# **KOSOVO'S LONG DELAYED** PATH TO VISA-FREE TRAVEL





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After years of stalemate, Kosovo is making important steps toward a visa-free agreement with the EU. Domestically, the topic is a top priority, at policy level and for the citizens. This spring, the parliament ratified the border demarcation with Montenegro and the EU deployed an expert mission to evaluate the country's progress on the fight against organised crime and corruption. The EU may resume the positive proposal soon. Yet, there is still a long procedure and a complex political decision-making process to go through, until Kosovars are given the right to visa-free travel to the Schengen countries of the European Union.

Kosovo missed the train in 2016 to join Georgia and Ukraine who obtained visa-free agreements in March and June 2017, respectively. The government began the visa dialogue in 2012, and by 2016, it had implemented 93 out of 95 criteria. In May 2016, the European Commission approved the fourth and <u>final report</u> which recommended visa liberalisation for Kosovo on the condition of the ratification of the border demarcation agreement with Montenegro and the establishment of a register of investigations, final court decisions and seizures on cases of high profile organised crime and corruption. The report noted that Kosovo has "fulfilled all ten requirements" in the area of migration management.

The Kosovo Assembly ratified the <u>border demarcation agreement</u> with Montenegro in March 2018, with almost three years delay, marking an end to one of the most controversial topics; the agreement had been signed in August 2015. The attention immediately shifted to the fight against corruption. Contrary to the first criteria that required the vote of the Kosovo parliament, the latter requires the approval of the EU bureaucrats and politicians. The process is complex. There is no clear date of when the whole process could end; a lot will depend on political circumstances within the EU and member states.

Domestic courts have made some progress in concluding 43 cases in the registry. The government advanced on the legislation part; the parliament has passed important laws, including the Law on Disciplinary Responsibility for Judges and Prosecutors. Other legislation, many part of the European Reform Agenda priorities, including, the Law on the State Prosecutor, the Law on Conflict of Interest and the Criminal Code was amended. The law on the Extended Power of Confiscation and the Law on the Anti-Corruption Agency are in the process.

The government has strengthened capacities in the area of migration management, repatriated and reintegrated the majority of those who fled during the 2014/2015 exodus, and has enhanced cooperation with the EU relevant institutions for any potential influx of refugees who could come through Kosovo. EU migration statistics report a massive drop in asylum seekers from Kosovo to EU member states and the Schengen Area. At international level, Kosovo has raised efforts to join INTERPOL and establish cooperation with EUROPOL. Against the government's expectations and of many others, EU institutions and many member states have failed to support Kosovo's efforts to join The International Police Organisation. Kosovo's membership to Interpol is in the interest of the EU, and Serbia.

Yet, the climate is not very favourable. Growing scepticism within some member states, the past exodus, the rise of populism and increase of nationalist or right wing parties and governments could

hamper the process. The introduction of a suspension mechanism in 2017, however, could help Kosovo's delayed case. With this measure, member states have more control over the situation post-visa liberalisation. In case there is a flow of uncontrolled migrants from an exempt country from the visa regime, each member state, as well as the European Commission itself, has the right to trigger the suspension mechanism. If a simple majority of member states notify certain circumstances, the Commission will have to adopt an implementing decision temporarily suspending the exemption from the visa requirement for certain categories of nationals of the third country concerned for a period of nine months.

There is still a distance to go, and monitoring will continue. Kosovo needs to progress and demonstrate further achievements in the area of rule of law on the fight against corruption and organised crime. Equally, the EU member states are very sensitive on the issue of security and migration management and the government must continue the progress.

Kosovars deserve the right to visa-free travel to Schengen countries. It is a long delayed decision. Kosovo should follow the example of its neighbours by intensifying advocacy efforts of the country's institutions with member states. The government, the assembly and civil society/academia should engage in coordinated lobbing activities. The target should be to mobilise those in favour of lifting visas for Kosovo and should be encouraged to lobby other European governments and the sceptics inside the EU to change their minds. France, Netherlands, Belgium, and a few other sceptics within the EU should be targeted. Consensus among key members, those with closer ties and interest in the Western Balkans, Austria, Germany and Italy will allow the Council to proceed.

