

VISA LIBERALIZATION FOR THE WESTERN BALKANS: KOSOVO CASE – ADDITIONAL CRITERIA

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ABSTRACT

In the last months of 2014, and the first months of 2015, Kosovo faced with a very concerning phenomenon, the mass fleeing of Kosovo citizens towards EU countries. Illegal migration of many Kosovo citizens, according to economic scholars, was mainly motivated by social conditions. Nevertheless, this study is not aimed at addressing the causes of illegal migration, but only the influence of the phenomenon in the process of visa liberalization for the citizens of the Republic of Kosovo. Kosovo in fact is the only state in the Western Balkans not included in the visa-free regime for the Schengen zone. The fulfilment of technical criteria by the institutions of the Republic of Kosovo is nearing conclusion, and the expectations were for Kosovo to benefit from the regime already this year. This study shall address also the additional criteria set forth to Kosovo for the process, thereby providing a comparison with other regional countries already enjoying visa-free movement throughout the Schengen zone.

Keywords: Visa liberalization, illegal migration, fulfilment of criteria.

INTRODUCTION

From November 2014 until March 2015, 57.945¹ citizens fled irregularly from Kosovo towards EU countries (mainly Germany). Indeed, these are official figures, since they are grounded upon asylum applications in EU countries; otherwise, the number of citizens illegally migrating for the four months is around 75 thousand citizens². It might be important to provide some clarification between asylum and illegal migration, since the two terms are to be used largely in the study.

While asylum is the way through which the people file an application for different purposes (mainly economic) for protection (asylum) in the respective country, which means they subdue to administrative rules and procedures, illegal migration and stay means that people stay (live and many also work) illegally in a country. For the second term, figures may only be assumed and not accurate, since they refer to the records on people apprehended by the police during their illegal stay³.

Based on the fact that many Kosovo citizens have been living and working for long times in European Union states, especially German-speaking states, and the other fact that the Kosovo society is largely collectivist, one may easily conclude that many of the Kosovo citizens that have migrated recently, due to their uncertainty in asylum applications, will have been illegally staying with their family relatives. Why is this exodus happening to Kosovo citizens

¹ EUROSTAT Records, quoted in “Kosovo towards EU: Challenge of Irregular Migration” (Kosova drejt BE-së: sfida e migrimit të parregullt), KIPRED, Policy Analysis, No. 1/15 – March 2015. For more, see www.kipred.org (accessed on March 2015):.

² Ibid.

³ Compare: European Stability Initiative, ESI Newsletter 2/2015. March 2015.

at this proper time, although Kosovo is not under any conflict, or any harm threatened to their lives? In fact, all countries of the Western Balkan, including Kosovo, have a safe European future⁴ and are already working to fulfil the integration criteria for the EU. The visa liberalization process for the Western Balkans countries is only one of the matters which would further encourage the countries to work harder in meeting standards of the EU⁵.

Although Kosovo was not part of the process until 2012, when Kosovo would officially be receiving the Visa Liberalization Guide, Prishtina authorities had already begun meeting criteria on their own, as deriving from the visa guidelines from neighbouring countries⁶.

Purpose and objective of study

This study aims to shed light on the reasons for Kosovo to remain an enclave of the Western Balkans in terms of free movement within the Schengen Zone, and further address mass migration of Kosovo citizens from November 2014 to March 2015, and its impact on the conclusion of the process. As stated above, the visa liberalization process had begun officially in 2008 for all Western Balkans countries, thereby receiving from the EU Commission the Visa Liberalization Guidelines (excluding Kosovo). the guidelines were the same for all countries, and the assessment on such criteria by the European Commission was the same for all countries, strict and fair. Serbia, Montenegro and Macedonia succeeded in 2009 to conclude the process, thereby giving their citizens free movement as of December 2009 for the whole Schengen Zone. Albania and Bosnia & Herzegovina joined process one year later.

Kosovo was left out of the process until 2012. Kosovo had continued its own accomplishment of technical criteria in the process, until its acceptance of the visa liberalization guidelines in 2012. Now, in 2015, Kosovo is in a final stage of fulfilling all technical criteria. In the legal sense, there are nine laws to be adopted in a summary proceeding by the Government and the Assembly by the month of May. In the technical aspect, several issues remain related to the safety of ID documents – birth certificates of Kosovo citizens. In fact, there are other matters demanding resolution, all related to integrated border management, state prosecution, and matters related to the judicial sector, as stated by the Minister of EU Integration, Bekim Çollaku. All these are ongoing, and nearing their final stages. *“I believe that the Government will be able to compile a final report to notify the EU Commission that Kosovo has met all criteria as provided by the guidelines. I believe this shall happen by May”*.⁷

⁴ Thessaloniki Summit / Council Conclusions, 16/06/2003.

