Analysis of the 2009 annual programme for Kosovo (under UNSCR 1244/99) under the Pre-accession Instrument (IPA) in the context of the 2009 enlargement package

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BRIEFING

ANALYSIS OF THE 2009 ANNUAL PROGRAMME
FOR KOSOVO (UNDER UNSCR 1244/99)
UNDER THE INSTRUMENT FOR PRE-ACCESSION
ASSISTANCE (IPA)
IN THE CONTEXT OF THE 2009 ENLARGEMENT PACKAGE

Abstract

The Briefing Note provides an analysis of the 2009 Annual Programme for Kosovo (under UNSCR 1244/99) under the Instrument of Pre-Accession in the context of the 2009 ‘enlargement package. It analyses the coherence of the Annual Programme with the EU overall policy objectives as specified in the pre-accession process in general and for Kosovo in particular. It provides an analysis of the AP, taking into account the European Commission (EC) communication on the Enlargement Strategy and Main Challenges 2009-2010, the 2009 Progress Report and the latest Multi-annual Indicative Planning Document for Kosovo. The paper is divided into three main parts focusing on political and economic criteria as well as European standards. Each part provides a short description of the general situation and an analysis of the main problems and then analyses the consistency of the AP with the abovementioned policy framework. The briefing note closes with conclusions and recommendations.
This study was requested by the European Parliament's Committee on Foreign Affairs.

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**ABOUT THE EDITOR**

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EXECUTIVE SUMMARY

Scope of the briefing: This Briefing Paper analyzes the coherence of the Annual Programme for Kosovo (under UNSCR 1244/99) under the IPA Transition Assistance and Institution Building Component for 2009 (APK) with the Commission's Enlargement Strategy 2009-2010 issued on 14 October 2009, the Kosovo (under UNSC 1244/99) 2009 Progress Report issued on 14 October 2009 and in parallel with the Communication entitled "Kosovo*1 – Fulfilling its European Perspective" and the latest Multi-annual Indicative Planning Documents (MIPD 2008-2010) for Kosovo under UNSCR 1244/99, while cognizant of the European Partnership priorities for Kosovo.2

It evaluates the pertinence of the elements of analysis as put forward in the APK and their adequacy to describe the conditions identified in the country concerned. In responding to this task, the APK's allocation of funding and composition of projects will be projected against Kosovo's specific needs as identified by the European Commission's (EC) Kosovo 2009 Progress Report and the Enlargement Strategy 2009-2010.

This paper is divided into a political, economic, European standards and supporting activities sections, following the structure of the Kosovo 2009 Progress Report and the priority axes within the Multi-annual Indicative Planning Document (MIPD) 2008-2010. Each section provides an analysis of the current situation, the projects identified by the APK and an assessment referring to tasks above. The briefing closes with conclusions and recommendations.

Main findings: Generally, the objectives stipulated in the APK are largely congruent with the tasks identified in the Commission’s Progress Report and the Enlargement Strategy; especially political requirements figure prominently on the respective priority axis of the APK.

Political Criteria: The projects under this APK axis reflect Kosovo’s priority needs in view of fulfillment of EU political criteria, including, but not limited to, strengthening the rule of law and support to the public administration reform. Although the drafting of legislation in line with the European standards is underway with a mixed record across various areas, there is an increasing concern about the implementation. Key incongruence in this priority axis is the omission, in the project design, of identified cross-cutting issues by the MIPD such as civil society and gender equality. Building civil society capacity in tandem with strengthening state capacity is critical for good governance as well as for mobilizing support in Kosovo for the European project.

Economic Criteria: The projects chosen for funding under the APK represent a wide spectrum of different interventions identified in the Progress Report. The concentration is on trade policies and regional development, support to the employment and education by increasing capacities of school directors and teachers to modernize curriculum, improvement of the IT system of tax administration and support to agricultural sector. However, weak rule of law in combination with a very limited and poorly diversified production capacity, poor transport and energy infrastructure, as well as inadequate legal framework, continue to impede seriously economic development, as identified in the Progress Report, and have not been addressed sufficiently. Likewise, education and youth unemployment ought to be addressed as a strategic issue.

European Standards: Although Kosovo has made some advance in achieving European standards, progress remains limited. The projects chosen for funding under the APK are broadly in line with the areas identified in the Progress Report and other relevant documents. Two priorities addressed by the APK correspond to Kosovo’s basic needs: environment protection and better quality of energy supplies. Nonetheless, this still

1 Here and in the continuation of the text the symbol * refers to ‘under UNSCR 1244/99’.
leaves out a number of equally important areas. For example, serious deficits in the areas of corruption and organized crime, including money laundering and drug trafficking, identified in the Progress Report, have not been addressed.

