

## 1<sup>st</sup> Plenary of the Stabilisation Association Process Dialogue

Tuesday, 6 July 2010

Pristina, Kosovo

Draft Conclusions

### 1. OPENING

The first Plenary of the new Stabilisation and Association Process Dialogue took place in Pristina, on Tuesday, 6 July 2010. The meeting was co-chaired by Mr Besim Beqaj, Minister of European Integration of Kosovo, and Mr Pierre Mirel, Director for Western Balkans within the DG Enlargement of the European Commission.

The meeting was attended by a large number of Ministers, officials, Members of the Assembly and heads of regulatory agencies, on Kosovo's side. On the EU side, also present was Mr Alain van Gucht, representing the Belgian Presidency of the Council of Ministers of the EU, as well as representatives of EU Member State diplomatic missions in Kosovo and European Commission staff. The full list of participants is annexed.

The meeting was opened by **Mr Hashim Thaçi, Prime Minister**, who highlighted that this meeting, the first plenary of the new SAP Dialogue, took place after a complete cycle of SAP Dialogue Subcommittee (sectoral) Meetings. Mr Thaçi thanked the EC for helping Kosovo meet its European path, since Kosovo is working to make European Integration a daily part of the work of its government.

Mr Thaçi stressed that his government is firm on the fight against corruption, having established a task force on fighting corruption and organised crime within the Kosovo Special Prosecutor's Office. Cooperation with EULEX is very good. Judicial reform is continuing, Kosovo is at the second stage of appointing judges and prosecutors, and Mr Thaçi called upon the Assembly to adopt the necessary laws to help with this strategic institutional reform objective.

The Prime Minister mentioned developments in dialogue between communities, pointing out that Serbs participated in large numbers in last autumn's municipal elections, allowing new municipalities to be created. The government is committed to improve human rights in Kosovo, and to assert affirmative rights in line with European and International standards.

In the economic sphere, Kosovo is working on improving infrastructure, to support the youngest population in Europe and promoting European growth. Privatisation of public assets is expected to lead to increased productivity: PTK will be privatised, the airport concession has been granted. The tender for the New Kosovo power plant is in its final stages. Investors are coming in for the Route 7 motorway.

In June, the Government has approved the 2010 European Partnership Action Plan, co-ordinating Kosovo's European reform policies. The European Integration agenda is the government's agenda.

Kosovo is making progress in meeting the conditions for visa liberalisation, and therefore the government expects to receive a Roadmap to assess Kosovo's progress transparently, so that Kosovo can be placed on the white Schengen list.

As the co-chair of the meeting, **Minister for European Integration Besim Beqaj** presented some of the key areas of progress since the last report. Kosovo has adopted a number of Civil Service laws (Laws on Civil Service and on Salaries of Civil Servants), and it is continuing with implementation of recommendations of the Functional Review of Public Administration.

The Government Action Plan for Decentralisation and the Law on Local Self-Government have been adopted. Following the local elections (an essential element in implementing the Ahtisaari package),

the municipal preparatory teams have set up the local assemblies. The budget for Municipalities is part of the Kosovo budget. There are also budgets for local infrastructure. Legislation on elections is being amended, taking account of EC recommendations.

Kosovo's law on Anti-Corruption Agency was also adopted, Law on Declaration of Assets and Law on Fighting Conflict of Interest were also adopted; the Agency for Management of Confiscated and Sequestrated Assets was established. 96% of officials have declared their assets, while 95 reports on corruption have been initiated. However, the Anti-Corruption Agency still needs to improve its conditions (including its budget) for its officials need to have incentives not to leave.

The fight against corruption has the highest level of support. Kosovo's capacity to fight financial crime is being strengthened; its co-operation with EULEX is good. There is a special department for combating organised crime. EULEX and customs are co-operating in controlling borders.

The Law on Readmission has been adopted by the Government. EULEX and the Ministry of Interior are working on their work-plan, which includes measures on securing documents. Kosovo hopes that this should lead to the Visa Liberalisation roadmap.

In regional co-operation, Kosovo has been well-represented, but could not participate in 3 Regional Co-operation Council meetings as the Bosnian government does not issue visas in time. Kosovo is also involved in CEFTA technical meetings.

Kosovo has signed its staff-level agreement with the IMF, and it is now working on a first framework programme with the IMF. Kosovo is committed to meeting all of conditions in this agreement.

Addressing a key area of concern of the EC, the government intends to adopt the amended Law on Public Procurement the day after the Plenary, and to submit this to the Assembly immediately, with a view to its approval in September.

Replying on the Commission's behalf, Mr **Pierre Mirel** insisted that there was a difference of substance between the SAP Dialogue and the previous STM Process. After a full cycle of sectoral meetings, the Commission can note progress in adopting laws, and also in the local elections/decentralisation. However, there are also many areas where progress needs to be made if the 2010 progress report is not to be negative.

At this stage, the picture is mixed. Kosovo intends to adopt a number of laws. However, according to the Commission's methodology, the Commission can only report 'progress' as laws adopted, not those in draft form. The EC has written to the government after each Sub-committee (sectoral) meeting to identify the main challenges in the respective sectors. These are well known: the judiciary needs to be strengthened and free from interference, more delivery on corruption and organised crime. Kosovo needs to move from the legal framework to implementing and enforcing that legislation.