⁵ On 10 December 2007, the Council confirmed its commitment to the Thessaloniki Agenda, and invited the Commission to further review the options for promoting contacts between people in the Western Balkans / Council Conclusions on 10/12.2007.

⁶ The lack of political will in the EU for initiating the visa liberalization process with Kosovo pushed the Kosovo authorities to begin in September 2009 a unilateral fulfilment of technical criteria as per the visa liberalization guidelines for regional countries. In fact, on 07.05.2009, the Kosovo Government had already adopted the Guidelines for Implementing Criteria for the Visa Liberalization Process between Kosovo and the European Union”. Other concrete actions pursued: Compare “Visa Liberalization for Kosovo (Liberalizimi i vizave për Kosovën), Levizja FOL, Comparative Analysis; Prishtina, February 2012. For more, see: http://levizjafol.org/documents/20140309070712_1216.pdf (accessed in March 2015).

⁷ Compare: Interview of Minister of EU Integration, Bekim Çollaku for Deutsche Welle-s (DW) on 28.03.2015; “Çollaku: Kosovo meets the visa liberalization criteria”. For more, see: <http://www.telegrafi.com/lajme/collaku-kosova-ploteson-kriteret-per-liberalizimin-e-vizave-2-60876.html> (accessed in March 2015).

STUDY QUESTIONS

1. What will be the impact of mass migrations of Kosovo citizens towards EU countries in the last months of 2014 and first months of 2015 on the visa liberalization process?

To answer the question, it is important to analyse once more the delay in concluding the visa liberalization process for Kosovo, and shortly on the reasons for illegal migration of many citizens in the period. This is done because Kosovo authorities and EU authorities have voiced almost entirely opposite views on the reasons for the exodus between November 2014 and March 2015.

It is clear that the mass migration of the period was contributed by many factors related to the responsibilities of both actors, the Government of Kosovo and the European Union. The difficult socio-economic condition in Kosovo has left the unemployment rate in high levels⁸; people have begun losing hope that in the not so distant future, something will change for the better; various domestic and international reports showcasing Kosovo as a corrupted country of slow economic growth; passage to Serbia only by ID cards of Kosovo citizens (due to the Brussels agreement between Kosovo and Serbia) had already opened an easy corridor of movement towards the entry borders of the EU. This was already used and abused by smugglers⁹ of Kosovo and Serbia, thereby spreading rumours of economic asylum being granted by EU countries. The misinformation was further helped by the media¹⁰ in Kosovo, which presented only the mass fleings and reasons of movement, and not what was expecting them in countries of migration. These may only be a few of the reasons for such mass migration of Kosovo citizens towards the West.

On the other hand, a factor related to the EU liability to the mass wave of migration has also been the isolation faced for such a long time by the Kosovo citizens, who have remained the only country in the Western Balkans without liberalization.¹¹

By the early stage of the occurrence, which seemed orchestrated indeed, since there was a meak and late response, both by Kosovo institutions and the EU, Kosovo authorities were more careful in their positions, thereby denying that such irregular migration would halt the process of visa liberalization.

On the matter, the Prime Minister of Kosovo, Mr. Isa Mustafa, had stated in December 2014 that the visa liberalization would occur in 2015: *“Despite the statements we are hearing, I am convinced and I believe we will. We shall make our best efforts to fulfil all requirements and do our duties before the EU. We shall enter and conclude the process, and we provide our*

⁸ It is thought that 55.6% of youth are unemployed. Taken from the news portal “Lajmi.net”. Article titled “Unemployment, the main cause of fleeing youth” (Papunësia, shkaktari kryesor i ikjes të rinjve). December 2014. For more, see <http://lajmi.net/papunesia-shkaktari-kryesor-i-ikjes-te-rinjve-video/> (accessed in March 2015).

⁹ Taken from news portal “kallxo.com”, titled: “Minister uses migration to demand visa liberalization for Kosovo” (Ministri Përdor Migrimin për të Kërkuar Liberalizim të Vizave për Kosovën), 4 February 2015. For more, see: <http://live.kallxo.com/sq/MTL/Ministri-Perdor-Migrimin-per-te-Kerkuar-Liberalizim-te-Vizave-per-Kosoven-4607> (accessed in March 2015).

