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

POLICY GUIDELINES TO OBSTACLES TO MOBILITY OF
RESEARCHERS IN THE WESTERN BALKANS

PREPARED BY CERTH
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University of Macedonia, Thessaloniki, Greece.

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2007
THESSALONIKI

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**1. POLICY GUIDELINES TO OBSTACLES TO MOBILITY OF
RESEARCHERS IN ALBANIA**

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EXECUTIVE SUMMARY: Policy recommendations for Albania

1. Establish a consular network in EU, EEA and WBC either through cooperation with other countries or **through designation of honorary consuls** or establishment of consular offices in order to facilitate foreigners obtain a visa.
2. Designate approved research institutions and accept the list of such institutions from other WBCs.
3. Approve legislation according to which researchers from WBCs holding a hosting agreement with an approved institution
 - do not need a visa up to 3 months.
 - do not need to prove sufficient means or to conduct interview for a stay of more than 3 months
4. As a first step clarify the existing 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”.
5. **As a second step exempt all** researchers from all WBCs from visa requirements for 3 months stay as nationals from Serbia and Croatia are and establish the scientific visa for a stay of more than 3 months as EU has done with Directive 2005/71/EC.
6. Establish reception points at research institutions that will finish all paperwork with the authorities and assist researchers finding accomodation.
7. It is recommended that the legislation of Albania
 - adopts a wider concept of children
 - does not subject the right to family reunion to the proof of “sufficient resources” of the foreigner in case of a researcher with a hosting agreement
 - provides:
 - as a first step for the possibility of the spouses of researchers to work even though there are nationals unemployed.
 - 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.
8. The law could be amended to 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.
 - as a first step automatically granted a work permit and as a second step be exempted from work permits.
9. 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 gradually aligned with the Directive 2005/71/EC.

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

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

12. Researchers could be given either a part of industrial property rights (50-50 or 60-40) or adequate compensation when inventing in Albania.

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). 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 region¹.

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 WBCs².

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 years³.

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.

As it is stated by the International Organisation of Migration:

“It has been the purpose of this report to identify the legislative and institutional practices concerning immigration into Albania, and in particular to ascertain to what extent the legal and institutional framework in place meet EU immigration standards⁴. The requirements of the current EU acquis are the required **benchmark for future accession** to the European Union. The areas in which **particular significant improvement** is required have been highlighted in the previous section, and

³ COM 669, annex I, 3. Priorities, p. 6.

⁴ http://www.old.iom.int/en/PDF_Files/tcm/Albania_GAP.pdf, p. 93

recommendations have also been given **as how to improve these shortcomings**⁵. The timeframe in which these issues should be addressed should be dealt with within the framework of the development of the **National Strategy** so that the involvement of all the necessary relevant institutional partners can be ensured and as such goes beyond the scope of this report⁶.

Nevertheless, **as it has also been stressed that as of yet Albania is not currently a Candidate country for European Union accession, and as such caution should be taken in committing Albania to full adoption of the acquis without an implementable timetable**. Furthermore, **gradual adoption of the acquis** should be undertaken in conjunction with the relevant administrative and institutional capacity⁷. Finally, due to the **evolving nature** of immigration legislation in Albania, but also due to the evolving nature of the EU acquis, **the current analysis in the sphere of immigration law should not be considered as final or complete, but as a continuous process**, which needs to be developed and amended⁸. In consideration of such changes, **further analysis**, in particular in those spheres outlined within the context of this report, are necessary. Further analysis will continue beyond the publishing of this report in consideration of current developments in Albanian immigration legislation⁹.

2.2. The Model: The EC policy for facilitating movement of researchers of third countries in EU.

In October 2005, the Council of the European Union issued the Directive 2005/71/EC on a specific procedure for admitting third country nationals for the purposes of scientific research for a period longer than 3 months¹⁰ (alias “**SCIENTIFIC VISA and Residence permit**”¹¹).

The Directive lays down the conditions for the entry and work of third country researchers in the EU.

The main concept is to create a specific residence permit for foreign researchers independently from their contractual status (employee, self-employed, “stipendee”). In the new system, a non-EU researcher wishing to carry out a research project in Europe will have to sign a “**hosting agreement**” with an accredited public or private EU research organisation¹². Indeed, **the whole system of the Directive is based on a prior 5 year approval by the member States of their public or private research organizations who wish to host a researcher** (art. 5) .

5 5 http://www.old.iom.int/en/PDF_Files/tcm/Albania_GAP.pdf, p. 93

6 6 http://www.old.iom.int/en/PDF_Files/tcm/Albania_GAP.pdf, p. 93

7 7 http://www.old.iom.int/en/PDF_Files/tcm/Albania_GAP.pdf, p. 93

8 8 http://www.old.iom.int/en/PDF_Files/tcm/Albania_GAP.pdf, p. 93

9 9 http://www.old.iom.int/en/PDF_Files/tcm/Albania_GAP.pdf, p. 93

10 OJ L 289/15.

11 EUROPEAN COMMISSION, RESEARCH DIRECTORATE-GENERAL, Unit C5 - Universities and Researchers, Brussels, 07/03/07, **Subject: “Researchers’ visa” package (admission procedures of and visa facilitation for third country researchers entering the EC) in**

<http://www.abest.secyt.gov.ar/filesdownload/130.pdf>

12 EUROPEAN COMMISSION, RESEARCH DIRECTORATE-GENERAL, Unit C5 - Universities and Researchers, Brussels, 07/03/07, op.cit.

These EC research organisations may sign a hosting agreement with a third country researcher whereby the researcher undertakes to complete the research project and the organisation undertakes to host the researcher only if:

(a) the research project has been accepted by the relevant authorities in the organisation, after examination of:

(i) the purpose and duration of the research, and the availability of the necessary financial resources for it to be carried out;

(ii) the researcher's qualifications in the light of the research objectives, as evidenced by a certified copy of his/her qualification

(b) during his/her stay the researcher has sufficient monthly resources to meet his/her expenses and return travel costs in accordance with the minimum amount published for the purpose by the Member State, without having recourse to the Member State's social assistance system;

(c) during his/her stay the researcher has sickness insurance for all the risks normally covered for nationals of the Member State

(d) the hosting agreement specifies the legal relationship and working conditions of the researchers.

In this way, accredited research organisations will certify the status of the visa applicant via the hosting agreement. They will also verify the existence of a genuine research project, as well as the possession by the researcher of the necessary scientific skills, sufficient resources and health insurance¹³.

On the basis of that contract, the immigration authorities of the host country will rapidly deliver the visa and the residence permit.

The visa is issued when with an accelerated procedure when the third country researcher :

(a) presents a valid travel document, as determined by national law. Member States may require the period of the validity of the travel document to cover at least the duration of the residence permit;

(b) presents the "hosting agreement"

(c) where appropriate, presents a statement of financial responsibility issued by the research organisation and

(d) is not considered to pose a threat to public policy, public security or public health.

Member States may also check the terms upon which the hosting agreement has been based and concluded.

The residence permit is issued for a period of at least one year and may be renewed. If the research project is scheduled to last less than one year, the residence permit shall be issued for the duration of the project (art. 8). Member States shall determine whether applications for residence permits are to be made by the researcher or by the research organisation concerned. The application shall be considered and examined

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<http://216.239.59.104/search?q=cache:XZ11H0zW3JkJ:cordis.europa.eu/search/index.cfm%3F>

[fuseaction%3Dnews.simplesdocument%26N_RCN%3D28520+Researchers+visa&hl=el&ct=clnk&cd=2&gl=gr](http://216.239.59.104/search?q=fuseaction%3Dnews.simplesdocument%26N_RCN%3D28520+Researchers+visa&hl=el&ct=clnk&cd=2&gl=gr)

when the third-country national concerned is residing outside the territory of the Member States to which he/she wishes to be admitted (art. 14).

When a Member State decides to grant a residence permit to the family members of a researcher, the duration of validity of their residence permit shall be the same as that of the residence permit issued without any requirement of a minimum period of residence of the researcher (Art. 9). The Commission would have liked to see more provisions for researchers' families, as splitting families often acts as a deterrent to mobility¹⁴.

Member States may withdraw or refuse to renew a residence permit issued on the basis of this Directive when it has been fraudulently acquired or wherever it appears that the holder did not meet or no longer meets the conditions for entry and residence or is residing for purposes other than that for which he was authorised to reside or for reasons of public policy, public security or public health (art. 10).

Researchers admitted under this Directive may teach in accordance with national legislation for a maximum number of hours or of days for the activity of teaching (Art. 11).

Researchers will have equal treatment with nationals as regards (Art. 12):

- (a) recognition of diplomas, certificates and other professional qualifications in accordance with the relevant national procedures;
- (b) working conditions, including pay and dismissal;
- (c) branches of social security as defined in Council Regulation (EEC) No 1408/71 and (EC) No 859/2003
- (d) tax benefits;
- (e) access to goods and services and the supply of goods and services made available to the public.

A third-country national who has been admitted as a researcher shall be allowed to carry out part of his/her research in another Member State for less than 3 months (art. 13) on the basis of the hosting agreement concluded in the first Member State, provided that he has sufficient resources in the other Member State and is not considered as a threat to public policy, public security or public health in the second Member State.

If the researcher stays in another Member State for more than three months, Member States may require a new hosting agreement to carry out the research in that Member State.

Directive 2005/71 applies to all EU countries except the United Kingdom and Denmark. The “new Member States” will also apply the directive, apart from

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http://216.239.59.104/search?q=cache:XZ11H0zW3JkJ:cordis.europa.eu/search/index.cfm%3Ffuseaction%3Dnews.simplesdocument%26N_RCN%3D28520+Researchers+visa&hl=el&ct=clnk&cd=2&gl=gr

provisions concerning short-term mobility to other EU countries (i.e. the rules on short-term visas could be different for the new MS until their full participation in the Schengen area, which might occur after the entry into force of the directive).

October 12, 2007 was the deadline for making the 2005 Directive national law. By that date, only Austria, Belgium, Germany, Hungary, Portugal and Romania had complied fully. A further four Member States (France, Latvia, Lithuania and the Slovak Republic) had notified the Commission of partial implementation¹⁵.

In comparison to usual existing national rules, **the main added values** of the directive for third country researchers can be summarized as follows¹⁶:

- For the first time, a **common definition of “researcher” has been established in the Community Law**¹⁷.
- Researchers admitted as “employees” will no longer have to obtain work permits in the Member States and any form of “quota” fixed by the Member States will not be permitted;
- Once the hosting agreement is signed and security aspects are (rapidly) checked by immigration authorities, the researcher will have a right, legally actionable before a court to entry the Member State concerned;
- Member States are encouraged to allow researchers who are already legally resident within the country to submit applications for residence permits directly to the authorities in that Member State without returning home first (“applications in loco”), as it is often currently the case;
- The researcher could carry out part of his/her research activities in other EU countries for a period lasting less than 3 months (while today it is only possible to move, but not to work). When moving for a period of more than 3 months, the new host countries could require the signature of another hosting agreement.
- The non-discrimination principle vis-à-vis national researchers will concern *inter alia* working conditions to avoid social dumping (the foreign researcher should have comparable salary conditions as nationals), and social security.

Directive 2005/71/EC is accompanied by two Recommendations which do not impose legal obligations on Member States, being rather a political commitment to facilitate researchers in a EU country. The "**Council Recommendation 2005/762/EC of 12 October 2005 was adopted** to facilitate the admission of third-country nationals to carry out scientific research in the European Community". Pending the implementation of the directive by the Member States, the **first recommendation on long term admission** calls on Member States to anticipate to some extent directive in advance of final transposition the objectives of the directive with reference in

¹⁵ http://216.239.59.104/search?q=cache:XZ11H0zW3JkJ:cordis.europa.eu/search/index.cfm%3Ffuseaction%3Dnews.simplifiedocument%26N_RCN%3D28520+Researchers+visa&hl=el&ct=clnk&cd=2&gl=gr

¹⁶ EUROPEAN COMMISSION, RESEARCH DIRECTORATE-GENERAL, Unit C5 - Universities and Researchers, Brussels, 07/03/07, op.cit.

¹⁷ Article 2 of the directive: "Researcher" means a third-country national holding an appropriate higher education qualification, which gives access to doctoral programmes, who is selected by a research organisation for carrying out a research project for which the above qualification is normally required.

particular to the exemption/acceleration of the procedure to deliver work permits for researchers, and the easing of the procedure for the residence permit¹⁸.

The "**Recommendation 2005/761/EC** of the European Parliament and of the Council of **28 September 2005** (on short-term visas e.g. for conferences) was adopted to facilitate the issue by the Member States of uniform short-stay visas for researchers from third countries travelling within the Community for the purpose of carrying out scientific research". It differs from the directive and the other recommendation (related to long-term admission), as it **covers short-term visas** (i.e. less than three months). It aims at facilitating the delivering of uniform visas for instance to participate at conferences, seminars, etc. in the EU. It recommends the Member States to rapidly deliver to researchers short-term visa (including multiple-entry visas), for the duration of the research project they are involved in, to waive visa fees¹⁹, to adopt a harmonised approach on supporting documents to visa applications, and to reinforce the consular co-operation. This recommendation **does not apply to the UK and Ireland**; Denmark will decide within 6 months whether or not it will apply it²⁰.

Finally, in 2006, the Regulation (EC) 1931/2006 was adopted for the establishment of a local border traffic regime at the external borders of the Member States. Under this regime, residents of border regions, including along EU borders with Western Balkan countries, are authorised to cross the border with a local border traffic permit, without requiring a visa²¹ if they are not persons in respect of whom the Schengen Information System (SIS) has been alerted, and are not deemed to be a threat to public order.

They may stay in the border area stipulated in the bilateral agreement between the Member States and the neighbouring third country. The maximum duration of the stay may not exceed three months in any half-year period.

18 EUROPEAN COMMISSION, RESEARCH DIRECTORATE-GENERAL, Unit C5 - Universities and Researchers, Brussels, 07/03/07, **Subject: "Researchers' visa" package (admission procedures of and visa facilitation for third country researchers entering the EC) in**

<http://www.abest.secyt.gov.ar/filesdownload/130.pdf>

19 Communication from the Commission - The Western Balkans on the road to the EU: consolidating stability and raising prosperity, COM/2006/0027 final, http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&lg=en&type_doc=COMfinal&an_doc=2006&nu_doc=27

20 EUROPEAN COMMISSION, RESEARCH DIRECTORATE-GENERAL, Unit C5 - Universities and Researchers, Brussels, 07/03/07, **Subject: "Researchers' visa" package (admission procedures of and visa facilitation for third country researchers entering the EC) in** **<http://www.abest.secyt.gov.ar/filesdownload/130.pdf>**.

21 **Regulation (EC) No 1931/2006 of the European Parliament and of the Council of 20 December 2006 laying down rules on local border traffic at the external land borders of the Member States and amending the provisions of the Schengen Convention [Official Journal L 405 of 31.12.2006].**

3. Policy guidelines

1. To the European Commission:

- 1.1. Help enforce the scientific visa Directive 2005/71/EC in all EU member States that have not yet implemented it.
- 1.2. Include the Western Balkan Countries in all the European Commission's activities related to European scientific diaspora.
- 1.3. Extend the Twinning Programme to Research institutions and Ministries of Science and Education in Albania.
- 1.4. **Training of the Albanian officials involved in paperwork necessary for the mobility of researchers with the assistance of TAIEX**

2. To Albania and EU:

- 2.1. Include the priority of facilitation of mobility of researchers in the Accession Agreements with Albania.
- 2.2. Discuss the WEB-MOB policy guidelines in the next EU-Western Balkans Forum of Foreign Ministers in March 2008.
- 2.3. Discuss the WEB-MOB policy guidelines in the next steering platform. The WEB-MOB policy guidelines must feed into the discussions of the Steering Platform on Research with the Western Balkan Countries and into the planning of the future SEE-ERA.NET activities related to mobility as well as in other support actions targeting the region. The results of the WEB-MOB will feed into the planning and programming of CEEPUS III and the countries of the region are invited to make full use of the present CEEPUS programme and related CEEPUS activities (e.g. CEEPUS TV). As the capacities for international research cooperation are not enough visible and known in the EU member states, the Web Mob Portal and existing information tools and data bases will ensure visibility.
- 2.4. Begin negotiations between EU and Albania on a research residence permit for EU, EEA and WBC researchers (researchers, university professors and students)
- 2.5. Multilateral or bilateral agreements between EU 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.
- 2.6. The European Social Security Card could be extended to Albania.

