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**Kosovo\* 2018 Report**

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## 1. INTRODUCTION

### 1.1. Context

The EU-Kosovo Stabilisation and Association Agreement (SAA) has been in force since April 2016. In order to define reform priorities, the Kosovo government together with the European Commission launched in November 2016 the European Reform Agenda (ERA). The new government appointed in September 2017 committed itself to the implementation of EU related reforms, however progress to date has been slow. The border/boundary demarcation agreement with Montenegro was ratified by the Kosovo Assembly in March 2018, constituting an important achievement and the fulfilment of one of the key criteria for Kosovo's visa liberalisation.

### 1.2 Summary of the Report<sup>1</sup>

As concerns the **political criteria**, Kosovo held early elections in June 2017. A new Assembly and government took office in September. So far, however, the new ruling coalition has had limited success in bringing forward EU related reforms and building consensus on key strategic issues for Kosovo. The continuing political fragmentation and polarisation have adversely affected the role of the Assembly and have impacted the effectiveness of the government. Obstructive behaviour by some parliamentarians, including the use of teargas, has hindered the work of the Assembly. The ratification of the border/boundary demarcation agreement with Montenegro in March 2018 was an important breakthrough.

Parliamentary and municipal elections, held in 2017, were generally competitive and well-administered in most places in Kosovo. However, patterns of intimidation within many Kosovo Serb communities, targeting particularly candidates not belonging to the Srpska Lista party, raised concerns.

The context in the north of Kosovo poses particular challenges. The investigation of the murder of Kosovo Serb politician Oliver Ivanović in January 2018 continues.

Attempts by members of the Kosovo Assembly in December 2017 to abrogate the Law on Specialist Chambers and Specialist Prosecutor's Office have raised serious concerns. It will be essential for Kosovo to fully comply with its international obligations regarding the Specialist Chambers and Specialist Prosecutor's Office and show full and unequivocal commitment to these institutions.

There is some level of preparation in the area of **public administration reform**. Some progress has been made especially with the review of agencies and (semi)independent bodies. The continued politicisation of the public administration remains a concern, and adversely affects the efficiency and professional independence of the public administration.

Kosovo's **judicial system** is at an early stage. Some progress has been achieved in implementing the 2015 justice package laws. The integration of Kosovo Serb judges and prosecutors and their support staff across Kosovo into the Kosovo judicial system was a big achievement of 2017. The judiciary is still vulnerable to undue political influence and rule of law institutions need sustained efforts to build up their capacities. The administration of justice remains slow and inefficient.

Kosovo is at an early stage/has some level of preparation in the **fight against corruption**. Kosovo has made some progress as regards the track record on the investigation and prosecution

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<sup>1</sup> This report covers the period from October 2016 to February 2018. It is based on input from a variety of sources, including contributions from the government of Kosovo, the EU Member States, European Parliament reports and information from various international and non-governmental organisations.

for high level corruption and organised crime cases, including final convictions. Progress was also made on preliminary confiscation of assets although final confiscations remain low. Corruption is widespread and remains an issue of concern. Concerted efforts are needed to tackle this problem in a comprehensive and strategic manner.

Kosovo is at an early stage in the **fight against organised crime**. Some progress was made with the track record on high level corruption and organised crime cases. While there is more preliminary confiscation of assets, there are still few final convictions, financial investigations and final confiscations of assets. Law enforcement agencies struggle to effectively fight organised crime in the north of Kosovo. Some progress was made in the fight against terrorism, including through measures to tackle violent extremism and radicalisation and in preventing citizens from joining conflicts abroad. The Kosovo authorities need to be more effective in their efforts to fight money laundering and the relevant law should be brought in line with EU *acquis* and international standards.

The legal framework broadly guarantees the protection of **human and fundamental rights** in line with European standards. However, additional efforts are needed regarding enforcement. Implementation of human rights strategies and legislation is often undermined by inadequate financial and other resources, particularly at local level, limited political prioritisation and lack of coordination. More needs to be done to effectively guarantee the rights of persons belonging to minorities, including Roma and Ashkali<sup>2</sup> and displaced persons, to ensure gender equality in practice, to set up an integrated child protection system and to advance the protection of cultural heritage. Kosovo has some level of preparation in the area of **freedom of expression**, which is enshrined in the constitution. Kosovo benefits from a pluralistic and lively media environment. However, threats and attacks against journalists have continued. The Assembly showed limited commitment to finding a solution for sustainable funding of the public broadcaster, leaving it vulnerable to political pressure.

As regards the **economic criteria**, Kosovo has made good progress and is at an early stage of developing a functioning market economy. The business environment has improved and the government adhered to the fiscal rule on budget deficit; however, war veterans' benefits continue to pose a challenge for public finances. The informal economy remains widespread. The increase in the labour force participation rate was not matched by gains in employment so the unemployment rate increased further. It particularly affected women and young and unskilled workers. Despite strong export growth the high trade deficit reflects a weak production base.

Kosovo has made some progress and is at an early stage in terms of capacity to cope with competitive pressure and market forces within the EU. No progress was made on improving the quality of education and addressing skills gaps in the labour market. Kosovo made some progress in improving road infrastructure but large infrastructure gaps in the railway and energy sectors remain. Structural changes in the economy are slow as it remains reliant on the retail trade sector. Integration with the EU is hampered by the slow implementation of the SAA.

Kosovo continued its efforts to maintain good and constructive **bilateral relations** with other enlargement countries. Kosovo is represented in most regional organisations that fall within the scope of the Arrangements on Regional Representation and Cooperation agreed between Belgrade and Pristina in 2012.

Regarding the **normalisation of relations with Serbia**, Kosovo has remained engaged in the dialogue. However, Kosovo needs to make further substantial efforts on the implementation of

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<sup>2</sup> All these groups are considered under the wider "Roma" umbrella term under the EU Framework for National Roma Integration Strategies.

existing agreements and contribute to the establishment of circumstances conducive to the full normalisation of relations with Serbia, to be defined in a legally binding agreement.

As regards alignment with **European standards**, Kosovo is at an early stage. Legislative alignment has continued in some areas but implementation is weak. Some progress was made in the area of free movement of goods and services, public procurement and competition as well as in improving the business environment. In the area of taxation and customs, some progress was also made in collecting revenue and simplifying administrative procedures, but Kosovo should step up the fight against the informal economy and tax evasion. The energy sector continues to face serious challenges. No progress has been achieved to address environmental issues. Overall, Kosovo needs to improve its administrative capacity and coordination, across all sectors, to ensure effective implementation of the *acquis*.

Authorities have made progress in managing regular and irregular **migration**. These efforts should be continued and built on. In this context, Kosovo needs to put in place a return mechanism for irregular migrants in line with EU standards and practices.

## **2. FUNDAMENTALS FIRST: POLITICAL CRITERIA AND RULE OF LAW**

### **2.1 Functioning of democratic institutions and Public Administration Reform**

#### **2.1.1 Democracy**

Following early elections in June 2017, a new Assembly and government took office in September. So far, however, the new ruling coalition has had limited success in bringing forward EU-related reforms and building consensus on key strategic issues for Kosovo. Continuing political fragmentation and polarisation has adversely affected the Assembly's role and impacted the effectiveness of the government. The ratification of the border/boundary agreement with Montenegro in March 2018 was an important breakthrough.

Attempts to abrogate the Law on Specialist Chambers and Specialist Prosecutor's Office, established to address certain allegations of international crimes committed in the context of the Kosovo conflict, raised serious concerns about Kosovo's political leaders' commitment to prosecute and judge these crimes and honour Kosovo's related international obligations.

#### **Elections**

Parliamentary and municipal elections, held in 2017, were generally competitive and well-administered in most places in Kosovo. However, patterns of intimidation within many Kosovo Serb communities, targeting particularly candidates not belonging to the Sprska Lista party, raised concerns. A number of long-standing weaknesses, in particular political party financing, women participation, electoral dispute mechanisms, inaccurate voter lists and a largely defective voting system for Kosovo citizens resident abroad remain to be addressed. These challenges, guided by the recommendations of the EU election observation missions, should be tackled as a matter of priority.

Following a motion of no confidence in the Assembly on 10 May 2017, **early parliamentary elections** took place on 11 June. The 120 members of parliament were elected for a four-year term through a proportional representation system with preference voting and guaranteed seats for non-majority communities.

Elections were held within the short timeframe of 30 days. Voter turnout was low at 41.3 % (42.6 % in 2014). The "PAN coalition" (consisting mainly of the Democratic Party of Kosovo (PDK), the Alliance for the Future of Kosovo (AAK) and the Social Democratic Initiative (Nisma)) obtained 33.7 % (39 seats), Vetëvendosje (VV) 27.5 % (32 seats), the "LAA coalition"

(consisting of the Democratic League of Kosovo (LDK), the New Kosovo Alliance (AKR) and Alternativa) 25.5 % (29 seats), and Srpska Lista 6.1 % (9 seats). While women caucuses exist in some political parties, this has not resulted in an increased participation of women in the electoral process. Out of 120 elected members of parliament, 39 are women. Discrepancies between the electoral legal framework and the equal representation provision of the Law on Gender Equality persist. Women candidates did not receive equal financial or logistical support from their political entities for their campaigns, and women candidates rarely spoke at rallies. The media gave priority coverage to male candidates.

Regular **municipal and mayoral elections** took place on 22 October 2017 with the runoff for the mayoral elections on 19 November. These were the second local elections held in all municipalities throughout Kosovo. Out of 204 mayoral candidates only 8 were women. Of the 38 municipalities, LDK won mayoral posts in 8, AAK in 7, PDK in 5 and VV in 3. Srpska Lista won in all 10 Kosovo Serb-majority municipalities. AKR, NISMA and the Kosovo Turkish Democratic Party each won 1 municipality. Two independent candidates won mayoral posts. Out of 38 elected mayors, none are women.

The EU deployed fully-fledged observation missions for both parliamentary and municipal elections. Elections in the north of Kosovo were technically assisted by the Organisation for Security and Co-operation in Europe (OSCE). Overall both elections were competitive and well-administered in most of Kosovo. Within many Kosovo Serb communities, however, the campaign environment was marred by a pattern of intimidation targeting in particular non-Srpska Lista political entities and their candidates. Instances of violence from within the Kosovo Serb community and an insufficient response from the law enforcement authorities were reported. The EU election observation mission noted that during the campaign, senior officials in Belgrade repeatedly urged voters to vote for Srpska Lista. All this raises deep concerns over the state of democracy in Kosovo Serb communities.

Political will across the political spectrum is needed to undertake necessary electoral reforms well ahead of the next round of general elections. The Assembly needs to urgently address long-standing weaknesses, guided by the recommendations of the EU election observation mission. Allegations of intimidation should be promptly and thoroughly investigated. Inaccurate voter lists, susceptible to fraud, need to be cleaned and the largely defective voting system for Kosovo citizens resident abroad revised. Affirmative action needs to be taken to overcome the obstacles that prevent women from participating in politics and being elected. The regulation of political party financing and campaigning is made ineffective by the absence of systematic monitoring and control. Electoral dispute mechanisms need to be conducted in a more transparent and trustful manner.

## **Parliament**

The Assembly needs to substantially improve its performance as a forum for constructive political dialogue and representation, as well as guarantee proper checks and balances. The frequent absence of parliamentarians from plenary sessions and continued political polarisation hampered legislative activity during the reporting period. Obstructive behaviour by some parliamentarians, including the use of teargas, has hindered the work of the Assembly. Cross-party work on long overdue reforms is urgently needed. Both the ruling coalition and the opposition should intensify their parliamentary work and seek consensus on EU-related reform priorities. The Assembly's ratification of the border/boundary demarcation agreement with Montenegro in March 2018 was an important achievement. Overall, the Assembly's effective oversight of the executive and the transparency and quality of law-making need to be improved, and the use of urgent procedures limited.

Following the early elections on 11 June, it took about two months to constitute the Assembly and appoint the government. With 61 out of 120 votes, the ruling coalition (consisting of PDK, AAK, NISMA, AKR and Srpska Lista as well as other minority parties) led by Prime Minister Haradinaj has a slim majority. For the first time, the opposition party VV became the single strongest party in parliament (32 seats).

The parliamentary elections and formation of the government during the summer and the municipal elections in the autumn delayed parliamentary work and seriously slowed down Kosovo's EU related reforms. The reporting period was marked by political polarisation and dysfunction in both the previous and current Assembly. All political parties need to show responsibility and re-engage in a constructive dialogue, with the Assembly as the key forum for political debate.

The Assembly continued holding irregular plenary sessions. The frequent absence of Assembly members, including its leadership, often resulted in a lack of quorum for decision-making. As a consequence, agenda items were delayed from session to session. Weaknesses and loopholes in the rules of procedures need to be addressed. The fast-track procedure was frequently used (22 out of 115 laws were adopted in this way). This resulted in legislation being adopted without substantive debate or stakeholder consultation, including legislation of vital importance such as the budget. The Assembly needs to establish an ambitious work plan to address the increasing workload and to make up for lost time. The Assembly should plan its work in advance by presenting agendas every 6 months with dates of regular weekly plenary sessions to enable proactive oversight and ensure checks and balances.

Parliamentary **oversight of the executive** remains weak. Parliamentary committees continued consultations with relevant stakeholders, but improvements are required on early notification and follow-up. Furthermore, the Assembly lacks the powers and capacity to effectively supervise the 32 agencies / bodies which report directly to it. The government and the Assembly should implement the recommendations that came out of the review of the independent agencies, which was carried out to rationalise the number of agencies reporting to the Assembly. (*see 2.3 Public Administration Reform*). The Assembly failed to appoint, in a timely manner or on the basis of merit, professional board members for several independent institutions. The Assembly should use the annual report of the Office of Auditor General to scrutinise government work. The Assembly's Committee of Public Finance, which prepares recommendations for adoption by the Assembly, should also hold hearings of ministers and mayors.

The parliamentary oversight of the Kosovo Security Forces and Kosovo's Intelligence Agency continues to be insufficient.

The **Ombudsperson** has continued to strengthen its capacity to review cases and has become the most trusted institution in Kosovo. The Assembly has appointed 5 deputies to the Ombudsperson, although with much delay. There is a need for the Assembly to review its internal regulations on this.

Some progress was made in improving the **transparency** in and public access to the work of the Assembly. In November 2017, the Assembly launched an electronic tracking system, providing public access to all information and documents on draft laws under its review.

**Political parties'** finances and campaign funding and expenditure continue to lack transparency and related legislation remains largely unenforced. This undermines public trust in political parties and continues to expose the democratic process to significant risks of corruption and undue influence. A positive step has been taken with the publication of external audits of political party finances for the first time since 2013. However, these audits have confirmed serious violations of political party finance legislation and severe weaknesses in internal



financial control by political entities. The legal provisions need to be urgently enforced and the overall legal framework effectively strengthened.

## Governance

The strong polarisation between political parties undermined effective governance during large parts of the reporting period. The new government, appointed in September 2017, expressed commitment to the implementation of EU related reforms, notably the European Reform Agenda. Greater focus should be put on building consensus on key EU-related reforms. The government is over-sized, which erodes coherent policy-making.

The **government** of Prime Minister Mustafa was dismissed following a no-confidence vote in the Assembly in May 2017. Even before, the government's cohesiveness had already eroded, and virtually no significant reforms were made during the first half of 2017. A new government under Prime Minister Haradinaj took office in September 2017. The government coalition is made up of the PDK, AAK, NISMA, AKR parties, Srpska Lista and includes other minority representatives. With political attention on elections for most of the reporting period, the former and current governments have been unable to pursue a coherent and substantive policy agenda.

There is a trend of appointing an excessive number of government members, such as the appointment of 70 deputy ministers in the current government and 45 in the previous one, sometimes without clear attributions. The authorities should consider imposing a cap on the size of the government to prevent such a practice. There are only 2 women ministers. Five ministerial posts are held by minority representatives, 3 of whom represent the Kosovo Serb community, 1 the Turkish community and 1 the Bosniak community.

In November 2016, the Kosovo government together with the European Commission launched the **European Reform Agenda (ERA)**, a tool to prioritise the implementation of the Stabilisation and Association Agreement (SAA). The ERA action plan was adopted by the Assembly; however its implementation has lagged behind. Kosovo's updated 2018-2022 programme for the implementation of the Stabilisation and Association Agreement serves as the main tool for planning, coordinating and monitoring EU related reforms. Implementation of the SAA is proceeding but much of the programme is lagging behind. The new government updated the short and medium-term measures in the programme, to make it more realistic, costed and better aligned with the annual work programme.

The Assembly, after several attempts, ratified the border/boundary demarcation agreement with Montenegro in March 2018, thus fulfilling one of the key criteria for visa liberalisation.

Ministerial attention to legislation in the Assembly, from proposals until adoption, needs to be improved. Ministers' failure to attend plenary sessions and failure to answer parliamentary questions continue to undermine transparency, accountability and communication with the Assembly.

The dialogue between government institutions and the Ombudsperson has improved. Follow-up and implementation of the Ombudsperson's recommendations have further increased overall. However, the government, particularly the Prime Minister's Office on Good Governance and the Assembly, should be more active in ensuring proper follow up to the recommendations of the Ombudsperson. They should also develop effective monitoring systems for follow-up to recommendations of bodies and agencies which report to them.

Efforts to further improve the capacity of **local government** have continued. Following the local elections in October and November 2017, most new municipal assemblies were constituted in a timely manner. Women remain underrepresented in local decision-making positions. While local municipalities have been given more powers, their human and financial resources are often

insufficient. The Law on Local Government Finance should be amended by including a specific grant for social services to ensure transparency in the budget and a minimum level of support to social services at municipal level.

Municipalities in northern Kosovo continued to improve their relations with central government institutions. The 4 northern municipalities complied with legislation on the adoption of the 2017 municipal budgets. However, due to continued inconsistencies in population figures, a census should be conducted in all 4 municipalities.

### Civil society

Some progress was made in improving cooperation between civil society and the central government. Further efforts are needed to ensure meaningful involvement and cooperation also at local level. The publication of a first government report on public funding of non-governmental organisations resulted in more transparency.

An empowered civil society is a crucial component of any democratic system and should be recognised and treated as such by institutions in Kosovo. Civil society needs to continue to play an important role in the democratic debate and in the design and implementation of public policy. The rules setting up, registering, operating, suspending, terminating, and de-registering Non-Governmental Organisations (NGOs) still need to be clarified. The new draft law on freedom of association of NGOs, prepared in consultation with civil society, has yet to be adopted.

Money laundering and anti-terrorism legislation remains restrictive for the NGO sector. In September 2017, a sectoral risk-assessment on NGOs was initiated by Kosovo's Financial Intelligence Unit to identify to what extent the NGO sector is at risk of terrorist financing.

The entry into force of two regulations setting standards for public consultation and laying down criteria and procedures for the public funding of NGOs has paved the way for improved governance and a more transparent use of public funds. This is part of Kosovo's government-civil society cooperation strategy. Nevertheless, several ministries and municipalities are still not ready to fulfil the obligations under the new regulations. They also lack technical capacities to effectively execute the assigned budget in accordance with new regulations and procedures.

In March 2017, the government published the first ever report on public funding. This represents a positive step towards greater transparency of public funding. However the type of information provided does not yet allow for a meaningful analysis of budget execution.

The legal framework for tax deductions for donations remains ambiguous.

### 2.1.2 Public Administration Reform

Kosovo has achieved **some level of preparation** in the reform of its public administration. **Some progress** has been made especially with the review of agencies and (semi) independent bodies, as recommended by the Commission in 2016. However, the action plan to implement the recommendations of the review is still under preparation. There remain concerns over non-merit-based recruitments which affect the efficiency and professional independence of the public administration. In the coming year, Kosovo should in particular:

→ adopt the legislative package covering laws on the civil service, salaries and the organisation and functioning of public administration in an inclusive and evidence-based process;

→ adopt and start to implement the action plan to rationalise agencies and (semi) independent bodies, as agreed by the Assembly and the government;

→ improve legal predictability for citizens and businesses by gradually amending the identified special laws and implementing regulations that contradict the new Law on General Administrative Procedures and address the current backlog of administrative cases.

### Policy development and coordination

The legal basis and institutional structures for a coherent and coordinated **policy-making system**, including for EU related reforms, are largely in place. Public administration reform is included as a priority area in the government programme for 2015-2018, the National Development Strategy and the National Programme for Implementation of the Stabilisation and Association Agreement. The key weakness with policy development and coordination is that there are too many planning documents and planning is persistently over-ambitious. There is a legal requirement to prepare sector strategies, including costing and sources of funding. However, due to a lack of centralised quality control, sector strategies are rarely aligned with the mid-term expenditure framework and are often financially unsustainable.

Some aspects of inclusive and **evidence-based policy and legislative development** are in place, but in practice problem analysis and justification for government intervention are often missing. While requirements for budget impact assessments have been made, more specific regulatory impact assessments are rarely of sufficient quality. Inter-ministerial and **public consultations** are regulated, and progress has been made in implementing the minimum standards for public consultations. These standards came into force in January 2017 and were followed in February 2017 by the launch of a web portal for both inter-ministerial and public consultations. In 2016, only 21 % of the primary policy documents and draft laws were published for consultation. The response rate from civil society and the public is still low.

Effective **public scrutiny of government work** is undermined by the lack of clear requirements for both reporting on the implementation of the government's annual work plan and sector strategies and publishing such reports. Parliamentary scrutiny of the government remains insufficient.

### Public financial management

Kosovo is implementing the **public financial management (PFM) reform strategy** for 2016-2020. It addresses fiscal discipline, allocation and operational efficiency and cross-cutting issues. The strategy, which is up for review in 2018, is complemented by the public procurement strategy adopted in 2017 and the public internal financial control strategy adopted in 2015. The first annual report on the PFM reform strategy was approved in 2017. Progress in implementing the PFM reform strategy has been satisfactory so far.

The fiscal rule on debt-to-GDP ratio and the budget balance has been complied with. However, inclusion of an 'investment clause' in the Law on Public Financial Management and Accountability has made this rule less transparent. Annual tax collection has slightly improved, and revenue forecasting, commitment control and effective in-year allocation of expenditure have increased budget credibility at the aggregate level. While the overall public debt level as a share of GDP has increased from 14.3 % to 16.8 % of GDP, debt servicing costs have doubled in the past 2 years. The latest assessment with a reference year of 2015 shows a decrease in the grey economy, but the tax and customs administration needs further strengthening to reduce informality and broaden the tax base.

Kosovo is committed to improving **budget transparency**. Reporting on public finances has become more detailed, comprehensive and systematic. The Ministry of Finance has also started publishing comparative financial data on a monthly basis on its website. This is a step towards meeting the standards of the IMF's Government Financial Statistics Manual 2014. The Kosovo Office of the Auditor General, which audits the government's financial management, has started

to engage more proactively with civil society. However, implementation of the recommendations in the National Audit Office's Annual Audit Report is modest and needs to improve (*see section on Financial control*).

### Public service and human resource management

Work continued at government level with the drafting of a new law on civil service. This draft law is part of a legislative package with a law on salaries and the law on the organisation and functioning of public administration. The concept documents of the law on civil service and of the law on organisation and functioning of public administration have been adopted in May 2017, whereas the concept document for the law on salaries has been adopted in March 2018.

The current Law on Civil Service formally provides for **merit-based recruitment, promotion and dismissal** based on objective criteria. However, the loopholes in the law have allowed for contradictory practices, including the conversion of temporary staff into permanent civil servants without a public competition. Political influence over appointments and dismissals continues to be a serious concern, especially for senior management. The Ministry of Public Administration still does not have sufficient capacity to actively supervise recruitment procedures. Non-majority communities remain underrepresented in central public institutions.

The independent Civil Service Oversight Board lacks sufficient professional capacity. Around 87% of its recommendations and rulings have been implemented. Administrative judges are increasingly overburdened, leading to delays in rulings, and the further reduction in their numbers at the Basic Court of Pristina is of concern.

The Ministry of Public Administration is responsible for central coordination of **human resources management**, although the current Law on Civil Service law does not explicitly assign such coordination role and it does not oblige ministries to report to the Ministry. A job classification system, which has been rolled out since January 2016, covers now approximately 80% of civil servants. Their positions are harmonised with the job catalogue, which will be aligned to the package of new laws upon their adoption. Although there has been progress with the human resources management information system, which now covers nearly all institutions, it is only partially developed and it is not being used for management and monitoring purposes. This makes it difficult to apply adequate, coherent standards.

Kosovo urgently needs high-quality, coherent legislation to regulate **remuneration** in the public sector to avoid unfair salary structures, abuse of allowances and discretionary decision making in this area. The current system does not provide incentives for retaining and recruiting key professional staff. The government's decision in December 2017 to increase the salaries of the government cabinet, ministers, deputy ministers and some civil servants in the office of the Prime Minister was suspended at the end of January 2018, pending the opinion of the Constitutional Court. The government's decision triggered wide public criticism and was identified by the Anti-Corruption Agency as a case of concern for potential conflict of interest.

Progress has been made in civil servants' **professional development**, but the Kosovo Institute for Public Administration has a very limited training budget to provide training for staff across all institutions. The use of performance appraisals has increased, but they continue to have little impact on career development.

Measures and mechanisms to prevent corruption and promote **integrity in the public service are in place**. Good initial progress has been made with the publication in December 2017 of an annual report on disciplinary measures against civil servants. These measures are taken either by the administration or the court for violation of ethics and anti-corruption clauses. In line with the European Reform Agenda, the government should adopt legislative amendments necessary to enable, on the basis of a court decision, the suspension of the public officials indicted for

corruption-related criminal offences and the removal of the public officials convicted for corruption-related criminal offences (*see section on Fight against corruption*).

#### Accountability of the administration

The public administration is fragmented and does not ensure effective **lines of accountability**; neither between many administration bodies nor within institutions, where there is no clear delegation of responsibilities to middle management. The current law regulating the administration has allowed 46 (semi) independent government agencies to be set up, many with overlapping responsibilities with their parent ministries. Many of these institutions and agencies do not comply with the Law on Civil Service and have more favourable salary conditions than civil servants in ministries doing equivalent jobs (*See section on Financial control*).

During the reporting period the government and the Assembly have not demonstrated sufficient will to jointly address these shortcomings. A comprehensive review of the (semi) independent agencies was published in December 2016. The recommendations of this review will be implemented as part of an action plan that is being developed. The action plan should provide that the government will reduce the overall number of such agencies and change the reporting lines of several bodies from the Assembly to the government. The aim is more efficiency, better lines of accountability and greater oversight.

**Citizens' right to good administration** is being addressed by independent oversight institutions such as the Auditor General and the Ombudsperson. Although there has been marked improvement during the reporting period, not all institutions systematically followed up on their recommendations. The Law on Access to Public Documents aims to ensure the **right to access public information**, but implementation remains uneven. The Law requires a thorough revision to address the challenging and fragmented implementation. Kosovo should adopt a new law on administrative disputes to further strengthen **citizens' right to administrative justice**. The Basic Court of Pristina has a substantial backlog of administrative cases, which they should continuously address. This backlog is unlikely to be reduced, especially since the new Law on Minor Offences, which came into effect in January 2017, risks substantially adding to the backlog of the court. The **right to seek compensation** and the liability of public authorities in cases of wrongdoing are affected by fragmented legislation. No data is collected to monitor actual implementation.

#### Service delivery to citizens and businesses

The government promotes a **user-oriented administration**, but lack of clear vision, leadership and coordination hamper reform efforts. Many institutions have therefore started to implement their own solutions outside the central electronic identification (eID) tools that are being developed. Central tools to collect public and business feedback on service delivery are at an early stage of development. Technical solutions for interoperability are yet to be developed. Legislation on equal access to services exists, but applying it is a challenge, particularly as regards persons with reduced mobility.

**Simplification of administrative procedures** has moved forward with the entry into force of the Law on General Administrative Procedures in June 2017. The government has made an inventory of laws that contain special administrative procedures. These laws now need to be amended to avoid contradictions with the new law. Considerable efforts are needed to inform and educate the Kosovo administration and public on obligations and rights under the new law.

