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Bulgarian Experiences with Visa Policy in the Accession Process: A Story of Visa Lists, Citizenship and Limitations on Citizens' Rights

Bulgaria's accession to the EU required substantial changes to various aspects of its legislation, including its visa policy. The changes were not adopted as a result of political debate but as a requirement coming from Brussels. The main steps that provoked discussions in Bulgaria were the introduction of visas for countries that had previously benefited from a visa free regime.

This paper attempts to evaluate some consequences of the changes in Bulgaria's visa policy. It begins by considering the factors that motivated the changes and placing them in the context of the accession process. It will then demonstrate how the recently adopted legal measures have affected the movement of persons across borders and will examine some unintended consequences of Bulgaria's visa regime changes. Finally, it will offer some conclusions and recommendations regarding the final stages of Bulgarian and EU visa policy alignment.

1. The Evolution of the Bulgarian visa policy

The present Bulgarian visa policy resulted from two interrelated factors. The process of EU accession, which involved the adoption of the Schengen acquis as well as political and legislative programmes, aimed at removing Bulgaria from the EU visa black list.

1.1. The Schengen Acquis and the Accession Process

As with all other acceding countries, a system of consecutive steps and their accompanying legislative and administrative changes shaped Bulgaria's accession.

The Europe Agreement¹ between Bulgaria and the EC was signed on 8 March 1993 and entered into force on 1 February 1995. Bulgaria applied for EU membership in December 1995. In December 1999, the Helsinki European Council decided to start accession negotiations with Bulgaria in 2000. During these negotiations process, Bulgaria submitted Negotiation Position on Chapter 24 "Co-operation in the fields of Justice and Home Affairs"² on 20 February 2001, and negotiations began on 1 July 2001. Bulgaria accepted in full the *acquis* under Chapter 24 and did not deem it necessary to request any derogations and transitional periods in the field of JHA. Bulgaria presented its Schengen Action Plan³ to the European Union in November 2001 and has provided an annual update ever since.

The reason for such a position during negotiations was not a lack of areas in which Bulgaria has vested interests to protect; rather, it was due to the requirement of unconditional acceptance of the Schengen *acquis*. After the Amsterdam Treaty, any state acceding to the European Union must accept upon accession the totality of Chapter IV of the EC Treaty. According to article 8 of the Protocol for integrating the Schengen *acquis* into the Framework of the European Union, no 'opt outs' are permitted for new EU Member States. It states: "*For the purposes of the negotiations for the admission of new Member States into the European Union, the Schengen acquis and further measures taken by the institutions within its scope shall be regarded as an acquis which must be accepted in full by all State candidates for admission.*"

Schengen accession is divided in three distinct parts.

The first period starts when membership negotiations commence and ends on the accession date. In this period, the candidate country

¹ Europe Agreement establishing an association between the European Communities and their Member States, on the one hand, and the Republic of Bulgaria, on the other, OJ L 358 (31/12/1994)

² Negotiation Position of the Government of the Republic of Bulgaria on Chapter 24 "Justice and Home Affairs", CONF-BG 9/01, dated 20.02.2001.

³ Action Plan for the Adoption of the Schengen *Acquis*, CONF-BG 73/01, 21.11.2001. The Plan is updated annually, and the latest version is available on the Ministry of Interior's website (www.mvr.bg)

adopts and partially implements the Schengen acquis; thus, the maintenance of special rules for certain countries (in particular, visa free travel with regard to third states) is unproblematic.

The second period starts on the date of EU accession and ends on the date of Schengen accession. This period is characterized by the full application of the Schengen acquis; however, during this period, the border controls between old and new Member States are maintained. Since the new Member States are not part of the Schengen group, they are unable to issue Schengen visas or access the Schengen Information System. In this second period, however, the state is able to issue national visas. Although the state's border becomes an external Schengen border, its authorities can continue to issue national visas and possess some degree of flexibility in the application of visa regulations. As from the accession date countries are no longer permitted to make exceptions to the visa "black list" for citizens of countries where they have special interests but the new member states still have the ability to facilitate the flow by regulating the procedures and requirements for obtaining a national visa. This, however, is a possibility only until the state becomes a full member of the Schengen group.