Supporting Activities: The allocation of funding under this axis is appropriately aimed at supporting the Agency for Coordination of Development and European Integration (ACDEI) under the Prime Minister's Office. The funding for the Agency, while a part of the overall capacity building strategy, is particularly important for steering Kosovo’s European integration process.

Conclusions and recommendations:
Kosovo is at a very early stage of alignment with the EU. Given the enormous reform agenda, framed both by a transfer of competencies to the Kosovo authorities but also by the creation of new ones in the post-status stage, the APK projects have been largely congruent with the tasks and priorities identified in the Progress Report for Kosovo, the Enlargement Strategy, the Kosovo* – Fulfilling its European Perspective, MIPD and the European Partnership. The APK project programming ought to be viewed in the context of multiple priorities whose sequencing is not clear-cut. There is an urgent need to continue to assist basic needs of Kosovo’s population, by investing in infrastructure such as power network, water supply and transport. At the same time, reform processes depend on institution building, strengthening state capacity and supporting human resources, while physical preconditions for reforms, such as furnishing of courtrooms or building schools, are often either inappropriate or non-existent. When assessed against the overall priorities identified in the EC documents, the Annual Programming for Kosovo for 2009 demonstrates insufficient or inadequate action in a number of identified areas listed below:

- The assistance was targeted in a fragmented manner on discrete reform areas and across government levels whereas more attention to synergies across projects and congruence in project outcomes would improve and spread the project impact.
- The focus on the municipal level is welcome, but insufficient, particularly given the aspiration to support the settlement implementation and the ongoing decentralization process, with its envisaged impact not only on bringing government to the people but also supporting reconciliation efforts.
- Despite recognizing the cross-cutting issues: civil society, non-discrimination, gender equality and good governance in all priority axes in the MIPD, insufficient or no consideration was given to these priorities in the APK project design.
- Fight against corruption, organized crime, money laundering and drug trafficking are identified as impediments to the rule of law, state strengthening, economic development and inter-ethnic reconciliation, but have not been addressed by the APK projects.
- Youth-related issues, such as education and youth unemployment, have not been addressed sufficiently or specifically while youth is expected to benefit from overall reforms.
- More comprehensive approach needs to be taken in the programming of support to multi-ethnicity, human and minority rights, and building inter-communal trust and should be underpinned by political, economic and cultural collaboration where possible. The problem of impunity for war crimes and other gross human rights violations needs to be addressed more systematically both at the judicial and civil society level.
- Social inclusion and poverty reduction have been insufficiently incorporated in projects under the socio-economic bracket. Particular attention needs to be paid to the dividing issues where ethnic and social exclusion overlap.

Recommendations:
The EU’s approach to post-status Kosovo is based on 'difference in recognition, but unity in engagement'. In order to enhance the legitimacy of its involvement both through the SAP and the EULEX, the annual programming needs to maximize tangible impact on people’s lives. A prompt plan of action on visa liberalization is necessary to counteract the feeling of exclusion and mobilize the Kosovo population for the European project. Furthermore the EU should Build on the achievements of EULEX in the area of the rule of law in order to demonstrate tangibly the benefits of the European system of values and governance, and, thus generate legitimacy both for EULEX and the European integration process.

The EC should proactively support UNMIK in its mandate to represent Kosovo in regional fora and facilitate regional cooperation in the post-status period.

Build state and administrative capacity in conjunction with civil society capacity: the implementation of legislation in accordance with the European standards, alongside delays in the adoption of laws and by-laws, is an area of increasing concern. Therefore, developing the capacity from the ‘bottom-up’ to pressure, advise on, discuss and monitor the legislative process is critical to state strengthening.

Support media, and, in particular, minority media: the establishment of a new TV channel in Serbian and other minority languages with national coverage, as a source of objective local news and local information, would improve the quality of life of Kosovo Serbs and other non-Albanian communities. It would also advance the process of reconciliation, dialogue and cooperation, while assisting the returns process.

Following Kosovo Serb participation in local elections south of the Ibar River, collaboration should be furthered beyond political cooperation through collaborative small-scale local projects generating livelihood, as well as through educational, cultural and sports activities.

Youth ought to be treated strategically and put at the forefront in the project design. Youth unemployment should be a cross-cutting issue for every project.

Projects should be designed in line with the recognized linkage of priorities as set in the EU documents, such as the rule of law, development and reconciliation. Project design and the anticipated outcomes should integrate and impact different areas of concern.

