EU VISAS AND THE WESTERN BALKANS

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WORKING TO PREVENT
CONFLICT WORLDWIDE

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EXECUTIVE SUMMARY AND RECOMMENDATIONS

The EU's present visa regime with the countries of the Western Balkans (Albania, Bosnia-Herzegovina, Macedonia, and Serbia-Montenegro including Kosovo) is fostering resentment, inhibiting progress on trade, business, education and more open civil societies, and as a result contributing negatively to regional stability. Full visa liberalisation for all will probably have to wait until the Balkan states are much closer to EU membership. But selective liberalisation for certain identified groups, and visa facilitation for all applicants – involving a simplified, speedier, less painful process – would go a long way toward showing governments and citizens alike that reforms do pay off.

Immigration in general is a serious concern within the EU, as demonstrated by the widespread growth in support for far right and xenophobic political parties. The German visas scandal which broke early in 2005 and the riots in French cities in recent weeks have not made things easier. But the EU committed itself to a more liberal visa regime for the Western Balkan countries at the Thessaloniki summit in 2003, and it is not implementing that commitment, even though it has started negotiations on visa facilitation with Russia, Ukraine and China. This sends an unfortunate message about its priorities. Internal security dominates thinking to the detriment of practical policy, with future member states' citizens being marginalised by inflexible visa restrictions, in the short term compromising their freedom to travel and in the longer term exacerbating regional insecurity.

The present visa barriers are a source of deep resentment to honest travellers, undermine the credibility of the states of the region (as their citizens seek passports – legally or not – from more favoured jurisdictions), and function less as an obstacle than an opportunity for organised crime and corruption in the EU and the region. The present system restricts mainly those who should be allowed to benefit from the EU's proximity, with the majority being made to pay for a criminal minority. The efforts of the governments in the region to reform are still on shaky ground because their citizens have seen few tangible rewards. It is time to offer some.

RECOMMENDATIONS:

To the European Commission:

1. Put negotiating mandates to the Council of Ministers on visa liberalisation and facilitation for Albania, Bosnia-Herzegovina, Macedonia and Serbia-Montenegro.

2. Open negotiations in March 2006 at the high-level EU-Western Balkans event on the margins of the informal meeting of EU foreign ministers in Salzburg.

3. Set out a road map for each country so that it has a clear picture of the steps it needs to take to get an improved visa regime from the EU.

4. Revise the common consular instructions to encourage a simplified visa process.

To EU Member States:

5. Begin negotiations with Albania, Bosnia-Herzegovina, Macedonia and Serbia-Montenegro on a selective Schengen visa liberalisation regime for academics (researchers, university professors and students), the business and trade community (including haulage workers such as truck drivers), civil society, media, and officials, the elements of which should include:

   (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.

6. Begin negotiations with the same countries on facilitating visa applications for *all* their citizens, including:

   (a) a simplified process with fewer required supporting documents; and

(b) significantly reduced processing time.

7. Discuss within appropriate working groups and with input from the Commission how existing rules can be used to improve procedures.

To the Governments of Albania, Bosnia-Herzegovina, Macedonia, Serbia-Montenegro:

8. Conclude readmission agreements with individual EU member states taking responsibility for all third-country nationals who arrive in the EU from their territory; pass legislation making it a criminal offence to violate EU member state immigration laws; impose sanctions on the facilitators of illegal immigration; and adopt other measures taken by Bulgaria in 2001 and Romania in 2002 to get off the EU visa black list.

9. Cooperate within the Stability Pact to implement integrated border management to meet EU standards.

10. Continue with efforts regionally, nationally and across entity/state/republic borders, to fight organised crime, drugs, illegal immigration, trafficking, money laundering and terrorism.

**Belgrade/Pristina/Sarajevo/Skopje/Brussels,
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EU VISAS AND THE WESTERN BALKANS

I.   INTRODUCTION

Albania, Bosnia-Herzegovina, Macedonia, and Serbia-Montenegro are uneasily balanced between reform and stability, motivated by their perspective of eventual EU membership, and a return to a past of conflict and corruption. They remain at arms length from the Europe they wish to join, in substantial part due to the EU's visa policy. Unless the EU relaxes its restrictions – and meets the commitments it made at its 2003 Thessaloniki summit – it will further isolate the people of the Western Balkans, fuelling economic and political frustrations that could undermine democratic governments.

The issues of visa liberalisation and facilitation, or movement of people, are directly related to the overall stabilisation of the region. The countries of the Western Balkans remain outside Euro-Atlantic structures, have continuing serious problems with organised crime and corruption and suffer from a perception of being a security threat to their neighbours. A pattern of rejection and suspicion is repeated in consulates across the region as citizens attempt to gain legal access to the member states of the EU. How do young people perceive an EU they are largely unable to experience? The generation that has to take the region out of narrow-minded nationalism and conflict towards a European future is not being given the capacity to do so.

Meanwhile, non-European countries such as Pakistan and Iran, which have more open visa policies towards the Balkans, are increasingly becoming a magnet for the regions' young people, at least those of Muslim faith, who want to travel. The EU has a choice to make. Will it signal to its nearest neighbours that they, too, are European and their citizens potential EU citizens? Or will it retain a regime in which organised criminals by-pass regulations while legitimate travellers are humiliated at the consulate gate?

II. WHAT IS THE VISA SYSTEM FOR?

A.   CONTROL AND SECURITY

A visa system is intended to function as both a control to protect one's own citizens from the potential threats posed by third country nationals and a mechanism by which to separate the "worthy" from the "unworthy". An EU member state embassy issuing a visa has the responsibility to determine the probability of a given foreigner violating migration or other domestic laws by evaluating his or her financial means, ties to the receiving country and motives for travel. Visas are a fundamental instrument of migration policy. In theory a restrictive visa regime enables systematic control and regulation of entry by individuals from countries which have many citizens who are regarded as potential violators of immigration laws.[1] In practice, its side effects include illegal immigration and corruption.[2] As a European Commission official noted with regard to the Balkans, the reality is that where the border is difficult to cross, either due to visa requirements or effective border police, "the only people who manage to go through are smugglers. Tourists and business people don't bother to go to Europe since they are discouraged by the visa process".[3]

Organised criminal networks are not suppressed by strict visa regimes. Rather, they easily side-step inefficient or poorly implemented laws. The Dutch National Crime Squad concluded in a recent study: "Border control is an important means in the criminal investigations of criminals, but it will not stop them".[4] Control of immigration does not do much to stop those criminals already living and operating in the EU. Indeed, strict visa regimes can be counter-productive; the more difficult

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[1] "Monitoring of Polish Visa Policy Report", Stefan Batory Foundation, November 2004, pp. 9-10.
[2] See, for instance, the research findings among visa applicants in Polish consulates in Belarus, Russia, and Ukraine, ibid, p. 10.
[3] Speaking with particular reference to Kaliningrad, Russia. Commission official, Conference on Hague Program, Centre for European Policy Studies (CEPS), Brussels, 1 July 2005.
[4] Crime Pattern Analysis Eastern Europe 2002-2003, "Crime without frontiers", September 2003, Dutch National Crime Squad, National Police Agency, p. 258.

the process, the higher the value of "paying for an alternative service" to receive the visa, with a series of opportunities for bribery and forging of documents. One so-called "people smuggler" from China has illegally brought more than 200 people into Europe, most to the UK, by developing a sophisticated system of forgeries and fake front offices and telephone lines to receive consular officers' inquiries. He charges €4,450 for a passport stamped with a valid entry visa.[5]

Since the 11 September 2001 attacks in the U.S., the threat of international terrorism has meant the prioritising of security on state agendas, including increased restrictions on travel.[6] This has resulted in disproportionate emphasis on the restrictive aspect of visas. Instead of being used to evaluate the validity of claims by applicants who choose the legal process to gain access to the EU, visas are increasingly used to address security fears about organised criminals and terrorists by blocking virtually all, including legitimate, entry.

While there is a natural inclination to tighten up after events such as the London and Madrid bombings, the focus should be on increased cooperation with the EU member states' intelligence services. The present visa system further entrenches a sense of isolation in the Balkans; a more progressive policy that permitted increased travel for education, business and tourism from the region would cut at the roots of intolerance and fundamentalism.

B. ECONOMIC CONCERNS

Europe finds itself in a dilemma. Despite an apparent influx of workers from the new member states and elsewhere, it is running out of workers.[7] There is a well-documented trend of ageing and falling populations; in the next 50 years populations are expected to fall by 10 per cent while dependency ratios double.[8] The International Labour Organisation has predicted that Europe's labour shortage, if unchecked, could result in a 22 per cent drop in per capita income by 2050.[9]

Yet, there are growing concerns at the national level over the need to protect the domestic workforce from migration, and fears of the added economic burden of more economic migrants joining the ranks of the unemployed. Most EU member states limit workers from new member states to temporary residence permits until 2006, with the policy to be reassessed then and again in 2009.[10] Economic concerns were illustrated by the negative reaction to the "Bolkestein directive" proposed by the European Commission in February 2004 to create a free market in services.[11] Opponents, led by France and including Germany, Belgium and Sweden, claimed it would open the door for "social dumping" by Eastern European companies. The head of a far-right French party coined the "Polish plumber" image to promote an anti-EU agenda in the run up to the May 2005 referendum on the EU Constitution. While the Constitution was rejected by the French public, the proposed directive has continued along the legislative process and is expected to be adopted, after amendment, by the EU sometime in 2006.[12]

Between 2000 and 2003 hundreds of thousands of questionable immigrants from Eastern Europe took advantage of the unilateral liberalisation policy of Germany under the so-called Volmer directive of 2000. When the story broke in early 2005, the reverberations

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[5] "New route for Chinese to get fake UK visas", *Times Online*, 7 August 2005, at http://www.timesonline.co.uk/article/0,,2089-1724588_1,00.html.

