



Brussels, 10.10.2012  
SWD(2012) 339

**COMMISSION STAFF WORKING DOCUMENT**

*accompanying the document*

**Commission Communication on a Feasibility Study for a Stabilisation and Association  
Agreement between the European Union and Kosovo\***

{COM(2012) 602}

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

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**TABLE OF CONTENTS**

1.	POLITICAL CRITERIA.....	5
1.1.	Democracy and the rule of law .....	5
1.1.1.	Legislature.....	5
1.1.2.	Executive and President .....	6
1.1.3.	Public administration .....	7
1.1.4.	Reform of the security sector .....	8
1.1.5.	The judicial system .....	8
1.1.6.	The fight against corruption.....	10
1.1.7.	Relations with the international community .....	11
1.2.	Human Rights and the protection of minorities .....	12
1.2.1.	Civil, political, economic and social rights.....	12
1.2.2.	Respect for and protection of minorities, cultural rights .....	13
2.	ECONOMIC CRITERIA .....	15
2.1.	Economic situation and stability .....	15
2.1.1.	Economic situation.....	15
2.1.2.	Fiscal policy .....	17
2.2.	Price and trade liberalisation.....	17
2.3.	Privatisation, private sector development and financial reform.....	17
2.3.1.	Privatisation and private sector development .....	17
2.3.2.	Financial sector reform .....	18
3.	ABILITY TO ASSUME THE OBLIGATIONS RESULTING FROM AN SAA ....	19
3.1.	Political dialogue.....	19
3.2.	Regional cooperation .....	19
3.3.	Free Movement of Goods .....	20
3.4.	Movement of workers, establishment, services and capital.....	22
3.4.1.	Movement of workers .....	22
3.4.2.	Establishment .....	23

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3.4.3.	Supply of services .....	23
3.4.4.	Current payments and movement of capital.....	24
3.5.	Approximation, implementation and enforcement of legislation .....	24
3.5.1.	Competition.....	24
3.5.2.	Intellectual property rights .....	25
3.5.3.	Public procurement .....	26
3.5.4.	Standardisation, accreditation, conformity assessment, metrology and market surveillance .....	27
3.5.5.	Consumer protection .....	28
3.6.	Justice and home affairs .....	29
3.6.1.	Reinforcement of institutions and rule of law.....	29
3.6.2.	Asylum, migration, visa policy, control of borders/boundary .....	30
3.6.3.	Combating money laundering.....	32
3.6.4.	Preventing and combating organised crime and other criminal activities, including terrorism.....	33
3.7.	Cooperation policies .....	34
3.7.1.	Economic, monetary, statistical cooperation and the protection of EU financial interests .....	34
3.7.2.	Investment promotion and protection, industrial cooperation, small and medium-sized Enterprises (SMEs) and tourism .....	35
3.7.3.	Agriculture .....	37
3.7.4.	Customs, taxation and financial control.....	38
3.7.4.1.	Customs.....	38
3.7.4.2.	Taxation .....	39
3.7.4.3.	Financial control .....	40
3.7.5.	Employment, social policy, public health policy, education and training, and research technology and development (RTD).....	40
3.7.5.1.	Employment, social policy and public health policy .....	40
3.7.5.2.	Education, training, research and innovation.....	41
3.7.6.	Culture, audio-visual, telecommunications and postal services and information society .....	42
3.7.7.	Transport.....	43
3.7.8.	Energy, including nuclear safety.....	45
3.7.9.	Environment and climate change.....	46
3.8.	Financial cooperation.....	47

## INTRODUCTION

The main principles of the Stabilisation and Association Process (SAP) were set out in a Commission Communication of May 1999<sup>1</sup> and were confirmed by the Council in June 1999. Through this process, the European Union (EU) expresses its determination to take up the challenge and responsibility to contribute to the stability of the Western Balkans region. In return for compliance with the relevant conditions, the EU offers the countries tailor-made contractual relations: Stabilisation and Association Agreements. The conditions for establishing contractual relations with the Western Balkans countries are set in the Council Conclusions of April 1997. The main elements include a credible engagement to undertake democratic reforms, respect and protect human rights, minorities and freedom of expression, and free and regular elections. The Council also expects implementation of the first economic reforms, readmission from Member States and commitment to the regional cooperation.

The Feira European Council (June 2000) gives a clear signal to the Western Balkans region establishing the status of potential candidates for membership. This message is further reinforced by the summit in Zagreb (November 2000). The European Council Conclusions of March 2003 state that the future of the Western Balkans is within the EU and strong political will and sustained efforts are required to secure it. The Thessaloniki agenda for the Western Balkans of June 2003 makes clear that the Western Balkans countries and support to their preparation for the future integration into the European structures and ultimate membership into the Union is a high priority for the EU.

To date, feasibility studies have been prepared for Albania, Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, Serbia and Montenegro. Stabilisation and Association Agreements have subsequently been signed with all these countries. The December 2011 Council recalls the EU's willingness to assist the economic and political development of Kosovo through a clear European perspective, in line with the European perspective of the region. The Council underlines the need to take concrete steps to that effect. In February 2012, the Council takes note of the intention of the Commission to launch the feasibility study for a Stabilisation and Association Agreement between the European Union and Kosovo, without prejudice to Member States' position on status, or any future decisions to be taken by the Council.

The purpose of this Staff Working Document is to provide a technical analysis of the political, economic and legislative developments in Kosovo. The document describes the progress that Kosovo has achieved in the past three years and considers whether Kosovo is ready to start negotiating an SAA. It also describes the outstanding challenges that Kosovo faces to meet its obligations under such an agreement and gives an indication of the required commitments in this context. This analysis is without prejudice to the legal status of Kosovo and Member States' positions on the status of Kosovo.

The document is based on extensive contributions from the Kosovo authorities, the EU Office in Pristina, international organisations and relevant international and local non-governmental organisations. The Commission has also substantially drawn on information obtained during the sectoral and plenary meetings of the Stabilisation and Association Process Dialogue organised between January and July 2012. The findings of this Staff Working Document constitute the basis of the Commission Communication on a feasibility study for a Stabilisation and Association Agreement between the European Union and Kosovo<sup>2</sup>.

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<sup>1</sup> COM(1999) 235 final.

<sup>2</sup> COM(2012) 602 final.

## **1. POLITICAL CRITERIA**

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

#### *1.1.1. Legislature*

Kosovo's political system is based on the principles of a parliamentary democracy. The Assembly of Kosovo is the primary legislative institution and is directly elected for a four year mandate. Over the past three years, the Kosovo's Assembly has been strengthening its capacities and its supervision of the executive. Improvements can also be noted with regard to the preparation of legislation and monitoring of its implementation by parliamentary committees through outreach activities and public hearings. Kosovo has just undertaken a major reform of its constitution, in which the Constitutional Reform Committee of the Assembly has played an important.

In September 2011, the Constitutional Court clarified that deputies have only a functional immunity. Therefore, outside of the scope of his/her responsibilities a deputy is to be treated as any other citizen. This is sufficient protection for deputies to exercise freely their duties as members of the Assembly.

In general, Kosovo has put in place an institutional framework for legislation and control of executive which is based on democratic principles.

*To meet its obligations under an SAA*, Western Balkans countries need to have credible engagement to undertake democratic reforms and free and regular elections. Kosovo has held elections regularly at both central and municipal levels. The system is based on a competition of political parties and voters can chose freely between them. Over the past three years, there have been different coalition governments and new parties, including those highly critical of the governing coalition, could enter the Assembly. However, the last general elections in 2010/2011 were marked by serious shortcomings and technical difficulties. It is important that the legislation better reflects best practice in the EU and implementation is also in line with international standards. To this end, the Assembly has established an ad hoc committee on electoral reform.

It is also important that the Assembly and the government continue to improve their coordination and joint planning. The Assembly's legislative capacity needs to be further enhanced, notably the Assembly's Department for Legal and Procedure Issues. The legislative procedure needs to be strengthened to ensure cross-sectoral expertise and compliance with the *acquis*. The responsible bodies of the Assembly need to ensure a stronger oversight of the budget expenditure of the parliament during the course of the financial year. Furthermore, the Assembly needs to strengthen its oversight function of the executive, through improved scrutiny of legislation and monitoring of implementation of policies and laws.

The budget of the Assembly, as well as proposals on changes to its administration, need to be approved by the government. These processes need to be made more independent from the government. This can be achieved through adopting legislation on the status of the Assembly's civil servants. It is also important that the government consults the Assembly on modifications to the draft budget of the Assembly before the government submits the budget to the Assembly for adoption.

With regard to the appointments to independent institutions such as the Institution of Ombudsperson, but also regulatory agencies and bodies, the Assembly faces challenges in terms of delays and allocation of sufficient budgetary means. Delays and lack of budget cause serious difficulties for the institutions to function properly and to implement their mandate.

*Under an SAA, Kosovo would commit itself to further strengthen the democratic principles of its governance. Respect for the principles of international law and rule of law in general will form the basis of the domestic and external policies of parties to an SAA.*

### *1.1.2. Executive and President*

The government holds regular and frequent meetings and proposes ambitious legislative strategies. The government has good capacities to draft legislation and has the potential to increase legislative alignment with the *acquis* in the short period of time. The inter-ministerial coordination of policies has improved over the past three years.

The Ministry of European Integration leads the overall coordination of the EU agenda through a Task Force for European Integration. The Ministry has demonstrated strong capacities by successfully coordinating the third year of the sectoral and plenary meetings of the Stabilisation and Association Process Dialogue, as well as through a comprehensive input of institutions of Kosovo to the preparation of this study. The President is also active in promoting the EU integration agenda in Kosovo. A National Council on European Integration (placed under the office of the President and inaugurated in March 2012) serves as a high-level coordination body. Its aim is to build a consensus on the European agenda through an inclusive and cross-party approach.

The President is elected by the Assembly. His/her election requires a two thirds majority of all deputies for a five year term. In its July judgement, the Constitutional Court confirmed the full length of the mandate of the current President. The President actively enforces her constitutional duties and takes steps to oppose legislation, for example if it is not in line with European practices and standards (e.g., the legislation related to criminalisation of defamation and the requirement for journalists to disclose their sources of information). This demonstrates that there is a separation of powers in Kosovo today.

Over the past three years, Kosovo has made significant progress on decentralisation. The Ministry of Local Government Administration (MLGA) has taken steps to ensure a more efficient monitoring of the local government structures.

Kosovo has put in place the necessary institutions of the executive and there has also been sufficient political stability enabling progress in its reform process.

*To meet its obligations under an SAA, Kosovo needs to improve its governance. The focus of Kosovo needs to be on implementing its ambitious EU reform agenda. The government needs to ensure its legislative agenda better corresponds to the capacities of individual ministries and to the available budget. The coordination between the government and the Assembly also needs further strengthening.*

Efforts to implement the decentralisation need to continue, including by strengthening the administration at the municipal level. The challenges include budgetary constraints, absorption capacities, weak professional expertise at municipal level as well as a lack of political will at central level to decentralise its competencies in certain fields. Inclusive decision-making as well as administrative and budgeting processes are hampered by a lack of data management and evidence-based planning capacities. The municipal authorities need a tailor-made central level guidance and enhanced capacity development. The newly-established Serb-majority municipalities also face these challenges. Furthermore, some of them require further assistance from the central level to ensure their sustainability given their small size.

Decentralisation remains a specific challenge in the north of Kosovo. The government has opened a new administrative office in northern Mitrovicë/Mitrovica to provide services to people. It is clear that the solution to these political challenges requires a constructive and

proactive approach of all involved parties. In the context of these challenges in the north, successful implementation of the decentralisation south of the river Ibër/Ibar is essential.

*Under an SAA, Kosovo would need to respect and implement democratic principles of governance. Furthermore, the governance of Kosovo would need to be ensured through an adequate and more effective executive at all levels of administration.*

### *1.1.3. Public administration*

In view of an SAA, a legislative framework, accompanied by the relevant policies and the relevant institutions for its future implementation need to be in place. The independence of public administration bodies, like the Ombudsperson Institution, needs to be respected.

The existing legal framework in the area of public administration is appropriate. The legislation is inspired by the latest approaches to public administration in Europe. The laws on civil service and on salaries in the civil service provide the legal conditions for a stable, unified and professional civil service. The legal framework needs to be completed, notably by adopting some important implementing regulations. Delays in applying the new legislation undermine the establishment of a professional public administration and create the conditions for a legal vacuum that is detrimental to the reform process. In the short term, Kosovo needs to adopt all secondary legislation for the laws on civil service and salaries for the civil service.

The Ombudsperson Institution of Kosovo (OIK) is one of the key independent bodies related to public administration. It is an instrumental human rights protection body and it faces major challenges, notably in terms of budget and premises. There are also occasional interventions from the Ministry of Finance into its budget, although the Ombudsperson Institution is supposed to be financially independent. Kosovo's government and the Assembly need to enhance considerably their political support to the Ombudsperson and put emphasis on the follow-up of its decisions. In the short term, Kosovo needs to allocate suitable premises to the Ombudsperson and ensure its budgetary independence through obliging the government to include the Ombudsperson's draft proposal for budget, without any changes, into the global draft budget submitted to the parliament.

*To meet its obligations under an SAA, Kosovo needs to focus in particular on implementing the policies and actions on public administration reform, reflected in the strategy, action plan and relevant legislation, including through allocating sufficient and sustainable resources. To date, there has been little progress in implementation of the strategy. There are also concerns with regard to the budgetary costs of the strategy and the financial sustainability of the proposed reform.*

The second important independent body related to the public administration is the Independent Oversight Board (IOB). The IOB plays an essential role for the functioning of an accountable and law-based administration. Better compliance with the IOB decisions remains of high importance for the proper functioning of the administration and for an effective system of checks and balances.

The Ministry of Public Administration (MPA) is the legal and policy making institution in the field of public administration and public administration reform. However, the Ministry is insufficiently staffed to pilot these key reforms effectively. This undermines its capacity to perform a coordination role, and to implement strategies and legislation. In addition, the MPA has very little capacity to influence the government's political agenda and reforms related to public administration, and it does not obtain sufficient political support.

*Under an SAA, Kosovo would need to enhance further its efforts to improve professionalism, accountability, efficiency and effectiveness of its public administration at all levels, which is fundamental for a successful implementation of the necessary future reforms. The ultimate*

*aim of these efforts would be the proper functioning of state institutions for the population's benefit.*

#### *1.1.4. Reform of the security sector*

Kosovo has put in place the constitutional and legal framework to regulate its security sector. There are also institutional structures for democratic control of the security sector (e.g. parliamentary Committee for Internal Affairs, Security and Supervision of the Kosovo Security Force, and Oversight Committee for Kosovo Intelligence Agency). The Kosovo Security Council, chaired by the Prime Minister, is the key authority for policy-making and advising on security issues. In emergency situations, the Council can assume an executive role. The main actors in the security sector are the Kosovo Police, the Kosovo Intelligence Agency and the Kosovo Security Force. No local security force currently has defence capacities. A full strategic review of the security sector has been launched and should be concluded in June 2013.

NATO's KFOR and EU's rule of law mission EULEX continue to contribute to Kosovo's security. The Commission puts particular emphasis on the need for Kosovo to maintain good cooperation with EULEX and actively support implementation of its mandate.

*To meet its obligations under an SAA*, the scrutiny of the security sector by the parliamentary committees needs to be further enhanced. The Kosovo Assembly needs to develop further its capacity to perform an effective oversight of this sector. Furthermore, the main political parties continue to rely on their own informal security arrangements, which is an issue of serious concern.

*Under an SAA*, Kosovo would need to further strengthen the democratic control of the security sector.

#### *1.1.5. The judicial system*

Over the past three years, there has been significant reform of the judiciary. A comprehensive legal framework (laws on courts, on the Kosovo Prosecutorial Council, on the Kosovo Judicial Council, and on Prosecution) was adopted in 2010. The full implementation of these laws, which constitutes a major judicial and prosecutorial reform, will lead to the introduction of a new court system on 1 January 2013 (with seven Basic Courts and one Appeal Court). The principles of independence, impartiality, accountability and efficiency are at the heart of this reform. Judicial independence is enshrined in Kosovo's legislation, which requires the judiciary to act in an independent and impartial manner.