The problem of a large informal economy as well as informal political practices fuelled by weak state capacity, inadequate law enforcement and high unemployment should be urgently addressed. Action needs to be taken to combat corruption, organized crime, drug trafficking and money laundering. Basic needs of the population in respect of water and electricity supply should continue to be met to ensure a feeling of basic human security.

Start Cross-Border Cooperation projects as soon as possible, to contribute to capacity building, but also to counteract the sense of isolation among the Kosovo population as well as that of a regional laggard in the EU approximation process.
1 INTRODUCTION

This briefing has been requested by the European Parliament AFET Committee, as one of a series of country-specific briefings concerning candidate and potential candidate countries. It provides an analysis of the 2009 Annual Programme for Kosovo under the IPA (APK) in the context of the “enlargement package” 2009. As specified by terms of reference, this Briefing Paper:

- analyzes coherence of the annual programme with the EU overall policy objectives as further specified in the pre-accession process in general and for the concerned country in particular, i.e. Kosovo;
- assesses the pertinence of the elements of analysis included in the action programme and their potential to respond to the conditions/needs identified in Kosovo;
- provides, on the basis of the above, recommendations concerning the adjustments that could be made to planning and implementing future EU activity Kosovo.

In responding to this task, we analyze the Annual Programme for Kosovo for 2009 (APK) and project its allocation of funding and composition of projects against Kosovo’s specific needs as identified by the European Commission’s (EC) Kosovo Under UNSCR 1244/99 Progress Report issued on 14 October 2009, a Communication entitled Kosovo* – Fulfilling its European Perspective, and the Enlargement Strategy for 2009-2010, while cognizant of the European Partnership priorities for Kosovo.

We divide this paper into a political, an economic, a European standards and support activities section thereby following the structure of the Progress Report and the priority axes within the MIPD. Each section provides an analysis of the current situation based on the Progress Report, the projects identified by the APK and an assessment referring to tasks identified in the EC’s strategy documents. The briefing closes with conclusions and recommendations.

The financial scope of APK 2009 amounts to €103.6 million whereby €42.675 million are allocated in priority axis 1 (Political Criteria), €30.8 million in priority axis 2 (Socio-Economic Criteria), €19.8 million in priority axis 3 (European Standards). The amount of €10.325 million is allocated under priority axis 4 (Support Activities) for support measures and technical assistance, namely for the Agency for Coordination of Development and European Integration under the Prime Minister’s Office. The focus was on the IPA Transition Assistance and Institution Building Component for Kosovo and within it on the Political Criteria Axis, particularly in view of the post-status challenges. The additional allocation of €60 million to the IPA Component I was to accompany the “expected challenges resulting from status resolution” (MIPD, p.4). Conditions were not in place to support joint-cross border programmes between Kosovo and neighbouring countries. Programming is a continuation of the EC’s long-term commitment to Kosovo’s European future.

2 POLITICAL CRITERIA

2.1 Political situation

In the second year following the declaration of independence, Kosovo’s institutions are in place and fulfill their responsibilities in cooperation with the relevant international organizations. However, the capacity of the public administration and of the assembly is particularly in need of strengthening. Sustained efforts are needed to reform the judiciary and to step up the fight against corruption, organized crime and money laundering. In practice, cooperation with the EU rule of law mission (EULEX) whose mandate is to monitor, mentor and advice Kosovo’s institutions, needs to be improved in the above listed areas.
The security situation in Kosovo is stable but fragile. The full deployment of EULEX under the umbrella of UN authority took place in November 2008, alongside the reconfiguration of the UN mission in Kosovo (UNMIK) with a view to adapting its functions to the changed circumstances on the ground. UNMIK's reduced functions include monitoring, reporting and, where necessary and possible, facilitating arrangements for Kosovo's international representation. KFOR, the NATO-led international military presence in Kosovo, continues to be responsible for overall security.

In June 2009, Kosovo became a member of the International Monetary Fund and the World Bank. To date, Kosovo has been recognized by 64 UN Member States, including 22 EU Member States.

In the reporting period, Kosovo made limited progress towards EU requirements:

Regarding democracy and rule of law, Kosovo’s authorities largely respected the relevant constitutional provisions in their work. However, there was limited progress in consolidating rule of law. Namely, Kosovo’s Assembly lacks administrative capacity; parliamentary oversight of the Government needs to be strengthened further; democratic oversight of security sector needs to be strengthened; inter-ministerial cooperation enhanced; international legal cooperation needs to be adopted; institutional framework for anticorruption further strengthened; the Law on Government needs to be adopted, as well as Laws on Civil Service, on Salaries and Organization of Public Administration; legal framework tackling anticorruption needs to be improved, Kosovo Government needs to make transparent public appointments. Hence, local government still remains weak, as does the capacity of public administration. Administrative capacity of Ministry of Justice is weak and reform process of the judiciary is still at an early stage.

