

## Conclusions on Kosovo (under UNSCR 1244/99)

*(extract from the Communication from the Commission to the Council and the European Parliament "Enlargement Strategy and Main Challenges 2009-2010", COM(2009)533 final)*

Kosovo has made some progress in addressing key European Partnership priorities, in particular by strengthening its legal framework with respect to the **political criteria**. The priority must now be implementation. In the second year following the declaration of independence, Kosovo's institutions are in place and fulfil their responsibilities in cooperation with the relevant international organisations. However, the capacity of the public administration and of the assembly is particularly in need of strengthening. Sustained efforts are needed on judiciary reform and to step up the fight against corruption, organised crime and money laundering. Cooperation in practice with the EU rule of law mission (EULEX) does not match political commitments and needs to be improved in a number of fields within its mandate.

The security situation in Kosovo is stable but fragile. There have been a number of incidents, including vandalism of EULEX property. Overall, public order has been maintained. The Kosovo authorities do not exercise full control throughout the territory of Kosovo, in particular in the north. Parallel structures continue to operate and parallel municipal by-elections have been recently held. The Kosovo government needs to better integrate all communities, in particular the Kosovo Serbs, and to consolidate the rule of law, with EULEX support. The Kosovo Serb community needs to engage more constructively with Kosovo's institutions to increase the benefits of EU support and the European perspective. The upcoming municipal elections and extended decentralisation will be of particular relevance in this context. Belgrade's support is expected in this regard. Further efforts for reconciliation would contribute to enhancing stability in the region and to socio-economic development.

Regarding **democracy and the rule of law**, Kosovo's authorities have largely respected the relevant constitutional provisions in their work. However, there has been limited progress in consolidating the rule of law in Kosovo.

The *assembly* annual work plan for 2009 has been adopted and is in line with the government's legislative strategy. However, the assembly's capacity to scrutinise draft legislation and monitor its implementation after adoption is weak. Parliamentary oversight over the executive is limited. In particular, the capacity of the Committee on European Integration to oversee the adoption of legislation compatible with EU standards needs to be enhanced.

The main structures of *government* are in place and political stability in Kosovo has been maintained. Some progress can be noted in the area of local government administration reform. A revised, and improved, European Partnership Action Plan was adopted in August. Kosovo should now focus on its implementation and further prioritisation. Inter-ministerial coordination to drive Kosovo's European reform agenda remains weak. Effective administrative structures in this area are essential for fulfilling Kosovo's European perspective. The Agency for Coordination of Development and European Integration has strengthened its coordination capacity, but lacks the high-level political support to pilot a real European integration process.

There has been some progress in *public administration reform*. The review of tasks and responsibilities within the public administration has been completed and the majority of recommendations implemented. However, some key legal acts are yet to be adopted. Political interference in the civil service and in the process of public appointments remains a concern.

Sustained efforts are needed to strengthen capacity throughout Kosovo's public administration and to establish the framework of a professional, accountable, independent and merit-based civil service capable of effectively implementing government policies. The Ombudsman office needs to be strengthened further. Public administration in Kosovo remains weak.

There has been limited progress as regards the *judicial system*. The reform process is still at an early stage. The Constitutional Court has been established and its members nominated. The new court management information system is operational in most courts. The court in Mitrovica has been re-opened for criminal cases, with the support of EULEX. The Kosovo Judicial Council has been appointed. There has been some progress in adjudicating war crimes cases.

However, major efforts are needed to enhance the independence and professionalism of the judiciary in Kosovo. There is a considerable backlog of unresolved cases, related to both civil and criminal justice. There is no effective mechanism for disciplinary proceedings against judges. Constructive efforts from the government and from the Kosovo Serb community are needed to ensure the latter's integration in the judicial system. Kosovo's judiciary remains weak and inefficient. The rule of law is not effective throughout Kosovo, in particular in the north.