¹⁰ On 26 November 2014, the “KOHA” Media Group had reported that allegedly “France decides to award asylum to Kosovars”, thereby strengthening the confusion for smugglers. For more, see: Koha Ditore, November 2014.

¹¹ Compare: “Kosovo towards EU: Challenge of Irregular Migration” (Kosova drejt BE-së: sfida e migrimit të parregullt), KIPRED, Policy Analysis, No. 1/15 – March 2015. For more, see: www.kipred.org (accessed in March 2015).

guarantees to it, but as a precondition, we must halt migration we face right now, already at the views of people who are trying to leave Kosovo in this manner”.¹² His Deputy and Minister of Foreign Affairs, Mr. Hashim Thaçi, also in December 2014, had stated: “These movements may incite a stronger debate also in Brussels, but they shall also increase our liability and efforts in the domestic institutions. They may postpone the liberalization process, but I reiterate, I see an energy, I see potential, and I see responsibility in the Kosovo leadership, at central and local levels, in working together to prevent this negative phenomenon, harmful for our state and society, but also harmful for the EU integration processes”¹³.

It wouldn't be that long before the language became harsher, and the blame and liability for mass movements would be thrown against each other. This came specifically after a wide debate in the EU countries receiving most of the asylum applicants (Germany, Austria, Hungary and France). The harshness in the language of Kosovo authorities might possibly be strategic, in an effort to minimize the negative influence this phenomenon may have in the rapid conclusion of liberalization. On the other hand, EU authorities, and especially German authorities, would deal more in stopping the phenomenon, and less on the liberalization consequences. In fact, the numerous requirements in liberalization would be added one more issue.¹⁴

The number of asylum applications had reached an alarming figure in such countries. As may be seen in the table 1¹⁵, the number of Kosovo asylum-seekers in the European Union countries had marked a markant increase in the period between November 2014 and March 2015.

Table 1. Number of asylum seekers from Kosovo in EU Member States, November 2014 – February 2015

Nr. i azilkërkuessve të Kosovës në shtetet anëtare të BE-së	Nëntor 2014	Dhjetor 2014	Janar 2015	Shkurt 2015	Gjithsej
	8,045.00	13,905.00	14,250.00	21,745.00	57,945.00

Burimi: EUROSTAT, përditësuar më 27 mars 2015

If compared to previous years, the numbers of Kosovo asylum-seekers in the EU had increased a lot between November 2014 – February 2015. Table 2.¹⁶

¹² Taken from news portal Gazetaexpress.com, titled “Disagreement on visa liberalization – What Mustafa, Thaçi and Çollaku say”, 25 December 2014, for more see:

<http://www.gazetaexpress.com/lajme/mosmarreshje-rreth-liberalizimit-te-vizave-cka-thone-mustafa-thaci-e-collaku-69166/?archive=1> (accessed in March 2015).

¹³ Ibid.

¹⁴ Compare: Statement of the EU Commissioner for Migration, Internal Issues and Citizenship, Dimitris Avramopoulos, who says that apart from other criteria, liberalization may occur only after corruption and migration are stopped. 12.03.2015. For more, see

<http://www.evropaelire.org/content/article/26891481.html>, (accessed in March 2015).

¹⁵ Compare: “Kosovo towards EU: Challenge of Irregular Migration” (Kosova drejt BE-së: sfida e migrimit të parregullt), KIPRED, Policy Analysis, No. 1/15 – March 2015. For more, see: www.kipred.org (accessed in March 2015).

¹⁶ Ibid.

Table 2. Trends of asylum seekers from Kosovo, 2009 – January 2015

Numi i azilkërkuësve në shtetet anëtare të BE gjatë periudhës 2009-2014	2009	2010	%	2011	%	2012	%	2013	%	2014	%	Jan 2015
Azilkërkuësit kosovarë	14,275.00	14,310.00	0.24%	9,870.00	-44.98%	10,210.00	3.33%	20,215.00	49.49%	35,970.00	43.80%	13,200.00
Jo shtetasit e BE-së	263,990.00	258,945.00	-1.95%	303,105.00	14.57%	335,290.00	9.60%	433,375.00	22.63%			
Jo shtetasit e BE-së/ Kosovarët në përqindje	5%	6%		3%		3%		5%				