The constitution guarantees human rights and the protection of minorities and lists the main international agreements and instruments directly applicable in Kosovo. However, further efforts are required to ensure these rights are protected in practice, including determined steps to integrate all of Kosovo's communities.

Kosovo Government need further to strengthen legal and institutional capacity for the observance of international human rights norms; institutional framework for freedom of expression is not operational; economic and social rights are not fully guaranteed; the protection of women against all forms of violence needs to be strengthened. Kosovo authorities have to work on integration and protection of socially vulnerable groups. There was limited progress in integration of minority communities. The implementation and monitoring of laws pertaining to protection of minority cultural rights is insufficient. Kosovo Government needs to address problems of Roma, Ashkali, and Egyptian communities.

Concerning regional issues and international obligations, during the reporting period Kosovo continued to cooperate with the International Criminal Tribunal for the former Yugoslavia (ICTY). The EU continues to emphasize that regional cooperation must be inclusive in order to be successful and regrets that disagreements regarding the manner of Kosovo's participation in regional fora have resulted in Kosovo's absence from key regional events. Kosovo adopted new customs stamps, which were notified by the Special Representative of the UN Secretary General to the European Commission and CEFTA partners as compliant with UNSCR 1244/99. Serbia has not recognized the validity of these stamps, questioning their compliance with UNSCR 1244/99. Kosovo and Serbia need to reach pragmatic solutions enabling key regional fora to continue to fulfill their role in promoting regional cooperation and development.

2.2 The Action Plan

In light of the analysis provided by the Kosovo’s Progress report and the Enlargement Strategy, the APK adopted in July 2009 broadly reflects Kosovo’s priority needs in view of EU approximation. Aims and objectives in the areas of democracy and rule of law, human rights and protection of minorities, as well as international obligations correspond to the broad objectives of assisting Kosovo in implementing the reforms needed to fulfill EU requirements. €42.675 million or 41% of the overall budget has been allocated
to the strengthening of the rule of law and support for public administration reform, for the communities, culture and the media as well as for youth and sports:

Rule of law and public administration reform: In line with an imperative of capacity building and good governance, €18.55 million or nearly 50% of the total funds allocated to Priority Axis 1 – Political Criteria in the 2009 APK have been channeled into projects supporting the institutional reform. The focus is on the criminal justice system, such as public prosecution, juvenile justice system and improvement of forensic capacity, within the allocation of €12.05 million. Additional €6.5 million is also envisaged for strengthening human resources and institutional capacity, such as funding for municipalities to support preparation for municipal development plans, urban plans and environmental regulations.

Communities: €3.125 million is envisaged for community stabilization in the 2009 APK to support small enterprises with essential resources, including assistance for improving access for Roma, Ashkali and Egyptian communities to education, in keeping with an identified need to address the problems of these communities.

Culture and the media: €3 million is earmarked for culture and the media, including activities such as enhancing cultural diversity and inter-cultural dialogue, which are in keeping with the goal of Kosovo becoming a functioning multi-ethnic society. A range of other cultural projects under this bracket are aimed at increasing Kosovo’s cultural visibility, such as the restoration of the Prizren fortress, and developing the cultural industry as an asset for Kosovo’s economy. Additional €4 million are planned to fund the establishment of a Broadcasting Monitoring System and of an EU Information Centre in Prishtina to engage central government and municipalities in the EU integration process.

Youth and sports: €14 million for youth and sports is the second highest allocation of funds in Priority Axis 1 – Political Criteria. Sports and cultural activities are funded as a vehicle for reconciliation, in line with the goal of integration of Kosovo’s communities. A number of projects supporting improvement in the sports facilities as well as facilitating international sports and cultural cooperation are also envisaged.

2.3 Assessment

The Enlargement Strategy identifies the rule of law as a key priority to be addressed in the early stage of the enlargement. Accordingly, the focus of the MIPD for Kosovo under this axis is on the fulfillment of the EU’s political criteria and consolidation of Kosovo’s institutional, administrative and judicial set-up, including the fight against corruption, the protection of the Serb and other minorities and the promotion of civil society activities. The range of projects funded under this axis reflects the tension between a need to support physical preconditions for the reform, such as furnishing the courtrooms, and a need to assist policy and governance aspects of the reform process. Further, the scope of needed reforms is determined by the transfer of competencies to Kosovo authorities as well as by the creation of some competencies from scratch as a consequence of the status resolution, which was recognized in the MIPD.