#### Strategic framework for public administration reform

The **strategic framework for public administration reform** consists of 4 strategies on better regulation, policy planning and coordination, modernisation of public administration and public

financial management. Implementation has been weak, mainly due to over-ambitious planning and lack of resources. Two of these strategies were revised in 2017 and 1 is being revised to improve targets and indicators and to ensure more realistic planning. Public administration reform has so far enjoyed strong **political support**. The Ministerial Council, led by the Prime Minister, has steered the reform process. The **financial sustainability** of the reforms is of concern, as implementation of the strategies relies heavily on the support of external donors. Despite government commitments, the actual annual budget allocations and provisions in the medium-term expenditure framework are lower than planned in the strategic documents.

## 2.2 Rule of Law and fundamental rights

### 2.2.1 Judiciary and fundamental rights

Kosovo is at an **early stage**/has **some level of preparation** to apply the *acquis* and European standards in this area. **Some progress** has been made, particularly with the integration of Kosovo Serb judges and prosecutors and their support staff across Kosovo in the unified Kosovo judicial system, with the investigation and prosecution of some high-level corruption cases and the launch of the application process for recognition and verification of the status of victims of sexual violence during the conflict. As regards fundamental rights, implementation of the relevant laws and strategies is often undermined by inadequate financial and other resources, limited political prioritisation and lack of coordination. The arrest and subsequent deportation of six Turkish nationals legally residing in Kosovo in March 2018 raised questions about the respect of the due process of law. In the coming year, Kosovo should in particular:

- take concrete measures to maximise the independence, accountability, professionalism and efficiency of the judiciary;
- continue to strengthen the track record on the fight against corruption, including final judgments and confiscations, and amend the relevant criminal legislation. Expand the existing IT tracking system to all high-level corruption cases;
- give higher political priority to the protection of human and fundamental rights and ensure adequate capacity and budgetary resources for their implementation, enforcement and promotion, including for key services and assistance to vulnerable groups.

#### Functioning of the judiciary

Kosovo is at an **early stage** in developing a well-functioning judicial system. **Some progress** was achieved in 2017 in implementing the 2015 justice package laws. The integration of Kosovo Serb judges and prosecutors and their support staff across Kosovo into the Kosovo judicial system was a major achievement in 2017. The judiciary is still vulnerable to undue political influence and rule of law institutions need sustained efforts to build up their capacities. The administration of justice remains slow and inefficient.

As the recommendations of the 2016 report have only partly been addressed, they remain valid. In the coming year, Kosovo should in particular:

- continue to strengthen the capacity of judges, prosecutors and support staff and improve the court administration in particular through a functioning case management system that should also perform random allocation of cases and provide reliable statistical data in line with the European Commission for the Efficiency of Justice (CEPEJ) methodology;
- adopt a new law on the disciplinary liability of judges and prosecutors in line with European standards to strengthen accountability;

→ continue efforts to reduce the backlog of cases, including by using alternative dispute resolution tools, the use of which shall be properly financed and promoted.

### Strategic documents

Overall, there is slow progress in implementing the Kosovo Judicial Council's (KJC) **2014-2019 strategic plan**, the 2014-2019 communication strategy and the strategy for reducing the backlog of cases. The Kosovo Prosecutorial Council (KPC) has demonstrated more progress in the implementation of its strategic plan for 2016-2018 but it is also lagging behind. Kosovo lacks a comprehensive strategy for the justice sector reforms and a proper mechanism for inter-institutional coordination. There is insufficient coordination of donors by the Kosovo authorities. This leads to inefficiencies, incoherence and duplication of efforts. In November 2016, the government adopted a decision to conduct a functional review of the rule of law sector. However, there have been no significant further developments since its launch.

### Management bodies

Under the Kosovo Constitution, the **Kosovo Judicial Council** and the **Kosovo Prosecutorial Council** are responsible for ensuring the independence and impartiality of the judiciary. Their composition and appointment procedures are broadly in line with European standards.

The Law on the Kosovo Judicial Council still needs to be aligned with the constitutional amendment of 2016 whereby the majority of its members are to be elected by their peers. While the Prosecutorial Council adopted all internal regulations, the Judicial Council lacks the capacity to create the conditions for implementing the laws of the July 2015 justice package. The budget allocated to both Councils was increased in the reporting period. Meetings of both Councils are open to both the media and the public. Both Councils publish annual reports online, but their reporting mechanisms still need to be improved.

In line with the 2015 justice agreement between Belgrade and Pristina, the President appointed 40 Kosovo Serb judges, 13 prosecutors and their respective support staff by decree in October 2017. They began working shortly after this. Prosecutors were assigned to the Basic Prosecution Office in Mitrovica and the judges to the Mitrovica Basic Court, as well as the division of the Court of Appeals. This concludes the process of integration of Kosovo Serb judges and prosecutors into the Kosovo judicial system. Further efforts are required to ensure access to judicial proceedings in the Albanian and Serbian languages across Kosovo and use of both languages in the work of judicial bodies.

The Constitutional Court operates on the verge of the quorum with 1 judicial seat remaining vacant for months and 3 more posts to be vacated in 2018.

### Independence and impartiality

Legal **safeguards** on independence and impartiality are enshrined in the Constitution and the legal framework. Judges cannot be transferred without their consent. The Councils should establish a mechanism to react more efficiently and actively in cases of alleged political interference in the judiciary.

The system of **case allocation** works properly and is managed by drawing lots. Urgent cases are allocated by the courts' presidents. High-profile and sensitive cases are not always processed in a timely manner by the judges assigned to judge them.

The Judicial and Prosecutorial Councils are responsible for taking protective measures, to secure the safety of judges and prosecutors. The technical aspects of protection are dealt with by the police. During the reporting period, 3 prosecutors have been granted close protection due to threats they received for cases they were investigating.

## Accountability

**Codes of ethics** are in place for judges, prosecutors and attorneys but their effective implementation remains weak. **Disciplinary procedures** are in place, but experience long delays and have proven inefficient. A new law on the disciplinary liability of judges and prosecutors providing for more robust disciplinary mechanisms with rigorous deadlines and clear division of powers and responsibilities is yet to be adopted. Judges and prosecutors may be dismissed by the President on a proposal by the Judicial and Prosecutorial Councils for a number of criminal and disciplinary offences. They are entitled to appeal.

In 2017, 7 cases against judges and 9 cases against prosecutors were submitted by the Office of the Disciplinary Counsel to the Judicial and Prosecutorial Councils. The Councils imposed a number of disciplinary measures. There were no dismissals of judges or prosecutors.

Judges and prosecutors are obliged by law to **declare their assets** and gifts received, as well as report any possible conflict of interest to the Anti-Corruption Agency. In 2017, all Kosovo judges and prosecutors submitted their assets declarations on time.

## Professionalism and competence

The President of Kosovo **appoints** judges and prosecutors for an initial three-year term, following a proposal from the Kosovo Judicial and Kosovo Prosecutorial Councils respectively. The recruitment process and entry exams for judges and prosecutors are organised by the Judicial and the Prosecutorial Councils respectively and are formally merit-based. However, the recruitment of judges in the reporting period raised doubts about the fairness of the process as the rules were altered in the middle of the selection process. Following criticism the process was cancelled and repeated. The recent selection process for presidents of the Supreme Court and the Court of Appeals also raised concerns in this regard. Following two decisions by the Constitutional Court, the Judicial Council amended the regulation on selecting court presidents in July 2017 to comply with the principles of meritocracy and transparency. The subsequent process for selecting supervisory judges of court branches showed improvements. The recruitment system has to become fully transparent and merit-based. The evaluation and verification unit of the Judicial Council operates without a clear legal basis. This is in particular a concern as the unit has a profound impact on the selection processes and heavily interferes with the private life of judges.

Merit-based performance criteria and an evaluation system are in place. The Judicial Council adopted the regulation on performance evaluation of judges in April 2017. The Councils are required to carry out **performance evaluations** for prosecutors and judges with a permanent mandate every third year, but this has experienced delays in the Judicial Council. The Prosecutorial Council evaluated 81 prosecutors and the Judicial Council 66 judges in 2017. To date, most judges and prosecutors have passed the evaluation. The level of **professionalism and competence**, especially of prosecutors, is still a matter of concern; some are inadequately trained and some are unwilling to apply the training received and to take full responsibility for their cases. A system has yet to be implemented where judges and prosecutors undergo an effective and systematic evaluation based on clear criteria and with the results feeding into their career paths.

## Quality of justice

In February 2017, the Academy of Justice succeeded the Kosovo Judicial Institute. It is responsible for delivering initial and continuous **training** for judges and prosecutors and their legal and administrative staff. The training is based on the annual training curricula jointly prepared by the Judicial and Prosecutorial Councils and the Academy following a comprehensive needs assessment. The Academy also prepared an orientation training



programme for the recently appointed Kosovo Serb judges and prosecutors. There is an initial 12 months training that both judges and prosecutors must take after they have been appointed.

The budget allocated to the Academy of Justice increased by 16 % from 2016 to 2017. Continuous training remains necessary, in particular in specialised areas such as economic crimes, confiscation, public procurement and gender-based violence, including sexual harassment. Judicial education needs to play a more prominent role in the evaluation process.

In 2017 Kosovo recruited 52 new judges bringing the overall number to 403, following a number of resignations, retirements and limited recruitments in previous years. Twenty-one new prosecutors were decreed in January 2018 bringing the overall number to 198. There are 22.6 judges and 11.1 prosecutors per 100 000 inhabitants. According to CEPEJ the European average is 21 judges/11 prosecutors per 100 000 inhabitants.

The overall **budget for the judiciary** was EUR 46.4 million in 2017 (EUR 42.7 million in 2016) or 2.32 % of the general budget (2.38 % in 2016).

**E-justice tools** remain underdeveloped and new IT systems in the different justice sector institutions are developed in a fragmented manner without any overall strategy or coordinated monitoring. The IT strategy of the Kosovo Judicial Council expired in 2017. There is a tracking mechanism for high-level corruption and organised crime cases which currently includes 42 cases and should be expanded to include all high-level corruption and organised crime cases. Preparations to establish a case management information system have continued, albeit with delays. Greater commitment is needed to ensure the system's timely implementation in all courts and prosecution offices. Work on a central criminal records registry has recently started and should be completed as soon as possible. More efforts should be made to introduce reliable statistical systems for the judiciary based on CEPEJ standard indicators.

Measures to ensure consistency of **jurisprudence** are limited and need to be strengthened. Verdicts are often not electronically accessible. The online database of legislation with jurisprudence and legal commentaries to assist judges and prosecutors set up by the Kosovo Judicial Institute is still accessible via its website. However, the Institute has been succeeded by the Academy of Justice and the database has not been updated. It needs to be easily accessible and continuously updated and promoted among legal practitioners. This remains particularly relevant for the publication of Supreme Court decisions.

A **mediation** system has been operational since 2008. However, it suffers from low remuneration and a lack of funding which resulted in the closure of 3 of the 7 regional mediation centres. Public awareness or familiarity with **alternative dispute resolution** tools remains low, but the number of referred and solved cases has increased to about 1600 in 2017. Both the mediation and notary systems need further strengthening.

### Efficiency

Kosovo still needs to be more efficient in dealing with the **backlog of cases**. Courts face a high number of incoming criminal cases most of which are minor offence cases. This risks courts not being able to dedicate the necessary attention to high-profile and serious cases. The judicial system needs to ensure proper follow-up of all high-profile cases, including cases handed over by the European Union Rule of Law Mission in Kosovo (EULEX).

The efficiency of the judiciary is seriously hampered by shortcomings in criminal legislation. Many provisions in the Criminal Procedure Code are too cumbersome and formalistic to permit robust and successful investigation and prosecution. They should be amended (for example the time prescribed by law to investigate cases). Additionally, the low capacity and commitment of some judges to manage court proceedings, to sanction the parties causing delays and to ensure

the presence of all parties at sessions leads to numerous postponements of hearings and unreasonably protracted criminal proceedings. These aspects and the tendency by the Appellate Court to send cases for retrial to the basic courts contribute to a lengthy average **disposition time** (i.e. the average time taken from filing indictment to a judgment). These delays in proceedings, in combination with the preference for detention over other restrictive measures, have led to cases of overly long detention.

The organisation of courts and resource allocation rests with the court presidents and heads of prosecution offices. When necessary, judges and prosecutors can be temporarily transferred. This has proven to be an effective tool to bolster understaffed courts and prosecution offices. The number of legal staff directly assisting judges and prosecutors is considered insufficient.

### Domestic handling of war crimes

The **war crimes** department within Kosovo's Special Prosecution Office continues its work but challenges persist. The Office's workload has increased significantly due to the downsizing and handover of EULEX cases to local prosecutors. There is an acute need for more training, more staff and more translation capacity. Also, the lack of completed war crime case files, the low number of prosecutors (two) working on war crimes, and insufficient cooperation between Kosovo's and Serbia's prosecution offices are jeopardising access to justice, including for survivors of conflict related sexual violence. In cases where the suspects are ethnic Serbs, residing mainly in Serbia, mutual legal cooperation with Serbia remains effectively non-existent. This applies to cases the Kosovo prosecution tries to investigate and cases the Serbian prosecution tries to investigate. Significant concerns remain about the willingness to investigate, prosecute and judge war crimes cases involving former Kosovo Liberation Army (KLA) members. The ongoing preferential treatment of convicted war criminals in Kosovo's prisons risks affecting witnesses' willingness to cooperate in investigations. The recent pardoning of three ex-KLA members by the President also raised serious concerns.

The Kosovo Specialist Chambers, aimed to judge allegations of **international crimes** committed during and after the conflict in Kosovo as laid out in the 2011 Council of Europe Parliamentary Assembly report, have been set up. In December 2017, 43 Members of the Assembly mostly belonging to the government coalition launched an initiative to abrogate the Law on the Specialist Chambers and the Specialist Prosecutor's Office. This initiative, which triggered immediate, strong and negative reactions from both the international community and Kosovo media and civil society, raised serious concerns about Kosovo political leaders' commitment to prosecute and judge the aforementioned crimes and honour Kosovo's related international obligations.

In November 2017, the government established the secretariat of the Government Commission on Recognition and Verification of the Status of Sexual Violence Victims during the Conflict and allocated budgetary resources for victim's pensions. Since February 2018 victims can apply for recognition and verification to receive individual benefits. The timeframe of the relevant law excludes those who suffered conflict-related sexual violence after 20 June 1999.

The Inter-Ministerial Working Group on Dealing with the Past and Reconciliation, established to deal with gross violations of human rights and international humanitarian law during Kosovo's conflict, has failed to develop the strategy on transitional justice and has effectively stopped its work. The President of Kosovo has initiated the establishment of a Truth and Reconciliation Commission. The authorities need to develop a comprehensive approach to dealing with the past linking the work on the Truth and Reconciliation Commission with the government's commitment for a strategy on dealing with the past and other transitional justice initiatives. These processes need to be locally and nationally owned, as well as inclusive, gender, and victim sensitive.

## Fight against corruption

Kosovo is at an **early stage/has some level of preparation** in the fight against corruption. In the reporting period, **some progress** has been made on a track record for the investigation and prosecution of high-level cases, including final convictions. Progress was also made on the preliminary confiscation of assets although final confiscations remain low. Corruption is widespread and remains an issue of concern. Concerted efforts are needed to tackle this problem in a comprehensive and strategic manner. As the recommendations in the 2016 report have only been partly addressed, they remain valid. In the coming year, Kosovo should in particular:

→ with a view to continue progress on the track record, increase the number of prosecutors in the Special Prosecution Office investigating and prosecuting high-level corruption cases, and provide training to strengthen their capacity to conduct financial investigations, confiscate assets and effectively protect witnesses;

→ amend the legal framework (on the suspension and removal of public officials indicted for and convicted of corruption, on declarations of assets and on whistle-blowers) bringing it in line with European standards;

→ ensure that the financial reports and campaign disclosure reports of political parties are consistently published and audited, and sanctions applied for violations of relevant laws. Amend the legal framework governing political party and campaign financing on the basis of an opinion of the Venice Commission to ensure effective enforcement, accountability and transparency.

### Track record

Following the establishment in 2015 of a multidisciplinary team to effectively coordinate efforts to deal with **high-level corruption cases and high-profile serious and organised crime**, 42 investigations resulted in 31 indictments out of which 24 for corruption and 7 for organised crime, including a number of political and senior public officials. There have been 7 convictions for corruption-related offenses. The IT tracking mechanism should be extended to all high-level corruption and organised crime cases in order to build a universal track record for proactive investigation, prosecution, final convictions and confiscations of criminal assets.

**Asset confiscations** have increased but final confiscations remain low. During the reporting period 26 835 assets with a value of close to EUR 11 million were frozen and seized, while 25 assets were finally confiscated, with an approximated value of close to EUR 1.9 million.

Since it was set up, the **Anti-Corruption Agency** has sent more than 700 cases to the prosecution. Based on more than 80 referrals in 2017, the prosecution has filed indictments in less than 30 cases. The reports that the Agency submits to the prosecution need to be of better quality, and the prosecution needs to improve its capacity and willingness to pursue cases.

In 2017, of 4 498 officials obliged to submit annual **declarations of assets**, only 77 (less than 2 %) failed to do so. The Anti-Corruption Agency sent 50 cases against 50 people for prosecution. Most concerned non-reporting or false reporting of assets, movable property higher than EUR 3 000 and possession of shares in commercial companies and income. The Agency still lacks tools and resources to verify asset declarations. These checks would require closer cooperation and the exchange of data with the police, the tax administration, the Financial Intelligence Unit, the land registry and municipal authorities.

In 2017, the Agency handled more than 150 cases of **conflicts of interest**, of which fewer than 5 cases were submitted for the minor offences procedure and fewer than 5 cases were sent to the prosecution service for criminal investigation. In more than 100 cases, the conflict of interest was prevented or the Agency gave an opinion to the institutions responsible. Most cases dealt with local government officials.

In 2017, the Agency handled more than 40 cases on prevention of corruption in **public procurement** and issued more than 20 opinions, of which around 20 % were not considered.

Officials from the **north of Kosovo** did not meet their obligations regarding the submission of asset declarations to the Anti-Corruption Agency. The situation in the north of Kosovo with regards to corruption poses particular challenges for law enforcement agencies.

Transparency and accountability of funding for political parties and campaign financing need to be strengthened. Reports of political parties' finances are still not consistently and fully published and parliamentary and local elections campaigns were conducted without any meaningful financial disclosures by the parties. Independent **audits of the political parties' finances** from 2013 to 2016 were carried out - with much delay - during the reporting period. The auditors found that the political parties had significant amounts of unverifiable income and expenditures, persistent violation of financial accounting, internal control and reporting standards and showed instances of being in violation of the tax laws and the Law on the Prevention of Money Laundering. The Central Election Commission and competent authorities should investigate and ensure that legal requirements are effectively enforced and that these audit reports are properly followed up in line with the provisions and sanctions of the law. Political parties should submit their financial reports for 2017 by the legal deadline, which should then be audited properly and in due time.

Further to the assessments carried out to determine the risk of corruption – which assess weaknesses of the legal/institutional set-up of various sectors – in the health, education, energy, and mining sectors, corruption risk assessments of the public procurement, judicial and prosecution systems were carried out. Steps need to be taken to effectively address corruption in these particularly prone sectors. There is still no policy to prevent corruption in the private sector.

#### Institutional framework

The anti-corruption institutions in Kosovo are not well integrated, their remits overlap and the division of tasks needs to be clarified. Kosovo needs to strengthen inter-institutional coordination mechanisms and bodies and ensure that the institutions have access to the relevant databases (e.g. e-procurement).

#### *Prevention measures*

The main body for prevention remains the independent and specialised **Anti-Corruption Agency**. It is tasked to conduct administrative investigations, check asset declarations, monitor conflicts of interest and public procurement activities and improve awareness. Other bodies with inspecting and auditing powers are the Auditor General, the tax authorities the customs authorities and the Financial Intelligence Unit.

#### *Law enforcement*

Kosovo has specialised institutions for fighting corruption: the National Coordinator against Economic Crime, the Anti-Corruption Coordinator appointed by the Chief State Prosecutor and the Police Directorate for the Investigation of Economic Crimes and Corruption, which maintains anti-corruption units at police stations and headquarters. Each basic prosecution office has an anti-corruption prosecutor, and two prosecutors are appointed by the Special Prosecutor to handle high-level corruption cases. These cases are dealt with by the serious crime departments of the Kosovo Basic Courts.

Investigations and indictments need to be of higher quality, and cases need to be better presented before the courts. The Special Prosecution Office does not have enough specialised staff with the required level of training and competence to deal with financial cases, including procurement

cases. In order to increase the number of prosecutors in the Special Prosecution Office investigating and prosecuting high-level corruption cases, the amended Law on State Prosecutor was adopted. **Financial investigations** are still not systematically launched in cases of corruption and organised crime. Kosovo needs to apply the concept of financial investigations in line with Financial Action Task Force (FATF) standards. Police, prosecutors and judges need to continue receiving specialised training in the fight against corruption, including confiscation of assets and money laundering.

#### Legal framework

Criminal law provisions on corruption are generally in line with relevant European standards, the exception being provisions on confiscation of proceeds from crime, which are too cumbersome and complex to use, and contain unreasonably short deadlines for investigations. The **Law on Prevention of Conflict of Interest** was revised, to bring it more in line with European standards. Legislation making the **suspension and removal of public officials respectively indicted and convicted for corruption** mandatory has still not been adopted.

A comprehensive review of the current **legislation on political party financing** should be carried out on the basis of wide public consultations and in accordance with international best practices and standards, particularly those of the Venice Commission. Such a review should aim at ensuring transparency, accountability and effective enforcement and should define sanctions.

Kosovo should also implement measures allowing effective investigation of **unjustified wealth**. There is still no efficient system in place for the **declaration, origin and control of the property of senior public officials** and the **declaration, origin and control of gifts for all official persons**. The amendments to both laws should be finalised in order to give the Anti-Corruption Agency more robust powers to verify asset declarations and to make the declaration system more effective in tackling graft. Amending legislation is needed to allow the burden of proof to be reversed for asset confiscation, separating the money laundering offence from the predicate offence (the underlying criminal activity which generated the money laundered) and prohibiting the transfer of criminal assets to third persons.

The current Law on Protection of Informants has still not been brought in line with international standards. **Whistle-blowing** mechanisms and protection requirements need to be strengthened in law and in practice.

#### Strategic framework

Inadequate financing seriously hampered implementation of the **2013-2017 anti-corruption strategy** and the revised anti-corruption action plan for the prosecution service. They lacked measurable impact indicators. Although action plans were put in place to fight corruption in vulnerable sectors such as customs, the police, and the tax administration, little has been achieved in practice.

The anti-corruption strategy and action plan for 2018-2022 were drafted after a consultation process and adopted in March 2018. The government still needs to demonstrate genuine leadership, the ability to practice advance planning and a willingness to allocate adequate resources to the fight against corruption. Their credibility will depend on the resources allocated to implementing them. A monitoring mechanism should be established to regularly assess the impact of the strategy and action plan.

#### **Fundamental rights**

The legal framework broadly guarantees the protection of human and fundamental rights in line with European standards. However, additional efforts are needed to enforce it. Implementation of

human rights strategies and legislation is often undermined by inadequate financial and other resources, particularly at local level, limited political prioritisation and lack of coordination.

In the coming year, Kosovo should in particular:

→ reinvigorate the Inter-Ministerial Coordination Group for Human Rights as main coordinating body for human rights and reinvigorate the Inter-Ministerial Commission for Return and Community Affairs to improve the implementation of human rights legislation, including the rights of persons belonging to minorities and displaced persons;

→ strengthen the implementation of the Law on Gender Equality and the strategy and action plan on protection against domestic violence;

→ ensure that the legal framework on the rights of the child is duly implemented; for the draft Law on Child Protection, envisage a budget line, ensure proper accountability of relevant institutions and actors, and integration of the child protection systems at both central and local level;

→ advance the protection of cultural heritage by fully implementing and enforcing legislation addressing illegal construction. Adopt the Laws on Cultural Heritage and Religious Freedom and ensure the active functioning of the Implementation and Monitoring Council;

→ ensure the implementation of the strategy and action plan for the inclusion of Roma and Ashkali including the allocated funding.

**International human rights instruments** form an integral part of Kosovo's legal framework and are directly applicable, as provided for in the Kosovo Constitution. Kosovo continued to align its legislation with these instruments and maintained its practice of ad hoc reporting.

On the **promotion and enforcement of human rights**, effective implementation of human rights legislation remains a challenge. The Advisory Office for Good Governance lacks the necessary resources and capacity to manage its workload effectively. As a result, it has been unable to perform monitoring and coordination duties for a number of important human rights strategies, and it has not been able to monitor the implementation of recommendations by the Office of the Ombudsperson. The authorities should assess the institutional capacities of the Advisory Office and evaluate how it can meet the requirements to fulfil its mandate. The Inter-Ministerial Coordination Group for Human Rights, established in May 2016 as the main coordinating body for human rights, held its first and only meeting in February 2017. Stronger political leadership and commitment are required to ensure that the Group delivers on its mandate. There has been no significant progress in the development of an overarching human rights strategy incorporating the twelve human rights-related strategies.

On the **prevention of torture and ill treatment**, the situation remains broadly satisfactory and there is a sustained commitment by the Kosovo authorities to prevent such practices in all circumstances. However, there have been a number of complaints and allegations about incorrect treatment of prisoners by correctional staff. Following the establishment of the National Preventive Mechanism against Torture in 2016, the relevant staff in the Ombudsperson Institution has been extensively trained and has started to review and investigate complaints received. Kosovo should further strengthen ongoing efforts to provide adequate medical and psychological support and rehabilitation to all victims of torture and other ill-treatment in Kosovo. There are ongoing efforts to address recommendations issued by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (see *prison system*).

In the **prison system**, compliance has continued with the UN Standard Minimum Rules for the Treatment of Prisoners and European Prison Rules. Material conditions vary widely among the different establishments of the Kosovo Correctional Service. Overcrowding is generally not a problem. However, inadequate staffing levels remain a concern. There is a lack of meaningful activities for inmates, such as work and other rehabilitative programmes. Efforts to establish a prisoner-centred integrated sentence management system should continue. There has been no progress in addressing concerns with housing detainees with convicted prisoners at the Mitrovica Detention Centre. Work has begun on revising the Law on Disciplinary Procedures and Measures for Inmates in compliance with international prison standards. Visible progress has been noted on the transfer of prison healthcare from the Ministry of Justice to the Health Ministry. Political pressure and interference continue to affect the decision-making process for the categorisation of prisoners. This allows for preferential treatment and makes it easier to suspend sentences for high-profile prisoners. The authorities need to ensure merit-based recruitment for high-level positions within the Correctional Service.

No progress has been made during the reporting period on **data protection**. The National Agency on the Protection of Personal Data continues to be run provisionally. Since 2016, when the mandate of all five data protection supervisors expired, the activities of the Agency remain limited. This concerns *inter alia* monitoring the compliance with the data protection law, and carrying out inspections. The law on data protection needs to be amended to address shortcomings in the system and to further align it with the new EU data protection framework.

Legal provisions on **freedom of thought, conscience and religion** are in place and religious leaders of all faiths continue to interact. However, the draft law on amending and supplementing the Law on Religious Freedom needs to be adopted and include the recommendation by the Venice Commission. The Serbian Orthodox seminary in Prizren continues to function well. In May 2016, the Constitutional Court issued a final judgement on the land dispute case involving the Visoki Dečani monastery and Deçan / Deçane municipality and confirmed the monastery's legal ownership of the land. However, the judgement remains unimplemented and local resistance, including overt defiance by municipal officials, continues to raise concerns. In September 2017, the Appellate Court upheld the dismissal by Pristina Basic Court in 2015 of the lawsuit brought by the University of Pristina in 2012, requesting the demolition of the unfinished church of Christ the Saviour and the transfer of the land back to the university. Municipal authorities in Pristina allocated land for a graveyard for members of the Protestant community. They should continue to demonstrate full respect for the rights of religious communities as stipulated by the law.

