Building and Removing Visa Walls:
On European Integration of the Western Balkans

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Abstract: Travelling without border controls is a cornerstone of European integration and a symbol of EU exclusivity. After increasing visa restrictions, visa-free travel to the Schengen area was re-introduced for the citizens of five Western Balkans countries. This article gives an overview on the EU's 'visa liberalisation process' towards the region, discussing the historical context and the political dynamics. The EU used visa dialogue as a central political tool to advance the region's integration, though without a shared analysis of the region. Visa-free travel may help to overcome tensions still present in the Western Balkans, if extended to all citizens of the region, including Kosovo.

Keywords: Western Balkans, visa liberalisation, Schengen Agreement, EU enlargement, EU foreign policy
Westlicher Balkan, Visa-Liberalisierung, Schengen Abkommen, EU-Erweiterung, EU-Außenpolitik

> *"It is not freedom that creates instability,*
> *but the suppression of freedom."*
> Helmut Kohl, November 1989[1]

1. Introduction

In 1948, the UN General Assembly wrote history with the Universal Declaration of Human Rights. The thirteenth article stipulates that "everyone has the right to leave any country, including his own, and to return to his country." The Soviet Union and her allies refused to sign the declaration also because of this article. East Europeans experienced how this human right was disregarded during the Cold War. For citizens of the German Democratic Republic (GDR) freedom to travel ended at the Wall. The Berlin Wall was brought down on 9th November 1989 by dramatic change of the restrictive GDR travel laws. Freedom to travel became an overwhelming experience for millions of Europeans who had been banned from it for decades. This freedom supported the democratization processes in Central and Eastern Europe. The word of the year in 1989 in Germany was not *Mauerfall* (Fall of the Wall) but *Reisefreiheit* (Freedom to travel).

Twenty years later, traveling without border controls has become part of European identity. For most Europeans traveling is a constitutive experience of freedom. InterRail, low-cost airlines and "Erasmus" exchanges are integral to the *European way of life*. The **abolition of border controls between Schengen countries** in 1995 is a milestone of European integration. Together with the Euro, Schengen is the most tangible feature of European integration. Facebook exists all over the world – travel without border controls only in the EU.

The borders that internally no longer divide people have been externally raised. Reasonable security measures, necessary due to reduced internal controls, have developed their own momentum. The formulation of EU migration and visa policy is dominated by security concerns, resulting in a complex system of isolation. These policies helped to turn the Mediterranean into an all-too-often deadly sea border for migrants. Since 1995 far more refugees have died at the southern sea border of the EU than at the Iron Curtain during the entire Cold War.[2] The refugee crisis at the Greek-Turkish border in autumn 2010 and an increasing number of migrants from Northern Africa following the 'Arab spring' in early 2011 are the most recent events in a situation where stability and control collide with the desire for freedom to travel and access to a safer life. How European societies and governments continue to struggle with this dilemma will remain critical for the EU's internal and external identity. A re-negotiation of the Schengen system has come swiftly onto the agenda in spring 2011. Elements of this latest Schengen crisis have loomed during the visa liberalisation for the Western Balkans.

2. The post-Yugoslav Schengen Experience and the Freedom to Travel

During the 1990s Yugoslavia's violent dissolution coincided with growth of the Schengen and Dublin convention regime. The management of the freedom to travel was gradually transferred from individual member states to the EU with the development of integrated visa, migration and asylum policies. For the last 20 years the citizens of the Western Balkan countries have been on the receiving end of those policies. With the opening of an EU membership perspective by the European Council in Thessaloniki in 2003, the question of which of these countries may or may not, yet, enjoy visa-free travel became a political issue of regional concern. The visa liberalisation turned into a litmus test for the EU's commitment to stability through EU integration of this post-conflict region.

1 Helmut Kohl: Zehn-Punkte-Programm zur Überwindung der Teilung Deutschlands und Europas, 177. Sitzung des Deutschen Bundestages, in: Bulletin der Bundesregierung, No. 134, 29 November 1989, p. 1148.

2 Cf. Hans-Hermann Hertle and Gerhard Sätler: **Die Todesopfer an Mauer und Grenze. Probleme einer Bilanz des DDR-Grenzregimes,** in: Deutschland Archiv 39 (2006), No. 4, p. 667-676.

The history of mobility and exchange with and between the EU (until 1993: European Community) and the countries of the Western Balkans is full of complexity and dramatic shifts.[3] During the Cold War Yugoslav citizens had passports, which allowed them to travel to virtually all countries in the world without significant restrictions. As citizens of a non-aligned country, they could travel to both sides of the Iron Curtain. Guest workers from all Yugoslav republics moved to Western Europe filling labour shortages in the emerging European Community. The first oil crisis limited and partly reversed labour migration.[4] In the mid-1970s, Germany and the Netherlands promoted voluntary return of guest workers, while Sweden tended to allow permanent integration.[5] After the war in Bosnia and Herzegovina, the return of refugees handled by individual EU member states reflected the previous guest worker return practice established some 20 years earlier.