Governance: The APK projects address a profound transformation of the structures of government and governance in Kosovo in a fragmented manner, separating central- and municipal-level reform with a notable emphasis on the former. Given the identified priority, in the MIPD, for the EU assistance to accompany the implementation of the status settlement, more attention to supporting the decentralization process is necessary. In particular, it could enhance the sense of ownership of reforms and bring the “Europeanisation” closer to the people. Kosovo’s low civic interest in governance issues is a consequence of the state’s long-running poor delivery of public goods and services and of inadequate democratic oversight of the state. Kosovo’s Europeanisation should be accompanied by an increased interest and engagement with governance issues, and could be encouraged through APK project programming.
Multiethnicity: All EU documents state that functioning multiethnic society in Kosovo rooted in the rule of law still remains an aspiration. The APK’s support for multiethnicity and reconciliation in Kosovo through sporting and cultural activities is welcome. It should be further encouraged by creating preconditions for inter-ethnic collaboration through educational and income-generation activities. The credibility of the goal of institutional integration of minorities depends on the implementation of the already adopted legislation. Therefore, a sustained focus is required on what the Enlargement Strategy pinpoints as the problem of impunity for war crimes and other serious human rights violations at the level of the judiciary, including the access to justice. Furthermore, as EULEX’s support to the Office of Missing Persons and Forensics demonstrates, the work on enhancing institutional capacity has direct implications on transitional justice and inter-ethnic collaboration, and, thus, begins to create a foundation for future reconciliation.

Civil Society: The APK programming has not adequately delivered on the appropriately identified major cross-cutting issues by the MIPD to be tackled in Kosovo, such as civil society, equal opportunities, non-discrimination of women and good governance. The promotion of women to leading positions should be considered a priority. Specifically, weak administrative capacity in Kosovo is mirrored by a weak civil society capacity in Kosovo. Consequently, support to the state-centered institutional development needs to be accompanied by a development of civil society in order to boost its role as a partner in policy dialogue and policy formulation, watchdog and overseer of reforms. The latter is particularly relevant in the Kosovo context where legal uptake is not followed through by implementation. The important role of the media as a voice of informed criticism of the government is particularly in a need of attention.

3 ECONOMIC CRITERIA

3.1 Economic Situation

The economy of Kosovo has been only moderately affected by the world wide economic crisis so far. GDP continued growing, albeit from a very low base, but unemployment remained very high. High inflation has turned into deflation, following drops in the prices of imports. Economic development continues to be seriously impeded by weak rule of law, a very limited and poorly diversified production capacity, and by a weak transport and energy infrastructure. The stability of the energy supply improved, at the cost of increasing subsidies from the budget. Fiscal policies are driven by ad-hoc demands and lack a systematic link to the medium-term policy framework.

Kosovo has made very little progress towards establishing a functioning market economy, due to a number of reasons: weak competitive pressure in the economy; unreliable energy supplies; limited access to finance; corruption; insufficient enforcement of creditor rights; poor road/rail transportation infrastructure; weak administration and judicial enforcement in market entry and exit; insufficient inter-ministerial communication; ad hoc spending pressure in conducting fiscal policy and a lack of sufficient public administration capacity. Kosovo’s emerging market economy is additionally hampered by informal contracting, which presents a serious problem. Overall, legal framework and practice of modern public financial management is still lacking.

Loans distribution across sectors remains highly uneven. The agriculture is not developed and accounts for only 4% of outstanding business loans as of May 2009.

The Government’s privatization agenda of the public-owned enterprises continued to fall behind the schedule. This is contributing to a persistence of a rigid business structure. Considerable reforms and investments must be pursued to enable Kosovo to cope over the long term with competitive pressure and market forces within the Union.
Kosovo’s institutional weak rule of law enforcement and high level of informal activities support corruption. Highly subsidized energy supplies, incomplete legal framework and poor level of public services are hampering economic development. Kosovo’s population is young, with an average age of 26. Around one third of the population is under 15 and more than half are below 25. Low enrollment and high drop-out rates in secondary schools, slow educational reform at all levels as well as a lack of Vocational Education Training (VET) are areas of concern.

3.2 The Action Plan

The APK addresses priorities that focus on wider socio-economic issues, including trade and regional development, education and employment, support for the tax administration and agriculture. €30.8 million or 30% of the overall budget is allocated to projects in the above-mentioned activity sectors.

€7.8 million for trade and regional development target Kosovo’s capacity in trade negotiations, with support to the Ministry of Trade and Industry, as well as regional development by making Regional Development Agencies operational including support to the elaboration of regional strategies and identification of projects in line with the development plans.

