

SERBIA TOWARDS WHITE SCHENGEN LIST –GOOD EXAMPLE FOR UKRAINE

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Introduction

The issue of placing the Republic of Serbia on the positive EU visa regime list has been preoccupying the public attention for a long time. The similarly situation was also with other Western Balkan countries.

Heads of EU States and Governments reaffirmed the importance of a dialogue on short term visas in the conclusions of the EU-Western Balkans Summit held in Thessaloniki on 21 June 2003, which also confirmed the European perspective of the countries of the Western Balkans. The “Thessaloniki agenda” confirmed in particular that the perspective of visa liberalisation for the Western Balkan countries is a goal linked to the progress of the countries concerned in implementing major reforms in areas such as the strengthening of the rule of law, combating organized crime, corruption and illegal migration and the strengthening of their administrative capacity in border control and security of documents.

Although, Thessaloniki Summit, has recognized importance of visa liberalization process, it is not modest, if we state that civil society organizations were the first who initiated visa liberalization dialogue as prerequisite for EU integration efforts. We have to underline on International Crisis Group Report from 2005, Citizens Pact for South East Europe activities, Group 484, European Movement from Albania policy reports from that time etc. Civil society has initiated crucial, the most important impact on European Commission to start its new policy, at the beginning, with visa facilitation process and then with visa liberalization dialogue

The International Commission on the Balkans reported in that time that: “Among the most discouraging findings of the Commission is that the European generation of the Balkans, young men and women under 30 who share the values of Europe most keenly and who vote for pro-European parties most regularly, are those who experience the greatest difficulties in visiting the EU. More than 70% of students in Serbia have never traveled abroad. The Commission believes that as an urgent matter, this should change. This is most urgent for the youth of countries that have been most isolated from Europe: Serbia and Montenegro, Bosnia, and Albania.” As a first concrete step towards the establishment of a visa free travel regime, and considering that facilitating people to people contacts was as an important condition for a steady development of economic, humanitarian, cultural, scientific and other ties, the European Community concluded in 2007 Visa Facilitation Agreements with Serbia and other WB countries. 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. Also, it is important to mention that EU, at the same time, concluded the Readmission Agreements with all WB countries. Both types of agreements entered into force on January 1, 2008¹.

¹ Official Gazette of RS No. 103/07

The Commission in its Communication on the enlargement strategy of 6 November 2007 announced its intention to gradually move towards visa liberalisation with the Western Balkan countries through further concrete steps. To that end, it proposed to open a dialogue with each of the countries concerned with a view to establishing a roadmap on the conditions to be met.

Finally, in its conclusions of January 28, 2008, the EU General Affairs and External Relations Council commended the intention of the European Commission to initiate visa dialogue with all the countries of the Western Balkans. While selecting a methodology for the process of visa regime liberalisation, special attention is given to: the European perspective of the countries of Western Balkans; political obligation undertaken by the EU in regards to short term visas for all citizens of the region, as a part of the Thessaloniki Agenda; conclusion of the readmission agreements by all the countries of the region; visa liberalisation that the countries of Western Balkans have to ensure for all EU citizens.

The Road Map documents have been created for all Western Balkan countries. The benchmarks were divided into four sets of issues: document security, illegal immigration, public order and security as well as external relations items linked to the movement of persons. The Roadmap followed a balanced approach setting benchmarks which were realistic and achievable. The plan was that the process of fulfilling will be closely monitored by the Commission assisted by Member States' experts. The Commission will report regularly on the implementation of the Roadmap and will consider the possibility to present a proposal for the lifting of the visa obligation for Serbian and citizens of other WB countries. The Western Balkan countries reported regularly on their achievements.

The first round of reporting was initiated in September 2008, when the Western Balkan countries submitted their reports according to which the European Commission, in November, gave its first, preliminary assessment on the progress made in the Road Map implementation. This was followed by visits of expert missions, comprised of experts from the EU member states and representatives of the European Commissions. The expert missions visited WB countries in the period February-March 2009. The experts prepared individual reports which served as a basis for the creation of an updated report on the assessment of whether and to what extent the criteria have been met, presented in June 2009. With the submission of this report, the second phase of the dialogue about the visa liberalisation of WB countries was completed.

