

# EASTERN MONITOR

## The Unfulfilled Promise of Kosovo Visa Liberalization

Jana Juzová

- Kosovo's path towards visa liberalization started in 2012 when the European Commission submitted the Visa Liberalization Roadmap for Kosovo. This step was long awaited by the small country as all the other five Western Balkan states started the dialogue already in May and June 2008. At that time, it was still being decided inside EU member states whether they would recognize the newly declared state<sup>1</sup> and it was clear that there is no consensus across the EU. As the united EU approach towards Kosovo proved to be a difficult and sensitive issue due to the concerns that opening visa dialogue would imply recognition, Kosovo was left out from the process.
- The length of the visa liberalization process differed among the Western Balkan countries. Macedonia, Montenegro and Serbia progressed rather swiftly, and the dialogue was closed with the decision to lift the visa regime for these countries in late-2009. Albania and Bosnia and Herzegovina had to wait one year longer as their readiness and fulfilment of conditions was evaluated as insufficient in 2009. Kosovo, lagging behind the rest of the region, opened the dialog with the EU in 2012, at the same time as Georgia. While Georgian citizens already reached a successful end of the process and are allowed to travel to the EU without visa since March 2017, it is still uncertain when Kosovo will achieve this objective.



## Kosovars, the unwelcome relatives?

Kosovo citizens have been awaiting the liberalization full of hope but with the delays, the mood in the country is gradually getting worse, further damaging the already not very positive image of the EU authorities among Kosovars.<sup>2</sup> In 2016, the European Commission proposed to the European Parliament and the Council of the EU to lift the visa requirements with the provision that the country ratifies the border agreement with Montenegro and improves its track record of corruption and organized crime cases by the time the decision on visa-free regime is adopted.<sup>3</sup> However, the progress was deemed insufficient by the European Parliament and Council of the EU, and the whole process was postponed. In July 2018, the Commission's evaluation stated that Kosovo has fulfilled the remaining two conditions – the Kosovo Parliament ratified the border demarcation with Montenegro in March 2018 and Kosovo worked on improving its track record of organized crime and corruption cases – and recommended once again the European Parliament and Council to introduce the visa-free regime for Kosovo.<sup>4</sup>

The Kosovars were awaiting the verdict as the European Parliament in September decided in favour of the abolition of the visa regime for Kosovo citizens. In its Plenary Session vote, the decision passed with 420 MEPs majority, over 186 against it.<sup>5</sup> However, the most difficult negotiations are happening in the Council of the EU where the member states have to adopt the decision

to lift the visa requirement for Kosovo citizens with a qualified majority.<sup>6</sup> Up to this moment, most member states oppose the abolition of the visa regime and the situation is unlikely to change with the crucial election to European Parliament coming up in May 2019.

With growing support to Eurosceptic and nationalist parties and movements across Europe at a time when the emphasis is rather on strengthening the EU borders and insular policies, enabling Kosovo citizens to travel to the EU visa-free would be a contentious decision dividing EU populations along the aforementioned Eurosceptic and pro-European fault lines. This trend is further supported by the fact that during the migration crisis in which an influx of migrants sought asylum in EU member states, a large number of Kosovo citizens were entering the EU illegally and applying for asylum as well. According to experts and interviews with Brussels officials, this "abuse" of the situation by some Kosovo citizens has only damaged the image of Kosovo among EU nationals.<sup>7</sup>

The support to further enlargement and probably also to any form of opening up of the EU the Western Balkan states has been steadily decreasing in past decade or two. In 2002, 21 % of Europeans were in favour of future enlargement including all countries wishing to join and 44 % in favour of including only some countries with only 14 % against any further enlargement.<sup>8</sup> (Although it is important to mention that at this point the discussion was focused on the Eastern

<sup>1</sup> Kosovo declared its independence on February 17, 2008.

<sup>2</sup> During Commissioner Hahn's visit in Pristina in December, Kosovars were protesting against prolonged visa liberalization process. Kosovo's EU Visa Liberalisation Hopes Dwindle in 2019, *Balkan Insight*, at <https://balkaninsight.com/2019/01/16/kosovo-s-eu-visa-liberalisation-hopes-dwindle-in-2019-01-15-2019/>.