The Supreme Court is the highest judicial authority in Kosovo. The Constitutional Court, as the guardian of the Kosovo constitution, is independent in the performance of its responsibilities. The Court has issued a number of important decisions with strong political impacts, which have been respected by all authorities and political leaders.

In addition to the overall court structure, Kosovo has put in place the key institutions of the judiciary, notably the Kosovo Judicial Council (KJC) and the Kosovo Prosecutorial Council (KPC). Remuneration in the judiciary has improved since 2011, placing the judiciary on equal footing with the executive and legislative pillars, which enables the sector to attract qualified professionals, and has the potential to help preventing external influence on judicial staff. Kosovo has reached sufficient capacity in this area. The major elements of the legislative framework, as well as the key institutions, with improved capacities and a good understanding of the remaining challenges, are in place. While implementing the judicial reform, Kosovo needs to ensure that the competencies of the Special Prosecution are not amended in light of the new court structure. Introduction of a special chamber on corruption and organised crime needs to mirror the current competence and scope of the Special Prosecution.



*To meet its obligations under an SAA*, Kosovo needs to focus in particular on improving the independence, effectiveness, accountability and impartiality of the judiciary. Kosovo needs to ensure successful implementation of the judicial reform. Kosovo also needs to provide appropriate security and protection measures for judges, prosecutors, witnesses and complainants as well as court staff, and needs to provide effective safeguards against threats or intimidation. Kosovo's international judicial cooperation needs to be more proactive leading to investigations. The KJC and KPC need to increase recruitment of judges and prosecutors from minorities, as set out in the legislative framework.

There are further challenges for the judiciary on which progress needs to be made by Kosovo. The election procedure of the KJC voting members needs to be brought in line with the relevant European standards (and recommendations of the Venice Commission) to ensure that the majority of voting members are elected by their peers. To ensure successful implementation of the new court system from 1 January 2013, its financial and human resources need to be increased. Further amendments to the package of four laws and to the law on the Special Prosecution, which are currently under preparation, may disrupt the justice system and cause difficulties in the transition to the new court structure.

In 2009, all sitting judges and prosecutors underwent a vetting and re-appointment process led by the International Judicial and Prosecutorial Commission (IJPC). The number of judges is currently insufficient; there is a particular lack of civil judges in the courts of second instance. Efforts are needed to finalise the selection process for judges and prosecutors by filling in the remaining vacant positions (currently 29 for prosecutors and 51 for judges), especially for minorities for which Kosovo legislation reserves a specific number of positions. Judicial and Prosecutorial Councils conducted an outreach campaign to these minorities, notably Serbs, but further efforts are necessary in this regard. Local Kosovo Serb judges and prosecutors refused to undergo the vetting process (led by the IJPC) and are still reluctant to apply for vacant positions advertised by the Kosovo Judicial Council.

The Judicial Council has the legal mandate to ensure the independence and impartiality of the judicial system, as enshrined in the legislation. The Council needs to act decisively to protect judges' independence and impartiality. External influence and political interference remain a serious challenge for the judicial system in Kosovo. The constitution establishes that the appointment criteria for judges and prosecutors are defined by law. However, the current legislation is weak and is not harmonised. Newly-recruited judges are subject to a three-year probationary period, which is not in line with Venice Commission recommendations.

Allegations of corrupt behaviour in the judiciary continue. The limited independence and impartiality of the judiciary in practice is a serious impediment to strengthening the rule of law. Judicial and Prosecutorial Councils need to ensure that any disciplinary or criminal offences committed are addressed vigorously to improve the reputation of the judiciary. The Councils and other Kosovo institutions need to address the reluctance of Kosovo prosecutors and judges to prosecute and try politically sensitive or high-profile cases against influential defendants.

Allegations of threats and intimidation are frequent and continue to persist in the judiciary. The law on courts provides the legal basis for protective measures, but Kosovo needs to do more to enhance security for the judiciary. Access to, and control of, court premises remains lax, the public has unhindered access to the offices of judges and some trials are held in judges' offices instead of the courtroom. This is not only an issue from the perspective of rule of law, but also has the potential to create security risks for the judges and court administrative staff. Appropriate security measures should also be provided for prosecutors, witnesses and complainants.

Enforcement of judgments, in both civil and criminal cases, is weak. This is a major impediment towards creating confidence in the judiciary. Kosovo needs to focus more on creating the means to implement and enforce legislation and judicial decisions. In this regard, the current bailiff system needs to be reformed to be more efficient when it comes to enforcing civil case judgments.

In terms of increasing efficiency, the Judicial Council adopted a strategy to reduce backlogs to deal with over 160,000 cases accrued by 31 December 2008. To date, more than 55% of this caseload has been adjudicated. However, the overall trend reveals an increase in the total number of pending court cases since the number of filed cases (after 31 December 2008) continues to be higher than the number of cases resolved. This could partly be due to the registration system, which needs to be streamlined.

Access to justice is hindered in the north of Kosovo. The District Court based in northern Mitrovicë/Mitrovica is staffed only with 6 international judges and 2 international prosecutors from EULEX. The Serb community in the north does not accept local judges in the Court. Parallel Serbian municipal courts exist in the north, but they deal mainly with civil cases. For criminal offences there are no law enforcement mechanisms in the north other than EULEX.

*Under an SAA, respect for the principle of the rule of law is reflected in the cooperation on consolidating the rule of law, and reinforcement of institutions in general and of law enforcement and the administration of justice in particular. Cooperation under an SAA requires further strengthening of the judiciary's independence and improving its efficiency.*

#### *1.1.6. The fight against corruption*

*In view of an SAA, Kosovo needs to have an anti-corruption legislative framework, accompanied by polices and institutions for its implementation.*

Over the past three years, Kosovo has taken a number of important steps to fight against corruption by adopting the necessary elements of the legal framework: laws on declaration of assets, preventing conflicts of interest in exercising public functions, whistle-blowers, public procurement and financing of political parties. The current legal framework has provisions strong enough to bring tangible results in this area.

Kosovo set up the independent Anti-Corruption Agency in 2006. The Agency is the lead institution to monitor the implementation of the law on the prevention of conflicts of interest and the law on the declaration of assets of public officials, as well as of the anti-corruption strategy and action plan. It also deals with processing individual complaints on potential corruption cases and has the obligation to notify other authorities such as police and prosecution, if it finds grounds for further investigation. A National Anti-Corruption Council was set up by the President of Kosovo in February 2012. The Council aims to improve coordination and to raise awareness among all bodies and institutions involved in the fight against corruption.

In terms of the administrative capacity, over the past three years, prosecution and police have been reorganised with the aim to improve the fight against corruption. In 2010, the Special Prosecution established an anti-corruption task force composed of prosecutors (from both Kosovo and EULEX) and police investigators. The aim of this task force is to investigate economic and financial crime. The police also established a Directorate against economic crime and corruption. Inspection departments have been set up in many authorities and institutions, with the objective to address and monitor the situation with regard to corruption and/or criminal behaviour within the organisation itself. In general, Kosovo has sufficient elements of the legal framework in place as well as the relevant institutions. In the short term, Kosovo needs to demonstrate a clear commitment to deliver results in the fight against

corruption, including launching investigations, in close coordination with EULEX. Kosovo needs to adopt a new anti-corruption strategy.

*To meet its obligations under an SAA*, Kosovo needs to deliver on investigations and prosecution of corruption cases and to improve the reliability of statistics on the fight against corruption. It is clear that there are further challenges that Kosovo needs to address. The law on the prevention of conflicts of interest needs relevant reporting obligations since currently conflict of interest cases continue to be largely un-reported. The sanctions provided in the laws on declaration of assets and conflict of interest (fines up to a maximum of € 2,500, or a prohibition to exercise a public function for the maximum period of one year) are rather symbolic and the laws need to provide for dissuasive and proportionate sanctions.

Financing of political parties is not sufficiently transparent. The law on financing of political parties contains several weaknesses that need to be addressed. It needs to prohibit or strictly regulate donations from legal entities that provide goods or services to public administration. It also needs to oblige political parties to have a single bank account and to define timeframes for publishing their financial reports.

Kosovo also needs to adopt the new strategy and action plan for the fight against corruption. The evaluation of the anti-corruption strategy 2009-2011 suggests its limited implementation is due to a lack of inter-institutional cooperation and coordination, and a lack of support and commitment by the senior leadership in all public institutions.

To ensure that the new strategy is implemented successfully, and that tangible progress will be made in the fight against corruption, Kosovo needs to simplify the institutional set-up for the fight against corruption and avoid overlapping responsibilities. Successful investigations and prosecutions are key. It therefore needs to improve the cooperation between the enforcement and judicial authorities to make them more efficient and effective, and improve the reliability and comparability of statistics in this area. High-level political support needs to be ensured in support of the work in the fight against corruption; the political willingness expressed in the meetings of the Anti-Corruption Council needs to be put into practice.

*Under an SAA, cooperation would be aimed at further strengthening the independence of the judiciary and improving its efficiency and at improving the functioning of the police and other law enforcement bodies in fighting corruption.*

#### *1.1.7. Relations with the international community*

Kosovo has been recognised by 92 countries. Kosovo is not a member of the United Nations (UN), the Organisation for Security and Cooperation in Europe (OSCE) or of the Council of Europe (CoE), and thus is not able to fully benefit from the evaluation mechanisms of the relevant conventions. All three organisations are present in Kosovo. Kosovo is not a member of the World Trade Organisation. It is a member of the World Bank and International Monetary Fund (IMF) with which it has a Stand-By Arrangement. Kosovo has good cooperation with the International Criminal Tribunal for the former Yugoslavia.

The EU maintains a strong presence in Kosovo. In early 2012, the European Commission Liaison Office and the office of the Special Representative were merged into an EU Office, and a double-hatted EUSR/Head of Office was appointed. This has streamlined and enhanced the EU's visibility in Kosovo.

The EU has extended the mandate, including certain executive powers, of its rule of law mission, EULEX, to expire in June 2014. The EULEX mandate was endorsed by the Assembly in September. The Kosovo authorities have committed to cooperate fully with the EULEX Special Investigative Task Force, which investigates the allegations raised by the Parliamentary Assembly of the Council of Europe in its resolution of January 2011.

Strengthened cooperation between EULEX and local institutions, such as the Special Prosecution, has led to an increased number of arrests and search warrants. Kosovo needs to maintain good cooperation with EULEX, needs to continue to actively support implementation of its mandate, including of the Special Investigative Task Force.

KFOR has also continued to assist in providing security, notably in the north of Kosovo. Its overall presence is about 5,600.

The International Steering Group (ISG), having determined that Kosovo had substantially implemented the terms of the Comprehensive Settlement proposal and Kosovo having adopted the necessary constitutional and legal framework, declared the end of the supervision of Kosovo's independence, and the end of the mandate of the International Civilian Representative on 10 September.

## **1.2. Human Rights and the protection of minorities**

### *1.2.1. Civil, political, economic and social rights*

Kosovo has a solid legal basis for the protection of human and fundamental rights. These guarantees are directly enshrined in Kosovo's constitution. Kosovo has obligations to ensure that its own legislation, policies and practices meet the international requirements. The constitution lists the main international agreements and instruments directly applicable in Kosovo including the Universal Declaration of Human Rights, the European Convention for the Protection of Human Rights and Fundamental Freedoms, and its Protocols. In case of conflict, the latter take precedence over domestic laws. This is an important mechanism, as Kosovo is not a member of the UN or of the Council of Europe, due to status considerations. Furthermore, the constitution provides individuals with the right to refer violations by public authorities of their individual rights and freedoms, guaranteed by the constitution, to the Constitutional Court. The Ombudsperson may also refer matters to the Constitutional Court.

The Kosovo Assembly has a specialised Committee on Human Rights, Gender Equality, Missing Persons and Petitions. Its mandate is to review draft legislation and ensure compliance with international and European legislation on human rights. Over the past three years, Kosovo has established several structures at central and municipal level to assist with the protection, promotion and enforcement of human and fundamental rights. The international community has been intensively involved in building Kosovo capacities in this area over the past three years.

In general, Kosovo's institutions have taken good initiatives to start implementing the human and fundamental rights, as well as to increase the general awareness about these rights.

*To meet its obligations under an SAA*, Kosovo needs to focus in particular on streamlining and simplifying the multitude of bodies dealing with the protection of these rights to ensure effective monitoring and enforcement of the legal framework in this area. Furthermore, the focus needs to be on *freedom of expression*. Freedom of expression and freedom of the media are guaranteed in the constitution. More needs to be done to ensure they are respected in practice. Kosovo needs to investigate and prosecute any physical attacks against journalists and to complete the parliamentary procedure to change the Criminal Code on criminal liability of media and protection of journalist sources. Regarding property rights, there are weaknesses in the existing systems and legal frameworks, as well as in the implementation. Kosovo needs to make progress on enforcing and ensuring respect of the *property rights*, for example through decreasing the backlog of cases and improving enforcement of judicial and administrative decisions.

Following the October 2011 report of the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), conditions in some

detention facilities have improved. In this context, Kosovo needs to continue monitoring the situation with regard to *torture* and *ill-treatment*, ensuring improvements in all facilities. Over the past three years, Kosovo has also been gradually improving the standards in the *prison* system. The Ministry of Justice needs to continue its efforts to increase the professionalism of the correctional staff.

At the same time, Kosovo needs to continue addressing other issues. Further efforts are required to tackle the issues of *impunity and access to justice* by making the judiciary work more efficiently. Slow procedures need to be effectively eliminated and judgments enforced. This includes the need to ensure access to justice in practice, especially to the more vulnerable groups in society, including victims of trafficking. The unresolved fate of persons gone missing in the conflicts in the 1990s (1,770 cases as of August 2012) remains a humanitarian concern. To identify the fate of *missing persons* requires further resources and active regional cooperation. *Freedom of assembly and association* as well as *freedom of thought, conscience and religion* are guaranteed through adequate legislation and are generally respected, although they could be more actively implemented.

Kosovo's legal framework provides for *women's rights*. Gender equality is also well enshrined in the legal system, but implementation is slow. The implementation of the law on protection against domestic violence needs to be improved. The Convention on the *Rights of the Child* is directly applicable in Kosovo. The juvenile justice system is operating on the basis of the Juvenile Justice Code, which is broadly in line with EU standards. Legislation on *anti-discrimination* is adequate although its practical enforcement remains a challenge. There needs to be more political will to promote tolerance. *Persons with disabilities* are faced with little access to employment, goods and services, transportation and education. The key challenge for persons with disabilities is socio-economic. Special care needs to be paid to this group of persons when designing employment policies. The enforcement of *labour and trade union rights* needs to be further improved, including through increasing the capacity and quality of labour inspectors.

*Under an SAA, Kosovo would need to respect and implement democratic principles and human rights as set out in key international documents such as the Universal Declaration of Human Rights and the European Convention of Human Rights. Respect for the principles of international law and rule of law in general would form the basis of the domestic and external policies of parties to an SAA. Kosovo would need to ensure that the basic rights and freedoms are guaranteed and their enforcement gradually improved.*

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

*In view of an SAA, there needs to be a legislative framework guaranteeing the protection of minorities and of cultural rights. The enforcement of these rights needs to be supported by an adequate institutional structure.*

Kosovo has a solid legal basis for the protection of minorities and of cultural heritage. These guarantees are directly enshrined either in Kosovo's constitution and regulated by the law on the protection and rights of minorities. As the Council of Europe Framework Convention for the Protection of National Minorities is directly applicable in Kosovo and takes precedence over Kosovo legislation, Kosovo has clear obligations to ensure that its own legislation, policies or practices meet the international requirements. This is important taking into consideration that Kosovo is not a member of the Council of Europe.

Following the end of supervised independence, Kosovo's constitution and legislation continues to have guarantees of representation, cultural rights, language rights to its minorities, as well as rights of the Serbian Orthodox Church. Currently, representatives of

minorities have 25 seats guaranteed in the Assembly as a result of the system of guaranteed and reserved seats (13 for the Serbian community and 12 for members of other minorities). Two of the five deputies of the Assembly's Speaker are from non-Albanian minorities. Persons belonging to minorities are also well represented in the government.

