



# **SMART Visa for students from the Western Balkans**

**CHALLENGES AND POSSIBLE SOLUTIONS**

2007



**ICMPD**

International Centre for  
Migration Policy Development



King Baudouin  
Foundation

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A publication of the King Baudouin Foundation in cooperation with  
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A publication of the King Baudouin Foundation  
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# Foreword

## Smart visa for students to foster common understanding

Students in the Western Balkan region play a key role in shaping tomorrow's society in their countries and in the continued development of stability, prosperity as well as European integration. Students living and studying in another country have the possibility to attain the very knowledge and education needed in their home countries for spurring the reform process, state building, institution building and economic development as well as for furthering the continued democratic development. This can greatly contribute to the successful EU accession; the aim aspired by all countries in the Western Balkan region.

In April 2005 the International Commission on the Balkans issued a report titled "The Balkans in Europe's Future" pointing out that students in the Western Balkans, to a strikingly limited extent have never been abroad and are experiencing difficulties to pursue studies in the EU. Referring to the possible negative affects this might have for the region, the International Commission made recommendations relating to the relaxation of entry regimes for fulltime students from the Western Balkans. Based on these results the King Baudouin Foundation initiated the project, "Smart Visa for Students from the Western Balkans" aiming at fostering the development of facilitated procedures for students wanting to pursue studies in the European Union, which is implemented with the International Centre for Migration Policy Development.

This research study, "**Smart Visa for students from the Western Balkans – challenges and possible solutions**", has been developed in the framework of the research phase of the of the project "Smart Visa for Students from the Western Balkans" and aims at clearly describing status quo in the EU and selected countries, highlighting good practice

and making recommendations for change. Its results are based on information from the countries included in the study and study visits to the region. The aim has been to establish a consistent knowledge base regarding admission of students, comprising rules, regulations and practices on this area to provide a basis for an assessment of actual possibilities and obstacles for students. The project has continuously aimed at actively involving those actors on national and EU level that foster policies influencing the area of the project. Both on EU and national level, the subject matter of the project is exposed to multiple policy influences and involves actors dealing with several different issues such as entry, admission, education and economy as well as enlargement. In pursuing such an approach the aim was to develop the study as a "living" document that is shaped by the very actors involved.

The project looks at students as a group, and investigates possibilities and challenges for students from the Western Balkan region to pursue short and long term travel for study purposes in the EU and selected EU countries. In analysing this, the study follows important developments on EU level regarding short-term stay. i.e. the recently concluded negotiations of visa facilitation agreements and regarding long-term stay, i.e. the implementation of the EU Directive 2004/114/EC on the conditions of admission of third country nationals for the purpose of studies, pupil exchange, unremunerated training or voluntary service. Regarding long-term visas and residence permits, challenges observed related mainly to costs involved in the application procedure, provision of means of subsistence, time for the application, information about and transparency regarding the application procedure. Improved communication and coordination between authorities and universities in the application procedure might serve to alleviate several of the observed challenges and related suggestions are among the main recommendations in this regard.

Naturally, any discussion about facilitated procedures also needs to take security concerns of the admitting states into consideration. Such concerns normally relate to the use of false or falsified documents in the application procedure or students that change the purpose of their stay upon arrival and engage in illegal work or simply disappear. The research and the results of this project have continuously aimed at striking a balance between security concerns and the need for facilitated procedures when identifying good practices and suggesting recommendations.

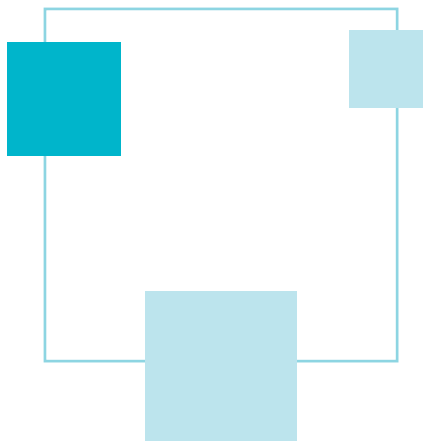
We would like to take this opportunity to express our sincere gratitude to the national administrations of Austria, Belgium, Germany, Italy, Slovenia and Sweden for providing information on their admission procedures for students and related experiences and also for contributing to the elaboration of policy recommendations. We are also very grateful to the diplomatic representations and consular missions of Austria, Belgium, Germany, Slovenia and Sweden in Belgrade and Sarajevo for sharing with us their practical experiences regarding admission of students.

Furthermore, we would like to extend our warm gratitude to the European Commission officials who have supported and contributed to previous drafts of the study, including the policy recommendations, as well as to international and non-governmental organisations in the region working practically with students or involved with student visa matters that took part in the exchange of experiences in this area.

The Western Balkans is a priority region for the EU - which should also be noticed in inclusive policies on the side of the Union and its Member States - policies that cater for tangible results for the respective populations. Increased access for students from the Western Balkan countries sends a clear signal to the societies of the region that the EU countries are willing to support the process of EU integration and to implement policies that support this process. Promotion of student mobility is a valuable opportunity to foster common understanding with the next generation of Europeans. We hope that the project and this study will contribute towards seizing this opportunity.

King Baudouin Foundation

International Centre  
for Migration Policy Development



<b>EXECUTIVE SUMMARY</b>	<b>7</b>
<b>PART I POLICY FRAMEWORK</b>	<b>13</b>
<b>1. Background</b>	<b>13</b>
1.1 Context and purpose of the project	13
1.2 Methodology for the project	16
1.3 Selection of participating countries	18
<b>2. Legal and policy context</b>	<b>19</b>
2.1 EU and the Western Balkans	19
2.2 EU legislation affecting movement and stay of students from the Western Balkan countries	20
2.2.1 Development and competence within the EU regarding migration matters	20
2.2.2 EU instruments regarding short-term visa	22
2.2.3 EU instruments for regulating stay longer than three months (admission of students)	24
2.3 Facilitated procedures - existing and planned	27
2.3.1 Negotiations with the Western Balkans on short-term visa facilitation	27
2.3.2 Facilitated procedures in other frameworks	28
2.3.3 Facilitated procedures within the framework of Student Programmes	29
2.4 Few applications for long-term student visa/residence permit	30
2.5 Discussions with organisations working with students	32
<b>PART II COMPARISON</b>	<b>35</b>
<b>3. Comparison between EU Member States regarding admission of students</b>	<b>35</b>
3.1 Introduction	35
3.2 Legal framework for procedure	35
3.2.1 Permits issued and institutions involved in the procedure	36
3.2.2 Role of the embassy	41
3.3 Implementation in practice	41
3.3.1 Practical organisation of the procedure at the embassy	41
3.3.2 Interviews	43
3.3.3 Criteria as specified in law	43
3.3.4 Documents needed	43
3.3.5 Other requirements	47
3.3.6 Practical aspects related to the procedure	47
3.3.7 Fees	48



3.3.8 Time-line	49
3.3.9 Monitoring, revocation and renewal	51
3.3.10 Cooperation with universities	55
3.3.11 Quotas	56
3.4 Problems experienced	57
3.4.1 Abuse of the procedure	57
3.4.2 Measures taken	59
3.4.3 Other reported problems	60
3.5 Implementation of the Students Directive	61
<b>4. Good Practices</b>	<b>63</b>
4.1 Practices identified on state level	63
4.1.1 Miscellaneous practices	63
4.1.2 Coordination centre for foreign students	64
4.2 Good practices identified on EU level related to EU programmes	65
4.2.1 Erasmus Mundus draft guidelines for the visa procedures	65
4.2.2 Example of practical problems with admission procedure in the framework of Erasmus Mundus	66
<b>PART III WAY AHEAD</b>	<b>68</b>
<b>5. Observed challenges and way ahead</b>	<b>68</b>
5.1 Introduction	68
5.2 Short-term visa	69
5.2.1 Possible challenges	69
5.2.2 Policy recommendations	69
5.3 Long-term visa and residence permits	70
5.3.1 Possible challenges regarding the entry/admission procedure for students	70
5.3.2 Problematic aspects from the point of view of participating EU Member States	71
5.3.3 Policy recommendations	71
<b>ANNEX I - STATUS OF EU APPROXIMATION IN THE WESTERN BALKANS PER COUNTRY</b>	<b>74</b>
<b>ANNEX II - LEGISLATIVE ACTS AND INSTITUTIONS INVOLVED</b>	<b>76</b>
<b>ANNEX III - NECESSARY SUPPORTING DOCUMENTS FOR APPLICATION</b>	<b>80</b>
<b>ANNEX IV - REFERENCES</b>	<b>83</b>
<b>ANNEX V - QUESTIONNAIRE SENT OUT TO PARTICIPATING STATES</b>	<b>87</b>

# Executive summary

This study has been developed in the framework of the project “Smart Visa for Students from the Western Balkans”. Based on a thorough analysis of the present situation, the project aims to contribute to the further development of facilitated procedures for students from the Western Balkan region wanting to pursue studies in the EU. It was launched as a response to existing obstacles faced by students from this region in obtaining visas and residence permits to study in EU Member States. The project analyses related developments in the EU and its Member States and identifies problems as well as solutions that may help facilitate access to the EU by students from the Western Balkan region, mainly for the purpose of study.

The project is based on the assumption that facilitated access for Western Balkan students to pursue studies in EU countries will not only be beneficial to individual students but will also make an important contribution to the approximation and integration of the Western Balkans region to the EU. Studying in the EU will acquaint students with European values and the very knowledge that is needed for spurring the reform process, institution building and continued democratic development in their home countries. Young people travelling or studying in other countries will bring back not only the requisite knowledge and education but also new impetus, insights and understanding of other cultures and persons. This will further promote the acceptance and understanding of the meaning of “being European” in the Western Balkan countries and constitute a key factor for the successful implementation of the reform processes.

The project looks on students as one group and aims at embracing all types of travel for study purposes, both

short and long-term. The project therefore takes a two-tier approach, and looks at both admission and entry regimes. Visa facilitation for citizens of the Western Balkan countries has been on the Union’s political agenda for some time now and resulted in important initiatives in the field of short-term visa. However, students intending to take up studies at a university or other academic institution in the EU will not be covered by such visa facilitation, as they will still need national long-term visas or residence permits for entry in future. The main focus of the project and this study has therefore been on long-term visa i.e. visas for stays of over three months that would make it easier than is presently the case for young individuals from the Western Balkan countries to study in the EU. However, developments regarding short-term visa facilitation for students are also closely followed and as far as possible analysed. In following its objectives, the project will carefully weigh the EU Member States’ obligations to continue to control the entry and admission of students to their territories against the students’ aim to gain facilitated access to studying in the EU.

**PART I** of the study, “**POLICY FRAMEWORK**”, sets out the background and purpose of the project, describes the methodology used and gives an overview of the broader legal and policy context surrounding the question of facilitated admission procedures for students from the Western Balkans region. In this regard, it gives an overview of the cooperation between the Western Balkans region and the EU as well as legal instruments on EU level relating to visa and admission of students. Considering the special position the Western Balkans region has in relation to the EU, it suggests that there are strong reasons to allow students from this region to benefit from facilitated admission procedures. In relation to this, it discusses EU

cooperation in the area of migration, looking in particular at measures that influence entry and stay of students from Western Balkan countries. It establishes that in the field of visas quite a high level of harmonisation between the Member States has been achieved, in contrast to the field of legal migration. Of most relevance to the admission of students for more than three months, Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service (Directive 2004/114/EC) is in force and should be implemented by the Member States by the beginning of 2007. Directive 2004/114/EC sets out the general and specific conditions for admitting students to the Member States and contains certain rules on procedures. Although the Directive does not provide for facilitated procedures for students (only for students participating in EU programmes), it opens the door for such facilitation. Regarding relevant Community programmes for students, Erasmus Mundus is of particular interest. The programme will open a special “window” for students from the Western Balkan countries.

**PART II** of the study, “**COMPARISON**”, contains matters related to admission of students (from the Western Balkan countries) and is based on desk research and a questionnaire that was sent to participating states regarding the legislative framework and practice relating to entry for studies for a period of more than three months. The questionnaire contained inter alia questions relating to the legal framework, application procedures, the implementation of Directive 2004/114/EC, problems experienced related to admission of students and the existence of good practices regarding facilitated procedures for students. Two field missions were carried out to Sarajevo, Bosnia and Herzegovina, and Belgrade, Serbia, to meet with relevant stakeholders. The results of the missions are to be found in all parts of the study, but mainly in Part II.

The comparison establishes firstly that in the countries participating (Austria, Belgium, Germany, Italy<sup>1</sup>, Sweden and Slovenia) there are no special admission procedures relating to the Western Balkans region. For students in

general, admission procedures are similar between the participating countries. Most countries issue a visa for study purposes in the country of application and a residence permit upon arrival in the country of study. However, two countries issue residence permits directly at the Diplomatic Missions or Consular Posts (DMCP) in the country of application. Regarding the documents (apart from valid travel documents) to be submitted with the application, all countries require an acceptance letter from the university or other higher education institution and proof of sufficient financial means (bank statements etc.). A majority of countries also require medical insurance (or are about to introduce this requirement). Other types of supporting documents are only required by a few participating states (birth certificates, medical certificates). As regards procedure, it is notable that the costs for the actual visas and/or permit/s vary considerably between countries (€35 - €108). The amount accepted as proof of sufficient financial means also varies from €350/month (for 12 months) to €790/month (for 10 months). Also noteworthy is variety of practices regarding how prospective students can prove that they have sufficient financial means (loan, certificate, bank statement). Furthermore, the time needed for issuing the permit ranges from about two weeks to an average of six to eight weeks.

The participating countries have no special cooperation structures with universities or higher education institutions regarding the admission procedure, apart from the fact that an acceptance letter from the universities is a precondition for achieving a residence permit. University certificates are also generally needed to prove study results for renewal of the permit. In practice, informal contacts are sometimes maintained with universities for the purposes of information verification.

Directive 2004/114/EC was, at the time of the questionnaire, still in the process of being implemented in most of the participating countries. In two of the participating countries the Directive has already been transposed into national law.

Regarding abuse and other problems related to admission of students, a majority of participating states described

1 As Italy was included at a later stage in the project, the information included is based solely on desk research.

that they have had problems relating to the use of false and falsified supporting documents in the application procedure. Other forms of abuse of the application systems by students were also mentioned, i.e. that students enter the countries for other purposes than studies and never take up/continue the studies for which they were admitted. Different measures are taken or planned to prevent such abuse, related to better controls, stricter control of study results for renewal of permits and the introduction of databases for supporting documents. However, it should be noted that abuse of the procedure was mentioned mainly in connection with students of other nationalities rather than those from the Western Balkans. This was indicated not only in the answers to the questionnaire, but also in the discussions in the consulates during the field missions.

The project team did not obtain substantial information to the questions in the questionnaire regarding possible good practices at this stage. It should be mentioned that one country has introduced facilitated admission procedures for students.

**Part III, “WAY AHEAD”**, reflects on problems experienced by both on the one hand, students and on the other hand participating European states, examines some relevant features of admission procedures in the countries participating in the study and on this basis identifies possible areas where improvement and related policy options could be discussed. It finishes by proposing a set of policy recommendations.



# Samenvatting

Dit onderzoek is ontwikkeld in het kader van het project “Smart Visa for Students from the Western Balkans” (Slimme visa voor studenten uit de westelijke Balkan). Dit project is gebaseerd op een diepgaande analyse van de huidige situatie en wil een bijdrage leveren aan de verdere ontwikkeling van eenvoudige procedures voor studenten uit de westelijke Balkanlanden die hun studie willen voortzetten in de EU. Het project kwam tot stand als reactie op de belemmeringen die studenten uit deze regio momenteel ondervinden bij het verkrijgen van visa en verblijfsvergunningen om te studeren in de EU-lidstaten. Het project analyseert de ontwikkelingen ter zake in de EU en in de Europese lidstaten, stelt bestaande problemen vast en reikt oplossingen aan om de toegang van studenten uit de westelijke Balkan tot de EU voor hoofdzakelijk studiedoeleinden te helpen vergemakkelijken.

Het project gaat uit van de veronderstelling dat een betere toegang voor studenten uit de westelijke Balkan om in EU-staten te studeren, niet alleen gunstig zal zijn voor individuele studenten, maar ook een belangrijke bijdrage kan leveren aan de toenadering van de westelijke Balkan tot de Europese Unie en de integratie van de betreffende landen in de EU. Studenten die in de EU komen studeren, kunnen kennismaken met Europese waarden en de kennis verwerven die precies nodig is om het hervormingsproces, de institutionele opbouw en de voortdurende democratische ontwikkeling in hun thuisland aan te moedigen. Jonge mensen die reizen en studeren in een ander land, zullen niet alleen de noodzakelijke kennis en kunde mee terugbrengen, maar ook nieuwe impulsen en inzichten en begrip voor andere culturen en mensen. Dit zal in de landen van de westelijke Balkan leiden tot een grotere aanvaarding en meer begrip van wat het betekent om “Europeaan te zijn” en een sleutelfactor vormen voor de succesvolle uitvoering van het hervormingsproces.

# Synthèse

Cette étude a été réalisée dans le cadre du projet “Smart Visa pour les étudiants originaires des Balkans occidentaux”. Se basant sur une analyse approfondie de la situation présente, le projet entend contribuer à l'assouplissement des procédures pour les étudiants de la région des Balkans occidentaux qui souhaitent poursuivre leurs études dans l'Union européenne. Il a été lancé en réponse aux obstacles auxquels les étudiants de cette région sont confrontés actuellement pour obtenir des visas et des permis de séjour dans les Etats membres de l'UE. Le projet analyse les percées en matière de la politique des visas dans l'UE et ses Etats membres, identifie les problèmes et propose des solutions susceptibles de faciliter l'accès des étudiants originaires des Balkans occidentaux à l'UE, à des fins d'études essentiellement.

L'initiative repose sur l'hypothèse que faciliter l'accès des étudiants originaires des Balkans afin qu'ils puissent poursuivre leurs études dans l'UE ne bénéficiera pas uniquement aux seuls étudiants, mais contribuera également au rapprochement et à l'intégration de cette région des Balkans dans l'UE. En étudiant dans l'UE, ils auront la possibilité de se familiariser avec les valeurs européennes et les connaissances indispensables pour stimuler le processus de réforme, favoriser l'organisation d'un bon fonctionnement institutionnel et poursuivre les avancées démocratiques dans leur pays d'origine. Les jeunes voyageant et étudiant dans d'autres pays ramèneront chez eux non seulement les connaissances et la formation nécessaires mais aussi un nouvel élan, de nouvelles perspectives et une meilleure compréhension d'autres cultures et d'autrui. Cette évolution permettra à son tour de promouvoir l'adhésion à la signification d'appartenir à l'Europe dans les Balkans occidentaux et constituera un facteur essentiel de réussite dans le processus d'application des réformes.



# 1. Background

## 1.1 Context and purpose of the project

This study has been developed in the framework of the project “**Smart Visa for Students from the Western Balkans**”. The purpose of the project is to optimise the opportunities and conditions for studying in the European Union (EU) enjoyed by students from the Western Balkans. It was launched in response to growing concerns over reports that students from this region increasingly face problems in obtaining visas and residence permits to study in EU Member States and was based on the assumption that progress in this area is likely to contribute positively to the development of overall relations between the EU and the Western Balkans. As a consequence, the project investigates related problems and discusses possible solutions that may help facilitate access by students from the Western Balkans region to opportunities for travel to and study in the EU Member States. The project therefore aims at fostering the development of **facilitated procedures for students** wanting to pursue studies in the EU.

In the recent past, the problem of limited mobility of citizens of Western Balkan countries has been frequently addressed in public discourse. Concerns regarding a possible isolation of the region and the question of possible solutions to the problem have been the focus of media debates, official investigations and a number of related reports. In April 2005, the International Commission on

the Balkans presented a report entitled “The Balkans in Europe’s Future”<sup>2</sup> discussing the present situation in the Balkans and possible problems for continued European integration and stability, and giving recommendations for how to alleviate those concerns. One of the major concerns of the Commission was the present EU visa regime with the Western Balkans, as a result of which young people from this region have problems in visiting, studying in and getting to know the EU due to the strict visa regime. The report pointed out that “more than 70 percent of students in Serbia have never travelled abroad”<sup>3</sup> and that it is the “European generation of the Balkans” - young persons under 30, sharing European values and most regularly voting for pro-European parties - which encounters the biggest obstacles when travelling abroad. This generation, young and well-educated individuals, representing tomorrow’s decision-makers and opinion leaders, should be given the chance to familiarise themselves with the EU to which they are supposed to be approximating. It was therefore strongly recommended that the EU and its Member States review existing visa regulations with regard to a number of categories of persons, with a special focus on students. As a corresponding recommendation, a **special programme for 150,000 full-time students** was suggested.<sup>4</sup> The results of the study were taken up in the report “EU Visas and the Western Balkans” in November 2005<sup>5</sup>, drafted by the International Crisis Group, a globally active non-governmental organisation aimed at conflict prevention. The report warned of the increasing sense of European alienation in the region and recommended, inter alia, that the EU and its Member States take measures to facilitate the visa regime with the Western Balkans, to prevent problems such as isolation and economic stagnation which could eventually undermine stability. Based on a number of interviews with young people, the report identified growing frustration with the visa (including for the purpose of study) policies of EU countries.<sup>6</sup> A broad range of examples of this kind of frustration can also be found in the compilation of “Stories from the visa queues”, tales from young persons describing their often demanding encounters with the administrative procedures of EU countries.<sup>7</sup>

2 “The Balkans in Europe’s Future” by the International Commission on the Balkans, April 2005, available at <http://www.balkan-commission.org/activities/Report.pdf>.

3 “The Balkans in Europe’s Future” by the International Commission on the Balkans, April 2005, p. 33.

4 Consequently also referring to long-term visits by students.

5 “EU Visas and the Western Balkans” by the International Crisis Group, November 2005, available at <http://www.crisisgroup.org/home/index.cfm?l=1&id=3809>.

6 “EU Visas and the Western Balkans” by the International Crisis Group, November 2005 page 9.

7 “Best Stories from the Visa Queues”, available at Citizens Pact for South Eastern Europe, <http://www.citizenspact.org.yu>, First edition presented at the European Parliament on 23 March 2006.



What are the main arguments in favour of facilitated access for young students from the region to the EU? Two lines of argumentation can be identified in this context. First, travelling and studying abroad is beneficial for the individual. Being exposed to a new cultural environment, learning new languages, getting acquainted with different perceptions and methods of teaching enriches and diversifies an individual's education and imparts skills that cannot be obtained at home. Second, and even more important in the context of this project, studying in European Union countries is one of the most comprehensive and sustainable ways to impart values to individuals and to establish contacts between students from the Western Balkans and the countries they study in. Furthermore, students would have the possibility to attain the very knowledge and education needed in their home countries for spurring the reform process, institution building and economic development as well as furthering continued democratic development.

This project builds upon the assumption that EU integration of the Western Balkan countries cannot work successfully by way of legal reforms and institutional changes alone. Those reforms need to be carried by a common understanding and appreciation of underlying values and principles. A change in the views and perceptions of the respective societies towards an increased acceptance of the meaning of "being European" will be a decisive factor for the successful implementation of the reform processes. On the other hand, the perception of being neglected or discriminated against by EU countries and the widespread notion of being isolated from the EU will hamper political and societal reform and subsequently slow down the integration process.

In particular when it comes to fostering a "European mentality" in the region, young people and students are among the most important groups for furthering mutual understanding and sustainable EU integration as well as for fostering long-term stability and prosperity in the region. Young people travelling or studying in other countries will bring back not only education but also

new impetus and insights and will have increased their understanding of other cultures and persons. Most would agree that student mobility is beneficial for increased understanding and building closer ties between countries and regions. As the preamble to Community legislation in this area puts it: *"One of the objectives of Community action in the field of education is to promote Europe as a whole as a world centre of excellence for studies and vocational training. Promoting the mobility of third-country nationals to the Community for the purpose of studies is a key factor in that strategy. Migration for the purposes of study, which is by definition temporary and does not depend on the labour-market situation in the host country, constitutes a form of mutual enrichment for the migrants concerned, their country of origin and the host Member State and helps to promote better familiarity among cultures."*<sup>8</sup>

As well as being at the heart of Europe and enjoying historical and cultural ties to many EU states, the Western Balkans countries also maintain a **close and special relationship with the EU, even contractually**, as a result of the enlargement process. This fact alone could serve as an argument for the preferential treatment of students from the Western Balkans regarding admission to EU countries. Facilitating or even encouraging the admission of students from the region would be beneficial not only for the students and the sending countries but for the Union as well. The special ties that exist between the Union and the Western Balkans region call for the further development of **inclusive policies by the Union and its Member States** leading to tangible results for the respective populations. Increased access for students from the Western Balkan countries would send a clear signal to the societies of the region that EU countries are willing to support the process of EU integration and to implement policies that support this process.

In principle, an individual's need to travel and move across borders or to settle (temporarily or permanently) in a country has to be balanced against the right for sovereign states to control movements over their borders for the

8 Point 6 and 7 of the preamble of the Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service, available online at: [http://eur-lex.europa.eu/LexUriServ/site/en/oj/2004/l\\_375/l\\_37520041223en00120018.pdf](http://eur-lex.europa.eu/LexUriServ/site/en/oj/2004/l_375/l_37520041223en00120018.pdf).



purposes of security and controlling illegal immigration. In principle, there seems to be a common understanding that bona fide students do not pose a threat to security or represent a risk for illegal immigration - quite the opposite: student exchange is widely regarded as generating benefits for both the sending and receiving society. However, like any other type of lawful migration the exchange of students can also be misused by individuals travelling for other purposes or without fulfilling the legal requirements for admission as students. The use of false or falsified supporting documents for obtaining admission as a student has been reported by many states. However, it should be noted that in discussions at consulates during the field missions to Belgrade and Sarajevo, abuse of the procedure was mentioned in connection with students of other nationalities rather than those from the Western Balkans.

In other cases students might actually fulfil all requirements for admission as students but change the purpose of their stay upon arrival and engage in illegal work or simply disappear. Against this background, it is undeniably a necessity to thoroughly interview prospective students and to request the submission of the necessary supporting documents to prove their genuine purpose. However, students from the Western Balkan countries see a certain discrepancy between justified control measures by states and the actual handling of the application process. According to the findings of the abovementioned study, students feel discriminated against or overburdened with regard to **the amount of supporting documents** they are asked to submit, **the time** they have to wait for a decision, **the prices** they have to pay for an application, other **costs** associated with the application and the way they are **treated** by consular officers.<sup>9</sup> From a student's perspective, the requirements for admission to study in an EU country constitute a **real obstacle and work as a deterrent rather than a functioning administrative arrangement.**

Depending on the purpose of travel, different types of permits are needed. This might not always come to

the attention of the individual applicant, whose main interest lies in obtaining the necessary documents for travelling to and residing in an EU country regardless of the actual type of permit. From an analytical point of view, as well as with regard to a possible adjustment of policies on student admission, a distinction needs to be drawn between different types of visa and residence permits. For short-term visits to the EU of **not more than three months**, a traveller from a country under a visa obligation is required to obtain a short-term visa. For all states that are parties to the Schengen agreement this visa is commonly referred to as a '**Schengen visa**'. For visits that are **longer than three months**, students are required to obtain a **long-term visa and/or a residence permit**. The latter might also apply to nationals of countries that do not need visas for short-term visits. Long-term visas (more than three months) are not covered by the EU/Schengen visa procedures.<sup>10</sup> However, admission of students is covered by Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service (Directive 2004/114/EC).<sup>11</sup> Directive 2004/114/EC sets out the general and specific conditions for admission, as well as general procedures for granting permission for entry.

Regarding short-term visas (visits up to three months), the issue of visa facilitation<sup>12</sup> for certain groups has been addressed during the last year. In a communication on the Western Balkans dated 27 January 2006, the European Commission announced the start of exploratory talks in the Western Balkans with a view to presenting the EU Council with draft negotiation mandates for visa facilitation and readmission for the Western Balkan countries in the course of 2006.<sup>13</sup> Consultations between the EU Member States and the EU institutions for defining negotiating mandates for the Commission regarding visa facilitation and readmission were ongoing throughout 2006 and were finally approved by the Council on 13 November 2006. The first negotiation round with representatives from the Western Balkans

9 "EU Visas and the Western Balkans" by the International Crisis Group, November 2005, p 9.

10 However, if certain conditions are met a long-term visa may be valid concurrently as a short-term visa for up to three months.

11 The EU Member States shall adopt the laws, regulations and administrative provisions necessary to comply with the Directive by 12 January 2007.

12 Visa facilitation could for example imply a clear timeframe for processing the application, reduced costs as well as simplified criteria for issuing the visa.

13 Communication from the Commission; The Western Balkans on the road to the EU: consolidating stability and raising prosperity, COM/2006/0027 final, available at: [http://eur-lex.europa.eu/smartapi/cgi/sga\\_doc?smartapi!celexplus!prod!CELEXnumdoc&lg=en&numdoc=506DC0027](http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!CELEXnumdoc&lg=en&numdoc=506DC0027).

took place on 30 November 2006 and the negotiations with Albania, Bosnia and Herzegovina, Macedonia and Montenegro were finalised (initialled) in April 2007 and the agreements with Serbia were finalised (initialled) in May 2007.

The initiative for negotiating short-term visa facilitation in the region for certain groups must be viewed as a positive development and should be welcomed. This project will follow developments on the issue of short-term visa and facilitation of issuing procedures, and look at the possible impact of such agreements and what actual facilitation it would mean for students. However, of more interest for the group at issue – students – are permits needed for visits of more than three months, that is to say long-term visas or residence permits. With regard to the present debate, only students taking language courses or participating in shorter study visits would really benefit from visa facilitation for short-term visas. Students intending to take up studies at a university or other academic institution in the EU would not be covered by such visa facilitation, as they will still need national long-term visas or residence permits in future. The project therefore has a **twofold approach, focusing on students as a group** and examining short- and long-term travel opportunities for students. As visa facilitation for short-term travel is decided at EU level, the main focus of the comparative part (Part II) of this study will be on long-term visa i.e. visa for stays of more than three months and interactions with Directive 2004/114/EC. Part I examining the general regulatory framework and Part III examining policy options for the way forward will focus on all aspects of students' opportunities to travel for studies.

This report is the result of the first phase of the project, the research phase. The chosen methodology will be described in the next section of the report.

## 1.2 Methodology for the project

The methodology chosen for implementation of the project comprises two main parts; the *research phase* and the

*confidence-building phase*. During the *research phase* the project will attempt to establish a consistent knowledge base regarding admission of students, comprising rules, regulations and practices in this area. This will take into account legislation in the EU as well as in selected EU Member States regarding visa and admission for students from the Western Balkans. A comprehensive overview of the legal and administrative practices in place in selected EU Member States will provide a basis for an assessment of actual possibilities and obstacles for students. The *research phase* will also identify the difference between short-term visas (Schengen visa) and long-term (national) visas and, as far as is relevant for the selected topic, discuss the level of EU harmonisation as well as the division of competences between the EU and its Member States in this area. In addition, the impact of Directive 2004/114/EC will be analysed and good practices identified and described.

