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

**Second report on progress by Kosovo* in fulfilling the requirements of the visa
liberalisation roadmap**

{SWD(2014) 251 final}

* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence

1. INTRODUCTION

The European Commission launched a visa liberalisation dialogue with Kosovo on 19 January 2012. On 14 June 2012, it handed over to the Kosovo Government a roadmap on visa liberalisation. This roadmap identifies all the legislation and other measures that Kosovo needs to adopt and implement to advance towards visa liberalisation.

On 8 February 2013, the Commission adopted the first report on progress by Kosovo in the visa dialogue.² This report contained an assessment of progress made by Kosovo, recommendations to the Kosovo authorities and statistical data about the expected migratory and security impacts of the visa-free regime.

On 12 February 2013, the Commission held the second Senior Officials' Meeting with Kosovo. The third and fourth meetings took place, respectively, on 29 July 2013 and 16 June 2014.

This is the second report setting out the Commission's assessment of Kosovo's progress in fulfilling the requirements of the visa roadmap. It summarises the most relevant developments concerning the adoption or amendment of legislation and the implementation thereof, with appropriate recommendations for the Government. It is accompanied by a Commission Staff Working Document (CSWD), which elaborates at greater length the developments described in this report. The CSWD also addresses the expected security and migratory impacts of visa liberalisation.

The report and the CSWD draw upon the reports submitted by the Kosovo Government, reports drafted by EU Member States' experts participating in assessment missions in December 2013 and March 2014, information received from the EU Office in Kosovo, and EULEX, as well as statistical data compiled by Eurostat and submitted by Member States.

The report and the CSWD formulate recommendations in policy areas where further reforms, both legislative and implementation-related, are required for visa liberalisation.

The visa liberalisation dialogue is conducted without prejudice to EU Member States' position on status.

2. REQUIREMENTS RELATED TO READMISSION AND REINTEGRATION

2.1. Readmission

Kosovo's legal framework on readmission is in place. Kosovo has continued negotiating and concluding readmission agreements with EU Member States and Schengen Associated States and the main transit countries and countries of origins of irregular migration.³

Readmission functions well. Kosovo has improved the processing of requests, and the number of pending cases is no longer a concern. The readmission of Kosovo citizens generally functions well. There is no sufficient data about the readmission of third-country nationals and stateless persons.

Recommendation:

- Continue to negotiate and conclude readmission agreements with interested EU Member States and the main transit countries and countries of origin of irregular migrants;

² COM (2013) 66 final.

³ Kosovo has recently signed readmission agreements with Estonia, Croatia, Lichtenstein, Switzerland, Norway, Albania and Montenegro.

- continue to readmit from all EU Member States Kosovo citizens, third-country nationals and stateless persons who no longer fulfil the conditions of entry and stay in those states;
- take the necessary measures to facilitate the readmission of vulnerable persons.

2.2. Reintegration

In August 2013, the regulation on reintegration was amended, with legal remedies and a legal basis for an Appeal Commission introduced. The members of the Appeal Commission have been appointed.

The Kosovo Government continues to finance the Reintegration Fund. In 2013, the allocation was EUR 3.2 million. Approximately EUR 1.7 million was used for direct financial assistance to beneficiaries and a million EUR transferred to the Ministry of Environment and Spatial Planning for renovation and construction of accommodation for repatriated persons. The authorities tend to focus on emergency rather than sustainable reintegration services.

Only persons who left Kosovo before 28 July 2010 and who applied within a certain timeframe⁴ are entitled to benefit from the Reintegration Fund. Others are eligible for elementary services or social assistance provided by municipalities. This cut-off date for eligibility is increasingly becoming a hindrance for sustainable reintegration, as a growing number of returnees, having left Kosovo after July 2010, do not qualify for assistance from the fund. Changing the cut-off date for eligibility while focusing on long-term reintegration services should allow Kosovo to enable the sustainable reintegration of its repatriated citizens.

