

**THIRTEENTH MEETING OF THE STABILISATION AND ASSOCIATION PROCESS  
TRACKING MECHANISM**

**CONCLUSIONS**

**PRISTINA, 7 NOVEMBER 2007**

The thirteenth meeting of the Stabilisation and Association Process Tracking Mechanism was held in Pristina on 7 November 2007.

The meeting was attended by representatives of the provisional institutions of self-government, of UNMIK and by all EU actors in Pristina.

In his initial statement deputy Prime Minister Haziri welcomed the Regular Report and the European Partnership issued the day before. He emphasised the European future of Kosovo which is confirmed by the government's draft European reform package. He further announced that the government will draft a revised Action Plan for the implementation of the European Partnership.

The SRSB underlined his commitment to the Stabilisation & Association Process. He underlined the progress Kosovo has made, but emphasised that a number of issues have now to be followed up by concrete measures. He appreciated the guidance the Regular Report and the European Partnership provides for this.

The Presidency underlined that the current status quo in Kosovo is not sustainable anymore. The EU will have to take its responsibility in Kosovo.

The Commission said that status settlement for Kosovo is absolutely needed as soon as possible. The EU is committed to Kosovo and there is no time to lose to meet the criteria, most prominently the Copenhagen criteria. Kosovo has a clear European perspective, which is translated in the intensification of the STM process.

**Enlargement strategy**

The Commission highlighted that through the adoption of the Regular Reports and the European Partnership the previous day the European perspective of the whole region has been confirmed, provided they fulfil the required conditions. The European perspective and the gradual integration into the European Union plays a key role in helping the countries of the region to reform themselves and achieve European standards. The reforms also help them to develop economically and increase prosperity. The methodology applied for Kosovo in this exercise is exactly the same as for the other countries of the region which is good news for Kosovo. A number of shortcomings identified are common to the whole Western Balkan region. The Commission was particularly emphasising on a number of shortcomings to make in the end Kosovo a better place for everybody.

It was agreed that the Regular Report published the day before will be discussed during the meeting in detail and comments, requests for clarifications and/or generally questions will be taken by the Commission.

**Update on the Agency for European Integration and the Reform Package**

The Agency for European Integration (AEI) – mandated by the government to draft the plan – provided an update about the European reform package which is currently being drafted. On the basis of the new European Partnership an Action Plan will be drafted for its implementation. This action plan will include most prominently a cost evaluation of all the measures needed to address the European Partnership. The implementation of the action plan will be rigorously monitored by the AEI who is going to report on a monthly basis to the Prime Minister about progress. The AEI further presented a timetable for drawing up the action plan. It is planned the action plan should be presented in April 2008 to the Commission.

In addition, the AEI presented their plans for reforming and enhancing their institutional structures. It is planned that coordination mechanisms will be established to ensure full coordination and effective monitoring of the European integration process. These mechanisms encompass the whole government, the assembly and other agencies or institutions relevant. There will be 14 working groups covering all areas of the *acquis*. The AEI will be strengthened in terms of personal and structures. The main functions it should carry out include support to the STM process, approximation with the European legislation, translation of EU legal acts, institution building, coordination of EU assistance and information & communication.

Another presentation was done 'approximation of national legislation with the *acquis* and translation of the *acquis*'. In this presentation plans were presented how to strengthen compatibility checks for all draft laws, preparing for the translation of the *acquis* in the official languages, and monitoring the system. Finally plans for strengthening the training and communication efforts were presented.

The Commission appreciated the efforts of the government to enhance the administrative capacity for European integration matters and to address the issues highlighted in the Regular Report and the European Partnership. The creation of the EU focal points in all ministries was already an important achievement. The Commission emphasised that particular importance has to draw legislative compliance checks with the *acquis*. The Commission promised to come back to the Kosovo authorities with comments on the reform package.

## **Political criteria**

### *Public Administration Reform*

The PISG appreciated the Commission's assessment in the area of public administration reform. The issues raised by the report correspond to the reality. The biggest endeavour will be the drafting of the new civil service law and the review of the civil servants' posts. A project worth EUR 2 million was allocated to the Ministry for a functional review.

