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WEB-MOB

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

SPECIFIC SUPPORT ACTION

INTERNATIONAL COOPERATION

## **D6.3 – Synthesis Report of Mobility Policy**

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**SYNTHESIS REPORT INCLUDING**  
**RECOMMENDATIONS FOR MOBILITY POLICY**  
**For increasing the mobility of researchers in**  
**WESTERN BALKAN COUNTRIES**

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## EXECUTIVE SUMMARY AND POLICY RECOMMENDATIONS

EU and Western Balkan Countries (hereafter referred to as “WBCs”) have good relations between them especially since the 1999 EU Regional Approach. All WBCs that their research institutions are partners to the WEB-mob project have already signed a SAA with EU. Croatia and former Yugoslav Republic of Macedonia already have the EU candidate country status, while Albania and Montenegro will have the status of Associated Counties from 1.1.2008.

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

On the one hand the EU has facilitated movement with

- a) The Directive 2004/114/EC that facilitated mobility of students, pupils and trainees.
- b) The Directive 2005/31/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
- c) The visa facilitation agreements with WBCs that, among other provisions, waives visa fees for WBC researchers, facilitates and accelerates their visa procedures.
- d) The Recommendation 2005/761 that allows short stays of researchers for seminars and congresses.

On the other hand the WBCs have facilitated movement by allowing EU citizens to enter their territory without visa for 90 days.

These measures are not enough. 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.

This imperative need was recognized by:

- The sixth framework programme of the European Community when it opened up its programmes further to researchers from outside the European Union<sup>1</sup>.
- The Thessaloniki Agenda of June 2003, in which the WBCs and, where applicable, other regional participant countries, committed to promote **visa-free movement within the region**, as well as research, technology and development and cross-border co-operation.
- The Action Plan for Research and Technology that was adopted on 26 June 2003 in the framework of the first bi-regional EU/Western Balkans ministerial meeting in Thessaloniki, and highlighted the importance of *human potential* in RDT, as well as of schemes for the networking and exchange of researchers and joint programmes.
- The overall aim of the “ERA WESTBALKAN” project - funded in the INCO programme – which was to raise the quantity and the quality of participations from the WBCs in the 6FP.

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

- The aim of the Steering Platform on Research for Western Balkan Countries in 2006-2007 which is to facilitate 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.
- The extension of the ERA-MORE Network to three countries of the region: Croatia, Former Yugoslav Republic of Macedonia and Serbia.

Finally, an important political impact of the WEB-MOB project is that the national coordinators of the Croatian and Serbian mobility networks nominated the same persons who were coordinators of the national working groups of the WEB-MOB project (Professor Duic and Professor Trajanovic respectively).

## 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 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 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 and EEA member states and WBCs, 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:
  - 8 at least EU member States (France, Austria, Sweden, Denmark, Germany, Luxemburg, Czech 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 WBCs by concluding multilateral or bilateral agreements with EU. **Indeed the European Social Security card is not accepted** since WBCs are not member States. Croatia, however, has shown the way, by concluding relevant bilateral agreements with Slovenia, Czech Republic and Hungary<sup>2</sup>.

### 3. Recommendations for all Western Balkan Countries<sup>3</sup>

3.1. Facilitate short term mobility<sup>4</sup> of WBC researchers **by abolishing visa requirements for all WBC researchers** in line with Thessaloniki agenda (2003) at the border of WBCs.

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<sup>2</sup> Mobility Guide 5.4.4.

<sup>3</sup> Some WBCs may have already accomplished some of the recommendations submitted, therefore one should check the national mobility guidelines which are the authentic ones for each WBC. In this synthesis report the recommendations set a uniform level for all WBCs.

<sup>4</sup> As “short term mobility” in the present report is defined travelling to the WBCs in order to stay there for less than 3 months (90 days) while “long-term mobility” is defined travelling to the WBCs in order to stay for more than 3 months (90 days).

Though peace and stability is established in WBCs and bilateral relations are good, inter Western Balkan researchers' short term mobility at the border still suffers and is not uniform. Indeed differentiated treatment applies from one WBC to the nationals of another WBC, thus creating problems to inter WBC mobility, despite association of most WBCs to the EU 7th Framework programme on research and technology and their gradual inclusion to the European Research Area.

Therefore it is recommended:

- As a first step that WBCs conclude reciprocal research visa facilitation bilateral agreements with WBCs for the nationals of which they have not abolished visa
- As a second step to exempt WBC researchers working in accredited research institutions from visa requirements and work permits for no more than 3 months stay (e.g. for conferences and seminars) in all Western Balkan countries following as model:
  - The fact of the abolishment by WBCs of visa requirements for EU nationals for 3 months stay and
  - The Recommendation EC 2005/761.

3.2. Facilitate long term mobility of EU, EEA and WBC researchers in WBCs by facilitating accelerating visa requirements. In fact, EU and EEA researchers who wish to stay for more than 3 months (long term mobility) in WBCs need to have visa and residence permit. Though WBCs have already abolished visa requirements for all EU and EEA nationals for 3 months stay on the one hand and EU has facilitated WBC researchers with the visa facilitation agreements as well as Directive 2005/71 on research visa and residence permit for all third country researchers, on the other hand, long term mobility of EU and EEA researchers is not ensured by WBCs. The same is true for WBC researchers.

Therefore, WEB MOB recommends to agree on a common vision: to establish a research visa and residence permit in WBCs so that a common minimum standard will apply for all EU, EEA and WBC researchers in WBCs, until the accession of WBCs in EU and free movement of persons will apply. In particular:

- as a first step that the competent Ministry in each WBC:
  1. Confirms and officially publishes “lists of accredited research institutions” with all the public research organizations (including Universities) prepared by e.g. WEB-MOB adding eventually all the private research organizations that are so recognized by the Ministry.
  2. Acknowledges relevant lists prepared by EU and WBC states.
  3. Establishes a uniform concept of “researchers”<sup>5</sup> as all EU, EEA and WBC nationals holding an appropriate higher education qualification, which gives access to doctoral programmes, who are selected by a research

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<sup>5</sup> Art.2 of the Directive 2005/71/EC.

organisation for carrying out a research project for which the above qualification is normally required.

4. Commits itself through a declaration for exemption /facilitation of researchers from work permits, and the easing of the procedure for the residence permit following the model of Recommendation 2005/762/EC.

- As a second step the competent Ministry of each WBC:  
Concludes reciprocal agreements between WBCs and EU that, among other provisions, would provide a **specific simple procedure for the “scientific/research visa” based on the hosting agreements of the accredited research organisations.** The model of Directive 2005/71/EC could be followed in this regard for simplifying attached documents for a long term research visa.

Indeed, though there already exist certain facilitation measures from certain WBCs, such as a) EU-WBC agreements for EU researchers working in the WBCs for framework programmes for Science and Technology, and b) recent and old provisions in the legislation of certain WBCs for scientists and researchers, these efforts are not uniform and create many categories of researchers, thus causing uncertainty.

It is time that the WBCs introduced the uniform model of Directive 2005/71/EC of scientific visa. In this way reciprocity and common rules between EU and WBC researchers could be established. Indeed, all **WBCs ask for too many documents in order to issue a long term visa (for researchers too). Other requirements such as traveling with visa supporting documents and reproving motive of entry to the foreign state at the border authorities must surely be abolished for researchers.**

This situation should be aligned to the Directive 2005/71/EC 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**<sup>6</sup>.

**The Directive 2005/71/EC 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.

**3.3.** The language barrier has to be lifted so that the researcher could deal with paperwork with the authorities. Instructions for visa and residence permits procedures should also be in English, French or German and officials dealing such affairs could be trained or retrained in foreign languages. The continuation of WEB-MOB project

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<sup>6</sup> Recommendation of the European Parliament and of the Council of 28 September 2005, *L* 289, 3.11.2005.



as a **web of research institutions, that will help EU, EEA and WBC researchers on their arrival to the WBC**. Even after the publication of the mobility guides, certain questions will still be unsolved and foreign researchers must know where to ask. In addition mobility guides could be updated as soon as legislation changes. This way WBCs could organize reception points for foreign researchers with the help of WEBMOB, which today do not exist, and if they do have to be supported e.g. by ERA-MORE network portal or other EC initiatives<sup>7</sup>.

**3.4.** Host research institutions should be the ones that **report the presence** of the researcher in 8-10 days since entry<sup>8</sup>. Indeed in all WBCs the foreigner's presence must be reported in a very short time (12 hours to 3 days). Legislation in the WBCs is complicated and imposes variable conditions as to whom has the obligation to report (foreigner, or local accommodator) to whom (the police, ministry or municipality) for how long stay.

**3.5.** Researchers from EU, EEA and WBCs may have problems with work permits in WBCs. Indeed in most WBCs the Employment Offices must give their authorization for a foreigner to work and they cannot do that if local residents are on its waiting list. It is recommended

- As a first step

The quota system should not be applied for researchers from EU, EEA and WBCs and documents necessary could be reduced to the hosting agreement with an accredited research institution.

- As a second step

WBCs should exempted EU, EEA and WBC researchers from work permits if they have a hosting agreement as this practice is followed by the Directive 2005/71/EC.

**3.6.** The prerequisites for granting a residence permit, temporary or permanent, should be simplified in WBCs for all EU, EEA and WBC researchers:

As a first step:

- the Invitation letter of host research institution, which is necessary in order to issue the visa or the residence permit, should not be notarized by two authorities (as it is done at least in former Yugoslav Republic of Macedonia and Bosnia and Herzegovina). The only requirement necessary should be the validation of the invitation letter with an official stamp and the signature of an authorised representative of the research institution (as it is practiced in Croatia).

As a second step :

- Discretion of authorities to refuse residence permits for other grounds e.g. that there are unemployed nationals with the same qualifications, must be abolished for researchers coming from EU, EEA and WBCs holding a hosting agreement.

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<sup>7</sup> See the Greek experience after the project Pytheas.

<sup>8</sup> Compare article 5 par. 5 of Directive 2004/38/EC, OJ 29.6.2004 L 229/39 according to which : "The Member State may require the person concerned to **report his/her presence within its territory within a reasonable and non-discriminatory period of time**. Failure to comply with this requirement may make the person concerned liable to proportionate and non-discriminatory sanctions".

As a third step:

- Gradually align WBC legislation with Directive 2005/71/EC and issue residence permits for researchers on the basis of the “hosting agreement” which automatically implies the right to work **without an “economic needs test”** to be carried out.
- Simplify the actual procedure for residence permit which requires too many documents. The hosting agreement should be enough to prove sufficient means, health insurance, and proof of justifiability of stay.

Indeed, according to Directive 2005/71/EC on the basis of the hosting agreement, the immigration authorities could deliver a **residence permit in an accelerated procedure if the researcher:**

- a) Present a valid travel document, as determined by national law. WBCs may require the period of the validity of the travel document to cover **at least the duration of the residence permit;**
- b) Present a **hosting agreement** signed with a 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.

### 3.7. Definition of family members

**Not all WBC** 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 so that in all WBCs family members are defined to include dependent children as well.

### 3.8. Requirement of sufficient resources

It is recommended that WBC 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.

**3.9. Rights of the spouse:** All WBCs require the general conditions for work permit in order to allow the spouse to work (eg. Serbia). In general, spouses and members of the family need work permits to work which are issued only if there are **no unemployed nationals** with qualifications necessary for the relevant position. Some WBCs provide for exceptions e.g. Croatia does not apply the quota system for spouses of visiting professors and scientists or a free lance profession<sup>9</sup> and for spouses of EU citizens<sup>10</sup>. Former Yugoslav Republic of Macedonia allows the spouse to work without permit if the spouse performs expertise laid down in the agreements on business-technical cooperation, technology and foreign investment<sup>11</sup>.

Researcher’s spouse should be:

- As a first step facilitated in obtaining work permit, if the researcher holds a hosting agreement.

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<sup>9</sup> Mobility guide 2.6.1.

<sup>10</sup> Mobility guide for Croatia 2.6.3.

<sup>11</sup> Mobility guide for former Yugoslav Republic of Macedonia, 2.6.1.

- As a second step exempted from work permits and quota systems if the spouse is going to stay e.g. for 1 year and the researcher has a hosting agreement.

### 3.10. Mutual Recognition of Diplomas

There does not seem to be facial discrimination against foreigners for the recognition of University diplomas: They recognize diplomas the same way as nationals. However there are WBCs that subject the application of recognition to a scrutiny of the conditions and the curriculum that led to such diploma establishing that 70% has to correspond to the national one. It is recommended that :

- Bilateral or multilateral agreements could be concluded by WBCs with the rest of EU and EEA member States as well as WBCs for “automatic” recognition of at least certain University diplomas.
- 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 (See also Directive 2005/71/EC).
- National agencies could be established in those countries that have not yet been established to show that qualifications and curricula are transparent and participate in the NARIC system.

### 3.11. Social security and double taxation

In the short term, the effort of concluding multilateral or bilateral agreements between EU and WBCs must be continued for ensuring aggregation of periods for social security and no double taxation of researchers’ income.

In the long term, the applicability of the European Social Security Card could be extended to all WBCs e.g. by bilateral agreements.

### 3.12. Living conditions and social issues

Legislation should be amended so that public hospitals offer medical care free of charge<sup>12</sup> to all EU, EEA and WBC researchers e.g. who have a hosting agreement or who are legally present in the territory, not only to those that have work permit<sup>13</sup>. Indeed if researchers are gradually exempted from work permit and the law on public medical care does not change they will not be able to receive medical care in public hospitals.

### 3.13. Issues for researchers’ career

1. A new law on research policy should be drafted : The code of rules for researchers in WBCs could not depend on the statute of each institution, usually in the local language, but should gradually be uniform in all research institutions of each WBC according to a specific law on research institutions gradually aligned to European standards. The same law could provide for **for fees and career issues of researchers**

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<sup>12</sup> Mobility guide, 5.4.1. and 5.4.2.

<sup>13</sup> Mobility guide 5.4.3.

**could be drafted while researchers could form associations for making better their career.**

2. Vacancies in researcher jobs and fellowships in WBCs could be published on the internet on the official sites of WBCs (ministries, universities etc.) in a Western European language as well<sup>14</sup>.

### **3.14. Incentives for innovation**

The Governments of the WBCs should give incentives to researchers for inventing and innovating by granting them the right to have ownership rights on their innovations by certain ratio. Indeed in all WBCs but one the researcher does not have any right to the invention he/she has discovered in the framework of his job. It is the host institution that profits from researchers' inventions. *We suggest to change this barrier for all researchers in WBCs (not only foreigners) and e.g. distribute rights with a certain ratio (e.g. 60/40%) between host organization and researcher in order to give incentives to researchers for new inventions.*

3.9. The Governments of WBCs could give incentives for more links between industry and academia. In the WBCs there are not enough links between Research organizations and industry in order to exploit results. Though there are Technology parks in most WBCs there is no facilitating legislation for exploiting research results.

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<sup>14</sup> Mobility guide 7.2.2.1.

## **1. Introduction**

### **1.2. Aim and method**

The WEB-MOB project (a Specific Support Action financed by the European Commission under the 6th Framework Programme) started operating in September 2005, with the objective of developing guidelines related to issues of policy on researchers' mobility in the region of Western Balkans. Taking into consideration the importance placed by the European Commission on issues of incoming and internal mobility in the Western Balkans region, WEB-MOB's main objective was to attract to the region researchers from other regions (inter-regional mobility) or from other countries (intra-regional mobility) – geographical mobility –, and to promote the intersectorial mobility (mobility between industry and academia) and intra-national mobility in the Western Balkan partner countries in order to raise regional cooperation and prevent brain drain in the region. During the lifetime of the WEB-MOB project, the partners have identified existing obstacles to incoming mobility in every country, and which in many cases had not been identified by administrations in charge of research. More specifically, mobility guidelines were developed so as to be useful to national governments for the formulation of common policies in terms of enhancing researchers' mobility and eliminating mobility barriers in the region. The mobility guidelines include recommendations for measures and policies needed to improve national legislation and national research strategies.

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

Even though the project has just been completed (October 31, 2007), the impact already seems to be not only on a national, but also on a European level, since WEB-MOB project has contributed to national and EU actions related to the mobility and career development of researchers. Another important impact of the project has been the valuable experience on mobility policy issues gained by partners from the Western Balkan countries leading to the establishment of national ERA-MORE Networks (the Serbian national network and the Croatian one). Finally, synergies with European research organisations, universities and Mobility Centres have been encouraged and have influenced the visibility of researchers, universities and research organisations active in R&D in the Western Balkans region<sup>15</sup>.

In the questionnaire, which was the basis of the national mobility guides, the aim was to reflect all mobility obstacles that a researcher from any nationality faces in the WBCs<sup>16</sup>.

The aims of this synthesis report are to:

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

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<sup>15</sup> Dimitrios Sanopoulos, The WEB-MOB project: Development of researchers' mobility policy guidelines for the region of Western Balkans, <http://see-science.eu/users/2512.html>.

<sup>16</sup> "WBC" means "Western Balkan Country". Montenegro is not part of this project because it achieved independence in June 2006 after the launch of the project in September 2005.

b) WBC researchers (inter WBC mobility).

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

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

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

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

In this way the policy guidelines follow the example of European Partnerships where the priorities listed have been selected on the basis that it is realistic to expect that they can be completed or taken substantially forward over the next few years. A distinction is made between short-term priorities, which are expected to be accomplished within one to two years, and medium-term priorities, which are expected to be accomplished within three to four years<sup>17</sup>.

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

## **1.2. Difficulties to liberalize movement of persons**

### **1.2.1. What is the free movement of persons in EU.**

In EU Art. 39, ex Article 48 EC provided for the free movement of persons. It is impossible to deal in this synthesis report on all legislation and case law on free movement of persons, a freedom that is fundamental for the functioning of the Single European Market. Now a new Directive fixes all conditions for free movement of Union citizens :**Directive 2004/38/EC**<sup>18</sup>.

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<sup>17</sup> COM 669, annex I, 3. Priorities. P. 6

<sup>18</sup> With effect from 30 April 2006, Articles 10 and 11 of Regulation (EEC) No 1612/68 , Directive 64/221/EC , Directive 68/360/EC , Directive 72/194/EEC, Directive 73/148/EEC , Directive 75/34/EEC , Directive 75/35/EEC, Directive 90/364/EEC , Directive 90/365/EEC and Directive 93/96/EEC are withdrawn.

Indeed in 2004, the Union has adopted a Directive on the right of citizens of the Union to move and reside freely within the Member States, which brings together the piecemeal measures found in the complex body of legislation that has governed this matter to date. **This Directive 2004/38/EC was to be transposed to national legislation by 30 April 2006.**

The new measures comprised in this Directive are designed, among other things, to encourage Union citizens to exercise their right to move and reside freely within Member States, to cut back administrative formalities to the bare essentials, to provide a better definition of the status of family members and to limit the scope for refusing entry or terminating the right of residence.

The Directive merges into a single instrument all the legislation on the right of entry and residence for Union citizens, consisting of two regulations and nine directives. This simplification will make it easier not only for the general public but also for public authorities to exercise their rights. The Directive also sets out to reduce to the bare minimum the formalities which Union citizens and their families must complete in order to exercise their right of residence.

This proposal is designed to regulate:

- the conditions in which Union citizens - and their families- exercise their right to move and reside freely within the Member States;
- the right of permanent residence;
- restrictions on the aforementioned rights on grounds of public policy, public security or public health.

### **I- Right to move and right of residence for up to three months**

All Union citizens have the right to enter another Member State by virtue of having an identity card or valid passport. Under no circumstances can an entry or exit visa be required. Where the citizens concerned do not have travel documents, the host Member State must afford them every facility in obtaining the requisite documents or having them sent.

Family members who do not have the nationality of a Member State enjoy the same rights as the citizen who they have accompanied. They may be subject to a short-stay visa requirement under Regulation (EC) No 539/2001. Residence permits will be deemed equivalent to short-stay visas.

For stays of less than three months, the only requirement on Union citizens is that they possess a valid identity document or passport. The host Member State may require the persons concerned to register their presence in the country within a reasonable and non-discriminatory period of time.

### **II- Right of residence for more than six months**

The right of residence for more than six months remains subject to certain conditions. Applicants must:

- either be engaged in economic activity (on an employed or self-employed basis);
- or have sufficient resources and sickness insurance to ensure that they do not become a burden on the social services of the host Member State during their stay. The Member States may not specify a minimum amount which they deem sufficient, but they must take account of personal circumstances;
- or be following vocational training as a student;
- or be a family member of a Union citizen who falls into one of the above categories.

**Residence permits are abolished for Union citizens.** However, Member States may require them to register with the competent authorities within a period of not less than three months as from the date of arrival. Proof of registration will be issued immediately on presentation of:

- an identity card or valid passport;
- a declaration by the citizen that he meets the aforementioned conditions, or
- any other evidence to be determined by him or her.

Family members of Union citizens who are not nationals of a Member State must apply for a residence permit for family members of Union citizens. These permits are valid for at least five years from their date of issue.

The death of the Union citizen, his or her departure from the host Member State, divorce, annulment of marriage or termination of partnership does not affect the right of family members who are not nationals of a Member State to continue residing in the Member State in question, subject to certain conditions.

### **III- Right of permanent residence**

Union citizens acquire the right of permanent residence in the host Member State after a five-year period of uninterrupted legal residence, provided that an expulsion decision has not been enforced against them. This right of permanent residence is no longer subject to any conditions. The same rule applies to family members who are not nationals of a Member State and who have lived with a Union citizen for five years. The right of permanent residence is lost only in the event of more than two successive years' absence from the host Member State.

The Directive recognises the right of permanent residence for Union citizens who are workers or self-employed persons and for family members before the four-year period of continuous (arising from Directive (EEC) No 1251/7) residence has expired, subject to certain conditions being met.

Permanent residence permits are valid indefinitely and are renewable automatically every ten years. They must be issued no more than three months after the application is made. Citizens can use any form of evidence generally accepted in the host Member State to prove that they have been continuously resident.

### **IV- Common provisions on the right of residence and right of permanent residence**

Union citizens qualifying for the right of residence or the right of permanent residence and the members of their family also benefit from equal treatment with host-country nationals in the areas covered by the Treaty. However, until the right of permanent residence has been acquired, the host Member State is not obliged to grant entitlement to social security to persons other than employed or self-employed workers and the members of their family. Equally, host Member States are not required to provide maintenance grants to persons with a right of residence who have come to the country in question to study. Family members, irrespective of their nationality, will be entitled to engage in economic activity on an employed or self-employed basis.

### **V- Restrictions on the right of entry and the right of residence on grounds of public policy, public security or public health**

Union citizens or members of their family may be expelled from the host Member State on grounds of public policy, public security or public health. Under no circumstances may an expulsion decision be taken on economic grounds. Measures affecting freedom of movement and residence must be based on the personal conduct of the individual concerned; previous criminal convictions do not automatically justify such measures.



Such conduct must represent a sufficiently serious and present threat which affects the fundamental interests of the state. The mere fact that the entry documents used by the individual concerned have expired does not constitute grounds for expulsion.

In any event, before taking an expulsion decision, the Member State must assess a number of factors such as the period for which the individual concerned has been resident, his or her age, degree of integration and family situation in the host Member State and links with the country of origin. Only in exceptional circumstances, for overriding considerations of public security, can expulsion orders be served on a Union citizen if he has resided in the host country for ten years or if he is a minor.

The person concerned by a decision refusing leave to enter or reside in a Member State must be notified of that decision. The grounds for the decision must be given and the person concerned must be informed of the appeal procedures available to them. Except in emergencies, the subject of such decisions must be allowed at least one month in which to leave the Member State.

Lifelong exclusion orders cannot be issued under any circumstances. Persons concerned by exclusion orders can apply for the situation to be reviewed after a maximum of three years. The Directive also makes provision for a series of procedural guarantees.

#### **Final provisions**

Member States may adopt the necessary measures to refuse, terminate or withdraw any right conferred by this Directive in the case of abuse of rights or fraud, such as marriages of convenience.

This Directive does not prevent the application of national legislation or administrative arrangements providing for more favourable treatment<sup>19</sup>.

#### 1.2.2. Movement of persons in WBCs

In the European Union, free movement of workers is a fundamental right which permits nationals of one EU Member State to work in another EU Member State under the same conditions as that Member State's own citizens. In addition all EU member states except UK and Ireland are signatories of the Schengen Agreement<sup>20</sup>. The Schengen Visa issued by an Embassy/consulate of a Schengen Country allows non EU citizens to travel to all Schengen countries as tourists or for business without border controls or any other hindrance.

However even for member states that accede to the EU, movement of persons is not readily liberalized. During a transitional period of up to 7 years after accession of 10 Member States to the EU on 1 May 2004 (**Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia, Slovakia**) and of 2 Member States on 1 January 2007 (**Bulgaria, Romania**), certain conditions may be applied that restrict the free movement of workers from, to and between these Member States. These restrictions only concern the freedom of movement for the purpose of taking up a job and they may differ from one Member State to another.

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[www.ecas.org/file\\_uploads/1008.pdf+www.ecas.org/file\\_uploads/1008.pdf&hl=el&ct=clnk&cd=1&gl=gr](http://www.ecas.org/file_uploads/1008.pdf+www.ecas.org/file_uploads/1008.pdf&hl=el&ct=clnk&cd=1&gl=gr).

<sup>20</sup> Until 29 March 2008 Schengen will be fully implemented by all new acceding countries except Cyprus (2009) and Bulgaria and Romania (2011).

In the region of Western Balkans, any international treaty does not facilitate freedom of movement of persons. Indeed CEFTA (*Central European Free Trade Agreement*) does not provide for any provisions on labour mobility nor trade in services and there are no plans at this stage to expand the scope of the agreement<sup>21</sup>. GATS (General Agreement on Trade of Services) concluded in the end of the Uruguay Round that created WTO<sup>22</sup> does not provide for movement of labour but for certain freedom to provide services according to the concessions of each member state<sup>23</sup>.

Two efforts have started for liberalizing the freedom of movement.

- The Stability Pact plays an important role in supporting the process of regional cooperation in such areas as refugee return, migration, freedom of movement, the fight against organised crime, trade and investment, energy, transport and infrastructure<sup>24</sup>.

- The Stabilisation and Association Agreements of EU with the WBCs include a line in their priorities for the free movement of persons<sup>25</sup>.

However, the globalization of the economy and the need for leadership in science and technology, calls for greater mobility of researchers<sup>26</sup>. 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 Union<sup>27</sup> as well as by the European Council in March 2000 which has established the European Research Area.

Therefore despite the difficulties to liberalize free movement of persons in general, it is an imperative need to facilitate the mobility of researchers between EU and WBCs.

### **1.3. 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**

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21 [http://www.wto.org/english/tratop\\_e/serv\\_e/symp\\_apr\\_02\\_nielson1\\_e.doc](http://www.wto.org/english/tratop_e/serv_e/symp_apr_02_nielson1_e.doc)  
+CEFTA+movement&hl=el&ct=clnk&cd=7&gl=gr

22 Albania, Croatia and former Yugoslav Republic of Macedonia are members of WTO while Bosnia and Herzegovina and Serbia are observer governments.

23 Article I par. 2 of GATS.

24 COM (2003) 285 final, COMMUNICATION FROM THE COMMISSION TO THE COUNCIL AND THE EUROPEAN PARLIAMENT, The Western Balkans and European Integration.

25 See individual policy guidelines.

26 The same importance to the mobility of researchers has been attached by the US, which has seen a great decrease in international applications and enrollment of foreign scholars and scientists, caused by visa difficulties following the September 11th terrorist attacks. The Senate Foreign Relations Committee decided to create a round table that would include representatives from Congress, the academic/research community and the Departments of State and Homeland Security to hammer out the most urgent reforms needed to address obstacles in the visa system and international student recruitment. See “**Senators take action on researchers’ visa woes**”, **Research USA, Cover, 11 Oct. 04.**

27 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.

**purposes of scientific research for a period longer than 3 months<sup>28</sup> (alias “SCIENTIFIC VISA and Residence permit”<sup>29</sup>).**

**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 organisation<sup>30</sup>. 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 insurance<sup>31</sup>.

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

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<sup>28</sup> OJ L 289/15.

<sup>29</sup> 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>**

<sup>30</sup> EUROPEAN COMMISSION, RESEARCH DIRECTORATE-GENERAL, Unit C5 - Universities and Researchers, Brussels, 07/03/07, op.cit.

<sup>31</sup>

[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=cInk&cd=2&gl=gr](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=cInk&cd=2&gl=gr)

**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 mobility<sup>32</sup>.

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;

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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=cInk&cd=2&gl=gr](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=cInk&cd=2&gl=gr)

- (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 implementation<sup>33</sup>.

In comparison to usual existing national rules, **the main added values** of the directive for third country researchers can be summarized as follows<sup>34</sup>:

- For the first time, a **common definition of “researcher” has been established in the Community Law<sup>35</sup>**.
- 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;

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<sup>33</sup> [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](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)

<sup>34</sup> EUROPEAN COMMISSION, RESEARCH DIRECTORATE-GENERAL, Unit C5 - Universities and Researchers, Brussels, 07/03/07, op.cit.

<sup>35</sup> 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.

- 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 permit<sup>36</sup>.

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 fees<sup>37</sup>, 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 it<sup>38</sup>. 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

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36 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>**

37 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](http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&lg=en&type_doc=COMfinal&an_doc=2006&nu_doc=27)

38 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>**

requiring a visa<sup>39</sup> 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.

## **2. Cooperation of EU and Western Balkans**

### **2.1. The EU Approach to WBCs.**

The EU launched its Regional Approach to the Western Balkan Region in 1997 with the Council conclusions of 29 April 1997 and 21-22 June 1999, which set the political and economic conditions to be fulfilled by these countries, as the basis for a coherent and transparent policy towards the development of bilateral relations in the field of trade, financial assistance and economic cooperation, as well as of contractual relations<sup>40</sup>.

After a period of conflicts in the Western Balkans the EU Regional Approach sought to underpin the implementation of the Dayton/Paris and Erdut agreements and bring basic stability and prosperity to the region. In May 1999 the European Commission set out the rationale for moving to a more ambitious vision for the region's development. This was based on:

- a recognition that the main motivator for reform - including the establishment of a dependable rule of law, democratic and stable institutions and a free economy - in these countries is a relationship with the EU that is based on a credible prospect of membership once the relevant conditions have been met.
- the need for the countries to establish bilateral relationships between themselves which would allow greater economic and political stability in the region to develop
- the need for a more flexible approach which, although anchored to a common set of political and economic conditions, allows each country to move ahead at its own pace. Assistance programmes and contractual relations have to be flexible enough to accommodate a range of situations from post-conflict reconstruction and stabilisation to technical help with matters such as the approximation of legislation to the core elements of the EU acquis<sup>41</sup>.

The **European** Council in Feira in June 2000 confirmed the objective of the fullest possible integration of the countries of the **Western Balkans** into the **political** and

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**39 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].**

40 [http://ec.europa.eu/enlargement/key\\_documents/sap\\_en.htm](http://ec.europa.eu/enlargement/key_documents/sap_en.htm)

41 From Regional Approach to the Stabilisation & Association process, [http://ec.europa.eu/enlargement/enlargement\\_process/accession\\_process/how\\_does\\_a\\_country\\_join\\_the\\_eu/sap/history\\_en.htm](http://ec.europa.eu/enlargement/enlargement_process/accession_process/how_does_a_country_join_the_eu/sap/history_en.htm).

economic mainstream of Europe and recognised the countries as potential candidates for EU membership. The Copenhagen **European** Council in December 2002 reaffirmed this perspective. It underlined the **European** Union's determination to continue to support them in their efforts to realise their **European** aspirations.

The 24 November 2000 Zagreb Summit set the seal on the Stabilisation and Association Process by gaining the region's agreement to a clear set of objectives and conditions. In return for the EU's offer of a prospect of accession on the basis of the Treaty on European Union (TEU) and the 1993 Copenhagen criteria and an assistance programme to support that ambition, the countries of the region undertook to abide by the EU's conditionality and use the Stabilisation and Association Process, and in particular the Stabilisation and Association Agreements when signed, as the means to begin to prepare themselves for the demands of the perspective on accession to the EU.

The EU-Western Balkans summit decided to **establish between their countries regional cooperation conventions providing for a political dialogue, a regional free trade area and close cooperation in the field of justice and home affairs as well as immigration, establish the CARDS programme and set the priorities for individualized partnerships with each country in the framework of Stabilisation and Association Process as the means to begin to prepare themselves for the perspective on accession to the EU**<sup>42</sup>.

The Brussels **European** Council in March 2003 stated that "the future of the **Western** Balkans is within the EU" and invited "the Council and the **Commission** to examine ways and means, based also on the experience of the enlargement process, to further strengthen the Union's policy towards the region<sup>43</sup>."

The **European** Council of Thessaloniki (21 June 2003) reiterated its determination to fully and effectively support the **European** perspective of the **Western Balkan** countries. It endorsed the new EU policy on the **Western** Balkans, including the roadmap "*The Thessaloniki Agenda for the Western Balkans: moving towards European integration*", which aims at further strengthening the privileged relations between the EU and the **Western** Balkans, also drawing from the enlargement experience, highlighting *the need for regional cooperation in Research, Technology and Development*<sup>44</sup>. The EU invited the Western Balkan countries to continue to develop regional co-operation, which constitutes an essential element of the Stabilisation and Association Process. Western Balkan countries were invited to commit themselves to **promote visa-free movement in the Western Balkans and explore the possibility of abolishing visa requirements for travel between their countries, through bilateral agreements, also ensuring compatibility of such measures with EU requirements**. This exercise could be conducted under the auspices of the Stability Pact.

At the same time, the Thessaloniki EU-Western Balkans summit confirmed the EU's support for the European perspective of the Western Balkan countries. The summit

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42 Op.cit.

43 COM (2003) 285 final: "The **Western** Balkans and **European** Integration", p.1.

44 [ec.europa.eu/research/iscp/pdf/wbc-brochure\\_en.pdf](http://ec.europa.eu/research/iscp/pdf/wbc-brochure_en.pdf)



endorsed the “Thessaloniki agenda”, comprising measures drawn from the pre-accession process<sup>45</sup>, and made a commitment to implement it jointly. They acknowledged the importance the peoples of the Western Balkans attach to the perspective of liberalisation of the EU’s visa regime towards them<sup>46</sup>. They reiterated that **rapprochement with the EU will go hand in hand with the development of regional co-operation**. The countries of the Western Balkans and, where applicable, other regional participant countries, commit to promote **visa-free movement within the region**, research, technology and development and cross-border co-operation. They reconfirmed their support to the Stability Pact for South-Eastern Europe in its complementary role to the Stabilisation and Association Process and to regional co-operation initiatives such as the South-East European Co-operation Process (SEECP), the Adriatic-Ionian Initiative, and the Central European Initiative<sup>47</sup>.