The police is doing a good job in keeping public order, but Rule of Law continues to be an area of concern. If Kosovo wants to progress on rule of law, it needs to fix the key weak link – the judiciary. People in Kosovo urgently need to see practical results of improvements in the rule of law: increased efficiency, a reduced backlog of cases and less interference with the judiciary, strengthened ability to particularly deal with complex criminal cases and put criminals behind bars. European best practice does not conform to some cases getting stuck while others move very quickly.

The Commission acknowledges developments in the anti-corruption legal framework and welcomes the publication of declaration of assets by officials on the Anti-corruption Agency's website. However, the Commission needs to see a further assessment by the Agency on the implementation of the law on declaration of assets and conflict of interest as there seems to be some loopholes. Should Kosovo adopt the law on financing of political parties, it would be the first in the region. However, Kosovo still needs laws on liability of legal persons and on protection of whistleblowers. The law on conflict of interest is not fully in line with EU standards.

On regional co-operation, the Commission welcomes recent developments (CEFTA meeting in Belgrade, Sarajevo conference). The Commission is also frustrated on the lack of development with regards to customs stamps.

The amended law on public procurement is absolutely essential, and it needs to be adopted before 1 October. The Commission called on the Assembly to help this. But it also needs to be implemented: institutions need to respect their mandates. The public procurement system needs to be beyond reproach.

Last year the Commission published its 'Kosovo study'. In this, the Commission confirmed that it was prepared to open the Visa dialogue when the conditions for that are met. It also wants to move on trade, with a proposal to extend the autonomous trade measures. At the same time as this Plenary meeting was taking place, Commission colleagues were in Pristina to assess Kosovo's progress on trade issues.

All this should not overshadow other challenges: sustainable economic development and meeting the respective European Standards. There are also a number of cross-cutting issues which require improving internal co-ordination within and between government departments. The recently established Ministry of European Integration is a positive development. This must be accompanied by the mechanisms to implement reforms, and Kosovo also needs to improve links between different development frameworks (such as the EPAP and MTEF). Above all, Kosovo needs to involve better the Assembly. The Assembly should strengthen its capacities, it should assess legislation presented to it to verify that this is according to EU standards and that Kosovo has the means and capacities to implement it.

The Agreement with the IMF is a positive signal to the international community. Although this offers great opportunities to Kosovo, the international community will expect from Kosovo the greatest diligence in fulfilling the three sets of conditions foreseen by the Agreement.

### **1.1. Conclusions / Follow-up actions:**

- (1) Commitment of the Government and Assembly to work closer to deliver reforms and to support Kosovo's European agenda;
- (2) Commitment to reduce backlog of cases with the judiciary;
- (3) Adoption of the Law on Financing of Political Parties (in line with European Standards);
- (4) Adoption of the Laws on Liability of Legal Persons and on Protection of Whistleblowers;
- (5) Ensure the Law on Conflict of Interest is in line with EU standards and share an assessment on implementation of this law and the Law on Declaration of Assets;
- (6) Adoption of the amended Public Procurement Law;
- (7) Better co-ordination between sources of funding in the Rule of Law area.

## **2. EUROPEAN AGENDA**

Minister **Beqaj** reported that the Ministry of European Integration was established in April. The Inter-Ministerial Council for European Integration has met 3 times since the report. This year's EPAP has fewer elements this year compared to last year (1000). There is also now an EPAP Monitoring and Reporting system, to try to track implementation of EPAP objectives. Kosovo is also working to improve synchronisation between EPAP, the MTEF, and the budget.

In terms of donor co-ordination, Kosovo has established a number of sectoral and sub-sector working groups. The Donor Co-ordination Structure was agreed during the High-Level Forum for Donor Co-

ordination (this April): it will be adopted by the Government once their Terms of Reference are adopted.

There is also an Aid Management Platform to monitor donor projects and improve transparency. Beneficiaries are being trained for using it. So far 450 projects amounting to €871 million have been included in the AMP. Kosovo gave a full commitment to make the best use of the donor funds. The Minister Beqaj has also appointed two deputy ministers, one of whom will be responsible for donor co-ordination.

Replying, **Mr Mirel** welcomed the appointment of a Minister of European Integration, and also hoped that Mr Beqaj was growing into the new role. The growing co-operation between the Commission and the Ministry was welcomed. Beyond this, the Ministry's role has to be to improve co-ordination within the government. Kosovo's institutions and mechanisms to promote the European Integration agenda (such as the Inter-Ministerial Committee) must work in practice and serve to co-ordinate measures across the government and enforce Kosovo's own EU Integration agenda.

The Commission notes the seriousness with which Kosovo prepared the European Partnership Action Plan. However, Kosovo needs to carry out an evaluation of last year's achievements of the EPAP before drafting a new one to establish a benchmark as to what can be achieved in the next 12 months. In addition, Kosovo needs to improve the linkage between different mechanisms. The EPAP should feed into the MTEF, budget and government legislative programme. At present, each is a stand-alone document and deliverable in itself, rather than a planning tool linking into an overall process.

Kosovo should take a key role in promoting donor co-ordination. 2 years after the donor conference in Brussels, this is still needs improvement. In a context of scarce resources, for instance, Kosovo needs to ensure that it does not ask for (or accept) projects that overlap.

