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WORKSHOP

EU ENLARGEMENT AND STATE BUILDING IN THE BALKANS : A COMPARATIVE ANALYSIS

WHAT FUTURE FOR BOSNIA & HERZEGOVINA AND KOSOVO ?

The benefits of a plan for visa liberalisation in Kosovo

What would the consequences of visa liberalisation for Kosovo whose neighbours already benefit from it be? Does Kosovo run the risk of becoming the last “European ghetto”? What obstacles remain for visa liberalisation and when could it be contemplated?

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Generally seen as a technical and merit-based process, visa liberalisation has also gained a political dimension. First of all, it was put forward in a specific electoral context to support pro-European parties in Serbia. Moreover, because it fulfils citizens’ concrete demands, local governments have strategically promoted its introduction and have capitalised on its symbolic value. Being granted visa-free regime is presented as a step forward on the road to EU membership and as a European indicator, although it has never been an official benchmark.

The EU lifted the restriction for all citizens of Serbia, Montenegro and Macedonia in December 2009 and for those of Albania and Bosnia in December 2010. This implies that only the residents of Kosovo can not enjoy visa-free travel to Schengen countries. Granting visa liberalisation to Kosovo will therefore eliminate the discrepancy and create a homogenised regional landscape (1). But there are still many impediments and Kosovo’s road to visa liberalisation looks bumpy, even though substantial progress has been achieved (2). Political will and technical requirements are intertwined when it comes to free movement of persons, which is the lynchpin of a policy aiming to avoid that Kosovo becomes a ghetto in Europe (3).

1. Lifting the visa requirements for Kosovo: what consequences?

If the EU lifted the visa requirements, Kosovo residents holding a biometric passport could travel freely to EU countries (except for the UK and Ireland) and to associate countries in the Schengen area (Switzerland, Norway and Iceland) for a stay of three months maximum. Needless to say, this is a major aspiration for people who look towards Europe. Today, a Kosovar who wants to travel to Europe shall spend approximately 120 EUR, which includes the visa fee, the insurance and the cost of an array of compulsory documents. Expensive, the process is also opaque and, as an EU official summarised, it is “a mess”¹: processing times and costs vary from embassy to embassy, application files and possible exemptions are not standardised and almost half of the applicants are turned down, no matter how much they have spent. Prishtina-based European Commission liaison office (ECLO) is currently working to implement a single application process common to all embassies.

What should be stressed here is that a visa-free regime will facilitate mobility of persons who need to travel for professional, academic or family reasons. For example, early February 2011, Kosovar journalists were denied a visa and could not attend the presentation made by the renowned writer Jusuf Buxhovi in Paris. The introduction of visa liberalisation will thus bring Kosovars closer to Europeans, but it will also make them equal to their neighbours who already enjoy visa-free travel. In other words, as long as Kosovo has not joined the visa-free club, citizens of the Western Balkans will not be treated in a fair and equitable manner.

¹ Interview made by the author in Prishtinë/Priština, October 2010

Last but not least, the process which leads to visa liberalisation is a capacity-building exercise in itself. Local politicians will work hard to achieve real change in their security policies and the EU Commission will closely monitor the process and publish regular status reports, which will enable Kosovo to gain experience synchronising its legislation with that of EU. While concentrating on the fulfilment of the reforms, Kosovo will thus learn a structured approach. Be that as it may, for the time being, Kosovo has not been granted much.

2. Kosovo's visa liberalisation perspective

Implementing a visa-free regime is a step-by-step process. It usually starts with a facilitated visa regime for specific categories such as journalists, businessmen, academic staff and students, before a visa dialogue, which is a major incentive for Kosovo's government to improve the rule of law, is launched. Then, the country receives a visa liberalisation roadmap, which provides crucial guidance on issues such as the security of documents, the fight against organised crime, migration and border security. The starting point for these reforms is properly functioning readmission arrangements. On the basis of the achievements of the benchmarks listed on the roadmap, the EU Commission presents the visa liberalisation to the Council, which takes its decision by unanimous vote.