The Commission appreciated the adoption of a public administration reform action plan in March 2007, as well as the enhancement of procedures for assessment, transfer and promotion of civil servants. The Commission emphasised that it attaches particular importance to the work of the Independent Oversight Board and the Senior Public Appointments Committee. Both need to be fully functional. The Commission also underlined that in its assessment civil servants are still vulnerable to political interference, corrupt practices and nepotism. The Commission further regrets that Kosovo Serb members of Parliament refuse to take part in plenary sessions of the Kosovo Assembly.

The Commission also appreciated the preparatory work which had been done for drafting legislation in line with the Ahtisaari plan, particularly concerning the provisions related to decentralisation. Due to the Commission's methodology, however, draft laws could not be taken into account when drafting the report. The Commission stands ready to support particularly these municipalities, as we made already clear in our IPA 2007 annual programme. However, the Commission underlined that local government remained weak. The division between the central and the municipal level needs to be further determined. The Commission regretted that Belgrade sponsored parallel administrative structures continue to operate in most predominantly Kosovo Serb populated municipalities.

### *Judiciary*

Representatives from the Kosovo Judicial Council (KJC) recognised that the assessment in the Regular Report is correct. The triangle Kosovo Judicial Council, Ministry of Justice and UNMIK Department of Justice needs to be strengthened. The KJC called for more political support for their work and in implementing their responsibilities. He further informed that criminal proceedings against 6 judges were currently pending being accused of violating the code of conduct.

The Prosecution Office provided information that now there are six prosecutors working in the Special Prosecutors' Office. They admitted that particularly in investigating corruption cases results are still few. The Prosecution and the Ministry of Justice underlined that there are still problems around the implementation of the witness protection scheme.

The Anti-Corruption Agency (ACA) completed agreed with the assessment of the Commission. They underlined that the legal basis needs to be strengthened, conflict of interest need to be better defined, as well as the law on statement of financial interests. Furthermore, education and awareness raising are very important issues.

The Commission underlined that despite increased efforts the administrative capacity of the Ministry of Justice is still weak. There is an urgent need to adopt some laws in the field of judiciary such as the law on courts which was also singled out in the European Partnership. The Commission is ready to support the PISG's efforts in drafting this law. The 2007-2012 strategy of the Kosovo Judicial Council was appreciated by the Commission. The implementation and the financing of this strategy will be one of the major challenges for Kosovo. The Commission noted with satisfaction that the MTEF mentioned good governance as the key priority, but is looking forward to monitor the implementation of this commitment. The Commission recalled the importance to strike the right balance between independence and accountability of the KJC. It emphasised that the backlog of cases is still problematic. The Commission appreciated that the Kosovo Special Prosecution Office is finally functional. The Commission underlined as well that it is very concerned about the overt disregard of the law on construction. Concerning anti-corruption policies the Commission appreciated that the ACA became operational in February 2007. It further appreciated the efforts of the government for awareness raising. However, the Commission underlined that corruption is still widespread and undermining a proper functioning of the Kosovan authorities. There is a lot of political will needed to finally tackle this problem. Also on the legislative side there are more efforts need to streamline laws.

#### *Human and minority rights*

The PISG agreed with most of the Commission's findings in the Regular Report, especially on social and economic rights. UNMIK underlined that on returnees/IDPs they appreciated the government's commitment and funding. A readmission policy was approved by the government last week. In October 2007 a reintegration strategy was approved.

The Commission appreciated the improved institutional and legislative framework as regards human rights. In the area of access to justice the Commission welcomed the recent establishment of the legal aid commission. It has now to implement the relevant legislative provisions. The Commission also noted some progress in improving the penitentiary system. The general standard of prisons in Kosovo is considered to be satisfactory. The Commission is still concerned about the overall security standards for high level security prisoners. The Commission also voiced concerns about the conditions in the prison in Mitrovica. In the area of freedom of religion the Commission appreciated the adoption of the relevant law, but is concerned that religious freedom is not fully respected and attacks on religious sites persisted. The Commission further appreciated the efforts to enhance gender equality and in particular women's rights, but is still concerned about the agency's administrative capacity and particularly concerning the efficiency of the legislation on domestic violence. The Commission further noted that the integration and protection of socially vulnerable and disabled persons is not fully guaranteed. Finally, the Commission underlined that the legal framework on anti-discrimination is nearly comparable to European standards, but progress in implementing these provisions is still rather limited. In the field of minority rights, the Commission appreciated the outreach activities of the government. The rights of minorities are guaranteed by law, but communities still see their freedom of movement restricted.

