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**COMMISSION STAFF WORKING DOCUMENT**

**KOSOVO (UNDER UNSCR 1244/99) 2008 PROGRESS REPORT**

*accompanying the*

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

**Enlargement Strategy and Main Challenges 2008-2009**

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## TABLE OF CONTENTS

1.	Introduction .....	4
1.1.	Preface .....	4
1.2.	Context .....	4
1.3.	Relations between the EU and Kosovo (under UNSCR 1244).....	6
2.	Political criteria .....	8
2.1.	Democracy and the rule of law .....	8
2.2.	Human rights and the protection of minorities .....	16
2.3.	Regional issues and international obligations .....	26
3.	Economic criteria .....	27
3.1.	The existence of a functioning market economy .....	27
3.2.	The capacity to cope with competitive pressure and market forces within the Union .....	31
4.	European standards .....	34
4.1.	Internal market .....	34
4.1.1.	Free movement of goods .....	34
4.1.2.	Movement of persons, services and right of establishment.....	35
4.1.3.	Free movement of capital.....	35
4.1.4.	Customs and taxation .....	35
4.1.5.	Competition.....	37
4.1.6.	Public procurement .....	37
4.1.7.	Intellectual property law .....	38
4.1.8.	Employment and social policies.....	38
4.1.9.	Education and research .....	40
4.1.10.	WTO issues .....	41
4.2.	Sectoral Policies .....	42
4.2.1.	Industry and SMEs .....	42
4.2.2.	Agriculture and fisheries .....	42
4.2.3.	Environment.....	43
4.2.4.	Transport policy .....	45

4.2.5.	Energy .....	46
4.2.6.	Information society and media.....	48
4.2.7.	Financial control.....	50
4.2.8.	Statistics .....	50
4.3.	Justice, freedom and security .....	51
4.3.1.	Visa, border, control, asylum and migration.....	51
4.3.2.	Money laundering .....	52
4.3.3.	Drugs.....	52
4.3.4.	Police.....	53
4.3.5.	Fighting organised crime and terrorism .....	53
4.3.6.	Protection of personal data.....	54

## COMMISSION STAFF WORKING DOCUMENT

### Kosovo (under UNSCR 1244) 2008 Progress Report

#### 1. INTRODUCTION

##### 1.1. Preface

Since March 2002, the Commission has reported regularly to the Council and the Parliament on progress made by the countries of the Western Balkans region.

This report largely follows the same structure as in previous years. The report:

- briefly describes the relations between Kosovo<sup>1</sup> and the Union;
- analyses the political situation in Kosovo in terms of democracy, the rule of law, human rights, protection of minorities, and regional issues;
- analyses the economic situation in Kosovo;
- reviews Kosovo's capacity to implement European standards, that is, to gradually approximate its legislation and policies with those of the "acquis", in line with the European Partnership priorities.

The period covered by this report is 1 October 2007 to early October 2008. Progress is measured on the basis of decisions taken, legislation adopted and measures implemented. As a rule, legislation or measures which are under preparation or awaiting Parliamentary approval have not been taken into account. This approach ensures equal treatment across all reports and permits an objective assessment.

The report is based on information gathered and analysed by the Commission. Many other sources have also been used, including contributions from the Kosovo authorities, the Member States, European Parliament reports<sup>2</sup> and information from various international and non-governmental organisations.

The Commission draws detailed conclusions regarding Kosovo in its separate communication on enlargement<sup>3</sup>, based on the technical analysis contained in this report.

##### 1.2. Context

United Nations Security Council Resolution 1244/99 (UNSCR 1244/99) provides the international legal framework for Kosovo. It provides for the deployment of international civil and military presences in Kosovo, under UN auspices. It authorises the Secretary General of

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<sup>1</sup> Under UNSCR 1244/1999.

<sup>2</sup> The rapporteur for Kosovo is Mr Joost Lagendijk MEP.

<sup>3</sup> Enlargement Strategy and Main Challenges 2008-2009.

the United Nations (UNSG) to establish an international civil presence to provide an interim administration for Kosovo.

KFOR, the NATO-led international military presence in Kosovo, continues to be responsible for overall security.

The legal system in Kosovo is a combination of legislation adopted by the Kosovo authorities, regulations and administrative directions of the United Nations Interim Administration in Kosovo (UNMIK), and Yugoslav laws in place before 22 March 1989.

In March 2007, the UNSG forwarded the Comprehensive Proposal for the Kosovo Status Settlement (CSP) prepared by his special envoy, Martti Ahtisaari, to the United Nations Security Council (UNSC). The CSP envisaged an international civilian representative (ICR) with a dual mandate as EU Special Representative and an ESDP rule of law mission. The UNSG fully supported Mr Ahtisaari's recommendation for the supervised independence of Kosovo.

In August 2007, and in the absence of UNSC agreement on the CSP, the UNSG endorsed a new initiative to determine Kosovo's future status. He proposed direct negotiations, to be mediated by an EU-US-Russia troika. Direct talks between Priština/Prishtinë and Belgrade started in New York in September 2007. On 10 December 2007, the UNSG forwarded the troika report to the UNSC, confirming that the two parties had been unable to reach an agreement. It confirmed that the negotiating process had been exhausted.

On 17 February 2008, the assembly of Kosovo declared Kosovo an independent and sovereign state. To date, Kosovo's independence has been recognized by a total of 51 countries, of which 22 are EU Member States. The assembly also adopted a flag and an anthem. Following the declaration, the security situation remained relatively calm, with the exception of two serious incidents in northern Kosovo. In February, two border posts in northern Kosovo were destroyed, and the storming of the court house in Mitrovica/Mitrovicë in March resulted in the death of an UNMIK policeman and several serious injuries.

On 9 April, the assembly adopted the Constitution of the Republic of Kosovo, which entered into force on 15 June 2008. The constitution is based on the CSP and envisages a significant role of the European Union in Kosovo. It also provides for the international civilian representative as ultimate supervisory authority as set out in the CSP.

In his June report to the UNSC, the UNSG acknowledged that the declaration of independence and the entry into force of the constitution had created a new reality in Kosovo. This reality posed significant challenges to UNMIK's ability to exercise its administrative authority and perform the majority of its tasks, and necessitated the reconfiguration of the international civil presence in Kosovo. In July, the UNSG instructed UNMIK to cooperate with the EU in order for it to assume an enhanced operational role in Kosovo in the area of the rule of law under a 'UN umbrella'.

On 8 October, the UN General Assembly passed a resolution requesting the advisory opinion of the International Court of Justice on the legality of the declaration of independence of Kosovo.

The process of dismantling the Kosovo Protection Corps and establishing a new Kosovo Security Force (KSF) provided for in the constitution started in June. The KSF should

comprise some 2,500 lightly armed personnel, whose first tasks will include crisis response, explosives disposal and civil protection. The process takes place under NATO supervision in close coordination with other international stakeholders.

Parallel structures prevent the Kosovo government from executing parts of its authority in many Serb majority areas throughout Kosovo. UNMIK declared the local Serb elections held in Kosovo in May 2008 null and void.

Kosovo continues to be open to the discussion of issues of practical interest with Serbia. Following the declaration of independence, the government made considerable efforts to reach out and reassure Kosovo Serb citizens. Constructive cooperation with Serbia is a key priority in the European Partnership for Kosovo.

### **1.3. Relations between the EU and Kosovo (under UNSCR 1244)**

Following the troika report to the UNSG, the European Council of December 2007 stressed the need to move forward towards a Kosovo settlement, underlining that resolving the status of Kosovo constituted a sui generis case that did not set a precedent. The Council confirmed that the EU stood ready to play a leading role in strengthening stability in the region and in implementing a settlement defining Kosovo's future status. It confirmed that the EU was ready to assist economic and political development through a clear European perspective, in line with the European perspective of the region.

In February 2008, the General Affairs and External Relations Council agreed to a Joint Action<sup>4</sup> to establish an ESDP rule of law mission, known as "EULEX", in Kosovo. The main task of the mission is to mentor, monitor and advise. EULEX also has some executive functions. The Council also agreed to a Joint Action<sup>5</sup> appointing an EU Special Representative (EUSR) in Kosovo. The EUSR advises and supports the political process and ensures the consistency of EU action in Kosovo. In his other role as ICR, he supervises the implementation of the CSP. The EUSR reports to the High Representative for CFSP. As ICR, he reports to the International Steering Group (ISG) on Kosovo, which consists of 25 countries<sup>6</sup> that have recognised its independence.

In June 2008, the European Council reconfirmed that the EU remained committed to playing a leading role in ensuring the stability of Kosovo, including through EULEX Kosovo, EUSR and its contribution to an international civilian office as part of the international presence. It also recalled its willingness to assist the economic and political development of Kosovo through a clear European perspective, in line with the European perspective of the region.

Kosovo has continued to work with the Council planning teams to prepare the EU mission, and is cooperating fully with EULEX and the EUSR/ICR. The deployment of EULEX is ongoing. EULEX is to be operational throughout Kosovo.

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<sup>4</sup> Council Joint Action 2008/124/CFSP of 4 February 2008 on the European Union Rule of Law Mission in Kosovo, EULEX KOSOVO.

<sup>5</sup> Council Joint Action 2008/123/CFSP of 4 February 2008 appointing a European Union Special Representative in Kosovo.

<sup>6</sup> Austria, Belgium, Bulgaria, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Luxemburg, Netherlands, Norway, Poland, Slovenia, Switzerland, Sweden, Turkey, United Kingdom, United States of America.

Kosovo continues to participate in the *Stabilisation and Association Process*. Plenary meetings of the **Stabilisation and Association Process Tracking Mechanism (STM)** were held in November 2007 and May 2008. In the framework of the enhanced STM structures established in March 2007, sectoral STM meetings were held in the areas of Innovation, Internal Market, Good Governance, Economy and Infrastructure.

The EU sets out reform priorities for the authorities through the **European Partnership**. The Council adopted a revised European Partnership for Kosovo in February 2008. The government approved its European Partnership Action Plan (EPAP) in July 2008.

In April 2008, the government adopted the Plan for European Integration 2008 – 2010, which aims to improve inter-governmental coordination and communication. The relevant institutional structures were set up in September.

On 11 July, the European Commission organised a Donors' Conference for Kosovo, which was held in Brussels. Participants pledged a total of € 1,236 million. The combined pledge made by the Commission<sup>7</sup> and the EU Member States amounted to nearly € 800 million.

Kosovo continues to benefit from the Instrument for Pre-accession (IPA), Macro-Financial Assistance (MFA), CARDS, the Instrument for Stability and others. Further to the decision to phase out the European Agency for Reconstruction (EAR) by the end of 2008, the European Commission's Liaison Office (ECLO) in Kosovo took over responsibility for projects financed under the CARDS programme from the EAR in July. Ongoing EU assistance to Kosovo under the CARDS instrument amounts to some € 170 million and involves over 80 projects.

The IPA 2008 Annual Programme for Kosovo focuses on the objectives identified in the Multi-Annual Planning Document (MIPD) 2008-2010. In 2008, EU IPA assistance to Kosovo amounts to € 122.7 million<sup>8</sup>, which is managed directly by the ECLO, plus a contribution of € 2 million under the IPA Multi-Beneficiary Programme. Programming for IPA 2008 started in October 2007. All beneficiary institutions were closely involved in the programming process. Key priorities for funding include the strengthening of administrative capacity at all levels, enhancing the rule of law, human rights and good governance, improving socio-economic conditions for all communities, and developing regional co-operation. Preparations for the IPA programme took place in close co-ordination with the Council's planning teams (EUPT and EUSR/ICO) to ensure complementarity with the activities of the ESDP mission in Kosovo and the EUSR. Member States, the donor community and representatives of civil society were also consulted. The Financing Agreement for the IPA 2008 Annual Programme for Kosovo was signed in October.

The ECLO implements IPA programmes in Kosovo under deconcentrated centralised management. Some projects are implemented under joint management with international organisations (such as the Council of Europe). Kosovo has to establish a roadmap for the decentralisation of the management of EU funds without *ex ante* controls by the Commission. Kosovo is at a very early stage in this process.

Kosovo has yet to appoint its National IPA Coordinator (NIPAC).

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<sup>7</sup> Part of the Commission's pledge is subject to approval by the Budgetary Authority.

<sup>8</sup> An additional allocation of € 60 million has been transferred from the MFA line to IPA in 2008.



## **2. POLITICAL CRITERIA**

This section examines the progress made by Kosovo towards meeting the Copenhagen political criteria, which require stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities. It also monitors regional co-operation, good neighbourly relations with enlargement countries and Member States, and respect for international obligations, such as co-operation with the UN International Criminal Tribunal for the former Yugoslavia.

### **2.1. Democracy and the rule of law**

#### *Constitution*

On 9 April, the assembly of Kosovo adopted the Constitution of the Republic of Kosovo. This followed preparations by a constitutional working group, public discussions, certification of the draft constitution by the ICR and approval by the president of Kosovo. The constitution entered into force on 15 June 2008.

The constitution is based on the Comprehensive Proposal for the Kosovo Status Settlement (CSP) prepared by UNSG special envoy, Martti Ahtisaari. The constitution explicitly confirms that the provisions of the CSP take precedence over all other legal provisions in Kosovo. It also confirms the CSP as the key reference to verify compliance of the constitution itself and other laws and legal acts. It confirms the ICR as the final authority in Kosovo regarding the interpretation of the civilian aspects of the CSP. The constitution does not include references to the UN or UNMIK other than in the context of the termination of its mission in Kosovo.

The constitution provides for the protection of human rights and communities according to international and European standards. It respects democratic principles of subsidiarity and local governance. It includes basic provisions associated with statehood. It also confirms fundamental rights and freedoms, and the rights of communities and their members. It provides for a detailed description of the State institutions, their respective competences and powers, including an assembly, a president and the government. It delineates the principles and structure of the justice system, including the role of a constitutional court. The constitution includes detailed provisions for local government and the security sector. It also confirms the role and competences of independent institutions, including an ombudsperson, an auditor general, a central election commission, a central bank and an independent media commission.

The transitional provisions of the constitution confirm the arrangements for the supervised independence of Kosovo envisaged by the CSP.

The Kosovo Serb community did not formally participate in the constitutional process.. Other minority communities, such as Roma, complained they were not or insufficiently involved and consulted.

The constitution is in line with European standards, which require stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities. Ensuring the full respect for the rule of law, human rights and the protection of minorities is a key priority in the European Partnership for Kosovo.

#### *Parliament*

The assembly was reconstituted following the general elections of November 2007, which were held in a fair and efficient manner. The Democratic Party of Kosovo (PDK) received 34% of the vote, the Democratic League of Kosovo (LDK) 23%, the Kosovo New Alliance (AKR) 12% and the Alliance for the Future of Kosovo (AAK), the Democratic League of Dardania (LDD) each received 10%, the Reformist Party (ORA) 4% and the Party of Justice (PD) 2%. A total of thirteen minority parties received a total of 5% of the vote.

The Central Election Commission (CEC) is responsible for the organisation and implementation of elections in Kosovo. The chairmanship of the CEC has been transferred from the mission of the OSCE in Kosovo to the Kosovo authorities.

The assembly formally elected the President and Prime Minister, approved the declaration of independence and the constitution and adopted a total of 41 laws directly related to independence and the constitution by an accelerated procedure.

After a boycott following the declaration of independence, the Kosovo Serb members rejoined the assembly.

In March, the assembly presidency adopted the rules of procedure on the work of the presidency and rules on its political staff. Three new committees were set up: the Committee on European Integration, the Committee on Human Rights, Gender Issues, Missing Persons and Petitions, and the Committee on Mandates and Immunities. The committees organised a number of public hearings.

The assembly carried out its *ex ante* responsibilities as regards the budget. It intervened to safeguard the funding allocated to the independent institutions, and reviewed reports on their expenditure *ex post*. The assembly increased its role in providing oversight to the security sector. Its Committee on Internal Affairs and Security is responsible for monitoring the implementation of security-related legislation.

However, there is little or no interaction between the government and the assembly once the former has forwarded legislation to the latter. The government participates in assembly committee deliberations on request. Assembly committees often submit their recommendations on draft legislation well after the relevant deadlines, causing delays in its adoption. The assembly does not conduct regular assessments of draft legislation for human rights compliance. It does not always assess the budgetary impact of draft legislation. The assembly lacks sufficient expertise to allow effective scrutiny, and lacks the capacity to ensure effective monitoring of the implementation of laws. Assembly members have weak links with their constituencies and there is a lack of effective civil society participation in the legislative process.

The implementation of the assembly's annual work programme for 2007 was interrupted by the electoral campaign. An annual work plan for 2008 has yet to be adopted.

In September, the Assembly decided to postpone the appointment of the Ombudsperson for a third time.

At the administrative level, there is a lack of qualified staff and a shortage of minority community representatives. Persistent vacancies hamper the work of key administrative units, including the unit that is monitoring EU standardisation. The assembly still does not have an autonomous IT system. Voting records of only one plenary session have been published on

the web site. The Committee for European Integration lacks administrative support and expertise in EU matters.

The Central Election Commission further relies on OSCE support.

Overall, the assembly made some progress in a number of areas and partially managed to fulfil its role over the reporting period, which was characterised by a heavy focus on the adoption of the constitution and related legislation. However, challenges and shortcomings remain to be addressed, notably a lack of capacity to scrutinise draft legislation and monitor its implementation after adoption.

### *Government*

On 9 January 2008, a coalition government of PDK (Democratic Party of Kosovo) and LDK (Democratic League of Kosovo) under Prime Minister Hashim Thaçi was formed. The government includes a Prime Minister, two Deputy Prime Ministers and 17 ministers.

The new government focused on independence and the constitution. Political parties respected their commitment to remain united throughout the period between the declaration of independence and the coming into force of the constitution. Their attention started to shift to other areas following the presentation of the government's strategy for 2008-2011 in April. Opposition parties have adopted a more critical attitude towards the government.

The government set up a Commission on the Monitoring of the Implementation of Laws, which is chaired by a Deputy Prime Minister.