### **Freedom of expression**

Kosovo has **some level of preparation** in the area of freedom of expression. There has been **no progress** in this area over the reporting period. Freedom of expression is enshrined in the Constitution and Kosovo benefits from a pluralistic and lively media environment. However, threats and attacks against journalists have continued and developments on other issues have mainly stagnated. The Assembly showed limited commitment to finding a solution for sustainable funding of the public broadcaster, leaving it vulnerable to political pressure and influence. There were no legislative developments on the regulation of media ownership and transparency. Media started publishing the impressum (publisher data). The implementation of legislation remains a challenge, in particular the law on the public broadcaster. Kosovo has done little to address the 2016 recommendations.

As the recommendations of the 2016 report have not been addressed, they remain valid. In the coming year Kosovo should in particular:

- ensure that cases of physical attacks against journalists and other forms of pressure are promptly investigated and ruled on by a judge;
- ensure a sustainable financial solution for the public broadcaster;
- implement measures to provide for transparent information on media ownership.

### Intimidation of journalists

The number of threats and attacks against journalists has increased. According to the Association of Journalists of Kosovo, in 2017 alone 24 incidents were reported, twice the number compared to the previous reporting period. Among the cases, 2 editors-in-chief have received death threats and a journalist who was physically attacked was on a later occasion threatened by a member of parliament. Authorities have opened investigations into all these cases but in general, these investigations are slow and there were only 2 final convictions in 2017 regarding threats and attacks in previous years. A more systematic response, including prompt investigation and a timely judgment, is needed to strengthen the protection of journalists. There must be zero tolerance for threats or attacks against media.

### Legislative environment

Freedom of expression and the media are constitutionally guaranteed, and legislation on libel, hate speech and defamation is in line with the European Court of Human Rights case-law. However, the legislative and institutional framework in this area remains fragmented and ineffective. The right of journalists to conscientious objection and the public's right to reply and correction remain unregulated. Police, prosecutors and judges need proper training in the standards established by the Council of Europe and the European Court of Human Rights for dealing with journalistic sources and materials. The right of access to public information is undermined by the authorities' fragmented implementation of relevant legislation.

### Implementation of legislation/institutions

Effective implementation of legislation remains a challenge, notably the law on the public broadcaster. Ensuring ethical standards is also proving difficult. The Independent Media Commission has still not started to make preparations for the digital switchover. It monitors the content of audio-visual media but lags behind in initiating cases and implementing fines for legal breaches. It is facing difficulties in meeting its financial obligations, including capital investment.

Neither the Independent Media Commission nor the Press Council of Kosovo monitors freedom of expression online. Although this creates an unhindered environment for online media, it also undermines the privacy of individuals, leading to many cases of alleged hate speech, libel and defamation. Such cases need to be thoroughly followed up.

### Public service broadcaster

The public broadcaster, Radio Television of Kosovo (RTK), remains directly state-funded. This continues to undermine its independence, weakens its long-term sustainability and leaves it prone to political influence. The Assembly has yet to find a sustainable financing solution for the RTK, with the legal deadline having expired in April 2015. In October 2017, the Assembly indicated its intention to adopt a completely new law on the RTK, following a European model, though plans remain unclear. A solution for the premises of the public broadcaster is yet to be found. The RTK Board is complete, but its performance needs to be improved. The number of employees has increased through the years, with recruitment procedures being criticised by the trade unions as non-transparent.



### Economic factors

Media outlets are generally not economically sustainable. Information on media ownership structures, in particular for online media, remains unclear and often fictitious, as most media do not provide information on their finances or real ownership. The fact that media started publishing the impressum (publisher data) in early 2017 is nevertheless a positive development. The lack of a strong private advertising industry makes private broadcasters dependent on other sources of funding, and few are able to operate without strong links to political and business interest groups.

### Professional organisations/professional conditions

Associations of journalists in Kosovo have been active in condemning incidents and threats against journalists. They have also increased cooperation with the Kosovo Police and Prosecution services on following up on these cases. Their involvement in discussing legislative initiatives on media issues remains limited. The journalist associations largely remain divided along ethnic lines and are considered weak. Journalists often work without contracts, which makes them vulnerable to corruption and prone to self-censorship. Protection of professional standards in journalism is governed by codes of ethics, but neither the Independent Media Commission nor the Press Council has brought any cases for breach of the code.

**Freedom of assembly and association** is guaranteed by the Constitution and citizens have been making use of their rights by demonstrating and protesting against the different levels of government. Individuals and legal entities have the right to establish an association without the need to register the organisation, but most organisations decide to register to gain legal personality.

On **property rights**, in November 2016, the former Kosovo Property Agency, mandated to deal with the resolution of conflict-related property claims, was transformed into the Kosovo Property Comparison and Verification Agency (KPCVA). A strategy for property rights was adopted in January 2017, but implementation remains inadequate. Concerns remain about the lack of implementation of the compensation scheme for owners of former socially owned residential property affected by the conflict. Another challenging issue is the illegal re-occupation of properties, as the Property Agency has no authority to act on re-occupation following a second eviction. The Ombudsperson has recommended amending the Law on the KPCVA to ensure its compliance with the Kosovo Constitution, European and international human rights standards and to allow for multiple evictions to be carried out by the Agency. There are also concerns about fraudulent property transactions and illegal transfers of ownership of properties mainly belonging to displaced persons. Following the discovery of 350 000 constructions built without a permit, the government is revising its policy and the Law on the Treatment of Constructions without Permit. The long-awaited strategy on legalising informal settlements has not yet been adopted. Municipal authorities have made limited progress in adopting three-year social housing plans, thus preventing thus the central authorities from concluding a Kosovo-wide strategy on social housing.

On **non-discrimination**, some progress has been noted, given that in 2017 Kosovo adopted the Regulation on Institutional Mechanisms for Protection from Discrimination in Government and Municipalities. This Regulation aims to define the duties and responsibilities of the relevant staff at central and municipal level and define their coordination, reporting and cooperation with other institutional mechanisms for protection from discrimination. The tracking mechanism of the Prosecutorial Council still needs to be extended to cover cases of all forms of discrimination, not only those based on ethnicity.

Kosovo's legal framework for **equality between women and men** is broadly in line with international standards. However, women often face gender-based violence and high discrimination in the labour market, the judiciary and the police. Women are severely underrepresented in decision-making in both the central government and the municipalities. Women also continue to face challenges with property ownership and inheritance. During the reporting period, the government adopted two remaining secondary laws stemming from the Law on Gender Equality. However, effective implementation of the Law is lagging behind. The 2016-2020 strategy and action plan on protection against domestic violence were adopted in December 2016 but their implementation is weak. The National Coordinator for the Protection from Domestic Violence was appointed in January 2018. The role of the Agency for Gender Equality and the role of gender equality officers in ministries and municipalities in policy-making need to be strengthened. Gender-disaggregated data is lacking, and gender mainstreaming in laws and policies remains poor. On gender-based violence, further efforts are needed to address the weak coordination between the police, prosecutors and other players and to address the inadequate monitoring by the police and the courts of protection orders in cases of domestic violence. A legal definition of domestic violence and sexual harassment should be introduced in the Criminal Code. It is also imperative to ensure that shelters for victims of gender-based violence and trafficking in human beings are sustainably funded and that measures are taken for the effective reintegration of victims.

On the **rights of the child**, Kosovo's legal framework is largely in line with international standards, but implementation remains limited. A child protection law is currently being drafted. Authorities must ensure that the law is followed up with an adequate budget and institutional ownership. Data collection and management remain a challenge for many child-related issues. Child labour continues to be a concern. Efforts to prevent all forms of violence against children are insufficient, and the legal framework does not explicitly prohibit corporal punishment. Foster care must be extended in all the municipalities. The new Educational Correctional Facility inaugurated in September 2017 should help provide further opportunities for juveniles in detention. Children with disabilities face several limitations of their rights, especially access to education and access to adequate intervention services. Institutions should increase financial support to day-care rehabilitation centres and make more efforts to effectively integrate children with disabilities into educational institutions.

Little progress has been made on the **rights of persons with disabilities** and their integration in society remains a challenge due to limited support, inadequate health services, and poor accessibility to existing services. Physical access to public buildings and transport remains limited for persons with disabilities. Inclusive planning and budgeting for appropriate interventions and service delivery are undermined by the lack of accurate data on persons with disabilities. The legal framework on mental health is also incomplete. Implementation of the Law on Blind Persons and the Law on the Status of the Rights of Persons with Paraplegia and Tetraplegia is limited. The same applies for the 2013-2023 strategy on the rights of persons with disabilities. In December 2017, the government adopted the 2018-2020 action plan for the rights of persons with disabilities. The Kosovo Disability Forum became operational in January 2017. The National Disability Council continues to underperform. It should meet regularly and take a more proactive role to improve the wellbeing and promote the right of persons with disabilities.

On the rights of **lesbian, gay, bisexual, transgender and intersex (LGBTI)** persons, Kosovo's Constitution protects against discrimination based on sexual orientation, and a 2015 anti-discrimination law covers both sexual orientation and gender identity. However, further efforts are necessary to ensure their adequate implementation, including through the second LGBTI action plan. In October 2017, the first ever official LGBTI Pride parade was organised in Pristina and was attended by senior representatives of the authorities. Despite these positive

developments, prejudice and stereotyping remain widespread in society and in the media. More efforts are needed to counter intolerance towards LGBTI persons, as many remain at risk of discrimination and abuse. Cases of hate crime against LGBTI persons need to be properly investigated and brought to court. The legal framework for legal gender recognition should be improved.

Issues of **labour and trade union rights** are covered in *section Social policy and employment*.

On **procedural rights**, persons suspected, accused or victims of crime have the right to solid protection under the Criminal Procedure Code, the Law on Police, the Law on the Kosovo Police Inspectorate, the Law on Crime Victim compensation and the Law on Free Legal Aid. They have the right to interpretation and translation, the right to information about their rights, the right to legal advice before and during trials and to legal aid, and the right to communicate with family members, employers and consular authorities. The Law on Crime Victim Compensation is broadly aligned with the EU Directive on Compensation for Crime Victims. A crime victim compensation programme was established in 2016. The commission verifying requests for compensation has so far received seven requests of which two were approved, two were rejected and three are still being processed.

Kosovo has an adequate institutional and legal framework for the rights and protection of **minorities**, including strategies and action plans. However, implementation is weak and there is a large dependency on international donors for support to minority communities. The institutional set-up and mechanisms for protecting minority communities are in place but lack coordination. The Municipal Communities' Safety Councils still need to be established in the north of Kosovo to further strengthen the protection of minority communities. The technical working group, set up to implement recommendations of the Council of Europe's Framework Convention for National Minorities did not convene during the reporting period. Representation of minority communities in the public administration has slightly improved, but the minimum threshold required by the Law on Civil Service has yet to be fully achieved. In October 2017, the new head of the Office of Community Affairs was appointed. It is important that this Office is fully involved in policy-making on the protection of minorities.

Stronger support by the government to mainstream language policies is still needed. Implementation of the Law on Languages is still inadequate despite the efforts made by the Office of the Language Commissioner. The government has not yet approved the strategy to promote and protect language rights. A more integrated and inclusive education system with opportunities to attend classes both in the Albanian and Serbian languages as well as minority languages, where relevant, could contribute to better understanding between communities.

The overall security situation for minority communities remains relatively stable. However, there are recurring incidents of property theft and burglary, which frequently affect Kosovo Serb returnees in western Kosovo and other minority communities in other municipalities. The insufficient follow-up by judicial authorities increases insecurity and hampers the return process. Law enforcement and judicial authorities should take urgent action to bring the perpetrators to justice. Overall, continued efforts are required to properly and consistently address incitement to hatred and hate crimes against minorities. Increased recruitment of minority police officers would contribute to an enhanced sense of security among the affected communities.

The pace of return and reintegration of **refugees and displaced persons** continues to slacken, with 498 individuals returning in 2017. The non-settlement of property claims by displaced persons is an important factor explaining why there is no enabling environment for returning. The Kosovo Property Comparison and Verification Agency and the Ministry for Communities and Return have to improve their cooperation to facilitate property restitution for the return

process. The Constitutional Court decisions on property cases must be fully observed and swiftly implemented.

The situation of **Roma** and Ashkali communities remains difficult. The new strategy and action plan for 2017-2021 for their inclusion in Kosovo society was not adopted until April 2017, 16 months after the previous strategy expired. Just before its adoption by the government, the strategy was amended to exclude from its scope the Egyptian community. The European Commission and civil society organisations have expressed concern that this could lead to a further marginalisation of Egyptian community members. Coordination mechanisms at all levels as foreseen in the strategy need to be fully operational and politically supported.

Low completion rates of compulsory education are frequent for Roma and Ashkali children. Enrolment in pre-primary education has increased. The number of students attending college or university remains very low. Learning centres continue to play an important role in reducing the number of drop-outs. The sustainability of additional educational support for vulnerable communities needs to be ensured. Continued efforts are needed to train, accredit and integrate teaching staff from these communities into the education system. Access to public health is free of charge; however, it covers only very basic needs. A budget needs to be allocated in order to meet the housing needs of the communities, and measures to include them into the labour market need to be taken. Kosovo has one of the highest rates in the region of Roma informal work. Efforts need to be undertaken to prevent widespread child marriage affecting especially girls and to prevent child labour. There are still persons who face difficulties with civil documentation often linked to return or repatriation.

On **cultural rights**, relations between the Kosovo authorities and the Serbian Orthodox Church were strained during the reporting period. Cooperation with the Implementation and Monitoring Council ceased, although a recent initiative to revitalise it is promising. The government established the IMC secretariat. The Religious and Cultural Heritage Unit of the Kosovo Police fulfils its mandate in four regions to protect Serbian religious and cultural heritage sites. Some minor incidents of petty theft and vandalism at cultural and religious sites were reported.

The Ministry of Culture is engaging with the Serbian Orthodox Church on ways to support the reconstruction of its sites left unfinished by the Reconstruction Implementation Commission. However, the terms of this support need to be clarified to ensure that the Serbian Orthodox Church can exercise full discretion in the management of its properties, while following legal procedures. Kosovo should demonstrate that it respects this right in practice.

Kosovo authorities have committed to reinstate all the substantive provisions included in Annex V of the Comprehensive Status Settlement Proposal regarding Serbian heritage in Kosovo. The government proactively liaised with the EU in drafting the cultural heritage strategy for 2017-2027 and adopted it in December 2016. The same is expected for the drafting of the law on amending and supplementing the Law on Cultural Heritage, which should accurately reflect all of Kosovo's commitments under Annex V of the Proposal.

The Village Council of Velika Hoča / Hoçë e Madhe and the Cultural Heritage Council in Prizren are operating in accordance with the law. The government is cooperating more closely with civil society in managing of cultural heritage. Incidents of cultural heritage being demolished illegally continued, and sanctions against perpetrators have not been enforced. The task force set up in 2014 to deal with illegal construction in Prizren has not met for over a year. However, in 2017 the Ministry of Culture initiated interventions to preserve monuments at risk. More effort is still needed to ensure cultural heritage throughout Kosovo is adequately protected and managed.

## 2.2.2 Justice, freedom and security

Kosovo is at an **early stage/some level of preparation** in this area. **Some progress** has been made, especially in the fight against terrorism, including measures to tackle violent extremism and radicalisation and in preventing terrorist fighters from joining conflicts abroad. In the fight against organised crime, there is more preliminary confiscation of assets. However, final confiscations of assets remain low. Authorities have made progress in managing regular and irregular migration. Further efforts are needed.

Kosovo has only partly fulfilled the recommendations of the 2016 report, namely those on the intelligence-led policing approach and the results on the track record. The recommendations on confiscation-related legislation and the expanding of the tracking mechanism to all organised crime cases have yet to be addressed.

In the following year, Kosovo should in particular:

→ develop a strategic approach towards financial investigations, including by (i) adopting the FATF concept on financial investigations; (ii) automatically implementing financial investigations when dealing with organised crime, terrorism, money laundering and serious corruption cases; (iii) starting financial investigations from the very start of the criminal investigation; and (iv) applying a multidisciplinary and proactive approach to financial investigations;

→ continue to strengthen the track record in the fight against organised crime, including final judgements and confiscations, and amend the legislation on the confiscation of assets. Expand the existing IT tracking system to all organised crime cases;

→ step-up efforts to develop programmes on de-radicalisation, rehabilitation and reintegration of returned fighters, including those in prisons, and their spouses and children;

→ strengthen the inter-institutional cooperation on and coordination in the field of migration.

### Fight against organised crime

Kosovo is at an **early stage** in the fight against organised crime. **Some progress** has been made in the reporting period in investigating and prosecuting high-level cases. While there is more preliminary confiscation of assets, there are still few final convictions, financial investigations and final confiscations of assets. Measures are needed to strictly ensure there is no political interference with operational activities of law enforcement bodies and the prosecution. The situation in the north of Kosovo with regards to organised crime poses particular challenges for law enforcement agencies. Kosovo has only partly fulfilled the recommendations of the 2016 report, namely on the track record, training of prosecutors and the intelligence-led policing approach. Therefore, the recommendations remain valid. In the coming year, Kosovo should in particular:

→ revise the Criminal Code, the Criminal Procedure Code and the law on extended powers for confiscating the proceeds from crime to make them effective tools to combat organised crime;

→ with a view to continue progress on the track record, increase the number of prosecutors in the Special Prosecution Office investigating and prosecuting high-profile serious and organised crime cases, and provide training to strengthen their capacity to conduct financial investigation, confiscate assets and effectively protect witnesses;

→ continue developing an intelligence-led policing approach and strengthen capacity to collect, harmonise, analyse and use relevant criminal statistics, including through better inter-agency cooperation.

## Institutional set-up and legal alignment

Provisions in the **Criminal Code and in the Criminal Procedure Code** for combating organised crime are broadly in line with European standards. Nonetheless, some need to be urgently revised, such as those on search and confiscation, on admissibility of evidence, the provisions responsible for the imbalance between the defence and prosecution at trial and the provision allowing for a multitude of appeal possibilities. Of particular concern is the period prescribed by the Criminal Procedure Code for investigations which is unrealistically short for cases of organised crime and corruption. This should be addressed in the amendments to the Criminal Procedure Code. The Law on Money Laundering and Terrorism Financing is not fully in line with EU *acquis* and international standards. The main flaws remain (i) the unclear system of supervision of the financial sector by the Financial Intelligence Unit (FIU) and central bank; (ii) extensive reporting requirements for NGOs; (iii) the lack of provision allowing the prosecutor or court to continue freezing a suspicious transaction in line with FIU orders; (iv) and the scope of the definitions which is narrower than the scope in the recommendations of the Financial Action Task Force. The Law on the Interception of Telecommunications, adopted in May 2015, is still not fully implemented.

The **Kosovo Police** remain the most trusted institution upholding the rule of law. There are 8 742 police officers in Kosovo, or 440 officers per 100 000 inhabitants, compared to the EU average of 211 in 2015. They are relatively well trained and equipped. The police force has several specialised units both at central level (e.g. the anti-corruption task force) and regional level (e.g. the drugs and trafficking in human beings units). The Kosovo Academy for Public Safety provides a good level of **initial and continuous training** to police and public security bodies such as correctional or customs services. In November 2016, the Kosovo Police published a Serious and Organised Crime Threat Assessment based on Europol's methodology. It is important that the threats identified are translated into operational priorities backed up with adequate resources.

The 2012-2017 strategy and action plan against organised crime remain the main strategic documents. The new strategy for 2018-2022 is being drafted. Additional strategies and action plans are in place on the prevention of and fight against informal economy, money laundering, terrorist financing and financial crimes; the prevention of violent extremism and radicalisation leading to terrorism; against terrorism against trafficking in human beings; on cybersecurity and against narcotics. The Deputy Minister of Internal Affairs coordinates the implementation of the strategy and action plan against organised crime. An organised crime directorate in police headquarters is complemented by specialised units to combat drugs and human trafficking at regional level, assisted by forensic units. The main player fighting organised crime is the Special Prosecution Office, which is staffed with prosecutors specialised in investigating and prosecuting this type of criminality.

Legislation on **cybercrime** is in general in line with the EU *acquis*. Alongside planned changes to the Criminal Code, the authorities should ensure a proper conclusion to the ongoing revision of the Law on Prevention and Fight of Cybercrime, taking into account the available expertise of the international community. This will enable the authorities to better respond to the fast changing landscape of cybercrime. The police department responsible for investigating organised crime has set up a sector for cybercrime investigations and staff has received specialised training and equipment.

The 2015-2019 strategy and action plan against **trafficking in human beings** is in place, with the priority on preventing trafficking in persons, protecting and supporting victims and witnesses, investigating and prosecuting trafficking crimes and protecting children. Legislation is broadly aligned with the EU Directive on preventing and combating trafficking in human beings

and victim protection, although implementation could be improved. Kosovo is a country of origin, transit and destination of victims of trafficking in human beings, notably for sexual exploitation. In 2017, 32 victims of trafficking were identified, of which 25 were from Kosovo.

Organised crime cases are dealt with by the Special Prosecution Office and the serious crimes departments of the Kosovo Basic Courts. **Customs, the Financial Intelligence Unit (FIU) and the tax administration** are responsible for monitoring and controlling the internal and cross-border/boundary flow of goods, materials and capital that might be involved in any form of organised crime. The FIU specifically assists with analysing and disseminating information on money laundering and terrorism financing and exchanges information with all law enforcement institutions. It also has the capacity to freeze suspicious financial transactions. Kosovo is in the process of establishing an asset recovery office. This process should be sped up, so that a centralised Asset Recovery Office, in charge of the identification and tracking of criminal assets, can enhance the effectiveness of the asset recovery system and facilitate the operational cooperation with Asset Recovery Offices in the Member States.

There needs for better **cooperation and coordination** between all the existing institutions. The Special Prosecution Office remains the weakest link.

#### Implementation and enforcement capacity

On the **track record**, the IT tracking mechanism for **high-profile cases**, including organised crime, is operational (*see fight against corruption*) but needs to be expanded to cover all organised crime cases. This will lead to more inter-institutional cooperation and enable all those working to uphold rule of law in Kosovo to share more information. While there is more preliminary confiscation of assets, there are still few final convictions, financial investigations and final confiscations of assets. Out of the 42 cases in the track record, 10 deal with organised crime, with 4 cases before the courts, 3 indictments handed out and 3 cases under investigation. For organised crime-related cases not included in the track record, regarding trafficking in human beings, an indictment was filled for 40 persons and 11 persons were found guilty during the reporting period. For arms trafficking, 6 were indicted and 5 persons were found guilty. For money laundering, 3 persons were indicted and 1 case terminated with an acquittal.

The fight against **money laundering** is not efficient enough to produce convincing results. Money laundering is often not prosecuted as a standalone crime but in connection with other criminal offences, which hampers progress in this area. Financial investigations are not effective and not conducted systematically in parallel with the criminal procedure in corruption and organised crime cases. While the estimated value of preliminary confiscated assets has notably increased overall, the rate of final confiscation of criminal assets remains relatively low. Confiscation of criminal assets should become a strategic priority in the fight against organised crime, terrorism and high-level corruption in Kosovo. Criminal groups engage in an increasingly wide range of profitable illegal activities and reinvest substantial profits in Kosovo's economy. Today, Kosovo's tools for freezing, managing and confiscating criminal assets are not effective enough. Kosovo should therefore develop and implement a more comprehensive and coherent legal framework for confiscating the proceeds from crime. Kosovo should particularly: (i) focus on adopting/implementing rules on the confiscation of assets which are not directly linked to a specific crime but which clearly result from similar criminal activities committed by the convicted person (extended confiscation); (ii) focus on adopting/implementing rules on confiscating criminal assets that were intentionally transferred from the suspect to a third party (third-party confiscation); (iii) allow confiscation of criminal assets where a criminal conviction is not possible, in particular because the suspect is deceased, permanently ill or has fled (non-conviction based confiscation); and (iv) ensure that the competent authorities more systematically put at temporary freeze on assets that risk disappearing if no action is taken,

knowing that a court has to confirm this as soon as possible (precautionary freezing). In addition, it is crucial that financial investigation of a person's assets be allowed to continue for years after a criminal conviction in order to fully execute a previously issued confiscation order (effective execution). Finally, Kosovo should urgently step up its capacity to manage frozen or confiscated assets so that they do not lose economic value (asset management).

Police capacity for combating organised crime is good. However, the police are still subject to corruption and political pressure, which hinder the investigation of organised crime. **Intelligence-led policing** remains weakly implemented. The new analytical tool to help expose and investigate organised crime, the Kosovo Police Information System, is not yet fully utilised. There is need for more specialised training sessions for all institutions involved in fighting - more complex - organised crime and a need for closer international cooperation. The Special Prosecution Office needs to be strengthened (*see functioning of the judiciary and the fight against corruption*).

Kosovo regularly exchanges information with Europol and Interpol via EULEX or the United Nations Interim Administration Mission in Kosovo (UNMIK). In September 2017, Kosovo asked that its application to join Interpol be postponed to the next General Assembly meeting in November 2018. In December 2017, the Europol Management Board adopted a priority list of partners for strategic cooperation, including Kosovo. The Kosovo Financial Intelligence Unit became part of the Egmont Group in February 2017. The Kosovo Academy for Public Safety signed a working arrangement with the EU Police Academy (CEPOL) in March 2017.

The public's lack of trust in the authorities continues to hamper effective implementation of **witness protection mechanisms**. Regional and international cooperation need to be further improved with more agreements on allocating witnesses abroad and sharing information. Prosecutors and judges need more training on how to effectively protect witnesses.

Regarding **arms trafficking**, Kosovo has approved, and is implementing, its strategy on small arms, light weapons and explosive control 2017–2021. The Ministry of Internal Affairs has a database in which it registers all arms imported to Kosovo, whereby they are marked upon arrival. The Law on Legalisation of Weapons and Surrender of Small Arms and Light Weapons, Ammunition and Explosive Materials was approved in March 2017. Kosovo is participating in the implementation of the Action Plan on illicit trafficking in firearms between the EU and the South East Europe region (2015-2019). The involvement of armed groups in organised criminal activities, such as arms smuggling is of serious concern. Kosovo has improved significantly in the fight against firearms trafficking, not only through normal investigation, but also through forensic work.

Fighting organised crime and corruption remains fundamental to countering criminal infiltration of the political, legal and economic systems.

## **Fight against terrorism**

### Institutional set-up and legal alignment

Kosovo's **legal framework** is in line with the EU *acquis* and international instruments on anti-terrorism. Kosovo has legislation criminalising the phenomenon of foreign terrorist fighters in line with UN Security Council Resolution 2178 (2014). The offence of terrorism financing is included in the Law on Combating Money Laundering and Financing of Terrorism. This law is, however, still not fully in line with EU and international standards. The 2018-2022 strategy against terrorism and its action plan were adopted in March 2018. The strategy is based on the four pillars of prevention, pursuit, protection and reaction and is in line with the EU's counterterrorism strategy. A strategy and action plan to prevent violent extremism and radicalisation has been in place since 2015.



The main **institutions** involved in combating terrorism are the Ministry of Internal Affairs, the Ministry of Justice, the Ministry of Foreign Affairs, the Police, the intelligence agency, the Financial Intelligence Unit, and the prosecution service, including the Special Prosecution Office. As the anti-terrorism coordinator, the Minister of Internal Affairs is in charge of developing policies and strategies to combat terrorism, evaluating strategic intelligence and ensuring coordination. The government and Technical Working Group for the Prevention of Violent Extremism meet on regular basis thus ensuring cooperation between authorities and other actors, including civil society and religious communities.

The Financial Intelligence Unit (FIU) is a crucial part of the system of combating terrorism financing. However, it lacks the staff and resources to effectively tackle this phenomenon.

#### Implementation and enforcement capacity

Kosovo has stepped up its efforts to fight terrorism, including measures to prevent violent extremism and domestic **terrorist fighters** joining conflicts abroad. The number of Kosovo citizens who have engaged in the conflicts in Syria/Iraq has been steadily decreasing, and in 2017 there were no new reported cases. Between 2012 and 2016, an estimated 359 Kosovo citizens (255 men, 49 women and 55 children) left for conflict zones in the Middle East, mostly as foreign terrorist fighters. Also, 41 children were born in the conflict zone, 133 Kosovo citizens have returned, 74 died and 195 remained in theatre (59 men, 41 women and 95).