3. To the Government of Albania:

3.1. Albania imposes the following obstacles at the border:

- a) Requirement of visa for citizens of **FORMER YUGOSLAV REPUBLIC OF MACEDONIA and Bosnia and Herzegovina**, even for less than 3 months.
- b) Absence or limited number of consular posts
- c) Disposal of sufficient means²².
- d) Interview
- 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)²³
2. May request any document to prove credibility
3. May consider a person as undesirable any time.

These requirements are too many and hinder mobility of researchers. At the present stage it is highly recommended to introduce the model of Directive 2005/71/EC 71 for Research Residence Permit and the **Recommendation 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**²⁴ in order to ensure reciprocity between EU and Albania. In this way reciprocity and common rules between EU and WBC researchers could be established.

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.

If these requirements are also adopted for Albania then the hosting agreement could serve as proof for the **purpose** of visiting the Republic of Albania, covered expenses, subsistence funds and letter of guarantee²⁵

In particular Albania could designate approved research institutions and accept the list of such institutions from other WBCs.

In this context Albania could approve legislation according to which researchers

- From Bosnia and Herzegovina and FORMER YUGOSLAV REPUBLIC OF MACEDONIA holding a hosting agreement with an approved institution do not need a visa up to 3 months.

- From EU, EEA and WBCs holding a hosting agreement with an approved institution that want to stay for more than 3 months do not need to prove sufficient means or to conduct interview and are exempted from any questions or procedures at the border.

As a first step clarify the existing 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 exempt all researchers from all WBCs (that is FORMER YUGOSLAV REPUBLIC OF MACEDONIA and Bosnia and Herzegovina nationals) from visa requirements for 3 months stay as nationals from Serbia

23 Mobility guide 2.1.1.1

24 Recommendation of the European Parliament and of the Council of 28 September 2005, L 289, 3.11.2005.

25 Mobility guide for Croatia 2.1.1.1.

and Croatia are, and establish the scientific visa for a stay of more than 3 months as EU has done with Directive 2005/71/EC.

3.2. Announcement to the police of the presence of a foreigner

For researchers the law could be amended so that it is the research institution that has to notify the police of a foreign researcher's presence.

3.3. Linguistic skills and finding accommodation

Though public officials who deal with paperwork for issuing temporary stays or residence permits may have good linguistic skills, this is not required by law. *We therefore highly recommend the establishment of reception points at research institutions that will finish all paperwork with the authorities and assist researchers finding accommodation.*

3.4. Definition of family members

Albania does not include in family members all researcher's children restricting the right of reunion only to children under 18 years old, unmarried living with parents, and excluding children in need of support and are living together in one household who may be over 18 years of age. It is recommended to amend legislation.

3.5. Requirement of sufficient resources

It is recommended that the Albanian legislation does not subject the right to family reunion to the proof of "sufficient resources" of the foreigner in case of a researcher with a hosting agreement.

3.6. Rights of the spouse

In Albania, the spouse of an EU citizen needs to apply for a work permit. The law could be amended so that it could provide:

- as a first step for the possibility of the spouses of researchers holding a hosting agreement to work even though there are nationals unemployed.
- 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.

3.7. Validation of children's qualifications

It is not clear whether it is easy for children from other countries to enroll in Albanian primary and secondary education.

3.8. Mutual Recognition of Diplomas

There does not seem to be any discrimination against foreigners for the recognition of University diplomas. However it is recommended that bilateral or multilateral

agreements could be concluded by Albania with the rest of EU and EEA member States as well as WBCs for “automatic” recognition of at least certain University diplomas.

The Albanian law could be amended to 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.

3.9. Procedure for residence permit

The actual procedure for residence permit requires too many documents. The hosting agreement should be enough to prove sufficient means, health insurance, and proof of justifiability of stay. Albanian legislation could be inspired and gradually be aligned to Directive 2005/71/EC.

3.10 Work permits and the uniform concept of researcher

Albanian legislation could provide that researchers holding a hosting agreement

- as a first step be automatically granted a work permit and
- as a second step be exempted from work permits.

3.11. Social security

The effort of concluding Multilateral or bilateral agreements between EU and Albania must be continued for ensuring aggregation of periods for social security and no double taxation of researchers’ income.

In addition, the applicability of the European Social Security Card could be extended to Albania, e.g. by bilateral agreements.

3.12. Issues for researchers’ career

1 In case that a researcher discovers know-how or an invention in the framework of a project launched by the host institution²⁶ there must be clear rules of who will be the owner of Intellectual or Industrial property rights. It should not only be the **host institution or employer but the researcher as well. Modifications to patent law or industrial property law may be necessary in order to grant incentives to researchers to innovate, e.g.** Researchers could be given either a part of industrial property rights (50-50 or 60-40) or adequate compensation when inventing in Albania.

2. Legislation must be amended so that public hospitals offer medical care free of charge²⁷ to all foreigners who are legally present in the territory not only to those that have work permit²⁸. Indeed if researchers are gradually exempted

²⁶ Mobility Guide 4.6.2.

²⁷ Mobility guide, 5.4.1. and 5.4.2.

²⁸ Mobility guide 5.4.3.

from work permit and the law does not change they will not be able to receive medical care in public hospitals.

3. 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.

4. 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 well²⁹.

5. Specific national legislation for fees and career issues of researchers could be drafted while researchers could form associations for making better their career.

²⁹ Mobility guide 7.2.2.1.

List of the Albanian Legislation³⁰

Constitution of Albania date 21 October 1998 (CoA).

Laws

- Law on Foreigners No. 8492 date 7.05.1999 (LoF).
- Law on Asylum No. 8432/1998 (Law on Asylum).
- Law on Integration and Family Reunification of persons granted asylum in Albania No. 9098/2003 (Law No. 9098/2003).
- Law on the Guard and Protection of the State Border of RoA No. 8772/2001(Law No. 8772/2001).
- Law on the Albanian Coastal Guard No. 8875/2002.
- Law on Albanian Citizenship No. 8389/1998 as amended by Law No. 8442/1999 (Law No. 8389/1998).
- Law on Providing Passports for Travelling Abroad to Albanian Citizens No. 8668/2000 (Law No. 8668/2000).
- Law on Civil Status No. 8950/2002 (Law No. 8950/2002).
- Law on Identity Number No. 8951/2002 (Law No. 8951/2002).
- Law on the Identification of the Citizens No. 8952/2002 (Law No. 8952/2002).
- Labour Code No.7961/1995 as amended by Law Nos. 8085/1996 and 9125/2003 (Labour Code).
- Law on the Encouragement of Employment No. 7995/1995 (Law No. 7995/1995).
- Law on the Emigration of Albanian Citizens for Employment Purposes No. 9034/2003.
- Law on Social Insurance No. 7703/1993 as amended by Law Nos. 7932/1995; 8368/1998; 8852/2001; 8889/2002 (Law No. 7703/1993).
- Law on Health Insurance No. 7870/1994 (Law No. 7870/1994).
- Law on Social Assistance and Social Care No. 7710/1993 as amended by Law No. 7710/1994 (Law No. 7710/1993).
- Law on the State Labour Inspectorate No. 7986/1995 (Law No. 8986/1995).
- Law on Pre University Education No. 7952/1995 (Law No. 7952/1995).
- Law on Higher Education No. 8461/1999 (Law No. 8461/1999).
- Family Code No. 6599/1982 (no longer in force since by January 1 2004).
- Law on Family Code No. 9062/8.05.2003 (in force since by January 2004).
- Law on the Status of the Orphan No. 8153/1996.
- Law on the Adoption of Minors from Foreigners No. 7650/1992 (Law No. 7650/1992).
- Law on the Civil Code No. 7850/1994 as amended by Law No. 8781/2001 (Civil Code).
- Law on the Civil Procedural Code No. 8116/1999 (Civil Procedural Code).
- Law on Copyright No. 7564/1992 as amended by Law Nos. 7293/1996; 8594/2000; 8630/2000 (Law on Copyright).
- Law on Industrial Property No. 7819/1994 as amended by Law No. 8477/1999 (Law No. 8719/1994).

³⁰ http://www.old.iom.int/en/PDF_Files/tcm/Albania_GAP.pdf, p. 98.

- Law on the Privatization of Agricultural Land and Forests No. 8337/1998 (Law No. 8337/1998).
- Law on the Protection of Private Property, Free Enterprise, Independent Activities, and Privatization” No. 7512/1991 as amended by Law No. 8159/1996 (Law No. 7512/1991).
- Law on the Criminal Code No. 7895/1995 as amended by Law Nos. 8204/1997; 8279/1998; 8733/2001 (Criminal Code).
- Law on the Criminal Procedural Code No. 7905/1995 (Criminal Procedural Code).
- Law on the Administrative Contravention No. 7697/1993 as amended by Law Nos. 7813/1994; 7927/1995; 8277/1998; 8343/1998.
- Law on Administrative Procedures No.8485/1999 (Law No. 8485/1999).
- Law on the Protection of Personal Data No. 8517/1999 (Law No. 8517/1999).
- Law on Advocacy No. 7827/1994 (Law on Advocacy).
- Law on the People’s Advocate No. 8454/1999 as amended by Law No. 8600/2000 (Law on the People’s Advocate).
- Law on the Organization and Functioning of the Council of Ministers No. 9000/2003.
- Law on the Exercise of Consular Functions from the Diplomatic and Consular Representatives No. 8372/1998 (Law No. 8372/1998).
- Law on the State Police No. 8553/1999.
- Law on the Organization and Functioning of the Ministry of Justice No. 8678/2000.
- Law on Non- Profit Organizations No. 8788/2001.

WEB-MOB

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

**2. POLICY GUIDELINES TO OBSTACLES TO MOBILITY OF RESEARCHERS
IN BOSNIA AND HERZEGOVINA**

PREPARED BY CERTH

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2007
THESSALONIKI

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). 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 region³¹.

³¹ 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>.

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 WBCs³².

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 years³³.

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. The Model: The EC policy for facilitating movement of researchers of third countries in EU.

³² "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.

³³ COM 669, annex I, 3. Priorities, p. 6.

In October 2005, the Council of the European Union issued the Directive 2005/71/EC on a specific procedure for admitting third country nationals for the purposes of scientific research for a period longer than 3 months³⁴ (alias “SCIENTIFIC VISA and Residence permit”³⁵).

The Directive lays down the conditions for the entry and work of third country researchers in the EU.

The main concept is to create a specific residence permit for foreign researchers independently from their contractual status (employee, self-employed, “stipendee”). In the new system, a non-EU researcher wishing to carry out a research project in Europe will have to sign a “**hosting agreement**” with an accredited public or private EU research organisation³⁶. Indeed, **the whole system of the Directive is based on a prior 5 year approval by the member States of their public or private research organizations who wish to host a researcher** (art. 5) .

These EC research organisations may sign a hosting agreement with a third country researcher whereby the researcher undertakes to complete the research project and the organisation undertakes to host the researcher only if:

(a) the research project has been accepted by the relevant authorities in the organisation, after examination of:

- (i) the purpose and duration of the research, and the availability of the necessary financial resources for it to be carried out;
- (ii) the researcher’s qualifications in the light of the research objectives, as evidenced by a certified copy of his/her qualification

(b) during his/her stay the researcher has sufficient monthly resources to meet his/her expenses and return travel costs in accordance with the minimum amount published for the purpose by the Member State, without having recourse to the Member State’s social assistance system;

(c) during his/her stay the researcher has sickness insurance for all the risks normally covered for nationals of the Member State

(d) the hosting agreement specifies the legal relationship and working conditions of the researchers.

In this way, accredited research organisations will certify the status of the visa applicant via the hosting agreement. They will also verify the existence of a genuine research project, as well as the possession by the researcher of the necessary scientific skills, sufficient resources and health insurance³⁷.

³⁴ OJ L 289/15.

³⁵ EUROPEAN COMMISSION, RESEARCH DIRECTORATE-GENERAL, Unit C5 - Universities and Researchers, Brussels, 07/03/07, **Subject: “Researchers’ visa” package (admission procedures of and visa facilitation for third country researchers entering the EC) in**

<http://www.abest.secyt.gov.ar/filesdownload/130.pdf>

³⁶ EUROPEAN COMMISSION, RESEARCH DIRECTORATE-GENERAL, Unit C5 - Universities and Researchers, Brussels, 07/03/07, op.cit.

³⁷

<http://216.239.59.104/search?q=cache:XZ11H0zW3JkJ:cordis.europa.eu/search/index.cfm%3F>

On the basis of that contract, the immigration authorities of the host country will rapidly deliver the visa and the residence permit.

The visa is issued when with an accelerated procedure when the third country researcher :

- (a) presents a valid travel document, as determined by national law. Member States may require the period of the validity of the travel document to cover at least the duration of the residence permit;
- (b) presents the “hosting agreement”
- (c) where appropriate, presents a statement of financial responsibility issued by the research organisation and
- (d) is not considered to pose a threat to public policy, public security or public health.

Member States may also check the terms upon which the hosting agreement has been based and concluded.

The residence permit is issued for a period of at least one year and may be renewed. If the research project is scheduled to last less than one year, the residence permit shall be issued for the duration of the project (art. 8). Member States shall determine whether applications for residence permits are to be made by the researcher or by the research organisation concerned. The application shall be considered and examined when the third-country national concerned is residing outside the territory of the Member States to which he/she wishes to be admitted (art. 14).

When a Member State decides to grant a residence permit to the family members of a researcher, the duration of validity of their residence permit shall be the same as that of the residence permit issued without any requirement of a minimum period of residence of the researcher (Art. 9). The Commission would have liked to see more provisions for researchers’ families, as splitting families often acts as a deterrent to mobility³⁸.

Member States may withdraw or refuse to renew a residence permit issued on the basis of this Directive when it has been fraudulently acquired or wherever it appears that the holder did not meet or no longer meets the conditions for entry and residence or is residing for purposes other than that for which he was authorised to reside or for reasons of public policy, public security or public health (art. 10).

Researchers admitted under this Directive may teach in accordance with national legislation for a maximum number of hours or of days for the activity of teaching (Art. 11).

fuseaction%3Dnews.simplesdocument%26N_RCN%3D28520+Researchers+visa&hl=el&ct=clnk&cd=2&gl=gr.

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<http://216.239.59.104/search?q=cache:XZ11H0zW3JkJ:cordis.europa.eu/search/index.cfm%3F>

fuseaction%3Dnews.simplesdocument%26N_RCN%3D28520+Researchers+visa&hl=el&ct=clnk&cd=2&gl=gr.

Researchers will have equal treatment with nationals as regards (Art. 12):

- (a) recognition of diplomas, certificates and other professional qualifications in accordance with the relevant national procedures;
- (b) working conditions, including pay and dismissal;
- (c) branches of social security as defined in Council Regulation (EEC) No 1408/71 and (EC) No 859/2003
- (d) tax benefits;
- (e) access to goods and services and the supply of goods and services made available to the public.

A third-country national who has been admitted as a researcher shall be allowed to carry out part of his/her research in another Member State for less than 3 months (art. 13) on the basis of the hosting agreement concluded in the first Member State, provided that he has sufficient resources in the other Member State and is not considered as a threat to public policy, public security or public health in the second Member State.

If the researcher stays in another Member State for more than three months, Member States may require a new hosting agreement to carry out the research in that Member State.

Directive 2005/71 applies to all EU countries except the United Kingdom and Denmark. The “new Member States” will also apply the directive, apart from provisions concerning short-term mobility to other EU countries (i.e. the rules on short-term visas could be different for the new MS until their full participation in the Schengen area, which might occur after the entry into force of the directive).

October 12, 2007 was the deadline for making the 2005 Directive national law. By that date, only Austria, Belgium, Germany, Hungary, Portugal and Romania had complied fully. A further four Member States (France, Latvia, Lithuania and the Slovak Republic) had notified the Commission of partial implementation³⁹.