The five non-recognisers, other than Spain, are unlikely to cause any trouble. Madrid's former government did the utmost to undermine Kosovo at the <u>EU-Western Balkans Summit in Sofia</u>. Some suggestions are that Madrid may request to remove Spain from the list of Schengen countries Kosovo passport holders can travel to. EU bureaucrats insist this is impossible and unnecessary.

Soon, Kosovo should be fully-ready to implement an information campaign on the obligations of visafree travel, undertake specific actions on strengthening border control and take measures with regard to the readmission process.

## The remaining steps

The EU decision-making process is often seen as arcane, complex and frustrating. The process of providing visa-free travel requires the involvement of three EU institutions: the European Commission (The Commission), the European Parliament (EP) and the Council of Ministers (The Council). The Commission resumes the proposal for visa liberalisation for Kosovo to amend the EP and Council Regulation (EC) 539/2001. This regulation lists the third countries whose nationals must be in possession of a visa when crossing external borders and countries whose nationals are exempt from that requirement.

The Commission issued the proposal in May 2016 on the condition of the fulfilment of the remaining two criteria. Kosovo only implemented those criteria in 2018, forcing the EU to request another expert report on the progress on the fight against corruption and organised crime. An EU expert mission mandated to assess the progress on the criteria of the rule of law visited Kosovo in early May. On the basis of the mission's report, the Commission plans to resume the proposal in late June/July 2018.

The Commission will communicate the proposal for the amendment of the regulation to both, the EP and the Council. The Parliament will act first. The review of the Commission's proposal within the European Parliament involves The Committee on Civil Liberties and Justice and Home Affairs (LIBE), which is the primary responsible committee, and the Committee on Foreign Affairs (AFET). The LIBE Committee appoints a rapporteur, in Kosovo's case, Tanja Fajon, who is responsible for preparing the committee's report in support of the Commission's proposal.

Usually, AFET issues an opinion on the matter. In the case of Kosovo, AFET already issued the <u>opinion</u> in July 2017. After initial discussions, by a simple majority, LIBE adopts the report to approve amending regulation No. 359/2001. At the same time, the Committee approves its position, to open interinstitutional negotiations with the Commission and Council of Ministers on the proposal. Beforehand consultations with Parliamentary Groups allow acquiescent approval of the Parliament, at this stage of the procedure.

The parliament will be more forthcoming. The process will succeed or stagnate in the Council, who will need the consent of the member states to proceed. The EU Council starts its preparatory work after receiving the Commission's opinion. An assigned party, i.e. Visa Working Party reviews the proposal within the Council. The working Group for the Western Balkans region - COWEB may informally test the waters for the support of Kosovo's case; COWEB experts will be involved in the legislative file. After the review of the working group the proposal advances to the Committee of Permanent Representatives – COREPER, which will adopt the negotiating position if and once no objections are presented. Although there are no formal requirements for mandating the negotiations at COREPER or Council level, the position is generally adopted by a qualified majority, assessed/noted as there is no actual vote in practice. COREPER will search for consensus. However, before adopting their position to enter inter-institutional negotiations, additional follow up might be requested by the Council, whose ministers will shape the outcome, so there can be a certain amount of back and forth that might delay the process further. The Council has scheduled meetings in October and December 2018.

At each stage of the procedure and standard practice, the co-legislators will try to agree on a joint text at any reading and thereby conclude the procedure. Often such agreements are reached during interinstitutional negotiations (so-called trilogues) that include the three European Institutions. The purpose of these contacts and informal consultations is to reach an agreement on an acceptable package for both the Council and the Parliament.

Following the inter-negotiations conclusion, the Parliament will vote on the proposal for the amendment of regulation 539/2001, moving Kosovo from third countries who need to obtain a visa, to visa-free. The Council may then decide to accept Parliament's position, by a qualified majority voting, a common voting for the ordinary legislation procedure within the Council. The legal act will

be signed by the President and the Secretary-General from the Parliament and the President of the Council.

Upon signing, Kosovo will move under the annex of visa free entities and territorial authorities that are not recognised as sates by at least one member state. Allowing visa-free travel for the territory of Kosovo and its citizens when travelling to the EU with a biometric passport, for a period of stay up to 90 days in any 180 day period. The legal act enters into force 20 days after it is published in the Official Journal.