In April, the Prime Minister presented a report on the first 100 days and the government's programme for 2008-2011 to the assembly.

The government started issuing Kosovo passports in July.

In September, the President and the Prime Minister agreed on the appointment of Kosovo's first ten diplomatic envoys to a selected number of countries recognising its declaration of independence.

The government continued to build its capacity to address EU matters. In July, it approved new structures to better monitor EU integration matters within the framework of its European Partnership Action Plan. The government reports to the assembly's Committee for European Integration every three months. The Agency for European Integration (AEI) continues to be the central agency coordinating Kosovo's European approximation efforts. The AEI started to have more structured contacts with the assembly, in particular as regards legislative compliance verification, and attends the weekly sessions of the assembly's Committee on European Integration. In October, the AEI was renamed Centre for Coordination of Development and European Integration (CCDEI) so as to reflect its restructuring and merging with the Donors Coordination Centre following the Donors' Conference.

Local government has been strengthened. New legislation on administrative municipal boundaries, local self-government, and local government finance and decentralisation came into force in June. Advancing the reform of self-government and increasing administrative capacity to facilitate decentralisation are key priorities in the European Partnership for Kosovo.

The legal acts or laws passed by the assembly are published in the Official Gazette. The Gazette is published in the two official languages of Kosovo. It is also published in Bosnian, Turkish and English on the Gazette's own website. The Gazette is disseminated to ministries, municipalities, the courts and educational institutions.

However, the government's focus on independence-related issues has kept it from addressing other matters. The government has encountered some difficulties in presenting and coordinating its strategic priorities. The assembly, including members of the ruling coalition, contested the government's programme for 2008-2011. The government sent its legislative strategy to the assembly without a timetable for the submission of draft legislation.

The government did not manage to reach its targets for minority community representation. Further progress in this area was prevented by political developments following the declaration of independence.

In some Serb-majority areas the government has limited authority over the police, the courts, customs, transport, boundaries and Serbian patrimony. Parallel administrative structures at local level have consolidated and continue to operate in most Serb majority municipalities, even if they are not operational in some areas south of the Ibar river. Municipalities in northern Kosovo have started to implement Serbian legislation on local governance. A number of Kosovo citizens continue to rely on these services, e.g. for travel documents, education. In June, the government decided to extend the mandates of the mayors in Leposaviq/Leposavić, Zvečan/Zvečan, Zubin Potok and Štrpce/Shtërpçë, confirming UNMIK's earlier decision not to validate the results of the Serbian local elections of May 2008 in Kosovo.

The gradual nature of UNMIK's reconfiguration has led to uncertainty in some areas as to the actual competences of the government (e.g. take-over of the Kosovo Trust Agency).

The rationalisation of working methods continues to be a challenge. The responsibilities of the Office for Good Governance overlap with those of the Agency for Gender Equality and the Anti-Corruption Agency. It is not clear how the Office for Communities will cooperate with the Ministry for Communities and Returns. Communication and coordination between the central and local administrations dealing with human and minority rights are not effective.

The effectiveness of the government's participation in regional and international fora is limited by the fact that its legitimacy is contested by non-recognising countries.

Allegations of political interference in the selection and appointment of a number of key positions (e.g. board of public-owned enterprises) have affected the credibility of the government. The premature announcement of a population census and the untimely submission of the mid-year budget review to the assembly ran counter to the provisions of the constitution.

High staff turnover at the Agency for European Integration and a lack of strategic guidance risk undermining its efficiency. The department responsible for verifying legal compliance in particular is understaffed.

Overall, some progress was made in consolidating government in a volatile and uncertain environment. The basic working tools for an efficient government are in place, but they need

to be enhanced and fully and properly applied. Ensuring democratic governance is a key priority in the European Partnership for Kosovo.

### *Public Administration*

The inter-institutional working group and the sectoral working groups tasked with monitoring the implementation of the Public Administration Reform Strategy and Action Plan (covering the period 2006-2011) meet regularly.

In February, the Independent Oversight Board (IOB), previously advising the SRSG on public administration reform, was transformed into an autonomous body reporting directly to the assembly. In 2007, the IOB resolved 386 cases of grievance by employees of ministries, municipalities and executive agencies. The IOB also monitored 37 selection procedures for civil servants in the ministries and municipalities, and dealt with 71 complaints. To date, the IOB resolved 222 appeals out of a total of 282 appeals received so far in 2008.

The Ministry of Public Services (MPS) issued implementing laws relating to the civil service and the management of public administration. These regulate the representative expenditure of the governmental institutions, define the salaries, rights and duties of political appointees, procedures for the Senior Public Appointments Committee, and the rules for communication with citizens.

The government approved an administrative instruction to strengthen the existing legal offices in line ministries. A commission to monitor the implementation of laws was set up in February. A working group to rationalise and streamline legislation has also been set up.

The functional review of the public administration started in April. The review aims to reduce overlapping competences between institutions and to increase the effectiveness of the public administration. A vertical institutional review is also being considered for the purpose of identifying tasks that can be delegated to the local level or entrusted to the private sector. An inter-ministerial commission and technical working groups were established to steer the process. Membership includes a Deputy Prime Minister, the Ministry of Justice, Ministry of Economy and Finance, and the Ministry of Public Services. A project aimed to develop software for improved information and human resources management in the Kosovo civil service has started<sup>9</sup>

However, the Law on the Civil Service, the Law on the Kosovo Institute for Public Administration, and the Law on Public Administration have yet to be adopted. Civil servants continue to be vulnerable to political interference, corruption and nepotism. More than a year after their adoption, the results of the Public Administration Reform Strategy and Action Plan and the way these are measured are still unclear. Since mid-September, four out of seven positions on the Independent Oversight Board are vacant preventing it from making decisions. The Senior Public Appointments Committee is not fully functional and its secretariat should be further strengthened by additional staff and training.

Some ministries and local authorities still refuse to provide information, respond to requests or follow up the recommendations by the office of the Ombudsperson. Staff numbers in the Ombudsperson's office have been reduced from 56 to 45.

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<sup>9</sup> It is expected that the project will be completed by the end of the year.

Overall, despite some progress related to the adoption of an action plan and some legislation, public administration reform still needs to be implemented. The most important legal acts remain to be adopted. Public administration and the coordination capacity of public bodies in Kosovo continue to be weak. Ensuring the delivery of public services to all people in Kosovo and establishing a professional, accountable, accessible and representative public administration is a key priority in the European Partnership for Kosovo.

### *Judicial system*

The Ministry of Justice continues to reinforce its administrative capacity. It has drafted a considerable number of new legislative acts in line with its legal reform programme. The Coordination Council for Rule of Law established in October 2007 has started to operate. It brings together ministries and agencies from the area of freedom, security and justice.

The Judicial Investigation Unit (JIU) under the responsibility of UNMIK continued to examine complaints of misconduct by Kosovo judges and prosecutors. A total of 164 cases were received in 2008, leading to the launch of 73 new investigations. The JIU found misconduct in 87 cases and forwarded these to the Kosovo Judicial Council (KJC).

In January 2008, the Statute of the Kosovo Judicial Institute (KJI) was approved. In March, the KJI adopted a three-year Strategic Plan.

The assembly approved the following laws between March and May 2008: the Law on Jurisdiction, Case Selection and Case Allocation of EULEX Judges and Prosecutors in Kosovo; the Law on Special Prosecution of Kosovo; the Law Supplementing and Amending the Provisional Criminal Code of Kosovo; the Law Amending and Supplementing the Law on Execution of Penal Sanctions; the Law Amending and Supplementing the Kosovo Provisional Code of Criminal Procedure and the Law on the Out Contentious Procedure.

Kosovo is cooperating well within the framework of the EULEX Joint Rule of Law Coordination Board and participates in its monthly meetings.

However, the weakness of the judiciary persists. The Ministry of Justice still has very limited technical and human resources. There is a low level of trust in the judiciary among the population. The absence of a constitutional court and inconsistent availability of the Official Gazette across the judicial system continue to hamper legal certainty in Kosovo. This problem is exacerbated by the continuing existence of three parallel sources of legislation (ex-Yugoslav law, UNMIK regulations and Kosovo law adopted following the declaration of independence). There is no compilation of judicial decisions and no judicial commentary in Kosovo.

The review of the March 2004 riots cases revealed continuing shortcomings involving prosecutors, courts and witnesses. The justice system failed to send a clear and strong message that ethnic violence would not be tolerated in Kosovo. The vigorous prosecution of all inter-ethnic crime is a key priority in the European Partnership for Kosovo.

Witness protection continues to be weak, if not absent, especially as concerns war crimes. War crimes cases are handled exclusively by a declining number of international judges and prosecutors. Many war crimes-related cases have not been forwarded to the prosecution. One conviction on war crimes was secured in May 2008. Seven war crimes trials involving fourteen defendants are underway and 51 other cases are under preliminary investigation. Due

to Kosovo's size, close-knit social fabric and the limited possibilities for relocating witnesses outside Kosovo, few witnesses are willing to participate in sensitive cases, such as cases on war crimes. There is still no specific legislation on witness protection that establishes procedures for witness relocation in the most serious criminal cases.

The Law on the Kosovo Judicial Council (KJC) is still to be adopted. Constitutional provisions entitling the assembly to appoint eight out of the thirteen members of the KJC are not fully in line with the European standards on the independence of the judiciary from the legislative and executive powers. The KJC's disciplinary system is slow and decision-making does not always stand up to scrutiny. To date, 57 disciplinary cases are waiting to be processed by the two KJC Disciplinary Committees.

The backlog of cases continues to be a serious problem, especially in civil proceedings. Available data do not provide a clear picture of the backlog. There is confusion between backlog and pending cases. At the beginning of October, the total of unsolved civil cases pending before the municipal courts of Kosovo stood at 160,477. There is no operational system for the execution of civil judgments. Furthermore, over 36,000 criminal cases are pending. Alternative dispute resolution, such as mediation, has not yet been implemented. Municipal courts, along with the police, lack the capacity to address, prevent and sanction illegal occupation, use and construction of property in an impartial manner.

The legislative framework is still incomplete. There are no laws in the following areas: notaries, executive procedure, prosecution, courts, constitutional court and Kosovo Prosecutorial Council. The strategy for the reform of the judicial system does not include a comprehensive plan to streamline the three sources of legislation and create legal certainty. Parallel courts applying Serbian law continue to operate.

The establishment of the Magistrate's School and the vetting process in the judicial system have provided an opening for young lawyers to become judges and prosecutors. However, new appointments in the judicial system remain limited.

The court system faces serious challenges from a human resources and organisational perspective. Transfer of judges from courts with a modest workload to those with an overload rarely takes place. The number of judges is still insufficient. The salaries in the judiciary have not increased since 2002. Judges are not covered by insurance or social security schemes. There is no legislation that specifies criteria for professional advancement. The average age of judges is high. Since 2001, almost no new judges or prosecutors have been recruited. Vacancies have only been filled through relocation. A system of appointment, dismissal and career promotion for judges and prosecutors in line with European standards and free from political interference has yet to be introduced and implemented.

Data collection in courts is unreliable. The new Case Management Information System (CMIS) needs to become more effective. Courts and prosecution offices have no budgetary competence for the procurement of small office items, which hinders routine activities. There is no clear division between judges dealing with penal or civil matters. Judges frequently switch between the two. There is no specialised administrative justice. The criteria for assignment of cases between the municipal and district level contribute to the overload of the district courts. Within the courts, case assignment does not follow objective and transparent criteria. Implementation of the Code of Ethics is weak.

The capacity of the prosecution to lead investigations in compliance with the principles of autonomy and impartiality is limited. Currently, only six out of the ten prosecutors due to be engaged in the Kosovo Special Prosecutors Office (KSPO) are working; this figure has been unchanged since 2007. Prosecution offices are understaffed and lack interrogation facilities. Detainees have to wait on average 1-1.5 years before their trial starts and conditions of detention of pre-trial detainees are not satisfactory. The absence of specialisation among prosecutors is a serious obstacle in the fight against organised crime, such as money laundering or the trafficking of human beings, which is a key priority in the European Partnership for Kosovo. Cooperation between police and public prosecution is poor and inefficient.

The Supreme Court is the only specialised legal institution for the review of administrative acts. However, it has only two judges, and over 2,000 cases are pending. Concerns remain as to the possibility of calling for a judicial review of administrative acts.

Overall, the judicial system remains weak at all levels. There has been little progress during the reporting period.

#### *Anti-corruption policy*

Corruption is still widespread and remains a major problem in Kosovo. This is due to insufficient legislative and implementing measures and a lack of determination and the weakness of the judicial system. An anti-corruption strategy and action plan remain to be adopted. The pursuit of a policy of zero tolerance against corruption is a key priority in the European Partnership for Kosovo.

The Law on the Prevention of Conflict of Interests entered into force. The assembly approved the Law on the Declaration and Origin of the Property of Public Senior Officials. The assembly has yet to approve the final draft Law on the Declaration of Assets.

In March 2008, the Kosovo Anti-Corruption Agency (KAA) submitted its first annual report to the assembly. By the end of September, the KAA had submitted 35 cases to the prosecution, which initiated seven criminal proceedings.

In the area of conflict of interests, the KAA intervened in nine cases from January to June 2008, and in a further four from July to September. In April 2008, the agency published a list of officials who had not declared their assets. In August, the agency asked the institutions employing 17 officials who had still not declared their assets to start dismissal procedures. KAA maintains confidentiality of denouncements.

However, corruption is still widespread and undermines the proper functioning of the institutions. A recent report from the office of the Auditor General (AG) showed unexplained losses to the Kosovo budget of €0.5-5 million per ministry per year. More attention needs to be devoted to the implementation of the existing legal framework. Officials who have not declared their assets need to be sanctioned in accordance with the law.

The institutional framework to tackle corruption is still unclear. The inter-ministerial Working Group on Anti-Corruption is not yet operational. The mandate of the Anti-Corruption Council and its role vis-à-vis the KAA remain unclear, and its composition (nine staff, including a representative from the Prime Minister's office and a representative from the President's office) does not sufficiently guarantee its political impartiality.



The delineation of responsibilities between the KAA and the Office of Good Governance, whose head is deputy head of the Anti-Corruption Council, has led to friction. Cooperation with the office of the Ombudsperson remains weak. The training provided to ministries' procurement offices is uneven.

The legal framework needs to be further improved to remedy differences in the definition of corruption between the current anti-corruption law and the provisional penal code. There is no law on the management of sequestered and confiscated assets. The implementation of the law on access to official documents needs to be improved. The development of a sectoral action plan to fight corruption and increase awareness of corruption within the public administration and in civil society is overdue.

Overall, despite some progress, corruption remains widespread and constitutes a very serious problem.

## **2.2. Human rights and the protection of minorities**

### *Observance of international human rights law*

The constitution of Kosovo guarantees human rights and fundamental freedoms and lists the main international agreements and instruments directly applicable in Kosovo. In case of conflict, the latter take precedence over local laws.

The assembly established a Committee on Human Rights, Gender Equality, Missing Persons and Petitions to review draft legislation and align it with EU and international legislation on human rights.

Human rights units have been established in the municipalities to ensure human rights monitoring and compliance at local level. They complement the human rights units at ministerial level. However, training for relevant staff has to be intensified to improve coordination. Monitoring mechanisms are not effective yet.

Some Kosovo judges have received training on the case law of the European Court for Human Rights and have started referring to it.

The Human Rights Advisory Panel established to address the lacunae in the jurisdiction of the European Court of Human Rights (ECtHR) and examine claims of human rights violations by UNMIK held its inaugural session in November 2007. Its rules of procedure were adopted in February 2008. The panel is currently examining a number of cases, some of which have been referred to the SRSG in accordance with the provisions of Regulation 2006/12. In March 2008, the panel launched a public information campaign to promote awareness of its mandate.

However, pending Kosovo's CoE membership, citizens do not have the possibility to lodge a complaint to the ECtHR as a last resort.

As regards **promotion and enforcement of human rights**, the monitoring capacities in Parliament, government and civil society are very limited, particularly as regards positive rights such as education, health and employment. By way of remedy, Kosovo citizens refer matters to the office of the Ombudsperson. However, amendments to the Law on the Ombudsperson aimed at strengthening his ability to monitor potential human rights' breaches of court decisions have not been approved yet. Most of the recommendations of the office of the Ombudsperson to the government are not taken into account.

The government's Strategy and Action Plan on Human Rights have yet to be approved.

Overall, despite some institutional and legislative progress, there is still a lack of capacity to implement and upgrade human rights standards in Kosovo.

### *Civil and political rights*

As regards the prevention of **torture and ill treatment** and the **fight against impunity**, the 2007 report of the Council of Europe's Committee for the Prevention of Torture has not been made public.

The 2007 Police Inspectorate report underlined the need to reform the legal framework for the use of force by the police and the shortcomings related to the follow-up of complaints against the police. The legal framework has been significantly improved through the adoption of the Law on the Police Inspectorate of Kosovo. Professional standards units examine alleged procedural and minor offences by Kosovo Police (KP) headquarters and the regional headquarters. In northern Kosovo this is done under the supervision of UNMIK. The police inspectorate, which is independent but reports to the Minister of Interior, is responsible for complaints about major offences, including those occurring in police detention centres. Pre-trial detention of juveniles can in practice take more than one year. The Ministry of Justice's human resources department is the main body dealing with complaints of misconduct in prisons and detention centres.

The Commission on Missing Persons continued processing cases. Between October 2007 and September 2008, 46 exhumations were initiated by the Office on Missing Persons (OMPF) and 62 remains were found and transferred for autopsy and identification. Since October 2007, the Commission received 150 positive reports of DNA concerning 102 individuals and returned the remains of 118 identified persons to their families. The Kosovo delegation on missing persons continued its regular coordinating activities with the Serbian delegation and the missing persons' relatives. Developments as regards missing persons are slow, due to both a lack of transparency from the authorities regarding the burial sites and difficulties in the identification of remains. The total number of missing persons stands at 1,940.