According to Public Pulse XII, a public survey prepared by UNDP Kosovo, almost one quarter of respondents blames EU and EULEX for not yet finalizing the process of visa liberalization. The brief is available at [http://www.ks.undp.org/content/dam/kosovo/docs/PublicPulse/pp\\_12/PP%2012%20eng.pdf](http://www.ks.undp.org/content/dam/kosovo/docs/PublicPulse/pp_12/PP%2012%20eng.pdf).

<sup>3</sup> European Commission, *European Commission proposes visa-free travel for the people of Kosovo*, online at [http://europa.eu/rapid/press-release\\_IP-16-1626\\_en.htm](http://europa.eu/rapid/press-release_IP-16-1626_en.htm).

<sup>4</sup> European Commission, *Visa Liberalisation: Commission confirms Kosovo fulfils all required benchmarks*, online at [http://europa.eu/rapid/press-release\\_IP-18-4562\\_en.htm](http://europa.eu/rapid/press-release_IP-18-4562_en.htm).

<sup>5</sup> SchengenVisaInfo.com. *European Parliament approves visa talks with Kosovo*, online at <https://www.schengenvisa.info.com/news/european-parliament-approves-visa-talks-with-kosovo/>.

<sup>6</sup> To pass the proposal with qualified majority means at least 55% of member states have to vote in favour while in the same time their population has to amount to at least 65% of the population of the whole EU.

<sup>7</sup> *Migration: Challenging visa liberalization for Kosovo*, Kosovar Centre for Security Studies, September 2015, pp. 8. Online at [http://www.qkss.org/repository/docs/visa-migration-eng\\_190914.pdf](http://www.qkss.org/repository/docs/visa-migration-eng_190914.pdf) or What is holding Kosovo's visa liberalisation back? at *European Western Balkans*, <https://europeanwesternbalkans.com/2018/12/26/holding-kosovos-visa-liberalisation-back/>.

<sup>8</sup> European Commission, *Eurobarometer 56.3*, downloads available at [http://ec.europa.eu/commfrontoffice/publicopinion/archives/ebs\\_166\\_en.htm](http://ec.europa.eu/commfrontoffice/publicopinion/archives/ebs_166_en.htm).

enlargement countries and not the Western Balkans.) In 2008, the clear division between the old and new member states showed; only in the old member states of Netherlands, Denmark, Spain and Portugal were a majority of the population in favour of enlargement, while among the new members the support was generally very high.<sup>9</sup> However, another survey at that time showed that the stability of opinions has to be taken with a grain of scepticism and that a different wording (e.g. enlargement once the candidates meet all conditions or favouring enlargement if it does not happen too fast)<sup>10</sup> significantly impacted the results. One of the last surveys has shown a rather grim trend for the enlargement policy.<sup>11</sup> In 2012, populations of majority of member states expressed opposition to enlargement. Only in Poland, Hungary, Latvia, Lithuania, Estonia and Spain were the majority of the population in favour. The opposition was strongest in Austria, France, Germany and Luxembourg.<sup>12</sup> With the advent of the migration crisis and surge in nationalist and populist sentiments, these numbers can be expected to deteriorate further.

In spite of the positive steps in 2018 taken mainly by the European Commission in order to put the Western Balkans and enlargement policy back on the EU agenda, current trends suggest the enlargement fatigue is far from being overcome and probably only deepening. This is detrimental also for Kosovo, regardless of how far from actual membership it is. In the atmosphere of very little support among EU populations and leaders for opening up to the more advanced candidates, there will be much less enthusiasm to open up to Kosovo.

## Kosovo's long bumpy way to visa-free regime

In comparison to other Western Balkan countries, Kosovo's visa liberalization process has been much more demanding, including more conditions and obstacles encompassing more areas than was usual for visa policy. The list of requirements the country has to meet in order to receive a recommendation for lifting the visa regime is defined in each country's Visa Liberalization Roadmap. While all the other five countries from the Western Balkan Six had to fulfil from forty to forty-two requirements<sup>13</sup> for the visa liberalization process to advance, in case of Kosovo it was 95 conditions which were furthermore formulated in a more detailed way.<sup>14</sup>