On the date of Schengen accession the third period begins. This period is characterized by the full application of Schengen rules, the ability to issue Schengen visas, the removal of border controls between old and new Member States, and the inclusion of new states in Schengen Information System.

With its accession to the EU on 1 January 2007, Bulgaria entered the second phase of the Schengen accession. Article 4 and Annex II of the Act of Accession⁴ legally define the parts of the acquis that are binding and applicable in Bulgaria from the date of accession and those that will become effective at a later stage, after a Council decision. Among the acts that are binding upon accession is Council Regulation 539/2001. This Regulation lists third countries whose nationals must possess a visa when crossing external borders and those whose nationals are exempt from this requirement.

⁴ Act concerning the conditions of accession of the Republic of Bulgaria and Romania and the adjustments to the treaties on which the European Union is founded, OJ L 157, 21.6.2005, p. 203.

Thus, on 1 January 2007 Bulgaria had to fully accept the common “visa black list.” Apart from a few exceptions (Macedonia and Serbia and Montenegro),⁵ Bulgaria’s visa policy was almost fully aligned with that of the Schengen group with regard to the negative visa list by the end of 2001.⁶ The reason for this can be found in a second factor that shaped Bulgaria’s visa policy after the transition process began.

1.2. Bulgaria and the EU visa black list

Following a decision by the EU Justice and Home Affairs Ministers, Bulgaria (together with Romania) was subjected to mandatory visa requirements in 1995. Because these were the only candidate countries to be placed on the EU’s visa black list, a concerted political effort was made to change this situation. Removal of the visa black list required substantial concessions on a wide variety of issues relating to borders and the movement of persons.⁷ In this period, the Bulgarian government and society as a whole began formulating a comprehensive strategy aimed at exempting Bulgarian citizens from the visa requirement. Ultimately, a new Regulation determining the third countries whose nationals must be in possession of visas when crossing the external borders of the Member States was adopted by the Council in March 2001. Bulgaria had been removed from the black list.⁸

This decision was based on a Commission Report⁹ that reviewed the legal framework and administrative practices at the borders. It included

⁵ As the independence of Montenegro was formally announced on 4 June 2006 and most of the statistics used as a basis for this paper were collected in or prior to 2006, the term Serbia and Montenegro is used to refer to the single state having this name prior to 4 June 2006. Whenever the text refers to the two independent states of Serbia and Montenegro, it is explicitly noted.

⁶ The process of visa policy alignment is not only limited to the positive and negative visa lists. It also includes: measures for the adoption of uniform visa formats and document security; visa classification; procedures for issuing visas and the visa information system. However, the visa lists – and the negative visa list in particular – are the most discussed elements of visa policy, and they effectively determine which countries’ nationals cannot travel sans visa to Bulgaria.

⁷ See E. Guild: *Moving the Borders of Europe*. Inaugural lecture, University of Nijmegen, 2001.

⁸ See OJ 2001 L 81/1.

⁹ See the Report from the Commission to the Council regarding Bulgaria in the perspective of the adoption of the regulation determining the list of third coun-

an overview of Bulgaria's visa policy and, in particular, the correspondence between Bulgaria's and the EU's visa lists.

This explains why the alignment of the visa lists was a priority before Bulgaria's actual start of the negotiations for EU membership began. In order to meet the visa list requirement, Bulgaria gradually made changes to its legislation and adjusted its negative and positive visa lists. In 1999, Bulgaria introduced visas for most of the former Soviet republics, and as of October 2001, visas were also required for citizens of Russia and Ukraine. In effect, Bulgarian negative visa list was almost fully in line with that of the EU by the end of 2001;¹⁰ This was only six months after beginning negotiations on Chapter 24 "Co-operation in the fields of Justice and Home Affairs"¹¹ and only two months after the presentation of its Schengen Action Plan.¹²

As the timing of the changes in the Bulgarian visa lists clearly shows, the decisive factor promoting change was not the obligation to adopt the Schengen *acquis* as such but the need to gain enough trust in the EU partners for the removal of Bulgaria from the EU visa list.