In 1991/92, European Community member states reacted to the outbreak of the wars in Slovenia, Croatia and Bosnia and Herzegovina and the arrival of refugees in different ways. Member states still made individual decisions about visa requirements. Germany, as a main recipient of refugees, continued to allow citizens of independent Croatia and Slovenia tourist travel without visas for up to three months. Bonn recognized the Republic of Bosnia and Herzegovina but at the same time forced a 'status quo minus' onto its citizens by introducing a visa requirement – 'minus' in comparison to neighboring Croatia that was recognized as independent without travel restrictions, despite the war there. Only months before all Yugoslav citizens had been allowed to travel without visa to Germany. In the newly independent Bosnia and Herzegovina no diplomatic representation of Germany existed yet where visa requests could have been filed. A German diplomat called this "a legal-technical somersault and a foolish act of international law."[6] The Benelux countries introduced visa requirements in mid-June 1992, but for all republics of the former Yugoslavia. Other European Community member states followed. The introduction of the visa requirement for citizens of Bosnia and Herzegovina was thus part of the refugee policy, aimed at controlling the movement of people. The stay of citizens of Bosnia and Herzegovina would for years only be accepted on humanitarian grounds.[7]

While spring 1990 saw joint Czech-Bavarian demonstrations demanding the abolition of the visa requirement for Czechoslovakia, only two years later a series of lethal attacks on asylum-seekers and foreigners in Germany marked the profound change of atmosphere. Xenophobia, the influx of war refugees and asylum-seekers prompted the German government to seek new solutions, including European "burden-sharing".

Germany was advocating a common response limiting the right to asylum combined with deterrence and restriction of access for third-country nationals. Parallel to the developments within the Schengen area, national asylum systems were gradually changed with the Dublin convention.[8] EU member states, Germany in particular, opted for a temporary policy change during the war and admitted hundreds of thousands of citizens from the former Yugoslavia into their countries on humanitarian grounds but without granting them formal asylum.[9]

From 1996 onward, refugees who had once been tolerated were swiftly repatriated; only a minority was allowed to stay.[10] Politically, "return was thought to be the true path to the realization of the Dayton Agreement."[11] After flight and displacement, people again became the objects of political goals. The legitimate concern for consolidating peace in the region blended with the political demand in EU member states to decrease the number of refugees. Deportations to Bosnia and Herzegovina in 2000 triggered a political debate about humanitarian principles in asylum matters, in particular in Germany[12], foreshadowing future dilemmas of EU refugee policy. The citizens of Bosnia and Herzegovina who – voluntarily or not – returned, not only found themselves in a country that was largely destroyed but also in possession of a passport that, in contrast to their former Yugoslavian travel document, did not enable visa-free travel to the EU. Of the Yugoslav successor states only Croatia and Slovenia have been from its start on the Schengen 'white list'.[13] With a primary focus on the prevention of illegal immigration, travel into the EU had progressively become ever more difficult. Citizens of the Western Balkan countries realized that they were met with a general suspicion. Travel refusals and a spatial division remained part of the reality of many families, reminiscent of the Cold War era. It had become more difficult to travel from Sarajevo to Vienna at the beginning of the twenty-first than in the nineteenth century.[14]

EU regulations and member state consular practices hardly take the visa applicants' perspective into consideration. Member states require applicants to submit declarations and guarantees from persons or legal entities receiving the traveler, applicants need to demonstrate ex-ante their means of subsistence, travel

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3   This paper focuses on the Yugoslav perspective. The citizens of Albania were confronted with even harder travel restrictions than in in the GDR until 1991.

4   Cf. Marie-Janine Calic: Geschichte Jugoslawiens im 20. Jahrhundert, München 2010, p. 227.

5   Cf. World Bank (Ed.): Self-Management Socialism and the Challenges of Development, World Bank Report 1979, p. 270.

6   "Salto in Bonn: Die Bundesregierung läßt widerwillig Flüchtlinge aus Bosnien-Herzegowina einreisen", in: Spiegel, 22/1992 (25 May 1992), pp. 28-30.

7   The visa requirement for citizens of Serbia and Montenegro was in addition part of the United Nations sanctions regime against 'rump-Yugoslavia'.

8   The Dublin convention was signed by the then twelve European Community member states with the aim of avoiding multiple requests for asylum in different member states. Further development of the system meant that an asylum claim had to be filed in the first EU member state entered by a refugee. This system is criticized for failing to provide protection in a consistent manner. See also: Madeline Garlick and Judith Kumin: Seeking Asylum in the EU: Disentangling Refugee Protection from Migration Control, in: Bernd Martenczuk and Serbaas van Thiel (eds.): Justice, Liberty and Security. New Challenges for EU External Relations, Brussels 2008, p. 111-144.

9   Cf. Rainer Grote: Völkerrechtliche Praxis der Bundesrepublik Deutschland im Jahre 1995, available at http://www.mpil.de/ww/en/pub/research/details/publications/institute/prax/pr95.cfm?fuseaction_prax=act&act=pr95_14.