The reintegration case management system has been operational since January 2013; all municipalities have had access to it since April 2013. The system allows basic registration, but does not provide the possibility of follow-up. Guidelines on using this system have been distributed and training provided for all Municipal Offices for Communities and Return.

Returned children have access to education, although language courses and other language support are not delivered on a systemic basis. The provision of health care could be further improved; in particular, local medical staff are not always able to diagnose health problems of repatriated persons.

Recommendations:

- Shift the use of the Reintegration Fund from emergency to sustainable reintegration services, such as education, professional training, employment assistance and housing;
- consider revising the cut-off date for eligibility for services from the Reintegration Fund;
- develop a reintegration case management system that enables the tracking of service provision for all registered beneficiaries;
- step up coordination with international organisations to avoid the duplication of assistance offered to repatriated citizens.

3. BLOCK 1: DOCUMENT SECURITY

In February 2014, a new civil status registration system (CSRS) was launched with a single central database. Currently, registry books and the database are used in parallel. There are serious concerns regarding the consistency and accuracy of the data stored in the CSRS, as the system allows printing a certificate for the same event containing different sets of data or

⁴ Twelve months from the date of repatriation.

inaccurate data. Storage of physical files varies between municipalities and, in some cases, cannot prevent loss of information.

Registry books returned from Serbia have been scanned and uploaded in the system as photo files. They can be consulted upon request and used for verification.

In December 2013, Kosovo adopted secondary legislation allowing the issuance of civil status certificates upon request in alphabets and languages such as Bosnian, Cyrillic and Turkish.

Recommendation:

- The CSRS should be considerably improved to ensure the quality and consistency of data stored therein, if necessary by verifying entries against data contained in the certified copies of registry books returned from Serbia;
- ensure interoperability between the travel document, ID and law enforcement databases;
- elaborate standard operating procedures for storing and binding breeder documents.

4. BLOCK 2: BORDER/BOUNDARY AND MIGRATION MANAGEMENT

4.1. Border/boundary management

There has been significant progress in the field of integrated border management (IBM). In September 2013, the Law on Border Control and Surveillance was aligned with the *acquis*, and the new Law on Inter-agency Cooperation entered into force. A new IBM strategy and an action plan have been adopted. The core legal framework is in place.

Cooperation with neighbouring countries has improved. The delineation of the border with Montenegro has progressed; 70 km of the border has been delineated, leaving only 9 km.

Kosovo cooperates with FRONTEX on information exchange, risk analyses, capacity building and training. In 2013, Kosovo appointed a focal point for risk analysis responsible for liaising with FRONTEX.

Border crossing points are sufficiently equipped to perform first and second-line checks. The Border Police and Customs have adequate personnel to control traffic flows and movement of passengers. In practice, border checks are not performed systematically on exit lanes.

In January 2013, a National Border Management Centre was established. This centre is composed of staff from all border-related authorities and is responsible for strategic and operational risk analyses at central level, information exchange and data protection. At the local level, risk analysis is carried out at border-crossing points (BCP), but the practical use of this analytical tool is limited.

Kosovo remains a major transit location for irregular migration and trafficking in human beings. The number of detected and investigated cases of facilitating irregular migration, trafficking in human beings or drug trafficking remains low⁵.

Recommendations:

- Endeavour to complete the delineation of the border with Montenegro;
- perform systematic border checks on both entry and exit lanes; clarify the scope of the entry/exit registry; elaborate standard operating procedures for registering passengers;
- ensure internet access for the Food and Veterinary Agency at all BCPs;

⁵ FRONTEX Western Balkans Annual Risk Analysis 2014

- ensure regular updates of samples of travel documents at each BCP;
- provide sufficient border surveillance equipment;
- enhance the use of risk analysis, in particular in planning operational actions;
- prevent in a cross-border manner irregular migration and trafficking in human beings.

4.2. Migration management

In 2013, Kosovo revised and adopted a package of laws laying down the legislative framework for migration management, including the Laws on Foreigners, Citizenship and Asylum. The new legislation introduces definitions compatible with the EU *acquis*. At present, visas can be issued abroad only in Turkey and Albania; technical preparations for rolling out the Kosovo Visa Information System at other missions have started.