2. Aligning the visa policy

While the alignment process was occurring, several assumptions were made about the effects of the new visa rules. This was especially true regarding states with special links to Bulgaria. There were mainly two expected effects. The first expectation was that the imposition of visas would entail administrative and financial burdens that would cause a decrease in the number of visitors from countries with visa requirements. There were also worries that this might negatively impact tourism and the economy of the border regions.

The second concern was the effect that these new rules would have on the Bulgarian minorities abroad. As it became progressively more dif-

tries whose nationals must be in a possession of visas when crossing the external borders and those whose nationals are exempt of that requirement COM(2001) 61 final, 02 February 2001, Brussels.

¹⁰ With the exception of Macedonia and Serbia and Montenegro

¹¹ The Negotiation position on Chapter 24 "Co-operation in the field of Justice and Home Affairs" was submitted on 20 February 2001, and negotiations began on 1 July 2001.

¹² The Schengen Action Plan was presented to the European Union in November 2001.

difficult to access Bulgaria, many people who met the criteria would apply for citizenship; this not only guaranteed them unlimited access to Bulgaria but also, once Bulgaria became member, to the entire EU.

The third impact of the changes, which was not discussed at the time but ultimately became an interesting legal development and side effect of visa policy alignment, was the introduction of some limitations to Bulgarian nationals' rights to travel.

These expectations are further tested or discussed below.

2.1. Legal framework

The general framework of visa regulation in Bulgaria had three waves of changes. The first followed the Law for the foreigners in the Republic of Bulgaria,¹³ which replaced the previous regulations for foreigners that dated back to the 1970s; the second wave followed the removal of Bulgaria from the “visa black list” in 2001, and the third and most significant amendments to visa provisions were completed after Bulgaria's accession to the EU in 2007.

Thus, at present, the terms and procedures for issuing visas are regulated by the Law for the Foreigners, the Regulation for its implementation¹⁴ and the Ordinance for the conditions and order of issuing visas.¹⁵

The general visa rules are as follows: the authorities responsible for issuing the visas are the diplomatic and consular representations of the Republic of Bulgaria; the applicant must apply in person and sign his/her application in front of the responsible consular official.¹⁶ The potential visitors submit their applications to the competent Consulate, which then forwards it to the central Consular Directorate within the Ministry of the Foreign Affairs. Granting a visa is a central level decision, but the visa itself is issued by the Consulate where the application is made.

¹³ Law for foreigners in the Republic of Bulgaria of 23 December 1998 (*Държавен вестник* (State Gazette) No 153/1998, last amendment SG. 63/6 August 2007)

¹⁴ Regulation for the implementation of the Law for foreigners in the Republic of Bulgaria of 26 May 2000 (*Държавен вестник* (State Gazette) No 43/2000, last amendment SG. 49/19 June 2007).

¹⁵ Ordinance for the conditions and order of issuing visas of 17 May 2002 (*Държавен вестник* (State Gazette) No 49/2002, last amendment SG.96/30 Nov 2005).

¹⁶ In the cases of short-term visas, it is possible for the visa application to be submitted by a tourist operator or another authorised person

All actors involved are connected to a database so that applications can be followed up. The visa application for long term visa (type “D”) must be coordinated with the Ministry of the Interior.

Unless he or she holds the nationality of a country exempted from this requirement, a foreigner needs a visa to enter the country. The positive and the negative visa lists form part of the Ordinance on the conditions and procedures for issuing of visas (Ordinance on Visas) and can be amended by a decision of the Council of Ministers. The Ordinance on Visas defines several types of visas: for airport transfer (visa type A), for transit (visa type B), for short stay (visa type C) and for long stay (visa type D).

Short stay visas are issued to a foreigner who enters the county once or several times for a total period of no more than 90 days within six months from the date of first entry (Ordinance on Visas, Art. (9).

A foreigner who enters the country shall hold: sufficient resources for providing his/her maintenance according to the duration and the conditions of the stay in Bulgaria as well as for returning to the state of their permanent residence; health and other types of insurance; an invitation in a form where such is required; and other documents that prove the purpose of travel.¹⁷

The refusal rates for both short-stay and long-stay visas are very low, 1.67% and 10% respectively. Neither the Law for Foreigners nor the Ordinance on Visas foresees an appeal’s procedure for the refusal of a visa application. The decision is within the discretionary power of the consular official. There is no obligation of the respective authorities to motivate their decision, nor is there an obligation to inform the applicant in writing of the decision.