#### **Economic criteria**

##### *Existence of a functioning market economy:*

The PISG appreciated most of the Commission's assessment in the sub-chapter 'existence in Kosovo of a functioning market economy'. The Minister of Economy and Finance responded to the report's conclusion on the lack of co-ordination within the government by mentioning that line ministries had been fully involved in the drawing up of the Medium Term Expenditure Framework 2008-2010.

The Commission stated that uncertainty about the political situation hindered economic development. The year 2006 showed a moderate resumption of GDP growth (3.8%) compared to previous years, albeit still sluggish compared to other countries in the region and considering the very low starting level. The Commission assessed that fiscal policy remained broadly sound but too restrictive and suffered from a high volatility of budget outcomes. High capital underspending observed in 2006 and 2007 resulted in sizable budget surpluses instead of planned deficits (3.6% of GDP in 2006 and 8.6% in September 2007). The external accounts remained precarious with exports very weak and the current account deficit high. Registered unemployment also remained very high, but the Commission also pointed to the large informal sector in which many people can be expected to work. The Commission expressed some concern on inflation that had been low in 2006, but picked up in 2007. This rise was however mainly due to external forces (rises in price for oil and agricultural/food products world wide). The Commission noted with satisfaction that private sector economic activity had increased further, partly driven by acceleration in the privatisation of socially owned enterprises. According to the Commission market entry and further increases in economic activity remain to be hindered by limited access of companies to finance, bureaucracy, corruption, uncertainty over property rights and a deficient rule of law. The Commission however appreciated that the financial deepening and consolidation in the banking sector have continued without any major systemic risks occurring.

#### *Capacity to cope with competitive pressure and market forces within the EU:*

The PISG generally agreed with the report's finding on Kosovo's capacity to cope with competitive pressure and market forces within the EU. The ministry of Economy and Finance in this respect mentioned its intention to have a review of the general tax system (corporate tax, VAT and personal income tax) to further facilitate domestic and foreign investment and to stimulate economic growth.

The Commission assessed the legislative and institutional framework in general as being appropriate, but implementation and enforcement as remaining weak. Serious drawbacks in school education still existed. School enrolment was low with less than 90% of the age cohort in the final year of compulsory lower secondary education and schools continued to operate on multiple shifts. Physical infrastructure remained weak with little improvement in road, railway and high-speed telecommunications infrastructure. The Commission noted however that mobile phone penetration had increased. The enterprise structure remained dominated by micro enterprises (98% of all enterprises are micro enterprises, accounting for 56% of employment) with a sizable degree of informality. The agricultural sector kept suffering from unresolved property rights and poor levels of capital investment. The Commission noted with satisfaction that government intervention did not severely hamper private-sector competitiveness. Public subsidies and transfers other than pensions and social assistance decreased from 4.3% of GDP in 2005 to 2.9% in 2006. However, in 2006, more than half of Kosovo's businesses claimed to suffer from anti-competitive practices. The Commission welcomed the increase in openness of the Kosovo economy with the EU and neighbouring countries being the main trading partners. The value of exports and imports of goods and services increased from 71.4% of GDP in 2005 to 77.9% in 2006. Exports remain to be rather dependent on base metals and base metal products (accounting for almost half of goods exported). The share of exports to the EU decreased from 38% in 2005 to 34% in 2006, reflecting a sharp increase of exports to the Balkan region.

### **European Standards**

#### ***Internal Market***

*Customs* appreciated the Commission's assessment expressed in the Progress Report and have reiterated its commitment for further progress in this area. The Commission expressed appreciation of the amendments to the Customs Code, bringing it further in line with the EC provisions. Furthermore, the code of ethics for customs officials has been further implemented. Systems for complaints by citizens have been further enhanced and a system to monitor all border points has been established.

