progress\\_reports\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2007/nov/serbia_progress_reports_en.pdf).

423 [http://ec.europa.eu/enlargement/pdf/key\\_documents/2007/nov/serbia\\_progress\\_reports\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2007/nov/serbia_progress_reports_en.pdf).

424 The Court ruled that Serbia had not committed genocide in violation of its obligations under the relevant convention. However, the Court found that Serbia had failed to take all measures necessary to prevent the Srebrenica genocide and to bring the perpetrators to justice.

425 [http://ec.europa.eu/enlargement/pdf/key\\_documents/2007/nov/serbia\\_progress\\_reports\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2007/nov/serbia_progress_reports_en.pdf).

Relations with *Albania* have remained positive and stable. The Serbian authorities have rejected Albania's position in favour of Kosovo's independence, but this has not adversely affected bilateral relations<sup>426</sup>.

Serbia continues to have good relations with *Slovenia*, *Hungary*, *Bulgaria* and *Romania*. After their accession to the EU, Bulgaria and Romania introduced preferential visa regimes for Serbian citizens, involving a lighter procedure and visa waivers.

### 1.3. Relations between the EU and Serbia

Serbia is participating in the **Stabilisation and Association Process** (SAP). The Thessaloniki European Council of 19 and 20 June 2003 endorsed the "Thessaloniki Agenda for the Western Balkans", which introduced the partnerships as a means of realizing the European perspective of the Western Balkan countries<sup>427</sup>.

The Council adopted on 14 June 2004 a first European Partnership with Serbia and Montenegro including Kosovo as defined by the United Nations Security Council Resolution 1244 of 10 June 1999 [2] (referred to as "Kosovo (UNSCR 1244)"). The first European Partnership was updated in 2006 in order to identify renewed priorities for further work on the basis of the findings of 2005 Progress Reports on preparations made by Serbia and Montenegro and Kosovo (UNSCR 1244) for further integration with the European Union<sup>428</sup>.

Serbia and Montenegro has made progress towards a closer relationship with the EU through the adoption of a Constitutional Charter and an internal market and trade action plan<sup>429</sup>. The negotiations with the State Union and the two constituent Republics were launched in October 2005<sup>430</sup>. Negotiations were called off by the Commission in May 2006 due to the failure of Serbia to meet its commitments on cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY). Montenegro achieved independence in June 2006 after a referendum held in a free and fair manner under conditions agreed with the European Union. Following independence, Montenegro has begun negotiations on a separate Stabilisation and Association Agreement (SAA), under new directives by the Council<sup>431</sup>. Montenegro is not part of the WEB-MOB project which was launched before the independence of Montenegro from Serbia.

In February 2007, following parliamentary elections in Serbia, the Council welcomed the Commission's readiness to resume negotiations on the SAA with a new government in Belgrade, provided that it took concrete and effective action for full cooperation with the ICTY. Following a period of political uncertainty, a coalition government was formed in May 2007 and soon after met the conditions set by the Council. Following Council conclusions in June 2007 welcoming the commitments

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426 [http://ec.europa.eu/enlargement/pdf/key\\_documents/2007/nov/serbia\\_progress\\_reports\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2007/nov/serbia_progress_reports_en.pdf).

427 COM(2007) 660 final, preamble of draft decision.

428 COM(2007) 660 final, preamble of draft decision.

429 COM (2004) 202 **Report from the Commission - The Stabilisation and Association process for South East Europe - Third Annual Report {COM(2004) 203, 204, 205, 206}, chapter 6, conclusions.**

430 [http://ec.europa.eu/enlargement/serbia/eu\\_serbia\\_relations\\_en.htm](http://ec.europa.eu/enlargement/serbia/eu_serbia_relations_en.htm)

431 [http://ec.europa.eu/enlargement/pdf/key\\_documents/2006/nov/com\\_649strategy\\_paper\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2006/nov/com_649strategy_paper_en.pdf).

and actions taken by the new government, the Commission resumed SAA negotiations. An official negotiating round took place in June 2007. Negotiations were finalised in September 2007<sup>432</sup>.

