



EUROPEAN COMMISSION

Brussels, 12.10.2011  
SEC(2011) 1207 final

**COMMISSION STAFF WORKING PAPER**

**KOSOVO\* 2011 PROGRESS REPORT**

*Accompanying the document*

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

**Enlargement Strategy and Main Challenges 2011-2012**

{COM(2011) 666 final}  
{SEC(2011) 1200 final}  
{SEC(2011) 1201 final}  
{SEC(2011) 1202 final}  
{SEC(2011) 1203 final}  
{SEC(2011) 1204 final}  
{SEC(2011) 1205 final}  
{SEC(2011) 1206 final}

\*Under UNSCR 1244/1999

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## 1. INTRODUCTION

### 1.1. Preface

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

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

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

This report covers the period from October 2010 to September 2011. Progress is measured on the basis of decisions taken, legislation adopted and measures implemented. As a rule, legislation or measures which are being prepared or awaiting parliamentary approval have not been taken into account. This approach ensures equal treatment across all reports and permits an objective assessment.

The report is based on information gathered and analysed by the Commission. Many other sources have been used, including contributions from the Kosovo authorities, the EU Member States, the EU Special Representative in Kosovo, the EU rule of law mission (EULEX), European Parliament reports<sup>2</sup> and information from various international and non-governmental organisations.

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

### 1.2. Context

Following the ruling of the Constitutional Court in autumn 2010, the President of Kosovo stepped down and new elections were called for December. The new assembly convened in February and elected a President. The election process was challenged from the constitutional perspective and the Constitutional Court played an important role through the way it exercised its responsibilities. As a result, a new President was elected in line with Kosovo's constitution. This period was marked by limited results on the reform agenda.

During the reporting period, Serb communities south of the River Ibër/Ibar have increased cooperation with Kosovo authorities and participation in their representative institutions.

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

<sup>2</sup> The rapporteur for Kosovo is Ms Ulrike Lunacek.

<sup>3</sup> Enlargement Strategy and Main Challenges 2011-2012 - COM(2011) 666.

Their turnout in elections was higher and they also participated in the census. In northern Kosovo, integration has not progressed. Serbia-supported municipalities in the north did not cooperate sufficiently with UNOPS and the Commission to allow a census to proceed in this part of Kosovo. Serbs in the north supported by local political leaders also challenged the authority of EULEX.

At the end of July, the situation escalated in northern Kosovo when Kosovo decided to impose an embargo on Serbian goods in retaliation to a Serb blocking of goods since 2008 on the grounds of the non recognition of the "Customs of Kosovo" stamp. The decision on an embargo followed a failure to reach an agreement on Kosovo customs stamps within the framework of the EU facilitated dialogue between Belgrade and Pristina, which was launched following last year's UN General Assembly resolution. The unilateral deployment of Kosovo police at gates 1 and 31 in northern Kosovo led to violence, resulting in the death of a Kosovo police officer. Calm was restored with the help of KFOR, the NATO-led military presence. In September, the issue of customs stamps was resolved in the context of the Belgrade/Pristina dialogue. The implementation of the agreement resulted in widespread blockades in the north, including at the gates 1 and 31. Violent incidents also occurred. The tensions in northern Kosovo need to be defused, and free movement of people and goods re-established. All actors need to play their part in this process. In the light of the situation in northern Kosovo, Serbia interrupted its participation in the dialogue at the end of September.

The dialogue has proven to be the main way to address differences between the two parties. Agreements were also reached on civil registries, free movement of persons and cadastre records. The agreements reached need to be implemented in good faith. Kosovo's generally constructive approach in the dialogue marks progress in its commitment to the EU.

To date, Kosovo has been recognised by 81 UN Member States, including 22 EU Member States.

During the reporting period, the UN Secretary-General issued four reports on Kosovo – in October 2010 and in January, May and August 2011. He noted that Kosovo authorities had increased their efforts to establish a close engagement with the European Union and enjoyed visibility at the international level. He also pointed out that the dialogue between Belgrade and Pristina had the potential to bridge the differences between the sides and to resolve a series of long-standing issues that affect the lives of the people on the ground.

KFOR has also continued to help maintain security in other parts of Kosovo. During the reporting period, its presence was reduced to just over 6,000. In this context, the Kosovo police have taken over responsibility for protecting several cultural and religious sites. They have also taken over the task of security along the border with the former Yugoslav Republic of Macedonia and Montenegro.

Kosovo did not meet the conditions for a Stand-By Arrangement with the International Monetary Fund and consequently the Fund did not disburse its macro-financial assistance. Therefore, the Commission could not disburse another tranche of its macro-financial assistance to Kosovo. The Kosovo government needs to take urgent steps to address the budgetary deficit.

### **1.3. Relations between the EU and Kosovo**

Kosovo is participating in the Stabilisation and Association Process (SAP). The 2011 cycle of meetings under the SAP dialogue (SAPD) was completed in July. During the reporting period, seven sectoral meetings were held on the following sectors: justice, freedom and security; agriculture; economy, statistics and financial control; internal market, competition, health and consumer protection; transport, environment, energy and regional development; innovation, human capital, social policies and information society; and trade, industry, customs and taxation. On 30 June, Kosovo hosted the second SAPD civil society dialogue meeting, followed by the plenary meeting on 1 July. Kosovo also hosted a high-level conference on the inclusion of the Roma, Ashkali and Egyptian communities in May. To promote economic dialogue, the fiscal surveillance mechanism with the European Commission continued, with meetings being held twice a year.

In December 2010, in the context of the early general election, the European Parliament deployed an official seven-member election observation delegation to Kosovo. In January 2011, a two-member European Parliament delegation observed the repeat elections in five municipalities. The Commission deployed a three-member election expert mission. The EU Special Representative's (EUSR) office organised a diplomatic election watch. In May, the fourth European Parliament–Kosovo inter-parliamentary meeting took place in Pristina.

EULEX has continued to operate across Kosovo and fulfil its mandate. The cooperation of Kosovo authorities with EULEX has been mixed. The mission has strengthened its presence and activities in northern Kosovo especially following the events of summer when Kosovo Police special units tried to deploy to gates 1 and 31. The Mitrovicë/Mitrovica court is staffed solely by EULEX judges. The situation in northern Kosovo has posed specific challenges to the mission.

The EU re-confirmed its commitment to Kosovo, including the northern part, by opening an information point in northern Mitrovicë/Mitrovica. The EU House has extended its presence and has permanent staff from EULEX, EUSR and the Commission. Mr Feith's term as EU Special Representative (EUSR) came to an end; he continues to act as International Civilian Representative. In May, a temporary EUSR was appointed. The Italian Ambassador to Kosovo is continuing to carry out his mandate as facilitator for the north. The Head of the Greek liaison office in Pristina is continuing his mandate as facilitator for the protection of religious and cultural heritage in Kosovo. Both have made major contributions in their respective areas.

Kosovo continues to benefit from the Instrument for Pre-accession Assistance (IPA), the Instrument for Stability (IfS) and other sources of funding. Kosovo is participating in the IPA multi-beneficiary programmes. The multiannual indicative planning document for 2011-2013 was adopted on 27 June. During 2011, a total of € 68.7 million granted in the IPA annual programme for 2011 was allocated in close coordination with the Ministry for European Integration and government institutions. The EU pre-accession assistance is focusing on support for the rule of law, the economy, trade and industry, and for public administration reform.

## **2. POLITICAL CRITERIA**

This section examines the progress made by Kosovo towards meeting the Copenhagen political criteria, which require stability of institutions guaranteeing democracy, the rule of

law, human rights and respect for and protection of minorities. It also monitors regional cooperation, good neighbourly relations with enlargement countries and Member States and compliance with international obligations, such as cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY).

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

### *Parliament*

In October 2010, one of the parties withdrew from the coalition government and the acting President of Kosovo called early general elections for 12 December. Following a no-confidence vote, the assembly dissolved on 2 November. The Central Election Commission organised early general elections in less than 40 days.

Based on the rulings by the competent bodies, the Central Election Commission organised repeat elections: on 9 January in the municipalities of Skenderaj/Srbica, Glogoc/Glogovac and Deçan/Deçane and at two additional polling centres, one in the municipality of Malishevë/Mališevo, the other in Lipjan/Lipljan, and on 23 January in the municipality of Mitrovicë/Mitrovica. Over 40% of the votes cast had to be recounted. The repeat elections, recounts and delayed publication of results damaged the credibility of the process and the legitimacy of the results.

On 7 February, the Central Election Commission announced the certified Kosovo-wide election results. The turnout was just above 45%. Participation in the six Serb majority municipalities increased. In the three northern municipalities, the turnout was negligible.

There were serious shortcomings in the electoral process. Challenges remain in terms of compliance with international standards and simplicity of the current system and past impunity with regard to electoral fraud. A total of 502 persons have been indicted for fraud related to the general elections at municipal prosecution offices in Kosovo. By the end of June, only 18 verdicts had been rendered. With the exception of one case, the Kosovo prosecutors filed appeals against all verdicts, due to the mild rulings. Kosovo needs to deal more decisively with cases of electoral fraud. Kosovo needs to address the shortcomings and to ensure political will at all levels to conduct fair elections at every stage of the process.

The assembly convened again on 21 February. On 21 and 22 February, the Speaker of the assembly, the President of Kosovo and the government were elected. Subsequently, the election of the President was challenged by a group of members of the assembly before the Constitutional Court. On 28 March, the Constitutional Court ruled that the presidential election of 22 February had been "unconstitutional". Following an agreement between the coalition parties (the Democratic Party of Kosovo – PDK and the New Kosovo Alliance – AKR) and the main opposition party (the Democratic League of Kosovo – LDK), a new President – Ms Atifete Jahjaga – was elected on 7 April in accordance with the constitution. The tri-partite agreement also established that constitutional and electoral reforms, including direct election of the President of Kosovo, needed to occur within specified timeframes.

In its fourth mandate, the assembly re-elected the former speaker again for the new legislature. The Presidency was reduced from nine to six members. Five members of the assembly were elected as Deputy Presidents, three from the largest groups and two from the non-Albanian communities. In an attempt to streamline their work, the assembly reduced the number of assembly committees from 16 to 13. Cooperation between the European

Integration Committee and the Ministry of European Integration has improved. The Committee needs to be strengthened, in particular its administrative capacity, and to ensure overall coordination and monitoring of the European integration action plan, and to effectively scrutinise legislation for compliance with European standards.

After the dissolution of the assembly on 2 November 2010, all pending draft laws were sent back to the office of the Prime Minister. Since the beginning of its fourth mandate, the Assembly adopted a budget and a number of reform laws. It also adopted two resolutions, the first in March on the Belgrade/Pristina dialogue and the second in April on European integration. The European integration action plan was adopted in April.

The assembly's strategic programme for 2012-2014 is under revision. The assembly has not yet adopted its new rules of procedure in line with the new mandate. Oversight of the executive branch by the assembly needs to be strengthened. Government representatives do not attend plenary sessions on a regular basis. Requests by the assembly for written reports from the government are not sufficiently met. Public hearings remain sporadic and civil society is not effectively involved in any assembly debate. There is no institutionalised platform that would allow a regular dialogue between the assembly and civil society organisations. There are concerns as regards the adherence to the assembly's rules of procedure. The adoption of the law on the Special Chamber of Supreme Court without a review by the Committee on legislation and judicial matters, as required by the rules, is an example.

The assembly's monitoring and research capacity still remains weak. The legislative procedure needs to be strengthened in order to ensure cross-sectoral expertise. The office for legal affairs, standardisation and harmonisation is understaffed, thus undermining effective, in-depth scrutiny of legislation. The assembly's capability to scrutinise compliance with EU norms effectively needs to be enhanced.

The assembly still lacks a legal department that would provide legal advice to the administration leadership, the president and the presidency only and would represent the assembly in courts. The capability of the assembly administration to provide legal advice and formal opinions to the assembly on constitutional issues also remains very weak.

Concerns remain about management of human resources by the assembly secretariat. A new regulation outlining the organisation and responsibilities of the assembly administration was adopted in October 2010 and is being implemented. The regulation is not fully aligned with the legislation in force, such as the law on civil servants and the law on salaries of civil servants. A merit-based recruitment procedure needs to be applied in order to avoid political interference. The assembly needs to introduce stronger mechanisms to oversee budget expenditure during the course of the financial year. The staff training budget remains largely unspent. In February 2011, the Constitutional Court ruled that the law on rights and responsibilities of members of the assembly was not in line with the law on pensions. Therefore, the pension age for members needs to be raised from 55 to 65.

*Overall*, the assembly followed the decisions of the Constitutional Court on the re-election of the President. There were serious shortcomings in the process of general elections. Kosovo needs to take urgent steps to address these by simplifying the system, making it more transparent, and investigating and prosecuting cases of electoral fraud. Limited progress has been achieved on strengthening oversight of the government by the assembly, on improving scrutiny of proposed legislation in line with European integration priorities or on the

government and assembly working together on a shared reform programme. There are concerns as regards adherence of the assembly to its rules of procedure.

### *Government*

On 22 February, the assembly voted on a new coalition government formed by members of the PDK, AKR and minority parties. The current Government has six Deputy Prime Ministers and 19 ministers, of whom three are also Deputy Prime Ministers. The Deputy Ministers include three Serbs and eight from other communities.

The new government adopted its legislative strategy in March, followed by its annual work plan in April. The government rules of procedure were revised. In March, the government adopted a regulation establishing and strengthening the role of the European integration departments within the ministries. Now, they also perform strategic policy and external assistance coordination functions. The Ministry of European Integration holds regular weekly meetings with these departments, thus ensuring a better flow of information and coordination between these key stakeholders. The inter-ministerial council on European integration matters met twice during the reporting period. The overall inter-institutional architecture governing the European integration process needs to be further strengthened and to be synchronised and managed more effectively. The European integration working groups do not meet regularly.

The Ministry of European Integration, and in particular civil servants dealing with European integration matters, significantly enhanced the management of the second cycle of the Stabilisation and Association Process dialogue. This ensured continuity of the overall process even under difficult institutional circumstances. In March, the Ministry adopted an action plan outlining ten key European integration priorities of general nature for the Kosovo government. More focused identification of specific goals and measurable results would guide the government's efforts better. Furthermore, the Ministry mobilised the government and assembly to deliver on key priorities. The government also adopted a revised European Partnership Action Plan in March. The structure of the document was improved and the list of activities streamlined. Further efforts are needed in order for the document to become a monitoring tool and strategic guidance for the government, by identifying more clearly what can realistically be achieved during the 12 months covered by the plan.

In October 2010, the law on local self-government was amended. The strategic plan on capacity-building in municipalities was completed in March 2011 and training has been provided. The Ministry of Local Government adopted a regulation on assessment of the legality of municipal acts. An instruction on the responsibilities of municipalities in the process of European integration was also issued. An indicator-based system for assessing the performance of municipalities was developed which is now operating in every municipality except three in the north. The Ministry has made some progress on supervising local authorities. Budgetary constraints and the lack of access to land remain major obstacles to the economic development of municipalities. Contradictory interpretations of legislation on local self-government continue to create obstacles in cooperation between central and local levels of administration. The situation needs to be resolved, including by forwarding the matters to the competent courts.

The efforts on decentralisation have continued. The government needs to find solutions for the long-term sustainability of the newly created Serb-majority municipalities. Their administrative capacity also needs to be further strengthened. As a result of opposition from

the Serbia-supported structures in northern Kosovo, decentralisation could not progress in this region.

*Overall*, mixed progress can be reported in this area. The government strengthened the European integration departments in individual ministries and the Ministry of European Integration has continued to build up its coordinating role. Further efforts are needed to improve implementation, in the line ministries, of the reform agenda, based on actions identified in the Stabilisation and Association Process dialogue. Significant progress has been achieved on decentralisation. Municipalities continue to face challenges in terms of capacity and resources. The integration of municipalities and Serb communities in northern Kosovo is a particular challenge.

### *Public administration*

There has been limited progress with public administration reform. The revised public administration strategy for the period 2010-2013 which was adopted by the government in September 2010 has not yet been implemented. An inter-ministerial working group responsible for drafting an action plan implementing the public administration reform strategy was established in November 2010. The action plan has not yet been finalised, thus significantly delaying implementation of the reforms envisaged. The overall process is hampered by lack of financial resources and insufficient political support. In its first meeting since September 2010, the inter-ministerial committee on public administration reform adopted four strategic development plans in July.

In the field of civil service reform, some important regulations and administrative instructions were adopted, such as the regulation on working hours and on job descriptions, and in particular the regulations on the appointment of senior civil servants and on the civil register of civil servants. A regulation delimiting the administrative responsibilities of the Office of the Prime Minister and ministries was adopted as part of the measures to implement the law on state administration. Some additional staff were recruited to the civil service department, but the institutional framework in the public administration continues to suffer from the reported lack of adequate resources. The legal framework necessary for the implementation of the civil service primary legislation is still not complete. Implementation of the laws on state administration and on administrative procedures has been limited.

The Kosovo Institute of Public Administration has provided a series of training sessions, in particular for public procurement officers. The administrative and financial capacity and the coordinating function of the Institute remain weak. This affects its capability to provide a more rational strategic approach to capacity-building for civil servants.

The law on access to public documents was adopted in October 2010 and is in the initial stages of implementation. Most requests come from the media, but no statistics are being kept. The Independent Oversight Board is directly accountable to the assembly. It deals with complaints from civil servants and monitors implementation of the civil service legislation. The Board has organised outreach activities in municipalities on the civil service laws adopted in 2010. Its effectiveness is limited since most of its decisions are not executed by the relevant public institutions. Furthermore, some of its responsibilities overlap with those of the Ministry of Public Administration.

The Ombudsperson of Kosovo remains a weak institution, due to the lack of political support to ensure its proper functioning and financial independence. The recommendations made by

the Ombudsperson require the support of the Office of the Prime Minister in order to ensure that they are implemented. Recruitment of the deputies of the Ombudsperson has still not been completed. In June 2011, the Ombudsperson presented a special report to the Kosovo Assembly. The report identifies insufficient human and financial resources as well as the lack of adequate work premises in Pristina and other municipalities as key challenges. The assembly and government need to address this situation urgently.

During 2010, the Ombudsperson received a total of 1,233 visits from individuals who were seeking advice and help. By 1 September 2011, the Ombudsperson institution received about 1,000 complaints. The Ombudsperson needs to improve communication with the public on the results of his work.

External audit also needs to be further developed, since it serves as a driver for improving the public administration and ensuring accountability. In addition to the internal audit offices in the ministries, there is the Office of the Auditor General, which responds directly to the Assembly and whose mandate and duties are defined by the Constitution and by a law. By September 2011, the Office had 124 positions, which all were filled. With regard to e-government, lack of coordination has led to the situation that different branches of the administration are not connected and that only limited e-government services are provided to citizens.

*Overall*, there has been limited progress on public administration reform. Some laws and regulations have been adopted. Efforts to implement the strategies and legislation adopted need to be stepped up. Furthermore, the skills of the civil service need to be significantly improved. Kosovo needs to build a professional public administration free of political interference. This is a key European Partnership priority and needs to be a high political priority. Strengthening the capacity of institutions in charge of public administration on the one hand and of independent institutions on the other, notably the Ombudsperson, is of the utmost importance.

#### *Civilian oversight of the security forces*

There has been limited progress in civilian oversight of the security forces. Kosovo still needs to implement the legislation on classification of information and security clearance. Scrutiny of the security service and of the Kosovo Security Force by the relevant committees in the assembly needs to be improved. Furthermore, the main political parties in Kosovo continue to operate their own security networks.

#### *Judicial system*

Kosovo has made progress in the judicial sector. The Constitutional Court has issued a number of key decisions, which made a significant impact. Institutions ensured that these judgments were followed. In September, the Constitutional Court ruled on the issue of functional immunity of the deputies of the assembly, the president and the members of government. Besides confirming that none are immune for actions taken and decisions made outside the scope of their responsibility, the decision also sets out in which cases and circumstances arrests or detention may or may not occur.

Kosovo authorities have continued implementing the adopted judicial reform legislation, notably the laws on the Judicial and Prosecutorial Councils, on courts and on prosecution. The annual budget for the judiciary is about € 17 million for 2011. In 2010 it was about € 14

million, which is estimated at 0.34% of 2010 GDP. Kosovo adopted a law on civil aspects of international child abductions in October 2010 and the law on witness protection in July. The law on criminal liability of legal persons for criminal offences, the law on international legal cooperation in criminal matters, extradition and transfer of sentenced persons, and the law on the Special Chamber of the Supreme Court were all adopted at the end of August. Implementation of the law on the Special Chamber of the Supreme Court presents considerable challenges in view of the shortage of qualified local judges. The law also limits the role of EULEX in the Chamber, which is an issue of concern, given the fact that the mission's strong involvement decreases potential for controversies over Chamber's decisions.