2.2. *The process in figures*

The changes in the visa policy in general and in visa lists in particular did not provoke much debate. The objective of visa free travel of the Bulgarian citizens to Europe justified all actions. The only excep-

¹⁷ As an exception to the general rules, according to Article 25a of the Law on Foreigners it is possible to admit foreigners without the presence of any of the requirements of the Law for Foreigners if the foreigners have contributed to Republic of Bulgaria in the public and economic spheres or in the sphere of national security, science, technology, culture or sport.

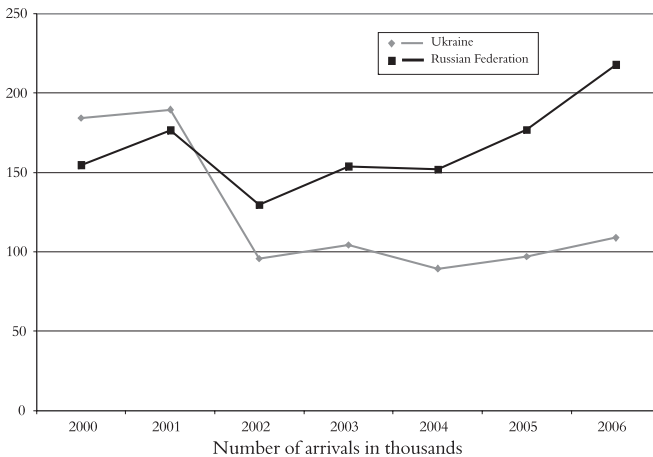
tions that provoked debate were Russia, Ukraine, Serbia and Montenegro, and Macedonia.

2.2.1. Russia and Ukraine

Russia and Ukraine are countries with which Bulgaria has a tradition of economic and cultural links. There are large numbers of tourists who come from these two countries. Additionally, there are significant numbers of Russian nationals who permanently reside in Bulgaria.¹⁸ There is also a sizable Bulgarian minority in Ukraine.¹⁹ For all these reasons, the introduction of visas for Russian and Ukrainian citizens provoked heated debate.

Nevertheless, the visas were introduced and the decision entered into force in November 2001. Previously, Russia and Ukraine both benefited from visa free travel. The number of visitors from Ukraine had been stable, while those from Russia had been increasing in 2000 and 2001.

Figure 1. Visitors to Bulgaria: impact of visa requirements



¹⁸ The number of citizens of the CIS permanently residing in Bulgaria is 26,700 and temporary residents number 8,900 (data for 2002). OECD, *Trends in International Migration*, SOPEMI 2004 Edition.

¹⁹ According to the State Agency for Bulgarians Abroad, the Bulgarian minority in Ukraine amounts to 300,000.

However, in the year following the introduction of visa requirements for Russian and Ukrainian citizens, there was a significant decrease in the number of visitors (50% in the case of Ukraine and 20 % in the case of Russia). After this, the effects on the number of visitors from these two countries began to diverge. Following the sharp decrease in 2002, the number of Russian visitors slowly bounced back and reached the “pre-visa” levels by 2005, and they continued to rise in 2006. Contrariwise, following the sharp decreases in 2002 the number of Ukrainian visitors stabilized, but despite the presence of significant Bulgarian minority, they continued to be less than the “pre-visa” numbers.

What can explain this phenomenon? The price of visas is comparable for both countries, but the consular infrastructure is not. In the Russian Federation there are four Bulgarian general consulates, an excellently functioning web-site, and in the cases of organized tourism, the possibility for application through a tourist agent. In Ukraine, which is also a considerably large country, there was previously only one consulate in the capital Kiev (the number has since increased to four) and almost no internet support. The dissimilar effects observed in the cases of Russia and Ukraine shows how the introduction of visas can seriously impeded contact between two nations when consular facilities and organization are not upgraded simultaneously.