In 2017, 61 % of the activities in the action plan to prevent violent extremism and radicalisation leading to terrorism were implemented; 14% of the activities were partially implemented and 25 % were not implemented. Kosovo law enforcement and judicial institutions continue to respond robustly to terrorism. The police have arrested a substantial number of people who joined terrorist groups involved in conflicts abroad or who intended to do so. A significant number of cases ended in convictions. These were cases with charges ranging from recruiting for terrorism, organising and participating in a terrorist group, inciting national, racial, religious or ethnic hatred, discord or intolerance, inciting others to commit a terrorist offence, violating the provisions of the Law on the Prohibition of Joining Armed Conflicts outside Kosovo. In November 2016, Kosovo Police arrested 18 persons suspected of terrorism. They were allegedly planning to conduct coordinated terrorist attacks in Albania, the former Yugoslav Republic of Macedonia and Kosovo. During the whole reporting period, the Directorate against terrorism initiated 27 new cases for criminal offences related to terrorism, resulting in the arrest of seven suspects. 20 persons were convicted for criminal offences related to terrorism.

Despite these efforts, the authorities continue to be faced with the challenge of **violent extremism and radicalisation**. This is assisted in part by funding from foreign organisations that preach extremist ideologies. Violent extremist groups also actively use social media to spread propaganda and recruit followers. Kosovo should increase its efforts to counter these external influences. Kosovo also faces the challenge of returned fighters and their family members from the conflict zone. There are no comprehensive programmes on prevention, de-radicalisation, rehabilitation and reintegration of returned fighters including those in prisons, and their families, in particular for women and minors. The intelligence and law enforcement community needs to adopt a dedicated approach to the phenomenon of violent extremism and radicalisation. There has to be a coherent judicial policy on offenders combined with social, community-based responses aimed in particular at marginalised young people. Improved cooperation among law enforcement and intelligence services, especially between countries in the Western Balkans, could help to counter the threat. Monitoring and preventive activities should be stepped up in the south of Kosovo, especially near the border with the former Yugoslav Republic of Macedonia. Kosovo should exchange more data on counterterrorism with Europol. The link between organised crime and terrorism should be assessed. Prosecutors and

police need additional specialised training in investigation techniques. Kosovo law enforcement agencies also lack expertise and equipment to investigate complex cases of terrorism. Kosovo should focus on an inclusive educational system to counter the risk of radicalisation of vulnerable young people.

## **Legal and irregular migration**

### Institutional set-up and legal alignment

The **legal framework** is largely in line with the *acquis*. Amendments to the Law on Foreigners to align it with the latest EU Directives on the employment of nationals from non-EU countries, and alignment with the Visa Information System Regulation (VIS Regulation) on the exchange of data on short-stay visas were adopted by the Assembly.

The Department of Citizenship, Asylum and Migration in the Ministry of Internal Affairs is in charge of implementation of migration policy. The Directorate for Migration and Foreigners in the Kosovo Border Police deals with irregular migrants. The **strategy** and action plan on migration for 2013-2018 are being implemented. However, closer inter-institutional cooperation and coordination are needed. The next five-year strategy needs to be prepared with full engagement of all the relevant line ministries drawing on past lessons and a comprehensive assessment of the implementation challenges. The 2016 migration profile was adopted in November 2017. It contains an extensive analysis of migration data and of ‘push’ and ‘pull’ factors, together with recommendations and policy guidance which now need to be taken into consideration in practice. It was developed by the Government Authority on Migration, an inter-institutional body comprised of 15 different government institutions. This body is well positioned to take a more proactive leadership role. Its mandate should be strengthened.

### Implementation and enforcement capacity

There are some **gaps in enforcement**, in particular due to lack of coordination between government agencies. Some of the divisions of the Department of Citizenship, Asylum and Migration of the Ministry of Internal Affairs remain understaffed, despite some staff increases. The Directorate for Migration and Foreigners of the Kosovo Police and the Asylum (Reception) Centre and Detention Centre for Foreigners also face staff shortages. Over the reporting period, staff have become more specialised thanks to a number of training courses ranging from migration management and special interviewing techniques to procedures and standards for the treatment of unaccompanied minors, identification and referral of asylum seekers with special needs, and rights of applicants in need of international protection.

Kosovo has a reception facility for **irregular migrants** in Vranidoll/Vrani Do, which can host 70 persons, and provide appropriate accommodation for vulnerable groups. Legal provisions ensuring the fundamental rights of irregular migrants or foreigners hosted in the centre are in place. However, adequate and specialised supervisory staff is lacking to ensure basic rights and needs. Providing proper care for the most vulnerable groups of migrants remains a challenge. Measures are in place to prevent **people-smugglers** from infiltrating the centre. However, it is believed that the movement of migrants between Kosovo and its neighbouring countries is facilitated by individual smugglers or networks, as they are able to move on without going through any of the check-points at the borders or at the border/boundary with Serbia. Smuggling networks from Kosovo facilitate secondary movements of irregular migrants from entry points along the Balkan route. Between September 2016 and January 2018, Kosovo Police investigated 23 cases of migrant smuggling. It has also undertaken 7 police operations in which 15 suspects were arrested.

Overall, there were 63 irregular migrants sheltered in the reception centre between September 2016 and January 2018. All 63 persons were **returned** to their country of origin, most of them

within a reasonable period of time (average waiting time is 25 days). Kosovo needs to put in place a return mechanism for irregular migrants in line with EU standards and practices.

Challenges remain with the communication between officials and irregular migrants but progress was made in 2017 with an agreement to share interpreters among countries of the region through the Migration, Asylum and Refugee Regional Initiative.

Kosovo has signed **readmission** agreements with 24 countries, 20 of which are with EU Member States and countries of the Schengen area. Most recently, an agreement with the former Yugoslav Republic of Macedonia was signed in December 2017. No readmission agreement has been signed with the EU. The number of asylum requests by Kosovo citizens in both EU and Schengen Associated countries has fallen from 73 235 in 2015, to 11 965 in 2016 and an estimated 7 575 in 2017. The readmission agreements with EU Member States and Schengen Associated countries are being implemented smoothly. Mirroring the trend in asylum requests, the overall number of Kosovo citizens readmitted has reduced from 18 789 in 2015 and 11 030 in 2016 to 4 509 (2 623 forced and 1 886 voluntary) in 2017. Kosovo achieved a return rate of 96 % of Kosovo citizens ordered to leave EU territory in 2016. The new **reintegration** strategy and action plan (2018-2022) were adopted by the government. The regulation on reintegration was amended in August 2017 following a broad consultation with relevant stakeholders. The main objective was to develop a more sustainable reintegration process through progressive decentralisation to the municipal level where public services should be provided. This process is ongoing, and the system is not yet fully operational. As of January 2018, 2,890 persons have benefitted from sustainable assistance services provided by the Reintegration Fund. Further efforts are still needed to put in place an operational system that reaches more returnees and focuses more on sustainable assistance services like income generation. This requires the cooperation of various ministries.

## **Asylum**

### Institutional set-up and legal alignment

The **legal framework** on asylum is largely in line with the *acquis*. The Law on Asylum has been revised to further align it with the *acquis* on asylum procedures and reception conditions. The Department for Citizenship, Asylum and Migration is the first-instance body in the Ministry of Internal Affairs. The National Commission for Refugees reviews appeals. A final judicial appeal can be lodged with the Supreme Court. After rejection of a request for asylum or cessation of procedure, the Department's Division for Return and Readmission is responsible for enforcing the decision.

### Implementation and enforcement capacity

For **asylum procedures**, the competent authorities have improved their capacity to evaluate asylum claims based on the merits of the application but further training is required. The number of asylum requests fell from 307 in 2016 to 147 in 2017. Kosovo is still a transit country. Most asylum requests are suspended as applicants disappear without completing the procedure. In 2017, 2 applicants received a positive answer in the form of subsidiary protection.

Staffing levels are generally adequate for the number of asylum requests. However, the Centre for Asylum Seekers in charge of the **reception, registration, accommodation and movement of asylum seekers within and outside the centre** is understaffed. There is also a lack of psychosocial and legal support, assistance with child development and support from social services. Although provided by the by-law on admission and initial treatment of asylum seekers, a referral system at the border/boundary, including access to legal aid, is not yet in place. Moreover, interviewing techniques remain of concern and are often complicated by the lack of adequate interpretation. However, although fully effective and protection-sensitive entry systems

are not in place, no documented instances of *refoulement* or forced returns have been identified in recent years. In 2017, the competent authorities updated their contingency plan in case of an influx of migrants/refugees to Kosovo. There is, nonetheless, a considerable gap between the currently available capacity (50 places) and the foreseen capacity at the accommodation facilities in the contingency plan (5,000 places). The European Asylum Support Office is supporting Kosovo authorities in harmonising practices by implementing the Common European Asylum System and coordinating with the European Networks for Receptions.

## **Visa policy**

Kosovo has yet to align its legislation with the EU lists of countries whose citizens are required to have a visa and those exempted from the visa obligation when travelling to the EU. Based on a government decision from 29 November 2013, Kosovo imposes visa requirements on nationals of 88 countries. The number of Kosovo consulates issuing visas increased to 16, leading to a fall in the number of visas issued at borders (only 6 during the reporting period) with a validity of 15 calendar days. The visa issuing authorities have the capacity to digitally collect biometric identifiers from visa applicants, although the equipment would need updating. The online connection between the visa issuing authorities and the Foreign Ministry is enabled through the Kosovo Visa Information System. All granted and rejected visas are registered in this information system.

The citizens of Kosovo remain the only citizens from the Western Balkans that have to apply for and obtain a visa to travel to the Schengen Area. A visa liberalisation dialogue has been ongoing since 2012. In May 2016, the Commission issued its proposal for visa liberalisation, on the understanding that by the day of its adoption by the European Parliament and the Council, Kosovo will have ratified the border/boundary agreement with Montenegro and strengthened its track record in the fight against organised crime and corruption. The Kosovo Assembly ratified the border/boundary demarcation agreement with Montenegro in March 2018.

## **Schengen and borders**

### Institutional set-up and legal alignment

The **legislative framework** for managing Kosovo's borders/boundary is largely in line with the *acquis* and international standards. The Assembly adopted amendments to the Law on State Border Control and Surveillance to further align the legal framework with the EU *acquis*, in particular Regulation 2016/399. The National Centre for Border Management (NCBM) has a joint intelligence risk and threat analysis unit in charge of collecting data and information from the Integrated Border Management (IBM) agencies (police, customs and the food and veterinary agency). The NCBM is seen as one of the most important elements of Kosovo's capacity to effectively manage the security of its border/boundary. Further efforts are needed to ensure that it operates to its full potential. The 2013-2018 IBM strategy and action plan are aligned with the 2006 EU concept on IBM. In July 2017, a revised and re-evaluated IBM action plan was approved.

### Implementation and enforcement capacity

The Border Department of Kosovo Police is well staffed, with a total of 1,300 officers and is generally meeting minimum EU standards for border controls. The infrastructure of border crossing points (BCP) has improved and the Border Management System has been completely upgraded. However, its effectiveness remains limited by the lack of connection to important international networks such as Europol's SIENA and Interpol's I 24/7, due to status-related issues. **Inter-agency cooperation** is good but can be improved at the highest level as well as especially regarding information exchange and joint risk analysis. Progress has been made in the fight against corruption, with several new action plans, reforms and regulations both within the

Border Police and the customs agency. A border police anti-corruption strategy is in place but no cases of corruption at the border/boundary have so far been detected.

On **cooperation in the region**, Kosovo has concluded 23 Integrated Border Management agreements. The Kosovo Assembly ratified the border/boundary agreement with Montenegro in March 2018. Kosovo and Albania undertake joint border controls, with one Albanian and one Kosovo border police officer sharing one booth. Some very positive steps have been made with the establishment of two common cross-border police cooperation centres, one with Albania (BCP Vermica) and one with the former Yugoslav Republic of Macedonia (BCP Hani I Elezit). Also, a common trilateral cross-border police cooperation centre between Montenegro, Albania and Kosovo was established in May 2017. Interim IBM crossing points with Serbia continue to be fully operational. There has been some progress in establishing the permanent IBM crossing points with Serbia in Merdarë/Merdare and Mutivodë/Mutivode, and in establishing the additional interim common crossing points in Kapi/Kapija Vrapce and Rajetici/Izvor. Additional measures need to be taken to prevent illegal crossings and criminal activities.

Kosovo has a working arrangement with the European Border and Coast Guard Agency which enables close cooperation on irregular migration, border crimes, border security and overall border management.

### **Judicial cooperation in civil and criminal matters**

While Kosovo is not party to most multilateral treaties governing judicial cooperation in criminal and civil matters, it unilaterally applies internationally recognised treaty standards. For the 1980 Hague Convention on the Civil Aspects of International Child Abduction, the relevant cases are dealt with by the Ministry of Justice. Kosovo unilaterally aligned with the 1961 Hague Convention on Abolishing the Requirement of Legalisation for Foreign Public Documents.

Judicial cooperation in criminal matters is governed by the 2013 Law on International Legal Cooperation in Criminal Matters, and 20 bilateral agreements with other countries. A legal framework for judicial cooperation in civil matters would help clarify rules and procedures. Cooperation is based on the principle of reciprocity with countries with which Kosovo does not have a bilateral agreement in place. The 2015 Procedures on Mutual Legal Cooperation agreed between Belgrade and Pristina form the basis for judicial cooperation between judicial authorities in Kosovo and Serbia. Other countries which do not recognise Kosovo's independence voluntarily accepted the EU's facilitating role. Due to status-related issues, Eurojust cases can currently only be opened towards EULEX and UNMIK. Since 2015 no cases were opened towards these entities.

### **Cooperation in the field of drugs**

#### Institutional set-up and legal alignment

The Law on Narcotic Drugs, Psychotropic Substances and Precursors is the main legislative act governing drugs. Drug-related offences are primarily covered by the Criminal Code. Kosovo's legal framework is in line with European best practices in the fight against drugs. The 2012-2017 strategy and action plan against illicit narcotics continued to be implemented and several criminal groups were dismantled. The new strategy and action plan for 2018-2022 remain to be approved. A coordination mechanism to prevent and fight drug trafficking and abuse of precursors is led by the Deputy Minister of Internal Affairs, who coordinates all relevant line ministries. Kosovo should formally establish an Early Warning System to follow-up on the two contact points already in place, and finalise the agreement on a National Monitoring Centre. Sustainable and routine data collection should be ensured.

### Implementation and enforcement capacity

Kosovo continues to be a storage and transit country for heroin and cannabis. Seizures remain very low, especially for heroin and cocaine, despite increased staffing levels in the Directorate for the Investigation of Narcotics Trafficking. Organised crime groups (mainly Albanian-speaking) continue to play a predominant role in large-scale heroin trafficking and its subsequent distribution in the EU. Kosovo needs to intensify its fight against drug trafficking. Further implementation of intelligence-led policing and the strengthening of regional police cooperation remain necessary. The prosecution remains understaffed and not sufficiently trained to prosecute drug-related offences efficiently. However, there was a notable increase in the number of judgements compared to the previous report. In this reporting period, the prosecution dealt with 3 670 cases involving drugs (concerning 5 150 persons), with 971 cases (concerning 1 369 persons) having a judgement. 344 persons were found guilty by the courts. Secure storage for seized drugs and precursors prior to destruction has been set up.

Special attention needs to be paid to raising public awareness of the consequences of drug abuse. The police, community safety officers and teachers continue to receive training on the dangers of drug abuse. Addiction treatment and methadone therapy is being offered, strengthening drug abuse prevention.

Kosovo continues to cooperate with the European Monitoring Centre for Drugs and Drug Addiction. Although not a full member, it is a beneficiary of a regional IPA project implemented by the centre and also provides regular reports to the agency through its designated focal point.

### **Customs cooperation**

Kosovo Customs has established the Law Enforcement Information System for registering and managing all cases of customs offences, including but not limited to registration of counterfeited goods in line with the *acquis* in this area. The customs administration has an integrated IT system for data processing.

Kosovo customs has established liaison units with the Kosovo Police and the Financial Intelligence Unit. Cooperation between all border authorities should be further increased.

Measures to ensure the integrity of the customs officers include a code of conduct, code of ethics and disciplinary procedures.

### **Counterfeiting of the euro (criminal law aspects)**

Kosovo is broadly in line with the *acquis* on the suppression of counterfeit currency and the competent authorities and procedures for dealing with counterfeit money are established. Technical analysis, in line with international standards, of counterfeit money, including euro banknotes and coins, is mainly performed by the forensic agency within the Ministry of Internal Affairs. (*see also section on Financial control*)

### 3. FUNDAMENTALS FIRST: ECONOMIC DEVELOPMENT & COMPETITIVENESS

Key economic figures	2015	2016	2017
Gross domestic product per capita (% of EU28 in PPS)	N/A	N/A	N/A
GDP growth (%)	4.1	4.1	3.9*
Unemployment rate (female; male) (%)	32.9 (36.6; 31.8)	27.5 (31.8; 26.2)	30.4* (36.4*; 28.6*)
Economic activity rate for persons aged 20–64: proportion of the population aged 20–64 that is economically active (female; male) (%)	42.8 (20.4;65.1)	44.0	N/A
Current account balance (% of GDP)	-8.6	-9.1	-5.9
Net Foreign direct investment (FDI) (% of GDP)*	4.7	2.9	3.9

\* Based on aggregated Q1-Q3 GDP data

Source: Eurostat, ASK

In line with the conclusions of the European Council in Copenhagen in June 1993, EU accession requires the existence of a functioning market economy and the capacity to cope with competitive pressure and market forces within the Union.

The monitoring of these economic criteria should also be seen in the context of the central importance of economic governance in the enlargement process. Each enlargement country prepares an economic reform programme (ERP) annually, which sets out a medium-term macro-fiscal policy framework and a structural reform agenda aimed at ensuring competitiveness and inclusive growth. The ERPs are the basis for country-specific policy guidance jointly adopted by the EU and the Western Balkans and Turkey at ministerial level in May each year.

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

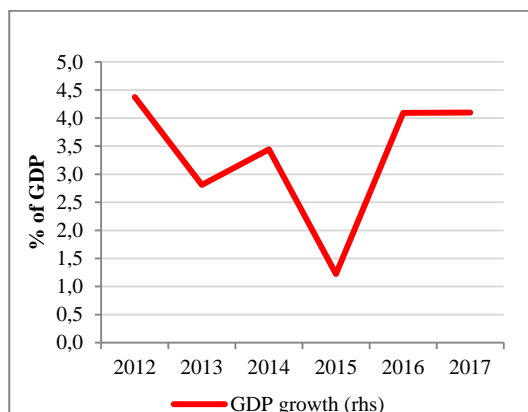
Kosovo has made **good progress** and is at an **early state** of developing a functioning market economy. The business environment has improved and the government adhered to the fiscal rule on budget deficit; however, war veterans' benefits continue to pose a challenge for public finances. The informal economy remains widespread. The increase in the labour force participation rate was not matched by gains in employment so the unemployment rate increased further. It particularly affected women and young and unskilled workers. Despite strong export growth the high trade deficit reflects a weak production base.

In order to support long-term growth, Kosovo should pay particular attention to:

- enhancing fiscal stability and improving the efficiency of public spending;
- addressing the underlying legal and institutional factors hampering access to finance for businesses;
- enhancing labour market participation and employment, in particular for women and youth.

## Economic Governance

**Figure 1 Kosovo GDP growth**



Source: Eurostat, Kosovo sources

**The government's strategic documents give priority to fiscal stability and a broad reform agenda, but reform implementation remains a concern.** After the parliamentary elections in June 2017, the new government committed to improving economic growth and promoting development, with a focus in particular on manufacturing, processing and services. Nevertheless, the high costs of the war veterans' pension scheme have not been properly addressed, leading to budget overruns. As a result, the otherwise successful 24-month IMF Stand-by Arrangement (SBA) expired in August 2017 without completion of the fourth review and disbursement of the final tranche. Low

implementation of the commitments under the Stabilisation and Association Agreement (SAA) prevented Kosovo from fully benefiting from the increased trade access made possible by the SAA. The policy guidance jointly adopted in May 2017 has been partially implemented, while measures agreed under the European reform agenda have been delayed.

## Macroeconomic Stability

**Despite GDP growth of more than 4 % in the last 3 years, Kosovo remains the poorest economy in the region.** Kosovo's GDP per capita was estimated to be around EUR 3 200 in nominal terms in 2017. Real growth remained strong, 3.9 % in the first three quarters of 2017 compared to 4.1 % in 2016, on account of strong road building and FDI financed investments. Net exports provided a positive contribution to growth, given that the largest metals exporter, Ferronikeli, regained lost Far East export markets and services exports rose sharply. Unlike in previous years, quarterly data shows private consumption contracting by 2.5 %, despite strong consumer lending, a high inflow of remittances, and a strong retail turnover, pointing to possible data inconsistencies. The supply side of GDP shows encouraging broad-based growth driven by construction, trade and the financial sector, while the public administration and other services activities decreased sharply. Overall Kosovo production capacities remain underdeveloped and the economy remains reliant on consumption, investment in infrastructure and remittances.

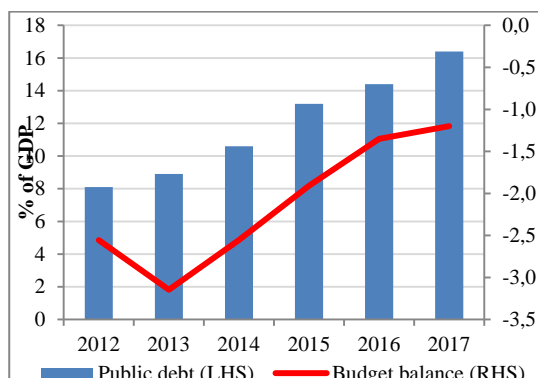
**Stronger exports of services helped to narrow the external imbalances.** The current account deficit shrank to 5.9 % of GDP in 2017, compared to 9.1 % of GDP in 2016. This was mainly due to the strong growth in services exports. Methodological changes in accounting for the economic activity of Kosovo's periodically returning diaspora could explain such a strong adjustment and the drop in private consumption mentioned above. The goods trade deficit increased by 1 percentage point to 38.9 % of GDP. An important source of revenue for many Kosovo households, remittances increased to 12 % of GDP in 2017. Net FDI increased to 3.9 % of GDP compared to 2.9 % of GDP in 2016). FDI inflows were even more concentrated in 2017, given that the share of real estate, construction and the financial sector FDI rose to 97.1 %. Inflow to the production sectors was negative. This reflects a weak business environment and few 'greenfield' investment opportunities.

**As a small economy with low domestic production, price developments in Kosovo are mainly driven by import prices of food and energy.** Average consumer price inflation in 2017 rose to 1.5 %, compared with 0.3 % in 2016. Average import price inflation was 4.4 % in the first three quarters of 2017. Both price developments reflect movements in global food and fuel



prices while core inflation remains low. On the other hand, producer price inflation was only 0.3 % in the same period mainly due to low wage growth.

**Figure 2 Kosovo fiscal developments**



Sources: Eurostat, Kosovo sources

**Fiscal stability was preserved in 2016 and 2017 despite the lack of implementation of some important fiscal reforms.** Strong economic growth and better revenue collection led to significant revenue growth of 9.4 % and 5.3 % in 2016 and 2017 respectively. Total expenditure also rose by 6.9 % and 4.9 % in the same period while the share of capital spending remained unchanged (26.9 % of overall spending in 2017). Capital spending was still under-executed due to overestimation of financing available from international financial institutions (IFI) and the Privatisation Agency. Furthermore, the weak collection of municipal revenue which is tied

to execution of some small-scale capital projects delayed investments at the local level. Budget allocations for war veteran benefits were surpassed both in 2016 and 2017, due to the number of eligible recipients which was double the figure expected. To limit the cost of the war veteran pension scheme, a spending limit of 0.7 % of GDP was introduced. However it is to be applied only after a special commission reclassifies all eligible recipients according to the new stricter criteria. Due to the delays in the reclassification process, the IMF SBA expired without disbursement of the final tranche. In the 2017 budget revision an additional EUR 26.2 million were allocated to the war veteran pension, bringing the overall amount to 1 % of GDP.

**Kosovo's public debt remained relatively low** at 16.4 % of GDP<sup>3</sup> in 2017 but is increasing. The average weighted interest rate continued declining to 1.92% owing to the large share of concessional loans from IFIs. The average maturity of domestic debt (20.2 months) is likely to continue increasing after Kosovo issued for the first time a bond with seven year maturity in August 2017. Government deposits increased in the last two years to 5.3 % of GDP, above the regulatory requirement.

**The 2018 budget projects stable public finances but significant adjustments might be necessary in the midterm review.** Forecasted total revenue growth (8.3 % compared to the 2017 preliminary results) will rely on significant broadening of tax base resulting from the fight against informality as no new revenue measures are planned in 2018. Starting in 2018 the wage bill growth will be limited to the growth rate of the last available nominal GDP (currently 4.3 %). Therefore the public wages will be increased by 4 % while the rest will be spend on new hiring. The amount allocated for various war veteran benefit programmes is likely to be insufficient unless the reclassification process also re-examines the certificates of existing recipients. The cost of the war veteran disability scheme could also increase beyond the budget allocation, as more than 3 000 new applicants await certification. The growth of capital spending (37.1 %) seems overly ambitious. Kosovo's capacity to absorb funds would have to significantly increase to reach the estimates of the IFI disbursement under the 'investment clause'. The deficit, according to the fiscal rule, is expected to be 1.7 % of GDP But the midterm review may very well transfer funds from the capital budget to finance increased social expenditures.

<sup>3</sup> Not including Kosovo's share of the London and Paris club debt of the former Yugoslavia, currently estimated at around 6% of GDP.

**Fiscal governance has made some progress but still faces significant challenges.** While fiscal data is available, it is still not reliable, nor available on a timely basis. The capacity to make credible macroeconomic and budgetary forecasts remains low and they largely rely on IMF forecasts. However, the credibility of both the Medium Term Expenditure Framework (MTEF) projections and the budget estimates has improved. Partly as a result of increased realism in the projection of revenues, improved commitment controls and effective use of in-year budget reallocations, the deviations between forward-looking estimates and real revenues and expenditure were significantly reduced. Initial attempts have been made to involve the Budget and Finance Committee in discussions, but this practice is not yet systematic. Kosovo operates and complies with its own system of fiscal rules which aims to balance fiscal discipline and investment needs. The public accounting systems are covering most areas of income and expenditure and they are subject to internal control and independent audits.

**Kosovo's unilateral euroisation makes maintaining macroeconomic and financial stability particularly relevant.** Kosovo does not have standard monetary policy tools at its disposal, as it uses the euro as legal tender, leaving fiscal policy as the main macroeconomic policy instrument. Public debt is still low while current levels of international reserves are adequate and provide a buffer against external and liquidity shocks.

#### Functioning of product markets

##### *Business environment*

**Significant progress was made in improving the business environment.** An online system for filing and paying VAT and social security contributions was introduced, facilitating tax payments for businesses. The time it took to export and the cost of regulatory compliance in order to export were reduced as a result of the improved automated customs data management system, the streamlining of customs clearance processes and the implementation of the Albania-Kosovo transit corridor. Starting a business was made easier thanks to a web-based business registration system and a simplified process for registering employees. Access to credit was made easier with the adoption of clear priority rules in bankruptcy procedures for secured creditors. Resolving insolvency was made easier with the introduction of a legal framework for corporate insolvency. The new Law on Business Organisation will further simplify business registration procedures and introduce changes to the corporate governance.

**Despite progress on the legal rules governing businesses many obstacles remain.** In 2017 Kosovo was one of the top 10 reformers according to the World Bank *Doing Business* report. Nevertheless, the main obstacles to doing business still include a weak and unaccountable administration, weak rule of law, corruption and a widespread informal economy. Although informality remains high, around 30 % of GDP, different studies point to its continued decrease between 2013 and 2015 due to the improved effectiveness of tax administration practices. However, the black economy increased in absolute terms. The construction and trade sectors experienced the largest losses in revenue due to informality. The judicial system suffers from poor accessibility, inefficiency and delays. Little progress was recorded in clearing court backlogs of unresolved cases.