With the aim of implementing the law on mediation, the mediation committee certified 74 mediators, out of which 50 have been submitted to the Ministry of Justice in order to obtain the license. They received training and pilot mediation centres were opened in Gjilan/Gnjilane and Pejë/Peć with donor support. Implementation of the notary law has started. Further efforts are needed to establish fully functional notary system.

The department responsible for international legal cooperation within the Ministry of Justice has continued to exercise its duties in a professional and efficient manner. Its capacity has been strengthened. In 2011, bilateral agreements on legal cooperation in criminal matters, extradition and transfer of sentenced persons were signed with the former Yugoslav Republic of Macedonia and Turkey. Other bilateral agreements are being negotiated. Beyond this legal framework, international legal cooperation based on reciprocity is taking place with many other countries. The Kosovo Ministry of Justice acts on requests for mutual legal assistance received from non-recognising countries, either directly or via UNMIK or EULEX. UNMIK remains the formal point of contact with Interpol and the ICTY. Direct mutual legal assistance between Serbia and Kosovo is non-functional. On 12 August, a technical arrangement on mutual legal assistance was signed between the Ministry of Justice and EULEX, under which EULEX assumes the role of an intermediate between the Ministry of Justice and states, which did not recognise Kosovo, and will facilitate the processing of requests for mutual legal assistance from those countries.

Salaries for judges and prosecutors have been increased, as provided for in the relevant laws, further strengthening the *independence* of judges. The Kosovo Judicial Council has started to address shortcomings within the judiciary. The Council adopted an action plan for the implementation of the law on courts. It adopted a strategy to reduce the backlog of cases in October 2010 and started implementing it on 1 January 2011. By the end of July, the backlog (which was set by the strategy at 161,273 on reference date 31 December 2008) was reduced by around 26% to a total of around 119,000 cases. The total number of pending cases was 211,588 cases (of which 111,704 backlog cases in the regular courts - 76,030 of those are execution cases for non-payment of utilities), whereas the minor offences courts have 99,031 pending cases (7,284 of which are backlog cases). A specialised enforcement unit was set up for civil enforcement cases, with offices in five courts. Around 30 enforcement clerks were hired.

The Director of the Council's secretariat was appointed and has taken major steps to improve the functioning of the secretariat. The Council assumed full responsibility for recruiting, vetting and selecting candidates for judicial positions and established an office for judicial and prosecutorial assessment and vetting for supporting the selection process. The office needs to play an important role in ensuring *accountability* of judiciary. Of a total of 399 judges foreseen for Kosovo courts, 244 positions were filled and the Council published vacancy notices for another 112 posts open. The distribution of the remaining 43 positions will be

done based on the new law on courts, which restructures the court system in Kosovo. The number of applications for reappointment from members of minorities has continued to be lower than needed to fill all the posts. As part of the reappointment process, three judges (out of a total of seven) were appointed to the Special Chamber of the Supreme Court and one judge was appointed to the appeal panel of the Special Chamber. On 11 August, four Kosovo Albanians and one Kosovo Serb were appointed by the Kosovo President as Supreme Court judges. This brings the total number of judges at the Supreme Court to 16.

The Council has also organised training for court officials on implementation of the manual on court management and on case management information system. It also appointed the disciplinary panel in February, but still needs to appoint the other committees indicated in the law on the Judicial Council. Some disciplinary proceedings against judges or prosecutors were reported, but none of them resulted in dismissal. The Judicial Council has not yet reached its full composition. The Council adopted rules for the election of members by their peers to fill the positions vacated by the prosecutors who are now members of the Kosovo Prosecutorial Council and organised the election process. Two judges from the first instance level were elected. The Assembly still needs to appoint three members of the Council, including two judges from minority communities.

The law on the Kosovo Prosecutorial Council entered into force on 1 January. All nine members of the Prosecutorial Council were appointed and the Council has started working. It took over certain responsibilities from the Ministry of Justice and the Kosovo Judicial Council and its two key bodies are now in operation: the disciplinary committee and the panel for recruiting new prosecutors to fill the 45 vacancies. Some administrative and organisational regulations were approved by the Council and the recruitment process is ongoing. The Council assigned special prosecutors to deal with organised crime, economic crime, corruption and trafficking of human beings in all district courts and municipal courts. It is important that cooperation between prosecutors and the police continues to improve, notably in the fight against organised crime, for which the Council needs to develop its prosecutorial policy and strategy in line with the law.

Progress has been made on adjudicating cases pending after the March 2004 riots. The criminal procedures were finalised at first instance; the majority of the civil cases are considered inadmissible.

The judicial system remains weak and *efficiency* needs to be enhanced. Implementation of the manual on court management is at an early stage. Data and case management is still weak. There are still reports of threats and intimidation against judges, especially in sensitive cases such as on property rights. This is a serious concern as regards *impartiality* of judiciary. Appropriate security and protection measures therefore need to be taken to provide judges and court staff with a secure working environment and effective safeguards against threats or intimidation. Political interference in the work of the judiciary is still a concern.

Rule of law continues to be a cause for concern in northern Kosovo. The Mitrovicë/Mitrovica court still consists solely of EULEX judges and prosecutors and is operating with limited capacity. This limits access to justice and undermines rule of law. Forty-two criminal cases have been adjudicated, but civil cases are not being processed. Civil cases have been pending for more than three years since the normal activities of the court were halted in March 2008, raising concerns about the right to a trial within reasonable time. Currently, no municipal or minor offence courts are functioning in northern Kosovo, apart from the Mitrovicë/Mitrovica court staffed by EULEX.

There are serious concerns about transparency when it comes to implementing the law on pardons. The acting President (partially) pardoned 103 prisoners in February 2011 (compared to 62 in February 2010). Many of them were serving sentences for serious crimes.

*Overall*, Kosovo has made progress in this area. The Constitutional Court has made a number of key judgments. The Judicial Council has started addressing key priorities and the Prosecutorial Council has started operating. The successful completion of the reappointment process has increased self-confidence among the local judiciary. The judicial system is still weak. Interference in the workings of justice persists, endangering its independence and impartiality. Improvements are needed in the efficiency of court proceedings and enforcement of decisions.

#### *Anti-corruption policy*

Kosovo has made some progress on tackling corruption. The implementation of the anti-corruption strategy is monitored by an Anti-Corruption Agency. The Agency is also the responsible authority to monitor the implementation of the law on preventing conflicts of interest in exercising public functions, which was amended in August. The law on declaration, origin and control of property of senior public officials and on declaration, origin and control of gifts of all public officials, the law on protection of informants (whistleblowers) and the law on public procurement were also adopted at the end of August. An anti-corruption coordinator was appointed within the Office of the State Prosecutor and one prosecutor per district prosecution office was assigned to corruption cases. Steps have been taken to strengthen the Kosovo anti-corruption task force and to ensure that seconded police officers and appointed experts will be able to contribute effectively. Similar steps have been taken to improve cooperation between prosecutors. A mixed panel of local and EULEX judges has convicted senior officials and politicians. The indictment against officials of the customs department was dismissed on legal grounds by a pre-trial EULEX judge of the Pristina court. The prosecution has appealed against this decision.

The increase in the salaries of judges and the completion of the reappointment process were positive steps to prevent corruption in judiciary. The 2011 campaign on the declaration of assets led to an increase in the number of declarations by officials. 96% (1830) of officials made declarations, which were published online. Cases have been initiated against 84 persons who did not disclose their assets. The Anti-corruption Agency has stepped up its awareness-raising activities, by means of campaigns and targeted training. The Agency has sufficient capacity to perform its tasks. Law enforcement agencies have strengthened their disciplinary structures.

There have been some convictions on corruption-related cases. Since January 2009, a total of thirty verdicts have been issued by mixed panels of EULEX judges and Kosovo judges, thirty defendants were found guilty, nine were acquitted. On other corruption cases, 216 cases are inherited from previous years and 92 were reported in the period October 2010 – July 2011. 75 cases have been resolved at first level instance (40 of which with a condemnatory judgement) in this period.

Kosovo continues to face significant challenges in fighting corruption. The adopted legislation now needs to be fully implemented. The capacity to investigate this type of crime, and the level of expertise, remains limited. Law enforcement and judicial authorities need to be more pro-active in this area. Cooperation between the Anti-Corruption Agency, the police and the prosecution needs to be further improved. Declarations of assets by public officials

continue to show discrepancies between the assets declared and actual revenue. Most political parties did not fully comply with their reporting obligations to the office for political party registration. Furthermore, necessary amendments to the law on financing of political parties have not yet been adopted. Breaches of procurement rules continue to be an issue of concern in the context of corruption. Citizens regularly encounter corruption in police, customs and court services. Major efforts are needed to fight the widespread corruption in education and health care.

*Overall*, some progress has been achieved in the fight against corruption, notably by starting to tackle some of the corruption cases and improving the legislative framework. Structures in place to deal with corruption have also improved. The legislative framework is still not complete. There is a need to tackle this challenge more proactively, in particular by law enforcement and judiciary. This needs to be done within their own ranks as well. Corruption remains prevalent in many areas and continues to be a very serious concern. It also affects access by citizens to public services.

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

### *Observance of international human rights law*

Kosovo is a member of neither the UN nor the Council of Europe. Consequently, it is not in a position to ratify the relevant **international human rights instruments**. Kosovo is not subject to the frameworks set up by these international bodies for regular reporting and cooperation on human rights (including the **European Court of Human Rights**). Kosovo's Constitution contains strong provisions to secure international standards on human rights. Alongside a catalogue of rights, the Constitution makes the operative provisions of numerous international human rights instruments binding within the legal order of Kosovo. Kosovo is aiming to engage with European and international monitoring bodies beyond the ongoing informal communication.

During the reporting period, the government submitted a report to the Committee on the Rights of the Child. This cooperation with *ad hoc* arrangements for reporting to the UN Treaty bodies is a positive step. It made it possible for Kosovo to provide a report on implementation of the Convention for the Elimination of all Forms of Discrimination against Women.

**Promotion and enforcement of human rights** remain a major challenge. Training has been organised to build up the capacity of the human rights units. The enforceability of legal and administrative remedies for human rights infringements needs to be improved at all levels. The range of institutions and bodies dealing with human rights at central and municipal levels is too dispersed and at times overlapping. Communication and coordination between the different institutions and bodies dealing with human rights at central and local levels and with the Ombudsperson are weak. These bodies need to be streamlined and their mandate clarified in order to make better use of their limited expertise and resources.

*Overall*, this area remains a major challenge. The institutional set-up promoting and enforcing human rights needs to be simplified. Appropriate resources need to be allocated. Efforts to enhance monitoring and reporting mechanisms need to be stepped up and to focus on improving the enforcement of existing legislation and policies. Ensuring full respect for human rights is a key European Partnership priority.

### *Civil and political rights*

The government needs to continue its efforts to address **torture and ill-treatment**, including the fight against impunity. The number of reported cases involving police and prison staff has decreased. EULEX is monitoring and following allegations of possible ill-treatment at Dubravë/Dubrava prison and working closely with the Kosovo Correctional Service intervention team.

*Overall*, further efforts are needed to prevent torture, ill-treatment and impunity.

Kosovo has achieved some progress as regards the **prison system**. Living conditions in Kosovo's detention facilities have improved. The first steps have been taken to establish a sustainable mechanism for monitoring local detention in order to coordinate the efforts of the various local organisations and institutions monitoring detention. A cooperation agreement between the Ombudsperson, the Kosovo Rehabilitation Centre for Torture Victims and the Council of Defence of Human Rights and Freedoms aimed at setting up such a mechanism entered into force in May. The Kosovo Correctional Service has introduced a methadone treatment programme, which has improved the situation of drug addicts among the prison population.

Some outstanding issues need to be addressed. Only a small number of the approximately thirty sublegal acts to implement the law on execution of penal sanctions have entered into force. Due to the lack of space in pre-trial detention centres and the increase in the number of detainees (from 369 in August 2010 to 545 in June 2011), the Kosovo Correctional Service transferred some detainees to Dubravë/Dubrava prison, where they are housed in a separate block from sentenced prisoners. The Correctional Service continues to face difficulties securing funds for refurbishment. Construction of the high-security prison needs to be finalised as soon as possible. Cooperation with the Mitrovicë/Mitrovica detention centre and the headquarters has improved and is now satisfactory. This facility is not suitable for long-term prisoners.

Currently, the Correctional Service has no electronic information system that can record and provide reliable data on the prison population. This makes it impossible to plan effective social reintegration programmes. Corruption within the prison system needs to be addressed.

*Overall*, some progress can be reported in relation to correctional services. Kosovo is continuing to address its objectives in this area.

In the case of **access to justice**, there has been limited progress. Mechanisms for assisting victims of trafficking and domestic violence exist. Legal aid offices have also been opened. Court liaison offices are in operation across the regions, but their funding and resources need to be fully ensured. Major challenges such as the backlog of cases persist. The Mitrovicë/Mitrovica court continues to function with limited capacity under EULEX. Access to justice for victims of trafficking, both children and women, needs to be improved. Further efforts are needed to ensure legal aid in Kosovo, including adopting the appropriate law.

*Overall*, Kosovo has made limited progress in this area. A number of obstacles still limit access to justice. Kosovo is at an early stage of ensuring such an access.

As regards **freedom of expression**, limited progress can be reported. The transparency of media ownership is guaranteed by a law and the law is properly enforced. The Independent

Media Commission delivered the media monitoring of the election campaign for the first time. The ministerial human rights units have received training on the law on access to public documents. Enforcement of this law requires that the roles and responsibilities of the ministries involved be clarified.

Five media professionals and one mayor were indicted for alleged threats and defamatory comments towards an independent investigative journalist. Journalists continue to face political pressure and intimidation, which is threatening the still fragile investigative journalism. The amendment to the Criminal Code putting an end to defamation as a criminal offence still needs to be adopted. The professional standards in journalism need to be enhanced.

Efforts to draft new laws on the Independent Media Commission and the public broadcaster RTK have contributed to increased awareness on European standards. The editorial independence of the public broadcaster RTK is not guaranteed. RTK also lacks sustainable financing. The current budget-only funding has severely undermined the RTK's independence. Other media depend heavily on financing from the public sector and publicly-owned companies. The assembly still needs to appoint its members to the Independent Media Commission. Legislation guarantees sufficient time for minority programmes on the RTK, but this is not observed in practice.

*Overall*, Kosovo continues to face considerable challenges in this area, including political interference.

**Freedom of assembly and association** continues to be exercised in Kosovo. Various demonstrations took place in Kosovo. The newly-amended law on freedom of association in NGOs ensures that their right to association is not hindered. With regard to the development of civil society organisations, little progress can be reported. The President of Kosovo has invited several representatives of civil society to advise her. The institutions need to find ways to ensure more structured cooperation with civil society. Public understanding of the role of civil society remains low. It is a concern that civil society is subject to undue political pressure and intimidation if its activities do not correspond to the views of authorities.

*Overall*, there has been a mixed progress on efforts to fully guarantee freedom of assembly and association. The environment in which NGOs operate needs to be improved. The government, the assembly and municipalities need to cooperate more effectively with civil society.

In relation to **freedom of thought, conscience and religion**, there has been some progress. Kosovo police has continued taking over responsibility from KFOR for guarding historical and religious sites, including Serbian Orthodox ones. Only three sites remain under KFOR protection. Kosovo furthered its renovation activities of Serbian Orthodox sites in cooperation with relevant participants from the Serbian Orthodox Church and from the Serbian authorities. The Orthodox seminary restarted its activities in its historical premises in Prizren. Kosovo has launched consultations on the amendments to the law on freedom of religion notably to put an end to the current requirement for all religious communities to register as NGOs. Demonstrations on religious ground took place peacefully in Pristina. Religious leaders have participated jointly in some religious events. The construction of the catholic cathedral in the centre of Pristina is ongoing. Students took action to clean the Jewish cemetery in Pristina. However, a number of religious heritage sites have been vandalised, including Serbian

Orthodox churches and Orthodox and Muslim cemeteries. The mechanisms for reporting and following up such activities need to be improved.

*Overall*, there has been a mixed progress on freedom of thought, conscience and religion, the transfer of responsibility for protecting religious and cultural sites to the police has continued smoothly. Tolerance towards religions remains fragile. Lack of respect towards symbolic sites and believers, irrespective of religion, persists.

*Economic and social rights (see also Chapter 4.1.8 – Social policies, employment and public health)*

In the areas of **women's rights and gender equality**, some progress can be reported. The position of women in politics has improved with the election of Ms Atifete Jahjaga as the Kosovo President and the appointment of three women as Deputy Prime Ministers, including the negotiator in the Belgrade/Pristina dialogue and the Minister for European Integration. The labour law extended the right to maternity leave. In implementing this law, attention needs to be paid to the vulnerability of women in the labour market. Implementation of the law for the protection against domestic violence has continued. To this end, the Agency for Gender Equality and the Kosovo Judicial Institute have provided training to legal staff on the protection from domestic violence. A public debate on this issue was held in Gjilan/Gnjilane. Leaflets were also published. The Ministry for the Kosovo Security Force established a human rights unit, which also deals with gender equality and hired three officers. At municipal level, trainings have been provided and capacity enhanced.

Domestic and gender-based violence continues to be a challenge in Kosovo. The relevant legislation needs to be implemented and monitored. Services for victims of domestic violence and trafficking are partially funded by the government but remain heavily dependent on donor funding. The long-term reintegration of victims, including their economic stability and access to justice, needs to be provided. Positive measures need to be enforced to empower women as victims of trafficking and domestic violence. High drop-out rates amongst girls and the under-representation of women on the labour market, including in the public sector, require concrete action by authorities. The Agency for Gender Equality has continued facilitating, promoting and monitoring implementation of the Gender Equality Programme (2008-2013).

*Overall*, some progress can be reported in women's rights. The relevant institutions need to be strengthened and the budget increased in order for the legislation to be implemented fully.

Protection of **children's rights** has improved with the implementation of the juvenile justice code and its monitoring process. In March, the annual report on children's rights was published. The Council for Child Protection and Justice for Children was established. It needs to focus on implementing the strategy and action plan for children's rights for 2009-2013. Kosovo opened learning centres in a handful of municipalities to fight against drop-out among the Roma, Ashkali and Egyptians. These efforts need to continue.

The social assistance scheme is being revised based on necessary consultations and taking account of budgetary constraints. Child protection remains weak and the child poverty rate is over 48%. Children are at greater risk of poverty than the general population, in particular among the Roma, Ashkali and Egyptian communities. Poor maternal care and child nutrition and healthcare are additional challenges reflected in the high level of child mortality. Forced begging by children continues to be widespread. Kosovo needs to strengthen its child protection system.

*Overall*, child protection remains weak. Mechanisms and processes need to be developed to enforce children's rights. Child protection needs to benefit from a functional multi-sectoral approach.

Limited progress has been achieved on **socially vulnerable persons and/or persons with disabilities**. Training sessions in this area enhanced the administrative capacity and need to continue. The Council for Persons with Disabilities was established to coordinate enforcement of legislation. The first report on the implementation of the action plan for people with disabilities (2009-2011) was published. This plan and the law on vocational training and employment for people with disabilities need to be better enforced, and their implementation monitored. Adequate actions at municipal level are also required.

*Overall*, more efforts are needed to improve the daily life of socially vulnerable groups and persons with disabilities.

The government has continued to carry out a few awareness-raising campaigns on the **anti-discrimination** law. The low level of confidence in the courts is discouraging for the victims of discrimination. More efforts are needed to combat all forms of discrimination, which is a major issue of concern. Enforcing the relevant legislation, in particular the anti-discrimination law, remains imperative. Monitoring the implementation of legislation in this area is still insufficient.

The Constitution prohibits discrimination on the basis of sexual orientation. The anti-discrimination law also provides a high degree of protection for the lesbian, gay, bisexual and transgender (LGBT) community. Practical enforcement of the legislation remains a challenge. There is still a lack of awareness on LGBT issues, which are not discussed openly. There is limited knowledge and understanding on the part of law enforcement officers about the rights of this community. Socially-accepted lack of tolerance towards individuals identifying themselves as having a different sexual orientation requires more political commitment. The members of the LGBT community face threats or the risk of violence.

*Overall*, more efforts are needed to raise general awareness about anti-discrimination measures and to implement the existing legislation.

In the area of **labour and trade union rights**, some progress has been achieved. The law on labour was adopted in November 2010. This improves working conditions notably in terms of work-contracts. It also introduces paid maternity-leave up to 9 months. The Socio-Economic Council became operational and the law on the Socio-Economic Council was adopted regulating its organisation, mandate, and actions. Labour inspectorates were reorganised, but they lack the necessary capacity to monitor labour conditions throughout Kosovo. The law on trade-unions was adopted clarifying the employees' rights to establish and participate in trade unions. There are concerns as to the alignment of the law on strikes with the European Charter for Fundamental Rights and international standards.