**The European Union and Serbia initialed a Stabilisation and Association agreement**<sup>433</sup> on November 7, 2007 in Brussels, which foresees mutual rights and obligations and the framework for the reforms Serbia needs to implement with the aim of moving closer to the EU<sup>434</sup>.

Among the short term priorities of the updated European Partnership are:

- Develop a **State Union-level approach on integrated border management** and ensure consistent implementation at the level of the Republics in line with the relevant Memorandum of Understanding.
- Take concrete steps to implement best practices concerning **border police; proceed without delay with the demilitarisation of border control** in coordination with the State Union authorities.
- Further strengthen the protection of **intellectual property** rights by adopting the remaining laws and by-laws. Ensure penal provisions and strengthen implementation and enforcement capacity in this field, notably in border services.

Among its medium term priorities are:

- Further liberalise **short- and medium-term capital movements**, in both Republics.
- Ensure continued approximation of Serbian and Montenegrin **customs and taxation legislation** to the acquis, and further increase the administrative capacity to implement customs legislation, and to fight against corruption, cross-border crime and fiscal evasion.
- Improve transparency and the exchange of information with EU Member States in order to facilitate the enforcement of measures preventing the avoidance or evasion of taxes.
- Implement the **European Charter for SMEs**

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432 2007 Serbia Progress Report, p.5.

433 Brussels, 6.11.2007, COM(2007) 660 final, Proposal for a COUNCIL DECISION on the principles, priorities and conditions contained in the European Partnership with Serbia including Kosovo as defined by United Nations Security Council Resolution 1244 of 10 June 1999 and repealing Decision 2006/56/EC.

434 [http://ec.europa.eu/enlargement/index\\_en.htm](http://ec.europa.eu/enlargement/index_en.htm).

- Develop the technical infrastructure and human resource capacities to implement the **integrated border management** policy including strengthening the border police and the customs services.
- Improve cross-border facilitations through new border posts. Enhance the cooperation between the Republics' agencies responsible for fighting human trafficking.

#### 1.4. Progress of Serbia towards the *acquis communautaire*

According to the Serbia Progress Report 2007 in the issues relating directly or indirectly with the mobility of researchers, there were the following developments:

##### Concerning free movement:

- In the area of free **movement of persons** Serbia signed a social security agreement with Montenegro in December 2006<sup>435</sup>.
- With regard to the **right of establishment and company law** there is a simplified and rapid registration process, which has resulted in an increase in the establishment of new companies.<sup>436</sup>
- Amended provisions on **urban land ownership** in the new constitution start to liberalise real estate market however further efforts are needed to pave the way for establishing **national treatment in the purchase of real estate** <sup>437</sup>.
- Law on foreign exchange operations liberalise capital transactions.
  - o Residents, legal entities, entrepreneurs and individuals can now invest in **foreign equity as well as long-term securities** issued in OECD countries.
- Further efforts are needed to pave the way for establishing national treatment in the purchase of real estate, free movement of short-term credits and portfolio investments<sup>438</sup>.

##### Concerning **education**<sup>439</sup>,

- The process of reform in line with the Bologna declaration requirements has started.
- The development and adoption of a **national qualification framework for VET** has not advanced.

Concerning culture the **UNESCO Convention on cultural diversity has still to be ratified.**

##### Concerning **research**<sup>440</sup>,

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<sup>435</sup> Serbia Progress Report 2007, 4.1.2. *Movement of persons, services and right of establishment* The agreement regulated a number of issues in the social and health insurance fields, as well as student benefits, which are particularly important for a Montenegrin students studying in Serbia.

<sup>436</sup> Serbia Progress Report 2007, 4.1.2. Free movement of persons, p. 27.

<sup>437</sup> Serbia progress Report 2007, 4.1.3. *Free movement of capital.*

<sup>438</sup> Serbia Progress Report 2007, 4.1.2. p. 27.