The *anti-corruption* agency is operational and has strengthened its capacity, but its powers are limited. Despite certain measures taken, corruption remains prevalent in many areas and is a very serious concern. The legislative framework in this area remains incomplete. There is no law on the financing of political parties. The anti-corruption strategy and action plan are yet to be adopted. Cooperation among actors involved in the fight against corruption needs to be significantly enhanced. The independence of the anti-corruption agency needs to be guaranteed. Kosovo needs to develop a track record of investigations, indictments, prosecutions and convictions in anti-corruption cases.

The constitution guarantees *human rights and the protection of minorities* and lists the main international agreements and instruments directly applicable in Kosovo. However, further efforts are required to ensure these rights are protected in practice, including determined steps to integrate all of Kosovo's communities.

The reticence of the Kosovo Serb community, in particular in the north, to participate in Kosovo's institutions is a major obstacle. Sustained efforts are needed to address this both by the government and by the Kosovo Serb community. A more constructive approach from Serbia is also necessary.

There has been limited progress on *civil and political rights*. As regards *access to justice*, the legal aid system is functioning, but requires further strengthening. Some progress has been achieved with regard to *prisons* and other correctional facilities. However, there are still a number of challenges, notably as regards detention conditions for mentally-ill and juvenile offenders and their reintegration after release. There has been limited progress as regards the prevention of *torture* and *ill-treatment* and the fight against *impunity*.

*Freedom of expression* is not fully guaranteed in practice. There have been cases of political interference in the work of the media. The legal framework as regards *freedom of association and assembly* has been developed further.

*Civil society* needs to be integrated better in policy formulation and implementation. There has been some progress as regards *freedom of religion*, notably in terms of reconstructing religious sites. More remains to be done to promote reconciliation between different religious communities. There is no law on *missing persons*. The issue of compensation for the families of missing persons needs to be addressed.

*Economic and social rights* are not fully guaranteed. The protection of *women* against all forms of violence needs to be considerably strengthened. Child trafficking and child labour remain a concern. Further efforts are needed to guarantee *children's* rights. The government

adopted an action plan for people with disabilities. However, the integration and protection of socially vulnerable groups and people with disabilities is not fully ensured. *Discrimination* remains an issue of concern and needs more government awareness campaigns. Laws and strategies are in place but their implementation is poor. The institutional and legal framework in the area of *property rights* has been strengthened. The inability of the authorities to implement their decisions throughout Kosovo remains a major obstacle to protecting property rights. The security of religious property is generally assured.

As regards *minority rights, cultural rights and the protection of minorities*, the legislation in force provides a highly protective environment for minority and cultural rights. However, these are not adequately guaranteed in practice. There has been little progress as regards reconciliation between communities. This is a major challenge for the authorities. The number of voluntary returns of *refugees* and *internally displaced persons* remains low. Disputes over contested land between some municipalities and the Serbian Orthodox Church have still not been resolved.

The Roma, Ashkali and Egyptian communities continue to face very difficult living conditions and frequent discrimination. Urgent measures are needed to relocate the Roma families living in hazardous and unacceptable conditions in lead-contaminated areas in northern Kosovo. The authorities need to make further efforts to reach out to all minorities and to ensure their protection and integration.

Concerning *regional issues and international obligations*, during the reporting period Kosovo continued to cooperate with the International Criminal Tribunal for the former Yugoslavia (ICTY). The EU continues to emphasise that regional cooperation must be inclusive in order to be successful and regrets that disagreements regarding the manner of Kosovo's participation in regional fora have resulted in Kosovo's absence from key regional events. Kosovo adopted new customs stamps, which were notified by the Special Representative of the UN Secretary General to the European Commission and CEFTA partners as compliant with UNSCR 1244/99. Serbia has not recognised the validity of these stamps, questioning their compliance with UNSCR 1244/99. Kosovo and Serbia need to reach pragmatic solutions enabling key regional fora to continue to fulfil their role in promoting regional cooperation and development.

The **economy** of Kosovo has been only moderately affected by the crisis so far. GDP continued growing, albeit from a very low base, but unemployment remained very high. High inflation has turned into deflation, following drops in the prices of imports. Economic development continues to be seriously impeded by weak rule of law, a very limited and poorly diversified production capacity, and by a weak transport and energy infrastructure. Fiscal policies are driven by ad-hoc demands and lack a systematic link to the medium-term policy framework. The stability of the energy supply improved, at the cost of increasing subsidies from the budget.