*Overall*, labour and trade union rights are largely guaranteed. The implementation of the existing legislation will be crucial to make changes tangible.

As regards **property rights**, there has been a mixed progress. A range of laws were adopted improving the legal framework (law on cadastre, amendments to the law on the establishment of the immovable property rights register, the law on taxes on immovable property, the law on allocation for use and exchange of immovable property of municipalities, and the law

amending the law on expropriation). The municipality of Pristina adopted a regulation to initiate the process for legalisation of illegal constructions. The local judge of the Supreme Court panel for appeals against contested Property Agency decisions was appointed, making the panel operational. The government appointed its property rights' coordinator to improve enforcement of law in this area. The Kosovo Cadastral Agency has launched a project to register apartments in the major cities of Kosovo. All municipal land registry offices are now connected to the central Kosovo Cadastral Agency and records are available both centrally and in the municipal offices. Out of the 41,222 claims recorded by the Kosovo Property Agency, 30,649 have been adjudicated by the Kosovo Property Claims Commission. 18,365 adjudicated claims which were overturned due to incorrect physical notification during the period 2006 to 2009 have been re-notified. UNHCR offices in Serbia operate as the liaison office for the Kosovo Property Agency.

The number of valid Property Claims Commission decisions stands at 17,076, of which 11,712 were delivered to successful claimants. Of 4,526 requests received, 3,133 were implemented, 1,069 by repossession, and 1,268 were placed under the administration of the Property Agency. Implementation of eviction orders and property administration in the northern part of Mitrovicë/Mitrovica remains a challenge. The funding of the Property Agency remains unsustainable. Approximately 21,000 property compensation claims remain unresolved before the courts. Second-instance courts often send property cases back to the first-instance court for a re-trial. This is due to irregularities either in the judgment or in the proceedings, and leads to a repeat of trials. Inter-ethnic property disputes are unduly prolonged before the local courts. There is no compensation scheme for socially-owned apartments. The law on sales of apartments where occupancy rights exist has still not been adopted. The lack of a strategy to regularise informal settlements remains a concern. While the expropriation procedures are applied satisfactorily and property owners compensated, proper consultation and notification of the displaced owners by the authorities are not adequately carried out. This leads to additional backlog of cases in the courts.

*Overall*, the weak implementation of the property-related legislation is the major obstacle to protecting and enforcing property rights.

#### *Respect for and protection of minorities, cultural rights*

There has been some progress in the respect for and protection of **minorities**. Decentralisation and support for the newly-founded Serb-majority municipalities are positive developments. This process needs greater attention and political will to solve outstanding issues, such as land management. The work of the Communities Consultative Council has continued. Its members have contributed to the review of government activities and policies affecting communities, especially via its working groups on education and on issues concerning the Roma, Ashkali and Egyptian communities. During the reporting period, a Kosovo Croat was appointed to the Council, thus making the forum more representative. The Council is increasingly consulted by executive bodies. The number of incidents affecting the minority population has increased as a consequence of events that triggered tensions between Kosovo and Serbia.

Limited progress can be reported on access to education for minority communities. The newly adopted laws on pre-university education and higher education contain provisions as to the representation of non-Albanian communities in educational councils and authorities regulating and supervising the education system. The new law on higher education incorporates all higher education providers including the Serbian-speaking university. Finalising the new framework curricula was the pre-condition for drafting the curricula in

Serbian and other languages of communities. It is now in place and the drafting of the subject curricula needs to begin. Registration of Roma pupils has slightly increased. The Roma language curriculum was published as an elective course in three languages (Albanian, Roma and Serbian).

Many school textbooks are still not available in the mother-tongue of the Turkish, Bosniak and Roma communities. Moreover, there is still no Serbian curriculum made available by Kosovo, nor is Serbian available as the second official language in any of the public schools outside of the areas predominantly inhabited by Serbs. In many cases, access to secondary mother-tongue education for the Turkish and Bosniak communities is hindered by the lack of curricula translated into their own language or the low quality of textbook translations. Training for teachers teaching in the languages of communities needs to be enhanced, in particular regarding new curricula.

The teaching staff of Serbia-supported schools has started to sign contracts with Kosovo municipal education directorates. Gorani teachers have not signed any contracts with the municipality of Dragash/Dragaš and have therefore been prevented from using the Kosovo-administered school premises.

There has been little progress on the use of languages. The legal framework generally meets international standards on linguistic rights. The Language Commission has started receiving complaints. Newly-established municipalities have adopted regulations on the use of official languages. The implementation of the law on the use of official languages remains inadequate. The lack of sufficient human and financial resources jeopardises access to multilingual public services and also effective participation in public life. The impact of the Language Commission is very limited due to the lack of human resources and the complicated institutional structures dealing with fundamental rights.

International support has improved the position of minority media, especially in Serbian. The Serbian television producers have launched the "TV Mreža" network linking four Serbian-language television stations around Kosovo and covering 80% of the Kosovo Serb population. The Kosovo Media Association radio network in Serbian broadcasts throughout Kosovo.

The public broadcaster (RTK) has allotted times below the legal provisions for programmes in the Serbian, Roma, Bosnian, Gorani and Turkish languages. The plan to establish a second public channel to broadcast in Serbian or any non-Albanian languages has not been finalised. The Fund for the Support of Media of Minority, Multi-ethnic and Other Special Groups has not been operational since collection of the public broadcasting fee for the RTK was suspended by a court decision in October 2009. As a result, the 5% of the total fee collected earmarked for the fund is not available.

*Overall*, limited progress has been achieved regarding access to education for minority communities. The main challenge remains the lack of curricula and textbooks in minority languages. Teachers also need more training where such new curricula exist. Kosovo authorities need to step up their efforts in this area, notably to allocate adequate resources to educate minority communities. Little progress can be reported on the use of languages. Implementation of the legal framework is inadequate. Multilingual public services are not in place. The position of minority media, especially in Serbian, has improved.

Regarding the **Roma, Ashkali and Egyptian** (RAE) communities, mixed progress has been achieved. In October 2010, the lead-contaminated camp at Çesmin Lug/Çesmin Lug was

closed and all the accommodation was demolished. Its residents along with other families from Osterode were resettled in Roma Mahalla in south Mitrovicë/Mitrovica where municipal authorities allocated land for their housing. The government has promoted the civil registration of these communities, including by offering such registration free of charge. A report on the implementation of the Strategy for the Integration of Roma, Ashkali and Egyptian communities was published. Kosovo participated in the Roma Decade steering committee as an observer, allowing it to engage with key players on regional Roma issues.

Osterode camp has not yet been closed because public land for its remaining residents (nine families) has not been allocated. Kosovo still lacks a comprehensive plan to regulate informal RAE settlements. The lack of civil status registration is a further serious obstacle to access to services. Reintegration of repatriated Roma, Ashkali and Egyptians is a concern. The authorities need to increase their commitment to address urgent issues affecting the lives of the Roma, Ashkali and Egyptian communities notably their access to education, healthcare, housing and social protection.

*Overall*, there has been some progress on integrating minority communities. Kosovo has achieved good results by closing the lead-contaminated camp of Çesmin Lug/Česmin Lug and increasing civil registration of the Roma, Ashkali and Egyptian communities. These efforts need to continue to foster their socio-economic integration.

In the area of **refugees and internally displaced persons (IDPs)**, little progress can be reported. From January to December 2010, a total of 2,261 members of minorities returned voluntarily to Kosovo, which marks the highest return rate in the last six years. The voluntary return process was affected by the difficult political and economical environment in the first semester of 2011. The budget dedicated to voluntary return was considerably reduced by the government. Municipalities face difficulties to provide social housing for returnees without property.

The government needs to step up its efforts to take the lead in addressing the issue of IDPs. The municipalities alone are still not able to respond to the immediate and long-term needs of IDPs and returnees, due to a lack of funds allocated for that purpose. There is an inconsistency between municipal return strategies and the action plan prepared by the Ministry for Communities and Returns.

IDPs continue to face a number of risks, particularly lack of personal identity and property documentation, deplorable living conditions and lack of access to basic socio-economic rights. Moreover, the non-recognition of administrative documents between Kosovo and Serbian institutions further affects access to services and property restitution for IDPs. Attacks on returnees are rare. If they happen, they are not always subject to proper follow-up by the police and the judiciary.

A clear strategy to tackle the caseload of IDPs is needed. In terms of the return process, the main challenges are the continued and heightened socio-economic problems, education and property ownership issues, lack of funding, inter-ethnic tensions in some of the areas and lack of commitment on the part of the institutions.

*Overall*, the return process remains a challenge for Kosovo. Limited access to property, delayed property restitution proceedings and the scarcity of economic opportunities continue to be the main obstacles to sustainable returns. Many displaced persons are still living in difficult conditions. Pristina and Belgrade need to cooperate to tackle this issue.

Regarding the enforcement of **cultural rights**, limited progress can be noted. The Director of the Department of Cultural Heritage in the Ministry of Culture was appointed. The secretariat of the Council for Cultural Heritage became operational. Cooperation between the relevant ministries and between central and local levels is slowly improving, but needs to be intensified and managed in a more structured way to secure sustainable progress. The Kosovo Police instructed all regional police stations to tighten patrols at cultural and religious heritage sites. The laws on Prizren and on Hoçë e Madhe/Velika Hoča have not been adopted.

Implementation of the legislative framework governing protection of cultural heritage remains weak. The comprehensive list of cultural heritage sites qualifying for protection, as provided for by the law on cultural heritage, has still not been adopted. As a result, many historically protected items remain vulnerable. This results in breaches of the law. A stronger commitment for cultural heritage spatial planning is needed.

*Overall*, there has been limited progress on cultural rights. Kosovo has improved coordination and brought new structures into operation. Implementation of the legislative framework remains weak.

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

Cooperation with the **International Criminal Tribunal for the former Yugoslavia (ICTY)** has continued.

As regards **missing persons**, as of September 2011, there were still approximately 14,000 people missing from the conflicts in the region. Of these, some 10,000 were related to the conflict in Bosnia and Herzegovina, 2,000 to the conflict in Croatia and over 1,800 to the conflict in Kosovo.

Kosovo adopted a law on missing persons. It is the first legal framework that guarantees recognition of the right-to-know and right-to-reparation to the families of the missing, as well as the legal status of the missing persons. The Working Group on Missing Persons, a bilateral forum that brings together the Belgrade and Pristina delegations for dialogue and exchanges of information on missing persons in Kosovo, has remained the framework within which the Pristina authorities have pursued their commitments. Excavation and de-mining work has continued at the Zhilivoda/Žilivode and Kosharë/Košare sites, where human remains of ethnic Serbs are allegedly buried. Most of the work is being carried out by the Kosovo Security Force with the involvement of the Government Commission on Missing Persons, an inter-ministerial body. Experts from the EULEX Department on Forensic Medicine, in cooperation with the Kosovo Security Force, conducted site assessments at Lake Livoq/Livoc and near the village of Zhilivoda/Žilivode. The operation at Lake Livoq/Livoc found no remains of missing persons. Kosovo authorities need to provide new information from their own sources on the alleged gravesites.

The unidentified human remains stored at the Pristina morgue continue to be a cause for concern. The lack of a formal agreement between Kosovo and the former Yugoslav Republic of Macedonia is an obstacle to clarifying allegations related to unidentified human remains in the former Yugoslav Republic of Macedonia.

EULEX has continued investigating war crimes cases. It has conducted a number of operations, including arrests and convictions in war crimes cases involving senior political figures. In the 'Geci trial', a mixed panel of the Mitrovicë/Mitrovica district court sentenced

four former KLA commanders and members to imprisonment for terms between seven and fifteen years for (amongst others) war crimes against the civilian population. In the Kleçkë/Klečka case, the indictment was confirmed, charging the ten defendants with various counts of war crimes against the civilian population and prisoners of war in 1999. In this case, a former minister who is also a senior political figure of the ruling party was arrested by EULEX. A resolution adopted by the Parliamentary Assembly of the Council of Europe on inhuman treatment of people and illicit trafficking in human organs in Kosovo raised serious allegations related to the conflict of 1999. EULEX has established a special Brussels-based task force with a liaison office in Pristina to investigate these allegations. The authorities are cooperating with EULEX in this investigation. Kosovo still lacks its own capacities and political commitment to investigate war crimes cases with its own judicial and law enforcement authorities.

*Overall*, there has been mixed progress in this area. The missing persons file requires greater political commitment, supported by financial and technical resources provided by the government to ensure adequate engagement. Unless adequately addressed, the issue will continue to fuel resentment, hinder reconciliation and adversely affect the overall political climate in Kosovo. The authorities are cooperating with EULEX in the investigation of allegations raised in the resolution adopted by the Parliamentary Assembly of the Council of Europe.

Kosovo's Constitution stipulates Kosovo's external representation. But some parties insist on Kosovo's participation with UNMIK presence for regional initiatives signed by UNMIK. This causes challenges to regional participation. Kosovo did not participate in the Regional Cooperation Council (RCC) Board meetings between June 2010 and May 2011. It did, however, participate, as part of the UNMIK/Kosovo delegation, at the RCC Annual Meeting in Montenegro in June 2011 and at the Board meeting of September 2011. A new coordinator of the RCC office was appointed in May. Even though there is a streamlined procedure for holders of Kosovo passports to obtain visas to attend RCC activities in Bosnia and Herzegovina, the visa procedure remains cumbersome and time-consuming for other regional events held there.

On 1 January, Kosovo, with UNMIK, took over as chair of the Central European Free Trade Agreement (CEFTA). During the reporting period, it organised four meetings under its Presidency, including a meeting on deputy ministerial level. Within the Belgrade/Pristina dialogue an agreement has been found on the customs stamps. Goods have started flowing in both directions in September.

Kosovo has continued to participate in the Energy Community Treaty, the European Common Aviation Area Agreement and the South-East Europe Transport Observatory. It is formally represented in these three regional cooperation fora by UNMIK. The Kosovo institutions attend most regional and international meetings for which UNMIK facilitation is required, thereby enabling Kosovo to remain included in regional/international fora.

Kosovo has continued to participate as an observer in the Investment Compact for South-East Europe, which is designed to improve the investment climate and encourage private-sector development in the region through the implementation of reforms enhancing domestic and foreign investment. Kosovo has also continued to be fully involved in implementation projects, such as the EU-funded Regional Competitiveness Initiative. Kosovo supports the RECOM initiative on reconciliation.

The demarcation process with Montenegro has not progressed, notwithstanding the existence of a commission specifically responsible for this process.

*Overall*, an agreement remains to be found on a sustainable solution for participation by both Kosovo and Serbia in regional fora. This is essential for inclusive and functioning regional cooperation. Demarcation of the border with Montenegro needs to be finalised.

### **3. ECONOMIC CRITERIA**

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

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

##### *Economic policy essentials*

As a consequence of the political instability and early elections, the 2011 budget was not passed by the Assembly until the end of March. In April the government adopted its medium-term expenditure framework (MTEF), covering the years 2012-2014. The SDR 92.7 million (€ 109 million) Stand-By Arrangement (SBA), negotiated with the IMF in mid-2010, went off track, notably due to a significant wage increase in the government sector. A non-disbursing IMF Staff Monitored Programme (SMP), running until the end of 2011, was agreed upon in June. The SMP, which entails conditionality, is an important test and attempt to regain credibility in economic and fiscal policy. *Overall*, the determination to pursue market-oriented economic policies has been maintained, but measures were adopted that introduced severe distortions in the economy. Designing and implementing a coherent and credible economic strategy, linking policy priorities, structural reforms and public expenditure, remain a major challenge.

##### *Macroeconomic stability*

The economic situation is challenging. The large increases in the budget deficit over the last two years have not managed to spur economic growth significantly. The 2010 national accounts data are still not available, but external and fiscal imbalances increased, driven by another year of public-sector expansion. Private consumption growth is likely to have remained subdued due to the almost unchanged remittances, low job creation and accelerating inflation. The contribution of government's final consumption to real GDP growth, although supported by nominally increasing public expenditure, has been constrained by a continuous winding-down of the donors consumption. Government investment remained buoyant, but there are uncertainties surrounding private investment developments, as bank lending and foreign capital inflows have been channelled mainly into non-investment activities in the services sector. Exports of goods and services performed impressively, increasing by 36%. Starting from a very low base, they increased their share in GDP to about a fifth. Imports of goods and services also increased in double-digits, although at a lower rate, widening the negative contribution of net exports to growth by about 1 percentage point. Economic statistics remained weak, hampering a comprehensive assessment of the economic situation.

GDP per capita<sup>4</sup> is estimated to have risen at € 2,385 in 2010, equal to 9.7% of the EU-27 average (9.6% in 2009). *Overall*, Kosovo's economic growth remained weak and fragile.

In 2010, led by a doubling of base metals exports, total exports of goods increased nominally by more than 70%. In 2011 they continued performing strongly, although their growth went down significantly to 19% by the end of July. Exports' share of GDP rose to 7.4%, up from the very low 4.5% in 2009, driven by strong foreign demand and high commodity prices. This positive trend masks an underlying weakness, as base metals increased their share in total exports to almost two-thirds, revealing a lack of diversification and the predominance of low value added goods in the exports' structure. Imports of goods rose by 11% in 2010 and accelerated their growth to 14% by the end of July 2011. Their share in GDP climbed to 49%, up from 47.3% in 2009. The imports structure shifted towards intermediate and consumption goods at the expense of capital goods.

The coverage ratio, i.e. exports of goods as a percentage of imports (12-month moving average), has increased and stood at 14.1% in July 2011. The net exports of goods displayed a better performance than in 2009, but the deficit in goods and services worsened from 39.2% of GDP in 2009 to 40.5% in 2010. The surplus in services dropped substantially due to a significant increase in imports of construction services starting in the second quarter of 2010. In the first seven months of 2011, the trade deficit widened to € 1,122 million compared with € 992 million in the corresponding period of the previous year, as gains on the exports side were more than offset by increased imports of goods.

In 2010, the current account deficit (including official transfers) widened to 16.0% of GDP, up from 15.4% in 2009. This increase was driven mainly by the deteriorating services account. At the same time, the surplus on the income account improved to 3.1% of GDP as investment income outflows declined by about 40% over the previous year. Current transfers remained significant at 21.6% of GDP. Net workers' remittances, a major source of financing domestic demand, increased by about 6% but their share of GDP remained almost unchanged at 10.2%. The surplus on the capital and financial account (12.3% of GDP) fell short of the size of the current account deficit. Net foreign direct investments increased to 7.5% of GDP, about a third of which went into real estate and construction and another 22% into financial services. There was a spike of about 50% in FDI inflows in manufacturing, associated with the completion of privatisation deals rather than new green-field investments. Over 2010, currency and deposits held abroad were converted into portfolio investments abroad (equity and debt securities). This was accompanied by an increase in the central bank reserve assets. Net errors and omissions of 3.7% of GDP are high in comparison with the 1.5% in 2009 and pose a problem when it comes to proper analysis of economic developments. *Overall*, external imbalances are high, especially in trade in goods, and production-enhancing foreign investment inflows have remained limited.

Unemployment was very high at 45.4%, according to the latest official data from the Labour Force Survey 2009. No data are available on the unemployment rate in 2010 because the Labour Force Survey was cancelled due to financial constraints. In 2010, the number of registered unemployed went down by about 1%, mostly in the unskilled segment. Nevertheless, by the end of June 2011 unskilled unemployed still accounted for 60% of total registered job-seekers. Unemployed with university education, although a relatively small

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<sup>4</sup> A measure using PPP is not available for Kosovo. The calculation is based on the population estimates of the 2011 census.

number, have steadily increased and approached 4,000, signalling problems in the functioning of and the links between the labour market and the education system. Data from the Kosovo Pension and Savings Trust Fund indicate that in 2010 the number of contributors increased by 2.3% or 5,213 people, almost equally divided between the government and non-government sectors. The statistics available do not provide a true picture of the labour market, particularly given the significant informal employment. *Overall*, information about the labour market is scarce and doubts about its accuracy persist. Unemployment remained very high and the economy did not create enough jobs to reduce pressures on the labour market and offer job opportunities, especially to young new entrants.

The annual average inflation was 3.5% in 2010. Monthly inflation rates accelerated sharply from mid-2010 on and in the first quarter of 2011. By March 2011 inflation peaked at double-digit levels of 10.8% (year-on-year), before it slowly decelerated to the still high 5.3% by the end of August. Food prices were the main contributor to inflation with 3.5 percentage points, followed by energy-related items with 0.9. Core inflation (non-food and non-energy) reached a high of 1.6% in May, after it had usually remained below 1%, spurred, inter alia, by the government promise to increase government-sector wages substantially. About 90% of all goods in the consumer basket exhibited increasing prices, indicating broad-based inflationary pressures. The inflation level and structure have hit the poor disproportionately and put under strain consumption patterns dependent on remittances. *Overall*, inflation has been volatile and risen to high levels.