In 2013, the Ministry of Internal Affairs allocated EUR 1 million for the construction of a new detention centre. This centre is expected to become operational by end 2014.

In December 2012, Kosovo launched a new database on migration and asylum; however, it is not yet fully operational or interlinked with other databases containing data on migration. The Law on Foreigners regulates authorities' access to the database.

In October 2013, a new national migration strategy and action plan were adopted and a National Authority for the Monitoring of Migration Flows established.

Recommendations:

- Continue implementing the legal framework; ensure that procedural guarantees for detention, removal and return are observed;
- roll out the Kosovo Visa Information System at all diplomatic and consular posts;
- consider the development of an integration strategy and an action plan for foreigners to facilitate their inclusion into society;
- construct a detention centre for detained foreigners;
- consider the introduction of a time limit for accommodating foreigners at Pristina International Airport;
- continue developing the database on migration and asylum; provide access to the database to all relevant authorities;
- improve the interoperability of databases in the field of migration and asylum policy;
- continue developing an extended migration profile.

4.3. Asylum

In July 2013, a new Law on Asylum was adopted and the corresponding secondary legislation amended. The rights and obligations of asylum-seekers and persons granted protection are in line with the *acquis*. The provision of interpretation services should be improved. The role of the Office of the High Commissioner for Refugees has been aligned with the provisions of the Asylum Procedures Directive and the Geneva Convention.

Recommendations:

- Ensure the availability of interpreters and consider the possibility of remote interpretation;
- Interlink the relevant databases, such as the Border Management System, the Kosovo Visa Information System and the asylum database.

5. BLOCK 3: PUBLIC ORDER AND SECURITY

The new criminal justice framework came into force on 1 January 2013. In March 2013, the first review of the criminal justice system was conducted by Kosovo authorities. The criminal justice system could further benefit from improved coordination and a unified approach between institutions. A tracking mechanism has been set up, but there is still insufficient data and poor prioritisation in targeting high-profile organised crime and corruption cases.

With respect to judicial independence, there has been a notable decline in the number of public statements made by politicians about criminal trials. Media harassment of judges and prosecutors remains a serious concern. Witness intimidation remains a problem.

There has been significant improvement with regard to the Kosovo Police and Customs in terms of professionalism and staffing. The capacity of the prosecution and the court system needs to be strengthened. These agencies are under-resourced and have difficulties in filling vacancies, especially those reserved for persons belonging to minorities. There are deficiencies in the procedure for appointing judges and prosecutors. Kosovo should harmonise the four core laws that entered into force in January 2013 concerning the criteria for appointing or dismissing judges and prosecutors. Although some progress has been made to reduce it, there remains a considerable backlog of court cases.

Kosovo does not yet have an electronic criminal record database. Files on criminal backgrounds are still compiled manually on a case-by-case basis. The Government plans to set up a criminal record information system in 2014.

The judiciary does not have an integrated case management system allowing tracking of cases from the intelligence and investigative phase, through prosecution, to adjudication and asset recovery. In 2014, the Government launched a pilot project to develop such a system.

In March 2013, the Government approved a new intelligence-led policing strategy and action plan. In March 2014, the first Kosovo serious and organised crime threat assessment was published. Intelligence-led policing needs to be strengthened; analytical skills should be further developed and interagency cooperation strengthened.

A draft Law on Interception sets out the general principles and institutional responsibilities guiding lawful interception through electronic devices. This law should be adopted and detailed procedures established by secondary legislation.

In 2013, some secondary legislation accompanying the Law on Witness Protection was adopted. The relevant police directorate is sufficiently staffed, with its own budget. Kosovo should consider the international relocation of witnesses in sensitive cases.

In January 2014, the Government adopted a strategy for preventing money laundering and terrorism financing. The Financial Intelligence Unit plans to increase its staff to fully perform its functions. The number of reports of suspicious transactions remains high, yet no convictions for money-laundering have been reported.