In comparison to usual existing national rules, **the main added values** of the directive for third country researchers can be summarized as follows⁴⁰:

- For the first time, a **common definition of “researcher” has been established in the Community Law**⁴¹.
- Researchers admitted as “employees” will no longer have to obtain work permits in the Member States and any form of “quota” fixed by the Member States will not be permitted;
- Once the hosting agreement is signed and security aspects are (rapidly) checked by

³⁹ http://216.239.59.104/search?q=cache:XZ11H0zW3JkJ:cordis.europa.eu/search/index.cfm%3Ffuseaction%3Dnews.simplifiedocument%26N_RCN%3D28520+Researchers+visa&hl=el&ct=clnk&cd=2&gl=gr.

⁴⁰ EUROPEAN COMMISSION, RESEARCH DIRECTORATE-GENERAL, Unit C5 - Universities and Researchers, Brussels, 07/03/07, op.cit.

⁴¹ Article 2 of the directive: "Researcher" means a third-country national holding an appropriate higher education qualification, which gives access to doctoral programmes, who is selected by a research organisation for carrying out a research project for which the above qualification is normally required.

immigration authorities, the researcher will have a right, legally actionable before a court to entry the Member State concerned;

- Member States are encouraged to allow researchers who are already legally resident within the country to submit applications for residence permits directly to the authorities in that Member State without returning home first (“applications in loco”), as it is often currently the case;

- The researcher could carry out part of his/her research activities in other EU countries for a period lasting less than 3 months (while today it is only possible to move, but not to work). When moving for a period of more than 3 months, the new host countries could require the signature of another hosting agreement.

- The non-discrimination principle vis-à-vis national researchers will concern *inter alia* working conditions to avoid social dumping (the foreign researcher should have comparable salary conditions as nationals), and social security.

Directive 2005/71/EC is accompanied by two Recommendations which do not impose legal obligations on Member States, being rather a political commitment to facilitate researchers in a EU country. The "Council Recommendation 2005/762/EC of 12 October 2005 was adopted to facilitate the admission of third-country nationals to carry out scientific research in the European Community". Pending the implementation of the directive by the Member States, the first recommendation on long term admission calls on Member States to anticipate to some extent directive in advance of final transposition the objectives of the directive with reference in particular to the exemption/acceleration of the procedure to deliver work permits for researchers, and the easing of the procedure for the residence permit⁴².

The "**Recommendation 2005/761/EC of the European Parliament and of the Council of 28 September 2005** (on short-term visas e.g. for conferences) was adopted to facilitate the issue by the Member States of uniform short-stay visas for researchers from third countries travelling within the Community for the purpose of carrying out scientific research". It differs from the directive and the other recommendation (related to long-term admission), as it **covers short-term visas** (i.e. less than three months). It aims at facilitating the delivering of uniform visas for instance to participate at conferences, seminars, etc. in the EU. It recommends the Member States to rapidly deliver to researchers short-term visa (including multiple-entry visas), for the duration of the research project they are involved in, to waive visa fees⁴³, to adopt a harmonised approach on supporting documents to visa applications, and to reinforce the consular co-operation. This recommendation **does not apply to the UK and Ireland**; Denmark will decide within 6 months whether or not it will apply it⁴⁴.

42 EUROPEAN COMMISSION, RESEARCH DIRECTORATE-GENERAL, Unit C5 - Universities and Researchers, Brussels, 07/03/07, **Subject: “Researchers’ visa” package (admission procedures of and visa facilitation for third country researchers entering the EC) in <http://www.abest.secyt.gov.ar/filesdownload/130.pdf>.**

43 Communication from the Commission - The Western Balkans on the road to the EU: consolidating stability and raising prosperity, COM/2006/0027 final, http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&lg=en&ty pe_doc=COMfinal&an_doc=2006&nu_doc=27.

44 EUROPEAN COMMISSION, RESEARCH DIRECTORATE-GENERAL, Unit C5 - Universities and Researchers, Brussels, 07/03/07, **Subject: “Researchers’ visa”**

Finally, in 2006, the Regulation (EC) 1931/2006 was adopted for the establishment of a local border traffic regime at the external borders of the Member States. Under this regime, residents of border regions, including along EU borders with Western Balkan countries, are authorised to cross the border with a local border traffic permit, without requiring a visa⁴⁵ if they are not persons in respect of whom the Schengen Information System (SIS) has been alerted, and are not deemed to be a threat to public order.

They may stay in the border area stipulated in the bilateral agreement between the Member States and the neighbouring third country. The maximum duration of the stay may not exceed three months in any half-year period.

package (admission procedures of and visa facilitation for third country researchers entering the EC) in <http://www.abest.secyt.gov.ar/filesdownload/130.pdf>.

⁴⁵ Regulation (EC) No 1931/2006 of the European Parliament and of the Council of 20 December 2006 laying down rules on local border traffic at the external land borders of the Member States and amending the provisions of the Schengen Convention [Official Journal L 405 of 31.12.2006].

3. Policy guidelines

1. To the European Commission:

- 1.1. Help enforce the scientific visa Directive 2005/71/EC in all EU member States that have not yet implemented it.
- 1.2. Include the Western Balkan Countries in all the European Commission's activities related to European scientific diaspora.
- 1.3. Extend the Twinning Programme to Research institutions and Ministries of Science and Education in Bosnia and Herzegovina.
- 1.4. **Conclude negotiations for the association of Bosnia and Herzegovina to FP7.**
- 1.5. **Training of the officials of** competent authorities of Bosnia and Herzegovina by TAIEX School.

2. To Bosnia and Herzegovina and EU:

- 2.1. Include the priority of facilitation of mobility of researchers in the EU Agreements with Bosnia and Herzegovina.
- 2.2. Discuss the WEB-MOB policy guidelines in the next EU-Western Balkans Forum of Foreign Ministers in March 2008.
- 2.3. Discuss the WEB-MOB policy guidelines in the next steering platform. The WEB-MOB policy guidelines must feed into the discussions of the Steering Platform on Research with the Western Balkan Countries and into the planning of the future SEE-ERA.NET activities related to mobility as well as in other support actions targeting the region. The results of the WEB-MOB will feed into the planning and programming of CEEPUS III and the countries of the region are invited to make full use of the present CEEPUS programme and related CEEPUS activities (e.g. CEEPUS TV). As the capacities for international research cooperation are not enough visible and known in the EU member states, the Web Mob Portal and existing information tools and data bases will ensure visibility.
- 2.4. Begin negotiations between EU and Bosnia and Herzegovina on a research residence permit for EU, EEA and WBC researchers (researchers, university professors and students).
- 2.5. Multilateral or bilateral agreements between EU and Bosnia and Herzegovina 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.
- 2.6. The European Social Security Card could be extended to Bosnia and Herzegovina.

3. To the Government of Bosnia and Herzegovina:

3.1. 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. *It is highly recommended, that in the field of research and recognition of diplomas in Bosnia and Herzegovina could make an effort for more harmonized or centralized approach and if possible a state level law for research. The complex constitutional structures of Bosnia and Herzegovina could lead to*

*blockages and inefficiency in decision-making*⁴⁶ e.g. The labour legislation and the policy framework remain fragmented⁴⁷. Though Constitution amendment is not a prerequisite, political agreement through a National action Plan on the imperative of a new research law with common goals for all entities would be most advisable.

3.2. Citizens of the Republic of Albania are required visas when entering, exiting or travelling through Bosnia and Herzegovina. This restriction is reciprocal. **It is therefore recommended, since relations between the two countries are good, to conclude a bilateral international agreement between Albania and Bosnia and Herzegovina for the facilitation of researchers' mobility. As temporary or short term measures are recommended :**

- **either the designation of an honorary consul of Bosnia and Herzegovina nationality in Tirana or cooperation with an embassy or consulate of another state in Tirana in order to overcome the obstacle that an Albanian Researcher must travel to FORMER YUGOSLAV REPUBLIC OF MACEDONIA to get a visa because there is no consul of Bosnia and Herzegovina in Tirana**⁴⁸
- **either the consideration that the hosting agreement will be enough to prove "sufficient funds" required for a visa or the designation of a certain fixed amount of euros for each day of the estimated stay.**
- **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.**

3.3. For a visa of longer than 3 months stay requirements for sufficient funds and notarisation of letter by host company by two authorities are necessary. These requirements are too many and hinder mobility of researchers. At the present stage it is highly recommended to introduce the model of Directive 2005/71/EC 71 for Research Residence Permit and the **Recommendation 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**⁴⁹ in order to ensure reciprocity between EU and Bosnia and Herzegovina. In this way reciprocity and common rules between EU and WBC researchers could be established.

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.

⁴⁶ See Communication from the Commission, 2005 Enlargement Strategy Paper, Brussels, 9.11.2005 COM (2005) 561 final, p. 8.

⁴⁷ See Progress Report 2007, Movement of Persons.

⁴⁸ See webpage http://www.mfa.gov.ba/Index_eng.htm.

⁴⁹ Recommendation of the European Parliament and of the Council of 28 September 2005, L 289, 3.11.2005.

If these requirements are also adopted for Bosnia and Herzegovina then the hosting agreement could serve as proof for the **purpose of visiting Bosnia and Herzegovina, covered expenses, subsistence funds and letter of guarantee⁵⁰**

In particular Bosnia and Herzegovina could designate approved research institutions and accept the list of such institutions from other WBCs.

In this context Bosnia and Herzegovina could approve legislation according to which researchers

- From Albania holding a hosting agreement with an approved institution do not need a visa up to 3 months.

- From EU, EEA and WBCs holding a hosting agreement with an approved institution that want to stay for more than 3 months do not need to prove sufficient means and to notarize the hosting agreement.

As a first step clarify the existing 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 notarization or any questions or procedures at the border”.

As a second step exempt all researchers from all WBCs from visa requirements for 3 months stay and establish the scientific visa for a stay of more than 3 months as EU has done with Directive 2005/71/EC.

3.4. The timeframe to get a visa is too long (it could be up to 30 days) and has to be shortened especially since all the data are now computerized⁵¹. In addition prolongation of visa is difficult and uncertain since the same conditions must be re-examined.

It is recommended:

- 1) The procedure could be shortened/accelerated for researchers and
- 2) Prolongation could be automatic for researchers for the whole or half of its initial time – frame.

3.5. 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)⁵².

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 within such time frame.

⁵⁰ Mobility guide for Croatia 2.1.1.1.

⁵¹ See 2007 Bosnia and Herzegovina Progress Report of the Commission, Visa, border control, asylum and migration.

⁵² Mobility guide, question 6, at

<http://webmob.masfak.ni.ac.yu/sitegenius/article.php?aid=382>.

3.6. Though public officials who deal with paperwork for issuing temporary stays or residence permits may have good linguistic skills, this is not required by law. *We therefore highly recommend the establishment of reception points at research institutions that will finish all paperwork with the authorities and assist researchers finding accommodation.*

3.7. The right to family reunion is recognized in Bosnia and Herzegovina. The concept of “Family” is broad but there are other obstacles such as: a) The foreigner must prove that he has sufficient resources to support the family to come, and 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 withdrawn⁵³. 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**.

It is recommended that

- a) the hosting agreement could be considered as proof of sufficient resources as is in EU Directive 2005/71/EC,
- b) The work permit could be granted automatically to the spouse without examining if there are any unemployed nationals **if the spouse has a residence permit of one year** and
- c) qualifications could be made more transparent and the procedure of validation could be accelerated.

3.8. The procedure for recognition of University degrees in Bosnia and Herzegovina displays many obstacles for researchers who by definition hold a University degree and usually leads to rejection of equivalency. Such obstacles are that

- at least 70% of the curriculum of studies in the foreign University must be the same with the curriculum of the local University,
- the legislation is different in every canton, though largely the same and
- the legislation is flexible without any explicit time frame nor penalties.

Since the new draft law on higher education is still not adopted, it is recommended to facilitate the recognition of diplomas held by researchers of foreign nationality

- either by introducing new provisions making more transparent the qualifications necessary and accelerating the procedure of recognition or
- by concluding bilateral treaties of mutual recognition of diplomas in EU, EEA and WBCs.

3.9. The paperwork and the uncertainty are too heavy for a foreigner, as in most WBCs. Indeed a foreigner that finds a job in Bosnia and Herzegovina:

- Applies and gets the decision of recognition of diploma degree

⁵³ Mobility guide, question 14, at <http://webmob.masfak.ni.ac.yu/sitegenius/article.php?aid=382>.

- Applies for a temporary approval of stay to the police
- Applies for work permit.
- Gets the work permit
- Signs the work contract
- Applies for residence permit of one year
- Extends work permit and residence permit after one year

In addition work permit is conditioned on the non existence of locals with qualifications necessary for the relevant position registered with the Employment Agency of Bosnia and Herzegovina.

This procedure is cumbersome for a foreigner, especially if he/she does not speak the local language. In addition, the 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.

3.10. The procedure to get a residence permit:

- a) **Requires too many documents.**
- b) **In case of refusal the length of the appeal procedure** is not defined and it is not clear whether there is provisional protection⁵⁴.
- c) **Penalties for not having a residence permit are high and include imprisonment**
- d) **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**

It is recommended to simplify the procedure based on the model of Directive 2005/71/EC.

3.11. A lot has to be done for social insurance matters:

- a. All social insurance systems in WBCs are public⁵⁵ and specific legislation provides for all in Bosnia and Herzegovina⁵⁶.

⁵⁴ Mobility guide, question 11, at <http://webmob.masfak.ni.ac.yu/sitegenius/article.php?aid=382>.

⁵⁵ **Statutes of the Federal Institute for Pension and Disability Insurance of 14 May 2002.**

Sluzbene Novine, 2003-08-05, No. 38, pp. 2109-2112

⁵⁶ 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).**

Sluzhbene Novine, 2006-10-04, No. 59, p. 6217

b. 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.

c. There is no special social security fund for researchers in Bosnia and Herzegovina and in any WBC.

d. The social security system of Bosnia and Herzegovina remains fragmented and technically inadequate to provide for a coordinated social security mechanism with the EU⁵⁷. 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 services⁵⁸.

e. 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 country⁵⁹. There are bilateral agreements of Bosnia and Herzegovina with FORMER YUGOSLAV REPUBLIC OF MACEDONIA⁶⁰, Yugoslavia (now Serbia)⁶¹, Croatia⁶² and France⁶³ More are required.

f. There are both public hospitals and private clinics in all WBCs. Public hospitals offer medical care free of charge⁶⁴ 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 charge⁶⁵ to all EU, EEA and WBC researchers who are legally present in the Bosnia and Herzegovina⁶⁶.

g. There are international treaties for the avoidance of double taxation:

57 Bosnia and Herzegovina Progress Report 2006, p. 31. Free Movement of Persons

58 Bosnia and Herzegovina Progress Report 2007, p. 38.

59 Mobility guide 5.3.5.

60 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

61 Agreement between the Republic of Yugoslavia and Bosnia and Herzegovina on social insurance. Done at Belgrade on 29 October 2002.

Sluzhbeni List (International Agreements), 2003-10-10, No. 7, pp. 3-9

62 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

63 Convention générale sur la sécurité sociale entre la France et la Yougoslavie, fait à Paris le 5 janvier 1950

64 Mobility guide, 5.4.1. and 5.4.2.

65 Mobility guide, 5.4.1. and 5.4.2.

66 Mobility guide 5.4.3.

Bosnia and Herzegovina has agreement with 15 EU member states, Croatia and Serbia and Montenegro⁶⁷. The amount paid elsewhere will be deducted from the tax to be paid⁶⁸

The following recommendations could be submitted:

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 (e.g. Ministries, Universities etc.) in a Western European language as well⁶⁹.

3.12. 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 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 low⁷⁰. 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.

67 Mobility guide 5.6.5.

68 Mobility guide 5.6.4.

69 Mobility guide 7.2.2.1.

70 Progress Report 2006, p. 38.

WEB-MOB

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

Policy guidelines for reducing and eliminating obstacles to the mobility of researchers
in Croatia

PREPARED BY CERTH

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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). 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 region⁷¹.

⁷¹ 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>.

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 WBCs⁷².

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 years⁷³.

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 Croatia

⁷² "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.