Based on the achieved results, as well as on the positions of the EU member states, an official proposal of the European Commission to the Council of Europe followed, related to placing Macedonia, Montenegro and Serbia on the white Schengen list, through amendments to the existing annexes of the EU Council Regulation No. 539-01². On July 15, 2009, the European Commission adopted the Proposal for amending Regulation 539 of 2001, which foresees placing Macedonia, Montenegro and Serbia on the white Schengen list. European Commission has concluded that Macedonia has fulfilled all conditions from the Road Map document and that Serbia and Montenegro has to accelerate necessary reforms in certain areas³. On its session, held on 12 November 2009, European Parliament supported visa liberalisation for Serbia, Macedonia and Montenegro. Although, it is not regular practice, European Parliament has adopted the Joint

² Amending Regulation (EC) NO 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (hereinafter Amending Regulation (EC) NO 539/2001 from 2001)

³ For Serbia : the improvement of cross-border/boundary surveillance, which includes in particular the exchange of information with EULEX/Kosovo police, the effective implementation of the Law on Foreigners in force since April 2009 and the adoption of the Migration Management Strategy; the effective implementation of the legal framework for the fight against organised crime and corruption, including through allocation of adequate financial and human resources; the integrity and security of the procedures followed in issuing new biometric passports to persons residing in Kosovo.

Declaration of the European Commission, European Parliament and EU Council on visa liberalisation.

Since December 19, 2009 Serbia is on the White Schengen list, so since then its citizens can travel freely around Europe after 18 year long isolation. The decision on including Serbia on White Schengen list provide for its citizens the possibility to enjoy one of the fundamental freedoms the EU is grounded upon, the freedom of movement.

However, the road to the so called white Schengen list, in the case of Serbia, was a complex process where state organs had to show readiness to fulfill the benchmarks defined by the European Union Plan for the Liberalisation of the Visa Regime with the Republic of Serbia (Road Map). In a very short period, slightly over a year since it was presented, Serbia has met most of the requirements from the Road Map, in particular during the year 2009.

Prior to the Road Map, which clearly defined basic legal and technical criteria to be fulfilled, the state authorities had only the criteria which were general by structure and allowed for a high degree of discretionary assessment. However, they did indicate certain areas in which clear progress should be made towards reforms and implementation of laws and by-laws. Based on these general guidelines there was an opportunity for undertaking specific reform measures in areas demanded by the EU, and which could have provided a shift for Serbia from the black to the white Schengen list. In that period the reform process was not adequately coordinated and was much slower than the country's existing potential allowed⁴. The Group 484 and other experts from Serbia used every opportunity to point out that the main cause of slow reforms was the lack of coordination between the state bodies.

Encouraging was the fact that for the sake of strengthening the dialogue on qualification of the Republic of Serbia for inclusion on the positive Schengen List, on 19 July 2007 the Government of the Republic of Serbia established the Task Force for coordination of activities aimed at fulfilling the provisional criteria for visa regime liberalisation of the European Union for the Republic of Serbia, consisted of three representatives from the Ministry of Interior and one each from the Ministry of Foreign Affairs, Ministry of Justice, the Vice-President's Cabinet and the European Integration Office.

This Task Force had the following tasks: coordination of activities aimed at fulfilling the provisional criteria for visa regime liberalisation, preparation of the action plan for relevant authorities for the purpose of fulfilling these criteria, identification of priorities and the tasks arising from the provisionally set criteria and their more precise definitions, preparation of the relevant authorities for political dialogue on European Union visa liberalisation for the Republic of Serbia.⁵ As it turned out later the Task force extremely contributed in the success conclusion of this process.

Generally speaking, considering the visa regime liberalisation programme in the context of efficient application of adopted regulations, as well as perceiving the Road Map as a document which established the criteria important for reforms in the areas of freedom, security and justice, is the only proper way to visa-free regime.

The Road Map (in the case of Ukraine-Action Plan) is a document which serves as a matrix of required reformatory steps which would provide for improved efficiency of Serbian (Ukraine) state, aiming at *bono publico* i.e. general interest of its citizens, where state administration represents only an efficient service in the process.

⁴ We had experts in all of these areas, capable of offering solutions according to the highest standards.

