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22 June 2011

Mrs. Cecilia Malmström  
Commissioner for Home Affairs  
European Commission  
B – 1049 Brussels

***Re: Human rights concerns in relation to the treatment of asylum seekers from Serbia and Macedonia in EU member states***

Dear Mrs. Malmström,

Thank you very much for your letter of 23 March 2011 regarding the treatment of asylum seekers from Serbia and Macedonia in the EU.

We have followed this issue very carefully over the last months and remain very concerned about the way in which this issue is being discussed, especially as regards certain statements alleging that citizens from Serbia and Macedonia, who have recently applied for asylum in the EU, are necessarily “false asylum seekers”.

We are also concerned by the recent announcement of the Serbian and Macedonian governments to the effect that it is currently preparing a law reform which would create the possibility to withdraw the passports of failed asylum seekers and returned migrants.

The European Council has made the liberalization of the visa regime with the countries of the “Western Balkans” conditional on the achievement by them of a certain set of benchmarks, including the strengthening of border and migration controls, the fight against organized crime and external relations and fundamental rights.

We are not aware of the Commission’s final assessment of the progress made by the countries in the different areas, which lead to the liberalization of the visa regime. From your recent *Staff working paper on the post-visa liberalization monitoring for the Western Balkan countries (SEC (2011) 695 final)* it is obvious, however, that the countries have made little progress in the area of fundamental rights, and that the Roma, in particular the refugees and IDPs from Kosovo, are those who are suffering the most as a result of this situation.

This is why we can only subscribe to the statement in your letter that “[t]he abolition of the visa requirement for citizens of a certain third country does not imply that such persons cannot apply for asylum in the EU.”

For the same reason, we are unable to understand your recent proposal which allows for the temporary reintroduction of visa requirements in the event of an important increase in the number of asylum applications by citizens of a certain country.

We have studied your *Evaluation on the implementation of the EU readmission agreements COM (2011) 76 final* very carefully. However, we have noticed that this evaluation refers to a number of documents which are not publicly available. Moreover, we are missing more detailed information on Serbia and the other countries of the Western Balkans.

We would be particularly interested in receiving more detailed information about the issues, which have been discussed by the Joint Readmission Committees. Indeed, we understand that these committees are also the place to discuss human rights issues. We have already noticed that the European Commission has no information about the situation of forced returnees and we welcome your proposal to set up a “post-return” monitoring mechanism which should work in close cooperation with NGOs. However, we would like to know whether you have discussed other issues such as the transparency of the readmission procedure, the possibility for those concerned by a readmission request to use legal remedies against their forced repatriation, and the reintegration of the forced returnees (i.e. access to personal documents, education and health care, housing).

In your report we noticed that, in 2008, Serbia was the country whose citizens were most frequently returned on the basis of so-called “accelerated procedures”, but that this number fell to just one person in 2009. Do you have any explanation for a) the more frequent use of accelerated procedures in relation to the treatment of asylum applications of Serbian nationals in 2008 and b) the subsequent decline in the use of these procedures in 2009? Do you consider that these procedures generally provide sufficient guarantees for fair and objective treatment of asylum applications?

We would furthermore appreciate if you could provide us with detailed information on the number of persons who were readmitted to Serbia, Montenegro, Macedonia and Bosnia-Herzegovina on the basis of the EU readmission agreements, their length of stay in the EU prior to their readmission and information about their immigration status (irregular migrants, asylum seekers, etc.).

Does the EU Commission have any information about how readmission agreements were used as a means to “convince” asylum seekers and irregular migrants to voluntarily return to their country of origin, eventually abandoning their applications for asylum on the basis of the argument that they would be returned to their country of origin anyway?

According to your report, “the implementation of these agreements [on visa facilitation] does not lead to a rise in irregular migration into the EU from those countries [i.e. the countries that have been granted such an agreement]”. However, you have recently made a proposal which allows for a temporary suspension of the visa waiver for the citizens of a specific country in the case of a sudden increase in the number of irregular migrants or asylum seekers from this country, whose asylum application is subsequently considered as unfounded, or in case of a high number of rejections of readmission requests.

We would therefore like to know, whether the EU Commission has any information about the link between visa facilitation, on the one hand, and irregular migration or the alleged abuse of the asylum system, on the other, in relation to the countries of the Western Balkans and Serbia in particular? We would also like to know whether the EU Commission has any information

suggesting that the recent increase in the number of asylum applications from Serbian and Macedonian citizens is linked to the activities of “organized networks” and, more generally, information on the impact of visa liberalization on “human trafficking”.

The UNHCR has recently found that a considerable number of asylum seekers from Serbia are actually from Kosovo. According to available figures, this fact concerned 45 percent of the applicants in 2010. The year before, the figure was even higher, at 74 percent. (UNHCR : Asylum levels and asylum trends in industrialised countries 2010)

The EU Commission seems to be aware of this fact. In your recent staff working paper, which monitored Western Balkan countries, post-visa liberalization, in accordance with the Commission statement of 8 November 2010, you write:

“In connection with bogus residence changes from Kosovo, investigations have been launched and a number of police officers arrested. Efforts should continue to strengthen controls over residence changes from Kosovo to Serbia and to harmonise the issuance of breeder documents in order to avoid any possibility of falsification.”

In the same report, you write, without any further comment, that the number of asylum seekers from Kosovo in Bosnia-Herzegovina has dropped after the expiration of the temporary protection status and that “[t]here is no progress as regards the question of Kosovo refugees residing in the country [Macedonia].”

Since we are well familiar with this situation, and the resulting terrible deadlock for the refugees, we would be pleased if you could inform us whether the EU Commission has undertaken any actions in order to facilitate the local integration of the refugees as one of the three durable solutions which are promoted by the UNHCR to resolve a refugee crisis.

Finally, we would like to know whether the EU Commission has undertaken any steps with a view to the conclusion of a readmission agreement with Kosovo.

Thank you very much for your attention.

Sincerely,

Karin Waringo  
Chachipe a.s.b.l.