

Conclusions on Kosovo¹

(extract from the Communication from the Commission to the European Parliament and the Council "Enlargement Strategy and Main Challenges 2011-2012", COM(2011)666 final)

The political situation in Kosovo was marked by both parliamentary and presidential elections in the period from October 2010 to April 2011. The conduct of the general elections was marred by serious shortcomings and technical difficulties. A new coalition government was formed in February and a new president elected in April.

The President and the government have demonstrated commitment to the European agenda. Coordination of EU-related reforms has been strengthened. Elections have delayed the implementation of many key reforms. Sustained efforts are now needed to accelerate reforms and their effective implementation. Public administration and the judiciary are both weak. Much more needs to be done to tackle organised crime and corruption, including in the area of public procurement. The economic situation is also serious and the government needs to take urgent steps to improve the budgetary situation in close coordination with the International Monetary Fund. On a more positive perspective, Kosovo has continued to make sustained efforts to deliver on key areas of its European agenda such as visa and trade.

On the basis of the UN General Assembly resolution adopted on 9 September 2010, which had been tabled jointly by Serbia and the 27 EU Member States, a process of dialogue between Belgrade and Pristina started in March. It was conducted in a generally constructive spirit until September and has led to agreements on several issues: free movement of goods and persons, civil registry and cadastre. The agreements reached to date need to be implemented in good faith. Further results remain to be achieved to implement, as a matter of priority, the principles of inclusive and functioning regional cooperation and to provide sustainable solutions on EU *acquis* related matters in sectors such as energy and telecoms.

During the reporting period, integration of the Serb community south of the River Ibër/Ibar has improved. Serbs have benefited from the legal framework protecting their rights. Their participation in general elections increased and they also participated in the census. The teaching staff of Serbia-supported schools has started to sign contracts with Kosovo municipal education directorates.

In northern Kosovo, Serbia-supported structures have continued to be in place and integration has not progressed. The Serbia-supported municipalities opposed the conduct of the census in the north and the turnout of Serbs from northern Kosovo in general elections was negligible. Serbs in the north also challenged the mandate of EULEX. The situation in northern Kosovo and the issue of the control of the border/boundary have led to outbreaks of violence, which resulted in injuries and one dead in July and September. The situation has also led to more frequent inflammatory rhetoric by the Kosovo leadership. All sides need to play their part in defusing tensions in northern Kosovo and allow for the free movement of persons and goods, for the benefit of the people in the region.

The authorities are cooperating with EULEX in the investigation of the allegations raised in the resolution adopted by the Parliamentary Assembly of the Council of Europe on inhuman treatment of people and illicit trafficking in human organs in Kosovo. Kosovo authorities also need to ensure consistent and effective cooperation with EULEX in all areas of its mandate.

As regards ***democracy and rule of law***, the rule of law in particular continues to be an issue of serious concern and needs urgent attention from the government, assembly and judicial authorities of Kosovo.

¹ Under UN Security Council Resolution 1244.

The fourth mandate of the *assembly* was inaugurated on 21 February following general elections. There were serious shortcomings in the electoral process. Kosovo needs to take urgent steps to address these by simplifying the system, following international standards, and investigating and prosecuting cases of electoral fraud. The assembly adopted a budget and a range of key reform laws relevant to the European agenda. The capacity of the assembly to scrutinise the draft legislation and work of the government remains weak. There are concerns that the rules of procedure of the assembly are not always followed.

A new coalition *government* took office on 22 February. In March, the government adopted a regulation establishing and strengthening the role of the European integration departments within ministries. The Ministry of European Integration has strengthened its role as coordinator of the European agenda and donors, and pressed to accelerate reforms. Further efforts are necessary to identify specific goals and measurable results, which would guide the government better in its reform activities. The efforts on decentralisation have continued. The government needs to find solutions for the long-term sustainability of the newly-founded Serb-majority municipalities. At the same time, Serbia-supported structures have continued to operate within Kosovo preventing full implementation of decentralisation.

There has been limited progress as regards *public administration reform*. The regulatory framework was strengthened, but still needs to be completed. The revised public administration strategy 2010-2013 has not yet been implemented. Public administration reform remains a major challenge and public administration is very weak. The office of Ombudsperson lacks adequate resources, premises and political support.