Support to employment and education amounting to €10.3 million is aimed at improving the capacity of the Ministry of Labor and Social Welfare and its service delivery, improvement of human resources in education as well as modernization of school curriculum. €5 million is planned for the improvement of the IT system in the Tax Administration of Kosovo, including staff training to use the new system.

The agriculture sector is supported with €7.7 million aimed at increasing competitiveness of farms on the domestic market after a successful implementation of priority measures identified in the Agricultural and Rural Development Plan (ARDP). Support for state capacity in forestry and game management institutions is also envisaged.

3.3 Assessment

The MIPD for Kosovo under this axis focuses on wider socio-economic issues, including fiscal and financial management, auditing and accounting procedures, improvement of the investment climate, trade opportunities, and development of the energy, environment, transport, agriculture and rural development, education and employment sectors. In the APK the priority was given to the development of the Ministry of Trade and Industry, development of agriculture, modernization of school curricula and support to the Tax Administration.

A broad range of priorities under this axis demonstrates an interlinked nature of socio-economic challenges in Kosovo. Development is constrained by the level of state capacity and extent of institutional reform, on one hand, and by infrastructure-related conditions, such as power cuts and underdeveloped transport networks, on the other. In addition, a social dimension of development is of particular concern in Kosovo. Therefore, coordination in project planning is critical, due to a potentially beneficial simultaneous impact across several priority areas.

The projects funded under the APK such as the development of the Regional Development Agencies, followed up by the funding of priority sectors in line with regional development plans demonstrate the need for coordination. However, the contribution to sustained development of Kosovo by projects like these is likely to remain limited given a lack of attention to the rule of law, and to informal practices and corruption, in general. In addition, alongside delayed adoption of the legal framework, undefined property rights continue to undermine Kosovo’s business environment and its ability to deal with competitive pressure.
Given the fact that in the next five years, some 200,000 people will reach working age and enter the labor market and considering the very high level of youth unemployment (which stands at 75%), education and vocational training are key priorities in Kosovo. Youth is identified as Kosovo’s strength in the MIPD. But, youth is also the largest socially excluded and marginalized group. Thus, if frustrated by prospects of joblessness and lack of social mobility, youth is, potentially, a threat to Kosovo’s stability.

Consequently, one project funded in the APK under this axis focusing on increased capacity of teachers and school directors and modernization of the curriculum is a good start, but nonetheless insufficient. The importance of this sector for producing human capital necessary not just to carry Kosovo’s development project, but also for the rule of law and the anti-corruption agenda, should not be overlooked.

Youth unemployment and education need to be targeted strategically in the APK programming. A comprehensive assistance to education, including access to schooling, reducing the drop-out rate, encouraging education of girls, raising and monitoring education standards as well as adapting and modernizing curricula at all levels of education are necessary. This issue has a potential to bring a number of stakeholders together in a joint enterprise of vital importance felt at a personal level. It can also provide an exercise in improving governance in other policy areas, and allow wider population to ‘experience’ Europeanisation at first hand.

4 EUROPEAN STANDARDS

4.1 Situation with reference to European Standards

Progress in aligning Kosovo’s legislation and policies with European standards is mixed. The legal framework has been developed further in the areas of customs, taxation, education, and policing. Approximation is at an early stage as regards environment, competition, intellectual property, energy and the free movement of goods, persons, services and capital. The implementation of European standards remains limited in the areas of financial control and statistics, data protection and the fight against money laundering and organized crime. In general, Kosovo lacks legal, institutional and administrative capacity to align with European standards. Furthermore, the fact that only 70% of the population are connected to drinking water networks and only a third is connected to the sewage system, remains an issue of great concern. Kosovo needs to provide to all citizens the basic needs in order to approximate to the EU in faster pace. Special attention should be paid to the limited progress as regards justice, freedom and security. In particular the porous boundary between Serbia proper and Kosovo in the north is fueling the organized crime activities. The lack of cooperation between Prishtina and Belgrade and northern municipalities has to be addressed and the issue resolved in favor of rule of law.

4.2 The Action Plan

€19.8 million or 19% of the overall budget in the APK is allocated to the priority which focuses on capacity building, the approximation of legislation and flanking measures on European standards, as identified in the European Partnership, including support for the environment, transport and energy.

