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BOSNIA AND HERZEGOVINA:
READY FOR VISA RELAXATION

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Bosnia and Herzegovina: Ready for visa relaxation

Executive summary

As the EU is discussing the possible relaxation of its visa regime for the Western Balkans, Bosnia finds itself in a unique situation. On the one hand, it needs to deliver all the technical improvements the EU is demanding from all countries in the region to control migration and curb the trafficking of people and goods. On the other hand, it also needs to dispel lingering suspicions that it has too easily given citizenship to dubious characters of Middle Eastern origin.

On both counts, the country has made substantial progress. It has strengthened law enforcement structures and border controls and put in place improved registration systems. A new commission has been set up to review questionable naturalizations. Its tough mandate allows it to revoke citizenship and recommend deportation with little regard to potential human rights issues.

The Islamist danger emanating from Bosnia has frequently been exaggerated. In fact, the country is one of the West's most steadfast allies in combating terrorism. But the Bosnian authorities will need to communicate their case better if they want their citizens to benefit from relaxed travel rules.

Bosnia and Herzegovina: Ready for visa relaxation

Whenever Bosnia and Herzegovina (Bosnia) asks the countries of Western Europe to relax their tough visa regimes, its requests are met with ready-made accusations that its policy on granting citizenship and issuing passports is too loose. Indeed, past naturalizations of suspicious characters from North Africa and the Middle East appear to dominate the visa debate: "Get rid of the Arabs," according to a top Bosnian negotiator, is the most frequent reaction that greets Bosnian calls for liberalized visa rules.

If Bosnia is to benefit from such rules, it will need to convince its Western European partners that it has dealt effectively with the wartime and postwar legacy of dubious naturalizations. (Many foreign fighters who came here during the war received citizenship, and many are married to Bosnian women.) But in addition, it will also need to make the generic improvements in technical areas – border security, the quality of personal documents, readmission agreements, reception centers for illegal aliens – that the EU expects from all the countries of the Western Balkans.

In anticipation of a spring announcement by the European Commission on visa requirements for citizens of the Western Balkans, this security brief – the first in a series by the CEIS – will examine certain fallacies in thinking on Bosnia that seem to exist among EU decision-makers. This paper aims to dispel the notion that Bosnia is a country that shelters terror suspects and describes the relevant security measures that have already been taken to make Bosnia a qualified candidate for substantial visa relaxation.

A steadfast ally in fighting terror

It is often alleged that Bosnia still harbors potentially dangerous people of Middle Eastern origin who came here during the war and then decided to settle permanently. While this was true in the immediate postwar period, there are no arguments to support this suggestion today. Bosnia, in full cooperation with foreign law enforcement agencies, has ordered its security apparatus to vigorously scrutinize any suspicious activities of naturalized Bosnians, in itself a very small segment of society. Following 9/11, Bosnia decisively joined the United States in its pursuit of terror suspects, and none of the numerous assessments by the U.S. government have questioned Bosnia's full cooperation in the fight against terror. A wide range of security operations have been directed against alleged Islamic radicals from abroad, sometimes at the expense of actions against indicted war criminals.

Despite Bosnia's unequivocal commitment to the fight against terror, suspicions linger that the country may be too tolerant of potentially dangerous foreign Islamists. Some of these suspicions stem from well-entrenched prejudice against a country with a Muslim plurality, but the Bosnian authorities have also been singularly inept at communicating Bosnia's political allegiance to the West.

In fact, the Bosnian authorities have adopted – perhaps without giving due consideration to potential human rights violations – the recent Western bias against Arab immigrants, often regarding them as a security risk without sufficient evidence. The post-9/11 period has seen numerous arrests and interrogations of such persons, often simply in response to requests by some Western (typically U.S.) intelligence agency. The best-known such incident was the forcible transfer to Guantanamo of six Bosnian citizens of Arab origin in early 2002, despite the fact that Bosnia's highest legal institutions – the Federation Supreme Court and the Human Rights Chamber – had ruled it unlawful. Thus, Bosnia was put in a position where it had to prove its political correctness by violating its own laws, and it followed the expected course.