The Victim, Advocacy and Assistance Division within the Ministry of Justice provided assistance in 464 cases involving domestic violence and in 25 cases of trafficking of human beings. On the basis of Regulation 2003/12 on the fight against domestic violence, 30 protection orders were issued. In May 2008, the Kosovo Special Prosecutor's Office (KSPO) charged five defendants with trafficking in people, money laundering, and tax evasion and involvement in an organised group involved in recruiting and sheltering women from Moldova by means of coercion, including fraud, deception and threat, in order to exploit them as sex workers. Four defendants were convicted and sentenced to between five and six years' imprisonment and the payment of fines. There are currently nine further trafficking cases at the pre-trial and preliminary investigation stages involving 31 defendants/suspects.

Overall, the prevention of torture and ill-treatment and the fight against impunity have made limited progress.

In the area of **access to justice**, the legal aid system is now operational; it comprises the Legal Aid Commission, which has been fully operational since September 2007, the Legal Aid Coordination Office and five District Legal Aid Offices with a total of 21 staff, including thirteen lawyers and three staff from non-majority communities.

Between January and June 2008, the District Legal Aid Commissions helped 534 people with legal aid, including 256 involving administrative law cases, 214 civil cases and 64 criminal cases. 9% of applications were received from members of minority communities and 37% from females. Applicants are either provided with in-house legal aid by legal officers from the district offices or referred to solicitors for cases requiring court representation in civil and administrative matters. Responsibility for court representation of applicants in criminal matters remains with the courts. The Bar Association has established a training programme for lawyers involved in legal aid.

However, the offices are usually located far away from the courthouses and in remote areas of the relevant towns, which makes access to justice for all citizens difficult. Their existence is little known among the population and judges.

Performance of lawyers and their conduct in courts do not always meet the minimum standards. The Bar Association does not receive sufficient institutional attention. Lawyers frequently decline requests for legal assistance, thus violating their own Code of Ethics. Kosovo Serbs do not work in the Legal Aid Commission. The Ministry of Justice has yet to appoint a director for its civil rights department. The handling of mutual legal assistance requests in criminal matters and in extradition requests do not meet international standards.

Overall, some progress was achieved. The legal aid system is operational but requires further backing from all communities to improve access to justice for all.

As regards the **prison system**, the Kosovo Correctional Service (KCS) is operational, with UNMIK retaining a right to intervene in the case of a major incident.

The ratio between prisoners and prison staff is adequate. The living conditions for sentenced people, their health care and their treatment by the KCS are correct.

However, security in some correctional and detention centres is weak. This is especially true of the high security prison in Dubrava. Despite the issuing of a report on the escape from Dubrava prison in August 2007, follow-up to address deficiencies has been limited.

The reintegration needs of the prison population are not taken into consideration. There are too few specialised facilities for juveniles or for mentally disabled prisoners. Correctional facilities for juveniles do not adequately prioritise education, vocational training and after-care for released juveniles.

There is no plan for international cooperation to facilitate the transfer of Kosovan detainees from EU countries.

Minority representation in the KCS staff has decreased following resignations after the declaration of independence. All Kosovo Serb convicts are serving their sentences in the Mitrovica/Mitrovicë detention centre, which is not suitable for long-term detention.

Overall, the penitentiary system in Kosovo is operational, but serious challenges remain as regards strategic planning and security standards.

In the area of **freedom of expression**, no hate speech was detected in the print and electronic media during the reporting period. The independent Press Council for print media is functioning properly.

However, defamation remains a criminal offence under the Provisional Criminal Code, which is still valid.

There is political pressure on the media. Journalists from minority communities complain of difficult access to Kosovo institutions, which hampers their work.

The Independent Media Commission (IMC) for television and radio still faces severe budgetary limits, which hinder its basic functioning and efficiency and the recruitment of qualified staff. The IMC is not systematically consulted on issues relevant to its mandate.

Overall, freedom of expression remains fragile. The relevant institutional framework is not fully operational. The media continue to be vulnerable to political intimidation.

The Law on **Freedom of Association** in a Non-Governmental Organisation has not been promulgated yet. The assembly has not reviewed the Law on Public Gatherings and the law has not been promulgated.

The freedom of association and gathering is guaranteed under the constitution, but the relevant legal framework does not exist.

More than 4,600 **civil society organisations** are registered with the Ministry of Public Services (MPS), the vast majority of which are local. 529 registered NGOs are active in the area of minority rights and seventeen of these have multi-ethnic staff. The MPS NGO registration and liaison unit is monitoring 280 civil society organisations that have public benefit status and are entitled to financial support from the Kosovo consolidated budget. Some NGOs continue to be active in bridge building between communities. Significant efforts are being made to transfer expertise from international to local NGOs by means of partnerships and direct support to the establishment and functioning of local NGOs.

However, most civil society organisations are small and depend on short-term funding from mainly foreign single donors. This means that the civil society agenda is largely donor-driven. The government does not have a strategic approach for its interaction with civil society organisations.

Overall, civil society remains weak.

The Office for Good Governance (OGG) and the human rights units within municipalities are mandated to monitor the implementation of the Law on **Freedom of Religion**, which is a key priority in the European Partnership for Kosovo. The OGG has prepared a manual on the law, which was published in five languages in September 2008. A Roman Catholic cathedral is being built in the centre of Priština/Prishtinë. Police HQ drafted an operational directive entitled 'The Safety of the Cultural and Religious Heritage Sites'. The majority of cases involving incidents with regard to cultural and religious heritage between November 2007 and March 2008 have been solved.

However, the construction and use of places of worship has caused tension. The Law on **Freedom of Religion** contradicts some provisions of the Law on Education and has led to complaints regarding freedom of religion in schools. Ecumenical meetings between the religious communities in Kosovo have not been held during the past two years. Some religious leaders openly supported extremist parties during electoral campaigns. The prosecution of the destruction of religious sites in March 2004 has continued, but there have been delays, and sentencing did not always reflect ethnic motive as an aggravating factor.

Overall, the freedom of religion is assured in Kosovo, but more has to be done to advance reconciliation.

### *Economic and social rights*

In the area of **women's rights**, the government approved the Framework Programme for Gender Equality 2008-2013, which identifies objectives, policies and institutions involved in implementing the Law for Gender Equality. In June, the government submitted a report on the Gender Profile of Kosovo to the Convention on Elimination of all Forms of Discrimination against Women (UN CEDAW) covering the period 1999-2007. The Agency for Gender Equality (AGE) increased its capacity and its coordination work at the central level with the office of the Ombudsperson and the gender equality officers within ministries.

However, violation of women's rights is frequent. Kosovo remains a source, transit point and destination for trafficking in human beings. It is also affected by internal trafficking. There are no strategy documents or legislative mechanisms to address domestic violence. Shelters lack resources and need to be made suitable for longer-term stays of victims. The overlapping mandates of AGE and the OGG prevent a clear delineation of responsibilities and the efficient use of scarce resources, and undermine the intended outcomes of gender policies. The chief executive officer of AGE has yet to be appointed. AGE has neither database nor resource centre. The gender equality officers in line ministries and in municipalities are not always operative. There is no coordination of the bodies dealing with gender equality and no public promotion of gender equality. Equal representation remains a challenge at all levels; the target of a minimum of 40% of either gender set in the Law on Gender Equality has not been met.

Overall, the implementation of the Law on Gender Equality and the treatment of domestic violence require additional resources.

In the field of **children's rights**, a National Plan on the Rights of the Child is being prepared. The Ministry of Education, Science and Technology (MEST) has completed the Health Promoting School Strategy for 2008-2017. Three hundred Roma, Ashkali and Egyptian children were enrolled for the first time in ten pilot schools in seven municipalities through parental involvement and the implementation of municipal action plans for their integration in the local education system. A Mother and Child Health Office has been established as part of the Ministry of Health to improve access and quality of health care services for children. Perinatal mortality is declining. At municipal level, children's rights coordinators have been appointed. In the justice sector, a Steering Committee on Juvenile Justice has been established and the guidelines and standards for juvenile justice were developed and disseminated to develop the skills of judges and prosecutors.

However, child protection remains weak; budgetary allocations for education, protection and overall development of children are low. There is no monitoring of the special protection measures in the Juvenile Justice Code, and the imprecise reporting mechanism on the respect of the Convention on the Rights of the Child undermines accountability. The inter-ministerial Committee for Children's Rights created in May 2007 has not met. The National Plan for Children's Rights has not been finalized. The inclusion of the most marginalised children, including children with disabilities, remains a considerable challenge for the local institutions. Significant numbers of children lack birth registration documents, especially among Roma, Ashkali and Egyptian communities. Child trafficking and child labour persist. Children's awareness of the existing social services is low. The coordination and allocation of responsibilities for social services between the municipalities and central institutions do not

allow for the adequate implementation of children's rights. The lack of investment into early childhood development results in one of the lowest rates of pre-school attendance in the region. The integration of children with special needs into schools is insufficient. Uncontrolled urban development threatens children's safety.

In the area of the **socially vulnerable and/or persons with disabilities**, there is still no strategy for persons with disabilities. Reliable statistical data on the mentally and physically disabled do not exist.

The National Council for Persons with Disabilities is not operational. Consultations with the Organisation of People with Disabilities in Kosovo have been partial and fragmented. The two centres for physical rehabilitation are not managed by the Ministry of Health. People with disabilities have to pay for the rehabilitation services they receive. There is a lack of facilities for the mentally ill, drug addicts and alcoholics. There is a shortage of wheelchairs, crutches, sanitary devices and hearing aids.

Overall, little progress has been made in this area. The integration and protection of socially vulnerable groups and people with disabilities is not ensured. (*See also Employment and Social Policies*)

The human rights units in the line ministries received further training and they organised information sessions on the Law on **Anti-Discrimination**. The creation of a society free from discrimination is a key priority in the European Partnership for Kosovo. Confirming the provisions of the law, the constitution and also the anti-discrimination law protects people from discrimination based on sexual orientation. Police treatment of homophobic motivated harassment has improved after the training of municipal police officers on lesbian, gay, bisexual and transgender (LGBT) issues. There is no inter-ethnic tension among the LGBT community.

However, there is little progress to report on the implementation of the law. The capacity of human rights units at central and municipal level is low. Cooperation between the government and the office of the Ombudsperson has to be improved. Communication between central and local bodies is too rare to effectively follow up on possible breaches of the law. People living in rural areas and the lesbian, gay, bisexual and transgender community are not informed about the law. Homophobia is still widespread in the public and the media. The sentences passed for homophobic harassment do not specify harassment as motive.

Overall, little progress can be reported in the implementation of anti-discrimination legislation.

As regards **property rights**, which are a key priority in the European Partnership for Kosovo, the assembly adopted the Law on the Treatment of Illegal Construction. The Kosovo Property Claims Commission started its work under the auspices of the Kosovo Property Agency. The Kosovo Property Agency (KPA) registered 39,683 claims. In May 2008, UNMIK issued a directive which exempts property right holders from payment of utility bills accrued during periods of illegal occupancy of properties under KPA administration or where a tenant under the rental scheme failed to pay such bills. The scheme for rental of abandoned property in Kosovo allows the property rights holder to receive a fixed income from the property by authorizing the KPA to rent it out during a defined period. New members of the Supervisory Board of the KPA have been appointed. The board needs to finalise the procedure for the calculation and provision of compensation for successful property claims.

In June, a law was adopted to amend a regulation on property claims, transferring the competence of UNMIK for the KPA to the Kosovo authorities and the International Civilian Representative.

However, many displaced persons are awaiting the restitution of residential, agricultural or commercial property. The Law on Expropriation and the Law on Arbitration approved in 2007 have not been promulgated by the SRSG. The draft Law on Sales of Apartments Where Tenure Rights Exist passed its first reading in February 2008, but needs to be amended to prevent unlawful dispossession. The Supreme Court panel, which is supposed to decide on Kosovo Property Claims Commission (KPCC)-related appeals, has yet to be appointed. UNMIK's directive of May 2008 does not affect all property rights holders. Following the adoption of the law in June, the government of Serbia decided to suspend the offices of the KPA in Belgrade, Kragujevac and Niš. This puts the resolution of property claims filed by Kosovo Serbs at risk.

The implementation of the rental scheme is still unsatisfactory. Out of 4,338 properties managed by the KPA, more than 2,500 were included in the rental scheme. Rental agreements for more than 940 properties have so far been signed, but little rent is actually collected. There are currently 706 cases pending eviction for rent-related reasons, and approximately 40 evictions are carried out each week. There is still confusion about the transfer of cases by the KPA to local courts.

Widespread ignorance of building permits and urban planning systems also affects property rights. Expropriation measures undertaken by municipalities to allow for the construction of public infrastructure rarely comply with the official procedures, and municipalities often fail to inform and compensate property owners.

The municipal authorities in Mitrovica/Mitrovicë consider two former residential areas within the 'Roma Mahala' as public property, which is delaying the regularisation and return process. Cadastre departments of Kosovo's municipalities lack property documentation, and archives have not been harmonised, which results in complications for the verification of property rights of displaced people and Kosovo Albanians. NGOs working on return-related projects manage to obtain documents from Serbia and re-register the property in the cadastres in Kosovo, but this cannot be done by individuals without assistance.

The Action Plan on Informal Settlements has not brought substantive results. Housing conditions remain critical and endanger life in some areas.

Overall, little progress has been achieved in the area of property rights. Delays in implementing legislation and obstruction have led to violations of rights and tension among communities.

#### *Minority rights, cultural rights and the protection of minorities*

The government continued to work on the legal and institutional framework for the protection of religious and cultural heritage. The assembly adopted the Law on Special Protective Zones to protect in particular the Serbian orthodox sites in Kosovo. Amendments to ensure compatibility of the Law on Spatial Planning with the law on Special Protective Zones were also adopted. Seven implementing regulations allowing for the effective application of the Law on Cultural Heritage have been approved. Close to 3,000 sites and objects have been

identified for possible inclusion on the cultural heritage list. An inter-ministerial Working Group on Religious and Cultural Heritage (RCH) was formally set up.

After repeated attacks against religious and cultural sites – in particular Serbian Orthodox sites – earlier in the year, security of RCH sites is now generally assured. A private security company was contracted to protect the most vulnerable sites and complement the work done by the police. The Kosovo Police Operational Order for the protection of Serbian Orthodox sites was finalized. It now needs to be implemented. Law enforcement improved. The Peja/Pec district court convicted the person responsible for a rocket-propelled grenade attack against the Deçan/Dečani monastery in 2007. The trial has begun of the person suspected of stealing construction material from a Serbian Orthodox Church in Prizren. An MoU was signed between the customs service, the Ministry of Culture and the border and boundary police to improve law enforcement and set up cooperation to control the borders and protect movable cultural heritage.

Significant reconstruction work was carried out on eleven sites through the Reconstruction Implementation Commission (RIC) for Serbian Orthodox religious sites damaged during the March 2004 events. Several of these sites, including the Episcopal residence in Prizren, were handed over to the Serbian Orthodox church. The church is planning to re-inhabit these sites.

However, the adoption of legislation now needs to be followed by implementation. The Council for Cultural Heritage for which provision is made in the relevant law has yet to be set up. The inter-ministerial Working group on Religious and Cultural Heritage has not yet begun to hold regular meetings. The three laws on spatial planning, cultural heritage and special protective zones are compatible but their harmonised implementation needs to be ensured.

Construction activities in the direct proximity of religious and cultural sites pose the main threat to the historical and natural environment as well as monastic life. Unregulated economic development presents a potential risk for the future of religious and cultural heritage.

The decision of the municipality of Gjakovë/Đakovica to build a park on a piece of land that is the property of the Serbian Orthodox church, and thereby cover the foundations of a chapel destroyed in March 2004, is a matter of concern.

Kosovo's cultural heritage-related bodies still require institutional reform and adequate resources. Continued awareness-raising is needed to ensure a growing consciousness of the richness of cultural heritage in Kosovo. Communication between the Kosovo institutions and the Serbian Orthodox church needs to improve.

Overall, against the background of a volatile political situation and difficult challenges, progress has been made on the protection of cultural heritage in Kosovo.

In the area of education, recent laws on education at municipal level and on decentralisation increase the role of municipalities, including the possibility to choose the Serbian language curriculum. Turkish and Bosniak children are integrated into the Kosovo education system at elementary and secondary level; lessons are held in the Turkish and Bosnian languages and follow the Kosovo curriculum. Serbian students and the majority of Roma and Gorani students follow the Serb curriculum in schools and faculties under the jurisdiction of the Serbian government.



However, the absence of a Kosovo curriculum in Serbian created tensions with the Gorani community, the majority of whom opt for Serbian-language education. There are no text books in Turkish and Bosnian for secondary school pupils. Radio Television Kosovo (RTK) broadcasts in the Serbian, Bosnian, Turkish and Roma languages, in line with legal provisions. RTK covers 78% of Kosovo territory. The remaining territory is not covered by the RTK signal due to a poor distribution network and includes most Bosniaks, Turks, Gorani and Serbs living in Kosovo. This is an obstacle to minorities' rights to information.

The implementation of the 2006 Law on the Use of Official Languages at central and local level is hampered by the absence of municipal regulations and appropriate resources. The Language Commission and focal points are not working effectively. The Ministry of Public Services and the Ministry for Local Government have not carried out public awareness activities. Members of minority communities are not informed of the provisions of the law, especially in rural areas. The Roma language continues to be ignored in educational establishments and in local administration.

Overall, cultural rights legislation has been improved, but its implementation is poor.

Efforts have been made to upgrade the institutional and legislative set-up in the area of protection of minorities. The Office for Communities within the Prime Minister's Office was set up in September 2008. The constitution stipulates the rights of the communities, the establishment of a Consultative Council for Communities, and their representation in local government. The assembly adopted the Law on the Rights of Communities and their Members in March. In September, the President's Office established the Consultative Council for Communities by decree.

Minority communities continue to show confidence in the institution of the Ombudsperson. In 2007, 27% of the requests received by the Ombudsperson came from representatives of minority communities. No major ethnically motivated incident took place following the declaration of independence. Some progress can be reported in the field of security and freedom of movement for minority communities.