Table 1. Arrivals of Visitors to Bulgaria from Abroad by Country of Origin (Thousands)

<i>Country of Origin</i>	<i>2000</i>	<i>2001</i>	<i>2002</i>	<i>2003</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>
Ukraine	184	189	96	104	89	97	109
Russian Federation	155	177	130	154	152	177	218
Republic of Macedonia	880	859	849	887	858	755	713
Serbia and Montenegro	512	591	841	887	853	775	827

Source: National Statistics Institute

2.2.2. Macedonia and Serbia and Montenegro

The two other countries for which the introduction of visas provoked a heated debate are Macedonia and Serbia and Montenegro. These are the only two countries for which the introduction of visas has been postponed to the date of accession.

As can be seen from the data, the number of Macedonians visiting Bulgaria is relatively stable, approximately 850,000 a year with minor fluctuations. There is anecdotal evidence that some of these visits are for small scale trading across the border. It is important to compare this figure with the total population of Macedonia: 2 million. This data could mean that every second Macedonian visits Bulgaria at some point during the year. Since such a move could significantly decrease the flow and might negatively affect the local economies of Macedonia and Bulgarian border regions, the data also explains the Bulgarian government's reluctance to introduce visas.

The case of Serbia and Montenegro is less dramatic. Although the numbers of visitors are growing and have increased over the last five years from 512,000 to 853,000, the total population of 10 million makes the overall percentages less significant. However, there were worries that the introduction of visas could have the same negative effects as it would have in Macedonia.

From the aforementioned data, it is possible to conclude that the introduction of visas for countries that had previously benefited from visa free travel in conjunction with a lack of change in the consular infrastructure resulted in a significant decrease in the number of visitors from the countries concerned (Ukraine). Also, in those countries where efforts for facilitating the visa process were made, the numbers of visitors returned to their pre-visa levels after a temporary decrease following the introduction of the visa requirements.

Prior to Bulgaria's accession to the EU and the respective introduction of visas, the considerable number of visitors from the western neighbors (Serbia and Montenegro and especially Macedonia) led people to believe that unless additional measures were taken the introduction of visas would cause a sharp decrease of visitors and create problems in local and regional economies.²⁰ Since Macedonia's capital Skopje is easily accessible, geographical constraints are unable to hinder access to the consulate. There is, however, a human resource problem. While, the Bulgarian consulate in Skopje did issue visas for Macedonia nationals until 1 January 2007, it is now required to issue almost a million visas per year. With only one additional consulate opened, it will be necessary

²⁰ V. Shopov: *Implementation of Schengen – Direct Influence to Socio-economic Reality*. European Institute, Sofia, 2001.

to increase the number of consulate employees in order to maintain the pre-visa levels of contact. Alternatively, an extensive list of exceptions to the visa requirements that would be applicable between the periods of EU and Schengen accession, as well as a multi-entry visa for the business travelers could be introduced.

Attempting to avoid possible difficulties, Bulgaria initiated a two-fold plan of action prior to its EU accession. On the intergovernmental level, the Bulgarian government proposed and concluded agreements with Macedonia and Serbia regarding the mutual travel of their citizens, and on administrative level, two more consulates were opened in Bitola (Macedonia) and Nis (Serbia) respectively.

Both intergovernmental agreements have similar structures and content. They provide for certain rules that can facilitate the issuing of short-stay visas as well as the travel of citizens of Macedonia and Serbia to Bulgaria respectively. The agreement's main elements include:

1. Visa free travel for holders of diplomatic and service passports.
2. Visas are issued for free, without the usual collection of the visa application and visa issuing fees.
3. Certain categories of citizens are released from the visa requirements due to their professional duties (airplane or ship crew members, rescue teams).
4. Possibility for issuing multiple-entry visas for a period of one year (mainly in the context of international transport agreements).
5. Possibility for a fast track procedure for certain categories of applicants (in the context of official visits and administrative cooperation, or in cases of family emergencies).