In Thessaloniki Agenda and the EU-WBC summit was agreed to meet periodically at the level of heads of state or government, within the framework of a EU-Western Balkan forum, in order to discuss issues of common concern, to review progress of the countries of the region in their road to Europe, and to exchange views on major developments in the EU. Annual meetings of foreign ministers and ministers responsible for Justice and Home Affairs could be held as appropriate. Their ministers can also meet when appropriate<sup>48</sup>. In this way the EU – Western Balkans Forum took place in Brussels, 9 December 2003<sup>49</sup>.

In June 2005 the European Council reaffirmed its commitment to implement the Thessaloniki agenda, noting that each country's progress towards European integration depends on its efforts to comply with the Copenhagen criteria and the conditionality of the Stabilisation and Association Process (SAP) 50.

The European perspective provides a powerful incentive for political and economic reform and has encouraged reconciliation among the peoples of the region. Reinforcing the EU’s policy for the region, especially in areas of mutual interest where there is a strong demand from the people of the region, such as Justice, Liberty and Security, education and trade, is the best means to strengthen the credibility of the process and to lessen political risks<sup>51</sup>.

#### 2.1.2. The SAP

The Stabilisation and Association process (SAP) is the framework for the European course of the Western Balkan countries, all the way to their future accession. SAP was set out in 1999<sup>52</sup> and accepted in the Zagreb Summit in 2000.

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45 Commission Communication on “The Western Balkans and European Integration” (COM (2003) 285 final of 21 May 2003) proposed to enrich the EU policy towards the region with elements taken from the Enlargement process, [http://ec.europa.eu/enlargement/croatia/eu\\_croatia\\_relations\\_en.htm](http://ec.europa.eu/enlargement/croatia/eu_croatia_relations_en.htm).

46 Op.cit. par. 7.

47 Op.cit. par. 9.

48 Summit Declaration, par. 10.

49 15904/03 (Presse 363), **EU-WESTERN BALKANS FORUM, 1st FOREIGN MINISTERS' MEETING BRUSSELS, 9 DECEMBER 2003**.

50 [http://ec.europa.eu/enlargement/enlargement\\_process/accesion\\_process/how\\_does\\_country\\_join\\_the\\_eu/sap/index\\_en.htm](http://ec.europa.eu/enlargement/enlargement_process/accesion_process/how_does_country_join_the_eu/sap/index_en.htm)

51 Communication from the Commission - The Western Balkans on the road to the EU: consolidating stability and raising prosperity, COM/2006/0027 final.

52 COM (99) 235 of 26 May 1999.

The SAP is based on a progressive partnership, in which the EU offers a mixture of trade concessions (Autonomous Trade Measures), economic and financial assistance (CARDS Programme) and contractual relationships (Stabilisation and Association Agreements). Each country moves forward on the basis of the fulfilment of its commitments in the framework of the SAP. Annual Progress Reports assess the readiness of the Western Balkan countries to move closer to the European Union<sup>53</sup>.

The SAP pursues three aims, namely stabilisation and a swift transition to a market economy, the **promotion of regional cooperation** and the prospect of EU accession. It helps the countries of the region to build their capacity to adopt and implement European standards, including the Community acquis, as well as international standards<sup>54</sup>.

Progress of each country towards the EU will depend on its own merits in meeting the Copenhagen criteria and the conditions set for the SAP and confirmed in the final declaration of the November 2000 Zagreb summit<sup>55</sup>.

Croatia and former Yugoslav Republic of Macedonia, which have been granted candidate country status, remain part of the SAP. The other countries of the Western Balkans are potential candidate countries: Albania, Bosnia and Herzegovina, Montenegro and Serbia including Kosovo under United Nations Security Council Resolution 1244<sup>56</sup>.

The Stabilisation and Association Agreement (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 force. former Yugoslav Republic of Macedonia submitted an application for membership, on 22 March 2004 and was designated as a candidate country in December 2005<sup>57</sup>.

Croatia signed an SAA 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;

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53 [http://ec.europa.eu/enlargement/enlargement\\_process/accesion\\_process/how\\_does\\_a\\_country\\_join\\_the\\_eu/sap/index\\_en.htm](http://ec.europa.eu/enlargement/enlargement_process/accesion_process/how_does_a_country_join_the_eu/sap/index_en.htm)

54 [http://ec.europa.eu/enlargement/enlargement\\_process/accesion\\_process/how\\_does\\_a\\_country\\_join\\_the\\_eu/sap/index\\_en.htm](http://ec.europa.eu/enlargement/enlargement_process/accesion_process/how_does_a_country_join_the_eu/sap/index_en.htm)

55 EU-Western Balkans Declaration, par.4.

56 [http://ec.europa.eu/enlargement/enlargement\\_process/accesion\\_process/how\\_does\\_a\\_country\\_join\\_the\\_eu/sap/index\\_en.htm](http://ec.europa.eu/enlargement/enlargement_process/accesion_process/how_does_a_country_join_the_eu/sap/index_en.htm).

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[http://ec.europa.eu/enlargement/pdf/key\\_documents/2006/nov/com\\_649\\_strategy\\_paper\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2006/nov/com_649_strategy_paper_en.pdf)

- 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 and the 7th Framework Programme for RTD, Youth, Gender Equality, Tempus, Employment, and Life.

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 2004<sup>58</sup>. 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 Partnership updates and replaces the European Partnership and identifies short and medium term priorities for Croatia's preparation for further integration with the EU<sup>59</sup>.

With Albania the Commission has begun negotiations in January 2003 for a Stabilisation and Association Agreement (SAA), which was signed on 12 June 2006 in Luxembourg. The SAA provides a framework for mutual commitments on political, trade and economic issues while encouraging regional cooperation<sup>60</sup>.

A number of structures have been set up under the SAP to provide for dialogue between Albania and the EU. The dialogue is conducted through Ministerial Troika, Consultative Task force (CTF), Joint Committee and Working party meetings.

The EU/Albania Consultative Task Force is an ad-hoc Council/Commission forum with Albania. It is co-chaired by the Council Presidency/Commission and the Albanian Minister for European Integration. CTF meetings are a key instrument for monitoring Albania's reform progress, in particular in political and justice, freedom and security. Each CTF meeting result in jointly-agreed recommendations for action by Albanian authorities. The Joint Committee meetings are chaired alternatively by Albania and the EU and are held once a year. Working parties meet regularly to assist the Joint Committee in conducting its tasks and focus on reforms related to SAA commitments and European partnership priorities<sup>61</sup>

In January 2006 the European Council adopted a revised European Partnership for Albania. **The European Partnership** identifies short and medium term priorities which Albania should address, serves as a checklist against which to measure progress, and provides guidance for EC assistance. In July 2006, Albania adopted a national action plan to implement the European Partnership recommendations. Progress on these reform priorities is encouraged and monitored by the European Commission, notably through the annual Progress Reports and through political and economic dialogue.

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58 [http://ec.europa.eu/enlargement/croatia/eu\\_croatia\\_relations\\_en.htm](http://ec.europa.eu/enlargement/croatia/eu_croatia_relations_en.htm)

59 Op.cit.

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

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

Bosnia and Herzegovina and the EU initialled a SAA on 4 December 2007. an EU/Bosnia and Herzegovina Consultative Task Force was established in 1998 as a joint vehicle for political dialogue and expert advice. Meetings of the Consultative Task Force (CTF) have constituted a central forum for technical and political exchanges. In January 2006, the CTF was re-named "Reform Process Monitoring (RPM)" to mark the start of a new phase in the relations between the EU and Bosnia and Herzegovina, i.e. the start of the negotiations of a Stabilisation and Associations Agreement (SAA).

The negotiations on a Stabilisation and Association Agreement (SAA) were launched in November 2005. Technical talks have been completed and the SAA was initialled on 4 December 2007. Nonetheless, the signature of the SAA is contingent to sufficient progress in addressing key priorities, notably police reform, ICTY co-operation, public broadcasting and public administration reform<sup>62</sup>.

Serbia and Montenegro has made progress towards a closer relationship with the EU through the adoption of a Constitutional Charter and an internal market and trade action plan<sup>63</sup>. The negotiations with the State Union and the two constituent Republics were launched in October 2005. The Stabilisation and Association Agreement (SAA) between the EU and Serbia was initialled on 7 November 2007, in Brussels<sup>64</sup>.

Montenegro achieved independence in June 2006 after a referendum held in a free and fair manner under conditions agreed with the European Union. Following independence, Montenegro has begun negotiations on a separate Stabilisation and Association Agreement (SAA), under new directives which were rapidly agreed by the Council<sup>65</sup>. Montenegro is not part of the WEB-MOB project which was launched before the independence of Montenegro from Serbia.

In addition EU offered community assistance under the stabilisation and association process to the Western Balkan countries<sup>66</sup>. Under the CARDS programme between 2000 and 2006, subsidies totalled EUR 5.4 billion for the region. It is important to underline that countries eligible for CARDS assistance should include capacity building on science and technology in their national priorities for financing; until now no research and technological development related activities have been taken into

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

63 COM (2004) 202 **Report from the Commission - The Stabilisation and Association process for South East Europe - Third Annual Report {COM(2004) 203, 204, 205, 206}, chapter 6, conclusions.**

64 [http://ec.europa.eu/enlargement/serbia/eu\\_serbia\\_relations\\_en.htm](http://ec.europa.eu/enlargement/serbia/eu_serbia_relations_en.htm)

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[http://ec.europa.eu/enlargement/pdf/key\\_documents/2006/nov/com\\_649\\_strategy\\_paper\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2006/nov/com_649_strategy_paper_en.pdf)

66 Council Regulation (EC) No 1085/2006 (IPA) and, for programmes adopted before 2007, Council Regulation No 2666/2000 of 5 December 2000 (CARDS regulation).

account under the multi-annual indicative programs which reflect priorities identified and agreed with the partners concerned<sup>67</sup>.

The European Investment Bank (EIB) granted EUR 2 billion in loans. As of 2007, a new Instrument for Pre-Accession Assistance (IPA) will replace all existing instruments to support the candidate and potential candidate countries, thus forming a single pre-accession aid. It will be possible for both candidate and potential candidate countries to access the components of this new instrument which finance the transitional stages and consolidation of the institutions, and also regional and cross-border cooperation<sup>68</sup>.

## **2.2.EC Research Policy towards Western Balkans and mobility of researchers**

### 2.2.1. Before 2003

In 2000, the European Commission in its communication 'Towards a European Research Area' proposed the creation of a European Research Area (ERA)<sup>69</sup>. ERA would be completed through the open method of coordination<sup>70</sup>. The Commission in this Communication stressed the importance of the mobility of researchers for the creation of ERA, which in 2000 was around 5% of the active population whereas 2% is the average for other professional groups. It remarked that *mobility of researchers could be used as an instrument of information and technology transfer especially between the academic world and the business world. The mobility of researchers, in the different forms that this might take, should also be readily encouraged and developed, though:*

“One aspect, which plays a significant role, is the **lack of familiarity** of European researchers with the research "cultures" that exist in other countries, and the lack of attraction that they feel for them. There are also **obstacles of an administrative nature**. Application at national level of Community directives on free movement and right of establishment, social or pension cover, is not always straightforward and requires an effort from interested parties which can be dissuasive”<sup>71</sup>.

In 2001 the European Commission in its Communication “The International Dimension of ERA” recognised that “the European Research Area must be opened up to the rest of the world<sup>72</sup>, so that EU countries benefit from international cooperation in science and technology paving the way for closer political and economic relations.

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67 *European Commission, From Political Dialogue to Concrete Actions*, [http://ec.europa.eu/research/iscp/pdf/wbc-brochure\\_en.pdf](http://ec.europa.eu/research/iscp/pdf/wbc-brochure_en.pdf).

68 Consolidating stability and achieving prosperity in the Western Balkans <http://209.85.129.104/search?q=cache:odtACJR1ZC0J:europa.eu/scadplus/leg/en/lvb/r12650.htm+%E2%80%98The+Western+Balkans+on+the+road+to+the+EU:+consolidating+stability+and+raising+prosperity%E2%80%99,&hl=el&ct=clnk&cd=2&gl=gr>

69 COM(2000) 6 final, Brussels, 18.1.2000.

70 **Policy coordination** is addressed through the 'open method of coordination' and the use of voluntary guidelines and recommendations. See [http://ec.europa.eu/research/era/era-history\\_en.html](http://ec.europa.eu/research/era/era-history_en.html).

71 Op.cit. [http://ec.europa.eu/research/era/era-history\\_en.html](http://ec.europa.eu/research/era/era-history_en.html)

72 "Making a reality of the European Research Area: Guidelines for EU research activities (2002-2006)".

**The Communication of the Commission** “*The International dimension of the European Research Area*” set up new guidelines for its S&T international cooperation policy<sup>73</sup>, and provided for the following activities, among others:

1. *To make the European Research Area more attractive to researchers through:*
  - a) Improving the administrative and regulatory conditions for the reception of non-European researchers within the ERA and
  - b) Financing researcher mobility in coordination with national "international grants" schemes.
2. To open EU operations (e.g. networks of excellence and integrated projects implemented in the Framework Programme priority thematic areas) to participation by third country researchers and organisations either from more scientifically and technologically advanced countries or from scientifically less advanced countries and
3. *To focus EU efforts on specific objectives* of the policy partnership of the Community with the countries concerned, through mutual concertation and taking into account their economic and social needs.

In the same 2001 Communication relations with the **Western Balkans** were recognised as “taking on ever increasing relevance for the **European Union**”, whereby they must “evolve into a genuine co-development policy, which alone can ensure stability, prosperity and security in this region” and research must “contribute towards meeting fundamental needs, the priority objectives for sustainable development”. Four out of the five **Western Balkan Countries** were involved: Bosnia-Herzegovina, the Former Yugoslav Republic of Macedonia, Croatia, Serbia and Montenegro<sup>74</sup>.

The first formal consultation with high level representatives from Ministries of Science and technology of all **Western Balkans** countries was held in Brussels in October 2001 in order to discuss co-ordination of activities and identify the key thematic areas of regional importance and mutual interest<sup>75</sup>.

During 2002, two Ministerial level Conferences on S&T Cooperation between the EU and the South East **European Countries** (SEE) took place in Bucharest and Sophia. The Ministers agreed on the necessity to develop a sustainable scheme of cooperation between the five **Western Balkans**, the candidate countries (Bulgaria, Romania, Slovenia, and Turkey) and the EU<sup>76</sup>. They also recommended the progressive integration of **Western Balkan** countries to the ERA and finally suggested to set up sustainable networks between all these countries in order to promote this cooperation and to reinforce scientific exchanges and mobility of researchers.

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73 COM(2001) 346 final, **Communication from the Commission**, “THE INTERNATIONAL DIMENSION OF THE EUROPEAN RESEARCH AREA”, Brussels, 25.06.2001, point 3.2.

74 European Commission, From Political Dialogue to Concrete Actions, [ec.europa.eu/research/iscp/pdf/wbc-brochure\\_en.pdf](http://ec.europa.eu/research/iscp/pdf/wbc-brochure_en.pdf).

75 European Commission, From Political Dialogue to Concrete Actions, [ec.europa.eu/research/iscp/pdf/wbc-brochure\\_en.pdf](http://ec.europa.eu/research/iscp/pdf/wbc-brochure_en.pdf).

76 European Commission, From Political Dialogue to Concrete Actions, [ec.europa.eu/research/iscp/pdf/wbc-brochure\\_en.pdf](http://ec.europa.eu/research/iscp/pdf/wbc-brochure_en.pdf).

On 26 June 2003 took place the first bi-regional EU/**Western Balkans** ministerial meeting on S&T in Thessaloniki<sup>77</sup>. Under the Greek EU Presidency, the S&T Ministers of the 5 **Western Balkan** Countries, those of the 15 Member States, those of the 6 candidate and Accession neighbouring countries (Bulgaria, Romania, Slovenia, Hungary, Turkey and Cyprus) and Commissioner Busquin representing the **Commission** met to agree on a common policy for cooperation and partnership on S&T. They agreed as well as on complementary discussions held with the region – endorsed during this meeting a *Shared Policy Vision* and an *Action-plan* that would help the countries to prioritise their efforts in S&T to regain excellence in key strategic areas, that will foster regional co-operation and reconnection of the **Western Balkans** to the Member States and neighbouring South East **European** countries (Hungary, Slovenia, Bulgaria, Turkey) and that will provide guidance for and stimulate increasing international assistance.

#### 2.2.2. The Shared Vision and Action Plan (2003-2007)

**The Shared Vision** for EU-**Balkan** countries Co-operation in Science and Technology expressed the priority to be given to RTD:

*“It is now necessary to undertake coherent **actions** for the reinforcement of the RTD capacity in each country and in the region as a whole. To this end, the importance of RTD for the economic growth and the resolution of problems in each country should be put forward at the highest **political** level of all countries in order to facilitate the necessary initiatives and the mobilisation of funds.”*

Four priority areas have been identified in a coherent and balanced way to maximise the expected goals:

- research infrastructures;
- **human potential**;
- **institution building**;
- joint innovative research and technology development.

**The Action Plan** specifies the objectives and thematic priorities set in the ‘Shared vision’ document, identifies the potential instruments for the implementation of the policy and provides for the preparation of annual Work programmes to be undertaken. In terms of *research infrastructure*, projects of regional importance and impact should be elaborated and submitted for funding to existing assistance schemes. Financial support for projects of national importance could be obtained, to a lesser extent, from assistance schemes, through bilateral agreements with some Member States or through investment banks. This would require the commitment of the interested country.

In terms of *human potential* in RDT, the need to train policy makers, information multipliers and research administrators in modern concepts for the organisation of research systems is highlighted, as well as in the evaluation procedures of research activities. In parallel, **actions** for the improvement of the capacity of *the research personnel* would need to include their familiarisation with the ways of funding research activities, especially through competitive projects.

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<sup>77</sup> European Commission, From Political Dialogue to Concrete Actions, [ec.europa.eu/research/iscp/pdf/wbc-brochure\\_en.pdf](http://ec.europa.eu/research/iscp/pdf/wbc-brochure_en.pdf).

**It is also important to implement schemes for the networking and exchange of researchers within the South Eastern European region and between this region and the EU Member States.**

**In terms of *Institution building*, the re-organisation of the research systems should be promoted, where necessary, to achieve a simple and efficient structure with clearly defined goals. Issues related to *Intellectual Property Rights* should be addressed, and the adequate structures should be established.**

Moreover, the need of the research community for up-to-date information on EU RTD activities and assistance for the participation in these activities should be considered as a main priority.

Finally, in terms of *joint innovative research*, it is important to focus on a limited number of thematic priorities – scientific fields of intervention. It will also be necessary to promote projects of mutual benefit and regional impact. According to the conclusions of several specific events organised during the last two years, they determined the scientific fields that are considered as high priorities for cooperation<sup>78</sup>:

This action plan was translated into a work programme by the committee of high level representatives for EU-Western Balkans S&T cooperation, during its second meeting held in Florence in November 2003. Part of this work programme is implemented by the **Commission** under the INCO3 specific activities addressed to this region.

### **Implementation of S&T Western Balkan Co-operation under the RTD Framework Programmes**

#### 2.2.3. The Steering Platform (2006)

In the context of the Communication “The EU and the Western Balkans: strengthening stability and prosperity”<sup>79</sup> of the European Commission, and as a follow-up of the EU-Balkan Countries Action Plan on S&T adopted at the Ministerial Conference in Thessaloniki in 2003 and endorsed by Ministers at the General Affairs Council in March 2006, the Steering Platform (“the Platform”) plays a central role in stimulating, monitoring, and supporting the cooperation in research and technological development between the countries of the European Union (EU 27), associated countries to the Seventh European Framework Programme for RTD (FP7) and countries of the Western Balkans (WBCs). The Platform shall continue until the accession of the Western Balkan countries to the EU<sup>80</sup>.

The Platform 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. Its main objective is to support the enhanced integration of the WBCs in the European Research Area. It is a strategic body to deal with European, multilateral and regional issues of Science and Technology policies in and with the WBCs. It acts as an information exchange centre, clearing house for joint ideas and activities, and coordination forum for needs, suggestions and proposals of the WBCs to the

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<sup>78</sup> *information and communication technologies, energy (savings and renewable), environment (improvement, water management seismology), agriculture, health and biotechnology as well as cultural heritage.*

<sup>79</sup> COM (2006) 27 final of 27.1.2006.

<sup>80</sup> see-science.eu eJournal :Summer 07: news from the platform, p.2.



European Commission, the EU27, Candidate and Potential Countries and the countries associated to FP7 (AC) and vice versa. In this spirit, the Platform continues and intensifies the progress achieved under the EU-Balkan Countries Action Plan on Science and Technology<sup>81</sup>.

With a view to promoting the implementation and development of European research cooperation and thereby also supporting the technological and economic development in the Western Balkan Countries, the Platform will:

- Act as a forum for exchanging information and views, **elaborating recommendations on the RTD policy**, and coordinating needs, suggestions and proposals in and towards the WBCs, especially regarding the Framework Programmes;
- Monitor RTD policies and developments including interactions with innovation and higher education, and intervene with specific recommendations, if deemed necessary;
- Propose concrete actions to be taken in the context of furthering the EU-WBC cooperation on RTD and the bi- and multilateral cooperation activities;
- **Identify issues of mutual importance to be addressed in the context of the Platform; and,**
- Seek synergies with other instruments, organisations and stakeholders to strengthen the research capacity in the Western Balkan countries<sup>82</sup>.

### 2.2.3. Seventh Framework Programme for Research and Technology

In FP7 the new approach to international cooperation in FP7 aims to rise to these challenges by way of innovative mechanisms for promoting international research collaboration. It aims to address three interdependent objectives<sup>83</sup>:

- supporting European scientific and economic development through strategic partnerships with third countries in selected fields of science and by engaging the best third country scientists to work in and with Europe;
- facilitating contacts with partners in third countries with the aim of providing better access to research carried out elsewhere in the World;
- addressing specific problems that third countries face or that have a global character (e.g. by contributing towards Millennium Development Goals, addressing global climate change, combating biodiversity loss, water and energy scarcity).

#### ***Implementation in the People Programme***

The international dimension of the People Programme reinforces international cooperation in FP7 by supporting researcher mobility and their career development. It is directed at increasing the quality of European research, both by supporting European researchers to undertake research abroad and by attracting research talent from outside Europe and fostering research collaborations. It includes two main action lines:

*i) Career development/life-long training for EU researchers*

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<sup>81</sup> Information Office of the Steering Platform on Research for the Western Balkan Countries (<http://see-science.eu/news/111.html>).

<sup>82</sup> see-science.eu eJournal :Summer 07: news from the platform, p.2.

<sup>83</sup> European Commission, From Political Dialogue to Concrete Actions, [ec.europa.eu/research/iscp/pdf/wbc-brochure\\_en.pdf](http://ec.europa.eu/research/iscp/pdf/wbc-brochure_en.pdf).

*International outgoing fellowships at postdoctoral level and beyond* (with an in-built mandatory return phase): enable European researchers to be trained and acquire new knowledge within highlevel third country research organisations. Promising European researchers will gain research training experience outside Europe and add different or complementary research competences at an advanced level to their experiences.

*International re-integration grants*: encourage European researchers, who have carried out research outside Europe for at least 3 years, to return to a Member State or Associated country in order to contribute to European research and to transfer the knowledge they have acquired in a third country.

*ii) International cooperation for and with researchers from third countries*

*International incoming fellowships for experienced researchers*: for knowledge transfer with Europe, and enrichment of research collaboration. Researchers from third countries will be offered support to undertake research projects in Europe with a view to enhancing the possibility of future collaborative research links with Europe.

*Marie Curie host driven actions*: as a general rule (e.g. the Research Training Networks targeting doctoral candidates) all are open to third country nationals. *A partnership scheme*: these grants focus on staff exchanges between several European research organisations and organisations from countries covered by the European Neighbourhood Policy, and countries with which the Community has S&T Agreements with the EU.

*Support to scientific diasporas*: a new action to support the expansion of the successful pilot exercise to network European researchers abroad by means of European Researchers Abroad networks - the ERA-Link initiative. These activities will establish links between Europe and expatriate European researchers, promote collaborations with the European research community, as well as support networking activities of third country researchers in Europe.

*Research potential*

Under this activity, support can be provided to promote closer S&T cooperation between Europe and other regions in the world by improving research capacity in those other regions.

One example is the cooperation between Europe and the Western Balkan countries which includes, amongst others, actions to support trans-national two-way exchanges of research staff in order to progressively include the West Balkan countries in the European Research Area<sup>84</sup>

***Implementation in the Ideas Programme***

The Ideas Programme aims to reinforce European activities in leading edge or 'frontier' research, providing support for individual teams rather than for multinational consortia. Individual international researchers will be encouraged to join with Europe-led teams, where they will bring specific expertise from outside Europe to enrich the research being undertaken. Full recognition is given to the need to associate top scientists from elsewhere in the world in reinforcing excellence, dynamism and creativity in European research.

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<sup>84</sup> Commission Staff working document, A New Approach to International S&T Cooperation in the EU's 7th Framework Programme (2007-2013), Brussels, 12.1.2007, SEC(2007)47, p.22.

## **Implementation**

To maximise impact, the international activities across all programmes will be complementary and synergistic. The Cooperation Programme enables research cooperation to take place between different global research partners in collaboration with European researchers. The Capacities Programme will support a range of activities to strengthen research capacity in the European scientific community and other regions of the world. The People Programme meets the need to foster both incoming and outgoing international mobility of researchers. The Ideas Programme supports excellence in frontier research and enables individual top international researchers to participate in Europe-led teams.

Actions taken to simplify procedures (unique registration facility, reduced evaluation criteria, simplified forms, etc.) for FP7 will be particularly important to potential participants from third countries that are likely to be less familiar with the Framework Programme<sup>85</sup>.

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<sup>85</sup> Commission, A New Approach to International S&T Cooperation in the EU's 7th Framework Programme (2007-2013), p.7.

## 2.2.4. The Situation in Western Balkans

### 2.2.1. Economic data

#### 2.2.1.1. Unemployment and Inflation rate

Country	Croatia	Albania	Serbia	former Yugoslav Republic of Macedonia	Bosnia and Herzegovina
Unemployment	12,7%	14,3%	27,94 %,	36%	45%
Inflation	3,3%	2,4%	15,5%	3%	0,4%

### 2.2.2. Immigration

#### 2.2.2.1. Outward immigration

Country	Western Balkans	Europe	America	Asia	Australia
Albania		Greece, Italy Other countries	United States and Canada		
Bosnia and Herzegovina		Germany, Austria, Norway and Sweden	United States, Canada		Australia
Croatia		Now Europe	United States and Canada		Australia
former Yugoslav Republic of Macedonia		EU member states	United States and Canada		Australia
Serbia		Austria, Germany, France, Sweden	United States, Canada		Australia

#### 2.2.2.2. Inward Immigration

Country	Western Balkans	Europe	USA	Other Continents
Albania		Western Europe, Turkey		China, Egypt and Islamic countries

Bosnia and Herzegovina	Serbia, Montenegro			China
Croatia		Equally distributed	Equally distributed	Equally distributed
former Yugoslav Republic of Macedonia	Kosovo			
Serbia	Croatia and Bosnia Herzegovina refugees			

### **3. The obstacles to the mobility and policy guidelines to reduce and eliminate them for each sector<sup>86</sup>**

#### **3.1. Visa Requirements**

##### 3.1.1 The General situation

**The EC Council has issued the Directive 2004/114/EC of 13 december 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service<sup>87</sup>.** The term admission covers the entry and residence of third-country nationals for the purposes set out in this Directive. The new Community rules are based on definitions of student, trainee, educational establishment and volunteer already in use in Community law, in particular in the various Community programmes to promote the mobility of the relevant persons (Socrates, European Voluntary Service)<sup>88</sup>.

According to article 6 par. 1 of the Directive: A third-country national who applies to be admitted for the purposes set out in Articles 7 to 11 shall:

- (a) present a valid travel document as determined by national legislation. Member States may require the period of validity of the travel document to cover at least the duration of the planned stay;
- (b) if he/she is a minor under the national legislation of the host Member State, present a parental authorisation for the planned stay;
- (c) have sickness insurance in respect of all risks normally covered for its own nationals in the Member State concerned;
- (d) not be regarded as a threat to public policy, public security or public health;

<sup>86</sup> The mapping exercise report for each country prepared by WEB MOB is the one that is authentic in case of divergence.

<sup>87</sup> OJ L 375/12 of 23.12.2004.

<sup>88</sup> Preamble par. 8 and 9.

(e) provide proof, if the Member State so requests, that he/she has paid the fee for processing the application on the basis of Article 20.

According to Article 7 par. 1

“ In addition to the general conditions stipulated in Article 6, a third-country national who applies to be admitted for the purpose of study shall:

(a) have been accepted by an establishment of higher education to follow a course of study;

(b) provide the evidence requested by a Member State that during his/her stay he/she will have sufficient resources to cover his/her subsistence, study and return travel costs.

Member States shall make public the minimum monthly resources required for the purpose of this provision, without prejudice to individual examination of each case”.

### **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 2008<sup>89</sup>.

The visa facilitation agreements and readmission agreements (9) were initialized in April 2007 and they were signed in an official ceremony on 18 September 2007, Albania<sup>90</sup>, Bosnia and Herzegovina, former Yugoslav Republic of Macedonia and Montenegro (not Croatia)<sup>91</sup>. The agreements are expected to enter into force in **January 2008 after their ratification by the European Parliament**<sup>92</sup>.

These agreements facilitate visa issuing procedures, which will make travel from the Western Balkans to the EU/Schengen area easier. The Member States and the Commission agreed in December 2005 on a common approach to visa facilitation, as foreseen by the Hague Programme adopted in November 2004. A case by case approach is applied<sup>93</sup>.

The visa facilitation agreements<sup>94</sup>

1. allow citizens of the Western Balkan countries to have easier access to entry visas for the EU
  - a. through **decrease of costs, by**

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<sup>89</sup> Adopted in the 2827th meeting of the Council of the European Union 14507/07 of 7.11.2007, Prelex **2007/0140/CNS**.

<sup>90</sup> Since the readmission agreement with Albania is in force, only visa facilitation agreement was signed.

<sup>91</sup> 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.

<sup>92</sup> [http://www.ec.europa.eu/commission\\_barroso/frattini/index\\_en.htm](http://www.ec.europa.eu/commission_barroso/frattini/index_en.htm)

<sup>93</sup> 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](http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&lg=en&type_doc=COMfinal&an_doc=2006&nu_doc=27)

<sup>94</sup> See e.g. agreement **on the facilitation of the issuance of visas** OJ L 334/134 of 19.12.2007.

- i. making it possible to maintain the visa handling fee of 35€ instead of 60 € for all Western Balkan citizens and
- ii. providing a total exemption from the visa fee for certain categories of applicants such as **students or businessmen, journalists and parents of legal immigrants.**

b. **shortening of the application period and the**

c. **possibility for longer-period visas.**

Furthermore<sup>95</sup>,

1. For certain categories of persons, e.g. businessmen, students and journalists, the necessary support documents for a visa application are simplified.
2. For certain categories of frequent travellers it is possible to issue multi-entry visas with long periods of validity.
3. Holders of diplomatic passports are exempted from the visa obligation<sup>96</sup>.

In case of nationals of WBCs participating in scientific, research, cultural and artistic activities, including university and other exchange programmes, the visa facilitation agreements provide that:

- A written request from the host organisation to participate in those activities is an adequate **documentary evidence regarding the purpose of the journey** for the EU member States<sup>97</sup>;
- They pay no fees for processing the visa application<sup>98</sup>
- They are entitled to travel within the territory of the Member States on an equal basis with European Union citizens, Subject to the national rules and regulations concerning national security of the Member States and subject to EU rules on visas with limited territorial validity<sup>99</sup>.

In addition diplomatic missions and consular posts of the Member States shall

- issue **multiple-entry visas with a term of validity of up to one year**, provided that during the previous year they have obtained at least one visa, have made use of it in accordance with the laws on entry and stay of the visited State and that there are reasons for requesting a multiple-entry visa<sup>100</sup>:
- take a decision on the request to issue a visa within 10 calendar days of the date of the receipt of the application and documents required for issuing the visa. The period of time for taking a decision on a visa application may be extended to up to 30 calendar days in individual cases, notably when further scrutiny of the application is needed. The period of time for taking a decision on a visa application may be reduced to two working days or less in urgent cases<sup>101</sup>.

The same applies for family members. In addition there is a EC declaration on facilitations for family members on the basis of a wider definition to the notion of family members that should benefit from visa facilitation. In order to ease the

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<sup>95</sup> <http://www.see-science.eu/news/2300.html>, EU and Western Balkans Countries sign visa deal, **By Ms. Elke DALL on Sep 18, 2007**

<sup>96</sup> [http://www.abhaber.com/news\\_page.asp?id=3600](http://www.abhaber.com/news_page.asp?id=3600), **Visa facilitation and readmission agreements were signed**

<sup>97</sup> Article 4 par. 1 b.

<sup>98</sup> Article 6 par.2 h.

<sup>99</sup> Article

<sup>100</sup> Article 5 par.2 b

<sup>101</sup> Article 7 par. 1-3.

mobility of an extended number of persons which have family links (in particular sisters and brothers and their children) with WBC citizens legally residing in the territories of Member States, the European Community invites the Member States' consular offices to make full use of the existing possibilities in the *acquis communautaire* for facilitating the issuance of visas to this category of persons, including in particular, the simplification of documentary evidence requested for the applicants, exemptions from handling fees and where appropriate the issuing of multiple entry visas.

These countries also signed re-admission agreements, which allow the EU to send back illegally residing persons from those countries by setting out clear obligations and procedures for the authorities of both the Western Balkan countries and of EU Member States as to when and how to take back people who are illegally residing on the territories covered by the agreements. In this respect, the agreements cover not only the illegally staying nationals of both parties but also third country nationals and stateless persons being in an irregular situation provided they have a clear link with the requested Party (e.g. visa or resident permit). Full respect of Human Rights as provided by the European Convention of Human Rights is guaranteed during the application of the Readmission agreements.

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 2006/440<sup>102</sup>. 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 Western Balkans (with the exception of Croatia) are on the 'Black List' of states requiring a visa to enter the EU<sup>103</sup>.

Vice-President Frattini stated that<sup>104</sup>: "The smooth implementation of these agreements, together with tangible progress in basic JLS areas [such as strengthening the rule of law, fighting organised crime and corruption, and increasing their administrative capacity in border control and security of documents by introducing biometric data], will enable the Commission to start a structured dialogue on a possible visa free regime for the citizens of Western Balkan countries in the future"

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<sup>102</sup> [http://www.abhaber.com/news\\_page.asp?id=3600](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.