⁷³ COM 669, annex I, 3. Priorities. P. 6

Croatia is an active member of several regional and sub-regional initiatives, such as the Stability Pact, the Adriatic–Ionian initiative, the "Quadrilaterale" (between Italy, Slovenia, Hungary and Croatia), the Central European Initiative (CEI), South-East Cooperation Initiative (SECI), the Alps-Adriatic initiative, the Danube Commission. Croatia is an observer in the South-East European Cooperation Process (SEECP). In December 2002 Croatia signed the Sava River Basin Framework Agreement with Slovenia, BiH and FRY. In February 2003 Croatia signed the Memorandum of Understanding on Regional Electricity Market in South East Europe (REM).

Croatia has long been a member of OSCE and the Council of Europe. As a member of NATO's Partnership for Peace it is actively cooperating with NATO to prepare its future membership. In May 2002 **Croatia** joined the NATO Membership Action Plan (MAP), and has **been** promoted to the status of candidate for full NATO membership⁷⁴.

Relations of Croatia with *Serbia* have continued to improve. The provisional visa-free regime remains in force. **Bilateral relations with Bosnia and Herzegovina remain stable and bilateral contacts have been increasing. Bilateral agreements on dual citizenship and border control have been signed. Croatia continues to have good relations with Albania, FORMER YUGOSLAV REPUBLIC OF MACEDONIA, and Hungary**⁷⁵.

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 recommendation⁷⁶. A free trade agreement with Kosovo under UNSCR 1244 was initialled in September **2006** ⁷⁷.

1.3. EU Relations with Croatia in general

1.3.1. Stabilisation and Association Agreement (2001)

The EU defined its regional approach to the Western Balkans with the Council's Conclusions of 29 April 1997 and 21 June 1999⁷⁸.

Croatia signed a Stabilisation and Association Agreement with the EU on 29 October 2001, which entered into force in February 2005. It covers areas such as:

- political dialogue;
- regional co-operation;
- the four freedoms, with the creation of a free trade area by 2007 for industrial products and most agricultural products;
- approximation of the legislation of Croatia to the EU acquis, including precise rules in the fields such as competition, intellectual property rights and public procurement;

⁷⁴ COM(2003) 139 final, p. 12.

⁷⁵ Progress Report for Croatia

⁷⁶ Progress Report for Croatia 2006, 4.30.

⁷⁷ Progress report for Croatia, 2006, 4.24.

⁷⁸ See WEB-MOB synthesis Report and Policy guidelines for the analysis of the EU regional approach.

- wide-ranging co-operation in all areas of EU policies, including in the area of justice, freedom and security.

A Protocol to the SAA on a Framework Agreement on the general principles for Croatia's participation in **Community Programmes** was signed in November 2004. Croatia currently participates as a third country in various Community programmes such as the 6th Framework Programme for RTD, Youth, Gender Equality, Tempus, Employment, and Life.

1.3.2. Preparation for Accession – Accession Partnership

Croatia presented its application for accession to the European Union on 20 February 2003 and was designated as a candidate country by the European Council of 17 and 18 June 2004⁷⁹. The Council adopted on 13 September 2004 a **European Partnership** with Croatia. Negotiations opened on 17 March 2005 and **Accession Partnership was agreed in February 2006** based on the findings of the Commission's Progress Report on Croatia of November 2005. This Accession Partnership⁸⁰ updates and replaces the European Partnership and identifies short and medium term priorities for Croatia's preparation for further integration with the EU⁸¹.

However according to Thessaloniki Agenda agreed by the European Council in 2003⁸², the Stabilisation and Association Process remains the framework for the European course of the Western Balkan countries, all the way to their future accession. The main priorities identified for Croatia relate to its capacity to progress in preparing for accession, and in particular to its capacity to meet the criteria defined by the Copenhagen European Council of 1993 and the conditions set for the Stabilisation and Association Process, notably :

- the conditions defined by the Council in its Conclusions of 29 April 1997 and 21 and 22 June 1999,
- the content of the final declaration of the Zagreb Summit of 24 November 2000 and the Thessaloniki Agenda, and
- the requirements of the negotiating framework adopted by the Council on 3 October 2005⁸³.

Progress on reform priorities is encouraged and monitored through the bodies of the SAA: The SAA Association Council and the SAA Association Committee.

⁷⁹ http://ec.europa.eu/enlargement/croatia/eu_croatia_relations_en.htm

⁸⁰ Regulation (EC) No 533/2004 provides that the Council is to decide on the principles, priorities and conditions to be contained in the Partnerships, as well as any subsequent adjustments.

⁸¹ http://ec.europa.eu/enlargement/croatia/eu_croatia_relations_en.htm. **2006/145/EC: Council Decision of 20 February 2006 on the principles, priorities and conditions contained in the Accession Partnership with Croatia and repealing Decision 2004/648/EC**, *OJ L 55*, 25.2.2006, p. 30–43, *preamble*.

⁸² See WEB-MOB Synthesis Report and Policy Guidelines for an analysis.

⁸³ **2006/145/EC: Council Decision of 20 February 2006 on the principles, priorities and conditions contained in the Accession Partnership with Croatia and repealing Decision 2004/648/EC**, *OJ L 55*, 25.2.2006, p. 30–43, *annex I, no2*

Based on the Accession Partnership, Croatia adopted its national programme for EU accession in January 2007.

Financial assistance is provided under the new Instrument for Pre-accession Assistance (IPA) from 2007, replacing CARDS⁸⁴. The 2007-2009 Multi-Annual Indicative Planning Document (MIPD) for Croatia was adopted in June. The 2007 IPA national programme amounted to € 141 million. This assistance is concentrated on institution building and preparation for the implementation of the EU's common agricultural policy and cohesion policy. In addition, Croatia continued to benefit from regional and horizontal programmes. The management of pre-accession aid was decentralised to Croatian authorities in 2006, with ex-ante approval of files by the Commission⁸⁵.

2. Croatia's alignment with the acquis on the sectors crucial for the mobility of the researchers (based on European Commission's Progress Reports)

The priorities listed in the Accession Partnership have been selected on the basis that it is realistic to expect that Croatia 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 thereof⁸⁶

Following the conclusion of the screening process in October 2006, all 33 screening reports have been submitted by the Commission to the Council. So far, negotiations have been opened on fourteen chapters (science and research, education and culture, economic and monetary policy, industrial policy, customs, intellectual property rights, services, company law, statistics, financial services, financial control, information society and media, consumer and health protection, as well as external relations) and provisionally closed on two (science and research, education and culture).

On ten chapters (public procurement; competition policy; justice, freedom and security; social policy/employment; capital; goods; agriculture; environment; food safety; regional policy) opening benchmarks were agreed by Council and communicated to Croatia.

2.1. Visa policy and migration

This is chapter 24 of the negotiations for the Accession of Croatia on Justice, Freedom and Security.

On visa policy, progress was noted, mainly on visa issuing procedures and technical equipment. **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 accession⁸⁷. In particular:

- **In December 2006 Croatia adopted a plan for alignment with EU visa arrangements⁸⁸.**

⁸⁴ See WEB-MOB Synthesis Report and Policy Guidelines.

⁸⁵ Progress Report 2007.

⁸⁶ 2006/145/EC, Annex I, no 3 priorities.

⁸⁷ Progress report for Croatia, 2006, 4.24.

⁸⁸ Progress report for Croatia, 2006, 4.24.

- **The exemption of visa requirements for citizens of Serbia and Montenegro already adopted for 2006 was extended to the end of 2007**⁸⁹.
- 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 Affairs⁹⁰. 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 (instead of 32 in 2006) 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 mission⁹¹.
- Croatia needs to prepare for the introduction of biometric identifiers in passports and travel documents⁹².

In the field of **migration**:

- The legal framework for dealing with both legal and illegal migration is in place. Since a coherent migration strategy in July 2007 a **Migration Policy Strategy for 2007-2008** was adopted. A proper action plan remains to be developed to implement the Strategy⁹³.
- 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)⁹⁴.
- Granting of a work permit or opening of a company in Croatia will no longer automatically mean that temporary residence would be granted⁹⁵.
- 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 MACEDONIA⁹⁶.

2.2. Free movement of workers

The priorities in the Accession Partnership 2006 provided as follows⁹⁷:

- **Abolish any discriminatory measures towards EU migrant workers and EU citizens**

⁸⁹ Progress report for Croatia, 2006, 4.24. The same for 2007.

⁹⁰ Progress report for Croatia, 2006, 4.24.

⁹¹ Progress report for Croatia, 2007, 4.24.

⁹² Progress report for Croatia 2007, 4.24.

⁹³ Progress report for Croatia, 2007, 4.24.

⁹⁴ Progress report for Croatia, 2007, 4.24.

⁹⁵ Progress report for Croatia 2007, 4.24.

⁹⁶ Progress Report for Croatia 2006, 4.24.

⁹⁷ **2006/145/EC: Council Decision of 20 February 2006 on the principles, priorities and conditions contained in the Accession Partnership with Croatia and repealing Decision 2004/648/EC, OJ L 55, 25.2.2006, p. 30–43,**

- Reinforce administrative structures **for coordination of social security schemes**

This is the Chapter 2 that 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 advantages⁹⁸. The *acquis* pertain to the rights of **family members** accompanying EU migrant workers:

- 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 nationals⁹⁹.
1. 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*. Indeed 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**¹⁰⁰.
 2. On family rights no progress was reported on these issues until November 2007.
 3. In relation to **access to employment**, EU citizens may not be discriminated against on the basis of nationality, irrespective of their country of residence. However no progress is made on this issue¹⁰¹.
 4. In relation to restrictions on access **to public sector positions and to legislative requirements on language proficiency** Croatia will also need to pay particular attention ¹⁰².
 5. As regards the participation of Croatia in EURES no progress was reported on preparations until 2007. 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**¹⁰³.
 6. As regards the coordination of social security systems 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**¹⁰⁴.

⁹⁸ Progress report for Croatia, 2005.

⁹⁹ Progress report for Croatia, 2005, Brussels, 9 November 2005, SEC (2005) 1424.

No progress in Progress Report 2006.

¹⁰⁰ Progress Report 2007, 4.2.

¹⁰¹ Progress report for Croatia, 2005. No progress in Progress Report 2006.

¹⁰² Progress report for Croatia, 2005. No progress in Progress Report 2006.

¹⁰³ Progress report for Croatia 2007, 4.2.

¹⁰⁴ Progress report for Croatia, 2005. No progress in Progress Report 2006.

7. **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**¹⁰⁵.
8. **As regards** mechanisms involved in social security coordination, sufficient administrative capacity needs to be developed to apply Community provisions in this field¹⁰⁶.
9. Croatia needs the financial stability to meet the extra cost of applying EU provisions, in particular health care provisions¹⁰⁷. Mainly technical modifications will therefore be necessary to Croatian legislation in order to take account of the particularities of Croatia's social security system¹⁰⁸.
10. As regards the introduction of the **European Health Insurance Card**¹⁰⁹ no progress can be reported. Preparations in this area are at an early stage¹¹⁰

2.3. Right of establishment and freedom to provide services

The priorities in the Accession Partnership 2006 provided as follows¹¹¹:

- **Abolish the remaining barriers** to establishment and provision of cross-border services facing natural or legal persons from the EU.
- Make substantial progress in the alignment with the EU **acquis on mutual recognition of professional qualifications**, including training provisions, and further develop the required administrative structures.

This is Chapter 3 of the Accession Partnership. 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 Treaty¹¹². 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 State¹¹³.

In Croatia,

- numerous restrictions on the right of establishment remain, the main **obstacles being**

¹⁰⁵ Progress report for Croatia, 2005. No progress in Progress Report 2006.

¹⁰⁶ Progress Report for Croatia 2007, 4.2. reported no progress on these issues.

¹⁰⁷ Progress Report for Croatia 2007, 4.2. reported no progress on these issues.

¹⁰⁸ Progress report for Croatia, 2005. No progress in Progress Report 2006.

¹⁰⁹ Progress report for Croatia, 2005. No progress in Progress Report 2006.

¹¹⁰ Progress report for Croatia 2007, 4.2.

¹¹¹ **2006/145/EC: Council Decision of 20 February 2006 on the principles, priorities and conditions contained in the Accession Partnership with Croatia and repealing Decision 2004/648/EC, OJ L 55, 25.2.2006, p. 30–43,**

¹¹² Progress report for Croatia 2005. However 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., op.cit.

¹¹³ Progress report for Croatia 2005.

- **citizenship and residence requirements**¹¹⁴,
 - **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 rules¹¹⁵.
- Certain institutions in the sense of the Institutions Act cannot be set up by foreigners, including EU citizens.
 - As regards the acquisition of real estate by foreign nationals on a non discriminatory basis, 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 Justice¹¹⁶. 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. 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. Croatia has not yet been able to ensure applications are generally dealt with in line with the target turn-around time of 30-60 days¹¹⁷.

In the area of **freedom to provide cross-border services**, 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 (commercial presence) 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”¹¹⁸.
- **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 acts¹¹⁹. E.g. the provision of some services, such as tourist guide services, is reserved to Croatian nationals.

¹¹⁴ For example, 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. Progress Reports for Croatia 2006 and 2007, 4.3.

¹¹⁵ Progress report for Croatia 2006, 4.3. Progress report for Croatia 2007, 4.3.

¹¹⁶ Progress Report for Croatia, 2006, 4.4.

¹¹⁷ Progress Report for Croatia, 2007, 4.4.

¹¹⁸ Progress report for Croatia 2006, 4.3.

¹¹⁹ Progress Report for Croatia 2007, 4.3.

In the area of **mutual recognition of professional qualifications**, Croatia proceeded to:

- Set up a **centre for academic mobility and recognition of higher education qualifications within the Agency for Science and Higher Education**¹²⁰.
- introduce a distinction between recognition of academic and professional qualifications through the amendments to the Act on the Recognition of Foreign Educational Qualifications adopted in December 2006, though at first Croatian legislation did not distinguish between the recognition of academic and professional qualifications¹²¹

However, several sectoral acts impose nationality requirements which restrict access to certain profession to Croatian citizens and set out a priori conditions for disproportionate linguistic skills in order to gain access to regulated professions, both of which are incompatible with the *acquis* ¹²².

2.4. Free movement of capital

The priorities in the Accession Partnership 2006 provided as follows¹²³:

- Make substantial progress in the removal of remaining restrictions on capital movements, in particular on the acquisition of real estate, in accordance with SAA obligations
- Complete the establishment of an effective anti-money laundering regime, in particular by ensuring that agencies are fully operational, adequately resourced and well coordinated with domestic and international counterparts¹²⁴.

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 funds¹²⁵.
- partially align with the Directive on Cross-Border Credit Transfers, thus making progress in the area of **payment systems**¹²⁶.
- fully liberalise portfolio investment and the capital market for institutional investors. Some provisions discriminating between investment into domestic and foreign assets remain in Croatian legislation, however¹²⁷.

¹²⁰ Progress report for Croatia 2005.

¹²¹ Progress report for Croatia 2006, 4.3. Progress report for Croatia 2007, 4.3.

¹²² Progress report for Croatia 2005. Progress report for Croatia 2006, 4.3. Progress report for Croatia, 2007, 4.3.

¹²³ **2006/145/EC: Council Decision of 20 February 2006 on the principles, priorities and conditions contained in the Accession Partnership with Croatia and repealing Decision 2004/648/EC, OJ L 55, 25.2.2006, p. 30–43.**

¹²⁴ **2006/145/EC: Council Decision of 20 February 2006 on the principles, priorities and conditions contained in the Accession Partnership with Croatia and repealing Decision 2004/648/EC, OJ L 55, 25.2.2006, p. 30–43, 3.2. Medium term priorities.**

¹²⁵ Progress Report for Croatia, 2006, 4.4. (through decisions adopted by the Croatian National Bank (HNB))

¹²⁶ Progress Report for Croatia, 2006, 4.4.

¹²⁷ Progress Report for Croatia 2007, 4.4. (with the amendments to the Foreign Exchange Act and to the Securities Market Act and the Savings and Loan Cooperatives Act).

2.5. Employment and social policy

This is chapter 19 of the negotiations. In the context of the current labour market, **the unemployment rate remains stubbornly high in Croatia**, despite some reduction in recent years¹²⁸. Indeed, 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 EU¹²⁹.