In terms of language rights, the reformed Language Commission has the potential to improve the protection of linguistic rights. Budget, staff and premises need to be allocated to the Office of the Language Commissioner. The law on the Public Broadcaster provides for establishing a channel in the Serbian language. This needs to start broadcasting. In her annual address, the President addressed the Assembly in Serbian as well as Albanian: a positive sign, which needs to be followed by other political leaders and Kosovo institutions.

With regard to the Roma, Ashkali and Egyptians, Kosovo's application for the Roma Decade membership is a positive initiative. With the support of the international community, Kosovo has been closing the lead contaminated camps.

With strong support of international community, Kosovo has continued offering the possibility of return. Overall, over 23,000 persons belonging to minorities have returned to Kosovo since the conflict in 1990s.

As regards, cultural rights including cultural heritage, Kosovo has been taking steps to implement the Council of Europe and UNESCO conventions on cultural rights. Protection of cultural heritage has somewhat improved following the adoption of related legislation, but implementation is lagging behind, especially at municipal level. Kosovo authorities have successfully taken over from KFOR the security of most of the cultural and religious sites of the Serbian Orthodox Church; only two sites – the Pejë/Peć Patriarchate and the Manastiri i Deçanit/Visoki Deçani Monastery – are still protected by KFOR.

In the short term, Kosovo needs to ensure existence of a body enabling direct consultation on the promotion and protection of religious and cultural heritage with religious communities, notably the Serbian Orthodox Church.

*To meet its obligations under an SAA*, Kosovo needs to focus on promoting multi-ethnic Kosovo. It needs to create conditions for Serbs to feel part of Kosovo's future and conditions for return for persons who wish to do so. Budget, staff and premises need to be allocated to the Office of the Language Commissioner. It is equally important to implement legislation related to the protection of cultural heritage and of the Serbian Orthodox Church notably laws on the historic centre of Prizren and on the village Hoçë e Madhe/Velika Hoča. Broadcasting by the public broadcaster needs to be ensured in Serbian language. Physical attacks motivated on the basis of ethnicity or religion need to be investigated and perpetrators brought to justice. Kosovo also needs to progress on implementing the strategy and action plan for the Roma, Ashkali and Egyptians, including through the allocation of the necessary funds. Kosovo needs to increase the overall share of persons belonging to minorities in public administration.

It is clear that there are further issues in this area that Kosovo needs to address. Challenges relate both to the enforcement of legislation and to the political framework. Kosovo needs to improve further the implementation of legislation on the use of official languages at an institutional and social level throughout Kosovo. The "Forty Actions" to integrate Roma, Ashkali and Egyptians need to be implemented both at central and municipal levels. These minorities are vulnerable and they suffer both direct and indirect discrimination. Also they have limited access to the Kosovo education system. The access to education, the fight against school drop-out, and qualitative education outputs need to complement the recent Romani curriculum. Similar issues persist with regard to Turkish, Bosniak and Gorani minorities. The teaching and learning of other minority languages is not sufficiently promoted.

It is important that security incidents targeting returnee sites and properties are thoroughly investigated and tried. Incidents targeting the Serb returnee community in certain areas south of the river Ibër/Ibar have negative impact on this community and increase their feeling of vulnerability and lack of confidence in the authorities in ensuring their security.

*Under an SAA*, Kosovo would need to respect and implement the rights of persons belonging to minorities on the basis of international and European standards. Kosovo would also need to offer the possibility of return for displaced persons who may wish to come back.

## **2. ECONOMIC CRITERIA**

*Respect for market economy principles should form the basis for domestic and external policies. This entails a stable macroeconomic environment supported by a stable institutional framework, a comprehensive liberalisation of prices, and trade and current account transactions. The creation of a strong private sector through de-monopolisation and privatisation and the establishment of a prudently managed financial sector are also important factors. These policies should be supported by a stable and transparent legal and regulatory framework.*

Kosovo has implemented the initial essential reforms towards establishing a fully functioning market economy. This is sufficient to establish contractual relations with countries from the Western Balkans, as stated in the Council Conclusions of April 1997.

### **2.1. Economic situation and stability**

#### *2.1.1. Economic situation*

Economic policies have been volatile over the past three years. Kosovo has undergone a period of marked fiscal expansion, which boosted economic growth and budget revenue. At the same time, this has increased external imbalances and economic vulnerabilities. Since the second half of 2011, fiscal consolidation steps have been undertaken in reaction to existing financial constraints. The government has also advanced reforms to improve the economy's regulatory business environment. There is broad consensus in the society on pursuing market-based policies. At the same time, corruption and informal business practices are still widespread, and remain important challenges to economic development. In this context, the rule of law needs to be strengthened.

Economic stability has largely been preserved. Kosovo's fully euroised economy has been relatively insulated from the global economic crisis, due to its limited integration in the international economy. Banks' lending is funded from domestic sources and the sector remains well-capitalised and profitable. After failing to implement an IMF Stand-By Arrangement (SBA) in 2010, economic policies have recently been anchored by a Staff-monitored programme and a new SBA, aiming at restoring fiscal sustainability. Nevertheless, the economic situation is challenging. The economy provides few employment opportunities. External imbalances are high and economic activities are predominantly concentrated in the services sector, in particular retail and wholesale trade. Reliance on remittances and direct or indirect support of donors has been declining but remains significant.

The economy expanded on average by around 4% over the last three years. Growth is expected to have accelerated to 5% in 2011, mainly driven by domestic demand with strong increases in government consumption and investments. Exports of goods and services have also increased, but still cover only about a third of total imports. The production base remains extremely narrow. Agriculture, mostly semi-subsistence, contributes about 17% of the value added in the economy. Manufacturing is limited and concentrated in the extraction of raw materials, which also dominate the exports of goods.

Data on employment is scarce and often not reliable. Employment and activity levels are extremely low<sup>3</sup>. Estimates suggest that only about a quarter of the working age population have a job and only one woman out of eight is employed. Unemployment is above 40% and especially pronounced among the youth – more than 70% of whom are without a job. About 80% of all unemployed have been without a job for more than a year, revealing deep structural challenges. There has been relatively high growth over the last three years, but job creation is lagging and not enough jobs are created to reduce labour market pressures. In addition, the economic structure is largely based on sectors relying on low-skilled labour. Most of the labour force is unskilled or semi-skilled, implying potential constraints for businesses trying to develop in sectors with higher value added. High remittances inflows have an important impact on the labour market, as they tend to increase the reservation wage and reduce incentives to work. The lack of perspective for a job, especially among the young population, is putting strains on social cohesion and encourages emigration.

Inflation has been volatile, moving from a deflation of -2.4% in 2009 to an average annual inflation of 7.4% in 2011. Food and energy prices are by far the biggest contributors to inflation dynamics. Domestic prices are highly dependent on international commodity price movements. Food prices have a share of about 35% in the consumer basket, marking a decline over the recent years<sup>4</sup>. After increases ranging between 30-50% in 2011, the net monthly average wage in the public sector reached € 368 in December 2011. Public sector wages have risen more than 60% altogether in the last three years, far surpassing productivity gains. There is scarce information about private sector wages but a survey done by the Kosovo Business Alliance shows that their average levels are below public sector wage levels.

Kosovo uses the euro as a legal tender and the Central Bank has limited policy instruments. Banking supervision and conservative lending policies of the commercial banks have been key in preserving financial sector stability. Credit is financed out of domestic deposits and banks observe an informal 80% threshold for the loans-to-deposits ratio. As part of the agreement with the IMF, the central bank and the Ministry of Finance have established a special reserve fund for providing emergency liquidity assistance to the financial sector.

High and persistent external imbalances represent a particular challenge for the economy. The current account deficit widened from 10.5% in 2009 to 14.5% of GDP in 2011<sup>5</sup>. Trade deficits have stayed above 40% of GDP and have even expanded lately. They are only partially financed by surpluses in the trade in services and in the income account. Current transfers, both to the government and the private sector, have declined but still remain significant and finance about half of the deficit in the trade in goods. Kosovo is a recipient of large remittances inflows, which are mostly channelled to finance consumption. Capital inflows have been dominated by foreign direct investments, averaging 7.7% of GDP since 2009. However, most investments have gone into the non-tradable sectors – in particular financial intermediation, construction and real estate, re-enforcing the existing structure of the economy. Kosovo's total external indebtedness has remained stable at around 30% of GDP in the last three years. Most of the debt is private, long-term and linked to foreign direct investments. The Central Bank of Kosovo has recently published the international investment position (IIP), which measures the difference in external financial assets and liabilities, showing a solid 2.3% of GDP.

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<sup>3</sup> The latest official data from the Labour Force Survey are from 2009. In 2010 and 2011 the surveys were cancelled due to financial constraints.

<sup>4</sup> The decline has been driven mainly by methodological changes.

<sup>5</sup> Data from the Central Bank of Kosovo.



### *2.1.2. Fiscal policy*

In a euroised economy, the role of fiscal policy is key in preserving macroeconomic stability. In the last three years, fiscal policy has been expansionary and volatile, but the government is taking efforts to stabilise expenditures. The budget deficit increased from 0.7% in 2009 to 2.6% of GDP in 2010, before corrective actions brought it down to 1.9% in 2011. Excluding significant one-off dividend receipts and budget grants, the deficit averaged just under 5% of GDP between 2009 and 2011. Primary spending grew by a nominal 45% over this period, driven mainly by strong increases in capital expenditure and spending on wages. Government priorities have been heavily oriented towards road infrastructure, leaving little resources to finance other pressing development and social needs. The construction of a highway to Albania launched in 2010 has weighed heavily on the budget, suppressing other capital expenditure and reducing fiscal space to finance other expenditure that could contribute to improving social cohesion and prospects for sustainable long-term employment and growth. By the end of 2011, total revenue increased by around 38% in comparison to 2008 as both tax and non-tax revenue increased strongly. In this period, the government drew significant dividends from the public telecom company. Moreover, tax revenue has been boosted by increased indirect taxation and improved tax collection. Most of the revenue is collected at the border, reflecting the structural dependency on imports to meet even basic consumption and investment needs.

Budget deficits have been financed mainly by withdrawals of previously accumulated government deposits, which since 2008 have fallen by around 7 percentage points to 3.5% of GDP in 2011. In 2009, Kosovo assumed obligations towards the World Bank. This accounts for most of the government debt, which stood at about 6% of GDP by the end of July 2012. This is well within the legally-binding limit of 40% of GDP for government and government-guaranteed debt. In 2012, the government started issuing treasury bills and declared its intention to develop further the domestic market for government securities. Overall, in view of the significant contingent and implicit liabilities, especially in the energy sector, and the numerous expenditure priorities, future government indebtedness needs to be carefully managed and monitored.

## **2.2. Price and trade liberalisation**

Kosovo is not a member of the World Trade Organisation (WTO) and, consequently, has not had to undergo the deep reform and trade liberalisation which membership in this organisation implies. Kosovo is a member of the CEFTA and as such a signatory to the agreement eliminating barriers to trade between its members and harmonising provisions on modern trade policy issues such as competition rules and State aid.

The price-setting mechanism in Kosovo is mostly free, with independent regulatory bodies regulating the prices of electricity, district heating, water, solid waste, postal services and some telecommunication services. Current governance arrangements as regards publicly-owned enterprises ensure that government does not directly interfere in the price setting mechanism of their services.

## **2.3. Privatisation, private sector development and financial reform**

### *2.3.1. Privatisation and private sector development*

The privatisation of socially-owned enterprises begun in 2002. The Privatisation Agency of Kosovo has privatised (fully or partially) 306 socially-owned enterprises. The Agency has accumulated significant proceeds in the process, which have been ring-fenced to satisfy creditors and workers claims. In 2011, a new legislative framework was adopted that is

expected to speed up the liquidation process. However, the privatisation of some large socially-owned enterprises still needs to be addressed.

A number of large publicly-owned enterprises in key sectors have been tendered for privatisation. In addition, the government has entered into or is considering long-term public-private partnerships (PPPs) as a way to draw-in private investments and develop the infrastructure. In 2010, a 20-year contract was awarded to an international consortium to operate the Pristina airport. The tender has been completed for the Electricity Distribution and Supply Company in June 2012. The privatisation of the public telecom company is currently on-going and is due to be finalised by the end of the year. Large privatisations and PPPs have the potential to attract investments and improve efficiency. They should however be managed carefully to limit government exposure to future liabilities and provide the right incentives for improved business and operational performance of the companies.

Services are the key component of Kosovo's private sector. Enterprises tend to be very small and mostly family-run. There is vigorous business creation, but most companies do not achieve significant growth. The obstacles to private sector development are numerous, ranging from a weak rule of law, corruption and unfair competition to unstable electricity supply, unskilled labour force as well as difficult and costly access to finance.

In the past year, the government has taken some initiatives to improve the business environment. The process of business registration has been simplified and facilitated, the number of required documents for exporting and importing has been reduced, and a number of licences have been removed. Kosovo has made important steps towards improving its legislative and regulatory framework but still faces a major challenge with regard to its implementation.

### *2.3.2. Financial sector reform*

The financial sector (excluding the Central Bank) has expanded by more than 40% over the last three years, reaching around 75% of GDP in the end of 2011. The sector is dominated by eight commercial banks (76% share in total assets), followed by pension funds (17%), microfinance institutions (4%) and insurance companies (3%). Concentration is high and the three biggest banks hold 73% of the assets. Close to 90% of all bank assets are managed by banks under foreign ownership. All banks have capital adequacy ratios above the required minimum of 12% and the average ratio for the whole system is around 18%. Banks' profitability and liquidity indicators are also high. Non-performing loans remain at manageable levels, although they have slightly increased to about 7% in the first half of 2012. Financial intermediation has steadily deepened and total deposits and lending has increased on average by double-digit rates over the last three years. The system relies on domestic sources of finance. Deposit levels have been kept constantly above lending, providing an additional source of stability in a relatively risk-averse system.

In April, a new law on banks, microfinance institutions and non-bank financial institutions was adopted. It enhances governance standards, introduces tighter restrictions for lending to bank-related parties and allows consolidated supervision for banking groups. Additionally, the law strengthens the existing framework for bank resolutions. This includes establishing a framework that authorises the Central Bank to take control of a bank before it reaches insolvency. It also provides a clear legal framework for oversight of microfinance and non-bank financial institutions.

### **3. ABILITY TO ASSUME THE OBLIGATIONS RESULTING FROM AN SAA**

#### **3.1. Political dialogue**

There is a broad convergence between the external policies of Kosovo and those of the EU. A formalised process, a political dialogue, in which the EU and Kosovo would have an opportunity to meet and discuss regional and international issues, would have the potential to contribute to improving further Kosovo's understanding of EU priorities in this area. Kosovo has established the institutions to undertake a political dialogue.

*An SAA would provide the framework for a political dialogue that focuses on integration, gradual rapprochement, further convergence of positions on international issues, as well as regional cooperation and good neighbourly relations.*

#### **3.2. Regional cooperation**

Following the UN General Assembly Resolution of September 2010, the EU has facilitated a dialogue between Pristina and Belgrade. The dialogue was launched in March 2011 to promote cooperation, achieve progress on the path to the European Union and improve the lives of the people. The parties reached agreements on free movement of persons, customs stamps, recognition of university diplomas, cadastre records, civil registries, IBM and on regional cooperation. It is essential that Kosovo continues implementing in good faith all agreements reached between Belgrade and Pristina to date and that it engages constructively on the full range of issues with the facilitation of the EU.

The agreement on regional cooperation of 24 February provided for the modalities for Kosovo's participation and representation in regional cooperation arrangements. This has been an important step towards ensuring an effective participation of Kosovo in regional initiatives. Both parties need to continue implementing the agreement. Inclusive and representative regional cooperation requires that the February agreement is implemented by both Kosovo and Serbia.

Kosovo also chaired the Central European Free Trade Agreement in 2011, including the ministerial meeting in November 2011. Kosovo is also a member of the Regional Cooperation Council. Kosovo participated in the meetings of the South East Europe Transport Observatory (SEETO) forum, including the ministerial meeting at the end of 2011. Kosovo also participates in the Energy Community Treaty. Kosovo was accepted into the South East Europe (SEE) Centre for Entrepreneurial Learning, the Regional Rural Development Standing Working Group in the SEE, the Regional Environmental Network for Accession, and the Network of Associations of Local Authorities of the SEE.