The Commission noted that revenue collection was higher than expected. Customs announced a joint project with the Kosovo Veterinary Services to start being operational in the first half of 2008.

*Tax Administration* reported on some progress on the legislative side and in particular with the adoption of the Law on Fortune Games; a strategy for the years 2007-2010 for the tax administration was adopted and work on the action plan was assessed by the Commission as well advanced. TAK informed on the current state of play of the information management system whose full implementation had to be postponed to 2008. The Commission noted that the performance of the tax administration remains weak. Domestic collection of taxes and VAT is still inefficient.

*Public Procurement*: the Commission expressed appreciation for the adoption of the amended Public Procurement Law in June 2007; nevertheless, the Law is not yet fully in compliance with EU standards. IPA funds can be made available in order to address the issue of legislative drafting and policy making in line with the EU standards. The Commission noted the establishment of a new Procurement Review Body but however it expressed some concerns on the lack of independence of it and potential political interference. The Public Procurement Regulatory Committee acknowledged that secondary legislation on public procurement is still lagging behind.

*Intellectual Property Rights*: The Commission continues to be very concerned about the massive infringements of intellectual property rights in Kosovo and the lack of adequate investigation and court cases. The Commission also noted the lack of capacity within the Ministry of Trade and Industry in dealing with this matter. The Ministry of Trade and Industry informed that the Agency on Standardization is in the process of being fully staffed and it has already started being operational.

*Social Policies including Health*: The Commission expressed its concerns about the health indicators in Kosovo and in particular with regard to the infant mortality rate that remains extremely high; also, the Commission noted the lack of coordination among ministries regarding the social security system. The Commission highlighted that in the field of social services there are major challenges in the development of service provision linked to the gradual decentralisation of competencies to municipalities. The Ministry of Health reported on the state of play of the Draft Law on Social Security and the Draft Law on Public Health, both not yet adopted due to budgetary constraints.

*Education and Research*: The Commission assessed the overall situation in the education sector as 'critical'; overall standards and quality indicators have to be implemented. The Ministry of Education, Science and Technology stressed the lack of adequate funding from the KCB for the education sector but it also noted some achievements in particular in the area of minority access to higher level education and the adoption of new curricula and teaching methods in the elementary level.

### ***Sectoral Policies***

*Agriculture*: The Commission noted that the importance of this sector for Kosovo's economy as well as for the majority of the population living in Kosovo is not yet fully reflected in the government's priorities. Still further improvements are required as to the approximation to EU standards and in particular with regard to the Food Law and the establishment of a Food Safety Agency. The division of responsibilities between the veterinary and the phyto-sanitary administration remains still unclear. The Ministry of Agriculture and Rural Development was not entirely satisfied with the Progress Report findings and stressed that in fact some developments were achieved by the MAFRD during the reporting period such as: the Rural Development Plan started being implemented; some progress in the area of land consolidation through the adoption of a 3 years programme; identification and registration of cattle continue to be implemented.

*Environment*: The Commission acknowledged some improvements in the sector, in particular with regard to the adoption of the Law on Environmental impact. However, implementation and enforcement of legislation still remains a critical challenge. Still appropriate legislation is missing in the area of air quality; the utilities collection in the waste and water sectors requires substantial improvement. The administrative capacity of the Ministry of Environment and Spatial Planning would need to be further strengthened. The Ministry of Environment and Spatial Planning agreed with the

Commission's assessment. The Ministry expressed some concerns as to the lack of adequate air quality monitoring system mainly due to financial constraints. According to the PISG, also industrial pollution is still extremely high; PISG claimed scarce co-operation with the Kosovo Trust Agency in this area. The Ministry also announced a new Environment Action Plan for national parks.

*Transport:* Some progress was noted by the Commission in the area of transport. An exception to this was the railway sector where only very little progress could be noted. In general, however, the Commission stressed that the communication structure still needs to become more efficient. The Commission expressed appreciation for the adoption of the Law on Road Safety and for the adoption of the first phase of the European Common Aviation Area.