But if Bosnia has proven to be a loyal Western ally in combating terrorism, what about its practice of conferring citizenship or issuing passports to persons of dubious background – an accusation that decisively undermines Bosnia's chance to benefit from a relaxation of visa rules? Indeed, several prominent terror suspects have been found in the possession of Bosnian papers. But it is also true that they often had passports from other countries as well, a fact often neglected in the media coverage. Be that as it may, the Bosnian authorities have agreed to resolve this issue once and for all by undertaking another comprehensive review of all naturalizations effected between the beginning of the war in April 1992 and 1 January 2006. While the main target are clearly foreigners of Arab origin, the relevant law does not have any such direct specification and instead uses vague legal language in order to avoid accusations of racism.¹

The amendments to Bosnia's citizenship law were adopted in urgent procedure in the fall of 2005; the Commission that is to review the naturalizations has been set up and begun operating. The amended law, like most important laws, was submitted to the Bosnia and Herzegovina Council of Ministers by the Office of the High Representative. However, well-informed sources maintain that the text was in fact prepared by staff from the U.S. embassy in Sarajevo, which highlights the strategic nature of the issue. The Commission consists of nine members: two Bosniaks, two Croats, two Serbs, and three persons who are not citizens of Bosnia or of a neighboring country, appointed in consultation with the Council of Europe. Over the coming six months, the Commission is expected to review around 1,200 cases of naturalized aliens, mostly of Arab background. Should any irregularities be spotted, the Commission can revoke citizenship and – if the individual still resides in Bosnia – recommend their deportation. An interesting novelty of the law is that the Commission's decisions will be

¹ The law defines the target group as those who "acquired the citizenship through naturalization and who previously were not issued the personal identification number (JMB) in the period after April 6, 1992 and before January 1, 2006." See Article 8 of the new Law on Amendments to the Law on Citizenship of Bosnia and Herzegovina.

final, without possibility of appeal, which has prompted some legal experts to dub the relevant article a “Guantanamo clause.” The law only provides for the possibility of an administrative complaint before a competent court, but the procedure does not delay the execution of the decision.

Statements by local Commission members and other Bosnian officials suggest that they intend to complete their task expeditiously and to revoke the citizenship of many of the naturalized foreigners. The Helsinki Committee for Human Rights of Bosnia and Herzegovina is the only organization that has warned publicly that certain provisions of the law under which the Commission will operate may be in contravention of the European Convention for the Protection of Human Rights and Fundamental Freedoms.²

Improvements

It is obvious that the Bosnian authorities are willing to do whatever they think will reassure their Western allies, in order to finally be able to benefit from relaxed visa rules. In addition to measures intended to eliminate existing prejudices about the country’s political allegiances, Bosnia has made significant improvements in other areas that are relevant to the visa issue.

Borders and police

Bosnia used to have porous borders and lacked a competent state-level agency to prevent illegal migration. But things have changed dramatically, especially after the State Border Service (SBS) became effectively operational in September 2003 as a multi-ethnic police force of some 2,000 agents in charge of controlling Bosnia’s borders and a border zone that reaches ten kilometers into Bosnian territory. The number of illegal border crossings dropped from a couple of thousand before the SBS began operating to a couple of dozen a year after it began its patrols.³ Bosnia also adopted the Law on Surveillance and Control of State Border Crossings and harmonized its border management in accordance with recommendations by the European Commission. The Bosnian government has also decided to build a reception center for illegal immigrants and earmarked 200,000 euros for its construction and operation, while the Delegation of the European Commission to Bosnia and Herzegovina has pledged an additional 1 million euros for the same purpose.

While Bosnia has made considerable progress in securing its borders, some international observers believe that the SBS has not performed as well last year as it could have; for example, the number of resolved cases reported by the SBS dropped in 2005. Some ethnic divisions still persist within the corps, and its regional centers should cooperate and exchange information more effectively. The Bosnian authorities should address such reservations in order to dispel any doubts that Bosnia has taken charge of its borders.

Finally, Bosnia has established a State Investigation and Protection Agency (SIPA), another multi-ethnic, state-level police force tasked with investigating serious criminal offences such as war crimes and organized crime, especially money laundering. It signed agreements on police cooperation with neighboring states and Interpol in order better to combat organized and cross-border crime. Police reports are now standardized and available to all law enforcement agencies.