<sup>103</sup> [http://pdc.ceu.hu/archive/00003178/04/analytica\\_visa\\_facilitation.pdf](http://pdc.ceu.hu/archive/00003178/04/analytica_visa_facilitation.pdf)

<sup>104</sup> [http://www.ec.europa.eu/commission\\_barroso/frattini/index\\_en.htm](http://www.ec.europa.eu/commission_barroso/frattini/index_en.htm)



set out by the Thessaloniki agenda. EU measures to facilitate the movement of persons are linked to progress in the area of justice and home affairs<sup>105</sup>

These visa facilitation arrangements, for the citizens of the countries of the Western Balkans, is to set a stage for the first direct contact between the EU and the citizens of the region, as so far Europeanisation arrangements of the Western Balkans have mainly included government related arrangements rather than arrangements at the grassroots level. The rationale behind visa regimes is a diplomatic one, as they are used as a soft diplomatic tool, which is especially relevant in today's type of international world where a nuanced and multilateral approach is required. In this context, the EU uses it as chief conditionality tool to encourage further reforms in the Western Balkans<sup>106</sup>.

However if the true aim is to achieve a broader European Research Area in which researchers, scientific knowledge and technology circulate freely we need to take more facilitation measures as described below:

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106 [http://pdc.ceu.hu/archive/00003178/04/analytica\\_visafacilitation.pdf](http://pdc.ceu.hu/archive/00003178/04/analytica_visafacilitation.pdf)

### 3.1.3. The situation in Albania

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

Albania:

1. exempts all EU and EEA nationals from holding a visa and from all other prerequisites, after paying a tax of 10 euros except for Czech Republic and Poland<sup>107</sup>
2. exempts nationals from developed countries to enter as USA, Canada, Australia, New Zealand, Switzerland
3. exempts nationals from Singapore, Malaysia and Turkey
4. facilitates only former Yugoslav Republic of Macedonia nationals to get a visa at the border against payment of 10 euros
5. **Issues a stay visa to the foreign citizens who foresee to stay for more than three months in the Republic of Albania. A three months, six month, or one year stay permission can be renewed no more than three times consecutively. A foreign person can apply for five years stay permission if he/she has had a legal stay for two years consecutively in the Republic of Albania, and has durable connection.**
6. Allows the researchers to visit Albania in case of a congress if they have an invitation letter<sup>108</sup>.

Relevant legislation:

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

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

a) Disposal of sufficient means

At the Consulate, the authorities ask the foreigners to prove that they dispose sufficient means for living, on basis of which they create the credibility and prove that they will not ask for public funds to ensure their life in Albania. As such proofs will be accepted: touristic circulation ticket, business certificate, business correspondence, export and transport bills, means of living as cheque, credit card, bank certificate, cash, salary certificate, supporting declaration by a guarantor in Albania according to the definitions in the by-laws for the applications of this law, etc<sup>109</sup>.

The proof of income, property or social security is not necessary in order to get **business visa for Albania**, since either the company inviting the foreigner is to bear all the costs of foreigner's stay, or the company sending the foreigner<sup>110</sup>.

b) conduct interview<sup>111</sup> : This is very dissuasive for nationals of EU and EEA that want to have a stay visa for more than 3 months as well as WBCs since Albania has not consular offices everywhere.

c) At the border

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<sup>107</sup> <http://www.mfa.gov.al/english/vizal.asp>

<sup>108</sup> Mobility guide, 2.1.2.4.

<sup>109</sup> Mobility guide 2.1.1.1

<sup>110</sup> Mobility guide, 2.1.1.4

<sup>111</sup> Mobility guide, 2.1.1.3

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

- a. can review at the border the documents on the basis of which the visa was issued apparently to confirm the validity of the visa and to prove the motive of the trip (second control)<sup>112</sup>
- b. can request any document to prove credibility
- c. can consider a person as undesirable any time

These three obstacles are very dissuasive for a foreigner. It is not clear whether these obstacles apply for a researcher who wants to work in a research institute/University of Albania. It is stated that “The proof of income, property or social security is not necessary in order to get **business visa for Albania**, since either the company inviting the foreigner is to bear all the costs of foreigner’s stay, or the company sending the foreigner”<sup>113</sup>.

We suggest as a **first step** the following modifications in the existing legislation:

1. Nationals from all WBC countries have the same treatment as former Yugoslav Republic of Macedonia nationals either to request a visa at the border against payment or request a visa at the Albanian consulate.
2. To clarify the legislation by inserting new paragraphs for WBC nationals as following:

*“For 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 the motive of travel and the means to live to the border authorities”.*

We suggest as a **second step**, which will be taken e.g. after 2 years of the first modification, the alignment of WBC researchers to the status of EU nationals as following:

“WBC nationals holding a research visa will have the same status as nationals exempted from visa requirements and be exempted from any questions or procedures at the border”.

Research visas will be issued by one or two offices at WBCs and all WBC’s may participate in a “soft” web in order to increase mutual trust.

### **3.1.4. The situation in Bosnia and Herzegovina**

#### **3.1.4.1. Bosnia and Herzegovina visa requirements**

Bosnia and Herzegovina exempts from visa requirements:

- 1) All EU Nationals holding a valid passport
- 2) All EEA Nationals holding a valid passport
- 3) All Nationals from the following developed countries USA, Canada, Japan, Australia, New Zealand
- 4) All Nationals from WBCs except Albania.**

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<sup>112</sup> Mobility guide 2.1.1.1

<sup>113</sup> Mobility guide, 2.1.1.4

5) All nationals from Qatar, Kuwait, Malaysia, Israel, Korea<sup>114</sup>

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

**Application requirements for visa 115:**

- (a) Passport or official travel document valid for at least three months beyond the expiry date of the visa.

... (d) **Return/onward ticket.**

(e) **Sufficient funds** for duration of stay...

*Private:* (a)-(e) and, (f) **Invitation letter from host, endorsed by the authorities.**

*Business:* (a)-(e) and, (f) **Invitation letter from the host company in Bosnia & Herzegovina, endorsed by the Chamber of Commerce or notarized by the Chamber of Commerce and Ministry of Security<sup>116</sup>.**

**The mobility guide declares that an invitation letter is enough to enter, but as we see there are more requirements such as return/onward ticket and sufficient funds. In any case it seems that an invitation letter is important for a researcher to enter the country in order to attend a congress or seminar<sup>117</sup>**

**Note:** Applicants from certain countries might have to submit **evidence of cash assets (such as a recent bank statement), as well as evidence of a negative HIV test.**

**Working days required: Approximately three weeks, as all applications are now sent to Bosnia & Herzegovina for approval<sup>118</sup>.**

**Visa that the researcher of foreign nationality can obtain in order to come to B&H for a congress or seminar, or to work on a project for 3 months is a business visa. If a foreign national would like to stay in B&H for longer period of time, then he applies for the visa extension or temporary residence permit. (Article 32 of the Law on Migration and Stay of Foreigners and Asylum)<sup>119</sup>.**

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

### **3.1.4.2. Bosnia and Herzegovina's specific obstacles to mobility**

A. For mobility of 3 months the only obstacles seem to apply to Albanian researchers.  
1) Albanian nationals fall under the broad category of all other nationals who need a visa to enter Bosnia and Herzegovina.

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<sup>114</sup> [http://www.mfa.gov.ba/Index\\_eng.htm](http://www.mfa.gov.ba/Index_eng.htm)

<sup>115</sup> [http://bosnia.embassyhomepage.com/bosnian\\_visa\\_bosnia\\_embassy\\_london.htm](http://bosnia.embassyhomepage.com/bosnian_visa_bosnia_embassy_london.htm).

<sup>116</sup> Mobility guide 2.1.1.5.

<sup>117</sup> Mobility guide for Bosnia and Herzegovina, 2.1.2.4.

<sup>118</sup> [http://bosnia.embassyhomepage.com/bosnian\\_visa\\_bosnia\\_embassy\\_london.htm](http://bosnia.embassyhomepage.com/bosnian_visa_bosnia_embassy_london.htm).

<sup>119</sup> Mobility guide, 2.1.1.2.

**Therefore, citizens of the Republic of Albania are required visas** when entering, exiting or travelling through Bosnia and Herzegovina. This restriction is reciprocal: Albania also imposes visa requirements on **regular passports for Bosnia and Herzegovina citizens.**

**We therefore suggest a bilateral international agreement between Albania and Croatia for the facilitation of researchers' mobility**

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

**a) Today Albanian nationals cannot obtain a visa from an Embassy of Bosnia and Herzegovina in Tirana but in Skopje, former Yugoslav Republic of Macedonia, due to the lack of a consular office in Tirana<sup>120</sup>. This is also an obstacle.**

**We suggest, until the adoption of the bilateral agreement:**

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

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

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

**We suggest, until the adoption of the bilateral agreement, in order to restrict the discretion and uncertainty of entering Bosnia:**

- To abolish the condition of “sufficient funds”. It is said “The proof of income, property or social security is not necessary in order to get business visa for Albania, since either the company inviting the foreigner is to bear all the costs of foreigner’s stay, or the company sending the foreigner<sup>121</sup>”. We cannot be sure that all research institutions can give declaration to cover such costs**
- To stop notarizing/endorsing the letter of invitation by other authorities and for a temporary period to have it notarized only by the Chamber of Commerce.**

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

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<sup>120</sup> See webpage [http://www.mfa.gov.ba/Index\\_eng.htm](http://www.mfa.gov.ba/Index_eng.htm).

<sup>121</sup> Mobility guide, 2.1.1.4

**We suggest, until the adoption of the bilateral agreement:**

**- To abolish the condition of “sufficient funds” or to clarify the meaning as below**  
**A foreign national submitting a visa application to a diplomatic mission or a consular office of the Republic of Bosnia and Herzegovina shall be required to present a proof of sufficient funds for subsistence during his/her sojourn in the Republic and for the return to the country of origin or transit to a third country. On his/her entry to the Republic of Bosnia and Herzegovina, the border control officer shall be authorised to request that the foreign national presents funds necessary for subsistence during the sojourn in the Republic and for the return to the country of origin or transit to a third country.**

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

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

### **3.1.4. Croatia**

#### **3.1.4.1. The situation in Croatia**

**According to art. 2 and 3 of the Regulation of 21 October 2005<sup>122</sup> citizens of the following countries do not need a visa to Croatia for stay up to 90 days:**

1. EU. Bulgaria and Romania included (also with identity card)
2. EEA
3. Developed Countries, US, Canada, Australia, New Zealand, Japan, Switzerland ( the latter also with identity card)
4. WBC : Bosnia and Herzegovina, former Yugoslav Republic of Macedonia
5. **NAC countries : None**
6. Other Countries Latin and Central American countries: Argentina, Bolivia, Brazil, Chile, Costa Rica, Guatemala, Honduras, Mexico, Nicaragua, **Panama, Paraguay, El Salvador, Uruguay, Venezuela**
7. **Other countries: Brunei Darussalam, Israel, Republic of Korea, Malaysia, Singapore, Turkey, Vatican City** <sup>123</sup>.

The above beneficiaries must apply for a visa for a stay more than 90 days.

All visa applicants should present their application in person at the Consular Department and **provide proof of subsistence financial funds**

Some applicants may be asked to submit an additional document as:

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<sup>122</sup> *Official Gazette No. 127/05, 26 October 2005*

<sup>123</sup> <http://croatia.visahq.com/requirements/Albania>

- 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

Citizens of Albania and Serbia and Montenegro must apply for a visa in any case since they are included in article 4 which states that “Nationals of the following States shall require an entry visa for a stay of up to 90 days in the Republic of Croatia and for transit through its territory”. Diplomats of these countries may enter without visa for 90 days stay (art. 5).

**The law states that :**

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

**On his/her entry to the Republic of Croatia, the border control officer shall be authorised to request that the foreign national presents funds necessary for subsistence during the sojourn in the Republic of Croatia and for the return to the country of origin or transit to a third country.**

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

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

A researcher of foreign nationality in order to visit Croatian institution for a congress or seminar, a project or work for 3 months to 1 year can apply for a travel visa and temporary residence<sup>124</sup>.

Unfortunately a researcher seems to have to submit proof of sufficient funds<sup>125</sup>

If a foreigner is coming to Croatia on a **business** visit, when applying for visa, they have to submit a legal person’s **invitation letter** for foreigners as a proof of the purpose of their visit<sup>126</sup>. The legal person’s invitation letter has to **be validated with an official stamp and the signature of an authorised representative. The diplomatic mission/consular office of the Republic of Croatia at which the foreigner is applying for a business visit visa, retains the original copy of the invitation letter.** The applicant is given the copy of the invitation letter so that they could produce it as a proof of the purpose of their visit if requested by a border control body<sup>127</sup>.

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<sup>124</sup> Mobility guide, 2.1.1.2.

<sup>125</sup> Mobility guide, 2.1.1.4

<sup>126</sup> The content of the invitation letter is regulated by the stipulations from Article 70 of the Rule on Travel Documents for Foreigners, Visas, Border Passes and Treatment of Foreigners (Official Gazette – hereinafter referred to as OG No. 202/03, 10/05, 19/05) and Article 9 of the Rule on Issuing Travel Certificates, Visas and Special IDs for Foreigners (OG No. 82/05).

<sup>127</sup> Mobility Guide 2.1.1.5.

### 3.1.4.2. Croatia's specific obstacles

1) Citizens of Albania and Serbia and Montenegro must apply for a visa at any case

We suggest

Either to conclude bilateral agreements between Croatia on the one hand and Albania and Serbia on the other hand to abolish reciprocally visa requirements  
Or to abolish simultaneously visa requirements in the above countries

2) The requirement of proof of sufficient funds, though very well limited in discretion, is valid also for a researcher. Other WBCs think this is not necessary in case of an invitation of a host company.

We suggest to abolish the requirement of sufficient funds for researchers.

### 3.1.5. former Yugoslav Republic of Macedonia

#### 3.1.5.1 The situation in former Yugoslav Republic of Macedonia

former Yugoslav Republic of Macedonia has bilateral agreements with many countries; therefore it is not easy to be sure for the status of visa regime of each state easily.

On 27 August 2007 the Minister of Foreign Affairs of former Yugoslav Republic of Macedonia has issued a statement with former Yugoslav Republic of Macedonia's policy for each of 197 states<sup>128</sup>.

a) For EU and EEA nationals no visa is necessary for a stay of 3 months but again the visa policy is not uniform, at least yet, for all countries.

b) For nationals from US and Japan no visa is necessary for a stay of 3 months for tourist and business purposes. However for nationals from Canada, Australia, Russia, China, visa is necessary.

c) For Albanian nationals a visa is necessary<sup>129</sup>. However, it seems that **on basis of a bilateral Agreement, for citizens of the Republic of Albania and former Yugoslav Republic of Macedonia. Single entry visas or transit and group passport visas are issued at the border crossings between the two countries.**

d) For nationals from Bosnia and Herzegovina as well as Croatia, no visa is necessary if they stay only 3 months.

e) For nationals from Serbia no visa is necessary if they stay in former Yugoslav Republic of Macedonia only 2 months

Although former Yugoslav Republic of Macedonia currently experiences little immigration, political attention to the subject, due in part to the prospects for EU accession, inspired a new Aliens Act. The act, which came into force in March 2007.

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<sup>128</sup> <http://www.mfa.gov.mk/Upload/ContentManagement/Files/MFA-VisaRegime.doc>

<sup>129</sup> Mobility guide, 2.1.2.9.



It regulates the conditions on admission, leave and stay of the foreigners in former Yugoslav Republic of Macedonia, and their rights and obligations. The Inter-ministerial Body for integration of refugees and **aliens** has been established. It is estimated that some 20 bylaws are required to enable implementation<sup>130</sup> which are envisaged to be adopted within 6 months after the entrance into force of the law. No translation in English was found for the new Aliens act. It is considered by many that it is in line with EU requirements, such as they exist on immigration.<sup>131</sup>

The government's short-term priority was a law on the employment of foreigners, which had been postponed until the new Aliens Act was in place. This law was adopted at the end of May 2007, and stipulates the conditions under which foreign citizens may be employed former Yugoslav Republic of Macedonia and the procedures for their employment. A foreigner may work in former Yugoslav Republic of Macedonia only if staying legally, and with a work permit<sup>132</sup>.

From the information found on the internet (the ministry of foreign affairs did not have this information on its website) we have found that in order to enter the country it is necessary to have a Passport with at least three to six months' validity (depends on the individual case)

**Nationals who require Visas<sup>133</sup>** should submit have:

- a return ticket,
- invitation letter or hotel booking to obtain a visa.

**It is said that** proofs for foreigner's income, property or social security should be provided (see next chapter)<sup>134</sup>

**Validity:** Valid for up to three months. Transit visas valid for up to five days.

**Working Days Required:** Usually one to three. The embassy in the UK can process within the same day<sup>135</sup>.

Document that covers 3-month period of stay the country (one pass as well as multi pass) issued for matters of scientific, personal or turistic (not business) nature is called "Visa for short-term stay (Type C)".

For period greater than 3 months "Visa for long-term stay" (Type D) is required. It provides free entrance and covers 30 days period of stay of which the foreigner is obliged to inform the **Ministry of Internal Affairs upon the first 5 days of arrival, in order to receive temporary residence permit<sup>136</sup>**.

For cases of **employment** obtaining visa isn't sufficient (because temporary residence permit is required too), nor invitation by the host institution is sufficient. Work permit should be provided, too.

For the rest of the cases (e.g. cases other than employment) invitation by the host institution can be accepted as sufficient in order to get visa, only if it contains

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<sup>130</sup> <http://www.migrationinformation.org/Profiles/display.cfm?ID=608>

<sup>131</sup> [macedonianembassy.org.uk/non%2520paper.htm+Macedonia+Law+Aliens+2006&hl=el&ct=clnk&cd=28&gl=gr](http://macedonianembassy.org.uk/non%2520paper.htm+Macedonia+Law+Aliens+2006&hl=el&ct=clnk&cd=28&gl=gr)

<sup>132</sup> <http://www.migrationinformation.org/Profiles/display.cfm?ID=608>

<sup>133</sup> <http://www.iexplore.com/dmap/Macedonia/Visa+and+Health>

<sup>134</sup> Mobility guide 2.1.1.4.

<sup>135</sup> <http://www.iexplore.com/dmap/Macedonia/Visa+and+Health>

<sup>136</sup> Mobility guide, 2.1.1.2.

statement signed by the organizer and if it is **notarized by the Chamber of Commerce and Ministry of Interior** (Article 13 - “Law for the Foreigners”)<sup>137</sup>.

The foreigner may bring his/her family with him/her if he/she submits:

- Documents proving the family relationships with the foreigner residing in the country;
- Documents proving stable and regular incomes that will provide financial support during the stay;
- Proof of provided accommodation;
- Personal Health Insurance;
- Notarized copies from the travel documents.

### **3.5.2. Former Yugoslav Republic of Macedonia’s obstacles to inward mobility**

former Yugoslav Republic of Macedonia does not present obstacles **for 3 months** stay for EU and EEA nationals.

former Yugoslav Republic of Macedonia however presents the following obstacles for inward mobility for WBC nationals:

#### **1) Differentiated treatment**

Former Yugoslav Republic of Macedonia, as other WBCs presents a differentiated treatment for WBC nationals.

There is no visa requirement for 90 days stay for nationals of

- Bosnia and Herzegovina and
- Croatia

There is no visa requirement for 60 days for nationals of Serbia who however can enter Former Yugoslav Republic of Macedonia without visa requirements for longer stay<sup>138</sup>.

However, there are visa requirements for nationals of Albania – this is reciprocal on the part of Albania. There is a bilateral agreement signed that provides that **single entry visas or transit and group passport visas are issued at the border crossings between the two countries**<sup>139</sup>.

It is recommended to proceed to:

- either the strengthening of reciprocal agreements between the Former Yugoslav Republic of Macedonia – Serbia and the Former Yugoslav Republic of Macedonia – Albania
- or simultaneous abolishment of visa requirements in the Former Yugoslav Republic of Macedonia, Serbia and Albania for 3 months stay.

2) The requirements of return ticket and letter of host company for those nationals who need a visa can be considered as justified in the previous stage of relations. These requirements do not give a margin of discretion to the authorities or create problems.

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<sup>137</sup> Mobility guide 2.1.1.5.

<sup>138</sup> Visa regime ... towards other countries..., Valid from 26 November 2007 at <http://www.mfa.gov.mk//Upload/ContentManagement/Files/MFA-VisaRegime.doc>.

<sup>139</sup> Op.cit.

Since however the Former Yugoslav Republic of Macedonia will hopefully start negotiations with EU they must be abolished for Serbia and Albania.

3) In case of seminar or congress articles 13 and 14 of the Law of Foreigners provide that **invitation letter by the host institution is of great importance and it will be accepted as sufficient, only if it contains statement signed by the organizer and if it is notarized by the Chamber of Commerce and Ministry of Interior.** **This is an obstacle hindering mobility and we suggest that notarisisation be abolished.**

#### **4) Proof of sufficient funds**

**According to art. 12 of the “law for foreigners”** proofs for foreigner’s income, property or social security should be provided (Article 12 from the “Law for the Foreigners”). The applicant can prove his ability to cover living and travel expenses in one of the following ways:

- Possession of money in cash (domestic or foreign convertible currency);
- Possession of money on credit cards, travellers checks etc. The bank account can grant such information;
- Possession of property as stated in the State Law;
- **Guarantee Letter** from national citizen / foreigner whit permission for stay in country, stating that he/she will bear the costs of the applicants stay;
- **Invitation Letter** provided from the domestic/foreign legal person/institution (registered in the country) that is to bear all the costs of foreigner’s stay, regardless whether it is inviting the foreigner or sending him/her to our country.

The Travel Insurance should also be presented along with the rest of the documentation<sup>140</sup>.

To prove income is an obstacle however it seems that an invitation letter by a domestic institution certifying that it will bear all the costs for foreigners’ stay seems to be enough.

### **3.1.6. Serbia**

#### **3.1.6.1. The situation in Serbia**

Serbia allows to enter in its territory without visa the following nationals for 90 days

- a) EU and EEA nationals
- b) Nationals from developed countries: **US, Canada, Singapore, Korea, Australia and New Zealand**
- c) **Nationals from Croatia**

**Serbia requires visa for all nationals coming from other WBC countries, though Bosnia and Herzegovina as well as the Former Yugoslav Republic of Macedonia allows Serbian nationals to enter without visa for 90 days and 60 days each.**

**There is an indication that since 2003 there is no visa requirement for Bosnia and Herzegovina Nationals for 30 days<sup>141</sup>**

**For Croatian nationals only for Montenegro for 90 days**

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<sup>140</sup> Mobility guide 2.1.1.4.

<sup>141</sup> Mobility guide for Serbia, 2.1.3.3.

**For Former Yugoslav Republic of Macedonia nationals only for Montenegro for 30 days and for Serbia for 60 days<sup>142</sup>**

A researcher of foreign nationality can obtain business visa in order to come to Serbia for a congress or seminar, or to work on a project for 3 months. If period is longer than that, then foreigner applies for visa extension or temporary residence permit<sup>143</sup>.

**3.1.6.2. Serbia's specific obstacles to movement**

Serbia does not present obstacles to mobility to EU and EEA nationals. However Serbia presents the following obstacles to movement

First obstacle is the differentiated treatment between WBC countries.

We suggest :

- either reciprocal agreements between the Former Yugoslav Republic of Macedonia – Serbia and the Former Yugoslav Republic of Macedonia – Albania
- or simultaneous abolishment of visa requirements in the Former Yugoslav Republic of Macedonia, Serbia and Albania for 3 months stay.

Second obstacle is the visa requirements that have to be clarified and be more objective in order to increase certainty of the foreigner:

- Sufficient funds in hard currency
- Return ticket
- Letter of host company
- Medical costs covered
- interview

**CONCLUSIONS**

It would be great if a multilateral agreement was signed either in the framework of EU-WBC relations or in the framework of CEFTA.

All WBCs ask for interviews to take place before visa

They do not provide for the maximum length for the visa procedure but it seems 30 days is the maximum for Bosnia and Herzegovina, Former Yugoslav Republic of Macedonia and Serbia

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<sup>142</sup> Mobility Guide for Serbia 2.1.3.3.

<sup>143</sup> Mobility guide, 2.1.1.2.

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

### 3.2.1. Albania

The visa contains the **timeframe for its use**, which can be three months, six months, one year. In the visa is also established the **timeframe of the stay**, which goes from 1 to 90 days. **The timeframe for the stay begins the day that the foreigner enters into Albania.** The visas with a timeframe of use of more than three months can be with many passages. The visa **is extended only one time up to the half of the first period** by the embassy of the Republic of Albania or the competent authority, stipulated in this law. A three months, six month, or one year stay permission can be renewed no more than three times consecutively<sup>144</sup>.

An extension of up to 60 days (90 days total) may be obtained by applying at the local police station. The conditions are the same as when the visa was originally issued<sup>145</sup>.

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

All foreign citizens whose stay in Albania exceeds 20 days must fill in a form at the closest police station.

Foreigners who work for less than 3 months in the country do not need permission

In order to work in a research institution the foreigner first obtains a visa to come to Albania and then a work and a residence permit<sup>146</sup>

### 3.2.2. Bosnia and Herzegovina

**Duration of the visa is for 3 months, and after that the foreigner may prolong the visa, or ask for temporary residence permit. Multiple entries visa may be issued for the period of one year<sup>147</sup>. The prolongation of a visa is possible for additional 90 days. The conditions are the same as when the visa was originally issued<sup>148</sup>.**

**The Rulebook that regulates visa issues does not specify that visa will not be granted in case of unemployment in the specific sector. However, when the person arrives to B&H and goes to Employment Agency to get the Work Permit, then he can be rejected on the grounds of unemployment in the specific sector<sup>149</sup>.**

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<sup>144</sup> Mobility guide for Albania, 2.1.2.1

<sup>145</sup> Mobility guide for Albania, 2.1.2.3.

<sup>146</sup> Mobility guide for Albania 2.1.2.6.

<sup>147</sup> Mobility guide for Bosnia and Herzegovina, 2.1.2.1.

<sup>148</sup> Mobility guide for Bosnia and Herzegovina 2.1.2.3.

<sup>149</sup> Mobility guide for Bosnia and Herzegovina, 2.1.1.8.

In order to work in a research institution the foreigner first obtains a business visa to come to Bosnia and Herzegovina and then a work and a residence permit<sup>150</sup>

### **3.2.3. Croatia**

#### **3.2.3.1. TRAVEL VISA**

Issued for one, two or more visits to the Republic of Croatia, for tourist, **business**, personal or other purposes. Travel visa is valid for a one-year period only. Continuous stay or the overall duration of repeated entries should not exceed 90 days, during a 6-month period starting from the day of entry<sup>151</sup>.

A travel visa can exceptionally be extended due to *force majeure*, humanitarian, professional or personal reasons if the application is submitted before its expiry.

Note: Even in cases of visa extension, an alien CANNOT stay in the Republic of Croatia longer than 90 days in the period of six months, counting from the day of his/her first entry<sup>152</sup>.

An alien can work in the Republic of Croatia on the basis of a WORK or BUSINESS permit. In cases laid down by the Aliens Act (OG No. 109/03), an alien can work without a work permit<sup>153</sup>.

**The researchers are in the same category as other migrant workers and the amount is governed by quotas<sup>154</sup>.**

The total annual quota of work permits for the employment of aliens in the Republic of Croatia is **1,837**, and the quota for the extension of already authorised work permits is 800.

The annual work permit quota for **newly employed** aliens is **1,037**:

1. TOURISM – **516** work permits
2. SHIPBUILDING – **110** work permits
3. CONSTRUCTION – **336** work permits
4. **SCIENCE AND EDUCATION – 10 work permits**

#### **3.2.3.2. Croatia's obstacles to mobility**

1. Extension of visa  
Croatia, in spite of the practice of the other WBCs does not really allow the extension of a visa. Croatia only in exceptional cases allows the extension of use of the visa not of stay. The other WBCs allow 90 days stay for the initial visa plus 90 days stay for its extension.

#### **2. Quotas for work permits**

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<sup>150</sup> Mobility guide for Bosnia and Herzegovina 2.1.2.6.

<sup>151</sup> Mobility guide for Croatia, 2.1.1.8.

<sup>152</sup> Mobility guide for Croatia, 2.1.2.3.

<sup>153</sup> Mobility guide for Croatia, 2.1.2.6.

<sup>154</sup> Mobility guide for Croatia, 2.1.2.7.

The fact that there is a quota system to protect Croatians from unemployment may be deemed necessary for economic reasons but does not help mobility of researchers, even if all other obstacles are abolished. Therefore the situation has to change.

#### 3.2.4. Former Yugoslav Republic of Macedonia

Most frequently issued visa e.g. visa for short-term stay (type C) covers 3 months period of continuous stay as well as total of 3 months period in case of repeated entries in the country, starting from the first day of the arrival. In the later case (e.g. multiple entries) this period of 90 days should be used in the time interval of 6 months. This type of visa is valid for period of 1 year.

For period of stay that lasts longer than expected - the foreigner may apply for visa extension, and if the total period exceeds 3 months time interval, he/she should ask for temporary residence permit<sup>155</sup>.

**In order to participate in a research project of more than 3 months the foreigner must obtain visa type D (for long-term stay) and temporary residence permit.** Documents from the institution that is running the project stating that the **foreigner is being invited** and confirming his/her acceptance, are a necessity in order to fulfill the propositions for temporary residence permit. Documents describing the nature, time-frame and detailed program of the project can be useful, too<sup>156</sup>.

If the purpose for residence is employment, then the foreigner must apply for temporary residence permit which is granted on the grounds of previous work permit<sup>157</sup>.

And the work permit can be allowed without previous signing of a work contract, **only if the potential employer can guarantee for the foreigner**<sup>158</sup>.

Work in a research institution

In order to be employed (regardless of the area of interest), the foreigner is requested to apply **for temporary residence permit and in order to do that he/she must provide work permit first.**

For the area of scientific research some additional conditions should be met and they are listed in the text below:

- **Contract with institution evidenced in the registry of scientific institutions** (by the Ministry of Science and Education or Macedonian Academy of Sciences and Arts) or accredited and registered as high-profile educational institution (e.g. faculty or university).

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<sup>155</sup> Mobility guide for former Yugoslav Republic of Macedonia 2.1.2.1.

<sup>156</sup> Mobility Guide for former Yugoslav Republic of Macedonia, 2.1.2.6.

<sup>157</sup> References used from Mobility Guide:

[http://www.pravo.org.mk/download/Zakoni/strancite\\_23032006.pdf](http://www.pravo.org.mk/download/Zakoni/strancite_23032006.pdf) (Article 58 from the Law for Foreigners - in Macedonian Language)

<http://www.mvr.gov.mk/ShowAnnouncements.aspx?ItemID=200&mid=717> (Web-site of the Ministry of Internal Affairs - in former Yugoslav Republic of Macedonia's Language).

<sup>158</sup> Sources from Mobility Guide:

<http://www.zvrm.gov.mk/mkd/stranci.html> (Web-site of the Employment Agency – in local Language)

- Document confirming **financial responsibility of the hosting institution to cover living and travel expenses** of the foreigner as well as his/her health insurance;
- **Financial support agenda of the project;**
- **Notarized copy of the faculty / university diploma as a proof for the degree of education.**

**Temporary Residence Permit** is issued for period of 1 year<sup>159</sup>.

### **3.2.5. Serbia**

Duration of the visa is for 3 months, and after that the foreigner may prolong the visa, or ask for temporary residence permit. Multiple entries visa may be issued for the period of one year<sup>160</sup>.

In order to work for the research institution in Serbia foreigner must obtain a work and residence permit and a business visa (if visa is required)<sup>161</sup>.

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<sup>159</sup> Mobility guide for former Yugoslav Republic of Macedonia, 2.1.2.6.

<sup>160</sup> Mobility guide for Serbia, 2.1.2.1.

<sup>161</sup> Mobility guide for Serbia 2.1.2.6.



### 3.3. General formalities at the border

#### 3.3.1. The situation in WBCs.

a) In all WBCs the procedure is the same:

If the foreigner arrives at the airport, there is the usual procedure as in all airports

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

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

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

In Fyrom, Border control's responsibilities are better explained as:

- a. Checking for valid travel document (e.g. passport);
- b. Checking for visa (if needed);
- c. **Check for additional documents which could describe the purpose and nature of the trip;**
- d. Check the passenger's computer file in order to exclude those that are threat to the peace and stability of the country<sup>162</sup>.

b) The passport of the foreigner is stamped upon entry to Albania. The **purpose of the visit is stamped as well, where applicable**. Only in Serbia the purpose of the visit is not stamped

c) In **Albania and Bosnia and Herzegovina** there is no limit of foreign or domestic currency that the foreigner is allowed to import or export.

In Croatia there is no limit to the foreign or domestic currency a foreigner is allowed to import. Nevertheless, a foreigner can export up to the amount he declared at the custom while entering the Republic of Croatia<sup>163</sup>.

**In the Former Yugoslav Republic of Macedonia**, the foreigner can freely import / export **up to 2.000 euros or 20.000 denars** per person. Sums that are higher must be declared at customs control and their representatives will issue confirmation document in return. The foreigner is obliged to present this document at the customs control when leaving the country. **In cases of sums which are higher than 10.000 euros the legislation for prevention of criminal acts with money takes effect according to the law<sup>164</sup>.**

**Serbia:** Foreign currencies may be **brought into** the country freely with no restrictions in terms of amount.

Foreigners may declare a foreign currency to the customs officer and receive a **receipt** allowing them to take it out on first leaving the country. Foreigners may

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<sup>162</sup> Mobility guide for former Yugoslav Republic of Macedonia, 2.2.

<sup>163</sup> Mobility guide for Croatia, 2.2.3. Custom act (OG No. 47/03) <http://www.carina.hr/engindex.htm>

<sup>164</sup> Mobility guide for former Yugoslav Republic of Macedonia, 2.2.3. More can be found on:

<http://www.customs.gov.mk/Uploads/Vnesuvawe%20i%20iznesuvawe%20na%20doma%5Bni%20i%20stranski%20pari,%20~ekovi%20i%20monetarno%20zlato%20vo%20patni~kiot%20promet.pdf> (In local Language)

**import up to RSD 120.000 (around EUR 1.500)** in 1.000 notes or in smaller denominations. An amount in excess of RSD 120.000 may be imported, if proved to have been **bought abroad**. A receipt from a foreign bank may serve as proof. Credit cards may be brought in freely<sup>165</sup>.

- d) In WBCs a car registered abroad may be imported without additional payment of taxes and customs duties if the driver **has** all the documents that he usually carries with him – driving license, registration permit and green card.

In Albania and Bosnia and Herzegovina only if he/she wants to register the car in Albania, then the taxes and customs must be paid<sup>166</sup>.

In former Yugoslav Republic of Macedonia the car has to be declared to the customs authorities as vehicle for personal use.

In the above countries, it is not clear how much time the foreigner may use the car in the country without paying taxes.

In Croatia foreigners who have been granted temporary stay may use their car not longer than **3 months** and then they have to register it. The validity of the foreign driver's licence lasts 1 year after the day of entry.