Kosovo is ready to participate in other regional initiatives. The agreement on regional cooperation of February should allow Kosovo to increase and extend its direct participation in regional mechanisms. This includes the Transport Community Treaty, judicial cooperation, and arrangements for employment and social policies within the framework of the SEE Employment and Social Policy Network and the SEE Health Network. It should also ensure Kosovo's full participation in the Roma Decade.

According to the Council Conclusions of April 1997, regional cooperation is one of the conditions for contractual relations with the EU. *To meet its obligations under such an Agreement*, Kosovo needs to ensure active and constructive cooperation with all partners from the region.

*Under an SAA, Kosovo would commit itself to the active promotion of regional cooperation, in all areas covered by the agreement.*

### 3.3. Free Movement of Goods

#### *Trade policy*

*In view of an SAA*, Kosovo needs to have the administrative capacity to conduct negotiations in trade-related areas. It needs to be able to identify the benefits and costs of changes in trade regimes resulting from negotiations with the EU and take meaningful commitments which can then be implemented. An appropriate negotiating structure also must be in place and there need to be mechanisms for consulting the relevant stakeholders. This capacity needs to be maintained throughout the negotiation process, and Kosovo needs to be able to provide evidence that the reforms requested as a result of the negotiations can be implemented progressively after signature.

The Ministry for Trade and Industry has been reorganised. The Trade Department of the Ministry for Trade and Industry has been reinforced, but other trade-related departments still need to be restructured. The new organisational structure is not yet fully operational or staffed. To negotiate effectively and to implement the trade-related parts of an SAA, Kosovo needs to strengthen further its administrative capacity. In the short term, it needs to implement fully the government decision on the restructuring of the Ministry.

A Council for Trade Policy has been established, as the inter-ministerial platform for the trade policy coordination. At the operational level, the policy dialogue among all relevant Ministries and also with businesses within the framework of the Trade Policy Working Group and its five sectoral subgroups has been recently established. It has become the centre of the Ministry's trade policy activity in the short period of time.

These bodies are designed to help define Kosovo's negotiating positions for the trade related aspects of an SAA and other trade negotiations. In the short term, to improve the understanding of the impacts of trade provisions of the Stabilisation and Association Agreement on Kosovo's economy, Kosovo needs to prepare an analytical study, including a clear statement of its negotiating priorities. Kosovo also needs to appoint a chief negotiator. The negotiator must have the full collaboration of relevant colleagues in the Ministry and in the other relevant Ministries to have a fully operational negotiating team capable of covering all aspects of trade negotiations. Finally, appropriate institutional arrangements and mechanisms need to ensure the overall coordination of the negotiation process.

Kosovo has been modernising the trade-related regulatory framework with a view to approximation to the *acquis* by adopting new legislation in line with EU standards and eliminating non-EU compatible regulations. *To meet its obligations under an SAA*, Kosovo needs to implement this new legal framework.

Kosovo is a member of CEFTA. As such, it has a tariff-free regime for all industrial goods and agriculture products with all CEFTA members. As a member of CEFTA, Kosovo applies only occasional non-tariff and technical barriers to trade, within the tariff free regime for all industrial goods and agriculture products with all its members. Kosovo also enjoys customs-free access to the EU Market for manufactured products, through the unilateral regime. Kosovo has the right to establish protective measures against unfair trade practices (dumping and subsidised imports).

A flat 10% custom tariff is applied on goods imported from the EU into Kosovo, with some goods enjoying duty-free access, such as pharmaceutical products, certain agricultural products and livestock, fertilisers, and others. Kosovo's trade balance is marked by a significant trade deficit, which exceeded € 2 billion in 2011 (45% of GDP). The EU is by far Kosovo's most important trading partner, accounting for nearly half of its external trade. The share of exports to

CEFTA member countries was about 26% in 2011 with Albania and the former Yugoslav Republic of Macedonia and Serbia being the main trading partners.

90% of Kosovo's exports consist of raw materials, on which the EU applies no restrictions. Industrial products benefit from the Community's autonomous trade measures (ATMs) in place until 2015, with no quantitative restrictions or duties. The only exceptions are veal, wine, sugar and certain fishery products, which are subject to tariff quotas. The ATMs are important for Kosovo's economy and for its weak export sector. The value of Kosovo's export grew in 2011; this was largely due to increased world commodity prices. Exporters focused mainly on maintaining existing markets rather than expanding exports and penetrating new markets. There is a good potential to exploit the preferences further for business development.

#### *Trade in industrial goods*

Kosovo has not yet made use of the full potential of the benefits granted through the EU preferential trade regime and has a substantial trade deficit in industrial goods. To take full advantage of an SAA, Kosovo needs to undertake structural change towards higher added value in export goods, especially in intra-industry trade with EU companies. Within the scope of the Kosovo's Economic Vision Strategy and Action Plan, aimed at boosting the private sector, the number of documents necessary for export and import of traded goods have been reduced. Only two documents are now required for exports and three for imports.

A significant proportion of Kosovo's total exports (61%) are primary products such as raw materials or goods with a low level of processing and relatively low value added, essentially base metals. Consequently, the overall performance of the country's exports remains sensitive to developments in external demand. Mineral products represent the second largest category, with over 12% of total exports. Manufactured exports mainly consist of machinery, plastic and leather. Imports are generally of a higher processing stage, either intermediate or consumer goods. In 2011, Kosovo's imports exceeded € 2.1 billion, with an annual increase of almost 15%. The structure of Kosovo imports is stable. The largest category is mineral products (mostly fuel and ceramic products). Industrial goods, machinery and equipment represent about 11% of total imports, or about 28% of total imports from the EU.

#### *Trade in agricultural goods and fisheries*

Agriculture is a key sector in Kosovo. Agriculture and fishing has a share of about 17% in the total value added in the economy. It is the main source of income for the majority of the population. The sector has further growth potential, both in terms of production and trade. Kosovo is a net importer of agricultural products. Import of agricultural products (food and beverages, live animals and vegetables) amounts to almost 22% of all imports but less than 8% of all exports.

The main agricultural exports are beverages, spirits and vinegar (wine, edible vegetables and vegetable and fruit preparations). The most important imports of agricultural products in terms of value are beverages, spirits and vinegar, edible meat, dairy products, pastries and milk preparation. Kosovo's main trading partners are the EU, Albania, Serbia, the former Yugoslav Republic of Macedonia and Turkey. For all agricultural and food categories, a negative trade balance prevails. Kosovo faces a large agriculture trade deficit. With the EU alone, this deficit amounted to € 138 million in 2011.

Organic agriculture is at an early stage of development. The produce has to be certified in Albania and the former Yugoslav Republic of Macedonia.

*To meet its obligations under an SAA*, Kosovo needs to continue agricultural structural reforms. It needs to accelerate the harmonisation of veterinary, sanitary and phytosanitary rules with EU standards to help its exports meet international requirements. Privatising

processing plants and their upgrade to the level fulfilling the required quality and safety standards would improve their commercial competitiveness and thus prepare for an SAA. This would also help improve the trade balance between the EU and Kosovo and improve export performance for all agricultural products. Kosovo also needs to improve its statistical data collection as there are significant differences between the EU and Kosovo data on agricultural trade.

*Under an SAA, ensuring free movement of goods is one of the main objectives. The parties establish gradually a free trade area, within a transitional period to be determined during the negotiations. This free trade area would have to be in conformity with relevant WTO provisions.*

*Kosovo would commit not to establish quantitative restrictions or measures having an equivalent effect, to progressively dismantle its respective customs duties and equivalent measures on almost all trade with the EU. It would commit to prevent practices discriminating directly or indirectly against EU producers. The EU autonomous trade measures already contain a standstill clause making them conditional on the beneficiaries not introducing new import duties and measures having equivalent effect in trade with the EU. This would become a contractual obligation under an SAA. The customs authorities in Kosovo would need to be able to enforce and safeguard these demanding trade regimes.*

### **3.4. Movement of workers, establishment, services and capital**

#### *3.4.1. Movement of workers*

The main elements of institutional and legal framework with regard to equal treatment of workers are in place. Foreign citizens who want to work in Kosovo for a minimum of three months need to have a work permit issued by the Ministry of Labour and Social Welfare. The Ministry sets the number of employment permits for foreign persons, in accordance with the employment opportunities. The number of permits for the following year is set at the end of each calendar year. The Labour Inspectorate supervises the implementation of the legislation and controls work permits.

Several categories of foreign workers are exempt from the obligation to obtain a work permit, which facilitates the access to the labour market for foreign nationals in certain sectors. Kosovo has also undertaken measures to assist foreign nationals in specific areas. For example, in the construction sector Kosovo recognises foreign licences, thus making it easier for foreign companies to bring employees to work in Kosovo. Lawyers, who are permanent residents, are also allowed to provide services in Kosovo.

A lack of reliable statistics on the labour market makes it difficult to assess the short- and long-term needs of foreign labour. A labour market assessment would help Kosovo to determine when there is a need to recruit third-country nationals.

*To meet its obligations under an SAA, Kosovo needs to continue in strengthening the legal framework and its needs to enhance considerably its administrative capacity. At present, Kosovo has limited legal and institutional capacity necessary to introduce a limited coordination of social security systems as foreseen by an SAA. The social security system in Kosovo is still in its very early stages. The existing legislation is rudimentary. There is currently, depending on the sector, either no insurance system at all or no system suitable for coordination. The negotiation of bilateral agreements on social security proves to be difficult and some branches of social security do not yet exist in Kosovo.*

*Under an SAA, Kosovo would need to ensure equal treatment as regards working conditions, remuneration and dismissal of workers who are legally established in its territory. The legally*

*resident spouse and children of a worker legally employed in Kosovo would have access to the labour market during the period of the worker's authorised stay. Kosovo would be required to lay down the rules for the limited coordination of social security systems to EU nationals legally employed in Kosovo and their family members residing with them.*

#### 3.4.2. Establishment

The legal framework for the right of establishment is the law on business organisations, which allows foreign-owned companies to establish their business under the same conditions as local businesses as long as they are registered with the Kosovo Business Registration Agency (KBRA). In support of *inter alia* business establishment and registration, 25 one-stop-shops have been established in different municipalities.

The business registration certificate, fiscal number and VAT certificate will be issued on the spot in these 25 one-stop-shops. The business registration process has been simplified by removing the provision requiring the deposit of the minimum start-up capital (€ 5,000) for limited liability companies and by reducing start-up capital for joint stock companies from € 25,000 to € 10,000. These simplifications will facilitate business start-ups, and reduce the time to start a business. The legal framework and the practices are non-discriminatory.

*To meet its obligations under an SAA, Kosovo needs to continue in a progressive alignment with the EU provisions. The alignment with EU standards on the recognition of professional qualifications and company law, including accounting, auditing and corporate governance is limited. Further progress in those two areas will contribute to make Kosovo a more attractive location for business.*

*Under an SAA, Kosovo would need to ensure that EU companies have the right of establishment in Kosovo. EU companies established in Kosovo should be granted either local treatment or most-favoured-nation (MFN) treatment, whichever is more favourable. During the transition period, the issue of extending these rights to EU nationals or Kosovans wishing to establish themselves as self-employed independents would be examined. Notwithstanding the provisions governing the free movement of workers under the agreement, special establishment provisions could be introduced for "key personnel".*

#### 3.4.3. Supply of services

The legal framework for trade in services allows for a relatively open economy to foreign service providers. In terms of market access, for most services, there are no legal restrictions on foreign firms establishing a commercial presence in Kosovo. Once they are established, foreign-owned firms are subject to the same rules as domestic ones. The share of services in the economy has been stable in the last years, at approximately 60%.

Foreign-owned local firms are free to determine their ownership structure (allowing up to 100% foreign ownership) and whether they will enter into a joint venture with local or other foreign-owned firms. Within the overall privatisation policy, specific service providers are in the process of being privatised, such as the Post and Telecommunications of Kosovo (PTK).

Overall, Kosovo is a net exporter of services. This is the only sector, where Kosovo has a positive trade balance. The export of services represents approximately 10% of GDP, while imports account for approximately 7.5% of GDP. The positive balance mainly reflects increased revenues from the communication and travel services. Service exports have an important potential for faster economic growth. During the next three years, exports of services are expected to grow by 6.5% in real terms. The main contributors to this growth are travel services, which mainly depend on visits of diaspora in Kosovo. In general, Kosovo has a relatively liberal regime for the supply of services.

*To meet its obligations under an SAA, Kosovo needs to continue in the progressive alignment of its legislation with the *acquis*. It also needs to improve its statistics on services.*

*Under an SAA, a liberal regime for the supply of services, consistent with the relevant WTO rules, in particular Article V of GATS, would be provided for. Companies not established in the territory of the respective other contracting party would gradually acquire the right to provide services, in accordance with the GATS provisions and taking account, in particular, of progress in approximation of laws in the various fields. The agreement would contain a stand-still clause. The implementation of this liberalisation would be closely monitored under the agreement.*

#### **3.4.4. Current payments and movement of capital**

Kosovo already enjoys a liberal regime for capital movements, including foreign direct investment. There are no restrictions regarding foreign ownership or investment in the financial sector or in other assets. The liberalised rules constitute an important economic and regulatory achievement and should in the long-term help attract the foreign capital. The repatriation of profits is also liberalised. Kosovo has concluded a number of bilateral investment treaties, inter alia with Albania, Belgium and Luxembourg.

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. The banking sector seems solid both in terms of legal rules and capitalisation, and is progressively becoming more fluid. Kosovo only has an embryonic financial market and no stock exchange. The supervision capacities and procedures are established and efficient, with competent staff in the Central Bank of Kosovo.

*To meet its obligations under an SAA, 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.*

*Under the SAA, Kosovo would commit itself to ensuring a liberal and non-discriminatory regime of both inward and outward movements of capital, in particular for direct investments. Protection of investors as regards liquidation and repatriation of investments and profits will also need to be covered.*

### **3.5. Approximation, implementation and enforcement of legislation**

European integration departments have been set up in all ministries, coordinated by the Ministry of European Integration (MEI) and there is a good basis to improve further the coordination across the central administration. Over the past three years, Kosovo has made progress in approximation of legislation to the EU *acquis*. The legal framework is complex, since it comprises a mixture of applicable legislation from the previous administrations from before 1999, from UNMIK and now the Kosovo authorities.

*To meet its obligations under an SAA, Kosovo needs to increase the capacities and level of expertise in the field of legislative alignment to the EU *acquis*. It needs to continue improving the coordination mechanism with the focus on implementing and enforcing the legislation.*

*Under an SAA, Kosovo would commit itself to ensure gradual approximation of existing and future Kosovo legislation to that of the EU. Kosovo would have to ensure that approximation would extend to all elements of the EU *acquis* referred to in the agreement.*

#### **3.5.1. Competition**

Kosovo has a law on State aid. The independent Kosovo Competition Commission is in place and became operational in 2009. During its four years of activity, some important cases have



been investigated. Between 2009 and 2011, the Commission dealt with 32 cases related to cartels, mergers, concerted practices (including 10 insurance companies for agreement on fixed-prices in third party liability insurance), and also dominant position. The decisions of the competition authority can be appealed to the Supreme Court. Several appeals are currently pending. The Competition Commission has not been involved in the competition aspects of privatisation of large publicly owned enterprises.

*To meet the obligations of the SAA, considerable further efforts are required. The law on State aid needs to be supplemented by the necessary secondary legislation. Certain aspects of the law on protection of competition need to be amended to be compatible with EU competition rules, in particular as regards the definition of dominant market position. Particular emphasis needs to be put on building the institutional capacities in this area. The State aid board and the independent State aid commission for approval of aid need to be established. The Kosovo Competition Commission also requires suitable premises. Overall, enforcement of the legislation and a significant strengthening of the administration in charge of competition are necessary to ensure the application of provisions in line with the EU standards.*

*Under an SAA, Kosovo would commit itself to prohibit and police i) all agreements between undertakings and concerted practices which prevent, restrict or distort competition; ii) abuse of a dominant position by one or more undertakings, iii) any state (public) aid which distorts or threatens to distort competition by favouring certain undertakings or certain products. Kosovo would commit itself to apply these rules to public undertakings and undertakings with special rights. Kosovo would also commit itself to adjust state monopolies of a commercial character so that no discrimination exists regarding the conditions under which goods are procured and marketed. Kosovo would also need to ensure transparency in the area of state (public) aid by establishing comprehensive inventories of aid schemes and by reporting annually to the European Commission.*

### 3.5.2. Intellectual property rights

Laws on copyright and related rights, patents and trademarks are in place and are broadly in line the *acquis*. Provisions on infringement of copyrights were inserted in the Criminal Code. The law on trademarks includes, inter alia, provisions on provisional measures and other enforcement issues but does not make a reference to the Paris Convention. Local and foreign trademarks are treated equally provided that foreign trademarks are registered in Kosovo.