##### *State influence on product markets*

**State aid and subsidies are still administered without a comprehensive strategy or a cost benefit evaluation.** Public enterprises continue to receive government subsidies and grants with little impact on their profitability. Management appointment procedures continued to be subject to partisan political influence leading to prevalent mismanagement and delays in appointments. Tax exemptions for certain sectors were expanded but have had limited impact so far on exports and investment. The government continued to provide agricultural subsidies but the land

consolidation process is not being implemented leading to low productivity gains for the sector. The Law on Strategic Investment has not yet had an impact on attracting investments. Financial support to the economic zones and industrial parks continued without a clear plan or a transparent impact or gap analysis. Government influence on price controls for utilities and postal and telecommunications services continued. The Public Procurement Review Body (PRB) could lose its quorum and become dysfunctional as two board members are facing corruption charges. Furthermore, the reported intimidation of members of the PRB undermines this important complaint mechanism reducing the transparency and credibility of the entire procurement process.

#### *Privatisation and restructuring*

**The unresolved status of property rights and the lengthy legal proceedings in dealing with financial claims on privatised assets hinder the privatisation process.** The government decided in November 2017 to temporarily suspend the privatisation of socially owned lands. The feasibility study for the Trepça mining complex has been prepared. However the change in ownership structure to a shareholding company, as required by the law, has not been made due to government inaction and problems appointing the supervisory board. After not materialising in 2017, the disbursement of EUR 86 million from the Privatisation Agency has again been earmarked in the 2018 budget.

#### Functioning of the financial market

##### *Financial stability*

**The financial sector remained well capitalised and with ample liquidity buffers.** Regulatory capital to risk-weighted assets in the banking sector stood at 18 % in December 2017, above the regulatory minimum of 12 %. Credit risks are low, as the proportion of non-performing loans, which are fully covered by bank provisions, is the lowest in the region and fell further to 3.1 % by December 2017. This was due to stronger credit growth, strong economic performance and improvements in bankruptcy and insolvency procedures. The financial sector recorded high profitability in 2017. Return on average equity was 21.3 %, 17.6 % and 17.7 % for the banking sector, micro-financial institutions and the insurance sector respectively. The Central Bank of Kosovo has recently entered into a memorandum of cooperation with the European Banking Authority and with the European Insurance and Occupational Pensions Authority establishing a framework of cooperation and information exchange to strengthen the banking regulation and supervision of banks operating in the EU and in the south-eastern European countries.

##### *Access to finance*

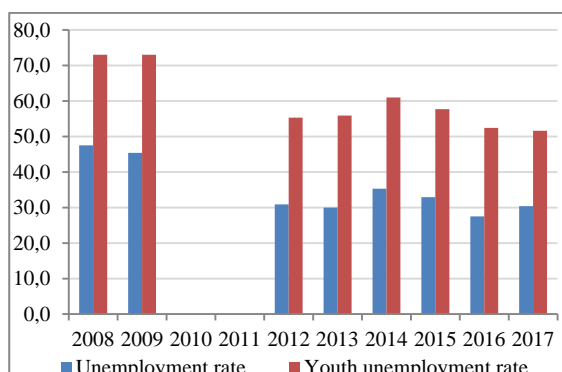
**Kosovo's financial sector still shows ample room for stronger banking activity.** The largely foreign-owned Banking sector in Kosovo takes up 65.7 % of the total assets of the financial sector followed by the pension funds (28 %). Total assets in the banking sector had grown by 6.6 % in 2017, standing at 61.3 % of GDP. Lending activities accelerated compared to the previous year (11.5 % growth in total loans) supported by strong lending to households (12.7% growth). The loan-to-deposit ratio increased to 80.4 % from 76.9 % in 2016. The average interest rate on loans decreased in 2017 to 6.8 % from 7.5 % in 2016 but still remains above the regional average.

**The insurance sector is weakly supervised despite improvements in transparency.** The sector is dominated by non-life insurance companies. The cost of car insurance is artificially high, due in part to Kosovo not being a member of the 'green card' system, but also to it not having fully liberalised third-party liability insurance prices.

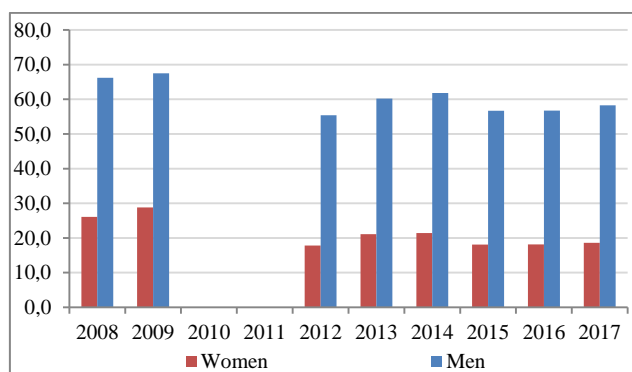
## Functioning of the Labour market

**Stable economic growth over recent years has only marginally been able to improve labour market conditions.** Since 2016, the Kosovo Statistics Agency has been producing quarterly labour force survey (LFS) data. However, questions about the comparability of quarterly and annual series remain. According to the LFS, the labour participation rate and the employment rate increased in the first nine months of 2017 to 42.7 % and 29.7 % respectively, compared to 38.7 % and 28 % in 2016. At the same time, the unemployment rate increased to 30.4 % compared to 27.5 % in 2016 and Kosovo still has the highest unemployment and the lowest participation rate in Europe. The labour market outcomes for women are particularly weak (only 20.2 % of women participated in the labour market and 38 % of these were unemployed in the first 9 months of 2017). High youth unemployment (51.6 %) demonstrates a clear misalignment between education system outcomes and labour market needs (i.e. a mismatch between students' qualifications and skills and what is needed in the job market). This calls for more active labour market policies, pre-qualification schemes and vocational training programmes. By contrast, Kosovo does not have a problem with labour protection legislation, high taxation or a social welfare system which would disincentivise work, with the exception of untargeted war veteran transfers. Funding for employment services and vocational training remains insufficient and is fragmented across several entities. According to the Enterprise Structural Survey conducted by the Kosovo Agency of Statistics, the average monthly private sector wage in 2016 was around EUR 359, 1.4 % higher than in 2015.

**Figure 3 Unemployment in Kosovo (% of Active population)**



**Figure 4 Participation rates in Kosovo (% of Labour Force)**



Source: Eurostat, Kosovo sources

### 3.2 The capacity to cope with competitive pressures and market forces within the Union

Kosovo has made **some progress** and is at an **early stage** in terms of capacity to cope with competitive pressure and market forces within the EU. No progress was made on improving the quality of education and addressing skills gaps in the labour market. Kosovo made some progress in improving road infrastructure but large infrastructure gaps in the railway and energy sectors remain. Structural changes in the economy are slow as it remains reliant on the trade sector. Integration with the EU is hampered by the slow implementation of the SAA.

In the forthcoming period, Kosovo should pay particular attention to:

- addressing the mismatch between education outcomes and labour market needs leading to high youth unemployment;
- improving the capacity of central and local government to prepare and manage investment projects;

→ securing a stable energy supply, reducing distribution losses in the electricity network and improving energy efficiency.

### Education and innovation

**The education sector is not properly aligned with labour market needs, resulting in low employability of graduates and a significant skills premium.** Public spending on education remained unchanged at 4.6 % of GDP in 2016, which is broadly in line with middle income countries with similar age profiles. However, considering the relatively large number of students, Kosovo spends considerably less than some neighbouring countries per student in primary and secondary education. Furthermore, spending on education is dominated by the wage bill. Early childcare and pre-schooling enrolment rates are very low at 4.4 % and 33.9 % respectively, still well below the EU target of 95 % by 2020. In contrast there are relatively high enrolment rates in primary and secondary education, 96 % and 88.1 %, respectively. Enrolment at tertiary level is very high with 120,000 students in both public and private higher education institutions. However, low PISA scores and a high unemployment rate among higher education graduates (26.7 % in Q3 2017) indicate the poor quality of education in general and its misalignment with labour market needs. Given this situation Kosovo should work on developing closer cooperation between the education system and the private sector.

**Spending on research is virtually non-existent.** Kosovo needs to considerably increase investment in research and innovation (currently only 0.1 % of GDP), and establish links between academic institutions and the private sector. In September 2017, a new Ministry of Innovation and Entrepreneurship was established and tasked with supporting entrepreneurship and private initiatives through innovation, with a focus on the development of manufacturing and service SMEs.

### Physical capital and quality of infrastructure

**Kosovo made some progress in improving its physical capital, mainly for public road infrastructure investments.** However, Kosovo's transport system is plagued by the weak administrative capacity of regulatory institutions and the poor state of infrastructure. Investments in road infrastructure are mainly focused on road repairs and the building of highways. In addition, investments in irrigation systems, the treatment of waste water, water projects, the upgrading health facilities, municipal public transport and the upgrading of the railway sector are being supported by donors. Rehabilitation of railway line 10, a key priority for the National Investment Committee, is the first project that will be implemented in line with the regional connectivity agenda.

**The lack of regional connectivity in transport and energy security remains a bottleneck for the economy.** An unreliable supply of energy remains one of the key obstacles to economic development. The inter-connection line between Albania and Kosovo – completed in 2016 – was still not functional late 2017 due to political disagreements with Serbia. Agreement on the construction of a new 500-megawatt lignite power plant has been reached and construction is expected to start in early 2019. The EUR 1.3 billion project will be financed entirely by the investor and should help to maintain a more reliable supply of electricity. High distribution losses in the electricity network and low energy efficiency further undermine energy security. The issue can be addressed by expanding energy efficiency incentives to the private sector and households. Since April 2017, energy producers are obliged to deliver all the electricity generated at deregulated prices, thus helping to open the electricity market. Electricity production from renewable sources is at a very low level despite attested potential for solar and wind energy exploitation.

**The digitalisation of the economy has not progressed much over the past year.** Kosovo is gradually aligning national legislation with the *acquis*, but implementation is lagging behind. An increased number of businesses are conducting e-commerce. However, exact data is yet to be published. The penetration rate of fixed broadband internet is expanding gradually from year to year, reaching 86.7 % during the first quarter of 2017 compared to 75.5 % a year before. In addition, the number of mobile phone users has increased to 112.14 % compared to 97.08 % a year before. The number of employees and the share of gross value added (GVA) of the ICT industry have gradually increased since 2008 but still remain low despite ample potential for stronger development.

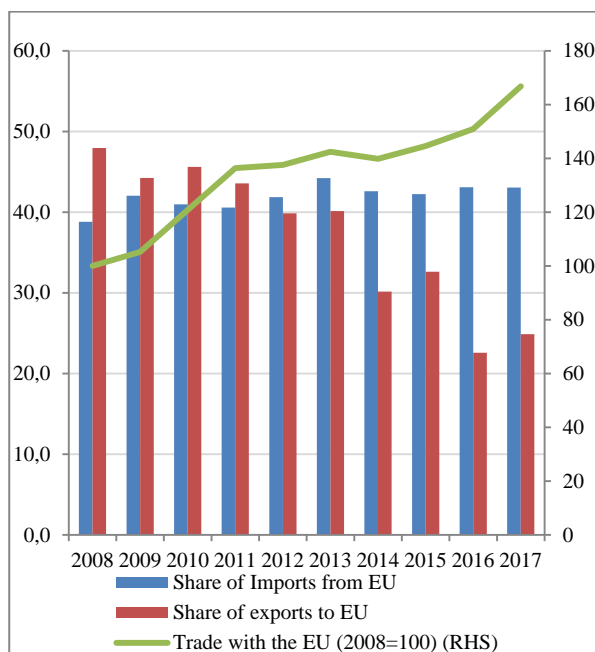
#### Sectoral and Enterprise Structure

**There have been no significant structural changes in Kosovo's economy.** Kosovo's private sector continues to be fragmented and unable to exploit economies of scale as micro enterprises dominate the economy. According to the Enterprise Structural Survey for 2016, the largest number of enterprises in Kosovo belongs to the trade sector (47.7 %), followed by business services and other services (13.6 %) and the processing industry (13.5 %). The total number of people employed in the private sector was 156 504, out of which: the trade sector accounts for 34.9 %; the processing industry 15.6 % and business services 11.8 %. The largest share of total business turnover was in the trade sector with 57.5%, followed by the processing industry 11.9 % and construction with 10.5 %. The structure of the GVA in Kosovo has not significantly changed over the recent years except for a noticeable downward trend in the share of agriculture, which continued in 2016, (to 13 %). The shares of mining, manufacturing, construction and services, continue hovering around their long term averages.

The Kosovo Credit Guarantee Fund meant to provide credit guarantees for private investment is fully operational. The Fund has granted 785 of loans for local businesses with an approved loan amount of EUR 29.5 million. The government has committed to providing additional funding in 2018 to strengthen the Fund's capacity to guarantee credit.

## Economic Integration with the EU and price competitiveness

**Figure 5 Kosovo trade integration with the EU**



**The Stabilisation Association Agreement's contribution to increasing trade was hampered by the slow implementation of necessary reforms.** Kosovo's economy is still relatively unintegrated in global trade flows, with a trade openness of 74.5 % of GDP despite a 10.6 % rise in total trade of goods and services in 2017. Most of Kosovo's exports still consist of basic raw materials and mineral products, reflecting limited diversification of the Kosovo production sector. However, in 2017 there was a significant increase in exports of manufactured goods, agriculture products and processed food. The EU continued to be Kosovo's biggest trading partner with 41 % of the overall trade in 2017, followed by the CEFTA<sup>4</sup> countries with 30.3 %. Despite a 30.1% growth in exports to the EU, Kosovo's trade deficit with the EU further widened in 2017. The development of a Regional

Economic Area based on EU rules and standards, to which all Western Balkan economies have committed, has the potential to generate so far untapped growth. The EU remains the main investor in Kosovo with 46.4 % of the overall inflow of FDI in 2017.

## 4. REGIONAL ISSUES AND INTERNATIONAL OBLIGATIONS

The unresolved fate of **missing persons** from the 1990s conflicts remains a humanitarian concern in the Western Balkans. As of February 2018, a total of 10 332 persons are still missing across the region according to the International Committee of the Red Cross (ICRC). Of these, 1 652 relate to the conflict in Kosovo, and its aftermath. Two sessions of the Belgrade-Pristina Working Group on Missing Persons, chaired by the International Committee of the Red Cross, were held in 2017. The appointment of the head of the Pristina delegation to this working group has brought positive developments. However, the lack of new information on yet-to-be uncovered gravesites remains the main obstacle to solving cases and only eleven cases were solved in 2017.

The process to resolve the fate of missing persons continues to be undermined by politicisation and inter-institutional disputes. Recurring attempts by some politicians to amend the timeframe covered by the Law on Missing Persons, effectively excluding many non-Albanian victims, are not acceptable. A positive development is the appointment of the file holder for the issue of missing persons and the fact that the Deputy Head of the Government Commission on Missing Persons belongs to a non-majority community. Better inter-institutional coordination and cooperation between this Commission and the Kosovo Institute of Forensic Medicine is needed, including to facilitate data entry in the central register of missing persons. The authorities still need to adopt secondary legislation on the establishment of a central register, and on the closure

<sup>4</sup> The Central European Free Trade Agreement

of cases, to support implementation of the Law on Missing Persons. While the Institute of Forensic Medicine has made some progress in developing capacities, it still does not meet the required standards for sustainable forensic practices, including forensic anthropology and archaeology. More needs to be done to build such capacity and to ensure continuous funding of the Institute. Hundreds of human remains stored at the Pristina morgue, for which forensic action has exhausted, remain unidentified.

**Regional cooperation and good neighbourly relations** form an essential part of Kosovo's process of moving towards the EU. They contribute to stability, reconciliation and a climate conducive to addressing open bilateral issues and the legacies of the past. Kosovo is represented in most regional organisations that fall within the scope of the agreement on the arrangements on regional representation and cooperation as agreed with Belgrade in 2012.

The impetus given through the **Berlin process**, notably for the connectivity agenda, has continued to foster increased regional cooperation among Western Balkan countries. Building on the results of previous summits, the July 2017 Trieste Summit saw further advances on the connectivity agenda and also opened co-operation in new areas, notably on a Regional Economic Area (REA), where Kosovo subsequently nominated a designated focal point within the Prime Minister's Office. After the establishment of the Regional Youth Cooperation Office (RYCO) in Tirana, Kosovo opened a local branch of that Office in Pristina in October 2017. Further, Kosovo signed the Transport Community Treaty, but its ratification by the Assembly is pending. The pending transport measures include improvement of the implementation of the IBM guidelines. Connectivity projects in the railway sector are being planned, and work is expected to start in mid-2018. On energy, the Kosovo Energy regulator has deregulated generation prices. The government has taken steps to join the Albanian Power Exchange. Kosovo should further finalise the technical procedure to establish a functioning and balanced market and adopt a compatible energy law, which will allow progress on a number of other measures. Kosovo's Electricity Transmission Company is not in a position to take full advantage of the regional electricity market as agreed at the 2016 Western Balkans Summit in Paris. This is due to a dispute with Serbia, which needs to be solved as soon as possible through the Belgrade-Pristina Dialogue. There is a need to ensure affordable broadband access. This includes using existing fibre optics such as those provided through electricity transmission grids.

Kosovo continued its efforts to maintain good and constructive **bilateral relations with other enlargement countries**.

Kosovo has continued to develop closer relations with **Albania**, with several new agreements in key areas of cooperation signed the fourth governments' meeting in November 2017 and announced readiness to host a Custom Office of Kosovo in Albania's Port of Durrës. A framework Memorandum on cooperation with the diaspora was signed as well as a Memorandum of Understanding between the governments to open joint consulates, with common consular offices opening in Munich and Milan.

There has been no change in Kosovo's relations with **Bosnia and Herzegovina** as the latter does not recognise Kosovo's independence. A reciprocal visa regime continues to be in place.

There was further progress in relations with **the former Yugoslav Republic of Macedonia**. In August 2017, the two signed an implementation protocol to open the new crossing point at Stancic – Belanoc. Both agreed to hold joint governmental meetings on an annual basis. Prime Minister Zaev visited Pristina in December 2017. Some tensions arose as a result of the verdicts on the participation of Kosovo citizens' in the 2015 Kumanovo events.

Kosovo has good relations with **Montenegro**. The agreement on border/boundary demarcation, already ratified in Podgorica, was ratified by the Kosovo Assembly in March 2018. In February



2018 both Presidents signed a common statement in which they agreed that once the border/boundary demarcation agreement enters into force, a bilateral working group will be established to identify and address potential disputes on the marking of the border/boundary in specific sectors. In February 2017, Kosovo adopted a strategy for the affirmation and integration of the Montenegrin minority.

Kosovo has maintained good relations with *Turkey*. Reciprocal high level visits took place, during which both countries expressed their commitment to increase economic cooperation and trade.

## **5. NORMALISATION OF RELATIONS BETWEEN KOSOVO AND SERBIA**

Work under the EU-facilitated dialogue has continued throughout the reporting period. Four official high-level meetings took place under the facilitation of HRVP Mogherini in July, August and September 2017, as well as in March 2018. Presidents Thaçi and Vučić agreed to work on a new phase of the dialogue with a view to a comprehensive normalisation of relations between Kosovo and Serbia. This work is currently ongoing and needs to be accelerated. Meetings at technical level resumed early 2018.

January 2017 saw an attempt to send a train, emblazoned with Serbian nationalist slogans, from Belgrade to the north of Kosovo. Following heavy pressure from the EU and other international partners, the train did not enter northern Kosovo.

Implementation of the **25 August 2015 Agreements** has overall been slow. Progress has been made on the **Association/Community of Serb majority municipalities** in Kosovo. On 4 April 2018, Kosovo has given a mandate to the Management Team to start drafting the statute of the Association/Community. The **energy** agreement between Serbia and Kosovo must be implemented without further delay in order to avoid that this longstanding dispute has further consequences for energy stability and security in Serbia, Kosovo and countries across Europe. These consequences have become more acute and visible in recent months. Serbia needs to register and license the two Serbian energy companies to be established in Kosovo as a matter of urgency. A wall in North Mitrovica alongside the bridge was illegally constructed in December 2016. It has since been dismantled. The **Mitrovica bridge**, on which works have started in August 2016, should be opened without further delay or obstructions. The **telecoms** agreement is now fully implemented. Kosovo has been allocated a dialling code for its use and operation in November 2016. Serbia established a telecommunications company as subsidiary of Srbija Telekom under the Kosovo legal and regulatory framework.

Further progress has been made on the implementation of the **April 2013 ‘First agreement of principles governing the normalisation of relations’**. The **justice** agreement is now fully implemented. In October 2017, Kosovo President Thaçi decreed 40 Kosovo Serb judges, 13 prosecutors and their respective support staff, thus finalising the recruitment process of the judicial personnel for the north. All former Serbian judicial personnel are now fully integrated into the Kosovo system, as are Kosovo Serb **police and civil protection** personnel. In the context of the **liaison arrangements**, official visits are directly arranged by liaison officers in line with the relevant agreement but on occasions the agreement is not fully respected. Events in March 2018 surrounding the entry procedures and the treatment of Serbian government official Marko Djuric heightened tensions.

Some of the **Technical Dialogue Agreements (2011-2012)** are not being implemented. Both sides need to remain committed to the continued implementation of the agreement on representation and participation of Kosovo in **regional forums**. The issue of **university diplomas** recognition is yet to be solved as are the **licence plate** related elements of the

agreement on freedom of movement. Serbia has yet to address the issue of re-located Serbian administrative **customs** structures with Kosovo denomination that operate from within Serbia, and to cease the issuance of documentation or affixing of stamps with denomination that contravenes to the related agreement. On **IBM**, while the interim crossing points are fully operational, Serbia has obstructed progress in constructing four out of six permanent common crossing points in Tabavije/Bërnjak, Jarinje/Jarinjë, Konculj/Konqul and Mucibabe/Muçibabë. Additional measures need to be taken by Serbia to close illegal crossings. Requests for **mutual legal assistance** are being processed. Serbia provides support for the judicial process led by **EULEX**.

Overall, Kosovo has remained engaged in the dialogue. However, Kosovo needs to make further substantial efforts and contribute to the establishment of circumstances conducive to a comprehensive normalisation of relations with Serbia. A legally binding agreement is urgent and crucial so that Serbia and Kosovo can advance on their respective European paths.

## 6. EUROPEAN STANDARDS

### 6.1. Free movement of goods

Kosovo is at an **early stage of preparation**/has **some level of preparation** for the free movement of goods. It made **some progress** during the reporting period. However, out of the three recommendations of the 2016 report, Kosovo only fulfilled partly the recommendation on further aligning with the EU *acquis*. The recommendations on developing more capacity, increasing resources and interinstitutional coordination to enable law enforcement, in line with the SAA requirements, have yet to be addressed to ensure proper implementation.

In the coming year, Kosovo should in particular:

- ensure the proper implementation of the recently adopted Law on Standardisation, Law on Metrology, Law on Accreditation and Law on Technical Requirements for Products and Conformity Assessment, including through the adoption of all relevant secondary legislation;
- further improve interinstitutional coordination to enable proper enforcement of legislation and strengthen the capacity of the Kosovo Standardisation Agency, the Kosovo Metrology Agency, and the General Accreditation Directorate;
- make progress on alignment with the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) Regulation.

#### General principles

On **general principles**, the framework for the **production, distribution and marketing of industrial products** has been further aligned with the *acquis*. This is notably the case for the Law on Metrology, the Law on Standardisation and the Law on Technical Requirements for Product and Conformity Assessment adopted in 2018, and the Law on Accreditation. The National Programme for implementation of the Stabilisation and Association Agreement sets out the planning for gradual approximation with the *acquis* and its implementation.

#### Non-harmonised area

Kosovo's legislation needs to be aligned with **Articles 34-36 of the Treaty** on the Functioning of the European Union (TFEU). However, it has not yet developed an action plan to ensure this.

The Ministry of Trade and Industry is the competent authority to ensure the **obligation to notify** on technical regulations at the draft stage, following the applicable EU requirements and international agreements.

### Harmonised area: quality infrastructure

The legal basis for technical regulations, standards, conformity assessment and accreditation is partly aligned with the *acquis*, particularly on metrology; however, further work is needed on market surveillance legislation. The quality assessment, standards and accreditation bodies have limited staff and financial resources, which prevents them from fully implementing the *acquis*.

The new Law on **Standardisation** was further aligned with the *acquis*; it establishes the framework for the standardisation and development of goods and the functioning of the Kosovo Standardisation Agency. Though Kosovo is not a member of the European Committee for Standardisation/European Committee for Electro-technical Standardisation (CEN/CENELEC), in 2017 the CEN/CENELEC agreed to allow the Agency direct access to EU standards. The Agency adopted 647 European standards in the reporting period. However, obstacles limiting the online sale of standards need to be addressed.

The new Law on **Accreditation**, adopted in January 2017, upgraded the Kosovo General Accreditation Directorate to an administration body under the Ministry of Trade and Industry. This was considered one of the pre-conditions for Kosovo to sign the Multilateral Agreement of the European Cooperation for Accreditation. A 2016-2020 accreditation policy and strategy for the Directorate was adopted, but the limited resources and the absence of a director general since mid-2016 has put its implementation at risk.

There are currently 39 accredited **conformity assessment** bodies in Kosovo and 4 more are in the process of being accredited. However, their capacity and performance needs to be strengthened.

On **metrology**, Kosovo adopted the legislation designed to align with the Measuring Instrument Directive in 2016 but secondary legislation still needs to be aligned with the Non-Automatic Weighing Instruments Directive. Also, the lack of qualified staff and fully operational laboratories in the Kosovo Metrology Agency undermines the implementation of both Directives in several sectors.

On **market surveillance** the legal basis is the Law on General Product Safety, designed to align with the *acquis*. However, the market surveillance body faces difficulties enforcing the Law due to lack of staff and financing. Interinstitutional coordination has improved since the establishment of the Market Oversight Coordination Body. Currently no inspections can be conducted in the north of Kosovo due to a lack of premises, following a bomb attack in 2017

In 2017, 266 product safety inspections were conducted in Kosovo, which identified 249 dangerous types of product and as a result, all harmful products were permanently taken off the market.

### Harmonised area: sectoral legislation

On the '**New and Global Approach**' **product legislation**, Kosovo adopted legislation to increase its level of alignment with the EU *acquis* on toy safety, electromagnetic compatibility and safety of lifts. Lack of capacity within the quality infrastructure prevents full implementation of its newly adopted legislation.

There has been no progress on alignment with the *acquis* on '**Old Approach**' product legislation or **on procedural measures**. Kosovo should increase its level of alignment and further strengthen its administrative capacities to ensure effective implementation of the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) Regulation.

Kosovo is partly aligned with the *acquis* on Crystal Glass Products.

## 6.2. Movement of persons, services and right of establishment

Kosovo is **moderately prepared** for the free movement of persons and services and the right of establishment. **Some progress** was made on alignment with the Services Directive by adopting the Law on Services. However, more still needs to be done to improve effectiveness in this area.

Over the coming year, Kosovo should in particular:

- remove the identified barriers to the free movement of services;
- align with the *acquis* on mutual recognition of professional qualifications;
- adopt the draft Law on Postal Services and further open the postal market.

On **movement of persons**, regarding access to the labour market, the Ministry of Labour and Social Welfare has issued 105 labour certificates for periods of 90 days to foreign citizens over the reporting period. On the coordination of social security systems, the Ministry of Labour and Social Welfare signed a Social Security Agreement with Belgium in February 2018 and is currently negotiating a social security agreement with Switzerland. Kosovo has well-functioning agreements with Montenegro and the former Yugoslav Republic of Macedonia on confirmation of social security periods.