In Serbia legislation is more restrictive: foreigners bring their car (temporary import), if allowed to stay for more than 3 months and if the car is under 6 years old, bought at least 6 months prior importation. If all these conditions are not applicable, then a certain percentage of taxes due are paid at the moment of declaration<sup>167</sup>.

The foreigner may bring his/her personal belongings without payment of any taxes. Albania and Bosnia/Herzegovina's legislation does not seem to be restrictive on that.

Croatia allows importation if the foreigner has a temporary stay up to one year. former Yugoslav Republic of Macedonia clarifies what it deems personal belongings and imposes declaration at the customs control. Serbia grants the possibility of oral declaration for personal use items while it describes the procedure for temporary import of goods or items. Form 7 is used for "Goods temporarily imported along with information on the traveler and description of goods) sealed by the customs official who puts a stamp on the passport.

### 3.3.2. Mobility obstacles

The WBCs border control officers have a lot of work to do. Besides checking the passport they have to

1. Stamp the passport
2. Confirm the purpose of visit and stamp the relevant document (e.g. in FYROM)
3. Check and issue a document stamped with the import and export of currency (except in Albania and Bosnia/Herzegovina)
4. Check the documents of the car and its insurance
5. stamp declaration of temporary declaration if the foreigner enters for 3 months stay at least. \
6. Prepare and stamp declaration of imported items at the border (e.g. in Serbia)

All the above, except for no 5, (see Directive 83/182/EEC) are considered to be obstacles to mobility in the EU. The reason is that besides the border officer, the foreigner as well wastes a lot of waiting time at the border. Stamps per se are thought

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<sup>165</sup> Mobility guide for Serbia, 2.2.3. More can be found at <http://www.mfa.gov.yu/Visas/custom.htm#currency%20out>

<sup>166</sup> Mobility Guide Yes, nationals of Serbia are friendly to foreigners of all origins.

<sup>167</sup> Mobility Guides 2.2.4.

to be mobility obstacles for the European citizens. Should they be so considered for WBCs at the present stage of relations with EU? This is a matter of negotiation between EU and WBCs.

We suggest a soft policy measure for the entry of foreign researchers.

The existence of a web of research institutions that will help all the foreign researchers when they come to the new country. Even after the publication of the mobility guides, certain questions will still be unsolved and foreign researchers must know where to ask. In this way reception points for foreign researchers will be organised, which today do not exist in all WBCs, and if they do they need support,<sup>168</sup>. A good example is envisaged in Former Yugoslav Republic of Macedonia: Under the Ministry of Education and Science, the development of **a new national agency promoting mobility** in and out of the country is a priority. This agency would function under the name "National Agency for European Educational Programmes and Mobility". In addition, the second work package (WP2) of ERA-MORE network portal will aim to establish four regional contact centers for mobility in all state universities. This sort of office on mobility in each university will help both national and foreign researchers in obtaining the necessary information before their arrival or upon their departure from the country.

### 3.3.3. Police announcement of foreigner's presence

In all WBCs the foreigner's presence must be reported as follows:

Country	Who	To whom	Deadline after entry	Stay
Albania	Foreigner  Foreigner if change in address	Police	10 days	1 year absence intervals 3 months
Bosnia and Herzegovina	Foreigner		24 hours	
Croatia	a) Croatian natural and legal persons providing accommodation or visited b) Other Foreigners who do not use the above accommodation services c) Foreigners	Police  Tourist board of the municipality	a) 12 hours  b) 24 hours	90 days

<sup>168</sup> See the Greek experience after the project Pytheas.

former Yugoslav Republic of Macedonia	a) Organisation of accommodation b) Private person visited c) If own accommodation, the foreigner	Police station  Ministry of internal affairs	12 hours  3 days  3 days	
Serbia	a) Serbian natural and legal persons providing accommodation or visited b) if own accommodation, the foreigner c) Foreigner arrival or change of address d) For permanent work permit foreigner	Police	12 hours  Next day  24 hours	

The above regulations present many obstacles to mobility of researchers and must be simplified and reduced for **EU, EEA and WBC researchers** according to European standards.

European directives provide for announcement in 8 days which is more convenient (See Case Watson and Bellman, judgment of the Court of Justice/...)

It is suggested that

#### 3.3.4. Normal Residence

There is no requirement to have a normal residence. The foreigner must inform the place of residence and his exact address:

- in the letter of invitation (Croatia) before obtaining visa
- upon arrival

In former Yugoslav Republic of Macedonia the exact address is reported to the Ministry of Internal Affairs as well as any change in 3 days.

For permanent work permit is 8 days from apartment replacement

### 3.3.5. Family reunion<sup>169</sup>

The right of the foreigner to bring his family in the host state is recognised in all WBCs. Most WBCs consider as family the members that are so considered by EU legislation:

- Spouse
- Parents that he/she supports and
- **Children up to 18 years of age, or all the children that need support and are living together in one household.**

Only Albania and Croatia seems to be more restrictive to children, restricting the right of reunion only to children under 18 years old, unmarried living with parents, and excluding children in need of support. former Yugoslav Republic of Macedonia extends the concept of children to older children in need of support only to exceptional cases.

Albania, Bosnia and Herzegovina and Serbia submit the reunion to the condition of sufficient resources to support the family to come:

In addition Albania and Bosnia and Herzegovina examine if there are no other reasons, defined by the Law due to which his residence permit could be withdrawn Croatia seems not to have any conditions except of restrictions in time (one year)

former Yugoslav Republic of Macedonia is the most restrictive requesting:

Foreigner can apply for residence permit of his/her family on the basis of family reunion. The terms under which temporary residence permit is granted are:

- Document proving that foreigner residence inside the country is legal and lawfully authorized by governing institutions;
- Documents proving the family relationships with the foreigner;
- Documents proving stable and regular incomes that will provide financial support during the stay e.g. supporting assets proof;
- Proof of provided accommodation;
- Personal Health Insurance;
- Notarized copies from the travel documents.

## **3.4.Facing the new culture – Indirect obstacles**

### **3.4.1. The general situation in WBCs**

The peoples in WBCs are very hospitable and friendly to all foreigners no matter their religious affiliation<sup>170</sup>. Foreigners can practice their religious beliefs and they can

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<sup>169</sup> Mobility guide, 5.2.10, 5.2.11.

attend religious ceremonies in churches, mosques, synagogues in all WBCs<sup>171</sup>. There are foreign cultural institutions in all WBCs such as the British Council, The Goethe Institut, Spanish Italian, US cultural organisations etc. There are festivals, theatres, libraries.

However state employees though they have a University degree they are not obliged to speak foreign languages except in Croatia where a certain level of familiarity in at least one foreign language is required. Unfortunately, this means that in practice competence levels vary widely <sup>172</sup> .

In practice some state employees speak foreign languages, mostly the English language, in Albania and Bosnia/Herzegovina as well as Italian and German in Croatia. In former Yugoslav Republic of Macedonia **state employees speak Serbian, Croatian and English**<sup>173</sup>. Lectures in Universities are in the local language except in the International University of Sarajevo and certain other private universities. English is the main language for international projects and for lectures given by visiting foreign instructors<sup>174</sup>. There is no official directive as to what language should a foreign researcher speak, but the use of English language prevails and therefore it is highly recommendable to be fluent in English<sup>175</sup>.

In most WBCs all children learn to speak English, and then depending on the school it might be obligatory to take one more foreign language – in most cases French, Italian or German while in Serbia Russian as well. In former Yugoslav Republic of Macedonia it is usually English an obligatory subject<sup>176</sup>. In all WBCs the most preferred language is English. In addition Croatian people prefer to speak German in the north and Italian on the coast while in former Yugoslav Republic of Macedonia people speak Serbian, Croatian and Bulgarian<sup>177</sup>. A foreigner can easily learn the local language in organised courses.

**In all WBCs a foreigner can enrol his/her children in public schools for kindergarden, elementary, primary and secondary education** if they able to understand the local language. Otherwise he/she is obliged to enrol them in private schools. There are many private schools, teaching courses in EU languages<sup>178</sup>. The children will be able to receive scholarships or other privilegdes seemingly without discrimination. Only Croatia was not clear in answering this question that wants to control the possibility for applicability by analogy of art. 11 and 12 of the Regulation (EEC) 1612/1968.

### 3.4.2. Mobility obstacles

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<sup>170</sup> Mobility Guides 2.3.1 and 2.3.3.

<sup>171</sup> Mobility Guides 2.3.4.

<sup>172</sup> Mobility Guides 2.4.1.

<sup>173</sup> Mobility Guides 2.4.2.

<sup>174</sup> Mobility Guides 2.4.4.

<sup>175</sup> Mobility Guides 2.4.3.

<sup>176</sup> Mobility Guides 2.4.7.

<sup>177</sup> Mobility Guides 2.4.8.

<sup>178</sup> Mobility guides 2.5.1 and 2.5.3.

## 1. Validation of children's previous education in another country

All WBCs impose such procedure in order to prove that one diploma is identical to the other. former Yugoslav Republic of Macedonia describes it as a process of evaluating the education system in another country, its curriculum, and duration, the rights and privileges to the applicant. eg. in Croatia and former Yugoslav Republic of Macedonia. Such procedure has proven very difficult in the EU countries where since 1985 the principle on mutual recognition and trust has been adopted.

It is suggested that EU and WBCs conclude a reciprocal multilateral agreement for mutual recognition of preschool, elementary, primary and secondary education.

### 1. Spouse's need to work and work permits.

All WBCs usually require the general conditions in order to allow the spouse to work (eg. Serbia). In general spouses and members of the family need work permits to work.

Albania and Bosnia Herzegovina do not allow the spouse to work without a work permit issued only if there are no unemployed nationals with qualifications necessary for the relevant position.

Croatia applies the quota system for spouses except for visiting professors and scientists or a free lance profession<sup>179</sup>. It does not apply the quota system for spouses of EU citizens<sup>180</sup>. The new Act on Aliens grants more rights to the spouses (see relevant reports).

Other WBCs do not have privileged treatment for spouses of EU nationals.

former Yugoslav Republic of Macedonia allows the spouse to work without permit if the spouse comes to the country in order to perform **a business provided for in the regulations of the country referring to foreign investments and performance of foreign trade as well as in the cases laid down in Law (pursuant to the provisions referred to in the Law on Movement and Residence of Foreigners)**<sup>181</sup>.

It is suggested that the legislation of each country provides for the possibility of the spouses of researchers to work without the quota system being applied. It would be even better harmonised with European standards and the right of family reunion that members of the family work without work permit or are facilitated to obtain it.

### 3.5. Mutual recognition of diplomas

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<sup>179</sup> Mobility guide 2.6.1.

<sup>180</sup> Mobility guide for Croatia 2.6.3.

<sup>181</sup> Mobility guide for former Yugoslav Republic of Macedonia, 2.6.1.

### 3.5.1. The situation of education in all WBCs

In all WBCs 182

- a. the primary education lasts from 6-9 to 14-15 years of age and the secondary from 14-15 to 18-19 years of age according to each country.
- b. there are private schools and Universities.
- c. There are no fees for elementary, primary and secondary education
- d. There are fees for public and private Universities
- e. The primary education is mandatory
- f. There is vocational training instead of secondary education
- g. There are entrance exams for public Universities, not always in former Yugoslav Republic of Macedonia
- h. The obligatory minimum duration is 3 years of studies in the University e.g. in Bosnia and Herzegovina, Croatia, former Yugoslav Republic of Macedonia and Serbia. Only Albania seems to have 4 years as minimum<sup>183</sup>
- i. Postgraduate studies usually last for two years<sup>184</sup>
- j. There is the possibility of distance learning

### 3.5.2. The recognition of University diplomas

#### 3.5.2.1. The situation in WBCs

In all WBCs

1. the recognition of diplomas is done without discrimination against foreigners.
2. The prerequisites for the equivalence are the same in all WBCs regardless of the country in which the degree was obtained, except in case of automatic recognitions because of the agreements signed by Albania and Serbia<sup>185</sup>
3. There is an appeal procedure directly or indirectly foreseen against a negative decision to the responsible Ministry (in Croatia indirectly – in Serbia it is not clear)

#### 3.5.2.2 In Albania

At least 70% of the curriculum of studies in the foreign University must be the same with the curriculum of the local University.

The procedure takes maximum 3 months or more **if the foreign University delays in replying on the authenticity of the foreign diploma**. Many demands are rejected or they are partially accepted if there are differences in conditions under which the degree was obtained but not substantial<sup>186</sup>. In such case the Ministry makes a list of exams to be passed.

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

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182 See mobility guides 3.1.1., 3.1.2, 3.1.3., 3.2. ,

183 Mobility guides 3.1.3.2

184 Mobility guides 3.1.3.4.

185 Mobility guide 3.5.6.

186 Mobility guide 3.5.2.



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

#### 3.5.2.3. In Bosnia and Herzegovina

At least 70% of the curriculum of studies in the foreign University must be the same with the curriculum of the local University. The cantons have their own procedure which is largely similar<sup>187</sup>. As a general rule, relevant faculties of Higher Education Institutions themselves are responsible for university degree recognition. The relevant university appoints a Committee that generally comprises of three to five persons, who are responsible for validation of the diploma. **The procedure takes 2 months or even a year, since there are no penalties if the relevant institution does not fulfil its obligations in time.** Many demands are rejected or they are partially accepted if there are differences in conditions under which the degree was obtained but not substantial<sup>188</sup>. In such case the Ministry makes a list of exams to be passed. If one is rejected by one faculty he may try with another!

#### 3.5.2.4. In Croatia

**In Croatia foreigners do not qualify for financial assistance for attending tertiary education and they pay a higher tuition fee.**

The Amended Act on foreign education qualification recognition separated academic and professional recognition of higher education qualification. Under their autonomy higher education institutions are responsible for academic recognition of higher education qualification. Amended Act annulled the paragraph which demands foreign citizens to provide legal interest for recognition of qualification while Croatian citizens are not obliged to do that: all citizens have rights for recognition of their qualification under the same conditions. The National ENIC NARIC office is still responsible for professional recognition procedure, both for regulated and non-regulated professions<sup>189</sup>. The procedure takes 3 months.

#### 3.5.2.5. In former Yugoslav Republic of Macedonia

In order for the relevant degree to be recognized it is necessary that the conditions under which the degree was obtained (curriculum, duration of the studies etc.) are similar to the conditions under which the same degree is obtained in the country. The Ministry of Education and Science is responsible for recognition of foreign higher education qualifications. The final decision is being made following the decision of a specific commission established within the Ministry of Education and Science. The procedure takes 3 months or longer **especially if the bachelor degree has no equivalent in the country. There are no penalties for a prolonged procedure**<sup>190</sup>.

#### 3.5.2.6. In Serbia

The educational system is under change because of the Bologna process. For the recognition of higher education degree each faculty at the University is responsible to compare curriculum and duration and decides for eventual additional exams<sup>191</sup>.

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<sup>187</sup> Mobility guide 3.5.1 and 3.5.2.

<sup>188</sup> Mobility guide 3.5.2.

<sup>189</sup> Mobility guides 3.5.1.

<sup>190</sup> Mobility guide 3.5.4.

<sup>191</sup> Mobility guide 3.5.4.

Serbia has inherited agreements of ex Yugoslavia on automatic recognition of degrees from Bulgaria and Russia, Austria and Hungary<sup>192</sup>.

### 3.5.3. Mobility obstacles because of recognition procedures for University degrees

#### 3.5.3.1. All WBCs

There are certain measures to improve the situation

- The decision of the relevant authority has to be justified
  - The legislation has to expressly provide for an appeal against the decision before the Minister and then before a judicial organ
  - There must be penalties for no prompt reply e.g. automatic recognition
  - Establish equivalents for new degrees, already known, otherwise undue delays
- Albania should better not ask for the authenticity of diploma which causes such delays if the diploma is legalised.
- In Croatia foreigners do not qualify for financial assistance for attending tertiary education and they pay a higher tuition fee. This has to change for EU and EEA nationals and WBC nationals under reciprocity.
- Last but not least bilateral or multilateral agreements should be concluded for automatic recognition of diplomas just like as Serbia and Albania did.

## 3.6. WORKING CONDITIONS

### 3.6.1. WORKING PERMITS

#### 3.6.1.1. Situation in all WBCs

##### 3.6.1.1.1. One year work permit (Temporary)

In all WBCs a foreigner who wants to work for more than 3 months, has to do the following:

1. Requests for his/her degree obtained in another country be recognised as equivalent to the degree of one of the local universities
2. Temporary approval of stay (employment visa)
3. Finds a job
4. Requests in written form work permission before beginning to work from the relevant authority providing information about the company and description of the work
5. Gets work permit
6. Signs the contract
7. Applies for and gets residence permit for one year
8. Works

In Serbia residence permit comes first as a prerequisite for work permit

Residence permit is valid usually for one year and can be extended each year only if the foreigner first prolongs his residence permit (Albania, Bosnia and Herzegovina, former Yugoslav Republic of Macedonia, Serbia but apparently not Croatia).

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<sup>192</sup> Mobility guide 3.5.7.

In Bosnia and Herzegovina if a foreign national obtains a permanent residence permit, then the permanent work permit may be issued as well<sup>193</sup>.

In Croatia, an employer is bound to conclude a contract of employment or other relevant contract with an alien in a written form before the beginning of the work, and at the latest within 15 days following the issuing of the work permit<sup>194</sup>.

**TABLE .. : TEMPORARY WORK PERMIT**

Country	Relevant authority	Who files the request	How long is the procedure	Initial validity	Extension	No necessity for work permit
Albania	Ministry of Labour and Social Affairs	The foreigner	30 days to 60 days	1 year	Application 1 month before 5 years and then permanent permit	
Bosnia and Herzegovina		The foreigner		1 year		
Croatia	Police station/administration	Employer		1 year in practice 2 years in law		
former Yugoslav Republic of Macedonia	Employment agency with rational explanation why a foreigner	Employer		1 year		
Serbia	National	Foreigner if		As long	After	If

<sup>193</sup> Mobility guide 4.1.4

<sup>194</sup> Mobility guide 4.1.5.

	Employment Office	permanent residence permit or Employer if temporary residence permit		as residence permit	expiry extension of residence permit	residence permit and performs professional activities for technology – business cooperation contract.
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### Permanent work permit

The rule is that a permanent work permit is issued after obtaining permanent residence permit.

In Albania issuing a permanent work permit depends of the results on the framework of the contract assigned with the host institutions.

In Bosnia and Herzegovina in order to obtain the permanent work permit, a foreign national must

- First obtain the permanent **residence permit**
  - **after five years** of stay in Bosnia and Herzegovina, and
  - only under condition that the foreign national has **necessary living resources provided,**
  - including **health protection.**
- In addition, foreign national must also provide proof of **medical check-up**, which may not be older than three months<sup>195</sup>.

In former Yugoslav Republic of Macedonia the foreigner must first obtain the permanent residence permit for employment, work or self-employed persons, which can be issued to a foreigner with **high qualifications and education essential** for the functioning of the organization in the country.

Serbia does not seem to have extra prerequisites.

### 3.6.1.2. Facilitation measures already adopted

Albania excludes from work permission, the following categories:

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<sup>195</sup> Mobility guide for Bosnia and Herzegovina 4.16. This is all prescribed in Article 40 of the Law on Immigration and Stay of Foreigners and Asylum of B&H, which can be found on [http://www.mup.vladars.net/zakoni\\_it/bih/Zakon%20o%20kretanju%20i%20boravku%20stranaca%20i%20azilu\\_lat.pdf](http://www.mup.vladars.net/zakoni_it/bih/Zakon%20o%20kretanju%20i%20boravku%20stranaca%20i%20azilu_lat.pdf)

- a. specialists that come in the framework of bilateral and multilateral agreements;
- b. lecturers, members of the scientific staff, teachers of the universities, members of the scientific staff, private scientific organisations, if there is a public interest because of their special knowledge and
- c. students of the universities who take part in a work exchange during the summer holidays as result of the respective agreements.

Croatia excludes from work permits:

- “professors invited as lecturers by Croatian universities, scientists doing scientific and professional further studies, scientific representatives of international organisations and scientists taking part in the execution of scientific research projects important for the Republic of Croatia” do not require a work permit to become employed, but this fact has no impact on the applicability of labour market agreements (which apply to all employed persons, as stated in 4.2.1.).

### 3.6.1.3. Mobility obstacles

#### 1. Recognition of the equivalence of the diploma

In order to apply for the Work Permit foreign must first recognize his/her academic degree obtained in a state of EU or any other country. When foreigners are filing applications for work permits, one of the documents they must provide with the application is the decision that the degree obtained in another country is recognized as equivalent to the degree of one of the Universities<sup>196</sup> This is the case in Bosnia and Herzegovina and seems to apply for all WBCs.

**This means that the foreigner must apply for recognition at the competent authority before entering the country for 3 months with or without visa. This is imperative since the competent authorities take at least 30 days to issue the equivalency.**

#### 2. Unemployment of nationals

In all WBCs the authorities issue a work permit only under the condition that no citizen of the host State with qualifications required by the employer is registered on the list of Employment Agency e.g. in Albania and Bosnia and Herzegovina.

In Croatia there is the quota system of work permits providing for 10 work permits for newly employed in 2006. some categories of aliens shall be granted work permits that are NOT included in the quota. These work permits are granted for:

- alien workers –commuters who have entered into employment contracts in the Republic of Croatia for an unlimited period of time on condition of reciprocity;
- alien workers and their family members, whose status is regulated by *the Stabilisation and Association Agreement* between the European Communities and their Member States and the Republic of Croatia; ..
- alien’s spouses and children with authorised permanent residence in the Republic of Croatia<sup>197</sup>.

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<sup>196</sup> Mobility guide 4.1.9

<sup>197</sup> Mobility Guide 4.1.3.

In former Yugoslav Republic of Macedonia a foreigner can be employed only if there is deficit of employees with qualifications required by the employer

In Serbia if the Employment Office has unemployed local residents on its waiting list, that have the same qualifications as the foreigner who applied for the specific job position, then local residents have the priority in this employment process<sup>198</sup> (except in case when a foreigner is an employers' close family member).

It is suggested that there is a need to abolish this condition for researchers coming from EU, EEA and WBCs

In fact, following the example of Albania, WBCs should abolish the strictest obstacle for mobility of researchers.

2) In Croatia, the work permit is always temporary for a foreign citizen <sup>199</sup>  
This creates uncertainty for the foreigner and discrimination against him.

We suggest that Croatia abolishes this provision and gives the opportunity of permanent work permit at least for researchers as in other WBC

### 3.7. Residence permit

#### 3.7.1. General introduction

In Albania, Bosnia and Herzegovina the stages are as follows:

1. Approval of stay
2. Work permit
3. Temporary residence permit (one year)
4. Work contract signed
5. Employment institution pays social security (Former Yugoslav Republic of Macedonia)<sup>200</sup>

#### 3.7.2. Approval of Temporary stay

Besides valid passport, completed form, photographs and the payment of prescribed tax, the prerequisites for granting temporary residence permit are the following:

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<sup>198</sup> [http://webmob.masfak.ni.ac.yu/uploads/articles/webmob\\_serbia.doc](http://webmob.masfak.ni.ac.yu/uploads/articles/webmob_serbia.doc)

<sup>199</sup> Mobility Guide 4.1.6.

<sup>200</sup> Mobility Guide 5.3.2.

Country	Acknowledgment of registered residence	Certificate of faculty	Proof of means of subsistence	Work contract	Labour market authorities
Albania					
Bosnia and Herzegovina					
Croatia					
former Yugoslav Republic of Macedonia					
Serbia 15 days	Yes	Yes for studies	Yes for studies	Yes for employment	Yes but not necessary in case of technical cooperation – transfer of technology

### 3.7.3. Temporary residence permit

Foreigners obliged to have a temporary stay permit are those who<sup>201</sup>:

1) intend to stay in for a **longer period of time or for reasons other than those the visa** was issued for; (Croatia, Former Yugoslav Republic of Macedonia longer than 3 months)

2) are **not required a visa to** enter the country but

- intend to stay in the Republic of Croatia **longer than 90 days** or
- stay for the purposes of work, studying, education, family reunion and other justifiable reasons (Article 37 of the Act)

3) are engaged under certain conditions, work without a work permit and who intend to stay in the Republic of Croatia longer than 30 days (Article 95 of the Act).

**In former Yugoslav Republic of Macedonia** temporary residence permit is required for a period of stay that is longer than 3 months (up to 1 year) and in order to be able to work. For those periods “Visa for long-term stay” (Type D) is required, too.

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<sup>201</sup> Mobility Guide 5.2.3.

Actually, the foreigner has to obtain **work permit first; Then he/she can obtain visa type D** that will provide him / her with free entrance in the country and 30 days of grace period of which the foreigner is obliged to inform the Ministry of Internal Affairs upon the first 5 days of arrival, **in order to receive temporary residence permit202.**

The competent authority for issuing the temporary residence permit is

- the police Authority of the district where he has chosen his living place (Albania, Bosnia?)
- Ministry of Interior (Croatia?, Former Yugoslav Republic of Macedonia, Serbia)

Other obstacles:

Time to submit application

- First 5 days after arrival (Former Yugoslav Republic of Macedonia)
- 3 days (CROATIA203)

Time of issuance

- 15 days (Serbia)
- 25 days (Croatia, Former Yugoslav Republic of Macedonia)

Administrative fees for issuing temporary residence permit:

- Albania : 24.000 lek
- Bosnia and Herzegovina: 20\$ for 3 months, 50\$ for 1 year
- Croatia:150 HRK for temporary RP and 900 HRK for permanent RP
- Former Yugoslav Republic of Macedonia: 5 Euros for 3 months and 10 euros for 1 year.

Possibility of refusal of temporary residence permit204:

Residence may be refused if the foreigner does not fulfil the prerequisites. In addition, he may be refused if

- there are nationals with qualifications necessary for the relevant position (Bosnia and Herzegovina, Serbia)
- The stay has not been approved (Bosnia and Herzegovina, Serbia)
- The foreigner has been condemned to a final non suspended prison sentence (Croatia, Arti. 38 and 45 of Aliens Act)
- For reasons of public order, national security or public health (Croatia)
- Expulsion as security measure (former Yugoslav Republic of Macedonia, Art, 17 of the Law on Movement and Residence of Foreigners)
- The foreigner is registered in the records of the competent body as an international offender or for whom there is grounded suspicion that they enter

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202 Mobility Guide 5.2.3.

203 Mobility Guide 5.2.4.

204 Mobility guide 5.2.6.



the country in order to commit terrorist or other crime; (Former Yugoslav Republic of Macedonia)

- Whose residence would present a financial burden for the state;
- The foreigner does not possess the required entry visa for the state he/she travels to after the exit from the territory of the country; (Former Yugoslav Republic of Macedonia)
- The foreigner, in his/her request for issuing an entry visa, has provided false data about himself/herself or about the purpose of the trip and residence, or has provided false identification papers; (Former Yugoslav Republic of Macedonia)
- The foreigner does not possess documents to verify his/her identity; (Former Yugoslav Republic of Macedonia)
- Who comes from a region where infectious diseases are spread, and he/she does not possess vaccination proof (Former Yugoslav Republic of Macedonia).

In case of refusal the foreigner can appeal

Country	Justification of judgment	Written notification	Deadline from notification	To whom	How long to decide	Provisional protection
Albania		yes	5 days	Minister of Labour and Social Affairs	2 weeks	?
Bosnia and Herzegovina		Yes	15 days		?	?
Croatia		Yes	8 days	Police or via consular office if visa needed Ministry of Interior decides	2 months (General adm. Procedure)	
FYR of Macedonia		yes	8 days		15 days	Only in case of a child in the same household
Serbia						

In case that someone does not possess a residence permit the penalty is 205:

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205 Mobility guide 5.2.8.

Albania: 10.000 to 200.000 leks

Bosnia and Herzegovina: 50 euros to 750 euros or a **prison sentence** of up to 30 days

Croatia: 500 – 5.000 HRK and may be **deported** due to protection measures

Former Yugoslav Republic of Macedonia: 160 to 500 Euros

Serbia: N/A

Possibility of annulment

In Albania<sup>206</sup> the residence permit is annulled

If foreigner, without asking the authorities for extension of permitted absence stays out for a period longer than

3 months, for a 1 year residence permit (Albania)<sup>207</sup>

6 months for a 5 year RP (Albania)

2 years for permanent residence permit (Albania)

### **Possibility of revocation of residence permit<sup>208</sup>**

- **if the circumstances under which the residence permit was issued have changed to such extent that it would not be possible to issue this permit now (Bosnia and Herzegovina and Former Yugoslav Republic of Macedonia)**

-if actions are

- infringing constitutional provisions (Bosnia and Herzegovina, Former Yugoslav Republic of Macedonia, Serbia)
- involved in organisation of illegal entry, violating provisions related to border passing (Bosnia and Herzegovina and Former Yugoslav Republic of Macedonia)
- **if a foreigner gives wrong data or hides some information important for issuing of resident permit, (Bosnia and Herzegovina) especially for purpose or circumstances of stay ; if the purpose is the opposite of the one stated (Former Yugoslav Republic of Macedonia)**
- **if the foreigner poses a threat to national safety of B&H, or endangers national interests (smuggling of weapons) (Bosnia and Herzegovina).**
- **If supporting assets expire and in the meantime the meantime the foreigner has not provided any new additional sources of incomes as a financial support (Former Yugoslav Republic of Macedonia).**

In Croatia, the residence will not be automatically terminated

- in case of unemployment which is not caused by the fault of worker, or
- in the case of illness or accident.

The foreigner will continue residing in Croatia in the same status until the approval for residence expires on another ground.

The prerequisites for granting a temporary residence permit are many, besides valid passport and notarised copy, request form, photos and all have to be submitted in the local language or translated in the local language:

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<sup>206</sup> Mobility guide 5.2.6.

<sup>207</sup> Mobility guide 5.2.6.

<sup>208</sup> Mobility guide 5.2.9.

Country	Leasing contract	Copy of diploma	Proof of registration – pension insurance fund	Declaration of guarantor of medical costs – return costs	Medical check up to provide Fitness for work or disease with harmful effects	Certificate on judicial situation home	Letter of courtesy by home police	Certificate of family situation	Financial guarantee	Work permit	Certificate of the visited or employer on aim and activity, need
Albania	yes		Yes			yes	Yes	Yes and photos of family	Yes - Bank guarantee, savings booklet		yes
Bosnia and Herzegovina		yes	yes	yes	Yes last 3 months					Yes	
Croatia	Yes or any other proof			Health insurance			Police clearance for the first stay (not older than 6 months)		Yes – means of subsistence	Yes to prove justifiability	

former Yugoslav Republic of Macedonia	Accommodation proof								Supporting assets proof, bank account certificate, salary	Approval of employment agency, work agreement	yes
Serbia	Registration of the apartment (White card) by police	yes			Yes					Yes work contract duration and tasks	

There are extra conditions for starting a firm in WBC

### 3.7.4. Permanent residence permit

#### In Croatia

Permanent residence shall be granted by Croatian Ministry of Interior to a foreign citizen who<sup>209</sup>:

- has been granted a temporary stay for at least five consecutive years prior to the day of his/her application for permanent residence, or
- has been granted a temporary stay in the Republic of Croatia, and has been married for three years to a Croatian national or an alien who has been granted permanent residence.

When applying for the permanent residence permit, the foreigner must submit in addition to passport and photos:

- a birth certificate (not older than six months),
- proof of sufficient means of subsistence,
- proof of provided accommodation and
- health insurance,
- a certificate of registered sojourn,
- a marriage certificate (not older than six months), proof of Croatian nationality, or a spouse's stay permit.

#### In former Yugoslav Republic of Macedonia

Permit for permanent stay is issued to a foreigner who has stayed in our country for a period of minimum 5 years, meaning that he/she hasn't stayed more than 6 months out of the state during that period<sup>210</sup>.

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<sup>209</sup> Mobility Guide 5.2.3.

<sup>210</sup> Mobility Guide 5.2.3.

### 3.8. Working conditions for Researchers in WBCs and in particular Foreign Researchers

#### In all WBCs

1. State employees must have the local citizenship, thus excluding foreign researchers to work in state institutions<sup>211</sup>
2. There seems to be no other facial (direct) discrimination in terms of work especially since the Constitution or labour law forbids it<sup>212</sup>.
3. There are no specific labour agreements for researchers – the usual ones that apply for all workers apply to them if they have a contract of work (no fellowship or other contracts)<sup>213</sup>.
4. The researchers must obtain a work permit in order to be able to invoke labour market agreements<sup>214</sup>
5. The researchers conclude a work contract in a written form – this is not obligatory in Croatia<sup>215</sup>. former Yugoslav Republic of Macedonia explains the confirmation of the written contract by the employment agency and that one copy is kept at the employer's working premises and the second copy is kept by the employee.
6. Though the majority of the researchers seem to be state employees employed in university, in the Academy of Sciences and its institutes, in the Ministries institutes, even holding permanent positions (Croatia) their position is regulated by the usual Labour law (on overtime, holidays, maternity), the Law on Science and the Statute of each organization they are employed. Any Code for Civil Servants does not apply. If they are foreigners, the Law on Employment of Foreign Nationals applies<sup>216</sup>.
7. Other people are considered as researchers e.g. for the duration of pre-doctoral or post-doctoral training (Croatia) or stand-alone/individual researchers (former Yugoslav Republic of Macedonia) or scientists with academic degrees and persons with research degrees (Serbia)<sup>217</sup>.
8. There are levels in a researcher's career, three (Bosnia and Herzegovina) to five (former Yugoslav Republic of Macedonia, Serbia) and it seems that advancement up to higher degrees is possible according to scientific output (Croatia)<sup>218</sup>.
9. Researchers, even if they are foreigners, seem to be able to participate in professional Associations or Unions either new or existing ones (e.g. Medical Societies, Bar Associations)<sup>219</sup>.
10. In case that a researcher discovers know-how or an invention in the framework of a project launched by the host institution, the rules vary<sup>220</sup>:

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<sup>211</sup> Mobility Guides 4.1.8.

<sup>212</sup> Mobility Guide, 4.1.9

<sup>213</sup> Mobility Guide 4.2.1. and 4.2.3.

<sup>214</sup> Mobility Guide 4.2.2.

<sup>215</sup> Mobility Guide, 4.3.1.

<sup>216</sup> Mobility Guides 4.3.3., 4.5.1., 4.6.4.

<sup>217</sup> Mobility Guide 4.3.2.

<sup>218</sup> Mobility Guide 4.3.2

<sup>219</sup> Mobility Guide 4.4.1, 4.4.3.

<sup>220</sup> Mobility Guide 4.6.2.