Kosovo is using the euro as legal tender. Consequently, the Central Bank of Kosovo (CBK) has only limited policy instruments. The growth in broad money (IMF definition<sup>5</sup>) stood at 18.7% by the end of July 2011. Its dynamics throughout the period was influenced by the reduction in public non-financial corporations' deposits due to the withdrawal by the government of dividends from the publicly-owned telecommunications company. The monetisation of the economy, measured by the ratio of average broad money to GDP, increased slightly, from 39.8% in 2009 to 40.4% in 2010. Stricter bank supervision led to reclassification of some loans and an increase in non-performing loans, which reached 5.9% of total loans by mid-2011. The central bank has put the biggest micro-finance institution under direct administration. This case has highlighted weaknesses in the legislation, in particular on the licensing of micro-finance institutions. *Overall*, the monetary framework continued to function relatively well, although there is room for improvement, in particular in regulation and supervision of the financial sector.

The budget deficit increased from 0.7% of GDP in 2009 to 2.7% in 2010, driven by surging expenditures and lower dividend receipts. The underlying deficit was much higher – 5.5% of GDP – if one-off receipts, particularly a € 85 million dividend and a € 30 million budget grant, are taken into account. In addition, there has been a significant increase in unpaid invoices, which stood at 0.7% of GDP at the end of 2010. Total revenue (excluding dividends and grants) increased by about 1 percentage point to 25.3% of GDP. Total primary expenditure increased by about 0.7 percentage points to 30.7% of GDP. Two thirds of the underlying revenue continued to be collected as border taxes on consumption, while direct tax revenue decreased in not only relative but also absolute terms. Current expenditure reached 18.1% of GDP, up from 17.7% in 2009, underpinned by a strong increase in spending on wages and salaries. Social transfers went up by 0.3 percentage points to 4.8% of GDP. Total subsidies, capital transfers and net lending to publicly owned enterprises went down by 1.3

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<sup>5</sup> Including deposits excluded from broad money.

percentage points to 3.2% of GDP, due to a reduction in spending on the Kosovo Energy Corporation. Capital expenditure increased from 9.9% to 10.7% of GDP, although all categories of capital expenditure, other than those related to construction of the highway linking Pristina and Tirana, had been cut significantly by 2.2% of GDP. The government deposits available at the central bank dropped from € 342 million (8.7% of GDP) in 2009 to € 244 million (5.9%) at the end of 2010. Government debt to the World Bank and the IMF stood at 6.2% of GDP.

Due to the early dissolution of parliament, the 2011 budget was delayed and was not adopted by the new Assembly until March. It envisages a 17% increase in revenue (excluding dividends and grants) over 2010, 17.2% higher total primary expenditure, and a budget deficit of € 227 million (4.7% of GDP). The budget foresees that the deficit would be financed by direct grants, privatisation receipts from the sale of Post and Telecommunications of Kosovo (PTK) and borrowing from international financial institutions, most of which are unlikely to materialise in 2011. In the first eight months of 2011, budgetary execution has been marked by strong tax revenue performance (17% annual growth) driven mostly by equally strong imports of goods. In the first quarter, expenditure lagged behind, especially at municipal level, but by end of August total expenditure accelerated and increased by more than 24%. The budget turned into a deficit of € 16.6 million mainly because of particularly strong increases in spending on wages and salaries (25%) and capital outlays (61%). The Ministry of Finance took steps to improve the transparency of budget execution and started uploading preliminary monthly information about budget revenue and expenditure onto its website. However, budgetary transparency could be further improved. *Overall*, the financing of the 2011 budget is facing significant risks.

In 2010, in an attempt to rationalise and bring predictability to economic policy, Kosovo entered a Stand-By Arrangement with the IMF. The agreement allowed sufficient room and time for adjustment of the significant fiscal imbalances. Nevertheless, after a series of *ad hoc* measures, the programme derailed. In addition to the Labour Law adopted in the last session of the previous Assembly, a number of initiatives with a potentially significant negative impact on the level and quality of government expenditure were taken without prior analysis of their economic and budgetary impact.

The government decision to increase government employees' wages substantially (by 30 to 50%), later incorporated in the 2011 budget despite the objections raised by the European Commission and the IMF, was highly detrimental to fiscal sustainability and the quality of spending. In mid-July 2011, the government entered into a new agreement with the IMF – a non-disbursing Staff Monitored Programme (SMP) due to run until the end of 2011. Under the programme, the government committed to consolidation measures totalling € 35 million and to set aside a reserve of € 60 million as unallocated expenditure for 2011, the release of which is linked to announcement of the winner of the PTK privatisation bid. This reserve is crucial for preserving a minimum level of government bank balances by the end of 2011. However, keeping it is likely to imply cuts in non-highway capital spending, which is one of the most growth-enhancing categories of expenditure. The implementation of the SMP is an important test and an attempt to restore credibility to economic and fiscal policy. *Overall*, fiscal planning and the quality of public finances deteriorated further and policy predictability, consistency and transparency remain serious challenges.

Economic development continued to be marked by fragile growth and significant domestic and external imbalances, aggravated by poor fiscal policy. In particular, the high inflation and dysfunctional labour market pose major challenges for economic and social cohesion and the

significant economic uncertainty remained an obstacle to job creation and private-sector development. In 2011, in an attempt to remedy some of the major policy weaknesses, the government presented an economic vision and action plan for economic reform. This is commendable for the leading role given to the private sector in sustainable economic development. However, the plan lacks prioritisation and sequencing of proposed measures. It relies on an optimistic macroeconomic scenario. Careful assessments and proper fiscal impact analyses of most of its measures are still due. In addition, the plan's medium-term budget deficit target of 2% of GDP is inconsistent with the 0.5% deficit envisaged in the MTEF. *Overall*, the proper functioning of the macroeconomic policy mix is increasingly threatened by the unpredictable fiscal policy and unsustainable growth in government expenditure.

#### *Interplay of market forces*

About 90% of the publicly-owned enterprises (POEs) had operating profits in 2010, but a few big energy and mining companies continued to suffer large losses and have been a significant drain on the budget. The Privatisation Agency of Kosovo continued the privatisation of socially owned enterprises (SOEs). Mainly small businesses were privatised, with the exception of a big cement factory (which will secure employment for the 500 workers for three years). Limited progress was made with liquidating SOEs: only one in 2010. The privatisation of publicly owned enterprises had temporarily stalled because of the early dissolution of parliament. The process of privatising PTK resumed in the spring. In June 2011 two companies, out of the five which had declared interest, qualified for the next stage. In September, the government gave two additional weeks for expression of interest to the companies which had not qualified in June. This extension potentially undermines the credibility of the privatisation process. The privatisation of KEK Distribution and Supply (KEDS) also proceeded, with four companies pre-qualifying to participate in it. The transaction for development of the New Kosovo Power Plant (NKPP) continued to suffer delays, partly related to the future energy market model and the long-term power purchase agreement between the NKPP and KEDS, which still needs to be finalised in detail. *Overall*, there has been some progress with the privatisation process, especially concerning publicly owned enterprises.

#### *Market entry and exit*

The business register now includes 105,000 companies. Data from the Tax Administration of Kosovo (TAK) show that around half of them are actually inactive. In order to be deregistered after becoming inactive, companies have to present the business register with a statement from TAK that all outstanding tax obligations have been fulfilled. So far, online registration of companies is possible only at the 'one stop shops' or municipal business centres that have been established in 22 municipalities. Businesses continued to suffer from power cuts and most firms identified corruption and red tape as major impediments to doing business. As part of its economic development action plan, the government announced its goal of improving the business environment substantially. To this end, it plans a number of measures, including a comprehensive reform to remove 50% of licence and permit requirements in the medium term. *Overall*, weak administration, unreliable electricity supply and deficient rule of law continued to hinder market entry and exit.

#### *Legal system*

The legal system continued to suffer from poor accessibility and efficiency. Weak enforceability of contracts remained one of the main concerns of companies and investors in

Kosovo. It is also one of the factors explaining the relatively high interest rates charged by commercial banks to the private sector. The Kosovo court system, in cooperation with EULEX, is investigating several high-profile corruption cases. Senior officials and politicians have been convicted.

There has been some progress regarding property rights infrastructure. All Municipal Cadastre Offices are now connected to the central Kosovo Cadastral Agency and records are available in both places. Over the last few years, both registered transactions and mortgages have increased, indicating use of property as collateral. A total of 5,364 mortgages were registered in 2010 and 2,712 in the first eight months of 2011. It takes about 15 days for the Municipal Cadastre Offices to register a transaction. Some land registry books remain in Serbia. An agreement on cadastre was reached within the framework of Belgrade/Pristina dialogue. The agreement needs to be implemented. Expropriation procedures are not always applied and property owners are not always consulted or adequately compensated. *Overall*, the existing legal framework is underdeveloped and its implementation remained poor. The difficult, lengthy and costly legal enforcement of contracts and prevalent corruption continued to hamper the business environment.

### *Financial sector development*

The financial sector expanded by 13.7% in 2010, taking the total value of assets to € 3.2 billion or about 78% of GDP. The banking sector is predominant and accounted for 77% of all assets, followed by pension funds (15.4%), microfinance institutions (4.3%), insurance companies (3.1%) and financial intermediaries (0.2%). The number of commercial banks (eight), pension funds (two) and insurance companies (eleven) remained the same, whereas two microfinance institutions had their licences revoked in 2010 (reducing their number to 17). The degree of concentration of the banking system remains high, with 77.4% of the assets managed by three banks. About 90% of the assets in the sector are held by banks under foreign ownership. In 2010, boosted by growing interest income, the retained profit of the banking sector increased by 30%. The return on average assets remained unchanged at 1.4% , whereas the return average equity increased to 14.9% compared with 13.9% in 2009. Non-performing loans increased from 4.3% of total loans in 2009 to 5.9% in mid-2011 but the banking system's capital adequacy ratio remained solid above 17%. While interest income continued to rise moderately in the first half of 2011, provisions for loans and other assets losses have doubled in comparison to the same period in 2010 and suppressed profitability. *Overall*, financial intermediation continued to deepen and, despite increasing non-performing loans, the banking sector remained stable and profitable.

Credit gained some speed, increasing by 13.2% (year-on-year) in 2010 to 35% of GDP. Its growth accelerated to 15.3% by the end of July 2011, with both households and non-financial corporations rates of annual credit growth in the double-digits – 17.2% and 13.2%. Almost all of the increased corporate lending went to the services sector, in particular to wholesale and retail trade, and, partly, to the construction sector. The share of lending exposure to manufacturing and agriculture decreased over the period, reflecting the low level of domestic production and the high dependence of the economy on imports. The maturity of loans was extended slightly and loans with a maturity longer than two years increased to 73% of the total loan portfolio in 2010, up from 70% in 2009. This trend was reversed sharply in May, following a spike in borrowing of up to two years, whereas the long-term loan segments stagnated.

In 2010, total deposits increased to 47.1% of GDP, up from 44.6% in 2009. Deposits structure and growth rates have been skewed because of significant withdrawals of deposits of public non-financial corporations related to payments of PTK dividends. Total deposits grew by 15.7% by the end of July. Household deposits, which made up about 70% of the total, have had a remarkably robust growth, increasing by about 18%. The loans-to-deposits ratio increased over 2010 to 75.3%, and then further to 81.2% in July 2011, close to the informal benchmark of 80% loans-to-deposits ratio. The 12-month moving average effective interest rate on deposits was on a clear downward path over the period and stood at 3.5% in July. The average effective interest rate on loans has also gone down a bit to 14.5%, but the average spread remained above 11 percentage points. *Overall*, the deposit base and credit activity continued to increase but lending conditions remained tight.

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

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

Macroeconomic stability is increasingly threatened by unpredictable fiscal policy in an environment of persistent and increasing domestic and external imbalances. The vulnerabilities of the policy mix increased due to the significant budgetary deficit and limited financing options. Unemployment is very high, revealing deep structural problems in the economy. *Overall*, the weak rule of law, corruption, high level of informal activities, and *ad hoc* policies have increased economic uncertainty and deep structural problems continued to hamper the economy.

#### *Human and physical capital*

Some progress was made with access to education, given the considerable investment in school infrastructure, specifically for basic education (grades 1-9). Education is one of the largest government programmes, accounting for about 13% of total spending (3.9% of GDP), although resources allocated to it still remain relatively low. Due to the high proportion of school-age children in Kosovo's population, spending per pupil is lagging even further behind. More than half of all the teachers in elementary and secondary schools are only with secondary or higher education. Educational results are generally poor. About 42% of all secondary school students managed to pass the 2011 final exam ('Matura') at the first trial in June and the pass rate of vocational school pupils was only 25%. In 2010, the Ministry of Education, Science and Technology (MEST) produced a comprehensive sector strategy (2011-2016) which recognises the importance of an inclusive system of education by expanding access to basic and upper secondary education and renewing plans for expanding pre-school education. In August 2011 the government has officially adopted the strategy. Kosovo still lacks accurate data on the number of students and the employment rate of graduates. Schools continue to operate on multiple shifts. The research capacity of universities and research institutes in Kosovo remains very weak. The Investment Promotion and the Small and Medium-sized Enterprise (SME) Agencies have set up an online catalogue of education institutions in Kosovo in order to enhance cooperation and transfers of expertise and technology to SMEs. *Overall*, the education sector is still affected by the lack of adequate facilities and characterised by poor outcomes.

Total investment stood at around 30% of GDP in 2010, almost unchanged over the previous year. Public investments (predominantly in road infrastructure) expanded but the growth in private investments appears to have been curtailed, judging from the 13% annual reduction in

imports of capital goods. Construction of a highway towards Tirana continued and the first 34 km are scheduled to be opened to traffic by the end of October 2011. However, the scale of the project is not proportionate either to the forecast traffic or to the available resources and is crowding out other expenditure. Not much has been done to improve energy infrastructure and efficiency. *Overall*, there were marginal improvements in physical capital. The efficiency of government capital spending is questionable and information about the level and structure of private investments remained scarce.

#### *Sectoral and enterprise structure*

Kosovo's enterprise sector remains dominated by small and micro-enterprises. About 99.7% of the enterprises employ less than 50 people, contributing about 60% of the overall turnover in the economy. Access to and the cost of finance remained problematic, mainly due to the high risks in the economy. Measures to improve access to finance for SMEs are envisaged in the SME strategy adopted in July 2011.

In order to attract investors, the government is considering long-term power purchase agreements of up to 20 years between the new generation company and the distribution and supply company. In a similar vein, it is contemplating recommending a possible multi-annual ban on new entrants to the market for mobile telephone service-providers. Measures such as these would hinder competition. In 2010, KEDS's billing and collection rates improved slightly, supported by the lack of electricity price increases, but they still remain low.

The informal sector is fuelled by weaknesses in tax and expenditure policies and, in law enforcement, including the fight against corruption and organised crime. It reduces the tax base and the efficiency of economic policies. As a measure to combat the informal economy, the Kosovo tax administration continued to issue fiscal numbers and to install fiscal cash registers. However, these registers are still not systematically used. *Overall*, the enterprise structure remained unchanged. The large informal sector poses a big challenge.

#### *State influence on competitiveness*

A Law on State aid was adopted in July 2011. Under this law, State aid will be granted mainly for social purposes. The Law provides for the State Aid Commission to approve State aid, which will be monitored by the Competition Commission. Budget subsidies and capital transfers to publicly owned enterprises totalled 1.7% of GDP in 2010, down from a high of 2.4% in 2009. Another 1.5% of GDP were channelled to support the investment programme of the Kosovo Electricity Company. Electricity prices remained unchanged, below cost-recovery levels. The government has set up a limited grant scheme consisting of coupled payments to cereal and livestock farmers and matching grants for the dairy, fruit and vegetables sectors at farm level. It has also announced plans to substantially increase direct agricultural subsidies which, in view of the level of development of the sector, may be inefficient in comparison with other more structural support measures. *Overall*, state interference in the economy remained high but broadly unchanged.

#### *Economic integration with the EU*

The openness of the economy, measured by the value of imports and exports of goods and services in relation to GDP, increased to 81.2% from 70.5% in 2009. Exports to the EU Member States recovered from a slump in 2009 and grew by 84%, accounting for 45% of total exports of goods. Exports to CEFTA countries increased by 33%, although their share

declined from 32% to 24%. Since the beginning of 2011, after the expiration of the autonomous trade measures and due to a delay in their renewal, Kosovo no longer benefits from preferential access to the EU market. The EU and CEFTA countries remained the main origin for Kosovo's imports, with shares of 38.3% (39% in 2009) and 37.2% (35.8% in 2009) respectively. With about two thirds of the new foreign investment inflows in 2010, the EU countries were the biggest investors in Kosovo. *Overall*, economic integration with the EU remains significant.

#### 4. EUROPEAN STANDARDS

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

##### 4.1. Internal market

###### 4.1.1. Free movement of goods

There has been limited progress in the area of **standardisation**. Four new technical committees on agri-food, leather, toys and recreation, and information technology were established bringing the total number of such committees up to 18. An administrative instruction on the organisation and functioning of these technical committees was adopted. To date, around 3,400 European standards (ENs) were adopted as Kosovo standards, including a number of harmonised standards related to New Approach directives. The Agency is still not a member of any European or international standardisation organisation. Kosovo also needs to develop a medium-term strategy for standardisation.

There has been some progress on **conformity assessment**. The law on technical requirements for products and conformity assessment was amended in August. Two administrative instructions were adopted in 2010 aiming to transpose the harmonised *acquis* on lifts and on electromagnetic compatibility. 17 testing laboratories and 1 inspection body were accredited in accordance with EN/ISO standards, covering food analysis for water and fuel chemical testing, as well as physical-chemical and mechanical testing of construction materials.

There has been some progress on **accreditation**. The law on accreditation and the administrative instruction on the composition and functioning of the Council for Accreditation were amended. The Accreditation Directorate, which continues to operate under the Ministry of Trade and Industry, revised its quality management systems documentation. The Directorate has a cooperation contract with the European corporation for accreditation (EA) and applied in November 2010 to sign a bilateral agreement with the EA under the conditions applicable to signatories of the EA multilateral agreement in the field of testing laboratories. The pre-peer evaluation assessment took place in May. The Directorate also became a member of the International Laboratory Accreditation Cooperation (ILAC) in July, and of the International Accreditation Forum (IAF) in 2010.

There has been some progress on **metrology**. The law on metrology was adopted in October 2010 which enables transposition of the New Approach directives. Implementing provisions

for pre-packages and measuring units were adopted, as were administrative instructions in the fields of thermometry, electronic power meters, electronic meters of reactive energy, flow of fluids except water and non-automatic weighing instruments. Compatibility of the existing metrology legislation with the *acquis* has not yet been assessed. The Metrology Department currently employs a staff of 12. The two laboratories of the Metrology Department, based in Pristina and in Prizren, started their operations in 2010. These laboratories do not yet meet all relevant international standards as there are no documented quality management systems, calibration procedures or verification procedures for measuring instruments. The Metrology Department became a liaison organisation of the European Association of National Metrology Institutes in October 2010.

There has been some progress in the area of **market surveillance**. A new law on market inspectorate and surveillance which takes account of Regulation (EC) 765/2008 on accreditation and market surveillance entered into force in September 2010. Its compatibility with the horizontal *acquis* has not yet been assessed. Two administrative instructions were adopted in 2011 for the organisation and functioning of the Market Inspectorate and for the legal documents of the Inspectorate. There is still no detailed strategy for market surveillance in Kosovo. The division of responsibilities between the market inspectorate and the metrology department is still not clearly defined. Over 3000 inspections were conducted between September 2010 and March 2011. Lack of laboratories to test products hinders effective market surveillance activities. The procedure for destroying confiscated dangerous products remains a challenge because of an incomplete legal framework, and the absence of appropriate premises.

No legislative progress has been made concerning **consumer protection**. The implementation of the consumer protection action plan 2010-2014 has continued, and awareness-raising campaigns have been intensified. One citizens advisory centre was opened and a website listing dangerous products is online. The administrative capacity has not improved.

*Overall*, some progress has taken place in the legal framework. Approximation with the EU *acquis* in the area of free movement of goods is limited. Better coordination of, and a strategy for the alignment process for the whole of the European *acquis* for Free Movement of Goods is needed. Further progress in the approximation of product specific legislation is necessary. The administrative capacity for the legislative approximation, implementation and enforcement are inadequate. Adequate human resources need to be dedicated to completing the legal framework and to implementing the existing provisions. Considerable efforts are still needed in this area.