<sup>439</sup> Serbia Progress Report 2007 4.1.9. *Education and research.*

- a new Ministry of Science, separate from the Ministry of Environmental Protection, was created in May 2007.
- **Serbia has not undertaken any action in the definition of an integrated research policy.**
- Serbia's participation in the 6th Research Framework Programme increased, and the country became associated to the 7th Research Framework Programme in June 2007.

With regard to **visa** management<sup>441</sup>,

- The visa facilitation and readmission agreements between Serbia and the European Community were signed in September 2007.
- The visa obligation for Romanian citizens has been abolished, so there is **visa free regime in force for all EU citizens.**
- The new Law on travel documents has been adopted. Serbia continued to provide **consular services to Montenegrin citizens** and an agreement between the two countries was signed in February 2007.
- However, the visa regime that is currently in place is not in full compliance with European standards. There has been no progress in defining a visa policy. **Legislation on foreigners is still not in place. There are safety concerns about the current travel documents,** and the delivery of new biometrical passports and identity cards has been postponed to early 2008.
- Visa-issuing authorities do not have an online connection with the Foreign Ministry and they are not properly equipped and trained to detect falsified documents.
- Border crossing points are in some cases better equipped than consular representations, but they may issue visas only in exceptional cases.
- **A visa database is maintained by the Ministry of the Interior,** but there is no online access for the visa issuing authorities. Cooperation between relevant agencies in the area of integrated border management does not follow formalised procedures.
- The action plan for implementing the **national integrated border management strategy from January 2006** was further elaborated through the adoption of the strategies for joint training of all border services, development of infrastructure, equipment and IT systems and sector strategies.
- The new organisation of border police is in place. The border police directorate is responsible for the protection of the state border and for border crossing control. Regular contacts and improved cooperation between the competent border agencies on local, regional and central level has resulted in several successful actions against cross-border crime.
- The law on State borders has not been adopted yet.
- The equipment and premises of the border police have improved, but there is still a lack of infrastructure and modern equipment at the borders.

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440 Serbia Progress Report 2007 4.1.9. *Education and research.*

441 Serbia Progress Report 2007, 4.3.1. *Visa, border, control, asylum and migration.*

- Border crossing points are not connected to the Interpol system. Conditions at a number of border crossing points, especially those newly established with Montenegro, are inadequate.

In the area of **migration**,

- A reception office for returnees at Belgrade airport has continued to operate, albeit at reduced capacity.
- **The number of denied entries fell in 2006 to 15,329.** In almost 2,400 cases, nationality was not established and no reason was given for refused entry.
- The number of illegal entries into Serbia increased by 20% compared to the previous year, reaching 1,270 in 2006. A total of 113 persons were apprehended for illegally crossing the border<sup>442</sup>.

## 2. OBSTACLES TO MOBILITY OF RESEARCHERS IN SERBIA

### 2. Visa formalities - The situation in Serbia

#### 2.1. Visa procedure

##### 2.1.1. Exemptions from visa requirements for short term stay (3 months)

Serbia allows to enter in its territory without visa the following nationals for 90 days:

- All EU and EEA nationals
- Nationals from developed countries: US, Canada, Singapore, Korea, Australia and New Zealand
- Nationals from Croatia.**

Serbia requires visa for all nationals coming from other WBC countries, though it seems that Bosnia and Herzegovina as well as Former Yugoslav Republic of Macedonia allows Serbian nationals to enter without visa for 90 days and 60 days each.

There is an indication that for nationals from:

- **Bosnia and Herzegovina there is no visa requirements if they enter Serbia for 30 days since 2003<sup>443</sup>**
- **Former Yugoslav Republic of Macedonia there is no visa requirements if they enter Montenegro for 30 days and if they enter Serbia for 60 days<sup>444</sup>.**

A researcher of foreign nationality, if not exempted from visa requirements up to 90 days, can obtain **business** visa in order to come to Serbia for a congress or seminar, or to work on a project for 3 months. If the desired visit period is longer than that, then all foreigners must apply for visa extension or temporary residence permit<sup>445</sup>.

The maximum length for the visa procedure in Serbia seems to be **30 days**, which could be accelerated once the Integrated Border Management system is in place.