There has been progress as regards the *judicial system*, notably in the form of key judgements by the Constitutional Court. The assembly adopted important legislation such as the laws on witness protection, on criminal liability of legal persons for criminal offences and the law on international legal cooperation. The reform process needs to continue. Implementation of the four reform laws adopted in the previous reporting period has continued satisfactorily. The Division for International Legal Cooperation in the Ministry of Justice increased its capacity and has handled cases professionally. The Kosovo Judicial Council has started addressing key priorities. All nine members of the Kosovo Prosecutorial Council were appointed and the Council has started to function. Salaries of judges and prosecutors were increased. At the same time, the judicial system in Kosovo remains weak. Significant backlogs of cases persist. There are still reports of threats and intimidation to judges and political interference in the work of the judiciary is still an issue of concern. A more proactive approach by prosecutors and judges is needed to investigate and adjudicate organised crime and corruption cases. There are also serious concerns about transparency in implementation of the law on pardons.

Kosovo has made some progress in addressing *corruption*, notably by starting to tackle some of the corruption cases. Corruption remains prevalent in many areas and continues to be a very serious concern which also affects access by citizens to services. The anti-corruption task force was strengthened. The legislative framework for the fight against corruption was improved by adopting several important laws, even if it is still not complete and needs to be further strengthened. The law on financing of political parties has major shortcomings and monitoring of its implementation also needs to be improved. Breaches of procurement rules continue to be an issue of concern in the context of corruption. Declarations of assets continue to show discrepancies between declared assets and actual revenue.

The Constitution of Kosovo has strong provisions to secure international standards of ***human rights and respect for and protection of minorities***. The different institutions dealing with promoting, enforcing and monitoring fundamental rights do not coordinate their activities adequately. Bodies in the executive branch of government suffer from a shortage of capacity, and poorly-defined responsibilities and authority, which frequently overlap with other bodies. Their political and practical impact is limited. More needs to be done to enforce legal and

administrative remedies for infringements of human rights. Integration of the members of the Serb community has improved, notably south of the River Ibër/Ibar. More efforts are needed to address the needs of the Serbs across Kosovo, but in particular in the north.

Limited progress has been achieved in the area of *civil and political rights*. Efforts by the government need to continue as regards *prevention of torture and ill-treatment*. Further steps are necessary to eliminate *impunity*. In some *prisons* the lack of space and overcrowding need to be resolved. *Access to justice* is not fully guaranteed, notably in northern Mitrovicë/Mitrovica where the district court is functioning with limited capacity under EULEX. This undermines rule of law in this part of Kosovo.

As regards *freedom of expression*, limited progress can be reported. The transparency of media ownership is guaranteed by a law and the law is properly enforced. Journalists continue to face political pressure and threats. The independence and impartiality of the public broadcaster (RTK) is not guaranteed. *Freedom of assembly and association* is largely respected. The right to association is secured with the adoption of the amendments to the law on freedom of association in NGOs. The environment in which *civil society* operates needs to be significantly improved. The government needs to use civil society expertise better.

In the area of *freedom of thought, conscience and religion*, the police have continued to manage well the transfer of responsibility for guarding historical and religious sites, including Serbian Orthodox ones, from KFOR. Kosovo has advanced its renovation activities of Serbian Orthodox sites in cooperation with relevant participants from the Church and from the Serbian authorities.

Further efforts are needed in order to fully guarantee *economic and social rights*. There has been some progress in relation to *women's rights*, notably by increasing their representation in politics and improving legislative framework to guarantee their rights. The relevant institutions need to be strengthened and the budget increased in order for the legislation to be implemented. Protection of *children's rights* has improved with the implementation of the juvenile justice code. The Council for Child Protection and Justice for Children was established. Child protection remains weak and child poverty high. There has been limited progress on *socially vulnerable groups and persons with disabilities*. A report on the implementation of the action plan for persons with disabilities was published. Implementation of the action plan and relevant laws in this sector needs to be enhanced, particularly at municipal level, notably by securing the access to schools for disabled pupils.

The government carried out awareness-raising campaigns on the *anti-discrimination* law. Discrimination remains a cause for concern. As regards *labour and trade unions rights*, some progress can be reported. The labour law was adopted as well as the law on trade unions and the law on the Economic and Social Council. There has been a mixed progress in the area of *property rights*. The legislative framework was improved and a property rights coordinator was appointed. The significant backlog of cases in this area prevents people from exercising their property rights. More efforts are needed to enforce the existing legislation.