## **2.1. Conclusions / Follow-up actions:**

- (1) Develop mechanisms to implement the Ministry of European Integration's co-ordination role on Kosovo's European agenda;
- (2) Strengthen the coordinating mechanisms in the level of Line Ministries to link European Agenda with the priorities and general policies and translation of those policies in the budget planning in ministry level
- (3) Perform an evaluation of what this year's EPAP has achieved to have a guideline of what should be proposed in next year's EPAP;
- (4) Improve linkage between different planning mechanisms: EPAP, MTEF, budget and legislative programme;
- (5) Kosovo should develop the mechanisms and structures to allow it to take a lead in donor co-ordination;
- (6) Jointly organise a follow-up event 3 years after the 2008 Donors Conference;

## **3. POLITICAL CRITERIA**

### **3.1. Rule of Law/Judiciary**

**Kosovo** has appointed a number of judges and is working to improve the legal framework for these appointments. The draft-Law on Courts is still in the Assembly, while the Criminal and Criminal Procedure Codes are undergoing amendment (currently in the Government working group). The government is working with experts and receiving advice given from partners with a view to working on this thoroughly rather than quickly.

The draft-Law on Witness Protection should be finalised soon. It will have significant budgetary implications. The Ministry of Justice is engaging with MEF to increase the salaries of judges and prosecutors, and such an increase should be in force by 1 January 2011. The government is also trying to increase the number of prosecutors from 92 to 136. The Juvenile Justice Code is undergoing the second reading in the Assembly. The Law on Execution of Penal Sanctions is expected to be adopted by the Assembly within July 2010.

As well as work on reform the judicial system, Kosovo has been working on international legal co-operation, drafting bilateral agreements on the extradition of convicted persons. Such agreements have been signed with Belgium and Switzerland, while others (Sweden, Luxembourg ...) are being finalised or discussed (Germany). Kosovo intends to recruit 5 more staff to MoJ's International Legal Co-operation Division. The draft-Law on International Legal Assistance in Criminal Matters, Extradition and Transfer of Sentenced Persons will be submitted for Government approval soon, with a view to adoption by the Assembly later this year.

A database of 18,000 extradition cases from 2003 has been transferred from UNMIK to MoJ.

Additional information was provided on how the appointment of judges is taking place:

- (1) Phase 1 has been completed with the appointment of: 10 Judges to the Supreme Court, 5 Prosecutors at the Office of the State Prosecutor, and 10 Prosecutors at the Special Prosecutor's Office;
- (2) Phase 2 has been completed with the appointment of: 48 judges of District Courts, 3 judges of Commercial Court, 5 judges for High Minor Offences Court, 3 judges at the Special Chamber of the Supreme Court and 27 prosecutors at the District Public Prosecutor's Offices;
- (3) Phase three is in the stage of interviewing candidates for municipal courts and prosecution offices by the IJPC commissioners. The appointment process is expected to be completed by Q4 2010.

Some 94% of nominees have been approved.

Kosovo is also moving to a Court Management Information System, it is hoped that this can reduce the backlog of 200,000 cases, although 260,000 have been introduced into the system. There have been 35 disciplinary hearings in 2010 so far.

The **Commission** stressed the procedure for appointing and vetting of judges and prosecutors. From experience with other countries in the region, the importance of an independent, impartial and accountable judiciary was underlined. The Judicial Council has a key role to play, it is essential that there be a solid process of establishing its membership.

The members of the Kosovo Judicial Council (KJC) face a difficult task: to improve the functioning of the Kosovo judiciary. This in practice means efficiency, accountability, transparency, independence and impartiality. Whilst the Commission is pleased that the vetting process has progressed, the President needs to appoint the judges proposed by the KJC, as recommended by the IJPC. The KJC should provide justified explanations when recommendations from the IJPC are not followed. Judges who failed the vetting should not stay in the job. Overall, the Commission's assessment is that the Judiciary remains weak. The case backlog is not diminishing. Kosovo needs to focus on enhancing the efficiency of judges and prosecutors rather than only increasing their numbers.

### **3.2. Public Administration**

**Kosovo** is working on updating the PAR Strategy, and plans to approve the revised strategy by September 2010, followed by action plans by November 2010. Secondary legislation to implement the new Laws on Civil Service and on Salaries of Civil Servants is foreseen to be finalised by the end of this year and enter into force as of January 2011. All job descriptions of civil servants have been drawn up. The recommendations of the functional review of the civil service are being implemented. Strategic Development Plans for a first 2 Ministries are being prepared. PAR is an ongoing (and

never-ending) process: the administration needs to be at the service of the citizens, and not the other way around.

The **Commission** welcomed the adoption of the Law on Civil Service and the Law on Salaries of Civil Servants earlier this year, as key public administration reform legislation. The Inter-Ministerial Committee on Public Administration Reform, the highest level political authority in this field, is meeting regularly, which is a positive development. However, its decisions should be formalised and disseminated as guidance across Kosovo's public services at both central and local levels.

### **3.3. Fundamental Rights and Freedoms**

The government considered that there is still an overlap of structures between stakeholders involved in the protection of fundamental human and minority rights. In line with recommendations from the recent FRIDOM report, structures need to be devolved down from the Office of the Prime Minister to the Line Ministries, and some of the bodies should cease to exist.

On languages, the government stated that monitoring visits had been undertaken in several institutions (e.g. Assembly, Government, and Central Election Commission), and it had been found that in general the Law on the Use of Languages is being respected. 22 Municipalities have been monitored, out of which the majority complied fully with that law, 4 showed deficiencies in translation and interpretation services but were ready to address them, while only 2 of them do not yet have full capacity due to their recent establishment. More monitoring visits to judicial, municipal and public healthcare institutions were scheduled to be performed by the end of 2010 (the latter was related to drafting prescriptions).