As regards enforcement, the Industrial Property Office (IPO) is an independent agency within the Ministry of Trade and Industry. There is also a Committee of Appeal. A trademark database is operational and its data is currently being digitalised. With the adoption of the intellectual property rights strategy 2010 – 2014, the IPO created a comprehensive strategy, which provides for an inter-institutional implementing and monitoring body, the IP Council. Its role is to steer and oversee IP implementation and includes members from the customs, police and judicial council. Non-governmental organisations are invited to participate on an ad hoc basis.

The Copyrights and Related Rights Office was established in 2010 within the Ministry of Culture. Its mission is to accredit and supervise the organisations representing right holders and other stakeholders active in IPR matters. Recently, the Copyright Office launched a public awareness campaign and sponsors some inter-institutional initiatives, such as a strategy against forgery. The Copyright Office has also developed cooperation with foreign IPR institutions.

A task force has been established to fight piracy. An intellectual property rights Unit was set up within the Customs and became fully operational in January 2011. The IPR sector was also

included in the Kosovo Customs Strategic Operation Framework 2011-2014. Customs have approved 22 applications for action and referring to 129 trademarks. Judges in commercial courts are dealing with IPR infringements and have received some training on these matters.

*To meet its obligations under an SAA, key secondary legislation still needs to be completed. A law on geographical indications needs to be adopted. The capacity of the IPO remains limited and the office premises are inadequate making it difficult for the IPO to process registration applications in reasonable time. Kosovo needs to put particular emphasis on enforcement of the legislation. The fight against counterfeited goods needs to be more vigorously addressed. The police needs a specialised unit dealing with the IPR and police officers needs appropriate training. Effective inter-institutional mechanisms need to be further improved and efforts in addressing IPR infringement need to be significantly increased notably by signing memoranda of understanding between IP offices.*

*Under an SAA, Kosovo would commit itself to granting to EU companies a level of protection comparable to that of domestic companies. Progressively, Kosovo will need to work towards a comparable level of protection as granted in the EU.*

### 3.5.3. Public procurement

The public procurement law (PPL) constitutes the basis for the legal framework. It has been amended frequently in the past few years with the aim of increasing its compliance with the *acquis*. The current law reflects adequately the main principles of a sound public procurement system and is consistent with international good practices in public procurement. The new law has been almost completely harmonised with the EU directives and all secondary legislation has been in force since March 2012.

With the current regime, the economic operators are well informed about procurement rules. The tender notice includes sufficient information on what is intended to be purchased as well as the evaluation and qualification criteria. The restricted procedure is defined as a normal procedure that can be chosen as an alternative to the open procedure. Large value contracts need to be signed by the Chief Executive Officers and Ministers. E-procurement is being implemented. The contracting authorities are directly responsible if they do not publish the tender notice for a negotiated procedure and if they do not follow the general requirement for a minimum of three tenderers.

The public procurement system in Kosovo consists of 161 Contracting Authorities (530 procurement officers are currently working in public procurement bodies). The institutional setup comprises the Public Procurement Regulatory Commission responsible for the overall development, operation and supervision of the public procurement system, including monitoring the use of the negotiated procedure, the selected qualification criteria and the validity of contract signature. The Procurement Review Body is an independent administrative review body dealing with complaints. The Central Procurement Agency has refocused on central purchasing. These three institutions now have new rules of procedures and new operational guidelines.

The Board and the Commission remain independent institutions. They are nominated by the Government and appointed by the Assembly. They report directly to the Assembly. The Agency is now placed under the Ministry of Finance and is administered by a Director who is yet to be appointed. The government has not yet approved the lists of common-use items for mandatory central purchasing, which weakens the Agency's ability to carry out its functions.

The review of complaints is conducted exclusively by the Procurement Review Body and the law does not provide for the complaints to be filed with the contracting authority at a first stage. A panel comprised of one or three board members reviews cases. The review procedure

includes also public hearings and decisions are available on the website. The complaints fee is € 500 whereas fines imposed are systematically no less than € 5,000.

Kosovo has also legislation on public-private partnerships, which establishes a consistent legal framework on work concessions and which is largely compatible with EU legislation.

There is no discrimination between domestic and foreign companies in Kosovo, the legal framework is compatible with the EU and international practices, and the administration in charge of procurement is functioning.

*To meet its obligations under an SAA, Kosovo needs to put more emphasis on ensuring compliance, in particular as concerns the Procurement Agency. The integrity and transparency of the processes needs to be increased. Further efforts are required to ensure that corruption and fraud cases are addressed and prosecuted successfully. Corruption in the field of procurement needs to be addressed. The professionalism of procurement officers needs to be further improved with more emphasis on high-quality trainings. The turnover of procurement officers is still significant and needs to be addressed.*

*Under an SAA, Kosovo would be required to ensure that EU companies are granted access to contract award procedures under treatment no less favourable than that of domestic companies, subject to a transitional period to be negotiated for EU companies not established in Kosovo. Kosovo would need to ensure that its public procurement legislation is in line with that of the EU. It would also need to strengthen the relevant institutions and judiciary so that public procurement procedures are properly implemented.*

#### *3.5.4. Standardisation, accreditation, conformity assessment, metrology and market surveillance*

The basic legislation on standardisation, general product safety, technical requirements for products and conformity assessment as well as on accreditation has been progressively adopted. The professional Standardisation Council, the highest coordinating and policy-making body for standardisation, is operational and is composed of members from both public and private sectors. The Council decides on the establishment of technical committees. Kosovo also has a Standardisation Agency, an executive agency of the Ministry of Trade and Industry.

18 technical committees have been established and approximately 4,000 European standards (ENs) have been adopted as Kosovo standards, including a number of harmonised standards related to the New Approach Directives. The Kosovo Standardisation Agency adopts standards via the Albanian national standardisation body. The Agency applies the principles of transparency, inclusivity and accountability of the WTO code of good practice for standardisation, despite Kosovo not being a member of any European or international standards bodies.

The Kosovo Accreditation Directorate is placed under the Ministry of Trade and Industry. The Directorate chairs the professional Council on Accreditation that meets once a year and includes representatives from business organisations and the chamber of commerce. The Directorate has a cooperation contract with the European Cooperation for Accreditation (EA). In November 2010, it applied to sign a bilateral agreement with the EA under the conditions applicable to signatories of the EA multilateral agreement on testing laboratories. The Accreditation Directorate has accredited 18 testing laboratories and 1 inspection body as Conformity assessment bodies. The accredited laboratories cover food analysis, fuel chemical testing, as well as physical-chemical testing and mechanical testing of construction materials.

The legislation and policy on conformity assessment is developed and implemented by the Department of Industry, within the Ministry of Trade and Industry. The Department of Metrology within the Ministry is the only institution in Kosovo responsible for establishing and directing the metrology system in Kosovo. Two laboratories located in Pristina and Prizren have started their operation in 2010.

The market surveillance legislation is partially harmonised with the *acquis*. Market surveillance functions are being centralised. The Market Surveillance Department of the Ministry has recently launched an initiative to develop a sectoral strategy on market surveillance including customs, health, food and sanitary inspection, and labour inspection. Approximately 30,000 inspections have been carried out since the Department's creation in 2005.

Overall, important elements of the legal and institutional framework for standardisation accreditation and conformity assessment are in place. Over the past three years, the capacity of the Ministry of Trade and Industry in this area has improved.

*To meet its obligations under an SAA*, Kosovo needs to complete the legal framework and continue its alignment with the *acquis*. Further efforts are necessary in terms of capacity building of the Ministry and of its agencies, of training and awareness raising. For example, the capacity of the Standardisation Agency needs to be enhanced. The operations of the metrology laboratories still do not meet international standards. The inter-institutional cooperation on market surveillance needs to be improved, notably with the customs. Cooperation with the customs is crucial given the level of Kosovo's imports. An effective surveillance has to be carried out on products available on the domestic market. Data on market inspection is only partially available as a database has not yet been established.

*Under an SAA*, Kosovo would commit itself to progressively align its legislation with the *acquis*, adopt the European standards (ENs) and build institutional capacities to ensure enforcement of the legislation. In particular, Kosovo would be required to i) promote the use of EU technical regulations, European standards and conformity assessment procedures, ii) conclude, when appropriate, an agreement on conformity assessment and acceptance of industrial products, iii) foster the development of quality infrastructure: standardisation, metrology, accreditation and conformity assessment and market surveillance.

#### 3.5.5. Consumer protection

Kosovo has legislation on consumer protection. There is also a Consumer Protection Office. Kosovo adopted a Consumer Protection Programme 2010-2014 which aims to strengthen the role of the Council for Consumer Protection and its supervisory activities, along with the transparency and accountability of institutions responsive to consumers. The Council is composed of representatives from business associations and consumer protection organisations and individual experts. The Council is the main policy and legislative-making body.

*To meet its obligations under an SAA*, Kosovo needs to continue in further alignment of the legislation with the *acquis*. The Consumer Protection Office still needs to be significantly reinforced to ensure an effective consumer protection. The overall system of collecting and processing consumer claims needs to be enhanced to achieve concrete impact and improve the quality of the market and of the general product safety. The role of the Consumer Protection Department in evaluating and coordinating market surveillance information and data related to consumer products has not been defined. Kosovo needs to improve the implementation of the Consumer Protection Programme.

*Under an SAA, Kosovo would need to develop active consumer protection policies, in accordance with the acquis, to guarantee consumer representation, information and education. The capacities of the administrative structures responsible for consumer protection need to be enhanced to ensure essential health and safety requirements and the safeguard of consumers' economic interests.*

### **3.6. Justice and home affairs**

#### *3.6.1. Reinforcement of institutions and rule of law*

*For a detailed analysis of the situation in judiciary and prison system see the Political Criteria.*

The main elements of the legal framework are in place. At the same time, they can be complex, comprising a mixture of different legal acts applicable in Kosovo, including legislation of the former Yugoslavia and from the Federal Republic of Yugoslavia, UNMIK and the Kosovo authorities. This has led to legal inconsistencies. Application at the court level consequently creates difficulties and delays. There are ongoing efforts to eliminate fragmentation and enhance approximation with the EU in this important area.

Over the past three years, Kosovo has established the necessary institutions in charge of the rule of law in Kosovo. The Ministry of Internal Affairs oversees the work of the Kosovo Police, with a total staff of nearly 8,500 (including 1,100 civil officers). Persons belonging to minorities occupy 13% of positions. The Kosovo Police has established good capacities for providing general public safety and security.

Kosovo Police operates with a single chain of command and continues to have a token presence in the north of Kosovo. There are communication channels between officers from the northern municipalities with the regional police command in the southern part of Mitrovicë/Mitrovica. At the same time, EULEX frequently needs to facilitate communication. Police officers in the north of Kosovo work in difficult circumstances preventing them from fully discharging their duties. Parallel security structures also operate in the north.

In 2011, the police established the International Law Enforcement Coordination Unit (ILECU) to facilitate cooperation with law enforcement agencies from third countries. The Interpol liaison office is still with UNMIK; some Kosovo Police officers are detached to this unit.

The Police Inspectorate of Kosovo (PIK) was established in June 2011 as an executive body of the Ministry of Internal Affairs, independent of the Kosovo Police. The PIK handles complaints, involves the Professional Standards Unit when disciplinary investigation is needed, and has the authority to launch criminal investigations.

Capacities in the Kosovo Police to investigate complex criminal activities remain limited and need to be considerably enhanced. Political leaders in Kosovo need to establish an environment conducive to independent and professional investigations.

Personal data protection is a key component of effective law enforcement cooperation in the EU. Kosovo has adopted the primary legislative framework on personal data protection. The National Agency for the Protection of Personal Data has been established as an independent body reporting to the parliament. Currently, personal data protection is not fully guaranteed. Kosovo needs to focus on implementation, drafting secondary legislation and strengthening capacity. Public authorities, including law enforcement, and the private sector need to be made aware of personal data protection requirements.

For Kosovo to make progress in consolidating the rule of law, it is essential it cooperates with EULEX, and it supports the implementation of the EULEX mandate including the Special

Investigative Task Force. Fragmentation of legislation needs to be addressed and law enforcement improved to ensure that the rule of law is effectively applied.

*Under an SAA, the contracting parties would attach particular importance to the consolidation of the rule of law in Kosovo and strengthening the relevant institutions in the administration in general and in law enforcement and the judiciary in particular. An effective SAA will depend upon a safe, efficient and predictable legal space. Authorities and an independent judiciary working in line with proper democratic and professional standards are not only essential for establishing the rule of law for the immediate benefit of the public but also for international cooperation and as regards the economic development including attracting foreign investment. Contracting parties would cooperate on personal data protection legislation, ensuring sufficient resources for the independent supervisory body to monitor and guarantee the enforcement of the legislation.*

### 3.6.2. Asylum, migration, visa policy, control of borders/boundary

A new *asylum* system was established in April 2010. Kosovo has a comprehensive law on asylum. The Department of Citizenship, Asylum and Migration (DCAM) in the Ministry of Internal Affairs (MIA) is in charge of the asylum policy. Kosovo is mainly a transit country for asylum seekers and irregular migrants, mostly arriving via the former Yugoslav Republic of Macedonia and continuing towards the EU. Kosovo authorities have taken steps to increase awareness about the rights and obligations of the asylum seekers. The DCAM is in charge of the first instance asylum decisions whereas the National Commission on Refugees is in charge of the second instance decisions. Between 2009 and 31 July 2012, 511 asylum claims were processed, none of which led to refugee status being recognised. The majority of the decisions regarding asylum requests are negative decisions *in absentia* (the asylum seeker having already left Kosovo). A new asylum centre in Lipjan/Lipljan municipality was inaugurated in February 2012, improving the accommodation facilities for asylum seekers in Kosovo.

Kosovo has a strategy and action plan on *migration*. These are currently under review. The legal framework on foreigners and citizenship is in place. A public information campaign addressing irregular migration from Kosovo to the EU was held in 2011. Kosovo has made progress on *readmission* over the past three years. A law on readmission was adopted in 2010. Readmission agreements covering seventeen countries have been concluded. Since 2010, Kosovo has made considerable progress in improving the framework on the *reintegration of repatriated persons*. A strategy and an action plan on reintegration set the priorities in this area. A Reintegration Fund for repatriated persons was established in 2010. The reintegration office at Pristina Airport is the first entry-point for repatriated persons. In 2012, seven regional coordinators were appointed as focal points for municipalities aiming to improve communication between the central and municipal level.

Kosovo's *visa* policy is due to enter into force on 1 January 2013. This will establish a list of citizens who need to be in possession of visa to enter Kosovo. In this context, Kosovo has signed an agreement with Albania on consular representation. Kosovo residents mainly use the Kosovo passports introduced in 2008, although some use Serbian biometric passports. Kosovo started issuing biometric passports in October 2011.

A legal framework on civil status is largely in place. Some secondary legislation still needs to be completed. Since 2011, the inspectorate unit of the Civil Registration Agency (CRA) has been checking the integrity of the processes related to civil status. Measures have been adopted to prevent municipal civil status officers from illegally editing personal data without prior permission. The civil status registry books have been digitalised and will be entered into the new central civil status database. Certified copies of the original civil registration books

for the territory of Kosovo, which are located in Serbia, are in the process of being handed over, based on the agreement reached in the EU-facilitated Belgrade/Pristina dialogue.

The legal framework and institutions (Kosovo Border Police, Kosovo Customs, and the Kosovo Veterinary and Food Agency) to secure Kosovo's borders/boundary are largely in place. There is also a strategy and an action plan for the *border/boundary management*. The Kosovo Police has taken over the responsibility from KFOR for border surveillance with Montenegro and with the former Yugoslav Republic of Macedonia. Synchronised border patrols are performed on the basis of agreements with Albania and the former Yugoslav Republic of Macedonia.

