



Brussels, 28.11.2013
COM(2013) 836 final

**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND
THE COUNCIL**

**Fourth Report on the Post-Visa Liberalisation Monitoring for the Western Balkan
Countries in accordance with the Commission Statement of 8 November 2010**

(Text with EEA relevance)

REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

Fourth Report on the Post-Visa Liberalisation Monitoring for the Western Balkan Countries in accordance with the Commission Statement of 8 November 2010

(Text with EEA relevance)

1. INTRODUCTION

Since 19 December 2009, citizens of the former Yugoslav Republic of Macedonia, Montenegro and Serbia have been able, with biometric passports, to travel visa-free to the Member States of the European Union, in accordance with Regulation 539/2001¹. Citizens of Albania and Bosnia and Herzegovina have enjoyed the same visa-free travel status since 15 December 2010.

The decision to lift the visa obligation was based on a thorough assessment of these countries' progress in fulfilling the requirements of their visa liberalisation roadmaps in areas including document security, border and migration management, asylum, the fight against organised crime and corruption, and fundamental rights related to freedom of movement. Visa-free travel remains one of the core achievements of these countries' European integration efforts to date.

In a statement made to the Justice and Home Affairs Council on 8 November 2010, the Commission underlined that the integrity of the visa-free travel regime depended on each Western Balkan country continuing to implement the measures set out in its visa roadmap. The Commission established a post-visa liberalisation monitoring mechanism, covering all the policy areas set out in the visa roadmaps, to evaluate the sustainability of reforms seeking to uphold the integrity of the visa-free travel regime.

This is the fourth post-visa liberalisation monitoring report to be published since the Commission's 2010 statement². It provides an overview of the development of the post-visa liberalisation monitoring mechanism, gives the Commission's assessment of measures implemented by the Western Balkan countries on the basis of their visa roadmaps, reviews the functioning of the visa-free travel regime, and makes recommendations for reforms to prevent the recurrence of problems that have beset the visa-free travel regime since 2010.

2. REINFORCED POST-VISA LIBERALISATION MONITORING MECHANISM

The Commission issued its third report on the post-visa liberalisation monitoring mechanism on 28 August 2012³. It analysed each visa-free country's progress in implementing the reforms set out in its visa liberalisation roadmap, reviewed the functioning of the visa-free travel regime and assessed these countries' efforts to address the abuse of asylum procedures in EU Member States.

The dialogue between the Commission and the Western Balkan countries concerning the visa-free travel regime takes place via the Stabilisation and Association Process. Commission

¹ 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 (OJ, L 81, 21.3.2001, p. 1).

² The previous reports are as follows: SEC(2011) 695, SEC(2011) 1570, COM(2012) 472.

³ COM(2012) 472.

officials visited Montenegro in January 2013, Serbia in May 2013 and Bosnia and Herzegovina in June 2013. With the help of Member State experts, they were able to verify the quality of reforms implemented by those visa-free states.

The 10th EU-Western Balkans Ministerial Forum on Justice and Home Affairs was held in Tirana on 5 November 2012 amidst an unprecedented seasonal influx into the EU of asylum-seekers from the Western Balkans. The Western Balkan countries adopted a joint declaration on visa-free travel that confirmed their resolute commitment to implementing the reforms necessary to maintain the integrity of the visa-free travel regime. The Commission convened a senior officials' meeting on 12 November 2012 to put these commitments into practice. The participants decided to reinforce the reporting mechanism on migration flows, drawing upon Frontex's monthly alerts and input from Europol and the European Asylum Support Office (EASO).

In December 2012, each visa-free Western Balkan country began submitting to the Commission monthly statistics on migration flows to the EU. The Commission took stock of this reporting scheme at a senior officials' meeting in Brussels on 22 February 2013.

In response to a series of country-specific surges in asylum applications in 2012 and 2013, the EU Member States and Schengen Associated States concerned took immediate action along with their Western Balkan counterparts. A surge of Albanian asylum applications in the UK in early 2013 spurred the British authorities to despatch an immigration liaison officer to Tirana. In August 2012, the German asylum authorities responded to the latest surge in asylum applications from Serbia and the former Yugoslav Republic of Macedonia by re-establishing a Western Balkans support unit that cut processing times for first-instance decisions. In July 2012, the Swiss federal migration authority introduced a fast-track procedure for all applicants from European visa-free states. Following a sudden increase in Albanian applications in Sweden in April and May 2012, the Swedish authorities despatched liaison officers to Serbia and Montenegro and persuaded their Albanian counterparts to strengthen controls at all Albanian border-crossing points (BCPs). The Albanian border police stepped up monitoring of flights destined for Sweden from Greece, Kosovo* and the former Yugoslav Republic of Macedonia, as most Albanian passengers boarded their flights in these countries.

Assisted by its Western Balkans Risk Analysis Network, Frontex has issued 34 alert reports to date. Its 2013 Western Balkans Annual Risk Analysis, presented to participants from the Western Balkans at a conference in Skopje in May 2013, summarises the latest trends in border controls at the EU's external border and irregular migration from the region. These reports and the annual risk analysis provide sophisticated assessments of migration trends from the region and the operational steps taken by EU Member States and the visa-free states concerned to prevent asylum abuse. The Commission relies on Frontex's monthly alerts to provide briefings to the Council and, if necessary, to organise senior officials' meetings.

3. ASSESSMENT OF THE CONTINUED IMPLEMENTATION OF MEASURES BY THE WESTERN BALKAN COUNTRIES TO COMPLY WITH VISA ROADMAP REQUIREMENTS

This assessment is based on the following sources: monthly alert reports and the 2013 Western Balkans Annual Risk Analysis issued by Frontex; monthly statistics on migration trends submitted by the Western Balkan countries; narrative reports by the visa-free states analysing the causes of the asylum abuse phenomenon; additional information submitted by EASO and other EU Agencies; the outcome of the relevant sub-committees and high-level

* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

dialogue meetings organised with each country in the framework of the Stabilisation and Association Process; and the outcome of targeted assessment missions undertaken by Commission officials. It follows the block structure of each country's visa liberalisation roadmap.

3.1. Albania

Biometric passports and identity cards continue to be produced and distributed. Albanian authorities have issued 2 590 000 biometric passports since they were first introduced in May 2009. Albania has amended its legislation to tighten the conditions under which citizens may request name changes to evade border controls. The law on civil registry has been amended to limit and control changes in the civil registry. Under a new decree issued by the ministry of interior, citizens must obtain a certificate from the border police proving that they are not on the Schengen entry ban list before they may apply for a name change. Between June 2012 and March 2013, some 34 per cent of the 6 763 applicants for name changes were rejected on such grounds. Document fraud, particularly the use of fake stamps at EU external borders and the use of counterfeit passports by Albanian nationals, remains a considerable problem.

Albania has made progress in the area of border management. It has stepped up operational cooperation with Greece, Italy and Kosovo, implemented the agreement establishing a joint centre for police cooperation with the former Yugoslav Republic of Macedonia, and carried out a number of joint patrols with Kosovo, the former Yugoslav Republic of Macedonia and Montenegro. Albania has also linked its border police IT system with the civil registry database at BCPs, which constitutes a second layer of control against fraudulent name changes. Risk analysis and threat assessment capacities need to be reinforced.

In the area of asylum, the institutional and legal framework is in place. However, only a very small number of applicants are granted international protection in Albania. Efforts in this area need to be stepped up. No personal identification document has yet been provided to refugees and persons who are granted subsidiary protection. The Albanian visa regime is not yet fully in line with EU standards.

Albania has made some progress in the area of migration. It continues to implement the EU-Albania readmission agreement. The number of Albanian nationals returning voluntarily increased in 2012 compared to 2011. However, institutional capacity for implementing the strategy and action plan for returnees should be reinforced.

In the field of police cooperation and the fight against organised crime, some progress can be reported. The Albanian police force is currently reviewing its procedures to improve reporting capacities of front-line officers and proactive investigations. There is an urgent need for key institutions to step up coordination and maximise their capacity to investigate serious and organised crimes. Albania is about to conclude an operational agreement with Europol.

There has been progress in the area of the fight against drugs. In the first quarter of 2013, the number of criminal cases related to drug trafficking increased by nearly 40 per cent, while the number of those detained on drug-related charges rose by 11.5 per cent. While seizures of marijuana and cocaine have increased, there has been a decrease in seizures of heroin.

Albania has made some progress in combating trafficking in human beings, even though internal trafficking remains a concern. Standard operating procedures for the identification and referral of victims and potential victims are in place, while the capacity of law enforcement agencies and international cooperation need to be reinforced. A joint working group involving the ministry of interior, the prosecutor's office and the ministry of justice was established in November 2012 to discuss concrete cases of trafficking in human beings. The results of this initiative need to be monitored.

There has been some progress in the field of money laundering. The police have developed risk assessments, sharing them with other agencies. Based on Moneyval recommendations, the criminal code was amended to establish the autonomy of the crime of money laundering from its predicate offence and to introduce the notion of self-laundering. The number of convictions in cases involving money laundering has increased from a low base, and so has the number of suspicious transaction reports.

Albania has made some progress in the fight against corruption. The legal and institutional framework is largely in place, although obstacles to proper investigation of public officials and members of the judiciary still need to be removed. A solid track record of investigations, prosecutions and convictions at all levels needs to be established, but efforts have started to pay off. Between 2012 and 2013, the number of referred corruption-related cases increased from 22 to 45; proactive investigations rose from 19 to 32; and police operations related to corruption and white-collar crimes went up from 5 to 11.

Progress in the field of fundamental rights has been uneven, with some advances in respect of women's rights and anti-discrimination, but limited progress as regards Roma inclusion. Policy tools targeting vulnerable groups need to be implemented more effectively. The strategy on improving Roma living conditions is inconsistent. Measures have been taken to tackle the issue of unregistered Roma children. The implementation of measures set out in the national Roma decade action plan needs to be stepped up. Overall, the Roma still face difficult living conditions and frequent discrimination as regards access to education, employment, health care and housing.

3.2. Bosnia and Herzegovina

Bosnia and Herzegovina has made progress in the field of document security. Authorities have issued 1 791 444 biometric passports, but there are still 62 565 old passports in circulation. Bosnia and Herzegovina has adopted a new law on passports and made preparations to issue third-generation biometric passport. A new generation of electronic identity cards have been issued since March 2013, with 258 077 personalised to date. Proposed amendments to the law on residence have not yet been adopted.

The revised IBM (integrated border management) strategy and action plan are being implemented, and monitoring mechanisms are in place. Operational cooperation and information sharing with Frontex have continued. The border police have benefited from further training. A joint risk analysis centre is producing strategic analyses for the relevant authorities. Surveillance facilities at BCPs have improved. Cooperation with neighbouring countries has continued, and frequent joint border patrols have improved the detection of irregular migrants and smuggled goods. Bosnia and Herzegovina has closed 44 locations identified as unauthorised BCPs with Montenegro. The closure of unauthorised BCPs with Serbia remains pending.

In the area of asylum, amendments to the law on the movement and stay of aliens and asylum-seekers were adopted, aligning the law more closely with EU and international standards. Further work remains necessary to align the provisions on detention with the EU *acquis*. A new migration and asylum strategy and an action plan have been adopted. The authorities have constructed a permanent asylum centre in Trnovo. The capacity of the asylum system seems sufficient to cope with the current number of asylum applications. Asylum officers have received further training.

Bosnia and Herzegovina has made progress in the area of migration. The centre for the temporary detention of irregular immigrants is operational. The readmission agreement

between the EU and Bosnia and Herzegovina is being implemented. The reintegration strategy for returnees should be fully implemented.