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

Limited progress has been achieved in the area of free **movement of persons**. Kosovo has started preparations for developing and negotiating bilateral social security agreements with EU member states and countries in the region at the beginning of 2011. Following the entry into force of the law on work permits and employment of foreign citizens in March 2010, a total of 1682 work permits for foreigners have been issued. Institutional capacities in the area of free movement of persons remain limited.

Limited progress has been achieved regarding the **freedom to provide services**. A database on services-related legislation was completed in June. Statistics on services continues to be insufficiently available.

There has been limited progress on *postal services*. The telecommunications regulatory authority adopted implementing legislation on licensing fees for postal operators providing postal services on the territory of Kosovo. A separate department for postal services was established within the telecommunications regulatory authority, as called for by last year's law on postal services, and recruited the senior postal services officer. Administrative capacity still needs to be further strengthened.

Some progress can be reported in the area of *financial services*. The law on deposit insurance created the legal base for establishing the Deposit Insurance Fund of Kosovo. Its Board was appointed in July, including the Governor of the Central Bank, a representative of the ministry of Finance, representative of SCAAK (association of certified accountants) and one expert in banking recruited through a public selection. The assessment of the regulatory and supervisory regime led to a roadmap for the migration from a rule-based CAMEL approach (capital adequacy, asset quality, management, earnings, and liquidity) to a more forward-looking risk-based supervision approach. Capital adequacy criteria are only partially aligned with those of Basel II. The Central Bank has the capacity to implement an effective supervision of the financial sector.

There has been some progress in the area of *insurance*. The assembly adopted a law on compulsory third party insurance, which establishes a national bureau for insurance and a fund to which insurance companies have to contribute. This fund will ensure that green card holders in Kosovo get paid in case of damage. This is a precondition for Kosovo applying to the Council of Bureaux for Green Cards for temporary membership (in the absence of UN membership), foreseen for the beginning of 2012.

There has been some progress in the area of *securities*. Further steps have been taken to develop a capital market. For this purpose, in the framework of the 2009 law on public debt, an open market operations unit was set up anticipating future auctions of government securities. The unit is part of the asset management directorate of the Central Bank.

There has been little progress regarding **the right of establishment**. Alignment with EU standards on the recognition of professional qualifications is limited.

Some progress has been made in the area of **company law**. The law on business organisations adopted in June brings the legal framework closer to EU standards and strengthens provisions on avoiding conflicts of interest and requirements with regard to external audits of companies. The number of municipal business centres or 'one-stop-shops' to set up companies has been increased from 8 to 22 (*see also chapter 4.2.1 on SME policy*). The law on accounting and audit has been implemented.

*Overall*, alignment with European standards in the area of movement of persons, services and right of establishment as well as company law is at an early stage. Administrative capacity needs significant reinforcement, in particular in the area of postal services. Alignment and administrative capacity concerning financial services are more advanced.

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

There has been limited progress concerning free **movement of capital**, in the context of an already liberal regime. There are no restrictions regarding foreign ownership or investment in the financial sector or in other assets. As an illustration, foreign banks control around 80% of Kosovo's banking sector. In 2011, overall foreign direct investment increased compared to its

level in 2010, reaching 7.6% of GDP. Kosovo does not have a stock exchange or a financial market.

Limited progress has been made on **payment systems**. The Central Bank developed software for the introduction of a real-time gross settlement system which is part of the National Payment Strategy. Actual implementation of this strategy awaits adoption of the law on payments. As regards international payments, efforts to negotiate an interim SWIFT code (an ISO 3166-1 user assigned code) in the absence of UN membership have not been successful.

*Overall*, the system for capital movements is very liberal. Further reform is needed to introduce Basel II risk requirements, and to establish a legal framework in line with EU standards on the free movement of capital and payment systems. The capacity of the Central Bank to supervise the sector is adequate.

#### 4.1.4. *Customs and taxation*

There has been some progress in the area of **customs**. The Customs Service adopted amendments to the administrative instruction on disciplinary procedures to counter allegations of unprofessional conduct of customs staff. Overall revenue collected by the Customs Service until the end of July 2011 amounted to € 426.8 million, compared to € 359.5 million in the same period of 2010. The internal anti-corruption unit deals with a backlog of cases from 2010. The Independent Review Board for appeals by businesses and taxpayers of the Tax Administration and Customs Service still has over 2500 cases to handle and its decisions are often of poor quality. The independence and impartiality of this board needs to be strengthened.

Before the incidents at the gates 1 and 31 in northern Kosovo at the end of July, EULEX Customs registered goods declared to them and instructed drivers to report to the Kosovo Customs Terminal at south Mitrovicë/Mitrovica. Kosovo Customs operated one static checkpoint on each of the main roads from gates 1 and 31, several kilometres south of the gates, where they made a limited check on some of the vehicles. The Customs service estimated that roughly 25% of the commercial vehicles did not comply with the instructions and diverted to other locations in the north before reaching the Kosovo Customs checkpoints.

In the scope of the Belgrade/Pristina dialogue, an agreement has been reached on customs stamps. Kosovo lifted its embargo on Serbian goods and Serbia and Bosnia and Herzegovina recognised Kosovan stamps. Free movement of goods has been re-established. The gates 1 and 31 are staffed by a mixed team of EULEX and Kosovo Police and Customs from both ethnicities.

Cooperation agreements have been signed with the former Yugoslav Republic of Macedonia and with Slovenia aimed at harmonising trade statistics. A protocol on electronic exchange of data on prior arrival has been signed with Montenegro. Preparatory work to replace the present Customs Data Processing System with Asycuda World (Automated System for Customs Data), provided by UNCTAD, has continued.

*Overall*, Kosovo's customs legislation is largely in line with the EU Customs Code. The Independent Review Board needs to function more effectively and reduce the backlog of cases.

There has been some progress in the area of **taxation**. The Tax Administration of Kosovo adopted an administrative instruction in November which clarified the powers of units such as the tax investigation unit and the unit dealing with appeals. The Tax Administration started to implement the 2010 tax compliance strategy and the strategy plan 2010-15. The Strategy led to shorter procedures for dealing with non-filing tax payers, refund claims and appeals. At the same time, the implementation of the strategy would be further enhanced by upgrading the Administration's IT system - SIGTAS.

As of April 2011, companies applying for a fiscal number receive it within one day and checks are performed afterwards. During 2011, 8,800 fiscal numbers were issued, taking the total to 48,800, which is still less than the total number of firms registered by the business registration agency (around 105,000). The fiscal numbers can be used as a good indicator of active businesses, showing that a significant number of activities remain unregistered. Total tax revenue until end July 2011 was € 138 million, compared to € 117 million over the same period of the previous year.

*Overall*, there has been some progress in the area of taxation, mostly related to the implementation of reforms to support the tax compliance strategy.

Some progress has been made as regards **administrative and operational capacity** of the Kosovo customs. The Customs Service's anti-smuggling units have conducted a number of operations to tackle smuggling and tax evasion. Large intelligence-led operations have led to seizure of significant quantities of alcohol, much of it counterfeit. There have been increased efforts to tackle illicit and counterfeit pharmaceuticals. An organisational review was conducted and it confirmed the significant modernisation efforts of the Customs Service, even if some gaps remain and further effective reforms and modernisation need to be implemented.

In terms of the tax administration's administrative and operational capacity, its regional offices introduced performance indicators to measure the quality of their services to tax payers. A risk management unit was established to increase the capacity to identify risk to revenues originating from economic activities. More than 9,000 businesses have been equipped with electronic fiscal devices. Tax payer awareness activities have also increased and internal training of officers has continued. The Tax Administration has carried out more compliance visits at firms and – together with the police – checks of trucks related to goods of unclear origin. In the fourth quarter of 2010, an interface was established with the commercial banks in Kosovo in order for all tax payments made through these banks to be automatically registered by the Tax Administration. An organisational review concluded that creditable efforts in the modernisation process have already been undertaken by TAK. A range of gaps still remain, and therefore further effective reforms and modernisation need to be implemented.

*Overall*, enforcement of customs has improved, notably in the areas of the fight against smuggling and counterfeiting, but efforts need to be further enhanced. Administrative capacity to enforce tax payments and to reduce the large informal sector remains low. In this regard, the efficiency of the work and cooperation between the Tax Administration, the courts and the police needs to be enhanced.

#### 4.1.5. *Competition*

There has been some progress in the area of **competition**. The legislative framework for **anti-trust and mergers** has improved through implementing legislation complementing the 2010

law on protection of competition. This legislation includes statutes and working methods of the Kosovo Competition Authority and the implementation of the merger rules. The competition law is to a large extent now compliant with EU standards, but still needs to be aligned further, e.g. as regards the definition of a dominant market position. The turnover thresholds for the obligation to notify planned mergers ought to be adjusted to a level appropriate to the size of the Kosovo economy.

Some progress may equally be noted in enforcing competition rules. The Kosovo Competition Authority adopted decisions concerning breaches of competition rules by companies active in the markets for retail motor fuel, fiscal cashiers and insurance. Fines were imposed on certain companies in these sectors. Actual payment of fines is subject to the outcome of any appeals by the companies. The Authority has not adopted any merger decision and it has continued to build up experience. The Authority suffers from a lack of experienced staff and still does not have its own premises. It is housed in the Kosovo Parliament building. More resources need to be devoted to advocacy on competition rules, especially among SMEs.

The law on **State aid** was adopted in July and will enter into force on 1 January 2012. This law foresees a State Aids Commission consisting of representatives of various ministries, civil society and the private sector. Monitoring of approved State aid will be carried out by the Kosovo Competition Authority.

*Overall*, some progress has been made in the field of competition. Implementation of anti-trust and merger policy is still at an early stage. The competition law needs to be amended to be aligned more closely with the EU *acquis*. The administrative capacity of the Kosovo Competition Authority is insufficient for the tasks assigned to it and existing staff need further training. Alignment of State aid policy is at a very early stage and there is no track record of implementation.

#### 4.1.6. *Public procurement*

Progress can be reported in the area of public procurement. A first version of the law on public procurement was adopted in November 2010. It contained a number of provisions that significantly diverged from the public procurement directives and exposed procurement officers to political interference and pressure, and thus undermining the transparency and accountability of the overall process and opening up opportunities for corruption. A new version of the law was adopted in August 2011, which addresses most of the deficiencies of the previous law and significantly increases the compatibility with EU standards. It also reinforces the independence of procurement officers.

The Public Procurement Regulatory Commission issued several administrative instructions, which regulate, inter alia, the use of languages in public procurement documents, public opening of proposals and examination, evaluation and comparison of proposals, the use of selection criteria, etc. The Commission submitted its 2010 Report to the Parliament for approval. Around 13,500 contracts were signed in 2010, of which open procedures accounted for 85% of the total number of contracts whereas the restricted procedure was not used. Direct single source procedures decreased in 2010 thus accounting for 7% of contracts in 2010. 430 complaints have been received and reviewed by the Procurement Review Body in 2010. Framework contracts are still not used. This would reduce the number of tenders and would allow for better price conditions.

Measures against cases of misconduct in the tendering procedures have been undertaken in several cases by issuing directives to the contracting authorities concerned. The Procurement Review Board had to issue only one fine to a contracting authority who did not comply with the directive. The minimum amount of fines is relatively modest (€ 5,000) and does not have a sufficiently dissuasive effect.

161 contracting authorities currently operate in Kosovo. The current law provides that the procurement officers have to undertake up to 15 days training within one year, compared to 10 under the previous rules. Training is provided by the Kosovo Institute of Public Administration and in cooperation with the Public Procurement Regulatory Commission. 489 procurement officers were certified after attending the training.

There are overlaps between the three public procurement bodies (Procurement Agency, Procurement Review Board and Procurement Regulatory Commission), and the division between regulatory and executive powers is not entirely defined. Efficient cooperation and inter-institutional co-ordination mechanisms need to be improved.

*Overall*, the procurement legislation is not yet in line with European standards. Kosovo still needs to complete and improve the legal framework in the public procurement area. Notably, the law on public private partnerships and concessions needs to be amended to meet the requirements of the *acquis*. The three public procurement bodies need to cooperate more efficiently. Awareness of public procurement procedures by contracting authorities and economic operators needs to be raised and independence of public procurement officers needs to be further strengthened.

#### 4.1.7. *Intellectual property law*

There has been some progress concerning legislative aspects of **intellectual property rights**.

There has been little progress in the area of **copyright and related rights**. An anti-counterfeiting strategy is yet to be developed. No collecting societies exist in Kosovo.

There has been good progress concerning the legislation in the area of **industrial property rights**. The 2010 laws on patents, trademarks and industrial designs were amended in July with the aim to make them compliant with the EU legislation. A Trademark Database was established, but is not yet functional. At the same time, the digitalisation of data for over 10,000 applications was finalised in May. In 2010, 1,480 decisions on trademarks and 147 on patents were taken. In 2010, the Industrial Property Office received 550 applications on trademarks, 85 on patents and 4 on industrial designs. The backlog of applications remains very high, with 17,000 trademarks 4,000 designs and 500 patents outstanding. Proceedings remain lengthy. The Industrial Property Office is still understaffed and its premises are not adequate.

Some progress has taken place in enforcing intellectual property rights. An Intellectual Property Rights Unit was established within the Kosovo Customs and became fully operational in January. Risk profiles on goods that may infringe property rights were drafted and awareness activities on intellectual property rights have increased.

A memorandum of understanding between the Customs Service and the Industrial Property Office was signed. The division of competences between Customs and the Ministry of Environment and Spatial Planning still needs to be clarified. The Customs Service has made

efforts to enforce IPRs, goods have been seized (and in some cases destroyed) and significant fines were imposed. In general, counterfeit products and piracy remain issues of concern in Kosovo. Punitive measures against industrial property rights infringements still need to be clarified. Destruction procedures for goods harmful to public health are not fully defined. They cannot be put into practice because of gaps in the legislative framework as well as inadequate administrative capacity, including adequate facilities to destroy dangerous goods.

Piracy is widespread and commerce of pirated material takes place in public view without sanction. Kosovo needs to carry out a rigorous assessment of the scale of the challenge in order to design the most appropriate tools and put in place the necessary institutional framework to fight piracy.

*Overall*, Kosovo has started efforts to align its legislative framework with European standards in the area of intellectual property rights. Some steps have been taken to increase administrative capacity in this area. The overall capacity remains insufficient and enforcement continues to be a challenge. Counterfeiting and piracy remain issues of serious concern in Kosovo.

#### 4.1.8. *Employment and social policies, public health policy*

Kosovo has made some progress in the field of **employment policy**. By implementing the Employment Strategy 2010-2012, it has further contributed to create new employment opportunities, notably through public work schemes. The Ministry of Labour and Social Welfare endorsed a sectorial strategy and its related action plan 2011-13 focusing on job creation policies and the development of active employment measures. Implementation of the employment strategy has started, focussing on young people, persons with disabilities, social assistance beneficiaries and people suffering from poverty. The public employment service has pursued its proactive registration of job seekers. Resources and capacities are not sufficient to cope with all disadvantaged people who are mostly outside of the labour market. Some efforts have been made to modernise employment bureaus. At the same time, their capacity needs to be strengthened. Social partners have little influence in drafting the employment strategies.

Employment rates remain very low and youth unemployment and long-term unemployment are alarmingly high. Additional commitments from the government to address the challenge and decisive action by the government are needed.

Some progress can be reported as regards **social policies**.

The adoption of the *labour law* has strengthened the legal framework. The cost of its implementation may not be sustainable. Its implementation requires close monitoring, notably to pay attention to a possible increased vulnerability of women on the labour market, due to the newly-provided extended maternity leave.

In the area of *health and safety at work*, limited progress has been made. Labour inspectors are also operating in municipalities of Obiliq/Obilić, Shtërpçë/Štrpce and Graçanicë/Gračanica. The labour inspectorate still needs to improve its efficiency in exercising its duties. The number of labour inspectors remains insufficient. Accidents that happen at the work place need to be registered.

Some progress has been made in the field of *social dialogue*. The law on trade unions was

adopted, regulating their establishment and mandate. The new law on the socio-economic council was adopted. The socio-economic council became operational. Discussions took place between social partners on setting the minimal wage. The dialogue between the government, employers' organisations and trade-unions needs to be improved. The bipartite social dialogue at branch- and company-levels requires additional promotion. The lack of reliable data on trade union membership prevents representative unions from being designated.

There has been limited progress in the area of *social inclusion including anti-discrimination (see also Political criteria)*. The minimum standards for five different social services were determined. They represent a template for the standards of other social services, which are currently being drafted. The procedures to license providers of social services were developed. The Roma, Ashkali and Egyptian minority communities continue to face the most serious challenges in terms of social inclusion. In the area of gender equality, some progress can be reported. Kosovo adopted its programme and action plan against domestic violence. Actions to protect the victims of domestic violence have continued with the active involvement of civil society organisations. They are monitored by the government, which is partially financing these activities, notably the enforcement of the law. Research on gender equality has improved. The implementation and enforcement of the legislation require further efforts to affect positively the situation of women. In order to address high female unemployment, more job opportunities are needed. The low representation of women in key sectors of society remains a concern. Lack of employment opportunities is an overall challenge to achieving a higher level of social inclusion. In order to implement and monitor policy effectively, official statistics on social exclusion and poverty are required, as well as adapted resources.

Limited progress can be reported on *social protection*. Decentralisation of social services has continued. At the same time, adequate resources for this process have not been secured. The law on social assistance scheme and the law on social and family services were not adopted. There were cases of undue political interference in the appointment of certain directors of the centres for social work in municipalities.

There has been some progress in the area of **public health policy**. The health information system strategy and action plan 2010-2020 were adopted and Kosovo has started its implementation. The implementation of the 2009 health strategy continues. The legislative framework was strengthened by the adoption of twelve administrative instructions. The tobacco law continues to be implemented. Awareness-raising campaigns as well as site inspections have been intensified. The provisions concerning smoking in public areas need to be enforced. Laws on health and health insurance still need to be adopted. Statistical data at municipal level remains limited. Very little progress has been made in implementing the blood, tissues and cells legislation. Kosovo's child mortality rate continues to be high.

The fight against drug abuse has not yet been addressed and neither has the policy on prevention of non-communicable diseases. There has been very little progress in implementation of breast, cervical and colorectal *cancer* screening programmes in accordance with the EU Council Recommendation.

The provision of health services does not adequately reach minority communities. The availability of data on the health status of the Roma, Ashkali and Egyptian (RAE) communities is limited. In the framework of the resettlement of lead-affected Roma, Ashkali and Egyptian) communities, the Ministry of Health endorsed a lead screening and treatment protocol. A family medicine centre in Mitrovicë/Mitrovica is responsible for carrying out

specific treatments to children diagnosed with high blood lead level. Levels of lead contamination in the Mitrovicë/Mitrovica area remain high. Full vaccination coverage in the RAE communities is lower than in other communities. From January 2011 the institute for public health carried out a vaccination campaign, inoculating more than 800 children from the RAE communities against various diseases.

In the area of *mental health*, provisions on mentally disabled persons need to be included in the health strategy action plan. Adequate funding for proper restructuring of the sector is needed. Further actions are needed to promote inclusion of people with mental health problems, notably in the education system, and their empowerment.

In general, the Ministry of Health continues to be affected by a lack of adequate funds and capacity. The health sector's low budget still hampers the fulfilment of basic needs for mother and child healthcare.

*Overall*, some progress can be reported in the employment, social policies and public health sectors. The legislative framework was improved notably by the adoption of the labour law, the law on trade-unions and the health information system strategy. At the same time, the administrative capacity remains limited and enforcement of legislation requires rapid action.

#### 4.1.9. *Education and research*

There has been some progress in the field of **education**, notably as regards the legislation. The Education Strategy Paper 2011-2016 was finalised and a budget was allocated for its implementation. The revised legislation for preschool, primary, secondary and higher-education was adopted as well as policies for tackling the high drop-out rates of students, and violence at school. The Curriculum Framework was finalised. The participation in Tempus is increasing and the awareness about its benefits for public and private education institutions is improving. The administrative capacity to manage Tempus projects was strengthened. The European Association for Quality Assurance in Higher Education granted associate status to the Kosovo Accreditation Agency.

The revised legislation foresees a number of new bodies, funding of which is not yet secured. Greater attention is needed on quality management and quality assurance in education, particularly in the field of teacher training and the system of student and teacher assessment. There was an undue political interference in the appointment of certain school directors. Various programmes run by the Faculty of Education of Pristina University have not met the accreditation standards of the Accreditation Authority. The law on adult education and the law on vocational education training need to be reviewed to bring them in line with other legislation such as the law on national qualifications. The institutional capacity of the Qualifications Authority needs to be improved to implement further the law on the National Qualifications Framework. The draft procedures on the validation of qualifications and accreditation of the Vocational Education and Training providers require field testing and effective implementation. The Council for Vocational Education and Training needs to become fully operational. Women's access to vocational training needs to be strengthened. Kosovo needs to develop statistics and data on education, including the number of students and the employment rate of graduates.