On the **freedom to provide services**, the new Law on Services adopted in March 2017 is only partly compliant with the Services Directive. The Law is not aligned with the provisions on cross-border services and administrative cooperation, and several of its provisions enter into force only several years after publication. The Ministry of Trade and Industry, in charge of supervising the law's implementation, screened the existing legislation for alignment with the EU Services Directive. Based on this screening, 25 laws and 29 bylaws need to be amended for Kosovo to fully align with the EU Services Directive by 2022. The government approved the administrative instruction on the procedure of notification and assessment of compliance of draft normative acts with the Law on Services. It obliges competent authorities to seek a positive legal opinion for any future draft legislation falling under the scope of the new law.

On the **right of establishment**, general registration in the Kosovo Business Registry is obligatory for any individual or business wishing to do business. In a number of regulated professions such as law and auditing, there is a need to enrol in a separate registry or association, specific to the service sector. Foreign service providers are only allowed to provide services in Kosovo through establishment, which means that legislation does not enable free cross-border services on a temporary basis.

The government approved the administrative instruction on operation of the Point of Single Contact. The instruction is intended to facilitate access to services for their providers and beneficiaries. The instruction also regulates the responsibility of the competent bodies for the Point of Single Contact. Kosovo continued to gradually align its legal framework on **postal services** with the *acquis*. In 2017, a new Law on Postal Services was being prepared, with plans for adoption in 2018. In parallel, secondary legislation should be developed for the technical implementation of the Law and a timetable established for moving forward with the legislative process. Universal postal service is still not provided in 30 % of the territory. The weight limit for the reserved area needs to be further reduced to fully liberalise the postal market.

On the **mutual recognition of professional qualifications**, the Law on the Regulated Professions in Kosovo, adopted in October 2016, is largely aligned with the EU *acquis*. The Law defines 16 professions, as so-called regulated sectoral professions (i.e. doctors, dentists, pharmacists, veterinary surgeons, midwives, nurses and architects), for which the Directive on the recognition of professional qualifications requires a minimum harmonised training and it further determines some generic criteria for access to the regulated professions. The Ministry for

Education together with the National Centre for Academic Recognition and Information of Kosovo are the competent authorities with regulatory and authorising powers. Moreover, two decision making bodies, the State Examination Agency and State Council for the Regulated Professions are provided for in the Law, but have not yet been established.

Despite progress made, Kosovo needs to develop the necessary structures and the rules for the recognition for professional qualifications obtained in other countries, in order to facilitate the cross-border movement of professionals and services.

### 6.3. Free movement of capital

Kosovo has **some level of preparation** for this area. **Some progress** was made on payment services. However, the last report's recommendation to both ensure equal treatment of EU nationals acquiring real estate in Kosovo and to increase efforts to fight economic and financial crime have not been addressed.

In the coming year, Kosovo should in particular:

→ take steps to grant national treatment to EU nationals acquiring real estate in Kosovo within 5 years from the entry into force of the SAA (by 2021);

→ increase efforts to fight economic and financial crime and align the Law on the Prevention of Money Laundering and Terrorist Financing with the EU *acquis*.

On **capital movements and payments**, the movement of capital remains largely free in Kosovo, with no restrictions on foreign ownership or on investment in the financial sector. Good progress was made with the mandatory introduction of IBAN for both domestic and cross-border payments. The execution of payment transactions is limited to banking and non-banking financial institutions, which are licensed by the Central Bank to perform these activities (payments and money transfers).

Foreign citizens are still not allowed to acquire real estate in Kosovo. No progress was made to align the provisions in the relevant laws, implementing acts and administrative practices that continue to be an obstacle to equal treatment.

The Law on the prevention of money laundering and terrorist financing is only partially in compliance with the *acquis* and Financial Action Task Force recommendations. Interinstitutional cooperation on the fight against economic and financial crime must be guaranteed to ensure proper investigation and prosecution of offences.

### 6.4. Financial services

Kosovo is **moderately prepared** in the area of financial services. **Some progress** was made during the reporting period in banking and credit institution supervision.

In the coming year, Kosovo should, in particular:

→ fully implement and enforce Solvency I measures;

→ adopt amendments to Kosovo's legal framework on microfinance institutions and non-bank financial institutions to bring it into line with the EU *acquis*;

→ adopt the law on accounting, financial reporting and auditing.

On **banks and financial conglomerates**, some progress has been made in implementing the legislation on banking supervision, which aims to strengthen corporate governance and the management of credit risk. The Central Bank needs to ensure adequate protection of consumers and the prevention of unfair banking practices. Kosovo needs to establish an independent recovery and resolution authority. On the harmonisation of the regulatory framework with Basel

II and EU standards, the Chapter on Risk-Weighted Exposure Amounts for Credit Risk has yet to be adopted. In March 2017, the Central Bank signed a memorandum of understanding with the European Banking Authority, establishing a framework for cooperation and information exchange and on the European Single Supervisory Mechanism. This last one still needs to be signed with the European Central Bank. The legislation on microfinance institutions and non-bank financial institutions is not yet in line with the EU *acquis*. The law on accounting, financial reporting and auditing has not been adopted.

On **insurance and occupational pensions**, Solvency I measures need to be fully implemented and enforced. Preparations have not yet begun to introduce measures aligned with the Solvency II Directive. The insurance law is aligned with the EU *acquis* on the exercise and pursuit of the business of insurance, reinsurance and insurance mediation. The oversight and supervision of occupational pension funds needs to be improved. Some progress was made on improving the transparency of insurance services, namely by publishing annual audit reports online, but additional efforts are still needed to increase the conditions for granting licences to new insurance companies. Stronger inter-institutional coordination is required to address the issue of non-insured, non-registered vehicles. Due to Kosovo's inability to partake in the 'green card' system, vehicle insurance continues to be required for foreign-registered vehicles entering Kosovo and for vehicles with Kosovo registration plates leaving Kosovo. This is not the case for countries with which Kosovo has bilateral vehicle insurance arrangements.

On **securities markets and investment services**, the Central Bank auctions government securities and maintains records, which are stored and processed electronically.

## 6.5. Customs

Kosovo is **moderately prepared** in the area of customs. There has been **some progress**, notably in implementing paper-less declarations and simplifying administrative procedures.

In the coming year, Kosovo should in particular:

→ further align customs legislation, including the customs and excise code, with the Union customs code and the excise *acquis*;

→ step up coordination between Kosovo Customs, law enforcement agencies and other relevant institutions on fighting the informal economy and customs fraud.

In the area of **customs legislation**, the customs and excise code is largely aligned with the Union customs code, but further alignment is still needed. Kosovo is not a member of the Common Transit Convention. It has also not ratified the Regional Convention on Pan-Euro-Mediterranean (PEM) preferential rules of origin, but applies its provisions. Kosovo Customs participates in the System for Exchange of Excise Data providing for systematic electronic exchange of data between Western Balkan countries. The legislation on drug precursors, on customs measures governing intellectual property rights and on export control for cultural goods is still not fully aligned with the EU *acquis*. Further harmonisation is also needed on customs security aspects. Moreover, in January 2018, customs exemptions were introduced for the import of raw materials and semi-manufactured products used in production, production machinery lines and information technology equipment, which are not foreseen for duty relief in the Union customs code. Customs inland terminals are located in privately owned facilities and charge a fee to every truck entering the terminal to discharge customs obligations. Such fees are not in line with the *acquis*.

The customs administration continued to maintain reasonable **administrative and operational capacity**; customs revenues increased by 6.6 % in 2017. However there needs to be more coordination with other relevant institutions and law enforcement bodies on fighting against the informal economy. The planned merger of tax and customs administrations has been limited to

certain management and administrative services and will not affect the core business of each administration. The ‘paperless concept’ and the e-payment introduced by Kosovo Customs have helped to eliminate procedures and bureaucratic administrative barriers, leading to an acceleration of customs clearance procedures.

Customs performance in the fight against illegal cross-border activities, including smuggling of goods, such as narcotics and hazardous materials, continues to show progress. Further efforts are needed to better address corruption, including by conducting more investigations and strengthening checks on asset declarations filed by customs officials. The capacity of the customs department dealing with intellectual property rights is insufficient. The growing backlog of unresolved complaints against the customs administration at the fiscal division of the Basic Court of Pristina must be addressed. In January 2017, Kosovo’s application to the World Customs Organisation (WCO) was accepted by the depositary, which triggered discussions and a difference of views at the WCO Council.

## 6.6. Taxation

Kosovo is at an **early stage** in the area of taxation. There was **some progress** in collecting tax revenues, reducing the grey economy, further aligning secondary tax legislation, and concluding additional double-taxation agreements with other countries.

Last year’s recommendations were only partially implemented and in the coming year, Kosovo should in particular:

- step up field inspections to further combat the informal economy, recover unpaid tax liabilities and detect unregistered taxpayers and ensure that cases of tax evasion and fraud are properly investigated and adjudicated;
- ensure merit-based appointments in the tax administration, free from undue political influence, and the implementation of the Independent Oversight Board decisions;
- reduce the backlog of unresolved complaints against the tax administration at the fiscal division of the basic court of Pristina.

On **indirect taxation**, the value-added tax (VAT) is broadly in line with the EU *acquis*. Kosovo applies a standard rate of 18 % and a reduced rate of 8 % in line with the rules on rates set out in the EU Directive on the Common System of VAT, although the reduced rather than the standard rate is applied to supplies and imports of IT equipment. The VAT reimbursement for goods contained in the personal luggage of travellers residing outside Kosovo is not aligned with the EU Directives. On **direct taxation**, the transfer pricing between enterprises under common ownership or control is addressed within the Law on Corporate Income Tax, in line with OECD guidelines for agreements on the elimination of double taxation. Twelve such agreements have been concluded so far, seven of them with EU Member States. Financial intermediaries are only required to inform the tax authority about recipients of savings income upon request.

Kosovo should further strengthen **administrative cooperation and mutual legal assistance** on tax matters, including those enshrined in the OECD/Council of Europe Convention on Mutual Administrative Assistance in Tax Matters.

On **operational capacity and computerisation**, the planned merger of the tax and customs administrations has been limited to certain management and administrative services and will not affect the core business of each administration. The process of modernising the tax authorities’ internal IT platform has started and should continue. Electronic services, including online tax returns, the verification and payment system, and business registration centres (one-stop shop) introduced in 2016 are now operational. Overall tax revenue collection in 2017 increased by 7 % compared to 2016. However, tax evasion and informality continue to hamper the economy.

There has been some progress in reducing the informal grey economy, but this continues to be very high and further efforts need to be done to combat it. In this regard, the tax administration needs to enhance field inspections, detect unpaid tax liabilities and unregistered taxpayers. The tax administration has recruited additional staff, but it must strengthen its administrative and professional capacity, ensuring merit-based appointments and full implementation of the Independent Oversight Board decisions. Allegations of serious tax fraud need to be properly investigated. The growing backlog of unresolved complaints against the tax administration at the fiscal division of the Basic Court of Pristina continues to grow and needs to be addressed.

## 6.7. Competition

Kosovo is at an **early stage** on competition. **Some progress** was made by adopting the Law on State Aid and by adopting secondary legislation in competition law. However, as most of last year's recommendations have not been addressed, they remain valid. The agencies responsible for competition and state aid face substantial challenges to their investigative and decision-making capacity. Significant efforts are needed to improve legislative alignment and enforcement.

Kosovo should pay particular attention in the coming year to:

- strengthen the enforcement of competition and state aid law;
- complete the alignment of implementing legislation on competition and state aid;
- ensure the functional capacity and operational independence of the competition and state aid institutions in charge of development and enforcement at all levels.

### Antitrust and mergers

The **legislative framework** is broadly aligned with Article 101 (restrictive agreements) and Article 102 (abuse of a dominant position) of the Treaty on the Functioning of the European Union (TFEU). The legal framework for the Kosovo Competition Authority to control mergers is in place. Some progress was made in adopting related implementing legislation. Following the European Reform Agenda, the Competition Authority adopted sub-legal acts that are largely in line with the *acquis*.

On the **institutional framework**, the Competition Authority is responsible for implementing competition law. The Authority is governed by the Kosovo Competition Commission, a collegial decision-making body appointed by the Assembly. Formally, the Authority is operationally independent with powers to initiate investigations, conduct on-site inspections, impose fines and remedies and prohibit anti-competitive mergers.

On its **capacity to enforce legislation**, the Authority has 13 staff but with limited expertise. The team lacks appropriate training on competition and mergers. Its operational budget has remained stable but insufficient. The Authority still lacks internal procedures and the capacity to conduct investigations. Furthermore, judges and court staff dealing with competition cases and merger control still lack adequate expertise in this field.

Following the appointment of the Kosovo Competition Commission, some progress was made on **implementation** notably of decisions on anti-competitive agreements, abuse of dominant position and mergers. However, awareness-raising activities need to increase significantly.

### State aid

The **legislative framework** is largely in line with the EU *acquis*. Some progress was made with the adoption of the new Law on state aid in December 2016, which broadly reflects Articles 107 and 108 of the TFEU. However, related implementing legislation still needs to be aligned with the new laws.



As regards the **institutional framework**, the five-Member State Aid Commission is responsible for implementing the Law on State Aid, but has not yet been appointed. In accordance with the new law, the staff, assets and budget were transferred from the Competition Authority to the Ministry of Finance, where the new State Aid Department has been set up. Formally, it has the power to verify notified aid measures, prohibit aid, carry out *ex post* audit of aid and recover incompatible aid. However, with only one staff member and a director, the State Aid Department's capacity to enforce the law remains very limited. As a result, the effective **implementation** of the Law on State Aid has yet to be demonstrated. So far, its activities have been limited to distributing notification forms to potential aid granters. The State Aid Department does not have the capacity to screen existing aid schemes, as required by the SAA. A number of aid measures, granted at central or local level, in particular to large companies in different sectors such as telecommunications, are not notified or properly investigated. Awareness of state aid rules among aid grantors is very weak and must be significantly increased. No decisions on state aid have been issued in the last 4 years.

### Liberalisation

The Law on Competition and the Law on State Aid are applicable to public undertakings in Kosovo. The rules on financing services of general economic interest are partially in line with the *acquis*.

There are no monopolies of a commercial nature within the meaning of Article 37 of the TFEU.

## **6.8. Public Procurement**

Kosovo has **some level of preparation** for public procurement. **Some progress** was achieved with the adoption of the public procurement strategy and with the introduction of the electronic procurement platform. However, more needs to be done to prevent irregularities and corruption during the procurement cycle. Kosovo needs to address the weak capacity of public procurement institutions to administer public procurement, the insufficient monitoring and enforcement of contracts and the weak remedy systems, all of them vulnerable to corruption in the case of public procurement.

In the coming year, Kosovo should in particular:

- further align its legislation with the European *acquis* on public procurement and ensure proper implementation of the Law on Public Procurement;
- increase the capacity of all public procurement institutions to administer public procurement and strengthen the full tender cycles oversight and monitoring;
- ensure full functionality of the e-procurement system.

### Institutional set up and legal alignment

Kosovo's **legal framework** on public procurement is broadly in line with the EU *acquis*. The Law on Public Procurement ensures the possibility of using the competitive negotiated procedure. However, the best price-quality ratio and full product life-cycle costs introduced by the EU directives on public procurement in 2014 are not considered. Also the rules on shortlisting candidates in the restricted procedure and the grounds for exclusion do not comply with the *acquis*. The EU Defence Procurement Directive has not been aligned.

The **strategy** (2017-2021) and action plan (2017-2019) to improve the public procurement system were adopted in 2017, the aim being, better coordination and more consistent activities by central public procurement institutions.

The **public procurement institutions** consist of three main bodies. The Public Procurement Regulatory Commission is responsible for the overall coordination and supervision of the public procurement system and training. The Central Procurement Agency is in charge of central and coordinated purchases. The Procurement Review Body examines all allegations of breaches of the public procurement law. However, these institutions still face major challenges in exercising their functions and duties effectively and efficiently.

#### Implementation and enforcement capacity

In 2017, the public procurement share of GDP amounted to 7.35 % at a value of EUR 459.7 million. Of these, 87 % were awarded using an open procedure. However, 98 % of public contracts were awarded according to the lowest-price criterion in 2017, rather than best price-quality ratio. Major price differences are identified for the same items between various contracting authorities.

Since January 2017, the use of e-procurement became mandatory for all contracting authorities, while still allowing for a parallel hard copy system. However, at present only 3 out of 12 modules of the e-procurement system are in place. For e-procurement to be fully implemented, steps have to be taken to build the capacity of both, bidders (especially small and medium-sized enterprises) and buyers to use it. Other significant issues such as contract oversight and monitoring of contract management have not yet been sufficiently implemented.

**Centralised procurement** is mandatory for all subject matters included on the list issued by the Ministry of Finance and applies to agencies accountable to the Assembly with fewer than 50 employees. However, this year's expansion of the list of jointly purchased goods, needs to be backed up by a significant increase in the central procurement agency's staff and other resources. Monitoring the central purchasing activities is especially important due to their high value and complexity. There are significant delays in the procurements performed by the agency, as only one has been completed this year and the second one, ready to be contracted, is still in the appeal stage. This significantly hampers the implementation of centralised procurements.

#### Efficient remedies system

The regulatory framework and the institutional set-up for review of public procurement, including public-private partnerships, are in place. The provisions of the Law on public procurement on the scope of the review and remedies systems, the time limits for challenging decisions, the effects of filing a complaint and the mechanism for ensuring the effectiveness of contracts, are to a large extent in line with the *acquis*.

In 2017, the Procurement Review Body received and reviewed 541 complaints and reviewed 459 appeals. Of the decisions, 159 were sent for re-evaluation, and in 91 cases the decision of the contracting authority was upheld. All decisions by the Procurement Review Body are published on its webpage, but the database needs to be made more user-friendly with improved search functions.

Economic operators have the right to submit a request to the Procurement Review Body to review their complaints. In case of non-compliance with its decisions the Body has the power to impose fines on contracting authorities. 4 such penalties were imposed in 2017.

The automatic suspension clause introduced in the new Law on Public Procurement, was used in June 2017, when two members of the board of the Procurement Review Body were suspended because of their indictment in a corruption case.

The decisions of the Procurement Review Body should include a more developed rationale and the execution of its decisions should be improved.

## 6.9. Company law

Kosovo is at an **early stage of preparation** on company law. **Some progress** was made on online business registration and disclosure of company information.

In the coming year, Kosovo should pay particular attention to:

- adopt the draft Law on Business Organisations;
- ensure the proper implementation of the recently adopted Law on Accounting, Financial Reporting and Audit.

On **company law**, the draft law on business organisations, aimed at *acquis* alignment on a number of issues, including domestic mergers and divisions as well as cross border mergers, still needs to be adopted. A corporate governance code is to be developed after adoption of this law. Company takeovers are not regulated. The Kosovo Business Registration Agency is responsible for online business registrations and publications, including company financial statements. Business registration can be submitted electronically.

On **corporate accounting and auditing**, a new law on accounting, financial reporting and audit was adopted. Large entities must apply International Financial Reporting Standards (IFRS/IAS) which are fully and directly transposed into domestic standards. Small and medium entities must apply the IFRS for SMEs standard; Kosovo needs to take account of the simpler regime applicable for small companies under the EU Accounting Directive. The insufficient funding and resources of the institutional audit oversight structures need to be addressed.

## 6.10. Intellectual property law

Kosovo has **some level of preparation** in this area. **Some progress** was made in harmonising legislation with the EU *acquis*. However, the State Intellectual Property Agency and Industrial Property Agency still need more funding, staff and training. Significant efforts are still needed to ensure implementation, including effective means of enforcing intellectual property rights, in line with SAA obligations.

In the coming year, Kosovo should in particular:

- further strengthen the capacity and coordination of law enforcement agencies to enforce intellectual, industrial and commercial property rights;
- address the lack of resources of the Industrial Property Agency and cope with the remaining backlog applications for intellectual property rights.

On **copyright and related rights**, no progress was made in implementing relevant legislation on private copy schemes and digital piracy. Mechanisms are still needed to determine the fees for usage of copyrighted material between collective management organisations and broadcasters.

On **industrial property rights**, the legislative framework needs to be further aligned with the EU *acquis*, including on trade secrets. Despite the progress made in reducing some of the backlog of applications for intellectual property rights, the Industrial Property Agency continues to be affected by understaffing and insufficient funding. Cooperation between policy making institutions and law enforcement agencies remains weak. There is a need for government strategy on intellectual property rights and for more awareness-raising among holders and users of these rights.

On **enforcement**, Kosovo Customs carried out 272 operations targeting goods that breach intellectual property rights in 2017, 222 of which followed requests for action by rights holders, while the remaining 50 cases of actions were undertaken proactively by the Customs officials. The value of the goods seized was EUR 1.6 million. Overall, the customs department dealing

with intellectual property rights needs to be strengthened – having only two members of staff is insufficient to ensure enforcement. The administrative requirement to obtain police authorisation to conduct market investigations undermines the effectiveness of the market inspectorate. Moreover, the legal framework on customs measures governing intellectual property rights remains non-aligned with the EU *acquis*.

### 6.11. Social policy and employment

Kosovo is at an **early stage of preparation** on social policy and employment. There has been **some progress** during the reporting period. The Employment Agency is now functional, public employment services have been improved and further alignment on health and safety at work has been achieved. At the same time, fatal incidents at work are increasing and the General Collective Agreement is still not implemented.

As none of the 2016 recommendations have been implemented, Kosovo should in particular:

- implement the action plan for tackling youth unemployment, implement the 2018-2022 strategy for employment and social welfare, and monitor their results;
- amend and enforce the Law on Labour and legislation on health and safety at work, and adopt and implement legislation on inspections to reduce the number of accidents at work;
- amend and adopt the Law on the Economic and Social Council.

Kosovo still needs to amend the **Law on Labour** and to improve its implementation. Amendments should *inter alia* better address equal and non-discriminatory treatment of women. Implementation of the Law is undermined by the low number of inspectors and lengthy court procedures. Implementation is most problematic in the private sector. Child labour remains a serious concern, with around 11% of children involved in work, with the percentage being higher among communities of Roma and Ashkali where this percentage increases to 17%. This involvement of children often leads to their exposure to various forms of violence. However quality data are lacking. The Labour Inspectorate has, during the reporting period, identified and dealt with only one case of a minor engaged in work.

On **health and safety at work** there have been new regulations issued, but the implementation is ineffective. In 2017, there was an increase in workplace accidents, of which 14 out of 50 were fatal, mainly in the construction and services sector. The Labour Inspectorate needs to target the informal part of the construction sector more effectively and to be given adequate resources to fulfil its mandate without further delay. This has to be done above all by increasing the number of inspectors, at least from the current 49 to the 65 planned.

On **social dialogue**, the 2014 General Collective Agreement, which is fundamental in laying down the rights and obligations for employers and employees, is not being implemented. Collective bargaining takes place mainly at the central level through the Social and Economic Council and at the sectoral level, however is mostly covering the public sector. The amendments to the Law on the Social and Economic Council have not yet been approved. Trade union membership of workers in the private sector is very low.

On **employment policy**, the government adopted the 2018-2022 sector strategy. Also, in line with commitments under the European Reform Agenda, the government developed an action plan to tackle youth unemployment. The budget earmarked for active labour market measures remains insufficient. The public employment services have improved their performance in matching employers to employees. The Employment Agency is now operational.

High inactivity and low employment remain among key challenges. The overall activity rate stood at 37.6 % in 2015 and the employment rate was extremely low at 25 %. In addition to that,

the unemployment rate is still very high at 31 % in 2017. It continues to be higher for women (37 %) than for men (29 %). The overall employment rate is 30 %, but only 13 % of women are in formal employment, compared to 47 % of men. Only 29 % of the employed have permanent work contracts, whereas 71 % work on short-term contracts. Unemployment is most prevalent among young people (15-24 years), with 51 % unemployed. The rates of unemployment are even higher in the Roma and Ashkali communities. The members of these communities usually work in the informal sector, holding unsecured, unqualified and low status jobs. Only a small number is registered as unemployed.

As regards the preparations for the use of the **European Social Fund (ESF)**, there were no new developments.

On **social inclusion and protection**, Kosovo needs to ensure that municipalities have sufficient resources to deliver the social services that fall under their responsibility. There is little progress on the social inclusion of Roma and Ashkali children and families. Kosovo needs to ensure that children with disabilities are able to attend public schools alongside their peers. On **social protection**, since 2009, social welfare funds have been allocated through the general grant without any earmarking in relation to the local budget available for social services. This lack of clarity resulted in a considerable variation in levels of support by municipalities to social service delivery. A provision earmarking specific funding from the general grant for social services should be included in the upcoming draft Law on Local Finance. The share of Kosovo's population living below the poverty line has been decreasing, but it is still high at 17.6 %. The General Council for Social and Family Policy, in charge of licensing providers of social services including foster care has not been functional. There has been no progress in licensing new providers of foster care for children in need.

On **non-discrimination in employment and social policy**, secondary legislation for the implementation of the Law on the Protection from Discrimination has not been adopted. The authorities must address discrimination against women, especially as regards hiring procedures in the private sector. During the reporting period, the Ombudsperson received a similar amount of cases as in previous years, but the number of *ex officio* investigations on discrimination grounds has doubled. Institutions continue to perform poorly in processing and investigating cases of discrimination.

On **equality between women and men**, women continue to be exposed to various forms of gender discrimination. Kosovo should reform the system of maternity and parental leave, which presents an obstacle to the hiring of women, particularly in the private sector. Limited access to child care and to flexible work arrangements are also found to be related barriers to women's employment, as formal options for care beyond maternity leave are limited, and family-friendly schedules are often not available.

## **6.12. Consumer and Health Protection**

Kosovo is at an **early stage of preparation** in this area. There has been **no progress** in consumer and health protection.

Kosovo should in particular:

→ increase the involvement of civil society on consumer protection and consumer rights and ensure adequate numbers of inspectors and market surveillance;

→ increase the financial resources to allow for the implementation of the health sector reforms, including further roll-out of the electronic Health Information System.

On **consumer protection**, a new Law on Consumer Protection needs to be adopted. The institutional and administrative capacities as well as the coordination of all regulators in the field

of consumer protection need to be strengthened. Enforcement of consumer protection is very limited and consumer organisations are very weak. The new Law does not provide explicit legal competencies for civil society organisations to offer advice on consumer protection, information and education of consumers. The consumer protection programme for 2016-2020 has been adopted but lack of human and financial resources in the Ministry of Trade and Industry continues to hamper effective policy implementation and coordination of the programme.

With regard to **product safety-related issues**, the Ministry of Trade and Industry approved a regulation on the system for rapid exchange of information on products posing a risk to the health and safety of consumers. The dangerous product database has been operational since December 2016. On **non-safety related issues**, the Law on Inspectorate and Supervision of Markets is partly aligned with the *acquis*, however the insufficient number of inspectors hamper the capacity to protect the economic interests of consumers.

On **public health** policy, Kosovo adopted several administrative instructions and a communication strategy in support of the Law on Health Insurance, but its implementation remains slow and has been further delayed as the start of premium collection has been postponed until the end of 2018.

The new **health sector strategy 2017-2021** and its action plan began in February 2017. The strategy clearly indicates several shortcomings in the health sector including low levels of productivity of health institutions, and lack of reliable data, however due to institutional and monitoring mechanisms the strategy is not being implemented. Around 30 % of Kosovo's population is unable to obtain health services due to extreme poverty.

Low public spending on health remains a concern. In 2016, it was estimated that only 40 % of the total annual needs for public healthcare were covered. The allocated funds are mainly used to cover fixed costs (approximately 68 %) leaving only about 32 % for direct patient costs related to diagnosis, treatment, and prevention. Health financing is predominantly based on historical expenditure. Institutional accountability is low and there are no clear incentives to improve productivity, efficiency and quality in the health sector. Private (out-of-pocket) expenses remain high and are estimated at 40 % of total medical costs.

Kosovo has a comprehensive Law on Tobacco Control, however the level of its enforcement has continued to fall, due to a lack of political will and the poor performance of implementing authorities.

On **blood, tissues, cells and organs**, the 2014 law on transplantation of tissues and cells, which is partly aligned with the *acquis*, is not being fully implemented. The law on blood transfusion still needs to be adopted. Full alignment of both laws with the *acquis* requires necessary resources, administrative and monitoring capacities to be put in place.