Bosnia and Herzegovina has made preparations to draft a new strategy in the fight against organised crime based on the Europol Serious and Organised Crime Threat Assessment model. The previous strategy ran until 2012. The system of electronic data exchange between law enforcement agencies and prosecutors has become operational although the directorate for police coordination has no access to the underlying databases. The lack of systemic criminal information and intelligence sharing and the absence of effective coordination hamper the fight against organised crime. A draft law on witness protection is about to be adopted. There is no effective system in place to address the confiscation of assets.

In 2012, a number of successful large-scale joint police operations with third countries took place in the area of trafficking in human beings, drugs and arms. The roadmap between Europol and the ministry of security needs to be fully implemented. Europol's data protection assessment, necessary for concluding an operational agreement, has been completed and submitted to Europol's joint supervisory body for its opinion.

In the fight against drug trafficking, the institutional capacity to coordinate and implement the policy framework remains weak. Law enforcement capacities should be enhanced. The implementation of the previous national drug strategy and its action plan between proved inadequate. Draft amendments to the law on the prevention and suppression of the abuse of drugs, including the establishment of an office for drugs, have yet to be adopted. Cooperation with the European Monitoring Centre for Drugs and Drug Addiction has continued.

A new strategy and action plan in the fight against trafficking in human beings has been adopted. Provisions on trafficking in human beings have been integrated into the criminal codes of Republika Srpska and the Brčko District. Similar amendments to the criminal code at state and federation level remain to be adopted. The number of identified victims has increased. Educational campaigns targeting social workers, teachers, work inspectors and prosecutors are continuing. The department for combating trafficking in human beings within the national coordinator's office and the database on trafficking victims are not yet fully operational.

There is still a lack of effective measures for the prevention of money laundering and the financing of terrorist activities. Better legislation and implementation of the strategy and action plan for the prevention of money laundering and the financing of terrorism are required. A new law on money laundering and the financing of terrorism and amendments to the criminal code, based on Moneyval recommendations, should be adopted. The action plan to fulfil Moneyval recommendation needs to be implemented. Information sharing through the Egmont Group, a network of Financial Intelligence Units (FIU), has continued.

The implementation of the new anti-corruption strategy and action plan has been delayed. The agency for the prevention of corruption and coordination of the fight against corruption has hired some staff, but needs to become fully operational. Corruption remains widespread in both the public and private sectors. More decisive action on the part of law enforcement agencies and prosecutors is urgently needed. There is a poor track record of investigation, prosecution and conviction related to corruption cases. A new law on financing political parties has been adopted, but legislation in this area remains fragmented. Amendments to the law on conflicts of interest require further work. There is no legislation guaranteeing protection for whistle-blowers.

As regards fundamental rights related to freedom of movement, the situation of the Roma has improved slightly. A Roma committee has been established within the government to monitor

the implementation of the Roma strategy and to review the decade of Roma inclusion between 2005 and 2015. It consists of 22 members — half from the Roma community; the other half from relevant institutions. This committee has met twice and earmarked funding for projects to address Roma employment, housing and health care. However, very little has been done to improve the situation of Roma women and children. A large number of Roma children are not registered at birth and cannot attend school or qualify for health insurance. Organised child begging remains an issue of concern.

3.3. The former Yugoslav Republic of Macedonia

The former Yugoslav Republic of Macedonia has made progress with document security. The authorities issued 1 603 993 biometric passports between April 2007 and December 2012. The process of document issuance is running smoothly. Only biometric passports may be used as from February 2012.

In the area of border management, operational cooperation and data sharing with Frontex have continued. In the first quarter of 2013, the former Yugoslav Republic of Macedonia conducted 87 mixed patrols with Bulgaria, Albania, Serbia and Kosovo. Work on rolling out the TETRA radio communication system has continued. The border police have received further training. The institutional and functional capacity of the national coordination centre for border management remains weak.

In the area of asylum, a national programme for integration was adopted. The construction of 20 accommodation facilities has begun with a grant from UNHCR. In 2012, 527 asylum applications were lodged — 213 fewer than in 2011. The majority of applications were submitted by Afghani and Pakistani nationals. Information campaigns for asylum-seekers are continuing. The capacity of the asylum unit in the ministry of interior has improved, with further training offered to employees. The legislative and institutional framework is satisfactory; however, implementation needs to improve. Some progress has been made in speeding up the process of providing asylum-seekers with identity documents. There are still problems concerning the provision of interpretation for interviews with asylum-seekers.

As regards migration, the law on foreigners was amended to simplify the procedures for granting temporary stay permits. 682 irregular migrants were detected in 2012; 111 came to light in the first two months of 2013. The capacity to cope with and manage migration flows is insufficient, bearing in mind the increasing number of migrants transiting through the country. The readmission agreement with the EU continues to be implemented.

In the area of the fight against organised crime, the centre for the suppression of organised and serious crime in the ministry of interior has faced problems in recruiting new staff. The national criminal intelligence database for intelligence-gathering is not yet operational. The national coordination centre for the fight against organised crime has not yet been established. Cooperation in fighting organised crime between the relevant law enforcement bodies — the ministry of interior, the public prosecutor's office, the customs administration and the financial police — needs to improve. Training for the implementation of the new law on criminal procedure has continued.

Prosecutors' effectiveness is hampered by not having direct access to law enforcement databases. The police lack an independent and robust external oversight mechanism. Police and customs cooperation on drug seizures has improved, and several successful international police operations against drug trafficking networks have been carried out. The human resource capacity of the illicit drugs department of the ministry of interior should be strengthened. International and regional cooperation in the area of cross-border organised

crime has continued. The former Yugoslav Republic of Macedonia has ratified an operational agreement, but has not yet posted a liaison officer to Europol.

A new strategy and action plan against trafficking in human beings has been adopted, with an emphasis on victim identification, prevention and improving victims' reintegration. A state fund for compensating trafficking victims is due to be set up. Six mobile teams for the early identification of potential victims were established at the local level in partnership with NGOs. Training for the police, including the border police, prosecutors, judges and civil servants, has continued. In four cases relating to trafficking in human beings, 24 persons were convicted in 2012. A comprehensive, multi-disciplinary and victim-oriented approach to trafficking still needs to be developed. Capacities for the identification and reintegration of victims and the prosecution of perpetrators need to improve.

As regards the fight against corruption, the legislative framework was strengthened in 2012 to enable the systemic verification of conflict of interest declarations by the state commission for the prevention of corruption. In total, 483 declarations submitted by members of government, members of parliament and public officials were verified in 2012, with 9 conflicts of interest identified. 123 persons failed to submit such declarations, with misdemeanour proceedings initiated in 26 cases. A detailed plan for the verification of declarations from the judiciary and local self-government was adopted in the first quarter of 2013.

Judges, prosecutors, law enforcement agents and civil servants received further training. The system of controlling political party funding and the financing of electoral campaigns was strengthened with amendments to the law on political party financing adopted in November 2012. An overview of investigations, indictments, convictions and sentences, including for high-level corruption cases, is being compiled. The capacity of the prosecution office for organised crime and corruption has been strengthened via the recruitment of three prosecutors, increasing their number to 13. Inter-agency cooperation should improve, and prosecutors should obtain access to the relevant law enforcement databases.

In the field of fundamental rights, the action plan on Roma inclusion is being implemented. It includes measures for further improving access to employment, education, housing and personal documents. So far, 11 Roma information centres have been opened with a view to providing assistance in accessing social and educational services. A project on legal aid for the Roma community has continued. A regional project on best practices for the integration of the Roma in the Western Balkans is being implemented. The commission for protection against discrimination is also planning to appoint a representative of the Roma community.

3.4. Montenegro

Montenegrin authorities issued 344 004 biometric passports between May 2008 and March 2013.

In the field of integrated border management, the government has adopted a new strategy and action plan, which is not yet consistent with the EU IBM concept. Surveillance of the blue border and especially the green border needs to be strengthened, with further investment in surveillance equipment. A national coordination centre should be established. Cross-border cooperation with neighbouring countries continued, with 709 joint patrols carried out in 2012. The closure of unauthorised BCPs with Bosnia and Herzegovina remains outstanding.

In the field of asylum, the legislation is only partially aligned with the *acquis*. Asylum statistics for the first half of 2013 indicate that 876 persons submitted asylum applications. The majority of applicants abscond before their applications can be processed. The majority of asylum applications were lodged by Algerian nationals, followed by Tunisian and Afghani citizens. The opening of a new asylum centre in Spuz has been delayed. The temporary

reception facility, in Konik, must meet minimum reception conditions, particularly as concerns health care. The accommodation of asylum-seekers needs further attention.

In the area of migration, the government has adopted a new action plan to implement the strategy for migration management. Montenegro continues to implement the EU-Montenegro readmission agreement. Further efforts are needed to address irregular migration, the integration of migrants and the protection of vulnerable persons. The reception centre for irregular migrants is not yet operational.

In the fight against organised crime, a new action plan has been drafted. New amendments to the criminal code include provisions on cybercrime, money laundering and terrorism financing and trafficking in human beings. Inter-agency cooperation is affected by the lack of a secure communication system and insufficient access by all relevant institutions to the underlying data. Financial investigations are not yet used systematically — the number of such investigations and the volume of assets recovered remains low. There is a lack of specialist legislation regulating provisional, permanent and extended confiscation. The limit of six-month pre-trial detention should be extended, as it hampers the effectiveness of investigations. The duration of the use of special investigative measures should be extended. The intelligence-led policing model is being implemented, and relevant training should continue. The police's specialised units for the fight against organised crime, including cybercrime and trafficking in human beings, remain understaffed, including at a regional level.

As regards trafficking in human beings, Montenegro is considered a transit, source and destination country. A new national strategy and an action plan to combating trafficking in human beings have been adopted. The criminal code has been amended to improve the identification of victims and introduce offences such as trafficking in human body parts. The code also includes slavery and forced marriage as criminal offences resulting from trafficking in human beings.

Close cooperation with Europol, Interpol, Member State police forces and those of neighbouring countries has continued, especially in the field of drug trafficking. A new anti-drug strategy and an action plan have been drafted by the ministry of health, in cooperation with the ministry of interior. They include measures related to prevention, rehabilitation, medical treatment and supply management.

As regards the fight against corruption, the legal framework needs to be further strengthened and implemented. The protection of whistle-blowers has been strengthened through new labour law provisions; however, the number of reports on corruption from citizens remains low. A new action plan implementing the strategy for fighting corruption and organised crime has been drawn up. The mechanisms for controlling conflicts of interest, the funding of political parties and electoral campaigns, and the enforcement of sanctions and control mechanisms in public procurement still need to be strengthened. The professional capacity and independence of the supervisory institutions, in particular the state election commission, the state audit institution and the commission for the prevention of conflicts of interest, need to be enhanced. The commission for the prevention of conflicts of interest should obtain access to all relevant databases held by other state entities. Assets have not yet been recovered in corruption cases. Awareness-raising campaigns for reporting corruption have continued. The directorate for anti-corruption initiatives was transferred to the ministry of justice. However, it lacks the necessary tools to ensure effective coordination of corruption prevention activities. Data on convictions in corruption cases show a very high number of acquittals both at first instance and upon appeal.

In the area of fundamental rights related to freedom of movement, the latest action plan implementing the strategy on displaced and internally displaced persons was adopted in January 2013. It includes measures aiming at status, socio-economic integration, including in employment, education, health care, social insurance and housing, but implementation remains weak. Awareness-raising activities have continued. Legalisation regulating the status of displaced persons has advanced. In January 2013, the government submitted to parliament an amendment to the law on foreigners, which extended until December 2013 the deadline for applications for permanent resident status. Visits to Kosovo are being organised to allow displaced persons to gather the documents necessary to regulate their status in Montenegro. A strategy to improve the situation of the Roma, Ashkali and Egyptian communities, adopted in April 2012, remains to be implemented. Further efforts are needed to improve living conditions in the Konik camp.