In the area of **employment policy, Croatia:**

- **adopted a National Employment Action Plan 2005-2008 based on the guidelines of the European Employment Strategy in December 2004.**
 - 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**¹³⁰.
- 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)¹³¹. A roadmap has been agreed for its completion¹³²

In the area of **labour law**, the most recent amendments to the Labour Code date from 2003. Further harmonisation is needed, particularly as regards the directives e.g. on the sectoral working time directives, and the directive on the posting of workers, fixed term and part-time work¹³³. In 2006, the Ministry of Economy, Labour and Entrepreneurship launched 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*¹³⁴.

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 2007¹³⁵.

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**.
- The pension and health care systems are not yet financially sustainable or socially effective¹³⁶. In the supply of health care **there are still geographical**

¹²⁸ Progress Report for Croatia, 2005, chapter 19.

¹²⁹ Progress Report for Croatia 2007, 4.19.

¹³⁰ Progress Report for Croatia, 2006, 4.19.

¹³¹ Progress Report for Croatia, 2005, chapter 19.

¹³² Progress Report for Croatia, 2006, 4.19.

¹³³ Progress Report for Croatia, 2005, chapter 19.

¹³⁴ Progress Report for Croatia, 2006, 4.19.

¹³⁵ Progress Report for Croatia, 2007, 4.19.

¹³⁶ Progress Report for Croatia 2007, 4.19.

disparities. Improving cost control and patient choice are also issues of concern¹³⁷.

- As regards **social benefits**, 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 schemes¹³⁸.

In the field of **anti-discrimination¹³⁹**.

- A National Plan to Combat Discrimination is being drafted in 2007.
- 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 life¹⁴⁰.
- There has been no new legislation transposing the *acquis* in this field¹⁴¹
- No availability of sufficiently comprehensive statistical data to allow monitoring of discrimination¹⁴².

2.6. Taxation

The priorities in the Accession Partnership 2006 provided as follows¹⁴³:

- Accelerate alignment of tax legislation with the *acquis* and ensure its effective enforcement, with particular attention to including free zones in the territorial application of the VAT-regime and to abolishing the existing VAT-zero rates.
- Start alignment with the *acquis* in the field of direct taxation, including provisions on exchange of information with Member States, to facilitate enforcement of anti-avoidance and anti-evasion measures

This is Chapter 16 of the negotiations. The *acquis* on taxation covers¹⁴⁴

- 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.
- Some aspects of taxing income from savings of individuals and of corporate taxes. 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

¹³⁷ Progress Report for Croatia 2005, Chapter 19.

¹³⁸ Progress Report for Croatia, 2007, 4.19.

¹³⁹ Progress Report for Croatia, 2005, chapter 19.

¹⁴⁰ Progress Report for Croatia, 2007, 4.19.

¹⁴¹ Progress Report for Croatia, 2006, 4.19.

¹⁴² Progress Report for Croatia, 2006, 4.19.

¹⁴³ **2006/145/EC: Council Decision of 20 February 2006 on the principles, priorities and conditions contained in the Accession Partnership with Croatia and repealing Decision 2004/648/EC, OJ L 55, 25.2.2006, p. 30–43,**

¹⁴⁴ Progress Report for Croatia 2005.

avoidance. Member States must ensure that the necessary implementing and enforcement capacities, including links to the relevant EU computerised taxation systems, are in place.

In the area of **indirect taxation**,

- 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 days¹⁴⁵.
- **Significant steps are required for 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*¹⁴⁶.
- Finally, certain exemptions from the VAT and excise regime for free zones must be fully brought into line with the requirements of the *acquis*¹⁴⁷.

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 traders¹⁴⁸.

In the field of **direct taxation**.

- Amendments to the Law on Profit Tax were adopted in May **2006** with the objective of aligning certain special fiscal regimes to the state aid *acquis* 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 taxation¹⁴⁹.

As regards **administrative cooperation**,

- a new division for international cooperation was set up within the Tax Administration, which – once properly staffed – constitutes the initial core of the future Central Liaison Office and became operational in late 2005¹⁵⁰.
- A 'Financial Police' created in 2004 to curb fraud became operational in January **2006** and focuses mainly on excise duties¹⁵¹.
- Croatia has started to participate in the Fiscalis 2007 programme.

In the field of IT and interconnectivity, Croatia **has set up**"

- **an Interoperability Implementation Strategy** setting policy objectives and providing for staff increases in order to ensure interconnectivity with the EU systems upon accession, **and**
- **the business team for the VAT Information Exchange System (VIES) project**¹⁵²

145 Progress Report for Croatia 2005.

146 Progress Report for Croatia 2005.

147 Progress Report for Croatia 2005.

148 Progress Report for Croatia 2007, 4.16.

149 Progress Report for Croatia, 2006, 4.16.

150 Progress Report for Croatia 2005.

151 Progress Report for Croatia 2005.

152 Progress Report for Croatia 2005. Progress Report for Croatia 2007, 4.16

2.7. Customs

Croatia proceeded to:

- Amendments to the Croatian Customs Act entered into force in **2006 and 2007**. Their objective is to align Croatian legislation:
- to Common Transit requirements¹⁵³
- to provisions on customs procedures with economic impact,
- to guarantees and occurrence of customs debt.
- introduce the concepts of 'risk management' and 'authorised economic operator'¹⁵⁴.
- introduce payment of customs duties on equipment used in free zones¹⁵⁵,
- align time limits for binding opinions¹⁵⁶.
- invalidation of customs declarations¹⁵⁷,
- repayment of customs duties¹⁵⁸ and
- certain reliefs from duty¹⁵⁹.

In addition new regulations were adopted :

- on intellectual property rights¹⁶⁰.
- on the export of cultural goods¹⁶¹.
- on customs tariffs entered into force, aligning Croatia's customs tariff with the 2007 Combined Nomenclature.

- The Customs Training Centre started its activities in **2006**¹⁶².
- A Code of Ethics has been prepared but remains to be formally adopted and implemented¹⁶³.
- 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 projects¹⁶⁴.

2.8. Science and research

The priorities in the Accession Partnership 2006 provided as follows¹⁶⁵:

153 Progress Report for Croatia 2006, 4.29.

154 Progress Report for Croatia 2006, 4.29.

155 Progress Report for Croatia 2006, 4.29.

156 Progress Report for Croatia 2006, 4.29.

157 Progress Report for Croatia 2007, 4.29.

158 Progress Report for Croatia 2007, 4.29.

159 Progress Report for Croatia 2007, 4.29.

160 Progress Report for Croatia 2006, 4.29.

161 Progress Report for Croatia 2006, 4.29.

162 Progress Report for Croatia 2007, 4.29.

163 Progress Report for Croatia 2007, 4.29.

164 Progress Report for Croatia, 2006, 4.29.

165 **2006/145/EC: Council Decision of 20 February 2006 on the principles, priorities and conditions contained in the Accession Partnership with Croatia and repealing Decision 2004/648/EC, OJ L 55, 25.2.2006, p. 30–43,**

- Start designing and applying an integrated research policy on science and research.

Croatia has taken a number of measures aimed at ensuring successful participation in the **Framework Programme for Research and Technological Development**, including :

- **training measures for the National Contact Points designated in July 2005,**
- **creation of a network of coordinators at all higher education institutions and research institutes**¹⁶⁶,
- enhancement of information activities.
- Croatia's full association with the FP6 in June 2005¹⁶⁷ and with FP7 in 2007¹⁶⁸.

In addition Croatia:

- **Established an Agency for Science and Higher Education in 2005** 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 Council¹⁶⁹.
- Adopted the 'National Scientific and Technological Policy 2006-2010' in May 2006, 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 programmes¹⁷⁰.
- 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.
- 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 science¹⁷¹.
- Adopted the evaluation of research institutions and incentives for research and development.
- Improved the evaluation and selection procedures and introduced a peer review system for national research grants¹⁷².

With a view to further integration into the **European Research Area**, Croatia has presented in 2007 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 achieved¹⁷³.

166 Progress Report for Croatia, 2005, chapter 25.

167 Progress Report for Croatia, 2005, chapter 25.

168 Progress Report for Croatia 2007, 4.25.

169 Progress Report for Croatia 2005, chapter 25.

170 Progress Report for Croatia, 2006, 4.25.

171 Progress Report for Croatia, 2006, 4.25.

172 Progress Report for Croatia 2007, 4.25.

173 Progress Report for Croatia 2007, 4.25.

2.9. Education and Culture

This is chapter 26 of the negotiations for the Accession of Croatia to EU.

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 education¹⁷⁴.
- 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**¹⁷⁵. **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***¹⁷⁶.
- support foreign language learning from the first year of primary school were approved¹⁷⁷.

In the area 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 evaluation of the education system and the implementation of national standards for exams, including the exams for access to university¹⁷⁸.
- the planned amendments to incorporate the **non-discrimination principle into the Act on secondary education are still outstanding**¹⁷⁹.

In the context of Law on Science and Higher Education of July 2003,

- appointment of members of the Governing Board of the Agency for Science and Higher Education, established in July 2004¹⁸⁰.
- 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 Education¹⁸¹.

In the area of vocational education,

- an **Agency for Vocational Education** was established in January 2005¹⁸².
- an alignment plan was presented in 2006 regarding the non-discrimination principle in access to education as well as for education of children of migrant workers¹⁸³.

In addition Croatia:

¹⁷⁴ Progress Report for Croatia 2005.

¹⁷⁵ Progress Report for Croatia, 2007, 4.26.

¹⁷⁶ Progress Report for Croatia 2005, chapter 25.

¹⁷⁷ Progress Report for Croatia 2005, chapter 25.

¹⁷⁸ Progress Report for Croatia, chapter 26.

¹⁷⁹ Progress Report for Croatia, 2007, 4.26.

¹⁸⁰ Progress Report for Croatia 2005, chapter 25.

¹⁸¹ Progress Report for Croatia, 2007, 4.26.

¹⁸² Progress Report for Croatia 2005, chapter 25.

¹⁸³ Progress Report for Croatia 2006, 4.26.

1. adopted a basic concept for a national qualifications framework (NQF) in 2007¹⁸⁴.
2. introduced incentives for investment by enterprises in higher education¹⁸⁵.

In the field of **culture**, **Croatia** ratified the UNESCO Convention on the Protection and Promotion of Diversity of Cultural Expression in May **2006**¹⁸⁶

2.10. EU –Croatia Relations on Mobility

2.10.1. Visa facilitation Agreements EU – WBCs

At the present state of relations between the WBC and EU there already adequate measures that are adopted for visa facilitation such as on the one hand the visa facilitation agreements that will enter into force on 1st of January 2008¹⁸⁷.

The visa facilitation agreements and readmission agreements (9) were initialized in April 2007 and their signing in an official ceremony on 18 September 2007, Albania¹⁸⁸, Bosnia and Herzegovina, FORMER YUGOSLAV REPUBLIC OF MACEDONIA and Montenegro (not Croatia)¹⁸⁹. The agreements are expected to enter into force in **January 2008 after their ratification by the European Parliament**¹⁹⁰.

EU citizens are already exempt from the visa obligation by the Western Balkan countries. The finalisation of the ratification process and the implementation of the agreements by 1 January 2008 will respect the extremely tight timetable set up by Council Decision 2006/440¹⁹¹. The visa facilitation does not apply to UK and Ireland, which do not participate in the Schengen cooperation. The agreements will only apply to the Schengen border-free area, which currently includes 15 EU countries, but is likely to be joined by nine more by the end of the year.

It is applicable towards the rest of the EU and Norway and Iceland. EU member states have been obliged to enforce the standardized EU visa regime policy, including the EU Council Regulation (No. 539/2001) that differentiates between a negative list (the so called 'Black List') and a positive list (the 'White List'). The former lists states whose citizens need a visa to enter the Schengen Area, the latter those whose citizens are exempt from visa requirements. The crux of the issue is why all the states of the

¹⁸⁴ Progress Report for Croatia, 2007, 4.26.

¹⁸⁵ Progress Report for Croatia, 2007, 4.26.

¹⁸⁶ Progress Report for Croatia, 2006, 4.26.

¹⁸⁷ Adopted in the 2827th meeting of the Council of the European Union 14507/07 of 7.11.2007, Prelex **2007/0140/CNS**.

¹⁸⁸ Since the readmission agreement with Albania is in force, only visa facilitation agreement was signed.

¹⁸⁹ Following the mandate given by the Council on 13 November 2006, the European Commission started the negotiations of the nine Community agreements on 30 November and succeeded in finalising the whole process and initialling the draft agreements with all Western Balkan countries in April/May 2007.

¹⁹⁰ http://www.ec.europa.eu/commission_barroso/frattini/index_en.htm

¹⁹¹ http://www.abhaber.com/news_page.asp?id=3600, 2006/440/EC Council Decision of 1 June 2006 amending annex 12 to the Common Consular Instructions and Annex 14a to the Common Manual on the fees to be charged corresponding to the administrative costs of processing visa applications, OJ L 175, 29.6.2006, pp. 77-80.

Western Balkans (with the exception of Croatia) are on the 'Black List' of states requiring a visa to enter the EU¹⁹².

2.10.2. The Model: The EC policy for facilitating movement of researchers of third countries in EU.

In October 2005, the Council of the European Union issued the Directive 2005/71/EC on a specific procedure for admitting third country nationals for the purposes of scientific research for a period longer than 3 months¹⁹³ (alias "SCIENTIFIC VISA and Residence permit"¹⁹⁴).

The Directive lays down the conditions for the entry and work of third country researchers in the EU.

The main concept is to create a specific residence permit for foreign researchers independently from their contractual status (employee, self-employed, "stipendee"). In the new system, a non-EU researcher wishing to carry out a research project in Europe will have to sign a "**hosting agreement**" with an accredited public or private EU research organisation¹⁹⁵. Indeed, **the whole system of the Directive is based on a prior 5 year approval by the member States of their public or private research organizations who wish to host a researcher** (art. 5) .

These EC research organisations may sign a hosting agreement with a third country researcher whereby the researcher undertakes to complete the research project and the organisation undertakes to host the researcher only if:

(a) the research project has been accepted by the relevant authorities in the organisation, after examination of:

(i) the purpose and duration of the research, and the availability of the necessary financial resources for it to be carried out;

(ii) the researcher's qualifications in the light of the research objectives, as evidenced by a certified copy of his/her qualification

(b) during his/her stay the researcher has sufficient monthly resources to meet his/her expenses and return travel costs in accordance with the minimum amount published for the purpose by the Member State, without having recourse to the Member State's social assistance system;

(c) during his/her stay the researcher has sickness insurance for all the risks normally covered for nationals of the Member State

(d) the hosting agreement specifies the legal relationship and working conditions of the researchers.

In this way, accredited research organisations will certify the status of the visa applicant via the hosting agreement. They will also verify the existence of a genuine research project, as well as the possession by the

¹⁹² http://pdc.ceu.hu/archive/00003178/04/analytica_visa_facilitation.pdf

¹⁹³ OJ L 289/15.

¹⁹⁴ EUROPEAN COMMISSION, RESEARCH DIRECTORATE-GENERAL, Unit C5 - Universities and Researchers, Brussels, 07/03/07, **Subject: "Researchers' visa" package (admission procedures of and visa facilitation for third country researchers entering the EC) in**

<http://www.abest.secyt.gov.ar/filesdownload/130.pdf>

¹⁹⁵ EUROPEAN COMMISSION, RESEARCH DIRECTORATE-GENERAL, Unit C5 - Universities and Researchers, Brussels, 07/03/07, op.cit.

researcher of the necessary scientific skills, sufficient resources and health insurance¹⁹⁶.

On the basis of that contract, the immigration authorities of the host country will rapidly deliver the visa and the residence permit.

The visa is issued when with an accelerated procedure when the third country researcher :

- (a) presents a valid travel document, as determined by national law. Member States may require the period of the validity of the travel document to cover at least the duration of the residence permit;
- (b) presents the “hosting agreement”
- (c) where appropriate, presents a statement of financial responsibility issued by the research organisation and
- (d) is not considered to pose a threat to public policy, public security or public health.

Member States may also check the terms upon which the hosting agreement has been based and concluded.

The residence permit is issued for a period of at least one year and may be renewed. If the research project is scheduled to last less than one year, the residence permit shall be issued for the duration of the project (art. 8). Member States shall determine whether applications for residence permits are to be made by the researcher or by the research organisation concerned. The application shall be considered and examined when the third-country national concerned is residing outside the territory of the Member States to which he/she wishes to be admitted (art. 14).