Although a range of areas was flagged in APK, the emphasis was on enhancement of sectoral policies. €4.8 million allocated to the environment sector aims at improving capacity to manage a number of environmental issues, by supporting Kosovo Environment Protection Agency (KEPA) and Water and Waste Regulatory Office. A bulk of funding under this axis, €15 million, is planned for transport and energy, both for improvements in the power supply infrastructure, as well as improvement and alignment of the legal and regulatory framework with the Energy Community Treaty commitments and the acquis.
4.3 Assessment

The MIPD places the focus under this axis on capacity building and the approximation of legislation and flanking measures in the context of European standards as identified in the Progress Report and the European Partnership. These include internal market issues, freedom, security and justice issues, food safety, veterinary and phytosanitary domains, statistics, media and electronic communication and the preparation for the participation in regional initiatives and Community programmes. The APK programming encompasses primarily sectoral development, such as environment, and critical infrastructure development, such as improvement of the power supply. However, given a vast range of priorities identified in the MIPD and the challenge of prioritizing, a comparative analysis reveals a number of important areas overlooked in the APK plans. The following need to be addressed:

The starkest discrepancy between the priorities identified in the MIPD (which is in line with those underscored in the Progress Report and the Enlargement Strategy) and the APK projects is in the area of the fight against corruption, organized crime, money laundering and drug trafficking. The EC documents rightly underline detrimental spill-over impact of the weak rule of law on economic development and reconciliation. Therefore, action in the area of justice, freedom and security, including the border/ boundary management, is needed urgently. It needs to be coordinated closely with ongoing rule of law intervention by EULEX. Kosovo’s weak state capacity along with Kosovo’s porous borders/boundaries is conducive to organized crime activities as well as a wide range of political and economic informality. The lack of control of northern municipalities additionally fuels the illicit activities.

The weak state capacity remains an impediment to transposition and implementation of the European standards. Therefore, strengthening of state capacity should be directly geared towards the ability of Kosovo’s institutions to adopt European standards, so as to avoid the adoption of legislation incompatible with the European standards, as was in the case in the area of aviation that is not in line with the European Common Aviation Area (ECAA). In addition, state strengthening should also be carried out by means of enhancing Kosovo’s ability to prepare projects for implementation under the IPA as well as for participation in the Community Programmes, such as FP7.

The support to the development of the Kosovo Statistical Office to provide comprehensive and quality data necessary for policy-making is a priority. The institutional upgrading should be closely linked with the educational capacity to produce specialists in this area. Action in this area would also improve policy in the area of social protection (with 325,000 or almost 15% of the Kosovo estimated population recipients of social or pension benefits) and, in particular, the monitoring of the poverty reduction as well as benefit fraud.

Given the significant contribution of the SMEs to the Kosovo economy (40% to Kosovo’s GDP and 99% of its businesses), and, therefore, to employment (contribution of 60%), entrepreneurship and a sense of dynamism that this sector gives to society overall, the SME sector needs to be supported by improving the legal framework as well as by encouraging the participation of women.

5 SUPPORT ACTIVITIES

10% or €10.325 million are allocated to cover the costs of preparatory action necessary to implement and attain the objectives of other activities already defined in APK, including feasibility and other studies, training, seminars, supervisory services and related technical assistance.

The allocated amount is for capacity building initiatives by the Agency for Coordination of Development and European Integration (ACDEI) under the Prime Minister’s Office and for the active involvement of line
ministries with ACDEI in improving programming, implementation and monitoring of projects financed under the IPA programme.

Considering Kosovo’s early stage in alignment with EU standards this support is crucial. As a focal point for coordinating Kosovo’s trajectory in the European integration process, the support for the Agency is integral with the goal of strengthening state capacity. Also, it addresses the need for better project preparation and coordination in the context of the IPA assistance. The Agency’s role in enhancing the political visibility of the European project is equally important.

6 CONCLUSIONS

The situation in Kosovo in the second year following the declaration of independence was stable but fragile. The holding of the local elections in Kosovo organized by the Kosovo authorities in November 2009 was another step towards the consolidation of the democratization process. The participation of Kosovo Serbs in the newly created municipalities south of the River Ibar according to the Ahtisaari plan signaled a potential beginning for meaningful integration of the Serb community in Kosovo’s institutions and society. At the same time, Kosovo continued to face a number of challenges: some 40% unemployment rate, weak state capacity across the board (national and municipal), and, consequently, inadequate level of public goods provision ranging from the rule of law to education and healthcare to intermittent electricity supply and uneven access to water and sewage. Furthermore, Kosovo remained an ethnically divided society. The existence of the Serb parallel governance structures in the Kosovo Serb areas persisted in the post-status period. The EU made operational its biggest rule of law mission EULEX, while reiterating Kosovo’s European perspective. The legitimacy of the EU engagement in Kosovo, as well as the EU’s long-term commitment to a Kosovo within the EU, was questioned by the political elites and the population at large on the grounds of Kosovo’s omission from the visa liberalization regime and EULEX collaboration with Belgrade authorities on the Police Protocol.