In March 2013, a new Law on Extended Powers for Confiscation of Assets was adopted. The law provides for the confiscation of assets that do not derive directly from a criminal activity for which the person was convicted. It also introduces the principle of the reverse burden of proof. These new legal provisions allow asset confiscation relating to inexplicable wealth. Asset confiscation remains very low.

Kosovo remains a transit and a storage location for the trafficking of heroin and marijuana⁶. The new provisions of the Criminal Code and Criminal Procedural Code offer more effective tools for drug investigations. The National Drug Coordinator uses existing forms of cooperation among law enforcement bodies and civil society. Prevention activities, awareness raising and drug monitoring are satisfactory. The capacity of the Kosovo Police in preventing and investigating drug trafficking is sufficient, but there remain substantial concerns relating to the relatively low number of final convictions for drug-related criminal investigations.

In July 2013, the Law on Prevention and Fight against Trafficking in Human Beings and Protection of Victims was adopted. A National Anti-trafficking Coordinator cooperates with respective authorities and civil society. A Law on Crime Victim Compensations has been drafted. A new strategy on the fight against trafficking in human beings is being prepared.

Kosovo has begun to address arms trafficking, but the rate of destruction of small arms remains low. Considering the number of seizures during the last years performed by KFOR and other authorities, it appears that a significant number of arms could still be in Kosovo.

Kosovo's counter-terrorist effort is functional. Foreign fighters remain a concern, with Kosovo authorities having collected ample information about Kosovan fighters in Syria. A new Law on Banning Participation in Armed Conflicts has been drafted. The Government plans to draft an action plan on preventing radicalisation and violent extremism.

There have been improvements in the fight against corruption, but there still appears to be a lack of actual concluded results of court cases. The National Anti-Corruption Council led by the President of Kosovo is functioning. It issues recommendations and reports on the fight against corruption. It is essential that Kosovo establishes a track record of final court rulings in cases concerning corruption and money-laundering.

Public procurement remains one of the major sources of corruption in Kosovo. There are two competent institutions in this field, the Public Procurement Commission and the Procurement Review Body. The functioning of the latter could not be assessed properly, as this young institution's term of office has come to an end, and new staff have not yet been appointed.

In August 2013, the new Law on Financing of Political Parties was adopted. The Central Election Commission is responsible for implementation of the law and the registration of political parties. It is seriously understaffed, which may affect implementation in the future.

Amendments to the Law on Protection of Personal Data are expected to be adopted by end 2014. In 2013, the National Agency for Personal Data Protection was consulted on a number of laws and secondary legislation. The agency's capacities need to be further strengthened. Kosovo should develop secondary legislation as concerns data security and needs to ensure that all draft legislation concerning the processing of personal data are reviewed by the National Agency for Personal Data Protection. Kosovo should consider further awareness raising in data protection and increase the number of data protection officers at local levels.

Recommendations:

- Develop the independence of the judiciary by harmonising the four core laws that entered into force in January 2013 concerning the criteria for appointing or dismissing judges and prosecutors;
- ensure that vacancies in the KJC and KPC are filled;

⁶ <http://www.state.gov/j/inl/rls/nrcrpt/2013/vol1/204050.htm>
http://www.unodc.org/documents/data-and-analysis/Studies/Illicit_DT_through_SEE_REPORT_2014_web.pdf