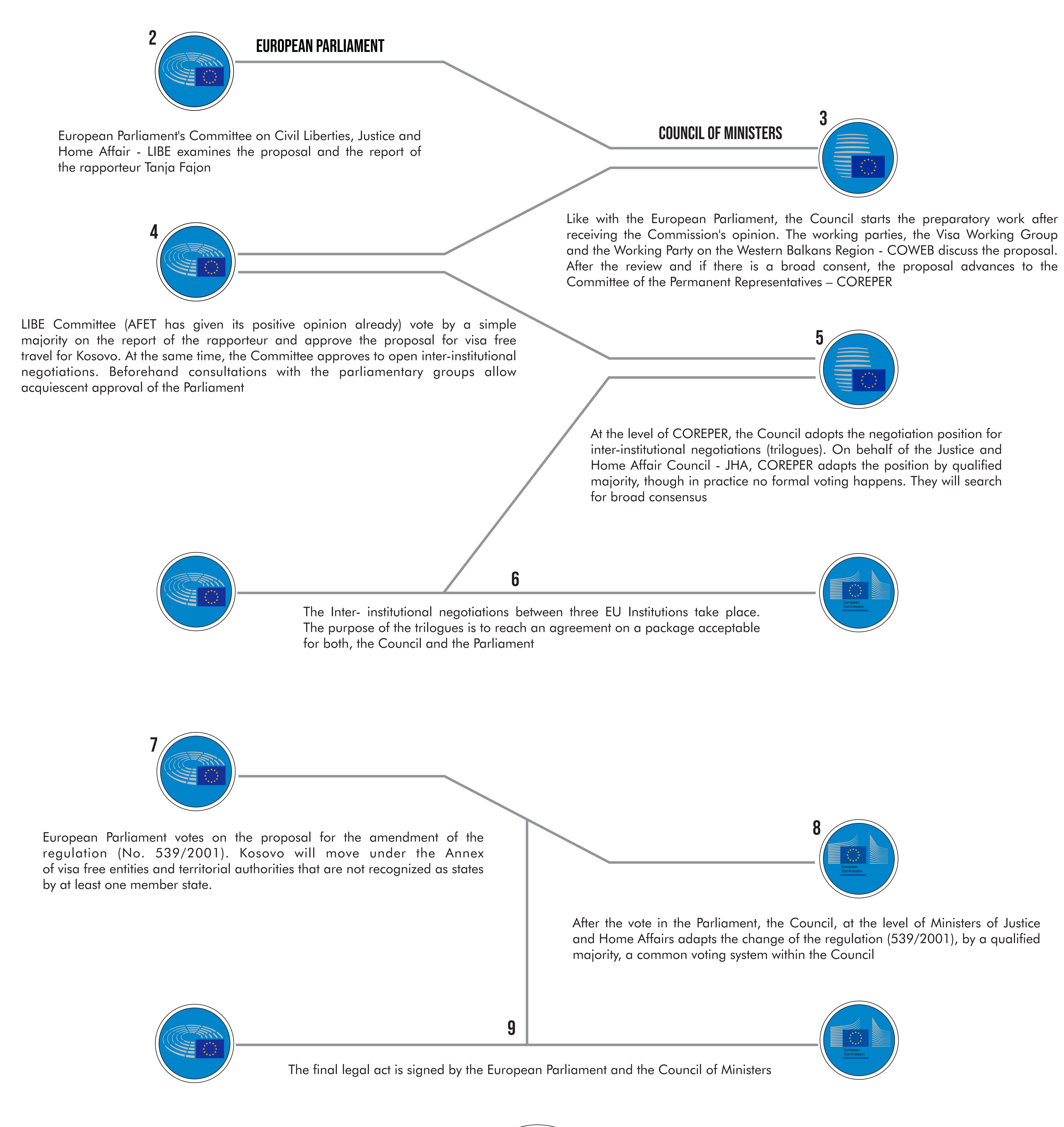
It is impossible to predict the length of the process; potentially it could conclude by the end of the year if the decision-making in the Council goes smoothly. In the case of Moldova, the process took five months, for Georgia twelve months and for Ukraine, thirteen months.

Below you will find graphs explaining the remaining steps of the process, voting system in the Council of Ministers and a comparative time-frame of the visa-liberalisation for Kosovo, Georgia and Ukraine.