As regards the **economic criteria**, Kosovo has made very little progress towards establishing a functioning market economy. Considerable reforms and investments must be pursued to enable it to cope over the long term with competitive pressure and market forces within the Union.

A broad consensus on free-market policies has been maintained. The use of the euro, the absence of significant amounts of external debt and the very low level of exports have shielded the economy from the negative effects of the global recession. The banking sector remained sound, profitable and well capitalised. Economic growth was driven by the continued expansion of credit and by increased foreign assistance. After a significant surplus in the previous year, the 2008 budget posted a small deficit. Fiscal revenues increased slightly. In June, Kosovo joined the International Monetary Fund and the World Bank.

However, the already large trade deficit continued to widen, notably due to substantial

imports of machinery and transport equipment for a major road construction programme. Both fiscal and external accounts became even less sustainable, mainly as a result of poor policy planning and implementation. Exports fell sharply in 2009, from an already very low base, as a consequence of the economic crisis. Economic statistics remain inadequate. The cost of finance remained high, as banks continued to attach high risk premiums to business loans. Budget subsidies and transfers increased. The weak rule of law, corruption, prevalent in many areas, and uncertainty over property rights continued to be major impediments to economic development. Unemployment remains very high. Little progress was made towards an increased integration of Kosovo's young population into the labour market. The informal sector continues to pose an important challenge.

Progress in aligning Kosovo's legislation and policies with **European standards** is mixed. The legal framework has been developed further in the areas of customs, taxation, education, and policing. Approximation is at an early stage as regards environment, competition, intellectual property, energy and the free movement of goods, persons, services and capital. The implementation of European standards remains limited in the areas of financial control and statistics, data protection and the fight against money laundering and organised crime.

In the area of the EU **internal market** there has been some progress on *free movement of goods*. However, transposition and implementation of European practices and legislation is at an early stage. Administrative capacity remains weak. Alignment is insufficient in the areas of *free movement of persons, services and right of establishment*. Sustained efforts are necessary for progress in *free movement of capital*, notably to strengthen the financial sector regulation.

*Customs* revenue increased due to the improved effectiveness of the customs administration. The Customs and Excise Code has been adopted. The legal provisions on customs are compatible with European standards. However, the administrative capacity needs to be substantially reinforced and the fight against corruption needs to be intensified in the area of customs. Customs duties are still not collected in northern Kosovo. EULEX customs officers monitor the two gates in the north, which has reduced smuggling activity there. The legal framework as regards *taxation* has been developed further and lower tax rates have entered into force. Further efforts are needed to increase administrative capacity in this area and to reduce the size of the informal economy.

Implementing legislation for *public procurement* has been largely completed and the Procurement Review Body has been established. However, the implementation of the law in practice gives rise to serious concerns. The authorities need to investigate effectively cases of alleged corruption. Monitoring the implementation of procurement contracts needs to be significantly strengthened. Procurement officers in Kosovo remain vulnerable to interference and intimidation.

There is still no *intellectual property* rights strategy. Enforcement mechanisms for industrial rights, copyrights and related rights are weak. A *Competition* Commission has been set up and has investigated cases of alleged breaches of competition rules. Kosovo's competition legislation is not fully aligned with European standards.

The authorities need to streamline the various strategies addressing *employment* and to ensure their implementation. Legislation in the area of health and safety at work and in the area of social services and institutional care needs improvement. In the *public health sector*, administrative and institutional capacity needs strengthening to improve the quality of health care services. Little progress can be reported in the area of *social dialogue*. Alignment to European standards as regards *education* continues. However, institutional reform in this area is yet to be completed and policy recommendations need to be better translated into practice. In the area of *research*, the authorities have undertaken initiatives to facilitate cooperation with the EU, such as appointing Kosovo's coordinator for the 7<sup>th</sup> Framework Programme.