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442 Serbia Progress Report 2007, 4.3.1.

443 Mobility guide for Serbia, 2.1.3.3.

444 Mobility Guide for Serbia 2.1.3.3.

445 Mobility guide, 2.1.1.2.

### 2.1.2. Serbia's specific obstacles to movement

Serbia does not present obstacles to short term mobility to EU and EEA nationals. However Serbia presents the following obstacles to movement:

First obstacle is the differentiated treatment between WBCs. This is justified because of previous external relations<sup>446</sup> but does not help Serbia be a part of the European Research Area.

Due to the fact that a SAA was just signed between EU and Serbia, it is recommended, if at the present stage is possible:

- either reciprocal agreements between Serbia with Former Yugoslav Republic of Macedonia and Albania on **researchers mobility**
- or simultaneous abolishment of visa requirements in Former Yugoslav Republic of Macedonia, Serbia and Albania for 3 months stay **only for researchers**.

Second obstacle is the visa requirements that have to be clarified and be more objective in order to increase certainty of the researcher of foreign nationality when not exempted from visa requirements or/and when visiting Serbia for more than 3 months:

- Sufficient funds in hard currency
- Return ticket
- Letter of host company
- Medical costs covered
- Interview.

Due to the fact that border systems are still very strict and were just demilitarized and due to the high rate visa or entry refusals in Serbia<sup>447</sup>, it is recommended:

In the short term and until the time that hosting agreements are accepted as only proof and research institutions are accredited, Serbia could:

- Establish for researchers a certain amount that proves when funds are sufficient e.g. 50 euros per day
- Abolish interview for researchers

In the long term Serbia could progressively abolish these requirements and establish that only researchers that hold "hosting agreements<sup>448</sup>" with accredited research institutions in EU, EEA and WBCs could be facilitated to enter Serbia.

### 2.2. Visa of longer stay

If the duration of visit is 3 months, the foreigner may prolong the visa, or ask for **temporary residence permit**. Multiple entries visa may be issued for the period of one year<sup>449</sup>.

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<sup>446</sup> See chapter 1 of the present report.

<sup>447</sup> See progress Report for Serbia 2007, 4.3.1.

<sup>448</sup> See WEB-MOB' s General policy guidelines for all WBCs on the Directive 2005/71/EC.

In order to work for a research institution in Serbia foreigner must obtain a **work and residence permit** and a business visa (if visa is required)<sup>450</sup>.

Though Serbia provides for the extension of visit of foreigner either by extension of the 90 days visa or by the issuance of temporary stay, its legislation is restrictive as regards the documents any foreigner, e.g. researcher must apply for in order to stay longer than 3 months.

It is highly recommended to abolish the work permit in reciprocity with EU and the other WBCs.

### 2.3. Formalities at the border

When entering Serbia,

- passport is needed, however the purpose of the visit is not stamped.
- Foreign currencies may be **brought into** the country freely with no restrictions in terms of amount.
- Foreigners may declare a foreign currency to the customs officer and receive **a receipt** allowing them to take it out on first leaving the country. Foreigners may **import up to RSD 120.000 (around EUR 1.500)** in 1.000 notes or in smaller denominations.
- An amount in excess of RSD 120.000 may be imported, if proved to have been **bought abroad**. A receipt from a foreign bank may serve as proof. Credit cards may be brought in freely<sup>451</sup>.
- Foreigners may bring their car (temporary import), only if :
  - they are allowed to stay for more than 3 months and
  - if the car is under 6 years old, and
  - if the car is bought at least 6 months prior importation.

If all these conditions are not applicable, then a certain percentage of taxes due are paid at the moment of declaration<sup>452</sup>.

- Foreigners may bring his/her personal belongings without payment of any taxes.
- Serbia grants the possibility of oral declaration for personal use items. Form 7 is used for “Goods temporarily imported” along with information on the traveler and description of goods sealed by the customs official who puts a stamp on the passport. In addition the researcher has to prepare a declaration of imported items to be stamped by the officer at the border.