[6] See Joanna Apap and Angelina Tchorbadjiyska, "What About the Neighbours? The Impact of Schengen Along the EU's External Borders", CEPS Working Document No. 210, October 2004.

[7] The Report of the Global Commission on International Migration, "Migration in an Interconnected World: New Directions for Action", October 2005, informs that from 1990 to 2000, immigration accounted for 89 per cent of population growth in Europe; from 1995 to 2000, Europe's population would have declined by 4.4 million without immigration, p.84, at http://www.gcim.org/en/finalreport.html.

[8] See Louka T. Katseli, "Immigrants and EU Labour Markets", Migration Policy Institute, 1 December 2004, at www.migration information.org/Profiles/display.cfm?ID=274. The dependency ratio is the size of the population below the age of fifteen and over 65 divided by the population aged fifteen to 65.

[9] "A debate stuck at the border", *Financial Times*, 15 January 2005.

[10] Such transitional restrictions are permitted under the EU Treaty – and indeed were invoked when Spain and Portugal joined in 1986 – but are against the spirit of freedom of movement of all EU citizens. The UK, Sweden and Ireland have not applied these restrictions and their experiences have been largely positive; see "More 'old' EU countries set to lift labour barriers", *Financial Times*, 28 November 2005.

[11] "Proposal for a Directive of The European Parliament and of The Council on services in the internal market", at http://www.europa.eu.int/comm/internal _market/ services/services-dir/proposal_en.htm.

[12] The proposed directive was adopted by the European Parliament's Internal Market Committee on 22 November 2005 and will be introduced at the plenary in January 2006. The Council of Ministers will then need to adopt its common position before returning the directive to the Parliament for a second round of review and revision. Once adopted at the EU level, the directive will have to be implemented by the member states.

severely damaged the reputation of Foreign Minister Joschka Fischer.[13]

Anti-immigration policies reflect a growing concern in European politics about the imposition from outside of economic and societal changes associated with globalisation. This concern has galvanised previously peripheral elements and produced a significant shift towards the right; as noted by one observer, "no longer making up a lunatic fringe, the xenophobes now garner a fifth or a fourth of the popular vote".[14] Opinion polls indicate increased scepticism within the EU about multiculturalism;[15] in a typical poll 52 per cent of respondents across Europe saw "a collective ethnic threat from immigration" to jobs and the national culture. Politicians cannot afford to ignore the implications of this shift.

Advances made by France's far-right National Front, led by Jean-Marie Le Pen, through the 1980s and 1990s have caused the conservative right in a number of countries to adopt some aspects of the far-right agenda, particularly with regards to immigration.[16] Interior Minister Nicolas Sarkozy was known for his tough line on immigration even before he suggested that all non-French citizens convicted of participation in the October-November riots, including those with residence permits, should be expelled.[17]

In Austria political upheaval in January 2000 saw the formation of a coalition government between the People's Party (ÖVP) and the right-wing Freedom Party (FPÖ) of Jorg Häider, which produced widespread condemnation and sanctions from the rest of Europe.[18] Nationalist, anti-immigration policies are echoed by far-right parties across the continent: Belgium's Vlaams Blok (now Vlaams Belang), the Northern League in Italy, the Danish People's Party, the British National Party and the Sverigedemokraterna (Sweden Democrats) all share Häider and Le Pen's rhetoric of nationalism and aggressive resentment towards economic immigrants.

A mainstream shift to the right in more moderate terms has occurred elsewhere. In Switzerland (not a member state but economically tied closely to the EU), the centre-right People's Party (SVP), which called for tighter immigration and law and order policies, replaced the Social Democratic Party (SPS) as the largest party in October 2003 elections. The UK has adopted a five-year policy strategy "cast in decidedly national terms",[19] that aims to promote high-skilled migration and restrict lower-skilled entry and settlement.[20]

The European Commission presented a green paper in January 2005 to stimulate discussion on an EU approach to managing economic migration.[21] It received a mixed response with member states reluctant to relinquish such a contentious national issue to Brussels. The Commission is due to devise an economic migration policy plan, including a draft directive, by the end of 2005.

Against this background, it is understandable why the EU and its member states have not been eager to open the door wider to travellers from the Western Balkans, even those whose intention is to make visits of limited duration. However, this report seeks to show why this is a short-sighted reaction.

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[13] Former State Secretary Ludger Volmer attempted to ease the difficult visa process for his country's eastern neighbours by establishing a policy of "when in doubt, approve the visa application". See "German visa scandal gets Brussels' attention", *Deutsche-World*, 20 February 2005, at: http://www.dw-world.de/dw/article/0,1564,1495078,00.html.
[14] Leslie Evans quoting Peter O'Brien in "Is Europe unable to assimilate its growing Islamic minority?", UCLA International Institute, 26 May 2005.
[15] For instance, "Attitudes Towards Migrants and Minorities in Europe", European Monitoring Centre on Racism and Xenophobia, 15 March 2005, at http://eumc.eu.int/eumc/index.php.
[16] See "Romania: "Beggars and Thieves" wrecking EU dream", Institute for War and Peace Reporting (IWPR), 4 November 2002, at http://www.iwpr.net/index.pl?archive/bcr2/bcr2_2002 1104_3_eng.txt.
[17] "Nicolas Sarkozy sort renforcé de la crise des banlieues", *Le Monde*, 17 November 2005. One survey found 56 per cent of respondents agreeing with Sarkozy's call for expulsion of rioters even if they were legally in France, see http://www.expression publique.com, poll taken 5-11 November 2005.

[18] Reacting to poor results in various regional and European elections, the FPÖ split in April 2005, with Haider leading the more right-wing Alliance for Austria's Future (BZÖ) faction.
[19] For a thorough review of the UK's relations with the EU on migration policy, see Andrew Geddes, "Getting the best of both worlds? Britain, the EU and migration policy", *International Affairs*, vol. 81, no. 4, July 2005.
[20] For more information, see "Rolling up the welcome mat – Immigration", *The Economist*, 12 February 2005. All has not been negative for would-be immigrant workers, however. While the UK presented its new plans in February 2005, Spain took a different approach. Despite high unemployment, it declared an amnesty in an attempt to regularise up to 500,000 low-skilled, undocumented workers. Those able to show they had been in the country more than six months, regardless of skills or migration status, were offered one-year residence permits. See "Out of the shadows", *The Guardian*, 9 February 2005.
[21] Available at http://europa.eu.int/comm/justice_home/doc_centre/immigration/work/doc/com_2004_811_en.pdf.

III.   THE EU AND BALKAN VISAS

A.   DEVELOPMENT OF JUSTICE AND HOME AFFAIRS WITHIN THE EU[22]

At the beginning of the 1980s, the level of economic cooperation among its member states had brought the EU to a crossroads. More measures needed to be adopted for the establishment of an internal market that would ensure free movement of goods, persons, services and capital. The second of these freedoms ignited the most controversy. Some member states felt that the free movement of persons should apply to EU citizens only;[23] others suggested that internal frontiers should be abolished altogether, and everyone should be granted the right of free movement. In June 1985 the six founding member states[24] pre-empted the debate on an intergovernmental basis, outside the institutional framework of the EU, by signing the Schengen agreement on free movement of persons.

In 1987 the Single European Act committed the EU to establish the four components of the internal market progressively before the end of 1992. The free movement of persons, however, only really took off after that date. A Schengen Implementing Convention was signed in 1990.[25] Gradually other member states joined, and in 1996 the Schengen area was established with thirteen participants.[26] The UK and Ireland remained outside.

Following the coming into force of the Maastricht Treaty in 1993, immigration from outside the EU was dealt with by intergovernmental cooperation under the so-called Third Pillar - Justice and Home Affairs. In 1995, following the commitment of the member states to create common external border checkpoints surrounding the Schengen space, the Commission adopted proposals[27] for

Council directives to eliminate controls on crossing frontiers[28] and concerning the rights of third country nationals to travel within the EU.[29]

Since then the Commission has made it clear that the elimination of controls applies to all persons in the EU, irrespective of nationality. However, the questions of border controls and freedom of movement are closely bound up with the status of non-EU nationals, whose rights of movement and residence under Community law are limited,[30] and with the attitude of the member states towards their admission. The common visa regime, unlike most other EU policies, therefore, includes both internal and external dimensions.

The 1996 Treaty of Amsterdam incorporated into EU law, with effect from 1 May 1999, the decisions taken since 1985 by Schengen group members and the associated working structures. It also converted some Justice and Home Affairs policies – specifically "Visas, Asylum, Immigration and Other Policies Related to the Free Movement of Persons"[31] – from intergovernmental matters into subjects of EU First Pillar legislation developed by the Commission and the European Parliament .[32]

Amsterdam and Maastricht committed the EU to establish and maintain "an area of freedom, security and justice". However, the task is shared between the EU institutions and the member states in a complex fashion.[33] The development of a common visa regime and immigration policy is embedded within a broader political context of inter-institutional relations.