- reduce the backlog of pending court cases;
- develop a criminal record information system; regulate appropriately its management;
- develop an integrated case management system allowing the tracking of criminal cases from investigation through prosecution and conviction to asset recovery;
- improve the exchange of information between law enforcement and judicial authorities in intelligence-led policing; strengthen their capacity and human resources;
- adopt the draft Law on Interception and standard operating procedures by secondary legislation;
- maintain capacity in the field of witness protection in terms of financing and staffing; strengthen international cooperation;
- integrate financial investigations into all investigations of organised crime and corruption;
- establish a track record of final court rulings in cases concerning trafficking in human beings, arms trafficking, drug trafficking, corruption, public procurement and money-laundering, with criminal penalties executed and criminal assets recovered;
- ensure support and assistance to victims of trafficking in human beings;
- consider reviewing the Law on Procurement to ensure the appropriate functioning of the Procurement Review Body;
- implement the Law on Financing of Political Parties in electoral campaigns; strengthen the human resources capacities of the Central Election Commission;
- conclude further law enforcement cooperation agreements and strengthen operational cooperation with neighbouring countries and EU Member States;
- continue cooperation with EUROPOL, INTERPOL and regional law enforcement bodies;
- conclude further agreements on mutual legal assistance in criminal matters with neighbouring countries and EU Member States;
- explore further modalities of cooperation with EUROJUST;
- develop secondary legislation on data security;
- ensure that the National Agency for Personal Data Protection is consulted on all draft legislation concerning the processing of personal data; strengthen this agency's capacity;
- consider further awareness raising in data protection; increase the number of data protection officers at local levels.

6. BLOCK 4: FUNDAMENTAL RIGHTS RELATED TO THE FREEDOM OF MOVEMENT

The fundamental rights framework remains sound, but the Government intends to refine it in line with the *acquis*. The existing anti-discrimination framework has not been fully implemented, but steps have been taken to improve implementation and monitoring. In May 2014, the Government approved amendments to the law on anti-discrimination. The Assembly is expected soon to consider the 'human rights package' consisting of the draft Laws on Anti-Discrimination, Gender Equality and on the Ombudsperson.

The next human and fundamental rights strategy and action plan are expected to be adopted after adoption of the 'human rights package.' The sanction mechanism in the draft anti-

discrimination creates various legal remedies for those subject to human rights violations. The law relies on the 2013 Law on Courts to define which courts may be used to make human rights claims. The primary legislation should be complemented by secondary legislation, and the public should be informed about available legal remedies.

The implementation of the strategy and action plan for the integration of the Roma, Ashkali and Egyptian communities is continuing, albeit at a slow pace. A mid-term review was completed in 2013 and a framework document added. This document prioritises actions until 2015. Continued commitment is needed, especially with regard to budget allocation and disbursement. Increased local ownership remains crucial for implementation.

Kosovo citizens face no major problems in accessing travel and identity documents.

The Kosovo Police collects data on ethnically-motivated crimes. 44 cases have been reported between January 2011 and March 2014, but just two ended with a court ruling. Sixteen cases remain under investigation, and six indictments have been filed. Kosovo should develop a harmonised definition of ethnically-motivated incidents not limited to Article 147 of the Criminal Code.

There remain a large backlog of court cases in Kosovo, and there is need for more specialised judges in certain court departments. A more efficient judiciary with an adequate number of specialised judges would help improve the handling of ethnically-motivated cases.

Municipal community safety councils exist in all Kosovo municipalities save those in the north. These are consultative councils that also develop and implement community safety projects. They largely function in accordance with the legislative framework, but the quality of their performance varies.

Recommendations:

- Adopt and implement the new laws on anti-discrimination and gender equality and amendments to the law on the ombudsperson as one legislative package;
- ensure that citizens have access to clear information about their rights and legal remedies when it comes to addressing human rights violations;
- continue implementation of the strategy and action plan for the integration of the Roma, Ashkali and Egyptian communities at central and local levels;
- develop a harmonised definition of ethnically-motivated incidents not limited to Article 147 of the Criminal Code;
- eliminate any overlap between the competences and activities of the municipal community and safety councils and the municipal assemblies.

7. CONCLUSIONS

The Commission has assessed the implementation of the visa roadmap by Kosovo on the basis of information and relevant legislative and policy documents provided by Kosovo. This evaluation has been complemented with on-site evaluation missions carried out by the Commission services assisted by experts from EU Member States.

The Commission considers that Kosovo has made good progress in implementing the visa roadmap. However, further efforts in line with the recommendations included in this report and the accompanying Commission Staff Working Paper are still required.

The Commission will continue to assist Kosovo in the implementation of the roadmap and actively monitor the fulfilment of all relevant benchmarks with a view to communicating to the co-legislators further progress in the visa liberalisation dialogue.