As regards minority pre-university curricula, the Government stated that the independent review commission had completed its work on 24 June 2010. As of September 2010, there will be a voluntary course to be offered to Roma pupils on Romany history and culture. A ministerial instruction on this was signed 2 months ago, teacher training to be implemented. Also from September 2010, partial changes are expected in regard to Serbian curricula and changes in civic education, history and geography (covering Kosovo's own history, maps of Kosovo, learning materials about Kosovo constitutional system). Textbooks following new Serbian-language curriculum should be ready by the time school restarts in September.

The review commission has identified the deficiencies in relation to Serbian curricula in language and literature books (how to handle poems and history); music books (which should offer anthems of both Serbia and Kosovo, history and geography textbooks (which are not compliant with Kosovo's constitution. As a general conclusion, the government considered that since there are no quality textbooks in the Balkans in general, Kosovo will translate technical textbooks books from EU countries, except for issues/subjects concerning identity.

The **Commission** recalled criticisms formulated in the 2009 Progress Report ("the institutional framework for the observance of international human rights norms needs to be significantly strengthened"), stressed Kosovo's commitment to protect human rights, and referred to the recent Council of Europe report on Kosovo. It also reminded that minority rights would play an important role in a future visa dialogue. The Commission called upon Kosovo to streamline the existing overlapping institutions, reinforcing each other and ensuring human rights enforcement at both central and municipal levels.

Regarding the law on human rights, the Commission pointed out that there were a number of comments from the EC side as well as from other institutions, and stated that the Government could soon expect recommendations for improving the draft.

The Commission commented that it appreciates that the implementation of the Law on the Use of Languages has a cost. It is also an investment for the future and a commitment made by Kosovo upon independence.

### **3.4. Property rights**

A number of MoU have been signed (between Kosovo Property Agency and Kosovo Police, with Kosovo Cadastral Agency). The KPA office in Serbia has been reopened, with UNCR help. Representative offices of the KPA in Podgorica and Skopje are also being strengthened.

The **Commission** stressed that addressing property rights cases should be a top priority for Kosovo: these constitute a major part of the backlog in civil cases in the Kosovo courts. They are also an obstacle to returns, economic development and reconciliation. Staffing of key bodies has not improved: two local members of the Supervisory Board of the Kosovo Property Agency and the local judge of the Supreme Court Appeal Panel are yet to be appointed. The government is waiting for the Assembly to approve recommendations for these posts.

### **3.5. Missing Persons**

During his last visit to Brussels, the Prime Minister stated that he wished to close the file of the missing persons by October. Excavations of a number of mass graves inside Kosovo (Koshare, Bellaqevc, Livoq, Rudnica, Medvegja, Peruqaci) are progressing, as are a few outside Kosovo (particularly in Macedonia, for which a bilateral commission has been constituted). These excavations are taking place despite their high cost and other difficulties (for instance mines).

Co-operation with Belgrade authorities was considered reasonable for mass graves located on Serbian territory. Earlier this year, the Serbian Defence Ministry delivered key information in addition to other past information provided by Serbia.

The Commission encouraged Kosovo to continue with its efforts in this area, accepting that it was a difficult and painful task, but also a necessary one to come to terms with a difficult past.

### **3.6. Conclusions / Follow-up actions:**

- (1) Adoption of the Law on Courts;
- (2) Adoption of the Laws on Judicial Council, Prosecution and Prosecutorial Council;
- (3) Confirm the vetting process is a requirement under the Kosovo Constitution. Ensure that President appoints judges/prosecutors as proposed by the KJC and the IJPC on the basis of the proposals of the Independent Judicial and Prosecutorial Commission, unless there are facts that prevent such appointment; remove any judge or prosecutor who fails the ethics exam; complete the process by the end of 2010;
- (4) Adopt secondary legislation to implement the Law on Civil Service and the Law on Salaries of Civil Servants;
- (5) Formalise decisions of Inter-Ministerial Committee on Public Administration Reform, ensure dissemination as guidance across Kosovo's public services;
- (6) Consult the Ministry of Economy and Finance on budgetary implications, in advance of decisions by the Inter-Ministerial Committee on Public Administration Reform;
- (7) Adopt the Human Rights Law, taking account of comments from EC and other relevant actors;
- (8) Take account of criticisms on enforcement of the Law on the Use of Languages by the Council of Europe, and intensify the monitoring visits undertaken by the Language Commission to all institutions including in the education, healthcare and judicial sectors, at both central and municipal levels; make the reports available to the public;
- (9) Adopt pre-university curricula in Serbian and Romany languages;

- (10) Appoint local members of Supervisory Board of the Kosovo Property Agency, and the local judge of Supreme Court Appeal Panel;
- (11) Complete the ongoing and planned excavations in Kosovo; increase the delivery of data to the Working Group on Missing Persons chaired by the ICRC.

#### **4. ECONOMIC CRITERIA**

The government presented the latest developments in this area. Bank reserves have increased, and they will be increased further next year (in line with IMF recommendations). Kosovo is trying to improve co-operation between the different policy frameworks to ensure that policies are properly budgeted.

A number of privatisations have begun, with the 20 year concession for the airport having been granted. Other privatisations foreseen are PTK and (possibly) the electricity distribution network. The PTK privatisation will be based only on price, and Kosovo hopes to announce the winning bidder in the next few days.