Parliament against the Commission for failure to present the necessary legislative proposals under its treaty obligations. Case C-445/93, Parliament v. Council [1994] OJ C1/24, and the order of the European Court of Justice of 11 July 1996. The case lapsed when the Commission adopted the Council proposals.
[28] COM(95)347 [1995] OJ C289/16.
[29] COM(95)346 [1996] OJ C306/5.
[30] S. Peers, "Towards Equality: Actual and Potential Rights of Third Country Nationals in the European Union", *Common Market Law Review* vol. 7, 1996; M. Cremona, "Citizens of Third Countries: Movement and Employment of Migrant Workers within the European Union", *Legal Issues of European Integration*, 1995/2.
[31] This is Title IV of the Treaty of Amsterdam.
[32] The UK and Ireland do not participate in, and are not bound by, acts adopted under Title IV unless they opt in; Denmark does not participate at all.
[33] This is in marked contrast, for instance, with the EU's common commercial policy, where free cross-border movement of goods, internal and external, is largely maintained smoothly by mechanisms that define competencies clearly. The free movement of persons remains heavily dependent on member states' discretionary powers to set visa regimes with varying degrees of bureaucratic complications, bound only by minimal standards under EU legislation.

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[22] This report uses the term "EU" below also as shorthand for the European Community/Communities before the 1992 Maastricht Treaty, although technically it refers only to the European Union after Maastricht came into force in 1993.
[23] This would have involved keeping internal border checks to distinguish between citizens of the EU and non-EU nationals.
[24] France, Germany, Italy, the Netherlands, Belgium and Luxembourg.
[25] Additionally, all EU member states signed the Dublin Convention concerning asylum applications in 1990. Both the Schengen and Dublin Conventions made reference to EC law but were not adopted within the Community framework.
[26] The Schengen agreement applies to thirteen member states and two non-member states – Iceland and Norway – which have been included since 25 March 2001 by way of their membership in the Nordic passport union with Sweden, Finland and Denmark.
[27] The adoption of those acts by the Commission was also triggered by legal proceedings brought by the European

The EU's five-year Tampere program of October 1999 and its successor, the Hague program of 2005,[34] evolved from ideas in the Treaty of Amsterdam and set out policy guidelines[35] and timetables to implement the area of freedom, security and justice (AFSJ). This is a delicate task since immigration, borders, and asylum policies are among the EU's most dynamic and contested issues.[36] The Hague program's Action Plan[37] emphasises security – the fight against terrorism, organised crime and illegal immigration.

One of its highlights is recognition of the need for better coordinated policies on return and readmission of migrants illegally residing in the Union's territory. Non-EU members are asked to sign readmission agreements taking responsibility for all third-country nationals, regardless of nationality, who pass through their territory before entering the Schengen zone and overstaying. These agreements have become a "key part of the conditionality applied to any states pursuing EU candidacy and accession".[38] There is an unspoken quid pro quo that any country which signs one will qualify for some degree of visa facilitation.

The Commission has the exclusive power to negotiate international agreements on behalf of the EU concerning the readmission of illegal immigrants.[39] These then gain EU-wide application. However, it has not yet negotiated any such agreements with Western Balkan states, leaving those countries to negotiate individual terms with member states.[40] The only EU-wide measure is the common visa policy, which specifies minimum requirements only; member states can and do complicate the process at their discretion.

In a 2001 Regulation, updated in 2003, the Council listed those countries whose nationals do not require a visa (white list) and those who do (black list).[41] The Schengen visa white list is primarily made up of OECD member countries, countries in the process of acceding to the Union, candidate countries and several Central and South American countries; in other words, those that are thought to be trustworthy on visa regulations and whose citizens are either about to benefit from EU membership or are regarded as unlikely to seek to settle in the EU in large numbers. Those on the black list are implicitly not trusted, and their citizens are viewed as potential large-scale immigrants.[42]

B.   THE EU AND THE BALKANS: OFFERING HOPE

The countries of the Western Balkans were given a clear perspective of future EU membership in 1999, when the framework of the Stabilisation and Association process (SAp) was established. At the November 2000 Zagreb Summit, the region's leaders agreed to a clear set of objectives and conditions by which to achieve EU integration.[43] The SAp has several elements. The goal is for each country to negotiate and implement a Stabilisation and Association Agreement (SAA), the

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[34] See "Communication from the Commission to the Council and the European Parliament – The Hague Program: Ten priorities for the next five years"; "The Partnership for European Renewal in the Field of Freedom, Security and Justice", COM (2005) 0184.
[35] See "Communication from the Commission to the Council and the European Parliament: Area of Freedom, Security and Justice: Assessment of the Tampere programme and future orientations", COM(2004) 4002.
[36] These issues until recently required unanimity; they now are decided by qualified majority voting. Thierry Balzacq and Sergio Carrera, "Migration, Borders and Asylum: Trends and Vulnerabilities in EU Policy", CEPS 2005, p. 4.
[37] The Action Plan includes: fundamental rights and citizenship – creating fully-fledged policies; the fight against terrorism – working towards a global response; a common asylum area – establishing an effective harmonised procedure in accordance with the Union's values and humanitarian tradition; migration management – defining a balanced approach; integration – maximising the positive impact of migration on our society and economy; internal borders, external borders and visas – developing an integrated management of external borders for a safer Union; privacy and security in sharing information – striking the right balance; organised crime – developing a strategic concept. Ibid, p. 6.
[38] Ibid, p. 30.
[39] This is the only area of movement-of-persons legislation where the Commission has exclusive competence.

[40] For example, Macedonian citizens "will soon get free Czech visas as a reciprocal measure to the possibility of Czech travel to Macedonia without visas", said Pavel Svoboda, president of the Commission for European Issues of the Czech Parliament. "Macedonia will have our support and our experience on the road to the EU", reported in all Macedonian media 27 October 2005.
[41] See Council Regulation (EC) No. 539/2001 of 15 March 2001 listing the third countries whose nationals must have visas when crossing the external borders (Annex I) and those whose nationals are exempt (Annex II), updated in Council Regulation (EC) No. 453/2003 of 6 March 2003.
[42] The Schengen countries follow a rule of reverse reciprocity: if a country on the white list requires the nationals of an EU member state to get a visa, it will be moved to the Schengen black list. However, a country on the black list will not be transferred to the white list for granting visa-free entry to EU citizens. Council Regulation (EC) No 539/2001, Article 1.4.
[43] Zagreb Summit, 24 November 2000, at http://www.europa.eu.int/comm/external_relations/see/sum11_00/statement.htm. The June 2000 European Council at Feira had assured the countries concerned with SAp agreements that they could become candidates for EU membership.

tool by which to achieve the prerequisite of adapting to democratic principles and the EU single market. Before starting negotiations, the Commission conducts a feasibility study to determine whether the country can realistically fulfil the demands expected of it.

The first country in the region to sign an SAA was Macedonia in April 2001, followed by Croatia later that year.[44] Both have applied for EU membership; negotiations began with Croatia in October 2005, while Macedonia is hopeful to receive formal candidate status from the European Council in December 2005, following the Commission's 9 November recommendation. Albania began SAA negotiations in January 2003, which are expected to conclude soon. Serbia-Montenegro started negotiations in October 2005,[45] and Bosnia-Herzegovina should do so in December provided further progress is made on reforming the public broadcasting system and police.[46]

The Community Assistance for Reconstruction, Development and Stabilisation (CARDS) program[47] is the main financial instrument under the SAp to help the Western Balkan countries implement their SAA obligations. It supports a range of projects, from strategies to multi-annual programs.

On 21 June 2003 at the EU-Western Balkans Thessaloniki Summit,[48] the EU assured the region that "…we will not regard the map of the Union as complete until you have joined us".[49] The SAp was to be enriched with elements taken from the enlargement process, including enhanced support for institution building, the rule of law and cooperation in justice and home affairs, participation in Community programs, and economic development. There was also to be an increase in the CARDS budget, greater regional cooperation, and efforts to strengthen democracy, parliamentary cooperation, and political cooperation.[50]

Visa liberalisation has been among the many benefits the EU has offered new member states in the enlargement process. Former Finnish President Martti Ahtisaari had argued in the run-up to Thessaloniki that a clear "signal of Europe's commitment to the region would be if the EU would ease and then lift the visa regime, as it did with Croatia. At present, visas make travel from the region to the European Union difficult".[51] The Commission did address the issue, stating its intention to initiate a dialogue with the aim of identifying achievable, measurable and realistic benchmarks to assess progress in Justice and Home Affairs (JHA).[52] However, the summit declaration warned that progress depended on the implementation by Balkan countries of major reforms in rule of law, the fight against organised crime, and administrative capacity for border control and security of documents.

C.   WITHDRAWING HOPE: AN INCREASINGLY SELECTIVE BLACKLIST

EU visa policy for third countries shows in practice how much one administration trusts the other (and by extension its nationals). In March 2001, with the ink barely dry on the Feira Council's offer of a clear EU perspective to the region, the Council of Ministers decided that Albania, Bosnia-Herzegovina, Macedonia, and the then Federal Republic of Yugoslavia should be placed on the newly established visa black list.[53] Despite protestations of the region's "significance", there would be no preferential treatment for the Western Balkans.[54]

In the meantime, more distant states have fared better. For example, on 12 October 2005 at the EU-Russia Permanent Partnership Council (JHA), the Commission initialled two bilateral agreements with Moscow on the facilitation of visas and readmission. In doing so it

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[44] Croatia is included here for completeness; Croatian citizens, however, already enjoy visa-free access to the EU and are not considered elsewhere in this report.