As mentioned above, this report is the result of the research phase of the project, which consists of three main parts. The first part, **Policy Framework**, elaborates on EU and Western Balkans relations, EU legislation and practices covering the area of entry and admission of students for short- and long-term studies, and also looks at relevant student programmes at EU level. The second part, **Comparison**, is based on desk research and the results of a survey based on a structured questionnaire that was sent to participating states (Austria, Belgium, Germany, Italy<sup>14</sup>, Sweden and Slovenia) during autumn 2006 regarding the legislative framework and practice relating to entry for studies for a period of more than three months in those countries. The questionnaire also included questions on the implementation of Directive 2004/114/EC in each participating country examined and the existence of good practices in this area which could be shared between states. The results of the survey are included in this study, along with the findings of the field missions that were carried out during the second part of the research phase. The third part of the study, **the Way Ahead**, will outline possible problematic aspects in the entry and admission processes, related to both short-term visa and admission for long-term stay, as well as policy options for a future facilitation of the admission of students. A set of concrete policy recommendations based on identified problems and good practices will be presented.

<sup>14</sup> As Italy was included at a later stage in the project, the information included is based solely on desk research.

On 30 November 2006 relevant stakeholders including participating states were invited to a mid-term meeting in Brussels. The aim of the meeting was to present the mid-term results of the research phase, to reflect recent developments and to maintain close cooperation with relevant actors in the field. In pursuing such an approach the aim was **to develop the study as a “living” document, that is shaped by the very actors involved and that can serve as a policy tool forming the basis for the second phase of the project, the *confidence-building phase***. On the basis of the mid-term findings, participants were asked to provide their views on the remainder of the research phase, give input for policy recommendations and methods for the continuation of the project.

As set out during the mid-term meeting, and in order to provide a comprehensive overview of all relevant aspects of the research topic, including needs and problems of prospective students, the research phase continued after the mid-term meeting. It incorporated all the input and comments received at the mid-term meeting and used them to fine-tune and continue the research phase as well as to draw up policy recommendations for the final report. The second part of the research phase concentrated on the practical aspects related to admission of students. Two field missions were undertaken in February 2007, to Bosnia and Herzegovina, Sarajevo, and Serbia, Belgrade, in order to discuss with actors in the field i.e. embassies and organisations working with students having practical experience regarding visa and admission procedures for students. A meeting also took place in Ljubljana, Slovenia, with the Ministry of Foreign Affairs and the Centre for Mobility and EU programmes (CMEPIUS) in order to discuss and analyse identified good practices and related policy options.

The results from the field missions are principally presented in relation to each relevant section in the report, by means of “fact boxes” or separate sections. It is important to point out that the results are based on a limited number of interviews and reflect personal opinions; nonetheless, they still offer an indication of the practical perspective. It will always be clearly stated which information was acquired through field missions. The following interviews took place:

#### Embassies (Consulate sections):

- › Sarajevo: Austria, Slovenia and Sweden.
- › Belgrade: Austria, Belgium, Germany, Slovenia and Sweden.

#### Organisations working with students:

- › Sarajevo: Youth Information Centre, WUS Austria, Sarajevo, the Deutscher Akademischer Austausch Dienst (DAAD-Lektor) and the Student Resource Centre (SRCe)
- › Belgrade: WUS Austria, Belgrade, Group 484, Student Union of Serbia, the Citizen’s Pact for SEE and the Deutscher Akademischer Austausch Dienst (DAAD-Lektor), European Movement Serbia.
- › Ljubljana: Centre for Mobility and EU programmes (CMEPIUS).
- › Vienna: WUS Austria, Head Office in Graz.

At the end of the research phase, which included both a theoretical and practical perspective, the report has created a **consistent picture of the status quo** in this area.<sup>15</sup>

The *confidence-building phase* will be based on the elements of dialogue and involvement. In this phase the project aims, based on the results of the research phase, to undertake targeted awareness raising of the results of the project among policy makers at EU and state level and, as far as possible, to have the project results reflected in future policy formulations by the EU and the selected Member States. For this purpose the project aims at providing a framework for discussion and consultations on facilitated procedures for students and a set of clearly formulated policy recommendations.

The project operates in the nexus of different policies and actors involved in the entry of students from the Western Balkans, at both national and EU level. At EU level, related policies include Justice, Liberty and Security, Enlargement and Education, while at national level the principal actors are the Ministries of Interior, Foreign Affairs and Education. The research phase once again made it clear that the key

<sup>15</sup> The results relating to Italy are based solely on desk research.

## 1.3 Selection of participating countries

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players with respect to facilitated procedures are located at national level, including the authorities responsible for visa/residence permits, which in their daily work face the risk of abuse of entry regimes. The existence of such risks naturally affects policies related to the entry of students. Consequently, in the next phase the project will focus on presenting arguments to address those concerns and suggesting ways for introducing facilitated procedures that also respond to security concerns.

Taking into account that the project operates in a highly sensitive policy area, the confidence-building phase will as mentioned be implemented with strong emphasis on the following elements:

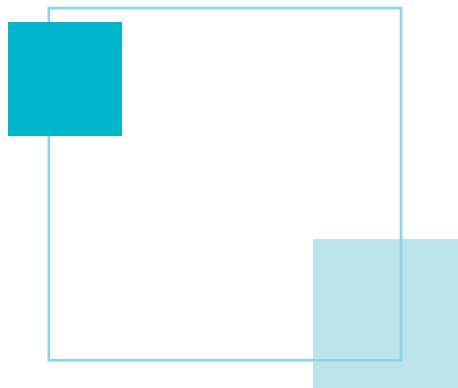
- › **Multiple policy influences (Entry, Migration, Education, Economy)**
- › **Multiple actors (at EU and Member State level)**

Apart from the interplay between the EU institutions and Member States in this area of shared competence, there is also interplay and cooperation between actors within states and within EU institutions. Ministries of Interior and Foreign Affairs are involved, as are Education Ministries. At EU level, several Directorates-General of the European Commission foster policies that influence the area covered by the project: Justice, Liberty and Security, Enlargement and Education and Culture. All these actors have a different perspective on the topic.

The **EU Member States** (Austria, Belgium, Germany, Italy, Slovenia and Sweden) selected for participation were chosen primarily on one or more of the following grounds:

- › Geographical or historical closeness to the Western Balkan region
- › Size of Western Balkan population
- › Possible good practices

The **beneficiary countries** selected are those Western Balkan countries whose nationals still require a visa to enter the EU: Albania, Bosnia and Herzegovina, Macedonia, Montenegro and Serbia, based on the assumption that isolation or restriction is most likely to be felt in these countries. However, it should be noted that Croatian nationals, although they do not require a visa to enter the EU for a short-term stay (up to three months), will still need to be in possession of a visa for long-term stay or a residence permit if they intend to come and study in an EU country for a period of more than three months. For this reason, practices relating to Croatia will also be described when of relevance to the project.



## 2. Legal and policy context

This part outlines the framework for action of the present project. The first section will deal with EU-Western Balkan relations and the second section with the basic framework for cooperation between EU Member States with regard to visas/migration.

### 2.1

#### EU and the Western Balkans

The relationship between the EU and the countries of the Western Balkans is characterised by a degree of complexity, resulting from recent history. Before the conflicts of the early 1990s, nationals of the former Yugoslavia were entitled to travel to many Western European countries without any visa obligations. Most of the (then 12) Member States did not require nationals of the former Yugoslavia to have visas for short stays of up to three months.<sup>16</sup> As a result of the Balkan wars and the subsequent refugee crises, most Western European countries tightened their migration policies and implemented more restrictive visa regimes. Today, more than ten years after the signing of the Dayton agreement, citizens of the Western Balkan countries are still obliged to obtain a visa to enter the EU. This fact somewhat contrasts with statements by European Heads of State and Government reiterating that the future of the Balkans lies within the European Union.

During the mid-term meeting of the project, it was agreed that the countries of the Western Balkans have a close and special relationship with the EU and that a clear prospect of accession has been offered to all, providing certain demands are met.<sup>17</sup>

The EU considers the Western Balkans as a **priority region** whose further development is promoted by numerous

policies, projects and programmes. The approximation of the countries of the region to the EU has been high on the European agenda for many years. The European Councils of Feira 2000, Zagreb 2000 and most notably Thessaloniki 2003 emphasised the importance the Union attaches to the deepening of relations with the countries of the region. The European Council in Thessaloniki on 19-20 June 2003 reiterated its determination to fully and effectively support the European perspective of the Western Balkan countries, stating that “*the Western Balkan countries will become an integral part of the EU, once they meet the established criteria.*”<sup>18</sup> In the “Thessaloniki Agenda for the Western Balkans” adopted by the Thessaloniki European Council, the EU stated “*that the pace of further movement of the Western Balkans countries towards the EU lies in their own hands and will depend on each country’s performance in implementing reforms, thus respecting the criteria set by the Copenhagen European Council of 1993 and the Stabilisation and Association Process conditionality.*”<sup>19</sup>

Relations between the EU and the Western Balkans are anchored in the Stabilisation and Association Process (SAP).<sup>20</sup> Through the SAP, the EU and the countries of the Western Balkans work together in the reform process that should eventually lead to EU membership. The SAP supports the Western Balkan countries’ development and preparations for future EU membership by combining three main instruments: the Stabilisation and Association Agreements, autonomous trade measures and substantial financial assistance. Regional co-operation is a cornerstone of the SAP. In the framework of the SAP, various instruments - an assistance programme (CARDS)<sup>21</sup>, technical advice, trade preferences, co-operation in fields such as justice and home affairs, and political dialogue - help the countries to undergo a

<sup>16</sup> ILPA European Update, March 2003, the Western Balkans and the European Union: Liberalising Movement of Persons, Prepared by Kees Groenendijk and Elspeth Guild, University of Nijmegen, available at [http://www.ilpa.org.uk/publications/EuropeanUpdate32003.html#\\_ftn1](http://www.ilpa.org.uk/publications/EuropeanUpdate32003.html#_ftn1).

<sup>17</sup> Summary and conclusions of the mid-term meeting of the project on 30 November 2006 in Brussels.

<sup>18</sup> Available at [http://ue.eu.int/ueDocs/cms\\_Data/docs/pressdata/en/ec/76279.pdf](http://ue.eu.int/ueDocs/cms_Data/docs/pressdata/en/ec/76279.pdf).

<sup>19</sup> Available at [http://ec.europa.eu/enlargement/enlargement\\_process/accesion\\_process/how\\_does\\_a\\_country\\_join\\_the\\_eu/sap/thessaloniki\\_agenda\\_en.htm](http://ec.europa.eu/enlargement/enlargement_process/accesion_process/how_does_a_country_join_the_eu/sap/thessaloniki_agenda_en.htm).

<sup>20</sup> For a short overview of each country’s present position in the Stabilisation and Association Process (SAP) and regarding Membership negotiations, please see Annex I.

<sup>21</sup> IPA (Instrument for Pre-Accession Assistance) is the follow up assistance programme to CARDS.



political and economic transition and prepare them for a new form of contractual relationship (Stabilisation and Association Agreements, SAAs) with the EU. The SAAs focus on respect for democratic principles and strengthening links of the countries of the region with the EC single market. They provide for the establishment of a free trade area with the EC and set out rights and obligations in areas such as competition and state aid rules, intellectual property and establishment, which will allow the economies of the region to begin to integrate with that of the EU. The importance of strengthening institutional capacity in the Western Balkan countries is also repeatedly reflected in the Commission's 2005 enlargement strategy paper, amongst other documents.<sup>22</sup> **Students having the opportunity to attend a European university for part of their studies can learn and bring back important knowledge to their countries of origin on precisely these relevant topics, whilst also developing and promoting democratic principles, the rule of law and institution building in their home administrations.**

The process of integration is measured on individual progress. The countries of the region have reached different points on the road towards EU membership. Croatia and FYR Macedonia have been accepted as candidate countries and Croatia has also started negotiations for membership. Albania, Croatia and FYR Macedonia have signed Stabilisation and Association Agreements. Bosnia and Herzegovina, Montenegro and Serbia are all at different points in their negotiations for such an agreement, and all hold the status of potential candidate countries. The European Commission published annual reports on each country's state of approximation and development in November 2006.<sup>23</sup>

The EU visa regime towards the Western Balkan countries remains a high priority on the political agenda in the region and in the EU. Of the countries in the Western Balkan region, only Croatia is visa free. The countries

of the region are undertaking far-reaching reforms to meet their EU responsibilities. As a step towards closer approximation towards the EU, the issue of visa liberalisation continues to be of overriding importance for the countries of the Western Balkans. However, liberalisation of the visa regime for the countries of the region is only a long-term issue and should be placed in a broader context: any progress in this area is linked to the countries' ability to implement major reforms in areas such as strengthening the rule of law, combating organised crime, corruption and illegal migration, improving their border management and document security, and generally improving their administrative and implementation capacity.<sup>24</sup> As mentioned in the introduction, **visa facilitation and other inclusive policies on admission would be an important first step for the Western Balkan countries** on their road to further EU integration, as it would serve to improve public opinion and readiness to continue with reforms.

## 2.2

### EU legislation affecting the movement and stay of students from Western Balkan countries

#### 2.2.1

##### Development and competence within the EU on migration matters

Students from the region planning to travel to or study in the EU would in one way or another be confronted with the **control systems** in place for preventing illegal immigration and protecting security. These are traditional mechanisms, building on the rights of a sovereign state to control persons who cross its borders or settle on its territory. In general, countries have visa regimes in place,

<sup>22</sup> Communication from the Commission, 2005 enlargement strategy paper, COM/2005/561 final, of 9 November 2005, available at [http://eur-lex.europa.eu/smartapi/cgi/sga\\_doc?smartapi!celexplus!prod!CELEXnumdoc&lg=en&numdoc=505DC0561](http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!CELEXnumdoc&lg=en&numdoc=505DC0561).

<sup>23</sup> Available at: [http://ec.europa.eu/enlargement/key\\_documents/reports\\_nov\\_2006\\_en.htm](http://ec.europa.eu/enlargement/key_documents/reports_nov_2006_en.htm).

<sup>24</sup> The Thessaloniki European Council of 19-20 June 2003.

which together with border control measures are among the most important immigration control instruments. Before travelling, individuals required to have such a permit must obtain a document (visa or residence permit) that gives them the possibility to present themselves at the border of the state in question and request entry.

The Member States of the European Union cooperate to a large extent on questions of entry and migration, a cooperation that has gradually been included in the framework of the EC Treaty. Initially handled on a solely intergovernmental basis, these issues were incorporated into the third pillar of the Maastricht Treaty (which came into force in November 1993). The greatest advance on cooperation came with the Amsterdam Treaty, which entered into force on 1 May 1999. In the Amsterdam Treaty, matters relating to cooperation on asylum, immigration and border controls were brought into the first pillar of the Union, the EC treaty, and were thus no longer handled on a solely intergovernmental basis.<sup>25</sup>

In general, immigration policy and control is an area of **shared competence** between the EU and its Member States. This means that until there are common acts on a specific topic the Member States can take national measures. Once the EU has passed legislation, the Member States can no longer adopt national measures in that field.

The most significant developments regarding cooperation on migration issues among EU countries developed on an intergovernmental basis, through the Schengen cooperation. The Schengen Agreement was signed in 1985 between Germany, France and the Benelux countries. In 1990 the Convention Implementing the Schengen Agreement was signed, in which the signatories agreed to abolish checks at their common borders.<sup>26</sup> In order to abolish checks at internal borders, the Convention contained numerous provisions on compensatory measures,

including a common visa regime, improving coordination between the police, customs and the judiciary and taking additional steps to combat problems such as terrorism and organised crime, including a common database, the Schengen Information System. With the Amsterdam Treaty, a large part of the Schengen acquis, i.e. the body of decisions and regulations adopted in the framework of the intergovernmental Schengen cooperation, were brought under the Treaty framework. Decisions on developing the Schengen acquis are now taken on the basis of the relevant provision of the EC Treaty.

The inclusion by the Amsterdam Treaty of Title IV<sup>27</sup> of the EC Treaty on “Visas, asylum, immigration and other policies related to free movement of persons” created a legal basis for actions on these issues at EU level. The inclusion of this area into the Treaty also meant including complicated decision-making procedures – a reflection of the continuing sensitivity of this area.

In terms of harmonisation and cooperation on visa issues, development has been comparatively fast. Policies in this area are already to a great extent harmonised between the Member States. As for issues of legal migration, the sensitivity of the topic has hampered many of the Commission’s proposals and progress has been slower, especially on the question of economic migration. In this area, harmonisation has been piecemeal. For students - a less controversial group - the abovementioned Directive 2004/114/EC has been adopted and should have been transposed at the start of 2007, setting minimum standards for the admission of students.

A clear distinction should therefore be made between visa (entry) policies and legal migration policies, even though there are apparent links between these areas. While EU visa policies regulate entry for a period of not more than three months, developing migration policies would regulate legal migration, temporary or permanent,

<sup>25</sup> At their meeting in Tampere in October 1999, which was dedicated exclusively to discussing justice and home affairs, the heads of state and government of the European Union further specified the targets set out in the Treaty. On 5 November 2004, the Council of the European Union adopted a new multi-annual programme (valid until 2010) aimed at strengthening freedom, security and justice in the European Union (The Hague Programme). The Hague Programme especially mentioned visa facilitation.

<sup>26</sup> The Schengen Convention applies to all of the pre-enlargement Member States except for Ireland and the United Kingdom. Norway and Iceland are also Schengen countries, although they do not belong to the EU. The countries that entered the EU on 1 May 2004 (Czech Republic, Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia) are bound by the Schengen acquis in its entirety from the day of accession, but some provisions will only be effective after a separate decision from the Council of the European Union i.e. operative membership. The United Kingdom and Ireland have chosen to remain outside the Schengen cooperation and the EU visa regime. Denmark participates in the Schengen cooperation but can choose to participate in measures that constitute a further development of the Schengen acquis.

<sup>27</sup> As amended by the 2000 Nice Treaty.

into the European Union and its Member States. Rules and regulations in these areas are different, as is the division of competencies between the EU and its Member States in decision-making and the level of harmonisation within the EU.

The next section will look at decision-making in these areas.

## 2.2.2

### EU instruments on short-term visa

For visa matters, the Amsterdam Treaty provided a legal basis (Article 62.2.b) for uniform rules on visas for stays of up to three months, including a list of third countries whose nationals must be in possession of a visa when crossing the external borders<sup>28</sup>; the procedures and conditions for issuing visas by Member States; and a uniform visa format.

The EU has a common visa policy for most of its Member States<sup>29</sup>, which is commonly referred to as the EU/Schengen visa regime. The Member States have together defined lists of the third countries whose nationals need to be in possession of a visa to enter the European Union and those third countries whose nationals are exempt from this requirement.<sup>30</sup> Albania, Bosnia and Herzegovina, Macedonia, Montenegro and Serbia are on the list of third countries whose nationals are subject to visa requirements to enter into the European Union. Some measures of the common visa policy are related to the Schengen agreement and are only applied by those countries that are operative members<sup>31</sup> of this agreement. States that are operative members of the Schengen agreement also have a

common visa, in the shape of a sticker (the Schengen visa) and harmonised visa issuing procedures.<sup>32</sup> The EU visa procedure applies to short-term visits, for a maximum of three months.

In short, the **main elements of the common European visa policy** are the following:

- ▶ a common list of third countries whose citizens require a visa and those whose citizens do not;
- ▶ a uniform, high-security visa format intended to prevent forgery and misuse;
- ▶ uniform criteria for submitting, evaluating and deciding on visa applications, in order to ensure uniformity in granting and issuing visas.

For the visa issuing procedures, the Common Consular Instructions (CCI)<sup>33</sup> set a framework for the procedures of the EU countries.<sup>34</sup> The CCI contains rules on visa applications, conditions for issuing a visa, what documents need to be included with an application and on supportive documents needed to verify the purpose of the planned trip. Regarding supporting documents for an application, the list of possible documents is not exhaustive and must be adjusted to the local circumstances at the diplomatic mission and consular posts. The CCI specifies that these matters, among others, should be discussed and settled between the Schengen states in the framework of local consular cooperation. The Schengen visa is special as it is a bonus-visa for the applicant, enabling access to all countries that are parties to the agreement. For this reason it has been considered important to harmonise conditions for visa issuance, not only to foster mutual trust between the countries concerned but also to show

28 See Council Regulation (EC) No 539/2001 of 15 March 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. Available at [http://eur-lex.europa.eu/smartapi/cgi/sga\\_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=32001R0539&model=guichett](http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=32001R0539&model=guichett).

29 The United Kingdom and Ireland have chosen to remain outside the Schengen cooperation and the EU visa regime. Denmark participates in the Schengen cooperation but can choose to participate in measures that constitute a further development of the Schengen acquis.

30 Council Regulation (EC) No 539/2001 of 15 March 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.

31 The new Member States from 1 May 2004 (Czech Republic, Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia) are bound from the day of accession by the Schengen acquis in full, but certain parts will only be applicable after a decision from the Council of the European Union i.e. operative membership.

32 Common Consular Instructions on Visas for the Diplomatic Missions and Consular Posts, 2005/C 326/01, available at [http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52005XG1222\(01\):EN:NOT](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52005XG1222(01):EN:NOT).

33 See footnote 32.

34 The legal status of the CCI is not clear. It is expected that in a year the CCI will be replaced by the Community Code on Visas, which will have the status of a regulation and be legally binding and directly applicable (see also page 23).



a “single stance” in the procedure and avoid so-called “visa shopping”, i.e. applicants applying at the DMCP where it is considered easier to get a visa. Another purpose of such cooperation is that visa applicants are not treated differently from one consulate to the next in the same country. Consequently it is possible that the documents needed to support a visa application vary from one country to another. Furthermore, even though conditions ideally should be harmonised between the countries cooperating in the Schengen framework in accordance with local conditions, this is not always the case. In other words, visa issuance conditions can vary for different Schengen states at one particular post. The regulatory framework also does not specify any particular timeframes for visa decisions and the right to appeal against a negative decision differs from state to state. Recent changes include the Council Decision on Visa Fees<sup>35</sup>, which applies to all Schengen states. The Decision raised the visa fee from €35 to €60 as of 1 January 2007, for all third countries for which visa facilitation negotiating mandates were not in place.

Legislative decisions regarding **visa** fall under different decision making procedures depending on the subject matter. Regarding legislation for the list of third countries whose nationals have to be in possession of a visa when crossing external borders and those whose nationals are exempt from this requirement, as well as a uniform format for visas, these decisions have - since the entry into force of the Amsterdam Treaty - been taken by qualified majority voting and with consultation of the Parliament. For rules relating to the procedures and conditions for issuing visas by Member States as well as for rules on uniform visas, the Amsterdam Treaty provided that these initially should be taken with unanimity in the Council and consultation of the Parliament. Five years into implementation of the

Amsterdam Treaty, on 1 May 2004, the TEC provided for automatic changes in procedures, specifying that any remaining visa-related matters be governed by the procedure laid down in Article 251 (qualified majority voting in the Council and co-decision with the Parliament, hereinafter referred to as the co-decision procedure). The Amsterdam Treaty also provided for an automatic change regarding the initiative rights of the Commission. The Commission was initially to share its initiative rights with the Member States but as of 1 May 2004 the Commission was given an exclusive initiative right. The Commission is still obliged to review any suggestion from the Member States.

For the implementing decisions relating to the CCI and procedures, special transitional rules applied. The Council adopted a regulation in 2001 reserving the right to exercise implementing powers in relation to visa applications<sup>36</sup>, thereby departing from the ordinary system under which the Commission is responsible for implementing the Council’s basic instruments.

Two types of procedure were established for the implementation and updating of the CCI. First, certain provisions may be amended by the Council acting unanimously; second, Member States may communicate to the Council such amendments as they wish to make to other provisions.

In the preamble to the decision, the Council states: *“Since the Member States have an enhanced role in respect of the development of visa policy, reflecting the sensitivity of this area, in particular involving political relations with third countries, the Council reserves the right, during the transitional period of five years referred to in Article 67(1) of the Treaty, to adopt, amend and update the detailed provisions and practical procedures referred to above*

<sup>35</sup> Council Decision 2006/440/EC of 1 June 2006 amending Annex 12 to the Common Consular Instructions and Annex 14a to the Common Manual on the fees to be charged corresponding to the administrative costs of processing visa applications, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:175:0077:01:EN:HTML>.

<sup>36</sup> Council Regulation (EC) No 789/2001 of 24 April 2001 reserving to the Council implementing powers with regard to certain detailed Council Regulation (EC) No 789/2001 of 24 April 2001 reserving to the Council implementing powers with regard to certain detailed provisions and practical procedures for examining visa applications (OJ 2001 L 116, p. 2), available at [http://eur-lex.europa.eu/smartapi/cgi/sga\\_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=32001R0789&model=guichett](http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=32001R0789&model=guichett). The Council also adopted a similar decision relating to border surveillance, Council Regulation (EC) No 790/2001 of 24 April 2001 reserving to the Council implementing powers with regard to certain detailed provisions and practical procedures for carrying out border checks and surveillance (OJ 2001 L 116, p. 5), available at [http://eur-lex.europa.eu/smartapi/cgi/sga\\_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=32001R0790&model=guichett](http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=32001R0790&model=guichett).

*by unanimity, pending a review by the Council of the conditions under which such implementing powers would be conferred on the Commission after the end of that transitional period”.*<sup>37</sup>

This regulation shifted the focus to the Member States and away from the Community method and was also contested by the Commission in the European Court of Justice (ECJ). In its judgment, the ECJ dismissed the application of the Commission to annul the regulations.<sup>38</sup> As of 1 January 2005, the Council takes its decisions according to this regulation by qualified majority.<sup>39</sup>

For the future, developments related to European visa policy include introducing biometric features and the visa information system (VIS). With a view to facilitate and clarify the body of law relating to visas, the Commission has submitted a proposal for a Community Code for Visas, which also takes into account the future use of biometrics.<sup>40</sup> The Community Code would take the form of a regulation (solving the problem with the legal status of the CCI) and would enhance legal security in the field of visas. For example, under the proposal, applicants would be given the right to appeal against a negative decision and also the right to be informed of the reasons for a refusal.

In summary, visa legislation is relatively well harmonised at EU level. This is not to say that all matters relating to the procedure are regulated, but a regulatory framework does exist. A degree of flexibility of the legal framework is necessary as specific country conditions vary; however, this is also where applicants experience the biggest discrepancies between the procedures of different Schengen (and EU) states.

## 2.2.3

### EU instruments for regulating stay longer than three months (admission of students)

For **legal migration**, the Amsterdam Treaty provided (Article 63.3.a) that the EU could adopt rules relating to conditions of entry and residence and standards on procedures for the issue by Member States of long-term visas and residence permits, including those for the purpose of family reunion. Those decisions were to be taken with unanimity in the Council, consulting the Parliament. For most of the areas regulating aspects of migration, co-decision procedure and qualified majority voting have been introduced or provided for.<sup>41</sup> The only area where a switch to this procedure has not been agreed to is in relation to legal migration.

For issues relating to legal migration, the Council still decides with unanimity and after consultation of the Parliament. Except for some measures relating to visa, the Parliament has the role of decision maker together with the Council for matters relating to Title IV of the Treaty (co-decision procedure).

As has been mentioned, long-term visas (more than three months) are not covered by the EU/Schengen visa procedures but shall be issued in accordance with national procedures. However, to a certain extent long-term visas or residence permits for students are covered by **Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service** (hereinafter Directive 2004/114/EC).<sup>42</sup> With Directive 2004/114/EC, the EU has

<sup>37</sup> Council Regulation (EC) No 789/2001 of 24 April 2001, preamble 8.

<sup>38</sup> Judgment of the Court, 18 January 2005, Case C-257/01, Commission of the European Communities v Council of the European Union, available at [http://eur-lex.europa.eu/LexUriServ/site/en/oj/2005/c\\_057/c\\_05720050305en00010001.pdf](http://eur-lex.europa.eu/LexUriServ/site/en/oj/2005/c_057/c_05720050305en00010001.pdf).

<sup>39</sup> Council Decision of 22 December 2004 providing for certain areas covered by Title IV of Part Three of the Treaty establishing the European Community to be governed by the procedure laid down in Article 251 of that Treaty (2004/927/EC), available at: [http://eur-lex.europa.eu/LexUriServ/site/en/oj/2004/l\\_396/l\\_39620041231en00450046.pdf](http://eur-lex.europa.eu/LexUriServ/site/en/oj/2004/l_396/l_39620041231en00450046.pdf).

<sup>40</sup> Draft proposal for a Regulation of the European Parliament and of the Council establishing a Community Code on Visas (presented by the Commission) {SEC(2006) 957};{SEC(2006) 958} Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52006PC0403:EN:NOT>.

<sup>41</sup> See Council Decision of 22 December 2004, (2004/927/EC).

<sup>42</sup> The EU Member States shall adopt the laws, regulations and administrative provisions necessary to comply with the Directive by 12 January 2007. The Member States are obliged to adopt the regulations regarding students; however regarding pupil exchange, unremunerated training and voluntary service Member States may adopt the provisions but are not obligated to do so.

attempted to harmonise the conditions of admission of students and the associated procedures. Directive 2004/114/EC sets out the general and specific conditions for admission, as well as general procedures for granting permission for entry. This directive also entitles students under certain conditions to stay in another Member State in order to encourage mobility within the EU and facilitate studying in more than one Member State. Paid employment such as part-time jobs is also covered.

In this context it should be pointed out that Directive 2004/114/EC shall be without prejudice to more favourable provisions of: (a) bilateral or multilateral agreements between the Community or the Community and its Member States and one or more third countries; or (b) bilateral or multilateral agreements between one or more Member States and one or more third countries as well as to the right of Member States to adopt or maintain provisions that are more favourable to the persons to whom it applies.<sup>43</sup>

Among the **general conditions for admission** set out by the Directive are that the person applying for a residence permit (or long-term visa, as applicable) should present a valid travel document; if applicable, parental authorisation for the planned stay; sickness insurance in respect of all risks normally covered for the nationals in the Member State concerned; not be regarded as a threat to public policy, public security or public health; and provide proof, if the Member State so requests, that he/she has paid the fee for processing the application.

The Directive also sets out **specific conditions** for students. Students must demonstrate that they have been accepted by a higher education institution to follow a course of study and provide the evidence requested

by a Member State that during their stay they will have sufficient resources to cover their subsistence, study and return travel costs. Member States shall make public the minimum monthly resources required for the purpose of this provision, without prejudice to individual examination of each case. Furthermore, students must provide evidence, if the Member State so requires, of sufficient knowledge of the language of the course they are to take and provide evidence, if the Member State so requires, that they have paid the fees charged by the establishment.

If students fulfil the requirements, the Member State concerned *shall* issue them with a residence permit for a period of **at least one year<sup>44</sup> and renewable** (if the holder continues to meet the conditions). Where the duration of the course of study is less than one year, the permit shall be valid for the duration of the course. **Reasons for refusing to issue the permit** or withdrawal of the permit are that the student does not respect the prescribed limits on access to economic activities or does not make acceptable progress in his/her studies in accordance with national legislation or administrative practice.

Member States may also withdraw or refuse to renew a residence permit if it has been fraudulently acquired or wherever it appears that the holder did not meet or no longer meets the conditions for entry and residence. Member States may also withdraw or refuse to renew a residence permit on grounds of public policy, public security or public health.

Directive 2004/114/EC also sets out rules relating to “procedural guarantees and transparency (Article 18)”. It specifies that the **decision** on an application to obtain or renew a residence permit shall be adopted, and the

<sup>43</sup> Article 4 of Council Directive 2004/114/EC of 13 December 2004.

<sup>44</sup> Regarding school pupils, unremunerated trainees and volunteers, the residence permit shall in the normal case not be issued for more than one year.

applicant shall be notified of it, **within a period that does not hamper the pursuit of the relevant studies whilst leaving the competent authorities sufficient time to process the application.**

Moreover, if the information supplied in support of the application is inadequate, processing of the application may be suspended and the competent authorities shall inform the applicant of any further information they need.