In the case of Kosovo, the first phase related to a facilitated visa regime has been skipped and, in a 2009 communication, the EU Commission proposed to move forward with a structured approach to bring Kosovo's citizens closer to the EU through a visa dialogue, with the perspective of eventual visa liberalisation when the necessary reforms will have been undertaken in order not to leave Kosovo out¹. Two years have passed since the Commission's decision. The EU assessment mission has concluded that the readmission process works well and that Kosovo simply needs technical and financial support. Besides, some EU officials, such as MEP Ulrike Lunacek, have acknowledged that substantial progress has been achieved; but Kosovo has not received any roadmap. Until now, it has complied with the readmission requirement: 18 readmission bilateral agreements have been signed with the EU member States, and the readmission law was adopted on 25 June 2010, as well as the strategy for reintegration. EUR 3.5 millions have been allocated for the 2011 returnee program². The action plan has also been approved by the EU Commission in September 2010. In addition, Kosovo's institutions, in particular the one-year-old Ministry for European Integration, have drawn up their own roadmap and have been working in specific areas on the basis of what was required to the neighbouring Balkan countries. This voluntaristic approach sheds light on Kosovo's impatience to get its "homework" to start working on it³.

European officials have been promising the roadmap since June 2010 but the onus is on Kosovo to adapt its legislation, strengthen its administrative capacity to process readmission requests in order to ensure that relevant reforms are implemented and rules and procedures are respected, implement an effective reintegration strategy, enhance the security of its borders so as to minimise the associated security risks for EU Member States, and secure the management of civil registries and the issuance of documents⁴. Notwithstanding technical parameters, the key obstacle is the increasing tension over the immigration issue among EU members. Indeed, more than the absence of an agreed position among member States regarding Kosovo's independence, "the EU dismay from the Kosovo migratory

¹ "Kosovo- Fulfilling its European Perspective", *Communication from the Commission to the European Parliament and the Council*, Brussels, 14 October 2009, p6

² Interview with a Kosovar official made by the author in Prishtinë/Priština, October 2010

³ Interview with an NGO member made by the author in Prishtinë/Priština, October 2010

⁴ "Kosovo- Fulfilling its European Perspective", *Communication from the Commission to the European Parliament and the Council*, Brussels, 14 October 2009, p5-6

potential¹ impedes any decisions. Because Kosovo has become a transit zone for people coming from far-Eastern countries, such as Afghanistan or Iraq, via Turkey, it crystallises immigration fears. Prishtinë/Priština is currently preparing a visa regime to limit transit via its territory, but the difficulties encountered by Serbia and Macedonia to prevent asylum-seekers exodus to EU and the current political situation in EU states coming closer to elections will hardly ease views.

On this end, two comments should be made. First, the immigration fear is somehow invalidated by the most recent survey published by Balkan Monitor: if they had an opportunity to leave their country, only 31% of Kosovo residents would move permanently to another country (Germany, Italy, and USA) and, among those, only a few had had concrete ideas and plans concerning such a move². Second, the actors in charge of security and those in charge of enlargement have conflicting views and priorities. The challenge is to secure Kosovo's borders and reinforce the cooperation with EU agencies. Under these circumstances, Kosovo's visa liberalisation perspective is uncertain, which paves the way for Kosovo to become a ghetto.

3. The only Balkan country deprived of a visa-free regime

The ghetto comparison has become more common. For example, a group of NGOs sent a letter to the EU³ in July 2009 – that is to say before the first wave of visa liberalisation – and warned the “impalpable and discriminatory” decision to exclude Kosovo from the process would make Kosovo “a ghetto with any way-out”⁴. Being excluded from visa liberalisation creates frustration among the population. People bemoan that it is more difficult to travel today than 30 years ago, media relay this discontent towards the EU approach, and officials voice that the visa liberalisation has been postponed for too long. Residents of Kosovo don't understand why they would be the only Western Balkan people requiring visas to enter the Schengen zone; they feel isolated and unfairly treated⁵. A joint KFOS-Foreign Policy Club research report published in March 2011 has summed up the general feeling. The visa dialogue is analysed as a “sweetener” which was meant “to buy time and demonstrate goodwill short of offering any other concrete steps”⁶, but “Kosovo is more isolated today than ever”⁷. To conclude, the authors call for EU to offer “a visa roadmap and clear timetable how to obtain visa free travel”⁸.