The IMF staff-level agreement foresees 5 prior actions. These are not easy, but Kosovo is working on these (such as approval of Central Bank Law, approval of the Mid-Year Budget Review, stopping new initiatives that would overcome spending capacity and amending the Law on Public Financial Management and Responsibilities). The programme is important in terms of money as well as improving Kosovo's credibility.

Independence of regulatory authorities is an asset for governance. Kosovo strongly insists that regulatory agencies should have their budgets. However, that does not mean that these agencies are not accountable.

The Commission congratulated Kosovo on the staff level agreement reached with the IMF. This is an important milestone, as it will help anchor transparency, stability and credibility. It also called upon Kosovo to implement all the prior actions needed to be fulfilled to allow the IMF Board to approve the agreement on 21 July. The Commission hopes to make the link between the IMF agreement and the Commission's Macro-financial assistance. It also recommended that Kosovo adopts only those changes in the Law on Public Financial Management explicitly required by the IMF agreement.

As regards the legal framework for privatisations, the Commission hoped that delays in the nominations to the relevant Boards are now overcome. The Commission advocated a stronger consistency in the choice of companies to liquidate and privatise. The choices should be made to maximise the contribution to economic growth and employment.

The Commission stressed that political interference in the nomination to boards of companies or regulatory agencies be avoided. Specific concerns have been flagged to Kosovo in this regard. The mandates of these bodies and their personnel need to be respected. Independence has to be guaranteed not only through the depoliticised appointment of high officials, but also giving the bodies the resources to carry out their mandate.

##### **4.1. Conclusions / Follow-up actions:**

- (1) Take all necessary prior actions to allow the IMF Board to approve the agreement with Kosovo at its 21 July meeting;
- (2) Ensure that future MTEF assumes the same macroeconomic scenario as that used in the IMF agreement;
- (3) Changes to Law on Public Financial Management should be limited only to what is explicitly required by the agreement with the IMF;
- (4) Improve selection of companies to liquidate and privatise;



- (5) Appoint heads and boards of regulatory agencies without delay (i.e. avoid extended periods of 'acting' heads of those agencies whose mandates have expired).

## 5. EUROPEAN STANDARDS – FOLLOW-UP TO SAPD SECTORAL MEETINGS

### 5.1. Rule of Law (27-29 January)

The Law on **Readmission** has been approved by the Assembly, and remains to be promulgated by the President. Readmission agreements have been signed with Albania, Belgium France, Switzerland, Germany and Denmark. Other agreements with most other EU Member States are being discussed.

The updated Strategy for **Reintegration** of Repatriated Persons was approved in May, and the Action Plan implementing it will follow. In June, the fund for reintegration was approved. Kosovo hopes to organise a donors' conference on this in September. There have been a number of developments with regards to the Civil Registry: personal documents: the Law on Civil Status is being drafted, and the Civil Registration Agency is being establishment and operationalized. So far 75% of Civil Registers have been digitalised. The Civil Status Database, containing 1,700,000 entries, is being unified, and the System for Processing Biometric Data upgraded. In June, the Assembly passed the amendments to the Law on Travel Documents in its first reading. Kosovo will not issue biometric passports before the civil registry is complete.

On readmission and reintegration of repatriated persons, the law is considered flexible. Contact points in municipalities have been established, although some of them have limited capacities. Kosovo hopes to increase funding for this, but it would also appreciate the help from donors.

Kosovo also reported on recent results in **combating organised crime, money laundering, trafficking in human beings, and drugs** (including substantial narcotics hauls). In some areas, there were better results during the first 3 months of 2010 than the entire 2009. The Anti-Corruption and Anti-Organised Crime Task Force has been established. In the fight against organised crime, 8 police operations have been launched, in which 11 cases involving a total of 53 suspects have been initiated.

The **Commission** welcomed the adoption of the law on readmission, and that the final version of the law took into account EU comments. Overall the Member States are satisfied with the readmission procedures and low rate of refusals. Implementing the law will be important and should consolidate existing good practices. Nevertheless, serious challenges persist in reintegrating repatriated persons in terms of basic assistance, access to education, healthcare as well as to basic documents. EC has addressed a list of recommendations to relevant authorities.

Commissioners Füle and Malmström wrote a joint letter on civil status registration highlighting challenges ahead. In particular, the letter highlighted the need to improve the civil status registration before issuing biometric passports.

Kosovo's capacity to deal efficiently with money laundering is crucial in the fight against organised crime, and the Commission cannot note any progress in this area: the law is not adopted; there have been few investigations or verdicts on money laundering and related crimes. Kosovo's capacities are weak and need to be enhanced under robust monitoring and whenever necessary resumption of executive authority of EULEX.

By contrast, Kosovo's operations against traffickers in human beings are to be encouraged, notably arrests related to the drowning in the Tisza River. However, arrests alone are not enough, if these are not followed-up by the judiciary and accompanied by adequate intelligence-led investigations.

The Commission welcomed adoption of the Law on Protection of Personal Data. This is a first step in the right direction; strict implementation of data protection is a precondition of practical cooperation with organisations such as Europol or Eurojust.

The Commission concluded by stating that police work is important, but now the Judiciary has to intervene. There is a strong link between many of these issues and any future visa liberalisation dialogue.