⁵Report on Readiness, Visa Liberalisation with Serbia, October 2008

In accordance with our opinion, it can be stated that in the process of meeting the criteria, in case of Serbia, significant progress has been achieved in the part of the process related to adoption of laws and bylaws, strategies and measures and also, but not so successful, in the process of their implementation. Because of that, in further Serbia state authorities must show particular responsibility towards their citizens, by continuing the reforms initiated by adoption of Road Map criteria.

On this place we would like to emphasize some important differences between Road Map for Serbia and Action plan for Ukraine. First difference is in the names of two documents. Although, there is no significant linguistic difference between words *map* and *plan*, it is obvious that European Commission wanted to make political difference between Ukraine and Western Balkan countries. Candidate and potential candidate states for EU membership got the map and Ukraine got the plan. This political intention is more visible through establishment of the more complex structure of the Action plan and procedure of the evaluation of Ukrainian progress in implementation of the document.

The Action plan is divided in two phases: *legislative and policy framework* and *implementation*. Road Map for Serbia and the other WB countries did not recognize this separation. Process of the adoption of legislation and the other necessary measures was compiled with implementation of these documents. With this division, European Commission sent the clear message that implementation phase will be very carefully monitored in Ukrainian case.

For example, in the Action plan, in the Block 3: Public order and security, European Commission established two conditions for combating trafficking of human beings- Adoption of the of a law on trafficking in human beings, adoption of an action plan to effectively implement the State Programme for Combating Trafficking of human beings. In the second phase, EC will monitor implementation of these documents. On the other side, in Serbian Road Map, EC used this formulation: *implement the strategy to combat trafficking in human beings by adopting and implementing an action plan including a timeframe and sufficient human and financial resources*. This formulation supports the interpretation, that in Serbian case, EC examined process of implementation as continuous effort while in Ukraine case process of monitoring would be more result oriented.

As well, this is confirmed by the two step process for Ukrainian visa liberalization dialogue. After Ukraine completes the first phase of the adoption of necessary legislation, European Parliament and the Council must confirm and approve the second phase evaluation process. This was not the practice in WB visa liberalization process. Serbia and the other WB countries had the only one unified process which resulted positively after 18 months of very hard work.

Review of some legal-technical criteria from Road Map which Serbia has met –guidelines (applicable) for fulfilling of criteria for achieving EU free visa regime for Ukraine⁶

Block 1: Security of documents

The National Assembly of the Republic of Serbia adopted the Law on Identification Cards⁷ in 2006. The implementation of the law that included the issuance of new electronic cards started in April, 2008.

⁶ Annex 1- VISA LIBERALIZATION WITH SERBIA- Roadmap
⁷ Official Gazette of RS No. 62/06

“By introducing new biometric identification cards, a dynamic document was created which enables certain data contained in the document to be changed because the prescribed identification card form contains area for contact microcontroller (chip) and area for machine readable zone for the needs of automated data reading from the identification card. At the same time, it contains security elements owing to which the possibility to counterfeit the identification card as document is drastically minimized. The mechanisms for control of identification card issuance were also implemented, which are contained in the form of program protection of the application for issuance of identification card. In this way the operating process for issuance of this document is fully automated.”⁸

In regards to travel documents, the National Assembly of the Republic of Serbia adopted the Law on Travel Documents⁹, which entered into force in October, 2007. For the first time in Serbian history, the Law has introduced a biometric travel document for the purpose of protection and security of travel documents. The Law encompasses standards imposed by the EU regulations and standards of the International Civil Aviation Organisation (ICAO), which stipulate that by 2010 all countries must introduce travel documents with integrated photograph and mechanically readable zone.

The creation of biometric passports for applications submitted in the territory of the Republic of Serbia started in July, 2008. Originally, the creation of biometric passports for the applications submitted out of the territory of Serbia, at diplomatic-consular offices throughout the world, should have started in October 2008, when technical conditions for data transferring were met. In this way, the collected data will flow into the Ministry of Foreign Affairs, from where it will, via protected connection, reach the Personalisation Centre in the Ministry of the Interior for production.¹⁰ This procedure was however initiated at the end of 2008, and only at 4 out of 66 diplomatic-consular offices of RS.