Inclusive education requires increased awareness, attention and actions, notably to enhance the situation of marginalised groups such as children from minorities and children with disabilities. Schools and local authorities need to ensure equal opportunity to education for

children from vulnerable groups. The strategy for integration of RAE in education provides a good framework. Learning centres for Roma pupils were opened. Simplified school registration of Roma pupils, which was guaranteed through an administrative instruction, remains to be enforced by the directors of schools. Pro-active measures to encourage enrolment and retention of Roma, Ashkali and Egyptian children need to be implemented.

The high proportion of school-age children in the population and characteristics of the education system require enhanced commitments and resources from the government to develop capacities at central and municipal levels to implement the legislation.

On **research and innovation**, limited progress can be reported on the alignment with European standards. At the same time, it was declared a priority policy in 2010. The national science programme was implemented, funding research projects in the six priority areas for a total amount of € 1 million. Some support was granted to facilitate access to publications in Albanian language, one of the official languages. To stimulate the scientists, a prize was organised for the best Kosovan researcher of the year and the new researcher of the year. Participation in the Seventh European Research Framework Programme (FP7) has slightly increased in terms of submissions, but was very limited in successful and funded projects.

There has been no progress with respect to investment in research. Substantial efforts are thus necessary to contribute to the objectives and targets of the European Research Area and Innovation Union.

*Overall*, Kosovo is gradually progressing towards its priorities on education and research. The implementation of the legislative framework needs to be enhanced through improved coordination between central and local levels and by allocating more resources. Achieving progress in research requires additional and sustained efforts.

#### *4.1.10. WTO issues*

Kosovo is not a member of the WTO and has not taken any formal steps to join it.

## **4.2. Sectoral policies**

### *4.2.1. Industry and SMEs*

There has been some progress in the area of **industry** and **SMEs**. In July, the Government adopted the Strategy on SME Development for the period 2012-2016 with the vision 2020. The goals of the strategy are built around the principles of the Small Business Act for Europe. The SME Support Agency, in the Ministry of Trade and Industry, is the main institution responsible for implementing this strategy. The Agency, together with the Chamber of commerce and the regional development agencies have increased efforts for better coordination and communication between educational institutions and SME's in Kosovo.

The business register includes 105,000 companies. Data from the Tax Administration, based on the fiscal numbers issued, suggests that only less than half of them are actually active. To deregister after becoming inactive, companies have to present to the business register a statement from the Tax Authority that all outstanding tax obligations were fulfilled. Online company registration has only been possible at the 'one-stop-shops' or municipal business centres that were established in 22 municipalities. Full online business registration is still not possible.

The Ministry of Trade and Industry adopted an industrial strategy in 2009. The government still needs to endorse it. Industry and SME development in general continues to suffer from difficulties with the legal enforcement of contracts, unreliable electricity supply and limited and expensive access to finance.

*Overall*, coordination and cooperation need to be increased between relevant actors in the area of enterprise and industrial policy (agencies for SME development and investment promotion, chambers of commerce, banking association, courts, regional development agencies, etc.). The implementation plan for the SME and industrial strategies needs to be adopted, adequate budget allocated and the responsible authorities need to be strengthened.

#### 4.2.2. *Agriculture and fisheries*

In the area of **agriculture and rural development policy**, there has been limited legislative activity. Changes to the law on wine were adopted in July, entailing further specifications regarding classification, assessment and determination of the geographical protected origin.

The Ministry and the Kosovo Food and Veterinary Agency need to assume new tasks related to direct payments and the transfer of inspection powers from municipalities to the Agency. The overall 2011 budget for both institutions is some 7% lower than in 2010. The farm register is being upgraded to include data from other registers, such as the animal registry and the vineyard register. The small average size of farms in Kosovo, the many subsistence farmers and the large informal part of the agricultural sector complicate data-gathering for the farm accountancy data network. This in turn affects policy-making. Discrepancies continue to exist between EUROSTAT and the Statistical Office of Kosovo figures on EU-Kosovo agricultural trade.

The Ministry has continued its scheme of coupled payments to farmers, in the sectors of cereals and livestock, and aid for processing and marketing for the dairy, meat, fruit and vegetables sectors at farm level, through the Payment Unit established last year in the Ministry. Advisory services do not yet inform farmers how to apply for the grants. Commercial funding from Kosovo's banks remains costly (often prohibitively so) for farmers both in terms of interest rates and collateral requested.

Following last year's changes to the law on forest management, many forestry competences were transferred to municipalities, several of which drafted long-term forest management plans. This allows long-term licences for wood logging to be issued, in turn leading to a more sustainable forest management. In January, the forest management annual operation plan was finalised by the Kosovo Forests Agency.

As **regards food safety, veterinary and phytosanitary**, the Monitoring and Scientific Boards of the Kosovo Food and Veterinary Agency were appointed at the beginning of 2011. The transfer of inspection competences from municipalities to the agency, as provided for by last year's food law, has still not been completed. This transfer needs to be finalised to control the continuing illegal animal trade and slaughtering and to strengthen the controls at livestock markets. Other challenges in this respect include the limited number of veterinary inspectors.

In December, the process of identifying and registering small ruminants and pigs started with the aim to complete it in a year's time. The IT infrastructure for the animal identification, registration and movement control system is still not fully operational. Animal registration

continues to be hindered by non-reporting of animal births and movement, as well as smuggling and illegal slaughtering.

Tender processes are underway for equipment at the laboratory of the Food and Veterinary Agency. This laboratory does not have sufficient staff and the infrastructure of the phytosanitary and veterinary border inspection points remains poor. No facilities for processing animal by-products exist. A feasibility study for establishing a rendering plant was completed. Discussions on urgently-needed landfill disposal as an interim solution have not yet led to any concrete results.

Four food hygiene regulations (deriving from new EU hygiene package) were adopted. In October 2010, the Food and Veterinary Agency completed an assessment of dairy establishments, slaughterhouses and meat processing plants, as a first step to drafting a strategy for upgrading these establishments. A working group was established in the area of plant protection to compile a list of all plant diseases currently present in Kosovo.

Most of the European standards on **fisheries** do not apply to Kosovo, which has no marine fishing.

*Overall*, Kosovo has made limited progress in the area of agriculture and food safety. Implementation of the legislative framework remains the main challenge, linked to administrative capacity building in the various institutions involved and the low budgets allocated to these sectors. Animal registration, disposal of animal by-products and evaluating agrifood establishment as a first step to their upgrade deserve particular attention.

#### 4.2.3. *Environment*

As regards **environment**, there has been limited progress in the area of *horizontal legislation*. An administrative instruction on participation and information of public stakeholders in the Environmental Impact Assessment procedures was adopted in July. Other implementing rules on Environmental Impact assessment and on Strategic Environmental Assessment were also adopted. The implementation of the law on environmental impact assessment has begun, but the quality of reports requires improvement. The Environmental Crime Directive was partially transposed. Cooperation between NGOs and the Ministry needs to be strengthened. Civil Society organisations are not sufficiently involved and consulted in policy-making. Public debate on environmental matters has to be further developed. 10 capital projects were implemented from the Environmental Action Plan; another 11 are in the process of being carried out.

There has been some progress in the area of *air quality*. Administrative instructions determining (*inter alia*) norms of air quality, monitoring points and number and frequency of measurements were adopted in 2010, another administrative instruction on norms of air quality was adopted in July. Three first stations of the air quality monitoring network came online, others are expected during 2011. The agglomerations and zones have not yet been identified and the air polluters' inventory also remains to be compiled. Inter-institutional cooperation between the Ministry of Environment and the Ministry of Energy has improved. The energy sector continues to be the main source of emissions of dust, SO<sub>2</sub> and NO<sub>x</sub>, which are substantially above the EU limits.

There has been little progress in the area of *waste management*. The Law on waste has not yet been adopted. Waste recycling and separation are still not tackled. The rate of waste bill

collection slightly increased in 2010, but it remains low. Local Environmental Action Plans drafted by Municipalities include also a waste management component.

With regard to *water quality*, there has been very little progress. The law on water has not yet been adopted. Kosovo currently has two waste water treatment plants; one more is in the process of being completed. Vulnerable zones and protected areas have not yet been designated and there is still no water quality monitoring programme. The drinking water supply system remains poorly developed and a significant part of the population is still not connected. Investments in this sector have been insufficient. The rate of water bill collection slightly increased in 2010, but in general, it still remains low.

Little progress has been achieved in the field of *nature protection*. Several administrative instructions related to last year's law on nature protection were adopted. The strategy and action plan on biodiversity were adopted in July. Institutional and administrative capacity in this field remains very weak.

Limited progress has been achieved in the area of *industrial pollution control and risk management*. Administrative instructions on the forms and content of an application for integrated permit, and on procedures for the development and approval of Best Available Techniques reference documents, as well as for the prevention of major accidents were adopted.

In the area of *chemicals*, there has been little progress, with the adoption of an administrative instruction on risk assessment. There have been no developments as regards, *noise* and *civil protection*.

There has been little progress in the area of **climate change**. Kosovo is not a Party to the UN Framework Convention on Climate Change. Kosovo has no climate change strategy, but is beginning to compile its inventory of greenhouse gases. Kosovo participated actively in the climate work under the Regional Environmental Network for Accession (RENA). Kosovo needs to take concrete steps towards transposing and implementing the EU climate *acquis*, particularly the Monitoring Mechanism Decision.

The **administrative capacity** remains very weak in the field of environment and climate change. Further efforts are required to improve the institutional arrangements to ensure co-ordination and cooperation among the institutions involved in the environment sectors. Efforts need to be made to separate political from operational functions in the Ministry. In September, the administrative instruction related to the organisation and structure of the Kosovo Environmental Protection Agency (KEPA) was signed, incorporating the hydro-meteorological institute under KEPA. The Strategic Development Plan for the Ministry of Environment has not yet been adopted.

The budget of the Ministry of Environment, although already insufficient, was decreased. This has a major negative impact on the ability of various institutions to perform their functions effectively. The Waste and Water Regulator also continues to be affected by the lack of human resources and face significant financial constraints.

*Overall*, alignment with European standards in the area of environment and climate change remains at an early stage. There has been very limited progress in adopting legislation. Implementation and enforcement of existing legislation is poor. Environment and climate change continue to be a low priority for Kosovo. There is an urgent need for awareness-

raising and strategic planning in the field of environment and climate change. Further efforts are required to improve the institutional arrangements in order to ensure co-ordination and cooperation among the institutions involved in environment and climate change. The budget devoted to the sector is insufficient to meet Kosovo's huge environmental challenges, in particular the considerable investments needs in infrastructure. Water and air quality require substantial attention to meet minimum requirements for human health. Kosovo needs to take steps towards establishing climate policies, particularly related to the EU climate change *acquis*.

#### 4.2.4. *Transport policy*

In the area of **Trans-European networks**, Kosovo has continued to participate actively in implementing the 2004 Memorandum of Understanding on development of the South-East Europe Core Regional Transport Network and in the South-East Europe Transport Observatory. The construction of Route 7 has continued. Some rehabilitation and maintenance was carried out for Route 6. Kosovo's main road infrastructure project (the highway to the Albanian border), remains an issue of concern due to its disproportionately high costs as a share of Kosovo's total budget, which continues to crowd out investments in other transport areas. The Multi-modal Transport Strategy and Action Plan is being updated and some operational objectives being modified.

There has been limited progress in the area of **road transport**. New criteria for licensing freight transport operators were adopted in an administrative instruction. The Road Safety Council has not met since September 2010 and the Road Safety Programme has been suspended in practice. The rate of traffic accidents, whilst slightly decreasing in 2010, remains very high. Vertical and horizontal signalling is insufficient. The new Division for Transport Policies in the Ministry of Infrastructure (which covers planning) still lacks adequate financial and human resources.

Some progress can be reported in **rail transport**. The unbundling of Kosovo railway infrastructure (Infrakos) and the train operations is underway: the 2 new companies (Trainkos and Infrakos) were registered in September. Their operational and financial unbundling still needs to happen. The network statement was drafted by Kosovo Railways, but has not been published as track access charges are still being discussed. The Railways Regulatory Body is now operational, but it lacks both staff and capacity; its budget is insufficient to carry out its tasks effectively. The Railway Safety and Accident investigation functions need to be separated. The Joint Border Crossing Agreement with the former Yugoslav Republic of Macedonia was signed. Kosovo Railways continue to be affected by serious lack of human resources and adequate financial allocation. A feasibility study for rail route 10, which is part of the regional core network, was completed, but no IFIs are interested.

There is no progress to report on **combined transport**.

There has been some progress in the area of **air transport**. Implementation into national legislation has been progressing as regards economic regulations and other fields required in the first phase of the European Common Aviation Area Agreement (ECAA). As regards some of the legislation required under phase two, national implementation measures were adopted, but are subject to quality check. Pristina International Airport was reclassified as being 'schedules facilitated' from July following a capacity analysis. Kosovo still needs to implement elements of the EU Regulation on allocation of slots.

The Kosovo Civil Aviation Authority (KCAA) is not a part of the system standardisation and safety assessment on foreign aircrafts, as a consequence of disagreement on status. The first aviation medical centre was approved in January and it issued its first medical certificates for air traffic controllers in March. Laws establishing air navigation services as well as accident investigation still need to be adopted. In Air Traffic Management Kosovo continues to make good progress as regards regulatory convergence with the associated *acquis*, its ECAA obligations, with the focus now being on implementation and ensuring a sustainable structure for the National Supervisory Authority. Kosovo's aviation sector continues to suffer as a result of overflight restrictions imposed by Serbia for flights coming in and out of Pristina, which has a financial impact for the air operators and an environmental impact for the region.

*Overall*, alignment with the EU transport *acquis* is ongoing. Kosovo continues to make solid progress in aviation, but is hampered by issues linked to status. The development of railways contrasts with the low budgets devoted to this transport mode, a consequence of the oversized investment in one road project. Further efforts to improve road safety and to develop Kosovo Railways are required.

#### 4.2.5. Energy

The energy sector continues to suffer serious problems. Power cuts continue to occur as a consequence of the energy utility's dire financial condition resulting from difficulties regarding electricity billing and collection.

There has been no development regarding **security of supply**. Kosovo still has no strategy to reach the required level of oil reserves. Implementation of investment and maintenance consistent with the electricity transmission development plan 2010-2019 has made Kosovo's transmission system more reliable. Kosovo's electricity transmission system operator still does not participate in regional mechanisms to plan and remunerate electricity transit, due to differences over its status. The resulting lack of control imperils the stability of Kosovo's power system and Kosovo loses out on transit revenue.

Some progress has been made regarding the **internal energy market** and implementation of the Energy Community Treaty. In October, the Assembly adopted implementing legislation to the laws on energy, electricity and the energy regulator to align Kosovo further with the EU's second internal energy market package. Work on the development of the new lignite-fired Kosovo power plant has continued. A final request for proposals was sent out to the four preselected bidders. At the end of 2010, coal exploitation has started at the Sibovc Mine, which is to be offered to investors as part of the New Kosovo Power Plant. Difficulties with regard to expropriation make it impossible to uncover the necessary coal mass, endangering coal supply to existing power plants in the near future. The legal unbundling of the distribution and supply functions of the Kosovo Energy Corporation has not taken place, despite the obligation to do so under the law on electricity and the Energy Community Treaty. The privatisation of the distribution and supply functions of Kosovo Energy Corporation is yet to be concluded. Until completion of the new Kosovo power plant project, the other functions remain integrated in Kosovo Energy Corporation. The Serbian electrical power utility maintains an unlicensed branch in the north of Kosovo. As a result, Kosovo lacks control of its own network, which deprives Kosovo Energy Corporation of revenue, particularly since power is deviated from the Gazivoda hydropower plant to supply the north.

In March, the Government began implementing the action plan for decommissioning the remaining operational units of Kosovo A in order to comply with the Large Combustion

Plants Directive. The planned closure has been delayed with respect to the commitment taken by the Prime Minister in 2009.

The Energy Regulatory Office has maintained existing electricity tariffs, due to falling import prices and ongoing government subsidies to Kosovo Energy Corporation. With a view to the upcoming privatisation of the Corporation's distribution and supply functions and for tariffs to reflect actual cost levels a gradual increase is unavoidable. A decrease in government subsidies would facilitate this process. The Corporation's performance on billing and collection has improved, but remains an issue of concern. The proportion of power supplied that is actually paid for remains dangerously low: losses (whether technical or non-technical) account for more than 30% of energy available for sale), resulting in a loss of some € 100 million. As a result of investments, transmission losses were reduced. Low levels of bill collection (and non-cost-recovery tariffs) continue to fuel an unsustainable growth in power demand.

The law on **energy efficiency** was adopted in June. The accompanying action plan, aiming to increase efficiency by 9% in 2018, has still not been adopted. The law foresees alignment with the *acquis* in areas such as energy labelling, ecodesign, energy performance of buildings and energy end-use efficiency. In addition, it provides the legal basis for establishing an energy efficiency agency and lays down the procedures for setting up an energy efficiency fund to promote projects on energy efficiency and renewable energy sources. In September, Kosovo adopted a Heating Strategy, the aim of which is, *inter alia*, to reduce the use of electricity for space heating. Further technical preparations have been made for the cogeneration project at the Kosovo B power plant, to use waste heat to produce district heating, thereby also reducing CO<sub>2</sub> emissions. The actual investment is in doubt given the district heating sector's financial difficulties.

The first draft of the simplified **renewable energy** action plan was prepared within the framework of the Energy Community. A binding target for the share of renewable energy in the final energy consumption in 2020 is prepared for Kosovo within the framework of the Energy Community. Three international companies expressed an interest in constructing the 300 MW Zhur hydropower plant. There were 15 applications for constructing other small hydro power plants with a total capacity of 128 MW. The first three wind turbines in Kosovo, with a total capacity of 1.35 MW became operational and the regulator authorised an additional wind energy capacity of 126 MW. Kosovo needs to make further efforts to increase the share of renewable energy in the final energy consumption and to take measures to promote the use of biofuels in transport.

In the area of **nuclear safety and radiation protection**, the Radiation Protection and Nuclear Safety Agency is in the process of establishment under last year's law on protection from non-ionising radiation, ionising radiation and nuclear security. The Director and two technical personnel were appointed, and further recruitments are underway. There is no operator for radioactive waste management. Last year's law is very general and needs to be amended in order to transpose the EU nuclear safety and radiation protection *acquis*. Considerable further efforts are needed for Kosovo to transpose this *acquis* and align with international standards.

*Overall*, the authorities have made some progress on legal alignment and on the implementation of the Energy Community Treaty. In order to attract investment, continued efforts are needed to improve electricity billing and collection performance and to move to non-subsidised, cost reflective tariffs. Further efforts are required to improve energy efficiency in all relevant sectors including establishing monitoring mechanisms as well as

improving the use of renewable energy in all sectors. Kosovo continues to be negatively affected by Serbian interference in its power system.

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

There has been little progress as regards **electronic communications and information technologies**. The 2007 telecommunications sector policy is scheduled to be reviewed this year. The Telecommunications Regulatory Authority (TRA) adopted several implementing regulations: regulation on market analyses and definition of the providers with significant market power, regulation on full and shared unbundling of the local loop and the sub-loop, and the regulation for the provision of access and interconnection. Kosovo is lagging behind with implementing competitive safeguards and still has no international dialling code, nor an internet country code top domain name. Unlicensed (Serbian) mobile companies continue to operate in Kosovo. This interferes with Kosovo's spectrum management.

The process for privatising Post and Telecommunication Kosovo (PTK) is ongoing, but procedural delays have a negative impact on the regulatory development of the market. Management of the telecommunications sector was transferred to the Ministry of Economic Development, but with no improvement on administrative capacity. The regulator's human and financial capacity to ensure implementation and enforcement is insufficient, and the TRA has difficulties attracting and retaining staff. The regulator's financial independence is undermined as it is financed entirely from the state budget.

There have been no developments in the area of **information society**. The law on information society government bodies has not been adopted. This law is important to create a legal basis for an eGovernment Agency and a Government Forum for Information Society. The division of responsibilities and tasks between the different ministries and government levels on the information society issues needs to be clarified.