Any decision rejecting an application for a residence permit shall be notified to the third-country national concerned in accordance with the notification procedures provided for under the relevant national legislation. The notification shall specify the possible redress procedures available and the time limit for taking action.

Where an application is rejected or a residence permit issued in accordance with this Directive is withdrawn, the person concerned shall have the **right to mount a legal challenge** before the authorities of the Member State concerned.

Article 19 of Directive 2004/114 also provides for the possibility of a **fast-track procedure** for issuing residence permits or visas to students and school pupils. Such a fast track procedure would, after agreement between the authority of a Member State with responsibility for the entry and residence of students or school pupils who are third-country nationals and a higher education institution or an organisation operating pupil exchange schemes, which has been recognised for this purpose by the Member State concerned in accordance with its national legislation or administrative practice, **allow residence permits or visas to be issued in the name of the third-country national concerned.**

The Directive furthermore obliges (**must**) Member States to **facilitate the admission procedure** for the third-country nationals covered by the Directive who participate in Community programmes enhancing mobility towards or within the Community.

The Directive has some **key features**. **Firstly**, third country nationals who fulfil the conditions set out by the Students Directive have an **enforceable right** to obtain a residence permit and be admitted to a Member State for the purpose of studies: according to Article 12(1) as well as Recital 8 and the title of Chapter II, a third country national who fulfils the conditions prescribed by the Directive has a right to be admitted for the purpose of studies and the student would also be given the obligatory right to appeal a negative decision. All the Member States' concerns about admitting third country nationals to their territories are covered by Articles 6 and 7 of the Directive.<sup>45</sup> **Secondly**, the **increased transparency in procedures**, and **thirdly**, the requirement that Member States shall process applications and issue permits **"within a period that does not hamper the pursuit of the relevant studies"**.<sup>46</sup>

The requirements of the Directive seem to represent a major step forward in enhancing conditions for students. Nonetheless, it is important to remember that the requirements on Member States are **continuously balanced** against certain control mechanisms and that some safeguards might prove difficult to enforce as they are very vaguely formulated.

In summary, implementation of the Directive might increase transparency and predictability for students. However, this does not necessarily mean that the actual procedure will be facilitated or that costs will be more manageable in individual cases. The project will look at implementation of the Directive in the states selected for participation in the project and also try to establish whether some states have developed so-called good practices that would facilitate entry of students from this region or that could also be applied for this group of students in other EU countries (see section 3.4). Moreover, according to the Directive the Commission shall report, for the first time by January 2010, to the European Parliament and the Council on application of the Directive in the Member States and propose amendments if appropriate.

<sup>45</sup> Report of the 6 October 2006 meeting of the Migration Directives' Contact Committee in Brussels providing for a structured exchange of views of participating national experts from the Member States on the implementation and application of the Directives. It should be emphasised that it does not have decision-making authority. Legally binding interpretations could only be given by the European Court of Justice.

<sup>46</sup> Article 18 of the Directive 2004/114/EC.

## 2.3 Facilitated procedures - existing and planned

Facilitated procedures imply a deviation from current visa or admission rules, relaxing the rules for all or certain categories of applicants, for example simplifying the procedure, reducing costs or setting time limits for processing the application. In this section, existing and planned regimes for facilitation of procedures for short- or long-term visas and residence permits will be presented and discussed, including some inherent limitations to facilitation.

### 2.3.1

#### Negotiations with the Western Balkans on short-term visa facilitation

As mentioned in the introduction, some substantial progress can be recorded regarding visa facilitation for short-term visa (visits up to three months) with respect to the region in question. In practical terms, visa facilitation could mean for example a clear and limited timeframe for processing the application, reduced costs and simplified criteria for issuing the visa for certain groups such as students or businessmen. The European Commission addressed the issue in a communication on the Western Balkans dated 27 January 2006<sup>47</sup>, and announced the start of exploratory talks in the Western Balkans with a view to presenting the draft negotiation mandates for visa facilitation to the EU Council in the course of 2006.<sup>48</sup> At the same time it was made clear that progress in negotiations on visa facilitation will be linked to negotiations on readmission agreements with the European Community and to progress in reforms in relevant areas.

A certain urgency was attached to the issue. Under the recent Council Decision on Visa Fees<sup>49</sup>, the visa fee would have been raised from €35 to €60 for all third countries

for which visa facilitation negotiating mandates are not in place at the beginning of 2007. With visa facilitation negotiating mandates in place, the rise will - under Article 2, II.4 - not be effective until 1 January 2008 and, if concluded before this date, not at all. As negotiations were finalised (the texts were initialled) in April (Albania, Bosnia and Herzegovina, Macedonia and Montenegro) and May (Serbia) 2007, the rise in fees will be avoided.

Negotiating mandates for the Commission regarding visa facilitation and readmission were discussed during 2006 and were finally approved by the Council on 13 November 2006. The first negotiation round with representatives from the Western Balkans was held on 30 November 2006 and was, as mentioned above, finalised (initialled) in April 2007 for Albania, Bosnia and Herzegovina, Macedonia and Montenegro and in May 2007 for Serbia. The visa facilitation agreements will negotiate reduction of the handling fees for all Western Balkan citizens. For certain categories of persons, that will be determined jointly with the negotiating partners, necessary documentary evidence will be simplified and multi-entry visas with long periods of validity will be obtainable, along with exemptions from handling fees. The agreements on readmission, which will be negotiated at the same time, will set out clear obligations and procedures for the authorities of both the Western Balkan countries and EU Member States as to when and how to take back people who are illegally residing on their territories. In short, the overall aim of the visa facilitation agreements is to make it easier for citizens of Western Balkan countries, in particular those who travel most, to acquire visas for the EU, whilst simultaneously having clear rules on combating illegal immigration.<sup>50</sup>

Before the EU took joint action, visa facilitation would only have been possible bilaterally within the framework of the Schengen agreement and the CCI. As will be seen in the next section, some countries negotiated visa facilitation agreements bilaterally with other countries, such as Russia. However, now that the EU has acted it is no longer possible for the Member States to negotiate facilitations bilaterally.

<sup>47</sup> Communication from the Commission; The Western Balkans on the road to the EU: consolidating stability and raising prosperity, 2006.

<sup>48</sup> According to the common approach to visa facilitation agreed in December 2005 a case-by-case approach will be followed (Note 16030/05 from the Permanent Representatives Committee, on 21 December 2005). The common approach to visa facilitation was provided for in the Hague Programme adopted in November 2004.

<sup>49</sup> Council Decision 2006/440/EC of 1 June 2006 amending Annex 12 to the Common Consular Instructions and Annex 14a to the Common Manual on the fees to be charged corresponding to the administrative costs of processing visa applications, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:175:0077:01:EN:HTML>.

<sup>50</sup> Joint Statement by Vice President Franco Frattini, Commissioner responsible for Justice, Freedom and Security, and by Commissioner Olli Rehn, responsible for Enlargement, on the adoption of visa facilitation and readmission mandates for the Western Balkans, Press release from the European Commission, Brussels, 15 November 2006, available at <http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/06/429&format=HTML&aged=0&language=EN&guiLanguage=en>.



The question is how much change visa facilitation agreements will actually bring to the population. What is clear is that the population has certain expectations and that officials, at EU and national level in the Western Balkan states, put a lot of emphasis on these agreements and the benefits they will bring. Negotiations are now largely completed; however, it remains to be analysed what visa facilitation for Schengen visas would mean in practice and how it would be possible to implement. The concrete results of the negotiations (the initialled texts) are not yet publicly available. However, the content of agreements will probably not differ much from earlier agreements negotiated with, for example, Ukraine and Russia. As regards students, it should be pointed out that students in general would not benefit from facilitation, only students travelling for the **purpose of studies**. In general, talking to those working with visa and admission of students on the ground, a certain degree of scepticism is noticeable. Firstly, will visa facilitation agreements live up to expectations; secondly, will embassies have the practical capacity to facilitate any more than under the present system? The technical limitations of some consular posts will make it difficult to prioritise certain groups. Furthermore, it was also mentioned that the proposed facilitation is to a certain extent a codification of existing practice. There are a lot of expectations towards visa facilitation. What can be noticed is a concern that visa facilitation, once implemented, might actually lead to disappointment due to misunderstandings regarding the actual practical effects.

### 2.3.2

#### Facilitated procedures in other frameworks

Visa facilitation agreements have already been negotiated on behalf of the EU with both Russia and

Ukraine. The visa facilitation agreement between the EU and Russia together with the readmission agreement was agreed before the EU-Russia summit in October 2005 and was signed during the EU-Russia summit in May 2006.

The agreement on simplifying the visa procedures concerns students, scientists, politicians, diplomats and businessmen. Under this agreement, visa procedures will be simplified, visa fees have been reduced and uniformed by aligning them to the Schengen visa fee, and the criteria for issuing multiple-entry visas will be simplified. On the other hand, Russia also agreed to sign the readmission agreement, under negotiation since November 2002. The readmission of illegal immigrants from third-states with which Russia has no bilateral readmission agreements will enter into force after a three-year transitory period.<sup>51</sup>

Before this agreement, Russia had signed bilateral visa facilitation agreements under the Schengen Agreement with Germany (10 December 2003), Italy (15 June 2004) and France (15 June 2004). When the EU-Russia visa facilitation agreement enters into force, it will take precedence over the bilateral agreements to the extent that its provisions cover the same issues. For Germany, the bilateral agreement also covered long-term visas. These provisions will probably remain valid after the visa facilitation agreement with the EU is agreed.

The bilateral visa facilitation agreement between Germany and Russia was signed in December 2003.<sup>52</sup> The agreement aimed at simplifying travelling conditions for citizens of the two countries. These facilitations were geared in particular towards certain categories of citizens: businessmen, young people and students and participants in academic, educational, science, cultural and sport exchanges. The additional simplification of

<sup>51</sup> Visa agreement and readmission agreements will enter into force together.

<sup>52</sup> Michal Natorki and Anna Herranz, "The Impact of German-Russian and Polish-Ukrainian Special Relations on European Foreign Policy: Energy Supplies and Visas in the EU Neighbourhood", Paper presented for the conference "Reflecting on a wider Europe and beyond: norms, rights and interests" organised by the Central and East European International Studies Association (CEEISA), 4th convention, University of Tartu, Estonia, 25-27 June 2006, p. 16.

procedures is related to the multi-entrance five-year visas for German and Russian citizens and also free or cheaper tariffs for visas.<sup>53</sup>

### 2.3.3

#### Facilitated procedures within the framework of Student Programmes

Cooperation with Western Balkan countries in the areas of education and research has been significant in recent years, with a substantial Commission contribution under several programmes: Tempus (higher education), Erasmus Mundus (scholarships for students), Youth, 6th Research Framework programme (FP6) and Joint Research Centre (JRC).<sup>54</sup> All in all, between 2000 and 2006, Tempus III will have committed about €110 million to over 300 projects and 550 individual mobility grants in the Western Balkans. As for the Erasmus

##### Few students

Two Erasmus Mundus programmes are running including Slovenia and the Western Balkans, however few Western Balkan students have applied and no student have received grants within the programme to study in Slovenia. More students could be hosted within the programme (CMEPIUS Interview).

Mundus programme, the European Commission has made available a total of 17 scholarships to students and scholars from the Western Balkans so far.<sup>55</sup>

The aim of the Erasmus Mundus Programme is to organise study schemes for third country students who

would pursue their studies in at least two Member States. The Commission will review its actions under Tempus and Erasmus Mundus and expand opportunities for mobility of teachers and both undergraduate and graduate students as from 2007. As a first step, a special “window” will be made available in 2006 in Erasmus Mundus to allow up to 100 students from the region to undertake

postgraduate studies in EU high profile master’s courses. The Commission will also propose a new scholarship scheme for undergraduate students within the post-2006 Tempus programme.<sup>56</sup>

Regarding the opportunities offered by Erasmus Mundus, a report of the 6 October 2006 meeting of the Migration Directives’ Contact Committee raised some obstacles to the effective functioning of the Programme, arising from immigration law in the Member States, i.e. **length of visa procedures, formalistic approach to documentation confirming fulfilment of the conditions for residence requested** by national administrations from students, etc.<sup>57</sup> These problems were also pointed out by the Commissioner for Education, Jan Figel, in a speech in Vienna on 17 May 2006. For example, with regard to increasing mobility in the region, *“...a number of practical hurdles have been identified: mobility obstacles, such as visa, residence permit and difficulties with bank transfers. Cooperation with relevant stakeholders and decision makers is needed to overcome these barriers...”*<sup>58</sup>

The programme focuses on attracting the best students. Presently, around 15 students each from Albania, Macedonia and the former Serbia and Montenegro and a few less from Bosnia and Herzegovina are studying in Europe on Erasmus Mundus scholarships. Within Erasmus Mundus, universities may form partnerships or consortia. The Trento University in Italy coordinates a consortium with the Corvinus University of Budapest in Hungary, the University of Ljubljana in Slovenia and the University of Regensburg in Germany, which has open cooperation especially with the Western Balkans region for a Master in Comparative Local Development. Furthermore, a special “window” for the Western Balkan countries (except for the candidate countries) will be opened in Erasmus Mundus, covering 120 scholarships worth a total of €5 million. **The issue of visa and residence permits has been identified as one of the main obstacles for students**

<sup>53</sup> Michal Natowski and Anna Herranz, “The Impact of German-Russian and Polish-Ukrainian Special Relations on European Foreign Policy: Energy Supplies and Visas in the EU Neighbourhood” Paper presented for the conference “Reflecting on a wider Europe and beyond: norms, rights and interests” organised by the Central and East European International Studies Association (CEEISA), 4th convention, University of Tartu, Estonia, 25-27 June 2006 p. 16.

<sup>54</sup> Communication from the Commission; The Western Balkans on the road to the EU: consolidating stability and raising prosperity, p 10.

<sup>54</sup> Speech by Mr. Jan Figel, Commissioner for Education and Culture, “Supporting the creation of a knowledge economy in the Western Balkans: the Lisbon Strategy and European instruments”, Conference of the European Ministers of Education “Strengthening Education in Europe”, 17 March 2006, Vienna, available at <http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/06/180&format=H>.

<sup>56</sup> Communication from the Commission; The Western Balkans on the road to the EU: consolidating stability and raising prosperity, p 10.

<sup>57</sup> Report of the 6 October 2006 meeting of the Migration Directives’ Contact Committee.

<sup>58</sup> Speech by Mr Jan Figel, Commissioner for Education and Culture, 17 March 2006, Vienna.

participating in Erasmus Mundus, according to a survey of master programme coordinators and participating students. Late provision of information to students and strict admission procedures by some EU countries are among the most frequently reported problems. To facilitate information on admission for students in the programme, guidelines regarding entry conditions have been produced for master course coordinators. Directive 2004/114/EC obliges Member States to facilitate access for students participating in Erasmus Mundus. Directive 2004/114/EC is a good first step but is not going to solve all related problems. Additional facilitation for admission of students is needed.<sup>59</sup>

As was mentioned in relation to the discussion on Directive 2000/114/EC, this Directive includes an obligation for the Member States to *facilitate the admission procedure* for the third-country nationals covered by the Directive who participate in Community programmes enhancing mobility towards or within the Community. The admission procedure should therefore be facilitated at least for students participating in such programmes.

## 2.4 Few applications for long-term student visas/residence permits

Unfortunately, the statistics collected from participating states were very difficult to compare. In some cases no specific data were available by nationality; in others, only some of the Western Balkan countries were mentioned, and most countries used different definitions of the group “students”. Nonetheless, what did emerge was that the group of students from the Western Balkans is generally small in most of the participating countries, especially in relation to the total numbers of foreign students. During the field missions, the consulates visited were asked to provide recent statistics on applications. From the information provided, it appeared that they receive comparatively few applications for visas or residence permits (if applicable) for the purpose of study, particularly in comparison with visas and residence permits for other purposes or other countries of origin (e.g. China, India).

The two countries receiving relatively large numbers of applications are Austria<sup>60</sup> and Germany, although even there numbers are quite limited and represent a comparatively small group of the total amount of applicants.

<sup>59</sup> Presentation by Mr Vito Borelli, Directorate General for Education and Culture, European Commission, at the mid-term meeting of the project Smart Visa for Students from the Western Balkans, on 30 November 2006.

<sup>60</sup> Regarding students, the case of Bosnia Herzegovina and Austria is special because, aside from Austria's proximity, one reason it became a popular destination for Bosnian students is that there was an a university-exchange agreement with the former six-republic Yugoslav federation (referred to as “the 100-year agreement”). Under the terms of that pact, any Yugoslav high-school graduate could apply for admission to an Austrian state university on the same terms as an Austrian citizen and, if accepted, could study at no charge, meaning that students from Bosnia Herzegovina could study on the same conditions as Austrian students in Austria. This does not apply for all universities, but does at Graz, for instance. For this and other reasons, going to Austria to study remains a popular choice and even people with dual nationality would choose to go on their Bosnian passport.



## Few applications – Some examples from the embassies in the region

### Austria

**The embassy in Sarajevo:** since the new law came into effect in 2006, 358 applications for residence permits (“*Studierende*”) have been submitted in Sarajevo. In 2007, 37 applications had been submitted by February. The majority receive a positive decision on their application. Regarding short-term visas, there are normally around 30,000 applications per year.<sup>61</sup> The proportion of applications for long-term residence is consequently still very small.

### Belgium

**The embassy in Belgrade:** there are few applications for student visas: In 2004-2006, a total of 92 visas for students were issued<sup>62</sup> by the embassy (2004-27, 2005-32, 2006-33).<sup>63</sup> Some 40 percent of the applications are individual applications without scholarships (60% are students with scholarships). The total number of applications (short-term visas and residence permits) is 6,500 per year; the student visa applications are a small part and a very low percentage. Most of the students go for bachelor or master studies.

### Germany

**The embassy in Belgrade:** a total of 67,000 visa applications were submitted to the German embassy in Belgrade during 2006. A noticeable increase in applications is expected for 2007. Not many of those applications concern student visas. In January and February 2007, five student visas were issued (one of which had a scholarship). Annually, an average of 50 visas for the purpose of study are issued. As mentioned above, the number of student applications is low compared with the total number of visa applications. For researchers and research associates, the number is slightly higher. The group of students applying for short-term visas is also small.

### Slovenia

**The embassy in Sarajevo:** there is only a small number of student applications for residence permits (the majority of applications from students are for private visits). 65 residence permits for the purpose of study were issued in 2005 and 67 in 2006. Only about half of the applications (30) concern university studies. All in all, the embassy receives about 6,000 applications per year.

**The embassy in Belgrade:** 88 residence permit applications for the purpose of study were granted in 2006 (nine were issued free of charge). No applications were rejected. At the start of the school year, approximately 10-15 students per month apply for residence permits, while at other times of the year the average number of applications is five per month. In total, in the year 2006 there were 1,132 residence permits issued, of which approximately 1,000 were for work or employment purposes. Last year (2006) the embassy received about 28,000 visa applications.

### Sweden

**The embassy in Sarajevo:** there are very few applications for residence permits for studies: during 2006, there were six applications for residence permits for the purpose of study.<sup>64</sup>

**The embassy in Belgrade:** there are few applications from students, and very few without scholarships. There were 40 applications for residence permits for the purpose of study in 2006 (34 with scholarships from SIDA or the Swedish Institute). In six months, only one application was rejected. In total, there are about 8,000 visas and 1,500 residence permits (9,500 cases) per year.

<sup>61</sup> At the Austrian embassy in Belgrade, the total number of issued visas (short and long-term) in 2006 was approximately 46,000.

<sup>62</sup> A few visas for Luxembourg (rare) might be included in this total.

<sup>63</sup> The top three countries of origin for student applications to Belgium are China, Congo and the Maghreb countries.

<sup>64</sup> By comparison, in the same year at the embassy in Beijing there were 415 applications for residence permits for the purpose of study.

No clear explanation was given for the low levels, although a number of factors such as high living costs<sup>65</sup>, language knowledge, the educational level in the region and the fact that education in the region is traditionally provided free of charge were indicated by actors on the ground.

Embassy representatives in the region also mentioned different possible reasons for the low numbers. Most of them mentioned the cost factor and that students applying outside organised programmes (without scholarships) would normally have to come from families that are financially better off than the average.

The German embassy in Belgrade said that it was still difficult to explain the low numbers of students applying. One reason is of course language knowledge, but given the numbers of students applying from Poland for example, this does not seem to offer a complete explanation. There will probably be an increase in applications in the next few years.

The Swedish embassy in Belgrade pointed out that the fact that there is a large Ex-Yugoslav community in Sweden does not seem to work as a “pull factor” for potential students. One possible explanation might be that there is a limited academic tradition within the group living in Sweden. In addition, there are few undergraduate courses in English in Sweden, but on the other hand there are several post-graduate courses in English. In many cases, the problem might not be actually obtaining the visa/residence permit but rather the necessity of going through the entire procedure.

The Slovenian embassy in Sarajevo also mentioned as a further possibility that recognition of Bosnian degrees and diplomas in Slovenia might cause problems, as different levels are demanded for equivalent degrees.

## 2.5

### Discussions with organisations working with students

This section is mainly based upon information received in meetings with organisations that deal with students in one way or another. During the missions to Sarajevo and Belgrade, the project team met the following organisations dealing with students:

- › Vienna, WUS Austria, Head office
- › Sarajevo: Youth Information Centre, WUS Austria, Sarajevo, Deutscher Akademischer Austausch Dienst (DAAD-Lektor) and the Student Resource Center (SRCe)
- › Belgrade: WUS Austria, Belgrade, Group 484, Student Union of Serbia, the Citizen’s Pact for SEE and Deutscher Akademischer Austausch Dienst (DAAD-Lektor), European Movement Serbia

Most organisations dealing with students and young people confirmed that **mobility** for this group is a big problem in general. It is almost impossible for **students or young people to travel as tourists** because of visa problems. This has many negative social consequences; for instance, it is cumbersome for young people in the region to establish or maintain normal contact with their peers in the rest of Europe. This not only creates a sense of isolation, it also limits “European awareness” among this group. Being able to take part in everyday life in another country would serve to increase mutual understanding. As long-term travel is inherently expensive and short-term travel for studies or academic purposes is reserved for the few, it is important not to neglect short-term travel opportunities for students.

Further, from a more **academic** perspective, mobility is a serious problem. Problems mainly relate to **short-term visa** and occur for all kinds of academic exchange; students, young researchers and professors. Time and

<sup>65</sup> Which means that, in general, only families with that are financially well off can afford it.

access to procedures are the main problems, along with procedural formalities. For example **persons** working at the university found it particularly discouraging that **their**

#### Project: Travel to Europe

Of interest in this context is a project called “Travel to Europe” involving the embassies of Austria and Germany (“Welcome to Germany”) in cooperation with, amongst others, the non-governmental organisation “European Movement in Serbia”. This project allows a number of students to undertake short-term travel to the EU. For the purpose of this project, the Austrian embassy arranged for students to apply for visas at the university itself.

colleagues had such problems participating in regular exchanges with colleagues from other universities in Europe. This applies not only to major events, such as conferences and seminars, but also to self-initiated research visits. It is particularly important for people working at universities and educational facilities in the Balkans to be able to experience recent developments, influences and technical equipment in the academic world, especially as facilities, equipment and research material in the region may well be outdated, due to lack of funds for instance. For researchers and other academic staff, it is very important to be able to share experience and build networks with colleagues in the EU more easily and familiarise themselves with newer equipment. For this type of travel and exchange, short-term visas still represent a big hurdle.

This is also illustrated by the following example related to academic exchange. World University Service (WUS) Austria is together with partners organising the Balkan Case Challenge. Some participants of the Balkan Case Challenge 2006 in Vienna faced major problems obtaining visas, despite a directive by the Austrian Foreign Ministry considerably simplifying the visa procedure. *“This and moreover the fact that there is no such directive in most of the cases related to academic mobility prompted the participants of the competition Model United Nations in the frame of the Balkan Case Challenge 2006 to develop the Visa Resolution.”*<sup>66</sup> The Visa Resolution aimed at raising

awareness about the EU-entry regulations for citizens from the Western Balkans.

The Visa Liberalisation Resolution was sent to all Austrian institutions and ministries connected with higher education and foreign policy relating to South Eastern Europe. *“In addition to that, all Austrian members of the European Parliament as well as Austrian representatives in Brussels received the resolution.”*<sup>67</sup> Lobby groups from the field of economy and foundations with a focus on politics and culture/higher education were also contacted. Furthermore, the EU’s DG Enlargement and Commissioner Olli Rehn and the past and current holders of the EU presidency Finland and Germany as well as heads of state from other EU members were addressed.

Among the respondents were Olli Rehn, the EU Commissioner responsible for EU enlargement activities<sup>68</sup>, Patrick Child, Head of Office of EU Commissioner Benita Ferrero-Waldner, the Austrian Federal Ministry of Foreign Affairs, the German Ministry of Foreign Affairs, Minister Elisabeth Gehrler, Austrian Ministry of School, Education and Culture and Christoph Leitl, president of the Austrian Federal Chamber of Commerce, as well as representatives of the European Parliament including Austrian MEP Hannes Swoboda and the European Parliament itself through Jean-Louis Cougnon, Head of Division with responsibility for correspondence with citizens. WUS Austria’s partners and universities in South Eastern Europe also strongly support the Visa Resolution.

Respondents outline: “(1) that the current visa policies do not correspond to the challenges of both the Western Balkans and the EU. (2) that for the stability of the region and the growth of development and economic wealth of South Eastern Europe and the EU it is essential to open up opportunities for young academics from the Western Balkans. (3) that visa restrictions do not prevent crimes but knowledge transfer and challenging potentials.”<sup>69</sup>

Regarding **long-term studies**, students who have received scholarships usually experience fewer such problems.

<sup>66</sup> THE NEWSLETTER OF WUS AUSTRIA, February 2007.

<sup>67</sup> THE NEWSLETTER OF WUS AUSTRIA, February 2007.

<sup>68</sup> In addition to pointing out the negotiating mandates on visa facilitation with the Western Balkan countries, Olli Rehn expressed his full awareness of the visa problems faced by students and promised help from the European Commission.

<sup>69</sup> THE NEWSLETTER OF WUS AUSTRIA, February 2007.

When students are assisted by organisations in the region which handle scholarships, such as WUS Austria (local offices in Sarajevo and Belgrade) or the DAAD lectors, they receive all necessary information for applying for visas/residence permits, embassies are usually informed that students are coming to apply for visas/residence permits (short and long-term), and if there are problems informal meetings can be arranged by those organisations. Many have good informal contacts with the embassies. Occasionally, in some academic cases such organisations also assist with issuing guarantee letters to students.<sup>70</sup> Nonetheless, the time it takes to issue the residence permit is sometimes a problem even for this group, i.e. the permit arrives just before the semester starts or in some cases afterwards. The time-consuming process is the problem most generally reported regarding long-term visas and residence permits for studies, with or without scholarships, not least because many universities cannot issue acceptance letters in time for students to obtain a residence permit.

It seems that proportionally few students from the Western Balkans choose to study in the EU. Organisations working with students mentioned a number of reasons that could partly explain this, aside from the visa/residence permit issue. First among these is the cost. Studying abroad is expensive and without a scholarship the possibilities are limited, except for students who are financially well off. There are only a limited number of scholarships available and competition for scholarships is fierce; scholarships are usually only available to the very best students. Other reasons might be academic tradition, language knowledge, quality of pre-university education and a culture of staying close to family and friends. Still, this does not seem to be a sufficient explanation for the limited numbers of Western Balkan students studying abroad, especially when compared with other countries where economic limitations exist (a fact also mentioned during some embassy visits). One further possible explanation might be a lack of awareness of the opportunities for studying in the EU and of the scholarships available.

For this reason, one of the main points mentioned by

organisations working with students when asked about their wish for the future was that information should be increased. This referred to information about both study opportunities and options for obtaining residence permits for studies. Furthermore, the organisations interviewed expressed the wish for more scholarships for students from the region. Regarding the actual procedures, the following wishes were expressed:

- › Easy access to the embassy for students for short- and long-term visits
- › Faster processing of visas/residence permits for all academic purposes (short and long-term)
- › Less documentation needed (clearer information on necessary documentation)
- › Visas/residence permits free of charge for students and other academics (when travelling for long-term studies, the actual cost of the residence permit might seem negligible; however, providing residence permits free of charge would send out a very important signal).

Finally, another issue raised in discussions was the need for measures at national level to counteract the isolation of the young generation in the Western Balkans. This is not only a problem with EU visa policy. As the liberalisation of the visa regime is a two-part process, the continuation of reforms needed for relaxing and eventually liberalising the visa regime must be ensured at national level. It was the common view that organisations would like to see more progress.

Regarding the ongoing negotiations for visa facilitation, even though these were acknowledged as a big step forward, a certain hesitation regarding the actual outcome of negotiations and possible practical impact of this on procedures was expressed. Unclear information on the actual content of the visa facilitation agreements for the general public might lead to disappointment or raised expectations which might result in further frustration in the region.

<sup>70</sup> Interview with representative of WUS Austria's head office.

## 3. Comparison between EU Member States regarding admission of students

### 3.1 Introduction

This comparison is based on a questionnaire that was sent to the participating states as well as on further desk research, including two study visits that were carried out to Belgrade and Sarajevo. Furthermore, as mentioned before, meetings were also held in Slovenia to further explore certain policy options and good practices (please see 1.2 Methodology for the project).

The comparison aims at providing an overview of the current conditions for the admission and entry of students for a period of more than three months, including legislation, regulations and administrative practices in the countries participating in this study. The progress and impact of implementation of the Directive 2004/114/EC will also be outlined. Information provided by states about good practices on facilitation for students is also included. The most relevant information received is provided in this comparison. More detailed information on some of the topics covered is provided in the attached tables.

One thing to note at the outset: the questionnaire included questions about special practices for students from the Western Balkans, however, no specific practices for the admission of students from the Western Balkans exist in the participating countries Austria, Belgium, Germany, Slovenia and Sweden. As explained in Part I, Italy was only included in the project at a later stage, so the information included on this country is based solely on desk research.

As mentioned earlier, the information received through field missions (embassy staff and organisations working with students) is mostly detailed in “fact boxes” or separate sections. Where this is not the case, it will be

specified when the information originates from the field missions. The purpose of the field missions and the inclusion of this information in the report were to reflect the practical perspective in this study, to highlight issues that are not clear or self-evident from legal texts and policy documents as well as to bring out matters that are relevant to the common understanding of these issues. This information mainly aims to reflect the impressions of those whose daily work brings them into contact with students wishing to visit the European Union, for either a short-term or long-term stay, and thus to supplement the desk research.

### 3.2 Legal framework for procedure

The relevant regulations for the entry of students are to be found in the respective Alien, Residence or Immigration Acts, often further administrated by related ordinances, decrees and circulars.

For the initial entry visa (or residence permit), the implementing institutions are the respective diplomatic representations abroad. However, the decision is usually taken by the relevant authorities inside the country. Where the applicant needs a residence permit after arrival, immigration offices and municipal authorities are normally responsible for this decision. In Sweden, the system is centred around the Migration Board (decision-making); migration courts are the next instances. In Italy, the local police station (*Questura - Ufficio Stranieri*) fulfils this function as regards residence permits. In Slovenia, decentralised administrative units in each city take the final decisions on the issuance of residence permits.