10 As early as 1979 the comparable problems of this policy of deportation of "Gastarbeiter" from Yugoslavia were pointed out by the World Bank, cf. World Bank (ed.): Yugoslavia – Self-Management Socialism and the Challenges of Development, World Bank Report 1979, p.270.

11 Walter Laudes: Der Hohe Repräsentant für Bosnien und Herzegowina, Würzburg 2009, p. 150.

12 Plenary minutes of the German Bundestag, session on 6 July, 2000: Humanitäre Grundsätze der Asylpolitik achten. Drucksache 14/3729.

13 Official Journal of the European Communities L81/1, 21 March 2001.

14 Cf. Wolfgang Petritsch: Bosnien fünf Jahre nach Dayton. Hat der Frieden eine Chance?, Klagenfurt 2001; John Torpey: The Invention of the Passport: Surveillance, Citizenship and the State, New York 2000.

tickets, current bank account statements, as well as their employer's confirmation of wages, employment or vacation. Member states' requirements vary, but regardless the procedure is time-consuming, expensive and often deterring. Embassies grant a visa if 'indicators of return' or *Rückkehrindikatoren* are considered convincing.[15] Many critics considered these travel restrictions reminiscent of the travel (im)possibilities GDR citizens were confronted with. In the GDR indicators of return typically consisted of political loyalty or close family members that had to stay behind. To obtain a Schengen visa, indicators of return are the economic status of the applicant at the place of residence or a sufficiently credible guarantor at the destination. Refusal by consular services does not require justification. Most adversely affected are young males who because of their age, education and social position, are not permanently employed or are generally considered prone to illegal immigration.

The enlargement of the Schengen area in 2007 further decreased the possibilities of visa-free travel in the Western Balkans.[16] Whereas previously no visas were required for travel to the Czech Republic, Hungary or Poland and most importantly Slovenia, Schengen rules applied from then on, including for family visits. The strict regulations obstructed free interpersonal, social, academic and economic exchange, and the situation threatened to undermine the EU objectives of stabilisation and democratic reform in the region. Visa restrictions have been understood as an expression of mistrust and an obstacle for business and trade. That caused competitive disadvantages and harmed the economic advancement and integration of the region.[17] Since Thessaloniki, the notion of the 'European perspective' dominated the public speeches of EU decision-makers. This lofty European integration rhetoric clashed with the hard reality of an increasing number of so-called visa walls on the ground. The experience of exclusion spread further. People felt trapped in a 'visa ghetto.'[18]

3. Mapping the Road to Visa Liberalisation

Already in 2003, the EU 'Thessaloniki agenda' acknowledged "the importance the peoples and governments in the Western Balkans attach to the perspective of liberalisation of the visa regime."[19] Progress towards visa liberalisation was conditioned by progress and efforts in the areas of justice and home affairs in the countries of the region. Schengen enlargement had created new dynamics and an acute credibility problem, requiring a response. Visa facilitation agreements, aimed to ease travel for specific groups such as business people, academics or close relatives, were offered to the five Western Balkan countries. A key condition for visa facilitation was the signing of a readmission

agreement with the EU and its member states.[20] A readmission agreement signifies the end to context-specific migration related to the war and post-conflict period in the region and facilitates the seamless repatriation of illegal immigrants back to their countries of origin.[21] The right to asylum in EU member states remains in place but these agreements are based on a degree of trust between the contracting parties that basic human rights standards are met in their countries.[22]

All Western Balkan countries had also previously lifted the visa requirement for EU and Schengen states' citizens, delivering another condition for visa facilitation. However, the application of the agreement was uneven among Schengen states. The new Schengen states were struggling to implement the new rules, but instead of easing travel, bureaucratic hurdles and differences increased. Visa facilitation seemed to have missed its mark. From an administrative perspective and in order to maintain influence over the reform agenda of the Western Balkan states, the European Commission started to prepare a visa liberalisation process. The process had to be acceptable for the EU Interior Ministers who beforehand had objected to visa liberalisation. In order to gain the support of hesitant Schengen states, the European Commission proposed to design detailed 'visa liberalisation roadmaps'. These roadmaps would be agreed with member states. They outlined the non-negotiable conditions to be fulfilled even before the Commission could make a legislative proposal to lift the visa requirement.