Some progress can be reported in the area of **audiovisual policy**. The Independent Media Commission (IMC) issued several regulations such as the regulation on protection of minors and children, regulation for the IMC license fee and regulation on cable operators aiming to align legislation in Kosovo with the EU audiovisual media services directive. For the first time, IMC monitored the election campaign. The IMC Council also completed the process of licensing terrestrial broadcasters and cable operators. During 2010, the IMC has renewed the operational licences of all existing TV stations that use a frequency to broadcast. There are no must-carry requirements to the cable operators when it comes to inclusion of Kosovo-wide and local terrestrial TV stations in cable packages. Most of the cable operators are carrying Kosovo-wide and local TV stations only on a fee-basis (and drop them from their package in the case of late payments), which seriously limits the audience's right of access to the terrestrial free-to-air channels.

The Assembly of Kosovo has yet to complete the appointment of five IMC Council members. The Supreme Court has not appointed the members/ chair of the IMC Media Appeals Board. The administrative capacity of the Commission has been strengthened, but low salaries relative to the industry make it difficult for the IMC to attract and retain staff.

The Assembly has continued the process of amending the law on the Independent Media Commission and Broadcasting. A draft which failed to preserve the IMC's independence in line with European standards on broadcast regulation was withdrawn. The IMC has made some progress with respect to the digitalisation process including establishing five working

groups. A digitalisation strategy has not yet been adopted. Kosovo is not a member of the International Telecommunication Union (ITU) and has therefore not been in a position to request digital frequencies. Serbia has asked the ITU to allocate one frequency on Kosovo's behalf. This is insufficient.

The Assembly of Kosovo has failed to take actions as concerns sustainable funding of Kosovo's public broadcaster Radio and Television Kosovo. At the same time, there have been extensive discussions and an unsatisfactory draft law was withdrawn in August. Its funding came from the Kosovo Budget on an ad hoc basis during 2011, and the broadcaster's budget was reduced from € 10.5 million to around € 8 million. The lack of sustainable funding undermines RTK's independence.

As public fee collection for RTK was suspended, the broadcaster failed to allocate 5% of this fee to the fund supporting minority, multiethnic and other special media, as required by law. Disbursement of the fund, which restarted in 2009, was therefore halted again. Minority media were not provided with information on allocation of the initial funds, even after several official requests. Inconsistencies between the law on defamation and insults and the criminal code have still not been resolved. According to European standards defamation is not a criminal offence. Kosovo does not apply the penal provisions on defamation, but since they remain on the statute book, legal uncertainty persists.

*Overall*, the administrative capacities of both regulatory bodies and the Ministry need to be strengthened. In electronic communications, Kosovo needs to complete introduction of competitive safeguards and build up capacity to enforce regulatory decisions. As a matter of urgency, Kosovo needs to develop a solution for the sustainable funding of the public-service broadcaster: the current budget-only funding undermines RTK's independence. In addition, the forthcoming Independent Media Commission law needs to preserve the IMC Council's independence.

#### 4.2.7. *Financial control*

There has been some progress on **public internal financial control**. An updated PIFC Policy Paper was adopted in May. The Central Harmonisation Unit for financial management and control published a manual for managers in budget organisations in order to adhere to last year's adopted treasury rule on financial management and control. Training material in the field of FMC is being developed. An administrative instruction was adopted on the tasks and functioning of internal audit committees in budget organisations. Training in the area of internal audit has continued, leading to more internal auditors being certified. This certification process needs to continue and the absolute number of internal auditors needs to increase. The Central Harmonisation Unit on Internal Audit completed a manual on risk and data management and started a program to raise awareness among ministers, permanent secretaries and CEO's of publicly owned enterprises on the relevance of internal audit.

The Office of the Auditor General updated its corporate development strategy. The main objective to be achieved by 2014 is the establishment of the Office as a sustainable institution, carrying out its business according to international best practices and ensuring that audited bodies address recommendations effectively. As of September 2010, the Office has conducted a limited number of performance and management audits, as well as financial management and control health checks in all budget organisations not fully audited to ensure that all budget spenders are visited each audit season. The number of regular audits has increased and fewer audits of municipalities are contracted out to private audit firms.

*Overall*, some progress has been made on financial control. Concerning internal audit, the basic legal framework is in place and the attention is now to be shifted towards its implementation. Practical implementation of public internal financial control has remained at an early stage. Internal audit needs to progress from compliance testing to being used as a managerial tool. Further awareness-raising is required to develop a greater understanding of accountability within management and to embed financial management and control systems. External audit practice is progressing well.

#### 4.2.8. *Statistics*

There has been some progress as regards the **statistical infrastructure**. The cooperation of the Statistical Office of Kosovo's with other institutions has improved. The amendments to the law on tax procedures now allow the tax administration to provide the Office with the necessary administrative data for the statistical business register. The statistical infrastructure of Kosovo needs to be strengthened. The Office lacks the necessary resources as well as the legal framework to carry out its mandate.

There has been limited progress on **classifications and registers**. Efforts are needed to implement the European classification of economic activities NACE Rev. 2 (NACE = Statistical nomenclature of economic activities in the European community).

As regards **sector statistics**, some progress has been made. Very good progress has been achieved in the area of population statistics. In April, Statistical Office conducted the Housing and Population Census. Throughout the preparatory phase, the Office met all operational deadlines and was ready to dispatch close to 5,000 enumerators on 1 April. In seven municipalities the enumeration was extended by four days due to under-enumeration or technical difficulties. A post-enumeration survey was conducted in order to verify the quality of data. An intense one-month campaign had preceded the enumeration phase. Special outreach efforts were made to inform minority communities about the census. Preliminary data were published in June. Processing of more detailed data sets is ongoing.

Enumeration in the three northern municipalities and in northern Mitrovicë/Mitrovica could not take place. UNOPS (United Nations Office for Project Services) had been mandated to implement the census in the northern municipalities, but the lack of cooperation of the Serbia-supported municipalities prevented UNOPS from conducting the enumeration.

As regards other areas of sector statistics, limited progress has been achieved. This is mainly due to the resources spent on the census and the limited budget of the Statistical Office: both the labour force survey and the agricultural household survey were cancelled in 2010 due to lack of resources. Macroeconomic statistics were produced in a timely manner. Since November, the Ministry of Finance publishes monthly public expenditure and revenue data on its website. The Economic Accounts for Agriculture were published for the first time in July 2011, covering the period 2005-2008.

*Overall*, some progress has been achieved in the area of statistics. The authorities conducted the population and housing census in a satisfactory manner. This provides an important basis for improving statistics in Kosovo. The census could not be organised in northern municipalities. Due to the limited resources of the Statistical Office, progress has slowed down in other areas. The legal framework needs to be improved and the capacity of the Statistical Office needs to be strengthened. Statistics are essential for evidence-based decision making, and the lack of reliable statistics in Kosovo needs to be addressed as a priority.

### 4.3. Justice, freedom and security

#### 4.3.1. Visa, border management, asylum and migration

Kosovo has no **visa policy**. The government has launched the procedure for establishment a visa policy system, and the Ministry of Foreign Affairs has put in place a working group for this purpose. In compliance with the law on foreigners, the Ministry of Internal Affairs has started implementing the "visitors procedure", whereby foreigners are required to send a number of documents before coming to Kosovo.

By the end of June, more than 827,000 passports were issued in total by the civil register agency, around 1,600 of which to Kosovo Serbs. The small number of valid UNMIK travel documents (30) will expire in December 2011. Some Kosovo residents have kept the old Yugoslav passport, which remains valid until December 2011.

The amended law on civil status was adopted in June. The Ministry of Internal Affairs has started addressing shortcomings of its civil registration system through the digitalisation process by finalising the scanning of 14,000 civil status registry books (4 million records). This will be followed by the second phase of entering the data into the new central civil status database. The database needs to be integrated with the Kosovo civil register. The inspectorate unit of the civil registration agency, established in early 2011 with a mandate to check the integrity of the processes related to civil status, civil registry books, vehicle registration and issuing of driving licences, is working well albeit with limited capacity.

Preparations for issuing Kosovo biometric passports have continued. The process of issuing biometric passports needs to be accompanied by an accurate and reliable civil registration. The cooperation between local embassies/offices and the agency for civil registration needs to be strengthened to improve the proper handling of reported fraud involving civil status certificates or ID documents.

*Overall*, Kosovo is at an early stage as regards the visa policy.

In relation to **border management**, Kosovo has made some progress. The improved version of the EU-funded border management IT system became operational at almost all BCPs as well as in regional and central police command centres. The joint task force of Customs and Police Services which was established to fight cross-border criminality and smuggling has started producing joint risk assessments. The three agencies involved in integrated border management (border police, customs and the Food and Veterinary Agency) have organised joint patrols along the border line. Joint operational actions have also been organised at border crossing points. Many structures of the integrated border management have been put in place.

Agreements enabling joint and synchronised police patrols of borders were signed between Kosovo and Albania and the former Yugoslav Republic of Macedonia. The joint patrols have been launched. Kosovo border police issued a new standard operating procedure for checking procedures at borders. Kosovo Police took over the responsibility from KFOR for the surveillance of the border with the former Yugoslav Republic of Macedonia and Montenegro. The border demarcation process with Montenegro has not yet started.

In January, the customs signed two memoranda of understanding with the Kosovo Intelligence Agency and with the State Prosecutor's office with the aim to strengthen cooperation. The border police and customs signed a cooperation protocol in May aimed at

improving cooperation on border procedures, the fight against illegal trafficking and the implementing the integrated border management.

The quality and consistency of border checks still need to be improved. The integrated border management principles are not sufficiently implemented in practice. The joint operational centre for border control is not fully operational, as the border police do not have access to its own databases. Further synergies between the different stakeholders are needed in order to develop and implement common operational plans, use common equipment and integrate data management systems on the basis of the adopted standard operating procedures. Insufficient exchange of information with regional and international partners impedes the fight against cross-border crime. The north of Kosovo remains a particular challenge for integrated border management.

*Overall*, Kosovo has made some progress, but it is still at an early stage of addressing the challenges of integrated border management.

In the area of **asylum**, progress has been achieved. Kosovo has faced an increase in asylum requests (31 persons claimed asylum in 2009, in 2010 this number reached 271, and there were 147 requests in the first half of 2011). With a proper implementation of the new asylum model introduced in 2010, the numbers are expected to come down in the future. The number of asylum seekers in procedure was 25 in July. Most of the applicants misused the asylum procedure to legalise their entry and stay in Kosovo before continuing their journey towards EU countries.

Based on the law on asylum, Kosovo authorities have systematised issuance of identification documents to asylum seekers. By the end of June, over 300 first instance decisions were issued by Department of Citizenship, Asylum and Migration. Most of the decisions taken regarding asylum requests were negative decisions *in absentia* (the asylum seekers having already left Kosovo). Only a limited number of cases were adjudicated based on merit. An explanatory guide about the rights and obligations of asylum seekers was developed and disseminated. The asylum system, established with EULEX assistance, allows Kosovo to abide by its international obligations, enabling Kosovo to distinguish between persons who need international protection and those who do not. The implementation remains a challenge.

There are shortcomings in the asylum procedure. Capacity and training is currently insufficient. The lack of appropriate interpretation services hampers communication with the asylum seekers and the initial screening of the case, determining the origin of the person, and the operational information that can be acquired. There is a lack of adequate premises for those asylum seekers who are awaiting return after their claims were rejected. The capacity of the asylum centre is limited to 25. If the centre is full, asylum seekers are housed in hotels. The lack of readmission agreements with the countries of origin or transit is also a major concern. There are cases for determining refugee status that were not processed within the time period foreseen in the law. The capacity of the national commission for refugees to deal with the appeals against a decision in first instance is insufficient. From the seven appeals made against the first instance decision, the national commission for refugees ruled negatively in six cases. No appeals have been made to the Supreme Court.

There are also cases for which a negative decision was issued and no appeal has been submitted. These rejected asylum seekers have remained accommodated in the temporary facilities, awaiting execution of the return decision or any other measure. A reliable database for asylum-seekers is still lacking. There is a simple database, but the link between the

Department of Citizenship, Asylum and Migration and the police responsible for the initial screening, is still missing. All these challenges contribute to the fact that the majority of asylum seekers leave Kosovo even before the procedures are finalised.

*Overall*, progress has been made on asylum. Kosovo needs to continue addressing the remaining challenges.

Kosovo has achieved progress in the field of **migration**. The Department of Citizenship, Asylum and Migration issued residence permits and ID cards to foreigners. There has been an increase of irregular migrants attempting to enter Kosovo through air or land borders, particularly with the former Yugoslav Republic of Macedonia and Albania. Kosovo border police prohibited entry to some of them on the basis of the law on foreigners.

Kosovo signed new agreements on readmission with third countries. A total of thirteen countries are covered by such agreements (Albania, Austria, Belgium, Czech Republic, Denmark, France, Germany, Luxembourg, Montenegro, the Netherlands, Norway, Slovenia and Switzerland). The Department of Citizenship, Asylum and Migration has continued to deal with readmission requests from European countries in an efficient way. Kosovo has achieved considerable progress with regard to reintegration of repatriated persons. It has strengthened its capacity for reintegrating repatriated persons, including at municipal level. Over € 3 million were allocated for reintegration of repatriated persons under the 2011 budget. An office dealing with repatriated persons was opened at the airport. There have been renewed efforts to train municipal officials and improve the communication with and information to repatriated persons. Civil registration has improved. Inter-ministerial coordination has improved as well as the communication and coordination between central and local levels. Temporary services, such as medical care, transport and accommodation are in place and provided. Cooperation with international organisations has improved.

Kosovo needs to make additional progress in managing migration flows, based on a professional integrated information system. This would make tracking the repatriated persons and their needs possible, as well as provide reliable statistical data and information. The number of proposals for reintegration assistance to repatriated persons from municipalities is increasing, but is still low. Only a limited number of persons have benefited from the reintegration fund. Updated and upgraded trainings are necessary. Exchange of information between sending countries and Kosovo needs to be strengthened. Repatriation offices still need to be established in four municipalities. Unemployment continues to be an obstacle to reintegrated repatriated persons.

Kosovo also needs to make further efforts to ensure full alignment with the *acquis* on legal migration notably on the right to family reunification.

*Overall*, progress has been achieved on migration. Readmission has continued to function satisfactorily and there has been considerable improvement as regards reintegration of repatriated persons, notably at the municipal level. Efforts to tackle irregular migration need to continue. Some challenges in the reintegration process remain and sustained efforts and commitments in this area need to continue.

#### 4.3.2. *Money laundering*

Kosovo has made limited progress in addressing economic/financial crime and money-laundering. Implementing legislation on the prevention of money-laundering is largely in

place. A gradual transfer of the responsibilities of the Financial Intelligence Centre from EULEX to Kosovo authorities has started. A Kosovan Director for the Centre was appointed in March. EULEX has retained some executive powers. The organisational framework dealing with economic, financial and money-laundering crimes is complex. The financial investigation unit under the Directorate for Investigation of Organised Crime is only responsible for so-called integrated cases (financial cases closely connected to organised crime), but not for independent financial crime cases. The Directorate for Economic Crime and Corruption Investigation of the Kosovo Police (DECCI) and the newly established anti-corruption task force, supervised by the Special Prosecutor's Office (SPRK-ACTF), deal with all types of financial crimes. DECCI tackles regular financial crime and money-laundering cases and the SPRK-ACTF focuses on high profile and complex cases.

The eight banks of Kosovo have improved the quality and reliability of their financial reports to the Financial Intelligence Centre. Exchange offices and money remitters have also improved the way they fulfil their reporting obligations. The cooperation between the Centre and the customs has remained good and one Kosovo customs officer was seconded inside the Centre as a financial analyst and liaison officer. In 2010, the Directorate for Economic Crime and Corruption investigated over 700 cases from which about 500 with known perpetrators were sent to the prosecution. Over 170 suspects were arrested. The estimated damage is around € 27 million. The Agency for the management of confiscated and sequestered assets, established in 2010, is almost fully staffed. The staff has received some training. EULEX has also trained judges and prosecutors on the application of the existing legislation on confiscation of assets. Very few assets have been confiscated to date.

The level of cooperation between the Centre and the reporting entities is mixed. NGOs have to fulfil their financial reporting obligations towards the NGO registration office in the Ministry of Public Administration. This reporting is not systematic, which is a matter of concern, because of the heterogeneous status of NGOs in Kosovo. Under the current anti-money-laundering law, unlike the previous UNMIK regulation 2004/2, business organisations do not have to report cash-based transactions for more than € 10,000 to the Centre. The capacity of Kosovo to investigate and prosecute economic crimes remains limited. Follow-up by law enforcement bodies to reports sent by the Centre is limited. The confiscation of assets in cases of money-laundering and economic crime needs to be strengthened and addressed at an earlier stage of the investigation.

Large amounts of money continue to be invested in real estate, restaurants and casinos without adequate supervision. Business-related financial transactions on private accounts and large numbers of entities doing business without being registered continue to be widespread. The operation launched in 2010 with the aim of identifying illegal activity in relation to the import and export of large amounts of money at Kosovo's airport remained ad hoc. This has not been incorporated into the routine work of customs.

Prosecutors and judges lack experience and specialisation in this area. There are major difficulties to identify, monitor and confiscate earnings from crimes connected to organised groups. There are gaps in the existing legislation, especially with the money-laundering provisions and sanctions of the criminal code. These are inadequate, and need to be addressed urgently.

*Overall*, money-laundering remains an issue of serious concern and Kosovo is at an early stage in this area. Kosovo continues to lack the adequate technical and human resources to address these crimes.

### 4.3.3. *Drugs*

Kosovo has made limited progress in the fight against drugs-trafficking. Flows continue to include heroin and synthetic drugs coming from the Middle East through Turkey and the former Yugoslav Republic of Macedonia along one of the main Balkan routes to European markets, and cocaine coming through Albania and Montenegro. Drug shipments are repackaged in Kosovo and sent to European markets in smaller amounts. The domestic market has also grown, notably for cocaine. There are movements of narcotics across the borders involving trucks, buses and private vehicles.

There are some tangible results in the fight against drug-trafficking. The police have increased the number of arrests for narcotics offences including trafficking offences; around 200 narcotic related cases were investigated between October and end of June resulting in over 300 arrested suspects. In the first half of 2011, the police made more than 200 arrests. About 180 of those arrested were detained awaiting court procedure. Some criminal groups involved in drug-trafficking were dismantled. Kosovo has also carried out some joint operations with neighbouring countries. Cooperation and exchange of data with Albania and with Montenegro is good and first contacts with colleagues from the former Yugoslav Republic of Macedonia have taken place. The Directorate for Investigation of Drug Trafficking of the police has built up its capacities and recruited new staff. It participated in a joint exercise on controlled delivery of illicit drugs involving cooperation with other law enforcement agencies of Kosovo and third countries. Data collection and data registration methodology have improved. Following the ongoing implementation of the strategy against drugs there is an improved cooperation between police, customs and correctional services.

The amount of seizures remains low: in the first half of 2011, over 30 kg of heroin, nearly 90 kg of marijuana, 2.5 kg of cocaine and nearly 700 ecstasy tablets were seized. The judiciary follow-up remains inadequate. There is a lack of experienced and specialised prosecutors. The position of counter-narcotics coordinator remains vacant. The resources to implement the counter-narcotics policies are insufficient (lack of staff, working space and equipment) and an intelligence-led approach is also lacking. With the exception of some trained officers, there is also no proper undercover unit in the police. Canine units are present at some border/boundary crossing points and working in accordance with the plan of border police department. Other police units can call in the assistance of canine units, if required, but their services are not frequently called on. Data sharing with Montenegro and the former Yugoslav Republic of Macedonia is still limited. There are serious shortcomings in addressing the challenges of local drug demand, including the inappropriate in-treatment capacities at the hospital. The methadone maintenance programme remains unavailable.

*Overall*, Kosovo's efforts in fighting drug-trafficking have not been sufficient to address the challenge Kosovo is facing in this area.

### 4.3.4. *Police*

Kosovo has made some progress as regards policing. The police General Director appointed in October 2010 took a number of decisions improving the functioning of the police, i.e. by better integrating the crime pillar, and aiming to limit the level of political influence. The annual action plan for 2011 was adopted and is implemented in line with the 2011-2015 development plan. The six months review of the organisation was completed and led to the adoption of an improved organisational structure. Kosovo finalised the information strategic plan, which is the outline of an overall plan that aims to make police IT developments

sustainable during the next years. The law on the police inspectorate was adopted and the responsibilities between the Inspectorate and the police standards unit were clarified. The police regional commander in Prizren was arrested and indicted as part of a war crime investigation. The contracts of four of the seven police station commanders in northern Kosovo were terminated, based on a recommendation from the senior appointments and disciplinary commission of the police.