[45] The SAA for Serbia and Montenegro will not apply to Kosovo while UN Security Council Resolution 1244 remains in force. The European Commission is "committed to exploring creative ways to ensure that Kosovo can fully benefit from all EU instruments, and – depending on the outcome of status talks – in due course engage in contractual relations with the Union as appropriate". "Communication from the Commission: A European Future for Kosovo", COM (2005) 156.

[46] See Crisis Group Europe Report N°164, *Bosnia's Police Reform: No Progress, No EU*, 6 September 2005. Since that report was published, Bosnian political parties have committed to further police reform, but this has yet to be implemented.

[47] It is anticipated that under the 2007-2013 EU budget, CARDS will be replaced by a new Instrument for Pre-accession Assistance (IPA).

[48] See Crisis Group Europe Briefing N°27, *Thessaloniki and After (I) The EU's Balkan Agenda*, 20 June 2003.

[49] As stated by the then Commissioner for External Relations, Chris Patten. See "A milestone in the European Union's relations with the Western Balkan countries", at, http://europa. eu.int/comm/external_relations/see/sum_06_03/.

[50] See "Communication from the Commission to the Council and the European Parliament: The Western Balkans and European Integration", COM (2003) 285.

[51] Comment by former Finnish President Martti Ahtisaari, "Give Balkan nations their proper place in Europe", *International Herald Tribune*, 21 June 2003.

[52] See Communication from the Commission, "The Western Balkans and European Integration", op. cit.

[53] Council Regulation (EC) No 539/2001 of 15 March 2001, Annex I, listing those third countries whose nationals "shall be required to be in possession of a visa when crossing the external borders of the Member States".

[54] Ibid.

offered a tantalising example to the Western Balkans of what should be on offer. The agreements ease procedures for short-stay visas; ensure that decisions on applications are taken within ten days; simplify the documents that need to be presented and the criteria for multiple-entry visas for groups including lorry drivers, businesspeople, students, journalists and diplomats; reduce the fee to €35 (waiving it completely for some categories such as close relatives, students or the disabled); and exempt those holding Russian or EU member-state diplomatic passports. The agreement on readmission sets out obligations and procedures for Russia as to when and how to take back illegal residents in the EU.[55]

The Ukraine has also made progress. Following signature of its Action Plan with the EU in February 2005[56] and discussion of a draft mandate in September, the General Affairs and External Relations Council (GAERC) decided to start negotiations on visa facilitation on 7 November 2005 ahead of the 1 December bilateral summit.[57] Even China is significantly ahead of the Western Balkans. It signed an Approved Destination Status (ADS) Memorandum of Understanding facilitating tourist visas with the EU in February 2004,[58] and visa facilitation was specifically mentioned in a joint statement following the September 2005 bilateral summit.[59]

The Western Balkans simply do not appear to be on the same track. Albania has concluded a readmission agreement but without the perspective of visa facilitation promised in the Hague program. And since the Western Balkans already have conceded almost completely liberalised visa regimes for EU citizens, there is nothing to be gained for the EU in terms of reciprocity. To its Balkan neighbours, EU rhetoric and policy send contradictory messages at every turn.

Under the EU's Luxembourg presidency in the first half of 2005, visa facilitation was discussed within the Council working group on the Western Balkans (COWEB), with the aim of instructing the Commission to initiate negotiations. However, the working group was unable to agree; reflecting a general hardening of the political environment following the negative result of the referendums in France and the Netherlands on the EU Constitution, Paris argued that the region remains a security threat.[60]

There was a risk in the immediate aftermath of those referendums that EU leaders might slow or stop the whole enlargement process.[61] The decisions in October 2005 to open membership negotiations with Croatia and Turkey and to begin Stabilisation and Association negotiations with Serbia-Montenegro and Bosnia-Herzegovina indicate that at least the train is still moving. But all applicants have been warned to expect tough conditionality.

D. LOWERING THE BARRIERS: SMART VISAS

Tough conditionality is not a bad thing, provided that it is clearly linked to specific and tangible benefits – not just for governments, but for their citizens as well. What is now needed is a significant gesture by the EU to recognise the efforts made in the Western Balkans, both politically and administratively, so as to fuel further reforms. Such a move would be interpreted as

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[55] Agreement initialled in Luxembourg by Vice President of the European Commission Franco Frattini and Presidential Aide Viktor Ivanov. For further details, see http://europa.eu.int/ comm/external_relations/russia/intro/ip05_1263.htm. The process of linguistic checking, signing and ratification of the agreements will likely be completed in the first half of 2006.
[56] Available at http://europa.eu.int/comm/world/enp/pdf/ action_plans/Proposed_Action_Plan_EU-Ukraine.pdf. "In the context of EU enlargement and the European Neighbourhood Policy, a constructive dialogue on visa facilitation between the EU and Ukraine will be established,…preparing for future negotiations on a visa facilitation agreement, taking account of progress on the ongoing negotiations for an EC-Ukraine readmission agreement", p. 20.
[57] For more information see http://ukraine-eu.mfa.gov.ua/eu/en/ news/detail/1244.htm.
[58] EU member state consulates in China will simplify and facilitate delivery of tourism visas for groups (with a minimum of five persons) which apply through designated Chinese travel agencies. "European Union signs landmark tourism accord with China today in Beijing, 12 February 2004", at http://europa.eu.int/comm/external_relations/china/intro/ip04 _196.htm.
[59] At http://europa.eu.int/comm/external_relations/china/summit _0905/, in particular "25. The leaders underlined that activities on facilitating people-to-people exchanges and cooperation in combating illegal migration are a priority for both sides. In the spirit of full reciprocity, leaders discussed issues of readmission and visa facilitation. The two sides

planned to open negotiations on issues of their respective concern".
[60] Crisis Group discussions with EU member state diplomats, Brussels, June/July 2005. 55.6 per cent of French voters said "non" to the constitution on 29 May 2005, and 61.8 per cent of Dutch voters followed suit on 1 June. The "Polish plumber" issue played a part in the rejection of the Constitutional Treaty in France (and to a lesser extent the Netherlands), but it is clear that a general disaffection with the pace and manner of European integration, rather than any specific policy issue, was the prime factor; see the analysis of Peter Ludlow, "Leadership in an Enlarged European Union", *Eurocomment*, Briefing Note, vol. 3, no. 8, 16 June 2005.
[61] Crisis Group discussions with senior diplomats in Brussels, July 2005.

reconfirmation that the EU is committed to meeting their aspirations.

The citizens of the former Yugoslavia benefited from a visa free regime with Western Europe until the wars of the 1990s. After the fall of Milosevic, the restrictions remained. 70 per cent of university students in Serbia have never set foot outside their country.[62] Given that most were teenagers at the time of Milosevic's rule, the question is simple – how do they perceive an EU they are unable to experience? This "European generation of the Balkans", responsible for taking the region out of narrow-minded nationalism and conflict towards a European future, is not being given the necessary tools.[63] A visa policy that inevitably fosters resentment towards the EU is certainly no way to progress.

The establishment of a special "L" visa for local border traffic at EU external borders, a proposal which is slowly moving through the legislative process,[64] would be a small step in the right direction. If adopted it would indicate that visa facilitation for certain groups is neither a Balkan pipe dream nor a concensus-building impossibility for the EU.

A smarter visa policy crafted to take account of the security, economic and cultural preoccupations of EU polities, would not open the door wide for emigration from the Western Balkans or even for unrestricted short-term travel. It would, however, substantially improve time-limited access for selected groups of travellers – students,[65] academics (researchers, university professors), the business community, civil society, media, researchers, and government officials – by establishing a stronger presumption of approval, exemption from the fee and interview process, lessening the number and type of documents to accompany an application and quick

processing of the application. It would facilitate the application process for all others from the region by offering the more limited benefits of a simpler application process and a speedier decision. The Commission should ask the European Council for a mandate to negotiate such a regime, set out a clear visa "road map" for each country, and revise the common consular instructions to encourage a simplified process.[66]

A political framework for participation in EU programs has been adopted with the signing of agreements on 22 November 2004 that allow Albania, Bosnia-Herzegovina, Croatia, Macedonia, and Serbia-Montenegro eventually to take part in the Erasmus program, though the Commission does not expect this to happen in the near future.[67] The countries already participate in the Tempus program.[68] But while the political framework is in place for "mobility" programs, barriers remain for students from the Western Balkans.[69]

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[62] "Generation in Isolation: Serbia and Montenegro's future deprived from European values and cultures", Student Union of Serbia, spring 2004.

[63] "The Balkans in Europe's Future Report", The International Commission on the Balkans, http://www.balkan-commission. org/.

[64] "Free movement of persons: local border traffic at external borders of the Member States and establishment of a special "L" visa, amending the Schengen Conventions and the Common Consular Instructions". Details available at http://www.euro parl.eu.int/oeil/FindByProcnum.do?lang=2&procnum=COD /2005/0006. Issuing visas of "limited territorial validity" is allowed under the Schengen agreement but only under specific conditions. For further information see Apap and Tchorbadjiyska, op. cit., p. 7.

[65] See, for instance, the proposal of the International Commission on the Balkans, to allow 150,000 full time students from the Balkans to qualify for student visas, with acceptance in accredited EU universities.

[66] See also an excellent 100-page study, "Liberalisation of [the] Visa Regime in the Region of South Eastern Europe: Obstacles and Possible Solutions", published by the Citizens Pact for South East Europe, http://www.citizenspact.org.yu/.