The bureaucratic, conditionality-driven logic was not sufficient to convince member states. The continuing dissolution process of the former Yugoslavia eventually brought the political break-through to make a real offer for visa liberalisation. Since 2005, the EU prepared for Kosovo's independence and confronted Serbia's increasing resistance to it. At the same time, by 2008, Serbia was still not cooperating satisfactorily with the International Criminal Tribunal for the former Yugoslavia: the two most prominent indictees Radovan Karadžić and Ratko Mladić had not yet been arrested. Hence, a key condition for the signing of a Stabilization and Association Agreement (SAA) with Serbia was not met. In absence of an SAA, the Council needed to offer a tangible alternative European process to support the reform-oriented Serbian government, given that a majority of member states announced that they would recognize the independence of Kosovo. This recognition was expected to antagonize Serbian society against the EU, and visa liberalisation was hoped to have a calming effect.[23]

On 28th January 2008 the Council welcomed **"the intention of the European Commission to launch soon a visa dialogue with**

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15 Interviews with visa departments of German embassies in Belgrade, Pristina and Sarajevo by the authors, October/November 2009.
16 Cf. The Henley Visa Restrictions Index, at http://www.henleyglobal.com/citizenship/visa-restrictions/.
17 Cf. Ost-Ausschuss der Deutschen Wirtschaft (Ed.): Wege zur Visa-Freiheit. Positionspapier, July 2011, at http://www.ost-ausschuss.de/sites/default/files/pm_pdf/Positionspapier-Wege-zur-Visa-Freiheit-OA.pdf.
18 Cf. European Stability Initiative: Stories from the visa ghetto, at http://www.esiweb.org/index.php?lang=fr&id=344.
19 'Thessaloniki agenda', General Affairs and External Relations, 2518th Council meeting, External Relations, Luxembourg, 16 June 2003.

20 Readmission agreements entered into force on 8 November 2007 with Bosnia and Herzegovina, Macedonia, Montenegro and Serbia. The agreement with Albania was already in force since November 2005.
21 Shortly after Germany had recognized the Republic of Kosovo, the negotiations on such an agreement began. Cf. Regierungspressekonferenz vom 14. Oktober 2009, Mitschrift Pressekonferenz, at http://www.bundesregierung.de.
22 Cf. Martin Schieffer: Readmission and Repatriation of Illegal Residents, Bernd Martenczuk and Serbaas van Thiel (eds.): Justice, Liberty and Security. New Challenges for EU External Relations, Brussels 2008, pp. 89-110, p.97-98.
23 Another contributing factor was the progressing accession of Croatia to the European Union. New member states have to implement the full Schengen *acquis* already before becoming part of the Schengen zone. This meant that with the day of Croatia's EU accession, the visa requirement for the neighbouring countries would have to be introduced. Such a situation would further complicate regional cooperation.

all the countries in the region." Detailed roadmaps should be set up including clear benchmarks to be met by all the countries in the region "in order to gradually advance towards visa liberalisation (...) and to closely monitor progress in necessary reforms."[24] The visa dialogue with Serbia was opened two days later in order to move towards visa liberalisation before Kosovo's declaration of independence.

Kosovo declared independence on 17th February 2008 and the Slovenian EU Presidency announced that the EU, diverging from previous practice in the Western Balkans, would not recognize the Republic of Kosovo as a bloc. A visa dialogue with Kosovo was not on the agenda, creating a situation of recognition and isolation by the EU, mirroring a pattern set in 1992 with Bosnia and Herzegovina. By March, the visa dialogues with Macedonia, already EU candidate, Montenegro and Albania were launched. It took four months more than for Serbia to open the dialogue with Bosnia and Herzegovina – until end of May 2008.

4. The Politics of the Visa Liberalisation Roadmaps

From 2008 to 2010, the visa dialogue was to become a central political tool of the EU in the region. Several aspects of EU policy towards the region met in the visa liberalisation process. The justice and home affairs agenda could be expanded to the candidate and potential candidate countries at an early stage even before the start of formal negotiations. Travel and exchange was a tangible and attractive goal for citizens, while the overall enlargement process slowed down.

In this respect, the visa liberalisation process gained symbolic political weight. The process was the most complex of its kind in EU history. It was characterized by an asymmetric power-relation. The EU formulated stringent, non-negotiable conditions in four areas: 1. Document security, especially the requirement to introduce biometric passports. 2. Border security and prevention of illegal migration. 3. Public order and security, especially prevention of organized crime, corruption, and terrorism. 4. External relations and fundamental rights. The conditions of the roadmaps had been similarly structured but were not identical for all countries. This enabled the Commission to be flexible in addressing specific deficits in each country and allowed the authorities to approach them step by step.

However, the Western Balkan states have been expected to fulfill more *conditions* than others on the Schengen white-list. Both their geographic position, surrounded by EU member states,[25] and the perception of their problems in EU member states led to a stricter approach. They were obliged to introduce *biometric passports*, while third-country nationals such as US, Brazilian or Croatian citizens could still access the Schengen area as tourists with traditional passports. The problem of *border security* is most prominent, where borders divide wealthy countries from poorer ones, that is, at the external borders of the EU member states to the south and east. Inward migration pressure is a marginal problem for Western Balkan countries, considering that migrants from the south or east need to cross EU member states overland in order to arrive, for example, in Bosnia and Herzegovina. *The prevention of organized crime and corruption* is important, but visa requirements primarily discourage legitimate travelers and not criminals. Crime and corruption have also posed a problem for those Latin American countries whose citizens have for years been allowed visa-free travel to the Schengen states. *Coherent police structures* are necessary. However, both Mexico and the US also struggle with highly fragmented law enforcement sectors. Last but not least, Kosovo was not included in the visa dialogue inter alia with reference to its unclear *status*. At the same time, a visa dialogue was led with Taiwan although no EU member state recognizes the country.