However, the living conditions of the most vulnerable communities have not improved. At central and municipal levels, the institutional framework responsible for minority communities has difficulty coping with their spread and variety. The proper implementation of legislation and its monitoring are not ensured. There is no strategy for reconciliation and inter-community dialogue.

Overall, improvement of the living conditions of minority communities depends on the streamlining of the institutional framework and the dissemination of information. The lack of constructive cooperation between Priština/Prishtinë and Belgrade complicates this process.

There are some 20,000 internally displaced persons (IDPs) in Kosovo, 206,000 inhabitants of Kosovo displaced in Serbia, and some 16,000 in Montenegro. The creation of a climate conducive to the return of displaced persons is a key priority in the European Partnership for Kosovo. In May 2008, a network of IDP associations in Serbia signed an MoU with the Kosovo Ministry for Communities and Returns to encourage the return of 60 families in Laplje Selo (a place different to their place of origin).

The UNHCR and the Ministry for Communities and Returns signed an MoU to strengthen the capacity of central and local institutions involved in managing returns. The majority of municipalities have endorsed their municipal returns strategies.

The Sustainable Partnerships for Assistance to Minority Returns to Kosovo (Spark Programme) implemented by the UNDP provides a framework for assisted voluntary returns. At the central level, the Central Review Mechanism (CRM) is to ensure consistency. The chair of the CRM, which reviews all voluntary return projects endorsed by municipal working groups, was transferred to the Ministry for Communities and Returns in 2007.

The government approved a Reintegration Strategy for Repatriated Persons to Kosovo in October 2007. The strategy seeks to ensure sustainable and lasting solutions for the needs of repatriated persons from abroad in the areas of health, education, employment, legal reintegration, social welfare, housing and property related issues. It also addresses the needs of vulnerable sections of society and minority communities. An action plan for the implementation of the reintegration strategy was finalised in April 2008.

Despite some incidents targeting returnees, the overall security situation in Kosovo during the reporting period remained relatively calm.

However, the pace of the returns process is very low and slowed down further following the declaration of independence. Since October 2007, about 700 individuals returned voluntarily, and about 2000 individuals were forcibly repatriated from asylum countries. Additionally, since January 2008, host countries requested Kosovo to readmit 2,900 persons. The reintegration strategy for repatriated persons is yet to be implemented. 'Go and Inform' visits and 'Go and See' visits, which aim to establish links between majority communities in Kosovo and the displaced were temporarily suspended, and resumed following an agreement in April between international organisations and IDP representatives. Structures created in 2005 to encourage a direct dialogue between Priština/Prishtinë and Belgrade on the return process are no longer operational. The last technical group on returns was held in 2007.

In some municipalities, IDPs stopped participating in the municipal working groups after the declaration of independence. Kosovo Serb municipalities generally do not participate in the relevant institutional mechanisms.

At the central level, administrative capacity and budgetary resources are insufficient, even though the 2008 budget for return increased by 35% (€7.14 million) compared to 2007. The Ministry of Communities and Returns has been confronted by a wide range of irregularities and management problems and has taken some measures to address them. Following the resignation of the incumbent minister, a new minister was appointed in September. At the local level, municipal teams are not properly equipped to implement return policies.

The Ministry for Communities and Returns still has no database on IDPs, which leads to confusion and uncertainty.

Overall, the return process has slowed down during the reporting period and remains a key challenge for Kosovo authorities.

Members of the Roma, Ashkali and Egyptian communities remain marginalised. The strategy to improve the education of children in September 2007 is not influencing school attendance by Roma, Ashkali and Egyptian children, which remains very low, especially for girls. The

level of employment of these communities is still much lower than the average. The majority does not benefit from social welfare and has only limited access to health care. Up to 40% of the estimated 34,000-strong community are not registered as residents of Kosovo, which prevents them from benefiting from administrative and social services. The strategy and action plan for their integration have not been adopted yet. Informal settlements remain a problem and living conditions are extremely precarious. Inhabitants of some camps for Roma IDPs suffer significant lead contamination, in particular in northern Kosovo where the relevant authorities failed to provide treatment and relocate the endangered population. Security remains a concern and incidents continue to go unreported. The conditions set to receive Kosovo citizenship are difficult to meet for members of the Roma, Ashkali and Egyptian communities.

Overall, the situation of Roma, Ashkali and Egyptians in Kosovo remains worrying and requires the full attention of the Kosovo authorities.

### **2.3. Regional issues and international obligations**

Full cooperation with the **International Criminal Tribunal for the former Yugoslavia (ICTY)** is a key priority in the European Partnership for Kosovo.

Co-operation between the government, UNMIK and the ICTY continued. In April 2008, the ICTY handed down its judgment in the case of Haradinaj et al. Prosecutors had been seeking a 25-year sentence for the accused. Ramush Haradinaj was acquitted on all counts. While a former leader of the "Black Eagles" (a special unit of the KLA) was also acquitted on all counts, another leader was found guilty on two counts (cruel treatment and torture) and sentenced to 6 years' imprisonment

In May 2008, the ICTY's prosecutor lodged an appeal to overturn the Court's verdict, arguing the trial had not been fair given the prevailing circumstances of intimidation and fear. The original judgement referred to the Trial Chamber having encountered significant difficulties in securing testimony from a large number of witnesses. It also specified that it had gained a strong impression that the trial had been held in an atmosphere where witnesses felt unsafe.

The Kosovo authorities have not investigated allegations of the trafficking of organs taken from Serb prisoners after the war of the late 1990s. The Parliamentary Assembly of the Council of Europe (PACE) has started work on a report on the inhumane treatment of people and illicit trafficking in human organs in Kosovo.

UNMIK has been the signatory on behalf of Kosovo enabling its participation in a number of international organisations and agreements (Energy Community, European Common Aviation Area Agreement, South East Europe Transport Observatory, CEFTA). The constitution of Kosovo envisages the Kosovo authorities ensuring its regional and international representation. However, the Kosovo authorities are not accepted as successor of UNMIK by some parties to these agreements. The ongoing reconfiguration of UNMIK foresees it facilitating, where necessary and possible, arrangements for Kosovo's continued engagement in international agreements. It is essential that Kosovo's representation and participation in multilateral fora be ensured, and that all parties demonstrate a constructive attitude towards this aim.

Kosovo continues to participate in regional cooperation initiatives. It was involved in work on the Stability Pact and the process of its transition to a more regionally owned framework with

the South East European Cooperation Process (SEEC) and the Regional Cooperation Council (RCC). The government has yet to nominate a representative to the RCC.

UNMIK regularly attends the joint committee and sub-committee meetings of the Central European Free Trade Area Agreement (CEFTA). The government has yet to nominate a representative to those meetings.

UNMIK took over the Presidency of the Energy Community Treaty from 1 January until 30 June 2008 on behalf of Kosovo.

Kosovo continues to implement the provisions of the European Common Aviation Area (ECAA). All transposition instruments for ECAA Phase 1 are in the process of being finalised and adopted.

Kosovo, through UNMIK, continues to attend meeting of the EU Charter for Small Enterprises. However, the government has not yet appointed the focal point within the Ministry of Trade and Industry.

Kosovo takes part in the South East Europe Transport Observatory (SEETO). In December 2007, UNMIK signed the Addendum on Railways to the SEETO MoU.

Kosovo participates in the Investment Compact initiative designed to improve the investment climate and encourage private sector development in the region.

Overall, Kosovo's participation in regional initiatives<sup>10</sup> needs to be pro-active and constructive. Continuity and sustainability should be ensured.

As regards bilateral relations with enlargement countries and neighbouring member states, Albania, Turkey, Montenegro and the former Yugoslav Republic of Macedonia have recognized Kosovo's independence. In June 2008, the establishment of the three-border junction point at Serupa marked the start of the process of demarcation of the border between Kosovo and the former Yugoslav Republic of Macedonia. Under the mediation and chairmanship of the International Civilian Office (ICO), a working group was set up between Kosovo and the former Yugoslav Republic of Macedonia and its first technical meeting was held in April 2008.

### **3. ECONOMIC CRITERIA**

In examining the economic developments in Kosovo, the Commission's approach was guided by the conclusions of the European Council in Copenhagen in June 1993, which stated that membership of the Union requires the existence of a functioning market economy and the capacity to cope with competitive pressure and market forces within the Union.

#### **3.1. The existence of a functioning market economy**

##### *Economic policy essentials*

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<sup>10</sup> Kosovo also participates in the Broadband Southeast Europe Initiative bSEE, Electronic Southeast Europe Initiative eSEE, Regional School for Public Administration, and the Southeast European Cooperative Initiative SECI.

The government of Kosovo presented an enhanced Medium Term Expenditure Framework for 2009-2011 (MTEF) which sets policy priorities, including economic growth and good governance<sup>11</sup>. However, the consistency and reliability of the policies remain fragile. This was illustrated by the revised budget proposed in the mid-year budgetary review in July 2008, which deviated substantially from the MTEF, revealing an *ad-hoc* approach to fiscal policy. In addition, persistent lack of coordination between line ministries, failure to follow procedures established in relevant laws and weak governance of State enterprises continue to damage the overall economic environment. The economy and economic policy formulation were affected by the general elections in November 2007, by the declaration of independence in February 2008 and by the lack of clarity about the magnitude and sequencing of the international presence during the transition. On 10 July 2008, Kosovo formally applied for membership of the International Monetary Fund and, subsequently, of the World Bank. Overall, political consensus on the fundamentals of market-oriented economic policies has been maintained, but the strategic medium-term approach has yet to be incorporated into government action.

### *Macroeconomic stability*

Shortcomings in statistics continue to hamper comprehensive assessment of the economic situation in Kosovo. Real GDP grew by an estimated 4.4% in 2007 after an increase by 3.9% in 2006<sup>12</sup>. Consumption by private households increased by almost 10% in nominal terms. Public consumption showed a different picture, as government wages grew by 2.5% and public consumption of goods and services by 1.4%. General government investment expenditure fell by almost 10% in 2007, as only 71% of budgeted investment was actually spent<sup>13</sup>. Donor-financed investment shrank by 7.7%, taking its share of total investment down to 4% from 5.5% in 2006. Total investment itself stood at 27% of GDP in 2007, up from 23% in 2006. Economic activity is increasingly determined by domestic factors and private sector dynamism, albeit remaining at a moderate level. Together with weak implementation of the capital budget, the unreliable energy supplies continued to be a major drag on investment and growth. According to IMF estimates, GDP per capita in 2007 stood at roughly €1,600 which is around 5.5% of the EU-27 average<sup>14</sup>. Overall, growth is slowly picking up from a moderate level while the unreliable energy supply, with several and lengthy power cuts a day, remains the single most serious restraint on growth.

The coverage ratio of exported to imported goods is still very low, reflecting the lack of export capacity and competitiveness, despite an increase in the 12-month moving average from 8.5% in 2006 to 10.9% in July 2008. The trade deficit widened further to 41% of GDP in 2007, compared with 37% in 2006. This trend continued into 2008, though at a slower pace. In the first seven months of 2008, exports of goods increased by 63% and imports by 27% compared to the same period a year earlier, bringing the trade deficit (goods only) to an estimated 42% of GDP. The current account deficit – including foreign assistance – increased from 12.2% of GDP in 2006 to 17.4% in 2007. It was mainly financed by foreign direct investment (FDI) inflows. On the back of accelerated privatisation activity and investments in the second mobile operator (IPKO) and the banking sector throughout 2007, FDI rose to 12.6% of GDP after 8% in 2006. However, a significant part of the financing remained

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<sup>11</sup> The MTEF served as guidance for the international donors' conference in Brussels on 11 July 2008.

<sup>12</sup> May 2008 IMF estimates.

<sup>13</sup> These figures do not include capital subsidies to publicly owned enterprises.

<sup>14</sup> Based on market exchange rates, because data for a PPP-based comparison are not available.

unexplained<sup>15</sup>, pointing to a large proportion of unrecorded financial flows. Workers' remittances stood at 12.9% of GDP in 2007 after 11.6% in 2006. The fall of net foreign assets of the commercial banking sector by 16% during the first half of 2008 indicates decreasing capital inflows to Kosovo. Overall, the external accounts of Kosovo remain precarious.

The poor availability and reliability of official employment data make it difficult to analyse labour market developments. At the end of 2007, the number of registered unemployed had increased by 2.6% compared with 2006 and.. 60% of the unemployed are unskilled, 47% are female and the share of long-term unemployed remains extremely high (93%). After a slight increase during the first months of 2008, the officially recorded number of unemployed almost returned to its end-2007 level over the summer months. In July it stood at 335,920 persons, up 0.4% compared to December 2007 and 0.9% compared to July 2007. The results of the Labour Force Survey 2007 revealed an unemployment rate of 43.6% (male 38.5%, female 55.2%), an activity rate of 46.5% (male 65.2%, female 28.3%) and an employment rate of 26.2% (male 40.1%, female 12.7%). Some 30,000 young people enter the labour market every year. At current growth rates, the economy cannot absorb this additional young and growing labour force. Also, the fact that the economy is starting from a weak productive base, the ongoing structural changes, partly linked to the privatisation process, and poorly defined and administered eligibility criteria for social transfers conservational contribute to sustaining the existing level of unemployment. However, partly due to the significant size of the informal economy, changes in registered unemployment may not correctly reflect the actual dynamics of the economy. Overall, registered unemployment remains very high.

Average yearly consumer price inflation rose to 4.4% in 2007 after 0.6% in 2006 and rose to 12.4% in the first eight months of 2008. Inflation picked up strongly in the second half of 2007, with year-on-year rates consistently above 10% since October 2007 and rising to 14% between May and July 2008. This development was primarily driven by food prices, which make up almost half of the consumer basket, and transport. Mostly due to a base effect, the annual inflation rate came down to 7.8% in August 2008. Inflationary pressures decreased due to the relaxation in international energy and food price developments. In 2007, broad money widened by 23.3% and the stock of outstanding loans to the private sector by 40%. To sum up, after years of low inflation, price tensions resurfaced, triggered by commodity price increases, even though they have eased recently.

Kosovo has started to earmark funds for notional debt servicing and to set up a liquidity and stabilisation reserve in its medium-term budget planning. In 2007, budget volatility increased, with revenue strongly exceeding and capital spending falling short of budgeted figures. This resulted in accumulation of substantial cash reserves and an unfavourable policy mix. Implementation of the 2007 budget produced (i) one-off revenue of €75 million from the sale of a mobile telephone licence; (ii) higher than planned revenue collection, thanks mostly to buoyant border tax receipts; and (iii) low capital spending. Together, these factors led to unintended strong fiscal tightening in 2007, with a surplus of 7.2% of GDP, reflecting the poor quality of budget planning and implementation. The 2008 budget is expansionary and diverges from the fiscal rule that real current primary expenditure should rise by not more than 0.5% year-on-year. Instead, it is set to rise by probably more than 10% over last year's outturn. Budgeted capital expenditure is almost triple the 2007 outcome and the trend was accentuated in the July 2008 mid-year budgetary review, while the MTEF already

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<sup>15</sup> This is summarised in the net errors and omissions component in the balance of payments.

acknowledges that actual outcome will probably fall short of this figure by some 30%. Current budget execution figures suggest an even higher shortfall, as capital expenditures continue to underperform, reaching only 20% of the annual plan in September, while revenues performed roughly as expected. Overall, the budget is not an efficient instrument of fiscal policy and does not contribute to the predictability of economic developments. Instead, it just responds to ad-hoc spending pressures.

Kosovo continues to rely on the euro as its currency in use. In the absence of an autonomous monetary policy, this leaves the budget as the core tool for macroeconomic policy in Kosovo. However, due to the poor budgetary planning and implementation, as displayed by the unintendedly strong fiscal consolidation in 2007, followed by an expansionary budget plan in 2008, the overall policy mix remains inadequate and budget volatility has increased.

#### *Interplay of market forces*

In 2007, the private sector's share of overall consumption, investment and imports increased further. Private investment rose by an estimated 37% in 2007, up from 26% in 2006. Privatisation continued at a brisk pace until late 2007, when it came to a sudden standstill after a ruling by the Special Chamber of the Kosovo Supreme Court called into question the method of privatisation. These concerns have been partly addressed in a new Law on the Privatisation Agency of Kosovo (PAK) and the privatisation process slowly resumed after the summer. However, further legal issues remain to be resolved and the agency has yet to come into operation. All publicly owned enterprises were incorporated by the end of 2007 and new legislation allows their privatisation<sup>16</sup>. Overall, the expansion of the private sector continued in 2007, but entered an uncertain phase in 2008, marked by the standstill in the privatisation process in the first half of the year.

#### *Market entry and exit*

The number of registered businesses in Kosovo stood at approximately 86,000 in June 2008. However, a substantial share of these are not active. Improvements have been made in the "one-stop shop" facilities for business registration, but fixed costs for doing business, such as work and construction permits, remain high. The unreliable energy supply, limited access to finance, corruption and poorly defined property rights hinder market entry and exit. With the aim of facilitating exits, the Law on bankruptcy has been approved. Overall, difficult and costly enforcement of contracts aggravates access to finance and is continuing seriously to hamper the business environment.

#### *Legal system*

In June 2008, the Kosovo Property Agency (KPA) started to deliver the first decisions taken by the Kosovo Property Claims Commission (KPCC) to claimants. The KPCC has adjudicated 8,329 out of 39,589 property claims submitted to the KPA. However, in June the government of Serbia subsequently decided to suspend the offices of the KPA in Belgrade, Kragujevac and Niš, stating that the KPA had failed to protect the rights of Serb citizens whose property in Kosovo had been illegally occupied by third parties. Corruption, criminal activities and uncertainty over property rights remain major impediments to economic

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<sup>16</sup> This included clean opening balance sheets which in turn would facilitate eventual future privatisations.

development. In general, use of courts for enforcement of contracts remains underdeveloped, while at the same time courts continue to face a heavy backlog of pending cases.