Kosovo has achieved some progress regarding *respect for and protection of minorities and cultural rights*. The newly-founded Serb-majority municipalities are facing a number of challenges such as land management. Limited progress has been achieved on *access to education for minority communities*. The Serb community both north and south of the Ibër/Ibar still relies on textbooks and an education system provided by Serbia. Kosovo authorities need to offer an alternative and to develop a Serbian curriculum. Serbian is not available as the second official language in schools outside the predominantly Serb-populated areas. There has been little progress with regard to the *use of languages*. Implementation of the legal framework is inadequate. Multilingual public services are not in place. The position of Serbian *minority media* has improved, notably by the launch of "TV Mreža".

With regard to the relocation of *Roma, Ashkali and Egyptian* families from areas

contaminated by lead, the Çesmin Lug/Česmin Lug camp was closed in October 2010. The Osterode camp is not closed because an alternative public land was not allocated in northern Mitrovicë/Mitrovica. The government has promoted the civil registration of these communities, including by organising registration free of charge. A report on implementation of the Strategy for Integration of Roma, Ashkali and Egyptian Communities was published. At the same time, the living conditions of these communities and their access to employment, education, health care and social protection remain very serious concerns.

The return of *refugees and internally displaced persons* remains a challenge for Kosovo institutions. Public budget allocated to return was reduced by 40% and is very low. Issues such as delayed property restitution proceedings, and the scarcity of economic opportunities continue to be major obstacles to voluntary and sustainable returns. Many displaced persons are still living in difficult conditions. Regarding enforcement of *cultural rights*, limited progress can be reported. Cooperation between the relevant ministries and between central and municipal levels has improved. The legislation on the protection of cultural heritage and implementation of the laws remain weak.

As regards **regional and international obligations**, Kosovo has continued to cooperate with the International Criminal Tribunal for the former Yugoslavia. EULEX has conducted a number of operations, including arrests and convictions in war crime cases, some involving senior political figures, including a former minister. The law on missing persons, adopted in August, is an important development. The law guarantees the recognition of the families' right-to-know, right-to-reparation and provides for the legal status of the missing persons. The government needs to step up its efforts on providing information and resources to clarify the fate of the missing persons. The January resolution of the Parliamentary Assembly of the Council of Europe raised serious allegations related to the conflict of 1999. EULEX has established a Brussels-based task force with a liaison office in Pristina to investigate these allegations. The authorities are cooperating with EULEX in this investigation.

Kosovo participated in the Regional Cooperation Council meeting in Montenegro in June for the first time since summer 2010. Kosovo has chaired CEFTA meetings satisfactorily in 2011. Within the Belgrade/Pristina dialogue, an agreement has been found on the customs stamps. An agreement remains to be found on a sustainable solution for the participation of Kosovo in regional fora. The principles of inclusive and functioning regional cooperation need to be fully implemented by all concerned.

The **economy** of Kosovo has continued to be characterised by fragile growth and significant domestic and external imbalances, aggravated by an unpredictable fiscal policy stance. The high inflation and dysfunctional labour market represent major challenges for economic and social cohesion. A series of *ad hoc* measures and lack of commitment by the authorities derailed the Stand-By Arrangement with the International Monetary Fund (IMF). The new non-disbursing agreement with the IMF, to run until the end of 2011, is an important test for Kosovo to regain credibility in economic and fiscal policy. High uncertainty remained an obstacle to private sector development. Firms are confronted with weak administration, lack of reliable electricity supply, deficient skills of workers, poor infrastructure and deficient rule of law.

As regards the **economic criteria**, Kosovo has made no progress towards establishing a functioning market economy. Considerable reforms and investments are needed to enable it to cope over the long term with competitive pressure and market forces within the Union.

The monetary framework has continued to function relatively well, although there is scope for improvements, in particular in financial sector regulation and supervision. Financial intermediation has continued to deepen and the banking sector has remained stable and profitable, despite increasing non-performing loans. There has been some progress with the privatisation process.