*To meet its obligations under an SAA*, Kosovo needs to continue in further alignment of the legislation with the *acquis* and capacity building of institutions responsible for these areas. The law on asylum needs to be further aligned to international and EU standards. Lack of information concerning the origin of asylum seekers and the absence of identity documents are obstacles for removing asylum seekers whose applications for international protection have been rejected. Formal operational procedures for the removal of rejected asylum seekers need to be adopted.

On *migration*, the necessary administrative instructions and standard operating procedures still have to be adopted. Kosovo's legislation in this area conflicts with the legislation on work permits. This needs to be addressed. Sustainable solutions are needed for the status of internally-displaced persons (including access to personal identity documents), family reunification conditions, stay permits for asylum seekers, refugees and persons under subsidiary protection, stateless persons, victims of trafficking as well as for people who, at their request, have been released from their Kosovo citizenship.

A comprehensive data collection mechanism is not yet in place, but database on asylum and migration is expected to contribute positively to data collection and analysis, once effectively applied. A migration profile for Kosovo needs to be developed. Inter-institutional coordination needs to be enhanced and administrative capacities improved.

Pending *readmission* requests are largely due to challenges in verifying identity and determining citizenship as well as delays in communicating negative replies. Cooperation on readmission between different authorities needs to be improved. The deadlines stipulated in the readmission agreements and in the law needs to be applied. The exchange of information between requesting states and Kosovo needs to be strengthened. The lack of readmission agreements with countries of origin or transit, and the lack of application of the readmission law, is also a concern.

The number of requests for the reintegration fund assistance is increasing. Overall, disbursement remains low in response to individual requests. The employment schemes and housing projects to which larger parts of the budget have been allocated are in an early phase of development. Since the reintegration fund is provided from the state budget the final financial disbursement decisions are made at the central level. The Office for Reintegration, which manages the funding requests, will be upgraded to a department in the MIA. This Department needs to take over the decisions currently made by the Inter-Ministerial Executive Board on Reintegration. The procedures applying to funding need to be further simplified.

A case management system is envisaged to help further the authorities to process and access data on repatriated persons in order to meet their needs better. The contacts between the central and municipal levels need to be enhanced. The involvement of the line Ministries in the reintegration process remains weak, notably on employment, education and training. The

lack of access to employment, education and training continues to be an obstacle to the sustainable reintegration of repatriated persons, in particular from minorities.

On *visa*, the administrative instructions still need to be adopted. As regard document security, there are concerns as to the accuracy and reliability of the civil status data available both at the central level and in municipalities. The lack of document security may challenge the reliability of the new biometric documents. Kosovo also needs to increase the border/boundary protection in order to tackle frequent trafficking.

*Under an SAA, Kosovo would need to ensure a framework for cooperation, including at regional level, in the fields of visa, border/boundary control, asylum and (legal and irregular) migration. A central element of cooperation in the area of preventing and controlling irregular migration would be the inclusion of provisions on readmission, and focus will also be on statistics exchange and enhancing capacities and efficiency.*

### 3.6.3. Combating money laundering

A legislative framework on anti-money laundering is in place, but it is not yet aligned with European and international standards. Kosovo is currently revising the legislation to include the provisions of EU legislation as well as the recommendations of the Financial Action Task Force. This needs to be Kosovo's priority in the short term. It is also a pre-condition for joining the Egmont group of Financial Intelligence Units (FIUs). The FIU has initiated the procedure to join this Group and has requested the Slovenian FIU to be its sponsor.

The relevant institutions have been set up and are functional. The responsibilities of the EULEX-led Financial Intelligence Centre (FIC) have recently been transferred to the FIU, attached to the Ministry of Finance. The FIU does not conduct its own criminal investigations, but provides intelligence to investigative bodies. The cooperation with banks is good and an electronic system of cash transactions is working: over 420,000 cash transactions above € 10,000 are reported to the FIU each year. This is a high number compared to the size of Kosovo's population and economy. Kosovo Customs are building on progress made in money detections. The total amount of detected undeclared cash has increased. There has also been an increase in the number of cash declarations over the same period. In the short term, Kosovo needs to revise the law on prevention of money laundering and financing of terrorism.

*To meet its obligations under an SAA, Kosovo needs to prepare a strategy to fight money laundering. The institutional setup, involving different police units and directorates, the FIU, and the anti-corruption task force of the Special Prosecution, is complex. It needs to be simplified to tackle money laundering effectively. Police officers, prosecutors and judges need specialised training to run complex investigations. The FIU needs to improve its analytical capacity to support the investigations. Kosovo needs to improve its statistics in this area. Furthermore, large amounts of money continue to be invested for example in real estate without adequate supervision, and the FIU is not legally mandated to execute inspections in casinos.*

International cooperation involving Kosovo in this area is limited. Kosovo is not a member of the Financial Action Task Force (FATF) or any of the FATF-style regional bodies. A number of European FIUs therefore currently refuse to respond to either intelligence provided by the Kosovo FIU or to its requests for information. At the same time, Kosovo needs to implement the existing FATF recommendations.

*Under an SAA, Kosovo would need to establish a framework for cooperation aimed at preventing the use of its financial systems for laundering the proceeds of criminal activities. Cooperation in this area would include administrative and technical assistance aimed at*



*establishing appropriate standards to counter money laundering equivalent to those adopted by the EU and other international bodies on the field, in particular the FATF.*

#### *3.6.4. Preventing and combating organised crime and other criminal activities, including terrorism*

Over the past three years, Kosovo has established the key elements of the legal framework necessary for the fight against organised crime. Kosovo also has legislation for witness protection and has established a relevant unit in the police. Kosovo has a strategic framework for the fight against organised crime, drugs and terrorism; new revised strategies have been adopted recently. Kosovo has a strategy and an action plan on the fight against trafficking of human beings. Within the Ministry of Internal Affairs there is a National Coordinator for combating trafficking, who is in charge of coordinating activities and implementation. The coalition of shelters for victims of domestic violence and trafficking in human beings was established in 2011. There is also a policy framework for an intelligence-led policing.

The relevant institutions for the fight against organised crime, notably the law enforcement authorities and the judiciary, are in place and have been increasing their capacities and their efficiency over the past three years. Kosovo has recently put in place police structures for international cooperation, notably the International Law Enforcement Cooperation Unit. An Agency for the Management of Sequestered and Confiscated Assets was established in 2010. The Agency is primarily responsible to administer confiscated and sequestered assets. In the short term, Kosovo needs to demonstrate a clear commitment to deliver results in the fight against organised crime, including launching investigations, in close coordination with EULEX. Kosovo needs to focus on adopting new legislation on the confiscation of illegally obtained assets. It is important that the law follows European standards and practices in this area.

*To meet its obligations under an SAA, Kosovo needs to deliver on investigations and prosecution of the organised crime. It also needs to improve statistics in this area.*

A significant network of Albanian-speaking criminals, including Kosovans is heavily involved in smuggling drugs, including heroin and cocaine, in the region as well as the EU. Over the past three years, the level of seizures of drugs in Kosovo has increased. At the same time, further efforts are necessary to meet the challenge, in particular with regard to arrests and convictions.

Kosovo remains a place of origin and transit, for victims of trafficking. The trend of local women trafficked within Kosovo and onwards to European countries for the purpose of sexual exploitation continues. There is 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 too. Pristina Airport continues to be a weak point in this regard. The rate of convictions in these areas is low. The judiciary and prosecution lack expertise and capacity to prosecute trafficking cases resulting in weak accountability for trafficking offenders. Appropriate government funding for shelters and reintegration of victims is necessary.

To date, terrorism has been a lesser threat in Kosovo than other forms of serious crime. Kosovo nonetheless needs to gradually ensure that its legislative and strategic framework is aligned with the EU. Kosovo law enforcement authorities need to continue monitoring the situation.

International cooperation with Kosovo in the fight against organised crime is limited due to status considerations. Kosovo needs to be more proactive and pragmatic in this area. Above all, Kosovo needs to gradually build its credentials, and thus trust of international partners.

Witness protection in Kosovo is a particularly difficult challenge. The secondary legislation on witness protection remains to be adopted. The capacity of the Witness Protection Unit within the Kosovo Police needs to be further enhanced. Further political support and in particular budgetary autonomy is required for the unit to become fully operational.

Kosovo needs to establish a sound legal framework on the interception of telecommunications. A clear distinction between judicial interception and interception for intelligence purposes needs to be made, in line with European best practices. Appropriate control mechanisms need to be put in place to ensure that these tools are not misused.

The Agency for the Management of Sequestered and Confiscated Assets has managed only a small number of assets, due to the low number of confiscations and sequestrations ordered by the judiciary and executed by the police. The judiciary needs to use the provisions on confiscation more proactively. Implementing intelligence-led policing remains also a challenge.

In general, the fight against organised crime is a major challenge for Kosovo. Concrete evidence of results in fighting organised crime needs to be given as a matter of priority. To achieve results in this area, the legal framework needs to be further strengthened and implemented. Clear institutional responsibilities need to be established. Kosovo needs to further enhance the level of expertise to tackle complex criminal investigations. This needs to be supported by a political environment conducive to independent and efficient investigations and prosecution.

*Under an SAA, Kosovo would need to develop a framework for cooperation aimed at fighting and preventing criminal activities, notably organised crime. Kosovo would be required to devote particular attention to issues such as trafficking in human beings, illegal economic activities (such as corruption and illegal transactions involving goods such as counterfeit products, industrial waste and radioactive material), illicit arms trafficking and terrorism. Kosovo would also need to be able to cope with the health and social consequences of different forms of drug abuse, preventing the diversion of chemical precursors and reinforcing structures for combating illicit trafficking of drugs.*

### **3.7. Cooperation policies**

#### *3.7.1. Economic, monetary, statistical cooperation and the protection of EU financial interests*

The Ministry of Finance has a Department for macro-economic and fiscal analysis, which is active in the Government's economic strategic planning. The Department is in charge of preparing the Medium-Term Macro-Fiscal Framework (MTEF), which represents the basis for drafting the expenditure framework, analyses the current fiscal trends and economic forecasts. The MTEF includes many of the features that are common in international practice as well as a promising basis for sectoral analyses. Kosovo has a legal requirement to conduct an assessment of the fiscal impacts of all new policy and legislative proposals. Kosovo currently participates in the Fiscal Surveillance Exercise.

Statistics are crucial for negotiating an SAA. In recent years, Kosovo has improved its statistical infrastructure. With the recent adoption of the law on official statistics, the main responsibility for processing statistical data is with the Kosovo Agency of Statistics (KAS). The Agency was also moved from the Ministry of Public Administration to the Prime Minister's Office. It is now an autonomous budget organisation. A Statistical Council was established in March 2012. According to the new law, the Agency is responsible for drafting a multi-annual work programme for the Kosovo's statistical system. The cooperation of the

statistical agency with other institutions has improved. The quality of statistical information has also been gradually improving.

The population and housing census was carried out in April 2011, but did not cover the north of Kosovo. Figures resulting from the census can be relied on. Preparations for the agricultural census planned for 2013 have started.

*To meet its obligations under an SAA, the MTEF needs to include a number of aspects that are common practice in many EU countries, including: i) comparisons with projections of other institutions and previous Ministry of Finance projections, ii) tax expenditure, iii) public debt and deficit broken down by levels of government. The MTEF also needs to be fully developed as a policy or reporting tool.*

Ministries need to strengthen their capacity to prepare adequate cost estimations. The practice of adopting a large number of laws towards the end of each year is not conducive to rigorous analysis of cost impacts.

Kosovo also needs to continue to prepare for participating in the economic and fiscal programme framework for potential candidate countries. Kosovo's inclusion in this framework could bring benefits in streamlining, coordinating and analysing economic policy priorities over the medium-term.

With regard to statistics, the administrative capacity of the statistical agency remains weak and the lack of qualified staff is a serious constraint on the development of the Agency. Strengthening the management of the agency remains a key challenge for the development of the institution and the Kosovo's statistical system. The agency needs to improve the quality of statistics, in all statistical domains, but especially business and macroeconomic statistics. The current discrepancy between the EU and Kosovo's statistical data constitutes a challenge. Effective cooperation under an SAA will require the KAS to produce data on macro-economic matters, such as trade and employment.

Protecting the EU's financial interests and protecting the euro against counterfeiting is still at an early stage.

*Under an SAA, Kosovo would need to foster reform and economic integration into European structures by improving the formulation and enforcement of market-based economic policies. It would need to improve its capacity to provide information on macroeconomic performance and forecasts, to formulate economic policy and to develop the instruments necessary for its application. It would also need to take appropriate account in its policy development of the European Economic and Monetary Union. Kosovo would need to develop statistical systems, capable of providing the timely, reliable, objective and accurate data needed to plan and monitor transition and reform. Special attention would be given to the fact that Kosovo uses the Euro as its legal tender. Kosovo's present use of the euro as a legal tender is fully distinct from euro area membership. With regard to the protection of EU financial interests and fight against counterfeiting of the euro, the cooperation would also focus on further strengthening the legislative framework and its enforcement.*

### *3.7.2. Investment promotion and protection, industrial cooperation, small and medium-sized Enterprises (SMEs) and tourism*

The area of investment promotion and protection is regulated by the law on foreign investment that focuses *inter alia* on the non-discriminatory treatment of foreign investors. Over the past three years, several amendments, such as the elimination of starter capital and the reduction in the number of permits required, have been adopted. Kosovo has also adopted a sector-based investment promotion strategy, which includes recommendations and operational actions to improve the business and investment climate faced by foreign investors.

The strategy identifies core sectors to be targeted by promotional activities: business process outsourcing, automotive components, electronic contract manufacturing services and agribusiness.

The Investment Promotion Agency is the main institution focusing on efforts to attract foreign direct investments (FDI). It is making efforts to attract FDI by further liberalising the FDI inflow regime and promoting SMEs competitiveness. Net FDI inflows are estimated to have reached € 394.6 million (8.6% of GDP) in 2011, slightly higher than € 365.8 million in 2010. To date, some 2,000 companies of foreign or mixed ownership have invested in Kosovo.

Kosovo has committed itself to implementing the key principles of the EU Small Business Act. The SME sector in Kosovo is very large, dominated by micro-enterprises, with more than 90% of the enterprises employing less than four people. The legislative framework consists mainly of the law on support to small and medium enterprises. In 2011, Kosovo adopted the National SME Development Strategy 2012-2016 with Vision 2020. The goals of the strategy are built around the principles of the Small Business Act for Europe. The SME agency is the main institution responsible for implementing this strategy with an allocation of € 1.3 million and € 30 million from the donor community.

*To meet its obligations under an SAA*, Kosovo has still to establish stable, transparent and predictable conditions for foreign investors. Attracting FDI is a major challenge for Kosovo. It has only attracted a small amount of foreign direct investment, which remained at around 8.5% of GDP. Foreign investments were concentrated in the services and financial sector, with a few green-field investments.

Kosovo needs to complete the revision and simplification of the legislation on enterprise policy. There has been no regulatory impact analysis to date. Compliance costs remain high. The lack of comprehensive, easily accessible and regularly updated information on SME-relevant issues is a significant constraint for SMEs operating in Kosovo. Support for start-ups is particularly underdeveloped. The four existing incubators are still in a pilot phase and the voucher scheme was discontinued in 2011. Kosovo needs to align further SME support measures with the Small Business Act for Europe and improve the classification of enterprises. A special SME/Entrepreneurship Support Fund would also facilitate SMEs' access to finance.

Industry and SME development in general continue to suffer from difficulties as regards the legal enforcement of contracts, unreliable electricity supply and limited and expensive access to finance. Coordination and communication between educational institutions and SMEs have improved. However, coordination and cooperation need to be increased further, notably in the area of enterprise and industrial policy (public authorities, chambers of commerce, banking association, courts, regional development agencies, etc.). Overall, the implementation plan for the SME and industrial strategies needs to be adopted, adequate budget allocated and the responsible authorities need to be strengthened.