### *Financial Sector development*

The financial sector in Kosovo is continuing to grow. Seven commercial banks, nine insurance companies and two pension funds are operating in Kosovo. Four new banks entered the market in 2007 and 2008. So far, the international financial crisis has not had a material impact on the financial sector in Kosovo, as local banks have no direct exposure to sub-prime first-wave effects and are in a favourable liquidity position. However, currently unwinding second-wave effects may have an impact via the mostly foreign mother companies of local banks. In May 2008, the Central Bank of Kosovo signed Memoranda of Understanding with the Turkish and Croatian financial sector supervisory authorities, adding to similar frameworks in place with the respective institutions of other countries from the region.

The banking sector holds 88% of financial sector assets and is dominated by foreign banks and remains highly concentrated, with the three largest banks holding 83% of the total assets. Its profits rose by 68% in 2007. The degree of financial intermediation in Kosovo increased further, though from a still modest level. The share of banking sector assets in GDP grew from 37% in 2006 to 43% in 2007. The volume of loans increased from 21% of GDP in 2006 to 27% in 2007. Loans grew by 40% year-on-year, mainly financed from the increase in deposits. In the first half of 2008, the loans to deposit rate increased to 85%. This high rate signals rising liquidity problems in the economy. Additionally, loans are predominantly long-term, while deposits are short-term, revealing a maturity mismatch. The quality of the loan portfolio in Kosovo's banking sector is showing some signs of deterioration: non-performing loans accounted for 4.1% of the total loan portfolio (0.4 percentage points up from 2006). However, profitability and liquidity indicators for the first half of 2008 remain favourable, even though they are slightly deteriorating. The interest rate spread between deposits and loans is very wide and shows only a slow downward trend (decreasing to 11.3 percentage points in 2007 from 11.8 in the previous year). Sectors do not enjoy equal access to finance: The vast majority of loans goes to trade (57.6% in the first half of 2008, down from 61% in the same period 2007), followed by services (17.6%, up from 14.9%) and industry and energy (13.4%, up from 11.8%). The ineffective enforcement of creditor rights and of contracts in Kosovo pushes up costs for financial institutions and undermines the value of collateral.

The insurance market is also dominated by foreign companies and is still very small with assets accounting for only 2% of GDP in 2007. A set of risk-based capital and reserves requirements for the insurance sector was devised by the central bank to strengthen the capacity of the industry. Also, a legal framework has been established for life insurance products and for liberalisation of tariffs. Overall, the financial sector remains profitable and financial intermediation has deepened further, though at a low level. Access to finance is still uneven and hindered by weak enforcement of contracts and high borrowing costs.

### **3.2. The capacity to cope with competitive pressure and market forces within the Union**

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



In general, Kosovo has developed an appropriate legislative and institutional framework for a functioning market economy. However, implementation and enforcement of this framework remain weak. One prominent issue is electricity, where theft and non-payment of bills continue to be tolerated and contribute to inefficient use of a scarce resource. Energy supplies also suffer from a poor governance structure and weak management of the energy provider (KEK) combined with underinvestment, despite constant high subsidies from the budget, vested interests and weak political will to change the situation. Additional factors, such as the wide-spread tax evasion and corruption together with extensive use of undeclared labour, lead to a price system where several prices for the same goods or service co-exist, with negative consequences for overall market efficiency and transparency. Growth in 2007 is considered to be due entirely to the private sector's resilience in an environment of low public investment and further declining donor support. Overall, uncertain property rights and poor enforcement of contracts, corruption and insufficient energy supply as a result of weak governance of the provider KEK and infrastructure continue to weigh down the competitiveness of Kosovan businesses, the business climate and the reliability of market allocation mechanisms.

### *Human and physical capital*

Kosovo remains affected by lack of adequate education facilities and poor-quality teaching. The overall enrolment rate in education has shown no significant increase in recent years. It is especially low in secondary and higher education, and drop-out levels are high. The share of education in overall budget expenditure increased to 17.3% in the first half of 2008. Active labour market policies such as vocational training continue to face severe capacity constraints. For lack of physical facilities and trainers, only a small fraction of the annual age cohort arriving on the labour market benefit from such measures. To address these constraints, a regional centre for professional qualifications has been built in Priština/Prishtinë.

The transport infrastructure (roads and railways) in Kosovo is limited in scope and condition. It is not well connected with regional networks, and maintenance expenditures have been inadequate even though some upgrading of the road infrastructure has started in the Priština/Prishtinë area and concerning the regional connections to Skopje and Peja. Road density stands at only 3.3 km per 1,000 inhabitants and rail connections with Serbia have been difficult after Kosovo's declaration of independence.

Mobile telephone penetration has increased rapidly and had reached an estimated 50% by mid-2008. Partly due to the entry of the second mobile telephone operator, the high-speed telecommunications infrastructure is improving, the range of products is widening and prices are falling. Overall, the weak technology base (combined with lack of price competitiveness), the weak state of physical infrastructure and the small pool of qualified human capital remain major impediments to a well-functioning and competitive market economy.

### *Sectoral and enterprise structure*

Regulatory authorities have been set up for all major network and commodity industries, but their capacity remains weak. In several instances, the potential positive effects of liberalisation have not been able to materialise due to weak corporate governance or, in the case of the mining sector, continued social unrest. Kosovo cannot yet trade energy on a level playing field with its neighbours due to unfinished integration into regional electricity trade agreements. Generation and distribution of electricity are still bundled in the poorly

performing energy provider KEK. There have been few changes in the enterprise structure, which remains dominated by micro-enterprises. However, development of the financial sector has helped to increase the share and dynamism of the services sector. Trade data for 2008 point to some structural improvement in the food processing sector, in terms of import substitution of processed foodstuffs. The informal sector remains large. Overall, there has been little change in the sectoral structure of the economy.

#### *State influence on competitiveness*

In 2007, cash subsidies to public entities remained stable at the 2006 level. But in 2008 this level had already been reached during the first six months<sup>17</sup>. Although the government did not intervene as bluntly as in 2007, inaction against wide-spread electricity theft remains a huge indirect subsidy in addition to subsidies paid from the budget, and it continues to undermine the credibility of the independent electricity regulator. The inaction of the authorities is also eroding competitiveness, especially of medium-sized to large producers. These cannot resort to the informal economy to the same extent as micro-enterprises and small businesses which mainly operate in the service and the trade sector. Consequently, the weak administration and rule of law are contributing to a rigid business structure which in turn makes it difficult for the private sector to achieve important economies of scope and/or scale. Overall, continued direct and indirect State subsidies, combined with a poor level and quality of public services, are hampering private-sector competitiveness.

#### *Economic integration and convergence with the EU*

The openness of the economy, measured by the value of imports plus exports in goods and services as a percentage of GDP, increased to 62% in 2007, up from 56% in 2006<sup>18</sup>. Base metals and base metal products continued to account for almost half of goods exports in 2007 and their share increased further to 66% in the first seven months of 2008. Exports of goods during this period were up 63% compared with the same period in 2007, with exports to the EU almost doubling. Imports of goods increased by 21% in 2007 and by 27% in the first seven months of 2008. Mineral products (mainly oil) remain the largest import category (21% of total imports during the first seven months of 2008).

The CEFTA and EU Member States continue to be the two main trading partners for Kosovo with equal shares of 37.5% of total trade in the first half of 2008. The share of exports bound for the EU increased from 38% in 2006 to 42% in 2007 and further to 50% in the first seven months of 2008. The EU's share of total imports remained at around 35-36%. The real effective exchange rate based on the consumer price index started to increase steadily in mid-2007, after a modest depreciation in 2006 by 2.8%<sup>19</sup>. Clearly, the recorded export performance was not spurred by increasing price competitiveness. Overall, economic integration with the EU has increased.

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<sup>17</sup> Partly due to a strike at the Office of the Auditor-General in May and June 2008, the audit report on the 2007 budget was not available at the time of drafting the progress report. The audit report is the most relevant source on subsidies to State-owned enterprises.

<sup>18</sup> These figures are significantly lower than in last year's report, due to an upward revision of GDP.

<sup>19</sup> IMF estimates.

## 4. EUROPEAN STANDARDS

### 4.1. Internal market

This section examines Kosovo's capacity to gradually approximate its legislation and policies with those of the *acquis* related to the internal market, sectoral policies and justice, freedom and security, in line with the Stabilisation and Association Process and the European Partnership priorities. It also analyses Kosovo's administrative capacity. In each sector, the Commission's assessment covers progress achieved during the reporting period, and summarises Kosovo's overall level of preparation.

#### 4.1.1. Free movement of goods

There has been some progress in the area of **standardisation**. The Kosovo Standardisation Agency (KSA), which is responsible for both standardisation and accreditation, has increased its staff from five to eight employees.

The KSA is not a member of any European and international standardisation organisation. In the absence of membership, the KSA is able, under the terms of a Memorandum of Understanding (MoU) with the Ministry for Economy, Trade and Energy of Albania, to adopt and distribute European standards within Kosovo. CEN and CENELEC have agreed to this MoU. In 2008, 665 European standards (ENs) were adopted as Kosovo standards. One new technical committee was established in the field of electrotechnical standards.

Kosovo adopted legislation on machinery, textiles/fibres and cableways (ski lifts), aimed to ensure alignment with European standards. The Professional Standardisation Council (PSC) and five technical committees on standards have been established in the areas of construction, oil and gas products, transport and postal services, quality, management, and electrotechnical devices.

There is no progress to report on **conformity assessment**. At present no conformity assessment bodies have been accredited or designated in Kosovo. Accreditation is not mandatory for designating conformity assessment bodies.

Limited progress was made on **accreditation**. An Accreditation Board has been established and new procedures have been adopted for the accreditation of both testing and calibration laboratories, and inspection bodies. A memorandum of understanding on accreditation was signed with Albania.

There has been some progress on **metrology**. The Law on Metrology strengthens the role of the metrology department as an executive agency within the Ministry of Trade and Industry (MTI), which has eleven staff. In addition, the MTI has set up a Council for Metrology. The members of the Council include representatives of the ministry, universities, national health institutions and private business. Its task is to make recommendations and advise on metrology-related issues. The assembly adopted three new pieces of implementing legislation on metrology, all in the area of precious metals.

**Market surveillance** is at a preliminary stage and much remains to be done to ensure a market surveillance system that is *acquis* compliant.

No progress can be noted in the area of **consumer protection**.

Overall, preparations to establish the necessary horizontal infrastructure needed for the *acquis* on free movement of goods are at an early stage. Considerable efforts are still needed in order to develop this infrastructure and to upgrade the relevant administrative capacity to ensure adequate alignment with European standards and implementation. Compliance with European standards in the area of free movement of goods is affected by a lack of administrative capacity and financial resources.

#### *4.1.2. Movement of persons, services and right of establishment*

Limited alignment has taken place on the free **movement of persons**. The movement of persons within Kosovo itself is hampered by the political situation, and by real and perceived security threats, in particular between the North and the rest of Kosovo. Overall alignment remains very limited.

Limited progress can be noted with regard to the **freedom to provide services**. The legal framework for the freedom to provide services and the **right of establishment** is still very fragmentary. Alignment with European standards is limited.

There are no developments to report in the area of **company law**.

Overall, little progress can be reported in this area.

#### *4.1.3. Free movement of capital*

There has been some progress concerning free movement of capital.

With regard to capital movements, the Central Banking Authority of Kosovo (CBAK) adopted a more flexible policy on capital equivalence deposits, facilitating access by branches of foreign banks to their paid-in capital at the CBAK. Following the entry into force of the constitution, the CBAK was transformed into the Central Bank of Kosovo. It took over the authority to license, supervise and regulate financial institutions.

The regulation and supervision of banks need to develop significantly. The banking sector should be able to effectively support the economy by providing modern services and long term financing.

No development can be reported on payment systems.

No progress took place concerning legislation on money laundering. Overall, the basic institutions that are in charge of money laundering co-operate with each other. The government launched an action plan on the fight against money laundering. However, the lack of expertise of the judiciary and law enforcement in investigating and judging complex economic crime remains problematic. The Kosovo Special Prosecution Office still lacks local and specialised prosecutors. The fight against money laundering remains a challenge.

Overall, the legislation on circulation of capital movements is partially aligned with European standards, and there has been some progress as regards administrative capacity. However, substantial efforts are still necessary, as regards both legislation and implementation capacity.

#### *4.1.4. Customs and taxation*

There was some progress in the area of **customs**.

The Customs Service received the new EU blueprints on customs, laying down clear criteria based on EU best practice against which to measure its own operational capacity and establish plans for future customs reform, and to prepare for compliance with international rules and standards.

In June 2008, a new regulation entered into force, which establishes customs procedures to enable customs to take action against counterfeit goods, pirated goods and goods infringing certain intellectual property rights.

Integrated Tariff of Kosovo (TARIK) information is timely and fully adapted to the most recent updates of the Harmonised System (HS) and the (2008) Combined Nomenclature; also TARIK is operational in the two official languages of Kosovo, and in English.

Since the destruction of the two border posts in northern Kosovo in February, smuggling activities have increased. Both Kosovo and Serbia continue to suffer substantial losses in revenue. KFOR has been checking the papers of lorries passing through, but it does not carry out regular customs checks. Lorries are being directed to the Mitrovica/Mitrovicë terminal for customs clearance. Anti-smuggling units of the KCS have started patrols on all roads coming from northern Kosovo. Following the declaration of independence, most Kosovo Serb customs officials resigned.

Almost 75% of all tax revenue is collected at the border. Despite the lack of regular customs checks at the two border points in northern Kosovo, overall revenue collected by the KCS for January – September 2008 was 12% higher than revenue collected for the same period in 2007.

The capacity of customs has increased, in particular with the procurement of one mobile scanner for goods which is located at the largest crossing point with the former Yugoslav Republic of Macedonia and of three scanners for baggage checks, one of which is assigned to the anti-smuggling unit. Co-operation with neighbouring countries has improved. Administrative instructions on disciplinary procedures and the declaration of property are in place to complement the Code of Disciplinary Procedures and raise professional standards.

However, the capacity of the customs service to enforce customs legislation needs to be strengthened further, in terms of training, equipment risk analysis, post-clearance controls, and IT support. Substantial efforts are still needed to ensure the effective implementation of customs legislation, in particular as regards counterfeit goods. The issue of extending customs controls to northern Kosovo remains open.

Overall, Kosovo's customs legislation is in line with European standards. Significant efforts are needed to ensure the effective implementation of the legislation on the ground, given that customs provide a significant portion of overall public revenue. Particular efforts are needed to enforce legislation to combat counterfeit goods and smuggling.

There has been no progress in the area of **taxation**.

The Tax Administration of Kosovo (TAK) improved its performance. Overall TAK revenue was some 12% higher in the first seven months of 2008 compared to the same period in 2007, reversing the negative trend of the last few years. The review of Kosovo's legislation with regard to its compliance with the Code of Conduct on Business Taxation has just started.

Tax compliance needs to be increased for both personal and corporate income tax, as well as VAT.

The capacity of the TAK remains weak. Its Management Information System is not yet operational. Major efforts are needed to improve services to taxpayers. Kosovo's tax legislation is only partially aligned with European standards. Further alignment is needed, as well as significant efforts to ensure its effective enforcement. Tax collection remains extremely weak and the informal economy is widespread, as controls are limited.

#### *4.1.5. Competition*

No progress can be reported.

The Competition Commission (CC) is not yet operational. The assembly has yet to appoint the candidates selected for this commission. Kosovo needs to finalise the establishment of the CC, including the allocation of the necessary resources. The law on **State aid**, the purpose of which is to establish an Office for State Aid within the Ministry of Economy and Finance, has not yet been adopted.

Overall, the Kosovan provisions for competition are not yet in place.

#### *4.1.6. Public procurement*

The Public Procurement Law (PPL, amended in 2007) is the central piece of legislation in this area. It is broadly in line with European standards, although a number of provisions of the directives adopted in 2004 have not been implemented. The same applies to the more flexible regime devised for the utilities sector. Discrepancies between different language versions of the legislation have been reported, which must be corrected to ensure legal certainty. The PPL defines the procurement procedures in detail and focuses much more on the procedural requirements than is common in most EU countries, where these are usually included in implementing legislation.

The PPL provides the legal basis for the Public Procurement Regulatory Commission (PPRC), the Public Procurement Review Board (PPRB), and the Public Procurement Agency (PPA). The PPA currently has 13 employees. Its main function is central purchasing. It also performs some technical and regulatory functions in cases where procurement procedures are implemented by contracting authorities directly. It has developed a database to record and monitor procurement. This tool makes a significant contribution to the effectiveness of statistics and management of public procurement.

The PPRC is an agency responsible for the overall development, monitoring and review of the procurement system. It consists of five members nominated by the government and appointed by the assembly for five years. At least three members should have the same qualifications as those required for judges. The PPRC has 18 support staff. The new Procurement Review Body (PRB) provided for in the amendment of the PPL was set up in July and is a quasi-judicial body. Its role is to review administrative decisions issued by central procurement institutions and appeals and complaints from tenderers. The success of the new PRB depends on the allocation of sufficient resources and its building on an authoritative track record of review decisions.

Training and certification of procurement officers in contracting authorities has been suspended because of a lack of cooperation between the Kosovo Institute for Public

Administration and the PPRC. The certification of procurement officers is valid for one year only.

Overall, some progress can be reported in this sector. The PPL is in line with European standards, including the review procedures but the implementing provisions are still not in place and the responsible administration is not yet sufficiently operational. Commitment from all stakeholders is needed so as to consolidate the progress made to date.

#### *4.1.7. Intellectual property law*

On the subject of intellectual property, there is only limited progress to report.

No progress can be reported concerning copyright and related rights.

Concerning industrial property, the assembly adopted the Law on Customs Measures in Respect of Intellectual Property Rights (Regulation 2008/22). Implementation began in June 2008. The law enables the customs to take action against piracy, counterfeiting and other infringements of intellectual property rights.

The Office of Industrial Property (OIP) is an independent agency responsible for the implementation of the laws on patents, trademarks and industrial design. It is fully operational and began receiving and registering applications in November 2007. It has four staff and has received some 1,300 applications to date. The Ministry for Trade and Industry (MTI) approved two administrative instructions: one concerns fees for registering industrial property rights, the other concerns the revalidation of industrial property rights originating from the Yugoslav era.