The proper functioning of the macroeconomic policy mix has been increasingly threatened by an unpredictable fiscal policy, unsustainable government expenditure growth and limited financing options. Poor governance and ad hoc measures have negative impact on the private sector and deep structural problems continue to hamper the economy. Inflation has been high and volatile. Unemployment has remained very high and not enough jobs have been created to reduce pressures on the labour market and offer employment opportunities, especially to the young new entrants. The external imbalances have also remained high, especially in the trade in goods, and production-enhancing foreign investment inflows have remained limited. The public electricity company have continued to receive substantial subsidies from the state budget and loans for financing of its investment programme. The weak rule of law and challenges related to property rights have continued to impact negatively on the business environment. The informal sector remains an important challenge.

The electoral campaign ahead of the early general elections, followed by the process to form a new government and to elect a president, left only a short period of time for the assembly and the government to adopt legislation and policies in line with **European standards**. The progress has been mixed. The system for capital movements is well advanced. Kosovo has made progress in the field of asylum and migration, notably on readmission and reintegration of repatriated persons.

There has been some legislative progress regarding competition policy, the energy sector and the information society and media. Some progress has been noted in the following areas: taxation, intellectual property rights, employment, social policies and public health, financial control, statistics, border management and tackling trafficking in human beings. Transport infrastructure needs further development. Limited results have been achieved on the environment, agriculture and food safety, drug-trafficking, organised crime and the fight against terrorism. Little has been done to align legislation with the *acquis* on movement of persons, services and right of establishment, money-laundering, and personal data protection. Regarding the EU **internal market**, there has been some progress as regards legislation related to free movement of goods. Some progress has been noted on *conformity assessment, accreditation, metrology and market surveillance*. Limited progress has been achieved on *standardisation*. No legislative progress took place concerning *consumer protection*. Approximation with the EU *acquis* in the area of free movement of goods is limited. Better coordination of and a strategy for the alignment process for the whole of the *acquis* in this area are needed. The administrative capacity, the necessary implementation and enforcement measures are inadequate. Alignment with the *acquis* in the areas of *movement of persons, services* and *right of establishment* and also *company law* is at an early stage. The system for *capital movements* is very liberal and well advanced. Further reform is desirable to introduce Basel II risk requirements and to establish a legal framework fully in line with EU standards. Kosovo *customs* legislation is largely in line with the EU Customs Code. Efforts need to be pursued further concerning the fight against smuggling and counterfeiting. The Independent Review Board needs to function more effectively and to reduce the backlog of cases. There has been some progress in the area of *taxation*, mostly related to the implementation of reforms to support the tax compliance strategy. Administrative capacity to enforce tax payments and reduce the large informal sector remains low.

There has been some legislative progress regarding *competition policy*, in particular *antitrust policy* as well as *State aid* by adopting law on State aid. Implementation of the antitrust policy is improving. Progress can be reported in the area of *public procurement*, with the adoption of the amended public procurement law that constitutes a step towards alignment with EU standards. The legal framework remains to be completed and cooperation between the institutions responsible needs to be improved.

There has been some progress in the area of *intellectual property rights, in particular concerning industrial property rights*. The legislative framework is still not complete and enforcement of the intellectual property rights rules is insufficient. Some progress can be reported on legislative alignment of *employment, social and public health policies* with EU standards. The implementation of this legislative framework is crucial to help the unemployed and other vulnerable groups to improve their living standards. Administrative capacity in these areas also remains limited, notably at municipal level. Some progress has been made on the alignment with European standards on *education and research*. Capacity at central and municipal level needs to be strengthened to ensure effective implementation of the legal and strategic framework. In the field of research and innovation, limited progress has been made. Serious efforts are needed to create the necessary research and innovation capacity. The implementation of the legislative framework needs to be enhanced by inter alia improving coordination between central and local levels. In order to fully benefit from donors' support, adequate human resources have to be allocated to education and research projects.

Regarding sectoral policies, the implementation plan for the *SME* and industrial strategies needs to be adopted, an adequate budget needs to be allocated and the authorities responsible need to be strengthened. Coordination and cooperation between stakeholders remain a challenge. Kosovo has made limited progress in the areas of *agriculture and food safety*. Efforts have been made to develop administrative capacity, particularly in the area of food safety. Mainly due to insufficient budgetary allocations, limited progress has been made on strengthening the legislative and administrative framework in the area of the *environment and climate change*.

Transport infrastructure needs further development. Kosovo's main road infrastructure project, construction of the highway from Kosovo to the Albanian border, remains a cause for concern given its disproportionately high costs and level of investment required in the long term. Some progress has been made in the field of aviation.