In the field of **serious cross-border health threats, including communicable diseases**, legislation is not aligned with the *acquis*. Immunization coverage in 2017 is lower than in 2016. There is also a decrease in the vaccination of school-age children. Kosovo does not yet have an updated antimicrobial resistance (AMR) action plan. Prescription of antibiotics needs to be more strictly controlled to prevent anti-microbial resistance.

With regard to **patients' rights in cross-border healthcare**, Kosovo's legislation is not aligned with the *acquis*. Kosovo is developing an **electronic Health** Information System (eHIS) based on the European Core Health Indicators which captures data on patient admissions, discharges and transfers, though it currently only covers around 30 % of public health facilities. Strong commitment is needed to ensure full roll-out of eHIS across all health institutions. Additional functionalities (pharmacy, pathology, radiology, blood transfusion, vaccination and other

interventions etc.) need to be added and coverage expanded to support evidence-based health care policy.

Kosovo's legislation concerning **medicines for human and veterinary use** is not aligned with the *acquis*.

**Health promotion** regarding **non-communicable diseases** remains weak. Kosovo does not have a strategy or an action plan on this. Kosovo is currently planning to implement a Comprehensive Survey on the Risk Factors on Non-communicable Diseases which will support the development of an evidence-based strategy and action plan. With regard to **cancer screening** there is no strategy for cancer control in place. During 2017 a pilot cervical cancer screening programme was launched in Pristina.

**Mental health** legislation is not aligned with the *acquis*.

**On nutrition and physical activity**, there is no legislation in place.

On **health inequalities**, Kosovo currently does not provide universal health insurance and therefore out-of-pocket spending for health services remains high. It is estimated that almost a third of the population does not have easy access to health care services or have only limited access due to lack of funds and that 18 % of the population, due to economic reasons, does not seek medical services in case of illness. Coverage of Roma, and Ashkali communities remain a concern regarding immunisation with only three in ten children being fully immunised. Lack of information about the services offered by public institutions and cases of discrimination, have also have negative effect on the access to health services.

### 6.13. Education and culture

Kosovo is at an **early stage** of preparation for education and culture. There was **no progress** in the past year and the quality of education still needs to be considerably improved.

As previous report's recommendations have not been addressed, in the coming year Kosovo should in particular:

→ adopt a new law on higher education with a view to a reform based on the best standards, including ensuring the autonomy and independent operation of higher education institutions and quality assurance mechanisms;

→ step up efforts on curricular reform in pre-university education (including vocational education and training programmes), focused on competency-based learning;

→ improve access to quality education for pre-school enrolment and disadvantaged groups.

On **education and training**, the level of public spending on education, at 4.7% of GDP, is not managed efficiently enough to provide quality education for the comparatively large number of young people.

Enrolment rates in **primary and lower secondary educations** are almost universal, and upper secondary gross enrolments stand at 85 %. However, only 18 % of children aged 0-5 years attend licensed pre-school institutions. Low enrolment of children in the **preschool** level remains a concern and Kosovo needs to increase the provision of childcare facilities. The number of students in **higher education** is nearly double the EU average compared to population. However, the completion rate is low and there is high unemployment rate among university degree holders (25 %), suggesting a mismatch between higher education programmes and labour market needs. The criteria of the Accreditation Agency for Higher Education (KAA) take into account EU standards. However, the government's decision in 2017 to dismiss the entire board and acting director of the Agency has undermined the autonomy of the agency and has led to its the

exclusion from the European Quality Assurance Register for Higher Education (EQAR). Kosovo's qualifications framework is referenced to the European Qualifications Framework. Education remains a high risk sector for corruption and political influence, especially in higher education. The government also decided to dismiss the members of the Presiding Board of the University of Pristina, which deprives the institution from having a stable management able to carry out their duties and reforms.

The 2017-2021 Kosovo Education Strategic Plan and its Action Plan were adopted in July 2017. The strategy covers participation and inclusion, management of education system, quality assurance, teacher development, early and preschool education, vocational education and training, adult education, and higher education. The strategy and action plan now need to be implemented and the necessary resources allocated. A law on occupational standards was adopted in November 2016. The government needs to ensure the implementation of the quality assurance strategy and establish quality assurance mechanisms at the municipal level. The implementation of the curricula reform is undermined by a lack of qualified teaching staff, teaching material and supplies and an underdeveloped student assessment system. A teacher training system to improve the quality of pre- and in-service education is in place but has yet to bear results. In January 2018, the Ministry in January 2018 has announced its plans to introduce teacher profiling for grades 1-5, without proper baseline assessment. This would complicate and delay further the implementation of the reform.

The quality of education continues to be a challenge at all levels. According to the 2015 OECD Programme for International Student Assessment (PISA) assessment Kosovo ranks third from the bottom of the list of over 70 systems tested. Kosovo has committed to participate in the 2018 PISA assessment as well.

Around half of all students in upper secondary education choose **vocational education**. Vocational education and training (VET) programmes lack practical and applied courses, with only a few being accredited by the National Qualifications Authority. Overall, the link to the labour market remains weak. The role and future of the Agency for Vocational Education and Training and Adult Education remains unclear. Kosovo should increase the quality of VET programmes and qualifications to encourage employers to hire a greater number of VET graduates, by finishing the catalogue of qualifications on VET sectors.

More efforts are needed to provide access to quality education for children with disabilities, and more teachers and assistants need to be trained. Measures should be taken to address the high dropout rate of Roma and Ashkali children. Increasing their preschool participation, and that of other vulnerable groups, would significantly improve their continued participation and success in later schooling.

As of January 2018, Kosovo can participate in all of Erasmus+ and can join platforms and networks. So far, more than 2 000 students and staff have been involved in the International Credit Mobility strand, out of which two-thirds are from Kosovo and one third went to Kosovo. Institutions from Kosovo participated in 14 Capacity Building in Higher Education projects, three of them as coordinating partners.

On **Youth**, the local antenna of the Regional Cooperation Office (RYCO) was inaugurated. More than 800 young participants benefited from one of the three Youth mobility actions since 2014 (mobility of youth workers, youth exchanges and the European Voluntary Service).

On **culture**, Kosovo needs to continue to work towards meeting the standards set out in the 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions and develop a track record demonstrating good practice. In 2018, Kosovo will join Creative Europe as a partner to the programme (culture sub-programme).



## 6.14. Science and research

Kosovo is at an **early stage of preparation** for science and research. **No progress** was made in the past year.

In the coming year, Kosovo should in particular:

- increase government spending on research and seek to stimulate investment from the private sector by preparing and using the findings of a smart specialisation strategy that should be soon developed;
- focus efforts on increasing participation in the EU's Horizon 2020 Programme and ensuring greater coordination of the contact points for Horizon 2020.

Kosovo has done little to develop its **research and innovation policy**. The Law on Scientific Research Activities is not being properly implemented due to lack of funding. Government spending on research has decreased to 0.1 % of GDP. Kosovo has a poor record in using even that budget, often barely managing to spend half of it. In higher education, the quality of post-graduate programmes preparing for the career of researcher are of weak quality, with both private and public higher education institutions having very uneven criteria for promotion based on scientific research and publications. The opening of the Office for Sponsored Programmes and Research at the University of Pristina is a small but positive step in the right direction. The new Ministry of Innovation and Entrepreneurship should build up its administrative capacity and adopt an innovation strategy in close coordination with the other ministries.

There has been no progress on integration in the **European Research Area**.

On **framework programmes**, Kosovo participates in the EU Horizon 2020 research and innovation programme (H2020) as a third party. Kosovo has participated 10 times H2020 projects (2 new ones in 2016 and 1 new in 2017). This is a slight increase compared to previous years, but this level of participation remains below Kosovo's potential. Promotional and training measures should be taken to improve this. The first experienced researcher from Kosovo was funded through the Marie Skłodowska-Curie Actions last year, a cooperation which needs to be further increased in the coming years.

## 6.15. Trade issues

Kosovo is at an **early stage** of preparation in this area, with **some progress** over the past year.

In the coming year, Kosovo should in particular:

- continue implementing trade liberalisation under the SAA;
- implement actions under the multi-annual action plan for a Regional Economic Area;
- strengthen the administrative capacity of the Ministry of Trade, in particular in view of the regional commitments in the trade area.

Kosovo is at an early stage of preparation for applying for WTO observer status, with the first step being the Memorandum on Foreign Trade Regime which has been prepared for the adoption by Kosovo's authorities. Kosovo continued to coordinate its positions with the EU on the common commercial policy.

Some progress was achieved with regards to the free trade area with the EU, but opportunities for Kosovo exporters could be further maximised by taking full advantage of trade advantages granted in the SAA. Kosovo abolished customs duties on a number of tariff lines, including industrial, agricultural and fishery products. Remaining duties will be reduced progressively until

2025. Despite a slight improvement in the export of services in 2017, the trade deficit with the EU continued to grow.

Kosovo took important commitments on the occasion of the Western Balkans Summit in Trieste in July 2017 to implement a multi-annual action plan for the development of a Regional Economic Area (REA) in the Western Balkans. The implementation of the plan will allow the deepening and widening of economic integration within the region, based on EU rules and standards. Kosovo continues to play an active role in the Central European Free Trade Agreement (CEFTA) and took over its presidency in 2018.

#### **6.16. Enterprise and industrial policy**

Kosovo is **moderately prepared** in this area. **Some progress** was made by introducing measures to improve the business environment. There is a need to further build up administrative capacity and ensure stronger inter-ministerial coordination.

The recommendations from the 2016 report were not fully implemented. In the coming year, Kosovo should in particular:

- introduce regulatory impact assessments to reduce the administrative burden on Small and Medium Enterprises;
- continue implementing the recommendations included in the EU ‘Small Business Act’ (SBA) assessment;
- ensure the alignment of the Law on Economic Zones with the EU *acquis*.

On **enterprise and industrial policy principles**, the 2017-2021 private sector development strategy incorporating industrial policy has yet to be adopted. The draft strategy is, however, limited to sectors under the responsibility of Ministry of Trade and Industry, and adequate synergies need to be ensured with other relevant policies such as energy, education, research and development. A new Ministry of Innovation and Entrepreneurship has been created. However, there is a need to build up its administrative capacity, ensure stronger inter-ministerial coordination and adopt an innovation strategy.

The Law on Interest Rights in Trade Transactions is in line with Directive 2011/7/EU on combating late payment in commercial transactions.

On **enterprise and industrial policy instruments**, the National Council for Economic Development has been reactivated and provides a forum for public-private dialogue. Positive steps were taken in the business environment. In particular, measures were adopted to ease the process of starting a business, accessing credit and resolving insolvency. This led Kosovo to move up 20 positions in the 2017 World Bank ‘Doing Business’ report. There are 8 industrial parks in differing stages of completion and 1 fully operational Business Park. But the Law on Economic Zones, which regulates the establishment and financing of economic zones, is not aligned with the EU *acquis*. There are no specific programmes for restructuring, neither for sector-specific development nor for sector-independent modernisation of industry.

Some progress has been made to diversify and ease the access to finance for small and medium enterprises, with additional funding allocated to the Kosovo Credit Guarantee Fund. In January 2017, the Small Business Act (SBA) National Coordination Group was established, with the Kosovo Investment and Enterprise Support Agency (KIESA) in the lead. However, KIESA still needs to strengthen its capacity. The recommendations of the Small Business Act assessment are yet to be implemented.

In December 2017, an agreement was signed on Kosovo’s participation in the EU programme for competitiveness of enterprises and small and medium-sized enterprises (COSME). Kosovo will

be able to access COSME funding once internal procedures for the approval of the agreement are complete. Kosovo should start developing measures to raise awareness among business stakeholders and ensure their active participation in the programme.

### 6.17. Agriculture

Kosovo **has some level of preparation** on agriculture and rural development. **Some progress** has been made in implementing the agriculture and rural development programme.

In the coming year, Kosovo should in particular:

→ improve the evaluation and monitoring of grants and direct payments provided under its agriculture and rural development programme;

→ revise and update the agriculture and rural development programme so that investments in this sector are more efficient.

On **horizontal issues**, the budget of EUR 46 million allocated to the agricultural sector has remained stable, for both direct payments and investment grants. However, staff shortages and inadequate monitoring, evaluation, accounting and internal auditing at the Agency for Agriculture Development continue to undermine the proper processing of applications and execution of payments. A strategy and programme for agriculture and rural development (2014-2020) are in place. However, following the 2015 agriculture census and in line with developments in the sector, planned measures in this programme need to be revised and updated to make the best use and achieve maximum impact of funds for agriculture, increase income for farmers and improve the livelihood of the rural population.

On **direct payments**, a significant amount of support to agriculture other than investments is made through the use of direct payments. Such support remains mostly coupled to production and linkage to cross-compliance still needs to be implemented.

Kosovo has established a simplified **Land Parcel Identification System**, a farm register and an animal identification and registration system. Some progress has been made towards establishing an **Integrated Administration and Control System**. A **Farm Accountancy Data Network** is in place.

No progress has been made with regards to establishing a **common market organisation**. Kosovo should undertake steps to draw up a legal basis for their establishment and functioning.

In the area of **rural development**, measures mostly address the modernisation of farms and food processing facilities. However the level of funding and efficiency of current rural development measures remains weak, in particular in regards to investments into farms, primary food processing, job creation in rural areas, building up and empowering local communities as well as land consolidation, access to irrigation and farmer education update.

On **quality policy** and on organic farming, the legislation remains to be implemented.

Kosovo lacks a clear strategy in that regard. An organic certification systems compatible with the *acquis* requirements remains to be developed. Kosovo should increase capacities to implement the Law on Organic Farming. Legislation in the sector is not designed to be aligned with the *acquis*.

Legal changes in agricultural land use continue to affect already limited availability of arable land and the productivity of the farms. There is no information on how much agricultural land Kosovo loses on an annual basis and no strategy or action plan to address this issue. The Ministry of Agriculture in cooperation with Ministry of Environment and Spatial Planning

should undertake urgent measures to stop further losses of agriculture land and to implement legislation governing spatial planning.

#### 6.18. Food safety, veterinary and phytosanitary policy

Kosovo has **some level of preparation** in the area of food safety, veterinary and phytosanitary policy. **Some progress** was made in this area.

In the coming year, Kosovo should in particular:

- implement an integrated food control system, including by transferring inspection responsibilities to the Food and Veterinary Agency;
- complete and launch the system of collection and disposal of animal by-products;
- complete registration and categorisation of food and feed processing establishments.

In the area of **food safety**, further efforts are needed to complete the legislation governing the area of food and feed safety. Registration and categorisation of food and feed establishments is ongoing. The Agency continues to perform regular checks on import and export of live animals, animal products, plants and plant products. Import permissions for EU registered establishments are no longer required. Work on establishing a plan for drug and residue monitoring is ongoing. The Food and Veterinary Agency has yet to prepare a multi-annual control plan for food and feed safety and increase capacities in this regard.

Inspection responsibilities have still not been transferred from municipalities to the Agency, posing a continuous challenge to the implementation of an integrated food control system.

On **veterinary policy**, the Kosovo Food and Veterinary Agency is currently upgrading its own system for border inspection. TRACES is used for exports only.

In the area of **animal health**, some progress has been made. The multi-annual disease control and surveillance programme for animal diseases is in place. However, full implementation of the programme will require sufficient allocation of funds and capacities for the Agency. As part of regional efforts to control and eradicate rabies, the Agency is working to resume vaccination campaigns. The vaccination programme for lumpy skin disease is ongoing. That being said, the Agency's capacities for emergency response in case of disease outbreaks remain insufficient.

Concerning management of **animal by-products**, progress has been made in building and equipping a Category I rendering plant. Further efforts are needed to ensure proper management and collection system for animal by-products.

With regards to animal identification and registration, the under-reporting of animal movements remains a problem. Measures to enforce the regulation on animal identification and registration at the level of livestock markets, slaughterhouses and livestock transport are yet to be adopted by the Agency.

Identification of basic cross-compliance measures in the areas of food safety, animal health and welfare remains a priority for the Agency, with a view to including them in the 2018 agriculture programme.

In the **phytosanitary** sector, no progress has been made. Further efforts are needed to strengthen the implementation and operational capacity of the institutions responsible for plant health in Kosovo, in order to ensure an effective plant disease control system.

#### 6.19. Fisheries

Kosovo is at **an early stage of preparation** in the area of fisheries. **No progress** was made.

In the coming year, Kosovo should:

- further align its market policy with the *acquis*;
- establish an inventory of fish species in Kosovo.

The *acquis* on catch quotas, managing fleet capacity, inspection and control is of limited applicability as the fisheries sector is based on commercial lake fishing and aquaculture. Kosovo should prepare a **market policy** and carry out inspections in line with the EU *acquis*.

## 6.20. Environment and climate change

Kosovo is at an **early stage of preparation** on environment and climate change. **No progress** has been achieved and serious environmental problems continue to impact people's livelihoods and health. Environmental protection and climate change requires considerably more political willingness to tackle the growing challenges.

Since most of last report's recommendations were not implemented, in the coming year Kosovo should:

- establish a real-time air quality and effective water and groundwater monitoring systems, publish the data and undertake urgent measures to reduce air and water pollution;
- increase the collection coverage of household waste in order to address the issue of illegal dumpsites;
- enforce legal provisions on environmental liability, damage and crime; implement the *polluter pays* principle and raise public awareness on environmental protection;
- implement the strategy on climate change adaptation and low emissions development, consistent with the EU 2030 framework for climate and energy policies.

### Environment

Regarding **horizontal legislation**, further progress is needed for full alignment and implementation of the remaining cross-cutting environmental directives. The lack of enforcement of Environmental Liability Directive undermines the effectiveness of environmental protection. Environmental inspectorates lack staff and capacity and are unable to ensure effective enforcement although some efforts have been made for alignment with the Environmental Crime Directive. The strategy on environment still needs to be updated and implemented. Implementation of priority measures is undermined by insufficient funding, a lack of administrative capacity and technical skills. The use of environmental and strategic impact assessments needs to be improved considerably, especially in industrial sectors with significant effects on the environment such as energy and transport. Meaningful involvement of the public and civil society is necessary.

Measures to improve **air quality** still need to be adopted. Air quality, particularly in urban areas, continues to pose a major threat to public health. Kosovo's strategy for air quality and the law on ambient air quality continue not to be enforced. Uncontrolled pollution from the energy sector – particularly from the Kosovo B power plant and household heating – but also from industrial complexes, road traffic, incineration of waste and other toxic materials remains a serious problem. Air quality plans for zones where the levels of pollutants visibly exceed limit values by a wide margin, especially in winter, have still not been prepared and adopted. The air quality monitoring system still needs to provide real-time data to the public. There is a lack of sufficient financial resources and capacity to maintain and calibrate the monitoring equipment. Urgent measures are needed to reduce household reliance on lignite heating.

The current solid **waste management** system in Kosovo is environmentally unsustainable. The legal framework is partially aligned but waste remains one of the most significant problems in

Kosovo. Most waste streams end up in legal and illegal landfills. Collection coverage needs to further increase. The strategy and master plan for waste management 2013-2022 are only partly reflected in municipal plans for solid waste. The responsible authorities should take steps towards a circular economy approach, by introducing separation of waste at the source, recycling and recovery of waste streams. The high number of dumpsites needs to be urgently and sustainably addressed. Most existing landfills are at the end of their storage capacity and pose considerable long-term environmental risk, especially groundwater contamination. This is particularly the case at the Mirash landfill in Obiliq/Obilić.

In the area of **water quality**, the level of alignment is limited. A strategy and action plan on water protection have still not been adopted and urgent efforts are required to ensure the functioning of the river basin authority, established in July 2017, including preparation of its management plan. Untreated sewage and discharge remain the main source of pollution. The groundwater monitoring network is at an early stage. The system for monitoring surface water is not yet operational. A report on drinking water quality has been published. The identification of agglomerations and the definition of sensitive areas is required, in line with the Urban Waste Water Treatment Directive. Budget funding needs to be secured for priority projects in this area. Tariff-rate collection needs to be improved and technical water losses reduced.

On **nature protection**, there has been no progress on the alignment with the *acquis*. Effective protection for designated protected areas is not in place. Illegal construction in protected areas needs to be combatted effectively. Infrastructure plans need to ensure that nature protection obligations are respected, particularly in areas that could potentially become protected Natura 2000 sites. The process of Natura 2000 designation is still at the very beginning due to a lack of technical and staff capacities in relevant institutions. However steps have been taken to start the inventory and mapping of natural habitats types and of biodiversity.

On **industrial pollution and risk management**, alignment remains at an early stage. Insufficient enforcement of legislation and polluter accountability is hampering progress in setting up a system for preventing industrial and chemical accidents. Hazardous mine waste, and industrial dumpsites continue to pose a serious risk to soil and water. Mechanisms should be established to ensure sustainability of the operational costs of collection and transport of waste. An operator still needs to be nominated for the future hazardous waste storage facility.

On **chemicals**, alignment with the *acquis* remains at an early stage. Kosovo is not party to the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade and the regulatory framework on export and import of hazardous chemicals still needs to be implemented.

The new law on **noise** still needs to be adopted. Strategic noise maps and action plans still need to be developed, as well as effective action to implement the law.

Kosovo is not part of **EU Civil Protection Mechanism** but is a beneficiary of the IPA Civil Protection Cooperation programme since 2010. Significant progress is still necessary in important areas such as flood protection.

### **Climate change**

The level of alignment remains limited. Regarding the strategic framework, the Strategy and Action Plan on Climate Change has still not been adopted. The Strategy also contains component on adaption to climate change. The National Council for Environment and Climate Change failed to take concrete measures to mainstream climate action and to raise awareness in the public. There is still no evidence of mainstreaming climate change in any of the government projects. This is particularly lacking in energy and transport sectors.

Although Kosovo is not a signatory to the UN Framework Convention on Climate Change and therefore has not prepared an Intended Nationally Determined Contribution to the 2015 Paris Agreement, full implementation of its climate change strategy should help Kosovo reach the low emissions and climate-resilient objectives of the agreement.

Regarding the transparency of climate action, responsibility for compiling greenhouse gas (GHG) inventory reports lies with the Kosovo Environment Protection Agency. The 2014 inventory was submitted and the 2015 is currently being prepared. Kosovo still has to align with the EU Emissions Trading System. Further efforts should be made in the field of emission standards for new cars and vans, consumer information, fuel quality as well as effort sharing, geological storage of CO<sub>2</sub>, land use, land-use change and forestry, ozone depleting substances and fluorinated gases. Administrative capacity and particularly awareness-raising activities need to be considerably strengthened.

### 6.21. Transport policy

Kosovo is at an **early stage**/has **some level of preparation** in the area of transport policy. **Some progress** has been achieved on implementing connectivity reform, however further efforts are needed on regional connectivity. More work is needed to strengthen the administrative capacity for all modes of transport.

Since most of the 2016 recommendations are not yet implemented, in the coming year, Kosovo should in particular:

- improve road safety by targeting the reduction of fatalities; and establish a system for continuous road crash data collection;
- strengthen the capacity of the railway regulator and ensure its financial and operational independence;
- adopt the legislation on the Intelligent Transport System (ITS), define the strategic framework for the implementation of the ITS on the Core networks ensuring sufficient capacity and resources for its implementation;
- pursue efforts to comply with the requirements under the first transitional phase of the ECAA Agreement;
- continue efforts to implement the EU passenger rights legislation in all modes of transport.

As regards the **general transport acquis**, legislation is not aligned with the *acquis* on summertime arrangements. Further efforts should be made to complete alignment with the *acquis* on public services obligations, including transposing the *acquis* on procedures and criteria for the award of public service contracts in the field of road transport. Administrative capacity for all modes of transport remains insufficient. Further efforts are needed to transpose the ITS Directive and rail interoperability Directive.

On **road transport**, the legal framework on dangerous goods is not yet aligned with *the acquis*. Access to the market for goods and passenger transport as well as the criteria for access to the occupation of road transport operator also requires further alignment. Further harmonisation is also needed on inter-operability of toll systems. Alignment with *acquis* on social legislation and road safety is incomplete, yet necessary to reduce fatalities. To reduce fatalities requires also information, education, training as well as effective enforcement of traffic rules. Regarding the enforcement of social legislation, improvements are needed on roadside checks, on enhancing the legal competence and capacity of inspection officers, and on adopting and implementing rules on penalties for infringement of the European Agreement concerning the Work of Crews of Vehicles engaged in International Road Transport (AETR). Legislation on clean and energy-

efficient road transport vehicles and on the deployment of alternative fuels infrastructure has not been aligned yet. There is no legislation or regulatory framework in place for the implementation of Intelligent Transport Systems (ITS).

Regarding **rail transport**, a private operator is licensed and has received a safety certificate for providing freight transport services. There is some progress with railway safety legislation but efforts should be made to meet the requirements for its implementation. Further efforts are needed to align with the *acquis* on interoperability. Rehabilitation of Rail Route 10 (connection from the border/boundary with Serbia to that with the former Yugoslav Republic of Macedonia) will require an increase in capacities of Infrakos, the railway infrastructure company.

On **aviation**, Kosovo has made progress in aligning with the EU *acquis* and has implemented nearly all the requirements under the first transitional phase of the European Common Aviation Area (ECAA) Agreement, with the exception of few provisions in the area of economic regulation relating notably to labour law. Kosovo has made some progress on alignment with the Single European Skies II framework and on implementation of the Law on the Air Navigation Services Agency, for which further efforts are needed for its full application. There is no legislation on **combined transport**. The opportunities for developing combined transport need to be further enhanced.

## 6.22. Energy

Kosovo remains at an **early stage** in the field of energy. There is **some progress** in this area, including further implementation of the third energy package, especially on the internal energy market and on the abolition of tariffs on petroleum products.

Since most of last report's recommendations were not implemented, in the coming year Kosovo should:

- adopt the action plan for energy strategy 2017-2026;
- implement the *acquis* on security of supply, decommissioning the Kosovo A power plant and ensure settlement of new generation capacity;
- complete the appointment of members of the Board of the Energy Regulatory Office and strengthen its independence and financial stability;
- revise its action plan to reach the mandatory renewable energy target of 25% in 2020;
- adopt the law on energy efficiency and establish the Energy Efficiency Fund.

Kosovo needs to approve the action plan for the Energy Strategy 2017-2026 to make operational the policy orientations developed in the already adopted energy strategy. Even if this should address some of the energy and environment problems in the medium term, Kosovo currently continues to rely nearly exclusively on lignite as a source of energy and on two obsolete and polluting coal power plants. As a result, Kosovo is continuing to face heavy air pollution problems and electricity supply shortages.

On **security of supply**, investment and maintenance continue to improve the reliability of the power transmission system. However, the new transmission line to Albania remains non-functional because of lack of implementation of the connection agreement between the European Network of Transmission System Operators for Electricity and the Kosovo Transmissions System Operator. (*cfr. section Trans-European networks*). While distribution losses are slowly dropping, the speed of investment in the distribution network is not satisfactory. Combined commercial (not paid bills) and technical losses in 2016 were high at 30%. There was no progress in aligning legislation in the area of compulsory oil stocks and obligatory petroleum



reserves with the *acquis*. Current oil stocks are estimated to last only four days. Tariffs on petroleum products (lubricants and petrol coke) have been abolished.

As regards the **internal energy market**, there has been some progress in implementing legislation transposing the Third Energy Package. The regulatory authority began moves towards market opening by adopting the switching rules and by issuing licenses to two new suppliers to operate on the Kosovo market. An EU-based trader was admitted without requiring an additional license.

As regards new power generation capacity, the commercial agreement for the new power plant with the bidder has been signed in December 2017, but its potential impact on public finances, tariffs and environment still needs to be assessed. Environmental measures are urgently required at the Kosovo B power plant to reduce the level of ash dump in the air and to comply with the emissions reduction plan. According to the Energy Community Secretariat, the postponement of the emissions reduction plan to January 2022 is in breach of Energy Community Treaty provisions.

Kosovo has made some progress in partially deregulating the generation price and phasing out cross-subsidies between different categories of customers. But electricity consumption (non paid bills) in the north of Kosovo continues to be treated as a commercial loss, which is recovered under the retail tariffs. The Board of the Energy Regulatory Office is now functional, but the capacity and independence of the Office have been undermined by political interference, low administrative capacity and lack of human resources.