Both agreements became effective on 1 January 2007, so it is still too soon to judge the effectiveness of these agreements. Meanwhile, two developments at the European level might influence the future existence of these bilateral agreements. On the one hand, the Regulation on local border traffic²¹ has entered into force, and the Bulgarian government has expressed its intention to negotiate bilateral agreements with Macedonia

²¹ Regulation (EC) Nr. 1931/2006 of the European Parliament and of the Council of 20 December 2006 laying down rules on local border traffic at the external land borders of the Member States and amending the provisions of the Schengen Convention [*Official Journal*, L 405 of 31.12.2006].

and Serbia on this issue.²² On the other hand, visa facilitation agreements have already been signed with Macedonia and Serbia under normal circumstances; these will enter into force on 1 January 2008 and will override some of the provisions of the bilateral agreements. Whether these activities at intergovernmental and EU level will result in better odds for Macedonians and Serbians to easily travel to Bulgaria remains to be seen.

For the moment, the data on movement of persons after the introduction of visas does not look encouraging. The data from the National Statistics Office shows that the number of visitors from Macedonia in the first six months of 2007 represents only 29.96% of the visitors for the same period in 2006. The figure for Serbia is similar – 28.75%. Therefore, despite Bulgaria's efforts, the introductions of visas have led to a dramatic decrease in travel. Whether this decrease is only temporary or is a more permanent phenomenon remains to be seen.

3. Other effects of the alignment process

3.1. Citizenship applications

As mentioned earlier, one of the expected effects of the accession process was an increased interest in the acquisition of Bulgarian citizenship. Bulgarian legislation on citizenship is relatively simple, and in contrast to that of other acceding states (e.g. Poland, Hungary), it contains less stringent conditions and faster procedures for candidates of Bulgarian ethnic origin.

It is estimated that around one million persons of Bulgarian origin live outside of the country. This number includes both emigrants who possess Bulgarian passports and minorities who are of Bulgarian ethnic-origin and possess passports from their country of residence. Of the latter, the highest concentrations are to be found in Ukraine – 300,000, Moldova – 150,000, Serbia and Montenegro – 20,000.²³

The Law on the Bulgarian Citizenship²⁴ provides six conditions for the acquisition of Bulgarian citizenship. These include:

²² Such a possibility is explicitly mentioned in Article 16 of both the Agreement between Bulgaria and Macedonia regarding the mutual travel of citizens and the Agreement between Bulgaria and Serbia on the mutual travel of citizens.

²³ Source: State Agency for the Bulgarians Abroad.

²⁴ Law on the Bulgarian Citizenship of 18 November 1998, (*Държавен вестник* (State Gazette) No 136/1998, last amendment SG. 52/29 June 2007).

1. Minimum age – 18 years;
2. Permanent resident status for at least 5 years;
3. Clear criminal record;
4. Having income or activity in Bulgaria;
5. Fluency in Bulgarian language;
6. Being released or to be released from its present citizenship.²⁵

Applicants of Bulgarian origin are exempted from all but two requirements: minimum age and a clear criminal record.²⁶

As far as the application process is concerned, the decision is generally made in one year; however, those of Bulgarian ethnic-origin will receive a decision within three months.²⁷ The Vice President has the authority to grant citizenship, and s/he is supported by a special directorate in the Ministry of Justice.

With this background knowledge, the below figures are not surprising.

Table 2. Number of applications for Bulgarian citizenship and number of granted citizenships

	2001		2002		2003		2004		2005		2006	
	<i>Applications</i>	<i>Granted</i>	<i>Applications</i>	<i>Granted</i>	<i>Applications</i>	<i>Granted</i>	<i>Applications</i>	<i>Granted</i>	<i>Applications</i>	<i>Granted</i>	<i>Applications</i>	<i>Granted</i>
Total	5495	1214	7438	3371	14306	4266	29493	5660	23200	5847	14498	6628
Bulgarian origin		940		3210		4179		5559		5722		6511

Source: Annex 5 of the Report for the migration situation in Republic of Bulgaria in 2006