The implementation of the Law on ID Cards and the Law on Travel Documents has produced initial confusion in police offices responsible for receiving requests for issuance of new ID cards and passports. Due to large crowds, the offices extended their working hours and started scheduling appointments for submitting documents for new ID cards and passports. The need for improving capacities of the entire system for issuing biometric ID cards and passports has been even more highlighted in the middle of 2008 when relevant organs stopped issuing old, the so-called blue passports. Up to that date, Serbian citizens could choose between old and new, biometric ones. The original expiry date of old passports, stipulated by the Law on Travel Documents, was December 31, 2008 and it was already prolonged three times- firstly, until December 31 2009, then until December 31 2010, and with last changes until the end 2011. Old ID cards cease to be valid five years after the enforcement of the Law on ID Cards, in July 2011.

During last year as well before, Group 484 suggested to relevant organs that the foreseen deadline for the issuance of new passports is too short, since the experiences of other EU countries prove that between 5 and 7 years are necessary for the process to be completed. The number of equipped diplomatic-consular offices also points to the insufficient time for changing passports.

It is a know fact that only the citizens with biometric passports can visit some of the Schengen countries without visas. There still remain a large number of Serbian citizens who don't have

⁸ Report on Readiness, Visa Liberalisation with Serbia, October 2008, pages 8 and 9

⁹ Official Gazette of RS No. 90/07

¹⁰ Report on Readiness, Visa Liberalisation with Serbia, October 2008, page 9

biometric passports¹¹. On the plus side, however, from this year the Ministry of the Interior (MoI) began production of the improved second generation of biometric passports, containing chips that hold fingerprint information, in accordance with the ICAO and EU standards¹²

In regards to administrative measures for ensuring integrity and security of personalisation process and distribution of travel documents, “personalisation of travel documents is centralised and falls under the competence of the Information Technology Administration of the Ministry of the Interior. It is a part of the system which includes acceptance of applications for document issuance, data processing and personalisation. When citizens submit an application for the issuance of new passport, the processed data, through telecommunication and information system of the MoI, reaches the data preparation system. Via protected connection, the prepared encrypted data is transmitted to personalisation, what implies laser engraving of alphanumeric data and inscription of data on the chip. After that, visual and electronic control of passports produced is conducted. Information on produced passports is returned via the same tunnel into MoI. Through a courier service of authorised MoI officers, personalised passports are forwarded to the point of issuance. The Ministry of Foreign Affairs of the Republic of Serbia is not perform personalisation of travel documents, but only data acquisition for personalisation purposes in the premises of the Ministry for diplomatic and official passports and in diplomatic consular missions of the Republic of Serbia abroad for ordinary passports. Delivery of personalised diplomatic and official travel documents from the Ministry of the Interior to the Ministry of Foreign Affairs is made through official couriers, with all necessary security measures. Delivery of personalised travel documents to diplomatic consular missions of the Republic of Serbia abroad will be made through DHL¹³.

In regards to ensuring a high level of security of breeder documents and identification cards, the Ministry of Interior applies the procedure in compliance with the European and ICAO standards. By passing the Law on Identification Card¹⁴ and the Rulebook on Identification Card¹⁵, the recommendations of the Council of Europe for implementation of the project for integrated automated system for identity documents personalisation are incorporated, and in this way the need to follow the world’s technology trends in the field has been satisfied.¹⁶

Security of documents necessary for obtaining biometric passports (registers - citizenship and birth certificates) has been most poorly assessed in the expert report of EC. This is particularly related to registers from the territory of AP KiM¹⁷.