- the host institution is its owner without prejudice to the rules of the specific project (Albania and former Yugoslav Republic of Macedonia)
- the host institution is its owner unless the contract states otherwise while the inventor has a right to compensation and the right to appeal in case the compensation is not adequate (Serbia, art. 108-119 of Patent Law),
- the inventor or his/her legal successor (host institution, employer) according to the contract (Croatia, Patent law),
- the employer has the priority over all others to purchase this invention (Bosnia and Herzegovina, Labor Law, art. 75)

11. Innovation policy in the WBCs if any is promoted by the establishment of Patent Offices and Business Development Centres for Innovation (Albania<sup>221</sup>) Technology parks (Croatia, Serbia), Regional Innovation Centres (former Yugoslav Republic of Macedonia, Serbia)

### 3.9. Social insurance matters

1. All social insurance systems in WBCs are public<sup>222</sup>. In Albania, SII is an independent public state institution<sup>223</sup>. Specific legislation provides for all, e.g. in Bosnia and Herzegovina<sup>224</sup>.

2. Affiliation to the host state security system is required in order to work as a researcher and is done automatically by the host institution – employer as soon as the work contract is signed.

3. There is no special social security fund for researchers in any WBC.

4. The time spent in another country may be aggregated if the Pension Fund of each country has signed an agreement with the Pension Fund of the relevant country<sup>225</sup>. There are many bilateral agreements e.g.

- Albania with Germany, Bulgaria and Turkey<sup>226</sup>,

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<sup>221</sup> [www.rome-interreg.net/index.php?em\\_cat](http://www.rome-interreg.net/index.php?em_cat), Mobility Guide 4.6.3.

<sup>222</sup> **Statutes of the Federal Institute for Pension and Disability Insurance of 14 May 2002.**

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

<sup>223</sup> Mobility guide 5.3.1

<sup>224</sup> In Bosnia and Herzegovina **Act of 14 December 2001 on health insurance, Act of 21 September 2006 to amend and supplement the Act on pension and disability insurance (Text No. 659).**

*Sluzbene Novine*, 2006-10-04, No. 59, p. 6217

<sup>225</sup> Mobility guide 5.3.5.

<sup>226</sup> Mobility Guide 5.3.7. **General Administrative Agreement for the application of the Social Security Agreement between the Government of the Republic of Turkey and the Government of the Republic of Albania. Done at Istanbul on 10 September 1998.** *Resmi Gazete*, 2003-05-20, No. 25113, pp. 19-28 in [http://www.ilo.org/dyn/natlex/natlex\\_browse.details?p\\_lang=en&p\\_country=ALB&p\\_classification=23&p\\_origin=COUNTRY&p\\_sortby=SORTBY\\_COUNTRY](http://www.ilo.org/dyn/natlex/natlex_browse.details?p_lang=en&p_country=ALB&p_classification=23&p_origin=COUNTRY&p_sortby=SORTBY_COUNTRY)

- Bosnia with former Yugoslav Republic of Macedonia<sup>227</sup>, Yugoslavia<sup>228</sup>, Croatia<sup>229</sup>, France<sup>230</sup>
  - Croatia with Germany<sup>231</sup>, Belgium, Luxemburg, Denmark<sup>232</sup>, Hungary, Bulgaria<sup>233</sup>, Austria, Switzerland, Turkey, Canada and Australia
  - former Yugoslav Republic of Macedonia with<sup>234</sup>
    - 17 EU member states (Austria, Denmark, Germany, France, Belgium, Luxemburg, Netherlands, Great Britain, Italy, Sweden, Poland, Hungary, Czech Republic, Slovakia, Slovenia, Bulgaria, Romania),
    - One EEA state (Norway)
    - 3 WBCs (Albania, Croatia and Serbia and Montenegro)
    - 4 developed countries (Switzerland, Russia, Ukraine, Turkey)
- All these agreements provide for aggregation of time. The State Pension and Disability Insurance Fund is responsible for carrying out these agreements<sup>235</sup>
- Serbia with
    - 6 at least EU member States (France, Austria, Sweden, Denmark, Germany, Luxemburg<sup>236</sup>, Czech republic, Bulgaria etc<sup>237</sup>).
    - 3 WBCs (Bosnia and Herzegovina<sup>238</sup>, Croatia<sup>239</sup>, former Yugoslav Republic of Macedonia<sup>240</sup>),

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**227 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*

**228 Agreement between the Republic of Yugoslavia and Bosnia and Herzegovina on social insurance. Done at Belgrade on 29 October 2002.**  
*Sluzbeni List (International Agreements), 2003-10-10, No. 7, pp. 3-9*

**229 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*

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

**231 Law on the Agreement between the Federal Republic of Germany and the Republic of Croatia on Social Security.**  
*Bundesgesetzblatt, Part II, 1998-09-03, No. 33, pp. 2032-2059*

**232 Social Security Agreement between the Republic of Croatia and the Kingdom of Denmark. Done at Copenhagen on 21 April 2005.**  
*Narodne Novine (International Agreements), 2006-03-29, No. 3, pp. 255-261*

**233 Agreement between the Republic of Croatia and the Republic of Bulgaria on Social Insurance. Signed at Sofia on 14 July 2003 (Text No. 37).**  
*Narodne Novine (International Agreements), 2004-06-21, No. 4, pp. 219-225*  
*Narodne Novine (International Agreements), 2004-08-04, No. 7, p. 448*

234 Mobility guide 5.3.6.

235 Mobility Guide 5.3.7.

236 See webpage of Natlex from ILO.

237 See Mobility guide, 5.4.4

**238 Agreement between the Republic of Yugoslavia and Bosnia and Herzegovina on social insurance. Done at Belgrade on 29 October 2002.**  
*Sluzbeni List (International Agreements), 2003-10-10, No. 7, pp. 3-9*

**239 Agreement between the Federal Republic of Yugoslavia and the Republic of Croatia on social insurance. Done at Belgrade on 15 September 1997.**  
*Sluzhbeni List (International Agreements), 2001-05-11, No. 1, pp. 10-15*  
*Narodne Novine (International Agreements), 2001-12-27, No. 14, pp. 1141-1148*



- Turkey<sup>241</sup>, Switzerland etc.

5. The social security contributions are paid, under the threat of penalties against the employer, by :

- the employer in whole (Bosnia and Herzegovina, former Yugoslav Republic of Macedonia) or
- in common by the employer by deducting them from researcher's salary (Albania, Serbia<sup>242</sup>)
- by the employee directly to the fund (Croatia)

**If the employee is employed without having a residence permit, he/she will be expelled as illegal foreigner (former Yugoslav Republic of Macedonia)<sup>243</sup>**

6. There is a social security number for every employee received after registration in the competent institution-fund after temporary residence permit

7. There are both public hospitals and private clinics in all WBCs.

Public hospitals offer medical care free of charge<sup>244</sup> only for those foreigners that have work or residence permit (Albania, Bosnia and Herzegovina and Croatia) except if :

- the foreigner is covered by home health insurance but then after payment (as obliged in former Yugoslav Republic of Macedonia in order to get the visa).
- Or pays the fees (Bosnia and Herzegovina and Serbia).

**Croatia does not allow foreigners to receive medical care in public hospitals in case of absence of residence permit<sup>245</sup>.**

**8. European Social Security card is not accepted** since WBCs are not member States, except for Croatia that has concluded bilateral agreements with Slovenia, Czech Republic and Hungary<sup>246</sup>.

9. Retirement age in WBCs varies among countries and among sexes. Usually women retire at an earlier age than men. The usual age

- For men is 59 (Croatia) 64 (former Yugoslav Republic of Macedonia) 65 (Albania, Bosnia and Herzegovina, Serbia)
- For women 54 (Croatia), 60 (Albania, Serbia) and 62 (former Yugoslav Republic of Macedonia).

Years of work varies too.

**240 Agreement between the Federal Republic of Yugoslavia and former Yugoslav Republic of Macedonia on social insurance. Done at Belgrade on 29 December 2000.** *Sluzhbeni List (International agreements)*, 2001-05-11, No. 1, pp. 3-9  
*Sluzhben Vesnik*, 2002-02-18, No. 13, pp. 706-725

**241 Agreement between Serbia and Montenegro and the Republic of Turkey on social insurance. Done at Belgrade on 12 October 2005.** *Sluzhbeni List (International Agreements)*, 2006-05-12, No. 4, pp. 15-25

242 Mobility guide 5.4.5.

243 Mobility guide 5.3.12

244 Mobility guide, 5.4.1. and 5.4.2.

245 Mobility guide 5.4.3.

246 Mobility Guide 5.4.4.

For men 25 years but 35 years of contributions (Albania), 35 (Croatia), 40 (Bosnia and Herzegovina, former Yugoslav Republic of Macedonia, Serbia)

For women 20 years but 35 years of contributions (Albania), 30 (Croatia) 35 (former Yugoslav Republic of Macedonia, Serbia), 40 (Bosnia and Herzegovina).

11. The pension is not calculated according to the last wage received but as follows:

- 75% of the average net wages of 3 years during the last 10 years of employment (Albania)
- Monthly average of wages during any 21 consecutive most suitable years (Bosnia and Herzegovina)
- Formula calculates all wages received (Croatia)
- Monthly wage average from 1970 until the end of work (former Yugoslav Republic of Macedonia).

12. Loss of pension rights because of mobility in case that there is no agreement between the home country and the country of work. Only in such case can the years be aggregated<sup>247</sup>. Only Croatia seems to aggregate periods of work abroad without mentioning the conclusion of bilateral agreements.

Country	Health /sickness	Age	Maternity/Family	Unemployment	Inadaptability injury at work	Disability invalidity
Albania	yes	yes	yes	yes	yes	yes
Bosnia and Herzegovina	yes	yes		yes		yes
Croatia	yes	yes		yes	yes	
former Yugoslav Republic of Macedonia	yes	yes	yes	yes		yes
Serbia	yes	Yes	yes	yes		yes

### 3.10. Banks

1. There are both public and private banks in each WBC<sup>248</sup>.

2. It seems that Bank accounts can be easily opened without problems for non residents.
3. Loans are granted to foreigners only if they have a permanent residence permit and a permanent work contract<sup>249</sup>.
4. It is very easy to buy or exchange foreign currency in banks and offices in WBCs<sup>250</sup>
5. It is very easy to import or export foreign currency through Bank accounts or Western Union services<sup>251</sup>

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<sup>247</sup> Mobility guide 5.7.4.

<sup>248</sup> Mobility guide 5.5.1.

<sup>249</sup> Mobility guide 5.5.3.

<sup>250</sup> Mobility guide 5.5.4

### 3.11. Taxation

1. The foreigner is charged with the revenue tax only for the income produced in the WBCs<sup>252</sup>.

2. The foreigner seems to enjoy the same privileges as nationals. The tax privileges are the same as for the nationals, and they are not connected to the place of permanent residence. The only exception seems to be Albania where it seems to be that there are not any tax privileges for foreigners<sup>253</sup>

3. Independent personal (project) research activities are charged with a special tax of 17.5% in Bosnia and Herzegovina and Serbia<sup>254</sup>.

4. Research activities of Universities and non profit organisations are not taxed with VAT (Albania, Croatia)

5. In former Yugoslav Republic of Macedonia the preferential VAT of 5% applies for publications

However imports of

- own works of scientists, writers and artists,
- laboratory animals, goods and substances for examination and research as well as
- congress and seminars documents

are exempted from VAT.

**6. There are international treaties for the avoidance of double taxation: Bosnia and Herzegovina has agreement with 15 EU member states, Croatia and Serbia and Montenegro. former Yugoslav Republic of Macedonia has agreement with 15 member states and all WBCs (Albania, Bosnia and Herzegovina, Croatia and Serbia and Montenegro)<sup>255</sup>. The foreigners are not charged with double taxation (Albania) and the amount paid elsewhere will be deducted from the tax to be paid (Bosnia and Herzegovina)<sup>256</sup>**

### 3.12. Access to Justice

1. Foreigners have equal access to judicial system on the same terms as the national citizens<sup>257</sup>

2. The European Convention on Human Rights is respected in the WBCs and has a constitutional value. Croatians have already complained to the European Court of Human Rights for breach of art. 6 on fair trial.

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<sup>251</sup> Mobility guide 5.5.5.

<sup>252</sup> Mobility guide 5.6.1.

<sup>253</sup> Mobility guide 5.6.2.

<sup>254</sup> Mobility guide 5.6.3.

<sup>255</sup> Mobility guide 5.6.5.

<sup>256</sup> Mobility guide 5.6.4.

<sup>257</sup> Mobility guide 5.8.1

3. A translator is always provided in a hearing of a local court if the party involved is a foreigner who does not speak the local language<sup>258</sup>.

### 3.13. LIVING CONDITIONS and SOCIAL ISSUES

1. It is easy to rent an apartment through Real Estate Agencies, newspapers etc. for short or long periods (Albania, Bosnia and Herzegovina, former Yugoslav Republic of Macedonia, Serbia). One needs to come to Croatia one month before in order to find and rent an apartment for 1 year or 2-3 months before for renting a furnished apartment only for 3 months. Prices to rent furnished apartments vary according to location, size and luxury:

- 150 – 1000 Euros in Tirana (Albania),
- 100 – 750 Euros in Bosnia and Herzegovina,
- 100 – 300 (Croatia),
- 200-500 and 1000 (Skopje, former Yugoslav Republic of Macedonia),
- 200-500 in Belgrade (Serbia)

2. There are no shortages in heat, water and medical supplies in any WBC.

3. People are friendly to foreigners of any origin and religion and there is no social reaction in case that a foreigner marries a local<sup>259</sup>.

4. A foreigner can buy and register a new car, relatively cheap in Albania and Bosnia/Herzegovina, former Yugoslav Republic of Macedonia), once he/she gets a residence permit (Albania, Bosnia and Herzegovina, Croatia, former Yugoslav Republic of Macedonia, Serbia)<sup>260</sup>. Taxis are also available. Metro services can be found only in Serbia<sup>261</sup>.

5. A foreigner is not entitled to vote or be voted in municipal or parliament elections in any WBC

6. There are many festivals and cultural events organized both by state and municipalities as well as operas, museums etc., sports events in all WBCs<sup>262</sup>

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<sup>258</sup> Mobility guide 5.8.3.

<sup>259</sup> Mobility guide 6.1.1. and 6.1.2.

<sup>260</sup> Mobility guide 6.1.4.

<sup>261</sup> Mobility guide 6.3.4. , 6.3.5.

<sup>262</sup> Mobility guide 6.3.1 – 6.3.3.

## 4. ISSUES REGARDING THE RESEARCHERS

### 4.1. Career issues

1. In all WBCs researchers are not civil servants and the Code of Civil Servants does not apply to them. Therefore researchers can work in private companies or exercise the profession of engineer and at the same time work in a university or research institution. There are not any incompatibilities except if the contract provides otherwise<sup>263</sup>.

2. There is not a supreme body or association overseeing the conduct of researchers besides the ministry of Science<sup>264</sup>.

3. The selection process depends on the type of institution<sup>265</sup>. It may include

- written exam and interview (Bosnia and Herzegovina, sometimes Croatia).
- Only Interview (Albania and sometimes Bosnia and Herzegovina, sometimes Croatia, sometimes Serbia)
- Probation period (Albania and Bosnia and Herzegovina, Croatia, Serbia)

The need for a probation period depends on the specific research or academic organization. In Bosnia and Herzegovina it depends also on the cantonal laws applicable<sup>266</sup>. In former Yugoslav Republic of Macedonia and Serbia in some cases this is necessary but it is not the rule.

There is a probation period of 3 months (that is the usual duration of the probation period since it is defined in the Labor law (Albania and Bosnia and Herzegovina)

4. There is the possibility to appeal against the selection process only if the research institution is public<sup>267</sup>.

5. Public institutions have to announce in newspapers the vacant position and follow a selection procedure while private institutions do not. In former Yugoslav Republic of Macedonia in case of an emergency need, a contract may be concluded without any publication in the press but only for 30 days and with the assistance of the Employment Agency<sup>268</sup>.

6. The selection process is different from the one for civil servants and is regulated by a different law. In Serbia there are resemblances<sup>269</sup>.

7. Multiple careers are possible for researchers who want to work in their home institution as well as abroad if the contract of work does not prohibit so<sup>270</sup>.

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<sup>263</sup> Mobility guide 7.1.1, 7.1.2, 7.1.3.

<sup>264</sup> Mobility guide 7.1.4.

<sup>265</sup> Mobility guide 7.2.2.3.

<sup>266</sup> Mobility guide 7.2.1.1.

<sup>267</sup> Mobility guide 7.2.2.3.

<sup>268</sup> Mobility guide 7.2.2.6.

<sup>269</sup> 7.2.2.2.

<sup>270</sup> 7.2.1.2.

8. Whether a researcher has a permanent or temporary job depends on the contract. In former Yugoslav Republic of Macedonia in most cases the researcher has permanent job<sup>271</sup>.

9. There are no facilitation measures or quota system to assist women become researchers<sup>272</sup>.

10. Salaries and extra fees depend on the contract and on the grade of the researcher. In Albania 450 for a young researcher to 1300 Euros for the researcher that is ready to retire<sup>273</sup>. The allowed overtime is 10 hours (Total work time 40 hours) in Albania and Bosnia and Herzegovina and Croatia<sup>274</sup>.

11. Public research organizations have established procedures and committees for the evaluation of the progress of the institution and each researcher<sup>275</sup>.

12. There are 3 to 5 levels of researchers according to certain criteria of progress. In Albania there are not any more, just positions<sup>276</sup>.

13. There is no Code of Conduct of Research, except in Albania where the High Council for Education and Sciences proposes all the NPs in the new law to be adopted. In Croatia the University of Zagreb will adopt the Code of Ethical Conduct<sup>277</sup>.

14. Databases of research institutions and researchers exist in Bosnia and Herzegovina and in Croatia (Who is Who in Croatian Science)<sup>278</sup>.

#### **4.2. Inward and outward mobility**

1. There are no specific provisions for inviting researchers from abroad to WBCs. In practice there are invitations to foreigners from time to time if there is money to cover the costs<sup>279</sup>. **In Croatia the letter of invitation is enough to get a visa for an invited foreign researcher.**

2. The specific Department of the Ministry of Foreign Affairs is in charge of preparing and processing the international agreements with other states and organizations for international cooperation and grants<sup>280</sup>.

3. Scholarships are offered for outgoing mobility by

- foreign Universities (Albania and Bosnia-Herzegovina),
- state (Croatia and former Yugoslav Republic of Macedonia), or

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271 Mobility guide 7.2.2.4.

272 Mobility guide 7.2.2.5.

273 Mobility guide 7.2.3.1.

274 Mobility guide 7.2.3.

275 Mobility guide 7.2.4.1.

276 Mobility guide 7.2.4.2. and 7.2.4.3.

277 Mobility guide 7.4.1.

278 Mobility guide 8.1.1.

279 Mobility guide 7.2.2.1.

280 Mobility guide 7.2.2.2.

- bilateral programmes (Serbia).

In former Yugoslav Republic of Macedonia scholarships are granted by the Ministry of Education for postgraduate studies abroad by means of open competition for a certain time period only and only if there are no postgraduate studies in former Yugoslav Republic of Macedonia for the specific field<sup>281</sup>.

- There are bilateral agreements that provide for exchange programmes
- between Faculties (Albania, Bosnia and Herzegovina)
- or between faculties and between Ministries (Croatia and former Yugoslav Republic of Macedonia)<sup>282</sup>
- Foreign publications are considered necessary for a researcher/academic career in all WBCs<sup>283</sup>.

Obstacles to incoming mobility are considered to be, according to the experience of host institutions<sup>284</sup>:

-For students

- High taxation on student scholarships (Croatia)
- High overheads on funds for scholarships - fellowships (Croatia)
- Obligatory use of local language especially for thesis (Croatia)
- Lack of English language courses in the Universities (Serbia)

-For researchers

- Lack of programmes inviting researchers to come (Albania, Bosnia and Herzegovina)
- Low salaries for researchers (former Yugoslav Republic of Macedonia and Serbia)
- Outdated knowledge level (Serbia)

- Administrative obstacles

- No distinction among researchers and economic migrants (Croatia)
- Procedure to get work permit and residence permit lasts too long and is too much paperwork (Albania, Bosnia and Herzegovina, Croatia, former Yugoslav Republic of Macedonia, Serbia)
- Civil servants who issue work permits and residence permits do not speak foreign languages (Albania, Bosnia and Herzegovina)
- Lack of experience of the institutions in charge (Croatia)
- Recognition of foreign diplomas (former Yugoslav Republic of Macedonia, Serbia) and ongoing reform of education system (Serbia)

-Other issues

- Undeveloped health and social security system for foreign researchers and uncertain information (Croatia, former Yugoslav Republic of Macedonia)

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<sup>281</sup> Mobility guide 7.2.1.3.

<sup>282</sup> Mobility guide 7.2.1.4.

<sup>283</sup> Mobility guide 7.2.1.5.

<sup>284</sup> 7.2.1.6.

- Weak formal rental market (Croatia)
- Low level knowledge transfer between academia and industry (Croatia)
- Obstacles for outgoing mobility are considered to be:
  - Visa requirement for most countries (Albania, Bosnia and Herzegovina, Croatia, former Yugoslav Republic of Macedonia)<sup>285</sup>.
  - WBC Researchers that go abroad for research purposes do not lose their position or seniority in home institution<sup>286</sup>.
  - Vacancies in WBCs are published only in newspapers (Albania) and sometimes on the internet also (Bosnia and Herzegovina, Croatia, former Yugoslav Republic of Macedonia). Only Serbia replied for both<sup>287</sup>.

### 4.3. Research funding

State (or Cantons in Bosnia and Herzegovina) provides financing

- for public research institutions
- national programmes as well as
- bilateral programmes (Albania)

There seem to be no funds for scientific research and if any there is not enough financing as in Albania<sup>288</sup>

There is no private financing except for their own purposes<sup>289</sup>

There are many international donors as EU, World Bank, UNESCO

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<sup>285</sup> Mobility guide 7.2.1.6.

<sup>286</sup> Mobility guide 7.2.1.7.

<sup>287</sup> Mobility guide 7.2.2.1.

<sup>288</sup> Mobility guide 7.3.1.

<sup>289</sup> Mobility guide 7.3.2.



## 5. POLICY GUIDELINES FOR FACILITATION OF MOBILITY OF RESEARCHERS

### 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 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 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 and EEA member states and WBCs, 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:
  - 8 at least EU member States (France, Austria, Sweden, Denmark, Germany, Luxemburg, Czech 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 WBCs by concluding multilateral or bilateral agreements with EU. **Indeed the European Social Security card is not accepted** since WBCs are not member States. Croatia, however, has shown the way, by concluding relevant bilateral agreements with Slovenia, Czech Republic and Hungary<sup>290</sup>.

### 3. Recommendations for all Western Balkan Countries<sup>291</sup>

3.1. Facilitate short term mobility<sup>292</sup> of WBC researchers **by abolishing visa requirements for all WBC researchers** in line with Thessaloniki agenda (2003) at the border of WBCs.

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<sup>290</sup> Mobility Guide 5.4.4.

<sup>291</sup> Some WBCs may have already accomplished some of the recommendations submitted, therefore one should check the national mobility guidelines which are the authentic ones for each WBC. In this synthesis report the recommendations set a uniform level for all WBCs.

<sup>292</sup> As “short term mobility” in the present report is defined travelling to the WBCs in order to stay there for less than 3 months (90 days) while “long-term mobility” is defined travelling to the WBCs in order to stay for more than 3 months (90 days).

Though peace and stability is established in WBCs and bilateral relations are good, inter Western Balkan researchers' short term mobility at the border still suffers and is not uniform. Indeed differentiated treatment applies from one WBC to the nationals of another WBC, thus creating problems to inter WBC mobility, despite association of most WBCs to the EU 7th Framework programme on research and technology and their gradual inclusion to the European Research Area.

Therefore it is recommended:

- As a first step that WBCs conclude reciprocal research visa facilitation bilateral agreements with WBCs for the nationals of which they have not abolished visa
- As a second step to exempt WBC researchers working in accredited research institutions from visa requirements and work permits for no more than 3 months stay (e.g. for conferences and seminars) in all Western Balkan countries following as model:
  - The fact of the abolishment by WBCs of visa requirements for EU nationals for 3 months stay and
  - The Recommendation EC 2005/761.

3.2. Facilitate long term mobility of EU, EEA and WBC researchers in WBCs by facilitating accelerating visa requirements. In fact, EU and EEA researchers who wish to stay for more than 3 months (long term mobility) in WBCs need to have visa and residence permit. Though WBCs have already abolished visa requirements for all EU and EEA nationals for 3 months stay on the one hand and EU has facilitated WBC researchers with the visa facilitation agreements as well as Directive 2005/71 on research visa and residence permit for all third country researchers, on the other hand, long term mobility of EU and EEA researchers is not ensured by WBCs. The same is true for WBC researchers.

Therefore, WEB MOB recommends to agree on a common vision: to establish a research visa and residence permit in WBCs so that a common minimum standard will apply for all EU, EEA and WBC researchers in WBCs, until the accession of WBCs in EU and free movement of persons will apply. In particular:

- as a first step that the competent Ministry in each WBC:
  1. Confirms and officially publishes “lists of accredited research institutions” with all the public research organizations (including Universities) prepared by e.g. WEB-MOB adding eventually all the private research organizations that are so recognized by the Ministry.
  2. Acknowledges relevant lists prepared by EU and WBC states.
  3. Establishes a uniform concept of “researchers”<sup>293</sup> as all EU, EEA and WBC nationals holding an appropriate higher education qualification, which gives access to doctoral programmes, who are selected by a research

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<sup>293</sup> Art.2 of the Directive 2005/71/EC.

organisation for carrying out a research project for which the above qualification is normally required.

4. Commits itself through a declaration for exemption /facilitation of researchers from work permits, and the easing of the procedure for the residence permit following the model of Recommendation 2005/762/EC.

- As a second step the competent Ministry of each WBC:  
Concludes reciprocal agreements between WBCs and EU that, among other provisions, would provide a **specific simple procedure for the “scientific/research visa” based on the hosting agreements of the accredited research organisations.** The model of Directive 2005/71/EC could be followed in this regard for simplifying attached documents for a long term research visa.

Indeed, though there already exist certain facilitation measures from certain WBCs, such as a) EU-WBC agreements for EU researchers working in the WBCs for framework programmes for Science and Technology, and b) recent and old provisions in the legislation of certain WBCs for scientists and researchers, these efforts are not uniform and create many categories of researchers, thus causing uncertainty.

It is time that the WBCs introduced the uniform model of Directive 2005/71/EC of scientific visa. In this way reciprocity and common rules between EU and WBC researchers could be established. Indeed, all **WBCs ask for too many documents in order to issue a long term visa (for researchers too). Other requirements such as traveling with visa supporting documents and re-proving motive of entry to the foreign state at the border authorities must surely be abolished for researchers.**

This situation should be aligned to the Directive 2005/71/EC 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**<sup>294</sup>.

**The Directive 2005/71/EC 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.

**3.3.** The language barrier has to be lifted so that the researcher could deal with paperwork with the authorities. Instructions for visa and residence permits procedures should also be in English, French or German and officials dealing such affairs could be trained or retrained in foreign languages. The continuation of WEB-MOB project

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<sup>294</sup> Recommendation of the European Parliament and of the Council of 28 September 2005, L 289, 3.11.2005.

as a **web of research institutions, that will help EU, EEA and WBC researchers on their arrival to the WBC**. Even after the publication of the mobility guides, certain questions will still be unsolved and foreign researchers must know where to ask. In addition mobility guides could be updated as soon as legislation changes. This way WBCs could organize reception points for foreign researchers with the help of WEBMOB, which today do not exist, and if they do have to be supported e.g. by ERA-MORE network portal or other EC initiatives<sup>295</sup>.

**3.4.** Host research institutions should be the ones that **report the presence** of the researcher in 8-10 days since entry<sup>296</sup>. Indeed in all WBCs the foreigner's presence must be reported in a very short time (12 hours to 3 days). Legislation in the WBCs is complicated and imposes variable conditions as to whom has the obligation to report (foreigner, or local accommodator) to whom (the police, ministry or municipality) for how long stay.

**3.5.** Researchers from EU, EEA and WBCs may have problems with work permits in WBCs. Indeed in most WBCs the Employment Offices must give their authorization for a foreigner to work and they cannot do that if local residents are on its waiting list. It is recommended

- As a first step

The quota system should not be applied for researchers from EU, EEA and WBCs and documents necessary could be reduced to the hosting agreement with an accredited research institution.

- As a second step

WBCs should exempted EU, EEA and WBC researchers from work permits if they have a hosting agreement as this practice is followed by the Directive 2005/71/EC.

**3.6.** The prerequisites for granting a residence permit, temporary or permanent, should be simplified in WBCs for all EU, EEA and WBC researchers:

As a first step:

- the Invitation letter of host research institution, which is necessary in order to issue the visa or the residence permit, should not be notarized by two authorities (as it is done at least in former Yugoslav Republic of Macedonia and Bosnia and Herzegovina). The only requirement necessary should be the validation of the invitation letter with an official stamp and the signature of an authorised representative of the research institution (as it is practiced in Croatia).

As a second step :

- Discretion of authorities to refuse residence permits for other grounds e.g. that there are unemployed nationals with the same qualifications, must be abolished for researchers coming from EU, EEA and WBCs holding a hosting agreement.

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<sup>295</sup> See the Greek experience after the project Pytheas.

<sup>296</sup> Compare article 5 par. 5 of Directive 2004/38/EC, OJ 29.6.2004 L 229/39 according to which : "The Member State may require the person concerned to **report his/her presence within its territory within a reasonable and non-discriminatory period of time**. Failure to comply with this requirement may make the person concerned liable to proportionate and non-discriminatory sanctions".

As a third step:

- Gradually align WBC legislation with Directive 2005/71/EC and issue residence permits for researchers on the basis of the “hosting agreement” which automatically implies the right to work **without an “economic needs test”** to be carried out.
- Simplify the actual procedure for residence permit which requires too many documents. The hosting agreement should be enough to prove sufficient means, health insurance, and proof of justifiability of stay.

Indeed, according to Directive 2005/71/EC on the basis of the hosting agreement, the immigration authorities could deliver a **residence permit in an accelerated procedure if the researcher:**

- e) Present a valid travel document, as determined by national law. WBCs may require the period of the validity of the travel document to cover **at least the duration of the residence permit;**
- f) Present a **hosting agreement** signed with a research organisation
- g) Where appropriate, present a **statement of financial responsibility** issued by the research organisation and
- h) Not be considered to pose a threat to **public policy**, public security or public health.

### 3.7. Definition of family members

**Not all WBC** 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 so that in all WBCs family members are defined to include dependent children as well.

### 3.8. Requirement of sufficient resources

It is recommended that WBC 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.

**3.9. Rights of the spouse:** All WBCs require the general conditions for work permit in order to allow the spouse to work (eg. Serbia). In general, spouses and members of the family need work permits to work which are issued only if there are **no unemployed nationals** with qualifications necessary for the relevant position. Some WBCs provide for exceptions e.g. Croatia does not apply the quota system for spouses of visiting professors and scientists or a free lance profession<sup>297</sup> and for spouses of EU citizens<sup>298</sup>. Former Yugoslav Republic of Macedonia allows the spouse to work without permit if the spouse performs expertise laid down in the agreements on business-technical cooperation, technology and foreign investment<sup>299</sup>.

Researcher’s spouse should be:

- As a first step facilitated in obtaining work permit, if the researcher holds a hosting agreement.

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<sup>297</sup> Mobility guide 2.6.1.

<sup>298</sup> Mobility guide for Croatia 2.6.3.

<sup>299</sup> Mobility guide for former Yugoslav Republic of Macedonia, 2.6.1.

- As a second step exempted from work permits and quota systems if the spouse is going to stay e.g. for 1 year and the researcher has a hosting agreement.

### 3.10. Mutual Recognition of Diplomas

There does not seem to be facial discrimination against foreigners for the recognition of University diplomas: They recognize diplomas the same way as nationals. However there are WBCs that subject the application of recognition to a scrutiny of the conditions and the curriculum that led to such diploma establishing that 70% has to correspond to the national one. It is recommended that :

- Bilateral or multilateral agreements could be concluded by WBCs with the rest of EU and EEA member States as well as WBCs for “automatic” recognition of at least certain University diplomas.
- 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 (See also Directive 2005/71/EC).
- National agencies could be established in those countries that have not yet been established to show that qualifications and curricula are transparent and participate in the NARIC system.

### 3.14. Social security and double taxation

In the short term, the effort of concluding multilateral or bilateral agreements between EU and WBCs must be continued for ensuring aggregation of periods for social security and no double taxation of researchers’ income.

In the long term, the applicability of the European Social Security Card could be extended to all WBCs e.g. by bilateral agreements.

### 3.15. Living conditions and social issues

Legislation should be amended so that public hospitals offer medical care free of charge<sup>300</sup> to all EU, EEA and WBC researchers e.g. who have a hosting agreement or who are legally present in the territory, not only to those that have work permit<sup>301</sup>. Indeed if researchers are gradually exempted from work permit and the law on public medical care does not change they will not be able to receive medical care in public hospitals.

### 3.16. Issues for researchers’ career

1. A new law on research policy should be drafted : The code of rules for researchers in WBCs could not depend on the statute of each institution, usually in the local language, but should gradually be uniform in all research institutions of each WBC according to a specific law on research institutions gradually aligned to European standards. The same law could provide for **for fees and career issues of researchers**

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<sup>300</sup> Mobility guide, 5.4.1. and 5.4.2.

<sup>301</sup> Mobility guide 5.4.3.

**could be drafted while researchers could form associations for making better their career.**

2. Vacancies in researcher jobs and fellowships in WBCs could be published on the internet on the official sites of WBCs (ministries, universities etc.) in a Western European language as well<sup>302</sup>.

### **3.14. Incentives for innovation**

The Governments of the WBCs should give incentives to researchers for inventing and innovating by granting them the right to have ownership rights on their innovations by certain ratio. Indeed in all WBCs but one the researcher does not have any right to the invention he/she has discovered in the framework of his job. It is the host institution that profits from researchers' inventions. *We suggest to change this barrier for all researchers in WBCs (not only foreigners) and e.g. distribute rights with a certain ratio (e.g. 60/40%) between host organization and researcher in order to give incentives to researchers for new inventions.*

3.9. The Governments of WBCs could give incentives for more links between industry and academia. In the WBCs there are not enough links between Research organizations and industry in order to exploit results. Though there are Technology parks in most WBCs there is no facilitating legislation for exploiting research results.

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302 Mobility guide 7.2.2.1.