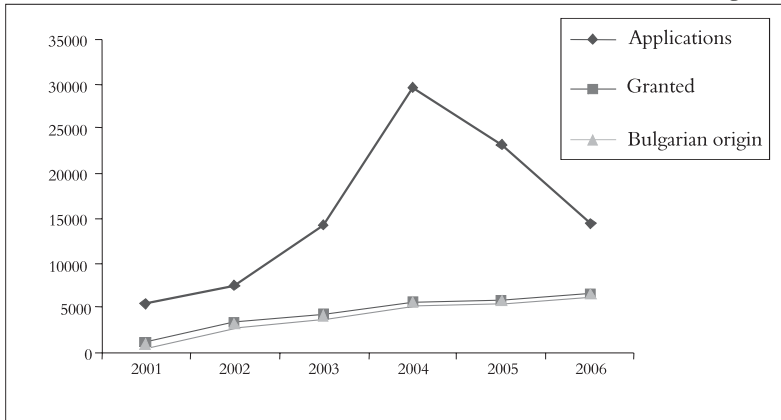
Between 2001 and 2005, the number of petitions for citizenship has increased by a factor of four, from 5,495 applicants in 2001 to 29,493 in 2004 (approximately 0.3 % of the population). There was a slight decrease in 2005 and 2006, but the sizable difference between applications and granted citizenships does not mean that those applications

²⁵ *supra*, Art. 12

²⁶ *supra*, Art. 15

²⁷ *supra*, Art. 35

Figure 2



were refused. As there around 58,600 files still pending decision, it might simply imply an administrative deadlock.²⁸

The number of approved applications for citizenship also increased by a factor of five, from 1,214 in 2001 to 6,628 in 2005²⁹ (approximately 0.1% of the population). However, almost all who acquired citizenship were of Bulgarian ethnic-origin. While the total number of people who were granted citizenship status increased four fold, the number who received citizenship through the general procedure has remained stable at around 100 to 200 per year.

Table 3. Top 5 countries of origin of the applicants

	2001	2002	2003	2004	2005	2006
Macedonia	169	1360	1685	2281	2425	2930
Moldova	157	583	1172	2210	2455	2610
Russia	300	447	346	281	160	217
Ukraine	65	243	222	209	245	249
Serbia and Montenegro	61	219	285	161	128	235

Source: Annex 5 of the Report for the migration situation in Republic of Bulgaria in 2006

²⁸ Report for the migration situation in Republic of Bulgaria in 2006.

²⁹ However, the refusal rate is relatively high but stable, and on average, one of every four applications is approved.

One of the factors influencing the increase might be a change in the Law on Bulgarian citizenship from 2001. Until then, applicants of Bulgarian ethnic-origin needed to demonstrate proficiency in the Bulgarian language and, most importantly, had to either renounce their present nationality or commit themselves to doing so. After 2001, these two conditions were exempted. Thus, those of the Bulgarian minority abroad who might not have applied earlier because they did not want to lose their present nationality had a possibility to both acquire Bulgarian nationality while retaining their former one.

Apart from the change in legal conditions, the increase in citizenship applications can possibly be explained by the changes in the visa regime. As most of the Bulgarian minorities abroad are citizens of countries which are either on the Bulgarian visa black list or were included in it upon Bulgaria's entry in the EU, their possibilities to travel are seriously impaired. In this situation, the acquisition of Bulgarian citizenship, especially under simplified procedures, becomes an obvious solution.

3.2. Appearance of new legal forms

The efforts made to remove Bulgaria from the EU's visa black list were not solely limited to visa policy alignment. Two important elements mentioned in the Commission report that recommends the removal of Bulgaria from the visa black list were the introduction of (1) new, more modern identity documents and (2) sanctions on illegal immigration to the member states.

The 1998 Law for Bulgarian Identification Documents³⁰ not only created a new system for individual identification – which differed philosophically from the one applied before 1989 – but it also introduced new legal measures to enforce these changes.

Initially, the Law on the Bulgarian identity documents³¹ Article 76 foresaw the possibility for administrative punishment of persons who had

³⁰ Law for the Bulgarian Identification Documents of 11 August 1998, (*Държавен вестник* (State Gazette) No 93/1998, last amended SG. 52/29 June 2007).

³¹ Article 76. It may not be permitted to leave the country, passports and substituting documents to be issued and the issued to be withdrawn of. 5. (amend. SG 29/03) persons who, during their stay in another country, have committed offences of its legislation – two years from the receipt of an official letter from the Ministry of Foreign Affairs or the documents for compulsory taking out or expelling, pointing out the committed offence, by the competent

been removed or expelled from another country for infringing on its passport and visa regulations. The punishment was defined as: refusal to leave the country; refusal to issue passports or replacing those documents and confiscation of the documents already issued. The administrative measure was initially to be enforced for a period of one year from the day the Ministry of Foreign Affairs received notification of the committed acts.