Once the country meets these conditions, the European Commission can recommend the European Parliament and Council of the EU to vote in favour of lifting the visa regime. In its 2016 recommendation, the Commission reserved the condition that until the vote passes, Kosovo will meet the two remaining requirements – ratification of the demarcation border with Montenegro and improved track record of organized crime and corruption cases. This was not the first time the Commission approved the recommendation for visa liberalization with the provision that some remaining conditions will have to be met before the liberalization would come into force – the same procedure applied in case of Montenegro and Serbia before. Despite the Commission's

<sup>9</sup> European Commission, Eurobarometer 70, online at [http://ec.europa.eu/commfrontoffice/publicopinion/archives/eb/eb70/eb70\\_full\\_en.pdf](http://ec.europa.eu/commfrontoffice/publicopinion/archives/eb/eb70/eb70_full_en.pdf), results summarized in *The 'Old' and the 'New' Europeans: Analyses of Public Opinion on EU Enlargement in Review*, MAXCAP Working Paper No. 2, April 2014, available at [http://userpage.fu-berlin.de/kfgeu/maxcap/system/files/maxcap\\_wp\\_02.pdf](http://userpage.fu-berlin.de/kfgeu/maxcap/system/files/maxcap_wp_02.pdf).

<sup>10</sup> European Commission, *Special Eurobarometer: The European Union and its Neighbours*, available at [http://ec.europa.eu/commfrontoffice/publicopinion/archives/ebs/ebs\\_259\\_en.pdf](http://ec.europa.eu/commfrontoffice/publicopinion/archives/ebs/ebs_259_en.pdf).

<sup>11</sup> European Commission, *Standard Eurobarometer 78*, downloads available at

[http://ec.europa.eu/commfrontoffice/publicopinion/archives/eb/eb78/eb78\\_en.htm](http://ec.europa.eu/commfrontoffice/publicopinion/archives/eb/eb78/eb78_en.htm).

<sup>12</sup> Summarized and visualization in *The 'Old' and the 'New' Europeans: Analyses of Public Opinion on EU Enlargement in Review*, [http://userpage.fu-berlin.de/kfgeu/maxcap/system/files/maxcap\\_wp\\_02.pdf](http://userpage.fu-berlin.de/kfgeu/maxcap/system/files/maxcap_wp_02.pdf)

<sup>13</sup> Visa Liberalization Roadmaps for Serbia, Montenegro, Macedonia, Albania and Bosnia and Herzegovina are available for download at European Stability Initiative website: <https://www.esiweb.org/index.php?lang=en&id=352>.

<sup>14</sup> Visa Liberalization with Kosovo Roadmap, available online at: <https://www.esiweb.org/pdf/White%20List%20Project%20Paper%20-%20Roadmap%20Kosovo.pdf>



recommendation, the European Parliament stopped the process when the mandate for the Parliament to negotiate with other EU institutions (so-called triologue) was not approved.<sup>15</sup>

The delay in Kosovo's visa liberalization process was received with criticism both from Kosovo politicians and experts, particularly regarding the unresolved demarcation of border with Montenegro, which was seen as unjustified. It was brought to attention that resolution of border issues was in the past included only when the EU accession was on the table and not for the visa liberalization. Also, even inside the EU there were several cases of unresolved border issues between member states (e.g. Czech Republic and Poland, Czech Republic and Germany or Slovenia and Croatia), which did not represent an obstacle to the enlargement. Furthermore, demarcation was neither required from Georgia nor Ukraine, who were going through the process at the same time as Kosovo.<sup>16</sup> On the other hand, some EU representatives talk about the long-awaited border demarcation ratification as a missed opportunity on Kosovo's side.<sup>17</sup> While the agreement between Kosovo and Montenegro was reached already in 2015, due to large opposition and deep political divisions on this issue, it took almost three years until the Kosovo Parliament ratified the agreement. Had Kosovo politicians reached an agreement earlier, it could possibly help it to benefit from the overall more open

atmosphere and the process together with Georgia and Ukraine to be able to close the whole process earlier.