Burimi: EUROSTAT

In the meantime, in Germany, the instant increase in asylum-seeking applicants from Kosovo had already become concerning. Every day, during January and February, almost every media had top news of flux of asylum-seekers from Kosovo. The German Ambassador to Kosovo, Angelika Viets, in an interview given to the “Voice of America”¹⁷ had expressed the concern of her country against the large wave of people leaving their country and moving towards Germany. *“We are very concerned with the increasing and already alarming numbers of people leaving their country. They are unfortunately being deceived by smugglers with their promises of a better life. They are even selling their properties in Kosovo due to such promises. The fact is though, they will return and face even larger problems. Allow me to voice a principal matter, considering the large number of those wishing to come to Germany, and filing applications for shelter. The application for shelter is a political right, but it is not for Kosovo citizens. We understand that there are applications due to poverty, but we also know that there are others filing applications for shelter by those persecuted politically. We know that Kosovo citizens do not need that”*¹⁸.

Furthermore, she had stated that the possibility of being consented a permit of stay is only around 1.1 or 1.2 per cent, and the rest are to return very soon to Kosovo. The same was the response of representatives of Austria and other countries, where Kosovo citizens had gone for asylum. During February and March, we witnessed a busy diplomatic agenda in Kosovo and the EU. During March, Kosovo was visited by the EU Commissioner for Migration, Internal Matters and Citizenship, Dimitris Avramopoulos, who as frequently heard in the rhetorics of EU officials, promised liberalization after the fight against corruption and stopping of migration. He had stated that the day of liberalized visas for Kosovo citizens is not far.¹⁹ Meanwhile, during his stay in Kosovo during March 2015, the Commissioner for Enlargement Johannes Hahn stated: *“Before recommending visa liberalization for Kosovars, the number of asylum applications in the EU and the number of irregular migrants in the Schengen Zone must lower. I appeal upon you to strengthen border control, and inform the passengers that they shall not be given asylum.”*²⁰

Meanwhile, during his stay in Germany, the Minister of Internal Affairs of Kosovo advocated for liberalization of visas, and argued that a rapid conclusion of the process would also

¹⁷ Interview of the German Ambassador to Kosovo, Angelika Viets, for the “Voice of America”, on 12.02.2015, titled: “Viets, Germany will return the migrants from Kosovo in a matter of weeks”. For more, see: <http://www.zeriamerikes.com/content/kosovo-germany-illegal-migration-/2639009.html> (accessed in March 2015).

¹⁸ Ibid.

¹⁹ Taken from the news portal “almakos.com”, titled: “Avramopoulos promises liberalization only after corruption is fought and migration is stopped (Avramopoulos premtion liberalizimin pasi të luftohet korrupsioni dhe ndalet migrimi)”. 10.03.2015, for more see: <http://almakos.com/permalink/74251.html> (accessed in March 2015).

²⁰ Compare: European Stability Initiative, ESI Newsletter 2/2015. March 2015.

prevent the increased numbers of asylum-seekers in Germany. The argument did not convince the foreign minister of Germany, De Maiziere, who had stated that the asylum applications from Serbia had increased a lot after the visas were abolished".²¹

On the other hand, the Kosovo Ambassador to Germany, Mr. Skender Xhakaliu had stated that *"in our contacts with the Ministry of Internal Affairs of Germany, we have been told that this is a very sensitive issue, and may harm the visa liberalization process"*.²² Therefore, the impact of such large figures of migrants, especially towards Germany, in the visa liberalization process is more than visible.

2. What are the criteria to be met by Kosovo, and why are they different from those fulfilled by other regional countries in their visa processes?

On 14 June 2012, the former EU Commissioner for Internal Affairs, Mrs. Cecilia Malmström had submitted the Visa Liberalization Roadmap to the Kosovo Government. By September 2012, Kosovo had submitted its first readiness report and a comprehensive report on the approximation of relevant domestic legislation with the EU Acquis. The Roadmap. After this, the fact-finding mission experts and European Commission officials, in cooperation with EULEX, compiled a first EU report on the implementation of the Roadmap.²³