In spring 2008 – only a few weeks after the supported and expected independence of Kosovo – EU representatives gave a positive political signal to Serbia by allowing for the signature of the SAA ahead of parliamentary elections scheduled for May.[26] The Council also formally echoed the messages of an informal Foreign Affairs Ministers' meeting on visa-free travel and its political importance for the region.[27] At that time not all countries had yet received a roadmap. These messages seemed directed principally to Serbian voters, supporting a pro-European vote ensuring stability for the Kosovo independence process.

Due to 'enlargement fatigue' the accession perspective was increasingly perceived as remote.[28] The EU's influence on the political situation in the region was reduced. The visa liberalisation process bought time and served as a sedative while dealing with the disintegration of Serbia and Montenegro, including Kosovo. It also helped that the discourse about the region could be de-politicised and become securitized. The visa dialogue met the foreign policy goal of a supportive gesture to Serbia, along with compensation for Macedonia. Due to the name dispute with Greece, its accession process has been blocked by some member states. While the roadmap requirements were meaningful and necessary, the visa liberalisation process became mostly relevant because the EU could regain influence by agenda-setting and by opening a European perspective for ordinary citizens in the absence of an agreement on the enlargement agenda.

The visa dialogue was declared 'technical', therefore Commission-led, and had to be stringent. Because of its different underlying aims it also had to be flexible. The EU member states did not want to become hostages of their conditionality. A fully coherent measurement and comparison of the individual countries' progress needed to be avoided. Therefore, it did not come as a surprise that the part-proposal to abolish first the visa requirements for Serbia (excluding Kosovo), Macedonia and Montenegro and not for Albania and Bosnia and Herzegovina

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24 Council Conclusions on Western Balkans, 2846th Council meeting, General Affairs and External Relations, Brussels, 28 January 2008.
25 Travel and exchange through land borders leads more easily to illegal migration and illicit trade than access through sea and airports.

26 Council Conclusions on Western Balkans, 2864th and 2865th Council meetings, General Affairs and External Relations, Luxembourg, 29 April 2008.
27 **Slovenian Presidency Statement: New focus on the Western Balkans,** "Gymnich" meeting in Brdo, 29 March 2008.
28 Cf. **"Insights and perceptions: Voices of the Balkans",** Gallup Balkans Monitor 2008, available at http://www.balkan-monitor.eu.

caused a considerable debate in July 2009. At that moment the public rhetoric changed. The previously active member states in the Council remained silent while the European Commission had to proclaim that the entire exercise was a matter of solely technical conditions set out in the roadmaps. In contrast, as demonstrated, political considerations were crucial from the onset because, by its very nature, a decision to lift visa requirement for a country is a fundamentally political act.[29]

5. Removing Visa Walls: Facing Regional Complexities

By summer of 2009 the five countries had to varying degrees managed to meet the roadmap requirements. The responsible Commissioner, Jacques Barrot, argued, however, politically with a peculiar understanding of the regional context:

"A proposal will be made (...) to liberalise visas for nationals of the Western Balkans. Under this proposal, the new regime will come into force on 1st January 2010. Certainly the reluctance of The Netherlands on Serbia remains an important issue *[The Netherlands insisted on full cooperation with the ICTY, the authors.]*, but there will be strong advocates around the table, so I think we will win. We will not punish the Serbian youth due to the poor conduct of Milošević."[30]

The Commission announced that a proposal for Albania and Bosnia and Herzegovina could be made during 2010, provided they met the outstanding requirements. The Commission continued to be silent about Kosovo. The European Parliament recognized the political problems. Tanja Fajon, Rapporteur of the Parliament, brokered a joint political declaration of the Parliament and the Council, inviting the Commission to present a flexible legislative proposal for lifting the visa requirement as soon as it had assessed Albania and Bosnia and Herzegovina as ready. The Parliament highlighted the political importance of "achieving visa liberalisation for citizens of those countries as soon as possible."[31] In the Strasbourg plenary Fajon recalled the historic and political context:

"This week, [...] after more than two decades, the citizens of the former Yugoslav Republic of Macedonia, Serbia and Montenegro will finally again be able to enter the European Union without a visa. That will be a great day and an opportunity for celebration. However, [...] we must not allow any new divisions in the Western Balkans or lose any time, particularly to the detriment of the younger generation. [...] Our responsibility is to tear down the new visa walls which came into existence in the Western Balkans after the fall of the Berlin Wall. This also goes for the population of Kosovo. The Western Balkans needs a clear European perspective. Let us not give in to unfounded fears."[32]