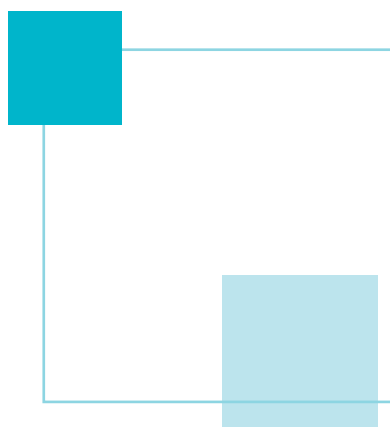
For an overview of legislation and further details regarding legislative acts and respective institutions, please see Annex II.

### 3.2.1

#### Permits issued and institutions involved in the procedure

A majority of Member States and of the countries participating in this study first deliver an entry/long-stay visa to third-country nationals applying for the purpose of studies in the country of application.<sup>71</sup> Following this, residence permits are issued upon entry into the territory of the respective Member State. Only Slovenia and Sweden issue a residence permit to the applicant at the DMCP<sup>72</sup> directly in the country of origin.

Almost all Member States issue one-year, renewable residence permits for third-country students.



<sup>71</sup> Report of the 6 October 2006 meeting of the Migration Directives' Contact Committee in Brussels providing for a structured exchange of views of participating national experts from the Member States on the implementation and application of the Directives. It should be emphasised that it does not have decision-making authority. Legally binding interpretations could only be given by the European Court of Justice.

<sup>72</sup> Diplomatic Missions and Consular Posts.

	Basic procedure		
	Type of permit(s) issued	Validity of permits	Procedure/institutions and Place of issuance
AUSTRIA	At the DMCP in third countries, entry visa are issued		Application in person at the <b>DMCP</b> in home country or country of residence
	<p>Visa C (Schengen) for visits (short-term study/conference etc. or private)</p> <p>Visa D (non Schengen) for visits (short-term study etc. or private)</p> <p>Visa D for 4 months and single entry</p> <p>for the purpose of entry and collecting the Student Residence Permit in Austria (once the Austrian authority has issued a positive decision on the application for a residence permit)</p>	<p>up to 90 days</p> <p>from 91 to max 180 days</p> <p>for study purposes (more than 6 months)</p>	<p>For more then 6 months: application will be forwarded and processed in Austria by the <b>Provincial Governor</b> (Landeshauptmann) or the <b>district administrative authorities</b> (Bezirksverwaltungsbehörden) depending on place of residence</p> <p>If the Austrian authority decides to grant the permit, on application a special “entering-visa” will be issued by DMCP</p> <p>The Ministry of Interior (department III/4) is the appeal instance</p>
	On the territory of AT, student residence permits (RP) are issued (+ Visa D for 4 months to collect it, at DMCP)	<p>RP: Max.1 year, renewable</p> <p>Student permit cannot result in a permanent residence permit</p>	<p>Applications for residence permits are received, pre-checked and forwarded at the DMCP in third countries</p> <p>The residence permit has to be collected in Austria within 6 months</p> <p>Alongside this (irrespective of migration status), everybody must comply with the rules on population registration, registering with the registration office (<i>Meldeamt</i>) in the place of residence within three working days</p>



	Basic procedure		
	Type of permit(s) issued	Validity of permits	Procedure/institutions and Place of issuance
BELGIUM	Long-term visa (Visa D) is issued at DMCP	Long-term visa (+ 3 months)	<p>Visa D: application in person <b>at the DMCP responsible for the country of origin or residence</b>, issued after prior consultation of the Immigration Service</p> <p>Final decision: Federal Public Service Interior – General Directorate of the Immigration Service (Service Public Fédéral Intérieur - Direction générale de l'Office des Etrangers / Federale Overheidsdienst Binnenlandse Zaken - Algemene Directie Vreemdelingenzaken)</p>
	<p>On the territory of BE, RP is issued</p> <p>Certificate of registration (<i>certificat d'inscription</i>)</p> <p>Authorisation of residence: limited to the duration of the studies</p>	<p>RP: 1 year (renewable 1 year respectively)</p> <p>Certificate of registration on the register of foreigners: valid 1 year from the date of issuance</p>	<ul style="list-style-type: none"> <li>• <b>Immigration Service</b> / (Office des Etrangers / Vreemdelingenzaken) register (<i>registre des étrangers / register van de buitenlanders</i>) (CIRE) of the municipality of residence</li> <li>• <b>Within 8 days of arriving</b> in Belgium students must report to the <b>municipality</b> administration of their place of residence to register; the municipality issues the permit (following a check by the local police)</li> <li>• If the visa was based on a confirmation of registration as a regular school pupil or student, the applicant receives a certificate of registration (<i>certificat d'inscription/ inschrijvingscertificaat</i>) on the register for foreigners (<i>registre des étrangers/ register van de buitenlanders</i>) (CIRE)</li> <li>• If the visa was based on a confirmation stating either that the student is admitted to the course or is registered for an entry exam, or that the student has lodged an application to obtain an equivalence of diplomas and of certificates of foreign studies, he/she receives a <b>confirmation of enrolment model A</b> (<i>attestation d'immatriculation du modèle A/ inschrijvingsattest model A</i>). Once the student has provided a new confirmation, the municipal administration issues a registration certificate (<i>certificat d'inscription</i>) at the register for foreigners (<i>registre des étrangers/register van de buitenlanders</i>)<sup>73</sup></li> </ul>

<sup>73</sup> If, under exceptional circumstances, the authorisation for a residence of more than 3 months is requested and delivered in Belgium, the application to the bourgmestre (burgomaster/mayor) of the place of residence is forwarded to and granted by the Immigration Service (as the representative of the relevant minister) based on its discretionary power, and the foreign student is registered in the register (*registre des étrangers*) of the municipality of residence. He/she is given a certificate of registration (*certificat d'inscription*) on this register (CIRE). The procedure whereby an individual residing legally in Belgium at the time of application applies for a residence permit for studies in Belgium is subject to specific circumstances and applies only in very exceptional cases. Normally, the application must always be submitted in the country of origin.



	Basic procedure		
	Type of permit(s) issued	Validity of permits	Procedure/institutions and Place of issuance
GERMANY	Short-term or long-term visa is issued at DMCP	<p>Visa = for 3 months, in case of application of no-response deadline procedure</p> <p>Subject to the explicit approval of the aliens authority (<i>"Ausländerbehörde"</i>), for 1 year or as the authority decides</p>	<p>Application at the German <b>DMCP</b>, which will forward the application for an opinion to the <b>aliens authority</b> (<i>"Ausländerbehörde"</i>) in the town where the relevant university is situated (planned place of residence)</p> <p>Prior approval by the aliens authority (<i>"Ausländerbehörde"</i>) is required for the DMCP to issue the visa</p> <p>Approval is deemed to have been given if the aliens authority does not object to the issue of the visa within three weeks plus 2 working days of the request being sent to the aliens authority (no-response deadline - <i>"Verschweigefristverfahren"</i>)</p>
	On the territory of DE, RP is issued	<p>RP = For study duration (2 years), renewable (max. 2 years)</p> <p>Maximum duration of residence for a foreigner applying for a place to study is 9 months – if admitted to a university during this time, he receives the RP</p>	<p>RP: Aliens authority (<i>"Ausländerbehörde"</i>) in the Länder:</p> <p>After entry and before expiration of visa, the aliens authority issues a residence permit if the conditions are met</p> <p>(Students must notify national authorities that they have arrived in the country)</p>
ITALY	Study visa issued at DMCP	<p>Short-term study visa: max. 90 days</p> <p>Long-term study visa: more than 90 days</p>	Study visa: application at the competent Italian <b>DMCP</b>
	On the territory of IT, RP for study purposes is issued	RP = valid for a max. of 1 year, can be renewed twice (maximum stay of 3 years)	Residence permit at the <b>local police station</b> ( <i>Questura - Ufficio Stranieri</i> ): application within 8 days of arrival

	Basic procedure		
	Type of permit(s) issued	Validity of permits	Procedure/institutions and Place of issuance
<b>SLOVENIA</b>	<p>RP issued at the DMCP (for more than 90 days)</p> <p>Short study programs up to 90 days: C type visa with multiple entry</p>	<p>For study duration (max. 1 year respectively) renewable</p> <p>If the duration of the study programme is less than one year: RP valid for the duration of the study programme</p>	<p>Application for issuing a temporary residence permit to a student at the relevant <b>DMCP</b>, filed on a form prescribed by the Ministry of Interior -&gt; applications for the residence permit for the purpose of study are dealt with as a priority</p> <p>Decision-making institutions: administrative units (units, which were established in the process of decentralising the state administration of the Republic of Slovenia)</p> <p>Residence permits are issued at administrative units and sent to the competent DMCP: the sticker is affixed to the passport by the competent consular officer</p>
<b>SWEDEN</b>	<p>RP issued at the DMCP</p>	<p>Normally 1 year, renewable:</p> <ul style="list-style-type: none"> <li>• usually granted for 1 year at the time if the studies are more than 1 year</li> <li>• for shorter studies granted for the time of study</li> </ul>	<p>Application for a residence permit at the <b>DMCP</b> in home country or country of permanent residence</p> <p>Decisions are in the normal case taken by the <b>Migration Board</b> and issued by the DMCP</p> <p>Further instances: Migration Courts, Migration Court of Appeal<sup>74</sup></p>

<sup>74</sup> Negative decisions on residence permits can be appealed against, but those on visas cannot.

### 3.2.2

#### Role of the embassy<sup>75</sup>

Regarding the procedure for issuing long-term visas or residence permits, most embassies, as has been outlined above, do not have any decision-making role in the procedure; rather it is the national authorities who take the relevant decisions. In such cases, the embassy mainly acts as a “post-box”, i.e. confirming the completeness of the applications, the accuracy of submitted documents and in some cases carrying out interviews with applicants. This is the general procedure for most countries examined; Austria, Germany, Slovenia and Sweden. A different practice occurs in Belgium, where visas for students who have secured a place at a public university can be issued by the embassies without consulting the Immigration Service in Belgium. However, for those going to private universities, consultation with the Immigration Service is mandatory.<sup>76</sup>

Although the embassies do not, in most cases, have decision-making powers, a distinction must be drawn between cases where they fulfil a purely “post-box” function and those where they submit the file and their comments about the case to the national authority. Such information might relate to suspicions about submitted documents or other forms of possible abuse or related information from the interviews, e.g. regarding language knowledge. Most of the consulates visited reported that in special cases the comment of the consulate is submitted together with the file.

However, these comments would not be referred to as recommendations but merely as a communication of the findings in particular cases.

#### Changed procedures – Austria

In Austria, the New Federal Act concerning settlement and residence in Austria (the Settlement and Residence Act –SRA/NAG) has been in force since 2006. These amendments also affect practice on admission of students. The former practice was faster for students: after submitting an application for a residence permit they would apply for and receive a D-visa, valid for

6 months, in the country of application and be able to travel to Austria where they would receive the residence permit. After the legal changes, a decision on the residence permit has to have been taken by the authorities in Austria before a visa type D can be issued in the embassy (the residence permit must be collected right after entry). This waiting period might lead to problems for students at the start of the university semester when they are arranging student rooms, etc. An application for a student residence permit might formerly have been considered by the applicant as an easier way of obtaining a residence permit.

However, it should be noted in this regard that the authorities are instructed to take care to issue the residence permits in time.

## 3.3

### Implementation in practice

This section will outline the major characteristics and requirements of the practical admission procedure for the purpose of studies.

#### 3.3.1

#### Practical organisation of the procedure at the embassy<sup>77</sup>

##### 3.3.1.1 *Special procedures for students*

At the visited DMCPs in the region there was in general no **special “technical” procedure for students**; the same routine applied as for other applicants. More specifically, there were no special queues or counters for students, and in most cases students simply used the relevant standard counters, i.e. for residence permit applications or visa applications, or one counter for business purposes, one for tourist visas and one counter only for residence permits. Most embassies mentioned that it would be difficult to institute specific procedures for students due to limitations of human and technical resources. For example,

<sup>75</sup> Information mainly collected during field visits to the embassies.

<sup>76</sup> In 2006, 55 percent of cases were handled by the embassy in Belgrade directly, 40-45 percent were sent to Brussels.

<sup>77</sup> Information mainly collected from field visits to the embassies.

the Slovenian embassy in Sarajevo pointed out that since there are only two counters (one for visa applications, one for residence permits), there is no specific queue for students. Students in both groups use the same queues as other applicants. However, the procedure for residence permits for the purpose of study is shorter than for other types of residence permits in Slovenia.

### 3.3.1.2 *Access to and information about the procedures*

Many embassies in the region have started working with appointment systems or call centres for applicants to make appointments in order to avoid long queues and waiting times. Among the visited embassies, **call centres** or **appointment systems** exist in the Swedish embassies in Sarajevo (the first embassy in Sarajevo to introduce it, as of 1 January 2007) and Belgrade, the Belgian embassy in Belgrade as well as the Slovenian embassy in Belgrade. For the Swedish embassy, the call centre is organised in-house. The visited embassies in Belgrade have organised the appointment systems with the local telephone companies.

For the Swedish embassy in Sarajevo where the system is organised in-house, the applicants first need to schedule an appointment for handing in the application by calling the embassy. After investigating the intended purpose of going to Sweden and booking the time, the embassy will send the application form together with the relevant information to the applicant's home address. It is not possible to apply without an appointment scheduled in advance. The embassy estimates the waiting time from the phone call to the booked appointment to be about one week. This has been portrayed as positive in the media in Bosnia and Herzegovina. Before the introduction of the call centre, there was an average queuing time of 31 min.

For the embassies in Belgrade having external appointment systems, the applicant will also, after the purpose of the trip has been investigated, receive an appointment and relevant information and the application form is sent to the applicant's address. All applicants need an appointment.<sup>78</sup> For Sweden and Belgium<sup>79</sup> the normal time from the call to the appointment is one week, for Slovenia 2-3 days. However in peak times (during summer) the waiting time might amount to three weeks. The Swedish embassy in Belgrade counteracts long waiting times in "high season" with an extra counter. The embassies report that the waiting time at the embassy, after the appointment system was introduced, has been limited to 10-20 minutes.

For the other visited embassies, the Austrian embassies in Sarajevo and Belgrade mentioned that there are discussions and plans for call centres or appointment systems and in Belgrade it was also pointed out that if the applicants call, some information is given over the phone. Also, the Slovenian embassy in Sarajevo is considering an appointment system for residence permits. It also pointed out that the embassy's phone is answered at all times for information requests. The Slovenian embassy in Sarajevo used to take up to 30 residence permit applications per day; once this limit had been exceeded, the person concerned used to get a date when they could come back to hand in the application. However, this procedure has recently changed: the embassy had to change the fixed number of 30 residence permit applications per day because of complaints and now deals with all applicants the same day they come; the record so far was 150 applications. The number of visa applications to be accepted each day is open.

The German embassy in Belgrade explained that it has not yet been possible to set up a call centre, and also mentioned that there are positive aspects with a system where persons can come to the embassy spontaneously.

<sup>78</sup> The Slovenian embassy in Belgrade also covers some neighbouring countries, i.e. Romania and Bulgaria, and those applicants do not have to make an appointment before coming to the embassy.

<sup>79</sup> All applicants have to have an appointment.

### 3.3.2 Interviews<sup>80</sup>

Most consulates perform a short interview (as required in almost all cases regarding short-term visas, according to the CCI) also for long-term visa and residence permits. If necessary, a more in-depth interview is held (e.g. if abuse is suspected). During the short interview, questions are asked regarding, for example, the purpose and motivation of the visit and what the individual plans to do upon completion of their studies; language knowledge is sometimes also addressed. However, the Swedish embassy in Sarajevo, for example, mentioned that the focus in the case of residence permits is on documentation. The Belgian embassy in Belgrade explained that interviews are held with those students that do not have scholarships.

### 3.3.3 Criteria as specified in law

The major common criterion for entry for the purpose of study, as set out in the respective laws in the countries reviewed, is that the applicant has been admitted to and has received notification of acceptance to a university or a higher education institution in the country, in other words that he/she has academic qualifications to study in the respective country. In many countries this includes admission to preparatory measures as well as studies for higher education.

Criteria might also include sufficient language knowledge. In Germany, if the academic conditions as such are fulfilled, the necessary language knowledge for pursuing the selected studies can also be acquired in language courses in Germany.

Another common criterion is that applicants must show that they have sufficient financial means of subsistence at their disposal for the period of study and to finance any tuition fees. How this is demonstrated, the amount that has to be proven as well as other necessary documents will be outlined below.

In addition, Italy also requires the fulfilment of some criteria linked to return.

### 3.3.4 Documents needed

The documents required of the applicants for the purpose of study in the countries participating in the study are rather similar, sometimes only varying in details. In general, they consist of:

- › Valid travel document (passport)<sup>81</sup>
- › Confirmation of admission to a university or other higher education institution
- › Proof of sufficient secured financial means

In **Belgium and Sweden**<sup>82</sup>, the confirmation of acceptance to an education institution must, as a rule, relate to full-time studies.<sup>83</sup> In Slovenia, students in international education programmes also need an enrolment certificate issued by CMEPIUS<sup>84</sup> or other authorised educational institutions.

The amount necessary to prove that applicants have sufficient financial means at their disposal varies considerably in the different countries, from €350.57/month<sup>85</sup> (Italy) to approximately €790/month<sup>86</sup>

<sup>80</sup> Information mainly collected from field visits to the embassies.

<sup>81</sup> In some countries, a minimum further period of validity of the travel document is required, i.e. in Belgium one year; in Austria, Italy and Slovenia the period of validity has to exceed the duration of the intended stay by at least three months.

<sup>82</sup> In Sweden this means 20 credits per term (special conditions apply to doctoral students).

<sup>83</sup> However, in Belgium the confirmation may relate to part-time studies if the foreigner can justify that this education will constitute a principal activity and is designed to prepare for or supplement a full-time education.

<sup>84</sup> In 2003 the Slovenian Government established an institute dealing with technical issues relating to study programmes in Slovenia for foreign students called CMEPIUS (Centre of the Republic of Slovenia for Mobility and European Education and Training Programs). See also sections 3.2.10. "Cooperation with universities" and 4. "Good Practices".

<sup>85</sup> For 12 months a year.

<sup>86</sup> For 10 months a year.

(Sweden<sup>87</sup>). In Austria, separate rules apply to students below and above 24 years of age; as from 1 January 2007, the former group has to prove that they have € 400.94/month, the latter €726/month.<sup>88</sup> The relevant evidence can be produced by bank account statements, confirmation of scholarship, guarantee by a sponsor or similar.<sup>89</sup> In Belgium, any funds which the foreigner can procure through legal paid work (employed or self-employed) outside the time normally devoted to the studies will also be taken into account.<sup>90</sup> One additional factor related to the administrative practice in Sweden is that the applicant has to have the whole amount required for the study year in his/her bank account at the time of the application.<sup>91</sup> This was noted by the Swedish government as a circumstance that might conflict with the aim of promoting the entry of foreign students set out in Directive 2004/114/EC. It was proposed that this practice be reviewed by means of government instructions.<sup>92</sup> On the other hand, if applicants can show, for example, that they will receive free accommodation and/or food, the monthly amount may be reduced.<sup>93</sup>

#### Proof of means of subsistence – additional details

**Austrian embassy in Sarajevo:** Means of subsistence for one year (12 months) would normally be proved by showing a bank account containing approximately €5,000 (below 24 years of age) or approximately €9,000 (above 24 years of age). (It is normally easy for Bosnian students to provide proof of a place to stay in Austria, due to the big Ex-Yugoslav community in Austria.)

**Swedish embassy in Belgrade:** On the one hand, means of subsistence to be shown for Sweden are rather high. On the other hand, studying in Sweden is tuition free. In addition, if there is a sponsor, the means of subsistence requirement may be reduced.

**Slovenian embassy in Belgrade:** The minimum means of subsistence per month to be proved is €205.57.

**German embassy in Belgrade:** The student usually has to have an account in Germany; it is not necessary to present the full sum needed for one year at once. Furthermore, applicants must submit proof of their financial status, e.g. parents' salary statements and their guarantee to bear the applicant's costs. It is up to the applicant to find out the rules for the particular federal state in which he/she is applying. The costs and required proof of means varies depending on the federal state in which the student is studying. The embassy is only responsible for technical visa-related issues.

87 One of the conditions for being granted a residence permit for studies by the Swedish Immigration Board (Migrationsverket) is that you must prove that you will have enough money to cover your whole stay in Sweden. The minimum sum required by the Swedish Immigration Board used to be SEK 6,300 per month (approx €680) for at least 10 months of the year if you plan to study for a full year. From 1 January 2007, approximately €790 (SEK 7,300) is required. (Amounts in euro based on exchange rate of 14 May 2007.) Individuals intending to study for one year or more must show that they can support themselves for 10 months per year.

Example: if one intends to study for:

18 months one must have SEK 109,500 (15 x SEK 7,300)

24 months you must have SEK 146,000 (20 x SEK 7,300)

See guide for students at [www.studyinsweden.se](http://www.studyinsweden.se)

and [http://www.studyinsweden.se/templates/cs/Article\\_\\_\\_\\_\\_4999.aspx](http://www.studyinsweden.se/templates/cs/Article_____4999.aspx) and information available at <http://www.migrationsverket.se/english.jsp?english/estudier/estudy.jsp> and the fact sheet on residence permit for students – university/college (including doctoral students), March 2007, available at [http://www.migrationsverket.se/infomaterial/bob/sokande/studier/utun\\_en.pdf](http://www.migrationsverket.se/infomaterial/bob/sokande/studier/utun_en.pdf).

88 In Germany, proof of secured financial means of subsistence must total at least €585 per month and €7,020 per year for the first year of study. In Slovenia, students applying for a residence permit must also be in possession of sufficient funds for subsistence during their stay in the country, or their subsistence must be otherwise guaranteed, i.e. at least the basic minimum monthly income in the Republic of Slovenia (if not defined differently on a case by case basis).

89 In Italy, such evidence may be given by personal or family resources or means of economic guarantees provided by: Italian creditworthy institutions and entities, foreign governments or foreign institutions and bodies regarded as reliable by the relevant Italian DMCP. See also Article 7(1)(b) of the Directive 2004/114/EC of 13 December 2004 - Member States have a certain liberty in applying this provision.

90 The minimum means of subsistence for foreigners who wish to study in Belgium is established each year by Royal Decree {2005-2006: €513}. It is proved by: confirmation of scholarship; guarantee by a sponsor; the money which the foreigner can procure through legal paid work (employed or self-employed) outside the time normally devoted to studies) will also be taken into account; finally, the student's personal means are also taken into account as long as they are sufficient and regular (e.g. savings, annuities or pensions proved by bank statements which show that the student's bank account is regularly credited).

91 For instance, being awarded a loan is not enough on its own; the actual amount must have been transferred to the respective account.

92 Government proposal regarding inter alia the transposition of Directive 2004/114/EC (Regeringens Proposition 2005/06:129).

93 For short-term visas, the applicant needs funds totalling €40 per day and an invitation letter (with proof of income of the inviting person).

In **Austria, Germany and Italy**, proof of adequate health/sickness insurance is needed<sup>94</sup> as well as documents providing proof of accommodation.<sup>95</sup> **Slovenia** also requires proof of health insurance<sup>96</sup>, while **Sweden** has introduced (from the start of 2007) an obligation to provide comprehensive health insurance<sup>97</sup> following an amendment to the Aliens Act (in accordance with Directive 2004/114/EC).<sup>98</sup>

For an application to Austria, a birth certificate (in original and copy) is also needed. Furthermore, in the case of permit renewal, proof of completion of studies (academic transcripts) is requested: 8 week hours/16 ECTS<sup>99</sup> points per study year.

An extract from the criminal record dating back no more than 6 months is required for **Austria**<sup>100</sup>, **Belgium**<sup>101</sup> and **Slovenia**<sup>102</sup>.

Belgium also requires a medical certificate showing that the applicant is not affected by certain diseases or infirmities.

The willingness to return is emphasised in some countries. In Italy, an applicant has to possess the necessary funds for repatriation to the country of origin or a pre-purchased valid return-ticket.

Some countries have specifically indicated requirements relating to translation and notarisation. For applications to Austria, documents have to be provided in original and copy, documents that are not in German or English have to be provided in an authorised translation and foreign documents also have to be certified. Similarly, in Slovenia, Slovenian translations of all supporting documents can be requested, with the translation certified by a notary.<sup>103</sup>

Please see Annex III for further details on necessary supporting documents.

94 As outlined in the report of the 6 October 2006 meeting of the Migration Directives' Contact Committee, it should be noted that sickness insurance is also one of the harmonisation requirements of Directive 2004/114/EC of 13 December 2004, which allows for the proper functioning of intra-Community mobility provided by the Directive.

In this context, according to Article 7(2) "[s]tudents who automatically qualify for sickness insurance in respect of all risks normally covered for the nationals of the Member State concerned as a result of enrolment at an establishment shall be presumed to meet the condition of Article 6(1)(c)."

For the vast majority of Member States, an official letter by the inviting organisation should be enough to confirm fulfilment of the sickness insurance condition by third country students. It was stressed, however, that in some situations the national authorities might ask for direct proof (e.g. insurance card, in Austria letter from insurance company).

95 I.e. through rental contract in Austria.

96 As mentioned above, medical insurance for holders of CMEPIUS enrolment certificates is arranged at the time of enrolment; no additional travel medical insurance is needed.

97 However, this only applies to university/college studies lasting less than one year.

98 Government proposal regarding inter alia the transposition of Directive 2004/114/EC (Regeringens Proposition 2005/06:129) page 64.

99 European Credit Transfer System.

100 In original and copy - there is an exception for certain doctoral students. The submission of this document is not obligatory, but nevertheless the Austrian authorities almost always ask for it - so it is recommended to submit this document to avoid delay in processing the application.

101 I.e. a clearance certificate stating the absence of criminal convictions for crimes or offences of common law for the last five years, if the individual concerned is over 21.

102 State Portal of the Republic of Slovenia, FAQs, available at [http://e-uprava.gov.si/e-uprava/en/faqKategorijaVprasanje.euprava?faq\\_id=70&faq.vprasanje.id=364](http://e-uprava.gov.si/e-uprava/en/faqKategorijaVprasanje.euprava?faq_id=70&faq.vprasanje.id=364).

103 The final decision on required documentation rests to a certain extent with the Diplomatic Mission consular official who is in contact with the applicant (interview, etc.). As regards translation, the documentation should be translated into a language known by the consular official. The person concerned can make an unofficial translation into the official language for the needs of the administrative unit. However, this is not necessary if the documentation is in a language known by the officer. The administrative unit is also allowed to request an official translation.



*Basic documents to be submitted in all cases:*

	AUSTRIA	BELGIUM	GERMANY	ITALY	SLOVENIA	SWEDEN
Valid travel document/ Passport	√	√	√	√	√	√
Birth certificate	√					
Proof of admission to university or other education institution	√	√	√	√	√	√
Evidence of necessary academic qualifications			√			
Sufficient financial means of subsistence	√	√	√	√	√	√
Health insurance	√		√	√	√	√
Medical certificate		√				
Proof of accommodation	√		√	√		
Criminal record	√	√			√	
Funds for repatriation / return-ticket				√		

### 3.3.5 Other requirements

In some countries participating in the study, the academic qualifications set out as eligibility conditions are outlined in detail as well as the required evidence that the applicant has the necessary academic qualifications to take up studies:

In Germany, for instance, foreign students who want apply for study at a university in general need to possess a high-school graduation certificate, which entitles

#### German embassy in Belgrade

Supporting documents of previous academic credentials are also needed. Furthermore, the applicant to Germany (Belgrade and Sarajevo) has to show existent German language knowledge or evidence of a planned German intensive course, i.e. if the language knowledge is insufficient prospective students are expected to take a German course before starting their studies (There are available combination courses (language course and studies). However, it is a priority to increase student exchange and for this reason, not too much emphasis is put on language knowledge).

them to study in the home country and in Germany. Those whose mother tongue is not German may also have to pass a German language test. Not all foreign high-school graduation certificates are accepted<sup>104</sup> (apart from most EU states, certificates from some African and Asian states are accepted). In some cases, high school graduates from particular countries can only study in Germany after passing

a so-called assessment test (*Feststellungsprüfung*<sup>105</sup>).<sup>106</sup> Alternatively, proof of one or two successfully completed academic years of study at a higher education institution in the home country may also count. Students who have to sit the test usually attend a one-year preparation course (*Studienkolleg*) where the teaching language is German. Graduates with a bachelor's degree from their

home country are generally admitted to German higher education institutions. However, not all bachelor's degrees allow for admission to a master's course.<sup>107</sup>

In Italy, any individual with a high school graduation certificate and good command of the Italian language is eligible to register at an Italian higher education institution.<sup>108</sup>

### 3.3.6 Practical aspects related to the procedure<sup>109</sup>

To prove student status, the visited embassies in Belgrade and Sarajevo usually ask students for a so-called student book or an index card. For example the German embassy in Belgrade mentioned that for proving status as a student the application must include, apart from an index card, an accompanying letter from the individual's university in Serbia. No other proof is needed if the index card does not give rise to suspicions, i.e. the student has been enrolled at the university for an extremely long time.

#### Austrian embassy in Belgrade

For **short-term visas** (e.g. tourist travels, for visits): apart from the student's book, students (sometimes – not as a general rule) need to show a print-out from the university indicating that they are studying actively (*Semesterbestätigung*) and showing the results of their study. Many students do not even know that they can obtain this print-out, but when they ask at the universities it is easily obtainable from computer records. Furthermore, a guarantee letter (*Verpflichtungserklärung*) is needed for short-term visas.

<sup>104</sup> i.e. considered only conditionally comparable with a German qualification. Responsibility for deciding whether or not a foreign higher education entrance qualification is equivalent to or only conditionally comparable to the German qualification lies with the Ministry of Education and Cultural Affairs in the German federal states and is made on the basis of evaluation standards.

<sup>105</sup> or in full: "Prüfung zur Feststellung der Eignung ausländischer Studienbewerber für die Aufnahme eines Studiums an Hochschulen in der Bundesrepublik Deutschland".

<sup>106</sup> The Western Balkan countries do all fall under this requirement category.

<sup>107</sup> See Deutscher Akademischer Austauschdienst (DAAD): [www.daad.de](http://www.daad.de) or Suter, B. and Jandl, M., (2006), Comparative Study on Policies towards Foreign Graduates. Study on Admission and Retention Policies towards Foreign Students in Industrialised Countries, International Centre for Migration Policy Development, Vienna, 2006, ISBN: 3-900411-07-7, based on information provided by the DAAD, 2006.

<sup>108</sup> Suter, B. and Jandl, M., (2006), Comparative Study on Policies towards Foreign Graduates. Study on Admission and Retention Policies towards Foreign Students in Industrialised Countries, International Centre for Migration Policy Development, Vienna, 2006, ISBN: 3-900411-07-7.

<sup>109</sup> Information mainly retrieved from field visits to the embassies.

The Slovenian embassy in Sarajevo mentioned that sometimes, when required, the embassy contacts education facilities. The student index is requested and sometimes a check is performed to ensure that the school really exists (online) and the person is actually enrolled. Return tickets are not requested in the procedure; there would be no point as most people travel by private vehicle or bus (bus tickets would also be very easy to falsify).

### 3.3.7 Fees

Handling fees, to be paid upon submission of the application (usually in the DMCP, sometimes only when applying for residence permits inside the country), vary substantially among the countries participating in the study: fees for a visa/residence permit (as applicable) needed for studies range at present from €35 to more than €100.