When a Member State decides to grant a residence permit to the family members of a researcher, the duration of validity of their residence permit shall be the same as that of the residence permit issued without any requirement of a minimum period of residence of the researcher (Art. 9). The Commission would have liked to see more provisions for researchers’ families, as splitting families often acts as a deterrent to mobility¹⁹⁷.

Member States may withdraw or refuse to renew a residence permit issued on the basis of this Directive when it has been fraudulently acquired or wherever it appears that the holder did not meet or no longer meets the conditions for entry and residence

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http://216.239.59.104/search?q=cache:XZ11H0zW3JkJ:cordis.europa.eu/search/index.cfm%3Ffuseaction%3Dnews.simplesdocument%26N_RCN%3D28520+Researchers+visa&hl=el&ct=clnk&cd=2&gl=gr

197

http://216.239.59.104/search?q=cache:XZ11H0zW3JkJ:cordis.europa.eu/search/index.cfm%3Ffuseaction%3Dnews.simplesdocument%26N_RCN%3D28520+Researchers+visa&hl=el&ct=clnk&cd=2&gl=gr

or is residing for purposes other than that for which he was authorised to reside or for reasons of public policy, public security or public health (art. 10).

Researchers admitted under this Directive may teach in accordance with national legislation for a maximum number of hours or of days for the activity of teaching (Art. 11).

Researchers will have equal treatment with nationals as regards (Art. 12):

- (a) recognition of diplomas, certificates and other professional qualifications in accordance with the relevant national procedures;
- (b) working conditions, including pay and dismissal;
- (c) branches of social security as defined in Council Regulation (EEC) No 1408/71 and (EC) No 859/2003
- (d) tax benefits;
- (e) access to goods and services and the supply of goods and services made available to the public.

A third-country national who has been admitted as a researcher shall be allowed to carry out part of his/her research in another Member State for less than 3 months (art. 13) on the basis of the hosting agreement concluded in the first Member State, provided that he has sufficient resources in the other Member State and is not considered as a threat to public policy, public security or public health in the second Member State.

If the researcher stays in another Member State for more than three months, Member States may require a new hosting agreement to carry out the research in that Member State.

Directive 2005/71 applies to all EU countries except the United Kingdom and Denmark. The “new Member States” will also apply the directive, apart from provisions concerning short-term mobility to other EU countries (i.e. the rules on short-term visas could be different for the new MS until their full participation in the Schengen area, which might occur after the entry into force of the directive).

October 12, 2007 was the deadline for making the 2005 Directive national law. By that date, only Austria, Belgium, Germany, Hungary, Portugal and Romania had complied fully. A further four Member States (France, Latvia, Lithuania and the Slovak Republic) had notified the Commission of partial implementation¹⁹⁸.

In comparison to usual existing national rules, **the main added values** of the directive for third country researchers can be summarized as follows¹⁹⁹:

- For the first time, a **common definition of “researcher”** has been established in the Community Law²⁰⁰.

¹⁹⁸ http://216.239.59.104/search?q=cache:XZ11H0zW3JkJ:cordis.europa.eu/search/index.cfm%3Ffuseaction%3Dnews.simplifiedocument%26N_RCN%3D28520+Researchers+visa&hl=el&ct=clnk&cd=2&gl=gr

¹⁹⁹ EUROPEAN COMMISSION, RESEARCH DIRECTORATE-GENERAL, Unit C5 - Universities and Researchers, Brussels, 07/03/07, op.cit.

²⁰⁰ Article 2 of the directive: "Researcher" means a third-country national holding an appropriate higher education qualification, which gives access to doctoral

- Researchers admitted as “employees” will no longer have to obtain work permits in the Member States and any form of “quota” fixed by the Member States will not be permitted;
- Once the hosting agreement is signed and security aspects are (rapidly) checked by immigration authorities, the researcher will have a right, legally actionable before a court to entry the Member State concerned;
- Member States are encouraged to allow researchers who are already legally resident within the country to submit applications for residence permits directly to the authorities in that Member State without returning home first (“applications in loco”), as it is often currently the case;
- The researcher could carry out part of his/her research activities in other EU countries for a period lasting less than 3 months (while today it is only possible to move, but not to work). When moving for a period of more than 3 months, the new host countries could require the signature of another hosting agreement.
- The non-discrimination principle vis-à-vis national researchers will concern *inter alia* working conditions to avoid social dumping (the foreign researcher should have comparable salary conditions as nationals), and social security.

Directive 2005/71/EC is accompanied by two Recommendations which do not impose legal obligations on Member States, being rather a political commitment to facilitate researchers in a EU country. The "**Council Recommendation 2005/762/EC of 12 October 2005 was adopted** to facilitate the admission of third-country nationals to carry out scientific research in the European Community". Pending the implementation of the directive by the Member States, the **first recommendation on long term admission** calls on Member States to anticipate to some extent directive in advance of final transposition the objectives of the directive with reference in particular to the exemption/acceleration of the procedure to deliver work permits for researchers, and the easing of the procedure for the residence permit²⁰¹.

The "**Recommendation 2005/761/EC** of the European Parliament and of the Council of **28 September 2005** (on short-term visas e.g. for conferences) was adopted to facilitate the issue by the Member States of uniform short-stay visas for researchers from third countries travelling within the Community for the purpose of carrying out scientific research". It differs from the directive and the other recommendation (related to long-term admission), as it **covers short-term visas** (i.e. less than three months). It aims at facilitating the delivering of uniform visas for instance to participate at conferences, seminars, etc. in the EU. It recommends the Member States to rapidly deliver to researchers short-term visa (including multiple-entry visas), for the duration of the research project they are involved in, to waive visa fees²⁰², to

programmes, who is selected by a research organisation for carrying out a research project for which the above qualification is normally required.

201 EUROPEAN COMMISSION, RESEARCH DIRECTORATE-GENERAL, Unit C5 - Universities and Researchers, Brussels, 07/03/07, **Subject: “Researchers’ visa” package (admission procedures of and visa facilitation for third country researchers entering the EC) in**

<http://www.abest.secyt.gov.ar/filesdownload/130.pdf>

202 Communication from the Commission - The Western Balkans on the road to the EU: consolidating stability and raising prosperity, COM/2006/0027 final, <http://eur->

adopt a harmonised approach on supporting documents to visa applications, and to reinforce the consular co-operation. This recommendation **does not apply to the UK and Ireland**; Denmark will decide within 6 months whether or not it will apply it²⁰³. Finally, in 2006, the Regulation (EC) 1931/2006 was adopted for the establishment of a local border traffic regime at the external borders of the Member States. Under this regime, residents of border regions, including along EU borders with Western Balkan countries, are authorised to cross the border with a local border traffic permit, without requiring a visa²⁰⁴ if they are not persons in respect of whom the Schengen Information System (SIS) has been alerted, and are not deemed to be a threat to public order.

They may stay in the border area stipulated in the bilateral agreement between the Member States and the neighbouring third country. The maximum duration of the stay may not exceed three months in any half-year period.

lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&lg=en&type_doc=COMfinal&an_doc=2006&nu_doc=27

203 EUROPEAN COMMISSION, RESEARCH DIRECTORATE-GENERAL, Unit C5 - Universities and Researchers, Brussels, 07/03/07, **Subject: “Researchers’ visa” package (admission procedures of and visa facilitation for third country researchers entering the EC) in <http://www.abest.secyt.gov.ar/filesdownload/130.pdf>.**

204 **Regulation (EC) No 1931/2006 of the European Parliament and of the Council of 20 December 2006 laying down rules on local border traffic at the external land borders of the Member States and amending the provisions of the Schengen Convention [Official Journal L 405 of 31.12.2006].**

3. DEFINITION OF OBSTACLES AND POLICY GUIDELINES TO REMOVE THEM

3.1. Introduction

EU and Croatia have good relations between them. Croatia already has the EU candidate country status.

There are already measures that have been adopted that facilitate movement of persons between EU and Croatia.

On the one hand the EU has facilitated movement with

- The Directive 2004/114/EC that facilitated mobility of students, pupils and trainees.
- The Directive 2005/71/EC that allows third country researchers to work in EU without visa and work permit for long term stay if they have signed a hosting agreement with an accredited EU institution
- The visa facilitation agreements with Croatia that, among other provisions, waives visa fees for third country researchers.
- The Recommendation 2005/761 that allows short stays of researchers for seminars and congresses.

On the other hand the Croatia has facilitated movement by allowing EU citizens to enter their territory without visa for 90 days. In addition, Croatia has taken many measures to approximate its legislation to the Community acquis and in particular the new Act on Aliens in July 2007. **Overall Croatia has reached a very good degree of openness to the free movement of persons and especially researchers in comparison with other WBCs. There are still few more measures to be taken in order to facilitate the mobility of researchers.**

The globalization of the economy and the need for EU leadership in science and technology and the realization of the European Research Area, calls for greater mobility of researchers. The sixth framework programme of the European Community recognized this imperative need, when it opened up its programmes further to researchers from outside the European Union²⁰⁵. In Thessaloniki Agenda of June 2003, the countries of the Western Balkans and, where applicable, other regional participant countries, committed to promote **visa-free movement within the region**, research, technology and development and cross-border co-operation. The Action Plan for Research and Technology that was adopted on 26 June 2003 when the first bi-regional EU/Western Balkans ministerial meeting on S&T took place in Thessaloniki, highlighted the importance of *human potential* in RDT, and of schemes for the networking and exchange of researchers and joint programmes. Later, the overall aim of the “ERA WESTBALKAN” project - funded in the INCO programme - was to raise the quantity and the quality of participations from the WBC in the 6FP. The Steering Platform in 2006 facilitates the interaction between the Western Balkan Countries, the EU member states, the candidate and potential candidate countries and other states associated to the Framework Programmes for RTD and the European Commission.

²⁰⁵ Directive 2005/71/EC, preamble par.3. Decision no 1513/2002/EC of the European Parliament and the Council, OJ L 232, 29.8.2002, p. 1.

POLICY GUIDELINES FOR FACILITATION OF MOBILITY OF RESEARCHERS

1. To the European Commission:

- 1.1. Help enforce the scientific visa Directive 2005/71/EC in all EU member States that have not yet implemented it.
- 1.2. Include the Western Balkan Countries in all the European Commission's activities related to European scientific diaspora.
- 1.3. Extend the Twinning Programme to Research institutions and Ministries of Science and Education in Croatia.

2. To Croatia and EU:

- 2.1. Include the priority of facilitation of mobility of researchers in the Accession Agreements with Croatia.
- 2.2. Discuss the WEB-MOB policy guidelines in the next EU-Western Balkans Forum of Foreign Ministers in March 2008.
- 2.3. Discuss the WEB-MOB policy guidelines in the next steering platform. The WEB-MOB policy guidelines must feed into the discussions of the Steering Platform on Research with the Western Balkan Countries and into the planning of the future SEE-ERA.NET activities related to mobility as well as in other support actions targeting the region. The results of the WEB-MOB will feed into the planning and programming of CEEPUS III and the countries of the region are invited to make full use of the present CEEPUS programme and related CEEPUS activities (e.g. CEEPUS TV). As the capacities for international research cooperation are not enough visible and known in the EU member states, the Web Mob Portal and existing information tools and data bases will ensure visibility.
- 2.4. Begin negotiations between EU and Croatia on a research residence permit for EU, EEA and WBC researchers (researchers, university professors and students)
- 2.5. Multilateral or bilateral agreements between EU 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. Croatia with Germany, Belgium, Luxemburg, Denmark, Hungary, Bulgaria, Austria, Switzerland, Turkey, Canada and Australia.
- 2.6. The European Social Security Card could be extended to Croatia. Indeed Croatia has already concluded bilateral agreements with Slovenia, Czeck Republic and Hungary²⁰⁶.

3. To the Government of Croatia:

3.1. Visa requirements

3.1.1. For short term stay

Croatia has no visa for a short term stay (up to 3 months) for EU and EEA citizens as well as for citizens of Bosnia and Herzegovina, FORMER YUGOSLAV REPUBLIC OF MACEDONIA, and temporarily for Serbians. It is highly recommended to:

- **Make permanent the visa free status (up to 3 months) for Serbians, at least researchers and**
- **Abolish visa requirements for Albanian nationals for visa free entry up to 3 months.**

3.1.2. For long term stay (from 3 months up to one year)

▪ Croatia imposes visa requirements for EU and EEA citizens as well as all citizens of Western Balkans who have the obligation to submit a number of 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**²⁰⁷

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.

In addition, it may take up to 2 months until the visa is issued, which is a very long time interval, despite the network that links all embassies and consular offices of Croatia.

A researcher of foreign nationality in order to work for a Croatian institution for **3 months to 1 year** can apply for a travel visa and temporary residence²⁰⁸. In such case, a researcher seems to have to submit proof of sufficient funds²⁰⁹.

These requirements are too many and hinder mobility of researchers. At the present stage it is highly recommended to introduce the model of Directive 2005/71/EC 71 for Research Residence Permit and the **Recommendation 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**²¹⁰ in order to ensure reciprocity between EU and Croatia. In this way reciprocity and common rules between EU and WBC researchers could be established.

The Directive 2005/71 allows the EU member states in order to issue of a residence permit to request to the third country researchers,

- valid travel document,**
- present a **hosting agreement** signed with an accredited research organisation

²⁰⁷ Mobility guide for Croatia 2.1.1.1.

²⁰⁸ Mobility guide, 2.1.1.2.

²⁰⁹ Mobility guide, 2.1.1.4

²¹⁰ **of the European Parliament and of the Council of 28 September 2005, L 289, 3.11.2005.**

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.

If these requirements are also adopted for Croatia then the hosting agreement could serve as proof for the **purpose** of visiting the Republic of Croatia, covered expenses, subsistence funds and letter of guarantee. Though **it is not obligatory in Croatia to conclude a written contract between research organization and researcher this must be obligatory for foreign researchers**²¹¹. The researcher should only prove ensured **accommodation and** intention of **returning to homeland**²¹²

3.2. Formalities at the border

There are some doubts whether it is **disproportionate** to buy 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 reasonable, and whether the same aim could be achieved in a certain deadline or buying insurance only for certain days on proportionate and reasonable price or by any other means.

3.3. Announcement to the police of the presence of a foreigner

The period of 12/24 hours is too short. For researchers it should be made clear that it is the research institution that has to notify the police of a foreign researcher's presence.

3.4. Linguistic skills and finding accommodation

Though public officials who deal with paperwork for issuing temporary stays or residence permits may have good linguistic skills, this is not required by law. In addition, though accommodation is not very expensive in Croatia, a foreigner has to come 1 month before in order to find one. *We therefore highly recommend the establishment of reception points at research institutions that will finish all paperwork with the authorities and assist researchers finding accommodation. In case that such reception points already exist their further training. 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**²¹³. **Maybe this network could be used for this purpose if properly trained.**

3.5. Definition of family members

Croatia does not include in family members all researcher's children restricting the right of reunion only to children under 18 years old, unmarried living with parents,

²¹¹ Mobility Guide, 4.3.1.

²¹² Mobility guide for Croatia 2.1.1.1.

²¹³ Progress Report for Croatia, 2005, chapter 25.

and excluding children in need of support and are living together in one household who may be over 18 years of age. It is recommended to amend legislation.

3.6. Validation of children's school qualifications

Researcher's children may be enrolled in public schools of primary and secondary education without fees. However proper placement of researcher's children depends on the administrative procedure of **validation of foreign elementary and secondary school qualifications** by the Ministry of Science, Education and Sport of Republic of Croatia²¹⁴. This may not be the most practical option for a short term stay²¹⁵. Though 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 education²¹⁶, the same must be done for secondary education and procedures must be accelerated.

In addition, the foreign children do not seem to be able to receive scholarships or other privileges²¹⁷ without discrimination²¹⁸ except EU nationals in the field of university education in 2007²¹⁹. **There are currently few children of EU nationals enrolled in Croatian schools²²⁰. 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 Education²²¹. **It should be changed for WBC nationals under reciprocity.**

3.7. Mutual Recognition of Diplomas

The system on Recognition of university diplomas in Croatia is decentralized as regards academic recognition (Universities) and centralized as regards professional recognition (National ENIC NARIC office). Though there are many procedural guarantees on no discrimination because of nationality, **bilateral or multilateral agreements should be concluded by Croatia with the rest of EU and EEA member States as well as WBCs for automatic recognition of University diplomas.**

3.8. Procedure for temporary stay

Procedure for issuance of temporary stay requires too many documents. The hosting agreement should be enough to prove sufficient means, health insurance, and proof of justifiability of stay. The researcher should only prove his/her accommodation.