Overall enforcement remains very weak. High levels of counterfeiting and piracy persist. Kosovo is not yet able to implement and enforce its national legislation and its international obligations in this field. The administrative capacity to implement intellectual and industrial property rights is insufficient and implementing provisions are still needed.

Overall, Kosovo's preparations in the field of intellectual and industrial property remain at a preliminary stage. Implementing capacity is limited.

#### *4.1.8. Employment and social policies*

The Ministry of Labour presented the 2007 Labour and Employment Annual Report for Kosovo in April 2008. However, high costs associated with the Kosovo Employment Strategy (2008–2013) have prevented its adoption.

Registered unemployment in Kosovo accounts for 43% of the economically active population. A total of 334,595 persons (compared to 327,262 persons in 2006) were registered unemployed by the Kosovan public employment services by end 2007; 93% of all registered job seekers have been registered for more than 12 months.

Among the long-term unemployed, the most disadvantaged groups are women, Roma, Ashkali, Egyptians and persons with disabilities. The current disability benefits system acts as a disincentive to persons with disabilities who wish to seek work; disability benefits are only available to those who do not work or participate in vocational training.

An area of concern is female employment. Young women experience higher unemployment rates than men and are more often in low quality, part-time and fixed-term jobs.

Youth unemployment is particularly high in Kosovo, at almost five times the EU average. The Kosovo Youth Employment Action Plan has yet to be implemented.

The Ministry of Labour and Social Welfare has little administrative capacity. The current ratio of Public Employment Service officials to support job seekers is 1:1,600. As a result, there are no clear arrangements or procedures to develop, manage, monitor and evaluate policies and their implementation. Employment policies are also being developed without the involvement of the private sector, an aspect which undermines their effectiveness.

Overall, very little progress can be reported in the employment sector. The absence of a strategic and legislative framework and a lack of administrative capacity are obstacles to the development of adequate employment policies in Kosovo.

As concerns social policies, there are no specialised labour courts in Kosovo.

Little progress can be noted in the area of health and safety at work. The lack of adequate legislation and political commitment is preventing further achievements in the sector. The Labour Inspectorate, which is responsible for the enforcement of employment legislation, and in particular the provisions of the Law on Occupational Safety, Health and the Working Environment, lacks the capacity to carry out its tasks effectively.

Very limited progress can be reported in the area of social dialogue. There are currently 28 sectoral trade unions registered in Kosovo. However, social partners are weak and their role in decision-making is marginal. The Tripartite Advisory Council is not operational. The National Collective Agreement, concluded in 2004, has never been implemented owing to financial constraints. Kosovo still lacks a trade union law and a law on strike action.

In the area of social inclusion, home care services for mental and psychiatric disorders are provided. Some community mental health centres and residential housing have been established under the authority of the Ministry of Health.

However, Kosovo has no action plan on disabilities. Kosovo lacks rehabilitation facilities for the social reintegration of disabled people. Rehabilitation and re-socialising of people with physical disabilities is managed by non-governmental organisations only. Access to secondary schools of people with special needs is not ensured.

In the area of anti-discrimination policies, the government declared September 2008 "anti-discrimination month", and organised several public events and training sessions to provide civil servants and the general public with more information on Kosovo's anti-discrimination policies.

Social protection covers four broad areas; (i) pension programmes to support the elderly and the disabled; (ii) social assistance programmes to support those particularly in need; (iii) veterans' programmes for those injured during the war and for families of those killed or missing, and (iv) assistance to find jobs so as to be able to support their families. The social protection system is financially unsustainable and not organised efficiently. Some 325,000 people are covered by a social scheme. 45% of the Kosovo population live in poverty and 18% in extreme poverty. Tackling fraud in this area continues to be a challenge. The Ministry of Labour and Social Welfare has limited capacity in this regard. There is no adequate IT



mechanism for monitoring. The government has submitted amendments to the Social Assistance Law to simplify its implementation and introduce some flexibility as regards eligibility. In the area of social services and institutional care, there is no adequate updated legislation. The social services system remains centrally managed. Decentralisation is being hampered by financial constraints and limited capacity at municipal level. There are no professional social workers in Kosovo with adequate experience and competence. The pension scheme has been changed to increase benefits to those who have contributed to the old Yugoslav pension fund for more than 15 years. Some 132,421 people are currently receiving benefits under the basic pension scheme.

The social security system remains cash-based. Kosovo does not have a health insurance fund.

In the area of public health policy, the assembly adopted the Law on Public Health in February 2008. Reliable health statistics are not available, which makes an analysis of this sector difficult. Infant and maternal mortality remain the highest in the region. The incidence of communicable diseases is alarming and on the increase. Health-related infrastructure, including medical equipment and hospital capacity, is under-developed.

In general, the health sector is very poor and requires increased attention by the government.

Overall, employment and social policies remain weak.

#### *4.1.9. Education and research*

The government has identified **education** as a priority for its social and economic development. It is committed to expand inter-ministerial cooperation and to invest more resources in this sector (some € 170 million for the period 2009-2011). The assembly adopted the National Qualifications Framework Law in May, institutionalising the qualification and certification procedures through the establishment of a National Qualifications Authority.

The assembly adopted the Law on Education in the Municipalities, which was promulgated in June. The law aims to regulate the organisation of public educational institutions and the provision of public education at the pre-primary, primary, lower secondary, upper secondary and higher education levels in the municipalities. The law defines the competences and responsibilities of central government and municipalities in the area of education.

The Council of Vocational Education and Training became operational in 2008.

A feasibility study for a 'Sector-Wide Approach in Education' was carried out under the auspices of the Ministry of Education, Science and Technology (MEST) with the participation of a broad range of stakeholders, including civil society. It identifies ways for donors to contribute more efficiently to education reform. As a follow-up, working groups and a donors' coordination unit have been established.

The MEST stepped up its efforts to improve the quality of both teaching and learning. The government's ambitious school building programme focuses on the densely-populated urban areas. The Head of the Kosovo Accreditation Agency was appointed in March. The ministry is developing higher education curricula that are complementary to labour demands. Kosovo has consolidated its participation in the European Tempus and Erasmus Mundus programmes. The Tempus structure has been strengthened and broadened to include the Serbian-speaking public university. Following the conclusions of a Bologna-compatible evaluation, Kosovo suspended enrolment in all but one of the private higher education providers; the extension of

their licence to operate is subject to a future accreditation process run by the Kosovo Accreditation Agency starting 1 October. The MEST is in the process of revising the curricula in Vocational and Educational Training (VET) for 51 profiles.

However, Kosovo's education system continues to be affected by resource and budgetary constraints, a lack of adequate facilities and poor quality of teaching. Teachers' motivation is seriously hampered by low salaries and the inadequate career system. The cooperation between the ministry, social partners and the private sector is underdeveloped, schools are still working in shifts and the government has not made any investment in early childhood development. In addition, not all children received free textbooks as guaranteed by law. Participation in post-compulsory education and training is among the lowest in Europe. The Kosovo Accreditation Agency is not yet operational. Quality assurance is not in place and there is no monitoring mechanism.

In addition, parallel and ethnic-based structures using different curricula and textbooks are a source of segregation. There has been no progress as regards the inclusion of the Roma, Ashkali and Egyptian communities into the mainstream education system. The relevant legislation and strategy are poorly implemented and teachers with minority language skills are in short supply. VET is separate from general secondary education and not aligned with the emerging needs of a market economy. Kosovo has no alternative provision for post-secondary education and training. The lack of accreditation of VET providers undermines confidence in the VET certification scheme. Respective co-ordination with the Ministry of Labour is not efficient.

As far as **research** is concerned, the MEST and public universities have demonstrated an interest in research activities. Discussions were held to consider a more effective participation by Kosovo under the Seventh EC Framework Programme for Research. The ministry has set up a Department of Science and Technology and established three new bodies devoted to research: the National Council for Science, the Centre for Innovations and Transfer of Technology, and the Centre for International Co-operation in the field of Higher Education, Science and Technology.

However, the ministry has taken no steps to develop the research and development capacity of universities in partnership with industry. Initiatives by the higher education providers remain very limited.

Overall, the efforts observed to reform the education system deserve sustained support in order to entrench tangible quality improvement. Some progress can be reported in approximating to EU standards.

As concerns research, some progress was made [but no overall research policy was adopted or specific measures taken to improve research cooperation and integration into the European Research Area.](#)

#### *4.1.10. WTO issues*

The government considers WTO accession a priority. It has yet to submit a formal application.

## 4.2. Sectoral Policies

### 4.2.1. Industry and SMEs

Limited progress has been made in the area of **industry and SMEs**. As regards the business environment, one-stop shop facilities have been improved, thereby reducing the number of administrative steps required to start and run a business. On-line registration with the Business Registration Agency has been made available.

Kosovo is gradually developing a more comprehensive set of business support services, including business parks and incubators. Business consultancy services are supported by several donors. There have also been positive developments as regards the availability of micro-credit and donor finance. However, proper coordination is lacking.

The Ministry of Trade and Industry's SME Support Agency is responsible for facilitating SME development. Its administrative capacity remains insufficient; on-line applications and tools are not fully operational. Meetings of the Consultative Council on SMEs representing governmental and non-governmental institutions have been suspended. The Investment Promotion Agency, which offers free services to attract foreign investment, continued its activities. It still has only one office abroad, in Austria.

There is no progress on the development of regulatory impact assessments (RIA).

Kosovo has participated in the implementation of the European Charter for Small Enterprises and remains committed to it. Kosovo needs to appoint a new co-ordinator for the Charter process and to strengthen the SME Agency to enable it to take over from UNMIK technical assistance.

Kosovo has adopted an entrepreneurship learning strategy, which introduces entrepreneurship in the secondary education curriculum. Implementation is pending.

Overall, preparations in the field of industry and SME remain at an early stage. Obstacles to running SMEs remain high and access to finance is difficult. Improved coordination of numerous donors' support to SME should increase SME aid and policy effectiveness.

### 4.2.2. Agriculture and fisheries

There are few developments to report as regards alignment with European standards. Laws on organic agriculture and apiculture were promulgated by the SRSG in January 2008. The assembly has not yet adopted the food law. This continues to delay the development and enforcement of related implementing legislation and the establishment of a single Food Safety Agency. Adoption of the law is required to clarify the division of responsibilities in the area of food safety, in particular between the Ministry of Agriculture and the Ministry of Health.

There is no clear separation of responsibilities between the different services in the agricultural sector (including the veterinary and phytosanitary administration) and definition of relations between central, local and municipal levels.

Government spending on the agricultural sector in the 2008 Kosovo Consolidated Budget (KCB) increased by 32% compared to 2007, albeit from a low base. There is increased funding, both from the KCB and donors, including for substantial projects for land consolidation and advisory services. The agricultural sector in Kosovo is facing strong

competition from imports and needs investment in order to modernise the sector. Farms are too small and lack modern technologies to improve their ability to compete in the domestic and international market.

The Vinery and Agricultural Institution was established in March 2007. Action to regulate the wine sector and implement the Law on Wine in accordance with the *acquis* is still pending.

A start has been made on implementing aspects of the **Agricultural and Rural Development Plan (ARDP)** for 2007-2013, which was adopted in 2007, in particular concerning land consolidation. An updated ARDP action plan is due to be approved later this year, which will include concrete and detailed measures for a number of agricultural sub-sectors. The updated plan needs to be brought gradually into line with the EU approach towards rural development in potential candidate countries. However, financial resources for the implementation of the plan are limited. The legal framework for the implementation of the ARDP and the establishment of the implementing institutions of the ARDP are still at a very preliminary stage. Without the legal basis, even the current limited financial resources cannot be spent. With assistance from an EU-funded project the first Local Action Groups were established and their Local Development Strategies based on the LEADER+ approach were developed for five municipalities (Klina/Klinë, Štimlje/Shtime, Suva Reka/Suharekë, Srbica/Skënderaj and Gnjilane/Gjilan).

Some progress has been made in the development of a policy and a regulatory framework to support viable land reform and protect agricultural land against unplanned urban development. However, illegal logging, hunting and construction on agricultural land are continuing. Despite the decentralisation of the Kosovo Forest Agency to Regional Forestry Directorates, there is no sustainable forest management system.

In the **veterinary and phytosanitary** area, plans to upgrade agri-food establishments are only at a preparatory stage. The Kosovo Veterinary and Food Agency has licensed 32 slaughterhouses. There are no facilities for processing animal by-products in Kosovo.

The legislation and infrastructure is in place for carrying out efficient animal identification, registration and movement control although this is not properly enforced. The animal identification, registration and movement control system for cattle is in place but its fully operational character is questionable and still needs to be confirmed. Veterinary legislation on the control of animal diseases and phytosanitary matters, aiming to comply with European standards, is being implemented.

There have been no developments as regards **fisheries**.

Overall, there has been some legislative progress in the areas of agriculture, veterinary and phytosanitary matters, although further efforts are required to implement and enforce this, particularly in veterinary and phytosanitary matters.

#### 4.2.3. *Environment*

The Ministry for Environment and Spatial Planning (MESP) has taken steps towards developing an integrated framework for environmental legislation. The Kosovo Environmental Action Plan is connected to a total of 16 sectoral plans. However, only four of the 52 projects envisaged for the period 2007-2010 have been implemented so far. Local environmental action plans for five municipalities have been signed.

Some progress can be reported in the area of **horizontal legislation**. Following the adoption of provisions on Environmental Impact Assessment (EIA) through the Law on Environmental Protection, implementation is beginning. Some efforts have been made to increase public awareness and civil society participation in environmental matters.

There are no developments to report in the area of **air quality**. Relevant legislation is still lacking, and Kosovo still has no air quality monitoring network.

Little progress has been made in the area of **waste management**. Three municipal dumpsites, in Đakovica/Gjakovë, Kačanik/ Kaçanik and Prizren, have been rehabilitated. The Kosovo Trust Agency (KTA) has incorporated all 17 water, waste and irrigation enterprises. The low level of waste bill collection remains a problem for the waste utilities.

There is little progress to report in the area of water quality. One water permit was issued. An administrative instruction on criteria for defining protected drinking water zones and water resources was adopted. The Water Law provides for the establishment of a River Basin Authority, which will be responsible for water resource management in the territory of the river basins. The budgetary implications and the accountability of this institution still have to be addressed. The future responsibilities for the operation and maintenance of publicly owned enterprises and assets in the water sector, which will be transferred to the municipalities, need to be determined. The management responsibilities for urban wastewater treatment and flood control will also need to be defined. Water management forms a key element in the Environment Action Plan, given the growing scarcity of water in Kosovo and the region. The low level of collection of water rates remains a problem for water utilities.

No progress has been made in the field of **nature protection**. Transposition of the Wild Birds Directive and the Habitats Directive is still pending.

No progress has been made on **industrial pollution control and risk management**.

There has been little progress in the area of **chemicals**. The law on chemicals has been promulgated.

There is no progress to report in the area of **genetically modified organisms (GMOs)**. A law on the protection against **noise** entered into force in March 2008.

As regards **administrative capacity**, the Environmental Protection Agency is now fully staffed and operational. However, the human and financial resources of the MESP and related institutions (both at national and at local level) are still far from sufficient to address Kosovo's environmental challenges. The Environmental Protection Advisory Board is not yet established. Both vertical and horizontal coordination between all institutions involved in environmental issues need to be significantly improved. Investments in environmental infrastructure will need to be substantially increased, in particular through support from international donors. The responsibility of the municipalities is currently limited due to lack of capacity in both personnel and funding.

Overall, there is limited progress to report in the field of environment, in particular as regards horizontal legislation. Further efforts are still required in most sectors for the transposition, implementation and enforcement of legislation. The lack of human and financial resources, both at national and at municipal level, remains a problem; the same applies to a lack of

appropriate coordination mechanisms between all institutions dealing with environmental protection.

#### 4.2.4. *Transport policy*

There has been some progress in the area of **trans-European transport networks**. Kosovo continues to participate actively in the Core Regional Transport Network and in the South-East European Transport Observatory (SEETO). It is updating and implementing the multi-annual plan 2008-2012. Continued cooperation within SEETO is required. Both projects - Route 7, linking Nis to Priština/Prishtinë and Albania, and Route 6 linking Montenegro to Priština/Prishtinë and Skopje - are included in the multi-annual plan 2008-2012 as government priorities in the Medium Term Expenditure Framework. The contract for constructing a section of the R7 (around 20 km from the border with Albania) is currently in the bidding process. A Transport Planning Unit within the Ministry of Transport and Telecommunications (MTT) has been established; it lacks the resources and political support to carry out its mandate. However, transport infrastructures remain poor and under-developed in Kosovo. Institutional and administrative capacity needs to be significantly strengthened, as well as the legal framework for Public-Private Partnerships (PPPs).

In the area of **road transport**, some progress can be reported. The Law on Road Safety entered into force and eight administrative instructions on the creation of a Road Safety Council in co-operation with other relevant line ministries have been adopted. A roads database is now operational. A substantial allocation of funds under the KCB (€93 million overall) has now been devoted to ensuring adequate and higher quality road maintenance and road rehabilitation. Several administrative instructions on driving licences and technical inspection of vehicles have been issued. The criteria for licensing public transport operators need strengthening to improve the regulation of Kosovo's public transport.

Very little progress can be reported in the **rail transport** sector. The Law on Kosovo Railways entered into force in June 2008 and provides the legal basis for the future establishment of a Railway Regulatory Authority, (RAA) independent from the MTT. The RAA has not yet been established, pending the nomination of its board members. UNMIK signed the "Addendum to the Memorandum of Understanding on the Development of the South East Europe Core Regional Transport Network for a South East European Railway Transport Area" in December 2007. Kosovo is a member of the Rail Working Group established under the SEETO framework.

Railway transport is not a government priority. Railways infrastructure and rolling stock, as well as the level of railway services, remain at a very low level. Compensation offered to railways for the provision of public passenger service does not cover costs.