	AUSTRIA	BELGIUM	GERMANY	SLOVENIA	SWEDEN
<b>Fees charged</b>	<p>Visa up to 3 months: <b>€ 35</b> (WB)</p> <p>Visa longer then 3 months: <b>€75</b></p> <p>Issuance of visa for students up to 6 months without fees if application for residence permit has already been submitted</p> <p><b>100 €</b> for the residence title (in future, a further €10 for collection of personal data such as fingerprints)</p>	<p>Visa up to 3 months: <b>€35</b> (WB)</p> <p>The handling fee for a visa D, whatever the purpose of residence, is at present <b>€50</b></p>	<p>Visa fees up to 3 months: <b>€35</b> (WB)</p> <p>Residence permit for up to 1 year: <b>€50</b></p> <p>Residence permit for more then 1 year: <b>€60</b></p>	<p>Visa up to 3 months: <b>€35</b><sup>110</sup></p> <p>Administrative fee of <b>€80</b> (used to be SIT 17,850)</p> <p>Visa applicants and residence permit applicants from CMEPIUS programmes are exempt from visa fee and administrative fee</p>	<p>Visa up to 3 months: <b>€35</b> (WB)</p> <p>Respective application fee: SEK 1,000 (approx. <b>€108</b>)<sup>111</sup></p>

<sup>110</sup> In general, visa fees are €60; however there is an exception for citizens of the Western Balkans (€35) and under a bilateral agreement citizens of BiH are exempt from the visa fee until the end of 2008 (when the visa facilitation agreements come into force).

<sup>111</sup> Note: on 30 January 2006, the evaluation committee for the introduction of student fees proposed to introduce tuition fees for students from outside the EU/EEA. The fees will cover all costs related to the foreigner's education. The committee suggests increasing scholarship opportunities for international students, continuing to develop new courses and programmes attractive to foreign students and increasing the marketing efforts of the Swedish higher education system. However, studies at doctoral level are not affected by the tuition fee reform.

### 3.3.8 Time-line

Austria and Sweden<sup>112</sup> report that processing of applications takes on average 6 to 8 weeks.

In general, many countries report that the length of the procedure for issuing residence permits to third country students does not exceed 3 months.<sup>113</sup>

	AUSTRIA	BELGIUM	GERMANY	SLOVENIA	SWEDEN
Time-limit for processing the application	<p>On average between 6 and 8 weeks</p> <p>At least 1 month processing time is needed since all applications are to be sent to Austria</p> <p>For stay of more than 6 months: recommended to apply at least 2-3 months before intended entry</p> <p>There are no accelerated procedures in this regard (only for the highly skilled, where the procedure has to be completed within 6 weeks)</p>	<p>The law does not set a time limit within which the decision to grant or refuse the visa has to be notified to the applicant</p> <p>However, based on the principles of good administration, including the <b>principle of reasonable time limits</b>, any delay in reaching a decision which would put the student in difficulties from the start of the academic year should be avoided</p>	<p>The duration of processing visa applications at German representations abroad varies</p> <p>To speed up the visa procedure, the no-response deadline procedure ("<i>Verschweige-fristverfahren</i>") can be used: after 3 weeks and 2 days of no response from the aliens authority, this is considered as an approval</p> <p>ASAP (subject to public security checks)</p> <p>Regarding the time for issuing a residence permit – NA</p>	<p>The usual time for a decision defined by the Administrative Act is 2 months after the application is submitted</p> <p>Accelerated procedure: article 33/4 of the Alien Act provides for special procedures (priority treatment) for issuing residence permits to students</p>	<p>The issuing of a student visa usually takes between 6 and 8 weeks</p> <p>This year applications increased by around 30% so that the migration board has had problems keeping to the set processing times</p>

<sup>112</sup> The Swedish Migration Board points out that applicants cannot expect to receive a decision in time for the start of their programme if the application arrives at the Migration Board less than six weeks before the programme starts, even if the applicant received late notification of enrolment. See fact sheet on residence permit for students – university/college (including doctoral students), March 2007, available at [http://www.migrationsverket.se/infomaterial/bob/sokande/studier/utun\\_en.pdf](http://www.migrationsverket.se/infomaterial/bob/sokande/studier/utun_en.pdf).

<sup>113</sup> Report of the 6 October 2006 meeting of the Migration Directives' Contact Committee in Brussels.

There are no specific accelerated procedures concerning the admission of third country nationals for the purpose of study in **Austria, Belgium and Sweden**. In Slovenia however, an accelerated procedure is provided for in Article 33/4 of the Alien Act, which lays down special procedures (priority treatment) for issuing residence permits to students. Students applying for visas or resident permits at the DMCP are usually given priority treatment. The same practice is used by authorised authorities in the country - the length of the procedure depends on the number of applications to be dealt with by the respective Administrative Unit.<sup>114</sup>

### Interview with CMEPIUS

#### Problematic aspects related to time-line

The main problem related to the admission procedure is still the time aspect. Even with a certificate and other conditions fulfilled, it might still take time for the student to obtain the residence permit, and sometimes it does not arrive in time. The procedure might take up to two months. For example, for the summer semester, starting 10 February, students might not receive their documents until mid-January. It is problematic that students might have to travel to the embassy more than once (to submit the application, and to pick up the permit, maybe also to submit missing documents). Some experts in practice consider it problematic that students cannot enter Slovenia on a visa and pick up the residence permit in Slovenia but that the permit must be issued already in the country of origin.<sup>115</sup>

#### 3.3.8.1 Practical aspects related to the timeframe<sup>116</sup>

Discussing the practical arrangements in embassies and the time it takes to receive a decision on a residence permit, most embassies point out that applications for student visas are handled as quickly as possible, the aim being that students should be able to start their education on time. Different **estimated average times** are mentioned:

› The Swedish embassy in Belgrade explained that the average timeframe for the procedure relating to residence permits for the purpose of study is 6 weeks. The Swedish embassy in Belgrade explained

that, in general, cases are handled by arrival date at the Migration Board and that the reputation of the university has no impact on the processing time. However, applications from students with SIDA scholarships are fast-tracked.

- › The Swedish embassy in Sarajevo mentioned that the procedure is rather short as there are not so many cases.
- › For Germany, the procedure takes an average of three weeks and two working days. This waiting period is always applicable: if the relevant authority in Germany does not react during this time, the visa is issued (no-response deadline - "Schweigefristverfahren"). If the national authority does react, the response from the authority has to be awaited. In most cases the national authorities do not react, however, this (and the timeframe of the procedure in general) depends on which authority is involved. Still, as the procedure might take up to six weeks for courses over 3 months, it is recommended to hand in the file within this time.
- › The Belgian embassy in Belgrade explained that the timeframe for issuing student visas differs depends on whether the embassy can issue the visa without consultation or not. If the visa is issued without consultation, the procedure only takes a few days (if the file is complete). If consultation is needed, the paper file is sent to Brussels and the procedure might take 3-4 months.
- › The Slovenian system is decentralised; this affects the length of the procedure depending on which administrative unit is dealing with the case. It can take up to 4 weeks but is usually shorter. However, the administrative unit in Ljubljana, for example, is relatively busy.
- › The Austrian embassy in Belgrade indicated that the procedure usually takes 2-4 weeks, although students should allow for more time.

<sup>114</sup> The unit in Ljubljana is for instance very busy in this regard.

<sup>115</sup> Interview with CMEPIUS, Ljubljana, in January 2007.

<sup>116</sup> Information mainly collected from field visits to the embassies.

► In Sarajevo, the Austrian embassy mentioned that the former practice was faster for students as they would, after submitting an application for a residence permit, apply for and receive a D-visa, valid for 6 months, in the country of application and be able to travel to Austria where they would receive the residence permit. After the legal changes, the decision on the residence permit must have been taken by the authorities in Austria before a visa type D can be issued in the embassy (the residence permit has to be collected right after entry). This waiting period might lead to problems for students at the start of the university semester when they are arranging student rooms, etc. However, it should be noted in this regard, that the authorities are instructed to take care to issue the residence permits in time.

Some embassies, such as the Swedish embassy in Belgrade and the Austrian embassy in Sarajevo, explained that in **special urgent cases** the application can be faxed to the national authorities. Both the visited embassies of Slovenia mentioned that in urgent cases the procedure could be shortened (the embassy in Belgrade specified that the procedure can be shortened to 10 days in such cases). Furthermore, most embassies explained that applications are sent each week by the diplomatic post to the relevant national authority; each Friday, for instance, in the case of the Slovenian embassy. Applicants can pay DHL if they so wish, which would shorten the procedure to about 1 week (the average time line for the procedure of a residence permit is about 3 weeks).

Slovenia is considering an **electronic system** for visas, which would save the time it takes to send the paper file to Slovenia and back. For Germany, applications are sent electronically to the relevant foreigners' authorities in Germany, not by diplomatic post as most other embassies reported. For Austria, the answers from the national authorities are received electronically even though the paper file with the application is sent by diplomatic post.

However, on-line application systems, like the one tested by Sweden, were not considered an option by most embassies, as interviews have to be held and

documentation might still have to be double-checked.

Most embassies highlighted the importance of the file being **complete** in order to save time. To complete the application with additional documents is very time consuming. Furthermore, many student applications are made at the **last minute**, which might also lead to delays. Before the **start of the school year**, systems usually get overloaded. In general, most applications come in summer. Sometimes students only receive the admission letter from the universities at a later stage, which of course delays the procedure.

The Swedish embassy in Belgrade mentioned a few interesting aspects regarding the timeframe. For example, in "high season" long waiting times are counteracted by opening an extra counter at the embassy. However, despite action by the embassy, the main cause for delays remains the fact that the Migration Board is sometimes overloaded with cases. To tackle this problem, the Migration Board has started to delegate part of the processing of cases to other units in the Board at peak times, to avoid long delays for the students. However, delays are still possible due to a combination of causes; on the one hand the university admission letter might come late and on the other hand the Migration Board decision might also be late, with the result that the procedure is completed too late for the start of the university term.

As an interesting contrast, the Slovenian embassies explained that short-term visas are normally issued within a very short time in Belgrade and Sarajevo. In Sarajevo, the issuing time used to be 1 day, but has now been extended to 3-5 days. In Belgrade, short-term visas are regularly issued within 2 working days, and in urgent cases the same day.

### 3.3.9

#### Monitoring, revocation and renewal

In all participating countries, **monitoring** of the fulfilment of residence permit conditions only takes place in response to an application for a **renewal** of the residence permit.<sup>117</sup> At this stage, it is assessed whether the student

<sup>117</sup> Filed application for an extension of the permit with the relevant authority before the permit expires.

still fulfils the conditions for the residence permit for the following academic year. This practice was described for **Austria, Belgium<sup>118</sup>, Germany, Italy, Slovenia and Sweden**. In **Austria**, the requirement to present a successful study record (academic transcripts) from the previous year<sup>119</sup> in order to extend the study permit was introduced in 2003. Similarly in **Germany**, evidence on the progress of the studies may be requested when renewing a residence permit. The standard duration of study should not be exceeded by 3 terms. The period of study, including preparatory measures for the course of study, has to be completed within 10 years. Moreover, the universities are asked by the foreigners' authorities, before these limits are reached, to forecast progress and completion of studies. In **Italy**, proof is required that the student has sat a certain number of exams when the application for extension is filed at the *Questura*.<sup>120</sup> Finally, in **Sweden**, when applying for a residence permit extension, study results are checked along with students' success at supporting themselves.

In this context, it can be noted that the condition of "acceptable progress" in studies specified by Article 12(2) (b) of the Directive 2004/114/EC is verified by national authorities in many countries by the fact that the student has been admitted to further semesters of studies following positive exam results. It should be noted that Member States have some room for manoeuvre in applying this provision.<sup>121</sup>

It can also be observed that study results also play a major role in revocation of the residence permit in several of the countries participating in the study, as will be described below.

As regards preconditions for **revocation** of the residence permit, in **Austria** if a reason for rejection occurs retroactively, an expulsion is possible and as a result the residence permit becomes void. Possible reasons for rejection in this context would be:

- ▶ If the foreigner does not submit due proof of academic progress.
- ▶ If the foreigner has committed a criminal act, a revocation is possible

In **Belgium<sup>122</sup>**, foreigners allowed to reside in Belgium for the purpose of studies can be ordered to leave the country if they extend their studies excessively taking into account the results achieved, if they undertake paid work which manifestly hinders the normal pursuit of the studies<sup>123</sup> or if they fail to attend exams without valid reason.<sup>124</sup> Students are considered to prolong their studies excessively taking into account the results achieved if<sup>125</sup>:

- ▶ they have not passed a single exam during three consecutive school or academic years or at least two exams in the last four years of study for the same course;
- ▶ they have started at least two study courses with different orientations without having passed a single exam during four consecutive school or academic years or at least two exams during the last five years of study;
- ▶ they have started at least three study courses with different orientations without having obtained any final study diploma from the preceding two courses.

<sup>118</sup> If students do not provide the documents proving that they fulfil the conditions for residence as students for the following academic year, the municipality administration issues a document (as per the model in Annex 29 of the Royal Decree of 8 October 1981 on access to the territory and the removal of foreigners) requiring them to put their situation in order before their residence permit expires.

<sup>119</sup> At least 16 ECTS per academic year, i.e. 8 hours per week.

<sup>120</sup> Study in Italy: Italian Higher Education for International Students. Online: [www.study-in-italy.it/studying/info-20.html](http://www.study-in-italy.it/studying/info-20.html).

<sup>121</sup> Report of the 6 October 2006 meeting of the Migration Directives' Contact Committee.

<sup>122</sup> One Directorate of the Office for foreigners (Direction générale de l'Office des Etrangers - Service Public Fédéral Intérieur), [www.Dofi.fgov.be](http://www.Dofi.fgov.be), deals with long-term residence of more than 3 months: one of its two divisions covers the authorisation of residence permits for the purpose of studies and the follow-up of students (as of entry into the country): it monitors the progress of studies and checks the issuance of residence documents, grants changes of status and is responsible for the removal of students who no longer fulfil the conditions necessary for residence.

<sup>123</sup> Article 61(1) of the Law of 15 December 1980.

<sup>124</sup> Article 61(3) of the Law of 15 December 1980.

<sup>125</sup> Specified in Article 103/2 of the Royal Decree (arrêté royal) of 8 October 1981.



It is interesting to note that universities are involved to a certain degree in this assessment. In order to assess excessive duration of studies taking into account the results achieved, the opinion of the authorities of the institution in which the student is and was enrolled (during the preceding school or academic year) has to be obtained. It is assumed that if a student is failing exams, this is usually due to irregular attendance of classes/lectures. The stated aim of the above regulations is therefore that classes should be attended regularly.<sup>126</sup>

Finally, an order to leave the territory can be given to foreigners' authorised to reside in Belgium for the purpose of studies in the following cases<sup>127</sup>:

1. if they extend their stay beyond the time of their studies and are no longer in possession of a proper residence permit;
2. if they can no longer provide proof of sufficient means of subsistence;
3. if they or a family member have obtained an allowance granted by a public social welfare centre.

In **Germany**, besides the general reasons for termination of residence, e.g. if the student cannot secure means of subsistence or if there are reasons for expulsion on the grounds of a criminal offence having been committed, the residence permit will not be renewed or will be retroactively limited, if the student is no longer engaged in studies.

In **Slovenia**, the general reasons for annulling a residence permit<sup>128</sup> apply, i.e. if it is subsequently established that there were reasons for refusing to issue a permit; reasons for refusing to issue a permit arise subsequently; the

alien concerned intentionally submitted incorrect data on his/her identity or other inaccurate data, or if he/she intentionally concealed circumstances which have a bearing on the issuing of a permit.<sup>129</sup>

In **Sweden**, if the applicant knowingly provided incorrect information or knowingly concealed circumstances of importance for the residence permit, the residence permit may be revoked.<sup>130</sup> The Migration Board can revoke the residence permit if, for example, the person concerned does not register at the place of learning, stops studying or does not satisfy the support requirement.<sup>131</sup> A revocation can only take place if there are special grounds for it and only on condition that entry to Sweden has not taken place.<sup>132</sup> Special grounds may exist when the conditions for granting the permission have changed substantially.<sup>133</sup> Such changes could for example entail that a study place, leading to a residence permit for guest studies, has been revoked or is no longer valid for other reasons. Another point to note is that under a bill put forward by the government in 2005<sup>134</sup> the permit should also be revoked if, for example, the student has discontinued his/her studies.

In general, residence permits for studies are often **renewable** for 1 year at a time in the countries participating in this study. The application for extension can be submitted to the immigration authorities while in the country, at any time prior to the date of expiry of the permit.

In **Germany**, however, the residence permit can be renewed for up to two years if the purpose of the stay has not yet been achieved and is achievable within a reasonable period of time.<sup>135</sup> The standard study duration should still not exceed 3 terms. The course of study, including preparatory measures for the course of study, has to be completed within 10 years.

<sup>126</sup> See <http://www.dofi.fgov.be/fr/publicaties/parlementaire%20vragen/294.pdf>.

<sup>127</sup> Article 61(2) of the Law of 15 December 1980.

<sup>128</sup> Under Article 44 of the Aliens Act (*razveljavitev dovoljenja za prebivanje*).

<sup>129</sup> An alien may file an appeal against the decision with the ministry of the interior within eight days of the decision being handed down.

<sup>130</sup> According to chapter 7, section 1 of the Aliens Act.

<sup>131</sup> Swedish Migration Board fact sheet on residence permit for students – university/college (including doctoral students), March 2007, available at [http://www.migrationsverket.se/infomaterial/bob/sokande/studier/utun\\_en.pdf](http://www.migrationsverket.se/infomaterial/bob/sokande/studier/utun_en.pdf).

<sup>132</sup> According to chapter 7, section 2 of the Aliens Act:

over and above what is stated in Section 1, residence permits may be withdrawn if there are special grounds for this. A residence permit, however, may only be withdrawn under the first paragraph from an alien who has not yet entered Sweden.

<sup>133</sup> Prop. 1988/89:86 s. 63.

<sup>134</sup> Government proposal regarding inter alia the transposition of Directive 2004/114/EC (Regeringens Proposition 2005/06:129).

<sup>135</sup> Residence Act, Section 16 Further education; language courses; school education (1).

As mentioned above, evidence of study progress<sup>136</sup> (academic transcripts) from the previous year is requested in most cases, to assess whether the student still fulfils the conditions of residence for the following academic year.<sup>137</sup> Nevertheless, minimum study record requirements vary in national practice: in **Austria**, for instance, at least 16 ECTS credit points per academic year<sup>138</sup> are requested, whereas in Italy both study visa and residence permits<sup>139</sup> are renewed for students who have passed one exam in the first year of their degree programmes and two exams at least in the following years, and earned the number of credits specified by the institutions. The residence permit may also be renewed for students who have passed only one exam, subject to documentary evidence of a state of very poor health or other serious grounds. However, residence permits cannot be issued for more than 3 years beyond the legal length of the degree course concerned.<sup>140</sup>

As regards **Sweden**, students must also confirm that they have regularly received money to support them during their time in Sweden. This can be done by means of a bank statement or similar document.<sup>141</sup>

Moreover, in **Austria**, students who signed an integration agreement when they first applied for a residence permit may also have to produce proof of German proficiency or of having attended an integration course.

### Slovenia

Approximately one third of the students use a possibility to extend their grant and residence permit to stay on for additional time in Slovenia (CMEPIUS interview).

As regards **conditions for changes to permits for other purposes**, in some countries it is possible to apply for a change of status while in the country

if the respective conditions are fulfilled and the application is filed before expiry of the legal stay. This is the case for example in **Belgium** and **Slovenia**.<sup>142</sup> In **Austria**, foreign students can in some cases obtain a permanent residence permit while still studying, provided that they qualify as “key personnel”<sup>143</sup> In theory, such a change of purpose (e.g. from student to “key personnel” or researcher) is possible while in the country. However, it must be applied for before the permit expires. That is to say, the status of the applicant does not in itself change the purpose of residence. If the student permit has already expired, the application must be filed from abroad (unless the stay is legal on another ground).

In **Sweden**, a change of status from guest student to worker can take place under certain conditions, and if the applicant passes an employment market evaluation. The Swedish employment market authorities have a decisive influence on such applications. The precondition is thus that there is an offer of employment that is supported by the Swedish employment market authorities.

On the other hand, in **Germany** as a general rule, no residence permit for another purpose of residence shall be granted or extended during the stay, unless a legal entitlement applies: i.e. as long as the studies are not completed, a residence permit for another purpose can in principle be granted. The only exception is in the case

### Sweden

It is also possible for students to change their status after the studies to residence for example, based on a relationship. On the other hand, Sweden does not have a so called “talent year” as in some other countries, where the person can stay on for some time after the studies on the search for a job (Swedish Embassy in Belgrade).

<sup>136</sup> As also outlined in Article 12 of Directive 2004/114/EC.

<sup>137</sup> In Slovenia for instance, a residence permit for the purpose of study may be extended under the same conditions under which it was issued. Applicants must be in possession of appropriate documentation (including the enrolment certificate).

<sup>138</sup> I.e. successful study of 8 hours per week per semester in each academic year.

<sup>139</sup> In Italian documents also often referred to as “permit to stay”.

<sup>140</sup> Article 46(4) of the Presidential Decree No. 394 of 31 August 1999.

<sup>141</sup> In addition, students must also show that they have been enrolled for continued full-time study (20 credits per term) and that they still have secure support. See Swedish Migration Board fact sheet on residence permit for students – university/college (including doctoral students) at [http://www.migrationsverket.se/infomaterial/bob/sokande/studier/utun\\_en.pdf](http://www.migrationsverket.se/infomaterial/bob/sokande/studier/utun_en.pdf).

<sup>142</sup> Students in Slovenia, who are in possession of a residence permit for the purpose of study may, prior to the expiry of the period for which the permit was issued, file an application at the relevant Administrative Unit for the issuing of a residence permit for a different purpose from that originally applying.

<sup>143</sup> Suter, B. and Jandl, M., (2006), Comparative Study on Policies towards Foreign Graduates. Study on Admission and Retention Policies towards Foreign Students in Industrialised Countries, International Centre for Migration Policy Development, Vienna, 2006, ISBN: 3-900411-07-7.

of marriage with a German national where a residence permit for family reunification may be granted.<sup>144</sup>

However, after successful completion of the studies, the residence permit may be extended by up to one year for the purposes of seeking a job commensurate with this qualification, provided that it is permissible to fill the vacancy concerned with foreigners.<sup>145</sup>

### 3.3.10

#### Cooperation with universities

In general, the participating countries have not reported any specific cooperation structures with universities and higher education institutions regarding the admission procedure. These institutions are usually only mentioned in connection with their role of confirming that the foreigner fulfils the conditions (=admission procedure) for the course of study (which is the requirement for the residence permit). As universities are responsible for accepting or rejecting applications to courses and programmes, and as one of the most important preconditions for being issued a residence permit is a letter of acceptance, the role of universities is central.

In **Austria**, the student can apply for a residence permit after receipt of the admission notification issued by the university. The residence authority verifies if the foreigner fulfils the conditions for residence in Austria. If doubts exist, the university may be contacted. It should be noted that scholarships from trustworthy institutions (e.g. ÖAD<sup>146</sup>) simplify the verification process.

The Austrian embassy in Belgrade seldom has contacts with universities etc. regarding particular cases.

**Likewise in Belgium**, there is no specific cooperation with universities and education institutions regarding the admission procedure. However, in order to assess whether the duration of studies is excessive, taking into account the results achieved, the responsible authorities have to obtain the opinion of the authorities of the institution in which the student is enrolled and of the institution where he/she was enrolled in the preceding school or academic year. Furthermore, regular contacts are maintained between certain universities and the Immigration Service, on the initiative of these universities.

The German embassy in Belgrade has some contacts with the organisations dealing with student exchange, for example, the Goetheinstitut, the Friedrich-Ebert-Stiftung and the “Deutsche Akademische Austauschdienst” – “DAAD”. Sometimes these organisations notify the embassy of the arrival of students with scholarships coming to apply for a visa. In some periods contacts with these organisations are more frequent than others.

As mentioned above, essential conditions for admission as a student are that the applicant for a university place has a certificate entitling them to study in **Germany**. Universities are also mentioned in connection with cooperation concerning monitoring persons admitted for studies: as explained above, the standard duration of study should not be exceeded by 3 terms. The course of study, including preparatory measures for the course of study, has to be completed within 10 years. In this context, the universities are asked by the foreigners’ authorities, before these limits have been reached, to forecast progress and completion of studies. Furthermore, it should be noted that in Germany most student associations offer student support packages, including housing and health insurance.<sup>147</sup> At universities in Germany there are also persons responsible for taking care of foreign students.

<sup>144</sup> Residence Act, Section 16 (2).

<sup>145</sup> Section 16 (4) of the Residence Act.

<sup>146</sup> “Österreichischer Austauschdienst” (Austrian exchange service).

<sup>147</sup> Suter, B. and Jandl, M., (2006), Comparative Study on Policies towards Foreign Graduates. Study on Admission and Retention Policies towards Foreign Students in Industrialised Countries, International Centre for Migration Policy Development, Vienna, 2006, ISBN: 3-900411-07-7, based on information provided by DAAD, 2006: Deutscher Akademischer Austauschdienst (DAAD) at [www.daad.de](http://www.daad.de).

In **Slovenia**, informal, day-to-day cooperation between institutions involved in the procedure such as universities, educational institutions, administrative units and embassies is in place as and when required. In 2003 the Slovenian Government, as mentioned above, set up an institute to deal with technical issues relating to study programmes in Slovenia for foreign students, called CMEPIUS (Centre of the Republic of Slovenia for Mobility and European Education and Training Programs). CMEPIUS combines international education programmes (like Leonardo, Erasmus, Socrates, etc.) and students participating in these programmes are issued an enrolment certificate used to apply for a visa or residence permit. CMEPIUS therefore acts as a sort of “middle man” in this cooperation. As noted above, once the student has received the admission letter, CMEPIUS issues him/her with the enrolment certificate. For the receipt of the grant, a contract is signed with CMEPIUS.<sup>148</sup> CMEPIUS then disburses the grants to the faculties which in turn allocate them to the students. CMEPIUS has daily informal contacts with the faculties, mostly by phone or email. The letters of guarantee issued by the university and its partners do not require a separate verification. The students under the responsibility of CMEPIUS are monitored and students are also under the obligation to inform CMEPIUS of any changes.

In **Sweden**, there is no formal cooperation regarding the application procedure.

The Swedish embassy in Sarajevo does not have contact with universities, because it does not handle so many students. However, the Migration Board has good contacts with Swedish universities. Where applications relate to well-known universities, the procedure (verification) might be faster.

In Belgrade the Swedish embassy explained that the issue of students and visas has received a lot of attention in the local media and that the embassy has contacted the Belgrade student organisation regarding possibilities for students and to inform it about the different procedures applicable to short- and long-term stays. Furthermore, there are regular contacts (at least once a year) with the faculty of Nordic languages, which also has scholarships. In addition, the

embassy sometimes calls universities to check if the person concerned is really enrolled (student book, etc.). As regards residence permits, these are usually checked, or assumed to be checked, by the admitting university in Sweden.

### 3.3.11 Quotas

There are no numeral yearly quotas limiting visas and residence permits for the admission of students from third countries in the participating countries.

Noteworthy in this context is the fact that **Italian** higher education institutions specify annually the number of places available in each of their degree programmes within every cycle. A few available places in each course are specifically reserved for non-EU citizens living outside Italy; such reserved places are called “quotas”. Under certain conditions, admission and matriculation may occur outside the reserved quotas.<sup>149</sup>

In **Slovenia**, limits on the number of foreign students are, to a certain degree, imposed by universities and partly by the aforementioned CMEPIUS institute: CMEPIUS has a certain number of scholarships, which could constitute a limit. However, this limit is apparently usually not reached. On the other hand, universities have a quota for foreign students, which is determined by the available funding (grants from the state to open study places) and by the Law on Higher Education. Thus, quotas as such do not exist but there are practical limitations (this is probably also valid in other countries). However, some available places are not currently being filled. Consequently there could be a possibility for more students from the region to participate. Presently 90 percent of the quota is filled.<sup>150</sup>

The Slovenian embassy in Sarajevo pointed out that it would be interesting to look at how difficult it is for students from the region to be accepted to universities (differently from nationals), since the acceptance letter is the first step in the admission procedure. There is only a certain percentage of foreign students allowed at the universities.

<sup>148</sup> See also section 4. Good practices.

<sup>149</sup> See Study in Italy: Italian Higher Education for International Students. Online: [www.study-in-italy.it/studying/info-20.html](http://www.study-in-italy.it/studying/info-20.html) for more details.

<sup>150</sup> Interview with CMEPIUS, Ljubljana, in January 2007.

## 3.4 Problems experienced

### 3.4.1 Abuse of the procedure

In general, reported problems of abuse related mainly to falsified documents, i.e. the authenticity of documents provided, and circumvention of the actual purpose of residence for other immigration purposes, e.g. employment.

In **Austria**, the submission of falsified documents in order to obtain a residence permit and circumvent the actual purpose of residence, e.g. employment, has been observed.

#### Practical experiences

**Austrian embassy in Sarajevo:** regarding applications for student residence permits, few applications contain false or falsified documents. Also other forms of abuse is usually not suspected. Only for a few categories, such as nurses and their education (they are allowed to work immediately), have there been problems. However, students have characteristics (young, single, without own income) which usually apply to risk groups.

**Austrian embassy in Belgrade:** in general they face false and falsified documents in the embassy and sometimes this also applies to students. However, there are no particular problems with students as a group, including with respect to short-term visas; they are also a comparatively small group of the total amount of applicants. Regarding risk assessment, students have to be evaluated on a case-by-case basis.

In **Belgium**, the authorisation of residence of more than three months has to be issued based on the conditions set out in Article 58 of the Law of 15 December 1980. The main reported difficulties in this context are linked to:

- › the authenticity of documents provided;
- › proof of the solvability of the guarantor and

hypothetical recovery of costs of health care, residence, studies and repatriation of the foreign student if the guarantor resides abroad;

- › abuse of the procedure (misuse of student status for purely migratory purposes).

#### Practical experiences

**Belgian embassy in Belgrade:** false and falsified documents are not generally a problem when issuing student visas in Belgrade. The few Serbian students that get the chance to study in Schengen these days are mostly the students with the highest grades that have been offered a scholarship for a special programme (master, doctorate, etc.). Most of the time, they are carefully selected by the local university or some local organisation.

In **Germany**, it was noticed that particularly high numbers of Chinese nationals produced evidence of academic qualifications to study with false or falsified certificates.

#### Practical experiences

**German embassy in Belgrade:** abuse is not common, neither for individual applicants, nor for applicants with scholarships. If there are suspicions of false documents being used, universities are contacted (again, if a student has been registered for a very long time at the university, this will be checked). Likewise, abuse of procedures or use of false and falsified documents is not common for short-term visas applications from students.

In **Sweden**, one main problem concerned false and falsified documents from certain countries. It was stated that false documents regarding sufficient financial means and admission to studies (proof of admission, grades, etc.) is relatively common from certain countries. A report by the Swedish Migration Board states that many applications for student visas might be being abused for immigration purposes, and refers, among others, to the possibility of bogus students abusing the Swedish social welfare system.<sup>151 152</sup>

<sup>151</sup> Anyone who stays in Sweden longer than 12 months has to register at the tax office. A registered person has theoretically the right to claim social allowances.

<sup>152</sup> See Suter, B. and Jandl, M., (2006), Comparative Study on Policies towards Foreign Graduates. Study on Admission and Retention Policies towards Foreign Students in Industrialised Countries, International Centre for Migration Policy Development, Vienna, 2006, ISBN: 3-900411-07-7, based a.o. on information provided in Migrationsverket, 2005: rapport till regeringen: Uppföljning av beslut om uppehållstillstånd för studier, 30 June 2005, available online: [www.migrationsverket.se/swedish/verket/skrivelser\\_reg/uppfoljning\\_studier.pdf](http://www.migrationsverket.se/swedish/verket/skrivelser_reg/uppfoljning_studier.pdf).