Last year, the Commission released a recommendation for lifting the visa regime with Kosovo again, this time on the basis of fulfilment of the last two remaining conditions. While the border demarcation with Montenegro was ratified by the Kosovo Parliament in March 2018, after this question destabilized the country<sup>18</sup> and the government fell over this issue in 2017<sup>19</sup>, the second condition of more successful fight against organized crime and corruption cases is more difficult to assess and is more political in its nature. It seems that some European leaders are looking for justifications for vetoing of the visa liberalization. Doubts about the rule of law and corruption situation in the country are accompanied by concerns about high migration from Kosovo to EU and misuse of the visa-free travel regime by Kosovo citizens leading to general politicization of the whole process and attempts to add more conditions for the visa liberalization. In November last year, Austrian Chancellor Sebastian Kurz caused some controversy by his statement in Pristina which was interpreted as suggestion to condition the process with the conclusion of the Belgrade-Pristina dialog.<sup>20</sup> After the introduction of the tariffs by Kosovo, the EU leaders hinted that revoking of the tariffs would be in Kosovo's interest<sup>21</sup> – as it is clear that this step did not contribute to overall support for granting Kosovo the visa

<sup>15</sup> Radio Free Europe/Radio Liberty, *EU parliament committee oks Georgia visa deal, Kosovo deal in limbo*, 5 September 2016, available at: <https://www.refworld.org/docid/57db9a9113.html>.

<sup>16</sup> SchengenVisaInfo.com. *The isolated pro-Europeans: How much time is left?*, online at <https://www.schengenvisa.info.com/news/isolated-pro-europeans-much-time-left/> or "Soft" power of isolation, *New Europe*, online at <https://www.neweurope.eu/article/soft-power-isolation/>.

<sup>17</sup> EU Rapporteur: Kosovo Has Missed the Visa Train, *Emerging Europe*, at <https://emerging-europe.com/news/eu-rapporteur-kosovo-missed-visa-train/>.

<sup>18</sup> The deal faced a violent opposition from both opposition politicians and public with with MPs releasing tear gas in parliament to stop the vote and clashes of protesters and police in the street. (Kosovo and Montenegro reach deal on 2015 border agreement, *Reuters*, at <https://www.reuters.com/article/us-kosovo-montenegro-border/kosovo-and-montenegro-reach-deal-on-2015-border-agreement-idUSKCN1G01HA.>)

<sup>19</sup> Kosovo government falls over border demarcation deal with Montenegro, *EURACTIV*, <https://www.euractiv.com/section/enlargement/news/kosovo-government-falls-over-border-demarcation-deal-with-montenegro/>.

<sup>20</sup> Wir verstehen Sie nicht, Herr Kurz, *Pristina Insight*, <https://pristinainsight.com/wir-verstehen-sie-nicht-herr-kurz/>. The statement was largely criticized, most vocally mainly by Tanja Fajon, the EP rapporteur for visa liberalization for Kosovo. (Fajon Concerned Visa Liberalization Is Being Politicized, *RTK*, <https://www.rtklive.com/en/news-single.php?ID=12757.>)

<sup>21</sup> European External Action Service, *Remarks by HR/VP Mogherini at the joint press conference following the 5th EU-Serbia Stabilisation and Association Council*, at <https://eeas.europa.eu/headquarters/headquarters-homepage/55703/remarks-hrvp-mogherini-joint-press-conference-following-5th-eu-serbia-stabilisation-and-en.>

liberalization. The more politicized conditionality in the process was confirmed also by some of the European diplomats involved in the Council meetings in Brussels.<sup>22</sup>

In these terms, the Commission's technical and objective approach to evaluation<sup>23</sup> and the proposal to the European Parliament and the Council to lift the visa from July 2018 should serve as a credible basis for the European Parliament and Council of the EU to adopt the decision. While the European Parliament passed the vote to lift the visa regime with Kosovo in September 2018, the process is now stuck in the Council where the decision-making is much more dependent on the current political situation in individual member states and attitudes of the governments' electorate towards this question.

## Conclusion

At this point, it is difficult to estimate when the whole process could reach a conclusion, and the current situation does not offer grounds for optimism. The matter is further complicated by the fact the EU will have to face bigger and more pressing challenges this year – mainly Brexit and European Parliament elections – drawing attention towards its own survival and future rather than delivering on its promises to the small Western Balkan nation. In autumn last year, there was apparent optimism among stakeholders on Kosovo and EU side about the decision passing by the end of 2018. After the approval by the European Parliament, general expectations were that the Council of EU could decide on its session in early December. However, Kosovo did

not appear on the agenda, and it is unlikely it will during this eventful this year.