There was very little progress in the **renewable energy** sources sector. While the legislation is partially aligned with the *acquis*, a new electricity market design should be put in place to facilitate integration of renewable energy generation. The auction market for producers remains non-existent. Legislation still needs to be developed in line with connectivity measures.

Kosovo should revise its action plan to get on track to reach the renewable energy target of 25 % in 2020. The level of investment remains minimal despite the existing legal framework for support schemes for energy produced from renewable sources. Kosovo needs to introduce a market-based approach for cost-effective promotion of renewable energy and integration of renewable energy into the market. Connection and access to the transmission and distribution grids remain the main barriers for renewable energy producers due to the inability of the grid operators to deal with intermittent electricity production. There is no regulation for minimum requirements for renewable energy in buildings. There was no progress in meeting the requirements for the use of biofuels in transport.

There was some progress on alignment with the **energy efficiency *acquis***, with the adoption in 2017 of a law on energy performance of buildings. However, the new law – linked with the draft Law on the Energy Efficiency Fund – on energy efficiency still need to be adopted. The 2010-2018 energy efficiency action plan envisages an energy savings target of 9 %, which seems unlikely. Kosovo has approved its third energy efficiency action plan. The establishment of the Energy Efficiency Fund remains crucial to ensure more investment in energy efficiency measures in public and residential sectors. The Kosovo Agency for Energy Efficiency is understaffed and has low capacity to monitor, evaluate and verify progress towards targets.

Kosovo is at an early stage of preparing the legal and regulatory framework on **nuclear safety and radiation protection**. The Law on Radiation Protection and Nuclear Safety was adopted. The capacity of the Nuclear Safety and Radiation Protection Agency for licensing and inspections remains weak and its funding is insufficient to implement its mandate. There is no radiation monitoring (for example of depleted uranium), no control of radioactive waste and no radiological emergency plan. A solution for permanent storage of radioactive waste still needs to

be found. Kosovo is not party to the Convention on Nuclear Safety or the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management.

### 6.23. Trans-European Networks

In the area of trans-European Networks, Kosovo has **some level of preparation** and **some progress** has been achieved on road transport during the reporting period. More needs to be done on energy and telecommunications.

In the coming year, Kosovo should in particular:

→ proceed with the harmonisation of the legal framework with the EU *acquis* and TEN-T and TEN-E regulations and with the implementation of connectivity reform measures;

→ strengthen the institutional framework and administrative capacities for the development and monitoring of Trans-European networks;

→ reinforce the capacity of the Regulatory Authority of Electronic and Postal Communications to enforce telecommunications market regulations.

On **transport networks**, the strategic framework for the development of the trans-European Transport network is covered by the sectorial and multimodal transport strategy (STMTS) 2015-2025 including a 5-year action plan. SMTS should be reviewed and updated annually. The completion of the internal procedures for the approval of the Transport Community Treaty signed in June 2017 is pending.

Experience with the implementation of the Route 6 and Route 7 highway projects has demonstrated the shown institutional capacity to implement strategic projects. However, this capacity needs to further strengthen and maintained, especially where direct engagement on the development of the Trans-European Networks is concerned. Priority projects in core and comprehensive networks still need to be completed. The five-year adoption of maintenance plans for entire Core network is still at an early stage, further efforts are needed.

On **energy networks**, the Kosovo transmission system is interconnected with South-East European transmission systems. The new 400kV transmission line and the load frequency control with Albania are not operational because of the non-implementation of the connection agreement between the European Network of Transmission System Operators for Electricity and the Kosovo Transmissions System Operator. Kosovo has no domestic gas infrastructure. An ongoing pre-feasibility study will explore the possibility of connecting Kosovo and Albania to the Trans Adriatic Pipeline (TAP) project.

On **telecommunication networks**, the Regulatory Authority of Electronic and Postal Communications is the central regulatory authority in the field of electronic communications and postal services. The Authority plays a key role in supporting digital infrastructure development. Its capacity to design and enforce regulations should be further strengthened.

### 6.24. Information society and media

Kosovo has **some level of preparation** in this area. The legislative framework is mostly in place but there was **no progress** on implementation. In particular, the Assembly has still not ensured the financial independence of the public broadcaster. As in previous years, the Independent Media Commission did not move forward with the process of switching from analogue to digital television.

As last report's recommendations have not been followed up, in the coming year Kosovo should in particular:

- ensure telecoms and media regulators are given adequate resources to fulfil their mandates independently and develop a solution for sustainable funding of the public service broadcaster;
- ensure full implementation of the European emergency number 112;
- urgently implement the digital switchover.

On **electronic communications and information and communication technologies**, there has been no improvement in the financial and organisational independence of the Regulatory Authority of Electronic and Postal Communications. The Kosovo Agency of Statistics has for the first time published data on the use of ICT. According to the survey, 88.8 % of households had access to internet of which 83.6 % accessed internet through fixed connections whereas 24.6 % through mobile connections. Data from the regulatory authority show that mobile telephone penetration has reached over 112 % whereas fixed telephony line penetration per household is 23 %. Although the Computer Security and Incident Response Team was set up in 2014, it still lacks sufficient and trained staff. Kosovo has started to introduce the European emergency number 112, and the regulatory authority cooperates with all stakeholders responsible for operating it. In February 2017, the regulator provided geographic data of mobile stations (2G, 3G and 4G) to the Emergency Management Agency.

Kosovo was assigned the 383 dialling code in December 2016, in accordance with the action plan agreed in the Belgrade-Pristina Dialogue. The previous calling codes will cease working in June 2018.

On the **information society**, adequate budgetary resources need to be made available to implement Kosovo's cybersecurity strategy and action plan for 2016-2019.

On **audiovisual policy**, the Independent Media Commission again failed to make any substantial progress in implementing the digital switchover, even though the International Telecommunications Union deadline expired in June 2015. No funds have been allocated or identified to implement the process. As media regulator, the Media Commission needs to be given adequate staffing and funding to operate independently. Kosovo needs to speed up its efforts and ensure that the digital switchover is carried out in full transparency and in line with EU standards. The public service broadcaster RTK remains directly state-funded, which undermines its editorial independence. The Assembly's failure to act on RTK's financial dependency is particularly worrying, as this weakens its long-term sustainability and diminishes its capacity to carry out its public service remit.

## 6.25. Financial control

Kosovo is at an **early stage** in the area of financial control. **Some progress** was made in the area of external audit with further expansion of performance audit work. Implementation of the public internal financial control (PIFC) strategy and its action plan is lagging behind. Further efforts are needed to embed managerial accountability in the administrative culture and implement PIFC at all levels of the administration and in publicly owned enterprises.

As the Commission 2016 recommendations have not been followed up, in the next year Kosovo should in particular:

- adopt the implementing legislation under the new PIFC law;
- start to implement internal control reviews in public institutions as a follow-up to self-assessment questionnaires;
- start to take effective measures to ensure higher level of implementation of internal and external audit recommendations, including awareness-raising with managers.

## **Public internal financial control**

As regards the **strategic framework**, implementation of the 2015-2019 public internal financial control strategy and action plan is slow, mainly because of the delays in adopting the new public internal financial control law. A PIFC Council is foreseen in the law to monitor and report on the implementation of the strategy. A review of the PIFC strategy and the action plan, including its indicators, is necessary, to ensure consistency with the public financial management reform strategy and the public administration modernisation strategy. A mechanism for effective coordination, monitoring and reporting of the public administration, public financial management and PIFC reforms still need to be put in place.

**Managerial accountability** is not well embedded in the administrative culture of the public sector. There are a high number of (semi) independent agencies that report directly to the government and the Assembly rather than their natural parent ministry. Performance management is still at an early stage. While there seems to be increased alignment between the delegation of budget and management structures within budget organisations, delegated decision-making is still not widely used. (*See Public Administration Reform*)

The current legal framework on **internal control implementation** is not fully in line with the internal control framework of the Committee of Sponsoring Organisations (COSO) and the guidelines of the International Organisation of Supreme Audit Institutions (INTOSAI). Practical application of internal control needs to be further developed. The focus is mainly on financial compliance of the annual budget execution, and not sufficiently on strategic financial management. Risk management and reporting on irregularities are rarely applied. Many budget reallocations also occur outside the budget review process

**Internal audit practice** is limited in Kosovo. Legal requirements for organisation of internal audit are not fully complied with. Capacity is very low, and around 40% of internal audit units have only one auditor. Most internal audit units however comply with the requirement to submit strategic and annual audit plans. Implementation of internal audit recommendations, which mostly focus on compliance of existing rules and procedures, remains low.

The **Central Harmonisation Unit (CHU)** in the Ministry of Finance is responsible for methodological guidance and coordination of internal control and internal audit development in the public sector. The CHU prepares an annual PIFC report on the basis of self-assessment questionnaires, and in 2017, the government requested for the third year in a row follow-up measures by the CHU and budget organisations. The CHU has implemented internal audit reviews on a sample basis but has not yet implemented internal control reviews.

## **External audit**

The **constitutional and legal framework** regarding the Auditor General and the National Audit Office are largely in line with INTOSAI standards, ensuring the functional, organisational and financial independence. However, the protection of independence by the Constitutional Court or the Supreme Court is not specifically mentioned.

Concerning **institutional capacity**, the Office has 155 staff, of which 129 are auditors. Training is provided systematically. The number of staff has increased every year due to the expansion of the audit mandate to also cover audits of publicly owned enterprises (nine such audits have been performed in 2017). The Office is implementing its Corporate Development Strategy 2015-2020.

To increase the **quality of audit work**, the Office has introduced quality control and assurance procedures. The Office continued to implement the certification programme and to undertake audits in line with the financial and performance audit manuals which are regularly updated. Performance audit and IT audit work is increasing.

The **impact of audit work** is limited. The impact of audit work is limited. Implementation of audit recommendations needs to improve, especially at municipal levels. Only 26 % of the recommendations issued in 2015 were fully implemented, 37 % partially and 38 % not at all. All audit reports are publicly available and the Office has also taken the initiative to strengthen its communication with civil society through a consultative forum.

### **Protection of the EU's financial interests**

**Alignment with the *acquis*** is limited. Kosovo does not have an **anti-fraud coordination service (AFCOS)** or an anti-fraud strategy on the protection of the EU's financial interests. Implementation of the whistle-blower policy or procedures to report irregularities, as an internal control measure, is not widespread. **Cooperation with the European Commission** is ensured through an Administrative Cooperation Arrangement signed with the Kosovo Police in February 2017. It aims at timely transmission of information and cooperation in cases relating to alleged fraud and other illegal activities affecting the financial interests of the EU.

### **Protection of the euro against counterfeiting**

**Alignment with the *acquis*** still needs to be assessed, but Kosovo has established the competent authorities and procedures for dealing with counterfeit money. The Law on the Central Bank regulates the circulation of counterfeit money. The Central Bank has also issued a regulation on cash operations with the focus on strengthening regulations and procedures for financial institutions operating in Kosovo. Kosovo takes part in the actions of the Pericles 2020 programme.

## **6.26. Statistics**

Kosovo has **some level of preparation** in the area of statistics. **Some progress** was made, notably in improving national accounts. However, the Kosovo Agency of Statistics continues to suffer from insufficient resources and capacities, which often result in publication delays and lack of quality statistics. Significant efforts are still needed especially to ensure the alignment of macro-economic and business statistics with European standards.

Few of the recommendations in the previous Kosovo report have been implemented, and in the coming year, Kosovo should in particular:

- amend the law on statistics and ensure the professional independence of the Kosovo Agency of Statistics;
- ensure adequate follow-up of Eurostat's peer review of the Kosovo Statistical System and adopt an action plan to implement its recommendations;
- make necessary preparations for the next population census in 2020/2021 ensuring full coverage of the territory.

On **statistical infrastructure**, the legal framework is broadly in line with the European statistics code of practice. The amendments to the law on statistics still need to be adopted as a priority to further enhance the professional independence and the management continuity of the Kosovo Agency for Statistics to improve governance in the sector and to ensure timely access to administrative data. The lack of resources, both financial and human, hinders the timely production of statistics. The Agency needs a stronger coordination role within Kosovo's statistical system. It should be able to use and have an influence over administrative data that can be sources for official statistics. In order to increase the amount and quality of statistics produced, the Agency should be given adequate resources. It also needs to improve its cost-effectiveness and develop a quality management system and new data collection methods. The current premises remain inadequate. Data transmission to **Eurostat** has improved. Since October

2017, the Agency has further improved its web-based dissemination of statistics, but additional efforts are needed to strengthen relations with data users and academia. The European classification of economic activities (NACE Rev.2) continues to be applied in all relevant statistical areas. The statistical business register was improved and is more aligned with the reality of economic activities in Kosovo. Enterprise Groups have still not been introduced.

On **macroeconomic statistics**, further alignment with the European System of Accounts 2010 is ongoing. The Agency currently compiles annual and quarterly national accounts and has managed to shorten the production period. In 2017, it has for the first time started the production of capital government account and will continue to develop other institutional sectors. Monthly statistics for trade in goods are submitted to Eurostat. Data on balance of payments are compiled by the Central Bank and are broadly in line with the EU *acquis*; annual and quarterly data are submitted to Eurostat. Government finance statistics have been transmitted to Eurostat for the first time. The harmonised index of consumer prices is published in accordance with EU standards (ECOICOP classification).

Structural **business statistics** and some short-term statistics are partially in line with the EU *acquis*, but the availability of short-term statistics is limited. Industry and construction statistics are produced broadly in line with the relevant regulation. The construction cost index is produced on a quarterly basis. Industry statistics (PRODCOM list of products of the European Union) for 2016 were published at the end of 2017. Tourism statistics and transport statistics are not yet compliant with the EU *acquis*. Statistics on research and development, innovation, and use of information and communication technology statistics are not produced on a regular basis. In 2017 the Agency for the first time conducted a survey of household's usage of information and communication technologies.

For **social statistics**, only demographic statistics are broadly in line with the EU *acquis*. The Agency should, as a matter of priority, start preparing for the forthcoming 2020/2021 population census, ensuring proper methodology, resources and full coverage of the territory. Some social protection statistics are produced, but reliable unemployment statistics are still lacking, and the quality of data needs to be improved. Education statistics are still not produced in accordance with international education classification standards (ISCED 2011). An annual labour force survey is carried out, but speedier publication should be ensured. The labour cost index, structure of earnings data and job vacancy statistics are also still not produced. Public health and crime statistics are not yet in line with EU standards.

For **agricultural statistics**, the Agency published data on annual agricultural crops, livestock production and orchard statistics. The agricultural holding survey is regularly produced and aligned with *acquis* standards. The publication of a farm structure survey is planned for 2019. Agricultural price indices and economic accounts for agriculture are produced on a regular basis. Supply balance sheets and the agriculture labour index are not yet produced.

**Energy and environment statistics** are partially in line with the *acquis*. In 2017, the Agency shortened the deadlines for publishing energy balance results and has increased the number of statistical products sent to Eurostat. However, further improvements are needed in this field. Statistics on the energy consumption of the residential sector in Kosovo were produced, but the results are yet to be published. Monthly data and the monthly share of renewables are not provided to Eurostat. The lack of energy efficiency indicators continues to be an obstacle to reporting on energy savings. Waste and water statistics are produced regularly. Environmental statistics on air emissions, environmentally related taxes, protection expenditure and material flow accounts are not yet produced.

## ANNEX I – RELATIONS BETWEEN THE EU AND KOSOVO

On 1 April 2016, the EU-Kosovo **Stabilisation and Association Agreement (SAA)** entered into force. The SAA constitutes the first contractual relationship between the EU and Kosovo. It is a comprehensive agreement that provides a framework for political dialogue and covers cooperation in a wide variety of sectors, including justice and home affairs, trade, education, employment, energy, environment and a range of other policy areas. Two Stabilisation and Association Council meetings, and two cycles of subcommittee meetings took place in 2016 and 2017.

To guide reforms under the implementation of the SAA, the Commission and Kosovo adopted in November 2016 the **European Reform Agenda (ERA)** for Kosovo. The Agenda outlines priority actions in the fields of good governance and the rule of law, competitiveness and investment climate, and employment and education. The implementation of the ERA is ongoing.

Kosovo has continued to address the priorities set out in the 2016 Report. Since 2012, the Commission has issued four reports on Kosovo's progress towards **visa liberalisation** (the most recent in December 2015 and May 2016). On 4 May 2016, the Commission submitted a legislative proposal to lift visa requirements for Kosovo citizens, on the understanding that by the day of its adoption by the European Parliament and the Council, Kosovo will have ratified the border/boundary demarcation agreement with Montenegro and strengthened its track record in the fight against organised crime and corruption. The Kosovo Assembly ratified the border/boundary demarcation agreement with Montenegro in March 2018.

As regards **financial assistance**, the Instrument for Pre-Accession (IPA) 2016 programme for Kosovo was approved with an EU contribution totalling EUR 70.5 million, including a EUR 25 million sector budget support programme for public administration reform, complemented by co-financing from Kosovo for an overall budget of EUR 71.1 million. The 2017 IPA programme contains a total EU contribution of EUR 73 million, including EUR 25 million sector budget support programme for public financial management, complemented by co-financing from Kosovo for an overall budget of EUR 74.5 million. In 2016, the EU Office signed 95 contracts for a total of EUR 54 million. In 2017, the EU Office signed 120 contracts for a total of EUR 82 million. It continued to ensure the co-ordination of donors active in Kosovo by organising – together with the Kosovo Ministry of European Integration – regular donor co-ordination meetings. The 2018 IPA programme for Kosovo is under preparation.

On 17 July 2017, the Council approved the Framework Agreement between the European Union and Kosovo on the general principles for the participation of Kosovo in **Union programmes**. Kosovo will join the Erasmus+, COSME, Europe for Citizens and Creative Europe Programmes.

The legal basis for the Kosovo **Specialist Chambers and Specialist Prosecution Office**, established to investigate allegations of international crimes committed during and after the 1999 conflict, was completed with the entry into force in January 2017 of the bilateral agreement with the Netherlands, allowing for the Specialist Chambers to conduct proceedings in this country. In February 2017, 19 judges were appointed to the Roster of International Judges. The Rules of Procedure and Evidence entered into force on 5 July 2017, marking the date from which the Specialist Chambers became fully judicially operational and able to receive filings.

Since 2008, the **European Rule of Law Mission in Kosovo (EULEX)** has been monitoring, mentoring and advising Kosovo on the rule of law. It also has some executive responsibilities.

To date, according to the government, Kosovo has been recognised by 114 countries, including 23 EU Member States.

During the reporting period, the UN Secretary-General continued to provide regular updates on the implementation of the UN's mission in Kosovo (UNMIK). He raised concern about the institutional vacuum that came about as a result of the political polarisation in Kosovo, the holding of general elections in June 2017 and municipal elections in October 2017 and ensuing negotiations for the formation of a government. He stressed the fact that as a result important economic and social opportunities were missed during that period. He continued to be an advocate for the importance of the EU-facilitated dialogue and called upon authorities in both Belgrade and Pristina to demonstrate strong leadership and to pursue fair, difficult and often painful compromises. He noted that political reconciliation must be accompanied by societal reconciliation.

The NATO-led Kosovo Force (KFOR) has continued to help ensure a safe and secure environment in Kosovo. During the reporting period, it had approximately 4 000 personnel.



**ANNEX II – STATISTICAL ANNEX**

**STATISTICAL DATA (as of 16.02.2018)**

**Kosovo**

**Basic data**

<b>Basic data</b>							
Population (thousand)							
Total area of the country (km <sup>2</sup> )							

**National accounts**

<b>National accounts</b>							
Gross domestic product (GDP) (million euro)							
GDP (euro per capita)							
GDP per capita (in purchasing power standards (PPS))							
GDP per capita (in PPS), relative to the EU average (EU-28 = 100)							
Real GDP growth rate: change on previous year of GDP volume (%)							
Employment growth (national accounts data), relative to the previous year (%)							
Labour productivity growth: growth in GDP (in volume) per person employed, relative to the previous year (%)							
Unit labour cost growth, relative to the previous year (%)							
**3 year change (T/T-3) in the nominal unit labour cost growth index (2010 = 100)							
Labour productivity per person employed: GDP (in PPS) per person employed relative to EU average (EU-28 = 100)							

Gross value added by main sectors							
Agriculture, forestry and fisheries (%)							
Industry (%)							
Construction (%)							
Services (%)							
Final consumption expenditure, as a share of GDP (%)							
Gross fixed capital formation, as a share of GDP (%)							
Changes in inventories, as a share of GDP (%)							
Exports of goods and services, relative to GDP (%)							
Imports of goods and services, relative to GDP (%)							
Gross fixed capital formation by the general government sector, as a percentage of GDP (%)							

**Business**

Industrial production volume index (2010 =							

100)							
Number of active enterprises (number)							
Birth rate: number of enterprise births in the reference period (t) divided by the number of enterprises active in t (%)							
Death rate: number of enterprise deaths in the reference period (t) divided by the number of enterprises active in t (%)							
People employed in SMEs as a share of all persons employed (within the non-financial business economy) (%)							
Value added by SMEs (in the non-financial business economy) (EUR million)							
Total value added (in the non-financial business economy) (EUR million)							

#### **Inflation rate and house prices**

Harmonised consumer price index (HICP), change relative to the previous year (%)							
**Annual change in the deflated house price index (2010 = 100)							

#### **Balance of payments**

Balance of payments: current account total (million euro)							
Balance of payments current account: trade balance (million euro)							
Balance of payments current account: net services (million euro)							
Balance of payments current account: net balance for primary income (million euro)							

Balance of payments current account: net balance for secondary income (million euro)							
Net balance for primary and secondary income: of which government transfers (million euro)							
**3 year backward moving average of the current account balance relative to GDP (%)							
**Five year change in share of world exports of goods and services (%)							
Net balance (inward - outward) of foreign direct investment (FDI) (million euro)							
Foreign direct investment (FDI) abroad (million euro)							
of which FDI of the reporting economy in the EU-28 countries (million euro)							
Foreign direct investment (FDI) in the reporting economy (million euro)							
of which FDI of the EU-28 countries in the reporting economy (million euro)							
**Net international investment position, relative to GDP (%)							
Year on year rate of change in gross inflow of remittances (in national currency) from migrant workers (%)							
<b>Public finance</b>							
***General government deficit / surplus, relative to GDP (%)							

***General government gross debt relative to GDP (%)							
Total government revenues, as a percentage of GDP (%)							
Total government expenditure, as a percentage of GDP (%)							

**Financial indicators**

Gross external debt of the whole economy, relative to GDP (%)							
Gross external debt of the whole economy, relative to total exports (%)							
Money supply: M1 (banknotes, coins, overnight deposits, million euro)							
Money supply: M2 (M1 plus deposits with maturity up to two years, million euro)							
Money supply: M3 (M2 plus marketable instruments, million euro)							
Total credit by monetary financial institutions to residents (consolidated) (million euro)							
**Annual change in financial sector liabilities (%)							
**Private credit flow, consolidated, relative to GDP (%)							
**Private debt, consolidated, relative to GDP (%)							
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)							
Trade-weighted effective exchange rate index, 42 countries (2005 = 100)							
**3 year change (T/T-3) in the trade-weighted effective exchange rate index, 42 countries (2005 = 100)							
Value of reserve assets (including gold) (million euro)							

### External trade in goods

Value of imports: all goods, all partners (million euro)							
Value of exports: all goods, all partners (million euro)							
Trade balance: all goods, all partners (million euro)							
Terms of trade (export price index / import price index * 100) (number)							
Share of exports to EU-28 countries in value of total exports (%)							
Share of imports from EU-28 countries in value of total imports (%)							

### Demography

Crude rate of natural change of population (natural growth rate): number of births minus							

deaths (per thousand inhabitants)							
Infant mortality rate deaths of children under one year of age (per thousand live births)							
Life expectancy at birth: male (years)							
Life expectancy at birth: female (years)							

**Labour market**

Economic activity rate for persons aged 20–64: proportion of the population aged 20–64 that is economically active (%)							
*Employment rate for persons aged 20–64: proportion of the population aged 20–64 that are in employment (%)							
Male employment rate for persons aged 20–64 (%)							
Female employment rate for persons aged 20–64 (%)							
Employment rate for persons aged 55–64: proportion of the population aged 55–64 that are in employment (%)							
<b>Employment by main sectors</b>							
Agriculture, forestry and fisheries (%)							
Industry (%)							
Construction (%)							
Services (%)							

People employed in the public sector as a share of total employment, persons aged 20–64 (%)							
People employed in the private sector as a share of total employment, persons aged 20–64 (%)							
Unemployment rate: proportion of the labour force that is unemployed (%)							
Male unemployment rate (%)							
Female unemployment rate (%)							
Youth unemployment rate: proportion of the labour force aged 15–24 that is unemployed (%)							
Long-term unemployment rate: proportion of the labour force that has been unemployed for 12 months or more (%)							
Unemployment rate for persons (aged 25–64) having completed at most lower secondary education (ISCED levels 0-2) (%)							
Unemployment rate for persons (aged 25–64) having completed tertiary education (ISCED levels 5-8) (%)							

### Social cohesion

Average nominal monthly wages and salaries (national currency)							
Index of real wages and salaries (index of nominal wages and salaries divided by the inflation index) (2010 = 100)							
GINI coefficient							
Poverty gap							
*Early leavers from education and training: proportion of the population aged 18–24 with at most lower secondary education who							



are not in further education or training (%)							
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**Standard of living**

Number of passenger cars relative to population size (number per thousand population)							
Number of mobile phone subscriptions relative to population size (number per thousand population)							
Mobile broadband penetration (per 100 inhabitants)							
Fixed broadband penetration (per 100 inhabitants)							

**Infrastructure**

Density of railway network (lines in operation per thousand km <sup>2</sup> )							
Length of motorways (kilometres)							

**Innovation and research**

Public expenditure on education relative to GDP (%)							
*Gross domestic expenditure on R&D relative to GDP (%)							
Government budget appropriations or outlays on R&D (GBAORD), as a percentage of GDP (%)							
Percentage of households who have internet access at home (%)							

**Environment**

*Index of greenhouse gas emissions, CO <sub>2</sub>							

equivalent (1990 = 100)							
Energy intensity of the economy (kg of oil equivalent per 1 000 euro GDP at 2010 constant prices)							
Electricity generated from renewable sources relative to gross electricity consumption (%)							
Road share of inland freight transport (based on tonne-km) (%)							

### Energy

Primary production of all energy products (thousand TOE)							
Primary production of crude oil (thousand TOE)							
Primary production of solid fuels (thousand TOE)							
Primary production of gas (thousand TOE)							
Net imports of all energy products (thousand TOE)							
Gross inland energy consumption (thousand TOE)							
Gross electricity generation (GWh)							

### Agriculture

Agricultural production volume index of goods and services (at producer prices) (2010 = 100)							

Utilised agricultural area (thousand hectares)							
Livestock numbers: live bovine animals (thousand heads, end of period)							
Livestock numbers: live swine (thousand heads, end of period)							
Livestock numbers: live sheep and live goats (thousand heads, end of period)							
Raw milk available on farms (thousand tonnes)							
Harvested crop production: cereals (including rice) (thousand tonnes)							
Harvested crop production: sugar beet (thousand tonnes)							
Harvested crop production: vegetables (thousand tonnes)							

: = not available  
b = break in series

e = estimate

p = provisional

\* = Europe 2020 indicator

\*\* = Macroeconomic Imbalance Procedure (MIP) indicator

\*\*\* = The government deficit and debt data of enlargement countries are published on an "as is" basis and without any assurance as regards their quality and adherence to ESA rules.

#### Footnotes

- 1) 2005, 2012-2014: consumer price index.
- 2) 2012-2015: the value of GDP is obtained from the Medium Term Expenditure Frameworks 2014-2016 and 2016-2018.
- 3) Includes disbursement fee charged by banks.
- 5) Including agricultural common land.
- 6) 2014: data from the 2014 agriculture census. 2014-2016: results for four municipalities in the north of Kosovo which did not participate in the census/surveys are estimated.
- 7) Excluding rice.

