

8 May 2008

VISA LIBERALISATION WITH MONTENEGRO

ROADMAP

I. INTRODUCTION -GENERAL FRAMEWORK

A. The General Affairs and External Relations Council in its conclusions of 28 January 2008 welcomed the intention of the European Commission to launch a visa dialogue with all Western Balkan countries and expressed its readiness to further discuss this issue, based on the Commission's Communication on the Western Balkans, with a view to define detailed roadmaps setting clear benchmarks to be met by all the countries in the region in order to gradually advance towards visa liberalisation. The whole process will be closely monitored by the Council and the Commission which will assess the progress by each of the countries concerned and follow the adoption and implementation of the necessary reforms towards the abolition of the visa requirement.

The Commission shall regularly report on the implementation of this road map to the Council, for the first time before the end of 2008, notably by taking into account input from experts including Member States' experts in the context of the visa dialogue.

B. When setting up the methodology for the visa liberalisation process, the following elements have to be taken into consideration:

- the European perspective of the Western Balkan countries ;
- the political commitment taken by the European Union on the liberalisation of the short term visa for the citizens of all Western Balkan countries as part of the Thessaloniki agenda, which has been confirmed at political level by a series of Council conclusions since 2003¹;
- the conclusion by all countries in the region of a Community readmission agreement;
- the visa exemption granted to all EU citizens by all Western Balkan countries.

¹ More recently, in the Council conclusions of 18/6/07 and 10/12/07.

As a first concrete step towards improving people to people contacts, the European Community has concluded in 2007 Visa Facilitation Agreements with Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Serbia and Montenegro. These agreements are in force since 1 January 2008. The preamble of the visa facilitation agreements includes a clear reference to the commitment of the parties to work towards a visa free travel regime in the future.

C. Having in mind the wide range of issues relevant for the visa liberalisation dialogue and the need to establish an adequately secured context for visa free travel, the objective of this exercise is to identify all the measures to be adopted and implemented by the Western Balkan countries and set up clear requirements to be achieved in the near future. The whole process will be divided in four sets of issues to be covered by the dialogue: document security, illegal migration, public order and security as well as external relations items linked to the movement of persons. The dialogue will be tailor-made so as to allow each country to focus reform efforts and address the EU's requirements. The speed of movement towards visa liberalisation will depend on the progress made by each of the countries in fulfilling the conditions set.

Concerning the structure, the whole dialogue as a part of the overall policy of the EU towards the candidate and potential candidate countries of the Western Balkan, will take place within the framework of the structures of the Stabilisation and Association process. The visa liberalisation process will be conducted by senior officials who could decide to organise technical meetings at expert level for specific items. As the Stabilisation and Association agreement with Montenegro has not yet entered into force, reporting on progress made on the issues covered by the visa liberalisation process will be ensured within the framework of the current structures of the enhanced permanent dialogue.

D. The whole process will allow the Commission to make a proposal at the appropriate moment to the Council for the lifting of the visa obligation for Montenegrin citizens, through an amendment of Council regulation 539/2001. On the basis of the Commission's proposal, the Council, after consultation of the European Parliament will decide acting by qualified majority.

ROADMAP TOWARDS A VISA FREE REGIME WITH MONTENEGRO

I. Requirements related to the correct implementation of the Community Visa Facilitation and Readmission Agreements

A. READMISSION AGREEMENT:

Montenegro has to take the necessary measures ensuring effective implementation of the Community Readmission Agreement and in particular, the replacement of the previous bilateral agreements or arrangements by the Community readmission agreement, the conclusion of 'implementing protocols' with Member States, the adoption of the measures ensuring that proper infrastructure is in place, in particular sufficient staff, to deal with readmission applications, the respect of the various deadlines set by the Community Readmission agreement, the refusals of readmission applications only on the grounds provided by the Community Readmission Agreement, the acceptance of the 'EU standard travel document for expulsion purposes', the acceptance of readmission applications for third country nationals/stateless persons

B. VISA FACILITATION AGREEMENT:

Montenegro shall closely cooperate with the European Commission to support the EU Member States' implementation of the Visa Facilitation Agreement, ensuring in particular continuous monitoring of all institutions, authorities and bodies involved in Montenegro with the implementation of this Agreement, as regards the issuing of invitations, certificates and other documents.

II. Requirements on Document Security, Illegal Migration, Public Order and Security and External Relations

BLOCK 1: Document Security

Passports/travel documents, ID cards and breeder documents

Montenegro should:

- issue machine readable biometric travel documents in compliance with ICAO and EC standards; and gradually introduce biometric data, including photo and fingerprints;
- adopt appropriate administrative measures ensuring the integrity and security of the personalisation and distribution process;

- establish training programmes and adopt ethical codes on anti-corruption targeting the officials of any public authority that deal with visas, passports;
- report to Interpol/LASP data base on lost and stolen passports;
- ensure a high level of security of breeder documents and ID cards and define strict procedures surrounding their issuance.

BLOCK 2: Illegal migration, including readmission

Border management

Montenegro should:

- adopt and implement legislation governing the movement of persons at the external borders as well as the organisation of the border authorities and their functions in accordance with the Action Plan on the implementation of the Strategy on Integrated Border Management, which was adopted in December 2006;
- take necessary budgetary and other administrative measures ensuring efficient infrastructure, equipments, IT technology at the external borders;
- establish training programmes and adopt ethical codes on anti-corruption targeting the border guards, customs and other officials involved in the border management;
- conclude a working arrangement with FRONTEX.

Carriers' responsibility

- Montenegro should adopt and implement legislation on carriers' responsibility defining sanctions.