Therefore the usual burdensome requirements apply as with movement between third countries. However restrictions on temporary import of the car is there is an unusual

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449 Mobility guide for Serbia, 2.1.2.1.

450 Mobility guide for Serbia 2.1.2.6.

451 Mobility guide for Serbia, 2.2.3. More can be found at <http://www.mfa.gov.yu/Visas/custom.htm#currency%20out>

452 Mobility Guides 2.2.4.

obstacle which may hinder mobility of researchers of the neighbouring countries. It is therefore recommended to be more flexible on the temporary import of a car that belongs to an EU, EEA and WBC researcher.

## **2.4. Family reunion**

Serbia:

- Submits the reunion of the family to the condition of sufficient resources to support the family to come.
- Requires the general conditions in order to allow the spouse to work. In general spouses and members of the family need work permits to work.

These conditions could be abolished for a researcher that holds a hosting agreement with an accredited research institution.

## **2.5. Recognition of Diplomas**

For the recognition of higher education degree each faculty at the University is responsible to compare curriculum and duration and decides for eventual additional exams<sup>453</sup>. This is made more difficult than usual because the Universities in Serbia are now under the Bologna Process.

However recognition is facilitated because of bilateral agreements signed by Serbia with other countries<sup>454</sup>. Indeed Serbia has inherited agreements of ex Yugoslavia or concluded new ones on automatic recognition of degrees from Bulgaria and Russia, Austria and Hungary at least<sup>455</sup>.

It is not clear whether there is an appeal procedure directly or indirectly foreseen against a negative decision of the responsible Ministry.

It is recommended that:

- More bilateral agreements could be signed for automatic or facilitated recognition of foreign diplomas
- More measures could be taken for the accelerated recognition of diplomas of researchers.
- An appeal procedure is specifically mentioned in the law of Higher education degrees.

## **2.6. Residence permits**

In Serbia the foreigner must apply for a residence permit as a prerequisite for work permit. Residence permit is valid usually for one year and can be extended each year only if the foreigner first prolongs his residence permit.

The competent authority for issuing the temporary residence permit is the Ministry of Interior. The time of issuance is 15 days.

Residence permit may be refused if the foreigner does not fulfil the prerequisites. In addition, he/she may be refused if :

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<sup>453</sup> Mobility guide 3.5.4.

<sup>454</sup> Mobility guide 3.5.6.

<sup>455</sup> Mobility guide 3.5.7.

- The stay has not been approved or
- There are nationals with qualifications necessary for the relevant position.

Indeed if the Employment Office has unemployed local residents on its waiting list, that have the same qualifications as the foreigner who applied for the specific job position, then **local residents have the priority in this employment process**<sup>456</sup> (except in case when a foreigner is an employers' close family member).

The residence permit may be revoked <sup>457</sup> if the foreigner's actions are infringing constitutional provisions.

Therefore, though Serbia does not impose serious obstacles for the issuance of residence permits, as it has "benign" terms for the duration, extension and accelerated procedure of residence permit, the obstacle to mobility of researchers is the possibility **that residence may be refused** because of unemployment or discretionary power of the authorities. This possibility creates uncertainty for the foreigner.

It is therefore recommended that researchers coming from EU, EEA and WBCs and holding a hosting agreement with a local research institution:

- would be exempted from the requirement that local residents have the priority in the employment process and unemployment quotas and
- would be refused residence permit only for reasons of public policy, public security and public health, strictly interpreted, as in EU.

## 2.7. Working conditions for Researchers in Serbia and in particular Foreign Researchers

According to the Progress Report in 2007 prepared by the European Commission in Serbia<sup>458</sup>:

- a new Ministry of Science, separate from the Ministry of Environmental Protection, was created in May 2007.
- **Serbia has not undertaken any action in the definition of an integrated research policy.**
- Serbia's participation in the 6th Research Framework Programme increased, and the country became associated to the 7th Research Framework Programme in June 2007.