In October 2013, Montenegro adopted comprehensive action plans for enlargement negotiation chapters 23 and 24 to implement reforms in the field of the judiciary, fundamental rights, justice, freedom and security.

3.5. Serbia

Biometric passports and secure ID cards continue to be produced and distributed: Serbia issued 584 668 biometric passports in 2012. The operation of and reporting by the special coordination directorate, charged with issuing travel documents to persons residing in Kosovo, should be improved.

In the area of border management, Serbia has continued to implement its IBM strategy and action plan. It has continued cross-border cooperation with Bosnia and Herzegovina and Montenegro, upgraded video surveillance facilities and carried out joint operations with neighbouring countries. The closure of unauthorised border crossing points on the border with Bosnia and Herzegovina remains outstanding. The early warning system for detecting false travel documents is running smoothly. Serbia has also strengthened border controls at certain BCPs in an effort to prevent asylum abuse in Member States. A combination of risk analysis, inspection of travel companies and investigative techniques has enabled the police and the ministry of transport to forestall asylum abuse in a number of cases. Serbia has also amended its criminal code to incorporate therein the criminal offence of facilitating asylum abuse in foreign countries and has stepped up investigations of transport companies and travel agencies suspected of facilitating irregular migration to the EU. Authorities have filed 7 criminal charges against 8 persons on the basis of this new criminal provision.

In 2012, the dialogue between Belgrade and Pristina yielded considerable results in the field of IBM implementation. By the end of December 2012, four gates, including the two gates in northern Kosovo, had become operational; since February 2013, all six gates between Serbia and Kosovo have become operational. The two sides also agreed to start customs collection. Regarding free movement, the ID card travel regime has become operational. The agreement on customs stamps continues to be implemented by both sides. There was also progress on civil registry, and Serbia's cooperation with EULEX continued to improve. Direct high-level contacts and contacts at operational level continue to facilitate cooperation, including in the fight against organised crime. Serbia should show continuing commitment to normalising relations with Kosovo.

In the field of asylum, there has been no significant progress. The legislative framework largely meets EU standards, but has to be effectively implemented. The lack of adequate asylum procedures tends to encourage asylum applicants to view Serbia as a transit country for onward (irregular) migration to the EU. Serbia has two asylum reception centres, with insufficient capacity to provide services for all asylum-seekers. Access to asylum procedures

depends on obtaining accommodation at an asylum centre. Serbia should improve its asylum regime by establishing a third centre, developing a system to process asylum-seekers' biometric data and providing better conditions for integrating asylum-seekers. It should take further steps to align its legislation with the EU *acquis* on legal migration, notably on the right to family reunification, long-term residence and the conditions of admission of third-country nationals for study purposes. Initial steps have been taken to establish a national database for verifying the personal data and fingerprints of asylum-seekers.

In the area of migration, Serbia has taken several measures. The commissariat for refugees and migration, in cooperation with the International Organisation for Migration (IOM), implemented a set of capacity-building measures for municipal offices dealing with migration and reintegration, aimed at improving education and social services for returnees and their families. The authorities and the IOM also organised a series of roundtable meetings for Serbian civil society on migration, reintegration and readmission. Serbia continues to implement the EU-Serbia readmission agreement, reportedly accepting some 95 per cent of readmission requests from EU Member States.

In the fight against organised crime, Serbia has made some progress. Its new strategy on intelligence-led policing is being implemented. The special prosecutor for organised crime initiated a number of high-profile cases in the reporting period, but an information exchange system involving the police and prosecutors has yet to be established. Serbia is about to conclude an operational agreement with Europol. Asset seizures increased in 2012, but the temporary confiscation and freezing of assets proved difficult under Serbia's new criminal code. The capacity to carry out complex financial investigations remains limited, although the FIU has become more proactive in launching financial investigations, and the criminal police has continued to work with Interpol and the CARIN asset recovery inter-agency network in cross-border cases involving money-laundering. Asset recovery has increased moderately, but remains low.

Serbia remains a country of origin, transit and destination for victims of trafficking in human beings. The number of Serbian victims of such trafficking fell in 2012, but the high number of Serbian criminals involved in this activity remained among the top ten recorded in the EU. Austria, Slovenia, Greece and Croatia reported the highest number of Serbian victims in 2012. Serbia is stepping up cooperation in the fight against trafficking in human beings with Italy, Romania and Bulgaria, France and Belgium. Serbian authorities have launched a number of investigations and conducted awareness campaigns and trainings for stakeholders. A new centre for protecting victims of trafficking has been established, but is not yet operational. A comprehensive, victim-oriented approach to human trafficking remains to be developed, with a focus on victim identification and access to assistance and protection.

Serbia has made some progress in the fight against corruption. It has put in place an appropriate legal and institutional framework, including an anti-corruption agency and a new law on funding of political parties in line with European standards. The 2012 general elections had already been conducted under this law, and the authorities will soon review political parties' compliance with this law's provisions. There is still a need for a proactive, intelligence-led approach to fighting corruption and organised crime. A new anti-corruption strategy and an action plan have been adopted. The anti-corruption agency has yet to establish a track record of effective control of party funding and to improve cooperation with relevant stakeholders in order to investigate declarations of assets. Legislation on whistle-blowers is not being implemented effectively.

In the area of fundamental rights related to freedom of movement, Serbia has made some progress. The commissariat for refugees and migration, in cooperation with the IOM, has

carried out a set of projects at local level to build capacity in reintegration. These projects involved municipalities and NGOs. The government has also adopted a national strategy and an action plan to improve the status of the Roma, supported by EU funds. The 2013 national employment plan identifies Roma employment as a priority in job creation schemes. Elementary education, enrolment in schools, civil registration (including regularising the status of 'legally invisible persons') and access to health care for returnees have slightly improved, yet the overall situation of the Roma remains precarious. The Serbian government should continue implementing short and medium-term measures aiming to improve the socio-economic situation of the Roma, particularly as concerns their access to education, the labour market, vocational training, social services and health care.

4. FUNCTIONING OF THE VISA-FREE TRAVEL REGIME IN 2012 AND THE FIRST SIX MONTHS OF 2013

4.1. Overview of developments

In 2012, **asylum abuse** continued to affect the functioning of the visa-free travel regime between the Western Balkans and the EU. According to Eurostat, the total number of asylum applications lodged by citizens of the five visa-free Western Balkan states in the EU Member States and Schengen Associated States rose to 47 025 in 2012, which represented a 63 per cent increase over 2011 (Figure 6.1). Last year's total was the highest since the visa obligation had been lifted for Western Balkan citizens. In the first nine months of 2013, total asylum applications from the five visa-free states were only 5.6 per cent lower than in the first nine months of 2012⁴. Asylum inflows in 2013 have shown a remarkably similar trend to 2012.

According to Eurostat, nationals of the five visa-free Western Balkan states represented some 13 per cent of all asylum-seekers in EU Member States and Schengen Associated States in 2012⁵. Nearly 92 per cent of these applications were lodged in the six most-affected Member States and Schengen Associated States — **Germany, Sweden, France, Switzerland, Belgium and Luxembourg**. The intra-Schengen share of these states as recipients of Western Balkan asylum applicants rose from 64 to 92 per cent between 2009 and 2012 (Figure 6.2).

Last year's considerable increase in asylum applications from the Western Balkans had a variable impact on the EU Member States and Schengen Associated States concerned (Figure 6.3):

- Asylum applications in Germany rose by 143 per cent to 22 715;
- Applications in Sweden rose by 31 per cent to 6 410;
- Applications in France rose by 133 per cent to 5 505;
- Applications in Switzerland rose by 31 per cent to 3 670;
- Applications in Belgium fell by 36 per cent to 3 315;
- Applications in Luxembourg fell by 9 per cent to 1 435.

⁴ In the first nine months of 2013, Frontex calculated 16 940 Western Balkan asylum applications in the top five recipient states, which was 5.6 per cent lower than in the first nine months of 2012. Germany received 70 per cent more applications in the first three quarters of 2013 than in the corresponding period of 2012—meanwhile, the number of asylum applications fell in Sweden, Switzerland, Belgium and Luxembourg.

⁵ Of a total of 360 880 asylum applications lodged in the EU and Schengen Associated States in 2012, 47 025 were submitted by nationals of the Western Balkan visa-free states.

The **asylum recognition rate**⁶ in these Member States and Schengen Associated States fell from 2.8 to 2.3 per cent between 2011 and 2012 (Figure 6.4). Yet, even this low figure disguised considerable variation among Western Balkan applicants: only some 1.3 per cent of Montenegrin applicants, 0.7 per cent of applicants from the former Yugoslav Republic of Macedonia and 1.7 per cent of Serbian applicants received international protection in the above six Member States and Schengen Associated States. At the same time, 9.1 per cent of Albanian applicants⁷ and 3.2 per cent of applicants from Bosnia and Herzegovina received asylum in these states in 2012.

Asylum applications from **each Western Balkan visa-free state increased** in 2012. Citizens of Serbia and the former Yugoslav Republic of Macedonia lodged the highest number of asylum applications, while Albanians overtook citizens of Bosnia and Herzegovina as the third largest group of asylum-seekers from the Western Balkans. Montenegrins also registered a large increase in 2012, albeit from a lower base (Figures 6.5 to 6.9):

- Serbian asylum applications increased by 35 per cent to 20 935;
- Applications by citizens of the former Yugoslav Republic of Macedonia increased by 64 per cent to 10 740;
- Albanian applications increased by 143 per cent to 7 705;
- Applications by citizens of Bosnia and Herzegovina increased by 117 per cent to 6 335;
- Montenegrin applications increased by 96 per cent to 1 310.

Previous years were characterised by dual seasonality: a smaller ‘spring surge’ around March and a larger ‘**autumn surge**’ with the onset of cold weather. 2012 did not see a pronounced ‘spring surge,’ but was characterised by a linear rise of asylum applications from April onwards, culminating in a sudden burst of applications in October. In October 2012 alone, 8 605 asylum applications were lodged by Western Balkan nationals in the six most-affected EU Member States and Schengen Associated States—the highest monthly figure since the visa obligation was lifted for Western Balkan citizens. By the end of 2012, the number of asylum applications had fallen to its ‘off-peak’ plateau. 2013 has shown a remarkably similar overall pattern in asylum applications, with a linearly rising trend since May 2013.

In 2012, asylum flows showed an even greater **displacement towards Germany** than in previous years, with more than 48 per cent of all Western Balkan asylum applications — 22 715 in total — being lodged in Germany (Figure 6.4). In the extraordinary month of October 2012, Germany received nearly four fifths (6 615 of 8 605) of the applications lodged by Western Balkan nationals in the six most-affected EU Member States and Schengen Associated States. The displacement towards Germany was particularly pronounced among citizens of Serbia, the former Yugoslav Republic of Macedonia and, to a lesser extent, Bosnia and Herzegovina (Figures 6.6, 6.7 and 6.9).

A stronger correlation between individual countries in the Western Balkans and the Schengen area also became evident in 2012. The bulk of the October 2012 surge in Germany was made up of applications lodged by citizens of Serbia and the former Yugoslav Republic of Macedonia and, to a smaller extent, Bosnia and Herzegovina. Montenegrin nationals also submitted the bulk of their asylum claims in Germany. Sweden, on the other hand, faced a

⁶ The recognition rate is calculated as a share of positive decisions (concerning refugee status, subsidiary protection or humanitarian status) in the total number of first-instance decisions.

⁷ This particularly high figure for Albanian nationals was likely influenced by the decision of the French *Conseil d’État* in March 2012 to remove Albania from the list of safe countries of origin.

spike in Albanian applications in April-May 2012 and a separate surge of applications by citizens of Bosnia and Herzegovina in June 2012. Apart from Sweden, Albanian citizens also targeted the UK and Greece as destinations of choice for their asylum claims.