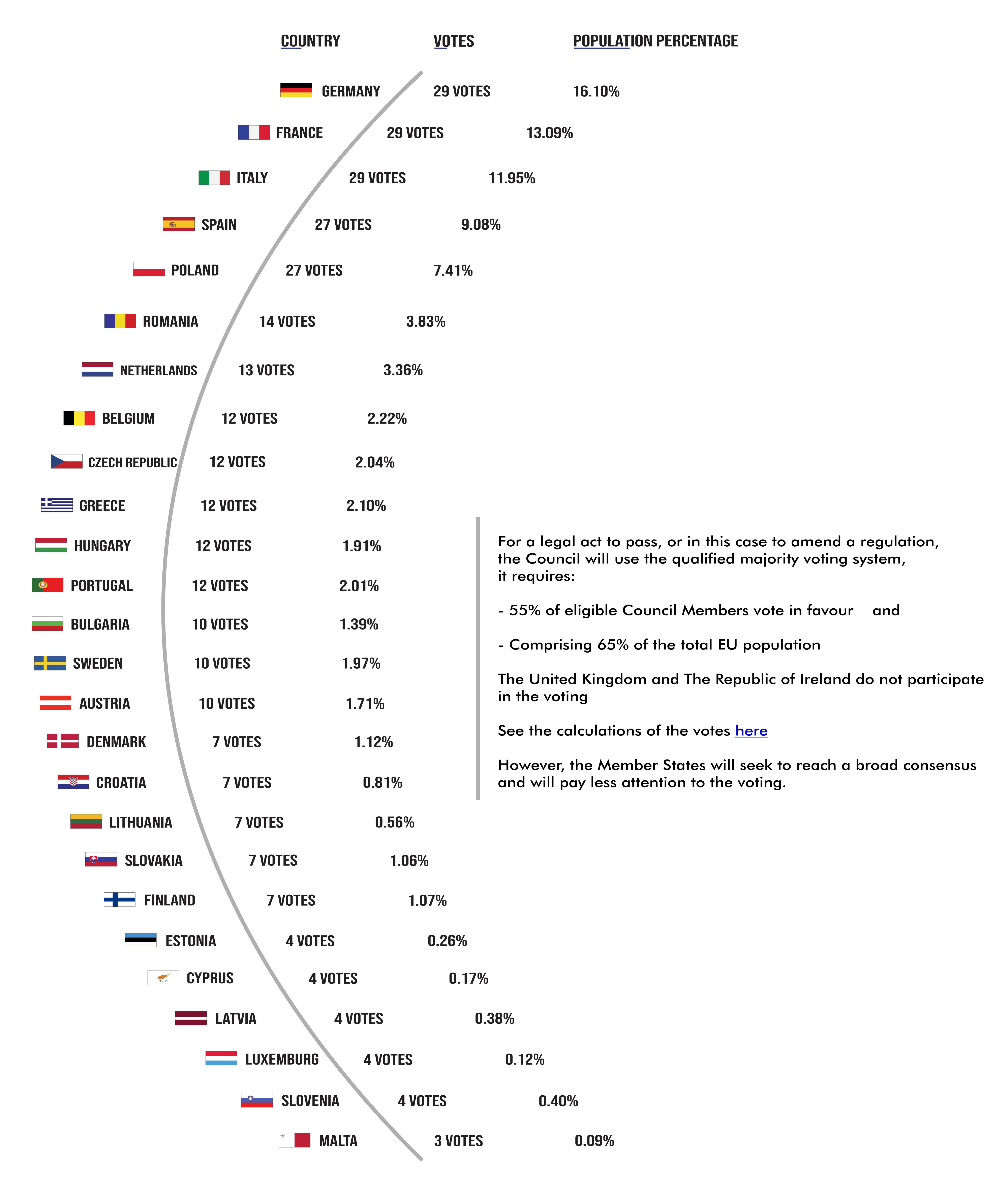
The graph presents the decision making process of the three main European Union institutions for visa liberalisation



The EU Commission resumes the proposal for the visa liberalisation for Kosovo. The proposal is sent jointly to the EU parliament and the Council of Ministers