The police also established the International Law Enforcement Coordination Unit in June to facilitate cooperation with law enforcement agencies from third countries. The Interpol liaison office is still under UNMIK responsibility and some Kosovo police officers are detached to this office. Cooperation between the UNMIK Interpol liaison office, Kosovo police and judicial authorities has improved. In 2010, the UNMIK office facilitated an increased number of published international arrest warrants against internationally wanted persons for provisional arrest (27 compared to 4 in 2009 and 12 in 2008) and seven extraditions from/to Kosovo were carried out.

The cooperation of Kosovo police with EULEX was not consistent during the reporting period. Joint investigations on some criminal cases have been initiated. Police took over from KFOR the full responsibility of protecting some religious sites. It successfully supervised events such as the Kosovo elections or the enthronement of the new head of the Raska-Prizren diocese of the Serbian Orthodox Church.

There was undue political interference in senior police appointments and the conduct of sensitive police operations. Police have made limited progress in implementing the community policing methodology in all regions. There has been no systematic contact between police with municipalities in the local public safety committees. New police stations have not been established in all newly established municipalities. The Police Inspectorate, under direct control of the Ministry of Internal Affairs, still does not have a chief executive and has not initiated any investigations in 2011. The collection of data has improved, but the ability to transform information into actionable intelligence continues to be limited. Intelligence-led policing remains a challenge. There are serious challenges in terms of managing human resources. A performance-based indicators system and a promotion system still need to be established. The operations pillar of police lacks the capacity in terms of strategic planning and analytical capabilities. The traffic directorate lacks the capacity needed to generate traffic analysis in order to develop a traffic policing strategy. The capacities of police in the area of developing ICT infrastructure need to be further strengthened.

The environment for policing in northern Kosovo has remained challenging.

*Overall*, police have taken on increased responsibilities. Police need to address structural and organisational challenges and improve its ability to fight complex types of crime. Steps need to be taken to avoid political interference in police matters.

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

Limited progress has been achieved in tackling **organised crime**. Cooperation with EULEX in organised crime cases was good at the level of police and prosecutors. The police successfully provided close protection to special prosecutors involved in investigations of organised crime cases. Kosovo police has started building up capacities to deal with witness protection. Seized assets have been temporarily stored in the premises of the Kosovo correctional service. The police have increasingly used and rewarded informants in organised

crime cases and improved their legal interception capabilities. In the absence of a law on interception of telecommunications, police signed agreements with telecommunications operators, providing a legal framework for initiating lawful interception. Future legislation on interception needs to clearly distinguish between judicial interception and interception for intelligence services, in line with European best practice.

A number of investigations, indictments and convictions were achieved in organised crime cases. Some operations targeted government officials and premises. There were six convictions (by mixed panels of EULEX and Kosovo judges), and five cases pending trial. Six cases were brought to main trial between January and June (four handled by Kosovo special prosecution office and two by EULEX prosecutors). In June, in the Tisza river verdict – a case of smuggling of migrants – a mixed panel of Kosovo and EULEX judges at the district court in Pristina sentenced seven defendants to a total of 66 years in prison (terms ranging from 2 to 19 years) and € 450,000 in fines for their role in the death of fifteen persons who drowned in the river Tisza trying to cross the border between Serbia and Hungary in October 2009. Regional cooperation was important in this case and the lead in the case was taken by Kosovo rule of law institutions. The case *inter alia* exposed an organised crime group that offered migrants illegal passage to EU countries and other European countries, making significant illicit profits.

Cross-border crime detection capacities remain low. The flow of information between the Department against Organised Crime and regional police centres is not at an appropriate level. Logistical challenges, including lack of office space, staffing, identification of secure locations for covert activities, insufficient vehicles and specialised equipment remain issues of concern. The Department is slow in adapting to constantly changing criminal techniques and changes in legislation. Only minor cases were initiated by the police. The current weak Kosovo witness protection programme and legislation does not provide the public with the necessary confidence to cooperate with the authorities as witnesses.

*Overall*, Kosovo's capacities to fight organised crime are still at an early stage. Serious efforts are needed to address these challenges, in particular witness protection.

Kosovo has made some progress in tackling **trafficking of human beings**. Kosovo remains a place of origin, transit and destination for victims of trafficking. The trend of local women trafficked within Kosovo and in countries throughout Europe for the purpose of sexual exploitation has continued. There was an increase in the number of underage victims trafficked for sexual exploitation. Child-trafficking and exploitation for the purpose of begging remain at high levels. The number of identified victims increased slightly during the reporting period.

The strategy and action plan against trafficking of human beings for 2011-2014 was adopted on 1 September and a trafficking awareness campaign was organised in autumn 2010. The inter-ministerial working group on anti-trafficking has continued to meet on a regular basis. A national coordinator was appointed and is in charge of ensuring the strategy's implementation.

The efficiency and capacity of the police Directorate for Investigation of Trafficking in Human Beings has increased. The police identified over 20 cases of trafficking of human beings. They arrested more than 70 suspects and identified more than 30 victims of trafficking. The rate of convictions remains very low. Only one organised crime case concerning trafficking of human beings was brought to trial in the first half of 2011 (Medicus case) after the indictments were confirmed by a mixed appeal panel of EULEX and Kosovo

judges at Pristina District Court. The prosecution of this case is under the supervision of Kosovo's special prosecution office.

The overall number of identified victims remains relatively low with an average of one victim for every ten raids conducted. The capacity of Kosovo prosecution and courts to investigate, prosecute and render judgments in trafficking cases is still limited. Trafficking in human beings is rarely followed-up by courts from an organised crime perspective. Perpetrators, even if acting in a group, are indicted individually, thus receiving lower sentences than if they were indicted as acting in a group.

*Overall*, Kosovo has made some progress in tackling trafficking in human beings, but enhanced efforts are needed to enforce the strategies and legislation. The judicial follow up remains largely ineffective and capacities need to be strengthened.

Kosovo has made limited progress in the **fight against terrorism**. Implementing legislation on the prevention of money-laundering and financing of terrorism is largely in place. There are concerns about extremist groups, both religious and nationalistic and illegal cross-border traffic in Kosovo. The extradition of a terrorist suspect to the US for prosecution failed, due to the lack of a valid extradition agreement.

Kosovo's capacity to enforce relevant legislation and strategic documents such as the Kosovo security strategy, the counter-terrorism strategy, the law on prevention of money-laundering and financing of terrorism remains a concern. The Directorate on Counter Terrorism faces some operational and organisational challenges. There is a lack of strategic planning capacity, which means very few investigations have been undertaken. Surveillance capacities have increased due to the fusion of the police counter terrorism surveillance and organised crime surveillance units in the last police reform. The link to the Kosovo intelligence agency is kept only on a strategic level outside of the Directorate. When it comes to the fight against terrorism, cooperation with countries in the region is limited and the Directorate is not directly involved.

*Overall*, in the **fight against terrorism** Kosovo needs to make further efforts to enforce its policies and legislation.

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

Kosovo has made little progress on personal data protection. In May, the Assembly approved the five council members (chief national supervisor and four national supervisors) of the agency for the protection of personal data proposed by the government, which was followed by the establishment of the agency in July. Awareness of data protection remains very low. Capacities of all institutions to comply with data protection legislations continue to be very limited. In the absence of mechanisms regulating the use of personal data, the newly-introduced procedure to register SIM cards involving the collection of personal data by mobile operators raises concerns.

*Overall*, the lack of personal data protection remains an issue of serious concern. Kosovo needs to make major efforts in this area.

## Statistical Annex

### STATISTICAL DATA (as of 30.09.2011)

#### Kosovo

<b>Basic data</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Population (thousand)		:	:	:	1 985	2 016	2 041	2 100	2 127	2 153	2 181p	2 208p
Total area (km <sup>2</sup> )		10 887	10 887	10 887	10 887	10 887	10 887	10 887	10 887	10 887	10 887	:

<b>National accounts</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Gross domestic product (GDP) (million euro)	1)	:	1 624	1 735p	1 797p	2 913p	3 003p	3 120p	3 394p	3 851	3 912p	:
GDP (euro per capita)		:	:	:	905p	1 427p	1 451p	1 486p	1 593p	1 789p	1 795p	:
GDP (in Purchasing Power Standards (PPS) per capita)		:	:	:	:	:	:	:	:	:	:	:
GDP per capita in PPS (EU-27 = 100)		:	:	:	:	:	:	:	:	:	:	:
Real GDP growth rate (growth rate of GDP volume, national currency, % change on previous year)		:	:	1.2p	3.1p	:	:	:	:	:	:	:
Employment growth (national accounts, % change on previous year)		:	:	:	:	:	:	:	:	:	:	:
Labour productivity growth: GDP growth per person employed (% change on previous year)		:	:	:	:	:	:	:	:	:	:	:
Real unit labour cost growth (national accounts, % change on previous year)		:	:	:	:	:	:	:	:	:	:	:
Labour productivity per person employed (GDP in PPS per person employed, EU-27 = 100)		:	:	:	:	:	:	:	:	:	:	:
Gross value added by main sectors (%)		:	:	:	:	:	:	:	:	:	:	:
Agriculture and fisheries		:	:	:	:	:	:	:	:	:	:	:
Industry		:	:	:	:	:	:	:	:	:	:	:
Construction		:	:	:	:	:	:	:	:	:	:	:
Services		:	:	:	:	:	:	:	:	:	:	:
Final consumption expenditure, as a share of GDP (%)		:	163.1	151.6	147.5	110.3p	112.1p	111.1p	112.3p	112.8p	109.4p	:
Gross fixed capital formation, as a share of GDP (%)	2)	:	40.7	34.5	29.3	20.0p	19.7p	21.1p	21.9p	24.4p	26.2	:
Changes in inventories, as a share of GDP (%)		:	:	:	:	4.0	4.3	4.5	4.4p	4.1p	3.6	:
Exports of goods and services, relative to GDP (%)		:	16.6	12.5p	10.4p	10.7p	11.1p	14.1p	15.1p	14.8p	15.6p	:
Imports of goods and services, relative to GDP (%)		:	120.4	98.6p	87.1p	45.0p	47.3p	50.8p	53.7p	56.0p	54.8p	:

<b>Industry</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Industrial production volume index (2000=100)		:	:	:	:	:	:	:	:	:	:	:

<b>Inflation rate</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Annual average inflation rate (CPI, % change on previous year)		:	:	:	1.3	1.1	1.4	0.6	4.4	9.4	2.4	3.5

<b>Balance of payments</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Balance of payments: current account total (million euro)		:	228	-104	-204	-209	-248	-226	-354	-629	-604	-684
Balance of payments current account: trade balance (million euro)		:	-646	-890	-941	-983	-1 079	-1 173	-1 368	-1 668	-1 673	-1 735
Balance of payments current account: net services (million euro)		:	10	-23	-14	-19	-8	29	59	81	121	37
Balance of payments current account: net income (million euro)		:	141	154	152	138	139	159	186	164	83	125
Balance of payments current account: net current transfers (million euro)		:	723	655	599	655	700	759	769	794	866	889
of which government transfers (million euro)		:	809	661	490	372	348	320	245	256	401	361
Net foreign direct investment (FDI) (million euro)		:	:	:	:	43	108	284	431	342	281	311
Foreign direct investment (FDI) abroad (million euro)		:	:	:	:	0	0	-6	-10	-25	-11	-3

of which FDI of the reporting economy in EU-27 countries (million euro)		:	:	:	:	:	:	:	:	0	-9	-2	-1
Foreign direct investment (FDI) in the reporting economy (million euro)		:	:	:	:	43	108	289	441	366	291	315	
of which FDI of EU-27 countries in the reporting economy (million euro)		:	:	:	:	:	:	:	340	212	184	188	

<b>Public finance</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
General government deficit/surplus, relative to GDP (%)		:	:	8.4	2.2	2.7	:	:	:	:	:	:
General government debt relative to GDP (%)		:	:	:	:	:	:	:	:	:	:	:

<b>Financial indicators</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Gross foreign debt of the whole economy, relative to GDP (%)		:	:	:	:	:	:	:	:	:	:	:
Gross foreign debt of the whole economy, relative to total exports (%)		:	:	:	:	:	:	:	:	:	:	:
Money supply: M1 (banknotes, coins, overnight deposits, million euro)		761	971	998	891	713	572	:	:	:	:	:
Money supply: M2 (M1 plus deposits with maturity up to two years, million euro)		761	1 096	1 126	1 111	1 128	1 092	:	:	:	:	:
Money supply: M3 (M2 plus marketable instruments, million euro)		:	:	:	:	:	:	:	:	:	:	:
Total credit by monetary financial institutions to residents (consolidated) (million euro)		3	26	87	233	374	514	637	892	1 183	1 289	1 459
Interest rates: day-to-day money rate, per annum (%)		:	:	:	:	:	:	:	:	:	:	:
Lending interest rate (one year), per annum (%)	3)	:	:	:	:	14.7	14.4	14.5	14.6	14.8	14.1	14.3
Deposit interest rate (one year), per annum (%)	3)	:	:	:	:	2.8	2.9	3.0	3.3	4.2	4.0	3.4
euro exchange rates	1)	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000
Effective exchange rate index (2000=100)		:	:	:	:	:	:	:	:	:	:	:
Value of reserve assets (including gold) (million euro)		62	296	337	423	311	278	356	647	670	501	587

<b>External trade</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Value of imports: all goods, all partners (million euro)		:	:	:	:	1 050.4	1 180.0	1 314.6	1 576.1	1 930.0	1 933.8	2 157.7
Value of exports: all goods, all partners (million euro)		:	:	:	:	56.6	48.9	81.7	147.3	196.4	165.3	288.1
Trade balance: all goods, all partners (million euro)		:	:	:	:	-993.8	-1 131.1	-1 232.9	-1 428.8	-1 733.6	-1 768.5	-1 869.6
Terms of trade (export price index / import price index)		:	:	:	:	:	:	:	:	:	:	:
Share of exports to EU-27 countries in value of total exports (%)		:	:	:	:	29.3	37.9	35.7	42.6	47.7	43.1	44.9
Share of imports from EU-27 countries in value of total imports (%)		:	:	:	:	40.3	38.4	34.2	35.2	36.2	39.0	38.3

<b>Demography</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Natural growth rate: natural change (births minus deaths) (per 1000 inhabitants)		:	:	:	12.8	14.1	14.5	12.6	12.4	12.7	12.5	:
Infant mortality rate: deaths of children under one year of age per 1000 live births		:	:	11.2	15.1	11.8	9.6	12.0	11.1	9.7	9.9	:
Life expectancy at birth: male (years)		:	:	:	:	:	:	:	:	:	:	:
Life expectancy at birth: female (years)		:	:	:	:	:	:	:	:	:	:	:

<b>Labour market</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Economic activity rate (15-64): share of population aged 15-64 that is economically active (%)		:	45.6	52.8	50.3	46.2	49.2	52.3	46.8	46.2	48.1	:
* Employment rate (15-64): share of population aged 15-64 in employment (%)		:	19.6	23.8	25.3	27.7	28.5	28.7	26.2	24.1	26.1	:
Employment rate male (15-64) (%)		:	31.1	39.4	42.8	46.4	45.8	46.1	40.1	37.7	39.7	:
Employment rate female (15-64) (%)		:	8.1	8.8	8.3	9.9	11.7	11.8	12.7	10.5	12.5	:
Employment rate of older workers (55-64): share of population aged 55-64 in employment (%)		:	16.7	18.4	20.1	23.9	25.2	26.3	24.6	23.8	27.9	:
Employment by main sectors (%)												
Agriculture		:	:	:	:	:	:	:	:	:	:	:
Industry		:	:	:	:	:	:	:	:	:	:	:

Construction		:	:	:	:	:	:	:	:	:	:	:	:
Services		:	:	:	:	:	:	:	:	:	:	:	:
Unemployment rate: share of labour force that is unemployed (%)		:	57.1	55.0	49.7	39.7	41.4	44.9	43.6	47.5	45.4	:	:
Share of male labour force that is unemployed (%)		:	51.8	45.2	40.3	31.5	32.9	34.6	38.5	42.7	40.7	:	:
Share of female labour force that is unemployed (%)		:	69.9	74.5	71.9	60.7	60.5	61.6	55.2	59.6	56.4	:	:
Unemployment rate of persons < 25 years: share of labour force aged <25 that is unemployed (%)		:	80.0	77.7	74.9	66.5	70.5	75.5	70.0	73.0	73.0	:	:
Long-term unemployment rate: share of labour force that is unemployed for 12 months and more (%)		:	47.6	47.3	42.7	34.9	34.7	41.1	37.1	38.9	37.1	:	:

<b>Social cohesion</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Average nominal monthly wages and salaries (national currency)		:	:	:	:	:	:	:	:	:	:	:
Index of real wages and salaries (index of nominal wages and salaries divided by the CPI/HICP) (2000=100)		:	:	:	:	:	:	:	:	:	:	:
* Early school leavers - Share of population aged 18-24 with at most lower secondary education and not in further education or training (%)		:	:	:	:	:	:	:	:	:	:	:

<b>Standard of living</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Number of passenger cars per 1000 population		:	:	:	:	:	50.1	69.9	68.7	74.1	:	:
Number of subscriptions to cellular mobile telephone services per 1000 population		:	:	:	158.7	169.5	:	:	:	376.2	369.1	:

<b>Infrastructure</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Density of railway network (lines in operation, per 1000 km <sup>2</sup> )		:	:	:	:	39.5	:	:	:	:	30.6	:
Length of motorways (thousand km)		0	0	0	0	0	0	0	0	0	0.6	0.6

<b>Innovation and research</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Spending on human resources (public expenditure on education in % of GDP)		:	:	:	:	:	:	:	:	:	:	:
* Gross domestic expenditure on R&D in % of GDP		:	:	:	:	:	:	:	:	:	:	:
Percentage of households who have Internet access at home (%)		:	:	:	:	:	:	:	:	:	:	:

<b>Environment</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
* Greenhouse gas emissions, CO2 equivalent (tons, 1990=100)		:	:	:	:	:	:	:	:	:	:	:
Energy intensity of the economy (kg of oil equivalent per 1000 euro GDP)		:	:	:	:	:	:	:	:	:	:	:
Electricity generated from renewable sources in % of gross electricity consumption		:	:	:	:	:	:	:	:	:	:	:
Road share of inland freight transport (% of tonne-km)		:	:	:	:	:	:	:	:	:	:	:

<b>Energy</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Primary production of all energy products (thousand TOE)		:	:	:	:	:	:	:	:	:	:	:
Primary production of crude oil (thousand TOE)		:	:	:	:	:	:	:	:	:	:	:
Primary production of hard coal and lignite (thousand TOE)	4)	:	:	3 853	4 507	3 944	4 455	4 553	4 681	5 466	7 842	7 960
Primary production of natural gas (thousand TOE)		:	:	:	:	:	:	:	:	:	:	:
Net imports of all energy products (thousand TOE)		:	:	:	:	:	:	:	:	:	:	:
Gross inland energy consumption (thousand TOE)		:	:	:	:	:	:	:	:	:	:	:
Electricity generation (thousand GWh)		:	:	3.2	3.2	3.5	4.0	4.0	4.3	:	5.3	5.5

<b>Agriculture</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Agricultural production volume index of goods and services (producer prices, previous year=100)		:	:	:	:	:	:	:	:	:	:	:

Total utilised agricultural area (thousand hectare)		:	539	:	:	:	:	:	:	:	:	:
Livestock: cattle (thousand heads, end of period)		289	347	319	:	335	352	382	322	342	344p	:
Livestock: pigs (thousand heads, end of period)		59	75	110	:	55	47	68	40	27	51p	:
Livestock: sheep and goats (thousand heads, end of period)		193	230	116	:	106	152	113	152	180	217p	:
Production and utilisation of milk on the farm (total whole milk, thousand tonnes)		:	:	:	:	:	:	:	:	:	:	:
Crop production: cereals (including rice) (thousand tonnes, harvested production)		:	459	396	:	408	441	392	295	438	411p	:
Crop production: sugar beet (thousand tonnes, harvested production)		:	:	:	:	:	:	:	:	:	:	:
Crop production: vegetables (thousand tonnes, harvested production)		:	169	135	:	150	159	172	117	176	144p	:

: = not available

p = provisional

e = estimated value

b = break in series

\* = Europe 2020 indicator

The balance of payments sign conventions are used for FDI. For FDI abroad a minus sign means investment abroad by the reporting economy exceeded its disinvestment in the period, while an entry without sign means disinvestment exceeded investment. For FDI in the reporting economy an entry without sign means that investment into the reporting economy exceeded disinvestment, while a minus sign indicates that disinvestment exceeded investment.

Footnotes:

- 1) Euro is the currency in use.
- 2) Investment: including Donor sector, General government, Private investment (Housing and Other).
- 3) Since 2008, interest rate on loans includes disbursement fee charged by banks.
- 4) Local production of coal in thousand tones.