## **5.2. Innovation, Human Capital, Social Policies and Information Society (4 March)**

The **Labour law** is absolutely essential given the level of unemployment in Kosovo. This is to be accompanied by the Law on the Freedom of Association in Kosovo, Law on Strikes and Law on Socio-Economic Council ; both texts are expected to be adopted and enter into force in the first quarter of 2011. The Social assistance law has been withdrawn. A new draft will be prepared with the help of an EC technical assistance project which will address also the changes made by the decentralisation of social welfare services. It is planned to be drafted and adopted in the second quarter 2011. Licensing of the providers of social services is a priority for the rest of this year.

Kosovo is benefiting from the help from IPA to build capacity in the Ministry of Labour and Social Welfare. A draft pension law is being prepared, this begins by providing a status for pensioners to be adopted by Quarter 4 2010.

The Government, with the assistance of the Council of Europe has developed 7 **Cultural Heritage** sub-laws. A working group has been established for prioritising CH sites. The inventory list of CH sites to be finalised by the end of 2010. The CH Division is upgraded to a Department; Institutes for Protection of Monuments are upgraded into regional centres for CH and the CH inspectorate is to be established soon. This year, the renovation process of 34 Serbian orthodox religious sites (damaged during the events of March, 2004) will be completed.

As regards the financing of the **Public Service broadcaster**, RTK, the Chair of the Assembly Parliamentary Committee for Public Administration, Local Governance and Media reported that the Assembly had begun work on amending the Law on RTK. The main goal of this process was to find a sustainable financial solution for RTK, with the aim that RTK should be the public service broadcaster. The Committee was examining models of financing and elements / components of RTK's possible funding.

The **Commission** encouraged Kosovo to consult further with the EC on its labour and social welfare legal framework. Adopting these laws should not be rushed manner just to meet the deadline of the progress report. Stronger cooperation with the Ministry of Finance and Economy is needed in order to ensure the financial feasibility of these laws. The EU is now deploying several experts in the Ministry of Labour and Social Welfare. Kosovo was encouraged to use these instruments to the extent possible to achieve its objectives and address the concerns of Kosovo citizens.

On cultural heritage, recent developments were welcomed. Whilst it was recognised that some of the incidents relating to these sites were not necessarily ethnically-motivated, the government should take the necessary measures to prevent such incidents.

On RTK funding, the Commission pointed out that the problems had also been raised by other organisations (such as the European Broadcasting Union), and that RTK's financing is a problem both for its economic sustainability and its independence. This issue is now a question of media pluralism. RTK had benefited from a first 6 month emergency funding, it was hoped that this would be enough to agree on a long-term solution. That Kosovo has had to prolong this emergency situation a second time was disappointing. The Commission called upon the Government and the Assembly to take responsibilities and work together to find a long-term solution for RTK.

## **5.3. Agriculture, Rural Development, Fisheries, Forestry, Food Safety (16-17 March)**

A number of **laws** (on livestock, on wines) have been submitted to the government but are not yet in the Assembly. The Law on organic agriculture is expected to be adopted at the end of this year. This will be followed by an Administrative Instruction to establish the organic agriculture unit.

The CEO of the Kosovo Forestry Agency is still only 'acting', his status has not been regularised. Competences for protection and licensing in forestry areas have been transferred to Municipalities (in line with the Ahtisaari package).

A new Acting CEO of the Food and Veterinary Agency has been appointed with a decision from the Prime Minister in April 2010. The KVFA's Steering Board and the Scientific Council will be established by the end of Q3 2010. The KVFA laboratory needs strengthening. Despite all the investments it receives, it was accepted that it is difficult to keep staff, who want higher salaries.

The **Commission** looked forward to the adoption of a number of laws to create the right legislative framework to help develop agricultural products where Kosovo could have an advantage.

In addition, the Commission noted that, whilst an acting CEO of the KFA has been appointed, it hopes that the CEO as well as the management board can be appointed to implement Kosovo's ambitious Forest Development Strategy.

As regards the KVFA, the appointment of Steering Board to monitor the KFVA and the Scientific Council is essential to inspire confidence in the KFVA as a body, and to improve its decision-making. The Commission pointed out its concerns as regards the lack of apparatus at the KVFA laboratory.

#### **5.4. Infrastructure (10-11/5)**

To improve **utility bill collection rates**, the Criminal Code is being amended to make unauthorised use of electricity a criminal offence. Whilst power bill collection rates improved slightly in 2009, the collection rates of water and waste utilities decreased. The IFC has provided a transaction advisor to work on privatising waste collection companies. Kosovo is making substantial efforts here, (for instance the Water and Waste Regulatory office is approving collective water disconnections, as an operational measure for improving the collection rate).

On the **financing of Route 7**, Kosovo explained that the total budget of this project (some €73,6 million) would be funded via KCB budget reallocation, income from privatisation, excise taxes on some products, and even loans. These figures are agreed with the IMF and are maxima, rather than absolute: it was expected that some of them shall not be reached. The government stressed the economic importance of this project, in terms of improved connections (to increase the circulation of commodities, trade and markets, whilst decreasing traveling time and productivity). The private sector will carry out 40% of the contracted work and the project should create some 4000 jobs. Furthermore, the importance of the road to meet transport objectives was stressed.