However, it can not be denied that EU institutions have repeatedly insisted on the continuation of visa liberalisation. In September 2009, more than 2,000 officials⁹ signed a petition “urging the European Commission (...) to immediately open a visa-dialogue with Kosovo” given that the visa policy for the successor States of the former Yugoslavia “risks to create two classes of citizens in South Eastern Europe based on ethnicity and formalises

¹ “Visa liberalisation. Implications of a proposal”, *Policy paper nr. 2*, European Movement in Albania, Tirana, September 2009, p10

² *Insights and Perceptions: Voices of the Balkans. 2010 Summary of Findings*, Gallup Balkan Monitor, in partnership with the European Fund for the Balkans, Brussels, 2010, p40-41

³ The letter was signed by reputable actors such as Veton Surroi and Rada Trajković

⁴ Shega A'MULA, “Kosovo NGOs Protest Perceived Visa Snub”, *Balkan Insight*, 16 July 2009

⁵ Various Interviews made by the author in Prishtinë/Priština and Paris, October 2010 and early 2011

⁶ *Aiming High: A European Vision for the Dialogue Between Kosovo and Serbia*, Kosovo Foundation for Open Society and Foreign Policy Club, Prishtinë/Priština, March 2011, p4

⁷ *Ibid.*, p4

⁸ *Ibid.*, p9

⁹ Including previous High Representatives in Bosnia and Herzegovina Paddy Ashdown, Wolfgang Petrisch and Christian Schwarz-Schilling, as well as MEPs Daniel Cohn-Bendit and Doris Pack, and then-ICTY Prosecutor Louise Arbour

ethnic divisions and provides them with dubious legitimacy”¹. In July 2010, the European Parliament urged EU members to include Kosovo in the visa liberalisation process and provide the country with a *visa strategy*² - a phrase which replaces the usual *visa roadmap* so as to sidestep the status issue. By the time of writing and according to EC representatives, it is most probable that the visa dialogue will be launched by the end of the year.

Committed as they may be, these statements more and more fail to convince Kosovars, who find it difficult “to square the EU’s fear of visa liberalisation for Kosovo citizens (...) with its mantra of a “European perspective” for Kosovo”³. The EU member States’ reluctance to offer further visa liberalisation not only undermines the EU’s credibility, but also encourages the creation of a *de facto* Greater Albania: if Kosovo is left out of the visa liberalisation process, binding more closely the ties between Albania and Macedonia will be the only solution. Along these lines, Ivan Krastev noted that, while public support for a Greater Albania has declined in Albania, whose people enjoy visa free travel, it has increased in Kosovo, where the visa liberalisation has been stuck in limbo⁴. Cooperation among Kosovo’s neighbours is ongoing: Kosovars do not need a visa to travel to Montenegro, Albania, Turkey and Macedonia; several bilateral agreements have been signed with Albania or Macedonia; and, Albania assists Kosovo with the incorporation of EU legislation (in particular with respect to the translation of the *acquis*). Further noteworthy are discussions about free movement and a potential common market. On official visit to Albania in March 2011, then-Kosovo’s president Behgjet Pacolli supported the idea of a common market union. This echoed Lulzim Basha’s proposal, Albania’s Home Minister, for a « Schengen for Balkans »⁵, which was made just before the presidents of Kosovo, Macedonia, Albania and Montenegro met to discuss freedom of movement in Prizren, in June 2010⁶.

As a consequence, there is merit in the argument that granting Kosovo visa liberalisation will create a common space and the feeling of a region among Western Balkans countries, whereas keeping Kosovo out of the visa liberalisation process will create an unstable situation against EU’s policy objectives. The first solution can only be seen as a benefit for Kosovo, Balkans and the EU.

¹ “Petition against visa policy of the European Union – Petition gegen Visa-Politik der Europäischen Union”, 9 September 2009 - <http://www.balkangoeseurope.eu/?p=12>. See also Besar LIKMETA, « Visa-Free Plan for Balkans Criticised », *Balkan Insight*, 16 September 2009

² “European Parliament urges EU members to recognise Kosovo”, *SETimes*, 9 July 2010

³ *Aiming High: A European Vision for the Dialogue Between Kosovo and Serbia*, Kosovo Foundation for Open Society and Foreign Policy Club, Prishtinë/Priština, March 2011, p9-10

⁴ “Introduction: The “New Normal” in the Balkans”, *Insights and Perceptions: Voices of the Balkans. 2010 Summary of Findings*, Gallup Balkan Monitor, in partnership with the European Fund for the Balkans, Brussels, 2010, p6

⁵ « Albania Calls for Balkan Schengen System », *Balkan Insight*, 22 June 2010

⁶ « Four Balkan countries establish a borderless zone », *EUBusiness*, 26 June 2010 – <http://www.eubusiness.com/news-eu/kosovo-albania.5ch> ; Petrit ÇOLLAKU, “Four Presidents Push for Mini Schengen Zone in Balkans”, *Balkan Insight*, 28 June 2010