The **unfounded asylum-to-return ratio** stayed close to parity until August 2012⁸. The explosion of asylum applications in October 2012 boosted it to 8:1, with nearly 8 000 Western Balkan citizens lodging applications against a return of roughly 1 000 nationals⁹. During the final two months of 2012, falling application rates and a particular effort by the most-affected Member States and Schengen Associated States to return citizens to the Western Balkans reduced the asylum-to-return ratio to 1:1. In the first four months of 2013, the unfounded asylum-to-return ratio stayed close to parity, but widened again to 4:1 by September 2013. This indicates that EU Member States and the Schengen Associated States are only capable during the 'off-peak' season of matching the number of new applicants with effective returns. 'Autumn surges' put enormous strain on the asylum systems of the most-affected Member States and Schengen Associated States, diverting resources from genuine applications for international protection.

An analysis of the **method of return** also reveals interesting variations between Member States and Schengen Associated States. In the first three months of 2013, Germany returned practically all Western Balkan applicants through forced return procedures; Luxembourg proceeded almost entirely via the voluntary return track; Sweden and Belgium used mainly the voluntary track; while Switzerland used the two methods in almost equal measure.

In its 2013 Western Balkans Annual Risk Analysis, Frontex noted two **migratory risks** as regards movement from the Western Balkans to the European Union: 1) the secondary movement of irregular migrants entering the EU at the Greek-Turkish border and transiting through the Western Balkans; and 2) the abuse of the EU visa-free travel regime by Western Balkan nationals. The first risk manifested itself through illegal border-crossing at Western Balkan green borders and clandestine entries at BCPs; the second came via asylum abuse, illegal stay in Member States and document fraud by Western Balkan nationals.

As regards the secondary movement of irregular migrants through the Western Balkans, Frontex detected an increase in 2012 in **illegal border-crossing** at and between BCPs in the Western Balkans. A 33 per cent increase in detections of illegal border-crossing at green borders¹⁰ and a 68 per cent increase at BCPs¹¹ was linked mainly to non-European migrants seeking to re-enter the EU via the Western Balkans having first entered at the Greek-Turkish border. Citizens of Afghanistan, Albania, Pakistan, Algeria, Somalia, Syria, Morocco, Kosovo, Serbia and the Palestinian Authority were among those most frequently detected as illegally seeking to cross Western Balkan green borders (Figure 6.10). Of the region, Kosovo citizens registered the largest increase in illegal border-crossing in 2012.

Illegal stays in the EU by Western Balkan citizens rose to 31 522 in 2012, which represented some 10 per cent of all detections in the Union last year. In 2011, the share of Western Balkan citizens among third-country nationals detected as illegally staying in the EU had been 8.7 per

⁸ There is some discrepancy between the figures reported by FRONTEX and those collected by Eurostat. The unfounded asylum-to-return ratio is calculated on the basis of monthly figures reported by FRONTEX.

⁹ According to Eurostat, nationals of the five visa-free states submitted 7 865 applications in Germany, Sweden, Switzerland, Belgium and Luxembourg in October 2012. According to FRONTEX, these five Member States and Schengen Associated States returned slightly more than 1 000 Western Balkan nationals that month.

¹⁰ Detections of illegal border-crossing at the green borders (between BCPs) rose from 26 244 to 34 839 between 2011 and 2012.

¹¹ Detections of illegal border-crossing at BCPs rose from 1 421 to 2 387 between 2011 and 2012.

cent. More illegal stayers from each visa-free Western Balkan state were detected in 2012, with the largest groups comprising Albanian (12 003) and Serbian (8 006) nationals. More than half of all illegal stayers from the Western Balkans were detected in Germany, Greece, Slovenia and Italy.

Frontex also detected a large increase in **document fraud** perpetrated by Albanian and Kosovo citizens in 2012. Last year, Albanian citizens became the largest group of third-country nationals seeking to enter the Schengen area by using counterfeit documents, followed by Syrian, Moroccan, Ukrainian and Nigerian citizens. Such document fraud took the form mainly of counterfeit Greek entry stamps manufactured to disguise the length of stay. Albanian citizens were also increasingly detected by Irish and British authorities when trying to enter from the Schengen area by using counterfeit Italian identity cards. While counterfeit stamps accounted for the largest increase among all forms of document fraud detected in 2012, counterfeit passports remained the most common form of document fraud in 2012. Fake passports purportedly issued by Albania, Bulgaria and the former Yugoslav Republic of Macedonia were the most commonly detected at Western Balkan BCPs, with Kosovo, Turkish and Albanian citizens most often presenting such documents.

4.2. The push factors of asylum abuse and measures to address it

In a recent analysis, EASO set out the most common **'push factors'** driving asylum abuse originating from the Western Balkans. Citizens of the visa-free states most often cited deprivation, unemployment, a lack of access to health care, social benefits and education, institutionalised discrimination and, in the case of Kosovo and Albania, blood feud as the grounds upon which they claimed international protection in Member States. In the EASO survey, Member States identified the marginalisation of the Roma and other minorities, deprivation and poverty, harsh conditions during winter and the absence of basic infrastructure and medical care as the most common drivers of asylum abuse.

In its 2013 Western Balkans Annual Risk Analysis, Frontex found that Roma continued to make up the overwhelming majority of asylum-seekers from the visa-free states. In Germany, more than 80 per cent of applicants were Roma. In Sweden, Roma applicants made up at least four fifths of asylum-seekers from the Western Balkans, but a subsequent study revealed that perhaps an even higher proportion might have been Roma. In Sweden, where an applicant's mother tongue is used to determine his or her ethnic background, many people registered languages other than Romani. This might have led the Swedish authorities to underestimate the number of asylum applicants from a Roma background.

The five visa-free states stepped up **operational cooperation** with neighbouring states and those Member States that were affected the most by asylum abuse in 2012:

- Albania stepped up operational cooperation with Greece and Italy, the two Member States most affected by Albanian overstay and document fraud, and with Sweden to monitor the flight routes used by Albanian asylum-seekers arriving in Sweden;
- Bosnia and Herzegovina improved border cooperation with neighbouring states and information exchange with Sweden to monitor the routes most often used by asylum-seekers arriving in Sweden;
- Serbia and the former Yugoslav Republic of Macedonia improved operational cooperation with German authorities, also via Frontex intermediation, to help deal with the extraordinary surge in asylum applications in October 2012;
- Montenegro stepped up its verification of travellers' conditions of entry to the Schengen area, including travel documents, means of subsistence and health insurance, in an effort to prevent asylum abuse in the Schengen area.

The Western Balkan countries have reported measures to **investigate the facilitators of asylum abuse**, such as travel agencies and transport companies potentially involved in misinforming citizens about asylum benefits. Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia and Serbia continued to coordinate activities of their law enforcement agencies and ministries of transport in investigating possible irregularities. The five visa-free states carried out the following measures in 2012:

- Albania launched a number of criminal investigations concerning individuals suspected of having facilitated illegal border-crossing or forged documents;
- Bosnia and Herzegovina launched several investigations into transport companies whose members were suspected of having facilitated the movement of citizens for the express purpose of seeking asylum in Sweden;
- Law enforcement agencies in the former Yugoslav Republic of Macedonia brought a number of criminal charges against individuals, on the basis of the amended criminal code, for misusing the visa-free arrangement with EU Member States;
- Montenegro did not detect an organised crime link in the facilitation of irregular migration for purposes of asylum abuse in EU Member States, but filed criminal charges against an organised crime group suspected of having forged documents to facilitate human smuggling through Montenegro;
- Serbia amended its criminal code to incorporate therein the criminal offence of facilitating asylum abuse in foreign countries and stepped up investigations of transport companies and travel agencies suspected of facilitating irregular migration to the EU.

The five visa-free states have also sought to **strengthen border control**, including through joint operations and joint patrols along borders and at BCPs with heavy traffic:

- Albania amended its legislation to tighten the conditions under which citizens may request name changes¹² to evade border controls, linked its border control database with the national civil registry and stepped up the verification of entry stamps at BCPs with Greece;
- Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia and Montenegro upgraded their border management systems so that travellers' identities could be verified against a set of domestic databases and Interpol's Lost and Stolen Passports database, which has improved the detection of document fraud at BCPs;
- Serbia also reports that border controls have been stepped up at BCPs in line with citizens' fundamental rights¹³.

The visa-free states also took steps to improve the socio-economic **integration of the Roma**, particularly in the fields of employment generation, vocational training, housing support and civil registration:

- Albania continued implementing its reintegration strategy for returnees in the areas of employment generation and vocational training;

¹² Under a new decree issued by the Albanian Ministry of Interior, citizens must obtain a certificate from the border police proving that they are not on the Schengen entry ban list before they may apply for a name change in Albania.

¹³ A citizen of the former Yugoslav Republic of Macedonia filed a complaint against the Serbian Ministry of Interior alleging ethnic discrimination as the grounds for his entry ban to Serbia. A local court dismissed his case in 2012.

- Bosnia and Herzegovina allocated further resources to the reintegration of returnees in the fields of employment, housing and health care;
- the former Yugoslav Republic of Macedonia opened 11 Roma information centres and implemented projects in the fields of education, social inclusion, employment generation, housing support, legal aid and civil registration for the Roma;
- Montenegro sought to improve civil registration, education, employment, social services, health care and housing for the Roma;
- Serbia sought, with IOM assistance, to build capacity at the central and municipal levels to manage reintegration and organised a series of roundtable meetings on best practices in migration management and reintegration.

The authorities of these five Western Balkan countries took new measures in 2012 to counter asylum abuse in the Schengen area. Each country reported that it had carried out **information campaigns** to inform citizens of their rights and obligations under the visa-free regime, with increasing involvement of local NGOs and EU delegations:

- Albania began distributing leaflets at airports;
- Bosnia and Herzegovina published in the printed and electronic media a set of articles and advice for travellers;
- the former Yugoslav Republic of Macedonia launched an information campaign in municipalities in close collaboration with migration centres and a Roma information centre, with brochures translated into the Romani language;
- Montenegro carried out a number of information campaigns in municipalities;
- Serbia launched a number of electronic information campaigns against asylum abuse and improved the handling of return cases through its diplomatic missions abroad.

4.3. The pull factors of asylum abuse and measures to address it

EASO has found that a number of **‘pull factors’** have also been driving asylum abuse originating from the Western Balkans, such as the presence of a diaspora community in the recipient states, the duration of an asylum procedure, the magnitude of cash benefits received during the asylum procedure, access to begging or the illegal labour market and knowledge of past asylum recognition rates in cases involving blood feud, homosexuality, domestic violence or human trafficking.