## ANNEXES

### Annex I

Tables for visa requirements

Table 1

Political responsibility of visa policy in WBCs

Country	Ministry of Foreign Affairs	Ministry of Public Order	Ministry of Security	Ministry of Interior
Albania	Yes	yes		
Bosnia and Herzegovina	Yes in conjunction with Ministry of Security		yes	
Croatia	Yes			
former Yugoslav Republic of Macedonia	Yes			Rarely yes
Serbia	Yes			

Table 2

#### VISA TREATMENT

Preferential treatment:

1) without visa (“WV”)

2) visa at the border by payment (“VBP”)

WB-Country	EU	EEA	Developed countries	West Balkan Countries	NAC countries	Other
Albania Law 8492/1999	WV	WV	WV: USA, Canada	WV: Croatia VBP: former Yugoslav Republic of Macedonia		Saudi Arabia, Bahrain, Oman, Qatar, Kuwait, Egypt and United Arab Emirates
Bosnia and Herzegovina Law on Migration and Stay of Foreigners and Asylum” (O.G no. 29 from 6 Oct. 2003)	WV	WV	WV: USA, Canada, Japan, Australia, New Zealand	WV: Croatia, former Yugoslav Republic of Macedonia and Serbia	Russia	WV: Qatar, Kuwait, Malaysia, Israel, Korea

Croatia <b>Regulation on Visa System, in force since 1st Dec. 2005.</b>	WV for 90 days	WV for 90 days	WV for 90 days for US, Canada, Australia	WV for 90 days: former Yugoslav Republic of Macedonia and Bosnia and Herzegovina		
former Yugoslav Republic of Macedonia	WV for 90 days	WV for 90 days	WV for 90 days: US, Japan, Australia, New Zealand	WV for 90 days for Bosnia and Herzegovina and Croatia WV for 60 days for Serbia (exit visa required - no tax) <b>For Albania, the regime is not clear. It sees a visa is a prerequisite. However there is an indication that the bilateral Agreement, provides that Single entry visas or transit and group passport visas are issued at the border crossings between the two countries.</b>	Very good relations	
Serbia	WV for 90	WV for 90 days	WV for 90 days: US, <b>Canada,</b>	WV for 90 days for Croatia		Israel

	days		<b>Singapore, Korea, Australia and New Zealand.</b>			
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WBC without preferential treatment

Country	Albania	Bosnia and Herzegovina	Croatia	former Yugoslav Republic of Macedonia	Serbia
Albania	-	Visa	WV	VBP	Visa
Bosnia and Herzegovina	Visa	-	WV	WV	WV
Croatia	Visa	WV for 90 days	-	WV for 90 days	Visa
former Yugoslav Republic of Macedonia	Visa	WV for 90 days	WV for 90 days	-	WV for 60 days
Serbia	Visa	Visa	WV for 90 days	Visa	

WEBMOBS: DOCUMENTS ATTACHED BESIDES PASSPORT

Country	Travel with visa documents Reprove motive	Prove sufficient means for living at the border	Return ticket	Letter of host company	Medical costs covered	Consulate problems
Albania	Yes	Yes				No maximum length of the visa procedure
Bosnia and Herzegovina	no	Yes for Albanians at the consulate with bank statement	Yes for Albanians at the consulate For all return ticket	Yes for Albanians at the consulate		For Albanians: Waiting time max 30 days Another country's consulate
Croatia	Prove purpose of	<b>ensured accommodatio</b>	<b>intention of</b>	Yes – defined		Maximum length of

	visit at the Consulate	<b>n and covered expenses of staying</b>	<b>returning to homeland – prove means of travel</b>			the procedure provided by law is 2 months
former Yugoslav Republic of Macedonia	?	Art. 12 of the law on Foreigners imposes any of the following proofs: cash; credit cards, travelers checks etc. bank account , Possession of property, <b>Guarantee Letter</b> from national citizen /foreigner <b>Invitation Letter</b> Travel Insurance	Yes	Yes		No problem Maximum length 30 days
Serbia	?	Sufficient funds in hard currency	Yes	Yes	Yes	Maximum length 30 days

#### Invitation letter

Country	Invitation letter
Albania	
Bosnia and Herzegovina	Declaration of bearing all costs notarized by Chamber of Commerce and Ministry of Security
Croatia	<b>validated with an official stamp and the signature of an authorised representative of the legal person. The diplomatic mission/consular office retains the original copy of the invitation letter and gives a duplicate.</b>
former Yugoslav Republic of Macedonia	Invitation <b>notarized by the Chamber of Commerce and Ministry of Interior</b> (Article 13 - “Law for the Foreigners).
Serbia	?

## Type and duration of visas

### ENTRY TO THE WBCs

Country	Stamp on the passport	Declaration to the police	Family members	
Albania		20 days	Reason to apply for foreigner if he/she is family member of Albanian citizen, refugee, or foreign resident with stay permission more than one year	
Bosnia and Herzegovina			<b>If foreigner is able to support the members of his family</b>	
Croatia			Temporary stay (art. 37 of Aliens Act)??	
former Yugoslav Republic of Macedonia			Foreigner has to prove: - Family relationships - stable and regular incomes during the stay; - Accommodation; - Personal Health Insurance; - Notarized copies from the travel documents.	
Serbia			Fairly easy?	

### Visa duration and types

Country	3 months use	6 months use	1 year	Stay	Extension	Visa appropriate for researcher for 3 months
Albania	Yes	Yes	Yes Multiple entries	90 days each stay regardless	Yes for half the period for 3 times	

				of visa		
Bosnia and Herzegovina	Yes		Multiple entries	90 days each stay	Yes, <b>the prolongation of a visa is possible for additional 90 days. The conditions are the same</b>	
Croatia			Yes	90 days	Only a travel visa can exceptionally be extended due to <i>force majeure</i> , humanitarian, professional or personal reasons. Note: Even in case of extension, an alien <b>CANNOT</b> stay in Croatia longer than 90 days in the period of six months, counting from the day of his/her first entry.	Travel visa for 1 year use and 90 days stay for business
former Yugoslav Republic of Macedonia	Yes		Multiple entry 90 days maximum	90 days	Yes extension for 3 months and then residence permit	Type C for short term stay
Serbia				Mutliple entries	Yes for more 3 months (90 days stay) if justified and then apply for residence permit (RP). Apply for RP without extension	

Temporary residence permit and Work permit

Country	Work contract previously signed	Quotas	Unemployment	Guarantee of the potential employer
Albania			No	
Bosnia and Herzegovina			Yes	
Croatia			No	
former Yugoslav Republic of Macedonia	yes		No	Yes if no previous work contract signed
Serbia			No	

## **PRESIDENCY CONCLUSIONS**

### **SANTA MARIA DA FEIRA EUROPEAN COUNCIL**

**19 AND 20 JUNE 2000**

#### **D. Western Balkans**

66. The European Council welcomes the report by the Secretary General/High Representative, under the authority of the Presidency and the Council, and in full association with the Commission, on the Western Balkans and strongly supports them in their efforts to ensure the impact, coherence and visibility of the Union's policies in the Western Balkans. It invites them actively to pursue the initiatives and implement the priorities identified in their report.

67. The European Council confirms that its objective remains the fullest possible integration of the countries of the region into the political and economic mainstream of Europe through the Stabilisation and Association process, political dialogue, liberalisation of trade and cooperation in Justice and Home Affairs. All the countries concerned are potential candidates for EU membership. The Union will support the Stabilisation and Association process through technical and economic assistance. The Commission has already presented proposals to the Council to streamline and accelerate the procedures for disbursement of assistance and the early extension of asymmetrical industrial and agricultural trade benefits to the Balkan States.

68. The European Council encourages the States of the region to increase their regional cooperation, including through regional trade arrangements. The EU is ready to intensify its cooperation with them, including in economic and financial assistance, political dialogue, free trade, approximation of EU legislation and cooperation in other policy areas.

69. The European Council invites the Secretary General/High Representative, under the authority of the Presidency and the Council, and in full association with the Commission, to pursue action on the basis of the Lisbon mandate, in particular intensified cooperation in the region in Justice and Home Affairs as well as in other areas.

70. The European Council reiterates its support for democratic and economic reform in Croatia and looks forward to the early start of negotiations on a Stabilisation and Association Agreement. It welcomes the progress made by former Yugoslav Republic of



Macedonia in negotiations for a SAA and underlines the importance it attaches to the inviolability of frontiers, in particular to the territorial integrity of former Yugoslav Republic of Macedonia. The European Council urges the Albanian government to continue its efforts to respond to the issues raised in the Commission's feasibility study and notes the "roadmap" for Bosnia and Herzegovina outlining where further progress is needed in order to achieve the full benefits of Stabilisation and Association.

71. A democratic, cooperative FRY living in peace with its neighbours will be a welcome member of the European family of democratic nations. The European Council supports the civil society initiatives as well as the democratic forces in Serbia in their struggle to achieve this goal and urges them to stay united and reinforce their cooperation. The Union looks forward to the time when the FRY will be able to participate fully in the Stabilisation and Association process.

72. In the face of massive economic and political pressure exerted by Belgrade, the EU will continue to support Montenegro's efforts towards democratic and economic reform and applauds the Montenegrin government policies of ethnic tolerance and regional cooperation.

73. One year after the adoption of Security Council Resolution 1244, the European Council reiterates its support for its full implementation and for free and fair municipal elections in Kosovo later this year carefully prepared and properly monitored by the competent international bodies. Extremist violence will not be tolerated. Local leaders are strongly urged to live up to their responsibilities by actively contributing to the establishment of a multi-ethnic, tolerant society where refugees and displaced persons are able to return and in which all the people of Kosovo can live in safety.

74. Emphasising the need to further strengthen regional cooperation, the European Council reaffirmed the Union's determination to continue playing a leading role in the Stability Pact. It welcomed the adoption in Thessaloniki of the "Agenda for Stability" as a framework for future action. The Reconstruction Agency as an authority implementing the future CARDS Programme should be allowed to use its full potential in order to achieve the goals set out in Cologne.

75. The European Council welcomed the idea, proposed by France, of a summit meeting between the European Union and the countries of the Western Balkans which, although at different stages, are most advanced in their democratic evolution. Such a summit would allow the countries of the region to be reassured of Europe's solidarity with them, and permit an examination with them of the means to accelerate the process of democratic and economic reform. The European Council invites the Council, assisted by the Secretary-General/High

Representative, and the Commission, to begin work on preparing such a summit meeting.

## ANNEX III

Council Conclusions 29.4.1997

### **Ex-Yougoslavie - Conclusions**

Le Conseil a adopté les conclusions relatives à l'application de la conditionnalité en vue de la mise au point d'une stratégie cohérente de l'UE applicable aux relations avec les pays de la région :

#### **"Introduction**

Afin de consolider la paix et la stabilité dans la région et de contribuer à son redressement économique, l'UE a l'intention de développer des relations bilatérales avec les pays de la région dans un cadre favorisant la démocratie, l'Etat de droit, des normes plus élevées en matière de droits de l'homme et de droits des minorités, le passage à une économie de marché et une coopération accrue entre ces pays. Dans ce contexte, une importance particulière est attachée aux principes de conditionnalité qui régiront le développement des relations de l'Union, conformément aux conclusions des Conseils "Affaires générales" d'octobre 1995, de février 1996 et de mai 1996, aux principes directeurs du Plan de consolidation civile arrêté à Paris en novembre 1996 et aux conclusions de la Conférence sur la mise en oeuvre de la paix tenue à Londres en décembre 1996. A cet égard, la Commission a présenté un document de stratégie sur l'application de la conditionnalité au développement des relations entre l'UE et les pays concernés par l'approche régionale, dont le Conseil "Affaires générales" a pris acte avec satisfaction le 24 février 1997.

#### **Stratégie de l'UE en matière de conditionnalité**

Compte tenu de ce qui précède, l'UE est convenue de définir, dans le cadre de l'approche régionale, les conditions politiques et économiques qui constitueront le fondement d'une politique cohérente et transparente en ce qui concerne le développement de relations bilatérales dans le domaine des échanges commerciaux, de l'aide financière et de la coopération économique, ainsi que des relations contractuelles, en tenant compte du degré de souplesse qui s'impose. La stratégie de l'UE devrait encourager les pays concernés à remplir ces conditions, et non les en empêcher.

Le concept de conditionnalité s'applique à tous les pays de l'Europe du SudEst qui ne sont pas liés à l'UE par un accord d'association (à savoir : la BosnieHerzégovine, la Croatie, la RFY, l'ARYM et l'Albanie).

Le niveau exact des relations varie en fonction des pays, mais certaines conditions générales s'appliquent à tous. En outre, des conditions spécifiques s'appliqueront à

certains pays, par exemple, les conditions relatives aux obligations résultant des accords de paix.

### **Approche progressive**

Dans la mesure du possible, les conditions sont décomposées en des éléments opérationnels et vérifiables (annexe 1). Le Conseil suivra et évaluera les progrès réalisés pour satisfaire aux exigences de conditionnalité, en utilisant tous les mécanismes dont il dispose et en tenant compte des rapports établis par les organisations et instances internationales dans la région, telles que les Nations Unies, l'OSCE et le Bureau du Haut Représentant. Une mise en oeuvre progressive des conditions conduira à une amélioration progressive des relations, sous réserve d'une évaluation politique et économique globale et permanente, au cours de laquelle chaque pays sera jugé individuellement.

Dans ce contexte, les préférences commerciales, l'octroi d'une aide financière et la coopération économique, ainsi que l'établissement de relations contractuelles, sont soumis à des degrés différents de conditionnalité. Une évaluation du respect des conditions de l'approche régionale par ces pays, c'est-à-dire de la volonté du pays bénéficiaire d'engager une coopération transfrontière et d'accorder, le cas échéant, des avantages analogues à d'autres pays de la région, sera effectuée à tous les stades du développement des relations. Aucun pays ne sera tenu pour responsable de l'absence de volonté réciproque de la part de ses partenaires régionaux potentiels.

### **Canevas pour l'application des conditions aux différents niveaux de relations et de coopération**

#### **- Préférences commerciales autonomes**

Le renouvellement des préférences commerciales autonomes sera lié au respect des principes fondamentaux de la démocratie et des droits de l'homme et à la volonté des pays concernés de permettre que des relations économiques se développent entre eux.

#### **- PHARE : Mise en oeuvre du programme**

Le Conseil peut définir le champ d'application du programme.

L'octroi d'une assistance à l'appui de la démocratie par le biais du programme PHARE pourrait être envisagé à condition que le pays concerné fasse preuve d'un engagement crédible en faveur des réformes démocratiques et de progrès sur la voie du respect des normes généralement reconnues en matière de droits de l'homme et de droits des minorités.

Une assistance générale dans le cadre de ce programme exigerait, selon le cas, que soient respectées les obligations découlant des accords de paix, y compris celles qui ont trait à la coopération avec le Tribunal international en vue de traduire en justice les criminels de guerre. Le respect des obligations suppose notamment que soit pris l'engagement de rendre compatibles avec l'Accordcadre général pour la paix, sous l'impulsion du Bureau du Haut Représentant, les accords conclus entre la Fédération et la Croatie, ainsi qu'entre la RS et la RFY. Il exigerait également que les droits de

l'homme et les droits des minorités soient respectés et que des possibilités réelles soient offertes aux personnes déplacées (y compris les "migrants internes") et aux réfugiés de regagner leur lieu d'origine. En outre, le pays concerné devrait avoir pris un engagement crédible d'entreprendre des réformes économiques, de prendre des dispositions significatives pour coopérer avec ses voisins et d'instaurer des relations ouvertes, notamment en ce qui concerne la libre circulation des personnes et des marchandises.

Dans le cas de la RFY, une assistance générale au titre de ce programme exige également qu'elle fasse une offre crédible d'entamer un dialogue réel sur le statut du Kosovo.

Dans le cas de la Bosnie, si les conditions mentionnées cidessus ne sont pas respectées, l'assistance accordée dans le cadre du programme PHARE se limitera aux projets destinés à appuyer directement les accords de paix, en particulier la création de liens entre les entités et le retour des réfugiés.

### **- Relations contractuelles**

L'application de la conditionnalité aux relations contractuelles doit être perçue comme un processus évolutif, l'amorce des négociations exigeant un degré de respect plus faible que la conclusion des accords. A tous les stades, y compris après la conclusion des accords, la situation devrait faire l'objet d'un suivi et, conformément aux articles pertinents des accords, leur application pourrait être suspendue en cas de nonrespect grave.

Afin que les négociations puissent débiter, les conditions générales ciaprès s'appliqueront à tous les pays concernés.

1. Offre crédible et mise en oeuvre visible de possibilités réelles permettant aux personnes déplacées (y compris les "migrants internes") et aux réfugiés de regagner leur lieu d'origine et absence de harcèlement exercé ou toléré par les autorités publiques.
2. Réadmission des ressortissants des Etats concernés qui sont présents de manière illégale sur le territoire d'un Etat membre de l'UE.
3. Respect par les pays signataires de l'Accord-cadre général pour la paix, des obligations résultant des accord de paix, y compris celles qui ont trait à la coopération avec le Tribunal pénal en vue de traduire en justice les criminels de guerre.
4. Engagement crédible d'entreprendre des réformes démocratiques et de respecter les normes généralement reconnues en matière de droits de l'homme et des droits des minorités.
5. Tenue à intervalles raisonnables d'élections libres et régulières, auxquelles participent, dans des conditions d'égalité, tous les citoyens adultes par un vote secret, et mise en oeuvre intégrale et correcte des résultats de ces élections.

6. Absence de traitement généralement discriminatoire et de harcèlement des minorités par les autorités publiques.

7. Absence de traitement discriminatoire et de harcèlement des médias indépendants.

8. Mise en oeuvre de premières mesures de réforme économique (programme de privatisations, suppression de certains contrôles des prix).

9. Désir avéré d'engager des relations de bon voisinage et de coopération avec les pays voisins.

10. Compatibilité avec les accords de paix de Dayton des accords conclus entre la RS et la RFY, ainsi qu'entre la Fédération et la Croatie.

En plus des conditions générales susmentionnées, les conditions spécifiques ciaprès s'appliqueront :

### **Croatie**

1. Respect des obligations résultant de l'Accord fondamental concernant la Slavonie orientale et coopération avec l'ATNUSO et l'OSCE.

2. Ouverture de la frontière douanière entre la Croatie et la Republika Srpska.

3. Preuve de l'exercice de pressions crédibles sur les Croates de Bosnie pour qu'ils dissolvent les structures de l'HercegBosna et qu'ils coopèrent à la mise en place et au fonctionnement de la Fédération, et preuve de la mise en oeuvre d'un Conseil municipal réellement unifié à Mostar et du fonctionnement efficace de la Force de police unifiée de Mostar (FPUM). Preuve que le gouvernement de Croatie use de son influence pour traduire les criminels de guerre croates de Bosnie devant le Tribunal pénal.

### **Bosnie-Herzégovine**

1. Mise en place d'institutions qui fonctionnent, conformément à la Constitution, et définition d'une politique en matière de commerce extérieur et de douanes pour la BosnieHerzégovine.

2. Amorce d'un processus crédible devant aboutir à la libre circulation des personnes, des biens et des capitaux en BosnieHerzégovine.

3. Coopération avec le Haut Représentant, notamment au sujet de Brcko.

4. Preuve de la mise en oeuvre d'un Conseil municipal réellement unifié à Mostar et du fonctionnement efficace de la FPUM et coopération à la mise en oeuvre et au fonctionnement de la Fédération. Démantèlement de toutes les structures que le Bureau du Haut Représentant juge contraires à l'esprit et à la lettre de l'Accordcadre général pour la paix. Preuve d'une coopération avec le Tribunal international, notamment pour traduire devant celui-ci les criminels de guerre bosniaques.

## **RFY**

1. Exercice de pressions crédibles sur les Serbes de Bosnie pour qu'ils coopèrent à la création des institutions et à la mise en oeuvre des dispositions de la Constitution. Preuve du fait que le gouvernement de la RFY use de son influence pour traduire les criminels de guerre serbes de Bosnie devant le Tribunal international.
2. Existence d'un dialogue réel avec les Albanais du Kosovo sur le statut du Kosovo à l'intérieur des frontières de la RFY.

Pendant les négociations, le respect de ces conditions fera l'objet d'un suivi permanent et la réalisation de progrès sur certains aspects dépendra de la manifestation de la volonté d'engager une coopération correspondante au niveau régional.

En plus du respect des conditions susmentionnées, la conclusion d'accords de coopération exige, le cas échéant, des progrès considérables dans la réalisation des objectifs de ces conditions, ainsi que des résultats substantiels en matière de réformes politiques et économiques et l'engagement crédible du gouvernement concerné de poursuivre sur cette voie. Il faudra faire preuve d'une volonté de coopérer et d'entretenir des relations ouvertes et de bon voisinage avec les pays de la région.

La condition spécifique ciaprès s'appliquera à la RFY :

Octroi effectif d'un large degré d'autonomie au Kosovo ().

## **ANNEXE**

### **Eléments pour l'examen du respect des conditions relatives :**

#### **\* Aux principes démocratiques**

- gouvernement représentatif, exécutif responsable devant une assemblée ;
- action du gouvernement et des autorités publiques conforme à la Constitution et à la législation ;
- séparation des pouvoirs (gouvernement, administration, justice) ;
- tenue d'élections libres et régulières à intervalles raisonnables et à bulletin secret.

#### **\* Aux droits de l'homme, à l'Etat de droit**

- liberté d'expression, y compris médias indépendants ;
- droit de réunion et de manifestation ;
- droit d'association ;
- droit à une vie privée, à une famille, à un foyer et au respect de la correspondance ;

- droit à la propriété ;
- voies de recours effectives contre les décisions administratives ;
- accès aux tribunaux et droit à un procès équitable ;
- égalité devant la loi et égale protection de la loi ;
- droit en vertu duquel nul ne peut être soumis à des traitements inhumains ou dégradants ni arrêté arbitrairement.

\* **Au respect et à la protection des minorités**

- droit des minorités de créer et de maintenir leurs propres institutions, organisations ou associations éducatives, culturelles et religieuses ;
- possibilités raisonnables pour ces minorités de s'exprimer dans leur propre langue devant les tribunaux et les autorités publiques ;
- protection adéquate des réfugiés et des personnes déplacées retournant dans des régions où ils constituent une minorité ethnique.

\* **Au passage à une économie de marché**

- institutions et politiques macroéconomiques nécessaires pour assurer un environnement économique stable ;
- libéralisation globale des prix, des échanges et des paiements courants ;
- mise en place d'un cadre juridique et réglementaire transparent et stable ;
- abolition des monopoles et privatisation des entreprises appartenant à l'Etat ou à des collectivités ;
- création d'un secteur bancaire compétitif et géré avec prudence"

**former Yugoslav Republic of Macedonia - Accord de Coopération, Protocole financier, Accord Transport**

Le Conseil a décidé de procéder à la signature d'un échange de lettres concernant l'Accord de Coopération entre la Communauté européenne et l'Ancienne République Yougoslave de Macédoine, accompagné d'un Protocole financier et d'un Accord dans le domaine des transports (cf. communiqué de presse doc. 7742/97 PRESSE 133).

## Zagreb Summit 24 November 2000

### Final Declaration

Following is the full text of "The Declaration of the Zagreb Summit" which heads of state or government of European Union member-states and countries covered by the Stabilization and Association Process adopted in the Croatian capital on Friday: "

1. We, the Heads of State or Government of the Member States of the European Union, Albania, former Yugoslav Republic of Macedonia, Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia, as well as the Foreign Minister of Slovenia, and the President of the European Commission, in the presence of the Secretary-General/High Representative for the CFSP, the Special Representative of the United Nations Secretary-General, the Special Representative of the EU to act as Coordinator of the Stability pact for south-east Europe and the High Representative for Bosnia and Herzegovina, are meeting in Zagreb at a time when democracy is about to carry the day throughout this region.

The year 2000 began with democratic change in Croatia, following the presidential and legislative elections. It continued with the victory of democratic forces in the FRY in the elections of 24 September. This movement is developing in the interests of all the countries in the region and offers them new prospects. "

2. **The recent historic changes are opening the way for regional reconciliation and cooperation.** They enable all the countries in the region to establish new relations, beneficial to all of them, for the stability in the region and peace and stability on the European continent. They give new impetus to a policy of good neighborliness based on the negotiated settlement of disputes, respect for the rights of minorities, respect for international obligations, including with regard to the ICTY, a lasting resolution of the problem of refugees and displaced persons and respect for States' international borders. They strengthen regional security and are bound to assist the conclusion by the countries concerned of the negotiations on weapons control and reduction at regional level, as provided for in the Dayton agreements.

We would like to stress the important contribution made by the Stability Pact to the implementation of reforms, economic development and the strengthening of regional security and cooperation. The European Union was the initiator of the Stability Pact and will continue to act as its driving force.

Our aim is to hold a second Regional Funding Conference at which the countries concerned should submit economic recovery and reform programs.

Democracy and regional reconciliation and cooperation on the one hand, and the rapprochement of each of these countries with the European Union on the other, form a whole.



3. Henceforth, the Heads of State or Government of the five countries concerned undertake to **establish between their countries regional cooperation conventions providing for a political dialogue, a regional free trade area and close cooperation in the field of justice and home affairs**, in particular for the reinforcement of justice and the independence thereof, for combating organized crime, corruption, money laundering, **illegal immigration**, trafficking in human beings and all other forms of trafficking. **These conventions will be incorporated in the stabilization and association agreements as they are concluded with the European Union.** The Heads of State or Government of the five countries concerned have declared the importance they attach to the training of police officers and magistrates and to the strengthening of border controls.

**Rapprochement with the European Union will go hand in hand with this process of developing regional cooperation. Various initiatives by the partners also contribute to this aim. Hence, it is a matter of priority to develop regional cooperation, which must be applied to specific projects**, such as re-establishment of navigation on the Danube. In this regard, we note with satisfaction that an extraordinary session of the Adriatic and Ionian Council took place this morning in Zagreb, with the participation of the President of the European Commission.

The European Union notes with satisfaction the first steps towards settling the question of the succession of the SFRY and urges the parties concerned to move forward. It also commends the rapid establishment of diplomatic relations between the countries in the region where they don't yet exist.

4. **In this context, the way is now open to all the countries of the region to move closer to the European Union as part of the stabilization and association process.**

The European Union confirms its wish to contribute to the consolidation of democracy and to give its resolute support to the process of reconciliation and cooperation between the countries concerned. **It reaffirms the European perspective of the countries participating in the stabilization and association process and their status as potential candidates for membership in accordance with the Feira conclusions.**

This stabilization and association process is at the heart of the Union's policy towards the five countries concerned. It takes account of the situation of each country and is based on respect for the conditions defined by the Council on 29 April 1997 concerning democratic, economic and institutional reforms. On the basis of these criteria, the Union proposes an individualized approach to each of these countries, the content of which appears in the Annex.

The prospect of accession is offered on the basis of the provision of the Treaty on European Union, respect for the criteria defined at the Copenhagen

European Council in June 1993 and the progress made in implementing the stabilization and association agreements, in particular on regional cooperation.

The European Union will shortly be launching a single Community aid program for the countries participating in the stabilization and association process, entitled CARDS (Community Assistance for Reconstruction, Democratization and Stabilization).

This new Community instrument for Albania, the former Yugoslav Republic of Macedonia, Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia will be endowed with a financial reference amount of EUR 4.65 billion over the period 2000-2006. It will accompany and support the democratic, economic and institutional reforms of the five countries concerned.

The Union is implementing and will extend to the five countries concerned asymmetric exceptional trade preferences which will favor access to the Community market for their industrial and agricultural products, so as to help relaunch their economies by stimulating their exports. The Union invites these countries to continue their reforms so as to draw maximum benefit from the trade opportunities created by these measures. The aim is to bring about the establishment of a balanced free trade between these countries and the European Union in compliance with the rules of the World Trade Organization.

## **ANNEX**

### **Stabilization and Association Process on an Individual Basis**

**ALBANIA:** the Union has commended the progress made since the feasibility study conducted by the Commission and it calls on the country's leaders to continue their efforts. The Union has decided to step up its cooperation and to spell out the reforms to be carried out. To this end it has been agreed that a high-level EU/Albania steering group will be set up. A report will be submitted to the Council before the middle of 2001 in preparation for the negotiation of a stabilization and association agreement.

**former Yugoslav Republic of Macedonia:** we are today initialing the first stabilization and association agreement, which marks an important stage in the implementation of the reforms, carried out. The Union calls on the leaders of this country to continue their reforms in line with the provisions of the agreement.

**BOSNIA AND HERZEGOVINA:** the Union calls on the authorities of this country to continue their efforts, on the basis of this progress made, to enable Bosnia and Herzegovina to fulfil by the middle of 2001 all the conditions laid down in the "road map" drawn up last spring, so that the Commission can undertake a feasibility study.

**CROATIA:** the Union commends the scale of the efforts and the success of the reforms embarked upon since the start of this year by this country's authorities. They have now enabled negotiations to be started for a stabilization and association agreement: we hope they will progress rapidly.

**FEDERAL REPUBLIC OF YUGOSLAVIA:** the prospect of a stabilization and association agreement is now established in accordance with the invitation issued by the Council on 9 October 2000. A decision has been taken to set up a "EU/FRY

consultative task force". The Commission will work on a feasibility study with a view to negotiating directives for a stabilization and association agreement."

### **The Thessaloniki agenda for the Western Balkans: Moving towards European integration<sup>303</sup>**

The Copenhagen European Council in December 2002 confirmed the European perspective of the countries of the Western Balkans, as potential candidates, and underlined its determination to support their efforts to move closer to the European Union. The European Council in March 2003 reiterated that the future of the Western Balkans is within the European Union and pledged the Union's full support to the endeavours of the countries of the region to consolidate democracy, stability and to promote economic development.

The Western Balkans and support to their preparation for future integration into European structures and ultimate membership into the Union is a high priority for the EU. The Balkans will be an integral part of a unified Europe. The ongoing enlargement and the signature of the Treaty of Athens in April 2003 should inspire and encourage the countries of the Western Balkans to follow the same successful road of reforms and to increase their efforts in that direction. During the last four years, the European Union's policy of Stabilisation and Association has contributed critically to progress achieved throughout the region in promoting stability and in bringing the countries closer to the Union. It now needs to be strengthened and enriched with elements from the enlargement process, so that it can better meet the new challenges, as the countries move from stabilisation and reconstruction to sustainable development, association and integration into European structures. The Union's thus enriched policy of Stabilisation and Association, including the Stabilisation and Association Agreements, will constitute the overall framework for the European course of the Western Balkan countries, all the way to their future accession. The EU recalls the Commission's second annual SAP report, which reflects accurately both progress achieved and remaining problems, as well as challenges ahead for each of the Western Balkan countries. Its recommendations, fully endorsed by the Council, should guide the efforts of the countries for further reforms.

The EU stresses that the pace of further movement of the Western Balkan countries towards the EU lies in their own hands and will depend on each country's performance in implementing reforms, thus respecting the criteria set by the Copenhagen European Council of 1993<sup>2</sup> and the SAP conditionality. In this context, the EU also recalls the content of the Zagreb Summit Final Declaration of November 2000. The principles of *own merits*, and *catch up*, will be applied, in parallel with the regional approach, which remains an essential element of EU policy towards the region.

#### **1. Further consolidating peace and promoting stability and democratic development**

Having in mind the considerable progress achieved in the last two years, but also its fragility and unevenness, the EU will continue to work closely with the Western Balkan countries to further consolidate peace and to promote stability, democracy, the rule of law, and respect for human and minority rights. Inviolability of international borders, peaceful resolution of conflicts and regional co-operation are principles of the highest importance. Terrorism, violence and extremism, be it ethnically, politically or criminally motivated, should be unequivocally condemned. The EU reiterates its support for the full implementation of Resolution 1244 of the UN Security Council on Kosovo and of the *standards before status* policy. On this basis, the people of a multiethnic and a democratic Kosovo will have their place in Europe.

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<sup>303</sup> [http://www.consilium.europa.eu/ueDocs/cms\\_Data/docs/pressdata/en/gena/76201.pdf](http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressdata/en/gena/76201.pdf)

The Dayton / Paris agreements and subsequent Peace Implementation Council decisions, and the Ohrid and Belgrade agreements, are key elements of EU policy. Full compliance by all countries and parties concerned is essential.

Recalling that all Western Balkan countries are parties to the International Criminal Court, the EU urges them to support, fully and in deed, its work and the integrity of its statute, in line with the relevant EU decisions.

The EU urges all concerned countries and parties to co-operate fully with the International Criminal Tribunal for the former Yugoslavia. Recalling that respect for international law is an essential element of the SAP, the EU reiterates that full co-operation with ICTY, in particular with regard to the transfer to The Hague of all indictees and full access to documents and witnesses, is vital for further movement towards the EU.

The EU supports activities and initiatives in the Western Balkan countries promoting social cohesion, ethnic and religious tolerance, multiculturalism, return of refugees and internally displaced persons and combating regressive nationalism. Ensuring civilian control over the military is a critical element of democratic reform. Legislative and administrative reforms on arms sales compatible with the «European code of conduct» should be promoted.

Support to activities aiming at defending women's rights and improving their situation should be better reflected in EU

policies towards the region. Involvement of non-governmental organisations, civil society and local authorities in EU supported policies and activities is of paramount importance.

The launching of the EU Police Mission in Bosnia and Herzegovina in January 2003, and of Operation Concordia in former Yugoslav Republic of Macedonia, as well as the EU's willingness to lead a military operation in Bosnia and Herzegovina following SFOR, are tangible proof of the Union's commitment to the Western Balkans.

**2** Stability of institutions guaranteeing democracy, the rule of law, human rights and the respect for and protection of minorities; the existence of a functioning market economy; the capacity to cope with competitive pressure and market forces within the Union, and the ability to take on the obligations of membership, including adherence to the aims of political...

While the EU is deepening its engagement in Southeast Europe, continued US involvement is necessary. Close coordination with the US on Balkan issues is a high priority for the EU. The Balkans will continue to be on the agenda of the EU dialogue with Russia, as well as with other relevant countries, in recognition of the importance of stability in the region. Continued co-operation with the UN, NATO, OSCE, Council of Europe and other international organizations operating in the area, is essential.

## **2. Progress of Western Balkan countries towards the EU within an enriched Stabilisation and Association Process**

Recent progress achieved by the countries of the Western Balkans allowed for further movement towards the Union through the SAP. The continuation of the ratification procedure of the SAAs with former Yugoslav Republic of Macedonia and Croatia, the opening and progress of negotiations for a SAA with Albania, the launching by the Commission of a feasibility study for a SAA with Bosnia and Herzegovina and the adoption in Serbia and Montenegro of the Constitutional Charter and the presentation of the Internal Market and Trade Action Plan, on which the Commission will work energetically with the authorities to solve some still outstanding problems with a view to a rapid launching of a Feasibility Study for that country as well, illustrate this

positive trend. The Croatian application for membership is currently under examination by the Commission.

The EU's commitment and assistance must be matched by a genuine commitment of the governments of the Western Balkan countries and concrete steps to make the necessary reforms, to establish adequate administrative capacity and to co-operate amongst themselves. Building fully functioning states capable of providing for the needs of their citizens remains a major challenge for the whole region. The fight against organised crime and corruption is essential for ensuring the rule of law. The EU expects the Western Balkan countries to pursue these objectives at an accelerated pace, thus allowing the prompt passage of each of them to the next stage of relations with the EU within the Stabilisation and Association Process.