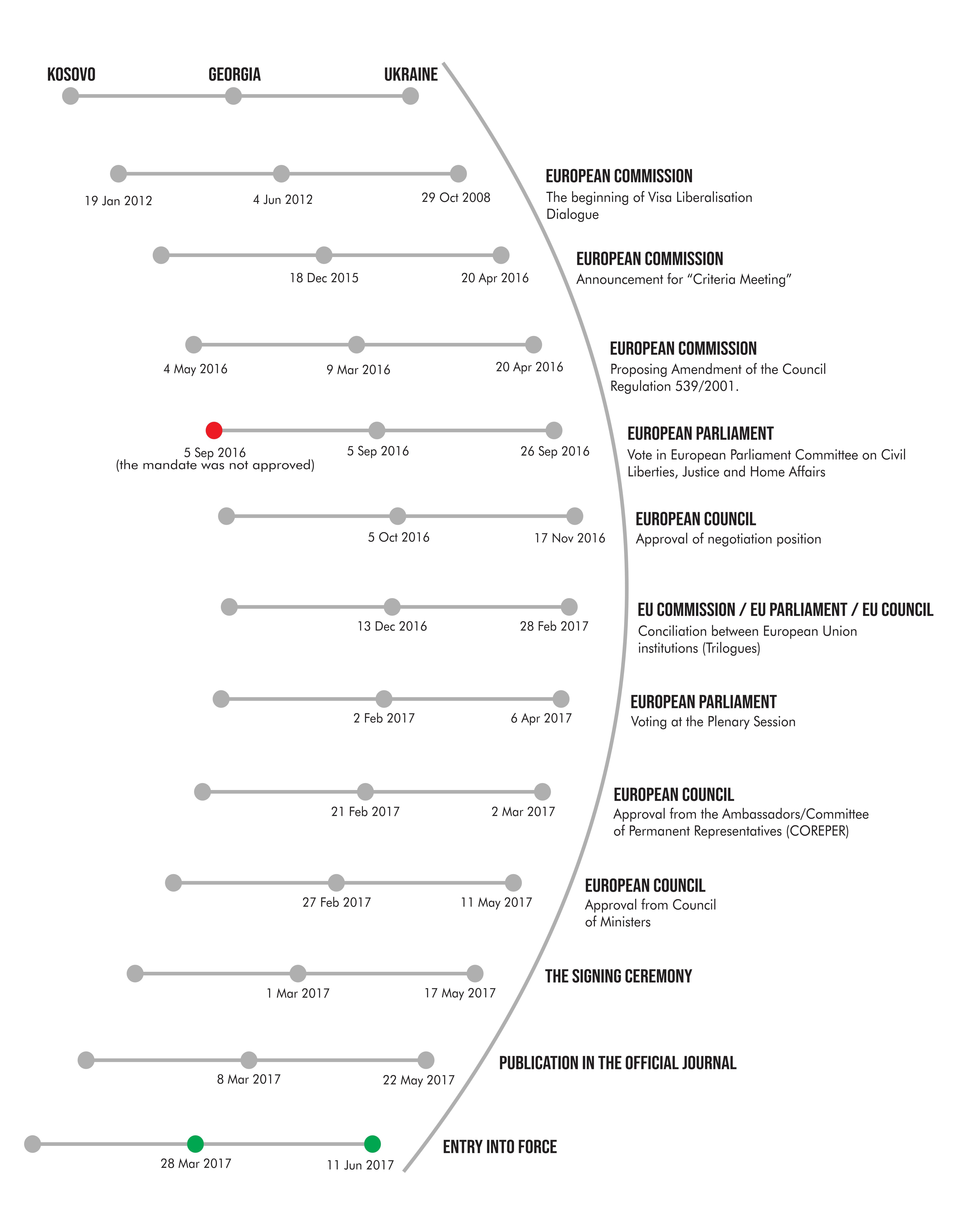




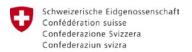


Total: 316 votes 100%

The graph presents a comparative time-frame of the visa liberalization process for Kosovo, Georgia and Ukraine







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The Policy Forum (a Think-Tankers High-level Advocacy Forum) committed to enhancing the dialogue between the civil society and the institutions.

The Kosovo Serbia Policy Advocacy Group (a forum for Cross-Border Civil Society Cooperation) that aims to communicate, promote and enhance dialogue toward full normalisation between Kosovo and Serbia, and their societies.