No progress can be reported in the area of **combined transport**. Kosovo still needs to adopt a multi-modal transport strategy and implement it.

In the area of **air transport**, there has been some progress. The Law on Civil Aviation entered into force in June 2008, superseding previous UNMIK regulations on CARO (the Civil Aviation Regulatory Authority). In September 2008, the Director of the Civil Aviation Authority (CAA) to succeed CARO was appointed, but the government still has not nominated the CAA Board Members. Kosovo continues to implement the provisions relating to the European Common Aviation Agreement. All transposition instruments for ECAA Phase 1, including some legal provisions from ECAA Phase 2, have been drafted but not yet

adopted. Alignment of standards should be accelerated. A number of investments in Priština/Prishtinë Airport have been made as part of the preparations for ICAA Standard Aerodrome Certification.

Overall, some progress can be reported in the field of transport, particularly in aviation. There have been few developments in the railway and combined transport sectors. Kosovo has increased investments in the transport infrastructure in 2008, especially road building and maintenance. However, implementation capacity remains weak, especially in the railway sector.<sup>20</sup>

#### 4.2.5. Energy

The energy sector continues to face severe problems. The electricity utility's financial situation is extremely precarious, mainly due to the extremely low level of power billing and collection. As a result, electricity supply remains uncertain and unreliable in Kosovo, especially in remote areas. Power cuts are still frequent.

The government's programme for 2008-2011 identifies the development of the energy sector as one of its main priorities. The programme puts particular emphasis on the continued restructuring and liberalisation of the sector and the use of Kosovo's lignite reserves for electricity production and export. In September, the government adopted a formal decision to privatise KEK. The government also is planning a major increase in public investment to the sector, mainly to strengthen the transmission and distribution network and to continue work on the new mine at Sibovc.

There has been no progress as regards **oil stocks** and **nuclear safety/radiation protection**. In the area of nuclear safety/radiation protection, basic rules need to be implemented and an appropriate and operational regulatory body needs to be set up. Important radiological issues include the management of sealed radioactive sources, environmental monitoring and radiation protection in the context of medical and industrial applications. Attention needs to be paid to preventing and combating illicit trafficking of nuclear and other radioactive materials within Kosovo.

As far as the **internal energy market** and the implementation of the Energy Community Treaty (ECT) are concerned, results have been mixed. The Ministry of Energy and Mining (MEM) adopted rules on energy efficiency. The network distribution code was approved by the Energy Regulatory Office (ERO) as required by the ECT. This sets out the terms and conditions for connection to low/medium voltage networks and for use of the network system. The ERO also approved the metering code and the methodology for transmission connection charges. The government did not meet the ECT requirement to introduce unbundled accounting between the coal mines division, power generation, network distribution and supply by mid-2008. The aim of this requirement is to create conditions for the future privatisation of assets of the Kosovo Electricity Corporation (KEK). Due to disagreements between the government and the regulator, the requirement to adopt the authorisation procedure for new generation capacities was not met. There has been limited progress as regards the unbundling of KEK distribution and supply functions. The same applies to the establishment of a Distribution System Operator (DSO) as prescribed by the ECT. Kosovo

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<sup>20</sup> DG TREN made extensive comments to the conclusions of the energy and transport chapters, with few suggestions for the body of the text.

needs to make further progress in establishing and implementing the legal framework of the ECT. The institutional and legislative capacity of both the MEM and the ERO needs further strengthening. Attracting qualified staff remains a problem.

KEK's revenue billing and collection remains poor. Non-payment of electricity consumed - whether through lack of billing, non-payment of bills, or electricity theft - represents a major challenge for KEK and is the main reason for its insolvency and the ongoing unsustainable inflation of demand for power. Despite a slight improvement during 2007 (which has continued during 2008), technical and financial losses in the electricity sector continue to be high. In 2007, technical losses accounted for 16.2% of demand; theft 22.4%; and other commercial losses 21.4%. In short, fully 60% of demand is not paid for and KEK lost some €99 million last year. Vigorous and increased efforts (involving police and judiciary) are needed to increase electricity billing and collection rates.

Kosovo's electricity transmission system operator (KOSST) is a member of the South East Europe Transmission Systems Operators (SETSO). However, it continues to encounter difficulties at the level of SETSO's technical working groups on inter-transmission compensation and cross-border trade mechanisms. KOSST is not remunerated by the Serbian transmission system operator for the electricity transiting through its grid.

Progress has been achieved in the gradual introduction of electricity prices that reflect cost. The Energy Regulatory Office (ERO) tariff methodology provides for a gradual introduction of cost-reflecting tariffs through annual increases, to avoid the bills becoming disproportionately high for vulnerable social groups. At the same time it provides a lifeline tariff for low-income customers. ERO launched the second electricity price review in October 2007. The ERO published a consultation paper in March 2008 with its comments and views on the 2008 transmission and retail tariffs. The new tariffs are on average 5% higher than in 2007. The ERO board approved these tariffs once its new members were appointed, and the tariffs became effective on 1 July. According to the social scheme of the Ministry of Labour and Social Welfare, some 40,000 customers receive electricity (500 kWh) paid for by the Kosovo budget (€4.5 million).

Preparations for the development of the new Kosovo C power plant (Lignite Power Development Project) slowed down in 2008, as the government decided to review the entire project. The project envisages constructing up to 2,000 MW of new capacity, supported by the expansion of lignite-mining operations at the Sibovc field with major assets to be given in concession to private investors (including elements of the Kosovo A and B power plants). An international transaction advisor had reviewed and approved the pre-qualification and started a structured dialogue with the four short-listed bidders to develop the bidding package. In the autumn, the transaction advisor intends to finalise the request for proposals to be issued to the short-listed bidders. Final bids are expected by the end of May 2009. According to the most optimistic timetable, and subject to legal matters being resolved, financial closure should follow within a year, i.e. by end 2009.

However, the timing of the Kosovo C package does not tie in well with the need to begin developing the new Sibovc SW Mine. Existing lignite sources at Bardh and Mirash are expected to run out by 2010, whereas Sibovc is unlikely to begin yielding lignite before 2012, having experienced from delays in the process for the procurement of overburden removal systems such as excavators, conveyors and spreaders. The government has provided funds for opening an additional mine (Sitnica mine) adjacent to Mirash, which will partially cover the coal demand until 2012. To bridge the gap, KEK intends to use some existing equipment



without refurbishment to start digging overburden in Sibovc SW. All these efforts are aimed at reducing the risk of having to purchase costly power imports at continuously rising market prices.

The financial viability of the Kosovo C project in the longer term and its impact on the environment continue to give a cause for concern. Kosovo will have to comply fully with the provisions of the ECT as regards the EU *acquis* for new power generation projects (i.e. in the areas of energy, environment and competition). In addition, full compliance (according to the ECT) with the Large Combustion Plant Directive by 2017 will result in the closure of the remaining operational units of Kosovo A.

In addition, the government is committed to making substantial efforts to address commercial losses and electricity theft, including through improved cooperation with the judiciary and the police. It also places a stronger emphasis on the promotion of **renewable energy** sources, including hydro power plants, and on **energy efficiency** measures, although government funding for both is limited. An EU funded pre-feasibility study to assess the potential of renewable energy sources (excluding hydro potential, which was assessed in a separate study), which was completed in early July, found that there is considerable potential for solar and biomass, whereas wind and geothermal potential is very low. The study recommends demonstration projects to install water-heating solar panels in individual and collective dwellings, given that about 20% of electricity consumption is used for heating tap water.

Overall, there has been some progress in the area of energy, particularly in building up the institutional capacity of the Ministry, Regulator and Transmission System Operator (KOSTT). The Kosovo C thermal power plant project is progressing well. However, there are major problems to be solved, which include improving the financial viability of the power utility (by reducing commercial and non-technical losses), increasing the stability of supply and halting the unsustainable inflation of demand, upgrading infrastructure and resolving Kosovo's impending lignite shortfall. There is no progress to report with regard to nuclear safety and radiation protection.

#### 4.2.6. *Information society and media*

Some progress can be reported as regards **electronic communications**. In the mobile telephony sector, the second mobile operator has become active on the market. After adopting the regulatory framework for introducing mobile virtual network operators (MVNOs) in Kosovo - enabling further liberalisation and competition between mobile services - the Telecommunications Regulatory authority (TRA) issued two MVNO licences in 2008.

In June, the assembly adopted amendments to the telecommunications law, aimed at strengthening the independence of the TRA. It also transferred all functions in respect of spectrum allocation and management to the TRA. The Telecommunications Regulatory Authority (TRA) and the Independent Media Commission (IMC) cooperate on the review of frequency management plans.

The TRA adopted a Regulation on ways of resolving conflicts between telecommunications service providers in November 2007.

The implementation of the sector policy (adopted in May 2008) has been delayed, due to a lack of cooperation between the relevant authorities. There is no progress to report as regards increasing competition in the fixed telephony market. Kosovo is at an early stage of

liberalisation; none of the competitive safeguards, such as carrier selection, carrier pre-selection, number portability and local loop unbundling, have been decided on. Kosovo still does not have its own international phone code.

Administrative capacity in the Ministry of Transport and Telecommunications (MTT) and in the TRA is insufficient. The levels of human resources and expertise do not enable it to function adequately. According to the Telecommunications Law, the TRA should be funded through licence fees.

There are no developments to report as regards **information society services**.

Regarding **audiovisual policy**, the work of the Independent Media Commission (IMC) is affected by the lack of sufficient human and financial resources. Re-licensing broadcasters in Kosovo requires substantial technical and legal assistance, which is beyond the IMC's current capacity.

With 22 staff, the IMC lacks human resources and continues to be confronted by financial constraints. It employs two minority staff members. The assembly appointed the last two members of the IMC Council in March.

The IMC Council issues licences, decides on their renewal, and grants rights of broadcast frequency usage to authorised entities. The IMC is not systematically consulted by other institutions. Attributing responsibilities for frequency spectrum allocation to the TRA has deprived the IMC of revenue.

The Minority Media Fund, which awards grants to media for minorities, multi-ethnic groups and the disadvantaged, has effectively been suspended. It distributed no grants in 2007, despite RTK transferring €176,000 to the Fund. The draft Law on the Management of the Minority Fund has not been finalised.

Out of a total of 113 licensed broadcasters in Kosovo, 43 are from minority communities.

The programme scheme of the State broadcaster (RTK) is in line with Article 6 of the Law on RTK. Some 16% of its programming is in minority languages.

Kosovo's Press Council and the Kosovo Media Institute are functioning properly. However, there remains a legal inconsistency between the Law on Defamation and Insult and the penal code. Although the Law on Defamation and Insult decriminalised defamation in 2007, under the existing UNMIK penal code defamation remains a criminal offence.

The Kosovo Media Institute (KMI) is a non-profit organisation, with a managing board comprising ten members who represent different Kosovo media. The KMI started in December 2006, with the primary aim of becoming a training and capacity building centre for local journalists. It serves the electronic press, and national, local and minority media.

The Law on Access to Information provides for the appointment of an Information Commissioner, which is still pending. The Law on Copyright still has to be implemented.

The funding of the RTK continues to be problematic. The RTK law allows the IMC to set advertising thresholds (of up to 20%) year on year. Setting thresholds annually, which usually match the variations in licence fees, hampers the RTK's capacity to plan for investment or expansion. Ministry of Finance treasury guidelines for the RTK law are too stringent.

There are no developments to report as regards the adoption of relevant legislation implementing the Law on Advertising Thresholds.

Little progress was made in the area of freedom of expression and media regulation. The Press Council and the Media Institution are functioning properly, in spite of difficulties in attracting and retaining qualified staff. Market liberalisation progressed slightly as a second mobile telephony operator started to offer its services. However, the various regulatory bodies face budgetary restrictions and outside pressure

#### 4.2.7. *Financial control*

The assembly adopted a new Law on Public Financial Management and Accountability (LPFMA). The LPFMA provides for the establishment of a central unit for the harmonisation of financial control, whose role is to develop financial control rules for the public sector and to regulate the financial management and accounting system.

The government is reviewing the Internal Audit Law. The operational independence of internal audit and the harmonisation with EU standards are due to receive particular attention. In November 2007, the central harmonisation unit for internal audit became operational. This unit develops standards, trains internal auditors, monitors internal audit developments, and provides quality assurance on internal audit work.

Most organisations with budgetary responsibilities, including municipalities, have acquired a minimum level of audit capacity. However, overall audit capacity needs to be reinforced. Managerial accountability, in particular, needs to be strengthened further.

As regards **external audit**, the assembly adopted a new Law on the Auditor General (OAG). The law regulates the transfer of external audit competences from UNMIK to the Kosovo authorities. The OAG is to remain an independent institution, reporting to the assembly.

Overall, there has been some progress in the field of financial control.

#### 4.2.8. *Statistics*

There has been only limited progress in the area of statistics.

The **statistical infrastructure** is weak. The lack of independence of the Statistical Office of Kosovo (SOK) is an area of concern. The resources for the work of the Statistical Office are inadequate and the coordination of the statistical system has been weak. Several ministries have been collecting statistics, which fall within the remit of SOK.

In the area of **classifications** and registers, there is no progress to report. Compliance with EU and international classifications was very limited. The area needs substantial further development.

As regards sectoral statistics, there has been minor progress in the area of economic, business and agriculture statistics. Pilot surveys have been conducted for producer price indices and business statistics. The findings were used as sources for the national accounts. Initiatives were taken to develop tourism statistics. In the area of macro-economic statistics, the development of national accounts continues. In March 2008, the SOK adopted a new methodology to estimate household consumption.

The preparations for the population and housing census have been the main issue as regards demographic and social statistics. Preparatory technical work has been carried out and will be tested by means of a small-scale pilot census.

Overall, limited progress can be reported in the field of statistics. SOK is not an independent producer of official statistics. The SOK has insufficient administrative and coordination capacity. Progress made is generally confined to the areas where assistance has been given.

### **4.3. Justice, freedom and security**

#### *4.3.1. Visa, border, control, asylum and migration*

Kosovo has no **visa** regime. The Kosovo Police (KP) has only a limited degree of control on the movement of persons into and out of Kosovo.

The Law on Foreigners was adopted in February and promulgated in June. It includes detailed provisions for the naturalisation of foreigners in Kosovo.

In February 2008, a Law on Travel Documents was adopted. In May 2008, the Ministry of the Interior (MoI) started to produce Kosovo passports. The distribution of these passports started in July. The passports are machine readable, but do not carry biometric features. Their security features include UV-print, fingerprint imagery and black and white silhouette.

As regards **border and boundary issues**, the assembly adopted the Law on Integrated Border Management and Border Security in May. The government approved its Integrated Border Management Strategy in November 2007, but has yet to issue the corresponding action plan. The Border and Boundary Police (BBP) services of Kosovo have started to cooperate with their counterparts in Albania, the former Yugoslav Republic of Macedonia and Montenegro.

The structural set-up of the Ministry of Interior allows for overlap and does not lay down a clear distribution of tasks. The capacity of the Directorate for borders, asylum and migration within the Ministry of Interior remains insufficient. The range and combination of its responsibilities are a cause for concern. The number of representatives of the Kosovo Serb community in the BBP has decreased substantially following the declaration of independence. The BBP has no control over some crossing points. Responsibility for the control of the green border remains with UNMIK. The BBP carries out some joint patrols with KFOR.

The demarcation process for the border with the former Yugoslav Republic of Macedonia started in June. Sixty-nine out of the 70 planned main border pillars have been placed. The boundary with Serbia is not demarcated. The border with Montenegro is not demarcated either, and the border with Albania is only partly marked. There are a number of unofficial or seasonal border crossings that are not controlled or controlled only in part by the Kosovo authorities. There are still no formal integrated border management (IBM) agreements with neighbouring countries.

The BBP has neither appropriate communication systems to collect and exchange data on exit and entry, nor access to criminal records of people wanting to enter or exit Kosovo. The IT system used at the three main border crossings is not compatible with equipment used in the EU. There is no exchange of intelligence with other parts of the Kosovo police.

Cooperation between the different Kosovo agencies involved in IBM is improving. However, there are no formal agreements on operational cooperation between the various actors. Further

efforts are needed with regard to staffing levels and training for the officers involved in border management.

The assembly adopted a Law on **Asylum** in May. The MoI department for borders, asylum and migration has continued to build up its management capacity. However, the department has limited capacity to handle asylum cases. There is no reception centre for asylum seekers or involuntary returnees. Kosovo receives very few applications for asylum.

There has been little progress on **migration**. In January 2008, the directorate for borders, asylum and migration took over responsibility for the handling of returnees from third countries. There is still no Law on Migration.

Overall, there is little progress to report in the field of border control and asylum. The capacity of the Border and Boundary Police to carry out effective border and boundary control, in particular in northern Kosovo and on the green borders, remains to be significantly improved.

#### 4.3.2. *Money laundering*

The fight against financial crime is a key priority in the European Partnership for Kosovo.

An action plan on money laundering was adopted in August.

The Financial Intelligence Centre (FIC) is the supervising entity for non-financial institutions. The Central Banking Authority of Kosovo (CBAK) supervises the financial institutions. There is good cooperation between the FIC, the CBAK and customs. Cooperation with the judiciary and law enforcement bodies has improved, as recent high-profile cases have demonstrated. Training courses have been organised by the Kosovo Police (KP) to enhance the financial investigation capacity within the organised crime directorate.

However, the lack of expertise of the judiciary and law enforcement in investigating and judging complex economic crime remains problematic. The Kosovo Special Prosecution Office has a shortage of local and specialised prosecutors. There are no facilities for the proper storage of evidence. Communication between the Kosovo Police (KP) economic crimes and corruption investigation section and the regional units dealing with financial crime remains poor, and there is still no common database. Observance of reporting obligations by non-banking institutions is insufficient. Cooperation with the Kosovo tax administration is lacking. The Law against Money Laundering is not adequate and there is insufficient follow-up of reports of suspicious transactions. There is virtually no oversight of the real estate sector. Combating money laundering is characterised by a division of competences between various local and international bodies.