Serbia as in all WBCs:

22. State employees must have the local citizenship<sup>459</sup>

<sup>456</sup> [http://webmob.masfak.ni.ac.yu/uploads/articles/webmob\\_serbia.doc](http://webmob.masfak.ni.ac.yu/uploads/articles/webmob_serbia.doc).

<sup>457</sup> Mobility guide 5.2.9.

<sup>458</sup> Serbia Progress Report 2007 4.1.9. *Education and research*.

<sup>459</sup> Mobility Guides 4.1.8.

23. Though the majority of the researchers could have been state employees employed in university and in research institutes, their position is regulated by the usual Labour law (on overtime, holidays, maternity), the Law on Science and the Statute of each organization they are employed. Any Code for Civil Servants does not apply. If they are foreigners, the Law on Employment of Foreign Nationals applies<sup>460</sup>.
24. There seems to be no other facial (direct) discrimination in terms of work especially since the Constitution or labour law forbids it<sup>461</sup>.
25. There are no specific labour agreements for researchers – the usual ones that apply for all workers apply to them if they have a contract of work (no fellowship or other contracts)<sup>462</sup>.
26. The researchers must obtain a **work permit** in order to be able to invoke labour market agreements<sup>463</sup>.
27. The researchers conclude a work contract in a written form.
28. **There is no uniform definition of the concept of “researchers”**. Other people are considered as researchers e.g. scientists with academic degrees and persons with research degrees<sup>464</sup>.
29. There are five levels in a researcher’s career in Serbia<sup>465</sup>.
30. Independent personal (project) research activities are charged with a special tax of 17.5% <sup>466</sup>.
31. Researchers, even if they are foreigners, seem to be able to participate in professional Associations or Unions either new or existing ones (e.g. Medical Societies, Bar Associations)<sup>467</sup>, there is not however any association for researchers.
32. In case that a researcher discovers know-how or an invention in the framework of a project launched by the host institution<sup>468</sup> the host institution is its owner unless the contract states otherwise while the inventor has a right to compensation and the right to appeal in case the compensation is not adequate (art. 108-119 of Patent Law).
33. Innovation policy in Serbia is promoted by<sup>469</sup> Technology parks and Regional Innovation Centres.

The following could be considered as obstacles to the mobility of researchers in Serbia:

- It is not clear whether researchers must have the nationality of Serbia in order to be employed in a research institution.
- There is no uniform concept of “researchers”
- Work permits are necessary in order to invoke labour agreements.

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460 Mobility Guides 4.3.3., 4.5.1., 4.6.4.

461 Mobility Guide, 4.1.9.

462 Mobility Guide 4.2.1. and 4.2.3.

463 Mobility Guide 4.2.2.

464 Mobility Guide 4.3.2.

465 Mobility Guide 4.3.2.

466 Mobility guide 5.6.3.

467 Mobility Guide 4.4.1, 4.4.3.

468 Mobility Guide 4.6.2.

469 [www.rome-interreg.net/index.php?em\\_cat](http://www.rome-interreg.net/index.php?em_cat), Mobility Guide 4.6.3.

- The Inventor does not have an Industrial or Intellectual Property right on its invention, though he/she has a right of compensation

It is recommended that:

- a general clause of non discrimination could be inserted for the employment of researchers coming from EU, EEA and WBCs.
- A uniform concept of “researchers” could be established in line with Directive 2005/71/EC .
- The Inventor could have a percentage of an Industrial or Intellectual Property right on its invention, in common with the host institution as an incentive for innovation.

## 2.8. Social insurance matters

1. All social insurance systems in Serbia are public<sup>470</sup>.
2. Affiliation to the host state security system is required in order to work as a researcher and is done automatically by the host institution – employer as soon as the work contract is signed.
3. There is no special social security fund for researchers in Serbia.
4. There are both public hospitals and private clinics in Serbia<sup>471</sup>. **It is not necessary for a foreigner to have a residence or a work permit to order to get medical care in Serbia.** Foreigner would need to pay higher fee in order to get treatment in a public hospital.
5. Retirement age in Serbia varies among countries and among sexes. The usual age is 65 for men and 60 for women. Required years of work for men is 40 for women is 35.
6. Serbia has concluded bilateral agreements for aggregation of periods of social insurance with
  - 8 at least EU member States (France, Austria, Sweden, Denmark, Germany, Luxemburg<sup>472</sup>, Czeck republic, Bulgaria etc<sup>473</sup>).
  - 3 WBCs (Bosnia and Herzegovina<sup>474</sup>, Croatia<sup>475</sup>, Former Yugoslav Republic of Macedonia<sup>476</sup>),