Kosovo's informal sector large is fuelled by weaknesses in tax and expenditure policies and in law enforcement, including in the fight against corruption and organised crime. It reduces the tax base and the efficiency of economic policies.

Tourism has also a potential to contribute to the economic growth. However, investment in the relevant infrastructure is required.

*Cooperation under an SAA would aim to support Kosovo in creating a favourable climate for private investment, both domestic and foreign, to promote economic and industrial revitalisation. In particular, Kosovo would need to continue in establishing a legal framework conducive to investment and promoting investment opportunities. In the fields of industrial*

*cooperation, SMEs and tourism, Kosovo would need to develop policies aimed at promoting modernisation and restructuring, strengthening the SME sector and developing tourism.*

### 3.7.3. Agriculture

As regards agriculture and rural development policy, a number of thematic laws are in place or are in the process of being adopted (covering, for instance, wine, livestock, seeds, and organic agriculture) which broadly transpose the *acquis*. Basic legal food safety, veterinary and phytosanitary acts are in place, notably food law, veterinary law, law on plant protection, administrative instructions deriving from EU's hygiene package.

Over the past three years, Kosovo's agriculture sector has established the necessary administrative and regulatory bodies to implement the *acquis* in this area. The sector is governed by the Ministry of Agriculture, Forestry and Rural Development (MAFRD). The Ministry runs a limited number of support schemes that are managed by a payment department. It has also begun developing a Farmer Register and simplified Land Parcel Identification System to contribute to overseeing the current rural grant schemes. The Kosovo Veterinary and Food Agency (KVFA) implements food safety requirements and EU food safety, animal health and plant health standards. Like the Ministry, the Agency is a professional and motivated body. There are also a number of laboratories and institutes in this area. Most European standards on fisheries do not apply to Kosovo, which has no marine fishing.

*To meet its obligations under an SAA*, Kosovo needs to continue efforts, in particular to implement EU agricultural and food safety standards. The KVFA has carried out an assessment of Kosovo's agri-food establishments (in milk, meat, slaughterhouses, cold storage and dairy) to determine needs for upgrading. The process now needs to be implemented and upgrades are being supported by the Ministry through its grant scheme. Many establishments are likely to close as they lack the capacity to invest.

The institutions working in this sector need to be strengthened. The Ministry's budget has increased in recent years, albeit from a very low base and it is still insufficient to cover needs. The KVFA lacks sufficiently trained staff to monitor the implementation of laws and its laboratory does not have adequate staff and equipment. Execution of phytosanitary controls is deficient. The infrastructure of the veterinary border inspection points remains weak and the transfer of samples from the borders to laboratories for testing is not efficiently organised. Kosovo has not compiled the list of plant diseases present on its territory.

There are insufficient food safety and veterinary inspectors; these are supposed to be transferred from municipalities to the KVFA, but this process has not yet been completed. This transfer would help to control the continuing illegal animal trade and slaughtering and to strengthen controls at livestock markets. Kosovo has been working for years to establish its animal identification, registration and movement database. The IT system is now operational but data entry of events, particularly animal movement, is not systematic. Kosovo needs to make progress in controlling and eradicating animal diseases. Kosovo has no infrastructure for collecting and processing animal by-products, although a feasibility study for establishing a rendering plant was completed.

Kosovo is attempting to create the statistical infrastructure to manage agricultural policy, but the small average size of farms in Kosovo and the large informal part of the agricultural sector complicate this task. The farm register and the Farm Accounts Data Network are incomplete. Next year, Kosovo intends to carry out an agriculture census. There are significant differences between the EU and Kosovo data on agricultural trade.

At the same time, Kosovo has the capacity to continue reforms in this area. Kosovo's agriculture faces serious obstacles to competitiveness: holdings are mostly semi-subsistent, land parcels are fragmented and animal herds small. Land management suffers from uncontrolled urbanisation and the absence of proper procedures to value and reclassify land. Access to finance is another major challenge.

*Cooperation in the context of an SAA would aim at helping Kosovo to modernise and restructure its agriculture and agro-industrial sector. In particular, it would include cooperation with producers and regulatory authorities to help them meet EU food safety and quality standards as well as EU standards of animal and plant health in the form of assistance for training and organising controls with a view to gradual harmonisation with EU standards; increased development of private farms and distribution channels, methods of storage and marketing; modernisation of rural infrastructure (transport, telecommunications, water supply); better forestry management to balance forest preservation with the exploitation of an economic resource; improving productivity and quality using appropriate methods and products; training and monitoring in the use of anti-pollution methods in connection with inputs; development of sustainable agricultural methods (including organic production; and developing and modernising processing firms and their marketing methods, promoting industrial cooperation in agriculture and the exchange of know-how.*

#### 3.7.4. Customs, taxation and financial control

##### 3.7.4.1. Customs

Kosovo's customs legislation is largely in line with the EU Customs Code. The revenues collected by the Customs Service, including VAT, excise on imported and domestic goods, represent the largest share of Kosovo's budgetary revenues, (around 60%) and continue to rise every year.

The Customs Service has carried out significant modernisation efforts. Continuous progress is also visible in the field of administrative and operational capacity. A number of operations tackling smuggling and organised crime have been undertaken. The focus has mainly been on the seizure of counterfeit spirits and contraband tobacco. Some efforts have been put into the enforcement of the intellectual property rights, the fight against smuggling of narcotics and money laundering.

Kosovo is active in international customs cooperation. It has signed nine bilateral agreements and further agreements are currently being negotiated. Bilateral memoranda of understanding on systematic electronic exchange of pre-arrival information (SEED) were also signed with Albania, the former Yugoslav Republic of Macedonia and Montenegro. Since early September, the Automated Customs declaration Processing system (ASUCYDA World), which facilitates paperless clearances, has become operational.

In general, the customs legislation is largely aligned with EU standards and the customs administration has sufficient capacity.

The situation in the north poses a specific challenge for Customs. In the north of Kosovo, Kosovo Customs Service continues to cooperate with EULEX. Following the incidents in July 2011 and subsequent agreements on the customs stamps and IBM in the scope of the Belgrade/Pristina dialogue, very limited commercial traffic passes through the two gates in the north. All commercial vehicles continue to be directed to the Mitrovicë/Mitrovica Terminal for customs clearance. Revenue is not collected at these gates. Goods subject to excise, sanitary and phytosanitary controls are not allowed to enter via these two crossing points. Due to the lack of efficient customs surveillance at the border/boundary line between

the north of Kosovo and Serbia, goods frequently enter Kosovo in the north without customs clearance.

Certificates of origin for goods to be exported are validated by customs for goods originating both in the north and in the rest of Kosovo. Currently, Kosovo Customs faces a challenge in terms of access to the territory of the north. This has implications for the respect of rules of origin for the goods originating in this territory. In practice, the requests for certificates of origin are scarce.

*To meet its obligations under an SAA, further reforms and modernisation of Kosovo Customs is required. Furthermore, the facilities of some border crossing points (BCPs) need to be improved. There is also a need to undertake further staff training and focus on capacity building in trade facilitation, customs cooperation, customs valuation and enforcement of intellectual property rights.*

*Kosovo needs to ensure that its customs authorities further enhance their effectiveness to meet the demands resulting from the liberalised, preferential trade under an SAA, in particular regarding the proper certification of origin and investigation and enforcement methods. Customs formalities should not be an obstacle to trade.*

#### 3.7.4.2. Taxation

The Tax Administration of Kosovo is the executive tax authority, responsible for implementing tax-related legislation. Kosovo relies heavily on indirect taxes collected at the borders: only about 14% of all tax revenues stem from direct taxes. VAT is 16% and only companies with a yearly turnover above € 50,000 are subject to it. The personal income tax has four rates (0, 4, 8 or 10%). The 10% rate applies to revenues exceeding € 5,400/year. There are three corporate tax rates (4, 8 or 10%), the highest one applying to revenues above € 50,000/year. In 2011, direct taxes amount only to 3.2% of the GDP. This is very low.

Tax evasion remains widespread. To address this challenge, a taxpayer compliance management strategy (2012-2015) has been prepared. Outstanding tax arrears are being addressed. A Tax Investigations Unit within the Tax Administration has been established and the taxpayers' register is being upgraded. The number of electronic tax declarations has increased significantly. Commendable progress has been made by establishing the one-stop-shop for business and vehicle registration.

*To meet its obligations under an SAA, the tax authority needs to be able to adjust the policies and identify the means to improve the effectiveness of tax collection. The focus needs to be on enforcement. Work efficiency needs to be increased as well as the cooperation between the Tax Administration, the police and the courts. The core IT system (SIGTAS) is to be replaced by modern infrastructure. The taxation structure also needs to be more compatible with the EU.*

The Independent Review Board for appeals by businesses and taxpayers against the Tax Administration and Customs Service decisions needs to increase its efficiency and effectiveness. A significant backlog of around 1,900 cases (543 in taxation and 1,337 in Customs) needs to be addressed. In addition, 119 cases were remitted by the Supreme Court for procedural reasons, entailing an overall workload of around 2,000 cases. To reduce the backlog, the capacity of the Board needs to be strengthened. Kosovo also needs to prepare legislation to integrate appeals decisions into the regular court system by establishing a fiscal division at the administrative court.

*Cooperation with the EU under an SAA would facilitate the reform of fiscal systems in Kosovo and foster further development of the tax administration to ensure effective tax*

*collection and fight against fiscal fraud. Cooperation would aim at avoiding harmful tax competition.*

#### 3.7.4.3. Financial control

The key regulatory provisions and institutions for the Public Internal Financial Control (PIFC) are in place. The law on internal audit provides a solid legal basis for setting up internal audit units in Kosovo. These have been established in most budget organisations, including municipalities. The legal framework for external audit is in place. The Office of the Auditor General (OAG) is an independent constitutional audit institution reporting to the Kosovo Assembly. The internal rules governing the audit work of the OAG (e.g. audit manuals, guidelines, guides on audit quality management) are in place. The OAG carries out mainly regulatory audits. The Committee for Oversight of Public Finances of the Assembly regularly discusses the audit reports prepared by the OAG.

*To meet its obligations under an SAA, Kosovo needs to improve the day-to-day practice of internal control. More needs to be done to develop a risk-based control environment, to improve the efficiency, effectiveness and economy of operations, to increase the reliability of (financial) reporting and to do better planning and budgeting arrangements. There is also a need for a greater understanding and acceptance of accountability within budget organisations to establish a culture of delegation of responsibilities and authorities. Kosovo needs to pay particular attention to the independence of the internal audit function, particularly at local level.*

With regard to the OAG, it needs to improve its capacity to deliver performance audit work. Furthermore, as the OAG is part of the civil service, the implementing legislation of the civil service law is too prescriptive and limits in practise functional independence of the OAG.

*Cooperation with the EU under an SAA would focus on public internal financial control and external audit. The objective of the cooperation would be to set up and implement internal control and internal audit in the public sector and to strengthen the role of external audit in line with international frameworks and standards.*

#### 3.7.5. *Employment, social policy, public health policy, education and training, and research technology and development (RTD)*

##### 3.7.5.1. Employment, social policy and public health policy

Over the past three years, Kosovo has put in place the elements of the legal framework required for this area and provides basic social assistance. There is a legal framework on the rights and obligations of unemployed people and jobseekers, and on support to persons having difficulties accessing the labour market. Kosovo legislation also regulates the registration of unemployed persons and jobseekers, and includes support measures. The labour law adopted in 2010 brings Kosovo standards closer to those of the International Labour Organisation. The new law on the social assistance scheme includes measures for unemployed persons to move from social assistance dependency into the labour market.

Kosovo has a National Employment Strategy and sectoral strategies. Implementation is carried out by the Public Employment Services (PES) and seven regional offices coordinated by the Ministry of Labour and Social Welfare. The Labour Inspectorate monitors the implementation of the legal provisions on labour. Kosovo has digitalised registry systems on unemployment and on social assistance.

Kosovo has three main social assistance programmes: cash transfer systems to households, war veterans' benefits and disability pensions for working age people who have disabilities and are unable to work. The social assistance scheme attempts to fill the gap created by the



absence of other types of benefits, such as child benefit, sickness benefit and unemployment benefit. Municipalities are increasingly responsible for the family and social services provided by the Centres for Social Welfare. The central pension system provides a minimal level of assistance to retired persons. Workers below 55 years of age are mandated to place 10% of their wages into the Kosovo Pension Savings Trust. The Economic and Social Council is operational but the dialogue between the government, employees' and employers' organisations is weak. Kosovo has two employers' organisations, one trade union confederation and eighteen trade unions. No exact data exists on trade union membership.

Kosovo's health services infrastructure consists of a combined centrally funded and privately funded three-layer system. The legislative framework in the health sector has improved. A necessary major health reform is underway.

*To meet its obligations under an SAA, Kosovo needs to do more to promote social dialogue. Important legislation on tobacco, blood, tissues, cells, organ donation and transplantation and communicable diseases still needs to be adopted or amended. Kosovo also needs to adopt new health insurance and public health laws. Accessibility and affordability to all groups in society are of concern. Good health services and human resources management, accountability and principles of commitment need to be put in place. Health information statistics and information remain weak. The necessary financial and human resources are missing. Adoption, implementation and enforcement of EU health legislation remain weak. Overall, completing and implementing the policies and legislation are likely to remain challenges for the years ahead, especially when it comes to economic and social reform and the development of a sustainable health system.*

*Cooperation in this area under an SAA would aim at supporting Kosovo in the reform of its employment policies. It would also promote social dialogue as a key driving force for economic and social reform as well as legal approximation on labour law and health and safety at work. Under an SAA, the aim will be to cooperate to adapt Kosovo's social security systems to the evolving economic situation and the new social requirements. Kosovo would also be encouraged to adopt comprehensive social inclusion and anti-discrimination policies and measures to improve the situation of the most vulnerable social groups.*

*For the health sector, an SAA would help steer Kosovo towards a sustainable and good quality health system, based on EU standards, and accessible to all. Under an SAA, Kosovo would need i) to further develop health protection policies in accordance with EU law to improve health and prevent illness of its population; ii) to harmonise its legislation on health protection, develop independent and effective administrative structures and enforcement powers to ensure essential health and safety requirements and the safeguard of patients' rights; and iii) to protect citizens from health threats and disease, promote healthy lifestyles and cooperate with the EU on health issues.*

#### 3.7.5.2. Education, training, research and innovation

Kosovo has a comprehensive medium-term education strategy, encompassing all education sub-sectors. The legislation on higher education is in place and requires higher education institutions (and programmes) to undergo external evaluation by the Kosovo Accreditation Agency (KAA). A number of programmes do not meet KAA quality standards. On the basis of the law on pre-university education the Ministry of Education Science and Technology (MEST) has given priority to teacher professional development and to modernising teacher training in line with the new Kosovo curriculum framework. The MEST and the Ministry of Labour and Social Welfare have put emphasis on vocational education and training (VET) as means to promote skills development, employability and economic development in Kosovo.

The National Qualification Framework (NQF) validation and accreditation procedures are in place. The National Quality Authority (NQA) carries out its functions effectively, but with limited resources. Kosovo participates in the Western Balkan Platform on Education. Kosovo's application for membership in the Education Reform Initiative in South East Europe is being processed by the secretariat.

Kosovo has a law on scientific research and aims at enhancing participation in international research projects. Kosovo has three public universities and fourteen public research institutes. Kosovo has made progress in defining the institutional basis and strategic orientation to strengthen its *research and innovation* capacity. The Kosovo Research Council has been established and it has developed a five-year programme to improve the research sector and its linkage to higher education. Integration into the European Research Area and contribution to the Innovation Union have been set as a medium-term goal for Kosovo. Kosovo has participated in the Seventh EU research and technology framework (FP7, 2007-2013) as a project partner.

Overall, in the areas of education, training, research and innovation, the policy and legal frameworks are in place, as are the relevant institutions.

*To meet its obligations under an SAA*, Kosovo needs to strengthen its investment into education and research. This is important in the light of economic and social development needs. The educational system will also need to address gradually the needs of students with disabilities. Further efforts are also necessary to provide adequate conditions for education for persons belonging to minorities, including access to education in their languages.