2012 afforded several examples of how changes in particular pull factors in the recipient states might influence migratory movements from the Western Balkans:

- A **German** Constitutional Court decision in July 2012¹⁴ ruled that the relevant provisions of the asylum-seekers’ benefit act were incompatible with the fundamental right to a minimum standard of living. Under this act, asylum-seekers had been eligible for EUR 225 a month, with EUR 40 disbursed in cash. Following this ruling, the monetary benefit for asylum-seekers was raised to EUR 336 per month, with EUR 130 disbursed in cash. As a result, the inflow of asylum-seekers increased mainly from Serbia and the former Yugoslav Republic of Macedonia, culminating in the submission of 6615 applications from the region in the month of October 2012 alone. The German authorities responded by re-establishing a Western Balkans support unit, manned by seconded staff from several federal authorities who focused exclusively on applications from these countries, reducing asylum

¹⁴ Judgment of the German Federal Constitutional Court in proceeding 1 BvL 10/10, 18 July 2012.

processing times from 40 to 10 days and stepping up returns. Despite these operational steps, the large-scale displacement of asylum applications towards Germany appears to have become a permanent feature of the EU visa-free travel regime since October 2012;

- **Sweden** faced a dramatic surge in asylum applications lodged by Albanian citizens in April-May 2012 and a separate surge in applications from Bosnia and Herzegovina in June 2012. The Albanian surge reportedly stemmed from rumours in northern Albania that Sweden would grant international protection to applicants on economic grounds¹⁵. Swedish consular authorities responded by issuing a strong public statement making it clear that applications on economic grounds would be swiftly rejected. Such applicants would also be given a five-year Schengen re-entry ban. With Frontex assistance, the Swedish border guards also despatched liaison officers to Podgorica and Belgrade airports to step up controls in respect of Turkish Airlines flights via Istanbul to Stockholm. These measures had the effect of reducing the Albanian inflow after May 2012;
- Sweden also faced a surge in asylum applications lodged by citizens of Bosnia and Herzegovina in June 2012. Swedish authorities found that most of the applicants had arrived from a single municipality in the north-eastern part of the country, and many had sold their homes, used various means of transport to avoid detection at BCPs, arrived with family members and claimed to have lost their biometric passports before applying for asylum in Sweden. These elements indicated a longer-term strategy to stay in Sweden. Sweden stepped up cooperation with authorities in Bosnia and Herzegovina, which enabled the two sides to reduce migration flows from this particular municipality within a month of the summer surge. Today, Sweden remains the second most-favoured EU destination for asylum-seekers from the Western Balkan visa-free states;
- Last year, **Switzerland** put in place several measures that had the combined effect of reducing migration inflows from the visa-free Western Balkan states. First, the Swiss authorities introduced a fast-track procedure for all European visa-free states, allowing decisions to be made on merit within 48 hours. This was complemented by a number of additional measures, such as a preliminary interview to advise applicants on the potentially adverse consequences of submitting an unfounded asylum application; the cancellation of all forms of return assistance for rejected asylum-seekers from European visa-free states; and a five-year re-entry ban for rejected applicants who do not cooperate with Swiss authorities or make multiple unfounded applications. These measures appear to have permanently reduced the asylum inflow from the visa-free states to Switzerland. Switzerland also joined the Frontex post-visa liberalisation task force in January 2012.

EASO has summarised the operational steps that EU Member States have taken to address the asylum inflow from the Western Balkans in recent years:

- Targeted high-level visits to the countries concerned and information campaigns, in cooperation with local NGOs and municipalities, to inform citizens about the rights and obligations of visa-free travel, using the printed and electronic media;
- Continued operational cooperation with the authorities of the countries concerned;

¹⁵ A similar surge of Albanian applications in Belgium occurred in October-November 2011, driven by rumours of successful asylum applications on economic grounds. That surge subsided as quickly as it emerged.

- Reducing medical benefits for asylum-seekers while providing emergency care;
- Reducing cash benefits, such as pocket money and financial return assistance, to reduce the financial incentives of asylum abuse;
- Shortening asylum procedures by having more staff assess asylum cases in peak periods or establishing an accelerated—fast-track—procedure that enables the swift processing of applications at peak times or for citizens of particular countries.

4.4. Other developments related to the EU visa-free regime

The European Parliament and the Council have recently adopted a revised **Asylum Procedures Directive** (originally Directive 2005/85/EC). The revised Directive, which Member States will have to start applying by June 2015, creates new tools to prevent abuse of the asylum system through repetitive unfounded applications. Applicants' right to remain may be limited if they submit a second asylum application that does not contain new elements compared to a previous one or if a second application is submitted to prevent an applicant's imminent removal. Limits to the right to remain can be applied also to applicants who have submitted a third or further asylum applications. These rules do not constitute an exception to the principle of *non-refoulement*, which must always be respected.

The co-legislators are very close to adopting the Commission proposal for an amendment of the **Visa Regulation** (originally Regulation 539/2001)¹⁶. In May 2011, the Commission proposed creating a visa suspension mechanism for temporarily suspending third-country nationals' visa-free status under exceptional circumstances. This mechanism would be applied only as a temporary measure and could be triggered only in an emergency situation. On 12 September, the European Parliament supported the compromise text agreed with the Council. The amended Regulation is expected to be formally adopted before the end of this year and will enter into force 20 days after its publication in the Official Journal.

5. NEXT STEPS

The post-visa liberalisation monitoring mechanism has enabled the **sharing of up-to-date information** on the operation of the EU visa-free regime between the Western Balkan states and EU Member States and Schengen Associated States. Frontex's monthly alert service constitutes the foundation of this mechanism and should be continued. France should be added to the list of countries monitored monthly by FRONTEX.

The overwhelming majority of citizens from the visa-free Western Balkan states remain *bona fide* travellers with a legitimate purpose of travel to the EU. **The visa-free travel regime has fulfilled its purpose**: it has strengthened **people-to-people contacts** between the Western Balkans and the EU, including with diaspora communities in Member States; enhanced **business opportunities** and **cultural exchanges**; and enabled the visa-free states' citizens to get to know the EU better. Each Western Balkan state has expressed its desire to continue implementing the reforms necessary to maintain their citizens' visa-free travel status.

Yet, asylum abuse worsened in 2012, and the first nine months of 2013 have shown a trend remarkably similar to 2012. Asylum applications from the region began to rise in May 2013, with the overall number of applications between January and September 2013 running only 5.6 per cent lower than in the first three quarters of 2012. Each visa-free state's citizens submitted a higher number of applications in 2012 than in 2011, putting particular pressure on the asylum systems of Germany, Sweden and Switzerland. While the migratory pressure from the region subsided after October 2012, the irregular migration trend from the five visa-free

¹⁶ COM(2011) 290.

states in the first three quarters of 2013 has been remarkably similar to 2012. This situation remains untenable.

The Commission urges each Western Balkan state to back up its political commitment to visa-free travel with concrete, effective policies on the ground. It is necessary to establish a sustainable downward trend in terms of the overall asylum intake from each visa-free state. The Commission recommends that each visa-free state continue taking action in the following areas:

- (1) Increase targeted assistance to minority populations, in particular the Roma, aiming to enhance their long-term socio-economic integration via educational, employment and vocational training programmes, including by implementing national strategies and using domestic assistance, supported by available EU assistance and bilateral assistance offered by EU Member States;
- (2) Enhance operational cooperation and information exchange with neighbouring states, EU Member States and Schengen Associated States, the European Commission and, as appropriate, Frontex, Europol and EASO, in the fields of border management, migration, asylum and readmission, in accordance with EU and national legislation;
- (3) Continue efforts to investigate facilitators of irregular migration and prosecute those who enable the abuse of the visa-free regime, in close cooperation with the law enforcement authorities of EU Member States, Schengen Associated States and Europol;
- (4) In strict compliance with citizens' fundamental rights, enhance border controls and develop closer cooperation with EU Member States that have a direct responsibility for managing EU external borders;
- (5) Enhance targeted information and awareness campaigns aimed at further clarifying to citizens the rights and obligations of visa-free travel, including information on liability for any abuse of rights under the visa-free regime.

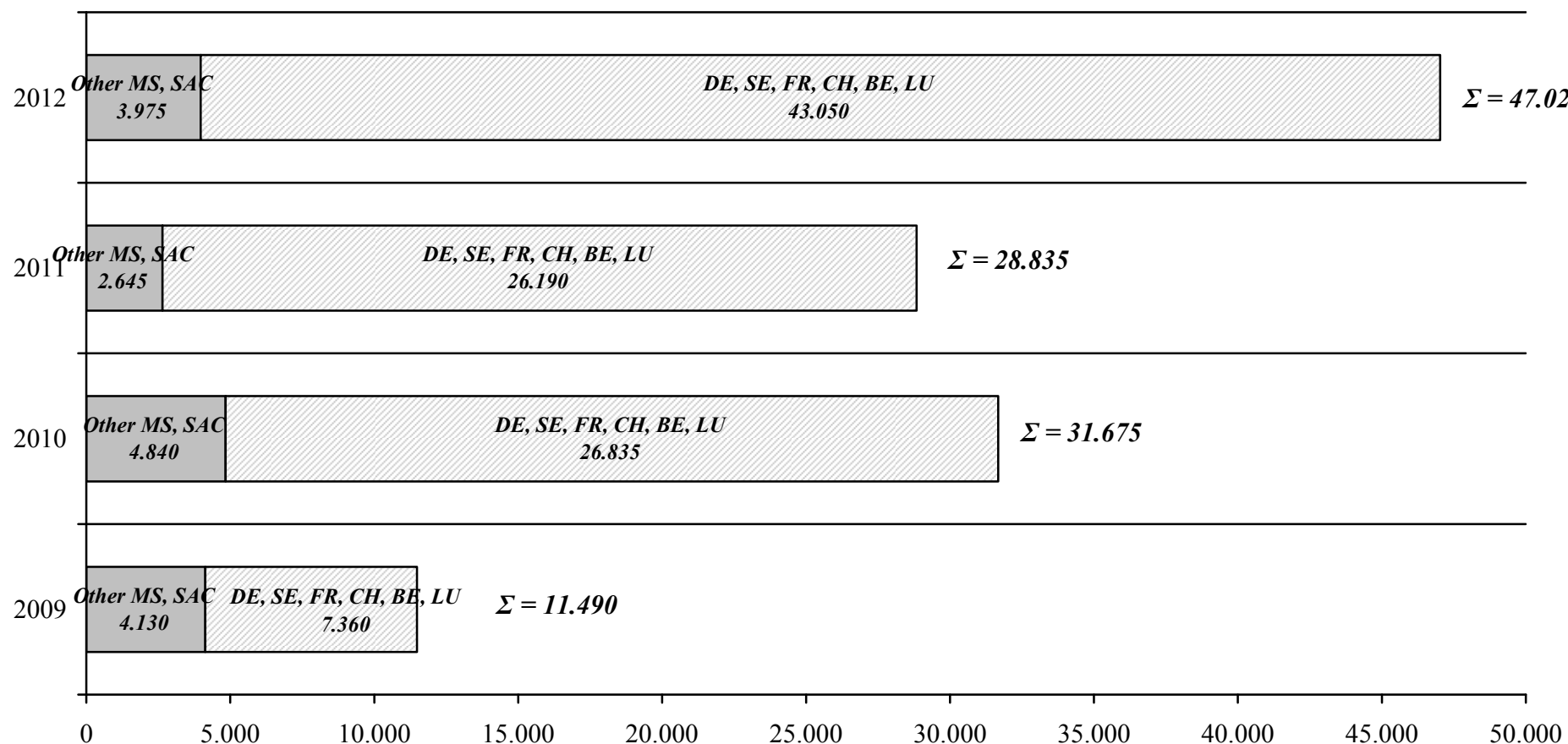
Finally, the Commission also recommends that those EU Member States and Schengen Associated States that have faced the largest inflows of unfounded asylum applications from the Western Balkans consider taking additional action in the following areas:

- Where appropriate, streamline asylum procedures for the citizens of the five visa-free Western Balkan states;
- Further enhance operational cooperation, including through liaison officers, with the visa-free states;
- Assist the visa-free states in developing more effective public communication campaigns to inform citizens of their rights and obligations under the visa-free regime.

The Commission will continue to assess the implementation of these measures through the present post-visa liberalisation monitoring mechanism and will report to the European Parliament and the Council in 2014.