[67] "EU's relations with South Eastern Europe", http://europa.eu. int/comm/external_relations/see/gac.htm. One of the greater successes of the EUs community programs, Erasmus has given over one million EU students opportunities to study in universities across Europe. They benefit from studies in other languages but more importantly gain multicultural experiences that reflect the Union's goals. Before participation, a country must sign agreements for each program expressing specific priorities (number of students, fees). The EU has a strict financial regulatory regime, to which each participating country must contribute a certain amount in addition to having ability to administer the distribution of approved funds. Crisis Group interviews with Commission officials, Brussels, September 2005.

[68] The Tempus program involves technical assistance and development for participants in EU partner countries.

[69] Numerous Crisis Group discussions with Macedonian students, for example, found that while they had been accepted to Belgian universities, all had major difficulties in getting visas. One received hers the morning of her flight.

IV. THE VIEW FROM THE BALKANS

A. "CONSULAR SADISM"

The practicalities and costs of applying for a standard Schengen visa are a clear deterrent. A visa costs €35 for most countries but citizens in the Balkans have been charged anywhere from €40 to €120.[70] And this charge may be the least expensive element in a lengthy series of requirements to produce documents that can be deemed insufficient by any member of consular staff.[71] Meetings with officials from the Commission and Western Balkan countries have led Crisis Group to believe that the process is more subjective than objective.[72]

Although Schengen countries have not harmonised their basic requirements for applicants from the Western Balkans,[73] it is typically necessary to present a number of documents to verify identification, and depending on status (student, business person, tourist, retiree, etc.), possibly also to prove a connection to the receiving country and the means to finance the stay. A number of embassies require proof of a return ticket - though there is no guarantee that the visa will be granted, and tickets are not always refundable. All documents need to be translated into the language of the country of destination, and at some embassies, a special notarisation stamp is required which can cost up to €30 per document.[74]

Minimum documentation requirements include a valid passport, copy of the passport, on average two photos, visa forms and travel health insurance. An applicant who is employed must present a statement of employment, their last three payslips and a worker's book/job booklet. The requirements for a student applicant include a statement from the faculty/school and a copy of the student's book (with photo, attendance record and grades). Additional documentation required may well include an invitation letter from the municipality or a guarantee letter and proof of salary from an inviting party in the state of destination; a birth certificate, marriage certificate, children's birth certificate, proof of relationship with the party to be visited, residence statement, copy

of national identity card, driving license, real estate certificates and previous visas; proof of hotel confirmation and voucher, and letters from home school or work place showing the date of intended return.[75] The absence of any of these may lead to the rejection of the application.

The combined costs of the visa fee, travel insurance, translation and notarisation of documents and possible consulate appointment and phone calls are of the order of a month's average salary.[76] This does not take into consideration the loss of salary for, at a minimum, a day's work while waiting at the consulate, and additional time should the applicant have to travel a considerable distance to get there.[77]

With the process for obtaining visas so difficult, time consuming and costly, the chances for corruption increase since people become willing to do anything to leave. The long lists of documents required for applications and the time and expenses incurred foster sophisticated counterfeiting networks. Less complicated procedures would reduce the inclination to seek alternative methods, while lower fees and swifter procedures followed by consulate staff, including local employees, who are well trained and appropriately paid, would similarly reduce corruption.[78]

When a short-term visa is approved, its maximum length is three months, but most applicants rarely receive this. A common complaint of those granted a visa is its duration, which can be as little as a few days.[79] Non-married applicants between the ages of eighteen and 30 are subject to further scrutiny, which includes additional documentation or interviews.[80] When all steps have been

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[70] Crisis Group interview with senior Western Balkan diplomat, Brussels, 31 August 2005.

[71] Many consulates consult their headquarters about granting visas, even if the applicant has all the proper documentation. Document circulated by Luxembourg EU Presidency, April 2005.

[72] Crisis Group discussions, Brussels, July/August/September 2005.

[73] Document circulated by Luxembourg EU Presidency, April 2005.

[74] Ibid.

[75] Ibid.

[76] The average monthly salary in the Balkans ranges from €200 to €400. Pensioners receive between €100 and €200. Crisis Group interview with senior Balkans officials, 11 July 2005.

[77] Not all member states have embassies in all Western Balkan countries; applicants either can fax/post by DHL to the nearest embassy/consulate in neighbouring countries, visit an honorary consulate in the capital (though not all honorary consuls are empowered to grant visas), or go to another member state's embassy which provides the appropriate consular services. This complicates the process and lengthens the processing period.

[78] "Monitoring of Polish Visa Policy Report", Stefan Batory Foundation, November 2004, p. 72.

[79] Crisis Group discussions with Balkan officials produced numerous examples of unfortunate delays and shortened visas which impeded completion of intended tasks, whether attendance at business and academic conferences, studies or vacations. Crisis Group interviews, Brussels, June/July 2005.

[80] Crisis Group discussions with applicants in this age range in July 2005 revealed instances where consulates requested information on the financial situation of the people whom the applicants were to visit (in addition to information on the

taken, including an interview with consular staff, the visa may be denied with all fees non-refundable. A Balkan diplomat has described the process, not unfairly, as "Consular Sadism".[81]

B.   "BALKAN GHETTO"

The EU claims that it does not want a Balkan region plagued with extreme nationalism and religious intolerance on its borders but that is what its visa policies are helping to create. The Balkans are at a crossroads - geographically and temporally. Take away the EU perspective and the region could well slip back in to the troubles of the 1990s; maintain the ambiguous status quo and it likely will continue to evolve into a European ghetto, segregated from the rest of the continent by economic and social discrimination. "A minimalist approach will only ensure that the organised crime, migration and trafficking that beset the Western Balkans continue to spill over into the EU".[82]

With the imminent accessions of Bulgaria and Romania and eventually that of Croatia, the Western Balkans will become an economic black hole within Europe. As their neighbours strengthen their economies, Albania, Bosnia-Herzegovina, Macedonia and Serbia-Montenegro are struggling to attract investors. Their economies have not recovered from war and international embargoes that produced extremely high poverty and unemployment rates.[83] The EU policy of pumping money in to finance

reforms[84] has only marginally improved the economic situation.[85] As of 2003, the four countries' GDP per capita was only 8 per cent of the EU average.[86] Without economic infrastructure based on the foundation of well-informed, EU-oriented work-forces, the EU's millions will continue to be applied to short-term, easily verifiable projects and not the deeper economic restructuring needed to have a lasting effect.

A ghetto of underdevelopment surrounded by countries with improving, EU-linked economies would not only attract more criminals who profit from the "Balkan route" of trafficking but also further isolate those wanting to improve their situation legally. Current policies risk disenchanting the very political elite which counts on EU membership as the motivation for deep reform. Continued isolation and economic depression in the Western Balkans is a social time-bomb; a young and largely unemployed population isolated from other cultures is a recipe for disaster.

C.   ISOLATION LEADS TO INTOLERANCE

The effect of being on the Schengen black list goes beyond the increased financial burden incurred in the visa application process; there is a strong perception of national humiliation inherent in being, as far as the EU is concerned, of pariah status, especially when before 1990 most of the applicants would have been able to travel freely in Europe.[87] Conversely, the prospect of a move to the white list can be a powerful incentive: a senior Bulgarian official told Crisis Group that the change for his country was "a moment of trust between Bulgaria and the EU. This signal was enough to unite

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applicants' financial status). One applicant submitted official letters of acceptance from the university at which she was to study in France; they were not accepted, and she was required to request others in addition to having the university director call the consulate.

[81] Crisis Group interview with Western Balkan official, Brussels, 12 July 2005.

[82] Former Finnish President Martti Ahtisaari "Give Balkan nations their proper place in Europe", op. cit.

[83] The figures for population below the poverty line are Albania, 25 per cent (from 2004); Bosnia-Herzegovina, 25 per cent (2004); Macedonia, 30.2 per cent (2003); and Serbia-Montenegro, 29 per cent (2000, IMF figure). National estimates are based on surveys of sub-groups, with the results weighted by the numbers in each group. Definitions of poverty vary considerably among nations. Rich nations generally employ more generous standards than poor nations. Source CIA, "World Factbook", http://www.cia.gov/cia/publications/factbook/. Unemployment rates are Albania, 14.8 per cent officially but perhaps as high as 30 per cent (2001 estimate); Bosnia-Herzegovina, 44 per cent officially, though the grey economy may reduce this to near 20 per cent (2004); Macedonia, 37.7 per cent (3rd quarter 2004, though free access to health benefits for the unemployed may elevate the figure); and Serbia-Montenegro, 30 per cent, with Kosovo approximately 50 per cent (2004). Ibid.

[84] The countries receive aid from the CARDS program, the European Investment Bank and other international institutions including the IMF.

[85] Overall growth in the region is estimated at 4.5 per cent but it is less in Macedonia and Kosovo, See European Economy Enlargement Papers, DG ECFIN, http://europa.eu.int/comm/economy_finance/publications/enlargement_papers/elp23_en.htm, December 2004.

[86] 2003 GDP per capita at current prices and exchange rates is as follows: Albania, €1,680, 8 per cent of EU level; Bosnia-Herzegovina, €1,897, 9 per cent; Macedonia, €2,121, 10 per cent; Serbia-Montenegro, €2,232, 10.6 per cent; Kosovo, €930, 4.4 per cent. Ibid.