### Practical experiences

**Swedish embassy in Sarajevo:** *there have not been any problems with this specific group of applicants who apply for residence permits for the purpose of study: they are in general serious and genuine. For applications for tourist visas by persons claiming to be students, there are sometimes problems with falsified documents: copies of student books, housing lists, parents' income, etc. However, most problems are related to business visas. One theory would be that when the group of applicants is smaller, there are fewer problems, or expressed differently, the problems might be connected to the number of cases.*

**Swedish embassy in Belgrade:** *cases with scholarships from SIDA or the Swedish Institute are very uncomplicated. There are not many applicants that do not have scholarships. In six months there has been only one rejection. Short-term visa applications for study purposes (for example summer courses) are also unproblematic.*

*In a conducted at the embassy, it was found that 10% of the documents were forged. Sometimes also the system as such "creates" forgery, e.g. requirement for documents which do not exist as such or which applicants cannot obtain themselves (not in their control) and the individuals concerned feel unable to come back and say that they cannot obtain the requested document. Nevertheless, there have been no cases of forged documents regarding students, i.e. no forged documents have been found. However, it should be noted that time and human resources are not sufficient to check each document in this regard. The attitude is in general positive: this is not a problematic group<sup>153</sup>, as students return. The student applicants here are regarded to be bona fide.*

*A phenomenon among new universities or educational institutions is that they try hard to attract foreign students, partly in order to secure government grants for filled study places. For some institutes, this is a lifeline which they rely on to keep the faculty going, in particular for courses of less than one year.*

Finally, in **Slovenia**, no substantial examples regarding abuse of the application system have been noticed hitherto, apart from cases of abuse of enrolment certificates, especially those issued by private educational institutions without special defined conditions for enrolment on the programme (like knowledge of language, necessary education, etc.).

### Practical experiences

**Slovenian embassy in Sarajevo:** *in general, students are a bona fide group; there is no abuse and problems only occur in a minority of cases. The embassy does put comments on the files to be sent to Slovenia, i.e. when there are problems or doubts. So far there have been no comments regarding students.*

**Slovenian embassy in Belgrade:** *in general, not many cases of abuse can be observed regarding students for long-term visits, and also not many abuse cases for short-term visas for study purposes (e.g. seminars) have been noticed. However, some cases of abuse have been noticed regarding applications for short-term visas with regards to applications for tourist and private visit purposes.*

*However, it is difficult to check if a person is really enrolled or not. There have been cases of falsified documents i.e. people who are not students but try to prove that they are. The document as such is not necessarily falsified, but there is something wrong with it: e.g. one cannot really see if the person is still a student or if the person has only been enrolled for long time, is in theory entitled to go to exams, but is not actively studying.*

*In general, there is also a corruption problem in the higher education system, for example there have been cases of students being awarded diplomas and 'passing' exams in return for money. One example of this is a recent fraud scandal involving a number of professors. Therefore, documents are sometimes not forged as such, but are still untrue.*

*Students as such are not treated as a risk group; however certain documents are regarded as unsafe.*

*In 2006 all residence permits applications for the purpose of study were granted; there were no refusals.*

153 Unlike students applying from India.

### 3.4.2 Measures taken

Measures taken to tackle abuse and related problems are naturally adapted to the respective national context and legal framework.

In **Austria**, the relevant local authority abroad (DMCP) has to ensure that applications are accurate and complete, collect the application data and refer the application to the relevant provincial governor (Landeshauptmann).

#### Practical experiences

*Austrian embassy in Sarajevo: if there are problems, universities etc. are sometimes contacted to investigate and check certain things, but this is very rare.*

*If false or falsified documents are suspected, the relevant administrations are informed. All applicants, including for long-term visas, are interviewed briefly. If needed, a more in-depth interview is carried out (if abuse etc. is suspected).*

*If abuse is suspected, the local authorities are contacted.*

The residence authority checks the application again. If based on the application or during the evaluation procedure it emerges that foreigners need another residence permit for their intended purpose, they must be advised on this matter.

To prevent abuse of study permits (by unqualified or disqualified students, drop-outs and graduates), the requirement to present a successful study record from the previous year<sup>154</sup> in order to extend the study permit was introduced in 2003.

Furthermore, the aim to prevent potential for abuse while maintaining a positive attitude towards international students is according to Austrian officials reflected in the new Federal Act concerning settlement and residence

in Austria (the Settlement and Residence Act –SRA). In general, students receive only resident permits for 1 year at a time, which cannot result in permanent residence. For this reason, these residence permits do not fall under quotas.

**Belgium** has had a system for several years whereby an official from the Immigration Service travels for several weeks during the summer to two Belgian representations in countries considered high risk when it comes to visa applications. This procedure assesses either the authenticity of documents provided or migration risk. The official meets the applicants and conducts interviews. In many cases, this practice is considered to allow the official to distinguish the bona fide students from the fake students. This official has the power to refuse the visa application. These applications are not therefore submitted to the Immigration Service for a decision, which saves time during the procedure and facilitates the task of the Immigration Service in this period.

In 2006, interviews with third-country applicants have also enabled useful information to be gathered on the existence of immigration networks and operational units exploiting this legal procedure solely for migration purposes. Analysis of this information will probably result in the adoption, in the next few months, of measures designed to curb this misuse of procedure.

To prevent abuse and illegal entry, the **German** embassy in China introduced a special test procedure in 2002. Under the APS<sup>155</sup> procedure, the genuineness of the certificates provided is verified. Consequently, those who do not fulfil the academic conditions to take up studies are refused entry.

**Slovenia's** approach on the other hand, also aimed at tackling abuse, focuses on (informal) needs-based cooperation between institutions involved in the procedure: universities, educational institutions, administrative units and embassies.

<sup>154</sup> At least 16 ECTS per academic year.

<sup>155</sup> Academic Inspection Authority (“Akademische Prüfstelle”).



### Practical experiences

**Slovenian embassy in Sarajevo:** *sometimes, when needed, the embassy contacts education facilities. The student index is requested and sometimes a check is performed (to ensure that the school really exists (online) and the person is actually enrolled.*

The **Swedish** Migration Board is trying to build up a database with false and falsified documents to facilitate identification of these documents. A further measure would be to increase checks on documents via Swedish embassies and consulates, since there is more scope for verifying and checking submitted documents at local level.

### Practical experiences

**Swedish embassy in Sarajevo:** *if cases are suspicious, they are checked with the local authorities. If abuse is proven, the application is rejected.*

**Swedish embassy in Belgrade:** *the embassy sometimes calls universities to check if the person concerned is really enrolled (student book, etc.). As regards residence permits, these are usually checked, or assumed to be checked, by the admitting University in Sweden.*

The Swedish Migration Board suggests several measures to combat abuse of student visas: depositing the required funds for the duration of the intended stay in a Swedish bank account and granting entry permits of short duration so that the applicant, after arrival in Sweden, would have to apply for a residence permit together with proof of registration at the university and a confirmation by the university that the applicant has attended the lectures. However, both suggestions were discussed.<sup>156</sup>

Another measure which might work against abuse in Sweden is the fact that the university only receives a state contribution for students if they produce results. The university receives a contribution per year for every student who is studying that year. If the student does not show up or fails to present study results, the university loses the money for that student.

## 3.4.3

### Other reported problems

**Germany and Slovenia** report no special difficulties under the current scheme.

The new **Austrian** Federal Act concerning settlement and residence in Austria (the Settlement and Residence Act –SRA) only came into force on 1 January 2006 and the period of observation is therefore considered too short to make a statement regarding further problems experienced.

One general problem occurring in **Belgium** is that the other bodies involved in the application process often try to contact the Immigration Service themselves to receive relevant instructions and information, but do not always succeed because the phone lines are occupied by calls from private individuals. These private individuals are incidentally often referred by the same instances to the Immigration Service, which creates a vicious circle and has a negative impact on the handling of files, which in turn generates further new calls. A programme of measures is being implemented to make the Immigration Service more accessible.<sup>157</sup>

**Sweden** has implemented an IT supported application system alongside the traditional application system with applications via the embassies. Due to major technical and administrative problems, the Migration Board was forced to close it down for first time applications from 1 July 2006. It is not clear when it can be opened again and to what extent.

### Experiences in the field

**Swedish embassy in Sarajevo:** *concerning the online application system, which Sweden had until it was interrupted in summer 2006, the embassy would not know if there are applications online from BiH. The online system was faster, decisions were made within 5 days. Students wanting to apply would be directed to the electronic application system. Necessary documents would be scanned. In these cases, the applicants would only receive the sticker at the embassy following successful completion of the online application procedure.*

<sup>156</sup> Suter, B. and Jandl, M., (2006), Comparative Study on Policies towards Foreign Graduates. Study on Admission and Retention Policies towards Foreign Students in Industrialised Countries, International Centre for Migration Policy Development, Vienna, 2006, ISBN: 3-900411-07-7.

<sup>157</sup> [http://www.dofi.fgov.be/fr/wat\\_doen\\_wij.htm](http://www.dofi.fgov.be/fr/wat_doen_wij.htm).

**Swedish embassy in Belgrade:** *the former online application system had to be shut down because of being overstretched and abused. 20% of applicants never showed up at the universities, and sometimes did not even speak English. It should be noted that lists of the scanned documents were often sent to the embassies to be checked again, so ultimately it actually made things more complicated for the embassies when large numbers of applications were received. Extensions of residence permits can still be applied for online.*

*Furthermore, the view that it is problematic to obtain a permit for study purposes is often based on misunderstandings. The kind of proof that has to be submitted for the application is also misunderstood.*

### 3.5 Implementation of the Students Directive

Please see section 2.3.3. for an overview of Directive 2004/114/EC.

In general, Member States are still in the process of preparing transposition of Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service (hereinafter Directive 2004/114/EC). In many Member States, the required draft legislation is at a rather advanced stage of preparation (i.e. discussions in Parliaments or Parliamentary Commissions). In some Member States, the Directive has already been implemented into national law, e.g. Austria and Slovenia. For all Member States, transposition of the Directive into national law should be finalised by 12 January 2007.

In this section, a brief outline of the relevant steps of the transposition process in the Member States included in this study will be given:

In **Austria**, the Directive has already been implemented in the new Federal Act concerning settlement and residence in Austria (the Settlement and Residence Act –SRA), which came into force on 1 January 2006. Hence, the essential points include:

- › Residence permit valid for 12 months and renewable
- › Conditions for issuance as outlined above
- › Employment is allowed, if the requirement of studies as exclusive residence purpose is thereby compromised. (Gainful employment is based on the Employment of Foreign Nationals Act.)

In **Belgium**, the transposition of Directive 2004/114/EC is presently being examined by the Immigration Service. A preliminary draft law is in preparation, which will modify the specific procedure applied to students, as currently laid down by the Law of 15 December 1980. This preliminary draft law be discussed in the relevant ministerial cabinets and submitted to the Council of Ministers and State Council<sup>158</sup> for approval, as well as to the Parliament. An executive Royal Decree (arrêté royal/ koninklijk besluit) relating to the law will probably have to be drawn up as well. In general, transposition of Directive 2004/114/EC will generate discussion on visa-issuing policy for foreigners who wish to study in Belgium.

Similarly, in **Germany**, in order to implement Directive 2004/114/EC, which has not been transposed into national law, amendments are planned. The authorities responsible for foreigners will through the Ministry of Interior provide indications how the regulations of the Directive have to be implemented under the current legal system until the Directive is transposed into national law.

In **Slovenia**, Directive 2004/114/EC has been implemented into national law. The Alien Act (O. G. RS, No. 108/02) previously in force had a very similar legal regulation

<sup>158</sup> High administrative jurisdiction.

on issuing residence permits to students who are third country nationals. The main amendments instituted by the new Aliens Act (Official Gazette of RS, 79/2006) as regards the residence of students are:

- › special procedures (priority treatment) for issuing residence permits to students
- › the period of validity of the issued permit
- › opportunities for students to work under legally defined conditions<sup>159</sup>
- › managing the areas of labour relations, employment and work of foreign citizens in the Republic of Slovenia.

According to the information received, implementation of the Directive has not greatly changed the former procedure: past practice was already valid, and the adoption of new Aliens Act makes this practice legally binding.

In **Sweden**, two changes entered into force at the beginning of 2007. Firstly, the possibility of revoking residence permits for students not fulfilling the conditions was introduced.<sup>160</sup> Secondly, the requirement to have sickness insurance was removed for stays longer than one year. Sweden also recently introduced the obligation to provide sufficient health insurance, when the stay is shorter than one year, according to a proposed change to the Aliens Act (in accordance with Directive 2004/114/EC).<sup>161</sup>

Regarding concrete measures planned in order to implement provision of Article 6(2) of Directive 2004/114/EC on facilitated admission procedures, no particular fast-track procedures are provided for by the participating countries for applications concerning entry for the purpose of studies, with the exception of Slovenia.<sup>162</sup> In a report of the meeting of the Migration Directives' Contact Committee on 6 October 2006, the countries stressed that this was due to the fact that in general the admission procedures are considered relatively fast and efficient. In this context, Article 6(2) contains a clear obligation for Member States to facilitate admission procedure at least for students participating in the Community programmes enhancing mobility within and towards the Community, such as the aforementioned Erasmus Mundus Programme.<sup>163</sup>

In connection with the Erasmus Mundus programme, the same report examined whether an EC certification letter issued to third country students admitted to the Erasmus Mundus Programme would be considered as a sufficient proof of fulfilment of certain conditions (in particular: possession of health insurance, possession of sufficient resources, proof of acceptance by a higher education institution), as required from third country nationals to be admitted for the purpose of studies.

For the countries participating in this study, **Austria, Belgium, Germany and Slovenia** reported that an EC certification letter would suffice, though **Germany** specified that an insurance card was also necessary.<sup>164</sup> **Slovenia** mentioned that the right to ask for more documents, if necessary, remains. **Sweden** explained that evidence would still be needed.

<sup>159</sup> Possibility of employment for foreign students under the conditions set out in the Employment and Work of Aliens Act (Official Gazette RS, 4/2006).

<sup>160</sup> Chapter 7, section 7 a of the Aliens Act.

<sup>161</sup> Government proposal regarding inter alia the transposition of Directive 2004/114/EC (*Regeringens Proposition 2005/06:129*) page 64.

<sup>162</sup> Accelerated special procedures (priority treatment) for issuing residence permits to students are in place in Slovenia (Article 33/4 of the Alien Act).

<sup>163</sup> Report of the 6 October 2006 meeting of the Migration Directives' Contact Committee.

<sup>164</sup> Report of the 6 October 2006 meeting of the Migration Directives' Contact Committee.

## 4. Good Practices

The questionnaire sent out to the countries participating in this study included questions regarding possible **good practices for facilitating procedures** for students in this field, particularly those from the Western Balkans. Embassy representatives were also asked for their views regarding possible good practices. In addition, good practice recommendations regarding EU student programmes were identified.

### 4.1 Practices identified on state level

#### 4.1.1 Miscellaneous practices

In **Austria**, there are no specific visa facilitations for students; only facilitations in individual cases in the framework of the Common Consular Instructions are possible. It should be noted that scholarships from trustworthy institutions (e.g. ÖAD<sup>165</sup>) simplify the verification process.

In the light of the Directive transposition process, there seems to be no immediate need to analyse relevant good practices in **Belgium**.

In **Italy**, as regards study visas, pending initiatives within specific agreements between Croatia and Italy, Croatian citizens studying in Italy as “commuters” are enrolled on the basis of a simple entry visa (in some cases a multiple-entry visa) with no need for a permit to stay.<sup>166</sup>

For **Germany**, it is emphasised that the duration of the residence permit procedure depends on whether the application is complete. Regarding the stay in the country, it was pointed out that in many university towns the

foreigners’ authorities provide a special service counter for foreign students. Also service-days in the universities are organised.

In **Slovenia**, the new Alien Register replaced the old one on 20 November 2006<sup>167</sup> and will enable improved collection of data related to the residence permit – type data, in addition to the already existing computerised records system (on permits for temporary residence and on permits for permanent residence) for the purpose of ensuring data on the present state of and movement of foreigners and on documents issued to them. The new register therefore provides a larger set of data for statistical uses, amongst others.

More importantly, special procedures (priority treatment) for issuing residence permits to students are provided. Large number of visas and residence permits are issued to applicants from the countries of the Western Balkans. Because of the special nature of the applicants who apply for visas on the basis of a study programme in Slovenia or for the purpose of arranging their studies or applying for a residence permit, this group of applicants is considered to warrant special treatment. Taking into consideration their special position, Slovenia in principle applies a policy of “special treatment” for this category of applicants.

There is informal, day-to-day cooperation between institutions involved in the procedure such as universities, educational institutions, administrative units and embassies, based on needs. There is also for instance cooperation with the Student Organisation of the University of Ljubljana.

Finally, the Western Balkans and their connection with Europe is one of the priorities of Slovenian foreign policy. Slovenian policy tries to facilitate the travel and residence of these citizens, whilst acknowledging that abuse of the

<sup>165</sup> “Österreichischer Austauschdienst” (Austrian exchange service).

<sup>166</sup> See <http://www.study-in-italy.it/studying/info-22.html>.

<sup>167</sup> All data from old Alien register were transferred to the new Alien Register.

established system must be prevented. Every system has room for improvement; however, Slovenian policy, which aims to treat citizens of the Western Balkans countries as citizens with EU perspective, could serve as a transferable good practice.

As regards **Sweden**, the embassies and consulates are authorised to approve residence permits in special cases, when the education the student applies for is part of an exchange agreement between a Swedish and a foreign university.

Furthermore, students at universities and other higher education institutions are exempted from the obligation to have work permits during the time they hold a residence permit.

The Swedish embassy in Sarajevo reports that the procedure (verification) is faster if the application relates to well-known universities.

In addition, the Swedish embassy in Sarajevo refers to the previously introduced but now suspended IT online application system as a possible good practice, deeming it the best solution for applicants and embassies.

## 4.1.2

### Coordination centre for foreign students<sup>168</sup>

In 2003, the Slovenian Government set up a common government institution dealing with technical issues relating to study programmes in Slovenia for foreign students, called CMEPIUS (Centre of the Republic of Slovenia for Mobility and European Education and Training Programs). CMEPIUS combines international education programmes (like Leonardo, Erasmus, Socrates, etc.) and

all governmental study programmes: thus, CMEPIUS handles exchanges covered by bilateral agreements<sup>169</sup> as well as programmes such as Lifelong Learning<sup>170</sup> and CEEPUS<sup>171</sup>. The work of CMEPIUS is based on cooperation between the student's home faculties and the respective faculty in Slovenia. Students accepted to a programme receive a government certificate when participating in a programme administered by CMEPIUS, which is used to apply for visas or residence permits. CMEPIUS therefore acts as a sort of "middle man" in this cooperation. Upon receipt of the admission letter a CMEPIUS certificate is issued.<sup>172</sup> This certificate functions as a "one for all" document in the admission procedure and facilitates the procedure for students. The certificate is also issued in Slovenian, which means that the student will have no translation costs. Visa applicants and residence permit applicants from the CMEPIUS programme are exempt from visa fees and administrative fees.<sup>173</sup> Medical insurance for holders of CMEPIUS enrolment certificates is arranged at the time of enrolment and no additional travel medical insurance is needed.

#### CMEPIUS in practice

CMEPIUS functions as a link between the student and the authorities, on both a formal and ad hoc basis. For example, if a document in the admission procedure is missing, CMEPIUS will contact the student and explain to him/her what needs to be done. CMEPIUS has well-established working contacts with embassy staff and national authority staff. Sometimes problems occur when there are new staff in the embassies and authorities.

Usually, CMEPIUS informs the embassies by letter of the students that are accepted and that they will come to apply for a visa. They also cooperate with the administrative unit of the office for foreigners in Slovenia which issues decisions on residence permits. They can call CMEPIUS when there is a problem and CMEPIUS can get involved. The only problematic aspect of this cooperation relates to protection of personal data.

<sup>168</sup> Mainly based on the Interview with CMEPIUS, Ljubljana, in January 2007.

<sup>169</sup> With Macedonia, Montenegro and Serbia there are bilateral student exchange agreements.

<sup>170</sup> The Lifelong Learning Programme comprises four sectoral programmes on:

- >school education (Comenius)
- >higher education (Erasmus)
- >vocational training (Leonardo da Vinci)
- >adult education (Grundtvig).

<sup>171</sup> Slovenia also participates in the CEEPUS programme ("Central European Exchange Programme for University Studies"). CMEPIUS is the Slovenian national CEEPUS office. CEEPUS covers exchanges between Slovenia and all Western Balkan countries except for Bosnia and Herzegovina. There are discussions about whether BiH should also join this programme, but so far no concrete action has been taken.

<sup>172</sup> The letters of guarantee issued by the university and its partners do not require a separate verification.

<sup>173</sup> E.g.: The Slovenian embassy in Belgrade reports that there were 88 residence permit applications for the purpose of study in 2006, of which 9 were issued free of charge.

CMEPIUS also assists students with information and advice on admission procedures and related matters and has daily informal contact with the faculties.<sup>174</sup> CMEPIUS pays grants to faculties, which pay them to the students. The students under the responsibility of CMEPIUS are monitored and students are also under the obligation to inform CMEPIUS of any changes. For the grant, a contract is signed with CMEPIUS. From the region, about 50-70 students per year participate in programmes coordinated by CMEPIUS. Students are selected in cooperation with the Ministry for High Education and the National Commission with representatives from higher education institutions.

There have been no cases of disappearances of persons handled by CMEPIUS. If this happened, the grant would eventually be withdrawn. If a student does not show up at the accommodation after 2 days, the accommodation is cancelled. In general, if a student is late appearing in the country this is usually due to visa problems. If a student (taking part in a programme) were to stay unofficially in Slovenia, CMEPIUS would realise this within one month as CMEPIUS receives notice when students have left. Within three weeks of returning the student is expected to send a report to CMEPIUS describing what they did during their stay and confirming that they are back in their country of origin.

Hence, in short, CMEPIUS was set up in Slovenia to coordinate several international student exchange

#### CMEPIUS

There should be more information to students explaining what they need in the procedure.

programmes and is the implementing agency for these grants and assistance to students. It only deals directly with students that are taking part in exchange

programmes – students that are taking all their studies in Slovenia have to enrol and handle administrative

issues independently. However, when requested, CMEPIUS sometimes also helps other students outside the programmes by providing assistance with admission procedures. It would be possible for CMEPIUS to take on an even more important role in work with students, which would facilitate procedures for all students. This would include more work with educational institutions and authorities (ministry of higher education) and acting as a link between them. It could also take on a stronger role also for students coming to study outside the framework of exchange programmes. It would then turn into a central authority for foreign students and all related matters. As mentioned, CMEPIUS receives many questions from all types of students and an information brochure for students wanting to come to Slovenia is planned.

## 4.2 Good practices identified at EU level related to EU programmes

### 4.2.1

#### Erasmus Mundus draft guidelines for visa procedures

The Erasmus Mundus Programme has developed draft guidelines<sup>175</sup> to help European universities guide their third-country students through the procedure of obtaining visas to Europe. In addition, the programme is soon to start preparing guidelines for students.

These guidelines to facilitate visa delivery address all actors involved in general and specific actions, detailing

<sup>174</sup> Mostly done by email/phone.

<sup>175</sup> Which will be finalised by end of April 2007.



each actor's role and specific tasks in the procedure. The actors included range from the EC Directorate General for Education and Culture, to national structures, Foreign Affairs and Internal Affairs Ministries and Erasmus Mundus structures down to EC delegations and national organisations. Furthermore, the guidelines also include an overview of information tools and their specific contents. Finally, the guidelines describe good practices and tips for coordinating/hosting universities as well as addressing international offices.

As relevant good practices the following in particular could be highlighted. All actors involved should be aware of their role in the procedure. Enhanced information sharing and provision of information about the Erasmus Mundus programmes and participating students leads to improved and more efficient interaction between relevant actors, which facilitates the process.

#### Further planned actions regarding Erasmus Mundus

- Dissemination of discussion on good practices
- Drafting of handbook for Erasmus Mundus students including, inter alia, visa typology (short-term vs. long-term visas), explanation of legal situation per EU country, documents required when applying for a visa in third countries to enter Europe and in Europe for internal European mobility, timing for submission of visa request, etc.
- Ex-post verification of effectiveness of actions: second course/student visa survey in November 2007

## 4.2.2

### Example of practical problems with admission procedure in the framework of Erasmus Mundus<sup>176</sup>

When implementing Erasmus Mundus, some difficulties in obtaining visas at Italian embassies were identified in 2004-2005 (about 20 cases). The main reasons for difficulties were:

- › Local diplomatic officers did not know the Erasmus Mundus Programme
- › Documentation required of students for granting a visa was inappropriate

Furthermore, national rules were found to be unsuited to managing international students:

- › International student: a “new” profile
- › Rules referred to enrolment in a national programme to obtain a national degree (e.g. language, deadlines, financial means, etc.)

Also, solutions to identified problems have been discussed. The aim of the institutions involved, as in Italy for example, is to agree on a fast, simple, transparent and safe procedure. The work plan developed in this regard included drawing different Erasmus Mundus student profiles, establishing a standard procedure for granting visas and describing in detail the tasks to be performed by:

<sup>176</sup> “Sharing good practices: a standard procedure for granting EM students entry Visa to Italy”, Presentation by Giovanni Finocchietti, PNC - Punto nazionale di contatto – Italia, Seminar Erasmus Mundus Master Courses Consortia 2006, Brussels, 30 November 2006.



- › students: documents to submit (embassy)
- › universities: documents to send (students, embassies)
- › embassies (EU, non-EU): procedure to follow
- › National Contact Point: information to deliver (universities, embassies).

Through these efforts, the following has been achieved:

- › agreement on a “provisional” procedure
- › messages sent by MFA (MAE) to embassies including:
  - >> information on the Erasmus Mundus Programme and
  - >> a recommendation for a specific visa procedure for Erasmus Mundus students and
  - >> clarification on documentation and requirements necessary or unnecessary.
- › message sent by the Ministry of Education, University and Research (MiUR) to universities:
  - >> clarification on the status of Erasmus Mundus students
  - >> documents to be sent to the selected students

- › Document prepared by National Contact Point for universities and information to students.

However, some problems remain unsolved, such as the issue of residence permits (there are however good practices in for example Bologna and Padova). Also, there are problems relating to multiple-entry visas (the solving of which would need the involvement of the European Commission) as well as moving to/from other EU countries.

Among recent developments in 2006-2007, the Erasmus Mundus student profile has been recognised in the *Circolari studenti stranieri* (CCS) and a number of difficulties have been resolved.

#### Core elements of good practice in the framework of the Erasmus Mundus Programme

- involving all institutional actors
- stressing the profile of International students
- detailing tasks of each part/institution/actor

(“Sharing good practices: a standard procedure for granting EM students entry Visa to Italy”, Giovanni Finocchietti, PNC - Punto nazionale di contatto – Italia, Seminar Erasmus Mundus Master Courses Consortia 2006, Brussels, 30 November 2006)

## 5. Observed challenges and way ahead

### 5.1 Introduction

This third part of the study will outline possible obstacles identified in the entry and admission process for both short-term visas and long-term admission, including policy options for a future facilitation of the entry and admission of students. A set of policy recommendations based on identified problems and good practices will be suggested. As this project treats students as a group, proposals for the way ahead are given regarding both short-term visas and long-term admission. Negotiations for visa facilitation agreements and readmission agreements are only just being finalised (initialled) with the Western Balkan states and the concrete results of those negotiations are not publicly available. However, based upon similar earlier agreements and input from practitioners in the field, some more general remarks and recommendations will also be made for this area.

This report was based on the results of the research phase of the project. The research aimed to provide general background to the issues and the report aims to discuss and to provide a consistent knowledge base on the regulatory framework in the EU and the selected countries. As explained in the first part of this study, the research phase continued after the mid-term meeting on 30 November 2006 and involved the input of stakeholders in the region to assess problems and possible solutions including needs and problems of prospective students. Field missions were carried out to Sarajevo and Belgrade to address the functioning of procedures, problems, challenges and possibilities of improvement with stakeholders in the field, i.e. embassy representatives

and organisations working with students. Meetings were also held in Slovenia to further analyse policy options and possible good practices. In addition, the thoughts and opinions of participants at the mid-term meeting have been reflected in the report.

As outlined in Part I of this study (Policy Framework), various problematic aspects relating to the application procedure, as viewed from the perspective of prospective students, can be identified. Part II (Comparison) has outlined the respective procedures for long-term stay in the participating countries. Both Part I and Part II provide “snapshots” of the views of stakeholders in the field. The policy recommendations are made on the basis of all available results. Two important considerations should be mentioned at the outset. Firstly, applications from students, especially for long-term visas or residence permits for the purpose of studies, seem relatively few in number, as the figures mentioned by states and visited embassies suggest. In informal discussions, visited embassies in general were of the opinion that students applying for short-term visas for study purposes also constitute a rather small group. Secondly, according to the same informal contacts with embassy representatives, the risk of abuse by students in the region, in particular for permits for long-term visas, but also for short-term visa, seems rather low.

The question is how to balance the interests of students from the Western Balkan region against the concerns of receiving states relating to inter alia fraud and irregular migration while also taking the practical limitations of embassies into account. The project proposes introducing facilitated procedures in practice for students from the

Western Balkans, especially considering the special relations this region has with the EU, and suggests opening a discussion of what elements such facilitation should comprise. Possible solutions would not only be limited to regulatory measures, but could more importantly look at “soft law” approaches and common understandings.

Would it be possible to consider policy options for introducing facilitated procedures for prospective students from the Western Balkans?

## 5.2 Short-term visa

### 5.2.1 Possible challenges

The visa facilitation agreements are naturally an important step. Still, judging from public discourse, it seems that the general public attach possibly disproportionate hope to the actual effects of the agreements, both regarding the groups to enjoy facilitation and the actual facilitation to be provided. Sometimes statements, as reported in the media, by leaders at both national and EU level might contribute to possible misconceptions among members of the public.

Regarding visa facilitation agreements currently in place, for example with Russia, these might look broader at first glance than they are in reality. It might not be commonly understood that the agreements would only provide visa facilitation when students are travelling for the purpose of studies, but not for other purposes. Furthermore, the fact that visa facilitation agreements for short-term visa will not cover admission of students for a period of more than three months might also not be commonly understood.<sup>177</sup> Another aspect is that some provisions in the agreements might actually already have been covered by existing practice, at least in some states (for example relating to the timeframe).

Consequently, as agreements are expected to have limitations, both regarding the groups to enjoy facilitation and regarding the purposes for which facilitation is provided and, importantly, as embassies might lack the practical ability to provide certain types of facilitation due to limitations of premises, staff and other resources, some suggestions could be made for this area.

### 5.2.2

#### Policy recommendations

1. Clear information should be provided to the affected populations regarding the content and possible effects of visa facilitation agreements, to avoid a possible risk of misunderstandings.
2. Notwithstanding the concrete results of the negotiations on visa facilitation agreements, the focus should be on implementing these agreements. The practical ability of embassies (human, technical and administrative resources) to put the visa facilitation into operation for students should be increased.
3. Instructions to the embassies should emphasise how to implement the visa facilitation agreements.
4. Furthermore, the process of visa facilitation should not end with the negotiated agreements, but those agreements and their actual effects should be constantly analysed and measures for improvement taken when needed.
5. Apart from the facilitation contained in the visa facilitation agreements, steps for general facilitation of all academic travel and exchange should be considered, outside concrete study programmes and also considering less institutionalised travel such as, on the one hand, self-initiated research visits and, on the other hand, participation in organised summer activities and the like.