With her last words, Fajon broached a topic of public debate. Was the decision to exclude Albania, Bosnia and Herzegovina and Kosovo not also a decision to discriminate against the mostly Muslim citizens of these countries? These and related questions were vociferously debated on the internet and other media. This public discussion about to happen showed that the Commission was not aware or did not wish to be aware of the political fall-out of its 'technical' rationale. The three countries have been facing challenges in the area of justice and home affairs, but in the cases of Albania and Bosnia and Herzegovina these were not fundamentally different from those of their neighbors.[33] Progress in Macedonia, Montenegro and Serbia was achieved solely in relation to the roadmaps. The Commission could not highlight the fact that none of the countries granted visa-free travel was even remotely able to meet member states' standards in justice and home affairs. This would have had risked derailing the entire process, inter alia by further antagonizing the skeptical EU public opinion. The part-proposal was also politically sensitive as Kosovo Serbs stated that visa liberalisation was a "humiliation" and mere compensation for the fact that Kosovo was "given up" as Serbia had to guarantee that residents of Kosovo, regardless of ethnicity, would not benefit from visa liberalisation.[34]

The support of the European Parliament and several member states made it clear to governments in Albania and Bosnia and Herzegovina that it was time "to hurry up to catch up". An incalculable delay of visa liberalisation for Bosnia and Herzegovina contained the risk that visa-free travel would depend on an individual's possibility to gain dual citizenship of a neighbouring country. Several hundred thousand citizens already had Croatian citizenship, while new legislation in Serbia had allowed for dual citizenship since 2008. At the micro-level the situation became Kafkaesque. Visa-free travel risked becoming a question of ethnicity or the access to multiple citizenships. The 'technical' decision could trigger highly political processes.[35] Lojze Peterle, Member of the European Parliament, saw the whole project of reconstruction that has been ongoing for fifteen years being undermined: "The fact that the government was not able to do everything it was told cannot be an excuse to punish the whole population."[36] Media and civil society failed to comprehend the policy of the European Union and looked at it with consternation.[37]

The Commission swiftly recognized the efforts made by the governments and administrations of Albania and Bosnia and Herzegovina and presented the proposal to abolish the visa requirement in May 2010. Germany and France slowed down decision-making for reasons of domestic policy. Other countries such as Belgium voiced concern about the increasing numbers of asylum-seekers from Macedonia and Serbia. It was

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29 For a documentation of the debate see http://www.balkangoeseurope.eu.

30 Cf. Macedonia, Serbia and Montenegro without Visas for EU, in: Novinite, 10 July 2009.

31 Council conclusions, 2979th Council meeting of the Council, Justice and Home Affairs, Brussels, 30 November and 1 December 2009.

32 Tanja Fajon, Statement at the European Parliament Plenary, Strasbourg, 14 December 2009.

33 Cf. Europol's annual Organised Crime Threat Assessments (OCTA) and the EU Terrorism Situation and Trend Reports (TE-SAT), available at: http://www.europol.europa.eu/latest_publications/3.

34 Cf. Kosovo Serb leaders deplore "visa humiliation", in: B92 online edition, 15 July 2009.

35 Igor Štiks: The European Union and citizenship regimes in the Western Balkans, in: Chaillot Papers 126 (June 2011), pp. 129-131.

36 Cf. http://www.slobodnaevropa.org/content/news/1820387.html.

37 Some called the visa decision the establishment of "apartheid". Cf. Srećko Latal: Visa-Free-Plan for Balkans criticized, in: Balkan Insight, 16 September 2009; Damir Arsenijević: Visa Decision was a terrible Miscalculation, in: European Voice, 23 July 2009.

no secret that thousands of Serbian citizens – mostly minorities – had applied for asylum in previous years. Also, when the visa dialogue was opened in 2008 Serbia was ranking among the first five countries of origin across the EU.[38] The 2009 decision, although technically justifiable, had strong political backing from those member states which not even one year later were confronted with consequences of socio-economic challenges and discriminations they preferred to ignore before: Mainly Roma used the visa-free travel to seek for asylum in the EU. With the aim being to tackle this asylum issue, hectic, bi-lateral diplomacy unfolded to discourage abuse. On the other hand, it was visa liberalisation that painfully exposed the situation of minorities in Macedonia and Serbia, conditions until then rarely discussed at the political level in the EU.

The Commission proposal for Albania and Bosnia and Herzegovina came at a challenging moment. Any further delay may have had destabilizing effects and further reduced credibility as the EU risked being considered biased if it would not reward the individual country's merits and not stick to its commitment of visa liberalisation. The question was whether the EU would hold Albania and Bosnia and Herzegovina back because of asylum-seekers from Macedonia and Serbia.

The 2009 visa liberalisation was the last one under the rules of the Nice Treaty. In the era of the Lisbon Treaty (as of 1st December 2009) the legislative procedure for visa-related matters changed. The role of the European Parliament became equal to the role of the Council. Faithful to the commitment of late 2009, the European Parliament voted with an overwhelming majority in favour of the Commission proposal in October 2010. While the Commission was fully backed by the Parliament, France was involved in an unrelated dispute with the Commission about the institutional power balance in justice and home affairs under the new Treaty and issued critical remarks on the quality of the assessments which formed the basis of the Commission proposal.[39] The Commission faced a dilemma: it needed to maintain the integrity of the process to remain a credible and reliable partner for the countries of the Western Balkans, and at the same time it needed to respond to member states' concerns without putting into question the validity of its own assessment.