Serbian Assembly in year 2009 adopted the Law on Registry Books¹⁸, prepared by the Ministry of State Administration and Local Self-government. Due to the Law, the national register which are established, enabling citizens to obtain their certificates faster, regardless of the place registry books are kept. Furthermore, the certificate do not have expiry dates. The issuance of certificates “without expiry date” started from January 2010. They are now on new forms, prepared by the

¹¹ According to recent the MoI data, a total of two million seven hundred thousand biometric passports have been issued. Population according to the Census, 2002-7498001 Statistical Office of the Republic of Serbia <http://webzrzs.stat.gov.rs/axd/en/osn.php?kljuc=1>

¹² Source: Zorica Djokic Milosavljević, Ministry of Interior, Head of the Department for travel documents and Readmission, interview October 2010

¹³ Report on Readiness, Visa Liberalisation with Serbia, October 2008, pages 14-15

¹⁴ Official Gazette of RS, 62/06

¹⁵ Official Gazette of RS, 11/07

¹⁶ Report on Readiness, Visa Liberalisation with Serbia, October 2008, page 22

¹⁷ As prerequisite for visa liberalization, Serbian Government has adopted the Regulation which established the separate passport issuing procedure for the Serbian citizens who reside in Kosovo and Metohija. They are oblige to submit breeder documents directly to Ministry of Interior Directorate which has been established by this Regulation. Residence of Kosovo and Metohija are not entitled to travel without visas to EU countries. This regulation does not apply on Serbian citizens from Kosovo and Metohija who have IDP status.

¹⁸ RS Official Gazette 20/09

Institute for Manufacturing Banknotes and Coins. All the data are protected from fraud, guaranteed by the Constitution, and the collected data can be used only for the intended purpose. The forms used so far have not had adequate protection. The law foresees that all the organs responsible for keeping registry books are obliged to provide electronic data evidence within the five-year period, which will enable the creation of the national register of citizens.

Block 2

Integrated border management – including readmission

In the 1990s, during the armed conflicts that followed the disintegration of former Yugoslavia, 4 million people left their homes. Several hundreds of thousands of them received temporary protection in the countries of Western Europe due to discrimination and wars in their country of origin. After the democratic changes in October 2000, thousands of Serbian citizens continued to seek asylum in Western Europe. Since almost all applications for asylum have been rejected and temporary protection withdrawn, those people are now returning on grounds of obligations undertaken by our government by signing the readmission agreement.¹⁹

Apart from several modest attempts, until the beginning of 2009 there were not systematic efforts made to identify and monitor the problems of returnees in both western countries and the countries of origin.

The Conclusion of the Government adopted in December 2008, foresees the plan of priority activities of competent organs for the period up to April 2009, for the purpose of fulfilling conditions for placing Serbia on the white Schengen list. The creation of the Strategy for Reintegration of Returnees under Readmission Agreements²⁰ and the relating Action Plan for the period 2009-2010²¹ was one of the activities.

The Ministry of Labour and Social Policy was responsible for the creation of the Strategy and Action Plan. The Strategy and Action Plan were adopted. In this way, foundations were laid for thorough changes in the position of the state related to this issue.

With the purpose to propose measures and activities for the realisation of reception, accommodation and integration of people returned to Serbia according to redmission agreements the government formed the interministerial body – Council for Integration of Returnees. Having in mind that the government bodies formed at high level are not operational, the Team for the Strategy Implementation has been formed as an expert and coordination body.

The Team comprises of members of all relevant and responsible ministries and other organs and organisations²² The Team cooperates with other organs, institutions and public services, both national and international. It monitors the problems of returnees, exchanges information, and proposes necessary solutions and measures. The Team can be positively assessed primarily due to its efficiency and the fact that the continuity of monitoring of all changes in this field is provided by monthly meetings of the Team members, and their regular reporting.²³

¹⁹ Serbian nationals still seek asylum in the EU countries and other developed countries of the world. By the number of asylum claims, 15.200, Serbia was on the sixth place in the world in 2008.¹⁹ The statistics certainly influenced somewhat reserved position of certain EU countries related to placing Serbia on the white Schengen list.

²⁰ RS Official Gazette 15/09

²¹ RS Official Gazette 22/09

²² Representatives of the Ministry of Labour and Social Policy, Ministry of Interior, Ministry of Foreign Affairs, ministry of Human and Minority Rights, Ministry of Health, Ministry of Education, Ministry of State Administration and Local Self-government, Ministry of Environment and Spatial Planning, Ministry for Diaspora, EU Integration Office, Commissariat for Refugees.

²³ Source : Rade Dubajić, coordinator of the Team for returnees reintegration, interview, June 19 2009

The Action Plan provides detailed elaboration of the objectives defined by the Strategy and identifies institutions responsible for the implementation of all activities, deadlines, and funds for their implementation.