<sup>177</sup> Summary and conclusions of the mid-term meeting of the project on 30 November 2006 in Brussels.

## 5.3 Long-term visa and residence permits

### 5.3.1

#### Possible challenges regarding the entry/ admission procedure for students

From the information collected and analysed, the following observations can be made:

Regarding long-term visas and residence permits, it should be noted at the outset that none of the participating countries (Austria, Belgium, Germany, Italy, Slovenia and Sweden) has established specific procedures or forms of cooperation regarding students from the Western Balkan countries. Based upon the information provided, the following possible areas of development have been identified:

Costs for making the application are rather high. The actual fee for the application/visa/residence permit ranges between €35 and €110, with the majority of countries situated at the top end of this spectrum. In addition, costs may arise from required official translation and notarisation of documents. These costs can also be substantial.

Furthermore, students are obliged to provide proof of sufficient financial means to sustain themselves during the time of study. The corresponding amounts represent a significant financial burden for students. The required amounts range from €350/month (for 12 months) to €790/month (for 10 months). This should also be seen in connection with the right for students to pursue economic activity (no less than 10 hours/week) that has been introduced by Directive 2004/114/EC.

Another problem that has been identified is the length of time students have to wait for their application to be processed, which can sometimes even jeopardise their guaranteed study place. Such events were also observed in the Swedish official government proposal aiming at implementing Directive 2004/114, where several of the

actors (universities, higher education institutions) asked to comment on the proposal pointed out that 1) foreign students often receive the residence permit only after the courses have already started (as application procedures can only be started after receiving the admission letter from the relevant institution) and 2) suggested a further exploration of facilitated procedures. The government, in its proposal, noted related problems, but has not so far linked this to the promotion of facilitated procedures for foreign students.<sup>178</sup>

More information for students explaining what they need is a further possible area of enhancement. The application procedure is characterised by great complexity and is not transparent enough to be followed by students at every stage. Consequently, students find it difficult to assess the potential outcome of the application process. The lack of predictability of the procedure might work as a deterrent for students planning to study in an EU country. Apart from the actual university application procedure, other factors add to the problem, such as translating and notarising all required documents, raising money for support during the studies as well as for the fee, queuing up at the responsible authorities' entities for many hours, etc.

At the same time, as also suggested by Slovenia, more cooperation with the universities is needed. More intensive cooperation between universities and diplomatic missions and administrative units is also suitable to address possible misuse of residence permits for the purpose of study.

#### Observations in the field

The German embassy in Belgrade pointed out that developments on visa facilitation are important. However, as things stand, the embassy is bound by the Common Consular Instructions and national legislation. There is room for (administrative) facilitations. For example, visas could be issued to students free of charge (this is already done for students with scholarships).

The Swedish embassies in Sarajevo and Belgrade pointed out that another aspect regarding issuance of residence permits relates to the resources available to the Migration Board to make timely decisions.

<sup>178</sup> Government proposal regarding inter alia the transposition of Directive 2004/114/EC (Regeringens Proposition 2005/06:129) page 72.

The Swedish embassy in Belgrade highlighted a number of issues which could be addressed to optimise the admission of students: timeframe of the procedure (at the Migration Board), opportunities to stay on after studies and the introduction of more scholarships. All students should have the opportunity to go and study abroad - not only those with financial means. Universities should also be more active on this matter. Solutions to be considered could be free housing and various degrees of scholarships. One could also consider eliminating the residence permit fee (which is already being done for students with scholarships). For one thing, this would represent an important gesture to students. A positive action would be to reduce fees for students in general. There is in general a lack of information for students about possibilities to study abroad.

Regarding the future role of universities, there is presently no formal specific cooperation with universities and higher education institutions regarding the admission procedure in the participating countries. However, it is a fact that the universities will continue to be responsible for deciding on applications of students to courses and programmes. Since the letter of acceptance by a university is the most important precondition for being issued a residence permit, the role of universities has to be assessed as being of crucial nature.

### 5.3.2

#### Problematic aspects from the point of view of participating EU Member States

A majority of participating states reported that they have problems relating to the use of false and falsified supporting documents in the application procedure. Other forms of abuse of the application systems related to students were also mentioned, i.e. that students enter the countries for other purposes than studies and never take up/continue the studies for which they were admitted. It should however be noted that abuse of the procedure was mentioned mainly in connection with students of other nationalities rather than those from the Western Balkans. This was indicated not only in the answers to the questionnaire, but also in the informal discussions in the consulates during the field missions.

Related problems include overload of application systems, leading to significant delays with handling applications. In this regard, it should be noted that the electronic application system that was in use in Sweden (which could be considered as a facilitation for the students concerned) will not be maintained in the future due to overload of the system. A date for reopening has not yet been set.

### 5.3.3

#### Policy recommendations

In accordance with the conclusions of the mid-term meeting of the project, the policy recommendations regarding long-term visas and residence permits should be **formulated within the framework of Directive 2004/114/EC** of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service (Directive 2004/114/EC). Directive 2004/114/EC provides for (without making them mandatory) **clear possibilities for facilitated procedures**. Article 4 explicitly states that the Directive shall be implemented without prejudice to more favourable provisions of: (a) bilateral or multilateral agreements between the Community or the Community and its Member States and one or more third countries; or (b) bilateral or multilateral agreements between one or more Member States and one or more third countries. It is also stated that the Directive shall be without prejudice to the right of Member States to adopt or maintain provisions that are more favourable to the persons to whom it applies. As mentioned, the admission procedure should also be facilitated for students participating in Community programmes (for example the Western Balkan window in Erasmus Mundus). In this context, the above-mentioned possibility for fast-track procedures in Directive 2004/114 should be referred to again. The following policy recommendations aim at providing tools for implementation of the so-called **“may-options”** (non-binding provisions) regarding facilitated procedure in the Directive. May-options give states the option of introducing more facilitated procedures.

Facilitated procedures for students for long-term stay can also **build on the experiences with visa facilitation for short-term visas** with other countries and now also the results of the negotiations on visa facilitation for the Western Balkans. The respective elements of facilitated procedures could aim at a **clear and limited timeframe** for processing the application, **reduced costs, simplified criteria** for issuing the visa/permit or an **eased verification procedure**, for example in cases of scholarships from trustworthy institutions or programmes.

Furthermore, policy recommendations are based on **identified good practices** when applicable and aim at striking a **balance between security concerns** and the need for **facilitated procedures**.

Taking all of this into account, the following is suggested:

1. The link between universities and authorities should be further strengthened and communication and exchange of information (of course considering protection of personal data) between universities and higher education institutions on the one hand and authorities responsible for admission on the other should be improved. Strengthening this link would facilitate admission for bona fide students and renewal procedures, but also alleviate abuse. In this regard, two possibilities should be highlighted in particular:
  - a. It is recommended to consider the introduction of a coordination centre forming a link between foreign students and national admission authorities. This recommendation is based on the practice identified in Slovenia, where a state centre - CMEPIUS - aids students participating in exchange programmes in a centralised way *inter alia* with the admission procedure. It is also recommended that such a centre should not necessarily be limited to students participating in programmes but should be generally available to foreign students. This centre could be formed as a new institution or the task assigned to an existing institution. Coordination by such a centre could serve as an additional control function
  - b. Directive 2004/114/EC provides for a role for universities in the admission application procedure. A **fast-track procedure** is possible for issuing residence permits or visas to students and school pupils. Such a fast-track procedure would, after agreement between the authority of a Member State responsible for decisions on entry and residence of students or school pupils and a relevant higher education institution (or an organisation operating pupil exchange schemes), allow residence permits or visas to be issued in the name of the third-country national concerned.
2. Building on the experience and efforts with implementing the Erasmus Mundus programme, it is recommended that all actors involved with students should be made aware of their role in the admission procedure. This includes enhanced information sharing and provision of information and could lead to improved and more efficient interaction between relevant actors
3. Structures fostering more day-to-day (informal) cooperation between relevant actors (universities, embassies, national authorities) should be furthered.
4. Special fast-track procedures for students admitted from certain well-established universities and institutions should be promoted. Some universities could be considered as giving



a certain “quality stamp” to the applications they support, based on their reputation (see also recommendation 1 b). A serious admission procedure at universities answers calls for security while at the same time speeding up procedures and vetting of applications. In some of the countries participating in the study, this practice is already in use to a certain extent, although not formalised.

5. The cost for long-term visas and residence permits should be reduced or those permits should be provided free of charge for students from the Western Balkans (drawing on parallels to the short-term visa facilitation process). The cost might seem negligible in relation to the total costs involved in the procedure for long-term stay in another country; however, a decision to reduce or remove it might send out an important and strong political signal to the countries concerned.

6. A reduction in the required means of subsistence should be generally available (as is already the case in some countries) when free accommodation is provided, a sponsor is available or the student has the opportunity to work (see in this regard recital 18 of Directive 2004/114/EC). Work should naturally always be a side-activity to the course of studies (a concern which is safeguarded through the obligation to provide proof of study results in order to renew a residence permit for studies).

7. A clear time limit should be set for the procedure. Fast-track procedures should be possible when students have valid and justifiable reasons for submitting late applications considering the starting date.

8. Students from the Western Balkans should be given preferred access to embassies and procedures to apply for long-term visas and residence permits. This

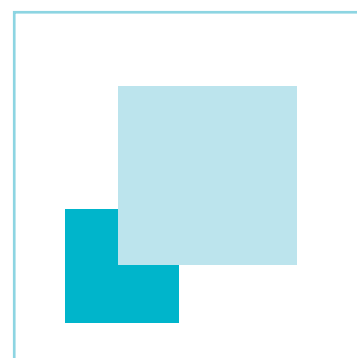
should include priority for appointments where an appointment system exists.

9. Clear information about procedural requirements should be provided and made available as widely as possible: not only in embassy information notes but also on the homepages of ministries and embassies, as is already done in some countries, and possibly also at universities for example (see recital 22 of Directive 2004/114/EC).

10. In general, even though not related to the actual procedure,

a. more information should be provided to students from the Western Balkans about actual opportunities for study in an EU country. Awareness raising measures would be welcomed.

b. the EU and its Member States should work to increase the number of scholarships to students from this region and improve information about such scholarships.





# Status of EU approximation in the Western Balkans per country

**Albania:** on 31 January 2003, negotiations for a Stabilisation and Association Agreement (SAA) were officially opened. Following the Commission's November 2005 Enlargement Strategy Paper, which stressed that Albania's reform progress paved the way for the conclusion of the negotiations, the SAA was signed on 12 June 2006 in Luxembourg. The SAA will enter into force following its ratification. In the meantime, an Interim Agreement will allow Albania to benefit from the SAA's trade-related conditions. On 30 January 2006, the Council adopted a revised Decision on the principles, priorities and conditions contained in the European Partnership with Albania.

**Bosnia and Herzegovina:** as Bosnia and Herzegovina had made significant progress in addressing the priorities identified in the 2003 Feasibility Study, on 21 October 2005 the Commission recommended the opening of negotiations for a Stabilisation and Association Agreement to the Council and forwarded the relevant draft negotiating directives. On 21 November, the Council adopted the draft negotiating directives and authorised the Commission to open negotiations for a Stabilisation and Association Agreement with Bosnia and Herzegovina. Negotiations were officially opened in Sarajevo on 25 November 2005. In January 2006 an updated European Partnership for Bosnia and Herzegovina was adopted. Technical talks on the negotiations for a Stabilisation and Association Agreement were completed in 2007. The signature of the SAA is contingent to sufficient progress in addressing key priorities, notably police reform and ICTY co-operation, public broadcasting and public administration reform.

**Croatia:** the Stabilisation and Association Agreement (SAA) between the EU and Croatia entered into force

on 1 February 2005. The (SAA), which was signed in October 2001, constitutes a far-reaching framework with mutual rights and obligations. On 17-18 June 2004, Croatia was accepted as a candidate country and accession negotiations with the EU started on 3 Oct 2005. Following the opening of accession negotiations with Croatia (on 3 October 2005), the Council adopted an Accession Partnership which updates the European Partnership of 13 September 2004. The advancement of the accession negotiations will be measured against implementation of the Accession Partnership, which will be regularly reviewed. The 'screening' stage of accession negotiations began on 20 October 2005 and was concluded on 18 October 2006. After this date accession negotiations with Croatia have continued.

**FYR Macedonia:** the Stabilisation and Association Agreement (SAA) was signed in April 2001. The agreement entered into force on 1 April 2004. On 22 March 2004 Macedonia formally applied for full EU membership. On 9 November 2005 the Commission recommended that Macedonia should be granted candidate status. Following the Commission's recommendation, the European Council decided on 17 December 2005 to grant candidate status to the country. A revised Decision on the principles, priorities and conditions contained in the European Partnership with the former Yugoslav Republic of Macedonia was adopted on 30 January 2006.

**Montenegro:** in its Feasibility Report of 12 April 2005, the Commission concluded that Serbia and Montenegro is sufficiently prepared to negotiate an SAA with the EU. On 25 April 2005, the EU Council endorsed the Feasibility Report and invited the Commission to submit the negotiating directives for the SAA. In line with the "twin-track" approach,

the negotiations with the State Union and the two constituent Republics were launched in October 2005. After the referendum and independence, the EU started to adapt the instruments of the Stabilisation and Association process to the new situation. On 12 June 2006, the EU Council declared its resolve to further develop the relations with Montenegro as a sovereign, independent state. The Commission declared its intention to ask for a new mandate in order to continue negotiating separately with Montenegro on a Stabilisation and Association Agreement (SAA). On 24 July the Council adopted a mandate for the negotiation of a Stabilisation and Association Agreement (SAA) with Montenegro based on the previous mandate for negotiations with the former State Union. On 26 September 2006 SAA negotiations with Montenegro were launched. Negotiations are based on the results achieved in negotiations with Montenegro for an SAA with the former State Union. On 8 November 2006, the Commission issued a dedicated Annual Progress Report on Montenegro for the first time as well as a new distinct European Partnership for Montenegro. The technical part of the SAA negotiations was completed on 1 December 2006 and on 15 March 2007 the Stabilisation and Association Agreement (SAA) was initialled in Podgorica.

**Serbia:** in its Feasibility Report of 12 April 2005, the Commission concluded that Serbia and Montenegro is sufficiently prepared to negotiate an SAA with the EU. On 25 April 2005, the EU Council endorsed the Feasibility Report and invited the Commission to submit the negotiating directives for the SAA. In line with the “twin-track” approach, negotiations with the State Union and the two constituent Republics were launched in October 2005. The Council decision on the European Partnership for Serbia and Montenegro was

updated in January 2006. Negotiations were stalled on 3 May 2006 due to a negative assessment on the state of co-operation of Serbia and Montenegro with the International Criminal Tribunal for the former Yugoslavia (ICTY). Following the referendum on independence in Montenegro on 21 May 2006, the Serbian Parliament confirmed on 5 June the continuity of Serbia as a legal successor of the State Union. On 12 June 2006 the EU Council adopted Conclusions, in which taking note of the Serbian Parliament’s Decision it recognised the Republic of Serbia as a legal successor of the State Union. The Commission announced its intention to submit to the Council a proposal for an amended negotiating mandate for an SAA with Serbia. It recalled that even pending the adoption of the amended negotiating mandate it was prepared to resume negotiations as soon as the condition of co-operation with ICTY had been fulfilled. On 13 June 2007 SAA negotiations with Serbia resumed, following a clear commitment by the country to achieve full cooperation with the ICTY, and concrete actions undertaken by the country that have matched this commitment.

## ANNEX II

# Legislative acts and institutions involved

	Legislative acts		Institutions involved	
	PRIMARY LEGISLATION	SECONDARY LEGISLATION	IMPLEMENTING INSTITUTION(S)	DECISION-MAKING INSTITUTION(S)
<b>AUSTRIA</b>	New federal act concerning settlement and residence in Austria (the Settlement and Residence Act – SRA), which came into force on 1 January 2006: residence permits for longer than 6 months	Foreign Police Act 2005, in force since 1 January 2006: Entry, passport and visa obligations (up to 6 months), documents for aliens, foreign police measures (e.g. expulsion, detention pending deportation)  Implementing ordinances regarding both acts, 2005	The law was adopted by the federal government. The Ministry of the Interior is responsible for its application  Visa applications have to be submitted to the competent <b>DMCP</b> in the applicant's place of residence	Responsibility for issuing residence permits lies with the governor of the respective federal state ( <i>Landeshauptmann</i> )  The Ministry of the Interior (Department III/4) is the appeal body
<b>BELGIUM</b>	<ul style="list-style-type: none"> <li>• <i>Loi du 15 décembre 1980 sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étrangers/Wet van 15 december 1980 betreffende de toegang tot het grondgebied, het verblijf, de vestiging en de verwijdering van vreemdelingen</i> (Law of 15 December 1980 on access to Belgian territory, stay, establishment and expulsion of aliens)</li> </ul> <p>-&gt; Law of 15 December 1980 – Title II – Chapter 3 - Students: articles 58 to 61</p> <p>Article 58 covers applications for study purposes</p>	<ul style="list-style-type: none"> <li>• <i>Arrêté royal du 8 octobre 1981 sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étrangers/ Koninklijk besluit van 8 oktober 1981 betreffende de toegang tot het grondgebied, het verblijf, de vestiging en de verwijdering van vreemdelingen</i> (Royal Decree of 8 October 1981 on access to Belgian territory, stay, establishment and expulsion of aliens)</li> </ul> <p>-&gt; Royal Decree of 8 October 1981 - Title II – Chapter 3 - Students: articles 99 to 103/3</p>	<p>Federal Public Service Interior – Directorate-General of the Immigration Service</p> <p>Applications for a long-term visa valid for longer than 3 months must be submitted in person to the <b>DMCP</b> responsible for the place of residence or stay abroad</p> <p>Article 58, para. 3 of the law of 15 December 1980: under <b>exceptional circumstances</b> permits may be requested for stays of longer than 3 months in Belgium; the details are set out in article 9, para. 3 of the law of 15 December 1980:</p>	<p>Final decision: Federal Public Service Interior – Directorate-General of the Immigration Service</p> <p>Aliens wishing to study in Belgium or enter higher education or follow a preparatory year prior to entering higher education must submit their application for a residence permit valid for longer than 3 months <b>to the DMCP competent for their place of residence or domicile in a foreign country</b></p> <p>This request and the documents enumerated in article 58, para. 1, nos. 1-4 are then put to the Immigration Service for pre-consultation. It is that body which then issues or rejects the application</p>

	Legislative acts		Institutions involved	
	PRIMARY LEGISLATION	SECONDARY LEGISLATION	IMPLEMENTING INSTITUTION(S)	DECISION-MAKING INSTITUTION(S)
<b>BELGIUM</b>	<ul style="list-style-type: none"> <li>key provisions regarding the residence status of students from third countries: articles 99 and 100, paras 1-4 of the Royal Decree (arrêté royal) of 8 October 1981</li> </ul>	<ul style="list-style-type: none"> <li><i>Circulaire du 15 septembre 1998 relative au séjour des étrangers qui désirent suivre des études en Belgique/Rondschriften van 15 september 1998 betreffende het verblijf van de buitenlanders die studies in België willen volgen</i> (Circular of 15 September 1998 relating to the residence of foreign nationals wishing to study in Belgium)</li> <li>details on how to submit applications and regarding the issuance of work permits (including C-category student work permits) are set out in the Royal Decree (arrêté royal/ Koninklijk besluit) of 2 April 2003</li> </ul>	<p>The applicant must request authorisation to reside in Belgium for longer than 3 months from the burgomaster/mayor (bourgmestre/ burgemeester) in the respective place of residence, who will pass on the application to the relevant minister responsible for granting access to Belgian territory, the residence, establishment and possible removal of foreign nationals aliens under his charge (minister for the interior) or to his delegate (i.e. the Directorate-General of the Immigration Service). In such cases, residence permits valid for longer than 3 months will be issued in Belgium</p> <p>-&gt; definition of this notion of “exceptional circumstances” : permanent jurisprudence of the Council of State, the body with the highest administrative jurisdiction in Belgium: an “exceptional circumstances” are deemed to occur when it is difficult or impossible for the applicant to submit an application for a residence permit valid for longer than 3 months to the DMCP in his/her place of residence or his/her residence in a foreign country. (see article 9, para. 2 of the law of 15 December 1980)</p> <p>-&gt; this therefore no longer constitutes a right (article 58, para. 1), but is rather the exercise of a <b>discretionary power</b> by the competent minister</p> <p><b>The circular of 19 February 2003</b> on the application of article 9, para. 3, of the law of 15 December 1980 <b>assumes the existence</b> of such exceptional circumstances if <b>all</b> the conditions required to obtain a student residence permit have been fulfilled (see article 58 et seq. of the law of 15 December 1980 &amp; the circular of 15 September 1998 relating to the residence of aliens wishing to study in Belgium) <b>and</b> if the request for a residence permit is submitted whilst the individual in question is <b>residing legally</b></p>	<p>In exceptional circumstances, article 58, para. 3 allows aliens wishing to study or enter higher education in Belgium or embark on a preparatory year prior to entering higher education, to submit applications for residence permits valid for longer than 3 months to the bourgmestre/ burgemeester (burgomaster/mayor) in their respective place of residence. These applications will then be passed on by the bourgmestre (burgomaster/mayor) to the Immigration Service which will accept or reject them<sup>1</sup></p> <p>‘Secondary’ institution: Direction générale de l’Office des Etrangers (Service Public Fédéral Intérieur)/ Algemene Directie Vreemdelingenzaken (Federale Overheidsdienst Binnenlandse Zaken) <a href="http://www.Dofi.fgov.be">www.Dofi.fgov.be</a></p> <p>The Immigration Service has no direct access to files on foreign nationals, so it cooperates closely with the respective embassies and consulates, which have direct contact with the applicant</p> <p>-&gt; One department deals with long-term residence, lasting more than 3 months, and one of its two divisions processes applications for residence permits for study purposes (including family reunification involving the respective persons) and the monitoring of students (as from their entry to Belgian territory): it monitors the progress of their studies and the issuance of residence permits, grants changes of status and may undertake the removal of students who no longer fulfil the conditions necessary for their residence</p>

<sup>1</sup> The procedure used to apply for a residence permit to study in Belgium only applies under certain very exceptional circumstances to persons legally residing in Belgium at the moment of the application. Normally, applications must always be submitted from the applicant’s country of origin.

	Legislative acts		Institutions involved	
	PRIMARY LEGISLATION	SECONDARY LEGISLATION	IMPLEMENTING INSTITUTION(S)	DECISION-MAKING INSTITUTION(S)
<b>GERMANY</b>	<p>On 1 January 2005, the new Immigration Act, which was promulgated on 5 August 2004, entered into force</p> <p>The Immigration Act (or Residence Act), which replaces the previous Aliens Act, contains regulations on aliens' entry into the Federal Republic of Germany, their residence there and their integration</p> <p>Residence Act, Section 16 para. 1 to 4: issuance of residence permits for study purposes</p> <p>For the implementation of Directive 2004/114/EC amendments are planned</p>		<p>German <b>DMCP</b></p> <p>Universities are themselves responsible for admitting students to study there</p> <p>The body responsible for issuing residence permits is the respective <b>aliens authority ("Ausländerbehörde") at federal state level (Länder)</b></p>	<p>The implementing authorities decide within their own competence</p> <p>The German representation abroad forwards any visa applications for an opinion to the respective aliens authority in the relevant university town. The German representation abroad may only issue visas for entry once the aliens authority ("Ausländerbehörde") has given its approval</p> <p>-&gt; prior approval of the aliens authority ("Ausländerbehörde") is required for the visa if the student's stay is expected to last longer than three months (or if the alien wishes to take up gainful employment)</p> <p>The aliens authority ("Ausländerbehörde") at the planned place of residence is responsible</p> <p>Approval is deemed to have been given if the aliens authority ("Ausländerbehörde") does not object to a visa being issued within three weeks and 2 working days of the request being submitted to it (<b>no-response deadline - "Verschweigefristverfahren"</b>)</p>
<b>ITALY</b>	<p>Article 26 of law no. 189 of 31 July 2002</p>	<p>Article 46, para. 4 of presidential decree no. 394 of 31 August 1999</p> <p>National regulations for the admission of foreign students to higher education institutions (CSS - Circolare studenti stranieri)</p>	<p>Study visa: competent Italian <b>DMCP</b></p> <p>Residence permit issued by the applicant's <b>local police station (Questura - Ufficio Stranieri)</b></p>	<p>Institutional actors:</p> <p>Ministry of University and Research (MiUR)</p> <p>Ministry of Foreign Affairs (MAE)</p> <p>Ministry of Home Affairs (MINT)</p>

	Legislative acts		Institutions involved	
	PRIMARY LEGISLATION	SECONDARY LEGISLATION	IMPLEMENTING INSTITUTION(S)	DECISION-MAKING INSTITUTION(S)
<b>SLOVENIA</b>	<p>Aliens Act (Official Gazette RS, No. 107/06):</p> <ul style="list-style-type: none"> <li>Admission procedure: article 28, 29, 30, 31, 33, 42, 43, 65a of the Alien Act</li> <li>Residence status: article 33 of the Aliens Act</li> </ul> <p>New Aliens Act (Official Gazette of RS, 79/2006)</p>	<p>Administrative fee Act (Official Gazette; RS, 18/2004)</p> <p>Administrative Act (Official Gazette RS, 22/2005)</p> <p>Employment and Work of Aliens Act (Official Gazette RS, 4/2006)</p>	<p>Applications for temporary residence permits for study purposes are submitted to the competent Slovenian <b>DMCP</b></p> <p>after an initial pre-check applications are sent to the respective <b>administrative units</b> (units set up in the process of decentralising the state administration of Slovenia)</p>	<p><b>Administrative units:</b> responsible for processing applications and reaching final decisions on whether or not to issue residence permits</p> <p>-&gt; Decision-making is decentralised: an administrative unit in each city decides on residence permits. The administrative units fall under the Ministry of Interior and consult other units</p>
<b>SWEDEN</b>	<p><b>Aliens Act (2005:716)</b></p> <p>Swedish Code of Statutes no 2005:716 issued 29 September 2005</p> <p>Chapter 5. Residence permits, Section 10</p> <p>“A temporary residence permit may be issued to an alien who wishes to stay in this country to work, study or visit”</p>	<p><b>Aliens Ordinance (2006:97)</b></p> <p>Swedish Code of Statutes no 2006:97 issued 23 February 2006</p> <p>Chapter 4. Residence permits, Section 5</p> <p>Chapter 5. Work permits, Section 2</p>	<p>Embassies and Consulates</p> <p>The Swedish Migration Board</p> <p>Migration courts</p> <p>Migration Court of Appeal</p>	<p>The Swedish Migration Board</p> <p>Migration courts</p> <p>Migration Court of Appeal</p>

## ANNEX III

# Supporting documents required with applications

	AUSTRIA	BELGIUM	GERMANY	ITALY	SLOVENIA	SWEDEN
Supporting documents required with applications	<p>The original and a copy:</p> <ul style="list-style-type: none"> <li>• A valid travel document or passport</li> <li>• A birth certificate</li> <li>• A passport photo</li> <li>• Notification of admission to the respective university, university of applied sciences (Fachhochschule) or other educational institution</li> <li>• Proof of sufficient financial means (students under 24: €400.94/month, students over 24: €726/month), e.g. via a bank statement, confirmation of a scholarship, guarantee of support</li> <li>• Health insurance</li> <li>• Proof of accommodation, e.g. the copy of a contract</li> </ul>	<p>The following documents listed in points 1-4 of Article 58 of the law of 15 December 1980 must be submitted:</p> <p>1) Confirmation from an educational institution:</p> <ul style="list-style-type: none"> <li>• Certifying either that the foreign student, who fulfils the relevant conditions for higher education, is <b>enrolled as a regular student</b> at the issuing institution, or, if applicable, that the applicant has taken steps to secure the recognition of the <b>equivalence</b> of diplomas or school certificates, or that having passed the relevant <b>admission exam</b>, the applicant is now enrolled as a regular student at the issuing institution</li> </ul>	<ul style="list-style-type: none"> <li>• A passport</li> <li>• Proof of admission to a higher education institution (notification document proving that the applicant has gained admission to a German higher education institution or students' preparatory course)</li> <li>• Proof of sufficient health insurance</li> <li>• Proof of accommodation</li> <li>• Proof of sufficient means of subsistence (at least €585 per month, total of €7,020 per year) for the first year of study</li> </ul> <p>Proof that there is no reason for the applicant's expulsion</p> <p>Evidence that the applicant has the necessary academic qualifications to take up studies in Germany</p>	<ul style="list-style-type: none"> <li>• A valid passport/travel document</li> <li>• A passport photo</li> <li>• Proof of suitable accommodation</li> <li>• Evidence of sufficient financial means (a minimum of €350.57 per month for 12 months of the year): Proof of this may be given by demonstrating the existence of personal or family funds or via economic guarantees provided by <ul style="list-style-type: none"> <li>&gt; Italian creditworthy institutions or bodies</li> <li>&gt; a foreign Government</li> <li>&gt; foreign institutions or bodies deemed reliable by the competent Italian DMCP</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• A valid travel document, whose period of validity exceeds the intended period of the applicant's stay in the Republic of Slovenia by at least three months</li> <li>• Adequate health insurance</li> <li>• Sufficient funds for subsistence during the applicant's stay in the country, or another form of guaranteed monthly subsistence equal to at least the basic minimum wage in the Republic of Slovenia (unless defined differently on a case-by-case basis)</li> </ul>	<p>A letter of acceptance from a Swedish university or educational institution (<i>lärosäte</i>); the applicant's studies must be full-time</p> <ul style="list-style-type: none"> <li>• Proof of sufficient secured funds to support the applicant throughout the full duration of the planned studies: SEK 6,300 (approx. €680) per month for 10 months a year (from 1 January 2007, SEK 7,300 will be required), whereby exchange students from other countries may not always be required to prove their financial status, but must be prepared to do so if requested by the Swedish Embassy, Swedish Consulate or Swedish</li> </ul>



	AUSTRIA	BELGIUM	GERMANY	ITALY	SLOVENIA	SWEDEN	
Supporting documents required with applications	<ul style="list-style-type: none"> <li>• Certificate indicating the applicant's lack of a criminal record (with the exception of certain PhD students) that is no more than 6 months old</li> <li>• In case of an extension (renewal), proof of academic success (transcripts): 8 hours a week or 16 ECTS points per study year</li> <li>• Documents not in German or English must be provided in an authorised translation; any foreign documents must be certified</li> </ul>	<p>The aforementioned confirmation must concern a course of <b>full</b> or <b>full-time education</b>, but may include shorter periods of study if the alien in question can demonstrate that the desired education will constitute his/her principal activity and constitute preparation for or complement a course of full or full-time education.</p> <p>2) Proof of sufficient means of subsistence: The <b>minimum means of subsistence</b> for aliens wishing to study in Belgium is fixed each year by Royal Decree {2005-2006: €513}. <b>Proof</b> of this level of funds can be provided by: confirming a scholarship; submitting a guarantee provided by a sponsor; demonstrating that the individual can procure resources by exercising a legal remunerative activity (whether employed or self-employed) outside the time normally</p>			<ul style="list-style-type: none"> <li>• Evidence of entitlement to medical care in Italy (health insurance)</li> <li>• Funds necessary for repatriation or a pre-purchased valid return ticket</li> </ul>	<p>Proof that the applicant is accepted by the respective place of study; proof of other forms of education, specialisation, advanced vocational training, practical qualifications, non-remunerated training or voluntary service, issued by the competent educational institution that accepted the alien as a student (= letter of acceptance), CMEPIUS enrolment certificate or confirmation from the competent state authority which is either responsible for implementing international or bilateral agreements or is the applicant's grant-awarding body; or confirmation issued by the state-authorised organisation responsible for implementing a specific course</p> <ul style="list-style-type: none"> <li>• Certification that the applicant has no criminal record, issued by the home country</li> </ul>	<p>Migration Board when applying for a residence permit</p> <p>The guarantee can take the form of bank statements, etc.</p> <ul style="list-style-type: none"> <li>• A valid passport</li> </ul>