On **energy**, the Government continues to discuss with its partners how to design a market model for private involvement in the New Kosovo (and Kosovo B) Power Plants and privatisation of power distribution and supply functions. This will translate into the laws on energy, on electricity, and on the energy regulator, which are still in the parliament. The government gave a full commitment that this market model would fully conform to Kosovo's obligations under the Energy Community Treaty, particularly in terms of competition policy. To help devise such a model, the Government has established a Working Group of experts to design a new market model concept which will enable/facilitate private investments in developing new power generation capacities and privatisation of the Power Distribution and Supply Functions, whilst also being in compliance with all obligations that Kosovo has as a Contracting Party to the Energy Community Treaty.

Regarding Kosovo A, 3 working groups to help accompany the power plants closure Kosovo A have been established (to complete studies on decommissioning, handling social issues, and to examine financial arrangements and decommissioning itself). The Kosovo side stated that it was committed to close Kosovo A by 2017 at the latest, but this could advance to 2015 if donors help Kosovo fund power imports in the meantime.

On **Regional Development** matters, the Ministry of Local Government Administration is coordinating the process of Regional Development. Earlier in 2010, TAIEX funded a Peer Assessment Mission for Regional Development. The Agency of Regional Development has been extended to municipalities

with Serb majority and new municipalities (Zubin Potok, Klllokot, Ranillug, Gracanica). The ARD's role is to facilitate the regional development through partnership with businesses and other relevant factors. Later this year, national policies for Regional Development will be developed, and inter-ministerial structures established. Furthermore, Kosovo is beginning to plan for IPA CBC programmes (starting with Albania and Macedonia).

Commenting on utility bill collection rates, the **Commission** acknowledged last year's increase in power bills collected. However, even this increase is mostly offset by an increase in power supply to meet a demand which is increasing beyond economic growth (and generation capacity). Levels of water and waste collection actually decreased last year, according to the regulator. The viability of companies in these sectors depends on users paying for the products and services consumed. Improving levels of bill collection requires improved co-ordination between different bodies (such as police and courts). Such low bill collection levels continue to constitute a severe obstacle to the planned private sector involvement in the power sector, not to mention a cause of unsustainable practices (such as the increase in power demand above economic growth).

As regards the funding of Route 7, the Commission stressed that it supported the development of Kosovo's infrastructure, including this particular road. However, as Kosovo's partner, the Commission joined other donors in expressing concerns as to the size of this project: does the planned construction respond to Kosovo's financial capability or to the real traffic needs? Could a more staged approach have been more appropriate? The Commission has noted that the size of this project is crowding out investments elsewhere: from the cuts to development of railways, to cuts in the budgets of other Ministries, to hurried privatisation plans in order to generate cash to fund the road (at the expense of long-term benefits to Kosovo), to a lack of maintenance and repair budgets for the existing road network, these are the effects of such a huge project.

The Commission welcomed the commitment to design a market model that is fully compatible with Kosovo's Energy Community Treaty obligations, and pointed out that decisions on long-term power purchasing agreements must not sow the seeds of long-term problems from which it could be legally difficult and financially heavy for Kosovo to extract itself. According to the Commission's study on the costs of decommissioning Kosovo A, closing the plant would cost around €28 million. The Commission also pointed out that the Prime Minister had given an unconditional commitment to close Kosovo A by 2015, and that the Commission's study states that orderly decommissioning Kosovo A (i.e. final closure in 2015) is always cheaper than keeping it open. The Commission also stated that this is an area where, should Kosovo take bold steps, the donor community is likely to be generous.

The EC is providing considerable assistance to help Kosovo on regional development matters, in the hope that Kosovo can benefit from the experiences of one of the EU's most successful policies. This is all the more important here given the level of decentralisation in Kosovo.

### **5.5. Internal Market, competition, consumers and health (27 April and 25 May)**

On the **free movement of goods**, the Law on Technical Requirements of Products and Conformity Assessment adopted in March 2009 is into force. Amendment to the law will start very soon. A number of Administrative Instructions covering particular products have been drafted (Conformity sign and its graphic presentation, Machinery safety, electric power safety, Toys safety, Electro-magnetic compatibility, Designation and labelling of textiles, Ski lifts, Methods for quantitative analyses on determination of two component fibre textile i.a.). A new law on Market Inspection and Surveillance has been approved by the government and is currently in the assembly. In parallel, Kosovo is building the necessary institutional capacity by establishing a new Unit for product safety.

The government is working on a new **public procurement** law: the draft should be approved by government the day after this Plenary, and then sent to the Assembly (with a view to a swift adoption). The new law should help reform the public procurement system in Kosovo, for instance creating a separate procedure for procurement activities of public sector companies, reviewing complaints procedures (in line with the relevant EU Directives). Training of public procurement officers has also continued (given by the Kosovo Institute for Public Administration). There are plans to raise the

number of trained procurement officers, and to consider the possibility to train the procurement officers in the private sector. Under the new law, there will be changes to the licensing procedure of procurement officers. These officers are also to benefit from increased protection measures. The high turnover of staff was recognised as a problem.

Regarding **intellectual property**, the government approved the Strategy on Intellectual Property (and an Action Plan for 2010-2014) in June. The Law on the Trade Marks (has been approved by the Government and sent to the assembly. The government is now establishing the database for categories of industrial property (marks, licenses and designs). It is registering and issuing certificates for 1700 Trade Marks and 120 Patents. In June, the Copyrights Office which was formally established, and the Director of the Office has been appointed. Later this year, Laws on Patents and on Industrial Design should be adopted.