*Energy:* Overall, the Commission assessed that the electricity supply remains precarious and unreliable in Kosovo, especially in remote areas. Power cuts are still frequent being an obstacle to Kosovo's economic development. The Commission expressed appreciation towards the Kosovo's efforts to apply the relevant *acquis* as per the Energy Community Treaty. The administrative capacity of the Ministry of Energy and Mining, in particular with regard to the legislative drafting, needs to be further developed. The Ministry of Energy and Mining generally agreed with the findings of the Progress Report; the Ministry expressed its commitment towards ensuring a stable energy supply for Kosovo and reforming KEK. The PISG in particular highlighted its efforts devoted to increasing revenue collection and have announced a new Action Plan being developed in the framework of the PISK/UNMIK Task Force. The Ministry also briefed the Commission on the state of play of the Kosovo C Project.

*Information society and Media:* The Commission noted that very little progress was achieved in the area of information society and some progress in the area of media. According to the Commission, effective liberalisation of the electronic communications market remains to be achieved and enhanced competition still to be introduced. The media reform is progressing, but key issues such as the decriminalisation of defamation, regulation of the advertising thresholds, proper implementation of the legislation on the freedom of information and broadcasting in minority languages still have to be addressed. The Commission also expressed concerns on the board of the public broadcaster that still has to be appointed. The PISG agreed with the Commission's assessment. The representative from the Independent Media Commission reported on the licensing of transmitters in analogue network and announced that the legal basis was established.

### ***Justice, freedom and security***

*Border control, asylum and migration:* The PISG appreciated the Commission's assessment in this area. The Ministry of Interior stated that there are a number of draft laws awaiting adoption which could not be taken into consideration in the Regular Report. It stressed the adoption of an Integrated Border Management Strategy as well as the adoption of the strategy on Readmission and Repatriation. Operational plans to implement these strategies will be drafted soon. The Commission appreciated the signature of agreements on cooperation and mutual assistance between the border and boundary police, the customs service, the veterinary and food agency as well as the Ministry of Culture, Youth and Sports. However, the Commission stressed that controls on movement of people into and out of Kosovo do not always correspond to European standards. Illegal border and boundary crossing, particularly at the green border, are still frequent. The Commission further underlined, that there is no law on asylum and no shelters and housing facilities for the accommodation of asylum seekers.

*Money laundering:* The Commission appreciated the information campaign at the borders about the amount of cash individuals may carry undeclared with them. The Commission underlined that the wide range of actors dealing with money laundering issues and the lack of clear distribution of competencies hinders investigation and prosecution of offences. UNMIK underlined that there were tremendous efforts done in this area. Cooperation with banks runs very well. There were there sentences on money laundering handed down recently. It was further underlined that efforts are ongoing to enhance cooperation and communication between the different actors in the area.

*Drugs:* The Commission noted some progress in adopting new legislation and in strengthening relevant administrations. Important amounts of narcotics were seized in the reporting period. However, there is still no strategy to prevent and combat the illegal transport and use of drugs. Drugs trafficking remains a major problem in Kosovo.

*Police:* The Commission's assessment that the Kosovo Police Service generally carries out its tasks in a professional and competent manner was appreciated. However, the Commission highlighted that inter-agency and international co-operation does not always work efficiently. It further underlined that police detention facilities do not always meet international standards. The PISG underlined that there is cooperation on police issues with the neighbouring countries on a daily basis. There are memoranda of understanding existing for the cooperation with all neighbours.

*Fight against organised crime:* The Commission highlighted that fight against organised crime, including the fight against human trafficking, remains a major challenge for Kosovo. Only by seriously and radically tackling the endeavour the rule of law can be fully implemented in Kosovo.

### **Instrument for Pre-accession assistance**

The Commission presented an update on the programming of IPA 2007 and IPA 2008.

### **Any other business**

The minutes of the last sectoral meetings on infrastructure, internal market, good governance, economy and energy were adopted.

The next plenary session will take place in the first half of 2008.