	AUSTRIA	BELGIUM	GERMANY	ITALY	SLOVENIA	SWEDEN
Supporting documents required with applications		<p>devoted to his/her studies); or providing proof of personal resources at the applicants disposal which will also be taken into account as long as they are sufficient and regular (e.g. private funds derived from saving, rental income or pensions proven by submitting bank statements showing that the applicant's bank account is regularly credited)</p> <p>3) A medical certificate, showing that the applicant is not affected by certain diseases or infirmities</p> <p>4) A certificate (issued at most 6 months previously) confirming the applicant's lack of a convictions for crimes or offences under common law over the previous five years, provided the would-be student is over 21 years old</p> <ul style="list-style-type: none"> <li>• A copy of the applicant's passport, valid for at least one year</li> </ul>			<ul style="list-style-type: none"> <li>• Translations of all documentary proof into Slovenian may be requested, whereby translations must be certified by a notary. The documentation should be translated into the language known to the respective consular official. The applicant may make an unofficial translation into the official language for the purposes of the relevant administrative unit. However this will not be necessary if documentation is provided in a language known to the official in question. The administrative unit may also request an official translation</li> </ul>	

# References

## EU documents

Agreement between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders, 14 June 1985, OJ L 239, 22/09/2000 available at [http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:42000A0922\(01\):EN:HTML](http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:42000A0922(01):EN:HTML)

Communication from the Commission, 2005: Enlargement strategy paper, COM/2005/561 final, Brussels, 9/11/2005, available at [http://eur-lex.europa.eu/smartapi/cgi/sga\\_doc?smartapi!celexplus!prod!CELEXnumdoc&lg=en&numdoc=505DC0561](http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!CELEXnumdoc&lg=en&numdoc=505DC0561)

Communication from the Commission, 2006: The Western Balkans on the road to the EU: consolidating stability and raising prosperity, COM/2006/0027 final, Brussels, 27/01/2006 available at: [http://eur-lex.europa.eu/smartapi/cgi/sga\\_doc?smartapi!celexplus!prod!CELEXnumdoc&lg=en&numdoc=506DC0027](http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!CELEXnumdoc&lg=en&numdoc=506DC0027)

Commission of the European Communities, 2006: Draft proposal for a Regulation of the European Parliament and of the Council establishing a Community Code on Visas {SEC(2006) 957},{SEC(2006) 958}, COM/2006/403 final, Brussels, 19/07/2006, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52006PC0403:EN:NOT>

Commission of the European Communities, 2006: Enlargement Strategy and Progress Reports 2006, 8 November 2006, available at: [http://ec.europa.eu/enlargement/key\\_documents/reports\\_nov\\_2006\\_en.htm](http://ec.europa.eu/enlargement/key_documents/reports_nov_2006_en.htm)

Commission of the European Communities, 2006: Press release - Joint Statement by Vice President Franco Frattini, Commissioner responsible For Justice Freedom And Security, and by Commissioner Olli Rehn, responsible

for Enlargement, on the adoption of visa facilitation and readmission mandates for the Western Balkans, Brussels, 15 November 2006, MEMO/06/429 available at <http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/06/429&format=HTML&aged=0&language=EN&guiLanguage=en>

Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders, 19 June 1990, OJ L 239, 22/09/2000 p. 19–62 available at [http://eur-lex.europa.eu/smartapi/cgi/sga\\_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=42000A0922\(02\)&model=guichett](http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=42000A0922(02)&model=guichett)

Council Directive 2004/114/EC of 13 December 2004: On the condition of admission of third-country nationals for the purpose of studies, pupil exchange, unremunerated training or voluntary service. Official Journal of the European Union, 23 December 2004, L 375/1215, available online at: [http://eur-lex.europa.eu/LexUriServ/site/en/oj/2004/l\\_375/l\\_37520041223en00120018.pdf](http://eur-lex.europa.eu/LexUriServ/site/en/oj/2004/l_375/l_37520041223en00120018.pdf)

Council of the European Union, 2001: Council Regulation (EC) No 539/2001 of 15 March 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, available at [http://eur-lex.europa.eu/smartapi/cgi/sga\\_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=32001R0539&model=guichett](http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=32001R0539&model=guichett)

Council of the European Union, 2001: Council Regulation (EC) No 789/2001 of 24 April 2001 reserving to the Council implementing powers with regard to certain detailed provisions and practical procedures for examining visa applications, OJ 2001 L 116, available at [http://eur-lex.europa.eu/smartapi/cgi/sga\\_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=32001R0789&model=guichett](http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=32001R0789&model=guichett)

Council of the European Union, 2001: Council Regulation (EC) No 790/2001 of 24 April 2001 reserving to the Council implementing powers with regard to certain detailed provisions and practical procedures for carrying out border checks and surveillance, OJ 2001 L 116, available at [http://eur-lex.europa.eu/smartapi/cgi/sga\\_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=32001R0790&model=guichett](http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=32001R0790&model=guichett)

Council of the European Union, 2003: Presidency Conclusions, Thessaloniki European Council 19 and 20 June 2003, available at [http://ue.eu.int/ueDocs/cms\\_Data/docs/pressdata/en/ec/76279.pdf](http://ue.eu.int/ueDocs/cms_Data/docs/pressdata/en/ec/76279.pdf)

Council of the European Union, 2003: Thessaloniki Agenda for the Western Balkans, Thessaloniki European Council 19 and 20 June 2003, available at [http://ec.europa.eu/enlargement/enlargement\\_process/accesion\\_process/how\\_does\\_a\\_country\\_join\\_the\\_eu/sap/thessaloniki\\_agenda\\_en.htm](http://ec.europa.eu/enlargement/enlargement_process/accesion_process/how_does_a_country_join_the_eu/sap/thessaloniki_agenda_en.htm)

Council of the European Union, 2004: Council Decision of 22 December 2004 providing for certain areas covered by Title IV of Part Three of the Treaty establishing the European Community to be governed by the procedure laid down in Article 251 of that Treaty (2004/927/EC), available at: [http://eur-lex.europa.eu/LexUriServ/site/en/oj/2004/l\\_396/l\\_39620041231en00450046.pdf](http://eur-lex.europa.eu/LexUriServ/site/en/oj/2004/l_396/l_39620041231en00450046.pdf)

Council of the European Union, 2005: Common Consular Instructions on Visas for the Diplomatic Missions and Consular Posts, 2005/C 326/01, OJ C 326, 22/12/2005 available at [http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52005XG1222\(01\):EN:NOT](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52005XG1222(01):EN:NOT)

Council of the European Union, 2006: Council Decision 2006/440/EC of 1 June 2006 amending Annex 12 to the Common Consular Instructions and Annex 14a to the Common Manual on the fees to be charged corresponding to the administrative costs of processing visa applications, Official Journal L 175 , 29/06/2006 P. 0077 – 0080. available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:175:0077:01:EN:HTML>

European Court of Justice (ECJ), 2005: Judgment of the Court, 18 January 2005, Case C-257/01, Commission of the European Communities v Council of the European Union, available at <http://eur-lex.europa.eu/LexUriServ/>

[site/en/oj/2005/c\\_057/c\\_05720050305en00010001.pdf](http://eur-lex.europa.eu/LexUriServ/site/en/oj/2005/c_057/c_05720050305en00010001.pdf) and <http://curia.europa.eu/en/actu/communiqués/cp05/aff/cp050005en.pdf>

Migration Directives' Contact Committee, Report of the 6th October 2006 meeting, Brussels

Permanent Representatives Committee, Note 16030/05 from the, on 21 December 2005, Brussels

Treaty of Amsterdam amending the Treaty on European Union, the treaties establishing the European communities and related acts, signed on 2 October 1997, entered into force on 1 May 1999, Official Journal C 340, 10 November 1997, available at <http://europa.eu.int/eur-lex/lex/en/treaties/dat/11997D/htm/11997D.html>

Treaty of Nice amending the treaty on European Union, the treaties establishing the European communities and certain related acts, signed on 26 February 2001, entered into force on 1 February 2003, Official Journal C 80, 10 March 2001, available at <http://europa.eu.int/eur-lex/lex/en/treaties/dat/12001C/htm/12001C.html>

## Legal sources

Austrian Federal Act on Settling and Residing in Austria (Settlement and Residence Act - Niederlassungs- und Aufenthaltsgesetz), Federal Law Gazette (FLG) I No. 100/2005 as amended by FLG I No. 99/2006, available also in English at <http://www.bmi.gv.at/gesetzesvorlagen/>, accessed 09/05/2007

Belgian Law of 15 December 1980 on access to Belgian territory, stay, establishment and expulsion of aliens (Loi du 15 decembre 1980 sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étrangers), available at <http://www.dofi.fgov.be/fr/reglementering/belgische/wet/wet2.pdf> (Wet van 15 december 1980 betreffende de toegang tot het grondgebied, het verblijf, de vestiging en de verwijdering van vreemdelingen), available at <http://www.dofi.fgov.be/nl/reglementering/belgische/wet/wet2.pdf>

Belgian Royal Decree of 8 October 1981 on access to Belgian territory, stay, establishment and expulsion of aliens (Arrêté royal du 8 octobre 1981 concernant l'accès

au territoire, le séjour, l'établissement et l'éloignement des étrangers available at <http://www.dofi.fgov.be/fr/reglementering/belgische/kb/kb.pdf> / Koninklijk besluit van 8 oktober 1981 betreffende de toegang tot het grondgebied, het verblijf, de vestiging en de verwijdering van vreemdelingen), available at <http://www.dofi.fgov.be/nl/reglementering/belgische/kb/kb.pdf>

German Residence Act (Aufenthaltsgesetz), 30 June 2004, included in the Immigration Act (Zuwanderungsgesetz), Federal Law Gazette volume 2004, part I, no. 41, issued in Bonn on 5 August 2004, last amended by the Act Amending the Residence Act and other acts of 14 March 2005 (Federal Law Gazette I, p. 721) available at [http://bundesrecht.juris.de/bundesrecht/aufenthg\\_2004/gesamt.pdf](http://bundesrecht.juris.de/bundesrecht/aufenthg_2004/gesamt.pdf), in English translation at <http://www.zuwanderung.de/english/downloads/aufenthgengl.pdf>

Italian Presidential Decree No. 394 of 31st August 1999 (Decreto Presidente Repubblica 31 agosto 1999 n. 394), available at <http://wai.inps.it/doc/extracomunitari/extrain/leggi/39499.htm>

Slovenian Employment and Work of Aliens Act (Official Gazette RS, 4/2006), available at [http://www.mdds.gov.si/fileadmin/mdds.gov.si/pageuploads/dokumenti\\_\\_pdf/zdt\\_upb1\\_en.pdf](http://www.mdds.gov.si/fileadmin/mdds.gov.si/pageuploads/dokumenti__pdf/zdt_upb1_en.pdf)

Swedish Aliens Act, (2005:716 with amendments up to 2006) available in English translation at <http://www.sweden.gov.se/content/1/c6/06/61/22/fd7b123d.pdf> (13/04/2007)

Swedish Ministry of Justice, Genomförande av EG-direktiven om överföring av passageraruppgifter och uppehållstillstånd för studier (Transposition of the EC Directives on transmission of passenger data and residence permits for studies), government proposal regarding inter alia the transposition of Directive 2004/114/EC, Regeringens Proposition 2005/06:129, March 2006, available at <http://www.regeringen.se/sb/d/108/a/60554>

## Presentations and Speeches

Borrelli, V, 2006: Presentation – Directorate-General for Education and Culture, European Commission, at the mid-

term meeting of the Smart Visa for Students from the Western Balkans project, 30 November 2006

Figel, J., 2006: Speech, Commissioner for Education, Training, Culture and Multilingualism, “Supporting the creation of a knowledge economy in the Western Balkans: the Lisbon Strategy and European instruments”, Conference of the European Ministers of Education “Strengthening Education in Europe”, 17 March 2006, Vienna, SPEECH/06/180 available at <http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/06/180&format=H>

Finocchietti, G., 2006: Presentation - “Sharing good practices: a standard procedure for granting EM students entry Visa to Italy”, PNC - Punto nazionale di contatto – Italia, Seminar Erasmus Mundus Master Courses Consortia 2006, Brussels, 30 November 2006

## Publications, papers and reports

Citizens’ Pact for South Eastern Europe, 2006: Best Stories from the Visa Queues, available at, <http://www.citizenspact.org.yu>, last accessed 13/04/2007

Groenendijk, K., Guild, E., 2003: ILPA European Update, the Western Balkans and the European Union: Liberalising Movement of Persons, March 2003, University of Nijmegen, available at [http://www.ilpa.org.uk/publications/EuropeanUpdate32003.html#\\_ftn1](http://www.ilpa.org.uk/publications/EuropeanUpdate32003.html#_ftn1)

International Commission on the Balkans, 2006: The Balkans in Europe’s Future, April 2005, available at <http://www.balkan-commission.org/activities/Report.pdf>

International Crisis Group, 2005: EU Visas and the Western Balkans, November 2005, available at <http://www.crisisgroup.org/home/index.cfm?l=1&id=3809>

Migrationsverket, 2005: Rapport till regeringen: Uppföljning av beslut om uppehållstillstånd för studier, 30 June 2005, available at [www.migrationsverket.se/swedish/verket/skrivelser\\_reg/uppfoljning\\_studier.pdf](http://www.migrationsverket.se/swedish/verket/skrivelser_reg/uppfoljning_studier.pdf)

Natorski, M. and Herranz, A., 2006: The Impact of German-Russian and Polish-Ukrainian Special Relations on

European Foreign Policy: Energy Supplies and Visas in the EU Neighbourhood, Paper presented for the conference “Reflecting on a wider Europe and beyond: norms, rights and interests” organized by the Central and East European International Studies Association (CEEISA), 4th convention, University of Tartu, Estonia, 25 – 27 June 2006, available at [www.ceeisaconf.ut.ee/orb.aw/class=file/action=preview/id=166465/Natorski\\_Herranz.doc](http://www.ceeisaconf.ut.ee/orb.aw/class=file/action=preview/id=166465/Natorski_Herranz.doc)

Suter, B. and Jandl, M., 2006: Comparative Study on Policies towards Foreign Graduates. Study on Admission and Retention Policies towards Foreign Students in Industrialised Countries, International Centre for Migration Policy Development, Vienna, 2006, ISBN: 3-900411-07-7.

WUS AUSTRIA, Newsletter, February 2007, available at <http://www.wus-austria.org/new/newsletter/latest.htm>

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## Online sources

---

Immigration Service, Belgium (Direction générale de l'Office des Etrangers - Service Public Fédéral Intérieur/ Federale Overheidsdienst Binnenlandse Zaken - Algemene Directie Vreemdelingenzaken) : [www.Dofi.fgov.be](http://www.Dofi.fgov.be), including [http://www.dofi.fgov.be/fr/wat\\_doen\\_wij.htm](http://www.dofi.fgov.be/fr/wat_doen_wij.htm) and Q&A available see <http://www.dofi.fgov.be/fr/publicaties/parlementaire%20vragen/294.pdf>

Deutscher Akademischer Austauschdienst (German Academic Exchange Service, DAAD): [www.daad.de](http://www.daad.de)

European Movement in Serbia: <http://www.emins.org/english/index.html>

State Portal of the Republic of Slovenia, FAQs, available at <http://e-uprava.gov.si/e-uprava/en/faqKategorijaVprasanje.euprava?faq.id=70&faq.vprasanje.id=364>

Study in Italy: Italian Higher Education for International Students. Online: [www.study-in-italy.it/studying/info-20.html](http://www.study-in-italy.it/studying/info-20.html), Ministry of Education, University and Research project

Swedish Institute: Guide for students at [www.studyinsweden.se](http://www.studyinsweden.se) and [http://www.studyinsweden.se/templates/cs/Article\\_\\_\\_4999.aspx](http://www.studyinsweden.se/templates/cs/Article___4999.aspx)

Swedish Migration Board, Information at <http://www.migrationsverket.se/english.jsp?english/estudier/estudyg.jsp>, and Fact sheet on residence permits for students – university/college (including doctoral students), March 2007, available at [http://www.migrationsverket.se/infomaterial/bob/sokande/studier/utun\\_en.pdf](http://www.migrationsverket.se/infomaterial/bob/sokande/studier/utun_en.pdf)

„Welcome to Germany“ at <http://www.willkommenindeutschland.org/putovanje.htm>

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## Other

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Summary and conclusions of the mid-term meeting of the project on 30 November 2006 in Brussels

*Short interviews (February 2007):*

**Embassies (Consulate sections):**

Sarajevo: Austria, Slovenia and Sweden.

Belgrade: Austria, Belgium, Germany, Slovenia and Sweden

**Organisations working with students:**

Sarajevo: Youth Information Centre, WUS Austria, Sarajevo, the Deutscher Akademischer Austausch Dienst (DAAD-Lektor) and the Student Resource Centre (SRCE)

Belgrade: WUS Austria, Belgrade, Group 484, Student Union of Serbia, the Citizen's Pact for SEE and the Deutscher Akademischer Austausch Dienst (DAAD-Lektor), European Movement Serbia

Vienna: WUS Austria representative from the Head Office in Graz (January 2007).

Meetings also took place in Ljubljana, Slovenia, in January 2007: Ministry of Foreign Affairs, Centre for Mobility and EU programmes (CMEPIUS).



# Draft questionnaire - Smart Visa for students from the Western Balkans

The following questionnaire has been elaborated in the framework of the project “Smart Visa project for students from the Western Balkans” that has been initiated by the King Baudouin Foundation in Brussels to be implemented in cooperation with ICMPD (International Centre for Migration Policy Development) in Vienna (please see attached concept note). The purpose of the questionnaire is to gather information for a research study, constituting the first phase of the project, on existing legislation and procedures regarding visa and admission of persons from third countries for the purpose of studies for a period longer than three months as well as identification of good practices in this area.

Your answer would be appreciated at the latest on Friday 6 October 2006.

*Thank you for your cooperation!*

### Legal framework for admission of students: the status quo

#### 1. Legal framework:

- Please specify the legal act and its implementing regulations regarding admission of students from third countries in your country.
- Please specify key provisions of the law with regard to the admission procedure for students from third countries.
- Please specify key provisions of the law with regard to the residence status of students from third countries

#### 2. Institutional set-up

- Please describe the institutional set-up for processing applications for admission of students by third country nationals in your country:
  - i. What institutional bodies/units are responsible for implementing the law?
  - ii. What institutional bodies/units are responsible for taking the final decision on applications from students from third countries?



### 3. Technical admission procedure

- Please indicate how the technical admission procedure for students from third countries is organised in your country.
- What type of entry permit(s) for the purpose of 'studies' are issued?
  - i. Residence permits in the embassies? (please specify duration)
  - ii. Long-term visa for students in the embassies? (please specify duration)
  - iii. Long-term visa for students in the embassies coupled with residence permit issued inside the country? (please specify duration)
- What are the pre-conditions (in the legislation) for admission of students? Which criteria have to be fulfilled?

### 4. Renewal and withdrawal of residence permit(s) for the purpose of studies for third country nationals and change to permits for other purposes

- How do you monitor that person admitted for the purposes of studies continue to fulfil the legal requirements for visa/residence permits?
- How does your country keep contacts with universities and institutions for the purpose of monitoring persons admitted for studies?
- Under which conditions is/can a residence permit issued upon admission as student from a third country be renewed? If yes, for how long? (If applicable, please indicate yearly figures)
- Under which conditions can a residence permit issued for the purpose of studies be withdrawn?
- Under which conditions can a residence permit issued to a student be changed to permits for other purposes? (employment after completion of academic education etc.)

## Implementation in practice

### 5. Please describe the procedure for issuing long-term visa/residence permits to students. What are the practical requirements in the concerned authority:

- Which supporting documents are needed?
- What fees have to be paid?
- What is the normal time-line for dealing with an application from the time of submission of application to the time of issuance/refusal?

6. Do specific accelerated procedures concerning the admission of third country nationals for the purpose of study exist in your country? (If applicable, please specify)
7. Is there a specific practice regarding the admission of students for nationals from the Western Balkans? (If yes, please specify)
8. Is there cooperation with universities and education institutions regarding the admission procedure? What is the role of Universities in the procedure?
9. Are there any numeral yearly quotas limiting long-term visas and residence permits for the admission of students from third countries (general maximum, limitations per sub-category, regional specific if applicable, quotas being used up each year or not etc.)? If yes, please specify.
10. Does your country use an IT supported application system? If yes, please specify.

### Statistics

11. How many applications for admission of students from third country nationals have been submitted to your country over the last five years (2001 – 2005/mid 2006)? How many of those were from the Western Balkans?
12. How many applications were decided positively over the last five years (2001 – 2005/mid 2006)?
13. What were the main grounds for negative decisions on admissions for the purpose of studies over the last five years (2001 – 2005)
14. If applicable, how many residence permits issued to students have been changed to residence permits for other purposes in the last five years?

### Problems experienced

15. Which difficulties do you experience under the current scheme?
16. Please describe possible experiences with abuse of the system (e.g. applications without genuine purpose of studying, use of false and falsified documents for applications, etc.).
17. What measures have been taken/planned to combat such abuse?

18. 1. Has the Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service (Directive 2004/114/EC) been implemented into national law?

If yes

- What amendments have been made to the law?
- Has the implementation of the Directive changed the procedure? What are the first experiences made regarding the impact of the new procedure for admission?

If not

- What concrete steps (legal and practical) are envisaged to implement the Directive 2004/114/EC until 12 January 2007?

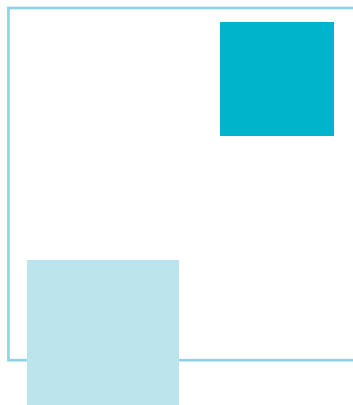
### Good practices for visa facilitation for students

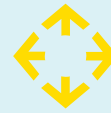
19. Do you consider any of your practices as good practices (e.g. facilitating access to procedure, length of entitlement, etc.)? If yes, please describe.

20. Please describe good practices and why you assess these practices as successful: What makes the practice work? What makes it successful? What strategies and models of implementation are adopted?

21. What are the lessons learned?

22. Do you think this practice is transferable to other countries? If no, please specify reasons.





**ICMPD**

International Centre for  
Migration Policy Development

# International Centre for Migration Policy Development

[www.icmpd.org](http://www.icmpd.org)

**The International Centre for Migration Policy Development** is an inter-governmental organisation with UN Observer status, created in 1993 at the initiative of Switzerland and Austria. The purpose of the Centre is to promote innovative, comprehensive and sustainable migration policies and to function as a service exchange mechanism for governments and organisations in the wider European region. The centre has 11 Member States: Austria, Bulgaria, Croatia, Czech Republic, Hungary, Poland, Portugal, Slovakia, Slovenia, Sweden and Switzerland.

**Addressing Current and Future Migration Policy Challenges:** ICMPD is active in various fields related to migration management, ranging from migration policy and research to capacity building and consultancy services. Activities include the elaboration, implementation and contribution to long-term strategies to cope with growing migration pressures, including the facilitation of early warning, the combat of root causes, the harmonisation of entry control and the co-ordination of aliens, asylum, refugee and visa policies with a view to making migration management more effective. A further objective is to contribute to the reinforcement of international migration co-operation in order to facilitate the development of regional (European) and global concepts and systems for more manageable migration.

ICMPD furthermore works for good migration governance in various fields of migration, border management and human trafficking. Comprehensive institution and

capacity building measures at national and regional levels are implemented in order to strengthen national and regional capacities to deal with the current challenges in all the substantive areas, i.e. trafficking in human beings, integrated border management, visa, refugee/IDPs management, and migration systems/migratory flow management.

ICMPD has since its inception been deeply involved in the creation and development of informal and flexible consultative structures involving migration officials from sending, transit and receiving states with a view to preventing irregular migration. As Secretariat for the Budapest Process, which involves more than 40 states and 10 international organisations, ICMPD has organised numerous inter-governmental meetings since 1994. Since 2002, ICMPD is also active in establishing an informal network to prevent irregular migration over the Mediterranean, called dialogue on Mediterranean Transit Migration (MTM).

Working in the above areas, the Centre shares close co-operation with the European Commission, international organisations such as Europol, FRONTEX, the International Organization for Migration, the United Nations High Commissioner for Refugees, the Organization for Security and Co-operation in Europe, the Council of Europe, the United Nations Development Programme, the United Nations Office on Drugs and Crime, Interpol and many others.

For further information on ICMPD's activities, please refer to our website at [www.icmpd.org](http://www.icmpd.org), or contact us under [icmpd@icmpd.org](mailto:icmpd@icmpd.org).

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# King Baudouin Foundation

Working together for a better society  
[www.kbs-frb.be](http://www.kbs-frb.be)



The King Baudouin Foundation supports projects and citizens with a commitment to build a better society. We look for sustainable ways of bringing about justice, democracy and respect for diversity.

The King Baudouin Foundation is independent and pluralistic. Working from our base in Brussels, we are engaged in activities in Belgium, in Europe and internationally. In Belgium the Foundation has local, regional and federal projects. The King Baudouin Foundation was founded in 1976 to mark the 25th anniversary of King Baudouin's reign.

To achieve our aim we use a number of different working methods. We support third party projects, develop our own projects, organise workshops and round-table discussions with experts and citizens, set up groups to reflect on current and future issues, bring together people with very different perspectives to sit around the table, distribute the results through (free) publications etc. The King Baudouin Foundation works with government bodies, associations, non-governmental organisations, research centres, businesses and other foundations. We have a strategic partnership with the European Policy Centre, a thinktank in Brussels.

## Our activities are focused on the following issues:

**Migration & a multicultural society** - promoting integration and a multicultural society in Belgium and

Europe

**Poverty & social justice** - identifying new forms of social injustice and poverty; supporting projects that build greater solidarity between the generations

**Civil society & social commitment** - encouraging social commitment; promoting democratic values among young people; supporting neighbourhood and local projects

**Health** - promoting a healthy way of life; helping to build an accessible and socially acceptable healthcare system

**Philanthropy** - helping to make philanthropy more efficient in Belgium and Europe

**The Balkans** - protecting the rights of minorities and the victims of human trafficking; setting up a visa system for students

**Central Africa** - supporting projects in the field of AIDS prevention and offering guidance to AIDS patients

The Board of Governors of the King Baudouin Foundation outlines the main areas of policy. A staff of sixty - men and women, Belgian natives and ethnic minorities – is in charge of the implementation.

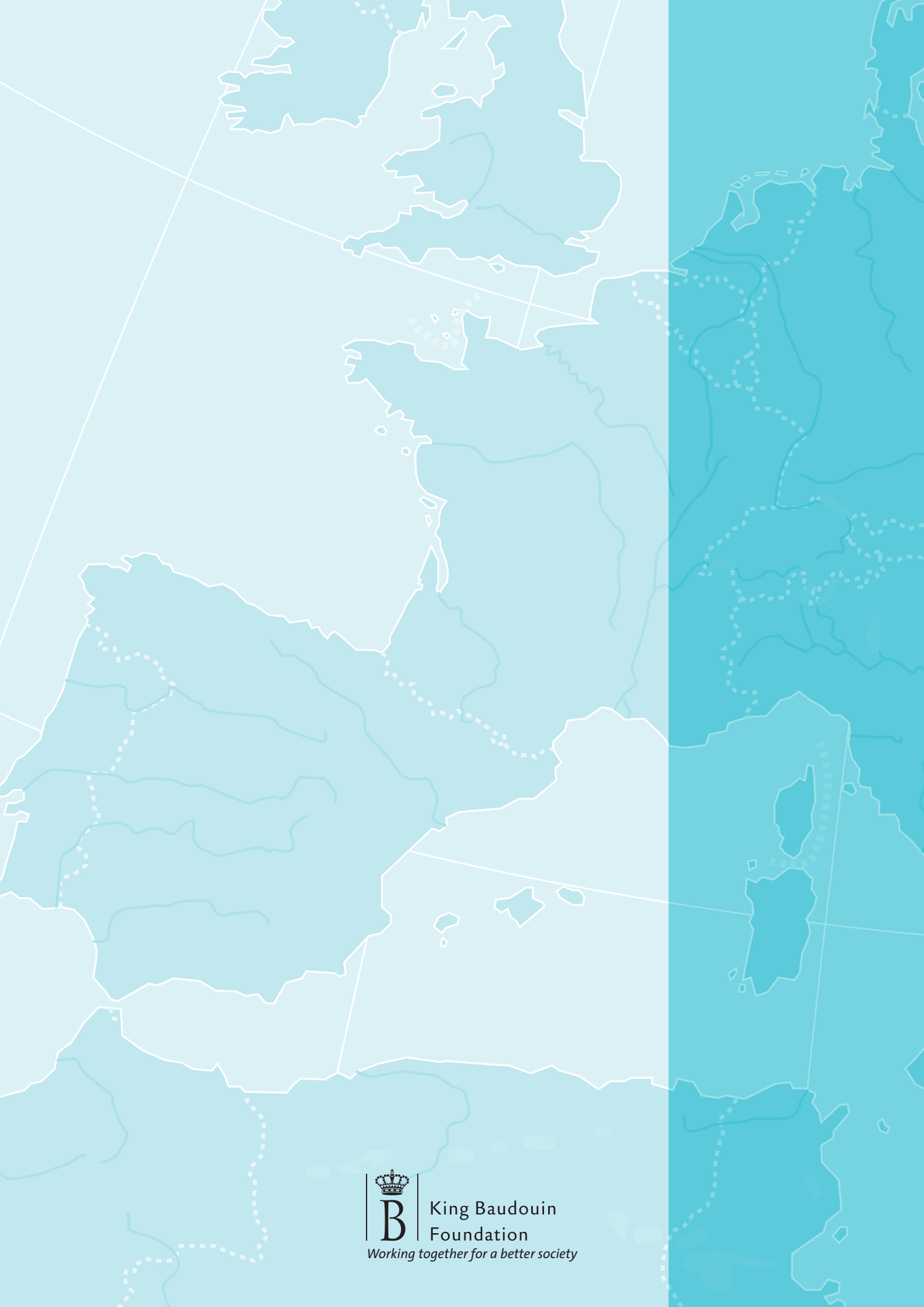
We have total annual expenditures of some 40 million euro. In addition to our own capital and the significant grant from the National Lottery there are also Funds set up by individuals, associations and companies. The King Baudouin Foundation is happy to accept donations and legacies.

*You can find more information on our projects and publications at [www.kbs-frb.be](http://www.kbs-frb.be)  
An e-newsletter will keep you informed. If you have any questions,  
please contact us at [info@kbs-frb.be](mailto:info@kbs-frb.be) or on 070-233 728.*

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Donations made to our account number 000-0000004-04 are tax deductible from 30 euro.





King Baudouin  
Foundation

*Working together for a better society*