The Council welcomes the Commission's communication on the Western Balkans and European Integration, and will take forward its conclusions and recommendations.

### **Promoting political dialogue and co-operation in the area of Common Foreign and Security Policy**

The Thessaloniki summit will launch a high-level multilateral political forum, the EU-Western Balkans Forum, between the EU and the SAP countries, in line with the GAC conclusions of 13 May 2002. As an integral part of the SAP, this will bring together periodically the heads of state or government of the region and their EU counterparts. Annual meetings of foreign ministers and ministers responsible for Justice and Home Affairs will be held as appropriate. Other ministers can also meet when appropriate. Acceding and candidate countries will be fully involved. The Council welcomed the intention of the incoming EU Italian Presidency to organise the first ministerial meetings before the end of the year.

The aim of the forum will be to give a clear signal of the privileged and inclusive relationship between the EU and the SAP countries; to enhance the political visibility of the SAP; to provide a supporting political framework for achieving the objectives of the SAP, including regional co-operation, and to deepen the understanding of the association process in the perspective of rapprochement and accession; to discuss key issues of common concern in areas such as foreign policy, and Justice and Home Affairs, to provide a genuine European framework for addressing issues with regional and international implications; and to inform and associate the SAP countries on major developments in the EU.

Annual troika EU-Western Balkans meetings at the Political Director level could be held at the margins of the UN General Assembly to discuss international issues, in particular those on the UNGA agenda.

The EU will invite, as appropriate, the SAP countries to align themselves *with EU demarches, declarations and common positions on CFSP issues*. Participation of SAP countries in co-ordination and briefing meetings organised by the EU for candidate and associated countries in capitals and headquarters of international organisations could also be considered, as appropriate.

*Bilateral political dialogue at ministerial level between the EU on the one part, and Albania, Croatia and FRYOM on the other is already held on the basis of existing arrangements. It will be extended to Serbia and Montenegro and Bosnia and Herzegovina in advance of the conclusion of the respective SAAs. To that end, joint declarations will be adopted between the EU and the two states.*

The SAP countries may be invited by the Political and Security Committee troika, jointly or individually, to participate to informal meetings, the objectives of which would be to exchange views on security and crises management issues in the Western Balkans, as appropriate.

### ***Parliamentary co-operation***

Joint .Stabilisation and Association Parliamentary Committees. could be established with all SAP countries, even before conclusion or entry into force of the respective SA agreements. To this end, appropriate arrangements could be agreed with the SAP countries. The European Affairs Committees of the Parliaments of the SAP countries will be encouraged to establish contacts with the Parliaments of Member States.

### ***European Partnerships***

European Partnerships will be drawn up for each SAP country, inspired by the Accession Partnerships for candidate countries, and adapted to the specificities of the SAP. These partnerships, updated as necessary, will identify priorities for action in supporting efforts to move closer to the European Union. They will serve as a checklist against which to measure progress, and to provide guidance for Community and Member State financial assistance. They will reflect the particular stage of development of each country; they will be tailored to its specific needs and will be drawn up following contacts with the countries concerned.

The countries of the region will be expected to draw up national plans for the implementation of the partnerships. Progress in implementation will be followed through the SAP structures and will be monitored in the Commission.s Annual Reports.

The Commission is invited to submit the first set of Partnerships to Council for approval with the next SAP Annual Reports, following the procedure established for the Accession Partnerships.

### ***Enhanced support for Institution Building***

The instrument of *twinning* will be extended to all SAP countries, taking into account their specific situations. Twinning will be financed under the CARDS programme.

SAP countries will become eligible for technical assistance by *TAIEX3*, including for monitoring the compatibility of national legislations of SAP countries with the community acquis. This technical assistance will be delivered through activities adapted to their specific needs and level of rapprochement to the EU. Existing *monitoring* mechanisms for the implementation of commitments by SAP countries will be strengthened and streamlined.

In the framework of efforts to support the implementation of necessary reforms in the field of public administration, the Commission is invited to examine ways that would offer students from the SAP countries the opportunity to develop legal thinking and understanding of the principles that form the basis of Western democratic systems and the EU. The establishment of a regional *School for Higher Education on Public Administration Reform* and the establishment of a scholarship scheme could be considered.

Particular attention should be given to the provision of expertise from the new member states, in the light of their own successful transition process and preparations for EU membership.

### ***Opening of Community Programmes***

Community programmes will be opened to SAP countries along the lines established for the participation of candidate countries. On the basis of framework agreements to be signed between the Community and each of the SAP countries and providing for the opening in principle of such programmes, the Commission will gradually implement them, by deciding on the specific programmes that would be opened in each case and agreeing with the respective countries on the modalities (through the conclusion of Memoranda of Understanding).

Priority areas for the opening of Community programmes could include education and training, culture, research, energy, environment, civil society, SME support, and anti-fraud co-ordination.

SAP countries could be allowed to participate in Community agencies, in ways similar to those established for candidate countries.

The Commission is invited to submit specific proposals to these ends, including draft framework agreements for the opening of Community programmes, taking into account the needs and possibilities of each country, including financial constraints (CARDS contribution and national financing), and the necessary administrative capacity.

### ***Enhanced Community Financial Support***

Efforts by Western Balkan countries to meet requirements for rapprochement to the EU will continue to be matched by substantial EU financial support. Without prejudice to the budgetary procedures, the Council welcomes the Commission's proposal for an increase in the CARDS budget by more than Euro 200 million over the period 2004- 2006, as a clear expression of this intent and a good basis for the discussions in the oncoming budget procedures; it invites the Budgetary Authority to reflect this in its deliberations. Taking into account the overall balance of the Union's priorities, the possibility of further support, in particular by mobilising the European Investment Bank, should also be explored.

As the Western Balkan countries move closer to the EU, Community assistance will have to be adjusted accordingly.

Within the framework of the discussions on the future financial perspective and without prejudice to their outcome, the Council invites the Commission to consider possible support to the region, drawing from the experience of the present enlargement process and aiming at sustainable development.

In case of special need, the EU is ready to examine, in co-ordination with international financial institutions, the possibility of granting, on an exceptional basis, further *macro-financial assistance*, in accordance with established practice.

## **3. Fighting organised crime. Co-operation in other Justice and Home Affairs matters**

### ***Organised crime***

*Organised crime and corruption* are real obstacles to democratic stability, sound and accountable institutions, the rule of law, and economic development in the Western Balkans and a source of grave concern to the EU. Combating them must constitute a key priority for the governments of the region. Particular focus should be placed upon fighting all forms of trafficking, particularly of human beings, drugs and arms, as well as smuggling of goods.

Although the SAP countries have made some progress, continued efforts at all levels will be crucial to advance further in fighting organised crime. Their commitment must be sustained through effective implementation of all instruments necessary in this combat, including improved administrative and judicial capacity. Continuous political support in each country is equally essential.

In the context of the follow up of the London Conference on organised crime, the EU welcomes the submission of Records of Achievements by each of the Western Balkan countries. These records are a strong signal of the region's commitment to take ownership in the fight against organised crime and demonstrate progress in the areas for priority action. In order to maintain the momentum achieved, the EU urges the



countries of the region to define and implement further specific action-oriented measures to be pursued in the immediate future. The EU through its competent bodies stands ready to assist the region in identifying these measures.

The Council welcomes the intention of the incoming Italian Presidency to hold a meeting of Ministers dealing with JHA matters by the end of the year.

The EU expects countries of the region to commit themselves in Thessaloniki to adopt, within a specified timeframe, all necessary legislation in order to negotiate agreements with Europol. On the basis of such agreements Europol can assist with the implementation of the Action Plans adopted at the London Conference.

Regarding *trafficking in human beings*, the EU urges the countries of the region to act both domestically and regionally, in line with the principles of the EU and proposals contained in the Brussels Declaration of September 2002. The EU places high priority on the areas of victim assistance, training programs of competent bodies, intelligence and exchange of information, public awareness and strategy development. Co-ordination of all international actors is essential.

#### *Co-operation in other Justice and Home Affairs issues*

**In order to cope effectively with *illegal migration* flows originating in or transiting through Western Balkans, the EU encourages co-operation between the appropriate authorities of the Western Balkan countries and the *Immigration Liaison Officers* (ILOs) of the EU member states, in the framework of the establishment of the ILOs Network aiming at enhancing the efficiency of the fight against illegal migration and organised crime. It also supports the conclusion and implementation of *readmission agreements* among the SAP countries themselves and between the SAP countries and third countries; the Commission could provide useful guidance to the SAP countries in this field. The EU will also carry forward its policy of concluding readmission agreements with all the countries of the region. The Western Balkan countries are invited to take all necessary measures to facilitate the conclusion and ensure the implementation of such agreements.**

The EU is aware of the importance the peoples and governments in the Western Balkans attach to the perspective of liberalisation of the visa regime. Meanwhile, progress is dependent on these countries implementing major reforms in areas such as the strengthening of the rule of law, combating organised crime, corruption and illegal migration, and strengthening their administrative capacity in border control and security of documents. The Council welcomes the intention of the Commission to hold discussions, within the framework of the Stabilisation and Association Process, with each of the Western Balkan countries, regarding the requirements for how to take these issues forward in concrete terms.

The EU welcomes the Common Platform and the Way forward document adopted at the Ohrid May 2003 conference on border security and management. It calls on the countries concerned to take all the concrete and specific measures necessary for the achievement of the objectives defined in these documents.

Policies and instruments applicable to the Western Balkan countries should fully incorporate the broader JHA objectives that the EU is pursuing. The EU should also encourage the transfer of the experience of the acceding and candidate countries to their SAP neighbours.

Further use of the instrument of twinning in the area of the Justice and Home Affairs will be encouraged.

Assistance programmes related to the Justice and Home Affairs should be strengthened.

#### 4. Promoting Economic Development

Economic prosperity is essential for long-term stability in the region. Although significant progress has been made in all Western Balkan countries toward macroeconomic stabilisation, the development of a modern market economy is a slow process, requiring persistent efforts over a wide front of structural reforms. The transition from centrally planned to functioning market economies requires further reform efforts in many areas, also taking into account the objectives of sustainable development.

The EU urges the countries in the region, acting in close co-operation with relevant international financial institutions, to maintain and expand the hard-won gains in macroeconomic stability, which is a pre-condition for lasting economic growth, through prudent fiscal and monetary policies; to accelerate the momentum of structural reforms, especially in the areas of tax policy and administration, mainly by promoting the principles of transparency and accountability and supporting sound management in the public sector; the financial sector should be closely supervised and the privatisation process taken forward; to promote good governance and create a business environment that promotes private economic activity and foreign investment. The EU will continue to provide assistance in this area, in coordination with international financial institutions.

The EU takes note of the important work accomplished by the infrastructure steering group for South-East Europe, chaired by the Commission and associating IFI.s and the Stability Pact in identifying major priority *infrastructure projects in transport, energy and telecommunications* in South-Eastern Europe. The Thessaloniki summit should express its support for the ongoing work within the framework of the Regional Balkans Infrastructure Study (REBIS). The drawing of an integrated regional transport strategy, consistent with the Trans-European Networks and taking into account the Pan-European Corridors (in particular Corridors V, VII, VIII and X), is a high priority. The Council invites the Commission, to liaise with the IFIs and the EIB, in order to present a report by December 2003, referring to a planning of public investment needed for the financing of the priority network for the better connection of the Western Balkans to the EU. It calls upon the Commission to take into account the Western Balkan countries in its forthcoming proposal, for the revision of the Transeuropean Transport Network Guidelines of the enlarged EU. The EU also takes note that, under the revision of the TEN Energy Guidelines, the establishment of efficient electricity connection between South-East Europe and the European Union has been agreed, as part of the priority axes.

Environmental protection is an important element of sustainable development. The EU encourages the Western Balkan countries to introduce *environmental policies* and strategies geared towards compliance with EU environmental law. In particular, environmental issues should be addressed across the energy sector, especially in the scope of the Kyoto protocol.

The EU supports the Commission.s proposal to hold *regular economic dialogue* with each SAP country.

Having in mind the importance of *trade* for economic development and integration, the EU will consider further measures of liberalising its trade with the Western Balkans. The Council invites the Commission

- To provide to the SAP countries *technical assistance* and undertake other possible measures to improve their ability to take full advantage of the Autonomous Trade Measures.

- To prepare the extension of the pan-European *diagonal cumulation* of origin to the countries of the region in a manner consistent with all relevant community policies and dependent on their administrative capacity.
- To consider taking appropriate measures to allow SAP countries to *participate in tenders* organised under the preaccession (Phare, ISPA, SAPARD), Tacis, and MEDA community assistance programmes.
- To explore the possibility of *further trade liberalisation measures* in areas, which have hitherto been exempted.

Considering that an agreement governing energy trade would substantially contribute in attracting investment into this strategic sector, the Council welcomes the Commission's initiative to propose the *extension of the Internal Energy Market* to the region as a whole, on a legally binding basis.

*Small and medium-sized enterprises* are a key source of jobs, innovation and wealth and are essential for the functioning of competitive market economies. Consequently, it is important to improve the environment in which small and medium-sized enterprises operate. At the Thessaloniki summit, Western Balkans countries should be invited to commit themselves to the principles enshrined in the *European Charter for Small Enterprises*, thus allowing them to share good practice with other European countries.

Economic development in the region will also be promoted by increased *regional co-operation* in areas such as liberalisation in trade and movement of persons, energy, development of infrastructures, water management and crossborder co-operation.

## **5. Reconciling for the Future and Enhancing Regional Co-operation**

### ***Return of refugees and internally displaced persons***

The EU encourages further return of refugees and internally displaced persons, and fully supports relevant regional activities, notably MARRI (Migration, Asylum and Refugee Regional Initiative). *The Council* urges the countries of the region to enact and enforce anti-discrimination legislation to ensure fair and proportionate representation of minorities in employment, especially in public institutions; to provide adequate security conditions, non-discriminatory education and all other basic social services; to address remaining obstacles to return, most of which are related to repossession of property, reconstruction of destroyed property and resolution of the issue of lost tenancy/occupancy rights. In this context, the authorities of the countries of the region are invited to establish, enact and implement a satisfactory national legal framework on property issues, preferably by the end of 2003. Emphasis should be placed on monitoring the initiatives undertaken by the countries of the region in the area of return and reintegration.

### ***Promoting reconciliation through education, social development and culture***

The EU places high priority in initiatives and activities aiming at reconciling for the future, through overcoming legacies of the past, which are obstacles to normalisation and democratic development. In this respect, the role of education, social development and culture is essential in changing mentalities, promoting tolerance, ensuring ethnic and religious coexistence and shaping modern democratic societies.

In this framework and in parallel with other relevant activities in these fields, the EU invites the countries of the Western Balkans to take concrete steps to tackle the issue of *restoration of cultural and religious monuments*. The relevant commitments of the countries could be part of broader bilateral agreements on cultural issues. The EU also invites the countries of the region to take concrete initiatives with the objective of

revising *history textbooks*. The possibility of convening an experts meeting to discuss the issue, tentatively by the end of 2003, could be considered.

With respect to the aforementioned issues, close and efficient co-operation and interaction should be ensured with relevant regional and international bodies, such as UNESCO, the Council of Europe, the Stability Pact and the SEECP, as well as non-governmental organisations, so as to avoid overlapping and to make the most of resources available.

### ***Enhancing Regional Co-operation***

The EU invites the Western Balkan countries to continue to develop regional co-operation, which constitutes an essential element of the Stabilisation and Association Process. The Thessaloniki summit should reiterate support for regional co-operation and, within this context, Western Balkan countries are invited to commit themselves to promote a number of specific objectives or initiatives:

- *Further development of regional free trade*: Western Balkan countries, together with Bulgaria and Romania, commit themselves to complete the network of bilateral Free Trade Agreements, on the basis of the 2001 Memorandum of Understanding by the end of the year, through necessary ratifications. They could also commit themselves to harmonise the dispositions of their FTAs, with a view of establishing a free-trade zone in full respect of WTO rules, within a specified timeframe. The Stability Pact should continue to be the framework for promoting and monitoring this activity, in close co-ordination with the Commission.

- *Visa-free movement in the Western Balkans*: The countries of the Western Balkans could commit themselves to explore the possibility of abolishing visa requirements for travel between their countries, through bilateral agreements, also ensuring compatibility of such measures with EU requirements. This exercise could be conducted under the auspices of the Stability Pact.

- *Small arms collection*: The EU will continue to encourage a regional approach to activities on small arms collection, including the work of the South Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons. (SEESAC), operating under the auspices of the Stability Pact in co-operation with the UNDP.

*Regional markets for electricity and gas*: The Thessaloniki summit should express its support for the process initiated in November 2002 with the signing in Athens of the Memorandum of Understanding on the Regional Electricity Market in South-East Europe and its integration into the EU Internal Electricity Market (the Athens process.). It should also express its support for the establishment of a similar process with respect to gas, on the basis of proposals by the European Commission due within 2003. The Stability Pact could continue to play a key role in this area. The EU encourages the countries of the region to adopt a legally binding South-East Europe Energy Market Agreement, by the end of this year, building on the basis of the Memorandum of Understanding.

This Agreement should also deal with the promotion of investment by creating a co-ordination mechanism for the energy sector financing, associating the countries of the region, the Commission, the IFI.s and the Stability Pact.

- *Water management*: Recalling the importance of trans-boundary water management issues in the region, the positive experience from the Danube co-operation process and the Sava River Basin co-operation, and in line with the conclusions of the May 2003 informal meeting of environment ministers of the EU and South-East Europe, and the declaration adopted by the conference Sustainable Development and Lasting Peace, Shared Water, Shared Future, Shared Knowledge. in May 2003, the

Thessaloniki summit should recommend the drawing up of Integrated Water Resources Management Plans for trans-boundary water bodies in the region and subsequent national plans within the framework of the EU Water Initiative . Mediterranean component.

- *Cross-border-co-operation*: The EU supports the development of cross-border-co-operation between the SAP countries, as well as between these countries and EU members, acceding and candidate states. Ways to ensure adequate financial support to these activities should be explored. It stresses the relevance for the region of ongoing efforts to co-ordinate the various EU cross-border initiatives.

- **The EU also supports projects of regional significance and regional initiatives in the areas of science and technology, information and communication technology, and statistics. The EU calls for the adoption, at the forthcoming research ministers. conference in Thessaloniki, of the EU-Balkan countries Action Plan in Science and Technology and for its implementation, which will highly contribute to the reinforcement of the Research,**

Technology and Development capacities of each country and of the region as a whole.

- The European Affairs Committees of *Parliaments* of the countries of the region should be encouraged to develop their contacts at regional level, including, for example, by creating a Balkan Conference of European Affairs Committees. The Conference could apply for a special status in the COSAC.<sup>4</sup>

The EU reconfirms its support to the *Stability Pact* for South-eastern Europe in its complementary role to the SAP and in its implementation of the agreed core objectives. It takes note of the Special Co-ordinator.s complementarity report and of the conclusions of the Regional Table of May 2003 in Cavtat. Within this framework, the Thessaloniki summit should invite the Stability Pact to particularly focus on the following specific tasks: further development of the regional free trade network, implementation of the MoU on REM and possible extension to gas, freedom of movement and cross-border-co-operation also on a local level and organised crime/corruption, keeping in mind the importance of all these aspects for improving conditions for investment and economic growth in the region.

The Summit should also reiterate its support to the South-East European Co-operation Process (SEECP), which is gradually becoming the voice of the region, and of other regional co-operation initiatives, such as the Adriatic-Ionian Initiative and the Central European Initiative. It shall encourage further co-operation between the Stability Pact and the SEECP, as well as with the Commission, within the framework of the Informal Consultative Committee (ICC).

Enhanced co-operation with the SEECP could be facilitated by the establishment of a small SEECP liaison office in the Stability Pact premises in Thessaloniki.

The Stability Pact, as well as other regional co-operation initiatives are encouraged to present concrete proposals, in close co-ordination with the Commission, on how they could further promote the aforementioned ends with a view to develop fully the regional co-operation element of the SAP.

## Education and research<sup>304</sup>

Cooperation with Western Balkan countries in the areas of education and research has been significant in recent years, with a substantial Commission contribution under several programmes: Tempus (higher education), Erasmus Mundus (scholarships for students), Youth, 6th Research Framework programme (FP6) and Joint Research Centre (JRC) activities, as well as through the work of the European Training Foundation (ETF). The Tempus programme, with a budget of €83m for the period 2001–2005 in the Western Balkans, has funded scholarships and mobility grants involving up to 250 students and more than 1000 teachers and education staff each year for studies or training in the EU or elsewhere in the region. In 2003-2004, around 2200 young people from the region participated in the Youth programme, more than twice as many as during the preceding three years<sup>[9]</sup>.

An Action Plan on RTD elaborated following the Thessaloniki summit among Member States, candidate and Western Balkan countries, identified how research could contribute to economic development and enhance integration and was instrumental in integrating better the Western Balkans in the European Research Area. From 2002 until 2005, around 120 participations (research units and institutions) from the Western Balkan countries have been recorded in 51 projects under the FP6.

On its side, the Joint Research Centre has trained in the past years some hundreds experts from the Western Balkans in workshops and courses and has started including Western Balkan organisations within its European research networks and projects.

Responding to expectations in the region for more effort in these sectors, notably in the number of scholarships, the Commission will start consultations on a new set of orientations for the period 2006-2010 and intends to discuss them at the EU/Western Balkan Meeting of Ministers of Science and Education on 17 March 2006. This Conference will also be a good opportunity for Member States to provide information on their bilateral programmes and possibly commit themselves to intensifying their already significant effort.

The Commission will review its actions under Tempus and Erasmus Mundus and expand opportunities for mobility of teachers and both undergraduate and graduate students as from 2007. As a first step, a special window will be made available in 2006 in Erasmus Mundus to allow up to 100 students from the region to undertake postgraduate studies in EU high profile master's courses. The Commission will also propose a new scholarship scheme for undergraduate students within the post-2006 Tempus programme. With regard to the post-2006 successor Community programmes to the current Socrates and Leonardo da Vinci, gradual involvement will be encouraged, tailored to the needs and constraints of each country, including the advanced administrative capacity required for these programmes. The Commission will also create new opportunities under the Youth programme. The ETF will continue to support Western Balkan partner countries in promoting reform of their education and training systems.

As regards research, the EU plans to continue and strengthen its actions in favour of the Western Balkans research community under the 7th Framework Programme (2007-2013). Existing fruitful cooperation between the JRC and Western Balkans countries will be continued. The Commission will also examine how to enable the

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<sup>304</sup> Communication from the Commission: The Western Balkans on the road to the EU: consolidating stability and raising prosperity, COM (2006) 27 final

research community in the region to tap this potential and might provide support for building capacities of centres of excellence in the region. To further integrate the region into the European Research Area, the Commission is considering establishing a 'Steering Platform' which would identify concrete needs and means to satisfy them.

#### Visa policy and measures relating to the facilitation of movement of persons

In Thessaloniki, the EU recalled the importance the peoples and governments in the Western Balkans attach to the perspective of liberalisation of the visa regime. The Union noted that progress was dependent on these countries implementing major reforms in areas such as strengthening the rule of law, combating organised crime, corruption and illegal migration, and strengthening their administrative capacity in border control and security of documents. The Commission has discussed with each of the Western Balkan countries the requirements for taking these issues forward in concrete terms. These discussions confirmed that the necessary reforms would require substantial efforts by the countries in question. Lifting the visa obligation is a long-term issue.

Meanwhile, it should be possible to facilitate visa issuing procedures, which will make travel from the Western Balkans to the EU/Schengen area easier.[5] The Member States and the Commission agreed in December 2005 on a common approach to visa facilitation, as foreseen by the Hague Programme adopted in November 2004. A case by case approach will be applied. The special relationship the EU has with certain countries, notably their status as candidates or potential candidates for accession, will be taken into account.

In this context, the Commission plans to start exploratory talks in the Western Balkans, starting with former Yugoslav Republic of Macedonia in early 2006, in view of presenting to the EU Council draft negotiation mandates for Western Balkan countries in the course of the year.

Progress in negotiations on visa facilitation will be linked to negotiations on readmission agreements with the European Community and to progress in reforms in relevant areas. The Commission also plans to present, in spring 2006, a proposal aiming *inter alia* at simplifying and speeding up visa issuing procedures at local consulates.

Special measures have been taken to promote exchanges of researchers and students. A directive which makes it easier for students from third countries to obtain residence permits in the European Union was adopted in December 2004, and a directive with equivalent rules for researchers was adopted in October 2005.

Pending transposition of the directive on researchers into the national legislation of Member States, a Council Recommendation was adopted encouraging the Member States to apply certain parts of the directive in advance of final transposition. Another Recommendation aimed at facilitating short stays within the Schengen area of researchers was adopted by the Council in September 2005. This recommendation encourages Member States already now to grant researchers multiple-entry visas for the duration of the research project they are involved in, and to waive visa fees. The Commission has made a proposal 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, could be authorised to cross the border with a local border traffic permit, without requiring a

visa. Formal adoption of the proposal (by the European Parliament and the Council) is expected by February 2006.[6]

## EU-Western Balkans Summit, Thessaloniki Declaration



We the Heads of State or Government of the member States of the European Union, the acceding and candidate states, Albania, Bosnia and Herzegovina, Croatia, former Yugoslav Republic of Macedonia, Serbia and Montenegro, as potential candidates, and the President of the European Commission, in the presence of the President of the European Parliament, the Secretary General of the Council/High Representative, the Special Representative of the UN Secretary General in Kosovo, the Special Co-ordinator of the Stability Pact for South-Eastern Europe and the High Representative for Bosnia and Herzegovina, meeting in Thessaloniki, agreed today on the following:

1. **We all share the values of democracy, the rule of law**, respect for human and minority rights, solidarity and a market economy, fully aware that they constitute the very foundations of the European Union. Respect of international law, inviolability of international borders, peaceful resolution of conflicts and regional co-operation are principles of the highest importance, to which we are all committed. We vigorously condemn extremism, terrorism and violence, be it ethnically, politically or criminally motivated.

2. **The EU reiterates its unequivocal support to the European perspective of the Western Balkan countries.** The future of the Balkans is within the European Union. The ongoing enlargement and the signing of the Treaty of Athens in April 2003 inspire and encourage the countries of the Western Balkans to follow the same successful path. Preparation for integration into European structures and ultimate membership into the European Union, through adoption of European standards, is now the big challenge ahead. The Croatian application for EU membership is currently under examination by the Commission. The speed of movement ahead lies in the hands of the countries of the region. The countries of the region fully share the objectives of economic and political union and look forward to joining a EU that is stronger in the pursuit of its essential objectives and more present in the world.

3. The endorsement yesterday by the European Council of The Thessaloniki agenda for the Western Balkans: Moving towards European Integration represents a new important step in the privileged relationship between the EU and the Western Balkans. Its content shall be considered as our shared agenda, and we all commit to its implementation. The countries of the region will focus their efforts on meeting the recommendations this agenda refers to.

4. We acknowledge that the Stabilisation and Association process (SAP) will remain the framework for the European course of the Western Balkan countries,



all the way to their future accession. The process and the prospects it offers serve as the anchor for reform in the Western Balkans, in the same way the accession process has done in Central and Eastern Europe. Progress of each country towards the EU will depend on its own merits in meeting the Copenhagen criteria and the conditions set for the SAP and confirmed in the final declaration of the November 2000 Zagreb summit. The Western Balkan countries highly value the annual review mechanism of the SAP, based on the Commission's reports, and commit themselves to implement its recommendations. The Western Balkan countries welcome the decisions by the EU to strengthen its Stabilisation and Association policy towards the region and to enrich it with elements from the experience of enlargement. They welcome in particular the launching of the European Partnerships, as well as the decisions for enhanced co-operation in the areas of political dialogue and the Common Foreign and Security Policy, parliamentary co-operation, support for institution building, opening of Community programmes. They take note of the ongoing discussions for an increase in the budgeted Community financial support to the region through the CARDS programme.

5. We support the full implementation of Resolution 1244 of the UN Security Council on Kosovo and the standards before status policy of UNMIK; we remain committed to the Dayton/Paris Agreements and we encourage full implementation of the Ohrid and Belgrade agreements. The EU and the SAP countries fully support the International Criminal Court, recalling relevant EU decisions. The Western Balkan countries pledge full and unequivocal co-operation with the International Criminal Tribunal for the former Yugoslavia. Its work, on all open issues, including the transfer to The Hague of all remaining indictees, should be allowed to progress without delays. Providing justice for war crimes is a legal, political and moral imperative to which we are all committed.

Sustainable return of refugees and internally displaced persons is critical for ethnic reconciliation and an index of democratic maturity; it remains high on our priority agenda. We stress the role of education, culture and youth in promoting tolerance, ensuring ethnic and religious coexistence and shaping modern democratic societies. Fragmentation and divisions along ethnic lines are incompatible with the European perspective, which should act as a catalyst for addressing problems in the region.

The recent launching of the EU police Mission in Bosnia and Herzegovina and of the operation Concordia in former Yugoslav Republic of Macedonia are tangible proofs of the EUs commitment to the region. While the EU is strengthening its commitment in Southeast Europe, notably in police and security operations, continued engagement of other international actors is necessary. We all highly value the close co-operation between the EU and the US and NATO in the region, within the framework of UN Resolutions, as well as the role of other international organisations and financial institutions operating in the area. We encourage close co-ordination of their activities.

6. Organised crime and corruption is a real obstacle to democratic stability, the rule of law, economic development and development of civil society in the region and is a source of grave concern to the EU. Combating it constitutes a major priority. The SAP countries commit themselves to define and implement the

measures foreseen in the follow up process to the London conference of November 2002 and described in the Thessaloniki Agenda. Particular attention will be given in combating trafficking in human beings. The countries of the region also commit to concrete measures, in accordance with the Thessaloniki Agenda and the documents of the Ohrid May 2003 conference, respectively, in order to cope effectively with illegal immigration and improving border security and management, aiming at achieving European standards.

7. We acknowledge the importance the peoples of the Western Balkans attach to the perspective of liberalisation of the EU's visa regime towards them. We recognise that progress is dependent on implementing major reforms in areas such as the strengthening of the rule of law, combating organised crime, corruption and illegal migration, and strengthening administrative capacity in border control and security of documents. The Western Balkan countries welcome the intention of the Commission to hold discussions, within the framework of the Stabilisation and Association Process, with each of them, regarding the requirements for how to take these issues forward in concrete terms.

8. Economic prosperity is essential to long term stability and democracy in the region. Persistent efforts and structural reforms are required to establish functioning market economies and to achieve sustainable development and to ensure employment.

We recognise the importance of developing modern networks and infrastructures in energy, transport and telecommunications in the region, consistent with the Trans-European Networks. We encourage further mobilisation of international support in these areas, notably through the European Investment Bank and other International Financial Institutions, and private investment.

The SAP countries welcome the decisions by the EU to consider further measures for enhancing its trade with them, to extend the Internal Energy Market to the region as a whole and to establish a regular economic dialogue with each country of the region.

Considering that small and medium-sized enterprises are a key source of jobs, innovation and wealth and are essential for the functioning of competitive market economies, the SAP countries hereby commit to the policy principles enshrined in the European Charter for Small Enterprises, as well as to participate in its implementation.

9. We reiterate that rapprochement with the EU will go hand in hand with the development of regional co-operation. The countries of the Western Balkans and, where applicable, other regional participant countries, commit to promote concrete objectives and initiatives, along the lines prescribed by the Thessaloniki Agenda, in the areas of regional free trade, visa-free movement within the region, collection of small arms, creation of regional markets for electricity and gas, development of transport, energy and telecommunication infrastructures, environment and water management, research technology and development, cross-border co-operation and parliamentary co-operation. We reconfirm our support to the Stability Pact for South-Eastern Europe in its complementary role to the Stabilisation and Association Process and in implementing its agreed core objectives. We invite it to focus in particular on the

tasks suggested in the Thessaloniki Agenda. We support regional co-operation initiatives such as the South-East European Co-operation Process (SEECP), the Adriatic-Ionian Initiative, and the Central European Initiative. We encourage further co-operation between the European Commission, the Stability Pact and the SEECP, which is gradually becoming the voice of the region.

10. Since our Zagreb meeting in November 2000, considerable progress was made towards stability, democracy and economic recovery in all countries of the Western Balkans, as well as in regional co-operation and good neighbourly relations between them, to the benefit of their peoples and of Europe as a whole. All the countries of the region have also made good progress in advancing towards the EU. A comparison with three years ago reveals the road that has been covered. At the same time, the Western Balkan countries, aware that there is much and hard work ahead, commit themselves to intensify the pace of reforms. The European Union pledges full support to their endeavours. We have agreed to meet periodically at our level, within the framework of a EU-Western Balkan forum, in order to discuss issues of common concern, to review progress of the countries of the region in their road to Europe, and to exchange views on major developments in the EU. Annual meetings of foreign ministers and ministers responsible for Justice and Home Affairs will be held as appropriate. Acceding and candidate countries will be fully involved. We welcome the intention of the incoming EU Italian Presidency to organise the first meetings of this kind, by the end of the year. Other ministers can also meet when appropriate.

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## **52007PC0423(02)**

COMMISSION OF THE EUROPEAN COMMUNITIES |  
Brussels, 18.7.2007 COM(2007) 423 final 2007/0140 (CNS)  
Proposal for a COUNCIL DECISION

on the signature of the Agreement between the European Community and Bosnia and Herzegovina on the facilitation of issuance of short-stay visas

Proposal for a COUNCIL DECISION

on the conclusion of the Agreement between the European Community and Bosnia and Herzegovina on the facilitation of issuance of short-stay visas (presented by the Commission)

### EXPLANATORY MEMORANDUM

#### 1. POLITICAL AND LEGAL BACKGROUND

The importance of a dialogue on visa issues, for Bosnia and Herzegovina as well as for all the other Western Balkan countries, was reaffirmed in the conclusions of the EU-Western Balkans Summit held in Thessaloniki on 21 June 2003, which confirmed also the European perspective of the countries of the Western Balkans. As concerns the visa issues, the “Thessaloniki agenda” confirmed that the perspective of visa liberalisation for the Western Balkan countries is a long-term goal linked to the progress of the countries concerned in implementing major reforms in areas such as

the strengthening of the rule of law, combating organised crime, corruption and illegal migration and the strengthening of their administrative capacity in border control and security of documents.

Given the European perspective of the country, the authorities of Bosnia and Herzegovina focused their interest on the possibility of obtaining facilitation of short-stay visa issuing procedures for its citizens as an immediate, transitional step towards the lifting of the visa obligation which remains a medium-term perspective.