[87] Speaking at a conference in a Balkan capital in April 2005, the head of the European Commission delegation replied to a question from Crisis Group that Schengen visa requirements were not onerous, and he had never heard of problems. There was an audible intake of breath from the 200-strong audience; to judge from the body language of those talking to him at the coffee break, he was rapidly enlightened about the problems faced by potential visitors to the EU.

politicians and citizens alike, [to] push harder to make the necessary reforms to meet EU standards. At this step, Bulgarians knew that Europe was serious about [their] EU perspective".[88]

That persons who have few opportunities to travel tend to be intolerant of other ethnicities and religions is suggested by recent research among Serbian students.[89] 88 per cent of those surveyed in the city of Kragujevac "would not accept" Albanians, 56 per cent "would not accept" Croats, 46 per cent Bosnians and 37 per cent other religions. Only 21 per cent of students from this region have had the opportunity to travel.[90]

The rigidity of the visa policy also encourages Western Balkan students to study where they receive a warmer welcome. A senior Balkan diplomat told Crisis Group that Muslim students from his country are seeking educational opportunities that are fully funded elsewhere, including in Pakistan and Saudi Arabia, and many return with fundamentalist ideas.[91]

This raises the question of whether the Balkans are producing, in the words of the German news magazine *Der Spiegel,* "a hotbed of extremists ready to use force to carry the fight of the Islamic terror syndicates against the 'godless West' to the south east of Europe".[92] The region has ambiguous connections to terrorist acts in Europe[93] and a past which saw *jihadi* volunteers train and fight on its soil.[94] The al-Haramain Islamic Foundation, "one of Saudi Arabia's most active charities in spreading Islamic fundamentalism",[95] was designated by the U.S. and Saudi

governments as an al-Qaeda funding source on 11 March 2002 and on 29 January 2004 added to the UN list of groups whose assets, including those in Bosnia, Albania, Croatia, and Kosovo, are blocked due to suspected ties to al-Qaeda.[96]

Der Spiegel considerably exaggerated. The Balkan conflicts of the last fifteen years cannot be accurately described as a struggle between Islam and the "godless West". Several of the Christian groups involved would certainly also see themselves as in conflict with the West, and Christian clergy have been much more visible than their Islamic counterparts at the nastier end of nationalism and xenophobia in the region. Mainstream Islam in the Balkans consistently rejects outside influence from whatever source. All that said, the potential for radicalisation remains, if the poverty and fragmented social conditions in rural communities are exploited, making them "vulnerable to the long-term strategies of Salafi/Wahhabi organizations based in Saudi Arabia".[97]

D. STATEHOOD UNDERMINED?

Applications for Bulgarian citizenship have significantly increased since 2001 from Macedonians who seek to use ties to distant relatives to benefit from Bulgaria's white list status.[98] Bosnian citizens of Croatian descent similarly qualify for Croatian passports that allow them to travel freely to the EU. Just at the stage when the governments of the Western Balkans are being given the tools to reaffirm and reform state structures, and when EU funding is being devoted to "state-building", statehood is being undermined.

While Albania, Bosnia-Herzegovina, Macedonia, and Serbia-Montenegro show approximately 80 per cent support for EU membership, their citizens have seen few concrete results.[99] They are being asked to trust their leaders to make sweeping changes in the name of EU accession. The longer the status quo is maintained, however, the more attractive their neighbours' citizenship

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[88] Crisis Group interview, Brussels, 24 June 2005.

[89] The Student Union of Serbia, in partnership with a specialised polling agency, conducted an in-depth survey of student opinion during the spring of 2004 and drafted a report, "Generation in Isolation: Serbia and Montenegro's future deprived from European values and culture", the findings of which were presented to the Serbian Permanent Representation to the EU to illustrate the frustrations of Balkan youth.

[90] 28 per cent of Belgrade students have had such an opportunity.

[91] Crisis Group interview with senior Balkan diplomat, Brussels, 8 June 2005.

[92] "Der Bund von Saudi-Arabern und Fundis", *Der Spiegel*, 8 December 2003.

[93] Bosnian Serb police chief Dragomir Andan - not, of course, a particularly objective source - claimed that the bombs used in the Madrid attacks on 11 March 2004 were made in Bosnia, and the bombers had passed through that country en route to Spain. "Bosnia - Herzegovina: PM Denies link to Madrid massacre detonators", http://www.seeurope.net/en/Story.php?StoryID=55 408&LangID=1, 13 May 2005.

[94] See Crisis Group Europe Report N°119, *Bin Laden and the Balkans: The Politics of Anti-Terrorism*, 9 November 2001.

[95] "Al-Qaeda finances and funding to affiliated groups", *Strategic Insights*, vol. IV, issue 1, January 2005, Centre for

Contemporary Conflict. The Saudi Joint Committee for the Relief of Kosova and Chechnya should also be noted in this context

[96] Ibid.

[97] "Political Islam Among the Albanians: Are the Taliban Coming to the Balkans?", Kosovar Institute For Policy Research And Development, Policy Research Series, paper #2 (first printed 2002), p. 18

[98] According to a senior Bulgarian official, a person who can prove a Bulgarian grandparent can qualify for citizenship. Crisis Group interview with Bulgarian official, Brussels, 24 June 2005.

[99] Crisis Group interview with European Commission official, Brussels, 30 August 2005.

becomes, with side-effects that further split already ethnically divided societies, undermine nascent efforts at state building and increase dissatisfaction with their own governments.

In 2001 evidence surfaced implicating the French embassy in Sofia in selling an estimated 20,000 to 25,000 visas to Bulgarian prostitutes. This led to investigation by the French foreign ministry and charges being brought against a former vice counsel.[100] Similarly, evidence emerged that the Belgian embassy in Bulgaria was accepting bribes, and a senior diplomat had developed a network of front companies at home for making fictitious requests for work visas, each worth up to €4,230 in fees.[101] Apart from the obvious detrimental effect of the black market for visas, the EU's case for promoting state building is undermined when members states are also implicated in corruption.

E. THE WESTERN BALKANS REFORM PROCESS

Responsibility for improving the visa regime and thus the travel opportunities for residents of the Western Balkans, of course, does not rest solely with the EU and its member states. The governments of the region must do their part - including more than at present - to establish the conditions and the environment in which liberalisation and facilitation becomes practically and politically possible.

The establishment of border management systems in line with Brussels standards is a prerequisite for integration into the EU. This process has been overseen by the Stability Pact,[102] whose coordinator, Erhard Busek, is tasked with coordinating initiatives in the region. Border management efforts under Security and Defence (a sub-division of Working Table III, Security Issues) were initiated by the Stability Pact's Ohrid Regional Conference on Border Security and Management (22/23 May 2003). In cooperation with NATO, the Organisation for Security and Cooperation in Europe (OSCE) and the Commission, it presented its "Common Platform"[103] and "Way

Forward" documents[104] on the goal of placing border control services entirely under the responsibility of appropriate civilian authorities in accordance with European standards.

The short term objectives involve national, regional and country specific tasks that were to be completed "if possible by the end of 2004". By February 2005, the Ohrid process was at a "turning point with the achievement of the short and medium term objectives expected for the end of 2005".[105] Demilitarisation is now said to be "officially" completed everywhere except Serbia, which is expected to complete the process by the end of 2006.[106] Efforts towards the long-term objective – a fully integrated border security approach covering all policy aspects – needs to continue through 2006.

The Western Balkan states themselves control the Migration, Asylum, Refugees Regional Initiative (MARRI) established in April 2004 beside the Ohrid process. It aims to enhance regional ownership (and cooperation, as stipulated at Thessaloniki) of issues which include border management, visa and entry policies. An overall strategy is meant to be in place in early 2006.

The EU's CARDS program has included, inter alia, an €8 million project to reinforce Macedonia's border management, €600,000 for police forces in Bosnia-Herzegovina, €6.6 million to modernise Albania's police force and a €10 million project to modernise the Horgos border point between Serbia and Hungary. Other projects assisting Balkan countries to improve their visa issuance systems include the Visa Module funded by CARDS and implemented by the International Centre for Migration Policy Development under the supervision of the Swedish Migration Board.

A more thorough set of measures, which would be appropriate for each of the four countries to undertake, is that for which Bulgaria in 2001 and Romania the following year were transferred to the EU visa "white list", including:

❑   introducing sophisticated, high-tech passports that are very difficult to forge;

❑   enacting criminal sanctions and fines for irregular border crossing and forged documents and legislation making it a criminal offence to violate the immigration law of any EU member state;

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[100] "Eleven embassies investigated as France exposes huge visa scam", *The Guardian*, 28 August 2001; also "Charges laid in French visa scandal", *Sofia Echo*, 4 July 2002.
[101] Scandal hangs over Belgium's EU presidency, *Telegraph*, 27 June 2001.
[102] The Stability Pact is a political declaration of commitment and a framework agreement on international cooperation to develop a shared strategy for stability and growth in South Eastern Europe. It is complementary to the SAp and the accession process but not an international organisation and does not have independent financial resources or implementing structures.
[103] Available at http://www.stabilitypact.org/specials/030522-ohrid/030commonplatform.doc.

[104] Available at http://www.stabilitypact.org/specials/030522 -ohrid/wayforwarddocfinal.doc.
[105] "Police reforms and border management", Speech by Ambassador Donato Chiarini, Head of Delegation of the European Commission in Skopje, 24/26 February 2005.
[106] Crisis Group interview, Brussels, 21 November 2005.