In addition this temporary stay should be for one year and renewable with an accelerated procedure.

²¹⁴ Mobility guide 2.5.5. Details can be found on the Ministry website: <http://public.mzos.hr/Default.aspx?sec=2531>.

²¹⁵ Mobility guide 2.5.1.

²¹⁶ Progress Report for Croatia 2005.

²¹⁷ 2.5.2.

²¹⁸ Progress Report for Croatia, 2007, 4.26.

²¹⁹ Progress Report for Croatia, 2007, 4.26.

²²⁰ Progress Report for Croatia 2005, chapter 25.

²²¹ Progress Report for Croatia, 2007, 4.26.

Thus amendment of Croatian legislation is highly recommended since a temporary stay is what a mobile researcher would mostly need. Croatian legislation could be inspired by Directive 2005/71/EC.

3.9 Work permits and the uniform concept of researcher

It should be made clear that all researchers coming from EU, EEA and WBCs have nothing to do with the quota system and nothing to do with work permits, if they have a hosting agreement with an accredited institution. Today it is not clear whether the quota system to protect Croatians from unemployment is applied to mobility of researchers, since 10 places are provided for researchers annually. It seems that this quota is for teachers and not researchers.

In addition the previous article 95 of the Aliens Act did not mention the concept of “researcher” and exempted from work permits only “**scientists taking part in the execution of scientific research projects important for the Republic of Croatia**”²²². Thus Croatia’s previous legislation had established two categories of researchers: The researchers that must ask for a work permit and the researchers working on projects “important for Croatia” that do not need work permits”.

Therefore Article 95 of the previous Aliens Act could have been extended to all researchers, establishing a uniform concept of “researcher” as explained in the Directive 2005/71/EC. For example besides researchers Croatia considers **other people are considered as researchers e.g. for the duration of pre-doctoral or post-doctoral training** ²²³.

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.

3.10.Social security

The effort of concluding Multilateral or bilateral agreements between EU and Croatia must be continued for ensuring aggregation of periods for social security and no double taxation of researchers’ income. Croatia has already signed such agreements with Germany, Belgium, Luxemburg, Denmark, Hungary, Bulgaria, Austria, Switzerland, Turkey, Canada and Australia

²²² http://www.mup.hr/main.aspx?id=1266#_Rad_BEZ_radne_dozvole. Mobility guide for Croatia 2.6.1.

²²³ Mobility Guide 4.3.2.

In addition, the European Social Security Card could be extended to Croatia. Indeed Croatia that has concluded bilateral agreements for the extension of the European Social Security Card only with Slovenia, Czeck Republic and Hungary²²⁴.

3.13. Issues for researchers' career

1. Nationality requirement must be abolished for researchers²²⁵, who are state employees.

2. In case that a researcher discovers know-how or an invention in the framework of a project launched by the host institution²²⁶ there must be clear rules of who will be the owner of Intellectual or Industrial property rights. It should not only be the **host institution or employer but the researcher as well. Modifications to patent law may be necessary in order to grant incentives to researchers to innovate.**

3. Legislation must be clarified that public hospitals offer medical care free of charge²²⁷ to all foreigners who are legally present in the territory not only to those that have work or residence permit²²⁸. Indeed if researchers are exempted from work permit and have only temporary stay permit then they cannot have medical care in public hospitals.

4. Bank loans should be granted to foreigners who work in Croatia and not only if they have a permanent residence permit and a permanent work contract²²⁹.

5. More international treaties for the avoidance of double taxation should be concluded so that all EU, EEA and WBCs are covered²³⁰.

6. There are too many taxes and overheads on scholarships

7. Vacancies in researcher jobs and fellowships in Croatia could be published on the internet on the official site of Croatia in a Western European language as well²³¹.

8. Specific national legislation for fees and career issues of researchers could be drafted while researchers could form associations for making better their career.

224 Mobility Guide 5.4.4.

225 Mobility Guides 4.1.8.

226 Mobility Guide 4.6.2.

227 Mobility guide, 5.4.1. and 5.4.2.

228 Mobility guide 5.4.3.

229 Mobility guide 5.5.3.

230 Mobility guide 5.6.5.

231 Mobility guide 7.2.2.1.

WEB-MOB

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

MOBILITY GUIDELINES

For increasing the mobility of researchers in
FORMER YUGOSLAV REPUBLIC OF MACEDONIA

PREPARED BY CERTH

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University of Macedonia, Thessaloniki, Greece.**

DELIVERABLE D.6.2.

2007

THESSALONIKI

1.1. The General strategy of the European Commission towards Western Balkans

Enlargement is one of the EU's most powerful policy tools. It serves the EU's strategic interests in stability, security, and conflict prevention. It has helped to increase prosperity and growth opportunities and to secure vital transport and energy routes²³². The December 2006 European Council concluded that "enlargement has been a success story for the European Union and Europe as a whole. It has helped to overcome the division of Europe and contributed to peace and stability throughout the continent. It has inspired reforms and has consolidated common principles of liberty, democracy, respect for human rights and fundamental freedoms and the rule of law as well as the market economy. The wider internal market and economic cooperation

²³² COM(2007) 663 final, Enlargement Strategy and Main Challenges 2007-2008, Communication from the Commission to the European Parliament and the Council, Brussels, 6.11.2007, p. 2.

have increased prosperity and competitiveness, enabling the enlarged Union to respond better to the challenges of globalisation. Enlargement has also enhanced the EU's weight in the world and made it a stronger international partner²³³."

EU engagement with the countries of the Western Balkans through the Stabilisation and Association Process, leading to eventual membership, has made a crucial contribution to the progress achieved in recent years by the countries of the region.

Stability has been maintained and reconstruction after the wars of the 1990s is almost completed. Democratically-elected governments are in place throughout the region. Economic growth has picked up, macro-economic stability has improved and living standards have risen. Important reforms are underway to strengthen the rule of law and modernise economic and social structures. Regional cooperation has grown, including in the areas of trade, energy, transport and environment. The Western Balkan countries are assuming increasing ownership in regional initiatives.

All countries of the Western Balkans have been moving forward towards the EU, albeit at different speeds. Croatia is engaged in accession negotiations with the EU, and the former Yugoslav Republic of Macedonia has obtained candidate status. The EU is in the course of completing Stabilisation and Association Agreements with the countries of the region and economic integration with the EU is well advanced. **The Western Balkan countries have now signed visa facilitation and readmission agreements with the EU²³⁴.**

The May 2007 summit of the **South-East Europe Cooperation Process (SEECP)** in Zagreb heralded a move towards **regional ownership of the process** of regional cooperation. The Stability Pact has largely accomplished its mission and will be replaced by a new **Regional Cooperation Council (RCC)** linked to the SEECP. A Secretary-general of the RCC was appointed, and Sarajevo was designated as the seat of its secretariat. Under the Bulgarian Chairmanship in office, the host country agreement was signed with Bosnia and Herzegovina and the Secretariat is being set up. It is expected that the last meeting of the Stability Pact Regional Table and the first meeting of the RCC will be held in Sofia in early 2008, when the Special Coordinator of the Stability Pact will hand over to the RCC Secretary-general. The new structures need to become operational swiftly, in particular the secretariat and its Brussels liaison office. **The SEECP and the RCC will provide a general umbrella for regional cooperation.**

The Commission will participate in the RCC and encourages all parties concerned to play an active role. Building on the relevant experience of the Stability Pact, the Commission intends to co-operate with SEECP and RCC on the implementation of the implementation of the EC Disaster Risk Reduction Initiative, as well as the **Disaster Prevention and Preparedness Initiative (DPPI)** launched under the Stability Pact. The Commission also intends to further associate the Western Balkans countries with work related to the Community Civil Protection Mechanism dealing with emergency situations such as floods, forest fires or earthquakes.

²³³ 2007 Enlargement Strategy and Main Challenges, p.3.

²³⁴ 2007 Enlargement Strategy and Main Challenges, p. 5.

In July 2007 the new **Central European Free Trade Agreement (CEFTA)** entered into force. Ratification by all signatories has recently been completed and this regional free trade area is now effective throughout the region. The European Commission intends to support CEFTA, both through technical assistance and through initial three-year funding of the CEFTA235 Enterprises.

The implementation of the **Energy Community Treaty** has advanced. Ratification of the European Common Aviation Area is underway. Remaining signatories now need to proceed with ratifying these instruments. These agreements allow early integration into the EU internal market for energy and aviation. Detailed roadmaps and action plans on electricity and gas have been drawn up.

In order to raise awareness of the EU laws and policies, the Commission's **TAIEX** office will organise technical information sessions in the potential candidate countries for the benefit of stakeholders in government, business and society. The **Regional School of Public Administration will contribute to the strengthening of administrative capacity in the Western Balkans. EU funds have been mobilised to transform the existing network into a school based in the Western Balkan region.**

People-to-people contacts should be maximized between the Member States and the countries in the region, and across the region itself.

Easier travel to the European Union is an issue of utmost importance to the peoples and governments of the Western Balkans. In Thessaloniki, the EU recognised this fact and committed to steps for achieving this goal. Steps towards liberalising travel need to take into account the internal security and migration interests of the EU. A visa-free regime has been in place with **Croatia** for many years. The Commission recently negotiated **visa facilitation agreements** together with readmission agreements with the other countries of the region. These were signed in September and are expected to be approved by the Council shortly, so that they can enter into force on 1 January 2008. The agreements will improve substantially the conditions for obtaining visas for travel to the EU. It is important that Member States ensure their proper implementation. The facilitation agreements are an important step towards full liberalisation of the visa regime. The Commission considers that it is now time to gradually move towards visa liberalisation with the Western Balkan countries through further concrete steps. To that end the Commission proposes to open a dialogue with each of the countries concerned with a view to establishing **a road-map on the conditions to be met.** These would cover effective implementation of readmission agreements, as well as progress on key areas such as border management, document security, or the fight against organised crime. Such road-maps will allow the countries concerned to better focus their reform efforts, while also reinforcing the visibility of the EU's commitment to the peoples of the region.

Measures aimed at improving people-to-people contacts also include the expansion of education cooperation and **mobility opportunities for undergraduate and graduate students** under the Tempus and Erasmus-Mundus and Tempus programmes. A further 100 students from the region may undertake postgraduate studies in EU in 2007/2008. **From 2008, up to 500 undergraduate students will benefit annually from exchange programmes between the EU Member States and the region**²³⁶. The Commission will explore, together with the Member States and other bilateral

235 Strategy, op.cit, p. 12.

236 Strategy, p. 14.

donors, possibilities for further scholarship opportunities. Pre-accession financial support will also be provided for participation of Western Balkan young people, youth organisations, cultural operators, civil society organisations and **researchers** into EU programmes. The Commission will encourage initiatives and projects related to the 2008 European Year for Inter-cultural Dialogue. Under the Commission's new civil society facility, measures will be taken to support networking and exchange between civil society groups and their counterparts in the region and at European level²³⁷.

Among its recommendations are:

...(d) Provided the conditions are fulfilled, the Stabilisation and Association Agreements can be completed with all Western Balkan countries in 2008, with agreements either signed or in force.

(e) The **Western Balkan countries will take over responsibility** for regional cooperation with the transition from the Stability Pact to the new Regional Cooperation Council within the framework of the South-East Europe Cooperation Process. The EU will continue to support local ownership of initiatives in regional cooperation.

(f) Priority attention will be given to promoting people-to-people contacts between the Western Balkans and the EU. **The Commission will initiate a dialogue on visa liberalisation for citizens of the Western Balkan countries as the next step following visa facilitation and readmission agreements.**

(g) Early in 2008, the Commission will adopt a communication which will take stock of developments and point the way forward in following up on the Thessaloniki agenda and the Salzburg Communication on promoting the course of the Western Balkans towards the EU.

(h) The Commission is now proposing **revised Accession and European Partnerships** that set out **updated reform priorities**. Fundamental issues related to state-building, governance and administrative and judicial reform need to be tackled at an early stage²³⁸.

These priorities will be reflected in programming financial assistance under the new Instrument for Pre-Accession Assistance (IPA). The Commission will also establish under IPA a financing facility to promote dialogue and civil society development, notably through capacity-building and exchange projects. It will ensure closer coordination with other donors, and intensify cooperation with the EIB, as well as with the EBRD and other international financial institutions²³⁹.

1.2. EU – Relations with Former Yugoslav Republic of Macedonia

The former Yugoslav Republic of Macedonia, which was the southernmost part of the former Socialist Federal Republic of Yugoslavia and has a population of 2 million, **became independent in November 1991.**

The country has maintained contractual relations with the European Communities since **1996**. In 1997 it signed a Co-operation Agreement as well as Trade and Textile Agreements, which entered into force in 1998. A Stabilization and Association

²³⁷ Strategy p. 15.

²³⁸ Strategy, p. 18.

²³⁹ Strategy, p. 19.

Agreement (SAA) was signed in April **2001** and entered into force on 1 April 2004²⁴⁰

The former Yugoslav Republic of Macedonia presented its application for membership of the European Union on 22 March 2004. In its Opinion, the Commission analysed the application from the former Yugoslav Republic of Macedonia on the basis of the country's capacity to meet the criteria set by the Copenhagen European Council of 1993 and the conditions set for the SAP, notably the conditions defined by the Council in its conclusions of 29 April 1997.

Taking into account, in addition, the substantial progress made by Former Yugoslav Republic of Macedonia in completing the legislative framework related to the Ohrid Framework Agreement of 2001, and following four years of implementation of the Stabilisation and Association Agreement the Commission recommended that the Council should grant the status of candidate country to the former Yugoslav Republic of Macedonia. This status is a political recognition of a closer relationship between the EU and the former Yugoslav Republic of Macedonia on its way towards membership²⁴¹

The European Council of December 2005 granted the status of candidate country to the former Yugoslav Republic of Macedonia. The former Yugoslav Republic of Macedonia is participating in the Stabilisation and Association Process (SAP).

Political and economic dialogue between the EU and the country is realized through the SAA structures. The SAA Committee met in June and the SA Council in July. Seven sectoral sub-committees have been held since November 2006.

Former Yugoslav Republic of Macedonia adopted a **national programme** for the adoption of the *acquis* in April 2007²⁴².

Visa facilitation and readmission agreements between the EU and the former Yugoslav Republic of Macedonia were signed in September 2007. The new arrangements are important to facilitate people-to-people contacts. They will simplify procedures for issuing visas for certain categories of citizens of the former Yugoslav Republic of Macedonia, 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 will allow more interaction between citizens of the EU Member States and the citizens of Former Yugoslav Republic of Macedonia²⁴³.

As regards **financial assistance**, the new Instrument for Pre-Accession Assistance (IPA) started on 1 January 2007. The 2007-2009 Multi-Annual Indicative Planning Document (MIPD) for the former Yugoslav Republic of Macedonia was adopted in May. In 2007, the national programme amounted to € 58 million. In addition the country continues to benefit from regional and horizontal programmes. Cross border cooperation is used to promote dialogue between local and regional authorities of neighbouring countries²⁴⁴.

²⁴⁰ Commission Report on application of membership.

²⁴¹ Commission Report op.cit.

²⁴² 2007 Progress Report, 1.2. Context, p. 5.

²⁴³ 2007 Progress Report, 1.2. Context, p. 5.

²⁴⁴ 2007 Progress Report, 1.2. Context, p. 5.

The national CARDS allocations to the former Yugoslav Republic of Macedonia amount to € 195.5 million since 2002²⁴⁵.

As regards Community programmes, the former Yugoslav Republic of Macedonia signed a memorandum of understanding for participation in the 7th Framework Programme for research and technological development in June 2007²⁴⁶.

Furthermore, two new incubators are at the opening stage, with the support of international donors and local authorities: Entrepreneurial Youth Service (YES) which has commenced its operations in June in Skopje, and Bitola Incubator. The Incubator in Bitola – Business Start-up Center, was opened in May, 2007 and active participants in it are the University of St. Kliment Ohridski – Faculty of Technical Sciences and the Regional Business Development Centre – Bitola²⁴⁷.