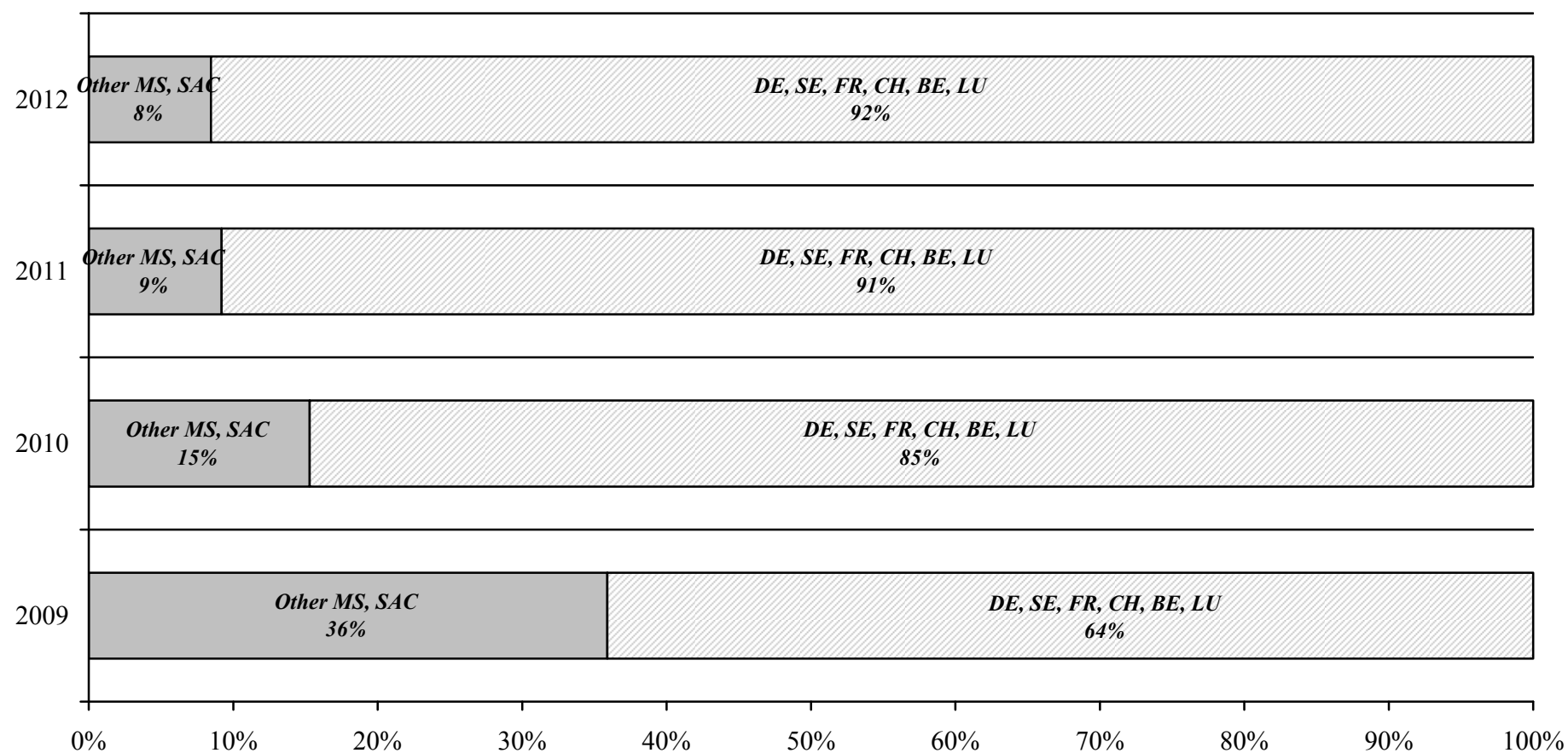
6. ANNEX

6.1. Asylum applications lodged by citizens of the five Western Balkan states in EU Member States and Schengen Associated States (SAC)



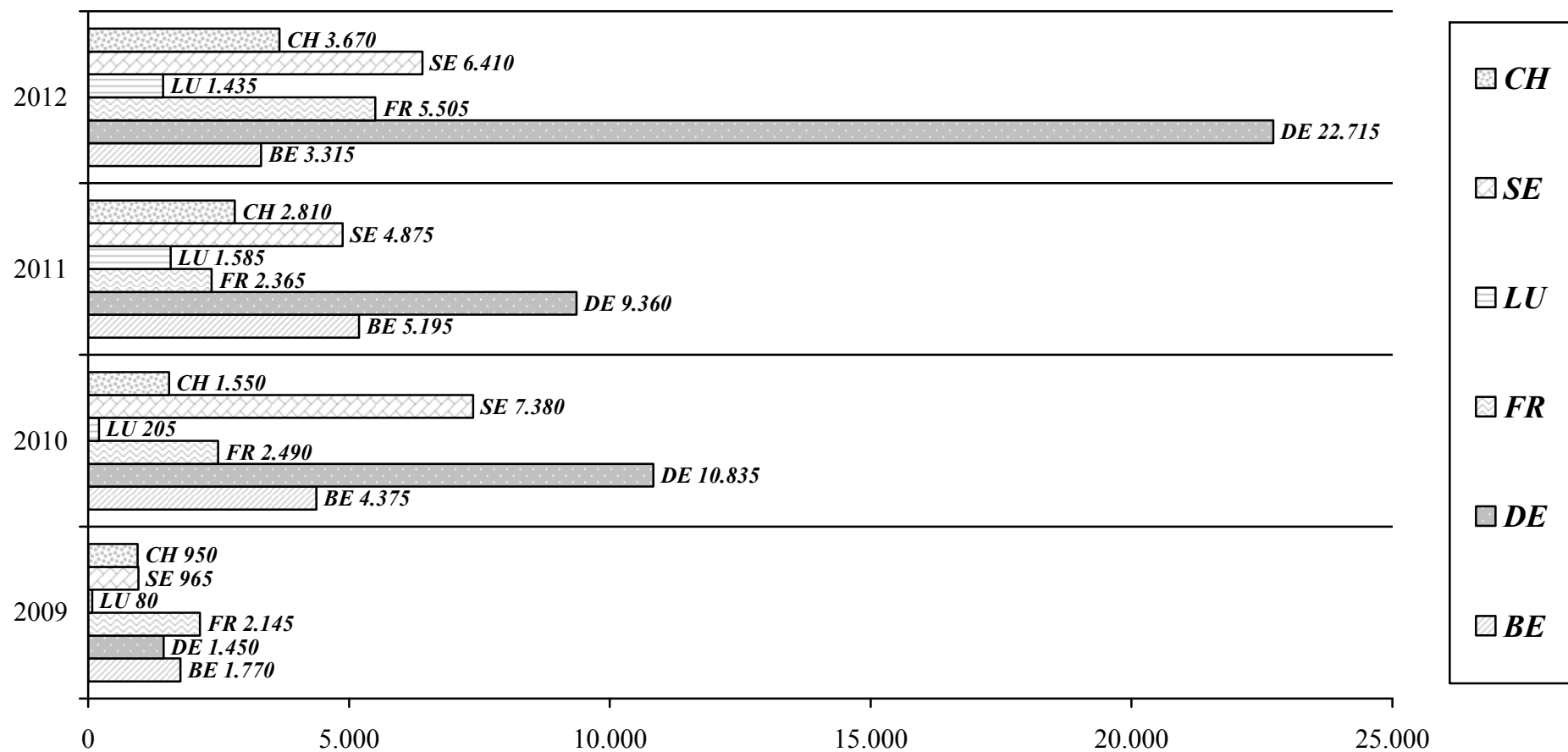
Source: Eurostat

6.2. Asylum applications lodged by citizens of the five Western Balkan states in EU Member States and Schengen Associated States (%)



Source: Eurostat

6.3. Asylum applications lodged by Western Balkan citizens in the most-affected EU Member States and Schengen Associated States



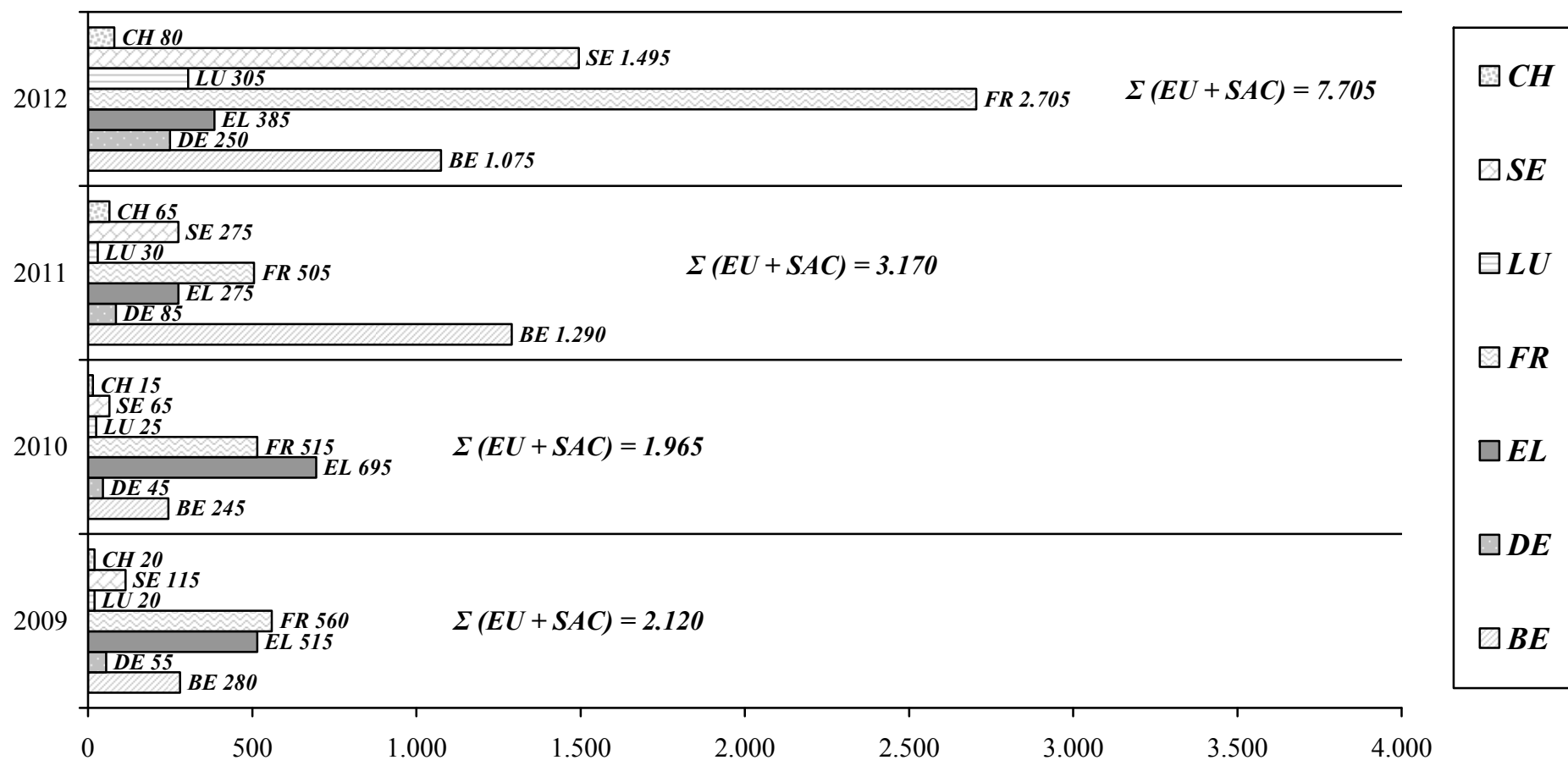
Source: Eurostat

6.4. Recognition rate of asylum applications at first instance in the most-affected EU Member States and Schengen Associated States