The run-up to the Justice and Home Affairs Council scheduled for November 2010 provided citizens of Albania and Bosnia and Herzegovina with an insight into the functioning of the European institutions as verbatim summaries of Council working group meetings, which are closed to the public, were published in the media.[40] In particular France, Germany and the Netherlands (with a new government tolerated by Geert Wilders' Euro-skeptic "Party for Freedom") were seen as blocking visa liberalisation.[41] The Commission was forced to act and

announced continued monitoring of all five Western Balkans countries benefitting from visa liberalisation. It also stated that a proposal for an 'emergency break' for the suspension of visa-free travel in crisis situations will be presented. Eventually the Council decided unanimously for visa liberalisation under those conditions.[42] The press statements are telling: Commissioner Cecilia Malmström highlighted the historic and political nature of the decision. French delegates claimed that the Commission was "skipping several steps" in the light of EU enlargement. The German Interior Minister, Thomas de Maizière, emphasized that he agreed "with concerns".[43] It was on the 8th November 2010, the eve of the 21st anniversary of the fall of the Berlin Wall, when the remaining successor states of the former Yugoslavia, apart from Kosovo, regained the freedom to visa-free travel to the EU.[44]

6. Conclusion

We have argued that the opening of the visa dialogue with Serbia did not by chance coincide with one of the most complex political challenges for EU crisis management in the Western Balkans: the controversial acceptance of the unilateral declaration of independence of Kosovo. We have further laid out that the staged decision-making for the five countries of the process was part of a political trade-off between, although not conflicting, yet not necessarily synchronized political agendas of the EU and its member states: starting from crisis management in Kosovo and Serbia over unlocking blockages in the enlargement process (Macedonia) to winning back EU influence, including in general justice and home affairs issues relevant for all countries of the region. The European Parliament was in addition the prime advocate for the free exchange and easing of people-to-people contacts based on considerations of European principles and as an indispensable element for stability in Europe. These developments have been accelerating factors for the opening of visa dialogue and the lifting of visa requirements in the region.

European integration is based on a delicate balance between technical processes and political decision-making. The initial creation of the Schengen area during the 1990s followed such a model. Benchmarks were set up which countries were aiming to meet. The technical preparation phase led into a decision-making phase when Schengen membership was decided politically, not only on the basis of technical parameters. The visa liberalisation process in the Western Balkans can be compared to this model.

The politically stabilizing effect of the process and the first round of visa liberalisation of 2009 risked being undone when

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38 Cf. Anthony Albertinelli and Piotr Juchno: Asylum applicants and decisions on asylum applications in Q4 2008, Eurostat, Data in focus 08/2009.

39 Interview with representatives of Council Working Group on Western Balkans (COWEB) by the authors, October 2010.

40 E.g. Nezavisne Novine: "Holland against the abolishment of visas for BiH citizens", 4 November 2010, p.3.

41 The decision would be taken with qualified majority which could not be blocked by these three countries, but it would have been inconceivable to take a decision against France and Germany in the first critical issue voted upon under the new Lisbon Treaty provisions. Belgium had also reservations but acted neutrally as Presidency.

42 Council Conclusions, 3071st Council meeting, Justice and Home Affairs, Brussels, 24-25 February 2011.

43 Cf. "Exemption des Visas pour les Albanais et les Bosniens", in: Le Monde, 10 November 2010; "EU hebt Visa-Pflicht für Bosnien und Albanien auf", in: Handelsblatt, 9 November 2011.

44 Following the coming into force of the decision for Albania and Bosnia and Herzegovina, the Commission started to lead consultations for an amendment of the Schengen 'white list' regulations to make provisions for a 'safeguard clause'. This proposal concerning all third states, not only the Western Balkan countries will enter the legislative process during the second half of 2011. See http://register.consilium.europa.eu/pdf/en/10/st15/st15926-re01.en10.pdf.

the decision on Albania and Bosnia and Herzegovina was at stake. A negative Council decision in November 2010 could have resulted in a considerable difference in the regional situation. If the state of Bosnia and Herzegovina would have failed to deliver visa liberalisation for its citizens, the constitutional crisis might have deepened beyond repair. The perception of the EU as being anti-Muslim would have gained further credence not only in the countries concerned but also in the candidate country Turkey which remains excluded from visa-free travel.

Freedom to travel is the logical, inevitable and for most citizens, desirable consequence of EU integration, the proclaimed aim of the EU for the Western Balkans. To lead a goal-oriented process with individual country roadmaps has proven a workable approach. Moreover, the technical process was transparent and comparable and could serve as a model for future integration steps. Nevertheless, the concluding political decision-making exposed persisting difficulties of the EU in dealing with the region.