❑   aligning visa issuance policy with that of the EU;

❑   deploying more staff and equipment at the borders; and

❑   concluding agreements for the repatriation of illegal residents in the EU. [107]

The following are snapshots of national efforts related to visa policy, border control, migration and actions against organised crime.

1.   Albania

The fall of communism opened Albania's borders, bringing an unprecedented influx of cross-border organised crime and traffic in arms, commodities, drugs, and humans. Social and economic tensions resulting from the political and economic transition created an environment conducive to crime, and weak government became victim to corruption.[108] Government estimates suggest that over the past ten years, some 100,000 Albanian women and girls were subject to human trafficking.[109]

Albania has focused on achieving EU membership. With respect to reforms in the field of justice and home affairs, it has introduced passports with enhanced security elements, will introduce secure visas, and is in the final phase of producing high-tech identity cards tied into a central civil register that will be the main database for identification of its citizens. The first country in the region to have initiated and signed a readmission agreement with the Commission, it has signed similar agreements with almost all Western European countries as well as the states in its region. In cooperation with the EU police mission in Tirana, amendments to the law on aliens have been drafted that are in line with EU practice and precedent.[110]

2.   Bosnia-Herzegovina

When the entities of Republika Srpska and the Federation of Bosnia and Herzegovina were established under the Dayton Agreement as Bosnia and Herzegovina, many functions were divided between them, including the fight against organised crime.[111] Criminals were able to adapt and manoeuvre around the entity lines. Illegal migration, trafficking of people, drugs, and commodities such as alcohol and cigarettes, and corruption became the country's biggest problems.[112]

Aware that the constitution and relevant entity laws prevent the police from crossing into the territory of a different entity,[113] thus hampering investigation and hot pursuit, the UN mission (UNMIBH) and the International Police Task Force developed a project for building state-level law enforcement institutions. Today, the State Investigation and Protection Agency (SIPA) seeks to fill the gap between the entity police forces. It specialises in organising investigations into money laundering, war crimes and trafficking, as well as interception and surveillance, witness protection, and protection of VIPs.[114] Bosnia-Herzegovina also seeks to improve the capacity of its State Border Services (SBS) and to draft by-laws for the development and implementation of an Information System on Migration (ISM).[115] Trafficking appears to be decreasing.[116] The country aims to conclude readmission agreements with all EU and Schengen member states and fully harmonise its visa regime with EU regulations.[117]

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[107] The Council also encouraged Bulgaria to adopt additional measures: computerised control systems at border posts, an action plan with Greece, legislation to provide for penalties on those who take out of Bulgaria persons who do not have the necessary documents to enter their country of destination; and an information campaign explaining to Bulgarian citizens the limits of their visa-free right. A senior Bulgarian diplomat stated that at the time of Bulgaria's removal from the "visa black list", government officials were told by Romanian counterparts that the success would facilitate their country's future visa free access to the EU. Crisis Group interview, Brussels, 24 June 2005.
[108] See Crisis Group Europe Report N°54, *The State of Albania*, 6 January 1999.
[109] See UNICEF's 2002 report, "Trafficking in Human Beings in Southeastern Europe", p. 125.
[110] They introduce the distinction between short and long-term visas, as well as special provisions regarding citizens from EU

member states, and eliminate exit visas, in line with Schengen. They also clarify the entry and stay of third-country nationals for purposes including employment, studies and residence. Crisis Group interview with senior Albanian officials, 11 July 2005.
[111] See "Bosnia Political Profile", http://www.alertnet.org/db/cp/bosnia.htm?v=poli.
[112] "Report on the Organised Crime and Transition in Western Balkans", *Forum*, the Forum for Ethnic Relations, December 2002.
[113] Crisis Group Europe Report N°164, *Bosnia's Stalled Police Reform: No Progress, No EU*, 6 September 2005.
[114] See "EU Police Mission in Bosnia and Herzegovina", http://www.eupm.org/Clanci.asp?ID=79&lang=eng.
[115] The ISM project would implement a cooperative database for the ministry of foreign affairs, the citizen identification and protection system directorate, the ministry of security, the state border service, the International Organization for Migration (IOM) and the office of the UN High Commissioner for Refugees.
[116] While numbers have gone down, local NGOs fear that the nature of human trafficking is changing, and it is becoming more difficult to know the number of cases. "Trafficking in Human Beings in South Europe Report", UNICEF, 2002, 2004.
[117] Visas have been electronically processed since 1 November 2004. The relevant bodies participating in implementation of visa regime activities (state border service, ministry of foreign

The present focus is on delays, disagreements and controversy with police reform. The idea, as with most recent reforms, is to strengthen central institutions by shifting prerogatives from the entity to the state level.[118]

3. Macedonia

Aided by its Stabilisation and Association Agreement, the government has passed a considerable body of law essential to strengthening its capacities and harmonising with EU legislation.[119] It has prepared a National Strategy on Integrated Border Management with the understanding that it must develop efficient systems in line with EU standards.[120] Extensive legislation has been adopted with respect to asylum policy, illegal immigration and data protection.[121] The country takes part in a number of institutions that seek to help it overcome its admitted inexperience in dealing with money laundering.[122] Police cooperation is facilitated

by INTERPOL membership and will be supplemented shortly by EUROPOL membership.[123]

4. Serbia-Montenegro

The greatest challenges in the reform process are a general lack of inter-republic coordination, including harmonisation of policies and difficulties surrounding distribution of competencies and lack of resources for implementation. Many competencies are divided between Serbia and Montenegro, leading to dual reforms, including on visas,[124] the management of borders and the conclusion of readmission agreements.[125] The latter agreements are monitored by the Ministry for Human Rights and Minorities but the asylum policy of the union needs to be updated.[126] Both republics have taken initiatives to prevent money laundering, passing laws in line with international standards as well as joining organisations such as the Egmont Group, an internationally recognised coalition of financial intelligence units.[127]

Serbia-Montenegro has made improvements on the ground as well as on paper through changes in the government as well as increased EU involvement and support. Border controls have been strengthened, leading to a significant drop in the number of illegal crossings; statistics indicate that fewer women and girls are being trafficked. The lack of motivation for the two republics to harmonise laws may hinder coordination within their shaky state union, but they understand that they both have a clear EU perspective, which stimulates their efforts to reach EU standards.

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affairs, and ministry of security) are connected electronically to the central database. Crisis Group interview with senior Bosnian officials, July 2005.

[118] Crisis Group Report, *Bosnia's Stalled Police Reform*, op. cit.

[119] The legislation cited in this paragraph has been listed on the "Questionnaire for the preparation of the European Commission's Opinion on the application of the Republic of Macedonia for the membership to the EU", http://www.sei.gov.mk/questionnaire/. The government is in the final stages of producing passports that will be secure against forgery. A national visa register exists, which records all information on applications and visas. The Law on Aliens is awaiting adoption and conforms to EU standards. There are plans to adopt a regulation that would regulate the security features of a visa sticker.

[120] In line with these objectives, Macedonia has transferred its border management from the ministry of defence (the army) to the ministry of the interior (border police), which will work with the National Coordination Centre for Border Management, a central element of the National Strategy. An advanced IT system has been designed but border police stations lack sufficient modern equipment to utilise the plans fully. None the less, the European Agency for Reconstruction has praised Macedonia as "the first country in the western Balkans to develop a national integrated border management strategy that is in line with Schengen rules". "EU gives Macedonian border police 2.8 million Euros of equipment", 14 June 2005, http:/www.ear.eu.int/ publications/main/news-a1a2f314.htm.

[121] The Laws on State Statistics, Personal Data Protection, are in line with EU standards, Macedonia has signed and ratified the UN Palermo Treaty on Organised Crime and its two protocols on smuggling and trafficking in human beings as well as numerous other international treaties.

[122] The Directorate for Prevention of Money Laundering and Financial Police targets money laundering by organised crime. Macedonia is a member of the Egmont group, an international coalition of financial intelligence units, the Council of Europe's Group of States Against Corruption (GRECO) initiative and other regional groups.

[123] Macedonia has been a member of INTERPOL since 1993 and has completed the pre-conditions for signing the Agreement on Cooperation with EUROPOL by adopting its Law on Data Protection and delivering the questionnaire to the organisation.

[124] Serbia-Montenegro does not have a unified system for visa issuance in its two republics and is not in compliance with the communitarian Schengen visa list, though Montenegro is close. Serbia has repealed visa requirements for some 40 European countries, including all EU member states, abolished the practice of issuing visas (tourist passes) at the borders, introduced visas for several African and Asian countries and tightened procedures for source countries of human trafficking.

[125] Serbia-Montenegro has signed readmission agreements with Belgium, Bulgaria, Croatia, Denmark, Germany, Hungary, Italy, Slovakia, Slovenia, Sweden, and Switzerland; negotiations are ongoing with Austria, the Czech Republic, France, Latvia, Lithuania, Portugal and the UK.

[126] Numerous international agreements have been ratified under UN auspices; while the right to asylum is guaranteed, Serbia-Montenegro does not provide refuge for asylum seekers and refugees up to international standards.

[127] Serbia-Montenegro has ratified the European Convention on Laundering, Search, Seizure and Confiscation of Proceeds from Crime.

F.   KOSOVO: A SPECIAL CASE

Kosovo's unique situation[128] has exacerbated the already considerable constraints of the visa regime, making travel from the province very difficult. Security and migration issues have in general been the reserved competence of the UN mission (UNMIK). Kosovo has a good legal framework in many areas – almost all laws have been drafted with the assistance of international experts and with a particular view to having them in line with EU standards. However, translations into three[129] official languages which are late, sometimes inaccurate, and patchily distributed, contribute to implementation problems.