For the European Community, visa facilitation agreements represent a new instrument in the framework of the European short-stay visa policy: in the Hague Programme, the Council and the Commission are invited to examine with a view to developing a common approach “whether in the context of the EC readmission policy it would be opportune to facilitate, on a case by case basis, the issuance of short-stay visas to third-country nationals, where possible and on a basis of reciprocity, as part of a real partnership in external relations, including migration-related issues”. The EU developed and used this instrument for the first time in its relations with the Russian Federation and with Ukraine.

In December 2005, at the level of Coreper, Member States agreed on a common approach for the development of the EU policy on visa facilitation and identified key elements to be taken into account when deciding to open negotiations on visa facilitations with third countries.

Following the authorization given by the Council to the Commission on 13 November 2006, negotiations with Bosnia and Herzegovina on the facilitation of the issuance of short-stay visas were opened in Brussels on 20 December 2006, back-to-back with the continuation of negotiations on a readmission agreement. Two further rounds of negotiations were held on 30 January 2007 and on 10 April 2007 in Brussels, in parallel (“back-to-back”) with negotiations on an EC-Bosnia and Herzegovina readmission agreement. Moreover, formal negotiations were occasionally prepared by informal expert meetings.

At the last formal round on 10 April 2007, the final texts of the visa facilitation and readmission agreements were initialled at technical level. At political level an initialling ceremony took place in Zagreb on 13 April 2007.

The European Commission has already negotiated a visa facilitation agreement with two third countries (the Russian Federation and Ukraine). The experience acquired in previous negotiations has been useful for the negotiations with Bosnia and Herzegovina .

Member States have been regularly informed and consulted in relevant Council Working groups and committees at all stages of the negotiations.

On the part of the Community, the legal basis for the Agreement is Article 62(2)(b), in conjunction with Article 300 TEC.

The attached proposals constitute the legal instruments for the signature and conclusion of the Agreement. The Council will decide by qualified majority. The European Parliament will have to be formally consulted on the conclusion of the Agreement, in accordance with Article 300(3) TEC.

The proposed decision concerning the conclusion sets out the necessary internal arrangements for the practical application of the Agreement. In particular, it specifies that the European Commission, assisted by experts from Member States, represents the Community within the Joint Committee set up by Article 12 of the Agreement.

Under Article 12(4), the Joint Committee may adopt its own rules of procedure. The Community position in this regard shall be established by the Commission in consultation with a special committee designated by the Council.

European citizens[1] are exempt from the visa obligation by Bosnia and Herzegovina. In this respect, the draft agreement on visa facilitation states in Article 1(2) that if Bosnia and Herzegovina would reintroduce the visa requirement for EU citizens, the same facilitations granted under the agreement to the citizens of Bosnia and Herzegovina would apply automatically, on the basis of reciprocity, to EU citizens.

## 2. OUTCOME OF NEGOTIATIONS

The Commission considers that the objectives set by the Council in its negotiating directives were attained and that the draft visa facilitation agreement is acceptable to the Community.

The final content of it can be summarised as follows:

- in principle, for all visa applicants, a decision on whether or not to issue a visa will have to be taken within 10 calendar days. This period may be extended up to 30 calendar days when further scrutiny is needed. In urgent cases, the period for taking a decision may be reduced to three working days or less;
- the visa fee for processing applications of citizens of Bosnia and Herzegovina shall amount to €35. This fee will be applied to all visa applicants of Bosnia and Herzegovina and concerns both single and multiple-entry visas. Moreover, certain categories of persons benefit from a full waiving of the visa fee: close relatives, officials participating in government activities, members of the Court and prosecutor office, students, disabled persons, journalists, representatives of the religious communities, representatives of civil society, members of the professions, members of train crews, drivers conducting international cargo and passenger transportation services, pensioners, children under the age of 6, humanitarian cases and persons participating in cultural, educational exchange programmes and sport or cultural events;
- the documents to be presented regarding the purpose of the journey have been simplified for some categories of persons: close relatives, business people, members of official delegations, students, participants in scientific, cultural and sporting events, journalists, persons visiting military and civil burials, representatives of the traditional religious communities, representatives of civil society, members of the professions, drivers conducting international cargo and passenger transportation services, persons visiting for medical reasons and tourists in organized trips. For these categories of persons, only the documents listed in the agreement can be requested for justifying the purpose of the journey. No other justification, invitation or validation provided for by the legislation of the Member States is required;
- there are also simplified criteria for issuing multiple-entry visas for the following categories of persons:
  - a) for members of the Court and the prosecutor office, permanent members of official delegations and spouses and children visiting citizens of Bosnia and Herzegovina legally residing in the Member States: visa valid up to five years (or shorter, limited to the period of the validity of their mandate or authorisation for legal residence);
  - b) participants in scientific, cultural, official exchange programmes and sport events, journalists, business people, representatives of the religious communities, representatives of civil society, members of the professions, professional drivers and train crews, students and persons visiting for medical treatment, provided that during the previous two years they have made good use of a 1 year multiple-entry visa and the reasons for requesting a multiple-entry visa are still valid: visas valid for a minimum of 2 years and a maximum of 5 years are issued;
- citizens of Bosnia and Herzegovina who are holders of valid diplomatic passports are exempted from the visa requirement for short-stays;

- for citizens of Bosnia and Herzegovina who are holders of valid service passports the bilateral Agreements signed before 1 January 2007 continue to apply for a period of 5 years. A Declaration attached to the Agreement provides the assessment of the service passports system at the latest 4 years after the entry into force of the Agreement;
- a protocol was agreed stating that Member States that do not fully apply the Schengen acquis yet, may unilaterally recognise Schengen visas and residence permits issued to citizens of Bosnia and Herzegovina for the purpose of transit through their territory in accordance with European Parliament and Council Decision N°895/2006/EC of 14 June 2006[2]. A reference to the future amendment of the Decision N°895/2006/EC for covering Bulgaria and Romania is added;
- a European Community Declaration is attached to the Agreement on access of visa applicants to information and harmonisation of information procedures for issuance of short-stay visas;
- replying to the specific requests formulated by Bosnia and Herzegovina, European Community Declarations are attached to the Agreement on facilitations for family members (not covered by the legally binding provisions of the Agreement) and for bona fide applicants.

For all issues that are not covered by the Agreement the normal Schengen rules or national law continue to apply, such as the refusal of the visa, recognition of travel documents, proof of sufficient means of subsistence, the possibility in the case of doubts to invite applicants for a personal interview in individual cases but also the already existing flexibilities for bona fide travellers.

The specific situations of Denmark, the United Kingdom and Ireland are reflected in the preamble and in two joint declarations attached to the Agreement. The close association of Norway and Iceland to the implementation, application and development of the Schengen acquis is likewise reflected in a joint declaration to the Agreement.

Since the two agreements on visa facilitation and readmission are linked, both agreements should be signed, concluded and enter into force simultaneously.

### 3. CONCLUSIONS

In the light of the above-mentioned results, the Commission proposes that the Council

- decide that the Agreement be signed on behalf of the Community and authorise the President of the Council to appoint the person(s) duly empowered to sign on behalf of the Community;

- approve, after consultation of the European Parliament, the attached Agreement between the European Community and Bosnia and Herzegovina on the facilitation of the issuance of short-stay visas.

Proposal for a

#### COUNCIL DECISION

on the signature of the Agreement between the European Community and Bosnia and Herzegovina on the facilitation of issuance of short-stay visas

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 62(2)(b)(i) and (ii), in conjunction with the first sentence of the first subparagraph of Article 300(2) thereof,

Having regard to the proposal from the Commission[3],

Whereas:

(1) By its decision of 13 November 2006, the Council authorised the Commission to negotiate an agreement between the European Community and Bosnia and Herzegovina regarding the facilitation of the issuance of short-stay visas.

(2) Negotiations on the agreement were opened on 20 December 2006 and concluded on 10 April 2007.

(3) Subject to its possible conclusion at a later date, the Agreement initialled at technical level in Brussels on 10 April 2007 and at political level in Zagreb on 13 April 2007 should be signed ....

(4) In accordance with the Protocol on the position of the United Kingdom and Ireland, and the Protocol integrating the Schengen acquis into the framework of the European Union, the United Kingdom and Ireland do not take part in the adoption of this Decision and are therefore not bound by it or subject to its application.

(5) In accordance with the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark does not take part in the adoption of this Decision and is therefore not bound by it or subject to its application

HAS DECIDED AS FOLLOWS:

Sole Article

Subject to a possible conclusion at a later date, the President of the Council is hereby authorised to designate the person(s) empowered to sign, on behalf of the European Community, the Agreement between the European Community and Bosnia and Herzegovina on the facilitation of the issuance of short-stay visas and the related documents consisting of the text of the agreement, a Protocol and the declarations.

Done in Brussels, the.....of.....2007.

For the Council

The President

2007/0140 (CNS)

Proposal for a

**COUNCIL DECISION**

on the conclusion of the Agreement between the European Community and Bosnia and Herzegovina on the facilitation of issuance of short-stay visas

**THE COUNCIL OF THE EUROPEAN UNION,**

Having regard to the Treaty establishing the European Community, and in particular Article 62(2)(b)(i) and (ii), in conjunction with the first sentence of the first subparagraph of Article 300(2) and the first subparagraph of Article 300(3) thereof,

Having regard to the proposal from the Commission[4],

Having regard to the opinion of the European Parliament[5]

**WHEREAS:**

(1) The Commission has negotiated on behalf of the European Community an Agreement with Bosnia and Herzegovina on the facilitation of the issuance of short-stay visas;

(2) This Agreement has been signed, on behalf of the European Community, on .....2007 subject to its possible conclusion at a later date, in accordance with Decision...../...../EC of the Council of [.....]

(3) This Agreement should be approved.

(4) The Agreement establishes a Joint Committee for the management of the Agreement, which may adopt its rules of procedure. It is appropriate to provide for a simplified procedure for the establishment of the Community position in this case.

(5) In accordance with the Protocol on the position of the United Kingdom and Ireland, and the Protocol integrating the Schengen acquis into the framework of the

European Union, the United Kingdom and Ireland do not take part in the adoption of this Decision and are therefore not bound by it or subject to its application.

(6) In accordance with the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark does not take part in the adoption of this Decision and is therefore not bound by it or subject to its application.

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement between the European Community and Bosnia and Herzegovina on the facilitation of the issuance of short-stay visas is hereby approved on behalf of the Community.

The text of the agreement is attached to this Decision.

Article 2

The President of the Council shall give the notification provided for in Article 14(1) of the Agreement[6].

Article 3

The Commission, assisted by experts from Member States, shall represent the Community in the Joint Committee of experts established by Article 12 of the Agreement.

Article 4

The position of the Community within the Joint Committee of experts with regard to the adoption of its rules of procedure as required under Article 12(4) of the Agreement shall be taken by the Commission after consultation with a special committee designated by the Council.

Article 5

This Decision shall be published in the Official Journal of the European Union.

Done in Brussels, the.....of.....2007.

For the Council

The President

Annex

AGREEMENT

between

the European Community and Bosnia and Herzegovina

on the facilitation of the issuance of visas

THE EUROPEAN COMMUNITY hereinafter referred to as “ the Community ”;

and

BOSNIA AND HERZEGOVINA,

hereinafter referred to as the Parties;

Desiring, as a first concrete step towards the visa free travel regime, to facilitate people-to-people contacts as an important condition for a steady development of economic, humanitarian, cultural, scientific and other ties, by facilitating the issuing of visas to nationals of Bosnia and Herzegovina;

Bearing in mind that, as from 21 July 2005, all EU citizens are exempted from the visa requirement when travelling to Bosnia and Herzegovina for a period of time not exceeding 90 days or transiting through the territory of Bosnia and Herzegovina;

Recognising that if Bosnia and Herzegovina were to reintroduce the visa requirement for EU citizens, the same facilitations granted under this agreement to the nationals of Bosnia and Herzegovina would automatically, on the basis of reciprocity, apply to EU citizens;



Recognising that visa facilitation should not lead to illegal migration and paying special attention to security and readmission;

Taking into account the Protocol on the position of the United Kingdom and Ireland and the Protocol integrating the Schengen acquis into the framework of the European Union, annexed to the Treaty on European Union and the Treaty establishing the European Community and confirming that the provisions of this agreement do not apply to the United Kingdom and Ireland;

Taking into account the Protocol on the position of Denmark annexed to the Treaty on European Union and the Treaty establishing the European Community and confirming that the provisions of this agreement do not apply to the Kingdom of Denmark;

HAVE AGREED AS FOLLOWS:

Article 1 - Purpose and scope of application

1. The purpose of this Agreement is to facilitate the issuance of visas for an intended stay of no more than 90 days per period of 180 days to the nationals of Bosnia and Herzegovina.

2. If Bosnia and Herzegovina were to reintroduce the visa requirement for EU citizens or certain categories of EU citizens, the same facilitations granted under this agreement to the nationals of Bosnia and Herzegovina would automatically, on the basis of reciprocity, apply to EU citizens concerned.

Article 2 - General clause

1. The visa facilitations provided in this Agreement shall apply to nationals of Bosnia and Herzegovina only insofar as they are not exempted from the visa requirement by the laws and regulations of the Community or the Member States, the present agreement or other international agreements.

2. The national law of Bosnia and Herzegovina, or of the Member States or Community law shall apply to issues not covered by the provisions of this Agreement, such as the refusal to issue a visa, recognition of travel documents, proof of sufficient means of subsistence and the refusal of entry and expulsion measures.

Article 3 - Definitions

For the purpose of this Agreement:

a) " Member State " shall mean any Member State of the European Union, with the exception of the Kingdom of Denmark, the Republic of Ireland and the United Kingdom;

b) " Citizen of the European Union " shall mean a national of a Member State as defined in point (a);

c) " National of Bosnia and Herzegovina " : shall mean a person who holds the nationality of Bosnia and Herzegovina;

d) " Visa " shall mean an authorization issued by a Member State or a decision taken by such State which is required with a view to:

- entry for an intended stay in that Member State or in several Member States of no more than 90 days in total,

- entry for transit through the territory of that Member State or several Member States.

e) " legally residing person " shall mean a national of Bosnia and Herzegovina authorized or entitled to stay for more than 90 days in the territory of a Member State, on the basis of Community or national legislation.

Article 4 - Documentary evidence regarding the purpose of the journey

1. For the following categories of nationals of Bosnia and Herzegovina the following documents are sufficient for justifying the purpose of the journey to the other Party:

a) for members of official delegations who, following an official invitation addressed to Bosnia and Herzegovina, shall participate in meetings, consultations, negotiations

or exchange programmes, as well as in events held in the territory of the Member States by intergovernmental organisations:

- a letter issued by an authority from Bosnia and Herzegovina confirming that the applicant is a member of its delegation travelling to the territory of the Member States to participate in the aforementioned events, accompanied by a copy of the official invitation;

b) for business people and representatives of business organisations:

- a written request from a host legal person or company, organisation, or an office or branch of such legal person or company, state or local authorities of the Member States or organising committees of trade and industrial exhibitions, conferences and symposia held in the territories of the Member States, endorsed by the Foreign Trade Chamber of Bosnia and Herzegovina;

c) for representatives of civil society organisations when undertaking trips for the purposes of educational training, seminars, conferences, including in the framework of exchange programs:

- a written request issued by the host organisation, a confirmation that the person is representing the civil society organisation and the certificate on establishment of such organisation from the relevant Register issued by a state authority in accordance with the national legislation;

d) for drivers conducting international cargo and passenger transportation services to the territories of the Member States in vehicles registered in Bosnia and Herzegovina:

- a written request from the Foreign Trade Chamber of Bosnia and Herzegovina, stating the purpose, duration and frequency of the trips;

e) for members of train, refrigerator and locomotive crews in international trains, travelling to the territories of the Member States:

- a written request from the competent railway company of Bosnia and Herzegovina stating the purpose, duration and frequency of the trips;

f) for journalists:

- a certificate or other document issued by a professional organisation proving that the person concerned is a qualified journalist and a document issued by his/her employer stating that the purpose of the journey is to carry out journalistic work;

g) for persons participating in scientific, cultural and artistic activities, including university and other exchange programmes:

- a written request from the host organisation to participate in those activities;

h) for pupils, students, post-graduate students and accompanying teachers who undertake trips for the purposes of study or educational training, including in the framework of exchange programmes as well as other school-related activities:

- a written request or a certificate of enrolment from the host university, academy, institute, college or school or student cards or certificates of the courses to be attended;

i) for participants in international sports events and persons accompanying them in a professional capacity:

- a written request from the host organization: competent authorities, national sport federations or National Olympic Committees of the Member States;

j) for participants in official exchange programs organized by twin cities:

- a written request of the Head of Administration/Mayor of these cities;

k) for close relatives – spouse, children (including adopted), parents (including custodians), grandparents and grandchildren - visiting nationals of Bosnia and Herzegovina legally residing in the territory of the Member States:

- a written request from the host person;

- l) for persons visiting for medical reasons and necessary accompanying persons:
  - an official document of the medical institution confirming necessity of medical care in this institution, the necessity of being accompanied, and proof of sufficient financial means to pay for the medical treatment;
- m) for persons visiting for burial ceremonies:
  - an official document confirming the fact of death as well as confirmation of the family or other relationship between the applicant and the buried;
- n) for representatives of the traditional religious communities in Bosnia and Herzegovina visiting diasporas of Bosnia in Herzegovina in the territory of the Member States:
  - a written request by the head of the religious community in Bosnia and Herzegovina, stating the purpose, duration and frequency of trips;
- o) for members of the professions participating in international exhibitions, conferences, symposia, seminars or other similar events held in the territory of the Member States:
  - a written request from the host organization confirming that the person concerned is participating in the event;
- p) for visiting military and civil burial grounds:
  - an official document confirming the existence and preservation of the grave as well as family or other relationship between the applicant and the buried;
- q) for persons travelling for tourism:
  - a certificate or voucher from a travel agency or a tour operator accredited by Member States in the framework of the local consular cooperation confirming the booking of an organized trip.

2. The written request mentioned in paragraph 1 of this Article shall contain the following items:

- a) for the invited person – name and surname, date of birth, sex, citizenship, number of the identity document, time and purpose of the journey, number of entries and where relevant the name of the spouse and children accompanying the invited person;
- b) for the inviting person – name, surname and address; or
- c) for the inviting legal person, company or organisation – full name and address and
  - if the request is issued by an organisation, the name and position of the person who signs the request,
  - if the inviting person is a legal person or company or an office or a branch of such legal person or company established in the territory of a Member State, the registration number as required by the national law of the Member State concerned.

3. For the categories of persons mentioned in paragraph 1 of this article, all categories of visa are issued according to the simplified procedure without requiring any other justification, invitation or validation concerning the purpose of the journey, provided for by the legislation of the Member States.

#### Article 5 - Issuance of multiple-entry visas

1. Diplomatic missions and consular posts of the Member States shall issue multiple-entry visas with a term of validity of up to five years to the following categories of persons:

- a) members of the Court of Bosnia and Herzegovina and the prosecutor office of Bosnia and Herzegovina, if they are not exempted from the visa requirement by the present Agreement, in the exercise of their duties, with a term of validity limited to their term of office if this is less than five years;
- b) permanent members of official delegations who, following an official invitation addressed to Bosnia and Herzegovina, shall regularly participate in meetings,

consultations, negotiations or exchange programs, as well as in events held in the territory of the Member States by intergovernmental organizations;

c) close relatives - spouse, children (including adopted), parents (including custodians) - visiting nationals of Bosnia and Herzegovina legally residing in the territory of the Member States with the term of validity limited to the duration of the validity of their authorization for legal residence.

2. Diplomatic missions and consular posts of the Member States shall issue multiple-entry visas with a term of validity of up to one year to the following categories of persons, provided that during the previous year they have obtained at least one visa, have made use of it in accordance with the laws on entry and stay of the visited State and that there are reasons for requesting a multiple-entry visa:

a) members of official delegations who, following an official invitation addressed to Bosnia and Herzegovina, shall regularly participate in meetings, consultations, negotiations or exchange programmes, as well as in events held in the territory of the Member States by intergovernmental organizations;

b) business people and representatives of business organizations who regularly travel to the Member States;

c) drivers conducting international cargo and passenger transportation services to the territories of the Member States in vehicles registered in Bosnia and Herzegovina;

d) members of train, refrigerator and locomotive crews in international trains, travelling to the territories of the Member States;

e) journalists;

f) persons participating in scientific, cultural and artistic activities, including university and other exchange programs, who regularly travel to the Member States;

g) students and post-graduate students who regularly travel for the purposes of study or educational training, including in the framework of exchange programs;

h) participants in international sports events and persons accompanying them in a professional capacity;

i) participants in official exchange programs organized by twin cities;

j) persons needing to visit regularly for medical reasons and necessary accompanying persons;

k) representatives of the traditional religious communities in Bosnia and Herzegovina visiting diasporas of Bosnia in Herzegovina in the territory of the Member States, who regularly travel to the Member States;

l) representatives of civil society organizations travelling regularly to Member States for the purposes of educational training, seminars, conferences, including in the framework of exchange programs;

m) members of the professions participating in international exhibitions, conferences, symposia, seminars or other similar events who regularly travel to the Member States.

3. Diplomatic missions and consular posts of the Member States shall issue multiple-entry visas with a term of validity of a minimum of 2 years and a maximum of 5 years to the categories of persons referred to in paragraph 2 of this Article, provided that during the previous two years they have made use of the one year multiple-entry visas in accordance with the laws on entry and stay of the visited State and that the reasons for requesting a multiple-entry visa are still valid.

4. The total period of stay of persons referred to in paragraphs 1 to 3 of this Article shall not exceed 90 days per period of 180 days in the territory of the Member States.

#### Article 6 - Fees for processing visa applications

1. The fee for processing visa applications of nationals of Bosnia and Herzegovina shall amount to €35.

The aforementioned amount may be reviewed in accordance with the procedure provided for in Article 14(4).

If Bosnia and Herzegovina were to reintroduce the visa requirement for EU citizens, the visa fee to be charged by Bosnia and Herzegovina shall not be higher than €35 or the amount agreed if the fee is reviewed in accordance with the procedure provided for in Article 14(4).

2. Fees for processing the visa application are waived for the following categories of persons:

- a) close relatives – spouses, children (including adopted), parents (including custodians), grandparents and grandchildren of nationals of Bosnia and Herzegovina legally residing in the territory of the Member States;
- b) members of official delegations who, following an official invitation addressed to Bosnia and Herzegovina, shall participate in meetings, consultations, negotiations or exchange programmes, as well as in events held in the territory of the Member States by intergovernmental organisations;
- c) members of the Court of Bosnia and Herzegovina and the prosecutor office of Bosnia and Herzegovina, if they are not exempted from the visa requirement by the present Agreement;
- d) pupils, students, post-graduate students and accompanying teachers who undertake trips for the purpose of study or educational training;
- e) children under 6 years of age;
- f) disabled persons and the person accompanying them, if necessary;
- g) persons who have presented documents proving the necessity of their travel on humanitarian grounds, including to receive urgent medical treatment and the person accompanying such person, or to attend a funeral of a close relative, or to visit a seriously ill close relative;
- h) participants in international sports events and persons accompanying them in a professional capacity;
- i) persons participating in scientific, cultural and artistic activities including university and other exchange programmes;
- j) participants in official exchange programmes organised by twin cities;
- k) journalists;
- l) representatives of the traditional religious communities in Bosnia and Herzegovina visiting diasporas of Bosnia and Herzegovina in the territory of the Member States;
- m) representatives of civil society organisations travelling to attend meetings, seminars, exchange programs or training courses;
- n) drivers conducting international cargo and passenger transportation services to the territories of the Member States in vehicles registered in Bosnia and Herzegovina;
- o) members of train, refrigerator and locomotive crews in international trains, travelling to the territories of the Member States;
- p) pensioners;
- q) members of the professions participating in international exhibitions, conferences, symposia, seminars or other similar events held in the territory of the Member States.

Article 7 - Length of procedures for processing visa applications

1. Diplomatic missions and consular posts of the Member States shall take a decision on the request to issue a visa within 10 calendar days of the date of the receipt of the application and documents required for issuing the visa.

2. The period of time for taking a decision on a visa application may be extended to up to 30 calendar days in individual cases, notably when further scrutiny of the application is needed.

3. The period of time for taking a decision on a visa application may be reduced to 3 working days or less in urgent cases.

#### Article 8 - Departure in case of lost or stolen documents

Citizens of the European Union and of Bosnia and Herzegovina who have lost their identity documents, or from whom these documents have been stolen while staying in the territory of Bosnia and Herzegovina or the Member States, may leave that territory on the basis of valid identity documents entitling them to cross the border issued by diplomatic missions or consular posts of the Member States or of Bosnia and Herzegovina without any visa or other authorization.

#### Article 9 - Extension of visa in exceptional circumstances

The nationals of Bosnia and Herzegovina who do not have the possibility to leave the territory of the Member States by the time stated in their visas for reasons of force majeure shall have the term of their visas extended free of charge in accordance with the legislation applied by the receiving State for the period required for their return to the State of their residence.

#### Article 10 - Diplomatic passports

1. Nationals of Bosnia and Herzegovina, holders of valid diplomatic passports can enter, leave and transit through the territories of the Member States without visas.

2. Persons mentioned in paragraph 1 of this Article may stay in the territories of the Member States for a period not exceeding 90 days per period of 180 days.

#### Article 11 - Territorial validity of visas

Subject to the national rules and regulations concerning national security of the Member States and subject to EU rules on visas with limited territorial validity, nationals of Bosnia and Herzegovina shall be entitled to travel within the territory of the Member States on an equal basis with European Union citizens.

#### Article 12 - Joint Committee for management of the Agreement

1. The Parties shall set up a Joint Committee of experts (hereinafter referred to as “the Committee”), composed of representatives of the European Community and of Bosnia and Herzegovina. The Community shall be represented by the Commission of the European Communities, assisted by experts from the Member States.

2. The Committee shall, in particular, have the following tasks:

(a) monitoring the implementation of the present Agreement;

(b) suggesting amendments or additions to the present Agreement;

(c) settling disputes arising out of the interpretation or application of the provisions in this Agreement.

3. The Committee shall meet whenever necessary at the request of one of the Parties and at least once a year.

4. The Committee shall establish its rules of procedure.

#### Article 13 - Relation of this Agreement with bilateral Agreements between Member States and Bosnia and Herzegovina

1. As from its entry into force, this Agreement shall take precedence over provisions of any bilateral or multilateral agreements or arrangements concluded between individual Member States and Bosnia and Herzegovina, insofar as the provisions of the latter agreements or arrangements cover issues dealt with by the present Agreement.

2. The provisions of bilateral Agreements or arrangements between individual Member States and Bosnia and Herzegovina signed before 1 January 2007 providing for the exemption of the holders of service passports from the visa requirement, shall continue to apply for a period of 5 years from the entry into force of this Agreement without prejudice to the right of the Member States concerned or Bosnia and

Herzegovina to denounce or suspend these bilateral agreements during this period of 5 years.

#### Article 14 - Final clauses

1. This Agreement shall be ratified or approved by the Parties in accordance with their respective procedures and shall enter into force on the first day of the second month following the date on which the Parties notify each other that the procedures referred to above have been completed.
2. By way of derogation to paragraph 1 of this Article, the present agreement shall only enter into force on the date of the entry into force of the Agreement between the European Community and Bosnia and Herzegovina on readmission of persons if this date is after the date provided for in paragraph 1 of this Article.
3. This Agreement is concluded for an indefinite period of time, unless terminated in accordance with paragraph 6 of this Article.
4. This Agreement may be amended by written agreement of the Parties. Amendments shall enter into force after the Parties have notified each other of the completion of their internal procedures necessary for this purpose.
5. Each Party may suspend in whole or in part this Agreement for reasons of public order, protection of national security or protection of public health. The decision on suspension shall be notified to the other Party not later than 48 hours before its entry into force. The Party that has suspended the application of this Agreement shall immediately inform the other Party once the reasons for the suspension no longer apply.
6. Each Party may terminate this Agreement by giving written notice to the other Party. This Agreement shall cease to be in force 90 days after the date of such notification.

Done in XXX on XXX in duplicate in each of the official languages of the Parties, each of these texts being equally authentic.

For the European Community For Bosnia and Herzegovina

#### ANNEX

#### PROTOCOL TO THE AGREEMENT ON THE MEMBER STATES THAT DO NOT FULLY APPLY THE SCHENGEN ACQUIS

Those Member States which are bound by the Schengen acquis but which do not issue yet Schengen visas, while awaiting the relevant decision of the Council to that end, shall issue national visas the validity of which is limited to their own territory.

These Member States may unilaterally recognize Schengen visas and residence permits for the transit through their territory, in accordance with European Parliament and Council Decision No 895/2006/EC of 14 June 2006.

As European Parliament and Council Decision No 895/2006/EC of 14 June 2006 does not apply to Romania and Bulgaria; similar provisions will be proposed by the European Commission in order to enable these countries to unilaterally recognize Schengen visas and residence permits and other similar documents issued by other Member States not yet fully integrated into the Schengen area for the purpose of transit through their territory.

#### JOINT DECLARATION CONCERNING DENMARK

The Parties take note that the present Agreement does not apply to the procedures for issuing visas by the diplomatic missions and consular posts of the Kingdom of Denmark.

In such circumstances, it is desirable that the authorities of Denmark and of Bosnia and Herzegovina conclude, without delay, a bilateral agreement on the facilitation of

the issuance of short-stay visas in similar terms as the Agreement between the European Community and Bosnia and Herzegovina.

#### JOINT DECLARATION CONCERNING THE UNITED KINGDOM AND IRELAND

The Parties take note that the present Agreement does not apply to the territory of the United Kingdom and Ireland.

In such circumstances, it is desirable that the authorities of the United Kingdom, Ireland and Bosnia and Herzegovina, conclude bilateral agreements on the facilitation of the issuance of visas.

#### JOINT DECLARATION CONCERNING ICELAND AND NORWAY

The Parties take note of the close relationship between the European Community and Norway and Iceland, particularly by virtue of the Agreement of 18 May 1999 concerning the association of these countries with the implementation, application and development of the Schengen acquis.

In such circumstances, it is desirable that the authorities of Norway, Iceland and Bosnia and Herzegovina conclude, without delay, bilateral agreements on the facilitation of the issuance of short-stay visas in similar terms as the Agreement between the European Community and Bosnia and Herzegovina.

#### JOINT DECLARATION CONCERNING SWISS CONFEDERATION AND LIECHTENSTEIN ( if needed)

If the Agreement between the EU, the EC and the Swiss Confederation concerning the Swiss Confederation's association with the implementation, application and development of the Schengen acquis and the Protocols to this Agreement concerning Liechtenstein has entered into force by the time negotiations with Bosnia and Herzegovina have concluded, a similar declaration will also be made in respect of Switzerland and Liechtenstein.

#### EUROPEAN COMMUNITY DECLARATION ON ACCESS OF VISA APPLICANTS AND HARMONISATION OF INFORMATION ON PROCEDURES FOR ISSUING SHORT-STAY VISAS AND DOCUMENTS TO BE SUBMITTED WHEN APPLYING FOR SHORT-STAY VISAS

Recognizing the importance of transparency for visa applicants, the European Community recalls that the legislative proposal on the recast of the Common Consular Instructions on visas for the diplomatic missions and consular posts has been adopted on 19 July 2006 by the European Commission and addresses the issue of conditions of access of visa applicants to diplomatic missions and consular posts of the Member States.

Regarding the information to be provided to visa applicants the European Community considers that appropriate measures should be taken:

- In general, to draw up basic information for applicants on the procedures and conditions for applying for visas and on their validity.
- The European Community will draw up a list of minimum requirements in order to ensure that applicants from Bosnia and Herzegovina are given coherent and uniform basic information and are required to submit, in principle, the same supporting documents.

The information mentioned above including the list of accredited travel agencies and tour operators in the framework of local consular cooperation is to be disseminated widely (on the notice boards of consulates, in leaflets, on websites etc.).

The diplomatic missions and consular posts of the Member States shall provide information about existing possibilities under the Schengen acquis for facilitation of the issuing of short-stay visas on a case-by-case basis.



## EUROPEAN COMMUNITY DECLARATION ON REVIEWING THE VISA REQUIREMENT FOR HOLDERS OF SERVICE PASSPORTS

As the exemption of the holders of service passports from the visa requirement provided in bilateral Agreements or arrangements between individual Member States and Bosnia and Herzegovina which have been signed before 1 January 2007 shall only continue to apply for a period of 5 years from the entry into force of this Agreement without prejudice to the right of the Member States concerned or Bosnia and Herzegovina to denounce or suspend these bilateral agreements during this period of 5 years, the European Community will reassess the situation of the holders of service passports at the latest 4 years after the entry into force of this Agreement, in view of a possible amendment of the Agreement to that end in accordance with the procedure provided in Article 14(4).

## EUROPEAN COMMUNITY DECLARATION ON THE EXEMPTION OF BULGARIAN AND ROMANIAN CITIZENS FROM THE VISA OBLIGATION BY BOSNIA AND HERZEGOVINA

The European Community takes note of the intention of Bosnia and Herzegovina to exempt Bulgarian and Romanian citizens from the visa obligation by unilateral Decision.

Taking into consideration the importance of the equal treatment of all European citizens by third countries on visa issues, the European Community declares its intention to wait for the adoption by the Bosnia and Herzegovina authorities of the unilateral decision exempting Bulgarian and Romanian citizens from the visa obligation before ratifying the present Visa Facilitation Agreement.

## EUROPEAN COMMUNITY DECLARATION ON FACILITATIONS FOR FAMILY MEMBERS AND BONA FIDE APPLICANTS

The European Community takes note of the suggestion of Bosnia and Herzegovina to give a wider definition to the notion of family members that should benefit from visa facilitation as well as of the importance that Bosnia and Herzegovina attaches to the simplification of movement of this category of persons.

In order to ease the mobility of an extended number of persons which have family links (in particular sisters and brothers and their children) with citizens of Bosnia and Herzegovina legally residing in the territories of Member States, the European Community invites the Member States' consular offices to make full use of the existing possibilities in the "acquis communautaire" for facilitating the issuance of visas to this category of persons, including in particular, the simplification of documentary evidence requested for the applicants, exemptions from handling fees and where appropriate the issuing of multiple entry visas.

In addition, the European Community also invites the Member States' consular offices to make full use of these possibilities for the facilitation of the issuance of visas to bona fide applicants.

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[1] Bosnia and Herzegovina announced its intention to exempt by unilateral Decision the Bulgarian and Romanian citizens from the visa obligation. A Community Declaration is annexed to the agreement linking the ratification of the Visa Facilitation Agreement to the adoption by Bosnia and Herzegovina of the Decision exempting the Bulgarian and Romanian citizens from the visa obligation.

[2] OJ L167, 20.6.2006, p.1.

[3] OJ C, p. .

[4] OJ C...

[5] OJ C...

[6] The date of entry into force of the Agreement will be published in the Official Journal of the European Union [by the General Secretariat of the Council].

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