Institutionally, the EU lacks a common analysis of the regional situation, shared among all member states and across institutions. The inability of the EU to jointly recognize the independence of Kosovo is a point in case. The European integration of the Western Balkans follows on from several unsuccessful attempts of crisis management based on the intergovernmental methods of the Common Foreign and Security Policy.[45] Despite its inconsistencies and failures, member states have become used to dealing with the problems of the region through intergovernmental methods allowing them to dominate decision-making with individual agendas. This has been reflected in the visa liberalisation process. Achievements of partner countries were less relevant than strategic political conditionality, may it be in the case of promoting a European perspective for Serbia or trying to influence domestic politics in Bosnia and Herzegovina. The visa dialogue was further compounded by the looming 'Schengen crisis' which boiled over in spring 2011 with Denmark threatening to re-introduce border controls.

The Lisbon Treaty changed the institutional dynamics, moving decision-making on visa liberalisation to the ordinary legislative procedure, of full co-decision by the European Parliament. The Commission and the European Parliament became able to complement the member states positions with a more 'European dimension'. In November 2010, visa liberalisation was concluded, although with a sense of suspicion by member states. In this respect it should also be noted that citizens from all Western Balkan countries still require a visa for the United Kingdom and Ireland, both not part of the Schengen system.

France's and Germany's rejection of the entry of Bulgaria and Romania into the Schengen zone, regardless of the merits of the arguments, contribute to an impression that South-Eastern European countries are not only facing sector-specific problems but possibly general prejudice. The specific approach towards the countries of the region indicates that additional factors are at play, contributing to the EU's difficulties in promoting stability and European integration. The German daily Frankfurter Allgemeine Zeitung gave an illustrating example on 9th November 2010 – 21 years after freedom to travel was granted to East Germans – writing in a front-page article that now the "beggars, racketeers and criminals" would arrive from the Western Balkans to Germany.[46] Confronted with an enlarged and by default changing Union, the dominating view of the Balkans region in the old EU seems to remain dominated by paternalism, by discourses on criminality and corruption, and by a perception that violence and backwardness are an indelible part of the Balkans. In short, there seems to be doubt and hesitation if the countries and citizens are deserving of 'EU Europe'. Maria Todorova has described this as "Balkanism", an approach to legitimize political distance *to* and insufficient engagement *in* the region.[47] The issue of visa liberalisation for the citizens of Kosovo will determine whether the European Union can succeed in overcoming these difficulties.[48] With Kosovo remaining outside the European mainstream for too long, negative effects for regional stability cannot be excluded.

By May 2011, Sweden, Germany and Belgium remained the top destinations for some hundreds of asylum seekers from Serbia and Macedonia.[49] A combination of push and pull factors have been identified, the former being poverty and discrimination, and the latter social benefits during a lengthy asylum procedure in those member states.[50] Apart from promoting stability through the justice and home affairs agenda and people-to-people exchange, the freedom of travel has exposed socio-economic difficulties in the region, in particular those of minority populations such as the Roma. Hence, visa-free travel reshaped the enlargement agenda, refocusing it on the structural democratic and social deficits in the region.

20 years after the fall of the Berlin Wall the European Union had the historic opportunity to mark a symbolic turning point for the stability and European integration of the Western Balkans with visa liberalisation for all countries at the same time. Without excessive political cost such an act could have fostered a sense of joint European belonging and contributed to regional solidarity. Yet, for the reasons discussed here and due to its own limitations, the EU missed that chance. Visa liberalisation for five of the six Western Balkan countries remains an important signal that the direction of travel for the region remains stability and European integration, despite the region's and the EU's intrinsic limitations and difficulties. Based on the logic of the established gradualism, it remains to be seen if a visa liberalisation roadmap for Kosovo will be the windfall of an agreement to move Serbia ahead on the membership track or if the Schengen crisis has put the removing of the remaining visa walls in the Western Balkans on hold.

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45 Cf. Tobias Heider: Die Wirksamkeit von EPZ- und GASP-Krisenmanagement in Bosnien-Herzegowina 1991–1994, Freie Universität Berlin 2010; Karen E. Smith: European Union foreign policy in a changing world, Cambridge 2008.

46 Hans-Georg Hefty: Bildungsgutscheine, Frankfurter Allgemeine Zeitung, 9 November 2010, p.1.
47 Cf. Maria Todorova: Imagining the Balkans, updated edition, Oxford/New York 2009.
48 Cf. Gunda Schumann: Visa liberalisation for the citizens of Kosovo, in: Südosteuropa Mitteilungen, Nr. 04-05 (2010), pp. 20-37.
49 Cf. Commission Staff Working Paper on the post-visa liberalisation monitoring for the Western Balkans countries in accordance with the Commission Statement of 8 November 2010, SEC (2011) 695 final, Brussels, 30 May 2011, at: http://register.consilium.europa.eu/pdf/en/11/st10/st10997.en11.pdf.
50 European Stability Initiative: Visa-free travel and asylum, at http://www.esiweb.org/index.php?lang=en&id=532.