Citizen	MS/SAC	First instance total decisions				First instance positive decisions				Recognition rate			
		2009	2010	2011	2012	2009	2010	2011	2012	2009	2010	2011	2012
MNE	BE	20	20	15	125	5	0	0	0	25.0%	0.0%	0.0%	0.0%
MNE	DE	80	110	90	355	5	0	0	5	6.3%	0.0%	0.0%	1.4%
MNE	FR	55	50	75	395	0	0	0	5	0.0%	0.0%	0.0%	1.3%
MNE	LU	5	0	35	195	0	0	0	0	0.0%	0.0%	0.0%	0.0%
MNE	SE	45	40	85	95	0	5	5	0	0.0%	12.5%	5.9%	0.0%
MNE	CH	15	0	15	20	5	0	5	5	33.3%	0.0%	33.3%	25.0%
MK	BE	180	390	905	625	0	25	15	15	0.0%	6.4%	1.7%	2.4%
MK	DE	75	2.480	1.740	6.240	5	5	5	10	6.7%	0.2%	0.3%	0.2%
MK	FR	50	340	495	720	5	15	5	15	10.0%	4.4%	1.0%	2.1%
MK	LU	0	0	180	230	0	0	0	0	0.0%	0.0%	0.0%	0.0%
MK	SE	45	630	720	430	0	5	0	0	0.0%	0.8%	0.0%	0.0%
MK	CH	30	135	325	755	15	15	5	20	50.0%	11.1%	1.5%	2.6%
SRB	BE	605	960	1.415	945	15	115	100	55	2.5%	12.0%	7.1%	5.8%
SRB	DE	675	4.830	6.105	13.095	15	30	25	25	2.2%	0.6%	0.4%	0.2%
SRB	FR	620	630	380	810	30	45	25	155	4.8%	7.1%	6.6%	19.1%
SRB	LU	10	85	440	530	0	0	0	0	0.0%	0.0%	0.0%	0.0%
SRB	SE	560	4.760	2.175	2.455	20	25	20	20	3.6%	0.5%	0.9%	0.8%
SRB	CH	440	450	400	1.295	210	115	120	70	47.7%	25.6%	30.0%	5.4%
ALB	BE	215	125	445	1.630	40	10	30	225	18.6%	8.0%	6.7%	13.8%
ALB	DE	60	35	65	115	5	5	15	15	8.3%	14.3%	23.1%	13.0%
ALB	FR	315	435	465	680	15	15	40	40	4.8%	3.4%	8.6%	5.9%
ALB	LU	30	5	15	130	10	0	0	0	33.3%	0.0%	0.0%	0.0%
ALB	SE	105	65	185	985	10	5	20	45	9.5%	7.7%	10.8%	4.6%
ALB	CH	10	5	25	35	0	0	0	0	0.0%	0.0%	0.0%	0.0%
BiH	BE	95	75	295	350	5	0	0	5	5.3%	0.0%	0.0%	1.4%
BiH	DE	205	340	350	2.030	15	10	15	25	7.3%	2.9%	4.3%	1.2%
BiH	FR	240	370	110	710	15	25	15	100	6.3%	6.8%	13.6%	14.1%
BiH	LU	30	25	20	195	0	0	0	0	0.0%	0.0%	0.0%	0.0%
BiH	SE	95	105	365	1.335	10	10	5	5	10.5%	9.5%	1.4%	0.4%
BiH	CH	95	165	70	225	55	70	30	20	57.9%	42.4%	42.9%	8.9%
WB Total	Total	5.005	17.660	18.005	37.735	510	550	500	880	10.2 %	3.1 %	2.8 %	2.3 %