The actions on the criteria in the Visa Liberalization Roadmap were to be taken in the following areas: -Block 0: Readmission and reintegration – 28 actions; - Block 1: Document Security – 10 actions; - Block 2: Border/Boundary and Migration Management – 46 actions; - Block 3: Public Order and Security - 66 actions; and - Block 4: Fundamental Rights related to the Freedom of Movement – 14 actions. In July 2014, the European Commission issued a report on the progress made by Kosovo. the report was odd and different from other progress reports issued for Balkan neighbours in the years 2008-2010.²⁴

If one refers to the documents already issued by the European Commission related to liberalization processes generally, for Western Balkans and Turkey, the EC has published seven roadmaps (five for the countries of Western Balkans, one for Kosovo, one for Turkey), and several assessment reports, including two on Kosovo. The latter are differently written, different from all other reports. While other progress assessing reports on criteria of roadmaps for other countries in the region (Kosovo excluded) had strict and fair assessments, containing precise wordings on fulfilment of criteria, this is not present in the case of Kosovo. The report on Kosovo does not contain any review of all criteria. There is no clear description of progress. Language is not clear. This renders difficult any proper addressing of criteria by the Government, but also renders impossible for the civil society to pressurize the leaders.²⁵ The experience from past years is clear: a strict but clear process of monitoring and assessment of progress, which is key to visa liberalization.

²¹ Ibid.

²² Interview with the Ambassador of the Republic of Kosovo to Germany, Mr. Skender Xhakaliu, to Radio Kosovo. April 2015. For more, see: <http://lajmpress.com/lajme/kosove/45512.html> (accessed in April 2015).

²³ Compare: Kosovo Government: Action Plan for Implementing the Visa Liberalization Roadmap, April 2013. For more, see http://www.kryeministri-ks.net/repository/docs/PVLV_2013_SHQIP.pdf (accessed in April 2015).

²⁴ Compare: European Stability Initiative, ESI Newsletter 2/2015. March 2015.

²⁵ Ibid.

On the other hand, Kosovo would be subject to special requirements: reduction of asylum-seeking applicants, illegal migrants, refused visas, refused entries, and refused readmission requests, which are largely unmanageable by Kosovo authorities. A very typical example: what can Kosovo authorities do if a citizen fails to properly fill-in a visa application, and therefore refused the visa? Other recommendations for Kosovo include amendments to the Law on Political Party Funding; competencies of municipal communities; all not related to visa liberalization.

CONCLUSION

Taking all findings into consideration, one may conclude that the visa liberalization process for Kosovo citizens has been given a larger room and dimension in Kosovo's opinion and the authorities of the European Union, after the events during November 2014 – March 2015. For the moment, the flux has been visibly reduced, while the working intensity of Kosovo authorities in fulfilling the criteria of the process has increased in pace and priority. Pushed by the citizens' and civil society demands, but also in an effort of minimizing the large flux of citizens migrating towards the EU, this matter is already a top agenda item. On the other hand, for as much the European Commission is careful in its statements towards a rapid conclusion of the process, it continues to use the same rhetorics, that as soon as the criteria are met by Kosovo authorities, visa liberalization will come. On the other hand, European Commission authorities do not see the reason for such movement in the isolation that Kosovo citizens are suffering, the only ones in Balkan.

It is easily concluded that the large flux of migration has had a negative influence on the Kosovo visa liberalization process. This was clearly voiced on the statements of EU officials, and state officials from Germany and Austria, to name a few. Nevertheless, while technical criteria are nearing fulfilment by Kosovo authorities, the non-recognition by five states of the European Union will represent a challenge in its own category, since the exodus between November 2014 and March 2015 will shift the process towards a political plane, thereby already creating new arguments and obstacles to the process.

It was already stated that in the process of fulfilling criteria, Kosovo was not treated equally with its regional neighbours, at least in just and strict reporting. It was also underlined that Kosovo was submitted to criteria unprecedented in other countries, which are hard to be managed by Kosovo authorities. Specifically, the recommendation of stricter borders is in contradiction to the very principle of freedom of movement, because citizens who migrated illegally, in fact, left Kosovo in a lawful manner (due to the possibility of movement with ID cards towards Serbia). Further, the large number of asylum seekers from countries already visa-free cannot be attributed to Kosovo as an additional obstacle. In fact, the number of asylum seekers, especially in Germany, would find the easiest solution in Germany, rather than in Kosovo. By shortening the procedures in processing asylum applications, Germany would largely prevent the asylum seekers from Kosovo. The best example may be found in the Swiss state, which by accelerating the asylum proceedings has largely reduced the flux of citizens from Western Balkans in seeking asylum in this country.

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