Overall, progress in combating money laundering has been insufficient. Money laundering continues to be a very serious problem.

#### 4.3.3. *Drugs*

Kosovo is located on the Southern Balkans' heroin trafficking route. Heroin shipments from Turkey enter via the border between the former Yugoslav Republic of Macedonia and Kosovo, which is difficult to control. Shipments continue towards Serbia and Hungary or towards Albania. The Kosovo Police (KP) carried out some investigations and confiscations during the reporting period.

The absence of reliable relevant statistics and a lack of intelligence have prevented the drafting of an action plan or a strategy to combat drugs. The KP lacks the skills and equipment (e.g. phone tapping, sniffer dogs) to effectively tackle drug trafficking. There is insufficient inter-agency and international cooperation in the fight against drug trafficking.

Domestic drug consumption is not yet acknowledged as a major concern in Kosovo. However, drug abuse has increased. Cases of death through overdose have been reported.

Overall, there has been no progress to report. Drug trafficking continues to be a serious problem in Kosovo.

#### *4.3.4. Police*

The performance of the Kosovo Police (KP) as regards the maintenance of public order and combating minor crime in the majority-populated areas is satisfactory. Laws on the Police and on the Police Inspectorate were adopted in February 2008. The Kosovo Centre for Public Security, Education and Development was converted into an executive agency of the Ministry of Interior in March 2008.

Following the declaration of independence, many police officers from the Kosovo Serb community left the service. In some non-majority areas, the functioning of the multi-ethnic police force is not fully effective.

There has been no improvement in the exchange of intelligence between different KP structures. Relations with the public prosecution service continue to be difficult. There are no obvious signs of either a significant improvement of the investigative capacities or the strategic use of intelligence for police purposes. Salary levels for the police are low. Police detention facilities still do not meet international standards. KP's investigative and internal control capacities need to be further strengthened. A crime reduction strategy has not yet been implemented. There is no strategy for the collection of weapons. Legislation on small arms is incomplete and its enforcement is ineffective. There is still no law on forensics and autopsy. The KP makes insufficient use of crime statistics as a management tool.

The number and availability of small arms, light weapons and explosives, as well as the continuing presence of unexploded ammunition circulating in Kosovo, constitute a very serious problem. The absence of a proper legislative framework leads to unregulated arms circulation, which is affecting crime rates and public security in Kosovo.

Overall, some progress can be reported in the field of policing, but high-level crime and strategic deficiencies remain serious concerns.

#### *4.3.5. Fighting organised crime and terrorism*

There is neither a strategy nor an action plan to combat **organised crime**. There is no legal basis for the management of confiscated assets, which results in significant losses to the Kosovo budget. The absence of a reliable land register is a serious obstacle to the confiscation of real estate assets. Combating organised crime is a key priority in the European Partnership for Kosovo.

The determination and capacity required to effectively tackle organised crime is lacking. The police tend to focus on maintaining order rather than on organised crime.

The judiciary lacks the capacity to tackle organised crime seriously. The motivation of public prosecutors and judges to tackle organised crime is further undermined by the lack of adequate working conditions, salaries and social protection.

Kosovo remains an area of origin, transit and destination of victims of **trafficking in human beings** (THB). Victims of trafficking (almost exclusively for sexual exploitation) are mainly from Moldova, Russia and Ukraine. A growing number of Kosovo Albanian minors are being recruited from among the most vulnerable and disadvantaged families.

The legislation on THB and organised crime is generally in line with international standards.

The Deputy Minister of Interior was nominated National Coordinator for Anti-Trafficking. A strategy and an action plan for combating THB were adopted in July.

However, prosecutors and judges are poorly prepared for dealing with victims of THB. Prosecutors are not pro-active and rely mostly on victims' declarations. Some provisions of the criminal procedural code on THB are not adequate. The lack of a visa regime facilitates trafficking to and via Kosovo. THB victims who make victims' declarations expose themselves to charges of illegal immigration and other offences.

Cooperation among the central and the regional KP units dealing with THB continues to give cause for concern. The regional units lack support from the central level, especially on logistics. The absence of a central database hampers the use of intelligence for targeted action against this type of crime. Regional THB units do not have unmarked vehicles and lack technical equipment. The social reintegration of victims of THB remains problematic. There are few safe houses. A multi-agency approach, based on joint training and cooperation of different state actors in the fight against THB, is necessary. Implementation of the strategy and an action plan for combating THB is inadequate.

As regards the **fight against terrorism**, the counter terrorism unit continued its activity with staff from the KP Crime Directorate, but it is still under the direct responsibility of UNMIK. Some specific training activities took place and a plan for further staffing is being developed. The preparations in this field are still in their initial stage.

Overall, very little progress has been made in the area of fighting organised crime. Organised crime continues to be a serious problem. Very limited progress has been made in the fight against trafficking in human beings.

#### *4.3.6. Protection of personal data*

There are no developments to report. There is still no general legislation in place transposing the Data Protection Directive and no independent data protection supervisory authority has been set up. This remains a matter of concern.

## STATISTICAL ANNEX

**STATISTICAL DATA (as of 29 September 2008)**  
**Kosovo under United Nations Security Council Resolution 1244/99**

<b>Basic data</b>	Note	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Population (thousand)	1)	:	:	:	:	1 985	2 016	2 041	2 070	2 100	2 127
Total area of the country (km <sup>2</sup> )		10 887	10 887	10 887	10 887	10 887	10 887	10 887	10 887	10 887	:

<b>National accounts</b>	Note	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Gross domestic product (GDP) (million national currency)		:	:	:	:	:	:	:	:	:	:
GDP (million euro)	2) 3)	:	:	:	1 624	1 735p	1 797p	3 007p b	3 068p	3 192p	:
GDP (euro per capita)		:	:	:	:	:	905p	1 473p b	1 482p	1 520p	:
GDP (in Purchasing Power Standards (PPS) per capita)		:	:	:	:	:	:	:	:	:	:
SI: GDP (in PPS per capita, EU-25=100)		:	:	:	:	:	:	:	:	:	:
SI: Growth rate of GDP (national currency, at constant prices, % change on previous year)		:	:	:	:	1.2p	3.1p	:	:	:	:
SI: Employment growth (national accounts, % change on previous year)		:	:	:	:	:	:	:	:	:	:
Labour productivity growth: GDP growth per person employed (% change on previous year)		:	:	:	:	:	:	:	:	:	:
SI: Unit labour cost growth (national accounts, % change on previous year)		:	:	:	:	:	:	:	:	:	:
SI: Labour productivity (GDP in PPS per person employed, EU-25=100)		:	:	:	:	:	:	:	:	:	:
Gross value added by main sectors (%)											
Agriculture		:	:	:	:	:	:	:	:	:	:
Industry		:	:	:	:	:	:	:	:	:	:
Construction		:	:	:	:	:	:	:	:	:	:
Services		:	:	:	:	:	:	:	:	:	:
Final consumption expenditure, as a share of GDP (%)		:	:	:	163.1	151.6	147.5	109.7p b	111.9p	111.5p	:
Households and NPISH, as a share of GDP (%)		:	:	:	101.3	96.9p	96.2p	85.3p b	89.0p	90.6p	:
General government, as a share of GDP (%)	4)	:	:	:	61.8	54.6p	51.4p	24.5p b	23.0p	21.0p	:
Gross fixed capital formation, as a share of GDP (%)	5)	:	:	:	40.7	34.5	29.3	19.4p b	19.3p	20.6p	:
Changes in inventories, as a share of GDP (%)		:	:	:	:	:	:	3.9 b	4.2	4.4	:
Exports of goods and services, relative to GDP (%)		:	:	:	16.6	12.5p	10.4p	7.1p b	7.0p	8.9p	:
Imports of goods and services, relative to GDP (%)		:	:	:	120.4	98.6p	87.1p	40.1p b	42.5p	45.5p	:

<b>Industry</b>	Note	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Industrial production volume index (2000=100)		:	:	:	:	:	:	:	:	:	:

<b>Inflation rate</b>	Note	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
SI: Consumer price index (CPI), (total, % change on previous year)		:	:	:	:	-1.0	0.3	-0.8	-2.1	-1.5	2.8

<b>Balance of payments</b>	Note	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Balance of payments: current account total (million euro)		:	:	:	-140	-201	-284	-317	-380	-389	-536
Balance of payments current account: trade balance (million euro)		:	:	:	-962	-871	-856	-971	-1 044	-1 141	-1 360



Balance of payments current account: exports of goods (million euro)		:	:	:	269	217	186	57	56	111	147
Balance of payments current account: imports of goods (million euro)		:	:	:	1 231	1 088	1 042	1 028	1 100	1 252	1 506
Balance of payments current account: net services (million euro)		:	:	:	-725	-622	-523	-9	-36	-15	-18
Balance of payments current account: net income (million euro)		:	:	:	185	149	123	17	24	29	50
Balance of payments current account: net current transfers (million euro)		:	:	:	1 361	1 143	973	646	675	738	792
of which government transfers (million euro)		:	:	:	1 144	902	732	432	395	389	389
Foreign Direct Investment (FDI) in the reporting economy (million euro)		:	:	:	:	:	:	19	80	250	422

<b>Public finance</b>	Note	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
General government deficit/surplus, relative to GDP (%)		:	:	:	:	8.4	2.2	2.7	:	:	:
Sl: General government debt, relative to GDP (%)		:	:	:	:	:	:	:	:	:	:

<b>Financial indicators</b>	Note	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Gross foreign debt of the whole economy, relative to GDP (%)		:	:	:	:	:	:	:	:	:	:
Gross foreign debt of the whole economy, relative to total exports (%)		:	:	:	:	:	:	:	:	:	:
Money supply: M1 (banknotes, coins, overnight deposits, million euro)		:	:	761	971	998	891	713	572	:	:
Money supply: M2 (M1 plus deposits with maturity up to two years, million euro)		:	:	761	1 096	1 126	1 111	1 128	1 092	:	:
Money supply: M3 (M2 plus marketable instruments, million euro)		:	:	:	:	:	:	:	:	:	:
Total credit by monetary financial institutions to residents (consolidated) (million euro)		:	:	3	26	87	233	374	514	637	891
Interest rates: day-to-day money rate, per annum (%)		:	:	:	:	:	:	:	:	:	:
Lending interest rate (one year), per annum (%)		:	:	:	:	:	:	:	:	:	:
Deposit interest rate (one year), per annum (%)		:	:	:	:	:	:	:	:	:	:
euro exchange rates: average of period - 1 euro = ... national currency	3)	:	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	:
Effective exchange rate index (2000=100)		:	:	:	:	:	:	:	:	:	:
Value of reserve assets (including gold) (million euro)		:	:	25	200	58	77	79	107	102	167

<b>External trade</b>	Note	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Trade balance: all goods, all partners (million euro)		:	:	:	:	:	:	-1 007	-1 101	-1 195	-1 411
Value of exports: all goods, all partners (million euro)		:	:	:	:	:	:	57	56	111	165
Value of imports: all goods, all partners (million euro)		:	:	:	:	:	:	1 063	1 157	1 306	1 576
Terms of trade (export price index / import price index)		:	:	:	:	:	:	:	:	:	:
Share of exports to EU-27 countries in value of total exports (%)		:	:	:	:	:	:	29.4	38.4	38.0	42.0
Share of imports from EU-27 countries in value of total imports (%)		:	:	:	:	:	:	39.5	37.3	34.4	36.3

<b>Demography</b>	Note	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Natural growth rate: natural change (births minus deaths) (per 1000 inhabitants)	1)	:	:	:	:	:	12.8	14.1	14.6	12.8	12.4
Net migration rate: immigrants minus emigrants (per 1000 inhabitants)		:	:	:	:	:	:	:	:	:	:
Infant mortality rate: deaths of children under one year of age per 1000 live births		:	:	:	:	11.2	15.1	11.8	9.6	12.0	11.1
Life expectancy at birth: male (years)		:	:	:	:	:	67.0	:	:	:	:
Life expectancy at birth: female (years)		:	:	:	:	:	71.0	:	:	:	:

<b>Labour market</b>	Note	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Economic activity rate (15-64): share of population aged 15-64 that is economically active (%)		:	:	:	45.6	52.8	50.3	46.2	49.2	52.3	46.8
SI: Employment rate (15-64): share of population aged 15-64 that is in employment (%)		:	:	:	19.6	23.8	25.3	27.7	28.5	28.7	26.2
Share of male population aged 15-64 that is in employment (%)		:	:	:	31.1	39.4	42.8	46.4	45.8	46.1	40.1
Share of female population aged 15-64 that is in employment (%)		:	:	:	8.1	8.8	8.3	9.9	11.7	11.8	12.7
SI: Employment rate of older workers (55-64): share of population aged 55-64 that is in employment (%)		:	:	:	16.7	18.4	20.1	23.9	25.2	26.3	24.6
Employment by main sectors (%)											
Agriculture		:	:	:	6.2	10.3	17.3	24.7	18.8	21.4	16.9
Industry		:	:	:	16.9	17.2	15.4	14.0	14.4	12.4	14.1
Construction		:	:	:	8.6	11.2	11.3	8.0	7.9	8.1	10.4
Services		:	:	:	68.3	61.3	56.0	53.4	58.9	58.2	58.3
SI: Unemployment rate: share of labour force that is unemployed (%)		:	:	:	57.1	55.0	49.7	39.7	41.4	44.9	43.6
Share of male labour force that is unemployed (%)		:	:	:	51.8	45.2	40.3	31.5	32.9	34.6	38.5
Share of female labour force that is unemployed (%)		:	:	:	69.9	74.5	71.9	60.7	60.5	61.6	55.2
Unemployment rate of persons < 25 years: share of labour force aged <25 that is unemployed (%)		:	:	:	80.0	77.7	74.9	66.5	70.5	75.5	70.0
SI: Long-term unemployment rate: share of labour force that is long-term unemployed (%)		:	:	:	47.6	47.3	42.7	34.9	34.7	41.1	37.1

<b>Social cohesion</b>	Note	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Average nominal monthly wages and salaries (national currency)		:	:	:	:	:	:	:	:	:	:
Index of real wages and salaries (index of nominal wages and salaries divided by the CPI) (2000=100)		:	:	:	:	:	:	:	:	:	:
SI: Early school-leavers: share of population aged 18-24 having not completed upper secondary education and not currently in education or training (%)		:	:	:	:	:	:	:	:	:	:

<b>Standard of living</b>	Note	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Number of passenger cars per 1000 population		:	:	:	:	:	:	:	49.4	69.9	68.7
Number of subscriptions to cellular mobile telephone services per 1000 population		:	:	:	:	:	156.3	167.4	:	:	:

<b>Infrastructure</b>	Note	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Density of railway network (lines in operation, per 1000 km <sup>2</sup> )		:	:	:	:	:	:	39.5	:	:	:
Length of motorways (thousand km)		:	:	:	:	:	:	:	0.0	0.0	0.0

<b>Innovation and research</b>	Note	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
SI: Spending on human resources (public expenditure on education) relative to GDP (%)		:	:	:	:	:	:	:	:	:	:
SI: Gross domestic expenditure on research & development, relative to GDP (%)		:	:	:	:	:	:	:	:	:	:
SI: Percentage of households who have Internet access at home (%)		:	:	:	:	:	:	:	:	:	:

<b>Environment</b>	Note	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
SI: Total greenhouse gases emissions, CO2 equivalent (tons, 1990=100)		:	:	:	:	:	:	:	:	:	:
SI: Energy intensity of the economy (kg of oil equivalent per 1000 euro GDP)		:	:	:	:	:	:	:	:	:	:
SI: Share of renewable energy in electricity consumption (%)		:	:	:	:	:	:	:	:	:	:
SI: Road freight transport as a share of total inland freight transport (modal split of freight transport) (%)		:	:	:	:	:	:	:	:	:	:

<b>Energy</b>	Note	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Primary production of all energy products (thousand TOE)		:	:	:	:	:	:	:	:	:	:
Primary production of crude oil (thousand TOE)		:	:	:	:	:	:	:	:	:	:
Primary production of hard coal and lignite (thousand TOE)	6)	:	:	:	:	5 528	6 466	5 658	6 391	6 532	6 715
Primary production of natural gas (thousand TOE)		:	:	:	:	:	:	:	:	:	:
Net imports of all energy products (thousand TOE)		:	:	:	:	:	:	:	:	:	:
Gross inland energy consumption (thousand TOE)		:	:	:	:	:	:	:	:	:	:
Electricity generation (thousand GWh)		:	:	:	:	3.2	3.2	3.5	4.0	4.0	4.3

<b>Agriculture</b>	Note	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Agricultural production volume index of goods and services (producer prices, previous year=100)		:	:	:	:	:	:	:	:	:	:
Total utilised agricultural area (thousand hectare)		:	:	:	539	:	:	:	:	:	:
Livestock: cattle (thousand heads, end of period)		:	:	289	347	319	:	335	352	392	:
Livestock: pigs (thousand heads, end of period)		:	:	59	75	110	:	55	47	68	:
Livestock: sheep and goats (thousand heads, end of period)		:	:	193	230	116	:	106	152	113	:
Production and utilisation of milk on the farm (total whole milk, thousand tonnes)		:	:	:	:	:	:	:	:	:	:
Crop production: cereals (including rice) (thousand tonnes, harvested production)		:	:	:	459	396	:	408	441	392	:
Crop production: sugar beet (thousand tonnes, harvested production)		:	:	:	:	:	:	:	:	:	:
Crop production: vegetables (thousand tonnes, harvested production)		:	:	:	169	135	:	150	289	172	:

SI: Structural Indicator

e: estimate

f: forecast

p: provisional

b: break in series

1. Source: Eurostat.
2. Source: SOK provisional data for 2004-2006 (at current prices).
3. No official national currency exists. Euro is the currency in use.
4. Including donor sector. Donor sector includes UNMIK, donor grants (DDGs).
5. Investment: including donor sector, general government, private investment (Housing and Other).
6. Production of coal in 1 000 tones; data collected from the Kosovo (under UNSCR 1244) Energy Corporation (KEK).