According to the Action plan the Commissariat for Refugees had and still has an important jurisdiction. The Commissariat is responsible for coordination and organisation of reception and cooperation with reception communities in Serbia, operational implementation of planned activities on the field, working on successful reintegration of returnees, working on the prevention of human trafficking and the promotion of positive discrimination principles.

The Intervention Reception Centre for Returnees is also under the competence of the Commissariat. The lack of coordination and information exchange between western countries and Serbia was and still is a main obstacle in the registration of returnees and understanding their needs in order to offer adequate assistance. At the same time, as an additional consequence of poor cooperation is that very returnees have been uninformated. Certain information, important for the realisation of their rights was available to them only at the moment they returned to the territory of the Republic of Serbia. Very often returnees lack the information on the importance of certain documents. They leave destination countries without diplomas on gained education, birth certificates, proofs of the years of service, etc, and such a situation deprives them from certain rights in the territory of the Republic of Serbia. So, creation and production of handbook with basic information and its distribution through diplomatic-consular offices can primarily inform people waiting for return under readmission agreements. As an additional measure, this handbook could be distributed through international NGO networks.

The readmission agreements that Serbia has signed, apart from the return of citizens, also include the return of third country citizens and stateless persons who have transited Serbia on their way to western countries. Prevention related to reception of these individuals can be provided by efficient control of external borders, as well as by clearly defined visa policy of the state.

Regards, the IBM system, for the purpose of harmonization of Serbian legal framework with the EU standards related to the field of integrated border management, after the Integrated Border Management Strategy²⁴ and the Action Plan had been adopted, enactment of other relevant regulations was initiated. The Strategy expresses the readiness for the implementation of European standards in this field and sets foundations for passing sectoral strategies of borders services (police, custom, sanitary and phytopathological inspection), as well as functional strategies that define the areas of common interest (joint trainings, telecommunication and information systems, infrastructure at border crossing, etc). The improvement in this field was also made by the adoption of the Law on Border Protection²⁵, enforced on April 1, 2009 and completely harmonised with the European standards.

Having in mind that the essence of integrated border management is the establishment of the most optimum proportion between the flow of people and goods and security challenges, and that the optimum results can be achieved only with the coordinated work of all services on the border, the Agreement that formalise this cooperation was signed in February 2009. The Agreement on Cooperation in the Field of Integrated Border Management²⁶ was signed by ministers of the following ministries – Ministry of Agriculture, Forestry and Water Management, Ministry of Interior and Ministry of Infrastructure, and thus one of the main conditions for further implementation of the Strategy was fulfilled.

²⁴ RS Official Gazette 11/06

²⁵ RS Official Gazette 97/08

²⁶ See www.minpolj.gov.rs

The purpose of this Agreement is to harmonise and coordinate all the services on the borders, for faster flow of people and goods and with maximum respect of the security principles. Direct exchange of obtained information is also important, which leads to joint actions and seizure of goods, prevention of human trafficking, and arms and drug smuggling. Besides, it cuts expenses of the state through the reduction of number of state employees from all services present on the borders, use of equipment that need not to be purchased for each service but is jointly used by all the services.

The organisational and personnel structure of the Border Police Directorate is defined in the document on the job classification of the Ministry of Interior. The document gives a comprehensive description of all tasks and responsibilities of the Border Police. The Border Police belongs to the Border Police Directorate, which with its annual plans defines achievements, objectives and activities, priority actions, ways of their realisation and the activities of the Border Police. The defined methods of work are good.²⁷

The Border Police comprises of regular police officers from the Serbian MoI. The education of members of the Police is the same for all. However, the tasks and activities of the Border Police members require special types of trainings. One of recommendations for Serbia from EC Mission was to enhancement of the cooperation between the Border Police and the Customs, i.e. work in pairs, which would establish a more efficient system of detection of illegal migratory movements and trade.²⁸

It was very important to provide the modern instruments on the border crossings-for detection of suspicious travel documents during the first verification at all border crossings, as well as more sophisticated equipment that will be used for the second verification of travel documents.