A recent resolution by the European Parliament pointed out correctly that the improved cooperation among police agencies has increased their effectiveness. Bosnia’s crime rate and the rate of resolved cases are the same or better compared with EU countries of similar size.⁴

Document security and central registers

The new Bosnian passport meets highest international standards; its technical features and security elements make it difficult to forge. A central register of all Bosnian travel documents has been established, and all

² See Report on the Status of Human Rights in Bosnia and Herzegovina (17 January 2006), available at <<http://www.bh-hchr.org/Reports/reportHR2005.htm>>.

³ Interviews with Bosnian government officials and “Information on the security situation in the first six months of 2005,” Sarajevo: Ministry of Security of Bosnia and Herzegovina, 2005.

⁴ See European Parliament Resolution on the Outlook for Bosnia and Herzegovina, 16 February 2006, available at <<http://www.europarl.eu.int/activities/expert/ta.do?language=EN>>

locations in Bosnia and abroad where travel documents can be issued are now linked in a single network, which provides full control over the issuance of identity documents.

Bosnia's Citizens Identification Protection System (CIPS) is now fully in place following the implementation of new and stricter laws on permanent and temporary residence, on personal identification numbers, central registers and data exchange, and identity cards. All citizens of Bosnia have received new ID cards (together with driving licenses where applicable) that meet the highest European and international standards. They are made from a special polycarbonate and personal data are engraved by laser. More important than these physical features is the central register of all citizens of Bosnia, which contains all relevant data and was established as part of the CIPS project. A similar central register, also accessible to all relevant law enforcement bodies, should be established by mid-2006 for all motor vehicles. As part of its introduction, all current registration plates will be replaced by new plates with advanced security features that meet EU standards.

Readmission agreements

Bosnia has signed readmission agreements with most of the Schengen and the new EU member states. These agreements provide for the return of Bosnian citizens and citizens of third countries who entered the co-signatory country via Bosnia, and vice versa. These agreements are intended to dampen fears of massive economic migration from or through Bosnia once the visa regime with the EU is liberalized.

Visas

Bosnia has streamlined the procedures for issuing visas to visitors. It has harmonized its visa regime towards so-called risk countries with that of the EU, abolished visa requirements for the new EU member states, and allowed citizens of the EU-15 to enter Bosnia with ID cards. At the operational level, a new visa system now connects 43 diplomatic missions and consular posts, 14 border crossings, SBS field offices, the central office of the Ministry of Security and the central office of the Ministry of Foreign Affairs, giving them access at all times to a database of all visas issued. The necessary checks for processing visa applications are also conducted electronically, through what may well be the region's most advanced system of controlling the movement and stay of foreigners.

A non-discriminatory approach needed

When the EU Justice and Home Affairs Commissioner and his staff, as well as other EU officials, begin contemplating the possibility of relaxing visa requirements for Bosnia this spring, they need to be aware of the issues touched upon in this brief as well as some wider political considerations. A significant segment of the Bosnian population, namely all those with Croatian passports (by no means all of whom are ethnic Croats), are in a privileged position since they can travel to the EU without visas. It is entirely conceivable that a political *quid pro quo* with Belgrade on the Kosovo status question, or simply technical advancements made by Bosnia's neighbor to the east, may soon result in another constituent people benefiting from visa-free travel, namely the majority of Bosnia's Serbs who have dual citizenship.

Such a scenario would leave the Bosniaks (Bosnian Muslims) alone in the humiliating queue outside foreign embassies every time they want to travel, together with those few Serbs, Croats and other Bosnians who do not hold the passport of a neighboring country.

But even without such a prospect, the situation is already bad enough to warrant urgent action by EU member states. They should provide the sort of tangible benefit that will demonstrate to ordinary Bosnians that reform pays off and results in a better life for every citizen rather than a select few. This is all the more true when the selection criteria are politically charged, as they are now.

Sarajevo, 3 March 2006

CENTER FOR EUROPEAN INTEGRATION STRATEGIES

EXECUTIVE DIRECTOR
CHRISTOPHE.SOLIOZ@CEIS-EU.ORG

DIRECTOR – SARAJEVO OFFICE
SENAD.SLATINA@CEIS-EU.ORG

SENIOR EDITOR
TOBY.VOGEL@CEIS-EU.ORG

DIRECTOR – VIENNA OFFICE
VEDRAN.DZIHIC@CEIS-EU.ORG

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- **Training** political analysts, especially those involved in local government and on European integration issues;
- **Supporting** the work of emerging voices in the region in CEIS areas of interest;
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