It is interesting to note that Article 76(6) is a special case of application of Article 76(5), which addresses persons who have committed offences while abroad. The legislator considered the infringements of other countries' immigration regulations significant enough to include a separate paragraph dedicated to them.

Over time, the text was further amended, and all the elements were more concretely defined: the actions that can trigger the procedure, the types of documents that can be used as proofs, the punishment and the procedure for judicial review.

Still, when considering all the amendments, the punishment foreseen in Article 76(6) remained a possibility rather than a certainty; it is a measure that authorities "may" impose.

In all cases, the action that can trigger the procedure is the removal or expulsion from another country; however, the reasons for this are derived from "infringement of the passport and visa rules" (1998) to "violation of the entering regime" (2003).

The period during which rights are to be limited was modified from one year in the 1998 version to two years in 2003 version. Additionally, the moment from which the period begins was also changed. Initially, it was the "reception in the Ministry of Foreign Affairs of an official letter for the committed offence" (1998); in 2003, another possibility was added to this: "receiving from the competent bodies of the documents for compulsory taking out or expelling, pointing out the committed offence."

The authority that can decide on the application of this measure and is, thus, able to enforce the possibility enshrined in the act is the Minister

bodies of the respective country; 6. (amend. SG 29/03) persons who are taken out or expelled from another country for violation of the entering regime – for a period of two years from the receipt of an official letter from the Ministry of Foreign Affairs for the committed offence or from the date of receiving from the competent bodies of the documents for compulsory taking out or expelling, pointing out the committed offence; (Official translation of the Ministry of Interior of Republic of Bulgaria)

of the Interior or persons authorized by him. It is usually the head of the respective Regional Directorate of the Ministry of Interior responsible for issuing identity documents. Initially, the issuing of the act proceeded according to general rules of the Law on Administrative Procedure, and judicial control was performed by the High Administrative Court. As of 2003, judicial control is performed by the district court in the district where the authority that issued the administrative act is based.

The official figures for the total number of cases in which this administrative measure has been applied have grown from 186 in 2000 to 1,404 in 2005,³² and more than 50 judgments have been made by the High Administrative Court.

Conclusions

Although the process of aligning Bulgaria's visa policy with the EU's occurred during the accession process, it was mainly influenced by the activities undertaken by the Bulgarian government, and its aim was the removal of Bulgaria from the EU visa black list. As a result, Bulgaria's visa policy was aligned to that of the Union much earlier than would have been expected from its position in the accession process.

Experience shows that the introduction of visa requirements does not necessarily have to result in immense obstacles to international travel. Consideration of two countries for which Bulgaria introduced visa requirements (Russia and Ukraine) indicates that the effect on travel is negative only in the cases of inappropriate consular infrastructure. Although visas were introduced for both countries at the same time, the number of visitors dropped permanently only in the case of Ukraine where the consular infrastructure was much weaker.

However, an increase in the number of consulates and improvement in their infrastructure did not prove to be sufficient for maintaining the level of Macedonian and Serbian visitors after the introduction of visas. Despite the special bilateral agreements that were negotiated on the eve of the change in the visa regime, it seems that the measures offered by Bulgaria (free visas and facilitation for limited categories of travellers) did not exploit enough the possibilities for flexible application within

³² The number for 2006 is 3329, but this also includes measures based on Article 76(5).

the *acquis*. Six months after the introduction of the new visa regime, the number of visitors from both Macedonia and Serbia dropped by 75%.

The introduction – or the potential introduction – of visas led to a significant increase of citizenship applications in Bulgaria. Thanks to the favourable legal regulation and the special conditions for ethnic Bulgarians, the number of applications and effectively granted citizenships (especially for persons coming from countries with Bulgarian minorities) has increased.

Once again, the powerful influence of the visa lists can be demonstrated through the special legislative measures introduced that were intended to tackle illegal migration of Bulgarian citizens to the EU. However, the possibility for revoking the passports of those who have infringed on other states' entry and residence rules might be challenged as a limitation to their freedom to move.