1.3. THE ACCESSION TO EU : CRITERIA AND PRIORITIES

The **European Council in Copenhagen in June 1993** concluded that:

“The associated countries in Central and Eastern Europe that so desire shall become members of the Union. Accession will take place as soon as a country is able to assume the obligations of membership by satisfying the economic and political conditions. Membership requires:

- that the candidate country has achieved **stability of institutions** guaranteeing **democracy, the rule of law, human rights** and respect for and protection of minorities;
- the existence of a functioning **market economy**, as well as the capacity to cope with competitive pressure and market forces within the Union;
- the ability to take on the obligations of membership, including adherence to the **aims of political, economic and monetary union**.

The Union’s capacity to absorb new members, while maintaining the momentum of European integration, is also an important consideration in the general interest of both the Union and the candidate countries.”

The **European Council in Madrid in December 1995** referred to the need “to create the conditions for the gradual, harmonious integration of the application countries, particularly through the **development of the market economy, the adjustment of their administrative structure, the creation of a stable economic and monetary environment.**”

The Stabilisation and Association Process (SAP) conditionalities were defined by the Council on 29 April 1997 and included co-operation with the International Criminal Tribunal for the Former Yugoslavia (ICTY) and **regional co-operation**. These conditions are a fundamental element of the SAP and are integrated into the Stabilisation and Association Agreement (SAA) with the former Yugoslav Republic of Macedonia, which entered into force in April 2004.

1.4. The European Partnership with the Former Yugoslav Republic of Macedonia

245 2007 Progress Report, 1.2. Context, p. 5.

246 2007 Progress Report, 1.2., Context, p.6.

247 Progress www.sei.gov.mk/portal/mak/bilten.

The SAA with the former Yugoslav Republic of Macedonia was signed on 9 April 2001. It has been ratified by all member states and entered into force²⁴⁸.

The Thessaloniki European Council of 19- 20 June 2003 endorsed the introduction of the European Partnerships as a means of realising the European perspective of the western Balkan countries within the framework of the Stabilisation and Association Process²⁴⁹.

Regulation (EC) No 533/2004 provides²⁵⁰

- in its Article 2 that the Council is to decide on the principles, priorities and conditions to be contained in the European Partnerships, as well as any subsequent adjustments.
- that the follow-up to the European Partnerships will be ensured within the framework of the mechanisms established under the stabilisation and association process.

The Council adopted the first Partnership with the former Yugoslav Republic of Macedonia on 14 June 2004²⁵¹. In 2006 this first Partnership was updated on the basis of the Commission's opinion on the application from the former Yugoslav Republic of Macedonia for membership of the European Union. The second European Partnership identifies new priorities for action.

Among its short term priorities were:

- Further improve the business environment. In particular, complete the registration of all **land and real estate** as well as the related strengthening of the cadastre...
- Take steps to integrate the informal sector into the formal economy, particularly in order to **fully include employed persons into the social security system** and to eliminate unfair competition from unregistered companies.
- **Decrease the relatively high share of unproductive expenditure** while increasing funding for **education, infrastructure and research and development**.
- **Modernise the educational system. Align the quality of the educational system with European standards. Modernise the curricula** of secondary and university education. Step up efforts to create a modern vocational education and training system.
- Increase administrative capacity with respect to **tax collection and expenditure** control. Increase internal control and audit standards.

²⁴⁸ http://ec.europa.eu/enlargement/pdf/key_documents/2006/nov/com_649_strategy_paper_en.pdf.

²⁴⁹ 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.

²⁵⁰ 2006/57/EC: Council Decision of 30 January 2006, op.cit.

²⁵¹ 2006/57/EC: Council Decision of 30 January 2006, op. cit.

Ability to assume the obligations of membership

- Develop sufficient administrative capacity to implement the Community rules on the **coordination of social security schemes**.
- **Adopt legislation for the recognition of foreign professional qualifications and create administrative structures and procedures for this purpose.**
- Continue preparations to ensure interconnectivity with EU computerised systems.
- Define and implement an **industrial strategy conducive to growth and innovation**.
- **Complete the implementation of the Integrated Border Management Strategy.**
- Develop and implement a **migration policy**, including an active return policy, which is in line with EU standards and effective in the fight against illegal migration and secondary migration movements.
- Start designing and applying an **integrated research policy**.
- Strengthen research and technological development **capacity** in order to ensure successful participation in the Community framework programmes.

In its proposal for a Council Decision, the European Commission suggested that former Yugoslav Republic of Macedonia:

- **Revises the migration legislation, in particular review the legislation related to legal and illegal immigration and trafficking in human beings.**
- **Establishes a common strategy to fight illegal immigration and the trafficking of human beings, integrating the regional dimension.**
- **Adopts a new Law on Foreigners²⁵².**

²⁵² Commission proposal for the Council Decision, Brussels, 30.03.2004, COM(2004) final.

2. Policy guidelines

1. To the European Commission:

- 1.1 Help enforce the scientific visa Directive 2005/71/EC in all EU member States that have not yet implemented it.
- 1.2. Include the Western Balkan Countries in all the European Commission's activities related to European scientific diaspora (**e.g. ERA link**).
- 1.3 Extend the Twinning Programme to Research institutions and Ministries of Science and Education in WBCs in order to plan a coherent Research Strategy in accordance with European Standards and achieve ERA in Western Balkans.
- 1.4. Extend ERA-MORE Network to the other WBCs (Albania, Bosnia-Herzegovina-Montenegro)
- 1.5. Increase financment of the Research Potential in the FP7 People's Programme** in order to enhance mobility of EU researchers to the Western Balkan Countries as soon as further obstacles are removed.

2. To the WBCs and EU:

- 2.1. Include the facilitation of mobility of researchers as a **short term priority** in the Stabilisation and Association Agreements or European Partnerships of EU with WBCs .
- 2.2. Inform and discuss the Steering Platform and the EU-Western Balkans Forum of the WEB mob Policy Guidelines and other alternatives.**
- 2.3. Integrate the WEB-MOB policy guidelines into the planning of the future SEE-ERA.NET activities related to mobility as well as in other support actions targeting the region.
- 2.4. The results of the WEB-MOB will feed into the planning and programming of CEEPUS III and the countries of the region are invited to make full use of the present CEEPUS programme and related CEEPUS activities (e.g. CEEPUS TV).
- 2.5. Ensure visibility and better results dissemination the WEB-MOB Portal and existing information tools and data bases, as the capacities for international research cooperation are not visible enough in the EU member states.
- 2.6. Begin negotiations between EU and Albania, Bosnia-Herzegovina, Croatia, FORMER YUGOSLAV REPUBLIC OF MACEDONIA and Serbia on a selective visa liberalisation regime for academics by WBCs (researchers, university professors and students), in line with Directive 2005/71/EC, the elements of which should include at least:

- (a) a stronger presumption that the visa will be issued;
- (b) a simplified application process with fewer required supporting documents;
- (c) no visa fee;
- (d) no interview; and
- (e) significantly reduced processing time.

2.6. Conclude multilateral or bilateral agreements between EU and WBCs for ensuring a) aggregation of periods for social security and b) no double taxation of researchers' income. This is already done in WBCs on the basis of bilateral agreements that each WBC has signed with some, not all, EU member states, e.g.

- Albania with Germany, Bulgaria and Turkey,
- Bosnia with the Former Yugoslav Republic of Macedonia, Serbia, Croatia, France
- Croatia with Germany, Belgium, Luxemburg, Denmark, Hungary, Bulgaria, Austria, Switzerland, Turkey, Canada and Australia
- The Former Yugoslav Republic of Macedonia with
 - 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)
 - 4 WBCs (Albania, Croatia, Serbia and Montenegro)
 - 4 other 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

- Serbia with:
 - 6 at least EU member States (France, Austria, Sweden, Denmark, Germany, Luxemburg, Czech republic, Bulgaria etc).
 - 3 WBCs (Bosnia and Herzegovina, Croatia, the Former Yugoslav Republic of Macedonia),
 - Turkey, Switzerland etc.

2.7. Extend the European Social Security Card to WBCs by concluding multilateral or bilateral agreements with EU. **Indeed the European Social Security card is not accepted** since WBCs are not member States, except for Croatia that has already concluded bilateral agreements with Slovenia, Czech Republic and Hungary²⁵³.

To the Government of the former Yugoslav Republic of Macedonia

3.1. Visa

3.1.1. There are visa requirements imposed by former Yugoslav Republic of Macedonia for nationals of Albania – this is reciprocal on the part of Albania. There is a bilateral agreement signed that provides that **single entry visas or transit and group passport visas are issued at the border crossings between the two countries**²⁵⁴.

It is recommended that :

- 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.

3.1.2. 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,**

253 Mobility Guide 5.4.4.

254 Op.cit.

only if it contains statement signed by the organizer and if it is notarized by the Chamber of Commerce and Ministry of Interior. This last requirement of notarisation may be amended for researchers in case of a hosting agreement of an accredited institution.

3.1.3. Article 12 of the Law for foreigners requires “proof of sufficient funds” and describes the many ways of proving this ability²⁵⁵. However in 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.

3.2. Visa of longer stay

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, too²⁵⁶.

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.

3.3. Border Formalities

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.**

3.4. Report presence to the police

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.

3.5. Family reunion

3.5.1. In FORMER YUGOSLAV REPUBLIC OF MACEDONIA, the foreigner can apply for residence permit of his/her family on the basis of too many documents. Simplification is recommended in harmonisation with Directive 2005/71/EC.

3.5.2. In general, spouses and members of the family need work permits to work, issued only if there are **no unemployed nationals** with qualifications necessary for the relevant position. FORMER YUGOSLAV REPUBLIC OF MACEDONIA allows

²⁵⁵ Mobility guide 2.1.1.4.

²⁵⁶ Mobility Guide for FORMER YUGOSLAV REPUBLIC OF MACEDONIA, 2.1.2.6.

the spouse to work without permit if the spouse performs expertise laid down in the **agreements** on business-technical cooperation, technology and foreign investment²⁵⁷.

It is recommended that the legislation of FORMER YUGOSLAV REPUBLIC OF MACEDONIA provides for the possibility of the spouses of all EU, EEA and WBC 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 a work permit.

3.6. Validation of Children's previous education

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.

3.7. Recognition of diplomas

The procedure of recognition of diplomas may present an obstacle to researchers. It is recommended that for researchers coming from EU, EEA and WBCs:

- Either bilateral agreements be signed for automatic recognition of diplomas (which for the moment there are not any in FORMER YUGOSLAV REPUBLIC OF MACEDONIA)²⁵⁸ or
- Or the diploma be 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 2006 Act on Aliens). It is recommended that bilateral agreements are signed for automatic recognition of diplomas otherwise that the principle of mutual recognition of diplomas be established for researchers.

3.8. Work permits

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

²⁵⁷ Mobility guide for FORMER YUGOSLAV REPUBLIC OF MACEDONIA, 2.6.1.

²⁵⁸ Mobility Guide 3.5.7.

mobility of researchers. It is recommended that 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.

3.9. Residence permits

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 researchers. Too much of paperwork is now 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.
- 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).

3.10. Researchers's rights

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.

3.11. Social security

In the area of social security it is recommended that Former Yugoslav Republic of Macedonia could conclude more bilateral agreements:

- For aggregation of periods with the EU and EEA states as well as Bosnia – Herzegovina and Montenegro.
- For the extension of the European Social Security card in the country.

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).

3.12. Taxation

In the area of double taxation it is recommended that more international treaties for the avoidance of double taxation should be concluded with EU and EEA countries.

3.13. Career issues

As regards career issues, 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.

WEB-MOB

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

**MOBILITY GUIDELINES FOR ELIMINATING 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.**

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Policy recommendations

1. To the European Commission:

- 1.1 Help enforce the scientific visa Directive 2005/71/EC in all EU member States that have not yet implemented it.
- 1.2. Include Serbia in all the European Commission's activities related to European scientific diaspora (**e.g. ERA link**).
- 1.3 Extend the Twinning Programme to Research institutions and Ministries of Science and Education in Serbia in order to plan a coherent Research Strategy in accordance with European Standards and achieve ERA in Western Balkans.
- 1.4. Increase financement of the Research Potential in the FP7 People's Programme** in order to enhance mobility of EU researchers to Serbia as soon as further obstacles are removed.

2. To Serbia and EU:

- 2.1. Include the facilitation of mobility of researchers as a **short term priority** in the Stabilisation and Association Agreements or European Partnerships of EU with Serbia.
- 2.2. Inform the EU-Western Balkans Forum of the WEB mob Policy Guidelines and other alternatives.**
- 2.3. Integrate the WEB-MOB policy guidelines into the planning of the future SEE-ERA.NET activities related to mobility as well as in other support actions targeting the region.
- 2.4. The results of the WEB-MOB will feed into the planning and programming of CEEPUS III and the countries of the region are invited to make full use of the present CEEPUS programme and related CEEPUS activities (e.g. CEEPUS TV).
- 2.5. Ensure visibility and better results dissemination the WEB-MOB Portal and existing information tools and data bases, as the capacities for international research cooperation are not visible enough in the EU member states.
- 2.6. Begin negotiations between EU and Serbia on a selective visa liberalisation regime for academics by WBCs (researchers, university professors and students), in line with Directive 2005/71/EC, the elements of which should include at least:

- (a) a stronger presumption that the visa will be issued;
- (b) a simplified application process with fewer required supporting documents;
- (c) no visa fee;
- (d) no interview; and
- (e) significantly reduced processing time.

- 2.6. Conclude multilateral or bilateral agreements between EU and Serbia for ensuring a) aggregation of periods for social security and b) no double taxation of researchers' income. Serbia has already concluded social security agreements with:

- 8 at least EU member States (France, Austria, Sweden, Denmark, Germany, Luxemburg, Czeck republic, Bulgaria etc).
- 4 WBCs (Bosnia and Herzegovina, Croatia, the Former Yugoslav Republic of Macedonia and Montenegro),
- Turkey, Switzerland etc.

2.7. Extend the European Social Security Card to Serbia by concluding multilateral or bilateral agreements with EU259.

3. To Serbia

3.1. In order to overcome the obstacles to short term mobility of researchers coming from Former Yugoslav Republic of Macedonia and Albania to Serbia it is recommended:

Due to the fact that a SAA was just signed between EU and Serbia, it is recommended, if at the present stage is possible, in order to overcome the obstacles to short term mobility of researchers:

- 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**.

3.2. Due to the fact that border controls are still very strict and borders were just demilitarized and due to the high rate visa or entry refusals in Serbia²⁶⁰, 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 that hold a hosting agreement

In the long term Serbia could progressively abolish these requirements and establish that researchers that hold “hosting agreements²⁶¹” with accredited research institutions in EU, EEA and WBCs could be facilitated to enter Serbia.

3.3. There is too much paperwork for a stay in Serbia for a period longer than 3 months. It is highly recommended to facilitate and gradually abolish the work permit for researchers holding a hosting agreement with a research institution in reciprocity with EU on the basis of Directive 2005/71/EC and the other WBCs (Croatia and Former Yugoslav Republic of Macedonia).

The same could apply for the spouse of a researcher in case of a stay of longer than one year and gradually less than a year.

259 Mobility Guide 5.4.4.

260 See progress Report for Serbia 2007, 4.3.1.

261 See WEB-MOB’ s General policy guidelines for all WBCs on the Directive 2005/71/EC.

3.4. The proof of sufficient resources that a foreigner needs to have in order to stay in Serbia and bring his/her family there could be thought adequate for a researcher that holds a hosting agreement with an accredited research institution:

3.5. As regards recognition of diplomas, 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.

3.6. As regards residence permits, it is 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.

3.7. As regards working conditions of researchers and research policy, it is recommended that gradually the following could be done:

- A general clause of non discrimination could be inserted for the employment of researchers coming from EU, EEA and WBCs. This would help researchers claim the local labour relations agreements as well as be exempted from higher fees in public hospitals.
- 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.

3.8. Serbia could conclude more bilateral agreements for aggregation of periods of social insurance as well as avoidance of double taxation with Albania and some more EU and EEA states.

3.9. Serbia could gradually extend the European Social Security Card to its territory by concluding multilateral or bilateral agreements with EU.