Asylum policy

Montenegro should:

- Adopt and implement legislation in the area of asylum in line with international standards (1951 Geneva Convention with New York Protocol) and the EU legal framework and standards ;
- provide adequate infrastructure and strengthen responsible bodies, in particular in the area of asylum procedures and reception of asylum seekers.

Migration management

Montenegro should:

- **set up and start to apply a mechanism for the monitoring of migration flows, defining a regularly updated migration profile for Montenegro, with data both on illegal and legal migration, and establishing bodies responsible for collection and analysis of data on migration stocks and flows;**
- **take measures to ensure the reintegration of returnees, including sustainable financial and social support;**
- **define and apply methodology for inland detection and take measures improving the capacity to investigate cases of organised facilitated illegal migration;**
- **adopt and implement a law on foreigners governing the admission and stay of third country nationals, defining rights and obligations for the persons concerned (including family members of third country nationals) and implement the law on registers of permanent and temporary residence including implementing legislation;**
- **ensure effective expulsion of illegally residing third country nationals from its territory.**

BLOCK 3: Public order and security

Preventing and fighting organised crime, terrorism and corruption

Montenegro should:

- **ensure efficient implementation of the action plan of the strategy to fight corruption and organised crime (in particular cross-border aspects) notably by strengthening the relevant law enforcement authorities with sufficient human and financial resources;**
- **implement the national anti-trafficking strategy and allocate sufficient human and financial resources to its implementation;**
- **[adopt] and ensure efficient implementation of the anti-money-laundering legislation and the proper monitoring of all financial transactions, including in relation to real estate and inward investment, and strengthen the anti-money laundering directorate and its coordination with law enforcement authorities; implement relevant legislation on confiscation of assets of criminals (including the provisions addressing cross-border aspects);**

- **adopt and implement a national drug strategy and national drug action plan; make the information on drug seizures and persons involved accessible at border crossing points; further develop cooperation and information exchange with relevant international bodies in the drug field;**
- **adopt and implement legislation on preventing and fighting corruption in line with the Action Plan on the fight against corruption;**
- **implement relevant UN and Council of Europe conventions, as well as GRECO recommendations and other international standards in the areas listed above and on fight against terrorism.**

Judicial co-operation in criminal matters

Montenegro should:

- **implement international conventions concerning judicial cooperation in criminal matters (in particular Council of Europe Conventions);**
- **take measures aimed at improving the efficiency of judicial co-operation in criminal matters of judges and prosecutors with the EU Member States and with countries in the region;**
- **develop working relations with Eurojust mainly through the Eurojust contact point.**

Law enforcement co-operation

Montenegro should:

- **take necessary steps to ensure efficiency of law enforcement co-operation among relevant national agencies - especially border guards, police, customs officers -, as well as cooperation with the judicial authorities;**
- **improve exchange of information between national agencies by setting up an adequate coordination mechanism;**
- **reinforce regional law enforcement co-operation and implement bilateral and multilateral operational cooperation agreements, including by sharing on time relevant information with competent law enforcement authorities of EU Member States;**
- **improve the operational and special investigative capacity of law enforcement services to tackle more efficiently cross-border crime;**

- take the necessary steps to prepare for the conclusion of an operational cooperation agreement with Europol with special emphasis on data protection provisions.

Data protection

Montenegro should:

- adopt necessary legislation on the protection of personal data and implement its provisions including setting-up of an independent data protection supervisory authority ;
- sign, ratify and implement relevant international conventions, such as the Additional protocol of the Council of Europe Convention for the Protection of Individuals with regard to the Automatic Processing of Personal Data.

BLOCK 4: External Relations and fundamental rights

Freedom of movement of Montenegrin nationals

[Montenegro should:

- ensure that freedom of movement of Montenegrin citizens is not subject to unjustified restrictions, including measures of a discriminatory nature, based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation.]

Conditions and procedures for the issue of identity documents

Montenegro should:

- ensure full and effective access to travel and identity documents for all Montenegrin citizens including women, children, people with disabilities, people belonging to minorities and other vulnerable groups;
- ensure full and effective access to identity documents for IDPs and refugees.

Citizens' rights including protection of minorities

Montenegro should:

- adopt and enforce legislation to ensure effective protection against discrimination;
- specify conditions and circumstances for acquisition of Montenegrin citizenship;
- ensure investigation of ethnically motivated incidents by law enforcement officers in the area of freedom of movement, including cases targeting members of minorities;
- ensure that constitutional provisions on protection of minorities are observed;
- implement relevant policies regarding minorities, including Roma.

Final remark:

The present roadmap includes a list of measures to be taken by Montenegro in view of the lifting of the visa obligation. These measures aim at responding to the needs identified, based on the currently available information. In case of substantial change of the current situation, the Commission could propose a review and re-adaptation of the roadmap.

Based on the achievements by Montenegro of the implementation of the requirements set up in the roadmap, the Commission will assess the situation, taking into account inter alia criteria, the visa refusal rate for Montenegrin applicants and the refusal rate of entry into the common Schengen area for Montenegrin nationals. In this context, the decreasing trend of the refusal rate, which should progress towards 3% for visas and 1000 persons per year refused for entry into the common Schengen area, will be used as an indicative reference. Montenegro should also take the necessary measures to allow an efficient implementation of the EU joint actions on travel ban. As already mentioned before, on this basis the Commission will consider the possibility to present a proposal to the Council for the lifting of the visa obligation, by amending the Council Regulation 539/2001, and, following the procedure laid down in the EC Treaty² for these matters, the Council will on the basis of the Commission's proposal, after consultation of the European Parliament, take a decision acting by qualified majority. Such amendment could soon cover the holders of travel documents issued in accordance to ICAO and EC standards.

² Article 67.3 and Article 62.2.b.i