Given the enormous reform agenda, framed both by a transfer of competencies to the Kosovo authorities but also by the creation of new ones in the post-status stage, the APK projects have been largely congruent with the tasks and priorities identified in the Progress Report for Kosovo, the Enlargement Strategy, the Kosovo* – Fulfilling its European Perspective, MIPD and the European Partnership. The APK project programming ought to be viewed in the context of multiple priorities whose sequencing is not clear-cut. There is an urgent need to continue to assist basic needs of Kosovo’s population, by investing in infrastructure such as power network, water supply and transport. At the same time, reform processes depend on institution building, strengthening state capacity and supporting human resources, while physical preconditions for reforms, such as furnishing of courtrooms or building schools, are either often inappropriate or non-existent. When assessed against the overall priorities identified in the EC documents, the Annual Programming for Kosovo for 2009 demonstrates insufficient or inadequate action in a number of identified areas listed below:

− The assistance was targeted in a fragmented manner on discrete reform areas and across government levels whereas more attention to synergies across projects and congruence in project outcomes would improve and spread the project impact.

− The focus on the municipal level is welcome, but insufficient, particularly given the aspiration to support the settlement implementation and the ongoing decentralization process, with its envisaged impact not only on bringing government to the people but also supporting reconciliation efforts.

− Despite recognizing the cross-cutting issues: civil society, non-discrimination, gender equality and good governance in all priority axes in the MIPD, insufficient or no consideration was given to these priorities in the APK project design.
Fight against corruption, organized crime, money laundering and drug trafficking are identified as impediments to the rule of law, state strengthening, economic development and inter-ethnic reconciliation, but have not been addressed by the APK projects.

Youth-related issues, such as education and youth unemployment, have not been addressed sufficiently or specifically while youth is expected to benefit from overall reforms.

More comprehensive approach needs to be taken in the programming of support to multi-ethnicity, human and minority rights, and building inter-communal trust and should be underpinned by political, economic and cultural collaboration where possible. The problem of impunity for war crimes and other gross human rights violations needs to be addressed more systematically both at the judicial and civil society level.

Social inclusion and poverty reduction have been insufficiently incorporated in projects under the socio-economic bracket. Particular attention needs to be paid to the dividing issues where ethnic and social exclusion overlap.

Recommendations:

The EU’s approach to post-status Kosovo is based on ‘difference in recognition, but unity in engagement’. In order to enhance the legitimacy of its involvement both through the SAP and the EULEX, the annual programming needs to maximize tangible impact on people’s lives. A prompt plan of action on visa liberalization is necessary to counteract the feeling of exclusion and mobilize the Kosovo population for the European project. Furthermore the EU should Build on the achievements of EULEX in the area of the rule of law in order to demonstrate tangibly the benefits of the European system of values and governance, and, thus generate legitimacy both for EULEX and the European integration process.

The EC should proactively support UNMIK in its mandate to represent Kosovo in regional fora and facilitate regional cooperation in the post-status period.

Build state and administrative capacity in conjunction with civil society capacity: the implementation of legislation in accordance with the European standards, alongside delays in the adoption of laws and by-laws, is an area of increasing concern. Therefore, developing the capacity from the ‘bottom-up’ to pressure, advise on, discuss and monitor the legislative process is critical to state strengthening.

Support media, and, in particular, minority media: the establishment of a new TV channel in Serbian and other minority languages with national coverage, as a source of objective local news and local information, would improve the quality of life of Kosovo Serbs and other non-Albanian communities. It would also advance the process of reconciliation, dialogue and cooperation, while assisting the returns process.

Following Kosovo Serb participation in local elections south of the Ibar River, collaboration should be furthered beyond political cooperation through collaborative small-scale local projects generating livelihood, as well as through educational, cultural and sports activities.

Youth ought to be treated strategically and put at the forefront in the project design. Youth unemployment should be a cross-cutting issue for every project.

Projects should be designed in line with the recognized linkage of priorities as set in the EU documents, such as the rule of law, development and reconciliation. Project design and the anticipated outcomes should integrate and impact different areas of concern.
– The problem of a large informal economy as well as informal political practices fuelled by weak state capacity, inadequate law enforcement and high unemployment should be urgently addressed. Action needs to be taken to combat corruption, organized crime, drug trafficking and money laundering. Basic needs of the population in respect of water and electricity supply should continue to be met to ensure a feeling of basic human security.

– Start Cross-Border Cooperation projects as soon as possible, to contribute to capacity building, but also to counteract the sense of isolation among the Kosovo population as well as that of a regional laggard in the EU approximation process.

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