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<sup>470</sup> **Statutes of the Federal Institute for Pension and Disability Insurance of 14 May 2002.** *Sluzbene Novine*, 2003-08-05, No. 38, pp. 2109-2112

<sup>471</sup> Mobility guide, 5.4.1. and 5.4.2.

<sup>472</sup> See webpage of Natlex from ILO.

<sup>473</sup> See Mobility guide, 5.4.4

<sup>474</sup> **Agreement between the Republic of Yugoslavia and Bosnia and Herzegovina on social insurance. Done at Belgrade on 29 October 2002.** *Sluzbeni List (International Agreements)*, 2003-10-10, No. 7, pp. 3-9

<sup>475</sup> **Agreement between the Federal Republic of Yugoslavia and the Republic of Croatia on social insurance. Done at Belgrade on 15 September 1997.** *Sluzhbeni List (International Agreements)*, 2001-05-11, No. 1, pp. 10-15  
*Narodne Novine (International Agreements)*, 2001-12-27, No. 14, pp. 1141-1148

- Turkey<sup>477</sup>, Switzerland etc.

In addition Serbia has concluded a social security agreement with Montenegro in December 2006<sup>478</sup>.

## 2.9. Living conditions

1. It is easy to rent an apartment through Real Estate Agencies, newspapers etc. for short or long periods. It costs 200-500 in Belgrade.
2. A foreigner can buy and register a new car, once he/she gets a residence permit<sup>479</sup>. Taxis and metro services are also available<sup>480</sup>.
3. There are already some bilateral agreements for the avoidance of double taxation e.g. with Bosnia and Herzegovina and Former Yugoslav Republic of Macedonia<sup>481</sup>.

## 2.10. More Career issues for researchers

1. Vacancies in Researchers jobs in Serbia are published both in newspapers and on the internet<sup>482</sup>.
2. The selection process depends on the type of institution<sup>483</sup>. It may include
  - Only Interview
  - Probation period
3. The need for a probation period depends on the specific research or academic organization<sup>484</sup>. In some cases this is necessary but it is not the rule.
4. The selection process has resemblances with the one for civil servants<sup>485</sup>.

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**476 Agreement between the Federal Republic of Yugoslavia and Former Yugoslav Republic of Macedonia on social insurance. Done at Belgrade on 29 December 2000.**

*Sluzhbeni List (International agreements), 2001-05-11, No. 1, pp. 3-9*  
*Sluzhben Vesnik, 2002-02-18, No. 13, pp. 706-725*

**477 Agreement between Serbia and Montenegro and the Republic of Turkey on social insurance. Done at Belgrade on 12 October 2005.** *Sluzhbeni List (International Agreements), 2006-05-12, No. 4, pp. 15-25.*

**478 Serbia Progress Report 2007, 4.1.2. Movement of persons, services and right of establishment** The agreement regulated a number of issues in the social and health insurance fields, as well as student benefits, which are particularly important for a Montenegrin students studying in Serbia.

**479** Mobility guide 6.1.4.

**480** Mobility guide 6.3.4. , 6.3.5.

**481** Mobility guide 5.6.5.

**482** Mobility guide 7.2.2.1.

**483** Mobility guide 7.2.2.3.

**484** Mobility guide 7.2.1.1.

**485** Mobility guide 7.2.2.2.

5. The most important obstacles for ingoing mobility are considered to be by the drafters of the mobility guide:

- Low salaries for researchers
- Outdated knowledge level
- Procedure to get work permit and residence permit lasts too long and is too much paperwork
- Recognition of foreign diplomas and ongoing reform of education system creates problems.