As regards **competition**, a draft Law on state aid should come into force on January 1<sup>st</sup> 2011. It should maintain fair competition whilst also fulfilling Kosovo's international obligations. The law will create an approval and monitoring structure (the office for monitoring of state aid, and a Ministerial Commission for aid approval).

Kosovo's Competition Commission has signed an MoU with the relevant actors in relation to anti-trust policy, and a number of suspected violations have been investigated. However, despite progress in implementing anti-trust policies, Kosovo's competition policies are in the early phase of implementation and the private sector should be more aware of competition rules. The Competition law should be amended, and Kosovo is working to build the capacity of its Competition Authority

Replying, the **Commission** pointed out that the EU's Internal Market covers a large number of subjects, which have been the core business of the EU and the Commission in particular. The success of the Internal Market contributed to economic growth in Europe. The adoption of EU standards in these areas is in the interest of Kosovo.

Kosovo is progressing in adopting legislation compatible with the *acquis*. Overall, administrative capacity is being progressively reinforced and progress was noted in particular concerning standardisation.

The Commission had already insisted heavily on its concerns regarding public procurement, and it repeated the call that the Government and assembly work together to adopt the new law and that all efforts are made and resources devoted to implementing a public procurement regime that is beyond reproach.

On Competition policy, the Commission acknowledged that there has been progress concerning anti-trust policy. The Competition Commission is gaining experience, but it should assume a more proactive role. Kosovo would be well advised to accelerate the adoption of the state aids law, and establish the state aids monitoring authority.

## **5.6. Trade, Industry, Customs, Taxation (26 May)**

On efforts to **increase tax compliance**, the Kosovo Tax Administration (KTA) has made some progress toward objectives and tasks set out in the Government Program. The legal framework has been revised, with new laws this year on Personal Income Tax, on Corporate Income Tax, and on VAT. The KTA is also working to improve its capacity, whether by developing relations with taxpayers (including managing tax debts), or establishing new IT systems. Next year, Kosovo will introduce Fiscal numbers and Fiscal cash registers, and decentralise the process of declaring VAT. However, the high turnover of KTA staff, their low salaries and lack of funds for IT modernisation were considered serious obstacles to continuing to increase tax compliance.

On **improving consistency between strategic documents affecting private sector development**, Kosovo has adopted a number of Administrative Instructions to implement existing strategies (for instance on economic zones, to implement the SME strategy). In addition, there is a new strategy for

Replying, **the Commission** pointed out that since Kosovo has such an ambitious plan on the expenditure side, there should be an equally ambitious plan for collection. This necessarily means fiscalising the 'grey economy': Kosovo's grey economy and tax evasion remains widespread. Nevertheless, progress can be noted, notably at the level of the administrative capacity. However, these efforts should be further intensified. Greater tax compliance would ensure the sustainability of public finance, better services, and give a sense of fair treatment to all the citizens.

Kosovo has adopted a number of strategic documents that affect the private sector: the sustainable employment strategy, the industrial strategy, the trade strategy, and the economic part of the MTEF. It is essential that these strategies and the policy measures that follow remain consistent with each other.

### **5.7. conclusions / follow-up points**

- (1) Improve reintegration of repatriated persons
- (2) Adopt a budgeted action plan and allocate finance to the reintegration fund.
- (3) Adopt Civil status law and accompanying administrative instructions
- (4) Adopt Law on money laundering
- (5) Adopt Labour Law, Law on the Freedom of Association in Kosovo, Law on Strikes, Law on Socio Economic Council and Law on Pensions financed by the State (Quarter 4 2010) while the Law on Social Assistance Scheme (Quarter 2 2011).
- (6) Adopt the Integrated Conservation Strategy (Cultural Heritage)
- (7) Enhance the human resources of the Department for Cultural Heritage in the Ministry of Culture, Youth and Sport
- (8) Adopt framework to ensure sustainable funding of Public Service Broadcaster
- (9) Adopt Law on Livestock, Amendments to the Law on Wines, Amendments to the Law on Organic Agriculture.
- (10) Appoint CEO and Board of Kosovo Forestry Agency
- (11) Appoint CEO of Kosovo Food and Veterinary Agency
- (12) Strengthen the KVFA laboratory
- (13) Improve co-ordination between bodies to improve utility collection rates
- (14) Ensure that market models for Kosovo B and New Kosovo power plant projects are rigorously compatible with EU competition and internal market acquis
- (15) Nominating the members of the three working groups to start with decommissioning Kosovo A
- (16) Take account EU comments on Market Surveillance law
- (17) Adopt state aids law, establish state aids monitoring authority.
- (18) Take measures necessary to implement the Health and the Tobacco laws.

- (19) Improve coherence of strategic documents affecting private sector development (the sustainable employment strategy, the industrial strategy, the trade strategy, and the economic part of the MTEF)

## **6. OTHER ISSUES**

The following meeting conclusions were adopted:

- 16th Plenary STM (12.06.2009)
- Sectoral SAPD on Rule of Law (27-29 January)
- Sectoral SAPD on Innovation, Human Capital, Social Policies and Information Society (4/3)
- Sectoral SAPD on Agriculture, Rural Development, Fisheries, Forestry, Food Safety (16-17/3)
- Sectoral SAPD on Infrastructure (10-11/5)
- Sectoral SAPD on Internal Market (25/5)
- Sectoral SAPD on Trade Industry Customs Taxation (26/5)

## **7. CONCLUSIONS**

The Commission thanked the Ministry of European Integration for their hard work in organising this meeting.