According to the report of EC mission, as regards technical equipment, the early warning system has been praised, but its further improvement and upgrading have been suggested. At the same time, detailed suggestions have been given as to what kind of equipment is necessary for the improvement of efficiency of the border police and the IBM system, even with the alternative, cheaper but equally effective technical solutions. "The introduction of cameras on all border crossings would facilitate court proceedings related to giving bribe to customs officers".²⁹

The EU standards on the cooperation in this field, with regards to bilateral and multilateral agreements, impose their practical and pragmatic nature as the main criteria, for the purpose of more efficient fight against illegal migration and cross-border crime. The development of the system should be based on plans related not only to the level of central authorities of one country but also to the regional level. With that aim, Serbia has signed the agreement on strategic cooperation of the Republic of Serbia and the European Police Office (EUROPOL)³⁰, as well as the Working Agreement for the Establishment of Operational Cooperation with FRONTEX, and Memorandums of Understanding with international organisations such as DCAF, IOM, MARRI and OSCE. The Declaration signed with UNDOC is also important, relating the cooperation in the field of fight against drugs and organised crime.

In terms of asylum policy, Serbia was obligated to adopt and implement legislation in the field of asylum in compliance with international standards and legal framework and standards of the EU. This was done in order to ensure relevant infrastructure and empower responsible bodies, particularly in the field of asylum procedures and accepting asylum expenses.

²⁷ Expert Report relating to block 2- IBM, March 2009, page 8

²⁸ Expert Report relating to block 2- IBM, March 2009, page 8

²⁹ Expert Report relating to block 2- IBM, March 2009, page 9

³⁰ RS Official Gazette 38-09

With a view to harmonising legal regulations with the regulations of the European Union, the Law on Asylum³¹ was adopted in 2007 and entered into force on April 1, 2008. The Law on Asylum is harmonised with the UN Convention on Status of Refugees from 1951, the Protocol on the Status of Refugees from 1967, the Universal Declaration of Human Rights from 1948, the European Convention on Protection of the Human Rights and Fundamental Freedoms from 1950, the Convention against Torture and other Cruel, Inhuman or Degrading Treatment and Punishment from 1984 and the UN Convention on the Rights of the Child from 1989.

Group 484 has fully supported the adoption of this law, which has set benchmarks for the further development of the asylum policy of the Republic of Serbia, where the first instance, the Asylum Office, as the competent organisational unit of the Ministry of the Interior, takes decisions on the submitted requests for asylum and on the type of protection granted.

It is possible to lodge a complaint against the decisions taken by the Office to the Asylum Commission, which is established under the Law as an independent body of the Government, second instance body in the procedure of establishing the right to asylum. In this way the principle of two-instance system is observed (and by that fact, objectivity in decision making), as one of the fundamental postulates of our legal system.

The asylum procedure provides for court protection of the asylum seeker in the form of possibility to initiate administrative dispute before the Supreme Court of Serbia, in which way the principle of court control over operation of the public administration organs is also realised. The Asylum Commission was based on the Asylum Law, as a body that examines asylum claims in the second instance. The Asylum Commission comprising of 9 members, all the members are experienced experts from different fields and they are appointed for the period of 4 years. According to the Asylum Law, the Republic of Serbia will, within its abilities, ensure conditions for the inclusion of refugees in the social, cultural and economic life, as well as their naturalisation. However, the Law does not define an institution that will be dealing with the integration of refugees that have gained the status according to the Asylum Law, also in the budget of the Republic of Serbia, for several years, there is no funds for integration of persons who have gained the status of refugees or are under subsidiary protection.

In accordance with the Law on Asylum and undertaken obligations related to the Commissariat for Refugees, appropriate measures for establishment of the Asylum Centre have been taken.

Within the Centre, asylum seekers are provided with accommodation, food, clothes and shoes, and in case they are not accommodated in the Centre, they are entitled to financial aid through a competent social care centre.

Despite all the above, it is really important to provide specialised courses for the all actors involved in asylum system in the country. In Serbia a lot of trainings were implemented in cooperation with UNHCR, CARDS, AENEAS and through various other projects.

In terms of migration control, establishing of a relevant mechanism for monitoring migration flows was one of the biggest challenges for the Serbian Government. For the first time in the Republic of Serbia, a comprehensive migration flows monitoring policy had to be established, and a Serbian migration profile defined.