As regards **sectoral policies**, the institutional and legal framework in the area of *industry and*

*SMEs* remains incomplete. Efforts have been made in *agriculture*, with some progress as regards land consolidation and farm diversification. However, the capacity to implement policies is insufficient. A number of *environment* framework laws have been adopted. Major efforts are needed to implement them and to meet EU environmental standards.

In *transport*, Kosovo has embarked on a major road building programme, which contrasts with underinvestment in railways. Kosovo continues to participate actively in the Core Regional Transport Network and in the South-East European Transport Observatory. However, legislation incompatible with European standards has been adopted in the area of aviation. The board of the rail regulator is yet to be appointed. The board of the aviation regulator has been appointed, but is not yet operational.

Several important laws are yet to be adopted in the *energy* sector, which continues to face serious problems. Power cuts remain frequent. Continuing losses and low levels of bill collection, despite some improvement, limit the sector's financial viability. The government took a decision to build a new lignite-fuelled power plant, which will need to respect European standards. Kosovo's transmission system operator continues to face difficulties to participate as a full partner in regional commercial mechanisms.

In the area of *information society and media*, more efforts are needed to implement existing legislation and strategies. The administrative capacity and financial and political independence of the regulatory authorities, such as the Telecommunications Regulatory Agency and Independent Media Commission, require further strengthening. The board of the public service broadcaster needs to be appointed.

Limited progress can be reported as regards *financial control* and *statistics*. Continued efforts are needed to improve internal and external audit capacities. The statistical infrastructure remains weak.

There has been limited progress as regards **justice, freedom and security**. Coordination mechanisms have been established between the relevant agencies in the area of *border management*. However, borders remain porous, and police resources and capacities for border and boundary management need strengthening. Kosovo's capacity to handle *asylum* applications remains limited. The reintegration of repatriated persons is still limited. An appropriate readmission framework needs to be developed.

The capacity of judicial and law enforcement authorities to tackle *money laundering* is still weak. Money laundering is not defined as a crime in the relevant legislation. The existing legislative framework is inadequate and is not being fully implemented. There is no permanent structure to coordinate on the fight against money laundering. Reporting to the Financial Intelligence Centre is limited. Cooperation between this Centre and the tax authority remains insufficient.

During the reporting period, there has been an increase in the quantities of narcotics seized, in the number of cases investigated and in the number of persons arrested and prosecuted. Kosovo has adopted a strategy and an action plan to combat *drug trafficking*. However, cooperation between law enforcement agencies is still weak in this area. The secure storage of seized drugs is not fully ensured. Overall, drug trafficking remains a serious concern.

The basic legislative framework as regards *policing* is in place. Public order functions have been largely ensured. Most police officers from the Kosovo Serb community south of Ibar river, who left the service following the declaration of independence, have returned to their stations. However, there have been a number of violent incidents, including targeted damage of EULEX property. The lack of a multi-ethnic public order police unit in the Mitrovica region diminishes police capability to tackle instance of public disorder in the north. The job descriptions for senior management police officers, one of whom is a Kosovo Serb, have been delayed. There are serious deficiencies as regards investigation capacities and intelligence-led policing. There is no strategy for the collection of weapons from the civilian population. The

security of police evidence is not fully ensured. Further progress is needed in granting EULEX access to key databases in order to enable the effective conduct of EULEX investigations under its executive mandate.

*Organised crime* remains a serious concern and affects the rule of law and the business environment. A strategy and an action plan to fight organised crime have been adopted, but the legislative framework remains incomplete. The lack of a witness protection law and the limited capacity to provide witness protection inhibits police efforts in this area. Kosovo remains a source and a place of transit of organised crime activities. It also continues to be a source, a destination and a transit route for trafficked persons. The identification of victims and the investigation of trafficking crimes by Kosovo law enforcement remain a concern. Organised crime is a particular challenge throughout Kosovo, in particular in the north. Regarding *terrorism*, Kosovo has adopted a strategy and an action plan, but the legislative framework is not yet in place.

Kosovo still lacks legislation in the area of *data protection*. There is no independent data protection supervisory authority.