In the *energy sector*, some progress has been made on legal alignment and on implementing the Energy Community Treaty. In order to attract investment, continued efforts are needed to improve electricity billing and collection performance and to put in place a non-subsidised, cost reflective tariff. The planned new Kosovo power plant has suffered delays. This has had an impact on the timetable to close the heavily-polluting Kosovo A plant. Due to differences over status, Kosovo remains unable to participate in regional power transit mechanisms. This imperils the stability of Kosovo's power system and means Kosovo loses out on transit revenue.

In the area of the *information society and media*, Kosovo has adopted some telecommunications regulations to apply EU standards. Important laws on sustainable funding of the public service broadcaster and on the Independent Media Commission were pulled from the Assembly's agenda as they neither meet EU standards nor protected the independence of the Commission and the public service broadcaster. Both issues need to be resolved as a matter of urgency.

Some progress has been achieved on *financial control*. Public internal financial control practice remains at an early stage. Awareness needs to be raised among managers in budget organisations about the relevance of financial management and control. In the area of *statistics*, Kosovo has achieved some progress, notably by carrying out the population and housing census satisfactorily.

Kosovo has achieved mixed progress in the area of **justice, freedom and security**. Steps have been taken by the Ministry of Internal Affairs to prepare Kosovo for issuing biometric passports. Good progress has been achieved by adopting adequate legislation and improving

the reliability of civil registries. Further efforts are still needed to ensure security of documents.

Some progress has been achieved in *border management*. A joint task force involving customs and the police was established to fight cross-border crime. The agencies have organised joint patrols along the border and joint operations at border crossing points. Joint and synchronised police patrols have been conducted with counterparts from Albania and the former Yugoslav Republic of Macedonia. The police took over further responsibilities from KFOR for protecting the green border with the former Yugoslav Republic of Macedonia and Montenegro. The quality and consistency of border checks still need to be improved.

In the area of *asylum*, progress has been achieved. Kosovo has faced an increased number of asylum-seekers. A number of decisions were taken on asylum requests. Shortcomings remain in the asylum procedure, notably lack of interpretation, determination of the origin of persons and appeal procedures. Kosovo has achieved progress in the field of *migration*. It has continued signing new readmission agreements with European countries. The Department for Citizenship, Asylum and Migration has continued dealing with readmission requests from European countries efficiently. Kosovo has achieved considerable progress with regard to the reintegration of repatriated persons, including at the municipal level. Sustained efforts are needed to ensure effective implementation.

Kosovo has made limited progress on addressing *money-laundering* and economic/financial crime. A gradual transfer of the responsibilities of the financial intelligence centre from EULEX to Kosovo authorities has started. Kosovo's capacity to investigate and prosecute economic crimes remains limited. Economic/financial crime and money-laundering remain serious concerns.

The police increased the number of seizures and arrests for narcotics offences, including trafficking, but the amounts seized are still limited. Efforts to fight *drug-trafficking* need to be significantly stepped up to match the scale of the challenge Kosovo is facing. Some progress has been achieved in *policing*. The police took on increased responsibilities from KFOR. Now, they need to address structural and organisational challenges and improve their ability to fight complex types of organised crime.

Limited progress has been made on tackling *organised crime*. A number of searches, arrests, indictments and convictions have been achieved in organised crime cases. A more proactive approach by the law enforcement agencies and judicial authorities is needed to tackle organised crime. Human and technical capacity need to be strengthened and the quality of investigations considerably enhanced. Kosovo's capacity to fight organised crime is still at an early stage. Serious efforts are needed to address this challenge. Kosovo has made some progress with tackling *trafficking in human beings*. The number of victims identified has increased slightly during the reporting period. The strategy and action plan against trafficking of human beings for 2011-2014 was adopted. The efficiency of the police Directorate for Investigation of Trafficking in Human Beings improved. At the same time, the capacity of the Kosovo prosecutors and courts to investigate, prosecute and sentence cases of trafficking is still weak.

Kosovo has made limited progress in the *fight against terrorism*. Kosovo's capacity to enforce relevant legislation and strategy papers such as the law on prevention of money-laundering and terrorist financing, the counter-terrorism strategy, etc. remains weak. There has been little progress on *personal data protection* and this is a serious concern.