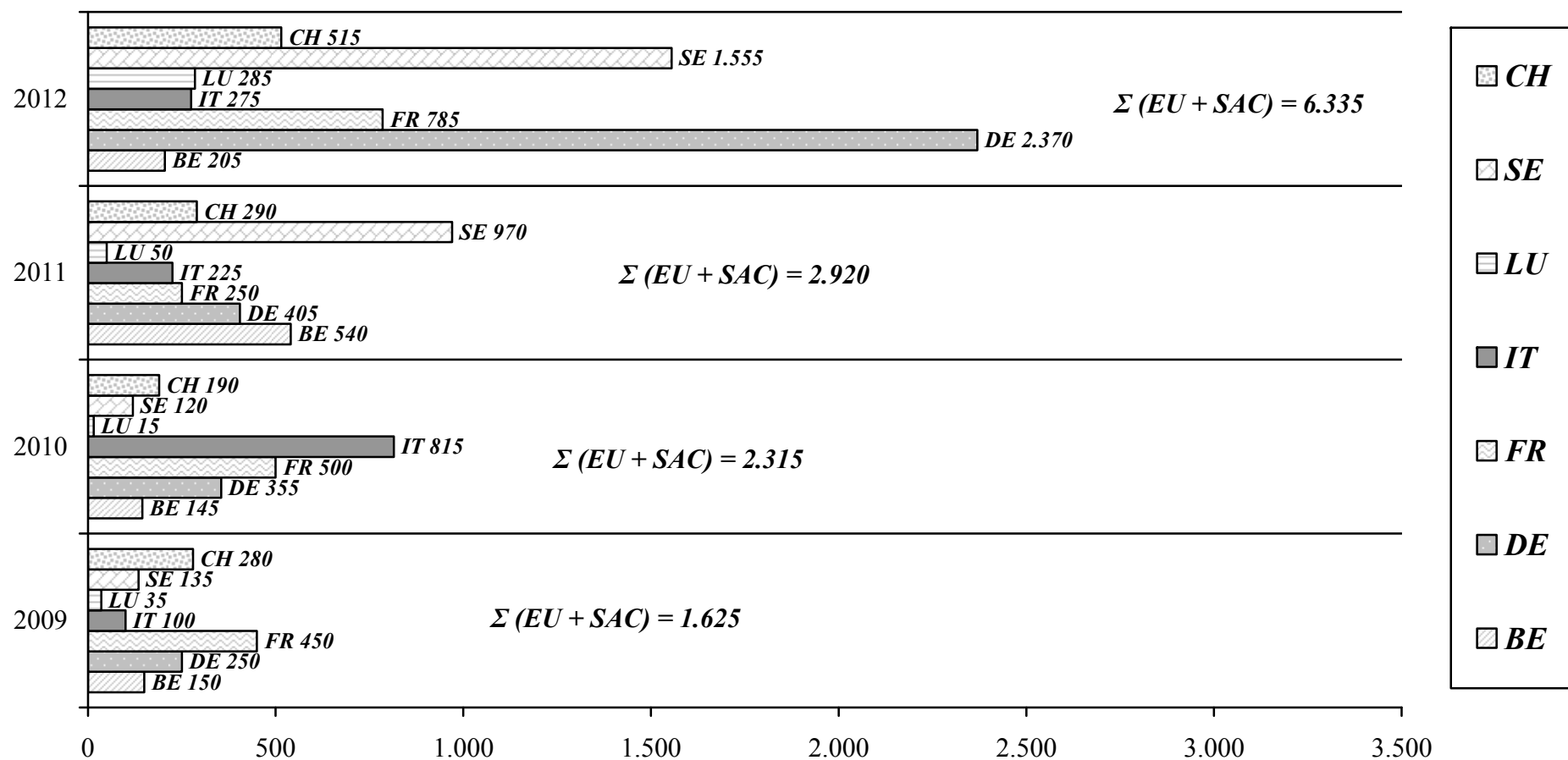
Source: Eurostat

6.5. Asylum applications lodged by citizens of Albania in EU Member States and Schengen Associated States



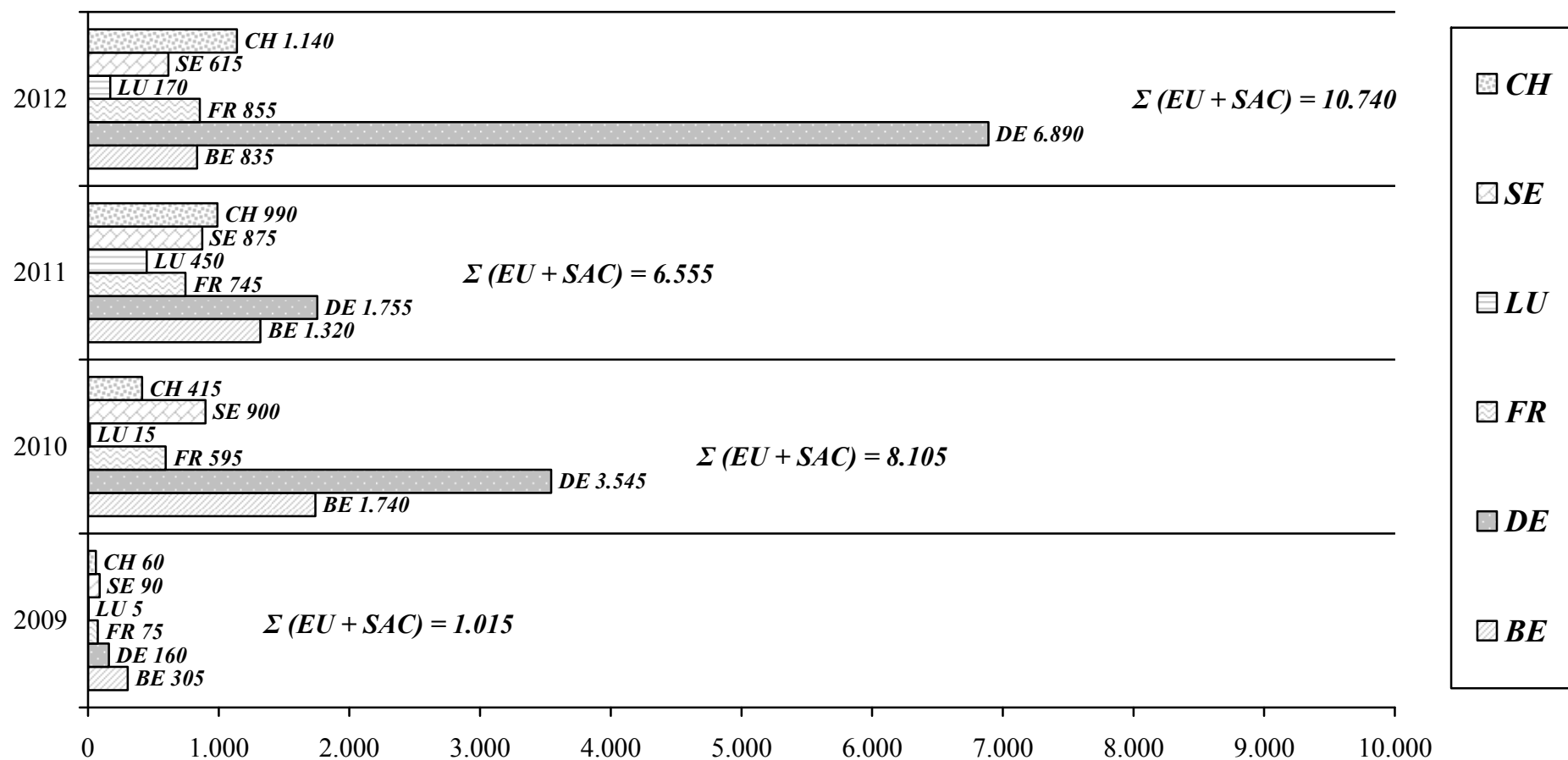
Source: Eurostat

6.6. Asylum applications lodged by citizens of Bosnia and Herzegovina in EU Member States and Schengen Associated States



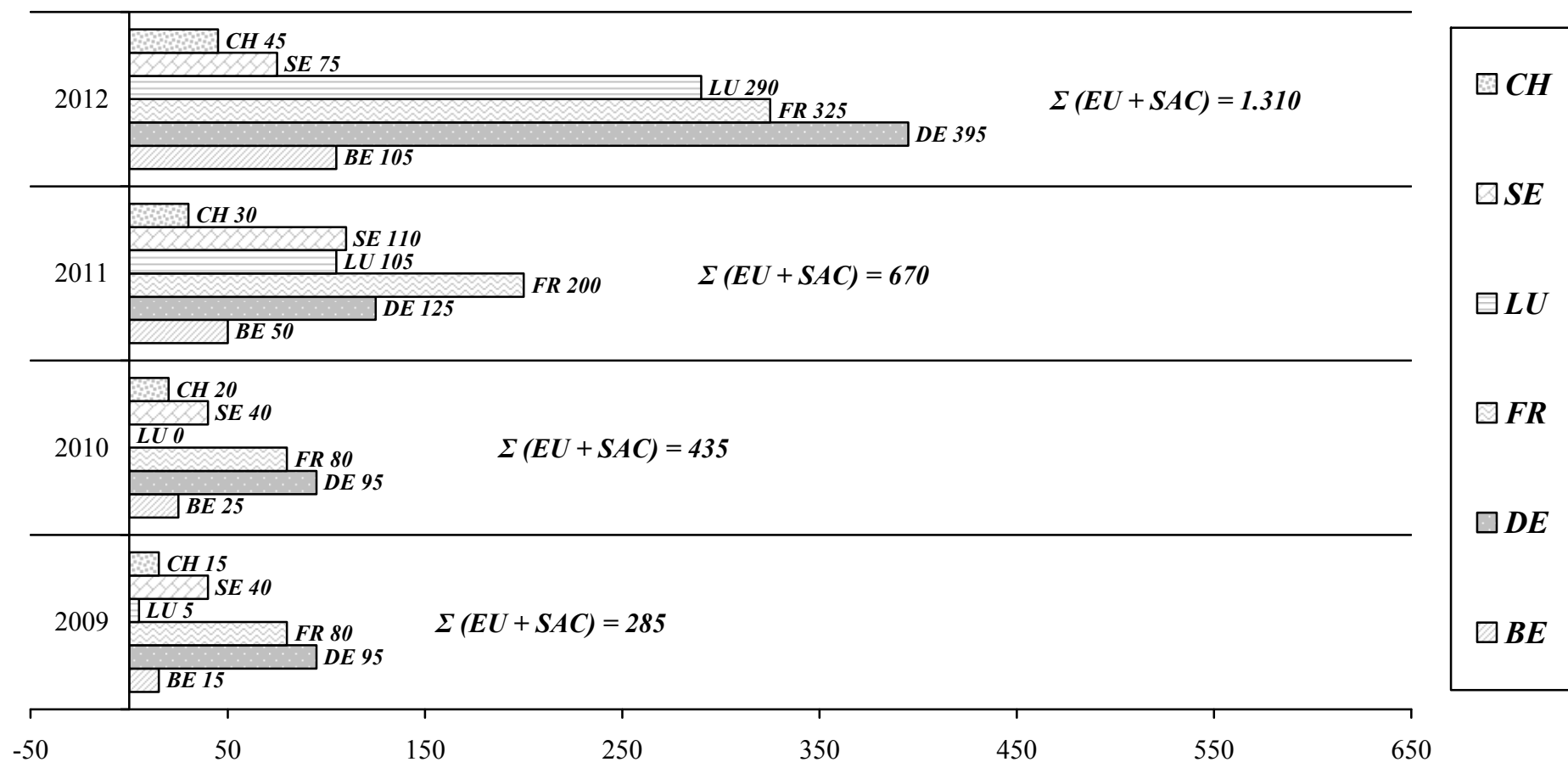
Source: Eurostat

6.7. Asylum applications lodged by citizens of the former Yugoslav Republic of Macedonia in EU Member and Schengen Associated States



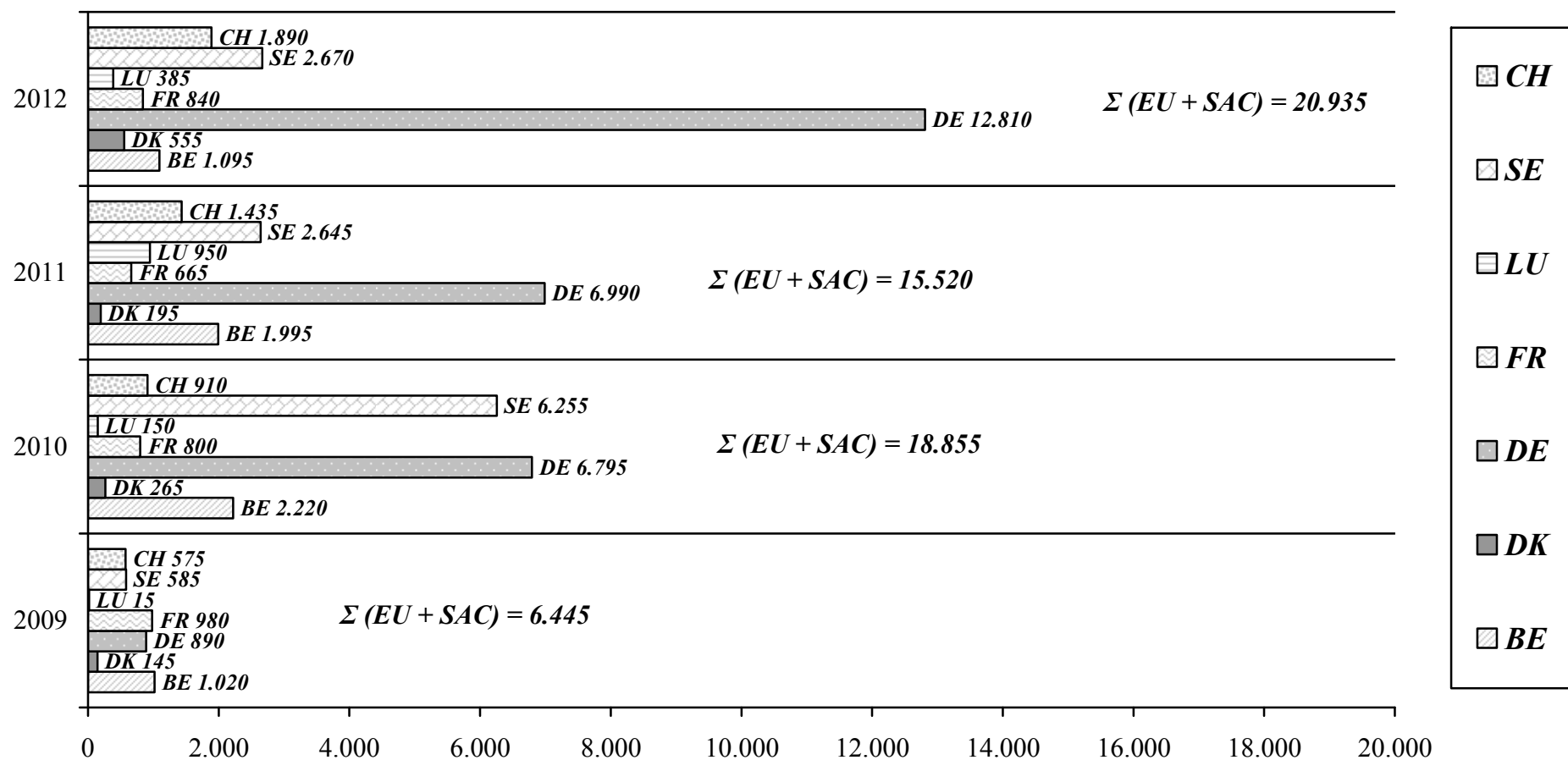
Source: Eurostat

6.8. Asylum applications lodged by citizens of Montenegro in EU Member States and Schengen Associated States



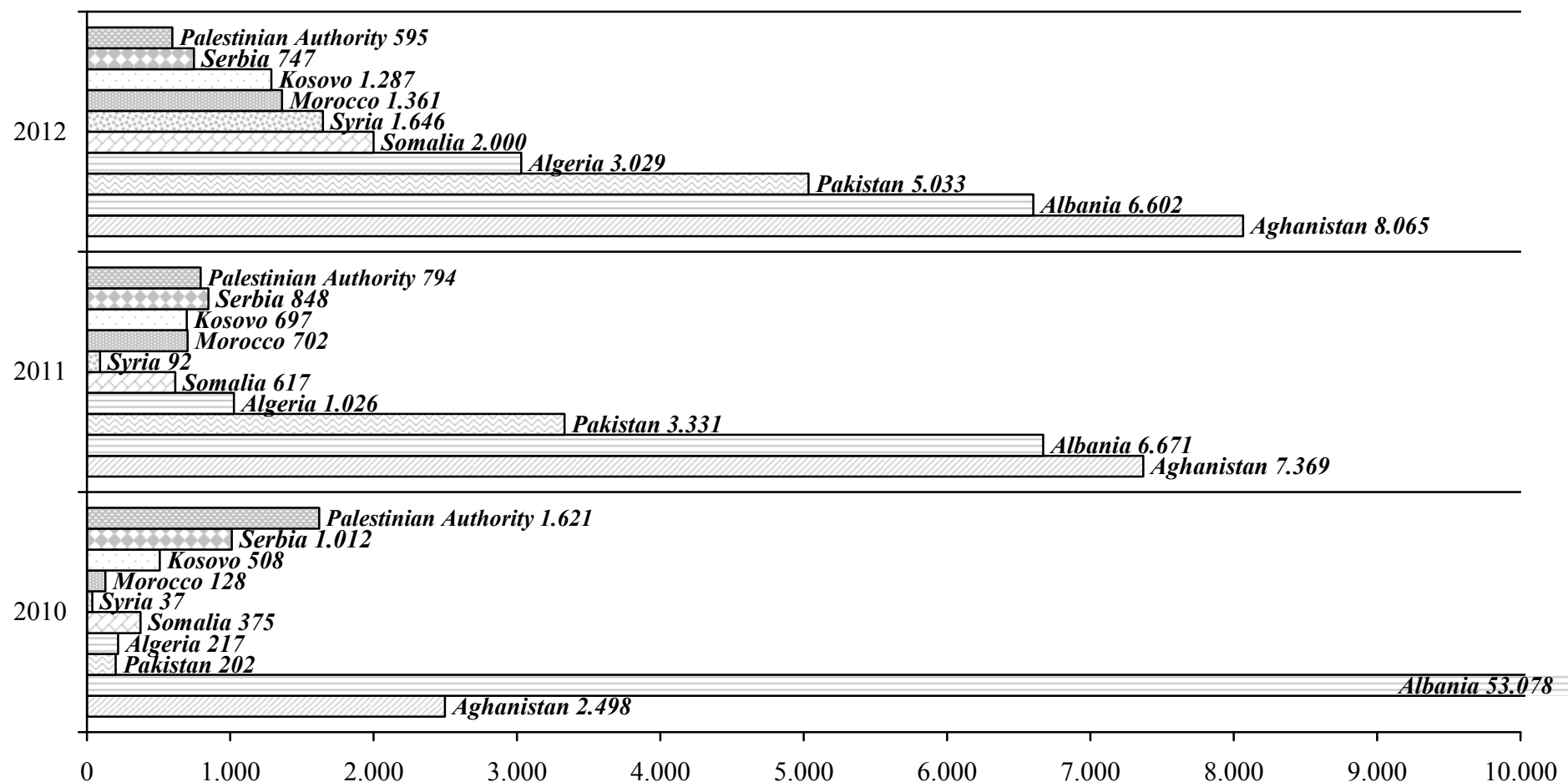
Source: Eurostat

6.9. Asylum applications lodged by citizens of Serbia in EU Member States and Schengen Associated States



Source: Eurostat

6.10. Detection of citizens illegally crossing the EU's external borders (at green borders)



Source: Eurostat