There is a need to establish a research fund to support the activities of researchers and build the capacity of research institutions in Kosovo. The main challenges are the lack of scientifically qualified personnel, the low number of PhD students, insufficient laboratory equipment and inadequate technical know-how. The research community in Kosovo remains rather isolated vis-à-vis the international scientific community. Kosovo needs to build capacity in a number of key sectors (energy efficiency, environment, food safety, health research and social science research), which have been identified as a priority.

*Cooperation under an SAA would build on the existing programmes and mechanisms and continue to help Kosovo raise the level of general education, higher education, vocational training and to promote youth cooperation. It could also encourage the development of an environment conducive to research, notably through joint research and innovation ventures and the transfer of technology and know-how.*

### *3.7.6. Culture, audio-visual, telecommunications and postal services and information society*

The legislative framework for the telecommunications sector is covered by framework laws (the law on telecommunications, the law on information society services, law on prevention and fight against cybercrime, law on postal services). Related by-laws have increased alignment with the *acquis*, covering issues such as market analyses, definition of the providers with significant market power, full and shared unbundling of the local loop and the sub-loop, provision of access and interconnection. In 2012, Kosovo adopted a law on the financing of the public service broadcaster (RTK) and a law on the Independent Media Commission (IMC). The RTK law also foresees the creation of a TV channel in the Serbian language.

Over the past three years, Kosovo's telecommunications, postal services and information society sector has established the necessary administrative and regulatory bodies to start to implement the *acquis* in this area. Telecommunications are regulated by the

Telecommunications Regulatory Agency (TRA) and the audio-visual sector is managed by the IMC, which aims to manage the sector in accordance with EU standards.

*To meet its obligations under an SAA, Kosovo needs to continue efforts to complete the legal framework to implement EU standards in this area. Kosovo needs to adopt laws on information society government bodies and on electronic communications. The institutions working in this sector need to be strengthened: the independence and capacity of both the TRA and the IMC have been challenged by government interference, low salaries and lack of resources and budgets. The process to nominate a new IMC Council only began in June 2012 after the IMC was without a board since December 2010.*

RTK's long-term sustainability is still unresolved despite the recent RTK law. The budget to finance Kosovo's cultural institutions is limited. The capacity of the Ministry of Economic Development for information society policy development and coordination, including the issues covered by the Digital Agenda for Europe, is weak. Strengthening the administrative capacity and intensifying international cultural and media cooperation is important to prepare Kosovo to participate in EU programmes in this area.

As well as a lack of enforcement capacity, problems of status handicap Kosovo's ability to implement fully the *acquis*. Kosovo does not have its own country code and uses the Serbian country codes for fixed telephony, with each mobile operator using codes of other countries (Monaco and Slovenia). This creates additional costs, reduces Kosovo's control over its system, creates problems of coordination with the regulators of Monaco and Slovenia and constitutes an obstacle to implementing EU rules on number portability. In addition, Kosovo does not have an internet domain name, and unlicensed (Serbian) mobile companies continue to operate in Kosovo. This interferes with Kosovo's spectrum management. Kosovo is not a member of ITU and has therefore an insufficient allocation of spectrum, including for the digital switchover.

*Cooperation in telecommunications and postal services under an SAA would promote gradual alignment with the *acquis*. This would involve, in particular i) the further development of legal and regulatory aspects of telecommunications and postal services, ii) the progressive liberalisation of the sector, iii) the promotion of an investor-friendly environment for modernising Kosovo's telecommunications networks and their integration into European and world networks, iv) institutional reforms suitable for a liberalised environment.*

*An SAA would promote cultural cooperation with the objective strengthening the cultural policy capacity of Kosovo, reinforcing the capacity of cultural operators and of increasing mutual understanding between individuals, minorities and peoples. Kosovo would need to align gradually its policies and legislation with those of the EU, including as regards cross-border/boundary broadcasting and the acquisition of intellectual property rights for programmes and broadcasts by satellite or cable. Its institutional reforms would need to promote cultural diversity, freedom of expression, freedom of speech and a flourishing public service broadcaster, suitable for a liberalised environment, as well as preserving the independence and capacity of regulatory bodies. An SAA would also include provisions establishing the general principles for the participation of Kosovo in EU programmes such as the future Creative Europe Programme.*

### 3.7.7. Transport

Kosovo has adopted a number of pieces of sectoral legislation, even if several will need to be completed. The basic road transport legal framework has been established according to the *acquis*. The 2010 law on railways sets the framework for the sector's unbundling, which is almost complete. Kosovo is advanced in adopting EU standards in aviation through an active

involvement in the European Common Aviation Agreement, particularly as regards economic regulations.

Over the past three years, Kosovo has established the institutions necessary to implement the *acquis* in this area. Transport is the responsibility of the Ministry of Infrastructure, with sectors managed by the appropriate regulatory authorities, such as the Civil Aviation Authority (KCAA) or the Railway Regulatory Agency (RRA). An accident and incident investigation body, covering air and rail transport, is currently being established.

There is no combined transport in Kosovo. In the absence of any maritime vessels, inland waterways or inland waterways vessels, neither maritime transport nor inland waterways *acquis* apply to Kosovo.

*To meet its obligations under an SAA*, Kosovo needs to continue efforts to complete the legal framework to implement EU transport standards. Kosovo needs to redraft three road transport laws to harmonise them with the *acquis*, especially in the fields of accession to the occupation, haulage, passenger transport and the transport of dangerous goods. The law on the Agency of Air Navigation, which would guarantee the professional management and independence of the Air Navigation Service Provider (ANSP), needs to be adopted too.

The institutions working in this sector need to be strengthened: the railway regulator lacks staff, capacity and budget. The ANSP has been separated from the National Supervisory Authority (NSA), but it still needs to be certified. Aviation security, which is managed by the Ministry of Internal Affairs, is a concern: due to a lack of budget for training, inspectors lost their accreditation in 2010.

Implementation of the road transport *acquis* is limited. Road safety is a concern and the accident and fatality rate on Kosovan roads is very high. Limited inspection capabilities, outdated vehicles, and the low quality of road infrastructure outside the main roads hamper the enforcement of legislation. Rail traffic levels are low, rolling stock is outdated and it is difficult to reconcile the financial needs of the infrastructure manager with the ability of the service provider to pay.

Kosovo's transport infrastructure needs to be further developed to promote economic development. The current transport strategy with a heavy emphasis on building new roads only adds to the imbalance of the transport sector, crowding out investment in other transport modes, particularly railways. It is important to secure funding for adequate road maintenance.

As well as a lack of enforcement capacity, problems of status negatively affect Kosovo's ability to implement fully the *acquis*. Kosovo (including its transport operators) cannot join many of the international or European bodies regulating transport or the relevant sector associations. Kosovo is being prevented from reaching some technically-based solutions in certain areas. This is particularly important in aviation: the KCAA is not a part of the system of standardisation inspection and safety assessment on foreign aircraft and has not been able to enter into working arrangements with the EASA. In addition, Kosovo's aviation sector continues to suffer from Serbia's restrictions for direct flights to/from Pristina over Serbian aviation territory, which has a financial impact for the air operators and an environmental impact for the region.

*In transport, cooperation under an SAA would contribute to restructuring and modernising Kosovo's transport systems and improving related infrastructures, improving the free movement of passengers and goods, achieving standards comparable to those prevailing in the EU, aligning transport legislation to that of the EU, and allowing progressive mutual access to the EU and Kosovo transport markets and facilities.*

### 3.7.8. Energy, including nuclear safety

As a contracting party to the Energy Community Treaty, Kosovo has already adopted a number of key laws relating to the energy sector compatible with the *acquis*. Its energy sector is governed by a package of three laws adopted in 2010, which aim at implementing the 2<sup>nd</sup> EU internal Energy market package. The 2011 law on energy efficiency is the basis to implement much of the energy efficiency *acquis*. Kosovo has adopted a framework law to implement EU nuclear safety and radiation protection *acquis* and to establish a nuclear safety agency.

Over the past three years, Kosovo has established the institutions necessary to implement the *acquis* in this area. As well as the Ministries responsible in this area (Ministry for Economic Development for energy, Ministry for Environment and Spatial Planning for nuclear matters), Kosovo has a regulator (the Energy Regulatory Office) and recently established its Nuclear Safety Agency. Kosovo's Transmission System Operator, KOSTT, has been established and is carrying out its functions properly. KOSTT is also improving the transmission network and therefore reducing transmission losses.

*To meet its obligations under an SAA*, Kosovo needs to continue efforts to complete the legal framework to implement EU energy and nuclear safety standards. Kosovo needs to start preparing for the implementation of the 3<sup>rd</sup> EU internal energy market package, a legal obligation as of 2015 under the Energy Community Treaty. Kosovo also needs to make progress in implementing EU rules on mandatory oil stocks and will have to amend its framework nuclear safety law to prepare for further transposition of the nuclear safety *acquis*. The institutions working in this sector need to be strengthened: the nuclear safety agency has insufficient staff, the Energy Regulatory Office needs adequate resources to carry out its responsibilities, and Kosovo needs to instrumentalise the Energy Efficiency Agency and create the energy efficiency fund. Restructuring of the sector, including tendering for new generation capacity and completing privatisation of the distribution and supply company, in conformity with Energy Community Rules on unbundling, needs to continue.

Kosovo's only indigenous energy source is lignite: 97% of its power is generated in two lignite-burning plants. Both are ageing, unreliable and highly polluting. Kosovo has no nuclear energy, its renewable sources are limited and Kosovo is not connected to gas networks. Kosovo has launched a tender to build a new lignite-powered plant, which would significantly improve the sector's environmental impact. This is also important as an alternative source of power as Kosovo has committed under Energy Community Treaty obligations to close Kosovo A by 2017.

Kosovo's management of its power system is hindered by the Serbian power utility maintaining an unlicensed branch in the north of Kosovo. Power is also deviated from a hydropower plant to supply the north. In addition, KOSTT still does not participate in regional mechanisms to plan and remunerate electricity transit, due to differences over its status. As a result of the current situation, Kosovo loses revenue and the lack of control imperils the stability of Kosovo's power system.

In the framework of an SAA, Kosovo would need to develop further its energy policies with a view to gradual integration with EU policies and networks. It needs to implement its current energy market legislation and significantly improve the level of bill collection and payment from the current numbers: only 71% of power produced is paid for, fuelling an unsustainable growth in demand. Kosovo also needs to adopt secondary legislation to meet its own 9% target for efficiency improvement by 2018. The regulatory framework to develop renewable energies also needs to be improved, if Kosovo is to meet its planned target to produce 26% of its energy from renewable sources by 2020 (up from the current level of less than 3%).

*Cooperation under an SAA between Kosovo and the EU in the field of energy would need to take into account the principles of market economy and the Energy Community Treaty. Cooperation would focus in particular on the formulation and planning of energy policies, improving interconnections and modernising infrastructure, establishment of a competitive electricity market, improving and diversifying supply, better management of energy utilities, strengthening the role of the regulator, improving demand management, developing energy resources and renewable energy, and promoting energy saving and energy efficiency, promoting nuclear safety and nuclear waste management.*

### 3.7.9. Environment and climate change

A number of framework laws covering the main environment *acquis* areas are already in place. Kosovo has adopted laws on environmental impact assessments and strategic environmental assessments broadly in line with EU standards. The legal framework to implement EU air quality standards is in place. Kosovo adopted a framework law on nature conservation to transpose EU nature protection *acquis*. Other framework laws are in the process of adoption. Kosovo is starting to prepare to implement the EU climate *acquis*.

The key institutions are in place. The administration responsible for environment and climate policy is the Ministry of Environment and Spatial Planning, supported by the Kosovo Environment Protection Agency, which monitors the state of the environment. There is also a network of inspectors.

*To meet its obligations under an SAA*, Kosovo needs to continue efforts to complete the legal framework in accordance with EU environmental and climate standards. The remaining framework laws (on waste, chemicals, water, noise and civil protection) need to be adopted and completed by secondary legislation.

The institutions to implement EU standards are in place; their capacity to implement and enforce legislation at central and local levels needs to be strengthened. The budget devoted to the sector is insufficient and environmental and climate concerns are not mainstreamed into other policies. Kosovo lacks sufficient human, administrative and capital capacities to implement EU environmental and climate standards.

Preparations are at an early stage in the area of industrial pollution control and risk management. The environment in Kosovo faces severe challenges: most pollution levels are significantly above EU levels. The lignite power plants are the main source of air pollutants, with some (dust, NO<sub>x</sub> and SO<sub>2</sub>) levels exceeding several times EU and WHO limits. Furthermore, Kosovo's air quality monitoring network is not yet fully operational. Kosovo has only one operational wastewater treatment plant and a large part of the population is not connected to drinking water supply networks. As a result of issues related to status, Kosovo is not in a position to become a party to most conventions, protocols or other international environmental agreements. Kosovo is not a party to the UN Framework Convention on Climate Change. There is no climate change strategy, action plan, economy-wide mitigation targets or policies and measures on climate change.

In the context of an SAA, Kosovo would be expected to devote substantially greater resources to implement EU environmental standards and to address its environmental challenges, given the investment needs as regards water quality or waste management. To improve air quality, Kosovo needs to close the Kosovo A power plant in line with its Energy Community Treaty obligations. Environmental considerations need to be mainstreamed into other policies, particularly energy, transport, forestry, agriculture and industry. Urbanisation needs to be better balanced. Kosovo needs to establish a climate strategy and a system of greenhouse gas monitoring and reporting and complete its greenhouse gas inventory.

*Under an SAA, Kosovo would strengthen its cooperation with the EU in combating the deterioration of the environment as regards air and water quality, waste management and nature protection, monitoring and reduction of industrial emissions, promoting energy efficiency and safety at industrial installations, soil protection, classification and safe handling of chemicals and urban planning.*

*Cooperation under an SAA would also be used to develop Kosovo's climate policy and to help Kosovo's involvement in global efforts to mitigate and adapt to climate change. Strengthened cooperation with the EU would help Kosovo adopt the necessary legislation, as well as establish an adequate administrative setup. It would also assist Kosovo in mainstreaming climate consideration in energy, transport, industry, agriculture and education policies.*

### **3.8. Financial cooperation**

The EU has been supporting Kosovo through several different funding instruments: the Community Assistance for Reconstruction, Development and Stabilisation (CARDS), the Instrument for Stability (IfS), and the Instrument of Pre-Accession Assistance (IPA). From 1999 to 2011, the EU has provided over € 2.3 billion of financial assistance and close to € 1 billion in support of the international presence in Kosovo.

In the Financial Framework 2007-2013, the EU has made available over € 630 million for Kosovo under IPA. The EU has provided support to strengthen the rule of law, public administration reform, minorities, culture and youth, wider socio-economic development including trade and regional development, education and employment, and agriculture. In 2011, a total of € 68.7 million was allocated under the IPA Annual Programme (IPA component I) in close coordination with the Ministry for European Integration and other government institutions. Current IPA assistance is mainly focused on the rule of law, the economy, trade and industry, and the public administration reform. The IPA cross-border cooperation component (component II) was activated for Kosovo in 2010.

To enhance the involvement of civil society in Kosovo's policy dialogue and development, € 3.3 million was made available under the Civil Society Facility 2011-2013. The programme aims to enhance the dialogue between the government institutions and civil society in Kosovo, to increase the involvement of social partners in socio-economic development, and to strengthen the capacities of youth organisations. The European Instrument for Democratisation and Human Rights has been providing additional support for the development of the civil society development in Kosovo since 2007. In view of the next financial perspectives, the Commission has adopted a proposal for the Instrument of Pre-Accession Assistance II covering the period 2014-2020.

The relevant institutions and coordination mechanisms to establish cooperation in the field of financial cooperation have been put in place. There is also an increased level of expertise to define the assistance needs.

The Ministry of European Integration is in charge of donor coordination at the central level. Besides the large EU-support, there are also other sources of support to Kosovo, such as from Member States, other countries and international financial institutions. *To meet its obligations under an SAA*, Kosovo would need to ensure that financial cooperation would continue to support democratic, economic and institutional reforms, in line with the Stabilisation and Association Process. Kosovo would need to ensure the strengthening of donor coordination.

*An SAA with Kosovo would foresee continuing EU financial support to help Kosovo to achieve the objectives of the agreement. Such assistance could further focus on different areas of approximation of legislation and cooperation policies covered by the SAA.*