For most of the period since 1999, UNMIK managed the borders with back-up assistance from the NATO-led military force (KFOR).[130] The border police and customs service were staffed by internationals, while locals were recruited and trained. Internationals are now being phased out of the border police, and hundreds more Kosovo Police Service (KPS) officers are being assigned to it, while customs has, with a handful of internationals at the top, been largely staffed and managed by Kosovo residents for several years. Both are "reserved competencies" under UNMIK's overall management. Specialist Kosovo police units are being built to deal with cross-border crimes, such as smuggling (drugs, arms, or unregistered goods) and trafficking. They are still under direct operational control of civilian UNMIK police (CIVPOL) but the focus is on the transition to local command.

Coordination on security and migration issues with the neighbouring countries has increased. CIVPOL has established links with regional police forces, including those of Serbia-Montenegro, though cooperation mostly does not extend to KPS ties with local forces. Even UNMIK's contacts are over-bureaucratised: all cooperation must go through CIVPOL Pristina command. KFOR has improved cooperation with the Serbian army.[131]

Despite these efforts, there has been only marginal improvement for people in Kosovo who want to travel beyond Albania and Macedonia. Uncertainty over status has been incorporated into the visa application quagmire. In the first three years after the war, only a small number of states recognised UNMIK's documents and even fewer allowed Kosovo-registered vehicles to enter their territory. This has now changed, with all but Serbia[132] recognising both travel and vehicle documents,[133] but most countries still require additional car insurance.

EU visas present special hurdles. Because UNMIK travel documents – valid for only two years – and vehicle documents were not recognised in the first years after the war, many resorted to obtaining Yugoslav/Serbia and Montenegro documents in order to facilitate travel, and the practice continues.[134] However, Kosovo Albanians do not have easy access to Serbian parallel administrative institutions in Kosovo or in Serbia, so they have to pay intermediaries to apply on their behalf (including bribes).[135]

The EU visa regime is ostensibly similar to that applied to Serbia-Montenegro; the UNMIK travel document is officially treated in the same manner as the Serbia-

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128 Crisis Group Europe Report N°165, *Bridging Kosovo's Mitrovica Divide*, 13 September 2005; Crisis Group Europe Report N°163, *Kosovo after Haradinaj*, 26 May 2005; Crisis Group Europe Report N°161, *Kosovo: Toward Final Status*, 24 January 2005.
129 Albanian, Serbian and English.
130 In the immediate post-war phase, KFOR was responsible for check points at the border crossings; with the arrival of international police officers, it gradually withdrew, and UNMIK took over.
131 UNMIK has issued a regulation (Regulation 2005/16) that introduces more control over who enters and leaves Kosovo. It requires foreigners to state their business in Kosovo at the border to get an entry card (not a visa), which

must be renewed every 90 days. Internationals serving in official bodies in Kosovo are exempted; others can apply for a registration card valid for up to one year.
132 There is a way to travel to Serbia with a KS-registered vehicle: at the border crossings in Merdare and towards Bujanovac, it is possible to get temporary Serbian car plates for the visit's duration. At the Serbian police check point, KS plates are replaced with Serbian and an insurance fee paid. Serbia does not recognise UNMIK's travel or identification documents, so passengers need to have either Serbian or foreign documents.
133 Albania and Macedonia recognise both travel documents and car registrations; Montenegro and Croatia recognise both sets of documents, although additional car insurance is required for the stay in those countries; Serbia does not recognise either; Bosnia recognises the UNMIK travel document but not the car registration; Slovenia recognizes both (but a visa is needed to travel there); and Bulgaria, Turkey and Greece recognise both sets of documents (with special car insurance at the border stop).
134 A Serbia-Montenegro passport allows easier access to Serbia and Bosnia, cheaper car insurance, and visas for some states, such as Greece and Hungary.
135 A Serbia-Montenegro passport costs Kosovo Albanians from €300 to €600, depending on how difficult it is for them to access Serbian parallel institutions (the ministry of internal affairs – the infamous MUP Serbia – that is in charge of travel and vehicle documents). Once the passport has been acquired, Kosovo Albanians may have a further problem if visa-issuing officials and border officials stamp or issue visas in a way that uses up the clean pages quickly, or issue visas only for very short stays, thus reducing the shelf-life of the passport. In addition, Serbian transliterations of Albanian names often differ from the Albanian spelling, even in official documents, leading to further confusion.

Montenegro passport. However, embassies and consulates of EU member states have special internal instructions for holders of that passport who come from Kosovo. Most, especially those whose countries have many residents from the Kosovo Albanian diaspora, are well aware of the differing backgrounds of a visa applicant from Serbia and one from Kosovo and tend to have tougher standards, whether for asylum, immigration or short-term visas, for the latter. These take account of the province's economic stagnation, which has made many of its residents desperate to relocate to Western Europe.

A practical problem is that visas for some EU member states cannot be obtained in Kosovo because there is no competent issuing office in the province, while some of those which do accept applications in Kosovo charge extra for couriering them to and from embassies in capitals such as Skopje, Tirana, and Belgrade. When Kosovo applicants have to travel to these embassies in neighbouring countries themselves, it involves extra costs – at least two trips are needed for one visa.

V. CONCLUSION

The Western Balkans region is trying to move towards Euro-Atlantic structures and away from a violent past. No one would have thought 30 months ago at the Thessaloniki summit that it would be the EU that was stalling the process of integration on such a basic element as travel. The region cannot afford to be marginalised, neglected or put "on ice" while the EU engages larger, more politically or strategically important interlocutors on visa regime improvements. The EU should refocus on how to help this region make its way towards full integration, starting with a significant practical gesture from which both citizens and governments would benefit.

The governments of the Western Balkans still face uphill struggles on the domestic reforms they must make. Without the full support of Brussels and member state capitals, there is little hope the region will be able to shake off the mantle of being a "security threat" to Europe. The worst case scenario would be to allow an increase in the already evident disparity between the region and its neighbours who are further advanced in EU integration. However, EU policy runs the risk of creating the very "Balkan ghetto" on its border that it fears.

Visa liberalisation for special categories of would-be travellers and facilitation of the application process for all is not a quick fix for stagnating economies, marginalised youth and criminal networks but would meaningfully encourage those who can influence their countries to break from dependency on EU aid towards proactive involvement *with* the EU. It would be a logical progression for the countries of the Western Balkans as they continue to reform in accordance with SAA terms, meet Schengen standards and improve their borders. A carefully designed and implemented visa initiative can and should take into account the specific needs of the region and its people while maintaining essential security protections for EU territory. Its early implementation would go a considerable way toward reminding both the EU and the Western Balkans of their commitment to a shared future.

Belgrade/Pristina/Sarajevo/Skopje/Brussels,
29 November 2005

APPENDIX A

GLOSSARY OF ABBREVIATIONS AND ACRONYMS

ADS	Approved Destination Status
AFSJ	Area of Freedom, Security and Justice
CARDS	Community Assistance for Reconstruction, Development and Stabilisation
CIVPOL	Civilian UNMIK Police
COWEB	Council working group on the Western Balkans
ENP	European Neighbourhood Policy
EU	European Union
EUROPOL	European Police Office
GDP	Gross Domestic Product
GRECO	Council of Europe's Group of States Against Corruption
ICTY	International Criminal Tribunal for the Former Yugoslavia
IEBL	Inter Entity Boundary Line
IMF	International Monetary Fund
INTERPOL	International Criminal Police Organisation
IOM	International Organisation for Migration
IPA	Instrument for Pre-Accession Assistance
IPTF	International Police Task Force
ISM	Information System on Migration
JHA	Justice and Home Affairs
KFOR	Kosovo Force
KPS	Kosovo Police Service
MARRI	Migration, Asylum, Refugees Regional Initiative
NATO	North Atlantic Treaty Organisation
SAA	Stabilisation and Association Agreement
SAp	Stabilistaion and Association Process
SBS	State Border Service
SCG	The Federal Republic of Yugoslavia/ Serbia & Montenegro
SEE	South East Europe
SEI	(Macedonian) Sector for European Integration
SIPA	State Investigation and Protection Agency
SIS	Schengen Information System
SJCRKC	Saudi Joint Committee for the Relief of Kosova and Chechnya
STM	Stabilisation and Association Tracking Mechanism
UN	United Nations
UNHCR	UN High Commission for Refugees
UNMIBH	United Nations Mission in Bosnia and Herzegovina
UNMIK	United Nations Mission in Kosovo

APPENDIX B

ABOUT THE INTERNATIONAL CRISIS GROUP

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Crisis Group's approach is grounded in field research. Teams of political analysts are located within or close by countries at risk of outbreak, escalation or recurrence of violent conflict. Based on information and assessments from the field, it produces analytical reports containing practical recommendations targeted at key international decision-takers. Crisis Group also publishes *CrisisWatch*, a twelve-page monthly bulletin, providing a succinct regular update on the state of play in all the most significant situations of conflict or potential conflict around the world.

Crisis Group's reports and briefing papers are distributed widely by email and printed copy to officials in foreign ministries and international organisations and made available simultaneously on the website, www.crisisgroup.org. Crisis Group works closely with governments and those who influence them, including the media, to highlight its crisis analyses and to generate support for its policy prescriptions.

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November 2005

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