Migration Management Strategy was adopted on July 23, 2009³². Recommendations and measures provided for in the Strategy:

³¹ Official Gazette of RS 109/07

³² RS Official Gazette 59/09

- Contents of the Serbian migration profile shall be defined in accordance with the European integration requirements, taking into account specific characteristics of the Republic of Serbia.
- The Serbian migration profile shall be updated on regular basis
- Statistics shall be harmonised with EU standard requirements
- Normative and technical conditions shall be established for data exchange among relevant institutions
- Gather information, statistics and reports on migration in RS.
- Designate an institution responsible for data gathering
- Follow migration movement trends

The Strategy also lays the foundations for an institutional framework for migration policy development. It is defined in line with competences and duties that ministries and state institutions have in the area of migration within the Law on Ministries, other laws and appropriate normative acts and Strategies.³³

In February 2009, the Government established a Coordination Body for Migration Monitoring and Management³⁴ composed of ministers who are, within their purview, in charge of certain migration aspects. The Commissariat for Refugees is in charge of vocational, operational and administrative-technical tasks for the Coordination Body. The Coordination Body submits to the Government a written progress report every 90 days.

As regards the migration profile for the Republic of Serbia, it has not been created yet. The profile would have to encompass relevant data for both the field of immigration and emigration connected to the Republic of Serbia, updated statistics in these fields, established migration policies, in respect to both forced migration as well as legal (economic) migration, and clearly identified problems in the field of implementation of the aforementioned policies.

Within the project "Western Balkans towards White Schengen List" Group 484 has been researching whether the Serbian EU accession represents an immigration threat to EU Member States. For that purpose, it has carried out a research on migration potential on representative sample in Serbia, but also in Romania, an EU Member State, and made a comparative analysis in order to have a better insight in scope, structure, but also in migration potential determinants.³⁵ Very important Law in this field is the Law on Foreigners³⁶. Provisions of this Law which are of special importance refer to the establishment of central database which will encompass data recorded in special records (total of 21 records - 16 of the Ministry of Internal Affairs and 5 of the Ministry of Foreign Affairs). The central database can be used by authorised police officers in the Ministry of Interior, authorised civil servants of the Ministry in charge of foreign affairs and diplomatic-consular offices of the Republic of Serbia, for the purpose of performing their duties in accordance with competences provided for in this Law. Being authorised by the Minister in charge of internal affairs, the data from the central database can be used by other state institutions, when necessary, for the purpose of performing duties in their purview.

With regard to movement and stay of foreigners in the Republic of Serbia, the Law on Foreigners also introduced types of visas in line with the Schengen standards. The Law defines requirements for entrance and stay of foreigners in the country, possibility of registering their residence through Internet, the existing types of visas that have been abolished and the new ones

³³ Migration Management Strategy, July 2009, p.4

³⁴ RS Official Gazette 37/09

³⁵ http://www.grupa484.org.rs/index.php?option=com_deppockets&task=catShow&id=23&Itemid=147

³⁶ RS Official Gazette 97/08

introduced (A – airport transit visa, B – transit visa, C – short stay visa and D – long stay visa). As regards visa types, it must be noted that, unlike before, D visa – for temporary stay - can also be obtained at diplomatic-consular offices of the Republic of Serbia. Tourist pass has been repealed, and border permit, which is issued under strictly regulated conditions and through the procedure stipulated by the Law, has been introduced. Temporary stay, which was previously regulated by by-laws, has been introduced. The law stipulates exceptionally high penalties for either aliens who violate provisions of the law or for citizens, physical and legal entities who do not report the stay of an alien.

Work on the establishment of the Visa Information System has not been finalised yet. A visa system of a county is a part of state security and its ability to manage borders in a coordinated manner. Establishment of such a system will provide support for the work of diplomatic-consular offices, as well as to the tasks regarding documentation checks on border posts which are the responsibility of the Ministry of Interior. Main holders of the project implementation are the Ministry of Interior and the Ministry of Foreign Affairs. The solutions envisaged by the project are based on Schengen Catalogue best practices and in accordance with the EU Consular Instructions³⁷.

³⁷ Migration Management Strategy in the Republic of Serbia, July 23 2009, p. 16