On the other hand, it is apparent that the continuation of this process is necessary in order to keep Kosovo in check and on the desired track. As the laggard of the region, Kosovo does not have a perspective of EU membership or even the candidate status like the other Western Balkan states (with Bosnia and Herzegovina waiting to be approved as a candidate, Albania and Macedonia awaiting Council's decision on opening the accession talks in June 2019 and Serbia and Montenegro already on the accession path). At this moment, visa liberalization is the only "carrot" the EU can offer to Kosovo to incentivize it to stay on a constructive path. While it may not seem as much, it is considered very important by basically the entire Kosovo population, and thus the prospect of visa liberalization is essential lest the country is left without prospects of constructive cooperation with the EU.<sup>24</sup>

The EU needs to be able to utilize it in order to keep Kosovo on the right path. The young and once most pro-European population of the region is getting tired and discouraged by the prolonged process and the political elites are becoming more difficult for European authorities to handle. This was clearly demonstrated in November 2018 when Kosovo introduced 100% trade tariffs on goods from Serbia and Bosnia and Herzegovina despite strong criticism from the EU and US officials.<sup>25</sup> The EU suddenly found itself in a position when Kosovo was going rogue and European leaders were rendered impotent due to their primary leverage – Visa Liberalization – losing credibility as a realistic prospect for Kosovo. The EU not delivering on its promise even

<sup>22</sup> What Stands in the Way of the Council's Approval of Visa Liberalisation for Kosovo?, *European Western Balkans*, <https://europeanwesternbalkans.com/2019/03/15/stands-way-councils-approval-visa-liberalisation-kosovo/>.

<sup>23</sup> In early May 2018 the EU mandated an expert mission to Kosovo for assessment of the progress on the second condition.

<sup>24</sup> According to the UNDP Kosovo Public Pulse XII in 2016 around 90 % of respondents think that visa liberalization is an important process for Kosovo citizens.

<sup>25</sup> For example Kosovo says to maintain its tariffs on Serbia despite EU pressure, *Reuters*, <https://www.reuters.com/article/us-kosovo-serbia/kosovo-says-to-maintain-its-tariffs-on-serbia-despite-eu-pressure-idUSKBN1O22IL> or Import tariff threatens Kosovo's most important alliance, *Prishtina Insight*, <https://prishtinainsight.com/import-tax-threatens-kosovos-most-important-alliance/>.

after Kosovo had fulfilled the extensive list of conditions only served as a justification for this action and the EU's inaction on the visa agenda can only contribute to further loss of control.

The responsibility for moving the process finally forward and not letting Kosovo drift away completely now lies in hand of leaders on both sides, the EU and Kosovo. The EU needs to accept the fact that the process has clearly defined rules which have been applied in the past, most recently in cases of Georgia and Ukraine, concluding with unquestioned approval of the visa-free regime, and the same rules have to be in place also in the case of Kosovo instead of double standards. While the efforts made by some EU officials, for example Tanja Fajon, are

absolutely necessary, the realization of EU's share of responsibility for Kosovo's future must come from the EU member states' leadership as well. The Council should thus take the matter seriously, realize the possible consequences of their inaction (as the impotence in the face of invoked tariffs by Kosovo showed) and follow the rules in place. On the other hand, Kosovo must try to prove that it is a constructive and responsible partner, re-evaluate its recent actions and most importantly take measures to prevent misuse of visa liberalization by its citizens, mainly through more visible information and awareness-raising campaigns.

### Jana Juzová

Jana graduated in International Relations at Masaryk University in Brno and continues her doctoral studies there with focus on the topic of regional cooperation in the Visegrad Group and the Western Balkans. During her studies, she spent a semester at the University of Bologna and participated in a summer university at the University of Pristina. In years 2015 to 2017, she worked for the Institute of International Relations in Prague. She obtained experience also in the Agora Central Europe organization, GLOBSEC or the EULEX mission to Kosovo. Her research focuses on regionalism, Visegrad cooperation, democratization and European integration of the Western Balkan countries, and EU enlargement.



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